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SENATE—*Tuesday, June 10, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Dr. Keith Wright, executive director of the National Center for Leadership.

PRAYER

The guest Chaplain offered the following prayer:

Gracious God, we are grateful for this day and all the possibilities it holds. Throughout this day, we determine to live with joy, gratitude, integrity, and purpose. We are elated to live in the United States of America which offers so many freedoms, opportunities, and riches. We humbly acknowledge that our many blessings are gifts of Your grace.

We affirm with the Scriptures that You are more concerned with the condition of our inner lives than our position, accomplishments, or reputations. "The Lord does not look at the things people look at. People look at the outward appearance, but the Lord looks at the heart." Help us to see life from Your perspective and to walk in Your ways. May our hearts find joy in the things that bring You joy, and be broken by the things that break Your heart.

Enable each Senator to hear Your call, instill within them the character to match their high calling. Grant them true wisdom at each decision-making moment.

May these Senators be molded by Your authority, inspire people with a sense of purpose, practice servant leadership, and model good stewardship of Your creation. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of S. 14, the Energy bill. Under the order from last night, Senator DORGAN's amendment regarding hydrogen fuel cells will be debated under a 30-minute time limit. A vote will occur in relation to that amendment at sometime this morning before the recess for the policy luncheons. The Senate will recess for the policy meetings from 12:30 to 2:15 today. Other Energy amendments will be debated during today's session, and therefore Senators can expect votes throughout the day.

Again, I will state that each day we continue to work towards a filing deadline or a list of amendments to the Energy bill. I will be consulting with the Democratic leadership to see when we might lock in a list of amendments to this bill. I am very hopeful we can do that as soon as possible. It is also our hope to reach a consent agreement to allow the Senate to consider the Burma sanctions bill introduced by the distinguished Senator from Kentucky, the majority whip. He will want to speak on this issue shortly. We will continue to press for a consent agreement on this measure.

At this juncture, I will withhold a few of the comments I want to make on an issue we will be addressing in 2 weeks on Medicare and strengthening Medicare, but at this juncture I will yield to the assistant minority leader for comments and then the Senator from Kentucky.

Mr. REID. Mr. President, responding to the majority leader, we are hotlining later today a time tomorrow people would have to give us a list of their amendments, that we would have a finite list. As I indicated, Senator MCCONNELL and I and the two managers of the bill would immediately begin working through that to see what we can do to expedite passage of the Energy bill. We are on track to do that sometime tomorrow. We have the ranking member of the Finance Committee here today to deal with the matter about which Senator MCCONNELL is going to shortly make a unanimous consent request.

The PRESIDENT pro tempore. The Senator from Kentucky.

UNANIMOUS CONSENT REQUEST—S. 1182

Mr. MCCONNELL. Mr. President, I will take very little time.

To underscore where we are on the Burma sanctions issue, I tried to get this bill cleared for this morning for an hour equally divided and a rollcall vote, but there was an objection on the other side with the suggestion that we modify the bill to have the sanctions end in 1 year. Of course, that is exactly the wrong message to send to the military junta in Burma. That is not acceptable to this side.

The Washington Post, in this morning's editorial, gets it right by saying: Senators supportive of democracy in Burma should vote for the bill without condition for expiration dates. That is the way the bill ought to pass. That is the way the bill was introduced. That is the way I hope we will be able to reach consent to take it up in the near future.

In that regard, I ask unanimous consent that the Foreign Relations Committee be discharged from further action of S. 1182, the Burma sanctions legislation; that the Senate proceed to its immediate consideration; further that there be 1 hour of debate equally divided in the usual form and that no amendments be in order; that upon the use or yielding back of time, the bill be read the third time, and the Senate proceed to a vote in relation to the measure, with no intervening action or debate.

The PRESIDENT pro tempore. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, this is obviously a very important matter, and we should address this in a very careful

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

and appropriate way. I might say to Senators, this matter has not been referred to the Senate Finance Committee. The committee has jurisdiction on it. Rather, it is coming straight to the floor with a request that there be no amendments, which I think is a little bit bizarre.

I might also point out that in other sanctions areas, for example, China, we had a long, deep, involved debate a few years ago and agreed to how we should address sanctions, particularly trade sanctions against China.

I might also inform Senators, I have been in consultation with the chairman of the Finance Committee who agrees with me that it would be inappropriate to proceed at this time, certainly in the manner suggested by the Senator from Kentucky.

I might ask the Senator if he will agree to modify his request in a way I think is much more appropriate, particularly even stronger than the resolution suggested by the Senator. And that would be for similar, as was the case with China MFN, annual extensions or annual sanctions, but that the President would suggest that the sanctions be continued and that would be the case unless there is a motion of disapproval passed by both Houses of Congress. I believe the executive branch should be part of this. This is not just a legislative branch issue. When it comes to sanctions, clearly the executive branch should play a very important role.

I might ask the Senator if he would agree to modify his request in the nature of an annual request. If the President wants to continue, he certainly could make an annual request, and that would be subject to disapproval by both Houses of Congress.

Is the Senator agreeable to make that change?

Mr. McCONNELL. I would say to my friend from Montana, there is already a sunset provision in the bill. It occurs as soon as democracy is restored in Burma. There was a legitimate election there in 1990. Aung San Suu Kyi and her party won 80 percent of the vote. She has been under house arrest now for 14 years. The sanctions would terminate under the bill that I hope we will pass just as soon as she is allowed to take power. Such a provision is already in the bill. I am happy to continue the discussions with my friend from Montana.

The reason the Finance Committee didn't get the bill is because the Parliamentarian sent it to the Foreign Relations Committee and both the chairman of the Foreign Relations Committee and the ranking member support the bill, as do the majority and minority leaders of the Senate.

I know the majority leader is waiting to speak on another issue. If I could, I will proceed to try to get this on the calendar. I understand S. 1215 is at the desk and is due for its second reading.

The PRESIDENT pro tempore. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, I know the deepness of the feelings of the Senator from Kentucky. I want the record to reflect that this is bipartisan legislation. One of the chief cosponsors is the Senator from California. This was not an objection made on the other side; it was an objection made by the chairman and ranking member of the Finance Committee. I hope this most important issue can be resolved along the lines suggested by the ranking member and the chairman of the Finance Committee, that this resolution will be passed and that each year it would stay in effect until both Houses of Congress say it should stay in effect. I think that would be a reasonable resolution of this most important issue. I, therefore, object.

The PRESIDENT pro tempore. Objection is heard. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I ask unanimous consent that Senator HARKIN be added as a cosponsor.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—S. 1215

Mr. McCONNELL. Mr. President, I understand that S. 1215 is at the desk and due for its second reading; is that correct?

The PRESIDENT pro tempore. The Senator is correct.

Mr. McCONNELL. I ask unanimous consent that it be in order to read the title of the measure.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will read the title of the bill for the second time.

A bill (S. 1215) to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

Mr. McCONNELL. I ask that the Senate proceed to the measure and object to further proceeding.

The PRESIDENT pro tempore. Objection is heard. The item will be placed on the calendar under rule XIV.

Mr. McCONNELL. Mr. President, this measure has broad bipartisan support. It was referred to the Foreign Relations Committee, not the Finance Committee. Both the chairman of the Foreign Relations Committee and the ranking member support this measure, as do the majority and minority leaders of the Senate.

It is time to act. Aung San Suu Kyi, we hope, is still alive. There is some urgency about this. This is an unusual situation. The U.S. needs to send a message about this now and lead the rest of the world into a policy of multilateral sanctions that truly squeeze this regime. I hope we can continue our discussion and get this bill up for a vote no later than sometime today.

I thank the majority leader.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. FRIST. Mr. President, I wish to make a few comments on Medicare and the importance of strengthening and improving Medicare. We are addressing this in the Finance Committee currently and will have it on the floor of the Senate. I want to take this opportunity first to comment on the exchange that we heard on the floor.

As my friend and distinguished colleague from Kentucky stated, both the majority leader and the minority leader are sponsors and strongly support the legislation on Burma. Burma's brutal military regime is perpetrating a wave of crackdowns, including incarcerating the Nobel Prize winner, Aung San Suu Kyi. That is why there is this sense of immediacy and why we feel very strongly that this bill should be addressed on the floor of the Senate. I am very hopeful, in spite of the reaction to the unanimous consent request we just heard on the floor, that over the course of the morning we can work out what is necessary to bring this legislation to the floor and have a vote on it today.

I do join my colleagues in supporting this and the Burmese Freedom and Democracy Act of 2003, introduced by Senator MCCONNELL and cosponsored by a bipartisan group of Senators, including Senators FEINSTEIN, MCCAIN, LEAHY, SPECTER, KENNEDY, MIKULSKI, KYL, DASCHLE, and many others who will be added over the course of the morning.

The legislation, importantly, among other things, would impose a U.S. import ban on goods manufactured in Burma and those made by what is called the State Peace and Development Council, SPDC, and companies that are owned by the SPDC. It would also freeze the assets of the regime itself that are held in the U.S. and require the U.S. to oppose and vote against loans or other assistance proposed for Burma by international financial institutions.

Why? Because the situation in Burma indeed is severe. After what apparently was an assassination attempt of Aung San Suu Kyi, who won a landslide victory in Burma's last election, authorities now hold, as we all know, this duly elected leader and numerous other activists—we don't know exactly how many—incommunicado. Reports indicate that Suu Kyi is being held in a military camp about 40 kilometers outside of Rangoon. It is believed that she does suffer from some injuries and lacerations of her face and an injured shoulder. This is all current news. Again, there is a sense of urgency for us as a government to act and demonstrate our focus on this issue.

Meanwhile, it is reported that the military regime has raided the offices of Suu Kyi's political party, the National League for Democracy, tearing down party flags and padlocking doors all across the country. Reportedly, military intelligence agents are posted outside the offices, preventing any entry at the offices in Rangoon and Mandalay. The regime has placed numerous democracy movement leaders under house arrest, surrounding their homes and severing telephone lines. I mention this again to explain why we are attempting to bring this legislation directly to the floor.

I commend my colleagues for their efforts on behalf of the Burmese people. As the strongest and most free nation in the world, I do believe we have a profound duty to support that struggle for freedom. Again, I am hopeful that we can address it this morning and over the course of the day.

Mr. REID. Will the majority leader yield for a unanimous consent request?

Mr. FRIST. Yes.

Mr. REID. Mr. President, I ask unanimous consent that I be added as a cosponsor of this resolution on Burma with my friend from Kentucky.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE

Mr. FRIST. Mr. President, let me take a few minutes to comment on what is taking place today in the release of some initial working documents on Medicare modernization by members of the Finance Committee.

Prefacing that, I will say that we have a lot of work to do over the next 3 weeks in order to address an issue that is important to every single American, and that is giving our seniors and individuals with disabilities health care security.

Today there are about 35 million seniors on Medicare and about 5 million individuals with disabilities. We are also speaking to and acting for those soon-to-be seniors in future generations.

I commend my colleagues who have done yeoman's work—Senator BAUCUS and Senator GRASSLEY—and for their commitment to advancing Medicare modernization, strengthening and moving Medicare down the field so we can deliver that health care security to our seniors. The goal is twofold: to strengthen and improve Medicare and, at the same time, provide meaningful prescription drug benefits to seniors and Americans with disabilities.

I recognize it is a huge challenge to address this very complex program but it is one that I know this body is up to, one we have been working very hard on for years, and it is one that I believe we can accomplish in the next 3 weeks in the Senate.

There were a couple of concerns raised in the last several days that I briefly want to mention. First, where are we and why act now? Why can we not wait and put this off? It is driven very much by the demographics of the aging population, where, over the next 30 years, we will have a doubling in the number of seniors; but in terms of workers actually paying into the program itself, that will be falling off continually over time. Thus, we need to take this opportunity while we are adding this prescription drug benefit to modernize the program so seniors and individuals with disabilities will continue to get good care and hopefully improve that care in this environment where we have to address the issues of solvency and sustainability.

The Finance Committee has held over 30 hearings on Medicare over the past 4 years, at least 7 devoted to prescription drug coverage alone. Last Friday, now 4 days ago, the Finance Committee had another hearing to focus very specifically on the proposal put forth by Chairman GRASSLEY and Senator BAUCUS. That was the third committee hearing this year on Medicare.

On Thursday of this week, the day after tomorrow, the Finance Committee will meet in executive session to amend and vote on the Grassley-Baucus proposal. And then the following week, on that Monday, that bill will be brought to the floor of the Senate and will be debated and likely amended in some shape or form over a 2-week period.

We are approaching this issue in a systematic way, in an orderly way, in a way that is reasonable, and in a way that is thoughtful.

Some concerns people are talking about are that Medicare denies some seniors coverage. Let me be clear, we will make sure this coverage is available to every senior everywhere. We will specifically be working to ensure access in rural areas. We will be creating public-private partnerships that will offer choice—again, it is voluntary—but will be offering choice for all seniors in every corner of America.

Secondly, many seniors want the certainty of knowing nothing is going to be taken away from them. Seniors might ask: Do I have to give up what I have now? Are you forcing me into some new system? The answer is no. This is a voluntary program. All of us will be able to look every senior in their eyes and say: You can keep exactly what you have now if that is what you want, if that is what you desire. We will be able for the first time to say there are options that include choices you may not have today in Medicare, such as preventive care, such as chronic disease management.

The fact is the current program is fragmented. It does not provide adequate coverage. I know as a physician and I strongly believe as a policymaker it does not adequately cover preventive care. It does not cover disease management or chronic disease management. As we all know, it does not cover outpatient prescription drugs. I do believe good health depends on giving seniors good options, the opportunity to choose the plan that best meets their needs.

I have also heard about Medicare reform proposals relating to HMOs, forcing people into HMOs. This plan does not do that. Simply, this plan does not force anybody into an HMO. It is a voluntary proposal. Some HMOs have performed very well. But the better comparison, instead of looking at HMOs, is the Federal Employee Health Benefits Program. Seniors will have the option to get a plan similar to what we have as Senators, Members of the House, and other Federal employees have. I should add, this program has a longer history than Medicare. We have learned how to improve it, modify it, and make it a better program over the last 40 years.

I close by saying I believe seniors deserve the options that Federal employees have. We know Federal employees are very satisfied with the quality of care they receive. Seniors deserve this opportunity to choose. They deserve the opportunity to obtain care that is more flexible, that is less bureaucratic, and that has less paperwork.

Seniors deserve care that keeps them healthy by incorporating those preventive measures. Seniors deserve care that protects them from catastrophic out-of-pocket expenses. America's seniors should have the ability to see the doctor they choose, even if that doctor is outside the network. America's seniors deserve a system that focuses on their needs to keep them healthy and not just to respond to acute episodic illness.

Since 1965, Medicare has admirably served a generation of America's seniors. We owe tomorrow's seniors no less. That will take a response in this body to give seniors access to the care they truly deserve. I look forward to working with my colleagues to strengthen and improve Medicare over the next few weeks.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, we have conferred with floor staff. Senator MIKULSKI is in the Chamber, and she has a statement regarding prescription drugs. I ask unanimous consent that she have an opportunity to respond to the statement of the Senator from Tennessee and that she be given 7½ minutes to do that. Following that, it is my understanding the leader is looking to vote around 11 o'clock on the Dorgan amendment and that the time after the statement by Senator MIKULSKI will basically be evenly divided. I am not asking unanimous consent. The time will basically be divided between the Senator from North Dakota and whoever opposes his amendment.

My unanimous consent request at this time is that Senator MIKULSKI be recognized for 7½ minutes as in morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Maryland.

PRESCRIPTION DRUGS

Ms. MIKULSKI. I thank the Chair, and, Mr. President, I thank my colleagues for their courtesy, particularly Senator DORGAN. I am very appreciative.

Mr. President, seniors are facing a crisis, and it is caused by the high cost of prescription drugs. For so many years, Congress has talked about prescription drugs in Medicare.

Let me tell you what my seniors say: Talk, talk, talk. They are fed up with our talk, and they want us to take action. They tell me: You can't talk yourself out of high cholesterol; you need Lipitor. You can't talk your way out of diabetes; you need insulin.

The problem with the Senate, they say, is when all gets said and done, more gets said than gets done. The time for talking is over, and we need to listen to the seniors, to business, and we need to act.

I have been in communities all over Maryland, from diners to boardrooms, listening to seniors who are desperate, listening to their families who want to help their parents and listening to employers in boardrooms who really want to help their retirees but are wondering if they can afford to do so.

Here is what they tell me: Congress must do something about the prescription drug benefit, and they want us to do it now to help our seniors, our families, business, and our economy.

There are several different plans floating around, and a lot of them have wonderful new language: Medicare Choice, Medicare Advantage, et cetera. I am not sure what will happen, but what I know is, we must have a meaningful prescription drug benefit, not just slogans and sound bites, not just something out of the Heritage Foundation, not something out of a think tank, but something that enables seniors to afford the prescription drugs, which they paid for the research to develop.

I have five principles for a prescription drug benefit. These principles are the yardstick by which I am going to measure any proposal.

First, the cornerstone of any prescription drug benefit must be Medicare. It must be in Medicare. It must stay in Medicare. Medicare must be the cornerstone. I am absolutely opposed to the privatization of Medicare either overtly or covertly. Let me repeat, I am absolutely opposed to the privatization of Medicare.

Any prescription drug benefit that has a private insurance component to it must be in addition to a Medicare benefit, not in lieu of a Medicare benefit. It must keep a traditional Medicare component to it. Any private insurance program must be an option, and it must not be mandatory.

That goes to my second principle: voluntary. No one should be coerced or forced into a private program or forced to give up coverage if they already have it.

It must be affordable. Benefits must be affordable to business and affordable to seniors. That means a definite premium and a reasonable copayment.

It must be accessible, available to all seniors regardless of where they live, and it must be portable so they can take it with them if they visit their grandchildren in another State.

It must be meaningful and genuine. It must cover the drugs that doctors say they need, not what insurance executive gatekeepers say they are willing to give them.

Let's talk about the meaningful benefit. Congress cannot leave this up to the insurance companies.

We have been down that road in Maryland, and it was a rocky road, not only filled with potholes but with landmines. We had something called Medicare+Choice that turned out to be nothing more than a racket for seniors to be gouged and abandoned in my own State. I am not going to support any more rackets or gimmicks under the illusion of being able to help our seniors. Insurance companies came in. Seniors were going to have choice. They ended up with no choice and no coverage. The companies came in. They took the money from our seniors. Then they said, oh, it is too expensive to do this, and they left town. They left over 100,000 Maryland seniors without coverage. We are not going to go that way.

So I do not trust the insurance companies to be there for the seniors. Getting rid of Medicare by forcing them into this is not going to be the way we go. Medicare is the answer. Medicare is not the problem.

I believe honor thy mother and father is not just a good commandment to live by, it is good public policy to govern by. That is why I feel so strongly about Medicare. Congress created Medicare to provide a safety net for seniors. In 1965, seniors' biggest fear was the cost of hospital care. One heart attack could put a family into bankruptcy. That is what Medicare Part A is all about. Then Congress added Medicare Part B to help seniors pay for doctor visits, an important step to keep seniors healthy and financially secure.

New advances in medicine mean seniors are living longer. New treatments and therapies such as prescription drugs prolong life and maintain quality of life. These costs were not envisioned in 1965.

So as we look at this problem, we need to know that Medicare has served the Nation well. Now we know it is time to expand it to a prescription drug benefit. We have covered hospitalization. We have covered doctor visits. Yet because of the advances in medical science in this country, prescription drugs and medical devices save lives and help manage chronic conditions such as high blood pressure and diabetes. This is what we need to be focusing on. Let's focus on the American people for a change and not on the so-called hollow opportunities of structural reform. It is a problem for middle class families. Families worry about their jobs and the weak economy. They do not know how they are going to take care of their children and their elderly parents.

American businesses are wondering about things such as legacy costs, and small business is wondering how they can afford health insurance as well. A lot of companies want to do the right thing for their employees and retirees. They want to offer comprehensive health care benefits, but they are struggling under the cost. That is why I fought for tax incentives for small businesses to provide health coverage for their employees. But those who supported the tax bill care more about special breaks for Joe Billionaire than about basic health care for families.

Our businesses do not get any help, but their competitors sure do. The playing field is not level. When competitors in other countries do not have to pay for prescription drug coverage because they have a national health care system, in my own State of Maryland this means people are losing jobs in the automobile industry and the steel industry. That is why I fought for tax incentives for small businesses to provide health coverage for their employees, but those who supported the tax bill care more about special breaks for Joe Billionaire than about basic health care for families.

We have to get real, and the first place we have to get real is to have a real prescription drug benefit. The Nation cannot afford to do nothing. Prescription drugs are lifelines to millions of Americans. They enable seniors to prevent and manage disease. Without access to medication, seniors are going to end up with trips to the hospital, longer hospital stays, more visits to emergency rooms.

All the great research done at NIH is meaningless if people cannot afford the cures. It is time to make prescription drug coverage a national priority so we can help our seniors, families, American business, and our economy.

When we stand up for America, we stand up for what America stands for, which is a safety net for our seniors and really helping our families be able to help themselves.

By passing a real prescription drug benefit, Congress will deliver real security to America's seniors. Retirement security means more pension security. Seniors need healthcare security to be at ease in their retirements. In today's world, we cannot have healthcare security without prescription drug coverage. Congress must keep this promise to America's seniors.

I now yield the floor, but if they come in with some more gimmicks, I will not yield the floor in this debate.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Under the previous order, the leadership time is reserved.

ENERGY POLICY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 14, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Campbell/Domenici amendment No. 864, to replace "tribal consortia" with "tribal energy resource development organizations".

Dorgan amendment No. 865, to require that the hydrogen commercialization plan of the Department of Energy include a description of activities to support certain hydrogen technology deployment goals.

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes equally divided for debate in relationship to the Dorgan amendment No. 865.

The Senator from North Dakota.

AMENDMENT NO. 865

Mr. DORGAN. Mr. President, the amendment I have offered is an amendment we will vote on this morning. I was disappointed yesterday to discover that there was opposition to the amendment. This is an amendment that passed without opposition in the last Congress. So surprisingly now I am discovering that some have changed their mind.

I will describe why, if this Congress has any gumption at all to decide that we ought to change course and move in a new direction and be bold and big when we think about our energy future, they will support this amendment.

President Bush said the following about our dependence on foreign oil in his State of the Union Address: America's energy security is threatened by our dependence on foreign oil. He said: We import 55 percent of the oil we consume. That is expected to grow to 68 percent by 2025. Nearly all of our cars and trucks run on gasoline. They are the main reason America imports so much oil—that, from President Bush—two-thirds of the 20 million barrels of oil we use each day for transportation.

Fuel cell vehicles offer the best hope of reducing our dependence on foreign oil. The President said that because he was proposing a new direction for America's energy supply: Hydrogen and fuel cells.

Following his State of the Union Address in which he proposed that, he had a gathering at the Building Museum in Washington, DC. He invited all of the industry leaders throughout the country to come. He gave a great speech. I was there with my colleague Senator DOMENICI. We were invited to be a part of it. He talked again about striking out in this new direction and talked about developing hydrogen and fuel cells as part of our future. That made sense to me.

I have spoken often of the first old car I had when I was a young kid. I bought a Model T Ford and restored it as an old antique. The way you gas up this 1924 Model T Ford is you pull up to a pump, stick a hose in the tank, and pump it full of gas. And what do you do with a 2003 Ford? Exactly the same thing. Nothing has changed in almost a century. We are still running gasoline through those carburetors.

What the President says—and I agree with him—is let's decide to change that and reduce our dependence on foreign oil because that is where the growth in energy use is coming; that is, on America's roads and America's vehicles. Do we want to be at a point where we have over one-half of our oil coming from off our shores, much of it from very troubled parts of the world? Do we want to be at the point where we have 68 percent of it coming from other parts of the world, where if, God forbid, some morning we woke up and discovered terrorists had interrupted the supply of oil and this American economy would be flat on its back? Is that how what we want to be held hostage? I do not think so.

So the President says let's strike out in a new direction. He proposed $1.2 billion on a hydrogen program. It is exactly the right thing to do. I commend him for it. But $1.2 billion is timid; it is not enough. Nonetheless, it is moving in the right direction, and for this American President to put his administration on the line to move in that direction is not insignificant at all; it is very significant.

I have pushed and pushed, and now this Energy bill has almost tripled the amount the President recommended for a new hydrogen-based economy and fuel cell future.

I proposed $6.5 billion over 5 years, an Apollo-type program. President Kennedy said: Let's put a man on the Moon by the end of the decade. He set a goal. And we did. I said: Let's have an Apollo program, decide we are going to move toward a hydrogen fuel cell future for our vehicles.

Do my colleagues know that a vehicle is twice as efficient using a fuel cell as it is using gasoline through a carburetor? It is double the efficiency getting power to the wheel. And what do you get out the back end of a vehicle that uses hydrogen in a fuel cell? Water vapor. You are not driving around town belching black smoke. You get water vapor. It is good for the environment, good for this country's energy security, and good for this country's economy. The fact is, this is moving in exactly the right direction. So I commend President Bush.

We also made progress in the Energy Committee, saying let's increase that which the President recommended, but it is still short of where we ought to be, No. 1. No. 2, it does not include targets and timetables. I do not suggest they be mandatory, but I do say this: Let's decide where we are headed, and when we give the Department of Energy and others $3 billion plus, let's say here is where we would like to go, here is our destination, here is our map. I say let's aspire to have 100,000 vehicles on the road in the year 2010 that are hydrogen-powered fuel cell vehicles and 2½ million vehicles by 2020.

My colleague yesterday said, well, we think maybe it is a mandate. I said, no, it is not a mandate at all. Just ask the Department of Energy to develop a strategy that says here is what we would like to do. We cannot force that to happen, but at least a goal is established.

Japan has goals and strategies with respect to hydrogen and fuel cells. They are moving very quickly. Europe is moving very quickly. Japan wants 50,000 by 2010 and 5 million vehicles by 2020. General Motors has a goal of having 1 million vehicles by 2010—Ford, Nissan, DaimlerChrysler. The fact is, the industry is moving very quickly as well.

I just do not happen to think we ought to throw a bunch of money at Energy and say: Do what you can with it and report back. I guarantee, if $3 billion or $3.5 billion is put into a bureaucratic envelope and sent down to an agency and they are told to report to us when they have half a notion and tell us what they have done, we are not going to make much progress.

What I believe this Congress ought to do is say: Here is what we aspire to achieve. This is a big, bold plan, and we want to make progress. We would like by the year 2010 on the streets in this country 100,000 automobiles that are powered by hydrogen and use fuel cells. We would like 2½ million by the year 2020.

Why do I say we need some targets and timetables? Because this is not easy to do. This is not something that one company can do or one industry can do. This requires a combination of private sector investment and initiative, and it requires public policy that accommodates this conversion.

First of all, we have to deal in a whole range of areas. How do you produce hydrogen? Hydrogen is everywhere. It comes from everything. It can come from natural gas, from coal, you can take hydrogen from water. You can use a wind turbine and produce electricity from the air and use that electricity to separate oxygen and hydrogen in water, store the hydrogen, use it in a fuel cell, and double the efficiency of how you power an automobile and have water vapor coming out of the tail pipe of the automobile. How wonderful this country's future. But it will not happen unless the Congress and the President decide we are going to move to a different future.

The first antique car I bought and restored when I was a kid was 75 years old. I put gas in it the same way I put gas in a car today. It is never going to change unless in public policy we accommodate the private sector's investment and the initiative that comes from both the private sector and public policy, to say here is where our country aspires to be. Here is where we want our country to move with respect to an energy bill.

There is a lot to this Energy Bill. Any energy bill worth anything, in my judgment, has to incentivize additional production. It has to provide for significant amounts of conservation because we are wasting a great deal of energy. It has to provide for new efficiencies with respect to all the appliances we use. Most importantly, in my judgment, the fourth title of an energy bill has to be limitless renewable sources of energy. Yes, that is ethanol, which we debated last week; it is biodiesel; but most importantly, it is trying to move toward a new energy future with respect to our vehicle fleet. That is hydrogen and fuel cells.

I am not talking during this conversation about stationary engines, although that is another application for fuel cells, and we have fuel cells that are deployed and being used in this country. We also have fuel cells and vehicles using hydrogen. I have driven one. We have had a fuel cell vehicle drive from California to New York. It is not as if this technology does not exist. It does. Like all other new technologies, it is originally very expensive. As the research and development into the new models and prototypes are done, it is very expensive. But those costs come down, down, way down, as our country embraces the notion that we want a different future for our vehicle fleet; we want a hydrogen fuel cell future that relieves this country of being held hostage by sources of oil that come from out of our country.

If we just think for a moment about that, this American economy is the strongest economic engine in the entire world by far. There is nothing close to it. Yet some catastrophic event could happen that could shut off this supply of oil to this country because over half of it comes from outside of our shores. Something could happen to shut off the supply and this economy would grind to a halt. It would be flat on its back. And everybody knows it. When it happens, if it happens, and God forbid it happens, but if it happens everyone will say, We told you so. That is why this President wants to move to a different path, go to a different place, to embrace hydrogen and fuel cells, and has stated so in a State of the Union Address. He is dead right. We have to do that.

I don't understand why establishing an aspired-to target and timetables engenders opposition. A year and a half ago when I offered this amendment it was accepted by voice vote. I have no idea why all of a sudden some people say, this is radical. What a bunch of nonsense. Radical? Yesterday, I was told, what we are talking about are wild guesses: 100,000 vehicles by 2010, 2.5 million by 2020. Do you think General Motors has an aspiration of putting 1 million cars on the road by producing 1 million fuel cell cars by 2010? Do you think they go to the board of directors and say, We have a wild guess to talk to you about. These are not wild guesses. This is public policy, from our standpoint, of stating our goals.

I find it fascinating; although this is not a mandate at all, it is trying to establish some benchmarks. Instead of just giving money to bureaucrats or a Federal agency and saying report back when you get half a notion and let us know how you are doing—the report will show not much is going on. Instead of mandates, I put some targets in and say, aspire to achieve these. We ask the Department of Energy to give us a strategy on how they will achieve these.

Some who would not want to put this kind of a strategy or this sort of a target in law will come to the Senate and say, on national missile defense, we are going to spend $9 billion this year on national missile defense and we demand you deploy a system. It does not matter whether it is not ready or whether the technology does not exist, and it does not matter if you cannot hit a bullet with another speeding bullet; we demand you deploy that system by 2004. So the mandated targets are fine with respect to a national missile defense system for which you want to spend $9 billion.

All of a sudden, when the President says, do a hydrogen fuel cell initiative for America's energy security and you put in a rather weak, in my judgment, set of targets, just so you have targets rather than no targets and timetables, they say, gosh, what on Earth are you doing here? Why would you suggest that?

I suggest this, because I think if we are going to spend money, we ought to spend it effectively. If you are going to go on a journey, you might want to get a map. If you want to take a trip to go to a different kind of energy future, you might want to have a spot in mind about your different nation. Those who want to take the taxpayers' money and throw it at a problem and send it to an agency and say, do the best you can, I say, God bless you, but I will show you how not to make progress. Just do that, keep doing that, and you will never, ever, make progress.

If we want a different energy future, then we have to be driving the train. We have to decide this is what we aspire to achieve; these are the goals we set for our country. If you do not want to set goals, do not tell me you support an energy future different from today. Don't tell me you want to withdraw and disconnect from 55 percent dependence on foreign energy—55 percent going to 68 percent. This is a habit that is destructive to this country. It is destructive to our future, and it is destructive to our security. It is a habit we must end. This President has supported an approach to do that.

I have worked on hydrogen for some while, as have others in the Congress, Republicans and Democrats. But working on hydrogen and fuel cells to try to move to a different energy future, while a worthwhile enterprise, is not going to move us down the road unless this Congress decides to be bold and decides to have big dreams and big goals. The fact is, we try to incrementalize everything. We talk big and think little. If we want to do something, this amendment should be attached to this Energy Bill. As I said before, this amendment was accepted by voice vote 2 years ago. I don't have the foggiest understanding of why someone would oppose this. It is not a mandate. It is not a wild guess. It is not radical. In fact, in many ways it is the most conservative of approaches to say, let's not spend money unless we know what we are going to do with it, unless we have a strategy, unless we aspire to achieve certain goals good for this country and that fit with what the President intends to have happen with respect to a hydrogen and fuel cell future.

I ask unanimous consent Senator FEINSTEIN be added as a cosponsor to my amendment No. 865 to Senate Bill S. 14.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I understand my time has expired.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. I ask unanimous consent for 5 additional minutes and the other side will be added 5 additional minutes to the closing side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, let me show a couple of photographs that might be helpful for people to understand what this issue is about. This is a DaimlerChrysler fuel cell bus introduced in Germany in 1997 that runs on fuel cells. I rode on a fuel cell bus in California. For anyone who thinks this technology does not exist, it does. We have fuel cells. We use hydrogen.

Let me give another example of what is happening in the private sector: The Ford Focus fuel cell vehicle, 2002.

This is a Nissan Xterra, fueled by compressed hydrogen that was tested on a California road beginning in 2001.

This General Motors Hy-Wire fuel cell concept car was unveiled in August of 2002.

Let me make a point about all of this. You can't convert a vehicle fleet in this country from a fleet that pulls up to the gas pump and you take the cap off and you stick a hose in and pump away—you can't convert a vehicle fleet from a gasoline-powered vehicle fleet to a hydrogen-powered fleet without substantial public policy initiatives that complement where the private sector wants to go. One cannot do it without the other.

That is why, even as all these companies are working very hard on these issues, they need public sector and public policy support. This is a picture of a hydrogen fueling station at Power TechLabs. So if you had a car with a fuel cell that uses hydrogen, where would you go to fuel that car? Where would you go to power it? Where would you find a supply of hydrogen? So you have a whole series of questions.

As I mentioned earlier, you have to develop the question of how do you produce hydrogen in large quantities. It is not terribly difficult. You can produce it in many ways, but what would be the predominant method of production? How do you store it? Where do you store it? How do you transport it? All of those are important issues that the private sector and public policy will answer, in my judgment.

Then, what kind of infrastructure can develop and how do you incentivize its development so those who are purchasing the new fuel cell vehicles powered by hydrogen have a place to come where they can fuel those vehicles?

We have plans for many areas of public policy, whether it is Social Security or Medicare—a whole series of issues. We have all these studies and plans of where we aspire to be and what we aspire to do. The goals in this amendment, while not mandates, are very simple. In my judgment they are reasonable goals and ones that ought not frighten anyone in this Chamber into believing they are mandates.

We know California's Clean Air Act requirements will ensure there will be many fuel cell vehicles on the road in California in the future. By this year, 2003, 2 percent of California's vehicles have to be zero emission vehicles, and around 10 percent must be zero emission by 2018. California will have nearly 40,000 to 50,000 fuel cell vehicles on the road by the end of the next decade.

One of the other considerations in public policy is Federal fleet purchase. We can be the first purchaser of these technologies and put thousands, tens of thousands of vehicles on the road through the Federal fleet purchase. Those are the kinds of activities I think can make a big difference.

Let me finish as I started. I am very disappointed. I hope perhaps a good night's sleep will have persuaded those who came yesterday, who were a little cranky about this amendment and wanted to see if they shouldn't maybe oppose this amendment—I am hoping maybe a good night's sleep would have provided some sort of epiphany to those who would have otherwise opposed it and they will decide that they should support what the Senate unanimously supported 2 years ago. This is not anything other than a step in exactly the right direction.

If you want to be big, you want to be bold, you want to agree with President Bush that we ought to move to a new energy future, if you want to do all that and believe hydrogen and fuel cells, as the President says, are the future—and I do—if you believe all that, then let's do this the right way: Set timetables and targets and goals. If you want to spend money, then let's make those who are going to receive the money give us the strategies that relate to where we want our country to move. Or do we just want to throw money in the air and sort of mill around and thumb our suspenders and smoke our cigars and say we did a great job; we spent $3 billion on hydrogen, and boy, we hope something comes of that. That is not the way you do business. The way you do business is you have a plan. You decide where you want to go for the future of this country and what you want to do and how you want to achieve it. That is what this amendment does. It just sets out those goals. I am hoping when we have this vote it will have a very sizable victory here in the Senate later this morning.

Mr. President, I yield the floor, and I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside and the Senator from Louisiana be allowed to offer her amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

AMENDMENT NO. 871

Ms. LANDRIEU. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] for herself, Mr. SPECTER, Mr. BINGAMAN, and Ms. COLLINS, proposes an amendment numbered 871.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reduce the dependence of the United States on imported petroleum)

On page 238, between lines 2 and 3, insert the following:

Subtitle E—Measures to Conserve Petroleum

SEC. . REDUCTION OF DEPENDENCE ON IMPORTED PETROLEUM.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2004, and annually thereafter, the President shall submit to Congress a report, based on the most recent edition of the Annual Energy Outlook published by the Energy Information Administration, assessing the progress made by the United States toward the goal of reducing dependence on imported petroleum sources by 2013.

(2) CONTENTS.—The report under subsection (a) shall—

(A) include a description of the implementation, during the previous fiscal year, of provisions under this Act relating to domestic crude petroleum production;

(B) assess the effectiveness of those provisions in meeting the goal described in paragraph (1); and

(C) describe the progress in developing and implementing measures under subsection (b).

(b) MEASURES TO REDUCE IMPORT DEPENDENCE THROUGH INCREASED DOMESTIC PETROLEUM CONSERVATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall develop and implement measures to conserve petroleum in end-uses throughout the economy of the United States sufficient to reduce total demand for petroleum in the United States by 1,000,000 barrels per day from the amount projected for calendar year 2013 in the reference case contained in the report of the Energy Information Administration entitled "Annual Energy Outlook 2003".

(2) CONTENTS.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) IMPLEMENTATION.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

Ms. LANDRIEU. Mr. President, we are today continuing a very important debate on fashioning an energy policy for our Nation. We will be voting on many key amendments as we attempt to move this very important bill off the Senate floor, to conference with the House, and to the President's desk for signature.

It is crucial that we increase domestic production of oil and gas.

It is crucial that we invest more money in research and technologies for alternate fuels that are more environmentally friendly. It is crucial that we reduce our consumption, particularly of oil, as well as have a revitalization, in my opinion, in the appropriate ways, of our nuclear industry—they are all important aspects of this bill—as well as have the deregulation components of electricity and the expanding of the electric grid, in the appropriate ways, which is quite difficult because there are regions of the country that come at that issue from a variety of different standpoints, and it has been very difficult to negotiate those particular aspects of the bill.

But I compliment the chairman from New Mexico and our ranking member from New Mexico who have worked beautifully together trying to fashion a bill that is balanced and is actually possible to pass and not get logjammed in ideological battles; it is something that will help our country move toward more energy efficiency and security; increasing our national security and improving efficiency in our economy, hopefully putting people to work in developing these new technologies. So I commend them for their patience and persistence and their guidance.

I believe the amendment I offer today will go a long way to minimizing the consumption of oil in this country. We are a nation that has only 3 percent of the world's known oil reserves. Yet we consume more oil than any country per capita or in any way you might want to arrive at that conclusion. It is simply essential that we reduce our consumption of oil.

You might say to me, Mr. President: That is strange, Senator, since you are from a State that produces oil. We are a proud producer, as you know, of oil and gas. We believe we contribute to the wealth and security of this Nation. We believe and know that these oil and gas wells have brought jobs and wealth and opportunity and prosperity to our State. Yes, it has come at some environmental cost, particularly 40 and 50 years ago, where the science was not where it is today, the technology was not where it is today, the safety measures were not where they are today. We made mistakes, but we are quickly learning from our experience, as any smart individual or enterprise does. We are now engaged in new technologies that minimize the footprint. We are engaged in making tremendous improvements in environmental restoration projects.

So I hope people will not think it is strange that a Senator from Louisiana would be offering what I consider a very reasonable amendment to reduce oil consumption in this Nation because even our oil and gas producers themselves are willing, and know, in the long run it is in everyone's interests, including theirs, to diversify our source of supply, to minimize our consumption and our dependence on foreign oil by improving and increasing domestic production of oil and gas, which is a centerpiece of this bill which I am proud to support.

So, therefore, I offer this amendment which will save, if adopted—and I am pleased to offer this amendment with the Senator from Pennsylvania, Mr. SPECTER, as the lead cosponsor; Senator LAMAR ALEXANDER, from the great State of Tennessee; as well as Senator COLLINS from Maine—so we offer this as a bipartisan amendment to save the taxpayers and the businesses and the consumers in this Nation 1 million barrels of oil a day. That is the essence of this amendment.

Before I explain the details of the amendment, let me just talk a moment about the importance of reducing our dependence on fossil fuels. As I said, we need to develop alternative fuel sources. One of the reasons is because oil provides nearly 40 percent of U.S. energy consumption. Sixty percent of the oil we consume today is imported, and that number is set to rise. Unless this amendment and others like it are adopted, that trend will continue to go up, putting at risk our national security and putting at risk our international economic competitiveness.

Because oil is truly an international commodity, and the United States is the world's largest consumer of oil, it is particularly vulnerable to any event that would affect supply and demand. As I said earlier, our daily consumption of oil is almost four times the next two largest oil consumers, Japan and China. Let me repeat: Our daily consumption of oil is four times the next two largest oil consumers, Japan and China.

The price of oil in our country is at the mercy of world events, and not just in the Middle East, which we see played out on television every day, but in Venezuela, which might be off the front pages but, believe me, it is not off the front pages of the business journals in this country where they see their prices and their businesses jeopardized because of the turmoil in Venezuela and Nigeria.

We owe it to ourselves to try to minimize the volatility of oil prices. We do that in two ways: increasing domestic production, which obviously Louisiana would support; and also by reducing our consumption, which people in Louisiana—average families, businesses large and small—all would agree to.

I continue to advocate for responsible and robust domestic oil production, as I said, but we need to do more to reduce consumption. Oil is a critical component of nearly everything that affects our daily lives: from transportation, to food production, to heating. And rising oil prices actually act like a tax by foreign oil exporters on the average American. We have spent a great deal of time trying to reduce taxes on the floor of the Senate. We have done that sometimes in a bipartisan way. Sometimes the majority has pushed through tax relief. We can debate that issue at another time. But there is no disagreement that when we can reduce taxes in a responsible manner, we most certainly should do so.

This amendment, which asks the President to reduce the consumption of oil in this Nation by 1 million barrels a day—we are consuming about 19 million barrels a day, so this would require and basically meet his goals, as outlined in his State of the Union speech—gives him broad latitude as to how to do that. It would be like a tax reduction because currently middle-class families pay about 5 percent of aftertax income for energy needs. As the price of oil increases, family aftertax income continues to decline.

When businesses pay higher taxes, pay for higher oil prices and disruptions in oil supply, this increases inflation and reduces profits, production, investment, and employment. Let me repeat: It increases inflation, reduces profits, reduces production, reduces investment, and reduces employment. We need to be increasing production, investment, and employment. My amendment will help us to do just that.

Consumers are spending $50 billion more in annual energy bills than a year ago. If we could reduce our consumption by the amount that our amendment suggests, we would begin to save consumers money they could spend on other most needed and necessary things for themselves, their children, their grandchildren, or their businesses.

The amendment I offer today, as I said, would direct the President to develop and implement a plan to reduce oil consumption by 1 million barrels a day by the year 2013.

I show you a chart I have in the Chamber because this amendment would actually put into law—I am hoping we can get a broad bipartisan vote on this amendment—it would actually put into law the words the President himself spoke in his State of the Union speech when he said U.S. oil consumption would be about 1.8 million barrels per day lower in 2020.

So what my amendment says is, instead of saying there would be a 1.8 million reduction by 2020, let's try to shoot for a 1-million-barrel-per-day reduction by 2013, which is just about the equivalent—a little different goal but you could argue an equivalent goal. The benefit and beauty of this amendment is that it does not tie the President's hands, but it gives him great flexibility in how to achieve the goal he has outlined.

There are any number of reasonable and simple measures the President could adopt that would help us to consume a less significant amount of oil and reduce taxes on the American people, increase our national security, improve our environment, and create jobs. It almost sounds too good to be true, but it is true.

We are not mandating a specific approach, which is the beauty of it, because the approach some have argued for I have actually disagreed with and want to give the President great flexibility but hold to this important goal.

There are any number of ways we could do that. The President could consider renewable fuels standards. A different approach could save 175,000 barrels of oil per day by 2013. Weatherizing of homes under credit enhancements or encouragement or new techniques that some local and State governments have found very helpful could save 80,000 barrels per day. Air traffic improvements, just simple improvements in the way and timing of our airplanes taking off and landing, which can be increased effectively by additional technologies, could save 50,000 barrels of oil per day. As to reducing truck idling, there are several new technologies being developed, employing scientists and engineers and putting Americans to work developing these new kinds of technologies which make the engines more efficient. They don't have to idle or, at the idling stage, don't use as much oil. That could save 50,000 barrels of oil a day. Just replacing tires, using our tires and keeping them filled with air as opposed to flat, new technology regarding the tires could save money.

The point of this list—and I could go on because I could speak about 30, 40, or 50 known actions that could be taken by the President in this realm without dictating exactly how the savings would occur—is to illustrate the plethora of choices where he could go to achieve these savings.

The amendment I offer today with Senators ALEXANDER, BINGAMAN, SPECTER, and COLLINS is a clear and reasonable objective for oil savings. It will reduce our dependence on oil.

Let me show a couple of examples of the way the President could achieve these goals, some of which we have already passed on the Senate floor. Ethanol is now a part of this bill. There were some Members who disagreed with the ethanol fuels standard. I actually supported, along with Senator DASCHLE, Republicans and Democrats, that new standard. This will save oil consumption in the country. The President would have that option. In addition, I talked about the tire savings, replacement tires with the appropriate rules and regulations could save us 270,000 barrels of oil. And finally, the idling engines, this is a visual to show that with some new technologies to keep our airplanes flying and spending less time on the ground and more time in the air, which passengers would appreciate—believe me, as a frequent flier myself, if we could just keep our airplanes flying and keep them from idling; there are new technologies helping to do this—we could save oil.

In the past, we have focused the debate on just one way of saving oil which was directed at our transportation sector. My amendment does not direct these savings at the transportation sector, although I acknowledge that the transportation sector is the largest user of oil. This amendment provides flexibility. It sets a realistic goal that matches the President's, basically the equivalent of the President's own goals. And I think it would create, if adopted, a tremendous balance in the bill because again we have increased opportunities for production. We have given incentives for more domestic production. But that has to be coupled with Senator BINGAMAN's leadership on energy efficiency and savings to reduce our consumption of oil as we promote in the appropriate ways over the appropriate timeframe the use of other alternative sources of energy.

I offer the amendment in good faith. There will be Members who will speak hopefully for the amendment. Hopefully we can pass it by a good margin to show we are indeed serious about a balanced energy policy which promotes in the right ways domestic production but also oil savings.

I will ask unanimous consent to print in the RECORD a BusinessWeek article that had a great impact with me as I read it, "Taming the Oil Beast." It is time, since the business community realizes we can and should get smart about oil, that we do so. I think this is a very good amendment about getting smart about oil because it sets a goal of reduction, but it gives the President and his departments flexibility as to how this would work.

I would like to submit that for the RECORD because it would serve as a basis for the offering of the amendment today.

I would also like to reference an article by the Concerned Scientists Association, over 2,000 scientists who have written a paper, very illustrative, encouraging action on this subject. I say that because some of our brightest minds, some of the best scientists in the country are thinking along these lines and fully support this amendment to save 1 million barrels of oil. Perhaps we can save more. I would actually be open to saving more. If someone wants to offer an additional amendment, I would consider voting for it. But I am certain this is something we can accomplish. The President himself outlined this as a goal. The President's own budget that he laid down cited as a goal the equivalent, basic goal of what I am offering.

We have voted any number of times in the Senate and have come very close to reaching this goal. So while some may argue that we should try to save more, I think this is an amendment that can pass, that can get us moving in the right direction. I submit both of these from a business perspective, from an environmental perspective for the RECORD, to substantiate the value of the amendment.

I see my colleague from Tennessee on the floor who has probably come to add his good words as a cosponsor of the amendment.

I ask unanimous consent to print the document I referenced.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From BusinessWeek, Feb. 24, 2003]

TAMING THE OIL BEAST

A SENSIBLE, STEP-BY-STEP ENERGY POLICY IS WITHIN OUR REACH—HERE'S WHAT TO DO

American troops are massing outside of Iraq, preparing to strike against Saddam Hussein. And as war jitters rattle the world, there's one inevitable effect: a rise in the price of oil. Crude is up more than 33 percent over the past three months, climbing to $35 per barrel in the U.S. Economic models predict that if the price stays high for three months, it will cut U.S. gross domestic product by $50 billion for the quarter. If the war goes badly, with Saddam destroying oil fields in Iraq and elsewhere, or if disaster or unrest chokes off oil flowing from other countries, the whole world's economy is in for a major shock.

There's no escaping the consequences of our thirst for oil. It fuels a vast engine of commerce, carrying our goods around the nation, taking mom and dad to work, and carting the kids to soccer practice. As long as the U.S. imports more than 11 million barrels a day—55 percent of our total consumption—anything from a strike in Venezuela to unrest in the Persian Gulf hits us hard in the pocketbook. "We are vulnerable to any event, anyplace, that affects the supply and demand of oil," says Robert E. Ebel, director of the energy program at the Center for Strategic & International Studies (CSIS). In a Feb 6, speech, President Bush put it bluntly: "It jeopardizes our national security to be dependent on sources of energy from countries that don't care for America, what we stand for, what we love."

It wasn't supposed to be this way. Remember how Richard Nixon insisted in 1973 that the nation's future "will depend on maintaining and achieving self-sufficiency in energy"? Or how Jimmy Carter proclaimed in 1979 that "beginning this moment, this nation will never again use more foreign oil than we did in 1977—never." Even Ronald Reagan said in 1982 that "we will ensure that our people and our economy are never again held hostage by the whim of any country or cartel."

How empty those vows seem now, when one nation, Saudi Arabia, is sitting on the world's largest proved reserves—265 billion barrels, or 25 percent of the known supplies—and can send global prices soaring or falling simply by opening or closing the spigot. For now, the Saudis are our friends. They are boosting production to keep prices from spiking too high. But what if Saudi Arabia's internal politics change? "The entire world economy is built on a bet of how long the House of Saud can continue," says Philip E. Clapp, president of the National Environmental Trust.

The good news is that we can make a safer bet. And it doesn't entail a vain rush for energy independence or emancipation from

Middle East oil. Based on interviews with dozens of economists, oil analysts, environmentalists, and other energy experts, BusinessWeek has crafted guidelines for a sensible and achievable energy policy. These measures build on the positive trends of the past. If implemented, they would reduce the world's vulnerability to wars in the Middle East, production snafus in Russia, turmoil around the Caspian Sea, and other potential disruptions. The plan has the added benefit of tackling global warming, which many scientists consider the greatest economic threat of this century.

The energy policy BusinessWeek advocates comes down to six essential steps. To deal with oil supplies, the U.S. should diversify purchases around the world and make better use of strategic petroleum reserves. It must also boost energy efficiency across the economy, including making dramatic improvements in the fuel efficiency of cars and trucks. How do we accomplish this? Nurture new technologies and alternative energy sources with research dollars and tax incentives, and consider higher taxes on energy to more accurately reflect the true costs of using fossil fuels. Projecting the precise effects of these policies is impossible, economists warn. But BusinessWeek estimates that, at a cost of $120 billion to $200 billion over 10 years—less than the cost to the economy of a major prolonged oil price rise—it should be possible to raise energy efficiency in the economy by up to 50 percent and reduce U.S. oil consumption by more than 3 million barrels a day.

These steps draw on the lessons of history and help highlight what not to do. Meaningful progress has long been held up by myths and misconceptions—and by the scores of bad ideas pushed in the name of energy independence. Remember "synfuels" in the 1970s? Today's misguided notions include trying to turn perfectly good corn into ethanol and rushing to drill in the Arctic National Wildlife refuge. Indeed, looking over the past couple of decades, "my reaction is, thank God we didn't have an energy policy," says David G. Victor, director of Stanford University's Program on Energy Sustainable Development. "The last one had quotas and rationing, causing lines at the gas pumps and incredible inefficiencies in the economy."

One false notion is that making the U.S. self-sufficient—or doing without Middle Eastern oil—would protect us from supply cutoffs and price spikes. In fact, oil has become a fungible world commodity. Even if we cut the umbilical cord with the Persian Gulf by buying more oil from Canada, Mexico, or Russia, or by producing more at home, other nations will simply switch over to buy the Middle eastern oil we're shunning. The world oil price, and the potential for spikes in that price, remains the same. As long as there are no real oil monopolies, it doesn't matter so much where we get oil. What really matters is how much we use. Reducing oil use brings two huge benefits: Individual countries have less leverage over us, and, since oil costs are a smaller percentage of the economy, any price shocks that do occur have a less dramatic effect.

Yet reducing oil use has to be done judiciously. A drastic or abrupt drop in demand could even be counterproductive. Why? Because even a very small change in capacity or demand "can bring big swings in price," explains Rajeev Dhawan, director of the Economic Forecasting Center at Georgia State University's Robinson College of business. For instance, the slowdown in Asia in the mid-1990s reduced demand only by about 1.5 million barrels a day, but it caused oil prices to plunge to near $10 a barrel. So today, if the U.S. succeeded in abruptly curbing demand for oil, prices would plummet. Higher-cost producers such as Russia and the U.S. would either have to sell oil at a big loss or stand on the sidelines. The effect would be to concentrate power—you guessed it—in the hands of Middle Eastern nations, the lowest-cost producers and holders of two-thirds of the known oil reserves. That's why flawed energy policies, such as trying to override market forces by rushing to expand supplies or mandating big fuel efficiency gains, could do harm.

The truth is, the post-1970s de facto policy of just letting the markets work hasn't been all bad. painful oil shocks brought recessions. But they also touched off a remarkable increase in the energy efficiency of the U.S. economy. From the 1930s to the 1970s, America produced about $750 worth of output per barrel of oil. That number doubled, to $1,500, by the end of the 1980s. But the progress largely stopped in the past decade. Now we need policies to continue those fuel-efficiency gains, without the pain of sudden oil shocks.

The critical balancing act is reducing oil use without hurting the economy—or without allowing energy prices to fall so low that companies and individuals abandon all efforts to conserve. Successfully walking this tightrope can bring big gains. The next time we are hit with a spike in the price of oil, or even of natural gas or electricity, we may be able to avoid the billions in lost GDP that would otherwise result. Here are the details:

1. Diversify Oil Supplies

The answer to the supply question is a delicate combination of technology, market forces, and diplomacy. New tools for drilling in waters nearly two miles deep, for instance, are opening up untapped sources in the Atlantic Basin, Canada, the Caribbean, Brazil, and the entire western coast of Africa.

That's helping to tip the balance of power among oil producers. In 1973, the Middle East produced nearly 38 percent of the world's oil. Now, that percentage has dropped below 30 percent. "Our policy has been to encourage oil companies to search for oil outside the U.S. but away from the Persian Gulf," explains CSIS's Ebel. "It's been rather successful."

There's plenty of oil to be tapped. While there are now about 1 trillion barrels of proved reserves, estimates of potential reserves keep rising, from 2 trillion barrels in the early 1980s to more than 3 trillion barrels today.

The Caspian Sea area, for instance, promises proved reserves of 20 billion barrels to 35 billion barrels—but could have more than 200 billion barrels. Skeptics argue that this Caspian resource, surrounded as it is by Iran, Kazakhstan, Russia, Azerbaijan, and Georgia, is a bastion of instability and could easily become the backdrop for a future war linked to oil. But history shows that even bad guys are eager to sell their oil.

If energy policy were only about economics, we might argue that the world should take advantage of the ample supplies and relatively cheap prices and just keep consuming at a rapid rate. But there are additional costs of oil not included now in the price (step 6). And we have other important goals, such as doing more to protect the environment and reducing the political leverage of the Middle East. Says ExxonMobil Corp. (XOM) Chairman and CEO Lee R. Raymond: "The key to security will be found in diversity of supply." In other words, whimsical though it may seem, we should strive to maintain a Goldilocks price for oil: It should be high enough to keep companies and countries investing in oil fields but not so high that it sends the world into a recessionary tailspin.

2. Use Strategic Reserves

The nation now has 599.3 million barrels stored in underground salt caverns along the Texas and Louisiana Gulf Coast. That's enough to replace Iraq's oil production for at least six months. Yet this stockpile isn't being used correctly, and it never has been, many experts believe. In the 1991 Persian Gulf War, "oil prices were back to the normal level by the time the U.S. got around to releasing the strategic petroleum reserve," says energy economist W. David Montgomery of Charles River Associates, Inc. We shouldn't make that mistake again. With oil prices already up, "we should release the stockpile immediately," he says.

Other experts argue that the reserve should be used as a regular hedging tool rather than being saved for extreme emergencies, which so far have never materialized. One idea: Allow companies to contract with the government to take out barrels of oil when they want to—as long as they agree to replace it later, along with a bit extra. That way, this big store of oil would smooth out glitches in supply and demand while also taking away some of OPEC's power to manipulate the market. There are similar reserves in Europe, Japan, and South Korea—for a total of 4 billion barrels, including the U.S.—that should be used in this way as well. And by making the reserves bigger, we gain more leverage to dampen the shocks.

3. Boost Industrial Efficiency

After decades of concern over energy prices and the big improvement in the overall energy efficiency of America's economy, you would think that U.S. companies would be hard-pressed to find new gains. "In my experience, the facts are otherwise," says Judith Bayer, director of environmental government affairs at United Technologies Corp. (UTX) UT discovered savings of $100,000 in just one facility by turning off computer monitors at night. "People talk about low-hanging fruit—picking up a dollar on the floor in savings here and there," Bayer says. "We picked up thousands off the ground. It's embarrassing that we didn't do it earlier."

Just last year, Salisbury (N.C.)-based Food Lion cut its energy consumption by 5 percent by using sensors to turn off lights in bathrooms and loading-dock areas and by installing better-insulating freezer doors. "The project saves millions a year," says Food Lion's energy-efficiency expert, Rick Heithold.

Even companies with strong efficiency track records are doing more. 3M Corp. (MMM) has cut use of energy per unit of output by 60 percent since the Arab oil embargo—but is still improving at about 4 percent a year. One recent innovation: adjustable-speed factory motors that don't require energy-sapping brakes. The efficiency gains "help us reduce our operating costs and our emissions—and the impact that sudden price increases have on our businesses," says 3M energy manager Steven Schultz.

Last year, the New York Power Authority put in a digitally controlled power electronics system—essentially, a large garage packed with semiconductor switches and computers—in a substation that handles electric power coming in from Canada and northern and western New York. Along with conventional improvements, this vastly improved the system's ability to manage power. The state now has the capacity to transfer 192 more megawatts of available electricity, or enough to power about 192,000 homes.

The nation's entire antiquated electricity grid should be refashioned into a smart, responsive, flexible, and digitally controlled network. That would reduce the amount of energy required to produce $1 of GDP by 30 percent and save the country $100 billion a year, estimates Kurt E. Yeager, CEO of the Electric Power Research Institute (EPRI). It would eliminate the need to build dozens of power plants, cut carbon emissions, and slash the cost of power disruptions, which run about $120 billion a year. Such a network would also break down existing barriers to hooking up new sources of power to the grid, from solar roofs on thousands of houses to small, efficient heat and power generators at businesses. And soon, it will be possible to rack up big efficiency gains by switching to industrial and home lights made from light-emitting diodes (LEDs), which can use less than one-tenth the energy of incandescent bulbs.

These are exciting developments, but what do they have to do with oil? The answer lies in the idea of fungible energy: Eliminate the need for a power plant running on natural gas, and that fuel becomes available for everything from home heating to a source of hydrogen for fuel-cell vehicles. A subset of the nation's energy policy, therefore, should be doubling Federal R&D dollars over the next five years to explore technologies that can boost energy efficiency, provide new sources of power, and, at the same time, address the problem of global warming.

4. Raise Car and Truck MPG

To make a real dent in oil consumption, the U.S. must tackle transportation. The numbers here dwarf everything else, accounting for a full two-thirds of the 20 million barrels of oil of oil the U.S. uses each day. And after rising from 15 miles per gallon in 1975 to 25.9 mpg in 1988, the average fuel economy of our vehicles has slipped to 24 mpg, dragged down by gas-guzzling SUVs and pickup trucks. Boost that to 40 mpg, and oil savings will top 2 million barrels a day within 10 years.

Detroit says that's too high a goal. But the technology already exists to get there. In early January, General Motors Corp. (GM) rolled out "hybrid" SUVs that use a combination of gas-engine and electric motors to bump fuel economy by 15 percent to 50 percent. That same technology is already on the road. Honda Motor Co.'s (HMC) hybrid Civic and Toyota Motor Corp.'s (TM) Prius, both big enough to carry four adults and their cargo, each top 45 mpg in combined city and highway driving.

Adding batteries and an electric motor to vehicles is just one of many ways to increase gas mileage. Researchers can also improve the efficiency of combustion, squeezing more power out of a given amount of fuel. In an approach called variable valve timing, they can adjust the opening and closing of an engine's intake and exhaust valves. Such engines, made by Honda, BMW, and others, are more efficient without sacrificing power. Researchers are now working on digitally controlled valves whose timing can be adjusted even more precisely. The gains? Well over 10 percent in many cases.

More improvement comes from reducing the power sapped by transmissions. So-called continuously variable transmissions eliminate individual gears so that engines can spend more time running at their most efficient speed. And auto makers can build clean-burning diesel engines, which are 20 percent to 40 percent more efficient than their gas counterparts.

Estimates vary widely on what it would cost to raise gas mileage to 40 mpg or higher for the entire U.S. fleet of cars. Assuming a combination of technologies, we figure the tab could be $1,000 to $2,000 per car, or $80 billion to $160 billion over 10 years. That's less than fuel savings alone over the life of the new vehicles. Carmakers already have the technology. What we need now are policies, ranging from higher gasoline prices to tougher fuel-economy standards, that will give manufacturers and consumers incentives to make and buy these vehicles.

The ultimate gas-saving technology would be a switch to a completely different fuel, such as hydrogen. Toyota, Honda, and GM already are testing cars that use fuel cells to power electric motors. Such vehicles are quiet, create no air pollution, and emit none of the carbon dioxide linked with global warming. They also are expensive, and 10 to 20 years away from the mass market.

There's one other problem: Where would the hydrogen come from? The element must now be extracted from gas, water, or other substances at relatively high cost. But there are intriguing ideas for lowering the tab, such as genetically engineering bacteria to make the gas or devising more efficient ways to get it from coal. We need a strong research program to explore these ideas, plus incentives to test fuel-cell technology in power plants and vehicles. President Bush's $1.2 billion hydrogen initiative is just a start.

5. Nurture Renewable Energy

Tim Grieves shares a vision with a growing number of energy giants: harnessing the wind to generate cheap, clean power. The superintendent of schools in Spirit Lake, Iowa, Grieves has overseen the installation of two wind turbines that hum away in a field not far from his office. They generate enough juice to allow Spirit Lake to proudly call itself the only electrically self-sufficient school district in the nation. "We're not dependent on the Middle East," says Grieves. "This is just smarter."

Although less than 0.5 percent of our power now comes from wind, it's the cheapest and fastest-growing source of green energy. The American Wind Energy Assn. believes the U.S. could easily catch up with Northern Europe, where wind supplies up to 20 percent of power. In the U.S., that's the equivalent of 100,000 megawatts of capacity—or more than 100 large fossil-fueled plants. The Great Plains could become the Middle East of wind.

Without tax credits and other incentives, wind power couldn't flourish, but oil and other fossil fuels also have big subsidies. So we should either eliminate those or provide reasonable incentives for alternatives such as wind, solar, and hydrogen. Even if the new sources still cost more than today's power, continued innovation, spurred by the incentives, will lower the price. Moreover, having some electricity produced by wind turbines and solar panels helps insulate us from spikes in natural-gas prices. Some states now require that a percentage of power come from renewable sources. We should consider this nationwide, with a target of perhaps 15 percent, up from the current 6 percent.

6. Phase in Fuel Taxes

The main reason fuel-efficiency gains in the U.S. slowed in the 1990s is that the cost of oil—and energy in general—was so low. "Yes, we are energy hogs, but we became energy hogs because the price is cheap," says Georgia State's Dhawan.

Even though it seems like the market is working in this regard, it really isn't. There's widespread agreement that the current price of oil doesn't reflect its true cost to the economy. "What Americans need to know is that the cost of gasoline is much more than $1.50 a gallon," says Gal Luft of the Institute for the Analysis of Global Security. But the invisible hand could work its magic if we include costs of so-called externalities, such as pollution or the tab for fighting wars in the Middle East. That would raise the price, stimulating new energy-efficiency measures and the use of renewable fuels.

The tricky part is pricing these externalities. Some economists peg it at 5 cents to 10 cents a gallon of gas. Others see the true cost as double or triple the current price. Just by adding in the more than $100 billion cost of having troops and fighting wars in the Persian Gulf, California State University economist Darwin C. Hall figures that oil should cost at least $13 per barrel more. "That is an absolutely rock-bottom, lowball estimate," he says. More dollars come from adding in numbers for the costs of air pollution, oil spills, and global warming.

Imagine, though, that in an ideal world, we could settle on the size of the externalities—maybe $10 per barrel. We obviously don't want to suddenly slap a $10 tax on oil. Doing so would slice more than $50 billion out of GDP and send the economy into a recession, forecasters calculate.

But phasing it in slowly, over 10 years, would give the economy time to adopt fuel-efficiency measures at the lowest costs. We should also consider additional taxes on gasoline, since a $10-per-barrel price rise amounts to only about 25 cents per gallon of gas—not enough to make a big change in buying habits. This approach works even better if the revenue from these taxes is returned to the economy in a way that stimulates growth and productivity—by lowering payroll taxes, for example. Plus, there are big environmental benefits from reduced pollution.

There's a fierce debate about whether the economy gains or loses from such tax-shifting. Many economists agree, however, that the bad effects would be relatively small. "There may not be a free lunch, but there is almost certainly a lunch worth paying for," says Stanford economist Lawrence H. Goulder.

If energy taxes prove politically impossible, there's another way to achieve realistic fossil-fuel prices: through the back door of climate-change policy. Already, Europe is toying with carbon taxes to fight global warming and multinationals are experimenting with carbon-trading schemes to get a jump on any future restrictions. Even Republicans such as Senator John McCain (R–Ariz.) are pushing curbs on carbon dioxide. If the U.S. put its weight behind efforts to fight climate change, it could help push the entire world toward lower emissions—and moderately higher oil prices. The best approach: a combination of carbon taxes and a cap-and-trade system, wherein companies can trade the right to emit. That way, the market helps find the greatest reductions at the lowest cost. Economists figure that a $100-per-ton tax on carbon emissions, for example, would equal a rise of 30 cents in the cost of a gallon of gas.

Under the Bush Administration, this too, may be difficult to enact. What's left are regulations and mandates. There may be just enough political will to boost CAFE (corporate average fuel efficiency) standards for vehicles—and to remove the loopholes that hold SUVs to a lower standard. But we need a smarter rule than the current one.

One good idea: give companies whose cars and trucks do better than the fuel-economy target credits that they could sell to an auto maker whose fleet isn't efficient enough. That way, "good" companies such as Honda are strongly motivated to keep improving technology. By being smarter about regulations and mandates, "we could do a lot better than what we are doing now," explains Stanford professor James L. Sweeney.

If we implement these policies, here's what we'll get: A reduction in projected levels of oil consumption equal to 3 million barrels a day or more within 10 years. That means we could choose not to import from unfriendly countries (although they will happily sell their oil to others). In addition, oil-price shocks should be fewer and smaller, allowing us to avoid some of those $50 billion (or more) hits to GDP. A more fuel-efficient economy will free up oil for countries such as China and India, notes Platts Global Director of Oil John Kingston. And the technologies we develop will help those economies become more efficient.

Economists will argue about the costs of these measures. But the benefits of greater energy efficiency and reduced vulnerability should, over the long run, outweigh the $120 billion (or more) cost of getting there. Painful though they were, the oil shocks of the 1970s sent the U.S. down the road toward a more energy-efficient—and less vulnerable—economy. Our task now is to find a smoother path to continue that journey.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. The Senator from Iowa has been waiting for a while. I would like to set the vote for the Dorgan amendment if I may, and then I would be glad to yield to the Senator from Iowa to let him make his remarks. Then I would like as a cosponsor to speak in support of the amendment of the Senator from Louisiana.

Mr. REID. I ask unanimous consent that that be the case, that Senator HARKIN be recognized followed by the Senator from Tennessee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, pursuant to the order of last night, I ask unanimous consent that the vote in relation to the Dorgan amendment No. 865 occur at 11:30 today with two minutes equally divided prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, I will not object, I would hope that we could also line up the Senator from Louisiana to have her vote in a reasonably short period of time. She has indicated she thinks there may be a number of others who wish to speak in favor of the amendment. We would hope we could move on to that. We want to get to the Wyden amendment. There is an order in effect that would set up 2 hours on that amendment. Senator WYDEN will be ready immediately after the caucus. He would have been ready this morning. He would be ready after the caucus to move on that. I hope we can get do that amendment right after the caucus and dispose of this even prior to that.

The PRESIDING OFFICER. Is there objection?

The PRESIDING OFFICER (Mr. ENZI). The Senator from Louisiana is recognized.

Ms. LANDRIEU. Reserving the right to object, I have a question. Does the Senator think it would be possible to do that before lunch? I think my colleague would probably only need 30 minutes for our debate, equally divided between the Senator from Tennessee and the Senator from Maine.

Mr. REID. I hope that will be the case. Until Senator DOMENICI gets here, we cannot agree to that.

Mr. HARKIN. Mr. President, will the Chair please state the unanimous consent now before us.

The PRESIDING OFFICER. The vote in relation to the Dorgan amendment will take place at 11:30, with 2 minutes of debate.

Is there objection?

Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, first, briefly, the Dorgan amendment to put 100,000 hydrogen-powered vehicles on the road by 2010 and 2.5 million by 2020, with the requisite fueling infrastructure, is one that is going to help grow our economy, make our economy stronger. The amendment by Senator LANDRIEU and others to cut down on the use of oil by a million barrels a day also is going to help improve our economy by making us focus on things such as ethanol, for example, alternative fuels, renewable energy and, of course, along with the Dorgan amendment, fuel cell vehicles. It all has to do with making us more energy independent, and that has to do with growing our economy. The more we continue to send our hard-earned dollars out of the country for the energy we need, the less dollars we are going to have to rebuild our economy here at home.

Yesterday, I attended a hearing Senator DORGAN had that was devoted to the question of our economy. The question was: Will the Bush economic plan create jobs?

Well, I think throughout the hearing what became clear was that the Bush economic plan will not create jobs, unfortunately. The plan advocated by the majority rewards their friends and supporters with large tax cuts but will do very little to create jobs. Many respected economists warned of this months ago, but Republicans and the administration paid them no heed.

Unfortunately, it is not only experts who believe this prediction; history gives the same warning. These trickle-down economic policies have been tried before, and they have failed before. In 1981, Congress passed massive tax cuts for the rich, just like we did here. Then Director of OMB David Stockman called it a "riverboat gamble."

Well, it was a gamble. Within 2 years, following the 1981 supply side, trickle-down tax bill, we lost 1.4 million jobs. In 2001, the Bush administration tried it again. They passed the first round of massive tax cuts. And guess what. We lost 2 million jobs. As all major newspapers reported this weekend, the national unemployment rate is now at 6.1 percent, its highest level in 9 years.

Despite these two previous losing gambles, the President and the majority party in Congress decided to give it a third try last month. I think we ought to call the tax bill that was passed and sent to the President the "Bill Bennett betting bill" because it is going to have the same effect on our country that Bill Bennett's gambling addiction had on him. It cost him, as I understand it, lost millions. It is going to cost our economy lost billions.

But in the midst of it all, the wealthiest Americans will have massive tax breaks. In fact, on average, those Americans making over $1 million a year are going to receive a tax cut of $93,000 a year. They are going to have a great time. Unfortunately, who is going to pay the bill? Well, it will be paid by the rest of us, especially the younger generation—those now going through college, going out to make their way in life. They will be saddled with a huge, new debt.

As pointed out on the editorial pages of the Des Moines Register this weekend, these irresponsible policies will create pressure for higher State and local taxes, tuition hikes at State colleges and universities, rising health care costs to those lucky enough to have insurance, and further cuts to important initiatives.

The wealthiest in America got more than their share under this tax bill, but the folks in the middle class pay the bills. By contrast, the United States took a fiscally responsible approach in the 1990s. In 1993, Congress passed a budget to grow the economy, create jobs. In the 2 years following that passage, 6.4 million jobs were created. That plan put us on a path not only toward the lowest levels of unemployment in memory, but also to balanced budgets, the largest projected budget surpluses ever.

I find it most remarkable and disheartening that at the very time when it is obvious that economic policies should seek to stimulate demand, stimulate new jobs, the majority party opposes those things that would stimulate the economy the most, such as increasing the child credit for working families making under $26,000 a year.

Well, the Democratic priority may yet prevail, as it did in the Senate last week. I hope it does. But further stimulus, such as putting people directly to work, building new schools, roads, and bridges, communications systems, upgrading our water and our waste water systems, making sure we weatherize homes all over America, will also save us on imported fuel. These are the things we can do now that will put people to work now. But the majority party says no.

I also fear that their policies will lead to exploding Government debt. On the same day we passed this "Bill Bennett betting bill"—that is what I call the tax bill—the debt limit was increased by an amount equivalent to putting an additional $3,500 on the credit card of every man, woman, and child in America—$3,500 on the credit card of every man, woman, and child in America—to pay for this "Bill Bennett betting bill."

Most of us are aware that the real cost to the Treasury of this recent tax cut will be higher than advertised because the bill used gimmicks and tricks to stay within some nominal budget limit. The Speaker of the House was quoted as saying the real cost will be a trillion dollars, at a time when our exploding deficit is approaching $500 billion for this year alone. Well, with typical British clarity, the Financial Times wrote on May 23, the day the tax bill passed: On the management of fiscal policy, the lunatics are now in charge of the asylum.

The result, as this administration is well aware, is that it will put pressure on Social Security and Medicare. These programs are targeted by the administration for reforms, which means privatizing Medicare and Social Security. We are going to have a debate here, I assume, in the Senate in the coming weeks on how we are going to provide prescription drug benefits under Medicare. But as I see the Medicare bill progressing and developing, it is nothing more than a shell, a subterfuge to move toward the privatization of Medicare, which, of course, has been the Republican Party's dream for many years. Don't take my word for it. Former Speaker of the House Newt Gingrich said Medicare ought to wither on the vine. The third ranking Republican in the Senate, my friend from Pennsylvania, said the Medicare benefit should be phased out.

So make no mistake, when we are debating the Medicare bill coming up, we have to get out of the weeds. What they are really talking about is taking the first step toward privatizing Medicare. The President's own press secretary was quoted in the story:

> There is no question that Social Security and Medicare are going to present future generations with a crushing debt burden unless policymakers work seriously to reform those programs.

You pass a tax cut for the richest in the country that the Speaker says is going to cost us a trillion dollars, and then you say we are going to have a lot of pressure on Social Security and Medicare because the money will not be there for them, so now we have to reform them, which is their way of saying privatize them. I hope we now understand the picture: A tax cut for the wealthiest, huge debts for the rest, immense pressure on Social Security and Medicare; therefore, you have to privatize them; turn them over to Wall Street. That is where we are heading.

Exploding deficits and the debt will act like a cap on our economy. It will increase interest rates when the economy does begin to recover. It will undermine confidence. We need to create jobs in the short term, but we need to do it in a way that is fiscally responsible, to take care and protect the retirement security and health needs of seniors. We need to change course. The course set by this administration will only lead to further deficits, further debts piling up on our kids and grandkids, economic stagnation, importing more oil from abroad—which is why I am such a strong supporter of the Landrieu amendment and the Dorgan amendment.

I am afraid the administration may be opposed to these amendments, just as they are opposed to a sound rational means of getting our economy moving again. As I said, the Federal Government can be a great instrument, doing it in a fiscally responsible manner that actually provides the basis for further private sector growth in our country.

I was listening to former Congressman Jack Kemp, an old friend of mine of long standing, go on and on about how we need to make sure we have more money in the private sector for investments. I understand that, and that is a legitimate argument, but what about the need for societal investments? What about the need for investing in human capital? What about the need for investing in education? You can give all the tax breaks you want to the richest in this country and the corporations. Are they going to turn around and invest in higher teacher pay, better teacher training? Are they going to invest in rebuilding and modernizing schools all over America? There is no return on that capital, at least not in the short term and not in a way that would accrue to the bottom line of a company.

As we all know, that kind of an investment accrues to our national economy. Rebuilding our schools all over America—this is something that is estimated to be in the neighborhood of $180 billion. Think of the jobs it would create. When you give someone an extra dollar for consumption right now in our society, they may buy a new shirt, but that shirt may be made in Malaysia, Thailand, or India. They may buy a new TV set, but that TV set sure is not made in America, or a stereo not made in America. They may buy a new car. Maybe that car is not made in America. To be sure, some of that money does fall out in this country because we have people selling those items, storing them, and shipping them. But the bulk of it could go outside the country.

If, however, you make a societal investment in building a new school, all of the workers are in America. Almost all of the materials used from the lighting to the heating to the wallboard to the sheetrock—everything, building materials—almost all, I would not say all—almost all are made in America. Not only do you put people to work, you build something of a lasting nature that provides for a strong foundation for the private sector in America.

Take the issue of weatherization. We could save huge amounts of oil and natural gas each year simply by weatherizing homes, and I do not mean just in the North where it gets cold, but I mean in the South where it gets hot in the summertime. Guess what, these are not jobs that take a lot of training. These are jobs we could fill with unemployed people right now. We can put them to work weatherizing homes all over America.

What do we get? We get immediate job creation. We use materials basically that are made in this country. And we get something out of it that is going to help us: more fuel-efficient homes of low-income people who will not be using their money to pay high heating bills or cooling bills to pay for imported oil.

Yet, for some strange reason, we cannot seem to do that here. But, boy, we can sure give billions in tax breaks to the wealthiest in our society.

I will have more to say about this in the weeks ahead. There is another pathway—that is my point—there is another pathway to economic growth and jobs in our country, to which this administration has turned a blind eye, by investing in the veins and arteries—the roads and bridges, the highways, the sewer and water systems, the schools, the education, the scientific research, the mathematical research, the physics research, the chemistry research, the medical research—that will set the stage for future economic growth and prosperity in our country.

That will not come about by giving more tax breaks to the wealthy or business tax breaks. It comes about by us in the Congress of the United States fulfilling our responsibility to pass tax bills and energy bills that are responsible, that are commonsense, and that will lay this kind of secure foundation for the future. That is why I support the Landrieu amendment so strongly, because it will start to do that, and so will the Dorgan amendment that has been set aside. These are commonsense approaches. These are the programs we should be doing for our economy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. ALEXANDER. I thank the Chair. Mr. President, I stand to congratulate the Senator from Louisiana and join with her as a cosponsor of her amendment. She and I are members of the Energy and Natural Resources Committee. We are very proud of what our chairman and ranking member have done this year in taking a diverse array of opinions and coming up with a very good bill with a very good amount of bipartisan consensus.

There is consensus about supporting a diverse array of energy sources. The Energy bill, which the Senators from New Mexico have led us to fashion, encourages hydrogen fuel cell cars in the economy. It encourages renewable energy. It encourages clean coal. It encourages oil and gas. And it encourages nuclear power.

What I think it is important we also do is make sure we encourage conservation, and to do that in a way that puts conservation high on the list of priorities. It is a low-cost way to have more energy. It is a no-pollution way to have more energy.

In my way of thinking, the Senator from Louisiana has come up with a sensible approach. It also helps to have the President involved. When the President said, let's build a hydrogen fuel cell car, he was not the first to say that, but everybody heard it when he said it and it gave a lot of impetus to the work on hydrogen that had been going on in this body from both sides of the aisle.

So the Senator's idea is to reduce our petroleum import dependence by having the President come up with a plan to conserve oil throughout our economy, not just in transportation but throughout the economy; to reduce our total demand by a million barrels per day by 2013. By my computation, that would cause us to reduce that by about 5 percent by 2013.

We ought to be able to do that. We ought to be able to go ahead with nuclear powerplants, with all the gas explorations. We ought to be able to go ahead with renewable energies and coal gasification. We ought to conserve at the same time.

Just one example. The Senator from Iowa was mentioning weatherizing homes. That is one good way, if we paid more attention to it. Another good way is idling trucks. Truckers who are so frequent on our highways often idle their trucks in order to keep their air-conditioner and all the other services going that they have in the truck. There are companies that permit the truckers now to turn off their truck and to plug in a device and by doing that enabling operation of the appliances they have but they do not pollute the air at the same time. It is such a simple idea that we would hope any one of us could have thought of that but, in fact, having the President develop a plan that will focus on reducing our consumption of oil by 2013 would include such ideas as weatherizing homes, as encouraging truckers not to idle, keeping tires properly inflated. These may seem to be small ideas but they can add up, we suggest, to a million barrels per day by the year 2013.

I congratulate the Senator from Louisiana on what I think is a commonsense, reasonable approach to add conservation to our arsenal of activities, to give it a higher profile in this bill, and I am glad to join in cosponsoring her amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I, too, am pleased to join my colleagues, Senators LANDRIEU, SPECTER, BINGAMAN, and ALEXANDER, in offering this amendment to reduce our consumption of oil by a million barrels a day by the year 2013. This is a very reasonable and achievable goal, and I congratulate the Senator from Louisiana for coming up with this initiative and reaching out to those of us who share her concern that our Nation is too dependent on foreign oil.

Increasing energy efficiency is the single most effective way to reduce our reliance on foreign oil. Without a greater focus on energy-efficiency measures, the Energy legislation before us, which has many valuable provisions, will not be effective in reducing our dependence on foreign oil. As long as we continue to guzzle foreign oil, we will be at the mercy of those nations that control that oil. We are already nearly 60-percent reliant on foreign sources, and the Energy Information Administration projects that our dependence will increase to 70 percent by the year 2010 if we do not act. If we do not do more to improve the energy efficiency standards, America will only grow more dependent on foreign oil and the price of gas and home heating oil will only rise accordingly.

Our amendment would help to reduce oil consumption by a million barrels a day by the year 2013. It would do so by giving the President the flexibility to decide among any number of simple energy saving measures to achieve these savings. For example, simply weatherizing homes which use home heating oil could save 80,000 barrels of oil per day. Using energy-efficient engine oil could save another 100,000 barrels per day. Just keeping our tires on our automobiles properly inflated could save 200,000 barrels per day. In short, by taking a few easily adopted measures, we could reduce our consumption of oil by a million barrels a day.

We currently use about 19 million barrels a day. So this would make a real difference. It would result in a reduction of consumption of imported oil. Reducing our consumption by 1 million barrels per day will also help to keep energy prices down and will keep billions of American dollars at home where they belong. In fact, this proposal we have advanced could save American consumers upwards of $20 billion each year.

I call upon my colleagues to join us today in supporting our commonsense measure to reduce our reliance on foreign oil by reducing our consumption of oil by a million barrels a day. It is right for our environment. It is right for our economy. It is right for the American consumer.

I yield the floor.

AMENDMENT NO. 865

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry: Am I correct that there will be a vote on the Dorgan amendment at 11:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I ask to speak to that amendment until 11:30.

The PRESIDING OFFICER. We have already agreed to 2 minutes of debate equally divided at 11:28 so we can vote, but the time until 11:28 is available so the Senator has the floor.

Mr. DOMENICI. Mr. President, I have already spoken, as have Senator ALEXANDER and others, against this amendment. By being against the amendment, it does not mean we are in any way in derogation of the efforts by the distinguished Senator, Mr. DORGAN, in his efforts to pursue a hydrogen economy for the United States, in his efforts to move forward with the hydrogen cell and with the hydrogen car. I compliment him for that.

His amendment, which says we should move ahead with certain quotas, with specific amounts, with goals, with mandatory achievements, should not be done. It would not be of any benefit.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of time equally divided on the Dorgan amendment.

Who yields time? The Senator from North Dakota.

Mr. DORGAN. This amendment is very simple. It establishes timelines and targets: 100,000 vehicles on the road by 2010, 2½ million by the year 2020. It is not a mandate, it is not enforceable, but at least it sets targets that we aspire to achieve. The opposition would say, well, let's just throw money at the Department of Energy and hope something good comes of it. That is not the way to address this issue, in my judgment.

I know my colleague complimented me but the greatest compliment, of course, would be voting for my amendment. What is disappointing is that this amendment passed the Senate by unanimous voice vote a year and a half ago. This amendment has already been embraced by the Senate. I am disappointed that it will not be passed by a voice vote today because if we are, in fact, going to move toward a hydrogen fuel cell future, we need to think big and bold. Then we ought to set some targets and have some aspirations and say to the Department of Energy, here is three-plus billion dollars and, by the way, this is what we would like to see achieved with that money. We would really like to see these goals achieved—not mandates, just strategic goals.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. I compliment the Senator but I cannot vote for his amendment. This committee has added to the $1.3 billion proposal by the President for the hydrogen car, $1.6 billion suggested by the Senator from North Dakota and others on that side.

The issue is whether we want to add to the bill a target that we have 100,000 hydrogen fuel cell vehicles in the United States by 2010. I respectfully suggest that is a wild guess. I drove a $2 million Ford hydrogen car around the block in Washington. I did that, I believe the Senator and several others did, and it costs $2 million to make the car. It actually works. We drove around and got so excited we came up on the Senate floor and put into law that we ought to have 100,000 of them by the year 2010. It is not mandatory.

It reminded me, as I mentioned yesterday, my friends were guessing wrong about the facts technology. I respectfully will vote no.

The PRESIDING OFFICER. All time is expired. The question is on agreeing to the amendment of the Senator from North Dakota.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) is necessarily absent.

The PRESIDING OFFICER (Mr. SESSIONS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 32, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—67

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Brownback
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Clinton
Coleman
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Ensign
Feingold
Feinstein
Graham (FL)
Graham (SC)
Grassley
Harkin
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Smith
Snowe
Specter
Stabenow
Warner
Wyden

NAYS—32

Alexander
Allard
Allen
Bennett
Bond
Bunning
Chambliss
Cochran
Cornyn
Craig
Crapo
Dole
Domenici
Enzi
Fitzgerald
Frist
Gregg
Hagel
Hatch
Inhofe
Kyl
Lott
McConnell
Miller
Murkowski
Nickles
Shelby
Stevens
Sununu
Talent
Thomas
Voinovich

NOT VOTING—1

Edwards

The amendment (No. 865) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 871

Mr. DOMENICI. Mr. President, I ask unanimous consent that the time until 12:15 be equally divided in the usual form for debate in relation to the Landrieu-Domenici amendment; provided, further, that at 12:15 the Senate proceed to a vote in relation to that amendment, with no second degrees in order to the amendment prior to the vote; and, finally, that following the vote the Senate stand in recess under the previous order.

Mr. SPECTER. Mr. President, reserving the right to object, I would like incorporated in the unanimous consent request 5 minutes. This amendment was offered as the Landrieu-Specter amendment.

Mr. REID. No objection.

Mr. DOMENICI. We have no objection.

Mr. President, I add 5 minutes to the time in the request, with the Senator from Pennsylvania having that 5 minutes. The vote would occur at 12:20.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I am sorry, we did not know that, I say to the Senator. We would have asked you.

The PRESIDING OFFICER. Who yields time?

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank the chairman and the ranking member.

Mr. President, the amendment is at the desk. We will be voting shortly on the Landrieu-Domenici-Specter-Alexander-Bingaman-Collins-Schumer-Feingold oil savings amendment. It is a very reasonable approach to an extremely serious problem. That problem is, unless we make some adjustments—and the time to make those adjustments is now—to our policy regarding the consumption of oil, we will be seriously increasing, as opposed to decreasing, our dependence on foreign oil and hurting the American economy and taxing American citizens and businesses unnecessarily.

The amendment has been developed by many of us—Democrats and Republicans—and it is based on lots of good work. Two issues I pointed out earlier this morning in the debate are in a lengthy article recently published by Business Week—not a liberal magazine by any stretch, a middle-of-the-road business organization that argues that we need to get smart about oil.

As a Senator from an oil-producing State, let me say I agree 100 percent. We like to produce oil. We are proud to produce oil. But we know it is in the interest of our State in the short, intermediate, and long run to have greater supply, a diversity of supply of fuels, and not be overreliant. Why? Because it puts our economy, our industrial base at risk.

I also mentioned earlier today the statement by the Union of Concerned Scientists, over 60,000 scientists and citizens working together to come up with some proposals for reducing our dependence on oil, and they are clearly outlined in these articles and these papers.

What this amendment simply does—submitted on behalf of those I mentioned—is give the President all the flexibility he needs in his administration but to reach very specific goals. This amendment, when adopted, will save 1 million barrels of oil a day by the year 2013, which is equivalent to the President's own goals, but it will put this in law in the underlying Energy bill.

I propose this amendment to the Senate for its careful consideration and hope we will get a broad vote.

Mr. President, the Senator from Pennsylvania would like to add some remarks, as well as other cosponsors who may be in the Chamber.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am pleased to be the original, principal cosponsor, along with Senator LANDRIEU, on the Landrieu-Specter-Bingaman-Collins amendment. I am pleased to see that now the Senate is on the verge of taking a significant step, albeit a modest one, on petroleum conservation, a step long overdue in this country.

Last year, I cosponsored, along with Senator CARPER, an amendment which would have targeted reduction in oil consumption, and it was defeated on a tabling motion 57 to 42. A few days ago, I introduced S. 1169, which was a repeat of the Carper-Specter amendment. And today I am pleased to join with Senator LANDRIEU on a broader amendment which goes for reduction of oil dependency beyond transportation but calls on the President to set a standard for reduction of oil by 1 million barrels a day from a projected use of some 24 million barrels.

This is a significant step, albeit a modest one. It is a first step. But it is very important for the United States that we reduce our dependence on foreign oil for many reasons. First of all, simply stated, we use too much foreign oil. Secondly, we are dependent upon the OPEC countries, especially upon Saudi Arabia, and it has an effect on influencing our foreign policies in ways which may well be undesirable. There have been very serious charges as to the Saudis on sponsoring al-Qaida and sponsoring terrorism. There is much yet that has to be proved on that subject, but we should not be tied to or dependent upon any nation, especially Saudi Arabia.

The dependence on foreign oil results in a tremendous amount of our imbalance on foreign trade, with oil imports now accounting for one-third of the Nation's trade deficit which exceeded $400 billion in the year 2001.

There is much we could do to reduce our dependence upon foreign oil. I am pleased to report on a $100 million grant by the Department of Energy to a plant in Pottsville, PA: a $612 million plant which will turn sludge into high-octane fuel is now moving forward. We have tremendous coal resources in this country, some 20 billion tons of bituminous coal alone in Pennsylvania, 7 billion tons of anthracite, and coal across this country which can be turned, with clean coal technology, into reducing our dependence on foreign oil.

I am pleased to see the distinguished Senator from New Mexico, chairman of the Energy Committee, is now cosponsoring this amendment so that what you have, although slightly different than last year on a tabling at 57 to 42, is an amendment gaining very substantial momentum. That is a very good sign for conservation, a very good sign for the future of the American economy, and a very good sign for environmental protection.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am pleased to join as an original cosponsor of what we are going to call the Landrieu-Domenici amendment. I note the presence of Senator ALEXANDER who was one of the original Senators who spoke to this matter on the floor. I hope in the remaining time he gets a chance to speak. Let me say there are a lot of people who come up with new formulas, attempt to set new formulas on automobiles, on the mileage that cars will have, and the like. None of them seem to work, and none of them seem to get through this body. This is an ingenious idea of my friend from Louisiana who has been extremely helpful in getting an Energy bill passed. I think when we pass it in a few weeks, and we will, she can take a great deal of pleasure in knowing that much of it was due to her interest, enthusiasm, and support.

I hope we will vote for it unanimously, saying to our President, find ways to do this. I believe it is the best way for the Senate to handle it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. LANDRIEU. Mr. President, I am happy to yield to the Senator from Kentucky.

Ms. BUNNING. Mr. President, I ask unanimous consent to be listed as a cosponsor of the Landrieu amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. How much more time remains under the unanimous consent?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Ms. LANDRIEU. I would like to have 1 minute to close and then turn to one of the original cosponsors, the Senator from Tennessee, who may want to add. Let me again thank the chairman and ranking member for their able help because without their support, this amendment would not have been possible. We worked on many different approaches, several different drafts. Finally, we did come upon a way that sets a very clear goal.

I would agree with Senator SPECTER, it is somewhat modest, but it is a compromise. It is a clear goal. It is an attainable goal. It is a reachable goal. It gives the President and the administration the flexibility they need to do it in a way that is most helpful to this economy. It will create jobs, reduce taxes that people pay because of the price of oil and energy, and it gives the flexibility necessary to come up with a smart approach to this very serious problem.

I yield to my friend from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Louisiana. We should not pass an Energy bill that does not put conservation up on the platform along with our encouragement of nuclear power, oil exploration, and hydrogen fuel cell; all of that is important. And this amendment by the Senator and various cosponsors makes it clear to the country that commonsense ways to conserve oil are equally important in our arsenal of having an economy that is less dependent on foreign oil and in a better position to produce clean air.

I am proud to join as a cosponsor. I congratulate the Senator and congratulate our chairman for being able to move this bill forward with such a bipartisan consensus.

Ms. LANDRIEU. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico has 3 minutes remaining.

Mr. DOMENICI. Mr. President, I yield back the time I have. I might say to Senators, we tried very hard to get the vote within 15 minutes last time. I was asked by a number of Senators to please try to do that on the votes. I have no authority to say that will be the rule, but as the floor manager, we have a 15-minute rollcall vote on this amendment. It is a simple one. It is not too hard to find your way to the floor. I trust that in 15 minutes we will have disposed of this.

In the meantime, before that occurs, I ask unanimous consent that when the Senate convenes at 2:15, the pending amendment be set aside and that Senator WYDEN be recognized to offer the nuclear commercial plant amendment under the debate limitation which was agreed to last week.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is agreeing to amendment No. 871.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—99

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid

Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—1

Kyl

The amendment (No. 871) was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived and passed, the Senate will stand in recess until 2:15.

Thereupon, the Senate, at 12:56 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. THOMAS).

The PRESIDING OFFICER. The Senator from Alabama.

CHANGE OF VOTE

Mr. SHELBY. Mr. President, on Thursday, June 5, on rollcall vote No. 209, I voted yea. It was my intention then to vote nay. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon is recognized.

AMENDMENT NO. 875

(Purpose: To strike the provision relating to deployment of new nuclear power plants)

Mr. WYDEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Oregon [Mr. WYDEN], for himself, Mr. SUNUNU, Mr. BINGAMAN, Mr. ENSIGN, Mr. REID, Mr. FEINGOLD, Mr. JEFFORDS, and Ms. SNOWE, proposes an amendment numbered 875.
>
> Strike subtitle B of title IV.

Mr. WYDEN. Mr. President and colleagues, this amendment is sponsored by three Democrats, three Republicans, and one Independent. I hope this afternoon that it will have the support of Senators with varying degrees of views about the advisability of nuclear power. I am particularly pleased that the lead cosponsor, Senator SUNUNU, is with us today.

I will make a few brief remarks to begin the debate and then I am anxious to have plenty of time for colleagues.

The reason three Democrats and three Republicans and one Independent are sponsoring this amendment is that I think many of us in the Senate are neither pronuclear nor antinuclear but we are definitely protaxpayer. That is why we are on the floor this afternoon, because the loan guarantees that are in this legislation to construct nuclear power facilities are unprecedented and represent, in my view, particularly onerous and troublesome risks to the taxpayers of this country.

Frankly, people in my part of the country know a bit about this. It is not an abstraction for the people of the Pacific Northwest where we had the WPPSS debacle and 4 out of 5 facilities were never built. It was the biggest municipal bond failure in history, and it has certainly colored my thinking with respect to why we are on the floor today.

The loan guarantees—we did some research into this—are unprecedented with respect even to nuclear power. As far as I can tell, in the early days of nuclear power, there were subsidies for nuclear power but never before were the taxpayers on the hook from the get-go. That is what the Senate is confronted with now.

When it comes to the question of risk, I hope the Senate will focus on what the nonpartisan Congressional Budget Office has said on this topic. I will quote. It is at page 9 of the Congressional Budget Office analysis that we have made available to Senators. The Congressional Budget Office considered:

> The risks of default on such loan guarantees to be very high, well above 50 percent.

Colleagues, first, when we are talking about risk—because nothing in life is foolproof and there are no guarantees of anything—I hope in looking at these guarantees you will first focus on the fact that the Congressional Budget Office has specifically said in their analysis that the risk of default on the guarantees is very high. If those plants default, the exposure to taxpayers is enormous.

I will quote from the Congressional Research Service report they did with respect to these subsidies. They said:

> . . . the potential cost to the federal government of the nuclear power plant subsidies that would be provided by [this title] would be in the range of $14-$16 billion in 2002 dollars.

I think it is worth noting that the Senate spent a great deal of time on the child tax credit last week. There we were focusing on something involving $3 billion. If one or two of these plants go down, taxpayers are on the hook for a sum greater than that child tax credit.

Now, in the course of today's discussion, we will hear a number of arguments against the Wyden-Sununu amendment. One of the first will be: There are tax credits for a variety of energy sources in this legislation, for wind and solar and a variety of energy alternatives. That is correct. But those tax incentives are fundamentally different than the loan guarantees because in those instances the producer faces substantial risk.

With respect to, say, a wind facility, if the producer takes the initial risk and later on produces some wind power, they would get a credit in order to defray some of their costs. With respect to the loan guarantees for nuclear power, the producer faces no such risk. The producer has the Government, in effect, guaranteeing, right at the outset, much of the risk.

So with respect to these nuclear loan guarantees, unlike the incentives for wind or solar, what we are talking about is that the Government will socialize the losses but will let private investors pick up the gains. The losses will be socialized; the gains will be privatized. And that is unique in this legislation.

I also say to my colleagues in the Senate, the White House has never asked for these loan guarantees. These loan guarantees are not in the House bill. Senators' phones are not ringing off the hook from the Secretary of Energy or others clamoring that this must be done. This is something that, in my view, is far out of the mainstream in terms of energy policy, not because I am antinuclear—and I don't intend to talk about safety issues—but because it is such a large exposure to taxpayers.

For example, a number of reports have come out already with respect to how nuclear power stands up with respect to other costs such as natural gas or coal. One of the reasons, in my view, the Congressional Budget Office believes there is such a high risk of default is that the objective analyses show that nuclear has not been competitive with other sources such as coal.

I hope Senators will look at those two reports: a report done by the Congressional Budget Office documenting a high likelihood of default, and a report done by the Congressional Research Service talking about exposure to taxpayers.

I would finally say to the Senate, it did not have to be this way. I know the distinguished chairman of the Energy Committee feels very strongly about this subject. He is a longtime family friend. I was very willing, and I think other Senators were as well, to have had a modest program. We had been talking, for example, about one experimental initiative to look at advanced technologies of one sort or another. I think that would have been acceptable. But here we are talking about guarantees for up to seven plants.

I will make reference to the legislation. The bill authorizes DOE to provide loan guarantees for up to 50 percent of the construction costs of new nuclear plants and, on top of that, would authorize the Department of Energy to enter into long-term contracts for the purchase of power from those plants. The Secretary could provide loan guarantees for up to seven plants.

That is not a modest experiment that would have been acceptable to this

Member of the Senate, but it is a very significant exposure to the taxpayers of this country at a time when every Senator is concerned about deficits.

Mr. President, I intend to allow time for my colleagues. I see Senator Sununu is on the floor. Senator Reid has strong views on this.

I also express my appreciation to the distinguished ranking minority member of the Energy Committee. He has worked very closely with me. He embodies the philosophy of a lot of our colleagues in that he has been supportive of nuclear power in the past but believes these subsidies are too rich.

I am hopeful that today Senators with varying degrees of views on the nuclear power issue will agree with the Congressional Budget Office, will agree with the Congressional Research Service on these issues with respect to the taxpayers, and support the Wyden-Sununu amendment.

Mr. President, I yield at this time so other colleagues who have time constraints may speak. I will have the opportunity to speak later in the debate.

The PRESIDING OFFICER. Who yields time?

The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I begin by thanking my colleague from Oregon for his work on this amendment. I am pleased to join as a cosponsor. As he pointed out, this is ultimately about what kind of an energy policy we want, what kind of an economic policy makes sense, and whether we can do the right thing and protect taxpayers from being exposed to the potential liability and cost that Senator Wyden described.

This provision we are trying to strike in this bill guarantees 50 percent of the construction costs of up to six nuclear powerplants. Those plants could cost anywhere from $2 to $4 billion. And any taxpayer out there can simply do the math as to what kind of exposure this would provide.

It has been a pleasure to work with the Senator from Oregon. We are going to get into the substance of this debate and the details of this debate over the next couple of hours, but at this time I yield the floor to the Senator from Nevada, who has been a very strong voice on this and other matters having to do with energy.

The PRESIDING OFFICER (Mr. Domenici). The Senator from Nevada.

Mr. REID. Mr. President, I express my appreciation to the Senator from New Hampshire for allowing me to speak. I have to speak at a memorial service in just a short time, and but for his kindness and generosity I would have had to either miss the ability to debate this matter or be late to debate this matter. So I appreciate very much the comity of my friend from New Hampshire.

I express my appreciation to my longtime friend and colleague, Senator Wyden, for this legislation. I also say the way this legislation has been approached is the way to approach legislation. This is a bipartisan amendment. This is a good debate we are having on the Senate floor.

My friend from New Mexico, the manager of this bill, believes very deeply in the renewal of nuclear power. I understand how he feels about this.

As I say, this is the way legislation should be handled. This is a good, fair, open debate. I approach this more from an environmental perspective than my friend from New Hampshire does. Even though he has been here just a short period of time, the Senator from New Hampshire is always focused on numbers, taxpayer dollars.

I rise in support of this amendment offered by my colleagues, the Senator from Oregon and the Senator from New Hampshire. I really do appreciate their efforts to bring to light the tremendous financial risks this Energy bill places on the backs of American working men and women and their families.

Let me underline and underscore, my opposition to this amendment has nothing to do with the longstanding, seemingly never-ending debate on nuclear waste. This has nothing to do with nuclear waste.

This Energy bill contains a provision, which this amendment would strike, that would make the Federal Government the guarantor of the costs of building new nuclear powerplants.

The Energy bill would allow the Secretary of Energy to enter into agreements with nuclear powerplant owners to give Federal loan guarantees for loans to construct new reactors or to enter into new contracts for guaranteed purchases of power from these reactors.

According to the Congressional Budget Office, what we refer to as CBO, this is an extremely risky financial endeavor. In fact, the CBO considers "the risk of default on such a loan guarantee to be very high—well above 50 percent."

That means the American taxpayer will be footing the bill for construction of these nuclear powerplants, the way the Senator from Oregon indicated we would have really a socialization of the costs and the nonbenefits of this legislation. If this provision remains in the bill, the Federal Government will be entering into loan guarantees and power purchase agreements that could cost at least $14 billion.

CBO is not alone in its assessment of the financial risk of backing the new reactor construction.

We have from Standard & Poor's a document I ask unanimous consent to print in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Time for a New Start for U.S. Nuclear Energy?

(By Peter Rigby)

Since its beginnings, commercial nuclear energy has offered the tantalizing promise of clean, reliable, secure, safe, and cheap energy for a modern world dependent upon electricity. No one did more than Lewis Strauss, chairman of the U.S. Atomic Energy Commission, to define expectations for the industry when he declared in 1954 that nuclear energy would one day be "too cheap to meter." But the record proved far different. Nuclear energy became the most expensive form of generating electricity and the most controversial following accidents at Three Mile Island and Chernobyl. And today's electricity industry's credit problems of too much debt and too many power plants will do little to invite new interest in an advanced design nuclear power plant. Yet energy bills circulating through the U.S. Senate and House of Representatives hope to change that perception and perhaps lower the credit risk sufficient enough to attract new capital. Will Washington, D.C.'s new energy initiatives lower the barriers to new nuclear construction? Many would like to think so, but it will be an uphill battle.

The House version of the Energy Bill modestly ". . . sets the stage for building new nuclear reactors by reauthorizing Price-Anderson. . . ." Since 1957, the Price-Anderson Act has indemnified the private sector's liability if a major nuclear accident happens on the premise that no private insurance carriers could provide such coverage on commercial terms. Without Price-Anderson, it is difficult to envision how nuclear plants could operate commercially, now or in the future. The more ambitious Senate version of the Energy Bill seeks to jump-start new nuclear plants in the U.S. by providing measurable financial resources for new projects. According to the latest version of the Senate Energy Bill, the Secretary of Energy could provide financial assistance to supplement private sector financing if the proposed new nuclear plant contributes to energy security, fuel, or technology diversity or clean air attainment goals. The bill would limit financial assistance to 50% of the project costs with financial assistance being defined as a line of credit, secured loan, loan guarantee, purchase agreement, or some combination of these assistance plans.

In light of how well U.S. nuclear plants have generally been operating recently and with promising new technology on the horizon, nuclear energy would seem to have a future. Currently, about 20% of the nation's electricity comes from nuclear power plants. The introduction of competition and deregulation in the U.S. has helped drive the nuclear fleet into achieving record availabilities and load factors, as independent owners have taken ownership from utilities that divested generation. Even utilities that did not divest their nuclear plants have experienced greatly improved performance across the board. Today's nuclear power plant operation and maintenance and fuel costs are remarkably low compared with many fossil fuel plants—as low as 1.68 cents per kWh according to the Nuclear Energy Institute. Although the high-profile accidents at Three Mile Island and Chernobyl greatly raised the threshold for safer operations, operating success stories may overstate what may be achievable with new designs. Nuclear operators in the U.S. have had a few decades to work out operationsl problems, and with original debt paid off, more cash resources have been dedicated to improving performance. Providers of new capital for advanced, nuclear energy will want some comfort that credit and operating risks are covered. But the industry's legacy of cost growth, technolgy problems, cumbersome political and regulatory oversight, and the newer risks brought about by competition and terrorism concerns may keep credit risk too high for even the Senate bill to overcome.

HISTORIC RISKS WILL PERSIST

A nuclear power plant's life cycle exposes capital providers to four distinct periods of credit risk that history has shown will persist. These periods are pre-construction, construction, operations, and decommissioning. The risks tend to be asymmetrical with an enormous downside bias against credit providers and little or no upside benefits. To attrack new capital, future developers will have to demonstrate that the risks no longer exist or that the provisions of the Energy Bill can effectively mitigate the risks.

During a nuclear plant's pre-construction, phase, lenders, as they do with other projects, face the risks of cost growth and delay. When nuclear engineers encountered technology problems during the planning stages in the 1960s and 1970s, solutions inevitably resulted in scope changes or re-designs, or both. A 1979 Rand Corp. study for the U.S. Dept. of Energy still serves as a warning to investors in new, untested nuclear technology. The study found that cost budget estimates grew on average 114% over first estimates and that final actual costs exceeded those estimates by 141%. Half of the plants in the study never reached commercial operations. An extreme example of delays and cost overruns, which remains fresh in investors' minds, is Long Island Lighting Co.'s Shoreham nuclear power station. Begun in 1965 at an initial cost estimate of $65 million–$75 million, Shoreham endured 20 years of construction delays and design changes due to legal battles, local opposition, regulatory and political intervention, and technical problems that pushed the final cost to almost $6 billion. In the end, a complete and fully licensed power plant never went operational, and ratepayers, investors, and taxpayers are still footing the bill. Another example is TXU Corp.'s 2,300 MW Comanche Peak Units 1 and 2, which took longer than any nuclear plant to build and saw costs mushroom to nearly $12 billion by the time full operations began in 1993.

That no new nuclear plant construction has begun in the U.S. for over 2 years suggests that a new one would be susceptible to cost growth risk as engineers incorporate advances in control and power systems, fuel systems, safety and regulatory requirements (which could become more onerous during the years of design and construction), material sciences and information technology. Even promising new designs, such as the pebble bed reactor (PBR) design that Eskom Holdings Ltd. of South Africa plans to build soon, would likely risk design changes and attendant cost growth if built in the U.S. Cost growth and delay can also arise from design and scope changes due to the efforts of effective interveners, such as the anti-nuclear citizen activist groups that successfully delayed Shoreham and ultimately prevented it from going commercial.

History also suggests that the construction and start-up phases of new nuclear power will likely encounter problems that will result in increased costs and delays. Licensing delays, construction management problem procurement holdups, troubles' with new technologies and construction defects, among other problems extended construction beyond 10 years for some U.S. nuclear power plants. It would be overly heroic to assume that the first nuclear plant to be built in more than two decades would escape the industry's legacy of construction problems. For a debt-financed construction endeavor, likely to cost hundreds of millions of dollars (possibly into the billion dollar plus range), these problems, or even the possibility of such problems, will likely drive risk-averse lender to demand a significant risk premium unless a third party assumes completion and delay risks. In the world of cost-of-service, rate-of-return environments, utilities could, and did, pass these costs onto ratepayers to a certain extent. The bankruptcies of El Paso Electric Co. and Public Service Company of New Hampshire in the 1980s, however, attest to the limits of ratepayers' capacity to absorb construction risk.

Today, no utility or independent power producer or their capital provide will want to take unmitigated construction risk, particularly if it is difficult to quantify. In addition, given the possibility that much of the construction risk of a new nuclear plant may lay outside of the engineering, procurement, and construction contractor's control, no contractor will want to risk its balance sheet to provide the fixed-price, date-certain, turnkey construction contracts that have given great certainty to the cost of today's new fossil-fueled power plants. Because of the long lead-time historically associated with nuclear power, securing 100% financing upfront, as the industry has become accustomed to, may be difficult. That could introduce financing risks if projects encounter problems during construction; delays in securing final financing would, among other problems, drive up capitalized interest costs during construction and ultimately the project's cost.

While U.S. nuclear power plants have operated without major mishap for over 20 years, unexpected costs during the operational phase of a nuclear plant can be substantial. And it is unclear whether and if proposed government programs will be able, or willing, to offset the risk of these costs. Still, today's operators have demonstrated that they can safely operate older nuclear power plants. Yet the potential that incidents,such as last year's wholly unanticipated corrosion problem at FirstEnergy Corp's Davis Besse 900 MW plant, are not unique, one-time affairs will keep credit risk high for nuclear plant owners. In addition, investors will remember that the Davis Besse repair costs of about $400 million, not including replacement power, are unrecoverable from ratepayers, leaving investors to shoulder the costs. incidentally, had the outage occurred during a period of high power prices and tight supply, as was the case two years ago, the cost to investors would have been much higher.

Decommissioning costs, which entail the considerable expense of tearing down a plant and safely disposing or storing the radioactive waste, remain uncertain at best given how few U.S. nuclear plants have undergone decommissioning. Progress toward creating a permanent disposal site for nuclear waste at the government's Yucca Mountain site in Nevada will help mitigate decommissioning risk, as well as spent fuel disposal costs. Again, it is not clear who will bear decommissioning costs, but if lenders foresee any lender liability risk, they will steer clear of new nuclear investments or require steep compensation. That, as a point aside, may be one of the reasons so many plants have been granted license extensions. Refurbishing a depreciated nuclear power plant costs far less than decommissioning one.

Finally, for many of the reasons described above and all else being equal, Standard & Poor's Ratings Services has found that an electric utility with a nuclear exposure has weaker credit than one without and can expect to pay more on the margin for credit. Federal support of construction costs will do little to change that reality. Therefore, were a utility to embark on a new or expanded nuclear endeavor, Standard & Poor's would likely revisit its rating on the utility.

COMPETITION INTRODUCES NEW RISKS FOR NUCLEAR ENERGY

As electricity deregulation and industry reform have progressed, capital providers to the nuclear power sector face some of the same risks as capital providers to other power generation technologies. Again, if policymakers want to attract capital to the industry, lenders in particular will likely have to be convinced that at least some of the risks are covered or mitigated. The sheer size of most new nuclear investments suggests that downside risk for lenders could be considerable indeed.

Clearly, buying and selling electricity in a competitive environment comes with its risks, both market and political. The wake of California's electricity reform problems forced one utility into bankruptcy and brought another to the brink of bankruptcy. Independent power producers are resisting efforts by California and its Department of Water Resources to abrogate or renegotiate recently executed power sales agreements. These events, combined with the credit crunch that has hit many other utilities and energy merchants, have understandably moved public utility commissioners and capital providers into more risk-averse postures. Absent these problems, nuclear power would still be challenged to attract new capital; in this environment, however, the task is all the more difficult. Competition has dramatically shifted risks from ratepayers to lenders and other investors; that is not likely to change.

In a competitive wholesale power environment, nuclear plants would likely sell power as a base load generator behind hydroelectric and ahead of coal and gas. Capital costs would be higher than coal plants and much higher than natural gas plants, but marginal operating costs would be very low, as they are now. Nonetheless, an owner of a new nuclear plant would likely want a long-term—20 years or more—power contract with a creditworthy utility to ensure that fixed and variable cost are covered in order to attract the massive amount of capital needed for construction. Alternatively, a utility that wants to add a new nuclear plant to its portfolio would need regulatory assurances from its public utility commission that the entire cost of the plant would be recoverable from its rate base. In the first instance, few utilities, or their regulators, want such long-term contract obligations, especially in an environment of excess generation that can be purchased on the cheap. That gas costs and clean-air compliance costs could be on the rise might offset some of those concerns. For some of the same reasons, public utility commissioners may not be so forthcoming with their authority to grant rate-based treatment of a new nuclear plant, especially in the preconstruction period if cost growth risk remains uncovered. For many commissioners, the all-in costs of alternative generation will likely seem more predictable and cheaper than a new nuclear plant.

The current backlash against regulatory reform and open markets in parts of the country could also put a new nuclear plant at risk. A large, new nuclear plant will typically need access to a large electrical network with a geographically dispersed customer group—the network that a structured regional transmission organization, as envisioned by FERC, could provide. However, if transmission access is limited or if states have chosen to maintain barriers to electricity trading and marketing, physical or otherwise, as many have, a new nuclear power plant may find itself operating within a much smaller system, a situation that could raise its credit risk, all else being equal. One obvious mitigant to this rise would be to build much smaller nuclear plants, such as the 100-MW modular PBR designs.

Whether a new nuclear plant is financed directly from the wallets of captive ratepayers or with long-term contracts, a large nuclear plant's size relative to its market raises outage-cost risk. A nuclear plant with a long-term power contract will likely contain provisions to provide replacement power, or the financial equivalent, if the plant becomes temporarily unavailable. Given nuclear power's vulnerability to rare, but extended forced outages, replacement power costs for 1,000–2,000 MW of base load power could be considerable, which would factor into credit risk. Similarly, a utility that owns a large nuclear station could find itself spending hundreds of millions of dollars to cover its short position while its station was down without assurances of recovery from ratepayers. Again, smaller PBRs would mitigate this risk.

Some the preliminary provisions of the Senate Energy Bill contemplate some of these risks. A long-term power contract, for example, with the federal government that covers 50% of the plant's costs might mitigate some of concerns of operating in a competitive environment. Similarly, loan guarantees or lines of credit could also offset the costs. However, if gas- and coal-fired plants can be built for much less (e.g., 50% less) and the operational risk of extended nuclear plant outages remains uncovered, a government program could fall short of relieving investors' credit concerns. Moreover, as with any government subsidy program, offenders would invariably factor U.S. government counterparty risk in the form of subsidy reauthorization uncertainty. Would the programs envisioned by the Senate bill last through the capital recovery period? Maybe. Maybe not.

A new risk for nuclear energy that has caught everyone's attention is terrorism. Because of the dangers that nuclear energy brings, security and insurance costs for nuclear facilities—new and old—are much higher than for fossil or renewable power plants. Therefore, in a competitive power environment, stakeholders in power generation may be reluctant to assume new risks that cost more to mitigate. Again, if a government subsidy can put security costs for new nuclear plants on an even playing field with conventional power generation, the industry could attract new capital. However, most new programs envisioned by Washington only address the construction risk.

As a note aside, some power generators and utilities may oppose efforts to support new U.S. nuclear generation capacity beyond existing subsidies, such as Price-Andersen, if they are heavily invested in coal and gas. New nuclear energy's low variable operating costs would likely displace existing coal-fired and gas-fired generation units in today's environment. It will do little, however, to displace oil-fired generation or lower U.S. oil imports because so little electricity, about 2% of the U.S. load, is actually generated by oil and much of that is for peak load, which nuclear energy would not serve anyway. But for stakeholders—investors, state politicians and regulators, lenders, customers—the risk that new nuclear generation could strand investment in conventional fossil-fuel-fired generation may be unacceptable unless the government provides financial compensation. And for a government trying to contain federal spending, those costs could be prohibitively expensive.

AN ENERGY BILL COULD MITIGATE THE RISKS

To attract new capital to build the next generation of nuclear power plants in the U.S., developers will need to convince capital providers that the following risks are not materially greater than for fossil fuel power plants:

The expense of cost growth, scope change, technology risk and start-up delay.

The costs of unforeseen design problems that manifest themselves well after commercial operations begin.

The costs resulting from the activities of effective interveners.

The costs resulting from regulatory changes, including growth in oversight and compliance costs.

The cost arising from forced outages in a competitive wholesale environment.

The costs of replacing credit counterparties who are unwilling or unable to honor obligations or commitments upon which a nuclear plant's financing decisions were made.

The added and uncertain expense of providing insurance and terrorism protection that nuclear plants need and that would disadvantage a nuclear plant operating in a competitive wholesale market.

The versions of the Energy Bill circulating around Capital Hill may indeed mitigate enough of the risks that would otherwise dissuade investors from financing new nuclear capacity. The key drivers will be not so much in the broad generalities of the authorizing legislation, but the details of the enabling regulations promulgated by the Department of Energy. That could take some time to draft. However, the Senate markup of the bill appears to recognize the issues. Absent an affordable alternative, if Price-Anderson is not re-authorized, existing nuclear power plants could be forced to close because of the potential liability of an accident that could run into the billions of dollars. Beyond Price-Anderson, however, considerable government financial support will like be needed to attract capital, given the perceived credit risks.

The proposed Energy Act's subtitle section, the "Nuclear Energy Finance Act of 2003." provides support for "advanced reactor designs" that covers reactors that enhance safety, efficiency, proliferation resistance, or waste reduction compared with existing commercial nuclear reactors in the U.S. In addition, financial support would consider "eligible costs" that would cover costs incurred by a project developer to develop and construct a nuclear plant, including costs arising from regulatory and licensing delays. Financial assistance may take the form of a loan guarantee of principal and interest, a power purchase agreement, or some combination of both.

The government's proposed support of new nuclear construction will come with limits. The objective is to cover the risks of new nuclear general technology and construction until capital providers gain confidence that a new generation of nuclear power plants is commercially sustainable. The act would limit support to 50% of eligible project costs and to the first 8,400 MW of new nuclear generation. The 50% limit would certainly control the government's exposure, as well as mitigate the risks of moral hazard that a complete guarantee would invite. However, as the industry has learned, some of the costs that could undermine new nuclear power are not those of construction and design, but are the operational ones that could arise after government assistance has ended. In addition, given the risk of cost growth and the likely high capital costs of a new nuclear plant, a 50% level of financial assistance may not be enough to entice a developer comparing uncertain estimates of $1,500–$2,000 per kW capital cost of a new generation nuclear plant with more certain $500 per kW combined-cycle gas turbine or $1,000 per kW coal capital costs.

Whether or not the nuclear energy provisions of the Senate's version of the Energy Bill are good ecomonic or energy policy is beyond the scope or intent of this article. New nuclear energy has compelling attributes, such as supporting energy diversity, replacing an aging U.S. nuclear fleet, offsetting rising natural gas prices, and reducing greenhouse gases and NO_X, SO_X, and particulate airborne pollutants. Once the capital costs are sunk, the variable operating cost can indeed be quite low. However, nuclear power tends to raise credit risk concerns during construction and well after construction. Investors, particularly lenders who rarely see any upside potential in cutting-edge technology investments, including energy, will likely find the potential downside credit risk of an advanced, nuclear power plan too much to bear unless a third party can cover some of the risks. An Energy Bill that covers advanced design nuclear plant construction risk may go a long way toward allaying those concerns, but if operational and decommissioning risks remain uncovered, look for lenders to sit this opportunity out.

Mr. REID. I will only read one sentence:

> But the industry's legacy of cost growth, technology problems, cumbersome political and regulatory oversight, and the newer risks brought about by competition and terrorism concerns may keep credit risk too high for even the Senate to overcome.

In addition, we have the Economist magazine of May 19 which says, among other things:

> That is why the real argument over nuclear's future should rest on economics. Given the industry's history of cost overruns and wasted billions, the claim of dramatically improved economics would, if true, support a revival. Alas, as our special report makes clear . . . the claim is dubious.
>
> Why in the world should a mature, well-capitalized industry receive subsidies, such as government liability insurance or help the costs of waste disposal and decommissioning?

The article closes by saying:

> If the private sector wishes to build new nuclear plants in an open and competitive energy market, more power to it. As subsidies are withdrawn, however, that possibility will become ever less likely. Nuclear power, which early advocates thought would be "too cheap to meter", is more likely to be remembered as too costly to matter.

These statements hardly sound like a sound investment for the Federal Government to make at this time. The simple truth is if investors on Wall Street won't invest in new nuclear powerplants, we should not force the families on Main Street to back them with their hard-earned income. We have an obligation to protect the American taxpayer from having his or her money guarantee investments by the Federal Government in these risky programs. This amendment is not about whether you support or oppose nuclear power; it is about keeping the Federal Government from making risky investments.

A wide range of national taxpayer, environmental, and public interest groups understand these risks. That is why more than a dozen of these groups signed a letter supporting the Wyden-Sununu amendment. The groups include the National Taxpayers Union, Taxpayers for Common Sense, Council for Citizens Against Government Waste, the U.S. Public Interest Research Group, and the National Resources Defense Counsel.

I ask unanimous consent that a letter from these organizations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT WYDEN-SUNUNU-BINGAMAN-ENSIGN AMENDMENT TO STRIKE TAXPAYER FINANCING FOR NEW NUCLEAR REACTORS

June 5, 2003.

DEAR SENATOR: As national taxpayer, public interest, and environmental organizations, we are writing in support of the Wyden-Sununu-Bingaman-Ensign amendment to strike Title IV, Subtitle B from S. 14, the "Energy Policy Act of 2003." This irresponsible provision makes taxpayers liable for up to half the cost of constructing new reactors, a new and unprecedented extreme in the long history of subsidizing the mature nuclear industry. We urge you to support the Wyden-Sununu-Bingaman-Ensign amendment to strike Title IV, Subtitle B of S. 14.

Subtitle B authorizes the Department of Energy to provide federal loan guarantees to finance half the cost of bringing on line an additional 8,400 megawatts of nuclear energy) amounting to an estimated taxpayer subsidy of $14 to $16 billion. There are no guidelines regarding interest rates and repayment for the loan guarantees, and the Congressional Budget Office considers the risk of default on such a loan guarantee to be "very high—well above 50 percent."

Additionally, this provision authorizes the federal government to enter into purchase agreements to buy power back from these new reactors. The legislation does not state how much energy the federal government will purchase and at what rate, but Department of Energy documents recommend that the federal government contract to purchase nuclear power at above market rates. Offering these subsidies to a mature industry would further distort electricity markets by granting nuclear power an unfair and undesirable advantage over other energy alternatives.

Even the first nuclear reactors did not require this level of taxpayer financing. Since then, federal taxpayers have already provided $66 billion in research and development subsidies to the nuclear power industry. Nearly five decades and more than 100 reactors later, it is time for the industry to support itself. If proposed new reactors are as economical as the industry claims, they should be able to finance them privately.

There is no justification for providing the mature nuclear industry with these massive subsidies. Again, we strongly urge you to vote for the Wyden-Sununu-Bingaman-Ensign amendment to strike Title IV Subtitle B of S. 14.

Sincerely,

Anna Aurillio, Legislative Director, U.S. Public Interest Research Group.

Alden Meyer, Director of Government Relations, Union of Concerned Scientists.

Jill Lancelot, President, Taxpayers for Common Sense.

Debbie Boger, Senior Washington DC Representative, Sierra Club.

Wenonah Hauter, Director, Public Citizen's Critical Mass.

Michael Mariotte, Executive Director, Nuclear Information and Resource Service.

Alyssondra Campaigne, Legislative Director, Natural Resources Defense Council.

Pete Sepp, Vice President of Communications, National Taxpayers Union.

Betsy Loyless, Political director, League of Conservation Voters.

Leslie Seff, Esq., Project Director, Sustainable Energy, GRACE Public Fund.

Erich Pica, Green Scissors Director, Friends of the Earth.

Tom Schatz, President, Council for Citizens Against Government Waste.

Susan Gordon, Director, Alliance for Nuclear Accountability.

Mr. REID. Mr. President, I also have a letter signed by the League of Conservation Voters indicating they will consider including the vote on this amendment in their yearly environmental scorecard. I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEAGUE OF CONSERVATION VOTERS,
June 10, 2003.

Re Wyden-Sununu-Bingaman-Engsign Amendment To Strike Taxpayer Financing For New Nuclear Reactors.

Hon. HARRY REID,
U.S. Senate,
Washington, DC.

DEAR SENATOR REID: In response to an inquiry from your staff, this letter will confirm that the League of Conservation Voters (LCV) supports an amendment that will be offered by Senators WYDEN (D-OR), SUNUNU (R-NH), BINGAMAN (D-NM) and ENSIGN (R-NV) to the Senate Energy bill (S. 14) striking a provision that would make taxpayers liable for up to half the costs of constructing new reactors, a new and unprecedented extreme in the long history of subsidizing the mature nuclear industry.

S. 14 would provide federal loan guarantees to finance half the cost of bringing on line an additional 8,400 megawatts of nuclear energy, and estimated taxpayer subsidy of $14 to $16 billion. There are no guidelines regarding interest rates and repayment for the loan guarantees. In addition, this provision authorizes the federal government to enter into purchase agreements to buy power back from these new reactors. The legislation does not state how much energy the federal government will purchase and at what rate, but Department of Energy documents recommend that the federal government contract to purchase nuclear power at above market rates. Offering these subsidies to a mature industry would further distort electricity markets by granting nuclear power an unfair and undesirable advantage over other energy alternatives.

Even the first nuclear reactors did not require this level of taxpayer financing. Since then, federal taxpayers have already provided $66 billion in research and development subsidies to the nuclear power industry. Nearly five decades and more than 100 reactors later, it is time for the industry to support itself. If proposed new reactors are as economical as the industry claims, they should be able to finance them privately.

There is no justification for providing the mature nuclear industry with these massive subsidies. For this reason, we strongly support the Wyden-Sununu-Bingaman-Ensign amendment to strike the nuclear construction subsidy from S. 14. LCV's Political Advisory Committee will strongly consider including votes on this issue in compiling LVC's 2003 Scorecard. If you need more information, please call me or Mary Minette, LVC's legislative director, at (202) 785-8683.

Sincerely,

BETSY LOYLESS,
Vice President, Policy & Lobbying.

Mr. REID. The nuclear power industry is a mature, developed industry. It has had more than 30 years to convince the wizards on Wall Street of its financial merit. The truth is Wall Street is not convinced, and until Wall Street is convinced, Congress should stay out of the risky financial deals.

The New York Times today had an article about the empty energy bill. One of the paragraphs from the New York Times article reads:

> The biggest addition to this dreary lineup [of matters in this bill] is a huge $30 billion subsidy for nuclear power.

It goes on to say that this is simply bad. Even pronuclear allies regard this package as being excessive.

The Washington Post today says:

> . . . taxpayers should not be asked to provide subsidies for new nuclear power plants either. As it stands, Senate legislation would provide loan guarantees for up to half of the construction costs of new nuclear plants.
>
> If the Senate wants to encourage nuclear power plant construction, it should find means to do so that don't risk such a high price to the [American] taxpayer.

I don't believe my colleagues should guarantee these loans, and that is what we are doing. They wouldn't do it with their own money, so we should not allow the Federal Government to do it with taxpayer money.

I commend and applaud the sponsors of the amendment, the Senator from Oregon and the Senator from New Hampshire. I hope their amendment will pass.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me speak briefly also in support of the amendment by Senator WYDEN and Senator SUNUNU. This is an amendment I offered in the committee markup with Senator WYDEN. We were not successful at that time, obviously. I congratulate both sponsors of the amendment for offering it again here.

Clearly, I am not opposed to the building of new nuclear powerplants. I believe nuclear power makes a very major contribution to our energy needs. It supplies about 20 percent of our Nation's electricity today. It does so safely. It does so reliably. It does not generate greenhouse gases. And it does so at prices that are competitive with coal and natural gas.

I hope in the future we will see additional nuclear power production in this country and worldwide. I think it is a technology that provides many benefits to us.

There are provisions in the bill that are strongly in support of the nuclear power industry and its future: The renewal of the Price-Anderson Act, for example, that protects the nuclear industry against liability from accidents. There are provisions in there to carry out research and development to help with the training of a workforce. There are many provisions in this bill that are very strongly in support of the nuclear power industry.

The provision this amendment goes to would authorize the Secretary of Energy to guarantee up to half the cost of 8,400 megawatts of nuclear capacity. That translates into at least six large nuclear powerplants. We do not know with any precision how much these loan guarantees would wind up costing taxpayers. That depends on many variables, such as how many plants are actually built under the program, how much they cost, whether in fact there is a default, what the interest rates might be on the defaulted loans, whether the plants would still be able to operate if there were default.

There is a lot of uncertainty in the provision that is the subject of this debate. The Congressional Budget Office has made a number of assumptions that are favorable to the industry in coming up with its estimate. It assumes, for example, that the Government would only guarantee one, not six, plants during the next 10 years. It also assumes that it would cost about half as much as Seabrook and Shoreham did two decades ago and that it would still be able to operate after a default. Under these assumptions, CBO has concluded that the loan guarantees would cost in the range of $275 million for the one plant.

The Nuclear Energy Institute takes strong exception to these Congressional Budget Office conclusions. NEI doubts the industry will default on its loans. It believes CBO's estimate is based on noncredible, illogical assumptions and that the CBO estimate is unrealistically high.

So we have experts on all sides of this issue. The debate is important, but I do think it glosses over some of the fundamental questions: Does this nuclear power industry need these loan guarantees at this point? Is guaranteeing the nuclear power industry's loans sound public policy? On both of those issues, I believe the preponderance of the argument is on the side of the Wyden-Sununu amendment. I do not believe loan guarantees are necessary in this magnitude at this time.

This is a mature industry. We have been building nuclear powerplants in this country for nearly half a century. We have over 100 nuclear powerplants now operating. The nuclear industry did not need loan guarantees to get off the ground 50 years ago, and I do not believe those guarantees are required at this point.

Moreover, the companies that are most likely to build these new nuclear powerplants are the ones that have built them before and the ones that are operating them now. These are not small businesses.

As a result of the recent wave of mergers and acquisitions, there are a dozen utilities that now own 75 percent of the Nation's nuclear capacity and two-thirds of its nuclear reactors. Each of these utilities generates billions of dollars in revenues each year. Many generate tens of billions of dollars in revenue each year. Collectively, these 12 utilities had nearly $12 billion in revenues in 2001.

There is no evidence of which I am aware in the record before us that the nuclear industry needs loan guarantees of this magnitude to build new nuclear powerplants. The Energy and Natural Resources Committee held hearings on the state of the nuclear industry in the past Congress. We heard from both the utility industry and the financial community, and neither one suggested that loan guarantees were appropriate or required.

The utility representative said that the state of the nuclear industry is "very sound" and that new plants would be "economically competitive" and acceptable to investors. The Wall Street representative at our committee hearing testified that a large successful utility could finance the construction of a new nuclear powerplant, and nobody mentioned the need for a Federal loan program of this type or a loan guarantee program of this type.

Second, I do not believe that shifting the financial risk of constructing these plants from industry to the Federal Government or to the taxpayers is sound public policy.

For most of the last century, utilities built powerplants in this country, whether nuclear or non-nuclear plants, under what is called the regulatory compact. Utilities were State-regulated monopolies. They accepted an obligation to serve everyone in their service territories at State-set rates. In return, they were shielded from competition. They were guaranteed recovery of their prudently incurred costs plus a reasonable profit.

The regulatory compact has largely been abandoned in this country during the last couple of decades. It has been replaced by deregulated, competitive, wholesale electricity markets. So instead of wholesale electricity prices being set based on the utility's cost of production, they are now being set more by the market, and title XI of the bill before us is intended to further these developments.

Giving Government loan guarantees of this magnitude to one segment of the utility industry—indeed one of the better financed segments of the industry—I think unduly interferes with the free market. It runs counter to efforts to establish competitive electricity markets in this country.

In a competitive market, utilities are supposed to decide whether to build new powerplants by weighing the economic risk involved against the economic reward they might receive. Loan guarantees skew the market by shifting the risk to the taxpayers while keeping the rewards for the utility shareholders.

We have had this debate before, 50 years ago, at the dawn of the nuclear era. The House and Senate debated whether nuclear powerplants should be built and operated by the private sector or by the Government. The decision was made to leave the construction and operation of nuclear powerplants to the utilities, to the private sector.

The Federal Government encouraged support of the utilities through nuclear research programs, through fuel subsidies, and through indemnification against accidents. It did not use loans or grants or loan guarantees.

The Federal Government's faith in the utilities 50 years ago was justified as the more than 100 nuclear powerplants operating today attest, and we should continue to have faith in the free market today and not subsidize the next generation of nuclear powerplants to this extent by shifting economic risks from utility shareholders to the taxpayers.

I urge colleagues to support the amendment. I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). Who yields time? The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I thank my colleague, the Senator from New Mexico, Mr. BINGAMAN, for his comments and his very well-reasoned argument on behalf of our amendment.

As I indicated in my earlier comments, this is part and parcel of a debate as to what an energy policy really should be in our country. I support a number of initiatives that I think would help ensure access to stable, reliable sources of energy for our country's economy so it can continue to grow. That means conservation, and we just had an amendment that sets a target of conserving some 1 billion gallons of gasoline in our automotive industries over the next decade.

We also need to make sure we have good, sound infrastructure for transporting electricity or natural gas across State lines and around the country. We want a good strong electricity title. That has been the effort and the work of the Energy Committee. We need to make sure we streamline and reduce unnecessary regulations. I will come back to this point shortly, but that is one of the real problems the nuclear industry faces right now: uncertainty due to complexity in the regulatory environment where the process of building or licensing a plant can be halted multiple times throughout the licensing process.

Of course, I believe, as I hope most Americans do, that we need access to new energy sources and new energy reserves, and that is why I supported exploration in the northern slope of Alaska.

At the same time, we need to be careful that our energy policy is not about trying to pick winners and losers in the energy markets; that we not digress toward a subsidy "arms race." We heard people argue if we give a subsidy to this industry, we should give it to another, tax credits there or how about a subsidy here. We should not have a subsidy "arms race" where we burden the taxpayers because that is who is paying for all of this policy, giving out subsidies to industries that are favored at a particular point in time. And we certainly should not single out an industry, as unfortunately a portion of this bill does, for an unprecedented loan guarantee, unprecedented taxpayer guarantees for the construction of new powerplants. Whether this is targeted at the coal-fired electricity industry or natural gas-fired plants or, as in this case, nuclear plants, I think it is questionable public policy to provide such loan guarantees.

We are putting the taxpayer at risk, and we can call five different economists to try to estimate the size and scope of that risk, but the provision of the bill we seek to strike allows the Secretary of Energy to provide loan guarantees for up to half the cost of up to six plants. That is 50 percent of the cost for six plants, each perhaps costing between $2 billion and $4 billion. That is a $10 billion to $15 billion subsidy.

The Congressional Research Service, which is about as nonpartisan as you can get, states that the maximum Federal cost will be in the range of $14 billion to $16 billion in 2002 dollars. The Congressional Budget Office states that the risk of default on these guarantees would be quite high, well above 50 percent.

It is difficult to forecast risk. It is difficult to forecast cost. Whether these were guarantees for 25 percent of the cost or 50 or 100 percent or for one plant or for 71 plants, my concerns and I think the concerns of the Senator from Oregon would still be the same: this sets a bad precedent in singling out one industry for this type of a construction loan guarantee. It sets a bad precedent because in all likelihood other areas of private industry would, in the long run, seek to be treated in the same way. Of course, it sets a bad precedent in that it is an unprecedented sum, an unprecedented guarantee.

I would very much like to see a strong and revitalized nuclear industry, and I credit the chairman of the Energy Committee for focusing on this issue in his bill, extending Price-Anderson, investing in basic research, physics and nuclear technologies, and pushing forward scientific and research initiatives that he has included in the bill.

I disagree on some of the slight nuances of those provisions, whether they are exactly the right size or targeted to the right areas, but I give him a lot of credit for focusing on strengthening our nuclear power industry. I simply do not believe this kind of a guarantee is right for any industry. Equally important, perhaps more important, I do not believe this kind of a taxpayer subsidy is right for the men and women of our nation who are working long and hard, sending their taxes to Washington, and expecting them to be used fairly and equitably.

There is a lot of uncertainty in the energy markets and in the nuclear power industry in particular, and we can ask the question why are not more plants being built, why have we not had a new plant licensed in over 20 years? I think the answer can be found in the uncertainty and the risk created by the regulatory markets, created by the litigious society that we live in and the fact that the licensing process can be brought to a dead halt time and again. Whether or not we have the technology that would allow us to build a nuclear powerplant for $100 million or $500 million versus $2 billion, this uncertainty is enough to discourage capital markets from lending to the large private companies that are engaged in the nuclear power industry.

I think we will not find private resources being attracted to the nuclear industry, and we should not find taxpayer resources subsidizing the industry, until something is done about that uncertainty and that regulatory complexity.

We have an interest rate environment right now that benefits anyone building anything just about anywhere in our country, the lowest interest rates in 40 years. That is about as big as an incentive as one could possibly have for undertaking new construction projects. I certainly do not believe we need to put the taxpayers on the hook in order to provide even more incentive.

We are reaching out trying to protect the taxpayers, trying to do the right thing, I think trying to make this bill better and trying to set a good precedent. Again, I thank RON WYDEN, the Senator from Oregon, for his work. We have bipartisan support for this amendment, three Republican and three Democrat cosponsors. As we move toward a vote, I think we will see bipartisan support for the amendment.

Again, I thank the chairman of the committee for being thoughtful enough to work with us so we could get a consent agreement to bring this amendment up today, to have a fair and thoughtful debate, and to be able to have a straight up-or-down vote on the amendment at the conclusion of the debate. I reserve the remainder of our time.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wonder if I might speak with the distinguished Senator from Oregon about the final vote. We are wondering, from our side, for no reasons other than time—the more time we have left, the more we might get done—whether we might be able to vote at 3:45 instead of 4:15, saving half an hour. We would be delighted to not ask the Senator to give up very much of that time but I wonder if he would consider a consent agreement for 3:45, which will give us, instead of our hour, 40 minutes, and what is left would belong to the Senator, or 35 minutes. Would that be fair enough for the Senator?

Mr. WYDEN. I want to be accommodating to the distinguished chairman of the committee. Let me spend a couple of minutes looking into it.

Mr. DOMENICI. Sure.

Mr. WYDEN. I will try to ascertain how many Senators on our side of the proposition would like to speak, but the Senator has always been fair.

Mr. DOMENICI. Let's not agree. Let's put that before them as a possibility. Right now we are exploring the notion of voting at 3:45 instead of 4:15. If we did that, we would allocate the time away from each hour in order to get there. In the meantime, we will both ask our cloakrooms if there is any problems with any Senators. The Senator from Oregon will do it on his side and I will do it on mine.

Mr. President, I assume I can speak at this point; I have the floor?

The PRESIDING OFFICER. That is correct.

Mr. WYDEN. Would the distinguished Senator yield?

Mr. DOMENICI. I would be pleased to yield.

Mr. WYDEN. I think we may need to go to 4 rather than 3:45, but I will try to accommodate the distinguished chairman. We will spend some time checking his desire to move the legislation, which has transcended any particular amendment, and we are anxious to accommodate.

Mr. DOMENICI. For the benefit of the Senators who would like to speak, Senator ALEXANDER has indicated a desire to speak for a few moments. He is here. Senator VOINOVICH, who occupies the chair, desires to speak; Senator LANDRIEU, from the other side of the aisle, desires to speak. Senator INHOFE and Senator LARRY CRAIG.

I say to all of them, if they would let us know through the cloakroom, we will try to put some times opposite their names. We will be using 4 as kind of our scheduling time to see what we can do about setting up a time.

Would the Senator from Tennessee like to speak at this time or would he rather that the Senator from New Mexico speak for a few moments?

Mr. ALEXANDER. I will listen to the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator. I will try to be brief.

My colleagues know I have been in the Senate 31 years and that for the better part of that time I spent my time on energy matters but principally, from the standpoint of the floor of the Senate, I was known as the person who handled the budget for the Senate. That is where I had the luxury and privilege of meeting the distinguished Senator, who opposes me on the floor, Mr. WYDEN, and many others who serve with me. In fact, that is where I became a very good friend of the distinguished majority leader of the Senate, who served, as the Senator might recall, on that Budget Committee way down at the end of the Republican side. One of the Senators who served for most of that time, that the Senator from Oregon will recognize and remember, was probably one of the most astute and knowledgeable Senators who we have both had the luxury of knowing. We might both put some other attributes along with those but he was that, and that was Senator Gramm of Texas.

One day I was exploring a matter with the Senator from Texas. I said: Senator, you know I have been on this Budget Committee for so long, and I am thinking about moving over to the Energy Committee where I have been in the second position for all of these years. You are from Texas and I noticed you never did bother to even get on the Energy Committee.

He said: Yes, that is right.

I said: Why is that?

Listen carefully. He said: Senator PETE, energy is one of the most difficult things to do anything about, nigh on impossible to effect by law any real policy regarding energy, if you are talking about advanced policy that has any impact.

I said: Well, Senator Gramm, I might agree with you but—and before I could finish he said: However, I would like to correct that and say one thing to you.

Now, this was 5 years ago.

Senator DOMENICI, there is indeed a probability that you can do something if you take over the Energy Committee, and I tell you for sure there is only one thing and that is to reestablish nuclear power as an option for these United States and the world.

I wish he were here. I am not quoting him exactly so do not put it in quotes, but he would remember that.

When I decided to take this job and give up the Budget Committee, I remembered that and I even told my wife, when discussing at home my next few years in the Senate, that some pretty good people think I am taking on a committee that does not have a lot of potential because energy is too tough to legislate and make policy about. It just sort of happens, except for that rascal nuclear power.

Well, he said it. He may not be right but I am trying to prove him right in this debate today and in this Energy bill that we are going to try to finish this week, perhaps with 1 additional week.

On May 21 of this year, Alan Greenspan, speaking to the House Energy Committee, said: If we're going to continue to expand our energy base, we're going to have to be starting to look at nuclear power as a potential reservoir of new sources of energy which are not available by other means.

He continues: I think that we ought to be spending more money and more time looking and contemplating the issue of nuclear power since natural gas is a serious problem.

This morning I happened to hear a talk show with typical Americans calling talking about energy. It was rather nice to hear people from Oklahoma City, from somewhere in Tennessee, California, Oregon, obviously average citizens who were calling in on a radio show asking questions. Most questions had to do with, why don't we have more natural gas? Finally someone asked, aren't there other things we can use? What about nuclear power? Of course, as one might suspect, the answers were rather muddled.

The real question now before this institution is, can nuclear power, held in abeyance for about 14 to 16 years in the United States while Japan built new facilities, the country of France is 80 percent dependent upon nuclear power, a little country like Taiwan, which is booming, is currently constructing two facilities with General Electric engineering and design—I cannot recall the name of the contractor. And the United States sits with everybody saying it is almost impossible. With the exponential growth in electricity needs, where we all expect to use natural gas in the burners, to create the heat and electricity, it is nearly impossible that we will have enough natural gas. It is not a question of whether we have a lot of it. It is a question that we do not use anything else because we are frightened to death of using anything else.

Some in this country, a small group, have scared us to death about nuclear power. When we add up all the energy produced by nuclear power in the world, including the terrible accident in Russia, which was attributable to a very old-fashioned nuclear powerplant that we would not dare license in America, add these together and nuclear power has been safer than any of the other power sources combined—be it coal or any other—save and except for energy produced by dams. I am speaking of large quantities. Certainly, if we speak of windmills, we speak of solar, we can produce clean energy.

Having said that, the issue before the Senate today is, do we want to support a committee that put together a bill that said, fellow Americans, the time has come to quit playing around with energy and do something about a myriad of sources. And to say, wherever you can, we are going to produce more energy.

We have tried to produce or cause to be produced every natural gas source we know of that had impediments. If it was too deep, we gave it a benefit of some sort so it could get taken out, anyway. If it was too far away in the ice lands of Alaska, we gave those companies something so they could get it down here. If it is coal, we said subsidize.

They are talking that we should not be granting a loan guarantee, presumably at market value, to a first-class company that might want to take a risk at building a powerplant. They are saying we should not do that. But when it comes to coal, we are going to spend over $2 billion on pure research to try to get to that miracle place of clean coal.

We did not say, my, you just should not put your tax dollars in a big waste.

Last but not least, while our opponents will find this is not relevant, we already have a subsidy for wind energy, those 50-foot-tall windmills. Without the new one contemplated to be added to this bill, that has the potential of producing 245,000 windmills, equivalent source of energy. The powerplants we contemplate lending money to, or offering a loan guarantee, the same amount. Guess how much the taxpayer will have given if that occurs. Thirty-one billion is the direct source for those windmills.

Now, the opposition to ours might say, but you are going to get windmills. When you say to the American power industry, if you want to come along and try to build a new nuclear powerplant, modern type, you have to go get your money, you have to take all the risks, and we will underwrite half of it with a loan, they would have us say that is a terrible risk even if it is only $2 billion to $5 billion. But that $31 billion that might occur for windmills is not? Of course, the windmill is not a risk, but it certainly is throwing your money at something that most Americans would wonder seriously about.

Having said that, this Senator is not against any of the sources. I think we will win today. When we win, we will go to conference eventually and come out with a major new impetus for nuclear power in this country. For the first time somebody is going to say, let us build one or two new nuclear powerplants. And the greenhouse gas issue that has been raised will not be there because there is no pollution from those two plants that I have just described, if they come into being—none. Zero. Absolutely clean.

We are going to have to find some way to take care of the waste someday. If we want to have a debate here today, or next week, on the waste, suffice it to say that the United States has scared herself silly about waste. Waste is nothing but a technical problem. If you want to go see all the waste in France, get a ticket and go to a city, ask them where it is, and they will take you to a building, and you can go see it all.

You might say: Who would want to see it?

They will just take you to a building that looks like a schoolhouse. You walk in and say: Can I see the waste? And they will say: You are walking on it. They will say: Just take a look down.

You look down. It looks like glass, and there sits the waste, encapsulated, and it will be there for as long as 50 years, if that is what is needed by the French scientists to find out how to put it away or how to reuse it.

Here we sit fooling around because somebody convinced us we ought to become immobilized, when it comes to an alternative, until we have a hole in the ground so deep, so big, in such hard rock that we can figure out, way in advance, a way to put the waste in it and monitor it with calculators and say to America and the world: We just monitored it, and we can tell you there will be no radiation for 10,000 years.

That is the test because we want to be so careful we don't hurt anybody ever. The test of the technology that is going to have to monitor that—and you can hardly draw the plans, it is such an absurdity—is 10,000 years.

Having said all that, we are back to a simple proposition: Do you or do you not want to let the Energy Committee go to a conference with the House and to take with it a bill that says: All the rest of these energies get their help: Biomass gets its assistance, coal gets its help, the renewables are helped immeasurably with tax assistance, every single thing we know how to do to produce more oil and gas is done—right?

Ms. LANDRIEU. Right.

Mr. DOMENICI. I could go on and on. That is all going to be there. But also in the event—and I am looking for the language in the statute as to when the Secretary can issue these—we have statutory language that says, very simply—and I will read it and close:

> Subject to the requirements of the Federal Credit Reform Act [et cetera, et cetera, et cetera], the Secretary may, subject to appropriations, make available to project developers for eligible project costs such financial assistance as the Secretary determines is necessary to supplement private-sector financing for projects if he determines that such projects are needed to contribute to energy security, fuel or technology diversity, or clean air attainment goals. The Secretary shall prescribe such terms or conditions for financial assistance as the Secretary deems necessary. . . .

That then is provided as up to 50 percent of the cost, by way of a loan.

Frankly, it is all a question of risks. It is not a question of philosophy. It is not a question of whose party wants to get on what slope, a slope of entrepreneurship or a slope of guaranteeship. All of that is meaningless. What this is about is: Is it worth this little risk we are speaking of—to get what I just described going again for America?

I say, overwhelmingly, absolutely, positively, yes. I do hope, come that vote time, there will not be 50 Senators, or half of those who vote today, who will say we want to strike this and kill this opportunity for America.

With that, I will yield the floor to Senator ALEXANDER for his time.

Senator LANDRIEU, are you on some time frame that is urgent?

Ms. LANDRIEU. I can yield to the Senator from Tennessee. He was here, of course, prior to my arrival. How much time would he like?

Mr. DOMENICI. I yield to him and then to the Senator from Louisiana.

Mr. ALEXANDER. I would like about 5 minutes.

Ms. LANDRIEU. Fine.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I rise in support of the chairman in opposition to the amendment.

In 1987 our family, which included three teenagers and a 7-year-old, visited the Peace Park in Hiroshima, Japan. We thought twice before we took our children there because it is such a staggering experience to see what happened on that August day in World War II when the atomic bomb was dropped.

I marvel even more that today Japan, because it knows of the importance of energy, now relies on nuclear energy—the same process that wiped out half the lives in Hiroshima—for peace, for the peaceful production of electricity for homes and jobs for about 80 percent of their electric needs. They are producing about one new reactor a year.

In France, as the chairman said, about 80 percent of the electricity, I believe, is produced by nuclear power. We have about 100 ships in our Navy that operate with little nuclear reactors. Yet, for some reason, over the last 30 years we became afraid to start a new nuclear powerplant. I guess we became so accustomed to abundant supplies of coal and oil and relatively cheap gasoline that we thought it would last forever. But I think we have gotten over that. At least it is time for us to get over that and to break away from this national attitude that, since the 1970s, has kept us from starting a new nuclear powerplant.

Why not nuclear? That is the question we should be asking. We have heard the testimony of the terrible price increases in natural gas and the projections that we have a really serious problem with continuing natural gas prices.

This Senate voted not to go explore for more oil in Alaska.

Windmills are promising, but the promise of 245,000 of them to produce 2 percent of our energy and to see them all over our deserts and ridgetops—there is some limit to what windmills will be able to do for us. Coal produces half of our electricity, but it produces carbon and it produces pollution and we have not yet quite developed the clean coal technology we all want.

Nuclear power more and more seems to be imperative. So what are we doing about it in this bill? We are basically adding nuclear to the arsenal of weapons we want to use to make ourselves less dependent on foreign oil and more likely to have clean air and a cheap and abundant supply of electricity.

It is said that we are subsidizing the idea of nuclear power. In a way we are: A new type of advanced nuclear powerplant that has the promise of building plants for $1.5 billion—much cheaper, much more efficient, safer, to start up that industry, to stimulate it. But we are doing exactly the same thing as the chairman said with wind power. We are doing exactly the same kind of thing with clean coal technology to the tune of $2.2 billion. We are doing exactly the same thing with oil and gas, and $2.5 billion is in the bill for that.

This morning, we talked about putting a Presidential emphasis, thanks to the Senator from Louisiana, on conservation. We need to add nuclear to our list. The larger question would be, Why would we keep it out? Why would we encourage every other form of energy and not nuclear energy?

I strongly urge that we keep in this bill nuclear power as an option for our future. There will be great discussions in this body about carbon and the concern of greenhouse gases. Nuclear power is carbon free. It is carbon free. There will be a lot of talk about our dependence on oil. The most reliable and largest opportunity to replace oil in the next 20 years is nuclear power.

There is a lot of talk about the worry of natural gas prices. The best way to keep natural gas prices under control is to have an alternative. That would be nuclear power. I strongly urge my colleagues to vote no on the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the vote in relation to the pending amendment occur at 3:50 with the remaining time to be divided with 20 minutes for the proponents and 10 minutes under the control of the opponents.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank the Senator from New Mexico. I will take 3 or 4 minutes. I understand that the Senator from Alabama would like to speak in opposition to the amendment as well.

In all due respect to my colleagues who are offering this amendment to strike this very important provision from the bill, I wanted to come to the floor to strongly disagree and to add my voice at the outset of the debate and on the points which the chairman of the committee brought to the fore on this very important part of the Energy bill.

I wish to begin by saying that our Nation has 103 nuclear powerplants. The nuclear industry provides 20 percent of our electricity. I don't believe we will strip the Energy bill of this provision, but if we did, we would jeopardize the reliable and affordable source of electricity that this Nation needs to stay competitive in this world economy.

It will cost jobs and cause hardship. People would lose their jobs with this amendment.

I am not sure my colleagues are aware that over the next 20 years the United States doesn't need to move backwards as this amendment would suggest. We need to move very quickly in the other direction. We need to build 1,300 new powerplants in this Nation, which is the equivalent of 60 to 90 new powerplants per year to keep up with the increased demand of electricity. Why? Because our economy is more productive; because technology is demanding it; because good, old Yankee know-how makes it crucial that we provide our businesses with electricity and with power. If we don't give them power, they can't operate. If we don't give them power that is reliable and affordable, then we will lose jobs to our international competitors. It is as simple as that. We need everything and more, everything we thought of and more than we thought of.

Nuclear is a very important component of that. The amendment's authors argue that this is a subsidy. It is not a subsidy. It is a loan guarantee. It is our intention that these loans be fully paid with interest. We do this. There are 100 examples in the Federal rule book where we do this. We want to encourage the development and movement in a certain way. We can give loan guarantees, and we have done it time and again. It is time we do it for the nuclear industry to keep them moving in the right direction.

Let me say to the chairman that I went down to Louisiana. We have two nuclear powerplants. Seventeen percent of Louisiana's fuel is nuclear. As the chairman knows, one out of five has the clean benefit of nuclear power.

My producers of natural gas said to me, Senator, please go and fight for nuclear energy. If we don't get more energy into the marketplace, the demands on natural gas will become so high that we cannot pay our gas bills, and it is driving our industry to its knees. They said, Senator, please go and fight for an increase in all sources, including nuclear.

Nuclear energy currently generates electricity for one in every five homes and businesses.

It is important not only in Louisiana, where two nuclear plants produce nearly 17 percent of my State's electricity, but also in States such as Connecticut, Illinois, New Hampshire, New Jersey, South Carolina, and Vermont where nuclear generates more electricity than any other source.

Nationwide, 103 reactors provide 20 percent of our electricity—the largest source of U.S. emission-free power provided 24–7.

Nuclear energy is one of the most competitive sources of energy on an operational cost basis.

While I strongly support the use of natural gas for our energy needs, we cannot rely, as we have in recent years, on any one source of energy to meet our Nation's increasing electricity demand.

Over the next 20 years, U.S. natural gas consumption is projected to grow by over 50 percent while U.S. natural gas production will grow by only 14 percent.

The CEO of Dow Chemical recently wrote that the chemical industry—the Nation's largest industrial user of natural gas—is particularly vulnerable to high natural gas prices.

To remain an economic leader we must promote a diversified and robust energy mix, including the full range of traditional and alternative energy sources.

Nuclear energy is also vitally important for our environment and our Nation's clean air goals.

Nuclear energy is the Nation's largest clean air source of electricity, generating three-fourths of all emission-free electricity.

Nuclear energy will be an essential partner for future generations of Americans, whose reliance on electricity will increase and who rightfully will demand a cleaner environment.

Just this past Sunday, the Washington Post highlighted the problems that the Shenandoah National Forest now faces with pollution. Think how much worse our Nation's air pollution would be if nuclear energy did not generate one fifth of our electricity.

To preserve our current levels of emission-free electricity generation, we must build 50,000 megawatts of new nuclear energy production by 2020.

In addition to providing the largest source of emission-free electricity, nuclear energy possesses the most viable solution to our over reliance on foreign oil, i.e., the potential to someday cogenerate hydrogen as a clean transportation substitute to oil.

The Wyden amendment will hurt our Nation's long-term economic, environmental and security goals if passed.

Building a windmill that has a generating capacity of 2 megawatts should not be compared to building a nuclear power plant that produces 1,000 megawatts or more.

I agree with my ranking member that the nuclear industry is mature in the sense that it has been safely, efficiently, and effectively producing electricity for several decades. But we have not brought a new nuclear plant on line in this country for over a decade and a new project will face some uncertainties.

The costs of the first few plants will be higher than those that are built later. Because the business risks will be greater for the initial few projects, financing will be more difficult to obtain. That is why the Federal Government needs to step in and provide an incentive to allow the industry to get over that hurdle.

Some rather large numbers have been thrown around as to the costs of this provision. Were theses numbers accurate, I would share the concerns voiced by my colleagues.

The construction costs as derived by CBO would be $2,300 per kilowatt of capacity is inconsistent with current cost incurred by other nations building similar types of advanced nuclear reactors.

According to a detailed cost analysis developed by industry the first few plants will cost less than $1,400 per kilowatt hour and will later fall to less than $1,000 per kilowatt hour, making nuclear plants very competitive with the costs of other technologies.

My colleagues who are opposed to these loan guarantees are assuming that a new nuclear plant could rise to costs over $3,800 per killowatt, based on questionable CBO projections.

In addition my colleagues also fail to mention that the Secretary of Energy will be required to use stringent criteria to provide loan guarantees.

I concede that we probably don't know what the exact cost will be, but the economic, environmental, and security benefits of investing in new nuclear plants for our future generations are many and great while the financial risk to the public sector is by comparison rather small. Let's give this idea a chance.

In conclusion, I urge my colleagues to vote against the Wyden amendment. And I thank the chairman for all his efforts in helping to promote a vital source of energy and for helping to pave the way towards improving our Nation's energy security.

I strongly oppose the amendment on the floor to strip the provision in this bill, and I support the chairman's mark.

Mr. DOMENICI. Mr. President, how much time does the Senator from New Mexico have?

The PRESIDING OFFICER. Six minutes.

Mr. DOMENICI. I yield 3 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. SESSIONS. Mr. President, I wish to express my deep appreciation to Senator DOMENICI. He, more than any other person in this body, understands what role nuclear power must play in America and in the world if we are to maintain a clean environment and a healthy energy source. In nations that have readily available electricity in the world, compared to those that do not, the lifespan is twice as long.

This is a matter of extreme importance. We are trying to simultaneously increase our power sources in America and improve the cleanliness of our air and protect our environment. The only way that can be done is with nuclear power.

I feel very strongly about this. It is important for America's economy. Alan Greenspan testified at the Joint Economic Committee last week and raised again the crisis that we are facing in natural gas. Natural gas is a source for all new electric plants in America today. We are driving up this tremendous demand on natural gas. If we drive up the cost for natural gas, as we certainly will at the rate we are going, homeowners are going to pay so much more for their heating. Businesses that use natural gas are going to have to pay twice as much. We can meet that demand without any air pollution by expanding nuclear power.

There are 29 nuclear plants being built around the world. France gets 80 percent of its power from nuclear power. Nearly 50 percent of Japan's power comes from nuclear power.

We have not built a nuclear plant in America in 20 years. It is time for that to change. Twenty percent of our electricity comes from nuclear power producing no adverse environmental impacts to the atmosphere.

I would like to read what we save for the atmosphere by having nuclear power. A recent study showed that nuclear energy has prevented the release of 219 million tons of sulfur dioxide, 98 million tons of nitrogen oxide polluted in the atmosphere, and prevented the emission into the air of 2 billion tons of carbon dioxide. That is considered by some to be a global-warming gas. We can stop that. We may have offset the effects of carbon dioxide already by producing 20 percent of our energy with nuclear power.

We have to include a provision like this in the bill. Last year, I introduced a bill that would provide a tax credit, similar to that for renewable energy, for the production of nuclear energy. The tax credit would have cost only one-fifth the amount of tax credits that other forms of clean energy receive, and it would have encouraged the production of a steady, reliable source of energy. The provision in this bill likewise encourages nuclear energy, and I support it. I reject the notion that there would be a high rate of default on these loans. I have studied nuclear energy and I have visited plants. These loans are needed to provide the nuclear industry a small incentive to take a big step towards constructing a plant. We need to go to conference with it. If we do, I would be willing to work with Senators who oppose this. But I think we have to have something in this bill that will allow us to encourage nuclear power. Not to do so would be a failure of incredible proportions.

I thank the chairman. I feel very strongly about it. I thank Senator DOMENICI again for his historic leadership that can lead us into a new way to produce large sources of energy without pollution costs to the environment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SUNUNU. Mr. President, I ask if the Senator from Oregon would yield 2 minutes to the distinguished Senator from Arizona.

Mr. WYDEN. Yes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, first, I agree with the comments of the Senator from Alabama that we ought to be promoting nuclear power. I am a strong advocate of that. I compliment the chairman of committee, Senator DOMENICI, for being very strong in his support for nuclear energy and for being totally consistent in the positions he has taken.

I want to argue against hypocrisy. An environmental group handed me a sheet of paper a while ago. They are very much against subsidies. As it turns out, a subsidy for nuclear energy would be very bad. They are right about arguing against subsidies. That is why I am going to support this amendment.

But all of the environmental arguments I have seen have been for subsidies when it comes to ethanol, solar power, biomass, wind energy, and you name it. The point here is that we ought to be consistent. If you think subsidies are a wonderful idea for these other things, then maybe you ought to support the loan guarantee for this additional method of producing power. But if you think subsidies are wrong, then you shouldn't support them for anything.

As the chairman of the committee knows, I opposed all of these subsidies in the Finance Committee. I will offer amendments again to try to strip them out of the finance part of the bill when it is added to the Energy bill on the floor.

I wish to make the point that if you want to be hypocritical—I am talking about these organizations and not Members of the Senate—then fine. Oppose this subsidy for nuclear and continue to support it for all of the rest. But if you want to be honest about it, like the chairman and I, though we have come to a different conclusion, but at least the chairman has been consistent and I hope I have been consistent.

I oppose these subsidies, even for those sources of energy which I think are critical for this country to continue to develop, and that includes nuclear energy.

I support the amendment in order to remain consistent in opposing subsidies.

The PRESIDING OFFICER. Who yields time?

Mr. SUNUNU. Mr. President, I thank the Senator from Arizona for his support for our amendment. I will pick up a little bit where he left off talking about the issue of subsidies across a range of areas.

The distinguished chairman of the committee spoke earlier about the clean coal subsidy, the $2 billion in clean coal subsidy. He suggested that supporters of this amendment also supported that subsidy.

I just want to be clear. I do not support $2 billion for clean coal. I have, in my service in the House of Representatives, opposed the clean coal technology program. In addition to that, I oppose the fossil fuel research and development fund that is in this bill because they effectively provide a subsidy for research and development in the areas of fossil fuel, areas where private companies operate in a very profitable and successful way.

It is not to hold anything against those fossil fuel firms or those coal firms, but it is to stand up for some of the concerns expressed by the Senator from Arizona that we should try to be as consistent as possible in striking these unnecessary subsidies.

The suggestion was made earlier on the floor—in fact, the statement was made specifically—that this loan guarantee program is "not a subsidy." I reject that out of hand. If this was not a subsidy, then it would convey no benefit to those who sought the loan guarantee. And if there were no benefit, then people should have no objection to removing it from the bill. But, of course, there is a lot of objection to removing this from the bill because there is a big benefit to be gained by having a federally subsidized loan guarantee for the construction of new nuclear plants.

It was also suggested that perhaps this is an attack on nuclear power. Let me close by reemphasizing that is simply not the case. I support the Price-Anderson provisions in the bill. I supported the effort to establish a long-term storage facility for nuclear waste at Yucca Mountain that could be operated for the long-term, safely for our utilities and energy industries.

In an effort to suggest this is an attack on nuclear power, the big guns have also been rolled out: there's been a suggestion that Alan Greenspan, of all people, might somehow harbor some support for this loan guarantee program. Let me say, clearly, like Alan Greenspan, I am a proponent and supporter of the concept of using nuclear power to help meet our energy needs, but I do not believe, for a moment, that means Alan Greenspan is a supporter of federally guaranteed loans to private industry. And if someone can produce testimony from Alan Greenspan supporting a Federal loan guarantee program for private industry to build nuclear powerplants, I will quite literally eat my hat. I simply do not believe that to be the case.

I join with the Senator from Oregon in support of this amendment to strike one provision from this very large Energy bill; and that will protect taxpayers by preventing them from being exposed to $14 or $16 billion in loan guarantees to private industry. I do not think we need it.

I look forward to a vote on this amendment. I certainly ask my colleagues to support the amendment.

I yield the floor.

Mr. INHOFE. Mr. President, I rise to oppose this amendment. Nuclear power is a clean, reliable, stable, affordable, and domestic source of energy. It is an essential part of this Nation's energy mix. And if we care about energy stability and the environment, then nuclear power must play an important role in our energy future.

I am a strong supporter of nuclear power and I want to commend Senator DOMENICI for his commitment to nuclear energy in this bill. His legislation provides incentives to enhance and expand our energy base and usher new advanced-design nuclear power technologies. It has been nearly 20 years since a new nuclear plant has been built. The safety and efficiency record of the industry over that time has been astounding. Through increased efficiency, nuclear plants have increased their clean generation of energy. The increased electricity generation from nuclear powerplants in the past 10 years was the equivalent of adding 22 new 1,000-megawatt plants in our Nation's electricity grid. But with energy demand increasing by at least 30 percent over the next 15 years, more generation will be necessary to meet our needs. As we look to the future, if we are to meet those needs, provide stability in the marketplace, and ensure clean air, then we will have to continue to expand our nuclear base load. Nuclear energy is America's only expandable large-scale source of emission-free electricity.

The Environment & Public Works Committee—the committee of which I have the honor to serve as chairman—has jurisdiction over the Nuclear Regulatory Agency and I have been active in overseeing that agency, both as the nuclear subcommittee chairman, and now as chairman of the full committee. In 1998 I began a series of NRC oversight hearings. I did so with the goal of changing the bureaucratic atmosphere that had infected the NRC. By 1998, the NRC had become an agency of process, not results. I knew that if we were to have a robust nuclear energy sector, we needed a regulatory body that was both efficient and effective—and one in which the public could be sure that safety is the top priority. If the agency was to improve it had to employ a more results-oriented approach—one that was risk-based and science-based, not one mired in unnecessary process and paperwork. I am pleased that in the last 5 years, we have seen tremendous strides at the NRC. It has become a lean and more effective regulatory agency. I have the utmost confidence in the NRC ability to ensure that nuclear energy in this country is safe and reliable.

We have all of the pieces in place to move to the next generation of nuclear power. If we are to meet the energy demands of the future and we are serious about reducing utility emissions, then we should get serious about the zero emissions energy production that nuclear power provides. And that means that we should not be discouraging the development of new, safe nuclear technologies. Quite the opposite, we should provide the incentives and the assurances in order to meet the energy needs of this country.

The bill before us provides a sensible incentive for future nuclear power projects. Unfortunately, the Wyden/Sununu amendment will remove those incentives—it is a step backward—away from long-term stable and clean energy supplies.

Mr. FEINGOLD. Mr. President, I am pleased to be a cosponsor of this amendment and want to detail the reasons for my support. The amendment strikes subtitle B of title IV of the bill, the section on deployment of new nuclear plants. This section would provide new loan guarantees for the construction of new nuclear plants. In addition to providing the nuclear industry loan guarantees, the Senate Energy Bill appears to also authorize the Federal Government to enter into power purchase agreements to buy power back from new reactors—potentially at rates above market prices.

I think subtitle B goes too far and the amendment to strike is necessary for several reasons. First, the bill places no ceiling on these loans, making the Federal Government liable, according to the Congressional Research Service, for between $14-$16 billion in loan guarantees.

Second, I feel strongly that if private investors are not willing to put their own money on the line to support new nuclear plants, then the Federal Government should not put taxpayers' money at risk either. Yet, under the provisions currently included in the Senate bill, taxpayers would be required to subsidize up to 50 percent of the cost of constructing and operating 8,400 megawatts of power. The Congressional Budget Office has estimated the risk of default would be "well above 50 percent." I feel that $14-$16 billion is a lot of money to gamble on an investment that has a 50/50 risk of failure.

Finally, as I have expressed in the past, I am concerned that our current nuclear waste storage program is of insufficient size to handle our current nuclear waste problem. I do not think it is wise to build more plants, when we do not have enough storage for our current waste. Yucca Mountain is not authorized at a size that is big enough to take all of the current nuclear waste. Among the reasons that I opposed the Yucca Mountain resolution was its insufficient size. I was concerned that my home state of Wisconsin would go back on the list as a possible site for a large-scale nuclear repository. Constructing new nuclear plants does nothing to relieve those concerns, and instead makes it more likely that we will have a growing nuclear waste problem for which we will need a permanent storage solution, putting Wisconsin back at risk.

I think this amendment makes fiscal and policy sense, and deserves the support of the Senate.

Mr. VOINOVICH. Mr. President, I rise in support of nuclear energy and in support of the provisions in S. 14 that promote the use of this vital component of our energy portfolio.

Nuclear energy accounts for 20 percent of our electricity generation—one in five American homes and businesses are powered by nuclear energy. It is an important energy source now, and will become even more important in the future—as we strive to meet growing energy demands while protecting our environment.

As many of my colleagues know, nuclear energy provides emissions-free electricity—no emission of airborne pollutants, no emission of carbon dioxide or other greenhouse gases. In fact, nuclear energy provides three-fourths of the emissions-free electricity generated in the United States—more than hydro, wind, solar and geothermal energy combined.

President Bush has said many times that energy security is a cornerstone of national security. He is right—and nuclear energy is a vital component of our energy supply.

Uranium—the fuel for our nuclear fleet—is mined domestically and by many of our allies.

Unlike oil, nuclear energy is not subject to foreign manipulation.

Unlike natural gas, nuclear energy does not have domestic shortages and importation problems.

Unlike wind, solar and geothermal energy, nuclear energy provides highly affordable and reliable power.

Production costs of nuclear energy were 1.76 cents per kilowatt-hour versus 1.79 cents for coal and 5.69 cents for natural gas in 2000.

Plant capacity utilization exceeded 90 percent in 2002—the fourth year in a row that the industry set a record for output without building any new plants.

Nuclear energy is safe. Our nuclear plants are the most hardened of any commercial structures in the country and have a superb safety record and few, if any, industries have oversight comparable to that provided by the NRC for nuclear plants.

Our nuclear Navy is a great example of the safety of nuclear energy—

The U.S. Navy has safely traveled over 126 million miles without a single reactor incident and with no measurable impact on the world's environment.

Sailors on a nuclear submarine, working within yards of a reactor, receive less radiation while on active duty than they would at home from natural radiation background.

However, we must act now if we want to preserve the benefits of nuclear energy.

The last license for a domestic reactor was issued in 1978—and the technologies used to power our nuclear plants are over 30 years old.

Our industry has developed advanced nuclear technologies—and the NRC has licensed them—but new plants have only been built overseas, not in America.

Our nuclear plants were built in a highly regulated market—where returns on these investments were guaranteed—not in today's highly competitive energy markets.

Nuclear plants present unusual risks to the financial community due to the significant up-front capital investments that are required years before they generate any returns—as opposed to natural gas generators that are relatively inexpensive and easy to build.

Without new interest in nuclear power, our pool of qualified nuclear workers is drying up.

From 1990–95, the number of students in nuclear engineering dropped by 30 percent.

In 1975, there were 76 research reactors on American college campuses—today there are 32.

Current estimates project that domestic energy demand will increase by almost 50 percent by 2030. Without a significant effort to increase our nuclear capacity—which must include construction of new nuclear facilities—we will have no other choice than reliance on natural gas to meet that demand, which will drive up the costs for both electricity and natural gas through the roof.

The nuclear energy provisions in S. 14 are essential to assure that nuclear energy continues to thrive and provide its benefits to our Nation:

Price-Anderson reauthorization: The bill permanently reauthorizes the Price-Anderson liability protection that is so crucial to all nuclear facilities.

Advanced reactor construction: The bill will authorize construction of a new advanced reactor as a research test-bed using the very latest ideas developed in the Generation IV reactor program.

Advanced fuel cycle initiative: Authorizes funding for development of technologies to reduce the volume and toxicity of final waste projects, simplify siting for future repositories and recover fuel from spent fuel.

Federal loan guarantees: The bill provides loan guarantees for new plant construction in order to offset the problems with new development that I mentioned earlier.

I want to spend just a minute on the Federal loan guarantees that are the subject of an amendment by Senator WYDEN and Senator SUNUNU.

These loan guarantees are necessary to jumpstart construction on new nuclear plants. In order to begin construction of a new facility, the nuclear industry needs to move into uncharted waters—they need to go to investment bankers and say "I know that this is a huge capital outlay, and that we haven't built one of these facilities in 30 years, but we need to do this." These loan guarantees will ensure that private-sector financing will be available for utilities that make the decision to move forward.

My distinguished colleague from Oregon has stated that we are throwing away good money on these "subsidies." I must respectfully disagree. As Chairman DOMENICI pointed out earlier, this is not a handout program.

These are loan guarantees—for up to 50 percent of the construction costs for a new facility—which means that the utilities will have to make payments on the loans, and that there will likely be no expenses to the Government.

I applaud the work that Chairman DOMENICI has done on these provisions—all of these provisions—and I will oppose any efforts to strip them from the energy bill.

I urge my colleagues to oppose the Wyden-Sununu amendment.

Mrs. FEINSTEIN. Mr. President, I rise to support the amendment offered by Senators WYDEN, BINGAMAN, SUNUNU, and ENZI to strike the section of the energy bill providing Federal subsidies for the construction of new nuclear plants.

Title IV of the energy bill includes loans, loan guarantees, and other forms of financial assistance to subsidize the construction of new nuclear powerplants.

In the past 50 years, California has built 5 commercial nuclear powerplants and one experimental reactor. Today, just two of these nuclear powerplants are still operating in the State. The plants at San Onofre and Diablo Canyon are running at diminished capacity but still provide 4,400 megawatts of power in California—close to a fifth of California's energy supply.

Impressive as these numbers may be in terms of the power-generating capacity of nuclear energy, they tell only part of the story of California's experiment with nuclear power. Of six nuclear powerplants built in California, four have been decommissioned due to high operating costs and excessive risk.

In the late 1950s, an experimental reactor at the Rocketdyne site in Ventura County was shut down after a severe meltdown.

In 1967, the Vallecitos plant closed its doors after 20 years of operating because its owner, General Electric, was unable to obtain accident insurance due to the high risk of operating a nuclear power plant.

In 1976, the Plant at Humboldt Bay shut its doors after 13 years of operation as a result of the discovery of a fault line near the plant that would have required millions of dollars in seismic retrofits.

And in 1989, the Rancho Seco plant near Sacramento was closed by public referendum after 14 years of operation plagued by mismanagement that resulted in cost overruns.

Nuclear power is expensive and risky. Yet I believe that if private investors are not willing to put their own money on the line to support new nuclear plants, then the Federal Government should not put taxpayers' money at risk either. However, under the nuclear subsidy provision in this energy bill, taxpayers would be required to subsidize up to 50 percent of construction costs of new nuclear plants—costs that CRS estimates to be in the range of $14–16 billion. CRS also estimates the risk of default on these loan guarantees to be "very high—well above 50 percent."

I strongly believe it is not in the public interest for our Nation to subsidize costly nuclear plants. Instead we should devote more resources to the development of renewable energy.

I strongly believe we should be doing more to encourage the development of renewable power such as, wind, geothermal, and biomass, instead of providing subsidies to an industry that has not built a new powerplant since the 1970s.

Unfortunately, this Energy bill currently has an over-reliance on promoting traditional energy resources, such as nuclear power.

The U.S. nuclear power industry, while currently generating about 20 percent of the Nation's electricity, faces an uncertain long-term future. No nuclear plants have been ordered since 1978 and more than 100 reactors have been canceled, including all those ordered after 1973. No units are currently under construction.

The nuclear power industry's troubles include high nuclear powerplant construction costs, public concern about nuclear safety and waste disposal, and regulatory compliance costs.

Controversies over safety have dogged nuclear power throughout its development, particularly following the March 1979 Three Mile Island accident in Pennsylvania and the April 1986 Chernobyl disaster in the former Soviet Union. These events shaped much of our opinions about nuclear power.

Safety continues to raise concerns today. In a recent example, it was discovered in March 2002 that leaking boric acid had eaten a large cavity in the top of the reactor vessel in Ohio's Davis-Besse nuclear plant. The corrosion left only the vessel's quarter-inch-thick stainless steel inner liner to prevent a potentially catastrophic release of reactor cooling water.

Furthermore, nuclear powerplants have long been recognized as potential targets of terrorist attacks, and I remain skeptical that there are enough safeguards in place to defend against potential terrorist attacks on our nuclear plants.

Concern about nuclear safety and waste disposal makes Californians apprehensive about nuclear power. California has shifted away from nuclear power over the years and activists in the communities surrounding the Diablo Canyon and San Onofre plants continue to express concerns about the safety of the remaining reactors in California.

The construction of new nuclear reactors would also exacerbate the nuclear waste problem. Since the volume of nuclear waste in the United States is expected to exceed capacity at the controversial Yucca Mountain repository by 2010, any new plants will create even more waste storage problems.

I voted with Senator BINGAMAN to strike these nuclear subsidies in committee and today I will vote with Senator WYDEN to do the same.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, how much time remains for each side?

The PRESIDING OFFICER. The proponents of the amendment have 14 minutes 18 seconds; the opponents of the amendment have 2 minutes 35 seconds.

Mr. WYDEN. Mr. President, if I could engage the distinguished chairman of the committee, I would like to close the debate. At this point, I believe the Presiding Officer said I have in the vicinity of 14 minutes. I say to the Senator, you have in the vicinity of 2 minutes. Would you like to speak now?

Mr. DOMENICI. No, I would not.

Mr. WYDEN. Then I will take 5 minutes of our time at this point.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, at that point we have 9 minutes remaining?

The PRESIDING OFFICER. About 8½.

Mr. WYDEN. Thank you, Mr. President.

Mr. President, a couple of arguments need to be addressed at this point. The Senator from Louisiana, Ms. LANDRIEU, just recently said the Wyden-Sununu provision would, in some way, jeopardize the reliability of power and cost jobs today. That is simply not correct. No plant that is operating today—not one—would be affected by this amendment, and not a single job in America would be lost. Now, with respect to jobs of the future—and I think this is important to note—if you look at the official figures of the Federal Government—these are supplied by the Energy Information Agency—the fact is, you can build four or five gas-fired plants for the cost of one nuclear facility. That is, again, not something just made up. Those are the official figures of the Federal Government with respect to the comparative costs of this amendment.

I think we ought to note, for example, just how unprecedented this is. When people began to debate nuclear power decades ago—50 years ago—when the commercial nuclear industry was first getting started, there were not any loan guarantees. In fact, even during the early days, there was no subsidy along these lines. People would say, let's support research, let's support various opportunities to assist with the nuclear reactors but not even in the early days was there a construction subsidy. In fact, in the Atomic Energy Act of 1954 there was an explicit prohibition on subsidizing any of these facilities.

So what we are talking about is something where a nonpartisan analysis from the Congressional Budget Office has made it clear it is risky. They said there is upwards of a 50-percent likelihood of default. The Congressional Research Service has said it is going to be costly. Mr. President, $14 to $16 billion is the appraisal of the Congressional Research Service.

I have made it clear it is unprecedented both with respect to this bill and the history. Finally, it is simply unfair when you compare it to other sources of power.

I wrap up this part of the discussion by making sure Senators are clear on the distinction between nuclear power and various other sources of power under this proposal.

Under the way the Domenici legislation is written, if you do not produce any wind, you get no direct subsidy. But under the legislation as it stands today, if you do not produce any nuclear power, you get a subsidy. That is as clear a distinction as we could possibly make. For all the other sources of power, if you produce nothing, no subsidy; for nuclear, if you produce nothing, you get a big subsidy. The difference—what it all comes down to—is whether Senators believe that one particular source of power deserves cash up front and, in effect, putting taxpayers on the hook at the outset before anything is produced.

On a bipartisan basis—three Democratic Senators, three Republican Senators, and an Independent—we think that is unwise.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I have been asked because of other people—not me—that we commence this vote at 3:45. I ask unanimous consent that be the case.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The unanimous consent request has been made. Is there objection?

Mr. WYDEN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, if we could just take a second to make sure we are fair. I note that the Senator from Nevada would like to have several minutes, and we would like the opportunity to close. So if we can work out the opportunity——

Mr. DOMENICI. I say to the Senator, they want a vote at 3:45, so we don't need any time. He can have 3 minutes and you can close.

Mr. WYDEN. I withdraw my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada is recognized for 3 minutes.

Mr. ENSIGN. Mr. President, I just want to make a couple points and keep it fairly brief.

The nuclear power industry has been around for a long time. We hear about other new sources of energy that this country is trying to develop, and it seems to make sense we would subsidize some of that new research. It is basic research that the Government is involved in. Whether it is health care, whether it is energy, that seems to be an appropriate role for the Federal Government.

But nuclear energy has been around for a long time, and it is commercially viable in many other countries in the world. To this Senator, it does not seem to be the right thing to do to be subsidizing nuclear power because it should have already proven its merit in the marketplace and been able to stand on its own.

Unfortunately, we have a situation where we had a vote last year on the Yucca Mountain project, which is the Nation's nuclear waste repository, and this Senate decided to continue to build Yucca Mountain. What that indicates is that the Senate is already subsidizing nuclear power. People say, no, Yucca Mountain is being built by the ratepayers, the people who receive the benefits of nuclear energy. They pay a tax on that or a rate on that and, therefore, they pay into the nuclear fund that will build on Yucca Mountain.

According to the General Accounting Office, that is not going to be enough. So we are going to be subsidizing nuclear power as it is. To add another subsidy would be wrong at this time. Whether you look at Japan or Germany, these other countries, they are building them commercially; they are operating them viably.

If nuclear power is so good commercially, then it should stand on its own. We have several other provisions in the bill that Senators SUNUNU and WYDEN have not touched on nuclear power. But to actually have Federal loan guarantees that will leave the taxpayer holding the bill would be wrong at this time. If nuclear power is going to stand, let it stand on its own.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. DOMENICI. Mr. President, I wonder if the Senator could do me one favor. Let Senator GRAHAM have 1 minute. Then you wind up with the time you have, the same time you have.

Mr. WYDEN. I am happy to accommodate the Senator from South Carolina. How much additional time do I have?

The PRESIDING OFFICER. Under the unanimous consent agreement, the vote was to occur at a quarter to 4. You have the time between now and then.

Mr. DOMENICI. We don't need to have the Senator speak. Go ahead.

Mr. WYDEN. Mr. President, I ask unanimous consent that the Senator from South Carolina have 2 additional minutes and if I could have 3 additional minutes after he is done speaking.

Mr. DOMENICI. We cannot do that.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. It is not me. I have just been told, after instructions from the leadership.

Mr. WYDEN. Mr. President, then I would like to accommodate the Senator from South Carolina. I have a couple of minutes to go.

Mr. DOMENICI. You don't have a couple minutes.

The PRESIDING OFFICER. You have 2 minutes at this point. The Senator from Oregon.

Mr. WYDEN. Mr. President, as we move to the vote, basically all the arguments made against the Wyden-Sununu-Snowe-Ensign-Bingaman amendment, all of the arguments made against us were made for the WPPSS facilities which resulted in the biggest municipal bond failure in history. Back then they said it wouldn't be unduly risky. They said there wouldn't be any questions with respect to exposure to those who were financing it. Look at what happened. Four out of those five facilities did not get built.

I say to my colleagues, those who are pronuclear, those who are antinuclear, this is not about your position with respect to nuclear power pro or con. It is about whether or not you are going to be protaxpayer. The Congressional Research Service says the taxpayers are on the hook for $14 to $16 billion. The Congressional Budget Office says there is upwards of a 50-percent likelihood of default. Under this provision, the loan guarantees provide opportunities to construct nuclear facilities that no one else is getting. Other people don't get the break unless they produce something. Here you get the break even if you produce no nuclear power whatsoever and you get it directly out of the taxpayer's pocket.

It is unwise. I hope my colleagues will vote with three Democratic Senators, three Republican Senators, and an Independent for this amendment.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 875.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ALLEN (when his name was called). Present.

Mr. REID. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is necessarily absent.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 50, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—49

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Campbell
Cantwell
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Ensign
Feingold
Feinstein
Graham (FL)
Gregg
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
McCain
Mikulski
Murray
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith
Snowe
Stabenow
Sununu
Wyden

NAYS—50

Alexander
Allard
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Carper
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Hatch
Hollings
Hutchison
Inhofe
Inouye
Landrieu
Lincoln
Lott
Lugar
McConnell
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Roberts
Santorum
Sessions
Shelby
Specter
Stevens
Talent
Thomas
Voinovich
Warner

ANSWERED "Present"—1

Allen

NOT VOTING—1

Lieberman

The amendment (No. 875) was rejected.

Mr. CARPER. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank all Members for debate and votes.

I believe the Indian amendment of the Senator from Colorado is next.

AMENDMENT NO. 864 WITHDRAWN

Mr. CAMPBELL. Mr. President, as the author of amendment No. 864, the Indian provision to the Energy Bill, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mrs. FEINSTEIN. Mr. President, I inquire as to what the order is.

The PRESIDING OFFICER. There is no unanimous consent agreement at this time.

AMENDMENT NO. 876

(Purpose: To Tighten Oversight of Energy Markets)

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk on behalf of Senators FITZGERALD, HARKIN, LUGAR, CANTWELL, WYDEN, BOXER, and LEAHY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. FITZGERALD, Mr. HARKIN, Mr. LUGAR, Ms. CANTWELL, Mr.

WYDEN, Mrs. BOXER, and Mr. LEAHY, proposes an amendment numbered 876.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mrs. FEINSTEIN. Mr. President, I heard the comments of the distinguished ranking member that they had not had an opportunity to see the amendment. Of course, we will allow that opportunity to take place. This amendment closes a major loophole which allows energy trades to take place electronically, in private, with no transparency, no record, no audit trail, or any oversight to guard against fraud and manipulation.

This amendment will close a loophole created in 2000 when Congress passed the Commodity Futures Modernization Act which exempted energy and metals trading from regulatory oversight and excluded them completely if the trade was done electronically.

This amendment was presented by me before. Senator FITZGERALD spoke, Senator WYDEN spoke, Senator CANTWELL spoke. We got just about a majority. Senator Gramm of Texas argued against it. It did go back to the Agriculture Committee. The Agriculture Committee held hearings and both Senators HARKIN and LUGAR participated in making changes, which I think has made this a better amendment.

We were hoping for a markup, but the Congress ended without that markup having taken place. Now the Energy bill is before us, and it seems to me this is the time to present this.

This bill has had floor discussion. It has had a committee hearing. It has been modified by the chairman and the ranking member of the Agriculture Committee and is now before us.

Today, if there is no delivery of physical energy, there is no price transparency. By that I mean, if I buy natural gas from you and you deliver it to me, the Federal Energy Regulatory Commission has the authority to ensure that the transaction is transparent—meaning it is available to look at—and that it is reasonably priced. However, many energy transactions no longer result in delivery. In other words, if I sell to you and you sell to Senator CRAIG who sells to Senator DOMENICI who sells to somebody else who then delivers it, none of these trades is covered if done electronically. That means there is no record; there is no audit trail; there are no capital requirements; there is no transparency; there is no antifraud or antimanipulation oversight today. It is a huge loophole permitted in the Commodity Futures Modernization Act of 2000.

This lack of transparency and oversight applies to energy and metals trading. It does not apply if you are selling wheat or pork bellies or any other tangible commodity. Why do we include metals? Fraud and manipulation have not been confined to the energy trading sector. For example, in 1996 U.S. consumers were overcharged $2.5 billion from Sumitomo's manipulation of the copper markets.

Furthermore, in 1999 the President's Working Group on Financial Markets recommended excluding only financial derivatives, not energy and metals derivatives, from the CFTC's jurisdiction.

After intense lobbying by, of all people, Enron, a change was made to the Commodity Futures Modernization Act to exempt energy and metals trading from CFTC oversight in 2000. It did not take long for EnronOnline and others in the energy sector to take advantage of this new freedom by trading energy derivatives absent any transparency and regulatory oversight. In other words, a whole new niche was found where you could avoid any scrutiny and do this trading.

After the 2000 legislation was enacted, EnronOnline began to trade energy derivatives bilaterally, without being subject to proper regulatory oversight. It should not surprise anyone that without the transparency, prices soared and games were played.

Three years ago this summer, California's energy market began to spiral out of control. In May of 2000, families and businesses in San Diego saw their energy bills soar. The western energy crisis forced every family and business in California and many of the other States to pay more for energy. The crisis forced the State of California into a severe budget shortfall. It forced the State's largest utility into bankruptcy and nearly bankrupted the second largest publicly owned utility.

Now, 3 years and $45 billion in costs later, we have learned how the energy markets in California were gamed and abused. Originally everyone around here said: Oh, it's the problem of the 1996 deregulation law. I will admit that law is a faulty law. However, you cannot have the price of energy 1 year being $7 billion throughout the whole State and the next year it is $28 billion and say that is supply and demand. You cannot have a 400 percent increase just based on supply and demand. Clearly, you do not have a 400 percent increase in demand in a 1-year period of time. Nor did that happen in a 1-year period of time.

In March of this year, the Federal Energy Regulatory Commission issued a report titled "Price Manipulation In Western Markets," which confirmed that there was widespread and pervasive fraud and manipulation during the western energy crisis. According to the FERC report, the abuse in our energy markets was pervasive and unlawful. Yet this Energy bill does not prevent another energy crisis from occurring nor does it curb illegal Enron-type manipulation.

Just last week, the FBI arrested former Enron trader John M. Forney, saying he was a key architect of Enron's well-known trading schemes blamed for worsening California's energy crisis in 2000 and 2001.

Mr. Forney was charged with a single count each of wire fraud and conspiracy. He is the third Enron trader accused by the Justice Department of criminal manipulation of western energy markets but the first who did not reach a plea agreement, leading to his arrest last Tuesday. According to the criminal complaint, Forney is allegedly the architect of the Enron trading strategies with the now infamous names of Ricochet, Death Star, Get Shorty, Fat Boy, and others.

These Enron strategies were first revealed on Monday, May 6, 2002, when the Federal Energy Regulatory Commission posted a series of documents on their Web site that revealed Enron manipulated the western energy market by engaging in these suspect trading strategies.

Under one such trading strategy called Death Star, which was also called Forney's Perpetual Loop, for John Forney, Enron would "get paid for moving energy to relieve congestion without actually moving energy or relieving any congestion," according to an internal memo. It was a fraud.

It was a fraud. A was a trading strategy which was clearly and simply fraudulent and manipulative.

In another strategy detailed in these memos, Enron would "create the appearance of congestion through the deliberate overstatement of loads" to drive up prices.

The above-mentioned strategies reveal an intentional and coordinated attempt to manipulate the Western energy market for profit.

This is an important piece of the puzzle that has been uncovered. Some former Enron traders helped fill in the blanks.

CBS News reported in May 2002 that former Enron traders admitted the company was directly responsible for local blackouts in California. Yet, interestingly enough, no one has followed up on this report.

According to CBS News reporter Jason Leopold, the traders said Enron's former president Jeff Skilling pushed them to trade aggressively in California and told them, "If you can't do that, then you need to find a job at another company or go trade pork bellies."

The CBS article mentions that Enron traders played a disturbing role in blackouts that hit California. The report mentions specific manipulative behavior by Enron on June 14 and 15 in the summer of 2000 when traders said they intentionally clogged Path 26—a key transmission path connecting Northern and Central California.

Here is what one trader said about the event:

> What we did was overbook the line we had the rights on during a shortage or in a heat wave. We did this in June 2000 when the Bay Area was going through a heat wave and the ISO couldn't send power to the North. The ISO has to pay Enron to free up the line in order to send power to San Francisco to keep the lights on. But by the time they agreed to pay us, rolling blackouts had already hit California and the price for electricity went through the roof.

In other words, they waited for the weather. They calculatedly overbooked the line to clog the lines so that power could not be transmitted to the north. Therefore, what power was transmitted went sky high in terms of price. Second, a blackout resulted.

California lost billions. Yet according to the traders, Enron made millions of dollars by employing this strategy alone.

On top of all this, traders disclosed that Enron's manipulative trading strategies helped force California to sign expensive long-term contracts. It is no surprise that Enron and others were able to profit so handsomely during the crisis.

Now, after 3 years, the FBI and the Justice Department are beginning to bring these traders to justice. In February, Jeffrey Richter, the former head of Enron's Short-Term California energy trading desk, pled guilty to conspiracy to commit fraud as part of Enron's well known schemes to manipulate Western energy markets.

Richter's plea followed that of head Enron trader Tim Belden in the fall of 2002. Belden admitted that he schemed to defraud California during the Western energy crisis and also pled guilty to conspiracy to commit wire fraud.

Nobody can believe this didn't happen, because it did. Two people have pled guilty, and a third was just arrested for doing just what we hope to prevent happening with this amendment.

The plea by Jeff Richter came on the heels of FERC's release of transcripts from Reliant Energy in January of this year that reveal how their traders intentionally withheld power from the California market in an attempt to increase prices. This is one of the most egregious examples of manipulation and it is clear and convincing evidence of coordinated schemes to defraud consumers.

Let me read just one part of the transcript to demonstrate the greed behind the market abuse by Reliant and its traders.

On June 20, 2000 two Reliant employees had the following conversation that reveals the company withheld power from the California market to drive prices up:

> RELIANT OPERATIONS MANAGER 1. I don't necessarily foresee those units being run the remainder of this week. In fact you will probably see, in fact I know, tomorrow we have all the units at Coolwater off.

The Coolwater plant is a 526 Megawatt plant.

> RELIANT PLANT OPERATOR 2. Really?
>
> RELIANT OPERATIONS MANAGER 1. Potentially. Even number four. More due to some market manipulation attempts on our part. And so, on number four it probably wouldn't last long. It would probably be back on the next day, if not the day after that. Trying to uh . . .
>
> RELIANT PLANT OPERATOR 2. Trying to shorten supply, uh? That way the price on demand goes up.
>
> RELIANT OPERATIONS MANAGER 1. Well, we'll see.
>
> RELIANT PLANT OPERATOR 2. I can understand. That's cool.
>
> RELIANT OPERATIONS MANAGER 1. We've got some term positions that, you know, that would benefit.

That is what existed. That is the kind of thing that went on, and it has to stop. It has to be made illegal and it has to have heavy penalties.

Let's turn to some other examples.

On January 27, 2003, Michelle Marie Valencia, a 32-year-old former senior energy trader for Dynegy, was arrested on charges that she reported fictitious natural gas transactions to an industry publication.

On December 5, 2002, Todd Geiger, a former vice president on the Canadian natural gas trading desk for El Paso Merchant Energy, was charged with wire fraud and filing a false report after allegedly telling a trade publication about the prices for 48 natural gas trades that he never made in an effort to boost prices and company profit.

In other words, he is telling an energy trade publication about 48 gas trades that were never made. It was bogus information which was given out. Why? Simply to boost the market.

These indictments are just a few examples of how energy firms reported inaccurate prices to trade publications to drive energy prices higher.

Industry publications claimed they could not be fooled by false prices because deviant prices are rejected, but this claim was predicated on the fact that everyone was reporting honestly which we now know they weren't doing.

CMS Energy, Williams, American Electric Power Company, and Dynegy have each acknowledged that its employees gave inaccurate price data to industry participants. On December 19 Dynegy agreed to pay a $5 million fine for its actions.

Let us turn to other types of fraudulent trades that many energy firms have admitted to.

Dynegy, Duke Energy, El Paso, Reliant Resources Inc., CMS Energy Corp., and Williams Cos. all admitted engaging in false "round-trip" or "wash trades."

What is a "round-trip" trade, one might ask?

"Round-trip" trades occur when one firm sells energy to another and then the second firm simultaneously sells the same amount of energy back to the first company at exactly the same price. No commodity ever actually changes hands, but when done on an exchange, these transactions send a price signal to the market and they artificially boost revenue for the company.

How widespread are "round-trip" trades? Well, the Congressional Research Service looked at trading patterns in the energy sector over the last few years and reported, "this pattern of trading suggests a market environment in which a significant volume of fictitious trading could have taken place."

Yet since most of the energy trading market is unregulated by the government, we have only a slim idea of the illusions being perpetrated in the energy sector.

Consider the following confessions from energy firms about "round-trip" trades:

Reliant admitted 10 percent of its trading revenues came from "round-trip" trades. The announcement forced the company's President and head of wholesale trading to both step down.

These are bogus traders.

CMS Energy announced 80 percent of its trades in 2001 were "round-trip" trades.

Eighty percent of all of the trading this company did was bogus.

Remember, these trades are sham deals where nothing was exchanged, yet the company booked revenues from the trades. This is exactly what our legislation aims to stop.

Duke Energy disclosed that $1.1 billion worth of trades were "round-trip" since 1999. Roughly two-thirds of these were done on the InterContinental Exchange owned by banks that oppose this legislation.

Let me repeat that. Duke Energy disclosed that $1.1 billion worth of trades were bogus "round-trip" trades since 1991. And two-thirds of those were done on the InterContinental Exchange, which is an electronic exchange. That means that thousands of subscribers would have seen false price signals.

A lawyer for J.P. Morgan Chase admitted the bank engineered a series of "round-trip" trades with Enron. Dynegy and Williams have also admitted to this "round-trip" trading. And although those trades mostly occurred with electricity, there is evidence to suggest that "round-trip" trades were made in natural gas and even broadband.

By exchanging the same amount of a commodity at the same price, these companies have not engaged in meaningful transactions but in deceptive practices to fool investors and drive up energy prices for consumers. It is, therefore, imperative that the Department of Justice, the Federal Energy Regulatory Commission, the Securities and Exchange Commission, the Commodity Futures Trading Commission, and every other oversight agency conduct an aggressive and vigorous investigation into all of the energy companies that may have committed fraud and abuse in the western energy market.

Beyond that, I believe strongly that Congress must reexamine what tools the Government needs to keep a better watch over these volatile markets that, frankly, are little understood. In the absence of vigilant Government oversight of the energy sector, firms have the incentive to create the appearance of a mature liquid and well functioning market, but it is unclear whether such a market exists. And I don't believe, for a minute, that such a market exists.

The "round-trip" trades, the Enron memos, the FERC report on "Price Manipulation in the Western Markets" raise questions about the energy markets of our country. To this end, I believe it is critical for the Senate to approve this amendment, which would provide more regulatory oversight of online energy trading.

When the Senate Energy Committee marked up the Energy bill in April, there was a consensus to include some provisions of the Energy Market Oversight Act, S. 509, I introduced earlier this year. The Energy bill, S. 14, does include higher criminal and civil penalties for violations of the Federal Power Act and the Natural Gas Act.

Under section 1173 of the bill now on the floor, fines will be $1 million instead of the current $5,000 for a one-time violation of the statutes. I thank the chairman of the committee for this. Jail time will be raised to 5 years instead of the current 2 years. And I thank the chairman of the committee for this. Fines will be $50,000 per violation per day instead of the current $500 per violation per day for violations of the statutes. And I thank the chairman of the committee for this.

Furthermore, section 1174 of the Energy bill will eliminate the unnecessary 60-day waiting period for FERC to grant refunds. I thank both Senator DOMENICI and Senator BINGAMAN, the chairman and the ranking member of the Energy Committee, for their efforts to include provisions of S. 509, the Energy Market Oversight Act, in this Energy bill.

Now let me turn to the specifics of the amendment.

I am offering this amendment—and I am hopeful that Senator FITZGERALD will come to the floor; I know he intends to speak on this amendment, and I hope he does—I am offering this amendment to subject electronic exchanges, such as EnronOnline, the InterContinental Exchange, and any other electronic exchange, to the same oversight, reporting, and capital requirements of other commodity exchanges, such as the Chicago Mercantile Exchange, the New York Mercantile Exchange, and the Chicago Board of Trade.

Why should there be one secret trading venue where fraud and manipulation can take place abbondanza? I do not think there should be. I do not think it is in the interests of our citizens to have that happen. And the western energy market should be a major case in point.

I am very pleased that Senators FITZGERALD, HARKIN, LUGAR, CANTWELL, WYDEN, LEAHY, DURBIN, and BOXER have again signed on to this amendment. I was very proud of the work we did in the 107th Congress, and I hope we can adopt this amendment on this Energy bill because without this type of legislation, there is insufficient authority to investigate and prevent fraud and price manipulation since parties making the trades are not required to keep a record. That is the problem.

The CFTC will say: Oh, we are already doing that. But in the law there is no requirement to keep a record. There is a specific exemption in the law. So I do not see how the CFTC has the adequate tools to do what they need to do without this amendment because this amendment closes that loophole which exists just for energy and just for metals and, because of its existence, has allowed EnronOnline and a number of other exchanges—Dynegy had one; InterContinental Exchange had one as well—to do all these things in secret with no audit trail, no record, no capital requirements. Nobody has a responsibility to set any capital requirements. There is no audit trail and no antifraud and antimanipulation oversight. Clear and simple, it is a travesty.

Right now, energy transactions are regulated by FERC. When there is actual delivery, that is taken care of. If Senator REID sells me energy and I deliver it, that is covered by FERC. But interim trades are not covered by anybody. They are on their own in secret.

Many energy transactions no longer result in delivery, so this giant loophole where there is no government oversight—when these transactions are done on electronic exchanges—is major. I think it is mega. I think a number of companies have jumped into this void simply because they thought they could make a quick buck by gaming the system, and in fact they have done just that.

As I mentioned, in 2000 Congress passed the Commodity Futures Modernization Act, which exempted energy and metals from regulatory oversight, and excluded it completely if the trade was done electronically. So today, as long as there is no delivery, there is no price transparency, there is no record, there is no audit trail, there is no capital requirement, there is no antifraud, antimanipulation oversight.

This lack of transparency and oversight only applies to energy. It does not apply if you are selling wheat or pork bellies or any other tangible commodity. And financial derivatives are not included in this amendment.

It did not take long for Enron and others to take advantage of this new freedom by trading derivatives absent any regulatory oversight. Thus, after the 2000 legislation was enacted, EnronOnline, as I said, began to trade energy derivatives bilaterally without being subject to regulatory oversight. It should not be a surprise to anyone that prices soared.

In March, Warren Buffett published a warning in Fortune magazine saying:

> Derivatives are financial weapons of mass destruction.

In his annual warning letter to shareholders about what worries him about the financial markets, Warren Buffett called derivatives and the trading activities that go with them "time bombs."

In the letter, Mr. Buffett states:

> In recent years some huge-scale frauds and near-frauds have been facilitated by derivatives trades. In the energy and electric utility sectors, for example, companies used derivatives and trading activities to report great "earnings"—until the roof fell in when they actually tried to convert the derivatives-related receivables on their balance sheets into cash.

We clearly saw this with Enron. Was Enron and its energy derivative trading arm, EnronOnline, the sole reason California and the West had an energy crisis? No. Was it a contributing factor to the crisis? I believe it was.

Unfortunately, because of the energy exemptions in the 2000 Commodities Futures Modernization Act, which took away the CFTC's authority to investigate, we may never know for sure. In the 107th Congress, this legislation was debated during consideration of the Senate Energy bill, and it was a subject of a hearing in the Senate Agriculture Committee. As I said, time ran out before it could be marked up and passed. Since that time, both Senators LUGAR and HARKIN have made significant improvements to the legislation.

So today I am pleased to note that the following companies and organizations are supporting this legislation: the National Rural Electric Cooperative Association; the Derivatives Study Center; the American Public Gas Association; the American Public Power Association; the California Municipal Utilities Association; Southern California Public Power Authority; the Transmission Access Policy Study Group; U.S. Public Interest Research Group; the Consumers Union; the Consumers Federation of America; Calpine; Southern California Edison; Pacific Gas and Electric; and the FERC Chairman Pat Wood.

Here is a quick explanation of what this amendment does. It applies antifraud and antimanipulation authority to all exempt commodity transactions.

An exempt commodity is a commodity which is not financial and not agricultural and mainly includes energy and metals. The bill sets up two classes of swaps for those made between sophisticated persons, basically institutions and wealthy individuals, that are not entered into on a trading facility, for example, an exchange. Antifraud and antimanipulation provisions apply and wash trades are prohibited. The following regulations would apply to all swaps made on an electronic trading facility and a "dealer market" which includes dealers who buy and sell swaps in exempt commodities and the entity on which the swap takes place. Antifraud and antimanipulation provisions and the prohibition of wash trades apply.

If the entity on which the swap takes place serves a pricing or price discovery function, increased notice, reporting, bookkeeping, and other transparency requirements are provided. The requirement to maintain sufficient capital is commensurate with the risk associated with the swap. We don't determine that in this legislation. The Commodities Futures Trading Commission would determine that. In other words, they would determine what kind of net capital requirement there will be, and that would be commensurate with the degree of risk involved in the transaction.

Except for the antifraud and antimanipulation provisions, the CFTC has the discretion to tailor the above requirements to fit the character and financial risk involved with the swap or entity. While the CFTC could require daily public disclosure of trading data, such as opening and closing prices, similar to the requirement of futures exchanges, it could not require real-time publication of proprietary trading information or prohibit an entity from selling their data. So proprietary information is protected.

The CFTC may allow entities to meet certain self-regulatory responsibilities as provided in a list of core principles. If an entity chooses to become a self regulator, these core principles would obligate the entity to monitor trading to prevent fraud and manipulation, as well as assure that its other regulatory obligations are met.

The penalties for manipulation are greatly increased. The civil monetary penalty for manipulation is increased from $100,000 to $1 million. Wash trades are subject to the monetary civil penalty for each violation and imprisonment of up to 10 years.

The FERC is required to improve communications with other Federal regulatory agencies. A shortcoming in the main antifraud provision of the CEA is also corrected by allowing CFTC enforcement of fraud to apply to instances of either defrauding a person for oneself or on behalf of others.

This would also require the FERC and the CFTC to meet quarterly and discuss how energy derivative markets are functioning and affecting energy deliveries. So they are required to look at this, to monitor it closely, and to sit quarterly and see how these markets are, in fact, functioning.

This would grant the FERC the authority to use monetary penalties on companies that don't comply with requests for information. This is essentially the same authority the SEC has today.

It would make it easier for FERC to hire the necessary outside help they need, including accountants, lawyers, and investigators for investigative purposes. And it would eliminate the requirement that FERC receive approval from the Office of Management and Budget before launching an investigation or price discovery of electricity or natural gas markets involving more than 10 companies.

This amendment is not going to do anything to change what happened in California and the West. But it does provide the necessary authority for the CFTC and the FERC which will help protect against another energy crisis. No one is immune from this kind of thing. The gaming, the fraud, the manipulation has been extraordinary.

Just the chutzpah to do Death Star, Get Shorty, Ricochet, just the chutzpah to do these kinds of trades in secret, it is a bunco operation. It is nothing else but. And who is buncoed? The consumer is buncoed. That is why consumer organizations feel strongly about this.

When regulatory agencies have the will but not the authority to regulate, Congress must step in and ensure that our regulators have the necessary tools. Unfortunately, sometimes an agency has neither. In this case, I am glad to have the support of FERC, and I hope the CFTC will reconsider its position and support this amendment.

I note that Senator FITZGERALD is on the floor. I would like to yield to him. But before I do, may I just say one quick thing.

Mr. REID. You are not yielding to Senator FITZGERALD.

Mrs. FEINSTEIN. Pardon me?

Mr. REID. You are not yielding to Senator FITZGERALD.

Mrs. FEINSTEIN. I am not?

The PRESIDING OFFICER (Mrs. DOLE). Senators are not permitted to yield the floor to one another.

Mrs. FEINSTEIN. I thank the Chair for the clarification.

I wish to make one comment about this amendment. This amendment has been in the Agriculture Committee. It has had a hearing. It has been reviewed by both staffs, Republican and Democratic. The Democratic chairman of the committee, Senator HARKIN, worked on this. The ranking member at the time, Senator LUGAR, worked on this. They have both concurred. They are supporting this legislation. The staffs have reviewed it.

We believe it is bona fide, that it is solid, and that it will stand the test of time.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 877 TO AMENDMENT NO. 876

Mr. REID. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 877 to amendment No. 876.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To exclude metals from regulatory oversight by the Commodity Futures Trading Commission)

On page 17 after line 25:

"(10) APPLICABILITY.—This subsection does not apply to any agreement, contract, or transaction in metals."

Mr. REID. Madam President, first, I commend the senior Senator from California and her cosponsor, the junior Senator from Illinois, for their amendment and their work on this very difficult issue dealing with derivatives and how to regulate them.

To critics of the amendment, I suggest you put yourself in Senator FEINSTEIN's shoes. She represents the largest State in the United States and one of the largest governments in the world. The State of California's GDP is larger than most countries' of the world.

In the West, we are still feeling shock waves from the energy crisis that threatened California's and Nevada's prosperity and brought home to all of us that we are in uncharted territory with energy deregulation.

Senator FEINSTEIN inadvertently included metal derivatives with the energy derivatives that are the intended target of her amendment. Unlike energy derivatives which raise questions because of the recent energy crisis, metal derivatives have been sold over the counter for decades. The amendments in 2000 to the Commodities Exchange Act did not change this, and that was proper. They only clarified and confirmed the legality of these markets.

Lumping metal derivatives together with energy derivatives would impose regulatory burdens that never existed even before the 2000 amendments and, of course, without justification; therefore, I offer this second-degree amendment to restore metal derivatives trading to exempt commodity status. Metals would be treated as if they were under the Commodity Futures Modernization Act of 2000.

Like other derivatives, metal derivatives markets help companies manage the risk of sudden and large price changes.

In recent years, derivatives and so-called hedging transactions helped the mining companies in the State of Nevada, which is the third largest producer of gold in the world, second only to Australia and South Africa, with a steadily declining gold price by selling mining production forward.

A large mining company in Nevada, Barrick Gold, had no layoffs during this period of time as a result of these forward selling programs. The last couple of years illustrate the function and value in the marketplace of such transactions. Some companies decided not to hedge, betting the gold price would rise and hedging contracts would lock them into below-market prices. Most of those companies are no longer around because the gold price has stayed relatively low.

In contrast, other companies hedged some or most of their production. These companies have survived or even thrived, for the most part. By choosing to manage their risk, they accepted the risk that the gold price could rise, but they stabilized company performance, continued to provide jobs and contribute to communities in rural Nevada where they are so important.

The gold mining business in America is so important. It is important because it is one of the few areas where we are a net exporter, and that is the way it has always been. The Feinstein amendment includes metal derivatives citing fraud in the metals markets, but there is no example of fraud on any occasion regarding the metals markets in the past decade.

Examples of such fraud that did take place a long time ago are cases such as the Hunt brothers in silver and Sumitomo in copper. These were regulated markets and over the counter trades did not exist at that time. The Hunt brothers just went out and bought silver on the free market. Neither of these fraud cases are addressed by the Feinstein amendment.

The attempt, as I indicated, by the Hunt brothers in 1979 to "corner the silver market" involved manipulation of the physical silver market. The Hunt silver scandal involved trading on regulated exchanges, not in the over-the-counter derivatives markets. The trading abuses involved the physical accumulation of 200 million ounces of silver. It did not involve over-the-counter derivatives.

I say in passing, I had a great friend. His name was Forrest Mars, one of the richest men in the world. He lived in Las Vegas in a very small apartment above his candy store. But as you know, this giant of commerce was a multi-multibillionaire. After the Hunt brothers had manipulated the market, he told me: These guys are so dumb. They should have come to me. I could have told them you cannot have monopolies. They do not work. I tried it a couple times.

He said: For example, once I went out and tried to corner the market on black pepper. Black pepper has been part of commerce for so many centuries, and he figured he could corner the market on all black pepper, and he did. He owned every producing facility, farm, and manufacturing facilities related to black pepper in the world. But he said: They outfoxed me because all they did was dye white pepper and ruined my monopoly.

I say this because the Hunt brothers fiasco in 1979 was an effort to have a monopoly, and it did not work for a lot of reasons.

The Sumitomo situation involved the alleged manipulation of the copper market by a Japanese company acting through a rogue trader acting in London and Tokyo. The trading abuses occurred on a fully regulated exchange, not in the over-the-counter derivatives market. The trading abuses involved manipulation of the price of copper on the London Metal Exchange, a futures exchange which is fully regulated by the UK's Financial Services Authority. Further, the manipulation took place overseas, not in United States markets.

I repeat, we owe Senator FEINSTEIN and Senator FITZGERALD a debt of gratitude for their interest in this issue and their work in proposing changes to the Commodity Exchange Act that will ensure trading in energy derivatives when it is done over the counter with transparency, in a way that inspires public confidence in the markets.

I urge my colleagues to eliminate metals from this amendment. I think it would help the adoption of their amendment. If they decide not to do that, I urge my colleagues to support my amendment which strikes metal derivatives from the Feinstein amendment. My amendment would not allow metal derivatives markets and participants to trade derivatives without accountability and transparency. Adequate recordkeeping needs to be in place. The Commodity Exchange Act already requires some recordkeeping for these otherwise "exempt" transactions.

Derivatives are essential to the health of the metals market, and fraud in metals markets did not involve over-the-counter derivatives.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FITZGERALD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FITZGERALD. Madam President, I rise today to support my colleague from California, Senator FEINSTEIN, and her amendment, which I have cosponsored, which would very simply close the so-called Enron loophole in the commodity futures trading laws of this country.

This really is not that complex an issue. A few years ago, we passed a reauthorization of the Commodity Futures Trading Commission. I am very familiar with the commodities industry because we are the heart of it in my State of Illinois, particularly the city of Chicago, where they have the largest derivative exchanges in the country in the Board of Trade, in the Mercantile Exchange in Chicago. Those exchanges trade all sorts of commodities from pork bellies to Treasury bonds. They trade financial commodities as well as agricultural commodities, corn and soybeans.

The Board of Trade and the Mercantile Exchange, like the NYMEX, the New York Mercantile Exchange in New York, or the New York Board of Trade, are fully regulated exchanges. The reauthorization of the Commodity Futures Trading Commission, which we passed a few years ago, continued that regulation that we have had in this country over our boards of trades and our other derivatives or futures transaction trading facilities in this country.

Somehow, when we were working on that legislation in the House and the Senate—it is funny how little codicils, little paragraphs and sentences get added when the bills go to conference committees between the House and the Senate. I believe what happened is when that bill was over in the House, a couple of congressmen added some language that exempted from all regulation by the CFTC—and there is no regulation by the SEC in this area—online facilities that trade energy, metals, and broadband derivatives contracts or futures contracts. Online exchanges that trade those kinds of contracts are completely exempt from regulation. This is the so-called Enron loophole.

At the time, Enron owned EnronOnline and they had an online platform for trading energy contracts, which when Enron went bankrupt later they sold.

Now that EnronOnline was totally exempted from regulation—as Senator FEINSTEIN very eloquently and very thoroughly described for us all of the bogus trades that were done on online derivative exchanges that trade metals and energy contracts, and she described the wash trades that were discovered when Enron fell apart. In fact, many energy companies were simply engaging in round trip trades with trading partners. A round trip trade, as Senator FEINSTEIN noted, is when one party sells a commodity to another party at a certain price, and the other party sells that same commodity back at the very same price. Nothing really transpired in that transaction except that the other party books revenue from a sale and this party books revenue from a sale, but nothing really happened from an economic point of view.

If party A sells a barrel of oil to party B for $30, and party B simultaneously sells a barrel of oil back to party A for $30, nothing has really happened. Everybody is still the same. What we saw in the energy industry with a whole bunch of energy companies, not just Enron, is they were artificially boosting their revenues by engaging in wash trades, round trip trades with other energy partners.

I recall one energy company after this came to light had to restate its revenues downward by $7 billion when new auditors came in and made them cancel out all these wash trades.

Senator FEINSTEIN's amendment simply closes this Enron loophole. It says the CFTC will be able to ban wash trades on these online derivatives transaction facilities. That is all we are trying to do. She does not impose full-scale regulation by the CFTC like we have at the Board of Trade or Mercantile Exchange in Illinois or the New York Mercantile Exchange in New York. They have far more regulation. However, we will put a light level of regulation on online derivative transactions facilities that trade energy, metals, and broadband online. Do not forget, Enron was a big trader of broadband, as well. In fact, that is why the Enron loophole as it got written in the House created a special carve-out for energy, metals, broadband, and also weather contracts.

The question is—why are we picking out energy, metal, broadband, and weather contracts and saying these contracts when traded online cannot be regulated by anyone? What is the public policy rationale for this special carve-out? Why didn't they also include corn and soybeans in this carve-out? Or other commodities? The fact is, this was a special interest carve-out for a hand full of companies.

Now, there is a company owned by a number of banks and energy companies called the InterContinental Exchange. I believe it is opposed to our amendment. Why they are opposed—I gather some of their owners are, in fact, for this—but the majority of the owners of this exchange are opposed. They do not want to be regulated. Our obligation is not to those banks that own the InterContinental Exchange or to the energy companies that own the InterContinental Exchange. Our obligations here are to investors around the country and to consumers around the country.

We saw what kind of wool can be pulled over people's eyes when online exchanges are allowed to go on without any regulation. Not only were a bunch of energy companies such as Enron doing round-trip trades to artificially boost their own revenues but they were also doing fictitious round-trip trades to set artificial prices.

Indeed, although I was very skeptical at first whether that was happening in California but, in fact, it was. The online exchanges would tell California that this is the price that has been trading on our online exchange, so that is the price you have to pay for the energy. But, in fact, it was a fictitious market and most of the trades were fictitious and no one could regulate it.

All we are trying to do is have a light level of regulation to ban wash trades, round-trip trades, ban fraud and abuse, and protect consumers and investors, have some price discovery so people can know what the prices are for the commodities that are traded on these online exchanges, a very light level of regulation to protect the integrity of our derivatives market.

My good friend and colleague from the State of Nevada, the senior Senator from Nevada, Mr. REID, has proposed exempting metals contracts from the amendment Senator FEINSTEIN and I have put together. In other words, he would go along with closing the Enron loophole with respect to energy and broadband but he wants to keep a carve-out for metals. I don't think that is a good idea. We should not have to wait until we have fraudulent transactions involving a metals contract, say, of gold, silver, or platinum, before we act. We have already had fraudulent transactions in energy markets on the online exchanges and we need to stop that. But certainly we can foresee the same problem could occur in an online contract of metals that is traded on one of these online exchanges. All commodities of which there is a finite supply should be treated equally. We should not have a special carve-out either for energy or for metals or for broadband.

In 1999, a working group was put together on the financial markets and the working group was put together ahead of our rewrite of the Commodity Futures Modernization Act. The panel comprised in the working group was made up of Federal Reserve Chairman Alan Greenspan, the Treasury Secretary, the Chairman of the SEC, and the Chairman of the CFTC at the time. In their report, the President's Working Group on Financial Markets, as it was called, that group concluded:

> Due to the characteristics of markets for nonfinancial commodities with finite supplies [energy, metals broadband all fit that category; they are nonfinancial commodities and there are finite supplies of energy and of metals] the working group is unanimously recommending that the exclusion not be extended to agreements involving such commodities. The exclusion should not extend to any swap agreement that involves a nonfinancial commodity with a finite supply.

In other words, the President's working group was saying there should be oversight, there should be regulation of swap agreements, of futures contracts, of derivatives contracts, involving nonfinancial commodities with finite supplies. They separated that category of commodities from financial commodities that have an infinite supply, say, interest rates futures, or futures contracts or derivative contracts based on currencies. With those types of financial commodities, it is very difficult for someone to corner the market in interest rates, for example. I don't think it is possible. There is not a finite supply of interest rates. No one could corner the market there. So they wanted to provide legal certainty for derivatives involving financial commodities with infinite supplies and they have done that. We did not touch financial derivatives. We allow that legal certainty to remain for the financial commodities. We do not upset that. Instead, we simply treat energy, metals, and broadband, as the other finite commodities such as corn and soybeans and other agricultural commodities are treated.

The President's working group made this recommendation that all nonfinancial commodities with finite supplies be treated the same. I have to ask my colleagues, what possible public policy rationale could explain the carve-out in the commodity futures reauthorization bill for energy and metals transactions? If it is proper to exempt these finite physical commodities from CFTC regulation, why not exempt agricultural commodities such as corn, soybeans, and pork bellies? It does not make any sense and we should close this loophole.

Some have argued that we shouldn't have regulation in this area. I know, particularly on my side of the aisle, there are a lot of conservative Republicans, and I am certainly a conservative Republican, and very pro-free markets. I am always reluctant to see Government regulation and I always question the need for it. However, I point out that a light level of Government regulation can actually be healthy in promoting markets.

There is no finer example than our security markets in the United States. Prior to the adoption of the Securities and Exchange Commission Act in the early 1930s, average people remained very leery of ever investing in the stock market. They thought it was a fool's game that was rigged for the insiders on Wall Street and it was very risky. In fact, by regulating the securities markets and making it safe for average people to invest in the markets by having some laws against the insider dealing and so forth, and requiring a thorough dissemination of information so it could be widely shared, we have gotten to the point where over 50 percent of Americans in this country invest in the stock market.

I point to that example as an area where we have pretty light regulations in our security laws. They are simply disclosure laws. Publicly traded companies have to file disclosure and there is not much more regulation than that, but that disclosure is very important in maintaining the integrity of our markets.

I believe Senator FEINSTEIN and I have an amendment that is very light regulation, that simply will help restore the faith of people who may want to trade, of institutions that may want to trade in an online derivatives facility. It will restore their faith in that market, give them more trust in that market and make them more likely to use that market.

Since we have had this scandal in the energy industry, the InterContinental Exchange's volume has just plummeted and people who wanted to hedge their positions in energy and metals have been flocking back to the fully regulated exchange in New York, the New York Mercantile Exchange.

So the point here, the moral of this story, I think, is by opposing this regulation, the InterContinental Exchange has, in fact, hurt their own cause because people are staying away from their market. They do not trust it, they know there is no price discovery, they know there is no regulator there who is going to prevent them from being defrauded. There is no cop there so nobody wants to trade there.

So if the InterContinental Exchange and the banks that own it want to encourage all the Senators here to vote against this, I think they are actually working against their own self-interest in the long run, just as Wall Street would have been working against its own self-interest back in the 1930s if they had come to Washington and tried to block the implementation of the Securities Exchange Commission Act.

All the bill does, and Senator FEINSTEIN has gone through it very thoroughly—but specifically it requires reporting, notification, and recordkeeping. In addition, it requires these energy and metal trading venues to keep books and records and maintain sufficient capital to operate soundly. Those are just commonsense requirements. Why anybody would be against this, I don't know.

Finally, on a somewhat more parochial basis, as someone who represents the exchanges in Chicago, the Board of Trade and the Mercantile Exchange, they have a much heavier degree of regulation than we are asking of these online exchanges that trade in energy and metals. I, frankly, think it is unfair to impose super-regulations on one type of trading facility and then no regulation at all on another type of facility. I think that unfairness in the disparate treatment between different derivatives transaction facilities is a disparity and disparate treatment that should be eliminated in the name of fairness.

The bottom line is, while there has been a lot of hype surrounding this issue, I think those who study it closely will realize, will recognize it is good public policy. It is in the public's interest.

I urge my colleagues to support this amendment. It is very well drafted. Senator LUGAR and Senator HARKIN have both signed on as cosponsors. It was the subject of a hearing in the Agriculture Committee, as Senator FEINSTEIN pointed out, and the Agriculture Committee, of course, is where legislation dealing with the Commodity Futures Trading Commission goes. The Agriculture Committee has worked on this, and they produced very good legislation that will prevent, if we adopt it, the kind of abuses we have seen in online derivatives transactions in the last couple of years. It is a commonsense amendment. It simply will make it easier to act against fraudulent or bogus energy or metals or broadband trades. It is common sense. I urge my colleagues to adopt it.

Unless anyone further wishes to talk, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, I rise to thank the Senator from Illinois. We have worked on this now through two Congresses. It was very clear to me that he has a great deal of knowledge in this area. His advice, his support, his efforts have been very helpful. I think he has very clearly stated the facts of this legislation.

There are those who, for purposes I do not understand, want to make this legislation out to be much more than it is, some heavy requirement of Government. Really, all we are saying is, if you are going to trade online, energy and metals and broadband, those trades are subject to recordkeeping, to an audit trail, and to antifraud and antimanipulation oversight.

That is the same as any other finite commodity. Anywhere else does this same thing. But this loophole, at the request, as the Senator from Illinois said, of Enron—by the House, and then in a conference in 2000 they dropped the requirement for coverage from the Commodity Futures Modernization Act. Therefore, this loophole was created into which these companies jumped and began to set up these online trading exchanges.

I couldn't believe my eyes when I saw that one company announced that 80 percent of the trades they did in 2001 were round trip or wash trades.

Senator FITZGERALD just explained that very clearly, what a round trip or a wash trade is.

Mr. FITZGERALD. Will the Senator yield for a question?

Mrs. FEINSTEIN. I certainly will.

Mr. FITZGERALD. I ask Senator FEINSTEIN, I was wondering, you said one company said 80 percent of its trades had been wash trades, just round trip trades. Was that an energy firm?

Mrs. FEINSTEIN. Yes, it was CMS Energy. The year was 2001. They announced that.

Additionally, Duke Energy disclosed that $1.1 billion worth of trades were round trip, wash trades, since 1999; roughly two-thirds of these were done on the InterContinental Exchange, which means that thousands of subscribers would have seen these false price signals.

I could finish this, if you like? A class action suit accused the El Paso Corporation of engaging in dozens of round trip energy wash trades that artificially bolstered its revenues and trading volumes over the last 2 years.

CMS Energy Corp. has admitted conducting wash energy trades that artificially inflated its revenue by more than $4.4 billion.

So this is important. I have a hard time, I think, as you do, that if I sell something to you and you just sell it back to me and we both boost sales and yet nothing is really sold, that that is a legitimate way of doing business.

Mr. FITZGERALD. Madam President, I ask Senator FEINSTEIN if it is true that under the current law no one can do anything about these wash trades because of this Enron loophole that is in the law. We are trying to take that out, so somebody could actually ban this kind of fraudulent trading practice. Isn't that correct?

Mrs. FEINSTEIN. That is absolutely correct. That is what we are trying to do. For the life of me, I don't understand why people are against it.

Mr. FITZGERALD. Does the Senator know why people would oppose the authority of regulators to ban wash trades? Has anybody explained that to the Senator?

Mrs. FEINSTEIN. The only thing I can figure is they want to do it. They want the unabashed ability to conduct the bogus trades. That would be the only reason they would want this little, dark, hidden place through electronic trading because there is no oversight for fraud or manipulation. There is no record kept. There is no audit trail.

Mr. FITZGERALD. And no one can find out what prices they were trading at, either. There is no price discovered.

Mrs. FEINSTEIN. That is right.

Mr. FITZGERALD. They do not do these wash trades at the exchange in New York because all of that would be transparent to the public.

Mrs. FEINSTEIN. That is exactly right. That is why we suspect it. It is hard to prove.

Again, there have been three arrests of Enron traders who devised these schemes. Actually two were plea-bargained. There was a recent arrest last week of this fellow who apparently set these trading schemes up for Enron.

To have a transparent marketplace, I think, gives confidence to the 50 percent of the people who are small investors who would want to participate in the market. You have to show there is oversight. You have to show it is up and up, that it is a legitimate bona fide marketplace with trades that mean something.

In my heart of hearts, I believe that a lot of this kind of activity is what amounted to a 400-percent increase in the cost of power in 1 year in California alone.

Mr. FITZGERALD. Because they were simply trading back and forth amongst themselves at a price that really was not determined on an arms' length basis. They were just engaging in bogus trades back and forth to artificially set a price or to artificially increase revenues for the companies on both sides of the trade. Some of these transactions were done on the InterContinental Exchange.

As I recall, when we had the hearing before the Senate Agriculture Committee, either early this winter or maybe even last fall, some shareholder on the InterContinental Exchange came before the committee and testified that notwithstanding the official position of the exchange they, as an owner of the exchange, disagreed with the policy of the InterContinental Exchange on this, and they favored our elimination of this Enron online loophole in the commodities laws; they thought that the company in which they were a shareholder would be better off if there were some regulation of their business.

Does the Senator recall that?

Mrs. FEINSTEIN. I was not at the hearing. I do not recall that. But I think whomever that was, they are certainly correct because that would give confidence to their company and to people to invest in that company which is on the up and up, which is regulated and which has transparency.

I think particularly now after what we know has transpired over the past that this is one of the reasons why our economy has had problems in that people have lost confidence. They have seen these companies go down.

The Senator mentioned some of the big companies that have gone down that have done just this kind of thing. At some point, Peter has to pay Paul. If they don't have the capital to handle it, there is a problem.

Mr. FITZGERALD. If we had the same problem somewhere in the stock market and people couldn't figure out the price of a stock by looking in the newspaper or looking on the Internet to see what the published price of a stock was on the exchange, if instead you had a similar situation with a stock as you have with these online energy derivatives exchanges, and a customer had to call the exchange and ask what the price of oil is trading at, but you just had somebody telling you the price of oil is such and such but you had no way of verifying that, I think no one would want to invest in the stock market if you couldn't discover the price, or if there was no price discovery.

Why does the Senator think anybody would even want to trade on an online exchange in which there is no price discovery, or where there is no regulator protecting the customers from fraud, manipulation, or abuse? Why is it that someone would even want to trade on such an exchange? Isn't it true that, in fact, the InterContinental Exchange volume, the last I heard, was dropping and their legitimate customers were going back to trading on a fully regulated exchange in New York, the NYNEX?

Mrs. FEINSTEIN. The Senator is asking me to hypothesize. I sure wouldn't do it. I can only assume that some sophisticated trader has worked out some scheme and was utilizing it in this venue and knew that he or she was safe because there was no way to pin it on them. There were no records kept.

Mr. FITZGERALD. If someone is operating a corrupt exchange and there is no price discovery and no regulation, isn't it true that a customer could call into that exchange and say, I want to trade oil at $30 a barrel, and the broker could tell them he could get some oil at $35 a barrel and just require the customer to pay more than that customer really should have had to pay because the market wasn't that high, there is no way for the customer to know what the real market price is? The broker could make up a price and then keep the difference for himself or for the exchange. Isn't that correct, if there is no price discovery?

Mrs. FEINSTEIN. That is correct.

Mr. FITZGERALD. It seems to me that this is an absolute no-brainer to close this indefensible loophole. I can't imagine that anybody is going to want to defend the concept that we can have an online exchange that is open for business with the public, although not retail customers, I gather, but institutional customers, where it is just a black hole which no one can regulate and can't ban wash trades where there is no price discovery. What in the world would be the objection to closing this loophole and having some modicum of oversight to protect the people who may want to use this exchange and to protect the integrity of the market?

Mrs. FEINSTEIN. The Senator is absolutely correct. When we had this vote in the last Congress, if I recall correctly, we got 48 votes. It wasn't really crystal clear what the excesses were at that time. Now we have documentation of the excesses. We have literally billions of dollars of fraudulent trades, wash trades, round-trip trades, whatever you call them, but fraudulent trades. So we know. We also know that Mr. Fortney was arrested and two others have plead guilty to creating these schemes. To continue to allow that kind of thing to exist would be a real dereliction of this Congress.

Mr. FITZGERALD. There really is a difference between this year's vote and last year's. Last year when the Senator and I had this amendment on the floor, it was in the immediate aftermath of all those energy companies collapsing. There were some initial reports out there about possibly bogus trades but we didn't have that proof yet. We had 48 votes, 2 votes shy of passing it.

Since that time, and in the intervening year, we have had all the hard evidence come out proving everything the Senator and I were saying last year on the floor of this body—that there were, in fact, bogus wash trades not only in the millions of dollars but in the billions of dollars. How big were some of those?

Mrs. FEINSTEIN. CMS Energy admitted to conducting wash energy trades that artificially inflated its revenue by $4.4 billion.

Mr. FITZGERALD. That was probably a huge percentage of their revenues—all fictitious—from doing wash trades on an online exchange with no economic purpose. But that fictitious revenue was fooling the investing public, making people think that company had more revenue than it actually did. They were all just "wash" trades.

Mrs. FEINSTEIN. Right. May I ask the Senator a question? Some, I understand, may come to the floor and want a study. The study has already been done, and it is the "Final Report On Price Manipulation in Western Energy Markets, Fact-Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices." It was prepared by the staff of the Federal Energy Regulatory Commission. It was put out in March of this year.

I would like to read one section of it to the Senator and see if he is aware of this. It reads:

> Recommend that Congress consider giving direct authority to a Federal agency to ensure that electronic trading platforms for wholesale sales of electric energy and natural gas in interstate commerce are monitored and provide market information that is necessary for price discovery in competitive energy markets.

Mr. FITZGERALD. So you are saying the FERC has done a study in which they have already concluded that we basically need to close this loophole so there can be some price discovery and some monitoring of these energy markets?

Mrs. FEINSTEIN. That is correct. This is the report. It is a final report. It was done in March 2003, so it has been circulated for a few months.

Additionally, our legislation has the support of the chairman of the Federal Energy Regulatory Commission. We have kept in touch with him so he is aware of what is in the report, and, of course, the former chairman of the Agriculture Committee, Senator HARKIN, and former ranking member of the Agriculture Committee, Senator LUGAR.

Mr. FITZGERALD. Madam President, and my dear colleague from California, I think this is simply commonsense legislation and long overdue. I think it is unfortunate that we made the mistake when passing the Commodity Futures Modernization Act back a few years ago, which created that special carve-out for energy and metals and broadband contracts that were traded in an online exchange, that they could be exempt from regulation by anybody. Because had we not made that mistake, had Congress not made that mistake, it might have prevented the manipulation and fraud and abuse that was done at the hands of a whole bunch of energy companies. We might have prevented that, if we had not allowed this loophole to be included in that Commodity Futures Modernization Act. And I think it is high time we simply close that loophole.

Madam President, I will be interested to see who comes to the floor to make an argument that we should still have this loophole so that energy and metals contracts can be traded without any oversight by any regulator, so no one can discover the price, so that there is no protection for the customers of these exchanges.

I will be interested to see who comes to the floor and what their argument is in favor of this because, I have to tell you, on most pieces of legislation that come before this body, it is pretty easy to see what the arguments will be on the other side. There is normally at least a plausible public policy rationale on both sides of the issue. But in this case, I have to say that, looked at very objectively, it is hard to understand how anybody could oppose this commonsense measure to protect the integrity of our energy and metals trading markets in this country. It seems like a very commonsense piece of legislation.

I compliment Senator FEINSTEIN. She has been tenacious in bringing this up, and she has been persistent to make sure that we had the opportunity to offer the amendment on the floor.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I would also like to point out another study that has been done in a CRS report for Congress, and that was dated January 28 of this year, pointing out that this bill was presented in the last Congress and probably would be presented in this Congress. One of the points it makes is that if over-the-counter derivatives dealers were required to keep and make available for inspection records of all trades and to disclose information about trading volume and prices, abuses like the ones we have been talking about would be easier to detect and, thus, presumably less likely to occur.

That is really the purpose of this: not to allow sort of a secret niche in the trading arena where people could go to hide and trade, but to bring the sunshine into that niche and to provide—and it is very conservative—regulation of what they must do.

I know my friend and senior Senator from Nevada has proposed an amendment. Regrettably, I have to vote against the amendment. This bill had been worked out with Senator HARKIN and Senator LUGAR. My understanding is they believe we should close the loophole entirely, not leave one area sort of in the dark, so to speak.

I am troubled by the amendment because our reading of the amendment indicates that it effectively exempts metals entirely without any oversight or regulation by the CFTC, even less than under current law. In good conscience, I cannot do that.

So I think we made the arguments, Madam President. And with what has happened—and now that we know the extent of the fraud that has taken place online—not to close that loophole, I think, would be a terrible blot on this Congress.

So I am hopeful we will have a positive vote.

I thank the Chair for your indulgence and yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. REID. Mr. President, I have been working with the two sponsors of this legislation. They have agreed to take my amendment. I have spoken with the majority and they say, no, they didn't want it to be done tonight, maybe tomorrow. I would simply say that we in good faith have worked, as I told the majority leader I would do, to try to move this bill along. Moving this bill along does not mean they are only going to be happy if we offer amendments that they like. The Senator from California in good faith offered this amendment. Whether people like it or not, if we are going to move this Energy bill along, we have to vote on it in some way. But it is my understanding that tonight nothing is going to happen.

It is pretty obvious nothing is going to happen. There has been nobody here. There has been nobody here to oppose her amendment. Of course, no other amendments can be offered until this one is set aside.

I just want the record to so reflect at a later time, when people come and say, we should try to move this bill along, and there have been statements on the floor made by the manager and the majority leader that they wanted to finish this bill this week.

I was asked at lunchtime, how did I feel about finishing the bill this week. I said to the reporters asking me: When you step back a little bit, there is about as much chance of our finishing this bill this week as my turning a back flip here in front of the two of you.

The record should reflect, I can't turn a back flip and never have been able to.

My point, I repeat, is that I am doing my very best to cooperate as I have been advised by the Democratic leader we should do everything we can to help with this bill. But help is a two-way street. When an amendment is offered that people don't like, you just can't have them leave rather than a single word being spoken against the amendment of the Senator from California other than my amendment which they have agreed to accept.

Having said that, wanting to continue to move this important piece of legislation, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EDWARDS. Mr. President, I was unavoidably absent for rollcall vote No. 212 on the Dorgan amendment. Were I present for that vote, I would have voted in favor of the amendment.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak for a period not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak in morning business for up to 10 minutes.

The PRESIDING OFFICER. The Senator has that right.

IRAN

Mr. BROWNBACK. Mr. President, I don't want to overly belabor the point but there is a very important thing happening on the other side of the world, in Iran, at this very time. My office has been receiving, now, numerous reports of a growing protest in Iran taking place right now. This is within the past couple of hours. It is dawn in Tehran, as I speak. It is estimated that this past evening between 5,000 to 8,000 students are joining protests against the Government's crackdown on student democracy dissidents.

Recently, five student leaders were arrested in advance of the July 9 anniversary of the original mass student protest in 1999. Even though it is now almost dawn in Tehran, the protest has continued.

I understand during the night there was a dissipation of the protest. A number of the student protesters—this was outside Tehran University—who were protesting dissipated. Rather than going back to their dorm rooms, they have gone and dispersed to other places because, after the 1999 protest, a number of the Iranian military guard went to the dormitories and arrested en masse a number of students and they were roundly punished.

We have also received reports that Iranian Government forces are beating up on the protesters, firing warning shots at them. I do not have that verified but we have received these reports.

I call this to the attention of Members of this body because there has been a lot of discussion going on at the present time of U.S. policy towards Iran. I think it is clear the United States should clearly stand with those who stand for democracy.

We don't know if the student protest is going to go ahead and mature further or not, or if it is going to further brutally be put down.

This is in a buildup to a July 9 protest that had been planned for a number of months, to recognize the July 9, 1999, student protest that was brutally put down by the regime. This has been building. In anticipation of that, the regime in Tehran—and this is a dictatorial regime that has never been elected, the rulers have never been selected by the people in Iran—arrested these student leaders in advance of July 9 in an effort to put it down before it gets started.

This is deplorable. This is not democracy. The United States should stand with those who stand for democracy. We should have a clear official policy that our position toward Iran is to support those who support democracy and we support democracy in Iran. We stand for that with the Iranian people.

There has been a growing, burgeoning movement in Iran of young people who do not want anything to do with this dictatorial regime. They have lived, now, some 25 years, over 25 years under this militant, dictatorial regime that supposedly has put Islamic law in place and they are tired of it and they want no more of it. They want no more of it and they are willing to put forward their lives in this gallant effort, this brave push for democracy. That is their desire.

I call on the Iranian Government to stop beating and harassing their own people. The students are shouting: Khatami, Khatami, go away.

These are the same students who gave President Khatami his start 7 years ago. He was elected as a reformer, which he has not produced on. Instead, he has continued with the same totalitarian way.

I believe he was one of seven candidates at the time selected by the ruling mullahs to be able to run in front of the people, and the people selected the most reformist, most hope minded. He has not produced. But they didn't get a free selection. Nor does Khatami—I want to identify this as well—have free control. The ruling mullahs continue to control the military secret police, foreign policy, and the treasury.

They control, not President Khatami. So it is a system where unelected, unselected dictators brutalize a country, an elected reformer is not allowed to reform, and he isn't even selected by the people. He has to go through a selection process by the ruling mullahs, so only appropriate candidates can run for office. And the students are tired of it. They are fed up with it, they are protesting, and they are being brutalized in the process.

We should support the student movement for the July 9 nationwide protest in Iran. We should state that it is U.S. policy to stand for true democracy in Iran.

This is a great nation of great people. It is going to make a wonderful open democracy when it is liberated and opened up. These students are trying to pave the way for that to occur.

This is how history is made. It is made one brave act at a time. The world is watching how the regime treats the students, the protesters, and it will hold this regime accountable.

In Iran they have a saying that they yell frequently: "Free Iran." As these protesters are yelling "Free Iran," that should be our call as well: Free Iran.

Mr. President, I yield the floor.

VOTE EXPLANATION

Mr. BIDEN. Mr. President, yesterday evening the Senate confirmed the nomination of Michael Chertoff to the United States Court of Appeals for the Third Circuit. I was in Delaware attending a funeral last evening and, accordingly, was unable to attend yesterday's vote on Mr. Chertoff's nomination. I wish to note for the record, however, that I would have voted for Mr. Chertoff's confirmation yesterday, having voted to report favorably his nomination from the Judiciary Committee last month.

THE COAL ACT

Mr. GRASSLEY. Mr. President, I rise today to call attention to an issue whose time for reform and resolution has come. I am speaking of the so-called "reachback" and "super-reachback" issues enacted in the Coal Act in the 1992 Energy bill. This insidious tax has caused numerous businesses to fail over the past 10 years as a result of its inequitable taking from those that should not have been included in this effort in the first place.

The Coal Act obligated companies to pay an annual tax to cover premiums of coal miner retirees' health care benefits. Not only did the Coal Act require companies then active in the coal mining business to pay but it also retroactively required companies—referred to as the reachback companies—that were no longer in the coal mining business to participate and assessed them liability to pay in to the Coal Act's combined benefit fund, CBF. This retroactive tax has been so crippling for a number of companies that many have been driven into bankruptcy. The very existence of many other companies that are subject to this tax is in danger due to the heavy obligation this tax imposes on them.

Needless to say, the provisions of the Coal Act that created the CBF were hastily crafted and rushed into law without the benefit of hearings in the Senate Finance Committee or serious examination by the Senate.

The combined benefit fund is not only financed by the taxes on these reachback and superreachback companies. At its inception, the coal miners' pension funds were used for part of the startup money for the fund. It is additionally funded through current transfers of the surplus interest income of the abandoned mine lands reclamation fund, or the AML. As of 2003, those transfers have been in the hundreds of millions of dollars.

Since the beginning, the solvency of the CBF has been in question. Even now, the possibility exists that, without reform in the near future, this fund could fail putting in jeopardy the coal miner retirees' health care benefits. To temporarily stabilize the CBF, Congress appropriated $68 million for fiscal year 2000 and another $96 million for fiscal year 2001 and $35 million for fiscal year 2003. These ad hoc appropriations are not a permanent solution and do nothing to guarantee that retirees will continue to receive health benefits in future years. For some younger retirees, the benefits from the CBF is their only source of health care until they are eligible for Medicare. For older retirees, it serves as a kind of Medigap policy.

In addition to reachback companies, the current law imposed crippling taxes on companies such as Plumb Supply in my home State of Iowa. Plumb Supply has been designated as a superreachback company. The superreachback companies were relieved of their prospective liability by the U.S. Supreme Court since 1998. They were not, however, afforded refunds of those improperly assessed taxes they had been required to pay into the CBF. This hurts Plumb Supply and all other similarly situated companies. The superreachback companies have been waiting patiently for the return of their money for nearly 7 years.

Many of us in the Senate, along with our colleagues in the House of Representatives, pursued legislation aimed at solving the reachback issue in a comprehensive manner during the 106th and 107th Congresses. We took on these efforts in order to create stability and fairness in the combined benefit fund, and to thereby provide a solution that would address the needs of all interested parties.

I sincerely hope that the Ways and Means Committee will take up legislation during this session of Congress to continue this program for coal mine retirees and their beneficiaries in a responsible fashion, while ending the unfair taxation imposed on businesses no longer active in the coal mining business.

Such legislation should do four things. First, it should provide for permanent solvency for the combined benefit fund. Second, it should relieve all reachback companies of prospective liability. Third, the long-overdue refunds to the superreachback companies should be satisfied immediately. Finally companies with an ongoing reachback liability should be given an opportunity to prefund their obligations on an actuarially sound basis.

If the Ways and Means Committee can send us this legislation, the Finance Committee will be most happy to receive and examine it so this issue can finally be resolved.

BURMESE FREEDOM AND DEMOCRACY ACT

Mr. LEAHY. Mr. President, I strongly support the Burmese Freedom and Democracy Act of 2002, introduced by Senator McCONNELL and Senator FEINSTEIN. This legislation seeks to pressure the military junta in Burma to release Aung San Suu Kyi and help bring democracy and human rights to Burma.

Several days last week, Senator McCONNELL came to the floor to speak on this issue. I want to commend him for his steadfast leadership, and associate myself with his remarks. I have also joined as an original cosponsor of this legislation.

The message that we are sending to the ruling junta in Burma is clear: Its behavior is outrageous. Aung San Suu Kyi is the rightful, democratically elected leader of Burma. She and her fellow opposition leaders must be immediately released. This legislation also sends a clear signal to the administration, ASEAN members, and the international community that we need to turn up the heat on this illegitimate regime.

The efforts of Senators McCONNELL and FEINSTEIN are already having an impact. On June 5, 2003, the State Department issued a strong statement on this matter, which reads:

> The continued detention in isolation of Aung San Suu Kyi and other members of her political party is outrageous and unacceptable. We call on the SPDC to release them immediately, and to provide all necessary medical attention to those who have been injured, including assistance from international specialists. The offices of the National League for Democracy closed by the SPDC should be reopened without delay and their activities no longer proscribed.

But we all know that U.S. actions can only go so far. Bringing democracy and human rights to Burma will require active pressure from its neighbors in Southeast Asia, particularly Thailand, Japan, and China. It will require these and other nations to disavow the failed policies of engagement. these policies simply have not worked.

I am pleased to see that the McConnell-Feinstein legislation attempts to trigger a process that will ratchet up the regional pressure on the Burmese Government. I am also glad to see that the United States has demarched every government in Southeast Asia on this issue.

In closing, I want to highlight the fact that the U.N. Envoy, Razali Ismail, was finally able to see Aung San Suu Kyi. According to CNN, Mr. Ismail said that she shows no signs of injury following clashes with a pro-government group. His exact words were "she did not have a scratch on her and was feisty as usual." That is indeed good.

I was also glad to see Mr. Ismail call on the members of ASEAN to drop the organization's policy of nonintervention. He stated: "ASEAN has to break through the straitjacket and start dealing with this issue. . . . The situation in Burma can only be changed if regional actors take their positions to act on it."

I agree. The international community has a responsibility to act together to pressure the SPDC. The time for appeasement is over.

Mr. ALLEN. Mr. President, I rise today to condemn the ongoing repression of the democracy movement in Burma. This latest crackdown has included the rearrest and injury of Daw Aung San Suu Kyi and brutal attacks on her supporters. Burma's regime has ignored the basic human rights of its citizens and is intent only on preserving its own brutal grip on power.

Since last May, the international community has significantly decreased pressure on Burma's regime. During that time, we have seen only increased abuses. The numbers are staggering: Burma's regime has forcibly conscripted 70,000 child soldiers, far more than any other country in the world. The regime has tortured and locked up 1,400 political prisoners. Even worse, the regime has borrowed a tactic from the Bosnian war by using rape as a weapon of war, heaping misery on countless women and girls.

Clearly, the United States and the international community must more actively address the situation and Burma and take available steps to prevent further violence against those seeking desired democratic reform.

As my colleague from Kentucky Senator McCONNELL has stated forcefully and eloquently over the last two weeks, the United States must provide international leadership. Next week, Thailand's Prime Minister Thaksin Shinawatra will be visiting Washington, DC to meet with the President and other senior government officials. This meeting would provide an ideal opportunity to urge the Prime Minister to make every effort to formulate a policy to help bring about positive change in Burma.

I say to the people of Burma that the people of the United States support you and share your values. We admire your courage, and commend your bravery. We will continue to support your struggle, as long as this oppressive regime remains in power.

The United States has a long history of supporting democratic change and condemning regimes that repress and disregard the will of the people. This most recent attack on democratic reformers in Burma only underscores the need for the U.S. to be vigilant in voicing strong disapproval with the actions of the current regime, and assist the legitimately elected leaders of Burma to bring much needed democratic reform and respect for universally recognized human rights to the people of Burma.

HONORING OUR ARMED FORCES

Mr. CRAPO. Mr. President, today I rise to pay tribute to those members of the Armed Forces who have served and continue to serve in Operation Iraqi Freedom. Countless women and men have answered the call of our country to preserve and protect our freedom against those individuals and regimes that would seek to compromise or destroy our way of life. Reservists have left civilian lives behind, parting with wives, husbands, parents, children, and friends in order to fulfill their commitment to our country's defense. Active Duty military members have gone from merely conducting exercises mimicking war, to leaving their homes and families to engage in the real thing, on foreign soil, thousands of emotional and physical miles from familiarity and comfort. These brave soldiers, airman, marines, and sailors do their jobs in a place where injury and death lie in wait at every turn. The next rise in the gritty, windblown landscape may hide 160 pounds of profound desperation peering from behind the barrel of a gun. The building around the corner needing to be secured might be rigged with enough explosives to make a small child's father or mother nothing but a memory. floating just beneath the roiling surface of the water, there might be a mine, with deadly patience waiting for the next ship to pass overhead so that it can accomplish its gruesome mission. These are some of the hazards our military members face in their jobs. Frankly, it makes our job in these marble halls seem significantly less perilous.

I speak today to recognize in particular those faithful men and women from my State—Idaho. We have had approximately 450 reservists and active-duty members called to serve in the war. That may not seem like a large number compared to those from some other States, but proportionately it represents a significant percentage of Idahoans. We also have countless other soldiers who have family and friends who call Idaho home. This number does not include the over 160 who were activated to fill positions vacated at installations here by deployed personnel. We also have Idahoans continuing to serve in Operation Enduring Freedom, and in the fight against terrorism. I have spoken before of MAJ Gregory Stone and CPL Richard P. Carl, both soldiers from Idaho who lost their lives in Operation Iraqi Freedom. I now ask for a moment of silent prayer and reflection from my fellow Senators as we consider what their dying, as well as over 150 other men and women who have met the same fate in this conflict, has accomplished for our personal freedom.

Thankfully, many of those who were called to military service from Idaho have just recently returned safely home. Yet their experiences overseas will remain with them for the rest of their lives.

Some may remember lines of tanks rolling ominously forward under a dusty sky, marred by waves of heat emanating from the desert floor. That memory may be infused with the pungent odor of layers of sweat and grime under desert camies, mingled with the acrid odor of burning gasoline and oil. Others may remember pulling the trigger on their weapon and seeing death for the first time in their young life. They may remember being close enough to smell it and feel it, or feel as if their own was but a whisper away. Still more may remember the sight of crowds, pushing against one another, some greeting the American soldiers with cheers of gratitude, some screaming epithets, some shamelessly begging for food and water to feed themselves or their starving families, and others simply greeting this modern army in grim, expressionless silence brought on by years of brutal repression and loss. The smell of desperate, poverty-stricken humanity, and the sounds of raw emotion cascading forth in an uninhibited tidal wave after a lifetime of unchecked tyranny, may remain forever embedded in the memories of many of those soldiers. Finally, and very tragically, some will never forget a life that slipped away while they clutched a friend's bleeding body to their chest in shared agony.

I give account of these images to remind us of the grim reality of war, and the tremendous sacrifice that these noble women and men have made so that we can continue to live in glorious freedom. We tend to take for granted, at times, the price that is paid for this amazing gift. The cost comes not only in the loss of life, but the loss of innocence. The cost is borne by family members as well, and by those, whom never having set foot outside this country, bear the scars of a father, mother, husband, wife, son or daughter forever gone from this life.

This body voted to support a decision to send these men and women into harm's way. Lest the proud soldiers from Idaho, and their persevering families, think that I came to that decision lightly, I stand now before you and recognize their tremendous bravery in the face of danger, their courage in the face of death, and their unequivocal commitment to preserving the ideals of liberty and democracy. I want to convey no doubt that their decision to become a member of the most well-trained, professional military in the world places them in my highest esteem. With gravity and sincerity, I thank them and I honor them. They have given me, my wife, and most importantly, my children, and yours as well, the priceless gift of freedom.

FEDERAL EMPLOYEE PROTECTION OF DISCLOSURES ACT

Mr. LEAHY. Mr. President, I am proud to be an original cosponsor of the Federal Employees Protection of Disclosures Act, a bill to ensure that Federal employees can report fraud, waste, and abuse within their employer Federal agencies without fear of retaliation. I cosponsored this much needed reform in the last Congress and commend the junior Senator from Hawaii for reintroducing it today. Congress must encourage Federal employees with reasonable beliefs about governmental misconduct to report such fraud or abuse, but it must also protect those who blow the whistle rather than leave them vulnerable to reprisals.

Unfortunately, whistleblower protections under current law have been weakened by the Federal circuit, the court that now possesses exclusive appellate jurisdiction over such claims. The Federal circuit has issued a number of rulings that erode whistleblower rights in direct contradiction to the plain language of the law and the congressional intent of established whistleblower protections. The potential chilling effect of these decisions threatens to undermine the fundamental purpose underlying whistleblower laws. The Federal Employees Protection of Disclosures Act will address this problem by expanding judicial review of such cases to all Federal circuit courts of competent jurisdiction. Jurisdiction will then include the place where the whistleblower lives or where the Government misconduct occurred.

The bill also updates the current law. For example, it clarifies that whistleblower disclosures can come in many forms—such as oral or written, or formal or informal disclosures. It also broadens current law to reflect that reporting occurs in many different areas, such as over policy matters or individual misconduct. The law expands the current list of prohibited personnel actions against a whistleblower in two ways: One, the opening of an investigation of the employee, and two, the revocation of a security clearance. The bill also ensures that appropriate disciplinary actions are taken against managers whose negative actions toward employees were motivated in any way by the employee's whistleblowing. More practical reforms are also included, such as making the collecting of attorney's fees available to whistleblowers who prevail in court. In addition, under the bill, consequential damages may be suffered by the employee if they are the result of a prohibited personnel practice.

Whistleblower information is one tool in helping the Government and private sector find ways to prevent future terrorist attacks as well. Though certain safeguards remain for intelligence-related or policy-making functions, the Federal Employees Protection of Disclosures Act maintains existing whistleblower rights for independently obtained critical infrastructure information without fear of criminal prosecution. These protections are needed to encourage individuals to submit information to the Government about cyberattacks or other threats that might affect the Nation's critical infrastructures.

Whistleblowers have proven to be important catalysts for much needed Government change over the years. From corporate fraud to governmental misconduct to media integrity, the importance of whistleblowers in galvanizing positive change cannot be questioned. I urge my fellow Senators to support this important bill.

IN MEMORY OF FORMER CONGRESSMAN TOM GETTYS

Mr. HOLLINGS. Mr. President, tomorrow I will be attending the funeral of a former colleague from the South Carolina congressional delegation, Tom Gettys, and I rise to recognize this legend from Rock Hill.

I have known Congressman Gettys for many years. He came to Washington 2 years before I did, having already been an officer in the Navy, a school principal, a postmaster, and so he came in with a reputation of a person's person. It did not matter who you were in the world, he was your buddy; and since he was in a position to help people as a Member of Congress, he would and he did.

He stayed just 10 years, but he made an impression for the next 30. I never heard a single bad thing said about him, and I don't know very many politicians I can say that about. He has been out of office since 1974, but everybody in my State still always refers to him as Congressman because he was just one great guy who cared about people. This Senator will miss this gentleman, always the statesman, always the one with a good story.

Tomorrow, I will extend the Senate's sympathy to his wife Mary, and his daughters Julia and Sara. And to share just how much Tom meant to his community, I ask unanimous consent that this article from the Herald in Rock Hill be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Rock Hill (SC) Herald, June 9, 2003]

FORMER CONGRESSMAN LEAVES LEGACY OF DEDICATION

(By Andrew Dys)

He voted to create Medicaid and was proud the rest of his life—but he was just as proud to know the doormen and elevator operators in the U.S. Capitol by first name. Tom Gettys, a working-class man from Rock Hill's Hampton Street who went on to become a Congressman from South Carolina's 5th District from 1964 to 1974, died Sunday at Westminster Towers in Rock Hill. Gettys was 90.

Gettys' legacy of grace, dedication and constituent service is one that current 5th District Congressman John Spratt, D-York, has tried to emulate during his own 20 years in Congress. Gettys' record is not in the laws he passed, but the people he helped.

"His life exemplified what living in a democracy is all about," Spratt said Sunday night. "Everybody in this district not only respected Tom Gettys, but they loved him as well. Tom had a natural, easygoing affinity for people and the problems they had to live through. Tom Gettys will be missed by all of us."

Gettys was born on June 19, 1912, and was educated at the public schools in Rock Hill and later at Clemson and Erskine College. He was principal at the now-defunct Central Elementary School in Rock Hill from 1933 to 1941.

Gettys volunteered for the Navy in World War II after the bombing of Pearl Harbor, and Spratt remembers Gettys was fond of saying "Admiral Nimitz and I did all right over there in the Pacific."

5th District Congressman Dick Richards called on Gettys to run his staff in Washington for seven years. A political future hatched in Washington, but Gettys did more than politick the back hallways of Capitol Hill—he studied law at night and passed the bar exam, and even was Rock Hill's postmaster upon his return from Washington from 1951 to 1954.

Before Gettys won his spot in Congress in 1964 against a crowded four-man field, he was a lion of Rock Hill civic life, serving as president of Rotary, the Chamber of Commerce, the YMCA and even as chairman of the Rock Hill School Board. After his return, he became a part of the civic fabric of Rock Hill.

The city honored Gettys by naming the old federal courthouse on East Main Street in his honor in 1997, a building now called the Tom S. Gettys Center.

Gettys had a stroke several years ago and months ago moved from his longtime Myrtle Drive home into Westminster Towers. He maintained contact with old friends, however, and regularly attended bi-weekly meetings of the Rock Hill Rotary Club when his health would allow.

John Hardin, former Rock Hill mayor and lifelong friend, said Gettys and he were part of a weekly golfing outing with A.W. Huckle, publisher of The Evening Herald, and banker George Dunlap.

"I had known him since childhood," Hardin said, "but we became intimate friends after World War II."

Gettys, a Navy officer, was assigned to Iowa but requested overseas service and jumped at duty in the Pacific.

Hardin, who ran First Federal Savings and Loan, saw Gettys frequently when he traveled to Washington to lobby as president of the Savings and Loan League.

"The thing he liked best was trying to help people," Hardin said. "He was great at what they call constituent service. He was more interested in helping people than in passing legislation."

Gettys was a great teaser, and he often would catch people by surprise by asking if they enjoyed the casserole he sent. When told that, no, they hadn't gotten a casserole, Gettys would respond, "Well, I left it on the porch. The dogs must have gotten it."

The former congressman cultivated stories about being tightfisted, but in reality, he was a gentle, caring person, Hardin said.

"He had the best sense of humor," Hardin said. "I don't know anyone who had a better one."

Another former Rock Hill Mayor, Betty Jo Rhea, called Gettys, "One of my favorite people."

Gettys' reputation as the hometown guy turned legislator is deep in the memories of Rock Hill residents. People knew Gettys had many jobs before he ran for Congress and that he came home when he was finished his work in Washington.

"Tom was my husband Jimmy's principal when he was at Central School on Black Street in the early 30s," Rhea said.

Gettys is survived by daughters Julia and Sara and his wife of 55 years, Mary Phillips Gettys. Funeral arrangements will be announced later.

His sister Sara, who still lives in Rock Hill, said the Tom Gettys people knew from public life was the same guy the family loved. Even after 10 years in Congress, Tom Gettys was a Rock Hill boy deep in his bones.

"He was a great person who looked after all of us," Sara Gettys said. "The man who went to Washington was the same man when he came home."

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Lincoln Park, MI, on September 19, 2001. Mr. Ali Almansoop, a 45-year-old U.S. citizen originally from Yemen, was shot to death by a man who confessed the attack was in retaliation for the September 11 tragedy. The attacker broke into the apartment where Mr. Almansoop was asleep, dragged him out of bed, and shot him in the back as he attempted to flee. The Department of Justice investigated the slaying as a hate crime murder.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ARMED FORCES DAY

Mr. ALEXANDER. Mr. President, on May 17, Armed Forces Day, I drove down to Madisonville, TN to participate in the raising of the largest American flag in our State. The people of Madisonville and Monroe County had been working on this for months.

The community joined together to make the Veterans Flag Memorial something to be proud of. Along with the impressive flag, a brick wall was erected.

Businesses donated bricks, mortar, concrete and a variety of services from architectural to brick masonry. Citizens donated approximately $70,000 to the project, including contributions and brick sales. The brick sales were reserved for veterans and active duty military. The memorial has been a labor of love for the community. The dedication ceremony to celebrate this hard-work was an important event.

As I drove up to Haven Hill Memorial Gardens, where the ceremony was to be held, it started to rain; then it poured. Thunderstorms arrived, and lightning began to dance in the sky. Not many of us wanted to get too close to the 150 foot flagpole.

But through it all, the ceremony went forward. There must have been

500 people who sat there in the rain, absolutely drenched. And then, the sun came out as the program began.

The most impressive moment came with the raising of the flag. Twenty men marched forward carrying the flag. It was soaking wet and very heavy. This is what the organizer of the event, City Alderman Irad Lee, wrote to me:

> I was told by the commander of the Tennessee State Guard that had we waited another five minutes, the flag would have been too heavy for their twenty men to carry. I am unsure how much a saturated 1,800 square foot flag weighs, yet one young man named Dwight Taylor of 312 Atkins Road in Madisonville, a city maintenance crew worker, auxiliary policeman and patriot, endured while cranking the flag to the top of flagpole.

I watched Dwight Taylor crank that flag to the top of the pole. I was astonished to see one man do that. It was a tribute to his patriotism and strength. It seemed at the time an impossible feat.

But so does the history of this country that our flag represents.

When Americans want to see the grandest flag in Tennessee, they will travel to Madisonville. And it is appropriate that they do so.

Congressman JIMMY DUNCAN told the crowd that Monroe County sent more volunteers to Desert Storm in the Gulf War for its population size than any other county in America. This is yet another example in our history of Tennessee living up to its nickname, "The Volunteer State."

I felt privileged to be a part of the Armed Forces Day event, and I wanted the nation to know about the patriotic citizens of Madisonville and Monroe County, TN.

HEALTH CARE HERO

Mr. SMITH. Mr. President, 5 years ago, the State of Oregon witnessed one of the greatest tragedies in its 150 year history—a senseless school shooting at Thurston High School in Springfield. The shock waves from that awful event still reverberate in our State and in our schools. But as so often happens in the face of great evil, good people stand together in grief to create hope for a better future.

In the case of the Thurston shooting, that beacon of hope is the Ribbon of Promise campaign. Five years after the shooting, the campaign is continuing its work to prevent school violence. Because of the impact the campaign has made and the lives it has saved, I rise today to recognize this program and its volunteers as a Health Care Hero for Oregon.

The Ribbon of Promise National Campaign to Prevent School Violence was founded on May 22, 1998, the day after the Thurston shooting. Thurston was one of several school attacks occurring across the Nation, from Pearl, MS, to Jonesboro, AR. While still in the throes of grief, the Springfield community decided enough was enough and began the work of preventing future attacks.

Overnight, the Springfield area bloomed with miles of blue plastic ribbons decorating cars, mailboxes, lampposts, trees and lapels, signaling the community's support for the victims and their families. The ribbons promised to end the specter of school violence, a promise repeated at candlelight vigils, community gatherings, and funerals.

But the promise didn't end when the media attention subsided. The ribbons were woven together into a grassroots organization dedicated to making a national impact on the problem of school violence. The resulting campaign, the Ribbon of Promise, identified its mission as bringing communities together with schools, law enforcement, and the juvenile justice system to prevent school violence. Today, the organization continues to fill its role by acting as resource for communication, education, and action against future attacks.

Since the campaign's inception, the ribbons have appeared in many important places. President Clinton wore one when he traveled to Eugene for a Thurston memorial service. NASA crewmember Wendy Lawrence took the ribbon on the shuttle Discovery in 1998. Since that time, over 250,000 lapel ribbons have been distributed across the world.

Results of the campaign have been tremendous. The group's web site has become a primary resource for violence prevention information. Springfield High School's DECA class developed a video called By Kids 4 Kids, launching the student arm of the campaign. This important program, also known as BK4K is teaching students to speak out when they hear threats of violence. This information, spread from student to student, is often the only way schools, parents, and law enforcement have the opportunity to prevent violent attacks. The BK4K campaign is changing the student culture of our Nation, teaching kids to break their code of silence in order to save lives.

Scores of other campaign accomplishments include a parent information program, a network of 24-hour report hotlines across the country, and continued research on the problem of school violence. While there remains much work to be done, the accomplishments of the Ribbon of Promise campaign are very real. But the best result of their work is the safe return of students at the end of each schoolday.

Oregon continues to mourn for the victims of the Thurston shooting. But we also have hope that through the efforts of this outstanding organization, further violence in our State has been prevented. I thank all the volunteers and staff of this great campaign and designate the Ribbon of Promise as a Health Care Hero for Oregon.

IN MEMORY OF AL DAVIS

Mr. CONRAD. Mr. President, today I wanted to honor the memory of a member of the congressional family whose life was tragically cut short last month. Albert James Davis, who was the Democratic chief economist at the House Ways and Means Committee, died on May 30.

Mr. Davis had served the Congress with distinction since 1984, first as a senior economist with the Democratic staff of the House Budget Committee, then as chief economist for that committee, and finally as chief economist for the Ways and Means Committee.

Although Mr. Davis never worked in the U.S. Senate, his death is a profound personal and professional loss for many Members and staff of the Senate. Mr. Davis was a highly respected and much loved member of the group of policy experts who work largely behind the scenes to provide Members of Congress with information about the policies they are considering. Many Senate staff—and many members of my Budget Committee staff—had worked with Mr. Davis, either directly in the House or through bicameral staff meetings and frequent phone conversations. And although few knew it, many Senators benefitted from Mr. Davis' knowledge and wisdom because of the frequent use made by Senate staff of insightful memos and analyses of important issues that Mr. Davis graciously shared with them.

He was one of the leading experts in the country on issues involving taxes and entitlement programs. Just as important as his deep understanding of these complex issues was his ability to express his thoughts about them in a simple, straightforward way that others—congressional staff, the press, and Members of Congress—could understand. And he could do it in a gracious and humorous way that did not betray any impatience with a listener who might be a little slow to grasp what was being explained.

Mr. Davis was a committed Democrat, but he was more committed to honest and intelligent analyses of the issues. You could count on him to give you the straight scoop about any issue. He would not fudge the facts just to fit his personal policy preferences. When my staff gave me information from Al Davis, I knew I could rely on it.

The combination of respect and affection that many members of the Senate family had for Al Davis is a testament to his intelligence, his ability, and his huge and warm heart. The Senate was considering the conference report on the reconciliation tax bill when it became known that Mr. Davis was not likely to recover. The sense of sorrow and loss felt by Senate staff on the floor that day was immense. For many of those staff, it was hard to imagine not being able to pick up the phone to ask Al about an issue. They understood the quality of reporting on tax and entitlement issues would be diminished because Al would not be around to explain a complicated issue in a way that the average reader or listener could understand. And they keenly felt the loss of a unique and wonderful person. Many people in the Senate family were touched by Al—benefitted from his knowledge and wisdom and were lucky enough to consider him a friend. He will be greatly missed.

APPOINTMENT OF TIMOTHY A. EICHHORN TO THE UNITED STATES AIR FORCE

Mr. LUGAR. Mr. President, I rise today to share with my colleagues my congratulations to Timothy A. Eichhorn, who on February 25, 2003, was named by the Senate to receive an appointment as a grade of lieutenant colonel to the U.S. Air Force.

I have known the Eichhorn family for many years, and I am pleased to join his family and friends in congratulating Timothy on this momentous occasion. This appointment is clearly a testament to his hard work, dedication, and enthusiasm for military service.

In a time when U.S. Armed Forces are deployed around the world, I am pleased to know that outstanding individuals, such as Timothy Eichhorn, have been called to public service.

ADDITIONAL STATEMENTS

WIND CAVE NATIONAL PARK CENTENNIAL COMMEMORATION

• Mr. JOHNSON. Mr. President, I rise today in tribute to Wind Cave National Park on the occasion of the park's centennial anniversary.

Nestled in the southeast corner of the Black Hills of South Dakota and adjacent to Custer State Park, Wind Cave has a rich and colorful history that has informed and educated generations of people from around the world.

Wind Cave was established as a national park by President Theodore Roosevelt on January 3, 1903, as the Nation's seventh national park and the first one created to protect a cave. It was designated as a National Game Preserve on August 10, 1912.

But Wind Cave's history is recorded as part of Black Hills history from the time Native Americans told stories of holes in the ground that blow wind. The first recorded discovery of Wind Cave dates to 1881 when Jesse and Tom Bingham were first attracted to the cave by a whistling noise. As the story goes, wind was blowing out of the cave entrance with such force it blew off Tom's hat. A few days later, when Jesse returned to show the phenomena to some friends, he was astonished to find the wind had changed directions and his hat was sucked into the cave.

Since that time, notable visitors have included Charlie Crary, the first person reported to enter the cave; J.D. McDonald, whose family gave the first cave tours and sold cave formations to J.D.'s son, Alvin; Alvin McDonald, who was the first explorer of the cave and who kept a diary and map of his findings; and "Honest John" Stabler who formed a partnership with the McDonalds to develop the first passages and staircases into Wind Cave. Indeed, the early history of the cave was plentiful and colorful.

William Jennings Bryan and Governor Lee visited the cave in 1892. That same year one of the first attractions was put on display. For a quarter, visitors could come to the cave and view a "petrified man" that had been found north of the cave. Over the years, visitors would come to view the natural attractions Wind Cave would have to offer.

Captain Seth Bullock became the cave's first supervisor in 1902, with George Boland serving as the area ranger. South Dakota Congressman Eben W. Martin was instrumental in the designation of Wind Cave as a national park. General John J. Pershing visited in 1910 and took important cave room readings with his pocket aneroid barometer. In 1914, Ester Cleveland Brazell was a ranger guide at the Cave, possibly making her the first woman to hold the title of ranger in the National Park Service. Walt Disney and other film and video companies have produced films in the park and countless rolls of film have been shot by amateur photographers for display in home movies and scrapbooks.

Today, Wind Cave has more than 108 miles of explored and mapped passages, making it the fourth-longest cave in the United States and sixth longest in the world. Well over 5.5 million people have visited Wind Cave over the past 100 years.

The first major improvements in the park were accomplished by the Civilian Conservation Corps in the 1930s. Wind Cave was one of many important projects CCC workers developed in South Dakota. Many of the projects can still be seen today, including roads, the entrance to the cave, concrete stairs in the cave, and the elevator building and shaft.

By 1935, the game preserve became an integral part of Wind Cave National Park. Bison, elk, and pronghorn became staples of the visitor experience, and the park's boundaries were expanded in 1946 to over 28,000 acres.

Wildlife management was a main priority and key challenge in the 1950s and 1960s as herds grew and restoration and management of native grasses, exotic plant species, and animal herds became a main focus.

The unique blend of wildlife and aesthetic beauty on the park's surface, combined with the beautiful cave formations, extensive passageways, and informative guided tours beneath the surface provide the general public with a wonderful Black Hills experience and one that provides young people with a unique learning opportunity. Visitors can take in such attractions as Lincoln's Fireplace, Petrified Clouds, Devil's Lookout, Roe's Misery, Sampson's Palace, Queen's Drawing Room, the Bridge of Sighs, Dante's Inferno, and the Garden of Eden.

I want to commend the 18 superintendents who have served Wind Cave National Park, including current superintendent Linda Stoll, for their leadership and excellent stewardship of the park over the past 100 years. I also want to applaud the dedication and commitment of the park's staff over the years, from rangers and administrative staff to tour guides and custodians. All of them have partnered to ensure the visiting public's experience at Wind Cave is a memorable one. Wind Cave National Park is one of the jewels in the Black Hills crown of tourism destinations. Over the years, it has been a privilege for me to work on infrastructure needs and issues of importance involving Wind Cave National Park.

From earthquakes, floods and fires to the occasional lost spelunker, Wind Cave has come a long way since the "Petrified Man" displays and 25-cent tours. Wind Cave today offers a complete visiting and educational experience for people of all ages. The ever-expanding cave continues to excite and astonish scientists, cave surveyors, spelunkers, and the general public. I wish to congratulate Wind Cave National Park on its centennial anniversary and encourage everyone to visit the beautiful Black Hills of South Dakota and Wind Cave National Park.•

RECOGNIZING KAREN McCANN ON HER RETIREMENT

• Mr. LEVIN. Mr. President, it is with great pride that I pay tribute to an exceptional educator from my home State of Michigan. On June 12, Karen McCann will retire after 24 years in public education. Karen's creativity and dedication to her students has deeply enriched the lives of thousands of young people throughout Michigan.

Karen has been an innovative and enthusiastic teacher throughout her 24-year career as an educator in the Michigan public school system. While working in the Farmington schools and Troy schools with students from 4th through 9th grades, she has prided herself on developing new methods of engaging and motivating her students.

She truly cares about her students' overall well-being and strives to create an environment that fosters curiosity and challenges students to apply what they have learned to life outside the classroom.

Karen's commitment to Michigan's children has been demonstrated in many ways throughout her long and distinguished career. She has received numerous awards including the Detroit News' My Favorite Teacher Award and has been nominated for several others, including the Disney American Teacher Award, the Newsweek/WDIV Outstanding Teacher Award, and is currently under consideration for the JASON Foundation for Education's Hilda E. Taylor Award. She has earned such distinguished honors because of the heartfelt respect and admiration of her peers, students, and parents.

During the past 7 years, Karen McCann has served as a Michigan JASON Teacher Mentor. The JASON Project is a program designed to foster interest in natural sciences through imaginative hands-on experiences. She has carefully created new and exciting opportunities for students to expand their knowledge beyond the classroom by integrating a variety of activities with the general curriculum established by the Troy School District. For example, she has designed field trips and coordinated guest speakers to enhance her students' learning experiences and also created a series of afterschool programs entitled "JASON U" to enrich her students' lives beyond the normal schoolday. In addition, Karen has arranged exciting new opportunities for continuing professional development in the form of seminars for teachers throughout the State of Michigan.

Michigan's children have been touched by Mrs. McCann's genuine interest and unwavering desire to provide a meaningful learning experience. I have no doubt that Karen's contributions to Michigan's public schools will continue to foster innovation in the future. I am confident my colleagues will join me in offering our heartfelt thanks and appreciation to Karen McCann and in wishing her well in her retirement.•

TRIBUTE TO BURKE MARSHALL

• Mr. LIEBERMAN. Mr. President, I rise to pay tribute to a life spent in pursuit of the highest American ideals. Burke Marshall, a wonderful man, a frontline soldier in the battle for civil rights, and a deeply respected resident of Connecticut, died Monday, June 2 at the age of 80. I am honored to have known him and occasionally benefited from his wise counsel.

Burke became assistant attorney general for civil rights in the Kennedy Administration in 1961, just 7 years after the Brown v. Board of Education decision had declared "separate but equal" schools to be unconstitutional. On paper, in the annals of the law, things were changing. But in practice, on the streets and in the schools, those who suffered under Jim Crow knew that America was still defaulting on its promissory note. Segregation was still fierce. America was still failing to live up to its founding principles.

During his tenure, Burke worked tirelessly to desegregate public facilities in the South. In 1961, he helped craft the Government's ban on segregation in interstate travel. In 1962, he played a central role in the maneuvering that led to the admission of James Meredith to the University of Mississippi, the first black student to pass through the gates of that school. In Birmingham in 1963, he negotiated a settlement between civil rights activists and the city's business community that helped bring the city back from the brink of violence. And in 1964, he helped shape the landmark Civil Rights Act, which would outlaw discrimination in public accommodations nationwide.

During his tenure, Burke Marshall traveled throughout the South, persuading local authorities to desegregate bus stations, train stations, airports. This wasn't glamorous work. It took patience and persistence, clarity and courage. But without that patience, persistence, clarity, and courage, America would have stalled. America would have regressed. America would not have grown into the great Nation, full of hope and opportunity for people of all races and backgrounds, that it increasingly is today.

Looking back, reading history books, some might think the civil rights movement was inexorable or its outcome inevitable. After all, the justice of the cause now seems so obvious. But in those days, nothing was for granted. Advancing civil rights was a struggle. Young people were being beaten by mobs; fire hoses and dogs were being turned on peaceful protestors. Many defenders of segregation would stop at nothing to stop the march of social progress.

The only reason we were able to build a better country was because of the extraordinary heroism of ordinary people, and because of the difficult decisions made every day by people like Burke Marshall. He chipped away at the evil of Jim Crow and helped open the floodgates so that, as the Bible said, justice could begin to flow like water, and righteousness, like a mighty stream.

Justice isn't yet flowing like a mighty river in America, nor is righteousness flowing like a mighty stream. We still have hills to climb, as Dr. King might say, before we reach the mountaintop. But thanks to the foothold that people like Burke Marshall have given us, we have the ability to keep climbing. We can see the summit. And we have the strength and the inspiration to never give up until we reach it.

I got to know Burke Marshall because, in 1970, he moved to Connecticut and joined the faculty of Yale Law School, my alma mater, where he served as deputy dean and professor. I unfortunately had already graduated, but I was lucky to befriend Professor Marshall around New Haven. He was a warm, kind, decent man, who believed that the fight for justice was never-ending.

The dean of Yale's Law School, Tony Kronman, put it well. He said, "His goodness was so large that I half believed and fully wished he would live forever. Burke's generosity brought out the best in others. His love of justice helped change a nation."

Burke Marshall was a quiet man. In fact, his wife Violet once said that, because he said so few words, she wasn't sure whether he liked her or not until he proposed. But he wasn't quiet when it counted. On matters of principle, on questions of justice, he heeded the wisdom of Dr. Martin Luther King, Jr., who said: "Our lives begin to end the day we become silent about things that matter."

Burke Marshall always spoke when it mattered, and that is why his legacy will live on forever in the hearts he touched and in the country he helped change for the better.

My condolences to his wife Violet, his daughters Katie, Josie, and Jane, and his grandchildren. May God bless them and the memory of Burke Marshall.•

TRIBUTE TO KELSEY LADT

• Mr. BUNNING. Mr. President, I rise to honor and pay tribute to Kelsey Ladt of Paducah, KY, for her inimitable sense of giving and community service. Kelsey, age 8, led an art tour fundraiser for the Community Foundation of Western Kentucky, with proceeds benefitting the Lourdes' Foundation patient care fund and the St. Nicholas Free Family Clinic.

Kelsey Curd Ladt, daughter of Vicki and Ric Ladt, is a gifted and precocious young lady with an exceptional sense of selflessness and charity. She singlehandedly led a tour of the artwork inside her parents' home for 35 people. Kelsey paused by each painting to share historical insight and anecdote, a remarkable feat for someone so young.

Kelsey researched art at Murray State University under the tutelage of Dr. Joy Navan. With the encouragement from Navan and family friend Bill Ford, Kelsey planned the fundraiser and interviewed directors of various beneficiaries before selecting the Lourdes' Foundation and the St. Nicholas Free Family Clinic.

Kelsey, who is herself an accomplished artist and pianist, plans on expanding the art tour to four homes in the coming years, in order to better serve her community. Later this summer she will participate in a forensic anthropology course at Murray State University and a gifted and talented camp at Western Kentucky University.

It is my pleasure to honor such an exceptional and altruistic young lady for her extraordinary charitable contributions to her community. I thank the Senate for allowing me to laud her praises. She is one of Kentucky's finest.●

TRIBUTE TO DR. HARRY BEGIAN

● Mr. LEVIN. Mr. President, today I have the honor of recognizing a great musician and educator from my home State of Michigan. During a career that has spanned more than 50 years, Dr. Harry Begian has made numerous contributions to the music and education communities across the country and around the world. He has greatly influenced both high school and collegiate bands throughout the Midwest and the Nation. On June 21, 2003, a reunion and banquet will be held at Cass Technical High School in Detroit to honor not only Dr. Begian's 17 prolific years as Director of Bands at Cass Technical High School but also his lifetime of musical contributions that have touched so many.

Dr. Begian's early involvement with music included studying trumpet and flute with famed musicians Leonard Smith and Larry Teal. Dr. Begian completed his undergraduate and master's degrees at Wayne State University. He also earned a doctorate in music at the University of Michigan.

Dr. Begian became Director of Bands at Cass Technical High School in 1947, where he built one of the preeminent high school bands in the country. During the following 20 years, he served as Director of Bands at Wayne State University, Michigan State University, and the University of Illinois. In addition to his work as a band director, Dr. Begian has served as a guest conductor and lecturer throughout the United States, Canada, and Australia. In 1987, the Detroit Symphony Orchestra invited him to conduct a formal concert in Detroit's Orchestra Hall.

The Music Division of the Library of Congress created the Harry Begian Collection in tribute to his accomplishments. The permanent collection currently contains 26 reel-to-reel recordings of Dr. Begian's performances at Cass Tech. In addition, the collection also includes 50 records and 15 compact discs from Dr. Begian's time with the University of Illinois Symphonic Band.

Dr. Begian is a charter member of the American School Band Directors Association and a past president of the American Bandmasters Association. He has won the National Band Association's Citation of Excellence, the Edwin Franko Goldman Award, and the Norte Dame St. Cecelia Award. I know that my Senate colleagues will be pleased to join me in saluting Dr. Harry Begian's lifetime full of contributions to the world of music.●

PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO THE RISK OF NUCLEAR PROLIFERATION CREATED BY THE ACCUMULATION OF WEAPONS-USABLE FISSILE MATERIAL IN THE TERRITORY OF THE RUSSIAN FEDERATION—PM 37

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to the risk of nuclear proliferation created by the accumulation of weapons-usable fissile material in the territory of the Russian Federation that was declared in Executive Order 13159 of June 21, 2000.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 10, 2003.*

REPORT OF THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE RISK OF NUCLEAR PROLIFERATION CREATED BY THE ACCUMULATION OF WEAPONS-USABLE FISSILE MATERIAL IN THE TERRITORY OF THE RUSSIAN FEDERATION BEYOND JUNE 21, 2003—PM 38

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation is to continue beyond June 21, 2003, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on June 20, 2002 (67 FR 42181).

It remains a major national security goal of the United States to ensure that fissile material removed from Russian nuclear weapons pursuant to various arms control and disarmanent agreements is dedicated to peaceful uses, subject to transparency measures, and protected from diversion to activities of proliferation concern. The accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have decided that it is necessary to continue the national emergency declared with respect to the accumulation of a large volume of weapons-usuable fissible material in the territory of the Russian Federation and maintain in force these emergency authorities to response to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 10, 2003.*

MESSAGE FROM THE HOUSE

At 2:19 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill and joint resolution, each without amendment:

S. 763. An act to designate the Federal building and United States courthouse located at 46 Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse."

S.J. Res. 8. A joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1610. An act to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the "Walt Disney Post Office Building."

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 162. A concurrent resolution honoring the city of Dayton, Ohio, and its many partners, for hosting "Inventing Flight: The Centennial Celebration," a celebration of the centennial of Wilbur and Orville Wright's first flight.

The message also announced that pursuant to 22 U.S.C. 276th and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Mexico-United States

Interparliamentary Group, in addition to Mr. KOLBE of Arizona, Chairman, appointed on March 13, 2003: Mr. BALLENGER of North Carolina, Vice Chairman; Mr. DREIER of California; Mr. BARTON of Texas; Mr. MANZULLO of Illinois; Mr. WELLER of Illinois; Ms. HARRIS of Florida; Mr. STENHOLM of Texas; Mr. FALEOMAVAEGA of American Samoa; Mr. PASTOR of Arizona; Mr. FILNER of California; Mr. REYES of Texas.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 222. An act to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

S. 273. An act to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes.

MEASURES REFERRED

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1954. An act to revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes; to the Committee on the Judiciary.

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1610. An act to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the "Walt Disney Post Office Building"; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 162. Concurrent resolution honoring the city of Dayton, Ohio, and its many partners, for hosting "Inventing Flight: The Centennial Celebration", a celebration of the centennial of Wilbur and Orville Wright's first flight; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1215. A bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2652. A communication from the Under Secretary, Emergency Preparedness and Response, Federal Emergency Management Agency, transmitting, pursuant to law, the report relative to the funding of the State of New York as a result of record/near record snowstorms on December 25–26, 2002, and January 3–4, 2003, has exceeded $5,000,000; to the Committee on Environment and Public Works.

EC–2653. A communication from the Director, Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Chief Financial Officer for the Office of Management, Budget and Evaluation; to the Committee on Energy and Natural Resources.

EC–2654. A communication from the Secretary of Energy, transmitting, pursuant to law, the Annual Report for the Strategic Petroleum Reserve, covering calendar year 2002; to the Committee on Energy and Natural Resources.

EC–2655. A communication from the President, The Foundation of the Federal Bar Association, transmitting, pursuant to law, the report Audit Report of the Foundation of the Federal Bar Association for the Fiscal Year ending September 30, 2002; to the Committee on the Judiciary.

EC–2656. A communication from the President of the United States to the President Pro Tempore of the United States Senate, transmitting, consistent with the War Powers Resolution, the report on recent developments in Liberia and Mauritania and the activities to insure the safety of The United States Embassy and Embassy Staff located in those countries; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–127. A resolution adopted by the House of the State of Hawaii relative to improving benefits for Filipino Veterans of World War II; to the Committee on Veterans' Affairs.

HOUSE RESOLUTION NO. 75

Whereas, on January 7, 2003, Senator Daniel K. Inouye introduced S. 68 in the United States Senate, which bill was read twice and then referred to the Committee on Veterans' Affairs; and

Whereas, S. 68 proposes to amend title 38 of the United States Code, to improve benefits for Filipino veterans of World War II and for the surviving spouses of those veterans; and

Whereas, S. 68 would increase the rate of payment of compensation benefits to certain Filipino veterans, designated in title 38 United States Code section 107(b) and referred to as New Philippine Scouts, who reside in the United States and are United States citizens or lawful permanent resident aliens; and

Whereas, S. 68 would further increase the rate of payment of dependency and indemnity compensation of surviving spouses of certain Filipino veterans; and

Whereas, S. 68 would further make eligible for full disability pensions certain Filipino veterans who reside in the United States and are United States citizens or lawful permanent resident aliens; and

Whereas, S. 68 would further mandate the Secretary of Veterans Affairs to provide hospital and nursing home care and medical services for service-connected disabilities for any Filipino World War II veteran who resides in the United States and is a United States citizen or lawful permanent resident alien; and

Whereas, S. 68 would further require the Secretary of Veterans Affairs to furnish care and services to all Filipino World War II veterans for service-connected disabilities and nonservice-connected disabilities residing in the Republic of the Philippines on an outpatient basis at the Manila VA Outpatient Clinic; now, therefore,

Be it resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, That the United States Congress is respectfully urged to support the passage of S. 68 to improve benefits for certain Filipino veterans of World War II; and

Be it further resolved, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Hawaii congressional delegation and the Secretary of Veterans Affairs.

POM–128. A joint resolution adopted by the Legislature of the State of Washington relative to restoring the deduction of retail sales tax under the federal income tax; to the Committee on Finance.

SENATE JOINT MEMORIAL 8003

Whereas, The federal tax reform act of 1986 put additional financial stress on the taxpayers of the state of Washington by eliminating the retail sales tax deduction; and

Whereas, Taxpayers in other states may deduct major state taxes in determining federal income tax; and

Whereas, Taxpayers of the state of Washington would realize substantial reductions in federal tax burdens if they could deduct retail sales taxes; and

Whereas, Congress is in the process of consideration tax reduction proposals; and

Whereas, Congress could easily relieve the burden on taxpayers of the state of Washington by restoring the full retail sales tax deduction;

Now, therefore, Your Memorialists respectfully pray that the United States restore the deduction of retail sales tax under the federal income tax.

Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM–129. A concurrent resolution adopted by the legislature of the State of Louisiana relative to provisions of the Internal Revenue Code which provide for the taxation of Social Security income; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 6

Whereas, current provisions of the Internal Revenue Code provide for the taxation of up to eighty-five percent of income derived from Social Security benefits; and

Whereas, Social Security payments are often the primary income of retirees; and

Whereas, retired persons are citizens who can least afford a reduction in income; and

Whereas, retired persons are currently facing increased costs of living, including increased costs of prescription drugs; and

Whereas, other measures currently being reviewed by congress to stimulate the economy do not address the needs of low- and middle-income retired persons.

Therefore, be it resolved, That the Louisiana Legislature does hereby memorialize the United States Congress to repeal the provisions of the Internal Revenue Code which provide for the taxation of Social Security income.

Be it further resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–130. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to reviewing and consider eliminating the provisions of law which reduce or totally eliminate social security benefits for those persons who also receive a state or local government retirement benefit; to the Committee on Finance.

House Concurrent Resolution No. 39

Whereas, the Congress of the United States has enacted both the Government Pension Offset (GPO), which reduces the spousal and widow(er)s social security benefit, and the Windfall Elimination Provision (WEP), which reduces the earned social security benefit for persons who also receive a state or local government retirement; and

Whereas, the intent of Congress in enacting the GPO and WEP provisions was to address concerns that public employees who had worked primarily in state and local government employment receive the same benefit as workers who had worked in social security employment throughout their careers, thereby providing a disincentive to "double-dipping"; and

Whereas, the GPO affects a spouse or widow(er) receiving a state or local government retirement benefit who would also be entitled to a social security benefit earned by a spouse; and

Whereas, the GPO formula reduces the spousal or widow(er)s social security benefit by two-thirds of the amount of the state or local government retirement benefit received by the spouse or widow(er), in many cases completely eliminating the social security benefit; and

Whereas, the WEP applies to those persons who have earned a state or local government retirement benefit in addition to having the necessary credits earned in social security employment; and

Whereas, the WEP reduces the earned social security benefit by using a modified formula of the averaged indexed monthly earnings, which may reduce the earned social security benefits by as much as fifty percent; and

Whereas, the GPO and WEP have a disproportionately negative effect on employees working in lower-wage government jobs, such as policemen, firefighter, teachers, and municipal, parochial, and state employees; and

Whereas, these provisions also affect more women than men because of the gender differences in salary that continue to exist across of nation; and

Whereas, Louisiana is making every effort to improve the quality of life of her citizens, to encourage them to remain here lifelong, and to provide for them in their retirement years.

Therefore, be it resolved, that the Legislature of Louisiana does hereby memorialize the Congress of the United States to review and consider eliminating the GPO and WEP social security benefit reductions.

Be it further resolved, That a copy of the Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of American and to each member of the Louisiana congressional delegation.

POM–131. A concurrent House resolution adopted by the Legislature of the State of Louisiana relative to the Pledge of Allegiance; to the Committee on Finance.

House Concurrent Resolution No. 121

Whereas, Louisiana is one of numerous states in which students recite the Pledge of Allegiance in public schools; and

Whereas, the practice of including "under God" in the Pledge was established by federal law decades ago and reaffirmed by a new federal law just last year; and

Whereas, recent polls indicate that up to ninety percent of the public is overwhelmingly in favor of allowing students to recite the Pledge of Allegiance; and

Whereas, Constitution signer George Washington declared, "the fundamental principle of our Constitution . . . enjoins [requires] that the will of the majority shall prevail," and Thomas Jefferson pronounced, "the will of the majority [is] the natural law of every society [and] is the only sure guardian of the rights of man"; and

Whereas, Thomas Jefferson also stated, "A judiciary independent . . . of the will of the nation is a solecism—at least in a republican government"; and

Whereas, the United States Court of Appeals for the Ninth Circuit has violated these fundamental principles and abrogated the "consent of the governed" as set forth in our governing documents; and

Whereas, the will of the people can be protected against further judicial usurpation by the federal courts on this issue through congressional action to limit the jurisdiction of the federal courts as explicitly set forth in the Constitution in Article III, Section 2, Paragraph 2 (federal courts "shall have appellate jurisdiction both as to law and fact with such exceptions and under such regulations as Congress shall make"); and

Whereas, the intent of the Framers regarding this power of Congress to limit judicial overreach was clear, such that Samuel Chase, a signer of the Declaration of Independence and a United States Supreme Court Justice appointed by President George Washington, declared, "The notion has frequently been entertained that the federal courts derive their judicial power immediately from the Constitution; but the political truth is that the disposal of the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to this court, we possess it, not otherwise"; and

Whereas, Justice Joseph Story, in his authoritative Commentaries on the Constitution, similarly declared, "In all cases where the judicial power of the United States is to be exercised, it is for Congress alone to furnish the rules of proceeding, to direct the process, to declare the nature and effect of the process, and the mode, in which the judgments, consequent thereon, shall be executed . . . And if Congress may confer power, they may repeal it . . . The power of Congress [is] complete to make exceptions"; and

Whereas, this position is confirmed not only by signers of the Constitution such as George Washington and James Madison but also by other leading constitutional experts and jurists of the day, including Chief Justice Oliver Ellsworth, Chief Justice John Marshall, Richard Henry Lee, Robert Yates, George Mason, and John Randolph; and

Whereas, the United States Supreme Court has long recognized and affirmed this power of Congress to limit the appellate jurisdiction of the federal courts, as in 1847 when the court declared that the "court possesses no appellate power in any case unless conferred upon it by act of Congress" and in 1865 when it declared "it is for Congress to determine how far . . . appellate jurisdiction shall be given; and when conferred, it can be exercised only to the extent and in the manner prescribed by law"; and

Whereas, Congress has on numerous occasions exercised this power to limit the jurisdiction of federal courts, and the Supreme Court has consistently upheld this power of congress in rulings over the last two centuries, including cases in 1847, 1866, 1868, 1878, 1882, 1893, 1898, 1901, 1904, 1906, 1908, 1910, 1922, 1926, 1948, 1952, 1966, 1973, 1977, and others; and

Whereas, it is Congress alone that can remedy this current crisis and return to the states the power to make their own decisions on recitation of the Pledge of Allegiance in public schools.

Therefore, be it resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to limit the appellate jurisdiction of the federal courts regarding the recitation of the Pledge of Allegiance in public schools.

Be it further resolved, That a copy of this Resolution be transmitted to the presiding and chief clerical officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–132. A concurrent resolution adopted by the Legislature of the State of Texas relative to Federal income tax; to the Committee on Finance.

Senate Concurrent Resolution No. 6

Whereas, Current federal tax provisions place an arbitrary state cap on the volume of private activity bonds, which hinders the ability of Texas to meet its rapidly growing water infrastructure needs; and

Whereas, Private activity bonds afford a cost-effectiveness, nonrecourse means of financing the development of adequate wastewater and drinking water facilities for the future and minimize and drinking facilities for the future and minimize the risk to the ratepayer; and

Whereas, Other sources of municipal infrastructure financing, such as general obligation bonds, revenue bonds, enterprise bonds, and loans under the federal Environmental Protection Agency's state revolving loan fund program, are insufficient to allow Texas to comply with new federal environmental and public health mandates; and

Whereas, The cap on the volume of private activity bonds forces water and wastewater projects to compete with other projects in Texas without regard to the urgent priority of protecting public health and the environment; and

Whereas, Private activity bonds foster innovative public-private partnerships and help them develop cost-effective projects for the construction of sewage and drinking water facilities and the rehabilitation and upgrade of existing water infrastructure; and

Whereas, Removing the financing cap would give public officials the maximum number of tools for meeting the growing public demand for water services while ensuring compliance with federal environmental and public health laws; now, therefore, be it

Resolved, That the 78th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds not apply to bonds for water and wastewater facilities; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the Speaker of the House of Representatives and the president of the Senate of the United States Congress, and to all the members of the Texas delegation to the Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–133. A concurrent resolution adopted by the Legislature of the State of Hawaii relative to the establishment of State-Province relations between the State of Hawaii of the United States and the Province of Ilocos Norte of the Republic of the Philippines; to the Committee on Foreign Relations.

House Concurrent Resolution No. 17

Whereas, the State of Hawaii is actively seeking to expand its international ties and has an abiding interest in developing goodwill, friendship, and economic relations between the people of Hawaii and the people of Asian and Pacific countries; and

Whereas, as part of its effort to achieve this goal, Hawaii has established a number of sister-state agreements with provinces on the Pacific region; and

Whereas, because of the historical relationship between the United States of America and the Republic of the Philippines, there continue to exist valid reasons to promote international friendship and understanding for the mutual benefit of both countries to achieve lasting peace and prosperity as it serves the common interests of both countries; and

Whereas, there are historical precedents exemplifying the common desire to maintain a close cultural, commercial, and financial bridge between ethnic Filipinos living in Hawaii with their relatives, friends, and business counterparts in the Philippines, such as the previously established sister-city relationship between the City and County of Honolulu and the City of Cebu in the Province of Cebu; and

Whereas, similar state-province relationship exist between the State of Hawaii and the Provinces of Cebu and Ilocos Sur, whereby cooperation and communication have served to establish exchanges in the areas of business, trade, agriculture and industry, tourism, sports, health care, social welfare, and other fields of human endeavor; and

Whereas, a similar sister-state relationship would reinforce and cement this common bridge for understanding and mutual assistance between ethnic Filipinos of both the State of Hawaii and the Province of Ilocos Norte; and

Whereas, there is an existing relationship between the Province of Ilocos Norte and the State of Hawaii because several notable citizens of Hawaii can trace their roots or have immigrated from the Province of Ilocos Norte, including the city of Laoag; now, therefore,

Be it resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, the Senate concurring, That Governor Linda Lingle of the State of Hawaii, or her designee, be authorized and is requested to take all necessary actions to establish a state-province affiliation with the Province of Ilocos Norte in the Republic of the Philippines; and

Be it further resolved, That the Governor or her designee is requested to keep the Legislature of the State of Hawaii fully informed of the process in establishing the relationship, and involved in its formalization to the extent practicable; and

Be it further resolved, That the Province of Ilocos Norte be afforded the privileges and honors that Hawaii extends to its sister-states and provinces;

Be it further resolved, That this state-province relationship shall continue until July 1, 2008; and

Be it further resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Governor of the State of Hawaii, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's Congressional delegation, the President of the Republic of the Philippines through its Honolulu Consulate General, and the Governor and Provincial Board of the Province of Ilocos Norte, Republic of the Philippines.

POM–134. A concurrent resolution adopted by the Legislature of the State of Hawaii relative to fully funding the Millennium Challenge Account; to the Committee on Foreign Relations.

House Concurrent Resolution No. 28

Whereas, in September 2000, the United Nations General Assembly adopted the United Nations Millennium Declaration, a resolution establishing international development goals to reduce poverty and improve lives, now known as the Millennium Development Goals; and

Whereas, members of the United Nations, including the United States, pledged to meet established benchmark for the Millennium Development Goals by 2015 to:

(1) Reduce by fifty per cent the proportion of people living in extreme poverty and suffering from hunger;

(2) Achieve universal primary education by ensuring that all boys and girls complete primary school;

(3) Promote gender equality and empower women by eliminating disparities in primary and secondary education at all levels;

(4) Reduce child mortality by two-thirds among children under five years old;

(5) Improve maternal health by reducing the ratio of women's death during childbirth by seventy-five per cent;

(6) Combat HIV/AIDS, malaria, and other diseases by reversing the spread of HIV/AIDS, malaria, and other major diseases;

Whereas, it is critical that initiatives and programs funding through the Millennium Challenge Account include activities that enable women to play active roles in the economic and civic activities of their countries; now, therefore,

Be it resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, the Senate concurring, That the United States Congress is urged to fully fund the Millennium Challenge Account to enable poor and hungry people around the globe become self-reliant; and

Be it further resolved, That as the Millennium Challenge Account is implemented, it is crucial that our leaders understand and require that women be involved in all phases of establishment and implementation of programs funded to achieve the Millennium Development goals; and

Be it further resolved, That adequate funding and meaningful participation of women and girls are essential for successful development assistance programs in poor nations; and

Be it further resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's congressional delegation.

POM–135. A concurrent resolution adopted by the Legislature of the State of Hawaii relative to the establishment of State-Province relations between the State of Hawaii of the United States and the Province of Thua Thien-Hue of the Socialist Republic of Vietnam; to the Committee on Foreign Relations.

House Resolution

Whereas, the State of Hawaii is actively seeking to expand its international ties and has an abiding interest in developing goodwill, friendship, and economic relations between the people of Hawaii and the people of Asian and Pacific countries; and

Whereas, as part of its effort to achieve this goal, the State has established a number of sister-state agreements with provinces in the Pacific region; and

Whereas, because of the historical relationship between the United States of America and the Socialist Republic of Vietnam, there are compelling reasons to promote international friendship and understanding for the mutual benefit of both countries to achieve lasting peace and prosperity, as it serves the common interests of both countries; and

Whereas, there are historical precedents exemplifying the common desire to maintain a close cultural, commercial, and financial bridge between ethnic Vietnamese living in Hawaii with their relatives, friends, and business counterparts in Vietnam, such as the previously established sister-city relationship between the City and County of Honolulu and the city of Hue, which is the capital of the Province of Thua Thien-Hue; and

Whereas, a similar state-province relationship between the State and the Province of Thua Thien-Hue, whereby exchanges and cooperation could be established in the areas of business, trade, agriculture, environmentally and culturally sensitive tourism, sports, public health, education, economic development and humanitarian assistance would reinforce and cement this common bridge of understanding and mutual assistance between the ethnic Vietnamese of both the State and the Province of Thua Thien-Hue; and

Whereas, the Province of Thua Thien-Hue, like Hawaii, has an agricultural economy that is based upon sugar cane, fruits, and flowers, and aquaculture crops, such as shrimp; and

Whereas, the city of Hue, capital of the Province of Thua Thien-Hue has been designated as a World Heritage Site by the United Nations Educational, Scientific, and Cultural Organization because its cultural and natural properties are considered to be of outstanding universal value and must be protected; and

Whereas, the Province of Thua Thien-Hue's unique cultural and historical significance and natural beauty are important resources on which to base an environmentally and culturally sensitive tourism industry; and

Whereas, Hawaii's long experience and expertise in tourism, agriculture, and aquaculture could be shared with the Province of Thua Thien-Hue; now, therefore, Be it resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, That the Governor of the State of Hawaii or her designee is requested to take all necessary actions to establish a sister-state affiliation with the Province of Thua Thien-Hue in the Socialist Republic of Vietnam; and

Be it further resolved, That the Governor is requested to keep the Legislature fully apprised of any progress made in establishing the relationship in order that the Legislature may be involved in its formalization to the extent practicable; and

Be it further resolved, That the Province of Thua Thien-Hue be afforded the privileges and honors to which Hawaii extends to its other sister-states and provinces; and

Be it further resolved, That certified copies of this Resolution be transmitted to the President of the United States through the Secretary of State, the Governor of the State of Hawaii, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's congressional delegation, the President of the Socialist Republic of Vietnam through its San Francisco Consulate General, the Governor of the Province of Thua Thien-Hue, Socialist Republic of Vietnam, and the Director of Business, Economic Development, and Tourism.

POM-136. A resolution adopted by the House of the Legislature of the State of Hawaii relative to fully funding the Millennium Challenge Account; to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 33

Whereas, in September 2000, the United Nations General Assembly adopted the United Nations Millennium Declaration, a resolution establishing international development goals to reduce poverty and improve lives, now known as the Millennium Development Goals; and

Whereas, members of the United Nations, including the United States, pledged to meet established benchmarks for the Millennium Development Goals by 2015 to:

(1) Reduce by fifty percent the proportion of people living in extreme poverty and suffering from hunger;

(2) Achieve universal primary education by ensuring that all boys and girls complete primary school;

(3) Promote gender equality and empower women by eliminating disparities in primary and secondary education at all levels;

(4) Reduce child mortality by two-thirds among children under five years old;

(5) Improve maternal health by reducing the ratio of women's death during childbirth by seventy-five per cent;

(6) Combat HIV/AIDS, malaria, and other diseases by reversing the spread of HIV/AIDS, malaria, and other major diseases;

(7) Ensure environmental sustainability by introducing sustainable development principles to: reverse the loss of environmental resources; increase access to safe drinking water; and achieve significant improvements in the lives of at least one hundred million slum dwellers; and

(8) Develop a global partnership for development through reform of the trading system and financial system to allow poor nations to sell goods at fair prices to obtain financial resources to create stable economies and eliminate poverty; aiding to the special needs of least developed countries; addressing debt problems of developing countries; creating productive work for youth; increase access to affordable drugs; and make benefits of new technologies available; and

Whereas, in March 2002, President George W. Bush unveiled the Millennium Challenge Account, a plan to increase significantly development assistance to poor, developing countries by an additional $10,000,000,000 in foreign assistance over fiscal years 2004–2006, ultimately doubling United States poverty-focused assistance when fully implemented; and

Whereas, initiatives to be funded through the Millennium Challenge Account have the potential to improve the nutrition, health care, education, and drinking water for millions of people in poor nations only if the Millennium Challenge Account is fully funded by Congress; and

Whereas, although studies uniformly report that the most effective use of international aid is the investment in women, the reports also indicate that women do not benefit from international development efforts unless they are included in all aspects of a development initiative from its beginning; and

Whereas, the involvement of women in any economic growth plan is critical because women and girls are more than half of the world's population and represent significantly more than half of the population in areas particularly devastated by prolonged conflict like Afghanistan; and

Whereas, it is critical that initiatives and programs funded through the Millennium Challenge Account include activities that enable women to play active roles in the economic and civic activities of their countries; now, therefore,

Be it resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, That the United States Congress is urged to fully fund the Millennium Challenge Account to enable poor and hungry people around the globe become self-reliant; and

Be it further resolved, That as the Millennium Challenge Account is implemented, it is crucial that our leaders understand and require that women be involved in all phases of establishment and implementation of programs funded to achieve the Millennium Development goals; and

Be it further resolved, That adequate funding and meaningful participation of women and girls are essential for successful development assistance programs in poor nations; and

Be it further resolved, That certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's congressional delegation.

POM—137. A resolution adopted by the House of the Legislature of the State of Hawaii relative to International Women's Day; to the Committee on Foreign Relations.

Whereas, International Women's Day, celebrated throughout the world on March 8, is a time to: reflect on the status of women in the United States and around the world; assess progress made and remaining challenges; and recommit to women's human rights and the full empowerment of the world's women as the basis for truly sustainable social, economic, and political development of nations and communities; and

Whereas, 228,000,000 women are in need of effective contraceptive methods; and

Whereas, a woman dies every minute as a result of pregnancy and childbirth-related causes (approximately five hundred thousand women a year) and for every woman who dies, thirty other women are injured or disabled; and

Whereas, between seven hundred thousand and four million people—mainly women and children—are trafficked annually across international borders for sexual exploitation and forced labor; and

Whereas, fifty thousand to one hundred thousand women and girls are trafficked annually for sexual exploitation into the United States; and

Whereas, HIV/AIDS is a women's epidemic worldwide—with 19,200,000 women worldwide currently living with HIV/AIDS and 1,200,000 women dying of AIDS in 2002; and

Whereas, for the last several years, HIV/AIDS has been the fifth leading cause of death for women ages twenty-five to forty-four in the United States and the third leading cause of death for African American women in this same age group; and

Whereas, gender-based violence against women—including prenatal sex selection, female infanticide, sexual abuse, female genital mutilation, school and workplace sexual harassment, sexual trafficking and exploitation, prostitution, dowry-killings, domestic violence, battering, and marital rape—causes more death and disability among women in the fifteen to forty-four age group than cancer, malaria, traffic accidents, and even war; and

Whereas, approximately 4,800,000 rapes and physical assaults are perpetrated annually against women in the United States; and

Whereas, women in many countries lack rights to own land and inherit property, obtain credit, attend and stay in school, earn income, work free from job discrimination, and have access to services that meet their sexual and reproductive health needs; and

Whereas, 2,100,000,000 women around the globe live on less than two dollars a day, and women in the United States earn seventy-three cents on average for every dollar earned by men; and

Whereas, two-thirds of the 960,000,000 illiterate adults in the world are women and two-thirds of the 130,000,000 children not enrolled in primary school are girls; now, therefore,

Be it resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, That this body urges the United States Senate to demonstrate our nation's commitment to human rights by ratifying the Convention on the Elimination of All Forms of Discrimination Against Women, joining one hundred seventy other nations in endorsing the most comprehensive treaty ensuring the fundamental human rights and equality of women; and

Be it further resolved, That the United States Congress is urged to affirm women's fundamental right to reproductive health, including the ability to choose the number of children they will have and the timing of their births, by funding high quality, voluntary family planning and reproductive health services that enable women to exercise this right; and

Be it further resolved, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and members of Hawaii's congressional delegation.

POM-138. A resolution adopted by the House of the Legislature of the State of Hawaii relative to the Global Gag Rule imposed on International Family Planning Organizations; to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 34

Whereas, approximately 120 million couples in the third world lack access to modern contraception; and

Whereas, the United States provides family planning assistance funds to non-governmental organizations in fifty-nine countries; and

Whereas, these nations have a right to inform their own people about legal family planning options and to discuss changes in their family planning laws, in order to form their own policy and development, without interference by the United States; and

Whereas, the United States has interfered with these non-governmental organizations through the "global gag rule," by which the United States refuses to fund non-governmental organizations that provide legal abortion services, lobby their own governments for abortion law reform, or even provide accurate medical counseling or referrals regarding abortion, even if no United States money is used for those purposes; and

Whereas, in almost sixty per cent of these countries, abortion in some form is legal, yet the global gag rule prevents their non-governmental organizations from discussing the option of performing abortions, even if this is done with the non-governmental organizations' own funds and not with any United States funds; and

Whereas, in the countries where abortion is not legal, the global gag rule prevents the non-governmental organizations from speaking publicly about these issues to foster informed debate on abortion, even if this free speech is done with the non-governmental organizations' own funds; and

Whereas, in rural areas, often these non-governmental organizations are the only health care providers, so restricting their funding affects the health of all people in the community and forces the non-governmental organizations to make an immoral choice: either give up desperately needed funds for family planning services, or give up their right to free speech and to provide their patients with full and accurate medical information; and

Whereas, the "global gag rule" process hurts good family-planning work that has little to do with the rights of an unborn child, as these family planning services address other health problems such as sexually transmitted diseases, which indirectly helps with economic stability in developing countries; and

Whereas, through the global gag rule, the United States government not only stifles free speech, but affirmatively discriminates against viewpoints it does not like, something that would be unconstitutional in its own country; and

Whereas, this gag rule was created by execution order of President Reagan in 1984; and

Whereas, President Clinton canceled the gag order in 1993, but reluctantly restored it for one year in 1999 in exchange for the Republicans in Congress agreeing to pay the United States' back dues to the United Nations; and

Whereas, President Bush reimposed the global gag rule by executive order in January 2001 and reaffirmed his opposition to reproductive rights in his state of the union address; and

Whereas, the gag order is consistent with the United States administration's recent announcement at an international conference that they support the "rhythm method" of contraception; and

Whereas, the global gag rule: undermines the human right to free speech, a right so vigorously championed by our government that it is part of our constitution; undercuts our foreign policy; and damages women's reproductive health; and

Whereas, this misguided policy would be illegal were it to be imposed in our own country, and it is unconscionable for the United States to force it on other countries; jeopardizing the health of millions of women and children; and

Whereas, the Legislature has already demonstrated its support for women's rights in the family context when it adopted House Resolution No. 15 during the 1999 Regular Session entitled "Urging the United States Senate to Ratify the United Nations Convention on the Elimination of All Forms of Discrimination Against Women"; and

Whereas, legislation is pending in Congress to remove the global gag rule and permit the non-governmental organizations to provide appropriate and legal family planning service and information in their home countries; now, therefore,

Be it resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, That the United States Congress is hereby urged to support a ban on the global gag rule; and

Be it further resolved, That certified copies of this Resolution be transmitted to the President of the United States, Speaker of the United States House of Representatives, the President of the United States Senate, and the members of Hawaii's congressional delegation.

POM–139. A joint resolution adopted by the Legislature of the State of Washington relative to the Federal Energy Regulatory Commission; to the Committee on Energy and Natural Resources.

Whereas, The Federal Energy Regulatory Commission proposal establishing a standard market design (SMD) for electricity proceeds from the premise that a single market model will work for the entire nation, as a result it would fundamentally change the way the transmission system is operated, expand the Commission's authority in state decisions regarding resource adequacy and demand response, and dismantle the regional benefits derived from public power; and

Whereas, Washington state has a comprehensive electricity policy, which encourages efficiency while reflecting our unique resource base; and

Whereas, The Northwest electricity system is different from most of the rest of the nation, including substantial differences in the transmission ownership, a hydro-based system where the amount of energy generated is limited by the amount of water in the rivers and behind the dams, complex legal arrangements for multiple uses of the water to meet diverse goals (power, irrigation, fisheries, recreation, and treaty obligations), and a hydro-based system that requires substantial coordination among plant owners and utilities, rather than the competitive market-based structure the SMD promotes; and

Whereas, The Northwest electricity system has produced affordable, cost-based rates and reliable service for our region; and

Whereas, Deregulation broke up traditional regulated utilities in order to create trading markets with the promise of lower costs, more consumer choice, more reliability, and fewer government bailouts. It in fact produced higher prices, more manipulation of consumers, volatility, brownouts, and bailouts running into the tens of billions; and

Whereas, The SMD would harm consumers in our region through increased costs and decreased reliability;

Now, therefore, Your Memorialists respectfully pray that the Federal Energy Regulatory Commission leave the Northwest electricity system in place and withdraw the Notice of Proposed Rulemaking establishing a Standard Market Design (SMD) for electricity; and

Your Memorialists further pray that in the event that the Federal Energy Regulatory Commission does not withdraw its proposal, the President and Congress take action to prevent the Federal Energy Regulatory Commission from proceeding with their proposal.

Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the Honorable Spencer Abraham, the Secretary of the United States Department of Energy, the Members of the Federal Energy Regulatory Commission, Chairman Patrick Wood, III, Commissioner Nora M. Brownell, and Commissioner William L. Massey, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM–140. A resolution adopted by the Legislature of the State of Washington relative to the Federal Energy Regulatory Commission; to the Committee on Energy and Natural Resources.

SENATE JOINT MEMORIAL 8012

Whereas, The Federal Energy Regulatory Commission recently proposed a new pricing policy for the rates of transmission owners that transfer operational control of their transmission facilities to a Regional Transmission Organization. (RTO), form independent transmission companies within RTOs, or pursue additional measures that promote efficient operation and expansion of the transmission grid; and

Whereas, The proposed policy would create rate incentives based on an unproven theory that it will improve grid performance, reduce wholesale transmission and transactions costs, improve electric reliability, and make electric wholesale competition more effective; and

Whereas, The proposal offers a single model for the entire nation and fails to recognize regional differences in electricity generation and transmission or the benefits derived from public power; and

Whereas, Washington state has a comprehensive electricity policy, which encourages efficiency while reflecting our unique resource base; and

Whereas, The Northwest electricity system is different from most of the rest of the nation and has produced affordable, cost-based rates and reliable service for our region; and

Whereas, We believe the proposed pricing incentives would harm consumers in our region through increased costs without any positive cost-benefit analysis; and

Whereas, We believe the proposed pricing incentives will harm the investment climate for new electricity infrastructure in the region due to the Commission's inability to ensure delivery of the promised incentives, and because the incentives first apply to existing transmission and second to new investment, but only if a utility is a member of an RTO; and

Whereas, We believe the proposed pricing incentives will make more difficult the formation of any new regional transmission organization that is, in fact, well-designed to fit Northwest regional circumstances because the generic incentive is a new cost that outweigh any benefits of such an organization;

Now, therefore, Your Memorialists respectfully pray that the Federal Energy Regulatory Commission leave the Northwest electricity system in place and withdraw its proposed new pricing policy for the rates of transmission owners until such time as a cost-benefit analysis is completed that indicates a positive benefit from Northwest consumers, and the region expresses its desire to form a new transmission organizations; and

Your Memorialists further pray that in the event that the Federal Energy Regulatory Commission does not withdraw its proposal, the President and Congress take action to prevent the Federal Energy Regulatory Commission from proceeding with their proposal.

Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the Honorable Spencer Abraham, the Secretary of the United States Department of Energy, the Members of the Federal Energy Regulatory Commission, Chairman Patrick Wood, III, Commissioner Nora M. Brownell, and Commissioner William L. Massey, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM–141. A concurrent resolution adopted by the Legislature of the State of Michigan relative to fuel cell research projects; to the Committee on Energy and Natural Resources.

SENATE CONCURRENT RESOLUTION NO. 14

Whereas, In his State of the Union address, President Bush identified fuel cell research as a national priority. While this move holds great significance for our entire country, the urgency for developing a new energy source is most acutely understood in Michigan; and

Whereas, Through the resources of the automotive industry, smaller companies across our state, and university research being conducted at numerous locales, the drive to develop the fuel cell as the next generation energy source has been in high gear in Michigan for many years. The human and technological resources Michigan has as the home of the auto industry indicates both our state's capacity for fuel cell research and its stake in advancing the next generation of energy. Michigan's efforts include innovative approaches to virtually all aspects of the infrastructure necessary to develop fuel cells, including work on the storage and transportation of hydrogen; and

Whereas, In addition to well-known efforts within the auto industry, Michigan is also the site of research seeking to develop fuel cell applications for homes and businesses. Michigan businesses are working closely with university researchers on these projects; and

Whereas, Michigan has made a significant commitment to encouraging enterprise in the field of emerging energy development. The Ninety-first Legislature enacted the "NextEnergy" package of legislation to promote energy research, especially fuel cell technology. These acts created a series of tax credits, exemptions, and deductions for businesses working on alternative energy technologies, in addition to providing for alternative energy zones to spur investment. The Next Energy Authority created in the Department of Management and Budget reflects the depth of the state's commitment. Clearly, Michigan is uniquely suited for research devoted to establishing a hydrogen-based means of generating energy for our cars, homes, and businesses; now, therefore, be it

Resolved by the Senate (the House of Representative concurring), That we memorialize the President and Congress of the United States to pursue and support fuel cell research projects in Michigan; and be it further

Resolved, That copies of this resolution be transmitted to the Office of the President of the United states, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–142. A joint resolution adopted by the Senate of the Legislature of the State of Montana relative to Arctic National Wildlife Refuge; to the Committee on Energy and Natural Resources.

SENATE JOINT RESOLUTION NO. 22

Whereas, stable, affordable energy is vital to the economy and security of the people of the State of Montana and the United States of America; and

Whereas, the United States has become increasingly dependent on foreign supplies of crude oil to meet our energy needs and is now importing more than 55% of the nation's crude oil needs; and

Whereas, dependence on imports is rising and could exceed 65% by the year 2020 due to growth in demand and falling production; and

Whereas, the recent events in Venezuela and other international problems have caused uncertainty in the commodities markets about the future supply of oil; and

Whereas, these among other factors have resulted in an increase in the price of crude oil to over $33 per barrel and, with crude oil costs being the largest component of the retail price of petroleum products, has resulted in a significant increase in the national average price of gasoline and has similarly increased the price of other petroleum products vital to the economy of the United States and the lives of its citizens; and

Whereas, the U.S. Department of Energy estimates the Coastal Plain of the Arctic National Wildlife Refuge (ANWR) contains between 5.7 and 16 billion barrels of recoverable oil; and

Whereas, production from the Coastal Plain of ANWR could produce up to 1.5 million barrels of oil per day for at least 25 years, which is comparable to the volumes the United States is expected to import from Iraq for the next 25 years and which represents nearly 25% of current daily U.S. production, and could save $14 billion dollars per year in oil imports; and

Whereas, ANWR consists of 19 million acres, of which 8 million are classified as wilderness, 9.5 million are designated as national refuge lands, and 8% or 1.5 million acres comprise the Coastal Plain for which the potential for oil and gas production was acknowledged by Congress in the Alaska National Interest Lands Conservation Act of 1980; and

Whereas, oil and natural gas development and wildlife are successfully coexisting and advanced technology has greatly reduced the "footprint" of Arctic oil development; and

Whereas, the Alaska State AFL–CIO and the Alaska Federation of Natives support responsible oil and gas development on the Coastal Plain of ANWR; and

Whereas, environmentally responsible exploration, development, and production of oil on the Coastal Plain of ANWR will provide incomes to federal and state governments and general jobs and business opportunities for residents in all 50 states; and

Whereas, the people of Montana, while in general and qualified support of continued development of fossil fuels, recognize that further development of fossil fuels addresses the short-term needs of our nation's energy independence; and

Whereas, the people of Montana agree with the comments of President Bush during the 2003 State of the Union Address that the development of alternative energy sources, which would make America truly independent, is the preferred path for our country; and

Whereas, the people of Montana recognize that development of alternative energy sources, including solar, hydrogen, wind, fuel cell, ethanol, and biodiesel fuels, constitutes a preferred alternative to long-term energy development; and

Whereas, people of Montana understand that development of certain alternative energy sources, such as ethanol and biodiesel fuel, would enhance the economic and agricultural base of our great state; and

Whereas, people of Montana further acknowledge that the efficient use of our existing energy resources in a critical and strategic priority in order to ensure our energy independence; and

Whereas, America has demonstrated the ability to dramatically reduce the energy consumption in past times of national crisis through fuel efficiency standards for automobiles, installation of industrial efficiency measures, and a conservation ethic among consumers.

Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

(1) That the Congress of the United States be urged to take action to stabilize domestic crude oil supplies through facilitating additional production, to decrease our nation's need for foreign oil from undependable sources, to increase federal and state revenue from oil and gas leasing, and, subject to prioritizing those efforts described in subsection (2), to support the economy through addition of good paying jobs by opening the Coastal Plain of the Arctic National Wildlife Refuge to oil and gas leasing and environmentally responsible exploration, development, and production of the petroleum reserved.

(2) That the Congress of the United States be urged to:

(a) increase support for development of new sources of renewable energy, such as biofuels (including biodiesel and ethanol), wind, and solar:

(b) pursue development and use of fuel efficient vehicles and development of new technologies such as fuel cells and other potential applications of emerging hydrogen technology; and

(c) develop programs and standards to encourage efficient use of existing resources in transportation, industrial and commercial processes, and consumer end uses.

Be it further resolved, That the Secretary of State send copies of this resolution to the Governor, the Montana Congressional Delegation, the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, and the U.S. Secretary of the Interior.

POM—143. A resolution adopted by the Legislature of the State of Alaska relative to the Arctic National Wildlife Refuge; to the Committee on Energy and Natural Resources.

LEGISLATIVE RESOLVE NO. 4

Whereas, in sec. 1002 of the Alaska National Interest Lands Conservation Act (ANILCA) the United States Congress reserved the right to permit further oil and gas exploration, development, and production within the coastal plain of the Arctic National Wildlife Refuge, Alaska; and

Whereas the oil industry, the state, the United States Department of the Interior consider the coastal plain to have the highest potential for discovery of very large oil and gas accumulations on the continent of North America, estimated to be as much as 10,000,000,000 barrels of recoverable oil; and

Whereas the "1002 study area" is part of the coastal plain located within the North Slope Borough, and residents of the North Slope Borough, who are predominantly Inupiat Eskimo, are supportive of development in the "1002 study area"; and

Whereas oil and gas exploration and development of the coastal plain of the refuge and adjacent land could result in major discoveries that would reduce our nation's future need for imported oil, help balance the nation's trade deficit, and significantly increase the nation's security; and

Whereas domestic demand for oil continues to rise while domestic crude production continues to fall with the result that the United States imports additional oil from foreign sources; and

Whereas development of oil at Prudhoe Bay, Kuparuk, Endicott, Lisburne, and Milne Point has resulted in thousands of jobs throughout the United States, and projected job creation as a result of coastal plain oil development will have a positive effect in all 50 states; and

Whereas Prudhoe Bay production is declining by approximately 10 percent a year; and

Whereas, while new oil field developments on the North Slope of Alaska, such as Alpine, Badami, and West Sak, may slow or temporarily stop the decline in production, only giant coastal plain fields have the theoretical capability of increasing the production volume of Alaska oil to a significant degree; and

Whereas opening the coastal plain of the Arctic National Wildlife Refuge now allows sufficient time for planning environmental safeguards, development, and national security review; and

Whereas the 1,500,000-acre coastal plain of the refuge makes up only eight percent of the 19,000,000-acre refuge, and the development of the oil and gas reserves in the refuge's coastal plain would affect an area of 2,000 to 7,000 acres, which is less than one-half of one percent of the area of the coastal plain; and

Whereas 8,000,000 of the 19,000,000 acres of the refuge have already been set aside as wilderness; and

Whereas the oil industry has shown at Prudhoe Bay, as well as at other locations along the Arctic coastal plain, that it can safely conduct oil and gas activity without adversely affecting the environment or wildlife populations; and

Whereas the state will ensure the continued health and productivity of the Porcupine Caribou herd and the protection of land, water, and wildlife resources during the exploration and development of the coastal plain of the Arctic National Wildlife Refuge, Alaska; and

Whereas the oil industry is using innovative technology and environmental practices in the new field developments at Alpine and Northstar, and those techniques are directly applicable to operating on the coastal plain and would enhance environmental protection beyond traditionally high standards;

Be it resolved by the Alaska State Legislature, That the Congress of the United States is urged to pass legislation to open the coastal plain of the Arctic National Wildlife Refuge, Alaska, to oil and gas exploration, development, and production, and that the Alaska State Legislature is adamantly opposed to further wilderness or other restrictive designation in the areas of the coastal plain of the Arctic National Wildlife Refuge, Alaska; and be it

Further resolved, That that activity be conducted in a manner that protects the environment and the naturally occurring population levels of the Porcupine Caribou herd, and that uses the state's work force to the maximum extent possible; and be it

Further resolved, That the Alaska State Legislature opposes any unilateral reduction in royalty revenue from exploration and development of the coastal plain of the Arctic National Wildlife Refuge, Alaska, and any attempt to coerce the State of Alaska into accepting less than the 90 percent of the oil, gas, and mineral royalties from the federal lands in Alaska that was promised to the state at statehood.

Copies of this resolution shall be sent to the Honorable George W. Bush, President of the United States; the Honorable Richard B. Cheney, Vice-President of the United States and President of the U.S. Senate; the Honorable Gale Norton, United States Secretary of the Interior; the Honorable J. Dennis Hastert, Speaker of the U.S. House of Representatives; the Honorable Bill Frist, Majority Leader of the U.S. Senate; the Honorable Ted Stevens and the Honorable Lisa Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and to all other members the U.S. Senate and the U.S. House of Representatives serving in the 108th United States Congress.

POM–144. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to the fuel cell research; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION NO. 17

Whereas, In his State of the Union address, President Bush identified fuel cell research as a national priority. While this move holds great significance for our entire country, the urgency for developing a new energy source is most acutely understood in Michigan; and

Whereas, Through the resources of the automotive industry, smaller companies across our state, and university research being conducted at numerous locales, the drive to develop the fuel cell as the next generation energy source has been in high gear in Michigan for many years. The human and technological resources Michigan has as the home of the auto industry indicates both our state's capacity for fuel cell research and its stake in advancing the next generation of energy. Michigan's efforts include innovative approaches to virtually all aspects of the infrastructure necessary to develop fuel cells, including work on the storage and transportation of hydrogen; and

Whereas, In addition to well-known efforts within the auto industry, Michigan is also the site of research seeking to develop fuel cell applications for homes and businesses. Michigan businesses are working closely with university researchers on these projects; and

Whereas, Michigan has made a significant commitment to encouraging enterprise in the field of emerging energy development. The Ninety-first Legislature enacted the "NextEnergy" package of legislation to promote energy research, especially fuel cell technology. These acts created a series of tax credits, exemptions, and deductions for businesses working on alternative energy technologies, in addition to providing for alternative energy zones to spur investment. The Next Energy Authority created in the Department of Management and Budget reflects the depth of the state's commitment. Clearly, Michigan is uniquely suited for research devoted to establishing a hydrogen-based means of generating energy for our cars, homes, and businesses; now, therefore, be it

Resolved by the Senate, That we memorialize the President and Congress of the United States to pursue and support fuel cell research projects in Michigan; and be it further

Resolved, That copies of this resolution be transmitted to the Office of the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–145. A resolution adopted by the Senate of the Legislature of the State of Kansas relative to the F/A–22 Raptor; to the Committee on Armed Services.

SENATE RESOLUTION NO. 1871

Whereas, The Kansas Senate is pleased to join citizens across our great state, our nation, and the world in congratulating our troops on their recent victory in Iraq, as well as the hard working men and women across our state who design and assemble essential equipment and weaponry for our military; and

Whereas, Air dominance has become a signature of our armed forces and a determining factor when our military is drawn into combat throughout the world; and

Whereas, Kansas's defense and aerospace industry invests millions of dollars and employs thousands of highly skilled workers in Kansas; and

Whereas, Defense and aerospace companies in Kansas provide our military with cutting edge technological components that are used to assemble vital military products, like the United States Air Force's new generation fighter, the Lockheed Martin F/A–22 Raptor; and

Whereas, Projects like the F/A–22 Raptor will bring more than $32 million dollars to the Kansas economy while providing thousands of Kansans with high quality jobs, thus stimulating the aerospace industry in the state; and

Whereas, The State of Kansas has a tradition of constructing both commercial and military aviation products and is the home of important components of our military's air capabilities, such as the 22nd Air Refueling Wing, as well as dedicated soldiers, sailors, marines and airmen flying and maintaining those aircraft at bases across the country: Now, therefore, be it

Resolved by the Senate of the State of Kansas, That the members of this body recognize that the F/A–22 Raptor is critical to the Kansas economy and that the members of this body implore the Congress of the United States to fully fund the F/A–22 program, thus providing our military heroes with the vital resources they need and invigorating our economy; and be it further

Resolved, That the Secretary of the Senate be directed to send enrolled copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Kansas legislative delegation.

POM–146. A resolution by the Legislature of the State of Arizona relative to weapons of mass destruction; to the Committee on Armed Services.

SENATE CONCURRENT RESOLUTION 1021

Whereas, the people of the State of Arizona view with growing concern the proliferation of nuclear, chemical and biological weapons of mass destruction and the missile delivery capabilities of these weapons in the hands of unstable foreign regimes; and

Whereas, the tragedy of September 11, 2001 shows that America is vulnerable to attack by foreign enemies; and

Whereas, the people of the State of Arizona wish to affirm their support of the United States government in taking all actions necessary to protect the people of America and future generations from attacks by missiles capable of causing mass destruction and loss of American lives: therefore, be it *resolved by the senate of the State of Arizona*, the house of representatives concurring:

1. That the Members of the Legislature support the President of the United States in directing the considerable scientific and technological capabilities of this nation and in taking all actions necessary to protect the states and their citizens, our allies and our armed forces abroad from the threat of missile attack.
2. That the Members of the Legislature convey to the President and Congress of the United States that a coast-to-coast, effective missile defense system will require the deployment of a robust, multi-layered architecture consisting of integrated land-based, sea-based and space-based capabilities to deter evolving future threats from missiles as weapons of mass destruction and to meet and destroy them when necessary.
3. That the Members of the Legislature appeal to the President and Congress of the United States to plan and fund a missile defense system beyond 2005 that would consolidate technological advancement and expansion from current limited applications.
4. That the Secretary of State of the State of Arizona transmit copies of this Resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each member of Congress from the State of Arizona.

POM–147. A resolution adopted by the House of the Legislature of the State of Kansas relative to the F/A–22 Raptor; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 6027

Whereas, The Kansas House of Representatives is pleased to join citizens across our great state, our nation, and the world in congratulating our troops on their recent victory in Iraq, as well as the hard working men and women across our state who design and assemble essential equipment and weaponry for our military; and

Whereas, Air dominance has become a signature of our armed forces and a determining factor when our military is drawn into combat throughout the world; and

Whereas, Kansas' defense and aerospace industry invests millions of dollars and employs thousands of highly skilled workers in Kansas; and

Whereas, Defense and aerospace companies in Kansas provide our military with cutting edge technological components that are used to assemble vital military products, like the United States Air Force's new generation fighter, the Lockheed Martin F/A–22 Raptor; and

Whereas, Projects like the F/A–22 Raptor will bring more than $32 million dollars to the Kansas economy while providing thousands of Kansans with high quality jobs, thus stimulating the aerospace industry in the state; and

Whereas, The State of Kansas has a tradition of constructing both commercial and military aviation products and is the home of important components of our military's air capabilities, such as the 22nd Air Refueling Wing, as well as dedicated soldiers, sailors, marines and airmen flying and maintaining those aircraft at bases across the country: Now, therefore,

Be it resolved by the house of representatives of the State of Kansas, That the members of this body recognize that the F/A–22 Raptor is critical to the Kansas economy and that the members of this body implore the Congress of the United States to fully fund the F/A–22 program, thus providing our military heroes with the vital resources they need and invigorating our economy; and

Be it further resolved, That the Chief Clerk of the house of representatives be directed to send enrolled copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Kansas legislative delegation.

POM–148. A resolution adopted by the House of the Legislature of the Commonwealth of Virginia relative to missile defense programs; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 40

Whereas, Virginia, the Old Dominion, located in the upper South region of the United States and populated by more than 7,000,000 persons, is noted for its contribution to the founding of the United States through leadership and political thought, maintains distinguished centers of higher education and research, is the site of advanced information and defense technology, is the center of national naval force concentration, and is the foremost shipbuilder on its coast, while possessing natural endowments of mountains and forests on its western limits and agriculture on its southern tier; and

Whereas, the people of Virginia are conscious of these assets of the Old Dominion and desire a favorable future for their children and future generations; and

Whereas, Virginia provided leadership in the Revolutionary War, was the location of the surrender of Great Britain that ended it, and has contributed notably to national defense through its citizenry both in the military and industry ever since; and

Whereas, the people of Virginia are aware of the global proliferation of short-range, medium-range, and long-range ballistic missiles as weapons of mass destruction and their threat to our nation, our allies, and our armed forces abroad; and

Whereas, the United States does not possess an effective defense against such missiles launched by hostile states, by terrorist organizations within the borders of such states, or from ships anywhere on the world's seas and oceans, including near the coastal cities of America; and

Whereas, the President of the United States has withdrawn from the treaty with the now-extinct Soviet Union that prohibited effective American self-defense against ballistic missile attack and has announced the deployment of a ground-based and sea-based limited missile defense system by the year 2005 as a beginning toward a robust system that will be multilayered, meaning land, sea, air, and space interception components; and

Whereas, short-range and medium-range ballistic missiles launched from ships off the East Coast of the United States would be outside the protective reach of the Pacific Ocean-based and Alaska-based system, and the population of Virginia's Tidewater, as well as the preponderant national naval presence located there, are now vulnerable and will be still vulnerable to such a missile attack with warheads of mass destruction after planned deployment in 2005 of missile defenses in Alaska and California; and

Whereas, missile defense interceptors based in Alaska and California may not be able to protect the population of Virginia's Tidewater and other East Coast areas from long-range ballistic missiles launched from threatening states in the Middle East and North Africa; and

Whereas, the United States Navy has demonstrated its capability to use ships that can be based in Virginia's Tidewater area to intercept short-range and medium-range ballistic missiles while they are rising from their launchers, which could be on nearby ships, and this capability can be improved to intercept long-range ballistic missiles; now, therefore, be it

Resolved, That the Virginia House of Delegates hereby urge the President of the United States to continue to take all actions necessary, directing the considerable scientific and technological capability of this great Union, to protect all 50 states and their people, our allies, and our armed forces abroad from the threat of missile attack; and, be it

Resolved further, That the Virginia House of Delegates hereby convey to the President of the United States and the United States Congress that an ocean-to-ocean, effective missile defense system will require the deployment of a robust, multilayered architecture consisting of integrated land-based, sea-based, air-based, and space-based capabilities to deter evolving future threats and to meet and destroy them when necessary; and

Resolved further, That the Virginia House of Delegates urge the President of the United States and the United States Congress to plan and provide funding for a Tidewater Virginia and East * * *

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POM–149. A concurrent resolution adopted by the Senate of the Legislature of the State of Michigan relative to homeland security; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 20

Whereas, As our country continues to put in place stronger defenses against terrorism through homeland security measures, a key component will be the establishment of regional headquarters for the United States Department of Homeland Security. The President has called for regional centers in his 2004 budget proposal; and

Whereas, In the Midwest, an excellent site for a regional headquarters is the Selfridge Air National Guard Base in Macomb County. The advantages this location offers range from low costs, unsurpassed strategic significance, and facilities that can provide for a swift and smooth transition to the responsibilities of homeland security work; and

Whereas, Located at the heart of the nation's freshwater network and near several of the busiest international points of entry along our northern border, Selfridge is well positioned to handle quickly any type of task to protect America's people, resources, and infrastructure. Clearly, this location offers opportunities for enhanced responsiveness to the challenges before us in safeguarding our nation in the years ahead; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we urge the United States Department of Homeland Security to locate its Midwestern headquarters at the Selfridge Air National Guard Base in Macomb County; and be it further

Resolved, That copies of this resolution be transmitted to the Secretary of the United States Department of Homeland Security, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–150. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to Medicare; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 52

Whereas, Mental health and emotional stability are key components of every person's overall health and well-being. The correlation between mental health and physical health is well established. However, there are numerous situations in which mental health and mental health services are considered far differently than physical maladies; and

Whereas, Under the current practices of our Medicare system, several types of mental health and counseling services are not covered. This omission is especially inappropriate in view of the fact that senior citizens often face more challenges to their emotional and mental well-being than other age groups. Senior citizens suffer from depression at higher rates than other age groups, for example; and

Whereas, Congress has before it a measure that would address this gap in Medicare coverage. The Seniors Mental Health Access Improvement Act, S. 310, would amend the Medicare system to provide for the coverage of marriage and family therapist services and mental health counselor services under Part B of Medicare. The impact of adding this coverage would be beneficial not only to countless individuals and families, but also to the Medicare system through the improved overall health it would encourage: Now, therefore, be it.

Resolved by the Senate, That we memorialize the Congress of the United States to enact legislation to include the services of licensed professional counselors and marriage and family therapists among services covered under Medicare; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delations.

POM–151. A resolution adopted by the town of New Castle of the State of New York relative to the Indian Point Nuclear Power Plants; to the Committee on Environment and Public Works

Whereas, the Town of New Castle seeks to ensure the public health and safety of those who live and/or work within the town, and

Whereas, the Town of New Castle has been coordinating efforts with the Westchester County Board of Legislators for the past three years to monitor the County's Emergency Evacuation Plan that would be put into effect in the event of a radiological incident at the Indian Point Nuclear Power Plants, and

Whereas, the Town of New Castle has supported the Westchester County Board of Legislators' efforts to obtain an independent, non-governmental assessment of the ability of the County's Emergency Evacuation Plan to achieve its goals to ensure public health and safety, and

Whereas, as a result of serious questions raised regarding the Westchester County's Emergency Evacuation Plan at the Indian Point Nuclear Power Plants, an independent, non-governmental assessment was made of the ability of Plan to achieve its goals of protecting public health and ensuring public safety, and

Whereas, under contract with the State of New York such as assessment has been made by James Lee Witt Associates, LLC and their finding included: (1) The plans are built on compliance with regulations, rather than a strategy that leads to structures and systems to protect from radiation exposure; (2) The plans appear based on the premise that people will comply with official government directions rather than acting in accordance with what they perceive to be their best interest; (3) The plans do not consider the possible additional ramifications of a terrorist caused release; (4) The plans do not consider the reality and impacts of spontaneous evacuation; and (5) Response exercises designed to test the plans are of limited use in identifying inadequacies and improving subsequent responses; and

Whereas, these deficiencies have, in turn, called into question the ability of the Plan to achieve the goals of protecting public health and ensuring public safety: Now therefore be it

Resolved, That security at the Indian Point Nuclear Power Plants needs to be placed under the control of the United States military and that this be done without further delay, and be it further

Resolved, That the New Castle Town Board calls upon the County, State and Federal Governments to immediately begin to implement those recommendations of the Witt Report relevant to their respective responsibilities in and for the Emergency Evacuation Plan, and be it further

Resolved, That the New Castle Town Board calls upon the County Executive or any other official and/or employee of the County of Westchester to not issue a radiological emergency preparedness activities form or any other official communication that would in any way state or imply that the Emergency Evacuation Plan as it currently exists is capable of achieving its goals of protecting public health and ensuring public safety in the event of a radiological incident, and be it further

Resolved, That the New Castle Town Board calls upon the Governor of the State of New York, in recognition of the refusal of the County Executives of all four affected Counties to issue letters of certification (also known as checklists) concerning the efficiacy of the Emergency Evacuation Plan, to refuse to certify said Plan to the Federal Emergency Management Agency, and be it further

Resolved, That the New Castle Town Board calls upon the Federal Emergency Management Agency to decertify the Emergency Evacuation Plan as inadequate to protect the public health and to ensure public safety, and be it further

Resolved, That the New Castle Town Board calls upon the Nuclear Regulatory Commission, in recognition of the inadequacies of the Emergency Evacuation Plan to protect the public health and to ensure public safety, to order an immediate shutdown of the Indian Point Nuclear Power Plants until such time as it can be demonstrated that a revised emergency evacuation plan, which addresses all the inadequacies of the current Emergency Evacuation Plan as described in the James Lee Witt Associates, LLC Report, can achieve its goals of protecting the public health and ensuring public safety. Such revised emergency evacuation plan should pay particular attention to the recommendation that the emergency evacuation plan of "any plant adjacent to high population areas should have different requirements than plants otherwise situated, because protective actions are more difficult and the consequences of failure or delay are higher," and be it further

Resolved, That the New Castle Town Board calls upon the Nuclear Regulatory Commission to begin the decommissioning process to reduce the vulnerability of the Indian Point Nuclear Power Plants at the earliest possible date, and be it further

Resolved, That the New Castle Town Board hereby directs that its will and its desire as expressed through this Resolution be transmitted to all appropriate parties within the County, State and Federal governments empowered to act upon and effect the provisions as stated herein.

POM–152. A resolution adopted by the House of the Legislature of the State of Michigan relative to the transportation funds; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 9

Whereas, For several decades, Michigan has sent much more federal highway tax money to Washington than it has received in return. This imbalance has helped our nation build the country's highway infrastructure. With the national infrastructure largely completed, the continuation of the imbalance has created a serious challenge for Michigan and other "donor states"; and

Whereas, Michigan, which typically loses between $150 million and $400 million each year by sending more to Washington than it receives, is severely hampered. The unfair practice of contributing hundreds of millions of dollars beyond the amount we receive to fund projects in other parts of the country makes it far more difficult for Michigan to maintain the quality of its highways. The loss of funding also represents a serious loss of economic activity; and

Whereas, The chairman of the House Transportation and Infrastructure Committee and the chairman of the Senate Environment and Public Works Committee in Congress have proposed a major change in how federal highway funds are distributed. They have called for a funding formula that would guarantee that all states receive a minimum of 95 percent of what they each contribute to the federal highway program; and

Whereas, The potential impact for Michigan of a guarantee of at least 95 percent of this funding would be very significant. Even as the economy calls for more careful public expenditures, this proposed policy change would help Michigan and bring greater fairness to the issue of transportation spending.

Citizens, visitors, and businesses of this state would benefit enormously from this long overdue policy: Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact legislation to provide that all states receive a minimum of 95 percent of transportation funds sent to the federal government and to urge Congress to make the return of transportation money to the states a higher priority within existing federal revenues; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–153. A resolution adopted by the House of the Legislature of the State of Michigan relative to the Solid Waste; to the Committee on Environment and Public Works.

House Resolution No. 10

Whereas, In 1992, the United States Supreme Court, in Fort Gratiot Sanitary Landfill v. Michigan Department of Natural Resources, ruled that states could not ban the importation of solid waste because Congress has the ultimate authority to regulate interstate commerce. Since that time, Michigan has become the dumping ground for increasing amounts of solid waste from out of our state and our country; and

Whereas, Michigan is the third-largest importer of solid waste in the country. Approximately 20 percent of all trash in Michigan landfills now originate outside of Michigan. The amounts have increased significantly in the past several years, and recent reports of a major contract with Ontario and of the closing of the nation's largest landfill in New York seem to indicate this issue will loom larger in the future; and

Whereas, An agreement between the city of Vaughan, Ontario, and Carleton Farms in Wayne County's Sumpter Township will thrust Michigan into being the second-largest importer of solid waste in the country next year, as Michigan will be accepting a large majority of the city of Toronto's municipal solid waste; and

Whereas, Accepting unlimited volumes of trash from outside our state has serious long-term consequences. Long after the money from the contracts has been spent, a potential environmental threat continues, as does an obligation to monitor disposal sites to protect water and public health from toxic releases. Clearly, any state accepting these long-term risks should be able to regulate the creation of that risk, regardless of where it originate; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact legislation to give states the authority to ban importation of out-of-state solid waste; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–154. A resolution adopted by the Legislature of the Commonwealth of Virginia relative to funding nitrogen reduction technology (NRT); to the Committee on Environment and Public Works.

House Resolution No. 38

Whereas, the Chesapeake Bay and its tributaries are national treasures that play a vital role in many sectors of Virginia's economy including the commercial seafood, recreational fishing, and tourism industries; and

Whereas, while significant progress has been made in restoring the Chesapeake Bay and its tributaries, they remain in a significantly degraded condition; and

Whereas, nitrogen pollution, the most serious problem facing water quality in the Bay today, results in excessive algae growth that clouds water, depletes oxygen, and severely impacts vital bay grasses, young fish, and crabs; and

Whereas, the Commonwealth Is a signatory to the Chesapeake 2000 Agreement, in which Virginia pledged to significantly reduce pollution sufficient to remove the Chesapeake Bay from the United States Environmental Protection Agency's impaired waters list by 2010; and

Whereas, upgrading sewage treatment plants, which currently contribute 61 million pounds of nitrogen annually to the Bay, is one of the most cost-effective steps that can be taken to significantly reduce nitrogen pollution; and

Whereas, sewage treatment plants in Virginia discharge up to 25 milligrams of nitrogen per liter of wastewater, while current technology allows the nitrogen content of treated wastewater to be reduced to only 3 milligrams per liter; and

Whereas, United States Senators of Virginia and the United States House of Representatives from the 1st, 3rd, 4th, 6th, 8th, 10th, and 11th Virginia Congressional Districts have introduced legislation to provide cost-share grant funding to allow Bay watershed sewage treatment plants to substantially reduce their nitrogen pollution by installing NRT; now, therefore, be it

Resolved by the House of Delegates, That the Congress of the United States be urged to adopt legislation in support of funding for nitrogen reduction technology (NRT) in the 108th Congress; and, be it

Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the House of Delegates of Virginia in this matter.

POM–155. A joint resolution adopted by the Legislature of the State of Washington relative to the Forest Service; to the Committee on Agriculture, Nutrition, and Forestry.

Substitute Senate Joint Memorial 8002

Whereas, Wildfires in forest areas are increasing at an alarming rate with the 2002 fire season one of the most severe since the 1940s; and

Whereas, There are over 180 million acres of public land near communities with a high risk of fire; and

Whereas, Forest health both in Washington state and throughout the nation has been on a steady decline in many forests over the last thirty years; and

Whereas, Forest insect infestations, disease, overly dense forests, weeds, and brush and shrub build-up are increasing problems; and address all forest health issues in order to stem the tide of forest and grazing land wildfire, insect infestations, disease, and environmental degradation; and

Be it further resolved, That federal and state agencies work with all stakeholders to promote efforts that provide policy solutions and to conduct field operations so that our nation's public forests' health issues can be addressed; and

Be it further resolved, That Congress provide adequate funding levels for the United States Forest Service and continually assess the progress towards a healthy forest environment;

Be it further resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the Honorable Ann M. Veneman, Secretary of the Department of Agriculture, Dale Bosworth, Chief of the Forest Service, and the Honorable Gail A. Norton, Secretary of the Department of the Interior, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM–156. A joint resolution adopted by the Legislature of the State of Washington relative to the government involvement in the wheat market; to the Committee on Agriculture, Nutrition, and Forestry.

Senate Joint Memorial 8015

Whereas, Wheat farming is the major industry in many rural regions of Washington State and thus the health of the industry is inextricably linked to the economic health of the populations in these rural regions; and

Whereas, Approximately one hundred fifty million bushels of wheat is produced annually on two and one-half million acres by five thousand farms and generates four hundred fifty million dollars in gross crop value, placing Washington State third in the nation among wheat producing states; and

Whereas, Washington is one of the largest and most heavily reliant of the wheat exporting states with up to ninety percent of the state's production being exported each year; and

Whereas, The wheat production in Washington State is predominantly by family farm operations that are as efficient and productive as any growers in the world and that produce the highest quality product possible; and

Whereas, Despite being the most efficient producers of the highest quality product, low prices received by farmers in recent years, especially for those farmers with loan obligations, have resulted in the continual erosion in many farmers' net worths and a loss of farming operations; and

Whereas, Because prices for wheat in recent years, including funds from government programs, have frequently been at or below the cost of production, the wheat farming community is very sensitive to significant government actions that affect supply and demand and depress wheat prices; and

Whereas, The price of the soft white wheat predominately grown in Washington reached a high in early fall of four dollars and eighty cents per bushel at the Portland grain terminal but has fallen dramatically by over one dollar per bushel due to a combination of factors, including large sales over a short period of time from federally held grain reserves and the labor dispute causing the cessation in the shipment of grain at export facilities; and

Whereas, A bushel of wheat makes forty-two pounds of flour, which makes sixty-six loaves of bread, and comprises only six cents of the one dollar and thirty cents average retail price per loaf;

Now, therefore, Your Memorialists respectfully pray that new federal procedures be established to assure that future sales of wheat stocks from federally held grain reserves be conducted in a manner that such sales will not unduly disrupt the market while also fulfilling the original intent of providing for emergency humanitarian food needs in developing countries.

Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the Honorable Ann M. Veneman, Secretary of the United States Department of Agriculture, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM–157. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the cotton production insurance; to the Committee on Agriculture, Nutrition, and Forestry.

House Concurrent Resolution No. 90

Whereas, the majority of cotton producers in the state of Louisiana are in support of crop insurance based on the cost of production; and

Whereas, Louisiana has experienced several consecutive years with natural disasters that have reduced actual production history; and

Whereas, many producers have found that their level of coverage is either too high, eroded, or unavailable as a result of consecutive years with natural disasters; and

Whereas, cost of production insurance will provide producers and lending institutions more coverage and reliability and reduce the need for ad hoc disaster spending to cover production costs in the event of catastrophic natural disasters; and

Whereas, the taxpayers of this state and country deserve a more fiscally responsible plan than off-budget emergency spending to deal with catastrophic agricultural losses; and

Whereas, cost of production insurance is a concept that allows producers of cotton to insure between seventy and ninety percent of their documented variable costs of production; and

Whereas, cost of production insurance would greatly enhance each producer's ability to survive natural disasters and economic crises; and

Whereas, the United States Department of Agriculture's Risk Management Agency has received a proposal for implementation of a cost of production insurance pilot program from AgriLogic, Inc., and the Coalition of American Agriculture Producers, but has not yet implemented such a program, although the United States Congress has requested them to do so.

Therefore, be it resolved, That the Legislature of Louisiana does hereby urge and request the United States Secretary of Agriculture to expeditiously implement and expand cost of production insurance for cotton that is based on a producer's actual production cost history and to implement a cost of production insurance pilot program.

Be it further resolved, That a copy of this Resolution be transmitted to the President of the United States, the Secretary of the United States Department of Agriculture, the Speaker of the United States House of Representatives, the President of the United States Senate and to each member of the Louisiana Congressional Delegation.

POM–158. A resolution adopted by the House of the Legislature of the State of Michigan relative to Emerald Ash Borer; to the Committee on Agriculture, Nutrition, and Forestry.

House Resolution No. 36

Whereas, In an amazingly short period of time, an important species of tree in Michigan faces a devastating infestation from an insect known as the emerald ash borer. This beetle, which has also been found in Ontario and Ohio, is thought to have entered Michigan in 1997. Already, this insect has killed 5 million trees in the six-county area of southeastern Michigan. In response, the state has quarantined the six counties, where approximately 28 million ash trees are at risk; and

Whereas, The potential economic and ecosystem impact of this invading species would be dramatic across our state and potentially the entire country. In addition to what the loss of all ash trees would mean to the appearance of our homes, communities, and the entire state, ash trees constitute an important and versatile lumber resource that may be lost without swift and certain actions. As with any type of plant so widespread, the loss of Michigan's estimated one billion ash trees clearly could have unforeseen effects on our forest ecology; and

Whereas, The United States Department of Agriculture (USDA) must establish a federal quarantine for the emerald ash borer. Such action would provide uniform rules for slowing or containing the northern advance of the insect; guarantee sufficient protections for international commerce with Canada, which is also experiencing infestation; and allow for the compensation of a number of growers, distributors, retailers, and contractors within the quarantine area who have lost crops and sales without warning; and

Whereas, In an effort to save this species of tree, Michigan has asked Congress to provide financial assistance to state and municipal officials. In addition, these officials need technical assistance to develop a sound strategy of combating this destructive vermin, which clearly has the potential to cause great damage not only in Michigan, but across the country; Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to establish a quarantine for the emerald ash borer and provide assistance to help Michigan combat the infestation; and be it further

Resolved That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Department of Agriculture, and the members of the Michigan congressional delegation.

POM–159. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to Emerald Ash Borer; to the Committee on Agriculture, Nutrition, and Forestry.

Senate Resolution No. 49

Whereas, With alarming swiftness, the emerald ash borer, an aggressive Asian insect, is threatening virtually all of the ash trees in this state and region. In spite of a quarantine in 6 southeastern Michigan counties, this beetle has killed 5 million of the 28 million ash trees in the quarantined area. Overall, the emerald ash borer, an invasive species that is causing similar devastation in Ontario and Ohio, threatens as many as 700 million trees in our state; and

Whereas, Ash trees are very important to the ecology of our state. They are also used for many products in several sectors of the economy. Beyond these factors, the ash trees that grace our communities and neighborhoods are beloved shade trees that contribute enormously to the character and beauty of Michigan; and

Whereas, The Governor is working to secure quick help from the federal government to deal with this swiftly escalating problem. Michigan badly needs technical and financial assistance in the face of this emergency. The state has taken decisive actions to deal with this invasive species, but the magnitude of the problem and the immediacy of the issue make it clear that we need the swift assistance of Congress and the United States Department of Agriculture; now therefore, be it

Resolved by the senate, That we memorialize the Congress of the United States and the United States Department of Agriculture to provide assistance, including financial assistance, in the effort to deal with the infestation of the emerald ash borer; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–160. A resolution adopted by the House of the Legislature of the Commonwealth of the Northern Marianas relative to a constitutional amendment to prohibit Federal Judges from Ordering states, or local units of government, to increase or levy taxes; to the Committee on the Judiciary.

House Resolution No. 12–109

Whereas, several State legislatures in the United States are adopting resolutions addressing a clear violation of the United States Constitution and the legislative process; and

Whereas, in 1990 the U.S. Supreme Court issued an opinion in the case of Missouri v. Jenkins declaring that federal judges have a constitutionally based authority and power to levy or increase taxes; and

Whereas, many believe that this opinion is contrary to the intent and beliefs of our Forefathers, wherein, the three branches of the United States government are to be separate in power and responsibilities; and

Whereas, Alexander Hamilton, Federalist No. 78, states, "(T)here is no liberty, if the power of judging be not separated from the legislative and executive powers"; and

Whereas, the CNMI Legislature is in accord with these several states who are looking to the U.S. Congress to put an end to this dangerous practice of exercising legislative authority by the Supreme Court; and

Whereas, this is an effort to maintain our Forefathers intent of establishing a democratic body with principles that ensure our freedom and liberty, moreover, to protect the integrity of the U.S. Constitution and its intent to separate, and not duplicate, the powers of the Executive Branch, Legislative Branch, and Judicial Branch; now, therefore

Be it resolved, by the House of Representatives, Twelfth Northern Marianas Commonwealth Legislature, That the House is requested the U.S. Congress to pass a resolution calling for the adoption of an amendment to the United States Constitution which shall read: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision, thereof, or any official of such state or political subdivision, to levy or increase taxes."; and

Be it further resolved, That the Speaker of the House shall certify and the House Clerk shall attest to the adoption of this resolution and thereafter transmit copies to the Honorable Richard B. "Dick" Cheney, Vice-President of the United States and Presiding Officer of the U.S. Senate; to the Honorable

Denny Hastert, Speaker of the U.S. House of Representatives; and the Honorable Walt Mueller, Senator, 15th District, State of Missouri.

POM–161. A resolution adopted by the House of the Legislature of the State of Michigan relative to Bovine Tuberculosis; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 58

Whereas, Bovine tuberculosis is an infectious disease that poses a significant risk to domestic livestock, wildlife, companion animals, and humans throughout the world; and

Whereas, Bovine tuberculosis has many severe impacts beyond the disease itself. It increases costs, limits markets for livestock producers nationally and internationally, depresses interest in the state's hunting and tourism industries, and requires state resources for its eradication. These factors have impacted the families of northeastern Lower Michigan significantly; and

Whereas, Since the discovery of bovine tuberculosis in wild white-tailed deer in Michigan in 1995, and in cattle in 1998, the state of Michigan, in a partnership with Michigan State University, the livestock industry, the hunting and outdoors community, and local and federal officials, has worked diligently to control, contain, and eradicate the disease; and

Whereas, Through an aggressive testing plan for livestock and wildlife, Michigan is able to demonstrate to other states and the world that this disease is not present throughout the entire state of Michigan and that the tremendous efforts undertaken with both livestock and wildlife are moving the state toward eradication; and

Whereas, Federal assistance on technical, financial, and staff levels has been critical to Michigan's efforts to eradicate bovine tuberculosis; and

Whereas, With many other current and emerging plant and animal diseases, resources are challenged at both the federal and state levels to address these diseases adequately; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to continue providing assistance to Michigan to help eradicate bovine tuberculosis; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the United Stated Department of Agriculture.

POM–162. A resolution adopted by the Senate of the Legislature of the State of Iowa relative to Best Buddies program; to the Committee on Health, Education, Labor, and Pensions.

SENATE RESOLUTION NO. 22

Whereas, there are more than 7.5 million people with intellectual disabilities in the United States and as many as 250 million worldwide; and

Whereas, individuals with intellectual disabilities often experience isolation and exclusion from community activities because of limited opportunties to associate with persons other than their immediate family and paid workers; and

Whereas, Best Buddies is a nonprofit organization dedicated to enhancing the lives of people with intellectual disabilities by providing opportunities for one-to-one friendships and integrated employment; and

Whereas, Best Buddies has grown from one chapter on one college campus to a vibrant, international organization involving participants annually on more than 750 middle school, high school, and college campuses in the United States, Canada, Cuba, Egypt, Greece, Ireland, and Sweden; and

Whereas, Best Buddies has touched the lives of over 175,000 individuals in its 13-year existence; and

Whereas, Best Buddies Iowa currently serves nine college chapters and nine high school chapters within our state and has a long-term goal of involving all schools within Iowa in its mission to bring friendship to individuals with intellectual disabilities; now therefore,

Be it resolved by the Senate, That the Iowa Senate appreciates the work that Best Buddies Iowa performs and urges the federal government to continue to fund this program; and

Be it further resolved, That the Iowa Senate encourages state agencies, county central points of coordination, education providers, and area education agencies to work with Best Buddies Iowa to find additional funding for a middle school program and to further expand its current programs into additionmal communities; and

Be it futher resolved, That copies of this Resolution be sent by the Secretary of the Senate to the President of the United States, the President of the Senate of the United States, the Speaker of the United States House of Representatives; the majority and minority leaders of the United States Senate, the majority and minority leaders of the United States House of Representatives, and each member of Iowa's congressional delegation.

POM–163. A resolution adopted by the House of the Legislature of the State of Kansas relative to the Health Insurance Portability Accountability Act (HIPAA); to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 6028

Whereas, The provisions of HIPAA are now in force with the stated purpose of simplifying health care administrative processes, and in the process, protecting individual privacy rights. Simplification is to be accomplished through the use of standardized, electronic transmission of administrative and financial data—which if successful should simplify health care record keeping and enhance the ability of private health insurance providers to process claims; and

Whereas, While the health and insurance industries may be aware of and executing the requirements of HIPAA, the recipients of health care, and individuals concerned of their condition, are confused and having difficulty comprehending the restrictions of the new procedures; and

Whereas, While patients have a right to their own health information, and while information regarding patients may be obtained by personal representatives or establishment of "significant other" relationships, it is urged information regarding whether a person is a patient at a facility, without disclosure of reason or condition, should be available to interesed parties: now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we urge the Congress of the United States and implementing federal agencies to consider the provision of the information which does not disclose medially sensitive information to be available to inquiring persons; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to send an enrolled copy of this resolution to the President of the United States Senate, the Speaker of the United States House of Representative and to each member of the Kansas legislative delegation.

POM–164. A joint resolution adopted by the House of the Legislature of the Commonwealth of Virginia relative to the Carl D. Perkins Vocational and Applied Technology Act of 2003; to the Committee on Health, Education, Labor, and Pensions.

HOUSE JOINT RESOLUTION NO. 752

Whereas, funding for career and technical education, which was formerly known as vocational/technical education, was initiated in 1917 by Congress with the passage of the Smith-Hughes Vocational Education Act and an appropriation of $1.7 million in support of state programs across the country; and

Whereas, Congressional funding for career and technical education has been continuous since 1917 and was extended by the Carl D. Perkins Vocational and Applied Technology Act of 1984; and

Whereas, total federal funding for career and technical education in the 2003 fiscal year was $1.3 billion, of which Virginia is receiving nearly $25 million in basic grant funds and another $2.5 million in tech prep grant funds; and

Whereas, 85 percent of Virginia's state grant or nearly $18 million is being distributed to local school divisions, while more than $3.1 million is being distributed to the Virginia Community College System and the remaining $3.7 million is allocated to the Department of Education for state administration of career and technical education programs, including assessment, training, professional development, and improvement of academic skills; and

Whereas, local school divisions depend on the federal funding of career and technical education to accomplish many goals, including, but not limited to, strengthening students' academic, vocational, and technical skills, implementing industry certification programs, expanding the use of technology, providing professional development to career and technical teachers, involving parents, local businesses, and labor and industry leaders in the design, implementation, and evaluation of career and technical programs in order to meet the needs of the local economy and to comply with nationally adopted standards; and

Whereas, career and technical education programs benefit Virginia's economy by providing crucial training to students of various ability levels and economic backgrounds, including gifted and talented students, traditional high school students, students with disabilities, and students who are bound for college and those who are bound for the world of work; and

Whereas, the Virginia Standards of Quality require career and technical education programs in the public schools that are "infused into the K though 12 curricula that promote knowledge of careers and all types of employment opportunities," and "competency-based career and technical education programs, which integrate academic outcomes, career guidance and job-seeking skills for all secondary students"; and

Whereas, Congress will take up reauthorization of this important law in the coming year and several proposals have been put forth that are troubling to local school divisions and suggest that consideration may be given to diverting the federal dollars to other priorities; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the Congress of the United States be urged to continue the funding for career and technical education in public secondary and postsecondary schools when reauthorizing the Carl D. Perkins Vocational and Applied Technology Act of 2003. The Congress also shall be urged, in order to maintain the vitality and success of Virginia's career and technical education programs in the Commonwealth's public secondary and postsecondary schools, to continue the funding of public career and technical education in an amount that will continue Virginia's $27 million in funding or will increase this amount; and, be it

Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself and Mr. STEVENS):

S. 1218. A bill to provide for Presidential support and coordination of interagency ocean science programs and development and coordination of a comprehensive and integrated United States research and monitoring program; to the Committee on Commerce, Science, and Transportation.

By Mr. EDWARDS (for himself, Mr. SMITH, and Mrs. CLINTON):

S. 1219. A bill to amend the national and Community Service Act of 1990 to establish a Community Corps, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLARD (for himself, Mr. WYDEN, Mr. SMITH, Mr. INOUYE, Mr. AKAKA, Mr. COLEMAN, Mrs. HUTCHISON, and Mr. CAMPBELL):

S. 1220. A bill to amend title XVIII of the Social Security Act to extend reasonable cost contracts under the medicare program, to expand the area in which plans offered under such contracts may operate, to apply certain provisions of the Medicare+Choice program to such plans, and for other purposes; to the Committee on Finance.

By Mr. SCHUMER:

S. 1221. A bill to provide telephone number portability for wireless telephone service; to the Committee on Commerce, Science, and Transportation.

By Mr. NELSON of Nebraska (for himself, Mr. BUNNING, and Mr. HAGEL):

S. 1222. A bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services, in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Ms. COLLINS, Mr. JEFFORDS, and Mr. DODD):

S. 1223. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 1224. A bill to expand the powers of the Attorney General to regulate the manufacture, distribution, and sale of firearms and ammunition, and to expand the jurisdiction of the Attorney General to include firearm products and nonpowder firearms; to the Committee on the Judiciary.

By Mr. GREGG (for himself, Mr. SCHUMER, Mr. MCCAIN, and Mr. KENNEDY):

S. 1225. A bill entitled the "Greater Access to Affordable Pharmaceuticals Act"; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself, Ms. COLLINS, Mrs. MURRAY, and Mr. BINGAMAN):

S. 1226. A bill to coordinate efforts in collecting and analyzing data on the incidence and prevalence of developmental disabilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM (for himself and Mrs. LINCOLN):

S. 1227. A bill to amend title XVIII of the Social Security Act to provide for coverage of substitute adult day services under the medicare program; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. DEWINE):

S. 1228. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for property owners who remove lead-based paint hazards; to the Committee on Finance.

By Mr. AKAKA (for himself, Mr. LEVIN, Mr. LEAHY, Mr. DURBIN, and Mr. DAYTON):

S. 1229. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected form prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAHAM of South Carolina (for himself and Mr. HOLLINGS):

S. Res. 163. A resolution commending the Francis Marion University Patriots men's golf team for winning the 2003 National Collegiate Athletic Association Division II Men's Golf Championship; to the Committee on the Judiciary.

By Mr. ENSIGN (for himself, Mr. CORZINE, Mr. EDWARDS, Mr. BAYH, Mr. SARBANES, Mr. CONRAD, Mr. REED, Ms. LANDRIEU, Mr. JEFFORDS, Mr. KOHL, Mr. LIEBERMAN, Mr. KENNEDY, Mr. ALLEN, Mr. BIDEN, Mr. SANTORUM, Mrs. DOLE, Mrs. BOXER, and Mr. DURBIN):

S. Res. 164. A resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003; to the Committee on the Judiciary.

By Mr. FRIST:

S. Res. 165. A resolution commending Bob Hope for his dedication and commitment to the Nation; considered and agreed to.

By Mr. HARKIN (for himself, Mr. CHAFEE, and Mr. KENNEDY):

S. Con. Res. 52. A concurrent resolution expressing the sense of Congress that the United States Government should support the human rights and dignity of all persons with disabilities by pledging support for the drafting and working toward the adoption of a thematic convention on the human rights and dignity of persons with disabilities by the United Nations General Assembly to augment the existing United Nations human rights system, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 221

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 221, a bill to amend the Communications Act of 1934 to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes.

S. 271

At the request of Mr. SMITH, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 274

At the request of Mr. GRASSLEY, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 274, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 300

At the request of Mr. KERRY, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 451

At the request of Ms. SNOWE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 518

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 557

At the request of Ms. COLLINS, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 569

At the request of Mr. ENSIGN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 595

At the request of Mr. HATCH, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from California (Mrs. BOXER) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 610

At the request of Mr. VOINOVICH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 610, a bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

S. 623

At the request of Mr. WARNER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 640

At the request of Mr. LEAHY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 664

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 665

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 665, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fishermen, and for other purposes.

S. 678

At the request of Mr. AKAKA, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 684

At the request of Mr. SMITH, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 684, a bill to create an office within the Department of Justice to undertake certain specific steps to ensure that all American citizens harmed by terrorism overseas receive equal treatment by the United States Government regardless of the terrorists' country of origin or residence, and to ensure that all terrorists involved in such attacks are pursued, prosecuted, and punished with equal vigor, regardless of the terrorists' country of origin or residence.

S. 740

At the request of Mr. LIEBERMAN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 740, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the medicare program.

S. 756

At the request of Mr. THOMAS, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 756, a bill to amend the Internal Revenue Code of 1986 to modify the qualified small issue bond provisions.

S. 763

At the request of Mr. ENSIGN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 763, a bill to designate the Federal building and United States courthouse located at 46 Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse".

S. 780

At the request of Mr. LOTT, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 780, a bill to award a congressional gold medal to Chief Phillip Martin of the Mississippi Band of Choctaw Indians.

S. 786

At the request of Mr. BINGAMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 786, a bill to amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to provide grants for transitional jobs programs, and for other purposes.

S. 805

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 805, a bill to enhance the rights of crime victims, to establish grants for local governments to assist crime victims, and for other purposes.

S. 818

At the request of Ms. SNOWE, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 818, a bill to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

S. 874

At the request of Mr. TALENT, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 877

At the request of Mr. BURNS, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 877, a bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

S. 894

At the request of Mr. WARNER, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from New York (Mrs. CLINTON) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 973

At the request of Mr. NICKLES, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 973, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings.

S. 982

At the request of Mrs. BOXER, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 1010

At the request of Mr. HARKIN, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1046

At the request of Mr. HOLLINGS, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1046

At the request of Mr. STEVENS, the names of the Senator from Maine (Ms. COLLINS), the Senator from Michigan (Mr. LEVIN), the Senator from Nevada (Mr. REID) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1046, supra.

S. 1083

At the request of Mr. LUGAR, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1083, a bill to give States the flexibility to reduce bureaucracy by streamlining enrollment processes for the medicaid and State children's health insurance programs through better linkages with programs providing nutrition and related assistance to low-income families.

S. 1091

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1091, a bill to provide funding for student loan repayment for public attorneys.

S. 1116

At the request of Mr. LEVIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1116, a bill to amend the Federal Water Pollution Control Act to direct the Great Lakes National Program Office of the Environmental Protection Agency to develop, implement, monitor, and report on a series of indicators of water quality and related environmental factors in the Great Lakes.

S. 1125

At the request of Mr. HATCH, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1125, a bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

S. 1153

At the request of Mr. SPECTER, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1153, a bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

S. 1182

At the request of Mr. MCCONNELL, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Ohio (Mr. VOINOVICH), the Senator from Minnesota (Mr. DAYTON), the Senator from Oregon (Mr. SMITH), the Senator from Vermont (Mr. JEFFORDS), the Senator from North Carolina (Mrs. DOLE), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. EDWARDS) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1182, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

S. 1182

At the request of Mr. REID, his name was added as a cosponsor of S. 1182, supra.

S. 1201

At the request of Mr. GRAHAM of South Carolina, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1201, a bill to promote healthy lifestyles and prevent unhealthy, risky behaviors among teenage youth.

S. 1203

At the request of Mr. ENZI, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 1203, a bill to amend the Higher Education Act of 1965 regarding distance education, and for other purposes.

S. 1215

At the request of Mr. MCCONNELL, the names of the Senator from Nevada (Mr. REID), the Senator from Ohio (Mr. VOINOVICH) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1215, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

S. CON. RES. 3

At the request of Mr. MILLER, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution recognizing, applauding, and supporting the efforts of the Army Aviation Heritage Foundation, a nonprofit organization incorporated in the State of Georgia, to utilize veteran aviators of the Armed Forces and former Army Aviation aircraft to inspire Americans and to ensure that our Nation's military legacy and heritage of service are never forgotten.

S. RES. 140

At the request of Mr. CAMPBELL, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 140, a resolution designating the week of August 10, 2003, as "National Health Center Week".

AMENDMENT NO. 865

At the request of Mr. DORGAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 865 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself and Mr. STEVENS):

S. 1218. A bill to provide for Presidential support and coordination of interagency ocean science programs and development and coordination of a comprehensive and integrated United States research and monitoring program; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, today I am introducing legislation to spur the advent of an exciting new field of research, one that explores the role of the oceans in human health. I am pleased to be joined in this effort by the distinguished Senator from Alaska, TED STEVENS, who is cosponsoring this bill. The Oceans and Human Health Act proposes to establish a national interagency program that will coordinate research efforts and ensure the availability of an adequate Federal investment in this critical area. It also would establish a program at the National Oceanic and Atmospheric Administration to strengthen and coordinate its work in this very important arena.

In recent years, we have gained a renewed appreciation for the importance of the ocean to our future and well-being. We now recognize that human health is one are in which the oceans exert major influences that are both positive and negative. However, studying this relationship is challenging. To be successful, a research program must integrate disciplines, bringing together oceanographers and biomedical researchers to better understand marine processes, reduce public health risks and enhance our biomedical capabilities. Pioneering scientists are needed to tackle marine environmental issues that affect human and marine life alike, such as ocean pollution, marine pathogens and potential drug discoveries. A number of Federal agencies would share responsibility and expertise for such a program, requiring that capabilities be harnessed across such diverse entities as the National Oceanic and Atmospheric Administration, the National Science Foundation and the National Institute for Environmental Health Sciences.

The rich biodiversity of marine organisms represent an important biomedical resource, a promising source of novel compounds with therapeutic potential, and a potentially significant contribution to the national economy. A 1999 National Research Council report, From Monsoons to Microbes, noted that nature has been the traditional source of new pharmaceuticals and found that over 50 percent of the marketed drugs are extracted from natural sources or produced using natural products. Virtually every type of life that exists on this planet is found in the sea and many types of plants and animals are exclusively marine. While the oceans are a repository for much of our biodiversity, little of it has been catalogued or studied. One important aspect that we have yet to explore is the potential of marine life to produce chemicals for treating diseases. There are only three marine compounds now in clinical use—and these were developed in the 1950s. While there are some new compounds in the pipeline, we need to speed this effort up to ensure we get more approved sooner.

But our relationship to the sea also has a darker side. The oceans drive climate and weather factors causing severe weather events and shifts in temperature and rainfall patterns. These changes in turn affect the density and distribution of disease-causing organisms and the ability of public health systems to address them. In addition, the oceans act as a route of exposure for human disease and illnesses through ingestion of contaminated seafood and direct contact with seawater containing toxins and disease-causing organisms. We need to know more about how our health is affected by the marine environment. We must ensure that the sea maintains its capacity to sustain itself without becoming a "Dead Zone." We must find ways to monitor and reduce the occurrence of ocean toxins that kill marine mammals and taint seafood. As with cancer, our goal must be understanding and prevention, rather than relying exclusively on treatment.

Research on the health of marine organisms, including marine mammals and other sentinel species, can assist scientists in their efforts to investigate and understand human physiology and biochemical processes, as well as providing a means for monitoring the health of marine ecosystems. Unfortunately such research often does not fall clearly within a single federal agency's mission. The dolphins of Florida's Indian River Lagoon provide an example of a marine population that is the victim of contaminated habitat and food. The result is unusually high mortality rates and harmful health effects. Not only is the population at risk, but it provides a clear indicator of environmental pollution concerns for its human neighbors. We must harness the sciences of genomics, forensics and ecology and put them to work in the marine world, creating an ocean Center for Disease Control—a "CDC for the Oceans".

An exciting example of this new interdisciplinary and medically-oriented approach to ocean research can be found at NOAA's two marine laboratories in Charleston, including a unique research partnership among NOAA, the National Institute for Standards and Technology (NIST), the State of South Carolina, the Medical University of South Carolina, and the College of Charleston, formerly known as the Marine Environmental Health Research Laboratory, and now referred to as the Hollings Marine Laboratory (HML). HML works with a variety of Federal, State, and academic partners around the Nation and is on the front lines of discovery and prevention, particularly in the emerging field of marine genomics. They are hard at work on today's important public and marine environmental health issues. Their exciting dolphin health research will for the first time utilize a traditional medical approach to diagnosing and documenting dolphin health, which will help us learn more about dolphins in the wild than we have ever known. In addition, HML scientists, important partners in the Coral Disease and Health Consortium, are already analyzing samples from the two Florida coral reefs "quarantined" by NOAA today because of a fast-spreading coral disease.

The HML epitomizes the variety of important disciplines that must work side-by-side if we are to make progress in this area. It is home to cutting-edge research involving algal toxins, natural products with potential pharmaceutical applications, and viral and bacterial pathogens that cause disease in marine animals, with potential links to human illness and disease processes and natural product chemistry. Scientists at HML and its partner NOAA facility use unique medical tools such as nuclear magnetic resonators to help "map" cellular and genetic structure of marine organisms and have developed methods for detecting pesticides in water, sediments, fish and marine mammals that may potentially affect both the health of the marine environment and human health. They also are developing exposure, toxicology and disease models to assess their effects on a variety of marine organisms. Their work will better define ocean health and bridge the gap with existing human health models.

A number of Federal agencies are now recognizing the importance of understanding health-related ocean research and to make needed investments. Last year, initiatives began both through our ocean agency, the National Oceanic and Atmospheric Administration, as well as two of our Federal research institutions, the National Institute for Environmental Health Sciences, NIEHS, and the National Science Foundation, NSF.

This past year, the National Oceanic and Atmospheric Administration, NOAA, received appropriations of $8 million to develop an oceans and human health initiative. Within NOAA, many programs and laboratories perform research and related activities that could contribute significantly to a national research effort, but such efforts have not realized their potential. Establishment of this coordinated, interdisciplinary program consisting of nationally-recognized research centers and an external interdisciplinary research grant program will enhance the NOAA program. In addition, last November, the National Institute for Environmental Health Sciences, NIEHS, National Science Foundation, NSF, invited applications for research programs to explore the relationship between marine processes and public health. The joint initiative commits $6 million annually to establish centers of excellence focusing on harmful algal blooms, water and vector-borne diseases, and marine pharmaceuticals and probes.

Taken together, the NIEHS-NSF and NOAA research initiatives offer an excellent basis for building a comprehensive national program. In addition, a number of other Federal agencies are poised to make significant contributions.

The Oceans and Human Health Act provides the legislative framework for a coordinated national investment to improve understanding of marine ecosystems, address marine public health problems and tap into the ocean's potential contribution to new biomedical treatments and advances. The legislation would amend the 1976 Science and Technology Act to clarify the role of the National Science and Technology Council in coordinating interagency research efforts. It would also establish an interagency committee on oceans and human health to develop a research plan and coordinate participation by NOAA, NSF, NIEHS and other agencies. Governing NOAA's contribution to the interagency effort, the bill would establish a new NOAA program on oceans and human health. At the heart of this legislation and key to its success is our commitment to building new partnerships—among Federal health, science and ocean agencies, among diverse scientific disciplines, and among academic researchers and government experts.

A more detailed summary of the legislation follows:

SECTION-BY-SECTION ANALYSIS OCEANS AND HUMAN HEALTH ACT

The Oceans and Human Health Act would authorize the establishment of a coordinated federal research program to aid in understanding and responding to the role of oceans in human health. The bill would establish a Federal interagency Oceans and Human Health initiative coordinated through the National Science and Technology Council, NSTC, as well as create an Oceans and Human Health program at the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA). The bill also directs the Secretary of Commerce to establish a coordinated public information and outreach program with the Food and Drug Administration, FDA, the Environmental Protection Agency, EPA, the Centers for Disease Control CDC, and the States to provide information on potential ocean-related human health risks.

SECTION 1. SHORT TITLE

Section 1 provides the short title of the Act is the "Oceans and Human Health Act."

SECTION 2. FINDINGS

Section 2 sets forth findings and purposes for the Act.

SECTION 3. NATIONAL SCIENCE AND TECHNOLOGY COUNCIL

Section 3 would amend the National Science and Technology Policy, Organization, and Priorities Act of 1976, 42 U.S.C. 6616, to codify the responsibilities of the National Science and Technology Council NSTC, which was established by executive Order in 1993, and whose functions have superceded the Federal Coordinating Council for Science, Engineering, and Technology, FCCSET, the functions of which were transferred to the President under a 1977 executive order. The Act is also amended to clarify the director of the Office of Science and Technology Policy, OSTP, serves as chair of the NSTC.

Subsection b replaces existing section 401 of the Act (42 U.S.C. 6651) with new text specifying NSTC functions, which focus on prompting domestic and international coordination among government, industry and university scientists. Subsection b sets forth the following as NSTC functions: 1. promote interagency efforts and communication with respect to the planning and administration of Federal scientific, engineering, and technology program. 2. identify research needs; achieve more effective use of Federal facilities and resources; 3. further international cooperation in science, engineering and technology; and 4. develop long-range and coordinated research plans. The NSTC is directed to carry out these and other related duties with the assistance of the Federal agencies represented on the Council. This subsection also authorizes the NSTC Chairman to establish standing committees and working groups to assist in developing interagency plans, conduct studies and make reports for the Chairman.

SECTION 4. INTERAGENCY OCEANS AND HUMAN HEALTH RESEARCH PROGRAM

Interagency Program. Section 4 provides for the establishment of an Interagency Oceans and Human Health Research Program, Interagency OHH Program, to be coordinated and supported by the NSTC. Subsection (a) directs the NSTC to establish a Committee on Oceans and Human Health comprised of at least one representative from NOAA, the National Science Foundation, NSF, the National Institutes of Health, NIH, CDC, EPA, FDA, Department of Homeland Security, DHS, and other agencies and department deemed appropriate by the NSTC. This section also provides for the biennial selection of a Chairman of the Committee, who shall represent an agency that contributes substantially to the Interagency OHH Program.

10-Year Implementation Plan. Subsection b directs the NSTC, through the Committee on the Oceans and Human Health, to submit to Congress within one year of enactment a 10-year implementation plan for coordinated federal activities under the Interagency OHH Program. In developing the plan, the Committee is required to consult with the Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia. The implementation plan will complement the ongoing activities of NOAA, NSF, the NIH National Institute of Environmental Health Sciences, NIEHS, and other departments and agencies, and: 1. establish the goals and priorities for Federal research related to oceans and human health; 2. describe specific activities required to achieve such goals; 3. identify relevant Federal programs and activities that would contribute to the Interagency OHH Program; 4. consider and use reports and studies conducted by Federal agencies and departments, the National Research Council, the Ocean Research Advisory Panel, the U.S. Commission on Ocean Policy and other entities; 5. make recommendations for the coordination of national and international programs; and 6. estimate Federal funding for research activities to be conducted under the Interagency OHH Program.

Scope of Interagency Program. Subsection c outlines the scope of the Interagency OHH Program, as follows:

1. Interdisciplinary and coordinated research and activities to improve our understanding of how ocean processes and marine organisms can relate to human health and contribute to medicine and research;

2. Coordination with the National Ocean Leadership Council (established under 10 U.S.C. 7902(a)) to ensure any ocean and coastal observing system provides information necessary to monitor, predict and reduce marine public health problems;

3. Development of new technologies and approaches for detecting and reducing hazards to human health from ocean sources and to strengthen understanding of the value of marine biodiversity to biomedicine; and

4. Support for scholars, trainees and education opportunities that encourage a multidisciplinary approach to exploring the diversity of life in the oceans.

SECTION 5. NOAA OCEANS AND HUMAN HEALTH PROGRAM

Establishment of NOAA Program. Section 5 would establish a NOAA program on Oceans and Human Health that would coordinate NOAA activities with the Interagency OHH Program. Subsection (a) directs the Secretary of Commerce to develop an Oceans and Human Health Program, consistent with the interagency program developed under Section 4, that will coordinate and implement research and activities within NOAA related to the role of the oceans in human health. In establishing the program, the Secretary is required to consult with other Federal agencies conducting integrated ocean health research or research in related areas, including the CDC, NSF, and HIEHS. The NOAA Oceans and Human Health Program will provide support for the following components: 1. a Program and Research Coordination Office; 2. an Advisory Panel; 3. National Center(s) of Excellence; 4. Research grants and 5. Distinguished scholars and traineeships.

Program Office. Subsection (b) directs the Secretary to establish a program to coordinate oceans and human health-related research and activities within NOAA and to carry out the elements of the program. In cooperation with the Oceans and Human Health Advisory Panel established under subsection (c), the program office will serve as liaison with academic institutions and other agencies participating in the Interagency OHH Program established under Section 3.

Advisory Panel. Under subsection (c), the Secretary will establish an Oceans and Human Health Advisory Panel to assist in the development and implementation of the NOAA Oceans and Human Health Program. Membership of the Advisory Group will include a balanced representation of individuals with multi-disciplinary expertise in the marine and biomedical sciences. The subsection provides that Federal Advisory Committee Act, 5 U.S.C. App. 1, shall not apply to the Panel.

Centers of Excellence. Subsection (d) provides that the Secretary shall, through a competitive process, establish and support Centers of Excellence that strengthen NOAA's capabilities to carry out programs and activities related to the ocean's role in human health. These NOAA Centers of Excellence shall complement and be in addition to any centers of excellence for oceans and human health established through NSF or NIEHS. Centers selected for funding and support under Section 4 would focus on areas related to NOAA missions, including: 1. use of marine organisms as indicators for marine environmental health; 2. ocean pollutants; 3. marine toxins and pathogens, harmful algal blooms, seafood testing, drug discovery, biology and pathobiology of marine mammals; and 4. such disciplines as marine genomics, marine environmental microbiology, ecological chemistry and conservation medicine. The Secretary will consider the need for geographic representation and will encourage proposals that have strong scientific and interdisciplinary merit.

Research Grants. Subsection (e) authorizes the Secretary of Commerce to provide grants for research and projects that explore the relationship between the oceans and human health, and that complement or strengthen NOAA-related programs and activities. In implementing this subsection, the Secretary is directed to consult with the Oceans and Human Health Advisory Panel and the National Sea Grant College Program, and may work cooperatively with other agencies in the Intergency OHH Program to establish joint criteria for such research projects. This subsection specifies that the grants shall be awarded through a peer-review or other competitive process and that such a process may be conducted jointly with other agencies participating in the Interagency OHH Program or under the National Oceanographic Partnership Program, 10 U.S.C. 7901.

Distinguished Scholars. Subsection (f) directs the Secretary to provide financial assistance to support distinguished scholars working in collaboration with NOAA scientists and facilities. The Secretary is also authorized to establish a training program, in consultation with NIEHS and NSF, for scientists early in their careers who are interested in oceans and human health.

SECTION 6. PUBLIC INFORMATION AND RISK ASSESSMENT

This section directs the Secretary of Commerce, in consultation with the CDC, FDA, EPA, and the States, to design and implement a national public information and outreach program on potential ocean-related human health risks. The outreach program will collect and analyze information, disseminate the results, to relevant Federal, State, public, industry or other interested parties, provide advice regarding precautions against illness or hazards, and make recommendations on observing systems that would support the program.

Subsection (b) requires the Secretary, in consultation with the same agencies, to assess health hazards associated with the human consumption of seafood. Under this subsection, the Secretary, in consultation with CDC, FDA, EPA, and the states, would assess risks associated with domestically harvested and processed seafood as compared with imported seafood harvested and processed outside the United States; commercially harvested seafood as compared with recreational and subsistence harvest; and contamination due to handling and preparation of seafood.

SECTION 7. AUTHORIZATION OF APPROPRIATIONS

Section 7 provides the authorization of appropriations for the NOAA Oceans and Human Health Program established under Section 5, and the public information and risk assessment program established under Section 6.

Subsection (a) provides that there are authorized to be appropriated to the Secretary of Commerce to carry out the program under Section 5, $8,000,000 for FY 2003, $15,000,000 for FY 2004, and $20,000,000 for FY2005–2007.

Subsection (b) provides authorizations of appropriations of $5,000,000 for each of fiscal years 2004 through 2007 for the public information and risk assessment program established under Section 6.

I am extremely proud to sponsor this legislation, and hope that this will mark the beginning of a new century of ocean research that will reveal how integral and important the oceans are to our daily lives and our health, whether we live by the edge of the sea or in the heartland.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oceans and Human Health Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The rich biodiversity of marine organisms provides society with an essential biomedical resource, a promising source of novel compounds with therapeutic potential, and a potentially important contribution to the national economy.

(2) The diversity of ocean life and research on the health of marine organisms, including marine mammals and other sentinel species, helps scientists in their efforts to investigate and understand human physiology and biochemical processes, as well as providing a means for monitoring the health of marine ecosystems.

(3) The oceans drive climate and weather factors causing severe weather events and shifts in temperature and rainfall patterns that affect the density and distribution of disease-causing organisms and the ability of public health systems to address them.

(4) The oceans act as a route of exposure for human disease and illnesses through ingestion of contaminated seafood and direct contact with seawater containing toxins and disease-causing organisms.

(5) During the past two decades, the incidence of harmful blooms of algae has increased around the world, contaminating shellfish, causing widespread fish kills, threatening marine environmental quality and resulting in substantial economic losses to coastal communities.

(6) Existing Federal programs and resources support research in a number of these areas, but gaps in funding, coordination, and outreach have impeded national progress in addressing ocean health issues.

(7) National investment in a coordinated program of research and monitoring would improve understanding of marine ecosystems, allow prediction and prevention of marine public health problems and assist in realizing the potential of the oceans to contribute to the development of effective new treatments of human diseases and a greater understanding of human biology.

(b) PURPOSES.—The purposes of this Act are to provide for—

(1) Presidential support and coordination of interagency ocean science programs; and

(2) development and coordination of a comprehensive and integrated United States research and monitoring program that will assist this Nation and the world to understand, use and respond to the role of the oceans in human health.

SEC. 3. NATIONAL SCIENCE AND TECHNOLOGY COUNCIL.

(a) DIRECTOR OF OFFICE OF SCIENCE AND TECHNOLOGY POLICY TO CHAIR COUNCIL.—Section 207(a) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6616(a)) is amended—

(1) by striking "CHAIRMAN OF FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY" in the subsection heading and inserting "CHAIR OF THE NATIONAL SCIENCE AND TECHNOLOGY COUNCIL"; and

(2) by striking paragraph (1) and inserting the following:

"(1) serve as Chair of the National Science and Technology Council; and".

(b) FUNCTIONS.—Section 401 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651) is amended to read as follows:

"SEC. 401. FUNCTIONS OF COUNCIL.

"(a) IN GENERAL.—The National Science and Technology Council (hereinafter referred to as the 'Council') shall consider problems and developments in the fields of science, engineering, and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designed to—

"(1) provide more effective planning and administration of Federal scientific, engineering, and technology programs;

"(2) identify research needs, including areas requiring additional emphasis;

"(3) achieve more effective use of the scientific, engineering, and technological resources and facilities of Federal agencies, including elimination of unwarranted duplication; and

"(4) further international cooperation in science, engineering and technology.

"(b) COORDINATION.—The Council may be assigned responsibility for developing long-range and coordinated plans for scientific and technical research which involve the participation of more than 2 agencies. Such plans shall—

"(1) identify research approaches and priorities which most effectively advance scientific understanding and provide a basis for policy decisions;

"(2) provide for effective cooperation and coordination of research among Federal agencies; and

"(3) encourage domestic and, as appropriate, international cooperation among government, industry and university scientists.

"(c) OTHER DUTIES.—The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chair of the Council.

"(d) ASSISTANCE OF OTHER AGENCIES.—For the purpose of carrying out the provisions of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

"(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

"(2) undertaking upon the request of the Chair, such special studies for the Council as come within the scope of authority of the Council.

"(e) STANDING COMMITTEES; WORKING GROUPS.—For the purpose of developing interagency plans, conducting studies, and making reports as directed by the Chairman, standing committees and working groups of the Council may be established.".

SEC. 4. INTERAGENCY OCEANS AND HUMAN HEALTH RESEARCH PROGRAM.

(a) ESTABLISHMENT OF COMMITTEE.—

(1) The National Science and Technology Council shall coordinate and support a national research program to improve understanding of the role of the oceans in human health. In planning the program, the Council shall establish a Committee on Oceans and Human Health that shall consist of representatives from those agencies with programs or missions that could contribute to or benefit from the program. The Committee shall consist of at least one representative from—

(A) the National Oceanic and Atmospheric Administration;

(B) the National Science Foundation;

(C) the National Institute of Environmental Health Sciences and other institutes within the National Institutes of Health;

(D) the Centers for Disease Control;

(E) the Environmental Protection Agency;

(F) the Food and Drug Administration;

(G) the Department of Homeland Security; and

(H) such other agencies and departments as the Council deems appropriate.

(2) The members of the Committee biennially shall select one of its members to serve as Chair. The Chair shall be knowledgeable and experienced with regard to the administration of scientific research programs, and shall be a representative of an agency that contributes substantially, in terms of scientific research capability and budget, to the interagency program.

(b) IMPLEMENTATION PLAN.—Within one year after the date of enactment of this Act, the Chair of the National Science and Technology Council, through the Committee on the Oceans and Human Health, shall develop and submit to the Congress a plan for coordinated Federal activities under the program. In developing the plan, the Committee will consult with the Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia. Such plan will build on and complement the ongoing activities of the National Oceanic and Atmospheric Administration, the National Science Foundation, the National Institute of Environmental Health Sciences, and other departments and agencies and shall—

(1) establish, for the 10-year period beginning in the year it is submitted, the goals and priorities for Federal research which most effectively advance scientific understanding of the connections between the oceans and human health, provide usable information for the prediction and prevention of marine public health problems and use the biological potential of the oceans for development of new treatments of human diseases and a greater understanding of human biology;

(2) describe specific activities required to achieve such goals and priorities, including establishment of national centers of excellence, the funding of competitive research grants, ocean and coastal observations, training and support for scientists, and participation in international research efforts;

(3) identify and address, as appropriate, relevant programs and activities of the Federal agencies and departments that would contribute to the program;

(4) consider and use, as appropriate, reports and studies conducted by Federal agencies and departments, the National Research Council, the Ocean Research Advisory Panel, the Commission on Ocean Policy and other entities;

(5) make recommendations for the coordination of program activities with ocean and human health-related activities of other national and international organizations; and

(6) estimate Federal funding for research activities to be conducted under the program.

(c) PROGRAM SCOPE.—The program shall include the following activities related to the role of oceans in human health:

(1) Interdisciplinary research among the ocean and medical sciences, and coordinated research and activities to improve understanding of processes within the ocean that may affect human health and to explore the potential contribution of marine organisms to medicine and research, including—

(A) vector- and water-borne diseases of humans and marine organisms, including marine mammals and fish;

(B) harmful algal blooms;

(C) marine-derived pharmaceuticals;

(D) marine organisms as models for biomedical research and as indicators of marine environmental health;

(E) marine environmental microbiology;

(F) bioaccumulative and endocrine-disrupting chemical contaminants; and

(G) predictive models based on indicators of marine environmental health.

(2) Coordination with the National Ocean Research Leadership Council (10 U.S.C. 7902(a)) to ensure that any integrated ocean and coastal observing system provides information necessary to monitor, predict and reduce marine public health problems including—

(A) baseline observations of physical ocean properties to monitor climate variation;

(B) measurement of oceanic and atmospheric variables to improve prediction of severe weather events;

(C) compilation of global health statistics for analysis of the effects of oceanic events on human health;

(D) documentation of harmful algal blooms; and

(E) development and implementation of sensors to measure biological processes, acquire health-related data on biological populations and detect contaminants in marine waters and seafood.

(3) Development through partnerships among Federal agencies, States, or academic institutions of new technologies and approaches for detecting and reducing hazards to human health from ocean sources and to strengthen understanding of the value of marine biodiversity to biomedicine, including—

(A) genomics and proteomics to develop genetic and immunological detection approaches and predictive tools and to discover new biomedical resources;

(B) biomaterials and bioengineering;

(C) in situ and remote sensors to detect and quantify contaminants in marine waters and organisms and to identify new genetic resources;

(D) techniques for supplying marine resources, including chemical synthesis, culturing and aquaculturing marine organisms, new fermentation methods and recombinant techniques; and

(E) adaptation of equipment and technologies from human health fields.

(4) Support for scholars, trainees and education opportunities that encourage an interdisciplinary and international approach to exploring the diversity of life in the oceans.

SEC. 5. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OCEANS AND HUMAN HEALTH PROGRAM.

(a) ESTABLISHMENT.—As part of the interagency program planned and coordinated under section 4, the Secretary of Commerce shall establish an Oceans and Human Health Program to coordinate and implement research and activities of the National Oceanic and Atmospheric Administration related to the role of the oceans in human health. In establishing the program, the Secretary shall consult with other Federal agencies conducting integrated oceans and human health research and research in related areas, including the Centers for Disease Control, the National Science Foundation, and the National Institute of Environmental Health Sciences. The Oceans and Human Health Program shall provide support for—

(1) a program and research coordination office;

(2) an advisory panel;

(3) one or more National Oceanic and Atmospheric Administration national centers of excellence;

(4) research grants; and

(5) distinguished scholars and traineeships.

(b) PROGRAM OFFICE.—The Secretary shall establish a program office to identify and coordinate oceans and human health-related research and activities within the National Oceanic and Atmospheric Administration and carry out the elements of the program. The program office will provide support for administration of the program and, in cooperation with the oceans and human health advisory panel, will serve as liaison with academic institutions and other agencies participating in the interagency oceans and human health research program planned and coordinated under section 3.

(c) ADVISORY PANEL.—The Secretary shall establish an oceans and human health advisory panel to assist in the development and implementation of the Oceans and Human Health Program. Membership of the advisory group shall provide for balanced representation of individuals with multi-disciplinary expertise in the marine and biomedical sciences. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the oceans and human health advisory panel.

(d) NATIONAL CENTERS.—

(1) The Secretary shall identify and provide financial support through a competitive process to develop, within the National Oceanic and Atmospheric Administration, for one or more centers of excellence that strengthen the capabilities of the Administration to carry out programs and activities related to the oceans' role in human health. Such centers shall complement and be in addition to the centers established by the National Science Foundation and the National Institute of Environmental Health Sciences.

(2) The centers shall focus on areas related to agency missions, including use of marine organisms as indicators for marine environmental health, ocean pollutants, marine toxins and pathogens, harmful algal blooms, seafood testing, drug discovery, and biology and pathobiology of marine mammals, and on disciplines including marine genomics, marine environmental microbiology, ecological chemistry, and conservation medicine.

(3) In selecting centers for funding, the Secretary will consider the need for geographic representation and give priority to proposals with strong interdisciplinary scientific merit that encourage educational opportunities and provide for effective partnerships among the Administration, other Federal entities, State, academic, medical, and industry participants.

(e) RESEARCH GRANTS.—

(1) The Secretary is authorized to provide grants of financial assistance for critical research and projects that explore the relationship between the oceans and human health and that complement or strengthen Administration programs and activities related to the ocean's role in human health. The Secretary shall consult with the oceans and human health advisory panel established under subsection (c) and the National Sea Grant College Program and may work cooperatively with other agencies participating in the interagency program under section 3 to establish joint criteria for such research and projects.

(2) Grants under this subsection shall be awarded through a peer-review process that may be conducted jointly with other agencies participating in the interagency program established in section 3 or under the National Oceanographic Partnership Program under section 7901 of title 10, United States Code.

(f) DISTINGUISHED SCHOLARS AND TRAINEESHIPS.—

(1) The Secretary shall designate and provide financial assistance to support distinguished scholars from academic institutions,

industry or State governments for collaborative work with scientists and facilities of the Administration.

(2) In consultation with the Directors of the National Institutes of Health and the National Science Foundation, the Secretary of Commerce may establish a program to provide training and experience to scientists at the beginning of their careers who are interested in the role of the oceans in human health.

SEC. 6. PUBLIC INFORMATION AND OUTREACH.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Centers for Disease Control, the Food and Drug Administration, the Environmental Protection Agency and the States, shall design and implement a national public information and outreach program on potential ocean-related human health risks, including health hazards associated with the human consumption of seafood. Under such program, the Secretary shall—

(1) collect and analyze information on ocean-related health hazards and illnesses, including information on the number of individuals affected, causes and geographic location of the hazard or illness;

(2) disseminate the results of the analysis to any appropriate Federal or State agency, the public, involved industries, and other interested persons;

(3) provide advice regarding precautions that may be taken to safeguard against the hazard or illness; and

(4) assess and make recommendations for observing systems to support the program.

(b) SEAFOOD SAFETY.—To address health hazards associated with human consumption of seafood, the Secretary, in consultation with the Centers for Disease Control, the Food and Drug Administration, the Environmental Protection Agency and the States, shall assess risks related to—

(1) seafood that is domestically harvested and processed as compared with imported seafood that is harvested and processed outside the United States;

(2) seafood that is commercially harvested and processed as compared with that harvested for recreational or subsistence purposes and not prepared commercially; and

(3) contamination originating from certain practices that occur both prior to and after sale of seafood to consumers, especially those connected to the manner in which consumers handle and prepare seafood.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) NOAA OCEANS AND HUMAN HEALTH PROGRAM.—There are authorized to be appropriated to the Secretary of Commerce to carry out the NOAA Oceans and Human Health program established under section 5, $8,000,000 for fiscal year 2004, $15,000,000 for fiscal year 2005, and $20,000,000 annually for fiscal year 2006 through fiscal year 2008.

(b) PUBLIC INFORMATION.—There are authorized to be appropriated to the Secretary to carry out the public information and outreach program established under section 6, $5,000,000 for each of fiscal years 2004 through 2007.

By Mr. EDWARDS (for himself, Mr. SMITH, and Mrs. CLINTON):

S. 1219: A bill to amend the national and Community Service Act of 1990 to establish a Community Corps, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. EDWARDS. Mr. President, today I rise to introduce the School Service Act of 2003.

Across our Nation, as more and more people participate in national service programs, young people, too, are making real contributions to their communities. These students are learning lessons that are more valuable than any taught in the classroom, lessons about what it means to be a part of a community and what it means to be an American.

In my home State, schools and communities have seen the benefit of student service. High school kids have built community centers in run-down neighborhoods. They've cleaned up polluted ponds. They've helped small children learn to read, and offered comfort to the elderly and sick.

And the students have learned that their efforts matter, a lesson that they'll carry with them their whole lives. The research shows this. In one study, adults who had completed service projects more than 15 years earlier were still more likely to be volunteers and voters than adults who hadn't. In another program, kids who served had a 60 percent lower drop-out rate and 18 percent lower rate of school suspension than kids who didn't.

I applaud these students' dedication, as well as the dedication of the teachers, parents and administrators who support them. But we should do more than simply applaud these efforts—we should provide the resources to support and expand them.

That is why I am introducing, together with Senator GORDON SMITH and Senator CLINTON, the School Service Act of 2003. The proposal is very simple: We say to a limited number of States and cities, if you have schools that will make sure students engage in high-quality service before graduation, we will support those schools' efforts. All that we ask is that you ensure that students are engaging in meaningful service with real benefits to communities. We want kids seeing these experiences not as another chore, but as an exciting initiation into long lives of active citizenship.

Here in Congress, it is our responsibility to give opportunities for service to our young people. We do not want to create a new national mandate, and we will not require any State or city to do anything. But for those State and school districts with schools that are ready, we ought to make sure every child has the opportunity and the responsibility to engage in service. When we do, our country will be richly rewarded in the years and decades to come.

By Mr. ALLARD (for himself, , Mr. WYDEN, Mr. SMITH, Mr. INOUYE, Mr. AKAKA, Mr. COLEMAN, Mrs. HUTCHISON, and Mr. CAMPBELL):

S. 1220. A bill to amend title XVIII of the Social Security Act to extend reasonable cost contracts under the medicare program, to expand the area in which plans offered under such contracts may operate, to apply certain provisions of the Medicare+Choice program to such plans, and for other purposes; to the Committee on Finance.

Mr. ALLARD. Mr. President, currently approximately 19,500 Colorado seniors are beneficiaries of Medicare health plans called "cost contracts." Under current law, cost contracts will expire. Along with Senator WYDEN, Senator SMITH, Senator INOUYE, Senator AKAKA, and Senator COLEMAN, I am pleased to introduce the Medicare Cost Contract Extension and Refinement Act of 2003 to refine and to allow seniors to continue using these valued health plans.

Medicare cost contracts are managed care plans that are reimbursed at the cost of providing health benefits. Currently, seniors have three Medicare plans to choose from: basic Medicare fee-for-service, Medicare+Choice, and Medicare cost contracts.

Cost contract plans offer more benefits than basic Medicare and is available in more areas than Medicare+Choice. Cost contracts also offer lower out-of-pocket expenses and more benefits than supplemental Medigap, such as preventive care and prescription drug benefits. In addition, cost contract premiums cover Medicare deductibles and additional benefits not covered by basic Medicare. Further, for the costs of a normal Medicare fee-for-service copayment, seniors with cost contracts can use any Medicare provider whether they participate in the health plan's network.

Cost contracts are especially important in rural Colorado. Of the 19,500 Coloradans with cost contract plans, about 90 percent live in rural Colorado, where few basic Medicare and Medicare+Choice providers operate. If Medicare cost contracts are eliminated, then thousands of seniors will be forced into these other Medicare programs.

Seniors with cost contracts value them. According to the 1999 Medicare Managed Care Consumer Assessment of Health Plans Study, conducted by the U.S. Department of Health and Human Services, Medicare beneficiaries gave Medicare cost contract health insurers higher ratings than non-cost contract providers. Beneficiaries noted cost contracting HMOs solved problems, provided care, and provided customer service better than the majority of non-cost contracting providers. These ratings, demonstrate that cost contract plans provide the quality service seniors want and need.

Unfortunately, under current law cost contracts soon will terminate. In 1997, in an effort to refine Medicare+Choice, Congress passed the Balanced Budget Act. Among other provisions, this bill terminated the Medicare cost contract program effective December 31, 2002. To prevent the termination of this valuable plan, in 1999 I introduced legislation to extend cost contracts. That year Congress passed the Balanced Budget and Refinement Act, which extended cost contracts for two years through 2004.

Congress should extend Medicare cost contracts further. Legislation I am introducing, the Cost Contracting Extension and Refinement Act, would accomplish this by extending by ten years the cost contract sunset date of December 31, 2004 to December 31, 2014.

While the goal of Congress in the Balanced Budget Act of 1997 was to provide an alternative to basic Medicare through Medicare+Choice, Medicare+Choice has not yet met this goal in rural Colorado. Until Medicare+Choice coverage is readily available to rural cost contract recipients, Congress should extend the current cost contract sunset for an additional 10 years.

This legislation would provide another reform. It would apply certain existing requirements under the Medicare+Choice program to Medicare cost contract plans in order to allow better administration, education, and protections to patients, providers, and insurers. The legislation would allow beneficiaries to be informed and educated about the option of cost contracts, apply quality assurance requirements, prevent plans from discriminating against certain patients by offering lower premiums, and prohibit States from taxing cost contract premiums. These provisions help refine and strengthen the Medicare cost contract program, and they help streamline the dual administration of Medicare+Choice and cost contracts.

Last, the Medicare Cost Contract Extension and Refinement Act would allow certain health plans, called group model health plans, to offer Medicare patients a cost contract plan. These group model health plans have traditionally been shown to provide care efficiently and at a cost lower than the costs that would be incurred if the services are furnished under the Medicare fee-for-service program. Group health plans are health insurers that offer health care through providers that are employed by the insurer, such as the Kaiser Foundation Health Plan. If, for example, Kaiser provides Medicare patients the cost contract option, then Colorado's approximate 50,000 seniors, who are now enrolled in Kaiser's Medicare+Choice plans, would be eligible to obtain a cost contract plan.

Medicare beneficiaries deserve a choice in how they receive their health care. Congress should allow one of these choices to remain Medicare cost contracts. On behalf of the 19,500 Colorado Medicare beneficiaries who obtain their health care from cost contract plans, I am pleased to sponsor the Medicare Cost Contract Extension Act.

I ask unanimous consent that the text of this legislation be printed in the RECORD

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Cost Contract Extension and Refinement Act of 2003".

SEC. 2. EXTENSION OF REASONABLE COST CONTRACTS.

(a) TEN-YEAR EXTENSION.—Section 1876(h)(5)(C) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)) is amended by striking "2004" and inserting "2014".

(b) TEN-YEAR EXTENSION OF PERIOD DURING WHICH COST CONTRACTS MAY EXPAND SERVICE AREAS.—Section 1876(h)(5)(B)(i) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(B)(i)) is amended by striking "2003" and inserting "2013".

SEC. 3. APPLICATION OF CERTAIN MEDICARE+CHOICE REQUIREMENTS TO COST CONTRACTS EXTENDED OR RENEWED AFTER 2003.

Section 1876(h) of the Social Security Act (42 U.S.C. 1395mm(h)), as amended by subsections (a) and (b), is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5)(A) Any reasonable cost reimbursement contract with an eligible organization under this subsection that is extended or renewed on or after the date of enactment of the Medicare Cost Contract Extension and Refinement Act of 2003 or that is entered into pursuant to paragraph (6)(C) for plan years beginning on or after January 1, 2004, shall provide that the provisions of the Medicare+Choice program under part C described in subparagraph (B) shall apply to such organization and such contract in a substantially similar manner as such provisions apply to Medicare+Choice organizations and Medicare+Choice plans under such part.

"(B) The provisions described in this subparagraph are as follows:

"(i) Section 1851(d) (relating to the provision of information to promote informed choice).

"(ii) Section 1851(h) (relating to the approval of marketing material and application forms).

"(iii) Section 1852(a)(3)(A) (regarding the authority of organizations to include supplemental health care benefits under the plan subject to the approval of the Secretary).

"(iv) Paragraph (1) of section 1852(e) (relating to the requirement of having an ongoing quality assurance program) and paragraph (2)(B) of such section (relating to the required elements for such a program).

"(v) Section 1852(e)(4) (relating to treatment of accreditation).

"(vi) Section 1852(j)(4) (relating to limitations on physician incentive plans).

"(vii) Section 1854(c) (relating to the requirement of uniform premiums among individuals enrolled in the plan).

"(viii) Section 1854(g) (relating to restrictions on imposition of premium taxes with respect to payments to organizations).

"(ix) Section 1856(b)(3) (relating to relation to State laws).

"(x) Section 1857(i) (relating to Medicare+Choice program compatibility with employer or union group health plans).

"(xi) The provisions of part C relating to timelines for contract renewal and beneficiary notification.".

SEC. 4. PERMITTING DEDICATED GROUP PRACTICE HEALTH MAINTENANCE ORGANIZATIONS TO PARTICIPATE IN THE MEDICARE COST CONTRACT PROGRAM.

Section 1876(h)(6) of the Social Security Act (42 U.S.C. 1395mm(h)(6)), as redesignated and amended by section 2, is amended—

(1) in subparagraph (A), by striking "After the date of the enactment" and inserting "Except as provided in subparagraph (C), after the date of the enactment";

(2) in subparagraph (B), by striking "subparagraph (C)" and inserting "subparagraph (D)";

(3) by redesignating subparagraph (C) as subparagraph (D); and

(4) by inserting after subparagraph (B), the following new subparagraph:

"(C) Subject to paragraph (5) and subparagraph (D), the Secretary shall approve an application to enter into a reasonable cost contract under this section if—

"(i) the application is submitted to the Secretary by a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act) that, as of January 1, 2004, and except as provided in section 1301(b)(3)(B) of such Act, provides at least 85 percent of the services of a physician which are provided as basic health services through a medical group (or groups), as defined in section 1302(4) of such Act; and

"(ii) the Secretary determines that the organization meets the requirements applicable to such organizations and contracts under this section.".

By Mr. BINGAMAN (for himself, Ms. COLLINS, Mr. JEFFORDS, and Mr. DODD):

S. 1223. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today because there is a crisis in our country that begs our attention. This crisis is the overwhelming lack of adequate mental health services available to the children and adolescents in our Nation and it is time that we address it. As I speak, over 13,700,000 young people are suffering from diagnosable psychiatric disorders. Sadly, fewer than one-third of these have access to mental healthcare. Today I am introducing the "Child Healthcare Crisis Relief Act" along with Senators COLLINS, JEFFORDS, and DODD in an effort to reduce the disparity between the need for mental health services and resources available to meet that need.

The landmark report "Mental Health: A Report of the Surgeon General" illuminated the crisis in 1999. 13,700,000 young people have diagnosable mental disorders including 6–9,000,000 children and adolescents who meet the definition for having a serious emotional disturbance and 5–9 percent of youth who meet the definition for having severe functional impairment.

Unfortunately, few of these young people have access to adequate mental health services. The resulting lack of treatment leads to a lifetime cycle of difficulties from unresolved mental health issues. These difficulties are often as severe as school failure, substance abuse, job and relationship instability, and even criminal behavior or suicide. In many cases, young people who do not receive the mental health treatment that they need end up in foster care or even in the juvenile justice system. In my state of New Mexico, a 2002 report concluded that 1 in 7 incarcerated youth is currently in a detention center solely because there is no appropriate treatment option available. These youth are actually cleared to leave as soon as they have adequate treatment in place. In fact, from January 2001 to December of 2001 an estimated 718 New Mexico youth were collectively incarcerated for 31.3 years waiting for a treatment opening. Most other States are facing similar situations. In fact, studies have found that nationally more than 1 in 3 youth in detention centers have a mental health disorder. Clearly, this is an issue that demands our immediate attention.

One of the key barriers to treatment is the shortage of available specialists trained in the identification, diagnosis, and treatment of children and adolescents with emotional and behavioral disorders. The 1999 Surgeon General's Report stated, "there is a dearth of child psychiatrists, appropriately trained clinical child psychologists, and social workers." There are particularly acute shortages in the number of mental health service professionals serving children and adolescents with serious emotional disorders as well as those serving rural areas. Nationwide, 4,358 urban, suburban, and rural localities have been designated mental health Professional Shortage Areas by the Federal Government. The President's New Freedom Commission has recognized the shortage and has made a recommendation to develop a strategic plan to address it. The Council on Graduate Medical Education and the State Mental Health Commissioners have also recognized this shortage of mental health professionals.

The Child Healthcare Crisis Relief Act will help remove one of the key barriers to treatment for children and adolescents with mental illnesses: the lack of available specialists trained in this field. This bill creates incentives to help recruit and retain child mental health professionals providing direct clinical care and to improve, expand, or help create programs to train child mental health professionals through several mechanisms. The bill provides loan repayment and scholarships for child mental health and school-based service professionals to help pay back educational loans. It provides grants to graduate schools to provide for internships and field placements in child mental health services. It provides grants to help with the preservice and inservice training of paraprofessionals who work in the children's mental health clinical settings. It also provides grants to graduate schools to help develop and expand child and adolescent mental health programs. Finally, the bill allows for an increase in the number of child and adolescent psychiatrists permitted under the Medicare Graduate Medical Education Program, extends the Board Eligibility period for residents and fellows from 4 years to 6 years, and instructs the secretary to prepare a report on the distribution and need for child mental health and school-based professionals.

I ask my colleagues in the Senate to join me along with Senators COLLINS, JEFFORDS, and DODD in supporting this essential legislation. Over 13 million children in our country are counting on us.

As Walt Disney once said, "Our Nation's greatest national resource is the minds of our children." Let us not fail these 13 million people.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Health Care Crisis Relief Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Center for Mental Health Services estimates that 20 percent or 13,700,000 of the Nation's children and adolescents have a diagnosable mental health disorder, and about ⅔ of these children and adolescents do not receive mental health care.

(2) According to "Mental Health: A Report of the Surgeon General" in 1999, there are approximately 6,000,000 to 9,000,000 children and adolescents in the United States (accounting for 9 to 13 percent of all children and adolescents in the United States) who meet the definition for having a serious emotional disturbance.

(3) According to the Center for Mental Health Services, approximately 5 to 9 percent of children and adolescents in the United States meet the definition for extreme functional impairment.

(4) According to the Surgeon General's Report, there are particularly acute shortages in the numbers of mental health service professionals serving children and adolescents with serious emotional disorders.

(5) According to the National Center for Education Statistics in the Department of Education, there are approximately 513 students for each school counselor in United States schools, which ratio is more than double the recommended ratio of 250 students for each school counselor.

(6) According to a year 2000 estimate of the Bureau of Health Professions, the demand for the services of child and adolescent psychiatry is projected to increase by 100 percent by 2020.

(7) The development and application of knowledge about the impact of disasters on children, adolescents, and their families has been impeded by critical shortages of qualified researchers and practitioners specializing in this work.

(8) According to the Bureau of the Census, the population of children and adolescents in the United States under the age of 18 is projected to grow by more than 40 percent, from 70,000,000 to more than 100,000,000 by 2050.

SEC. 3. LOAN REPAYMENTS, SCHOLARSHIPS, AND GRANTS TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.

Part B of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.) is amended by adding at the end the following:

"SEC. 742. LOAN REPAYMENTS, SCHOLARSHIPS, AND GRANTS TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.

"(a) LOAN REPAYMENTS FOR CHILD AND ADOLESCENT MENTAL HEALTH SERVICE PROFESSIONALS.—

"(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program of entering into contracts on a competitive basis with eligible individuals (as defined in paragraph (2)) under which—

"(A) the eligible individual agrees to be employed full-time for a specified period of at least 2 years in providing mental health services to children and adolescents; and

"(B) the Secretary agrees to make, during the period of employment described in subparagraph (A), partial or total payments on behalf of the individual on the principal and interest due on the undergraduate and graduate educational loans of the eligible individual.

"(2) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means an individual who—

"(A) is receiving specialized training or clinical experience in child and adolescent mental health in psychiatry, psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling and has less than 1 year remaining before completion of such training or clinical experience; or

"(B)(i) has a license in a State to practice allopathic medicine, osteopathic medicine, psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling; and

"(ii)(I) is a mental health service professional who completed (but not before the end of the calendar year in which this section is enacted) specialized training or clinical experience in child and adolescent mental health services described in subparagraph (A); or

"(II) is a physician who graduated from (but not before the end of the calendar year in which this section is enacted) an accredited child and adolescent psychiatry residency or fellowship program in the United States.

"(3) ADDITIONAL ELIGIBILITY REQUIREMENTS.—The Secretary may not enter into a contract under this subsection with an eligible individual unless the individual—

"(A) is a United States citizen or a permanent legal United States resident; and

"(B) if enrolled in a graduate program (including a medical residency or fellowship), has an acceptable level of academic standing as determined by the Secretary.

“(4) Priority.—In entering into contracts under this subsection, the Secretary shall give priority to applicants who—

“(A) are or will be working with high priority populations;

“(B) have familiarity with evidence-based methods in child and adolescent mental health services;

“(C) demonstrate financial need; and

“(D) are or will be—

“(i) working in the publicly funded sector;

“(ii) working in organizations that serve underserved populations; or

“(iii) willing to provide patient services—

“(I) regardless of the ability of a patient to pay for such services; or

“(II) on a sliding payment scale if a patient is unable to pay the total cost of such services.

“(5) Meaningful loan repayment.—If the Secretary determines that funds appropriated for a fiscal year to carry out this subsection are not sufficient to allow a meaningful loan repayment to all expected applicants, the Secretary shall limit the number of contracts entered into under paragraph (1) to ensure that each such contract provides for a meaningful loan repayment.

“(6) Amount.—

“(A) Maximum.—For each year of the employment period described in paragraph (1)(A), the Secretary shall not, under a contract described in paragraph (1), pay more than $35,000 on behalf of an individual.

“(B) Consideration.—In determining the amount of payments to be made on behalf of an eligible individual under a contract described in paragraph (1), the Secretary shall consider the income and debt load of the eligible individual.

“(7) Applicability of certain provisions.—The provisions of sections 338E and 338F shall apply to the program established under paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III.

“(8) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2004 through 2008.

“(b) Scholarships for Students Studying To Become Child and Adolescent Mental Health Service Professionals.—

“(1) Establishment.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program to award scholarships on a competitive basis to eligible students who agree to enter into full-time employment (as described in paragraph (4)(C)) as a child and adolescent mental health service professional after graduation or completion of a residency or fellowship.

“(2) Eligible student.—For purposes of this subsection, the term 'eligible student' means a United States citizen or a permanent legal United States resident who—

“(A) is enrolled or accepted to be enrolled in a graduate program that includes specialized training or clinical experience in child and adolescent mental health in psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling; or

“(B) is enrolled or accepted to be enrolled in an accredited graduate training program of allopathic or osteopathic medicine in the United States and intends to complete an accredited residency or fellowship in child and adolescent psychiatry.

“(3) Priority.—In awarding scholarships under this subsection, the Secretary shall give—

“(A) highest priority to applicants who previously received a scholarship under this subsection and satisfy the criteria described in subparagraph (B); and

“(B) second highest priority to applicants who—

“(i) demonstrate a commitment to working with high priority populations;

“(ii) have familiarity with evidence-based methods in child and adolescent mental health services;

“(iii) demonstrate financial need; and

“(iv) are or will be—

“(I) working in the publicly funded sector;

“(II) working in organizations that serve underserved populations; or

“(III) willing to provide patient services—

“(aa) regardless of the ability of a patient to pay for such services; or

“(bb) on a sliding payment scale if a patient is unable to pay the total cost of such services.

“(4) Requirements.—The Secretary may award a scholarship to an eligible student under this subsection only if the eligible student agrees—

“(A) to complete any graduate training program, internship, residency, or fellowship applicable to that eligible student under paragraph (2);

“(B) to maintain an acceptable level of academic standing (as determined by the Secretary) during the completion of such graduate training program, internship, residency, or fellowship; and

“(C) to be employed full-time after graduation or completion of a residency or fellowship for at least the number of years for which a scholarship is received by the eligible student under this subsection, in providing mental health services to children and adolescents.

“(5) Use of scholarship funds.—A scholarship awarded to an eligible student for a school year under this subsection may be used to pay for only tuition expenses of the school year, other reasonable educational expenses (including fees, books, and laboratory expenses incurred by the eligible student in the school year), and reasonable living expenses, as such tuition expenses, reasonable educational expenses, and reasonable living expenses are determined by the Secretary.

“(6) Amount.—The amount of a scholarship under this subsection shall not exceed the total amount of the tuition expenses, reasonable educational expenses, and reasonable living expenses described in paragraph (5).

“(7) Applicability of certain provisions.—The provisions of sections 338E and 338F shall apply to the program established under paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Scholarship Program established in subpart III of part D of title III.

“(8) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2004 through 2008.

“(c) Clinical Training Grants for Professionals.—

“(1) Establishment.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, and in cooperation with the Administrator of the Substance Abuse and Mental Health Services Administration, may establish a program to award grants on a competitive basis to accredited institutions of higher education to establish or expand internships or other field placement programs for students receiving specialized training or clinical experience in child and adolescent mental health in the fields of psychiatry, psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling.

“(2) Priority.—In awarding grants under this subsection, the Secretary shall give priority to applicants that—

“(A) have demonstrated the ability to collect data on the number of students trained in child and adolescent mental health and the populations served by such students after graduation;

“(B) have demonstrated familiarity with evidence-based methods in child and adolescent mental health services; and

“(C) have programs designed to increase the number of professionals serving high priority populations.

“(3) Requirements.—The Secretary may award a grant to an applicant under this subsection only if the applicant agrees that—

“(A) any internship or other field placement program assisted under the grant will prioritize cultural competency;

“(B) students benefiting from any assistance under this subsection will be United States citizens or permanent legal United States residents;

“(C) the institution will provide to the Secretary such data, assurances, and information as the Secretary may require; and

“(D) with respect to any violation of the agreement between the Secretary and the institution, the institution will pay such liquidated damages as prescribed by the Secretary by regulation.

“(4) Application.—Each institution of higher education desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require including a description of the experience of such institution in working with child and adolescent mental health issues.

“(5) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2004 through 2008.

“(d) Progressive Education Grants for Paraprofessionals.—

“(1) Establishment.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, and in cooperation with the Administrator of the Substance Abuse and Mental Health Services Administration, may establish a program to award grants on a competitive basis to State-licensed mental health nonprofit and for-profit organizations, including accredited institutions of higher education, (in this subsection referred to as 'organizations') to enable such organizations to pay for programs for preservice or in-service training of paraprofessional child and adolescent mental health workers.

“(2) Definition.—For purposes of this subsection, the term 'paraprofessional child and adolescent mental health worker' means an individual who is not a mental health service professional, but who works at the first stage of contact with children and families who are seeking mental health services.

“(3) Priority.—In awarding grants under this subsection, the Secretary shall give priority to organizations that—

“(A) have demonstrated the ability to collect data on the number of paraprofessional child and adolescent mental health workers trained by the applicant and the populations served by these workers after the completion of the training;

"(B) have familiarity with evidence-based methods in child and adolescent mental health services; and

"(C) have programs designed to increase the number of paraprofessional child and adolescent mental health workers serving high priority populations.

"(4) Requirements.—The Secretary may award a grant to an organization under this subsection only if the organization agrees that—

"(A) any training program assisted under the grant will prioritize cultural competency;

"(B) the organization will provide to the Secretary such data, assurances, and information as the Secretary may require; and

"(C) with respect to any violation of the agreement between the Secretary and the organization, the organization will pay such liquidated damages as prescribed by the Secretary by regulation.

"(5) Application.—Each organization desiring a grant under this subsection shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require including a description of the experience of the organization in working with paraprofessional child and adolescent mental health workers.

"(6) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2004 through 2008.

"(e) Child and Adolescent Mental Health Program Development Grants.—

"(1) Establishment.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program to increase the number of well-trained child and adolescent mental health service professionals in the United States by awarding grants on a competitive basis to accredited institutions of higher education to enable such institutions to establish or expand accredited graduate child and adolescent mental health programs.

"(2) Priority.—In awarding grants under this subsection, the Secretary shall give priority to applicants that—

"(A) demonstrate familiarity with the use of evidence-based methods in child and adolescent mental health services;

"(B) provide experience in and collaboration with community-based child and adolescent mental health services;

"(C) have included normal child development education in their curricula; and

"(D) demonstrate commitment to working with high priority populations.

"(3) Use of funds.—Funds awarded under this subsection may be used to establish or expand any accredited graduate child and adolescent mental health program in any manner deemed appropriate by the Secretary, including improving the coursework, related field placements, or faculty of such program.

"(4) Requirements.—The Secretary may award a grant to an accredited institution of higher education under this subsection only if the institution agrees that—

"(A) any child and adolescent mental health program assisted under the grant will prioritize cultural competency;

"(B) the institution will provide to the Secretary such data, assurances, and information as the Secretary may require; and

"(C) with respect to any violation of the agreement between the Secretary and the institution, the institution will pay such liquidated damages as prescribed by the Secretary by regulation.

"(5) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 2004 through 2008.

"(f) Definitions.—In this section:

"(1) High priority population.—The term 'high priority population' means a population that has a high incidence of children and adolescents who have serious emotional disturbances, are racial and ethnic minorities, or live in underserved urban or rural areas.

"(2) Mental health service professional.—The term 'mental health service professional' means an individual with a graduate or postgraduate degree from an accredited institution of higher education in psychiatry, psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family counseling, school counseling, or professional counseling.

"(3) Specialized training or clinical experience in child and adolescent mental health.—The term 'specialized training or clinical experience in child and adolescent mental health' means training and clinical experience that—

"(A) is part of or occurs after completion of an accredited graduate program in the United States for training mental health service professionals;

"(B) consists of at least 500 hours of training or clinical experience in treating children and adolescents; and

"(C) is comprehensive, coordinated, developmentally appropriate, and of high quality to address the unique ethnic and cultural diversity of the United States population.".

SEC. 4. AMENDMENTS TO SOCIAL SECURITY ACT TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.

(a) Increasing Number of Child and Adolescent Psychiatry Residents Permitted To Be Paid Under the Medicare Graduate Medical Education Program.—Section 1886(h)(4)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(F)) is amended by adding at the end the following:

"(iii) Increase allowed for training in child and adolescent psychiatry.—In applying clause (i), there shall not be taken into account such additional number of full-time equivalent residents in the field of allopathic or osteopathic medicine who are residents or fellows in child and adolescent psychiatry as the Secretary determines reasonable to meet the need for such physicians as demonstrated by the 1999 report of the Department of Health and Human Services entitled 'Mental Health: A Report of the Surgeon General'.".

(b) Extension of Medicare Board Eligibility Period for Residents and Fellows in Child and Adolescent Psychiatry.—

(1) In general.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(A) in clause (i), by striking "and (v)" and inserting "(v), and (vi)"; and

(B) by adding at the end the following:

"(vi) Child and adolescent psychiatry training programs.—In the case of an individual enrolled in a child and adolescent psychiatry residency or fellowship program approved by the Secretary, the period of board eligibility and the initial residency period shall be the period of board eligibility for the specialty of general psychiatry, plus 2 years for the subspecialty of child and adolescent psychiatry.".

(2) Conforming amendment.—Section 1886(h)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(F)) is amended by striking "subparagraph (G)(v)" and inserting "clauses (v) and (vi) of subparagraph (G)".

(3) Effective date.—The amendments made by paragraph (1) shall apply to residency training years beginning on or after July 1, 2003.

SEC. 5. CHILD MENTAL HEALTH PROFESSIONAL REPORT.

(a) Study.—The Administrator of the Health Resources and Services Administration (in this section referred to as the "Administrator") shall study and make findings and recommendations on the distribution and need for child mental health service professionals, including—

(1) the need for specialty certifications;

(2) the breadth of practice types;

(3) the adequacy of locations;

(4) the adequacy of education and training; and

(5) an evaluation of best practice characteristics.

(b) Disaggregation.—The results of the study required by subsection (a) shall be disaggregated by State.

(c) Report.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress and make publicly available a report on the study, findings, and recommendations required by subsection (a).

(d) Revision.—Each year the Administrator shall revise the report required under subsection (c).

(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2004 through 2008.

SEC. 6. REPORTS.

(a) Transmission.—The Secretary of Health and Human Services shall transmit a report described in subsection (b) to Congress—

(1) not later than 3 years after the date of the enactment of this Act; and

(2) not later than 5 years after the date of the enactment of this Act.

(b) Contents.—The reports transmitted to Congress under subsection (a) shall address each of the following:

(1) The effectiveness of the amendments made by, and the programs carried out under, this Act in increasing the number of child and adolescent mental health service professionals and paraprofessional child and adolescent mental health workers.

(2) The demographics of the individuals served by such increased number of child and adolescent mental health service professionals and paraprofessional child and adolescent mental health workers.

By Mr. CORZINE (for himself and Mr. Lautenberg):

S. 1224. A bill to expand the powers of the Attorney General to regulate the manufacture, distribution, and sale of firearms and ammunition, and to expand the jurisdiction of the Attorney General to include firearm products and nonpowder firearms; to the Committee on the Judiciary.

Mr. CORZINE. Mr. President, I rise today to introduce the Firearms Safety and Consumer Protection Act of 2003, legislation to protect gun owners and the public by establishing safety standards for firearms such as those currently in place for other consumer products.

Because of a loophole in current law, firearms are virtually the only consumer product not subject to any Federal health and safety standards. Yet firearms are the second leading cause of product-related death in America. In 2000 alone, 28,663 Americans died by gunfire and nearly twice that number were treated in emergency rooms for non-fatal gunshot injuries.

Of course, all firearms are lethal. But many guns are much more dangerous than they have to be. First, many firearms are manufactured poorly or with components of inadequate quality. These guns can pose a severe threat to gun owners, as well as members of the public. For example, one firearm manufacturer settled a class action suit for more than $31 million in 1995, and thereafter improved the quality of their guns, after gun owners alleged that their firearms were produced from steel that was too weak, and thus prone to explode.

Unfortunately, the lack of safety standards in current law means that many defective firearms remain in circulation, with the government largely unable to do anything about it. We cannot recall such firearms. We cannot require that warning labels be attached to them. We can do very little to protect gun owners and the public from the threat they pose.

Beyond the need to better regulate firearms that are manufactured defectively, we also need to do more to ensure that firearms are designed properly, with features that reduce unreasonable risks. Unfortunately, too many firearms lack readily available features that could make them much less likely to be involved in an accident. For example, many guns lack so-called magazine disconnects, which disable a firearm when its magazine is removed. This feature could prevent many accidental deaths caused when a firearm user, seeing that the magazine has been removed, wrongly concludes that a gun is not loaded. Along the same lines, too few firearms include a load indicator, which allows an individual to readily see whether the gun is loaded. Both of these features would address the most common scenario for unintentional shootings, which involves a person who does not realize that there is still a round in a gun's chamber.

By regulating the manufacture and design of firearms, we can significantly reduce the number of accidental shootings, and the serious injuries and deaths they cause. However, better safety regulation also holds the promise of reducing the number of deaths from homicides and suicides.

In recent years, firearm manufacturers have taken a number of steps to make firearms more likely to be used in crimes, and more deadly if they are. For example, many guns are being produced in a manner that makes them readily concealable, and thus more attractive to criminals. In addition, many manufacturers have increased the number of rounds that a gun can fire without reloading, and have increased the size of their ammunition, making the firearms far more lethal.

Given the threat posed by unreasonably dangerous firearms to gun owners and the general public, there is no excuse for exempting firearms from health and safety standards applicable to most other consumer products. In fact, there is evidence that the public would support such regulation. A 1999 National Opinion Research Center survey found that two-thirds of Americans want the Federal Government to regulate the safety design of guns.

The Firearms Safety and Consumer Protection Act would do just that. The bill would give the Department of Justice the authority to: Set minimum safety standards for the manufacture, design and distribution of firearms; issue recalls and warnings; collect data on gun-related death and injury; and limit the sale of products when no other remedy is sufficient. It is important to emphasize that the bill would not limit the public's access to guns for hunting and other legitimate sporting purposes.

More than 120 national, state and local organizations support this bill, including: The American Academy of Pediatrics, American Bar Association, American Jewish Congress, American Public Health Association, Brady Campaign to Prevent Gun Violence, Coalition to Stop Gun Violence, Consumer Federation of America, the NAACP, National Coalition Against Domestic Violence, United Church of Christ Justice and Witness Ministries, and the Violence Policy Center.

There simply is no reason to maintain the existing loophole that exempts firearms from basic health and safety protections. This loophole is creating a serious public safety problem, especially for gun owners themselves.

In conclusion, I hope my colleagues will consider this: Under current law, the safety of toy guns is regulated. The safety of real guns is not. Even if my colleagues in the Senate cannot agree on much else when it comes to guns, surely we should all agree that this makes no sense.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Firearms Safety and Consumer Protection Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—REGULATION OF FIREARM PRODUCTS

Sec. 101. Regulatory authority.
Sec. 102. Orders; inspections.

TITLE II—PROHIBITIONS

Sec. 201. Prohibitions.
Sec. 202. Inapplicability to governmental authorities.

TITLE III—ENFORCEMENT

SUBTITLE A—CIVIL ENFORCEMENT

Sec. 301. Civil penalties.
Sec. 302. Injunctive enforcement and seizure.
Sec. 303. Imminently hazardous firearms.
Sec. 304. Private cause of action.
Sec. 305. Private enforcement of this Act.
Sec. 306. Effect on private remedies.

SUBTITLE B—CRIMINAL ENFORCEMENT

Sec. 351. Criminal penalties.

TITLE IV—ADMINISTRATIVE PROVISIONS

Sec. 401. Firearm injury information and research.
Sec. 402. Annual report to Congress.

TITLE V—RELATIONSHIP TO OTHER LAW

Sec. 501. Subordination to the Arms Export Control Act.
Sec. 502. Effect on State law.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) protect the public against unreasonable risk of injury and death associated with firearms and related products;

(2) develop safety standards for firearms and related products;

(3) assist consumers in evaluating the comparative safety of firearms and related products;

(4) promote research and investigation into the causes and prevention of firearm-related deaths and injuries; and

(5) restrict the availability of weapons that pose an unreasonable risk of death or injury.

SEC. 3. DEFINITIONS.

(a) SPECIFIC TERMS.—In this Act:

(1) FIREARMS DEALER.—The term "firearms dealer" means—

(A) any person engaged in the business (as defined in section 921(a)(21)(C) of title 18, United States Code) of dealing in firearms at wholesale or retail;

(B) any person engaged in the business (as defined in section 921(a)(21)(D) of title 18, United States Code) of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; and

(C) any person who is a pawnbroker.

(2) FIREARM PART.—The term "firearm part" means—

(A) any part or component of a firearm as originally manufactured;

(B) any good manufactured or sold—

(i) for replacement or improvement of a firearm; or

(ii) as any accessory or addition to the firearm; and

(C) any good that is not a part or component of a firearm and is manufactured, sold, delivered, offered, or intended for use exclusively to safeguard individuals from injury by a firearm.

(3) FIREARM PRODUCT.—The term "firearm product" means a firearm, firearm part, nonpowder firearm, and ammunition.

(4) FIREARM SAFETY REGULATION.—The term "firearm safety regulation" means a regulation prescribed under this Act.

(5) FIREARM SAFETY STANDARD.—The term "firearm safety standard" means a standard promulgated under this Act.

(6) IMMINENTLY HAZARDOUS FIREARM PRODUCT.—The term "imminently hazardous firearm product" means any firearm product with respect to which the Attorney General determines that—

(A) the product poses an unreasonable risk of injury to the public; and

(B) time is of the essence in protecting the public from the risks posed by the product.

(7) NONPOWDER FIREARM.—The term "nonpowder firearm" means a device specifically designed to discharge BBs, pellets, darts, or similar projectiles by the release of stored energy.

(8) QUALIFIED FIREARM PRODUCT DEFINED.—The term "qualified firearm product" means a firearm product—

(A) that—

(i) is being transported;

(ii) having been transported, remains unsold;

(iii) is sold or offered for sale; or

(iv) is imported or is to be exported; and

(B) that—

(i) is not in compliance with a regulation prescribed or an order issued under this Act; or

(ii) with respect to which relief has been granted under section 303.

(b) OTHER TERMS.—Each term used in this Act that is not defined in subsection (a) shall have the meaning (if any) given that term in section 921(a) of title 18, United States Code.

TITLE I—REGULATION OF FIREARM PRODUCTS

SEC. 101. REGULATORY AUTHORITY.

(a) IN GENERAL.—The Attorney General shall prescribe such regulations governing the design, manufacture, and performance of, and commerce in, firearm products, consistent with this Act, as are reasonably necessary to reduce or prevent unreasonable risk of injury resulting from the use of those products.

(b) MAXIMUM INTERVAL BETWEEN ISSUANCE OF PROPOSED AND FINAL REGULATION.—Not later than 120 days after the date on which the Attorney General issues a proposed regulation under subsection (a) with respect to a matter, the Attorney General shall issue a regulation in final form with respect to the matter.

(c) PETITIONS.—

(1) IN GENERAL.—Any person may petition the Attorney General to—

(A) issue, amend, or repeal a regulation prescribed under subsection (a) of this section; or

(B) require the recall, repair, or replacement of a firearm product, or the issuance of refunds with respect to a firearm product.

(2) DEADLINE FOR ACTION ON PETITION.—Not later than 120 days after the date on which the Attorney General receives a petition referred to in paragraph (1), the Attorney General shall—

(A) grant, in whole or in part, or deny the petition; and

(B) provide the petitioner with the reasons for granting or denying the petition.

SEC. 102. ORDERS; INSPECTIONS.

(a) AUTHORITY TO PROHIBIT MANUFACTURE, SALE, OR TRANSFER OF FIREARM PRODUCTS MADE, IMPORTED, TRANSFERRED, OR DISTRIBUTED IN VIOLATION OF REGULATION.—The Attorney General may issue an order prohibiting the manufacture, sale, or transfer of a firearm product which the Attorney General finds has been manufactured, or has been or is intended to be imported, transferred, or distributed in violation of a regulation prescribed under this Act.

(b) AUTHORITY TO REQUIRE THE RECALL, REPAIR, OR REPLACEMENT OF, OR THE PROVISION OF REFUNDS WITH RESPECT TO FIREARM PRODUCTS.—The Attorney General may issue an order requiring the manufacturer of, and any dealer in, a firearm product which the Attorney General determines poses an unreasonable risk of injury to the public, is not in compliance with a regulation prescribed under this Act, or is defective, to—

(1) provide notice of the risks associated with the product, and of how to avoid or reduce the risks, to—

(A) the public;

(B) in the case of the manufacturer of the product, each dealer in the product; and

(C) in the case of a dealer in the product, the manufacturer of the product and the other persons known to the dealer as dealers in the product;

(2) bring the product into conformity with the regulations prescribed under this Act;

(3) repair the product;

(4) replace the product with a like or equivalent product which is in compliance with those regulations;

(5) refund the purchase price of the product, or, if the product is more than 1 year old, a lesser amount based on the value of the product after reasonable use;

(6) recall the product from the stream of commerce; or

(7) submit to the Attorney General a satisfactory plan for implementation of any action required under this subsection.

(c) AUTHORITY TO PROHIBIT MANUFACTURE, IMPORTATION, TRANSFER, DISTRIBUTION, OR EXPORT OF UNREASONABLY RISKY FIREARM PRODUCTS.—The Attorney General may issue an order prohibiting the manufacture, importation, transfer, distribution, or export of a firearm product if the Attorney General determines that the exercise of other authority under this Act would not be sufficient to prevent the product from posing an unreasonable risk of injury to the public.

(d) INSPECTIONS.—When the Attorney General has reason to believe that a violation of this Act, or of a regulation or order issued under this Act, is being, or has been, committed, the Attorney General may, at reasonable times—

(1) enter any place in which firearm products are manufactured, stored, or held, for distribution in commerce, and inspect those areas where the products are manufactured, stored, or held; and

(2) enter and inspect any conveyance being used to transport a firearm product.

TITLE II—PROHIBITIONS

SEC. 201. PROHIBITIONS.

(a) FAILURE OF MANUFACTURER TO TEST AND CERTIFY FIREARM PRODUCTS.—It shall be unlawful for the manufacturer of a firearm product to transfer, distribute, or export a firearm product unless—

(1) the manufacturer has tested the product in order to ascertain whether the product is in conformity with the regulations prescribed under section 101;

(2) the product is in conformity with those regulations; and

(3) the manufacturer has included in the packaging of the product, and furnished to each person to whom the product is distributed, a certificate stating that the product is in conformity with those regulations.

(b) FAILURE OF MANUFACTURER TO PROVIDE NOTICE OF NEW TYPES OF FIREARM PRODUCTS.—It shall be unlawful for the manufacturer of a new type of firearm product to manufacture the product, unless the manufacturer has provided the Attorney General with—

(1) notice of the intent of the manufacturer to manufacture the product; and

(2) a description of the product.

(c) FAILURE OF MANUFACTURER OR DEALER TO LABEL FIREARM PRODUCTS.—It shall be unlawful for a manufacturer of or dealer in firearms to transfer, distribute, or export a firearm product unless the product is accompanied by a label that is located prominently in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label and that contains—

(1) the name and address of the manufacturer of the product;

(2) the name and address of any importer of the product;

(3) the model number of the product and the date the product was manufactured;

(4) a specification of the regulations prescribed under this Act that apply to the product; and

(5) the certificate required by subsection (a)(3) with respect to the product.

(d) FAILURE TO MAINTAIN OR PERMIT INSPECTION OF RECORDS.—It shall be unlawful for an importer of, manufacturer of, or dealer in a firearm product to fail to—

(1) maintain such records, and supply such information, as the Attorney General may require in order to ascertain compliance with this Act and the regulations and orders issued under this Act; and

(2) permit the Attorney General to inspect and copy those records at reasonable times.

(e) IMPORTATION AND EXPORTATION OF UNCERTIFIED FIREARM PRODUCTS.—It shall be unlawful for any person to import into the United States or export a firearm product that is not accompanied by the certificate required by subsection (a)(3).

(f) COMMERCE IN FIREARM PRODUCTS IN VIOLATION OF ORDER ISSUED OR REGULATION PRESCRIBED UNDER THIS ACT.—It shall be unlawful for any person to manufacture, offer for sale, distribute in commerce, import into the United States, or export a firearm product—

(1) that is not in conformity with the regulations prescribed under this Act; or

(2) in violation of an order issued under this Act.

(g) STOCKPILING.—It shall be unlawful for any person to manufacture, purchase, or import a firearm product, after the date a regulation is prescribed under this Act with respect to the product and before the date the regulation takes effect, at a rate that is significantly greater than the rate at which the person manufactured, purchased, or imported the product during a base period (prescribed by the Attorney General in regulations) ending before the date the regulation is so prescribed.

SEC. 202. INAPPLICABILITY TO GOVERNMENTAL AUTHORITIES.

Section 201 does not apply to any department or agency of the United States, of a State, or of a political subdivision of a State, or to any official conduct of any officer or employee of such a department or agency.

TITLE III—ENFORCEMENT

Subtitle A—Civil Enforcement

SEC. 301. CIVIL PENALTIES.

(a) AUTHORITY TO IMPOSE FINES.—

(1) IN GENERAL.—The Attorney General shall impose upon any person who violates section 201 a civil fine in an amount that does not exceed the applicable amount described in subsection (b).

(2) SCOPE OF OFFENSE.—Each violation of section 201 (other than of subsection (a)(3) or (d) of that section) shall constitute a separate offense with respect to each firearm product involved.

(b) APPLICABLE AMOUNT.—

(1) First 5-Year Period.—The applicable amount for the 5-year period immediately following the date of enactment of this Act is $5,000, or $10,000 if the violation is willful.

(2) After 5-Year Period.—The applicable amount during any time after the 5-year period described in paragraph (1) is $10,000, or $20,000 if the violation is willful.

SEC. 302. INJUNCTIVE ENFORCEMENT AND SEIZURE.

(a) Injunctive Enforcement.—The Attorney General may bring an action to restrain any violation of section 201 in the United States district court for any district in which the violation has occurred, or in which the defendant is found or transacts business.

(b) Condemnation.—The Attorney General may bring an action in rem for condemnation of a qualified firearm product in the United States district court for any district in which the Attorney General has found and seized for confiscation the product.

SEC. 303. IMMINENTLY HAZARDOUS FIREARMS.

(a) In General.—Notwithstanding the pendency of any other proceeding in a court of the United States, the Attorney General may bring an action in a United States district court to restrain any person who is a manufacturer of, or dealer in, an imminently hazardous firearm product from manufacturing, distributing, transferring, importing, or exporting the product.

(b) Relief.—In an action brought under subsection (a), the court may grant such temporary or permanent relief as may be necessary to protect the public from the risks posed by the firearm product, including—

(1) seizure of the product; and

(2) an order requiring—

(A) the purchasers of the product to be notified of the risks posed by the product;

(B) the public to be notified of the risks posed by the product; or

(C) the defendant to recall, repair, or replace the product, or refund the purchase price of the product (or, if the product is more than 1 year old, a lesser amount based on the value of the product after reasonable use).

(c) Venue.—An action under subsection (a) may be brought in the United States district court for the District of Columbia or for any district in which any defendant is found or transacts business.

SEC. 304. PRIVATE CAUSE OF ACTION.

(a) In General.—Any person aggrieved by any violation of this Act or of any regulation prescribed or order issued under this Act by another person may bring an action against such other person in any United States district court for damages, including consequential damages. In any action under this section, the court, in its discretion, may award to a prevailing plaintiff a reasonable attorney's fee as part of the costs.

(b) Rule of Interpretation.—The remedy provided for in subsection (a) shall be in addition to any other remedy provided by common law or under Federal or State law.

SEC. 305. PRIVATE ENFORCEMENT OF THIS ACT.

(a) In General.—Any interested person may bring an action in any United States district court to enforce this Act, or restrain any violation of this Act or of any regulation prescribed or order issued under this Act.

(b) Attorney's Fee.—In any action under this section, the court, in its discretion, may award to a prevailing plaintiff a reasonable attorney's fee as part of the costs.

SEC. 306. EFFECT ON PRIVATE REMEDIES.

(a) Irrelevancy of Compliance With This Act.—Compliance with this Act or any order issued or regulation prescribed under this Act shall not relieve any person from liability to any person under common law or State statutory law.

(b) Irrelevancy of Failure To Take Action Under This Act.—The failure of the Attorney General to take any action authorized under this Act shall not be admissible in litigation relating to the product under common law or State statutory law.

Subtitle B—Criminal Enforcement

SEC. 351. CRIMINAL PENALTIES.

Any person who has received from the Attorney General a notice that the person has violated a provision of this Act or of a regulation prescribed under this Act with respect to a firearm product and knowingly violates that provision with respect to the product shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

TITLE IV—ADMINISTRATIVE PROVISIONS

SEC. 401. FIREARM INJURY INFORMATION AND RESEARCH.

(a) Injury Data.—The Attorney General shall, in coordination with the Secretary of Health and Human Services—

(1) collect, investigate, analyze, and share with other appropriate government agencies circumstances of death and injury associated with firearms; and

(2) conduct continuing studies and investigations of economic costs and losses resulting from firearm-related deaths and injuries.

(b) Other Data.—The Attorney General shall—

(1) collect and maintain current production and sales figures for each licensed manufacturer, broken down by the model, caliber, and type of firearms produced and sold by the licensee, including a list of the serial numbers of such firearms;

(2) conduct research on, studies of, and investigation into the safety of firearm products and improving the safety of firearm products; and

(3) develop firearm safety testing methods and testing devices.

(c) Availability of Information.—On a regular basis, but not less frequently than annually, the Attorney General shall make available to the public the results of the activities of the Attorney General under subsections (a) and (b).

SEC. 402. ANNUAL REPORT TO CONGRESS.

(a) In General.—The Attorney General shall prepare and submit to the President and Congress at the beginning of each regular session of Congress, a comprehensive report on the administration of this Act for the most recently completed fiscal year.

(b) Contents.—Each report submitted under subsection (a) shall include—

(1) a thorough description, developed in coordination with the Secretary of Health and Human Services, of the incidence of injury and death and effects on the population resulting from firearm products, including statistical analyses and projections, and a breakdown, as practicable, among the various types of such products associated with the injuries and deaths;

(2) a list of firearm safety regulations prescribed that year;

(3) an evaluation of the degree of compliance with firearm safety regulations, including a list of enforcement actions, court decisions, and settlements of alleged violations, by name and location of the violator or alleged violator, as the case may be;

(4) a summary of the outstanding problems hindering enforcement of this Act, in the order of priority; and

(5) a log and summary of meetings between the Attorney General or employees of the Attorney General and representatives of industry, interested groups, or other interested parties.

TITLE V—RELATIONSHIP TO OTHER LAW

SEC. 501. SUBORDINATION TO ARMS EXPORT CONTROL ACT.

In the event of any conflict between any provision of this Act and any provision of the Arms Export Control Act, the provision of the Arms Export Control Act shall control.

SEC. 502. EFFECT ON STATE LAW.

(a) In General.—This Act shall not be construed to preempt any provision of the law of any State or political subdivision thereof, or prevent a State or political subdivision thereof from enacting any provision of law regulating or prohibiting conduct with respect to a firearm product, except to the extent that such provision of law is inconsistent with any provision of this Act, and then only to the extent of the inconsistency.

(b) Rule of Construction.—A provision of State law is not inconsistent with this Act if the provision imposes a regulation or prohibition of greater scope or a penalty of greater severity than any prohibition or penalty imposed by this Act.

By Mrs. CLINTON (for herself, Ms. Collins, Mrs. Murray, and Mr. Bingaman):

S. 1226. A bill to coordinate efforts in collecting and analyzing data on the incidence and prevalence of developmental disabilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I rise today to discuss a rising epidemic that is preventing a growing number of children in our Nation from learning and contributing fully as members of our society.

Twelve million children under the age of eighteen now suffer from a developmental, learning or behavioral disability. Since 1977, enrollment in special education programs for children with learning disabilities has doubled. In New York, there are 206,000 learning disabled children—this is fifty percent of the special education population in New York.

While we know that developmental disabilities are affecting more children and costing us more money, we still know relatively little about the causes of developmental disabilities. A National Academy of Sciences study suggests that genetic factors explain only ten to twenty percent of developmental disabilities. Considerable research suggests that toxic chemicals such as mercury, pesticides, and dioxin contribute to these problems, but proving the exact role of environmental factors in these problems will take time and significant research dollars.

We can simply not stand back and watch our children suffer from this increasing epidemic. That is why I have worked hard to develop the 2003 Act To Prevent Developmental Disabilities in Education, which I am proud to introduce today with my colleague, Senator

COLLINS. It would help us lower the costs of developmental disabilities by identifying the preventable, non-genetic causes that are affecting so many children in our nation.

Our legislation would require the Department of Education to coordinate with the CDC to improve data collection on environmental hazards that cause disabilities. At this time, the Department of Education collects information on the prevalence of disabilities among children in schools and the CDC collects information on environmental toxins, but the two data systems are not coordinated. If they were, policymakers and researchers could better identify where environmental hazards may be causing developmental disabilities and target resources to these areas for abatement. A National Academy of Sciences study suggests that 28 percent of developmental disabilities are due to environmental causes, and a recent study in the New England Journal of Medicine demonstrated that exposure to low levels of lead can result in a drop of 7.4 IQ points, which can turn a healthy child into one with a developmental disability.

I am working to incorporate this legislation into the reauthorization of the Individuals with Disabilities Education Act because I believe so strongly that our children and families, indeed our entire society, benefits when we prevent developmental diseases rather than treating them after they occur.

And thank you to my friend Senator COLLINS for her hard work and commitment to this important issue.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "2003 Act To Prevent Developmental Disabilities in Education".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Seventeen percent of children in the United States under 18 years of age have a developmental disability.

(2) Since 1977, enrollment in special education programs for children with learning disabilities has doubled.

(3) Federal and State education departments spend about $43,000,000,000 each year on special education programs for individuals with developmental disabilities who are between 3 and 21 years of age.

(4) Research suggests that genetic factors explain only 10 to 20 percent of developmental diseases, and a National Academy of Sciences study suggests that at least 28 percent of developmental disabilities are due to environmental causes.

(b) PURPOSE.—It is the purpose of this Act to ensure a collaborative tracking effort between the Department of Education and the Centers for Disease Control and Prevention for developmental disabilities and potential environmental links.

SEC. 3. DEPARTMENT OF EDUCATION TRACKING ACTIVITIES.

(a) IN GENERAL.—The Secretary of Education (in this section referred to as the "Secretary") shall coordinate efforts with the Director of the National Center for Birth Defects and Developmental Disabilities of the Centers for Disease Control and Prevention (in this section referred to as the "Director") in collecting and analyzing data on the incidence and prevalence of developmental disabilities to determine localities with a high incidence of developmental disabilities and study possible causes of the increased incidence of these diseases, disorders, and conditions.

(b) EXISTING SURVEILLANCE SYSTEMS, REGISTRIES, AND SURVEYS.—To the maximum extent practicable in implementing the activities under this section, the Secretary and the Director shall develop methods for reconciling data collected in accordance with the Individuals With Disabilities Education Act (20 U.S.C. 1400 et seq.) on the prevalence of developmental disabilities with existing surveillance and data collection systems, registries, and surveys that are administered by the Centers for Disease Control and Prevention, including—

(1) State birth defects surveillance systems as supported under section 317C of the Public Health Service Act (42 U.S.C. 247b-4); and

(2) environmental public health tracking program grants authorized under section 301 of the Public Health Service Act (42 U.S.C. 241).

(c) PRIVACY.—In pursuing activities under this section, the Secretary and the Director shall ensure the protection of individual health privacy consistent with regulations promulgated in accordance with section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note), the Family Educational Right to Privacy Act (20 U.S.C. 1232g), and State and local privacy regulations, as applicable.

By Mr. SANTORIUM (for himself and Mrs. LINCOLN):

S. 1227. A bill to amend title XVIII of the Social Security Act to provide for coverage of substitute adult day services under the medicare program; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I rise to join my colleague Mrs. LINCOLN of Arkansas to reintroduce bipartisan legislation aimed at improving long-term health care and rehabilitation options for Medicare beneficiaries, and also assisting family caregivers.

We all recognize that our Nation needs to address sooner rather than later the challenges of financing long-term care services for our growing aging population. The Congressional Budget Office has projected that national expenditures for long-term care services for the elderly will increase each year through 2040. But it is in just over a decade when we will see these challenges become even more pronounced, when the 76 million baby boomers begin to turn 65. Baby boomers are expected to live longer and greater numbers will reach 85 and older.

Congress' attention in this area is critical, given the expected growing costs of long-term care services, and the fact that so many American families are already serving as caregivers for aging or ailing seniors and providing a large portion of long-term care services. It is more important than ever that we have in place quality options in how to best care for our senior population about to dramatically increase.

This is why we are introducing the Medicare Adult Day Services Alternative Act. This legislation would offer home health beneficiaries more options for receiving care in a setting of their own choosing, rather than confining the provision of those benefits solely to the home.

This legislation would give beneficiaries the option to receive some or all of their Medicare home health services in an adult day setting. This would be a substitution, not an expansion, of services. The bill would not make new people eligible for Medicare home health benefits or expand the list of services paid for. In fact, this legislation may be designed to produce net savings for the Medicare program.

Permitting homebound patients to receive their home health care in a clinically-based senior day center, as an alternative to receiving it at home, could result in significant benefits to the Medicare program, such as reduced cost-per-episode, reduced numbers of episodes, as well as mental and physical stimulation for patients.

Moreover, the Medicare Adult Day Services Alternative Act could well have a positive impact on our economy, as it would enable caregivers to attend to other facets in today's fast-paced family life, such as working a full- or part-time job and caring for children, knowing their loved ones are well cared for. It is unfortunate that today many caregivers have to choose between working or caring for a family member. It is estimated that the average loss of income to these caregivers is more than $600,000 in wages, pension, and Social Security benefits. And by extension, the loss in productivity in United States businesses is pegged at more than $10 billion annually.

But it does not have to be an either-or proposition. The Medicare Adult Day Services Alternative Act is a creative solution to health care delivery, which would adequately reimburse providers in a fiscally responsible way. Located in every State in the United States and the District of Columbia, adult day centers generally offer transportation, meals, personal care, and counseling in addition to the medical services and socialization benefits offered.

We can and should offer both our Medicare beneficiaries and family caregivers more and better options for health care delivery, and that is exactly what the Medicare Adult Day

Services Alternative Act is designed to do. This legislation is bipartisan, and has been supported by more than 20 national non-profit organizations concerned with the well-being of America's older population and committed to representing their interests.

I hope our colleagues will join us in this cause. I again thank Senator LINCOLN for working with me in this effort, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Adult Day Services Alternative Act of 2003".

SEC. 2. FINDINGS.

Congress finds that—

(1) adult day services offers services, including medical care, rehabilitation therapies, dignified assistance with activities of daily living, social interaction, and stimulating activities, to seniors who are frail, physically challenged, or cognitively impaired;

(2) access to adult day services provides seniors and their familial caregivers support that is critical to keeping the senior in the family home;

(3) more than 22,000,000 families in the United States serve as caregivers for aging or ailing seniors, nearly 1 in 4 American families, providing close to 80 percent of the care to individuals requiring long-term care;

(4) nearly 75 percent of those actively providing such care are women who also maintain other responsibilities, such as working outside of the home and raising young children;

(5) the average loss of income to these caregivers has been shown to be $659,130 in wages, pension, and Social Security benefits;

(6) the loss in productivity in United States businesses ranges from $11,000,000,000 to $29,000,000,000 annually;

(7) the services offered in adult day services facilities provide continuity of care and an important sense of community for both the senior and the caregiver;

(8) there are adult day services facilities in every State in the United States and the District of Columbia;

(9) these centers generally offer transportation, meals, personal care, and counseling in addition to the medical services and socialization benefits offered; and

(10) with the need for quality options in how to best care for our senior population about to dramatically increase with the aging of the baby boomer generation, the time to address these issues is now.

SEC. 3. MEDICARE COVERAGE OF SUBSTITUTE ADULT DAY SERVICES.

(a) SUBSTITUTE ADULT DAY SERVICES BENEFIT.—

(1) IN GENERAL.—Section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)) is amended—

(A) in the matter preceding paragraph (1), by inserting "or (8)" after "paragraph (7)";

(B) in paragraph (6), by striking "and" at the end;

(C) in paragraph (7), by adding "and" at the end; and

(D) by inserting after paragraph (7), the following new paragraph:

"(8) substitute adult day services (as defined in subsection (ww));".

(2) SUBSTITUTE ADULT DAY SERVICES DEFINED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Substitute Adult Day Services; Adult Day Services Facility

"(ww)(1)(A) The term 'substitute adult day services' means the items and services described in subparagraph (B) that are furnished to an individual by an adult day services facility as a part of a plan under subsection (m) that substitutes such services for some or all of the items and services described in subparagraph (B)(i) furnished by a home health agency under the plan, as determined by the physician establishing the plan.

"(B) The items and services described in this subparagraph are the following items and services:

"(i) Items and services described in paragraphs (1) through (7) of subsection (m).

"(ii) Meals.

"(iii) A program of supervised activities designed to promote physical and mental health and furnished to the individual by the adult day services facility in a group setting for a period of not fewer than 4 and not greater than 12 hours per day.

"(iv) A medication management program (as defined in subparagraph (C)).

"(C) For purposes of subparagraph (B)(iv), the term 'medication management program' means a program of services, including medicine screening and patient and health care provider education programs, that provides services to minimize—

"(i) unnecessary or inappropriate use of prescription drugs; and

"(ii) adverse events due to unintended prescription drug-to-drug interactions.

"(2)(A) Except as provided in subparagraphs (B) and (C), the term 'adult day services facility' means a public agency or private organization, or a subdivision of such an agency or organization, that—

"(i) is engaged in providing skilled nursing services and other therapeutic services directly or under arrangement with a home health agency;

"(ii) provides the items and services described in paragraph (1)(B); and

"(iii) meets the requirements of paragraphs (2) through (8) of subsection (o).

"(B) Notwithstanding subparagraph (A), the term 'adult day services facility' shall include a home health agency in which the items and services described in clauses (ii) through (iv) of paragraph (1)(B) are provided—

"(i) by an adult day services program that is licensed or certified by a State, or accredited, to furnish such items and services in the State; and

"(ii) under arrangements with that program made by such agency.

"(C) The Secretary may waive the requirement of a surety bond under paragraph (7) of subsection (o) in the case of an agency or organization that provides a comparable surety bond under State law.".

(b) PAYMENT FOR SUBSTITUTE ADULT DAY SERVICES.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended by adding at the end the following new subsection:

"(f) PAYMENT RATE FOR SUBSTITUTE ADULT DAY SERVICES.—

"(1) PAYMENT RATE.—For purposes of making payments to an adult day services facility for substitute adult day services (as defined in section 1861(ww)), the following rules shall apply:

"(A) ESTIMATION OF PAYMENT AMOUNT.—The Secretary shall estimate the amount that would otherwise be payable to a home health agency under this section for all home health services described in paragraph (1)(B)(i) of such section under the plan of care.

"(B) AMOUNT OF PAYMENT.—Subject to paragraph (3)(B), the total amount payable for substitute adult day services under the plan of care is equal to 95 percent of the amount estimated to be payable under subparagraph (A).

"(2) LIMITATION ON BALANCE BILLING.—An adult day services facility shall accept as payment in full for substitute adult day services (including those services described in clauses (ii) through (iv) of section 1861(ww)(1)(B)) furnished by the facility to an individual entitled to benefits under this title the amount of payment provided under this subsection for home health services consisting of substitute adult day services.

"(3) ADJUSTMENT IN CASE OF OVERUTILIZATION OF SUBSTITUTE ADULT DAY SERVICES.—

"(A) MONITORING EXPENDITURES.—Beginning with fiscal year 2005, the Secretary shall monitor the expenditures made under this title for home health services, including such services consisting of substitute adult day services, for the fiscal year and shall compare such expenditures to expenditures that the Secretary estimates would have been made under this title for home health services for the fiscal year if the Medicare Adult Day Services Alternative Act of 2003 had not been enacted.

"(B) REQUIRED REDUCTION IN PAYMENT RATE.—If the Secretary determines, after making the comparison under subparagraph (A) and making such adjustments for changes in demographics and age of the medicare beneficiary population as the Secretary determines appropriate, that expenditures for home health services under this title, including such services consisting of substitute adult day services, for the fiscal year exceed expenditures that would have been made under this title for home health services for the fiscal year if the Medicare Adult Day Services Alternative Act of 2003 not been enacted, then the Secretary shall adjust the rate of payment to adult day services facilities under paragraph (1)(B) for home health services consisting of substitute adult day services furnished in the fiscal year in order to eliminate such excess.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2004.

By Mrs. CLINTON (for herself and Mr. DEWINE):

S. 1228: A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for property owners who remove lead-based paint hazards; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I rise today to discuss a persistent, serious, and entirely preventable threat to our children's intelligence, behavior, and learning.

Lead poisoning affects 300,000 children in our Nation between the ages of one and five, and has been linked with developmental disabilities, behavioral problems, and anemia. One recent study from the New England Journal of

Medicine also found that children suffered up to a 7.4 percent decrease in IQ at lead levels that CDC considers safe. At very high levels, lead poisoning can cause seizures, coma, and even death.

In New York State in 1999, over twelve thousand children suffered from lead poisoning, 9,533 of those children in New York City alone. In fact, we may even be underestimating the significance of this important public health problem.

I am glad that the Secretary of Health and Human Services considers lead poisoning to be a priority, and established a national goal of ending childhood lead poisoning by 2010. However, federal programs only have resources to remove lead-based paint hazards from less than 0.1 percent of the twenty-five million housing units that have these hazards. At this pace, we will not be able to end childhood lead poisoning by 3010, let alone 2010.

We will never stop childhood lead poisoning unless we get lead out of the buildings in which children live, work, and play. In Brooklyn, more than a third of the buildings in one community have a lead-based paint hazard. Parents of children with lead poisoning are being told that nothing can be done until their children's lead poisoning becomes worse. How can we ask children to watch and wait while their sons and daughters suffer from lead poisoning before we remove the lead from their homes?

That is why today, I am proud to introduce the Home Lead Safety Tax Credit Act of 2003 with my colleague, Senator **MIKE DEWINE**. This legislation would provide a tax credit to aide and encourage homeowners in removing lead-based paint hazards in their homes. Specifically, it would provide a tax credit for owners of residential properties built before 1978 that pay for abatement performed by a certified lead abatement contractor. Owners would receive a maximum tax credit of 50 percent of the cost of the abatement, not to exceed $1,500 per dwelling unit. In Massachusetts, a similar tax credit helped reduce the number of new cases of childhood lead poisoning by almost two-thirds in a decade.

The Home Lead Safety Tax Credit Act of 2003 would help homeowners make approximately 85,000 homes each year safe from lead, which is more than ten times the number of homes made lead safe by current Federal programs. It would greatly accelerate our progress in ridding our Nation of the significant problem of childhood lead poisoning. I ask my colleagues to join me in supporting this legislation, which will help us achieve our common goal of protecting children from threats in our environment.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Home Lead Safety Tax Credit Act of 2003".

(b) FINDINGS.—Congress finds that:

(1) Of the 98,000,000 housing units in the United States, 38,000,000 have lead-based paint.

(2) Of the 38,000,000 housing units with lead-based paint, 25,000,000 pose a hazard, as defined by Environmental Protection Agency and Department of Housing and Urban Development standards, due to conditions such as peeling paint and settled dust on floors and windowsills that contain lead at levels above Federal safety standards.

(3) Though the number of children in the United States ages 1 through 5 with blood levels higher than the Centers for Disease Control action level of 10 micrograms per deciliter has declined to 300,000, lead poisoning remains a serious, entirely preventable threat to a child's intelligence, behavior, and learning.

(4) The Secretary of Health and Human Services has established a national goal of ending childhood lead poisoning by 2010.

(5) Current Federal lead abatement programs, such as the Lead Hazard Control Grant Program of the Department of Housing and Urban Development, only have resources sufficient to make approximately 7,000 homes lead-safe each year. In many cases, when State and local public health departments identify a lead-poisoned child, resources are insufficient to reduce or eliminate the hazards.

(6) Approximately 15 percent of children are lead-poisoned by home renovation projects performed by remodelers who fail to follow basic safeguards to control lead dust.

(7) Old windows typically pose significant risks because wood trim is more likely to be painted with lead-based paint, moisture causes paint to deteriorate, and friction generates lead dust. The replacement of old windows that contain lead based paint significantly reduces lead poisoning hazards in addition to producing significant energy savings.

(c) PURPOSE.—The purpose of this section is to encourage the safe removal of lead hazards from homes and thereby decrease the number of children who suffer reduced intelligence, learning difficulties, behavioral problems, and other health consequences due to lead-poisoning.

SEC. 2. LEAD ABATEMENT TAX CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. HOME LEAD ABATEMENT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter an amount equal to 50 percent of the abatement cost paid or incurred by the taxpayer during the taxable year for each eligible dwelling unit of the taxpayer.

"(b) LIMITATION.—The amount of the credit allowed under subsection (a) for any eligible dwelling unit shall not exceed—

"(1) $1,500, over

"(2) the aggregate cost taken into account under subsection (a) with respect to such unit for all preceding taxable years.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) ABATEMENT COST.—

"(A) IN GENERAL.—The term 'abatement cost' means, with respect to any eligible dwelling unit—

"(i) the cost for a certified risk assessor to conduct an assessment to determine the presence of a lead-based paint hazard,

"(ii) the cost for a certified lead abatement supervisor to perform the removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil when lead-based paint hazards are present in such paint, dust, or soil,

"(iii) the cost for a certified lead abatement supervisor to perform all preparation, cleanup, disposal, and postabatement clearance testing activities associated with the activities described in clause (ii), and

"(iv) costs incurred by or on behalf of any occupant of such dwelling unit for any relocation which is necessary to achieve occupant protection (as defined under section 1345 of title 24, Code of Federal Regulations).

"(B) LIMITATION.—The term 'abatement cost' does not include any cost to the extent such cost is funded by any grant, contract, or otherwise by another person (or any governmental agency).

"(2) ELIGIBLE DWELLING UNIT.—

"(A) IN GENERAL.—The term 'eligible dwelling unit' means any dwelling unit—

"(i) placed in service before 1978,

"(ii) located in the United States, and

"(iii) determined by a certified risk assessor to have a lead-based paint hazard.

"(B) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

"(3) LEAD-BASED PAINT HAZARD.—The term 'lead-based paint hazard' has the meaning given such term under part 745 of title 40, Code of Federal Regulations.

"(4) CERTIFIED LEAD ABATEMENT SUPERVISOR.—The term 'certified lead abatement supervisor' means an individual certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

"(5) CERTIFIED INSPECTOR.—The term 'certified inspector' means an inspector certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

"(6) CERTIFIED RISK ASSESSOR.—The term 'certified risk assessor' means a risk assessor certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

"(7) DOCUMENTATION REQUIRED FOR CREDIT ALLOWANCE.—No credit shall be allowed under subsection (a) with respect to any eligible dwelling unit unless—

"(A) after lead abatement is complete, a certified inspector or certified risk assessor provides written documentation to the taxpayer that includes—

"(i) a certification that the postabatement procedures (as defined by section 745.227 of title 40, Code of Federal Regulations) have been performed and that the unit does not contain lead dust hazards (as defined by section 745.227(e)(8)(viii) of title 40, Code of Federal Regulations), and ``(ii) documentation showing that the lead abatement meets the requirements of this section, and

``(B) the taxpayer files with the appropriate State agency—

``(i) the documentation described in subparagraph (A),

``(ii) a receipt from the certified risk assessor documenting the costs of determining the presence of a lead-based paint hazard,

``(iii) a receipt from the certified lead abatement supervisor documenting the abatement cost (other than the costs described in paragraph (1)(A)(i)), and

``(iv) a statement indicating the age of the dwelling unit.

``(8) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (d)).

``(d) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

``(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

``(2) the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30A for the taxable year.

``(e) CARRYFORWARD ALLOWED.—

``(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year (referred to as the `unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

``(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ``and'' in paragraph (27), by striking the period and inserting ``, and'' in paragraph (28), and by inserting at the end the following new paragraph:

``(29) in the case of an eligible dwelling unit with respect to which a credit for lead abatement was allowed under section 30B, to the extent provided in section 30B(c)(8).''.

(2) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

``Sec. 30B. Home lead abatement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to abatement costs incurred after December 31, 2003, in taxable years ending after that date.

By Mr. AKAKA (for himself, Mr. LEVIN, Mr. LEAHY, Mr. DURBIN, and Mr. DAYTON):

S. 1229. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Governmental Affairs.

Mr. AKAKA. Mr. President, Today I rise to introduce the Federal Employee Protection of Disclosures Act with Senators LEVIN, LEAHY, DURBIN, and DAYTON to amend the Whistleblower Protection Act, WPA. These amendments are necessary to protect Federal employees from retaliation and protect the American people from government waste, fraud, and abuse. The Federal Employee Protection of Disclosures Act builds on the foundation laid in the 107th Congress with S. 995 and S. 3070, the latter of which was favorably reported by the Governmental Affairs Committee last year. The bill also incorporates recommendations received during a hearing I chaired on similar legislation in 2001.

Last year, Time magazine honored Sherron Watkins, Colleen Rowley, and Cynthia Cooper as its ``persons of the year.'' These brave women are whistleblowers—Colleen Rowley is the Minneapolis FBI agent who penned the memo on the FBI headquarter's handling of the Zacarias Moussaoui case. In 2002, Ms. Rowley and the two other women went public with disclosures of mismanagement and wrongdoing within their workplaces. They captured the nation's attention and earned our respect in their roles as whistleblowers. Congress encourages Federal employees like Ms. Rowley to come forward with information of threats to public safety and health through the WPA, which has been amended twice in order to shore up congressional intent.

Once again, Congress must act to guarantee protections from retaliation for Federal whistleblowers. First and foremost, our bill would codify the repeated and unequivocal statements of congressional intent that Federal employees are to be protected when making ``any disclosure'' evidencing violations of law, gross mismanagement, or a gross waste of funds. The bill would also clarify the test that must be met to prove that a Federal employee reasonably believed that his or her disclosure was evidence of wrongdoing. Despite the clear language of the WPA that an employee is protected from disclosing information he or she reasonably believes evidences a violation, the Federal Circuit Court of Appeals, which has sole jurisdiction over whistleblower cases, ruled in 1999 that the reasonableness review must begin with the presumption that public officers perform their duties in good faith and that this presumption stands unless there is ``irrefragable proof'' to the contrary. By definition, irrefragable means impossible to refute. To address this unreasonable burden placed on whistleblowers, our bill would replace the ``irrefragable proof'' standard with ``substantial evidence.''

The bill would provide some method of relief for those whistleblowers who face retaliation by having their security clearance removed. According to former Special Counsel Elaine Kaplan, removal of a security clearance in this manner is a way of camouflaging retaliation. To address this issue, the bill would make it a prohibited personnel practice for a manager to suspend, revoke or take other action with respect to an employee's security clearance in retaliation for whistleblowing and allow the Merit Systems Protection Board, MSPB, to review the action. Under an expedited review process, the MSPB may issue declaratory and other appropriate relief, but may not direct the President to restore a security clearance. MSPB and subsequent congressional review of the agency's action provides sound oversight for this process without encroaching upon the President's authority in the national security arena.

The measure would also provide independent litigating authority to the Office of Special Counsel, OSC. Under current law, OSC has no nauthority to request MSPB to reconsider its decision or to seek review of an MSPB decision by the Federal Circuit. The limitation undermines both OSC's ability to protect whistleblowers and the integrity of the WPA. As such, our bill would provide OSC authority to appear in any civil action brought in connection with the WPA and obtain review of any MSPB order where OSC determines MSPB erred and the case will impact the enforcement of the WPA. The bill would also help protect the integrity of the Act by removing sole jurisdiction of such cases from the Federal Circuit and provide for review of whistleblower cases in the same manner that is afforded in Equal Employment Opportunity Commission cases. This review system is designed to address holdings by the Federal Circuit which have repeatedly ignored congressional intent.

Enactment of the Federal Employee Protection of Disclosures Act will strengthen the rights and protections afforded to Federal whistleblowers and encourage the disclosure of information vital to an effective government. Congress should act quickly to assure whistleblowers that disclosing illegal activities within their agencies will not be met with retaliation. I urge my colleagues to join with me in protecting the dedicated Federal employees who come forward to disclose wrongdoing to help the American people.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES.

(a) SHORT TITLE.—This Act may be cited as the ``Federal Employee Protection of Disclosures Act''.

(b) Clarification of Disclosures Covered.—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "which the employee or applicant reasonably believes evidences" and inserting ", without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, that the employee or applicant reasonably believes is evidence of"; and

(B) in clause (i), by striking "a violation" and inserting "any violation";

(2) in subparagraph (B)—

(A) by striking "which the employee or applicant reasonably believes evidences" and inserting ", without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information that the employee or applicant reasonably believes is evidence of"; and

(B) in clause (i), by striking "a violation" and inserting "any violation (other than a violation of this section)"; and

(3) by adding at the end the following:

"(C) a disclosure that—

"(i) is made by an employee or applicant of information required by law or Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs that the employee or applicant reasonably believes is direct and specific evidence of—

"(I) any violation of any law, rule, or regulation;

"(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

"(III) a false statement to Congress on an issue of material fact; and

"(ii) is made to—

"(I) a member of a committee of Congress having a primary responsibility for oversight of a department, agency, or element of the Federal Government to which the disclosed information relates and who is authorized to receive information of the type disclosed;

"(II) any other Member of Congress who is authorized to receive information of the type disclosed; or

"(III) an employee of Congress who has the appropriate security clearance and is authorized to receive information of the type disclosed.".

(c) Covered Disclosures.—Section 2302(b) of title 5, United States Code, is amended—

(1) in the matter following paragraph (12), by striking "This subsection" and inserting the following:

"This subsection"; and

(2) by adding at the end the following:

"In this subsection, the term 'disclosure' means a formal or informal communication or transmission.".

(d) Rebuttable Presumption.—Section 2302(b) of title 5, United States Code, is amended by adding after the matter following paragraph (12) (as amended by subsection (c) of this section) the following:

"For purposes of paragraph (8), any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence.".

(e) Nondisclosure Policies, Forms, and Agreements; Security Clearances; and Retaliatory Investigations.—

(1) Personnel action.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(A) in clause (x), by striking "and" after the semicolon; and

(B) by redesignating clause (xi) as clause (xiv) and inserting after clause (x) the following:

"(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement;

"(xii) a suspension, revocation, or other determination relating to a security clearance;

"(xiii) an investigation of an employee or applicant for employment because of any activity protected under this section; and".

(2) Prohibited personnel practice.—Section 2302(b) of title 5, United States Code, is amended—

(A) in paragraph (11), by striking "or" at the end;

(B) in paragraph (12), by striking the period and inserting a semicolon; and

(C) by inserting after paragraph (12) the following:

"(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement:

"'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive Order and such statutory provisions are incorporated into this agreement and are controlling.'; or

"(14) conduct, or cause to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section.".

(3) Board and court review of actions relating to security clearances.—

(A) In general.—Chapter 77 of title 5, United States Code, is amended by inserting after section 7702 the following:

"§ 7702a. Actions relating to security clearances

"(a) In any appeal relating to the suspension, revocation, or other determination relating to a security clearance, the Merit Systems Protection Board or any reviewing court—

"(1) shall determine whether section 2302 was violated;

"(2) may not order the President to restore a security clearance; and

"(3) subject to paragraph (2), may issue declaratory relief and any other appropriate relief.

"(b)(1) If, in any final judgment, the Board or court declares that any suspension, revocation, or other determination with regards to a security clearance was made in violation of section 2302, the affected agency shall conduct a review of that suspension, revocation, or other determination, giving great weight to the Board or court judgment.

"(2) Not later than 30 days after any Board or court judgment declaring that a security clearance suspension, revocation, or other determination was made in violation of section 2302, the affected agency shall issue an unclassified report to the congressional committees of jurisdiction (with a classified annex if necessary), detailing the circumstances of the agency's security clearance suspension, revocation, or other determination. A report under this paragraph shall include any proposed agency action with regards to the security clearance.

"(c) An allegation that a security clearance was revoked or suspended in retaliation for a protected disclosure shall receive expedited review by the Office of Special Counsel, the Merit Systems Protection Board, and any reviewing court.".

(B) Technical and conforming amendment.—The table of sections for chapter 77 of title 5, United States Code, is amended by inserting after the item relating to section 7702 the following:

"7702a. Actions relating to security clearances.".

(f) Exclusion of Agencies by the President.—Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

"(ii)(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency; and

"(II) as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, if the determination (as that determination relates to a personnel action) is made before that personnel action; or".

(g) Attorney Fees.—Section 1204(m)(1) of title 5, United States Code, is amended by striking "agency involved" and inserting "agency where the prevailing party is employed or has applied for employment".

(h) Compensatory Damages.—Section 1214(g)(2) of title 5, United States Code, is amended by inserting "compensatory or" after "forseeable".

(i) Disciplinary Action.—Section 1215 of title 5, United States Code, is amended in subsection (a), by striking paragraph (3) and inserting the following:

"(3)(A) A final order of the Board may impose—

"(i) disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand;

"(ii) an assessment of a civil penalty not to exceed $1,000; or

"(iii) any combination of disciplinary actions described under clause (i) and an assessment described under clause (ii).

"(B) In any case in which the Board finds that an employee has committed a prohibited personnel practice under section 2302(b)(1), (8), or (9), the Board may order disciplinary action if the Board finds that the activity or status protected under section 2302(b)(1), (8), or (9) was a motivating factor for the employee's decision to take, fail to take, or threaten to take or fail to take a personnel action, even if other factors also motivated the decision.".

(j) Disclosures to Congress.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

"(f) Each agency shall establish a process that provides confidential advice to employees on making a lawful disclosure to Congress of information that is specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.".

(k) AUTHORITY OF SPECIAL COUNSEL RELATING TO CIVIL ACTIONS.—

(1) REPRESENTATION OF SPECIAL COUNSEL.—Section 1212 of title 5, United States Code, is amended by adding at the end the following:

"(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Special Counsel may appear for the Special Counsel and represent the Special Counsel in any civil action brought in connection with section 2302(b)(8) or subchapter III of chapter 73, or as otherwise authorized by law.".

(2) JUDICIAL REVIEW OF MERIT SYSTEMS PROTECTION BOARD DECISIONS.—Section 7703 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Special Counsel. The Special Counsel may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Special Counsel determines, in the discretion of the Special Counsel, that the Board erred in deciding a case arising under section 2302(b)(8) or subchapter III of chapter 73 and that the Board's decision will have a substantial impact on the enforcement of section 2302(b)(8) or subchapter III of chapter 73. If the Special Counsel was not a party or did not intervene in a matter before the Board, the Special Counsel may not petition for review of a Board decision under this section unless the Special Counsel first petitions the Board for reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceedings before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

"(2) During the 5-year period beginning on the effective date of the Federal Employee Protection of Disclosures Act, this paragraph shall apply to any review obtained by the Special Counsel. The Special Counsel may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2) if the Special Counsel determines, in the discretion of the Special Counsel, that the Board erred in deciding a case arising under section 2302(b)(8) or subchapter III of chapter 73 and that the Board's decision will have a substantial impact on the enforcement of section 2302(b)(8) or subchapter III of chapter 73. If the Special Counsel was not a party or did not intervene in a matter before the Board, the Special Counsel may not petition for review of a Board decision under this section unless the Special Counsel first petitions the Board for reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceedings before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the court of appeals.".

(l) JUDICIAL REVIEW.—

(1) IN GENERAL.—Section 7703(b) of title 5, United States Code, is amended by striking paragraph (1) and inserting the following:

"(b)(1)(A) Except as provided in subparagraph (B) and paragraph (2) of this subsection, a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit. Notwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the Board.

"(B) During the 5-year period beginning on the effective date of the Federal Employee Protection of Disclosures Act, a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2). Notwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the Board.".

(2) REVIEW OBTAINED BY OFFICE OF PERSONNEL MANAGEMENT.—Section 7703 of title 5, United States Code, is amended by striking subsection (d) and inserting the following:

"(d)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

"(2) During the 5-year period beginning on the effective date of the Federal Employee Protection of Disclosures Act, this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2) if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.".

(m) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Each agreement in Standard Forms 312 and 4414 of the Government and any other nondisclosure policy, form, or agreement of the Government shall contain the following statement: "These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling."

(B) ENFORCEABILITY.—Any nondisclosure policy, form, or agreement described under subparagraph (A) that does not contain the statement required under subparagraph (A) may not be implemented or enforced to the extent such policy, form, or agreement is inconsistent with that statement.

(2) PERSONS OTHER THAN GOVERNMENT EMPLOYEES.—Notwithstanding paragraph (1), a nondisclosure policy, form, or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the Federal Government or a State or local government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that such forms do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

(n) CLARIFICATION OF WHISTLEBLOWER RIGHTS FOR CRITICAL INFRASTRUCTURE INFORMATION.—Section 214(c) of the Homeland Security Act of 2002 (Public Law 107-296) is amended by adding at the end the following: "For purposes of this section a permissible use of independently obtained information includes the disclosure of such information under section 2302(b)(8) of title 5, United States Code.".

(o) EFFECTIVE DATE.—This Act shall take effect 30 days after the date of enactment of this Act.

Mr. LEVIN. Mr. President, I am pleased to join Senators AKAKA, LEAHY, DURBIN and DAYTON today in introducing the Federal Employees Protection of Disclosures Act. Our bill strengthens the law protecting employees who blow the whistle on fraud, waste, and abuse in Federal programs.

Whistleblowers play a crucial role in ensuring that Congress and the public are aware of serious cases of waste, fraud, and mismanagement in government. Whistleblowing is never more important than when our national security is at stake. Since the terrorist attacks of September 11, 2001, courageous individuals have stepped forward to blow the whistle on significant lapses in our efforts to protect the United States against potential future attacks. Most notably, FBI Agent Coleen Rowley alerted Congress to serious institutional problems at the FBI and their impact on the agency's ability to effectively investigate and prevent terrorism.

In another example, two Border Patrol agents from my State of Michigan, Mark Hall and Bob Lindemann, risked their careers when they blew the whistle on Border Patrol and INS policies that were compromising security on the Northern Border. Their disclosure led to my holding a hearing at the Permanent Subcommittee on Investigations in November 2001 that exposed serious deficiencies in the way Border Patrol and INS were dealing with aliens who were arrested while trying to enter the country illegally. Since the hearing, some of the most troublesome policies have been changed, improving the security situation and validating the two agents' concerns. Despite the fact that their concerns proved to be dead on, shortly after they blew the whistle, disciplinary action was proposed against the two agents. Fortunately in this case, whistleblower protections worked. The Office of Special Counsel conducted an investigation and the decision to discipline the agents was reversed. However, that disciplinary action was proposed in the first place is a troubling reminder of how important it is for us to both strengthen protections for whistleblowers and empower the Office of Special Counsel to discipline managers who seek to muzzle employees.

Agent Rowley, Mark Hall and Bob Lindemann are simply the latest in a long line of Federal employees who have taken great personal risks in blowing the whistle on government waste, fraud, and mismanagement. Congress has long recognized the obligation we have to protect a Federal employee when he or she discloses evidence of wrongdoing in a federal program. If an employee reasonably believes that a fraud or mismanagement is occurring, and that employee has the courage and the sense of responsibility to make that fraud or mismanagement known, it is our duty to protect the employee from any reprisal. We want federal employees to identify problems so we can fix them, and if they fear reprisal for doing so, then we are not only failing to protect the whistleblower, but we are also failing to protect the taxpayer.

I sponsored the Whistleblower Protection Act in 1989 which strengthened and clarified whistleblower rights, as well as the bill passed by Congress to strengthen the law further in 1994. Unfortunately, however, repeated holdings by the United States Court of Appeals for the Federal Circuit have corrupted the intent of Congress, with the result that additional clarifying language is sorely needed. The case of LaChance versus White represents perhaps the most notable example of the Federal Circuit's misinterpretation of the whistleblower law.

In LaChance, decided on May 14, 1999, the court imposed an unfounded and virtually unattainable standard on Federal employee whistleblowers in proving their cases. In that case, John E. White was an education specialist for the Air Force who spoke out against a new educational system that purported to mandate quality standards for schools contracting with the Air Force bases. White criticized the new system as counterproductive because it was too burdensome and seriously reduced the education opportunities available on base. After making these criticisms, local agency officials reassigned White, relieving him of his duties and allegedly isolating him. However, after an independent management review supported White's concerns, the Air Force canceled the program White had criticized. White appealed the reassignment in 1992 and the case has been in litigation ever since.

The administrative judge initially dismissed White's case, finding that his disclosures were not protected by the Whistleblower Protection Act. The MSPB, however, reversed the administrative judge's decision and remanded the case back to the administrative judge, holding that since White disclosed information he reasonably believed evidenced gross mismanagement, this disclosure was protected under the Act. On remand, the administrative judge found that the Air Force had violated the Whistleblower Protection Act and ordered the Air Force to return White to his prior status; the MSPB affirmed the decision of the administrative judge. OPM petitioned the Federal Circuit for a review of the board's decision. The Federal Circuit subsequently reversed the MSPB's decision, holding that there was not adequate evidence to support a violation under the Whistleblower Protection Act. The Federal Circuit held that the evidence that White was a specialist on the subject at issue and aware of the alleged improper activities and that his belief was shared by other employees was not sufficient to meet the "reasonable belief" test in the law. The court held that "the board must look for evidence that it was reasonable to believe that the disclosures revealed misbehavior" by the Air Force. The court went on to say: "In this case, review of the Air Force's policy and implementation via the QES standards might well show them to be entirely appropriate, even if not the best option. Indeed, this review would start out with a presumption that public officers perform their duties correctly, fairly, in good faith, and in accordance with the law and governing regulations. . . . And this presumption stands unless there is "irrefragable proof to the contrary'."

It was appropriate for the Federal Circuit to remand the case to the MSPB to have it reconsider whether it was reasonable for White to believe that what the Air Force did in this case involved gross mismanagement. However, the Federal Circuit went on to impose a clearly erroneous and excessive standard for him to demonstrate his "reasonable belief"—requiring him to provide "irrefragable" proof that the Air Force had engaged in gross mismanagement.

Irrefragable means "undeniable, incontestable, incontrovertible, incapable of being overthrown." How can a Federal employee meet a standard of "irrefragable" in proving gross mismanagement? It is a virtually impossible standard of proof to meet. Moreover, there is nothing in the law or legislative history that even suggests such a standard applies to the Whistleblower Protection Act. The intent of the law is not for a Federal employee to act as an investigator and compile "irrefragable" proof that the Federal Government, in fact, committed fraud, waste or abuse. Rather, under the clear language of the statute, the employee needs only to have "a reasonable belief" that there is fraud, waste or abuse occurring in order to make a protected disclosure.

LaChance is only one example of the Federal Circuit misinterpreting the law. Our bill corrects LaChance and as well as several other Federal Circuit holdings. In addition, the bill strengthens the Office of Special Counsel and creates additional protections for federal employees who are retaliated against for blowing the whistle.

One of the most important issues addressed in the bill is to clarify again that the law is intended to protect a broad range of whistleblower disclosures. The legislative history supporting the 1994 Whistleblower Protection Act amendments emphasized: "[I]t also is not possible to further clarify the clear language in section 2302(b)(8) that protection for "any" whistleblowing disclosure truly means "any." A protected disclosure may be made as part of an employee's job duties, may concern policy or individual misconduct, and may be oral or written and to any audience inside or outside the agency, without restriction to time, place, motive or content."

Despite this clear Congressional intent that was clearly articulated in 1994, the Federal Circuit has acted to push a number of whistleblower disclosures outside the protections of the whistleblower law. For example, in Horton versus the Department of the Navy, the Federal Circuit ruled that a whistleblower's disclosures to co-workers, or to the wrong-doer, or to a supervisor were not protected by the WPA. In Willis versus the Department of Agriculture, the court ruled that a whistleblower's disclosures to officials in the agency chain of command or those made in the course of normal job duties were not protected. In Huffman versus Office of Personnel Management, the Federal Circuit reaffirmed Horton and Willis. And in Meuwissen versus Department of Interior, the Federal Circuit held that a whistleblower's disclosures of previously known information do not qualify as "disclosures" under the WPA. All of these rulings violate clear Congressional intent to afford broad protection to whistleblower disclosures.

In order to make it clear that any lawful disclosure that an employee or job applicant reasonably believes is evidence of waste, fraud, abuse, or gross mismanagement is covered by the WPA, the bill codifies previous statements of Congressional intent. Using the 1994 legislative history, it amends the whistleblower statute to cover any disclosure of information without restriction to time, place, form, motive or context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties that the employee or applicant reasonably believes is credible evidence of any violation of any law, rule, or regulation, or other misconduct specified in the whistleblower law. I want to emphasize here that, other than the explicitly listed exceptions identified in the statute, we intend for there to be no exceptions, inferred or otherwise, as to what is a protected disclosure. And the prohibition on inferred exceptions is intended to apply to all protected speech categories in section 2302(b)(8) of the law. The intent here, again, is to make it clear that when the WPA speaks of protecting disclosures by federal employees "any" means "any."

The bill also addresses the clearly erroneous standard established by the Federal Circuit's LaChance decision I mentioned earlier. Rather than needing "irrefragable proof" to overcome the presumption that a public officer performed his or her duties correctly, fairly, in good faith, and in accordance with the law and regulations, the bill makes it clear that the whistleblower can rebut this presumption with "substantial evidence." This burden of proof is a far more reasonable and appropriate standard for whistleblowing cases.

In the 1994 WPA amendments, Congress attempted to expand relief for whistleblowers by replacing "compensatory" damages with all direct or indirect "consequential" damages. Again, despite clear Congressional intent, the Federal Circuit has narrowed the scope of relief available to whistleblowers who have been hurt by adverse personnel actions. Our legislation would clarify the law to provide whistleblowers with relief for "compensatory or consequential damages."

The Federal Circuit's repeated misinterpretations of the whistleblower law are unacceptable and demand Congressional action. In response to the court's inexplicable and inappropriate rulings, our bill would suspend for five years the Federal Circuit's exclusive jurisdiction over whistleblower appeals. It would instead allow a whistleblower to file a petition to review a final order or final decision of the MSPB in the Federal Circuit or in any other United States appellate court of competent jurisdiction as defined under 5 U.S.C. 7703(b)(2). In most cases, using another court would mean going to the federal circuit where the contested personnel action took place. This five year period would allow Congress to evaluate whether other appellate courts would issue whistleblower decisions which are consistent with the Federal Circuit's interpretation of WPA protections and guide Congressional efforts to clarify the law if necessary.

In addition to addressing jurisdictional issues and troublesome Federal Circuit precedents, our bill would also make important additions to the list of protected disclosures. First, it would subject certain disclosures of classified information to whistleblower protections. However, in order for a disclosure of classified information to be protected, the employee would have to possess a reasonable belief that the disclosure was direct and specific evidence of a violation of law, rule or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or a false statement to Congress on an issue of material fact. A whistleblower must also limit the disclosure to a member of Congress or staff of the executive or legislative branch holding the appropriate security clearance and authorized to receive the information disclosed. Federal agencies covered by the WPA would be required to establish a process to provide confidential advice to employees on how to lawfully make a protected disclosure of classified information to Congress.

Current law permits Federal employees to file a case at the MSPB when they feel that a manager has taken a personnel action against them in retaliation for blowing the whistle. The legislation would add three new personnel actions to the list of adverse actions that cannot be taken against whistleblowers for engaging in protected activity. These actions would include enforcement of any nondisclosure policy, form or agreement against a whistleblower for making a protected disclosure; the suspension, revocation, or other determination relating to a whistleblower's security clearance; and an investigation of an employee or applicant for employment if taken due to their participation in whistleblowing activity.

It is important to note that, if it is demonstrated that a security clearance was suspended or revoked in retaliation for whistleblowing, the legislation limits the relief that the MSPB and reviewing court can order. The bill specifies that the MSPB or reviewing court may issue declaratory and other appropriate relief but may not direct a security clearance to be restored. Appropriate relief may include back pay, an order to reassign the employee, attorney fees, or any other relief the Board or court is authorized to provide for other prohibited personnel practices. In addition, if the Board finds an action on a security clearance to have been illegal, it may bar the agency from directly or indirectly taking any other personnel action based on that illegal security clearance action. Our legislation would also require the agency to review and provide a report to Congress detailing the circumstances of the agency's security clearance decision, and authorizes expedited MSPB review of whistleblower cases where a security clearance was revoked or suspended. The latter is important because a person whose clearance has been suspended or revoked and whose job responsibilities require clearance may be unable to work while their case is being considered.

Our bill would also add two prohibited personnel practices to the whistleblower law. First, it would codify the "anti-gag" provision that has been in force since 1988, by virtue of its inclusion in appropriations bills. Second, it would prohibit a manager from initiating an investigation of an employee or applicant for employment because they engaged in a protected activity, including whistleblowing.

Another issue addressed in the bill involves certain employees who are excluded from the WPA. Among these are employees who hold "confidential policy-making positions." In 1994, Congress amended the WPA to keep agencies from designating employees confidential policymakers after the employees filed whistleblower complaints. The WPA also allows the President to exclude from WPA jurisdiction any agency whose principal function is the conduct of foreign intelligence or counterintelligence activities. Our legislation maintains this authority but makes it clear that a decision to exclude an agency from WPA protections must also be made prior to a personnel action being taken against a whistleblower from that agency. This provision is necessary to ensure that agencies cannot argue that employees are exempt from whistleblower protections after an employee files a claim that they were retaliated against.

Another key section of the bill would strengthen the Office of Special Counsel. OSC is the independent federal agency responsible for investigating and prosecuting federal employee complaints of whistleblower retaliation. Current law, however, limits OSC's ability to effectively enforce and defend whistleblower laws. For example, the law provides the OSC with no authority to request the Merit Systems Protection Board to reconsider one of its decisions or to seek appellate review of an MSPB decision. Even when another party petitions for a review of a MSPB decision, OSC is typically denied the right to participate in the proceedings.

Our bill would provide explicit authority for the Office of Special Counsel to appear in any civil action brought in connection with the whistleblower law. In addition, it would authorize OSC to obtain circuit court review of any MSPB order in a whistleblowing case if the OSC determines the Board erred and the case would have a substantial impact on the enforcement of the whistleblower statute. In a letter to me addressing these provisions, Special Counsel Elaine Kaplan said, "I believe that these changes are necessary, not only to ensure OSC's effectiveness, but to address continuing concerns about the whittling away of the WPA's protections by narrow judicial interpretations of the law." I ask unanimous consent that the OSC letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Office of Special Counsel,
Washington, DC, September 11, 2002.

Hon. Carl Levin,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senator Levin: Thank you for giving me the opportunity to comment on the proposed Title VI of H.R. 5005, concerning the protection of federal employee whistleblowers.

As the head of the U.S. Office of Special Counsel (OSC), the independent federal agency that is responsible for investigating and prosecuting federal employees' complaints of whistleblower retaliation, I share your recognition that it is crucial to ensure that the laws protecting whistleblowers are strong and effective. Federal employees are often in the best position to observe and identify official misconduct or malfeasance as well as dangers to the public health and safety, and the national security.

Now, perhaps more than ever before, our national interest demands that federal workers feel safe to come forward to bring appropriate attention to these conditions so that they may be corrected. Further, and again more than ever, the public now needs assurance that the workforce which is carrying out crucial operations is alert, and that its leaders welcome and encourage their constructive participation in making the government a highly efficient and effective steward of the public interest.

To these ends, Title VI contains a number of provisions that will strengthen the Whistleblower Protection Act (WPA) and close loopholes in the Act's coverage. The amendment would reverse the effects of several judicial decisions that have imposed unduly narrow and restrictive tests for determining whether employees qualify for the protection of the WPA. These decisions, among other things, have held that employees are not protected against retaliation when they make their disclosures in the line of duty or when they confront subject officials with their suspicions of wrongdoing. They have also made it more difficult for whistleblowers to secure the Act's protection by interposing what the Court of Appeal for the Federal Circuit has called an "irrefragable" presumption that government officials perform their duties lawfully and in good faith.

In addition to reversing these rulings, Title VI would grant the Special Counsel independent litigating authority and the right to request judicial review of decisions of the Merit Systems Protection Board (MSPB) in cases that will have a substantial impact upon the enforcement of the WPA. I firmly believe that these changes are necessary, not only to ensure OSC's effectiveness, but to address continuing concerns about the whittling away of the WPA's protections by narrow judicial interpretations of the law. The changes would ensure that, OSC, the government agency charged with protecting whistleblowers, will have a meaningful opportunity to participate in the shaping of the law.

Further, Title VI would strengthen OSC's capacity to use its disciplinary action authority to deter agency supervisors, managers, and other officials from engaging in retaliation, and to punish those who do so. The amendment does this in two ways. First, it clarifies the burden of proof in disciplinary action cases that OSC brings by employing the test first set forth by the Supreme Court in Mt. Healthy School District v. Board of Education. Under this test, in order to secure discipline of an agency official accused of engaging in whistleblower retaliation, OSC would have to show that protected whistleblowing was a "significant, motivating factor" in the decision to take or threaten to take a personnel action. If OSC made such a showing, the MSPB would order appropriate discipline unless the official showed, by preponderant evidence, that he or she would have taken or threatened to take the same action even had there been no protected activity.

This change is necessary in order to ensure that the burden of proof in these cases is not so onerous as to make it virtually impossible to secure discipline against retaliators. Under current law, OSC bears the unprecedented burden of demonstrating that protected activity was the but-for cause of an adverse personnel action against a whistleblower. The amendment would correct the imbalance by imposing the well-established Mt. Healthy test in these cases.

In addition, the bill would relieve OSC of attorney fee liability in disciplinary action cases in which it ultimately does not prevail. The amendment would shift liability for fees to the manager's employing agency, where an award of fees would be in the interest of justice. The employing agency would indemnify the manager for these costs which would have been incurred by him in the course of performing his official duties.

Under current law, if OSC ultimately does not prevail in a case it brings against a manager whom our investigation shows has engaged in retailiation, then we must pay attorney fees, even if our prosecution decision was an entirely reasonable one. For a small agency like OSC, with a limited budget, the specter of having to pay large attorney fee awards simply because we do not ultimately prevail in a case, is a significant obstacle to our ability to use this important authority to hold managers accountable. It is, moreover, an unprecedented burden; virtually all fee shifting provisions which could result in an award of fees against a government agency, depend upon a showing that the government agency has acted unreasonably or in bad faith.

In addition to these provisions, the bill would also provide that for a period of five years, beginning on February 1, 2003, there would be multi-circuit review of decisions of the MSPB, just as there is now multi-circuit review of decisions of the MSPB's sister agency, the Federal Labor Relations Authority. This experiment will give Congress the opportunity to judge whether providing broader perspectives of all of the nation's courts of appeals will enhance the development of the law under the WPA.

There are several other provisions of the amendments that would strengthen the Act's coverage and remedies. The amendments, for example, would extend coverage of the WPA to circumstances in which an agency initiated an investigation of an employee or applicant in reprisal for whistleblowing or where an agency implemented an illegal nondisclosure form or policy. The amendments also would authorize an award of compensatory damages in federal employee whistleblower cases. Such awards are authorized for federal employees under the civil rights acts, and for environmental and nuclear whistleblowers, among others, under other federal statutes. Given the important public policies underlying the WPA, it seems appropriate that the same sort of make whole relief should be available to federal employee whistleblowers.

Finally, Title VI contains a provision that would provide relief to employees who allege that their security clearances were denied or revoked because of protected whistleblowers, without interfering with the longstanding authority of the President to make security clearance determinations. The amendment would allow employees to file OSC complaints alleging they suffered a retaliatory adverse security clearance determination. OSC would be given the authority to investigate such complaints and the MSPB would have the authority to issue declaratory and appropriate relief other than ordering the restoration of the clearance. Further, where the Board found retaliation, the employing agency would be required to conduct its own investigation of the revocation and report back to Congress.

The amendment provides a balanced resolution of the tension between protecting national security whistleblowers against retaliation and maintaining the President's traditional prerogative to decide who will have access to classified information. Especially in light of the current heightened concerns about issues of national security, this change in the law is clearly warranted.

Thank you again for providing me with an opportunity to comment on these amendments, and for your continuing interest in the work of the Office of Special Counsel.

Sincerely,

ELAINE KAPLAN.

Mr. LEVIN. OSC currently has the authority to pursue disciplinary action against managers who retaliate against whistleblowers. However, Federal Circuit decisions, like LaChance, have undermined the agency's ability to successfully pursue such cases. The Special Counsel has said that "change is necessary in order to ensure that the burden of proof in these cases is not so onerous as to make it virtually impossible to secure disciplinary action against retaliators." In addition to it being difficult to win, if the OSC loses a disciplinary case, it has to pay the legal fees of those against whom OSC initiates disciplinary action. In its letter, OSC said that "the specter of having to pay large attorney fee awards . . . is a significant obstacle to our ability to use this important authority to hold managers accountable." Our bill addresses these problems by establishing a reasonable burden of proof for disciplinary actions and requiring the employing agency, not the OSC, to reimburse the prevailing party for attorney fees in a disciplinary proceeding.

Finally, the bill addresses a new issue that has arisen in connection with the recent enactment of the Homeland Security Act or HSA. To evaluate the vulnerability to terrorist attack of certain critical infrastructure such as chemical plants, computer networks and other key facilities, the HSA asks private companies that own these facilities to submit unclassified information about them to the government. In doing so, the law also created some ambiguity on the question of whether federal employee whistleblowers would be protected by the WPA if they should disclose information that has been independently obtained by the whistleblower about such facilities but which may also have been disclosed to the government as under the critical infrastructure information program.

While I believe it was Congress' intent to extend whistleblower protections to federal employees who disclose such independently obtained information, the law's ambiguities are troublesome in the context of the tendency of the Federal Circuit to narrowly construe the scope of protections afforded by the WPA. Our bill would thus clarify that whistleblower protections do extend to federal employees who disclose independently obtained information that may also have been disclosed to the government as part of the critical infrastructure information program.

We need to encourage federal employees to blow the whistle on waste, fraud and abuse in federal government agencies and programs. These people take great risks and often face enormous obstacles in doing what they believe is right. The Congress and the country owe a particular debt of gratitude to those whistleblowers who put their careers on the line to protect national security. Since September 11, 2001, we have seen a number of examples of how crucial people like Coleen Rowley, Mark Hall and Bob Lindemann are to keeping our country safe. I request unanimous consent to print a letter from Agent Rowley in the RECORD. In the letter she says that when she blew the whistle, she was lucky enough to garner the support of many of her colleagues and members of Congress. However, her letter warns that for every Coleen Rowley, "there are many more who do not benefit from the relative safety of public notoriety." It is to protect those responsible, courageous many that we offer this legislation. We need more like them.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 2, 2002.

DEAR SENATORS: I have proudly served in federal law enforcement for over 21 years. Prior to my personal involvement in a specific matter, I did not fully appreciate the strong disincentives that sometimes keep government employees from exposing waste, fraud, abuse, or other failures they witness on the job. Nor did I appreciate the strong incentives that do exist for agencies to avoid institutional embarrassment.

The decision to step forward with information that exposed my agency to scrutiny was one of the most difficult of my career. I did not come to it quickly or lightly. I first attempted to warn my superiors through regular channels. Only after those warnings failed to bring about the necessary response and congressional inquiry was initiated, did it go outside the agency with my concerns. I had no intention or desire to be in the public spotlight, so I did not go to the news media. I provided the information to Members of Congress with oversight responsibility. I felt compelled to do so because my responsibility is to the American people, not to a government agency.

Unfortunately, the cloak of secrecy which is necessary for the effective operation of government agencies involved in national security and criminal investigations fosters an environment where the incentives to avoid embarrassment and the disincentives to step forward combine. When that happens, the public loses. We need laws that strike a better balance, that are able to protect effective government operation without sacrificing accountability to the public. I was lucky enough to garner a good deal of support from my colleagues in the Minneapolis office and Members of Congress. But for every one like me, there are many more who do not benefit from the relative safety of public notoriety. They need credible, functioning rights and remedies to retain the freedom to warn.

I also need to state that I write this letter in my personal capacity, and that it reflects my personal views only, not those of the government agency for which I work.

Thank you for your consideration.

COLEEN ROWLEY.

Mr. LEVIN. I ask unanimous consent to print in the RECORD a section-by-section explanation of the bill.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF THE FEDERAL EMPLOYEE PROTECTION OF DISCLOSURES ACT

The Federal Employee Protection of Disclosures Act would strengthen protections for federal employees who blow the whistle on waste, fraud and abuse in the federal government.

Protected Whistleblower Disclosures. To correct court decisions improperly limiting the disclosures protected by the Whistleblower Protection Act (WPA), section (b) of the bill would clarify Congressional intent that the law covers 'any' whistleblowing disclosure, whether that disclosure is made as part of an employee's job duties, concerns policy or individual misconduct, is oral or written, or is made to any audience inside or outside an agency, and without restriction to time, place, motive or context. This section would also protect certain disclosures of classified information to Congress when the disclosure is to a Member or legislative staff holding an appropriate security clearance and authorized to receive the type of information disclosed.

Informal Disclosures. Section (c) would clarify the definition of "disclosure" to include a formal or informal communication or transmission.

Irrefragable Proof. In LaChance v. White, the U.S. Court of Appeals for the Federal Circuit imposed an erroneous standard for determining when an employee makes a protected disclosure under the WPA. Under the clear language of the statute, an employee need only have a reasonable belief that he or she is providing evidence of fraud, waste or abuse to make a protected disclosure. But the court ruled that an employee had to have "irrefragable proof" meaning undeniable and incontestable proof to overcome the presumption that a public officer is performing their duties in accordance with law. Section (d) would replace this unreasonable standard of proof by providing that a whistleblower can rebut the presumption with "substantial evidence."

Prohibited Personnel Actions. Section (e)(1) would add three actions to the list of prohibited personnel actions that may not be taken against whistleblowers for protected disclosures: enforcement of a nondisclosure policy, form or agreement; suspension, revocation, or other determination relating to an employee's security clearance; and investigation of an employee or applicant for employment due to protected whistleblowing activities.

Nondisclosure Actions Against Whistleblowers. Section (e)(2) would bar agencies from implementing or enforcing against whistleblowers any nondisclosure policy, form or agreement that fails to contain specified language preserving the right of government employees to disclose certain protected information. It would also prohibit a manager from initiating an investigation of an employee or applicant for employment because they engaged in protected activity.

Retaliations Involving Security Clearances. Section (e)(3) would make it a prohibited personnel practice for a manager to suspend, revoke or take other action with respect to an employee's security clearance in retaliation for whistleblowing. This section would also authorize the Merit Systems Protection Board (MSPB) to conduct an expedited review of such matters and issue declaratory and other appropriate relief, but would not empower MSPB to restore a security clearance. If MSPB or a reviewing court were to find that a security clearance decision was retaliatory, the agency involved would be required to review its security clearance decision and issue a report to Congress explaining it.

Exclusions from WPA. Current law allows the President to exclude certain employees and agencies from the WPA if they perform certain intelligence related or policy making functions. In 1994, Congress amended the WPA to stop agencies from removing employees from WPA coverage after the employees filed whistleblower complaints. Section (f) would also require that removal of an agency from the WPA be made prior to a personnel action being taken against a whistleblower at that agency.

Attorney Fees. The Office of Special Counsel (OSC) has authority to pursue disciplinary action against managers who retaliate against whistleblowers. Currently, if OSC loses a disciplinary case, it must pay the legal fees of those against whom it initiated the action. Because the amounts involved could significantly deplete OSC's limited resources, section (g) would require the employing agency, rather than OSC, to reimburse the manager's attorney fees.

Compensatory Damages. In the 1994 WPA amendments, Congress attempted to expand relief for whistleblowers by replacing "compensatory" damages with direct and indirect "consequential" damages. Despite Congressional intent, the Federal Circuit narrowed the scope of relief available to whistleblowers. To correct the court's misinterpretation of the law, section (h) would provide whistleblowers with relief for compensatory or consequential damages.

Burden of Proof in Disciplinary Actions. Currently, when OSC pursues disciplinary action against managers who retaliate against whistleblowers, OSC must demonstrate that an adverse personnel action would not have occurred "but for" the whistleblower's protected activity. Section (i) would establish a more reasonable burden of proof by requiring OSC to demonstrate that the whistleblower's protected disclosure was a "motivating factor" in the decision by the manager to take the adverse action, even if other factors also motivated the decision. This burden would be similar to the approach taken in the 1991 Civil Rights Act.

Disclosures to Congress. Section (j) would require agencies to establish a process to provide confidential advice to employees on how to lawfully make a protected disclosure of classified information to Congress.

Authority of Special Counsel. Under current law, OSC has no authority to request MSPB to reconsider a decision or seek appellate review of a MSPB decision. This limitation undermines OSC's ability to protect whistleblowers and integrity of the WPA. Section (k) would authorize OSC to appear in any civil action brought in connection with the WPA and request appellate review of any MSPB order where OSC determines MSPB erred and the case would have a substantial impact on WPA enforcement.

Judicial Review. In 1982, Congress replaced normal Administrative Procedures Act appellate review of MSPB decisions with exclusive jurisdiction in the U.S. Court of Appeals for the Federal Circuit. While the 1989 WPA and its 1994 amendments strengthened and clarified whistleblower protections, Federal Circuit holdings have repeatedly misinterpreted key provisions of the law. Subject to a five year sunset, section (l) would suspend the Federal Circuit's exclusive jurisdiction over whistleblower appeals and allow petitions for review to be filed either in the Federal Circuit or any other federal circuit court of competent jurisdiction.

Nondisclosure Restrictions on Whistleblowers. Section (m) would require all federal nondisclosure policies, forms and agreements to contain specified language preserving the right of government employees to disclose certain protected information. This section would codify the so-called anti-gag provision that has been included in federal appropriations bills since 1988.

Critical Infrastructure Information. Section (n) would clarify that section 214(c) of the Homeland Security Act (HSA) maintains existing WPA rights for independently obtained information that may also qualify as critical infrastructure information under the HSA.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 164—REAFFIRMING SUPPORT OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE AND ANTICIPATING THE COMMEMORATION OF THE 15TH ANNIVERSARY OF THE ENACTMENT OF THE GENOCIDE CONVENTION IMPLEMENTATION OF 1987 (THE PROXMIRE ACT) ON NOVEMBER 4, 2003

Mr. ENSIGN (for himself, Mr. CORZINE, Mr. EDWARDS, Mr. BAYH, Mr. SARBANES, Mr. CONRAD, Mr. REED, Ms. LANDRIEU, Mr. JEFFORDS, Mr. KOHL, Mr. LIEBERMAN, Mr. KENNEDY, Mr. ALLEN, Mr. BIDEN, Mr. SANTORUM, Mrs. DOLE, Mrs. BOXER, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 164

Whereas, in 1948, in the shadow of the Holocaust, the international community responded to Nazi Germany's methodically orchestrated acts of genocide by approving the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris on December 9, 1948;

Whereas the Convention on the Prevention and Punishment of the Crime of Genocide confirms that genocide is a crime under international law, defines genocide as certain acts committed with intent to destroy a national, ethnical, racial, or religious group, and provides that parties to the Convention undertake to enact domestic legislation providing effective penalties for persons who are guilty of genocide;

Whereas the United States, under President Harry Truman, was the first nation to sign the Convention on the Prevention and Punishment of the Crime of Genocide;

Whereas the United States Senate approved the resolution of advice and consent to the Convention on the Prevention and Punishment of the Crime of Genocide on February 19, 1986;

Whereas the Genocide Convention Implementation Act of 1987 (the Proxmire Act) (Public Law 100-606), signed into law by President Ronald Reagan on November 4, 1988, enacted chapter 50A of title 18, United States Code, to criminalize genocide;

Whereas the enactment of the Genocide Convention Implementation Act marked a principled stand by the United States against the crime of genocide and an important step toward ensuring that the lessons of the Holocaust, the Armenian Genocide, and genocides in Cambodia, Rwanda and elsewhere will be used to help prevent future genocides;

Whereas a clear consensus exists within the international community against genocide, as evidenced by the fact that 133 nations are party to the Convention on the Prevention and Punishment of the Crime of Genocide;

Whereas, despite this consensus, many thousands of innocent people continue to fall victim to genocide, and the denials of past instances of genocide continue; and

Whereas November 4, 2003 is the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act): Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms its support for the Convention on the Prevention and Punishment of the Crime of Genocide;

(2) anticipates the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003; and

(3) encourages the people and the Government of the United States to rededicate themselves to the cause of ending the crime of genocide.

SENATE RESOLUTION 165—COMMENDING BOB HOPE FOR HIS DEDICATION AND COMMITMENT TO THE NATION

Mr. FRIST submitted the following resolution; which was considered and agreed to:

S. RES. 165

Whereas Bob Hope is unique in the history of American entertainment and a legend in vaudeville, radio, film, and television;

Whereas Bob Hope is a dedicated patriot whose unselfish and incomparable service to his adopted country inspired him, for more than six decades, from World War II to the Persian Gulf War, to travel around the world to entertain and support American service men and women;

Whereas Bob Hope has personally raised over $1,000,000,000 for United States war relief and over seventy United States charities;

Whereas Bob Hope's life long commitment to public service has made him one of the most loved, honored, and esteemed performers in history, and has brought him the admiration and gratitude of millions and the friendship of every President of the United States since Franklin D. Roosevelt;

Whereas Bob Hope, in a generous commitment to public service, has donated his personal papers, radio and television programs, scripts, his treasured Joke File and the live appearances he made around the world in support of American Armed Forces to the Library of Congress (the "Library") and the American people;

Whereas Bob and Dolores Hope and their family have established and endowed in the Library a Bob Hope Gallery of American Entertainment—a permanent display of rotating items from the Hope Collection—and has donated a generous gift of $3,500,000 for the preservation of the collection; and

Whereas all Americans have greatly benefitted from Bob Hope's generosity, charitable work, and extraordinary creativity: Now therefore, be it

Resolved, That the Senate—

(1) commends Bob Hope for his dedication and commitment to the United States of America;

(2) expresses its sincere gratitude and appreciation for his example of philanthropy and public service to the American people; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Bob Hope.

SENATE CONCURRENT RESOLUTION 52—EXPRESSING THE SENSE OF CONGRESS THAT THE UNITED STATES GOVERNMENT SHOULD SUPPORT THE HUMAN RIGHTS AND DIGNITY OF ALL PERSONS WITH DISABILITIES BY PLEDGING SUPPORT FOR THE DRAFTING AND WORKING TOWARD THE ADOPTION OF A THEMATIC CONVENTION ON THE HUMAN RIGHTS AND DIGNITY OF PERSONS WITH DISABILITIES BY THE UNITED NATIONS GENERAL ASSEMBLY TO AUGMENT THE EXISTING UNITED NATIONS HUMAN RIGHTS SYSTEM, AND FOR OTHER PURPOSES

Mr. HARKIN (for himself, Mr. CHAFEE, and Mr. KENNEDY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 52

Whereas all people are endowed with an inestimable dignity, which is based on autonomy and self-determination, and which requires that every person be placed at the center of all decisions affecting such person, and the inherent equality of all people and the ethical requirement of every society to honor and sustain the freedom of any individual with appropriate communal support;

Whereas more than 600,000,000 people have a disability;

Whereas more than two-thirds of all persons with disabilities live in developing countries, and only 2 percent of children with disabilities in the developing world receive any education or rehabilitation;

Whereas during the last 2 decades, a substantial shift has occurred globally in governmental and nongovernmental institutions from an approach of charity toward persons with disabilities to the recognition of the inherent universal human rights of persons with disabilities;

Whereas the United Nations has authoritatively endorsed and helped to advance progress toward realizing the human rights of persons with disabilities, as exemplified by the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (adopted by the United Nations General Assembly in Resolution 48/96 of December 20, 1993), which are monitored by a United Nations Special Rapporteur;

Whereas because of the slow and uneven progress of ensuring that persons with disabilities enjoy their universal human rights in law and in practice, every society and the international community remain challenged to identify and implement the processes which best protect the dignity of persons with disabilities and which fully implement their inherent human rights;

Whereas greater and more rapid progress must be achieved toward overcoming the relative invisibility of persons with disabilities in many societies, national laws, and existing international human rights instruments; and

Whereas, accordingly, the United Nations General Assembly in November 2001, adopted an historic resolution to establish an ad hoc committee open to all United Nations member nations to consider proposals for a comprehensive and integral treaty to protect and promote the rights and dignity of persons with disabilities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States should play a leading role in the drafting of a thematic United Nations convention that affirms the human rights and dignity of persons with disabilities, and that—

(A) is consistent with the spirit of the Americans with Disabilities Act of 1990, the United States Constitution, and other rights enjoyed by United States citizens with disabilities;

(B) promotes inclusion, independence, political enfranchisement, and economic self-sufficiency of persons with disabilities as foundational requirements for any free and just society; and

(C) provides protections that are at least as strong as the rights that are now recognized under international human rights law for other vulnerable populations; and

(2) the President should instruct the Secretary of State to send to the United Nations Ad Hoc Committee meetings a United States delegation that includes individuals with disabilities who are recognized leaders in the United States disability rights movement.

Mr. HARKIN. Mr. President, I rise to submit a concurrent resolution on behalf of myself, Senator CHAFEE and Senator KENNEDY. This resolution deals with an issue that I have been working on for many years in a bipartisan manner. It simply calls on the United States to take a leading role in the drafting of an international convention on the human rights of individuals with disabilities. Such a treaty could improve the lives of over 600 million individuals with disabilities throughout the world.

For the past twenty years, the United States has put politics aside and has taken a lead role in the world toward the understanding that disability rights are human rights. I chaired the Senate's Subcommittee on the Handicapped at the time that the Americans With Disabilities Act was being considered by Congress and was a leading author of the ADA. During hearings, I heard over and over again stories of people with disabilities suffering from discrimination—not getting a job because of a disability; being locked up in a nursing home or institution because of a disability; not being able to get into schools, restaurants, stores, banks and other places of business because of a disability. This kind of discrimination is wrong. It is wrong in the United States and it is wrong throughout the world.

In 1990, then President Bush signed the ADA into law. He said, "This historic Act is the world's first comprehensive declaration of equality for people with disabilities. Its passage has made the United States the international leader on this human rights issue." The United States did lead the way in 1990, and it has another historic opportunity to lead the way today.

The issue of disability rights is very personal to me. As many of my colleagues know, my brother Frank was deaf. Because of his disability, he was sent to a school for the "deaf and dumb" across the State. Frank said to me, "I may be deaf but I am not dumb." I think of how many children, like Frank, in the world are suffering the effects of this sort of discrimination. How many children are not going to school because they are deaf, or use a wheelchair, or are blind? How many adults with these same disabilities are not working, not earning a living, not participating in civil society?

In recent months, we have all witnessed the situation people with disabilities face in Iraq and in Afghanistan. We have seen footage of the results of the tyranny of Saddam Hussein. We have seen many individuals who have life-long disabilities as a result of his cruelty. Many more are victims of terrorism and cruelty who now suffer the added injury of discrimination.

America has an historic opportunity to help change the lives of these children and adults from around the world and open the doors of opportunity to them. It is time for the world community to come together and write an important new chapter and break down the barriers that prevent people with disabilities from participating in their communities and play an active role in civil society. It is time to say to all of the world that disability rights are human rights, not just in the United States, but everywhere in the world. I strongly urge the Bush Administration to take a lead and work with other member Nations in the drafting of this resolution. Under the auspices of the United Nations, member states are scheduled to meet next week in New York to consider proposals for a comprehensive treaty to protect and promote the rights and dignity of persons with disabilities. I cannot think of a more worthwhile role the Administration could play than to be a leader on this issue and to fully support a convention on the rights of individuals with disabilities.

America's leadership in this process will help create a treaty that is both well intentioned and relevant, one that may fulfill its potential and vastly improve the perceptions, treatment and conditions of people with disabilities throughout the world. The United

States must continue to lead the way in this important international effort.

AMENDMENTS SUBMITTED & PROPOSED

SA 871. Ms. LANDRIEU (for herself, Mr. Specter, Mr. Bingaman, Ms. Collins, Mr. Alexander, and Mr. Bunning) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 872. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 873. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 874. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 875. Mr. WYDEN (for himself, Mr. Sununu, Mr. Bingaman, Mr. Ensign, Mr. Reid, Mr. Feingold, Mr. Jeffords, and Ms. Snowe) proposed an amendment to the bill S. 14, supra.

SA 876. Mrs. FEINSTEIN (for herself, Mr. Fitzgerald, Mr. Harkin, Mr. Lugar, Ms. Cantwell, Mr. Wyden, Mrs. Boxer, and Mr. Leahy) proposed an amendment to the bill S. 14, supra.

SA 877. Mr. REID proposed an amendment to amendment SA 876 proposed by Mrs. Feinstein (for herself, Mr. Fitzgerald, Mr. Harkin, Mr. Lugar, Ms. Cantwell, Mr. Wyden, Mrs. Boxer, and Mr. Leahy) to the bill S. 14, supra.

TEXT OF AMENDMENTS

SA 871. Ms. LANDRIEU (for herself, Mr. Specter, Mr. Bingaman, Ms. Collins, Mr. Alexander, and Mr. Bunning) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 238, between lines 2 and 3, insert the following:

Subtitle E—Measures to Conserve Petroleum

SEC. . REDUCTION OF DEPENDENCE ON IMPORTED PETROLEUM.

(a) Report.—

(1) In general.—Not later than February 1, 2004, and annually thereafter, the President shall submit to Congress a report, based on the most recent edition of the Annual Energy Outlook published by the Energy Information Administration, assessing the progress made by the United States toward the goal of reducing dependence on imported petroleum sources by 2013.

(2) Contents.—The report under subsection (a) shall—

(A) include a description of the implementation, during the previous fiscal year, of provisions under this Act relating to domestic crude petroleum production;

(B) assess the effectiveness of those provisions in meeting the goal described in paragraph (1); and

(C) describe the progress in developing and implementing measures under subsection (b).

(b) Measures To Reduce Import Dependence Through Increased Domestic Petroleum Conservation.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the President shall develop and implement measures to conserve petroleum in end-uses throughout the economy of the United States sufficient to reduce total demand for petroleum in the United States by 1,000,000 barrels per day from the amount projected for calendar year 2013 in the reference case contained in the report of the Energy Information Administration entitled "Annual Energy Outlook 2003".

(2) Contents.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) Implementation.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

SA 872. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 165 after line 14 insert:

(d) License Terms.—Section 6 and section 101(i) of the Federal Power Act (16 U.S.C. 799 and 803(i) are each amended by striking "fifty" and inserting "thirty" and section 15(e) of such Act is amended by striking "not less than 30 years, nor more than 50" and inserting "not more than 15."

SA 873. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 165 after line 14 insert:

(d) Annual Licenses.—Section 15(a)(1) of the Federal Power Act (16 U.S.C. 808(a)(1) is amended by adding the following at the end thereof: "Annual licenses shall contain such terms and conditions appropriate for the duration of the annual license which are identified by the Secretary of the Interior and the Secretary of Agriculture as necessary for the protection and utilization of the reservation within which the project is located; by the Secretary of the Interior and the Secretary of Commerce for the protection and enhancement of fish and wildlife, including related spawning grounds and habitat; and by the Governor of the State in which the project is located for compliance with water quality standards and other legal requirements for beneficial uses of affected waters. The terms of any new license for a project shall be reduced by one year for each annual license issued for such project."

SA 874. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, strike line 11 and all that follows through line 17 and insert:

"(f) Effect on Existing Law.—

"(1) Nothing in this section shall relieve the Secretary of any obligation to conduct environmental or other reviews or take any other actions required of the Secretary as of the date of enactment of this section for activities on tribal lands pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 2901 et seq.); the Clean Air Act (42 U.S.C. 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); the Endangered Species Act (16 U.S.C. 1531 et seq.); or any other Federal law for the protection of the environment or environmental quality.

"(2) Nothing in this section affects the application of —

"(A) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.);

"(B) the Atomic Energy Act of 1954 (42 U.S.C. 2011) or any Federal law respecting nuclear or radioactive waste or mining of radioactive materials; or

"(C) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.)."

SA 875. Mr. WYDEN (for himself, Mr. Sununu, Mr. Bingaman, Mr. Ensign, Mr. Reid, Mr. Feingold, Mr. Jeffords, and Ms. Snowe) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Strike subtitle B of title IV.

SA 876. Mrs. FEINSTEIN (for herself, Mr. Fitzgerald, Mr. Harkin, Mr. Lugar, Ms. Cantwell, Mr. Wyden, Mrs. Boxer, and Mr. Leahy) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

At the end, add the following:

TITLE —ENERGY MARKET OVERSIGHT

SEC. 01. JURISDICTION OF THE FEDERAL ENERGY REGULATORY COMMISSION OVER ENERGY TRADING MARKETS.

Section 402 of the Department of Energy Organization Act (42 U.S.C. 7172) is amended by adding at the end the following:

"(i) Jurisdiction.—

"(1) Referral.—

"(A) In general.—To the extent that the Commission determines that any contract that comes before the Commission is not under the jurisdiction of the Commission, the Commission shall refer the contract to the appropriate Federal agency.

"(B) No effect on authority.—The authority of the Commission or any Federal agency shall not be limited or otherwise affected based on whether the Commission has or has not referred a contract described in subparagraph (A).

"(2) Meetings.—A designee of the Commission shall meet quarterly with a designee of the Commodity Futures Trading Commission, the Securities Exchange Commission, the Federal Trade Commission, the Department of Justice, the Department of the Treasury, and the Federal Reserve Board to discuss—

"(A) conditions and events in energy trading markets; and

"(B) any changes in Federal law (including regulations) that may be appropriate to regulate energy trading markets.

"(3) Liaison.—The Commission shall, in cooperation with the Commodity Futures Trading Commission, maintain a liaison between the Commission and the Commodity Futures Trading Commission.".

SEC. 02. INVESTIGATIONS BY THE FEDERAL ENERGY REGULATORY COMMISSION UNDER THE NATURAL GAS ACT AND FEDERAL POWER ACT.

(a) Investigations Under the Natural Gas Act.—Section 14(c) of the Natural Gas Act (15 U.S.C. 717m(c)) is amended—

(1) by striking "(c) For the purpose of" and inserting the following:

"(c) Taking of Evidence.—

"(1) In general.—For the purpose of";

(2) by striking "Such attendance" and inserting the following:

"(2) No geographic limitation.—The attendance";

(3) by striking "Witnesses summoned" and inserting the following:

"(3) Expenses.—Any witness summoned"; and

(4) by adding at the end the following:

"(4) Authorities.—The exercise of the authorities of the Commission under this subsection shall not be subject to the consent of the Office of Management and Budget.".

(b) Investigations Under the Federal Power Act.—Section 307(b) of the Federal Power Act (16 U.S.C. 825f(b)) is amended—

(1) by striking "(b) For the purpose of" and inserting the following:

"(b) Taking of Evidence.—

"(1) In general.—For the purpose of";

(2) by striking "Such attendance" and inserting the following:

"(2) No geographic limitation.—The attendance";

(3) by striking "Witnesses summoned" and inserting the following:

"(3) Expenses.—Any witness summoned"; and

(4) by adding at the end the following:

"(4) Authorities.—The exercise of the authorities of the Commission under this subsection shall not be subject to the consent of the Office of Management and Budget.".

SEC. 03. CONSULTING SERVICES.

Title IV of the Department of Energy Organization Act (42 U.S.C. 7171 et seq.) is amended by adding at the end the following:

"SEC. 408. CONSULTING SERVICES.

"(a) In General.—The Chairman may contract for the services of consultants to assist the Commission in carrying out any responsibilities of the Commission under this Act, the Federal Power Act (16 U.S.C. 791a et seq.), or the Natural Gas Act (15 U.S.C. 717 et seq.).

"(b) Applicable Law.—In contracting for consultant services under subsection (a), if the Chairman determines that the contract is in the public interest, the Chairman, in entering into a contract, shall not be subject to—

"(1) section 5, 253, 253a, or 253b of title 41, United States Code; or

"(2) any law (including a regulation) relating to conflicts of interest.".

SEC. 04. LEGAL CERTAINTY FOR TRANSACTIONS IN EXEMPT COMMODITIES.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by striking subsections (g) and (h) and inserting the following:

"(g) Off-Exchange Transactions in Exempt Commodities.—

"(1) Definitions.—In this subsection:

"(A) Covered entity.—The term 'covered entity' means—

"(i) an electronic trading facility; and

"(ii) a dealer market.

"(B) Dealer market.—

"(i) In general.—The term 'dealer market' has the meaning given the term by the Commission.

"(ii) Inclusions.—The term 'dealer market' includes each bilateral or multilateral agreement, contract, or transaction determined by the Commission, regardless of the means of execution of the agreement, contract, or transaction.

"(2) Exemption for transactions not on trading facilities.—Except as provided in paragraph (4), nothing in this Act shall apply to an agreement, contract, or transaction in an exempt commodity that—

"(A) is entered into solely between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction; and

"(B) is not entered into on a trading facility.

"(3) Exemption for transactions on covered entities.—Except as provided in paragraphs (4), (5), and (7), nothing in this Act shall apply to an agreement, contract, or transaction in an exempt commodity that is—

"(A) entered into on a principal-to-principal basis solely between persons that are eligible contract participants at the time at which the persons enter into the agreement, contract, or transaction; and

"(B) executed or traded on a covered entity.

"(4) Regulatory and oversight requirements.—

"(A) In general.—An agreement, contract, or transaction described in paragraph (2) or (3) (and the covered entity on which the agreement, contract, or transaction is executed) shall be subject to—

"(i) sections 5b, 12(e)(2)(B), and 22(a)(4);

"(ii) the provisions relating to manipulation and misleading transactions under sections 4b, 4c(a), 4c(b), 4o, 6(c), 6(d), 6c, 6d, 8a, and 9(a)(2); and

"(iii) the provisions relating to fraud and misleading transactions under sections 4b, 4c(a), 4c(b), 4o, and 8a.

"(B) Transactions exempted by commission action.—Notwithstanding any exemption by the Commission under section 4(c), an agreement, contract, or transaction described in paragraph (2) or (3) shall be subject to the authorities in clauses (i), (ii), and (iii) of subparagraph (A).

"(5) Covered entities.—An agreement, contract, or transaction described in paragraph (3) and the covered entity on which the agreement, contract, or transaction is executed, shall be subject to (to the extent the Commission determines appropriate)—

"(A) section 5a, to the extent provided in section 5a(g)) and 5d;

"(B) consistent with section 4i, a requirement that books and records relating to the business of the covered entity on which the agreement, contract, or transaction is executed be made available to representatives of the Commission and the Department of Justice for inspection for a period of at least 5 years after the date of each transaction, including—

"(i) information relating to data entry and transaction details sufficient to enable the Commission to reconstruct trading activity on the covered entity; and

"(ii) the name and address of each participant on the covered entity authorized to enter into transactions; and

"(C) in the case of a transaction or covered entity performing a significant price discovery function for transactions in the cash market for the underlying commodity, subject to paragraph (6), the requirements (to the extent the Commission determines appropriate by regulation) that—

"(i) information on trading volume, settlement price, open interest, and opening and closing ranges be made available to the public on a daily basis;

"(ii) notice be provided to the Commission in such form as the Commission may require;

"(iii) reports be filed with the Commission (such as large trader position reports); and

"(iv) consistent with section 4i, books and records be maintained relating to each transaction in such form as the Commission may require for a period of at least 5 years after the date of the transaction.

"(6) Proprietary information.—In carrying out paragraph (5)(C), the Commission shall not—

"(A) require the real-time publication of proprietary information;

"(B) prohibit the commercial sale or licensing of real-time proprietary information; and

"(C) publicly disclose information regarding market positions, business transactions, trade secrets, or names of customers, except as provided in section 8.

"(7) Notification, disclosures, and other requirements for covered entities.—A covered entity subject to the exemption under paragraph (3) shall (to the extent the Commission determines appropriate)—

"(A) notify the Commission of the intention of the covered entity to operate as a covered entity subject to the exemption under paragraph (3), which notice shall include—

"(i) the name and address of the covered entity and a person designated to receive communications from the Commission;

"(ii) the commodity categories that the covered entity intends to list or otherwise make available for trading on the covered entity in reliance on the exemption under paragraph (3);

"(iii) certifications that—

"(I) no executive officer or member of the governing board of, or any holder of a 10 percent or greater equity interest in, the covered entity is a person described in any of subparagraphs (A) through (H) of section 8a(2);

"(II) the covered entity will comply with the conditions for exemption under this subsection; and

"(III) the covered entity will notify the Commission of any material change in the information previously provided by the covered entity to the Commission under this paragraph; and

"(iv) the identity of any derivatives clearing organization to which the covered entity transmits or intends to transmit transaction data for the purpose of facilitating the clearance and settlement of transactions conducted on the covered entity subject to the exemption under paragraph (3);

"(B)(i) provide the Commission with access to the trading protocols of the covered entity and electronic access to the covered entity with respect to transactions conducted in reliance on the exemption under paragraph (3); and

"(ii) on special call by the Commission, provide to the Commission, in a form and manner and within the period specified in the special call, such information relating to the business of the covered entity as a covered entity exempt under paragraph (3), including information relating to data entry and transaction details with respect to transactions entered into in reliance on the exemption under paragraph (3), as the Commission may determine appropriate—

"(I) to enforce the provisions specified in paragraph (4);

"(II) to evaluate a systemic market event; or

"(III) to obtain information requested by a Federal financial regulatory authority to enable the authority to fulfill the regulatory or supervisory responsibilities of the authority;

"(C)(i) on receipt of any subpoena issued by or on behalf of the Commission to any foreign person that the Commission believes is conducting or has conducted transactions in reliance on the exemption under paragraph (3) on or through the covered entity relating to the transactions, promptly notify the foreign person of, and transmit to the foreign person, the subpoena in a manner that is reasonable under the circumstances, or as specified by the Commission; and

"(ii) if the Commission has reason to believe that a person has not timely complied with a subpoena issued by or on behalf of the Commission under clause (i), and the Commission in writing directs that a covered entity relying on the exemption under paragraph (3) deny or limit further transactions by the person, deny that person further trading access to the covered entity or, as applicable, limit that access of the person to the covered entity for liquidation trading only;

"(D) comply with the requirements of this subsection applicable to the covered entity and require that each participant, as a condition of trading on the covered entity in reliance on the exemption under paragraph (3), agree to comply with all applicable law;

"(E) certify to the Commission that the covered entity has a reasonable basis for believing that participants authorized to conduct transactions on the covered entity in reliance on the exemption under paragraph (3) are eligible contract participants;

"(F) maintain sufficient capital,. commensurate with the risk associated with transactions conducted on the covered entity; and

"(G) not represent to any person that the covered entity is registered with, or designated, recognized, licensed, or approved by the Commission.

"(8) Hearing.—A person named in a subpoena referred to in paragraph (7)(C) that believes the person is or may be adversely affected or aggrieved by action taken by the Commission under this subsection, shall have the opportunity for a prompt hearing after the Commission acts under procedures that the Commission shall establish by rule, regulation, or order.

"(9) Private regulatory organizations.—

"(A) Delegation of functions under core principles.—A covered entity may comply with any core principle under subparagraph (B) that is applicable to the covered entity through delegation of any relevant function to—

"(i) a registered futures association under section 17; or

"(ii) another registered entity.

"(B) Core principles.—The Commission may establish core principles requiring a covered entity to monitor trading to—

"(i) prevent fraud and manipulation;

"(ii) prevent price distortion and disruptions of the delivery or cash settlement process;

"(iii) ensure that the covered entity has adequate financial, operational, and managerial resources to discharge the responsibilities of the covered entity; and

"(iv) ensure that all reporting, recordkeeping, notice, and registration requirements under this subsection are discharged in a timely manner.

"(C) Responsibility.—A covered entity that delegates a function under subparagraph (A) shall remain responsible for carrying out the function.

"(D) Noncompliance.—If a covered entity that delegates a function under subparagraph (A) becomes aware that a delegated function is not being performed as required under this Act, the covered entity shall promptly take action to address the noncompliance.

"(E) Violation of core principles.—

"(i) In general.—If the Commission determines, on the basis of substantial evidence, that a covered entity is violating any applicable core principle specified in subparagraph (B), the Commission shall—

"(I) notify the covered entity in writing of the determination; and

"(II) afford the covered entity an opportunity to make appropriate changes to bring the covered entity into compliance with the core principles.

"(ii) Failure to make changes.—If, not later than 30 days after receiving a notification under clause (i)(I), a covered entity fails to make changes that, as determined by the Commission, are necessary to comply with the core principles, the Commission may take further action in accordance with this Act.

"(F) Reservation of emergency authority.—Nothing in this paragraph limits or affects the emergency powers of the Commission provided under section 8a(9).

"(10) No effect on other authority.—This subsection shall not affect the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C 717 et seq.).".

SEC. 05. PROHIBITION OF FRAUDULENT TRANSACTIONS.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

"(a) Prohibition.—It shall be unlawful for any person, directly or indirectly, in or in connection with any account, or any offer to enter into, the entry into, or the confirmation of the execution of, any agreement, contract, or transaction subject to this Act—

"(1) to cheat or defraud or attempt to cheat or defraud any person (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information);

"(2) willfully to make or cause to be made to any person any false report or statement, or willfully to enter or cause to be entered for any person any false record (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information);

"(3) willfully to deceive or attempt to deceive any person by any means whatsoever (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information); or

"(4) except as permitted in written rules of a board of trade designated as a contract market or derivatives transaction execution facility on which the agreement, contract, or transaction is traded and executed—

"(A) to bucket an order;

"(B) to fill an order by offset against 1 or more orders of another person; or

"(C) willfully and knowingly, for or on behalf of any other person and without the prior consent of the person, to become—

"(i) the buyer with respect to any selling order of the person; or

"(ii) the seller with respect to any buying order of the person.".

SEC. 06. FERC LIAISON.

Section 2(a)(9) of the Commodity Exchange Act (7 U.S.C. 2(a)(9)) is amended by adding at the end the following:

"(C) Liaison with Federal Energy Regulatory Commission.—The Commission shall, in cooperation with the Federal Energy Regulatory Commission, maintain a liaison between the Commission and the Federal Energy Regulatory Commission.".

SEC. 07. CRIMINAL AND CIVIL PENALTIES.

(a) Enforcement Powers of Commission.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in paragraph (3) of the tenth sentence—

(1) by inserting "(A)" after "assess such person"; and

(2) by inserting after "each such violation" the following: ", or (B) in any case of manipulation of, or attempt to manipulate, the price of any commodity, a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to such person for each such violation,".

(b) Manipulations and Other Violations.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence—

(1) by striking "paragraph (a) or (b) of section 9 of this Act" and inserting "subsection (a), (b), or (f) of section 9"; and

(2) by striking "said paragraph 9(a) or 9(b)" and inserting "subsection (a), (b), or (f) of section 9".

(c) Nonenforcement of Rules of Government or Other Violations.—Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended—

(1) in the first sentence—

(A) by inserting "section 2(g)(9)," after "sections 5 through 5c,"; and

(B) by inserting before the period at the end the following: ", or, in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty of not more than $1,000,000 for each such violation"; and

(2) in the second sentence, by inserting before the period at the end the following: ", except that if the failure or refusal to obey or comply with the order involved any offense under section 9(f), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(f)".

(d) Action To Enjoin or Restrain Violations.—Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a-1(d)) is amended by striking "(d)" and all that follows through the end of paragraph (1) and inserting the following:

"(d) Civil Penalties.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

"(1) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

"(2) in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.".

(e) Violations Generally.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) by redesignating subsection (f) as subsection (e); and

(2) by adding at the end the following:

"(f) Price Manipulation.—It shall be a felony punishable by a fine of not more than $1,000,000 for each violation or imprisonment for not more than 10 years, or both, together with the costs of prosecution, for any person—

"(1) to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity;

"(2) to corner or attempt to corner any such commodity;

"(3) knowingly to deliver or cause to be delivered (for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication) false or misleading or knowingly inaccurate reports concerning market information or conditions that affect or tend to affect the price of any commodity in interstate commerce; or

"(4) knowingly to violate section 4 or 4b, any of subsections (a) through (e) of subsection 4c, or section 4h, 4o(1), or 19.".

SEC. 08. CONFORMING AMENDMENTS.

(a) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in subsection (d)(1), by striking "section 5b" and inserting "section 5a(g), 5b,";

(2) in subsection (e)—

(A) in paragraph (1), by striking ", 2(g), or 2(h)(3)"; and

(B) in paragraph (3), by striking "2(h)(5)" and inserting "2(g)(7)";

(3) by redesignating subsection (i) as subsection (h); and

(4) in subsection (h) (as redesignated by subparagraph (C))—

(A) in paragraph (1)—

(i) by striking "No provision" and inserting "IN GENERAL.—Subject to subsection (g), no provision"; and

(ii) in subparagraph (A)—

(I) by striking "section 2(c), 2(d), 2(e), 2(f), or 2(g) of this Act" and inserting "subsection (c), (d), (e), or (f)"; and

(II) by striking "section 2(h)" and inserting "subsection (g)"; and

(B) in paragraph (2), by striking "No provision" and inserting "IN GENERAL.—Subject to subsection (g), no provision".

(b) Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended in the first sentence by inserting ", or pursuant to an exemption under section 4(c)" after "transaction execution facility".

(c) Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended—

(1) by inserting "or covered entity under section 2(g)" after "direct the contract market";

(2) by striking "on any futures contract"; and

(3) by inserting "or covered entity under section 2(g)" after "given by a contract market".

SA 877. Mr. REID proposed an amendment to amendment SA 876 proposed by Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. HARKIN, Mr. LUGAR, Ms. CANTWELL, Mr. WYDEN, Mrs. BOXER, and Mr. LEAHY) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 17 after line 25.

"(10) APPLICABILITY.—This subsection does not apply to any agreement, contract, or transaction in metals."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 10, 2003, at 9:30 a.m., in closed session to receive testimony on certain intelligence programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 10, 2003, at 10:00 a.m. to conduct an oversight hearing on "The Administration's Proposal for Re-authorization of The Federal Public Transportation Program."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FITZGERALD. Mr. Pr [illegible] ask unanimous consent that th [illegible] mittee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 10, 2003, at 9:30 a.m., on Reauthorization of the Federal Motor Carrier Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet on Tuesday, June 10 at 10 a.m., to conduct a hearing to receive testimony regarding the current regulatory and legal status of federal jurisdiction of navigable waters under the Clean Water Act, in light of the issues raised by the Supreme Court in Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers No. 99-1178.

The hearing will take place in Senate Dirksen 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 10, 2003, at 2:30 p.m., in room SD-366 to receive testimony on the following bills: S. 499, to authorize the American Battle Monuments Commission to establish in the State of Louisiana a Memorial to honor the Buffalo Soldiers; S. 546, to provide for the protection of paleontological resources on Federal lands, and for other purposes; S. 643, to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes; S. 677, to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes; S. 1060 and H.R. 1577, to designate the visitors' center at Organ Pipe Cactus National Monument, Arizona, as the "Kris Eggle Visitors' Center"; H.R. 255, to authorize the Secretary of the Interior to grant an easement to facilitate access to the Lewis and Clark Interpretive Center in Nebraska City, Nebraska, and H.R. 1012, to establish the Carter G. Woodson Home National Historic Site in the District of Columbia, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Ms. LANDRIEU. Mr. President, I ask unanimous consent that Tanner Johnson and Neil Naraine of my staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 1215

Mr. McCONNELL. Mr. President, we have been negotiating all day with Senator BAUCUS, the ranking member of the Finance Committee, in the hopes of getting the Burma bill cleared, but, regretfully, that has not occurred yet.

Time is passing. I was at a meeting with the President just an hour ago. He brought up the issue. Both the Republican and Democratic leaders of the Senate are in favor of this bill. Both the chairman and the ranking member of the Foreign Relations Committee are in favor of this bill. My good friend, the assistant Democratic leader, is in favor of this bill. It is time to pass it.

We have been protecting, under a rule XIV procedure, the possibility of going to this bill tomorrow. But I must say, I think it would be a lot better to go to it tonight. So I have notified the Senator from Nevada that I am going to make the following unanimous consent request, and I will do that at this point.

Mr. President, I ask unanimous consent that tomorrow, at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the immediate consideration of S. 1215, the Burma sanctions bill, under the following conditions: 1 hour of debate equally divided in the usual form; that upon the use or yielding back of time, the Senate proceed to a vote in relation to the measure, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have been told by Senator BAUCUS and Senator GRASSLEY that they object to this. I would say this, however; that people in Burma, toward whom this is directed, should not rest easy. We are going to figure out a way to have this matter brought before the Senate.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. Mr. President, let me say to my good friend from Nevada, I have not heard from Senator GRASSLEY. I keep hearing from the other side that Senator GRASSLEY objects, but I have not heard that, nor have floor staff been informed that he does. But either way, it is time to move forward, and it needs to be done this week, and should be done with a tight time agreement and a rollcall vote.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, as in executive session, I ask unanimous consent that at 11 o'clock a.m., on Wednesday, June 11, the Senate proceed to executive session for the consideration of Calendar No. 220, the nomination of Richard Wesley, to be United States Circuit Judge for the Second Circuit; provided further that there then be 15 minutes for debate equally divided between the chairman and ranking member prior to a vote on the confirmation of the nomination, with no intervening action or debate. I further ask consent that following the vote, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I ask the Senator to modify his request to allow the chairman and ranking member, or their designees, to control the time. I also say this: If he accepts that modification, this will be the 129th judge we will have approved during the tenure of President Bush, and this will be the 36th circuit judge.

Mr. MCCONNELL. Mr. President, I so modify my unanimous consent request.

The PRESIDING OFFICER. Is there objection to the modified request?

Without objection, it is so ordered.

ROBERT P. HAMMER POST OFFICE BUILDING

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 1625, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1625) to designate the facility of the United States Postal Service located at 1114 Main Avenue in Clifton, New Jersey, as the "Robert P. Hammer Post Office Building."

There being no objection, the Senate proceeded to consider the bill.

Mr. LAUTENBERG. Mr. President, I am delighted that the Senate is poised to pass H.R. 1625, a bill to designate the United States Post Office located at 1114 Main Avenue in Clifton, NJ, as the "Robert P. Hammer Post Office Building."

Robert Hammer was a dedicated public official, working as City Manager of Clifton, NJ, for 7 years before his death last December at the age of 54. Among the many accomplishments during his tenure, Bob Hammer oversaw a nationally recognized recycling program and helped improve town parks and playgrounds.

It is particularly gratifying that the Senate will pass this measure in time for the facility's dedication ceremony this Saturday, June 14. It will mean so much to Bob's family to have this bill passed in time for the dedication.

I also thank Senator COLLINS and Senator LIEBERMAN for their help in getting this measure passed so expeditiously.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1625) was read the third time and passed.

COMMENDING BOB HOPE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 165 which was submitted earlier today.

The PRESIDING OFFICER (Mr. TALENT). The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 165) commending Bob Hope for his dedication and commitment to the Nation.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 165) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 165

Whereas Bob Hope is unique in the history of American entertainment and a legend in vaudeville, radio, film, and television;

Whereas Bob Hope is a dedicated patriot whose unselfish and incomparable service to his adopted country inspired him, for more than six decades, from World War II to the Persian Gulf War, to travel around the world to entertain and support American service men and women;

Whereas Bob Hope has personally raised over $1,000,000,000 for United States war relief and over 70 United States charities;

Whereas Bob Hope's life-long commitment to public service has made him one of the most loved, honored, and esteemed performers in history, and has brought him the admiration and gratitude of millions and the friendship of every President of the United States since Franklin D. Roosevelt;

Whereas Bob Hope, in a generous commitment to public service, has donated his personal papers, radio and television programs, scripts, his treasured Joke File and the live appearances he made around the world in support of American Armed Forces to the Library of Congress (the "Library") and the American people;

Whereas Bob and Dolores Hope and their family have established and endowed in the Library a Bob Hope Gallery of American Entertainment—a permanent display of rotating items from the Hope Collection—and has donated a generous gift of $3,500,000 for the preservation of the collection; and

Whereas all Americans have greatly benefitted from Bob Hope's generosity, charitable work and extraordinary creativity: Now, therefore be it

Resolved, That the Senate—

(1) commends Bob Hope for his dedication and commitment to the United States of America;

(2) expresses its sincere gratitude and appreciation for his example of philanthropy and public service to the American people; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Bob Hope.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h-276k, as amended, appoints the following Senators as members of the Senate Delegation to the Mexico-U.S. Interparliamentary Group during the First Session of the 108th Congress: The Senator from Tennessee, Mr. FRIST; the Senator from Tennessee, Mr. ALEXANDER; and the Senator from Texas, Mr. CORNYN.

ORDERS FOR WEDNESDAY, JUNE 11, 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, June 11. I further ask unanimous consent that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10 a.m., with the time equally divided between the two leaders or their designees; provided that at 10 a.m., the Senate resume consideration of S. 14, the Energy Bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCONNELL. For the information of all Senators, tomorrow morning, following a period of morning business, the Senate will resume consideration of S. 14, the Energy Bill. Under a previous consent, at 11 the Senate will proceed to executive session and debate the nomination of Richard C. Wesley to be a U.S. circuit judge. The Senate will vote on the Wesley nomination at 11:15 tomorrow morning. Following that vote, the Senate will return to the Energy Bill.

There are currently two amendments relating to derivatives pending to that bill. It is my hope that if we cannot work out an agreement with respect to these amendments, we will be able to set the amendments aside and proceed with other energy-related amendments. We have made pretty good progress on the Energy Bill over the past week. We should continue to address and dispose of as many amendments as possible. Therefore, Senators should expect rollcall votes throughout the day tomorrow in relation to amendments to that bill.

I also inform all of my colleagues that we anticipate locking in a final list of amendments to the Energy Bill during tomorrow's session.

In addition to considering amendments to the Energy Bill, it remains my hope that we will be able to take up and pass the Burma sanctions bill tomorrow. We should have done it today. Hopefully we can do it tomorrow. There is currently, as the Senator from Nevada and I have discussed, difficulty in clearing that with Senator BAUCUS, and hopefully that will be cleared up by tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:08 p.m., adjourned until Wednesday, June 11, 2003, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, June 10, 2003*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore (Mr. BOOZMAN).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 10, 2003.

I hereby appoint the Honorable JOHN BOOZMAN to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 49. Concurrent resolution designating the week of June 9, 2003, as National Oceans Week and urging the President to issue a proclamation calling upon the people of the United States to observe this week with appropriate recognition, programs, ceremonies, and activities to further ocean literacy, education, and exploration.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentlewoman from Connecticut (Ms. DELAURO) for 5 minutes.

THE CHILD TAX CREDIT

Ms. DELAURO. Mr. Speaker, I rise to again discuss an issue of great concern to American families. I am talking about extending the child tax credit to families that need it most.

A few weeks ago, this body passed a $350 billion tax cut bill that gave every millionaire in this country a $93,000 tax break. It made sure every corporation still had the right to avoid paying taxes by relocating overseas and taking American jobs with it. But the bill shorted 6.5 million low-income families who pay taxes and who are most in need. These families earn between $10,500 and $26,625 annually. Out of a $350 billion bill, the President and Republicans in charge of this body could not find $3.5 billion, 1 percent, for the poorest American families.

I tried to address this problem back on March 12 in the Committee on the Budget, but my amendment to extend this tax credit to those families was turned aside on a party-line vote. And then when it seemed that the Democrats had successfully included that provision in the larger tax package during the conference, the Republicans secretly eliminated it in the dead of night. Last week Democrats, united and resolute, said that that was not enough, that these 6.5 million families deserve this tax cut because they worked every bit as hard as the 25 million other families that will be receiving their tax refund in the mail next month. They pay almost 8 percent of their income in payroll taxes or sales taxes.

And last week the Senate restored the child tax credit to these hard-working families; and just yesterday the President's spokesperson called on the House to take up that legislation, but our colleagues on other side of the aisle just do not get it. They do not see the urgency in helping the 12 million children left behind by their tax bill. The majority whip said yesterday that he did not know if the House would act on the other body's bill. As if that were not bad enough, the Chair of the Republican Study Committee said in this morning's Congress Daily, if the House is going to take up this legislation that the Republicans should get something in exchange.

It is always a deal with these people. It is as if there were no families who are trying to put food on their table or clothes on their children's backs. All they care about is taking care of their own people, like the Enrons who paid no taxes in 4 of the last 5 years. It was another colleague on the other side of the aisle who said one must pay an income tax in order to earn a tax credit. That is the way it works. But she did not care about Enron who paid no taxes the last 4 out of 5 years. For Republicans it is all about the deal. It is not about the fundamental values of fairness or of taking care of people. It is about the deal, what do we get in return.

We have passed three tax bills that benefit the wealthy in this last 3 years, but we have done nothing to help people that need it the most. It is high time the House of Representatives did its job. I commend the President for setting aside the quest for a deal and urging the House to take up this bill, which the other body passed by an overwhelming margin. We must restore what was stolen in the dead of night, and if we do not act soon, the families of these 12 million children will not be receiving the tax credit in the mail this July 1 like the other 25 million families. Now is the time for action.

PRICE CONTROLS NEVER WORK

Mr. STEARNS. Mr. Speaker, as we return from recess to write and act on legislation for a Medicare prescription drug benefit, I am asking my colleagues and the American people to resist the temptation to succumb to price controls. This is perennial around here. A lot of folks believe that price ceilings for pharmaceuticals to be a feasible solution to the high costs that we experience with pharmaceuticals, but they never work.

Against the advice of economic advisers, including Nobel Prize-winning economist Milton Friedman, one President instituted a broad range of price controls in August of 1971; but many of the Members saw the PBS series "Commanding Heights" last year in which the author, Daniel Yergin, recalled "the public was convinced that food prices were going up," so the President "opted for wage and price controls. Voters liked the price controls, and the President was reelected in a landslide." Owing to that we can control prices but we cannot control the laws of supply and demand, the economy did not respond as the President hoped it would. Mr. Yergin said, "Right away, the economy went out of whack; people couldn't cover their costs. Ranchers stopped sending their cattle to market. Farmers started drowning their chickens. Instead of controlling inflation, they were controlling shortages."

To those old enough to remember 1971, remember those price ceilings? Lines for gas were all over the place for our cars. Black markets were started. New work started for organized crime. Shortages on grocery shelves. And prices still continued to rise, while just as the public clamored about too expensive food, some begged for more price controls.

Why do price controls not work? According to even a basic-level college text dealing with macroeconomics by

Byrns and Stone, "price ceilings keep monetary prices from rising but not average opportunity costs . . . there will be excess demand (or shortages). But price ceilings keep prices down, do not they? Unfortunately, the answer is NO!" This is from a basic text in all of our college economic courses.

The people who most value a good or service and are willing to pay an extra dollar in nonprice resources, such as waiting time, lobbying efforts, bribery, or black market premium, will do so. Have the Members noticed that more than a few Canadians who live under a price-controlled health care system, if they need health care beyond their primary care, what do they do? They travel to the United States to get it because it is the best in the world. So the Members do not have to trust what I am saying today. Just read some of the basic text in our college economic courses.

But why is it that a majority of pharmaceutical innovation occurs in the United States? Because the free market offers a reward to undertaking that risk. How many blockbuster drugs has Canada invented lately? The National Taxpayers Union warns lawmakers "America is the world leader in the research and development that results in innovative lifesaving medications." For the United States to look to Canada for "drugs at an artificial price set by some other country would be, quite simply, a way to rob the pharmaceutical companies of revenue needed to refund research. It is certainly cheap to manufacture pills if someone else supplies the research and development funding. On average, it costs the pharmaceutical companies over $800 million and takes 12 years to bring a new drug to market. While countries like Canada may beckon to us with their centrally controlled drug prices, none of those types of countries can begin to approach the United States in the development of new, innovative drugs that can save millions of lives."

Citizens for a Sound Economy point out "prescription drug prices differ between nations based on a variety of factors, including per capita income and type of health care system" that is provided. Perhaps one of the reasons American seniors and disabled are looking at Canada's and Europe's ceiling-priced pharmaceuticals is because that is what they lack. We do not hear seniors asking for relief on the prices of outpatient visits or MRIs because they are not paying out of pocket themselves.

One more unique viewpoint, that of interfering with Americans' right to vote with their dollars: Americans for Tax Reform ponders how the "impact of Canadian subsidies on the U.S. market will affect American taxpayers. Government subsidies of any kind interfere with market forces to drive competition and innovation. Foreign subsidies usurp taxpayers' ability to affect democratically the prices of necessary medicines."

The solution is not for Congress to manipulate prices, but to expand coverage to Medicare beneficiaries, to expand private sector health insurance coverage to the uninsured. Price controls never work.

THE IRONY OF NO CHILD LEFT BEHIND

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Texas (Mr. BELL) is recognized during morning hour debates for 5 minutes.

Mr. BELL. Mr. Speaker, I rise today to talk about the irony of No Child Left Behind, a very popular phrase here in our Nation's Capitol. My colleagues on the other side of the aisle tout No Child Left Behind when in actuality they deliberately choose to leave millions of children behind.

President Bush signed a new law that would provide tax cuts of $93,500 to the 200,000 taxpayers making over $1 million. Let us go over that again: $93,500 in tax cuts to the 200,000 taxpayers making over $1 million. However, 53 percent of all taxpayers will get less than $100 under the GOP tax cut, just another example of the administration choosing the wealthiest over America's working families. But as they used to say on the old television commercials, but wait, there is more. What is even more egregious in this particular case is that the administration chose not to provide or increase the child tax credit to working families making between $10,500 to $26,625 per year. That is right. If they make $10,500 to $26,625 per year, they miss out on the child tax credit.

Mr. Speaker, Republicans in the other body dropped a provision added by Senator LINCOLN that would help nearly 12 million children and their families get such a tax credit. Out of that 12 million, a staggering 8 million received no child tax credit under the GOP law. Mr. Speaker, the Republican plan in no way, shape, or form protects the children that need it the most. Instead, the plan deliberately excludes these children. In actuality, the Republican plan should be called the "Plan to Leave Children Behind."

This is why I urge my colleagues to support H.R. 2286, the Rangel-Davis-DeLauro bill. I am proud to be a cosponsor of this bill. It is a great start to preparing the damage inflicted by the administration's reckless and negligent tax package. H.R. 2286 would restore the child tax credit to families making minimum wage by providing greater tax relief to working families. Nineteen million children and their families would benefit from this bill. In fact, over 2 million children in my home State of Texas would benefit under the Rangel plan.

In addition to the child tax credit, H.R. 2286 would create more jobs. The provisions in this bill are key elements to the House Jobs and Economic Growth package and would create more than 1 million jobs without adding one penny to the deficit, welcome relief in a State like Texas where we are looking at our highest unemployment in 10 years, reaching close to 7 percent. Lastly, this bill has key elements that would ensure our brave men and women in uniform are not denied tax relief just because they are on active duty.

Mr. Speaker, I urge my colleagues to support H.R. 2286. This tax plan is fair. It helps America's economy, America's men and women in uniform, and it helps America's working families. Most importantly, it allows us to not just talk about it, but it allows us to actually leave no child behind.

INNOVATION, MANUFACTURING, AND JOBS

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized during morning hour debates for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I rise this morning to talk about the danger of losing good-paying jobs and our strong economy here in the United States.

Manufacturing has been America's economic strength. For 3 decades now, manufacturing productivity has increased more than any other sector of our economy. The average manufacturing worker produces four times as much per hour as the average worker did 50 years ago. As a result, manufacturing has been one of the most important parts of the economy and has produced higher living standards for Americans as those products from American manufacturing have become cheaper and better and wages in manufacturing have risen. But now we are losing our manufacturing base as we tend to move towards a service economy.

With manufacturing suffering in recent years, other industries such as the service sector have offered alternative employment. The trouble is that manufacturing cannot be simply replaced by insurance companies or the legal profession or retail trades. There are only four economic sectors that generate material wealth. Only four. And they are agriculture, where they produce things; mining, where they produce things; manufacturing, where they produce things; or construction. And those are the four. Of those, only manufacturing is not limited by natural resources and is capable of export.

We need innovation to produce better products at competitive prices to regain our manufacturing leadership. We cannot pay American-level wages unless we can still be competitive. That means innovation for quality products and increased productivity. Innovation starts with basic research, followed by application and commercialization.

As chairman of the Subcommittee on Research under the Committee on Science, I am familiar with the government's efforts to find and promote basic research, mostly through the National Science Foundation. NSF has seen substantial increases in recent years, and we need to ensure that this money is spent in ways that research discoveries can have the greatest impact in terms of promoting innovation and practical application for United States businesses. The development of basic research for industrial use has generally been the province of businesses which undertake these efforts to create new products. Unfortunately, according to witnesses at a recent Committee on Science hearing, application is the hardest part. Companies facing intense competitive pressure find it difficult to set aside sufficient resources, money, to develop new products, especially if the results cannot be anticipated before 5 or 6 years. So we are having a gap. Government is now the substantial payer of basic research; and having that research with tech transfer and to apply that research for better and more products and efficient ways of manufacturing is what we are lacking.

Development also suffers from low prestige. The academic community and Federal grants generally reward those who seek knowledge for knowledge's sake rather than those who do the necessary development work. Some foreign countries spend their research dollars monitoring our government funding basic research and then spend the rest of their government money to apply that research for commercial products ahead of our getting that application in the United States.

Another problem we face is the shortage of math and engineering talent. The United States has long lagged far behind other nations when it comes to producing top-notch engineering and research talent. Let me just give an example of China. China produces 10 times as many engineers as we do in the United States. This cannot continue if we expect to continue a strong economy in the United States. It cannot continue to go on without erosion of our international competitiveness. That is why I have pushed NSF to do a better job of promoting math and science careers to students. We need more capable math and science students for research and business and for our future.

In summary, Mr. Speaker, the decline in manufacturing employment is something that we ignore at our peril. Over the long term, we cannot hope to have a healthy and growing economy unless we make lots of tangible goods that people want to buy both in the U.S. and overseas markets. Government needs to support not only basic research but to provide incentives for American business to develop applications to ensure continued economic health.

IN SUPPORT OF THE CHILD TAX CREDIT

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Illinois (Mr. EMANUEL) is recognized during morning hour debates for 5 minutes.

Mr. EMANUEL. Mr. Speaker, yesterday's New York Times story ran a headline: "Iraqis Are Out of Jobs, But Pay Day Still Comes." With the administration's blessing, 200,000 Iraqis are receiving $20 a day for no-show jobs. They do not work. They do not show up for work. They do not do any work. Twenty bucks a day. I come from Chicago, from Cook County. We like no-show jobs. We think that is a good thing. We built an entire political party on no-show jobs, not at 20 bucks a day; but for everybody's appreciation, in the last 2 months we have given Iraqi families nearly $900. That is equal to the amount that we would pay for the child credit. So we are paying Iraqis and Iraqi families 900 bucks over the last 2 months, which is equal to what we are fighting over here, which I do not believe we need to fight here in the House since the Senate agreed 94 to 6 for the same amount of money. Yet somehow we said in Iraq if they do not work, if they do not show up for work, we will give them 20 bucks a day. It is a no-show job. It looks pretty good to me. But here if they work full time, trying to help their families, trying to raise their kids with the right values, trying to provide them clothes for school, food for the summer, a camp, a program, YMCA, they are not part of the American family.

I want to tell the Members something. Here is an American official, a government official who said nobody is going to quibble about paying a few dollars into this economy.

I am going to quibble. I do not know whom he talks to. I do not know who is paying him except for all Americans, and he says nobody is going to quibble? But what we are quibbling about is whether the children of America, 12 million children, 6.5 million families, are going to get the same sense of value here in America that we are saying in Iraq that for 20 bucks a day they do not have to show up for work and we will pay them. But here if they show up for work, work hard and pay their taxes, they do not deserve a tax cut, that they are unappreciative.

Who are these children? They are America's children, and they have done right. Parents are trying to raise them with good values, trying to teach them right from wrong. And what do we do in Congress? We turn those values on their head. We turn those values upside down and say if they work full time trying to do right by their kids, they do not deserve a tax cut. We are going to treat Iraqis with a different sense of values, a different sense of appreciation.

Let us be clear about what this says about who we are. America's children. Enron in the last 4 out of 5 years had record profits, did not pay taxes 4 out of 5 years. They got breaks. WorldCom, $12.5 billion in profits, 2 out of 3 years did not pay any taxes. They were big recipients of government contracts, yet did not pay taxes. We are paying their taxes. Tyco decided to move their address down to Bermuda, got a new ZIP code, new area code. $600 million dollars in government taxes were not paid; yet they got benefits in government contracts. That is a form of corporate welfare. If they do not pay, if they do not work and they are a corporation, we take care of them. America's children, 12 million of them, we are not going to give them a tax cut.

Recently on a Friday, the unemployment rate hit 6.1 percent. When this President came to office, the unemployment rate was 4 percent. Nearly 3 million Americans have lost their jobs, and we have added $3 trillion to the Nation's debt. What a deal, as we would say back in Chicago. $3 trillion dollars added to the Nation's debt, and Americans are paying with their jobs.

I believe the Senate did right. They did right by our values as Americans; and I know people on the other side of the aisle. They are good people with good values, but those values that left the 12 million children on the floor while corporate interests were circling the conference room are not the values we came here to vote for. We all came not just to be a vote, but we came to be a voice for our values and the values that say WorldCom is going to get protected; Iraq, 20 bucks, no-show jobs, they are going to get protected; 6.5 million American families work full time, making somewhere around $20,000, and I am talking about a rookie cop, first-year teacher, first-year emergency worker, those types of people, they are not getting a tax cut. They are not worthy of it.

What does that say about who we are? So that tax bill is not just dollars and cents. It is a reflection of our values as Americans. And this person, this body, is going to quibble with an American official who thinks that somehow paying 20 bucks a day not to show up for work is valuable; but if one shows up every day trying to provide for their children, that is not valuable and it is not worthy of a tax cut. It is worthy of a tax cut. Those children are America's children. That mother and father earning $20,000 are as valuable as if that mother and father were earning $200,000.

So I would say that this House, this body, we did not come here to just be a vote. We came here to give voice to our values and the values that we all represent regardless of what part of the country we come from. Regardless of what party we are from says that those 12 million children, they too deserve to go to school, they too deserve to go to the YMCA, they too deserve to go to the summer camp, and they too deserve for their parents to put funds away for their higher education; and we in this body need to take up the Senate bill, take up the DeLauro bill and vote on it immediately so the President can sign it so that on July 1 their tax cut gets sent too so that when they show up for school like the Iraqis who do not show up for work, they get a tax cut too.

UCF CHAMPIONSHIP CHEERLEADING TEAM

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Florida (Mr. FEENEY) is recognized during morning hour debates for 5 minutes.

Mr. FEENEY. Mr. Speaker, it is a big thrill to rise today to honor a hometown university, the University of Central Florida, and their cheerleading team for their Division I championship and cheerleading and dance team competition this year. UCF President John Hitt and the entire UCF family are simply thrilled with the success and are extraordinarily proud of this accomplishment. In fact, this is no fluke. UCF cheerleaders have finished in the top 10 for 9 out of the last 10 years. Talk about consistency. All champions exhibit quiet determination; but two teammates especially, Jamie Woode and James Kersey, demonstrated exceptional resolve above and beyond the call by competing with serious injuries, a broken fibula for Jamie and a torn rotator cuff for James. That is the UCF Knights spirit.

A student athlete's success is not merely measured by athletic performance, however. This 18-member team holds a cumulative 3.3 grade point average. During her 19-year tenure as coach, Linda Gooch has witnessed all but one of her team members earning bachelors degrees, an all-too-rare accomplishment in Division I competitive student athletic programs. Today I will submit a resolution with many colleagues from Florida commending the fabulous success of the University of Central Florida cheerleading team on its championship this year and wish them continued success in the future both on and off the field.

THE CHILD TAX CREDIT, THE REPUBLICAN TAX BILL, AND THE RANGEL PACKAGE

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized during morning hour debates for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, yesterday in Houston, Texas, I stood with carpenters and letter carriers, working families who work for the communications industry of the Nation, builders who build in the hot sun and the very cold winters, and those who take our plates away in restaurants and hotels. Some would call them the working class: low-income families, middle-income families. The one thing that they probably are not considered to be in this Nation, though I abhor any sense of class distinctions, but they probably would not be considered elite.

So I stand here today, Mr. Speaker, in arguing on their behalf, particularly in light of the very inequitable tax bill that was passed just a few weeks ago. I think the argument could be made that the elite went free on that day and they marched the working poor and the working Americans into a locked jail and threw the key away because the $550 billion tax cut that the President signed clearly did not represent working families of America, clearly did not represent individuals whose income may fall between $10,000 to $26,000.

Mr. Speaker, I am not interested in having a class between incomes. I certainly appreciate those who have made their way in this Nation and have built their income and capital upon the democracy and the free opportunity for business in this Nation. But, frankly, I think it is appalling and an outrage that we can be in this Congress, take our income every day, take the benefits of this Nation, and refuse to protect the least of those. The Senate has passed a bill. It has fixed its error. The first error came when they refused to take the Lincoln amendment in the last hours, Senator LINCOLN's amendment in the last hours of the tax negotiations. They left the working people off the table. So they enacted a bill that values the elite few over millions of Americans and left out those who make between $10,000 and $26,000.

That is why I am here to support the Rangel-DeLauro bill as an original cosponsor to restore that tax credit. What does that mean? That when the checks are issued in July to all the millions of others who are doing well, a tax credit for children, $400 to make it a total of $1,000, who will be left out? Those who make the $10,000 to $26,000. Are they the deadbeats of America, are they the undeserving, are they the ones that my good friends on the other side continue to hammer over and over again they do not pay taxes? I reject it. I refute it. It is ridiculous. They pay payroll taxes. They pay property taxes. They pay sales taxes. They contribute to America's economy. How dare you provide this elitist response that these working families who get up every day and clean tables, these working families who get up every day and help build America, are you telling me that they do not deserve a tax credit on their children?

The reason, Mr. Speaker, that I add to this is that we have the worst unemployment in America that we have had in America's history amongst any President in the United States. We have gone up to 6.1 percent unemployment with unemployed reaching $3.1 million. That means that the very people we are talking about per child tax credit may have only one bread winner in the family. Not two, but one. And that means that children who need these dollars maybe for the beginning of the school year are now denied because of the elitist attitude of this Congress and the Republican leadership.

Mr. Speaker, I refuse to stand with that kind of Neanderthal thinking. I prefer standing with the hundreds who stood with me, working men and women who are appalled by the lack of a tax credit and equally appalled by the opportunity or the effort by this particular body, this Republican majority, to put a comp time bill on the floor of the House which eliminates any opportunity for individuals who get overtime pay and gives them only, only compensation by giving them comp time off. Not when they need it, Mr. Speaker, but when the employer says they can have it.

So here we go. We have got a tax scenario that penalizes working families. We have a working bill that violates the Fair Labor Standards Act, and we have an overall package that we are trying to help Americans and we cannot seem to get it on the floor of the House. We need to get the Rangel-DeLauro bill, H.R. 2286, on the floor of the House now, this week. We must continue to fight for providing them along with our United States military personnel whose salaries fall within that $10,000 to $26,000 a year. We have got to stand to create jobs when we have seen such an enormous loss of jobs. Mr. Speaker what we have here is a failing of the United States Congress, failing of our constitutional duties and certainly a failing to the American people. Vote for the Rangel-DeLauro bill, and vote to eliminate the bad comp bill that will destroy working families all over America.

Just over 1 week ago, the President signed a new law that provides tax cuts of $93,500 to the 200,000 taxpayers making over $1 million, while 53 percent of all taxpayers would get less than $100 under the law.

The Republicans chose not to provide or to increase the child tax credit to working families making between $10,500 to $26,625 per year, in order to make room for a dividend tax cut.

Republicans deliberately chose to leave these children and their families behind.

Republicans also deliberately chose to drop a provision added by Senator LINCOLN that would help nearly 12 million children and their families to get the child tax credit—8 million of whom would get no child tax credit at all under the new law.

This provision would have helped low income families with children who make that are working hard to make ends meet.

On May 29, 2003 White House Press Secretary Ari Fleischer said, "Everybody was aware in the conference of what was in, and what was out. So that was very well-known to all the conferees, including to the White House. Does tax relief go to the people who pay income taxes and forgive their income taxes, or does it go above and beyond the forgiving of all income taxes, and you actually get a check from the government? This [GOP tax conference agreement] certainly does deliver tax relief to the people who pay income taxes." (May 29, 2003)

Today, Majority Leader TOM DELAY responded that the House would not move stand-alone legislation on this issue. He said, "There's a lot of other things that are more important than that. To me it's a little difficult to give tax relief to people who don't pay income taxes."

First Republicans refused to give workers the same pension rights that corporate CEOs have.

Then they pushed through a $350 billion tax cut, which fails to increase the child tax credit for working families making $10,000 to $26,625 a year.

Now, the Republicans are working to take away overtime pay with H.R. 1119 the so-called Comp Time bill and describing it as a "family-friendly" idea.

In reality, this is the Republican's concerted, long-term attack on America's working families that must be stopped.

SUPPORT FOR WORKING FAMILIES

Democrats are offering a package to help hard working Americans and create jobs.

Democrats are taking the first step (H.R. 2286) to begin to repair the damage from this reckless and irresponsible tax package.

The Rangel-Davis-DeLauro bill will provide greater tax relief to the families of 19 million children who make the minimum wage that are struggling to make ends meet.

In addition to restoring the child tax credit provision that Republicans dropped in the middle of the night, the Rangel bill would make the child tax credit available to 1.7 million more families by providing that those earning $7,500 or more could get the credit.

Under current law, the tax credit it is limited to those who make over $10,500.

The Range package will benefit 19 million children in America; over 2 million children in Texas alone.

Furthermore, the Rangel bill would accelerate marriage penalty relief for families that receive the Earned Income Tax Credit. And it is fully paid for—the bills calls for no deficit spending.

DEMOCRATS CONTINUE TO FIGHT FOR MEN AND WOMEN IN THE MILITARY

The Democratic package would make sure that our men and women in the military are not denied tax relief just because they are deployed in Iraq.

Specifically, the bill would count combat pay for purposes of the Child Tax Credit.

Republicans enacted a $350 billion tax bill, and yet they failed to make sure that our men and women in combat are able to take full advantage of the child tax credit.

The Democratic Plan will also create jobs for the soldiers who are returning home, their loved ones and others in need of employment.

These provisions are key elements of the Democratic House Jobs and Economic Growth package that will create more than 1 million jobs this year without adding one penny to the deficit.

Democrats know that by putting money in the hands of working Americans and by keeping our fiscal house in order can we create jobs and build a strong economy.

IRAQ AND WEAPONS OF MASS DESTRUCTION

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Indiana (Mr. PENCE) is recognized during morning hour debates for 5 minutes.

Mr. PENCE. Mr. Speaker, I was in the grocery checkout line buying some Motrin for my ailing 8-year-old daughter late this Saturday night; and the woman next to me, seeing me wearing something of a Republican T-shirt on the weekend but not recognizing me as a Congressman, said, "I guess your President is in some hot water over weapons of mass destruction." And that seems to be what many on the other side of the aisle and many in the national debate would like to say about the President, that somehow this administration either directly or indirectly intentionally or unintentionally exaggerated the threat of weapons of mass destruction and the WMD program of the Nation of Iraq during the months and weeks leading up to Operation Iraqi Freedom. It is an extraordinary assertion, and as I went on to describe there in the checkout line last Saturday night and rise today to describe, it is patently untenable and ignores the real and demonstrable history of the nation of Iraq and the region.

First, a lesson in history. We go back to 1981 when Israel was forced to bomb Saddam Hussein's nuclear reactor at Osirak. In fact, the United Nations established at that time that Iraq had begun a nuclear weapons program and, in their words, chemical and biological weapons capability systems. In fact, in the immediate aftermath of the last Persian Gulf War, Saddam Hussein and his regime as a part of the cease fire agreement acknowledged extensive biological and chemical weapons programs; and I cite now from UNSCOM's sources, the U.N. agency responsible for overseeing the cease fire of Iraq, that Iraq itself acknowledged 10,000 nerve gas warheads, 1,500 chemical weapons, and 412 tons of chemical weapons agents.

Last week before the Committee on International Relations, John Bolton, the Under Secretary for Arms Control at the U.S. State Department testified before us; and I asked him very specifically, Mr. Speaker, whether or not the assessment of the WMD program in Iraq changed significantly from the Clinton administration to the Bush administration. He hesitated and then very carefully said it had not changed in any significant way and that in many respects the Clinton administration assessed the WMD program in Iraq precisely the same as the Bush administration did. Citing those hundreds of tons of chemical and biological agents that Iraq admitted it had in 1991, Under Secretary of State John Bolton said, "Both administrations said these materials were unaccounted for."

In fact, when President Clinton bombed Iraq in 1998 after they expelled our weapons inspectors, he justified the bombing by saying "it was necessary to attack Iraq's nuclear, chemical and biological programs and its capacity to threaten its neighbors." So said President Bill Clinton. So those who would say that in the 5 years leading up from the time Iraq expelled weapons inspectors to the time of Operation Iraqi Freedom that somehow, even though he refused to admit it, Saddam Hussein willingly and privately destroyed his enormous cache of weapons of mass destruction, ignore common sense, ignore history, the truth is, Mr. Speaker, we would have to believe the worst of George W. Bush and the best of Saddam Hussein to believe that there was not an extraordinary program of biological, chemical and even a nascent program for nuclear weapons being developed in the nation of Iraq and the capital of Baghdad.

Facts are stubborn things, and reciting those facts that Iraq admitted to in 1991 and establishing a decade-long pattern of deception and denial confirms, as our Iraqi survey group continues to scour that country for further evidence of a WMD program, I remain confident, as the President said yesterday, that we will not only continue to find evidence of a program, the mobile labs, the biological and chemical suits and the syringes that were found with antidotes for chemical deployments, but the day will come in the very near future, I am confident, that U.S. and coalition forces will find the elusive evidence of a program of weapons of mass destruction.

ELIMINATION OF THE CHILD TAX CREDIT FOR 12 MILLION CHILDREN

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentlewoman from California (Ms. LORETTA SANCHEZ) is recognized during morning hour debates for 5 minutes.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to talk about that sleight of hand that happened in the last few days when the Republicans put together the newest tax cut for the American people. At the time, they decided to eliminate the child tax credit for 12 million children here in the United States, because, of course, they had to find a way to pay for their tax cut for dividend earnings. One would say, so what? It is just 12 million children that we are not going to give the tax credit to their families for. But it was 12 million children of low-income families. That means that if they made somewhere between $10,000 and $26,000 as a family they would not get that child tax credit. People tell me all the time there is no possibility. They just cannot make $10,000 a year because $10,000 a year, they cannot live on that. Darn right. They cannot live on $10,000 a year.

Let us look at what it takes to live when they are making minimum wage, minimum wage in Orange County, California, where I live. Let us say they live in Santa Ana and they are making minimum wage, and there are a lot of people who make minimum wage out there. Why? We have got Disneyland; we have got tourist attractions there. We have got the maids who make the bed when they come and stay in Anaheim. The dishwashers, the people who serve. We have the gardeners who are cleaning up everything, the janitors. They all make minimum wage; and they make no benefits, most of them.

So minimum wage, and in California it is higher than the rest of the Nation. Our minimum wage is $6.15 an hour. Multiply that if they are going to work for 2,040 hours a week. That is working every week. That comes to less than $13,000 a year. But by the time just their payroll taxes get pulled out of that paycheck, they are taking home about $11,000. And let us say that they are a family of three, that they have got a child, that they go home to live in their one-bedroom rented apartment in Santa Ana, California, where the average rent is $950 a month. When they do all the math, they figure out that earning minimum wage means they can barely pay their apartment rent. That is not their utilities. It is not health care. It is not clothes for them or their children. It is not school books or supplies. It is not transportation to get to their job, and it is not food. It is not medicine. So, yes, it is very difficult to live on minimum wage where I live, but a lot of people do it. They are working hard every single day.

I remember about a year ago we unionized our janitors there, and they had a contract that would pay $6.40 an hour. And the workers came to put in their bid of whether they were going to accept that contract or not, $6.40 an hour for cleaning toilets, cleaning toilet after toilet after toilet in a high-rise all night long every floor. Who do the Members think cleans those buildings? And they were voting on this, $6.40 an hour. That was the contract. One holiday a year and 5 sick days a year. There was this guy, this older gentleman who was crying as he put in his "yes" vote, and he said to me "You know, Congresswoman, I have been a janitor here for 17 years. This is the first time that I will get a raise."

People live and they work very hard for these wages. So I hear the other side say it does not matter; we should not give people this tax credit. We need to give people that tax credit. What about the 200,000 families that are in our military, some of them stationed in Iraq, having put their lives on the line who are not eligible for the child tax credit because the other side decided that they needed to give rich people more money? When we first discovered it and we started to talk about it, some said, oh, my God, we did not know. How could that happen? Someone just slipped it in. Nobody slipped it in. The White House Press Secretary Ari Fleischer said it was a very well-known fact what they were doing and the White House knew about it.

Let us pass the DeLauro bill. We have got to get money to the families who really need it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would ask the occupants of the gallery not to show signs of approval or disapproval.

PROTECTING THE UNITED STATES AND ITS CITIZENS

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) is recognized during morning hour debates for 5 minutes.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, most Americans believe that the first duty of the Federal Government is to protect the security of the United States and its citizens. By any objective assessment, when the threat to our security takes a form of foreign armies, navies or intercontinental missiles, we have done an exemplary job. When it comes to threats confronting us, new threats, the sort that resulted in the attacks like that on September 11, we continue to ignore gaping holes in our national defense. As it becomes more evident that we need better information about who is in our country, we are about to surrender that identification process to foreign governments. We must adhere to a policy of closed borders with open, guarded doors. We cannot rely on foreign nations, even allies, to be thorough enough to issue identification that meets our rigorous standards. Do we really want to rely on the government of Mexico and the dozens of other countries that will be lining up to issue consular IDs to tell us who is living illegally in our country? I think not. The majority of Americans believe that we should not either.

Given the very real and deadly threats that we face, how wise is it to have millions of Americans, people living illegally in this country using dozens of identity documents issued by governments all around the globe to do everything from opening a bank account to boarding planes. I have recently been informed that our customs office in New York is actually allowing customs forms as people enter into this country to be turned in and they are simultaneously not checking the names of the people turning in the customs forms to compare it to a list of known terrorists. Customs forms pile up and are entered several days later. This is later when these people are already in our country. It is kind of the "come on in and we will check you later" process, that "we will check you later if we can find you." Is this what we really had in mind when we promised the American people that we would do everything within reason to prevent another catastrophe like 9–11 and we spent billions of tax dollars to create a Department of Homeland Security? I do not think so, Mr. Speaker; and I do not think our American citizens do either.

TAX CUT TO WORKING FAMILIES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized during morning hour debates for 5 minutes.

Ms. SCHAKOWSKY. Mr. Speaker, I want to congratulate the gentlewoman from California (Ms. LORETTA SANCHEZ) for her eloquent statement on behalf of the people who are left out of the Republican tax cut bill and the people who like the Narvaez family in my district are working hard every single day. This is Maria Narvaez and her daughters Alma and Elia. She has another daughter too. She is standing in front of a community organization called Family Matters in my district and all of us would hope that to every Member of Congress that families really do matter.

To Ms. Narvaez, they really do. She works also in a day care center taking care of other people's children, and for all of her full-time work she earns $20,000. When the tax cut bill passed the Senate originally, it had a refundable tax credit. She would have gotten up to another $400, which may not mean much to some people, but could mean a lot to Maria and her daughters and her son, who are pictured there. She would have taken that money and gone right out and maybe paid a few bills or bought some extra food for the family or some clothes. Money would have gone directly into the economy and would have helped to create more jobs and stimulate growth.

But instead, what the House Republicans said is that she and her family are just simply not wealthy enough to have a tax cut because in the dead of night what happened to that Senate provision that would have given her a tax cut that would have given her a rebate, Vice President CHENEY went in and said, wait a minute, and he helped negotiate this, the bill that was passed goes too high. It spends too much money. So somebody is going to have to be cut out. And in the dark of night, in a secret negotiating deal, it was families like the Narvaez family who were cut out.

It is not just her. I talked to a mother of a Marine yesterday. I had breakfast with her. And she was telling me, he is in Iraq right now but she was telling me that when she went to visit him at his base there was a church nearby that had a big box in front of it and she said what is that box? And that is for donations of clothing for the military families. Understand that I am not talking about the generals and I am not talking about the people that are sitting at the Pentagon. I am talking about the young men and women, the privates, the privates first class who are over in Iraq who are risking their lives every day, some of them losing their lives, and we do not know how many have been injured in that war, those people also have been cut out of this bill, and this is what the majority leader said. The gentleman from Texas (Mr. DELAY), the majority leader, said there are a lot of other things that are more important; and what that must mean is that it is more important to give an average of $90,000 tax cut to millionaires, and it is more important to pass a tax dividend cut, the taxes we pay on dividends, to cut that, than to ensure families who are making less than $26,000 to have a few extra dollars to spend on their families.

And the reality is that if Congress does not act by the end of June, 6.5 million low-income families will not receive their refund checks at the same time as the middle-class families do. So we are under a time frame here. It is not something that we can just chat about. Who does benefit then from the tax cut bill? Let us talk about who actually gets a benefit. Vice President CHENEY who negotiated that deal that cut this family out will reap about $116,000 a year from the dividend and capital gains provisions in the tax bill. Maria will have to work about 10 years in order to have an income that equals the 1-year tax cut that the Vice President will get, and that is not the only thing. John Snow, the Secretary of the Treasury, will get in 1 year a tax cut about $332,000.

She will have to work 16 years to get that. Let us talk about fairness here. Let us talk about what is good for the economy and good for families. Let us do what the Senate did when they fixed it. Let us give a tax cut to working families.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 11 o'clock and 25 minutes a.m.), the House stood in recess until noon today.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order at noon.

PRAYER

The Reverend Phillip Kaim, Diocese of Rockford, Illinois, offered the following prayer:

Almighty God, as we open Congress for another day, we ask that You open the hearts and minds of our legislators to do Your will. We ask that You gift them with the wisdom to know Your will, the prudence to know the means to accomplish it, and the courage to follow through, to persevere, and overcome any obstacles put in their path.

As we open Congress, we keep in our thoughts and prayers all the men and women in our armed services, especially those still deployed in Iraq, who risk their lives every day to protect our cherished freedom. We ask You to keep them safe and out of harm's way. We also ask that You provide sufficient chaplains to serve this unique and challenging ministry.

We ask all of this in Your Holy Name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Maine (Mr. MICHAUD) come forward and lead the House in the Pledge of Allegiance.

Mr. MICHAUD led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING FATHER PHILLIP KAIM

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, today the House opened with a prayer from our guest chaplain, Father Phil Kaim. Father Kaim is a newly ordained priest in the Rockford diocese in the State of Illinois. Father Kaim is also a close personal friend of mine and a former member of my staff.

When Phil worked in my office, I always admired his clarity of vision, his strong conviction, and his compassion for those around him. Phil had a knack for politics. He worked for me for almost 10 years.

He served in my office as my district director and was my eyes and ears back home in Illinois. Phil was very good at his job, but I guess he decided he had a higher calling. Six years ago he made a decision to become a priest, and after the election of November of 1998 he left my employment, packed his bags and moved to Rome to study at the North American College to become a Roman Catholic priest.

On May 17 of this year he was ordained. He will return to Rome later this year to continue his studies.

Father Kaim, thank you for your prayer today and good luck to what I know will be a bright future.

CLASS ACTION REFORM GOOD FOR FAMILIES

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, this week we will be taking up another bill that will directly benefit working families: the Class Action Fairness Act of 2003. And as we know, the class action process was designed to help consumers with similar troubles pool their resources for legal assistance and streamline what might otherwise be thousands, even millions, of separate claims.

But in the last 10 years, class action filings have risen 1,000 percent. For all their apparent popularity, one would think class action suits have suddenly become more beneficial to consumers, but the evidence suggests in that time the class action system has been abused more often than ever. A suit against the Bank of Boston, for instance, yielded just $8.64 cents for every plaintiff, but cost $90 each in lawyers' bills.

A class action against Blockbuster Video racked up more than $9 million in legal fees, but yielded plaintiffs a mere $1 off coupon for future rental at Blockbuster.

Class actions have become more popular, but not because they have suddenly started benefitting consumers more. After all, under the current system, the suits get bogged down in State courts where the settlements are often not equally distributed among members of the class. Meanwhile, the cost of all this litigation is being passed on by companies to the American consumer. The courts, the companies, and the consumers are not benefitting them.

But who is? Who else? The trial lawyers. The American people get the joke, Mr. Speaker. No matter who loses in class action suits, the winners are always the same: The trial lawyers. Even if their clients do not get any money or are not being paid, the lawyers always seem to be paid.

So the reforms we will take up this week will streamline the class action system and provide for new consumer protection against abusive lawsuits. This Republican majority is committed to meeting the needs of the American people and reining in the excesses of our litigious trial lawyer community.

So I look forward to the debate on this bill, Mr. Speaker, to see if the same can be said of their friends on the other side of the aisle.

WORKING FAMILIES TAX CREDIT ACT OF 2003

(Mr. MICHAUD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHAUD. Mr. Speaker, the recent tax bill carelessly neglects 12 million children in America's low-income working families by cutting them out of the child tax credit plan.

I asked the House Committee on Government Reform to investigate what this would mean to the State of Maine. They found that in my home district, 21,000 working families will receive no benefit. These are families who work hard, pay taxes, play by the rules, and who were still left out in the cold.

Cutting these people out was just plain wrong. That is why I have introduced the Working Family Tax Credit Act of 2003, along with my good friend, the gentleman from New York (Mr. RANGEL). This bill will fix the problem and assure that all working families get some benefit. In a tax bill that gives $90 billion of its tax cut exclusively to millionaires, making sure that working families who make $25,000 a year should be able to get some tax relief is the least this Congress can do.

FAMILIES SHOULD CHOOSE WHAT IS BEST FOR THEM

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, last week the House was scheduled to consider the Family Time Flexibility Act. But some of our friends on the other side of the aisle opposed the idea of allowing workers to choose what their overtime is worth, so we did not get to vote on it.

When workers spend extra time at work, they should determine how much that time is worth, not employers and not politicians. This bill would allow them to do that. It gives employees the choice of how they are compensated for time they work over and above their normal work week.

In my district this is a big deal. There are a lot of hardworking people there who work a lot of overtime and a lot of close-knit families whose time is precious enough as it is. They should not be forced to take more money when what they need is some extra time at home.

But in order to appease special interests, our friends on the other side opposed this bill and prevented a vote on it. They opposed the right of workers to choose what is best for their families. They put the demands of big labor unions over the rights of parents to spend more time with their kids, and I think that is a crime.

EXTEND CHILD TAX CREDIT TO LOW-INCOME FAMILIES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I rise again to discuss extending the Child Tax Credit to the families that need it most. This morning I came to the House floor to again call on my colleagues on the other side of the aisle to pass the legislation to give these 6.5 million taxpaying families what they have rightfully earned.

The other body has passed a bill. The President has said the House should take it up and he will sign it. Why is the Republican leadership so reluctant to lift a finger to help people who work, people who pay taxes, people who have children? Republicans pass tax cut after tax cut for the wealthiest Americans, and then they cut out the families of 12 million children, families that pay a greater percent of their incomes, 8 percent of their income in taxes; more than Enron did in the last 4 out of the last 5 years. They paid no taxes.

Now we hear the Republican leadership wants something in exchange. As I said this morning, there is always a deal with these people. It has nothing to do with values or fairness. It is all about taking care of their own. It is all about taking care of Enron, WorldCom, and Tyco.

Mr. Speaker, let us stop playing games. It is time for the House to take the other body's legislation. Let us help 6.5 million families share in the benefits of this tax cut. It is the right thing to do.

STATE DEPARTMENT IS AIDING ILLEGAL ALIENS

(Mr. TANCREDO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TANCREDO. Mr. Speaker, it is not bad enough that foreign governments are brazenly distributing identification documents to their nationals in order to make it easier for them to violate our immigration laws, it now appears that our government is aiding in the effort.

Perhaps I am a bit inaccurate in referring to the State Department as "our government." Anyone who has been around here any length of time knows that the State Department operates as a separate entity with its own agenda and set of rules and are often unconnected to the wishes of the administration and are often disdainful of any congressional input except when they are up here asking for money.

Recently a memo came into our possession, which emanated from our Embassy in Managua and was sent to Secretary Powell. It was asking for directions in the task of helping the government of Nicaragua create these ID cards to distribute to Nicaraguan nationals living illegally in the United States. They want to do this so that these illegal aliens can more easily obtain benefits, get breeder documents, and generally live here undisturbed while they violate our laws.

You got it. That is our government in league with a foreign government as they aid and abet their illegal aliens living in the United States.

Beam me up, as our friend used to say, Mr. Speaker, beam me up.

ADMINISTRATION MUST HAVE ACCOUNTABILITY

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, the credibility gap is growing. First the administration said the U.S. had to sweep aside the U.N. inspections and the Security Council because Iraq had weapons of mass destruction which were an imminent threat.

No weapons have been found to justify the war. So why did we go to war?

Now Paul Wolfowitz says, "The truth is that for reasons that have a lot to do with the U.S. Government bureaucracy, we settled on the one issue that everyone could agree on which was weapons of mass destruction as the core reason."

Now their story is changing. Iraq had a weapons program, they say. No longer weapons of mass destruction but a program. Is this now the core reason?

Bait and switch will not work here, nor will a pretense for war. If this administration can fabricate reasons for the war after the fact, where will America be headed for war next?

Congress must demand accountability for the wanton exercise of war power, loss of life, destruction of property, waste of tax dollars, and damage to America's reputation.

□ 1215

Thirty-three Members of the House have now signed the resolution of inquiry to demand the White House tell the truth.

SEXUAL ASSAULT AWARENESS AND PREVENTION

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today to commend the House leadership for bringing before us a resolution to raise awareness and encourage prevention of sexual assault in the United States.

One person victimized by sexual assault is far too many, but unfortunately, one person on average is sexually assaulted every 2 minutes in the United States alone. These can be our neighbors, our friends, or even our family members.

For these victims and for the people who help them, this resolution salutes them for survival. For organizations, businesses and media, this resolution promotes awareness of sexual violence and strategies to decrease the incidence of these horrific crimes.

Mr. Speaker, no one deserves to be sexually assaulted. I encourage my colleagues to support this resolution, S.J. Res. 8, on the House floor today.

MIGHTY DUCKS

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to congratulate the Mighty Ducks of Anaheim for their spectacular success in the 2002–2003 National Hockey League season. Even though they did not win the Stanley Cup this year, they came into the playoffs as the seventh-best team in the Western conference, faced down their critics, and made it to the Stanley Cup finals for the first time in their 10-year history.

Sweeping the Detroit Red Wings in four games, the Dallas Stars in six, and the Minnesota Wild in four, the Ducks proved that they were a serious contender for the sport's most coveted trophy; and Jean Sebastien Giguere, the Duck's spectacular goal tender, was selected as the most valuable player, winning that trophy for his hard work and incredible skill that gave the Ducks their fire throughout all of these playoff games.

Congratulations to my hometown team, the Mighty Ducks. Thanks for making this season a great one to watch and for making us proud.

TRIBUTE TO AL DAVIS

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, today I rise to acknowledge the passing of Committee on Ways and Means' staff member Al Davis who died on May 30. Like so many of his staffers that I hope are watching today, the regard that we as Members of this House hold for you is unparalleled. You are the ones who genuinely make the trains run on time.

In the case of Al Davis, the information he provided to members of the Committee on Ways and Means as our economist were not only quality statistics but they were always reliable, a fact that the media and our critics often missed. It is people like this who day in and day out provide us with legendary support, and I particularly will miss the volumes of data he provided to me on the issue of alternative minimum tax.

He was a political warrior, like so many who staff this Congress; but he was also an individual who held great regard for this institution and was never disdainful of any of its Members. Even those who opposed his ideas respected him.

If we were offering a sitcom on the life of Al Davis, we would have called it "Humble Al." I never heard anybody who did not find a compliment for Al Davis, and those of us who would acknowledge what he did when he whispered in our ear vital statistics are forever grateful for the service he rendered. We all will miss Al Davis.

CHILD TAX CREDIT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, House Majority Whip Blunt said GOP Members find no urgency to act for a child tax credit, but there was an incredible urgency in this House a couple of weeks ago when we acted in the dark of the night to extend an average $93,500 tax break to every millionaire in America.

Then the gentlewoman from North Carolina (Mrs. MYRICK) said, if we give people a tax break that do not pay taxes, it is welfare. Excuse me, someone who earns $27,000 a year pays $1,890 in FICA taxes. They pay taxes, regressive taxes; and guess what, every penny of those FICA taxes that is supposed to go into the Social Security surplus, the lockbox, that that side of the aisle used to support, that the President used to support, is being borrowed and being mailed in big checks to the wealthy. She may call that welfare; I call it Reverse Robin Hood.

NEXT GENERATION HISPANIC-SERVING INSTITUTIONS

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Mr. Speaker, on behalf of our educational future of America, I rise today in favor of H.R. 2238, a piece of legislation filed by the gentleman from Texas (Mr. HINOJOSA) that would allow an opportunity for us to get additional resources for those youngsters and those individuals throughout this country, Latinos, that are attending the Hispanic-serving institutions to be able to get additional resources to get their master's and their Ph.D.'s.

This bill will strengthen the Hispanic-serving institution programs by establishing a competitive grants program to extend graduate degrees program opportunities for the Hispanic-serving institutions.

The bill will support graduate fellowships, services for graduate students, facilities, and improve our college and university faculty and technology. Current law only provides for those that are attending 2- and 4-year institutions and not allows for master's and Ph.D.'s.

It is important that we look at providing additional resources so that these youngsters can go and obtain their master's and their Ph.D.'s. I ask for my colleagues' support on H.R. 2238.

AMERICA'S INTERNATIONAL STANDING IS BEING DAMAGED

(Ms. DEGETTE asked and was given permission to address the House for 1 minute.)

Ms. DEGETTE. Mr. Speaker, we have now gone 80 days without finding any weapons of mass destruction in Iraq. Questions are mounting as to whether the intelligence presented by the administration was manipulated or deliberately misinterpreted to create a false justification for the war.

Regardless of whether we supported or opposed the war, this is a critical issue. America's international standing is being damaged by this failure; and more importantly, this issue raises serious doubts about our intelligence apparatus, and it raises potential constitutional concerns.

I urge all of us to look carefully at this lapse, and I urge Congress to work in a bipartisan way to find out how this happened and to take steps to ensure that Congress and the American people are never misled when it comes to the issue of sending our American fighting men and women into harm's way about the purpose and the extent of the problem.

AMERICA'S FAMILIES AND CHILDREN ARE IMPORTANT

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, I rise today in light of today's news reports to really thank Republicans for finally agreeing with us that all children and families of America are important, whether or not they are wealthy.

Two weeks ago, these same Republicans did not understand that lesson. Two weeks ago, they sacrificed the well-being of 6.5 million families, including 12 million children, so that they could pass tax breaks and dividend tax cuts for their wealthiest friends. Republicans thought that their actions really would have gone unnoticed, but how wrong they were.

In California, for example, without this new legislation, almost 1.3 million California families would receive no child tax credit, including 2.4 million children. The Republicans would have especially hurt minority families because one-third of all Latino families would miss out on the tax break, while half of all African American families would not receive the credit.

Thankfully now, the majority is really beginning to listen and beginning to understand that those families who do not make any more than $26,000 should also receive the same benefit that every family that earns up to $110,000 and over would receive.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

SUPPORTING GOALS AND IDEALS OF NATIONAL SEXUAL ASSAULT AWARENESS AND PREVENTION MONTH

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 8) expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

The Clerk read as follows:

S.J. RES. 8

Whereas, on average, another person is sexually assaulted in the United States every two minutes;

Whereas, the Department of Justice reports that 248,000 people in the United States were sexually assaulted in 2001;

Whereas, 1 in 6 women and 1 in 33 men have been victims of rape or attempted rape;

Whereas, children and young adults are most at risk, as 44 percent of sexual assault victims are under the age of 18, and 80 percent are under the age of 30;

Whereas, sexual assault affects women, men, and children of all racial, social, religious, age, ethnic, and economic groups in the United States;

Whereas, less than 40 percent of sexual assault victims pursue prosecution by reporting their attack to law enforcement agencies;

Whereas, two-thirds of sexual crimes are committed by persons who are not strangers to the victims;

Whereas, the rate of sexual assaults has decreased by half in the last decade;

Whereas, because of recent advances in DNA technology, law enforcement agencies have the potential to identify the rapists in tens of thousands of unsolved rape cases;

Whereas, aggressive prosecution can incarcerate rapists and therefore prevent them from committing further crimes;

Whereas, sexual assault victims suffer emotional scars long after the physical scars have healed; and

Whereas, free, confidential help is available to all victims of sexual assault through the National Sexual Assault Hotline, more than 1,000 rape crisis centers across the United States, and other organizations that provide services to assist victims of sexual assault: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) it is the sense of Congress that—

(A) National Sexual Assault Awareness and Prevention Month provides a special opportunity to educate the people of the United States about sexual violence and to encourage both the prevention of sexual assault and the prosecution of its perpetrators;

(B) it is appropriate to salute the more than 20,000,000 victims who have survived sexual assault in the United States and the efforts of victims, volunteers, and professionals who combat sexual assault;

(C) national and community organizations and private sector supporters should be recognized and applauded for their work in promoting awareness about sexual assault, providing information and treatment to its victims, and encouraging the increased prosecution and punishment of its perpetrators; and

(D) police, forensic workers, and prosecutors should be recognized and applauded for their hard work and innovative strategies to increase the percentage of sexual assault cases that result in the prosecution and incarceration of the offenders;

(2) Congress urges national and community organizations, businesses in the private sector, and the media to promote, through National Sexual Assault Awareness and Prevention Month, awareness of sexual violence and strategies to decrease the incidence of sexual assault; and

(3) Congress supports the goals and ideals of National Sexual Assault Awareness and Prevention Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S.J. Res. 8.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution as a way to further increase awareness of sexual assault and recognize the important contributions of victims in various groups that combat sexual assault. The police, forensic workers, and prosecutors should be praised for their hard work and dedication to this fight.

Through recent advances in DNA technology, law enforcement agencies have developed the potential to identify the rapists in tens of thousands of unsolved rape cases. The work of these individuals to prosecute sexual assault cases and incarcerating the offenders makes all of us safer.

We must also recognize the work of victims, national and community organizations, private sector supporters, and the media in this area. These groups helped to increase public awareness and provide support for individuals affected by this dramatic experience. Public awareness is a vital tool in combatting the incidence of sexual assault. It is noteworthy that the rate of sexual assaults has decreased by half in the last decade.

This resolution also recognizes the plight of victims of sexual assault. Often, victims suffer emotional scars that remain long after the physical scars have healed. Free, confidential help is available to all victims of sexual assault through the National Sexual Assault Hotline, more than 1,000 rape crisis centers in the United States and other organizations that provide services to assist the victims of sexual assault.

Hopefully, public awareness of this issue will also help victims to recognize that they are not alone and encourage them to come forward and report the crime. Currently, less than 40 percent of the sexual assault victims pursue prosecution by reporting their attack to law enforcement agencies.

This resolution offers the support of this Congress and brings attention to this very important issue. I urge my colleagues to join me in supporting the individuals and organizations that dedicate themselves to combatting sexual assault.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to join the chairman of the Committee on the Judiciary in supporting S.J. Res. 8 to call attention to National Sexual Assault Awareness and Prevention Month. The purpose of this resolution is to increase public awareness of sexual assault and to recognize the important contributions of various individuals and groups across the United States that combat sexual assault.

Mr. Speaker, sexual assault victims are primarily young people with 44 percent of the victims under the age of 18, 80 percent under the age of 30. Sexual assault affects women, men, children of all races, social, religious, age, ethnic and economic groups and even prisoners. Yet less than 40 percent of sexual assault victims pursue prosecution by reporting their attack to law enforcement agencies.

Mr. Speaker, as we recognize Sexual Assault Awareness and Prevention Month, Congress also recognizes that other tools are also important in preventing and addressing sexual assault. With advances in DNA technology, law enforcement agencies have been able to identify and prosecute many offenders, and the potential exists to identify tens of thousands of additional offenders in unsolved rape cases. That is why it is so important that Congress provide additional resources needed to immediately eliminate the current backlog of rape evidence kits across the United States.

I look forward to working with my colleague, the gentleman from Wisconsin, in authorizing and funding the Debbie Smith Act and other bills aimed at reducing the DNA backlog.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Speaker, I thank the chairman for yielding me the time.

Mr. Speaker, some would be quick to point out that this resolution is about symbolism; but in this area and on this subject, symbolism is important. Symbolism can help us raise the profile of this very important issue.

As the previous speaker, the chairman, just alluded, there are things that we should celebrate in our battle against sexual assault. Rape is down 50 percent over the last decade. We have recently passed the Protect Act, child abduction legislation, that I think will offer new tools and resources in the fight against sexual assault. The committee is developing DNA legislation that will provide additional tools and resources; but as we all know, we have so far to go.

A person is sexually assaulted in this country every 2 minutes.

□ 1230

According to the Department of Justice, nearly 250,000 people were assaulted in 2001 alone; 1 in 6 women have been the victim of rape or attempted rape.

This resolution declares that Congress supports the goals and ideals of the National Sexual Assault Awareness Month. We can use this opportunity to educate the public on how to prevent sexual assault. We can use this opportunity to recognize those in the community that volunteer numerous hours to work with victims. We can use this opportunity to recognize law enforcement for their dedicated work in this battle against sexual assault in the areas of increased conviction and increased prevention, and we can use this opportunity to salute the more than 20 million victims who have survived sexual assault. We stand with them. By raising the profile, hopefully these numbers will fall and we will have fewer victims, we will have more convictions, and we will have greater awareness of this awful battle we must fight.

Mr. SCOTT of Virginia. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY) who is a lead sponsor of this resolution, an advocate for the issue.

Mrs. MALONEY. Mr. Speaker, I rise in strong support of S.J. Res. 8, and I thank the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Virginia (Mr. SCOTT), the ranking member, and the gentleman from Wisconsin (Mr. GREEN) for all of their hard work on this issue and this resolution and for their work in preventing sexual assault and rape.

The gentleman from Wisconsin (Mr. GREEN) and I introduced the companion legislation to this bill, H.J. Res. 36 in the House earlier. This April is Sexual Assault Awareness and Prevention Month, but it is important to remember that preventing sexual assault should be a top priority during each month of the year.

We must also remember that violence against women is not just a woman's issue, it is a man's issue, a family's issue, and an issue that is important to society at large.

According to the Department of Justice, someone is sexually assaulted in this country every 82 seconds. That translates to over 1,000 a day, and over 380,000 sexual assaults every year; yet we have the ability to help protect our daughters, our sisters, and our friends by putting rapists behind bars using DNA evidence. We know that DNA evidence is better than a fresh set of fingerprints, and we know it is often better than eyewitness testimony.

Earlier this year I reintroduced with the gentleman from Wisconsin (Mr. GREEN) and the gentleman from New York (Mr. WEINER) an important piece of legislation that would take important steps to prevent sexual assaults from occurring. The Debbie Smith Act would provide critical funding for eliminating the backlog of unprocessed DNA evidence, for establishing sexual assault forensic examiner programs, and for training law enforcement and prosecutors about how to use DNA technology most effectively.

The bill also establishes a national standard for the collection of DNA evidence, thereby ensuring that the evidence is processed in a reasonable amount of time. I authored this bill after Debbie Smith testified before the Committee on Government Reform and Oversight. She spoke about the tool of DNA and how it can be used to convict rapists. She was raped near her home in 1989, and for 6½ years she lived in fear that her attacker would return to fulfill the threat he had made to her that day, that if she told anyone, he would kill her. Only on the day that her husband told her that the man that had raped Debbie had been identified through a DNA match and was in prison was Debbie able to breathe again.

Tragically, there are other Debbie Smiths out there, other women still living in fear because they do not know if their attacker will come back to them again. The Debbie Smith Act will help to bring justice and closure to the survivors of rapes and their families, and it will help prevent rapes by putting rapists behind bars.

This is an issue that both Republicans and Democrats agree on. Attorney General Ashcroft earlier this year stated that he supported a $1 billion initiative to process DNA evidence. This is clearly very important because there is an estimated 350,000 to 500,000 kits unprocessed around the country. It is no wonder that only 2 percent of women who are raped will ever see their attacker spend a day in jail, but each rape kit represents a life, the life of a person like Debbie Smith, and each rape kit represents a predator, a rapist who may strike again and again. Law enforcement tells us that most rapists, if not caught, will attack approximately, or at least, 8 times.

It is time to put DNA evidence to work stopping rapes and sexual assaults from occurring around the country, and I do believe that this year we will pass this bill. It is needed, it is important, and we will pass it because there is strong bipartisan support from the White House, from the gentleman from Wisconsin (Mr. SENSENBRENNER), from the gentleman from Wisconsin (Mr. GREEN), and many others. I thank everyone who has worked on it. There is no greater way to celebrate Sexual Assault Month than to pass legislation that will prevent sexual assaults in the future. I am hopeful this year we will be able to achieve that.

Mr. LANGEVIN. Mr. Speaker, I rise today in support of S.J. Res. 8, the joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States.

The statistics on the widespread nature of sexual assault are alarming. It is estimated that one in six women in the United States have been victims of rape or attempted rape. One in five children will be a victim of sexual abuse before reaching the age of 18. However, recent educational efforts have proved successful—the rate of sexual assaults has decreased by half in the last decade. It is critical to the safety of all Americans that we build on these efforts.

Sexual assault is perpetuated by silence. One of the most startling aspects of sex crimes is how many go unreported. The joint resolution we are voting on today is a step in acknowledging the all too prevalent reality of sexual assault. Further, we must support the existing programs and resources for victims of sexual assault and their families, such as the National Sexual Assault Hotline and more than 1,000 rape crisis centers across the United States. I urge my colleagues to support this legislation as a show of commitment to the goals and ideals of National Sexual Assault Awareness and Prevention Month.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in support of S.J. Res. 8, a resolution to raise awareness and encourage prevention of sexual assault. There is no crime that is more personal, more intrusive, or more painful than rape, and it must be a priority of this Congress and this Administration to work toward an end to this violence. Unfortunately, while this resolution is a nice demonstration of sympathy and support from the Congress, it is woefully inadequate. While I strongly support its passage, the Republican Leadership should allow the House to consider legislation to provide real relief to victims of sexual assault and domestic violence. It is my hope that this resolution will be followed by consideration of H.R. 1267, the Domestic Violence Screening, Treatment, and Protection Act; H.R. 1046, the Debbie Smith Act dealing with the DNA evidence backlog; H.R. 394, the Violence Against Women Civil Rights Restoration Act; and many others.

We have come a long way in the last 30 years since women started speaking up and speaking out against sexual assault. We are now better able to treat rape victims in emergency rooms; law enforcement has access to tools to teach them how to respond to the crime of sexual assault; and there are social and mental health services available to women who are survivors of rape. I am grateful for this progress.

However, as we've raised awareness of this violence, we have also learned that it reaches far deeper into every aspect of our society than we wanted to admit or acknowledge. It is far more likely that perpetrators know their victims and aren't just strangers in the bushes. And women aren't the only victims—one in 33 men have been victims of rape or attempted rape. Furthermore, teens are twice as likely as any other age group to be victims of crime—nearly one-third of all sexual assault victims are raped between the ages of 12 and 17, and one in five girls becomes a victim of violence in dating relationships.

We've also heard a lot this year about women at the Air Force Academy who have been victims of sexual assault. It is a disgrace that so many women have been re-victimized and silenced as a result of our military's reaction to these violent crimes. We must work hard to change the culture in every branch and at every level of the military from one that accepts violence against women to one that condemns such violence and treats victims, and all women, with respect and equality. But what we haven't heard much about is that men in the military are also victims of sexual assault. A special report appeared in January 2003 and revealed that the U.S. Department of Veterans Affairs began collecting nationwide data on the extent to which men have been sexually traumatized in the armed services. The preliminary results are that nearly 22,500 male veterans—more than one of every 100 former soldiers, sailors and airmen treated by the VA—reported being sexually traumatized by peers or superiors during their military careers. This once again shows that sexual violence is about humiliation, degradation, and control.

We must commit ourselves to ending violence against women this month and every month. We must fully fund all Violence Against Women Act programs. We must speak up when we hear people speak about sexual violence in a dismissive or harmful way. We must educate our sons to be nonviolent and to treat women with respect. I believe that if we commit ourselves, we can end violence against women. Therefore, I urge my colleagues to vote for S.J. Res. 8.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of S.J. Res. 8, the Joint Resolution expressing the sense of Congress with respect to the raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

WHAT S.J. RES. 8 DOES

The Resolution echoes the goals and ideals of the National Sexual Assault Awareness and Prevention Month, namely to increase public awareness of the occurrence and the effects of sexual assault and to improve our nation's overall ability to prevent new incidents.

The need for this legislation stems from data compiled by the Bureau of Justice Statistics and the Rape, Abuse, and Incest National Network. Specifically, the fact that "a person is sexually assaulted in the United States every 2 minutes" and that 248,000 people in the United States were sexually assaulted in 2001 as reported by the Department of Justice underscores the urgent and emergent nature of this problem. Furthermore, the Resolution cites statistics that 1 in 6 women and 1 in 33 men have been victims of either rape or attempted rape. In addition, in terms of victim age, 44 percent are under the age of 18 and 80 percent are under the age of 30. I support this legislation because sexual assault has a significant and direct effect on the lives of many of the constituents in my legislative District.

EFFECT ON STATE AND LOCAL CONSTITUENT DISTRICT

Between 1997 and 2001, the number of family violence incidence reported and the number of women killed by intimate male partners has remained at a consistent high (See Attachment 1).

In Texas, 35 percent of the women killed in 1997 were murdered by an intimate male partner, which is higher than the national average of 28 percent as reported by the FBI (Texas Council on Family Violence, 2002).

In Houston, 21,621 family violence incidents were reported. Out of this number, 15 women were killed by intimate male partners (Texas Council on Family Violence, 2001).

In Harris County in 2001, 26,353 family violence incidents were reported. Likewise in 2001 and out of this number, 22 women were killed by intimate male partners (Texas Department of Public Safety, 2002). In addition, every 20 minutes, there is 1 domestic violence incident reported to the police (3 domestic violence events every hour in the County). The National Crime Victimization Survey reports that in 1998, only 50 percent of all actual domestic violence incidents are reported. According to the Harris County Public Health & Environment Services, likely factors that have led to the increased number of incidents include: "changes in law relating to domestic violence, increase [sic] public awareness of domestic violence, increase in support facilities for Domestic Violence survivors established by the government and various community groups, more effective involvement of the law enforcement in the incidents of domestic violence, and better tools provided to District Attorney's Office for prosecuting the offenders of domestic violence."

OTHER RELEVANT DATA

The direct harmful effects of sexual assault and domestic violence have been well documented:

Pregnancy—A 1996 review indicated that between 0.9 percent an 20.1 percent of women experienced Intimate Partner Violence (IPV) (Center for Disease Control (CDC)).

Elderly—An estimated 551,011 elderly persons (aged 60 and over) suffered abuse, neglect, and/or self-neglect in domestic settings in 1996 (National Center for Victims of Crime, 1998). The median age for elder abuse victims was 77.9 years in 1996.

Disabled—Women with disabilities face the same risks as all women face, plus those associated with their particular disability. Furthermore, studies have shown that women with physical disabilities more likely received abusive treatment from attendants and health care providers (Center for Research on Women with Disabilities, 1997)

Homeless/Low-Income—A study of 777 homeless parents (predominantly mothers) in ten U.S. cities revealed that 22 percent had relocated because of domestic violence (Homes for the Homeless, 1998). Furthermore, a survey conducted by the U.S. Conference of Mayors indicated that 46 percent of the surveyed cities identified domestic violence as a primary cause of homelessness (1998).

Men affected—According to the Bureau of Justice Statistics in 1998, men were found to be victims of approximately 160,000 violent crimes by an intimate partner.

The vast and diverse statistics mentioned above relative to the very problems targeted by S.J. Res. 8, in my legislative "back yard" as well as nationwide warrant my attention as well as the attention of my colleagues. For the above stated reasons, I vote in favor of S.J. Res. 8 and urge my colleagues to do the same.

ATTACHMENT 1

	2001	2000	1999	1998	1997
Family violence incidents	180,385	175,282	177,176	175,725	181,773
Women killed by intimate male partners	113	104	133	116	102

Source: Texas Council on Family Violence, 2001.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentlewoman for her advocacy, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 8.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

INVOLUNTARY BANKRUPTCY IMPROVEMENT ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1529) to amend title 11 of the United States Code with respect to the dismissal of certain involuntary cases.

The Clerk read as follows:

H.R. 1529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Involuntary Bankruptcy Improvement Act of 2003”.

SEC. 2. AMENDMENT.

Section 303 of title 11, United States Code, is amended by adding at the end the following:

“(*l*)(1) If—

“(A) the petition under this section is false or contains any materially false, fictitious, or fraudulent statement;

“(B) the debtor is an individual; and

“(C) the court dismisses such petition;

the court, upon motion of the debtor, shall expunge from the records of the court such petition, all the records relating to such petition in particular, and all references to such petition.

“(2) If the debtor is an individual and the court dismisses a petition under this section, the court may enter an order prohibiting all consumer reporting agencies (as defined in section 603 of the Fair Credit Reporting Act) from making any consumer report (as defined in section 603 of the Fair Credit Reporting Act) that contains any information relating to such petition or to the case commenced by the filing of such petition.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1529.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1529, the Involuntary Bankruptcy Improvement Act of 2003, a bill I introduced earlier this year that addresses a very serious and possibly growing problem with respect to abuse of the judicial process by extremists and others.

Under current law, a debtor can voluntarily commence a bankruptcy case or be involuntarily forced into bankruptcy by one or more creditors. Although rarely used, an involuntary bankruptcy petition can be a useful creditor collection tool. It can preserve and maximize assets for the benefit of creditors and provide for the appointment of a bankruptcy trustee to investigate a debtor's financial affairs.

Unfortunately, tax protesters and other extremists are now resorting to filing fraudulent involuntary bankruptcy petitions against public officials and private individuals as yet another weapon in their arsenal of abusive litigation tactics, such as filing false liens.

Last year, for instance, a tax protester filed fraudulent involuntary bankruptcy petitions against 36 local public officials in my district in Wisconsin, including the county sheriff, the circuit judge, and nearly every member of the county board of supervisors. Some of these individuals only discovered that they were the subject of a pending involuntary bankruptcy case after their lines of credit were terminated or they were charged higher interest rates. Worse yet, an involuntary bankruptcy filing, as with most bankruptcy cases, is a matter of public record and can appear on an individual's credit report for up to 10 years even if the involuntary bankruptcy filing is fraudulent and the case is dismissed by the court.

As a result, innocent individuals continue to experience credit problems long after these abusive cases are dismissed. As the Hartford Courant reported last month, it sometimes takes years for corrections to be made to a person's credit report. As a result, the individual may potentially be forced to pay higher interest rates until the proper steps can be taken to fix their credit report.

While abusive bankruptcy filings are not pervasive, they have occurred in various districts across the Nation. According to an informal survey conducted by the Administrative Office of the United States Courts and the National Conference of Bankruptcy Clerks, fraudulent involuntary bankruptcy cases have recently been filed in California, Ohio, Maine, Nebraska, and North Carolina. Organizations such as the Anti-Defamation League and the National District Attorneys Association have expressed concern that this litigation tactic may become even more widespread.

H.R. 1529 responds to the serious problems presented by abusive involuntary bankruptcy filings in two respects:

First, it amends the Bankruptcy Code to require the bankruptcy court, on motion of the debtor, to expunge all records relating to a fraudulent involuntary bankruptcy case from the court's files under certain conditions.

Second, it authorizes the bankruptcy court to prohibit all credit reporting agencies from issuing a consumer report containing any reference to a fraudulent involuntary bankruptcy case where the debtor is an individual and the court has dismissed the petition.

This bill offers great forward but very much-needed relief to innocent victims of abusive involuntary bankruptcy petitions. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1529, the Involuntary Bankruptcy Improvement Act of 2003, a bill which was reported by the Committee on the Judiciary with bipartisan support and without dissent.

I commend the gentleman from Wisconsin (Chairman SENSENBRENNER) for moving so quickly to deal with a real and pernicious problem. This legislation is a good first step in providing bankruptcy courts with congressional guidance in dealing with the phenomenon of malicious and baseless involuntary bankruptcy petitions. It augments the existing powers of the bankruptcy court and makes clear Congress' intent to ensure that the targets of this abuse will have available to them meaningful protection from the lasting effects of meritless involuntary bankruptcy petitions.

An involuntary bankruptcy petition, even if no order for relief is entered, and even if dismissed expeditiously by the court, can inflict lasting damage. Credit reporting agencies generally list the filing of a bankruptcy petition on a person's credit report almost immediately. This can destroy the ability of an individual to obtain credit or to obtain credit on appropriate terms, even if the petition is wholly without merit. For this reason, the dismissal of the case alone does not provide adequate relief.

This problem is a real one. Cases have already been filed for malicious and harassing purposes. Congress must make clear that the bankruptcy system cannot be used to harass and injure people.

Mr. Speaker, there are other changes in the Bankruptcy Code that are equally pressing and equally noncontroversial. Many of these improvements have been unnecessarily held hostage to a larger and far more controversial bankruptcy bill, our family farmers and fishermen, the stability of our financial markets, and the rights of parties whose cases are unnecessarily delayed because of inadequate judicial resources deserve better. I hope we will be able to work with the chairman of the committee to deal as expeditiously with these problems as we have with this one. So I commend the chairman for his efforts, and I urge my colleagues to support the motion to suspend the rules and pass the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 1529, the "Involuntary Bankruptcy Improvement Act of 2003." I support this bill to protect innocent individuals from fraudulently filed involuntary petitions for bankruptcy.

Financial struggles and bankruptcies are a continuing problem for many Americans. In January of 2003 alone, there were thousands of Chapter 7 and 11 in my home State of Texas. In Dallas there were 3,208 Chapter 7 bankruptcy filings and 257 Chapter 11 bankruptcy filings. In Fort Worth, there were 3,161 Chapter 7 filings and 210 Chapter 11 filings.

Bankruptcy petitions are designed to satisfy creditors and also provide relief to the debtor. Our bankruptcy laws allow debtors to voluntarily file a petition for relief, and also allow creditors to file involuntary petitions against debtors. Despite the goal of satisfying both debtor and creditor, debtors who go through bankruptcy invariably leave the proceedings with a very poor credit history. This depleted credit can seriously affect the debtor's ability to buy a home or a car, get a loan, or make use of many services we often take for granted.

Unfortunately many have used the involuntary bankruptcy petition, and the negative credit impact that results, as a harassment tool. Many public officials have been the victims of involuntary bankruptcy petitions.

H.R. 1529 amends the Bankruptcy Code to the benefit of individuals who have been the victims of fraudulently filed bankruptcy petitions. Under H.R. 1529, a debtor may file a motion with the court to expunge from the court records the filing of the involuntary bankruptcy petition. The motion will be granted in those bankruptcies where three requirements are met: First, the petition if false or contains any materially false, fictitious, or fraudulent statements; second, if the debtor is an individual; and third, the court dismisses the petition.

Mr. Speaker, I support H.R. 1529 because it grants needed relief to the victims of fraudulently filed bankruptcy petitions. H.R. 1529 imposes modest requirements on the debtor and allows the debtor to easily correct their damaged credit history. I support H.R. 1529 and I urge my colleagues to do the same.

Mr. SCOTT of Virginia. Mr. Speaker, I yield back the balance of my time.

☐ 1245

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1529.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1086) to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Standards Development Organization Advancement Act of 2003".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103-42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A-119 to reflect these changes made in law.

(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles set out in Circular Number A-119, as revised February 18, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

(A) notice to all parties known to be affected by the particular standards development activity,

(B) the opportunity to participate in standards development or modification,

(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

(D) readily available access to essential information regarding proposed and final standards,

(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

(F) the right to express a position, to have it considered, and to appeal an adverse decision.

(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and periodic reaffirmation, revision, or reissuance every 3 to 5 years.

(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

(8) Private developers of the technical standards that are used as Government standards are often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the

development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

SEC. 3. DEFINITIONS.

Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

(1) in subsection (a) by adding at the end the following:

"(7) The term 'standards development activity' means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

"(8) The term 'standards development organization' means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A–119, as revised February 10, 1998.

"(9) The term 'technical standard' has the meaning given such term in section 12(d)(4) of the National Technology Transfer and Advancement Act of 1995.

"(10) The term 'voluntary consensus standard' has the meaning given such term in Office of Management and Budget Circular Number A–119, as revised February 10, 1998."; and

(2) by adding at the end the following:

"(c) The term 'standards development activity' excludes the following activities:

"(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

"(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

"(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.".

SEC. 4. RULE OF REASON STANDARD.

Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking "of any person in making or performing a contract to carry out a joint venture shall" and inserting the following: "of—

"(1) any person in making or performing a contract to carry out a joint venture, or

"(2) a standards development organization while engaged in a standards development activity,

shall".

SEC. 5. LIMITATION ON RECOVERY.

Section 4 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4303) is amended—

(1) in subsections (a)(1), (b)(1), and (c)(1) by inserting ", or for a standards development activity engaged in by a standards development organization against which such claim is made" after "joint venture", and

(2) in subsection (e)—

(A) by inserting ", or of a standards development activity engaged in by a standards development organization" before the period at the end, and

(B) by redesignating such subsection as subsection (f), and

(3) by inserting after subsection (d) the following:

"(e) Subsections (a), (b), and (c) shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

"(1) directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

"(2) is not a fulltime employee of the standards development organization that engaged in such activity, and

"(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.".

SEC. 6. ATTORNEY FEES.

Section 5 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4304) is amended—

(1) in subsection (a) by inserting ", or of a standards development activity engaged in by a standards development organization" after "joint venture", and

(2) by adding at the end the following:

"(c) Subsections (a) and (b) shall not apply with respect to any person who—

"(1) directly participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

"(2) is not a fulltime employee of a standards development organization that engaged in such activity, and

"(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.".

SEC. 7. DISCLOSURE OF STANDARDS DEVELOPMENT ACTIVITY.

Section 6 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4305) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

"(2) A standards development organization may, not later than 90 days after commencing a standards development activity engaged in for the purpose of developing or promulgating a voluntary consensus standards or not later than 90 days after the date of the enactment of the Standards Development Organization Advancement Act of 2003, whichever is later, file simultaneously with the Attorney General and the Commission, a written notification disclosing—

"(A) the name and principal place of business of the standards development organization, and

"(B) documents showing the nature and scope of such activity.

Any standards development organization may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4 to standards development activities that are not covered by the initial filing or that have changed significantly since the initial filing.",

(2) in subsection (b)—

(A) in the 1st sentence by inserting ", or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms" before the period at the end, and

(B) in the last sentence by inserting "or available to such organization, as the case may be" before the period,

(3) in subsection (d)(2) by inserting ", or the standards development activity," after "venture",

(4) in subsection (e)—

(A) by striking "person who" and inserting "person or standards development organization that", and

(B) by inserting "or any standards development organization" after "person" the last place it appears, and

(5) in subsection (g)(1) by inserting "or standards development organization" after "person".

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to alter or modify the antitrust treatment under existing law of—

(1) parties participating in standards development activity of standards development organizations within the scope of this Act, or

(2) other organizations and parties engaged in standard-setting processes not within the scope of this amendment to the Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 1086.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1086, the Standards Development Organization Advancement Act of 2003. Technical standards play a critical, but sometimes overlooked, role in fostering competition and promoting public health and safety. Without standards, there would be no compatibility among broad categories of alternative products and less confidence in a range of building, fire and safety codes that advance the public welfare.

Unlike most other countries, standards development is conducted by private, not-for-profit organizations in the United States. This approach reflects the fact that private organizations are better able to keep pace with the rapid pace of technological change. In 1996, Congress passed the National Technology Transfer and Advancement Act to encourage government agencies to assist in the development and adoption of private, voluntary standards wherever possible. While this legislation has encouraged government adoption of privately developed standards, it has also increased the vulnerability of standards-developing organizations to antitrust litigation. The frequency with which standards-developing organizations are named in lawsuits stifles their ability to obtain technical information, hampers their efficiency and effectiveness, and undermines the public benefits which they advance.

I introduced H.R. 1086 to address this problem. H.R. 1086 merely codifies the "rule of reason" for antitrust scrutiny of standards-development organizations, limits their civil antitrust liability to actual damages, and provides for the recovery of attorneys' fees to substantially prevailing parties in antitrust cases filed against these organizations.

However, H.R. 1086 does not automatically accord these protections to all standards-setting. These protections extend only to the standards-development organizations which disclose the nature and scope of their activities to the Department of Justice and to the Federal Trade Commission. In addition, this legislation applies to standards-developing organizations whose standards-setting process adheres to principles of openness, voluntariness, balance, cooperation, transparency, consensus, and due process. Finally, H.R. 1086 contains extensive notification requirements which ensure that all parties who may be affected by standard-developing activities are apprised of the scope and nature of these activities.

Mr. Speaker, while several people deserve credit for this legislation, I would like to personally recognize House Science Committee chief counsel Barry Beringer, whose hard work and dedication brought this legislation to the floor and bring credit to this House.

Mr. Speaker, I am also pleased that this legislation has attracted the cosponsorship of Judiciary Committee Ranking Member CONYERS, as well as 12 of its members. In addition, H.R. 1086 continues the Judiciary Committee's bipartisan tradition of striking the proper balance between pro-competitive activity while ensuring the active role of Federal antitrust agencies in the promotion of competition in our market economy.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume. I wish to express my strong support for this legislation and my appreciation to Chairman SENSENBRENNER and Ranking Member CONYERS for their bipartisan leadership in bringing it to the floor.

Nearly 20 years ago, Congress passed legislation known as the National Cooperative Research Act of 1984 which permitted certain cooperative ventures to reduce their exposure to treble damages currently provided for under antitrust laws by making advance disclosures of their activities. The bill before us would provide similar relief to nonprofit organizations that develop voluntary technical standards, known as standards-development organizations, or commonly referred to as SDOs. As the chairman indicated, these standards developed by these organizations play an essential role in enhancing public safety, facilitating market access, and promoting trade and innovation.

Yet despite these pro-competitive effects, these SDOs can find themselves named as defendants in suits between business competitors alleging violations of the antitrust laws. Once they are sued, these organizations are forced to expend considerable resources on protracted discovery proceedings before they are finally able to prevail on motions for summary judgment which occurs in 100 percent of the cases, from my information.

The bill, like the National Cooperative Research Act before it, takes a moderate approach to addressing this problem. It does not create, as the chairman indicated, a statutory exemption or confer immunity from the operation of the antitrust laws. Most significantly, it merely "de-trebles" antitrust damages in cases where accurate predisclosure of collaborative activities has been made to the Department of Justice and the FTC.

I think this is the right approach. Congress should allow the antitrust laws to operate as they were meant to, without creating special exemptions and carve-outs for particular industries. This bill does not create an exemption for SDOs. Instead, it grants them limited relief of the same type and in the same manner as the relief provided for by the National Cooperative Research Act to certain cooperative joint ventures. It is a moderate approach, and it has worked well.

Again, I want to thank the chairman and the ranking member of the Committee on the Judiciary for their cooperative joint venture in support of this bill. I would also like to acknowledge the efforts of my good friend, Jim Shannon, a former Member of this body and former Attorney General of the Commonwealth of Massachusetts. He currently serves as president and CEO of the National Fire Protection Association, an international organization that develops the fire safety codes and standards that protect all of us. The NFPA just happens to be based in my hometown of Quincy, Massachusetts; and Jim Shannon and this fine organization have worked very hard to advance this legislation. I want to acknowledge their efforts.

Mr. Speaker, I urge support for this bill.

Mr. CONYERS. Mr. Speaker, I am pleased to be a cosponsor of this legislation offered by Mr. SENSENBRENNER. We have worked hard, along with a number of standard development organizations, technology companies and other private interests to craft a bill that will provide some important protections to encourage nonprofit standard development organizations, or SDOs, to continue their critical work of collaborating to set pro-competitive standards in this industries. SDOs set thousands of standards that keep us safe and provide uniformity for everything from fire protections to computer systems to building construction, for example.

This bill provides a commonsense safe harbor for standard development organizations. Those that voluntarily disclose their activities to federal antitrust authorities will only be subject to single damages should a lawsuit later arise. Those who refuse to disclose their activities, or those who take actions beyond their disclosure, will still be subject to treble damages under the antitrust statutes. This bill does not exempt anyone from the antitrust laws, but it does apply the rule of reason to SDOs. Therefore the procompetitive market effects will be balanced against the anticompetitive market effects of an action before a violation of the antitrust laws is found. Organizations that commit per se violations—making agreements or standards about price, market share or territory division, for example—will still be fully liable for their actions.

The rationale for such favored treatment is the SDOs, as nonprofits that serve a cross-section of an industry, are unlikely themselves to engage in anticompetitive activities. However, if free from the threat of treble damages, they can increase efficiency and facilitate the gathering a wealth of technical expertise from a wide array of interests to enhance product quality and safety while reducing costs.

This is the third bipartisan bill in the last 20 years that has provided some limitation on damages for antitrust liability in order to encourage cooperative behaviors by entities seeking to engage in procompetitive activities. This policy has worked well for research and joint ventures under the National Cooperative Research and Production Act of 1993 and I trust it will improve the creative environment for standards setting organizations as well. An expansion of this policy to standard development organizations will allow them to improve their innovative efforts, involve a wider range of industries and technical entities, and improve product safety and development.

I'd like to thank the chairman for his cooperative efforts on this bill and I urge my colleagues to support this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as a cosponsor of this legislation, I support H.R. 1086, "The Standards Development Organization Advancement Act of 2003."

This act amends the National Cooperative Standards Development Act to provide antitrust protections to specific activities of standard development organizations (SDOs) relating to the development of voluntary consensus standards. Among other provisions, H.R. 1086 amends the NCRA to limit the recovery of antitrust damages against SDOs if the organizations predisclose the nature and scope of their standards development activity to the

the war after the fact, where will America be headed for war next?

Congress must demand accountability for the wanton exercise of war power, loss of life, destruction of property, waste of tax dollars, and damage to America's reputation.

□ 1215

Thirty-three Members of the House have now signed the resolution of inquiry to demand the White House tell the truth.

SEXUAL ASSAULT AWARENESS AND PREVENTION

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today to commend the House leadership for bringing before us a resolution to raise awareness and encourage prevention of sexual assault in the United States.

One person victimized by sexual assault is far too many, but unfortunately, one person on average is sexually assaulted every 2 minutes in the United States alone. These can be our neighbors, our friends, or even our family members.

For these victims and for the people who help them, this resolution salutes them for survival. For organizations, businesses and media, this resolution promotes awareness of sexual violence and strategies to decrease the incidence of these horrific crimes.

Mr. Speaker, no one deserves to be sexually assaulted. I encourage my colleagues to support this resolution, S.J. Res. 8, on the House floor today.

MIGHTY DUCKS

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to congratulate the Mighty Ducks of Anaheim for their spectacular success in the 2002–2003 National Hockey League season. Even though they did not win the Stanley Cup this year, they came into the playoffs as the seventh-best team in the Western conference, faced down their critics, and made it to the Stanley Cup finals for the first time in their 10-year history.

Sweeping the Detroit Red Wings in four games, the Dallas Stars in six, and the Minnesota Wild in four, the Ducks proved that they were a serious contender for the sport's most coveted trophy; and Jean Sebastien Giguere, the Duck's spectacular goal tender, was selected as the most valuable player, winning that trophy for his hard work and incredible skill that gave the Ducks their fire throughout all of these playoff games.

Congratulations to my hometown team, the Mighty Ducks. Thanks for making this season a great one to watch and for making us proud.

TRIBUTE TO AL DAVIS

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, today I rise to acknowledge the passing of Committee on Ways and Means' staff member Al Davis who died on May 30. Like so many of his staffers that I hope are watching today, the regard that we as Members of this House hold for you is unparalleled. You are the ones who genuinely make the trains run on time.

In the case of Al Davis, the information he provided to members of the Committee on Ways and Means as our economist were not only quality statistics but they were always reliable, a fact that the media and our critics often missed. It is people like this who day in and day out provide us with legendary support, and I particularly will miss the volumes of data he provided to me on the issue of alternative minimum tax.

He was a political warrior, like so many who staff this Congress; but he was also an individual who held great regard for this institution and was never disdainful of any of its Members. Even those who opposed his ideas respected him.

If we were offering a sitcom on the life of Al Davis, we would have called it "Humble Al." I never heard anybody who did not find a compliment for Al Davis, and those of us who would acknowledge what he did when he whispered in our ear vital statistics are forever grateful for the service he rendered. We all will miss Al Davis.

CHILD TAX CREDIT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, House Majority Whip Blunt said GOP Members find no urgency to act for a child tax credit, but there was an incredible urgency in this House a couple of weeks ago when we acted in the dark of the night to extend an average $93,500 tax break to every millionaire in America.

Then the gentlewoman from North Carolina (Mrs. MYRICK) said, if we give people a tax break that do not pay taxes, it is welfare. Excuse me, someone who earns $27,000 a year pays $1,890 in FICA taxes. They pay taxes, regressive taxes; and guess what, every penny of those FICA taxes that is supposed to go into the Social Security surplus, the lockbox, that that side of the aisle used to support, that the President used to support, is being borrowed and being mailed in big checks to the wealthy. She may call that welfare; I call it Reverse Robin Hood.

NEXT GENERATION HISPANIC-SERVING INSTITUTIONS

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Mr. Speaker, on behalf of our educational future of America, I rise today in favor of H.R. 2238, a piece of legislation filed by the gentleman from Texas (Mr. HINOJOSA) that would allow an opportunity for us to get additional resources for those youngsters and those individuals throughout this country, Latinos, that are attending the Hispanic-serving institutions to be able to get additional resources to get their master's and their Ph.D.'s.

This bill will strengthen the Hispanic-serving institution programs by establishing a competitive grants program to extend graduate degrees program opportunities for the Hispanic-serving institutions.

The bill will support graduate fellowships, services for graduate students, facilities, and improve our college and university faculty and technology. Current law only provides for those that are attending 2- and 4-year institutions and not allows for master's and Ph.D.'s.

It is important that we look at providing additional resources so that these youngsters can go and obtain their master's and their Ph.D.'s. I ask for my colleagues' support on H.R. 2238.

AMERICA'S INTERNATIONAL STANDING IS BEING DAMAGED

(Ms. DEGETTE asked and was given permission to address the House for 1 minute.)

Ms. DEGETTE. Mr. Speaker, we have now gone 80 days without finding any weapons of mass destruction in Iraq. Questions are mounting as to whether the intelligence presented by the administration was manipulated or deliberately misinterpreted to create a false justification for the war.

Regardless of whether we supported or opposed the war, this is a critical issue. America's international standing is being damaged by this failure; and more importantly, this issue raises serious doubts about our intelligence apparatus, and it raises potential constitutional concerns.

I urge all of us to look carefully at this lapse, and I urge Congress to work in a bipartisan way to find out how this happened and to take steps to ensure that Congress and the American people are never misled when it comes to the issue of sending our American fighting men and women into harm's way about the purpose and the extent of the problem.

AMERICA'S FAMILIES AND CHILDREN ARE IMPORTANT

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, I rise today in light of today's news reports to really thank Republicans for finally agreeing with us that all children and families of America are important, whether or not they are wealthy.

Two weeks ago, these same Republicans did not understand that lesson. Two weeks ago, they sacrificed the well-being of 6.5 million families, including 12 million children, so that they could pass tax breaks and dividend tax cuts for their wealthiest friends. Republicans thought that their actions really would have gone unnoticed, but how wrong they were.

In California, for example, without this new legislation, almost 1.3 million California families would receive no child tax credit, including 2.4 million children. The Republicans would have especially hurt minority families because one-third of all Latino families would miss out on the tax break, while half of all African American families would not receive the credit.

Thankfully now, the majority is really beginning to listen and beginning to understand that those families who do not make any more than $26,000 should also receive the same benefit that every family that earns up to $110,000 and over would receive.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

SUPPORTING GOALS AND IDEALS OF NATIONAL SEXUAL ASSAULT AWARENESS AND PREVENTION MONTH

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 8) expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

The Clerk read as follows:

S.J. RES. 8

Whereas, on average, another person is sexually assaulted in the United States every two minutes;

Whereas, the Department of Justice reports that 248,000 people in the United States were sexually assaulted in 2001;

Whereas, 1 in 6 women and 1 in 33 men have been victims of rape or attempted rape;

Whereas, children and young adults are most at risk, as 44 percent of sexual assault victims are under the age of 18, and 80 percent are under the age of 30;

Whereas, sexual assault affects women, men, and children of all racial, social, religious, age, ethnic, and economic groups in the United States;

Whereas, less than 40 percent of sexual assault victims pursue prosecution by reporting their attack to law enforcement agencies;

Whereas, two-thirds of sexual crimes are committed by persons who are not strangers to the victims;

Whereas, the rate of sexual assaults has decreased by half in the last decade;

Whereas, because of recent advances in DNA technology, law enforcement agencies have the potential to identify the rapists in tens of thousands of unsolved rape cases;

Whereas, aggressive prosecution can incarcerate rapists and therefore prevent them from committing further crimes;

Whereas, sexual assault victims suffer emotional scars long after the physical scars have healed; and

Whereas, free, confidential help is available to all victims of sexual assault through the National Sexual Assault Hotline, more than 1,000 rape crisis centers across the United States, and other organizations that provide services to assist victims of sexual assault: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) it is the sense of Congress that—

(A) National Sexual Assault Awareness and Prevention Month provides a special opportunity to educate the people of the United States about sexual violence and to encourage both the prevention of sexual assault and the prosecution of its perpetrators;

(B) it is appropriate to salute the more than 20,000,000 victims who have survived sexual assault in the United States and the efforts of victims, volunteers, and professionals who combat sexual assault;

(C) national and community organizations and private sector supporters should be recognized and applauded for their work in promoting awareness about sexual assault, providing information and treatment to its victims, and encouraging the increased prosecution and punishment of its perpetrators; and

(D) police, forensic workers, and prosecutors should be recognized and applauded for their hard work and innovative strategies to increase the percentage of sexual assault cases that result in the prosecution and incarceration of the offenders;

(2) Congress urges national and community organizations, businesses in the private sector, and the media to promote, through National Sexual Assault Awareness and Prevention Month, awareness of sexual violence and strategies to decrease the incidence of sexual assault; and

(3) Congress supports the goals and ideals of National Sexual Assault Awareness and Prevention Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S.J. Res. 8.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution as a way to further increase awareness of sexual assault and recognize the important contributions of victims in various groups that combat sexual assault. The police, forensic workers, and prosecutors should be praised for their hard work and dedication to this fight.

Through recent advances in DNA technology, law enforcement agencies have developed the potential to identify the rapists in tens of thousands of unsolved rape cases. The work of these individuals to prosecute sexual assault cases and incarcerating the offenders makes all of us safer.

We must also recognize the work of victims, national and community organizations, private sector supporters, and the media in this area. These groups helped to increase public awareness and provide support for individuals affected by this dramatic experience. Public awareness is a vital tool in combatting the incidence of sexual assault. It is noteworthy that the rate of sexual assaults has decreased by half in the last decade.

This resolution also recognizes the plight of victims of sexual assault. Often, victims suffer emotional scars that remain long after the physical scars have healed. Free, confidential help is available to all victims of sexual assault through the National Sexual Assault Hotline, more than 1,000 rape crisis centers in the United States and other organizations that provide services to assist the victims of sexual assault.

Hopefully, public awareness of this issue will also help victims to recognize that they are not alone and encourage them to come forward and report the crime. Currently, less than 40 percent of the sexual assault victims pursue prosecution by reporting their attack to law enforcement agencies.

This resolution offers the support of this Congress and brings attention to this very important issue. I urge my colleagues to join me in supporting the individuals and organizations that dedicate themselves to combatting sexual assault.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to join the chairman of the Committee on the Judiciary in supporting S.J. Res. 8 to call attention to National Sexual Assault Awareness and Prevention Month. The purpose of this resolution is to increase public awareness of sexual assault and to recognize the important contributions of various individuals and groups across the United States that combat sexual assault.

Mr. Speaker, sexual assault victims are primarily young people with 44 percent of the victims under the age of 18, 80 percent under the age of 30. Sexual assault affects women, men, children of all races, social, religious, age, ethnic and economic groups and even prisoners. Yet less than 40 percent of sexual assault victims pursue prosecution by reporting their attack to law enforcement agencies.

Mr. Speaker, as we recognize Sexual Assault Awareness and Prevention Month, Congress also recognizes that other tools are also important in preventing and addressing sexual assault. With advances in DNA technology, law enforcement agencies have been able to identify and prosecute many offenders, and the potential exists to identify tens of thousands of additional offenders in unsolved rape cases. That is why it is so important that Congress provide additional resources needed to immediately eliminate the current backlog of rape evidence kits across the United States.

I look forward to working with my colleague, the gentleman from Wisconsin, in authorizing and funding the Debbie Smith Act and other bills aimed at reducing the DNA backlog.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Speaker, I thank the chairman for yielding me the time.

Mr. Speaker, some would be quick to point out that this resolution is about symbolism; but in this area and on this subject, symbolism is important. Symbolism can help us raise the profile of this very important issue.

As the previous speaker, the chairman, just alluded, there are things that we should celebrate in our battle against sexual assault. Rape is down 50 percent over the last decade. We have recently passed the Protect Act, child abduction legislation, that I think will offer new tools and resources in the fight against sexual assault. The committee is developing DNA legislation that will provide additional tools and resources; but as we all know, we have so far to go.

A person is sexually assaulted in this country every 2 minutes.

□ 1230

According to the Department of Justice, nearly 250,000 people were assaulted in 2001 alone; 1 in 6 women have been the victim of rape or attempted rape.

This resolution declares that Congress supports the goals and ideals of the National Sexual Assault Awareness Month. We can use this opportunity to educate the public on how to prevent sexual assault. We can use this opportunity to recognize those in the community that volunteer numerous hours to work with victims. We can use this opportunity to recognize law enforcement for their dedicated work in this battle against sexual assault in the areas of increased conviction and increased prevention, and we can use this opportunity to salute the more than 20 million victims who have survived sexual assault. We stand with them. By raising the profile, hopefully these numbers will fall and we will have fewer victims, we will have more convictions, and we will have greater awareness of this awful battle we must fight.

Mr. SCOTT of Virginia. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY) who is a lead sponsor of this resolution, an advocate for the issue.

Mrs. MALONEY. Mr. Speaker, I rise in strong support of S.J. Res. 8, and I thank the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Virginia (Mr. SCOTT), the ranking member, and the gentleman from Wisconsin (Mr. GREEN) for all of their hard work on this issue and this resolution and for their work in preventing sexual assault and rape.

The gentleman from Wisconsin (Mr. GREEN) and I introduced the companion legislation to this bill, H.J. Res. 36 in the House earlier. This April is Sexual Assault Awareness and Prevention Month, but it is important to remember that preventing sexual assault should be a top priority during each month of the year.

We must also remember that violence against women is not just a woman's issue, it is a man's issue, a family's issue, and an issue that is important to society at large.

According to the Department of Justice, someone is sexually assaulted in this country every 82 seconds. That translates to over 1,000 a day, and over 380,000 sexual assaults every year; yet we have the ability to help protect our daughters, our sisters, and our friends by putting rapists behind bars using DNA evidence. We know that DNA evidence is better than a fresh set of fingerprints, and we know it is often better than eyewitness testimony.

Earlier this year I reintroduced with the gentleman from Wisconsin (Mr. GREEN) and the gentleman from New York (Mr. WEINER) an important piece of legislation that would take important steps to prevent sexual assaults from occurring. The Debbie Smith Act would provide critical funding for eliminating the backlog of unprocessed DNA evidence, for establishing sexual assault forensic examiner programs, and for training law enforcement and prosecutors about how to use DNA technology most effectively.

The bill also establishes a national standard for the collection of DNA evidence, thereby ensuring that the evidence is processed in a reasonable amount of time. I authored this bill after Debbie Smith testified before the Committee on Government Reform and Oversight. She spoke about the tool of DNA and how it can be used to convict rapists. She was raped near her home in 1989, and for 6½ years she lived in fear that her attacker would return to fulfill the threat he had made to her that day, that if she told anyone, he would kill her. Only on the day that her husband told her that the man that had raped Debbie had been identified through a DNA match and was in prison was Debbie able to breathe again.

Tragically, there are other Debbie Smiths out there, other women still living in fear because they do not know if their attacker will come back to them again. The Debbie Smith Act will help to bring justice and closure to the survivors of rapes and their families, and it will help prevent rapes by putting rapists behind bars.

This is an issue that both Republicans and Democrats agree on. Attorney General Ashcroft earlier this year stated that he supported a $1 billion initiative to process DNA evidence. This is clearly very important because there is an estimated 350,000 to 500,000 kits unprocessed around the country. It is no wonder that only 2 percent of women who are raped will ever see their attacker spend a day in jail, but each rape kit represents a life, the life of a person like Debbie Smith, and each rape kit represents a predator, a rapist who may strike again and again. Law enforcement tells us that most rapists, if not caught, will attack approximately, or at least, 8 times.

It is time to put DNA evidence to work stopping rapes and sexual assaults from occurring around the country, and I do believe that this year we will pass this bill. It is needed, it is important, and we will pass it because there is strong bipartisan support from the White House, from the gentleman from Wisconsin (Mr. SENSENBRENNER), from the gentleman from Wisconsin (Mr. GREEN), and many others. I thank everyone who has worked on it. There is no greater way to celebrate Sexual Assault Month than to pass legislation that will prevent sexual assaults in the future. I am hopeful this year we will be able to achieve that.

Mr. LANGEVIN. Mr. Speaker, I rise today in support of S.J. Res. 8, the joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States.

The statistics on the widespread nature of sexual assault are alarming. It is estimated that one in six women in the United States have been victims of rape or attempted rape. One in five children will be a victim of sexual abuse before reaching the age of 18. However, recent educational efforts have proved successful—the rate of sexual assaults has decreased by half in the last decade. It is critical to the safety of all Americans that we build on these efforts.

Sexual assault is perpetuated by silence. One of the most startling aspects of sex crimes is how many go unreported. The joint resolution we are voting on today is a step in acknowledging the all too prevalent reality of sexual assault. Further, we must support the existing programs and resources for victims of sexual assault and their families, such as the National Sexual Assault Hotline and more than 1,000 rape crisis centers across the United States. I urge my colleagues to support this legislation as a show of commitment to the goals and ideals of National Sexual Assault Awareness and Prevention Month.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in support of S.J. Res. 8, a resolution to raise awareness and encourage prevention of sexual assault. There is no crime that is more personal, more intrusive, or more painful than rape, and it must be a priority of this Congress and this Administration to work toward an end to this violence. Unfortunately, while this resolution is a nice demonstration of sympathy and support from the Congress, it is woefully inadequate. While I strongly support its passage, the Republican Leadership should allow the House to consider legislation to provide real relief to victims of sexual assault and domestic violence. It is my hope that this resolution will be followed by consideration of H.R. 1267, the Domestic Violence Screening, Treatment, and Protection Act; H.R. 1046, the Debbie Smith Act dealing with the DNA evidence backlog; H.R. 394, the Violence Against Women Civil Rights Restoration Act; and many others.

We have come a long way in the last 30 years since women started speaking up and speaking out against sexual assault. We are now better able to treat rape victims in emergency rooms; law enforcement has access to tools to teach them how to respond to the crime of sexual assault; and there are social and mental health services available to women who are survivors of rape. I am grateful for this progress.

However, as we've raised awareness of this violence, we have also learned that it reaches far deeper into every aspect of our society than we wanted to admit or acknowledge. It is far more likely that perpetrators know their victims and aren't just strangers in the bushes. And women aren't the only victims—one in 33 men have been victims of rape or attempted rape. Furthermore, teens are twice as likely as any other age group to be victims of crime—nearly one-third of all sexual assault victims are raped between the ages of 12 and 17, and one in five girls becomes a victim of violence in dating relationships.

We've also heard a lot this year about women at the Air Force Academy who have been victims of sexual assault. It is a disgrace that so many women have been re-victimized and silenced as a result of our military's reaction to these violent crimes. We must work hard to change the culture in every branch and at every level of the military from one that accepts violence against women to one that condemns such violence and treats victims, and all women, with respect and equality. But what we haven't heard much about is that men in the military are also victims of sexual assault. A special report appeared in January 2003 and revealed that the U.S. Department of Veterans Affairs began collecting nationwide data on the extent to which men have been sexually traumatized in the armed services. The preliminary results are that nearly 22,500 male veterans—more than one of every 100 former soldiers, sailors and airmen treated by the VA—reported being sexually traumatized by peers or superiors during their military careers. This once again shows that sexual violence is about humiliation, degradation, and control.

We must commit ourselves to ending violence against women this month and every month. We must fully fund all Violence Against Women Act programs. We must speak up when we hear people speak about sexual violence in a dismissive or harmful way. We must educate our sons to be nonviolent and to treat women with respect. I believe that if we commit ourselves, we can end violence against women. Therefore, I urge my colleagues to vote for S.J. Res. 8.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of S.J. Res. 8, the Joint Resolution expressing the sense of Congress with respect to the raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

WHAT S.J. RES. 8 DOES

The Resolution echoes the goals and ideals of the National Sexual Assault Awareness and Prevention Month, namely to increase public awareness of the occurrence and the effects of sexual assault and to improve our nation's overall ability to prevent new incidents.

The need for this legislation stems from data compiled by the Bureau of Justice Statistics and the Rape, Abuse, and Incest National Network. Specifically, the fact that "a person is sexually assaulted in the United States every 2 minutes" and that 248,000 people in the United States were sexually assaulted in 2001 as reported by the Department of Justice underscores the urgent and emergent nature of this problem. Furthermore, the Resolution cites statistics that 1 in 6 women and 1 in 33 men have been victims of either rape or attempted rape. In addition, in terms of victim age, 44 percent are under the age of 18 and 80 percent are under the age of 30. I support this legislation because sexual assault has a significant and direct effect on the lives of many of the constituents in my legislative District.

EFFECT ON STATE AND LOCAL CONSTITUENT DISTRICT

Between 1997 and 2001, the number of family violence incidence reported and the number of women killed by intimate male partners has remained at a consistent high (See Attachment 1).

In Texas, 35 percent of the women killed in 1997 were murdered by an intimate male partner, which is higher than the national average of 28 percent as reported by the FBI (Texas Council on Family Violence, 2002).

In Houston, 21,621 family violence incidents were reported. Out of this number, 15 women were killed by intimate male partners (Texas Council on Family Violence, 2001).

In Harris County in 2001, 26,353 family violence incidents were reported. Likewise in 2001 and out of this number, 22 women were killed by intimate male partners (Texas Department of Public Safety, 2002). In addition, every 20 minutes, there is 1 domestic violence incident reported to the police (3 domestic violence events every hour in the County). The National Crime Victimization Survey reports that in 1998, only 50 percent of all actual domestic violence incidents are reported. According to the Harris County Public Health & Environment Services, likely factors that have led to the increased number of incidents include: "changes in law relating to domestic violence, increase [sic] public awareness of domestic violence, increase in support facilities for Domestic Violence survivors established by the government and various community groups, more effective involvement of the law enforcement in the incidents of domestic violence, and better tools provided to District Attorney's Office for prosecuting the offenders of domestic violence."

OTHER RELEVANT DATA

The direct harmful effects of sexual assault and domestic violence have been well documented:

Pregnacy—A 1996 review indicated that between 0.9 percent an 20.1 percent of women experienced Intimate Partner Violence (IPV) (Center for Disease Control (CDC)).

Elderly—An estimated 551,011 elderly persons (aged 60 and over) suffered abuse, neglect, and/or self-neglect in domestic settings in 1996 (National Center for Victims of Crime, 1998). The median age for elder abuse victims was 77.9 years in 1996.

Disabled—Women with disabilities face the same risks as all women face, plus those associated with their particular disability. Furthermore, studies have shown that women with physical disabilities more likely received abusive treatment from attendants and health care providers (Center for Research on Women with Disabilities, 1997)

Homeless/Low-Income—A study of 777 homeless parents (predominantly mothers) in ten U.S. cities revealed that 22 percent had relocated because of domestic violence (Homes for the Homeless, 1998). Furthermore, a survey conducted by the U.S. Conference of Mayors indicated that 46 percent of the surveyed cities identified domestic violence as a primary cause of homelessness (1998).

Men affected—According to the Bureau of Justice Statistics in 1998, men were found to be victims of approximately 160,000 violent crimes by an intimate partner.

The vast and diverse statistics mentioned above relative to the very problems targeted by S.J. Res. 8, in my legislative "back yard" as well as nationwide warrant my attention as well as the attention of my colleagues. For the above stated reasons, I vote in favor of S.J. Res. 8 and urge my colleagues to do the same.

ATTACHMENT 1

	2001	2000	1999	1998	1997
Family violence incidents	180,385	175,282	177,176	175,725	181,773
Women killed by intimate male partners	113	104	133	116	102

Source: Texas Council on Family Violence, 2001.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentlewoman for her advocacy, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 8.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

INVOLUNTARY BANKRUPTCY IMPROVEMENT ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1529) to amend title 11 of the United States Code with respect to the dismissal of certain involuntary cases.

The Clerk read as follows:

H.R. 1529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Involuntary Bankruptcy Improvement Act of 2003".

SEC. 2. AMENDMENT.

Section 303 of title 11, United States Code, is amended by adding at the end the following:

"(*l*)(1) If—

"(A) the petition under this section is false or contains any materially false, fictitious, or fraudulent statement;

"(B) the debtor is an individual; and

"(C) the court dismisses such petition;

the court, upon motion of the debtor, shall expunge from the records of the court such petition, all the records relating to such petition in particular, and all references to such petition.

"(2) If the debtor is an individual and the court dismisses a petition under this section, the court may enter an order prohibiting all consumer reporting agencies (as defined in section 603 of the Fair Credit Reporting Act) from making any consumer report (as defined in section 603 of the Fair Credit Reporting Act) that contains any information relating to such petition or to the case commenced by the filing of such petition.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1529.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1529, the Involuntary Bankruptcy Improvement Act of 2003, a bill I introduced earlier this year that addresses a very serious and possibly growing problem with respect to abuse of the judicial process by extremists and others.

Under current law, a debtor can voluntarily commence a bankruptcy case or be involuntarily forced into bankruptcy by one or more creditors. Although rarely used, an involuntary bankruptcy petition can be a useful creditor collection tool. It can preserve and maximize assets for the benefit of creditors and provide for the appointment of a bankruptcy trustee to investigate a debtor's financial affairs.

Unfortunately, tax protesters and other extremists are now resorting to filing fraudulent involuntary bankruptcy petitions against public officials and private individuals as yet another weapon in their arsenal of abusive litigation tactics, such as filing false liens.

Last year, for instance, a tax protester filed fraudulent involuntary bankruptcy petitions against 36 local public officials in my district in Wisconsin, including the county sheriff, the circuit judge, and nearly every member of the county board of supervisors. Some of these individuals only discovered that they were the subject of a pending involuntary bankruptcy case after their lines of credit were terminated or they were charged higher interest rates. Worse yet, an involuntary bankruptcy filing, as with most bankruptcy cases, is a matter of public record and can appear on an individual's credit report for up to 10 years even if the involuntary bankruptcy filing is fraudulent and the case is dismissed by the court.

As a result, innocent individuals continue to experience credit problems long after these abusive cases are dismissed. As the Hartford Courant reported last month, it sometimes takes years for corrections to be made to a person's credit report. As a result, the individual may potentially be forced to pay higher interest rates until the proper steps can be taken to fix their credit report.

While abusive bankruptcy filings are not pervasive, they have occurred in various districts across the Nation. According to an informal survey conducted by the Administrative Office of the United States Courts and the National Conference of Bankruptcy Clerks, fraudulent involuntary bankruptcy cases have recently been filed in California, Ohio, Maine, Nebraska, and North Carolina. Organizations such as the Anti-Defamation League and the National District Attorneys Association have expressed concern that this litigation tactic may become even more widespread.

H.R. 1529 responds to the serious problems presented by abusive involuntary bankruptcy filings in two respects:

First, it amends the Bankruptcy Code to require the bankruptcy court, on motion of the debtor, to expunge all records relating to a fraudulent involuntary bankruptcy case from the court's files under certain conditions.

Second, it authorizes the bankruptcy court to prohibit all credit reporting agencies from issuing a consumer report containing any reference to a fraudulent involuntary bankruptcy case where the debtor is an individual and the court has dismissed the petition.

This bill offers great forward but very much-needed relief to innocent victims of abusive involuntary bankruptcy petitions. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1529, the Involuntary Bankruptcy Improvement Act of 2003, a bill which was reported by the Committee on the Judiciary with bipartisan support and without dissent.

I commend the gentleman from Wisconsin (Chairman SENSENBRENNER) for moving so quickly to deal with a real and pernicious problem. This legislation is a good first step in providing bankruptcy courts with congressional guidance in dealing with the phenomenon of malicious and baseless involuntary bankruptcy petitions. It augments the existing powers of the bankruptcy court and makes clear Congress' intent to ensure that the targets of this abuse will have available to them meaningful protection from the lasting effects of meritless involuntary bankruptcy petitions.

An involuntary bankruptcy petition, even if no order for relief is entered, and even if dismissed expeditiously by the court, can inflict lasting damage. Credit reporting agencies generally list the filing of a bankruptcy petition on a person's credit report almost immediately. This can destroy the ability of an individual to obtain credit or to obtain credit on appropriate terms, even if the petition is wholly without merit. For this reason, the dismissal of the case alone does not provide adequate relief.

This problem is a real one. Cases have already been filed for malicious and harassing purposes. Congress must make clear that the bankruptcy system cannot be used to harass and injure people.

Mr. Speaker, there are other changes in the Bankruptcy Code that are equally pressing and equally noncontroversial. Many of these improvements have been unnecessarily held hostage to a larger and far more controversial bankruptcy bill, our family farmers and fishermen, the stability of our financial markets, and the rights of parties whose cases are unnecessarily delayed because of inadequate judicial resources deserve better. I hope we will be able to work with the chairman of the committee to deal as expeditiously with these problems as we have with this one. So I commend the chairman for his efforts, and I urge my colleagues to support the motion to suspend the rules and pass the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 1529, the "Involuntary Bankruptcy Improvement Act of 2003." I support this bill to protect innocent individuals from fraudulently filed involuntary petitions for bankruptcy.

Financial struggles and bankruptcies are a continuing problem for many Americans. In January of 2003 alone, there were thousands of Chapter 7 and 11 in my home State of Texas. In Dallas there were 3,208 Chapter 7 bankruptcy filings and 257 Chapter 11 bankruptcy filings. In Fort Worth, there were 3,161 Chapter 7 filings and 210 Chapter 11 filings.

Bankruptcy petitions are designed to satisfy creditors and also provide relief to the debtor. Our bankruptcy laws allow debtors to voluntarily file a petition for relief, and also allow creditors to file involuntary petitions against debtors. Despite the goal of satisfying both debtor and creditor, debtors who go through bankruptcy invariably leave the proceedings with a very poor credit history. This depleted credit can seriously affect the debtor's ability to buy a home or a car, get a loan, or make use of many services we often take for granted.

Unfortunately many have used the involuntary bankruptcy petition, and the negative credit impact that results, as a harassment tool. Many public officials have been the victims of involuntary bankruptcy petitions.

H.R. 1529 amends the Bankruptcy Code to the benefit of individuals who have been the victims of fraudulently filed bankruptcy petitions. Under H.R. 1529, a debtor may file a motion with the court to expunge from the court records the filing of the involuntary bankruptcy petition. The motion will be granted in those bankruptcies where three requirements are met: First, the petition if false or contains any materially false, fictitious, or fraudulent statements; second, if the debtor is an individual; and third, the court dismisses the petition.

Mr. Speaker, I support H.R. 1529 because it grants needed relief to the victims of fraudulently filed bankruptcy petitions. H.R. 1529 imposes modest requirements on the debtor and allows the debtor to easily correct their damaged credit history. I support H.R. 1529 and I urge my colleagues to do the same.

Mr. SCOTT of Virginia. Mr. Speaker, I yield back the balance of my time.

□ 1245

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1529.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1086) to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Standards Development Organization Advancement Act of 2003".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103-42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A-119 to reflect these changes made in law.

(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles set out in Circular Number A-119, as revised February 18, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

(A) notice to all parties known to be affected by the particular standards development activity,

(B) the opportunity to participate in standards development or modification,

(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

(D) readily available access to essential information regarding proposed and final standards,

(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

(F) the right to express a position, to have it considered, and to appeal an adverse decision.

(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and periodic reaffirmation, revision, or reissuance every 3 to 5 years.

(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

(8) Private developers of the technical standards that are used as Government standards are often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the

development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

SEC. 3. DEFINITIONS.

Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

(1) in subsection (a) by adding at the end the following:

"(7) The term 'standards development activity' means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

"(8) The term 'standards development organization' means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A-119, as revised February 10, 1998.

"(9) The term 'technical standard' has the meaning given such term in section 12(d)(4) of the National Technology Transfer and Advancement Act of 1995.

"(10) The term 'voluntary consensus standard' has the meaning given such term in Office of Management and Budget Circular Number A-119, as revised February 10, 1998."; and

(2) by adding at the end the following:

"(c) The term 'standards development activity' excludes the following activities:

"(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

"(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

"(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.".

SEC. 4. RULE OF REASON STANDARD.

Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking "of any person in making or performing a contract to carry out a joint venture shall" and inserting the following: "of—

"(1) any person in making or performing a contract to carry out a joint venture, or

"(2) a standards development organization while engaged in a standards development activity,

shall".

SEC. 5. LIMITATION ON RECOVERY.

Section 4 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4303) is amended—

(1) in subsections (a)(1), (b)(1), and (c)(1) by inserting ", or for a standards development activity engaged in by a standards development organization against which such claim is made" after "joint venture", and

(2) in subsection (e)—

(A) by inserting ", or of a standards development activity engaged in by a standards development organization" before the period at the end, and

(B) by redesignating such subsection as subsection (f), and

(3) by inserting after subsection (d) the following:

"(e) Subsections (a), (b), and (c) shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

"(1) directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

"(2) is not a fulltime employee of the standards development organization that engaged in such activity, and

"(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.".

SEC. 6. ATTORNEY FEES.

Section 5 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4304) is amended—

(1) in subsection (a) by inserting ", or of a standards development activity engaged in by a standards development organization" after "joint venture", and

(2) by adding at the end the following:

"(c) Subsections (a) and (b) shall not apply with respect to any person who—

"(1) directly participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

"(2) is not a fulltime employee of a standards development organization that engaged in such activity, and

"(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.".

SEC. 7. DISCLOSURE OF STANDARDS DEVELOPMENT ACTIVITY.

Section 6 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4305) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

"(2) A standards development organization may, not later than 90 days after commencing a standards development activity engaged in for the purpose of developing or promulgating a voluntary consensus standards or not later than 90 days after the date of the enactment of the Standards Development Organization Advancement Act of 2003, whichever is later, file simultaneously with the Attorney General and the Commission, a written notification disclosing—

"(A) the name and principal place of business of the standards development organization, and

"(B) documents showing the nature and scope of such activity.

Any standards development organization may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4 to standards development activities that are not covered by the initial filing or that have changed significantly since the initial filing.",

(2) in subsection (b)—

(A) in the 1st sentence by inserting ", or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms" before the period at the end, and

(B) in the last sentence by inserting "or available to such organization, as the case may be" before the period,

(3) in subsection (d)(2) by inserting ", or the standards development activity," after "venture",

(4) in subsection (e)—

(A) by striking "person who" and inserting "person or standards development organization that", and

(B) by inserting "or any standards development organization" after "person" the last place it appears, and

(5) in subsection (g)(1) by inserting "or standards development organization" after "person".

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to alter or modify the antitrust treatment under existing law of—

(1) parties participating in standards development activity of standards development organizations within the scope of this Act, or

(2) other organizations and parties engaged in standard-setting processes not within the scope of this amendment to the Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 1086.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1086, the Standards Development Organization Advancement Act of 2003. Technical standards play a critical, but sometimes overlooked, role in fostering competition and promoting public health and safety. Without standards, there would be no compatibility among broad categories of alternative products and less confidence in a range of building, fire and safety codes that advance the public welfare.

Unlike most other countries, standards development is conducted by private, not-for-profit organizations in the United States. This approach reflects the fact that private organizations are better able to keep pace with the rapid pace of technological change. In 1996, Congress passed the National Technology Transfer and Advancement Act to encourage government agencies to assist in the development and adoption of private, voluntary standards wherever possible. While this legislation has encouraged government adoption of privately developed standards, it has also increased the vulnerability of standards-developing organizations to antitrust litigation. The frequency with which standards-developing organizations are named in lawsuits stifles their ability to obtain technical information, hampers their efficiency and effectiveness, and undermines the public benefits which they advance.

I introduced H.R. 1086 to address this problem. H.R. 1086 merely codifies the "rule of reason" for antitrust scrutiny of standards-development organizations, limits their civil antitrust liability to actual damages, and provides for the recovery of attorneys' fees to substantially prevailing parties in antitrust cases filed against these organizations.

However, H.R. 1086 does not automatically accord these protections to all standards-setting. These protections extend only to the standards-development organizations which disclose the nature and scope of their activities to the Department of Justice and to the Federal Trade Commission. In addition, this legislation applies to standards-developing organizations whose standards-setting process adheres to principles of openness, voluntariness, balance, cooperation, transparency, consensus, and due process. Finally, H.R. 1086 contains extensive notification requirements which ensure that all parties who may be affected by standard-developing activities are apprised of the scope and nature of these activities.

Mr. Speaker, while several people deserve credit for this legislation, I would like to personally recognize House Science Committee chief counsel Barry Beringer, whose hard work and dedication brought this legislation to the floor and bring credit to this House.

Mr. Speaker, I am also pleased that this legislation has attracted the cosponsorship of Judiciary Committee Ranking Member CONYERS, as well as 12 of its members. In addition, H.R. 1086 continues the Judiciary Committee's bipartisan tradition of striking the proper balance between pro-competitive activity while ensuring the active role of Federal antitrust agencies in the promotion of competition in our market economy.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume. I wish to express my strong support for this legislation and my appreciation to Chairman SENSENBRENNER and Ranking Member CONYERS for their bipartisan leadership in bringing it to the floor.

Nearly 20 years ago, Congress passed legislation known as the National Cooperative Research Act of 1984 which permitted certain cooperative ventures to reduce their exposure to treble damages currently provided for under antitrust laws by making advance disclosures of their activities. The bill before us would provide similar relief to nonprofit organizations that develop voluntary technical standards, known as standards-development organizations, or commonly referred to as SDOs. As the chairman indicated, these standards developed by these organizations play an essential role in enhancing public safety, facilitating market access, and promoting trade and innovation.

Yet despite these pro-competitive effects, these SDOs can find themselves named as defendants in suits between business competitors alleging violations of the antitrust laws. Once they are sued, these organizations are forced to expend considerable resources on protracted discovery proceedings before they are finally able to prevail on motions for summary judgment which occurs in 100 percent of the cases, from my information.

The bill, like the National Cooperative Research Act before it, takes a moderate approach to addressing this problem. It does not create, as the chairman indicated, a statutory exemption or confer immunity from the operation of the antitrust laws. Most significantly, it merely "de-trebles" antitrust damages in cases where accurate predisclosure of collaborative activities has been made to the Department of Justice and the FTC.

I think this is the right approach. Congress should allow the antitrust laws to operate as they were meant to, without creating special exemptions and carve-outs for particular industries. This bill does not create an exemption for SDOs. Instead, it grants them limited relief of the same type and in the same manner as the relief provided for by the National Cooperative Research Act to certain cooperative joint ventures. It is a moderate approach, and it has worked well.

Again, I want to thank the chairman and the ranking member of the Committee on the Judiciary for their cooperative joint venture in support of this bill. I would also like to acknowledge the efforts of my good friend, Jim Shannon, a former Member of this body and former Attorney General of the Commonwealth of Massachusetts. He currently serves as president and CEO of the National Fire Protection Association, an international organization that develops the fire safety codes and standards that protect all of us. The NFPA just happens to be based in my hometown of Quincy, Massachusetts; and Jim Shannon and this fine organization have worked very hard to advance this legislation. I want to acknowledge their efforts.

Mr. Speaker, I urge support for this bill.

Mr. CONYERS. Mr. Speaker, I am pleased to be a cosponsor of this legislation offered by Mr. SENSENBRENNER. We have worked hard, along with a number of standard development organizations, technology companies and other private interests to craft a bill that will provide some important protections to encourage nonprofit standard development organizations, or SDOs, to continue their critical work of collaborating to set pro-competitive standards in this industries. SDOs set thousands of standards that keep us safe and provide uniformity for everything from fire protections to computer systems to building construction, for example.

This bill provides a commonsense safe harbor for standard development organizations. Those that voluntarily disclose their activities to federal antitrust authorities will only be subject to single damages should a lawsuit later arise. Those who refuse to disclose their activities, or those who take actions beyond their disclosure, will still be subject to treble damages under the antitrust statutes. This bill does not exempt anyone from the antitrust laws, but it does apply the rule of reason to SDOs. Therefore the procompetitive market effects will be balanced against the anticompetitive market effects of an action before a violation of the antitrust laws is found. Organizations that commit per se violations—making agreements or standards about price, market share or territory division, for example—will still be fully liable for their actions.

The rationale for such favored treatment is the SDOs, as nonprofits that serve a cross-section of an industry, are unlikely themselves to engage in anticompetitive activities. However, if free from the threat of treble damages, they can increase efficiency and facilitate the gathering a wealth of technical expertise from a wide array of interests to enhance product quality and safety while reducing costs.

This is the third bipartisan bill in the last 20 years that has provided some limitation on damages for antitrust liability in order to encourage cooperative behaviors by entities seeking to engage in procompetitive activities. This policy has worked well for research and joint ventures under the National Cooperative Research and Production Act of 1993 and I trust it will improve the creative environment for standards setting organizations as well. An expansion of this policy to standard development organizations will allow them to improve their innovative efforts, involve a wider range of industries and technical entities, and improve product safety and development.

I'd like to thank the chairman for his cooperative efforts on this bill and I urge my colleagues to support this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as a cosponsor of this legislation, I support H.R. 1086, "The Standards Development Organization Advancement Act of 2003."

This act amends the National Cooperative Standards Development Act to provide antitrust protections to specific activities of standard development organizations (SDOs) relating to the development of voluntary consensus standards. Among other provisions, H.R. 1086 amends the NCRA to limit the recovery of antitrust damages against SDOs if the organizations predisclose the nature and scope of their standards development activity to the proper antitrust authorities. H.R. 1086 also amends the NCRA to include SDOs in the framework of NCRA that awards reasonable attorneys' fees to the substantially prevailing party.

The provisions of H.R. 1086 protect SDOs, and in turn, SDOs help protect consumers and the public. SDOs are nonprofit organizations that establish voluntary industry standards. These standards ensure competition within various industries, promote manufacturing compatibility, and reduce the risk that consumers will be stranded with a product that is incompatible with products from other manufacturers.

The nature of the standards development process requires competing companies to bring their competitive ideas to the voluntary standards development process. When one of the companies believes its market position has been compromised by the standards development process that company will likely resort to litigation. It is not uncommon for the SDO to be named as a defendant. For nonprofit organizations like SDOs, litigation can be very costly and disruptive to their operations, and treble antitrust damages can be financially crippling.

Under H.R. 1086, the recovery of damages against SDOs is limited if the organizations predisclose the nature and scope of their standards development activity to the proper antitrust authorities. Furthermore, SDOs are only liable for treble damages under antitrust laws if they fail to disclose the nature and scope of their voluntary standards setting activity.

H.R. 1086 strikes a good balance. It does not grant SDOs full antitrust immunity, but it provides SDOs with protection from treble damages when they provide proper disclosure.

H.R. 1086 also benefits the consumer. It enables the SDOs to develop industry standards that promote price competition, intensify corporate rivalry, and encourage the development of new products.

Mr. Speaker, I support H.R. 1086, and I urge my colleagues to do likewise.

Mr. DELAHUNT. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1086, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF THE HOUSE SUPPORTING UNITED STATES IN ITS EFFORTS IN WTO TO END EUROPEAN UNION'S TRADE PRACTICES REGARDING BIOTECHNOLOGY

Mr. CAMP. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 252) expressing the sense of the House of Representatives supporting the United States in its efforts within the World Trade Organization (WTO) to end the European Union's protectionist and discriminatory trade practices of the past five years regarding agricultural biotechnology, as amended.

The Clerk read as follows:

H. RES. 252

Whereas agriculture biotechnology has been subject to the strictest testing, based on sound science, by the United States Department of Agriculture, the Food and Drug Administration and the Environmental Protection Agency prior to commercialization or human consumption;

Whereas Americans have been consuming genetically-modified corn and soybean products, which are subject to a rigorous Federal review process, for years with no documentation of any adverse health consequences;

Whereas, according to recent studies, biotechnology has made substantial contributions to the protection of the environment by reducing the application of pesticides, reducing soil erosion and creating an environment more hospitable to wildlife;

Whereas agriculture biotechnology holds tremendous promise for helping solve food security and human health crises in the developing world;

Whereas there is objective and experience-based agreement in the scientific community, including the National Academies of Science, the American Medical Association, the Royal Society of the United Kingdom, the French Academy of Medicine, the French Academy of Sciences, the joint report of the national science academies of the United Kingdom, the United States, Brazil, China, India and Mexico, twenty Nobel Prize winners, leading plant science and biology organizations in the United States and thousands of individual scientists, that biotech foods are safe and valuable;

Whereas European Union decisions on agriculture and food biotechnology are being driven by policies that have no scientific justification, do not take into account its capacity for solving problems facing mankind, and are critical of the leading role of the United States in scientific advancement;

Whereas since the late 1990s, the European Union has opposed the use of agriculture biotechnology and pursued policies which result in slowing the development and support of genetically-engineered products around the world;

Whereas the five-year moratorium on the approval of new agriculture biotechnology products entering the European market has no scientific basis, effectively prohibits most United States corn exports to Europe, violates European Union law, and clearly breaches World Trade Organization (WTO) rules;

Whereas since its implementation in October 1998, the moratorium has blocked more than $300,000,000 annually in United States corn exports to countries in the European Union;

Whereas the European Union's unjustified moratorium on agriculture biotech approvals has ramifications far beyond the United States and Europe, forcing a slowdown in the adoption and acceptance of beneficial biotechnology to the detriment of starving people around the world; and

Whereas in the fall of 2002 it was reported that famine-stricken African countries rejected humanitarian food aid from the United States because of ill-informed health and environmental concerns and fear that future exports to the European Union would be jeopardized: Now, therefore, be it

Resolved, That the House of Representatives supports and applauds the efforts of the Administration on behalf of the Nation's farmers and sound science by challenging the long-standing, unwarranted moratorium imposed in the European Union on agriculture and food biotech products and encourages the President to continue to press this issue.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CAMP) and the gentleman from Wisconsin (Mr. KLECZKA) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Res. 252 introduced by my good friend from Missouri, Majority Whip Roy Blunt. This important resolution expresses support for the administration's World Trade Organization case against the European Union's unwarranted moratorium on agriculture and food biotech products.

On May 13, 2003, U.S. Trade Representative Robert Zoellick and Agriculture Secretary Ann Veneman announced that the United States, Argentina, Canada, and Egypt would file a WTO case against the European Union over its illegal 5-year moratorium on approving agricultural biotech products. Other countries expressing support for this case by joining it as third parties include Australia, Chile, Colombia, El Salvador, Honduras, Mexico, New Zealand, Peru, and Uruguay.

Since the late 1990s, the European Union has opposed the use of agriculture biotechnology and pursued policies opposing genetically engineered products around the world. The current 5-year moratorium on the approval of new agriculture biotechnology products entering the European market has no scientific basis, effectively prohibits most United States corn exports to Europe, violates European Union law, and clearly breaches World Trade Organization rules.

According to recent studies, biotechnology has made substantial contributions to the protection of the environment by reducing the application of pesticides, reducing soil erosion and creating an environment more hospitable to wildlife. Since its implementation in October 1998, the moratorium has blocked more than $300 million annually in United States corn exports to countries in the European Union. This is completely unacceptable.

I urge my colleagues to support this resolution and support the administration, sound science, and United States farmers at the WTO.

Mr. Speaker, I reserve the balance of my time.

Mr. KLECZKA. Mr. Speaker, I yield myself such time as I may consume.

Earlier this year, the U.S. Trade Representative announced that the United

States would file a World Trade Organization case against the European Union over its 5-year moratorium on approving genetically modified foods. The measure before us today supports the Bush administration's challenge to the EU's longstanding moratorium.

The European Union is made up of sovereign countries whose citizens have decided that they would rather not eat genetically modified food. Mr. Speaker, when did the United States acquire the right to tell Europeans what they should be eating? The issue before us is not trade discrimination as the proponents of this bill have argued. The individual EU countries are simply debating whether or not to implement a domestic policy related to genetically modified food which would also be applied to imports.

Due to the lack of hard data about the long-term health effects, in the United States there has also been public concern about consuming genetically modified products. According to a Rutgers University Food Policy Institute study, 90 percent of Americans said that foods created through genetic engineering should have labels on them. I am proud to join with the gentleman from Ohio (Mr. KUCINICH) in his efforts to require the labeling of genetically engineered food.

Although there have been few studies devoted to health effects of genetically modified food, some scientists claim that there may be a link between the resurgence of infectious diseases and genetic modifications in the U.S. food supply. There have even been cases of lab animals suffering immune system damage and allergic reactions after eating biotech food.

I think that Members would agree that the WTO should not interfere with the creation of domestic law in this Chamber, so I ask Members to apply the same principle to our friends in Europe.

Mr. Speaker, I urge Members to oppose this heavy-handed measure.

Mr. Speaker, I reserve the balance of my time.

Mr. CAMP. Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in strong support of H. Res. 252. I commend the gentleman from Missouri for introducing this important resolution.

It is clear that the U.S. must send a strong and unmistakable message to the European Union that its discriminatory and protectionist trade practices regarding biotechnology will not be tolerated. As the chairman of the Subcommittee on Europe, this Member asserts that this is an important issue in trans-Atlantic relations. This resolution puts the House on record as supporting the U.S. in its efforts within the World Trade Organization to end these practices.

The EU's current moratorium on approving new agricultural biotech products has no scientific basis.

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It harms U.S. agricultural producers and it exacerbates food shortages in Africa. This Member has been strongly urging the administration to take action on this issue by bringing a case against the EU to the WTO, and is very pleased the announcement has been made that we have done so.

The current EU restrictions on the importation of food with genetically modified organisms, GMOs, have cost agricultural producers billions of dollars in recent years. The U.S. must be aggressive in knocking down such nontariff trade restrictions.

The EU's delay on lifting the moratorium on biotech crops is unacceptable and the WTO action is certainly appropriate. The intransigence by the EU is having a very detrimental effect on American farmers. It has been reported that since the early 1990s, U.S. corn exports to Europe have plummeted 95 percent, and this issue is one of the causes. Incredibly, too, they have used their emotional arguments against GMOs to coerce African countries facing famine not to accept donated American food and agricultural products. So in contrast to what the gentleman from Wisconsin said, this is strictly not a European issue, this is coercion on their part against African countries who are compelled to leave that food donated to deal with famine and malnutrition setting on the docks.

Also troubling are the indications that the EU is planning to move forward with labeling and traceability requirements that will continue to act as a mechanism to block U.S. agriculture products. This clearly runs counter to the WTO principle that rules should be based on scientific evidence.

I think it is interesting to note that David Byrne, EU Commissioner for Health and Consumer Protection, has been quoted as saying, "The EU's position on genetically modified food is that it is as safe as conventional food." However, the moratorium remains in place and American farmers continue to lose valuable markets, not just in Europe, but third world countries. This matters because it is more important to the farmers today facing difficult times due to the ongoing drought and lower revenue.

When filing the WTO case, U.S. Trade Representative Robert Zoellick stated clearly why it is so important for the U.S. to take action. He said, "The EU's moratorium violates WTO rules. People around the world have been eating biotech food for years. Biotech food helps nourish the world's hungry population, offers tremendous opportunities for better health and nutrition and protects the environment by reducing soil erosion and pesticide use." This Member believes that the EU's GMO standards are transparently devoid of any relationship to sound science, and are either based strictly on emotion or are designed quite simply as trade barriers, or both.

The U.S. is correct in taking strong action to bring this back to reason. I strongly support H.R. 252 and urge my colleagues to support it.

Mr. KLECZKA. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I want to thank my colleague, the gentleman from Wisconsin (Mr. KLECZKA), for his leadership on this matter to protect consumers in this country and also to protect the rights of farmers.

The fact of the matter is that this action would harm U.S. farmers. EU consumers have clearly expressed their desire to buy non-genetically engineered foods. However, the weak U.S. biotech regulations prevent U.S. exports of non-genetically engineered foods because of fears they are contaminated. H. Res. 252 fails to address weak agriculture regulations that leave non-GE food vulnerable to contamination by genetically engineered foods.

EU consumers are clamoring for non-genetically engineered food. All we need to do is to sell them what they want and U.S. farmers will have a strong market again.

When you think about it, U.S. agriculture has been the pride of the world. We have been the breadbasket of the world. Our agriculture is second to none. But of course, when you have these corporate agribusinesses come in with a different agenda, then you see the interests of farmers undermined.

Now, several farm organizations oppose H. Res. 252 because it supports a complaint to the World Trade Organization challenging the EU's authorization system on approving genetically engineered food. H. Res. 252 is a gift to corporate agribusiness. That is why the National Family Farm Coalition, the American Corn Growers Association and the Soybean Producers of America all oppose H. Res. 252.

Family farmers have suffered a great deal of damage to their trade markets because agribusiness pushed a product on U.S. farmers that the people of the world rightfully refused to accept.

The recently completed national survey of corn producers by the American Corn Growers Foundation, conducted as farmers began planting corn in April, shows that farmers do not support this complaint to the WTO. Seventy-six percent of farmers stated that the U.S. should not file a WTO lawsuit against Europe regarding genetically engineered food. Seventy-eight percent of farmers believe in keeping your customers satisfied and in keeping world markets open to U.S. corn, and that means planting traditional non-GMO corn varieties instead of biotech GMO corn varieties. Eighty-two percent of farmers believe that the U.S. Government must respect the rights of Europeans, Japanese, and all consumers worldwide so they are able to make a choice as to whether they and their children consume foods containing genetically engineered commodities.

Only, and I say only, large agribusiness supports the bill and this bill will increase the profits of large agribusiness, and it will do it at the expense of farmers and at the expense of consumers.

This is a time for us to stand up for the American farmer who is having difficulty surviving. Family farmers are having trouble surviving because they cannot get their price and they cannot get access to markets. Both of these are occasioned by the problems brought about by agribusiness and by monopolies in agriculture.

We should stand up for the family farmers and oppose H. Res. 252. We should create policies which enable our family farmers to get those markets in Europe, that we know have belonged to them for so many years, but have been precluded because of the practices of agribusiness.

Mr. CAMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today to thank the Committee on Ways and Means, the gentleman from California (Chairman THOMAS) and the gentleman from Michigan (Mr. CAMP) for bringing this important resolution to the floor in such a timely fashion. I introduced this resolution 2 weeks ago, and I want to thank the gentleman from Illinois (Speaker HASTERT), our majority leader, the gentleman from Texas (Mr. DELAY), our conference chairman, the gentlewoman from Ohio (Ms. PRYCE), the gentleman from Virginia (Mr. GOODLATTE), the gentleman from Texas (Mr. STENHOLM), and the gentleman from California (Mr. CARDOZA) for joining me in this effort.

This is a timely effort. It is a discussion we need to have. It is a discussion that, frankly, in the European community has gone on for too long. In October 1998, the European Union did a tremendous disservice to American biotechnology by issuing a ban on the importing of agricultural biotech crops. Although this action was supposed to be a moratorium, it has lasted now for close to 5 years.

In my opinion, this is no longer a moratorium, but a ban which is clearly a violation of Europe's WTO obligations and needs to be reversed as soon as possible.

The damage that this moratorium has done is dramatic, to say the least. For example, since the moratorium went into effect, U.S. corn exports have diminished from a high of 1.56 million metric tons to approximately 23,000 metric tons last year. This has resulted in the loss of close to $1 billion in corn sales. The tragic thing is that there is no basis, scientific or otherwise, that can justify such an economic hardship on our corn farmers and on other farmers of other products that take advantage of new technology.

On May 13, the administration took the first steps toward rectifying this situation by filing a World Trade Organization case against the European Union over its illegal 5-year moratorium on approving agricultural biotech products. Despite repeated assurances from European officials that the moratorium would be lifted, there is no sign of any change in policy. In fact, there is ample evidence that this policy will continue.

The position that the European Union and many of its member countries took regarding our efforts to provide food to Africa is also mentioned in this resolution. The idea that starving people would not be allowed to have access to the same kinds of products that American consumers use every day is an idea that is unacceptable.

The Subcommittee on Research of the Committee on Science, chaired by the gentleman from Michigan (Chairman Smith) will be looking carefully at this issue tomorrow, with the Speaker as the leadoff witness.

My colleagues and I introduced House Resolution 252 because we believe that the Bush administration is correct in this area and needs to take the appropriate action on behalf of our Nation's farmers and on behalf of sound science by challenging this moratorium on agriculture and food biotech products.

Mr. KLECZKA. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, I rise in opposition to H. Res. 252. This bill is not about solving world hunger and it is not about promoting agriculture. What this bill is about is promoting bad policy. This bill goes to the fundamental issues of sovereignty and shifting power from democratically determined public health laws and rules to corporate interests. Ultimately this and chapter 11, the investor state provisions in the North American Free Trade Agreement, in the Singapore and Chilean agreements, probably every other agreement that the Zoellick Trade Representative's office will negotiate, will be used to override all kinds of public health and worker safety laws.

Understand what this is. What we are doing is we are telling the Europeans that they cannot enforce their own food safety laws. The European Union has passed legislation specifically determining what kind of food products, what kinds of food safety laws that they wanted. This resolution is telling them that we have the right in the United States to override what the European Union democratically elected Parliament and democratically determined rules and regulations want to do.

Imagine if the French, the French of all people, or the Germans, came to us and came to the World Trade Organization and said we do not like an environmental law, we do not like a safe drinking water law, a food safety law, that the United States Congress has passed and we want to override it. How dare the French or Germans try to override our public health laws and compromise our sovereignty.

How dare the United States tell the Germans and French and the Poles, new members of the EU and our allies in the war in Iraq, or anybody else in Europe, how dare we try to override their public health and their public safety laws? Imagine if they did that to us. We have no business saying we know best. We are going to tell you in France, you in Germany, you in Poland, you in England, we are going to tell you what your public safety laws are going to say, what your public health laws are going to say.

Mr. Speaker, I ask the House to vote no on H. Res. 252.

Mr. CAMP. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan, a member of the Committee on Agriculture and a good colleague.

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentleman for yielding me time.

This an important discussion. Maybe it would be reasonable, Mr. Speaker, to start out trying to explain what is biotechnology?

Gregor Mendel discovered dominant and recessive traits in plants in the mid 19th century. He started taking two quality plants and crossing them to see if you could come out with an improved variety. So we have had cross-breeding, we have had hybrid breeding ever since. Now we have finished gene cataloguing of an agricultural plant called the Arabidopsis, a mustard plant.

But with 25,000 genes, you just took your chances when mixing two plants together. Sometimes the product turned out poisonous or allergenic. Sometimes it was very undesirable for a raft of other reasons.

Now we have the scientific technology to pick out one single gene and decide what characteristics are going to evolve from that gene, and instead of taking your chances by mixing 25,000 or 30,000 genes of two plants, you pick out one gene because you want a certain characteristic. You put it into that other plant and predetermine what is going to happen as a result.

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Now, there is a lot of scare of what might happen generations from now. In the discussion of this resolution, it seems to me that we should not be debating whether this is a trade issue. This is now going to be in the hands of the WTO to decide whether or not it is unfair. But everybody, Mr. Speaker, needs to understand, other countries are trying to keep our products out of their country for one reason or another, restricting imports for bio sanitary reasons or anything else they can come up with. And in this case, it appears that they are trying to keep our agricultural products, that we produce more efficiently, out of Europe and Japan and some of these other countries, simply because they do not want it to disrupt the problems of their farmers and they want to protect their markets. We are going to let the WTO decide if it is restraint of trade. But as we evolve into greater assurance that we are going to have safety, both to human health, to animals, and to the environment, we need to move ahead with this technology.

Look, the possibilities in developing countries are so tremendous. That is why our whip mentioned that the day after tomorrow I am holding a hearing on biotechnology. The Speaker is going to lead off the testimony in that hearing on the potential and safety of biotechnology. We are going to have Rita Caldwell from NSF come to tell us about the implementation of what we put in my NSF bill in terms of working with African scientists, developing products that are going to help their particular country. And if we get into Africa, eventually, science and biotechnology are going to prevail. We are going to have Mr. Natsios, the administrator of AID, say how important it is that we do not restrict this technology for developing countries.

Vote for this resolution and vote to let science, not emotion, rule the future of agricultural biotechnology.

On May 12th, the Speaker of the House and members of Congress joined with the Bush Administration to challenge the European Union's import ban on genetically modified (GM) crops. WTO rules, while allowing countries to reject imports on the basis of health and environmental concerns, require that any such policy be supported by scientific evidence.

However, the EU has refused to process new applications for trade of transgenic food crops since 1998 without even attempting to demonstrate any compelling scientific reasons. It is estimated that over $300 million annually in U.S. corn exports alone are being lost. Even EU Enviroment Commissioner Margot Wallstrom has admitted that, "We have already waited too long to act. The moratorium is illegal and not justified."

While the EU stance on GM crops is an unfair economic burden on American farmers, it is also an unjust burden on the world's poorest continent. With approximately 180 million undernourished people, Africa stands to benefit tremendously from GM crops.

The EU is exploiting Africa's dependence on the EU market to stall acceptance of GM crops. For example, with its population literally starving last year, Zambia rejected 23,000 metric tons of U.S. food aid because Europe might reject future Zambian corn exports. EU pressure is even impeding research on new transgenic crop varieties important to bringing Africa closer to sustainability.

The Speaker of the House, USAID Administrator, and leading scientists will testify at my Research Subcommittee hearing this Thursday. We will examine barriers to plant biotechnology in Africa and new government programs supporting partnerships with African scientists in Africa.

The U.S. challenge moves us one step closer to removing unfair barriers that hurt American farmers and deny the people of Africa a tool for combating hunger. Please support H. Res. 252.

Mr. KLECZKA. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. POMEROY), a distinguished member of the Committee on Ways and Means.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time; and with 1 minute, I will have to be brief. This really is not about biotech. It is about whether global agriculture trade will be conducted under the rules adopted by the countries pursuant to trade agreements.

There is a procedure for evaluating the safety and soundness of agriculture products to be exported into a marketplace. Under the WTO, it requires that measures regulating imports be based on sufficient scientific evidence and that countries operate regulatory approval and procedures without undue delay. Basically, the Europeans have thrown up this effort to keep our product out, and they have not followed the WTO actions in so pursuing this course of action.

That is why the resolution before us commending our President is exactly the right thing to do. We can only participate as a full partner with other nations in trade agreements if people follow the rules. We have rules. The rules are being ignored to keep their markets closed to our exports. We need to pass this resolution.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, I want to share in the comments of the gentleman from North Dakota (Mr. POMEROY) and agree with him. Also, I would ask the Members that are thinking of voting against this, this boils down to be really kind of a moral issue of famine in Africa. I learned about this issue from our former Member, Congressman Tony Hall.

What is happening in Africa, there are 35 million to 40 million people that are basically almost starving to death. In Zambia and Zimbabwe, they have been using this argument, and the people are starving and the genetically modified or biotech foods are in the warehouses. What is taking place is some of our friends, and they are friends in Europe, are using this as a trade mechanism with regard to their economy and their jobs; and as a result of this, people are dying in Africa.

So this is an issue with regard to the economy, but I will not say more important; but I personally believe it is more important. It is an issue of people, particularly in Africa. People living in Ethiopia, there is a famine of biblical proportions. Now, fortunately, the Ethiopian Government is not foreclosing this; but in Zambia they are, in Zimbabwe, Mugabe has it in the warehouses and the people are starving outside, and they cannot eat. Some of the other countries, Uganda is going through the same thing. They have genetically modified banana plants. Their banana industry is falling off, and they are afraid to use it because they are afraid they will not be able to have their exports going in to France.

So this resolution is a good resolution. This also would help us feed the people of the world who are starving. So I would hope everyone would vote for this. And if any Members have any doubts before this vote, they may want to call Tony up in Rome at the Food and Agricultural Organization and get his thinking, because this is a major issue of famine and feeding hungry people, particularly in Africa.

Mr. Speaker, I rise today in support of H. Res. 252, but not because of the benefits to U.S. trade or our agricultural industry, but out of concern for the millions of hungry people around the globe. In a world as plentiful as ours, it is unconscionable that women and children still die of hunger.

I have traveled to Africa to witness the devastation of famines, first in 1984 and most recently, earlier this year. I saw women and children who were too weak to feed themselves. Thankfully, relief efforts for the 30 million Africans, whose lives are in peril, are not being complicated by refusals of certain food supplies, as was the case last year in Zambia.

Developing countries need biotechnology to improve crop viability and yield. However, as long as such agricultural products remain unacceptable to European markets, developing countries are likely to continue to reject the very thing they need to bring them to self-sufficiency and beyond.

American agricultural products are among the safest in the world—even Europe's officials admit that. But making a convincing case on the safety of U.S. products is difficult.

Last year, Zambians turned down genetically modified maize from the U.S., fearing that when their agricultural industry recovers, they would no longer be able to sell their products to their main export market, Europe.

In an effort to alleviate this concern, and at considerably increased costs, the U.S. offered a milled version free from any seeds that farmers could plant, thereby protecting Zambia's agricultural sector. Tragically, the Zambian government never accepted the food.

Famine relief and building longer term self-sufficiency in Africa is a global issue that requires a response from all nations. The U.S.

has provided leadership through its contribution in 2002 of 51 percent of the food provided by the UN World Food Programme. Europe's combined contribution totaled only 27 percent.

I don't know which saddens me more, knowing that European countries like France have the ability to contribute more to famine relief efforts, but haven't, or knowing the situation is being exacerbated by European opposition to importing biotech agricultural products.

This resolution is an important statement to encourage the Administration in its efforts to challenge the unwarranted moratorium by EU countries on genetically modified agricultural products.

I urge a unanimous vote of support.

Mr. KLECZKA. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Speaker, I rise today in support of House Resolution 252 supporting the United States' effort to end the European Union's discriminatory trade practices regarding agriculture biotechnology.

Biotechnology is critically important for the future of U.S. agriculture, not just the farmers in my district. Genetically enhanced crops have increased yields, decreased production inputs, and reduced pesticide usage. In the near future, this technology will allow U.S. farmers to produce healthier, fresher, and more nutritious food products for consumers.

Throughout its lifetime, agricultural biotechnology has been the subject of the strictest testing by USDA, FDA, and EPA prior to consumption, and has made considerable contributions to protection of the environment by reducing the application of pesticides.

However, amongst this growing climate for innovation, the European Union has continued to pursue a path of opposition. The EU moratorium has cost U.S. farmers almost $300 million a year in corn exports alone and goes directly against the WTO mandate that the regulation of imports be based on "sufficient scientific evidence." As such, their policies have resulted in a slowdown of development and support of genetically engineered products around the world.

I believe that the EU's opposition to agriculture biotechnology has much more to do with the discriminatory trading practices that they employ, rather than environmental science. I applaud the work of the U.S. Department of Agriculture and the U.S. Trade Representative to challenge the EU's moratorium on this technology, and I am happy to lend my support to this important resolution. I urge Members' "aye" votes.

Mr. KLECZKA. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in support of the resolution and to state my support and urge House support for the administration and its decision to take on the European Union and its discriminatory practices against biotech projects.

Agriculture has changed greatly in recent years. When I was growing up on a farm in Johnston County, the most advanced technology we had was an old tractor. It was a big improvement, though, over the mule and plow that we had had previously.

These days, biotechnology has moved farming to the cutting edge of technology. I have always been and still remain a strong supporter of using biotechnology to benefit American agriculture and our society as a whole. In fact, when I was appropriations chairman in North Carolina's general assembly, I helped fund the establishment of the North Carolina Biotechnology Center, because I could see biotechnology was the science of the future. Consequently, North Carolina has become a leader in the field of biotechnology.

The gains that biotechnology brings to agriculture, efficiency, reduced use of pesticides, higher crop yields, and healthier products, are well documented. That is why I find it ironic that the continent that gave birth to the Renaissance and the Enlightenment is turning its back on a proven science, despite the increasing amount of evidence as to the safety and effectiveness of this technology.

What is really a shame is that the Europeans' fear of biotechnology is having tragic consequences. The European Union is actually discouraging nations facing food shortages and famine from accepting food aid that may contain biotech products.

The Europeans' actions and attitude regarding biotechnology are, at best, indefensible, and maybe immoral regarding the European Union's rule. I strongly applaud Ambassador Zoellick's work in this area, and I urge the passage of this resolution.

I rise today in support of this resolution to state the House's support for the Administration in its decision to take on the European Union and its discriminatory practices against U.S. biotechnology products.

Agriculture has changed greatly in recent years. When I was growing up on a farm in Johnston County, NC, the most advanced technology we had was a tractor, a big improvement over a plow, a mule. These days, biotechnology has moved farming to the cutting edge of technology.

I have always been and still remain a strong supporter of using biotechnology to benefit American agriculture and our society as a whole.

In fact, when I was appropriations chairman in the North Carolina General Assembly, I helped fund the establishment of the North Carolina Biotechnology Center because I could see biotech was a science of the future. Consequently, my State of North Carolina has prospered as a leader in the field.

The gains that biotechnology brings to agriculture in efficiency, reduced use of pesticides, higher crop yields, and healthier products are well documented.

That's why I find it ironic that the continent that gave birth to The Renaissance and The Enlightenment is turning its back on a proven science, despite the increasing amount of evidence as to the safety and effectiveness of this technology.

And what's really a shame is that the Europeans' fear of biotechnology is having tragic consequences. The European Union is actually discouraging nations facing food shortages and famine from accepting U.S. food aid that may contain biotechnology products.

The Europeans' actions and attitudes regarding biotechnology are indefensible, and according to WTO rules, illegal.

I strongly applaud USTR Ambassador Zoellick for pressing forward with this case against the European Union in the WTO.

We must continue to show the world that biotechnology offers a new Renaissance in agriculture for those willing to reject fear.

I urge the House to pass this resolution, and show our support for a science that offers profound benefits for all of humanity.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, obviously, biotech is really important to the Midwest. Roughly 55 percent of the corn grown in Nebraska and a high percentage of the beans grown in Nebraska are biotech, and roughly $300 million in corn exports is being blocked by the current boycott.

As has been mentioned by several speakers previously, this boycott is not about safety. It is a tariff, and it is a thinly disguised tariff. The European Union did the same thing in blocking our beef that was fed hormones. The WTO stepped in and said, look, that is nonsense. This is against WTO rules, so it is something that has precedent. So the European Union has simply said, well, we will go ahead and pay the fine; it saves us the money. We will pay $116 million a year in blocking your beef, and that is essentially what this tariff is doing as well.

Already, people have mentioned several times about the fact that starving people, particularly people in Africa, have had their products blocked; and this is, I think, unconscionable.

Lastly, let me just say in regard to the reduction of pesticides, water use, fertilizer, these are certainly good for the environment. And we hear people all around the country decrying biotech; and yet Brazil, when we were down there a year ago, said they really did not believe in biotech, and yet they are raising 1 million acres of soybeans. So they obviously know it is safe. So usually these are simply tariff barriers. I certainly applaud the resolution, and I urge support of it. It makes a lot of sense.

Mr. KLECZKA. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I rise in support of House Resolution 252. I feel compelled to remind all 280 million Americans once again that we are truly blessed in this country to have the most abundant food supply, the best quality of food, the safest food supply at the lowest cost to our people of any country in the world. That has not happened by accident. It has always happened because we have always used sound science, peer-reviewed, in order to make two blades of grass grow where one grew before.

Now, we have repeatedly heard even today the explanation that the European Union maintains its ban on new approvals of biotech products because European consumers are unwilling to accept biotechnology due to safety concerns. That explanation disappoints me.

There are no peer-reviewed, scientific risk assessments that conclude that food products of agriculture biotechnology are inherently less safe than their traditional counterparts. Bio-engineered crops in the United States are rigorously reviewed for environmental and food safety by USDA, EPA, and FDA. Food safety reviews of bio-engineered crops focus on the safety of the newly introduced trait, on the safety of the whole food, and consider issues including toxicity, allergenicity, nutritional content, and antibiotic resistance.

Our forward-looking regulatory system has not only ensured the safety of our food supply, it has allowed the development of technologies that have improved our food supply and lowered the cost of production. Besides lowering costs, biotechnology has the potential to reduce crop risks and improve food security in developing countries, as we heard the gentleman from Virginia (Mr. WOLF) speak about a moment ago. Examples include US-AID projects in Africa to improve production of peas and bananas.

Regulations based on protectionism instead of science have a chilling effect on research and the adoption of biotechnology. When there is uncertainty that a product of biotechnology will be accepted, farmers are reluctant to adopt the product, despite its proven safety and benefits.

I believe that the US and the EU have a responsibility as developed nations to lead by example in developing regulatory systems that not only promote safe food, but also promote a better and more secure food supply.

And I am disappointed that Europe has so far been unable to construct a science-based regulatory system for food that encourage development of new technologies that can benefit developed and developing countries around the world.

The resolution before us today supports our requests for consultations with Europe on this important issue, and I urge my colleagues to support it.

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Mr. CAMP. Mr. Speaker, I yield 2 minutes to the chairman of the Committee on Agriculture, the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

Mr. Speaker, this is an important resolution and I hope all of the Members of the House will support it. Earlier this year, as the chairman of the Committee on Agriculture, I had the opportunity to meet with Pascal Lamy, the European Union Commissioner for Trade, and to strongly make the case that this moratorium that Europe has imposed upon U.S. biotech products should be dropped and a reasonable system should be administered in its place; not what they are currently contemplating, which is a tracing and labeling requirement, which will make it in some instances even harder for us to sell our products into Europe.

I pointed out to them that people have been starving in Africa because of their policies. He took great umbrage at my suggestion that the Europeans were in fact promoting such a policy in Africa, but it turns out that that is exactly the case.

Through the organizations that they hire to distribute their own European food aid in African countries, they have spread the word that if they feed U.S. biotech grapes to their livestock, they will not be able to sell that livestock into Europe. It turns out that the Spanish, who agree with us on this position, by the way, grow thousands and thousands of acres of biotech crops in Spain, feed it to livestock, and sell it all over Europe anyway.

So the European policy on this issue is clearly nothing more than an artificial trade barrier. It is against the interests of their people, their consumers, to have the opportunity to have greater quality foods, foods that have greater vitamin retention, foods that are more environmentally sound, foods that can be grown in places like subSaharan African that are more drought-resistant. All of these things are important for us to promote, and that is what biotechnology does.

I commend the Bush administration for taking this case to the World Trade Organization, and I urge my colleagues to support this resolution.

Mr. Speaker, I rise today in strong support of H. Res. 252. America's farmers and ranchers deserve to have the best technologies available at their disposal and I am hopeful that an end to the EUs illegal and longstanding moratorium on agricultural biotechnology may be near.

Agricultural biotechnology is one of the most promising developments in modern science. This science should be embraced and not banned, for it can help to provide answers to the problems of hunger around the world. It would be a shame if developing countries in Africa continue to deny food aid containing biotechnology because of the antibiotechnology attitudes in Europe. The politicizing of agricultural biotechnology should end so that we can return to providing food aid to the hungry as soon as possible.

I commend the Bush administration for taking this case to the World Trade Organization. The EU moratorium on biotech approvals has been spreading beyond Europe. In the fall of 2002, some famine stricken African nations refused U.S. food aid because it contained biotech corn. These countries were ill informed on the health and environmental impact of biotechnology and were also concerned that their own agriculture exports to Europe would be denied if they accepted the product. Zambia, Mozambique, and Zimbabwe refused United States food aid made of the same wholesome food that Americans eat every day. Zimbabwe and Mozambique eventually accepted United States food aid after making costly arrangements to mill the corn so that African farmers could not grow it. Zambia continues to refuse United States corn.

As noted by the French Academy of Sciences, more than 300 million North Americans have been eating biotech corn and soybeans for years. No adverse health consequences have ever been reported. Many biotechnology products are being developed that will have unlimited benefits to vitamin deficient children. Research continues on a gene to add to rice which will contain more beta carotene, a precursor to vitamin A. Up to half of a million children per year go blind due to vitamin A deficiency. Another product being developed could also help reduce iron deficiencies, thus reducing anemia among millions of women and children worldwide.

The United States is not trying to force consumers to buy these biotechnology products. Consumer choice is the key and the moratorium is an example of the European government denying their consumes a choice. The moratorium is not based on science, but it is a blatant protectionist trade barrier. American farmers and ranchers are merely asking that their safe, sound and affordable product be allowed on the shelves in Europe.

America's farmers and ranchers produce the safest and most bountiful food supply in the world. Their goal is to share this bounty with those who need it most, while at the same time having access to markets around the world. While United States farmers have utilized many of the new technologies, some farmers are hesitant to use biotechnology because of the moratorium in Europe.

The European Union's (EU) illegal and unscientific moratorium should be lifted and a WTO case against the EU will send a message to the rest of the world that illegitimate, non-science based trade barriers will not be tolerated.

I urge my colleagues to support H. Res. 252.

Mr. KLECZKA. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me. I would also like to thank the leadership of a colleague of mine, the gentleman from Ohio (Mr. BROWN), who has been tremendous on this issue.

I do not know why we are telling the World Trade Organization what to do because they do not listen to us anyway. We tried to inform them and advise them on steel tariffs and they did not listen to us. We are not against trade. We understand there is going to be trade. There has always been trade, there always will be trade.

What we are against is shifting the debate from this Chamber, shifting the debate from the Parliament, shifting the debate from the Russian Duma to a bureaucratic organization behind closed doors with no accountability. They are not elected by anybody on the face of this Earth, they are appointed, and they represent the corporate interests. That is the problem.

We are losing our sovereignty in this country, and if we tell the European Union or if we tell another country what they need to do, at what point do they tell us what we need to do? When is it our labor laws, our environmental laws that become exposed?

I think that is the thing that we need to be most focused on is that we are losing our sovereignty. We want strong environmental laws in this country, we want strong labor laws in this country, and the World Trade Organization has proven and consistently tried to undermine those things. We need to fix the system and we need to let the WTO be O-U-T.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, I rise today as co-chairman of the House Biotechnology Caucus in strong support of House Resolution 252. Approvals for biotech commodities are critical to the future of biotechnology. By filing a complaint with the WTO, the administration has taken the necessary steps to respond to the European Union's moratorium on biotech food products.

The EU moratorium is a clear violation of Europe's WTO obligations. The policy has cost American farmers hundreds of millions of dollars in export sales and seriously hindered the adoption of an enormously beneficial technology. Moreover, the hysteria brought on by the EU policies has begun to spread beyond European borders. It was time to act.

Specifically, the European Union represents a $1 billion per year market for U.S. soybeans and their products, a $500 million market for U.S. corn gluten feed, and a former $300 million per year market for the U.S. commodity corn.

The U.S. lost its commodity corn export business to the European Union in recent years over issues related to the acceptance of biotechnology-enhanced products.

As the U.S. already exports more than one-third of its agricultural production and farm States such as Illinois export more than 40 percent of their agricultural products, it is essential that the EU model for food safety and precaution is stopped before their policy and attitudes towards biotechnology affect U.S. export markets around the world.

Recently, several Illinois farmers returning from Europe concluded that the U.S. needs to take the EU to the WTO over the current EU moratorium on biotech crops.

I commend the administration for their leadership in taking the necessary steps to end this ridiculous moratorium, and urge my colleagues to support this resolution and send a strong signal to the EU and the rest of the world that the U.S. will not tolerate illegitimate, unscientific barriers to U.S. agricultural exports.

Mr. KLECZKA. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, this is an issue of sovereignty. The democratically elected governments of Europe have chosen, with tremendous support and urging by their own people, to urge more study and delay on the massive introduction of genetically modified organisms into their agricultural system. A large majority of Americans would like to see the same testing.

We heard about testing, that this is regulated by the FDA. No, it is not. It is not regulated by the FDA. They said they have no jurisdiction, and it has been tested by the EPA. No, these things have not been tested by the EPA. It has been tested by the industry, who tells us, do not worry, it is safe. So the peer review tests we heard about and the government regulation that we heard about do not exist for the American people, and certainly not for the European people.

So are we going to turn to this faceless, conflict-ridden bureaucracy, the WTO, and ask it to preempt the laws of the sovereign nations of Europe? Then how about next week, when someone asks it to preempt some of our consumer health and safety or labor or environmental laws? That will happen, we can bet on it.

We heard a lot about Africa. Well, they will accept the food aid if the seed corn is ground up or the wheat is milled. They will take it. They are happy to take it. They just do not want the starving people there to take it out and plant it and begin to have it cross with their traditional crops. So that is not too tough of a thing to accomplish.

There are huge problems in the distribution system, these massively corrupt dictatorships. People of Africa are not being starved because the Europeans have chosen to protect their people and their agriculture against unknown, untested science, unregulated. That is not a true fact.

Let us have the debate about what this is about, which is new corporate interests that want to increase profits. Most of this is about increasing profits. Tell the people in India who have to buy patented seed year after year, or the people in Canada who have been prosecuted because they tried to replant the seed or it crossed into their crops and they have been prosecuted by Montana, that this is about making the world safe for people to not starve, and for the environment and all those things. No, it is, pure and simple, about profits for American industry.

Mr. KLECZKA. Mr. Speaker, I yield the balance of our time to the gentleman from Ohio (Mr. KUCINICH).

The SPEAKER pro tempore (Mr. NETHERCUTT). The gentleman from Ohio (Mr. KUCINICH) is recognized for 1½ minutes.

Mr. KUCINICH. Mr. Speaker, there are a number of issues at stake here, including one that has been mentioned by my colleagues, the gentlemen from Ohio, Mr. BROWN and Mr. RYAN, with respect to the WTO and the fact that it strips all nations of sovereignty. That is an issue that this House inevitably will have to deal with when, at once, legislation should come before us to in effect cancel our relationship with the WTO.

Now, House Resolution 252 falsely argues for a solution to world hunger, but its prime motive is to garner bigger profits for biotech companies looking to dump GE foods on poor countries. This is really about hungry biotech companies, because the basic cause of hunger is money, not food. The facts of world hunger lead to a much different conclusion.

Currently, 800 million go hungry every day. Malnutrition and related illnesses are the cause of death for 12 million children each year, but a lack of food is not the reason. Enough wheat, rice, and other grains are produced each year to provide 3,500 daily calories per person. So why do so many people go hungry each day? Much of this food goes to those who have the money and the ability to transport it. Food and other farm products flow from areas of hunger and need to areas where money is concentrated, in the northern hemisphere.

While at least 200 million Indians go hungry, in 1995 India exported $625 million worth of wheat and flour and $1.3 billion worth of rice, the two staples of the Indian diet. Only one-quarter of the food produced in Ethiopia reaches the market because of the high cost of marketing transactions.

There are hungry kids in this country, Mr. Speaker. What has biotech done for them?

Mr. CAMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, I include for the RECORD a summary of a report we wrote on biotechnology in the Committee on Science called "Seeds of Opportunity." The total report is available at: www.house.gov/nicksmith/opportunity.pdf.

The report referred to is as follows:

SUMMARY

The Subcommittee on Basic Research of the Committee on Science held a series of three hearings entitled, "Plant Genome Research: From the Lab to the Field to the Market: Parts I–III," to examine plant genomics, its application to commercially important crop plants, and the benefits, safety, and oversight of plant varieties produced using biotechnology. The testimony and other information presented at these hearings and information gathered at various briefings provides the basis for the findings and recommendations in this report.

Almost without exception, the crop plants in use today have been genetically modified. The development of new plant varieties through selective breeding has been improving agriculture and food production for thousands of years. In the 19th century, the basic principles of heredity were discovered by Gregor Mendel, whose studies on inheritance in garden peas laid the foundation for the modern science of genetics. Subsequent investigations advanced our understanding of the location, composition, and function of genes, and a critical breakthrough revolutionized the field in 1953, when James Watson and Francis Crick described the double helix structure of deoxyribonucleic acid (DNA), the substance of heredity. This ground breaking research set the stage for deciphering the genetic code and led to the rapid advances in practical application of genetics in medicine, animal science, and agriculture.

The development of the science of genetics in the 20th century was a tremendously important factor in the plant breeding programs that have produced the remarkable diversity of fruits, vegetables, and grains that we enjoy today and that provide food security for the poor nations of the world. Traditional cross-breeding has been very useful in improving crop plants, but it is a time consuming process that results in the uncontrolled recombination of tens of thousands of genes, commonly producing unwanted traits that must be eliminated through successive rounds of backcrossing. Improving crops through traditional methods also is subject to severe limitations because of the constraints imposed by sexual compatibility, which limit the diversity of useful genetic material.

With the arrival of biotechnology, plant breeders are now able to develop novel varieties of plants with a level of precision and range unheard of just two decades ago. Using this technology, breeders can introduce selected, useful genes into a plant to express a specific, desirable trait in a significantly more controlled process than afforded by traditional breeding methods.

U.S. farmers have been quick to adopt plants modified using new biotechnology, including commercial crops that resist biologically insect and viral pests and tolerate broad-spectrum herbicides used to control weeds. As our knowledge of plant genetics expands, new varieties of plants with improved nutrition, taste, or other characteristics desired by consumers will become available. The federally-funded plant genome program provides much of the essential basic research on plant genetics required to develop new varieties of commercially important crops through advanced breeding programs.

For over two decades, the application of biotechnology has been assessed for safety. Oversight of agricultural biotechnology includes both regulatory and nonregulatory mechanisms that have been developed over the last five decades for all crop plants and conventional agricultural systems. Federal regulation of agricultural biotechnology is guided by the 1986 Coordinated Framework for Regulation of Biotechnology, which laid out the responsibilities for the different regulatory agencies, and the 1992 Statement on Scope, which established the principle that regulation should focus on the characteristics of the organism, not the method used to produce it. Three federal agencies are responsible for regulating agricultural biotechnology under existing statutes: the U.S. Department of Agriculture (USDA), which is responsible for ensuring that new varieties are safe to grow; the Environmental Protection Agency (EPA), which is responsible for ensuring that new pest-resistant varieties are safe to grow and consume; and the Food and Drug Administration (FDA), which is responsible for ensuring that new varieties are safe to consume.

Although biotechnology has had an uninterrupted record of safe use, political activists in Europe have waged well-funded campaigns to persuade the public that the products of high-tech agriculture may be harmful to human health and the environment. As a result of these efforts, public confidence in the safety of agricultural biotechnology has been seriously undermined in Europe. Many European countries have established new rules and procedures specifically designed to address "genetically modified organisms," and these have had a detrimental impact on international trade in agricultural products.

The controversy over agricultural biotechnology now has spread to the United States, the world's largest grower of plants and consumer of foods produced using this technology. At the core of the debate is food safety, particularly the possibility that unexpected genetic effects could introduce allergens or toxins into the food supply. The use of antibiotic resistance markers also has been criticized as dangerous to human health. As a result, there have been calls for both increased testing and labeling requirements for foods created using biotechnology.

Environmental concerns also have been raised. It has been suggested, for example, that widespread use of plants engineered with built-in protection against insect and viral pests could accelerate the development of pesticide-resistant insects or could have a negative impact on populations of beneficial insects, such as the Monarch butterfly. It also has been argued that the use of herbicide-tolerant plants could increase herbicide use and that "superweeds" could be developed through cross-pollination between these plants and nearby weedy relatives.

Extensive scientific evaluation worldwide has produced no evidence to support these claims. Far from causing environmental and health problems, agricultural biotechnology has tremendous potential to reduce the environmental impact of farming, provide better nutrition, and help feed a rapidly growing world population. Crops designed to resist pests and to tolerate herbicides and environmental stresses, such as freezing temperatures, drought, and high salinity, will make agricultural more efficient and sustainable by reducing synthetic chemical inputs and promoting no-tillage agricultural practices. Stress-tolerant crops also will reduce pressure on irreplaceable natural resources like rainforests by opening up presently nonarable lands to agriculture. Other plants are being developed that will produce renewable industrial products, such as lubricating oils and biodegradable plastics, and perform bioremediation of contaminated soils.

Biotechnology will be a key element in the fight against malnutrition worldwide. Deficiencies of vitamin A and iron, for example, are very serious health issues in many regions of the developing world, causing childhood blindness and maternal anemia in millions of people who rely on rice as a dietary staple. Biotechnology has been used to produce a new strain of rice—Golden Rice—that contains both vitamin A (by providing its precursor, beta-carotene) and iron. The Subcommittee heard about other research aimed at improving the nutrition of a wide variety of food staples, such as cassava, corn, rice, and other cereal grains, that can be a significant help in the fight for food security in many developing countries.

The merging of medical and agricultural biotechnology has opened up new ways to develop plant varieties with characteristics to enhance health. Advanced understanding of how natural plant substances, known as phytochemicals, confer protection against cancer and other diseases is being used to enhance the level of these substances in the food supply. Work is underway that will deliver medicines and edible vaccines through common foods that could be used to immunize individuals against a wide variety of enteric and other infectious diseases. These developments will have far-reaching implications for improving human health worldwide, potentially saving millions of lives in the poorest areas of the world by providing a simpler medicine production and distribution system.

Set against these benefits, however, is the idea that transferring a gene from one organism to an unrelated organism using recombinant DNA techniques inherently entails greater risks than traditional cross breeding. The weight of the scientific evidence leads to the conclusion that there is nothing to substantiate scientifically the view that the products of agricultural biotechnology are inherently different or more risky than similar products of conventional breeding.

The overwhelming view of the scientific community—including the National Academy of Sciences, the National Research Council, many professional scientific societies, the Organization for Economic Cooperation and Development, the World Health Organization, and the research scientists who appeared before the subcommittee—is that risk assessment should focus on the characteristics of the plant and the environment into which it is to be introduced, not on the method of genetic manipulation and the source of the genetic material transferred. These risk factors apply equally to traditionally-bred plants.

Years of research and experience demonstrate that plant varieties produced using biotechnology, and the foods derived from them, are just as safe as similar varieties produced using classical plant breeding, and they may even be safer. Because more is known about the changes being made and because common crop varieties with which we have a broad range of experience are being modified, plants breeders can answer questions about safety that cannot be answered for the products of classical breeding techniques.

FDA has adopted a risk-based regulatory approach consistent with these principles and with the long history of safe use of genetically-modified plants and the foods derived from them. Its policies on voluntary consultation and labeling are consistent with the scientific consensus and provide essential public health protection.

Unlike FDA regulations on food, USDA has instituted plant pest regulations, and EPA proposes to institute new plant pesticide regulations, that target selectively plants produced using biotechnology and apply substantive regulatory requirements to early stages of plant research and development. These regulations add greatly to the cost of developing new biotech plant varieties, harming both an emerging industry and the largely publicly-funded research base upon which it depends. Regulations and regulatory proposals that selectively capture the products of biotechnology should be modified to reflect the scientific consensus that the source of the gene and the methods used to transfer it are poor indicators of risk.

In the international area, the United States should work to ensure that access to existing markets for agricultural products are maintained. The United States should not accept any international agreements that endorse the precautionary principle—which asserts that governments may make political decisions to restrict a product even in the absence of scientific evidence that a risk exists—and that depart from the principle of substantial equivalence adopted by a number of international bodies.

Finally, the administration, industry, and scientific community have a responsibility to educate the public and improve the availability of information on the long record of safe use of agricultural biotechnology products. This is critically important to building consumer confidence and ensuring that sound science is used to make regulatory decisions.

Mr. CAMP. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. THOMAS), chairman of the Committee on Ways and Means.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) is recognized for 1½ minutes.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding time to me.

When I first came to this Congress, I was assigned to the Committee on Agriculture. It makes all kinds of sense. The district I represent in California produces about $4 billion value-added from agriculture. I have been dealing with this issue for more than a quarter of a century.

What we just heard was a total fabrication of reality. We have heard about the green revolution, the attempt to feed more people in the world. In the old days, they used to take a plant, put a slit in it, and graft another portion of the plant onto it. That was science in those days.

There is fundamentally no difference to what we now call biotechnology than understanding the way the world works, and through science improving our ability to produce food to feed people. Everything else is politics. Somehow, large corporations get involved, the desire to sell something to Africa that Africa does not want.

I was in Africa 3 months ago. They pleaded with us to help them solve their problem. The problem is the Luddites in the world today who do not want to recognize science. Anybody who assists the Europeans in their unscientific opposition to wanting to do better with the amount we have is simply attempting to wreak havoc.

Vote for science. Vote yes.

Mr. HASTERT. Mr. Speaker, I rise in strong support of this resolution supporting the Administration's efforts in challenging the European Union's five-year moratorium on biotech products. As an original cosponsor, I congratulate President Bush and Ambassador Zoellick for putting American farmers and sound science first by challenging this illegal trade ban on genetically modified foods before the WTO.

Over the last few years, we have seen country after country implementing protectionist trade policies, like the EU moratorium, under the cloak of food safety—each one brought on by emotion, culture, or their own poor history with food safety regulation.

Simply put, non-tariff protectionism is detrimental to the free movement of goods and services across borders. We all know that free trade benefits all countries. However, free trade will be rendered meaningless if it is short-circuited by non-tariff barriers that are based on fear and conjecture—not science.

As the Representative of the 14th District in Illinois, my district currently covers portions of eight countries, including four of the top 25 corn-producing counties, and three of the top 50 soybean-producing counties in the nation. The State of Illinois is the second-largest producing state of both corn and soybeans in the country. Forty percent of this production currently goes to exports, valued at approximately $2.7 billion per year.

U.S. agriculture ranks among the top U.S. industries in export sales. In fact, the industry generated a $12 billion trade surplus in 2001, helping mitigate the growing merchandise trade deficit. It is important to realize that 34 percent of all corn acres and 75 percent of all soybean acres are genetically modified.

And what exactly are we talking about when we say "genetically modified?" The EU would have you believe this is a new and special type of food, questionable for human consumption. In fact, since the dawn of time, farmers have been modifying plants to improve yields and create new varieties resistant to pests and diseases. Why would we want to snuff out human ingenuity that benefits farmers and consumers alike?

The European Union has had an indefensible moratorium on genetically-modified products in place for five years with no end in sight. This is a non-tariff barrier based simply on prejudice and misinformation, not sound science. In fact, their own scientists agree that genetically modified foods are safe. Still, regardless of the overwhelming evidence to the contrary, bans on genetically modified products continue to persist and multiply—the worldwide impact has been staggering.

The current EU moratorium on genetically-modified products has translated into an annual loss of over $300 million in corn exports for U.S. farmers. More disturbing is the recent trend in Africa, where several nations have rejected U.S. food aid because the shipments contained biotech corn. This based solely on the fear that EU countries will not accept their food exports if genetically modified seeds spread to domestic crops.

These actions by our trading partners have consequences. U.S. farmers are already beginning to plant more non-biotech seeds. This trend will increase farmers' cost of production as well as increase the damage from harmful insects. In fact, the U.S. Environmental Protection Agency has recently approved a corn technology that will allow the commercialization of the first corn designed to control rootworm—a pest that costs U.S. farmers approximately $1 billion in lost revenue per year. It is absurd to think that farmers would not be able to take advantage of this technology.

Clearly, the long-term impact of these policies could be disastrous for U.S. farmers in terms of competitiveness and the ability to provide food for the world's population. Addressing world hunger is particularly critical when approximately 800 million people are malnourished in the developing world, and another 100 million go hungry each day. Biotechnology is the answer to this pressing problem. Farmers can produce better yields through drought-tolerant varieties, which are rich in nutrients and more resistant to insects and weeds, while those in need reap the benefits.

As you can see, halting or even slowing down the development of this technology could have dire consequences for countries where populations are growing rapidly and all arable land is already under cultivation. Official WTO action will send a clear and convincing message to the world that prohibitive policies on biotechnology which are not based on sound science are illegal.

Hopefully, the WTO will act quickly to resolve the Administration's case on behalf of American farmers. There's no doubt that the U.S. and American agriculture go into this battle with the facts on our side. We simply cannot allow the free trade of our agriculture products to be restricted by this unfair and unjust moratorium. After all, the price of inaction is one we can no longer afford to pay.

Mr. PAUL. Mr. Speaker, I rise in opposition to this measure not because I wish to either support or oppose genetically-modified products. Clearly the production and consumption of these products is a matter for producers and consumers to decide for themselves.

I oppose this bill because at its core it is government intervention—both in our own markets and in the affairs of foreign independent nations. Whether European governments decide to purchase American products should not be a matter for the U.S. Congress to decide. It is a matter for European governments and the citizens of European Union member countries. While it may be true that the European Union acts irrationally in blocking the import of genetically-modified products, the matter is one for European citizens to decide.

Also, this legislation praises U.S. efforts to use the World Trade Organization to force open European markets to genetically-modified products. The WTO is an unelected world bureaucracy seeking to undermine the sovereignty of nations and peoples. It has nothing to do with free trade and everything to do with government- and bureaucrat-managed trade. Just as it is unacceptable when the WTO demands—at the behest of foreign governments—that the United States government raise taxes and otherwise alter the practices of American private enterprise, it is likewise unacceptable when the WTO makes such demands to others on behalf of the United States. This is not free trade.

Genetically-modified agriculture products may well be the wave of the future. They may provide food for the world's populations and contribute to the eradication of disease. That is something we certainly hope for and for which we will all applaud should it prove to be the case. But, again, this legislation is not about that. That is why I must oppose this bill.

Mr. KIND. Mr. Speaker, I rise in qualified support of this measure.

I am a proponent of genetically modified (GM) food, and firmly believe that its continued implementation and use provides a number of important benefits for the American farmer and worldwide consumers. Furthermore, I believe we are legally correct and justified in asking the World Trade Organization (WTO) to impose penalties on the EU for maintaining a moratorium on import permits for genetically modified crops in violation of its rules.

However, I fear that our government's efforts will have the unintended consequence of wreaking havoc on the current WTO trade discussions. As we all know, the U.S. farmer would benefit much more if, in the current Doha Round of the WTO, the EU nations agreed to slash the generous agriculture subsidy assistance they provide their farmers.

According to a recent Organization for Economic Cooperation and Development (OECD), an international organization that seeks to help governments tackle the economic, social, and governance challenges of a globalized economy, in 2002, the EU provided $112.6 billion in agricultural subsidies to their farmers. This amount totals approximately 1.3 percent of the EU GDP. Compare this staggering number with that of the United States, which generously provided in 2002 $90.3 billion (0.9 percent of our GDP) to farmers in the form of agricultural subsidies, and you can easily see why reform of domestic agricultural policy and worldwide agricultural trade liberalization is much needed.

In addition to fighting this important fight on GM foods today, the Administration and Congress need to hold the Europeans' feet to the fire on reforming their domestic agriculture policy and making their country more open to imported goods. The Doha Round was devised to accomplish these two objectives.

Moreover, the U.S.'s policy on GM foods must not just single out Europe. In an article, which appeared in yesterday's The Wall Street Journal, many U.S. soybean traders are accusing the Chinese of impeding soybean imports due to the failure of various inspection permits. The article continues by stating, "China last week announced it will extend to April 20, 2004, strict regulations on crops containing genetically modified organisms that had been set to expire September 20th."

Thus, the question that needs to be asked—Is China moving toward closing its borders in perpetuity on import permits for genetically modified crops? Will the U.S. government file a similar petition against the Chinese government? If so, when? If not, why not? After all, under commitments China made when it became a member of the WTO in December 2001, it must open its market to agricultural products.

Mr. Speaker, I will support this resolution and encourage my colleagues to do likewise—but I suggest more substantive work be done to reform domestic agricultural policy and worldwide agricultural trade liberalization policies that currently stand in the way of sustainability and prosperity of our farmers.

Mr. NUSSLE. Mr. Speaker, I rise in support of House Resolution 252. This important resolution expresses the House of Representatives' supports for American efforts within the World Trade Organization (WTO) to end the European Union's unfair trade practices regarding agriculture biotechnology. These trade practices are protectionist and discriminatory, and have been in place the past five years.

In 2001, the United States and other industrialized countries produced almost 109 million acres of genetically modified foods. These foods are modified, safely, to reduce the application of pesticides, reduce soil erosion and create an environment more hospitable to wildlife. These foods are resilient and can grow in areas often inhospitable to agriculture. Genetically modified foods hold great promise in alleviating hunger in developing areas of the world.

The European Union, acting without scientific basis, enacted a moratorium on genetically modified foods in October 1998. Since then, this moratorium has blocked more than $300 million annually in American corn exports to countries in the European Union. This action has had a damaging effect on agricultural exports from the United States, particularly from Iowa.

Allow me to describe the devastating effect this action has had on many developing countries in Africa. Earlier this year, I traveled to several nations in sub-Saharan Africa. I met people trying to help themselves with their own hard work, and through the humanitarian efforts of the United States and other nations. Far too many people in Africa depend on food from other countries, and far too many are starving. Genetically modified food could withstand the intolerant climate and harsh growing landscapes common in the area. But because of fear about future exports to Europe, these African nations have held back from a wonderful opportunity to promote agriculture in their own nations. Just last year, humanitarian food aid sent to Africa from the United States was rejected. Mr. Speaker, this is wrong.

Iowa is America's second-largest agriculture exporter, sending $3.2 billion worth of commodities and value-added products overseas. There is much promise in using biotechnology to change to the face of agriculture. Biotechnology is now being researched to create custom-made pharmaceuticals and renewable ingredients for industrial use. The cities of Waterloo and Davenport in my district are working to make value-added agriculture the driving force of their economic growth. They are making significant investments to reach this end. It is clear that continued research and production is needed to make these investments pay off for these communities and the rest of the Midwest.

Mr. Speaker, we took a tremendous step forward by granting the President trade promotion authority. As the U.S. begins to negotiate trade agreements with this authority, it is critical we demonstrate that protectionist and discriminatory practices, like those used by the EU, will not be tolerated. the U.S. must now take further action within the WTO. I applaud the President and the U.S. Trade Representative's interest in taking action on this critical issue now. Accordingly, I urge passage of this resolution supporting Administration efforts through the WTO.

Mr. BLUMENAUER. Mr. Speaker, I cautiously approach my colleagues' zealous concern about the European Union's long-standing moratorium on agriculture and biotech products. The World Trade Organization agreement does recognize that countries are entitled to regulate crops and food products to protect health and the environment. However, WTO members must have sufficient evidence for their regulations and must operate approval procedures without "undue delay." The EU's current moratorium lacks sufficient justification and at 5 years has reached a point of undue delay.

At the same time, consumers have a right to know what they are eating and the food industry should remain transparent and accountable. I fully support labeling and a comprehensive paper trail that would ensure that consumers are aware when they are purchasing genetically modified ingredients.

I am more cautious than the Bush administration on this issue, but also feel the European Union's moratorium is extreme. I support this resolution in the spirit of fair trade, but urge my colleagues and the administration to not interfere with consumer awareness to be gained by labeling and industry transparency.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Michigan (Mr. CAMP) that the House suspend the rules and agree to the resolution, House Resolution 252, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CAMP. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING SCIENTIFIC SIGNIFICANCE OF SEQUENCING OF HUMAN GENOME AND EXPRESSING SUPPORT FOR GOALS AND IDEALS OF HUMAN GENOME MONTH AND DNA DAY

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 110) recognizing the sequencing of the human genome as one of the most significant scientific accomplishments of the past 100 years and expressing support for the goals and ideals of Human Genome Month and DNA Day.

The Clerk read as follows:

H. CON. RES. 110

Whereas April 25, 2003, will be the 50th anniversary of the publication of the description of the double-helix structure of deoxyribonucleic acid (DNA) in Nature magazine by James D. Watson and Francis H.C. Crick, which is considered by many scientists to be one of the most significant scientific discoveries of the twentieth century;

Whereas their discovery launched a field of inquiry that explained how DNA carries biological information in the genetic code and how this information is duplicated and passed from generation to generation, forming the stream of life that connects us all to our ancestors and to our descendants;

Whereas this field of inquiry in turn was crucial to the founding and continued growth of the field of biotechnology, which has led to historic scientific and economic advances for the world, advances in which the people of the United States have played a leading role and from which they have realized significant benefits;

Whereas, in April 2003, the international Human Genome Project will achieve essential completion of the finished reference sequence of the human genome, which carries all the biological information needed to construct the human form;

Whereas the Human Genome Project will be completed ahead of schedule and under budget;

Whereas all data from the Human Genome Project is provided free of charge to the public as soon as it is available;

Whereas the sequencing of the human genome has already fostered biomedical research discoveries that have led to improvements in human health;

Whereas the Human Genome Project has provided an exemplary model for social responsibility in scientific research, by devoting significant resources to studying the ethical, legal, and social implications of the project;

Whereas, in April 2003, the National Human Genome Research Institute of the National Institutes of Health will publish a new plan for genomic research;

Whereas this new plan will establish priorities for the future of genomic research, predict future developments in understanding heredity, and serve as a guide in applying this knowledge to improve human health; and

Whereas the National Human Genome Research Institute has designated April 2003 as "Human Genome Month" in celebration of the completion of the sequencing of the human genome and April 25, 2003, as "DNA Day" in celebration of the 50th anniversary of the publication of the description of the structure of DNA on April 25, 1953: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the sequencing of the human genome as one of the most significant scientific accomplishments of the past one hundred years;

(2) honors the 50th anniversary of the outstanding accomplishment of describing the structure of DNA, the essential completion of the sequencing of the human genome in April 2003, and the development a plan for the future of genomics;

(3) supports the goals and ideals of Human Genome Month and DNA Day; and

(4) encourages schools, museums, cultural organizations, and other educational institutions in the United States to recognize Human Genome Month and DNA Day with appropriate programs and activities centered on human genomics, using information and materials provided through the National Human Genome Research Institute and other sources.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House concurrent resolution 110.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 110, a concurrent resolution recognizing the sequencing of the human genome as one of the most significant scientific accomplishments of the past 100 years and expressing support for the goals and ideals of Human Genome Month and DNA Day.

This legislation, introduced by our colleague, the gentlewoman from New York (Ms. SLAUGHTER), was unanimously approved by the Committee on Energy and Commerce on April 30 of this year.

□ 1345

April 2003 marked the 50th anniversary of a momentous achievement in biology: James Watson and Francis Crick's Nobel Prize-winning description of the double helix structure of DNA. In addition, this past April we celebrated the culmination one of the most important scientific projects in history, the sequencing of the human genome.

The science and technology of genomics have become the foundation of research and biotechnology for the 21st century. In addition, health care has undergone phenomenal changes, driven in part by the Human Genome Project and accompanying advances in human genetics. While these advances will certainly present a myriad of challenges for policymakers, I feel confident that this information will truly revolutionize the practice of medicine and greatly improve our quality of life.

Mr. Speaker, I urge Members to support passage of H. Con. Res. 110.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend, the gentleman from Florida (Mr. BILIRAKIS) for his good work and bipartisanship and thank my colleague, the gentlewoman from New York (Ms. SLAUGHTER) for authoring H. Con. Res. 110.

I rise in support of this resolution and recognize its two major advancements in public health: The 50th anniversary of the discovery of the double helix structure of DNA and the completion recently of the Human Genome Project.

Fifty years ago, Dr. James Watson and Dr. Francis Crick published a structure of DNA. It is likely that neither of these scientists fully understood the enormous impact that their discovery would have on our Nation's public health, from historic advances to disease diagnosis to life-saving medicine to reform of our everyday vocabulary. Their scientific discovery laid the groundwork for another milestone of the evolution of science: that is, the completion of the Human Genome Project ahead of schedule and under budget.

While the investment in this project was modest in some ways by U.S. standards, the return promises to be extraordinary. Doctors will have tools to assess diseases in terms of their causes, not just their symptoms. An entire genome of an organism can be known in a matter of weeks or months, not years or decades. Scientists will begin to know why some people and not others get sick from certain infections or environmental exposures.

We can only begin to imagine what this means for health care delivery. Clearly, being asked by your family doctor about your family history will take on a whole new meaning. The Human Genome Project will strengthen the roots of innovation, foster tomorrow's breakthrough discoveries: discoveries like that of Dr. Watson and Dr. Crick which offer every person the opportunity of a longer, healthier life.

With genetics and the burgeoning fields of genomics, we have truly moved into a new era. Already friends and loved ones benefit from what we have learned about genetic links to diabetes, Alzheimer's disease, breast and ovarian cancer, colorectal cancer, cystic fibrosis, and Huntington's disease and others. We should not overlook the impact this investment has on the public health infrastructure as a whole. When we invest in research, we are also investing in education.

The NIH reports that Ph.D. faculty at U.S. med schools has increased by double digits as a result of the Federal investment in research. These discoveries raise important policy issues, to be sure, like the importance of strong genetic nondiscrimination policies.

My colleague, the gentlewoman from New York (Ms. SLAUGHTER), the sponsor of this resolution, has introduced legislation to address the potential abuse of genetic information by insurers and by employers. That is a real issue. That is one we absolutely in this body have a duty to address.

Genomics offers exciting opportunities to strengthen our public health system and can take us into a new era of health and health care. I am pleased to be a sponsor of the Slaughter resolution and I urge my colleagues to join me in applauding the legion of talented scientists who significantly contributed to these achievements.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I thank my distinguished chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. Speaker, I rise in support of H. Con. Res. 110, a resolution commending the completion of the sequencing of the human genome and the 50th anniversary of the description of the double helix which makes up the DNA.

As past chairman of the Task Force on Health Care and Genetic Privacy, I think we need to commend the folks at NIH for their outpouring of work. As someone who studied science myself as a former electrical engineer, I stand in awe of the frontier that we are starting to move into with genetics.

As many of us know, genetics is the study of single genes and their effects on human health. Genomics is a relatively new field of scientific research that includes not only the study of single genes but also the functions and interaction of all genes that comprise a genome.

The human genome is a collection of about 35,000 genes that give rise to life. Each gene is made up of a series of base pairs, tiny DNA units denoted by A, C, T, and G. There are about 3.12 billion of these genetic letters. Spanning nearly two decades, the Human Genome Project is the international research effort to determine the sequencing of all these genetic letters or, as we like to call it, a genetic blueprint for humans.

Congress invested significant tax dollars, primarily at the National Institutes of Health, just to advance this project. And we did so here in Congress, because the human genome findings will pave the way for what we hope will be a breakthrough of information on the new ways to prevent and, of course, cure diseases.

I think we are just beginning to see the results of this investment. Just as scientists have decoded the genetic map that defines us as human beings, we will now need to decipher how well the Federal bureaucracy is working to advance this promising area of genomics research.

Genomics research transcends every institute and center at NIH. It has implications for how we study every disease. Two short weeks ago, the Committee on Energy and Commerce held a hearing to learn more about genomics research. At that time, members had the opportunity to hear from the leading scientists in the world about this research. We also learned that we are right on track with a new project underway to ensure that our investments at the National Institutes of Health are fully maximized.

As the authorizing committee at NIH, the Committee on Energy and Commerce is conducting an extensive review to determine how well NIH is advancing medical research. All of us have been touched by someone afflicted with a disease.

In my district of Jacksonville, Florida, a collaborative NIH study between the Mayo Clinic and Shands Hospital is leading the charge for screening for the gene that leads to strokes.

Just last year, NIH began its first phase of a clinical trial on a drug compound that has shown promise in addressing the most life-threatening symptoms of ataxia, a heart condition. Because of these answers in sequencing of the human genome, more progress has been made in understanding the underlying mechanism of this disorder than in the previous 133 years.

Research advances like this mean something real to patients. It is the hope that they are looking for when they need all the courage they can muster to fight a debilitating disease. So today we pay tribute to a major scientific achievement. Let us keep working to speed forward more achievements like this to bring hope to all patients that are suffering from diseases throughout the world.

It is our responsibility to ensure that NIH is held accountable on behalf of our patients. It is our responsibility to remove barriers that unnecessarily delay the incredible progress we are making in improving human health.

We were just beginning. So I encourage all of my colleagues to assist our effort in this great task. I encourage my colleagues to vote for H. Con. Res. 110. It is altogether appropriate for us to pay tribute today to the outstanding accomplishments of our Nation's scientists in this groundbreaking achievement of sequencing the human genome. These same scientists will lead the way with an even bigger project: determining how to translate the outline of the human genome into real public health solutions.

Mr. BROWN of Ohio. Mr. Speaker I yield 4 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise this afternoon also in support of H. Con. Res. 110 and to recognize what is perhaps the greatest scientific endeavor of the 21st century, the Human Genome Project, which will forever change the way medicine is practiced and research is conducted. Moreover, it has important implications for how we look at and define each other.

The practical consequences of the emergence of this new field are widely apparent. Identification of the genes responsible for certain human diseases, once a staggering task requiring large research teams and many years of hard work and an uncertain outcome, can now be routinely accomplished in a few weeks.

This discovery also holds out new hope for wellness for African Americans and other minority populations. Sickle cell disease was the first genetics disease to be identified but needs more effort and resources devoted towards a cure.

I want to take this opportunity to applaud Howard University's College of Medicine who, just a few weeks ago, announced a partnership with First Genetic Trust, Inc., to develop the first-ever massive data bank of DNA of individuals of African descent. Called the Genomic Research in the African Diaspora Biobank or GRAD Biobank, the data will advance the study of genetic and biological bases for differential disease risk, progression, and drug response.

But beyond deciphering what the human genome will do for science, it gives us new understanding of the molecular processes underlying disease and disease susceptibility, and it opens heretofore unknown doors that take us beyond treatment to the correction of the origins of disease. This discovery can also be a defining moment in human history for other reasons.

As Dr. Georgia Dunston, the Director of the National Human Genome Center at Howard University, pointed out at our health braintrust meeting a few years ago, this monumental discovery also challenges the current paradigm of race and ethnicity and all that follows from those concepts, because in her words, "The most salient feature of human identity at the sequence level is variation. Human genome sequence variation dispels the myth of a majority."

Anthropologists, Dr. Dunston told us, have estimated that less than 1 percent of the total gene pool code for the phenotypic characteristics, such as eye, hair and skin color, is what is used to classify human populations, in other words, to divide us.

Whether or not African American or Hispanic American, Anglo or White American, Native American, Asian/Pacific Islander or Alaskan Native, it turns out that we are 99 percent alike.

So as we celebrate Human Genome Month and DNA Day, in addition to focusing on what this discovery will do to ensure that all populations are knowledgable about the science underpinning the HGP and have the opportunity to participate in various ways, such as becoming research scientists, research participants and policymakers, it is also important for everyone to be informed about the Human Genome Project and understand the ethical, legal, and social implications resulting from genetics and genomics research.

Through our continued efforts to educate ourselves, to reach out to our communities, and to communicate our fears, needs, and responsibilities, we as government policymakers have the best opportunity to have genetics and science improve the quality of life for all Americans and make this a better country.

Mr. BILIRAKIS. Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me join in with the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) for their wisdom in bringing this legislation to the floor, and certainly to the gentlewoman from New York (Ms. SLAUGHTER) who I enthusiastically join, along with the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) on this important legislative initiative.

H. Con. Res. 110 is a resolution that helps to educate our colleagues but also it speaks truth to the American people. As a member of the House Committee on Science, we spent many, many hours on the question of the human genome and the Human Genome Project in particular. Recognizing the sequencing of the human genome as one of the most significant scientific accomplishments of the past 100 years and expressing support of the goals and ideals of the Human Genome Month and DNA Day really is a statement about life.

□ 1400

It is a statement about the ability of the new science to be able, Mr. Speaker, to create life where there is none, to create better improved health where that was not a possibility 10, 15 or 50 years ago.

It is crucial as the human genome project achieves its essential completion of the finished reference sequence of the human genome that carries all of the biological information needed that we begin to utilize this project; and one of the challenges that we have in this Congress is the whole question of human cloning. It is important not to equate these projects and this research and human genome work and DNA with the idea of the creation of a human being.

It is important now as we have begun or understand the sequence that we allow this project to grow and to be utilized to help us determine the cures for diseases such as Parkinson's, Alzheimer's disease, diabetes, stroke, and, yes, HIV/AIDS. The more we understand about the human being and its makeup, the more we can create a better way of life.

We well know of our renowned fiction character Superman, who is no longer a superman in real life, who is trying time after time with a number of efforts to find the cure for those who suffer spinal injuries, some of the most devastating injuries that we will face. As we look to the wounded who will be coming home from the war in Iraq and Afghanistan, they will be coming home with major injuries, some continuing to be life-threatening. The greater knowledge of our ability to be able to respond to those kinds of devastating injuries, although they are not by disease but by devastating injuries, physical injuries through weapons, the better off we will be. The more we can find a way to determine and fight against the war against bioterrorism, the better off we will be.

This is an excellent resolution, Mr. Speaker, because it educates my colleagues and educates the public.

Mr. BROWN of Ohio. Mr. Speaker, I yield 4½ minutes to the gentlewoman from New York (Ms. SLAUGHTER), sponsor of this resolution who has showed particular interest in the issue of nondiscrimination of genetics.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise in strong support of H. Con. Res. 110, a resolution that I was pleased to author with my colleagues, the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce; and the gentleman from Michigan (Mr. DINGELL), the ranking member.

This resolution recognizes a set of milestones in the history of human scientific endeavors. In April of 1953, two young scientists by the names of James Watson and Francis Crick published an article in the journal "Nature" describing the structure of a molecule known as deoxyribonucleic acid, or DNA. In doing so, they opened the doors to an entirely new field of research that explained the information carrying the genetic code and the way it is duplicated, translated, and activated.

This field of research culminated 2 months ago with the announcement that the next generation of scientists had completed a full map of the human genome. Every one of the 3 billion base pairs in a strand of human DNA has been identified. This singular achievement is the result of more than a decade of concerted planning, international cooperation, and single-minded dedication to the cause. It is a scientific accomplishment of the highest order, emblematic of the advances in human knowledge of which we are capable when we work together across all divisions.

When the human genome project was initiated, the technology to carry it through did not exist. It was invented as the research sped along. Congress, to its credit, considered this endeavor worthy of funding and had faith in our scientists' ability to achieve it. It was, therefore, also a stunning example of the vision and good of which our government is capable.

H. Con. Res. 110 expresses the sense of the U.S. Congress that we recognize these achievements for the historical landmarks that they are. The resolution also lends its support to the designation of April as Human Genome Month and April 25 as DNA Day. Furthermore, it encourages schools, museums, cultural organizations, and other educational organizations to recognize the dates with appropriate programs and activities.

Even though the resolution does not specifically do so, I would be remiss if I did not take this opportunity to commend the individual who has directed the human genome projects since 1993, my good friend, Dr. Francis Collins. Dr. Collins began his career as a brilliant scientist, a pioneer in the field of genetics and discoverer of the gene for cystic fibrosis. He has continue his career, however, as a brilliant administrator, a truly remarkable progression.

Under his leadership, the human genome project has been completed under budget and ahead of schedule. Dr. Collins guided and shaped the initiative for a full decade, bringing it to fruition. Our Nation, and indeed, our world, owe him a debt of gratitude.

I am pleased the leadership has agreed to consider this resolution today, and I urge my colleagues to support it. I would also, however, like to urge the body to take up a far more urgent piece of legislation on the subject of genetics, which is the Genetic Nondiscrimination in Health Insurance and Employment Act.

The resolution before us today recognizes the immense benefit which the mapping of the human genome may have for us. The Genetic Nondiscrimination Act would forestall the darker consequences that could arise through this new technology. We must not allow the potential advances in human health to be stifled because Americans fear that their genetic information may be used against them.

I urge the leadership to take up and pass the Genetic Nondiscrimination in Health Insurance and Employee Act as quickly as possible.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Florida for his good work on this bill, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I appreciate the cooperation of the gentleman from Ohio (Mr. BROWN). He has always been very cooperative. This is an illustration of bipartisanship at work and all the work obviously of the gentlewoman from New York (Ms. SLAUGHTER).

Mr. ISRAEL. Mr. Speaker, every day we wake up and are faced with new discoveries. We read about the depths of space that we can only now see with the Hubble Telescope. We learn about tremendous achievement in nanotechnology, like the printing of a Bible that can fit on a pencil eraser. We have been to the moon and back, landed robots on Mars and cured diseases that have plagued mankind for millennia. Yet, Mr. Speaker, in this litany of great achievements one that stands out above all, is to have learned the very vocabulary of life, to have mapped the entire human genome.

I rise today in support of this resolution and to recognize that the sequencing of the human genome is indeed one of the greatest scientific accomplishments of the past one hundred years, indeed of all of history.

But Mr. Speaker, I rise with special pride because of Long Island's unique contribution in the quest to map the genome. Much of the work to sequence the genome took place at Cold Spring Harbor Lab on Long Island, and in particular, by a brilliant scientist I am privileged to know: Dr. James Watson.

Dr. Watson, along with Francis Crick, discovered the structure of DNA. For this accomplishment they shared the 1962 Nobel Prize in Physiology of Medicine with Maurice Wilkins. Their revolutionary concept was that the DNA molecule takes the shape of a double helix, and elegantly simple structure that resembles a gently twisted ladder.

Mr. Speaker, my children learn about the double helix today in science class. We take it for granted. We watch Law and Order and CSI and hear about DNA testing and we go to the doctor to find out if we have a genetic marker for a specific disease.

Yet we almost never stop to think about this phenomenal breakthrough. It is amazing that in fewer than fifty years we have come so far. We should all be very proud that this achievement occurred here in the United States, a testament to our ongoing strengths, continuing leadership in science and technology.

The human genome provides us with the most basic information of life. What we do with that information is up to us. Dr. Watson and his colleagues have gotten us this far. It is my hope, that through efforts like Human Genome Month and DNA Day, our young people will be inspired to make the great scientific leaps of tomorrow—applying the genetic map to conquering dreaded diseases and improving the quality of life on our planet.

Ms. SLAUGHTER. Mr. Speaker, I rise in strong support of H. Con. Res. 110, a resolution that I was pleased to author with my colleagues, Energy and Commerce Committee Chairman TAUZIN and Ranking Member DINGELL.

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When the Human Genome Project was initiated, the technology to carry it through did not exist. It was invented as the research sped along. Congress, to its credit, considered this endeavor worthy of funding and had faith in our scientists' ability to achieve it. It was, therefore, also a stunning example of the vision and good of which our government is capable.

H. Con. Res. 110 expresses the sense of the U.S. Congress that we recognize these achievements for the historical landmarks they are. The resolution also lends its support to the designation of April as Human Genome Month and April 25 as DNA Day. Furthermore, it encourages schools, museums, cultural organizations, and other educational institutions to recognize these dates with appropriate programs and activities.

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I am pleased that the leadership has agreed to consider this resolution today, and I urge my colleagues to support it. I would also, however, like to urge this body to take up a far more urgent piece of legislation on the subject of genetics: the Genetic Nondiscrimination in Health Insurance and Employment Act. The resolution before us today recognizes the immense benefit which the mapping of the human genome may have for us. The Genetic Nondiscrimination Act would forestall the darker consequences that could arise from this new technology. We must not allow the potential advances in human health to be stifled because Americans fear that their genetic information will be used against them. I urge the leadership to take up and pass the Genetic Nondiscrimination in Health Insurance and Employment Act as quickly as possible.

Mr. BILIRAKIS. Mr. Speaker, I have no further speakers; and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 110.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BROWN of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PATSY TAKEMOTO MINK POST OFFICE BUILDING

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2030) to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the "Patsy Takemoto Mink Post Office Building".

The Clerk read as follows:

H.R. 2030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PATSY TAKEMOTO MINK POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, shall be known and designated as the "Patsy Takemoto Mink Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Patsy Takemoto Mink Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2030.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to be part of the consideration of H.R. 2030, a bill introduced by the distinguished gentleman from Hawaii (Mr. CASE), that designates the postal facility in Paia, Maui, Hawaii, as the Patsy Takemoto Mink Post Office Building.

Mr. Speaker, Congresswoman Patsy Mink was a devoted public servant and a friend to all who served here in the House. She was a passionate representative for her Hawaiian constituents for 26 years, despite having to make the 10-hour flight home almost every weekend. For that alone, she deserves commendation.

Congresswoman Mink was a particular advocate of health, education, and civil rights issues during her tenure in the House; but her career was perhaps best known for her tireless work for gender equality. Congresswoman Mink authored the Women's Education Equity Act, and she was a coauthor of the original title IX legislation. She was an esteemed member of the Committee on Government Reform, the committee that just last month passed by voice vote this bill that honors her. I am pleased that this bill has now come up for consideration by the whole House.

Congresswoman Patsy Mink sadly passed away last September 28 during her 13th congressional term. Patsy Mink won her first election to the House in 1964 and only two current Members of this body were first elected earlier. A long congressional career never took the spring out of her exuberant step or the warmth from her caring heart; and even after her passing, her remarkable service in this House for the people of Hawaii and this entire Nation will certainly never be forgotten.

Mr. Speaker, I urge all Members to support the passage of H.R. 2030 that honors the life and career of Congresswoman Patsy Mink. I congratulate my colleague, the gentleman from Hawaii, for introducing this meaningful and important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN), in consideration of H.R. 2030, which names a postal facility after the late Congresswoman Patsy Mink.

H.R. 2030, which was introduced by the gentleman from Hawaii (Mr. CASE) on May 8, 2003, has met the committee policy and has been cosponsored by more than just the State delegation. The bill currently lists 115 cosponsors, truly a testament to the accomplishments of our late colleague, the Honorable Patsy Mink, who sadly passed away on September 28, 2002.

Congresswoman Mink was first elected to Congress in 1964 and served until 1976. She took a 14-year hiatus from national politics and returned to her congressional seat in 1990, where she remained unto her death in 2002.

Congresswoman Mink served on the Committee on Government Reform for a year in 1991 before being assigned to the House Committee on the Budget. She returned to our committee in 1999 where she served until her death last year. As a distinguished member of the Committee on Government Reform, Congresswoman Mink was committed to writing important legislation, such as the bill that would increase the mandatory retirement age of law enforcement officials.

As a member of the House Committee on Education and the Workforce, Congresswoman Mink fought hard for the rights of women and children. She cosponsored title IX, the Early Childhood Education Act and the Women's Educational Equity Act.

During her last few years in Congress, Congresswoman Mink continued to work on such important issues as immigration, Social Security, and health care. Throughout her brilliant career, the Congresswoman provided the strong voice to those who needed one. Her accomplishments will continue to benefit Americans for generations to come. It is only fitting that we share our gratitude by honoring her in this manner.

I would also urge my colleagues to remember our late colleague as a fighter for children and the working class. I note she would have joined us in our push to bring the child tax credit bill to the floor.

Mr. Speaker, I would like to commend my colleague, the gentleman from Hawaii (Mr. CASE), for honoring Patsy Mink with the postal designation. I would also like to thank the gentleman from Virginia (Mr. TOM DAVIS), the chairman, and the gentleman from California (Mr. WAXMAN), the ranking member, for moving this bill to the House floor and Anne Stewart of the gentleman from Hawaii's (Mr. CASE) staff for her hard work.

I urge swift passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further speakers at this moment. Therefore, I will reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii (Mr. CASE), the author of this legislation.

Mr. CASE. Mr. Speaker, I thank both of my colleagues for their very fine comments.

Mr. Speaker, just 9 months ago, in the middle of her campaign for a 13th House term, a campaign which she most certainly would have won resoundingly and, in fact, did win posthumously, the late United States Representative Patsy Takemoto Mink was tragically lost to her beloved Hawaii, this Congress, our country, and our world.

The days, weeks, and months that followed witnessed a massive outpouring of first shock and disbelief, then sorrow and regret and, finally, remembrance and gratitude for this singular life.

As just a few representative examples, we had a deeply moving memorial service in the U.S. Capitol here as well as in the Hawaii State capitol back in Hawaii attended by many of our colleagues here.

This House published a beautiful memorial volume that memorialized the many eulogies given to Mrs. Mink on this floor and a volume for which I want to relay the deep gratitude of the Mink family, husband John, daughter Wendy, brother Eugene.

The students at the University of Hawaii Law School Richardson School of Law, on their own initiative, created and funded the Patsy Mink Memorial Fellowship for the purpose of providing an internship here in the U.S. Congress each year to a person in Mrs. Mink's liking.

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I am very proud to say the first Mink fellow, Van Luong, joined my office last week, and she reminds me a lot of Mrs. Mink.

There also were and continue to be a multitude of testimonials on her lasting legislative accomplishments, and I want to leave to the colleagues that come after me to document those one more time because they know better than I do what she accomplished here.

But maybe what struck me the most, when I went out to campaign to take over the representation that she had so well provided to the Second Congressional District in what is still to this day referred to as Patsy Mink's seat, the testimonies from the ordinary people, the people that she touched during her life, the people that she represented, like the longtime friend in Lihue who was sick and who Patsy visited in the hospital just 2 days before she went into the hospital herself; like the taro farmers in Kipahulu on Maui, they wanted to show her their lo'i, and the only way for her to do that was to put on boots and walk out there in a very remote part of our district, and she did that. And the pig hunter in Waimen on the Big Island; he had an issue, and the only way to show her what that issue was was to take her into the forest where he lived. She went.

These testimonials are the testimonies that really count, but they can really only give testament to the fact that her remembrances are her best legacy. But it is entirely appropriate that we honor her with a more tangible reminder that will serve as a constant physical remembrance of her and cause us to reflect on what she stood for.

So as I talked about this with John Mink after my election, he relayed his wish, later endorsed by others such as the Maui County Council, that the U.S. Post Office at Paia be renamed the Patsy Takemoto Mink Post Office. I want to tell Members about Paia very briefly. Paia is on the north shore of Maui on the slopes of Haleakala. Near Paia, only about a mile away, is a town called Hamakuapoko. It used to be a thriving plantation village. It is not quite that anymore, a time when sugar and pine were prevalent, and this is where Patsy Takemoto Mink was born in 1927 and was raised in all of the good and not so good of Hawaii in the 1930s and the 1940s, the community where the old Maui High School is located where Mrs. Mink's political career began when she ran successfully for student body president, the first woman to accomplish that position, the first of many firsts along those lines.

In short, this is where she came from, where her values were forged, where her spirit was lit, and it represents the people's traditions and beliefs that she never forgot. This is a fitting memorial for Patsy Takemoto Mink, and I urge my colleagues' full support, and I thank them for further consideration of a great Hawaiian and a great American.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I am proud cosponsor of this legislation here today, a bill to commemorate the remarkable life and tremendous achievements of a woman who served with great distinction in the House of Representatives. To Patsy's friends, to her husband John, her daughter Wendy, and her brother Eugene, I offer my condolences as we remember her today.

Over the past few months, we have all missed the presence of her in our lives, and we know if she was still with us today, Patsy would be fighting for the rights of women and girls through Title 9, and fighting to see that this country lives up to its responsibilities to provide economic opportunity for all Americans, and she would be promoting democratic values and human rights and international cooperation abroad in Iraq and throughout the world.

She leaves a powerful legacy, and I will leave it to others to go on, item by item, but we know she broke down many, many barriers, first for herself and then for others. She left a legacy for millions of working families that she helped lift out of poverty with education and job training programs, ranging from the war on poverty to welfare reform. And she helped a whole generation of female student athletes for whom she drafted and implemented title IX.

I was proud to serve with Patsy on both the Committee on Education and the Workforce and on the Committee on Government Reform where she gave voice to the voiceless every day that she served. Patsy provided vision, courage and leadership, speaking out on all of the vital issues of the day and inspiring those of us who served with her with her fiery oration and a mastery of education, economic, and labor issues.

Mr. Speaker, she mixed her persuasive powers with the chocolate macadamia nuts that she used to pass out to all. Her memory will long remain here and in Hawaii for another generation of young women and Americans for the work she did.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in support of H.R. 2030, the legislation to designate a Post Office in Hawaii for Patsy Mink. I know I am not alone in support of honoring our dear friend and former colleague, Congresswoman Patsy Mink.

Mr. Speaker, Patsy Mink fought tirelessly during her career for improved education. Ms. Mink's coalition-building ability for progressive legislation continued during her tenure in Congress. She introduced the first comprehensive Early Childhood Education Act and authored the Women's Educational Equity Act. Patsy was knowledgeable and courageous and she was committed to people. I am certainly proud to have had the opportunity to serve with her and learn from her example. I miss her, and the people of Hawaii miss her, and her colleagues fondly remember her commitment and devotion to public service.

Mr. Speaker, I rise in support of H.R. 2030, legislation to designate a post office in Hawaii as the Pasty Mink Post Office Building. I know I am not alone in support of honoring our dear friend and former colleague, Congresswoman Patsy Mink.

Throughout her career, Patsy Mink was a trailblazer among Asian-American women. Born in Maui in December of 1928, she was encouraged to excel in the world of academia. Her life was a continuous breaking down of barriers: the first woman to be elected to the Territorial House, the first Asian-American woman to practice law in Hawaii, and the first woman of color elected to Congress.

Mr. Speaker, there was no hurdle our dear friend Patsy could not overcome. After obtaining her law degree from the University of Chicago in 1951, she decided to open her own law practice when no one was willing to hire her. During this time, getting a job in the legal field for women was very difficult. She seamlessly combined her work, marriage, and life as a new mother.

In 1965, Patsy Mink was elected to Congress and began the first of six consecutive terms in the House of Representatives.

Mr. Speaker, Patsy fought tirelessly during her career for improved education. Mink's coalition-building ability for progressive legislation continued during her tenure in Congress. She introduced the first comprehensive Early Childhood Education Act and authored the Women's Educational Equity Act.

Patsy Mink was a trailblazer and fighter for her constituents in Hawaii, as well as the rest of the nation. She was a solid supporter of the Congressional Black Caucus and for that I am grateful. As a disciplined and focused advocate for the voiceless, she will be forever etched in our hearts and commitment to this body.

Patsy was a knowledgeable, courageous women—committed to people. I am certainly proud to have had the opportunity to serve with her and learn from her example. I will miss her, and the people of Hawaii will miss her and her colleagues will fondly remember her commitment, determination, and devotion to public service.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Speaker, I rise today in strong support of H.R. 2030 that will designate the Patsy Takemoto Mink Post Office Building in Hawaii. I want to thank the gentleman from Hawaii (Mr. CASE) for introducing this bill so we may once again pay tribute to an outstanding United States Congresswoman.

I was deeply saddened by the passing of Patsy Mink last year. Working with Patsy has been one of the highlights of my short time in Congress. As the first minority woman elected to Congress, Patsy Mink has always been an inspiration to me as an elected official. I learned firsthand the remarkable work Patsy was doing 30 years ago when title IX was passed, and as a member of the Los Angeles Unified School Board at the time, I was charged with implementing a title IX plan for the Los Angeles Community College system.

Ever since then, I followed Patsy Mink's public service career closely, including her tireless fight on behalf of the Economic Justice and Civil Rights for All. During the 107th Congress, I had the opportunity to work with Patsy in putting together a comprehensive welfare reform program. I was able to spend quality time with her during a trip to Sacramento to collect data on our welfare reform program we had written in California. During the process of putting her legislation together, Patsy never backed down and never compromised on protecting and addressing the needs. Although our efforts were unsuccessful, it was a great honor to work with a true champion for American values and ideas. Thank you, Patsy, for all you have done for all of us.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, it is kind of an amazing thing that all of us are coming down to the floor with 1 minute or 2 minutes to try to summarize our feelings about Patsy. I could not possibly even begin to do that. Forty-three years of my life was involved with Patsy when I was a student and supporter of hers, and then as a colleague. To say that the people coming down to this floor loved Patsy, admired her and respected her, hardly does justice to those words.

There will never, ever be another person on this floor like Patsy Mink. When the history of the House of Representatives is written, she will be in the pantheon of heroes, those who exemplify the People's House. If there was ever anyone who embodied what it was that made this country great, someone who came from immigrant circumstances to the highest echelons of government, and never forgot where she came from and who she was and what and who she represented, it was Patsy Mink.

She was more than a friend and more than a colleague. She was a beacon to all of us who serve here hope to be. We all take our oath of office here to uphold and defend the Constitution of the United States, and we are only here because of the faith and trust of the people in our districts. Never, ever, has anyone upheld better that faith and trust that our constituents have given to us than Patsy Mink. Patsy, you live with us and you live in this House, the people's House, forever.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for yielding me this time, and I thank the gentleman from Hawaii (Mr. CASE) for the generosity and attitude that you have brought to this House following such a giant legacy, and of course to the gentleman from Hawaii (Mr. ABERCROMBIE) who has always been a champion on the issues of social justice, alongside his very dear friend, Patsy Mink.

We have been honored by allowing us to have an opportunity to say a few words again about the Honorable Congresswoman Patsy Mink. We were honored to have shared in her home-going service in Hawaii, getting to see her family members and all of her friends. But more importantly, you have given us an opportunity once again to tell America what a champion, what a hero, what an enormous giant of a woman, the first minority woman who served in the United States Congress.

I close simply by saying this is the appropriate honoring. I hope we will honor her more, not only with Post Office buildings, but with legislation commemorating her valiant service. Finally, we would not be here, equal as women and equal as athletes in performance, if it had not been for Patsy Mink, title IX, her love of women's causes and her love of education. This is an appropriate tribute.

Mr. Speaker, I rise in support of H.R. 2030 to pay tribute to a great colleague and personal friend, the Honorable Patsy Takamoto Mink. Congresswoman Mink passed away on September 28, 2002, after serving 12 terms in the House of Representatives. She was posthumously re-elected in November 2002 for a thirteenth.

Congresswoman Mink was a remarkable woman in this chamber and throughout her life. Her interest and activism in politics started early, at the University of Nebraska, where she fought and won a battle against race segregated student housing. After gender discrimination kept her from prestigious medical schools, she was accepted to the University of Chicago Law School. Congresswoman Mink joined the NAACP in the early days of the civil rights movements in the 1960s. She was one of the few Asian American members of the organization. Then, in 1965, Hawaii elected her the first woman of color in Congress.

Congresswoman Mink was an outspoken advocate for women, children, laborers, minorities and the poor. Her visions of bettering this country lead to legislation supporting early childhood education and family medical leave. She also authored and ardently supported the Temporary Assistance for Needy Families (TANF) bill that provided special protections for victims of domestic violence and sexual assault.

One of Congresswoman Mink's most significant actions in this House was her role as co-author of the Title IX legislation, prohibiting gender discrimination. Title IX requires equal support for men and women in academics and athletics at any institution receiving federal money. This legislation has affected every school and college campus across the country for the better.

Recently, the Administration has threatened to dismantle Title IX and the progress that has been made to create equal opportunities for women and girls. We have come too far in the struggle for fairness to turn back now. Congresswoman Mink not only helped to create the Title IX legislation but she fought to maintain it. Consequently, after her death, Title IX was renamed the "Patsy T. Mink Equal Opportunity in Education Act."

Congresswoman Mink was a fighter. She knew what it was to knock down doors and worked to keep them open for the women who would follow her. She changed the course of history and caused transformation in the lives of millions of men and women, boys and girls. For that reason, it is my privilege to stand in support of this bill to name a post office in her honor.

Many of us have witnessed Congresswoman Mink's fiery style, particularly when she spoke out about social causes. Patsy Mink wanted to see society become more equitable. She worked tirelessly to promote policies that truly addressed the realities of poverty and to promote education that would allow individuals to attain self-sufficiency.

Without question, she was an effective leader. In 1992, McCall's magazine named Congresswoman Mink one of the 10 best legislators in Congress. Recently, in 2002, the National Organization for Women (NOW) named her a "Woman of Vision."

I wish Congresswoman Mink were here with us today, still leading the crusade to help children and the working poor. She would not stand idly by while those on the other side of the aisle exclude millions of low-income families from the Child Tax credit while giving away tax benefits to the wealthy. In this chamber, we could only benefit from her wisdom and her voice on this issue, to protect the real interests of all Americans, and not simply the wealthy elite.

Congresswoman Patsy Mink is dearly missed, not only as a Congresswoman and friend, but also as a tireless advocate for positive change in this country. We must not lose sight of her vision to promote equity among the differing segments of society.

I support H.R. 2030 to honor Congresswoman Patsy Takemoto Mink. I will work to continue her legacy. I will start now, by working to prevent the Administration from trying to pry open the gaps in equity that Congresswoman Mink worked so tirelessly to close.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 1 minute to the gentlewoman from Guam (Ms. BORDALLO).

Ms. BORDALLO. Mr. Speaker, I rise in strong support of H.R. 2030 authored by the gentleman from Hawaii (Mr. CASE) honoring the late Congresswoman Patsy Takemoto Mink and naming the Post Office in Maui for her.

□ 1430

My association with, and admiration for, Patsy Mink goes back many years to the time that her husband, John, had done some work on Guam. Those of us living in the Pacific islands heard many stories of the legendary Patsy Mink, and it was my good fortune to know her as a friend and a role model. She blazed trails as a woman leader and Pacific Islander that we have eagerly followed and showed us that women can make a huge difference for children and families in our islands. She endorsed my candidacy for Congress just before the November election, 2002. Guam will always remember Congresswoman Patsy Mink, and we will always be grateful for all the causes that she championed on our behalf.

Mr. Speaker, I join my colleagues in honoring her for her service and for being a true inspiration for women throughout the Pacific.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time and thank the gentleman from Hawaii (Mr. CASE) for offering this important and very well-deserved tribute.

Patsy Mink was a friend of mine. We worked on many projects together long before I was ever elected to the Congress of the United States. Mr. Speaker, our dear departed friend and colleague, Patsy Mink, was a giant. No one among our elected officials stood taller in addressing the needs of the poor, the disenfranchised, and the workers of this country than Patsy Mink.

As the first minority woman elected to the Congress and the first Japanese-American woman admitted to the bar in Hawaii, Patsy was a pioneer who shattered the glass ceiling, a trailblazer who cleared the path for women and minorities to take their rightful place in all aspects of public life.

As always, had she been here with us, Patsy would be leading the fight to restore the child tax credit for low-income working Americans and to reorient our priorities to protecting the vulnerable, not rewarding the privileged. We Democrats will fight this battle for a child tax credit for low-income working Americans and their children in Patsy's memory and we will not rest until it is won.

While she probably would have been embarrassed by the attention, it is wonderful that this House will take time to honor Congresswoman Mink and her constituents by renaming the post office for her.

Mr. DAVIS of Illinois. Mr. Speaker, it is now my pleasure to yield 1½ minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I am proud to stand here and recognize the many contributions that Patsy Takemoto Mink made to the people of this country, particularly to the girls and women of this country. And I am equally proud that she will be honored by a post office in her home State named after Patsy Mink. I was privileged to serve with Patsy on the House Committee on Education and the Workforce from the beginning of my tenure in 1992. She was my mentor and my friend, and I miss her every day.

Besides being the first woman of color to serve in the House of Representatives, Patsy Takemoto Mink helped craft landmark legislation for girls and women across the country during her 24 years in Congress. In the early seventies, Patsy played the central congressional role in the enactment of title IX, prohibiting gender discrimination by federally funded institutions.

But title IX was not Patsy's only contribution to girls and women of America. Patsy also authored the Women's Educational Equity Act, WEEA. WEEA remains the primary resource for teachers and parents seeking information on proven methods to ensure gender equity in their schools and their communities. In fact, while this Congress is reauthorizing Head Start, I can hear Patsy's passionate and intelligent voice demanding that we not decimate this successful program by block granting any or all of it to the States. Her voice is missed. I hear it in my ears. I hope the people on the other side of the aisle can hear it in their ears so that we will do the right thing.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I rise today also to join with my colleagues in celebrating Patsy Mink. We are going to honor her by naming a post office after her, but she deserves so much more. She was a wonderful human being whom I had a chance to know in my first term here in Congress. She was a warrior, a warrior in the sense that she fought for those who were voiceless. She was a champion for women's rights, equality, civil rights and environmental justice, someone whom I believe will always be remembered in the halls here of Congress. She was a role model not only to women of color but also to the many, many young women who were striving for equality in the sports field, to even the playing field. Today with much honor, I wear a symbol of shattering the glass ceiling. This pin that I am wearing, this brooch, symbolizes women breaking through and challenging and shattering the glass ceiling. Patsy Mink was one of those warriors, someone who was always constantly testing our tenacity, encouraging us as women and new Members here in the House to step forward. She was tremendous in the arguments and debates that occurred on welfare reform. Even though we did not get what we wanted, she was there.

I commend the gentleman from Hawaii (Mr. CASE) and the gentleman from Hawaii (Mr. ABERCROMBIE), who are paying tribute to her. She is a wonderful individual. I would ask our colleagues to support this measure.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 1 minute to the gentlewoman from Ohio (Mrs. JONES), the first African American woman on the Committee on Ways and Means.

Mrs. JONES of Ohio. Mr. Speaker, this afternoon I am so pleased to have an opportunity to join with my colleagues on both sides of the aisle to celebrate Congresswoman Patsy Mink. As a trial lawyer, I used to litigate equal employment opportunity cases. One of the cases I had involved a school system wherein the women coaches were claiming that they were not paid the same amount of money as male coaches for doing lots of work. I remember doing some research and learning about Patsy Mink. Little did I know that I would ever have the opportunity to serve in the House of Representatives with such a great woman.

Patsy, I want you to know that I am keeping the faith and working on your behalf and working to keep your name in high regard. I hosted previously the NCAA women's volleyball championships in the city of Cleveland back in 1998; but I want you to know that in 2006, your girlfriend will be hosting the NCAA women's basketball finals in the city of Cleveland. I am going to do it in your name and in your support. Thank you, Patsy, for all you do.

Mr. DAVIS of Illinois. Mr. Speaker, may I inquire as to how much time I have left.

The SPEAKER pro tempore (Mr. DUNCAN). The gentleman from Illinois has 1 minute remaining.

Mr. DAVIS of Illinois. Mr. Speaker, I would like to ask the gentlewoman from Florida if we might be able to use some of the time on her side.

Ms. ROS-LEHTINEN. Mr. Speaker, I would be glad to yield 10 minutes to the gentleman from Illinois (Mr. DAVIS).

The SPEAKER pro tempore. Without objection, the gentleman from Illinois will control an additional 10 minutes.

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, we have heard speaker after speaker take to the floor and talk about the virtues and attributes of Patsy Mink. To a person, they have all talked about how fiery, how dynamic, how pointed and how relevant she was and how much she meant to this institution.

Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. I thank the distinguished gentleman from Illinois for yielding me this time.

Mr. Speaker, in 1 minute I cannot possibly do justice to our dear colleague and friend, Patsy Mink. But the other day in Ohio I had an experience; and I said, Patsy, if your amendment had passed, we would not be in this situation where we have hundreds, indeed thousands, of students lined up in our community awaiting admission to nursing school and they cannot be admitted because the Workforce Investment Act does not allow the funds to be used for education for career training, only for storage of people at bottom feeder jobs in this economy. I thought, Patsy, if your amendment had passed, thousands and thousands and thousands of people across this country who are in the unemployment lines, who are unable to advance their careers, would already be in the workforce. I thought, I miss you so much. You tried so hard.

What a great woman. She accomplished so much—Title IX, her leadership here on education issues, the first woman of color ever elected to the Congress of the United States. What an incisive intellect, what an intelligent and persevering woman and someone who made a difference in the lives of people across this country. It is my deepest, deepest privilege to say I support the proposal to name the post office in Hawaii in her name. She is missed every day here. We thank her, and we thank her family for her devoted service to our country.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii (Mr. ABERCROMBIE) for some further reflections.

Mr. ABERCROMBIE. Mr. Speaker, I indicated in my previous remarks that we were limited in our opportunities to be able to speak about Patsy and I thought perhaps that it might offer an opportunity had we been able to extend our time, and I want to say how much we appreciate that we have had this opportunity to have a few more minutes to do it.

Not everyone may recognize the side of Patsy that was so familiar to us in Hawaii, because obviously we saw her as the dynamo of legislative activity here in Washington. But I think perhaps not everyone recognized or understood until they came to Hawaii and had the opportunity to see from whence Hawaii Patsy came as to what molded her as a person.

For the young people that are here today observing the remarks here on the floor, they may not fully comprehend what it was to be female and Japanese-American and smart and have to try and come up. We take a lot of these things for granted. She was in fact the pioneer, not just in Hawaii but throughout the Nation, for indicating what could be accomplished with those kinds of strikes against her. She turned that adversity into accomplishment. For that reason, if for that reason alone, she stands as the standard for which every young woman and every young man who comes from humble circumstances can aspire. With Patsy Mink, you had someone who was not just a friend, not someone who was just a standard bearer, but you had someone who set the foundation for all those who came after.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure now to yield 4 minutes to the gentlewoman from California (Ms. PELOSI), the Democratic leader and a longtime friend and associate of Patsy Mink's.

Ms. PELOSI. Mr. Speaker, I thank the distinguished gentleman from Illinois (Mr. DAVIS) for yielding me this time and for his leadership in bringing this to the floor. I want to commend the gentleman from Hawaii (Mr. CASE), the author of this legislation, and the gentleman from Hawaii (Mr. ABERCROMBIE). I am pleased to join both of them in honoring Patsy Takemoto Mink.

I rise in support of naming the post office on Maui, Hawaii, as the Patsy Takemoto Mink Post Office Building. Everyone who knew Patsy or worked with her on a daily basis had his or her day brightened by her presence. With her wonderful family and her magnificent education, Patsy could have led a comfortable life, away from the rough and tumble world of politics. But as has been said of Eleanor Roosevelt, Patsy had a "burdensome conscience." She dedicated her life to helping people and challenging our consciences.

Our colleagues have spoken, as I heard the gentleman from Hawaii (Mr. ABERCROMBIE) speak, to the obstacles that Patsy Mink had to overcome, as she was the first woman, the first Japanese-American in her law school, in her class; the first Asian-American woman attorney in Hawaii. She broke so many barriers. She was a pioneer.

□ 1445

As I said, she considered public service a noble calling, and her public service was distinguished by deep patriotism and love of America. She loved America because of our freedoms, which are the envy of the world. She loved America because of its people, whose diversity is the strength of our country. She loved America because of the beauty of our country, which she worked so hard to preserve on the Committee on Resources.

Patsy worked on the Committee on Education and the Workforce and was dedicated to improving the quality of education and the quality of life for children. When Patsy said "It is not right" about something, Members would follow her anywhere.

I had the privilege of speaking at Patsy's funeral service, and I told a story then that I think speaks to how irresistible she was and how she would never take no for an answer and how we were all at the mercy of her smile and the twinkle in her eye.

She had said to me one day, "I need you to come speak in Hawaii at my testimonial dinner, 25 years of service in the Congress." How exciting and honored I was, except it was on the day of my town meeting in San Francisco. It was a Saturday evening for her then.

She said, "What time is your town meeting?"

I said, "It is 10 o'clock in the morning and it lasts 2 hours."

She said, "Fine. You can be on the 1 o'clock to Hawaii."

I said, "I have another town meeting on Sunday."

She said, "Fine. You can be on the red-eye to go back."

So I took the 1 o'clock flight to Hawaii, got there at 5 o'clock, got to the event at 6, left at 9, and was on the 10 o'clock flight home to San Francisco, as Patsy had decided for me. That was sandwiched in between flights to and from Washington, D.C. But there was no way to say no to her, because she had done so much for our country, because she meant so much to all of us. She had championed so many issues. We all loved her, respected her, and miss her terribly.

So I cannot help but think that if Patsy were here today, she would be concerned about the expansion of the child tax credit and saying it is not right for us not to extend it to all the children of our men and women in uniform, as well as our working families in America. I wish she were here today.

I know she would be proud of the representation of Hawaii that is here now, in the person of the gentleman from Hawaii (Mr. CASE), and, of course, her close pal and buddy and former colleague for many years, the gentleman from Hawaii (Mr. ABERCROMBIE).

Patsy Mink left a powerful legacy. Again, with a twinkle in her eye, her dazzling smile and her wonderful laugh, Patsy worked her magic on our country, making history and progress along the way. We were all privileged to call her "colleague," and it is an honor to have this building named for the great Patsy Mink, and, important to her family, the Patsy Takemoto Mink Postal Building in Maui, Hawaii.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentlewoman from California for her remarks and comments.

Mr. Speaker, I do want to express my appreciation to you for your accommodation and to the gentlewoman from Florida. Patsy Mink was a great American, a great representative for this body, and thousands of people all over the world were inspired by her. Long before I became a Member of Congress, I was inspired by Patsy Mink.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, in my friendship with the Case family, which includes the recently departed Dan Case, he was a great person in our country and came from a beautiful, magnificent family of leaders, and among them was Dan Case and is Steve Case. But we are blessed in this House for Patsy to have been followed by the gentleman from Hawaii (Mr. CASE). The Case family is a family I know well, and Hawaii is well represented by the gentleman from Hawaii (Mr. CASE).

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I want to thank the gentleman from Hawaii for introducing this important legislation. We all worked with Congresswoman Patsy Mink and respected her. She will always be in our prayers, and her family as well.

I urge all Members to support the adoption of this important resolution.

Mrs. DAVIS of California. Mr. Speaker, it is my privilege today to come to the podium in support of the measure to honor a truly memorable colleague, the Honorable Patsy Takemoto Mink by naming the post office in Paia, Maui for her.

When I came to Congress as a freshman member, it was so inspiring to serve on a committee with a role model who has made a real mark on our society through her lengthy service in the House of Representatives.

Whenever Patsy took the microphone in the Education and the Workforce Committee, everyone knew that her comments would be principled, measured from the institutional knowledge of years working on persistent issues, and delivered with articulate passion. I admired her penchant for considering strategy—was it better to accept half a loaf this year or wait until next year to try to get the whole loaf. I respected her willingness always to stand up for people who were disadvantaged. Her priorities for education, housing, and health care match mine, and I valued her leadership in keeping that focus clear.

It was an honor for me to join her at this podium on June 19, 2002 in the commemoration of the thirtieth anniversary of Title IX. Seldom does one get to join forces with one of the original sponsors of legislation that was not only landmark legislation for our country but was so formative for my children's generation. When I was a local school board member, we had to work hard to change the culture of our society to implement the equality embodied in this bill.

As we all spoke that day of the importance of this legislation, little did we imagine that her influence on the national conscience was soon to end. But, surely, she lived the battle for equal opportunity that Title IX codified.

I am awed by the fact that in 1951 she earned a law degree from the University of Chicago, one of the country's premier institutions. Most of us know that the two women members of the Supreme Court who subsequently earned their law degrees struggled to find openings to practice their profession. She, too, demonstrated that equal opportunity was right for women in a field where women were not well appreciated.

It is important that in addition to practicing law, her skills were valued so that President Carter invited her to serve the executive branch in the Department of State.

Naming a post office in her beloved Maui in her honor will remind us all of the issues which empowered her life—working for children—their education, their homes and their health care. I thank her for showing us the way.

Ms. LEE. Mr. Speaker, I rise today to support H.R. 2030, a resolution designating the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the "Patsy Takemoto Mink Post Office Building".

Patsy was an outstanding leader, woman, mother, and friend, and I believe that naming a post office after her is a great tribute to a people's champion.

I believe Patsy spoke not only for the forgotten, the disenfranchised, and the poor, but also to the conscience of all Americans. She was my colleague and dear friend who helped lead the charge on providing real reforms that helped all people across the country.

Patsy stood as the standard for all legislators to rise to. Over the span of her career, she was particularly proud of the leading role she played in 1972 during the passage of Title IX of the Federal Education Act. She helped open many opportunities for women, which reflected a long-standing concern for equality, liberty and justice for people.

I also shared her passion for peace and mediation. She once said, "America is not a country which needs to demand conformity of all its people, for its strength lies in all our diversities converging in one common belief, that of the importance of freedom as the essence of our country."

I loved and respected Patsy for her courage and fortitude.

A great woman in Congress, Patsy Mink was brilliant, full of compassion, and passion; always working tirelessly for equal justice, liberty, and the value of a diverse legislative body.

I'm proud to have served beside Congresswoman Patsy Mink and miss her tremendously. I ask that all of my colleagues support passage of H.R. 2030.

Mr. CUMMINGS. Mr. Speaker, I rise to support H.R. 2030, the Patsy Takemoto Mink Post Office Building offered by Representative ED CASE.

Congresswoman Patsy Mink was a trailblazer who fought for the passage of the Women's Educational Equity Act—landmark legislation. This groundbreaking legislation, Title IX, promoted educational equity and opened the playing fields for millions of girls and women. Patsy Mink stood up and spoke up for girls and women.

She was a member of the Government Reform Committee and I am pleased that I had the opportunity to work with her. She will be missed but her legacy will continue not only in the naming of this post office but in the legislative policies she supported.

I join my colleagues in honoring Patsy Mink for her service and for being a true role model for women and all Americans.

Mr. HONDA. Mr. Speaker, in the nine months since we lost the irrepressible Congresswoman Patsy Takemoto Mink, my colleagues and communities across the Nation have celebrated the incredible "firsts" and the numerous battles that Patsy waged on the behalf of Americans who needed a voice in federal policymaking the most.

Congresswoman Mink's record as an advocate for civil rights is unassailable, a crowning achievement being the passage of Title IX of the federal education amendments in 1972. This landmark legislation banned gender discrimination in schools, both in academic and athletics.

She awakened all of our social consciousness through her tireless advocacy, work and dedication; inspiring students, community leaders, political appointees and especially elected officials of the Asian Pacific American communities and beyond.

Anyone who was fortunate enough to have been touched by her life knows that this nation has lost a true warrior in the constant struggle for justice. We will all miss her counsel and guidance, as well as her friendship.

Patsy Mink was there at the beginning of many things. She was born at the time when women and minorities were not given fair opportunities to achieve their dreams. She remains a role model for countless women, as well as those of us from the Asian American and Pacific Islander community.

Though she is not physically present, her spirit and legacy will live on through those of us who believe that the fight for fairness and equity is never over. I find it a very fitting tribute to pass H.R. 2030. This post office located in Pa'ia, Maui will be a constant reminder to us of our great friend Patsy Mink and is the least we can do to ensure her legacy continues.

Ms. MILLENDER-McDONALD. Mr. Speaker, today I want to speak in favor of renaming the U.S. Postal Service office in Paia, Hawaii the "Patsy Takemoto Mink Post Office Building." We do this in honor of the legacy of a pioneering woman and one of the most distinguished and honorable Members of the House of Representatives, my colleague and my friend—Congresswoman Patsy Mink. I am so pleased to have had an opportunity to know her and serve with her.

Without Patsy's leadership, the passage of the hallmark Title IX of the Federal Education Act of 1972 would never have come to pass. Thanks to Patsy's hard work, Title IX created opportunities for women and girls in athletics and all operations of college and university programs.

I shall remember her as a giant who spoke in gentle but very fierce and deliberate tones, and whose stature allowed her to tower above the crowds. Patsy challenged us all the time with the question "Does it matter whether women are involved in politics?" Her career exemplifies the answer. Her voice is now stilled, but her ideals and the challenges she left for us will forever be etched in our memory.

Mr. MATSUI. Mr. Speaker, I rise today in support of H.R. 2030, a bill to designate the United States Postal Service facility located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the "Patsy Takemoto Mink Post Office Building." I want to thank my colleague from Hawaii, Mr. CASE, for introducing this bill, and ask all of my colleagues to join with me in supporting this legislation to ensure that the people of Hawaii and all those who visit there remember this remarkable woman.

I cannot say enough about Patsy Mink. She was a trailblazer—the first woman of color elected to Congress in 1964, the first Asian-American woman to practice law in Hawaii, the first woman president of the Americans for Democratic Action, the list goes on . . . By the time I was elected to Congress in 1978, she had already won passage of a major piece of civil rights legislation: Title IX expanded opportunities to female student athletes across the United States. Mindful of the beautiful region she represented, Patsy was also fiercely committed to protecting our natural resources and fought to ensure a healthy environment for all Americans. And her work on welfare reform later in her career reflected her fundamental belief that families living in poverty deserve the opportunity to share in the America dream. The country has benefited tremendously from Patsy's dedication to her values and her devotion to social progress. And those who had the privilege to know her benefited from her warmth, kindness, and friendship.

Patsy Mink's unyielding commitment to issues of social justice and equality will be deeply missed in the House, as will her friendship and leadership. I urge my colleagues to support this bill as a small token of appreciation for all that Patsy Mink gave to this body, the people of Hawaii, and our great nation. As we remember her today, let us hope that naming this building in her honor will inspire others to follow her example of tireless dedication to public service.

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of this bill, which designates a post office in Paia, Maui County, Hawaii as the Patsy Takemoto Mink Post Office Building. Patsy Mink served in the House of Representatives from 1964 to 1977 and again from 1990 to 2002. The world lost one of its greatest citizens, and I lost a good friend when she passed away on September 28, 2002.

One of her greatest legislative accomplishments, she felt, was the passage of Title IX, which led to expanded opportunities for women and girls in athletics and academics. In the last decade of her political leadership, she was a tireless advocate on behalf of poor families, working to promote policies that addressed the realities of poverty. During the 107th Congress, she garnered substantial support for legislation to provide additional educational opportunities for the nation's welfare recipients. Patsy Mink also helped write environmental protection laws safeguarding land and water in communities affected by coal strip mining.

It is certainly fitting that we acknowledge this outstanding woman's accomplishments by naming a post office in her honor, and I thank Representative ED CASE for his stewardship of this bill. Patsy Mink's life of public service spanned six decades, beginning in 1956 when she was elected to the Territorial House in Hawaii. In 1964 she was elected to the House of Representatives and was one of the early opponents of the Vietnam War. President Jimmy Carter appointed her as assistant secretary of state for oceans, international, environmental and scientific affairs from 1977 to 1978, and she served as the national president for Americans for Democratic Action (ADA) from 1978 to 1981. Following her tenure as ADA president, she returned to politics, serving on the Honolulu City Council, and in a 1990 special election, she regained her Congressional seat.

Patsy Mink was an exemplary role model for women and minorities, and it is a pleasure and an honor to pay homage to a cherished colleague, who is no longer here, but certainly not forgotten.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in support of H.R. 2030, a bill to designate the facility of the United States Postal Service in Paia, Maui, Hawaii as the Patsy Takemoto Mink Post Office Building. Patsy served as my mentor, my teacher, my advisor and most importantly, my friend. Congresswoman Mink was a woman of courage and determination who wore the mantle of leader with ease.

Born to immigrant parents in Hawaii, Patsy developed an appreciation for education at a young age. She obtained a Bachelor's degree from the University of Hawaii and, as we all know, it was Patsy's intent to attend medical school upon completion of her bachelor's degree. However, Patsy never realized this dream as none of the 20 medical schools to which she applied would accept women.

Not one to stand idly by, Patsy decided to attend the University of Chicago's Law School. Upon graduating from law school, Patsy returned to Hawaii where she became the first Asian-American woman to practice law in Hawaii. This was just one of many firsts Patsy would accomplish.

Congresswoman Patsy Mink was the first woman of color elected to Congress and introduced the first comprehensive Early Childhood Education Act. Most notably, Patsy was a coauthor of Title IX of the Higher Education Act, an Act which has played a pivotal role in expanding women's educational and sports opportunities in colleges and universities throughout our country.

Patsy also faced life's hardships with dignity, integrity and honor. I believe it is only fitting that we now honor Patsy by designating the U.S. Postal facility in Paia, Maui in her name. I urge my colleagues to support H.R. 2030.

Mr. WU. Mr. Speaker, I rise in strong support of H.R. 2030, a bill to designate a post office in Paia, Maui, Hawaii in honor of dear colleague and friend, Patsy Mink.

Congresswoman Mink was an advocate, mentor, and inspiration for Asian American and Pacific Islander communities. Mrs. Mink was the first Asian American woman elected to Congress, and she served the APA community as chair of the Congressional Asian Pacific American Caucus. She blazed trails for many of us, and encouraged students, community leaders, and APA elected officials to get involved with the legislative process.

Mrs. Mink's career in public service was defined by her commitment to giving a voice for those who needed it most. A prominent member of Congress, she worked tirelessly on behalf of women and minorities, focusing on issues such as civil rights, education, the environment, and poverty.

I am honored to have served with her, both in the Congressional Asian Pacific American Caucus and in the Education and Work Force Committee. Her endless dedication to public service was a guiding example to all of us. Above all, I will miss her friendship.

I urge my colleagues to vote in favor of H.R. 2030.

Mr. CASE. Mr. Speaker, just nine months ago, in the middle of her campaign for a thirteenth House term, which she most certainly would have won resoundingly and in fact did win posthumously, the late United States Representative Patsy Takemoto Mink was tragically lost to her beloved Hawai'i, this Congress, our country, and our very world.

The days, weeks, and months that followed witnessed a massive outpouring of first shock and disbelief, then sorrow and regret, and finally remembrance and gratitude for this singular life.

As just a few examples:

A deeply moving memorial service was held in our Hawai'i State Capitol, graciously attended by many of Mrs. Mink's colleagues from this House, including now-Minority Leader PELOSI and Education and the Workforce Ranking Member MILLER, and thousands of grateful citizens of Hawai'i and beyond;

This House published a beautiful memorial volume containing the many eulogies delivered by Mrs. Mink's colleagues on this House floor, and I want my colleagues to know how deeply grateful the Mink family—husband John, daughter Wendy, brother Eugene—are for that gesture; and

The students at the University of Hawai'i Richardson School of Law, on their own initiative, created and funded the Patsy T. Mink Memorial Fellowship for the purpose of providing an internship here in our Congress each year to a person in Mrs. Mink's making; the first Mink Fellow, Van Luong, joined my office last week and, you know, she reminds me of Mrs. Mink.

There also were and continued to be a multitude of testimonials on her lasting legislative accomplishments. My colleagues that will follow me and know of her exploits in this arena can tell this story best.

But perhaps what struck me most amidst this outpouring were the simple testimonials I heard, as I sought election to what is still referred to as "Patsy Mink's seat," from the ordinary people out across Hawai'i's great Second District; the people she represented and lived for, like:

The longtime friend in Lihu'e on Kaua'i, who Patsy, herself sick, visited in the hospital there just days before she herself was admitted;

The taro farmers in Kipahulu, Maui, about as remote a place as there is in Hawai'i, who asked Patsy to come and see their problem personally, and she did, donning boots and walking through their lo'i; and

The pig hunter in Waimea on the Big Island; he was concerned that she understand an issue and the only way, he thought, was to show her the issue up in the forest; she went.

These testimonials, of course can never replace Patsy Mink, although they do demonstrate that our remembrances of her are her own best legacy. But it is entirely appropriate that we all provide a more tangible reminder of her life and times, a memorial that will serve as a constant physical reminder that will cause us to reflect on what she stood for.

And so, as I talked about this with John Mink after my election, he relayed his wish, also endorsed by others such as the Maui County Council, that the U.S. Post Office at Pa'ia, Maui be renamed the "Patsy Takemoto Mink Post Office Building." And when you understand Pa'ia where it is and what it represented to Patsy Mink, you understand how entirely appropriate it is that we take this action.

Pa'ia is a town on the north shore of Maui, on the slopes of Haleakala, a town built on sugar and pineapple. It is located about a mile from what was once the thriving plantation village of Hamakua Poko, a village of immigrants of Japanese, Portuguese, Filipino and other origins; a village where Patsy Takemoto was born in 1927 and raised in all of the good, and not so good, of Hawai'i and our country in the 1930s and 1940s; a community in which bonds were deep but needs were great. It is also the community in which the old Maui High School was located, the school where Mrs. Mink's political career began when she was elected its first woman student body president, the first of many such firsts, and from which she graduated in 1944 as valedictorian and went on to the incredible life she led.

In short, Pa'ia is where this great American was born, where her values were forged, where her spirit was lit. And it represents, both physically and figuratively, the peoples, traditions, and beliefs that she never ever forgot.

There is no more fitting memorial to Patsy Takemoto Mink than that she be remembered by us all here in her hometown. For the Mink family and Hawai'i, I thank my 115 co-sponsors. I thank Chair DAVIS and Ranking Member WAXMAN for moving this bill through the committee so quickly, I thank those who came here to speak, and for Hawaii I thank this House.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DUNCAN). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and pass the bill, H.R. 2030.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CESAR CHAVEZ POST OFFICE

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 925) to redesignate the facility of the United States Postal Service located at 1859 South Ashland Avenue, Chicago, Illinois, as the "Cesar Chavez Post Office".

The Clerk read as follows:

H.R. 925

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CESAR CHAVEZ POST OFFICE.

(a) REDESIGNATION.—The facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, and known as the Pilsen Post Office, shall be known and designated as the "Cesar Chavez Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Cesar Chavez Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 925.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 925, introduced by my distinguished colleague, the gentleman from Illinois (Mr. GUTIERREZ), redesignates this postal facility in Chicago, Illinois, as the Cesar Chavez Post Office Building.

This legislation deals with an American civil rights advocate. Cesar Chavez grew up as a migrant agrarian worker after being born in Arizona in 1927. As a young adult he became involved in the Community Service Organization and ultimately rose to the position of general director in 1958.

Four years later, Cesar Chavez left the CSO to join with some of his fellow wine grape pickers and form the National Farm Workers Association. This organization was active in acquiring service contracts from major growers in California. His ambition led him to merge the National Farm Workers Association with the Agricultural Workers Organizing Committee of the giant labor umbrella organization, the AFL–CIO. The upshot group became called the United Farm Workers Organizing Committee.

In 1972, Cesar Chavez's organization became a member union of the AFL–CIO and he was named president. In this role, Cesar Chavez's influence only expanded, and he coordinated activities on agricultural issues.

Cesar Chavez will be remembered for his stands in support of workers, in support of their wages and their rights, and the difference he has made in the lives of all current and future workers. His advocacy has led to countless agreements between business and labor on a variety of important issues.

So my colleague from Illinois wants to name this post office for labor leader Cesar Chavez, and, therefore, Mr. Speaker, I urge all Members to support passage of H.R. 925.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join my colleague in consideration of H.R. 925, legislation redesignating a postal facility after Cesar Chavez, a fighter for dignity, human rights, and livable working conditions.

H.R. 925, which was introduced by my good friend and colleague, the gentleman from Illinois (Mr. GUTIERREZ), on February 26, 2003, has met the committee policy and has been cosponsored by the entire Illinois delegation.

Cesar Estrada Chavez, the founding leader of the first successful farm workers union, was born on March 31, 1927, near Yuma, Arizona, the second of six children. Cesar began working as a migrant worker when the family lost their land during the Depression. When he was 11 years old, the Chavez family followed the crop picking and moved to California, living in the trucks they drove.

Although working in the fields and attending school was difficult, if not impossible, Cesar managed to do both and graduated from the eighth grade. Shortly afterwards, he joined the Navy. After his tour of duty, he began teaching Mexican farm workers to read and write so that they could take the test and become American citizens. This activity marked the beginning of Cesar's efforts to improve working conditions for migrant workers.

Cesar Chavez founded the National Farm Workers Association in Delano, California, and in 1965 joined an AFL–CIO union strike against Delano Table and Wine Growers. This successful 5-year strike led supporters to the United Farm Workers, a national group of unions, churches, students, minorities and others. It became affiliated with the AFL–CIO.

Cesar continued organizing workers, strike after strike. And he produced results. Farm workers gained collective bargaining rights and under union contracts enjoyed higher pay, health care and pension benefits.

In 1984, Cesar called for another grape boycott, to protest the pesticide poisoning of grape workers and their farmers.

Cesar Chavez passed away at the age of 66 on April 12, 1993. Before he died, he received the Aztec Eagle, Mexico's highest award given to people of Mexican heritage who have made major contributions outside of Mexico. On August 8, 1994, President William Clinton posthumously awarded Mr. Chavez the Presidential Medal of Freedom, the highest civilian honor in America.

Mr. Speaker, I commend my colleague for seeking to honor the legacy of Cesar Estrada Chavez, and urge swift passage of this resolution.

Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from Illinois (Mr. GUTIERREZ), the sponsor of this legislation.

Mr. GUTIERREZ. Mr. Speaker, I thank my good friend for yielding me time, and I thank the gentlewoman from Florida (Ms. ROS-LEHTINEN) for her work on the consideration of this bill today. I would like to also thank all of the staff members who worked tirelessly in making this possible, and specifically I would like to thank my good friend Danielle Simonetta and Michael Layman from the majority side for all of the work they have done in making this bill. And I say to Danielle specifically that my daughter sends her good wishes. She is doing better, and she is real excited about Cesar Chavez and the opportunity for the action that we can afford his life here today.

Mr. Speaker, I rise to celebrate today the life and legacy of Cesar Chavez and to recognize his passion for empowering workers and for defending the rights of the disadvantaged.

The legislation we are considering today, H.R. 925, would designate a United States Postal Service facility at 1859 South Ashland Avenue in my district as the Cesar Chavez Post Office. The facility would serve as a permanent tribute and a lasting reminder of the selflessness and self-sacrifice that embodied Chavez's life and work.

Mr. Speaker, this is not the first time a legislative body has paused to honor Cesar Chavez, and it is my hope it will not be the last. The more buildings, the more streets, the more stamps and the more parks that are designated, the more we can keep Cesar Chavez's principles, his passion and devotion alive, and the more we will be able to encourage others to continue the unfinished business that Cesar Chavez left behind, to take up his fight and his causes and to make similar sacrifices in the name of justice and dignity.

Throughout history, there have been few individuals that have done more, that have fought harder or sacrificed as much to ensure dignity and decency for all workers than Cesar Chavez. The late Senator Robert F. Kennedy called him one of the heroic figures of our time.

Cesar Chavez remains a champion to working people around the world and an inspiration to generations of Latinos, both here in this country and abroad, and his accomplishments are an enduring symbol and a shining example of what one man can achieve in the fight for fairness.

Cesar Chavez stood up to the biggest, the most well-financed and the strongest corporate growers. He fought for farm workers who spent countless hours doing our Nation's most arduous and strenuous work.

□ 1500

He defended men and women crippled by despair and deplorable working conditions, so that they too could have a say in the fight for reasonable and respectable wages. Chavez fought for the most basic and the most fundamental and the most essential rights for workers. He fought so that growers would not spray pesticides while workers were in the fields. He fought so that they could have a clean water system and decent housing. And his actions and hard work were vital in achieving better pay for migrant farmers, to banning child labor abuses, and to mitigating the proliferation of sexual harassment of women workers.

Cesar Chavez's courage and his character helped strengthen the farm workers movement, and his principles of nonviolence continue to play an important role in the quest for social justice and human rights and for a world without prejudice or injustice.

Mr. Speaker, for everyone who has ever fought for fairness, Chavez is a model and a true mentor. Because he refused to let bigotry and bias go unchallenged, workers are better protected and represented today. Because he refused to respond to discrimination and intolerance with silence, we live in a better and more inclusive America.

According to Chavez, "The truest act of courage, the strongest act of manliness, is to sacrifice ourselves for others in a totally nonviolent struggle for justice. To be a man is to suffer for others."

At the time those eloquent words were articulated, Chavez was too weak to speak them himself. He was fasting in protest of violence against workers, and his speech had to be read by someone else.

Throughout his life, Chavez never relented, he never backed down, and he never wavered from his commitment to nonviolence. When he passed away in 1993, more than 50,000 people attended his funeral to pay homage and their respects to a man who fought so fearlessly, so tirelessly for those not always heard or even seen in our society.

A reporter wrote, "During the vigil at the open casket on the day before the funeral, an old man lifted a child up to show him the small, gray-haired man who laid inside. 'I am going to tell you about this man some day, he said.' "

The legislation we are discussing today would ensure that countless others remember to tell their children about this man, about his life, his lessons, and his legacy. It will also help educate tomorrow's leaders about the characteristics that they should appreciate, about the achievements that they celebrate, and about the types of individuals that they should emulate.

Mr. Speaker, in the year since his passing, Chavez has been awarded many of our Nation's highest honors, including the 1994 Medal of Freedom. And the passage of this legislation, I believe, would serve as another important and lasting testament to the outstanding work of Cesar Chavez.

At the Commonwealth Club of San Francisco, Chavez said, "The consciousness and pride that were raised by our union are alive and thriving inside millions of young Hispanics who will never work on a farm." And we must work to keep that consciousness and pride alive in future generations. We must work to keep the consciousness and pride alive as we advocate for a new generation of immigrant workers.

Every time someone in my community drops off a letter, goes to buy a stamp, or passes by the post office, they will be able to remember Cesar Chavez's life, remember his accomplishments, appreciate his vision and, ideally, summon the strength to embody his teaching in their daily activities. It will also serve as a focal point in a vibrant and growing Pilsen community and as a reminder of the challenges we face today.

Mr. Speaker, Cesar Chavez gave workers everywhere a reason to believe and a reason to dream. He inspired them, with his desire and discipline, to stand together and to do better and to reach farther. And in doing so, he gave so many the courage and the strength to fight for equity and equality.

That is why I urge the passage of this important legislation.

In ending, Mr. Speaker, I would like to thank my friends again, the gentlewoman from Florida (Ms. ROS-LEHTINEN), and my dear friend, the gentleman from Chicago, Illinois (Mr. DAVIS), who I know when we finally get this legislation approved will be standing with me in inaugurating this wonderful new post office for Cesar Chavez.

Mr. DAVIS of Illinois. Mr. Speaker, I do not believe we have any additional requests for time, but I yield myself such time as I may consume to note that I was pleased to have the opportunity to be in the company of Caesar Chavez on several occasions, at rallies, demonstrations, marches, and on picket lines, even in Chicago where there were no farms. It is an excellent way of remembering the great contributions that he has made.

Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no other speakers. Again, I want to thank the gentleman from Illinois (Mr. GUTIERREZ), my good friend, for introducing this measure, and I urge all Members to support the adoption of this resolution.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in support of H.R. 925, a bill to designate a U.S. Post Office in Chicago, IL the "César Chàvez Post Office." I can think of no one more deserving of such an honor than the great civil rights leader, César Chàvez. I want to commend my colleague, Representative GUTIERREZ, for his leadership in bringing this legislation before the House and I am proud to join him as an original cosponsor.

César Chàvez was an organizer, an activist, a protestor, a farm worker, a peace-lover, a father, and a son. Raised in a family of farm workers forced to migrate throughout the Southwest, Chàvez was led by his compassion, his ability to inspire others to action, and his deep sense of fairness and equality to organize and establish what is today the United Farmworkers of America. Because of his efforts, many farm workers today enjoy higher pay, family health coverage, pension benefits, and other contract protections. While we still have a long way to go in giving farm workers the fair pay and healthy work conditions they deserve, César Chàvez laid the foundation toward accomplishing those important goals.

César Chàvez understood what it took to create a movement and he dedicated every part of his life to setting an example and leading the way. As a child and young man, he experienced firsthand the harsh working conditions of farm workers—the long hours, poverty wages, harassment, and abuse—as well as the limited access to education and health care. Understanding and addressing the roots of the problem, Chàvez was able to make a lasting and significant impact. He conducted voter registration drives and campaigns against racial and economic discrimination. He led boycotts and pickets and hunger strikes. His nonviolent methods echoed those of Martin Luther King, Jr. and Mahatma Gandhi. He showed us all how critical it is to organize people, to unify them for a cause, and to help them believe in themselves and their ability to make a difference.

César Chàvez continues to be an example for us today. He taught us that "Si se puede," or "Yes we can." We can—and we must—help those with no voice, help those who are discriminated against, help those who are taken advantage of, and help those who live in poverty and are struggling to survive. If César Chàvez were alive today, I am sure he would still be leading the fight for fairness and equality for workers and their families. We must not let his legacy die; we must not let his great strides forward become giant steps backward. We must continue to work for what is right. I urge my colleagues to vote yes on H.R. 925.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in solidarity with my colleagues to honor the enduring legacy of Mr. Cesar Estrada Chavez.

Mr. Chavez was born of humble beginnings in 1933 near Yuma, Arizona. Early in life, Mr. Chavez was forced to recognize the harsh realities of racism that all too often plagued communities of color. After his family's home and land were taken from them, Mr. Chavez knew first hand what it meant to be the victim of gross injustice. Yet despite this and similar experiences of discrimination, Mr. Chavez was not deterred. He often said that, "the love for justice that is in us is not only the best part of our being but also the most true to our nature."

In 1945, Mr. Chavez joined the U.S. Navy and served in the Western Pacific during the end of WWII. After completing his military service, Mr. Chavez returned to his roots, working and laboring in the fields. By day Mr. Chavez picked apricots in an orchard outside of San Jose; by night he was actively involved in galvanizing voter registration drives. In 1952, Mr. Chavez was a full time organizer with the Chicago-based Community Service Organization (CSO). Not only did he coordinate voter registration drives, but he battled racial and economic discrimination against Chicano residents and organized new CSO chapters across California and Arizona as well.

In 1962, Mr. Chavez moved his wife and eight young children to California where he founded the National Farm Workers Association (NFWA). Cesar Chavez founded and led the first successful farm workers' union in U.S. history. In 1968, Mr. Chavez conducted a 25-day fast to reaffirm the United Farm Workers commitment to nonviolence. The late Senator Robert F. Kennedy called Cesar Chavez "one of the heroic figures of our time", and actually flew to be with Mr. Chavez when he ended his fast.

In 1991, Mr. Chavez received the Aguila Azteca (The Aztec Eagle), Mexico's highest award presented to people of Mexican heritage who have made significant contributions outside of Mexico. Mr. Cesar Chavez passed away on April 23, 1993, at the age of 66. At the time of his death he was the president of the United Farm Workers of America, AFL–CIO. On August 8, 1994 Cesar became the second Mexican American to receive the Presidential Medal of Freedom, the highest civilian honor in the United States. The award was presented posthumously by then president, Bill Clinton.

Given the immense and innumerable contributions that Mr. Cesar Chavez has made to our society in advocating for the rights and causes of the working poor, I hope that my colleagues will join me in voting affirmatively that the U.S. Postal Service Facility located at 1859 Southland Avenue in Chicago, Illinois be designated at the "Cesar Chavez Post Office".

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DUNCAN). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and pass the bill, H.R. 925.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

PROVIDING FOR CONSIDERATION OF H.R. 2143, UNLAWFUL INTERNET GAMBLING FUNDING PROHIBITION ACT

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 263 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 263

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2143) to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. No amendment to the bill shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 263 is a structured rule that provides for the consideration of H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act. This is a fair, structured rule that merits the House's approval.

This rule provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services.

This rule makes in order only those amendments printed in the Committee on Rules report accompanying H. Res. 263. It provides that the amendments printed in the report may be considered only in the order printed in the report, may be offered only by a Member designated by the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

This rule waives all points of order against the amendments printed in the report, provides one motion to recommit, with or without instructions.

With respect to the underlying legislation, H.R. 2143, I want to acknowledge the efforts of my friend and colleague, the gentleman from Ohio (Mr. OXLEY), chairman of the Committee on Financial Services, in bringing this important bill to the floor today. This rule we have before us today will give the House the opportunity to consider H.R. 2143 and three additional amendments made in order under the rule.

In conclusion, Mr. Speaker, H. Res. 263 is a structured rule that will give the full House an opportunity to work its will on the major issues it raises, and I urge my colleagues to support the rule so that we can move on to consideration of the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, let me thank the gentleman from Georgia (Mr. LINDER) for yielding me this time.

The Unlawful Internet Gambling Funding Prohibition Act has the potential to eradicate illegal Internet gambling by disallowing merchants from accepting credit card, debit card, or other bank-sanctioned transactions as payment for online wagering.

Mr. Speaker, because online gambling has grave societal consequences, I support this legislation that aims to eradicate it. As the "crack cocaine" of gambling, Internet betting often leads to severe personal and family hardships, including debt, bankruptcy, foreclosed mortgages, and divorce.

Although I am pleased that three amendments were made in order, I find it especially disappointing and frustrating that the Pombo amendment will not be debated today.

The gentleman from California (Mr. POMBO) presented an amendment that would have treated Indian tribes on a par with State governments. The interests of the Native American people, a community that has been disenfranchised for all of their history, should always be heard and, in this case, should have been debated.

The price of Internet gambling can be measured best in terms of the human costs. As we debate the pros and cons of this act, the most important question we should be asking is, What does Internet gambling cost our children, and is this a price we are willing to pay?

Mr. Speaker, we are debating a bill that has the potential to stop the gambling with our future, because Internet gambling hurts children. I have learned of one young man that racked up debts of $70,000 and was kicked out of his house because he was stealing from his family, and of another teen who blew his tuition and 3 days after his father repaid it, he withdrew from his courses, demanded a refund, and spent the refund on gambling. Stories like these are innumerable.

The American Psychiatric Association is so concerned about the increase in youth gambling, primarily on the Internet, that it recently issued the following statement: "In virtually all studies of the rates of gambling problems at various ages, high school and college-aged individuals show the highest problem areas."

The APA says the increase in problems among young people can be attributed, in part, to the ease with which they can gamble on the Internet, where there are no enforceable restrictions on age.

Mr. Speaker, this bill is intended to help reduce the extent of existing illegal Internet gambling in the United States; and I support it as it is presently constituted, with hopes of continuing revision.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I am the ranking minority member on the committee of jurisdiction, and I am pleased that we forestalled a suspension proposal here and that we do have a chance to debate some of the amendments. I will talk about that bill in due time.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. I did want to note today, though, and I guess I may need the Parliamentarian, Mr. Speaker. I know under our rules it is forbidden to speak ill of the Senate and from time to time people get exasperated and they speak ill of the Senate and they are duly chided.

But the question I have, Mr. Speaker, is, is it permissible to speak well of the Senate? Is it within the rules to lavish on the Senate the praise they deserve for passing the child tax credit bill?

The SPEAKER pro tempore. It is not in order to characterize the Senate in any way.

Mr. FRANK of Massachusetts. In any way. Well, I regret my inability to give credit where credit is due. I was hoping that an example recently given would be followed in this side of the Capitol; but I will abide by the rules, though as foolish as I think this particular rule is, and not comment on the Senate.

□ 1515

I will, though, have to say that the refusal of the Republican leadership in the House to allow the House to vote on a proposal that would extend to hard-working, low-income people financial relief after all of the financial relief we have given to people in the upper brackets is truly distressing.

I know there has been an effort on the House floor to portray our interest in providing a tax credit to people, and let us be clear, we are talking about here people who work. They work very hard. They work at jobs that are not very pleasant, and that, by definition, are not well paid. Many of them have families.

It is true that because they work hard at jobs that this society has devalued in many cases they do not pay much or any income tax. They do, however, pay a significant percentage of their income in taxes. They pay the Social Security tax and the tax on Medicare. They pay the withholding tax.

For many of them because there are no exemptions from that, there are no deductions, they pay the full thing no matter how many children they have, no matter how many other expenses they have. For some of those people this is a larger percentage of their income paid in tax than is paid by many wealthier people. That reduction will be further.

What this House says is, no, they get no relief out of this bill comparable to what others get. It is unworthy of this House to say that to these hardworking people struggling to provide for their children when the Republicans have said, in the tax bill, this looks like $350 billion, but we are going to convert it into hundreds of billions more.

A bill is going to be introduced that would cost a total of $10 billion, or would expend $10 billion; but it would be neutral revenue-wise to help these low-income people. We are told we cannot do that.

When there was a parliamentary situation that the President confronted, and he was told he could only get $350 billion in tax relief over the next 10 years, he said that he did not think people should be for such a little bitty piece of tax relief. So $350 billion is a little bitty. We are asking for a very small percentage of that little bitty for the poorest, hardest-working people in this country.

The Republican leadership, I can understand in the core Republican philosophy that they would say no to these people, but to refuse to allow the House of Representatives to vote on it seems to me unpardonable. We are just asking, okay, let it come to the floor. Let us have a debate. Are they so afraid that their resistance to helping these low-income people is so out of sync with the American people that they will not let it come forward?

I hope we will see that bill on the floor fairly soon.

Mr. LINDER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New York (Mr. SWEENEY).

Mr. SWEENEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise to actually speak on the underlying bill and the rule in support of both of those, and, as well, if I could take the opportunity to speak against one of the amendments.

I am from New York's 20th Congressional District, the home of Saratoga, New York. We like to say it is the home of horse racing. It certainly is the home of the oldest flat track in the Nation, the proud home of Funny Cide, the winner of the Kentucky Derby and the Preakness.

While we are a little less jubilant today than we were, maybe, a couple of days ago, we are still very bullish on the whole idea and the whole horse racing industry.

I am also the cochairman of the Congressional Horse Caucus. I want to talk a little bit about how important this rule is and this underlying bill is to horse racing and the horse racing industry. U.S. horse racing is regulated by Federal and State laws. It is in fact the most highly regulated form of entertainment sports initiative in this Nation.

The specific concerns expressed by many in this Congress about offshore international wagering, the integrity of operators, the identity of the participants, consumer fraud, and money laundering are not an issue as it relates to horse racing. Horse racing is a $34 billion domestic industry, along with the agribusinesses that it supports. It is critically important not just to the economy of my district but through vast regions throughout the Nation.

The underlying bill respects existing Federal and State gambling law. It does not make any unlawful gambling lawful; it does not make any lawful gambling unlawful. It does not override any State prohibitions or requirements. It does not expand or contract wagering. It simply maintains the status quo with respect to the underlying substantive law on gaming.

There will be an amendment later today brought forward sponsored by the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Utah (Mr. CANNON), and the gentleman from New York (Mr. CONYERS) that would prohibit State license activities and represents a broad overuse and abuse of Federal power.

I want to congratulate the gentleman from Georgia (Mr. LINDER) for bringing this rule forward. I want to congratulate the chairman of the Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY), for recognizing the importance of this underlying legislation and how important, critically important, it is to vast areas throughout the Nation.

I want to ask my colleagues to support both this rule and to support the underlying legislation and oppose the so-called Sensenbrenner-Cannon-Conyers amendment.

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 3 minutes to my friend, the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise to speak on this rule. This bill requires U.S. credit card companies and other financial entities to develop reasonable policies and procedures to identify and block financial transactions made in connection with unlawful Internet gambling.

Online gambling can have a severe impact on family life. It can be done anonymously easily from someone's home and requires little more than a computer and a credit card. We know the dangers of online gambling: lost savings, excessive debt, bankruptcies, foreclosed mortgages.

This is an important issue that we discuss today. Equally important as an issue is the restoration by the House of the child tax credit to 6.5 million families that have been in fact left behind, families of 12 million children which are taxpaying families, Mr. Speaker, who deserve tax relief. They have bills to pay, mouths to feed, children to take care of. With the economy continuing its slide downward, they do not know where their jobs will be the week after next.

Let me be clear: as has been indicated, these families do pay taxes. They pay payroll taxes, sales taxes. They may not know week to week whether their next paycheck is forthcoming; but they know that if it does, that 8 percent will come off the top on the first dollar earned.

So we should not be kind of lulled or fooled into thinking that these families do not pay any taxes, because they pay a greater share of their income in taxes than a corporation like Enron did in 4 of the last 5 years. Just because these families do not have a powerful lobby, we must be their lobby in this institution. We must lobby for their hard-earned money and not take it from them.

Before we consider bills like the Internet gambling bill, this House should take up the other body's child tax credit legislation. The White House has said that the House should take up this bill, and if we do, that the President will sign our bill.

This is not a partisan issue; this is an issue of values, of character. Each individual, those of us who serve in this marvelous institution, come here to do the right thing. This reflects doing the right thing, and also it reflects what our national character is all about.

That is why, Mr. Speaker, though I support this underlying bill, I also support the motion for the House to take from the Speaker's table, agree to, and pass the Senate amendment on the child tax credit. It is time the House votes to extend the full $1,000 tax credit to the families of 12 million children, just like 25 million other families in America. Quite simply, it is the right thing to do. We should meet that July 1 deadline when others will be getting their tax cut.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, illegal Internet gambling, that is something that many Americans do not know much about. They have not heard much about it until they look at their credit card and there is $4,000 or $5,000 worth of charges on their credit card because their son off at a university, or even their 14-year-old son, has gotten their card, gone in his bedroom, got on the Internet, and began to gamble.

Harvard University Medical School, the University of Connecticut, newspapers all over this country have looked at this problem. They estimate that as many as 5 million of our youth, as well as compulsive, what they call "pathological gamblers," are gambling on the Internet today.

This is basically a new phenomenon. In 1997 it was first brought to our attention when groups came before the Congress and asked that we do something about it. At that time, there were about 24 sites offshore, and it is estimated at that time that anywhere from $50 million to $300 million being bet.

In 2001, an Internet gambling bill was killed by this Congress, despite the urging of groups as diverse as Major League baseball, the NCAA, the NFL, various faith-based groups, and the AARP, because AARP represents a lot of grandparents whose grandchildren are becoming addicted to gambling in these sites, and they urged us to act.

In 2001, and again in 2002, this Congress began to argue not about illegal Internet gambling, but they began to attach amendments to this bill that would make lawful gambling unlawful or unlawful gambling lawful. Everybody wanted to improve their position. Some Members wanted to eliminate certain types of lawful gambling. Others wanted to create lawful exceptions to what was illegal gambling in this country. These bills continued to go down.

Today, we are not faced with a situation where we have a half a dozen sites and maybe $10 million of gambling on these sites; we are faced with a situation where we have $6 billion a year bet on these sites, $6 billion. That we know. We also know that there are somewhere between 1,500 and 2,000 sites offshore.

What else do we know about these sites? We know that they are untaxed. Not one dime of tax is collected. We know they are unsupervised. In fact, we do not know the identity of these people, except in two cases when the FBI prosecuted them and found out. The reason they prosecuted them is because they were laundering money. We found out they were money-launderers.

We do know, because the FBI has reported it, that organized crime is heavily invested in these sites, and they believe that organized crime controls these sites. We know that.

We know some other things about these people. We know they are not good people. We know they link these sites with pornographic sites, and we know some of these sites specifically target preteens. When they go on those sites, they also get a pop-up that exposes them to pornographic sites. We know that because various organizations have come before us and over the last 3 years testified that our youth, our preteens, are being led into addictive gambling.

The University of Connecticut, Harvard University, The New York Times, all of them have exposed this problem; but this Congress continues to take the occasion when these bills come up to try to have a turf fight on gambling.

In fact, the gentleman from Utah (Mr. CANNON) will offer an amendment which is another turf fight. Senators have said that if the Cannon amendment is attached that this bill will be killed in the Senate. So we again have a choice to make: Do we want to continue to let this industry grow, a mob-run industry? Do we want to continue to not know who these people are? Do we want to continue, in the words of a professor at Harvard University, to allow what he calls the "crack cocaine of gambling" to take hold in America?

□ 1530

Do we want to continue to do that or do we want to vote down the Cannon amendment and vote up this legislation?

One final thing that I would like to remind this body. There is a trial that went on last week in Florida. Adrian McPherson, Adrian McPherson was Mr. Football in the State of Florida. He was also Mr. Basketball in the State of Florida. Imagine such a talent, both the best high school football player, the best high school basketball player, and he went to Florida State University. And what do we know from the testimony last week? We know that he, and this is according to testimony, he has not been convicted, but we know this: We know he has been suspended from the team; not suspended, but he has actually been thrown off the Florida State team. We know he has been accused of going in a business and stealing checks from that business. We know that he is accused of going to a grocery store and bouncing a number of checks. We know that he is facing time in jail. We know that if he is convicted in the trial that he will be going through in the next month or two, that he will be banned from organized college athletics for life.

And all because what? The accusations, the testimony is he became addicted to Internet gambling, and he had massive debts and that is why he went out and stole these checks. But that young man and his family have been devastated. Florida State University has spent over a million dollars investigating this case.

What if 3 years ago this Congress had quit fooling with these turf battle Cannon-type amendments and adopted this legislation? I wonder if this young man would be taking the field for Florida State? I wonder if we had listened to the NCAA when they testified before our committee 3 years ago when they said, please take action, do something; when the NCAA warned us 2 years ago in testimony that we are going to have a scandal one day because illegal Internet gambling is making it very difficult for us to protect the integrity, the integrity of this sport.

There was one Gallup poll which said that 25 percent of college athletes today are betting on the Internet on sports, and most of those are betting on their own teams, and almost all of them were betting on college sports. What are we going to do? Are we going to continue to stand by while families are broken apart?

This morning I was on C-SPAN and when I got off, a man from Georgia called and said, I support this legislation. He was asked why. He said, I am a compulsive gambler. And he said, If I have to go 50 miles or 100 miles to gamble, I feel like I can keep that under control. But, he said, If it is in my home, if it is in my bedroom, if it is on my computer, I have a difficult time handling that. That man was saying to us: Take action.

In a few minutes we will get an opportunity to do two things. We will get an opportunity to do what the National Governors Association, in a letter dated yesterday, has urged us to do. We will do what the attorney generals, when they urged us, the Attorney Generals Association usually says, hands off, let the States handle it. But the Attorney Generals Association has said do something about this, we cannot.

When the Methodists, the Presbyterians, the Southern Baptists, we received a letter, Focus on the Family have written us, different faith-based groups; when even major league baseball says there is a growing problem, it is time to take action. If we do not, there will be other Adrian McPhersons. There will be other lives ruined. There will be families broken up. There will be children addicted to gambling. Because if there is one thing these illegal Internet gamblers know is, they know that our children are fascinated with and very literate on the computers. They use the computers.

We have seen the statistics. The average teenager is on the computer 20, 30 hours a week. We hear incredible numbers, and what do they enjoy doing as much as anything? Sports. You combine the computer with sports and you get what the Harvard Medical School said is an explosive, the crack cocaine, as I said earlier, of gambling. Let us take action before any more lives are ruined. We have had suicides. We have had at least five suicides.

Let us take action. Let us vote down these killer amendments and let us vote up this legislation, and let us finally take action.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. ALEXANDER), a new Member, new in the sense that this is his first term; however, he has distinguished himself in many ways among freshmen and all of us.

Mr. ALEXANDER. Mr. Speaker, I rise today in opposition to the rule and I have a motion to the House to take from the Speaker's table and pass the Senate amendment to the Child Tax Credit.

This body continues to refuse to address the problem that we have created. Extending the child tax credit to low-income working families is the right thing to do, and we should do it today. The Senate has already passed and the President is calling for it now.

Now, I have heard people say that those who did not vote for the tax cut should not be complaining about the way it turned out. Well, I supported the tax cut. I was 1 of only 4 Democrats to vote for it from day one, and I stand by that vote today. But by neglecting to provide the child tax credit to the low-income families, we have made a drastic mistake. We need to correct that now. These are hardworking people who pay taxes, too, and they deserve relief like everyone else.

Because of our actions, in Louisiana 1 out of every 4 families is being told that their children are not as valuable as other kids. That is wrong. We have the power to easily correct that mistake. Instead, we are playing games.

Now, last night I joined with the gentleman from Tennessee (Mr. TANNER) and the gentleman from Delaware (Mr. CASTLE) to introduce an exact replica of the Senate bill that has already passed. If they wanted, the House leadership could bring up our bill today and we could send it to the President.

The time for playing games is over. We made a mistake and we need to correct that today so that all working families can receive the needed relief when the checks go out next month.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, would the Speaker inform us of how much time remains on each side?

The SPEAKER pro tempore (Mr. DUNCAN). The gentleman from Florida (Mr. HASTINGS) has 18½ minutes remaining. The gentleman from Georgia (Mr. LINDER) has 15 minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), my very good friend.

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am going to speak against the rule, and it is not because I am against the underlying bill. It is because, Mr. Speaker, hardworking families need a break more than anyone else in this country and hardworking families are the ones that are bearing the brunt of this weak economy. But for some reason the Republicans leadership feels that the privileged few are more important than the 12 million children who are left out of the Republican tax cut and that Internet gambling is more important to discuss today than our children. And that is just plain wrong.

Voices across the country are speaking out in great numbers. It is overwhelming what we are hearing in our offices. And it must be overwhelming what the administration is hearing about supporting increasing the child tax credit and making it permanent, especially for those 12 million children who were left out of the recent tax package, because President Bush is finally urging the House to follow suit with the other body, saying that he wants to sign legislation that will restore tax credits for lower-income families and put the majority party's bad decision behind him.

Why is the Republican leadership in the House dragging its feet when we can help American families now?

Let us hold off on debating issues, even though we agree with them, like the underlying bill we are talking about, Internet gambling. Let us hold off on those issues until all working families are provided the benefits of the child tax credit. And at the same time, Mr. Speaker, while it is imperative that we swiftly extend the child tax credit to lower-income families, it absolutely should not be part of a broad package that extends even more benefits to the wealthy.

We must pass a clean bill that solves the injustice that has been done to these hardworking families. Our priority must be the 12 million forgotten children, not more tax breaks for the rich, not debate about Internet gambling, not anything except giving the tax breaks to those hardworking families.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. Pallone), my good friend.

Mr. PALLONE. Mr. Speaker, I rise in opposition to this rule, not only because I believe the House should finally address the child tax credit, but also because the Committee on Rules refused to include an amendment by the gentleman from California (Mr. Pombo) to allow American Indian tribes to operate Internet gambling sites on their reservations, the very action the overall bill gives to the States. Without the inclusion of this amendment, Indian tribes are unfairly singled out and cannot reap the same benefits States will receive if this legislation becomes law.

Mr. Speaker, I join my Democratic colleagues in calling on the Republican leadership to follow the Senate's lead and immediately approve legislation that will provide a child tax credit to 12 million children, children Republicans left out of their bill last month. Included among these 12 million children are the children of U.S. military families.

A report out last week showed nearly 1 in 5 children of active duty U.S. military families will not benefit from the increased tax credit because their parents earn too little to qualify.

Mr. Speaker, it appears the only Republicans who do not fully comprehend the huge mistake they made in their tax bill are my Republican colleagues here in the House. Last week the Senate passed a bill. Yesterday the President's press secretary said his advice to the House Republicans is to pass it, to send it to him so he can sign it. And yet House Republicans continue to fight against common fairness.

Just today in an AP story that I will quote, the gentleman from Texas (Mr. DeLay) said, "ain't going to happen."

"DeLay said the House will not pass the Senate's bill. Instead, it will use the child tax credit as a bargaining chip to encourage the Senate to pass bigger tax cuts favored by the House." And I have a quote of the gentleman from Texas (Mr. DeLay), "What we are interested in is real solid tax relief for those who are paying taxes," he said.

So the gentleman from Texas (Mr. DeLay), on behalf of the House leadership, continues to stop the child tax credit from becoming law for these 12 million working families.

Now, let me point out that these workers do pay Federal taxes; 7.65 percent of their earnings go to pay for Social Security and Medicare. These hardworking parents also pay State and local taxes as well. An analysis released earlier this year by the New York Times found that families pay 14 percent of their income.

These people pay taxes and they deserve the child tax credit, too. Pass the bill.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. Hooley), my good friend.

Ms. HOOLEY of Oregon. Mr. Speaker, I support the Unlawful Internet Gambling Funding Prohibition Act.

Online gambling has a huge impact on individuals and families. But I am not supporting the rule because we have not been able to bring up the child tax credit. I went to the Rose Garden today for the celebration of Leave No Child Behind. And they were celebrating all of the States having plans and about what they were going to do about education and how they were going to move forward. And I supported that plan.

But today we are leaving children behind, 12 million children. These are children whose parents earn $6, $7, $8, $9, $10, $11, $12 an hour. These are people that get up every morning, every noon, every afternoon, whatever their shift is. They go out and work hard, and yet they were denied the child tax credit.

□ 1545

It is time that we change that. The time is now. When I saw the quote from the gentleman from Texas (Mr. DeLay) that said there are a lot of other things that are more important than that, referring to the child tax credit, I wanted to say to the gentleman, say it isn't so, say it isn't so. We need to pass this and get on with our business.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from California (Mr. Baca).

Mr. BACA. Mr. Speaker, I rise in opposition to this unlawful Internet funding prohibition act and in support of the Sensenbrenner-Conyers amendment.

I oppose this bill as a strong defender of tribal government, a strong advocate for tribal sovereignty, a strong believer in fairness and equity. I state, a strong believer in fairness and equity.

This bill does not treat solvent tribe governments with the same level of respect it does States. Section four of this bill provides for a carve-out for States that allows States to license Internet gaming operations for lottery, horse track, and corporate gambling operations.

Although the bill grants States with this exception, it does not provide tribal governments with the same exception. Have we not learned that it is wrong to treat our Native American brothers and sisters as second class citizens? One would think that we would know better.

Let me be clear, I will not be standing here today in opposition to this bill if tribal governments were treated equal, if tribal governments were treated equal.

I do not disagree with the principle behind this legislation, but I disagree with the effects on Native Americans and their economy. H.R. 2143 gives an unfair advantage to private gaming enterprises, and it treats tribal governments and their industry as inferior.

Just when we think that the centuries of mistreatment and discrimination are ending, something like this comes up or shows up. Once again, Congress is trying to put tribal government at a disadvantage. Once again, Congress is trying to put tribal government at a disadvantage; and once again, I will stand up and defend the sovereignty of our tribal governments. I will stand up and make sure that our government lives up to its responsibility, lives up to their responsibility.

Gaming provides the financial resources the tribes need to survive and bring economic development to their people. It provides resources. The tribal governments need to provide health, education and hope for their people. It is the livelihood of our Native American brothers and sisters.

I will not stand by and watch Congress put tribes behind the eight ball once again.

I urge my colleagues to vote "no" on H.R. 2143 and "yes" on the Sensenbrenner amendment.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Ohio (Mr. BROWN), my classmate and good friend, former Secretary of State of the State of Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from Florida for yielding time to me.

Mr. Speaker, I urge my colleagues to vote "no" on the previous question so we can take the Senate tax bill off the Speaker's table for immediate consideration.

On May 22, this House passed a bill that gives a tax break of $93,500 to the average millionaire in our country. As Republicans rushed towards the Memorial Day recess, Vice President CHENEY cut a deal that left working, tax paying families out of the child tax credit expansion. That is right, $93,500 for millionaires, not one cent to working lower-income families.

As the tax bill advanced in the House, I joined my colleagues and sent out three Dear Colleagues alerting Members of all parties to the fact that it left low-income, working, tax-paying families out in the cold by denying them marriage penalty relief under the earned income tax credit.

Republicans knew they were making low-income Americans wait years for the same benefit that they would offer more affluent families right now. Republicans of the House knew that their leadership and knew that the Bush White House had stuck it to low-income families again by denying them relief under the child tax credit, $93,500 to millionaires and not one cent to lower-income working families. Republicans knew that the bill they supported offered that $93,000 to millionaires and was a slap in the face to millions of tax-paying, working American families.

Democrats believe simple fairness demands that we act immediately to remedy the injustice; but the majority leader of the House, the gentleman from Texas (Mr. DELAY), says we will not do it, not while he is the Republican leader. He says there are a lot of other things that are more important than that. The majority whip, the gentleman from Missouri (Mr. BLUNT), says we do not need to rush through this. Remember, $93,500 for millionaires, not a cent for lower-income working families.

We had to rush to give millionaires this $90,000 tax break; but when it comes to tax breaks for working tax-paying families, Republicans need time to think it over. While Republicans have left working families out in the cold by refusing to advance tax fairness legislation, they have moved on other bills.

For example, since that May 22 date, since Republicans were rushing out of town for the Memorial Day recess, Congress has renamed Federal buildings and post offices, congratulated baseball star Sammy Sosa, commemorated the 20th anniversary of National Tourism Week, and made it easier to clear bank checks. There is nothing wrong for any of those bills. I voted for all of them. But was any of them more important than helping 12 million children who were intentionally left behind by the Bush-Cheney-DeLay-GOP tax bill? Was any one of them more important, any of those pieces of legislation more important than helping 3.7 million working, low-income, tax-paying families whose marriages this House said were not worth as much as the marriage of their bosses? Not by a long shot, not in the wake of a tax bill that gives $93,000 to millionaires, not one cent to tax-paying working families.

Vote "no" on the previous question so we can take the Senate tax bill off the Speaker's table.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if the previous question is defeated, I will offer an amendment to the rule; and my amendment will provide that as soon as the House passes this rule, it will take from the Speaker's table and immediately consider the Senate-passed version of H.R. 1308, which restores the refundable child tax credit that was removed from the recently passed Republican tax bill.

Let me make very clear to my colleagues in the House that a "no" vote on the previous question will not stop consideration of the Unlawful Internet Gambling Funding Prohibition Act. A "no" vote will allow the House to vote on H.R. 2143 and on the Senate-passed version of H.R. 1308 as well. However, a "yes" vote on the previous question will prevent the House from voting on this badly needed tax package to provide real relief to America's working families.

I urge a "no" vote on the previous question so we can send this bill to the President today.

Mr. Speaker, I ask unanimous consent that the text of the amendment and a description of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. DUNCAN). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

I would just like to point out in the light of the conversations we have heard today that by definition a tax credit is a credit against income taxes paid. People who are left out supposedly were people who do not pay income taxes and do not get a credit because there is no place against which to lay that credit. I am sorry that we are turning the income tax system into a welfare program, but it appears that we are about to do that.

Mr. BACA. Mr. Speaker, I rise to urge my colleagues to defeat the previous question. Defeating the previous question allows us to discuss H.R. 2286 introduced by Congressman RANGEL to grant the Child Tax Credit to the thousands of needy families wrongfully ignored by the Republican majority.

When the conference report on the Republican tax cut was finished, the dividend tax cut got bigger and tax credits for working families got smaller. It is unconscionable that we are willing to sacrifice Child Tax Credits for the poorest in our society, so that we can give more money to the wealthiest.

Six and a half million families in this Nation earn $10,500 to $26,625 per year. If we do not pass a child tax credit for these families, 19 million children will be ignored. In my home State of California, nearly 1.3 million families alone, will not receive a child tax credit under the Republican's plan. These families need tax relief.

By not passing a child tax credit, 250,000 kids of active duty military families, many of whom are right now fighting overseas, will be ignored. Military families need tax relief.

Our economy is in desperate need of stimulation. Unemployment across the Nation has risen to 6.1 percent. The Hispanic unemployment rate alone is currently at 8.2 percent. America's families are suffering. They need immediate relief from the burden of a weak economy.

During this time of economic downturn we must not leave out those who are working harder for less pay or those who have recently joined the ranks of the unemployed. It is time to put working families back into the equation. America's families need our help. They need a child tax credit.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES. 263—RULE ON H.R. 2143: THE UNLAWFUL INTERNET GAMBLING PROHIBITION ACT

At the end of the resolution add the following:

SEC. 2. Immediately upon adoption of this resolution the House shall be considered to have taken from the Speaker's table the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, with Senate amendments thereto, and a single motion that the House concur in each of the Senate amendments shall be considered as pending without intervention of any point of order. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 222, nays 196, not voting 16, as follows:

[Roll No. 252]

YEAS—222

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NAYS—196

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—16

Cole
DeGette
Eshoo
Fletcher
Gephardt
Gordon
Herger
Houghton
Lantos
Larson (CT)
Rush
Smith (WA)
Tierney
Toomey
Waters
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DUNCAN) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1615

Messrs. MARSHALL, WEINER, SCOTT of Georgia and RODRIQUEZ changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 259, noes 158, not voting 17, as follows:

[Roll No. 253]

AYES—259

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chocola
Coble
Collins
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Janklow
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering

Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)

NOES—158

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Carson (IN)
Clay
Clyburn
Conyers
Cooper
Costello
Cummings
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—17

Carson (OK)
Cole
DeLay
Eshoo
Fletcher
Gephardt
Gordon
Houghton
Jenkins
Lantos
Larson (CT)
Rush
Smith (WA)
Tierney
Toomey
Waters
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DUNCAN) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1623

Ms. CORRINE BROWN of Florida changed her vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. COLE. Mr. Speaker, on June 10, 2003 for rollcall votes 252 and 253, I was unavoidably detained. If I had been present, on rollcall vote No. 252, I would have voted "yea." On rollcall vote No. 253, I would have voted "yea."

GENERAL LEAVE

Mr. BACHUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 2143.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

UNLAWFUL INTERNET GAMBLING FUNDING PROHIBITION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 263 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2143.

□ 1625

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2143) to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes, with Mr. TERRY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alabama (Mr. BACHUS) and the gentlewoman from Oregon (Ms. HOOLEY) each will control 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I rise in strong support of this bill today. There are going to be several amendments offered. One amendment will be offered as if it is an antigambling amendment. In essence, the amendment will actually bring this bill down. Fifteen years ago, there was gambling in two States, Nevada and New Jersey. Once we in this country moved to what we call convenience gambling, we have seen an increase in crime, corruption, domestic violence, physical abuse, and many other bad things that we Republicans and Democrats do not want to see. The ultimate in what is called "convenience gambling," meaning that you do not have to go very far to gamble, is Internet gambling where you can sit in your own family room in your bathrobe on a rainy weekend and literally go broke in about 24 hours.

There will be an amendment offered that will be sort of viewed as maybe some of the pro-family groups are for it. Let me say I have a letter to the gentleman from Alabama signed by the Christian Coalition, Concerned Women for America, the Family Research Council, the General Board of Church and Society of the United Methodist Church, and the National Council of Churches, the National Council of Churches headed by former Democratic Congressman Bob Edgar who served here for many years.

I would ask you, do not support the amendments that will weaken this bill. Internet gambling is beginning to be very corrosive in our society. We have a chance to deal with Internet gambling in the Bachus bill that the gentleman from Ohio (Mr. OXLEY) and other Members of the House have put forth. I rise in strong support of the bill. I think this is an opportunity to get control of Internet gambling and to do it in a way that is constructive and positive.

I ask my colleagues, one, support the bill on final passage; but, lastly, do not support any amendments that may appear on the surface to be good but what will in essence bring down this bill and thereby mean that Internet gambling will never be controlled. Five to 7 percent of the young people in our country are addicted to gambling.

□ 1630

As Internet gambling becomes easier and easier, that addiction rate goes up.

So I hope Members will oppose the amendments that will really bring the bill down, and on final passage do something to help this country, to help the young people, to get control of it, to get control and regulate Internet gambling.

Mr. Chairman, I rise in support of H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act, legislation needed to prevent the use of credit cards, checks, or electronic funds transfers for unlawful Internet gambling. It will be of vital assistance in curbing illegal Internet gambling.

This legislation states in the findings section that: "the National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent them."

As the author of the legislation which established the commission, I am pleased to see that one of its most important recommendations may indeed become law. The spread of

Internet gambling means that people can now gamble at the workplace and their homes, around the clock. The unchecked progress of Internet gambling must be curbed.

The National Gambling Impact Study Commission report went on to state that gambling can breed bankruptcy, divorce, domestic violence, and physical and emotional problems. Even suicide has been linked to gambling. Often times, even school-aged children—who have never gambled before—are lured into on-line gambling.

H.R. 2143 will establish an enforcement structure that will let federal regulators set up regulations which will limit the acceptance of bank instruments such as credit cards for use in illegal Internet gambling, reducing the chance for gambling to gain a further foothold in our society.

Before I close, let me share with you a story. Donna Kelly, a mother of a 12-year-old daughter and a 7-year-old son developed a gambling problem. At one time there were 13 warrants for her arrest for writing bad checks. Gambling had so wrecked her life that she saw only one option: suicide. Two days before Thanksgiving, she tried to kill herself. She failed, and was placed in a mental hospital. Mrs. Kelly spent Thanksgiving in a mental hospital because of her gambling problem.

Her daughter asked her afterwards, "Momma, why did you try to kill yourself? Do you not love me anymore?" This is the human dimension to gambling. This story illustrates why it is so important to vote for this bill. When you cast your vote today, remember the many lives ruined by gambling, and remember the family members left devastated by their loved one's gambling activities.

Internet gambling is a vast and growing enterprise which can serve as an avenue for money launders and terrorist funding. Gambling also involves great social costs. This bill will reduce access to the medium of the Internet as another forum for inducing people to gamble. I urge Members to vote for this legislation.

Hon. Spencer Bachus,
House of Representatives, Financial Services Committee Member, Washington, DC.

Dear Representative Bachus: As a diverse bipartisan coalition of family and faith-based organizations, we are very concerned with the effects of gambling on our society and the well-being of young people and families. We write to strongly support the passage of H.R. 2143, To Prevent the Use of Certain Bank Instruments for Unlawful Internet Gambling, and for Other Purposes. Internet Gambling is already against the law in all 50 states, yet offshore gambling interests continue to operate without any accountability and are available in every state by utilizing the Internet. We urge you to support H.R. 2143 and reject any amendment or proposal which would weaken the bill or hinder its enforcement according to current federal law.

The National Gambling Impact Study Commission Report presents a disturbing and devastating picture of the effect of gambling on families. Some critical points to consider in the report as it relates to Internet gambling are:

Gambling costs society $5 billion a year in societal costs including job loss, unemployment benefits, welfare benefits, poor physical and mental health, and problem or pathological gambling treatment, bankruptcy, arrests, imprisonment, legal fees for divorce, and so forth.

Because the Internet can be used anonymously, the danger exists that access to Internet gambling will be abused by underage gamblers, our children and youth.

The high-speed instant gratification of Internet games and the high level of privacy they offer may exacerbate problem and pathological gambling.

Lack of accountability also raises the potential for criminal activities, which can occur in several ways. First, there is the possibility of abuse by gambling operators. Most Internet service providers hosting Internet gambling operations are physically located offshore; as a result, operators can alter, move, or entirely remove sites within minutes. Furthermore, gambling on the Internet provides an easy means for money laundering. Internet gambling provides anonymity, remote access, and encrypted data. To launder money, a person need only deposit money into an offshore account, use those funds to gamble, lose a small percent of the original funds, then cash out the remaining funds. Through the dual protection of encryption and anonymity, much of this activity can take place undetected.

Computer hackers or gambling operators may tamper with gambling software to manipulate games to their benefit. Unlike the physical world of highly regulated resort-destination casinos, assessing the integrity of Internet operators is quite difficult.

Please support H.R. 2143 and reject the spread of a predatory industry, which is contrary to the well-being of individuals and all of society.

Sincerely,
Christian Coalition of America, Concerned Women for America, Family Research Council, General Board of Church and Society of the United Methodist Church, National Council of Christians.

Ms. HOOLEY of Oregon. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2143, the unlawful Internet Gambling Funding Prohibition Act. I thank the gentleman from Alabama (Mr. Bachus) for all of the hard work he has done on this particular piece of legislation, for working with me and the rest of the subcommittee.

This bill is really about enforcing what is already illegal activity. I have had several people come up to me and say, well, what does this bill really do? What this bill really does, it takes what is already illegal, it makes nothing more illegal or nothing less illegal, it takes what is already illegal and tries to enforce that law.

Furthermore, I would like to thank the gentleman from Massachusetts (Mr. Frank), the ranking member of the Committee on Financial Services, for the opportunity to manage the debate for the Democratic Caucus. He and I do not see eye to eye on this legislation, but I appreciate and respect the fact that we agreed to disagree, and I welcome healthy debate on the topic of illegal Internet gambling.

I am an original cosponsor of H.R. 2143, which was reported favorably by the Committee on Financial Services in March. Actions taken recently by the Committee on the Judiciary served to weaken this bill in such a way as to throw into question whether the bill would still adequately preserve the Federal law and protect States rights when it comes to regulating Internet gambling. Today's legislation will reduce that uncertainty by moving forward with the financial services-related provisions of H.R. 2143, which would serve as a core purpose of the bill to shut off that financial spigot to the illegal offshore casino sites.

Mr. Chairman, I want to talk a minute about what that financial spigot looks like. It is currently around $6 billion a year. None of that contributes to the United States economy. There are between 1,500 and 2,000 offshore Internet gambling sites. Unlawful Internet gambling is a scourge of our society. It not only leads to crime, but in many cases it is run by criminal enterprises. By shutting off the funding flow, we will go a long ways toward shutting down these elicit enterprises.

The Committee on Financial Services and all of the members, the ranking member and the chair, have worked diligently over the last few years with industry groups and civic organizations to strengthen the measure and to build support for its enactment. We consulted with financial services companies to improve the bill, recognizing current industry practices and protecting firms from liability for refusing to honor restricted transactions.

The policy rationale for this legislation is very simple: Offshore Internet gambling is already deemed illegal. By continuing to allow the financing of illegal Internet gambling, we are stating that we are not serious about enforcing the law. Worse, the FBI, the Department of Justice, and the Department of State have all stated that Internet gambling can be exploited to launder money for such groups as drug dealers, organized crime and terrorist organizations.

Now is the time to close the loophole that allows illegal Internet gambling to still exist in the United States.

Mr. Chairman, I reserve the balance of my time.

Mr. BACHUS. Mr. Chairman, I am happy to yield 1 minute to the gentleman from Ohio (Mr. Portman). I understand he has an inquiry about this legislation.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, first I would like to engage the chairman in a brief colloquy and say that I commend him for his very important work on this legislation, which I strongly support.

As the chairman is aware, there are legitimate businesses Ohio and elsewhere that provide legal, skill-based Internet games, such as Monopoly and Boggle. Is it the gentleman's understanding that H.R. 2143 is not intended to apply to these games of skill that are played, created, or distributed over the Internet and which do not involve the risk of something of value?

Mr. BACHUS. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, that is correct. It is intended to apply to gambling, which is primarily determined by chance, rather than the skill of one of the players over the other.

Mr. PORTMAN. I thank the Chair. As we know, several States and the District of Columbia have State lotteries that fund education and other State needs. In these States, the lotteries operate under a strict set of State rules.

Is it the gentleman's understanding, again, that H.R. 2143 is not intended to prohibit the use of electronic fund transfers, ACH transactions, checks or other bank instruments to pay for lottery play within the boundaries of a State within which the lot is located?

Mr. BACHUS. Mr. Chairman, if the gentleman will yield further, so long as it is legal within that State, that is correct.

Mr. PORTMAN. Again, I commend the chairman for his good work on this legislation. I hope he can beat back the amendments.

Mr. BACHUS. Mr. Chairman, I both commend and yield 5 minutes to the gentleman from Ohio (Mr. OXLEY), the chairman of the full committee, who has been instrumental in bringing this legislation to the floor.

Mr. OXLEY. Mr. Chairman, the bill we are considering today, H.R. 2143, the Unlawful Internet Funding Prohibition Act, represents the culmination of many hours of deliberation and hard work on the part of members and staff of the Committee on Financial Services.

The gentleman from Iowa (Mr. LEACH), the former chairman of the Committee on Banking and Financial Services, has led a determined battle to cut off the financial lifeblood of the unlawful Internet gambling industry, and the battle has been joined with vigor by the gentleman from Alabama (Mr. BACHUS), the chairman of the Subcommittee on Financial Institutions and Consumer Credit, and the gentlewoman from Oregon (Ms. HOOLEY), who has been a staunch advocate in the committee's efforts to stop this illegal activity. I want to commend both of them for their strong leadership.

Support for our committee's efforts to stop the money flow to illegal gambling sites has been nearly universal, from family and religious groups, to anti-gambling groups, from professional sports to college athletics, from major players in the banking and credit card industries, to law enforcement and Internet service providers.

Mr. Chairman, it would be far easier and far quicker just to list who does not support such efforts. That would, of course, be the illegal Internet gambling industry itself and the "wannabes" waiting in the wing for some sign that the Federal Government will roll over and sanction Internet gambling. They have launched an all-out effort at obfuscation and mischaracterization in hopes of defeating this bill and perpetuating their obnoxious activities.

Six years ago Internet gambling was nearly nonexistent. Indeed, the Internet itself was just coming into its own. Sadly, just as nature abhors a vacuum, so do criminals, and it was just a matter of time before gambling sites began cropping up offshore, beyond the reach of U.S. regulators and law enforcement.

Seeing their opportunity, they multiplied unchecked, gobbling up victims in the United States who represented the most vulnerable in our society: children, college students, and problem gamblers. Enticed by pop-up ads that promised untold riches, these victims yielded up their credit card numbers and other valuable personal financial information to an unregulated criminal element that could use that information as it chose.

All of the privacy hawks in this Chamber need to listen to this plea. The Committee on Financial Services has heard testimony from the U.S. Department of Justice and the FBI that Internet gambling serves as a haven for money launderers, and unregulated offshore gambling sites can be exploited by terrorists to launder money. FBI Director Mueller, in testimony before our committee, cited Internet gambling as a substantial problem for law enforcement. That view has been reinforced by the Financial Action Task Force, an international body that seeks to combat money laundering, which stated in a 2001 report that some member countries had evidence that criminals were using Internet gambling to launder their illicit funds.

For the record, let us make clear what the bill does and what it does not do. It does require the Federal functional regulators to establish regulations to limit the acceptance of U.S. financial instruments, such as credit cards, for use in unlawful Internet gambling transactions. By so doing, it cuts off the financial lifeblood of the illegal Internet gambling industry.

It does not, and I point out, it does not expand gambling in any way, shape, or form. Why would we want to do that? Those who claim otherwise are either not telling the truth, or they simply do not get it.

The bill's provisions kick in only, and only, where a regulator determines that an illegal activity has taken place and relies on Federal and State law current at that time to guide in that determination.

Let me be crystal clear: H.R. 2143 protects the right of States to regulate gambling within their borders. It neither expands nor limits gambling beyond what is allowed under existing Federal, State and Tribal law.

Mr. Chairman, H.R. 2143 represents legislation at its best. It is a directed approach to a serious problem. It will give regulators an important new tool to fight unlawful Internet gambling, and will protect families throughout America. It deserves the support and vote of every Member of this House.

Mr. Chairman, in closing, I want to point out that this legislation is intended to address funding of illegal Internet gambling, not to regulate general purpose communications networks that may be used in isolated instances to transmit funds. The terms "networks" and "participants in networks", used in section 3(c) and in the definition of a "Designated Payment System" in section (4)(3), are intended to refer to payment networks, such as funds transfer networks, not to general purpose telecommunications or Internet networks. Thus, this bill would not regulate the provision of Internet connectivity or frame relay service to an electronic funds transfer network, but would regulate the operation of the funds transfer network itself.

Ms. HOOLEY of Oregon. Mr. Chairman, I yield 3 minutes to my good friend, the gentleman from Alabama (Mr. DAVIS), a member of the committee.

Mr. DAVIS of Alabama. Mr. Chairman, let me first of all compliment my good friend, the gentleman from the other half of Birmingham, Alabama (Mr. BACHUS), for his leadership on this issue.

I take up where the gentleman from Ohio (Mr. OXLEY) left off. This is a very well-conceived piece of legislation. I speak from the perspective of someone who spent 5 years as a Federal prosecutor.

When I started out as a Federal prosecutor, we did not hear a whole lot of about gambling, frankly, from a lot of the people who crossed my desk. By the time I left, gambling had become the means of choice for disguising large sums of money being moved back and forth by drug dealers.

It goes without saying that in this age of Internet access, a lot of children are finding their way to a lot of things that parents do not know that they are finding, and one of them is Internet gambling.

This is a positive bill. I will note that some people have raised concerns about how financial institutions would go about enforcing it, how they would go about policing and enforcing the various mechanisms contained within it. And I will note for those who raised those concerns that this legislation only requires financial institutions to develop adequate policies and procedures for identifying and blocking gambling payments.

Most of the credit card industry and most of the financial services industry have said they can easily take on this burden. It is a burden that they regularly assume in policing all kinds of transactions.

I do want to address one line of amendments that I do expect will come before the House today, and it deals with the amendment offered by my colleague from Wisconsin that refers to one very specific section of the bill. Right now this bill would exclude from its coverage "any lawful transaction with a business licensed or authorized from a State."

That is an important provision, for a very simple reason. As many of my colleagues well know, a number of States in this country permit various forms of pari-mutuel betting. We may not like that, we may not engage in it, but there is not one of us in this institution who questions that it is the right of a State to determine what is gambling and what is not gambling. It is the right of the State of Alabama to decide and the right of our legislature to decide if we are going to recognize pari-mutuel betting or not.

If this amendment, which I believe is well-guided, were to be enacted, it would fundamentally change the purpose of this bill, because what it would do, very simply, is it would prevent a State from accepting pari-mutuel betting or any other forms of gambling that have been recognized, frankly, and declared as permissible by State law.

We talk a lot about States rights in this institution, and both parties now have picked up that mantra. It is in the interests of States rights if we decide that States can decide what is legal and what is not illegal. So I would urge my colleagues to reject the stream of amendments that would take away the States' ability to decide what is valid inside their own house.

So I close, Mr. Chairman, by saying this is well constructed, bipartisan legislation of the kind, frankly, that our committee regularly and routinely produces.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. I thank the gentleman from Alabama for yielding me time.

Mr. Chairman, I am reluctant to oppose my chairman of the full committee, but I am doing it today. What I am saying today is consistent with what I have said previously about this bill. We reported the bill out of the Committee on the Judiciary Subcommittee on Crime, Terrorism and Homeland Security without the Cannon amendment. The Cannon amendment was added in full committee and comes back to us today when the gentleman from Wisconsin (Chairman SENSENBRENNER) submits his amendment subsequently.

The amendment, in my opinion, Mr. Chairman, will strike the provision of the bill that states that the term "bets or wagers" does not include any lawful transaction with a business licensed or authorized by a State. This provision is duplicative of the actual definition of "unlawful Internet gambling," which is defined as a bet or wager that is unlawful under any applicable Federal or State law.

□ 1645

I am told, Mr. Chairman, and I think the gentleman from Louisiana has corroborated this, that some groups feel that this is a carve-out from the prohibition set forth in the bill. I believe that those groups who so declare are misinterpreting current law and, with or without this provision, we still have to contend with the prohibitions of the Wire Act.

Finally, Mr. Chairman, I believe that the Sensenbrenner amendment will pretty well remove the muscle from the arm of States' rights. I believe that the language that the Sensenbrenner amendment seeks to strike simply preserves the ability of States to regulate gambling, and that is where I think the regulatory issue should arise.

Ms. HOOLEY of Oregon. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK), our ranking member.

Mr. FRANK of Massachusetts. Mr. Chairman, where are the libertarians when we need them? What we have before us is the Inconsistency Act of 2003. Rarely has a bill come forward which is in conflict with as many principles as Members of this House have professed. In the first place, we have the question as to whether or not we should substitute the government's opinion for individuals' choices.

Now, there are ills in this world against which people should be protected. There are economic injustices, there are environmental problems, there are criminal elements who would prey on people. I spend all of my energy trying to protect people against things done by others, whether forces of nature or individuals, that would harm them. I envy my colleagues who have more energy than I. I do not have enough left to protect people against themselves. This is an example of our deciding that we cannot trust adults to decide what to do with their own money.

Now, if we were talking about someone who was being forced to gamble at gunpoint, I am with you. If there are people who are being coerced into putting down a bet, let us protect them. But if an individual has gone out and earned his or her money and decides he or she wants to gamble, why in the world is it anybody in this building's business?

So we, first of all, have this inconsistency with the principle of let us keep big government off our backs. I do not myself gamble. I do not like to see my money go when I do not have any control over it, and so I do not gamble. And other people who are opposed to gambling, I do not always hold myself out as an example, but I will in this case. Be like me: do not gamble. But if other people want to put a bet down, mind your own business.

Now, there are people for whom this is enjoyable. I do not understand why we should cast aspersions on them. And it is true, some people will abuse it. There are a minority of people who will abuse this. But the notion that we prevent adults from making their own choices with their own money, to do things which have no harmful effect on anyone else, because a minority of people will abuse them is, of course, a very dangerous principle. There are people who drink too much. There are people who go to too many movies. There are people who do a lot of things in excess that most of us do in moderation. Ban the excess, if you want to; deal with the consequences of the excess. This is a violation, though, what we are doing now, of the fundamental principle: leave people alone.

There is another principle that I have heard: the sanctity of the Internet. We are told that we should not interfere with the Internet. Indeed, this House has refused to cooperate with State governments; now, many of them are in terrible fiscal crises, cutting back on health care, laying off public safety officials, but we will not cooperate with them in collecting sales taxes from people who buy things over the Internet in competition with local communities, and they lose tax revenue. But we say, oh, no, we cannot touch the Internet, unless it is being used for something people here do not like. That is basically what is involved here.

We have, and there is an interesting conjunction here of liberals and conservatives. Conservatives do not like it, some of them because I read from some of the very conservative groups that it is immoral to gamble. I am often baffled by their morality, and I do not understand why it is immoral to gamble. I am struck by so many of my liberal friends who do not want people to gamble. Indeed, gambling is, to many liberals, what sex-oriented literature is to conservatives. They do not like it, so they do not want anyone else to do it. There are people who do not like gambling; then do not gamble. But why use the law to prevent other people from doing it?

Now, I know they say, well, but this is not just making it illegal; this is doing this, that, and the other. But let us cut right down to it. This is being put forward by people who do not like gambling and want to make it harder to gamble, and their principle of keeping government out of private choices, forget about it; their principle of being able to use the Internet without interference, forget about that; and their respect for financial institutions, forget about that.

Now, they say children will abuse it. I understand that. That is a serious effort. I am prepared to cooperate in efforts to try to protect children, although we should know that the major protection of children ought to be their own parents. This is protecting children, forgetting about any parental role; but that is another principle that is a problem. You cannot, in my judgment, sensibly, in a society like ours, make it illegal for adults to do things because there is a possibility that some young people will do them when they should not. Let us work on ways to prevent children from doing this sort of thing.

Gambling is a perfectly legitimate human activity. There are people who enjoy it. There are people who find that it engages them. I do not think they ought to be anesthetized on the floor of the House, but being anesthetized, I guess a lot of people do not pay a lot of attention to what we say. No real harm there. But when you take the law of the United States and you now put further criminal penalties here and further restrict people, I think we are making a very grave error.

So I hope Members who have talked about States' rights, who have talked about individual liberty being protected from an overreaching government, who have talked about not stifling the Internet and its creativity, will think about one of those things when you come to vote on this bill and vote it down.

I thank the gentlewoman for managing this time and yielding this time to me. I am the senior minority member, but since the majority of members of my committee, in a temporary lapse from their usual good judgment, supported this bill; I did not think it was appropriate for me to be the manager.

But I do hope that individual freedom, a distrust of overreaching government, a respect for the rights of State and local jurisdictions, and a respect for the Internet will count for something when we vote.

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume to respond to the gentleman from Massachusetts. I would say to the gentleman that this bill is not about opposing legal gambling. This bill is about opposing mob activity, criminal activity. The FBI says that organized crime is behind these Internet sites. This is about the unsupervised, illegal, untaxed Internet gambling. Illegal, offshore.

We talk about adults. These sites specifically target preteenaged children; and as the University of Connecticut has shown us, it is becoming a problem for many of our teenagers. They are becoming addicted to it, and they then turn to crime. This is about protecting Americans from crime that arises from these sites, specifically from these sites.

In the gentleman's own State, Dr. Schaffer, Harvard Medical School, likened illegal Internet gambling to crack cocaine, and he said, "It is changing the gambling scene as crack cocaine changed the drug scene." We have all seen the scourge of crack cocaine. We have seen how it has ruined our country, ruined our youth. We have seen Adrian McPherson, a young man with a lot of promise, a star quarterback, a Mr. Basketball in the State of Florida, Mr. Football, we have seen him on trial, accused of Internet gambling.

Mr. Chairman, this is simply about enforcing the laws of this country and protecting our youth. We take the animals of the field, the one thing they do is they protect their youth. If dogs, cats, rabbits, any animal, if they protect their youth, at least we can rise to that level and above that level and protect the youth of our country.

Finally, as the NCAA said when they urged us to adopt this legislation for 5 straight years, "Illegal Internet gambling is destroying the integrity of college sports and we have scandals in the making." Let us put an end to it; let us put an end to it now. Let us vote for this bill. Let us vote for the Kelly amendment. Let us vote against the Cannon amendment, which is a poison pill, as we all recognize, any of us who have studied the issue at all.

Mr. Chairman, I yield 3½ minutes to the gentlewoman from New York (Mrs. KELLY), who has conducted extensive hearings on this matter.

Mrs. KELLY. Mr. Chairman, I would like to enter into a colloquy with the gentleman from Alabama.

Mr. Chairman, I would like to clarify the intention of this legislation. Section 4, subsection 2(E)(ix), exempts transactions with a business licensed or authorized by a State from the definition of "bets or wagers" under the bill.

Some parties have raised concerns that this could be read broadly to allow the transmission of casino or lottery games in interstate commerce, for example, over the Internet, simply because one State authorizes its businesses to do so. I want to make clear that this exemption will not expand the reach of gambling in any way. It is intended to recognize current law that allows States jurisdiction over wholly intrastate activity, where bets or wagers, or information assisting bets or wagers, do not cross State lines or enter into interstate commerce.

The exemption would leave intact the current interstate gambling prohibition such as the Wire Act, Federal prohibitions on lotteries, and the Gambling Ship Act, so that casino and lottery games could not be placed on the Internet. Is that correct?

Mr. BACHUS. Mr. Chairman, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman from Alabama.

Mr. BACHUS. The gentlewoman's assessment of the intent is accurate. I thank the gentlewoman for clarifying that point.

Mrs. KELLY. Mr. Chairman, reclaiming my time, I thank the gentleman for that clarification.

I strongly support this legislation and urge my colleagues to join us in standing against illegal Internet gambling. These Web sites are extremely destructive, and it is time we put them out of business.

We all know that illegal money transfer has funded terrorism in this Nation. We need to dry up terrorism's money. Anyone who cares about their personal safety and the safety of the people in this Nation needs to vote for this bill.

This legislation will bar Internet gambling access to the U.S. financial services network by preventing the use of credit cards, wire transfers, or any other bank instrument to fund gaming associations.

Representatives of the offshore casino industry have tried to make the case that Internet gambling is a harmless activity that can easily be brought under control by Federal regulation; but, unfortunately, that is not true on many fronts. It is technologically impossible to create safeguards that will regulate Internet gambling. That means anyone with access to a credit card, including children, can access these sites. Anyone who is a terrorist with a credit card can transfer money this way.

As the FBI closes down on other money-laundering schemes, more illicit funds are expected to move through Internet gambling sites. To stop terrorism, we must dry up their access to funding.

□ 1700

This legislation will help that. The bottom line is, Internet gambling is illegal, and according to the Department of Justice and the FBI there is no effective way to regulate it. The only way to stop it is to cut off the financial flow to the illegal Internet casino industry, which is precisely what this legislation before us does.

Finally, there has been a lot of misinformation spread about this legislation in the past few weeks. Let me be very clear, this legislation does not change current law by defining what is legal or illegal; it simply ensures that we have a mechanism to enforce illegal activity under the Federal law.

Reasonable people can disagree on offering a separate amendment to the committee which makes it absolutely crystal clear that we are not changing anybody's law regarding Internet gambling. I believe that the base text speaks for itself. But if it needs to be clarified, my amendment makes it absolutely clear: The legislation does not change any law currently in place, Federal, State, or tribal, governing gambling in the United States.

I urge my colleagues to support the legislation that will give law enforcement an important new tool to fight crime and protect our families in the United States.

Ms. HOOLEY of Oregon. Mr. Chairman I yield 2½ minutes to my good friend, the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, I feel somewhat like a skunk at the church picnic, but I rise today to urge my colleagues to vote against this senseless and useless piece of legislation.

I know something about gaming and gaming law. I was a gaming attorney for many years before I came to the United States Congress, and I represent Las Vegas. This bill, in spite of what its sponsors say, will not stop illegal Internet gaming, and, if passed, it will have serious unintended consequences.

This legislation, let me reiterate, will not stop Internet gaming. It exists today. There are over 1,600 gaming Web sites offshore already. Americans are playing online now. But instead of playing on well-regulated sites, they are placing wages on the existing 1,600 offshore unregulated sites which have no requirement to verify the identity, the age, the background, or the location of the person placing the wager.

In most cases, there is no regulation of offshore sites. A child can place a wager on these offshore sites, a compulsive gambler can place a wager on these sites, and there is no guarantee that players will receive their winnings from these offshore sites.

My good friend, the gentleman from Alabama (Mr. BACHUS), speaks of mob influence and speaks of protecting children from gambling. There is not one thing in this legislation that will remedy any of the problems that he speaks of.

Let us not be foolish enough to believe that this bill will stop people from gambling online. Despite efforts by every credit card company in the United States to prohibit the use of their financial instruments for Internet gaming, the General Accounting Office predicts that the offshore Internet gaming industry will continue to grow to a $4.2 billion industry in 2003 with a growth rate of 20 percent per year. Passing this bill will do nothing to impede that growth. Online gaming is here to stay.

If these unregulated and unscrupulous offshore sites continue to flourish, the integrity of the legal gaming industry is also at risk. Instead of prohibiting online gaming, we should be closely examining online wagering to see if it can and should be regulated and taxed as a legal business. No one knows the answer to this, but it might turn out that it may be the only effective way to stop illegal online wagering and the problems it creates. H.R. 2143 would cut off this option, and we should not pass it.

For those people that are so worried about funding of terrorists, let us have our so-called Saudi allies and our moderate Arab allies, let them stop the money they are flowing into the terrorists, and not kid ourselves to think that stopping online Internet gaming is going to do the trick for us.

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, major league baseball, the National Football League, and the NCAA all endorse this legislation. We could have no better representative than the gentleman from Nebraska (Mr. OSBORNE), who many of us still think of as Coach OSBORNE of the Nebraska Cornhuskers.

Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I thank the gentleman from Alabama and the gentleman from Iowa (Mr. LEACH) for this legislation. I support H.R. 2143.

As the chairman mentioned, I spent most of my life working on a college campus. I can attest to the fact that Internet gambling is really hitting our college campuses very hard, because all you have to do is have a computer and a credit card and you are in business. Almost all students have this, so we see an explosion of gambling on the college campuses. Many student athletes are becoming heavily involved. I think someone mentioned earlier a quarterback from Florida State.

The reason that the NCAA, the NBA, major league baseball, all of these organizations are against it, is that once a student athlete becomes heavily indebted, there are really only a couple avenues he can take to get out of the problem. One is to cooperate with gamblers. Another is to shave points. So it tremendously compromises the athletic scene.

According to a 1997 study by Harvard Medical School, students show the highest percentage of pathological gambling. To say that students are not involved is simply inaccurate. For some, as has been mentioned earlier, gambling releases endorphins, much like crack cocaine, so this is a highly addictive activity.

Our society is becoming increasingly dependent on gambling. Individuals try to get out of poverty by winning the lottery or hitting the jackpot. States try to cure economic woes through lotteries and casinos.

Internet gambling does not fix the problem; it makes it worse. Internet gambling provides no useful goods or services. It usually is linked to organized crime. It often results in divorce, suicide, theft, and poverty. It siphons money that would otherwise be spent to buy food, clothing, appliances, housing, and thus hurts the economy. Above all, it hurts our families and it hurts our children.

Please support H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act.

Ms. HOOLEY of Oregon. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would respond to the comments of the gentlewoman from Nevada (Ms. BERKLEY). I think she gave a really good argument why we should pass this bill. It may not do everything that we want it to do, but right now offshore gambling is illegal.

What we are trying to do in this bill is very simple. It is to shut off the financial spigot. Will it stop it totally? Probably not. Will it make a dent? I certainly hope so. But unless we can shut off that financial spigot, nothing will happen, and it will just continue to grow and take that money out of our economy.

Mr. Chairman, I yield 2 minutes to my good friend, the gentlewoman from Texas, (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentlewoman for yielding time to me. I thank her for her leadership and for her work.

Mr. Chairman, we know that unregulated Internet gambling does hurt. I also believe we as Members of Congress want to do the right thing. I would encourage that we look at the idea of the expanded study of this question to make the right decisions.

I would also like to offer a comment on what I believe will be a very helpful amendment that I will have the opportunity to expand on as we go into the amendments on this legislation.

It is important to note that 8 percent of children under the age of 18 in America have a serious gambling problem, as opposed to a 3 percent number of adults. That is, of course, a distinctive difference between those children under the age of 18.

I would hope that my colleagues would look upon an amendment that hopefully answers that question and provides some of the comparable legislation that was allowed in the Children's Protection Act that dealt with protecting children from accessing pornography on the Internet by utilizing a credit card.

My amendment will allow the use of a credit card in the instance of legal Internet gambling so that it will prevent or prohibit or stop or inhibit 18-year-olds, or those under 18, from using the credit card to access Internet gambling.

What it will do is the fact that a credit card, one, requires one to be at least 18 to secure one. Then, of course, it has a purchasing coding system to alert parents of unauthorized charges.

Then it records the information on the charge. These are all ways of providing that extra door, that extra fire door to prevent those youngsters from accessing Internet gambling.

I hope my colleagues will listen to the debate. I expect to listen to the debate so we in Congress can do the right thing, so we can do it together, and do it on behalf of the American people.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to rise to register my very, very strong support for this bill, and my opposition to the Cannon amendment; not that I oppose the intent of the Cannon amendment, but simply because that is likely to be a poison pill for this bill and result in its immature death. Let me ask a few questions.

Does gambling cause any social good in this country? The answer is absolutely not. It creates a great many social problems but provides no social good.

Does it help when we assess taxes on it? Does that not provide some good? It may salve our conscience a bit, but it certainly does not overcome the problems that arise from gambling.

Is gambling addictive? Yes, without doubt. I can recount an example that was just told me a few weeks ago by one of my constituents, where a gentleman who had been reasonably well off had to go into bankruptcy because his wife had become addicted to gambling. She had very carefully hidden it from him. She had taken out credit cards which he did not know about. The accumulation of debt from her gambling addiction drove them into bankruptcy.

Does gambling attract crime? Yes. Terrorism? Yes. Why? Wherever there are large amounts of cash available with minimal accounting standards, as we have with Internet gambling, we are going to attract crime. We are going to attract terrorism.

What is the worst form of gambling? Internet gambling. It is easy, it is convenient, it is anonymous, and we can do it from our own homes or from a public library or any of a number of other places. It is very tempting for any addicted gambler to use Internet gambling, and use it surreptitiously when necessary, to cover the fact that he or she is addicted.

I very strongly support this bill. I hope the Congress will approve it, that the Senate will approve it, that the President will sign it, and it will become law.

Ms. HOOLEY of Oregon. Mr. Chairman, I reserve the balance of my time.

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Iowa (Mr. LEACH) have been fighting this issue and offering legislation for some time. This legislation actually appropriately would bear their names. I commend the gentleman from Virginia. I think no one has done more than he and the gentleman from Iowa (Mr. LEACH) on this issue.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I want to thank the gentleman from Alabama (Mr. BACHUS) for his leadership on this issue. He has been fighting this for a long time, and I appreciate his efforts to bring forth this legislation.

I am pleased to support it, the Unlawful Internet Gambling Funding Prohibition Act, because it is an important first step in the fight against Internet gambling. It hits illegal gambling institutions where it hurts the most: their pockets. By shutting off the financial lifeblood of this illegal industry, this bill will help to starve out unlawful Internet gambling sites and in the process close off opportunities for money launderers, terrorists, and organized crime.

Gambling on the Internet has become an extremely lucrative business. The Internet gambling industry revenues grew from $445 million in 1997 to an estimated $4.2 billion this year. Furthermore, industry analysts estimate that Internet gambling could soon easily become a $10 billion a year industry.

The problems with Internet gambling are many. The instant access to online gambling is particularly disturbing. This illegal activity is available to adults and children alike with the simple click of a mouse.

In addition, the social problems associated with traditional forms of gambling have increased with the proliferation of Internet gambling. Online gambling results in more addictions, more bankruptcies, more divorces, more crime, the cost of which must ultimately be borne by society.

I do believe that more needs to be done in the fight against Internet gambling, including creating stiffer criminal penalties for violators and updating the Federal Wire Act to make it clear that it covers new technologies such as the Internet.

□ 1715

However, H.R. 2143 is an important first step in this fight and I am pleased to support this bill.

I urge my colleagues to join me in this effort. I want to thank the gentleman from Iowa (Mr. LEACH), the gentleman from Ohio (Mr. OXLEY) and others, the gentleman from Virginia (Mr. WOLF), who have helped to lead this effort. This is a great opportunity for us today and I thank the gentleman from Alabama (Mr. BACHUS) for it.

The CHAIRMAN. For the record, the Chair announces that the gentlewoman from Oregon (Ms. HOOLEY) has yielded to the gentleman from Alabama (Mr. BACHUS) 8 minutes, reserving 4 minutes for herself.

Mr. BACHUS. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. LEACH). Many fine things have been said about the gentleman, that he and the gentleman from Virginia (Mr. GOODLATTE) have been fighting this issue, this problem, and have really brought it to our attention, along with the gentleman from Virginia (Mr. WOLF), and I commend him.

Mr. LEACH. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this bill is a great credit to the gentleman from Alabama's (Mr. BACHUS's) leadership. Also, as indicated, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Virginia (Mr. WOLF) have worked on this for years, and I am very grateful for their support.

Mr. Chairman, the bill as it comes before the floor today is, frankly, not as comprehensive as I would have liked. It would have been better if the Committee on the Judiciary had updated the Wire Act. It would have been better if we had been more precise in allowing certain law enforcement ties to the financial system. Nevertheless, this is a very credible first step to slowing the growth of Internet gambling.

The issue has been raised on the floor, and I think it is worthy of serious review, the question of is this an individual issue, a libertarian issue or is it a social issue?

I believe very firmly that it is far more than a libertarian issue. We ignore gambling at our peril. It is simply not good for the American economy to send billions of dollars overseas. It is not good for American national security to allow Internet gambling to provide the ideal basis for money laundering, for narco-traffickers and for terrorists. But most of all it is not good for the American family.

Anyone that gets hooked on Internet gambling or any form of gambling, but particularly Internet which is gambling alone, will lose virtually all of their assets. Anyone that gets hooked will, in all likelihood, lose their family. Divorce is a serious element of the gambling problem. In very many cases the extraordinary circumstance of suicide is contemplated by gamblers that get this as a virtual disease.

It is a libertarian myth that only the individual, only the gambler is affected. Its effects spill over to the financial systems. When there are losses, everybody else has to pay higher interest rates. They spill over to the social welfare system where people have to pick up the costs of broken lives. It spills over to the economy where suffering has to be picked up elsewhere; and they spill over into national security concerns.

Internet gambling serves no social purpose whatsoever. It is a danger to the American family. It is a danger to the American society. It is a danger to the security of the United States. It should be ended, and this is a credible beginning.

Mr. BACHUS. Mr. Chairman, I yield back 1 minute to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Chairman, how many more speakers does the gentleman have?

Mr. BACHUS. Mr. Chairman, we have 2 more.

Ms. HOOLEY of Oregon. Mr. Chairman, I yield 2 minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, it has become very apparent to me after listening to this debate that the supporters of this bill not only oppose the Internet gaming, they are opposed to any form of gaming whatsoever. They speak of gaming and they speak of addiction and crime and drugs and suicide.

Well, I grew up in Las Vegas. Las Vegas has 1.5 million residents; 37 million visitors come to our community every year to enjoy our entertainment, and our wholesome family entertainment, I might add.

I grew up in Las Vegas. I represent the good people of Las Vegas who depend on the gaming industry for their livelihood. My father was a waiter when I was growing up. He worked in one of these casinos that you disparage so handily.

Let me state what Las Vegas means to me. On a waiter's salary my father was able to put a roof over our heads, food on the table, clothes on our backs, and two daughters through college and law school. That is not so bad on a waiter's salary. And the reason he was able to do it was because of the strong economy that the gaming industry created.

Las Vegas to me is churches and synagogues and families and Saturday soccer and proms at this time of year and graduations and hopes and dreams and aspirations to millions of people that come to Las Vegas and the 1.5 million people that live there.

And, quite candidly, the people in this Chamber ought to be ashamed of disparaging a community like Las Vegas that I daresay lays shame to all of your own. So please be careful when you speak of my community and the major industry that takes care of the people that live there and provides good educations, good economy, good living conditions, and a quality of life that is the envy of the rest of the United States of America.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Chairman, I want to thank the gentleman from Iowa (Mr. LEACH) and the gentleman from Virginia (Mr. GOODLATTE) for their efforts here.

I want to disagree with the gentlewoman from Nevada (Ms. BERKLEY) for a moment. I used to be an FBI agent. And the old saying "It takes money to make money" is as true for organized crime as it is for any other business in America. This is not about Las Vegas. This is about offshore entities; Russian organized crime establishing offshore sites to develop low-cost/high-revenue venues where they can do two things: A, make a tremendous return on their investment; and B, launder money. And they are not laundering money that they have earned by betting or working in legitimate businesses. They are laundering money that they obtained illegally from drug sales, from prostitution rings, from pornography rings, from street gang street tax, from street taxing businesses who are trying to operate in New York and Miami and Los Angeles.

These are exactly the kinds of activities that this bill will at least attempt to put a tool in the toolbox to stop. The FBI already has several cases today involving organized crime using Internet gambling to launder money. They use this money and turn it around to do pretty awful things, not only in America but now internationally. And they have become very, very sophisticated at how they get there.

It would be sticking our heads in the sand if we do not stand up and say we will not tolerate organized crime using the Internet to negatively influence our communities and our business community all across America.

This is dangerous, dangerous stuff. And to compare this to soccer games in Las Vegas is both naive and shortsighted. I would encourage the gentlewoman to understand where we seek to go and the very types of people we seek to stop with this bill.

I would also take this opportunity to urge this body to reject the Sensenbrenner and Cannon amendment. We are very, very close here today to taking one step closer to knocking organized crime off their feet. That is a poison pill that may slow that endeavor.

Ms. HOOLEY of Oregon. Mr. Chairman, I reserve the balance of my time for closing.

Mr. BACHUS. Mr. Chairman, I have the right to close. I do intend to close.

Ms. HOOLEY of Oregon. Mr. Chairman, is the gentleman through with his speakers?

Mr. BACHUS. Mr. Chairman, we have no other speakers, but I do wish to close.

Ms. HOOLEY of Oregon. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I want to remind people this is not about legal gambling. This is about illegal gambling. This is about offshore casinos. This is about illegal Internet gambling.

Again, I appreciate the opportunity to speak in favor of this Unlawful Internet Gambling Funding Prohibition Act. And I also want to thank the gentleman from Ohio (Mr. OXLEY) and the gentleman from Alabama (Mr. BACHUS) for all of the hard work, and it has taken more than 1 year that they have worked on this.

Mr. Chairman, I do not intend to turn this debate into an oversimplification, but I want to remind this entire Chamber that this bill does not in any way prohibit Internet gambling. The bill does not make Internet gambling illegal. This bill quite simply takes Internet gambling that is already illegal, such as offshore gambling, and prohibits financial institutions from funding those transactions. The best way to put it is that this bill will actually enforce existing law, which is something I believe that we all agree on is in this country's best interest.

Finally, I would like to share a couple of quick facts that sum up my support for this legislation. First, a study released by the American Psychiatric Association concluded that about 20 percent of children-oriented online game sites featured Internet gambling advertisements, 20 percent. Does that make any sense? Offshore illegal Internet gambling sites are advertising to our children and we are not shutting down these offshore illegal Internet gambling sites? That does not make sense to me.

Second, the FBI and the Department of Justice have linked, without question, offshore Internet gambling to organized crime, money laundering and identity theft. Offshore illegal Internet gambling has been linked to organized crime and terrorism and we are not going to shut it down? That does not make sense to me.

It is time to enact legislation that empowers our law enforcement officers to become tough on the existing laws and to put illegal Internet gambling sites out of business once and for all.

Please support H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act.

Mr. Chairman, I yield back the balance of my time.

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this Congress has tried mightily, Members of this Congress, to pass legislation to protect our children from this organized criminal activity. And it is a criminal activity. To equate this with the lawful supervised gambling in Las Vegas is simply to miss the point.

The fact is the gentlewoman from Oregon (Ms. HOOLEY) said, We do nothing in this bill to make unlawful what is lawful or make lawful what is unlawful.

What we do say is that where there is this criminal activity which is causing such heartbreak and such sorrow and such destruction and really a crime wave in this country, that it is time to put an end to it.

Now, the gentleman from Virginia (Mr. GOODLATTE) has for years strived to bring the conscience of this Congress to this issue. The gentleman from Iowa (Mr. LEACH) for years has brought this issue to our attention. They want stronger measures. I would like stronger measures, I will admit that, but we have to be practical.

We have to get what we can get. And what was the Cannon amendment killed this legislation in the past, and it will be brought up and they will attempt to kill this legislation. I hope that is not the case. I hope that we do not vote for the Cannon, now Sensenbrenner amendment, and again postpone facing this issue.

When it gets to the point that MasterCard, American Express, Visa, and Discover are all urging this Congress to take action to stop the illegal use of their networks, and they have written letters endorsing this legislation that every Member of this Congress has gotten, and they have said it will be an effective tool to stop the use of our credit cards to this illegal activity, when Citibank, when Morgan Stanley, when the largest banks in this country say give us the regulations, give us the framework to stop this, it is about time that we move.

We have talked about major league baseball, the NFL, and I think that the gentleman from Nebraska (Mr. OSBORNE), more skilled than any of us in college sports, he is the longtime football coach of the Nebraska Cornhuskers, when he says this is undermining the integrity of the sport, it is time for us to take action.

It is time for us to quit this turf fighting where someone tries to expand gambling and someone else tries to limit gambling, and to come forward with a bill to address this, what the FBI calls "mob-drive, crime-controlled activity."

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When we started this debate, some 4 or 5 years ago, we had less than a half a dozen sites, less than $300,000 being used. Today, the number of addicted gamblers in this country has grown by 5 million, a great number of them starting in their preteen or early teenage years.

It is time this Congress acted. It is time this Congress rejected the Sensenbrenner amendment in a few minutes and voted for this legislation. If it does not, we are going to be dealing with a $20 billion industry or $30 billion industry, and it is bad enough today when we do not know who these people are. They are unregulated. We do not even know where the money that is earned, how much of that money is finding its way back to Washington; but it is a pretty strong indication when we have one so-called faith group that battled for this legislation until a few weeks ago and suddenly turned around 180 degrees and suddenly opposed this legislation; and we find from a California paper that a few years ago they, in fact, took gambling money to fight on behalf of the gambling industry.

The National Council of Churches has written us today, the National Governors Association. The Fraternal Order of Police has urged us to take action to accept no amendments other than the Kelly amendment. The Federal Law Enforcement Officers Association has written us. They have urged us to take action.

Mr. Chairman, the house is on fire and it is time for this body to wake up and to take action and to protect the youth of this country and the compulsive gamblers.

I close with one fact, and that is from the University of Connecticut Health Center, an extensive survey that said 74 percent of those who have used the Internet to gamble have serious problems with addiction, and many of those have resorted to criminal activities to pay for the habit. On the other hand, those that engage in legal gambling, they find only a third as many have become permanently addicted.

We have a wave in this country which Dr. Schaffer at Harvard Medical School compares to a cocaine epidemic in gambling, a crack cocaine epidemic; and in a few minutes, each one of us will decide to end this addiction and this heartbreak and this threat to not only our sports programs in this country but to our fabric as a Nation, or we will decide to vote for the Cannon amendment and, again, kill this legislation and put it off.

I urge all the Members to take a strong stand against the killer amendments that will be offered, a strong stand for this legislation. Join with the credit card companies, the financial institutions, the many church groups in this country, law enforcement officers, National Governors Association, Attorneys General Association. If there is ever a clear vote in this House, this should be the vote. If there was ever a unanimous vote in this House, this should be the vote.

Mr. BLUMENAUER. Mr. Chairman, I am troubled by and opposed to the increasing reliance of government on gambling. We are seeing more evidence of its destructive power, even as the current financial crisis is driving more States to expand their gaming operations.

Gaming has been one of the tools that has enabled Native Americans to regain some economic footing after centuries of neglect, abuse, and broken promises. While this is not my favorite tool for their economic development, I do not favor treating tribal interests differently than we do for other private and State-sponsored gaming. The State exemptions in this bill violate that fundamental principal by regulating tribal gaming differently from State gaming, which is unfair and ultimately an unwise precedent.

I am opposed to illegal offshore betting and I would be happy to regulate internet gambling. I stand ready, if we can ever breach the wide array of vested interests to support legislation that does restrict gaming without singling out Native Americans for unequal treatment. This bill falls short of that mark, and I will not support it.

Mr. PAUL. Mr. Chairman, H.R. 2143 limits the ability of individual citizens to use bank instruments, including credit cards or checks, to finance Internet gambling. This legislation should be rejected by Congress since the Federal Government has no constitutional authority to ban or even discourage any form of gambling.

In addition to being unconstitutional, H.R. 2143 is likely to prove ineffective at ending Internet gambling. Instead, this bill will ensure that gambling is controlled by organized crime. History, from the failed experiment of prohibition to today's futile "war on drugs," shows that the government cannot eliminate demand for something like Internet gambling simply by passing a law. Instead, H.R. 2143 will force those who wish to gamble over the Internet to patronize suppliers willing to flaunt the ban. In many cases, providers of services banned by the government will be members of criminal organizations. Even if organized crime does not operate Internet gambling enterprises their competitors are likely to be controlled by organized crime. After all, since the owners and patrons of Internet gambling cannot rely on the police and courts to enforce contracts and resolve other disputes, they will be forced to rely on members of organized crime to perform those functions. Thus, the profits of Internet gambling will flow into organized crime. Furthermore, outlawing an activity will raise the price vendors are able to charge consumers, thus increasing the profits flowing to organized crime from Internet gambling. It is bitterly ironic that a bill masquerading as an attack on crime will actually increase organized crime's ability to control and profit from Internet gambling.

In conclusion, Mr. Speaker, H.R. 2143 violates the constitutional limits on Federal power. Furthermore, laws such as H.R. 2143 are ineffective in eliminating the demand for vices such as Internet gambling; instead, they ensure that these enterprises will be controlled by organized crime. Therefore, I urge my colleagues to reject H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act.

Mrs. MALONEY. Mr. Chairman, I rise in support of the Unlawful Internet Gambling Funding Prohibition Act. While I support the bill, I am disappointed that the legislation could not be further refined to satisfy the concerns of the Native American gaming community. I firmly believe that in its final form, any legislation must clarify the absolute legality of Native American gaming.

Last Congress, in response to 9/11, the Financial Services Committee passed significant new legislation curbing money laundering. During the course of hearings on the legislation, law enforcement testified that Internet gambling sites are often used for money laundering purposes by drug dealers and potentially by terrorists. As I've often said, criminals are like other business people in that they go out of business if you limit their money. This legislation will give law enforcement important new tools to cut off money laundering.

I also support the legislation because I fear that the explosion of the Internet and the access that young people have to it in their homes and schools creates an opportunity for them to fall victim to online gaming. The best way to keep young people from getting hooked on gambling is to limit their access to it. There is good reason that U.S. casinos do not permit individuals under 21 years of age from entering the premises.

While I support the bill, I am concerned that the concerns of the Native American gaming community have not been fully satisfied. Gaming has raised standards of living and provided economic development money to the Native American community that was missing for too long. Congress must not do anything to imperil gaming as a source of much needed jobs and commerce to reservations. I look forward to working with the Native American community on this issue going forward.

Mr. CONYERS. Mr. Chairman, you might remember a failed experiment the U.S. government tried in the 1920s called Prohibition. Today, Congress is rushing to pass a similar ill-conceived prohibition of Internet gambling. Gaming prohibitionists believe they can stop the millions of Americans who gamble online by prohibiting the use of credit cards to gamble on the Internet. Just as outlawing alcohol did not work in the 1920s, current attempts to prohibit online gaming will not work, either. Let me explain why.

In addition to the problems I addressed earlier, this bill lacks a number of important protections. It does not require that the businesses getting the special exception be licensed for Internet gambling, any kind of license will do. It does not require that these businesses keep minors from gambling as a condition of the license. It does not even require that these businesses limit the amount that can be gambled to protect problem gamblers.

And what about lotteries? Family values conservatives fight the lotteries in State after State. They say that there is no greater evil than State-sponsored gambling. The Justice Department said in their testimony that this bill would "absolutely" allow Internet gambling on lotteries.

This is not just my interpretation of this bill. The Free Congress Foundation, led by conservative activist Paul Weyrich, says this bill expands gambling. The Traditional Values Coalition, led by the Reverend Lou Sheldon, says this bill expands gambling. The United States Justice Department says this bill expands gambling.

And while many powerful gambling interests receive an exemption, less favored interests get the short end of the stick. Native Americans became more tightly regulated than the horse racing industries. It is unfair and unjustifiable public policy.

Instead of imposing an Internet gambling prohibition that will actually expand gambling for some and drive other types of Internet gambling offshore and into the hands of unscrupulous merchants, I believe Congress should examine the feasibility of strictly licensing and regulating the online gaming industry. A regulated gambling industry will ensure that gaming companies play fair and drive out dishonest operators. It also preserves State's rights.

The rules should be simple: if a State does not want to allow gambling in its borders, a licensed operator should exclude that State's residents from being able to gamble on its website.

That is why I introduced H.R. 1223, the "Internet Gambling Licensing and Regulation Commission Act." The bill will create a national Internet Gambling Licensing and Regulation Study Commission to evaluate how best to regulate and control online gambling in America to protect consumers and prevent criminal elements from penetrating this industry. In addition, the Commission will study whether the problems identified by gambling prohibitionists—money laundering, underage gambling, and gambling addictions—are better addressed by an ineffective ban or by an online gaming industry that is tightly regulated by the States.

Until now, Republicans and Democrats have stood together against those who wanted to regulate the Internet, restrict its boundaries, or use it for some special purpose. Except in the narrow areas of child pornography and other obvious criminal activities, Congress has rejected attempts to make Internet Service Providers, credit card companies, and the technology industry policemen for the Internet. We should not head down this road now.

Attempts to prohibit Internet gambling in the name of fighting crime and protecting children and problem gamblers will have the opposite effect. Prohibition will simply drive the gaming industry offshore, thereby attracting the least desirable operators who will be out of the reach of law enforcement. A far better approach is to allow the States to strictly license and regulate the Internet gambling industry, to foster honest merchants who are subject to U.S. consumer protection and criminal laws.

There are many different concerns with this bill, some of which I just mentioned. These concerns range from doubts about the desirability of having government regulate the personal behavior of competent adults to the fact that the bill, under the guise of banning Internet gambling, actually enables some favored gambling industries on-line. There are concerns about the bill's fundamental unfairness to native American tribal governments, and concerns about the precedent of deputizing financial institutions to regulate the Internet. For all of these concerns, I urge you to vote, "no" on H.R. 2143.

Mr. BACHUS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 2143 is as follows:

H.R. 2143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unlawful Internet Gambling Funding Prohibition Act".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Internet gambling is primarily funded through personal use of bank instruments, including credit cards and wire transfers.

(2) The National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent them.

(3) Internet gambling is a major cause of debt collection problems for insured depository institutions and the consumer credit industry.

(4) Internet gambling conducted through offshore jurisdictions has been identified by United States law enforcement officials as a significant money laundering vulnerability.

SEC. 3. POLICIES AND PROCEDURES REQUIRED TO PREVENT PAYMENTS FOR UNLAWFUL INTERNET GAMBLING.

(a) REGULATIONS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal functional regulators shall prescribe regulations requiring any designated payment system to establish policies and procedures reasonably designed to identify and prevent restricted transactions in any of the following ways:

(1) The establishment of policies and procedures that—

(A) allow the payment system and any person involved in the payment system to identify restricted transactions by means of codes in authorization messages or by other means; and

(B) block restricted transactions identified as a result of the policies and procedures developed pursuant to subparagraph (A).

(2) The establishment of policies and procedures that prevent the acceptance of the products or services of the payment system in connection with a restricted transaction.

(b) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In prescribing regulations pursuant to subsection (a), the Federal functional regulators shall—

(1) identify types of policies and procedures, including nonexclusive examples, which would be deemed to be "reasonably designed to identify" and "reasonably designed to block" or to "prevent the acceptance of the products or services" with respect to each type of transaction, such as, should credit card transactions be so designated, identifying transactions by a code or codes in the authorization message and denying authorization of a credit card transaction in response to an authorization message;

(2) to the extent practical, permit any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing the acceptance of the products or services of the payment system or participant in connection with, restricted transactions; and

(3) consider exempting restricted transactions from any requirement under subsection (a) if the Federal functional regulators find that it is not reasonably practical to identify and block, or otherwise prevent, such transactions.

(c) COMPLIANCE WITH PAYMENT SYSTEM POLICIES AND PROCEDURES.—A creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or a participant in such network, meets the requirement of subsection (a) if—

(1) such person relies on and complies with the policies and procedures of a designated payment system of which it is a member or participant to—

(A) identify and block restricted transactions; or

(B) otherwise prevent the acceptance of the products or services of the payment system, member, or participant in connection with restricted transactions; and

(2) such policies and procedures of the designated payment system comply with the requirements of regulations prescribed under subsection (a).

(d) ENFORCEMENT.—

(1) IN GENERAL.—This section shall be enforced by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act.

(2) FACTORS TO BE CONSIDERED.—In considering any enforcement action under this subsection against any payment system, or any participant in a payment system that is a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or a participant in such network, the Federal functional regulators and the Federal Trade Commission shall consider the following factors:

(A) The extent to which such person is extending credit or transmitting funds knowing the transaction is in connection with unlawful Internet gambling.

(B) The history of such person in extending credit or transmitting funds knowing the transaction is in connection with unlawful Internet gambling.

(C) The extent to which such person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

(D) The feasibility that any specific remedy prescribed can be implemented by such person without substantial deviation from normal business practice.

(E) The costs and burdens the specific remedy will have on such person.

SEC. 4. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) RESTRICTED TRANSACTION.—The term "restricted transaction" means any transaction or transmittal to any person engaged in the business of betting or wagering, in connection with the participation of another person in unlawful Internet gambling, of—

(A) credit, or the proceeds of credit, extended to or on behalf of such other person (including credit extended through the use of a credit card);

(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the other person;

(C) any check, draft, or similar instrument which is drawn by or on behalf of the other person and is drawn on or payable at or through any financial institution; or

(D) the proceeds of any other form of financial transaction as the Federal functional regulators may prescribe by regulation which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person.

(2) BETS OR WAGERS.—The term "bets or wagers"—

(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of greater value than the amount staked or risked in the event of a certain outcome;

(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

(C) includes any scheme of a type described in section 3702 of title 28, United States Code;

(D) includes any instructions or information pertaining to the establishment or movement of funds in an account by the bettor or customer with the business of betting or wagering; and

(E) does not include—

(i) any activity governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) for the purchase or sale of securities (as that term is defined in section 3(a)(10) of such Act);

(ii) any transaction conducted on or subject to the rules of a registered entity or exempt board of trade pursuant to the Commodity Exchange Act;

(iii) any over-the-counter derivative instrument;

(iv) any other transaction that—

(I) is excluded or exempt from regulation under the Commodity Exchange Act; or

(II) is exempt from State gaming or bucket shop laws under section 12(e) of the Commodity Exchange Act or section 28(a) of the Securities Exchange Act of 1934;

(v) any contract of indemnity or guarantee;

(vi) any contract for insurance;

(vii) any deposit or other transaction with a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act);

(viii) any participation in a simulation sports game or an educational game or contest that—

(I) is not dependent solely on the outcome of any single sporting event or nonparticipant's singular individual performance in any single sporting event;

(II) has an outcome that reflects the relative knowledge and skill of the participants with such outcome determined predominantly by accumulated statistical results of sporting events; and

(III) offers a prize or award to a participant that is established in advance of the game or contest and is not determined by the number of participants or the amount of any fees paid by those participants; and

(ix) any lawful transaction with a business licensed or authorized by a State.

(3) DESIGNATED PAYMENT SYSTEM DEFINED.—The term "designated payment system" means any system utilized by any creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or any participant in such network, that the Federal functional regulators determine, by regulation or order, could be utilized in connection with, or to facilitate, any restricted transaction.

(4) FEDERAL FUNCTIONAL REGULATOR.—The term "Federal functional regulator" has the same meaning as in section 509(2) of the Gramm-Leach-Bliley Act.

(5) INTERNET.—The term "Internet" means the international computer network of interoperable packet switched data networks.

(6) UNLAWFUL INTERNET GAMBLING.—The term "unlawful Internet gambling" means to place, receive, or otherwise transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State in which the bet or wager is initiated, received, or otherwise made.

(7) OTHER TERMS.—

(A) CREDIT; CREDITOR; AND CREDIT CARD.—The terms "credit", "creditor", and "credit card" have the meanings given such terms in section 103 of the Truth in Lending Act.

(B) ELECTRONIC FUND TRANSFER.—The term "electronic fund transfer"—

(i) has the meaning given such term in section 903 of the Electronic Fund Transfer Act; and

(ii) includes any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

(C) FINANCIAL INSTITUTION.—The term "financial institution"—

(i) has the meaning given such term in section 903 of the Electronic Fund Transfer Act; and

(ii) includes any financial institution, as defined in section 509(3) of the Gramm-Leach-Bliley Act.

(D) MONEY TRANSMITTING BUSINESS AND MONEY TRANSMITTING SERVICE.—The terms "money transmitting business" and "money transmitting service" have the meanings given such terms in section 5330(d) of title 31, United States Code.

The CHAIRMAN. No amendment to the bill shall be in order except those printed in House Report 108-145. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108-145.

AMENDMENT NO. 1 OFFERED BY MRS. KELLY

Mrs. KELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mrs. KELLY:

Page 13, after line 2, [page and line numbers refer to H.R. 2143, as introduced on May 19, 2003] insert the following new section:

SEC. 5. COMMON SENSE RULE OF CONSTRUCTION.

No provision of this Act shall be construed as altering, limiting, extending, changing the status of, or otherwise affecting any law relating to, affecting, or regulating gambling within the United States.

The CHAIRMAN. Pursuant to House Resolution 263, the gentlewoman from New York (Mrs. KELLY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I yield myself such time as I may consume.

I strongly support the Unlawful Internet Gambling Funding Prohibition Act, which seeks to cut off the lifeblood of illegal Internet gambling. As we consider this important legislation, I am offering an amendment to clarify the intent of the legislation and to specifically address concerns raised by those who oppose the bill.

Over the last few weeks, there has been a lot of inaccurate and misleading information spread about H.R. 2143. Let us be clear about that, though. This legislation does not change current law by defining what is legal or illegal. It simply ensures that we have a mechanism to enforce illegal activity under the Federal law; but because reasonable minds can disagree, I offer this amendment in an abundance of caution to put concerns to rest that this legislation changes existing law. It does not.

My amendment adds a straightforward section to the bill entitled "Common Sense Rule of Construction" to ensure that there are no carve-outs, no loopholes, no new powers created by any section of H.R. 2143. The amendment clearly states in one sentence that this legislation does not change any law, Federal law, State law or tribal law, governing gambling in the United States.

I urge my colleagues to support this amendment and the underlying legislation that will give law enforcement an important new tool to fight crime, stop terrorism, and to protect families across America.

Mr. Chairman, I reserve the balance of my time.

Ms. HOOLEY of Oregon. Mr. Chairman, I ask unanimous consent to claim the time otherwise reserved for the opposition.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Ms. HOOLEY of Oregon. Mr. Chairman, I yield myself such time as I may consume.

I am supportive of the gentlewoman from New York's (Mrs. KELLY) amendment. I think it is a great idea that she came up with to make very clear what this bill does and does not do.

Mr. Chairman, I have no further speakers, and I yield back the balance of my time.

Mrs. KELLY. Mr. Chairman, I yield myself such time as I may consume.

In closing, this is one of the simplest amendments I have ever offered on the floor of this Chamber. In one sentence this amendment says the legislation does not change any law governing gambling in the United States of America. It makes clear that the legislation simply seeks to cut off the financial flow to the unlawful Internet casino industry. It guarantees there are no carve-outs in the bill, no loopholes, no new powers created by any section.

I cannot understand why anyone would oppose this amendment unless they want to change current law to open up loopholes for themselves.

Mr. Chairman, it is time we put the crooks out of business. We have got to stop the drain of the money-laundering system that terrorists can access. I ask for an emphatic "yes" vote on this amendment and an emphatic "yes" vote on the final passage of this bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Mrs. KELLY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 108–145.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. JACKSON-LEE of Texas:

Page 7, strike line 3 [page and line numbers refer to H.R. 2143, as introduced on May 19, 2003] and all that follows through line 6 (and redesignate the subsequent subparagraphs and any cross reference to any such subparagraph accordingly).

The CHAIRMAN. Pursuant to House Resolution 263, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I propose this amendment to H.R. 2143 to protect minors from the dangers of Internet gambling. This amendment removes credit card transactions from categories of prohibited financial transactions under the bill. The purpose of removing credit cards from the list of prohibited financial transactions is that credit cards have built-in mechanisms that protect children from the dangers of Internet gambling. I urge my colleagues to vote in favor of my amendment to H.R. 2143.

A study released by the American Psychological Association finds that pathological gambling is more prevalent among youth than adults. Between 5 and 8 percent of the young Americans and Canadians have a serious gambling problem, compared to 1 to 3 percent of adults. Let me repeat that again, Mr. Chairman. Between 5 and 8 percent of young Americans and Canadians, young people, have a serious gambling problem compared to 1 to 3 percent of adults. The study went on to say that with gambling becoming more accessible in U.S. society it will be important to be able to intervene in children and adolescent lives before the activity can develop into a problem behavior.

Many Internet gambling sites require bare minimum information from gamblers to participate. Security on bets placed over the Internet has proven ineffective; and unlike traditional regulated casinos, Internet operators have no demonstrated ability or requirement to verify a participant's age or identification. Also, an Internet gambling site can easily take a person's money, shut down their site and move on. My amendment will allow the use of credit cards to provide the protections that many Internet gambling sites do not.

As H.R. 2143 is presently drafted, no betting or waging businesses may knowingly accept credit cards, proceeds of credit, electronic fund transfers, moneys transmitted through a money-transmitting business or a check or similar draft in connection with another person's participation in unlawful Internet gambling.

Allowing credit cards to be used in Internet gambling transactions helps to protect minors. Credit cards, unlike the other methods of payment prohibited in H.R. 2143, provide safeguards to help to ensure minors do not engage in Internet gambling. For example, acquiring a credit card requires the individual to verify he or she has reached the age of 18. Credit cards are an effective method of verifying age because minors are not issued their own accounts. Credit card companies may also conduct a background or credit check to confirm the individual is of age. The procedures help to deter minors from using credit cards to gamble.

In fact, in previous legislation passed by Congress to protect children from harmful Internet sites, credit cards were used as a deterrent in the Children's Online Privacy Protection Act, COPPA. Congress specifically allowed the use of credit cards as a method of age verification in order to restrict access by minors to Web sites containing adult material. Does it not seem logical for Congress to follow its own logic? By prohibiting the use of credit cards, H.R. 2143 ties the hands of law enforcement agencies and Federal regulatory agencies like the FTC to ensure sufficient control to identify minors who may attempt to gamble online.

There are also transactional safeguards available from credit card companies that will help prevent Internet gambling by minors. For example, several of the major credit card companies have a coding system that tracks the type of merchandise that is being sold by a merchant. The coding system alerts the credit card company and the credit card owner of purchases and charges that are not typical. For example, if a child steals his parent's credit card and makes several bets on an Internet gambling Web site, the coding system will recognize the new purchases, alert the credit card owner, who in turn can take necessary steps to stop the gambling by the minor.

Just about a year ago, we rewarded credit card companies with respect to a new bankruptcy bill on the issue of credit card debt. Here we can utilize credit card companies to do something effective and good to protect our children.

Mr. Chairman, the age verification and merchandise tracking safeguards provided by credit cards are not sufficient alone to cure the problem of minors engaging in Internet gambling. I know that. However, these safeguards are a step in the right direction, and they will prevent some minors from using the Internet gambling Web sites that remain, even in spite of this bill. If we pass this legislation without this amendment to H.R. 2143, we will eliminate the one proven method of effectively preventing children from accessing Internet gambling Web sites.

For these reasons, I ask that my colleagues enthusiastically join me in amending H.R. 2143 so that credit cards can be used and thereby protect children, America's children, 8 percent of whom are engaged or addicted to gambling from those activities and access to Internet gambling.

Mr. Chairman, I propose this amendment to H.R. 2143 to protect minors from the dangers of Internet gambling. This amendment removes credit card transactions from categories of prohibited financial transactions under the bill. The purpose of removing credit cards from the list of prohibited financial transactions is that credit cards have built in mechanisms that protect children from the dangers of Internet gambling. I urge my colleagues to vote in favor of my amendment to H.R. 2143.

A study released by the American Psychological Association finds that pathological gambling is more prevalent among youths than adults. Between five and eight percent of young Americans and Canadians have a serious gambling problem, compared with one to three percent of adults. The study went on to say that with gambling becoming more accessible in U.S. society, it will be important to be able to intervene in children's and adolescent's lives before the activity can develop into a problem behavior.

Many Internet gambling sites require bare minimum information from gamblers to participate. Security on bets placed over the Internet has proven ineffective. And unlike traditional regulated casinos, Internet operators have no demonstrated ability or requirement to verify a participant's age or identification. Also, an Internet gambling site can easily take a person's money, shut down their sites, and move on. My amendment will allow the use of credit cards to provide the protections that many Internet gambling sites do not.

As H.R. 2143 is presently drafted, no betting or wagering businesses may knowingly accept credit cards, proceeds of credit, electronic fund transfers, monies transmitted through a money-transmitting business, or a check or similar draft, in connection with another person's participation in unlawful Internet gambling.

Allowing credit cards to be used in Internet gambling transactions helps to protect minors. Credit cards, unlike the other methods of payment prohibited in H.R. 2143, provide safeguards that help to insure that minors do not engage in Internet gambling. For example, acquiring a credit card requires the individual to verify he or she has reached the age of 18. Credit cards are an effective method of verifying age because minors are not issued their own accounts. Credit card companies may also conduct a background or credit check to confirm the individual is of age. The procedures help to deter minors from using credit cards to gamble.

In fact, in previous legislation passed by Congress to protect children from harmful Internet sites, credit cards were used as a deterrent. In the Children's Online Privacy Protection Act ("COPPA") Congress specifically allowed the use of credit cards as a method of age verification in order to restrict access by minors to websites containing adult material. By prohibiting the use of credit cards, H.R. 2143 ties the hands of law enforcement agencies and federal regulatory agencies like the FTC to ensure sufficient controls to identify minors who may attempt to gamble online.

There were also transactional safeguards available from credit card companies that will help prevent Internet gambling by minors. For example, several of the major credit card companies have a coding system that tracks the type of merchandise that is being sold by a merchant. The coding system alerts the credit card company and the credit card owner of purchases or charges that are not typical. For example, if a child steals his parents' credit card and makes several bets on an Internet gambling website, the coding system will recognize the new purchases, alert the credit card owner, who in turn can take the necessary steps to stop the gambling by the minor.

Mr. Chairman, the age verification and merchandise tracking safeguards provided by credit cards are not sufficient alone to cure the problem of minors engaging in Internet gambling. However, these safeguards are a step in the right direction and they will prevent some minors from using Internet gambling websites. If we pass this legislation without amendment, H.R. 2143 will eliminate the one proven method of effectively preventing children from accessing Internet gambling websites. For these reasons, I propose that H.R. 2143 be amended so that credit cards can be used by betting and wagering businesses.

The CHAIRMAN. The gentlewoman's time has expired.

□ 1745

Mr. BACHUS. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Alabama (Mr. BACHUS) is recognized for 5 minutes.

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentlewoman from Oregon (Ms. HOOLEY), the gentleman from Ohio (Mr. OXLEY), and I introduced this legislation, and I think the gentleman from Ohio (Mr. OXLEY) probably said it best when he described the Jackson-Lee amendment as gutting the bill by removing from it the major source of financing for illegal Internet gambling, and that is credit cards.

What this entire legislation is about is about cutting off the money, because these illegal Internet gamblers are not offering a public service, they are making money. They are, in fact, making a killing. It is all about money, and the way we address it is by cutting off the money. Removing credit cards from the financial instrument covered under the bill is tantamount to saying we are only going to pretend to address the problem of illegal Internet gambling.

No one should seriously contend that children are not now gambling over the Internet using credit cards in too many instances. How difficult is it to borrow, with or without permission, mom or dad's credit card and gamble over the Internet. College kids are doing it every day; teenagers are doing it every day. How difficult is it for a thief to obtain someone else's credit card number to gamble over the Internet? They steal blank checks, they cash worthless checks, and they steal credit cards, all to feed their addiction. A slew of identity theft cases have hit this country in recent months. Many of those may, in fact, have been driven by this very addiction.

This is a damaging amendment designed to turn a very strong enforcement bill into a weak shadow of itself. I strongly urge a no vote on it. I would like to close by reading a letter from MasterCard because we are told they already have everything they need to do in doing it, and this is a letter to the gentleman from Ohio (Mr. OXLEY).

"I am now writing to communicate MasterCard's strong support for appropriate measures to combat illegal Internet gambling. In particular, we commend the efforts of you and your colleagues on H.R. 2143. This legislation will build on the rules developed by MasterCard and enable MasterCard to block branded payment card transactions in connection with Internet gambling. These rules have been extremely effective in impeding the use of U.S.-issued MasterCard branded payment cards for Internet gambling transactions. MasterCard believes that H.R. 2143, introduced by Congressman SPENCER BACHUS, would establish a workable framework for combating illegal Internet gambling. We are committed to working with you and your colleagues to further refine and pass this legislation as Congress seeks to provide a legislative solution to this important problem."

MasterCard, Discover, American Express, Visa, the Nation's largest banks, Household Finance, Morgan Stanley, I could go on and on, have all endorsed this legislation because it will work. It will not cut off everything, but the bill as presently constituted covers money orders, it covers e-cash, it covers wire transfers, but it also covers credit cards and it must cover credit cards to be a comprehensive approach.

As the gentleman from Iowa (Mr. LEACH) said and as the gentleman from Virginia (Mr. GOODLATTE) has said, there are more effective things we could do, and hopefully we will to them, but both of them have strongly endorsed this legislation as a first step.

I urge this body to defeat this amendment, defeat the poison pill that will be offered next and vote on final passage of this bill without these killer amendments.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. JACKSON-LEE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

It is now in order to consider amendment No. 3 printed in House report 108–145.

AMENDMENT NO. 3 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. SENSENBRENNER:

Page 9, line 22, after the semicolon, insert "and".

Page 10, line 17, strike "; and" and insert a period.

Page 10, strike lines 18 and 19.

The CHAIRMAN. Pursuant to House Resolution 263, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I ask unanimous consent that 5 minutes of my time be yielded to the gentleman from Michigan (Mr. CONYERS) and that he may yield blocks of that time as he sees fit.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this is the amendment that has been the subject of much name-calling by the proponents of this bill. I ask the membership to look at the amendment. It strikes the carve-out that the authors of this bill put in to exempt horse racing, dog racing, State lotteries and other forms of gambling from the proposed regulations of this bill.

I believe that Internet gambling should be eliminated; but to have a carve-out for horses and dogs and lotteries and jai lai, and Lord knows what else, means that people will be able to use the Internet and use their credit cards to place bets and lose a lot of money.

No, if Internet gambling is addictive, we ought to close the loophole, because minors and others can lose just as much money on horses and dogs and lotteries and jai lai as they can lose on other forms of Internet gambling. I strongly urge support of this amendment. This is a loophole that is big enough to drive a truck through. By passing the amendment, we close the loophole.

Mr. Chairman, I reserve the balance of my time.

Mr. BACHUS. Mr. Chairman, I rise to claim the time in opposition.

The CHAIRMAN. The gentleman from Alabama (Mr. BACHUS) is recognized for 10 minutes.

Mr. BACHUS. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. ROGERS) in opposition to the amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) and in support of the base bill before us. The bill before us effectively achieves its purpose, to prevent people from using credit on illegal gambling activities, particularly offshore Internet sites.

But if this amendment should be adopted, we might as well just call this bill the "Horse Racing Prohibition Act" because it will literally kill that entire industry. The intent of the amendment is not to prevent illegal activity, rather it is intended to make current legal activities illegal.

If the language regarding State license domestic wagering were eliminated or changed, this legislation would not simply prohibit credit in connection with Internet gambling, it would restrict the day-to-day wagering activities of millions of horse racing fans by limiting financial clearing transactions with domestic wagering facilities. As a result, this would severely curtail simulcast wagering and personal account wagering on any horse race.

Not surprisingly, over 80 percent of the amount bet on horse racing is wagered at locations other than where the race is run. The result of this amendment, should it pass, would be catastrophic to the $34 billion racing/horse breeding industry, especially to the States that rely on it for tax revenue and the 500,000 full-time jobs it supports.

In Kentucky alone, there are 460 thoroughbred farms, 150,000 horses, 8 tracks and 52,000 jobs which add $3.4 billion directly to the State's economy. On top of this, the U.S. horse racing industry is already one of the most highly regulated industries in the country, governed by both Federal and State laws.

States like Kentucky have highly sophisticated systems in place to ensure that each transaction is made in accordance with the law. Because of this State regulation, the integrity of gaming site operators, the identity of the participants, consumer fraud and money laundering are not at issue.

It is ironic that this Congress would stand here today and attempt to trample on the rights of States to regulate their own businesses. The adoption of this amendment would be the triple crown of injustices. It would put hard-working folks out of work, it would take away much-needed revenue from the States, and it would deprive honest folks the fun of putting a couple of bucks down on their favorite horse to win, place, or show. I ask Members to reject the Sensenbrenner amendment and support the bill as written.

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, what an exciting day on the floor of the House. The Unlawful Internet Gambling Funding Prohibition Act just happens to have one problem: It accepts horse racing. Now, can somebody explain to me why that is so? We are going to ban Internet gambling except horse racing. Why?

Well, it is because the horse racing lobbyists and the dog racing lobbyists have said that is what we ought to do. Why did they write a bill like this? This is a bill that expands gambling, expands gambling by accepting two industries.

Now I have been in touch with Reverend Lou Sheldon of the Traditional Values Coalition and Paul of the Free Congress Foundation, and they have told me this is a bad, bad bill, not to do it. We have a wire act from 1961 that has forbidden gambling, and now we are making the exception for horse racing. Can someone suggest why this bill was written this way? Anyone on the floor, I yield.

I did not think so.

Mr. BACHUS. Mr. Chairman, can I inquire as to the time left on each side?

The CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 4 minutes. The gentleman from Alabama (Mr. BACHUS) has 7 minutes. The gentleman from Michigan (Mr. CONYERS) has 3½ minutes.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. WEXLER).

Mr. WEXLER. Mr. Chairman, I rise in opposition to the amendment from the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary. I oppose it because it prohibits Americans from using their credit cards for behavior that is entirely legal. Pari-mutuels, horse tracks, dog tracks, and jai lai frontons are all legal in many States. They are heavily regulated. They pay taxes. They provide jobs, and in many communities are an important part of the tourism industry and local culture. That is why the National Governors Association is against this amendment.

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Pari-mutuels employ thousands of Americans and provide enjoyment to millions more. The horse racing industry generates $34 billion a year and creates 472,000 full-time jobs in America.

Greyhound racing is a $2.3 billion industry creating over 30,000 jobs in America. They both provide very needed tax revenue to our States. It makes no sense for Congress to usurp States' rights with the result being a loss of employment of Americans and State revenue.

The underlying bill rightfully bans credit card use for illegal gambling. Casino-style offshore Web sites are not regulated. They do not pay taxes, and they do not employ Americans. They are illegal, and American banks should not help facilitate them. But the issue here is whether Congress is going to make a policy that says Americans cannot use credit cards to engage in behavior which in their State is legal. Not illegal, but legal.

I would respectfully argue that Congress should do no such thing and should oppose this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. I want to thank the chairman of the Committee on the Judiciary for his work on this matter.

Mr. Chairman, I would like to begin by expressing my great esteem for the proponents of this bill. I believe that they honestly think that this bill will limit or, to some degree, prohibit or slow the growth of the pernicious vice of gambling on the Internet. I am personally not convinced that that will happen; and if I might, I would like to just focus on comments by the last two gentlemen who have spoken.

The gentleman from Kentucky talks about 52,000 jobs in his State that depend upon horse racing, which is currently legal in his State and currently legal in many other States in the Union and around the world. The gentleman from Florida has just talked about 700,000 jobs in the country or more that relate to horse racing and 30,000 jobs that relate to dog racing; and, of course, the other two exceptions that are carved out in the underlying bill are jai alai, which is, of course, a big sport in Florida, and State-run lotteries.

The problem with this bill and the reason we have so much emotion and so much emotional support for the idea that this amendment is bad is that this amendment might make those activities illegal when in fact what this amendment does is eliminate carve-outs and eliminate gambling that is now illegal. The problem for me is that I represent the State of Utah, one of only two States that actually totally prohibits gambling. The other State is Hawaii. From the perspective of our States, and I say this with all due respect, this is not the Internet Gambling Prohibition Act, this is Internet Gambling Enabling Act. It actually allows gaming in Utah and will do so in Utah and Hawaii and other States where there are limitations on gambling unless the carve-outs are removed.

The underlying bill provides these major carve-outs, and I think we have broad consensus from those who have actually looked at the bill and understand it. The U.S. Department of Justice and the National Association of Attorneys General have expressed themselves on this issue. In testimony before the Senate Banking Committee, John Malcolm of the U.S. Department of Justice testified that the aforementioned section, the carve-out section, was one of the reasons DOJ could not endorse Senate 627, which is nearly identical to H.R. 21 and now H.R. 2143. Testifying on behalf of the National Association of Attorneys General, Richard Blumenthal, Attorney General of Connecticut, warned that under that bill the exceptions could swallow the rule. Certainly in those States where gambling is outlawed or some gambling is outlawed, the exceptions could swallow the rule. In testimony before the House Committee on the Judiciary, when asked if that action would allow lotteries to go online, Malcolm responded, "Absolutely." You cannot do that in Utah today, but you will be able to if this law preempts local State law.

Thus, H.R. 21 is not really an Internet gambling prohibition bill. You might actually consider it an Internet gambling industrial policy bill because we are choosing a favored class of state-sponsored Internet gambling under this bill.

Last year during consideration of a similar bill, H.R. 3215 in the 107th Congress, the Committee on the Judiciary voted overwhelmingly against allowing carve-outs in Internet gaming legislation. Last year when the Committee on the Judiciary was considering the Goodlatte Internet gambling bill, which had similar carve-outs, I offered amendments to strike those carve-outs. The amendments were adopted by wide margins, and the bill as modified was reported overwhelmingly by the committee.

The argument that the provisions simply allow States to regulate intrastate wagers does not wash. The provision is an exception from the definition of "bets or wagers." It is not confined to intrastate. It essentially says that state-licensed facilities can do anything their license allows them to do, be it pari-mutuel, casino-style, or any other kind of betting.

This bill is ill considered despite the great intentions of its proponents. I urge my colleagues to vote against it.

Mr. CONYERS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to withdraw my recorded vote request on the Jackson-Lee amendment. I will work in conference to make sure that children are protected in America.

The CHAIRMAN pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The request for a recorded vote is withdrawn and, pursuant to the voice vote, the amendment is not agreed to.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, as a strong opponent of Internet gaming, I rise in support of the Sensenbrenner-Conyers-Cannon amendment. The Traditional Values Coalition supports this amendment, which removes the exemption that would allow state-licensed or authorized businesses to conduct Internet gambling. The bill does not provide equivalent treatment for tribal governments. If this bill becomes law, the outcome will result in the unequal treatment of Indian tribes because the current Federal law, the Wire Communications Act that prohibits Internet gambling will apply only then to Indian tribes. Only state-licensed businesses will be permitted to conduct Internet gambling.

Mr. Chairman, this bill will actually make it possible to expand Internet gambling rather than prohibit it. This amendment eliminates the special interest exemption for various gambling groups that support the bill. I urge my colleagues to support the amendment.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. LUCAS), who rises in opposition to the amendment.

Mr. LUCAS of Kentucky. Mr. Chairman, as the cochair of the Congressional Horse Caucus and a Member from Kentucky, I agree with the gentleman from Kentucky (Mr. ROGERS). Kentucky is where more thoroughbreds are born each year than in any other State. I rise in strong opposition to this amendment, an amendment that seeks to change the very intent of the bill before us. Horse racing is one of the most highly regulated industries, and we do not want to do harm to an industry that employs well over half a million people nationwide.

The title of the bill, the Unlawful Internet Gambling Funding Prohibition Act, says it all. The intent is to address the problem of unlawful, unregulated gambling over the Internet. H.R. 2143 does this while respecting existing Federal and State gambling laws.

We have heard supporters of this amendment argue that it is needed because it will keep the bill from expanding Internet gambling. This is just not true. In fact, the bill itself without this amendment deals only with the use of credit cards and other bank instruments in connection with unlawful

Internet wagering. The bill does not change any Federal or State gambling provision. It does not make any unlawful gambling lawful. It does not make any lawful gambling unlawful. And it does not override any State prohibitions or requirements.

The National Governors Association is opposed to this amendment because they understand and support this distinction in the bill and its purpose. Governors in States like Kentucky that allow lawful, state-sanctioned and regulated gaming activities such as pari-mutuel horse racing know the importance of the economic impact of gaming in the form of jobs and tax revenue generated to the State. State governments across the country are grappling with shortfalls.

Regardless of what you hear, that is what passage of this amendment will do. We need to oppose this amendment and support H.R. 2143.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Chairman, I rise in support of the Sensenbrenner amendment. The underlying bill, as we know, exempts transactions with a business licensed or authorized by a State from the definition of "bet or wager." This will permit lotteries, horse and dog tracks and other gambling operations to go on the Internet, but does not cover transactions with tribal governments. It is simply unfair not to provide parity for Indian tribes.

If this bill becomes law, the outcome will result in unequal treatment of Indian tribes because the current Federal law that prohibits Internet gambling will only apply to Indian tribes. With this bill, only state-licensed businesses will be permitted to conduct Internet gambling. The gentleman from Wisconsin's amendment, with the gentleman from Michigan, ensures fairness for everyone, placing tribes and States on a level playing field. Indian gaming, as we know, has provided tribal communities with economic self-reliance; and it has also helped to create jobs in surrounding communities, not just for tribes but for other people in the surrounding communities. It is simply unfair not to provide parity.

I would ask my colleagues to vote in favor of the Sensenbrenner amendment if they feel strongly that there should be parity for Indian tribes.

Mr. BACHUS. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. WOLF) in opposition to the Cannon-Sensenbrenner amendment.

Mr. WOLF. Mr. Chairman, I rise in strong opposition to the Sensenbrenner amendment. There has been a lot of talk on the floor and sometimes what appears to be is not to be. It is very, very confusing to somebody who is watching it. Simply, it is a poison pill. The Sensenbrenner amendment is a poison pill. If you want to kill the bill, vote for Sensenbrenner. It looks good. It looks good, but it will hurt the effort. Many people, particularly young people, will be hurt by the failure of this bill to pass.

If you want this bill to pass, if you are opposed to Internet gambling, if you care about the future of these young people, I ask you to vote against the Sensenbrenner amendment and vote in support of the base bill.

Mr. CONYERS. Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, unequal treatment of American Indians and American Indian tribes is not an American value. I have great respect for those who resist this amendment because I believe they are acting in sincere good faith and trying to establish American values. But we need to pass this amendment to assure that the American value of fair treatment of American Indians, which has been denied them in certain times in our history, to our great shame, is not repeated in this bill.

This amendment, when passed, will assure that we do not have special interest legislation just for non-Indian Americans. Indian and non-Indian Americans ought to be treated the same. That will not happen unless we pass this amendment.

I will tell Members why I feel so strongly about this. About a year ago, I was driving through the Tulalip Indian reservation by Marysville, Washington. I spent a lot of time in my youth there. I noticed a new building that had just gone up. It was the first Boys and Girls Club on an Indian reservation in America. Today as we speak, there are kids there who are learning teamwork and new skills and getting new job training at that Boys and Girls Club. The reason that club is there is because of this industry, this legal industry.

Let us not hearken back to the dark days of treating Indian tribes with less respect of law than other industries in America. Let us pass this amendment. Let us do what is right for a lot of folks, including the Boys and Girls Club and the Tulalip Indian reservation.

Mr. BACHUS. Mr. Chairman, I include for the RECORD a letter from the United Methodist Church, the National Council of Churches, and four other faith-based organizations and a letter from the National Governors Association in opposition to the Sensenbrenner amendment.

June 3, 2003.

House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: As a diverse bipartisan coalition of family and faith-based organizations, we are very concerned with the effects of gambling on our society and the well-being of young people and families. We write to strongly support the passage of H.R. 2143, To Prevent the Use of Certain Bank Instruments for Unlawful Internet Gambling, and for Other Purposes. Internet Gambling is already against the law in all 50 states, yet offshore gambling interests continue to operate without any accountability and are available in every state by utilizing the Internet. We urge you to support H.R. 2143 and reject any amendment or proposal which would weaken the bill or hinder its enforcement according to current federal law.

The National Gambling Impact Study Commission Report presents a disturbing and devastating picture of the effect of gambling on families. Some crucial points to consider in this report as it relates to Internet gambling are:

Gambling costs society $5 billion a year in societal costs including, job loss, unemployment benefits, welfare benefits, poor physical and mental health, and problem or pathological gambling treatment, bankruptcy, arrests, imprisonment, legal fees for divorce, and so forth.

Because the Internet can be used anonymously, the danger exists that access to Internet gambling will be abused by underage gamblers, our children and youth.

The high-speed instant gratification of Internet games and the high level of privacy they offer may exacerbate problem and pathological gambling.

Lack of accountability also raises the potential for criminal activities, which can occur in several ways. First, there is the possibility of abuse by gambling operators. Most Internet service providers hosting Internet gambling operations are physically located offshore; as a result, operators can alter, move, or entirely remove sites within minutes. Furthermore, gambling on the Internet provides an easy means for money laundering. Internet gambling provides anonymity, remote access, and encrypted data. To launder money, a person need only deposit money into an offshore account, use those funds to gamble, lose a small percent of the original funds, then cash out the remaining funds. Through the dual protection of encryption and anonymity, much of this activity can take place undetected.

Computer hackers or gambling operators may tamper with gambling software to manipulate games to their benefit. Unlike the physical world of highly regulated resort-destination casinos, assessing the integrity of Internet operators is quite difficult.

Please support H.R. 2143 and reject the spread of a predatory industry, which is contrary to the well-being of individuals and all of society.

Sincerely,

Christian Coalition of America, Concerned Women for America, Family Research Council, General Board of Church and Society of the United Methodist Church, National Coalition Against Gambling Expansion (NCAGE), National Council of Churches.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, June 9, 2003.

Hon. MICHAEL G. OXLEY,
Chairman, House Financial Services Committee, Rayburn House Office Building, Washington, DC.

Hon. BARNEY FRANK,
Ranking Member, House Financial Services Committee, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN AND REPRESENTATIVE FRANK: On behalf of the National Governors Association, we are writing to express our interest in H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act. We appreciate your efforts to address the troubling problems posed by Internet gambling, while recognizing the authority of states to regulate gambling within their own borders.

We urge you to maintain the exemption currently included in H.R. 2143 for Internet transactions with businesses licensed or authorized by a state such as a state lottery.We understand that there may be efforts to strip the bill of this provision, and we encourage you to oppose such attempts. An incursion into this area with respect to online gambling would establish a dangerous precedent with respect to gambling in general as well as broader principles of state sovereignty.

Sincerely,

Governor MIKE JOHANNS,
Chair, Committee on Economic Development and Commerce.
Governor JAMES E. MCGREEVEY,
Vice Chair, Committee on Economic Development and Commerce.

☐ 1815

Mr. BACHUS. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. GOODLATTE), who, second to none, has led the fight against this illegal Internet gambling.

Mr. GOODLATTE. Mr. Chairman, I thank the chairman, the gentleman from Alabama, for his leadership on this legislation, which is a big step forward in the fight against Internet gambling. This amendment, as the gentleman from Virginia (Mr. WOLF) described, is indeed a poison pill. The reason is, it does not have any effect on the lawfulness or the unlawfulness of gambling, the provision that they want to pull out. That provision simply protects the rights of States to regulate gambling.

Historically, that is what we have always done in this country. Gambling has always been the province of the States. They regulate gambling, and this amendment would change that. This amendment would take away from the States the right to do that.

We are simply attempting to maintain the status quo with respect to underlying Federal and State substantive law on gambling. We are not tilting the playing field one way or another unfairly, we are simply trying to address the problem of unlawful gambling, as the title of the bill suggests. I would love to do more on these other issues, but this is not the bill, this is not the place to do it.

The term "lawful" is included in this provision of the bill to indicate that no transaction will be exempted from the effect of the bill unless that transaction complies with all other State and Federal laws. The amendment already adopted offered by the gentlewoman from New York (Mrs. KELLY) makes that even clearer, so the complaints of the gentleman from Utah, whose State I have great admiration for in terms of their efforts to combat gambling, need have no fear of this legislation. This does not open up Utah to any new forms of gambling. It will tighten it down.

There are plenty of people in Utah today who pull up a chair in front of their computer in their living room and go on and place a bet, using a credit card or wire transfer or some other form of financial transfer, that this legislation will stop. We should not allow a poison pill to prevent this legislation from moving forward to accomplish that.

In addition, States have traditionally had the power to decide whether to allow gambling within their borders. We should not put into question the authority of those States to decide these matters for themselves. Utah, Virginia, or any other State in the country, they ought to be able to make that decision, and we ought not interfere with it. Striking this provision of the bill would eliminate a provision that reinforces the rights of the States to decide whether or not to prohibit gambling, and I urge my colleagues to oppose this amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). All time for debate has expired.

The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 186, noes 237, not voting 11, as follows:

[Roll No. 254]

AYES—186

Abercrombie
Akin
Baca
Baird
Baldwin
Ballance
Ballenger
Bartlett (MD)
Becerra
Bell
Bereuter
Berkley
Berman
Bishop (UT)
Blackburn
Blumenauer
Bono
Brown (OH)
Brown, Corrine
Cannon
Capps
Cardin
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Cole
Conyers
Cox
Crane
Culberson
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dreier
Edwards
Etheridge
Evans
Farr
Fattah
Filner
Flake
Fossella
Frank (MA)
Frost
Gallegly
Gingrey
Granger
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Harman
Hastings (FL)
Hayworth
Herger
Hinchey
Hinojosa
Hoeffel
Hoekstra
Honda
Hostettler
Hoyer
Hunter
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
Kleczka
Kucinich
Lampson
Langevin
Larsen (WA)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Markey
Marshall
Matheson
Matsui
McCollum
McDermott
McGovern
McIntyre
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Napolitano
Neal (MA)
Nethercutt
Ney
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Pombo
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Rehberg
Renzi
Reyes
Rodriguez
Rohrabacher
Roybal-Allard
Royce
Rush
Ryan (OH)
Ryan (WI)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schiff
Sensenbrenner
Serrano
Shays
Sherman
Simmons
Solis
Souder
Stark
Stenholm
Stupak
Tancredo
Tauscher
Thompson (CA)
Tiahrt
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wilson (NM)
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—237

Ackerman
Aderholt
Alexander
Allen
Andrews
Bachus
Baker
Barrett (SC)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Capuano
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Collins
Cooper
Costello
Cramer
Crenshaw
Crowley
Davis (AL)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Doyle
Duncan
Dunn
Ehlers
Emanuel
Emerson
Engel
English
Everett
Feeney
Ferguson
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Goss
Graves
Greenwood
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Hill
Hobson
Holden
Holt
Hooley (OR)
Hulshof
Hyde
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McKeon
McNulty
Meek (FL)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Nadler
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pascrell
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Ruppersberger
Ryun (KS)
Sabo
Sandlin
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sessions
Shadegg
Shaw
Sherwood

Shimkus
Shuster
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiberi
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Waters
Weller
Wexler
Whitfield
Wicker
Wilson (SC)
Wolf
Wu

NOT VOTING—11

Cubin
Eshoo
Fletcher
Gephardt
Gordon
Houghton
Lantos
Larson (CT)
Smith (WA)
Tierney
Toomey

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SIMPSON) (during the vote). Members are advised there are 2 minutes remaining on this vote.

☐ 1848

Messrs. GILCHREST, UPTON, GREENWOOD, KIRK, DEMINT, DOOLITTLE, TAYLOR of Mississippi, FRANKS of Arizona, BOSWELL, FRELINGHUYSEN, CAMP, RYUN of Kansas, VITTER, NUSSLE, BURNS, GOSS, PORTMAN, JANKLOW, TAYLOR of North Carolina, ROGERS of Alabama, FORBES, WILSON of South Carolina, PITTS, BOOZMAN, and ISSA, and Ms. SLAUGHTER, Mrs. MUSGRAVE, and Mrs. JO ANN DAVIS of Virginia changed their vote from "aye" to "no."

Messrs. GEORGE MILLER of California, RODRIQUEZ, OWENS, BECERRA, MARSHALL, VISCLOSKY, WYNN, BEREUTER, FOSSELLA, MENENDEZ, and Mr. YOUNG of Alaska, and Mrs. JOHNSON of Connecticut, Ms. ROYBAL-ALLARD, and Ms. VELÁZQUEZ changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1850

The CHAIRMAN pro tempore (Mr. SIMPSON). There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BASS) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2143) to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes, pursuant to House Resolution 263, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This vote will be followed by a 5-minute vote on the motion to suspend the rules and agree to House Resolution 252.

The vote to suspend the rules and agree to House Concurrent Resolution 110 will be postponed until tomorrow.

The vote was taken by electronic device, and there were—yeas 319, nays 104, not voting 11, as follows:

[Roll No. 255]

YEAS—319

Aderholt
Akin
Alexander
Allen
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cantor
Capito
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Etheridge
Everett
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Turner (OH)
Turner (TX)
Upton
Van Hollen
Vitter
Walden (OR)
Walsh
Wamp
Waters
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

NAYS—104

Abercrombie
Ackerman
Andrews
Baca
Baldwin
Ballance
Becerra
Berkley
Berman
Bishop (UT)
Blumenauer
Bono
Cannon
Capps
Capuano
Carson (OK)
Clay
Clyburn
Conyers
Cummings
Davis (CA)
DeFazio
Delahunt
Dicks
Dreier
Engel
Evans
Farr
Flake
Fossella
Frank (MA)
Frost
Grijalva
Gutierrez
Hastings (FL)
Hayworth
Hinchey
Holt
Honda
Inslee
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Larsen (WA)
Lee
Lewis (GA)
Lofgren
Markey
Matsui
McCollum
McDermott
McGovern
Meehan
Menendez
Miller, George
Neal (MA)
Nethercutt
Ney
Oberstar
Olver
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pombo
Pomeroy
Porter
Rangel
Reyes
Rodriguez
Rohrabacher
Roybal-Allard
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Scott (VA)
Sensenbrenner
Solis
Stark
Stupak
Tauscher
Thompson (MS)
Tiberi
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Watson
Watt
Weiner
Weller
Woolsey
Young (AK)

NOT VOTING—11

Buyer
Cubin
Eshoo
Fletcher
Gephardt
Houghton
Lantos
Larson (CT)
Smith (WA)
Tierney
Toomey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

☐ 1906

Messrs. WELLER, GUTIERREZ, and HOLT changed their vote from "yea" to "nay".

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF THE HOUSE SUPPORTING UNITED STATES IN ITS EFFORTS IN WTO TO END THE EUROPEAN UNION'S TRADE PRACTICES REGARDING BIOTECHNOLOGY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 252, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CAMP) that the House suspend the rules and agree to the resolution, H.R. 252, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 339, nays 80, not voting 16, as follows:

[Roll No. 256]

YEAS—339

Ackerman
Aderholt
Akin
Alexander
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Etheridge
Evans
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—80

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Berkley
Bishop (NY)
Brown (OH)
Brown, Corrine
Capps
Carson (IN)
Clyburn
Conyers
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Doggett
Engel
Farr
Fattah
Filner
Frank (MA)
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Honda
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Lee
Lewis (GA)
Lipinski
Majette
Maloney
Markey
McCollum
Miller, George
Nadler
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Reyes
Rothman
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Slaughter
Solis
Stark
Strickland
Thompson (MS)
Tierney
Udall (NM)
Velázquez
Waters
Watson
Waxman
Wexler
Woolsey

NOT VOTING—16

Cubin
Davis, Tom
Doolittle
Eshoo
Fletcher
Gephardt
Harman
Herger
Houghton
Lantos
Larson (CT)
Leach
Manzullo
Sessions
Smith (WA)
Toomey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in the vote.

☐ 1915

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HERGER. Mr. Speaker, on rollcall No. 256 I was unavoidably detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I regret that I could not be present today, Tuesday, June 10, 2003, to vote on rollcall vote Nos. 252, 253, 254, 255 and 256 due to a family medical emergency.

Had I been present, I would have voted:

"No" on rollcall vote No. 252 on Ordering the Previous Question on H. Res. 263, Providing for consideration of the bill H.R. 2143, To prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes;

"No" on rollcall vote No. 253 on H. Res. 263, Providing for consideration of the bill H.R. 2143, To prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes;

"Yea" on rollcall vote No. 254 on the amendment offered by Representative SENSENBRENNER to H.R. 2143, To strike language in the bill which states that a bet or wager does not include "any lawful transaction with a business licensed or authorized by a State";

"No" on rollcall vote No. 255 on H.R. 2143, To Prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes; and

"Yea" on rollcall vote No. 256 on H. Res. 252, expressing the sense of the House of Representatives supporting the United States in its efforts within the World Trade Organization (WTO) to end the European Union's protectionist and discriminatory trade practices of the past five years regarding agriculture biotechnology.

☐ 1915

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2143, UNLAWFUL INTERNET GAMBLING FUNDING PROHIBITION ACT

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2143, the Clerk be authorized to correct section numbers, punctuation cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore (Mr. BASS). Is there objection to the request of the gentleman from Ohio?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 660

Mr. PASTOR. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 660.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 660

Mr. GRIJALVA. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 660.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

APPOINTMENT OF MEMBERS TO CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 6913, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Congressional-Executive Commission on the People's Republic of China:

Mr. LEVIN, Michigan,
Ms. KAPTUR, Ohio,
Mr. BROWN, Ohio.

REPORT ON NATIONAL EMERGENCY CREATED BY ACCUMULATION OF WEAPONS-USABLE FISSILE MATERIAL IN THE TERRITORY OF THE RUSSIAN FEDERATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–83)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to the risk of nuclear proliferation created by the accumulation of weapons-usable fissile material in the territory of the Russian Federation that was declared in Executive Order 13159 of June 21, 2000.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 10, 2003.*

CONTINUATION OF NATIONAL EMERGENCY CREATED BY ACCUMULATION OF WEAPONS-USABLE FISSILE MATERIAL IN THE TERRITORY OF THE RUSSIAN FEDERATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–84)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation is to continue beyond June 21, 2003, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on June 20, 2002 (67 FR 42181).

It remains a major national security goal of the United States to ensure that fissile material removed from Russian nuclear weapons pursuant to various arms control and disarmament agreements is dedicated to peaceful uses, subject to transparency measures, and protected from diversion to activities of proliferation concern. The accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency declared with respect to the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation and maintain in force these emergency authorities to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 10, 2003.*

CONSTITUTION IS NOT IRRELEVANT

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, when have my colleagues heard of the Constitution being thrown to the side as if it is not relevant? Just a minute ago, I heard a headline news item that says it may not be important about the question of weapons of mass destruction.

Mr. Speaker, I happen to disagree. I believe when the American people move toward war the truth must be told. I believe it is crucial that we have an independent investigation, a special prosecutor, an independent commission to determine the veracity of the truth of the intelligence community upon which this Congress relied.

The war was declared without an actual vote of this Congress under the Constitution under article 1. Now they tell us when young men and women are on the front lines, when we have lost lives, when young men and women are still dying in Iraq, it is irrelevant about the weapons of mass destruction.

Mr. Speaker, our Congress will be irrelevant and the American people will be ashamed of us if we do not find out the credibility of the intelligence community and demand the truth be told to the American people.

I am calling for an independent commission, and I believe we need to stand on the truth so that as we fight wars we will fight them united as Americans, knowing the truth.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. FEENEY). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HONORING AL DAVIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RANGEL) is recognized for 5 minutes.

Mr. RANGEL. Mr. Speaker, Albert J. Davis was the chief economist on the Democratic staff of the United States House Committee on Ways and Means. He died Friday, May 30, 2003, of injuries caused by a car hitting him on May 19 in Arlington, Virginia, outside of the Metro stop on his way home from work. He was only 56 years old.

Mr. Speaker, it would be impossible for me to list all of the people who have come up to me since the accident to tell me how much Al meant to them. He had such a personal one-on-one relationship with so many Members of this body, so many staff, so many journalists, that all the meetings I had last week became times of reflection on Al's life. Whether I was meeting with other senior Democratic Members or columnists from a weekly news magazine or the experts on tax legislation, we forgot what we were meeting for so that we could pay honor to Al.

I could not help thinking that it was indeed a blessing that Al could have touched so many people so deeply through his hard work, his intelligence, and his good humor. Al worked nearly 20 years for this great institution of democracy, first on the House Committee on the Budget staff, at least the last 5 years at Ways and Means. He was one of those staff members who, though he never had to answer directly to the voters, devoted every minute to bettering the lives of ordinary working people.

Though he appeared soft spoken and cerebral, Al Davis was passionate about defending the interests of the working men and women of this country. Using charts and spread sheets and solid numbers, Al was a powerful fighter for economic justice.

He loved his job. He loved providing information to Members. His analysis was so honest that Members from both sides of the aisle would ask him for information even though they would disagree with him.

While Al was seldom quoted or mentioned in newspapers or on television, he had a profound effect in shaping legislation, publicizing poor policy, and changing minds.

Al is survived by his companion of 20 years, Mary Bielefeld. Mary's an incredibly kind and strong woman in her own right. Her strength has given those of us who worked with Al strength. Like Al, Mary works in public service as an attorney at the United States Department of Justice. They never got rich serving the people of this Nation, but they had a full and rich life in each other's company.

Al worked long hours when he worked here, often to midnight or 1:00 a.m. in the morning on days. He loved the outdoors. He loved getting to know the wilderness, and he shared these experiences with Mary and his close friends.

Most of all, Al valued honest government. He was mainly frustrated when people would cook books or fudge the numbers simply for political gain. Al believed that government in a democracy should be honest. He devoted his life to making sure that it was. He debunked myths whether they were Democratic or Republican. In a political environment too used to skirting around politically inconvenient facts, Al promoted honest opinion, honest budgets, and honest analysis.

Al's death is a loss for the entire Nation.

PRESCRIPTION DRUG PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, a number of us met today to review the Republican prescription drug benefit plan that is going to be presented before this House in the not-too-distant future. I have not seen the Democrat plan, but I am sure it has some of the same benefits and some of the same problems.

One of the problems that bothered me the most was that the pharmaceutical industry is going to continue to be able to charge exorbitant prices for many of the prescription drugs that are going to be covered under the prescription drug benefit bill, and that really bothers me.

For the last several weeks, the gentleman from Minnesota (Mr. GUTKNECHT), myself, and many others on both sides of the aisle have been looking into and complaining about the exorbitant prices that are being charged to Americans as compared to the people in Canada and France and Germany and Spain and other parts of the world. We pay the highest prices for prescription drugs of any country on the face of the Earth; and when we start trying to, as Americans, to buy prescription drugs, the very same drugs that are sold here in America, from Canada, from pharmacies in Canada, where they charge maybe one-fifth or one-half or one-tenth the price of what they are here, the Food and Drug Administration starts saying, oh, my gosh, there is a question of safety; and they threaten to penalize, even prosecute, people who bring pharmaceuticals into this country.

My question has been why is it that the American people are paying two, three, four, five, 10 times as much for pharmaceutical products as they are paying in Canada right next door or in Spain or France or other parts of the world? Now we are going to pass a prescription drug bill that does not address this problem? The taxpayers are going to spend billions, probably trillions, of dollars for pharmaceutical products without any real control over these expenditures?

I am not for price controls. I believe in the free market system; but at the same time, I do not believe the American people should pay exorbitant prices for the same product that is being sold 50 miles away along the Canadian border to the Canadian people, and when Americans go up there to try to save money, because it costs so much for their pharmaceutical products, they are going to be penalized for it and the FDA says that they cannot be reimported into this country, the very same products, and they complain about safety.

We found that there has been absolutely no safety problem whatsoever; and so at this point, unless we make some changes in our prescription drug bill, I am not going to vote for it. I am not going to vote for a bill that is going to charge the American people, the American taxpayer, huge amounts of money for pharmaceutical products for seniors when they can get those same products next door for less money, and that is just something that cannot be tolerated.

In addition to that, what about the rest of us that will not be covered under the prescription drug bill? What about the rest of Americans that are paying these exorbitant prices? Will the additional profits that are going to be made be passed on to them so that they can lower the prices a little bit to benefit the seniors who are covered under the prescription drug benefits of this bill? It is something that we cannot tolerate.

We need to address the entire problem of exorbitant prescription drug prices, pharmaceutical prices here in the United States.

□ 1930

The gentleman from Minnesota (Mr. GUTKNECHT) has been working on this for a long time. I join in his army to try to do something about it. We are not for price controls but the pharmaceutical industry needs to realize we are not going to pay exorbitant prices when they are not charging the same prices in other parts of the world.

They are saying it is because we spend so much on research and development. If that is the case, spread it around, do not load it on the back of the American people.

In addition to that, many, many of these products have been subsidized by the American taxpayer through our health agencies, Health and Human Services. Last night the gentleman from Minnesota (Mr. GUTKNECHT) talked about one where $500 million had been spent on research and development, yet Glaxo had a $9 billion profit on this product and they only gave $35 million back in royalties to the United States Government through HHS. Those are things that we cannot tolerate. Something has to be done about it. We are going to continue to pound on this issue until there are some positive changes.

Mr. Speaker, I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding, and I wish to associate myself with the remarks of the gentleman from Indiana (Mr. BURTON) and state that unless a bill comes to this floor that has a mechanism in it to have a negotiated rate for large numbers of buyers, as we do with our Department of Defense buying and our Veterans Department buying, we are going to force Americans out there in the drug market in their tiny little canoe on an ocean that is very, very rough. They cannot get a good price unless there is a mechanism within a bill which is cleared here which would provide for negotiated rate buying. I thank the gentleman for bringing this problem up.

Mr. BURTON of Indiana. Mr. Speaker, let me say I want to look at the gentlewoman's approach to making the way we deal with veterans' pharmaceuticals maybe the way that we deal with things under this health bill.

TRIBUTE TO AL DAVIS

The SPEAKER pro tempore (Mr. FEENEY). Under a previous order of the House, the gentleman from California (Mr. MATSUI) is recognized for 5 minutes.

Mr. MATSUI. Mr. Speaker, at a later moment in this Special Order the gentleman from South Carolina (Mr. SPRATT), the ranking member of the Committee on the Budget, will be speaking more fully about Al Davis, the chief economist for the Committee on Ways and Means, and formerly the economist for the House Budget Committee.

Today I come to the floor to pay tribute to Al Davis and express my deepest sympathy to Mary, Al's partner for more than 20 years. Al had a remarkable life, one in which he made an unforgettable and immeasurable contribution to the scope of this country's economic and budgetary policies. Although most Americans will never know his name or his extraordinary contributions, he has influenced each of us in our lives for the better.

Five years after serving in the U.S. Army from 1969 to 1971 during the height of the Vietnam War, Al began his lifelong career as an economist while working for the Wisconsin Revenue Department until 1980. While there, he rose from an analyst to the bureau chief in the research and analysis division in a very short period of time.

During the early 1980s, he served as senior analyst on the Taxation and Finance Committee with the U.S. Advisory Commission on Intergovernmental Relations. And from 1994 to 1998, he was chief economist for the Democratic budget staff and then was the economist since 1999 until his tragic passing just last month as the chief economist for the Committee on Ways and Means.

Al was a master of economic and budgetary policy through four administrations. He helped our committee staff navigate every economic budget and tax proposal put before the U.S. Congress.

Al called us, that is the Members of Congress and his colleagues on the House Committee on Ways and Means and the Committee on the Budget his customers, and he provided us with realms of memos and charts and analysis that only Al could produce. He did it with insight and humor. He stripped away the clutter to extract the critical details of major issues facing the American public.

You would often hear about Al's ability to translate complex and difficult economic concepts for Members, staff, and, of course, the press. On his own, he was a unique gift, but what made Al truly remarkable was his delivery of his translation and the integrity that he actually had which he imposed upon all of us because anyone dealing with Al Davis knew they had to be honest with themselves because of his basic decency and honesty.

When Al found a provision or proposal that he analyzed to be unfair to the American public, this translation, without fail, was laced with humor and simultaneously expressed his frustration, and he always exposed the unfairness of whatever he was working on if he believed it to be unfair.

Over the years, Al Davis provided the Democratic Members of the Committee on Ways and Means with probably 150–200 memos. Most of us read all of them, not only because of the analysis that he gave us, but also because of his humor and his sense of humanity. I would like to take a moment to quote two paragraphs in a January 30, 2003 memo. The subject from Al Davis to the Committee on Ways and Means Democrats is "Snow Hearing Next Week and Budget Deficits." Of course, we had a lot of snow during the month of January, so it was snow hearing and budget deficits. And the caption is "The Return of Budget Deficit as Far as the Eye Can See." He says, and I do not mean to be partisan here, but it is humorous. It is not dry. He says, "Normal mortals would be in the hospital with whiplash if they changed their positions as radically as my Republican colleagues." And then in the same memo he states, "Tax cuts and war look cheap because we are about to put them on a national credit card and pass the costs on to our children."

Al had a way of saying the obvious and stating public policy by actually communicating with a sense of humor to all of us. I have to say, Mr. Speaker, that we in this country are very blessed because we have always had through the agencies, through the executive branch and the judicial branch, but particularly through the legislative branch of our government, people who are dedicated to the betterment of our country, and truly Al Davis was a symbol of that standard that all of us are here to certainly aspire to.

Al, we are going to miss you very much and we thank you for everything you have done for all of us.

IN MEMORY OF AL DAVIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. LEVIN) is recognized for 5 minutes.

Mr. LEVIN. Mr. Speaker, like the gentleman from New York (Mr. RANGEL) who has spoken and the gentleman from California (Mr. MATSUI) who has now just spoken, and those who will speak after me about Al Davis, I relied on him every day on a wide variety of issues and on this floor and in committee I miss him every day.

When we hit a tough question, the answer was, "Ask Al." We expected and received from him a straight, unvarnished answer, and if he did not know the answer and I can remember many days he would say, "I am not quite sure," off he would go to find the information.

Al Davis was available with memos, with charts. His documents were so plentiful and useful during debates on taxes that the staff in my office often included in my briefing binders a tab entitled simply "Al Davis memos." I cannot recall a tax debate when so many of us did not rely on some document or some analysis that Al Davis prepared. He was prolific. He analyzed tax bills and budgets upside down and backwards. My tax counsel, who assures me that Al's memos were so valuable that he never deleted a single one, counted 44 memos, charts, and other analysis from Al to the committee from March 1 through May 19 of this year. So many points from these memos were used to help shape important tax and budget debates. He was blessed with the ability to take issues that were complex and numbers even more complex and to explain them in ways that everybody could understand. He hated dishonesty and inaccuracy.

In the past 2 weeks, many, particularly those in the media, have commented on how accurate and reliable his work was. His vigilance helped ensure that all of us who relied on him and worked with him also avoided the temptation to let the digestible sound bite overwhelm the accurate and honest debate that America deserves.

The Washington Post in its editorial, rather unusual in terms of a tribute to a staffer unknown to the public, so well known, though, within this institution, this is what the Washington Post had to say. "Unless you are a tax and budget wonk, you probably did not know Al Davis. Mr. Davis, the Democrat's chief economist on the House Committee on Ways and Means, was one of those classic Capitol Hill staffers whose effectiveness cannot be measured by the number of times they are mentioned in a newspaper. From his cluttered office in the Longworth House Office Building," and we knew well of the clutter in that office, "Mr. Davis helped mold and inform the public debate about what he saw as the troubling direction of the Nation's economic policy, churning out fact sheets that were as accurate as they were partisan. He could get as worked up, maybe more, about Democrats using distorted numbers as about Republicans who did so."

Like so many others, I will miss Al very much. He was not only an important asset to the country, but for so many of us, he was a friend. Our words today cannot replace the loss felt by Al's longtime companion, Mary Beilefeld. I express my deepest condolences to Mary. I hope it is somehow comforting that her loss is not only hers but is shared by all of us on the Committee on Ways and Means and by all of us in this institution who had the privilege of working with Al Davis.

[From the Washington Post]

ALBERT J. DAVIS

Unless you're a tax and budget wonk, you probably didn't know Al Davis. Mr. Davis, the Democrats' chief economist on the House Ways and Means Committee, was one of those classic Capitol Hill staffers whose effectiveness can't be measured by the number of times they are mentioned in the newspaper. But from his cluttered office in the Longworth House Office Building, Mr. Davis helped mold and inform the public debate about what he saw as the troubling direction of the nation's economic policy, churning out fact sheets that were as accurate as they were partisan. He could get as worked up—maybe even more—about Democrats using distorted numbers as about Republicans who did so.

Mr. Davis had the gift of being able to translate the most arcane economic data into real-world language that Democratic lawmakers—the people he called his "customers"—could use to make their case. For reporters scrambling to make sense of a study or to dredge up an obscure detail, he was the ultimate resource, with a seemingly encyclopedic understanding of the tax code. If you wrote or advocated about such matters, you'd quickly find your way to Al—or he to you. He patiently educated the uninitiated, from green legislative aides to reporters new to the economics beat. When a bill was on the floor, Mr. Davis was always there with his bulging accordion file, colleague Janice Mays recalled, offering when the most obscure of points came up, "I just happen to have a memo here."

Mr. Davis died last week at 56 after being struck by a cab on his way home from work. The accident occurred as Congress was finishing work on a tax bill that Mr. Davis detested, and, as he lingered in a coma for 11 days after the accident, we can only imagine how frustrated he would have been not to be immersed in the debate. Len Burman, co-director of the Tax Policy Center, recalled visiting Mr. Davis at George Washington University Hospital and delivering updates on the latest outrages in the tax measure. "I kept on thinking, he's definitely going to wake up for this," Mr. Burman said. Mr. Davis's boss, Rep. Charles B. Rangel (D-N.Y.), said that Mr. Davis "promoted truth in an institution too used to skirting around politically inconvenient facts."

OUTRAGEOUSLY HIGH PRESCRIPTION DRUGS PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise again tonight to talk about the outrageously high prices that Americans pay for prescription drugs. But before I get started, I want to yield to the gentleman from Indiana (Mr. BURTON) because the gentleman wants to correct something that he said earlier.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

I mentioned Glaxo that made the $9 billion, and I think they made money on other drugs that we will be discussing later, but the company in question was SmithKline Beecham that made $9 billion and returned only $35 million back in royalties to this government for the patents they had.

Mr. GUTKNECHT. And there are published reports that the president of SmithKline Beecham 2 years ago earned over $200 million.

Mr. BURTON of Indiana. Let me just comment on that. If he earned $200 million, maybe he deserved it for ripping off the American people to the tune of $9 billion for their very small investment.

Mr. GUTKNECHT. Mr. Speaker, as the gentleman from Indiana mentioned earlier, we had a Special Order the other night and we had Republicans and Democrats, and we hope to do it next week with Republicans and Democrats because this issue about what Americans pay for prescription drugs is not a matter of right versus left, it is right versus wrong.

I think anybody who spends any time at all on this issue realizes it is wrong to force American consumers to pay the world's highest prices partly because we subsidize the research and development. There was a study done by the Boston Globe several years ago, and what they found was that of the 35 largest selling drugs in America, 32 of them were brought through the R&D channel by the Federal Government. The NIH paid for the basic research and development, got them to phase 3 trials. So we subsidize them in the research and development, we subsidize them in the Tax Code, and yet we are still required to pay the world's highest prices.

Two years ago this Congress came together, the House and Senate, and we voted 304-101, I believe was the final vote, but it was over 300 votes in the House, and we said Americans ought to have access to world-class drugs at world-market prices. That bill passed. It is on the books right now.

□ 1945

But unfortunately the FDA is not enforcing the law because in the conference committee they put a little safety language in there that says essentially if they cannot absolutely guarantee safety, the FDA does not have to enforce that.

Ladies and gentlemen, I want to talk about safety. What I have in my hand tonight is a counterfeit-proof package of prescription drugs. It is called a blister pack, counterfeit-proof package of prescription drugs. This packaging is available today at a cost of about two cents per package. It is available today. Let me tell you what is available soon. They have been working on this at MIT. I do not expect anyone to see this because I cannot see it; but in this little vial, and if you would like to see this, I will share this with Members, in this little vial are 150 tiny computer chips, microchips. Ultimately, this is going to become the next UPC code. With this little chip, we can know where that product was manufactured, where it came from. It can help with inventory control, and ultimately it can guarantee that it is in fact Prilosec and not something else.

Ladies and gentlemen, we can solve this problem. I have said before, it is not shame on the pharmaceutical industry; it is shame on us. The President of Glaxo or SmithKline does not work for us, but the head of FDA does. It is time for us as Members of Congress to do our responsibility, to make certain that Americans have access to world-class drugs at world market prices. No, there is nothing wrong with the word profit. I believe in the word profit. But there is something very wrong with the word profiteer. It seems to me in the heritage of Teddy Roosevelt and so many other politicians who have been here in this city who stood up for the little guy, it is time for us to say, it is not a matter of right versus left; it is a matter of right versus wrong. We need to do the right thing. We need to open American access, we need to create competition here in the United States, and we need to make certain that Americans have access to world-class drugs at world market prices.

EXCHANGE OF SPECIAL ORDER

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent for the gentleman from Oregon's time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANOTHER REPUBLICAN ATTEMPT TO UNDERCUT MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, Republican leadership will soon unveil legislation representing yet another attempt to undercut Medicare. As they did last year, my Republican colleagues will try to coopt the prescription drug needs of Medicare beneficiaries to secure fundamental changes, privatization, in the way they receive coverage. My Republican friends will use stand-alone drug coverage as a lever to try to privatize

Medicare. The irony is that their proposal is being marketed as a kinder, gentler take on Medicare reform. Kinder and gentler, that is, than the President's breathtakingly callous "let them eat cake" approach.

You have got to give the President and Republicans credit. By playing good cop, bad cop, they are poised to set the clock back 38 years to the beginning of Medicare, 1965, and force seniors back into the private insurance market for their coverage. It is a shining moment for compassionate conservatism.

The President acclimated Congress and the public to the most irresponsible of Medicare privatization gambits by proposing to force seniors who need drug coverage out of Medicare and into HMOs. Blatantly exploiting the most vulnerable seniors to achieve the purely ideological goal of Medicare privatization is so offensive, in fact an egregious breach of the public trust, that virtually any alternative would look good in comparison.

When Republicans announced they planned to reprise their stand-alone drug plan proposal, everyone applauded because at least seniors would not be, as the President wanted initially, forced out of Medicare altogether in order to get drug coverage. Unfortunately, there is more than one way to gut Medicare, and the Republicans have found it. You can force seniors into HMOs, you can coerce seniors into HMOs, you can lure seniors into HMOs. You can, as my Republican colleagues are proposing, require seniors to buy stand-alone private prescription drug plans if they want drug coverage. It would be difficult to come up with a less efficient, less reliable, or more costly way to deliver drug benefits than to build an individual market for them. Yet that is what they are proposing.

The only reason to manufacture this new insurance market is to privatize Medicare. Here is how you do it: you give seniors two options. They can juggle traditional Medicare, plus a supplemental policy, plus a stand-alone drug coverage; or they can join a private insurance plan that offers all three. Once you sweeten the pot by offering enhanced preventive and catastrophic benefits at more cost under the private plans, you have effectively set traditional Medicare up for failure.

Make no mistake about it. Every Member of Congress who votes for the Republicans' Medicare prescription drug coverage plan is voting for Medicare privatization. You know and I know that seniors will not be better off choosing between and among private insurance drug plans just as they have not been better off choosing between this Medicare+Choice HMO or that Medicare+Choice HMO. Health insurance is not like a car. You do not customize it to fit your life-style. Good health insurance covers medically-necessary care delivered by the health care providers we trust. Bad insurance simply does not. Good health insurance lasts. Disappearing health plans and shrinking benefits are the hallmarks of the private insurance experiment that is already part of Medicare, Medicare+Choice. Instead of alleviating uncertainty, Medicare+Choice plans breed it.

Proponents of privatization argue Federal employees have a choice of private health plans, but the fact that FEHBP, the Federal program, features lots of private health plans does not mean it is a better system than Medicare. Federal employee health plan premiums grew 11 percent in 2003. Social Security income grew by 4 percent. Seniors earned $14,000 on average last year. There is not much cushion in that for unpredictable premium increases as you will get under privatized Medicare.

Let us not forget that my Republican friends want to means-test Medicare benefits. So goes the coverage guarantee. So goes Medicare's practical value to every enrollee regardless of income. And so goes popular universal support for the program that we know and respect, known as Medicare. If the Republicans' prescription drug coverage plan is signed into law, Members of Congress who voted for it will be able to look back and take credit for undermining a popular, successful, public insurance program that covers 40 million people and that ensures your parents access to reliable, high-quality care and replacing it with another iteration, another experiment of the failed Medicare+Choice program.

I do not know how any Member of Congress, Mr. Speaker, can look their constituents in the eye after voting to sabotage a public program, Medicare, that anchors the financial security of our Nation's retirees. I hope a majority of us will stand up for Medicare and block any attempt, covert or overt, to destroy it.

ANOTHER VOICE IN THE PRESCRIPTION DRUG DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I rise tonight to talk to my colleagues about the prescription drug reimportation debate that has been the subject of so much discussion in this House. I would urge my colleagues to use caution and reason when approaching this issue. Several complicated and interconnected issues dominate this situation: trade relations, patient safety, drug costs and government regulation, just to name a few. Some in this House believe that if Americans had the ability to purchase their drugs from Canada or Mexico or Europe or Mars that the United States market would adjust to reflect the importation of cheaper medicines. Let us be clear: foreign countries place price controls on their prescription drugs. This means that the drugs purchased by Canadian citizens may be priced lower than that which an American citizen will pay for the same compound because of that government's artificial market intervention. If an American citizen purchases a drug from a Canadian pharmacy, it may be cheaper. But by permitting the reimportation of drugs into this country, we effectively allow the importation of foreign price controls in the United States market as well. This would be shortsighted and run counter to the free market system that is established in this country. If drug reimportation becomes the established policy in this country, the United States would in essence be allowing foreign governments to set the prices for American businesses.

If we truly believe in the power of the free market, we should remove the market distortion of foreign price controls, a market distortion which ensures that America's seniors and America's uninsured pay the highest prices for their medications. And what happens in countries that have adopted price controls? Pharmaceutical companies and biotech companies have left in droves. According to a report by the Directorate General Enterprise of the European Commission, European drug multinationals have increasingly relied on sources of research capabilities and innovation located in this country. Because of the stranglehold of regulation in European countries, including price controls on pharmaceuticals, Europe is lagging behind in its ability to generate, organize, and sustain innovation processes that are increasingly expensive and organizationally complex. The United States biotech industry in the last decade has had a meteoric rise; but we would place a chill on the industry's development, the number of jobs it creates and the revenue it produces if we allowed foreign drug prices to stymie its growth.

More importantly, if we inject foreign drug price controls into the United States, you will see less innovation in this very promising new field of science. Most importantly, underlying all of the complex economic and trade issues is one that ultimately impacts us all, and that is patient safety. The Food and Drug Administration exists to protect American consumers from dangerous substances that may be in the food we eat for nourishment or the pharmaceuticals that we take to cure our ills. Only our FDA in this country can assure the safety of drugs for American citizens. I think this House would be shirking its duty if we created a system that relied upon the actions of regulatory officials in Canada, Thailand, Belize or Barbados to ensure the safety of American patients. Allowing drug reimportation from foreign countries would only be a signal to foreign drug counterfeiters that it is open season on the health and safety of Americans citizens. Make no mistake, Mr. Speaker, these foreign counterfeiters are very clever; and with all due respect to my colleague who held up the package this evening, packaging in and of itself does not guarantee that that has not been tampered with and that that is not a counterfeit item. I could relate to you stories from my own medical practice from a few years ago where patients had what might be politely described as therapeutic misadventures by the ingestion of drugs which were imported, illegally, from Mexico.

The House can approach the drug cost issue through far less shortsighted solutions than permitting drug importation from foreign countries. Make no mistake, Mr. Speaker, the pharmaceutical companies in this country also have an obligation to control the cost and be certain that their profits are reasonable. Without this, we will continue to hear the arguments for reimportation nightly on the House floor. The purchasing power of the Federal Government should bring down the cost of safe pharmaceuticals in this country.

Mr. Speaker, we should remember the admonition of a long-ago physician, to first do no harm. In this House, we would do wise to heed that advice.

NATIONAL RAIL INFRASTRUCTURE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, tonight I rise in support of investing in our Nation's rail infrastructure and making rail transportation part of a strong transportation triad that includes highway, air, and rail. The freight rail industry is one that provides services that are key to the operation of practically every other industry.

In an atmosphere of mounting highway congestion and pollution, shippers ought to be changing more and more of their loads to rail. However, due to the fact that trains are not moving fast enough, these switches to rail are not being made. With 19th century signaling systems and antiquated grade-level junctions, railroads are often unable to deliver a truck-competitive service for many shippers. For example, trains that should be able to move through Chicago in 6 to 8 hours are taking over 2 days.

While freight rail is a sensible, cost-effective way to absorb the expected increase in freight traffic, it is also becoming a major contributor to a variety of social ills, including air and noise pollution, congestion and a declining quality of life. Rail infrastructure improvements would raise the capacity of our transportation network for both goods and passengers; increase safety along the rail network; improve the environment wherever congestion is relieved; and eliminate waits at grade crossings. Since passenger rail service and rail-based transit systems typically share infrastructure with freight rail, improving freight rail infrastructure would also provide much-needed assistance to passenger and commuter rail.

In January, the American Association of State Highway and Transportation Officials released their freight rail bottom line report that states that an additional 2.6 to $4 billion is needed annually for capital investment in our freight rail system. Last fall, the Federal Railroad Administration and the American Short Line and Regional Railroad Association commissioned a study that found short line railroads need nearly $7 billion to upgrade tracks and structures to handle the newer 286,000-pound rail cars used by the class I railroads.

□ 2000

So, how can we meet these growing rail capital needs? We cannot afford to simply rely on the railroads for these funds. The Association of American Railroads' policy position book for the 108th Congress states, "Especially over the past couple of years, railroads have become increasingly constrained in how much capital they can devote to infrastructure spending."

The answer to this rail infrastructure funding gap is the bill I have introduced, the National Rail Infrastructure Program, H.R. 1617. H.R. 1617 would create a new significant and dedicated stream of funds for rail projects. Just as we have the Highway Trust Fund and the Aviation Trust Fund, this legislation that I introduced last month would create a national rail infrastructure program. The total revenue stream in my legislation would amount to $3.3 billion annually.

This is a Federal investment that the American public desperately wants. In fact, Strategies One, a Washington, D.C. polling firm, conducted a national public opinion poll that shows 63 percent of Americans strongly favor moving more freight by trains, especially when the alternative is adding to highway capacity larger and longer trucks.

We cannot afford to sit back as freight and passenger traffic swells. We must craft a multi-modal solution to this capacity shortfall in which we can all win, or else we will all massively lose. Therefore, I urge Members to join the 40 bipartisan cosponsors and me and cosponsor H.R. 1617, the National Rail Infrastructure Program.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2115, FLIGHT 100—CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 108–146) on the resolution (H. Res. 265) providing for consideration of the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE NEED FOR ASBESTOS LITIGATION REFORM

The SPEAKER pro tempore (Mr. FEENEY). Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, in 48 hours Congress will face the single most important pending issue of legislation to help our economy. Does your 401(k) look like mine? If so, it is due to the dot.com bust, the war, recession, and possibly even a little bit of Martha Stewart. But it is also due to another problem, and this problem is depressing the value of 900 stocks that form the bedrock of our retirement savings.

The issue is asbestos liability reform. Really. We bankrupted asbestos makers like Johns Manville and U.S. Gypsum a long time ago, but lawsuits now reach out to many companies, most companies, who have had asbestos anywhere in their ceiling tiles, walls, or in the case of Sears Roebuck, in one washer and one iron sold between 1957 and 1958.

Spending on the lawsuits might make sense if our justice system actually compensated victims suffering from asbestos poisoning. But, as the chart behind me shows, most asbestos awards go to lawyers' fees and court costs, and a minority actually goes to the lawsuit plaintiffs. Of the amount that goes to plaintiffs, only a small fraction goes to people who are actually suffering from asbestos poisoning.

When you look at this situation, as Justice Ruth Bader Ginsberg did, you see a system crying out for reform. Amazingly, the American Bar Association has called for this liability reform.

In this House, I introduced the Asbestos Compensation Act with 40 cosponsors, and my colleague the gentleman from Utah (Mr. CANNON) introduced similar legislation. But in 2 days, our eyes will be on the Senate Judiciary Committee, who will take up this issue with Senator LEAHY and Senator HATCH, and I think it is the best chance that we have to move a key piece of legislation forward to help our economy.

We know that two-thirds of asbestos plaintiffs have no symptoms whatsoever and they are flooding the courts to protect their rights in case they get sick sometime in the future. Meanwhile, plaintiffs who are sick are left behind. This has been a key point that the trial bar representing actually injured plaintiffs has raised.

But the financial uncertainty of asbestos liability is probably causing the greatest cost. Already 70 companies have gone into bankruptcy court, and there are approximately 900 publicly traded companies now facing asbestos lawsuits. If Congress does not act this year, we estimate 800 companies will go bankrupt over this issue. This, according to the National Economic Research Association and Rand Institute study, has cost Americans 60,000 jobs so far, and will cost 423,000 jobs in the future.

The system that we are under now has very uncertain results. Robert York has no symptoms and collected $1,200 in his asbestos lawsuit. Half went to his lawyer. William Sullivan had undefined asbestos exposure and collected $350,000, with his lawyer's contingency being undisclosed. Ken Ronnfeldt had exposure to asbestos and collected $2,500, half going to his lawyer; whereas Ron Huber, who had asbestos-related illness, collected only $14,000, and is appealing, rightly, his case.

I think the time is now for asbestos liability reform. I think this is a critical issue, not just to make sure that actual victims truly suffering consequences are compensated, but also that we remove this cloud of liability from America's companies that is depressing the value of the retirement savings of millions of Americans.

The test comes in 2 days before the Senate Judiciary Committee. My hope is that we have a bipartisan agreement to move asbestos liability reform through the Senate, and then it will be time for the House to act.

HONORING THE PUBLIC SERVICE OF DAVID LIZARRAGA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. ROYBAL-ALLARD) is recognized for 5 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise on the 35th anniversary of the East Los Angeles Community Union to recognize its president and CEO, David Lizarraga, and to commend TELACU on the 20th anniversary of its scholarship program.

TELACU is a nonprofit community development corporation dedicated to rebuilding the East Los Angeles community. Despite complex challenges, TELACU's approach is simple: to provide people with the tools for self-empowerment and self-sufficiency and to create opportunities to use those tools to improve their lives.

Under the leadership of Mr. Lizarraga, TELACU has become the largest, most successful Hispanic community and economic corporation in the Nation. With nearly $400 million in assets, TELACU has created thousands of jobs, brought affordable hopes to untold numbers of families, leveraged millions of dollars in small business loans, and, most importantly, provided numerous educational opportunities for young people and veterans, not only in my congressional district, but throughout the United States.

As a prominent national Latino leader, Mr. Lizarraga is a leading voice in the revitalization of inner-city communities and a beacon of hope for young people searching for a path to a brighter future.

Mr. Lizarraga is an example of the American spirit through which dedicated, hardworking, and enterprising individuals do not just get ahead, but, in striving for a better life for themselves, they empower others to realize the American dream.

Mr. Speaker, it is my pleasure to acknowledge TELACU and Mr. Lizarraga for their dedication to creating jobs and opportunities in our communities, and to wish them continued success for many years to come.

TAX CUT STEALING FROM FUTURE GENERATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, tonight I rise to speak on behalf of future generations of Americans. The needs of these children, and their children, are clear. They need a strong economy, quality education, health care and a clean environment.

The $350 billion tax cut passed by House Republicans provides none of this. In fact, the tax cut steals from the future to feed the greedy of today.

Last-minute changes made by Republicans will prevent families, like this one, with incomes of less than $26,000, who have 11.9 million children, from receiving the child tax credit. In fact, 1 out of every 4 families in my district in California will get no child tax credit.

Working families, like the one pictured here, who told me how hard they are working just to provide basic needs for their children, will get nothing. House Republicans claim they could not fit these families into their tax cut. Somehow they found plenty of room, however, to allow corporations such as Enron to continue to hide $50 billion in offshore tax shelters.

How can I go back to my district and tell families such as this one that their children will get no tax relief because Republicans chose to protect corporate tax shelters instead?

In the Republican plan to rob the future, millionaires get $90,000 in tax cuts, while working families like this one, who build and invigorate our economy, will get next to nothing.

For example, 47 percent of the people in my State of California will get a total tax cut of less than $100. One hundred dollars does not go too far in California, which has some of the highest costs of living in the country; 140,000 of those families in my district will get no child tax credit, and many of these families saw their sons and daughters and fathers and mothers go off to the war. Across the country, there are 250,000 children of active duty military families, such as these, that will receive no child tax credit.

These families all sacrifice when we ask them to protect future generations of Americans. How can I go home and tell these families that their own and future generations will get nothing because Republicans would not even sacrifice a few thousand dollars of the millionaire's $93,000 tax cut?

Families in my district and across the country suffer from rapidly increasing rates of asthma and respiratory disease. How can I tell them the pollution that compromises their health will only get worse because Republicans made room for $100,000 tax breaks for the largest, most polluting SUVs?

These same families, along with families of 9.2 million children across the country, already cannot get relief for their children because they have no health insurance. How can I tell them that we could have provided this coverage, but instead Republicans chose to create a $350 billion tax cut that goes mostly to the wealthy?

Everywhere we look we see future generations in peril. We have schools that need $300 billion in maintenance and repair, a No Child Left Behind Act that is short $9.7 billion, 44 million people with no health care, basic water infrastructure in critical decline, and 9 million people unemployed.

With a $400 billion deficit and 100,000 jobs lost from the economy each month, we have few resources and little time to deal with this problem. Yet Republicans spend our time forcing through a tax plan that primarily helps millionaires, offshore tax haven, and large SUVs.

This is nothing short of a crime. The future has been stolen from future generations, like this family.

PUTTING THE PRIVILEGED FEW AHEAD OF WORKING FAMILIES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, hardworking families need a break more than anyone in this country, especially since they are bearing the brunt of this very weak economy. But, for some reason, the Republican leadership feels that the privileged few are more important than the 12 million children who are left out of the Republican tax cut. That is just plain wrong.

Voices across the Nation are speaking out, and they are speaking out loudly, and in overwhelming numbers they are in support of increasing the child tax credit and making it permanent, especially for those 12 million children who were left out of the recent tax package.

□ 2015

That is why President Bush is finally urging the House to follow suit with the other body so he can sign legislation that will restore tax credits for lower income families and put this bad and actually embarrassing decision behind him. Why is the Republican leadership dragging their feet here in the House when we can help American families now?

Well, Mr. Speaker, I know it is important that we swiftly extend the child tax credit to lower-income families. It should not, however, be part of another broad package that extends even more benefits to the wealthy.

We must pass a clean bill, a bill that solves the injustice that has been done to these hard-working families. Our priority should be the 12 million forgotten children, not more tax breaks for the rich.

Mr. Speaker, how am I supposed to go back to my district and tell a mother from Santa Rosa, California, located in the 6th Congressional district of California that I represent, just north of San Francisco across the Golden Gate Bridge, tell her that according to the House Republican leadership that her job at Head Start does not contribute enough into the tax system to deserve an increase through the child tax credit? This mother, whose name is Cori, is the head of one of the 6.5 million families that pays Federal, State, and local taxes; yet she has been left out of the recent increase to the child tax credit. Cori overcame the obstacles of being a single parent. She did it without a support system and she did it with very little money. After turning to the Head Start program for help, she went back to school and became a Head Start teacher to give back to the program that she thought and felt and knew saved her.

How do I explain to Cori that her hard work is not worth rewarding, that she does not give enough to the system to deserve a break? I ask my colleagues on the other side of the aisle where is the compassion for Cori and her children?

It is time that we help working families like Cori so they can balance their responsibilities of earning a living and meeting family demands. Our priority today should be expanding the child tax credit for lower-income families. Passing it can be the first step in reversing a very serious wrong.

Mr. Speaker, it is time to restore compassion to our Nation's families, rather than our Nation's millionaires. American families need to know we have not forgotten them. The 12 million children that have been ignored by the Republican leadership need to know that they are important.

I demand that the Republican leadership in the House act now and extend the child tax credit to those who need it the most: our children. Our children, 25 percent of our Nation, 100 percent of our future.

AMERICA OPPOSES THE REPUBLICAN "LEAVE 12 MILLION CHILDREN BEHIND" ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HONDA) is recognized for 5 minutes.

Mr. HONDA. Mr. Speaker, I rise tonight to protest the Republicans' tax cut bill, the Leave 12 Million Children Behind Act.

Soon after this tax bill was passed, it was discovered that the Republicans deliberately chose to drop a provision that would have helped 12 million children living in moderate-income working families. Among these children left behind are 1 million children of active duty military.

Mr. Speaker, let me make this clear. Leaving 12 million children behind was not a last-minute oversight; it was a deliberate decision by the Republicans. As our Nation struggles through a Bush recession, Congress has a responsibility to do what is right for families who may need a little extra help, and it is obvious that the Republicans are shirking this responsibility.

The most shocking part of the Republican decision is its impact on families in the military. Many enlisted men and women make far less than $26,000 per year. As a result, their children will not be eligible for the family tax credit. It is clear from this callous denial of assistance that the Republicans' priorities lie with tax cuts for the wealthy, not with the livelihoods of working families and our servicemen and women in the armed services. These priorities are clearly out of step with the American people.

Mr. Speaker, Democrats are working to help these families. Democrats have introduced legislation that restores these benefits to all working families and ensures that our men and women in the military are not denied tax relief while they are fighting in Iraq.

However, the Republican majority refuses to even consider this legislation. According to the Republican majority leader, "There's a lot of things," he says, "that are more important than that."

Well, Mr. Speaker, I disagree; and I join my Democratic colleagues today to once again urge the Republican leadership to restore the child tax credit to all working families. Democrats will continue to fight so Congress can fulfill its promise to truly leave no child behind.

AERONAUTICS INDUSTRY FACING IMPORTANT CHALLENGES AFFECTING AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

Mr. INSLEE. Mr. Speaker, I come tonight to address an emerging issue that Congress is going to need to deal with, and that is the challenges to one of our most important industries in America, and that is the aeronautics industry.

Right now this portion of our economy from an export standpoint is probably the most successful in our economy, and a large percentage of our export surplus, to the extent it exists, arises from our exports of airplanes. The company, largely located in my neck of the woods in Washington State, Boeing, is the largest net exporter of products in our country and is the largest contributor to a potential surplus that we have; and it has over 150,000 employees and 26,000 suppliers that are located in all 50 States. This is an industry of enormous importance to our trade balance and to job creation in this Nation.

But unfortunately, because of the untoward practices of some European nations associated with Airbus, that industry is threatened; and it is threatened because contrary to well-accepted trading rules in a rules-based trading relationship, Airbus is taking advantage of a significant number of national subsidies for their program. Among those are a state-sponsored loan program which has significantly reduced the cost of financing for Airbus development, and that can lead to up to as much as $26 billion in additional benefits to Airbus. In addition, they have received subsidies for their research and development costs; and of course, in the development of airliners, R&D is of tremendous importance to the ultimate cost of a product.

It appears clear that these subsidies, in fact, have continued, despite our efforts, our assiduous efforts to try and, in fact, maintain a rules-based trading system. And that now has to stop. The competition, the unlawful, the illegal competition that we have been facing due to these subsidies can no longer stand. And the United States Government needs to take a more aggressive policy to, in some sense, restore balance and fairness to this trading relationship.

In the next several weeks, my colleagues and me will be discussing the appropriate way to do that. Various means are at our disposal. We can consider trade efforts in an attempt to convince our partners in Europe to, in fact, respect a rules-based trading system and end these unlawful subsidies to this sector of the economy, with whom we are happy to compete under a rules-based system. We also may consider, in fact, assisting in the research and development in the technology to benefit America, and certainly in our energy policy. Many of us think that while we are assisting the development of an energy policy, we should assist the development of the most energy-efficient jet the world has ever seen, which we hope to be the 77 manufactured by Boeing.

So there are a variety of measures; but in some fashion, it is now time for America to get serious to insist on a rules-based trading system, one that can allow the best technologically efficient product to emerge so that the marketplace can choose, rather than having governments interfere with that process. And unfortunately, our European partners have muddied about in that system and governments have interfered in the functioning of this marketplace. That is something we have tolerated now for quite a number of years. It is no longer subject to toleration.

Mr. Speaker, it is time for America to become serious and engage in resolving this problem, and I will be working with my colleagues in the upcoming weeks to make sure that the rules are fair and applicable and assist the United States aeronautics industry.

A TRIBUTE TO AL DAVIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from South Carolina (Mr. SPRATT) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. SPRATT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SPRATT. Mr. Speaker, we are here tonight to honor Al Davis, a dear friend, who died in the prime of life in a tragic, wholly unnecessary accident. But in his 56 years, he made a huge, if unheralded, contribution to the government of this country. We have lost a close associate, a valuable colleague. The House has lost part of its institutional memory and its analytical ability, particularly in the bramble bush we call tax policy; and the country, the country has lost a genuine, if sometimes critical, patriot.

Before Al became the chief economist for the Committee on Ways and Means, he was the chief economist for the Committee on the Budget; and it was on the Committee on the Budget that I came to know him best.

Mr. Speaker, if I might digress a minute, I would say that from 1969 to 1970 I served as a young officer, Army officer in the Pentagon and interacted with Congress and its staff; and when I came here in 1983 as a Member of Congress, the most striking change I found in the institution was in the staff, Members' staff and committee staff both. The number of staff had increased several fold, and the professional quality has increased even more. And more than I had ever appreciated, I soon found out how the House literally could not function without our staff. Their roles are often off stage. They make, however, those of us on stage look good. They keep the debate moving forward, and they see to it that the House churns out its enormous work product of bills and reports and conference agreements and correspondence and countless other documents.

Even among the excellent staff that is throughout the House on both sides of the aisle, Al Davis stood out. He was noted for two areas of expertise: the Tax Code and Social Security. And in those fields, he had few peers. He was good because he knew what he was doing, believed in what he was doing, and never tired of what he was doing until he got it right.

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I often asked Al a question and got a tentative answer. Then, a week later, long after I had forgotten the question I put to him, I got from Al a memo, a fax sheet, a graph, a table, whatever. He then came up and explained it to me meticulously in a way that anybody, me included, can understand: because Al was not just our analyst or our economist, he was our tutor. Not only did Al produce memos that answered the questions we put to him, but he also came forth with memos containing answers to questions we should have raised but did not.

I can remember myself more than once in the well of this House struggling, coping to defend our position, only to have Al appear from the benches back here with a memo he just happened to have written in anticipation of this issue.

He was a Democrat, make no mistake about it, but he did not pull punches for partisan purposes. If one wanted a sophist to help rationalize a poor policy proposal, you did not want Al Davis. On the other hand, if we had the right position, if we were principled, if we faced entrenched opposition, special interests, and found our policy hard to defend, we wanted Al Davis on our side, because he would cut to the core of an issue and bend every effort to help us.

His encyclopedic knowledge, his keen mind, his corporate memory, his sense of principle, his passion for the truth, and his patience in explaining it made Al Davis a joy to work with, a colleague that we cherished, a friend we will never forget.

The House will go on without him, of course, but the debate about taxes will be a little less incisive, the explanations of Social Security will be a little less clear, the arguments against the deficit not quite so compelling without the work of Al Davis behind them.

He served his Congress, this Congress, and his country well, and those of us who worked with him will be inspired for a long time by his example, moved by what he taught us, consoled by his humor, for as long as we serve in the Congress of the United States.

Mr. Speaker, I yield to my friend and colleague, the gentleman from Minnesota (Mr. SABO), former chairman of the Committee on the Budget who also worked with Al Davis on the Committee on the Budget.

Mr. SABO. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, in this institution of democracy there is always a small group of smart, talented, hardworking, honest people who labor anonymously behind the scenes. They are absolutely essential to the success of our form of government. Al Davis was at the top of that group. His brilliance was exceeded only by his work effort and his integrity.

Al worked hard to help those of us who are Members of Congress fulfill our responsibilities in developing, debating, and voting on tax and budget laws. He also helped other staffers, policy thinkers, academics, reporters, and the general public understand the issues. I am told that whenever tax policy experts around town ran into a particularly thorny problem, they looked at each other and would say, this is an Al question.

Al was also brutal in his honesty. If he thought something was a bad idea, it did not matter where it came from, he would tell the truth. Al made himself learn budget rules even when they seemed silly, so that he could bring his understanding of economics and tax law into the budget process. He spent endless hours late into the night doing calculations and grinding out memos on every possible point of argument or challenge that might come up from a floor debate.

Al patiently answered the same questions over and over, so Members who had not been in the committee debates could understand what they were voting on. He spent endless hours helping our staffs learn what they needed to know.

Having said all that, I have to admit there are other staffers here who share these same traits. So what about Al made him so special and so sad to lose him? Much has been said of Al's love of irony and quick humor, but I do not remember him that way. To me, the best single word to describe Al is "twinkly." He was always smiling and winking about something, usually involving numbers. His eyes would sparkle as he saw wonderful number games and possibilities in his mind long before the rest of us caught up with him. There was a little bounce in those long, lanky strides as he walked down the hall, and when he had his special numbers game going in his head, he literally danced.

Like many of the people in the world I come from, Al was a man of few words, but he also was a man of many numbers. He used his profound understanding of numerical relationships and the flow of money to make life better for all Americans, but particularly for people in need. At heart, he was a deeply kind man and a true populist. The House of Representatives, indeed all the people of this country, have lost a great resource, and I have lost a dear friend. I will miss him very much.

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from Georgia (Mr. LEWIS), who serves on the Committee on Ways and Means and knew Al in that capacity.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend, the gentleman from South Carolina (Mr. SPRATT), for bringing this Special Order tonight to honor Al Davis.

Mr. Speaker, it is true, Al Davis was a brilliant economist. But to all of my Democratic colleagues on the Committee on Ways and Means, he was so much more. He was our conscience on the committee. Somehow, the words "dedication" and "tireless" do not seem adequate to describe the strength of Al's commitment to his work. He spent countless hours on weekends and at night responding to all sorts of Members' inquiries and issues; even some that, to put it kindly, might be considered harebrained.

Still, he took every request seriously and would leave no question unanswered. His efforts were never halfhearted. Unsatisfied with one analysis or two or even ten, Al would often put together hundreds of analyses. Al would leave no stone unturned to provide all the facts, no matter how obscure.

Despite his unparalleled knowledge and command of some of the most complicated issues dealt with by Congress, Al had an amazing and rare ability to distill and explain information so that it was understandable to the least knowledgeable person. Yet he never, but never, condescended to anyone.

There was something about Al's absentminded-professor persona that was both disarming and reassuring. He could always be counted on to calm passionate temperaments and remind us all of the facts. He would not let us get caught up in hyperbole, and he kept us focused on why we are here: to serve as a voice for the underprivileged and the disenfranchised.

Though he might not have enjoyed the name recognition that my colleagues and I do, there is no doubt that his work was critical to our efforts. Without capable and dedicated staff like Al, this place, Mr. Speaker, would not run. I tell the Members tonight, we will forever be grateful for his service, commitment, and dedication.

Mr. Speaker, Al Davis fought the good fight. He kept the faith. He worked hard to make things better for those who needed it most. I truly believe we are blessed to have known him. Al, we will miss you. My friend, a job well done.

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from North Dakota (Mr. POMEROY), also a member of the Committee on Ways and Means.

Mr. POMEROY. Mr. Speaker, I thank my friend, the gentleman from South Carolina (Mr. SPRATT), for organizing tonight's Special Order in honor of the memory of Al Davis.

Mr. Speaker, when I arrived in Washington as a freshman Member of Congress in January, 1993, I received an assignment to the Committee on the Budget. That was when I met Al Davis. At the time, Al was the committee's senior economist. For someone like me, brand new to the Federal budget policy, Al was nothing less than the Rosetta Stone.

Even before I knew his name, I knew him by my first impression. It was an impression that I held for the next 10 years working with him, our giant brain. The Washington Post said that Al could translate the most arcane economic data into real-world language. That is absolutely true.

But I must also admit that sometimes even Al's translations were hard to grasp. Why? Because, although he was a master of honing sharp political arguments out of obtuse provisions in the Internal Revenue Code, he would never sacrifice content or accuracy. If a Member came to Al with a winning political argument that did not quite square with the facts, Al would patiently explain how the argument could be changed politically and substantively to be sound and accurate. He loved politics, for sure, but Al cared deeply about the enterprise of government, and believed that we all have an obligation to carry on our public debate with integrity.

Al was a senior economist and then chief economist for the Committee on the Budget for all my 6 years on the Committee on the Budget. Most know that until recently, Democrat staff of the Committee on the Budget were housed in the old O'Neill Building, which was also the dormitory for House and Senate pages.

It was quite appropriate that the Committee on the Budget staff worked out of a dormitory, because when we went to see Al Davis, working along with his colleagues, Richard Kogan and the others who served with such talent the gentleman from Minnesota (Mr. SABO) and then the gentleman from South Carolina (Mr. SPRATT), we truly felt like we were in the gifted and talented dorm at college. Here would be Al in his office, piled high with every budget and economic resource we could imagine, statutes, studies, charts, you name it. Of course, we would always find Al perched in the middle of it with an open collar, or in the summer a short-sleeved shirt, jacket and tie hanging on the wall, just in case of emergencies.

Al would field questions about budget and tax policy with the excitement and enthusiasm of a kid. He not only would answer the question, but also point out the humor, the irony, the inconsistency, or the sheer lunacy of the provision under discussion. When we went to see Al, we were truly talking to the smartest kid in the class.

Al was a very influential staffer, although he had no use for the trappings of authority. Al loved his work for its own sake and not because it made him powerful or sought after, which probably explains why Al treated people like he did. There would be no one in the world more surprised than Al to have an editorial written about him in the Washington Post. He was just as happy to explain the finer points of tax policy to a junior staffer as he was a senior Member. If one was interested in learning the substance, then Al Davis was interested in teaching it to you.

Because of his knowledge and intelligence, we made great demands on Al. We asked him not only to undertake economic analyses to support our policies, but also to develop the arguments and market them. On many occasions, I would decide the night before markup that our charts did not quite capture the perfect argument for the next day. I would ask my staff to call Al to find the data to create the perfect chart. Armed with such an 11th hour request, you can imagine how anyone would be exasperated, and occasionally Al was. But even those times, a few hours later, sometimes well after midnight, Al would send over the chart, just as we had asked.

I served, along with my legislative director for 10 years, Mike Smart, with Al and developed the greatest respect and admiration for him. As he loved ideas, so he also loved life. I remember my surprise once at disembarking at the Bangor, Maine airport to find Al Davis and his loving partner Mary, Al having one of these goofy camping caps on. He was off for a canoe trip, an incongruous notion for me, thinking of our giant brain paddling that canoe in the wilds of Maine; but that is the kind of diverse and loving-life guy Al Davis was.

I have found my years in Congress to be enriched significantly by knowing Al and having the benefit of his counsel. I will miss him very much.

Mr. Speaker, I include for the RECORD the following items: The Washington Post editorial on Al Davis; the June 9 Tax Notes write-up by Warren Rojas on Al Davis and his contribution to the profession; a tribute in the June 9 Tax Notes from Gene Steurele entitled "Economic Perspective"; and last but not least, a beautiful eulogy that was presented at the St. Charles Catholic Church in Arlington, Virginia, on Monday, June 9, by Dan Maffei, also a staff member of the Committee on Ways and Means.

The documents referred to are as follows.

[From The Washington Post, June 7, 2003]

Unless you're a tax and budget wonk, you probably didn't know Al Davis. Mr. Davis, the Democrats' chief economist on the House Ways and Means Committee, was one of those classic Capitol Hill staffers whose effectiveness can't be measured by the number of times they are mentioned in the newspaper. But from his cluttered office in the Longworth House Office Building, Mr. Davis helped mold and inform the public debate about what he saw as the troubling direction of the nation's economic policy, churning out fact sheets that were as accurate as they were partisan. He could get as worked up—maybe even more—about Democrats using distorted numbers as about Republicans who did so.

Mr. Davis had the gift of being able to translate the most arcane economic data into real-world language that Democratic lawmakers—the people he called his "customers"—could use to make their case. For reporters scrambling to make sense of a study or to dredge up an obscure detail, he was the ultimate resource, with a seemingly encyclopedic understanding of the tax code. If you wrote or advocated about such matters, you'd quickly find your way to Al—or he to you. He patiently educated the uninitiated, from green legislative aides to reporters new to the economics beat. When a bill was on the floor, Mr. Davis was always there with his bulging accordion file, colleague Janice Mays recalled, offering when the most obscure of points came up, "I just happen to have a memo here."

Mr. Davis died last week at 56 after being struck by a cab on his way home from work. The accident occurred as congress was finishing work on a tax bill that Mr. Davis detested, and, as he lingered in a coma for 11 days after the accident, we can only imagine how frustrated he would have been not to be immersed in the debate. Len Burman, co-director of the Tax Policy Center, recalled visiting Mr. Davis at George Washington University Hospital and delivering updates on the latest outrages in the tax measure. "I kept on thinking, he's definitely going to wake up for this," Mr. Burman said. Mr. Davis's boss, Rep. Charles B. Rangel (D-N.Y.), said that Mr. Davis "promoted truth in an institution too used to skirting around politically inconvenient facts."

[From Tax Notes, June 9, 2003]

ECONOMISTS, LAWMAKERS LAUD DEPARTED DEMOCRATIC COLLEAGUE

(By Warren Rojas)

Fiscal watchdogs on both sides of aisle last week grieved the recent death of House Ways and Means Committee Chief Democratic Economist Albert J. Davis—a public servant many revered for his sharp mind, quick wit, and commitment to economic transparency. Davis, whom colleagues remembered as a fixture of the Washington economics community since arriving here in the early 1980s, died May 30 after being struck by a taxicab in Arlington, Va., on May 19. Although at press time memorial arrangements for Davis remained were uncertain, Democratic leaders plan to sponsor a special order on June 10 allowing lawmakers one hour of debate time on the chamber floor to share their memories of Davis.

"Our members are all sort of devastated because Al was our crutch," Ways and Means Democratic staff director and Davis's most recent boss Janice Mays said about Davis, that he was the unofficial "go-to" policy guru for most House Democrats.

"From my standpoint, he was the perfect staffer. I am really desolate," Mays said.

Davis's chief foil, Ways and Means senior economist for the majority Alex Brill, voiced genuine admiration for Davis's "strong commitment and belief in economics and his issues."

"We rarely agreed, but he was someone I respected," Brill told Tax Analysists. "He was someone who worked hard and made his issues vibrant and real." While they quite often digested the same economic data only to come to diametrically opposed policy positions, Brill said Davis usually emerged with a "fair read" of alternative views.

"He certainly had that strong grasp of the science," he said, adding, "And I know by reputation that he dissected [the information] very quickly."

Similarly, Ways, and Means Committee ranking minority member Charles B. Rangel, D-N.Y., said that Congress as an institution would suffer from Davis's sudden departure.

"Though he appeared soft-spoken and cerebral, Al Davis was passionate about defending the interests of the working men and women of this country," Rangel said. "Using his spread sheets, his charts, and his memos, Al was a powerful fighter for economic justice. He promoted truth in an institution too used to skirting around politically inconvenient facts. Al's death is a loss for the entire nation."

A NATIONAL TREASURE

Born in Dallas in 1947, Davis laid the foundation for his economic ascension by securing Bachelor of Arts in economics (with Honors) from Swarthmore College in 1968. He followed that up by earning a Master of Arts in economics (with concentrations in international economics and public finance) from the University of Wisconsin-Madison in 1974.

With tools in hand, Davis then began his professional career as a research director and fiscal policy expert for the Wisconsin Department of Revenue (1976–1980) before moving to Washington and leapfrogging from governmental agency to governmental agency, servicing as: senior analyst at the U.S. Advisory Commission on Intergovernmental Relations (1980–1983); senior economist for the Democratic staff of the House Budget Committee (1984–1994); chief economist of the Democratic staff of the House Budget Committee (1995–1998); and chief economist for the Ways and Means Democrats (1999 to 2003).

While his résumé reads like a road map followed by the prototypical federal number cruncher, economists and friends claim his fiscal vision and translation skills made Davis an unparalleled ally.

According to Mays, Democrats treasured Davis's counsel because the combination of computer savvy and homemade economic models enabled him to provide lawmakers in the minority with in-depth analysis on par with what Treasury and the Office of Management and Budget deliver to the White House.

"He could kind of give you the facts of who would benefit and who wouldn't from various tax changes," Mays said of his understanding of how taxes, budget, and long-term fiscal policy changes here all interrelated. "He had a great overview of how all those things would work together."

Rather than hoard that knowledge, Mays said Davis enjoyed the intellectual exercise of sifting through the tax code and bringing all its hidden flaws to light.

"He enjoyed explaining how the machine worked. Members would talk to him and go away understanding something a little bit better," she said of the impromptu tutorials and explanations Davis could provide at a moment's notice. She added that often, Davis would make time to talk to any legislative assistant who reached out to him—happily logging 20-hour workdays to explain the underlying economic consequences of any legislative proposal.

Explaining how Davis was more than a mere policy work, Urban Institute economist and Tax Policy Institute codirector Leonard E. Burman painted Davis as a "legislative detective" adept at sifting through the fine print of most tax bills and spelling out the particulars to Hill watchers and members alike.

"If you talked to Al every day, you would routinely learn things that others might not read about in the mainstream papers till two or three weeks later," he stated, hailing Davis as "an ordinary guy who was pivotal to how tax policy works."

Burman praised Davis for working "tirelessly to keep both the Democrats and the Republicans on the Ways and Means committee honest and informed about their tax policy options and the implications of their choices," and thanked him for keeping everyone else in Washington up to speed on the day-to-day tax grind.

"He knew how to read the tax law and could figure out how these goofy provisions concocted in the dead of night would [effect] other issues down the road. And he knew how to write so that anyone could understand it," Burman said of Davis's copious policy memos.

On a personal level, Burman said he would most miss scanning the tax dailies in search of a (supposedly) clandestine comment from Davis. "I am going to miss reading articles in Tax Notes and other places where a House staffer or some other well-placed aide was quoted and picking out his voice—because I always knew it was Al," he said.

Congressional Research Service economist and close friend Jane G. Gravelle called Davis's death "a great, great tragedy" for those who were close to him and to the economics profession as a whole.

Although he prided himself on staying behind the scenes, Gravelle said Davis clearly had a "great effect on the transmission of economic knowledge" both in and around Washington.

"To me, he was the epitome of the staff adviser to Congress," she said—although Gravelle quickly added that Davis was somehow able to avoid getting mired down in the political frustration and procedural malaise that often overtakes people who stay on Capitol Hill too long.

"Whereas there are those on the Hill to whom politics is the predominant issue, Al had principles. He always wanted to communicate the truth—even if his members didn't want to hear it," she stated.

"He was very quick in seeing through to the essence of things—particularly sneaky ways that people could turn and twist the tax code to benefit from policy changes," Gravelle said of Davis's economic intuition. She added that Davis's economic know-how and command of public policy would be hard to replace.

"To replace that set, to explain things and understand them—quite often these two do not go together. Particularly in economics," she quipped. "I can't help but believe that Democrats will suffer from the loss of those skills."

Brookings Institution senior fellow and Tax Policy Institute codirector William G. Gale said Davis's passing would leave a void that will not easily be filled.

"He was deeply committed to what he was doing—but he was also willing to take a step back and laugh about the policy silliness," Gale recounted. "He will be sorely missed both personally and professionally."

While noting that he believes there is a sea of unsung policy experts and congressional staffers keeping most lawmakers afloat, Gale hinted that the stereotypical Washington bureaucrats do their jobs "maybe not quite as well as Al did."

"He wouldn't have bothered writing such clear, compelling stuff if he didn't think it mattered," he said of Davis's economic convictions.

Moreover, Gale suggested that Davis's long commitment to combating complexity and other long-term fiscal concerns had renewed his sense of purpose in recent years.

"One of the things he really railed against was the disingenuity of how tax cuts were advanced over the last few years," Gale said. "It was a constant thorn in his side that tax cut advocates were using any argument to justify their tax cuts. So he spent a lot of time trying to be a reality check on those people."

Mays noted, however, that even though they had been overtaken by the immediate sense of mourning, she and her staff would ultimately honor Davis's memory by continuing to shine a light on potential abuses of the tax code.

"Al would want us to keep fighting. He would not want us to stop just because he is not one of the troops anymore," she stated.

Contributions in memory of Albert J. Davis may be made to memorial funds established in his name at Swarthmore College and the Chesapeake Bay Foundation.

[From Tax Notes, June 9, 2003]

A TRIBUTE TO AL DAVIS

(By Gene Steuerle)

Al Davis. Al Davis. Where are you, Al, now that we need you more than ever? Many tributes are going to be made about Al, who died on Friday, May 30, as a result of injuries from being struck by a taxi. Still, I feel compelled to add my own accolade, not just in gratitude for what he did for me over the years, but to challenge all of us who engage in tax analysis and policy to try to live up to his standards.

Anyone who worked with Al knows that he was a master at putting together information and disseminating it in easily digestible nuggets. He loved data and would reconfigure and recompile it until the stories hidden in the numbers came out and hit you over the head as if they were apparent all along. He fed all of us information about actions we had missed—especially if they involved some sleight of hand, some manipulation of the numbers, or simply some little noticed special interest provision snuck into a bill late at night. In this endeavor he was ceaselessly bipartisan. Those for whom he worked, Democrats on the Ways and Means and House Budget Committees, may be well aware of his biting edge when he thought Republicans were running amok, but I can assure you that he was equally informative, honest, and skeptical when Democrats were dodging or ignoring principles of tax or budget policy.

Al was a national treasure. He knew more quirks of the tax and budget process than most of us will ever hope to guess at, much less understand. He could translate confusing rules, jumbled numbers, and incomplete actions, with a keen awareness of just how they were going to affect the policy process. He would spend whatever time was necessary to educate his bosses and his colleagues in the tax and budget community, even if it meant that he had to work 18 hours instead of 12 to get other parts of his job done.

Al and I go back to graduate school days at the University of Wisconsin long ago. We both had returned to school after a military tour of duty, and we both had a keen interest in issues of public policy. Al was quickly disaffected by some of the arcane aspects of economics—those that might be great for tenure but had no applicability to the real world. Al wanted to solve problems and his interest from the start was in public policy. How could it be made to work best for the public? From beginning to end, I don't think there was ever any other motivation that so drove him. He was an exemplary public servant, the embodiment of the concept of service.

At the same time, he was fun. Sometimes when action was fierce, battle lines drawn, and staff abuse the order of the day, Al would smile brightly and plunge harder than ever into the morass to try to come out with information that was straightforward, sensible, and influential. And always timely. He had a special smirk for much of the silliness that always prevails in the legislative process, and when you saw it come over his face, you got ready for a good story—the same way you anticipated a Bob Hope punch line. I think Al's energy cells were fueled by the action going on around him.

Integrity largely defines Al's approach to work and policymaking. There's something about our system of government that makes it dependent on people like Al, the ones who tell it like it is and are willing to bear the consequences. There's a story that circulates in government about the many staff persons in Congress and the Executive Branch who either stare at their shoes or simply tell their bosses what they want to hear. The shoe staring arises when a elected official says something outlandish or wrong, but no one has the nerve to correct him or even put better information into the conversation. Al's failure to play these games may have foreclosed certain career options, but he was usually in his element in the jobs he took, always just below the surface visible to the public but right at the heart of policy.

It's hard to convey fully the loss to the policy community, much less to Al's friends and loved ones. I do know this. Al's death warns us once again that those who would serve must do it now, not later after some power has been obtained or some career ambition achieved. Thanks, Al. And every time I see still more silliness in the tax or budget process, I'll sense your outrage that it couldn't have been done better and your humor at how it all happened. I'll try to maintain hope that, with people like you to grace our lives, maybe, just maybe, we can muddle through once again.

REFLECTIONS AT THE MASS OF CHRISTIAN BURIAL FOR ALBERT J. DAVIS, ST. CHARLES BORROMEO CATHOLIC CHURCH, ARLINGTON, VIRGINIA, MONDAY, JUNE 9, 2003

My name is Dan Maffei. I am the spokesperson on the Democratic Staff of the Committee on Ways and Means where Al worked.

I first got to know Al though his memos. Al's memos were sort of like his Star of Bethlehem. They did not reveal all the truths but they led you to him and you were seldom disappointed.

Al's title was "Chief Economist" but Al knew more tax law than most tax counsels and virtually anything about the federal budget. He knew American history. When I had a question about physics or Latin, it was a pretty good bet Al would know that too.

And Al didn't just know the answers, he knew where the answers came from. He could explain how to understand them to any journalist or staff member—his "clients" or "customers" as he called them.

Al was a greater communicator.

Too often, the simple soundbite answer can lead to unfair and unjust policy.

But, as a wise member of the Ways and Means Committee once said, "If you have to 'splain it' you've already lost."

Al Davis was the antidote to that axiom.

Al could, by explaining something so well and so clearly, reveal the simple truth within a complex issue.

Al produced both quality and quantity. Memos, e-mails, distribution analyses, spreadsheets, one-pagers and charts—charts, charts, charts.

With such preparation, it is easy to understand why Al was such a good sailor and outdoorsman. Compared to Al, the best boy scout would look impromptu.

Al even could predict the future.

On the House floor, he was a walking library. A member would ask some obscure question and Al would say, "I happen to have something on that right here."

Though he had served with distinction in the United States Army, Al was not particularly good at taking orders, and not good at delegating. But that did not matter. He was a staff unto himself.

Al had many bosses throughout his career but his big secret was that he really worked for himself. All of his bosses would quickly realize that, if allowed to do it his way, Al could cause a great deal of trouble for some and do a great deal of good for the working Americans.

"Business is good," Al would say.

He would reveal the gimmicks, debunk myths, and correct bad numbers.

A couple of weeks ago, the Senate Republicans' tax bill was derailed by "an estimating error." A memo Al had written two days earlier revealed a flawed estimate. Even as Al lay in the hospital, he had thrown a wrench in the works of those trying to get away with too many short-cuts.

Al was angry at the current Administration and the Republicans, not for their views but for their dishonesty.

Al did not sit well for lies.

Honest opinions, honest numbers, honest budgeting—these meant a great deal to Al.

He had a particular dislike of logically inconsistent statements that were designed to con the public. He saw only one rational reaction—ridicule.

As he wrote, "Most recently, the President has equated tax cuts with 'jobs.' He has warned against a first-round of tax cuts as 'small' as $350 billion. If economics is that simple, why not eliminate all taxes? If economics were that simple, families could get ahead by spending twice their income every year."

Al's sarcasm had a lighter side too, frequently accompanied by that trademark grin.

Back in the army, Al would quip that he was given a rifle to guard a paint shed, a night stick to guard a depot, and nothing at all to guard the Pentagon.

Many years later when the Bush White House sent up a budget wrapped in an American flag cover, Al's memo ripping the budget's tax provisions apart had a bold stars and stripes watermark.

As the war in Iraq got under way, Al sent the following e-mail: "The newspapers today say that the stock market 'soared' upon news of the war. Forget the dividend tax cut plan, the stock market is taken care of."

Recently, I sent Al an e-mail about a new Democratic Leadership Council idea to set up a "prosperity reserve fund" so the Federal government could put away money to pay down debt later on. Al's response was five words: "Ringling Brothers Barnum and Bailey"

That was not the only Democratic dumb idea that came Al's way. As each new young staffer came along, feeling that he or she really had the solution, and came to Al with their flawed idea, Al would sign. Or, it was something he had heard a dozen times before, it would ge the head shake.

Al was well practiced at rolling his eyes.

Yet, Al had near endless patience. Frequently, a young legislative aide would assure Al had lost patience with him when, lo and behold, they would get an e-mail from Al with all the answers they needed.

Al disdained it when other staffers or members of Congress would take themselves too seriously. That was a trait he did not have.

In fact, the most frequent victim of Al's acerbic wit was Al himself. He would apologize for "torturing" people with his depth explanations. Or say that some foolish person decided to do a detailed analysis of this bill and then attach a memo that he himself had done.

Just about 6 weeks ago, I asked Al whether he had ever taught college. Al could have made a great college professor. Al said that had he finished his Ph.D., he might have considered it.

But that would have taken Al out of the front lines. In the fight for better government and for a better life for the working people of this country, Al was in the best place he could be.

For even though Al could seem cloistered among his books and files and spreadsheets, and even though he would shun meetings and had to be dragged to the House door. Al loved being an agent in the process—and a potent one at that. He had found work worthy of himself.

And besides, it didn't whether he had the title, Al was the best professor I ever had.

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from Texas (Mr. SANDLIN), also a member of the Committee on Ways and Means.

Mr. SANDLIN. Mr. Speaker, I thank the gentleman from South Carolina for yielding to me.

Mr. Speaker, unlike many of my colleagues on the Committee on Ways and Means, I only knew Al Davis well for a brief period of time, although now I am in my fourth term. I had previously met Al, but I recently became a member of the committee. It did not take me long to learn that Al was an invaluable resource to all of us.

Al's mastery of economics, his vast institutional knowledge and patient demeanor, combined with the rare ability to simplify and explain complex data, helped ease my transition and the transition of many others to the committee.

□ 2045

It served committee Democrats well during crucial tax debates.

As several poignant columns have pointed out this past week, including these that have been referred to in The Washington Post and in Tax Notes, Al worked tirelessly to shed light on the ways in which data and statistics can be and often are manipulated and misrepresented to serve narrow purposes. At the same time, Al was proudly partisan and used his extensive knowledge to influence public debate on economic and fiscal policy.

Whether one agreed or disagreed with Al, everyone who was familiar with him acknowledged the accuracy of his data and the sincerity of his motives. He never stopped fighting for economic justice, and he was especially passionate in his criticisms of the increasing inequities in the Tax Code. He clearly stood for the working men and the working women of this country.

His charts, graphs, spreadsheets and memos were highly regarded on the Hill and among fiscal and budget policy experts, and his research and presence will be greatly missed.

As many speakers here today are aware, Al's office space was a study in controlled chaos. I met with Al in his office shortly after I joined the committee in January, and I was impressed with both the volume of material in his office and the fact that he was able to quickly locate seemingly obscure information with very little effort. As committee members and staff know, Al typically carried much of this material with him at all times, carried it with him to the floor; and he always had relevant information handy. During our heated debates, he was a constantly reassuring sight to all of us on this side of the aisle and could always be counted on to clearly and concisely refute arguments on fiscal and budget policy made by our colleagues on the other side of the aisle.

Simply put, Al is irreplaceable, a reality check for both Republicans and Democrats; and his friends and colleagues will feel his loss for years to come.

Al's friend and a friend to the committee, Janice Mays, is the Democratic staff director and Al's most recent boss. On the issue of going forward from this point, she recently said, "Al would want us to keep fighting. He would not want us to stop just because he is not one of the troops anymore."

There could be no better memorial than that; and Mr. Speaker, there could be no better compliment.

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from Texas (Mr. DOGGETT), also a member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, as I am sure is the case with each of those who have spoken tonight, I come to these remarks with a heavy heart, one of the more difficult remarks that I make here I guess for two reasons, both because of my affection for Al and because he is not here to help me with the speech.

As I look back over the floor, I see the spots where I would see Al sitting with John Buckley and Janice Mays and Dan Maffei, with Beth Vance and other members of the staff of our committee, knowing the loss that each of us speaks of tonight as a Member is a loss that has been suffered by his colleagues who worked with him, the closest as staff members on the Committee on Ways and Means.

But I think of the many times that I have been here when I was over there vigorously scribbling the final notes of what I might say in rebuttal to some argument I heard when Al would come over and note something that had been omitted from the debate and totally change my speech; or when having concluded that the strongest argument for our side was a particular bit of data, I would turn to Al and have him indicate that it really was not quite as solid as perhaps the sheet that had come out from one of the various groups particularly interested in the matter might have indicated and that a stronger argument was to be found somewhere else.

Al did all this with that sense of gentleness, of cooperation that has been spoken of by others here tonight. He was a remarkable individual.

Also, I still have a collection of e-mails from Al because, as others have also pointed out, Al would see some bit of contradiction. One of them I came across was one that in a simple message said I was struck by the following sentence in the President's speech last night, preceded by an analysis by Al of the contradictions between what the President said and what the President and his administration had done.

Al has provided the kind of careful insight to public policy, the kind of careful analysis of the numbers but also with an understanding of the human condition, an understanding in a life varied in experience, filled with love from his family and from his colleagues, and he brought that special insight to us so that it was not just a matter of regurgitating the numbers but of putting flesh and bone on those numbers and translating them into what they meant to ordinary American citizens in a way that few people I met here, either elected or unelected, have a capacity to do.

As I think about the tragic loss of Al, something that came so unexpectedly to all of us, to his family, his friends, his colleagues, I think that while I will add a few more specifics in my extended remarks here tonight, that I would want to reflect on Al's commitment to words like dedication, industry, loyalty and integrity and would say that when it came to issues like retirement security, like assuring that people could get health care, like guaranteeing that there was at least a little sanity in the budget process, and I initially met Al working with the gentleman from South Carolina (Mr. SPRATT) and with his predecessor, the gentleman from Minnesota (Mr. SABO), as a young member of the Committee on the Budget, on issues like tax fairness that have been so important to me personally, that Al was committed to those issues.

His tragic passing reminds us that we never know how long our tenure and our ability to serve what we view the public interest is going to be, and I think we are called upon in remembering Al to remember the causes that were most important to him and to redouble our efforts in his spirit and on his behalf to fight for fairness, to oppose hypocrisy, to stand up for what is right for the American people in much the way Al would do if he could be here offering us suggestions tonight.

Mr. SPRATT. Mr. Speaker, I thank the gentleman for his remarks.

Mr. STARK. Mr. Speaker, I rise to join my colleagues gathered here today to honor and memorialize Ways and Means Democratic Staff Economist Al Davis whose life was tragically cut short.

Al dedicated many years of his life to helping Democrats in the House of Representatives promote policies to improve the lives of America's working families. He did this first when working for the House Budget Committee Democratic staff and more recently with the Ways and Means Committee Democrats as our chief economist.

Those of us lucky enough to serve in Congress know how important the role of staff really is. A good staffer is not someone who will just agree with you—though it takes many of us a very long time to discover that reality. The best staffer is someone who understands the facts and helps you use those facts to promote policy that you support or oppose, but will tell you when the facts aren't on your side.

Al excelled in this role. He knew the tax code and budgetary impact of any change in law better—and more quickly—than almost anyone. If you needed the facts to support your argument, he was there with a memo to assist you. But, only if your argument was correct and could be substantiated! And, that was why Al will be missed so greatly. He'd tell you if the facts didn't support you—and you couldn't convince him to do otherwise.

There are two words that I think best describe Al Davis. The first is "integrity". As I've said above, he always held true to the facts and helped us do so as well. The second word is "commitment". Al was truly committed to the work he was doing here on Capitol Hill. He was here helping us whenever the Ways and Means Committee was meeting or the full House was considering Ways and Means bills—no matter how late at night it was. When the House wasn't in session late, he was usually still here long after we'd gone home analyzing bills, making charts and getting his memos out to us to make sure that we had the facts necessary to promote or combat various policies.

Al Davis will be sorely missed. He was the consummate Congressional staffer. We need more Al Davis' on both sides of the aisle. It is very sad that, instead, we have one less in our presence today.

Mr. MCNULTY. Mr. Speaker, I am honored to join with my colleagues tonight in celebrating the life, and mourning the loss, of an exemplary public servant, Al Davis.

Al was the embodiment of the concept of public service. He possessed an encyclopedic understanding of the tax code and was committed to the promotion of truth and honesty in American tax and budget policy. In fact, if there was one word synonymous with Al, it would be "honesty". Members and staff on both sides of the aisle expected nothing but the raw truth from Al, and they were never disappointed. It was the core of his being.

Armed with a keen sense of American history, a quick mind and sharp wit, and the passion of his convictions, Al would cut through the political rhetoric to translate complex technical data into readily understandable facts. While the Congress may be diminished by his physical absence, his commitment inspires us to continue the fight for better government.

Al, you will be missed both personally and professionally. But as you look down on us from a better place, we will be inspired by your example and the sense of purpose you set in the fight for a better life for the working people of our country.

Mrs. JONES of Ohio. Mr. Speaker, I would like to take this opportunity to join my colleagues from the Ways and Means Committee honoring Mr. Al Davis.

As one of the two newest members on the committee in the 108th Congress, I was privileged to become acquainted with Al and appreciate his round the clock efforts to make sure the Democratic members of the committee and their staffs were kept abreast of the upcoming events and legislation we would be dealing with. And I do mean round the clock. Messages would come on my Blackberry pager at 11 o'clock at night, sometimes later. When major bills were getting ready to be discussed in a hearing or markup before the committee, the first memo that reached my hands in the morning would be the most recent information that Al had spent the previous night researching and compiling.

To say that Al provided sage-like advice to the committee is an understatement. While my colleagues on the committee are extremely knowledgeable of the economic issues related to the Ways and Means' jurisdiction, rarely would they not yield to Al as he would offer greater insights into the complex issues we faced. I think I can speak for other members when I say that a common first response to questions we had for our staffs was "Let me check with Al and see what he thinks."

Al's tireless work ethic, attention to detail, and cunning sense of humor will be remembered by all his friends and colleagues, here on Capitol Hill and elsewhere. As I take these moments to remember Al, I also want to thank him for his steadfast commitment to the ideals of the committee.

AMERICA'S GREATEST THREAT

The SPEAKER pro tempore (Mr. FEENEY). Under the Speaker's announced policy of January 7, 2003, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 60 minutes as the designee of the majority leader.

Mr. OSBORNE. Mr. Speaker, I think that our recent military successes in Afghanistan and Iraq have demonstrated very clearly that we are the preeminent military force in the world. Our economy, although it has been somewhat slowed recently, is certainly the strongest in the world.

By most measures, the United States is the most powerful Nation in the world. At the present time, we stand alone in a position of preeminence; and so sometimes when one is in that position, it is easy to begin to think that we are invincible and that this will go on forever, and certainly we hope that that is the case.

Then I think it is important that we cast a historical frame of reference on all of the recent circumstances on things that have happened.

Certainly 2,500 years ago, the Greeks were preeminent; and they, I am sure, felt that their culture would last forever and that they would be in a preeminent position until history ended; and then 500 years later, 2000 years ago, we found that the Roman empire had superseded Greece, and again, for a period of time, it was the most powerful nation in the world, just dominated the then-civilized world as we knew it.

150 years ago, the British Empire certainly was the most dominant nation in the world and controlled most of the affairs in the discovered world at that time; and of course, even the Soviet Union just 20 years ago appeared to be an almost invincible force. It was our rival. And so the United States and Soviet Union were the two most powerful nations in the world; and yet in each case, each one of these great civilizations, each one of these nations fell, and the interesting thing was that they did not fall from outside forces. It was not because somebody took them over. Rather, they fell from internal factors; and so their unity of purpose, their national resolve, the character of their people began to crumble, and as a result, they all to some degree became less powerful, and to some degree they became history.

So what is America's greatest threat today? I am sure some would say al

Qaeda. Some would say it is the ongoing conflict in the Middle East between Israel and Palestine. Some would say it is the nuclear capabilities of North Korea and possibly Iran. Others would say the biggest problem we have is the economy, and certainly all of these things are important, and certainly they are all worthy of our attention, and they certainly get it in this body on a daily basis.

I would submit to my colleagues that from my perspective the greatest threat that this Nation faces today is not outside forces, but rather, it is unraveling of the culture from within. So I am going to tonight, Mr. Speaker, document this thesis in some ways, and the reason I say this is because I have had considerable experience working with young people over 36 years.

From 1962 to 1997, I spent almost all of my time working with young people. Most of them were ages 17 to 22, but I also spent a lot of time in high schools with summer camps where I worked with kids in the 9th, 10th and 11th and 12th grade. I coached 150 young men every year, visited 70 to 80 high schools in all parts of the country. Some were in inner cities, some were in suburbs, some were in rural areas; and I sat in 70 to 80 living rooms all around the country from wealthy to poor to rural. So I am not saying, Mr. Speaker, that I understand the whole situation that is going on in our country; but over those 36 years, I began to see some things that were of concern, some things that I think are worthy of note.

The young people I worked with were talented; and as time went on, they became bigger and faster and stronger and in some cases smarter, but they also were more troubled. I saw more personal problems. I saw more stress. I saw more young people who were off balance; and as a result, over that 36-year period, I progressively spent less and less time coaching and more and more time dealing with personal issues; and I think almost anyone in education would tell us the same thing, whether they are a school administrator or a teacher or a coach. Anyone who works consistently with young people over a period of time will tell us that things have changed. There has been a shift, and as far as stability, it has not been for the better.

I think, Mr. Speaker, there are several factors that have contributed to these changes, and the first of these that is very obvious, and I think almost anyone would recognize this, is a change in family stability. In 1960, when I first started working with young people, the out-of-wedlock birthrate was 5 percent. Today, it is 33 percent. So roughly one out of every three children are born out of wedlock, with no stable marriage and have two strikes against them. That is an increase over that period of time of 600 percent.

In 1960, the great majority of young people lived with both biological parents. We would occasionally see a young person who was from a single-parent family, but usually if we did so, it was because one parent or the other was deceased. Today, roughly one-half of our young people are growing up without both biological parents, again, an increase of probably 3 to 500 percent in terms of lack of stable families.

Today, only 7 percent of our families are so-called traditional families. So the family that we have is generally a father works, a mother stays home with the children and is a full-time homemaker or at least if the mother works, the father stays home, and yet only 7 percent of our families are of that nature today.

□ 2100

So we often think of latchkey kids belonging in the inner city where they come home after school and nobody is there, but I can tell Members from personal experience that there are roughly 80–90 percent of the young people in the suburbs and rural areas, nobody is home at 3 o'clock and they are latchkey kids as well.

So this has been a tremendous shift in our demographics. Parents today spend 40 percent less time with their children than a generation ago. The average parent spends no more than a few minutes with each child, and a huge amount of time is eaten up with the television set and work activities. The divorce rate has increased, from 1960 to 1995, 300 percent. Currently today, 24 million children are living without their real father.

I dealt with a lot of those young people and I remember particularly one case where this young man was a good football player, and by his junior year he was being mentioned as being an All-American. One day I got a phone call from a man living in another State and he wanted to know if I knew this player. I said, I coach him. He said, "That is my son. I would like to talk to him."

So I talked to this young man and I thought he would be thrilled being reunited with his father. He said, "He left me when I was 1 or 2 years old and now the only reason he wants to talk to me is because I am somewhat famous as a player, and I do not want to talk to him."

I sensed the anguish. I saw young people time and time again who had a father who was missing in their life and they were trying to fill that void, and usually it was with all the wrong stuff; and it was not just young men, it was young women as well.

This Sunday is Father's Day, and fatherless children are in some difficult circumstances at the present time. Fatherless children are 120 percent more likely to experience child abuse, twice as likely to drop out of school, 2–3 times more likely to have mental or emotional problems, 1½ times to 2 times more likely to abuse drugs and alcohol, and 11 times more likely to commit a violent act.

I ran into a story recently that is true, and this had to do with a greeting card business that contacted a prison. Mother's Day was approaching and they notified all of the prisoners that they would provide a Mother's Day card free if the prisoner would use it and send it to his mother. They had almost 100 percent participation. Practically all of the inmates took the card and mailed it to their mother. They thought this was quite a success.

So Father's Day was rolling around and they thought they would do it again. And the interesting thing, Mr. Speaker, in that particular prison there was hardly anyone who asked for a card to send to his father because, I would assume, because none knew their father, or their father had abandoned them.

What I am saying as far as the family is that the launching pad, the family, is not totally broken. We have some good families in our country, but the launching pad is certainly cracked, and changes have been undertaken in our society that are going to be really difficult for us to rectify in the immediate future.

So on top of the family disintegrating to some degree, we find that the environment in which young people are living has changed dramatically. When I began coaching in the 1960s, drug abuse was almost unheard of. We had never heard of cocaine, steroids, methamphetamine. We heard a little bit about marijuana, but that was somebody out in Hollywood, and none of the young people I was dealing with had experienced it. Of course today, currently, we find that we have a drug epidemic on our hands, and that includes alcohol. We have between 2 and 3 million teenage alcoholics in our country today. So the drug issue has become one of epidemic proportion.

The thing that is really interesting to me and astounding to me and discouraging to me is at one time we assumed rural America was the bastion of the family, and that was the one place we could count on traditional values. Yet we find at the present time that drug abuse in rural areas is equal to that of the urban areas, if not greater. The greatest scourge currently in rural areas that we have is methamphetamine abuse. It is roughly twice as prevalent as it is in the cities. If you are addicted to meth, the time that you are going to have to spend in inpatient treatment to have any chance of being cured is not 3 months as it is for alcohol and other drugs, it is roughly 24-36 months, and then the odds are very good you will not beat it and meth probably at some point will kill you.

The average meth addict will commit roughly 130 crimes per year to support that habit. Imagine the cost to each community of one meth addict, and we have rampant meth abuse in the rural areas. We also have the highest rate of violence of any civilized nation in the world at the present time. The United States has the highest homicide rate. We have the highest suicide rate, and of course we have had numerous school shootings in the United States in recent years, and Columbine is almost the catch word for that type of activity. So the violent activity has escalated astronomically over the last 25 years.

Also, pornography has exploded. There are over 1 million porn sites on the Internet today. Sixty percent of all sites on the Internet have to do with pornography, and that is more than one-half. Additionally, there are more than 100,000 child porn sites on the Internet. Child pornography is illegal, and yet we have 100,000 child porn sites. So our children, our young people, are being engulfed by a wave of pornography.

It has been estimated that 1 out of 10 children between the ages of 8 and 16 have viewed pornography on the Internet, and mostly this has been unintentional. They have used a search word such as Pokemon, Disney, Barbie, ESPN, and those search words bring up a porn site, and once you bring up a porn site, you begin to get spam, which is dozens of porn sites and the child is inundated with pornography.

I was really surprised about a year ago, Mr. Speaker, to realize that my name used as a search word brought up a porn site. We were able to get that rectified, but the average young person in my district who is maybe doing a research paper on his or her Congressman and plugged in my name would all of a sudden be confronted with a porn site. In a civilized Nation that simply should not happen. I have grandchildren ages 3-10. I have four of them. I can imagine that they will someday be exposed to hard-core pornography, and this should not happen. Many people say pornography is a victimless crime. It does not really hurt anybody so what you see and hear does not make any difference in terms of how you behave.

If that is true, why do we have an advertising industry that spends billions of dollars on advertising? Obviously, if you see a soft drink advertised in an appealing ad, it changes your behavior. You are more apt to purchase that soft drink or automobile or whatever is being advertised. Obviously what we see and what we hear has a tremendous impact on our behavior, and our young people today are being inundated with these kinds of messages, and that is discouraging to see.

The video game is also a problem. Today, 8- to 18-year-old boys average 40 minutes a day playing video games. There is nothing wrong with that as long as the video games are within the lines. They might be a little bit violent, but they are probably not going to be a real problem. But we see that some of these games have gotten progressively more and more violent and more and more graphic. Many of them teach stalking and killing techniques that are actually used in training military personnel, Special Forces, to go out and kill people.

One particular video game that we saw recently here in Congress was such an example. It was one in which the young person would engage in stalking someone and shooting them, and if you hit them in the right place in the head and the blood flew, you were rewarded by a series of pornographic images. That was your reward. So people say that is for adults and those were adult-rated games, but the average person who plays those games is 12 years old. The marketing is beamed directly at young people who are teenage and preteenage children.

There is no way, Mr. Speaker, that you can play these kinds of games for any length of time and not have it impact you in some way in the depths of your psyche.

There was a school shooting in Kentucky a couple of years ago, and the young man who did the shooting went 9 for 9. He shot at 9 young people and he hit all 9. Many law enforcement people said that was amazing. Hardly any law enforcement individual could have done that, but the amazing thing was this particular shooter had not fired a gun before. He had played a lot of video games, and in playing those video games, he had shot lots of people. Apparently he got very good at it because he was almost perfect in his score. That shows you what video games can do.

We have much music, some television, many movies, some talk shows are very explicit and very graphic, and all of these things, if you think about it, simply could not have been put on the airwaves 30 years ago. It would have been impossible to present this kind of material, and yet we have drifted so far that this becomes commonplace and nobody objects. And obviously, this is impacting the minds and hearts of our young people.

The family is less stable. The environment young people are growing up in is more threatening, and also I would submit that our value system has shifted and shifted considerably. I would point to a study that was done by Stephen Covey who wrote the "7 Habits of Highly Successful People" and what he did was research everything that he could find that had to do with success. He said that he noticed a marked shift. He said in the first 150 years in our country's history, success was defined primarily in terms of character traits. A successful person was honest, a successful person was hardworking, a successful person was faithful, was loyal, compassionate. And so really it had to do with qualities of virtue, and that is what success was.

Then he said about 50–60 years ago he began to notice a shift in the literature that he was reading. He noticed that at the present time and for the last 50 years or so that success is now defined in terms of material possessions, in terms of power, and in terms of prestige. So a successful person has money. He may not be an admirable person, but if he has enough money, he is successful. He may have influence and power, and if that is the case, he may not be a good person or an admirable person, but he is a successful person. He may be very popular. He may have people wanting his or her autograph, and he may not be a very good role model, but if he has popularity, he is labeled successful.

So success is no longer linked to character and that is an interesting shift in the way that our value system has come about.

In 1998, there was a poll done that indicated a very high approval rating for the President who was in office at that time. Even though that particular President had misbehaved rather badly with an intern in the Oval Office and had lied to the American public, he still enjoyed a very high approval rating.

□ 2115

The thing that really grabbed my attention was that there was a poll that was done and the question that was posed to the American public was this: Is there any correlation between job performance and private behavior? In other words, what you do in your private life, does that have anything to do with your job performance? Seventy percent of American adults say it has no connection, that there is no relation. You can be a bank president and do all kinds of unscrupulous things in your private life, and it does not affect your job. You can be a very unscrupulous coach, and it would not make any difference in how you did your job. It was amazing to me that this many people in the American public would say that there is no correlation between job performance and private behavior, because what we are saying here is that character really does not count, because what you do in private essentially is an issue of character. The value system has certainly changed in that regard.

In the business world, we have seen some changes. I would submit that WorldCom and Enron and Global Crossing were not isolated instances. These were not accidental happenings. It was simply a reflection of the shift that we have had in this culture to an all-out infatuation with material success. And so anything goes in those types of situations. The Great Wall of China, Mr. Speaker, was breached twice. It was several thousand miles long. It was believed to be impenetrable. As a result, it was built to keep out the barbarian hordes. Yet twice it was breached. In neither case was it a situation where the barbarians overran the wall, knocked it down or had a military victory. It was because they bribed the gatekeeper. What I would submit at the present time is that a lot of our gatekeepers at the present time have not been responsible. As a result, we see a lack of trust in our country today that is almost unprecedented. Many people no longer believe that some of the leaders that we have in various industries and politics and athletics and the business world can be trusted. Of course, the alarming thing here is that democracy is based on trust. When trust evaporates, then it is very difficult to run an effective democracy.

The predominant world view today, Mr. Speaker, is something called postmodernism. Postmodernism is a belief that there are no moral absolutes, that nothing is absolutely good or bad in and of itself. As a famous individual recently said, the Ten Commandments are irrelevant. And so everything is relative. Theft is justified at times. If you need what you are stealing bad enough, it can be justified. Everything is relative. Murder certainly could be justified if you happen to kill someone who is really not an admirable person. You can rationalize that it is okay. Adultery is certainly something that is acceptable if nobody is going to find out. Even treason would be okay if you were angry enough or hated your country badly enough. Postmodernism has dominated our thought and I think has had a tremendous amount to do with the way our young people and our country begin to see things.

In view of the fact that we have had a family breakdown, we have had a decline of the culture and a shifting of values, this is an extremely difficult time for our young people. They are being asked to weave their way through a minefield. In this minefield, there is alcohol and drug abuse over here, there is harmful video games over here, unwholesome music and television over here, there is promiscuity over here and gangs here, violent behavior and broken homes and all of those things; and somehow we are saying, you have got to get through this thing and you are probably going to have to do it by yourself because you are not going to get much parental support or adult support. And so we are asking our young people to do something that is very, very difficult and in some cases almost impossible. What we find is that our children's feet are not set on a rock but they are, rather, set on sand.

I think it is important we pay attention to these issues because a culture is never more than one generation away from dissolution. There is no permanence if the next generation coming up cannot pull it off. And so we need to think about this. De Tocqueville said something that was very interesting. It was a powerful sentence. He said, America is great because America is good. He said this probably 100, 150 years ago. He did not say that America was rich or powerful or perfect, but he said America was good and that is why America was great. I think America still is good, and I think America is great; but I would say that there are some signs on the horizon, some storm clouds that would lead us to wonder a little bit where we are headed and to cause us to sit up and pay attention.

What can be done? It is easy to state the problems, we hear that all the time, particularly around here, what is wrong. It seems to me, Mr. Speaker, that you do not leave an issue without at least setting out some possible solutions. One thing that I would submit that makes sense to me is the issue of mentoring. We cannot legislate strong families, we cannot legislate morality; but one thing that we can do is provide a mentor in the life of a young person who badly needs it. It is assumed that at the present time in our culture there are roughly 18 million young people who lack a stable, caring adult in their life and badly need a mentor. What is a mentor? A mentor, number one, is someone who cares, someone who has no ax to grind, someone who simply cares enough to show up and spend time with that person. He is not a father, not a mother, not a grandparent, not a preacher, not a teacher, no one who is paid to do this; but it is someone who simply cares enough to be there with that child and provide stability and a caring environment and a stable relationship in the life of a young person who probably does not know what that looks like.

The second thing that a mentor does is he affirms. I guess I saw that very clearly in athletics. If you told a player that you really believed in him, that you really thought that he could amount to something, that someday he had a future with you, oftentimes he would grow into that which he did not know that he was even capable of being. On the other hand, if you said, you know, I really do not think that you are going to make it, son, we do not really think we have a place for you here, his performance would begin to tail off and pretty soon he would play down to that level of expectation and he would be gone. So affirmation is critical. No one can live without some type of affirmation, whether you are 50 years old or whether you are 30 or whether you are 10. A mentor is someone who says, I believe in you. I really think you can do this. And you are important to me. A mentor is one who affirms.

Also, thirdly, a mentor is one who provides some guidance. So many young people that we have today have never seen anyone in their immediate family or their immediate life who has graduated from high school, maybe no one who has held down a steady job, no one who has a concept of what it is like to be a good parent. A mentor is someone who provides some guidance and says, I believe in you. I think you can do this. I think you can graduate from high school. I think you could make it in this college, or I think you would be really good at this. Guidance is critical. Mentoring works. It reduces dropout rates by roughly 100 percent, reduces drug and alcohol abuse by 50 percent, teenage pregnancy by 40 percent, violent acts by roughly 30 percent, and improves relations with peers and parents, improves self-esteem. Even though it is not perfect, it is the best thing that we know of, the best opportunity that we have to begin to rectify some of those relationships that have been so badly broken and have damaged those young people so badly.

The President has proposed currently $450 million over the next 3 years for mentoring. That is $150 million a year; $100 million would go for mentoring for all children and $50 million would be designated for children of prisoners. If that program is enacted, and I hope Congress will do that, I hope it will be funded, that will reach 1 million young people. That still leaves 17 million that are not being reached. But mentoring is cost effective, because a good mentoring program will cost $300 to $500 per child per year. It costs $30,000 to lock somebody up. As we mentioned earlier, a meth addict, someone who commits 130 crimes, would be almost difficult if not impossible to total up the dollars. What we are doing in our society today is we are spending huge amounts of money on the back end, and we are losing person after person after person, the recidivism rate is about 85 percent, and we are not spending the money on the front end where we can really make a difference. Mentoring is something that we think is a possible solution, at least a partial solution.

The President has been talking about the Call to Service Act. This is legislation which encourages volunteerism in our country. One of the greatest resources that we have in this country today is our senior citizens. We have so many people who have retired in their late 50s or in their 60s, and they are going to live until they are 80 or 90 years old and they are still healthy and they are still vibrant. The greatest need that we have in our country today is extended family. Our kids growing up do not have grandparents, some do not have parents at all; and so we feel that the Call to Service Act can certainly be used to hook up people who will volunteer, who have some life experience to help our young people, to mentor them, to tutor them, to be supportive; and we think this is a tremendous opportunity.

The Internet gambling bill was passed today on this floor. I hope that it will have some success over in the other body. As a culture, we are trying to gamble our way to prosperity. The difficult thing is that it impoverishes those who can least afford to gamble, breaks up families, directs money from children's needs. It is tied to organized crime, and students are particularly susceptible. One thing that we noticed on Internet gambling is that the most high-risk group of people in our country is students. All you need is a computer and a credit card. Most college students and an awful lot of high school students have that and the more times that you gamble in a short period of time and the less troublesome it is to do it, which Internet gambling provides the optimal situation, the more addictive it becomes. For some it has the same addictive effect as crack cocaine. So a certain percentage of our young people are getting addicted very quickly. This is a powerful issue, and I believe that the Internet gambling bill if it is passed in the other body can certainly be a tremendous help.

We eliminated the marriage tax penalty which was certainly countercultural to tell people that if you live together, you are going to have less tax consequences, it is going to save you $1,000 or $1,500 a year as opposed to if you were married just makes no sense, because marriage is the basic family unit in this country. We have rectified to some degree that particular marriage penalty.

I think it is really critical that we fund drug prevention programs. Let me just mention one here, Mr. Speaker. Byrne grants. Byrne grants go out to fight meth. It is amazing how much methamphetamines cost. If you find a meth lab, to get that dismantled and all the chemicals disposed of costs thousands and thousands of dollars. So if we do not fund this, and right now it is not scheduled to be funded, this is a tremendous blow to our culture and particularly to our rural areas where most of these meth labs occur. We need to make sure that we are giving people the tools that they need.

H.R. 669, the Protect Children From Video Game Sex and Violence Act of 2003. I am its cosponsor. I think this is certainly one that can correct some of the problems of video games. H.R. 756, the Child Modeling Exploitation Prevention Act, addresses the issue of some people trying to get around the child pornography statutes by having children pose as models in provocative poses, and so this addresses that.

Above all, Mr. Speaker, we need a fundamental shift in the way that we address first amendment rights in the courts. This is a dangerous statement for somebody to make, that we have got to watch out for the first amendment. Everybody is in favor of free speech and the first amendment, and I certainly go along with that as well; but I would like to point out some things that have happened in the courts in recent years that I think have been very damaging to this culture.

In 1996, Congress passed the Communications Decency Act that made it illegal to send indecent material to children via the Internet. Listen to what happened to that, Mr. Speaker. In June of 1997, the Supreme Court overturned portions of the law and made this statement. They said, indecent material is protected by the first amendment. And so what we are saying is those who produce indecent material have protection, and yet those children who receive that material and are influenced by it have no protection.

In 1996, the Child Pornography Prevention Act outlawed child pornography, including visual depictions that appeared to be of a minor and so it may not actually be a minor involved; but it could be a computer-generated image, or it could be an adult posing as a minor and how do you know? The Supreme Court ruled that unconstitutional and overturned the law banning computer graphics showing child pornography.

In October 1998, the Children Online Protection Act was signed into law to prohibit the communication of harmful material to children on publicly accessible Web sites. It makes sense that you should not be able to on publicly accessible Web sites send pornography to children. Yet the Supreme Court refused to rule on the 1998 law. As a result, it was never enacted; and it still sits there today and is void.

The 106th Congress passed the Child Internet Protection Act to require schools and libraries that receive Federal funds to use Internet filtering to protect minors from harmful material on the Internet.

□ 2130

In May of 2002, the Federal court declared the law unconstitutional. Free speech is protected, while women and children are attacked.

It is important to note that 80 to 90 percent of rapists and pedophiles reported using pornography usually right before they commit the act, and they will admit that this has shaped their behavior and made a difference. It seems to me our women and children ought to have rights and freedoms as well, and yet it seems the way we have phrased the argument that they are being victimized, whereas others who are perpetrators are being given freedoms to do so.

The Court has often ruled against school prayer. I would not do so necessarily, but some have traced some of the cultural decline I have mentioned tonight to the absence of school prayer, which began I believe in the 1960s. But there have been some decisions that really caused me to wonder. I will mention some of these.

In 1992, the Supreme Court declared an invocation and benediction at a graduation ceremony unconstitutional. On the floor of this House, every day we start with a prayer. In many public places, prayer is used. And yet at a school graduation it is not legitimate to have a minister, a priest, a rabbi, a cleric say a prayer. Again, this seems to fly in the face of the way our country was founded.

The Court also has held that a minute of silence in school is unconstitutional. Now, a child may spend a minute of silence and may say a prayer, may look out the window, may think about the upcoming test. He is not forced to believe in any doctrine. He is not forced to pray. Yet the Court said that a minute of silence is unconstitutional.

The Court also ruled not long ago that a student-led prayer at a football game was unconstitutional. The students voted in this particular student body to have a prayer. They wanted a student-led prayer before the game. The Court said this would really violate the rights of the football players who had to be there and also some of the cheerleaders required to be there. Yet this violated the rights I think of those who chose to have the prayer, the students themselves.

As most people understand, the words "under God" were struck from the Pledge of Allegiance by the Ninth Circuit court. Most of the framers of the Constitution obviously mentioned time and time again their dependence upon God, and yet we are trying to strip this away also from our Pledge of Allegiance.

I am not going to get into the abortion issue at any great length. It is very controversial. I realize there are many people on both sides of the issue. But I will mention one thing.

Just recently Congress and this House passed the partial-birth abortion ban. The reason I do not think this is particularly controversial is that this particular ban I believe drew something like 84 votes in the affirmative on the Senate side, and we had a fairly large majority here, and we saw a great many people who are for abortion, who are pro-choice, in quotes, vote for this ban. They were beginning to get the idea of how barbaric it really is.

So this was something where there has been a real shift. Currently 70-some percent of Americans do not favor partial-birth abortion; and many of them, as I said earlier, are in favor of abortion. Yet this particular law, I am sure, will be challenged in the courts, and there is a fair chance it may be overturned as somehow being unconstitutional.

So we have seen a steady erosion of the culture by some decisions that have been made in the courts. The reason I think this is so important to bring up today is that some people cannot understand why there is so much controversy over in the other body regarding the appointment of judges and justices; and the reason is that what is at stake, I believe, is the future course in many of these issues, particularly in moral issues, that our country is going to take. So these are monumental issues, and the shape of the Supreme Court, the shape of our district courts, our courts of appeal, are going to go a long ways in deciding what this country abides by in upcoming years.

Mr. Speaker, this country was founded upon principles of dependence upon God, a recognition that life is sacred, the importance of sound character, and the fact that children are our most important assets. There is no question that we are involved in a cultural and spiritual struggle of Titanic proportions. This struggle may present the greatest crisis facing the United States today, as I have outlined I think fairly clearly.

As Congress addresses critical issues such as national defense, the economy and health care, which we certainly need to spend a lot of time on, it is critical that we not lose sight of the fact that our Nation's survival is directly linked to the character of our people, and particularly our young people. I say it again, our Nation's survival, long-term, will rest primarily upon the character of our people.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TOOMEY (at the request of Mr. DELAY) for today on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. RANGEL) to revise and extend their remarks and include extraneous material:

Mr. RANGEL, for 5 minutes, today.

Mr. MATSUI, for 5 minutes, today.

Mr. LEVIN, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. ROYBAL-ALLARD, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. HONDA, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

The following Members (at the request of Mr. KIRK) to revise and extend their remarks and include extraneous material:

Mr. BURTON of Indiana, for 5 minutes, June 17.

Mr. JONES of North Carolina, for 5 minutes, June 11.

Mr. BUYER, for 5 minutes, June 11 and 12.

Mr. BURGESS, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

ADJOURNMENT

Mr. OSBORNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 11, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2588. A letter from the Director, Department of Defense, transmitting notification that the Defense Finance and Accounting Service is initiating an A-76 Competition of the Marine Corps Accounting function, pursuant to 10 U.S.C. 2461; to the Committee on Armed Services.

2589. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Transportation of Supplies by Sea — Commercial Items [DFARS Case 2002-D019] received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2590. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting an annual report for the period January 1, 2002, through December 31, 2002 regarding any exceptions granted, pursuant to 31 U.S.C. 3121 nt.; to the Committee on Financial Services.

2591. A letter from the Assistant Secretary, Department of the Treasury, transmitting an annual report on material violations of regulations, pursuant to 31 U.S.C. 3121 nt.; to the Committee on Financial Services.

2592. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the Annual Report on Retail Fees and Services of Depository Institutions, pursuant to 12 U.S.C. 1811 note. Public Law 103—322, section 108(a) (108 Stat. 2361); to the Committee on Financial Services.

2593. A letter from the Deputy Congressional Liason, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Availability of Funds and Collection of Checks [Regulation CC; Docket No. R-1150] received May 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2594. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Change in Flood Elevation Determinations — received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2595. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2596. A letter from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting the Commission's final rule — Books and Records Requirements for Brokers and Dealers Under the Securities Exchange Act of 1934 [Release No. 34-47910] received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2597. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits — received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2598. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Civil Money Penalties: Procedures for Investigations, Imposition of Penalties, and Hearings (RIN: 0938-AM63) received April 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2599. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on employment of U.S. citizens by certain international organizations, pursuant to 22 U.S.C. 276c—4; to the Committee on International Relations.

2600. A communication from the President of the United States, transmitting a report, consistent with the War Powers Resolution to keep the Congress informed on clashes between Liberian government and rebel forces in the vicinity of the United States Embassy in Monrovia, Liberia; (H. Doc. No. 108—82); to the Committee on International Relations and ordered to be printed.

2601. A letter from the Executive Director, District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members statements, pursuant to D.C. Code section 1—732 and 1—734(a)(1)(A); to the Committee on Government Reform.

2602. A letter from the Administrator, Environmental Protection Agency, transmitting notification regarding the Coeur d'Alene Basin, Idaho, Superfund site, pursuant to 41 U.S.C. 253(c)(7); to the Committee on Government Reform.

2603. A letter from the Interim CEO, Girl Scouts of the United States of America, transmitting the Girl Scouts of the United States of America 2002 Annual Report, pursuant to Public Law 105—225 section 803 112 stat. 1362; to the Committee on the Judiciary.

2604. A letter from the Staff Director, United States Commission on Civil Rights, transmitting the Commission's notification regarding the Minnesota State Advisory

Committee; to the Committee on the Judiciary.

2605. A letter from the Secretary, Department of the Treasury, transmitting notification of the Secretary's determination that by reason of the public debt limit, the Secretary will be unable to fully invest the the portion of the Civil Service Retirement and Disability Fund (CSRDF) not immediately required to pay beneficiaries, pursuant to 5 U.S.C. 8348(l)(2); to the Committee on Ways and Means.

2606. A letter from the Chief, Regulations Unit, Department of Homeland Security, transmitting the Service's final rule — Customs Broker License Examination Dates [T.D. 03-23] (RIN: 1515-AD28) received June 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2607. A letter from the Chief, Regulations Unit, Department of Homeland Security, transmitting the Service's final rule — Settlement Position Lease Stripping Transactions [UIL 9300.03-00] received May 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2608. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Unrelated Business Taxable Income (Rev. Rul. 2003-64) received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2609. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Unrelated Business Taxable Income (Rev. Rul. 2003-64) received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2610. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Tax Exempt Bond Mediation Dispute Resolution Pilot Program (Announcement 2003-36) received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2611. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — LMSB/Appeals Fast Track Settlement Procedure (Revenue Procedure 2003-40) received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2612. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Disclosure of Return Information to the Department of Agriculture [TD 9060] (RIN: 1545-BB91] received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2613. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — SB/SE-Appeals Fast Track Mediation Procedure (Revenue Procedure 2002-41) June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2614. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2003-30] received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2615. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Employee Plans Compliance Resolution System (Rev. Proc. 2003-44) received June 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2616. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Cafeteria Plans (Rev. Rul. 2003-62) received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2617. A letter from the Director and Assistant Secretary, Office of Personnel Management and Department of Defense, transmitting the joint evaluation by the Department of Defense and Office of Personnel Management of the Federal Employees Health Benefits Program Demonstration: Second Report to Congress, pursuant to Section 721 of the National Defense Authorization Act for Fiscal Year 1999; jointly to the Committees on Armed Services and Government Reform.

2618. A letter from the Director, Financial Management and Assurance, General Accounting Office, transmitting a report entitled, "Congressional Award Foundation's Fiscal Years 2002 and 2001 Financial Statements," pursuant to 2 U.S.C. section 807(a); jointly to the Committees on Education and the Workforce and Government Reform.

2619. A letter from the Secretary, Department of Energy, transmitting notification that the Department of Energy requires an additional 45 days to transmit the implementation plan for addressing the issues described in the Defense Nuclear Facilities Safety Board's Recommendation 2002-3, Requirements for the Design, Implementation, and Maintenance of Administrative Controls; jointly to the Committees on Energy and Commerce and Armed Services.

2620. A letter from the Secretary, Department of State, transmitting a report assessing the voting practices of the governments of UN members states in the General Assembly and Security Council for 2002, and evaluating the actions and responsiveness of those governments to United States policy on issues of special importance to the United States, pursuant to Public Law 101—167, section 527(a) (103 Stat. 1222); Public Law 101—246, section 406(a) (104 Stat. 66); jointly to the Committees on International Relations and Appropriations.

2621. A letter from the Director, National Science Foundation, transmitting the National Oceanographic Partnership Program, National Ocean Research Leadership Council, March 2003 Annual Report, pursuant to 10 U.S.C. 7901(b)(2)(B); jointly to the Committees on Armed Services, Resources, and Science.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 265. Resolution providing for consideration of the bill (H.R. 2115) to amend title 49, United Stated Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes (Rept. 108-146). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 2122. A bill to enhance research, development, procurement, and use of biomedical countermeasures to respond to public health; Rept. 108-147, Part 1, referred to the Committee on Armed Services for a period ending not later than June 11, 2003, pursuant to clause 1(c), rule X.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 2122. Referral to the Committee on Government Reform and Homeland Security (Select) extended for a period ending not later than June 13, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BAIRD (for himself, Mr. INSLEE, Mr. LARSEN of Washington, Mr. DICKS, Mr. MCDERMOTT, and Mr. SMITH of Washington):

H.R. 2397. A bill to designate a portion of the White Salmon River as a component of the National Wild and Scenic Rivers System; to the Committee on Resources.

By Mr. BARRETT of South Carolina (for himself and Mr. WILSON of South Carolina):

H.R. 2398. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to the Committee on Armed Services.

By Mr. BARRETT of South Carolina (for himself and Mr. WILSON of South Carolina):

H.R. 2399. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax with respect to employees who participate in the military reserve components and to allow a comparable credit for participating reserve component self-employed individuals; to the Committee on Ways and Means.

By Ms. BORDALLO (for herself, Mr. FLAKE, Mr. GALLEGLY, Mr. FALEOMAVAEGA, Mrs. CHRISTENSEN, and Mr. ACEVEDO-VILÁ):

H.R. 2400. A bill to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; to the Committee on Resources.

By Mr. DEAL of Georgia:

H.R. 2401. A bill to amend the Social Security Act to eliminate the five-month waiting period in the disability insurance program, and for other purposes; to the Committee on Ways and Means.

By Ms. KAPTUR (for herself, Mr. LATOURETTE, Mr. CLAY, Mr. MORAN of Virginia, Mrs. CHRISTENSEN, and Mr. DAVIS of Illinois):

H.R. 2402. A bill to expand the number of individuals and families with health insurance coverage, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and the Workforce, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Rhode Island (for himself, Mr. FRANK of Massachusetts, Mr. MEEHAN, Ms. NORTON, Mr. LANGEVIN, Mr. LANTOS, Ms. SOLIS, Mr. TOWNS, and Mr. VAN HOLLEN):

H.R. 2403. A bill to expand the powers of the Attorney General to regulate the manufacture, distribution, and sale of firearms and ammunition, and to expand the jurisdiction of the Attorney General to include firearm products and nonpowder firearms; to the Committee on the Judiciary.

By Mr. KING of New York (for himself, Mrs. MALONEY, Mr. BAKER, Mr. BACHUS, Mrs. KELLY, Mr. NEY, Mr. KANJORSKI, Mr. GUTIERREZ, Mr. LEACH, Mr. BLUNT, Mr. ISRAEL, Mr. WAMP, Mr. BISHOP of New York, Mr. BISHOP of Georgia, Mr. BOEHLERT, Ms. BORDALLO, Mr. BUYER, Mr. CALVERT, Mrs. CAPPS, Mr. CASE, Mr. CONYERS, Mr. FOLEY, Mr. FOSSELLA, Mr. FROST, Mr. GREEN of Wisconsin, Mr. HINCHEY, Mr. HYDE, Mr. KENNEDY of Minnesota, Mr. LANTOS, Mr. LIPINSKI, Mrs. MCCARTHY of New York, Mr. MCHUGH, Mr. MCGOVERN, Mr. MCNULTY, Mrs. MILLER of Michigan, Mr. MURPHY, Mr. NEAL of Massachusetts, Mr. PETERSON of Pennsylvania, Mr. POMEROY, Mr. QUINN, Mr. RANGEL, Mr. RODRIGUEZ, Mr. SCHIFF, Mr. SERRANO, Mr. SHAW, Mr. SIMMONS, Mr. SKELTON, Mr. SOUDER, Mr. SWEENEY, Mr. TANCREDO, Mr. TAYLOR of North Carolina, Mr. TIAHRT, Mr. WALSH, Mr. WOLF, and Mrs. JO ANN DAVIS of Virginia):

H.R. 2404. A bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes; to the Committee on Financial Services.

By Mr. OXLEY (for himself and Mr. GONZALEZ):

H.R. 2405. A bill to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. PAUL:

H.R. 2406. A bill to support the domestic shrimping industry by eliminating taxpayer subsidies for certain competitors, and for other purposes; to the Committee on Financial Services, and in addition to the Committees on Resources, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RUSH (for himself, Mr. ENGEL, Ms. MILLENDER-MCDONALD, Mr. GRIJALVA, Ms. SCHAKOWSKY, Mr. BRADY of Pennsylvania, Mr. THOMPSON of Mississippi, Ms. NORTON, Mr. CUMMINGS, Mr. JEFFERSON, Ms. LEE, Mr. ENGLISH, Mr. OWENS, Mr. GUTIERREZ, Mr. DAVIS of Illinois, Ms. DELAURO, Mr. HINOJOSA, Mr. PRICE of North Carolina, Mr. SANDERS, Mr. MICHAUD, Mr. CONYERS, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 2407. A bill to amend the Consumer Credit Protection Act and other banking laws to protect consumers who avail themselves of payday loans from usurious interest rates and exorbitant fees, perpetual debt, the use of criminal actions to collect debts, and other unfair practices by payday lenders, to encourage the States to license and closely regulate payday lenders, and for other purposes; to the Committee on Financial Services.

By Mr. SAXTON:

H.R. 2408. A bill to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges; to the Committee on Resources.

By Mr. SHADEGG (for himself, Mr. NORWOOD, Mr. MARKEY, and Mr. TOWNS):

H.R. 2409. A bill to amend title XIX of the Social Security Act to clarify that inpatient drug prices charged to certain public hospitals are included in the best price exemptions for the Medicaid drug rebate program; to the Committee on Energy and Commerce.

By Mr. STRICKLAND:

H.R. 2410. A bill to prohibit the importation for sale of foreign-made flags of the United States of America; to the Committee on Ways and Means.

By Mr. STUPAK:

H.R. 2411. A bill to decrease the matching funds requirement and authorize further appropriations for Keweenaw National Historical Park; to the Committee on Resources.

By Mr. STUPAK:

H.R. 2412. A bill to require any amounts appropriated for Members' Representational Allowances for the House of Representatives for a session of Congress that remain after all payments are made from such Allowances for the session to be deposited in the Treasury and used for deficit reduction or to reduce the Federal debt; to the Committee on House Administration, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WILSON of South Carolina (for himself and Mr. BARRETT of South Carolina):

H.R. 2413. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to provide TRICARE eligibility for members of the Selected Reserve of the Ready Reserve and their families; to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax with respect to employees who participate in the military reserve components and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Kansas (for himself, Mr. SMITH of New Jersey, Mr. EVANS, Mr. FILNER, and Mr. GUTIERREZ):

H.R. 2414. A bill to amend title 38, United States Code, to provide for the appointment of chiropractors in the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FEENEY (for himself, Mr. PUTNAM, Mr. SHAW, Mr. FOLEY, Mr. MARIO DIAZ-BALART of Florida, Mr. KELLER, Mr. MILLER of Florida, Mr. GOSS, Mr. LINCOLN DIAZ-BALART of Florida, Mr. STEARNS, and Ms. GINNY BROWN-WAITE of Florida):

H. Con. Res. 214. Concurrent resolution concerning the national cheerleading championship of the University of Central Florida Varsity Cheerleading Team; to the Committee on Education and the Workforce.

By Mr. LANTOS (for himself, Mr. PENCE, Mr. PITTS, Mr. PAYNE, Mr. MCDERMOTT, Mr. BERMAN, Mr. MCGOVERN, Mr. BELL, Mrs. NAPOLITANO, Mr. FRANK of Massachusetts, Mr. WEXLER, Mrs. TAUSCHER, Mr. PALLONE, and Ms. MCCOLLUM):

H. Res. 264. A resolution expressing sympathy for the victims of the devastating earthquake that struck Algeria on May 21, 2003; to the Committee on International Relations.

By Mr. BARRETT of South Carolina (for himself, Mr. SPRATT, Mr. CLYBURN, Mr. DEMINT, Mr. BROWN of South Carolina, and Mr. WILSON of South Carolina):

H. Res. 266. A resolution commending the Clemson University Tigers men's golf team for winning the 2003 National Collegiate Athletic Association Division I Men's Golf Championship; to the Committee on Education and the Workforce.

By Mr. BEREUTER (for himself, Mr. KING of Iowa, Mr. PETERSON of Pennsylvania, Mr. STENHOLM, Mr. HINCHEY, Mr. TOWNS, Mr. TAYLOR of North Carolina, Mr. LEACH, Mr. SHUSTER, Mr. OBERSTAR, Mr. JANKLOW, Mr. MORAN of Kansas, Mr. TANNER, Mr. GOODE, Mr. NETHERCUTT, Mr. SWEENEY, Mr. PAUL, Mr. LATHAM, Mr. DAVIS of Tennessee, Mr. STUPAK, Mr. RENZI, and Mr. OSBORNE):

H. Res. 267. A resolution expressing the sense of the House of Representatives that there is a need to protect and strengthen Medicare beneficiaries' access to quality health care in rural America; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER:

H. Res. 268. A resolution urging the President to authorize the transfer of ownership of one of the bells taken from the town of Balangiga on the island of Samar, Philippines, which are currently displayed at F.E. Warren Air Force Base, to the people of the Philippines; to the Committee on Armed Services. .

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

76. The SPEAKER presented a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 2 memorializing the United States Congress to amend the Northwest Power Act and other appropriate federal statutes so that Northwest communities can be eligible for economic grants to assists communities impacted by Endangered Species Act fish recovery programs; to the Committee on Resources.

77. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 4 memorializing the United States Congress to sponsor and support legislation to create a new Circuit of the United States Court of Appeals for better regional representaion; to the Committee on the Judiciary.

78. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 11 memorializing the United States Congress that the Legislature finds the failure to provide prompt medical care is a failure to provide care, that it is not acceptable, and we urgently request that the members of the Idaho congressional delegation address the appropriations necessary to provide timely access to health care for our valued veterans; to the Committee on Veterans' Affairs.

79. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint

Memorial No. 8 memorializing the United States Congress that the Legislature supports the President, the President's cabinet, and the men and women of the United States Armed Forces for their courage and the decision to remove Saddam Hussein from power; jointly to the Committees on Armed Services and International Relations.

80. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 1 memorializing the United States Congress to urge the members of the Idaho Congressional delegation to support the passage of legislation similar to S. 2873 as introduced by Senator Grassley that removes the geographic disparity in Medicare reimbursements; jointly to the Committees on Energy and Commerce and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII:

Mr. LaTOURETTE introduced a bill (H.R. 2415) for the relief of Zdenko Lisak; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 91: Mr. Bonilla.

H.R. 106: Mr. Hefley.

H.R. 111: Mr. McCotter.

H.R. 236: Mr. Holt, Mr. Davis of Florida, Mr. Van Hollen, Mrs. Maloney, Ms. Slaughter, Mr. McGovern, Mr. Case, and Mr. Peterson of Minnesota.

H.R. 303: Mr. Honda, Mr. Ballance, and Mr. Gingrey.

H.R. 371: Mr. Langevin and Mr. Olver.

H.R. 438: Mr. Thomas and Mr. Fattah.

H.R. 440: Ms. Lee.

H.R. 442: Mr. Wexler.

H.R. 466: Mr. Rahall.

H.R. 548: Mrs. Blackburn, Ms. Bordallo, Mr. Sullivan, and Mr. Langevin.

H.R. 584: Mr. Price of North Carolina.

H.R. 660: Mr. Pearce.

H.R. 745: Mrs. Maloney, Mr. Crowley, and Mr. Bell.

H.R. 754: Mr. Lewis of Georgia, Mr. Alexander, Mr. Thompson of Mississippi, and Mr. Taylor of Mississippi.

H.R. 785: Mr. Strickland, Mrs. Emerson, and Mr. Doyle.

H.R. 817: Mr. Sherman, Mr. Holden, and Mr. Bell.

H.R. 850: Mr. Burgess.

H.R. 857: Mr. Kucinich.

H.R. 876: Mr. Allen, Mr. Alexander, and Mr. Moore.

H.R. 879: Mr. Ryan of Ohio.

H.R. 886: Mr. Gutierrez, Mr. Reyes, Mr. Rodriguez, Ms. Corrine Brown of Florida, and Ms. Waters.

H.R. 898: Mr. Kleczka.

H.R. 919: Mrs. Wilson of New Mexico.

H.R. 937: Mr. Dicks and Mr. Gutierrez.

H.R. 942. Mr. Cantor.

H.R. 953: Mr. Turner of Ohio.

H.R. 965: Ms. Slaughter and Mr. Filner.

H.R. 977: Mr. Calvert, Ms. Bordallo, and Mr. Rehberg.

H.R. 980: Mr. Kildee and Mr. Tanner.

H.R. 1008: Mr. Pickering.

H.R. 1043: Mr. DeFazio and Ms. Kilpatrick.

H.R. 1110: Mr. Scott of Georgia and Mr. Payne.

H.R. 1125: Mr. Hulshof and Mrs. Capito.

H.R. 1157: Mr. Rangel and Ms. Millender-McDonald.

H.R. 1182: Mr. Jenkins.

H.R. 1209: Mr. Sanders, Mr. Bishop of Georgia, Mr. Crowley, and Mr. Spratt.

H.R. 1212: Mr. Crowley.

H.R. 1225: Mr. Wexler, Mr. Larson of Connecticut, and Mr. Davis of Florida.

H.R. 1231: Mrs. Emerson, Mr. Nadler, Mr. Clay, Mr. Ortiz, Mr. Conyers, Mr. McCotter, Mr. Turner of Ohio, Mr. Rangel, and Mr. Miller of North Carolina.

H.R. 1256: Mr. Crowley.

H.R. 1270: Mr. Cole.

H.R. 1276: Mr. Cole and Mr. Burns.

H.R. 1305: Mr. Isakson.

H.R. 1309: Mr. Crowley.

H.R. 1334: Mr. Emanuel and Mr. Doyle.

H.R. 1348: Mr. Langevin.

H.R. 1359: Ms. Baldwin.

H.R. 1377: Mr. Walsh.

H.R. 1385: Mr. Hostettler and Mr. Doyle.

H.R. 1421: Ms. McCollum.

H.R. 1422: Mr. Isakson.

H.R. 1429; Ms. Millender-McDonald and Mr. Franks of Arizona.

H.R. 1489: Mr. Turner of Ohio.

H.R. 1508: Ms. McCollum, Mr. Davis of Alabama, Mr. Olver, and Ms. Loretta Sanchez of California.

H.R. 1511: Ms. Harman, Mr. Lampson, Mr. Taylor of Mississippi, Mr. Edwards, Mr. Gordon, Mr. Holden, Mr. Hoyer, Mr. Kanjorski, Mr. Matheson, Mr. McIntyre, Mr. Meehan, Mr. Pomeroy, and Mrs. Tauscher.

H.R. 1530: Mr. Jenkins and Mr. Rogers of Kentucky.

H.R. 1532: Mr. Ford, Mr. Lipinski, Mr. Deutsch, Mr. Delahunt, Mr. Lynch, Mr. Boehlert, and Mr. Wexler.

H.R. 1536: Mr. Carson of Oklahoma and Mr. McDermott.

H.R. 1551: Ms. Carson of Indiana.

H.R. 1567: Mr. Manzullo.

H.R. 1587: Mr. Aderholt.

H.R. 1616: Mr. Marshall.

H.R. 1673: Mr. Holt.

H.R. 1675: Mr. Gutierrez and Mr. Quinn of New York.

H.R. 1676: Mr. Cramer, Mr. Ross, Mr. DeFazio, and Mr. Lincoln Diaz-Balart of Florida.

H.R. 1700: Mr. Walsh and Mr. Quinn.

H.R. 1708: Ms. Lofgren, Mr. Oberstar, and Mr. Gilchrest.

H.R. 1710: Mr. LaHood, Mr. Evans, Mr. Boehlert, Mr. Reynolds, Mr. Wu, Mr. Gutierrez, Mr. Bell, and Mr. Sherman.

H.R. 1713: Mr. Crowley.

H.R. 1715: Mrs. Lowey.

H.R. 1724: Mr. Burgess.

H.R. 1736: Mr. Davis of Alabama, Ms. Corrine Brown of Florida, Mr. Israel, Mr. Scott of Georgia, Ms. Schakowsky, and Mr. Lewis of Georgia.

H.R. 1738: Mr. Ballance and Mr. Stark.

H.R. 1767: Mr. Flake.

H.R. 1769: Mr. Wicker, Ms. Solis, and Mr. George Miller of California.

H.R. 1778: Mr. Royce.

H.R. 1784: Mr. Ramstad, Mr. Boswell, Mr. Rangel, Mr. Inslee, and Mr. Thornberry.

H.R. 1787: Mr. Burgess, Mr. Gibbons, Mr. Frank of Massachusetts, Mr. Grijalva, and Mr. McIntyre.

H.R. 1807: Mr. Green of Wisconsin.

H.R. 1819: Mr. Gutierrez.

H.R. 1821: Ms. Ginny Brown-Waite of Florida, Mr. Cantor, Mr. Goode, Mr. Hayworth, Mr. Nussle, Mr. Hastert, Mr. Renzi, Mr. Burton of Indiana, Mr. Burns, Mr. Acevedo-Vilá, Mr. McIntyre, Mr. Michaud, Mr. Bartlett of Maryland, Mr. DeMint, Mr. Flake, Mr. Hobson, Mr. Houghton, Ms. Pryce of Ohio, Mr. Quinn, and Mr. Isakson.

H.R. 1839: Mr. Cantor.

H.R. 1861: Mr. Nadler.

H.R. 1865: Mr. Cooper.

H.R. 1873: Mr. Toomey.

H.R. 1889: Mr. Israel, Ms. Pelosi, Mr. Smith of Washington, Mr. Doyle, Mr. Hastings of Florida, and Mr. Mario Diaz-Balart of Florida.

H.R. 1902: Mr. Reynolds.

H.R. 1913: Ms. Millender-McDonald.

H.R. 1914: Mr. Cole.

H.R. 1930: Mr. Grijalva.

H.R. 1933: Ms. Baldwin and Mr. Lantos.

H.R. 1943: Mr. Hostettler and Mr. Pence.

H.R. 1951: Mr. Filner.

H.R. 1956: Mr. Alexander, Mr. Simmons, Mr. Sandlin, Mr. Castle, and Mr. Vitter.

H.R. 1963: Mr. Shaw, Mr. Boozman, Mr. Ross, Mr. Weldon of Florida, Mr. Nethercutt, and Mr. Hulshof.

H.R. 1964: Mr. Fattah.

H.R. 1999: Mr. Faleomavaega.

H.R. 2009: Mr. Shays, Mr. Larsen of Washington, Mr. Kucinich, and Ms. McCollum.

H.R. 2030: Ms. Ros-Lehtinen.

H.R. 2032: Mr. Andrews, Ms. DeLauro, Mr. Pickering, Mr. Foley, Mr. Nadler, and Mrs. Maloney.

H.R. 2034: Mr. Udall of Colorado.

H.R. 2038: Ms. Eshoo and Mr. Serrano.

H.R. 2060: Mr. Wynn, Ms. Norton, Mr. Gilchrest, and Mr. English.

H.R. 2066: Ms. Woolsey.

H.R. 2068: Mr. Holt, Mr. Waxman, Mr. Neal of Massachusetts, Mr. Scott of Georgia, Mr. Lantos, and Mr. Frank of Massachusetts.

H.R. 2069: Mr. Holt, Mr. Waxman, Mr. Neal of Massachusetts, Mr. Scott of Georgia, and Mr. Doggett.

H.R. 2124: Mr. Bell, Ms. Millender-McDonald, Ms. Carson of Indiana, Ms. Jackson-Lee of Texas, and Ms. Corrine Brown of Florida.

H.R. 2163: Ms. Hart.

H.R. 2182: Mr. Rangel, Mr. Smith of New Jersey, Mr. Conyers, and Mr. Simmons.

H.R. 2198: Ms. DeLauro.

H.R. 2205: Mr. Sanders, Ms. Woolsey, Mr. Fattah, Ms. Slaughter, Mr. Serrano, Mr. Brown of Ohio, Ms. Majette, Mr. Turner of Ohio, Mr. Stearns, Mr. Doyle, Mr. Bell, Ms. Ros-Lehtinen, Ms. Carson of Indiana, Mr. Cooper, Mr. Deutsch, Mr. Stark, Mr. Grijalva, Mr. Forbes, Mr. Berman, Mr. Baird, and Mr. Kucinich.

H.R. 2210: Mr. Osborne and Mr. Ballenger.

H.R. 2211: Mr. Tiberi.

H.R. 2233: Mr. Sherman and Ms. Lofgren.

H.R. 2242: Mr. Grijalva.

H.R. 2262: Ms. Velázquez.

H.R. 2283: Mr. Brady of Texas.

H.R. 2284: Mr. Wexler and Mrs. Christensen.

H.R. 2286: Mr. Grijalva, Mr. Pallone, Mr. Reyes, Ms. Woolsey, Mr. Evans, Mr. Neal of Massachusetts, and Mr. Sherman.

H.R. 2291: Mr. Wexler and Mr. Pomeroy.

H.R. 2292: Mr. Boehlert.

H.R. 2295: Mrs. Maloney.

H.R. 2330: Ms. McCollum, Mr. Kirk, Mr. Delahunt, Mr. Bereuter, Ms. Watson, Mr. Wexler, Ms. Slaughter, Mr. Payne, Mr. McNulty, Mr. Berman, Mr. Doggett, Mr. Nadler, Mr. Shays, Mr. Rahall, Mr. Frank of Massachusetts, and Mr. Weiner.

H.R. 2333: Mr. Oberstar, Mr. Quinn, and Mr. Skelton.

H.R. 2351: Mr. Kolbe, Mr. Sensenbrenner, Mr. Gutknecht, Mr. Shays, Mr. LaTourette, Mr. Akin, and Mr. Linder.

H.R. 2361: Mr. PASTOR.

H.R. 2365: Mr. CARDIN.

H.J. Res. 36: Mr. RAMSTAD and Mr. WILSON of South Carolina.

H.J. Res. 56: Mr. PENCE, Mr. ISTOOK, Mr. JONES of North Carolina, Mr. RYUN of Kansas, Mr. SAM JOHNSON of Texas, Mr. DEMINT, Mr. AKIN, Mr. BURGESS, and Mr. NORWOOD.

H. Con. Res. 111: Ms. NORTON and Mr. OBERSTAR.

H. Con. Res. 126: Mrs. MUSGRAVE and Mr. WALDEN of Oregon.

H. Con. Res. 154: Mr. LEWIS of Georgia.

H. Con. Res. 164: Mr. PAUL and Mr. SKELTON.

H. Con. Res. 169: Mr. WEXLER.

H. Con. Res. 178: Mr. BURNS, Mr. TURNER of Ohio, Mr. GREEN of Wisconsin, Mr. LATOURETTE, Ms. MCCARTHY of Missouri, Mr. STRICKLAND, Mr. COSTELLO, Mr. MATHESON, and Mr. PLATTS.

H. Con. Res. 192: Mr. CRAMER, Mr. GREEN of Wisconsin, Mrs. WILSON of New Mexico, Mr. CALVERT, Mr. SIMMONS, Mr. UDALL of Colorado, Mr. WOLF, and Mr. LANTOS.

H. Con. Res. 196: Mr. MCDERMOTT, Mr. ABERCROMBIE, Mr. TOWNS, Ms. MCCOLLUM, Ms. LOFGREN, Ms. CARSON of Indiana, and Ms. KILPATRICK.

H. Con. Res. 200: Mr. FATTAH.

H. Con. Res. 208: Mr. CUNNINGHAM.

H. Con. Res. 213: Mr. ALLEN, Mr. GREEN of Texas, Mr. NADLER, Mr. REYES, and Mr. SABO.

H. Res. 28: Mr. MEEKS of New York.

H. Res. 58: Ms. LEE, Mr. BERMAN, Mr. KANJORSKI, and Mr. BELL.

H. Res. 177: Ms. MCCOLLUM.

H. Res. 194: Mr. GREEN of Wisconsin, Ms. MCCOLLUM, and Mr. BELL.

H. Res. 198: Mr. PENCE, Mr. GALLEGLY, and Mr. FEENEY.

H. Res. 199: Mr. WEXLER and Mr. KUCINICH.

H. Res. 234: Ms. MCCOLLUM, Mr. GRIJALVA, Ms. SOLIS, and Mr. KUCINICH.

H. Res. 237: Mr. KUCINICH and Mr. CLAY.

H. Res. 242: Mr. OXLEY, Mr. PENCE, Mr. KING of New York, Mr. SHAW, Mr. GILLMOR, Mr. FORD, Mr. GOODLATTE, Mr. WEXLER, Mr. RUSH, and Mr. MCINNIS.

H. Res. 259: Mr. FROST, Mrs. WILSON of New Mexico, and Mr. WAXMAN.

H. Res. 260: Mr. SANDERS, Mr. RANGEL, and Mr. FILNER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 660: Mr. PASTOR and Mr. GRIJALVA.

EXTENSIONS OF REMARKS

A TRIBUTE TO MOSHOOD AFARIOGUN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Moshood Afariogun in recognition his unique style and accomplishments in the fashion industry.

The name Moshood Africanspirit has become synonymous with a style that personifies a "spirit" of African pride. Originally from Lagos, Nigeria, Moshood arrived in New York in the early 1980's, and set out to make his mark in this very competitive industry. After years of tireless effort and hard work, he opened his first boutique in Brooklyn, NY.

Moshood's timeless pieces bring together the traditional beauty of African tailoring and a taste of western flavor. His fluid and elegant designs have been embraced from Harlem to Soweto, Lagos to Bahia, London to Tokyo, and New York to Kingston.

Mr. Speaker, Moshood Afariogun has successfully designed and created unique designer clothes without losing touch with his African culture and heritage. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

REMEMBERING FRANK CIRRINCIONE

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. EMANUEL. Mr. Speaker, I rise to celebrate the life of a true public servant for the people of Chicago, Frank Cirrincione, who passed away on June 9.

Frank was born in Chicago on December 6, 1943. In 1964, he married the love of his life, Carole. Together they had two wonderful children, PJ and Maria, who made them the happy in-laws to Kevin and Adrienne and the proud grandparents of Brianna and Joanna Cirrincione and Zachary and Conor Martin.

For the past two decades Frank worked diligently for the people of the North side of Chicago in the public service office of the great Alderman Patrick J. O'Connor of the 40th Ward. In that position he was always there to greet constituents with a smile and to work his hardest at helping them with their problems. The Ward office and the people of the 40th Ward will not soon forget Frank.

Frank also was dedicated to his community outside of work, volunteering his time at the parish that guided his life, St. Hilary's. His devoted service included contributing to the Parish Council, as an usher during services, and even as coach of the basketball team. St. Hilary's Parish will not soon forget Frank.

For me personally, Frank was always there to give me a friendly boost and support during my campaign for Congress. He was always ready to walk a precinct with me and introduce me to the neighbors and friends he knew so well. I will not soon forget Frank.

Mr. Speaker, I join with the people of the 40th Ward in recognizing the life of Frank Cirrincione and the impact that he had on those of us who were fortunate enough to be touched by his kindness. I applaud the City of Chicago for forever celebrating Frank's life by designating the 5600 block of North Fairfield Avenue as "Honorary Frank Cirrincione Way." Lastly, I wish to express my deep sense of sorrow to Carol and the rest of Frank's loving family.

HONORING DON CLAUSEN UPON HIS RETIREMENT

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to pay tribute to Mr. Don Clausen upon his retirement as Principal of Annandale High School after more than 30 years of distinguished service to Fairfax County Public Schools.

In 1966, Mr. Clausen graduated from Valparaiso University with a B.S. in physical education, and immediately began his service in the Peace Corps as a volunteer to Ecuador. There he helped local communities improve and enlarge their educational programs. He continued this work until 1968 when he began teaching at Langley High School. Mr. Clausen taught physical education at Kings Park and Kings Glen Elementary Schools from 1973 until 1976. In 1976 he became the Assistant Principal of Oakton High School. During that year he also finished his Master's in Education from George Mason University. Over the next thirty years, Mr. Clausen came to serve as Assistant Principal at several other schools including, George C. Marshall High School and Thomas Jefferson High School for Science and Technology. In July of 1994, Mr. Clausen became the Principal of Annandale High School where he remained Principal until his retirement.

Mr. Clausen has received a multitude of awards and honors throughout his career. In 1990, he was invited by the government of Nicaragua to serve as a National Elections Monitor. In 1991, he received the Department of Community Action nomination for "Excellence in Education Award." Then in 1993, he was once again invited to be a National Elections Monitor for the government of El Salvador. On December 17, 1997 he hosted the initial national education hearings of President Clinton's Advisory Board of The President's Initiative on Race. From 1998 to 2002 he served an appointment to the Executive committee of Virginia High School League. In 2000, Mr. Clausen was nominated as "Principal of the Year." For the last two years he has chaired the Virginia High School League; and from 2001 to 2002 he was recognized for significant progress in improvement of Virginia State Standards of Learning scores.

Mr. Clausen has been a member of the Board of Directors of the Network of Educators for Central America and he currently serves as the Chairman of Fairfax County High School League. He is a member of the Panel at Chesapeake Chapter of the National School Public Relations Association, as well as a member of the National Activities Committee or NASSP.

Mr. Clausen was one of five secondary school principals from the nation honored by the Metlife Foundation Bridge Builders Initiative, which recognizes teachers and administrators for forging strong relationships between the school's staff and the community.

Mr. Speaker, in closing, I wish the very best to Mr. Clausen as he is recognized for service to his community and to Fairfax County Public Schools. During his many years of service, he certainly has earned his recognition, and I call upon all of my colleagues to join me in applauding his tenure.

PARTIAL-BIRTH ABORTION BAN ACT OF 2003

SPEECH OF

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. DAVIS of Illinois. Mr. Speaker, this is the sixth time this legislation has been sent to the House, I opposed it the past five times, and I still oppose it today. This bill is an attempt to strike, yet again, at the foundations of a woman's right to choose with the aid of family, clergy, counselors, and physicians. I am an avid supporter of choice without reservation. Medical decisions are personal and should be made in private without the interference of the government.

I oppose this proposed interference of the government in doctor's offices not only because I support choice, but because it endangers women's health and safety. Medical technology has advanced, and safe abortion procedures are available for women. If passed, this legislation will force doctors to perform procedures deemed dangerous and outdated as of 1975. These procedures might be necessary to save women whose lives are threatened by their pregnancies. The proposed ban

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

does not provide for life-saving exceptions, and will be overturned by the Supreme Court.

This ban is also unconstitutional because it is in blatant violation of Roe v. Wade. Might I remind the House, this landmark decision leaves the regulation of post vitality or late term abortions to the States, not the Federal Government. While the judiciary system is violated by this legislation, so is the healthcare field. "Partial-birth" is not a medical term, instead it is a vague political term designed to inflame this debate, and outlaw abortions throughout pregnancy.

During the hearings for this legislation in March, Dr. Anne R. Davis testified 90 percent of abortions are conducted during the first trimester. I refuse to believe this legislation proposed six times in the past eight years is to ban only 10 percent of abortions. I stand with over 17 organizations of dedicated and respected medical professionals, three state referendums, and a Nebraska Supreme Court, all of whom oppose this unconstitutional and dangerous legislation that must not be passed.

IN RECOGNITION OF DAVID MINCBERG

HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. BELL. Mr. Speaker, I rise to honor David Mincberg on the occasion of his being named the recipient of the 2003 Max H. Nathan Award by the Houston chapter of the American Jewish Committee. The Max H. Nathan Award is presented annually to an individual who has performed most meritoriously in the cause of human relations and who exemplifies the finest traditions of his heritage. This individual must be dedicated in his service to the community.

David Mincberg epitomizes the qualities the American Jewish Committee recognizes each year with this award. Mr. Mincberg has spent his life enriching the Jewish community. He began his service to the community as a student at Bellaire High School where he served as president of the Houston Jewish Community Center Youth Council. At the University of Texas, he demonstrated his leadership qualities during his tenure as president of the Friar Society.

After graduating from law school, Mr. Mincberg continued his dedication to humanitarianism as evidenced by his volunteer work on the boards of the Jewish Federation of Greater Houston, the American Jewish Committee and the Jewish Family Service Foundation where he served as board chairman.

Mr. Mincberg was a founder and the first president of Southwest Houston 2000 Inc., a forum for improving the quality of life for all people living in southwest Houston. He served as chairman of the Harris County Democratic Party from 1994 to 1998. From 1988 to 1991, he served as president of the American Jewish Committee. During his term as president, he made a lasting impact on American pluralism and the quality of life in the community. Mr. Mincberg currently serves on the boards of Planned Parenthood and the Houston Museum of Natural Science.

Mr. Mincberg is owner and president of Flagship Properties Corporation, one of the largest privately held multifamily residential companies in Texas. He takes great pride in providing employment to over 600 people of diverse backgrounds.

David Mincberg is married to Lainie Gordon. They are the proud parents of five children.

Mr. Speaker, I would like to congratulate David Mincberg on his many years of exceptional service to the Jewish community.

TRIBUTE TO REGINA COLEY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Regina Coley Carter in recognition of her dedication to her community in personal and professional life, and her commitment to reducing drug use among youths.

Regina Coley is the fourth of eleven children. She was educated in the New York City public school system, and later, attended Hunter College in pursuit of a nursing career. Currently, she is attending John Jay College.

A mother of three children, Regina is a member of the Brownsville Community Baptist Church. As a church member, she participates in the Concert Choir and the Willing Workers. She is a football mom for the Pop Warner State Championship Team, and the Mo Better Jaguars of the East New York/Brownsville area.

Regina has worked for the New York City Police Department for the past twenty-three years. She served as a civilian employee for five and a half years when she decided that that would be an effective police officer. In 1986, she passed the police exam and became a police officer. Regina is currently one of two community affairs officers in the 75th Precinct.

Regina enjoys sports, reading, travel, and working with the community. She has received numerous awards for community service, often working with elected officials, community based organizations, schools, and churches in the East New York Community. She helps organize parades, demonstrations, rallies, street festivals, and various community events. Regina has also worked with the United States Attorney's office as a coordinator for the youth program Drug Education For Youth (D.E.F.Y).

Regina has a strong concern for the community and youth of East New York and Brownsville. She has become a mentor through various community youth programs and is presently mentoring young people in East New York.

Mr. Speaker, Regina Coley is committed to improving the lives of those in her community through a wide range of efforts. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

POLAND'S REFERENDUM

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. EMANUEL. Mr. Speaker, on behalf of more than 111,000 constituents of Polish descent, I rise to congratulate the Republic of Poland for its historic and overwhelming vote yesterday in favor of joining the European Union next May.

For centuries Polish greats like Copernicus, Frederick Chopin, and Madame Curie have contributed significant economic, cultural and social diversity to Europe. As the first nation to have a written constitution in Europe, Poland is a shining example of democracy triumphing over four decades of communist rule. Its modernization is described most meaningfully by its current President, Aleksander Kwasniewski, stated, "The transformation in Poland launched after the historic breakthrough in 1989 consists not only in reform of the economy but also in opening up to the world. Openness is the historical tradition of Poland . . . We are thinking not only of the benefits we will gain from accession to the European Union. We are also aware of the obligations incumbent upon us from our role in the unification of the continent."

That 78 percent of Poland's population voted for unification is a giant step toward advancing democratic progress and prosperity to its 38 million people. Its integration into the EU assures that it can assume a strong leadership role in promoting important ethnic, social and cultural diversity to the global community. In exchange, Poland will benefit economically and politically from the standards and examples set by the other modern EU democracies.

Mr. Speaker, Poland's accomplishments over the past 14 years since communism fell shows great promise for continued openness and solidarity in the years ahead. The United States should recognize Poland's tremendous achievement in clearing the way for EU membership. We should also express continued gratitude for its contributions to the global war against terror and its 200 troops during Operation Iraqi Freedom. We deeply value our friendship and commitment to strong security, diplomatic and economic ties with Poland and will continue to express our hope that the anticipated ratification of EU membership by May of 2004 remains on schedule.

HONORING RICHARD NUGENT, THE BRADDOCK DISTRICT COUNCIL CITIZEN OF THE YEAR

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor Richard Nugent as the Braddock District Council Citizen of the Year.

Although Mr. Nugent can boast many civic contributions, the most dramatic impact he has had on his community is his active participation in charitable organizations in the Braddock district, Fairfax County and beyond.

Richard is a regular volunteer at the Northern Virginia Training Center, assisting with field trips for residents. Through the Church of the Good Shepard, he has organized the delivery of birthday cakes and Christmas boxes to residents of NVTC. He is also an active participant in the interfaith service organizations F.I.S.H. and F.A.C.E.T., delivering meals and other needs to the less fortunate.

Through his church, Mr. Nugent's service extends also to the national organization "Habitat for Humanity." In addition to assisting at a local Habitat worksite, he also raised $3,200 through Christmas tree sales for that organization.

Under the aegis of his church, Mr. Nugent regularly delivers clothing, books and school supplies to an Appalachian town in West Virginia. Extending his commitment to service even farther, he has traveled to Honduras the last two years to assist in building houses and schools as part of a church mission project.

In addition to these charitable pursuits, Richard has served in the all-volunteer Coast Guard Auxiliary for the last three years and is presently the Flotilla Commander. Mr. Nugent teaches boating safety classes, conducts recreational boat safety checks, and participates in safety and security patrols on the Potomac River and Chesapeake Bay. Mr. Nugent has also served his immediate neighborhood as a Board officer of the Somerset South Homeowner's Association for the last ten years.

Mr. Speaker, in closing, it is with great pleasure that we extend this recognition to Mr. Richard Nugent. His notable contribution to his community deserves to be commended, and we call upon all of our colleagues in joining us to applaud Mr. Nugent for all of his accomplishments.

TRIBUTE TO CHARLES TIDWELL

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. DAVIS of Illinois. Mr. Speaker, I take this opportunity to pay tribute to Mr. Charles Tidwell who died a few days ago after having spent a lifetime of being a good husband, a good father, a good neighbor, a good citizen and a good friend.

Mr. Tidwell was what we would call an ordinary man, ordinary in that he owned his own business, an ordinary business, he was a self-employed plumber, who for many years worked every day. He was a welcomed sight; people often looked forward to him coming because he generally represented relief, a man who knew how to do what he could and do it well.

Mr. Tidwell was ordinary but he was also unordinary, unordinary because he and his wife were intimately connected to their community, actively involved in their church, actively involved in the civic affairs of their community and actively involved in politics or public policy decision-making. The Tidwell home was oftentimes the place where block club meetings were held, political candidates came and problem solving discussions were held and of course, Mrs. Tidwell generally found a way to have some fried chicken, cake, potato salad, potato pie or whatever she decided to cook. In reality the Tidwells represent the best among us and we're going to miss Mr. Tidwell, a good son, a good husband, a good father, a good neighbor, a good citizen, a good American. May his soul rest in peace.

IN RECOGNITION OF THE RIGHT REVEREND CLAUDE E. PAYNE, BISHOP

HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. BELL. Mr. Speaker, I rise to honor the Right Reverend Claude E. Payne, bishop of Texas on the occasion of his retirement from the Episcopal Church. He will be celebrating his retirement June 27, 2003.

For many years, Bishop Payne has been a pillar of the Texas community. After graduating with a chemical engineering degree from Rice University, Bishop Payne went on to earn a Masters and Doctor of Divinity from the Church Divinity School of the Pacific. Prior to his election as seventh bishop of Texas, Bishop Payne was rector of one of the largest churches in the Texas diocese, St. Martin's in Houston. He has also served at St. Mark's in Beaumont as well as St. Mark's in Houston. In June of 1993, the Right Reverend Payne was elected to bishop of the Episcopal Church. In 1995, he became a diocesan bishop for Texas.

Since that time Bishop Payne has worked unceasingly to reach people without a church home. His vision of doubling the size of the diocese to 200,000 parishioners by 2005 is truly a miraculous goal; hence the diocese views itself as "a community of miraculous expectations."

During Bishop Payne's episcopacy, the diocese built the first new church for a Spanish-speaking congregation in the United States, built seven new churches in Houston and Austin and restarted numerous others. Membership has increased by 10,000 and more importantly, average Sunday attendance has increased by more than 18.7 percent.

Under the bishop's leadership, approximately $50 million has been granted by the Episcopal Health Charities for community outreach programs. These grants helped to provide fully equipped mobile clinics: one for at-risk youth living on the streets of Houston and another for Matagorda County, an area profoundly under-served in health care.

Bishop Payne was also instrumental in the expansion and renovation of Camp Allen, a camp and conference center. The renovation includes a new 1200 seat chapel and a 70-acre lake. Camp Allen provides recreational facilities for church members as well as secular groups from the surrounding area.

Mr. Speaker, I would like to congratulate Bishop Payne on his many years of exceptional service to the Episcopal Church and the diocese of Texas. I applaud his leadership in the development and enhancement of his community.

TRIBUTE TO VON R. HUNT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Von R. Hunt in recognition of his commitment to his community.

Von Renneslerr Hunt was born in Colon, Republic of Panama. He graduated from the Canal Zone Rainbow High School, Amador Guerero Spanish School and the Baptist Academy.

Von was a professional sign painter in Panama, working for various agencies of the Canal Zone. He also played music professionally and played with his own trio band throughout Panama.

After 20 years of service with the Panama Canal Zone, he immigrated to the United States in 1965. In New York City, he worked on Wall Street for the Moore McCormack Steamship Company, Dreyfuss Stock Exchange, and the Royal Globe Insurance Company. He retired from Royal Globe Insurance Company after 25 years of service. At the time of his retirement, he was working in the Computer Networks Department.

When he retired, Von resumed his music career. He began playing for big Latin bands like Machito, Joe Valle, Vicentico Alarez, and the Oriental Cubana. However, he eventually retired from his musical career and returned to the business work. Presently, he works for Amsco School Publications as a senior accounts receivable clerk.

Von has a remarkable spirit of giving and caring. He is a respectable and gentle individual. He will lend a helping hand to anyone in need. It is often said about Von that "to know him is to love him." He is a member of Community Board 13 in Queens, a member of St. Clare's Catholic Church, and a proud member for Congressman TOWNS' constituent support group.

Von is married to Teresa Johnson-Hunt, and they are the proud parents of five children and six grandchildren.

Mr. Speaker, Von R. Hunt is committed to assisting his fellow community members. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

HONORING PEACE OFFICERS MEMORIAL DAY

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. EMANUEL. Mr. Speaker, every city block and every country road across this country is protected by potential heroes. But police officers like my Uncle Les of the Chicago Police Department, firefighters, and other officers of peace don the mantle of heroism every day, and are prepared to respond not only to forces of nature or forces of man, but also to forces of evil, like that which brought down the World Trade Towers and tore into the Pentagon.

Peace officers are very real heroes, and must be honored as such. At risk to their own personal safety, peace officers put themselves between danger and the people they protect. Last year, more than 147 peace officers were killed in the line of duty during 2002, and the previous year 230 officers were killed, including 72 officers in the September 11th terrorist attacks. We will never know the number of lives that were spared because they gave their own.

Too often round-the-clock news shows, television talk programs and supermarket tabloids elevate the frivolous to the famous, and blur the difference between the noble and the notorious. We must honor real heroes in a meaningful manner.

Mr. Speaker, I urge my colleagues to join me in supporting the President's proclamation designating May 15 as Peace Officers Memorial Day.

TRIBUTE TO THE PEOPLE OF TAIWAN AND PRESIDENT CHEN SHUI-BIAN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. RANGEL. Mr. Speaker, on May 20, the people of Taiwan celebrated the third anniversary of the ascent of Chen Shui-bian to the Presidency of Taiwan. In recognition of this anniversary, I would like to congratulate both the people of Taiwan and President Chen upon the achievement of this third anniversary and make a few observations with regard to this auspicious occasion, as well as the long-standing friendship that exists between the United States and Taiwan.

With regard to President Chen, I can only say that in his three years as leader of Taiwan have been exemplary. President Chen has, continues and shall hopefully continue to receive widespread praise around the world for his determined commitment and unswerving dedication to continued democratization, economic reform and basic recognition of human rights.

In his conduct and comments toward the People's Republic of China, President Chen has promised that Taiwan would not seek independence as long as the People's Republic would refrain from using force against Taiwan. Moreover, he has initiated solid measures that are aimed at reducing tensions in the Taiwan Straits so that the freedom of navigation in the Straits can be maintained.

President Chen has further demonstrated his leadership in bringing his diplomatic skills to the fore in gaining Taiwan entrance to the World Trade Organization. In this regard, I can only hope and wish for President Chen's continued diplomatic success in making Taiwan more present in the global community of nations. Two such measures of continued success would rest in gaining Taiwan access and entry to both the World Health Organization and the International Civil Aviation Organization.

Mr. Speaker, as President Chen celebrates the third anniversary of his Presidency, I would only say that America congratulates and salutes him upon the many successes and achievements of his administration to date. And, that we wish him continued and further success in the future.

TRIBUTE TO RITA DAVE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Rita Dave in recognition of her dedication to improving the human rights in her community and throughout the world, especially among immigrant populations.

Rita immigrated to the United States with her parents when she was 7 years old. Pursuing her goal to become a lawyer, she received her Juris Doctor Degree from New York Law School, and was admitted to practice in the State of New York in 1992.

Throughout her personal and professional life, Rita has been deeply affected by the plight of immigrants in the United States. In addition to representing mortgage lenders in her current practice, she works extensively on pro bono projects involving immigrant issues. She has worked together with local and national human rights organizations to organize and mobilize grass roots activities opposing indefinite detention and incarceration of legal permanent residents. She has provided pro bono assistance to detainees across the United States by providing them with legal case law, advising them of their rights under immigration law, and providing assistance and support to their families.

Rita has also worked hard to bring to the attention of elected officials human and civil rights violations suffered by men and women during their detention. She works to expose and remedy these violations to ensure that our legal system remains fair and just. In recognition of her tenacity and empathy for the plight of immigrants, in 2003 she was appointed chairperson of the political action committee for the Federation of Indian Americans.

On the civil rights end, Ms. Dave has founded a non-profit organization devoted to helping men and women who are factually innocent of the crime for which they have been convicted and incarcerated. The group is called The Falsely Accused and Convicted Taking Steps, FACTS. FACTS reviews the case files of individuals who assert their factual innocence then assist them in overturning their convictions.

Rita lives with her husband and 9-year-old daughter in Mineola, NY.

Mr. Speaker, Rita Dave is committed to improving the lives of those in need and those who have suffered human and civil rights violations. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

TRIBUTE TO SYLVIA PORTILLO

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. MORAN of Virginia. Mr. Speaker, I rise today to honor an incredible woman from my district who recently received a Robert Wood Johnson Community Health Leadership Program award. Sylvia Portillo earned this prestigious award through her hard work in expanding health care for the Latino community of northern Virginia.

Sylvia Portillo overcame adversity as a Spanish-speaking immigrant and low-wage worker to become a major health leader in her community. Her career in health care began in El Salvador where she worked as a nurse. Upon fleeing war-torn El Salvador, Sylvia became a home health care companion in Arlington County, to support the three children she left with relatives back home as well as her new family in the United States.

Ms. Portillo was inspired to become a health care advocate for Latinos and other underserved community residents after her experience and the roadblocks she encountered when she tried to get health care and insurance for her two youngest children. In 1996 she joined the Tenants' and Workers' Support Committee as a volunteer in the Women's Leadership Group. There she organized the Latino community's first health fair by bringing together neighbors, doctors, local groups and city officials. In its seventh year, the fair is the only source of health care for many residents. In 1997, Sylvia became lead organizer for the committee's Health Project with a goal of increasing health access for Alexandria's Latino community. Since then, she has recruited and trained more than 80 health promoters to educate the community about preventive health practices.

Ms. Portillo has also led a campaign that won $300,000 in medical debt relief from the leading area health system and persuaded local hospitals to hire bilingual staff. The project also has completed three landmark studies documenting conditions of Latino immigrants, including occupational health problems and the consequences of medical debt.

One of the most impressive testimonies about the work Sylvia has accomplished came from a woman who sought her help with a medical debt she could not pay since she was unable to work. Sylvia helped her understand our health system, despite her inability to read. "By working with Silvia, I am no longer afraid," the woman said.

Sylvia and the Health Project have helped countless people throughout my congressional district and northern Virginia. I am proud to have Sylvia in my district, and I look forward to seeing what else she can accomplish in ensuring that her friends and neighbors receive the health care they deserve.

HONORING THE THORNTON SISTERS FOUNDATION

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. PALLONE. Mr. Speaker, I would like to acknowledge once again a group of talented and capable women. This month marks the 12th anniversary of the Thornton Sisters Foundation, Inc. I have been following these women's struggles and accomplishments for a long time now, and after a decade of success, I still feel it is an honor to formally salute these women for a third time.

On Sunday, June 8, 2003, the Thornton Sisters Foundation will hold an awards ceremony for the 25 finalists of the Donald and Itasker Thornton Memorial Scholarship and their family members. The occasion will be hosted at Jumping Brook Country Club in Neptune, NJ.

The Thornton Sisters have an inspiring history that led to the creation of this foundation. They come from a family that has always known the intrinsic worth of a good education. In 1948, their parents, Donald and Itasker, moved the family from Harlem, New York City to Long Branch, NJ, so that their children would be able to receive a better education. And while Mrs. Thornton was unable to attend college, she pushed all of her daughters to accomplish something that she would never be able to do.

With the help of scholarships and their parent's inspiration, all six daughters graduated from Monmouth University in Long Branch. Having learned early on the importance of an education, these six sisters now want to give the same opportunity they had to other young women.

This story has special significance to me, as I am a citizen of Long Branch. In addition, Rita Thornton and I both attended Long Branch High School and even participated in speech and debate together. I could tell back then, that she and her sisters share a true commitment to education and excellence—it is no wonder that they all received straight A's throughout high school.

This year, I would also like to recognize all recipients of the Donald and Itasker Thornton Scholarship, past and present: from 1992, Miss LaShawn Pruitt and Miss Tiffany Sanders; from 1995, Miss Natasha Dwamena; from 1996, Miss Jasmine Williams; from 1997, Miss Anetha Perry, Miss Sanetta Ponton, and Mr. Carl Little; from 1998, Miss Diane Bynes; from 1999, Miss Estelle Docteur, Miss Leigh-Michil George, Miss Tiffany Little, and Miss Traymanesha Moore; from 2000, Miss Marie Guervil, and Miss Lesha Sanders; from 2001, Miss Aakia Seymour, Miss Fatiya Ilegieno, Miss Lesha Brady, Miss Betty Lin, and Miss Courtney Jackson; from 2002, Miss Melissa Thompson, Miss Tiffany Reed, and Miss Martha Tan; and from 2003, Miss Yoonieh Ahn, Miss Cassaundra Brown, Miss Porschia Epps, Miss Sorochi Esochaghi, Miss Sonya Frontin, Miss Indria Harrison, Miss Quasheeda Kelly, Miss Elizabeth Meltzer, Miss Dominique Robinson, Miss Candice Spence, Miss Shakeilya Washington, and Miss Katherine Wheatle.

Mr. Speaker, I would now like to ask my colleagues to join me in honoring these aspiring women. They are truly a group that needs to be admired and praised. I want to personally thank the Thornton sisters for their twelve years of providing scholarships for young minority women of the State of New Jersey.

TRIBUTE TO GRACE (SANG SOOK) LEE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Grace (Sang Sook) Lee in recognition of her dedication to assisting Korean-Americans and troubled youths in her community.

Ms. Lee was born in Seoul, Korea. She was educated in many different schools, and earned a degree in chemistry from Sacred Hearts Women's University. She married Chong Hwun Lee in 1980 and moved to the United States. Ms. Lee and her husband have three daughters, Vivian, Marian, and Joan.

At the height of the Lees' success, they owned five dry cleaners in Manhattan. Unfortunately, things took a turn for the worse and they had to sell their home in Little Neck, NY. For some period of time, they had to move every two years. During this time, Grace was able to go to night school and earn a degree in counseling and conflict resolution.

Adapting to a new culture and struggling to establish a successful business made life during the 1980s arduous. The stress caused Grace to fall into depression. However, she used this low point in her life to search for the truth in her life that would uplift her. She realized that she could no longer live for herself, and in 1990, in the teachings of her Savior Jesus Christ, she gained a new awareness that she must serve others.

During this time, she met a Korean-American inmate, which altered her life dramatically. Since that moment, she has been diligently visiting Korean-American inmates in the greater New York Area. These experiences motivated her to focus on the problems of the youth in the Korean-American community. The Korean-American Youth Center in Flushing, NY, provided her with a vehicle to work with teenagers. Because her children were getting older, she had more time to pursue her concern for all of the young people in her community.

Using all of the experiences in her life, Grace created the Youth and Family Focus, a non-profit organization of which she is the executive officer. She runs the organization with the devoted help of a few volunteers. Youth and Family Focus believes that intervention with teenagers is the best way to affect their lives positively. The organization is a youth oriented program that offers many services to the community including parent-child counseling, education programs for Korean American parents, a G.E.D. program, mentoring for teens, retreats for teenagers, and a prison ministry.

Ms. Lee's devotion and dedicated work with Youth and Family Focus have made this group an effective organization. Its success is reflected by the high regard it has within the Korean-American communities across the United States. Success is further reflected by the requests it receives from the judicial system, school system, and families for assistance with Korean American Youth.

Mr. Speaker, Grace (Sang Sook) Lee is committed to improving the lives of Korean-Americans and troubled youths. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

SENSE OF THE HOUSE COMMENDING NATION'S BUSINESSES AND BUSINESS OWNERS FOR SUPPORT OF OUR TROOPS AND THEIR FAMILIES

SPEECH OF

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. CAMP. Mr. Speaker, I rise today in support of H. Res. 201. This bill expresses the sense of the House of Representatives that American businesses should be commended for their support of our troops and their families. I would like to thank my colleague from Michigan, Mr. Rogers, for introducing this timely and appropriate tribute and urge my colleagues to vote in favor of this resolution.

Since September 11, 2001, the Armed Forces have undertaken more than 21 months of courageous and successful operations against terrorism worldwide. Over 216,931 members of the Reserve components have been called to leave their families and their jobs to serve our country. From my own State of Michigan, over 1,000 individuals have been called to Active Duty.

National Guard and Reserve members comprise 38 percent of our military and support by their employers is crucial. It can be a struggle for Guard and Reserve members to find a balance between serving our country and dedication to their employment. For activated service members to be successful in their missions, they need peace of mind that their families, civilian jobs, and other responsibilities will be stable and financially secure in their absence.

We have established a law to protect our troops and this law has significantly reinforced the respect and encouragement our armed forces deserve. The Uniformed Services Employment and Reemployment Rights Act (USERRA) provides job protection and rights of reinstatement to employees who participate in the National Guard and Reserve. The act seeks to ensure that members of the uniformed services are entitled to return to their civilian employment upon completion of their service. They should be reinstated with the seniority, status, and rate of pay they would have obtained had they remained continuously employed by their civilian employer. The law also protects individuals from discrimination in hiring, promotion, and retention on the basis of present and future membership in the Armed Forces.

Many employers have gone above and beyond what is required under USERRA. They have expanded their pay differential and medical coverage policies for Reserve and National Guard members called to Active Duty.

Along with the companies who provide a pay differential during service members' annual training and mobilization, continuation of insurance and other company benefits, establishing family support networks to maintain open lines of communication, and facilitating information sharing have been used to mitigate the psychological hardships of war.

Employers' willingness to bear the inevitable financial hardships and organizational disruptions that result from war is an important contribution to our Nation's security. In placing America's well being above their own, employers help our National Guard provide mission-ready forces to help preserve our freedoms and protect our national interests.

Our Nation's businesses and business owners serve our country in many ways, especially in these days of increased engagement of our military in strategic locations around our Nation and around the world. I would like to commend their patriotism and offer my sincere gratitude to the men and women defending America.

HONORING DR. DANIEL IVASCYN UPON HIS RETIREMENT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. NEAL of Massachusetts. Mr. Speaker, I would like to take this opportunity to recognize Dr. Daniel W. Ivascyn, a constituent of the second district of Massachusetts, for his countless years of dedication to the town of Oxford and Oxford public school system.

Dr. Ivascyn is retiring this year after 34 years of devoted employment.

Dr. Ivascyn began his extraordinary career in September 1969 when he became Business Manager of Oxford. He was later on promoted in 1975 to become Assistant Superintendent for Business Affairs. He continued his steady climb up the chain of command in 1996 where he was appointed to the prestigious position of Superintendent of Schools.

Dr. Ivascyn used his leadership role as a way to further escalate the growth and success of the Oxford public school system. Some recent notable accomplishments include assisting in the construction of a new Oxford High School in 2002, and the newly renovation of Barton and Chaffee Elementary Schools.

Dr. Ivascyn's dedication and desire to better the Oxford community serves as an admirable example to all American citizens. I am delighted to honor Dr. Ivascyn's accomplishments and service to the second district of Massachusetts. His hard work and dedication will be greatly missed.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. GALLEGLY. Mr. Speaker, on June 9, 2003, I was unable to vote on H.R. 1610, Walt Disney Post Office Building Redesignation Act (rollcall vote 249), H. Con. Res. 162, Honoring the City of Dayton, Ohio (rollcall vote 250), and S. 763, Birch Bayh Federal Building and United States Courthouse Designation Act (rollcall vote 251). Had I been present, I would have voted "yea" on all three measures.

TRIBUTE TO JOHN L. ENGLISH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of John L. English in recognition of his successful business which has brought stability to his community, and for his overall efforts to improve the quality of life in his community.

John's contracting company is based at 2060 Eastern Parkway in Brooklyn, New York. He started Central Mechanical in 1976 and relocated to the current address in 1984. He has been an owner-operator in his community for 19 years. Since John's father and grandfather were steamfitters by trade, it was natural for him to become involved in the pipefitting industry. He is both a contractor and a developer. His day-to-day function is the operation of Central Mechanical. Central Mechanical's prime business is the completion of government heating and air conditioning contracts. He has also built 25 homes and 20 condominiums in the past 10 years.

John is active in the community as well. He lends support to a local church, the House of Hope. In addition to being a place of worship, the House of Hope runs a homeless shelter for people who have nowhere else to turn. John is very thankful for what he has accomplished and he looks forward to a long, prosperous, and continuing active presence in Brooklyn. However, most important has been John's successful marriage of 26 years to his wife Trina. They have four children ages 11 through 24.

Mr. Speaker, John L. English is committed to his community through his business endeavors and his work at his local church. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

TRIBUTE TO GERARD DOHERTY

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. MARKEY. Mr. Speaker, I ask that the House of Representatives take this opportunity to honor Gerard Doherty, a man who has dedicated his enormous talents and unlimited energy to public service and charitable ventures throughout his life.

Gerard Doherty is an exceptional leader in Charlestown, in our Commonwealth of Massachusetts and throughout our Nation. Mr. Doherty is one of the founders of the John F. Kennedy Family Service Center. He serves as a member of the Boston Public Library Foundation, the John F. Kennedy Library Foundation and the Suffolk University Board of Trustees. He is remembered on Beacon Hill as one of our most respected members of The Great and General Court, where he was elected to four terms as State Representative from Charlestown.

Because of his efforts to improve educational opportunities for children, Gerard Doherty has received numerous awards including an honorary doctorate degree from Our Lady of the Elms College. And Mr. Speaker, when I return to my alma mater of Malden Catholic High School to attend a basketball game, I take great pride in walking through the doors of the Gerard and Marilyn Doherty Gymnasium, dedicated in the name of MC's most beloved couple.

Gerard Doherty has also placed his indelible mark on national politics. He served as a close and trusted advisor to President John F. Kennedy, Presidential Campaign Director for both Senator Robert F. Kennedy and President Jimmy Carter and Campaign Manager for Senator EDWARD M. KENNEDY.

Mr. Speaker, I rise to honor one of the Bay State's most famous sons on his 75th birthday. Gerard Doherty's commitment to public service and community philanthropy has made an immeasurable impact in his community, in our State and throughout our Nation.

TRIBUTE TO THE CUYAHOGA COUNTY BAR ASSOCIATION'S 75TH ANNIVERSARY DIAMOND JUBILEE

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mrs. JONES of Ohio. Mr. Speaker, I rise today in recognition of the Cuyahoga County Bar Association's 75th Anniversary Diamond Jubilee which will be held on Friday, June 20, 2003, in Cleveland, Ohio. The Cuyahoga County Bar Association has served the legal community and citizens of Cuyahoga County through research, advocacy, and education. Founded by 64 former members of the Cleveland Bar Association in 1928, it's mission is to "advance to the highest standards of excellence for the legal profession, to enhance the professional competence of attorneys, to further the administration of justice, to preserve and protect the liberties and rights of the people, to inspire respect for the law and legal profession through the support of law-related and community services, and to promote an atmosphere of collegiality among members of the Bench and the Bar."

On this great occasion, Thomas J. Escovar, a partner with the firm Steuer, Escovar, Berk & Brown Co., L.P.A., in Cleveland, OH, is being installed as the CCBA's President. The association's President-Elect is Justin Madden, a partner with the firm Spangenberg, Shibley & Liber in Cleveland. Diana Thimmig will be installed as the First Vice President and Laurence A. Turbow will serve as Second Vice President. Howard Besser will retain his position with CCBA as Secretary.

Furthermore, I would like to congratulate the new members of the CCBA Board of Trustees for 2004; the Honorable Janet R. Burnside, Louis J. Carlozzi, Deanna L. DiPetta, Steven L. Gardner, John F. McCaffrey and Robert J. Vecchio. I would also like to congratulate the new members of the Trustee Class of 2005; David B. Gallup, the Honorable Diane J. Karpinski, Lenore Kleinman, Jacob A.H. Kronenberg, the Honorable David T. Matia, the Honorable John D. Sutula, Mary Jane Trapp and the Trustee Class of 2006; the Honorable John E. Corrigan, Michael M. Courtney, Janet L. Kronenberg, Ellen S. Mandell, Mary Ann Rini, Stanley E. Stein and Jeffrey L. Tasse.

Finally, I would like to congratulate the new Presidential Board Appointments; the Honorable Ann Dyke, Lori Ann Luka and Barbara K. Roman. It gives me great pleasure, Mr. Speaker, to rise today to honor the Cuyahoga County Bar Association and to salute its new leadership.

TRIBUTE TO THE MICHIGAN SURVIVAL FLIGHTS

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to the University of Michigan's Survival Flight program for their critical role in providing emergency care to the residents of Michigan.

The University of Michigan's Survival Flight is an air medical transport program that extends the University Health System's care. This service is available 24 hours a day, every day of the year. They have the capabilities to transport critical patients from area hospitals to specialized treatment facilities, transport directly from an emergency scene, transfer neonates and organ transport teams, and provide back-up in disaster situations. Survival Flights consist of three advanced Bell 430 medical helicopters and one Cessna Citation jet.

Now in their 20th year, the Survival Flights have a perfect safety record and are recognized as the top emergency medical air program in the Nation. Each year, over 1,600 patients are safely transported through the Survival Flights program.

University of Michigan Survival Flights are to be recognized for their success and dedication to the survival of Michigan patients. Since their inception, Survival Flights have demonstrated outstanding courage and commitment to the State of Michigan.

Mr. Speaker, I wish to extend the gratitude of myself and the entire nation to the University of Michigan Survival Flights in recognition of 20 years of service. I ask my colleagues to join me in thanking them and wishing them continued success as they serve the citizens of the great State of Michigan.

TRIBUTE FOR SALLIE SLAUGHTER-GARDNER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. TOWNS. Mr. Speaker, I rise today to recognize the life of Sallie Slaughter-Gardner. I believe that it is fitting for public officials to celebrate those individuals whose life story can serve as a model for us all.

Mr. Speaker, Sallie Slaughter-Gardner was born on February 26, 1916, in an era very different than the one to which we are accustomed. Because her family needed Sallie to work in the cotton fields, she was not afforded the opportunity to complete a formal education. She was, however, blessed with a pleasant disposition, a commitment to her family, and a devotion to her community.

On January 23, 1932, Sallie was united in Holy Matrimony to Dozier Gardner. After the birth of her first child, Willie Clifford, the Gardner family emigrated from her birthplace of Buena Vista, Georgia to Brooklyn, New York, an area I am now privileged to represent in the United States Congress. "Aunt Sallie," as she was affectionately known, quickly adapted to her new surroundings, and, during the historical African American migration to the North, Sallie opened her home to the needy, providing hot meals, shelter, and good will to all.

Sallie Slaughter-Gardner made her family and her church the focus of her life. Sallie began her Christian walk in the Baptist Church. Later, she joined the Evergreen Church of God in Christ, where she accepted Christ as her Personal Savior under the leadership of Elder Eugene Williams, the founder of the Church. Sallie was a member of the hospitality club, the mother's board, and was president of the usher board of the church. Her sumptuous apple and sweet potato pies became mainstays among the congregation, and indeed, she was known for her generosity and kind heart. Until her death at the age of eighty-six, Sallie guided parishioners to their seat and imbued them with her warmth.

Sallie was known as a spiritual lady with a heart of gold. Her sweet disposition was most clearly demonstrated when she cared for a neighbor stricken with a crippling illness. Her neighbor, bitter over her ailment, alienated all who attempted to care for her. But Sallie was not deterred and she cooked, cleaned, and cared for this woman.

Mr. Speaker, as part of the Evergreen Church of God in Christ's 58th Church Anniversary, the Church is in the process of memorializing this incredible individual. Sallie always said "Let my life speak for me."

Mr. Speaker, her life truly speaks volumes to us and shows us the kind of conduct befitting all of God's children.

HONORING DR. JOHN GUSHA

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McGOVERN. Mr. Speaker, I rise today to recognize Dr. John Gusha, a dentist who mobilized dental societies and nonprofit groups to launch the Central Massachusetts Oral Health Initiative for low-income residents of Massachusetts. Dr. Gusha is among the outstanding individuals from across the country selected this year to receive a Robert Wood Johnson Community Health Leadership Program award of $120,000.

Dr. Gusha founded and served as project director of the Central Massachusetts Oral Health Initiative, a collaborative of 25 organizations focused on improving oral health in the region.

Growing up in a large, blue-collar family, Dr. Gusha was inspired by his faith and the work ethic of his immigrant heritage to give back to his community. After working his way through dental school and setting up a private practice, he began volunteering at a free medical clinic and was struck by the magnitude of oral health problems he saw among patients.

He recruited his colleagues in local and State dental societies and nonprofit groups to launch the Oral Health Initiative in 1999. The initiative opened a free dental clinic where dentists, hygienists, and assistants volunteer their services. It also educates physicians and nurses to perform oral health screenings, and trains outreach workers to teach young mothers about preventing tooth decay, the most common chronic condition of childhood.

In addition to volunteering his dental services, Dr. Gusha has pushed for policy changes aimed at improving Massachusetts' health. He helped win State legislation allowing a pilot program to expand access to dentists for Medicaid patients in central Massachusetts. In 1993, as chairman of the Holden Board of Health, he championed fluoridation of the water supply and prohibition of secondhand smoke in public places.

Mr. Speaker, I proudly ask you to join me in commending Dr. John Gusha for his accomplishments as founder of the Central Massachusetts Oral Health Initiative and for his efforts put forth in achieving a 2003 Robert Wood Johnson Community Health Leadership Program award.

TRIBUTE TO MS. ADRIENNE E. BYERS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. PAYNE. Mr. Speaker, it is with great pride that I rise today to recognize Ms. Adrienne E. Byers on her retirement from Horizon Blue Cross Blue Shield after thirty-four years of dedicated service.

Joining Horizon Blue Cross Blue Shield in January of 1969, Ms. Byers has worked in many different facets of the organization, beginning in the Cashiers Department and moving to her current position with Special Letters.

Working with many areas of the corporation has given Ms. Byers a great and unique understanding of Horizon and has allowed her to help enrich a company which is truly fortunate to have her as a dedicated employee.

Raised in the 10th Congressional District of New Jersey, Ms. Byers spent her early years growing with the programs at the YMCA where I was fortunate enough to meet this promising young woman. Since those early years she has proven herself time and time again and I am proud to see what a dedicated and motivated individual she has become.

In addition to her devotion to Horizon Blue Cross Blue Shield, Ms. Byers has also invested time in the community as a whole. A strong advocate of community service, she serves on the Advisory Board for Community Agencies Corporation and on the board of directors for Friendly Fuld. She is also Chair for the Newark Fighting Back Partnership.

Mr. Speaker, I know that my colleagues here in the U.S. House of Representatives join me today in congratulating Ms. Adrienne E. Byers on her long and successful career with Horizon Blue Cross Blue Shield. I wish her the very best in her retirement and a healthy and happy future.

TRIBUTE TO MS. GWEN BOWEN

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Ms. DEGETTE. Mr. Speaker, I would like to recognize the splendid efforts and notable accomplishments of an extraordinary woman in the 1st Congressional District of Colorado. It is both fitting and proper that we recognize this outstanding artist, educator and civic leader for her exceptional record of invaluable service. It is to commend this outstanding citizen that I rise to honor Ms. Gwen Bowen on the occasion of her 50th year teaching dance in Denver, Colorado.

"Miss B," as she is affectionately known by current and former students, was born in Denver, Colorado. She attended McKinley Elementary School, Grant Junior High School and graduated from Denver's South High School. Following her graduation from the University of Denver, she returned to McKinley Elementary School to teach first grade. But her love of dance inspired her to pursue a career in dance education.

Ms. Bowen has amassed a distinguished record of service to our community. She founded the Gwen Bowen School of Dance where she has taught hundreds of young people, middle-aged and senior citizens throughout her career—a career distinguished by caring, competence and a sense of commitment to the community. Among her many students who have pursued professional careers in dance is Lynne Taylor Corbett, Tony Award Nominee for her choreography of the Broadway Play, Swing. Last year, Ms. Corbett came to Denver to pay tribute to this great lady of dance at a fundraiser for Arts for All, an organization founded by Ms. Bowen to create a community non-profit facility for all the arts in Denver. Despite having taught so many that have made major contributions to dance, she believes that her greatest rewards have come from teaching dance to blind students and the developmentally disabled. It comes as no surprise that Dance Magazine, a national publication, has recognized her outstanding contribution to the art of dance.

Ms. Bowen has continually espoused that "Dancing is a language and it touches people in many ways." Her life is a testament to this belief and while she has been an exceptional educator in dance, she has been an educator who teaches young and old alike to pursue meaning in their lives as well as the value of giving back to the community.

Please join me in commending Ms. Gwen Bowen, a distinguished artist and educator. It is the strong leadership she exhibits on a daily basis that continually enhances our lives and builds a better future for all Americans.

ACKNOWLEDGING THE WORK OF JOSE GARCIA

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. REYES. Mr. Speaker, I rise today to acknowledge the work of Jose Garcia, the founder and director of Project CARE in El Paso, TX. Mr. Garcia recently received national recognition from the Robert Wood Johnson Foundation's Community Health Leadership Program. The prestigious award includes a $120,000 grant to provide additional funding to further his work.

Mr. Garcia, a pharmacist, helped found Project CARE, a treatment and education program for asthma and diabetes patients, in 2001. Project CARE uses pharmacists as "promotores" to manage uncomplicated diabetes and asthma, reducing costs by targeting the uninsured and frequent users of the hospital's emergency department. It also helps fill the gap in the physician shortage along the Texas-Mexico border, where more than a third of El Paso residents are uninsured and nearly 40 percent of families live below the poverty line.

Mr. Garcia helped to launch Project CARE after he observed, through his work as a pharmacist at R.E. Thomas Hospital, that access to care, medication, and education was the solution to longterm preventable illness. He also realized that the patients who used the most hospital resources were those who could not afford their prescription co-payments under the county's indigent care program. Mr. Garcia then began covering patient's co-payments out of his own paycheck before founding Project CARE.

Mr. Garcia also established El Circulo de Hombres, a collaborative drug treatment model approved by the Texas State Board of Pharmacy that features "platicas," discussions in which Latino men talk openly about health issues and take control of their own care.

The gentleman who nominated Mr. Garcia for the Community Health Leadership award put it best when he said, "Jose has a vision to improve access to health care alternatives to the marginalized and disenfranchised of our community. He has successfully developed a cultural, linguistic, and social home for the poor and uninsured."

Mr. Speaker, Jose Garcia has demonstrated tremendous leadership in meeting the urgent health needs of many in the El Paso community. I urge my colleagues to join me in congratulating him on this well-deserved award.

TRIBUTE TO ALICEMARIE SLAVEN-EMOND

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to recognize AliceMarie Slaven-Emond, who was recently honored as one of only ten people in the entire nation to be selected as a 2003 Robert Wood Johnson Community Health Leader. This prestigious award includes a grant of over $100,000 to enhance AliceMarie's work.

AliceMarie is cofounder, primary health care provider and volunteer executive director of the Northeast San Juan County Health and Wellness Center in Aztec, NM. The center is a community owned, nonprofit clinic, where patients receive primary care services, preventive screenings, immunizations, pre- and postnatal care and free medications. Services are offered on a sliding-fee scale, depending on income.

Working as a school nurse in the Aztec school district, AliceMarie was uniquely aware of children who were suffering medically because their families were uninsured or could not afford a doctor. To address these demands, AliceMarie, along with other concerned citizens, launched the planning process for a clinic in 1992 and opened its doors in 2000. The early stages were very difficult, but because of the steadfast commitment, determination, enthusiasm, tenacity and hard work, AliceMarie and her cofounders achieved a "miracle." But AliceMarie is always quick to acknowledge the "incredible graciousness" of San Juan County. She reports that without the donations of cash, supplies, labor and many other services by local businesses, medical professionals and private benefactors, success could not have been possible.

The San Juan County Health and Wellness Center is an example of how one person can make a difference. Because of AliceMarie's unending determination, the quality of life for hundreds of people has been improved. The clinic began serving about 35 patients a month and now provides medical attention to 185 to 200 children and adults monthly, regardless of race, religion, ethnicity or financial means. In addition, AliceMarie is proud of the fact that the center is also a resource facility that provides valuable health care education and information to the community.

AliceMarie Slaven-Emond is not only an extremely caring and dedicated nurse practitioner, but an extraordinary visionary and leader. Having visited the clinic myself, I have experienced first hand the incredible work that is being accomplished. I am proud to recognize AliceMarie today before my colleagues as a model of commitment to the betterment of the human condition. I also extend my deep appreciation to her cofounders, staff and San Juan County citizens for helping to make a dream a reality. As uninsured families continue to increase at the rate of 13 percent this year alone, AliceMarie and the San Juan County Health and Wellness Center are helping to fill the gap and are heroes in the truest sense. A great need existed, and caring and giving citizens rose to the occasion, with AliceMarie as the catalyst. I salute this very great lady.

TRIBUTE TO JUDGE WILKIE D. FERGUSON, JR.

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. MEEK of Florida. Mr. Speaker, on Monday, June 9, 2003, our country lost a truly great man, U.S. District Court Judge Wilkie D. Ferguson, Jr. He was an exemplary jurist—experienced, fair, compassionate, knowledgeable and firmly committed to justice. His death is a huge loss to the federal bench, to our community, and to our Nation.

Wilkie Demeritte Ferguson, Jr. was born May 11, 1938, to Bahamian immigrants and raised in the Liberty Square public housing project.

Judge Ferguson attended all-black public schools: Liberty City Elementary, Dorsey Middle and Northwestern Sr. High. He received his B.S. in Business Administration and Accounting from Florida A & M University. He was certified in Fundamentals of Computer Programming at Philco Technological Institute in Philadelphia and received his Masters in Financial Administration from Drexel University. He continued on to Howard University where he obtained his J.D. Degree.

He was the first black jurist appointed to the Miami-Dade Circuit Court and Third District Court of Appeals, and the second black federal judge in the Southern District of Florida.

Judge Ferguson knew every aspect of the law, and he knew people. In the Civil Rights Division of the old U.S. Department of Health, Education and Welfare, and as a staff attorney for Legal Services of Greater Miami, he learned firsthand about the problems that ordinary people face in their everyday lives and how the legal system and our courts are often their only recourse for justice.

His reputation for fairness and hard work preceeded his elevation to the federal bench in 1993, for at that time he had already had three decades of experience on the bench.

Judge Ferguson has been an exceptional role model and inspiration for young African-Americans interested in the law. He was a trail blazer whose competence and wisdom set a high standard for a profession that already has high standards. His death leaves a huge gap in our federal judiciary, in our community, and in our hearts, for Judge Ferguson showed us all how good we can be.

Over the years he has received numerous honors and accolades such as: Williams H. Hastie Award, "Courage and Scholarship in Legal Writing", National Bar Association (2000) Distinguished Alumni Award, Howard University University Law Alumni Association.

He was a member of the Church of Incarnation of Miami, Florida. There will forever be a void in the pew where he stood every Sunday and sang inspirational hymns.

The entire Miami-Dade community mourns the loss of this humble and great man who overcame huge obstacles yet also did common things uncommonly well. My prayers goes out to his wife, Miami-Dade Commissioner Betty Ferguson and his children, Tawnicia Ferguson-Rowan and Wilkie III.

TRIBUTE TO COACH LOU GIANI

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. ISRAEL. Mr. Speaker, I rise today to commend Coach Lou Giani of Huntington High School on his induction into the U.S. National Wrestling Hall of Fame.

Coach Giani is among the most successful wrestling coaches in New York State history, having compiled 388 victories in 34 seasons. This past season Coach Giani and his Huntington High School team won the New York State team title—a remarkable eighth title for Coach Giani. In addition to the team accolades, Huntington High School also had three individual wrestlers win State Championships, increasing the career total of Coach Giani to a record 22 individual state champions. In recognition of these accomplishments, the National Wrestling Coaches Association bestowed on him the honor of "Coach of the Year."

In addition to his service to Huntington High School and New York State, Coach Giani has served as an international ambassador for wrestling. Having organized cultural exchange programs in both the Soviet Union and Poland, he has provided disadvantaged youth with the opportunity to learn wrestling from one of the sport's best coaches.

Beyond his service as a coach and international teacher, Mr. Giani had an equally impressive career as a wrestler. Having not begun to wrestle until his junior year of high school, Mr. Giani went on to win ten New York Athletic Club titles, a gold medal at the 1959 Pan American Games and was given the honor of representing the United States on the 1960 Olympic Freestyle team.

I commend Coach Lou Giani for his dedication to the sport as well as his service to the students of Huntington High School and I congratulate him on his induction into the U.S. National Wrestling Hall of Fame.

PRAISE FOR PRESIDENT BUSH AND PRIME MINISTER ARIEL SHARON

HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. CANTOR. Mr. Speaker, I rise today to praise President Bush and Prime Minister Ariel Sharon of Israel for never giving up hope that we can achieve peace in the Middle East. President Bush is a champion of peace and a leader that the world should rally around as he works to bring tranquility to this troubled region. That is why European insistence on negotiating with Yassir Arafat is so troubling. If Europe is committed to peace, now more than ever, they must end their dealings with Yassir Arafat.

Arafat is a terrorist who stalled the peace process to further his personal agenda. No one can doubt that Arafat ordered the murder of thousands of civilians while he stole billions of dollars in humanitarian aid. Arafat has proven he does not support peace, and as a result, Europe should stop dealing with him.

Last week in Aqaba, Jordan, Ariel Sharon and Palestinian Prime Minister Mahmoud Abbas emerged from a joint meeting with President Bush to pledge initial steps toward the goals of ending violence and establishing a Palestinian state.

Abbas promised to end terrorism and the armed uprising against Israel. Sharon said Israel would ease controls on Palestinian areas, dismantle certain outposts and negotiate in good faith toward creation of a Palestinian state alongside Israel. To worldwide appreciation, Mr. Sharon has already begun dismantling outposts and maintaining his commitment to peace. We will continue to watch and hope that Mr. Abbas keeps his promise to end the terrorism and murder of innocent people.

In light of these agreements by both the Israelis and the Palestinian leadership, there is no choice but to end all dealings with Arafat and his terrorists.

Arafat, who was rightly excluded from the Aqaba summit by the U.S., is expected to try to reassert his influence. Looking at the history of Arafat, one can only suspect he will order and organize another wave of terrorist violence to destroy any hope for peace. European diplomats told the United States last week that they would maintain contact with Arafat.

European leaders are aiding Arafat's illegitimate cause and are directly hurting the peace process by continuing to make this terrorist relevant. I call on the European leaders to follow President Bush's lead and to stop dealing with Arafat, who is and never will be anything more than a terrorist.

ON RETIREMENT OF DR. JAMES W. HOLSINGER, CHANCELLOR OF ALBERT B. CHANDLER MEDICAL CENTER

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. FLETCHER. Mr. Speaker, Dr. James W. Holsinger Jr., Chancellor of the Albert B. Chandler Medical Center at the University of Kentucky will be retiring this month and I want to take this opportunity to pay tribute to this exceptional physician. Dr. Holsinger is a distinguished member of his community and the proud father of four daughters and the grandfather of three boys. He has had an extensive academic and administrative career.

Dr. Holsinger began his academic career at Duke University, receiving a B.A. from that undergraduate institution in 1960 and an M.D. from its medical school in 1964. He then completed a surgical internship, residency in general surgery, and fellowship in thoracic surgery and anatomy at Duke. In 1968, Dr. Holsinger was awarded a Ph.D from Duke University with a major in anatomy and a minor in physiology. He then completed a residency in general surgery and a fellowship in cardiology at the Shands Teaching Hospital at the University of Florida. Dr. Holsinger continued his education in administration, attaining a master's degree in Hospital Financial Management from the University of South Carolina in 1981 and a B.A. in Human Studies from the University of Kentucky in 1997.

In 1972, Dr. Holsinger was appointed Assistant Professor of Medicine at the University of Nebraska Medical Center. In 1974, he was appointed Assistant Professor of Medicine at the University of Connecticut and was promoted to Associate Professor in 1976. Dr. Holsinger moved once again in 1978 to the University of Georgia, where he was appointed Professor of Medicine and Anatomy and served as Assistant Dean in the College of Medicine. In 1981, Dr. Holsinger was appointed Professor of Medicine and Health Care Administration at the Medical College of Virginia, where he was also appointed Assistant Vice President for Health Sciences in 1985.

Dr. Holsinger retired from the United States Army Reserve in 1993, after serving over 31 years. While part of the Army Reserve, Dr. Holsinger was assigned to the Joint Staff as Assistant to the Director for Logistics in 1989 and promoted to Major General in 1990. Dr. Holsinger served in the Department of Veterans Affairs for 26 years, beginning in 1968. The culmination of his career was his appointment by the President of the United States as Chief Medical Director of the Veterans Health Administration in 1990. During his appointment, Dr. Holsinger became Undersecretary for Health and was reassigned as the Director of the VA Medical Center in Lexington, Kentucky, in 1993.

Upon his retirement from his position as Chief Medical Director in 1994, Dr. Holsinger was awarded the position as Chancellor of the Albert B. Chandler Medical Center at the University of Kentucky, where he was also the Chief Academic Officer. As Chancellor, Dr. Holsinger was responsible for planning, organizing, and coordinating the operations of the colleges of Medicine, Nursing, Dentistry, Allied Health, Pharmacy, the School of Public Health, four graduate centers, the University Hospital, the Children's Hospital, and the Kentucky Clinic.

He also provided overall guidance and direction for the academic programs of the Medical Center. Dr. Holsinger helped create the Holsinger Professorship in Anatomy in 1998, to which he and his wife, Barbara, donated $65,000 this year.

Dr. Holsinger has set a positive example for future physicians by providing quality care to his patients and service to his community. His achievements and recognitions speak for themselves. May God bless Jim and his wife Barbara. I wish them every happiness and success.

ANTI-CONSUMER PRACTICES IN PAYDAY LENDING NEED TO BE CONTROLLED

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. RUSH. Mr. Speaker, I rise today to bring attention to some anti-consumer practices in the payday lending industry that need to be controlled. The payday lending industry throws consumers into a perpetual state of debt. They prey on the most vulnerable customers.

During turbulent economic times like these, many Americans continue to look for inventive ways to meet their financial obligations. Payday loan companies provide short-term loans with high interest rates to consumers in dire need of cash. After supplying verification of employment and proof of an active checking account, consumers write a post-dated check and walk out of the payday loan establishment with cash in hand. Consumers often prefer these loans because the credit history requirement imposed by traditional banks is waived. Unfortunately, the consumers who most need these quick cash loans are usually those least able to repay the loans. The consumer is then subject to exceptionally high interest rates, which range from 261 percent to 913 percent annually.

This is why I am introducing the Payday Borrower Protection Act of 2003. The Payday Borrower Protection Act of 2003 would provide consumers who borrow from payday lenders much greater protection against high interest rates and exorbitant fees. My bill regulates and imposes some rational criteria on these loans, specifically addressing the exorbitant interest rates. This legislation caps annual interest rates at 36 percent and prohibits any payday lender from refinancing or rolling over loans. The bill also sets minimum national standards for state payday loan laws.

It is my hope that this legislation will ensure that fair borrowing practices are offered to consumers. My bill will ensure the industry can still stay afloat. At the same time, customers do not overextend themselves financially.

TRIBUTE TO MAYOR OF HURRICANE, WEST VIRGINIA, THE HONORABLE RAYMOND PEAK

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mrs. CAPITO. Mr. Speaker, I rise today to pay tribute to the Mayor of Hurricane, West Virginia, the Honorable Raymond Peak, who has served his fellow citizens for five decades.

The Regional Intergovernmental Council, whose mission is to assist local governments and bring economic development to Kanawha, Putnam, Clay and Boone counties in West Virginia, is dedicating its headquarters to honor the service of Mayor Peak.

It is altogether fitting that this wonderful new facility would carry his name. Raymond Peak is a leader who has always brought people together to solve serious problems with a spirit of cooperation and determination.

He was first elected as Town Recorder in 1951, and has since been elected State Legislator, and Mayor of Hurricane for 40 years. His progressive management skills have been the force in development and construction of millions of dollars worth of modern water systems, extensive improvements to Hurricane City Park, and the wonderful new Hurricane Municipal Complex.

He has also been a teacher, friend and counselor to thousands of young people in his 38 years in education. He was a noted band director, Student Council Advisor, and coach for Hurricane High's first girl's basketball team. In addition to his school "family," Mayor Peak and his wife Gloria have two daughters and a son, and five active grandchildren.

Raymond Peak has also fulfilled his commitment to community service as a volunteer, as a Trustee of Putnam General Hospital, member of the Putnam County Transportation Committee, Salvation Army Board and American Heart Association.

With this dedication, the leadership and spirit of Mayor Raymond Peak will guide the work of the Regional Intergovernmental Council in bringing infrastructure and jobs to our four counties for generations to come. His commitment to a high quality of life and a bright future for all West Virginians will truly be our inspiration.

I ask my colleagues to join me in congratulating Mayor Raymond Peak on this great honor.

HONORING JERE NEWMAN DAVIS

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. DAVIS of Tennessee. Mr. Speaker, I rise today to pay tribute to the life and memory of the former Mayor of Kimball, Tennessee, Jere Newman Davis. Mr. Davis, a dedicated husband, caring father, and respected spokesman, passed away recently at the age of 76. Mr. Davis contributed to his community through every aspect of his life. As a veteran, he proudly served in the Korean War. His creativity, patience, and precision allowed him to excel in carpentry, and he blessed Kimball with his skills for many years. It is apparent that Mr. Davis' family and values were a priority in his life. He was a dedicated member of the Kimball Church of Christ and left behind a wife, children, grandchildren, and great grandchildren. He applied the same rich values that shaped his large family to successfully lead Kimball as mayor for many years. Mr. Speaker, I am deeply honored to pay tribute to Mr. Jere Newman Davis today. His dedication and selflessness to his community are examples to all who wish to lead. Tennessee will not forget Mr. Davis' contribution.

HOUSE OF REPRESENTATIVES—*Wednesday, June 11, 2003*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LAHOOD).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 11, 2003.

I hereby appoint the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Dr. Thomas A. Erickson, Interim Pastor, the National Presbyterian Church, Washington, DC., offered the following prayer:

Almighty and ever-gracious God, You have given us this good land as our heritage. We thank You for patriots in the past who have occupied this Chamber and whose dedication has secured the liberties we enjoy today. Bless those who now hold office in this House. We thank You for their commitment to the highest ideals of freedom. Enable them to do their work with wisdom and kindness, that their legislation may enhance life, liberty, and justice for all. In Your holy name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Washington (Mr. NETHERCUTT) come forward and lead the House in the Pledge of Allegiance.

Mr. NETHERCUTT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 1625. An act to designate the facility of the United States Postal Service located at 1114 Main Avenue in Clifton, New Jersey, as the "Robert P. Hammer Post Office Building".

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 10 one-minute speeches on each side.

WELCOMING THE REV. DR. THOMAS A. ERICKSON

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NETHERCUTT. Mr. Speaker, I am pleased to welcome here to the Chamber today Dr. Tom Erickson, the interim pastor at National Presbyterian Church who offered the opening prayer. We are thankful for his presence today, and we are thankful that he has devoted himself to a ministry in the Presbyterian faith.

Dr. Erickson is no stranger to Presbyterian ministry and commitment to God. He has served a lifetime of ministries in Spokane, Washington, my home town, in California and Massachusetts; and he most recently retired from a very large church in Paradise Valley, Arizona.

He brings to the ministry a kindness, a grace, a wisdom, a commitment to Jesus Christ, a commitment to his faith and a commitment to compassion around this country and to those he ministers to and serves. He is a credit to the ministry of the Presbyterian faith. We are so delighted that he has committed himself, even after retirement, to an interim position here in Washington, D.C. at the National Presbyterian Church in Washington, a church of great tradition and history.

He and his wife, Carol, have been married for almost 49 years. They have three beautiful daughters who are adult children, and they are devoted to those dear children and to each other and to their faith in God.

We are delighted that Dr. Erickson could be here today, and we certainly welcome him and thank him for his prayer this morning.

FAMILY FRIENDLY WAL-MART

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, Wal-Mart is our Nation's largest company and it is growing. The company plans to expands its workforce from 1.2 million to 3 million over the next 5 years, and it will build 48 million square feet of new retail space.

Fortune Magazine recently named Wal-Mart the Nation's most admired company. The retail chain offers its many products and selections in a family-friendly environment.

Recently, the retail chain has announced plans to cover four women's magazines it carries on its sales racks. The content on the covers of these magazines could offend customers and are inappropriate for children. It has taken similar stands in the past to protect the families who shop at their stores.

Even during tough economic times, Wal-Mart has found ways to keep people coming through the door, and it has not sacrificed the principles Sam Walton has established.

Those family-friendly principles are part of Wal-Mart's success and have set the example for how retailers should act, regardless of the economic conditions or latest trends.

WHERE WAS THE IMMINENT THREAT

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, the Bush administration made specific, unequivocal statements about the imminent threat posed by Iraq's alleged weapons of mass destruction, repeatedly claiming they had intelligence showing Iraq had 25,000 liters of anthrax, 38,000 liters of botulin toxin, 500 tons of sarin mustard and VX nerve agent, and over 30,000 munitions capable of delivering chemical agents. So where are those vast stockpiles? Where was the imminent threat?

At the State of the Union the President said, Hussein had the materials to produce as much as 500 tons of sarin mustard and VX nerve agent. Where are those vast stockpiles? Where was the imminent threat?

This administration repeatedly claimed Iraq's weapons of mass destruction represented an imminent threat to this country. They claimed specific evidence of vast stockpiles. Where are those vast stockpiles? Where was the imminent threat?

Did this administration deliberately mislead this Nation into war, telling us there was an imminent threat when there was not?

The resolution of inquiry now signed by 36 Members of the House aims to find out the truth.

WEAPONS OF MASS DESTRUCTION ARE IN IRAQ

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, the gentleman from Ohio (Mr. KUCINICH), who just addressed this body, raised the issue that I suspect we will hear again and again before this Congress. Where are the WMDs, and who do you believe? Did the Bush administration mislead the American people?

Well, in answering the question of who you believe, I believe Saddam Hussein, Mr. Speaker, who in 1991 after being soundly defeated in the Persian Gulf War admitted to the U.N. agency responsible for monitoring the cease fire that he possessed 10,000 nerve gas warheads, 1,500 chemical weapons, and 412 tons of chemical weapons with 25 long-range missiles.

Even President Clinton when he bombed Baghdad in 1998 said he did so to "attack Iraq's nuclear, chemical and biological programs in its capacity to threaten its neighbors."

As a State Department official told the Committee on International Relations last week, there was no change in the assessment of the WMD program from the Clinton administration to the Bush administration. Those weapons were there. The program was there. The President led America aright in this war.

CHILD TAX CREDIT SHOULD APPLY TO ALL

(Mr. SNYDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SNYDER. Mr. Speaker, hopefully this week the House will correct an error in the most recently signed tax cut bill and extend the tax credit to literally hundreds of thousands of American families who do not qualify under the act that was signed by the President.

One of the arguments that has been used against extending this tax credit for children to lower-income people is that they do not pay enough taxes.

This is the most recent payroll stub from one of my Little Rock residents, a single mom with two children. She works over 40 hours a week as a certified nursing assistant at a State facility.

She pays $51.80 so far this year in Federal taxes. Look at the next two lines. She pays Social Security tax, a Federal tax. She pays her Medicare tax. A Federal tax. She pays State taxes. She pays State excise tax. She pays State sales tax. These people pay taxes. They have children. They deserve to get the benefit of this tax cut also. Please vote for a clean version of the extension of this child tax credit.

CONGRESSIONAL DELEGATION VISITS NORTH KOREA

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, in my travels over the years promoting democracy, I have visited communist nations, but none have had the anomalies of my visit to the capital of North Korea, Pyongyang, on a congressional delegation last week led by the gentleman from Pennsylvania (Mr. WELDON).

The government officials tried to show North Korea as if nothing were wrong. Yet empty streets and buildings gave signs of a fragile economy, and the intense communist and anti-American propaganda gave signs of a weak society.

President Bush has praised our troops for getting the world's attention with success in Afghanistan and Iraq. Our invitation was a reflection of this attention, summarized by delegation co-chairman, the gentleman from Texas (Mr. ORTIZ), who said, "The world has either seen the light or felt the heat."

North Korea is a tipping point, struggling to hold up a crumbling society that was neglected in the pursuit of nuclear weapons. I support the efforts of President Bush to seek a peaceful solution with North Korea so they will be disarmed by the nuclear threat and that innocent North Korean civilian can be saved from tragedy.

In conclusion, God bless our troops.

CURRENT UNEMPLOYMENT SITUATION IS GRIM

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to talk about something that the President does not want you to hear about. It is called our country's current unemployment situation.

Now, when the President began his term a little over 2 years ago, our Nation's unemployment rate stood at 4.1 percent, but today it stands at 6.1 percent. That means that there are 2.6 million people more who do not have a job. That is not those people who lost their jobs during this time and were able to find another job that paid less. There are plenty of those people who are making less. Or those people who stayed on the job but had to make less because their wages were cut.

No, these are people who are out of jobs, 2.6 million more people; 1.1 million more of them in California.

□ 1015

The situation is even worse if you are a Hispanic, because the unemployment rate is now at 8.2 percent for Hispanics.

More than 1.5 million Hispanics, Mr. President, have lost their jobs since you took office. We have got to start talking about this and doing something about this job loss.

WILLIAM "BOO" BARTON

(Mr. HENSARLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENSARLING. Mr. Speaker, I rise today to salute a young man from Groesbeck, Texas, William "Boo" Barton, a 17-year-old high school junior with an incredible athletic gift, an incredible story and an incredibly big heart, as big as the State of Texas. Last September while playing for the Groesbeck Goats football team, Boo Barton suffered a tragic injury on the field. Shortly afterwards, doctors were forced to amputate his left leg 4 inches below the knee. The doctors told Boo with luck he would be able to walk, but Boo and his track coach, Phil LaFountaine, had bigger dreams. Three months after being fitted with a prosthetic leg, with family, friends and teammates looking on, Boo Barton defied all the odds by running the 100-meter race at the Groesbeck Goat relays. His time: 14.06. Some may say that was not the winning time that day, but I and everyone in the stands know better.

Mr. Speaker, Boo Barton is an inspiring example to all of us. He shows us with the power of positive thinking and persistence through adversity, you can still dream bold dreams in America.

INTRODUCTION OF THE FULLY FUND THE NO CHILD LEFT BEHIND ACT

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, yesterday afternoon the President held a Rose Garden ceremony to celebrate the No Child Left Behind Act. I voted for that legislation and I wish I could have joined in the celebration, but unfortunately because the administration refuses to fund the new law, I spent my afternoon answering questions from unhappy local leaders in my district who wanted to know where the money is going to come from to pay for the President's education reforms. Despite yesterday's White House photo op, the fact remains that the administration is cutting $20 billion from No Child Left Behind. Local leaders know that they will get stuck with the bill for these educational cuts.

Make no mistake, the Bush educational cuts will result in worse schools, cuts in local services like law enforcement and fire and rescue or higher property taxes, or all of the above. There has got to be a better way.

Last week I introduced H.R. 2366, the Fully Fund the No Child Left Behind Act. My bill simply requires the Federal Government to fund No Child Left Behind. Mr. Speaker, it is only fair. I urge my colleagues to join us in this legislation.

MEDICARE

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, finally a strengthened Medicare system that includes prescription drug coverage seems to be the number one priority for both houses of Congress. The time is right to make progress. We have a tremendous opportunity to reform Medicare and help our seniors. The budget of $400 billion over the next 10 years is enough to strengthen and improve Medicare, so we do have the resources to make reform work.

Our Nation has made a binding commitment to bring affordable health care to our seniors. We must honor that commitment by making sure Medicare stays current with the needs of today's seniors. When Medicare was launched 38 years ago, medicine focused on surgery and hospital stays. Today doctors routinely treat patients with prescription drugs, preventive care and groundbreaking medical devices. Our goal is to give seniors the best, most innovative care. This will require a strong, up-to-date Medicare system that relies on innovation and quality delivery, not bureaucratic rules and regulations. We can reach that goal now.

VETERANS FACE INCREASED COSTS FOR HEALTH CARE

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, I rise today to point out the shabby treatment that this House and the administration is directing toward our Nation's veterans and our Nation's children. Just yesterday it was confirmed in the Committee on Veterans' Affairs that the administration continues to push for a $250 annual enrollment fee for many of our veterans just to be able to participate in the VA health care system. They want to increase the cost of a prescription drug from $7 to $15 a prescription. They want to increase the cost of a clinic visit from $15 to $20. At a time when our young men and women are fighting for this country in Iraq, this President and this Congress want to impose additional financial hardships on the backs of our veterans. It does not make sense. It is time for the people of this country to become aware of what is happening. This administration is treating our veterans in a shabby manner and it ought to stop.

EXPANDING THE CHILD TAX CREDIT

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, for the last few days the Democrats have been demanding that the Republicans bring up the child tax credit and extend it for lower-income working families. The Senate passed this bill. It is time for the House to bring it up. What do we hear today? What have the House Republicans done? Basically what they have done is to take this very small amount of money, $3.5 billion that will pay for these 12 million kids to get their child tax credit, and they have now expanded it, they are not paying for it and they are trying to cover and pay $82 billion for an expanded tax break for wealthier individuals.

Why is it that we cannot just take up the Senate-passed bill, give these 12 million kids and their parents a tax break that they deserve, and instead we are holding this bill hostage so that we can have more tax breaks for wealthier people and deal with other tax issues that are not germane to these 12 million kids? I resent the fact that the House Republicans are now holding this bill hostage, holding these working families hostage to try to expand tax cuts for other people and wealthier individuals.

EXPANDING THE CHILD TAX CREDIT

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, can I read the roll: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, D.C., Texas, Florida, Georgia. And it goes on and on; 19 million children left out in the cold.

Mr. Speaker, why can we not be a cooperative and collaborative Congress that works on behalf of the American people? Why is it that the President has made a statement this morning or yesterday saying support the Senate bill? What kind of leadership says that the President's representative who has asked this Congress to collaborate to provide a tax credit refund for working families, Ari Fleischer, someone says, "He does not have a vote"?

Mr. Speaker, the American people have a vote. I frankly do not hear those making $150,000 clamoring for this tax credit refund for children but I do hear the working families who make $26,000, who get up early in the morning, who pay payroll taxes, property taxes, and sales taxes saying, give us a simple break. Allow the Senate bill to go forward, allow the President to sign it. Let us work on behalf of the American people and not special interests.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

COMMERCIAL SPECTRUM ENHANCEMENT ACT

Mr. UPTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1320) to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users, as amended.

The Clerk read as follows:

H.R. 1320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Spectrum Enhancement Act".

SEC. 2. RELOCATION OF ELIGIBLE FEDERAL ENTITIES FOR THE REALLOCATION OF SPECTRUM FOR COMMERCIAL PURPOSES.

Section 113(g) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)) is amended by striking paragraphs (1) through (3) and inserting the following:—

"(1) ELIGIBLE FEDERAL ENTITIES.—Any Federal entity that operates a Federal Government station assigned to a band of frequencies specified in paragraph (2) and that incurs relocation costs because of the reallocation of frequencies from Federal use to non-Federal use shall receive payment for such costs from the Spectrum Relocation Fund, in accordance with section 118 of this Act. For purposes of this paragraph, Federal power agencies exempted under subsection (c)(4) that choose to relocate from the frequencies identified for reallocation pursuant to subsection (a), are eligible to receive payment under this paragraph.

"(2) ELIGIBLE FREQUENCIES.—The bands of eligible frequencies for purposes of this section are as follows:

“(A) the 216–220 megahertz band, the 1432–1435 megahertz band, the 1710–1755 megahertz band, and the 2385–2390 megahertz band of frequencies; and

“(B) any other band of frequencies reallocated from Federal use to non-Federal use after January 1, 2003, that is assigned by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), except for bands of frequencies previously identified by the National Telecommunications and Information Administration in the Spectrum Reallocation Final Report, NTIA Special Publication 95–32 (1995).

“(3) DEFINITION OF RELOCATION COSTS.—For purposes of this subsection, the term ‘relocation costs’ means the costs incurred by a Federal entity to achieve comparable capability of systems, regardless of whether that capability is achieved by relocating to a new frequency assignment or by utilizing an alternative technology. Such costs include—

“(A) the costs of any modification or replacement of equipment, software, facilities, operating manuals, training costs, or regulations that are attributable to relocation;

“(B) the costs of all engineering, equipment, software, site acquisition and construction costs, as well as any legitimate and prudent transaction expense, including outside consultants, and reasonable additional costs incurred by the Federal entity that are attributable to relocation, including increased recurring costs associated with the replacement facilities;

“(C) the costs of engineering studies, economic analyses, or other expenses reasonably incurred in calculating the estimated relocation costs that are provided to the Commission pursuant to paragraph (4) of this subsection;

“(D) the one-time costs of any modification of equipment reasonably necessary to accommodate commercial use of such frequencies prior to the termination of the Federal entity's primary allocation or protected status, when the eligible frequencies as defined in paragraph (2) of this subsection are made available for private sector uses by competitive bidding and a Federal entity retains primary allocation or protected status in those frequencies for a period of time after the completion of the competitive bidding process; and

“(E) the costs associated with the accelerated replacement of systems and equipment if such acceleration is necessary to ensure the timely relocation of systems to a new frequency assignment.

“(4) NOTICE TO COMMISSION OF ESTIMATED RELOCATION COSTS.—

“(A) The Commission shall notify the NTIA at least 18 months prior to the commencement of any auction of eligible frequencies defined in paragraph (2). At least 6 months prior to the commencement of any such auction, the NTIA, on behalf of the Federal entities and after review by the Office of Management and Budget, shall notify the Commission of estimated relocation costs and timelines for such relocation.

“(B) Upon timely request of a Federal entity, the NTIA shall provide such entity with information regarding an alternative frequency assignment or assignments to which their radiocommunications operations could be relocated for purposes of calculating the estimated relocation costs and timelines to be submitted to the Commission pursuant to subparagraph (A).

“(C) To the extent practicable and consistent with national security considerations, the NTIA shall provide the information required by subparagraphs (A) and (B) by the geographic location of the Federal entities' facilities or systems and the frequency bands used by such facilities or systems.

“(5) NOTICE TO CONGRESSIONAL COMMITTEES AND GAO.—The NTIA shall, at the time of providing an initial estimate of relocation costs to the Commission under paragraph (4)(A), submit to the Committees on Appropriations and Energy and Commerce of the House of Representatives, the Committees on Appropriations and Commerce, Science, and Transportation of the Senate, and the Comptroller General a copy of such estimate and the timelines for relocation.

“(6) IMPLEMENTATION OF PROCEDURES.—The NTIA shall take such actions as necessary to ensure the timely relocation of Federal entities' spectrum-related operations from frequencies defined in paragraph (2) to frequencies or facilities of comparable capability. Upon a finding by the NTIA that a Federal entity has achieved comparable capability of systems by relocating to a new frequency assignment or by utilizing an alternative technology, the NTIA shall terminate the entity's authorization and notify the Commission that the entity's relocation has been completed. The NTIA shall also terminate such entity's authorization if the NTIA determines that the entity has unreasonably failed to comply with the timeline for relocation submitted by the Director of the Office of Management and Budget under section 118(d)(2)(B).”.

SEC. 3. MINIMUM AUCTION RECEIPTS AND DISPOSITION OF PROCEEDS.

(a) AUCTION DESIGN.—Section 309(j)(3) of the Communications Act of 1934 (47 U.S.C. 309(j)(3)) is amended—

(1) by striking “and” at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(F) for any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)), the recovery of 110 percent of estimated relocation costs as provided to the Commission pursuant to section 113(g)(4) of such Act.”.

(b) SPECIAL AUCTION PROVISIONS FOR ELIGIBLE FREQUENCIES.—Section 309(j) of such Act is further amended by adding at the end the following new paragraph:

“(15) SPECIAL AUCTION PROVISIONS FOR ELIGIBLE FREQUENCIES.—

“(A) SPECIAL REGULATIONS.—The Commission shall revise the regulations prescribed under paragraph (4)(F) of this subsection to prescribe methods by which the total cash proceeds from any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall at least equal 110 percent of the total estimated relocation costs provided to the Commission pursuant to section 113(g)(4) of such Act.

“(B) CONCLUSION OF AUCTIONS CONTINGENT ON MINIMUM PROCEEDS.—The Commission shall not conclude any auction of eligible frequencies described in section 113(g)(2) of such Act if the total cash proceeds attributable to such spectrum are less than 110 percent of the total estimated relocation costs provided to the Commission pursuant to section 113(g)(4) of such Act. If the Commission is unable to conclude an auction for the foregoing reason, the Commission shall cancel the auction, return within 45 days after the auction cancellation date any deposits from participating bidders held in escrow, and absolve such bidders from any obligation to the United States to bid in any subsequent reauction of such spectrum.

“(C) AUTHORITY TO ISSUE PRIOR TO DEAUTHORIZATION.—In any auction conducted under the regulations required by subparagraph (A), the Commission may grant a license assigned for the use of eligible frequencies prior to the termination of an eligible Federal entity's authorization. However, the Commission shall condition such license by requiring that the licensee cannot cause harmful interference to such Federal entity until such entity's authorization has been terminated by the National Telecommunications and Information Administration.”.

(c) DEPOSIT OF PROCEEDS.—Paragraph (8) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) in subparagraph (A), by inserting “or subparagraph (D)” after “subparagraph (B)”; and

(2) by adding at the end the following new subparagraph:

“(D) DISPOSITION OF CASH PROCEEDS.—Cash proceeds attributable to the auction of any eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall be deposited in the Spectrum Relocation Fund established under section 118 of such Act, and shall be available in accordance with that section.”.

SEC. 4. ESTABLISHMENT OF FUND AND PROCEDURES.

Part B of the National Telecommunications and Information Administration Organization Act is amended by adding after section 117 (47 U.S.C. 927) the following new section:

“SEC. 118. SPECTRUM RELOCATION FUND.

“(a) ESTABLISHMENT OF SPECTRUM RELOCATION FUND.—There is established on the books of the Treasury a separate fund to be known as the ‘Spectrum Relocation Fund’ (in this section referred to as the ‘Fund’), which shall be administered by the Office of Management and Budget (in this section referred to as ‘OMB’), in consultation with the NTIA.

“(b) CREDITING OF RECEIPTS.—The Fund shall be credited with the amounts specified in section 309(j)(8)(D) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)).

“(c) USED TO PAY RELOCATION COSTS.—The amounts in the Fund from auctions of eligible frequencies are authorized to be used to pay relocation costs, as defined in section 113(g)(3) of this Act, of an eligible Federal entity incurring such costs with respect to relocation from those frequencies.

“(d) FUND AVAILABILITY.—

“(1) APPROPRIATION.—There are hereby appropriated from the Fund such sums as are required to pay the relocation costs specified in subsection (c).

“(2) TRANSFER CONDITIONS.—None of the funds provided under this subsection may be transferred to any eligible Federal entity—

“(A) unless the Director of OMB has determined, in consultation with the NTIA, the appropriateness of such costs and the timeline for relocation; and

“(B) until 30 days after the Director of the OMB has submitted to the Committees on Appropriations and Energy and Commerce of the House of Representatives, the Committees on Appropriations and Commerce, Science, and Transportation of the Senate, and the Comptroller General a detailed plan describing how the sums transferred from the Fund will be used to pay relocation costs in accordance with such subsection and the timeline for such relocation.

“(3) REVERSION OF UNUSED FUNDS.—Any auction proceeds in the Fund that are remaining after the payment of the relocation costs that are payable from the Fund shall revert to and be deposited in the general fund of the Treasury not later than 8 years after the date of the deposit of such proceeds to the Fund.

“(e) TRANSFER TO ELIGIBLE FEDERAL ENTITIES.—

“(1) TRANSFER.—

“(A) Amounts made available pursuant to subsection (d) shall be transferred to eligible Federal entities, as defined in section 113(g)(1) of this Act.

"(B) An eligible Federal entity may receive more than one such transfer, but if the sum of the subsequent transfer or transfers exceeds 10 percent of the original transfer—

"(i) such subsequent transfers are subject to prior approval by the Director of OMB as required by subsection (d)(2)(A);

"(ii) the notice to the committees containing the plan required by subsection (d)(2)(B) shall be not less than 45 days prior to the date of the transfer that causes such excess above 10 percent;

"(iii) such notice shall include, in addition to such plan, an explanation of need for such subsequent transfer or transfers; and

"(iv) the Comptroller General shall, within 30 days after receiving such plan, review such plan and submit to such committees an assessment of the explanation for the subsequent transfer or transfers.

"(C) Such transferred amounts shall be credited to the appropriations account of the eligible Federal entity which has incurred, or will incur, such costs, and shall, subject to paragraph (2), remain available until expended.

"(2) RETRANSFER TO FUND.—An eligible Federal entity that has received such amounts shall report its expenditures to OMB and shall transfer any amounts in excess of actual relocation costs back to the Fund immediately after the NTIA has notified the Commission that the entity's relocation is complete, or has determined that such entity has unreasonably failed to complete such relocation in accordance with the timeline required by subsection (d)(2)(A).".

SEC. 5. TELECOMMUNICATIONS DEVELOPMENT FUND.

Section 711(f) of the Communications Act of 1934 (47 U.S.C. 614(f)) is amended to read as follows:

"(f) LENDING AND CREDIT OPERATIONS.—Loans or other extensions of credit from the Fund shall be made available to an eligible small business on the basis of—

"(1) the analysis of the business plan of the eligible small business;

"(2) the reasonable availability of collateral to secure the loan or credit extension;

"(3) the extent to which the loan or credit extension promotes the purposes of this section; and

"(4) other lending policies as defined by the Board.".

SEC. 6. CONSTRUCTION.

Nothing in this Act is intended to modify section 1062(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65).

SEC. 7. ANNUAL REPORT.

The National Telecommunications and Information Administration shall submit an annual report to the Committees on Appropriations and Energy and Commerce of the House of Representatives, the Committees on Appropriations and Commerce, Science, and Transportation of the Senate, and the Comptroller General on—

(1) the progress made in adhering to the timelines applicable to relocation from eligible frequencies required under section 118(d)(2)(A) of the National Telecommunications and Information Administration Organization Act, separately stated on a communication system-by-system basis and on an auction-by-auction basis; and

(2) with respect to each relocated communication system and auction, a statement of the estimate of relocation costs required under section 113(g)(4) of such Act, the actual relocations costs incurred, and the amount of such costs paid from the Spectrum Relocation Fund.

SEC. 8. PRESERVATION OF AUTHORITY; NTIA REPORT REQUIRED.

(a) SPECTRUM MANAGEMENT AUTHORITY RETAINED.—Except as provided with respect to the bands of frequencies identified in section 113(g)(2)(A) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)(A)) as amended by this Act, nothing in this Act or the amendments made by this Act shall be construed as limiting the Federal Communications Commission's authority to allocate bands of frequencies that are reallocated from Federal use to non-Federal use for unlicensed, public safety, shared, or non-commercial use.

(b) NTIA REPORT REQUIRED.—Within 1 year after the date of enactment of this Act, the Administrator of the National Telecommunications and Information Administration shall submit to the Energy and Commerce Committee of the House of Representatives and the Commerce, Science, and Transportation Committee of the Senate a report on various policy options to compensate Federal entities for relocation costs when such entities' frequencies are allocated by the Commission for unlicensed, public safety, shared, or non-commercial use.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1320, bipartisan legislation called the Commercial Spectrum Enhancement Act, otherwise known as the spectrum relocation trust fund bill. I introduced this legislation with my good friend, the gentleman from New York (Mr. TOWNS), along with the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Virginia (Mr. BOUCHER), the gentleman from Nebraska (Mr. TERRY), the gentleman from Texas (Mr. GREEN), the gentleman from Florida (Mr. STEARNS), the gentleman from New Hampshire (Mr. BASS), the gentleman from Mississippi (Mr. PICKERING), the gentleman from Kentucky (Mr. WHITFIELD), and the gentleman from Illinois (Mr. KIRK).

Lately the subcommittee has been focused on the ailing telecommunications sector. Clearly the commercial wireless industry has not been spared from the wreckage, and we have been searching for ways to restore some hope. In my view what we need to do is get new, valuable spectrum into the hands of the commercial wireless carriers so that they can bring new, advanced wireless services to the consumer. That would be good for the wireless carriers, good for the equipment manufacturers, good for the consumer, and certainly great for the economy.

In the current context, the government already has identified the 1710 to 1755 megahertz band for relocation from the government to the private sector. This spectrum, mostly encumbered by DOD, is considered valuable "beachfront property" due to its suitability for commercial, mobile advanced wireless services like 3G. However, the road to relocating government entities to comparable spectrum is unpaved and filled with potholes. This bumpy road creates massive uncertainty in the process and depresses interest in participating in the auction in the first place.

H.R. 1320 would pave that road, establishing a spectrum relocation fund and procedures to ensure a timely, certain and privately yet fully funded relocation of Federal incumbents to comparable spectrum. H.R. 1320 requires the FCC to notify the National Telecommunications and Information Administration, NTIA, 18 months before conducting an auction of relocated spectrum. The purpose of that notification is so that the NTIA, after review by the Office of Management and Budget, can provide the Commission with an estimate of relocation costs for a particular band and a time line for relocation. That information is critical because under the legislation, an FCC auction of relocated spectrum is only valid if the auction yields proceeds of at least 110 percent of the estimated relocation costs.

The proceeds from auctions of eligible reallocated bands are deposited into a spectrum relocation fund which is an OMB-administered separate fund at the Department of Treasury. If any agency has any transferred money remaining when relocation is complete, the agency is required to transfer the money back to the spectrum relocation fund right away. Unexpected auction proceeds are then transferred to the Treasury no later than 8 years after the proceeds were initially deposited into the spectrum relocation fund. All the while, H.R. 1320 provides tight fiscal controls and congressional oversight, as it should, of the use of the spectrum relocation fund.

Finally, the bill exempts the telecommunications development fund, TDF, from the Federal Credit Reform Act, the practical application of which has prevented TDF from making loans without first obtaining budget authority on an annual basis. The provision in H.R. 1320 will significantly enhance the TDF's ability to make loans to worthy development projects focused on rural and underserved areas. I appreciate my good friend, the gentleman from New York (Mr. TOWNS), for his attention to this issue. I am pleased that the provision in fact is incorporated into the bill.

As such, the bipartisan bill represents a win-win-win. That is good news for the private sector which craves certainty in the process and the consumer who craves the benefits which new services enabled by additional spectrum will afford them. That is good news for government agencies who know that they will be made whole when they relocate to comparable spectrum and the taxpayer who will not have to pay a dime to relocate government agencies and will know that there is tight fiscal oversight in that regard. As I indicated, all of this is great news for the economy.

I should also add that we worked very closely with the administration to get where we are today and that the bill enjoys the administration's support, including the Department of Defense, the OMB and NTIA. I want to especially thank Assistant Secretary of Commerce Nancy Victory and former Deputy Assistant Secretary of Defense Stephen Price, the gentleman from Louisiana (Mr. TAUZIN), my good friend from the great State of Michigan, ranking member (Mr. DINGELL), and certainly the gentleman from Massachusetts (Mr. MARKEY), in addition to the majority and minority staff for their efforts to get us where we are today. I urge an "aye" vote on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

I would like to begin by first thanking my good and great friend, the gentleman from Michigan (Mr. UPTON), for that wonderful opening statement and to the chairman of the full committee, the gentleman from Louisiana (Mr. TAUZIN), to the great Member of Congress from the State of Michigan (Mr. DINGELL), the dean of the entire House of Representatives, for his wonderful work on this legislation, and to all the Members who participated in the formulation of this excellent piece of legislation. I want to thank all of them for their help in putting this bill together today.

The goal of this legislation is to establish a policy mechanism that may assist the Federal Government in reallocating airwave frequencies from the Federal Government to the Federal Communications Commission. Ensuring the best use of such frequencies for the public is a vital function of both the National Telecommunications Information Agency and the Federal Communications Commission. The bill we bring to the House floor this morning proposes the creation of a fund derived from FCC auction revenue to pay the military and other Federal users for moving out of particular bands of frequencies. Establishing such a mechanism when and if the FCC chooses to license certain government frequencies through auctions may bring greater certainty to the process and may also speed along the availability of certain frequencies. In addition, one issue that we will need to continue to focus on is the necessity of ensuring that the money raised is spent wisely and with adequate oversight. We have returned to an era of Federal budget deficits for as far as the eye can see and, as a result, this is a very important issue.

□ 1030

The bill does contain improved oversight and reporting provisions to guard against cost overruns by Federal entities that seek to use money in the Spectrum Relocation Fund, but this process will likely need ongoing review as the bill is implemented.

I want to commend the gentleman from Michigan (Mr. DINGELL), the gentleman from Michigan (Mr. UPTON), and the gentleman from Louisiana (Chairman TAUZIN) for their work in this area.

Second, it is important to note that today's bill puts in place a new policy for Federal spectrum reallocations. It does so through establishing a Federal fund derived from auction proceeds to compensate the Federal users for the costs associated with moving out of their current frequencies.

One issue that arose during the committee consideration of this bill is that this new policy is only operative in circumstances when an auction actually occurs. I think it is important to recognize that in the future certain frequencies utilized by Federal entities may be reallocated by the Federal Communications Commission, yet not licensed through auctions. They may be for public safety, noncommercial uses, shared frequencies, or unlicensed use such as the so-called WiFi technologies. In other words, in order to ensure the highest and best use of such frequencies for the public, the FCC may seek to allocate or assign such frequencies without auctions.

In recent years it has become evident that one of the telecommunications sector's economic bright spots has been unlicensed applications such at WiFi. Ensuring that we have a policy in place to permit the Federal Communications Commission to continue to promote unlicensed spectrum is important. But in addition, retaining the historic flexibility for the Federal Communications Commission to allocate frequencies for both commercial and noncommercial use is something we should safeguard, even as we put in place a new policy to compensate Federal users for the costs of moving out.

We do not want the absence of an articulated policy for unlicensed use, shared use, public safety use, or noncommercial use to be construed as compelling the FCC to use auctions whenever it intends to move a Federal user to another frequency band.

I am pleased that the legislation contains a provision that I authored in this policy area. First, the provision safeguards the FCC's historic authority to allocate frequencies as the public interest is deemed to be best served. Second, it also directs the National Telecommunications Information Agency to develop reports on various policy options to compensate Federal entities for relocation costs when such entities' frequencies are allocated by the commission for unlicensed public safety, shared or noncommercial use.

Finally, I believe that when the Federal Communications Commission does decide to proceed with auctions as a means of granting licenses for use of the public's airwaves the public deserves to reap the benefits of the sale of licenses to its airwaves. These benefits should not only manifest themselves in the offering of new commercial services or the temporary infusion of cash into the Federal Treasury as under current law.

I have proposed in H.R. 1396 that the public should also enjoy the dividends that can be reaped by reinvesting auction money into a Digital Dividends trust fund. This fund would generate interest, and that interest could be used in the form of grants to promote educational technology projects, public safety telecommunications initiatives, software R&D, teacher training, and digitizing for online access the important cultural assets held in our Nation's libraries and museums, among other initiatives.

Investing surplus auction revenues in this manner is a wise investment. It supports the educational infrastructure of our country. It will help to better prepare our citizens for an information-rich, knowledge-based economy. An educated citizenry is indispensable to our democracy. Educating citizens so that they possess the necessary digital skill set that they will need in order to compete in a modern global economy will make us a more secure, more productive country for the generations to come.

Again, I want to thank the gentleman from Louisiana (Chairman TAUZIN), the gentleman from Michigan (Chairman UPTON), the gentleman from Michigan (Mr. DINGELL), and all of the Members who have helped to construct this very progressive legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. UPTON. Mr. Speaker, I include for the RECORD three statements in support of this legislation: the first by the administration in their statement of administration policy; second, a strong letter of support by the Chamber of Commerce; and, third, a letter of strong support by the CTIA.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

The Administration strongly supports House passage of H.R. 1320, which would create a spectrum relocation fund. The Administration believes that the fund will serve as an important spectrum management tool to streamline the process for reimbursing government users, facilitate their relocation to comparable spectrum, and provide greater certainty to auction bidders and incumbents. This legislation will also expedite the opening of spectrum to commercial use for new services and technologies for consumers.

The Administration is pleased that H.R. 1320 closely tracks the Administration's proposal to create a spectrum relocation fund. The Administration urges quick action by the Congress to establish a spectrum relocation fund to make the spectrum management process more effective and efficient.

PAY-AS-YOU-GO SCORING

H.R. 1320 would affect direct spending. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The Administration supports the extension of these budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's budget.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, June 10, 2003.

To All Members of the U.S. House of Representatives:

The U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses and organizations of every size, sector and region, urges you to support H.R. 1320, the Commercial Spectrum Enhancement Act. It is expected that the U.S. House of Representatives will consider H.R. 1320 on June 11 or 12, 2003, under suspension of the rules. Furthermore, we urge you to oppose any amendments that would weaken this legislation or divert substantial funds away from the primary purpose of freeing up essential spectrum for commercial usage.

This legislation would clear a major hurdle in the ongoing effort to make available more spectrum for advanced wireless services and applications. The act would establish a mechanism for reimbursing incumbent federal spectrum users for their relocation costs when their spectrum is reallocated for commercial use. The trust fund would ensure the safe and efficient transition of governmental operations from one spectrum location to another, while creating new opportunities for innovation in the wireless sector.

The creation of a spectrum relocation trust fund represents an important step in the difficult process of reforming our nation's spectrum allocation and management policies. We must continue to support these efforts in order to create the necessary incentives for investment and advancement in the technology industry, which will continue to be a key driver of the American economy.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President.

CELLULAR TELECOMMUNICATIONS
AND INTERNET ASSOCIATION,
Washington, DC, June 11, 2003.

Hon. BILLY TAUZIN,
Chairman, House Energy and Commerce Committee, RHOB, House of Representatives, Washington, DC.

Hon. JOHN D. DINGELL,
Ranking Member, House Energy and Commerce Committee, RHOB, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN AND RANKING MEMBER: The Cellular Telecommunications & Internet Association (herein, CTIA) offers its unqualified support for the Commercial Spectrum Enhancement Act (H.R 1320). We salute your hard work on this legislation and urge its passage by the House of Representatives. CTIA represents all categories of commercial wireless telecommunications carriers, including cellular and personal communications services, manufacturers and wireless Internet providers.

CTIA and the wireless industry appreciates the efforts of the many members who are cosponsors of H.R. 1320, in particular Telecommunications Subcommittee Chairman Upton and Congressman Towns, the lead sponsors.

Passage of H.R. 1320 would significantly improve spectrum management for both government spectrum users and for the commercial wireless industry. The current process is a "black hole" for both government agencies and the private sector—filled with uncertainty, punctuated by unknown costs, and bereft of predictability. The current process works for no one.

President Bush identified that fact in both the Fiscal Year 2003 and 2004 Budgets and called for the legislative changes that are embodied in H.R. 1320. The relocation fund legislation balances three key policy objectives: First, H.R. 1320 fully funds government relocation, providing certainty essential to the Defense Department and all other government incumbents. Second, H.R. 1320 will result in workable timelines for both wireless industry and government incumbents. Third, H.R. 1320 provides certainty and accountability in developing—and adhering to—relocation cost estimates and relocation timetables.

During his March 25 testimony, Deputy Assistant Secretary of Defense for Spectrum, Space, Sensors and C3 Steven Price called for a "trustworthy Trust Fund." We concur, H.R. 1320 provides exactly this solution.

This bi-partisan legislation is a "win-win-win" solution, benefiting our national security, our nation's economy and American consumers. CTIA looks forward to continuing to work with you and all members of the Committee to assure that this legislation is soon law.

Sincerely,

STEVEN K. BERRY,
Senior Vice President, Government Affairs.

Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the powerful Committee on Energy and Commerce.

Mr. TAUZIN. Mr. Speaker, I thank the distinguished chairman of the Subcommittee on Telecommunications and the Internet, the gentleman from Michigan (Mr. UPTON); and I want to congratulate him on his hard work and the work product that we debate here on the House floor today.

I particularly also want to congratulate and thank my friend, the gentleman from Massachusetts (Mr. MARKEY), the ranking member of the subcommittee, and my dear friend, the gentleman from Michigan (Mr. DINGELL), the dean of our House and the ranking Democrat on the full committee, for the extraordinary cooperation that has been shown on this and so many pieces of legislation that our Committee on Energy and Commerce brings to the floor in the course of a year.

This is one of those rare occasions where the administration, the Democrats and Republicans are all on the same page. We all agree this is of vital importance to the national economy, to the advancement of important wireless technologies for the good of our consumers in America and for the good of the lead that our Nation has played in world telecommunications technologies and commerce.

This is one area where we can immediately begin to assist the Nation's economy in recovering, where we can immediately begin to do something to advance the cause of third-generation wireless technologies, the video and data links that are going to provide new services, equipment and products, built in America, made by American hands and used by Americans to advance the progress of their lives and their social contact with one another.

This is a good day for America, because we have come together and realized that all the handicaps, all the internecine battles that may have been fought between agencies and those in the private sector who wanted spectrum to begin to develop these new technologies, all of these fights about who is going to pay the relocation costs to get the spectrum made available to have these things happen in our country are now being resolved by this relocation trust fund, a concept that says the trust fund is going to be there to make sure the relocation costs are taken care of so the FCC can move these new and exciting technologies to the forefront so Americans can enjoy them and our economy can grow again.

This is a good day, but I want to point out to Members how without this kind of legislation things go wrong. We passed a bill on this House floor, again with the extraordinary bipartisan support of our friends on the Democratic side of our committee in this House and with the President's support, called E911. E911 is a concept that says when a person makes an emergency 911 call, it would be good to know where they are calling from; and when they are using a mobile telephone it would be certainly extraordinarily helpful if the person who received the 911 call could identify the location of the caller, because often the call is made in times of distress, an accident on the highway, a mugging in a park, a call of distress made by a citizen who is lost or in trouble on the highway and needs assistance, someone who has been seriously injured and cannot get help, cannot leave the automobile.

One of my dearest friends a few years ago was in an automobile accident in the middle of the night. His car got flipped off the road, and he landed in one of those wonderful Louisiana marshes on the side of the road and no one could see him on the highway. He spent the night there, crushed, bleeding, broken, until a garbage truck driver spotted him from the highway the next morning.

He nearly died. He went through incredible, horrible operations that might have been avoided if only E911 were in place, where he could have picked up his mobile phone in that car, called 911, and immediately somebody could have known where he was and an ambulance could have come to his rescue.

That is what E911 is all about. E911 is literally taking the "search" out of "search and rescue" and making our mobile systems work much more efficiently so we can, in that first incredible hour where we can save lives and save limbs on the highway, we get to the person who has been injured, who made the call, and we rescue them. In that important 20 minutes when someone's child is being abducted, or a house is being broken into and somebody sees it on the highway and calls from a mobile unit, we can immediately identify that location.

When those kind of things are happening in our society, when we pass a bill to facilitate this kind of technology, and we find out that the funds that are derived from the telecommunications companies to pay for the deployment of this service are being diverted by State and local governments to other purposes, even when 911 is not deployed in our communities, we should get upset.

So today I take this opportunity to congratulate the House on moving forward on this Spectrum Relocation Fund and emphasizing how important it is to get the ball rolling on these new technologies and also call upon our colleagues at the State and local level to stop raiding those E911 funds. They are set up, like this relocation fund, to get that technology deployed.

In the E911 case, it is not just to get a technology that is going to enrich our entertainment values or satisfy our need for information exchanges and mobile services. In E911 it is going to mean somebody's life. It may mean someone you love survives. It may mean my friend would not have had to go through all of those operations and not have had to spend the night broken and wounded in the swamps of Louisiana waiting for rescue. That is how important it is.

So I hope, and I know my friends on the other side agree with me on this, we need to urge our friends at the State and local governments to take a good example from what we are doing on this relocation fund and make sure the funds that have been allocated to deploy E911 are used to deploy E911, not to cover deficit problems at a State or local government or divert it to other purposes.

E911 funds ought to be used to deploy E911. Americans ought to demand it. Any State and local government that is diverting those funds ought to be put on notice today that you are taking a chance on somebody's life when you do not deploy those services.

Here today, this House, this Congress, this government says that if we have government spectrum that we can make available to important uses like this, we are going to set up a relocation fund to make sure nobody touches it.

Mr. Speaker, I want to thank the gentleman from Iowa (Chairman NUSSLE) of the Committee on the Budget, who helped make this suspension day possible for us by helping approve this bill. I want to thank the chairman of the Committee on Appropriations, the gentleman from Florida (Mr. YOUNG), because the appropriators and budget chairmen have surrendered the right to control this money. This money is going to be in this fund to do what it was intended to do. They did the right thing when they approved this legislation.

I want to again thank the Defense Department and the head of our Committee on Armed Services, the gentleman from California (Mr. HUNTER), for working with us, because in so many cases the spectrum we are talking about is now under the control of the Defense Department. That is the spectrum that might make the new generation of wireless services available for Americans.

I want to thank all of them for working with us on this legislation. This is the best example of Democrats and Republicans, of government agencies, of the White House, of everybody agreeing that we can do something good for the American economy, great for telecom resurgence in this country, great for new consumer services, great for all who produce and develop and work for the technology companies that make these incredible products available to us in America and to people all over the world. This is a good day for this House and for this government and for this country, and I urge approval of this legislation.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. TOWNS), the principal cosponsor of this legislation.

Mr. TOWNS. Mr. Speaker, I rise as a cosponsor and strong supporter of the Commercial Spectrum Enhancement Act. H.R. 1320 will allow for deployment of advanced wireless services through relocating federally owned spectrum to commercially designated areas and allowing the carriers to bid on the bands of spectrum currently held by the government. The bill would also allow NTIA and the Department of Defense adequate flexibility to complete the relocation while being held liable for the funds spent by the General Accounting Office.

Another important provision of the bill, Mr. Speaker, deals with the Telecommunications Development Fund, TDF, which was founded as part of the 1996 Telecommunications Act to ensure that entrepreneurs in rural and underserved areas are not left behind by the digital economy.

□ 1045

The language in H.R. 2350 will allow the TDF to extend loans to start up technology and telecom companies in rural and underserved areas without being held to the standards of the Fair Credit Reform Act, which is good. Not only will this be a boon to small business, but it will also spur innovation and investment, both of which are desperately needed in this day and age.

I would like to again thank the gentleman from Louisiana (Chairman TAUZIN), I would like to thank the ranking member, the gentleman from Michigan (Mr. DINGELL), the lead sponsor of the bill, the gentleman from Michigan (Mr. UPTON), chairman of the subcommittee, and the ranking member of the Subcommittee on Telecommunications and the Internet, the gentleman from Massachusetts (Mr. MARKEY).

In addition, I would also like to thank Jesse McCollum from my staff, and Will Nordwind, Howard Waltzman, and Greg Rothschild of the committee staff, for their efforts as well.

I urge my colleagues to vote for this good government bill because it makes a lot of sense and it is something that we should do.

Mr. MARKEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would add to that litany of saints which was just uttered by the gentleman from New York (Mr. TOWNS). I would also like to add the names of David Schooler, who is counsel to the gentleman from Michigan (Mr. DINGELL) and the Democrats on the committee, and to Colin Crowell on my staff, who participated in the drafting of this legislation right from its inception.

During the course of the actual drafting of the bill, his first son Gavin was born, while balancing those two important responsibilities. Both of them have come out extremely well over the last month. I think our country for the future is much brighter because of the work of Colin for our Nation over this past year.

I hope that the other Members of this great Chamber deem fit to pass this important legislation today, which will help us become stronger economically while not undermining the defense of our Nation at all.

Mr. Speaker, I yield back the balance of my time.

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support this legislation. It is good legislation, a win-win. I look forward to getting it to the President's desk and working with the other body as well to make sure this bill happens.

Mr. GREEN of Texas. Mr. Speaker, I rise in support of H.R. 1320, and I would like to thank Chairman UPTON, Ranking Member MARKEY, Chairman TAUZIN, and Ranking Member DINGELL, the dean of the House, for the opportunity to work with them on this beneficial legislation, of which I am proud to be an original cosponsor.

I am pleased that our House leadership has moved this bill to the floor in a timely manner. This is good, consensus legislation.

The Commercial Spectrum Enhancement Act is a reasonable, effective effort to allow American consumers to more quickly benefit from the ambitious rollout of wireless technologies that America's wireless industry is planning in the near future.

By freeing up federal spectrum for the market, consumers who are coming to depend on mobile communications will greatly benefit.

Wireless technology increases economic efficiency and productivity, increases convenience and connectivity for individuals and families, and is ready to be a major growth sector of the technology economy.

I would like to point out some key aspects of this bill that make it deserving of support by all in this House. Number 1 is filling national security needs.

This bill has a sustainable and predictable funding mechanism to ensure DOD does not have to cut corners with their communications.

Robust communications are especially critical to our modern military's ability to get its job done, and DOD, and all other federal agencies should be fully, 100 percent compensated for spectrum relocation costs.

Number two is the Congressional oversight of the spectrum auction and relocation process to be led by the Commerce Committee and the GAO.

While the Department of Defense may be the most essential federal agency and one with a great tradition of heroism and honor—waste, fraud, and abuse do occur there. That is no particular criticism of DOD, just the federal government in general.

Mr. Speaker, I urge my colleagues to suspend the rules and pass this consensus legislation.

Mr. DINGELL. Mr. Speaker, I strongly support H.R. 1320, the "Commercial Spectrum Enhancement Act," to ensure that consumers benefit from the tremendous technological advances in commercial wireless services.

I had several concerns when this bill was first introduced, and I commend Chairmen TAUZIN and UPTON for working with me to address my concerns.

It is important that the Committee on Energy and Commerce, whenever it creates a direct funding mechanism to achieve a policy goal, ensure that both the Committee and the congress maintain full and effective oversight abilities. I am comfortable that the substitute before us achieves that goal.

First, it directs that both the Comptroller General and the Energy and Commerce and Appropriations Committees receive reports on the preliminary and final cost estimates for all relocations. The Committees and the General Accounting Office (GAO) will also receive reports on an annual basis regarding adherence to cost estimates and proposed timelines. These materials, taken together, will permit the Congress to closely monitor the spending inclinations of the Department of Defense and other agencies as they relocate to new spectrum.

Also—this is particularly important—if an agency ever exceeds its spending estimates by 10 percent, it has to justify that increase both to the relevant Committees and to the GAO. In addition, the government agency in question is prohibited from spending the additional request for 45 days while the Congress examines the reason for the cost overrun.

These provisions are not perfect, but they represent a good faith effort on the part of the Energy and Commerce leadership to exercise effective oversight over the relocation process. I am pleased that Chairman TAUZIN, Subcommittee Chairman UPTON, Subcommittee Ranking Member MARKEY and I will be working with the GAO throughout the process to ensure that its work is thorough and its oversight is effective.

Mr. Speaker, I look forward to passing this legislation and to bringing the next generation of wireless services to America's consumers.

Mr. UPTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) to suspend the rules and pass the bill, H.R. 1320.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. MARKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

WELFARE REFORM EXTENSION ACT OF 2003

Mr. HERGER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2350) to reauthorize the Temporary Assistance for Needy Families block grant program through fiscal year 2003, and for other purposes.

The Clerk read as follows:

H.R. 2350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Welfare Reform Extension Act of 2003".

SEC. 2. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the amendment or repeal shall be considered to be made to a section or other provision of the Social Security Act.

SEC. 3. CONTINUATION OF TANF BLOCK GRANT FUNDING.

(a) STATE FAMILY ASSISTANCE GRANT.—Section 403(a)(1) (42 U.S.C. 603(a)(1)) is amended—

(1) in subparagraph (A), by striking "and 2002" and inserting "2002, and 2003"; and

(2) by striking subparagraphs (B) through (E) and inserting the following:

"(B) STATE FAMILY ASSISTANCE GRANT.—The State family assistance grant payable to a State for a fiscal year shall be the amount that bears the same ratio to the amount specified in subparagraph (C) of this paragraph as the amount required to be paid to the State under this paragraph for fiscal year 2002 (determined without regard to any reduction pursuant to section 409 or 412(a)(1)) bears to the total amount required to be paid under this paragraph for fiscal year 2002 (as so determined).

"(C) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 2003 $16,566,542,000 for grants under this paragraph.".

(b) MATCHING GRANTS FOR THE TERRITORIES.—Section 1108(b)(2) (42 U.S.C. 1308(b)(2)) is amended by striking "2002" and inserting "2003".

(c) BONUS TO REWARD DECREASE IN ILLEGITIMACY RATIO.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amended—

(1) in subparagraph (C)(ii), by striking "and 2002" and inserting "2002, and 2003"; and

(2) in subparagraph (D), by striking "2002" and inserting "2003".

(d) SUPPLEMENTAL GRANTS FOR POPULATION INCREASES IN CERTAIN STATES.—Section 403(a)(3)(H) (42 U.S.C. 603(a)(3)(H)) is amended—

(1) in the subparagraph heading, by striking "of grants for fiscal year 2002";

(2) in clause (i), by striking "fiscal year 2002" and inserting "each of fiscal years 2002 and 2003";

(3) in clause (ii), by striking "2002" and inserting "2003"; and

(4) in clause (iii), by striking "fiscal year 2002" and inserting "each of fiscal years 2002 and 2003".

(e) CONTINGENCY FUND.—

(1) IN GENERAL.—Section 403(b)(2) (42 U.S.C. 603(b)(2)) is amended by striking "and 2002" and inserting "2002, and 2003".

(2) CONFORMING AMENDMENT.—Section 403(b)(3)(C)(ii) (42 U.S.C. 603(b)(3)(C)(ii)) is amended by striking "2002" and inserting "2003".

(f) FEDERAL LOANS FOR STATE WELFARE PROGRAMS.—Section 406(d) (42 U.S.C. 606(d)) is amended by striking "2002" and inserting "2003".

(g) MAINTENANCE OF EFFORT.—Section 409(a)(7) (42 U.S.C. 609(a)(7)) is amended—

(1) in subparagraph (A), by striking "or 2003" and inserting "2003, or 2004"; and

(2) in subparagraph (B)(ii), by striking "2002" and inserting "2003".

(h) GRANTS TO INDIAN TRIBES.—Paragraphs (1)(A) and (2)(A) of section 412(a) (42 U.S.C. 612(a)(1)(A) and (2)(A)) are each amended by striking "and 2002" and inserting "2002, and 2003".

(i) CENSUS BUREAU STUDY.—Section 414(b) (42 U.S.C. 614(b)) is amended by striking "and 2002" and inserting "2002, and 2003".

SEC. 4. CONTINUATION OF MANDATORY CHILD CARE FUNDING.

Section 418(a)(3)(F) (42 U.S.C. 618(a)(3)(F)) is amended by striking "fiscal year 2002" and inserting "each of fiscal years 2002 and 2003".

SEC. 5. CONTINUATION OF CHILD WELFARE DEMONSTRATION AUTHORITY.

Section 1130(a)(2) (42 U.S.C. 1320a-9(a)(2)) is amended by striking "2002" and inserting "2003".

SEC. 6. CONTINUATION OF ABSTINENCE EDUCATION FUNDING.

Section 510(d) (42 U.S.C. 710(d)) is amended by striking "2002" and inserting "2003".

SEC. 7. CONTINUATION OF TRANSITIONAL MEDICAL ASSISTANCE.

(a) IN GENERAL.—Section 1925(f) (42 U.S.C. 1396r-6(f)) is amended by striking "2002" and inserting "2003".

(b) CONFORMING AMENDMENT.—Section 1902(e)(1)(B) (42 U.S.C. 1396a(e)(1)(B)) is amended by striking "2002" and inserting "2003".

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect on July 1, 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HERGER) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2350, the Welfare Reform Extension Act of 2003. This legislation is a simple 3-month extension of key parts of the Nation's welfare system.

Since the historic 1996 welfare reform law, nearly 3 million children have been lifted from poverty, record shares of current and former welfare recipients are working, and welfare dependence has been cut in half. Despite the challenges facing our country, these welfare reforms continue to benefit families with children by promoting work by low-income parents.

Unless we act, the authorization for key welfare programs will expire on June 30, 2003. H.R. 2350 will continue current funding for these programs through September 30, 2003. That will provide the Senate more time to consider a broad welfare reauthorization bill along the lines proposed by the President and already passed by the House.

Members will recall that the House passed a broad 5-year welfare reauthorization bill last year. The Senate did not act on that bill before the 107th Congress adjourned. The 2002 House bill was the product of intensive research and evaluation, including more than 20 hearings in the House. Key provisions focused on achieving more work, less poverty, and stronger families.

In February 2003, the House again acted on a full 5-year welfare reform reauthorization bill and approved H.R. 4, an updated version of its 2002 bill. While we have been waiting for consensus on a long-term reauthorization of these programs, the House and Senate have agreed to three separate short-term extensions. Those extensions covered the first, second, and third quarters of the current fiscal year.

The legislation before us today would do more of the same, extending these programs for the fourth quarter of the current fiscal year, or through September 30, 2003. States and families would be on the receiving end if we reach agreement on a long-term reauthorization bill.

The House-passed 5-year reauthorization bill, H.R. 4, encourages even more low-income parents to work while providing more resources to support them. Unfortunately, the improvements included in H.R. 4 will continue to remain on hold while we pass short-term placeholder extensions. For example, H.R. 4 as passed by the House provides at least $2 billion in added child care funds over 5 years, along with more flexibility in spending cash welfare funds on child care and other needs.

So long as we continue to extend our Nation's welfare system on a short-term basis, States cannot take advantage of these additional dollars or improve flexibility. That means low-income families will not see the benefits of the improvements we have proposed for the program. Ultimately, the success of the 1996 law reforms may begin to erode as well.

It is my hope H.R. 2350 will be the final short-term extension we approve, and in the next 3 months we get a comprehensive welfare reform bill to the President's desk for signature.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this 3-month extension of the funding for the Temporary Assistance for Needy Families, or TANF, program. I also support the bill's continuation of funding for a series of programs designed to help people leave welfare for work, including child care assistance and transitional Medicaid coverage. Without this extension, funding for all these vitally important programs would expire at the end of this month.

While this bill is important, it is obviously only a stopgap measure, as the chairman has indicated. Unfortunately, this is the fourth short-term extension we have been forced to pass since last fall. Rather than continuously enacting these temporary measures, we should be sitting down to figure out how to craft a good 5-year reauthorization for the TANF program.

I appreciate my chairman's hope that this will be the last of our extensions. I can tell my chairman, the best way to make sure that this will be the last of these short-term extensions is for us to get together, Democrats and Republicans, with Members of the other body and the administration, and work out a true bipartisan compromise on a reauthorization that will help America's families.

But regrettably, the Republican leadership of this House has precluded such discussions by literally ramming through a TANF reauthorization without any hearings and without any opportunity this year for us to work our will, so once again we are stuck without a long-term commitment to many of our Nation's most important antipoverty programs.

My friends on the other side of the aisle may be tempted to blame the other body, but let me tell the Members, I think it has been our actions, not theirs, that have stalled the opportunity to enact a comprehensive 5-year reauthorization bill. President Bush did send to Congress a rigid, Washington-knows-best welfare plan that was criticized by Governors, mayors, welfare administrators, poverty experts, and religious leaders. It focused on make-work instead of real jobs for welfare recipients, and it replaced State flexibility with unfunded mandates.

Mr. Speaker, on Monday three dozen religious leaders sent a letter to President Bush echoing these concerns. Let me quote a little from that letter. These were religious leaders, some of whom helped the administration in crafting its policy.

"Poor people are suffering; and our faith-based service providers see it every day in communities across the country . . . We believe that the budget your administration has put forward fails to protect and promote the well-being of our poorest and most vulnerable citizens. The tax cut passed by Congress with your support provides virtually no help for those at the bottom of the economic ladder, while those at the top reap windfalls."

The letter goes on to say:

"Pro-family commitments to invest in adequate child care, education, and training for our poorest families have fallen short in your administration's proposals. The most effective and bipartisan public policies for reducing poverty have not been adequately supported by your administration."

This letter from religious leaders concludes by suggesting, "many are feeling betrayed" by the disconnect between the President's words and the actions on poverty-related issues.

Mr. Speaker, I include for the RECORD a copy of this letter.

The letter referred to is as follows:

CALL TO RENEWAL,
Washington, DC, June 9, 2003.

DEAR MR. PRESIDENT: We are all leaders in the faith community, whose churches and faith-based organizations are on the front lines of fighting poverty. Many of us have supported your faith-based initiative from the beginning of the administration. Several of us have met with you to discuss the churches' role in overcoming poverty and have offered solid support to our friends, John Dilulio and Jim Towey, who have led your Office of Faith Based and Community Initiatives. But while we have consistently backed faith-based approaches to poverty reduction, we have also insisted they must be accompanied by policies that really do assist low-income families and children as they seek self-sufficiency.

Mr. President, it is a critical time for poor people in America. Poor people are suffering; and our faith-based service providers see it every day in communities across the country. The poor are suffering because of a weakening economy. The poor are suffering because of resources being diverted to war and homeland security. And the poor are suffering because of lack of attention in national public policy.

We are writing because of our deep moral concern about consistency in your administration's support for effective policies that help alleviate poverty. We believe a lack of focus on the poor in the critical areas of budget priorities and tax policy is creating a crisis for low-income people. We believe the budget your administration has put forward fails to protect and promote the well being of our poorest and most vulnerable citizens. The tax cut just passed by the Congress with your support provides virtually no help for those at the bottom of the economic ladder, while those at the top reap windfalls. The resulting spending cuts, at both federal and state levels, in the critical areas of health care, education, and social services, will fall heaviest on the poor. Budgets are moral documents.

You have taken many positive steps with regard to international aid and development, such as the HIV/AIDS initiative, and we would like to see that compassion manifest here at home. In significant social programs, like welfare reform, we have supported the proposals of your administration to strengthen marriage and family as effective antipoverty measures; but the companion pro-family commitments to invest in adequate child care, education, and training for our poorest families have fallen short in your administration's proposals. The most effective and bipartisan public policies for reducing poverty have not been adequately supported by your administration.

Over the past several years, we have advocated several policy initiatives in addition to the "faith-based initiative" that would help low-income people in this country. These include TANF reauthorization that makes poverty reduction a priority, targeted tax relief for low-income families, and funding for proven programs that would effectively reduce poverty. We believe administration support for such policies would be consistent with your stated commitment of being compassionate toward the poor, especially since you have spoken more about issues of poverty than many of your predecessors.

We recall your Notre Dame address two years ago, where you pointed out: "Government has an important role. It will never be replaced by charities. . . . Yet, government must also do more to take the side of charities and community healers, and support their work. . . . Government must be active enough to fund services for the poor—and humble enough to let good people in local communities provide those services."

Mr. President, "the good people" who provide such services are feeling overwhelmed by increasing need and diminishing resources. And many are feeling betrayed. The lack of a consistent, coherent, and integrated domestic policy that benefits low-income people makes our continued support for your faith-based initiative increasingly untenable. Mr. President, the poor are suffering, and without serious changes in the policies of your administration, they will suffer even more.

When you announced the faith-based initiative, you pledged that: "I want to ensure that faith-based and community groups will always have a place at the table in our deliberations." Mr. President, it's time to bring faith-based organizations to the table where policy decisions are being made. We are concerned that the needs of poor people in America seem to have little influence in the critical policy decisions your administration is making. The faith-based-initiative seems to be the only place in your administration where poverty is prioritized, yet we know that faith-based initiatives alone will never be sufficient to solve the problems of poverty. As we have discussed with you the faith-based initiative, we now want to engage your administration in a serious conversation about domestic social policy. Mr. President, it's time to talk.

Sincerely,

Rev. Jim Wallis, Convener and President, Call to Renewal.

David Beckmann, President, Bread for the World.

Rev. Peter Borgdorff, Executive Director of Ministries, Christian Reformed Church.

Lt. Col. Paul Bollwahn, National Social Services Secretary, The Salvation Army.

J. Daryl Byler, Director, Washington Office, Mennonite Central Committee.

Bart Campolo, President, Mission Year.

Tony Campolo, President, Evangelical Association for Promotion of Education.

Rt. Rev. John Bryson Chane, Bishop, Episcopal Diocese of Washington, DC.

Rt. Rev. Steven Charleston, President and Dean, Episcopal Divinity School.

Dave Donaldson, President, We Care America.

Rev. Dr. Robert Edgar, General Secretary, National Council of Churches in the USA.

Dr. Robert M. Franklin, Presidential Distinguished Professor, Candler School of Theology, Emory University.

Wayne Gordon, President, Christian Community Development Association.

Rev. Wes Granberg-Michaelson, General Secretary, Reformed Church in America.

Rev. Dr. Richard Hamm, General Minister & President, Christian Church—Disciples of Christ in the US and Canada.

Rev. Mark Hanson, Presiding Bishop, Evangelical Lutheran Church in America.

Bishop Thomas L. Hoyt, Jr., Presiding Bishop, Fourth District, Christian Methodist Episcopal Church, President-elect, National Council of Churches in the USA.

David G. Hunt, President, American Baptist Churches USA.

Hyepin Im, President, Korean Churches for Community Development.

William "Bud" Ipema, Vice-President, Council of Leadership Foundations.

Rev. Alvin Jackson, National City Christian Church, Moderator, Christian Church-Disciples of Christ in the US and Canada.

Rev. Ted Keating, SM, Executive Director, Conference of Major Superiors of Men.

Rev. Cliffton Kirkpatrick, Stated Clerk, Presbyterian Church USA.

Rt. Rev. Mark MacDonald, Bishop, Episcopal Diocese of Alaska.

Bishop Felton Edwin May, Presiding Bishop, Baltimore-Washington Conference, United Methodist Church.

Rev. Dr. A. Roy Medley, General Secretary, American Baptist Churches USA.

Gordon Murphy, Executive Director, Christian Community Development Association.

Rev. Glenn R. Palmberg, President, Evangelical Covenant Church.

Bishop Donald A. Ott, Coordinator, United Methodist Council of Bishops Initiative on Children and Poverty.

Carole Shinnick, SSND, Executive Director, Leadership Conference of Women Religious.

Ron J. Sider, President, Evangelicals for Social Action.

Rev. John H. Thomas, General Minister and President, United Church of Christ.

Joe Volk, Executive Secretary, Friends Committee on National Legislation.

Jim Winkler, General Secretary, General Board of Church and Society, United Methodist Church.

Mr. Speaker, let me also point out to my colleagues a book that was recently released by Elizabeth Sawhill as the editor called "One Percent for Kids. I mention that because the gentlewoman from Connecticut (Mrs. JOHNSON) and I participated on a panel at Brookings on this particular subject.

I want to just emphasize one point that was pointed out in the beginning of this book. At the present time, our Nation is spending 2 percent of its gross domestic product on programs for children. We are spending 2½ percent of our gross domestic product on servicing the national debt.

My chairman mentioned the fact that the TANF reauthorization bill that passed this body would increase the potential for funding for the poverty programs in this country by $2 billion. I might point out that only $1 billion was assured. The second billion was authorization. We are increasing the national debt this year by $400 billion in order to give tax cuts basically to wealthy people. To service that additional debt, it will cost somewhere between $12 billion and $14 billion in next year's budget alone.

□ 1100

So, yes, we are very generous on the tax cuts and on saddling taxpayers with interest on the national debt. But when it comes to America's future, when it comes to investing in our children for their future, we seem to have a deaf ear. One percent for kids could really help stimulate our economy and grow our economy.

Mr. Speaker, let me make it clear, speaking for my colleagues on this side of the aisle, we are ready today to sit down with our colleagues on the Republican side to work out a TANF reauthorization 5-year bill that will provide predictability, flexibility, and resources to our States to continue the job that they started 6 years ago when we reformed the welfare system in a bipartisan way. Let us continue that effort. Let us make the tools available. Let us not just try to ram through a bill that the experts tell us will not be in the best interests of our children.

Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. LEVIN), a distinguished member of the Committee on Ways and Means who is a very active member of the Subcommittee on Human Resources.

Mr. LEVIN. Mr. Speaker, the 1996 welfare reform bill expired about a year ago, and since then this Congress has passed a series of short-term extensions.

I will vote for this extension, but it is a sad reflection on this House and its majority, and on the majority in terms of the Senate, and surely on the administration that we have failed to renew and to really expand the basic principles of welfare reform that so many of us worked to enact.

The House Republican leaders rammed through a rewrite of welfare reform some months ago. It was not a continuation, but really a step backward. It was passed on a partisan vote. There was no effort in this House to create a bipartisan welfare bill. In 1996 we passed one on a bipartisan basis, but this time around there was no effort to continue that tradition. The bill that was pushed through this House also ran counter to the research that we helped to fund and the views of Governors.

In a survey that was conducted by the National Governors Association, over 40 State welfare directors said this, that the Bush administration plan would force "fundamental changes" in their successful welfare programs. And the researcher who did most of the research on welfare-to-work strategies said that the Bush administration plan would force "the most successful programs to change substantially."

So we lost, as the gentleman from Maryland (Mr. CARDIN) has said, a chance some months ago to work on a bipartisan basis in this House. And there are key differences between the approach that was embodied in the bill that passed here and what Democrats have proposed.

The first basic difference is whether people should be, who are on welfare and remain there, should be working or whether we should help people move off of welfare into work. And we Democrats say that should be the key objective of welfare reform, helping people move off of welfare into work; and that was in the proposal that the gentleman from Maryland (Mr. CARDIN) and others of us put together.

A second difference is whether the emphasis should be on people working in poverty or people working their way out of poverty, and the Democratic plan emphasized people working their way out of poverty.

A third difference related to the issue of work supports. In 1996, the first welfare reform bill was vetoed by President Clinton because there were inadequate day care money and inadequate health care provisions. And then the majority here came back and finally agreed to adequate health care and adequate day care. But in the bill that passed here some months ago, there were inadequacies in terms of health care provisions and also in terms of day care provisions.

So here we are again. We are suggesting a quarterly extension. We cannot allow this legislation that was passed almost 7 years ago now to simply die. We have to continue the process. We owe it to this country. We owe it to the families who are trying to work their way off of welfare into work. But we need to do better. As the gentleman from Maryland (Mr. CARDIN) said to the chairman of the subcommittee, and really to the chairman of the committee, and really to this whole House, let us go back and try to put together a bipartisan product. Welfare reform deserves more than a partisan approach.

So that is really the basic issue before us today. We will pass the extension. I urge everybody to vote for it. But I do not think that it should be an excuse for further inaction by the majority in this House.

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to remind everyone that what we are renewing is an updated legislation that we had some 20 hearings on in the last Congress. It is legislation that is updating probably the most successful social welfare reform in our Nation's history. More than 50 percent of those who have been on welfare are now out being productive. Child poverty levels are at the lowest in history. Again, what we need to do is extend this for the 3 months so that we can get agreement in the Senate so we can move forward with this updated legislation.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. ENGLISH), a member of the committee and subcommittee.

Mr. ENGLISH. Mr. Speaker, I would like to thank the gentleman for yielding me time.

Mr. Speaker, I particularly welcome the opportunity to come to the floor and invite my colleagues to support this extension on a bipartisan basis. I will talk more on this in a moment; but too often we have seen partisanship, as the gentleman pointed out, but not with the examples that he had cited. We have seen partisanship creep into the debate on welfare reform, and I think it has detracted from the seriousness of the endeavor.

As the chairman of the subcommittee noted, this has been, if not one of the greatest social reforms of the 20th century, certainly the most successful social reform of the last 20 years of the last century. We were successful in overhauling a failed welfare system. And as a result, some 3 million children have risen out of poverty since the bill that we had passed and we developed in the subcommittee, and I was there in 1996, and was signed into law by the last administration.

According to the U.S. Department of Agriculture, the number of American children experiencing hunger has plummeted to half the number in 1995. Now, the economy was growing during this period; but we also have to recognize that at different times when the economy was growing in the past, the welfare rolls had also been growing. During this period, the welfare rolls were literally cut in half. In all, 3.5 million fewer Americans lived their lives in poverty than in 1995.

The results of welfare reform are hard to argue with, although some on the left are continuing to try to make that argument.

While this success is inspiring, we recognize that more work needs to be done and further changes need to be made, which were embodied in the bill that we passed last year. May I say we need to recognize that some of the things that were included in the bill that we passed earlier this year, which was a replication of what had passed in the earlier Congress to fully reauthorize this program, including initiatives like full-check sanction, a very important reform that makes very clear if you do not follow the rules, you do not get your welfare benefits.

Some 2 million recipients now remain dependent upon welfare assistance and many still do not participate in work or training programs. In response, we have passed in our reauthorization, a boost of tough work requirements and reinvigorated work incentives for State and welfare recipients. Stronger welfare reform means less dependence and more economic independence for poor people in America. Perhaps more importantly, strengthening welfare reform means fewer American children will be living in poverty.

However, some opponents of welfare reform, as we have seen, have sought to turn back the clock by running out the clock on this reauthorization. We saw that in the Senate in the last Congress; and, unfortunately, in this Congress the Senate has not taken up the bill in as timely a fashion as we would like. Hence, we are with this bill today.

I believe that there are opponents of this effective social policy that are trying to filibuster our attempts to fight poverty. I urge the Senate to end this obstructionism and work with us to enact a strengthened TANF program.

I am hopeful that this bill will pass today; but having heard some of the remarks earlier on the floor, I also want to take a moment to clarify the record. Yes, the bill that passed in 1996 passed finally with bipartisan support. But in its earlier forms it had been consistently opposed by the minority. The record shows very clearly the broad outline of what we had proposed and was signed into law was present in the earlier versions of the bill, but it was opposed by the Clinton administration and opposed by many on the minority side. We had sought bipartisanship in that markup in 1996 just as we had sought bipartisanship last year and this year. But bipartisanship requires both parties to engage. We also have shown on our side, in the majority, a strong and consistent commitment to day care, whereas, we were faulted by some for not adequately funding day care. In fact, in 1996 we put twice as much funding, substantially more funding for day care than the Clinton administration had originally proposed. So that has always been a red herring.

What we have done is give the States adequate resources to meet the needs of poor people; and as they brought more and more off the rolls, they have been extraordinarily successful in meeting those needs.

We need to continue that work and continue this bill by passing this reauthorization.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, let me just comment briefly on my friend's, the gentleman from Pennsylvania's (Mr. ENGLISH), revisionist history.

The original welfare reform bill was signed by President Clinton. He held out his final support because it was moving through Congress without the child care provisions that my friend from Pennsylvania is now taking credit for or the health provisions.

Let me also point out, if I might, Mr. Speaker, that a lot has happened in the last year. We have had no hearings on this legislation in this Congress. Yet we have extended unemployment insurance. We have seen a deterioration in our economy. We have seen our States strapped with some of the highest budget deficits in their history. And yet on the most important anti-poverty program in our Nation, we have not had one hearing or one opportunity to deal with the bill on this reauthorization act. That is not bipartisanship, and that is not an open process.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Maryland (Mr. CARDIN) for yielding me time. I thank him for his leadership on this issue in the Committee on Ways and Means.

Let me acknowledge to the chairman of this committee that I stand in support of the extension of the temporary assistance for needy families block grant reauthorization. But I think it is important to put a face on this question. And my good friend from Maryland (Mr. CARDIN) made a very good point. We have a troubled economy, almost a crumbling economy. And, frankly, it is imperative, it is almost urgent, it is a crisis that we have hearings on this particular legislation, the idea of welfare reauthorization, because people are hurting.

The history of this legislation was aptly pointed out that, in fact, as more people moved from welfare to work in the mid-1990s, it was because the economy was percolating. Under President Clinton's administration and the 1997 Budget Act, jobs increased and opportunities increased for those welfare recipients moving off of welfare; as I heard the chairman mention, more work, stronger families and less poverty.

Today we have the complete opposite: a deficit that is blossoming, booming and imploding; unemployment at 6.1 percent; constituents in my district begging for work but without the opportunity for work. Just last weekend in visiting with my constituents, a single mother with three children, working every day, begged me for increased child care assistance.

□ 1115

The reason why that bill passed in the mid-1990s that President Clinton signed is because he held out for child care and health assistance. What do we have now? We have the complete opposite. We have poverty growing deeper, more people in poverty and needing welfare, and no response from this Congress.

Yet the Democratic approach, which we are prepared to sit down and negotiate, involves more welfare recipients getting real jobs coming out of poverty, not make-work jobs, State flexibility to help welfare recipients move into employment, even in the backdrop of these terrible economic conditions. We need more education training, which the Democratic bill has, which we have not been able to get to the table and discuss and negotiate in a bipartisan way, and then of course the whole issue of child care services.

Mr. Speaker, we have another crisis because in fact as we extend this legislation but yet not have the real hearings that we need to have, we are still fighting to get the child tax credit bill on the floor of the House. We are still fighting to get the Republican leadership of this House to understand that people are living in a crisis, and those making $10,000 to $26,000 a year are begging us to pass the Senate bill which gives an additional $154 on average per child to hardworking low-income families, up to 12 million families.

The new tax law provides each of America's 190,000 families, meaning the bill passed by the Republicans, a $550 billion tax cut, an average of $93,500. So here we are, extending a welfare bill without real hearings to be able to assist us in getting a real welfare reform bill, and yet we cannot get the child tax credit bill, the refund bill, the freestanding Senate bill which has been passed by the Senate to aid 12 million families, we cannot get it on the floor of the House.

What we are hearing are rumors about a kitchen sink full of unnecessary additions to the tax bill that will do nothing but throw it into conference and delay this refund to needy working families in America. I hope as we extend and vote to extend this particular bill, we do it on behalf of those families who made a change in their life and those attempting to make a change, but we cannot really help America's working families unless we sit down in a bipartisan way and work on the Democratic approach and come together on a bill that truly puts tools and skills in the hands of those who want to move from welfare to work.

Finally, Mr. Speaker, we are shamed if we continue to pay 190,000 rich families in America $93,000, and we cannot afford to give working families on average $154. Let us vote for the Senate bill on the tax question and reextend this legislation.

Mr. Speaker, I rise in support of H.R. 2350, a bill to reauthorize the Temporary Assistance for Needy Families (TANF) block grant program. TANF is an important program for millions of needy families and it is right that we support the extension in funding that this bill provides.

While I support this bill, I agree with my Democratic colleagues who have said that this three month extension is only the beginning of what we must do to provide for the needy. I also agree with my colleagues that we need to bring to the floor and pass a bill to extend the child credit to more than 6 million families that were excluded from the legislation that the President recently signed. Extending the child tax credit will do much to aid low-income families in this country. As such, passing the child tax credit bill should be the next order of business by this body.

Mr. Speaker, in 1996, the House passed "The Personal Responsibility and Work Opportunity Reconciliation Act." The act was a far-reaching welfare reform plan that dramatically changed the Nation's welfare system. The primary change is that welfare recipients are now required to work in exchange for the time-limited assistance that they receive.

As part of that bill, the Temporary Assistance for Needy Families program replaces the Aid to Families with Dependent Children (AFDC) and Job Opportunities and Basic Skills Training (JOBS) programs. Under TANF, States and territories operate programs, and tribes have the option to run their own programs. States, territories, and tribes each receive a block grant allocation with a requirement on States to maintain historical levels of State spending known as maintenance of effort. Moreover, the Personal Responsibility and Work Opportunity Reconciliation Act empowers States with the flexibility to design their TANF programs.

Under TANF, recipients must work after 2 years of receiving assistance. With the county's current economic standing being so poor, it is difficult to find employment not only for TANF recipients but also for most unemployed people who are looking for work. To count toward State work requirements, recipients are required to participate in unsubsidized or subsidized employment, on-the-job training, community service, 12 months of vocational training, or they must provide child care services to individuals who are participating in community service. In this House, we know that budgets for subsidized employment programs have been cut, funds for vocational training are being slashed, and education programs are being decreased on the State and Federal level. The diminution of those employment and education programs only hurts TANF recipients and other low-income families.

Mr. Speaker, there is a 5-year time limit for families who receive TANF. In other words, after receiving 5 years of assistance over a lifetime, recipients are ineligible for cash aid. If we do not do what is needed to get this economy moving and to create jobs for the unemployed, there will be many families bumping up against the cutoff time for their TANF benefits.

In closing, I will support this bill for the good of my constituents. I call upon the other members of this body to support this bill and to support the child tax credit for low-income families immediately. Finally, I call upon my colleagues on the other side of the aisle to stop the attack against working families and to support positive initiatives to help improve the lives of American families.

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to remind the other side how successful this legislation has been since 1996. Child poverty has fallen sharply. Nearly 3 million children have been lifted from poverty. The black child poverty rate is now at a record low. More parents are working. Employment by mothers most likely to go on welfare rose by 40 percent from 1995 to 2000. Dependence fell by unprecedented levels. Welfare caseloads fell by 9 million, from 14 million recipients in 1994, to just 5 million today.

Again, this is legislation that has been updated this year that we had some 20 hearings on in the last Congress and which passed earlier this year; and I might mention also that we provide an additional $2 billion in added child care funds in our legislation which hopefully will be renewed here in 3 months. We provide the States with more State flexibility in spending cash welfare funds, we focus more on promoting healthy marriage and child well-being, and we encourage more work, higher incomes, and less welfare dependence.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just in response to our friend from California, point out if the gentleman has so much confidence in current law in the results that have just been spelled out, I am curious as to why the bill that passed the House that is now being promoted, why over 40 of our welfare administrators in our various States have said it will cause a fundamental change in their welfare system, it would cause them to shift their local priorities to federally mandated priorities where our own scorekeepers have indicated that there are additional mandates to the States far beyond the dollars made available, far beyond the $2 billion, if in fact $2 billion is made available, our States would be required to conform to new mandates. If we believe that the current law has been so successful, why are we now taking away the ability of States to set their own priorities?

Mr. Speaker, I am going to ask my colleagues to do two things. First, I ask my colleagues to support the 3-month extension. It is the responsible thing to do. We need to approve this legislation.

Second, I am going to ask, let us all step back for a moment and take a deep breath and take a look at the issues and the families that are affected, listen to our Governors who have the principal responsibility, analyze the GAO report which indicates that most of our States have had to cut back on child care money because of their fiscal problems.

In my own State of Maryland, they are taking no new enrollments in child care unless you are on welfare. Think of this message: If you want safe, affordable child care, go on welfare. That is the wrong message. Let us talk together, let us listen to each other and let us come up with a bipartisan bill that we can be proud of, that can pass both this body and the other body and be signed by the President; and, most importantly, will help our States in their efforts not only to get people out of welfare, but to get American families out of poverty.

Mr. Speaker, I yield back the balance of my time.

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, let me remind the gentleman from Maryland (Mr. CARDIN) that just in the last 2 weeks we passed legislation which was signed by the President which gives to the States an additional $20 billion in State aid. The States also have some $6 billion in Temporary Aid to Needy Families or TANF surplus that is available to them. We also transferred some $3 billion of surplus that they have available. We also have $6 billion of unemployment that they have in surplus available.

The gentleman asked if the legislation is so successful, why would we want to make changes; child poverty has fallen, more parents are working, dependence fell by unprecedented levels. But the fact is there is still more that needs to be done. There is still 58 percent of recipients who are not working or trained. There are too many families that are breaking up, who never formed, that this legislation will address, and there are some 2 million families that remain dependent on welfare. And that is why even though this legislation has been so incredibly successful, we still have more to do.

With that, I would urge the body to support this legislation, this extending of 3 months. I urge an "aye" vote.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the bill, H.R. 2350.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CARDIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 2115, FLIGHT 100—CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 265 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 265

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill, modified by the amendment printed in part A of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. No amendment to that amendment in the nature of a substitute shall be in order except those printed in part B of the report of the Committee on Rules. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendment are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 265 is a structured rule providing for the consideration of 2115, the Flight 100 Century of Aviation Reauthorization Act. The rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. The rule provides ample opportunity to discuss this important reauthorization before us today.

H.R. 2115 is a bipartisan bill introduced by the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) as well as the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Oregon (Mr. DEFAZIO). This reauthorization of the Federal Aviation Administration, appropriately titled for the 100th anniversary of powered flight, continues a tradition of funding the promotion of safety in our skies.

Mr. Speaker, I would like to highlight some of the important provisions in the underlying legislation.

First, this legislation reauthorizes the FAA at $3.4 billion next year raising $200 million in the year after that. The FAA, nearly 45 years after it was created, takes an ever-present role as we take important steps to ensure America's security. The FAA is primarily responsible for the safety of our Nation's skies through activities ranging from the continued monitoring by air traffic controllers to the development of new air space technologies.

Within my district is Miami International Airport, which I have the privilege to represent, and is consistently one of the Nation's busiest for both international and domestic travel. I am impressed by the level of public-private cooperation between organizations such as the FAA and Miami International Airport.

Mr. Speaker, following the tragedy of September 11, 2001, our Nation's airports and airlines were forced to deal with the ever-growing and obvious problem of security. I believe that this bill contributes to this endeavor while ensuring that those affected by these horrible acts are helped.

□ 1130

Mr. Speaker, H.R. 2115 provides for an extension of war risk insurance for both international and domestic flights while ensuring that this important insurance is extended to manufacturers and airline vendors through the Department of Transportation.

This Congress was quick to assist airlines following September 11, and rightfully so. The economic benefits from the movements of people and goods that airlines provide, I think, demanded our attention. I think we also have to consider that smaller aircraft that were restricted for months following September 11 would also need attention of the Congress. Congress, I think, should act, and I think it will through this underlying legislation to help general aviation return to some stability by providing compensation for the hardships on their businesses. The bill authorizes $100 million for these general aviators that were also greatly affected by increased security requirements.

H.R. 2115 is a good piece of legislation, Mr. Speaker. It is important to the continued needs of the FAA, obviously, and to the flying public. The underlying legislation was reported favorably out of the committee by voice vote.

I take this opportunity to thank the gentleman from Alaska (Mr. YOUNG), the chairman, for his great leadership on this issue, as well as the gentleman from Minnesota (Mr. OBERSTAR), the distinguished ranking member.

Due to the importance of the FAA's role in the security of the United States, as well as in the economic well-being of the United States, I urge my colleagues to support both the rule and the underlying legislation. I think it is important that we move forward and reauthorize the FAA, and we are doing that today.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself 6 minutes.

Mr. MCGOVERN. Mr. Speaker, today we consider the bipartisan FAA reauthorization bill. The gentleman from Alaska (Mr. YOUNG), the gentleman from Florida (Mr. MICA), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Oregon (Mr. DEFAZIO) in the best tradition of the Committee on Transportation and Infrastructure worked long and hard to produce a sensible bipartisan bill, and they should be commended.

I also want to thank the Committee on Transportation and Infrastructure for including an important provision that will benefit smaller airports like the one I represent in Worcester, Massachusetts.

This provision will allow airports like Worcester, known as primary airports, to continue to receive Air Improvement Program Entitlement Funding, or AIP, for fiscal years 2004 and 2005 based on prior year emplanement levels. It specifically grants the Secretary of Transportation the authority to maintain current AIP funding levels for primary airports based on a discrete set of criteria related to the dramatic reduction in commercial air service since September 11.

AIP entitlement is a critical source and oftentimes the only source of funding for capital improvements at these airports. These airports rely on AIP funding to make a number of upgrades which now also include necessary, but costly, safety enhancements. In Worcester's case, this bill could mean the difference between receiving more than $1 million a year annually or $150,000.

This is an important provision, and I thank the Committee on Transportation and Infrastructure for its inclusion.

If only the Committee on Rules and the leadership of this House could act in a bipartisan way, because although I support the FAA bill, for the life of me I cannot figure out why the Republicans will not let us consider the child tax credit.

For a second straight week, the leadership is playing a nasty game with millions of hardworking American families. Two weeks ago, the President, Vice President, and the Republican leaders deliberately left 12 million families, including hundreds of thousands of military families, out in the cold by deleting the child tax credit extension from the recently passed tax cut.

We just fought a war in Iraq; we still have soldiers fighting in Afghanistan. And instead of a warm thank you, the Republican leadership gives our troops the cold shoulder. The average base pay of a serviceman in Iraq is about $16,000; but according to the Republicans, that soldier's family does not need any tax relief because they are not subject to Federal income tax.

This is wrong. These families work hard and they pay taxes. They pay sales taxes and payroll taxes and State taxes and local taxes and property taxes, most of which are going up because of the policies of this administration; but according to the Republican leadership, giving them a small tax credit would be welfare. How insulting.

My colleagues want to talk about welfare, well, let us do that. Enron paid no income taxes at all in 4 of the past 5 years, despite $1.8 billion in profits. Enron's taxes over 5 years were a negative $381 million, and its corporate tax welfare totaled $1 billion.

WorldCom paid no taxes at all in 2 of the last 3 years, despite $15.2 billion in profits before going bankrupt. WorldCom's total tax rate over the 3 years was only 1.6 percent. Corporate tax welfare slashed WorldCom's tax bill by $5.3 billion over the past 5 years.

All the while these corporations are not paying taxes, other companies are relocating to the Caribbean to avoid paying them altogether.

These corporate robber barons have saved billions and billions of dollars through loopholes supported by the Republican majority, and yet those same Republicans say that providing a hardworking American family a few hundred extra dollars is bad policy.

The Republican policies are crystal clear, Mr. Speaker; and they are wrong.

Last week, in this Chamber, the gentleman from Maryland (Mr. HOYER), the distinguished minority whip, challenged the Republicans to defend their actions. Their response? Dead silence. Yesterday, President Bush and his staff, at long last bowing to public demand, implored House Republicans to take up and pass the child tax credit passed by an overwhelming bipartisan vote in the other body. That bill is targeted, it is sensible, and very importantly, it is paid for by other offsets.

But the gentleman from Texas (Mr. DELAY), the majority leader, still refuses to bring this bill to the floor. Last week, the majority leader said there are more important priorities than tax relief for low- and middle-income families, and yesterday he brushed aside the White House request.

Instead, they are playing a game, pushing a much larger tax cut that will cost over $80 billion. They are betting that the other body will engage in a long, protracted debate over the House proposal because they know that the other body will not pass an $80 billion tax cut that is not paid for, and they are hoping that the whole issue will just go away.

Mr. Speaker, it will not go away because, as we have said over and over, we will not let it go away up till the Republican leadership in this House does the right thing and fixes the mistake that they made when they removed the child tax credit for millions of low-income and middle-income families.

So I say to the Republican leadership, are you really that cynical, are you really so consumed by the thrill of your own power that you refuse to do the right thing? Why can you not simply admit that it was wrong to drop these hardworking, tax-paying families from the tax bill and fix your mistake?

The answer may lie in an article in today's Washington Post. According to the article, the administration had no intention ever of implementing the child tax credit as approved by the other body. Treasury officials assumed in May, weeks before the House and Senate met to work out the differences in the two tax bills, that the child tax credit would not become law; and now the White House claims to support it.

I insert this article in the RECORD at this point.

[From the Washington Post, June 11, 2003]

House GOP Responds to Senate Child Credit Bill

$82 BILLION PLAN OFFERS BREAKS FOR MILITARY FAMILIES

(By Juliet Eiperin)

For the second time in two weeks, House leaders are pushing a sizable tax cut bill, seizing the debate over expanded credits for parents of minor children to propose several new, unrelated tax cuts.

House Republicans yesterday unveiled their $82 billion plan, which features tax breaks for military families (and for the estates of astronauts who die on space shuttle missions). The proposal sets up a likely fight with the Senate, which approved a more modest tax cut package last week.

For several days, Republicans have been trying to quell protests over the fact that the tax cut enacted last month excluded 6.5 million poor families from receiving a credit of as much as $1,000 per child. The Senate reacted swiftly, passing a $10 billion bill last week that would give the expanded child credit (now $600) to families making from $10,500 to $26,625 a year.

House Republicans rejected that approach yesterday, saying they wanted a broader bill that would extend the child credit and other tax breaks through 2010.

"We've not in the business of politics, but rather in policy," said Ways and Means Chairman Bill Thomas (R–Calif.), noting that the expanded child tax credit phases out in 2005 under the existing law. "If these people need help between now and the election [of 2004], they need it for the rest of the decade."

House Majority Leader Tom DeLay (R–Tex.) told reporters yesterday that passing a bill dealing only with the child credit "ain't going to happen," because GOP leaders prefer a broader package that "provides tax relief, creates jobs and [helps] the economy grow."

The House proposal would provide a $1,000 per-child credit for families from Jan. 1, 2003, through 2010. The credit now begins to phase out when married couples make $110,000 or more. House GOP leaders would raise start of the phaseout to $150,000.

Their plan also would help military families, giving them a tax break on home sales, death benefits and dependent-care assistance. It would suspend the tax-exempt status of designated terrorist organizations and provide income and estate tax relief for astronauts who die on space shuttle missions, including those in the Columbia disaster.

The House is poised to pass the plan Thursday. Its prospects in a conference with the Senate are unclear. The Senate bill's costs are offset by higher Customs Service fees, adding nothing to the deficit. The House plan includes no such offsets, which could cause problems with Senate Democrats and some moderate Republicans.

"I philosophically support the House Ways and Means Committee proposal, "Senate Finance Committee Chairman Charles E. Grassley (R–Iowa) said yesterday, but "I don't know if there are enough Senate votes to pass it."

Treasury officials informed Senate aides yesterday that the government will not be able to mail child credit checks to low-income families for 8 to 10 weeks. Administration officials assumed in May that the Senate child credit proposals would not become law, according to a Senate Democratic aide who met with Treasury officials.

The American people are smart. They can see through all the politics. They want Congress to fix the child tax credit, and they deserve action.

Mr. Speaker, the other body has already acted. We can solve this problem by taking up the bill right now. With quick action, we can send this bill to the President; and he can keep his word and sign it by the end of this week.

That is why, at the end of this debate on the rule, I will ask my colleagues to vote "no" on the previous question, and should the previous question be defeated, I will bring up the Senate-passed child tax credit so we can send it to the President immediately.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, this bill may be fine, but we need to defeat this question on the rule to get to the business at hand, because the business at hand is we want to free the goodly number of Republicans who want to vote for a child care tax credit, but who are under the tyranny of a Republican leadership who will not let them do it. We need to free those 228 Republicans to exercise some of their conscience because I believe there is a goodly number of them who realize why we are right; and we are right because it is indefensible to have decided to give these tax breaks to the wealthy and deny it to families as a child tax credit.

It is indefensible, and if my colleagues want to know why there has been such silence from this side of the aisle defending this, it is because they do not want to defend the indefensible. It is not because of massive laryngitis on this side of the aisle. If my colleagues want to know why there have been so few coming to this Chamber to try to excuse this, it is because they do not want to try to excuse the inexcusable.

I believe we should defeat this rule and go to the business at hand, and we should have a goodly number of Republicans join us to do it; and here is why I think this is possible. It is possible because there are a fair number of Republicans who share two basic values with the Democrats on this side of the aisle. Those values are work, number one, and two, responsibility.

We believe that work should be honored; and when we have heard the few Republicans that have come to defend this indefensible position, they have not honored work because what they have tried to say is that these people that are owed this child care tax credit, they have said, well, they are not working or they are not working for enough money. Hogwash. All work ought to be respected in this country whether one gets paid a million bucks a year or $12,500 a year, and there are a goodly number of Republicans who share that view.

I am here to call on my friends on the Republican side of the aisle who share that view to come defeat this rule and bring up the Senate bill so that we can pass a responsible bill that does not bust the budget and create another $80 billion of debt for the very kids subject to this child care tax credit.

Mr. McGOVERN. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished member of the Committee on Rules for yielding the time to me; to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) for bringing forward a very forward-thinking legislative initiative, Flight 100—Century of Aviation Reauthorization Act; to the chairman and ranking member of the full committee, the excellent work that they have done; and the chairman and ranking member of the subcommittee. They have truly brought forward a bill that raises and promotes the question of security.

As a member of the Select Committee on Homeland Security, this legislation includes grant programs for local airports. It also increases the number of flights that we can utilize out of Reagan National, indicating that we are secure and we are not afraid, and prohibits a very important aspect of a very important traffic controller from being privatized.

I have met with my traffic controllers, particularly in Houston. The kind of expertise that they have and the importance of their independence and their relationship to the government in our effort of security is crucial. It is imperative that we not privatize those individuals.

As well, it is important that we have other security measures that are being provided by this legislation.

Let me make one quick point. I am disappointed that the Gibbons amendment was not allowed in, the amendment that I supported, that raised the age of pilots to 65.

□ 1145

I think we are making a mistake by not having a vigorous debate on this question, particularly in light of the fact that it is well known that we are as a Federal Government opposed to age discrimination. This is supported by a number of members of the pilots union, meaning small groups or local chapters, and it certainly is questioned by the Black Pilots Association as to the issue of discrimination. I think we are making a mistake. I think it was a very effective amendment and I hope we will have a time to address that question.

Mr. Speaker, it is interesting that we are bringing this bill up, but yet we have a difficulty in helping the children of America, particularly with bringing to the floor a freestanding bill that has now been passed by the Senate since last week that provides for minimally $154 for 12 million children, or families representing 12 million children in America. We understand that America believes in its children, but we are not believing it by putting our money where our mouth is. We only spend at this point between 1 and 2 percent of the GDP on our children. Yet today this House, the Republican leadership, is fighting against passing a freestanding tax credit for children, a refund to allow for 12 million children to be provided for and protected.

Under the tax cut plan passed in 2001, while most families with children receive the child tax credit, nearly 10 million low-income children receive nothing and another roughly 10 million children did not receive a full child tax credit. It seems ridiculous that this House can find its way to pass a number of suspension bills between this week and the end of the week. We did find it to move forward on this FAA legislation which is a positive step. But when the Senate moved quickly last week to pass the child tax credit refund, it does not seem to make any sense that we cannot support the Rangel-DeLauro bill or, in this instance, the freestanding Senate bill that simply provides the children of America of those making $10,000 to $26,000, working families, a tax credit refund. But we can provide, it seems, a number of our families, 190,000 families in America, we can give them a $93,000 check.

Mr. Speaker, it is a shame that we would bog down the tax bill and give all but the kitchen sink so that we know it will go to conference and takes ages and eons and months and weeks, but we cannot pass a freestanding bill. I hope that we will come to our senses and pass a freestanding bill and work on behalf of America's working families and children of America.

Mr. McGOVERN. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise to speak on this rule. This bill reauthorizes $58.9 billion over 4 years for the activities of the Federal Aviation Administration, including the grant program to local airports. It also increases the number of flights at Washington's Reagan National Airport, prohibits air traffic controllers from being privatized and allows airports to use some of their Federal grant resources to install explosive detection systems for checked luggage.

Funding our aviation infrastructure is an important component of ensuring the safety of the American public. But I would like to talk about another issue of great importance, and that is extending the child tax credit to the 6.5 million American families who were left out of the Republican tax bill, 200,000 of those military families while their spouse is at war. After the furor that erupted during the last 2 weeks over the Republicans' secret elimination of the child tax credit for the families of 12 million children, after the other body passed legislation to undo that wrong, late yesterday comes word from this House that this House has finally decided to act. But instead of accepting a simple extending of this tax cut to the taxpaying families who need it most, those who were left out of the package, the Republicans use the opportunity to try to pass another round of irresponsible tax cuts.

With the Thomas bill, what the Republicans are doing is very simple. They are holding 12 million children hostage. As I said yesterday, for them, extending the child tax credit to low-wage families who earn between $10,500 and $26,625 is simply part of a deal. They would use these 12 million children as a bargaining chip in their never-ending quest to cut taxes for only the wealthiest Americans.

But that is not what providing tax relief to these 6.5 million families should be about. Helping these families is a matter of fairness, equity and economic justice. They work hard. They pay nearly 8 percent of their incomes in payroll taxes and in sales taxes. Yes, they pay taxes, unlike Enron which the last 4 out of 5 years paid no taxes to this government, or those companies who go offshore for the direct purpose of paying no taxes and yet they are in line for very, very big tax cuts.

As the White House said without equivocation the other day, the House of Representatives needs to right this wrong. It needs to do so without complication, and it needs to do so immediately without holding hostage 12 million children. That is the right thing to do. This is why we were elected to this job. This issue is such a violation of all that we hold dear and believe. This issue is not about partisan politics. This is about what we hold dear, what the values of each and every one of us who serves in this body is about. It is about our individual character. It is also about our national character.

The people of the United States of America believe that there has been a violation here of folks who are hard-working people, who pay their taxes, who were told and were supposed to have been signed into law that they were going to get a tax credit for their children, pulled out in the dead of night, money stolen from them. It is an immoral act and we have the moral obligation in this body to move quickly to what the Senate did, not with any bargaining chip to hold these 12 million children hostage, or their families, but to do what the President has asked, without equivocation, do what the Senate did, do it without complication, do it immediately. Let us right this wrong. Let us give these families what they rightfully have earned. Twelve million children are waiting.

Mr. McGOVERN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to highlight the difference in philosophies here, and I think that my colleague on the Committee on Rules, the gentlewoman from North Carolina, in Congress Daily said it best. Speaking for the Republicans, she said: "We have a philosophical difference. I look at it and other Republican Study Committee members feel if we give people a tax break that don't pay taxes, it's welfare."

I profoundly disagree with her characterization of these hardworking citizens who do pay taxes, they do pay payroll taxes and sales taxes and other taxes, as somehow not contributing to our tax base. As a prominent member of my party in the other body said, and let me quote her, We are talking about 200,000 military families, hundreds of firefighters and teachers and other hardworking Americans. I don't think of them or view them as welfare recipients. I don't think that they think of themselves that way. These are taxpayers. These are essential people in our communities, those who are protecting us from fire and from criminal activity, those who are teaching our children, those who are stationed abroad and protecting our very freedoms. They are hardworking families who pay sales tax, both State and local. They have payroll taxes that come out of their checks.

Mr. Speaker, this is what this debate is about, whether or not these people deserve to benefit from this tax cut that was passed only a few weeks ago in this House or whether or not they should be excluded. Those on our side of the aisle and a lot of moderate Republicans in the other body believe that these people should not have been deleted from the tax bill.

Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I want to thank my good colleague from Massachusetts for yielding me this time.

It is amazing to me. The Democrats have been talking about the need to provide this child tax credit to the 12 million children who are in working families now for at least a week and we were very gratified to see that the other body, the Senate, on a bipartisan basis passed a very carefully tailored bill that would cost, I guess, $3.5 billion and that would essentially put the families of these children, the working families, back into eligibility for this increased tax credit. What happens when this bill comes over here to the House? Our House Republican leadership, which as we know has repeatedly said that they are not in favor of this, the gentleman from Texas (Mr. DELAY) was quoted many times last week as saying it was not important and that he was not going to do it unless it was part of a larger tax break giveaway. That is what we are hearing now. The House Republicans are saying and the gentleman from California (Mr. THOMAS) and the Committee on Ways and Means have said that they are only willing to provide this tax credit to these 12 million children if we increase the amount of money greatly, go further into debt and add on a number of other things for wealthier families. It simply is not right because what effectively the Republicans in the House are doing is killing this proposal.

If the bill that passed the Senate came over here and we simply took it up and passed it, it would become law and the 12 million children would get the tax break. They would get the money going out sometime after July 1. And now because of the House Republican action here to expand this and try to help wealthier families and individuals, it is very likely that this whole bill is killed and that the Senate action will not accomplish what it should accomplish.

I blame directly the House Republican leadership. They were not in favor of this from the beginning. They did not include it in their tax bill in the beginning, they said they were opposed to it, and now they are putting up more hurdles and roadblocks to it. They are also saying they are not going to pay for it.

In the Senate, Senator BLANCHE LINCOLN had put in specific pay-fors, increases in customs duties to make sure that this would not do anything to increase the debt which we understand is like $400 billion now. And what do the House Republicans do in the leadership here? They eliminate the pay-fors and they increase the funding to pay for higher-income individuals, holding these children and their families essentially hostage to a tax break for wealthier individuals, and they refuse to pay for it. They basically come up with a bill that is about 80 or $82 billion that is all debt and not paid for at all. I cynically say the reason they are doing it is because they want to kill the bill. They do not want these 12 million children to get the tax break, these working families to get the tax break. They just want to kill the bill. They were always against the bill. Through this action they will kill the bill if it passes in that way, and they are totally responsible for that.

You have to understand the way this place works, and this is the sad part about it. It is very easy for the House Republican leadership to simply take something good that the other body did on a bipartisan basis and kill it by adding all these additional tax breaks for wealthier families and at the same time eliminating the pay-fors, so it is now being paid for out of debt which will cause so much problem for the other body that they will never take up the bill, it will never get the 50 or the 60 votes that are necessary in the Senate to pass the bill.

We have to do whatever we can over the next 24 hours, because this is likely to come up tomorrow, to try to force the original Senate bill to pass just at the cost of the $3.5 billion, just for those 12 million children that were left out, and with the pay-fors that were in it so that it is acceptable to everyone. That is the way this should be done. Simply take up the other body's bill and pass it and not load it down with all these other problems. We have about 24 hours to try to convince and get the votes for that. It is not going to be easy, but we are going to make sure as Democrats that we do that so that we have a good bill that will pass.

Mr. McGOVERN. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, just to make clear the point that this is not a partisan issue throughout the country. Unfortunately it has become a partisan issue here in the House of Representatives, but I want to refer to two quotes from some distinguished Members of the other body. One, a senior Republican from the other body representing the State of Iowa, when asked about this subject said, What's going to make them, meaning the House Republicans, accept it is whether or not they want this group of people, particularly people in the military who are sacrificing their freedom for our freedom, to get the same benefit everybody else is going to get who has children in their family.

What is really unfortunate is that by the inaction of the leadership in this House, it appears that the Republicans in the House do not want to help these military families and their children.

□ 1200

Another prominent Republican in the other body from the State of Maine said the base pay of a first year soldier is $16,000. Paramedics make an average of $22,000, and home health aides make an average of $18,500 per year. These people are a critical part of our infrastructure, and they deserve tax relief too.

I could not agree more. People on this side of the aisle could not agree more. We have been fighting during these last several weeks to try to put back in the bill what the Republican leadership in the House removed from the bill in the dead of night, specifically this child tax credit for low-income workers, precisely because we understand the plight of these workers, and when we go back to our districts we hear from them when they say, you know, if you are going to give tax relief to people, we need it more than Donald Trump does, so why are you not helping us?

Again, there are prominent Members of the other body representing the Republican Party who get it, who are fighting to try to fix this problem right now; and yet here in this Chamber, in this House of Representatives, the leadership continues to try to find ways to deny these hard-working, tax-paying individuals, these families the benefit that they rightly deserve.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in case some colleagues are perhaps listening to the debate on television in their offices, we have brought forth the rule to consider the aviation reauthorization bill, the reauthorization of the Federal Aviation Administration.

The Federal Aviation Administration is of extreme importance to the safety of not only the flying public in the United States, but really to the economy of the United States. One of the pillars of the economy of the United States is precisely the superb system of aviation that we have.

But that does not happen by chance. We have an obligation to fund and reauthorize the Federal Aviation Administration, and this legislation that we are attempting to get to today with this rule not only does that, but deals with a number of very important collateral issues in the area of aviation.

So, again, to be clear with regard to what we are attempting to do today, what the Committee on Rules has done, we have passed a rule to bring to the floor legislation to reauthorize the Federal Aviation Administration in the context of very important legislation entitled Flight 100—Century of Aviation Reauthorization Act. That is what we are discussing today.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, I agree with the gentleman that the underlying bill that we are considering here today is important. Aviation and the safety of our skies and the strength of our airports, all that is very, very important.

We are also trying to do here, so if anybody is listening they will understand, we are also trying to be able to, in addition to helping the aviation industry and helping our airports and helping protect our airports, we are also trying to help protect a lot of American families, 12 million families, to be exact, some of them military families where servicemen and servicewomen are serving our country in Iraq. We want to make sure that they can benefit from the child tax credit.

We cannot seem to get the leadership of this House to allow us to be able to vote on this issue, up or down. We are trying to advocate for millions of families in this country who not only need help, who deserve help.

So part of what we are doing on this bill and what we have been doing on previous bills is to try to highlight this issue, helping to persuade, and, if not persuade, maybe shame you into doing the right thing.

I guess I will ask the question that the distinguished minority whip asked last week during this debate. Why is it that we cannot get a vote up or down to reinsert the child tax credit that your leadership removed in the middle of the night?

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut (Ms. DeLauro).

Ms. DeLAURO. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I think the gentleman from Massachusetts has laid out the case very effectively. The underlying bill here is critically important. The underlying bill also deals with airport workers whose interests are tied up with the child tax credit issue, as well, and the importance of doing what we said we were going to do.

It is not a question of bargaining for putting back what was rightfully the child tax credit to these 6.5 million families, to these 12 million children. That is the only issue that we were trying to address, very simply. It seems to me that what the Senate did is perfectly acceptable and it can be done. And I asked the question last week of the majority leader as well, will you accept the Senate language if it comes over here? The Senate language is here.

We can do this, we can move quickly, and we can do it without holding hostage 12 million children. It is just not quid pro quo. It is not, as I said earlier, for political advantage. It is about doing what is the right thing. That is all we are asking.

The President has said, do it. Take the Senate language; make it happen. When people of well-meaning in every part of the government, whether it is the House, the other body, the executive branch, want to come together to try to address these 12 million children, these 6.5 million families, who pay taxes, it would just seem to me that we could do it quickly in this body without any hesitation.

What we want to do is be able to provide the opportunity for these people to get the same benefit 25 million other people are going to get on July 1. Why should they not be the beneficiaries of a tax cut to allow them to put food on their table? It is easy. Let us get it done, and let us just try to take aside all of the extraneous matter.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood). Members should refrain from making improper references to the Senate.

Mr. McGOVERN. Mr. Speaker, I yield myself the balance of my time to close for our side.

Mr. Speaker, I will ask for a vote on the previous question. If the previous question is defeated, I will offer an amendment to the rule. My amendment will provide that as soon as the House passes this rule it will take from the Speaker's table and immediately consider the Senate-passed version of H.R. 1308, which restores the refundable child tax credit that was removed from the recently passed Republican tax bill. This way we can send that bill immediately to the President's desk for his signature and start helping America's low- and modest-income families right away, right this second.

The President's press secretary, Ari Fleischer, said this week that "the President thinks at its core what the Senate has done is the right thing to do, a good thing to do, and he wants to sign it." I think we should give the President an opportunity to do just that.

H.R. 1308, as amended by the Senate, will provide immediate tax relief to America's hard-working families, in contrast to the Republican/Bush tax bill. That bill does next to nothing to help those low- and moderate-income Americans who need relief the most. In fact, in a late night negotiating session behind closed doors, the Republican leadership deleted the one provision that would have helped these Americans, the refundable child tax credit. When it came to a choice of helping their rich contributors or Americans struggling to make a living, they chose the rich. They stripped out this tax break that would have helped the families of 8 million children whose parents serve in the military or are veterans.

H.R. 1308, the bill amended and passed last week in the other body and sent back here, will give immediate help to working families by providing the child tax credit to 6.5 million low-income working families and nearly 12 million additional children. These families would receive an average annual increase of $150 per child.

It will also help families of soldiers in combat in Iraq by extending the child tax credit to many of them. It was suggested by some on the other side of the aisle that this break for our brave men and women in the military was nothing more than welfare. Well, I strongly disagree.

I ask for a "no" vote on the previous question.

Mr. Speaker, I include the following for the Record.

PREVIOUS QUESTION FOR H. RES. 265—RULES ON H.R. 2115 FLIGHT 100—CENTURY OF AVIATION REAUTHORIZATION ACT

At the end of the resolution add the following:

"SEC. 2. Immediately upon adoption of this resolution the House shall be considered to have taken from the Speaker's table the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, with Senate amendments thereto, and a single motion that the House concur in each of the Senate amendments shall be considered as pending without intervention of any point of order. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question."

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, in case somebody would like to determine what we have brought to the floor today, because obviously any students of political science who may have been watching this debate will have confirmed today that there is certainly no rule requiring germaneness in debate in the House of Representatives, the issue that we have brought to the floor today, that the Committee on Rules passed a rule in order to be able to do so, we did so yesterday, is the reauthorization of the Federal Aviation Administration.

In order to reauthorize the Federal Aviation Administration, the relevant committees worked long and hard on a very important piece of aviation legislation which we bring to the floor today. It is H.R. 2115, the Flight 100—Century of Aviation Reauthorization Act. So that is what we are doing.

Now, since there is obviously no germaneness requirement with regard to debate, our colleagues on the other side of the aisle have talked about other issues, and they are certainly welcome to do so. The semantic of the day had to do with the word "tax."

We are very proud of our record since we were honored by the American people with the majority in this Chamber with regard to the issue of taxes. I remember in my first term here, Mr. Speaker, as a freshman Member, we were still in the minority and our friends on the other side of the aisle controlled the agenda, they were the majority, being faced with one of the largest tax increases in the history of this country. We on this side of the aisle opposed that tax increase, and our friends on the other side of the aisle pushed very hard, and at that time they had a Member of their party in the White House, to impose that record tax increase on the American people.

Every time we have been able to since we were given the majority by the American people, we have tried to do the opposite. We have tried to lessen the tax burden on the American people, and we are very proud of that.

So with regard to when it is germane to the debate on taxes, we are extremely proud of our record. That debate will continue, and I think it is a fundamental difference between the parties. We believe in and have every time we have been able to reduce the tax burden on the American people.

But today the debate that we bring forward, the legislation that we bring forward, is the important reauthorization of the Federal Aviation Administration. We believe, Mr. Speaker, that because of the importance of the Federal Aviation Administration, not only to the flying public and to the aviation industry in this country, but to the economy of the United States, as well as to our national security, that we should move forward and reauthorize that very important Federal agency, as well as effectuate the other important programs and initiatives that are included in this very significant piece of legislation.

□ 1215

With that in mind, I remind our colleagues what we are doing, the reauthorization of the Federal Aviation Administration.

Ms. WATERS. Mr. Speaker, I rise to oppose this rule, which does not allow consideration of several Democratic amendments. I submitted two amendments regarding Los Angeles International Airport (LAX), which is in my district, and neither was made in order.

The operator of LAX is proposing a major expansion project that would include the construction of a remote passenger check-in facility that would force all passengers to check-in and leave their baggage in the same location. This project could cost an estimated $9 to $10 billion. Supporters of this controversial project claim that it is necessary to protect public safety. Yet a RAND Corporation study concluded that this project will not improve public safety and could increase the likelihood of a terrorist attack by concentrating large number of people at the check-in facility.

I submitted an amendment to require the Secretary of Homeland Security to review the proposed remote passenger check-in facility and determine whether it would, in fact, protect public safety. My amendment would have prohibited the construction of this project unless the Secretary of Homeland Security concluded that it would protect the safety of air passengers and the general public. I also submitted an amendment to ensure that taxpayer funds are not wasted on dubious LAX expansion projects like this one.

I urge my colleagues to reject this rule and allow me to offer my amendments to protect the American people from both threats to public safety and unnecessary and expansion airport construction projects.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. LaHood). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adopting House Resolution 265, if ordered; and on the three motions to suspend the rules previously postponed, in the following order: H. Con. Res. 110; H.R. 1320; and H.R. 2350.

The vote was taken by electronic device, and there were—yeas 219, nays 195, not voting 20, as follows:

[Roll No. 257]

YEAS—219

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—195

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—20

Biggert
Crane
Cubin
Davis (IL)
Deutsch
Emanuel
Eshoo
Fossella
Gallegly
Gephardt
Gutierrez
Kirk
Larson (CT)
Meehan
Rush
Sessions
Shimkus
Smith (WA)
Spratt
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised that there are 2 minutes remaining in the vote.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). There are 10 Members stuck in an elevator in Rayburn. We are waiting for them.

□ 1305

Mr. HINOJOSA and Mr. DICKS changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clauses 8 and 9 of rule XX, the remainder of this series will be conducted as 5-minute votes.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 370, noes 43, not voting 21, as follows:

[Roll No. 258]

AYES—370

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Frank (MA)
Franks (AZ)
Frost
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—43

Andrews
Becerra
Bell
Conyers
Doggett
Evans
Farr
Ford
Hinchey
Jackson (IL)
Jackson-Lee (TX)
Kildee
Kilpatrick
Kucinich
Lee
Lewis (GA)
Lofgren
Matsui
McCollum
McDermott
McGovern
Meek (FL)
Miller, George
Moran (VA)
Obey
Olver
Owens
Rangel
Rothman
Sabo
Sandlin
Schiff
Slaughter
Thompson (MS)
Tierney
Towns
Van Hollen
Waters
Watson
Watt
Waxman
Wexler
Woolsey

NOT VOTING—21

Biggert
Crane
Cubin
Davis (IL)
Deutsch
Emanuel
Eshoo
Fossella
Frelinghuysen
Gallegly
Gephardt
Gutierrez
Kirk
Larson (CT)
Meehan
Nethercutt
Rush
Sessions
Smith (WA)
Spratt
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1313

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING SCIENTIFIC SIGNIFICANCE OF SEQUENCING OF HUMAN GENOME AND EXPRESSING SUPPORT FOR GOALS AND IDEALS OF HUMAN GENOME MONTH AND DNA DAY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 110.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 110, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 20, as follows:

[Roll No. 259]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite,
  Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
  (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-
  McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda
  T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—20

Biggert
Crane
Cubin
Davis (IL)
Deutsch
Emanuel
Eshoo
Farr
Fossella
Gallegly
Gephardt
Gutierrez
Kirk
Larson (CT)
Meehan
Rush
Sessions
Smith (WA)
Spratt
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised that they have 2 minutes to vote.

☐ 1322

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMERCIAL SPECTRUM ENHANCEMENT ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1320, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the bill, H.R. 1320, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 10, not voting 16, as follows:

[Roll No. 260]

YEAS—408

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite,
  Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)

Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—10

Coble
Davis, Jo Ann
Duncan
Flake
Goode
Miller (FL)
Obey
Paul
Royce
Smith (MI)

NOT VOTING—16

Biggert
Crane
Cubin
Davis (IL)
Deutsch
Emanuel
Eshoo
Fossella
Gephardt
Gutierrez
Kirk
Larson (CT)
Meehan
Rush
Smith (WA)
Spratt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that they have 2 minutes to vote.

□ 1331

Mr. ROYCE, Mr. DUNCAN and Mrs. JO ANN DAVIS of Virginia changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WELFARE REFORM EXTENSION ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2350.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the bill, H.R. 2350, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 6, not voting 22, as follows:

[Roll No. 261]

YEAS—406

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Norwood
Nunes
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez

Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—6

Conyers
Flake
Frank (MA)
Olver
Owens
Paul

NOT VOTING—22

Biggert
Crane
Cubin
Davis (IL)
Deutsch
Emanuel
Eshoo
Fossella
Gephardt
Gutierrez
Jones (NC)
Kirk
Kolbe
Larson (CT)
Majette
Northup
Nussle
Rush
Smith (WA)
Spratt
Thornberry
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood) (during the vote). The Chair advises there are two minutes to vote.

☐ 1338

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. BIGGERT. Mr. Speaker, today I joined President Bush in my home State of Illinois for a forum on Medicare. As a result, I missed a series of votes. Had I been present, I would have cast the following votes:

"Yes" on the Previous question on the Rule for H.R. 2115, Flight 100—Century of Aviation Reauthorization Act (roll No. 257); "yes" on Passage of the Rule for H.R. 2115, flight 100—Century of Aviation Reauthorization Act (roll No. 258); "yes" for H. Con. Res. 110, recognizing the sequencing of the human genome as one of the most significant scientific accomplishments of the past one hundred years and expressing support for the goals and ideals of Human Genome Month and DNA Day (roll No. 259); "yes" for H.R. 1320, the Commercial Spectrum Enhancement Act (roll No. 260); and "yes" for H.R. 2350, the Temporary Assistance for Needy Families block grant program Reauthorization Act (roll No. 261).

PERSONAL EXPLANATION

Mr. DEUTSCH. Mr. Speaker, I was unavoidably absent from the Chamber today during rollcall vote Nos. 257, 258, 259, 260, and 261. Had I been present, I would have voted "nay" on roll No. 257 and "yea" on roll No. 258, 259, 260, and 261.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the Record and regret that I could not be present this morning, Wednesday, June 11, 2003, to vote on rollcall vote Nos. 252, 253, 254, 255, and 256 due to a family medical emergency. Had I been present, I would have voted:

"No" on rollcall vote No. 257 on Ordering the Previous Question on H. Res. 265, providing for consideration of the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes;

"Yea" on rollcall vote No. 258 on H. Res. 265, providing for consideration of the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes;

"Aye" on rollcall vote No. 259 on H. Con. Res. 110, recognizing the sequencing of the human genome as one of the most significant scientific accomplishments of the past one hundred years and expressing support for the goals and ideals of Human Genome Month and DNA Day;

"Aye" on rollcall vote No. 260 on H.R. 1320, Commercial Spectrum Enhancement Act; and

"Aye" on rollcall vote No. 261 on H.R. 2350, to reauthorize the Temporary Assistance for Needy Families block grant program through fiscal year 2003.

PERSONAL EXPLANATION

Mr. EMANUEL. Mr. Speaker, I was unavoidably detained today and missed rollcall votes 257 through 261. Had I been present, I would have voted "no" on 257, and "yes" on 258, 259, 260 and 261.

PERSONAL EXPLANATION

Mr. KIRK. Mr. Speaker, due to the visit of the President to Chicago today, I missed the following rollcall votes: Numbers 257, 258, 259, 260 and 261. Had I been present, I would have voted "aye" on all of these votes.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 660

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 660.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

ORDER OF AMENDMENTS DURING CONSIDERATION OF H.R. 2115, FLIGHT 100–CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. MICA. Mr. Speaker, I ask unanimous consent that during the consideration of H.R. 2115, pursuant to House Resolution 265, it shall be in order to consider amendment No. 5 as printed in the report of the Committee on Rules before consideration of any other amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2115.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

EXCHANGE OF LETTERS REGARDING H.R. 2115, FLIGHT 100–CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. MICA. Mr. Speaker, I ask unanimous consent to insert into the Record at this point an exchange of letters between the gentleman from Alaska (Chairman Young), the gentleman from Louisiana (Chairman Tauzin), the gentleman from California (Mr. Pombo), the gentleman from New York (Mr. Boehlert), and the gentleman from Virginia (Mr. Tom Davis) regarding H.R. 2115.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The letters referred to follow:

House of Representatives,
Committee on Energy and Commerce,
Washington, DC, June 6, 2003.

Hon. Don Young,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Rayburn House Office Building, Washington, DC.

Dear Chairman Young: I am writing with regard to H.R. 2115, the Flight 100—Century of Aviation Reauthorization Act, which was ordered reported by the Committee on Transportation and Infrastructure on May 21, 2003.

I recognize your desire to bring this legislation before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 2115. In addition, the Energy and Commerce Committee reserves its right to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on H.R. 2115 or similar legislation.

I request that you include this letter as part of the Committee's Report on H.R. 2115 and in the Record during consideration of the legislation on the House floor. Thank you for your attention to these matters.

Sincerely,
W.J. "Billy" Tauzin,
Chairman.

House of Representatives, Committee on Transportation and Infrastructure,
Washington, DC, June 6, 2003.

Hon. W.J. (Billy) Tauzin,
Chairman, Committee on Energy and Commerce, Rayburn Building, Washington, DC.

Dear Mr. Chairman: Thank you for your letter of June 6, 2003 regarding H.R. 2115, the

Flight 100—Century of Aviation Act and for your willingness to waive consideration of provisions in the bill that falls within your Committee's jurisdiction under House Rules.

I agree that your waiving consideration of these provisions of H.R. 2115 does not waive your Committee's jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conference on H.R. 2115 or similar legislation, and will support your request for conferees on such provisions.

As you request, your letter and this response will be included in the Committee report on the legislation and in the Congressional Record.

Thank you for your cooperation in moving this important legislation to the House Floor.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, June 4, 2003.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I have reviewed the text of H.R. 2115, Flight 100-Century of Aviation Reauthorization Act, as ordered reported from the Committee on Transportation and Infrastructure on May 21, 2003. The Committee on Resources has a jurisdictional interest in Section 408, Overflights of National Parks.

Recognizing your wish that this critical bill be considered by the House of Representatives as soon as possible, and noting the continued strong spirit of cooperation between our Committees, I will forego seeking a sequential referral of H.R. 2115 for the Committee on Resources. However, waiving the Committee on Resources' right to a referral in this case does not waive the Committee's jurisdiction over any provision in H.R. 2115 or similar provisions in other bills. In addition, I ask that you support my request to have the Committee on Resources represented on the conference on this bill, if a conference is necessary. Finally, I ask that you include this letter in the Committee on Transportation and Infrastructure's bill report.

I appreciate your leadership and cooperation on this bill and I look forward to working with you to see that H.R. 2115 is enacted into law soon.

Sincerely,

RICHARD W. POMBO,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, June 4, 2003.

Hon. RICHARD W. POMBO,
Chairman, Committee on Resources,
Longworth Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of June 4, 2003, regarding H.R. 2115, the Flight 100—Century of Aviation Reauthorization Act, and for your willingness to waive consideration of the provision in the bill that falls within your Committee's jurisdiction under House Rules.

I agree that your waiving consideration of this provision of H.R. 2115 does not waive your Committee's jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conference on H.R. 2115 or similar legislation, and will support your request for conferees on such provisions.

As you request, your letter and this response will be included in the Committee report on the legislation.

Thank you for your cooperation in moving this important legislation to the House Floor.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, June 6, 2003.

Hon. DON YOUNG
Chairman, House Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN YOUNG: I have reviewed H.R. 2115, Flight 100—Century of Aviation Reauthorization Act. The bill authorizes research and development (R&D) programs that fall within the jurisdiction of the Committee on Science.

In deference to your desire to bring this legislation before the House in an expeditious manner, I will not exercise this Committee's right to consider H.R. 2115—provided that your Committee acknowledges the jurisdiction of the Committee on Science over R&D programs regardless of the account from which they are funded. Further, the Committee on Science reserves its right to seek conferees on any provisions that are within this Committee's jurisdiction during any House-Senate conference that may be convened on this legislation and a corresponding Senate bill.

Specifically, the Committee on Science has jurisdiction over portions of section 102. That section authorizes, among other things, R&D programs within the Facilities & Equipment Account. This includes programs that the Committee on Appropriations transferred to the Facilities & Equipment Account in 1999. The Committee retains its right to such conferees on other portions of this bill related to R&D.

I request that you include this letter as part of the CONGRESSIONAL RECORD during consideration of the legislation on the House floor.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, June 6, 2003.

Hon. SHERWOOD BOEHLERT,
Chairman, Committee on Science, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 2115, the Flight 100—Century of Aviation Reauthorization Act. I appreciate your offer to waive consideration of the bill.

Traditionally, the Transportation Committee has authorized the equipment deployment functions from the Federal Aviation Administration Facilities and Equipment (F&E) account. I recognize that in certain years functions under the jurisdiction of the Science Committee were moved from the FAA Research, Engineering and Development (RED) account to the F&E account through the annual appropriations process. While I believe that these unauthorized appropriations do not have any bearing on committee jurisdiction, I prefer that the Appropriations Committee adhere to the authorizing language and refrain from moving functions from the RED account to the F&E account in order to benefit from a slower spend-out rate. For example, I would prefer that the Advanced Technology Development and Prototyping program remain in the RED account.

Historically, the Science Committee has had oversight and authorization responsibility over the RED account while the Transportation Committee has had exclusive jurisdiction over the F&E account. I believe that continuing this practice is the best way to preserve the jurisdiction of both committees.

I thank you for your attention to this matter and look forward to working with you and your staff. As you request, a copy of your letter and my response will be placed in the RECORD.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, June 11, 2003.

Hon. DON YOUNG,
Chairman, Committee on transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. YOUNG: I am writing regarding H.R. 2115, "the Flight 100—Century of Aviation Reauthorization Act." As you know, the bill includes provisions within the jurisdiction of the Committee on Government Reform. Section 404, Clarifications to procurement authority and Section 438 Definition of air traffic each contain provisions within the jurisdiction of the Committee on Government Reform.

In the interests of moving this important legislation forward, I have not asked for a sequential referral of this bill. However, the Committee does hold an interest in preserving its future jurisdiction with respect to issues raised in the aforementioned provisions, and its jurisdictional prerogatives should the provisions of this bill or any Senate amendments thereto be considered in a conference with the Senate. I respectfully request your support for the appropriate appointment of Members of the Committee should such a conference arise.

Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during floor consideration. Thank you for your assistance and cooperation in this matter.

Sincerely,

TOM DAVIS,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, June 11, 2003.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform,
Rayburn Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of June 11, 2003 regarding H.R. 2115, the Flight 100—Century of Aviation Act, and for your willingness to waive consideration of provisions in the bill that falls within your Committee's jurisdiction under House Rules.

I agree that your waiving consideration of these provisions of H.R. 2115 does not waive your Committee's jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conference on H.R. 2115 or similar legislation, and will support your request for conferees on such provisions.

As you request, your letter and this response will be in the CONGRESSIONAL RECORD.

Thank you for your cooperation in moving this important legislation to the House Floor.

Sincerely,

DON YOUNG,
Chairman.

FLIGHT 100—CENTURY OF AVIATION REAUTHORIZATION ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 265 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2115.

□ 1339

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, with Mr. BASS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 30 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on the occasion of the 100 years of powered flight, I rise in support of H.R. 2115, Flight 100—Century of Aviation Reauthorization Act of 2003.

H.R. 2115 addresses the needs of the national aviation system today and in turn provides for its future. The Federal Aviation Administration oversees and ensures the safe and efficient use of our Nation's air space. The bill before us now supports this important work.

It reauthorizes FAA for 4 years and allows for modest increases in funding levels for fiscal years 2003 through 2007. H.R. 2115 also ensures that the Aviation Trust Fund is used to finance airport capacity and safety projects. It also continues to provide general funds to pay for FAA safety functions that are in the public interest.

Additionally, the bill makes a number of important legislative changes, such as:

Funding the Small Community Air Service Program and the Essential Air Service Program;

Increasing the number of slots at Reagan National Airport;

Streamlining airport project reviews as passed by the House twice last year; and

Prohibiting the privatization of functions performed by air traffic controllers.

It goes without saying that the aviation industry is vital to the U.S. economy. H.R. 2115 provides for its stability and, more importantly, for its continued growth.

I want to thank the full committee ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for working with me to draft H.R. 2115. As a result of this cooperative effort, we have bipartisan legislation that everyone in this House can fully support.

I especially want to thank the subcommittee chairman, the gentleman from Florida (Mr. MICA), and the ranking member, the gentleman from Oregon (Mr. DEFAZIO). H.R. 2115 clearly represents the hard work and the long hours they and their staff put into this effort. I appreciate their dedication in ensuring that the United States continues to have the safest and most efficient aviation system in the world.

For that reason, I join with the full committee ranking member, the gentleman from Minnesota (Mr. OBERSTAR); the subcommittee chairman, the gentleman from Florida (Mr. MICA); and the ranking member, the gentleman from Oregon (Mr. DEFAZIO), in urging the immediate passage of this bipartisan bill.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, I, too, of course rise in support of H.R. 2115, Flight 100—Century of Aviation Reauthorization Act. It is appropriate that we apply that title to the bill in this year; it is the 100th anniversary of flight. When you think how far the world has come in aviation in just 100 years, it is really extraordinary. No other technology in the field of transportation can match the speed with which we have advanced the cause of aviation in this 100 years.

We have worked in a very diligent and bipartisan manner over many weeks and months; and I want to thank the chairman, the gentleman from Alaska, for the frequent and thorough and intensive conversations we have had to shape this legislation, come together in agreement on the many sticky issues that we had to confront in shaping this bill, and the chairman of the subcommittee, the gentleman from Florida (Mr. MICA), who has always been available and readily available to discuss and iron out the many complex issues.

I want to compliment the ranking member on our side, the gentleman from Oregon (Mr. DEFAZIO), whose 18-plus years, 20 years of intensive work in the field of aviation have paid off in his current position as the leader on our side on aviation issues. He has done a splendid job in shaping this legislation, which will put America on the course it needs to be to continue investment in our aviation airside infrastructure, in the modernization of the air traffic control system, and in ensuring we have the finest professionals in the world to manage that air traffic control system in the form of our air traffic controllers and those who support and maintain the technology of aviation.

□ 1345

Though emplanements dipped after September 11, they are on the rebound. We are seeing flights return to something approaching pre-September 11 numbers. Something like 71 percent load factors are returning, but yields are down. On average, they are down 4 cents to 5 cents per revenue passenger mile from what they ought to be to sustain the level of revenue we saw in the pre-September 11 era. But that, too, will come back. That will return as our economy gains in strength.

I know that the FAA is projecting over the next 6 years a return to 600-plus million passengers a year, and 696 million was the level we had prior to September 11. Now, when we think that in a world that emplaned 1 billion passengers in 2001, and 696 million of those were in the United States, it means that this Nation boards two-thirds of all the people who travel by air in the entire world.

So if we are to position ourselves to accommodate that growth in the future, then we have to make the investments now in the air side capacity of our airports. We have to prepare the taxiways, runways, and the air side improvements to accommodate that future growth so we will not be left behind, struggling, trying to catch up when it is too late and flights have rebounded.

In that respect, this bill provides $14.8 billion for the Airport Improvement Program funding. That is $1.2 billion more than the FAA's request. We have $12.3 billion for facilities and equipment over the life of this legislation, $200 million of which is specifically designated for the Standard Terminal Automation Replacement System, STARS, that handles 70 million airport operations a year throughout this country. That is a staggering amount and requires a vast capacity that this new system will provide.

We also maintain a level of funding to accommodate the air traffic controllers, $31.3 billion for FAA operations over the life of this legislation. We have done a good deal to accommodate the needs of small airports with essential air service improvements in this bill.

I recall so very vividly in 1978 sitting on this committee when we considered the deregulation of aviation. The question was raised whether we would have service to small communities. I offered the amendment for essential air service, with the concluding remark to the chairman of the Committee, that if we do not pass this amendment, there are towns in my district where the only way to get there will be to be born there, and I do not want to see that happen again. So we have done a good job with those issues.

Before concluding, I want to engage the chairman in a discussion. But I want to thank on our side the staff, Stacie Soumbeniotis, Giles Giovanazzi, Ward McCarragher, and, on the Republican side, David Schaffer, who have done superb professional work in crafting these extremely complicated provisions of this bill.

Mr. Chairman, I am disappointed that the bill does not go as far as I would have liked it to do in guaranteeing that our air traffic control system remains the safest in the world dealing with the privatization of air traffic controllers. It does not deal with the certification and related maintenance of equipment used by air traffic controllers.

So I think that we did not address this issue in the bill. I think we will come to that point in conference. I know the chairman is amenable to working towards a solution on this issue, and will work with us in conference to ensure that both controllers and air systems specialists are protected in the bill Congress sends to the President.

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield further, I would say that that is correct. I am well aware of the proposal the gentleman has suggested. Frankly, I support it myself. But as the gentleman knows, we were threatened with a veto if it was amended in the committee, so the gentleman and I had a lot of work to do in conference, and, of course, the administration.

I do think that we have to have the safest air system. I believe, Mr. Chairman, we do have the safest air system in the world. Some of the other countries have changed their systems, but I actually think we are doing a better job. It does not mean we cannot improve upon it, but we are doing a better job.

The way we do a better job is keep the professional people in line and by making sure they are doing the job correctly, as they have been doing, and as the control tower people have done so far. I am well aware of it and I will be working with the gentleman.

As the gentleman knows, this bill will pass today overwhelmingly, I believe, and we will have an opportunity to address this issue as time goes by.

I thank the gentleman. I must say for the record, I don't believe anybody knows the air business better than the gentleman does. The gentleman has been a long time as subcommittee chairman when he was in the majority, and he knows this issue. We appreciate working with the gentleman, because this is a great value to our country, this transportation system we have. I do thank the gentleman.

Mr. OBERSTAR. Mr. Chairman, I appreciate the chairman's remarks. I am delighted that we will be able to work in conference to assure that both controllers and systems specialists remain Federal employees.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield the balance of my debate time to the gentleman from Florida (Mr. MICA), and I ask unanimous consent that the gentleman be permitted to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. MICA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I particularly want to thank the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and our ranking member of the Subcommittee on Aviation, the gentleman from Oregon (Mr. DEFAZIO), for their leadership in trying to bring this measure together and to the floor.

This is a 4-year reauthorization, and it is very difficult. We have over 70 members on the full committee and over 40 members on the Subcommittee on Aviation, and the White House and all the various and sundry interests that want specific provisions in a reauthorization bill such as we have before us. But we have come together, and I am real proud of the work that the Members have done and the staff.

I will have a manager's amendment that incorporates some of the issues that we have agreed to on a bipartisan basis, and also pledge to work with all interests and sides on various issues as we hopefully bring this measure to conference.

Mr. Chairman, this legislation is critical to the future of aviation in our country. It is also fitting and I think very appropriate that on the 100th anniversary of manned flight by the Wright brothers that we bring this rewrite of our Federal aviation policy before the Congress. No nation in the world relies more on the safe and efficient operation of aircraft than the United States.

Just think about it: Two-thirds of all the air passengers in the world take off from the United States each year and each day, from U.S. soil. Without a reliable air transportation system, communities would become stranded, families would be separated, time-sensitive cargo lost, and countless jobs and opportunities forsaken.

This bill, H.R. 2115, also referred to as Flight 100, addresses the many pressing needs of our aviation system. We know it has been through a great deal of turmoil since September 11. I believe it also provides good elements for its future.

This legislation keeps our promise to the flying public and builds on the landmark successes of its predecessor legislation, known as AIR–21. This legislation continues the guarantee that all the taxes and revenues paid into the Aviation Trust Fund are fully spent, and that airport improvements and air traffic control modernization that is so important is fully funded.

H.R. 2115 provides the funding necessary for the administration to operate air traffic control systems to the very highest standards of safety, and also allows us to modernize our outdated air traffic control system. It also increases the funding to airports to help build the capacity we need for future economic growth. This bill also makes much needed reforms to FAA's management structure by redefining the role of the chief operating officer.

I am pleased to see the administration within the last 24 hours has named that chief operating officer, and this legislation will clearly define the responsibilities of that position as it relates to the administrator of FAA.

It makes also, I think, a greater success of our Small Community Air Service Pilot Program, and it reforms the Essential Air Service Program to ensure that communities that need this service will continue to receive air service.

The bill streamlines the environmental review process for urgent airport capacity projects, and it does so without weakening any of the underlying environmental statutes or requirements. It also authorizes compensation to general aviation entities for losses resulting from security mandates. Again, they have not been reimbursed like the airlines or other entities that the Congress has previously provided for.

A lot of hard work has gone into this legislation, and I think we have worked diligently with the other side of the aisle to craft careful and meaningful compromises. The aviation industry in the United States is still the strongest in the world, and we must keep it that way. This legislation provides the stability and funding to ensure that we will continue to lead the aviation industry of the world.

This is a good, bipartisan piece of legislation, and I urge all of the Members to join in support of this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I ask unanimous consent that the gentleman from Oregon (Mr. DEFAZIO) manage the balance of the bill in general debate on our side, including authority to yield time.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this legislation, and want to thank all the members of the committee and also particularly the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), the chairman, the gentleman from Alaska (Mr. YOUNG), and the gentleman from Florida (Mr. MICA), the subcommittee chairman, for the effort they and all our staff have put into this bill.

This is a good piece of work. It is a potential foundation for the second 100 years of the aviation industry in this country, an industry that contributes well in excess of 10 percent to our gross domestic product on an annual basis. It will begin to anticipate and invest in meeting the needs of the future.

There are a lot of folks that have seen the fall-off in air traffic, and they have forgotten the delays of 2 years ago and the capacity constraints of 2 years ago. But I have not and the members of the committee have not. It is going to require more investment, and there is significant investment in this bill over and above what was requested by the administration to begin to meet those capacity needs, in partnership with local communities and local airport authorities.

It also does include some environmental streamlining provisions which will not do violence to the National Environmental Policy Act, but will help move some of the bureaucratic impediments and sequential referrals and things that have gone on that have delayed unnecessarily projects that ultimately were found to have merit and to meet the environmental constraints and laws of the United States. We need to move some of these projects ahead more quickly, and this, I believe, will help facilitate that.

I am particularly happy with the air service section of the bill.

□ 1400

I represent what has become an underserved community because of the dominance of one major carrier who has chosen, despite the profitability of that market, to divest itself of service and substitute a substandard so-called express service.

There are many of us across the Midwest and the western United States and even in the East struggling with these sorts of issues. There are many communities that have no service whatsoever. So the improvements we are making in the essential air service authorization here are essential. The new pilot program that would allow other than the traditional essential air service program, which can sometimes be kind of lame, is to be undertaken by the Secretary. And, finally, the new section which I think is going to be the great benefit to airports like mine and other airports across the country that have seen a diminution in service is the Small Community Air Service Development program, which would, with language we have put in the bill, require and give preference to communities that are willing to partner with the government in terms of a contribution and also can demonstrate the potential sustainability of their plan. Not just a potential pilot program which essentially becomes another name for an EAS program, but something to encourage innovation, to attract in new carriers that could provide a permanent presence and a new competition and improvement in service to those communities. There are many of us that desire to facilitate that.

Also, being a west coast Member, the issue of Washington National Airport and the sort of outmoded restrictions we see there is also accommodated to some extent in the bill.

Flight attendants will get at least some small recognition for the vital service they provide the traveling public on a daily basis, where they are going to get a certificate when they have completed their training, which hopefully with the uncertainties in the industry, the bankruptcies and the layoffs, will give them some portability and viability perhaps to move to new jobs if they lose theirs or there are other problems.

We begin to anticipate the huge looming retirement of air traffic controllers with this bill and to require or authorize the hiring of replacements who have quite a long training window, and we need to move ahead with that so we do not have a crisis.

The cabin air-quality hearings which we had last week revealed that we are basically not monitoring cabin air quality; and where we do not monitor, we do not have a problem. But the few monitoring samples that have been done do show problems, and we are going to require studies that were called for by the National Academy of Sciences to be undertaken by the FAA.

Finally, the air traffic control system, there is no more successful model in the world of an efficient, well-operating, privatized air traffic control system. Those that do exist have had to be dramatically subsidized, reinvested in by the governments that went down that route. And when I recently met with the Chair of the committee of jurisdiction from the Parliament, she said, Do not go there. Look at the mistakes we made in Great Britain. And I am pleased to see the provisions in the bill that relate to that. All in all, Flight 100 is a great foundation over the next 4 years for the next 100 years of flight in the United States.

Mr. MICA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Tennessee (Mr. DUNCAN), a senior member of the Subcommittee on Aviation and immediate past Chair of the subcommittee.

Mr. DUNCAN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in very strong support of this legislation, which has been entitled Flight 100. It is a very important bill for our entire Nation. It is important even for those who never fly because a strong aviation system is so vital to our entire economy.

I want to commend the gentleman from Florida (Mr. MICA) and the ranking member, the gentleman from Oregon (Mr. DEFAZIO), and the ranking member of the full committee, the gentleman from Minnesota (Mr. OBERSTAR), whose knowledge of the aviation system we all admire so much, and our great chairman, the gentleman from Alaska (Mr. YOUNG), for this bill.

As the gentleman from Florida (Mr. MICA) mentioned, I had the privilege of chairing the Subcommittee on Aviation for 6 years; but I cannot tell you how much I admire and respect the work that the gentleman from Florida (Mr. MICA) has done. No one could have done a better job as chairman of that subcommittee. And I certainly appreciate all the work he has done because that subcommittee has to deal with some very difficult and contentious issues at times, and that has been particularly so over the last couple of years.

This bill continues what I think was very good work that we did in the AIR 21 legislation that I had the privilege to work on while I was chairman of the subcommittee. I especially want to mention, as the gentleman from Oregon (Mr. DEFAZIO) did, the environmental streamlining provisions, because we have had so many hearings that said projects were costing three times as much as they should and taking an average of 10 years to complete because of convoluted and confusing environmental rules.

I know the main runway at the Atlanta airport took 14 years from conception to completion, but only 99 days of actual construction.

I appreciate the provisions in regard to general aviation which is so important to this Nation's economy, and small and medium-sized airports, because that is vital to areas like mine.

I want to thank the gentleman from Florida (Mr. MICA) for the provisions concerning Midway Island and making that eligible for AIP funding because that is something that means so much to so many veterans.

Finally, to the National Safe Skies Alliance, which has done so much work on aviation safety and security. I urge support for this bill.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Chairman, I rise to engage the gentleman from Minnesota (Mr. OBERSTAR) in a colloquy.

As the senior member on the Subcommittee on Aviation from California, I wish to bring to the attention of this body the rapidly developing public air travel access and passenger capacity needs at certain airports across the country.

With national growing capacity needs and growth issues, airports must address attendant safety factors. In 2002, Long Beach Airport was the fastest-growing commercial airport in the country at an annual growth rate of 300 percent. Therefore, I respectfully request that the Federal Aviation Administration and Congress take under advisement such capacity and growth issues and give appropriate consideration in awarding grants under the Airport Improvement Program for airports that are experiencing major growth. Specifically, I ask the FAA to take under strong consideration the needs for runway rehabilitation in these airports across the country that are impacted by rapid growth.

I ask the gentleman from Minnesota (Mr. OBERSTAR), the ranking member, we as members of the Subcommittee on Aviation and the full committee have worked hard to produce an aviation reauthorization bill that will sustain growth and enhance capacity as well as address ongoing safety needs. Providing much-needed resources to these growing airports across the country is within the principle and spirit of this aviation reauthorization bill.

Mr. OBERSTAR. Mr. Chairman, will the gentlewoman yield?

Ms. MILLENDER-McDONALD. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I commend the gentlewoman from California (Ms. MILLENDER-McDONALD) for her persistence and continuous leadership on this capacity issue, as well as many other transportation matters within the jurisdiction of our committee.

Resources for airport growth is an essential feature of this legislation. The gentlewoman has worked very hard and reminded the committee of these capacity requirements over the coming years. The bill specifically improves those funding measures substantially over even AIR 21 and previous legislation.

Five years ago, Congress provided only $1.9 billion for the airport improvement program (AIP). In AIR 21, we substantially increased AIP funding. Flight 100 builds upon the success of AIR 21 and continues to grow the program to meet anticipated capacity issues. In total, the bill provides $14.8 billion for AIR over 4 years, $1.2 billion more than the Administration's request. Airport development funding will grow from the current level of $3.4 billion to $4 billion in FY 2007. Moreover, these funds are guaranteed under flight 100.

With Flight 100, we will continue to make headway toward addressing our enormous airport development needs.

Mr. MICA. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY), who is also a senior member of our Subcommittee on Aviation.

Mrs. KELLY. Mr. Chairman, my purpose in rising is to express my strong support for the passage of H.R. 2115, Flight 100.

Three years ago, we passed landmark legislation under the chairmanship of Chairman SHUSTER, which increased dramatically Federal investment in our aviation system.

As we all know, the country has undergone fundamental changes since the enactment of AIR 21; and few, if any, industries have been so directly affected by our new circumstances. The legislation we have on the floor today is important because it builds on the accomplishments of AIR 21 and helps our aviation system adapt to new changes. Air transport is a large and very important part of the U.S. economy, and safety is a focus of not only the industry itself but of this bill.

The central feature of this bill is that it continues protections for the aviation trust fund that we achieved with AIR 21. These procedural protections which ensure the revenue generated by aviation taxes will be dedicated solely to aviation improvements have had a substantial and positive effect on Federal investment levels in aviation. In the first year of AIR 21 alone, funding for the Airport Improvement Program increased by $1.3 billion. Funding for the Facilities and Equipment Program increased by $700 million in the first year.

This bill maintains a strong focus on safety. It sets us on a path that will allow us to accommodate the continued growth of the system that we expect and we desire.

So I thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) for their efforts in getting this bill to the floor. And I would like to take note of my appreciation for their inclusion of a provision affecting our air traffic controllers and flight attendants. Once again, I urge a positive vote on this measure.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Chairman, I would like to first and foremost commend the leadership of the Committee on Transportation and Infrastructure, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR), and those who are ranking here representing this Flight 100, in recognition of the flight of the Wright brothers' incredible and ingenious invention, an item that seeks to annihilate space and circumscribe time.

I am particularly pleased that the protection for the air traffic controllers has been contained in this major piece of legislation. Individuals who lowered 4,000 flights without incident on 9–11 certainly need to be protected for their good work and their expertise.

Mr. Chairman, I had wanted very badly to have an amendment in here, a sense of Congress that would encourage the Department of Transportation to give preference to new entrants into the aviation market in terms of different routes that will eventually culminate in this particular legislation. While I support the major airline industry in this country, and use them twice a week, I think it would be beneficial to be very consumer friendly to allow some of your lesser-known carriers to be new entrants into this market to enable them to fly to, say, Washington Reagan National Airport at a more consumer-friendly cost than what we are having to pay at present. And we would trust that the Department of Transportation would look at that as a possibility as this measure goes forward.

Mr. Chairman, I commend those who worked laboriously to ensure the passage, and I support the passage of Flight 100.

Mr. MICA. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BURGESS), a member of the full committee.

Mr. BURGESS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I am pleased to join my colleagues in support of H.R. 2115. A vibrant and strong aviation industry is critical to our Nation's long-term economic growth. Over 10 million people are employed directly in the aviation industry. For every job in the aviation industry, 15 related jobs are produced.

The aviation industry accounts for over $800 billion of the country's gross domestic product. Just as the aviation industry is a catalyst for growth in the national economy, airports are a catalyst of growth for their local communities. Airports create over $500 billion in economic activity and directly employ 1.9 million people. Almost 2 million people a day and 38,000 tons of cargo pass through our Nation's airports each day.

The aviation industry is important to me and my constituents in the 26th district of Texas. The Dallas-Fort Worth Airport and American Airlines are headquartered in my congressional district. In my district alone, the aviation industry directly and indirectly employs over 50,000 people.

Aviation also links our Nation's citizens and communities to the national and world marketplace. Without access to integrated air transportation networks, communities cannot attract the investment necessary to grow or allow homegrown businesses to expand. A modern and fully funded aviation network is fundamental to making sure that all Americans can participate fully in the economy.

Airports are economic development engines. Airport development is a real economic stimulus that creates both immediate jobs and long-term economic development. Once this bill is enacted, my constituents will have the tools and resources necessary to attract even more air service-related economic development, and most importantly, further expand their connections to the national and global economy.

Mr. Chairman, the FAA reauthorization bill meets the challenges facing our Nation's aviation system: increasing security, expanding airport safety and capacity, and making sure all of our Nation's communities have access to the network. I strongly support H.R. 2115 and look forward to its passage today.

□ 1415

Mr. DeFAZIO. Mr. Chairman, I yield 2¼ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, I rise today in strong support of the Century of Aviation Reauthorization Act, and I want to commend the gentleman from Florida (Mr. MICA) and the gentleman from Oregon (Mr. DEFAZIO) because they have stressed so specifically the need for security in our airports, and they have worked diligently on that subject in terms of their leadership.

Working in a bipartisan manner, the committee has done an admirable job forging reasonable compromises on many issues. In the past 18 months, the Congress and the American people have made airport security and airline stabilization the primary focuses of aviation policy, and it is fitting to focus on our aviation capacity and safety needs again.

The Airport Improvement Program funding authorized in this bill will have the added benefit of putting people to work in a time of 6.1 percent unemployment. One issue that remains a top priority for me is funding for the national airspace redesign in the operations and maintenance account.

With a national airspace that looks as if it was designed in the time of the Wright brothers, AIR 21 did a good job of providing funds to stop the comprehensive design. H.R. 2115 allows that work to continue.

In 1998, FAA administrator Jane Garvey came to Newark airport and announced that the National Airspace Redesign would begin in the New York/New Jersey/Philadelphia region. I know that the FAA is still working on that segment of the design, and they hope to have a draft environmental impact statement next year.

The completion of the redesign will benefit Newark Liberty International Airport immensely by reducing delays, and it could potentially benefit New Jersey residents with air noise reduction.

Let me reiterate a point included in the committee report, if I may, that reminds the FAA that environmental streamlining provisions in the legislation have not been drafted to undermine the National Environmental Policy Act and we also worked that out. I urge the House to improve this important legislation.

Mr. MICA. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Indiana (Mr. CHOCOLA), an outstanding new Member and also the vice chair of our subcommittee who is doing a great job.

Mr. CHOCOLA. Mr. Chairman, I want to thank the gentleman for yielding me the time. I also want to commend the distinguished chairman for his good work on this bill.

Mr. Chairman, I rise today in support of this bill. In December of 1903, on the sands of Kitty Hawk, North Carolina, the Wright brothers achieved the milestone of manned, controlled, powered flight, and with that historic first flight, the aviation age was born. Since that time, the Federal Aviation Administration has developed alongside the aviation industry. We are here today obviously working on a 4-year reauthorization of that government agency.

The FAA does a lot of good things, but like every government agency, the FAA needs to be a good steward of taxpayer dollars. While the Subcommittee on Aviation was considering this bill, we heard from the General Accounting Office about $5.4 million in government credit card, also known as purchase cards, abuses by the employees of the FAA. Some examples of that abuse include purchase of Palm Pilots and accessories such as keyboards and leather cases from Coach costing almost $67,000. They also uncovered individual subscriptions to Internet service providers totaling $17,000; store gift cards to places like Home Depot, WalMart, and there are several other examples.

In their report, the GAO made a number of recommendations to strengthen FAA's internal controls of this purchase card program and decrease wasteful spending and improve accountability. I offered an amendment during consideration of this bill to direct the FAA administrator to implement the GAO's recommendations and then report back to Congress in 1 year and tell us how they are doing, and I am happy to report that the amendment was adopted.

Mr. Chairman, I believe we need to be better stewards of taxpayer dollars, and this small step will lead us in the right direction. The FAA is committed to a sound purchase card program and is taking action to strengthen controls, but we have an obligation to ensure that the FAA takes the necessary steps to manage their purchase card program responsibly.

Mr. Chairman, I think this is a good bill, and I urge my colleagues to support it today.

Mr. DeFAZIO. Mr. Chairman, could I inquire of the Chair as to the time available on each side?

The CHAIRMAN. The gentleman from Oregon (Mr. DEFAZIO) has 10¼ minutes remaining, and the gentleman from Florida (Mr. MICA) has 15 minutes remaining.

Mr. DeFAZIO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, let me express my appreciation for the extraordinary leadership of this Committee on Transportation and Infrastructure and this subcommittee in general in working together to formulate this bill, and I especially would like to voice my support for section 420 of the bill which has important implications for the aviation safety.

Over the last several weeks, I have heard from aviation repair stations in the Dallas/Fort Worth area that have told horror stories about the manufacturers refusing to make critical maintenance data available. I was contacted by one repair facility located in the Fort Worth area that has had firsthand experience with the problem that section 420 seeks to remedy.

In 1999, one of the manufacturers whose products the facility is authorized to maintain was charging just under $5,000 to keep three maintenance manuals current for 3 years. Now that same manufacturer is charging more than $20,000 to keep those manuals current for just 1 year. That price increase is outrageous and unwarranted, and this is just one example of aviation manufacturers taking advantage of the small businesses, and small businesses hire more people in Texas than any other type of business.

Mr. Chairman, we cannot sit by and allow manufacturers to deny access to critical maintenance information, so that we can keep our planes safe for the skies. We cannot sit by as the FAA fails to enforce its own regulations. Section 420 will remedy this situation if it is allowed, and, in turn, we will improve aviation safety and security.

Mr. MICA. Mr. Chairman, I am pleased to yield 2¼ minutes to the gentleman from Arkansas (Mr. BOOZMAN), one of our most active members on our subcommittee.

Mr. BOOZMAN. Mr. Chairman, I rise today in support of H.R. 2115, and I commend the gentleman from Alaska (Mr. YOUNG), the gentleman from Florida (Mr. MICA), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Oregon (Mr. DEFAZIO) for their efforts to bring this legislation to the floor.

H.R. 2115 protects the needed investment in our aviation system, and while doing so, it addresses the needs of our small communities. Most of us here in Congress represent small community airports. There are only a few airports the size of Chicago, Atlanta, or Los Angeles. In fact, over 60 percent of our airports are small airports.

That is why it is so important that H.R. 2115 continues the Small Community Air Service Development Pilot Program. This program is devoted to developing air service to smaller communities. Fort Smith, Arkansas Regional Airport, from my District, was fortunate enough to be one of the 40 airports selected to participate in this program. I am pleased to report that the program has been instrumental in enhancing air service in Fort Smith. They are truly a success story. The continuation of the Small Community Air Service Pilot Program is very important to small airports.

Another feature of this bill that works to support needs of small communities is the continuation of Essential Air Service. I commend the entire Committee on Transportation and Infrastructure for working together to improve the EAS program. The gentleman from Kansas (Mr. MORAN) worked very hard on this program, and I thank him for his efforts.

EAS provides air service to rural airports that would normally not be able to support a commercial air carrier in their community. In my District, Boone County Airport in rural Harrison, Arkansas depends on the EAS program for commercial service. The continuation and full funding of EAS is necessary for these rural communities. They simply cannot afford to pay a high-cost share to sustain service, and above all, they cannot afford to lose service.

H.R. 2115 adequately funds the EAS program and creates a community choice program that will allow communities to take ownership.

I ask support for the legislation.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the other gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I thank the other gentleman from Oregon for his courtesy.

Mr. Chairman, the modern airport is a building block of a livable community. Air transportation is essential to cities being competitive in a global economy and being integrated into the national transportation framework.

It is time for us to start making plans for what the role of airports should be in the future so that they do not pose a threat to livability and are truly integrated with other modes of transportation.

The manager's amendment contains two items I think can help point the way towards better, long-term integration among aviation, rail, and surface modes. First, there is an effort to clarify and publicize how passenger facility charges can be used to assist in the development of ground access projects. For too many people, the worst part of the trip is trying to get to and from the airport.

Second, there is a provision that requires plans for airport and runway construction and expansion to be shared between the airports and the metropolitan planning organizations. Currently, there is no guarantee that the aviation and surface transportation agencies are even talking to each other, let alone actually planning together.

A sound transportation process includes all the players and respects their obligations and responsibilities, and it will work to the benefit of all.

Twelve years ago, with the ISTEA legislation, Congress started a revolution in how our communities' transportation services are provided. It gave local communities more flexibility and provided strong signals that it made sense to plan comprehensively and to work intermodally. It is time for us to think about the next step of the transportation revolution as it relates to aviation, and extend these concepts to the other interrelated modes of rail, aviation and surface transportation.

I appreciate the courtesy of the subcommittee in including these provisions in the bill to at least start some cooperation between the modes, and hopefully in the future we can break down those barriers further and make more progress to truly having an integrated, seamless transportation system with airplanes, the critical role that we know that it needs for tomorrow's future.

Mr. MICA. Mr. Chairman, I am pleased tc yield 2 minutes to the gentleman from Kansas (Mr. MORAN), who is a member of our subcommittee who represents probably the largest aviation manufacturing facility, and does it so well, in the United States.

Mr. MORAN of Kansas. Mr. Chairman, I thank the gentleman from Florida (Mr. MICA) and the committee staff for the opportunity to be here today and for the quality piece of legislation that addresses many important concerns back home to the State of Kansas.

I am grateful for the opportunity that we have had to work together, particularly in regard to Essential Air Service reform. This is maybe the most significant reform we have had since this program was created 25 years ago.

The EAS provisions included in this bill give small and rural communities a greater role in the EAS process. Besides preserving its funding, it will also allow small communities to better tailor their local air service to their unique individual needs. It is vital small communities across the country remain connected to the national air network.

This legislation also provides increased funding for the AIP, Airport Improvement Program, that is essential in maintaining our Nation's airports, both large and small, and continues funding for our Nation's contract tower program, a vital program that improves the safety for small community airports.

Mr. Chairman, one section of the bill that remains a concern to me is section 420 that addresses the availability of maintenance information. This provision has some economic ramifications for aviation manufacturers. We discussed this issue in the full committee markup, and I appreciate my colleague's continued involvement and his responsiveness to the issue I have raised. The manager's amendment that the gentleman has offered will address some of the concerns. However, a couple of key safety and liability issues remain to be resolved.

Mr. Chairman, as my colleagues know, I drafted an amendment that I think would be a satisfactory compromise on this issue, which I will not offer, but would ask for the gentleman's continued support and discussion as we try to find satisfactory resolution to this issue that is very important to the aviation manufacturing industry.

I again thank the gentleman for all the efforts that he has put into this legislation.

□ 1430

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Kansas. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I do appreciate the serious concerns that the gentleman from Kansas has raised relating to the repair manuals and other information that should be made available, and we will work with the gentleman to make sure that the concerns raised are addressed.

Mr. MORAN of Kansas. Mr. Chairman, I thank the gentleman from Florida.

Mr. Chairman, let me begin by thanking you for your efforts in drafting H.R. 2115, the Flight 100—Century of Aviation Reauthorization Act. This legislation is vital for the continuation of our nation's aviation system.

I would like to thank you, Aviation Subcommittee Chairman MICA, and the Committee staff for your assistance in creating a quality piece of legislation that addresses many important concerns for state of Kansas.

I am grateful for the opportunity to work with you in crafting the most significant Essential Air Service (EAS) reform since the program's inception twenty-five years ago. The EAS provisions included in this bill give small and rural communities a greater role in the EAS process. Besides preserving funding, it will allow small communities to better tailor their local air service to their unique individual needs. It is vital that small communities across the country remain connected to the national air network.

Their legislation provides increased funding for the Airport Improvement Program (AIP)—

essential in maintaining our nation's airports—both large and small. Also, this bill provides continued funding for our nation's contract tower program—a vital program that dramatically improves the safety of small community airports.

Mr. Chairman, one section remains that still concerns me—Section 420—the section that addresses the availability of maintenance information. As you know, this is a controversial provision because of its dramatic economic ramifications for aviation manufacturers—many of whom, I might add, are laying off workers and temporarily closing their production lines. Aviation manufacturing is vital to the Kansas economy. It is our second largest industry behind agriculture. Also, more than 60 percent of the general aviation aircraft produced in the United States originates in Kansas. We discussed this issue during the Full Committee markup and I am appreciative of your continue involvement and your responsiveness to the issues I raised. The manager's amendment does address my concerns with the bill's language addressing the cost of maintenance manuals.

I continue to have concerns with Section 420 because we have not held a hearing on the issue, we have not heard from the FAA or the NTSB on the issue, and no one has shown me evidence that this provision will address a safety problem, if one in fact exists. Also, I have yet to see evidence that manufacturers are over-charging for these manuals.

If the case has not been made that such an immediate safety issue exists, why is Congress getting involved in the economic regulation of the aviation industry? Mr. Chairman, unless it an urgent and significant safety issue, I think we should be reluctant to intervene in the marketplace. I still believe we should first ask the FAA to study this issue in order to define the key terms of this legislation. Why pull the trigger without asking questions first?

Mr. Chairman, I drafted an amendment that I believe is an amenable compromise on this issue. However, rather than offer an amendment on a little-known and complex issue, I ask that you continue to work with me, the aircraft manufacturers, and the repair station industry, so a mutually agreed upon compromise—one that satisfies all parties—can be crafted during conference. I specifically ask for you commitment to address the following issues:

(1) For safety purposes, language to protect manufacturer oversight;

(2) Manufacturer liability concerns;

(3) In keeping with the current scope of the regulation, to include in section (a) the terms "type certificate holder," "supplemental type certificate holder," and "amended type certificate holder"; and

(4) The definition of "design approval holder."

Again, I sincerely thank you and your staff for adopting the language contained in the manager's amendment—this is definitely a step in the right direction. Mr. Chairman, again, thank you for your consideration and your assistance.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Hawaii (Mr. CASE).

Mr. CASE. Mr. Chairman, I thank the committee for what I think is a good bill. My purpose in rising today as this bill goes forward is simply to highlight the absolute dependence on some parts of our country on air service, and thus the absolute importance of the essential air services portion of the law and of this bill, and also the necessity as we go forward of avoiding one-size-fits-all thinking when we deal with the problems of our rural communities in addressing EAS.

In fact, imagine a district in which air service is truly indispensable to providing the basic necessities, to transporting residents, to providing emergency medical service, and to the survival and prosperity of our number one industry, tourism, and several other important industries based on, for example, agricultural exports.

That is Hawaii today, and that is my second district, a district that has all of Hawaii other than urban Honolulu and is composed of seven inhabited islands. It is absolutely unique.

Let me give an example of how this fits into one-size-fits-all thinking. A great deal of discussion is given in essential air services to how far airports are apart from each other, and both the gentleman from Pennsylvania (Mr. PETERSON) and the gentleman from Pennsylvania (Mr. PITTS) are offering amendments which I fully support which deal with how far is an airport. Well, the airport on Molokai is somewhere around 40 miles from Honolulu International Airport. Not too far, but there is no road. No road. It is on another island, so we have to think about unique circumstances. The options are nonexistent, no driving, no highways, no rail, no trains, no Amtrak subsidies, no ferries, cannot do that. It is airplane, period.

We are also in a very difficult period of adjustment in our interisland air travel. One airline is now in bankruptcy so we face the possibility of a monopoly with fees increasing and capacity reducing. We do have EAS designation for three extremely rural airports in Hawaii, and that is very appropriate; but I could easily make the argument that all Hawaii airports, big or small, rural or urban, are essentially EAS airports.

In conclusion, I simply want to highlight the absolute necessity of EAS to States like Hawaii.

Mr. MICA. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. REHBERG), the former lieutenant governor of the State of Montana.

Mr. REHBERG. Mr. Chairman, I thank the gentleman for recognizing the differences between districts. The gentleman from New York (Mr. CROWLEY) is going to be speaking, and I want to highlight why essential air service is important to the State of Montana.

The gentleman from New York had to come all of the way to the State of Montana to find his future wife, but our districts could not be more dissimilar. He represents 75 square miles with LaGuardia in the middle. My district spans the distance from Washington, D.C. to Chicago. Washington, D.C. to Chicago. We have eight communities. When I travel back to my district, it takes me 7 hours to get to my district by air. I jump in a car, and just to get to one of the communities to have a listening session on an Indian reservation, it takes me another 6 hours to drive. We need essential air.

This country made a commitment in rail many years ago. It made a commitment in our interstate system many years ago, and it made a commitment to essential air service. I cannot think of a more appropriate name than essential air service.

When I came to Congress, I said I want to know about other people's districts so I know what kinds of things they are confronted with. I can see the problem between islands that the gentleman from Hawaii spoke about. People cannot swim necessarily between islands. Do you want grandmother and grandpa driving 324 miles to get to the hospital? They have no alternatives. They cannot get on Amtrak; they cannot call a cab and ride 324 miles to see their doctor. We need essential air service. This committee and this Congress has made that recognition through this bill, and I hope Members will look favorably upon the bill; and I thank the gentleman from Florida (Mr. MICA) for his hard work on this bill, and I thank the gentleman from New York (Mr. CROWLEY) for taking his wife and moving her to New York.

Mr. DEFAZIO. Mr. Chairman, may I inquire as to the time remaining.

The CHAIRMAN. The gentleman from Oregon (Mr. DEFAZIO) has 4½ minutes remaining, and the gentleman from Florida (Mr. MICA) has 9 minutes remaining.

Mr. DEFAZIO. Mr. Chairman, I yield 2½ minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I would like to respond to the gentleman from Montana (Mr. REHBERG), but I do not have the time to do it right now.

I rise to engage in a colloquy with the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from Florida (Mr. MICA) and call attention to the serious issue of noise pollution and the effects of airport noise in the communities surrounding LaGuardia Airport in Queens and the Bronx, New York, as well as the other communities surrounding the four airports of the Port Authority of New York and New Jersey.

To date, the Port Authority of New York and New Jersey has continually refused to provide for residential soundproofing for these homes or to undertake a part 150 noise compatibility study, which would allow the Port Authority to tap into tens of millions of Federal noise abatement dollars for residential soundproofing.

If one looks at the 10 largest airports in America, all of them spend money on residential soundproofing except the Port Authority of New York and New Jersey, which governs LaGuardia Airport, Kennedy Airport, Teterboro Airport, and Newark Airport.

While the Port Authority has contacted me to state they would be willing to work with my office and our congressional delegation, including the gentleman from New York (Mr. ACKERMAN), the gentlewoman from New York (Mrs. LOWEY), and the gentleman from New York (Mr. WEINER), to address these noise problems, it is my hope and the hope of the communities surrounding LaGuardia Airport that they will begin residential soundproofing of homes.

That is why I would like to address this issue and request assistance to work with me on crafting report language to make the Port Authority of New York and New Jersey a better and more responsible neighbor, so they will address noise problems created at their airports, especially as they affect residents living near these airports.

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. CROWLEY. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, I commend the gentleman from New York (Mr. CROWLEY) on his fierce advocacy on this issue and the fact that we are beginning to see some movement on the part of the Port Authority. It is astounding they have not undertaken such a study. I want to continue to work with the gentleman and the Chair and others to see that we begin to move ahead on this issue.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. CROWLEY. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I thank the gentleman for raising this important issue before the House, and I look forward to working with him to come to a fair solution to the problem raised by him.

Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. TERRY), a former member of the Committee on Transportation and the Infrastructure.

Mr. TERRY. Mr. Chairman, I rise in support of this important bill. It continues the philosophy embraced in AIR 21, which accomplished two significant things. First of all, it recognized the importance of the infrastructure of our airports and the necessity to modernize and expand. I am proud that this bill embraces that philosophy. The Omaha Epplay Airport at one time was one of the fastest growing airports in the Midwest and certainly requires additional infrastructure.

Also in regard to safety, once you are in the air with the capacity that is necessary to move people back and forth in today's economy, it is necessary that we modernize in that area; and I am proud that this bill continues to modernize and make air travel even safer.

I do, however, have concerns about what I call the "front end security" in our airports. That is a variety of different issues that, I think while the gentleman is helping air travel with this bill, I worry that with the convoluted, confusing airport security in our airports today that we are not chasing passengers away. The number of airports that I have walked through since we have adopted airport security, I see the number of screeners and baggage handlers more than double, but what I see is longer lines. From my view, just as efficient, if not less efficient, airport screening. I see different rules from one airport to another in regard to how they handle baggage and requirement of IDs.

I have heard from many of my constituents complaints about the arrogance of those people now checking the bags and the difficulties that they have had. We did not hear those types of stories before. Maybe some of that comes from the fact that the Federal security directors in these airports are mostly retired military.

Mr. Chairman, are these issues going to be addressed by the committee?

Mr. MICA. Mr. Chairman, I yield myself 30 seconds to answer the gentleman's question.

Mr. Chairman, I want to assure the gentleman from Nebraska that while we do not address in this particular legislative measure before us today security issues raised by the gentleman, they will be addressed in a separate piece of legislation that is now pending, consideration by leadership and homeland security. Certainly all of the issues that the gentleman raised have been raised by other Members, and we will try to right-size and correct some of the problems with TSA and aviation security.

Mr. DEFAZIO. Mr. Chairman, I yield 2½ minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Florida (Mr. MICA), and the chairman of the full committee for the bipartisan way in which they have put together a very good bill.

Mr. Chairman, I ask Members to imagine their own district if general aviation or charters had been closed down since 9-11. Whether Members are from a small or large area, there would have been a demonstrable effect on the economy, and, indeed, on your way of life. And the last place one would expect that to happen is in the Nation's capital; but that is what has happened at Reagan National Airport, even though this area is a huge economic engine for the country because of the high-tech and other employers located here. And, of course, this is where the Nation's capital is located.

I want to thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) for having supported the reopening of general aviation at Reagan National after listening to all of the security concerns, including secured briefings. General aviation is up and operating everywhere else in the United States. Yes, at Dulles from whence the Pentagon plane came, at New York where the Twin Towers were struck, and at BWI. Why is it not up here, especially when the Reagan contractors have said they will submit to any plan imposed by the Transportation and Safety Agency? None has been forthcoming.

Mr. Chairman, there is a plan. We know there is a plan, and we know that the TSA was about to offer a plan more than a year ago; but no plan has been published. I had an amendment that said publish a plan and let us speak on it. No one would compel them to put a plan in operation. General aviation is not closed. It must be kept open for the convenience of the government. Therefore, there are two employees there for the convenience of Federal and State and local takeoffs and landings.

The lesson from 9-11 is that security takes place on the ground or else it does not take place at all. We have some fail-safes for planes. But general aviation or charters, it would be easy enough to impose absolute measures: special screening, limited takeoffs and landings. I could go on and on. We cannot allow 9-11 to shut down any part of the national economy. They have already done so here. It is a notch in their belts; let us take that notch away.

Mr. MICA. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. HAYES), a very knowledgeable member and a pilot who serves on our subcommittee.

□ 1445

Mr. HAYES. Mr. Chairman, as a person with an experienced perspective on aviation and the role of aviation in promoting economic investment, I want to thank the gentleman from Florida (Mr. MICA), the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Oregon (Mr. DEFAZIO) for their leadership in working with Members to craft this excellent current legislation which I strongly support.

Modernization of the air traffic control system through an innovative financing program that they have included in this bill is very helpful to provide the kind of safety that we seek in our air traffic control. Keeping air traffic control from being privatized is very important. We have done that in this bill. Funding. Providing significant increases in the AIP, Airport Improvement Fund, is important. We have done that. Streamlining provisions which allow for runways and expansion to be accelerated without compromising any of our environmental concerns is in this bill and vitally important to helping alleviate future congestion in the system.

All of these and many other provisions included in the bill will strengthen the aviation industry, our transportation system, and will grow our economy for future generations.

Mr. Chairman, I appreciate the efforts. I appreciate the attention that was paid to the fine personnel who operate the finest and safest air traffic control system in the world, and I appreciate Members' support for this bill.

Mr. MICA. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Chairman, I would like to engage the gentleman from Florida in a colloquy concerning section 521 of H.R. 2115.

Section 521 concerns what is known as "general conformity" under the Clean Air Act. As reported from the Committee on Transportation and Infrastructure, the provision would require joint action by the Department of Transportation and the Environmental Protection Agency regarding appropriate emission credits for airport projects. The section would also authorize a pilot program to retrofit airport ground equipment at airports located in nonattainment or maintenance areas, as defined in the Clean Air Act.

This provision is within the jurisdiction of the Committee on Energy and Commerce and the Subcommittee on Energy and Air Quality that I am chairman of. I share the broad goals of this provision, but I have some concerns regarding the current legislative language, including the requirement for joint action. While the language indicates provision of the credits should be "consistent" with the Clean Air Act, the current construction may be subject to misinterpretation. It may also be in conflict with the present statutory role of the Environmental Protection Agency under the Clean Air Act. Therefore, I would seek the gentleman's assurances that the Energy and Commerce Committee's interests will be protected in conference and that any final legislative language regarding section 521 be subject to the review and concurrence of the committee that I serve on.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Florida.

Mr. MICA. The gentleman has my assurances that this will be the case and that I will work with the gentleman to see that the appropriate changes are made in conference.

Mr. BARTON of Texas. I want to thank the gentleman from Florida for his assurances and look forward to working with him during the upcoming conference.

Mr. MICA. Mr. Chairman, I am pleased in the spirit of bipartisanship, the good spirit in which the legislation has been crafted together with both sides of the aisle, to yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank the very distinguished subcommittee chairman not just for yielding me this time but for the fact that this committee, I understand, has really been pretty fair to the Washington area, because I know the pressure that is on the committee with regard to National Airport, to expand the slots not just incrementally but exponentially because everyone would like the convenience of National Airport and a lot of the airlines would like transcontinental flights.

But we have a very serious concern. I know the chairman knows that, I know the gentleman from Minnesota (Mr. OBERSTAR) is aware of that and the gentleman from Alaska (Mr. YOUNG), all of the people that have been involved in this know that there was an agreement signed back in 1986 where the Washington area took over the financing and operational responsibility for National and Dulles airports. The deal was that the Congress would not micromanage. Yet we do have 20 additional slots here and we have 12 slots that go beyond the 1,250-mile perimeter rule which was a very basic part of that agreement. The gentlewoman from the District of Columbia (Ms. NORTON) and I have a very serious concern with expanding those slots. What we would like at least is an agreement that we will take out the so-called "come see me" provision so this would be the end of the slot expansion and we would like to get general aviation opened. I know that the gentleman from Florida (Mr. MICA) has been working on general aviation. It is very important to our economy but important to so many economies throughout the country. It does not make sense to keep general aviation closed.

Mr. MICA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to thank again the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Oregon (Mr. DEFAZIO), and particularly the gentleman from Alaska (Mr. YOUNG) for their leadership in putting this legislation together. There are a number of difficult issues. I particularly again want to reiterate thanks to the staff who have worked long and hard to bring this measure in rapid order before the House of Representatives.

Mr. Chairman, this is a vital piece of legislation. I think all we have to do is look back on the events of September 11. If you took American aviation for granted, certainly that day was an awakening. Every day since September 11, we have struggled to get back on our feet. We have seen the hundreds of thousands of jobs that have been lost in our economy as a result of damage done not only by the events of September 11 but the struggling difficulties of our major air carriers. We take aviation for granted in this United States. It has provided a magic carpet, a way of life unknown by any people who have ever walked the face of this Earth, but it has become a part of the very fabric of our society. This legislation will set our policy for the next 4 years as far as aviation, so it is very important.

We heard from the gentleman from Virginia and the gentlewoman from the District of Columbia how a closedown in just general aviation has affected the Nation's capital and the areas they represent. We cannot have that anywhere. We are willing to work with them and work with all to make certain that we restore this vital industry, that we restore jobs and that we protect a way of life for the American people. That is, to travel again in a manner in which only we can think about today and only 100 years ago the Wright brothers could dream about.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise to voice my concerns over this legislation.

Every few years, we return to the issue of adding slots at Reagan National. Every few years we tinker around with the Washington area airports in ways that Congress shouldn't be tinkering.

It might be more convenient for some people to have the flights they want on airlines they want to favor, but these actions have real effects on the economy of my district in ways that I believe are not fully appreciated.

Three airports—Reagan National, Dulles, and Baltimore/Washington, serve the Washington, D.C. region. Our region—my district—has developed around the services these airports provide. Along the Reston corridor one can see all the tech firms that have established themselves over recent years. One of the main reasons—one of the main selling points—for these companies to locate in Northern Virginia was the fact that Dulles airport provided an accessible, convenient transportation hub for flights all over the globe.

It is not a secret that the airline industry is in deep financial trouble. United Airlines, which operates 60 percent of the flights at Dulles, is struggling to emerge from bankruptcy. They are struggling to deal with the fallout from the War in Iraq, SARS, terrorism—and they are facing increased pressure from the bankruptcy court to abandon their Dulles hub. Understand that continuing to divert traffic away from Dulles, especially long-haul traffic, gives more fuel to those who would have United leave Dulles.

I hope you understand why this is so important to me. This isn't solely a debate about noise and increased air traffic, although those are important issues to my constituents as well. It is a debate about continuing to erode the cornerstone of the Northern Virginia high-tech corridor.

That said, it seems a little unfair that if we must continue to add outside-the-perimeter slots at National, that we do not allow U.S. Airways—the airline that has put so many resources into making Reagan National a world-class airport—the opportunity get any of them. U.S. Airways is also an important part of our economy in Northern Virginia. They have done an outstanding job to re-emerge from bankruptcy, and I think it is time we started recognizing the contributions they have made for the National Capital Region.

To close, I would love to see an end to Congressional micromanagement in MWAA affairs. I am hopeful this will eventually happen. Until then, understand the true nature of my opposition to adding more long-haul flights to National.

Mr. COSTELLO. Mr. Chairman, I rise today in support of H.R. 2115, Flight 100, the Century of Aviation Reauthorization Act. This is a good bill and I urge my colleagues to join me in supporting this legislation.

When this Congress passed AIR–21 in 2000, we significantly increased funding for aviation programs, especially the Airport Improvement Program (AIP), in order to increase capacity to help cope with record high aviation traffic and unprecedented delays.

While air traffic has declined in the last three years due to a variety of factors, including the attacks of September 11th, the slumping economy and the SARS outbreak, no one expects these declines to be permanent, and the FAA is forecasting a return to record levels in 2006. Our Nation's aviation infrastructure needs to be prepared for this growth in traffic, and this bill keeps us on track to do so.

Flight 100 authorizes $58.9 billion over four years for the programs and activities of the FAA, including $14.3 billion for FY04. It continues the budgetary protections that allowed us to increase funding in AIR–21, and continues to provide slightly increased annual funding for the AIP program.

In addition, the bill increases the entitlement for cargo airports, prohibits the privatization of air traffic controllers, allows airports to use some of their AIP money to modify terminals to install explosive detection systems, extends the government's ability to offer war-risk insurance until 2007 for domestic flights and increases the amount that airports in the military airport program may use for terminal development, parking lots, fuel farms or hangar construction.

Mr. Chairman, while this bill does not do everything that I would like it to do, overall it continues good aviation policies and will serve to strengthen our aviation infrastructure over the next four years. I urge my colleagues to join me in voting yes for this bill.

Mr. CASE. Mr. Chairman, my purpose in rising today is to highlight the absolute dependence of some parts of our country on air service and thus the absolute importance of the Essential Air Services (EAS) portions of the law and of this bill, and also the necessity as we go forward of avoiding one-size-fits-all thinking when we deal with the problems of our rural communities in providing EAS.

Imagine a district in which air service is truly indispensable to providing the basic necessities, to transporting residents, to providing emergency medical service, and to the survival and prosperity of its number one industry, tourism, and several other important industries like agriculture which are based on exports.

That's Hawaii today, and that's my Second District—a district that has all of Hawaii other than urban Honolulu, and is composed of seven inhabited islands—it's absolutely unique. And let me give an example of how this uniqueness doesn't work with one-size-fits-all thinking. A great deal of EAS discussion concerns how far airports are apart from each other. And both Mr. PETERSON and Mr. PITTS are offering amendments today, which I fully support, that deal with "How far apart are airports?" Well, the airport on Molokai is somewhere around 40 miles from Honolulu International Airport as the crow flies. Not too far. But guess what—no road. No road, it's on another island. So we've got to think about unique circumstances in designing legislation.

The options are nonexistent for air service on these islands. No driving, no highways, no rail, no trains, no Amtrak subsidies, no ferries—can't do that. It's air, period!

We are also in a very difficult period of adjustment in our interisland air travel. Essentially we've had a duopoly—and one airline is now in bankruptcy so we face the possibility of a monopoly. And fees are increasing rapidly while capacity is decreasing.

We do have EAS designation for three extremely rural airports in Hawaii, and that is very appropriate. But I could easily make the argument that all Hawaii airports—big or small, rural or urban—are essentially EAS airports.

So in conclusion, I simply want to highlight, as this bill goes forward, the absolute necessity of EAS for states like Hawaii, and to say: think about unique circumstances.

Mr. MICA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part A of House Report 108–146, shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 2115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Flight 100—Century of Aviation Reauthorization Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 49, United States Code.
Sec. 3. Effective date.

TITLE I—AUTHORIZATIONS

Sec. 101. Federal Aviation Administration operations.
Sec. 102. Air navigation facilities and equipment.
Sec. 103. Airport planning and development and noise compatibility planning and programs.
Sec. 104. Additional reauthorizations.
Sec. 105. Insurance.
Sec. 106. Pilot program for innovative financing for terminal automation replacement systems.

TITLE II—AIRPORT PROJECT STREAMLINING

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Promotion of new runways.
Sec. 204. Airport project streamlining.
Sec. 205. Governor's certificate.
Sec. 206. Construction of certain airport capacity projects.
Sec. 207. Limitations.
Sec. 208. Relationship to other requirements.

TITLE III—FEDERAL AVIATION REFORM

Sec. 301. Management advisory committee members.
Sec. 302. Reorganization of the Air Traffic Services Subcommittee.
Sec. 303. Clarification of the responsibilities of the Chief Operating Officer.
Sec. 304. Small Business Ombudsman.
Sec. 305. FAA purchase cards.

TITLE IV—AIRLINE SERVICE IMPROVEMENTS

Sec. 401. Improvement of aviation information collection.
Sec. 402. Data on incidents and complaints involving passenger and baggage security screening.
Sec. 403. Definitions.
Sec. 404. Clarifications to procurement authority.
Sec. 405. Low-emission airport vehicles and ground support equipment.
Sec. 406. Streamlining of the passenger facility fee program.
Sec. 407. Financial management of passenger facility fees.
Sec. 408. Government contracting for air transportation.
Sec. 409. Overflights of national parks.
Sec. 410. Collaborative decisionmaking pilot program.
Sec. 411. Availability of aircraft accident site information.
Sec. 412. Slot exemptions at Ronald Reagan Washington National Airport.
Sec. 413. Notice concerning aircraft assembly.
Sec. 414. Special rule to promote air service to small communities.
Sec. 415. Small community air service.
Sec. 416. Type certificates.
Sec. 417. Design organization certificates.
Sec. 418. Counterfeit or fraudulently represented parts violations.
Sec. 419. Runway safety standards.
Sec. 420. Availability of maintenance information.
Sec. 421. Certificate actions in response to a security threat.
Sec. 422. Flight attendant certification.
Sec. 423. Civil penalty for closure of an airport without providing sufficient notice.
Sec. 424. Noise exposure maps.
Sec. 425. Amendment of general fee schedule provision.
Sec. 426. Improvement of curriculum standards for aviation maintenance technicians.
Sec. 427. Task force on future of air transportation system.

Sec. 428. Air quality in aircraft cabins.
Sec. 429. Recommendations concerning travel agents.
Sec. 430. Task force on enhanced transfer of applications of technology for military aircraft to civilian aircraft.
Sec. 431. Reimbursement for losses incurred by general aviation entities.
Sec. 432. Impasse procedures for National Association of Air Traffic Specialists.
Sec. 433. FAA inspector training.
Sec. 434. Prohibition on air traffic control privatization.
Sec. 435. Airfares for members of the Armed Forces.
Sec. 436. Air carriers required to honor tickets for suspended air service.
Sec. 437. International air show.
Sec. 438. Definition of air traffic controller.
Sec. 439. Justification for air defense identification zone.
Sec. 440. International air transportation.
Sec. 441. Reimbursement of air carriers for certain screening and related activities.
Sec. 442. General aviation flights at Ronald Reagan Washington National Airport.

TITLE V—AIRPORT DEVELOPMENT

Sec. 501. Definitions.
Sec. 502. Replacement of baggage conveyor systems.
Sec. 503. Security costs at small airports.
Sec. 504. Withholding of program application approval.
Sec. 505. Runway safety areas.
Sec. 506. Disposition of land acquired for noise compatibility purposes.
Sec. 507. Grant assurances.
Sec. 508. Allowable project costs.
Sec. 509. Apportionments to primary airports.
Sec. 510. Cargo airports.
Sec. 511. Considerations in making discretionary grants.
Sec. 512. Flexible funding for nonprimary airport apportionments.
Sec. 513. Use of apportioned amounts.
Sec. 514. Military airport program.
Sec. 515. Terminal development costs.
Sec. 516. Contract towers.
Sec. 517. Airport safety data collection.
Sec. 518. Airport privatization pilot program.
Sec. 519. Innovative financing techniques.
Sec. 520. Airport security program.
Sec. 521. Low-emission airport vehicles and infrastructure.
Sec. 522. Compatible land use planning and projects by State and local governments.
Sec. 523. Prohibition on requiring airports to provide rent-free space for Federal Aviation Administration.
Sec. 524. Midway Island Airport.

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall be effective on the date of enactment of this Act.

TITLE I—AUTHORIZATIONS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) In General.—Section 106(k) is amended to read as follows:

"(k) Authorization of Appropriations.—

"(1) Salaries, operations, and maintenance.—There is authorized to be appropriated to the Secretary of Transportation for salaries, operations, and maintenance of the Administration—

"(A) $7,591,000,000 for fiscal year 2004;
"(B) $7,732,000,000 for fiscal year 2005;
"(C) $7,889,000,000 for fiscal year 2006; and
"(D) $8,064,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

"(2) Operation of center for management and development.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Center for Management Development of the Federal Aviation Administration to operate at least 200 courses each year and to support associated student travel for both residential and field courses.

"(3) Air traffic management system.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Federal Aviation Administration for the establishment and operation of a new office to develop, in coordination with the Department of Defense, the National Aeronautics and Space Administration, and the Department of Homeland Security, the next generation air traffic management system and a transition plan for the implementation of that system. The office shall be known as the 'Next Generation Air Transportation System Joint Program Office'.

"(4) Helicopter and tiltrotor procedures.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Federal Aviation Administration for the establishment of helicopter and tiltrotor approach and departure procedures using advanced technologies, such as the Global Positioning System and automatic dependent surveillance, to permit operations in adverse weather conditions to meet the needs of air ambulance services.

"(5) Additional air traffic controllers.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended to hire additional air traffic controllers in order to meet increasing air traffic demands and to address the anticipated increase in the retirement of experienced air traffic controllers.

"(6) Completion of alaska aviation safety project.—Out of amounts appropriated under paragraph (1), $6,000,000 may be expended for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska's main aviation corridors.

"(7) Aviation safety reporting system.—Out of amounts appropriated under paragraph (1), $3,400,000 may be expended on the Aviation Safety Reporting System.".

(b) Airline Data and Analysis.—There is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $3,971,000 for fiscal year 2004, $4,045,000 for fiscal year 2005, $4,127,000 for fiscal year 2006, and $4,219,000 for fiscal year 2007 to gather airline data and conduct analyses of such data in the Bureau of Transportation Statistics of the Department of Transportation.

(c) Human Capital Workforce Strategy.—

(1) Development.—The Administrator of the Federal Aviation Administration shall develop a comprehensive human capital workforce strategy to determine the most effective method for addressing the need for more air traffic controllers that is called for in the June 2002 report of the General Accounting Office.

(2) Completion date.—The Administrator shall complete development of the strategy not later than 1 year after the date of enactment of this Act.

(3) Report.—Not later than 30 days after the date on which the strategy is completed, the Administrator shall transmit to Congress a report describing the strategy.

(d) Goals and Objectives of Aviation Safety Reporting System.—Not later than 90 days after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the long-term goals and objectives of the Aviation Safety Reporting System and how such system interrelates with other safety reporting systems of the Federal Government.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101 is amended—

(1) in subsection (a) by striking paragraphs (1) through (5) and inserting the following:

"(1) $3,138,000,000 for fiscal year 2004;
"(2) $2,993,000,000 for fiscal year 2005;
"(3) $3,053,000,000 for fiscal year 2006; and
"(4) $3,110,000,000 for fiscal year 2007.";

(2) by striking subsection (b);

(3) by redesignating (c) as subsection (b);

(4) by striking subsections (d) and (e) and inserting the following:

"(c) Enhanced Safety and Security for Aircraft Operations in the Gulf of Mexico.—Of amounts appropriated under subsection (a), such sums as may be necessary for fiscal years 2004 through 2007 may be used to expand and improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather services in the Gulf of Mexico.

"(d) Operational Benefits of Wake Vortex Advisory System.—Of amounts appropriated under subsection (a), $20,000,000 for each of fiscal years 2004 through 2007 may be used to document and demonstrate the operational benefits of a wake vortex advisory system.

"(e) Ground-Based Precision Navigational Aids.—Of amounts appropriated under subsection (a), $20,000,000 for each of fiscal years 2004 to 2007 may be used to establish a program for the installation, operation, and maintenance of a closed-loop precision approach aid designed to improve aircraft accessibility at mountainous airports with limited land if the approach aid is able to provide curved and segmented approach guidance for noise abatement purposes and has been certified or approved by the Administrator."; and

(5) in subsection (f)—

(A) by striking "for fiscal years beginning after September 30, 2000"; and

(B) by inserting "may be used" after "necessary".

SEC. 103. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) Authorization.—Section 48103 is amended—

(1) by striking "September 30, 1998" and inserting "September 30, 2003"; and

(2) by striking paragraphs (1) through (5) and inserting:

"(1) $3,400,000,000 for fiscal year 2004;
"(2) $3,600,000,000 for fiscal year 2005;
"(3) $3,800,000,000 for fiscal year 2006; and
"(4) $4,000,000,000 for fiscal year 2007.".

(b) Obligational Authority.—Section 47104(c) is amended by striking "September 30, 2003" and inserting "September 30, 2007".

SEC. 104. ADDITIONAL REAUTHORIZATIONS.

(a) Contract Air Traffic Control Tower Pilot Program.—Section 47124(b)(3)(E) is amended by striking "$6,000,000 per fiscal year" and inserting "$6,500,000 for fiscal year 2004, $7,000,000 for fiscal year 2005, $7,500,000 for fiscal year 2006, and $8,000,000 for fiscal year 2007".

(b) Small Community Air Service.—Section 41743(e)(2) is amended—

(1) by striking "and" the first place it appears and inserting a comma; and

(2) by inserting after "2003" the following ", and $35,000,000 for each of fiscal years 2004 through 2008".

(c) Regional Air Service Incentive Program.—Section 41766 is amended by striking "2003" and inserting "2007".

(d) Funding for Aviation Programs.—Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 48101 note) is amended by striking "2003" each place it appears and inserting "2007".

(e) Design-Build Contracting.—Section 139(e) of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 47104 note) is amended by striking "2003" and inserting "2007".

(f) Metropolitan Washington Airports Authority.—Section 49108 is amended by striking "2004" and inserting "2007".

SEC. 105. INSURANCE.

(a) Termination.—Section 44310 is amended to read as follows:

"§44310. Termination date

"Effective December 31, 2007, the authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter shall be limited to—

"(1) the operation of an aircraft by an air carrier or foreign air carrier in foreign air commerce or between at least 2 points, all of which are outside the United States; and

"(2) insurance obtained by a department, agency, or instrumentality of the United States under section 44305.".

(b) Extension of Policies.—Section 44302(f)(1) is amended by striking "through December 31, 2004," and inserting "thereafter".

(c) Aircraft Manufacturer Liability for Third Party Claims Arising Out of Acts of Terrorism.—Section 44303(b) is amended by adding at the end the following: "The Secretary may extend the provisions of this subsection to the United States manufacturer (as defined in section 44310) of the aircraft of the air carrier involved.".

(d) Vendors, Agents, Subcontractors, and Manufacturers.—

(1) In general.—Chapter 443 is amended—

(A) by redesignating section 44310 (as amended by subsection (a) of this section) as section 44311; and

(B) by inserting after section 44309 the following:

"§44310. Vendors, agents, subcontractors, and manufacturers

"(a) In General.—The Secretary of Transportation may extend the application of any provision of this chapter to a loss by a vendor, agent, and subcontractor of an air carrier and a United States manufacturer of an aircraft used by an air carrier but only to the extent that the loss involved an aircraft of an air carrier.

"(b) United States Manufacturer Defined.—In this section, the term 'United States manufacturer' means a manufacturer incorporated under the laws of a State of the United States and having its principal place of business in the United States.".

(2) Conforming amendment.—The analysis for chapter 443 is amended by striking the item relating to section 44310 and inserting the following:

"44310. Vendors, agents, subcontractors, and manufacturers.
"44311. Termination date.".

(e) Technical Corrections.—Effective November 19, 2001, section 124(b) of the Aviation and Transportation Security Act (115 Stat. 631) is amended by striking "to carry out foreign policy" and inserting "to carry out the foreign policy".

SEC. 106. PILOT PROGRAM FOR INNOVATIVE FINANCING FOR TERMINAL AUTOMATION REPLACEMENT SYSTEMS.

(a) In General.—In order to test the cost-effectiveness and feasibility of long-term financing of modernization of major air traffic control systems, the Administrator of the Federal Aviation Administration may establish a pilot program to test innovative financing techniques through amending a contract, subject to section 1341 of title 31, United States Code, of more than one, but not more than 20, fiscal years to purchase and install terminal automation replacement systems for the Administration. Such amendments may be for more than one, but not more than 10 fiscal years.

(b) Cancellation.—A contract described in subsection (a) may include a cancellation provision if the Administrator determines that such a provision is necessary and in the best interest of the United States. Any such provision shall include a cancellation liability schedule that covers reasonable and allocable costs incurred by the contractor through the date of cancellation plus reasonable profit, if any, on those costs. Any such provision shall not apply if the contract is terminated by default of the contractor.

(c) Contract Provisions.—If feasible and practicable for the pilot program, the Administrator may make an advance contract provision to achieve economic-lot purchases and more efficient production rates.

(d) Limitation.—The Administrator may not amend a contract under this section until the program for the terminal automation replacement systems has been rebaselined in accordance with the acquisition management system of the Administration.

(e) Annual Reports.—At the end of each fiscal year during the term of the pilot program, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on how the Administrator has implemented in such fiscal year the pilot program, the number and types of contracts or contract amendments that are entered into under the program, and the program's cost-effectiveness.

(f) Funding.—Out of amounts appropriated under section 48101 for fiscal year 2004, $200,000,000 shall be used to carry out this section.

TITLE II—AIRPORT PROJECT STREAMLINING

SEC. 201. SHORT TITLE.

This title may be cited as the "Airport Streamlining Approval Process Act of 2003".

SEC. 202. FINDINGS.

Congress finds that—

(1) airports play a major role in interstate and foreign commerce;

(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.

SEC. 203. PROMOTION OF NEW RUNWAYS.

Section 40104 is amended by adding at the end the following:

"(c) Airport Capacity Enhancement Projects at Congested Airports.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47178.".

SEC. 204. AIRPORT PROJECT STREAMLINING.

(a) In General.—Chapter 471 is amended by inserting after section 47153 the following:

"SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

"§47171. DOT as lead agency

"(a) Airport Project Review Process.—The Secretary of Transportation shall develop and implement a coordinated review process for airport capacity enhancement projects at congested airports.

"(b) Coordinated Reviews.—

"(1) In general.—The coordinated review process under this section shall provide that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for an airport capacity enhancement project at a congested airport will be conducted concurrently, to the maximum extent practicable, and completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (c) with respect to the project.

"(2) Agency participation.—Each Federal agency identified under subsection (c) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in paragraph (1) in a timely and environmentally responsible manner.

"(c) Identification of Jurisdictional Agencies.—With respect to each airport capacity enhancement project at a congested airport, the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

"(d) State Authority.—If a coordinated review process is being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

"(e) Memorandum of Understanding.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (c) with respect to the project and the airport sponsor.

"(f) Effect of Failure To Meet Deadline.—

"(1) Notification of Congress and CEQ.—If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (b) for the project, the Secretary shall notify, within 30 days of the date of such determination, the

Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

"(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

"(g) PURPOSE AND NEED.—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section with respect to an airport capacity enhancement project at a congested airport and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

"(h) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport. Any other Federal or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

"(i) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (g) and (h), the Secretary shall solicit and consider comments from interested persons and governmental entities.

"(j) MONITORING BY TASK FORCE.—The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section.

"§47172. Categorical exclusions

"Not later than 120 days after the date of enactment of this section, the Secretary of Transportation shall develop and publish a list of categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports.

"§47173. Access restrictions to ease construction

"At the request of an airport sponsor for a congested airport, the Secretary of Transportation may approve a restriction on use of a runway to be constructed at the airport to minimize potentially significant adverse noise impacts from the runway only if the Secretary determines that imposition of the restriction—

"(1) is necessary to mitigate those impacts and expedite construction of the runway;

"(2) is the most appropriate and a cost-effective measure to mitigate those impacts, taking into consideration any environmental tradeoffs associated with the restriction; and

"(3) would not adversely affect service to small communities, adversely affect safety or efficiency of the national airspace system, unjustly discriminate against any class of user of the airport, or impose an undue burden on interstate or foreign commerce.

"§47174. Airport revenue to pay for mitigation

"(a) IN GENERAL.—Notwithstanding section 47107(b), section 47133, or any other provision of this title, the Secretary of Transportation may allow an airport sponsor carrying out an airport capacity enhancement project at a congested airport to make payments, out of revenues generated at the airport (including local taxes on aviation fuel), for measures to mitigate the environmental impacts of the project if the Secretary finds that—

"(1) the mitigation measures are included as part of, or support, the preferred alternative for the project in the documentation prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(2) the use of such revenues will provide a significant incentive for, or remove an impediment to, approval of the project by a State or local government; and

"(3) the cost of the mitigation measures is reasonable in relation to the mitigation that will be achieved.

"(b) MITIGATION OF AIRCRAFT NOISE.—Mitigation measures described in subsection (a) may include the insulation of residential buildings and buildings used primarily for educational or medical purposes to mitigate the effects of aircraft noise and the improvement of such buildings as required for the insulation of the buildings under local building codes.

"§47175. Airport funding of FAA staff

"(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.

"(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

"(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

"(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

"(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

"(3) shall remain available until expended.

"(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002, excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862), for the activities described in subsection (a).

"§47176. Authorization of appropriations

"In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $4,200,000 for fiscal year 2004 and for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

"§47177. Designation of aviation safety and aviation security projects for priority environmental review

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may designate an aviation safety or aviation security project for priority environmental review. The Administrator may not delegate this designation authority.

"(b) PROJECT DESIGNATION CRITERIA.—The Administrator shall establish guidelines for the designation of an aviation safety or aviation security project for priority environmental review. Such guidelines shall include consideration of—

"(1) the importance or urgency of the project;

"(2) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(3) the need for cooperation and concurrent reviews by other Federal or State agencies; and

"(4) the prospect for undue delay if the project is not designated for priority review.

"(c) COORDINATED ENVIRONMENTAL REVIEWS.—

"(1) TIMELINES AND HIGH PRIORITY FOR COORDINATED ENVIRONMENTAL REVIEWS.—The Administrator, in consultation with the heads of affected agencies, shall establish specific timelines for the coordinated environmental review of an aviation safety or aviation security project designated under subsection (a). Such timelines shall be consistent with the timelines established in existing laws and regulations. Each Federal agency with responsibility for project environmental reviews, analyses, opinions, permits, licenses, and approvals shall accord any such review a high priority and shall conduct the review expeditiously and, to the maximum extent possible, concurrently with other such reviews.

"(2) AGENCY PARTICIPATION.—Each Federal agency identified under subsection (c) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in paragraph (1) in a timely and environmentally responsible manner.

"(d) STATE PARTICIPATION.—

"(1) INVITATION TO PARTICIPATE.—If a priority environmental review process is being implemented under this section with respect to a project within the boundaries of a State with applicable State environmental requirements and approvals, the Administrator shall invite the State to participate in the process.

"(2) STATE CHOICE.—A State invited to participate in a priority environmental review process, consistent with State law, may choose to participate in such process and direct that all State agencies, which have jurisdiction by law to conduct an environmental review or analysis of the project to determine whether to issue an environmentally related permit, license, or approval for the project, be subject to the process.

"(e) FAILURE TO GIVE PRIORITY REVIEW.—

"(1) NOTICE.—If the Secretary of Transportation determines that a Federal agency or a participating State is not complying with the requirements of this section and that such noncompliance is undermining the environmental review process, the Secretary shall notify, within 30 days of such determination, the head of the Federal agency or, with respect to a State agency, the Governor of the State.

"(2) REPORT TO SECRETARY.—A Federal agency that receives a copy of a notification relating to that agency made by the Secretary under paragraph (1) shall submit, within 30 days after receiving such copy, a written report to the Secretary explaining the reasons for the situation

described in the notification and what remedial actions the agency intends to take.

"(3) NOTIFICATION OF CEQ AND COMMITTEES.—If the Secretary determines that a Federal agency has not satisfactorily addressed the problems within a reasonable period of time following a notification under paragraph (1), the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science and Transportation of the Senate, and the Council on Environmental Quality.

"(f) PROCEDURAL PROVISIONS.—The procedures set forth in subsections (c), (e), (g), (h), and (i) of section 47171 shall apply with respect to an aviation safety or aviation security project under this section in the same manner and to the same extent as such procedures apply to an airport capacity enhancement project at a congested airport under section 47171.

"(g) DEFINITIONS.—In this section, the following definitions apply:

"(1) AVIATION SAFETY PROJECT.—The term 'aviation safety project' means an aviation project that—

"(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator; and

"(B)(i) is needed to respond to a recommendation from the National Transportation Safety Board; or

"(ii) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

"(2) AVIATION SECURITY PROJECT.—The term 'aviation security project' means a security project at an airport required by the Department of Homeland Security.

"(3) FEDERAL AGENCY.—The term 'Federal agency' means a department or agency of the United States Government.

"§47178. Definitions

"In this subchapter, the following definitions apply:

"(1) AIRPORT SPONSOR.—The term 'airport sponsor' has the meaning given the term 'sponsor' under section 47102.

"(2) CONGESTED AIRPORT.—The term 'congested airport' means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report 2001.

"(3) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term 'airport capacity enhancement project' means—

"(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

"(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 of such title is amended by adding at the end the following:

"SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

"47171. DOT as lead agency.
"47172. Categorical exclusions.
"47173. Access restrictions to ease construction.
"47174. Airport revenue to pay for mitigation.
"47175. Airport funding of FAA staff.
"47176. Authorization of appropriations.
"47177. Designation of aviation safety and aviation security projects for priority environmental review.
"47178. Definitions.".

SEC. 205. GOVERNOR'S CERTIFICATE.

Section 47106(c) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "and" after the semicolon at the end of subparagraph (A)(ii);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B);

(2) in paragraph (2)(A) by striking "stage 2" and inserting "stage 3";

(3) by striking paragraph (4); and

(4) by redesignating paragraph (5) as paragraph (4).

SEC. 206. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY PROJECTS.

Section 47504(c)(2) of title 49, United States Code, is amended—

(1) by moving subparagraphs (C) and (D) 2 ems to the right;

(2) by striking "and" at the end of subparagraph (C);

(3) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(4) by adding at the end the following:

"(E) to an airport operator of a congested airport (as defined in section 47178) and a unit of local government referred to in paragraph (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47178) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations.".

SEC. 207. LIMITATIONS.

Nothing in this title, including any amendment made by this title, shall preempt or interfere with—

(1) any practice of seeking public comment;

(2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and

(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.) and the regulations issued by the Council on Environmental Quality to carry out such Act.

SEC. 208. RELATIONSHIP TO OTHER REQUIREMENTS.

The coordinated review process required under the amendments made by this title shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews).

TITLE III—FEDERAL AVIATION REFORM

SEC. 301. MANAGEMENT ADVISORY COMMITTEE MEMBERS.

Section 106(p) is amended—

(1) in the subsection heading by inserting "AND AIR TRAFFIC SERVICES BOARD" after "COUNCIL"; and

(2) in paragraph (2)—

(A) by striking "consist of" and all that follows through "members, who" and inserting "consist of 13 members, who";

(B) by inserting after "Senate" in subparagraph (C)(i) ", except that initial appointments made after May 1, 2003, shall be made by the Secretary of Transportation";

(C) by striking the semicolon at the end of subparagraph (C)(ii) and inserting "; and"; and

(D) by striking "employees, by—" in subparagraph (D) and all that follows through the period at the end of subparagraph (E) and inserting "employees, by the Secretary of Transportation.".

SEC. 302. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE.

Section 106(p) is amended—

(1) in paragraph (3)—

(A) by striking "(A) NO FEDERAL OFFICER OR EMPLOYEE.—";

(B) by striking "or (2)(E)" and inserting "or to the Air Traffic Services Board"; and

(C) by striking subparagraphs (B) and (C);

(2) in paragraph (4)(C) by inserting "or Air Traffic Services Board" after "Council" each place it appears;

(3) in paragraph (5) by inserting ", the Air Traffic Services Board," after "Council";

(4) in paragraph (6)(C)—

(A) by striking "SUBCOMMITTEE" in the subparagraph heading and inserting "BOARD";

(B) by striking "member" and inserting "members";

(C) by striking "under paragraph (2)(E)" the first place it appears and inserting "to the Air Traffic Services Board"; and

(D) by striking "of the members first" and all that follows through the period at the end and inserting "the first members of the Board shall be the members of the Air Traffic Services Subcommittee of the Council on the day before the date of enactment of the Flight 100—Century of Aviation Reauthorization Act who shall serve as members of the Board until their respective terms as members of the Subcommittee would have ended under this subparagraph, as in effect on such day.";

(5) in paragraph (6)(D) by striking "under paragraph (2)(E)" and inserting "to the Board";

(6) in paragraph (6)(E) by inserting "or Board" after "Council";

(7) in paragraph (6)(F) by inserting "of the Council or Board" after "member";

(8) in the second sentence of subparagraph (6)(G)—

(A) by striking "Council" and inserting "Board"; and

(B) by striking "appointed under paragraph (2)(E)";

(9) in paragraph (6)(H)—

(A) by striking "SUBCOMMITTEE" in the subparagraph heading and inserting "BOARD";

(B) by striking "under paragraph (2)(E)" in clause (i) and inserting "to the Board"; and

(C) by striking "Air Traffic Services Subcommittee" and inserting "Board";

(10) in paragraph (6)(I)(i)—

(A) by striking "appointed under paragraph (2)(E) is" and inserting "is serving as"; and

(B) by striking "Subcommittee" and inserting "Board";

(11) in paragraph (6)(I)(ii)—

(A) by striking "appointed under paragraph (2)(E)" and inserting "who is a member of the Board"; and

(B) by striking "Subcommittee" and inserting "Board";

(12) in paragraph (6)(K) by inserting "or Board" after "Council";

(13) in paragraph (6)(L) by inserting "or Board" after "Council" each place it appears; and

(14) in paragraph (7)—

(A) by striking "SUBCOMMITTEE" in the paragraph heading and inserting "BOARD";

(B) by striking subparagraph (A) and inserting the following:

"(A) ESTABLISHMENT.—The Administrator shall establish a board that is independent of the Council by converting the Air Traffic Services Subcommittee of the Council, as in effect on the day before the date of enactment of the Flight 100—Century of Aviation Reauthorization Act, into such board. The board shall be known as the Air Traffic Services Board (in this subsection referred to as the 'Board').";

(C) by redesignating subparagraphs (B) through (F) as subparagraphs (D) through (H), respectively;

(D) by inserting after subparagraph (A) the following:

"(B) MEMBERSHIP AND QUALIFICATIONS.—Subject to paragraph (6)(C), the Board shall consist of 5 members, one of whom shall be the Administrator and shall serve as chairperson. The remaining members shall be appointed by the President with the advice and consent of the Senate and—

"(i) shall have a fiduciary responsibility to represent the public interest;

"(ii) shall be citizens of the United States; and

"(iii) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in all of the following areas:

"(I) Management of large service organizations.

"(II) Customer service.

"(III) Management of large procurements.

"(IV) Information and communications technology.

"(V) Organizational development.

"(VI) Labor relations.

"(C) PROHIBITIONS ON MEMBERS OF BOARD.—No member of the Board may—

"(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

"(ii) engage in another business related to aviation or aeronautics; or

"(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.";

(E) by striking "Subcommittee" each place it appears in subparagraphs (D) and (E) (as redesignated by subparagraph (C) of this paragraph) and inserting "Board";

(F) by striking "approve" in subparagraph (E)(v)(I) (as so redesignated) and inserting "make recommendations on";

(G) by striking "request" in subparagraph (E)(v)(II) (as so redesignated) and inserting "recommendations";

(H) by striking "ensure that the budget request supports" in subparagraph (E)(v)(III) (as so redesignated) and inserting "base such budget recommendations on";

(I) by striking "The Secretary shall submit" in subparagraph (E) (as so redesignated) and all that follows through the period at the end of such subparagraph (E) and inserting "The Secretary shall submit the budget recommendations referred to in clause (v) to the President who shall transmit such recommendations to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate together with the annual budget request of the Federal Aviation Administration.";

(J) by striking subparagraph (F) (as so redesignated) and inserting the following:

"(F) BOARD PERSONNEL MATTERS.—The Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties, and may procure temporary and intermittent services under section 40122.";

(K) in subparagraph (G) (as so redesignated)—

(i) by striking clause (i);

(ii) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

(iii) by striking "Subcommittee" each place it appears in clauses (i), (ii), and (iii) (as so redesignated) and inserting "Board";

(L) in subparagraph (H) (as so redesignated)—

(i) by striking "Subcommittee" each place it appears and inserting "Board";

(ii) by striking "Administrator, the Council" each place it appears in clauses (i) and (ii) and inserting "Secretary"; and

(iii) in clause (ii) by striking "(B)(i)" and inserting "(D)(i)"; and

(M) by adding at the end the following:

"(I) AUTHORIZATION.—There are authorized to be appropriated to the Board such sums as may be necessary for the Board to carry out its activities.".

SEC. 303. CLARIFICATION OF THE RESPONSIBILITIES OF THE CHIEF OPERATING OFFICER.

Section 106(r) is amended—

(1) in each of paragraphs (1)(A) and (2)(A) by striking "Air Traffic Services Subcommittee of the Aviation Management Advisory Council" and inserting "Air Traffic Services Board";

(2) in paragraph (2)(B) by inserting "in" before "paragraph (3).";

(3) in paragraph (3) by striking "Air Traffic Control Subcommittee of the Aviation Management Advisory Committee" and inserting "Air Traffic Services Board";

(4) in paragraph (4) by striking "Transportation and Congress" and inserting "Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate";

(5) in paragraph (5)(A)—

(A) by striking "develop a" and inserting "implement the"; and

(B) by striking ", including the establishment of" and inserting "in order to further";

(6) in paragraph (5)(B)—

(A) by striking "review" and all that follows through "Administration," and inserting "oversee the day-to-day operational functions of the Administration for air traffic control,";

(B) by striking "and" at the end of clause (ii);

(C) by striking the period at the end of clause (iii) and inserting "; and"; and

(D) by adding at the end the following:

"(iv) the management of cost-reimbursable contracts.";

(7) in paragraph (5)(C)(i) by striking "prepared by the Administrator";

(8) in paragraph (5)(C)(ii) by striking "and the Secretary of Transportation" and inserting "and the Board"; and

(9) in paragraph (5)(C)(iii)—

(A) by inserting "agency's" before "annual"; and

(B) by striking "developed under subparagraph (A) of this subsection." and inserting "for air traffic control services.".

SEC. 304. SMALL BUSINESS OMBUDSMAN.

Section 106 is amended by adding at the end the following:

"(s) SMALL BUSINESS OMBUDSMAN.—

"(1) ESTABLISHMENT.—There shall be in the Administration a Small Business Ombudsman.

"(2) GENERAL DUTIES AND RESPONSIBILITIES.—The Ombudsman shall—

"(A) be appointed by the Administrator;

"(B) serve as a liaison with small businesses in the aviation industry;

"(C) be consulted when the Administrator proposes regulations that may affect small businesses in the aviation industry;

"(D) provide assistance to small businesses in resolving disputes with the Administration; and

"(E) report directly to the Administrator.".

SEC. 305. FAA PURCHASE CARDS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall take appropriate actions to implement the recommendations contained in the report of the General Accounting Office entitled "FAA Purchase Cards: Weak Controls Resulted in Instances of Improper and Wasteful Purchases and Missing Assets", numbered GAO–03–405 and dated March 21, 2003.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to Congress a report containing a description of the actions taken by the Administrator under this section.

TITLE IV—AIRLINE SERVICE IMPROVEMENTS

SEC. 401. IMPROVEMENT OF AVIATION INFORMATION COLLECTION.

(a) IN GENERAL.—Section 329(b)(1) is amended by striking "except that in no case" and all that follows through the semicolon at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the issuance of a final rule to modernize the Origin and Destination Survey of Airline Passenger Traffic, pursuant to the Advance Notice of Proposed Rulemaking published July 15, 1998 (Regulation Identifier Number 2105–AC71), that reduces the reporting burden for air carriers through electronic filing of the survey data collected under section 329(b)(1) of title 49, United States Code.

SEC. 402. DATA ON INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.

Section 329 is amended by adding at the end the following:

"(e) INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.—

"(1) PUBLICATION OF DATA.—The Secretary of Transportation shall publish data on incidents and complaints involving passenger and baggage security screening in a manner comparable to other consumer complaint and incident data.

"(2) MONTHLY REPORTS FROM SECRETARY OF HOMELAND SECURITY.—To assist the Secretary of Transportation in the publication of data under paragraph (1), the Secretary of Homeland Security shall submit monthly to the Secretary of Transportation a report on the number of complaints about security screening received by the Secretary of Homeland Security.".

SEC. 403. DEFINITIONS.

(a) IN GENERAL.—Section 40102(a) is amended—

(1) by redesignating paragraphs (38) through (42) as paragraphs (43) through (47), respectively;

(2) by inserting after paragraph (37) the following:

"(42) 'small hub airport' means a commercial service airport (as defined in section 47102) that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.";

(3) by redesignating paragraphs (33) through (37) as paragraphs (37) through (41) respectively;

(4) by inserting after paragraph (32) the following:

"(36) 'passenger boardings'—

"(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

"(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.";

(5) by redesignating paragraph (32) as paragraph (35);

(6) by inserting after paragraph (31) the following:

"(34) 'nonhub airport' means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.";

(7) by redesignating paragraphs (30) and (31) as paragraphs (32) and (33), respectively;

(8) by inserting after paragraph (29) the following:

"(31) 'medium hub airport' means a commercial service airport (as defined in section 47102) that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.";

(9) by redesignating paragraph (29) as paragraph (30); and

(10) by inserting after paragraph (28) the following:

"(29) 'large hub airport' means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.".

(b) CONFORMING AMENDMENTS.—

(1) AIR SERVICE TERMINATION NOTICE.—Section 41719(d) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) SMALL COMMUNITY AIR SERVICE.—Section 41731(a) is amended by striking paragraphs (3) through (5).

(3) AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—Section 41743 is amended—

(A) in subsection (c)(1) by striking "(as that term is defined in section 41731(a)(5))"; and

(B) in subsection (f) by striking "(as defined in section 41731(a)(3))".

(4) PRESERVATION OF BASIC ESSENTIAL AIR SERVICE AT SINGLE CARRIER DOMINATED HUB AIRPORTS.—Section 41744(b) is amended by striking "(as defined in section 41731)".

(5) REGIONAL AIR SERVICE INCENTIVE PROGRAM.—Section 41762 is amended—

(A) by striking paragraphs (11) and (15); and

(B) by redesignating paragraphs (12), (13), (14), and (16) as paragraphs (11), (12), (13), and (14), respectively.

SEC. 404. CLARIFICATIONS TO PROCUREMENT AUTHORITY.

(a) DUTIES AND POWERS.—Section 40110(c) is amended—

(1) by striking "Administration—" and all that follows through "(2) may—" and inserting "Administration may—";

(2) by striking subparagraph (D);

(3) by redesignating subparagraphs (A), (B), (C), (E), and (F) as paragraphs (1), (2), (3), (4), and (5) respectively; and

(4) by moving such paragraphs (1) through (5) 2 ems to the left.

(b) ACQUISITION MANAGEMENT SYSTEM.—Section 40110(d) is amended—

(1) in paragraph (1)—

(A) by striking ", not later than January 1, 1996,"; and

(B) by striking "provides for more timely and cost-effective acquisitions of equipment and materials." and inserting the following:

"provides for—

"(A) more timely and cost-effective acquisitions of equipment, services, property, and materials; and

"(B) the resolution of bid protests and contract disputes related thereto, using consensual alternative dispute resolution techniques to the maximum extent practicable."; and

(2) by striking paragraph (4), relating to the effective date, and inserting the following:

"(4) ADJUDICATION OF CERTAIN BID PROTESTS AND CONTRACT DISPUTES.—A bid protest or contract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to sections 46102, 46104, 46105, 46106 and 46107.".

(c) AUTHORITY OF ADMINISTRATOR TO ACQUIRE SERVICES.—Section 106(f)(2)(A)(ii) is amended by inserting ", services," after "property".

SEC. 405. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT.

(a) IN GENERAL.—Section 40117(a)(3) is amended by inserting at the end the following:

"(G) A project for the acquisition or conversion of ground support equipment or airport-owned vehicles used at a commercial service airport with, or to, low-emission technology (as defined in section 47102) or cleaner burning conventional fuels, or the retrofitting of such equipment or vehicles that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a), and if such project will result in an airport receiving appropriate emission credits as described in section 47138.".

(b) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—Section 40117(b) is amended by adding at the end the following:

"(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility fee under this section for a project described in subsection (a)(3)(G) with respect to vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.".

(c) GROUND SUPPORT EQUIPMENT DEFINED.—Section 40117(a) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(2) by inserting after paragraph (3) the following:

"(4) GROUND SUPPORT EQUIPMENT.—The term 'ground support equipment' means service and maintenance equipment used at an airport to support aeronautical operations and related activities.".

SEC. 406. STREAMLINING OF THE PASSENGER FACILITY FEE PROGRAM.

(a) APPLICATION REQUIREMENTS.—Section 40117(c) is amended—

(1) by adding at the end of paragraph (2) the following:

"(E) The agency will include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).

"(F) For the purpose of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term 'significant business interest' means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.";

(2) by redesignating paragraph (3) as paragraph (4);

(3) by inserting after paragraph (2) the following:

"(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

"(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies who may be affected, which public notice may include—

"(i) publication in local newspapers of general circulation;

"(ii) publication in other local media; and

"(iii) posting the notice on the agency's Web site.

"(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

"(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B)."; and

(4) in the first sentence of paragraph (4) (as redesignated by paragraph (2) of this subsection) by striking "shall" and inserting "may".

(b) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—Section 40117 is amended by adding at the end the following:

"(l) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—

"(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility fees. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility fee under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

"(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

"(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee under this subsection. This shall include—

"(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility fee is sought;

"(B) the amount of revenue from passenger facility fees that is proposed to be collected for each project; and

"(C) the level of the passenger facility fee that is proposed.

"(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

"(5) AUTHORITY TO IMPOSE FEE.—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice under this subsection.

"(6) DEADLINE.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

"(7) SUNSET.—This subsection shall not be in effect 3 years after the date of issuance of regulations to carry out this subsection.

"(8) ACKNOWLEDGEMENT NOT AN ORDER.—An acknowledgement issued under paragraph (4) shall not be considered an order of the Secretary issued under section 46110.".

(c) CLARIFICATION OF APPLICABILITY OF PFCS TO MILITARY CHARTERS.—Section 40117(e)(2) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a semicolon;

(2) by striking "and" at the end of subparagraph (D);

(3) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(4) by inserting after subparagraph (E) the following:

"(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense.".

(d) TECHNICAL AMENDMENTS.—Section 40117(a)(3)(C) is amended—

(1) by striking "for costs" and inserting "A project"; and

(2) by striking the semicolon and inserting a period.

SEC. 407. FINANCIAL MANAGEMENT OF PASSENGER FACILITY FEES.

(a) IN GENERAL.—Section 40117 is further amended by adding at the end the following:

"(m) FINANCIAL MANAGEMENT OF FEES.—

"(1) HANDLING OF FEES.—

"(A) PLACEMENT OF FEES IN ESCROW ACCOUNT.—Subject to subparagraph (B), passenger facility revenue held by an air carrier or any of its agents shall be segregated from the carrier's cash and other assets and placed in an escrow account for the benefit of the eligible agencies entitled to such revenue.

"(B) ALTERNATIVE METHOD OF COMPLIANCE.—Instead of placing amounts in an escrow account under subparagraph (A), an air carrier may provide to the eligible agency a letter of credit, bond, or other form of adequate and immediately available security in an amount equal to estimated remittable passenger facility fees for 180 days, to be assessed against later audit, upon which security the eligible agency shall be entitled to draw automatically, without necessity of any further legal or judicial action to effectuate foreclosure.

"(2) TRUST FUND STATUS.—If an air carrier or its agent commingles passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

"(3) PROHIBITION.—An air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

"(4) COMPENSATION TO ELIGIBLE ENTITIES.—An air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

"(5) INTEREST ON AMOUNTS.—An air carrier that collects passenger facility fees is entitled to receive the interest on passenger facility fee accounts, if the accounts are established and maintained in compliance with this subsection.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

(2) EXISTING REGULATIONS.—Beginning 60 days after the date of enactment of this Act, the provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility fees with other air carrier revenue shall have no force or effect.

SEC. 408. GOVERNMENT CONTRACTING FOR AIR TRANSPORTATION.

(a) GOVERNMENT-FINANCED AIR TRANSPORTATION.—Section 40118(f)(2) is amended by inserting before the period at the end the following: ", except that it shall not include a contract for the transportation by air of passengers".

(b) AIRLIFT SERVICE.—Section 41106(b) is amended by inserting after "military department" the following: ", or by a person that has contracted with the Secretary of Defense or the Secretary of a military department,".

SEC. 409. OVERFLIGHTS OF NATIONAL PARKS.

(a) AIR TOUR MANAGEMENT ACT CLARIFICATIONS.—Section 40128 is amended—

(1) in subsection (a)(1) by inserting ", as defined by this section," after "lands" the first place it appears;

(2) in subsections (b)(3)(A), (b)(3)(B), and (b)(3)(C) by inserting "over a national park" after "operations";

(3) in subsection (b)(3)(D) by striking "at the park" and inserting "over a national park";

(4) in subsection (b)(3)(E) by inserting "over a national park" after "operations" the first place it appears;

(5) in subsections (c)(2)(A)(i) and (c)(2)(B) by inserting "over a national park" after "operations";

(6) in subsection (f)(1) by inserting "over a national park" after "operation";

(7) in subsection (f)(4)(A)—

(A) by striking "commercial air tour operation" and inserting "commercial air tour operation over a national park"; and

(B) by striking "park, or over tribal lands," and inserting "park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park),";

(8) in subsection (f)(4)(B) by inserting "over a national park" after "operation"; and

(9) in the heading for paragraph (4) of subsection (f) by inserting "OVER A NATIONAL PARK" after "OPERATION".

(b) GRAND CANYON NATIONAL PARK SPECIAL FLIGHT RULES AREA OPERATION CURFEW.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may not restrict commercial Special Flight Rules Area operations in the Dragon and Zuni Point corridors of the Grand Canyon National Park during the period beginning 1 hour after sunrise and ending 1 hour before sunset, unless required for aviation safety purposes.

(2) EFFECT ON EXISTING REGULATIONS.—Beginning on the date of enactment of this Act, section 93.317 of title 14, Code of Federal Regulations, shall not be in effect.

SEC. 410. COLLABORATIVE DECISIONMAKING PILOT PROGRAM.

(a) IN GENERAL.—Chapter 401 is amended by adding at the end the following:

"§40129. Collaborative decisionmaking pilot program

"(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a collaborative decisionmaking pilot program in accordance with this section.

"(b) DURATION.—Except as provided in subsection (k), the pilot program shall be in effect for a period of 2 years.

"(c) GUIDELINES.—

"(1) ISSUANCE.—The Administrator shall issue guidelines concerning the pilot program. Such guidelines, at a minimum, shall define the criteria and process for determining when a capacity reduction event exists that warrants the use of collaborative decisionmaking among carriers at airports participating in the pilot program and that prescribe the methods of communication to be implemented among carriers during such an event.

"(2) VIEWS.—The Administrator may obtain the views of interested parties in issuing the guidelines.

"(d) EFFECT OF DETERMINATION OF EXISTENCE OF CAPACITY REDUCTION EVENT.—Upon a determination by the Administrator that a capacity reduction event exists, the Administrator may authorize air carriers and foreign air carriers operating at an airport participating in the pilot program to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The Administration shall facilitate and monitor such communication.

"(e) SELECTION OF PARTICIPATING AIRPORTS.—Not later than 30 days after the date on which the Administrator establishes the pilot program, the Administrator shall select 3 airports to participate in the pilot program from among the most capacity-constrained airports in the country based on the Administration's Airport Capacity Benchmark Report 2001 or more recent data on airport capacity that is available to the Administrator. The Administrator shall select an airport for participation in the pilot program if the Administrator determines that collaborative decisionmaking among air carriers and foreign air carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

"(f) ELIGIBILITY OF AIR CARRIERS.—An air carrier or foreign air carrier operating at an airport selected to participate in the pilot program is eligible to participate in the pilot program if the Administrator determines that the carrier has the operational and communications capability to participate in the pilot program.

"(g) MODIFICATION OR TERMINATION OF PILOT PROGRAM AT AN AIRPORT.—The Administrator may modify or end the pilot program at an airport before the term of the pilot program has expired, or may ban an air carrier or foreign air carrier from participating in the program, if the Administrator determines that the purpose of the pilot program is not being furthered by participation of the airport or air carrier or if the Secretary of Transportation finds that the pilot program or the participation of an air carrier or foreign air carrier in the pilot program has had, or is having, an adverse effect on competition among carriers.

"(h) EVALUATION.—

"(1) IN GENERAL.—Before the expiration of the 2-year period for which the pilot program is authorized under subsection (b), the Administrator shall determine whether the pilot program has facilitated more effective use of air traffic capacity and the Secretary shall determine whether the pilot program has had an adverse effect on airline competition or the availability of air services to communities. The Administrator shall also examine whether capacity benefits resulting from the participation in the pilot program of an airport resulted in capacity benefits to other parts of the national airspace system.

"(2) OBTAINING NECESSARY DATA.—The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program's impact.

"(i) EXTENSION OF PILOT PROGRAM.—At the end of the 2-year period for which the pilot program is authorized, the Administrator may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (h) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 401 is amended by adding at the end the following:

"40129. Collaborative decisionmaking pilot program.".

SEC. 411. AVAILABILITY OF AIRCRAFT ACCIDENT SITE INFORMATION.

(a) Domestic Air Transportation.—Section 41113(b) is amended—

(1) in paragraph (16) by striking "the air carrier" the third place it appears; and

(2) by adding at the end the following:

"(17)(A) An assurance that, in the case of an accident that results in significant damage to a man-made structure or other property on the ground that is not government-owned, the air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

"(B) At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by air carrier representatives about compensation by the air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

"(18) An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier's flight if that city is located in the United States.".

(b) Foreign Air Transportation.—Section 41313(c) is amended by adding at the end the following:

"(17) Notice concerning liability for man-made structures.—

"(A) In general.—An assurance that, in the case of an accident that results in significant damage to a man-made structure or other property on the ground that is not government-owned, the foreign air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

"(B) Minimum contents.—At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

"(18) Simultaneous electronic transmission of NTSB hearing.—An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier's flight if that city is located in the United States.".

(c) Update Plans.—Air carriers and foreign air carriers shall update their plans under sections 41113 and 41313 of title 49, United States Code, respectively, to reflect the amendments made by subsections (a) and (b) of this section not later than 90 days after the date of enactment of this Act.

SEC. 412. SLOT EXEMPTIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) Beyond-Perimeter Exemptions.—Section 41718(a) is amended by striking "12" and inserting "24".

(b) Within-Perimeter Exemptions.—Section 41718(b) is amended—

(1) by striking "12" and inserting "20"; and

(2) by striking "that were designated as medium hub or smaller airports".

(c) Limitations.—

(1) General exemptions.—Section 41718(c)(2) is amended by striking "two" and inserting "3".

(2) Allocation of within-perimeter exemptions.—Section 41718(c)(3) is amended—

(A) in subparagraph (A)—

(i) by striking "four" and inserting "six"; and

(ii) by striking "and" at the end;

(B) in subparagraph (B)—

(i) by striking "eight" and inserting "ten"; and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) four shall be for air transportation to airports without regard to their size.".

(d) Application Procedures.—Section 41718(d) is amended to read as follows:

"(d) Application Procedures.—The Secretary shall establish procedures to ensure that all requests for exemptions under this section are granted or denied within 90 days after the date on which the request is made.".

(e) Effect of Perimeter Rules on Competition and Air Service.—

(1) Identification of other airports.—The Secretary of Transportation shall identify airports (other than Ronald Reagan Washington National Airport) that have imposed perimeter rules like those in effect with respect to Ronald Reagan Washington National Airport.

(2) Limitation on applicability.—This subsection does not apply to perimeter rules imposed by Federal law.

(3) Study.—The Secretary shall conduct a study of the effect that perimeter rules for airports identified under paragraph (1) have on competition and on air service to communities outside the perimeter.

(4) Report.—Not later than 120 days after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

(f) Effect of Changing Definition of Commuter Air Carrier.—

(1) Study.—The Secretary shall study the effects of changing the definition of commuter air carrier in regulations of the Federal Aviation Administration to increase the maximum size of aircraft of such carriers to 76 seats or less on air service to small communities and on commuter air carriers operating aircraft with 56 seats or less.

(2) Report.—Not later than 90 days after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

SEC. 413. NOTICE CONCERNING AIRCRAFT ASSEMBLY.

(a) In General.—Subchapter I of chapter 417 is amended by adding at the end the following:

"§41722. Notice concerning aircraft assembly

"The Secretary of Transportation shall require, beginning after the last day of the 1-year period following the date of enactment of this section, an air carrier using an aircraft to provide scheduled passenger air transportation to display a notice, on an information placard available to each passenger on the aircraft, that informs the passengers of the nation in which the aircraft was finally assembled.".

(b) Conforming Amendment.—The analysis for chapter 417 is amended by striking the item relating to section 41721 and inserting the following:

"41721. Reports by carriers on incidents involving animals during air transport.

"41722. Notice concerning aircraft assembly.".

SEC. 414. SPECIAL RULE TO PROMOTE AIR SERVICE TO SMALL COMMUNITIES.

(a) In General.—Subchapter I of chapter 417 is further amended by adding at the end the following:

"§41723. Special rule to promote air service to small communities

"In order to promote air service to small communities, the Secretary of Transportation shall permit an operator of a turbine powered or multiengine piston powered aircraft with 10 passenger seats or less (1) to provide air transportation between an airport that is a nonhub airport and another airport or between an airport that is not a commercial service airport and another airport, and (2) to sell individual seats on that aircraft at a negotiated price, if the aircraft is otherwise operated in accordance with parts 119 and 135 of title 14, Code of Federal Regulations, and the air transportation is otherwise provided in accordance with part 298 of such title 14.".

(b) Conforming Amendment.—The analysis for chapter 417 is further amended by adding at the end the following:

"41723. Special rule to promote air service to small communities.".

SEC. 415. SMALL COMMUNITY AIR SERVICE.

(a) Compensation Guidelines, Limitation, and Claims.—

(1) Payment of promotional amounts.—Section 41737(a)(2) is amended by inserting before the period at the end "or may be paid directly to the unit of local government having jurisdiction over the eligible place served by the air carrier".

(2) Local share.—Section 41737(a) is amended by adding at the end the following:

"(3) Payment of cost by local government.—

"(A) General requirement.—The guidelines may require a unit of local government having jurisdiction over an eligible place that is less than 170 miles from a medium or large hub or less than 75 miles from a small hub or a State within the boundaries of which the eligible place is located to pay 2.5 percent in fiscal year 2005, 5 percent in fiscal year 2006, 7.5 percent in fiscal year 2007, and 10 percent in fiscal year 2008 of the amount of compensation payable under this subchapter for air transportation with respect to the eligible place to ensure the continuation of that air transportation.

"(B) Waiver.—The Secretary may waive the requirement, or reduce the amount, of a payment from a unit of local government under subparagraph (A) if the Secretary finds that—

"(i) the unit of local government lacks the ability to pay; and

"(ii) the loss of essential air service to the eligible place would have an adverse effect on the eligible place's access to the national air transportation system.

"(C) Determination of mileage.—In determining the mileage between the eligible place and a hub under this paragraph, the Secretary shall use the most commonly used highway route between the eligible place and the hub.".

(3) Authority to make agreements and incur obligations.—Section 41737(d) is amended—

(A) by striking "(1) The Secretary" and inserting the "The Secretary"; and

(B) by striking paragraph (2).

(b) Airports Not Receiving Sufficient Service.—Section 41743 is amended—

(1) in the heading of subsection (a) by striking "Pilot";

(2) in subsection (a) by striking "pilot";

(3) in subsection (c)—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(C) in paragraph (4) (as so redesignated)—

(i) by striking "and" at the end of subparagraph (C);

(ii) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(iii) by adding at the end the following:

"(E) the assistance can be used in the fiscal year in which it is received."; and

(4) in subsection (f) by striking "pilot".

(c) Essential Air Service Authorization.—Section 41742 is amended—

(1) in subsection (a)(2) by striking "$15,000,000" and inserting "$65,000,000";

(2) by adding at the end of subsection (a) the following:

"(3) Authorization for additional employees.—In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program."; and

(3) by striking subsection (c).

(d) Process for Discontinuing Certain Subsidies.—Section 41734 is amended by adding at the end the following:

"(i) Process for Discontinuing Certain Subsidies.—If the Secretary determines that no subsidy will be provided to a carrier to provide essential air service to an eligible place because the eligible place does not meet the requirements of section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note; 113 Stat. 1022), the Secretary shall notify the affected community that the subsidy will cease but shall continue to provide the subsidy for 90 days after providing the notice to the community.".

(e) Joint Proposals.—Section 41740 is amended by inserting ", including joint fares," after "joint proposals".

(f) Community and Regional Choice Program.—

(1) In general.—Subchapter II of chapter 417 is amended by adding at the end the following:

"§41745. Community and regional choice program

"(a) Establishment.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

"(b) Compensation to Eligible Places.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place, may pay compensation directly to a unit of local government having jurisdiction over the eligible place or a State within the boundaries of which the eligible place is located.

"(c) Use of Compensation.—A unit of local government or State receiving compensation for an eligible place under the program shall use the compensation for any of the following purposes:

"(1) To provide assistance to an air carrier to provide scheduled air service to and from the eligible place, without being subject to the requirements of 41732(b).

"(2) To provide assistance to an air carrier to provide on-demand air taxi service to and from the eligible place.

"(3) To provide assistance to a person to provide scheduled or on-demand surface transportation to and from the eligible place and an airport in another place.

"(4) In combination with other units of local government in the same region, to provide transportation services to and from all the eligible places in that region at an airport or other transportation center that can serve all the eligible places in that region.

"(5) To purchase aircraft, or a fractional share in aircraft, to provide transportation to and from the eligible place.

"(6) To pay for other transportation or related services that the Secretary may permit.

"(d) Fractionally Owned Aircraft.—Notwithstanding any other provision of law, only those operating rules that relate to an aircraft that is fractionally owned apply when an aircraft described in subsection (c)(5) is used to provide transportation described in subsection (c)(5).

"(e) Applications.—

"(1) In general.—A unit of local government or State seeking to participate in the program for an eligible place shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

"(2) Required information.—At a minimum, the application shall include—

"(A) a statement of the amount of compensation required; and

"(B) a description of how the compensation will be used.

"(f) Participation Requirements.—

"(1) Eligible places.—An eligible place for which compensation is received under the program in a fiscal year shall not be eligible to receive in that fiscal year the essential air service that it would otherwise be entitled to under this subchapter.

"(2) Governmental entities.—A unit of local government or State receiving compensation for an eligible place under the program in a fiscal year shall not be required to pay the local share described in 41737(a)(3) in such fiscal year.

"(g) Subsequent Participation.—A unit of local government participating in the program under this section in a fiscal year shall not be prohibited from participating in the basic essential air service program under this chapter in a subsequent fiscal year if such unit is otherwise eligible to participate in such program.

"(h) Funding.—Amounts appropriated or otherwise made available to carry out the essential air service program under this subchapter shall be available to carry out this section.".

(2) Conforming amendment.—The analysis for chapter 417 is amended by inserting after the item relating to section 41744 the following:

"41745. Community and regional choice program.".

SEC. 416. TYPE CERTIFICATES.

(a) Agreements To Permit Use of Certificates by Other Persons.—Section 44704(a) is amended by adding at the end the following:

"(3) If the holder of a type certificate agrees to permit another person to use the certificate to manufacture a new aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. A person may manufacture a new aircraft, aircraft engine, propeller, or appliance based on a type certificate only if the person is the holder of the type certificate or has permission from the holder.".

(b) Certification of Products Manufactured in Foreign Nations.—Section 44704 is further amended by adding at the end the following:

"(e) Certification of Products Manufactured in Foreign Nations.—In order to ensure safety, the Administrator shall spend at least the same amount of time and perform a no-less-thorough review in certifying, or validating the certification of, an aircraft, aircraft engine, propeller, or appliance manufactured in a foreign nation as the regulatory authorities of that nation employ when the authorities certify, or validate the certification of, an aircraft, aircraft engine, propeller, or appliance manufactured in the United States.".

SEC. 417. DESIGN ORGANIZATION CERTIFICATES.

(a) General Authority To Issue Certificates.—Effective on the last day of the 7-year period beginning on the date of enactment of this Act, section 44702(a) is amended by inserting "design organization certificates," after "airman certificates,".

(b) Design Organization Certificates.—

(1) Plan.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for the development and oversight of a system for certification of design organizations to certify compliance with the requirements and minimum standards prescribed under section 44701(a) of title 49, United States Code, for the type certification of aircraft, aircraft engines, propellers, or appliances.

(2) Issuance of certificates.—Section 44704 is further amended by adding at the end the following:

"(f) Design Organization Certificates.—

"(1) Issuance.—Beginning 7 years after the date of enactment of this subsection, the Administrator may issue a design organization certificate to a design organization to authorize the organization to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

"(2) Applications.—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to determine whether the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a).

"(3) Issuance of type certificates based on design organization certification.—On receiving an application for a type certificate under subsection (a) that is accompanied by a certification of compliance by a design organization certificated under this subsection, instead of conducting an independent investigation under subsection (a), the Administrator may issue the type certificate based on the certification of compliance.

"(4) Public safety.—The Administrator shall include in a design organization certificate issued under this subsection terms required in the interest of safety.".

(c) Reinspection and Reexamination.—Section 44709(a) is amended by inserting "design organization, production certificate holder," after "appliance,".

(d) Prohibitions.—Section 44711(a)(7) is amended by striking "agency" and inserting "agency, design organization certificate, ".

(e) Conforming Amendments.—

(1) Section heading.—Section 44704 is amended by striking the section designation and heading and inserting the following:

"§44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates".

(2) Chapter analysis.—The analysis for chapter 447 is amended by striking the item relating to section 44704 and inserting the following:

"44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates.".

SEC. 418. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS.

Section 44726(a)(1) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following:

"(B) whose certificate is revoked under subsection (b); or"; and

(4) in subparagraph (C) (as redesignated by paragraph (2) of this section) by striking "convicted of such a violation." and inserting "described in subparagraph (A) or (B).".

SEC. 419. RUNWAY SAFETY STANDARDS.

(a) IN GENERAL.—Chapter 447 is amended by adding at the end the following:

"§44727. Runway safety areas

"An airport owner or operator shall not be required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet standards of the Federal Aviation Administration applicable to runway safety areas.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 is amended by adding at the end the following:

"44727. Runway safety areas.".

SEC. 420. AVAILABILITY OF MAINTENANCE INFORMATION.

(a) IN GENERAL.—Chapter 447 is further amended by adding at the end the following:

"§44728. Availability of maintenance information

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 21.50(b) of title 14, Code of Federal Regulations, that the holder of a design approval—

"(1) shall prepare and furnish at least one set of complete instructions for continued airworthiness as prescribed in such section to the owner of each type of aircraft, aircraft engine, or propeller upon its delivery, or upon the issuance of the first standard airworthiness certificate for the affected aircraft, whichever occurs later; and

"(2) thereafter shall make the instructions, and any changes thereto, available to any other person required by parts 1 through 199 of title 14, Code of Federal Regulations, to comply with any of the terms of the instructions.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) MAKE AVAILABLE.—The term 'make available' means providing at a cost not to exceed the cost of preparation and distribution.

"(2) DESIGN APPROVAL.—The term 'design approval' means a type certificate, supplemental type certificate, amended type certificate, parts manufacturer approval, technical standard order authorization, and any other action as determined by the Administrator pursuant to subsection (c)(2).

"(3) INSTRUCTIONS FOR CONTINUED AIRWORTHINESS.—The term 'instructions for continued airworthiness' means any information (and any changes to such information) considered essential to continued airworthiness that sets forth the methods, techniques, and practices for performing maintenance and alteration on civil aircraft, aircraft engines, propellers, appliances or any part installed thereon. Such information may include maintenance, repair, and overhaul manuals, standard practice manuals, service bulletins, service letters, or similar documents issued by a design approval holder.

"(c) RULEMAKING.—The Administrator shall conduct a rulemaking proceeding for the following purposes:

"(1) To determine the meaning of the phrase 'essential to continued airworthiness' of the applicable aircraft, aircraft engine, and propeller as that term is used in parts 23 through 35 of title 14, Code of Federal Regulations.

"(2) To determine if a design approval should include, in addition to those approvals specified in subsection (b)(2), any other activity in which persons are required to have technical data approved by the Administrator.

"(3) To revise existing rules to reflect the definition of design approval holder in subsections (b)(2) and (c)(2).

"(4) To determine if design approval holders that prepared instructions for continued airworthiness or maintenance manuals before January 29, 1981, should be required to make the manuals available (including any changes thereto) to any person required by parts 1 through 199 of title 14, Code of Federal Regulations, to comply with any of the terms of those manuals.

"(5) To require design approval holders that—

"(A) are operating an ongoing business concern;

"(B) were required to produce maintenance manuals or instructions for continued airworthiness under section 21.50(b) of title 14, Code of Federal Regulations; and

"(C) have not done so,

to prepare those documents and make them available as required by this section not later than 1 year after date on which the regulations are published.

"(6) To revise its rules to reflect the changes made by this section.

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing is this section shall be construed as requiring the holder of a design approval to make available proprietary information unless it is deemed essential to continued airworthiness.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 is further amended by adding at the end the following:

"44728. Availability of maintenance information.".

SEC. 421. CERTIFICATE ACTIONS IN RESPONSE TO A SECURITY THREAT.

(a) IN GENERAL.—Chapter 461 is amended by adding at the end the following:

"§46111. Certificate actions in response to a security threat

"(a) ORDERS.—The Administrator of Federal Aviation Administration shall issue an order amending, modifying, suspending, or revoking any part of a certificate issued under this title if the Administrator is notified by the Under Secretary for Border and Transportation Security of the Department of Homeland Security that the holder of the certificate poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. If requested by the Under Secretary, the order shall be effective immediately.

"(b) HEARINGS FOR CITIZENS.—An individual who is a citizen of the United States who is adversely affected by an order of the Administrator under subsection (a) is entitled to a hearing on the record.

"(c) HEARINGS.—When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Administrator or the Under Secretary.

"(d) APPEALS.—An appeal from a decision of an administrative law judge as the result of a hearing under subsection (b) shall be made to the Transportation Security Oversight Board established by section 115. The Board shall establish a panel to review the decision. The members of this panel (1) shall not be employees of the Transportation Security Administration, (2) shall have the level of security clearance needed to review the determination made under this section, and (3) shall be given access to all relevant documents that support that determination. The panel may affirm, modify, or reverse the decision.

"(e) REVIEW.—A person substantially affected by an action of a panel under subsection (d), or the Under Secretary when the Under Secretary decides that the action of the panel under this section will have a significant adverse impact on carrying out this part, may obtain review of the order under section 46110. The Under Secretary and the Administrator shall be made a party to the review proceedings. Findings of fact of the panel are conclusive if supported by substantial evidence.

"(f) EXPLANATION OF DECISIONS.—An individual who commences an appeal under this section shall receive a written explanation of the basis for the determination or decision and all relevant documents that support that determination to the maximum extent that the national security interests of the United States and other applicable laws permit.

"(g) CLASSIFIED EVIDENCE.—

"(1) IN GENERAL.—The Under Secretary, in consultation with the Administrator, shall issue regulations to establish procedures by which the Under Secretary, as part of a hearing conducting under this section, may substitute an unclassified summary of classified evidence upon the approval of the administrative law judge.

"(2) APPROVAL AND DISAPPROVAL OF SUMMARIES.—Under the procedures, an administrative law judge shall—

"(A) approve a summary if the judge finds that it is sufficient to enable the certificate holder to appeal an order issued under subsection (a); or

"(B) disapprove a summary if the judge finds that it is not sufficient to enable the certificate holder to appeal such an order.

"(3) MODIFICATIONS.—If an administrative law judge disapproves a summary under paragraph (2)(B), the judge shall direct the Under Secretary to modify the summary and resubmit the summary for approval.

"(4) INSUFFICIENT MODIFICATIONS.—If an administrative law judge is unable to approve a modified summary, the order issued under subsection (a) that is the subject of the hearing shall be set aside unless the judge finds that such a result—

"(A) would likely cause serious and irreparable harm to the national security; or

"(B) would likely cause death or serious bodily injury to any person.

"(5) SPECIAL PROCEDURES.—If an administrative law judge makes a finding under subparagraph (A) or (B) of paragraph (4), the hearing shall proceed without an unclassified summary provided to the certificate holder. In such a case, subject to procedures established by regulation by the Under Secretary in consultation with the Administrator, the administrative law judge shall appoint a special attorney to assist the accused by—

"(A) reviewing in camera the classified evidence; and

"(B) challenging, through an in camera proceeding, the veracity of the evidence contained in the classified information.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 461 is amended by adding at the end the following:

"46111. Certificate actions in response to a security threat.".

SEC. 422. FLIGHT ATTENDANT CERTIFICATION.

(a) IN GENERAL.—Chapter 447 is further amended by adding at the end the following:

"§44729. Flight attendant certification

"(a) CERTIFICATE REQUIRED.—

"(1) IN GENERAL.—No person may serve as a flight attendant aboard an aircraft of an air carrier unless that person holds a certificate of demonstrated proficiency from the Administrator of the Federal Aviation Administration. Upon the request of the Administrator or an authorized representative of the National Transportation Safety Board or another Federal agency, a person who holds such a certificate shall present the certificate for inspection within a reasonable period of time after the date of the request.

"(2) Special rule for current flight attendants.—An individual serving as a flight attendant on the effective date of this section may continue to serve aboard an aircraft as a flight attendant until completion by that individual of the required recurrent or requalification training and subsequent certification under this section.

"(3) Treatment of flight attendant after notification.—On the date that the Administrator is notified by an air carrier that an individual has the demonstrated proficiency to be a flight attendant, the individual shall be treated for purposes of this section as holding a certificate issued under the section.

"(b) Issuance of Certificate.—The Administrator shall issue a certificate of demonstrated proficiency under this section to an individual after the Administrator is notified by the air carrier that the individual has successfully completed all the training requirements for flight attendants approved by the Administrator.

"(c) Designation of Person To Determine Successful Completion of Training.—In accordance with part 183 of chapter 14, Code of Federal Regulation, the director of operations of an air carrier is designated to determine that an individual has successfully completed the training requirements approved by the Administrator for such individual to serve as a flight attendant.

"(d) Specifications Relating to Certificates.—Each certificate issued under this section shall—

"(1) be numbered and recorded by the Administrator;

"(2) contain the name, address, and description of the individual to whom the certificate is issued;

"(3) contain the name of the air carrier that employs or will employ the certificate holder on the date that the certificate is issued;

"(4) is similar in size and appearance to certificates issued to airmen;

"(5) contain the airplane group for which the certificate is issued; and

"(6) be issued not later than 30 days after the Administrator receives notification from the air carrier of demonstrated proficiency and, in the case of an individual serving as flight attendant on the effective date of this section, not later than 1 year after such effective date.

"(e) Approval of Training Programs.—Air carrier flight attendant training programs shall be subject to approval by the Administrator. All flight attendant training programs approved by the Administrator in the 1-year period ending on the date of enactment of this section shall be treated as providing a demonstrated proficiency for purposes of meeting the certification requirements of this section.

"(f) Flight Attendant Defined.—In this section, the term 'flight attendant' means an individual working as a flight attendant in the cabin of an aircraft that has 20 or more seats and is being used by an air carrier to provide air transportation.".

(b) Conforming Amendment.—The analysis for chapter 447 is further amended by adding at the end the following:

"44729. Flight attendant certification.".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on the 365th day following the date of enactment of this Act.

SEC. 423. CIVIL PENALTY FOR CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

(a) In General.—Chapter 463 is amended by adding at the end the following:

"§46319. Closure of an airport without providing sufficient notice

"(a) Prohibition.—A public agency (as defined in section 47102) may not close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

"(b) Publication of Notice.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

"(c) Civil Penalty.—A public agency violating subsection (a) shall be liable for a civil penalty of $10,000 for each day that the airport remains closed without having given the notice required by this section.".

(b) Conforming Amendment.—The analysis for chapter 463 is amended by adding at the end the following:

"46319. Closure of an airport without providing sufficient notice.".

SEC. 424. NOISE EXPOSURE MAPS.

Section 47503 is amended—

(1) in subsection (a) by striking "1985," and inserting "a forecast period that is at least 5 years in the future"; and

(2) by striking subsection (b) and inserting the following:

"(b) Revised Maps.—If, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the Federal Aviation Administration, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction.".

SEC. 425. AMENDMENT OF GENERAL FEE SCHEDULE PROVISION.

The amendment made by section 119(d) of the Aviation and Transportation Security Act (115 Stat. 629) shall not be affected by the savings provisions contained in section 141 of that Act (115 Stat. 643).

SEC. 426. IMPROVEMENT OF CURRICULUM STANDARDS FOR AVIATION MAINTENANCE TECHNICIANS.

(a) In General.—The Administrator of the Federal Aviation Administration shall ensure that the training standards for airframe and powerplant mechanics under part 65 of title 14, Code of Federal Regulations, are updated and revised in accordance with this section. The Administrator may update and revise the training standards through the initiation of a formal rulemaking or by issuing an advisory circular or other agency guidance.

(b) Elements for Consideration.—The updated and revised standards required under subsection (a) shall include those curriculum adjustments that are necessary to more accurately reflect current technology and maintenance practices.

(c) Minimum Training Hours.—In making adjustments to the maintenance curriculum requirements pursuant to this section, the current requirement of 1900 minimum training hours shall be maintained.

(d) Certification.—Any adjustment or modification of current curriculum standards made pursuant to this section shall be reflected in the certification examinations of airframe and powerplant mechanics.

(e) Completion.—The revised and updated training standards required by subsection (a) shall be completed not later than 12 months after the date of enactment of this Act.

(f) Periodic Reviews and Updates.—The Administrator shall review the content of the curriculum standards for training airframe and powerplant mechanics referred to in subsection (a) every 3 years after completion of the revised and updated training standards required under subsection (a) as necessary to reflect current technology and maintenance practices.

SEC. 427. TASK FORCE ON FUTURE OF AIR TRANSPORTATION SYSTEM.

(a) In General.—The President shall establish a task force to work with the Next Generation Air Transportation System Joint Program Office authorized under section 106(k)(3).

(b) Membership.—The task force shall be composed of representatives, appointed by the President, from air carriers, general aviation, pilots, and air traffic controllers and the following government organizations:

(1) The Federal Aviation Administration.

(2) The National Aeronautics and Space Administration.

(3) The Department of Defense.

(4) The Department of Homeland Security.

(5) The National Oceanic and Atmospheric Administration.

(6) Other government organizations designated by the President.

(c) Function.—The function of the task force shall be to develop an integrated plan to transform the Nation's air traffic control system and air transportation system to meet its future needs.

(d) Plan.—Not later than 1 year after the date of establishment of the task force, the task force shall transmit to the President and Congress a plan outlining the overall strategy, schedule, and resources needed to develop and deploy the Nation's next generation air traffic control system and air transportation system.

SEC. 428. AIR QUALITY IN AIRCRAFT CABINS.

(a) In General.—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled "The Airliner Cabin Environment and the Health of Passengers and Crew".

(b) Required Activities.—In carrying out this section, the Administrator, at a minimum, shall—

(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

(2) collect pesticide exposure data to determine exposures of passengers and crew; and

(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the allergens, diseases, and other contaminants to which passengers and crew were exposed.

(c) Report.—Not later than 30 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.

SEC. 429. RECOMMENDATIONS CONCERNING TRAVEL AGENTS.

(a) Report.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on—

(1) the travel agent arbiter program; and

(2) the special box on tickets for agents to include their service fee charges.

(b) Consultation.—In preparing this report, the Secretary shall consult with representatives from the airline and travel agent industry.

SEC. 430. TASK FORCE ON ENHANCED TRANSFER OF APPLICATIONS OF TECHNOLOGY FOR MILITARY AIRCRAFT TO CIVILIAN AIRCRAFT.

(a) In General.—The President shall establish a task force to look for better methods for ensuring that technology developed for military aircraft is more quickly and easily transferred to applications for improving and modernizing the fleet of civilian aircraft.

(b) Membership.—The task force shall be composed of the Secretary of Transportation who shall be the chair of the task force and representatives, appointed by the President, from the following:

(1) The Department of Transportation.

(2) The Federal Aviation Administration.

(3) The Department of Defense.

(4) The National Aeronautics and Space Administration.

(5) The aircraft manufacturing industry.

(6) Such other organizations as the President may designate.

(c) Report.—Not later than 1 year after the date of enactment of this Act, the task force shall report to Congress on the methods looked at by the task force for ensuring the transfer of applications described in subsection (a).

SEC. 431. REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES.

(a) In General.—The Secretary of Transportation may make grants to reimburse the following general aviation entities for the security costs incurred and revenue foregone as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001, or the military action to free the people of Iraq that commenced in March 2003:

(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act and general aviation entities operating at those airports.

(3) General aviation entities that were affected by Federal Aviation Administration Notices to Airmen FDC 2/0199 and 3/1862 and section 352 of the Department of Transportation and Related Agencies Appropriations Act, 2003 (P.L. 108–7, Division I).

(4) General aviation entities affected by implementation of section 44939 of title 49, United States Code.

(5) Any other general aviation entity that is prevented from doing business or operating by an action of the Federal Government prohibiting access to airspace by that entity.

(b) Documentation.—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

(c) General Aviation Entity Defined.—In this section, the term "general aviation entity" means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

(2) manufactures nonmilitary aircraft with a maximum seating capacity of fewer than 20 passengers or aircraft parts to be used in such aircraft;

(3) provides services necessary for nonmilitary operations under such part 91; or

(4) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—

(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such term includes fixed based operators, flight schools, manufacturers of general aviation aircraft and products, persons engaged in nonscheduled aviation enterprises, and general aviation independent contractors.

(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $100,000,000. Such sums shall remain available until expended.

SEC. 432. IMPASSE PROCEDURES FOR NATIONAL ASSOCIATION OF AIR TRAFFIC SPECIALISTS.

(a) Failure of Current Negotiations.—If, within 30 days after the date of enactment of this Act, the Federal Aviation Administration and the exclusive bargaining representative of the National Association of Air Traffic Specialists have failed to achieve agreement through a mediation process of the Federal Mediation and Conciliation Service, the current labor negotiation shall be treated for purposes of this section to have failed.

(b) Submission to Impasse Panel.—Not later than 30 days after the negotiation has failed under subsection (a), the parties to the negotiation shall submit unresolved issues to the Federal Service Impasses Panel described in section 7119(c) of title 5, United States Code, for final and binding resolution.

(c) Assistance.—The Panel shall render assistance to the parties in resolving their dispute in accordance with section 7119 of title 5, United States Code, and parts 2470 and 2471 of title 5, Code of Federal Regulations.

(d) Determination.—The Panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the Panel shall specify the basis for its findings, taking into consideration such relevant factors as are normally and customarily considered in the determination of wages or impasse Panel proceedings. The Panel shall also take into consideration the financial ability of the Administration to pay.

(e) Effect of Panel Determination.—The determination of the Panel shall be final and binding upon the parties for the period prescribed by the Panel or a period otherwise agreed to by the parties.

(f) Review.—The determination of the Panel shall be subject to review in the manner prescribed in chapter 71 of title 5, United States Code.

SEC. 433. FAA INSPECTOR TRAINING.

(a) Study.—

(1) In General.—The Comptroller General shall conduct a study of the training of the aviation safety inspectors of the Federal Aviation Administration (in this section referred to as "FAA inspectors").

(2) Contents.—The study shall include—

(A) an analysis of the type of training provided to FAA inspectors;

(B) actions that the Federal Aviation Administration has undertaken to ensure that FAA inspectors receive up-to-date training on the latest technologies;

(C) the extent of FAA inspector training provided by the aviation industry and whether such training is provided without charge or on a quid-pro-quo basis; and

(D) the amount of travel that is required of FAA inspectors in receiving training.

(3) Report.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(b) Sense of the House.—It is the sense of the House of Representatives that—

(1) FAA inspectors should be encouraged to take the most up-to-date initial and recurrent training on the latest aviation technologies;

(2) FAA inspector training should have a direct relation to an individual's job requirements; and

(3) if possible, a FAA inspector should be allowed to take training at the location most convenient for the inspector.

(c) Workload of Inspectors.—

(1) Study by National Academy of Sciences.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing standards for FAA inspectors to ensure proper oversight over the aviation industry, including the designee program.

(2) Contents.—The study shall include the following:

(A) A suggested method of modifying FAA inspectors staffing models for application to current local conditions or applying some other approach to developing an objective staffing standard.

(B) The approximate cost and length of time for developing such models.

(3) Report.—Not later than 12 months after the initiation of the arrangements under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study.

SEC. 434. PROHIBITION ON AIR TRAFFIC CONTROL PRIVATIZATION.

(a) In General.—The Secretary of Transportation may not authorize the transfer of the air traffic separation and control functions operated by the Federal Aviation Administration on the date of enactment of this Act to a private entity or to a public entity other than the United States Government.

(b) Contract Tower Program.—Subsection (a) shall not apply to the contract tower program authorized by section 47124 of title 49, United States Code.

SEC. 435. AIRFARES FOR MEMBERS OF THE ARMED FORCES.

(a) Findings.—Congress finds that—

(1) the Armed Forces is comprised of approximately 1,400,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) Sense of Congress.—It is the sense of Congress that each United States air carrier should—

(1) establish for all members of the Armed Forces on active duty reduced air fares that are

comparable to the lowest airfare for ticketed flights; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, and penalties.

SEC. 436. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED AIR SERVICE.

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note; 115 stat. 645) is amended by striking "more than" and all that follows through "after" and inserting "more than 36 months after".

SEC. 437. INTERNATIONAL AIR SHOW.

(a) STUDY.—The Secretary of Transportation shall study the feasibility of the United States hosting a world-class international air show.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a) together with recommendations concerning potential locations at which the air show could be held.

SEC. 438. DEFINITION OF AIR TRAFFIC CONTROLLER.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331 of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by adding at the end the following:

"(29) 'air traffic controller' or 'controller' means—

"(A) a controller within the meaning of section 2109(1); and

"(B) a civilian employee of the Department of Transportation or the Department of Defense holding a supervisory, managerial, executive, technical, semiprofessional, or professional position for which experience as a controller (within the meaning of section 2109(1)) is a prerequisite.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8401 of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (33);

(2) by striking the period at the end of paragraph (34) and inserting "; and"; and

(3) by adding at the end the following:

"(35) 'air traffic controller' or 'controller' means—

"(A) a controller within the meaning of section 2109(1); and

"(B) a civilian employee of the Department of Transportation or the Department of Defense holding a supervisory, managerial, executive, technical, semiprofessional, or professional position for which experience as a controller (within the meaning of section 2109(1)) is a prerequisite.".

(c) MANDATORY SEPARATION TREATMENT NOT AFFECTED.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(a) of title 5, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'air traffic controller' or 'controller' has the meaning given to it under section 8331(29)(A).".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8425(a) of title 5, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'air traffic controller' or 'controller' has the meaning given to it under section 8401(35)(A).".

(d) EFFECTIVE DATE.—This section and the amendments made by this section—

(1) shall take effect on the 60th day after the date of enactment of this Act; and

(2) shall apply with respect to—

(A) any annuity entitlement to which is based on an individual's separation from service occurring on or after that 60th day; and

(B) any service performed by any such individual before, on, or after that 60th day, subject to subsection (e).

(e) DEPOSIT REQUIRED FOR CERTAIN PRIOR SERVICE TO BE CREDITABLE AS CONTROLLER SERVICE.—

(1) DEPOSIT REQUIREMENT.—For purposes of determining eligibility for immediate retirement under section 8412(e) of title 5, United States Code, the amendment made by subsection (b) shall, with respect to any service described in paragraph (2), be disregarded unless there is deposited into the Civil Service Retirement and Disability Fund, with respect to such service, in such time, form, and manner as the Office of Personnel Management by regulation requires, an amount equal to the amount by which—

(A) the deductions from pay which would have been required for such service if the amendments made by this section had been in effect when such service was performed, exceeds

(B) the unrefunded deductions or deposits actually made under subchapter II of chapter 84 of such title 5 with respect to such service.

The amount under the preceding sentence shall include interest, computed under paragraphs (2) and (3) of section 8334(e) of such title 5.

(2) PRIOR SERVICE DESCRIBED.—This subsection applies with respect to any service performed by an individual, before the 60th day following the date of enactment of this Act, as an employee described in section 8401(35)(B) of such title 5 (as set forth in subsection (b)).

SEC. 439. JUSTIFICATION FOR AIR DEFENSE IDENTIFICATION ZONE.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration establishes an Air Defense Identification Zone (in this section referred as an "ADIZ"), the Administrator shall transmit, not later than 60 days after the date of establishing the ADIZ, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an explanation of the need for the ADIZ. The Administrator also shall transmit to the Committees updates of the report every 60 days until the ADIZ is rescinded. The reports and updates shall be transmitted in classified form.

(b) EXISTING ADIZ.—If an ADIZ is in effect on the date of enactment of this Act, the Administrator shall transmit an initial report under subsection (a) not later than 30 days after such date of enactment.

(c) DEFINITION.—In this section, the terms "Air Defense Identification Zone" and "ADIZ" each mean a zone established by the Administrator with respect to airspace under 18,000 feet in approximately a 15- to 38-mile radius around Washington, District of Columbia, for which security measures are extended beyond the existing 15-mile no-fly zone around Washington and in which general aviation aircraft are required to adhere to certain procedures issued by the Administrator.

SEC. 440. INTERNATIONAL AIR TRANSPORTATION.

It is the sense of Congress that, in an effort to modernize its regulations, the Department of Transportation should formally define "Fifth Freedom" and "Seventh Freedom" consistently for both scheduled and charter passenger and cargo traffic.

SEC. 441. REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES.

The Secretary of Transportation, subject to the availability of funds (other than amounts in the Aviation Trust Fund) provided for this purpose, shall reimburse air carriers and airports for the following:

(1) All screening and related activities that the air carriers or airports are still performing or continuing to be responsible for, including—

(A) the screening of catering supplies;

(B) checking documents at security checkpoints;

(C) screening of passengers; and

(D) screening of persons with access to aircraft.

(2) The provision of space and facilities used to perform screening functions if such space and facilities have been previously used, or were intended to be used, for revenue-producing purposes.

SEC. 442. GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

It is the sense of Congress that Ronald Reagan Washington National Airport should be open to general aviation flights as soon as possible.

TITLE V—AIRPORT DEVELOPMENT

SEC. 501. DEFINITIONS.

(a) IN GENERAL.—Section 47102 is amended—

(1) by redesignating paragraphs (19) and (20) as paragraphs (24) and (25), respectively;

(2) by inserting after paragraph (18) the following:

"(23) 'small hub airport' means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.";

(3) in paragraph (10) by striking subparagraphs (A) and (B) and inserting following:

"(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

"(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.";

(4) by redesignating paragraphs (10) through (18) as paragraphs (14) through (22), respectively;

(5) by inserting after paragraph (9) the following:

"(10) 'large hub airport' means a commercial service airport that has at least 1.0 percent of the passenger boardings.

"(12) 'medium hub airport' means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

"(13) 'nonhub airport' means a commercial service airport that has less than 0.05 percent of the passenger boardings."; and

(6) by striking paragraph (6) and inserting the following:

"(6) 'amount made available under section 48103' or 'amount newly made available' means the amount authorized for grants under section 48103 as that amount may be limited in that year by a subsequent law, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).".

(b) CONFORMING AMENDMENT.—Section 47116(b)(1) is amended by striking "(as defined in section 41731 of this title)".

SEC. 502. REPLACEMENT OF BAGGAGE CONVEYOR SYSTEMS.

Section 47102(3)(B)(x) is amended by striking the period at the end and inserting the following: "; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114.".

SEC. 503. SECURITY COSTS AT SMALL AIRPORTS.

(a) SECURITY COSTS.—Section 47102(3)(J) is amended to read as follows:

"(J) in the case of a nonhub airport or an airport that is not a primary airport in fiscal year 2004, direct costs associated with new, additional, or revised security requirements imposed on airport operators by law, regulation, or order on or after September 11, 2001, if the Government's share is paid only from amounts apportioned to a sponsor under section 47114(c) or 47114(d)(3)(A).".

(b) CONFORMING AMENDMENT.—Section 47110(b)(2) is amended—

(1) in subparagraph (D) by striking ", 47102(3)(K), or 47102(3)(L)"; and

(2) by aligning the margin of subparagraph (D) with the margin of subparagraph (B).

SEC. 504. WITHHOLDING OF PROGRAM APPLICATION APPROVAL.

Section 47106(d) is amended—

(1) in paragraph (1) by striking "section 47114(c) and (e) of this title" and inserting "subsections (c), (d), and (e) of section 47114"; and

(2) by adding at the end the following:

"(4) If the Secretary withholds a grant to an airport from the discretionary fund under section 47115 or from the small airport fund under section 47116 on the grounds that the sponsor has violated an assurance or requirement of this subchapter, the Secretary shall follow the procedures of this subsection.".

SEC. 505. RUNWAY SAFETY AREAS.

Section 47106 is amended by adding at the end the following:

"(h) RUNWAY SAFETY AREAS.—The Secretary may approve an application under this chapter for a project grant to construct, reconstruct, repair, or improve a runway only if the Secretary receives written assurances, satisfactory to the Secretary, that the sponsor will undertake, to the maximum extent practical, improvement of the runway's safety area to meet the standards of the Federal Aviation Administration.".

SEC. 506. DISPOSITION OF LAND ACQUIRED FOR NOISE COMPATIBILITY PURPOSES.

Section 47107(c) is amended by adding at the end the following:

"(4) Notwithstanding paragraph (2)(A)(iii), an airport owner or operator may retain all or any portion of the proceeds from a land disposition described in that paragraph if the Secretary finds that the use of the land will be compatible with airport purposes and the proceeds retained will be used for airport development or to carry out a noise compatibility program under section 47504(c).".

SEC. 507. GRANT ASSURANCES.

(a) HANGAR CONSTRUCTION.—Section 47107(a) is amended—

(1) by striking "and" at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting "; and"; and

(3) by adding at the end the following:

"(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease (of not less than 50 years) that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.".

(b) STATUTE OF LIMITATIONS.—Section 47107(l)(5)(A) is amended by inserting "or any other governmental entity" after "sponsor".

(c) AUDIT CERTIFICATION.—Section 47107(m) is amended—

(1) in paragraph (1) by striking "promulgate regulations that" and inserting "include a provision in the compliance supplement provisions to";

(2) in paragraph (1) by striking "and opinion of the review"; and

(3) by striking paragraph (3).

SEC. 508. ALLOWABLE PROJECT COSTS.

(a) CONSTRUCTION OR MODIFICATION OF PUBLIC PARKING FACILITIES FOR SECURITY PURPOSES.—Section 47110 is amended—

(1) in subsection (f) by striking "subsection (d)" and inserting "subsections (d) and (h)"; and

(2) by adding at the end the following:

"(h) CONSTRUCTION OR MODIFICATION OF PUBLIC PARKING FACILITIES FOR SECURITY PURPOSES.—Notwithstanding subsection (f)(1), a cost of constructing or modifying a public parking facility for passenger automobiles to comply with a regulation or directive of the Department of Homeland Security shall be treated as an allowable airport development project cost.".

(b) DEBT FINANCING.—Section 47110 is further amended by adding at the end the following:

"(i) DEBT FINANCING.—In the case of an airport that is not a medium hub airport or large hub airport, the Secretary may determine that allowable airport development project costs include payments of interest, commercial bond insurance, and other credit enhancement costs associated with a bond issue to finance the project.".

(c) CLARIFICATION OF ALLOWABLE COSTS.—Section 47110(b)(1) is amended by inserting before the semicolon at the end "and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type".

(d) TECHNICAL AMENDMENTS.—Section 47110(e) is amended by aligning the margin of paragraph (6) with the margin of paragraph (5).

SEC. 509. APPORTIONMENTS TO PRIMARY AIRPORTS.

(a) FORMULA CHANGES.—Section 47114(c)(1)(A) is amended by striking clauses (iv) and (v) and by inserting the following:

"(iv) $.65 for each of the next 500,000 passenger boardings at the airport during the prior calendar year;

"(v) $.50 cents for each of the next 2,500,000 passenger boardings at the airport during the prior calendar year; and

"(vi) $.45 cents for each additional passenger boarding at the airport during the prior calendar year.".

(b) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—Section 47114(c)(1) is amended by adding at the end the following:

"(F) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal years 2004 and 2005 to the sponsor of the airport an amount equal to the amount apportioned to that sponsor in fiscal year 2002 or 2003, whichever amount is greater, if the Secretary finds that—

"(i) the passenger boardings at the airport were below 10,000 in calendar year 2002;

"(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

"(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001.".

SEC. 510. CARGO AIRPORTS.

Section 47114(c)(2) is amended—

(1) in the paragraph heading by striking "ONLY"; and

(2) in subparagraph (A) by striking "3 percent" and inserting "3.5 percent".

SEC. 511. CONSIDERATIONS IN MAKING DISCRETIONARY GRANTS.

Section 47115(d) is amended to read as follows:

"(d) CONSIDERATIONS.—

"(1) FOR CAPACITY ENHANCEMENT PROJECTS.—In selecting a project for a grant to preserve and improve capacity funded in whole or in part from the fund, the Secretary shall consider—

"(A) the effect that the project will have on overall national transportation system capacity;

"(B) the benefit and cost of the project, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

"(C) the financial commitment from non-United States Government sources to preserve or improve airport capacity;

"(D) the airport improvement priorities of the States to the extent such priorities are not in conflict with subparagraphs (A) and (B); and

"(E) the projected growth in the number of passengers or aircraft that will be using the airport at which the project will be carried out.

"(2) FOR ALL PROJECTS.—In selecting a project for a grant described in paragraph (1), the Secretary shall consider whether—

"(A) funding has been provided for all other projects qualifying for funding during the fiscal year under this chapter that have attained a higher score under the numerical priority system employed by the Secretary in administering the fund; and

"(B) the sponsor will be able to commence the work identified in the project application in the fiscal year in which the grant is made or within 6 months after the grant is made, whichever is later.".

SEC. 512. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT APPORTIONMENTS.

(a) IN GENERAL.—Section 47117(c) is amended to read as follows:

"(c) USE OF SPONSOR'S APPORTIONED AMOUNTS AT PUBLIC USE AIRPORTS.—

"(1) OF SPONSOR.—An amount apportioned to a sponsor of an airport under section 47114(c) or 47114(d)(3)(A) is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

"(2) IN SAME STATE OR AREA.—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under section 47114(c) or 47114(d)(3)(A) if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.".

(b) PROJECT GRANT AGREEMENTS.—Section 47108(a) is amended by inserting "or 47114(d)(3)(A)" after "under section 47114(c)".

(c) ALLOWABLE PROJECT COSTS.—Section 47110 is further amended—

(1) in subsection (b)(2)(C) by striking "of this title" and inserting "or section 47114(d)(3)(A)";

(2) in subsection (g)—

(A) by inserting "or section 47114(d)(3)(A)" after "of section 47114(c)"; and

(B) by striking "of project" and inserting "of the project"; and

(3) by adding at the end the following:

"(j) NONPRIMARY AIRPORTS.—The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.".

(d) TERMINAL DEVELOPMENT COSTS.—Section 47119(b) is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; or"; and

(3) by adding at the end the following:

"(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under section 47110(d).".

SEC. 513. USE OF APPORTIONED AMOUNTS.

(a) SPECIAL APPORTIONMENT CATEGORIES.—Section 47117(e)(1)(A) is amended—

(1) by striking "of this title" the first place it appears and inserting a comma; and

(2) by striking "of this title" the second place it appears and inserting ", for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47140, and for airport development described in section 47102(3)(F) or 47102(3)(K) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.)".

(b) ELIMINATION OF SUPER RELIEVER SET-ASIDE.—Section 47117(e)(1)(C) is repealed.

(c) RECOVERED FUNDS.—Section 47117 is further amended by adding at the end the following:

"(h) TREATMENT OF CANCELED OR REDUCED GRANT OBLIGATIONS.—For the purpose of determining compliance with a limitation, enacted in an appropriations Act, on the amount of grant obligations of funds made available by section 48103 that may be incurred in a fiscal year, an amount that is recovered by canceling or reducing a grant obligation of funds made available by section 48103 shall be treated as a negative obligation that is to be netted against the obligation limitation as enacted and thus may permit the obligation limitation to be exceeded by an equal amount.".

SEC. 514. MILITARY AIRPORT PROGRAM.

Subsections (e) and (f) of section 47118 are each amended by striking "$7,000,000" and inserting "$10,000,000".

SEC. 515. TERMINAL DEVELOPMENT COSTS.

Section 47119(a) is amended to read as follows:

"(a) REPAYING BORROWED MONEY.—

"(1) TERMINAL DEVELOPMENT COSTS INCURRED AFTER JUNE 30, 1970, AND BEFORE JULY 12, 1976.—An amount apportioned under section 47114 and made available to the sponsor of a commercial service airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d) if they had been incurred after September 3, 1982.

"(2) TERMINAL DEVELOPMENT COSTS INCURRED BETWEEN JANUARY 1, 1992, AND OCTOBER 31, 1992.—An amount apportioned under section 47114 and made available to the sponsor of a nonhub airport at which terminal development was carried out between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

"(3) TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

"(A) that was a nonhub airport in the most recent year used to calculate apportionments under section 47114;

"(B) that is a designated airport under section 47118 in fiscal year 2003; and

"(C) at which terminal development is carried out between January 2003 and August 2004,

is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

"(4) CONDITIONS FOR GRANT.—An amount is available for a grant under this subsection only if—

"(A) the sponsor submits the certification required under section 47110(d);

"(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

"(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money.

"(5) APPLICABILITY OF CERTAIN LIMITATIONS.—A grant under this subsection shall be subject to the limitations in subsection (b)(1) and (2).".

SEC. 516. CONTRACT TOWERS.

Section 47124(b) is amended—

(1) in paragraph (1) by striking "on December 30, 1987," and inserting "on date of enactment of the Flight 100—Century of Aviation Reauthorization Act";

(2) in the heading for paragraph (3) by striking "PILOT";

(3) in paragraph (4)(C) by striking "$1,100,000" and inserting "$1,500,000"; and

(4) by striking "pilot" each place it appears.

SEC. 517. AIRPORT SAFETY DATA COLLECTION.

Section 47130 is amended to read as follows:

"§ 47130. Airport safety data collection

"Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. In the event that a grant is provided under this section, the United States Government's share of the cost of the data collection shall be 100 percent.".

SEC. 518. AIRPORT PRIVATIZATION PILOT PROGRAM.

(a) IN GENERAL.—Section 47134(b)(1) is amended—

(1) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

"(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

"(ii) by the Secretary at any nonprimary airport after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.";

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

"(B) OBJECTION TO EXEMPTION.—An air carrier shall be deemed to have approved a sponsor's application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor's application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.".

(b) FEDERAL SHARE.—Section 47109(a) is amended—

(1) by inserting "and" at the end of paragraph (3);

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

SEC. 519. INNOVATIVE FINANCING TECHNIQUES.

(a) ELIGIBLE PROJECTS.—Section 47135(a) is amended—

(1) in the first sentence by inserting after "approve" the following: "after the date of enactment of the Flight 100—Century of Aviation Reauthorization Act";

(2) in the first sentence by striking "20" and inserting "10"; and

(3) by striking the second sentence and inserting the following: "Such projects shall be located at airports that are not medium or large hub airports.".

(b) INNOVATIVE FINANCING TECHNIQUES.—Section 47135(c)(2) is amended—

(1) by striking subparagraphs (A) and (B); and

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(c) SAVINGS CLAUSE.—The amendments made by this section shall not affect applications approved under section 47135 of title 49, United States Code, before the date of enactment of this Act.

SEC. 520. AIRPORT SECURITY PROGRAM.

Section 47137 is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) ADMINISTRATION.—The Secretary, in cooperation with the Secretary of Homeland Security, shall administer the program authorized by this section.".

SEC. 521. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE.

(a) EMISSIONS CREDITS.—Subchapter I of chapter 471 is amended by adding at the end the following:

"§ 47138. Emission credits for air quality projects

"(a) IN GENERAL.—The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly agree on how to assure that airport sponsors receive appropriate emission credits for carrying out projects described in sections 40117(a)(3)(G), 47102(3)(K), and 47102(3)(L). Such agreement must include, at a minimum, the following conditions:

"(1) The provision of credits is consistent with the Clean Air Act (42 U.S.C. 7402 et seq.).

"(2) Credits generated by the emissions reductions are kept by the airport sponsor and may only be used for purposes of any current or future general conformity determination under the Clean Air Act or as offsets under the Environmental Protection Agency's new source review program for projects on the airport or associated with the airport.

"(3) Credits are calculated and provided to airports on a consistent basis nationwide.

"(4) Credits are provided to airport sponsors in a timely manner.

"(5) The establishment of a method to assure the Secretary that, for any specific airport project for which funding is being requested, the appropriate credits will be granted.

"(b) ASSURANCE OF RECEIPT OF CREDITS.—

"(1) IN GENERAL.—As a condition for making a grant for a project described in section 47102(3)(K), 47102(3)(L), or 47139 or as a condition for granting approval to collect or use a passenger facility fee for a project described in section 40117(a)(3)(G), 47102(3)(K), 47102(3)(L), or 47139, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.

"(2) AGREEMENT ON PREVIOUSLY APPROVED PROJECTS.—The Secretary and the Administrator of the Environmental Protection Agency shall jointly agree on how to provide emission credits to airport projects previously approved

under section 47136 under terms consistent with the conditions enumerated in this section.''.

(b) AIRPORT GROUND SUPPORT EQUIPMENT EMISSIONS RETROFIT PILOT PROGRAM.—Subchapter I of chapter 471 is further amended by adding at the end the following:

"§47139. Airport ground support equipment emissions retrofit pilot program

''(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount made available under section 48103 to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

''(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.—A commercial service airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a).

''(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

''(d) MAXIMUM AMOUNT.—Not more than $500,000 may be expended under the pilot program at any single commercial service airport.

''(e) GUIDELINES.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under the pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

''(f) ELIGIBLE EQUIPMENT DEFINED.—In this section, the term 'eligible equipment' means ground service or maintenance equipment that is located at the airport, is used to support aeronautical and related activities at the airport, and will remain in operation at the airport for the life or useful life of the equipment, whichever is earlier.''.

(c) ADDITION TO AIRPORT DEVELOPMENT.—Section 47102(3) is further amended by striking subparagraphs (K) and (L) and inserting the following:

''(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2), 7505a) and if such project will result in an airport receiving appropriate emission credits, as described in section 47138.

''(L) converting vehicles and ground support equipment owned by a commercial service airport to low-emission technology or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47138.''.

(d) ALLOWABLE PROJECT COST.—Section 47110(b) is further amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(3) by adding at the end the following:

''(6) in the case of a project for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that is not described in section 47102(3) and that include low-emission technology, if the total costs allowed for the project are not more than the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary.''.

(e) LOW-EMISSION TECHNOLOGY EQUIPMENT.—Section 47102 (as amended by section 501 of this Act) is further amended by inserting after paragraph (10) the following:

''(11) 'low-emission technology' means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially non-petroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.''.

(f) CONFORMING AMENDMENTS.—The analysis of subchapter I of chapter 471 is amended by adding at the end the following:

''47138. Emission credits for air quality projects.
''47139. Airport ground support equipment emissions retrofit pilot program.''.

SEC. 522. COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

"§47140. Compatible land use planning and projects by State and local governments

''(a) IN GENERAL.—The Secretary of Transportation may make grants from amounts set aside under section 47117(e)(1)(A) to States and units of local government for land use compatibility plans or projects resulting from those plans for the purposes of making the use of land areas around large hub airports and medium hub airports compatible with aircraft operations if—

''(1) the airport operator has not submitted a noise compatibility program to the Secretary under section 47504 or has not updated such program within the past 10 years; and

''(2) the land use plan meets the requirements of this section and any project resulting from the plan meets such requirements.

''(b) ELIGIBILITY.—In order to receive a grant under this section, a State or unit of local government must—

''(1) have the authority to plan and adopt land use control measures, including zoning, in the planning area in and around a large or medium hub airport;

''(2) provide written assurance to the Secretary that it will work with the affected airport to identify and adopt such measures; and

''(3) provide written assurance to the Secretary that it will achieve, to the maximum extent possible, compatible land uses consistent with Federal land use compatibility criteria under section 47502(3) and that those compatible land uses will be maintained.

''(c) ASSURANCES.—The Secretary shall require a State or unit of local government to which a grant may be awarded under this section for a land use plan or a project resulting from such a plan to provide—

''(1) assurances satisfactory to the Secretary that the plan—

''(A) is reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses;

''(B) addresses ways to achieve and maintain compatible land uses, including zoning, building codes, and any other projects under section 47504(a)(2) that are within the authority of the State or unit of local government to implement;

''(C) uses noise contours provided by the airport operator that are consistent with the airport operation and planning, including any noise abatement measures adopted by the airport operator as part of its own noise mitigation efforts;

''(D) does not duplicate, and is not inconsistent with, the airport operator's noise compatibility measures for the same area; and

''(E) has received concurrence by the airport operator prior to adoption by the State or unit of local government; and

''(2) such other assurances as the Secretary determines to be necessary to carry out this section.

''(d) GUIDELINES.—The Secretary shall establish guidelines to administer this section in accordance with the purposes and conditions described in this section. The Secretary may require the State or unit of local government to which a grant may be awarded under this section to provide progress reports and other information as the Secretary determines to be necessary to carry out this section.

''(e) ELIGIBLE PROJECTS.—The Secretary may approve a grant under this section to a State or unit of local government for a land use compatibility project only if the Secretary is satisfied that the project is consistent with the guidelines established by the Secretary under this section, that the State or unit of local government has provided the assurances required by this section, that the Secretary has received evidence that the State or unit of local government has implemented (or has made provision to implement) those elements of the plan that are not eligible for Federal financial assistance, and that the project is not inconsistent with Federal standards.

''(f) SUNSET.—This section shall not be in effect after September 30, 2007.''.

(b) CONFORMING AMENDMENT.—The analysis of subchapter I of chapter 471 is further amended by adding at the end the following:

''47140. Compatible land use planning and projects by State and local governments.''.

SEC. 523. PROHIBITION ON REQUIRING AIRPORTS TO PROVIDE RENT-FREE SPACE FOR FEDERAL AVIATION ADMINISTRATION.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

"§47141. Prohibition on rent-free space requirements for Federal Aviation Administration

''(a) IN GENERAL.—The Secretary of Transportation may not require an airport sponsor to provide to the Federal Aviation Administration, without compensation, space in a building owned by the sponsor and costs associated with such space for building construction, maintenance, utilities, and other expenses.

''(b) NEGOTIATED AGREEMENTS.—Subsection (a) does not prohibit—

''(1) the negotiation of agreements between the Secretary and an airport sponsor to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration without cost or at below-market rates; or

''(2) the Secretary of Transportation from requiring airport sponsors to provide land without cost to the Federal Aviation Administration for air traffic control facilities.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 471 is further amended by adding at the end the following:

''47141. Prohibition on rent-free space requirements for Federal Aviation Administration.''.

SEC. 524. MIDWAY ISLAND AIRPORT.

(a) FINDINGS.—Congress finds that the continued operation of the Midway Island Airport in accordance with the standards of the Federal Aviation Administration applicable to commercial airports is critical to the safety of commercial, military, and general aviation in the mid-Pacific Ocean region.

(b) MEMORANDUM OF UNDERSTANDING ON SALE OF AIRCRAFT FUEL.—The Secretary of Transportation shall enter into a memorandum of understanding with the Secretaries of Defense, Interior, and Homeland Security to facilitate the sale of aircraft fuel on Midway Island at a price that will generate sufficient revenue to improve the ability of the airport to operate on a self-sustaining basis in accordance with the standards of the Federal Aviation Administration applicable to commercial airports. The memorandum shall also address the long-range potential of promoting tourism as a means to generate revenue to operate the airport.

(c) TRANSFER OF NAVIGATION AIDS AT MIDWAY ISLAND AIRPORT.—The Midway Island Airport may transfer, without consideration, to the Administrator the navigation aids at the airport. The Administrator shall accept the navigation aids and operate and maintain the navigation aids under criteria of the Administrator.

(d) FUNDING TO THE SECRETARY OF INTERIOR FOR MIDWAY ISLAND AIRPORT.—

(1) IN GENERAL.—Chapter 481 is amended by adding at the end the following:

"§48114. Funding to the Secretary of Interior for Midway Island Airport

"The following amounts shall be available (and shall remain available until expended) to the Secretary of Interior, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), for airport capital projects at the Midway Island Airport:

"(1) $750,000 for fiscal year 2004.

"(2) $2,500,000 for fiscal year 2005.

"(3) $1,000,000 for fiscal year 2006.

"(4) $1,000,000 for fiscal year 2007.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 481 is amended by adding at the end the following:

"48114. Funding to the Secretary of Interior for Midway Island Airport.".

TITLE VI—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 601. EXTENSION OF EXPENDITURE AUTHORITY.

Paragraph (1) of section 9502(d) of the Internal revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 2003" and inserting "October 1, 2007", and

(2) by inserting "or the flight 100—Century of Aviation Reauthorization Act" before the semicolon at the end of subparagraph (A).

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report or pursuant to the previous order of the House, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

Pursuant to the previous order of the House, it is now in order to consider amendment No. 5 printed in part B of House Report 108–146.

AMENDMENT NO. 5 OFFERED BY MR. MANZULLO

Mr. MANZULLO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. MANZULLO:

At the end of title V of the bill, add the following new section (and conform the table of contents accordingly):

SEC. 525. REPORT ON WAIVERS OF PREFERENCE FOR BUYING GOODS PRODUCED IN THE UNITED STATES.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the waiver contained in section 50101(b) of title 49, United States Code (relating to buying goods produced in the United States). The report shall, at a minimum, include—

(1) a list of all waivers granted pursuant to that section since the date of enactment of that section; and

(2) for each such waiver—

(A) the specific authority under such section 50101(b) for granting the waiver; and

(B) the rationale for granting the waiver.

The CHAIRMAN. Pursuant to House Resolution 265, the gentleman from Illinois (Mr. MANZULLO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, I yield myself such time as I may consume. The American economy is in the midst of a manufacturing crisis. Over the past 3 years, we have lost 2.6 million jobs. The latest Bureau of Labor Statistics reports show that for 34 straight months, we have had a coring out of our manufacturing base, losing 53,000 manufacturing jobs each month. These jobs are necessary, many of them, to help out with our defense industrial base. They include such basic products as tools, dies and molds.

In 1981, Rockford, Illinois, the largest city in the congressional district I represent, led the Nation with unemployment at 24.9 percent. Today it is around 11 percent. I do not want to see a recurrence of 1981. We are in danger of seeing our industrial base irreparably harmed. Unlike the past when factories were closed during an economic downturn but reopened when times improved, today a too frequent outcome is the permanent closure of a factory. The jobs leave forever. The young people entering the workforce do not have a manufacturing career choice left open to them. My own constituents have been impacted by the bankruptcy of several manufacturers since this downturn began.

Mr. Chairman, the bleeding continues. Since 1933, the Buy American Act has safeguarded the interests of American manufacturers by requiring the Federal Government to purchase domestically manufactured products for government usage. To qualify as a domestic product, the content cost of the components must be "substantially all" produced in America. Most people would say that term "substantially all" means 80 to 90 percent or even 99 percent. However, the regulators at the Federal Government say "substantially all" means only 50 percent. I am glad to say that at the Federal Aviation Administration, "substantially all" is defined as 60 percent for the acquisition of steel or manufactured goods according to the 1995 acquisition regulations which the FAA authorized back then.

I am disturbed, however, at the instance of waivers allowed by the FAA. Civil aircraft and aircraft components purchased by the FAA are not subject to the Buy American Act due to the provisions of the Agreement of Trade on Civil Aircraft negotiated by the U.S. Trade Representative. Currently the FAA is advertising on its Web site a requirement for an airborne research and development multi-engine jet aircraft at $14.9 million that could be bought with U.S. taxpayers' dollars from foreign countries at a time when tens of thousands of air and space workers in this country are unemployed.

It has been 8 years since the Secretary of Transportation was last required to report to Congress on procurements that were not domestic products. This amendment will require a report that will bring us current information on this subject. We do not even know how many aircraft or other products the FAA is procuring each year from foreign countries because of waivers to the Buy American Act. We are asking that this Congress, that this House of Representatives adopt this amendment to help stop the hemorrhaging of the loss of the American base in this country.

I urge my colleagues to support this commonsense amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Chairman, I claim the time in opposition but not to speak in opposition to the amendment.

The CHAIRMAN. Without objection, the Chair recognizes the gentleman from Oregon (Mr. DEFAZIO) for 5 minutes.

There was no objection.

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

I think this is a very worthy undertaking. As the gentleman points out, we have hollowed out so much of American manufacturing capability, but we have for years touted the fact that our leadership in aviation and aerospace, that this would be one of the areas where we would continue to dominate the world. To have the prospect of agencies of the Federal Government using taxpayer resources to outsource to foreign vendors in this very critical sector, a sector which in the case of at least one major manufacturer is beleaguered by unfair foreign competition, in fact, something we heard repeated on a trip of the Subcommittee on Aviation for the engine manufacturers and others, where subsidies and development grants that never have to be paid back and all sorts of things are made available to them that are not made available to American manufacturers. I think the audit at this time is extraordinarily worthy. I really thank him for bringing this issue before the Congress.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding. I thank the gentleman for offering the amendment.

I just want to raise a cautionary note, that in doing so we do not scare business away from the United States from foreign manufacturers. I am very strong on Buy America, I insist on it in the Federal aid highway program on steel, but there was a time in which 70 percent of the value and the parts of Airbus aircraft were manufactured in the United States.

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As we got into the wars over agriculture with the European community, the Airbus consortium pulled back from its placing of business in the United States, and we have lost ground in the manufacturing of Airbus parts in the United States, and the same is occurring in other areas.

I just want to be sure in the process we are not scaring away business from the United States while legitimately protecting our own interests. I know the gentleman from Illinois has those concerns at heart.

Mr. DEFAZIO. Mr. Chairman, I yield back the balance of my time.

Mr. MANZULLO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment provides simply for a study of what has taken place in the past. It changes no law.

Mr. Chairman, I yield 1 minute to the gentleman from Florida (Chairman MICA).

Mr. MICA. Mr. Chairman, I thank the gentleman for offering this amendment, and I rise in strong support of it.

I think we need to do everything possible to protect the intent of our Buy America requirements, and I think the gentleman's amendment does exactly that. In the aviation industry, unfortunately, we are facing tremendous loss in jobs, employment, and manufacturing. We have lost about half of the large aircraft manufacturing, we produce no regional jets in the United States, and I think the very least we can do is have a Buy America provision that has teeth, that has provisions that will ensure that our manufactured goods are respected by the mandates set down by Congress to Buy America. So I strongly support the gentleman's amendment.

Mr. MANZULLO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from Illinois (Mr. MANZULLO).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MANZULLO. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Illinois (Mr. MANZULLO) will be postponed.

It is now in order to consider amendment No. 1 printed in part B of House Report No. 108-146.

AMENDMENT NO. 1 OFFERED BY MR. MICA

Mr. MICA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. MICA:

Page 46, strike line 20 and all that follows through page 47, line 2, and insert the following:

"(2) MONTHLY REPORTS FROM SECRETARY OF HOMELAND SECURITY.—To assist in the publication of data under paragraph (1), the Secretary of Transportation may request the Secretary of Homeland Security to periodically report on the number of complaints about security screening received by the Secretary of Homeland Security.".

Page 58, after line 24, insert the following:

(e) ELIGIBILITY OF AIRPORT GROUND ACCESS TRANSPORTATION PROJECTS.—Not later than 60 days after the enactment of this Act, the Administrator of the Federal Aviation Administration shall publish in the Federal Register the current policy of the Administration with respect to the eligibility of airport ground access transportation projects for the use of passenger facility fees under section 40117 of title 49, United States Code.

Page 61, line 17, strike "Section 41106(b) is amended" and all that follows through "following" on line 18 and insert the following:

Subsections (a)(1), (b), and (c) of section 41106 are each amended—

(1) by striking "through a contract for airlift service" and inserting

Page 61, line 20, strike the period and insert "; and".

Page 61, after line 20, insert the following:

(2) by inserting "through a contract for airlift service" after "obtained".

Page 62, strike lines 4 through 6 and insert the following:

(2) in subsections (b)(3)(A) and (b)(3)(B) by inserting "over a national park" after "operations";

Page 62, after line 6, insert the following (and redesignate subsequent paragraphs in section 409(a) of the bill accordingly):

(3) in subsection (b)(3)(C) by inserting "over a national park that are also" after "operations";

Page 63, line 14, after the period insert the following:

Commercial Special Flight Rules Area operations in the Dragon and Zuni Point corridors of the Grand Canyon National Park may not take place during the period beginning 1 hour before sunset and ending 1 hour after sunrise.

Page 71, line 13, strike "six" and insert "without regard to the criteria contained in subsection (b)(1), six".

Page 72, strike line 24 and all that follows through page 73, line 11, and insert the following:

(f) COMMUTERS DEFINED.—

(1) IN GENERAL.—Section 41718 is amended by adding at the end the following:

"(f) COMMUTERS DEFINED.—For purposes of aircraft operations at Ronald Reagan Washington National Airport under subpart K of part 93 of title 14, Code of Federal Regulations, the term 'commuters' means aircraft operations using aircraft having a certificated maximum seating capacity of 76 or less.".

(2) REGULATIONS.—The Administrator of the Federal Aviation Administration shall revise regulations to take into account the amendment made by paragraph (1).

Page 75, line 22, after "pay" insert "from local sources other than airport revenues".

Page 75, line 25, after "2008" insert "and each fiscal year thereafter".

Page 76, after line 24, insert the following:

(4) ADJUSTMENTS.—Section 41737 is amended by adding at the end the following:

"(e) ADJUSTMENTS TO ACCOUNT FOR SIGNIFICANTLY INCREASED COSTS.—

"(1) IN GENERAL.—If the Secretary determines that air carriers are experiencing significantly increased costs in providing air service or air transportation under this subchapter, the Secretary may increase the rates of compensation payable under this subchapter without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

"(2) SIGNIFICANTLY INCREASED COSTS DEFINED.—In this subsection, the term 'significantly increased costs' means an average monthly cost increase of 10 percent or more.".

Page 78, line 20, before the comma insert the following:

or requirements contained in a subsequent appropriations Act

Page 78, after line 23, insert the following (and redesignate subsequent subsections in section 415 of the bill accordingly):

(e) EXEMPTION FROM HOLD-IN REQUIREMENTS.—Section 41734 is further amended by adding at the end the following:

"(j) EXEMPTION FROM HOLD-IN REQUIREMENTS.—If, after the date of enactment of this subsection, an air carrier commences air transportation to an eligible place that is not receiving essential air service as a result of the failure of the eligible place to meet requirements contained in an appropriations Act, the air carrier shall not be subject to the requirements of subsections (b) and (c) with respect to such air transportation.".

Page 83, line 21, strike "3 years" and insert "4 years".

Page 88, strike lines 11 through 13 and insert the following:

"(1) MAKE AVAILABLE.—The term 'make available' means providing at a fair and reasonable price. Such price may include recurring and non-recurring costs associated with post-certification development, preparation, and distribution. Such price may not include the initial product development costs related to the issuance of a design approval.

Page 88, strike line 20 and all that follows through page 89, line 6, and insert the following:

"(3) INSTRUCTIONS FOR CONTINUED AIRWORTHINESS.—The term 'instructions for continued airworthiness' means any information (and any changes to such information) considered essential to continued airworthiness that sets forth instructions and requirements for performing maintenance and alteration.

Page 89, strike line 19 and all that follows through page 90, line 15, and insert the following:

"(3) To determine if design approval holders for aircraft, aircraft engines, and propellers that are in production on the date of enactment of this section and for which application for a type certificate or supplemental type certificate was made before January 29, 1981, should be required to make instructions for continued airworthiness or maintenance manuals available (including any changes thereto) to any person required by Federal Aviation Administration rules to comply with any of the terms of the instructions or manuals.

Page 90, line 16, strike "(6)" and insert "(4)".

Page 90, after line 17, insert the following:

"(d) DEADLINES FOR RULEMAKING.—

"(1) NOTICE OF PROPOSED RULEMAKING.—The Administrator shall issue a notice of proposed rulemaking to carry out subsection (c) not later than one year after the date of enactment of this section.

"(2) FINAL RULE.—The Administrator shall issue a final rule with respect to subsection (c) not later than one year after the final date for the submission of comments with respect to the proposed rulemaking.

"(e) ENFORCEMENT OF CURRENT REGULATION.—The Administrator shall review design approval holders that were required to produce instructions for continued airworthiness under section 21.50(b) of title 14, Code of Federal Regulations. If the Administrator determines that a design approval holder has not produced such instructions, the Administrator shall require the design approval holder to prepare such instructions and make them available as required by this section not later than 1 year after the design approval holder is notified by the Administrator of the determination.

Page 90, line 18, strike "(d)" and insert "(f)".

Page 95, before line 1, insert the following:

(c) REVIEW.—The first sentence of section 46110(a) is amended by striking "part" and inserting "subtitle".

Page 96, line 22, strike "air carrier" and insert "employer".

Page 112, strike lines 4 through 6 and insert the following:

(b) LIMITATION.—Subsection (a) shall not apply to a Federal Aviation Administration air traffic control tower operated under the contract tower program on the date of enactment of this Act or to any expansion of that program under section 47124(b)(3) or 47124(b)(4) of title 49, United States Code.

Page 113, line 21, after "Transportation" insert ", in consultation with the Secretary of Defense,".

Page 113, lines 24 and 25, strike "9 months after the date of enactment of this Act" and insert "September 30, 2004".

Page 118, after line 13, insert the following:

(c) DESCRIPTION OF CHANGES TO IMPROVE OPERATIONS.—A report transmitted by the Administrator under this section shall include a description of any changes in procedures or requirements that could improve operational efficiency or minimize operational impacts of the ADIZ on pilots and controllers. This portion of the report may be transmitted in classified or unclassified form.

Page 118, line 14, strike "(c)" and insert "(d)".

Page 120, after line 5, insert the following (and conform the table of contents of the bill accordingly):

SEC. 443. CHARTER AIRLINES.

(a) IN GENERAL.—Section 41104(b)(1) is amended—

(1) by striking "paragraph (3)" and inserting "paragraphs (3) and (4)";

(2) by inserting a comma after "regularly scheduled charter air transportation"; and

(3) by striking "flight unless such air transportation" and all that follows through the period at the end and inserting the following: "flight, to or from an airport that—

"(A) does not have an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation); or

"(B) has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation) if the airport—

"(i) is a reliever airport (as defined in section 47102) and is designated as such in the national plan of integrated airports maintained under section 47103; and

"(ii) is located within 20 nautical miles (22 statute miles) of 3 or more airports that annually account for at least 1 percent of the total United States passenger enplanements and at least 2 of which are operated by the sponsor of the reliever airport.".

(b) WAIVERS.—Section 41104(b) is amended by adding at the end the following:

"(4) WAIVERS.—The Secretary may waive the application of paragraph (1)(B) in cases in which the Secretary determines that the public interest so requires.".

SEC. 444. IMPLEMENTATION OF CHAPTER 4 NOISE STANDARDS.

Not later than July 1, 2004, the Secretary of Transportation shall issue regulations to implement Chapter 4 noise standards, consistent with the recommendations adopted by the International Civil Aviation Organization.

SEC. 445. CREW TRAINING.

Section 44918 is amended to read as follows:

"§ 44918. Crew training

"(a) BASIC SECURITY TRAINING.—

"(1) IN GENERAL.—Each air carrier providing scheduled passenger air transportation shall carry out a training program for flight and cabin crew members to prepare the crew members for potential threat conditions.

"(2) PROGRAM ELEMENTS.—An air carrier training program under this subsection shall include, at a minimum, elements that address each of the following:

"(A) Recognizing suspicious activities and determining the seriousness of any occurrence.

"(B) Crew communication and coordination.

"(C) The proper commands to give passengers and attackers.

"(D) Appropriate responses to defend oneself.

"(E) Use of protective devices assigned to crew members (to the extent such devices are required by the Administrator of the Federal Aviation Administration or the Under Secretary for Border and Transportation Security of the Department of Homeland Security).

"(F) Psychology of terrorists to cope with hijacker behavior and passenger responses.

"(G) Situational training exercises regarding various threat conditions.

"(H) Flight deck procedures or aircraft maneuvers to defend the aircraft and cabin crew responses to such procedures and maneuvers.

"(I) The proper conduct of a cabin search.

"(J) Any other subject matter considered appropriate by the Under Secretary.

"(3) APPROVAL.—An air carrier training program under this subsection shall be subject to approval by the Under Secretary.

"(4) MINIMUM STANDARDS.—Not later than one year after the date of enactment of the Flight 100—Century of Aviation Reauthorization Act, the Under Secretary shall establish minimum standards for the training provided under this subsection and for recurrent training.

"(5) EXISTING PROGRAMS.—Notwithstanding paragraph (3), any training program of an air carrier to prepare flight and cabin crew members for potential threat conditions that was approved by the Administrator or the Under Secretary before the date of enactment of the Flight 100—Century of Aviation Reauthorization Act may continue in effect until disapproved or ordered modified by the Under Secretary.

"(6) MONITORING.—The Under Secretary, in consultation with the Administrator, shall monitor air carrier training programs under this subsection and periodically shall review an air carrier's training program to ensure that the program is adequately preparing crew members for potential threat conditions. In determining when an air carrier's training program should be reviewed under this paragraph, the Under Secretary shall consider complaints from crew members. The Under Secretary shall ensure that employees responsible for monitoring the training programs have the necessary resources and knowledge.

"(7) UPDATES.—The Under Secretary, in consultation with the Administrator, shall order air carriers to modify training programs under this subsection to reflect new or different security threats.

"(b) ADVANCED SELF DEFENSE TRAINING.—

"(1) IN GENERAL.—Not later than one year after the date of enactment of the Flight 100—Century of Aviation Reauthorization Act, the Under Secretary shall develop and provide a voluntary training program for flight and cabin crew members of air carriers providing scheduled passenger air transportation.

"(2) PROGRAM ELEMENTS.—The training program under this subsection shall include both classroom and effective hands-on training in the following elements of self-defense:

"(A) Deterring a passenger who might present a threat.

"(B) Advanced control, striking, and restraint techniques.

"(C) Training to defend oneself against edged or contact weapons.

"(D) Methods to subdue and restrain an attacker.

"(E) Use of available items aboard the aircraft for self-defense.

"(F) Appropriate and effective responses to defend oneself, including the use of force against an attacker.

"(G) Explosive device recognition.

"(H) Any other element of training that the Under Secretary considers appropriate.

"(3) PARTICIPATION NOT REQUIRED.—A crew member shall not be required to participate in the training program under this subsection.

"(4) COMPENSATION.—Neither the Federal Government nor an air carrier shall be required to compensate a crew member for participating in the training program under this subsection.

"(5) Fees.—A crew member shall not be required to pay a fee for the training program under this subsection.

"(6) Consultation.—In developing the training program under this subsection, the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, representatives of air carriers, the director of self-defense training in the Federal Air Marshals Service, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

"(7) Designation of TSA official.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for implementing the training program under this subsection. The official shall consult with air carriers and labor organizations representing crew members before implementing the program to ensure that it is appropriate for situations that may arise on board an aircraft during a flight.

"(c) Limitation.—Actions by crew members under this section shall be subject to the provisions of section 44903(k).".

SEC. 446. REVIEW OF COMPENSATION CRITERIA.

Not later than 6 months after the date of enactment of this Act, the Comptroller General shall review the criteria used by the Air Transportation Stabilization Board to compensate air carriers following the terrorist attack of September 11, 2001, with a particular focus on whether it is appropriate to compensate air carriers for the decrease in value of their aircraft after September 11th.

SEC. 447. REVIEW OF CERTAIN AIRCRAFT OPERATIONS IN ALASKA.

Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall report to Congress on whether, in light of the demands of business within Alaska, it would be appropriate to permit an aircraft to be operated under part 91 of title 14, Code of Federal Regulations, where common carriage is not involved but (1) the operator of the aircraft organizes an entity where the only purpose of such entity is to provide transportation by air of persons and property to related business entities, individuals, and employees of such entities, and (2) the charge for such transportation does not to exceed the cost of owning, operating, and maintaining the aircraft.

Page 122, lines 21 and 22, strike "or 47114(d)(3)(A)" and insert ", 47114(d)(3)(A), or 47114(e)".

Page 124, strike lines 6 through 14 and insert the following:

Section 47107(c)(2)(A)(iii) is amended by inserting before the semicolon at the end the following: ", including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program".

Page 127, line 24, after "2002" insert "or 2003".

Page 132, after line 8, insert the following (and redesignate subsequent subsections of section 513 of the bill accordingly):

(a) Period of Availability.—Section 47117(b) is amended by striking "primary airport" and all that follows through "calendar year" and inserting "nonhub airport or any airport that is not a commercial service airport".

Page 133, line 13, insert "(a) Increased Funding Levels.—" before "Subsections".

Page 133, after line 15, insert the following:

(b) Reimbursement for Certain Construction Costs.—Section 47118(f) is amended—

(1) by striking "Not more than" and inserting the following:

"(1) Construction.—Not more than"; and

(2) by adding at the end the following:

"(2) Reimbursement.—Upon approval of the Secretary, the sponsor of a current or former military airport the Secretary designates under this section may use an amount apportioned under section 47114, or made available under section 47119(b), to the airport for reimbursement of costs incurred by the airport in fiscal years 2003 and 2004 for construction, improvement, or repair described in paragraph (1).".

Page 138, line 21, strike "10" and insert "12".

Page 138, line 23, strike "Such projects" and all that follows through the first period on line 24 and insert the following:

A project using an innovative financing technique described in subsection (c)(2)(A) or (c)(2)(B) shall be located at an airport that is not a medium or large hub airport. A project using the innovative financing technique described in subsection (c)(2)(C) shall be located at an airport that is a medium or large hub airport.

Page 139, line 3, strike "and" the second place it appears.

Page 139, line 5, strike the period at the end and insert a semicolon.

Page 139, after line 5, insert the following:

(3) in subparagraph (A) (as so redesignated) by striking "and" at the end;

(4) in subparagraph (B) (as so redesignated) by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following:

"(C) payment of interest on indebtedness incurred to carry out a project for airport development.".

At the end of title V of the bill on page 152, add the following (and conform the table of contents of the bill accordingly):

SEC. 525. INTERMODAL PLANNING.

Section 47106(c)(1)(A) is amended—

(1) by striking "and" at the end of clause (i);

(2) by adding "and" at the end of clause (ii); and

(3) by adding at the end the following:

"(iii) with respect to an airport development project involving the location of an airport or runway or major runway extension at a medium or large hub airport, the airport sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted;".

SEC. 526. STATUS REVIEW OF MARSHALL ISLANDS AIRPORT.

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall review the status of the airport on the Marshall Islands and report to Congress on whether it is appropriate and necessary for that airport to receive grants under the airport improvement program.

The CHAIRMAN. Pursuant to House Resolution 265, the gentleman from Florida (Mr. Mica) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. Mica).

Mr. MICA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this manager's amendment makes some relatively modest changes to the legislation before us. Most of the changes are technical in nature and address issues that were raised after the committee approved the legislation in May.

One significant change is the provision relating to crew training, and I want to elaborate a bit on that. Our current law provides and requires that airlines provide hands-on self-defense training to flight attendants to help them deal with a terrorist threat.

The amendment that we have makes clear that this training is voluntary and that flight attendants who choose to take it will do so on their own time. The airlines will not be required to pay them while they are taking this training. The Transportation Security Administration, not the airlines, will be providing the training. Both the flight attendants and airlines have agreed to this particular provision.

The airlines will still have to provide other nonphysical security training for flight attendants. Airlines provide that training now, and under this bill they could continue to provide the same training.

The amendment requires TSA to set minimum standards for flight attendant training, but deletes the provision in current law requiring the Transportation Security Administration to set the minimum number of hours for this particular type of training. Rather, the Transportation Security Administration should set proficiency standards and leave it to the airlines as to how many hours of training it will take to reach that level of proficiency.

In addition to the crew training provision, this amendment makes a number of improvements to the bill. These improvements include the following:

First, allowing the Department of Transportation to request information from the Department of Homeland Security in preparing its monthly report on passenger complaints about screening.

Next, directing the FAA to publish its policy on the use of passenger facility charge revenue for ground access projects.

Allowing 76-seat regional jets to qualify for the commuter aircraft slots for Reagan National Airport.

Additionally, allowing DOT to increase the subsidy to a commuter serving a small community if that commuter is experiencing significantly increased costs.

Another provision is allowing an airline to begin service to a small community that previously had subsidized essential air service without being subject to the many regulatory requirements of the Essential Air Service program.

An additional provision is revising the provision requiring aircraft manufacturers to make maintenance manuals available to aircraft repair stations in order to accommodate concerns expressed by the manufacturers.

Also we have a provision directing GAO to study how airlines were compensated after 9–11, especially whether they should be compensated for the devaluation of their aircraft.

A further provision directs FAA to study whether certain aircraft operations in Alaska can be performed under part 91 of FAA rules.

An additional provision allows current or former military airports designated by FAA to use AIP money for the reimbursement of a hangar.

Another provision allows up to 12 large airports to use AIP money for interest payments on debts. Small airports can already do this.

Another provision requires large airports seeking to build a runway to make their master plan available to the metropolitan planning organization in the area where the airport is located.

Finally, we have a provision directing DOT to report on whether it is appropriate and necessary for the airport in the Marshall Islands to receive grants under the Airport Improvement Program.

Mr. Chairman, this is a good, bipartisan amendment. We have taken into consideration concerns and requests from many Members, and I believe that this manager's amendment improves on an already good piece of legislation. I urge my colleagues to support it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member seek recognition in opposition to the amendment?

Mr. DEFAZIO. Mr. Chairman, I rise to claim the time in opposition, despite the fact I do not oppose the amendment.

The CHAIRMAN. Without objection, the gentleman from Oregon is recognized.

There was no objection.

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Chair of the Subcommittee on Aviation has done good work with this. A number of Members have come forward since the bill was finalized in committee and raised concerns which have merit, as have other concerns been raised by outside groups, for instance, the flight attendants and others.

So we have here a clarification on the training of the flight attendants, which we mandated earlier, the security legislation. We have here language that would require at least some minimal cooperation and coordination with the metropolitan planning organizations, making certain that they are informed of plans and future plans of airports that might have impact on communities greater than that which currently exist.

To get some clarification, a number of concerns have been raised regarding passenger facility charges and the standards which are being applied by the FAA, and it certainly would be of great benefit to consolidate and publish those requirements so that meritorious projects across the United States can move forward to better enhance the utilization of our airports and their capacity.

Then there was the 76–C regional jet provision for National Airport, again something raised later on; fairly technical, but actually quite practical and meritorious.

Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I concur in the remarks of the ranking member of the subcommittee. I would add that the manager's amendment does include two very important provisions offered by the gentleman from Oregon (Mr. BLUMENAUER) to promote intermodalism.

The first requires airports that undertake major construction projects to share their planes with MPOs, and the second requires the FAA to clarify, consolidate, and publish its current policy for PFC for ground transportation projects that provide access to airports. These are long-standing issues that we attempted to deal with going back to the beginning of the PFC era in 1990, and this a very important clarification.

Just to expand on the point raised by the gentleman from Oregon (Mr. DEFAZIO), the flight attendants self-defense training provision will require carriers to provide all flight attendants with the basic security training program, and those who opt for more advanced training to do so under the auspices of the TSA.

There is a very interesting provision borrowed from our experience in the Federal Aid to Highway program that allows AIP funds to pay interest on debt incurred for AIP-eligible projects. We will expand under this manager's amendment that provision from select small airports to a very limited number of larger airports. I think that is indeed a very good measure that will accelerate development of airport capacity where we urgently need it.

Mr. Chairman, I appreciate the willingness of the gentleman to work with us to include those provisions.

Mr. DEFAZIO. Mr. Chairman, I enthusiastically support the manager's amendment, and I yield back the balance of my time.

Mr. MICA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again I urge passage of the manager's amendment. I think we have attempted our level best to accommodate a number of requests from Members, particularly since the legislation was passed out of committee. I think the best amendments with the best possible language and compromises that could be worked out have been incorporated into this manager's amendment. We still will work with others as the legislation moves forward with conference.

Again, I urge the adoption of this comprehensive manager's amendment that is also a bipartisan piece of work.

Mr. Chairman, I yield back the balance of my time.

Mr. DEFAZIO. Mr. Chairman, if I could, I ask unanimous consent to reclaim a portion of my time.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DEFAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the gentleman from Oregon and thank the chairman. I want to thank the gentleman from Florida (Mr. MICA), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Oregon (Mr. DEFAZIO) for a provision in this bill which I think is very important.

I represent three general aviation airports that are within the 15-mile radius of the White House. As a result, they were shut down. They were not shut down because they were not operating safely and fairly; they were shut down because it was the perception and the belief of those in charge of our national security that they posed a risk.

Obviously, they are all owned privately. They are not public airports. As a result, there was a very substantial adverse financial impact to many people, both who own the airports and who had concessions at the airports.

There is authorized in this bill $100 million for the purpose of, both at National and other surrounding airports, not only here but throughout the country, those who suffered damage as a result of 9–11 in a very real financial sense, for them to be not made whole, because that would be impossible at this point in time, but to be compensated for the losses they sustained.

I want to thank the gentleman from Oregon (Mr. DEFAZIO), the gentleman from Florida (Mr. MICA), and the gentleman from Minnesota (Mr. OBERSTAR) for their leadership, the gentleman from Oregon (Mr. DEFAZIO) in getting this authorization effected. I appreciate it. I know they appreciate it. It is the right thing to do.

I talked to Sean O'Keefe, of course, who now heads NASA, but was deputy director of OMB at the time of 9–11. He said he thought we ought to do this. It has taken us some time to get it done. I appreciate the leadership shown by the committee to effect this. I enthusiastically support the bill and this provision.

In the aftermath of the September 11 terrorist attacks, the Federal Aviation Administration issued temporary flight restrictions on the small aircraft of general aviation as part of its effort to make commercial air travel safer and to restore the public's confidence in the security of our Nation's airways and airports.

Unfortunately, while those restrictions were lifted for general aviation in the rest of the country, small airports in the Washington metropolitan area have continued to languish under binding restrictions on their operations. In fact, the only airports in the country that are closed to incoming and outgoing general aviation are Reagan National and the three D.C. area general aviation airports. As a result, these small airports, specifically College Park Airport, Potomac Airfield, and Washington Executive, are on the brink of financial ruin. These airports have been forced to nearly cease their operations, effectively, endangering the livelihood of their employees who have lost income and jobs and airport owners who have lost income and jobs and airport owners who have lost long-time customers and revenue. In speaking with airport managers at all three of these airports, I have heard their disturbing reports on loss of operations, reductions in fuel sales, and loss of revenue since these flight restrictions were put in place.

Lee Schiek, manager of the College Park Airport, reported earlier this year that flights in and out of College Park plummeted from about 1,800 per month before September 11 to 164 per month at the beginning of 2003, and 55 of the airport's 87 based aircraft have left for other airports.

There is no doubt that we must stem this tide of economic decline for general aviation. This industry is a proven, integral part of the nation's economy, providing vital services and economic stability to individuals, families, churches, hospitals, colleges, industry, small businesses, and communities. Aviation transportation in Maryland is a $1.3 billion industry, an industry too large and too important to be hobbled any further in an already weak economy.

Today, the House of Representatives passed the FAA reauthorization bill that will provide $100 million to general aviation to help alleviate the cost incurred in meeting security requirements and the revenue lost because of the interruption in operations.

The $100 million grant gives the Congress an opportunity to do for general aviation, small airports, and small business, and the independent pilot what we did for the airlines, large airports, and the insurance industry in the aftermath of the terrorist attacks. This shows that we recognize the sacrifice that general aviation has made in the effort to make us more secure. Let's not forget: the Federal Government imposed the restrictions on general aviation, and the Federal Government should do its part to help ease the financial burden those restrictions have caused. This is a fair restitution that will start the process of a return to financial health of general aviation.

□ 1515

Mr. DEFAZIO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida (Mr. MICA).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in part B of House Report 108-146.

AMENDMENT NO. 2 OFFERED BY MS. NORTON

Ms. NORTON. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. NORTON:

Page 73, after line 11, insert the following:

(g) REMOVAL OF CERTAIN LIMITATIONS ON METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.—Section 49108 and the item relating to such section in the analysis of chapter 491 are repealed.

The CHAIRMAN. Pursuant to House Resolution 265, the gentlewoman from the District of Columbia (Ms. NORTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think I have an amendment, and this is the way to start off, that I think the entire House can support. The entire region supports this amendment on a bipartisan basis. I think Members are going to be hearing from the gentlemen from Virginia, Mr. WOLF and Mr. DAVIS, who had wanted to speak to it.

It is noncontroversial because I think Members do not want to put any airport authority at a disadvantage. Section 49-108 requires only the Metropolitan Washington Airport Authority to come back to Congress before receiving airport improvement funds and facility fees. These are always guaranteed, once appropriated.

Many know that Dulles has a $2.4 billion construction project underway now as we go in and out. This provision to come back to Congress in September of 2004 puts at risk the funds to continue with that operation.

The airport authority has an excellent bond rating and saves millions of dollars because of its bond rating, but the bond markets could read the unique treatment of this region negatively to mean that there is a risk of interruption of construction in progress. In fact, there has been before, although not for this reason. For other reasons there has been such a risk.

The reason that risk would be seen is because Congress forces this airport authority in this region to return and have authorized what other airports get as a guaranteed matter.

All agree that the Washington airport authority has done an outstanding job of operating and improving our airports. There will be multiple opportunities for Congress to have oversight over the Metropolitan Washington Airport Authority because we own the land, and therefore, at will, Congress can call back the airport authority.

We are in this FAA reauthorization bill, and we will be here, therefore, every few years. This is a win-win. By voting for my amendment Congress gets its oversight, and there is no interruption of work in progress at Dulles because of doubts planted by section 49-108 about congressional intention to release funds guaranteed to other jurisdictions.

I ask that my amendment be passed.

Mr. Chairman, I reserve the balance of my time.

Mr. MICA. Mr. Chairman, I claim time in opposition to the amendment.

The CHAIRMAN. The gentleman from Florida (Mr. MICA) is recognized in opposition.

Mr. MICA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do have some questions about this amendment. I think we are going to probably acquiesce to the amendment, but Ronald Reagan National Airport and Dulles International Airport are unique airports. They are the only federally owned commercial passenger airports in the country. They were federally chartered and are not subject to the oversight, as I understand it, of the Governor of Virginia.

This amendment gives the Secretary of Transportation permanent authority to provide grants to the Washington Metropolitan Airport Authority. By doing so, it removes in some ways, Congress' responsibility and ability to make periodic reviews of the airport authority's operations.

This is a unique situation. We owe it to our Nation's taxpayers to fulfill our oversight responsibilities, and sometimes Congress needs to be reminded legislatively to do so. This amendment will change that dramatically.

I have great reservations about this amendment, and I urge my colleagues to look at this amendment.

Mr. Chairman, I yield 1½ minutes to the gentleman from Virginia (Mr. WOLF), who has an opposing opinion.

Mr. WOLF. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the Norton amendment. I would ask all Members to support it.

This airport authority, I was involved, as was the gentleman from Minnesota (Mr. OBERSTAR), Mr. Mineta, and a number of us, the gentlemen from Virginia, Mr. MORAN and Mr. DAVIS, in putting this together. They have done an outstanding job. Those airports were in the 19th century when they took it over. Dulles has expanded and has first-class service. If we look at National Airport now with the parking and everything else, they have really done a great job.

I would urge the House to respect the local airports authority, which has proven I think, without doubt, it can successfully operate both of these airports. I would urge them to support the Norton amendment. I would say if Members bring this back to their own hometown, just as they would not want Congress dictating how to run Members' local airports, we really do not want the Congress to tell them how to run it because they have done an outstanding job.

With that, I would urge that Members support the Norton amendment. I strongly support it. I appreciate the efforts of the gentleman from Virginia (Mr. DAVIS) with regard to that.

Mr. Chairman, I rise today in strong support of the Norton amendment which would repeal the requirement that the Metropolitan Washington Airports Authority (MWAA) must come to Congress before September 30, 2004, to ensure that the local airports can continue to receive development project grants and impose a passenger facility fee.

I was part of the bipartisan coalition in 1987 which successfully secured the passage of legislation signed by President Reagan which transferred both Reagan National and Dulles International from Federal control to the local airports authority. Because of that change to local control, both airports today are success stories.

Passenger activity at National and Dulles Airports has nearly doubled to 31 million passengers in 2002. A massive capital development program at both airports has totaled well over $3 billion. Reagan National Airport was modernized in 1997 with a new terminal building including major improvements to airport traffic management and Metro system connections.

At Dulles, there are new concourses and the airport's first parking garages, and under way is a $3.2 billion capital improvement project. In tandem with the airport's growth, the Smithsonian Institution will open its new Air and Space Museum annex later this year located at Dulles Airport.

These airports have proven they are quality facilities serving not only the people in the Washington area, but air travelers across the Nation and around the world.

There is simply no reason for the airports to be called to Congress to prove their worthiness. What other airports in the country have to make such a command performance? None. Zero.

Congress got out of the airports business in 1987. It's time to stop micro-managing Reagan National and Dulles.

I also want to say how disappointed I am that Mr. MORAN was foreclosed by the rule from offering his amendment on the slots issue at Reagan National.

A delicate balance exists between flight operations at Dulles and Reagan. Increased take offs and landings at Reagan National and more flights beyond the 1,250-mile perimeter hurt Dulles, where longer haul flights originate. Those flight changes also mean coping with more noise for citizens living in the Washington area.

I would urge my colleagues to respect the local airports authority, which has proven it can successfully operate the Washington area airports, and support the Norton amendment.

Just as you would not want Congress dictating how to run your local airport, I would ask you to let the Metropolitan Washington Airports Authority do its job in operating Reagan National and Dulles without congressional interference.

Mr. MICA. Mr. Chairman, I reserve the balance of my time.

Ms. NORTON. Mr. Chairman, I yield myself such time as I may consume.

I particularly appreciate the support of the gentleman from Virginia (Mr. WOLF). He is the transportation expert in this region, and he is, I think, the acknowledged transportation expert in this House.

Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from the District of Columbia, Ms. ELEANOR HOLMES NORTON, which would repeal a section of the law that requires the Metropolitan Washington Airports Authority (MWAA) to obtain special legislation to be eligible to receive airport project grants and to impose passenger facility fees. No other airport is required to seek such congressional approval. While this procedure may have been justified in the early days of MWAA, it has outlived its usefulness.

Until 1986, the National and Dulles airports were run by the Federal Aviation Administration (FAA). When the airports were transferred to a regional authority in 1986, there were concerns that the regional authority would be unduly influenced by local interests, and not carry out federal objectives for the airports serving our Nation's Capital. To ensure that Federal concerns were considered, the 1986 legislation established Federal oversight over MWAA's activities, including Federal representation on its Board of Directors, special requirements in MWAA's lease agreement with the Department of Transportation, and requirements for audits of MWAA by the General Accounting Office (GAO).

In 1996, Congress further strengthened its oversight by requiring that new legislation would have to be passed for MWAA to be elible for AIP grants or PFCs, after October 1, 2001. The FAA reauthorization act of 2000, known as AIR–21, continued MWAA's eligibility, but required new legislation for eligibility after October 1, 2004. These provisions are unique to MWAA; no other airports operator has such restrictions on its eligibility for funding.

It is my understanding that although MWAA enjoys an excellent bond rating, the fact that they must continually come to Congress to receive grant monies or charge a PFC has caused concerns in the bond community. Continuing to place MWAA's funds in a different status from those of other airports could negatively affect its current high bond rating, resulting in higher interest charges, and possibly higher rents and fees at the airports.

I believe that MWAA has done an outstanding job in developing National and Dulles Airports, carrying out the objectives of the 1986 legislation. We no longer need to treat MWAA differently than all other airport authorities. The Federal directors on MWAA's Board, this Committee's continuing oversight, and GAO audits will ensure that Federal interest in the airports continue to be respected.

I urge my colleagues to support this amendment.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank my friend and colleague, the gentlewoman from the District of Columbia (Ms. NORTON), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for supporting this amendment.

The reason why the gentlewoman and I offered this amendment is that we really have an unfair provision here that, as the gentlewoman from the District of Columbia (Ms. NORTON) said, does not apply to any other airport authority. It says that we cannot receive in the Washington area any new airport improvement grants or new passenger facility charges until we come back to the Congress.

This is in violation, really, of a 1986 agreement that then Mrs. DOLE, ELIZABETH DOLE, who was Secretary of Transportation, made with the Washington region. The words said that the airport authority, the Metropolitan Washington Airport Authority, will have "full power and dominion over, and complete discretion in, operation and development of the Airports."

In return, Virginia, D.C., and Maryland agreed to accept operational control of the airports and raise the money necessary to modernize them. We fulfilled our part of the bargain. We have two terrific airports. We funded them and we operate them. All we are asking is that we be treated like every other airport, and that we not have to come back and get this special authority to be able to continue doing what we, under law, are doing and doing very well.

The expansion of slots is micromanaging an airport by the Federal Government that really is in contradiction to the agreement. Likewise, it is designating some of those slots to go beyond the 1,250-mile perimeter rule.

National Airport was not built to accommodate transcontinental flights. It was built for short-haul flights to serve midsized cities. Ultimately, this is going to harm those midsized cities up and down the east coast, basically east of the Mississippi River. It is going to hurt their economy. It also jeopardizes the economy, the economic viability, of Dulles Airport, which was built to handle transcontinental flights.

If we start sending those flights to National, even though it is more convenient to get to National, it really hurts Dulles. It is going to hurt the economy, not just for this region, but of the Nation.

Ms. NORTON. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. DAVIS).

Mr. MICA. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. DAVIS).

The CHAIRMAN. The gentleman from Virginia (Mr. DAVIS) is recognized for 1½ minutes.

Mr. DAVIS of Virginia. Mr. Chairman, I thank my friends for yielding time to me.

As my friends know, this is a very important economic issue to those in Washington, Virginia, and the entire metropolitan area as well. We are the only airport in the country that faces these restrictions over their money.

If we want to continue the multibillion-dollar redevelopment efforts at Dulles Airport, these are the kinds of restrictions that can knock that out the window. That hurts flights coming into the Washington area. It does not help them at all. However well-intentioned this is with trying to keep congressional oversight, it can actually have a detrimental effect on this.

Congress has been reluctant to exercise that oversight. We would not have had the new terminal at Reagan National or at Dulles, had the Federal Government remained in charge of this. We have done this through some grants from the government, but through a lot of local taxes as well. That has improved air service to this region.

We also play a very dangerous game with the economic balance between the different airlines that have paid for slots when we start holding this up to have Federal approval of these. I think this is not warranted in any way, shape, or form.

I think the gentlewoman's aim is absolutely correct. I support it wholeheartedly. The 2.4 billion expansion that is currently underway is jeopardized should this amendment go down, or should we somehow kick in the authority that is sought that is now, under the manager's amendment, postponed to 2007; but should that kick in, that money would be at risk should there be any kind of congressional deadlock on Federal grants. That would be unusually detrimental.

Let us lift this restriction entirely. Congress can always step back in should there be a reason, but I think the gentlewoman's amendment is required at this point. I urge its adoption.

Mr. MICA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we have heard from some outstanding Members of Congress who represent the greater Washington area and the Northern Virginia area. They have been strong advocates for Ronald Reagan National Airport. They have done a great job in looking after that national asset.

It truly is unique. It is the only airport, that and Dulles, that are owned by the Federal Government. This is a protection for the taxpayers, and it is good to have required periodic review and oversight.

I do have questions about the amendment, but I do believe that they have the support to pass the amendment, so I express that concern.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part B of House Report 108–146.

AMENDMENT NO. 3 OFFERED BY MR. PETERSON OF PENNSYLVANIA

Mr. PETERSON of Pennsylvania. Mr. Chairman, I offer amendment No. 3.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. PETERSON of Pennsylvania:

Page 75, strike line 12 and all that follows through line 18 on page 76.

Page 76, line 19, strike "(3)" and insert "(2)".

Page 81, line 13, strike the following:

"(1) ELIGIBLE PLACES.—

Page 81, strike lines 18 through 22.

The CHAIRMAN. Pursuant to House Resolution 265, the gentleman from Pennsylvania (Mr. PETERSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would first like to compliment the chairman and the ranking member for, I think, putting together an exceptional bill. I want to thank them for working with us on this amendment that we think will improve the bill.

I am glad to be joined by the gentleman from New York (Mr. MCHUGH) and the gentleman from Pennsylvania (Mr. SHUSTER) to offer an amendment that will remove the copayment for a number of the smallest airports who will be receiving essential air service, saving them from making a copayment.

We understand the logic, but at the present time we all know that our airlines are in trouble. We have bailed them out with $18 billion trying to keep them solvent. We know airports are struggling. We know the commuter services are struggling even more because a lot of the commuter services got no portion of that bailout. We know that small commuter airports are fighting for their economic lives, and often in communities that are fighting for their economic lives.

Just for example, the Venango Regional Airport is trying to raise $6,000 to market the services there and improve emplanements. If this amendment was not accepted, they would be paying $22,000 the first year, which I think would be much better used marketing, and on the fourth year would be paying $87,000.

It is important that we pass this amendment that allows these small regional airports to rebuild the services.

Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. SHUSTER), who wants to help support this bill.

□ 1530

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding me time.

I also want to congratulate the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Oregon (Mr. DEFAZIO) for what I consider an excellent bill.

As my colleagues said, I think this amendment will improve the bill. The intent of our amendment is to strike the language that imposes cost sharing of EAS funds on a select few small communities, rural community airports.

These communities today are struggling to meet their current financial situations brought about by a sluggish economy and an increased cost on homeland security. These air links for these communities are vital, vital for economic development, especially in rural America from which I hail.

Some would say that there are significant costs savings; but if you look at this relative to the overall bill, we have a $59 billion bill over 4 years, and this language would only save $7.5 million. Here in Washington that is small change; but in rural America that is significant, significant to these small and rural communities.

So I would like to thank the gentleman from Alaska (Mr. YOUNG); the gentleman from Florida (Mr. MICA); the ranking member, the gentleman from Minnesota (Mr. OBERSTAR); and the gentleman from Oregon (Mr. DEFAZIO) for accepting this amendment and supporting it. Once again, I congratulate them on a tremendous bill, a strong bill that is going to help all of America.

Mr. MICA. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Florida is recognized for 5 minutes in opposition to the amendment.

Mr. MICA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again, I have some reservations and I think I have the responsibility as Chair of the subcommittee to raise those reservations about the amendment.

It is being put forth by three outstanding Members with very good intentions. They represent rural airports and are concerned about service and the contribution. Let me say, though, that this program goes back to 1970, late 1970s when we deregulated the airlines; and each year subsequently some of these communities have gotten this subsidization of service and some should use it, maybe some should not.

The nature of the aviation industry has changed dramatically, and service has changed dramatically around the country. And we are looking for ways to enhance that service, particularly to the small community. And you can find no stronger advocate than me in that regard.

The administration had proposed a 25 percent match; and as a compromise, we lowered that to some 10 percent. We also have a provision in here for a waiver for hardship cases. We do believe that some review is necessary and that there should not be an automatic disbursement from Washington without some equal match. And also I might add for the record that we have increased the authorization from some $65 million to $115 million. So I have concern about this.

My concern also is that in the long run we will have less money. We may have appropriators who may just take a pen and slash through the program, and we can possibly see harm done to a program that we all want to assist. So it is a good program.

I have concern about the amendment. I think that we are going to let this amendment pass and then hopefully it will be considered in conference. But I wanted to raise those points that I think are in the best interest of the essential air service for all of our smaller communities.

Mr. Chairman, I reserve the balance of my time.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Chairman, I thank the gentleman for yielding me time.

I want to thank my two colleagues and neighbors from the great State of Pennsylvania to the south for their hard work and leadership. It has been a pleasure to work with them.

I want to echo their statements in support of the subcommittee chairman, the gentleman from Florida (Mr. MICA), and the gentleman from Alaska (Mr. YOUNG) and the ranking member and other distinguished members. I think they have made this particular provision far better than the administration's original proposal.

I am very sensitive and cognizant of the concerns that we just heard the subcommittee chairman voice. And clearly before we take the next step, we want to make sure we understand the full ramifications of what we are doing.

Let me state a couple of things. First of all, I think there are few times in this Nation's history when this kind of initiative would be more inappropriate. Following September 11 the airline transportation industry was particularly challenged, and those in rural communities are especially under fiscal duress, 20 to 30 percent property tax increases in the making as we speak. Any added burden at this time, I think, would be particularly difficult to accommodate.

The second is the question that the subcommittee chairman raised with respect to accrued savings. In my district I think we have a perfect example of where we have three communities that are partnered together in a single package. If this 10 percent cost share were to prevail, the one community that is the most efficient, the most effective, and has most to it would be affected by that 10 percent and would likely withdraw and the end percent, I would respectfully suggest, would actually be a greater outlay in subsidy by the Federal Government rather than savings.

So I think the subcommittee chairman is right. We wanted to understand the full ramifications of this; and as we attempt to do that to conference and beyond, certainly, this is a very appropriate amendment. I thank the chairman and the subcommittee chairman and the ranking member for agreeing to it.

Mr. CHAIRMAN, It is imperative that the House approve the amendment we offer here today. The cost-sharing provisions in the bill put at risk the very foundation of the Essential Air Service program.

For those of us who have served in Congress for some time, it will be recalled that we have fought this battle to preserve air service to our rural communities many times. Each year, I join the fight to identify and enact funding to help maintain the program and, consequently, maintain air service to four—soon to be five—subsidized communities in Northern New York.

As many of you are experiencing in your own States, budget deficits are running rampant and New York is no different; our counties and localities are suffering no less. I fear it will be an insurmountable burden for cash-strapped local governments already coping with property tax hikes in the 20–30 percent range. It is simply asking too much. This program is vitally important to our economy in rural America and I believe it is particularly important to continue fighting to see that it is fully funded.

I have at least one community in the District I represent that is impacted by the cost-sharing provisions of this bill. Relying solely on mileage figures can be greatly misleading in determining the true distance and actual time when speaking about an area like Northern New York. Oftentimes snow can be found on the ground 8 months out of the year and the interstate highway that connects this EAS community and the small hub is all too frequently closed on a moment's notice due to service weather.

While the suggested purpose of the cost-sharing provisions is to reduce the cost of the overall program, I question whether that will truly be the ultimate result. In my State, three of my EAS communities are served by one contract with one airline—a triple hit, if you will. The airline is paid on sum of money for serving three communities. If one of these communities is required to cost share, and is unable to do so, it will be knocked out of the program. What, then, happens to the subsidy determination of the other communities. The community no longer eligible has the highest enplanements of the three and, theoretically, the lower costs. Will the airline then require higher subsidies from the Federal Government to serve the two remaining communities? If so, the objective of saving Federal money won't be realized.

I understand some believe that communities need to have this type of vested financial interest in the program so they will encourage usage of the service. I believe this, too, is an inaccurate representation. Rural EAS communities all across America already have a significant vested financial interest—through subsidization of their airport operations, capital investments, etc.

It is true the cost-sharing provisions are not a requirement and there is a waiver provision. But be assured the Department of Transportation will make every effort to implement it. Otherwise, why make it an option?

In closing, Mr. Chairman, let me say that I appreciate the Transportation Committee's commitment to the increase in the authorized funding level contained and to provide for an optional program that would allow interested communities to devise alternative transportation service for their residents, if they willingly choose to do so.

That having been said, we must not cut off communities like those in Northern New York that have come to depend on this service. But that is exactly what will happen if cost-sharing is implemented. It is a slippery slope that I respectively suggest we do not want to go down.

I strongly urge your support for, and passage of, the Peterson-McHugh-Shuster amendment to save the Essential Air Service program. The program is perhaps the singular most important asset to the economy recovery of our rural communities.

Mr. MICA. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Florida (Mr. MICA) has 2½ minutes remaining. The gentleman from Pennsylvania (Mr. PETERSON) has 1 minute remaining.

Mr. MICA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do have some concerns. We are willing to work with those who have offered this amendment today. We do not want to do harm when we want to do good, particularly in providing essential air service to our smaller communities. So with those concerns raised, this probably will pass, but I did want to state my concern for the record.

Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me time.

We have worked with the chairman and the chairman of the full committee on this EAS program, and I talked about it in my remarks during general debate about how important it is for small communities, but I just want to make it clear that the committee really made significant effort here to protect EAS cities. And it should be noted that we expanded the program, a 10 percent local share for cities that are less than 170 miles from a large or medium-hub airport or less than 75 miles from a small-hub airport. And out of concern that small communities might not be able to pay that share, the chairman and the chairman of the full committee worked with us and the ranking member, the gentleman from Oregon (Mr. DEFAZIO), to include a hardship provision, to allow the Secretary to waive that local share if the community is unable to pay and can demonstrate that inability to pay. So we did not ignore these needs.

We addressed them I think in a very appropriate and thoughtful fashion. I want that to be stated in concert with the chairman who expressed those concerns. And I think by increasing the funds we have made it a lot easier to get service to EAS airports.

The CHAIRMAN pro tempore. Both Members have 1 minute remaining.

The gentleman from Pennsylvania (Mr. PETERSON) is recognized.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I again want to thank the chairman and ranking member for their support. I understand how they were trying to protect this program. As an appropriator, I can assure the gentleman that I will be working to solve that problem on the appropriations side. We have had our opponents.

I have never understood when we can spend $7.5 billion for mass transit and not ask a question. We spend merely $100 million to provide rural air service, it is the one rural program, it has been continued under attack since I have been here. And I understand, but I do not think there has ever been a time that we need to give the rural airports a chance to pull themselves up by their bootstraps, to reinvigorate the use of these airports, when the airports were shut down literally because of the parking requirements, they all lost their parking lots because it had to be so many hundred feet before you could park a car from an airport; these rural airports were all shut down unless they were parking in plowed fields. It caused damage that has not recovered yet.

We are hoping to get some marketing money so we can get the service back there to these rural communities because it is a vital part of economic development and growth. And we know that most of the money went to the big airlines and did not trickle down to the privates that served them.

So we just are thankful that the gentleman is willing to work with us. We might be willing to look at a partnership with the States if we can get the States to buy in to help a little bit with this program, but to put it on the individual communities will not work.

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. MICA) has 1 minute remaining.

Mr. MICA. Mr. Chairman, I yield the balance of my time to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member.

Mr. OBERSTAR. Mr. Chairman, I would just take a moment to express my appreciation for the recognition by the gentleman from Pennsylvania (Mr. PETERSON) that it has been the Committee on Appropriations that has been the obstacle on EAS. It has been the Committee on Appropriations that has time and again put legislative limitations on the use of EAS funds.

Now, if we have an advocate over there in the Committee on Appropriations in the form of the gentleman from Pennsylvania (Mr. PETERSON), maybe we can get all of this straightened out and make sure that those dollars do flow. Because we can write the authorizations; but if the appropriations do not flow or if there are further limitations on it, then all this good work we do in our committee is undercut.

Mr. MICA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. PETERSON).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 4 printed in part B of House Report 108–146.

AMENDMENT NO. 4 OFFERED BY MR. PITTS

Mr. PITTS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. PITTS:

Page 82, before line 11, insert the following:

(g) MEASUREMENT OF HIGHWAY MILEAGE FOR PURPOSES OF DETERMINING ELIGIBILITY FOR ESSENTIAL AIR SERVICE SUBSIDIES.—

(1) DETERMINATION OF ELIGIBILITY.—Subchapter II of Chapter 417 of title 49, United States Code, (as amended by subsection (f) of this bill) is further amended by adding at the end the following new section:

"§ 41746. Distance requirement applicable to eligibility for essential air service subsidies

"(a) IN GENERAL.—The Secretary shall not provide assistance under this subchapter with respect to a place in the 48 contiguous States that—

"(1) is less than 70 highway miles from the nearest hub airport; or

"(2) requires a rate of subsidy per passenger in excess of $200, unless such place is greater than 210 highway miles from the nearest hub airport.

"(b) DETERMINATION OF MILEAGE.—For purposes of this section, the highway mileage between a place and the nearest hub airport is the highway mileage of the most commonly used route between the place and the hub airport. In identifying such route, the Secretary shall—

"(1) promulgate by regulation a standard for calculating the mileage between an eligible place and a hub airport; and

"(2) identify the most commonly used route for a community by—

"(A) consulting with the Governor of a State or the Governor's designee; and

"(B) considering the certification of the Governor of a State or the Governor's designee as to the most commonly used route.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter II of chapter 417 of title 49, United States Code, (as amended by subsection (f) of this bill) is further amended by inserting after the item relating to section 41745 the following new item:

"41746. Distance requirement applicable to eligibility for essential air service subsidies.".

(h) REPEAL.—The following provisions of law are repealed:

(1) Section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note).

(2) Section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note).

(3) Section 334 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (section 101(g) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999) (Public Law 105-277; 112 Stat. 2681-471).

(i) SECRETARIAL REVIEW.—

(1) REQUEST FOR REVIEW.—Any community with respect to which the Secretary has, between September 30, 1993, and the date of the enactment of this Act, eliminated subsidies or terminated subsidy eligibility under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note), Section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note), or any prior law of similar effect, may request the Secretary to review such action.

(2) ELIGIBILITY DETERMINATION.—Not later than 60 days after receiving a request under subsection (i), the Secretary shall—

(A) determine whether the community would have been subject to such elimination of subsidies or termination of eligibility under the distance requirement enacted by the amendment made by subsection (g) of this bill to subchapter II of chapter 417 of title 49, United States Code; and

(B) issue a final order with respect to the eligibility of such community for essential air service subsidies under subchapter II of chapter 417 of title 49, United States Code, as amended by this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 265, the gentleman from Pennsylvania (Mr. PITTS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the essential air service program is important for many small airports throughout the country.

It helps smaller communities to connect with larger cities and their airports and facilitates travel, tourism, and economic development.

To be eligible to receive such assistance, the community where the airport is located must be greater than 70 miles from the nearest large or medium-hub airport according to the most commonly used highway route. However, the Department of Transportation does not always use a consistent standard in determining the most commonly used highway route, nor do they actually determine the most commonly used route. Sometimes they have use the most direct route, even if it means taking back roads.

In my congressional district, this has led to the Lancaster Airport to lose its eligibility for the EAS program. The Department, using the most direct route, determined Lancaster Airport to be 68.5 miles from the Philadelphia International Airport. However, the route they chose would take the average driver more than 3 to 4 hours to drive. It winds along the old Lincoln Highway through dozens of small towns. In fact, anybody from my district knows that this is probably the worst way to get to Philadelphia.

The most commonly used highway route, the one that locals know as the fastest, uses the Pennsylvania Turnpike or other highways; and this route may be 12 miles longer, but you can get to Philadelphia in half the time. Because the Department is using the wrong route, Lancaster Airport's only commercial air carrier ceased operations at the airport on March 23 of this year.

The air carrier maintained that current market condition, fewer passengers and high costs made it impossible to continue without investment from the EAS program. This issue affects other small airports throughout the country and could affect more if this issue is not addressed.

My amendment addresses this problem by requiring the Secretary of Transportation to define a consistent standard for determining the most commonly used route. It also requires the Secretary to consult with the Governor of the State in which the airport in question is located or the Governor's designee as to the most commonly used highway route between that airport and the nearest large or medium-hub airport. Essentially, my amendment seeks to inject predictability and common sense into the process for determining EAS eligibility. It is narrowly tailored to improve the EAS eligibility process without impeding on the Secretary's authority to determine eligibility. I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

□ 1545

Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding me the time.

I think his amendment has merit, but I am going to talk about just the bill itself for a few moments. I want to thank again the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from Minnesota (Mr. OBERSTAR), especially my good chairman the gentleman from Florida (Mr. MICA) for doing the work on what I think of as a very good bill.

Air travel is coming back, as the gentleman from Minnesota (Mr. OBERSTAR) has mentioned before. It is important that we look at where we were before 9/11 and recognize that those challenges are raising their heads again: the on-time provisions, the utilization of our airstrips, technology which is now available which was not available before, before AIR 21 was there, and I think we can use our airports more effectively.

It is our goal through this legislation and as the authorization for 4 years that we will see the time when we go beyond those numbers that we had prior to 9/11. But nothing happens in this body without the cooperation from one another. I think this is an example of how committees should work together in a bipartisan effort to achieve what is best for the Nation as a whole.

This bill does that and I want to compliment again both sides, and I am very, very confident this bill will pass overwhelmingly, and I thank everybody that has been involved.

The CHAIRMAN pro tempore (Mr. SWEENEY). Does anyone rise to claim time in opposition?

Mr. DEFAZIO. Mr. Chairman, I rise to claim the time in opposition, although, I do not intend to speak in opposition.

The CHAIRMAN pro tempore. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

I actually rise in strong support of the gentleman's amendment. I represent a State that has topography which is foreign to many of the bureaucrats inside the Washington, D.C. Beltway, as do other Members from even more challenging terrain in Alaska and elsewhere, and it is hard for them to conceive that what looks on a map as a pretty straightforward route might happen to be a route that is not open in the wintertime or, even if it is open some of the time in the wintertime, it is often impassable; that even in the best of times it is over a mountain range, even though it is the shortest distance.

So I think common sense certainly being applied as an antidote to bureaucratic intransigence in this case is very well merited, and I congratulate the gentleman on his amendment. It is something I had missed in my perusal of the bill, and many others I know would be concerned for this. We thank him for his vigilance and the amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania, Mr. PITTS, which would clarify the measurement of highway mileage for purposes of determining essential air service (EAS) eligibility.

Under current law, communities are not eligible for the EAS subsidy if they are less than "70 highway miles" from the nearest large or medium hub airport. Congress first imposed this 70-mile standard in the FY1992 Transportation Appropriations Act, and renewed it every fiscal year until the FY2000 Appropriations Act, which made it a permanent restriction.

In AIR 21, Congress gave the Department discretionary authority "to provide assistance with respect to a place that is located within 70 highway miles of a hub airport if the most commonly used highway route between the place and the hub airport exceeds 70 miles." Nevertheless, despite its discretionary authority, the Department generally employs the "most direct route" standard. This issue has created controversy and even litigation between local communities and the Department, including litigation that involves Lancaster Airport in the gentleman's district.

The gentleman's amendment would require the Department to use the "most commonly used route standard" in measuring mileage for EAS eligibility. Additionally, the amendment would require local input in determining the "most commonly used highway route." Specifically, the amendment would require the Secretary of Transportation to consult with the Governor of the State in which the airport is located as to the most commonly used highway route between that airport and the nearest hub airport. Further, the amendment requires the Secretary to promulgate by regulation a consistent standard for calculating the most commonly used route.

It will bring into the EAS program deserving eligible communities that have otherwise been cut off arbitrarily by current law. This is a common sense change. If we are to have a mileage standard for EAS it should be based on the miles people will actually drive, not a theoretical route, which probably takes longer than the actual route. The gentleman's amendment will make the law reflect reality.

For these reasons, I support the gentleman's amendment.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Chairman, I would like to thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA), the gentleman from

Minnesota (Mr. OBERSTAR) and the gentleman from Oregon (Mr. DEFAZIO), for their hard work in bringing this bill to the floor today and for working with Members on and off the committee to ensure a fair process that includes Members' ideas.

It is very fitting that we pass this legislation in the same year that we are celebrating 100 years of providing power flights. We had a good debate in both the subcommittee and full committee, and I expect it to continue today and throughout the conference.

Since 9/11 the Committee on Transportation and Infrastructure has been focusing on improving the security of our transportation infrastructure and ensuring the safety of the traveling public. This reauthorization bill goes a long way in accomplishing this goal and fits well into the overall homeland security plan we are developing.

The FAA has a very important job to do, and this bill provides additional funding and the direction that would allow the FAA to improve the air transportation system for passengers, airports, airlines and many businesses that rely on the aviation industry.

I encourage my colleagues to support the bill and this amendment as we continue on the road to improved safety and security for the traveling public.

The CHAIRMAN pro tempore. The Chair would advise Members that the gentleman from Pennsylvania (Mr. PITTS) has 1½ minutes remaining and the gentleman from Oregon (Mr. DEFAZIO) has 1½ minutes remaining.

Mr. PITTS. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Chairman, I thank the gentleman for yielding me the time.

I want to thank him for bringing this amendment. It is a very thoughtful amendment. It is a very small amendment. On the other hand, it relates to few airports in the country, and it relates to techniques to bring rationale indeed to how one devises standards.

It happens to affect one airport in my district in the town of Ottumwa; and Ottumwa is a wonderful, small American community, and there are those of us that truly love this community and its airport which can be knocked out of service with great ease. In fact, it largely is today, based upon certain definitional issues.

This helps to address those definitional issues. It helps to bring rationality to government programming, and it helps people in a very real way, and so I want to thank the gentleman from Pennsylvania (Mr. PITTS) for his thoughtful leadership, and I would hope the committee would sympathetically concur in the gentleman's amendment.

Mr. DEFAZIO. Mr. Chairman, I yield back the balance of my time.

Mr. PITTS. Mr. Chairman, I want to thank the gentleman from Iowa, the gentleman from Oregon (Mr. DEFAZIO), the ranking member and the chairman of the committee and the subcommittee for their support; and I yield the balance of the time to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, I just wanted to conclude both the debate on the amendment and more than likely the debate on this legislation. I thank everyone for their cooperation. This truly does show how legislation can be drafted in a bipartisan manner, and it shows too with the gentleman from Pennsylvania's (Mr. PITTS) amendment, which I rise in support of, that all the good ideas just do not come from the committee.

He has a good idea. It will improve this bill. It shows the majesty of the system our Founding Fathers created, and this working today does demonstrate good legislation.

I rise in support again of the Pitts amendment and the bill, the underlying measure.

Mr. PITTS. Mr. Chairman, I yield back my time.

The CHAIRMAN pro tempore. All time for debate has expired.

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. PITTS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. MICA. Mr. Speaker, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 5 printed in part B offered by the gentleman from Illinois (Mr. MANZULLO), amendment No. 4 printed in part B offered by the gentleman from Pennsylvania (Mr. PITTS).

The first electronic vote will be conducted as a 15-minute vote. The second electronic vote will be conducted as a 5-minute vote.

AMENDMENT NO. 5 OFFERED BY MR. MANZULLO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Illinois (Mr. MANZULLO) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 426, noes 0, not voting 8, as follows:

[Roll No. 262]

AYES—426

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez

Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—8

Brown-Waite, Ginny
Cubin
Eshoo
Fossella
Gephardt
Matsui
Smith (WA)
Spratt

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1613

Messrs. INSLEE, CARSON of Oklahoma and NADLER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. GINNY BROWN-WAITE of Florida. Mr. Chairman, on rollcall No. 262 I was inadvertently detained. Had I been present, I would have voted "aye".

AMENDMENT NO. 4 OFFERED BY MR. PITTS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. PITTS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 422, noes 0, not voting 12, as follows:

[Roll No. 263]

AYES—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (TX)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Boehner
Case
Cubin
Edwards
Eshoo
Fossella
Gephardt
Issa
Matsui
Smith (NJ)
Smith (WA)
Spratt

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1621

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TERRY) having assumed the chair, Mr. SWEENEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, pursuant to House Resolution 265, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MICA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 418, nays 8, not voting 8, as follows:

[Roll No. 264]

YEAS—418

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—8

Crane
Davis, Tom
Flake
Moran (VA)
Obey
Paul
Sensenbrenner
Wolf

NOT VOTING—8

Cubin
Eshoo
Fossella
Gephardt
Lynch
Matsui
Smith (WA)
Spratt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). The Chair would advise Members that there are 2 minutes remaining in this vote.

□ 1639

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2115, FLIGHT 100—CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. MICA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2115, the Clerk be authorized to correct section numbers, punctuation, and cross-references, and to make such other necessary technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

NATIONAL GREAT BLACK AMERICANS COMMENDATION ACT OF 2003

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, I rise to announce the introduction of the National Great Black Americans Commendation Act of 2003, legislation that will help to bring long overdue recognition to African Americans who have served our Nation with distinction but whose names, faces and records of achievements may not be well known by the public.

This recognition primarily will be accomplished through an expansion of national designation of a national treasure, the Great Blacks in Wax Museum, located in my district in Baltimore, Maryland. The legislation also authorizes assistance in establishing a Justice Learning Center as a component of the expanded museum complex.

□ 1645

The Justice Learning Center will include state-of-the-art facilities and resources to educate the public, and especially youth, about the role of African Americans in our Nation's justice system. It will include a special focus on the civil rights movement, on the role of African Americans as lawmakers and as attorneys, and on the role of blacks in the judiciary.

I am introducing this legislation with the bipartisan support and cosponsor of 47 of our colleagues. This legislation will help to present the faces and stories of black Americans who have reached some of the highest levels of national service but who are generally unknown.

A priority will be exhibits presenting black Americans who served in Congress during the 1800s, some born in slavery and others born free. These Americans proudly served their constituencies and this great Nation.

I am pleased to inform my colleagues that the museum will showcase the 22 outstanding blacks who served in the United States Senate and House of Representatives in the 1800s, and those from the 1900s such as Senator Edward Brooke and Representatives Julian Dixon, Oscar Stanton DePriest, Lewis Stokes, and many others.

The legislation will also help to showcase black Americans who served in senior civilian executive branch positions, such as Ralph Bunche, Frederic Morrow, Robert Weaver, William Coleman, Patricia Harris, Lewis Sullivan, and many others who did not receive the appropriate recognition in the past.

The expanded museum will focus on black military veterans, including the Buffalo Soldiers and the Tuskegee Airmen, black judges, lawmen and prominent attorneys, and the role of blacks in discovery and settlement.

The Great Blacks in Wax Museum, America's first wax museum of black history, was founded in the early 1980s. The museum occupies part of a city block in east Baltimore and currently includes approximately 200 exhibits. Existing figures depict great black Americans such as Colin Powell, Harriet Tubman, Dr. Martin Luther King, Mary McLeod Bethune, and former Representatives Mickey Leland of Texas, Kweisi Mfume of Maryland, Shirley Chisolm and Adam Clayton Powell of New York.

The State of Maryland and the city of Baltimore have contributed over $5 million toward this expansion project, which will occupy an entire city block in the empowerment zone area. The museum is conducting extensive outreach to major corporations and other private donors. This legislation authorizes a Federal share not to exceed 25 percent or $15 million, whichever is less, of the expansion project.

Mr. Speaker, I urge all Members to support and cosponsor this important legislation, which will help to educate our Nation and the world about the critical contributions of African Americans in defending freedom and guaranteeing equal rights under the law, in protecting our Nation's interests in times of military conflict, in exploration and settlement of our Nation, and in providing leadership at the Federal level through service in Congress and the executive branch.

This museum will ensure that history never forgets the contributions of these great Americans.

THE GREAT BLACKS IN WAX MUSEUM: A BRIEF HISTORY

The Great Blacks In Wax Museum, America's first wax museum of African American history, was founded in 1983 by Drs. Elmer and Joanne Martin, two Baltimore educators. However, the Martins' story begins in 1980 when with money they were saving for a down payment on a house, they purchased four wax figures. These they carted to schools, churches, shopping malls, and festivals throughout the mid-Atlantic area. Their goal was to test public reaction to the idea of a black history wax museum. So positive was the response that in 1983, with personal loans, they opened the Museum in a small storefront in downtown Baltimore. The success of the Museum, especially among students on field trips, made it imperative that the Martins find larger space. In 1985, the Martins closed the museum and organized an all-out fundraising effort to secure new and expanded space and to purchase more wax figures. Their efforts allowed them to purchase an abandoned fire station on East North Avenue. After extensive renovations, the Martins re-opened the museum in October of 1988.

When the Museum moved to its East Baltimore location, away from the lucrative Inner Harbor tourist market and decidedly off the beaten track, the naysayers declared that few people would venture into a deteriorating community to see a little wax museum. Yet in 1989, the first full year of operation in its new location, 44,000 visitors ventured into the neighborhood to see America's first black history wax museum. The visitorship held at annual average of 44,000 for the next three years and then increased in 1992 to 52,000, 61,000 in 1993, and 81,000 in 1994. In 2002, more than 300,000 people from across the nation visited the unique cultural institution.

A September 1994 article in the Afro American newspaper declared the Great Blacks In Wax Museum a "National Treasure." In fact, the Museum serves the entire nation. International visitors have come from France, Africa, Israel, Japan, and many other continents and nations. The Great Blacks In Wax Museum story has been heralded by news media around the world, including CNN, The Wall Street Journal, The Washington Post, The New York Times, The Chicago Sun Times, the Dallas Morning News, Kulturwelt, USA/Africa, The Los Angeles Times, USA Today, Crisis, and Essence Magazine.

Approximately 200 wax figures and scenes, a 19th century slave ship re-creation, a special permanent exhibition on the role of youth in the making and shaping of history, a Maryland room highlighting the contributions of outstanding Marylanders to African-American history, gift shop, a mini auditorium for lectures and films are some of the major cultural features of one of America's most dynamic and unique cultural and educational institutions.

PLANNED EXHIBITS OF THE NATIONAL GREAT BLACKS IN WAX MUSEUM AND JUSTICE LEARNING CENTER

The following provides additional information about the planned exhibits of the National Great Blacks in Wax Museum and Justice Learning Center.

AFRICAN AMERICANS IN POLITICS, LAW AND GOVERNMENT

HISTORICAL PERSPECTIVE

At the end of the Revolutionary War, more than one-third of the three million people living in the U.S. were not free. Among this group were 600,000 slaves, 300,000 indentured servants, 50,000 convicts, and of course, Native Americans. Of the more than two million free Americans, only 120,000 could meet the requirements set up by individual states at that time for a person to be allowed to vote. These requirements centered around such factors as sex, age, residence, moral character, property, religion, slave versus free status, and race. By the end of the 1800's, most states had also added property and tax paying requirements to the list and many individuals who had been eligible to vote lost their privilege.

As more and more Blacks gained their freedom (either by purchasing it themselves or by being emancipated upon the death of their masters), states began to change their constitutions so as to exclude Blacks. Moreover, Blacks were denied the right to vote in every state (except Maine) that entered the union between 1800 and 1861.

The Civil War brought about a drastic change in the pattern of taking away the vote from Blacks because suddenly four million slaves were transformed into citizens possessing the right to vote. Within three years, the 15th amendment to the U.S. Constitution had given the right to vote to all male citizens regardless of race. Women, however, would not gain voting rights until decades later with the passage of the 19th amendment.

Following the Civil War, Blacks in the South voted in large numbers and elected many Blacks to office. Indeed, between 1870 and 1901, 22 African Americans (two Senators and 20 Representatives) were elected to the U.S. Congress. However, two factors were about to have a dramatic effect on Black voting rights: (1) the fear among many white people that Blacks would now gain political power, and (2) the effort of many government officials to impose punitive measures on the South, which succeeded in undermining the 15th Amendment and depriving Blacks of the vote.

Southern state after state began to enact laws that stripped away the right to vote of Blacks outright or that introduced such restrictions as the poll tax and the literacy test. And what these restrictions failed to accomplish were more than made up for by the Ku Klux Klan and other hate groups. By 1910, every Southern state had such controls. By 1902 not a single Black sat in either a state or federal legislature. Moreover, every state university and public facility that had once been desegregated was now segregated again.

Hope was reborn in the early part of the 1900's as leaders like W.E.B. Dubois began to exert pressure on the government to reinstate voting rights for Blacks. The effort of this more aggressive Black electorate and the success of Franklin Roosevelt in convincing Black voters that as President he would be committed to principles of equality would transform a traditionally Republican Black voter into a staunch supporter of the Democratic Party, a tendency which continues up to the present.

During the later decades African American participation in the political process has been influenced by the forces operating at the time. During the 1930's it was the migration of Blacks from the South to the North and from the country to the city. The 1960's created a sharp rise in the political consciousness of Blacks due in part to the enthusiasm generated by the Civil Rights Movement. Throughout the past several decades, African Americans have been selected for political offices in ever-increasing numbers. Many of them have made their imprint on history.

In a 3,000 square foot gallery within the future National Great Blacks in Wax Museum and Justice Center consisting of the latest in interactive, multimedia technology, visitors will learn about:

The Civil Rights Struggle—Early Rights Movements; Civil Rights at the End of the Civil War; Civil Rights in the 20th Century; Civil Rights Activists.

The Legal Battleground—The Legal Status of African Americans:. 1790–1883: African Americans and the Criminal Justice System; African Americans in the Federal Courts; African American on the U.S. Supreme Court; Major Federal Legislation; Major U.S. Supreme Court Decisions; Pioneering Jurists, Attorneys, Judges.

The Political Race—The role of African Americans in Politics from the Colonial Era to Today; African American Elected Officials and Political Appointees: Legalized Oppression; Women and Politics.

BLACK AMERICANS IN CONGRESS: 19TH CENTURY

The following great Black Americans will be featured in future exhibits in the National Great Blacks in Wax Museum and Justice Learning Center:

Blance Kelso Bruce—U.S. Senator (R–MS), 1872-1881. Blance Kelso Bruce was born in slavery near Farmville, Prince Edward County, Virginia on March 1, 1841. Having been tutored by his owner's son, Bruce escaped slavery at the beginning of the Civil War, taught school in Hannibal, Missouri, and later attended Oberlin College, in Ohio. After the war, he became a planter and local government official in Mississippi. Elected as a Republican, he was the first Black American to serve a full term in the United States Senate. Following his Senate service, Bruce was appointed Register of the Treasury and Recorder of Deeds for the District of Columbia.

Richard Harvey Cain—Member of Congress (R–SC), 1873–1875; 1877-1879. Richard Harvey Cain was born to free parents in Greenbrier County, Virginia, on April 12, 1825. Prior to his election to Congress, Cain was a minister and served as a delegate to the Constitutional Convention of South Carolina, and as a member of the State Senate. He was the first Black clergyman to serve in the U.S. House of Representatives. Following his Congressional service, he was appointed bishop of the African Methodist Episcopal Church in Washington, DC.

Henry Plummer Cheatham—Member of Congress (R–NC), 1880–1893. Henry Plummer Cheatham was born in slavery near Henderson, North Carolina on December 27, 1857. After graduating from Shaw University in Raleigh, he served as principal of the Plymouth Normal School and register of deeds for Vance County. He was the only Black member of the 52nd Congress (1891-1893). In addition to his Congressional service, Cheatham served as a delegate to two Republican National Conventions.

Robert Carlos DeLarge—Member of Congress (R–SC), 1871-1873. Robert Carlos DeLarge was born in slavery in Aiken, South Carolina on March 15, 1842. Prior to his Congressional service, he engaged in agricultural pursuits and served as a delegate to the State Constitutional Convention, as a member of the State House of Representatives, and as State Land Commissioner. DeLarge was an early organizer for the South Carolina Republican Party. He chaired the Platform Committee of the 1867 Republican State Convention.

Robert Brown Elliott—Member of Congress R–SC, 1871–1874. Robert Brown Elliott was born in Liverpool, England on August 11, 1842. He graduated from Eton College in England, studied law, and practiced law in Columbia, South Carolina. He served as a member of the State Constitutional Convention, of the State House of Representatives, and as Assistant Adjutant General of South Carolina. Following service in Congress, he served in the South Carolina House of Representatives, where he was elected Speaker, and subsequently was elected Attorney General of South Carolina.

Jeremiah Haralson—Member of Congress R–AL, 1875–1877. Jeremiah Haralson was born in slavery on a plantation in Georgia on April 1, 1846. He was taken to Alabama as a slave of John Haralson, and remained in bondage until 1865. Haralson engaged in agricultural pursuits, became a minister, and served in the Alabama State House of Representatives and Senate before his election to Congress. As a Member of Congress, he supported general amnesty for former Confederates.

John Adams Hyman—Member of Congress R–NC, 1875–1877. John Adams Hyman was born slave near Warrenton, North Carolina on July 23, 1840. He was sold and sent to Alabama, and then returned to North Carolina in 1865. Hyman became the first Black Member of Congress elected from North Carolina. In addition to his Congressional service, Hyman served as a delegate to the State Equal Rights Convention, the State Constitutional Convention, the 1867 Republican State Convention, and as a member of the State Senate.

John Mercer Langston—Member of Congress R–VA, 1890–1891. Johnson Mercer Langston was born in Louisa, Virginia on December 14, 1829, He graduated from Oberlin College, studied law and practiced as an attorney in Ohio. Langston was instrumental in recruiting Black troops during the Civil War. After the war, he moved to Washington, DC and served as Dean of the Law Department and as Acting President of Howard University. In addition to his Congressional service, he served as a delegate to the Republican National Convention. His descendant and namesake was the renowned poet Langston Hughes.

Jefferson Franklin Long—Member of Congress R–GA, 1870–1871. Jefferson Franklin Long was born in slavery near Knoxville, Georgia on March 3, 1836. He developed the trade of a merchant tailor in Macon, Georgia. Long was a statewide organizer for the Republican Party, and served on the state Republican Central Committee. Following his Congressional service, he was a delegate to the Republican National Convention in 1880.

John Roy Lynch—Member of Congress R–MS, 1873-1877, 1882–1883. John Roy Lynch was born in slavery near Vidalia, Louisiana on September 10, 1847. He was later taken to a plantation in Natchez, Mississippi. Following emancipation, he served as a justice of the peace and a member of the Mississippi House of Representatives, where he was elected Speaker. In addition to his Congressional service, Lynch was a delegate to five Republican National Conventions, chairman of the Republican State Executive Committee, a member of the Republican National Committee for the State of Mississippi, temporary Chairman of a Republican National Convention, Auditor of the Treasury for the Navy Department, and an officer in the Spanish-American War.

Thomas Ezekiel Miller—Member of Congress R–SC, 1890–1891. Thomas Ezekiel Miller was born to free parents in Ferrebeeville, South Carolina on June 17, 1849. He served as School Commissioner of Beaufort County, a member of the State House of Representatives, and of the State Senate. Following his Congressional service, Miller served as a member of the State Constitutional Convention in 1895, and as president of the State College in Orangeburg, South Carolina.

George Washington Murray—Member of Congress R–SC, 1893–1895, 1896–1897. George Washington Murray was born in slavery near Rembert, South Carolina on September 22, 1853. In addition to his Congressional service, he was a schoolteacher, inspector of customs at the port of Charleston, South Carolina, a realtor, writer and lecturer, and a delegate to several Republican National Conventions.

Charles Edmund Nash—Member of Congress (R–LA), 1875–1877. Charles Edmund Nash was born in Opelousas, Louisiana on May 23, 1844. A bricklayer by trade, Congressman Nash also served as Inspector of Customs and Postmaster.

James Edward O'Hara—Member of Congress (R–NC), 1883-1887. James Edward O'Hara, the son of an Irish merchant and a West Indian woman, was born in New York City on February 26, 1844. He studied law in North Carolina and served as clerk for the Constitutional Convention of North Carolina in 1868. In addition to his Congressional service, he served in the North Carolina House of Representatives, as chairman of the board of commissioners for Halifax County, and a member of the State Constitutional Convention in 1875.

Joseph Hayne Rainey—Member of Congress (R–SC), 1870–1879. Joseph Hayne Rainey was born in slavery in Georgetown, South Carolina on June 21, 1832. A barber by trade, he escaped to the West Indies and remained there until the close of the Civil War. He served as delegate to the State Constitutional Convention in 1868, a member of the State Senate, and Internal Revenue Agent of South Carolina. Rainey was the first Black American to be elected to the U.S. House of Representatives, and in 1874 became the first Black Member to preside over a session of the House.

Alonzo Jacob Ransier—Member of Congress (R–SC), 1873–1875. Alonzo Jacob Ransier was born to free parents in Charleston, South Carolina on January 3, 1834. In addition to his Congressional service, he served as a member of the State House of Representatives, as a member of the State Constitutional Conventions in 1868 and 1869, as

Lieutenant Governor of South Carolina, as Chairman of the Republican State Central Committee, as delegate to the Republican National Convention in 1872, and as Internal Revenue Collector.

James Thomas Rapier—Member of Congress (R-AL), 1873-1875. James Thomas Rapier was born to free parents in Florence, Alabama on November 13, 1837. A cotton planter, he was appointed a notary public, was a member of the first Republican Convention held in Alabama, and member of the State Constitutional Convention at Montgomery in 1867. In addition to his Congressional service, Rapier served as Assessor of Internal Revenue, Alabama Commissioner to the Vienna Exposition in 1873, and U.S. Commissioner to the World's Fair in Paris.

Hiram Rhodes Revels—U.S. Senator (R-MS), 1870-1871. Hiram Rhodes Revels was born to free parents in Fayetteville, North Carolina on September 27, 1827. A barber and ordained minister, he assisted in recruiting two regiments of Black troops at the outbreak of the Civil War. Revels served as chaplain of a Black regiment in Vicksburg, Mississippi, organized Black churches in the State, and was a member of the State Senate. He was Secretary of State Ad Interim of Mississippi, and president of Alcorn University in Rodney, Mississippi. Hiram Revels was the first Black American elected to the United States Senate.

Robert Smalls—Member of Congress (R-SC), 1875-1879, 1882-1883, 1884-1887. Robert Smalls was born in slavery in Beaufort, South Carolina on April 5, 1839. He became an expert pilot of boats along the coasts of South Carolina and Georgia and learned the Gullah dialect of Sea Islanders. In addition to his Congressional service, Smalls was a member of the State Constitutional Convention 1868, served in the State House of Representatives and in the State Senate, and was twice a delegate to Republican National Conventions. Representative Smalls is currently featured in the Great Blacks in Wax Museum.

Benjamin Sterling Turner—Member of Congress (R-AL), 1871-1873. Benjamin Sterling Turner was born near Weldon, North Carolina on March 17, 1825. Raised as a slave, he moved to Alabama and was elected Tax Collector of Dallas County and Selma City Councilman. He was the first Black Member of Congress from Alabama. Following his Congressional service, Turner was a delegate to the Republican National Convention in 1880.

Josiah Thomas Walls—Member of Congress (R-FL), 1871-1873, 1873-1875, 1875-1876. Josiah Thomas Walls was born in Winchester, Virginia on December 30, 1842. He moved to Florida and was a delegate to the State Constitutional Convention in 1868, and served in the State Senate prior to his election to Congress.

George Henry White—Member of Congress (R-NC), 1897-1901. George Henry White was born in Rosindale, North Carolina on December 18, 1852. He was the last former slave to serve in Congress. In addition to his Congressional service, White was Principal of the State Normal School of North Carolina, a member of the State House of Representatives and the State Senate, a solicitor and prosecutor, and was twice a delegate to Republican National Conventions.

Discovery and Settlement: Black American Pioneers

Current Exhibits—The following exhibits are currently on display in the Great Blacks in Wax Museum collection:

Matthew A. Henson (1866-1955) was an international explorer and the first person to reach the North Pole as a member of Commodore Robert E. Peary's 1909 expedition. He later chronicled his experiences in the book A Negro Explorer at the North Pole (1912). President William Howard Taft appointed Henson to the position of Clerk in the U.S. Customs House in New York City, a position Henson held until 1936, when he retired. In 2000, the National Geographic Society posthumously awarded Henson the coveted Hubbard Medal for Distinction in Exploration and Discovery.

James Weldon Johnson (1871-1938), renowned writer, poet and statesman, and NAACP executive director, observed: "Your West is giving the Negro a better deal than any other section of the country. There is more opportunity for my race, and less prejudice against it in this section of the country than anywhere else in the United States."

Bill Pickett (1870-1932), born to former slaves in Texas, was one of the greatest cowboys that ever lived. Known to tackle a steer and other beasts without a lariat, he is credited with originating the rodeo sport known as "steer wrestling." Pickett was the first Black cowboy to appear in Western movies, and the first Black inductee into the National Cowboy and Rodeo Hall of Fame.

Future Exhibits—The following exhibits are planned for the National Great Blacks in Wax Museum and Justice Learning Center:

Henry Adams (1843-?), born into slavery, led the "Black Exodus," a migration of 40,000 African Americans to the Free State of Kansas. "Exodusters" settled all-Black towns and were able to achieve a significant measure of economic and political freedom.

All-Black Towns. All-Black towns were established in Western states and territories during the late 1800s. In California, these include Kentucky Ridge (Placerville), Negro Bar (part of Folsom), Negro Slide (in Pumas County), Negro Tent (located between Comptonville and Goodyear), and Negro Hill (near Sacramento). In Oklahoma, they include Bernon, Boley, Brooksville, Clearview, Grayson, Langston, Lima, Redbird, Rentiesville, Summit, Taft, Tatums, and Tullahassee.

James Pierson Beckwourth (1798-1866), who escaped from slavery, played a major role in the exploration and settlement of Western states. Beckwourth fought in the California Revolution in 1846, and became chief scout for General John C. Fremont. The town of Beckwourth, California was named after him, as was Beckwourth Trail, an overland route he charted from Sparks, Nevada across the Sierra Nevada to Lake Oroville, California. He was the only Black frontiersman to record his life story.

George Bonga (1802-1880) was a renowned fur trader and trapper born in Minnesota. The grandson of Jean Bonga, the first Black settler in the Northwoods (1782), he could speak English, French and Ojibwa. In 1820, he served as interpreter for Minnesota Governor Lewis Cass at a council held in Fond du Lac territory. In 1837, Bonga successfully apprehended Che-Ga Wa Skung, a Chippewa Indian wanted for murder. The subsequent trial at Fort Snelling became the first trial for a criminal offense held in Minnesota.

Clara Brown (1800-1885), born into slavery, traveled to Denver, Colorado as a cook on a wagon train. Brown was the first Black woman to cross the plains during the Gold Rush. She settled in Central City, Colorado, established its first laundry, accumulated wealth, and brought freed slaves to Colorado. She was made an honorary member of the Society of Colorado Pioneers.

Buffalo Soldiers—In the late 1800s, the all-Black 9th and 10th U.S. Army Cavalry Regiments and 38th Infantry served in New Mexico, Arizona, Colorado, Utah, Nevada, Kansas, Oklahoma, Wyoming, Montana, Texas, and the Dakotas. They built forts and roads, strung telegraph lines, protected railroad crews, escorted stages and trains, protected settlers and cattle drives, and fought outlaws. Indians called them "Buffalo Soldiers," and the soldiers wore the title proudly.

Jean Baptiste Pointe DuSable (1745-1818) established the first permanent settlement of Chicago, Illinois in 1790. He owned a highly profitable trading post which became the main point of supply for traders and trappers heading West. His granddaughter born in 1796 was the first child born in Chicago.

Estevanico (1503-1539), an African enslaved by the Spanish, led an expedition from Mexico into the territory of the American Southwest in 1538 and is credited with the discovery of the area that became the states of Arizona and New Mexico.

Mary Fields (1832-1914), born a slave, became a renowned figure on the American Western frontier known as pistol-packing "Stagecoach Mary." In 1895, she was hired as a U.S. Mail coach driver for the Cascade County region of central Montana, becoming the first Black woman to drive a U.S. Mail route. She and her mule Moses never missed a day, and thus she earned her nickname "Stagecoach" for her unfailing reliability.

Henry O. Flipper (1856-1940) was the first Black graduate of the U.S. Military Academy at West Point, and the first Black Army commissioned officer. A Buffalo Soldier, Flipper was stationed at Fort Sill, Oklahoma and Forts Concho, Elliott, Quitman and Davis, Texas. He was a signal officer and quartermaster, installed telegraph lines, and supervised road building. Flipper directed construction of a drainage system at Fort Sill that prevented the spread of malaria. "Flipper's Ditch" is a National Historic Landmark.

Thomas "O.T." Jackson (1846-1906), a barber from Watsonville, California, was a tenor in several internationally prominent Black minstrel groups in the late 1800s. He headlined numerous engagements, including performances before King Edward VII of England. His improvisational musical technique influenced various music styles in the West in the 20th century, as well as the development of Jazz and other African American music forms.

William A. Leidesdorff (1810-1848), the son of a Danish sailor and a Black woman from St. Croix, Virgin Islands, came to Yerba Buena (San Francisco) in 1841. Within three years he owned waterfront property and the largest house in San Francisco. Leidesdorff built San Francisco's first hotel, helped establish its first public school, launched the state's first steamship, and staged its first horse race. He also acquired a 35,000-acre parcel of land encompassing modern Folsom, California. Leidesdorff died just after his neighbor and trading partner John Sutter discovered gold.

Nat Love (1854-1921), better known as "Deadwood Dick," was born into slavery in Tennessee and moved to Dodge City, Kansas. He became a rugged cowpuncher, champion rodeo rider and roper, and cattle driver. In 1907, Love wrote a highly romanticized autobiography portraying a life filled with Indian fights, famous outlaws, and amazing feats. In so doing, he sought to become accepted as the prototype of the dime novel "Deadwood Dick" series.

Bridget ("Biddy") Mason (1818–1891), born a slave in Mississippi, trekked with her owner's family to San Bernardino County, California. Once in California, Mason petitioned the courts for freedom, which was granted in 1856. Business and real estate transactions enabled her to accumulate a substantial fortune, and she gave generously to charities, providing food and shelter for the poor of all races. In 1872, she founded and financed the first African American church in Los Angeles.

George Monroe delivered mail in the mid-1800s by Pony Express between Merced and Mariposa, California. He became a stage driver, and was chosen to drive President Ulysses Grant to Yosemite, where an area called Monroe Meadows is named after him.

Mary Ellen Pleasant (1814–1904), known as the "Mother of Civil Rights" in California, spent most of her life in San Francisco where she provided shelter for fugitive slaves. In 1866, she petitioned the California courts by suing to overturn the Mission and Northbeach Railway Company's policy segregating the races, and she later won a judgment of $600.

Bass Reeves (1824–1910), born to slave parents in Texas, became the first Black commissioned U.S. Deputy Marshal west of the Mississippi River. Reeves lawfully killed 14 notorious outlaws in the performance of his duty over 32 years. He was honored with the "Great Westerner" award by the National Cowboy and Rodeo Hall of Fame.

William Robinson delivered mail by Pony Express from Stockton, California to gold miners.

Jeremiah B. Sanderson (1846–?) opened the first Black schools in Oakland, Sacramento, San Francisco and Stockton, California.

Cathay Williams (1842–1924), born a slave, is believed to be the only woman to serve as a Buffalo Soldier. In 1866 she joined the 38th Infantry, one of four all-Black military units, pretending to be a man (William Cathay). She served at Forts Riley and Hacker in Kansas, and Forts Bayard, Union and Cummings in New Mexico, until military medical personnel discovered that she was a woman. Her commander reported her to be a "good soldier."

"York," a slave, was a member of the 1804–1806 Lewis and Clark Expedition and served as William Clark's lifelong servant and companion.

GREAT BLACKS IN THE EXECUTIVE BRANCH

The following great Black Americans are planned for future exhibits in the National Great Blacks in Wax Museum and Justice Center:

Clifford L. Alexander, Jr., a native of New York City, was Foreign Affairs Officer in the National Security Council during President John F. Kennedy's administration and Secretary of the Army during President Jimmy Carter's administration. He was the first Black to lead a Branch of the United States Armed Services.

Mary Frances Berry, a native of Nashville, Tennessee, was Assistant Secretary for Education, U.S. Department of Health, Education and Welfare, during the Carter administration, and Chair, U.S. Commission on Civil Rights, during President William J. Clinton's administration.

Mary McLeod Bethune, a native of Mayesville, South Carolina, was a member of the Advisory Committee on National Youth Administration during President Franklin D. Roosevelt's administration; member of Roosevelt's "Black Cabinet." She is currently featured in the Great Blacks in Wax Museum.

Ralph Bunche, a Detroit native, was Senior Social Science Analyst, Office of Secret Service, during the Franklin D. Roosevelt administration. He also served as Undersecretary in the United Nations Secretariat, and Undersecretary for Special Political Affairs during the Eisenhower administration. The recipient of the 1950 Nobel Peace Prize, Bunche's record of service and honors received is extensive.

William Coleman, Jr., a Philadelphia, Pennsylvania native, was Secretary of Transportation during President Gerald R. Ford's administration. He was the second Black cabinet member ever appointed.

John P. Davis, together with Ralph Bunche, founded the National Negro Congress during the 1930s. Davis was a member of Franklin D. Roosevelt's "Black Cabinet."

Drew S. Days III, a native of Atlanta, Georgia, was Solicitor General of the United States and Assistant Attorney General for Civil Rights during the Carter administration.

Patricia Roberts Harris, Secretary of Housing and Urban Development and Secretary of Health, Education and Welfare in the Carter administration, was born in Mattoon, Illinois. She was the first Black female cabinet member ever appointed, and the first Black person appointed to two cabinet positions.

William H. Hastie, a Knoxville, Tennessee native, served as Attorney, Office of the Solicitor, U.S. Department of the Interior, in the Franklin D. Roosevelt, and was a member of Roosevelt's "Black Cabinet."

Dr. Benjamin L. Hooks is a native of Memphis, Tennessee. In 1972 President Nixon named Hooks, a lawyer and Baptist minister, to the Federal Communications Commission, making him its first Black member. From 1977 to 1993 he was executive director of the NAACP. Dr. Hooks is currently featured in the Great Blacks in Wax Museum.

Kay Coles James, of Virginia, served as head of the National Commission on Children during the Reagan and Bush I administrations, and as Associate Director of the Office of National Drug Control Policy under the first Bush administration. She currently serves as director of the Office of Personnel Management under President George W. Bush.

Eugene Kinckle Jones, a native of Richmond, Virginia, was a member of Franklin D. Roosevelt's "Black Cabinet."

Gwendolyn S. King, a native of East Orange, New Jersey, was Commissioner of Social Security in the George H.W. Bush administration.

Thurgood Marshall, a native of Baltimore, Maryland, was Solicitor General of the United States in President Lyndon Johnson's administration. He subsequently served as Associate Justice of the United States Supreme Court.

Frederick D. McClure, a native of Fort Worth, Texas, was Assistant to the President for Legislative Affairs, the White House, during the George H.W. Bush administration, and Special Assistant to President Ronald Reagan for Legislative Affairs.

Wade H. McCree, Jr., a native of Des Moines, Iowa, was Solicitor General of the United States in the Carter administration.

E. Frederic Morrow was Speechwriter and Administrative Officer for Special Projects, the White House, during the Dwight D. Eisenhower administration. Morrow was the first Black person to serve in an executive position on a president's staff at the White House. He chronicles his experiences in the book, "Black Man in the White House" (1963).

Azie Taylor Morton, a native of Dale, Texas, was a member of the Committee on Equal Employment Opportunity in the Kennedy administration. Morton also served as National Director of the U.S. Savings Bonds Division and Treasurer of the United States, U.S. Department of the Treasury, in the Carter administration.

Constance Berry Newman, was Director, Office of Personnel Management, in the George H.W. Bush administration and Under Secretary of the Smithsonian Institution in the George H.W. Bush and Clinton administrations. Newman has also served as Assistant Secretary of the U.S. Department of Housing and Urban Development, Director of VISTA, and Commissioner and Vice-Chair of the Consumer Product Safety Commission. She is currently Assistant Administrator for Africa, U.S. Agency for International Development, in the George W. Bush administration.

Condoleezza Rice, a native of Birmingham, Alabama, served as Senior Director for Soviet and East European Affairs, National Security Council, and Special Assistant to the President for National Security Affairs, in the George H.W. Bush administration. She currently serves as National Security Advisor in the George W. Bush administration.

Samuel R. Pierce, Jr., a native of Glen Cove, New York, was Secretary of Housing and Urban Development under the Reagan administration.

Colin L. Powell (1937–), a native of New York City, served as National Security Advisor under the Reagan administration and Chairman, Joint Chiefs of Staff, under the George H.W. Bush administration. He currently serves as Secretary of State in the George W. Bush administration. Secretary Powell is currently featured in the Great Blacks in Wax Museum.

Louis F. Sullivan, M.D., an Atlanta, Georgia native, was Secretary of Health and Human Services under the George H.W. Bush administration.

Terence A. Todman, a native of St. Thomas, U.S. Virgin Islands, was Assistant Secretary of State for Inter-American Affairs under the Carter administration.

Robert Weaver, a Washington, DC native, was a member of Franklin D. Roosevelt's "Black Cabinet"; Special Assistant for Negro Affairs, Office of the Administrator of the U.S. Housing Authority, in the Kennedy administration; and Secretary of Housing and Urban Development under the Johnson administration. Weaver was the first Black cabinet member ever appointed.

Clifford R. Wharton, Jr. was Deputy Secretary of State in the Clinton administration.

Walter White, a native of Atlanta, Georgia, was member of Franklin D. Roosevelt's "Black Cabinet."

J. Ernest Wilkins, Sr., a native of Chicago, Illinois, was Assistant Secretary of Labor for International Affairs under the Eisenhower administration.

Andrew Young (1932–), a native of New Orleans, Louisiana, was appointed U.S. Ambassador to the United Nations by President Jimmy Carter. He previously served three terms in Congress as a representative from Georgia.

JUNE 13, 2003, RUBBER STAMP DAY ON PRESIDENT BUSH'S TAX LEGISLATION

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, I take the floor right now to remind Members to bring their rubber stamp tomorrow. The rubber-stamp Congress will be in session.

They are meeting right now up in the Committee on Rules, and they are dropping an $80 billion tax bill that never went to the Committee on Ways and Means I sit on. Nobody has ever seen it, but it is being dropped here all of a sudden because the majority leader finally quit resisting what the Senate wanted to do. We are going to run it out of here. The chairman did not even go upstairs to explain the bill, they just sent it up there, they greased it, and it is coming down here. Everybody should remember, bring this stamp.

This stamp said "Official Rubber Stamp. I approve of everything George Bush does," signed: The Member. That is what we ought to have tomorrow, because we are going to run another $80 billion out, put people more in debt, and that is what we consider legislation in this one-party system.

Do not forget, Members should bring their rubber stamp tomorrow morning.

OHIO IS THE BIRTHPLACE OF AVIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. HOBSON) is recognized for 5 minutes.

Mr. HOBSON. Mr. Speaker, I rise in reaction to my colleague and friend, the gentleman from North Carolina's public objection to Dayton, Ohio being known as the birthplace of aviation.

No one disputes the fact that Kittyhawk in North Carolina was the site of the first successful controlled power flight in history. However, Dayton, Ohio's claim to be the birthplace of aviation is based upon much more than just the first limited flight.

As a new historical work on the lives of the Wright brothers states, "The four short flights in North Carolina showed that their math was close enough; Heavier than air flight was possible. The practicality of the Wright Flyer was achieved in 1904 and 1905 in a little-known place of great consequence, Huffman Prairie, an 85-acre cow pasture 10 miles east of Dayton.

Huffman Prairie Flying Field, which is in the Seventh Congressional District, which just happens to be my district, is located on the grounds of Wright Patterson Air Force Base. The flying field, which is undergoing a restoration to its 1905 appearance, has recently been opened to the general public, complete with a new interpretive center so visitors can understand the importance of the early flight testing and aircraft development that occurred there.

Even the press at the time did not grasp the significance of what had occurred at Kitty Hawk. It took several years of additional flights, I might say at Huffman Prairie, before the public finally acknowledged that the Wright brothers had invented a workable aircraft. If the Wright Brothers had not continued their history-altering work in Ohio, it is quite possible that the North Carolina exploits would have been lost in history.

As I have said before, North Carolina can always claim the location of the first flight by the Wright brothers, but it is their hometown that saw the laborious construction and endless testing that was required to allow it to take to the sky and mature as a reliable form of transportation that we all now enjoy.

North Carolina has the sand dunes where the first flight occurred, but Dayton, Ohio has the Dayton Aviation Heritage National Historical Park, encompassing the Wright Cycle Shop, Huffman Prairie Flying Field, the John W. Berry, Sr. Wright Brothers Aviation Center, and the Paul Laurence Dunbar State Memorial.

Dayton also has the National Aviation Hall of Fame, Wright Patterson Air Force Base, the U.S. Air Force Museum, and the final resting place of the Wright brothers. It is based upon all of these important sites and the local life experiences of the Wright brothers that Dayton should be known as the "birthplace of aviation."

As an Ohioan, I am proud to reside in the same State as the two Wright brothers whose invention changed the world; and more importantly, the fact that they were also in Ohio's Seventh Congressional District, which I now represent.

WHERE IS THE BALANCED BUDGET AMENDMENT CALLED FOR IN 1974 BY THE SPEAKER OF THE HOUSE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, on March 17, 1994, then a Member of the House, the gentleman from Illinois (Mr. HASTERT) came to the floor and said, "Clearly, our Nation's monstrous $4.3 trillion Federal deficit, until it is eliminated, interest payments will continue to eat away the important incentives which the government must fund. I will not stand by and watch Congress recklessly squander the future of our children and grandchildren."

Later in that same day he said, "In light of Congress' exhibited inability to control spending and vote for real fiscal responsibility, it is imperative that we have a balanced budget amendment to compel Congress to end its siege on our financial future." That was on March 17, 1994.

As most of us are aware, the gentleman from Illinois (Mr. HASTERT) has been the Speaker now for about 1,613 days. In that 1,613 days, he who controls every single amendment that comes to this House floor, when we start, when we stop, every bill that comes to the floor, he who appoints the members of the Committee on Rules that decide which amendments are germane, those that can be offered, has not allowed a vote on a balanced budget amendment.

We would think there were a couple of things that would come to his mind, since in 1994 he spoke so strongly of the need for a balanced budget. I would like to ask Max, Trevor, Sarah, and Krystle-Joy to come to the floor.

See, in the time that the gentleman from Illinois (Speaker HASTERT) has been Speaker, and they can stand in front of me, it is their big moment in the sun, in the 1,613 days the gentleman from Illinois (Mr. HASTERT) has been Speaker, we would think the gentleman who cares that much about the national debt would maybe let the debt go up by, say, $914. But that is not the case.

Now I need Michael, Bryan, and Taylor to join us, because the Speaker has had 1,613 days. I guess I can take 5 minutes.

Now, in the time that the Speaker has been for a balanced budget, he says, we would think the debt might grow by $914,878. That is not the case.

I need Amanda, Mark, and Robin to join us.

PARLIAMENTARY INQUIRY

Mr. BUYER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. FEENEY). The gentleman will state it.

Mr. BUYER. Mr. Speaker, I would like to know whether or not this fits the proper decorum of the House and whether this is a proper utilization of a prop. My question is whether this meets the decorum of the House.

Mr. TAYLOR of Mississippi. Mr. Speaker, that is not a parliamentary inquiry.

The SPEAKER pro tempore. A question has been raised about decorum under the rules of the House.

The Chair would rule that it maybe appropriate to use the exhibits that are presented, but it is inappropriate to refer to individual House pages by name. As long as otherwise that the exhibits are used in appropriate decorum and pages are not referenced by name, then the gentleman can proceed.

Mr. BUYER. Thank you, Mr. Speaker.

Mr. TAYLOR of Mississippi. Again, Mr. Speaker, in that 1,613 days since the gentleman from Illinois (Speaker HASTERT) way back when told us he was for a balanced budget, we would think that the debt would have grown by only 914,878.72, with a couple of commas thrown in, but it is not the case.

I regret to do this, but I have been told by the Chair that I cannot call the pages by their first names, so I am going to have to ask page 11, 12, and 13 to come forward, under the Rules of the House.

Again, since the Speaker told us way back when how adamantly he was for a balanced budget, we would have thought that by now, and since I am losing track with a couple of commas in there, that he would have said, enough, it is time for a balanced budget amendment. Time to let Members at least vote on it. Now, 1,613 days later, it still has not happened.

Now I have to ask pages 14, 15, and 16, and I practiced saying your names, so I apologize. Now, if the camera can get all of this, we can let some Members have some idea, not of the national debt, but of how much the debt has grown in 2 years and 1 week since the passage of the Bush tax cuts and the Bush budget.

The first $2 trillion spending bill passed by this Congress did not come from a Democratic President, it came from a Republican President. The tax cuts, they increased spending, decreased revenues, and this is the difference.

I think it is particularly appropriate that these fine young people from all parts of our country are holding the sign. The lobbyists who benefited from this and the fat cats who are having big dinners tonight who benefited from this, they are not going to pay this bill. These kids are. These kids and their kids and their kids.

PARLIAMENTARY INQUIRY

Mr. KINGSTON. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Georgia is recognized.

Mr. KINGSTON. Mr. Speaker, the gentleman cannot use pages as props for his speech. They can be of assistance in holding the sign, but they cannot be referred to as props in the manner in which my friend, the gentleman from Mississippi, has just done.

The SPEAKER pro tempore. The gentleman's inquiry of the Chair is appropriate. At this point the Chair would remind the gentleman not to refer to the pages by name or by their presence. The exhibits themselves may be an appropriate use at this time, but the gentleman whose time it is will decline to reference pages individually or collectively.

□ 1700

Mr. TAYLOR of Mississippi. To the gentleman from Georgia (Mr. KINGSTON), if I had voted to stick these children with that bill, I would be as ashamed to look at their faces as the gentleman is.

I did not vote to stick these kids with that bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FEENEY). The gentleman is out of order. He has referred to pages as props when the Chair has ruled that their presence on the floor cannot be mentioned.

PARLIAMENTARY INQUIRY

Mr. JACKSON of Illinois. Mr. Speaker, the gentleman is not referring to the pages themselves as pages. He is referring to the pages that the pages are holding, the 914, 878, 724. This is a parliamentary inquiry for clarification, Mr. Speaker. He was referring to the pages that the pages are holding.

Mr. KINGSTON. Mr. Speaker, the gentleman is right. He is using the pages in an incorrect manner.

Mr. JACKSON of Illinois. I have not yielded my time. Under the House rules, the pages are allowed to hold these pages, and as long as the gentleman does not refer to the pages by name, he can refer to the pages.

The SPEAKER pro tempore. The gentleman is correct, that the pages are permitted to facilitate the presentation of exhibits, but any reference in any speech to the pages or to visually suggest that they are part of the exhibits themselves or any suggestion that the debate should involve the pages individually or collectively, is not in order.

The exhibits themselves may be referred to. The pages may not be referred to.

The gentleman may proceed.

Mr. TAYLOR of Mississippi. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. TAYLOR) has 30 seconds to not refer to the pages but to refer to the exhibits.

Mr. TAYLOR of Mississippi. Mr. Speaker, I know that most Americans are at work right now. Some of you are watching. If you care about your country, you have got to be upset that in almost a little over 2 years almost $1 trillion has been added to the national debt. To make a reference from that, we went all the way from 1775 to 1975 and did not borrow that much money.

The next time one of my Republican colleagues looks you in the eye and tells you he is a fiscal conservative, ask him about that trillion dollars and the $1 billion a day that we will pay in interest on that money and will pay for the rest of my lifetime, your lifetime, and, God bless them, Mr. Speaker, these kids' lifetime.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman is advised that in addition to the admonitions, that Members must decline to address the television audience. In addition, the Speaker is taking under advisement the future use and appropriateness of using pages.

CONGRESS SHOULD DO WHAT IS RIGHT FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. KINGSTON) is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I appreciate our friend, the gentleman from Mississippi (Mr. TAYLOR), for advancing the cause of fiscal restraint, something that we do need to do in this House. And it is interesting, particularly since the Democrats are right now promoting an expansion of welfare in an unfunded way, and proposing to increase spending on welfare $3.5 billion, and that is to give a tax rebate to people who have not paid taxes.

It is an idea that is ironic since 197 of them voted against it originally in May 2001, but they all seem to want to spend more regardless of what our budgets are doing.

I have just come from an appropriations meeting. And what is interesting about that is that on the appropriations bills, we have 13 of them, I believe, Mr. Speaker, every bill, it is particularly interesting since every one of our 13 appropriations bills, no matter what we propose in the Republican Party, the Democrats make a counterproposal to spend more. And I realize that my friend, the gentleman of Mississippi (Mr. TAYLOR), is in the minority of the Democratic Party where they do wake up in the morning and worry about spending. And I am glad that he does because I share his concerns about it. But I just point out that the majority of his party, when it comes to spending bills, wants to spend more. And no matter what it is, we are not spending enough for this cause; we are not spending enough for that cause.

I want to also point out, sometimes it is easy when you are in the minority and you do not have to necessarily make the vote for war, but we are in a situation after 9–11 where America was under attack. Americans were hurt, injured, and killed in their workplace. And while some on the left sat around and said what did we do wrong or why do they hate us, others in the greater majority, not just the Republican Party but in America as a whole, said, look, we are going to defend our borders. We are going to defend our domestic areas. We are going to just defend our homeland. And to do that, unfortunately, you do have to spend money because it costs money to go to Afghanistan, to send helicopters and tanks over there. It costs money to send troops to the Middle East. And that does add up to some deficit spending.

It is something we do want to get under control. But I would certainly hope that the gentleman and others were not suggesting that the war for the liberation of Iraq was wrong, the war to find bin Laden was wrong, the war to liberate Afghanistan from

Taliban rule was wrong. Because I believe most Americans support those actions and most Americans are glad that we are taking these steps.

When people say to you things like, how can you look the children in the eye, well, to me how could you not look the children in the eye and say, you know what, we are going to defend our homeland and we are going to secure our borders.

There is an international war on terrorism and America seems to be leading the way. America has also been the victim of it, but we are going to win that battle.

And if the gentleman and others would look at the budget, they can see that that is where the majority of our spending went and it is going to continue to go. But we want to work with the Democrats to get spending under control. My concern of it is not in just dollars and cents, but my concern is the encroachment of the government on the private sector. Every dollar we put in the government, that is more freedom we lose, particularly in the private sector.

So I hope as we begin the appropriations process this year that we can have a lot of amendments from our Democrat friends that actually reduce spending so that when we run the legislative branch bill out here, when we run military construction out here, when we run the education bill out here, if they have ideas for saving money, I want to do everything I can to make those amendments offered by my friend, the gentleman from Mississippi (Mr. TAYLOR), or anybody else over there, the so-called Blue Dog Caucus. I want their amendments to be in order so we can work together in a bipartisan fashion and reduce spending. Because I think that the best of our party and the best of their party should do what is right for the best of America.

CONGRESS NEEDS TO WORK IN A BIPARTISAN MANNER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman very much; and I appreciate my good friend, the gentleman from Georgia (Mr. KINGSTON), insisting that we have a balanced budget.

Might I remind him that as we speak, the Committee on Rules is meeting and having the opportunity to review the $82 billion tax proposal of the Republicans of this House, when all that we ask for and all that is necessary is that we take the Senate bill that has just been passed to fix the major error that occurred last week when this body, this Republican House and Republican Senate, refused to provide a child tax credit for working families making $10,000 to $26,000 a year.

The Senate fixed it last week. The bill from the Senate is right here at the desk. All this House needed to do was to adopt the Senate language. It would immediately go to the President's desk. It would be immediately signed by the President, and now 19 million children would be able to have the same child tax credit refund that the rich have been able to get by the President's tax bill. But lo and behold, the very same party that has stood up and indicated that they are willing to fight the deficit, they have now before us an $82 billion jump of a tax cut that has all of the kitchen sink in it, and they want to keep the children of America from getting their tax cut.

I hope we can work on this issue in a bipartisan manner, Mr. Speaker. I hope the Committee on Rules right now will reject the proposal by the Committee on Ways and Means, the Republican Committee on Ways and Means. This potpourri of taxes that eliminates the opportunity for us to move quickly to the President's desk with a clean, stand-alone tax cut that provides a refund to the children of America, a simple $154 that we can give to 19 million children and their families and those that make $10,000 to $26,000 a year. I hope we can do that.

Mr. Speaker, I want to finish on this very important concern that I have, and that is that over the weekend we heard a lot of scrambling on the Sunday morning talk shows about a call for congressional investigations about the question of the existence of weapons of mass destruction.

Mr. Speaker, I do not know if there are weapons of mass destruction. And I am not intending to be in an argument with my administration on the question of their veracity. But I do want to be in an argument on behalf of the American people. They need to know the truth. So I am calling for an independent investigation, a special prosecutor, or a special commission to investigate what was known by the administration and what level of intelligence was given when we made the decision to go to war with Iraq. What kind of intelligence and documentation of the intelligence that would have given the necessary impetus or basis of going to war, what was known by the intelligence community, what facts did they give about the weapons of mass destruction, why was a decision made to go to war with respect to the intelligence given when we know that the U.N. inspectors were doing the very same thing?

The argument that the administration made is that we know there are weapons of mass destruction, we know that they are there, and the U.N. inspectors are not doing their job and they are not doing it fast enough. Two months later after the official part of the war has ended, although we are still at war, we do not have the weapons of mass destruction.

Mr. Speaker, this is a constitutional question of war and peace. We were supposed to declare war under article I of the Constitution. We did not do that. Members of this House were moved to tears when they made the decision to vote on the question of going to war. What a tragedy if we did not have the sufficient intelligence or the accurate intelligence or the intelligence community did not truthfully give the facts necessary to make an intelligent decision that sent young men and women off to their deaths.

I believe we owe the American people the truth. The Congress is not going to do it. I understand there is a complete collapse in the other body with respect to bipartisan hearings on the question of what kind of intelligence was given to make the decision. Then forget about it. Give the American people the truth. We need to have an independent investigation, an outside commission, and/or a special prosecutor, which I am calling for and will make an official demand for it in the following days to come.

I hope that we realize that truth to the American people is our obligation as members of this government. The American people must depend upon our veracity, and as well they must depend upon the right decisions being made on their behalf and on behalf of the young men and women in the United States military. We salute them for their willingness to offer the ultimate sacrifice, but I believe truly it is important for us to have the truth on this issue, and an independent investigation is well needed.

MEDICARE PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BUYER) is recognized for 5 minutes.

Mr. BUYER. Mr. Speaker, I come to the House currently to discuss the Medicare issue, and this is a tough issue that is facing us. It is one whereby Members can choose a political route, or they can choose a route of policy.

The numbers that are presently in front of us cannot lie. These numbers are cold. They will not go away, and that is that we have this: the demographics, the baby boomers when they become seniors, there is a smaller population behind them, and the present Medicare model as we know it cannot exist unless we go to a 20 percent payroll tax.

There is a desire here within Congress to deliver a prescription drug benefit to Medicare. Well, if we just add prescription drugs to Medicare without addressing the long-term solvency, we have only exasperated the insolvency of Medicare as we know it.

□ 1715

Therein lies our challenge. So I believe if we just added a prescription drug benefit to Medicare without making this long-term solution to the solvency of Medicare, that is a very faulty approach.

Right now within the Republican Caucus there is a discussion about two approaches on how to do this. These are two completely different approaches.

The country has had an opportunity to see the approach sponsored by the gentleman from California (Mr. THOMAS) as chairman of the Committee on Ways and Means, because Congress has passed this measure two other times, and that is an insurance-based product, a defined benefit. We provide a cash assistance to beneficiaries to help them manage their drug bill and to make that assistance then targeted to those who need it.

We create this insurance pool for the purchase of drugs-only insurance which the Federal Government would then underwrite. These are two different approaches.

The first approach that I mentioned, really, is there are five of us that have come together and have drafted this approach. This insurance-based approach, though, really begins to concern us. It concerns us because there are not any willing carriers out there who are going to step forward and say, well, we believe that there is insurable risk here and we will offer this product. Really? They will offer the product if the government becomes the guarantor, and then the real question is, well, then does the government have to become the guarantor in order for them to make a profit and deliver it?

We have a great concern about the viability of an insurance-based product, and that is the reason five Members of Congress have come together and we have drafted a completely different approach.

What I would like to do is share the principles of our approach. Our Medicare prescription drug package proposes, number one, a generous assistance to low-income seniors and the disabled, a defined contribution. We have a specifically defined assistance to all seniors that rely on income. We also have family-friendly participation through a tax benefit. We also encourage participation by employers through a tax benefit, and we also have a stop-loss coverage for high-risk drugs to all seniors. We also provide a bridge to comprehensive reform for long-term solvency that we call enhanced Medicare, and what we are trying to do is provide choices for seniors with lower prices in a private sector approach.

What does all this mean? All this means is that what we hope to accomplish is that we turn to those in the private sector to have what we call a value card, and these different groups, companies could be approved by CMS, and they then, by virtue of their membership and their purchasing power, they provide discounts. An individual would have a discount card. They are automatically enrolled. They can opt out, but they are automatically in. It costs $30, and then government, based on their income, adds dollars to their card, and then they are able to take this card and they can swipe it down at the drugstore and they keep track of the drugs for which they purchase.

Where we want to be family friendly is often we say, parents, get active in the lives of your children. Well, I also want to turn and say, children, get active in the lives of your parents. So if you have an elderly parent who also needs assistance to buy drugs, I do not know why children are not getting more involved in the lives of their parents. What they can do is they can get a $4,000 tax deduction, and they can add $4,000 then to their parents' drug card. We think this is being very family friendly.

We also have a catastrophic coverage and we think that is important. And tomorrow, hopefully, there will be a Republican conference to cover both these proposals.

CHILD TAX CREDIT

The SPEAKER pro tempore (Mr. FEENEY). Under a previous order of the House, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes.

Ms. SCHAKOWSKY. Mr. Speaker, it is stunning to me that whenever Democrats stand up on behalf of working families that our colleagues on the other side of the aisle start shaking their finger and saying, oh, the tax-and-spend Democrats. It is really amazing and takes an incredible amount of nerve for the Republicans to still want to wear that jacket of fiscal responsibility and to invoke it when we start talking about working families like this.

Let us remember that the President was handed a $5 trillion surplus, surpluses as far as the eye could see. That is gone, blew that; and now we are at about a, according to the former Secretary, they are charging about a $4 trillion projected deficit, a debt, on top of that, and in a very short time we are almost $1 trillion in deficit. That means more money spent than we have brought in.

They like to talk about the war: Oh, we had to spend all that money on homeland security. And indeed, we did, but let us remember that most of that deficit is caused because we are giving tax cuts to the wealthiest.

Now the excuse is, well, this family, the Johnstons who make only $19,000, they do not deserve a tax cut, they say, because they do not pay tax. Hello, these are people who are paying a payroll tax. They pay sales tax, they pay excise taxes, like taxes on the gasoline they buy to get to their jobs, and they pay a payroll tax.

Think for a minute. What are the only taxes that have not been reduced? We are not talking about dividend taxes, most of the people who clip coupons, the taxes that they pay. We are not talking about the taxes on high incomes. We are talking about the taxes that everyday working people pay. That is what we are trying to do with the child tax credit, for families like that, so that they can take it and buy formula or baby food for this baby, so that they can provide for her. And that is what we are trying to do.

My colleagues notice this family is not smiling, but I want to show them the face of some people who are, in fact, smiling. Why are they smiling? A report by the Committee on Government Reform minority staff on the tax bill found that Treasury Secretary Snow's estimated dividend and capital tax savings is between $331,000 and $842,000. That is a 1-year tax cut. No wonder he is smiling.

Secretary Evans could see between $68,000 and $595,000 in tax savings.

Vice President CHENEY, who is not in the picture but is probably smiling at some undisclosed location, will reap $116,000 a year from the dividend capital gains provisions in the tax cut. In fact, the total tax savings for President Bush, Vice President CHENEY, and the Cabinet could be up to $3.2 million. If I were a member of the Cabinet, I would probably be smiling, too.

In my State, 674,000 children and 378,000 families are not smiling. Nearly 1 in 4 families in Illinois were left behind. Now, of course, they say if we take care of them we are just tax-and-spend. Tell me that we do not have enough money when we are giving tax breaks like that to not only the wealthiest in the private sector but these individuals who are serving us now as members of the Cabinet.

Behind closed doors in final negotiations of the tax cut bill for millionaires, the White House and Republican leaders exterminated the child tax credit provision that would have helped families like the Johnstons and others making between $10,500 and $26,625. That is the people that we are talking about, people who in their lifetime it will take years and years and years to earn what these individuals will get in 1 year in a tax cut. By eliminating that provision, Republicans were guaranteeing that millionaires like Secretary Snow and Secretary Evans get their full tax cut.

It did not take long for the American people to find out that their neighbors and their friends got the short end of the Republican tax cut stick, and that is why the United States Senate was shamed into passing a Democratic proposal to provide those low-income families with their well-deserved child tax credit that was removed in a secret deal by Vice President CHENEY.

They passed a restoration of the tax cut for those lower-income families, working families by, 94–2. But what are we hearing on this side? Majority Leader DELAY said, "It ain't going to happen." Well, I want to say that I think it ought to happen, I think it will happen, and we need to make it happen.

PRESCRIPTION DRUG PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, we have heard the word "outrage" used several times on the House floor, and I rise tonight to talk about the outrageous prices that American consumers pay for prescription drugs. And I have behind me a chart, and I apologize for those here on the floor and Members who may be watching on their television sets, it is a little hard to read. But I want to go through this because what it compares is what Americans pay, on average, and this varies because we have a very complicated average wholesale price situation formula they use here in the United States, but these are the average prices, and these are prices that we actually checked ourselves.

People have questioned some of the credibility of the sources that I have used. So we did our own research and we went to Munich, Germany about a month ago, and we bought 10 of the most commonly prescribed drugs in the United States. And let us run through.

Cipro, drug made by Bayer. They make the aspirin. They are a German company. In the United States, the average price for 10 tablets, 250 milligrams, $55. We bought it at the Munich airport pharmacy for $35.12, American.

Coumadin. My 85-year-old father takes Coumadin. In the United States the average price, $89.95. The price in Munich, Germany, $21.

Glucophage, a very popular drug, has done wonderful things for people who suffer from diabetes. Glucophage, $21.95 in the United States, only $5 in Germany.

Pravachol, $62.96 in Munich; $149.95 here in the United States.

The list goes on. Prozac, Synthroid, Tamoxifen, $60 in Germany; $360 in the United States.

Zocor, $41.20 in Munich; $89.95. It is the same drugs.

My father takes this Coumadin every day. It is a wonderful drug. Many Americans take Glucophage, and the Congress has spoken on this. We have statutes on the books that would allow Americans access to these drugs at world market prices, but the FDA and the Department of Health and Human Services, under first a Democratic administration and now a Republican administration, has said, oh, no, no, we cannot do that, we cannot guarantee safety.

So we are introducing a new bill and we want to deal with that issue because we want Americans to have access to safe world-class drugs.

What I am holding in my hand is a counterfeit-proof package. There are companies right now that are helping people, like our own Treasury who helped develop the technology that goes into our new counterfeit-proof $20 bill. They now have packaging which they are making for the pharmaceutical industry. For a cost of somewhere between 2 and 5 cents, they can make a blister-pack, counterfeit-proof package.

It goes beyond that. They are coming out with new technologies that are not only counterfeit-proof, but it is tamper-proof. So we can bring these drugs in and the technology will get better to make these drugs safe. For example, I am holding in my hand a little vial, and in this vial my colleagues cannot see it, I can barely see it. Inside this little vial are 150 microcomputer chips. This is the next UPC code so that we actually embed it in packaging, so that we can know where this product is made, where it came from, everything we need to know about it. It can be counterfeit-proof. It can be tamper-proof, and now it can be virtually fail-safe.

People say, well, what about safety? Every day we import thousands of tons of food, and the FDA is responsible for the food and drug safety in the United States. We import tons and tons of food. Last year, we imported 318,000 tons of plantains, and somehow we eat those plantains every day, and we do not worry about the safety.

We can import world-class drugs. I am a Republican and I think that there is nothing wrong with the word "profit," but there is something very wrong with the word "profiteer." I think it is right that Americans pay their fair share of the cost for research in the world, but we should not have to subsidize the starving Swiss.

We have an opportunity in the next several weeks to do something about this. The greatest tragedy in America today is that roughly 29 percent of all seniors tell us that they have had prescriptions that went unfilled because they could not afford these outrageous prices.

Shame on us. Shame on us. We should do something about that. We have the power to change this, and I think this year we finally will.

□ 1730

ISRAEL SHOULD BE COMMENDED FOR GOING AFTER TERRORISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ENGEL) is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker, today another suicide bombing happened in Israel. Sixteen innocent people were murdered and more than 150 were injured. The terrorist group Hamas took credit for it and the cycle of violence continues.

Mr. Speaker, homicide bombers, suicide bombers cannot be tolerated. Israel, as any other nation, must do everything it can to go after terrorists, to root out terrorism. As President Bush said, there are no good terrorists, there are only bad; and every nation has an obligation to protect its citizens and go after the terrorists.

That is why it was so disheartening to hear President Bush say Israel's attempted attack on one of the biggest Hamas terrorists, Mr. Rantisi was not helpful. I do not know whether a nation ought to think about what is helpful or not when they are trying to protect their citizens.

We in the United States went halfway around the world to destroy the Taliban in Afghanistan not because the Taliban committed crimes against us, but because the Taliban harbored al Qaeda, which committed heinous acts against us. If we are justified, and we are, in going halfway around the world to destroy terrorists, surely Israel is justified to do the same in her own backyard. After all, it was President Bush who said Osama bin Laden wanted dead or alive, and it was President Bush who talked about Saddam Hussein and his connections with terrorists. We went into Iraq and overthrew Saddam Hussein. Certainly Israel should be encouraged to go after terrorists, not discouraged to go after terrorists; and we should not set a double standard for Israel, we should set the same standard as we would set for ourselves.

Last week there was an agreement to try to proceed on a so-called road map for peace in the Middle East, and all parties agreed that the Palestinian prime minister, the Israeli prime minister and President Bush all talked about going along the path to peace. During that time the prime minister of Israel has dismantled some of the settlements, has talked about having peace with the Palestinians. And what was the response on the Palestinian side? The three terrorist organizations, Hamas, the Palestinian Islamic Jihad, which is part of Arafat's Fattah network, and Hezbollah, all got together and took credit for the assassination of five Israeli soldiers. That was the Palestinian terrorists' answer to peace. The Palestinian prime minister, Machmoud Abbas, who said he would try to persuade the terrorists to have a cease-fire was not able to persuade them at all. In fact, they rejected his calls for a cease-fire. Machmoud Abbas, the Palestinian prime minister, then said he would not use force to try to get the terrorists to stop, he would only try to persuade them.

I would say if Mr. Abbas, the Palestinian prime minister, is not going to attempt to use force to stop terrorists from committing terrorist acts, then Israel has the right to take matters into her own hands and to use force to stop terrorists from committing these heinous acts. After all, since Mr. Rantisi is one of the leaders of Hamas which kills innocent men, women, and children civilians, why should Mr. Rantisi think he is somehow immune to some kind of attacks on his life?

It is very important that Israel, the United States, and all peace-loving countries in the world go after terrorism. And when nations go after terrorism, other nations should help them, not say that it is unhelpful for peace. Let us talk about the road map which everyone seems to be so ecstatic about. The road map will only work if and when the Palestinians decide if and when they are going to put an end to terror and not use terror as a negotiating tool, and the road map should be performance-based, not time-based. In other words, the Palestinians have to perform. They have to stop terrorism before they get their state. If they do not stop terrorism, they do not get their state. They should not merrily march along to statehood in 2004 and 2005 unless they end terrorism.

Mr. Speaker, I think Israel should be commended for going after terrorists. I think all nations should do the same.

PATIENT SAFETY AND FOREIGN PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I rise tonight to talk about patient safety and the trade policy of this country as it relates to foreign prescription drugs.

If I correctly recall, and do not trust my memory, we can all look it up, back in March of this year this House overwhelmingly approved a bill that would improve patient safety and improve the quality of care delivered in this country. Some of my colleagues have asked us to consider a plan of imported foreign prescription drugs into this country that would run counter to the vote cast by a majority in this House not 4 months ago.

Mr. Speaker, we must approach this problem with thoughtfulness and logic. If we want to address the cost of prescription drugs in this country, we can take several approaches to lower the cost, but any options should not come at the cost of patient safety. Some in this House believe that if Americans had the ability to purchase their drugs from Canada or Mexico or Belize or Europe or Mars, that the United States market would adjust and reflect the importation of cheaper medicines. But let us be clear, foreign countries place price controls on their prescription drugs.

This means that the drugs purchased by Canadian citizens may be priced lower than that which an American citizen will pay for the same compound because of that government's artificial market intervention; but by permitting the reimportation of drugs into this country, we effectively allow the importation of foreign price controls into the United States market as well. This could be shortsighted, and it does run counter to the free market system that is established in this country. If drug reimportation becomes the established policy in this country, the United States would in essence be allowing foreign governments to set the prices for American products.

If we truly believe in the power of the free market, we should remove the market distortion of foreign price controls which ensure that America's seniors and America's uninsured pay the highest price for their medications. And what happens in countries that have adopted price controls? Companies have left those countries. High-skilled jobs are not available, and governments have lost much-needed revenue.

Because of the stranglehold of regulation in European countries, including price controls on pharmaceuticals, Europe is lagging behind in its ability to generate, organize, sustain innovative processes that are increasingly expensive and organizationally complex. The United States biotech industry in the last decade has had a meteoric rise, but we would place a chill on the industry's development if we allowed foreign drug prices to stymie its growth.

More importantly, if we inject foreign drug prices and controls into the United States, we will see less innovation in this very promising new field of science. Most importantly, underlying all of the complex trade issues is one that ultimately impacts us all, and that is patient safety. We want to ensure that the drugs that our wives, children, mothers, and fathers take are free of dangerous substances and that they work as advertised. Only our FDA in this country can ensure the safety of drugs for American citizens.

I think this House would be shirking its duty if we created a system that relied upon the action of regulatory officials of Canada, Thailand, Belize, or Barbados to ensure the safety of American patients. Allowing drug reimportation from foreign countries would only be a signal to foreign drug counterfeiters that it is open season on the health and safety of American citizens.

Mr. Speaker, I could relate stories from my medical practice where patients had what may be politely termed as therapeutic misadventures by the ingestion of drugs which were imported illegally from Mexico. The House can approach the drug cost issues through far less shortsighted solutions than permitting drug importation from foreign countries.

Make no mistake, the pharmaceutical companies in this country have an obligation to control their costs and be certain that any profits they receive are reasonable. Without this, we will continue to hear the arguments for reimportation nightly on the House floor. The purchasing power of the Federal Government should bring down the cost of safe pharmaceuticals in this country.

Mr. Speaker, we should remember the admonition of a long-ago physician to first do no harm. In this House, that would be wise counsel to heed.

INFORMED CITIZENRY VERSUS NEED FOR SECRECY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, a critical problem that demands constant oversight in a democracy is the tension between an informed Congress and an informed citizenry because both are necessary for a democracy. That tension is against the need for secrecy in some instances and in the interest of national security. That is what I wish to draw Members' attention to today.

From Watergate to Iran contra, to the Gulf of Tonkin Resolution, we have seen and experienced and learned from the peril of the executive branch's use of secrecy in the name of national security to accomplish unlawful deception and illegal acts.

We face this issue again now in regard to Iraq's weapons of mass destruction and the flat assertions by the President of the United States that Saddam Hussein's weapons of mass destruction pose an imminent threat to the United States. After all, it was these assertions that led many of the Members of the legislature, both in the House of Representatives and in the other body, to support the war, and so did many Americans.

So it is a significant question whether the President's assurance was warranted by the evidence, whether he had something to back up these repeated assertions that the weapons of mass destruction held by the former ruler of Iraq were indeed an imminent threat to the United States.

So where are these weapons of mass destruction? One day the President assured us that they will be found. The next day we are told that he only meant to claim that Iraq had programs to develop weapons of mass destruction, and that program was under way. But then the day after that his spokesman said never mind, even if Saddam had no weapons imminently threatening us, he was a bad and evil person who deserved to be destroyed.

Now, these contradictions have begun to be noted by more and more people, and I want to report that some in the public are changing their view about this war and what brought us into it as American casualties mount in Iraq, as violence and civilian strife grow worse there, and disease and hunger spread in the aftermath of war.

Now, whatever the ultimate final assessment is that will be made about Iraq, the fundamental problem that I bring to Members' attention this evening is if the President deceives the Congress and the public on an issue as sensitive as war or peace, it raises the greatest constitutional issues about whether he is abusing his office, whether he is violating his oath, and whether he is misleading the American people.

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It is particularly critical because this President's doctrine of preventive war, never before employed by any of the preceding Presidents of this great country, suggests that he may or will be trying to persuade America to support other preventive wars in the future. Will that campaign be based on misrepresentation?

MISSING WEAPONS OF MASS DESTRUCTION: IS LYING ABOUT THE REASON FOR WAR AN IMPEACHABLE OFFENSE?

(By John W. Dean)

President George W. Bush has got a very serious problem. Before asking Congress for a Joint Resolution authorizing the use of American military forces in Iraq, he made a number of unequivocal statements about the reason the United States needed to pursue the most radical actions any nation can undertake—acts of war against another nation.

Now it is clear that many of his statements appear to be false. In the past, Bush's White House has been very good at sweeping ugly issues like this under the carpet, and out of sight. But it is not clear that they will be able to make the question of what happened to Saddam Hussein's weapons of mass destruction (WMDs) go away—unless, perhaps, they start another war.

That seems unlikely. Until the questions surrounding the Iraq war are answered, Congress and the public may strongly resist more of President Bush's warmaking.

Presidential statements, particularly on matters of national security, are held to an expectation of the highest standard of truthfulness. A president cannot stretch, twist or distort facts and get away with it. President Lyndon Johnson's distortions of the truth about Vietnam forced him to stand down from reelection. President Richard Nixon's false statements about Watergate forced his resignation.

Frankly, I hope the WMDs are found, for it will end the matter. Clearly, the story of the missing WMDs is far from over. And it is too early, of course, to draw conclusions. But is not too early to explore the relevant issues.

PRESIDENT BUSH'S STATEMENTS ON IRAQ'S WEAPONS OF MASS DESTRUCTION

Readers may not recall exactly what President Bush said about weapons of mass destruction; I certainly didn't. Thus, I have compiled these statements below. In reviewing them, I saw that he had, indeed, been as explicit and declarative as I had recalled.

Bush's statements, in chronological order, were:

"Right now, Iraq is expanding and improving facilities that were used for the production of biological weapons."—United Nations Address, September 12, 2002.

"Iraq has stockpiled biological and chemical weapons, and is rebuilding the facilities used to make more of those weapons.

"We have sources that tell us that Saddam Hussein recently authorized Iraqi field commanders to use chemical weapons—the very weapons the dictator tells us he does not have."—Radio Address, October 5, 2002.

"The Iraqi regime . . . possesses and produces chemical and biological weapons. It is seeking nuclear weapons.

"We know that the regime has produced thousands of tons of chemical agents, including mustard gas, sarin nerve gas, VX nerve gas.

"We've also discovered through intelligence that Iraq has a growing fleet of manned and unmanned aerial vehicles that could be used to disperse chemical or biological weapons across broad areas. We're concerned that Iraq is exploring ways of using these UAVs for missions targeting the United States.

"The evidence indicates that Iraq is reconstituting its nuclear weapons program. Saddam Hussein has held numerous meetings with Iraqi nuclear scientists, a group he calls his "nuclear mejahideen"—his nuclear holy warriors. Satellite photographs reveal that Iraq is rebuilding facilities at sites that have been part of its nuclear program in the past. Iraq has attempted to purchase high-strength aluminum tubes and other equipment needed for gas centrifuges, which are used to enrich uranium for nuclear weapons."—Cincinnati, Ohio Speech, October 7, 2002.

"Our intelligence officials estimate that Saddam Hussein had the materials to produce as much as 500 tons of sarin, mustard and VX nerve agent."—State of the Union Address, January 28, 2003.

"Intelligence gathered by this and other governments leaves no doubt that the Iraq regime continues to possess and conceal some of the most lethal weapons ever devised."—Address to the Nation, March 17, 2003.

SHOULD THE PRESIDENT GET THE BENEFIT OF THE DOUBT?

When these statements were made, Bush's let-me-mince-no-words posture was convincing to many Americans. Yet much of the rest of the world, and many other Americans, doubted them.

As Bush's veracity was being debated at the united Nations, it was also being debated on campuses—including those where I happened to be lecturing at the time.

On several occasions, students asked me the following question: Should they believe the President of the United States? My answer was that they should give the President the benefit of the doubt, for several reasons deriving from the usual procedures that have operated in every modern White House and that, I assumed, had to be operating in the Bush White House, too.

First, I assured the students that these statements had all been carefully considered and crafted. Presidential statements are the result of a process, not a moment's thought. White House speechwriters process raw information, and their statements are passed on to senior aides who have both substantive knowledge and political insights. And this all occurs before the statement ever reaches the President for his own review and possible revision.

Second, I explained that—at least in every White House and administration with which I was familiar, from Truman to Clinton—statements with national security implications were the most carefully considered of all. The White House is aware that, in making these statements, the President is speaking not only to the nation, but also to the world.

Third, I pointed out to the students, these statements are typically corrected rapidly if they are later found to be false. And in this case, far from backpedaling from the President's more extreme claims, Bush's press secretary, Ari Fleischer had actually, at times, been even more emphatic than the President had. For example, on January 9, 2003, Fleischer stated, during his press briefing, "We know for a fact that there are weapons there."

In addition, others in the Administration were similarly quick to back the President up, in some cases with even more unequivocal statements. Secretary of Defense Donald Rumsfeld repeatedly claimed that Saddam had WMDs—and even went so far as to claim he knew "where they are; they're in the area around Tikrit and Baghdad."

Finally, I explained to the students that the political risk was so great that, to me, it was inconceivable that Bush would make these statements if he didn't have damn solid intelligence to back him up. Presidents do not stick their necks out only to have them chopped off by political opponents on an issue as important as this, and if there was any doubt, I suggested, Bush's political advisers would be telling him to hedge. Rather than stating a matter as fact, he would say: "I have been advised," or "Our intelligence reports strongly suggest," or some such similar hedge. But Bush had not done so.

So what are we now to conclude if Bush's statements are found, indeed, to be as grossly inaccurate as they currently appear to have been?

After all, no weapons of mass destruction have been found, and given Bush's statements, they should not have been very hard to find—for they existed in large quantities, "thousands of tons" of chemical weapons alone. Moreover, according to the statements, telltale facilities, groups of scientists who could testify, and production equipment also existed.

So there is all that? And how can we reconcile the White House's unequivocal statements with the fact that they may not exist?

There are two main possibilities. One that something is seriously wrong within the Bush White House's national security operations. That seems difficult to believe. The other is that the President has deliberately misled the nation, and the world.

A DESPERATE SEARCH FOR WMDS HAS SO FAR YIELDED LITTLE, IF ANY, FRUIT

Even before formally declaring war against Saddam Hussein's Iraq, the President had dispatched American military special forces into Iraq to search for weapons of mass destruction, which he knew would provide the primary justification for Operation Freedom. None were found.

Throughout Operation Freedom's penetration of Iraq and drive toward Baghdad, the search for WMDs continued. None were found.

As the coalition forces gained control of Iraqi cities and countryside, special search teams were dispatched to look for WMDs. None were found

During the past two and a half months, according to reliable news reports, military patrols have visited over 300 suspected WMD sites throughout Iraq. None of the prohibited weapons were found there.

BRITISH AND AMERICAN PRESS REACTION TO THE MISSING WMDS

British Prime Minister Tony Blair is also under serious attack in England, which he dragged into the war unwillingly, based on the missing WMDs. In Britain, the missing WMDs are being treated as scandalous; so far, the reaction in the U.S. has been milder.

New York Times columnist Paul Krugman has taken Bush sharply to task, asserting that it is "long past time for this administration to be held accountable." "The public was told that Saddam posed an imminent threat," Krugman argued. "If that claim was fraudulent," he continued, "the selling of the war is arguably the worst scandal in American political history—worse than Watergate, worse than Iran-Contra." But most media outlets have reserved judgment as the search for WMDs in Iraq continues.

Still, signs do not look good. Last week, the Pentagon announced it was shifting its search from looking for WMD sites, to looking for people who can provide leads as to where the missing WMDs might be.

Under Secretary of State for Arms Control and International Security John Bolton, while offering no new evidence, assured Congress that WMDs will indeed be found. And he advised that a new unit called the Iraq Survey Group, composed of some 1,400 experts and technicians from around the world, is being deployed to assist in the searching.

But, as Time magazine reported, the leads are running out. According to Time, the Marine general in charge explained that "[w]e've been to virtually every ammunition supply point between the Kuwaiti border and Baghdad," and remarked flatly, "They're simply not there."

Perhaps most troubling, the President has failed to provide any explanation of how he could have made his very specific statements, yet now be unable to back them up with supporting evidence. Was there an Iraqi informant thought to be reliable, who turned out not to be? Were satellite photos innocently, if negligently, misinterpreted? Or was his evidence not as solid as he led the world to believe?

The absence of any explanation for the gap between the statements and reality only increases the sense that the President's misstatements may actually have been intentional lies.

INVESTIGATING THE IRAQI WAR INTELLIGENCE REPORTS

Even now, while the jury is still out as to whether intentional misconduct occurred, the President has a serious credibility problem. Newsweek magazine posed the key questions: "If America has entered a new age of pre-emption—when it must strike first because it cannot afford to find out later if terrorists possess nuclear or biological weapons—exact intelligence is critical. How will the United States take out a mad despot or a nuclear bomb hidden in a cave if the CIA can't say for sure where they are? And how will Bush be able to maintain support at home and abroad?"

In an apparent attempt to bolster the President's credibility, and his own, Secretary Rumsfeld himself has now called for a Defense Department investigation into what went wrong with the pre-war intelligence. New York Times columnist Maureen Dowd finds this effort about on par with O.J.'s looking for his wife's killer. But there may be a difference: Unless the members of the Administration can find someone else to blame—informants, surveillance technology, lower-level personnel, you name it—they may not escape fault themselves.

Congressional committees are also looking into the pre-war intelligence collection and evaluation. Senator John Warner (R–VA), chairman of the Senate Armed Services Committee, said his committee and the Senate Intelligence Committee would jointly investigate the situation. And the House Permanent Select Committee on Intelligence plans an investigation.

These investigations are certainly appropriate, for there is potent evidence of either a colossal intelligence failure or misconduct—and either would be a serious problem. When the best case scenario seems to be mere incompetence, investigations certainly need to be made.

Senator Bob Graham—a former chairman of the Senate Intelligence Committee—told CNN's Aaron Brown, that while he still hopes they find WMDs or at least evidence thereof, he has also contemplated three other possible alternative scenarios: "One is that [the WMDs] were spirited out of Iraq, which maybe is the worst of all possibilities, because now the very thing that we were trying to avoid, proliferation of weapons of mass destruction, could be in the hands of dozens of groups. Second, that we had bad intelligence. Or third, that the intelligence was satisfactory but that it was manipulated, so as just to present to the American people and to the world those things that made the case for the necessity of war against Iraq."

Senator Graham seems to believe there is a serious chance that it is the final scenario that reflects reality. Indeed, Graham told CNN "there's been a pattern of manipulation by this administration."

Graham has good reason to complain. According to the New York Times, he was one of the few members of the Senate who saw the national intelligence estimate that was the basis for Bush's decisions. After reviewing it, Senator Graham requested that the Bush Administration declassify the information before the Senate voted on the Administration's resolution requesting use of the military in Iraq.

But rather than do so, CIA Director Tenet merely sent Graham a letter discussing the findings. Graham then complained that Tenet's letter only addressed "findings that supported the administration's position on Iraq," and ignored information that raised questions about intelligence. In short, Graham suggested that the Administration, by cherrypicking only evidence to its own liking, had manipulated the information to support its conclusion.

Recent statements by one of the high-level officials privy to the decisionmaking process that lead to the Iraqi war also strongly suggests manipulation, if not misuse of the intelligence agencies. Deputy Secretary of Defense Paul Wolfowitz, during an interview with Sam Tannenhaus of Vanity Fair magazine, said: "The truth is that for reasons that have a lot to do with the U.S. government bureaucracy we settled on the one issue that everyone could agree on which was weapons of mass destruction as the core reason." More recently, Wolfowitz added what most have believed all along, that the reason we went after Iraq is that "[t]he country swims on a sea of oil."

WORSE THAN WATERGATE? A POTENTIAL HUGE SCANDAL IF WMDS ARE STILL MISSING

Krugman is right to suggest a possible comparison to Watergate. In the three decades since Watergate, this is the first potential scandal I have seen that could make Watergate pale by comparison. If the Bush Administration intentionally manipulated or misrepresented intelligence to get Congress to authorize, and the public to support, military action to take control of Iraq, then that would be a monstrous misdeed.

As I remarked in an earlier column, this Administration may be due for a scandal. While Bush narrowly escaped being dragged into Enron, it was not, in any event, his doing. But the war in Iraq is all Bush's doing, and it is appropriate that he be held accountable.

To put it bluntly, if Bush has taken Congress and the nation into war based on bogus information, he is cooked. Manipulation or deliberate misuse of national security intelligence data, if proven, could be "a high crime" under the Constitution's impeachment clause. It would also be a violation of federal criminal law, including the broad federal anti-conspiracy statute, which renders it a felony "to defraud the United States, or any agency thereof in any manner or for any purpose."

It's important to recall that when Richard Nixon resigned, he was about to be impeached by the House of Representatives for misusing the CIA and FBI. After Watergate, all presidents are on notice that manipulating or misusing any agency of the executive branch improperly is a serious abuse of presidential power.

Nixon claimed that his misuses of the federal agencies for his political purposes were in the interest of national security. The same kind of thinking might lead a President to manipulate and misuse national security agencies or their intelligence to create a phony reason to lead the nation into a politically desirable war. Let us hope that is not the case.

CONTROVERSY INVOLVING TEXAS LEGISLATURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LAMPSON) is recognized for 5 minutes.

Mr. LAMPSON. Mr. Speaker, I find it a little astounding that I come here to ask the question of what is happening to our government. Why are our fellow citizens withholding information from us, even from Members of Congress? Why are some of the agencies that are designed to help us seemingly working against us? It is all our government.

I am a little bit astounded at having to come here and again tell the story about what happened when the Texas legislature ran amuck, when members of that legislative body began to respond to actions there that have been reflective of what the United States House of Representatives has been, very divisive, very unfortunate, where people get to the point where they feel like they are not allowed to be a part of the process and they have to rebel against the system by looking for parliamentary procedure to try to send their point or make their point or get their message out. Fifty-five brave men and women allowed their backs to be pushed up against the wall for months and finally could take it no more and broke the quorum of the Texas legislature to stop that from happening there. And then, lo and behold, what happened following it started all sorts of things to happen that include Federal agencies becoming involved in investigations to look for missing Texas legislators.

The people of this country ought to be outraged that Federal agencies designed to protect us, designed to do good for us, were called into a political fray in the State of Texas, and since that time Members of Congress have asked repeatedly of the Department of Homeland Security, the Justice Department, and the transportation agency for information that would give us a better understanding of who played what role in this Federal Government being involved in an issue that was a political one in the State of Texas and finding funds that we know are already very short for us. We do not know how we are going to be paying for all of the many, many needs that our homeland security faces. We are very short-funded as it is.

Yet we could find the money, the time, the effort, the personnel, the equipment to track an airplane across the country of a member, a little cotton farmer out in west Texas who was going off to Ardmore, Oklahoma, and stopped off to see his mother. If he had not done that, they would have probably found him. To have agencies respond in the way that they have, there is something wrong with this picture. The people of this country truly ought to be outraged.

It has been over 3 weeks now since we began to ask formally of these agencies, give us the information that you have, show us surveillance tapes, give us tapes of phone messages. Even the Director of Homeland Security indicated that it was a potential criminal investigation that is going on and that was the excuse for not turning over some of this information at the time.

Ladies and gentlemen, it is time for us as a body, as a Congress, to stop this kind of action in the United States of America, whether it happens to Texas or Louisiana or Michigan or any other State in this Nation, and we truly ought to be outraged and stand up and say we are not going to stand for that secrecy anymore. Let the agencies that exist as a part of our government give us the information that we need to know that our government is working in our behalf and not working against us; that we are not having some kind of a political soiree in this country that is going to allow power to be held by a few at the expense of so very, very many.

We even had destroyed documents over time. What is there to hide? If there is nothing on the tapes that is incriminating to anyone, then make it public and let us see them. If there is something there, as certainly the indication is starting to be—why else is there a cover-up—then perhaps there may be criminal activity. Something is wrong with this picture and something is going wrong with our government. It is time for us to begin to ask the questions and demand the answers from all of the agencies that can tell the citizens of this country that we are not going to be living in a police state, that we are going to be able to all participate in making the policy of this Nation and the policy of our States, and that we are not going to have to fight our way through the darkness of night in order to play the role that we so rightly deserve.

TEXAS LEGISLATIVE CONTROVERSY AND POSSIBLE FEDERAL INVOLVEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. SANDLIN) is recognized for 5 minutes.

Mr. SANDLIN. Mr. Speaker, we are calling today on Secretary Ridge to uncover the cover-up. What have you got to hide?

On May 11, 2003, Mr. Speaker, a number of Democratic members of the Texas House of Representatives absented themselves from the floor of the State House in Austin, Texas, in a proper procedural move to defeat a quorum in that body. Subsequently, on that same date, the Speaker of the Texas House of Representatives, Tom Craddick, ordered the Texas Department of Public Safety, the troopers, to locate the absent legislators and return them to the capitol. The DPS thereupon took steps to locate the lawmakers and contacted the U.S. Department of Homeland Security, charged with defeating terrorism, and asked for Federal assistance. They have now had to admit and acknowledge that they contacted the Air and Marine Interdiction Coordination Center, a department within DHS, seeking information; and they acknowledge they used Federal resources to respond to this request in spite of the fact that it is a State political matter. In fact, in violation of the law, a criminal tracking system was used. The Department of Homeland Security has now admitted that the department has in its possession certain audiotapes, transcripts, and other documents concerning its contacts with Texas DPS officials. In spite of this admission, the department has failed and refused and still fails and refuses to release this information.

Disturbingly, Mr. Speaker, now the Secretary of Homeland Defense has admitted that there is an ongoing criminal investigation into this matter. But it only gets worse. Now we learn the FBI has been involved. Initially the FBI denied involvement. Now they have admitted otherwise. On May 13, the Houston Chronicle reported, "Spokesmen for the Justice Department and the FBI indicated those agencies likely would have no reason to assist the State officers in apprehending the Democrats." On that same date, "A Justice spokesman said Tuesday he knew of no role for the department." Later on that date, "FBI spokesman Bill Carter said he was unaware of any request for that agency to assist. 'I don't know of any authority that would allow us to even contemplate getting involved.'"

But, Mr. Speaker, the story begins to change. A couple of days later, on June 5, the FBI denied participation but they did not know what was about to come out, because State Representative Juan Manuel Escobar reported he got a cellular phone call from Corpus Christi-based FBI Special Agent David Troutman asking whether State Representative Gabi Canales was with him.

"The FBI was conducting no surveillance at all," said Special Agent Bob Doguim. But listen. He said, "I'm not saying no call took place." Later they said, "An FBI spokesman said agency action was nothing really uncommon." Dallas Morning News, June 6.

Yesterday, Mr. Speaker, we learned that phone records for Deputy Attorney General Jay Kimbrough show a 5 minute 16 second phone call at 4:24 p.m. May 12 to an Ardmore, Oklahoma, FBI office. That is after State officials learned that the Federal Aviation Administration had tracked the plane of one of the missing lawmakers. A half hour later the records show a return phone call, 2 minutes 16 seconds, from the FBI office to Mr. Kimbrough. Mr. Kimbrough is head of Homeland Security in Texas. After the FBI saying they had nothing to do with it, now we have got the phone records. Now we are getting to the truth.

Additionally, at the State level, on May 14, the Texas DPS ordered the destruction of all notes, photos, correspondence and other records relating to the members of the House of Representatives and the order specifically contained the words "retain no copies."

In brief, it is our position that any effort to use Federal law enforcement or Homeland Security resources to participate in a State political matter is improper and illegal. Further, the destruction of records by DPS, which limits the ability to determine the extent of Federal involvement, coupled with the refusal by the Department of Homeland Security and Tom Ridge to produce its records, are matters of great concern.

Mr. Ridge, stop the cover-up. Release the information. We want full and complete audiotapes of all conversation, full and complete copies of all communications, tapes, videotapes, recordings, letters, notes, documents, schedules, summaries, indices, written records of every sort, full and complete copies of all communications, full and complete original files, full and complete records of telephone calls and contacts, full and complete records of any and all persons, Federal officials, State officials, law enforcement personnel, agencies or entities that have contacted or been contacted by Homeland Security.

Mr. Ridge should be advised further that the U.S. Congress may request the production of additional information as a result of his testimony. We will expect him to acknowledge under oath that no records have been altered, deleted, destroyed, redacted or otherwise withheld in whole or in part. It is critical that we request a subpoena and a subpoena duces tecum be issued forthwith and this information be brought before the United States Congress.

The Department of Public Safety destroyed records. Homeland Security has admitted to possessing and withholding audiotapes and other information. They have now admitted that a criminal investigation is ongoing. The FBI claimed to be not involved in any way. Now we learn of telephone calls to and from the FBI.

Mr. Speaker, is this just what we might call another third-rate burglary? Mr. Ridge, stop the cover-up. Release the information. Come clean with the United States Congress and the American public.

ANOTHER TERRORIST ATTACK IN JERUSALEM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. CAPPS) is recognized for 5 minutes.

Mrs. CAPPS. Mr. Speaker, the news from Jerusalem today is horrifying. Another terrorist attack on a civilian bus. So many dead. Many more are injured and even more are bereaved. Today's atrocity follows and may have been in response to an attack yesterday on a Hamas leader in Gaza which injured its target but killed innocent victims. When will this cycle of violence end? Not even a week has passed since the President received the commitment of Ariel Sharon and Abu Mazen to do everything in their power to stop the killing and pursue the path of negotiations. Instead, we have terrorist attacks, attempted assassinations, horrific retaliations and more bloody reprisals. Last week's optimism has yielded to this week's despair.

I urge President Bush to make it clear to both sides that the United States will continue to insist on the terms agreed to at the Aqaba summit, an end to the violence, the dismantling of the illegal outposts and the resumption of security cooperation. Clearly, Abu Mazen must do much more to stop terrorism. But it is obvious that he cannot stop the murderous Palestinian extremists without help from Israel. And Israel will never succeed in vanquishing terrorism through military force and continued occupation. A political solution is the only answer.

The road map to peace has hit a tremendous obstacle. But we have no choice but to persevere. If this initiative is destroyed, Israelis and Palestinians may be doomed to a life of violence and suffering forever. Such a fate is not what these two peoples deserve, and it is surely not what America can afford.

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RUBBER-STAMPING TAX LEGISLATION

The SPEAKER pro tempore (Mr. FEENEY). Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, tomorrow we are going to have another session of the rubber stamp Congress. There is an old song by Tennessee Ernie Ford that goes, "You load 16 tons, and what do you get? Another day older and deeper in debt."

This Congress at a Committee on Rules meeting tonight, the Committee on Ways and Means chairman did not even show up. The bill was all greased. We are going to pass $80 billion more of debt out of here tomorrow.

Now, the Democrats offered a bill that would have cost $3.5 billion to take care of those people earning between $10,500 and $26,500.

When the Republicans got this bill, they said, Oh, boy: Let's go, and so they have crammed everything in it that President Bush wants. They are going to come down here, and we will have about an hour's debate, half an hour on the Democratic side, half an hour on the Republican side; and they will stamp that baby and out she goes. That is how this Congress is operating. Not one single hearing will have occurred on this bill, not one single hearing. $80 billion in a half-hour.

Think about it. That is why my colleague, the gentleman from Mississippi (Mr. TAYLOR), came out here, to show the almost-$1 trillion in debt that has been accumulated over the last 2 years under this administration. Well, tomorrow we are going to add another layer of frosting on the cake, and everybody will come with their stamp in their hand and do it.

Now, we also had a discussion here with one of the gentlemen from Georgia who said next week we are going to deal with the issue of Medicare. There has been no bill put in the Congress for the single largest program in the Congress that the government runs, and that is the Medicare program. The Committee on Ways and Means that I sit on has had not a single hearing on the proposal that is being brought in here. It is being greased somewhere to take up to the Committee on Rules and run down here on the floor, and, in a couple of hours, everybody will bring their stamp out and go, Boom, I approve of everything George Bush does.

That is what this Congress is about, approving whatever George Bush does. Nothing else. There is no thinking going on in here. They just wait for their orders from the White House, go up to the Committee on Rules, slap the bill together, bring it to the floor, and stamp it "approved."

Now, that is no way for the United States Congress to operate. We were made in the first section of the Constitution because the founders of this country believed that the Congress was where the basis of our government should derive, that there should be discussion among the 535 Members of both bodies as to what is going to happen in this country.

But this time we are in a one-party government. It is a parliament with a fixed-end, and this party is President Bush, the Senate and the House; and they run them down here and run them through and stamp them, and that is the end of it.

Now, there is a serious problem in that kind of government, because it makes it very partisan. I was told that the Medicare bill is written, but that you have to ask the chairman to go up to a room and sit there and read it in the room. You cannot take it out; you cannot take it to your office. I am a Member of Congress. I was elected by 690,000 people, and so was every other Member. But I am not allowed to read the bill until the day they drop it up here in the committee and ram it through the House in 24 hours.

People I go home to, they say, What is in the bill, Jim? What does this do, what does that do?

I do not know. And it is not because I will not read or I am not smart or I will not work or I will not do what has to be done, but this is the way this place is being run. People are not being given a chance to discuss this.

We have got an even bigger issue, and that is the whole issue of how we got into war. Everywhere in Great Britain right now the belief is that Tony Blair is toast. The liberals are calling for an inquiry. And this House will not do it, because the Republicans have rubber-stamped what we did, "I approve of Mr. Bush."

SHORTCHANGING VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, I am a new Member of this body. I was just sworn in in January, and as a new Member there is a certain awe to this Chamber, a certain awe to the legislative process and the idea of priorities. You come into this body with the notion of certain priorities that are not Democratic, they are not Republican but they are priorities of the American people.

Unfortunately, it did not take very long for me to recognize that we all do not share the same priorities. We can talk about tax cuts, and we can talk about deficits, and we can talk about our debt; but you just do not have tax cuts without some reaction somewhere down the line in the budget, and I wanted to speak tonight to share with the American people and share with my colleagues my own personal experience that I had over the last few weeks, really since Memorial Day, back in my district, which is northeastern Ohio, Youngstown and Akron, Ohio, and everywhere in between, the cities of Niles and Warren, where there is a strong concentration of veterans.

The reason I rise tonight is to share for the record the feelings, the emotions of the people back in my district. Let me just say, quite frankly, that they are tired of the public relations gimmicks, they are tired of the press conferences, they are tired of the salutations to the veterans. Meanwhile, back at the ranch, their budgets are being cut for the veterans, we are not able to service all the veterans that are beginning to move into the VA system, and we are spending our tax money, and borrowing more money, to give back, when we are cutting short what the veterans deserve.

About 3 months ago or so we passed a resolution out of this body saying that we have unequivocal support and appreciation for our troops. Unequivocal. But for the veterans, we are going to cut your budget.

We just had a Committee on Veterans Affairs meeting. I have been fortunate to serve on the Committee on Veterans Affairs. Here are the President's recommendations to save money at the VA: first, annual fees for some Category 7 veterans; annual fees for all Category 8 veterans; the co-pay went from just a couple of dollars to $7 for prescription drugs, and now it is going to go, I believe the proposal is, from $7 to $15.

Mr. Speaker, I think in this country we are beginning to recognize that the leadership down here is not addressing the problems of our veterans. We are not taking care of those people who we sent to hell, where they lost limbs, had their health damaged for the rest of their lives. And now one proposal is to say if your disability is service-related under 30 percent, that we are no longer going to cover you.

Where are the priorities in this Chamber, where are the priorities in this country, when we stop respecting our veterans? That is the question that we have, that is the question that the American people want answered, and that is what the veterans in the 17th Congressional District want answered. When did we stop respecting our soldiers?

We pass resolutions, we thank, we do press conferences, we turn the PR machines on; but meanwhile, we have veterans that we have not taken care of. The ones I can speak of in northeast Ohio are extremely upset. We talk about tax cuts; but as Tom Friedman talked about today in The New York Times, the reality is, it is service cuts, and, unfortunately, in America we have shown that the priorities are not the veterans.

I had an old law school professor that said follow the money and you will follow the priorities. The money is being cut from the veterans, and that shows us that the priorities here in this body and in this country are not for the veterans, but they are for those people who are going to be getting the big tax cuts. It is not a Democrat or Republican thing, and we are all for tax cuts, we all want to give money back, but not at the expense of the veterans who have fought to give us the freedoms that we enjoy today.

BEING FAIR TO VETERANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MILLER) is recognized for 60 minutes as the designee of the majority leader.

Mr. MILLER of Florida. Mr. Speaker, I was hoping that my colleague would remain in the Chamber for the next hour while we talk a little bit about exactly what the Committee on Veterans Affairs has done and the discussion of the cuts that are being made to the veterans budget. We will get into that a little bit later. But tonight I want to talk about something called SBP, and we will discuss it in great length. But I want to introduce you to somebody first. Her name is Dottie Welch.

Dottie's story goes something like this: When Lt. Colonel Roger Welch of the United States Army retired and signed up for the military survivor benefit plan, better known now as SBP, years ago, he was told that in the event of his death, SBP would pay his wife, Dottie, 55 percent of his retirement pay for the rest of her life.

When he signed an irrevocable agreement to pay annually-increasing SBP premiums for the rest of his life, he did not know that his wife's future SBP benefit actually would be one-third less than what they were led to believe.

When Roger died in June of 2002, Dottie was dismayed to learn that there would be an offset, an offset based on her husband's Social Security-covered military earnings, that would reduce her benefits. With Social Security survivor benefits and the reduced SBP annuity, her total income is $384 a month less than she and Roger thought she would have to live on.

Dottie thinks the Social Security offset is just plain wrong. No one will tell her why it is there and why it is so large. Her husband, Roger, only had 5 years of military service covered by Social Security.

Dottie Welch's case highlights one significant inequity of the military SBP and the reason why so many retirees and survivors are upset about its current situation.

Unfortunately, this is only the first of several ways that Uniform Service Survivor Benefits relative to premiums being paid fall far short of what retirees and survivors were promised and what is afforded survivors of other Federal retirees.

There are three major SBP inequities. But before I go into those inequities tonight, I would like to pause for a moment and recognize my good friend from South Carolina (Mr. WILSON), who has been a stalwart supporter of the veterans of this country.

I yield to the gentleman.

Mr. WILSON of South Carolina. Mr. Speaker, it is an honor to be here tonight to join my friend, the gentleman from Florida (Mr. MILLER), who has authored H.R. 548, the Military Survivors Benefit Improvement Act of 2003. The gentleman is a champion of veterans and veterans' spouses because his Pensacola community has some of the highest concentrations of veterans in America. I am particularly happy to see his efforts, because I am a veteran myself.

Under the current plan, thousands of retirees and spouses who enrolled in the original survivors benefit plan have come to receive approximately 23 percent less coverage than they had initially anticipated. Since its inception, the government's cost share has steadily dwindled from 40 percent to 17 percent. It is our intention to revise the plan in order to reinstate the original coverage offered by the 1972 version of the survivor benefits plan.

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I believe there is no better way to convey the importance of this legislative revision than to examine the hardships felt by a South Carolina family who put their trust and their money in the original version of the 1972 survivors benefit plan.

Donna Fleming of Mt. Pleasant in Charleston County, South Carolina, became a widow in 1998. Her husband had served in the United States Army and upon retirement had sought the benefits of SBP. Like many Americans enrolled in the plan, the couple was unaware of the age 62 offset benefit reduction provision, and were subsequently confronted with the news of the offset years later.

Donna's husband has since passed, and she has managed to meet her daily expenses through SBP, occasionally dipping into her savings for major bills. However, Donna will soon be 62, and still has not received notification as to the exact amount of the offset. She expects that it may be more than $6,000 a year, $500 a month. She then will be forced to draw from her savings more and more.

Mr. Speaker, this is not the intent of the original legislation. It is every family's fear that their loved ones may face financial hardship following their death, and in Donna's case, that fear has become reality. In her words, "This country owes military families, for which they have dedicated their entire lives."

Please join us in supporting H.R. 548, the Military Survivors Benefit Improvement Act of 2003. Join us in restoring justice for those enrolled in this plan for our Nation's military personnel, their devoted spouses, and their loving families.

Mr. MILLER of Florida. Mr. Speaker, I thank my good friend, the gentleman from South Carolina (Mr. WILSON), for his comments and his support of veterans' issues. I also wish to add my congratulations and best wishes to him as he very soon becomes one of those retirees after serving many years in the Army Guard in his home State.

Mr. Speaker, there are three major SBP inequities. One is that thousands of people who bought SBP coverage were not briefed that most survivors' SBP annuities would be reduced substantially after age 62; two, the 40 percent government subsidy envisioned by Congress and touted by the services to encourage retirees' participation has plunged to 17 percent; three, the government provides Federal civilian survivors a substantially higher share of retired pay for life with no benefit reduction at any age.

The impact of these inequities is, as Members can imagine, devastating to many survivors, because SBP is not exactly a king's ransom at 55 percent of retired pay. At 35 percent, SBP provides only a poverty level or lower annuity for most survivors, even those of relatively senior officers.

So I am here tonight to provide more specifics on how the military SBP program is not providing, is not providing the level of protection military survivors need and deserve and were expecting; and why my bill, H.R. 548, the Military Survivors Benefit Improvement Act of 2003, is what is needed now to fix the current problem.

The first issue that we need to discuss tonight is something that I call the benefit reduction shock. It is incredulous to many that such an important feature of SBP, the reduced age 62 annuity that applies to the vast majority of military survivors, was never explained to retirees being asked to sign up for the program in the seventies and in the early eighties, but it is true.

I have in my hand a copy of the actual SBP Election Form 5002 signed by a retired member in 1982 in two different places. It specifies that SBP will pay the survivor 55 percent of the member's retired pay. Nowhere, even in the fine print, does it mention any lower figure. We can only speculate about how or why this key fact was omitted, but it hardly matters now to those who were misled by the forms and by the briefings.

Certainly, the offset was extremely complicated for retirement counselors to explain, and it was almost impossible to tell any particular retiree at that point what SBP amount his or her survivor would actually receive after attaining the age of 62.

For members who attained retirement eligibility before 1985, the offset represented the amount of the survivors' Social Security benefit that was attributable to the Member's Social Security-covered military earnings, because the military only came under the Social Security system in 1957, and that amount varied widely for different retirees, and the rules for the calculation of Social Security benefits due to military versus civilian employment are arcane at best.

When they first learned of the age 62 benefit reduction, years, sometimes decades, after they purchased SBP, many older retirees and survivors expressed outrage in the mistaken belief that Congress had changed the law on them after the fact.

Not so. The age 62 reduction was part of the initial SBP law enacted in 1972, but this critical piece of information did not find its way into most military retirement briefings and SBP election forms until many years later after complaints, years after complaints started to roll in.

Large numbers of retirees and survivors feel betrayed by what they perceive as a bait-and-switch under which they were asked to sign irrevocable contracts to pay lifetime SBP premiums without being told what the annuity level they were actually buying was.

Dottie Welch is far from the only spouse who is very much aware of the impact of the Social Security offset. One survivor's husband was a Navy hard-hat diver during World War II, then an electronics technician on a nuclear submarine until his retirement in 1966. When he died in May of 2002, his widow had no idea she would be hit by the offset. "I was shocked. I almost fell out of the chair, and wondered why God hadn't taken me too," she says today.

In the grief that followed her husband's death, this 78-year-old widow also faced numerous family bills and health problems. When her SBP annuity started, she was stunned to find out that it was one-third, one-third less than what she had expected. Now faced with $21,000 in bills, she was advised to declare bankruptcy, and feared she would lose her home trying to pay her debts. Her financial struggles eventually led her to the Navy-Marine Corps Relief Society for a grant to help her get back on her feet financially.

Not one member of our greatest American generation should find themselves under this kind of stress while getting over the death of their spouse and trying to do something with the large bills that were facing them.

In an attempt to reduce this kind of confusion, in 1985 Congress established a two-tier system, not linked to Social Security, that actually provides an SBP survivor 55 percent of retired pay until age 62, and 35 percent after that age. But making the age 62 reduction clear for the post-1985 retirees did not make it any fairer, and it did not change the fact that thousands upon thousands of earlier participants had not been told of the age 62 annuity reduction.

Also in 1985, Congress shocked the survivor community by repealing the 1984 legislation that would have barred any SBP Social Security offset for survivors who earned their Social Security benefits from their own work history rather than the military retiree's, as assumed under the original offset law. This only further highlighted the unfairness of the offset to thousands of widows who had pursued their own military or civilian careers.

Now, the second issue, another broken promise. When SBP was enacted in 1972, Congress set the premium formula in law with the intent that retirees' monthly premium payments would cover 60 percent, 60 percent of the long-term costs of the survivor benefits, with the government paying the remaining 40 percent. The formula was based on the program cost assumptions prepared by the Department of Defense actuaries concerning future inflation rates, pay raises, longevity of retirees, and survivors' longevity, et cetera.

But actual experience in later years proved the actuaries' original estimates had been far too conservative, as inflation was lower than predicted and retirees lived and paid premiums longer than anticipated. Because retiree premiums were locked into law and covered a greater portion of the program costs than had been projected, the government reaped an economic windfall, and found its share of the cost for the SBP program was much lower than anticipated. By 1988, retiree premiums covered 77 percent of the SBP costs, and DOD's share had dropped to 23 percent.

To its credit, Congress acted in 1990 to restore the intended 60/40 balance by reducing retiree premiums to 6.5 percent of retired pay, but the over-conservative actuarial assumptions have continued to work against, work against retirees for the last decade, with the result that the Federal subsidy for SBP has continued to decline. As of 2003, the government's share has dropped from 40 percent to 17 percent, leaving retirees once more paying a higher-than-intended share of the benefit.

The only fair way to restore the proper cost balance between the retirees and the government is to reduce the premium, or increase the SBP benefit. The former benefits primarily retirees, while the latter benefits the survivors. Since retiree premiums were reduced to restore the 60/40 balance in 1990, Congress should restore the government's intended 40 percent cost share by raising the benefit for survivors. My bill does exactly that.

Now, the third issue. It is the military-civilian inequity. No less compelling than the misleading of enrollees and the decline of the intended subsidy is the stunning disparity that exists between benefits and subsidy levels the government offers military versus Federal civilian survivors.

In contrast to the military SBP subsidy of, remember, 17 percent, currently, the SBP for Federal civilian employees under the post-1984 Federal Employee Retirement System provides a 33 percent subsidy. For those under the pre-1984 Civil Service Retirement System the subsidy is 48 percent, and at 48 percent, it is nearly three times as high as the military's.

Even more important, the Federal Employment Retirement System survivors receive 50 percent of retired pay, and the other survivors under the old Civil Service Retirement System receive 55 percent for life, with no benefit reduction, no benefit reduction, at age 62.

□ 1830

Although Federal civilian premiums are higher, military retirees pay SBP premiums for a far longer period of time than do most civilians because they are required to retire at a younger age. Because their mortality rates are not much different, this means that Federal civilian retirees have a far more advantageous benefit-to-premium ratio, as indicated on these charts.

Now, military retirees particularly pay SBP premiums about twice as long, twice as long as Federal civilians because they retire at younger ages, but their spouses' longevity is about the same. So military SBP enrollees see a lower return and a much lower government subsidy.

Remember Dottie? My bill is the needed fix for the three major inequities of the Survivor Benefit Plan. We must keep faith with the older retirees and with the survivors. We must restore the intended 40 percent Federal subsidy, and we must put SBP on an equal footing with its Federal civilian equivalent.

The Military Survivors Benefit Improvement Act of 2003, my bill, accomplishes these three things. For these reasons, the 33 military and veterans associations of the military coalition have endorsed my bill and have made its passage one of their top priorities in the 108th Congress.

H.R. 548 will balance equity and will balance cost considerations by phasing out the SBP age 62 benefit reduction over the next 5 years. And upon enactment, the age 62 benefit increase phase-in will begin at 40 percent on October 1 of 2004 and continually annually each year after through the year of 2007 until the benefits are restored to a full 55 percent as was the desire of Congress.

In order to offset part of the costs of the benefit increase, H.R. 548 authorizes an open season provision in the legislation that would allow more retirees to participate, generating SBP program savings, and significantly reducing the outlays.

Now, Congress has already acknowledged the need for this particular piece of legislation. The fiscal year 2001 Defense Authorization Act included a provision asserting the sense of Congress that there should be enacted legislation to reduce and eventually eliminate the different levels of SBP annuity for surviving spouses who are under age 62 and those who are 62 and older. But we have failed to follow through on that commitment for the last 2 years. It is time for us to fix this problem. Military widows and widowers have waited long enough in their fight for fairness. Now is the time for Congress to step up and enact relief for the aging survivors of our greatest generation. World War II and Korean War retirees, and the following generations of retirees and survivors, deserve no less than the SBP deal they were promised and the one the government already provides for other Federal survivors.

Now, a quick time line of H.R. 548. It was introduced on February 5 of 2003. And upon introduction, we had 118 bipartisan co-sponsors. That is 27 percent of the entire House of Representatives. On that day it was referred to the Committee on Armed Services. On February 28 of 2003, it was referred to the Total Force subcommittee, and on the same date executive comment was requested from DOD. Now, over 3 months later I urged DOD to act on this request.

On March 7 of 2003, a letter was sent to the gentleman from Iowa (Chairman Nussle) and the ranking member, the gentleman from South Carolina (Mr. SPRATT), of the House Committee on the Budget urging support to include budget authority in fiscal year 2004 in our budget resolution. On the letter there were 36 bipartisan co-signers, including numerous members of the Committee on the Budget, the Committee on Armed Services, and the Committee on Veterans Affairs. Today this bill has 268 bipartisan co-sponsors. That equates to 62 percent of this House.

All Americans should urge their Representatives to co-sponsor H.R. 548 and their Senators to co-sponsor Senate bill 451, introduced by Senator OLYMPIA SNOWE of Maine.

Again, who supports H.R. 548? The number one legislative priority of the Military Officers Association of America and the 108th Congress. Additionally, the bill is strongly endorsed by the Military Coalition, a consortium of 33 nationally prominent military and veterans organizations representing more than 5.5 million members of uniformed services, active, reserved, retired, survivors, veterans and their families; and there are many, many others that have sent letters of support for this bill.

There are others that are tracking similar legislation in this body. I would note tonight that H.R. 1726, the Military Surviving Spouses Equity Act, sponsored by the gentleman from South Carolina (Mr. BROWN), repeals the offset from surviving spouse annuities under the military Survivor Benefit Plan for amounts paid by the Secretary of Veterans Affair as dependency and indemnity compensation, or DIC. It provides for the recoupment of certain amounts previously paid SBP recipients in the form of retired pay refund. It was filed on April 10 of 2003. It has been referred to the Committee on Armed Services. It has 24 co-sponsors. And I want to commend my colleague, the gentleman from South Carolina (Mr. BROWN), for his efforts to restore equity to this aspect of SBP; and I am proud to be an original co-sponsor of this legislation.

H.R. 1653, sponsored by the gentleman from New Jersey (Mr. SAXTON), would change the effective date for the paid-up coverage under the military Survivor Benefit Plan from October 1 of 2008 to October 1 of 2003. It has 25 co-sponsors, and I am an original co-sponsor of this particular bill. It was filed on April 7, and it too has been referred to the House Committee on Armed Services.

A third piece of legislation, H.R. 1592, the Military Survivors Equity Act. It has been sponsored by my colleague, the gentleman from California (Mr. FILNER), and it would repeal the two-tier annuity computation system applicable to annuities under the SBP plan for retired members of the Armed Forces so that there would be no reduction in such an annuity when the beneficiary becomes 62 years of age. It was filed on April 3 of this year, referred to the Committee on Armed Services; and it has 5 co-sponsors as this time. Both the Filner bill and my bill fulfill the 2001 sense of Congress resolution to reduce and eventually eliminate this SBP reduction. Again, both these bills go a long way to fulfilling the sense of Congress and that resolution to reduce and eventually eliminate this SBP reduction.

Let me talk a little bit about the VA budget for 2004. Our service men and women who continue to fight for our freedom and security around the world must know that Americans are united in their support for them and for their safe return. We in Congress, along with President Bush, support not only the troops in the field but also the scores of veterans who have already given so much to this country.

Unfortunately, there have been false reports, false reports circulating that Congress is actually cutting veterans benefits. Here are the facts of the congressional budget for fiscal year 2004 relating to veterans spending. This budget will allow us to fully meet our commitments to more than 2.6 million disabled veterans and widows who rely on VA benefit checks every month. It calls for $33.8 billion in mandatory spending. This is the highest spending ever in this area. It also calls for $30 billion, a 12.9 percent increase in discretionary spending. Nearly 90 percent of this funding is for veterans' medical care. These are the indisputable facts of this year's Federal budget for veterans.

House Members, particularly the Republicans, along with President Bush, are committed to ensuring that those who have served their country with pride, with valor and dignity receive the best of America's appreciation. Any suggestion otherwise is simply untrue, is not supported by the facts.

During January, I had the opportunity to visit with some of our men and women in uniform stationed in Germany, Italy, and France. And I was struck by their professionalism and commitment to their assigned duties. They were proud to serve. It is just as simple as that.

Two weeks ago, I visited North Korea where freedom is nowhere to be found and democratic thought is oppressed. We are truly blessed to live in a world of freedom and democracy and where life, liberty, and the pursuit of happiness are abundant and, I would submit, many times taken for granted.

Defense of the principles and values that we hold so dearly as a Nation leads our men and women into conflicts around the globe. Many return home after giving the ultimate sacrifice in defense of such values. But to those who do return, we can never say thanks enough.

Today, as we continue to rely on our Armed Forces in the war against terrorism, we look to our veterans for their example of courage and sacrifice. It is their selfless service that has made our Nation strong and our world a better place. America's veterans deserve our respect, our deepest respect, and enduring appreciation, as do their spouses who choose to marry members of our armed services and to share with them all the joys and sacrifices of their active duty careers.

The Survivor Benefit Plan is not to military spouses what Congress had intended or what enrollees were promised. The program is not providing the level of protection military survivors need and deserve.

Retirees and survivors deserve no less in the SBP deal than they were promised. This Congress needs to step up and deliver what the aging survivors of our greatest generation retirees were promised. And we need to provide at the proper level the protection necessary for future generations of retirees. Congress must act to fix this problem now.

Mr. FILNER. Mr. Speaker and colleagues, I rise today to speak about a military widow in my Congressional District who has written to me about her Military Survivor Benefits Plan, known as SBP.

She writes: "My husband, who served in the Army for 20 years, died in July, 1995. I was then 61 years old. I was doing okay, paying my monthly bills and having enough left for groceries, but when I turned 62, I was notified my SBP was reduced from $476 to $302. What a shock! This was my grocery money they took from me. I hope that nobody else has to go through what I have. I cry every day and night. Not only have I lost my husband, I lost my money, my pride, my dignity." These words from the widow of one of our nation's veterans should be seared into the mind of every member of Congress.

Tomorrow, along with a number of my colleagues, I will be signing a discharge petition for H.R. 303, a bill to provide what is known as concurrent receipt to our disabled military retirees. If this law is passed, these retirees would be able to receive both their military retired pay, which they earned, and their VA disability compensation, which they deserve! As you know, both the House and the Senate passed concurrent receipt during the last session of Congress—and only in the Conference, was it diluted to almost nothing. We are again fighting to correct this grave injustice.

I am here today to state that there is another equally deserving group that we must include in this fight—the widows of our military retirees! Not only are many of our military retirees being denied their rightful benefits while they are alive, their spouses are being denied their rightful benefits upon their death.

The law to reduce the benefits received by military retired widows when they turn 65 is misleading and unfair. It is time to change this law! Most of these military widows are living on small incomes, but even people with substantial incomes would have a tough time coping with a reduction from 55 percent of their retirement benefits to 35 percent.

My bill, H.R. 1592, the Military Survivors Equity Act, would immediately eliminate this callous and absurd reduction in benefits that now burdens our military widows. My colleague form Florida, Mr. MILLER, has introduced H.R. 548, a bill that would increase the post-62 SBP annuity so that it reaches 55 percent of the military retired pay by 2007. Both bills fulfill the 2001 "sense of Congress" resolution to reduce and eventually eliminate this SBP reduction. The passage of this legislation is a top priority for the Military Officers Association of America, and the Veterans of Foreign Wars has also voiced their support for these bills. The Democratic Salute to Veterans and the Armed Forces legislative package, recently released, also calls for an end to this unfair reduction of benefits.

I encourage members from both sides of the aisle to work with Congressman MILLER and me to stop the pain and anguish we are causing our military widows and to show respect for the tremendous sacrifices made by our veterans and their families. We must pass this legislation to make this the compassionate and effective Survivors Benefits Plan it should be.

GENERAL LEAVE

Mr. MILLER of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my Special Order.

The SPEAKER pro tempore (Mr. FEENEY). Is there objection to the request of the gentleman from Florida?

There was no objection.

SUPPORTING HEAD START

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. WATERS) is recognized for 60 minutes as the designee of the minority leader.

Ms. WATERS. Mr. Speaker, I rise this evening to talk about a most important successful program that young children from very needy communities have been able to participate in for a long time now. But first I would like to thank the chairman of the Congressional Black Caucus for organizing this Special Order this evening.

Mr. Speaker, I rise in strong support of the Head Start programs, and I would urge all of my colleagues to oppose the radical changes that are being proposed by the Bush administration.

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I have taken time out this evening to be here with whatever colleagues will join me to talk about this program because it is a program that I love. I love the Head Start program. I love this program because I got involved with the Head Start program early on. I got involved at the inception of the Head Start program under the war on poverty. The country was very excited about the fact that under the war on poverty there was going to be this program, an early childhood education program, for people in poor communities and working communities that had not been able to send their young children to preschool programs.

At one time in this country, preschool programs were only available to people with money, to the wealthy, to people who were earning good incomes, but Head Start was envisioned under the war on poverty as a program that could help children in poor communities and working communities get a jump, get a head start so that they would be prepared for kindergarten. They would be prepared for school and education.

The researchers and the educators that came up with this idea understood that for young people to be successful or more successful in school, if they had this preschool experience, it would not only prepare them for reading and learning, but it would also build other kinds of qualities. Building self-esteem was an important idea of the Head Start program.

I went to work for Head Start as an assistant teacher. I went into the Head Start program, and little did I know that Head Start was not simply to be a place of employment for me, it changed my life. In Head Start, not only did I learn how to work with young people, to build self-esteem, I later became the supervisor of parent involvement and volunteer services where I worked with families, with mothers and fathers and grandparents, bringing them into the Head Start program and helping them to understand that they certainly could be in control of their children's destiny.

Head Start was a program that not only dealt with early childhood education, a preschool experience for young people, but it was a program that helped to deal with parenting and helping parents to understand how they could, in fact, get more involved and give more support to their children.

Also, this program spread out into the community, and it helped parents to understand how not only they could be involved with their children's early childhood education, but they could be involved in the community and helping the community to understand how to be supportive of education, interacting with the school boards and with other educators, talking about their children's experiences and what was going on in the homes and helping educators to be more in tune with how they could better give young people a head start.

Head Start is very special because it takes into consideration the whole child. This program understood early on that if we are to be successful with our young people in education, we must give them every advantage and every opportunity to learn. Before Head Start, children were going to school. They could not hear well, could not see well, had learning disabilities, had never had a physical examination, had never had an examination to determine some of the problems that were so obvious when one interacted with these young people.

When we opened Head Start, we brought in the families and the children, and they had full physical examinations. They had an opportunity to talk with counselors. If psychiatrists were needed, they had that, also. So we discovered that there certainly were learning disabilities; dyslexia, and other kinds of problems were discovered and they were worked on.

Health care opportunities and preventive care was available to these parents for the first time. So we were able to attend to these health needs so that the children could certainly be prepared for learning, and that is what happened in the Head Start program.

The Head Start program not only dealt with the health care needs and preventive health care for families, it helped families to understand how they could build self-esteem. We learned a lot about self-esteem and how parents and families could be involved in building that self-esteem. We talked to parents how to place the work of their children on their walls at home, the paintings and the drawings and all of those things that children felt proud about, but oftentimes parents and families did not know how important it was. We taught them how to display the work of their children, but we also taught them how to take materials in their homes and materials from in the environment, in the neighborhood, from the trees and from the shrubbery, and use them as art tools and how there could be art projects and children could learn to use the various skills that they had that they had not discovered.

Head Start not only took care of the health care needs, expanded the learning for parents to help them to build self-esteem with their children, Head Start went further than that. The Head Start program opened up opportunities in the classroom where children were introduced to books for the first time. Children in Head Start are taught to love books. They are taught that you never tear up a book; that you never throw a book around; that you take care of the books, that they are very important; and that one of the first steps in learning is to introduce kids to books and tell them how important it is, get them to respect the books and want to know what is in the books. Head Start opened up all of these opportunities to prepare children in that classroom for going into the public schools.

Mr. Speaker, Head Start has proven to be successful. When Head Start children first went to kindergarten, the teachers wanted to know who are these children and why are they so prepared. Head Start children went into the classrooms for the first time asking questions and participating. This program has worked. Someone has said, it was not me, if it is not broken, what are you doing trying to fix it?

Head Start does not need to be fixed. Head Start is a good, solid, sound program of early childhood education that brings in the parents and the community, and this idea of this administration to block grant the Head Start, throw it into the States, is an idea that we have to resist. We resisted the part of the first idea of this administration that wanted to take it out of Health and Human Services and place it into the Education Department.

We fought them back on that, but now they are intent on block granting the program to the States. I do not know about other States, but I know the State of California has a $38 billion deficit. We do not want to throw this program into a State that could easily take funds from Head Start to help make up for the lack of funds in other areas. We know what happens when we block grant programs. We give the States the opportunity to do what they want to do with the money, and so we are opposing that. We are strenuously opposing block granting this program.

For those of us who have had the experience of working in the Head Start program, of working with parents in the Head Start program, for visiting the Head Start programs, interacting with the children, the families and the teachers, we say no to the Bush administration, you cannot have Head Start. We will not let you undermine this program with these ideas that you have about throwing it into the States and giving it to the States under a block grant.

With that, I am going to yield to the gentleman from New Jersey (Mr. PAYNE) to share his thoughts on Head Start.

Mr. PAYNE. Mr. Speaker, let me thank the gentlewoman from California for framing the argument. I think she did an excellent job, the gentlewoman from California (Ms. WATERS), a person who helped organize Head Start parents and who for many years has held the importance of children as our most valuable possessions and has seen the success of this program, as have all of us, and that is why we stand here this evening, the Congressional Black Caucus, with our chairman the gentleman from Maryland (Mr. CUMMINGS), to discuss this question of Head Start.

I commend our chairman for organizing these Special Orders on issues that impact on the poorest of our people, the people with no voice, people in Appalachia and delta regions and in urban centers that are not represented by lobbyists, and so we are their voice. We are their spokesperson. We speak for those who have no voice, and so I am proud to say that Head Start should not be tampered with.

In 1964, President Lyndon Johnson gave his State of the Union address before Congress and our Nation with an announcement to declare war on poverty. This was a great declaration which caught the imagination of our Nation. In his declaration, he believed for the first time in history that poverty could be eradicated and offered his proposal, the Economic Opportunity Act, EOA, of 1964. Despite opposition that believed poverty was on the decline from the highs of the Great Depression, Johnson was undaunted.

He declared, "The Act does not merely expand old programs or improve what is already being done. It charts a new course. It strikes at the causes, not just at the consequences of poverty," and that is where the Head Start program is so important. It strikes at the causes of poverty to deal with poverty elimination in this country. "It can be a milestone in our 180-year search for a better life for our people," said Lyndon Baines Johnson.

After the bill was signed into law that very year, the Office of Economic Opportunity was created to fulfill its mission. At the same time, a pediatrician by the name of Dr. Robert Cooke was asked to head a new office to lead a steering committee of specialists in all fields to discuss what should be done for young people to bring them out of poverty and to assist them in their early lives. Their recommendations, known as the Cooke Memorandum, outlined what we now know today as the Head Start program.

Launched as an 8-week summer program, Head Start was designed to help break the cycle of poverty by providing preschool children of low-income families with a comprehensive program to meet their emotional, social, health, nutritional and psychological needs. That is why this program is so important. Head Start is to break the cycle of poverty because it deals with emotional, social, health, nutrition and psychological needs.

Since its inception, Head Start has served over 20 million children. Today, it is a full-day, full-year program providing preschool children of low-income families, working families, with a comprehensive program to meet their emotional, social, health, nutritional and parental support. Head Start focuses on the whole child, extends to recognizing the importance of strengthening the family, not necessarily the institution but the family.

Throughout its inception, Head Start has included parents. Parents sit on committees to select teachers. They help with the curriculum, this is the participation, and parents learn through this program. Head Start has included parents in both their child's education and in their membership to the Head Start Policy Council, which serves as a vital link between the community and public and private agencies.

Parental involvement is a critical and integral part of this program. Economically disadvantaged families are no longer seen as passive recipients of service but, rather, as active, respected participants and decision-makers, and many of them have moved on to complete their education, and they have become leaders, and they have become elected officials, and they have become stalwarts in their community. That is why Head Start is so good: because it takes the total family.

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Today we stand here to support our Head Start program, and oppose H.R. 2210, a bill which will dismantle the program as we know it, hurting the very ones we should be helping, our Nation's children. If the bill were enacted today, it would mean changing the current Federal to local partnerships to a State optional plan. As indicated by the gentlewoman from California (Ms. WATERS), a State optional plan is another way of saying block grants.

The Federal Government would give States the authority to create their own preschool programs without the same performance standards as Head Start and without additional funding. Nationwide, States' commitment to preschool is $2 billion. It is much less than the Federal contribution of over $6 billion. In light of the $38 billion shortfall in the State budget in California, $5 billion in New Jersey, in excess of $70 billion in shortfalls in State budgets across the Nation, we cannot leave the fate of our children in the hands of States struggling to meet their other needs.

The impetus of this bill, the administration's Head Start proposal, states a need to better coordinate preschool programs in the States. But Head Start already coordinates with child care and prekindergarten programs. According to research done by the Center for Law and Social Policy, many Head Start agencies have formal agreements with school districts around the country to coordinate transitional services for children and families. Coordinating will not help the fact that Head Start is severely underfunded. You can coordinate all you want; you cannot get more with a limited amount of funds. So the problem is not coordination; it is the lack of funding.

There are a half million children in the country that are eligible to attend Head Start today. That is three out of five children, and they are not all being covered today.

In conclusion, I have offered a resolution, H. Res. 238, a resolution expressing support for the Head Start program which has had a positive impact on the lives of millions of children nationwide. The resolution not only recognizes the contribution of Head Start; it also supports maintaining its current designation at the Department of Health and Human Services. With the average child care cost in New Jersey at over $5,000 a year, thousands of children across my State and others would not have access to an exceptional program that has them ready to learn by the time they enter kindergarten if Head Start were not there to serve them. Terms of such State options and coordination will mean a shortfall and this 38-year program does not need to have this fate. We need to move towards full funding of Head Start, furthering the quality of this program, preserving the focus of comprehensive services to children and their families. We need to support Head Start as it is today.

Ms. WATERS. Mr. Speaker, I thank the gentleman from New Jersey for that brilliant presentation on Head Start, and I yield to the gentleman from Maryland (Mr. CUMMINGS) for this important discussion on the floor, the esteemed chairman of the Congressional Black Caucus.

Mr. CUMMINGS. Mr. Speaker, I thank the gentlewoman from California (Ms. WATERS) for her passion on this issue and so many other issues.

Just the other day, the gentlewoman stood in the meeting of the Congressional Black Caucus and poured her heart out with regard to her concerns for our children. I think everybody in the room could feel that passion.

One of the things that I think hit us real hard was we all realize, and I know the gentlewoman from California (Ms. WATERS), who has been standing up for these kinds of issues over and over again, time after time, we all realize that our children are the living messages we send to a future we will never see. So tonight the Congressional Black Caucus joins together, and I want to thank all members of the caucus. We come to stand up for our children. As the gentleman from New Jersey (Mr. PAYNE) said, they are not just children that may be found in South Baltimore or West Baltimore, but they are the children that will be found in Appalachia and poor regions throughout our country; and when I say poor, I mean economically poor.

Since 1964, Head Start has given nearly 19 million American children the educational, nutritional health, and related services that are essential to early childhood development. The ongoing Family and Child Experiences Survey has consistently documented the success of this national partnership for America's future. If Head Start did not exist, we would have to invent it. This year the survey again reported that teachers in Head Start centers are effectively preparing our children for school.

I note this fact because some critics would have us believe otherwise. Throughout this country, Head Start is a bridge to the future being constructed by local communities with help from their national government; and that is what we should be all about, communities coming to the aid of their children, those children that come from their womb and whose blood is running through those children's veins, trying to lift them up so they can be all that God meant for them to be. That is what the national Family and Child Experiences Survey tells us. I can validate the survey's conclusion because Head Start funding is making an important and positive difference in the lives of more than 10,000 Maryland children this year.

Many of these children live in my hometown of Baltimore. Some attend a wonderful Head Start program at Union Baptist Church just down the street from my home. Every time I pass that Head Start center, I feel a warmth and I see a beacon of light in a very, very depressed area. When I visit these children and their teachers and parents in Head Start programs throughout the Baltimore area, I am reminded of the fact that they are looking at our children and seeing all of the wonderful things that are within. And these teachers are just like a sculptor who looks into a piece of wood and sees a wonderful, wonderful piece of art and understands that he has to use his tools to carve and bring out that piece of art. It is the same thing with our wonderful and very dedicated Head Start teachers.

I am deeply gratified that this year more than $76 million in Head Start funding will give Maryland children a head start in life. It is a moral and practical investment in our future.

Nationally, we know that every dollar we spend on Head Start saves taxpayers between $4 and $7 down the road. For all the good that Head Start is doing, however, we must not lose sight of the fact that Head Start could be doing so much more if the program were adequately funded.

This is what the gentlewoman from California (Ms. WATERS) has been talking about over and over again. Today Head Start only serves approximately 60 percent of the children who are eligible. Funding was raised to almost $6.7 billion for fiscal year 2003; and for fiscal year 2004, the administration has proposed another small increase to just under $6.8 billion.

These small increases in funding that we have achieved in recent years represent positive and important steps forward. Nevertheless, as we consider reauthorization this year, we should step up to the plate and finally give Head Start the funding that would allow every eligible child to participate. We should guarantee a head start in life to every American child who needs our help.

The Nation's teachers, through their National Education Association, stand full square behind this vision. I realize that extending a head start to every deserving child would be very expensive. But I say to Members that when I visit the jails in Baltimore and I see our children in shackles and handcuffs and I look at their reading levels and the average reading level is less than a fifth-grade reading level, that tells me something.

So we must ask the question is it better to pay later when our children are locked up and not achieving the things that they should be achieving, or is it better to invest in them when they are growing up in their formative years? The estimated cost would be an additional $29 billion over the next 5 years. Think about all this Nation would receive in return for additional investment in our future. We would be living in a country that made a meaningful commitment to truly leaving no child behind. We would be saving money in the long run because of reduced costs for special education, social services, teen pregnancy, juvenile crime, and other problems down the road, a true head start for every American child. This is a vision that all Americans can support.

We have been working hard during my years of service in the House to make Head Start even better. We have set strong national standards for Head Start that complement the power of Head Start's local Federal partnerships. We have maintained our traditional emphasis on substantial parent involvement. We are succeeding.

That is why we should resist Republican efforts to transfer management of Head Start to the States. The bill proposed by my Republican colleagues with the supposed purpose of enhancing the schools' readiness of low-income and disadvantaged students is grossly misleading. The supposed demonstration project being proposed will block grant funding of Head Start to certain States. I maintain this will not enhance the school readiness of students, but is instead a thinly veiled attempt to weaken and dismantle this very powerful and significant Federal program.

When I think of the Republican proposal, a certain quote by Reverend Joseph Lowery comes to mind. Reverend Lowery once asked, "Will America lose her soul for political chicanery? Would you give a balanced budget on the backs of the poor? Would you have welfare reform for the poor while the rich corporations continue to enjoy tax exemptions and subsidies? America, what would you give in exchange for your soul? Would you reduce school lunches for poor children in exchange for your soul?"

Well, Mr. Speaker, I would ask one more question in addition to those posed by my friend, Reverend Lowery. Tonight I ask America if she would dismantle one of a few Federal programs that gives poor children a hand-up in exchange for her soul. Facing crippling budgetary crises, the States should be concentrating on their traditional K–12 education role. Let us help the States succeed in K–12 education first before we consider turning early childhood education, nutrition, and all of the other services Head Start provides over to State governments.

Local leadership has always been the foundation of Head Start's success. Local leadership, high standards, and increased Federal support can assure every American child a head start in life. Our children are indeed our living message that we send to a future we will never see, and it is our duty in this Congress to assure that the living messages this generation sends to America's future are filled with competence, confidence, and hope.

Mr. Speaker, I thank the gentlewoman for her leadership.

Ms. WATERS. Mr. Speaker, I thank the gentleman from Maryland (Mr. CUMMINGS) for his passionate plea to our colleagues not to allow this program to be dismantled, and I yield to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, first, I want to thank the gentlewoman from California (Ms. WATERS) for her leadership and really for her guidance based upon her remarkable experience with Head Start and for her passion and for her commitment to children who really otherwise would have very few opportunities to succeed.

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I also want to thank the gentleman from Maryland, chairman of the Congressional Black Caucus, who once again is demonstrating his enormous leadership by sounding the alarm in terms of this administration's assault on children.

We have come together tonight to talk about an issue really that is about our future. It is about the future of our children. So what else could really be more important? Head Start has been an enormously successful program since its inception in 1965 because it continues to offer comprehensive programs for children and families. Head Start has enabled these children to enter kindergarten on an equal footing with students who were really born into wealthier socioeconomic circumstances. Over the last four decades, Head Start nationwide has reached an unbelievable number of students. Since 1965, over 20 million children across the country have participated in Head Start programs. Last year alone, Head Start and Early Head Start programs worked with more than 900,000 children in 2,590 local programs. In my own hometown of Oakland, California, over 1,600 children are part of our area Head Start programs. But we are still not really reaching enough kids. On any particular day, 300 to 400 children are on a waiting list for the Oakland Head Start centers. In fact, all 30 centers have children on a waiting list, meaning that all areas are being affected; 300 to 400 children, as I said, are far too many to have to begin school already behind. In fact, one child on a waiting list is really one too many, one too many in terms of a young person not afforded access to early participation in such an enormously successful program.

Yet again the Bush administration is dismantling another excellent domestic program by trying to reduce the effectiveness, and that is what this is going to do, reduce the effectiveness of Head Start. They are trying to radically change what has really been a radically effective program. President Bush's plan to reform Head Start would systematically, basically, and probably will really gut Head Start. For instance, the President has called for moving Head Start from the Department of Health and Human Services to the Department of Education. The administration wants to move Head Start from HHS because they believe preschoolers should be judged solely by academic standards. President Bush wants to begin a national reporting system of literacy testing, mind you, literacy testing for our 4-year-olds. How ridiculous and how sinister this is.

Administrators in the city of Oakland's Head Start program tell me that moving Head Start to the Department of Education will mean the end of all of the support services and the component services that make Head Start so successful. When parents and children in Oakland and throughout my own congressional district heard of this proposal a couple of months ago, several hundred people participated. These were men, women and children, families, participated in a rally, all of them saying in no uncertain terms, "If it ain't broke, don't fix it." This will be, and I heard this over and over again, the end of health services; and in a country where our health care system is totally broken, to eliminate health services for young people which they receive through the Head Start program is really, really wrong. It is wrong because, again, the President and the administration's view is that it should be only a literacy program.

By turning Head Start into a block grant program, the President claims that Head Start will be more flexible while ignoring the fact that one of Head Start's virtues is that it already has a great deal of flexibility on a local level. Yet Head Start is, and should continue to be, a national program. We really do not need 50 different administrations in 50 different States. We do not need these bureaucracies that will take money from children to go to State budgets and overhead costs. Block granting Head Start funds is really a particularly bad idea this year because our States are experiencing such huge budget deficits. It will be especially tempting for Governors and State governments to really try to tap into this money. That is not to say that State governments will misappropriate money, it is just a real acknowledgment that State officials will be tempted to use this money to offset their deficits. How do we know that this money would be used for Head Start? This really puts our children's future at risk at the whim of State budgets. This is just downright wrong.

With these proposals, the Bush administration is demonstrating once again their disregard for our children and our families, those that do not have a lot of money. They are demonstrating their real contempt for working families struggling just to make it on wages that are not enough to raise them up above the poverty level. While the administration devastates Head Start, they simultaneously sign a tax cut primarily for the wealthiest in this country. They spend billions of dollars on war, at the same time not fully funding education, cutting child care, health care, job training programs and housing. We cannot let the President and this administration dilute what has been one of the most successful programs over the last four decades. We must stop the President's assault on Head Start. We must stop this Congress' assault on Head Start.

I encourage our colleagues to join all of us, the gentlewoman from California (Ms. WATERS), the Congressional Black Caucus, all of us in this resistance. Our children deserve us to stand up for them at least this one time.

Ms. WATERS. I thank the gentlewoman from California for her longtime concern and actions on behalf of children. I thank her for taking time out of her schedule to be here this evening.

Mr. Speaker, I yield to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. I thank the gentlewoman for yielding and to the members of the Congressional Black Caucus, I thank them for hosting these educational hours to educate the American public as to what is going on in the people's House.

To me, the cold-hearted attitude of the House Republicans can be summed up in a statement made last week by the House majority leader. When asked about bringing up the child tax credit bill, he said, and I quote, "There are a lot of other things that are more important than that."

I humbly ask my colleague on the other side of the aisle, what exactly on your agenda is more important than the protection of the children in this Nation? In my State of Florida alone, the child tax credit package benefits over a million children. Once again, the Republican leadership is catering its agenda to the rich, after deciding just today that the only way they would agree to take up the child tax credit bill is by adding on an $80 billion tax credit for the rich in the bill. Even though their selected leader, George W. Bush, is urging them to take up a clean bill and even though they follow his leadership in everything from tax cuts for the rich to foreign policy, when it comes to funding children's programs, they ignore even the plea of the White House. In addition, the House Republican leadership is planning to dismantle Head Start, one of the best educational programs for children of working-class families, by block granting program funding.

There was $900 million sent down to Florida Governor Jeb Bush. Yet he put the money in the bank as opposed to helping the people of Florida. Block grant money is not the way to go. In the past, everyone was telling me, just send the money to the State. In the area of transportation, just send the money to the State. Education, just send the money to the State. They will know best what to do with it. I can tell you, they are singing a different tune now. When I talk to the mayors or the county commissioners, they tell me, Whatever you do, don't send that money to Tallahassee, because we will never see a dime of it. Whatever you do, don't block grant the money and send it to Tallahassee. It is a deep hole and they never see a dime of the dollars that come from the Federal Government down to the State.

The Republican Head Start block grant plan will end Head Start as we know it, one of the most successful programs in the history of this country. Even the new limited eight-State block grant is a risky deal. Why risk turning a successful program over to States with unproven expertise and without the Federal program quality standard requirements and oversight that are demonstrated to increase school readiness?

My colleagues, there is an old expression which really applies to this issue: If it ain't broke, don't fix it. Head Start kids are very prepared to do better in school than low-income children who do not receive Head Start. In addition, it has been proven that Head Start narrows the readiness gap between Head Start kids and kids from the more affluent side of the tracks. Head Start should help children arrive at school more ready to learn, and it does. But for the administration to expect Head Start to completely protect children against the effects of poverty is just plain stupid. Moreover, block grants do not work. Block grants gut the quality of comprehensive services. And this block grant plan is particularly bad and requires States to provide a bunch of services but does not require the same nature, extent or quality of them. None of the 13 areas of Head Start performance standards that lay out the comprehensive services and high level of quality that have made

Head Start successful are even mentioned in the block grant. In fact, the block grant emphasizes comprehensive services being met through referrals of families to outside service for assistance, which would end up encouraging States to provide a much lower level of service.

In addition, the block grant does not specify any minimum requirements for teacher education levels, for child-staff ratios or for curriculum content. It simply calls on each State to come up with their own school standards and their own ways of measuring progress against those standards. I can go on and on and on as far as Head Start is concerned. I will submit my statement for the RECORD. But I do have a question for the gentlewoman from California.

When we passed, when the House passed—I did not vote for it—the $350 billion, $20 billion was earmarked to the States. Can you explain what was the purpose of the $20 billion that went to the States? Was it to put in the bank and use for a slush fund next year to, I guess, enhance the chances of the Republicans to continue to practice reverse Robin Hood, stealing from the working people to give tax breaks for the rich? What was the purpose of that $20 billion?

Ms. WATERS. I thank the gentlewoman for her presentation this evening, not only on Head Start but the discussion about the child tax credit and helping to unveil what is really going on in this administration. The question that you raise is one that I am sure many of our colleagues would like to respond to this evening, and if they were here, they would tell you that many folks worked very hard to get some assistance to the States because many of the States are in deficit positions. They are cutting programs. They are cutting health and education. They are cutting the school week in some States. In 2003 in the United States of America, the school week has been cut down from 5 days to 4 days.

Members of this Congress are shocked on both sides of the aisle about the kind of cutbacks and the deficits that we have in the States. That money is not meant to be banked. It is meant to offset the debt and the cuts that are being experienced by these States, and certainly though we did not support that tax bill for good reasons, that part of that bill that sends the money to the States is a part that many of us do support because we want to make sure that we do not have these hardships experienced by our constituents because of cutbacks.

Ms. CORRINE BROWN of Florida. That is an example of what is wrong when you send a block grant to the State and you do not specify.

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My understanding in talking to the different committees, it was specified that this money would be used to help the States in their struggle.

I do not know whether the gentlewoman saw it, but last week on the national news, on "Dateline," they discussed the number of students, hundreds of thousands of students that are failing the tests in Florida, third graders who were being held back, thousands of students not graduating, because we came up with additional educational standards. And I must quickly say that many of the schools, the "F schools" or the failing schools, have been the schools on the other side of the railroad tracks, the schools on the other side of the bridge, that have never gotten adequate funding.

So when we set standards, and the support was not there to work with the schools, many of the children do not do well. We look at the State of Florida as we speak. We do not have summer school programs in place. Could some of that money be used for summer schools, for some of the cuts that have occurred in the school system to augment the cuts in the programs for educational support for the school system?

Ms. WATERS. I would certainly think so. Again, we talk a lot about education being our number one priority, about children being our number one priority. But there are some States that are not putting the money where their mouths are, and we are not giving the children of this Nation the kind of support that certainly a rich Nation such as ours should be giving.

I think this is a prime example of what we are talking about this evening, the Head Start Program. It is underfunded, children on waiting list, only a 2 percent increase; and it is a proven program of success that not only helps to prepare our kids for kindergarten and for school, but it also helps to make parents stronger in their support for their children. The gentlewoman is absolutely correct; that money could be used for educational purposes.

Ms. CORRINE BROWN of Florida. I thank the gentlewoman once again for bringing this subject area to the American public.

Wake up, America.

To me, the cold hearted attitude of House Republicans can be summed up in a statement made just last week by the House majority leader. When asked about bringing up the Child Tax Credit bill, he said, and I quote: "There are a lot of other things that are more important than that . . ."

Now, I humbly ask my colleagues on the other side of the aisle, "what exactly, on your agenda, is more important than the protection of the children of this nation?" In my state of Florida alone, the Child Tax Credit package benefits over a million children.

And once again, the Republican leadership is catering its agenda to the rich. And after deciding just today that the only way they will agree to take up the Child Tax Credit bill is by adding on an $80 billion tax credit for the rich to the bill. And even though their selected leader, George W. Bush, is urging them to take up a clean bill, and even though they have followed his lead on everything from tax cuts for the rich to foreign policy, when it comes to funding children, they ignore even the plea of the White House.

In addition, the House Republican leadership is planning to dismantle Head Start, one of the best education programs for children of working class families, by block granting program funding.

You know, there was $900 million sent down to the Florida governor Jeb Bush, yet he put the money into the bank, as opposed to helping the people of Florida. Block grants is just not the way to go. In the past, everyone was telling me, send transportation dollars to the states, send the education dollars to the states, the states can best figure out how to use it. They're not telling me that now, when I talk to the Mayors in Florida, or to the County Commissioner, they tell me that, "whatever you do, whatever you do, don't send the money to Tallahassee, because we will never see a dime of it." That is what they tell me, they say it gets lost in Tallahassee, and it never trickles down to the areas, to the first responders, to the Head Start programs, it is just an empty hole.

The Republican Head Start block grant plan will end Head Start as we know it. Even the new limited 8-state block grant is risky. Why risk turning a successful program over to states with unproven expertise and without the federal program quality standard requirements and oversight that are demonstrated to increase school readiness.

My colleagues, there is an old expression which really applies to this issue here: if it ain't broken, don't fix it. You know, Head Start kids are very prepared and do better in school than low-income children who don't receive Head Start. In addition, it's been proven that Head Start narrows the readiness gap between Head Start kids and children from the more affluent side of the tracks. Head Start should help children arrive at school more ready to learn—and it does; but for the administration to expect Head Start to completely protect children against the effects of poverty is just ridiculous.

Moreover, block grants don't work. Block grants gut the quality of comprehensive services. And this block grant plan is particularly bad, and requires States to provide a bunch of services, but doesn't require the same nature, extent or quality of them. None of the thirteen areas of Head Start performance standards that lay out the comperhensive services and high level of quality that have made Head Start successful are required or even mentioned in the block grant. In fact, the block grant emphasizes comprehensive services being met through referral of families to outside services for assistance, which would end up encouraging States to provide a much lower level of services.

In addition, the block grant does not specify any minimum requirements for teacher education levels, for child-staff ratios or for curriculum content. It simply calls on each State to come up with their own school standards and their own ways of measuring progress against those standards. But the problem is that those standards are not clearly defined in the block grant and vary greatly in content and quality among the States. As it is now, Head Start education standards are thorough and strongly based in standards of education, and having States come up with their own standards with no direction and no requirements will only serve to weaken education standards.

Lastly, block grants weaken oversight and evaluation. States that meet the eligibility criteria have their applications deemed approved by the Secretary by default—which means that there won't be any oversight or evaluation of the quality of the State plan. In addition, there is no minimum threshold required by States' internal evaluations of their programs—they can just go ahead and define it on their own. No States monitor their programs as closely as Head Start is monitored. And under the block grant, outside evaluations of the State programs will likely not happen very often. Under the Republican plan, there will be no more compliance reviews with regard to national performance standards. Gone will be meaningful Federal oversight and monitoring.

Why, why, why, the Republicans are changing something that works, just does not make sense. Once again I repeat: if something isn't broken, don't bother fixing it.

Ms. WATERS. Mr. Speaker, I would now like to yield to the gentlewoman from California (Ms. WATSON), an educator with a background in education, to make her presentation.

Ms. WATSON. Mr. Speaker, I want to thank the gentlewoman from California for allowing me time in this hour to raise my concerns about the current dismantling of Head Start.

The plan to block grant Head Start will damage the integrity and the efficiency of the program. This recent tax cut does little to safeguard our children's well-being. We must make better investments in our children and our future instead of stuffing the pockets of millionaires.

An investment in our children equals an investment in our Nation's strength, security, and future. The economic plans and focus of the administration must be balanced between future consequences and immediate gain. We must also continue to keep the facts at the forefront of the debate so that the administration and Congress can make policy decisions based on the facts, rather than on misguided interpretations and subjective judgments.

Head Start is one of the most successful anti-poverty programs ever created. It has helped millions of children prepare for school, become productive students, and improve their lives. However, drastic changes proposed by the Bush administration will erode the effectiveness of this program.

One proposal, to provide funding in block grants, will actually result in less money for Head Start. Changing the funding formula to block grants creates a daunting scenario for Head Start. Faced with the unceasing pressure of balancing their State budgets, some Governors already have indicated that they are willing to accept the administration's offer to opt in the block grant proposal. Governors may be able to use this money to cover budget deficits in their States; but overall, it will do serious damage to the program.

My home State of California receives over $800 million for Head Start. There is a $38 billion budget deficit. With the block grant proposal, California has the option to use that $800 million to close this gap.

There are other scenarios. Assume that six to eight States, representing 10 to 15 percent of Head Start dollars, elect to opt in and set up their own programs. That puts 148,931 current Head Start children at risk. If an additional eight to 10 States follow this lead, another 394,150 children will be placed at risk. It goes on and on, until all of the children are left behind without the Head Start program.

At present, only three States provide all the services needed to get at-risk children ready to learn. These States provide the same set of eight comprehensive services required of Head Start through state-run, prekindergarten programs.

Mr. Speaker, 30 States have such programs, yet only three are able to meet the standards that they created in order to prepare our children for school. Now it appears we want to give all 50 States this responsibility, knowing full well that these States have not proven that they are able to do so.

States will be able to lower teachers' standards; they will not be required to involve Head Start's 800,000 parent volunteers; and, above all, States will be forced to reduce the overall number of Head Start children served. States have already been forced to cut early childhood programs outside of Head Start due to the budget crunch. This will be a great disaster and disservice to our Nation's youth.

Another proposal, to remove Head Start from the jurisdiction of the Department of Health and Human Services and place it under the Department of Education, will undermine the core philosophy of Head Start. Since its inception, Head Start was designed to help the whole child. Current services offered through DHHS cannot be carried out as effectively as under the Department of Education.

There is no need to change a program that has proven to be so successful. In 1998, Head Start supporters sought to ensure that at least 50 percent of all Head Start teachers have an associate's degree or better by 2003. The program has met this goal. The Heads Up Reading Network was established to train Head Start and other early childhood teachers across the Nation. These are improvements that we hope to establish through the No Child Left Behind Act. We have not yet met these goals, but Head Start has met its goals internally.

Mr. Speaker, I encourage my colleagues to maintain Head Start as it is. It is a success story. It is the duty of Congress to protect the current and future security of our Nation, and we must start with our children. And we must help the children of our migrant workers that are at risk, our youth and their parents. By supporting Head Start in its present form, we will be doing just that, securing our Nation by securing our children as they start their educational program.

I thank the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I thank the gentlewoman from California.

In closing, Mr. Speaker, you have heard brilliant presentations, comprehensive presentations from the members of the Congressional Black Caucus here this evening who have identified the value of Head Start: the fact that Head Start provides nutrition, the fact that it provides physical examinations, the fact that it prepares young people for education, the fact that it involves parents and gets them involved in helping to determine the educational destiny of their children, the fact that Head Start gets communities involved.

Mr. Speaker, this cannot be taken lightly. Head Start is indeed a successful program that has been in this country now for 38 years. Many children and families have benefited from this program, children from all over America, from communities all over this country. We value Head Start, and we appreciate all of those who had the vision to bring this valuable program to this Nation.

Again, we think that this program should not be tampered with. There is no reason to want to block grant this program. We would like to think that it is just a misunderstanding, that this administration really does not understand the risk that they are creating by tampering with this program and block granting it to the States.

Let me just tell you, Mr. Speaker, in addition to not having the requirements to go along with block grants, the one thing that strikes me as extremely detrimental to this program is the fact that nowhere in this block granting does it require that the parental involvement component remain with Head Start.

Many of us wax eloquently about parent involvement and family values and what it means for parents to be involved with their children and their education, but yet we see an attempt to change a program that has a strong component of parental involvement, an attempt to dismantle a program that has worked.

Mr. Speaker, Head Start will be reauthorized this year. It will not have all of the money that it needs. It will only have a small increase. There will still be children waiting to get into Head

Start. But one way or the other, I know that this program is going to be reauthorized. I hope that it is done in the traditional, bipartisan fashion in which our children are not left behind.

However, H.R. 2210 suggests that we are off to a very bad start. It would be a tragedy if the Republican leadership chooses to try and force this bad bill through for partisan political purposes. We can and must do better than H.R. 2210. I urge the Republican leadership to heed the will of the American people and produce a bipartisan bill that both sides of the aisle can support. Millions of lives depend on Head Start, and we cannot afford to let them down.

This Congress has been criticized, Members on the opposite side of the aisle, who somehow cut out the poorest and most vulnerable families from the tax bill. We cannot afford to continue to have the kind of criticism and distrust that is mounting of this Congress over what appears to be an assault on families and children.

We have the issue of the child tax credit before us. It is shameful what has been done. I do not think that all of the Republicans on the other side of the aisle support what has been done. I do not think that they believe in what some of the leadership is saying about poor people not deserving to have this tax break.

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I believe that there are those on the other side of the aisle that will join with us on this side of the aisle and put an end to this attempt to undermine our Head Start program.

Mr. Speaker, I am so blessed, and I feel so blessed, to be able to be here tonight to speak on behalf of the children and to stand up for Head Start. I feel so blessed to have been a part of Head Start and to have learned what it means to invest in our children. I feel so blessed to have learned that we can indeed make our children successful in their education experience.

Many of those children who are being left behind are being left behind because they do not have the value of an early childhood education. I am delighted to have been a part of this evening.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I have come to the floor this evening to express my concern about the lack of funding by this administration's to our nation's education programs and I wanted to share with my colleagues how this budget matches up with the priorities of the people I represent.

On yesterday, in a beautiful ceremony in the Rose Garden, President Bush hosted an event marking the progress, significant progress toward making sure every child in public schools gets a quality education.

Now, I am sure that made a great story on last evening's news, but Head Start is more than just news for the nearly 20 million families who have benefited from the program. It is real life. Head Start provides the most comprehensive program for children of low income, working families. In a recent study by the Family and Child Experiences Survey, the findings concluded that children are ready to learn. Another study concluded that Head Start narrowed the gap between disadvantaged children and their peers in vocabulary and writing skills during the program year.

I am here today because of this Administration's plans to dismantle this vital program by turning it over to struggling states. It baffles me why such a move would be necessary. Currently, the program provides federal grants directly to community organizations, allowing for local flexibility and strong federal oversight of Head Start's quality. If Head Start is turned over to states' during this time of economic uncertainty, it is very likely they will use Head Start funding to fill gaps in their own programs.

Mr. Speaker, the Head Start program not only involves the child but also recognizes the importance of the family. Head Start has included parents in both the child's education and their membership in the Head Start Policy Council. I have received numerous letters from teachers, parents, and other employees of the Sunnyview and Greater Head Start locations in my district of Dallas, Texas. Each one pleading for additional funding and urging the program to be kept in its current structure. One parent writes, "they teach them how to write, count, their ABC's, to draw, to be responsible . . . . . Many families feel comfortable with this program because they can come in and volunteer in the classes and see what the children are learning."

Mr. Speaker, in closing I would hope my colleagues on the other side of the aisle would consider listening to the countless voices of children that Head Start prepares for the foundation of their critical learning years. How can we deny them a chance at a decent future? I submit to you, that we cannot. It is our duty as federal lawmakers, that every child is prepared with a quality education so they can be productive citizens of this nation.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1115, CLASS ACTION FAIRNESS ACT OF 2003

Ms. PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 108–148) on the resolution (H. Res. 269) providing for consideration of the bill (H.R. 1115) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION RELATING TO CONSIDERATION OF SENATE AMENDMENTS TO H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Ms. PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 108–149) on the resolution (H. Res. 270) relating to consideration of the Senate amendments to the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. EMANUEL (at the request of Ms. PELOSI) for today until 3:15 p.m. on account of official business in the district.

Mrs. BIGGERT (at the request of Mr. DELAY) for today until 3:00 p.m. on account of traveling to Chicago, Illinois, with the President.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. ENGEL) to revise and extend their remarks and include extraneous material:

Mr. CUMMINGS, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. CROWLEY, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. LAMPSON, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mr. SANDLIN, for 5 minutes, today.

Mrs. CAPPS, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

The following Members (at the request of Mr. BARTLETT of Maryland) to revise and extend their remarks and include extraneous material:

Mr. BURTON of Indiana, for 5 minutes, June 18.

Mr. HOBSON, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, June 12.

Mr. GUTKNECHT, for 5 minutes, June 17 and 18.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. KINGSTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BARTLETT of Maryland and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,170.

ADJOURNMENT

Ms. PRYCE of Ohio. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Thursday, June 12, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2622. A letter from the Under Secretary, Department of Defense, transmitting a report on the retirement of Lieutenant General Leslie F. Kenne, United States Air Force, and her advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2623. A letter from the Secretary of the Navy, Department of Defense, transmitting notification concerning the Department of the Navy's proposed transfers, pursuant to 10 U.S.C. 7306; to the Committee on Armed Services.

2624. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Food Additive Permitted in Feed and Drinking Water of Animals; Feed-Grade Biuret [Docket No. 02F-0327] received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2625. A letter from the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Emergency Reconstruction of Interstate Natural Gas Facilities Under the Natural Gas Act [Docket Nos. RM03-4-000 and AD02-14-000; Order No. 633] received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2626. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification regarding an explosion in the Vinnell Housing Compound in Riyadh, Saudi Arabia; to the Committee on International Relations.

2627. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the texts of the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, Recommendation No. 193 Concerning the promotion of Cooperatives and Recommendation No. 194 Concerning the List of Occupational Diseases and the Recording and Notification of Occupational Accidents and Diseases; to the Committee on International Relations.

2628. A letter from the Secretary, Department of the Interior, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2002, through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2629. A letter from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting the Administration's final rule—NARA Facilities; Phone Numbers (RIN: 3095-AB20) received June 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2630. A letter from the Director, OGE, Office of Government Ethics, transmitting the Office's final rule—Privacy Act Rules (RIN: 3209-AA18) received June 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2631. A letter from the Assistant Secretary of the Interior, Office of Hearings and Appeals, Department of the Interior, transmitting the Department's final rule—Special Rules Applicable to Public Land Hearings and Appeals; Grazing Administration—Exclusive of Alaska, Administrative Remedies; Grazing Administration—Effect of Wildfire Management Decisions; Administration of Forest Management Decisions (RIN: 1090-AA83) received June 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2632. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Blackburn's Sphinx Moth (RIN: 1018-AH94) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2633. A letter from the Acting Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Preble's Meadow Jumping Mouse (Zapus hudsonius preblei) (RIN: 1018-AI46) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2634. A letter from the Acting Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Designation and Nondesignation of Critical Habitat for 46 Plant Species From the Island of Hawaii, Hawaii (RIN:1018-AH02) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2635. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Regulations Governing the Taking and Importing of Marine Mammals; Eastern North Pacific Southern Resident Killer Whales [Docket No. 020603140-3129-03, I.D. 050102G] (RIN: 0648-AQ00) received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2636. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 021122286-3036-02; I.D. 051403B] received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2637. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Highly Migratory Species; Commercial Shark Management Measures [Docket No. 021219321-2321-01; I.D. 120901A] (RIN: 0648-AQ39) received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2638. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Antarctic Marine Living Resources; CCAMLR Ecosystem Monitoring Permits; Vessel Monitoring System; Catch Documentation Scheme; Fishing Season; Registered Agent; and Disposition of Seized AMLR [Docket No. 021016236-3089-02; I.D. 082002A] received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2639. A letter from the Associate Counsel, Patent and Trademark Office, Department of Commerce, transmitting the Department's final rule—Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications (RIN: 0651-AB37) received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2640. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Report on Denial of Visas to Confiscators of American Property; to the Committee on the Judiciary.

2641. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; St. Thomas, U.S. Virgin Islands [COTP San Juan-03-024] (RIN: 1625-AA00) received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2642. A letter from the Regulations Officer 238, FMCSA, Department of Transportation, transmitting the Department's final rule—Transportation of Household Goods; Consumer Protection Regulations [Docket No. FMCSA-97-2679](RIN: 2126-AA32; formerly RIN: 2125-AE30) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2643. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30370; Amdt. No. 3060] received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2644. A letter from the Director, Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Compensation and Pension Provisions of the Veterans Education and Benefits Expansion Act of 2001 (RIN: 2900-AL29) June 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 269. Resolution providing for consideration of the bill (H.R. 1115) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes (Rept. 108–148) Referred to the House Calendar.

Mr. REYNOLDS: Committee on Rules. House Resolution 270. Resolution relating to consideration of the Senate amendments to the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes (Rept. 108–149). Referred to to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. McGOVERN (for himself, Mr. McInnis, Mr. Gilchrest, Mr. George Miller of California, Ms. Lee, Mr. Bereuter, Ms. McCollum, Mr. Moran of Virginia, Mr. English, Mr. Rehberg, and Mr. Udall of Colorado):

H.R. 2416. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOSS:

H.R. 2417. A bill to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mrs. MALONEY (for herself, Mr. Sherman, Ms. Slaughter, Mr. Jackson of Illinois, Ms. Lofgren, Ms. Jackson-Lee of Texas, Mr. Owens, Ms. Bordallo, and Mr. Payne):

H.R. 2418. A bill to amend the Internal Revenue Code of 1986 to deny all deductions for business expenses associated with the use of a club that discriminates on the basis of sex, race, or color; to the Committee on Ways and Means.

By Mr. RAHALL (for himself, Mr. Larsen of Washington, Mr. Kildee, Mr. Pallone, Mr. George Miller of California, Mr. Filner, Ms. Lee, Mr. Frost, Mr. Acevedo-Vilá, Mr. McNulty, Mr. Holt, Ms. McCollum, Mr. Udall of New Mexico, Mr. Honda, Mr. Carson of Oklahoma, Mr. Case, and Mr. Grijalva):

H.R. 2419. A bill to protect sacred Native American Federal land from significant damage; to the Committee on Resources.

By Mr. BAKER (for himself, Mr. Gillmor, Mr. Ose, Mr. Shays, Mr. Tiberi, and Ms. Ginny Brown-Waite of Florida):

H.R. 2420. A bill to improve transparency relating to the fees and costs that mutual fund investors incur and to improve corporate governance of mutual funds; to the Committee on Financial Services.

By Mr. ANDREWS:

H.R. 2421. A bill to ensure that State and local law enforcement agencies execute warrants for the arrest of nonviolent offenders only during daylight hours and when children are not present, unless overriding circumstances exist; to the Committee on the Judiciary.

By Ms. BORDALLO (for herself, Mr. Faleomavaega, and Mrs. Christensen):

H.R. 2422. A bill to authorize the Secretary of Housing and Urban Development to guarantee community development loans to the insular areas; to the Committee on Financial Services.

By Mr. CARDIN (for himself, Mr. Waxman, Mr. Brown of Ohio, Mr. Stark, and Mr. Kleczka):

H.R. 2423. A bill to amend title XVIII of the Social Security Act to prohibit physicians and other health care practitioners from charging a membership or other incidental fee (or requiring purchase of other items or services) as a prerequisite for the provision of an item or service to a Medicare beneficiary; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CUMMINGS (for himself, Mr. Ballance, Mr. Boyd, Mr. Brady of Pennsylvania, Ms. Corrine Brown of Florida, Mr. Brown of Ohio, Mr. Cardin, Mr. Cole, Mr. Conyers, Mr. Deutsch, Mr. Engel, Mr. Ford, Mr. Frank of Massachusetts, Mr. Frost, Mr. Bishop of Georgia, Mrs. Christensen, Mr. Gutierrez, Mr. Hastings of Florida, Mr. Houghton, Mr. Hoyer, Ms. Eddie Bernice Johnson of Texas, Mr. Larson of Connecticut, Ms. Lee, Mr. Lewis of Georgia, Mr. Lipinski, Mr. McDermott, Ms. Millender-McDonald, Mr. Meeks of New York, Mr. McNulty, Mr. Moran of Virginia, Ms. Norton, Mr. Owens, Mr. Payne, Mr. Rangel, Mr. Ruppersberger, Mr. Rush, Mr. Ryan of Ohio, Mr. Scott of Georgia, Mr. Shimkus, Mr. Stearns, Mr. Thompson of Mississippi, Mrs. Jones of Ohio, Mr. Van Hollen, Ms. Waters, Mr. Wynn, Mr. Towns, Ms. Carson of Indiana, Mr. Watt, Ms. Watson, Mr. Kucinich, and Mr. Clyburn):

H.R. 2424. A bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center; to the Committee on Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DICKS:

H.R. 2425. A bill to provide for the use and distribution of the funds awarded to the Quinault Indian Nation under United States Claims Court Dockets 772-71, 773-71, 774-71, and 775-71, and for other purposes; to the Committee on Resources.

By Mr. FRANK of Massachusetts (for himself, Mr. Abercrombie, Mr. Andrews, Ms. Baldwin, Mr. Berman, Mr. Brown of Ohio, Mr. Conyers, Ms. DeGette, Mr. Delahunt, Mr. Dingell, Mr. Engel, Mr. Evans, Mr. Farr, Mr. Filner, Mr. Gephardt, Mr. Gutierrez, Ms. Harman, Mr. Hinchey, Mr. Holt, Mr. Honda, Mr. Hoyer, Ms. Kilpatrick, Mr. Langevin, Mr. Larson of Connecticut, Ms. Lee, Ms. Lofgren, Mrs. Lowey, Mr. Lynch, Mrs. Maloney, Mr. Matsui, Mr. Meehan, Mr. Moore, Mr. Moran of Virginia, Mr. Nadler, Mrs. Napolitano, Ms. Norton, Mr. Olver, Mr. Owens, Mr. Pallone, Mr. Pascrell, Ms. Roybal-Allard, Ms. Schakowsky, Mr. Serrano, Mr. Stark, Mrs. Tauscher, Ms. Velázquez, Mr. Waxman, Mr. Wexler, Mr. Weiner, Ms. Woolsey, and Mr. Wu):

H.R. 2426. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTKNECHT (for himself, Mr. Jones of North Carolina, Mr. Shays, Mr. Janklow, Mr. Petri, Mr. Kingston, Mrs. Emerson, Mr. Bereuter, Mr. Osborne, Mr. Hoekstra, Mr. Bartlett of Maryland, Mr. Smith of Michigan, Mr. Paul, Mr. Duncan, Mrs. Northup, Mr. Gilchrest, Mr. Rohrabacher, Mr. Burton of Indiana, Mr. Hensarling, Mr. Emanuel, Mr. Frank of Massachusetts, Mr. Peterson of Minnesota, Mr. Ramstad, Mr. Rehberg, Mr. Istook, Mr. Brown of South Carolina, and Mr. Taylor of North Carolina):

H.R. 2427. A bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HOEFFEL (for himself, Mr. Capuano, Mr. Filner, Ms. Jackson-Lee of Texas, Mr. Frank of Massachusetts, Mr. McDermott, Mr. Hastings of Florida, Mr. Grijalva, Mr. Udall of Colorado, Ms. McCollum, Mr. Serrano, Ms. Corrine Brown of Florida, Ms. Kaptur, Ms. Woolsey, Ms. Schakowsky, Mr. Stark, and Mr. Kucinich):

H.R. 2428. A bill to provide for congressional review of regulations relating to military tribunals; to the Committee on Armed Services, and in addition to the Committees on Rules, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOEFFEL (for himself, Mr. Conyers, Mr. Farr, Ms. Jackson-Lee of Texas, Mr. Frank of Massachusetts, Mr. McDermott, Mr. Frost, Mr. Grijalva, Mr. Udall of Colorado, Mr. Case, Mr. Ryan of Ohio, Ms. Lee, Ms. Kaptur, Ms. Woolsey, Mr. Doggett, Mr. Stark, Mr. Kucinich, and Mr. Honda):

H.R. 2429. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to improve the administration and oversight of foreign intelligence surveillance, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Intelligence (Permanent Select), and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND (for himself, Mr. Udall of Colorado, Mr. Terry, Mr. Gilchrest, Mr. Gutknecht, Mr. Pallone, Mr. Manzullo, Mr. Udall of New Mexico, Mr. Peterson of Minnesota, Mr. Kennedy of Minnesota, Mr. Rehberg, Mr. Stupak, Mr. Thompson of California, and Mr. Faleomavaega):

H.R. 2430. A bill to amend the Fish and Wildlife Coordination Act to coordinate and strengthen scientific research and monitoring, and to promote public outreach, education, and awareness, of Chronic Wasting Disease affecting free-ranging populations of deer and elk, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND (for himself, Mr. Udall of Colorado, Mr. Terry, Mr. Gilchrest, Mr. Gutknecht, Mr. Pallone, Mr. Manzullo, Mr. Udall of New Mexico, Mr. Peterson of Minnesota, Mr. Kennedy of Minnesota, Mr. Rehberg, Mr. Stupak, Mr. Thompson of California, Mr. Faleomavaega, Ms. Baldwin, and Mr. Petri):

H.R. 2431. A bill to establish a National Chronic Wasting Disease Task Force, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OSE (for himself, Mr. Tanner, Mr. Tom Davis of Virginia, Mr. Moore, Mr. Janklow, Mr. Matheson, and Mr. Ryan of Wisconsin):

H.R. 2432. A bill to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes; to the Committee on Government Reform, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RODRIGUEZ (for himself and Mr. Simmons):

H.R. 2433. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide veterans who participated in certain Department of Defense chemical and biological warfare testing to be provided health care for illness without requirement for proof of service-connection; to the Committee on Veterans' Affairs.

By Mr. ROHRABACHER:

H.R. 2434. A bill for the relief of John Castellano; to the Committee on the Judiciary.

By Ms. LINDA T. SÁNCHEZ of California (for herself, Mr. Berman, Ms. Lofgren, Mr. Stark, Mr. Rohrabacher, Mr. Farr, Mr. Reyes, Mr. Hinojosa, Mr. Acevedo-Vilá, Mr. Case, Mr. Delahunt, Ms. Millender-McDonald, Mrs. Napolitano, Mr. Pastor, Mr. Oberstar, Mr. Pallone, Mr. Udall of Colorado, Mr. Schiff, Mr. Ortiz, Mr. Dooley of California, Ms. Eshoo, Mr. Lantos, Ms. Harman, Mr. Rodriguez, Mr. Honda, Mr. Hinchey, Mr. Grijalva, Mr. Cooper, Ms. Woolsey, Ms. Watson, Mr. Filner, Ms. Bordallo, Ms. Lee, Mr. Price of North Carolina, Mrs. Capps, Mr. Matsui, Ms. Solis, Mr. Conyers, Mr. Capuano, Mr. George Miller of California, Ms. Roybal-Allard, Ms. Loretta Sanchez of California, Mr. Waxman, Mrs. Davis of California, Mr. Baird, Mr. Cardoza, Mr. Sherman, and Ms. Pelosi):

H.R. 2435. A bill to amend the Immigration and Nationality Act to provide for compensation to States incarcerating undocumented aliens charged with a felony or two or more misdemeanors; to the Committee on the Judiciary.

By Mr. SMITH of Texas (for himself, Mr. Scott of Virginia, and Mr. Scott of Georgia):

H.R. 2436. A bill to conduct a study on the effectiveness of ballistic imaging technology and evaluate its effectiveness as a law enforcement tool; to the Committee on the Judiciary.

By Mr. STARK (for himself, Mr. Rangel, Mr. Cardin, Mr. McDermott, Mr. George Miller of California, Mr. Cooper, Mr. Frost, Ms. Lee, Mr. Lantos, Ms. Millender-McDonald, Mr. Serrano, and Mr. Wexler):

H.R. 2437. A bill to provide for grants to State child welfare systems to improve quality standards and outcomes, to increase the match for private agencies receiving training funds under part E of title IV of the Social Security Act, and to authorize the forgiveness of loans made to certain students who become child welfare workers; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TAYLOR of Mississippi (for himself, Mr. Thompson of Mississippi, Mr. Wicker, and Mr. Pickering):

H.R. 2438. A bill to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the "Major Henry A. Commiskey, Sr. Post Office Building"; to the Committee on Government Reform.

By Mr. WELDON of Florida:

H.R. 2439. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits and to increase the age at which distributions must commence from certain retirement plans from 70½ to 80; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska (for himself, Mr. Hayworth, Mr. Renzi, Mr. Cole, Mr. Hunter, Mr. McKeon, Mr. Pallone, Mr. Rahall, Mr. George Miller of California, Mr. Kildee, Mr. Dingell, Mr. Waxman, Mr. Rangel, Mr. Conyers, Mr. Oberstar, Mr. Grijalva, Ms. Millender-McDonald, Mr. Frost, Mr. Kennedy of Rhode Island, Mr. Frank of Massachusetts, Mr. Filner, Mr. Honda, Mr. Carson of Oklahoma, Mr. Allen, Mr. Abercrombie, Ms. Lee, Mrs. Napolitano, Mr. Faleomavaega, Ms. McCollum, Mr. Towns, Mr. Udall of New Mexico, Mr. Udall of Colorado, Mr. Kind, Mr. Lantos, Mr. Inslee, Mr. Stupak, Mr. Baca, Ms. Kilpatrick, Mrs. Christensen, Mr. Blumenauer, and Ms. Norton):

H.R. 2440. A bill to improve the implementation of the Federal responsibility for the care and education of Indian people by improving the services and facilities of Federal health programs for Indians and encouraging maximum participation of Indians in such programs, and for other purposes; to the Committee on Resources, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SNYDER (for himself, Mr. Issa, and Mr. Frank of Massachusetts):

H.J. Res. 59. A joint resolution proposing an amendment to the Constitution of the United States to permit persons who are not natural-born citizens of the United States, but who have been citizens of the United States for at least 35 years, to be eligible to hold the offices of President and Vice President; to the Committee on the Judiciary.

By Mr. KNOLLENBERG (for himself and Mr. Dingell):

H. Con. Res. 215. Concurrent resolution honoring and congratulating chambers of commerce for their efforts that contribute to the improvement of communities and the strengthening of local and regional economies; to the Committee on Energy and Commerce.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

81. The SPEAKER presented a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 36 memorializing the United States Congress to establish a quarantine for the emerald ash borer and provide assistance to help Michigan combat the infestation; to the Committee on Agriculture.

82. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 18 memorializing the United States Congress to take immediate and focused efforts to improve the enforcement of food import restrictions of seafood imports that contain the use of banned antibiotics, especially in foreign imported shrimp; to the Committee on Agriculture.

83. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 90 memorializing the United States Congress to urge the Secretary of Agriculture to expeditiously implement and expand cost of production insurance for cotton that is based on a producer's actual production cost history and to implement a cost of production insurance pilot program; to the Committee on Agriculture.

84. Also, a memorial of the Legislature of the State of Arizona, relative to Senate Concurrent Resolution No. 1021 memorializing the United States Congress to declare support for a missle defense system; to the Committee on Armed Services.

85. Also, a memorial of the Legislature of the State of New Mexico, relative to House Joint Memorial 11 memorializing the United

States Congress to fund forty percent of the average of the average per special needs pupil expenditure in public elementary and secondary schools in the U.S. as promised under the federal Individuals with Disabilities Education Act; to the Committee on Education and the Workforce.

86. Also, a memorial of the Legislature of the State of New Mexico, relative to House Memorial 35 memorializing the United States Congress that the federal energy regulatory commission be request to withdraw its current standard market design for the nation's wholesale electricity markets; to the Committee on Energy and Commerce.

87. Also, a memorial of the Legislature of the State of Nevada, relative to Senate Joint Resolution No. 2 memorializing the United States Congress to urge the Secretary of the Interior to expand the money authorized pursuant to the Southern Nevada Public Land Management Act of 1998, Pub. L. 105-263, 112 Stat. 2343; to the Committee on Resources.

88. Also, a memorial of the Legislature of the State of Nevada, relative to Senate Joint Resolution No. 1 memorializing the United States Congress to urge the Secretary of the Interior to amend the regulations set forth in 43 C.F.R. Section 4120.3-9 by deleting the second sentence of that regulation in its entirety; to the Committee on Resources.

89. Also, a memorial of the Legislature of the State of New Mexico, relative to House Joint Memorial 13 memorializing the United States Congress to endorse the western states education initiative to seek just compensation from the federal government on federally owned land and that it urge the federal government to provide an expedited land exchange process for land not in contention for wilderness designation; to the Committee on Resources.

90. Also, a memorial of the Legislature of the State of Arizona, relative to Senate Memorial No. 1002 memorializing the United States Congress to support the Tohono O'odham Nation's citizenship act; to the Committee on the Judiciary.

91. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 117 memorializing the United States Congress to provide an exemption to the Sherman Anti-Trust Act to allow small and medium sized United States based and owned lumber manufactures to sell their products through company-owned retail outlets; to the Committee on the Judiciary.

92. Also, a memorial of the Legislature of the State of Arizona, relative to House Concurrent Memorial No. 2005 memorializing the United States Congress to include Native american governments in the state cemetery grants program; to the Committee on Veterans' Affairs.

93. Also, a memorial of the Legislature of the State of Michigan, relative to House Resolution No. 42 memorializing the United States Congress to enact the President's tax cut proposals; to the Committee on Ways and Means.

94. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Resolution No. 12 memorializing the United States Congress that the Idaho Legislature supports the Healthy Forests Initiative and its individual proposals and that we respectfully request the entire Congress to fully support the Healthy Forests Initiative and its individual proposals; jointly to the Committees on Agriculture and Resources.

95. Also, a memorial of the Legislature of the State of New Mexico, relative to House Memorial 12 memorializing the United States Congress to enact financially sustainable, voluntary and universal prescription drug coverage as part of the federal medicare program; jointly to the Committees on Ways and Means and Energy and Commerce.

96. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Resolution No. 10 memorializing the United States Congress to preserve access to backcountry airstrips by introducing into the current 108th Congress Senate Bill No. 681, the Backcountry Landing Strip Access Act from the 107th Congress and its companion legislation House Resolution No. 1363; jointly to the Committees on Resources, Agriculture, and Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. Gary G. Miller of California and Mr. Davis of Alabama.

H.R. 49: Mr. Boucher and Mr. Green of Wisconsin.

H.R. 141: Mr. Coble.

H.R. 236: Mr. Menendez, Mr. Gonzalez, Mr. Weiner, Ms. Linda T. Sánchez of California, Mr. Evan, Mr. Doggett, Mr. Edwards, Mrs. Capps, Mrs. Tauscher, Mr. Dooley of California, Mr. Gordon, Mr. McDermott, Mr. Skelton, Ms. McCarthy of Missouri and Mr. Cardin.

H.R. 303: Mr. Miller of North Carolina and Mr. Murphy.

H.R. 331: Mr. Andrews.

H.R. 369: Mr. Ryan of Ohio, Mr. Turner of Ohio, Mr. Camp, Mrs. Jones of Ohio and Mr. Boehner.

H.R. 390: Mr. Honda.

H.R. 401: Mr. Sherman.

H.R. 448: Mr. Taylor of Mississippi.

H.R. 502: Mrs. Jo Ann Davis of Virginia.

H.R. 528: Mr. McDermott.

H.R. 565: Mr. Stupak.

H.R. 570: Mr. Hastings of Washington.

H.R. 571: Mr. Ross, Mr. LaHood, Mr. NcNulty, and Mr. Keller.

H.R. 583: Mr. Kolbe.

H.R. 584: Mr. Boehlert.

H.R. 586: Mr. Turner of Ohio and Mr. Weiner.

H.R. 643: Mr. Gonzalez and Mr. Kucinich.

H.R. 655: Mr. King of Iowa.

H.R. 687: Mr. Buyer, Mr. Bilirakis, Mr. Schrock, Mr. Kline, Mr. Graves, and Mr. Sessions.

H.R. 713: Mr. Walden of Oregon.

H.R. 716: Mr. Snyder, Mr. Latham, Mr. Michaud, Mr. Meehan, Mr. Larson of Connecticut, Mr. Otter, and Mr. Cooper.

H.R. 728: Mr. Vitter and Mr. Doolittle.

H.R. 785: Mr. Alexander.

H.R. 811: Mr. Bell.

H.R. 823: Mr. Sherman.

H.R. 871: Mr. Tiahrt.

H.R. 890: Mr. Holden and Mr. Wynn.

H.R. 898: Mr. Schrock and Mr. Walden of Oregon.

H.R. 941: Ryan of Wisconsin.

H.R. 944: Mr. Platts.

H.R. 947: Mrs. Lowey and Mr. Frost.

H.R. 953: Mr. Meek of Florida.

H.R. 1052: Mr. Farr, Mr. Abercrombie, Mr. Case, Mr. Menendez, and Mrs. Tauscher.

H.R. 1068: Mr. Saxton, Mr. Crane, Mr. Costello, Ms. McCollum, and Ms. Woolsey.

H.R. 1078: Mr. Rogers of Michigan, Mr. Camp, Mr. Sullivan, Mr. Mollohan, Mr. Renzi, Mr. Barrett of South Carolina, Mr. Franks of Arizona, Mr. Bradley of New Hampshire, Mr. Pickering, Mr. Lewis of Kentucky, Mr. Porter, Mr. John, Mr. Hyde, Mr. Bonner, Mr. Rogers of Alabama, Mr. Cramer, Mr. Davis of Tennessee, Mr. Honda, Mr. McIntyre, Mr. Alexander, Mr. Tanner, Mrs. Emerson, Mr. Kleczka, Mr. Turner of Texas, Mr. Thompson of California, Mr. Boucher, Ms. Millender-McDonald, Ms. Lofgren, Mr. Ross, Mr. Bell, Mr. Frost, Mr. Gordon, Mr. Wamp, Mr. Price of North Carolina, Mr. Baker, Mr. Hefley, Mr. Blumenauer, Mr. Duncan, Mr. Neal of Massachusetts, Mr. Abercrombie, Mrs. Bono, Mr. Pence, Mr. Shimkus, Mr. Thomas, Mr. Tiahrt, Mr. Kingston, Mr. Rogers of Kentucky, Mr. Boozman, Mr. Shuster, Ms. Harris, Mr. Taylor of Mississippi, Mr. Sensenbrenner, Mr. Terry, Mr. Murtha, Ms. Harman, Mr. Pastor, Mr. Nethercutt, Mr. Putnam, Mr. Hayworth, Ms. Pryce of Ohio, Mr. Lincoln Diaz-Balart of Florida, Mr. Mario Diaz-Balart of Florida, Mr. Pearce, Mrs. Blackburn, Mr. Brown of South Carolina, Mr. Jenkins, Mrs. Kelly, Mr. Cox, Ms. Ginny Brown-Waite of Florida, Mr. Ryan of Ohio, Mr. Ford, Mr. Feeney, Mr. Cooper, Mr. Udall of Colorado, Mr. McDermott, Mr. Engel, Ms. Schakowsky, Mr. Sandlin, and Mr. Tancredo.

H.R. 1087: Ms. Bordallo.

H.R. 1110: Mr. Gonzalez, Mr. Lantos, Mr. Jefferson, Ms. Corrine Brown of Florida, Mr. Cramer, and Ms. Millender-McDonald.

H.R. 1157: Mr. Ehlers.

H.R. 1196: Mr. Hoeffel.

H.R. 1225: Mr. Hulshof, Mr. Etheridge.

H.R. 1229: Mr. Kline.

H.R. 1268: Mr. Frost, Ms. Millender-McDonald.

H.R. 1288: Mr. Saxton, Mr. Watt, Mr. Baker, Mr. Lynch, Mr. Davis of Florida, Mr. Latham, Mr. Clyburn, and Mr. Shays.

H.R. 1310: Mr. Turner of Texas, Mr. Oberstar, Mr. Boswell, Mr. Baker, Mr. Abercrombie, Mr. Tauzin, Mr. Smith of Washington, Mrs. Cubin, Mr. Wilson of South Carolina, Mr. Sherwood, and Mr. Alexander.

H.R. 1360: Mr. Paul.

H.R. 1429: Mr. McDermott.

H.R. 1430: Mr. Lynch, Mr. Udall of Colorado.

H.R. 1442: Mr. Green of Wisconsin, Ms. Corrine Brown of Florida, Mr. Evans, and Mr. Miller of Florida.

H.R. 1472: Mr. Engel, Ms. Pryce of Ohio, Mr. Wexler, Mr. Lynch, Ms. Kilpatrick, Mr. Burns, Mr. Schiff, Mr. Gutierrez, Ms. Jackson-Lee of Texas, Ms. Norton, Mrs. Bono, Ms. Eddie Bernice Johnson of Texas, Mr. Hastings of Florida, Ms. Carson of Indiana, Mr. Owens, Ms. McCollum, Ms. McCarthy of Missouri, Ms. Velázquez, Mr. Cummings, Mrs. Maloney, Mr. Cardin, Mr. Van Hollen, Ms. Solis, Mr. Rodriguez, Mr. Dooley of California, Mr. Hinojosa, Mr. Payne, Mr. Watt, Mr. Jefferson, Ms. Corrine Brown of Florida, Ms. Linda T. Sánchez of California, Mr. Gonzalez, Mr. Bishop of New York, Mr. Bell, Mr. Fattah, Ms. Millender-McDonald, and Mr. Matsui.

H.R. 1479: Mr. Israel.

H.R. 1482: Mr. Wexler, Mr. McNulty, Ms. Millender-McDonald, and Ms. Corrine Brown of Florida.

H.R. 1499: Mr. Grijalva.

H.R. 1515: Mr. King of Iowa.

H.R. 1522: Mrs. Maloney and Mr. Paul.

H.R. 1539: Mr. Alexander.

H.R. 1615: Ms. Slaughter and Mr. Wexler.

H.R. 1626: Mr. Weldon of Florida.

H.R. 1643: Mr. Green of Wisconsin, Mr. Doyle, and Mr. Alexander.

H.R. 1660: Mr. BRADY of Texas, Mr. KINGSTON, Mr. SHAW, and Mr. HEFLEY.

H.R. 1675: Ms. SLAUGHTER and Mr. NUSSLE.

H.R. 1710: Mr. WELLER.

H.R. 1722: Ms. LEE, Ms. JACKSON-LEE of Texas, Mr. FRANK of Massachusetts, and Mr. CASE.

H.R. 1727: Mr. ENGLISH.

H.R. 1767: Mr. LINDER and Mr. TERRY.

H.R. 1771: Mr. GRIJALVA.

H.R. 1795: Mr. ALEXANDER.

H.R. 1819: Mr. RUSH.

H.R. 1828: Mr. INSLEE, Mr. JEFFERSON, Mr. JOHN, Mr. RODRIGUEZ, Mr. STRICKLAND, Mr. BACA, Mr. EVANS, Ms. HARMAN, Mr. KELLER, Mr. POMBO, Mr. SESSIONS, Mr. SIMMONS, Mr. BONNER, Mr. SULLIVAN, Mr. MCCRERY, Mr. PUTNAM, Mr. RAMSTAD, Mr. UPTON, Mr. FOSSELLA, Mr. CRENSHAW, Mr. STEARNS, Mr. TERRY, and Mr. SHIMKUS.

H.R. 1859: Mr. GREEN of Wisconsin.

H.R. 1868: Mr. HINOJOSA and Mr. GRIJALVA.

H.R. 1874: Mr. LYNCH, Mr. GREEN of Texas, and Mr. FROST.

H.R. 1889: Mrs. CAPPS and Mr. KUCINICH.

H.R. 1914: Mr. KLINE.

H.R. 1915: Mr. CROWLEY.

H.R. 1943: Ms. JACKSON-LEE of Texas, Mr. PETERSON of Pennsylvania, and Mr. KING of Iowa.

H.R. 1956: Mr. DEUTSCH.

H.R. 1981: Mr. NADLER.

H.R. 1991: Mr. FROST.

H.R. 1995: Mr. FRANK of Massachusetts.

H.R. 1999: Ms. WATSON.

H.R. 2022: Mr. SMITH of Michigan, Mr. HOEKSTRA, Mr. MILLER of Florida, and Mr. ETHERIDGE.

H.R. 2028: Mr. KOLBE, Mr. HENSARLING, and Mr. NETHERCUTT.

H.R. 2034: Mr. TOOMEY.

H.R. 2075: Mr. WEXLER, Mr. YOUNG of Florida, and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 2085: Mr. FARR.

H.R. 2114: Mr. BARTON of Texas and Mr. BEAUPREZ.

H.R. 2130: Mr. MENENDEZ, and Mr. LOBIONDO.

H.R. 2134: Mr. HOYER and Ms. LOFGREN.

H.R. 2172: Mrs. MYRICK.

H.R. 2173: Mr. FROST, Mr. PAYNE, and Mr. CAPUANO.

H.R. 2180: Mr. BAIRD.

H.R. 2181: Ms. BALDWIN, Mr. BOEHNER, Mr. DUNCAN, Mr. HOSTETTLER, and Mr. SOUDER.

H.R. 2205: Mr. BURNS, Mr. TAUZIN, Mr. PITTS, and Mr. ETHERIDGE.

H.R. 2224: Mr. WILSON of South Carolina, Mr. MCNULTY, and Mr. TERRY.

H.R. 2232: Mr. BOOZMAN, Mr. JEFFERSON, Mr. DOOLITTLE, Mr. MOORE, Mr. GUTKNECHT, Ms. MCCARTHY of Missouri, Mr. SANDLIN, Mr. PITTS, and Mr. BACHUS.

H.R. 2242: Mr. ROGERS of Michigan.

H.R. 2249: Mr. ALLEN, Mr. PAUL, Mr. MICHAUD, Mr. EVANS, Mr. GREEN of Wisconsin, and Mr. HINCHEY.

H.R. 2264: Mr. ROGERS of Kentucky, Mr. GRIJALVA, Mr. HINCHEY, Mr. ABERCROMBIE, Ms. MCCOLLUM, Mr. TANNER, Mr. BAIRD, Mr. WELDON of Florida, Ms. MCCARTHY of Missouri, and Mr. CARDOZA.

H.R. 2265: Mrs. BLACKBURN, Mr. CAMP, and Mr. HULSHOF.

H.R. 2291: Mr. KUCINICH and Ms. BERKLEY.

H.R. 2325: Mr. SHERMAN.

H.R. 2330: Ms. WOOLSEY, Ms. BALDWIN, and Mr. STARK.

H.R. 2333: Mr. NUSSLE and Mr. NETHERCUTT.

H.R. 2351: Mr. UPTON, Mr. PORTMAN, and Mr. KENNEDY of Minnesota.

H.R. 2377: Mr. FROST.

H.R. 2379: Mr. PORTER.

H.R. 2404: Ms. JACKSON-LEE of Texas and Mr. BERMAN.

H. Con. Res. 37: Mr. HOLDEN.

H. Con. Res. 87: Mr. CROWLEY.

H. Con. Res. 134: Mr. GREEN of Wisconsin and Mr. MEEKS of New York.

H. Con. Res. 152: Mr. DAVIS of Florida.

H. Con. Res. 169: Mr. DELAHUNT.

H. Con. Res. 200: Mr. KUCINICH.

H. Con. Res. 209: Mr. LANTOS, Mrs. JO ANN DAVIS of Virginia, Mr. GALLEGLY, Ms. KAPTUR, Mr. OLVER, Mr. CROWLEY, Mr. JANKLOW, Mr. MCCOTTER, Mr. BERMAN, Mr. HINCHEY, Mrs. MCCARTHY of New York, Mr. MCNULTY, Mr. WICKER, and Ms. ROS-LEHTINEN.

H. Con. Res. 213: Ms. WATSON and Mr. BELL.

H. Res. 38: Mr. KUCINICH.

H. Res. 49: Mr. BURGESS.

H. Res. 58: Mr. ACKERMAN, Mr. MENENDEZ, Mr. BLUMENAUER, Mr. BURTON of Indiana, Mr. FATTAH, Mr. CARDIN, Mr. PRICE of North Carolina, Ms. LOFGREN, Mr. THOMPSON of Mississippi, Mr. FRANK of Massachusetts, Mr. KILDEE, Mr. KUCINICH, Mr. BERRY, Mr. HOLT, Ms. BALDWIN, Ms. WATSON, and Mr. ENGEL.

H. Res. 194: Mr. EVANS, Mr. TANCREDO, and Mr. MCNULTY.

H. Res. 198: Mr. RYUN of Kansas, Mr. TERRY, and Mr. BALLENGER.

H. Res. 199: Mr. WAXMAN, Mr. EVANS, Mr. LARSEN of Washington, Mr. MORAN of Virginia, and Mr. ACKERMAN.

H. Res. 237: Mr. HASTINGS of Florida.

H. Res. 242: Mr. MARIO DIAZ-BALART of Florida and Mr. HAYWORTH.

H. Res. 246: Mr. GRIJALVA.

H. Res. 259: Ms. WOOLSEY and Mr. NADLER.

H. Res. 262: Mr. BELL, Mr. BAKER, Mr. MCNULTY, and Mrs. BIGGERT.

H. Res. 264: Mr. TANCREDO, Mr. TIAHRT, Ms. LEE, Mr. GALLEGLY, Ms. ROS-LEHTINEN, Mr. FALEOMAVAEGA, Ms. WATSON, Mr. SMITH of Washington, Mr. CROWLEY, Mr. SCHIFF, and Mr. BLUMENAUER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 660: Ms. EDDIE BERNICE JOHNSON of Texas.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1308

OFFERED BY: MR. KING OF IOWA

At an appropriate place insert the following:

AMENDMENT NO. 1:

SEC. . INCREASE IN HISTORIC REHABILITATION CREDIT FOR CERTAIN LOW-INCOME HOUSING FOR THE ELDERLY.

(a) IN GENERAL.—Section 47 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE REGARDING CERTAIN HISTORIC STRUCTURES.—In the case of any qualified rehabilitation expenditure with respect to any certified historic structure—

"(1) which is placed in service after the date of the enactment of this subsection,

"(2) which is part of a qualified low-income building with respect to which a credit under section 42 is allowed, and

"(3) substantially all of the residential rental units of which are used for tenants who have attained the age of 65, subsection (a)(2) shall be applied by substituting '25 percent' for '20 percent'.".

(b) APPLICATION OF MACRS.—The Internal Revenue Code of 1986 shall be applied and administered as if paragraph (4)(X) of section 251(d) of the Tax Reform Act of 1986 as applied to the amendments made by section 201 of such Act had not been enacted with respect to any property described in such paragraph and placed in service after the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

SENATE—*Wednesday, June 11, 2003*

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rabbi Dr. Bernhard H. Rosenberg, Edison, NJ.

PRAYER

The guest Chaplain offered the following prayer:

Eternal God, grant us the ability to face this new day with faith and optimism. Empower the men and women of this respected Senate with strength to live and labor with sincerity of purpose. Enable them to be of good courage in moments of adversity and endow them with fortitude to fulfill their daily tasks. Bless our revered Senators with vigor of body and health of mind. Bless them with the power to face the challenge of leadership with valor.

Bless our country, the United States of America, and shield its inhabitants from every enemy and danger. Help our Senators guard the liberties we hold sacred. Grant that our country will serve as an inspiring light for liberty loving people throughout the world. Inspire our Senators to help create a world of freedom, equality, and justice for all.

Lord, teach us to walk along the path of life with faith in Thee and trust in Thy wisdom. In the words of the poet, grant me "the courage to change the things I can change, the serenity to accept those I cannot change, and the wisdom to know the difference". Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 11, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period of morning business until 10 a.m. At 10 o'clock, the Senate will resume consideration of S. 14, the Energy bill. Pending is the Reid second-degree amendment to the Feinstein first-degree amendment on the issue of derivatives.

There are a number of Members who are reviewing those amendments at this time. It is a complicated issue. I know that a number of people, including the chairman of the Agriculture Committee, will want to speak on the amendment.

In the interim, it is my hope that we will continue to make progress on the bill and work through other amendments that may be offered. Also, as we have discussed over the course of this week, we would like to be able to lock in a list of the remaining amendments to the Energy bill during today's session.

I remind my colleagues we will vote on the confirmation of the nomination of Richard Wesley to be a Circuit Court Judge for the Second Circuit at 11:15 this morning.

In addition, there are a number of other Executive Calendar nominations ready for votes, and we will attempt to set a time certain for votes on those as well.

Also, with respect to the schedule, Senator MCCONNELL has continued to work for a vote on the Burma sanctions bill. I am very hopeful that over the course of the morning we will be able to address this very important and timely issue and bring this to closure. As I indicated yesterday, I fully support his efforts and we will work for a resolution today. The Senate, I believe, should speak loudly and clearly on the recent actions in Burma.

We would also like to consider and complete the FAA reauthorization this week, and we will continue to look for a way to schedule that matter.

In addition, there are other issues I have mentioned each morning on which we are working. It is important for our colleagues to come together so we can address them in a straightforward and timely manner, including the issue surrounding the bioshield bill.

Mr. REID. Will the majority leader yield for a comment on the schedule?

Mr. FRIST. Yes.

Mr. REID. Mr. President, first of all, we will have for the leader sometime today a finite list of amendments from our side. Also, Senator FEINSTEIN, when she left last night, said she was not going to agree to have her amendment set aside. The reason for that is somewhat based on last year when she worked with Senator Gramm for more than a week trying to get something on that amendment and she never did. She kept setting it aside, but she said she would not do that this time.

Mr. MCCONNELL. Will the majority leader yield?

Mr. FRIST. Yes.

Mr. MCCONNELL. I thank the majority leader for raising again the issue of the Burma sanctions bill. I say to him and our colleagues in the Senate that we have now been working for 2 days to try to get this matter cleared.

While we are involved in the minutia of the clearing process, Aung San Suu Kyi is still, in effect, in prison. We need to send a message to the military in Burma, and we need to send it this week.

I am not going to propound another unanimous consent request at the moment, but I want to put colleagues on notice that later in the day I will be doing that once again. In the meantime, the discussions continue. We hope we will be able to resolve this matter. I thank the majority leader very much for bringing that up.

Mr. FRIST. Mr. President, I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 10 a.m., with the time equally divided between the majority and minority leaders or their designees.

The Senator from New Jersey is recognized.

RABBI BERNHARD ROSENBERG

Mr. CORZINE. Mr. President, I rise now to thank Rabbi Bernhard Rosenberg for his stirring innovation this morning. This is only the latest honor to be conferred on Rabbi Rosenberg for his lifetime of distinguished service. He is a pillar in New Jersey's vibrant religious community, serving as a spiritual leader and educator, and his accomplishments speak for themselves.

If I might be personal, Rabbi Rosenberg is a terrific human being, whom I know personally. I am very pleased he joined us.

As the son of Holocaust survivors, Rabbi Rosenberg has taught numerous youngsters the importance of reflecting on that awful period in world history, a period which led to the deaths of more than six million Jews, as well as countless others. He has written many books on that subject, including "Contemplating the Holocaust" and "What the Holocaust Means to Me: Teenagers Speak Out."

Rabbi Rosenberg has served New Jersey in many capacities, including as a member of the New Jersey State Holocaust Commission, an appointee to the New Jersey Parole Board, and as the chairman of the Edison Human Rights Commission. For his years of commitment to the Jewish community and his humanitarian spirit, he has received a number of awards, including the Rabbi Israel Moshowitz Award by the New York Board of Rabbis, the Dr. Martin Luther King Jr. Humanitarian Award, and the Chaplain of the Year Award for his work relating to the September 11 attacks.

I take this opportunity to thank Rabbi Rosenberg for his years of service to the State of New Jersey, to the Jewish Community, and to the Nation. He has earned the profound respect of the people of New Jersey and this Senator.

Mr. LAUTENBERG. Mr. President, since 1789, every session of the Senate has been opened with prayer. I am proud that the Senate's guest Chaplain today, Rabbi Dr. Bernhard H. Rosenberg, is from my home State of New Jersey. Rabbi Rosenberg is the spiritual leader of Congregation Beth-El in Edison, NJ.

As the only child of Holocaust survivors, the late Jacob and Rachel Rosenberg, Rabbi Rosenberg has spent his life teaching the history and effects of the Holocaust.

In 1933, there were over 9 million Jews living in Europe. Almost 6 million were killed in the next 12 years. "Holocaust," translated from Greek, means "sacrifice by fire." The systematic persecution and genocide of millions of innocent people in Europe was a "sacrifice" the civilized world must never forget. I have met with Holocaust survivors, and I have seen the concentration camps. It was a hideous time in our world's history. But it is vital to learn about it, and it is vital to talk about it.

Rabbi Rosenberg serves his community as a leader, teacher, writer, and spiritual adviser. He is an impressively educated man, with multiple degrees in communication and education, and his ordination and doctorate of education from Yeshiva University in New York.

Rabbi Rosenberg teaches Holocaust Studies at the Moshe Aaron Yeshiva High School of Central New Jersey, and has taught at Rutgers University and Yeshiva University. Rabbi Rosenberg has authored four books, with "Theological and Halachic Reflections on the Holocaust" now in its second printing.

He is the spiritual leader of Congregation Beth-El and a model citizen in New Jersey.

Rabbi Rosenberg has dedication and commitment that is unparalleled. He is the editor of a Holocaust publication distributed by the Rabbinical Assembly and editor of the New York Board of Rabbis Newsletter. As Interfaith Chairman of the New Jersey State Holocaust Commission, Rabbi Rosenberg is associate editor of the State-mandated curriculum on Holocaust and Genocide.

Rabbi Rosenberg is chairman of the Human Rights Commission and chaplain of the Department of Public Safety, police and fire, of Edison, NJ. He is president and founder of the New Jersey Second Generation Holocaust Survivors' Group.

The work of Rabbi Rosenberg has not gone unnoticed. He recently received the Dr. Martin Luther King Jr. Humanitarian Award. He also received the Chaplain of the Year Award from the New York Board of Rabbis for his efforts during and following 9/11.

On June 10, 2002, Rabbi Rosenberg was presented with the annual Rabbi Israel Mowshowitz Award by the New York Board of Rabbis.

We are privileged to have Rabbi Rosenberg of Edison, NJ, to lead the Senate in prayer today.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CORZINE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the time during the quorum call be charged equally to both sides during the morning business period.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GLOBALIZATION AND BIOTERRORISM

Mr. FRIST. Mr. President, I wish to take this opportunity in morning business to comment on issues of current events but also tied to the events of the last several years. The issues relate to the natural and the unnatural emergence and use of biology and microbes that have resulted in a convergence of two issues. One is this natural occurrence and one is the use of microbes, bacteria, viruses potentially as bioterror agents, all of that coupled with another nexus, globalization, the realization and evolution of a much smaller world in which we all live.

Globalization is generally addressed in the context of economics, economies of countries, information technologies, coffee shop franchises, luxury hotels, luxury clothing—what labels are on the backs of those sweaters and shirts—Internet surfing, instant messages.

Globalization has helped democratize faraway countries. It has brought wealth and comfort to many of the world's peoples. But it has always exposed us to new vulnerabilities which we have read about in recent years and, indeed, we read about each day in the papers. Specifically, globalization has brought us much closer to the threat of natural disease as well as disease used potentially as an instrument of terror.

We can take, for example, the outbreak of monkeypox about which we are reading and listening today. We know monkeypox causes fever, headache, cough, and an extremely painful rash with pus-filled sores that can spread across the body. We know in children and those individuals who have a suppressed immune system, whether it is because of cancer or treatment for cancer or other autoimmune diseases, it can cause death.

Monkeypox is suspected to have originated with the importation of an exotic pet, actually a rather popular exotic pet called the Gambian giant rat. Then the monkeypox virus apparently jumped to infect the pet prairie dogs, and then jumped to infect human beings. We know there are 37 suspected or confirmed cases of monkeypox that are currently being investigated by the Centers for Disease Control. Public health officials, we learn, fear the prairie dog owners will release their infected pets into the wild and, thus, spread the disease through communities, regions, and, indeed, throughout North America.

Some also believe that this outbreak of monkeypox is the tip of a growing problem of infectious diseases being brought into the country through the importation of exotic animals.

Not too long ago—and, in fact, even right now—we focused on SARS. As we have seen with SARS, international travel by humans is also proving to be a conduit of disease. As I speak, Toronto is struggling with yet another suspected outbreak of SARS and at any point could go back on the World Health Organization's travel advisory list.

The SARS epidemic continues to disrupt international travel, continues to affect and, indeed, depress national economies.

Monkeypox, SARS, West Nile virus, which we know is seasonal—it has been 4 years since it first arrived in New York, and it has claimed 284 deaths and 4,156 infections. Several years ago, people did not know what West Nile virus was. Several months ago we did not know what SARS was, and several days ago we did not know what monkeypox was. Last year, just in this region of Maryland, Virginia, and the District, the West Nile virus killed 11 people. After what has been a wet spring in this region, where mosquito breeding is facilitated, officials fear—again not to be an alarmist—there will be another explosion of infections this summer. West Nile has spread across the United States of America. It is now firmly established, entrenched as a North American disease. West Nile, SARS, and now monkeypox—we will see emerging infections continue to appear, at least at this rate. These are the natural health threats.

Equally alarming is this whole arena of bioterrorism, the use of microbes, viruses, bacteria, and other microbes as biological weapons to threaten others. This very body, the Senate, has been attacked with anthrax. We know there is an entity called the plague which, indeed, wiped out about a third of Europe in the 1300s.

We know the risk of smallpox. We know one gram of botulinum toxin, if aerosolized, has the potential for taking the lives of a million and a half people.

I mention all of this not to be an alarmist but to give some definition to what I think we all know today but we did not think very much about 3 or 5 years ago, and that is these threats, those of bioterrorism and the naturally occurring, are real.

With regard to bioterrorism, I do commend President Bush for successfully leading America and indeed the world to face these new realities of terrorists. We have disrupted terrorist networks. We have frozen terrorist assets. We have removed terrorist leaders and indeed have arrested more than 3,000 individual terrorists worldwide. We have toppled two of the world's most notorious terrorist regimes in Afghanistan and Iraq with decisive victories.

With regard to our domestic response, we are finally rebuilding our public health system after a long period of neglect. As a nation, this has enabled us to respond, in an appropriate way, to the potential spread of SARS much more effectively than other countries. We must continue to invest in and enhance our public health system to detect and respond to such emergencies, for, as I said earlier, we will see more.

We must actively lead the way to develop new treatments in vaccines, and that is why when I come to the floor each morning and mention the importance of vaccine research, vaccine development, and specifically bioshield legislation, which is sitting before this body perched and ready for us to act upon it, but there are certain problems we have had among ourselves in coming to an agreement, how best to bring that to the floor—but that bioshield legislation is in exact response to these issues I mention today.

I should also add that we, and our friends and allies across the world, must not allow other countries to pursue biological weapons programs. President Bush has set the United States, with the help of our allies, along a proper course to ultimately win the war on terror. I, for one, am grateful he and his national security team have answered the call to serve in this perilous time. We will defeat the forces of terror. We must take our enemies seriously, but because of globalization they are closer than ever. I am optimistic. We have an obligation in this body to respond and indeed prepare for and prevent, whether it is those naturally occurring infections or any attempt of others to use these biological agents as weapons of mass destruction.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. THOMAS. We are in morning business, is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

REFORM OF OUR GOVERNMENT

Mr. THOMAS. Mr. President, I will make a couple of comments that are a little different than the subject we have been talking about. It is something that I do not have the recommendation as to how we resolve it particularly, but I am persuaded we need to spend a little more time on it, which I intend to, and that is government activities we are involved in. Of course, the many government activities we are involved in are probably the largest combined organizational thing we do in this country. It would be interesting to know, and I intend to see if there is not a way for all of us to do so, to get a look at all the kinds of programs and different activities the Federal Government is involved in. It is massive, of course.

We spend trillions of dollars on activities in the Federal Government. I do not suggest that is not legitimate. The Federal Government has a job to do and we need to do it. What I do believe is that because of the nature of it and because of the nature of this body, frankly, we do not really work very hard at ensuring that the delivery of these services is done as efficiently as it could be. We are a little different, of course, than the private sector in that there are some inherent barriers in the private sector. If one is not very efficient, they are not able to continue to compete with others and they are not able to go on. That is not true in the Government, of course. There is not that kind of limitation.

So it seems to me we ought to give a little more thought to how we do things. It is quite natural that when there is a need somewhere, through the political process we bring up some resolution to the need, some way to work on the need, and it usually creates a new agency or creates a new department within an agency or a new function, and there is no real way to ensure that that blends in to what is already being done in an efficient way.

There certainly must be lots of opportunities within this huge organization we have to be able to blend one thing in to another to do it more efficiently, to deliver it more efficiently. I think clearly there is reason to believe that activities that were begun 30 years ago may need to be reviewed to see if they still are needed, and if they are needed that they are done in a way that is most effective and efficient.

I am really not critical of the people who are doing these things. I am critical, I guess, or at least inquisitive about the system, because the system is set up in such a way that it does not have a way to even consider change very often. As I say, in the private sector, people are forced to change from time to time in order to continue to be effective and to continue to modernize. I do not think it is reasonable to think that a program that started in the 1950s, and it is now 2003, that that program is being done as efficiently as it might be. I frankly sometimes think it would be a good idea if the various things we pass that go into some kind of services, some kind of activity, should expire and we should have to go through the process of reexamining what that operation is doing and if it is still needed—and it may or may not be—then see if it is being done in the most efficient way possible.

There are operations in the Government, of course, that are designed to do that, such as OMB, the Office of Management and Budget, but it is very difficult.

I am pleased that President Bush has a modernization program going, but there is all kinds of resistance. The resistance can be political: If it does not happen to suit one's particular community as a politician, why, they are opposed to that. I think it is fair to say clearly that the labor union leaders who are involved with Government unions are overreacting to the idea that some things ought to be made available to be done in the private sector, which I think is a very reasonable thing to do.

We now have sort of an overstatement of things that are trying to be done in the National Park Service. Well, there should be a few things that are competitive with the private sector, but the whole Park Service is not going to be turned over to the private sector. No one has suggested that, but that is the kind of thing we get.

I do think we ought to pay a little more attention to how we could make the delivery of services more efficient and how we could review the services that are being delivered to see if indeed they are in keeping with the times. That has to be done in a special way because it just does not happen automatically. Politics keeps it from happening. The complexity keeps it from happening. Sometimes labor unions are resistant to any change. I think it is our responsibility, and I intend to continue to look for opportunities, to examine, evaluate, and try to move forward in making the delivery of essential services more efficient whenever possible.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, I understand we are to resume debate on S. 14 at 10?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. CRAIG. The chairman of the committee who is managing the bill is not yet on the floor. Until he comes, I ask unanimous consent to speak as in morning business for no more than 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, reserving the right to object, I wonder if the bill should be reported and then go into morning business.

Mr. CRAIG. I am going to talk on energy, anyway, so we could do that. I would withdraw my UC.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

ENERGY POLICY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Feinstein amendment No. 876, to tighten oversight of energy markets.

Reid amendment No. 877 (to amendment No. 876), to exclude metals from regulatory oversight by the Commodity Futures Trading Commission.

The ACTING PRESIDENT pro tempore. The Senator from the great State of Idaho.

Mr. CRAIG. Mr. President, we are now resuming debate on S. 14, the national energy policy for our country. I have been on the floor several times over the last number of weeks as we have debated different amendments. Yesterday, there were a couple of critical votes as it related to nuclear. We have a derivatives amendment at this time by the Senator from California, and I think the Senator from Nevada has a second degree on it.

A fundamental question again emerges, and emerged yesterday at a hearing on the Hill, with the statement of our Federal Reserve Chairman Alan Greenspan as to the importance of a national energy policy.

Why is the Chairman of the Federal Reserve, who is interested in the prime rate and the management of monetary supply of our country, concerned about energy? It is fundamental why he is concerned about energy. He is concerned about the economy of our country and its strength, stability, and ability to grow and provide jobs for the men and women who currently do not have them, and to strengthen and stabilize those jobs for the men and women who currently do have jobs.

What was he talking about yesterday? He was talking about one of the primary feed stocks for energy in our country, natural gas; the problems that we currently have with the supply of natural gas because this country has not effectively explored and developed, for a variety of reasons, our natural gas supply.

In the context of not providing supply, we have provided extraordinary demands on the current supply. Under the Clean Air Act, to meet those clean air standards, and out in the Western States and those air sheds specifically, the only way you can meet those standards and bring a new electrical generating plant on line is to choose to use gas to fire a turbine, to generate electricity. That is a tremendously inefficient way to use the valuable commodity of natural gas, but that is exactly what the Federal Government has told our utilities over the last two decades: If you are going to bring a new generation on line, it will be a gas-fired electrical turbine. Coal has problems; we are working on clean coal technology. This legislation embodies trying to get us to a cleaner technology to fire the coal electrical generation in our country.

As a result, what are we talking about? What has been said and what we believe to be true is that there is now rapidly occurring a major shortage in natural gas. As a result, that is not only going to drive up the cost to the consumer in his or her individual home—and I will read from an article: Another witness, Donald Mason, head of the Ohio Public Utilities Commission, predicted that the average residential heating bill next winter will be at least $220 higher per household than last winter.

That is a real shock to an economy and to a household and why Alan Greenspan is obviously worried that you spread that across a consuming nation, and we are talking about hundreds of millions of dollars pulled out of the economy to go to the cost of heating when it had not been the case before. That was one of the concerns.

The other concern is the tremendous price hike we are seeing at this time and the impact that will have. Gas prices have nearly doubled in the past year to about $6.31 per Btu, and there is a 25-percent change expected. We expect prices to peak and we have seen one instance, about 3 months ago, over a 200-percent increase in the price of natural gas as a spike in the market.

S. 14 is legislation to help facilitate the construction of a major delivery system out of Alaska. In Alaska at this moment we are pumping billions of Btu's of gas back into the ground because we simply cannot transport it to the lower 48 States, and we do not want to flare it into the atmosphere as has been the approach in the past in gasfields. It is too valuable a commodity, and we do not want to do that to the environment.

We have also looked at other opportunities for access. Part of the difficulty today is delivery systems and building gas pipelines across America. This legislation has provisions to help facilitate more of that as it relates to right of way and, of course, the recognition of the environmental need and the consequence and appropriate adjustment there.

What Alan Greenspan underlines in his comments, what Donald Mason from the Ohio Public Utilities Commission underlines, was what Spence Abraham said last Friday when he called for a June 26 meeting of the National Petroleum Council to talk about this impending gas shortage crisis: Our country needs a national energy policy.

I hope all of my colleagues rally to that reality. Why should we force upon the American consumer a $200- or $300-increase in their energy costs next year simply because this Senate and this Congress will not do its work or can't do its work? We debated mightily a year ago an energy policy. We got it to a conference. The differences were too great. Ultimately, we could not arrive at a final product to go to our President's desk.

What Senator DOMENICI has done as chairman of the Energy and Natural Resources Committee is craft a broad-based national energy policy that is as much production as it is conservation. It is as much new technology as it is the advancement and the improving of existing technology. It is truly a broad-based national energy policy for our country. More gas? Yes. More coal usage? Yes. More wind usage? Yes. More photovoltaic or sunlight usage? You bet. The development of new, safe, clean, more effective utilization of nuclear? Absolutely. Why shy away from any energy source at this moment when we are forcing them on the American consumer and the economy of this country is increasing costs in the area of energy?

Lastly, when we do all of that and we drive up the costs of the job itself and the cost of the product produced by that job, we make ourselves increasingly less competitive around the world.

I was out in the Silicon Valley this weekend. I met with 50 CEOs of high-technology companies in San Jose. They are interested in a lot of issues, but their No. 1 issue is energy and the ability to know that when they build a plant in this country, whether it is in California or in any other State, they are going to be guaranteed a supply of high-quality constant energy. The reality is when they do not have it, they will shop elsewhere to build that plant. If they can't get quality sustainable energy in this country, then they will go elsewhere. That means U.S. jobs go to some other country.

Shame on us as a country for having failed for the last decade to produce a national energy policy, and in failing to do so, bringing Alan Greenspan to the Hill to talk about an impending energy crisis again in domestic supply of gas, and to have a utility commissioner talk about a $220-per-year increase in the cost of heating the average American home by natural gas.

Less food on the table, less money in the college trust fund for the children—all of those could be the consequence of a home that is unemployed, a home that has to choose between staying warm and doing other things. In a cold winter, ultimately, they will want to stay warm and they will have to pay their heating bill. We should not ask Americans to make that choice if it is our failure to produce a national energy policy and to produce energy that has caused them to have to make that choice. That is the issue.

I hope the Senate will expedite the passage of S. 14. We have been on it now nearly 4 weeks, 3 weeks to be exact. We are being told there are hundreds of amendments out there. There are not hundreds of amendments on this side of the aisle. There are a few. We ought to ask, and I hope we can get by the end of business this week, a finite list and a unanimous consent that will bring this issue together so we can say to our colleagues and to the American people: The Senate is ultimately going to vote on this legislation, help produce a national energy policy, get it into conference with the House, and get it on the President's desk as soon as we possibly can.

Not only does the absence of a national policy have a negative impact on our economy, the presence of one—this legislation—could have a tremendously positive impact. Many have said in the analysis of S. 14, there are 500,000 new jobs in this legislation alone. That could be more jobs that would be created over the next 10 years by this legislation than could be created by the economic stimulus package, although we believe that will have a tremendously positive impact.

That is why we are here in the Chamber debating it. I am frustrated by those who say: Oh, no, not now; we can't do this; we can't do that; or we have hundreds of amendments; or we are obstructing or dragging our feet.

Let's get a unanimous consent agreement. Let's get Senators to bring those amendments to the floor. I am certainly willing to debate them. I think we ought to vote on them. The American people ought to sort us out and see who is for energy production in this country, who is for driving down the projected costs to the average home when it comes to their heating bill, who is in favor of creating hundreds of thousands of new jobs in clean technology, environmentally sound technology, and making this Nation once again self-reliant in the area of energy.

S. 14 is critical legislation. We ought to be voting on it now. We ought not be dragging our feet or, in some instances, obstructing. The debate is critical. Senators, bring your amendments to the floor. The chairman has pleaded with us time and time again to craft a unanimous consent agreement. The Senator from Nevada, the whip for Democrats, has worked with us to try to get a unanimous consent agreement. If, on Friday, we cannot produce a unanimous consent agreement of the body of amendments that will finally be offered and debated on this bill, then it begins to look as if somebody is obstructing this process, somebody simply does not want it to go forward in an effective way to finalize and produce for this country a national energy policy.

I certainly hope we can get on with the business that the Senate does best—get to the floor, debate the issues, offer the amendments, vote on them, and ultimately get this legislation to our President's desk so our country can once again stand tall and strong in the field of energy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to the distinguished Senator from Idaho, we will, as I indicated to the majority leader today, have a list sometime today, a finite list of amendments on our side. I would also say the holdup, the slowdown on this bill in the last 24 hours is not anything that we on this side have done. Senator FEINSTEIN has offered an amendment. That amendment needs to be disposed of before we move forward. I hope the majority will make a decision in the near future as to what they want to do with that amendment.

As indicated, I filed an amendment—I am confident my friend from Idaho would agree with it—to exempt from her amendment minerals, which are such an important part of the American West. They have agreed to accept that amendment. Senator FEINSTEIN has agreed to accept the amendment—not, I am sure, because she likes the amendment a lot but because she realizes what happened when there was a vote on this last year.

I hope that amendment will be accepted, the majority will allow that amendment to be accepted, and we can move forward on the Feinstein amendment with an up-or-down vote or move to table, whatever they decide to do on it, but let's move on.

Senator FEINSTEIN, for example, has other amendments she wishes to offer. She has one dealing with CAFE standards. That was debated last time, but I am sure we will have to debate it this time. But we should move forward on this legislation.

I want the record simply to reflect we are not holding up this legislation. I have made public statements here, with the full knowledge of the Democratic leader, that we are cooperating on this Energy bill in the very best way we can. As we know, last year when we had this bill up, there were 8 weeks of debate, approximately 125 amendments, and we had 35 recorded votes. I hope we need not do that this time. I hope we can condense things and do it in fewer than 8 weeks.

I also said publicly I appreciate very much how Senator FRIST has handled the bills generally since he has taken the leadership of the Senate—not filing cloture immediately. As long as we are cooperating, which we are on this, offering substantive amendments, he has been very good about allowing debate to go forward.

We continue, on this measure, to cooperate with the majority. We will move forward with this most important legislation. I agree with the Senator from Idaho, this country needs an energy policy. I underline, underscore this. I didn't hear all his remarks. I was called off the floor, but I did hear some of his statements regarding alternative energy. The State of Nevada is the Saudi Arabia of geothermal. We are waiting for that development. We need certain tax incentives included in the tax portion of this bill.

We would thrive on more solar energy production. That can be done with tax incentives that are in the underlying tax part of this bill. Of course, the Senator from Idaho and I know how much the wind blows in parts of Idaho and Nevada, and we should be using that wind to our own benefit. It is renewable energy.

Even though there are certain things in the bill the Senator from New Mexico produced that I was not wild about, that is what the process is about. Amendments are offered. The Senator from New Mexico had strong feelings about the nuclear portions of this legislation. We had a good debate on that yesterday and a very close vote. That is what the Senate is all about. There are other parts of the bill we are going to try to amend. No one at this stage is trying to stall—I should not say no one. I am sure some people would love this legislation never to come about, but the general belief of the people on this side of the aisle is we should have an Energy bill, and we are going to work toward that end.

Mr. CRAIG. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. CRAIG. I appreciate those comments. I think we are all frustrated, when we have an issue as mature as this issue is, not to be able to define an arena of amendments and get a unanimous consent agreement that sets a course of action for us. To me, that is what defines progress and ultimate conclusion of what we do on the floor.

As I said earlier, I welcome all amendments that Senators want to have come to the floor. Let's get at the business of debating them and voting on them. When I see an hour quorum call because we cannot get somebody to come to the floor to offer an amendment—and I know the manager of the bill, the chairman of the Energy Committee, has worked mightily to get that done—I have to begin to question what is our intent here.

I am extremely pleased that the Senator from Nevada has recognized the possibility of getting a unanimous consent with a group. I did mention in my remarks that I know the Senator worked to accomplish that, and I appreciate that. But in the absence of doing that, it appears we are wandering a bit in a wilderness of undefinable amendments and no determination as to when we can conclude this process.

It is extremely pleasing to hear we may ultimately get that done because this is a critical issue.

Mr. REID. I will respond to my friend from Idaho. No. 1, we hope to have a list of amendments today sometime before the close of business. No. 2, as the Senator from Idaho knows, as the Senator from New Mexico knows, the lull in the proceedings here is not any fault of the minority. We are waiting for the majority to make a decision as to what they are going to do on the derivatives amendment filed by the Senator from California and the Senator from Illinois.

We are here to do business. We are simply waiting, until a decision is made on derivatives, as to what is the next amendment before us. We have lots of people willing to offer amendments on this side.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first I thank the distinguished Senator from Idaho for his remarks this morning and for his assistance on this bill. I thank him very much.

This morning I want in particular to thank the distinguished minority whip, the Senator from Nevada, for his comments on the floor and his commitment. We are working on a list on our side. We will certainly be ready at the same time or sooner, which means whether we finish by this Friday or not, although we will try mightily once we have the list to wean them down and to move with dispatch. Obviously, we will be on a course to get an Energy bill this year, which is clearly what we want to do. From listening to the minority leader, I have no doubt whatsoever that is what the minority desires to do. I thank him very much for the comments here this morning.

As far as the pending amendment is concerned, it is in our hands at this point. The Senator from California has her prerogative of not wanting to set it aside. We have an obligation to decide what we are going to do with it. We ought to do that pretty soon. Our leadership will make that decision. It is not directly within the jurisdiction of this committee, or I would be making decisions with the leadership. It is more within the jurisdiction of the Agriculture Committee, and the leadership is taking a look.

I understand we have a vote this morning on a judge. Is that correct? That will give leadership a chance to be here in the Chamber, I say to my friend from Nevada, after which time we will make a decision on what we want to do with the pending amendment.

In the meantime, the Senator from New Mexico yields the floor knowing there are others who want to speak to this issue. The junior Senator from Idaho desires to speak. I will yield at this point so he may proceed.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 876

Mr. CRAPO. Mr. President, I rise to address the Feinstein amendment dealing with derivatives. I think it is a very bad idea. It is one we debated last year and one which is dangerous to our economy.

In order to understand, we have to go back 2 years. Several years ago, Congress wanted to know exactly how our country should approach the regulation of derivatives. As a result of that, and after a few years of study and debate in which a precise time was put together to evaluate the issue, that team came back with recommendations. Those recommendations were enacted by Congress in the Commodity Futures Modernization Act of 2000. This landmark legislation provided certainty with respect to the legal enforceability and regulatory status of swaps and other off-exchange derivatives—what we call over-the-counter derivatives—under the Commodity Exchange Act. The Feinstein amendment would undermine that certainty for OTC derivatives and would impose a new persuasive and unnecessary regulatory regime with respect to OTC derivatives based on energy or on other nonfinancial, nonagricultural commodities.

This act gets complicated, but these commodities are called "exempt commodities." The term is a little bit confusing because it creates the impression sometimes that these commodities are not regulated at all. They are covered fully by the Commodity Futures Modernization Act and by the Commodity Exchange Act. The point is that they are not regulated in the same way that other securities are regulated.

OTC derivatives, including those based on energy, are critical risk management tools. Congress, key financial regulators and others recognize that OTC derivatives are critical tools that are used by businesses, government, and others to manage the financial, commodity, credit and other risks inherent in their core economic activities with a degree of efficiency that would not otherwise be possible.

It is important to state at the outset as we are discussing this issue that we are not talking about transactions that many people think of in securities where they think about investing in a stock in the stock market, a stock that may be regulated under our securities regulations system. These are not transactions that are engaged in by unsophisticated buyers or sellers. These are very sophisticated transactions. Those engaging in these transactions are sophisticated buyers and sellers. They are not the kinds of transactions most people think of when they think of investing in the stock market.

OTC derivatives based on energy products are an especially important tool, allowing market participants to manage risk. In fact, last year when we had Alan Greenspan testify at the Banking Committee, I asked him directly about whether he believed the management of derivatives, the regulation of derivatives, was being properly handled today and whether there was any aspect of our approach to regulating derivatives that led to the Enron debacle or any of the other problems California faced.

At that time, the answer I got from Mr. Greenspan was that he was not aware of any evidence that indicated the problems we faced in the Enron circumstance were as a result of our regulatory regime for derivatives, and also that it was his opinion the use of derivatives was a very important tool to help to allocate risk in our economy in such a manner that it helped us stabilize and strengthen our economy.

In fact, he even went so far as to say he believed that one reason our economy had not dipped further as we faced a lot of the economic trials and tribulations we have faced in the last couple of years was because of our ability to utilize derivatives and to share and allocate risk in these complicated transactions.

Today, for example, airlines use over-the-counter derivatives to manage their risks with respect to the price and availability of jet fuel. Energy-intensive companies such as aluminum producers use OTC derivatives to hedge their risks of change in the cost of electricity, and energy producers likewise use OTC derivatives to minimize the effects of price volatility.

Again, I reiterate the point that these are complicated, sophisticated transactions being engaged in by very sophisticated participants in the market.

A Wall Street Journal article dated March 10, 2003, entitled "U.S. Airlines Show Disparity in Hedging for Jet-Fuel Costs," illustrated the impacts of using derivatives to hedge in the U.S. airline industry. The article noted that jet fuel, now more than twice as expensive; as a year ago, is emerging as a major factor in survival and bankruptcy for airlines, as several carriers, including some of the weakest, find themselves with few protective price hedges in place.

In other words, these airlines did not effectively utilize the hedging tool, and now they are facing a doubling in the cost of their fuel prices against which they could have hedged. They could have spread that risk if they had used these hedging tools.

Congress should avoid actions that unnecessarily deter the use or increase the cost of these risk management tools.

Key financial regulators also oppose legislation such as this amendment. As I indicated earlier, Alan Greenspan indicated his opposition to increasing or changing the regulatory regime with regard to transactions in OTC derivatives. We are expecting anytime today to get a brandnew response from all of our financial regulators. But last year when this same debate was held, the Chairman of the Board of Governors of the Federal Reserve, the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission, collectively known as the President's Working Group on Financial Markets, opposed the earlier versions of the amendment we debated.

In a September 18, 2002, letter to Senators CRAPO and MILLER, these regulators highlighted the benefits of OTC derivative noting that "the OTC derivatives markets in question have been a major contributor to our economy's ability to respond to the stresses and challenges of the last two years." The President's working group also observed "while the derivatives markets may seem far removed from the interests and concerns of consumers, the efficiency gains that these markets have fostered are enormously important to the consumers and to our economy." They urged Congress to protect these markets' contributions to the economy and to be aware of the potential unintended consequences of legislative proposals to expand regulation of the OTC derivatives markets, and changing the President's working group proposals which we enacted into law in 2000.

Federal Reserved Chairman Alan Greenspan told the Senate Banking Committee in March of last year that there was:

> a significant downside if we regulate [OTC derivatives based on energy] where we do not have to . . . because if we step in as government regulators, we will remove a considerable amount if the caution that is necessary to allow these markets to evolve. [W]hile it may appear sensible to go in and regulate, all of our experience is that there is a significant downside when you do not allow counterparty surveillance to function in an appropriate manner.

The CFTC does not need new authority to address acts of manipulation that appear to have occurred in California.

One of the arguments we often hear in favor of jumping in and increasing the regulatory scheme with regard to derivatives is that Enron destroyed the energy markets in California and if we had had a tough regulatory regime, that wouldn't have happened.

The CFTC's recent enforcement action against Enron demonstrates that it has adequate tools under the CFMA to address situations such as those, which arose in California. The following enforcement actions have been brought forth by the CFTC this year: No. 1, CFTC charges Enron with price manipulation, operating an illegal, undesignated futures exchange and offering illegal lumber futures contracts through its internet trading platform; No. 2, energy trading company agrees to pay the CFTC $20 million to settle charges of attempted manipulation and false reporting; and No. 3, former natural gas trader charged criminally under the Commodity Exchange Act with intentionally reporting false natural gas price and volume information to energy reporting firms in an attempt to affect prices of natural gas contracts.

The point here is, there is law in place prohibiting the kinds of things that happened in the Enron situation, and those laws are being enforced with criminal penalties being imposed. The fact they are already regulated is apparent. The fact that the acts that occurred in California are the subject of intense regulatory review and criminal enforcement conduct shows we do have regulatory protections in place. The fact there are bad actors who violate the law does not always mean we should necessarily increase the regulatory burdens we face in this country, that our economy deals with in this country.

The CFTC's Division of Enforcement continues to work closely with other Federal law enforcement officers across the country on investigations of possible round-trip trading, false reporting, and fraud and manipulation by energy companies, their affiliates, their employees, or their agents. Again, the point is, there is no evidence that any aspect or lack of aspect in our regulatory regime for the regulation of derivatives had anything to do with the actions of Enron and the occurrences in California that caused such a difficult problem in their energy economy.

There is no evidence that enactment of the CFMA, for example—the 2000 reforms, the modernization of our regulatory system—contributed to the collapse of Enron. Enron's collapse was caused by a failure of corporate governance and controls which, when it became public, led others to refuse to do business with them. As in the case of California, neither the CFTC nor any other key financial regulators has suggested more restrictive regulation of derivatives or derivatives dealers would have prevented the fall of Enron or is needed to prevent future similar events in the future.

The Feinstein amendment would cause more problems than it would cure. This amendment, among other items, would create jurisdictional confusion between the Federal Energy Regulatory Commission and the Commodity Futures Trading Commission. It would impose problematic capital requirements to facilities trading in the OTC energy derivatives markets. It would require futures-like reporting and recordkeeping requirements.

It would create both legal and regulatory uncertainty for brokered trading in OTC energy derivatives, as well as OTC derivatives based on other nonfinancial, nonagricultural commodities. It would subject to new regulation a broad range of market participants that have not traditionally been subject to the more intensive CFTC regulation. It would allow the CFTC to regulate any exempt commodity transaction and presumably any market participant that engages in such a transaction in a dealer market. Again, I repeat, these are sophisticated transactions between sophisticated actors in these markets. This proposal would create the very sort of uncertainty that Congress and the Commodity Futures Trading Commission have worked for more than a decade to avoid.

This amendment, in my opinion, is a solution in search of a problem. Since the collapse of Enron and the actions of some market participants to improperly exploit the weaknesses in the California energy price deregulation scheme, remedial actions have occurred on all fronts. The CFTC, the FERC, and others have initiated civil and criminal actions. The Financial Accounting Standards Board has aggressively pursued necessary changes in accounting rules, and private-sector groups have developed and implemented "best practices" rules and improved the techniques of managing credit and other risks in the OTC energy derivatives transactions.

The lessons of Enron and of California have been learned. The misdeeds and regulatory violations involving Enron and California have challenged regulators under the existing regulatory structure. Law enforcement agencies and private litigants are dealing with it under the existing regulatory structure. The energy markets are beginning to rebound, and they are becoming less volatile, notwithstanding the current uncertain economy. As a result and because of all this, the Feinstein amendment is little more than a solution in search of a problem, but for reasons I have already mentioned, it is a solution that is dangerous and unnecessary and will put more rigidity into our economy at a time when we need the flexibility and the resilience that will make our economy more dynamic in these difficult times.

Mr. President, there are a lot of other aspects of this debate we need to review before we vote on this amendment. I am hopeful by the end of the day we are going to be in a position where we can, as a Senate, deal with this amendment, as we dealt with it last year, by rejecting it and telling our energy derivatives markets, and all of our OTC derivatives markets, that the current modernized regulatory structure we put into place in 2000, as we follow the President's working group recommendations as to how to deal with these issues, will be maintained and will not be changed, and they can continue to utilize these important financial tools to keep our economy strong and dynamic.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, what is the matter now before the Senate? Is it the Reid amendment to the Feinstein amendment?

The PRESIDING OFFICER. The Reid amendment is the pending question.

AMENDMENT NO. 877, AS MODIFIED

Mr. REID. Mr. President, I have a modification to my amendment which I send to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 877), as modified, is as follows:

On page 18, strike line 1 and insert the following:

"(10) METALS.—Notwithstanding any other provision of this subsection, an agreement, contract, or transaction in metals—

"(A) shall not be subject to this subsection (as amended by section 04 of the Energy Policy Act of 2003); and

"(B) shall be subject to this subsection and subsection (h) (as those subsections existed on the day before the date of enactment of the Energy Policy Act of 2003).

"(11) NO EFFECT ON OTHER AUTHORITY.—

Mr. REID. I state, Mr. President, I did this with no one from the majority being here, but it does not take unanimous consent, so I was not trying to take advantage of anyone.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I rise to address the overlying amendment pending before us concerning the issue of energy derivatives. I know there is a second-degree amendment to that. I am a little disappointed there is a second-degree amendment to it. I understand why it was done. I know the Senator from California wants to separate off those people who are interested in metals derivatives from those who are interested in energy derivatives. She knows there is considerable interest on both of those parts. So this is a divide-and-conquer strategy, where later they will pick up the metals folks, thinking it will probably work better, because we debated this last year. We debated the same issue. We are back to an amendment that is slightly revised but still not good enough to make it through this body before.

We voted on this and we defeated this. One significant change is the second-degree amendment that takes the metals derivatives out of it. That is clever, but I hope the metals folks don't fall for it because they are next on the list.

The proponents of the amendment believe the trading of derivatives—especially in the energy area—was the cause of energy problems faced by Western States in recent years. The proponents believe energy trading of derivatives by Enron contributed significantly to the energy problem. Unfortunately, the problems that caused Enron to fail were based upon failures in corporate governance and outright fraud. Chairman Greenspan has testified several times before congressional committees that derivatives did not cause the collapse of Enron.

Last year we debated the same issue and we voted it down. The issue of derivatives trading is one of the most complicated and detailed issues to come before us. I have been tempted to see how many of us could even spell derivatives, and we are being called on here to make some major judgments on the issue. If you are a derivatives dealer or a small company that uses derivatives to stabilize revenues, or you are a purchaser of derivatives, this would probably be a stimulating debate. But it is one of those detailed ones, and I think that is why I get to speak on it. It is more the accounting type of thing. Consequently, most people will not be able to understand the implications or even how it operates other than in general details, and I am including myself in that.

I must admit that as chairman of the Securities and Investment Subcommittee of the Banking Committee, I have encountered especially complex market structure orders. However, the issue of derivatives goes beyond those issues. This may have been the most complicated matter I have looked at since I have been in the Senate.

Nobody really knows what a derivative is, including myself. They are very complicated, tailored instruments, each one being unique, which explains why, from the beginning of the trading of derivatives, it has been deregulated. It has never been regulated. In very basic terms, the selling of derivatives is a way for companies that cannot afford risk to pass it on to companies that are willing to accept the risk, to buy the risk. It is a form of corporate insurance. However, beyond this simple definition, the experts should be left to structure and negotiate the instruments. I want to mention that each instrument is unique. That is why it is not traded on the stock market. However, beyond this simple definition, we do need to leave it to the professionals, the ones who understand how this works. And there are professionals out there working on it.

While the amendment before us is very similar to last year's amendment, the changes made to the amendment do not completely solve the underlying problems. In fact, the amendment may have cause for greater confusion as to the jurisdiction of derivatives between the Commodity Futures Trading Commission, the Securities and Exchange

Commission, the Office of the Comptroller of the Currency, and the Federal Energy Regulatory Commission.

In 2000, during the debate on the Commodity Futures Modernization Act, we discussed extensively the oversight and regulation of energy derivatives. We concluded that the proper amount of oversight for a new and emerging business had been put into law. I believe we took the proper course. That law gave the Commodity Futures Trading Commission additional powers to regulate market manipulation where appropriate.

One argument that was made over and over during the debates last year and is being made this year is that somehow the 2000 legislation exempted these derivatives and swaps from regulation. That argument is not true. They never have been regulated. In fact, Congress acted in passing the Futures Trading Practice Act in 1992 to give the Commodity Futures Trading Commission specific power to exempt these derivatives and swaps as being inappropriate for regulation under the Commodity Futures Trading Commission, which has the job of regulating futures—not regulating tailored swaps between sophisticated customers.

The Congress passed the Futures Trading Practice Act in 1992 that directed the Commodity Futures Trading Commission to grant these exemptions. Those exemptions were granted in the previous administration, and the issue was not controversial until we started looking for a scapegoat. Nor have these swaps and derivatives ever come under Federal regulation in terms of an ongoing regulatory process.

Taxpayers take a dislike to the addition of programs to increase tax burden or regulation. This one is regulation. I am reminded of a poem from the play "Big River" that describes the emotions of a taxpayer. It goes:

Well you sole selling no-good
Son-of-a-shoe-fittin' firestarter
I ought to tear your no-good
Perambulatory bone frame
And nail it to your government walls
All of you, you Bureaucrats.

There is a concern across this country for bureaucrats setting up regulation, particularly regulation if it is not needed and regulation that is not understood by the regulators.

During his testimony before the Senate Banking Committee last March, Chairman Greenspan reiterated it was crucially important that Congress and Federal regulators permit the derivatives market to evolve amongst professionals who are the most capable of protecting themselves far better than Congress, the Federal Reserve, CFTC, or the Office of the Comptroller of the Currency. Unfortunately, there is a considerable downside for the Federal Government to get involved where the individual private parties are already looking at the economic events of their trading partners.

With respect to the Enron matter, there is no indication that the trading of energy derivatives contributed in any way to the collapse of Enron. Proponents of the amendment argue that Enron had such a large market share of this business that they were able to have undue influence over energy trading. However, to the contrary, during and after Enron's collapse, there were no interruptions of trading. If it had been a disaster, there would have been interruptions, but there were no interruptions of trading. The market continued.

One fear that existed in earlier debates, and still exists today, was that the CFTC did not have the regulatory power to correct abuses in trading of derivatives. However, on page 43 of the Senate companion bill, S. 3283, to the Commodity Futures Modernization Act of 2000, paragraph (4)(B) gives the Commodity Futures Trading Commission the power to intervene and enforce any action where fraud is present.

In listening to proponents of this amendment, one would believe that Federal regulators were powerless in the energy trading markets. Not only does the power exist, but it was strengthened in the 2000 legislation by a provision written into the energy section of the bill in the House of Representatives. In paragraph (4)(C) is a provision relating to price manipulation and that grants the Commodity Futures Trading Commission the power to intervene in cases where price manipulation occurs.

It should be noted that the Commodity Futures Trading Commission on April 9 of this year issued a "Report on Energy Investigations," which details civil and criminal enforcement actions brought in energy-related markets since the passage of the Commodity Futures Modernization Act in 2000. The powers granted to the Commodity Futures Trading Commission appear more than sufficient to oversee market manipulation and, therefore, make the unwieldy regulatory scheme proposed by this amendment unnecessary.

I ask unanimous consent that the entire "Report of the Energy Investigations" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMODITY FUTURES TRADING COMMISSION'S REPORT ON ENERGY INVESTIGATIONS—APRIL 9, 2003

The Commodity Futures Trading Commission (the Commission or CFTC) has launched an extensive investigation of alleged misconduct in energy-related markets. To date, the Commission has investigated over 25 energy companies, including Enron and its affiliates, interviewed or taken testimony from over 200 individuals and reviewed in excess of 2 million documents. The Commission's efforts have already resulted in: the filing of three major enforcement actions, two of which were settled with civil monetary penalties totaling $25 million (see discussion below in Section I); related criminal filings (Section II); cooperative enforcement with Federal law enforcement officers; and public outreach efforts (Section IV).

The Commission has devoted significant resources to this investigation, including committing the full-time efforts of 30 staff members, which represents 25 percent of its total enforcement program staff. Through the first six months of fiscal year 2003, above and beyond its human resource costs, the Commission has spent $122,000 on expenses for its energy investigation, which is 30 percent of its enforcement program's total expenses during this time period. The Commission estimates its total energy investigation costs for the entire fiscal year should likely exceed $250,000.

Commission Chairman James E. Newsome, who is a member of the President's Corporate Fraud Task Force, remarked in connection with the commission's filing of an action against two energy companies in December 2002: "My philosophy has been, and will continue to be, that the Commission has a responsibility to investigate alleged wrongdoing in a comprehensive and timely fashion. And, when violations are found, the Commission will come down hard. Over the course of the past year, the news has been peppered with admissions, accusations, and speculation of wrongdoing in the energy markets and, as a result, I have committed the Commission's resources to finding and punishing the wrongdoers. It is my belief that with the filing and simultaneous settling of this enforcement action, the Commission sends a clear message to all companies that engaged in similar behavior . . . a message that their actions will not be tolerated and that they will be prosecuted and subjected to the full consequences of the law."

I. CIVIL INJUNCTIVE ACTIONS FILED BY THE COMMISSION

A. ENRON AND FORMER ENRON VICE PRESIDENT CHARGED WITH MANIPULATING PRICES IN NATURAL GAS MARKET; ENRON CHARGED FURTHER WITH OPERATING AN ILLEGAL, UNDESIGNATED FUTURES EXCHANGE AND OFFERING ILLEGAL LUMBER FUTURES CONTRACTS THROUGH ITS INTERNET TRADING PLATFORM

On March 12, 2003, the Commission filed a complaint in federal district court in Houston, Texas, charging defendants Enron Corp. (Enron), an Oregon Corporation headquartered in Houston, and Hunter S. Shively (Shively) of Houston, Texas, with manipulation or attempted manipulation, and charging Enron with operating an illegal futures exchange, and trading an illegal, off-exchange agricultural futures contract.

Until its bankruptcy in December 2001, Enron was one of the largest energy companies in the United States. Its natural gas trading unit was based in Houston and managed several natural gas over-the-counter (OTC) products. Enron's natural gas trading unit was divided into geographical regions and included a natural gas futures desk. Shively was the desk manager for Enron's Central Desk from May 1999 through December 2001.

From November 1999 through at least December 2001, Enron Online (EOL) was Enron's web-based electronic trading platform for wholesale energy, swaps, and other commodities, including the Henry Hub (HH) natural gas next-day spot contract that was delivered at the HH natural gas facility in Louisiana. The HH is the delivery point for the natural gas futures contract traded on the New York Mercantile Exchange (NYMEX), and prices in the HH Spot Market are correlated with the NYMEX natural gas futures contract. During its existence, EOL became a leading platform for natural gas spot and swaps trading.

The complaint charges that on July 19, 2001, Shively, through EOL, caused Enron to purchase an extraordinarily large amount of HH Spot Market natural gas within a short period of time, causing artificial prices in the HH Spot Market and impacting the correlated NYMEX natural gas futures price.

The complaint also charges Enron with operating EOL as an illegal futures exchange from September through December 2001. According to the complaint, in September 2001, Enron modified EOL to effectively allow outside users to post bids and offers. Enron listed at least three swaps on EOL that were commodity futures contracts. The complaint further alleges that with this modification, Enron was required to register or designate EOL with the CFTC or notify the CFTC that EOL was exempt from registration. Enron failed to do either of these things, and the complaint charges that, because of this failure, EOL operated as an illegal futures exchanged.

Finally, the complaint charges Enron with offering an illegal agricultural futures contract on EOL. According to the complaint, between at least December 2000 and December 2001, Enron offered a product on EOL it called the US Financial Lumber Swap. The complaint alleges that the EOL lumber swap was an agricultural futures contract that was not traded on a designated exchange or otherwise exempt, and therefore was an illegal agricultural futures contract. The CFTC is seeking against each defendant a permanent injunction, civil monetary penalties and other remedial and ancillary relief.

B. EL PASO MERCHANT ENERGY, L.P. SETTLES CLAIMS UNDER THE COMMODITY EXCHANGE ACT THAT IT INTENTIONALLY REPORTED FALSE NATURAL GAS PRICE AND VOLUME INFORMATION TO ENERGY REPORTING FIRMS IN AN ATTEMPT TO AFFECT PRICES OF NATURAL GAS CONTRACTS

On March 25, 2002, the Commission issued an administrative order settling charges of attempted manipulation and false reporting against energy company El Paso Merchant Energy, L.P. (EPME), a division of El Paso Corporation (El Paso). The CFTC settlement order finds that from at least June 2000 through November 2001, EPME reported false natural gas trading information, including price and volume information, and failed to report actual trading information, to certain reporting firms. According to the order, price and volume information is used by the reporting firms in calculating published indexes of natural gas prices for various hubs throughout the United States. The order finds that EPME knowingly submitted false information to the reporting firms in an attempt to skew those indexes for EPME's financial benefit. According to the order, natural gas futures traders refer to the published indexes for price discovery and for assessing price risks. The CFTC found that EPMS's false reporting conduct violated the Commodity Exchange Act (CEA).

The order also finds that EPME's employees provided false trade data because they believed it benefited their trading positions or derivative contracts. In addition, the order finds that EPME did not maintain required records concerning the information that it provided to the reporting firms or the true source of the information related to those firms, as required by Commission regulations. As a result of its actions, EPME violated the CEA and Commission regulations.

The order further finds that EPME specifically intended to report false or misleading or knowingly inaccurate market information concerning, among other things, trade prices and volumes, and withheld true market information, in an attempt to manipulate the price of natural gas in interstate commerce, and that EPME's provision of the false reports and failure to report true market information were overt acts that furthered the attempted manipulation. According to the order, EPME's conduct constituted an attempted manipulation under the CEA, which, if successful, could have affected prices of NYMEX natural gas futures contracts.

The CFTC order imposed the following sanctions: required EPME to cease and desist from further violations of the EA and Regulations; required EPME and El Paso, jointly and severally, to pay a civil monetary penalty of $20 milliion—$10 million immediately and $10 million plus post-judgment interest within three years of the entry of the order; and obliged EPME and El Paso to comply with various undertakings, including an undertaking to cooperate with the Commission in this and related matters, including any investigations of matters involving the reporting of natural gas trading information.

EPME provided significant cooperation in the course of the Commission's investigation by, among other things, conducting an internal investigation through an independent law firm, waiving work product privilege as to the results of that investigation, and compiling and analyzing trading data which detailed all reported and actual trades in the natural gas markets. The Commission took that significant cooperation into consideration in its decision to accept EPME's settlement offer.

C. DYNEGY MARKETING & TRADE AND WEST COAST LLC SETTLE CLAIMS UNDER THE COMMODITY EXCHANGE ACT THAT THE INTENTIONALLY REPORTED FALSE NATURAL GAS PRICE AND VOLUME INFORMATION TO ENERGY REPORTING FIRMS IN AN ATTEMPT TO AFFECT PRICES OF NATURAL GAS CONTRACTS

On December 19, 2002, the Commission issued an administrative order settling charges of attempted manipulation and false reporting against energy companies Dynegy Marketing & Trade (Dynegy) and West Coast Power LLC (West Coast). The CFTC settlement order finds that from at least January 2000 through June 2002, Dynegy and West Coast reported false natural gas trading information, including price and volume information, to certain reporting firms. According to the order, price and volume information is used by the reporting firms in calculating published surveys or indexes (indexes) of natural gas prices for various hubs throughout the United States. The order finds that Dynegy knowingly submitted false information to the reporting firms in an attempt to skew those indexes for Dynegy's financial benefit. According to the order, natural gas futures traders refer to the published indexes for price discovery and for assessing price risks. The CFTC found that Dynegy's false reporting conduct violated the CEA.

The order further finds that in an effort to ensure that its reported information would be used by the reporting firms, Dynegy caused West Coast to submit information misrepresenting that West Coast was a counterparty to fictitious trades. In addition, the order finds that Dynegy did not maintain required records concerning the information which it provided to the reporting firms or the true source of the information relayed to those firms, as required by Commission Regulations. As a result of their actions, Respondents violated the CEA and Commission Regulations.

The order further finds that Respondents specifically intended to report false or misleading or knowingly inaccurate market information concerning, among other things, trade prices and volumes, to manipulate the price of natural gas in interstate commerce, and that Respondents' provision of the false reports and their collusion, which was designed to thwart the reporting firms' detection of the false information, were overt acts that furthered the attempted manipulation. According to the order, Respondents' conduct constitutes an attempted manipulation under the CEA, which if successful, could have affected prices of NYMEX natural gas futures contracts.

The CFTC order imposed the following sanctions: required Dynegy and West Coast to cease and desist from further violations of the CEA and Regulations; required Dynegy and West Coast, jointly and severally, to pay a civil monetary of $5,000,000; and obliged Dynegy and West Coast to comply with their undertakings, including an undertaking to cooperate with the CFTC in this and related matters.

II. RELATED CRIMINAL ACTIONS

A. ENRON'S FORMER CHIEF ENERGY TRADER PLED GUILTY TO CONSPIRACY TO COMMIT WIRE FRAUD IN SCHEME TO MANIPULATE ENERGY MARKET

On October 17, 2002 the Office of the United States Attorney for the Northern District of California announced that Timothy N. Belden, who was Enron's Chief Energy Trader, had agreed to plead guilty to conspiracy to commit wire fraud in a scheme with others at Enron to manipulate California's energy market. Specifically, Belden admitted that beginning in approximately 1998, and continuing through 2001, he and others at Enron conspired to manipulate the energy markets in California by: (1) misrepresenting the nature and amount of electricity Enron proposed to supply in the California market, as well as the load it intended to serve; (2) creating false congestion and falsely relieving that congestion on California transmission lines, and otherwise manipulating fees it would receive for relieving congestion; (3) misrepresenting that energy was from out-of-state to avoid federally approved price caps, when in fact, the energy it was selling was from the State of California and had been exported and re-imported; and (4) falsely represented that Enron intended to supply energy and ancillary services it did not in fact have and did not intend to supply. A sentencing date has yet to be scheduled for Belden, but a status hearing in his case is set for April 17, 2003. In announcing the plea agreement, the efforts of the Commission, Federal Energy Regulatory Commission (FERC) and Federal Bureau of Investigation (FBI) were recognized.

B. FORMER HEAD OF ENRON'S SHORT-TERM CALIFORNIA ENERGY TRADING DESK PLED GUILTY TO CRIMINAL CHARGES BASED UPON HIS AND OTHER ENRON TRADERS' CRIMINAL MANIPULATION OF THE CALIFORNIA ENERGY MARKETS

On February 4, 2003 the Office of the United States Attorney for the Northern District of California announced that Jeffrey S. Richter, who was the head of Enron's Short-Term California energy trading desk, had agreed to plead guilty to conspiracy to commit wire fraud in a scheme with others at Enron to manipulate California's energy markets and also to making false statements to investigators. Specifically, Belden admitted to making false statements to the FBI and U.S. Attorneys Office during the continuing investigation into fraudulent trading practices in those markets. Specifically, Richter admitted his participation on behalf of Enron in two fraudulent schemes devised by Enron traders, known internally within Enron as "Load Shift" and "Get Shorty." Enron's "Load Shift" trading scheme involved the filing of false power schedules to increase prices by creating the appearance of "congestion" on California's transmission lines, which permitted Enron to profit through its ownership of transmission rights on the lines and by offering to "relieve" the congestion through subsequent schedules. Enron's "Get Shorty" trading scheme involved the company's traders fabricated and sold emergency back-up power (known as ancillary services) to the California Independent Service Operator, received payment, then cancelled the schedules and covered their commitments by purchasing through a cheaper market closer to the time of delivery. In announcing the plea agreement, the efforts of the Commission, FERC, FBI, and the Antitrust Division of the Department of Justice were recognized.

C. FORMER DYNEGY NATIONAL GAS TRADER CHARGED CRIMINALLY UNDER THE COMMODITY EXCHANGE ACT WITH INTENTIONALLY REPORTING FALSE NATURAL GAS PRICE AND VOLUME INFORMATION TO ENERGY REPORTING FIRMS IN AN ATTEMPT TO AFFECT PRICES OF NATURAL GAS CONTRACTS

On January 27, 2003 the Office of the United States Attorney for the Southern District of Texas, Houston Division, unsealed a seven count federal indictment charging Michelle Valencia, a former Senior Trader at Dynegy, with three counts of false reporting under the CEA. Additionally, Valencia was charged with four counts of wire fraud. The indictment alleges that on three separate occasions in November 2000, January 2001 and February 2001, Valencia, responsible for trading natural gas through Dynegy's "West Desk" caused the transmission of a report which include price and volume data to certain publications knowing that the trades had not actually occurred. In announcing the indictment, the efforts of the Commission and the FBI were recognized.

III. Cooperative Enforcement—Commission Seminar With Federal Law Enforcement Officers on Energy Markets

On February 12, 2003 the Commission hosted forty federal criminal law enforcement officers at a cooperative enforcement session on current issues in energy investigations. Attending were Assistant United States Attorneys, Federal Bureau of Investigation agents, and United States Postal Inspectors. The Commission's Division of Enforcement, which coordinated the program, has been working closely with other federal law enforcement officers across the country on investigations of possible round-trip trading, false reporting, and fraud and manipulation by energy companies and their affiliates, employees and agents. The meeting was designed to share expertise, and to discuss ways for federal enforcers to cooperate in these inquiries.

IV. Public Outreach

In carrying out its regulatory and enforcement responsibilities under the CEA, the Commission relies upon the public as an important source of information. A questionnaire, available by clicking on the Enron Information link on the CFTC's homepage at www.cftc.gov, has been prepared by the CFTC's Division of Enforcement to assist members of the public in reporting suspicious activities or transactions involving Enron, its subsidiaries, affiliates, or related entities. The Division is also interested in receiving information relating to suspicious activities or transactions that may have affected West coast electricity or natural gas prices, particularly in January 2000 through December 31, 2001. Interested persons can also call the Commission's toll-free voice mailbox and leave relevant information at (866) 616–1783.

Mr. ENZI. Mr. President, I believe the amendment is overly broad and, if adopted, will likely decrease market liquidity because of increased legal and transactional uncertainties. Additionally, energy companies may be discouraged from using derivatives to hedge price risks, resulting in increased volatility in the energy markets. In the end, I believe this will hurt the very consumers the legislation seeks to help.

The amendment appears to grant the Federal Energy Regulatory Commission primary jurisdiction over energy derivatives, but if the Federal Energy Regulatory Commission determines that the derivative or financial instrument is not under its jurisdiction, then the Federal Energy Regulatory Commission should refer the derivative or financial instrument to the appropriate Federal regulator. Unfortunately, this will create great uncertainty for market participants as to which agency's regulatory scheme the derivative would fall under.

I recently was involved in some pipeline questions and ran into the circular path of fingerpointing where each agency said the other agency and the other agency and the other agency was responsible until it pointed back to the first agency, and nobody would look at the problem. That is the kind of circular problem we are creating with this amendment.

In addition, it goes without saying that Federal agencies want to expand their jurisdiction and get bigger. It should be noted that while the Federal Energy Regulatory Commission seeks to expand its authority to regulate these energy derivatives markets, other Federal agencies, particularly the financial regulatory agencies, believe such a regulatory scheme would be detrimental to the market.

The amendment also would subject to regulation a broad class of "covered entities," including both electronic trading facilities and "dealer markets" that are not otherwise trading facilities. As discussed above, this definition may be too broad as to deter participants from entering the trading markets.

In addition, the amendment would permit CFTC to impose notice, reporting, price dissemination, recordkeeping, among other requirements. Not only would these requirements apply to dealer markets, but also to exemption commodity transactions on such an entity.

The secondary amendment that would exempt metals from the proposed regulatory scheme of the underlying amendment is not a good idea. Congress should be very cautious about carve-outs without fully understanding the implications. With regard to metals, Congress may start down a slippery slope where this initial carve-out is for the metals industry and then move on to other industries. I believe we need to explore this in the committees before having it considered on the floor. Therefore, I urge Members to resist the free vote without knowing all the consequences.

Letters were recently sent to the Senate Energy Committee by the Chicago Board of Trade, the Chicago Mercantile Exchange, and the New York Mercantile Exchange opposing legislation introduced this Congress that is very similar to the amendment before us.

Various other groups have been outspoken about this amendment, including the National Mining Association, the International Swaps and Derivatives Association, and the Bond Market Association, just to name a few. In addition, during last year's debate on the Energy bill, the President's working group, comprised of the Chairman of the Board of Governors of the Federal Reserve, the Secretary of the Department of the Treasury, the Chairman of the SEC, the Chairman of the CFTC, opposed a similar amendment and we defeated it. Individually, the Chairman of the CFTC and the then-Chairman of the SEC sent letters directly to me opposing the energy derivative amendment.

On the overall topic of derivatives, Chairman Greenspan stated:

> Although the benefits and costs of derivatives remain the subject of spirited debate, the performance of the economy and the financial system in recent years suggests that these benefits have materially exceeded the costs.

If the proponents of this amendment are attempting to remedy the problems caused by Enron, I do not believe this amendment will make a difference to prevent future Enrons. However, if last year's Sarbanes-Oxley Act had been in place sooner, then the corporate governance requirements of the act may have served as an early warning system to Enron's audit committee and have covered the fraudulent activities early in the process.

What I am saying is, we corrected the fraudulent problem. I am very concerned that if we adopt this amendment, we may fundamentally change the emerging derivatives market. Once the structure is in place, it may place such a burden on the market participants that it may not be worthwhile to pursue. In addition, the amendment may have caused unintentional confusion as to which regulator may or may not oversee individual participants or components of the marketplace. Before we make any fundamental change, we should, at a minimum, try to understand the ramifications first.

I am afraid this amendment might fit under the congressional precept that if it is worth reacting to, it is worth overreacting to, and that is something we have to avoid if we want to make sure that the markets continue to exist. Like Chairman Greenspan, I believe the derivative trading, even in the energy derivative area, has been extremely beneficial to our economy and I hope we continue it.

I request that Members vote against the overlying amendment.

I ask unanimous consent that a letter from Jack Gerard of NMA be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL MINING ASSOCIATION,
Washington, DC, June 11, 2003.

Hon. MIKE ENZI,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR ENZI: The National Mining Association opposes attempts by Senator Feinstein or Senator Levin to further regulate the derivatives OTC market. Over the Counter derivatives including those based on energy and metals are critical risk management tools.

We appreciate Senator Reid's positive work to exclude metals from the pending amendment, but continue to oppose the Feinstein or Levin amendments which unnecessarily increases regulation of the OTC energy derivatives.

Attached are additional talking points generated by us and our partners in the financial community. Thank you for your interest.

Sincerely,

JACK GERARD.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. TOM DASCHLE,
Democratic Leader, U.S. Senate,
Washington, DC.

THE HONORABLE BILL FRIST AND THE HONORABLE TOM DASCHLE: We urge you to oppose any financial derivatives, energy derivatives, metals derivatives and energy trading market provisions contained in S. 509 that may be offered as amendments by Senator Feinstein to H.R. 6, the Energy Policy Act of 2003.

The provisions of S. 509 (introduced by Senator Feinstein in March and referred to the Senate Agriculture Committee) include, in addition to other problematic provisions, language that would expand FERC jurisdiction, creating uncertainty and unnecessary jurisdictional confusion between the FERC and CFTC for financial and energy derivatives transactions. The amendment also contains specific provisions to expand FERC jurisdiction over "other financial transactions." In addition to creating legal uncertainty within the OTC derivatives markets, this provision would potentially call into question the CFTC's exclusive jurisdiction over futures and options on futures.

Provisions contained in S. 509 are similar to the Feinstein amendment, which was offered to last year's Senate energy bill. The amendment was defeated in a cloture motion on April 10, 2002. In addition, key financial regulators have also opposed these types of provisions. The Chairman of the Board of Governors of the Federal Reserve, the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission and the Chairman of the Commodity Futures Trading Commission, collectively known as the President's Working Group on Financial Markets (PWG), all opposed earlier versions of the proposed legislation.

We ask that you preserve the legal activity achieved with passage of the Commodity Futures Modernization Act of 2000 and oppose any amendments relating to financial derivatives and the energy trading markets.

Sincerely,

American Bankers Association, ABA Securities Association, Association for Financial Professionals, The Bond Market Association, Emerging Markets Trade Association, Financial Services Roundtable, The Foreign Exchange Committee, Futures Industry Association, International Swaps and Derivatives Association, Managed Funds Association, National Mining Association, Securities Industry Association.

1. WHAT ARE DERIVATIVES?

The term "derivatives" refers to a wide array of privately negotiated over-the-counter ("OTC") and exchange traded transactions. Over the last decade, OTC derivatives transactions have grown to include not only interest rate and currency swaps, but also interest rate caps, collars and floors, swap options, commodity price swaps, equity swaps, credit derivatives, weather derivatives and other financial derivative products.

2. WHAT IS THE OVER-THE-COUNTER MARKET?

The OTC market is the principals' market whereby business is transacted directly between the buyer and seller. There is no middleman, exchange or clearinghouse involved. The OTC market now sees most of the derivative activity, and dwarfs the exchanges.

3. WHY DO COMPANIES USE DERIVATIVES?

Companies use derivatives to manage risk and enhance profit potential. Derivatives have been around since the 1970s and generally have been regarded as efficient tools that lend stability to business operations. Corporations typically use them to reduce risk from swings in currency values or interest rate movements.

4. ARE DERIVATIVES IMPORTANT TO THE MINING INDUSTRY?

Since 1974, when the Commodity Exchange Act (CEA) was enacted by Congress, derivatives have become very important to the metals mining industry as a method to protect against market volatility. Many of these products did not exist when the Act was first adopted. These derivatives play a key role in the metals hedging programs that gold producers have used in periods of declining gold prices to sell their production forward. Miners of other metals commodities also use derivatives to manage the risk of fluctuating prices. Since their creation, these metals derivatives products have always been sold over-the-counter, mainly because the transactions occur between or among large institutions and high worth companies and the products can be customized for the particular needs of the parties.

5. HOW HAVE DERIVATIVES BENEFITED MARKET PARTICIPANTS?

The growth of the derivatives market has been of considerable benefit to users individually. In the gold sector, central banks have been able to earn income on gold holdings, while gold fabricators have been able to insulate themselves from the impact of fluctuations in the price of gold on their inventory holdings. Hedging has enabled producers to develop new mines using project finance.

6. HOW WOULD A COMPANY USE DERIVATIVES TO HEDGE THEIR MINE PRODUCTION?

A hedging program will typically include a mix of over-the-counter derivative products, including "Forward Sales" and "Spot Deferred Contracts." For example, in a spot deferred contract a bullion dealer borrows gold from a central bank, and sells it into the spot market at a price of $350 per ounce. The proceeds are placed on deposit and earn interest of 4%. A fee of 1% is paid by the bullion dealer to the central bank. The interest difference of 3.0% is called "contango." The mining company receives the original proceeds from the spot sale ($350) plus the five years of accrued interest ($56) for a total amount of $406 per ounce.

TALKING POINTS FOR FEINSTEIN AMENDMENT TO SENATE ENERGY BILL

Senator Feinstein is offering an amendment to the comprehensive energy bill which is now being considered on the Senate floor. This amendment would subject OTC energy derivatives to comprehensive, exchange-type regulation including capital requirements.

Although Senator Feinstein has made some changes to her original legislation as introduced, these are not significant and do not address the concerns we have raised with you and others.

The legislation still contains inappropriate layers of regulation, including capital requirements for electronic exchanges that only bring parties together and have no role in any resulting transactions. This amount of regulation sends the business offshore.

The legislation creates legal uncertainty by giving the CFTC vastly expanded and undefined jurisdiction over all types of commodities transactions, not just futures contracts. The clarity of CFTC jurisdiction, and accompanying legal certainty that transactions will not be deemed illegal and voidable, created by the CFMA enacted in 2000 is destroyed.

Legal uncertainty is compounded by the fact that FERC now has a role that is supposedly dependent on whether energy is actually delivered. However, the decision whether to deliver energy may be made years after the transaction is entered into, leaving the parties uncertain during the life of the contract which agency has jurisdiction.

Message: Oppose the Feinstein Amendment. If action needs to be taken, it should be done in a thoughtful, deliberate manner through the Committee process, not as a floor amendment.

Mr. ENZI. I yield the floor.

EXECUTIVE SESSION

NOMINATION OF RICHARD C. WESLEY TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider Executive Calendar No. 220, which the clerk will report.

The assistant legislative clerk read the nomination of Richard C. Wesley, of New York, to be United States Circuit Judge for the Second Circuit.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield myself time.

As the two distinguished Senators from New York are in the Chamber, I will yield my time to them adding only this: This is a nominee to one of the most important courts in the country. It is actually my circuit. It is a Republican nominee, nominated by a Republican President. I predict that the nominee is going to go through easily because, contrary to the normal procedure on some of these nominees, the White House has sent up somebody who can unite us, not divide us. Usually they send nominees who divide us and not unite us. This is an example of what happens when a nominee to a powerful court is sent up who will unite us and not divide us.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New York.

Mr. SCHUMER. Mr. President, I join my colleague from Vermont and my colleague from New York in supporting the nomination of Judge Wesley.

I rise in enthusiastic support of Richard Wesley's nomination to the Second Circuit Court of Appeals.

Like most of the nominees we see, Judge Wesley has a top-flight legal mind and experience. He graduated from SUNY-Albany summa cum laude and from Cornell Law School. He worked in private practice for several years, worked as a staffer to the minority leader of the New York State Assembly, and from 1983 to 1987, represented the 136th District in the assembly.

That was just after I left the assembly, so I never had the privilege of actually serving with him, but my former colleagues in the assembly, many of whom disagreed on policy with Judge Wesley, all have spoken very highly of both his capabilities and his integrity.

Judge Wesley has served on the State trial court in New York, the intermediate appellate court, and for the past 6 years on New York's highest court, the court of appeals. He has the distinction of being appointed to the bench by both Governor Cuomo and Governor Pataki. Clearly there is a serious history of bipartisan support.

His nomination has been examined by his good friend and my friend Congressman REYNOLDS, as well as by Bill Paxon. They have known him for a very long time and vouch for him as well. I do not think Judge Wesley would have gotten where he did without the push from TOM REYNOLDS, and I think we all appreciate it because we are adding a qualified person to the bench.

There is no question Judge Wesley is well-qualified, but as my colleagues know, legal excellence is only one of the three criteria I use when evaluating judicial nominees. I also look at diversity and moderation.

Judge Wesley is the third Second Circuit judge we have considered under the Bush administration.

Judge Barrington Parker, who we confirmed in 2001, is African-American, and Judge Reena Raggi, who we confirmed in 2002, is a woman. So we are doing quite well on diversity when it comes to recent nominations to that court.

Our experience with the Second Circuit on excellence and diversity is similar to our experience with the President's nominations to the other circuit courts. By and large, he has done a good job bringing us well-qualified nominees who are not exclusively white males.

It is on that third prong, moderation, where we have had some problems. I am pleased to say that Judge Wesley fits quite well with Judge Parker and Judge Raggi as being well within the mainstream.

I would like to read what Judge Wesley said about his own judicial philosophy:

> I consider myself a conservative in nature, pragmatic at the same time, with a fair appreciation of judicial restraint. I have always restricted myself to what I understand to be the plain language of the statue and not gone beyond that [because] public policy is made by the legislature.

That is an honest and candid assessment of how Judge Wesley judges.

It is not just words. We have had nominees who have come before us and said that, but this is what he has done because he has a record. He has had 16 years on the bench to back it up. We know Judge Wesley has certain positions in which he personally believes. He has an ideology. That is clear from several of the votes he took in the assembly. For instance, in the assembly he voted the pro-life point of view. That is different from mine. And, of course, I do not have a litmus test. Most of us do not.

What is abundantly clear from his record on the bench is that he can check his personal beliefs at the door and judge fairly and honestly.

Unlike, some of the nominees we have seen, including Bill Pryor, the Fifth Circuit nominee whose contentious hearing is going on in the Judiciary Committee as we speak, there is nothing controversial about Judge Wesley.

He is best known for his thoughtful, scholarly approach that unites judges behind unanimous opinions.

He is truly a uniter, not a divider. He is a judge, not an activist. He will be a credit to New York, to the Second Circuit, and to the Senate when we confirm him.

It would be my wish that this would be the character of the President's nominees. I ask unanimous consent that an editorial from Judge Wesley's hometown paper, the Rochester D&C, Democrat and Chronicle, be printed in the RECORD. It says: "Bipartisan Support?" And then it says:

> If only more judicial nominees would go as smoothly as this one.

Well, I wish that would happen.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rochester D&C, June 4, 2003]

BIPARTISAN SUPPORT?

If only more judicial nominations would go as smoothly as this one.

In an era in which partisan bickering over judicial nominations has become almost routine, it's significant that New York Appeals Court Judge Judge Richard Wesley has bipartisan backing for his nomination to a federal court.

For the sake of the nation's judiciary, hope that Wesley's easy confirmation hearing before the Senate Judiciary Committee last week will become a model for handling presidential nominations to federal judgeships. Wesley, a resident of Livonia in Livingston County, is now virtually assured of winning confirmation by the Senate Judiciary Committee and the full Senate when they vote on the nomination.

Wesley's smooth sailing had a lot to do with the strong support he had from Sens. Charles Schumer and Hillary Clinton, both Democrats, and Republican Rep. Tom Reynolds, who represents parts of this region. Wesley, appointed to state courts by former Democratic Gov. Mario Cuomo and Republican Gov. Pataki, is a GOP conservative, who Schumer described as having "moderate views."

Maybe if the Bush administration selected more judges of Wesley's caliber there'd be less of the antagonism that typically surrounds too many judicial nominations.

Mr. SCHUMER. It will happen if the President truly consults with us and nominates judges in the mold of Judge Wesley, clearly conservative but also clearly within the mainstream. It would be my hope that we would not have 51 votes for many of the nominees but 100 for most all of the nominees, or close to it. If this President should decide to treat the nominees and the rest of the country the way he is treating nominees in the Second Circuit, that is what would happen. That is my hope. That is my prayer.

I urge every one of my colleagues to vote for this fine addition to the bench. We are all proud of him in New York State, and he will make a great addition to the Second Circuit.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I rise to join my colleague from New York in expressing my very strong support for the nomination of New York State Court of Appeals Judge Richard C. Wesley to the United States Court of Appeals for the Second Circuit.

A few weeks ago, I was honored to testify before the Judiciary Committee in support of this nominee because I believe then, as I do today, that he will make a fine addition to the Second Circuit and will serve that court with distinction. I was also pleased to see supporting Judge Wesley's nomination, his mother Beatrice, "Betty" Wesley and his children Sarah and Matthew. They and his wife Kathryn are all very proud of him, and have every reason to be so proud.

The calls and letters of support I have received about Judge Wesley from a wide variety of distinguished members of the legal profession are a testament to his qualities of high intellect, judicial temperament, caring for the profession and, most importantly, commitment to justice.

Having a significant public service record is not a requirement for serving on our Federal judiciary. But it is very significant to note that Judge Wesley has spent most of his career serving the public trying to make New York a better place for our children and families.

He has had a distinguished academic career, graduating summa cum laude from Cornell University Law School. He did have the experience in private practice and in the legislative body, the New York State assembly. He has served on trial and appellate New York courts.

In addition to performing his professional duties to the highest standards, he has taken an interest and taken the time to become involved in other significant pressing problems. As a trial court judge, Judge Wesley instituted a felony screening program in Monroe County that reduced the delays in processing felony cases by over 60 percent. The program proved so successful that it served as a model for judicial districts across our State.

In 1993, he created the JUST Program, which for a decade has provided services to court and criminal justice agencies, again in Monroe County, to monitor preplea and presentence defendants and to provide alternatives, where appropriate, to incarceration.

I am also very impressed that Judge Wesley has been a champion for victims of domestic violence. He has been in the forefront for years in providing shelters for victims of domestic violence, primarily women and their children. He has championed their rights in court and he has sought to help provide the resources that would give these victims another chance.

After 7 years on the trial court, he was appointed to the appellate division and then to New York's highest appellate court, the New York State Court of Appeals. Judith Kaye, the Chief Judge of that court, cannot say enough about Judge Wesley's contributions. I am sure he will be greatly missed as he starts his new career on the Second Circuit.

This is a very positive nomination. He will not only make his former colleagues proud and he will certainly make lawyers everywhere proud, but he will especially make Western New York proud because once confirmed, Judge Wesley will be the first Western New Yorker—for those who are not from New York, that includes places such as Rochester, Buffalo, and Jamestown, places on the other end of our very diverse, large State—to be confirmed as an associate judge of the Second Circuit since 1974.

Although it is very clear that Judge Wesley and I do not agree on every policy or legal issue, and I have no way of knowing how Judge Wesley will vote when these important issues come before him, I have every confidence in his professional preparation, in his temperament and demeanor, in his commitment to justice. He may be a conservative Republican, but he is a judge and an American first.

I join my colleague, the ranking member on the Judiciary Committee, in expressing the very strong wish that we could have more nominees like Judge Wesley, someone who comes from a Republican President, who is easily confirmed by a bipartisan majority, proceeded by a unanimous vote in the Judiciary Committee. I predict he will be confirmed on this floor unanimously. Why? Because although Judge Wesley is not of my party, he may not be of my judicial philosophy, he already in his judicial career decided cases differently than I would have, had I been sitting on that bench, he is a person whom we always know will put the interests of justice first, and will preside in a totally nonideological, nonpartisan manner. That is what every judge should be doing.

It is certainly the responsibility of the Senate to advise and consent so that our Federal judiciary, which consists of lifetime appointments, will be filled by people of the caliber of Judge Wesley.

I yield the floor.

Mr. HATCH. Mr. President, I am pleased that we are considering the nomination of Richard C. Wesley, who has been nominated by President Bush to serve on the United States Court of Appeals for the Second Circuit. He has an outstanding record of distinguished public service and will be a great addition to the Second Circuit.

Judge Wesley currently serves as an associate judge on the New York Court of Appeals, the State's highest court, having been unanimously confirmed by the State senate in 1997. His 16 years on the trial and appellate bench, plus prior service as a member of the New York State Assembly, has given him the experience and background to make an outstanding Second Circuit Judge.

In addition to his judicial experience, Judge Wesley has had a distinguished legal career. After graduating from Cornell Law School, he began his legal career in 1974 as an associate at the Pittsford, NY, office of Harris, Beach and Wilcox. He achieved a partnership at Welch, Streb, Porter, Meyer & Wesley in Geneseo, NY, in 1977 and in 1979, became assistant counsel to the minority leader of the New York State Assembly in Albany. In 1983, he was elected to the New York Assembly himself, representing his home district in western New York.

Judge Wesley began his judicial career in 1987, when he was elected to the Seventh Judicial District of the Supreme Court of New York. From 1991 to 1994, he served as the supervising judge for the Criminal Courts within the Supreme Court, and in 1994 Governor Cuomo appointed him to the Appellate Division of the Supreme Court in Rochester, where he heard appeals of Supreme Court trial decisions from central and western New York. On December 3, 1996, Governor Pataki nominated Judge Wesley to the New York Court of Appeals. Judge Wesley was confirmed by a unanimous vote of the New York State Senate on January 14, 1997, and has served with distinction on the State's highest court ever since. His 16 years as a judge at both trial and appellate levels, plus prior service as a State assemblyman in New York, have given him the experience and background to make an outstanding Second Circuit judge.

Judge Wesley is a native of Livonia, NY, and has served his community, State, and Nation in a variety of ways. Not only has he served in his professional capacity, but also he believes in community service and has been involved in community service organizations such as the United Church of Livonia, Chances and Changes, a community-based organization in Livingston County that provides safe housing to battered women, and the Myers Foundation, a foundation based in his hometown that helps needy families in the area. Judge Wesley is also active in a number of local youth sports programs and serves as a driver for the Livonia Volunteer Ambulance.

In addition to his public and community service, Judge Wesley has been actively involved in efforts to improve the legal and judicial process. He has been a leader in numerous bar associations and law-related organizations. For example, he serves on the Cornell Law School Advisory Council and the Cornell University Council, and is a Fellow of the New York State Bar Foundation. In January of 1991, Judge Wesley was appointed by the chief administrator of the courts to be the supervising judge of the Criminal Courts in the Seventh Judicial District, and in this capacity developed case management systems that greatly improved the efficiency of the court's criminal docket. These reforms have since served as models for other jurisdictions with heavy criminal caseloads.

Judge Wesley comes to us highly recommended and warmly endorsed by his colleagues and former colleagues on the New York State courts, litigants who know him personally and have practiced in his courtrooms, the president of the New York State Bar Association, community leaders in his hometown of Livonia, NY, Gov. George Pataki, and New York's attorney general, Eliot Spitzer. Let me read a few statements made by some of his many supporters. Jonathan Lippmann, chief administrative judge of the State of New York, writes that Judge Wesley, "has been a model of the wisdom, temperament, craftsmanship, and personal qualities that make for the most outstanding judges." Joseph Bellacosa, dean of the St. John's University Law School and a former colleague on the New York Court of Appeals, writes that Judge Wesley "is intellectually curious and open to fresh ideas and insights of others, respectful of the great strength derived from collegial shared wisdom of others, yet confident and resolute in his personal conviction on values and fundamental principles. He is also a tireless worker and seeker of equal justice for all. He loves being a Judge and is devoted to the fair administration of justice under the rule of law." And Governor Pataki has also written, praising Judge Wesley's excellence as an appellate jurist and specifically noting his "wealth of experience, intellect, integrity and judicial temperament."

The legal bar's wide regard for Judge Wesley is further reflected in his evaluation by the American Bar Association. The ABA evaluates judicial nominees based on their professional qualifications, their integrity, their professional competence, and their judicial temperament. The ABA has bestowed upon Judge Wesley its highest rating of Unanimously Well Qualified.

The record is clear that Judge Wesley is worthy of confirmation for this position of high responsibility on the Court of Appeals for the Second Circuit. I strongly support his confirmation and urge my colleagues to do likewise.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. How much time remains?

The PRESIDING OFFICER. Two minutes.

Mr. LEAHY. I thank the Chair.

Today, we vote to confirm Richard Wesley to serve on the United States Court of Appeals for the Second Circuit, the Federal circuit covering Vermont, New York, and Connecticut. With this confirmation we will have filled the sole vacancy on this circuit court. I remember when President Clinton had multiple nominees pending before the Senate for the five simultaneous vacancies that then existed. The entire circuit was declared a judicial emergency by the chief judge, and he had to resort to three-judge panels with only one Second Circuit judge. Republicans were not moving those nominations at that time. All of the Senators from the Second Circuit joined together to work for their confirmation, and we were finally able to confirm them all, including Judge Sonia Sotomayor, after significant efforts. This nomination did not suffer those needless delays. With the support of Senator SCHUMER and Senator CLINTON, this nomination has been considered expeditiously.

The Senate has already confirmed 129 judges, including 26 circuit court judges, nominated by President Bush. One hundred judicial nominees were confirmed when Democrats acted as the Senate majority for 17 months from the summer of 2001 to adjournment last year. After today, 29 will have been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President Bush. This total of 129 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996, and 1997—the first 3 full years of his last term. In those 3 years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already exceeded that total by 15 percent and the circuit court total by 40 percent with 6 months remaining to us this year.

Today's confirmation makes the ninth court of appeals nominee confirmed by the Senate just this year. That means that in the first half of this year, we have exceeded the average of seven per year achieved by Republican leadership from 1995 through the early part of 2001. The Senate has now achieved more in fewer than 6 full months for President Bush than Republicans used to allow the Senate to achieve in a full year with President Clinton. We are moving two to three times faster for this President's nominees, despite the fact that the current appellate court nominees are more controversial, divisive, and less widely supported than President Clinton's appellate court nominees were.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995–97. In addition, the vacancies on the Federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997. We continue well below the 67 vacancy level that Senator HATCH used to call "full employment" for the Federal judiciary.

Indeed we have reduced vacancies to their lowest level in the last 13 years. So while unemployment has continued to climb for Americans to 6.1 percent last month, the Senate has helped lower the vacancy rate in federal courts to an historically low level that we have not witnessed in over a decade. Of course, the Senate is not adjourning for the year and the Judiciary Committee continues to hold hearings for Bush judicial nominees at between two and four times as many as he did for President Clinton's.

For those who are claiming that Democrats are blockading this President's judicial nominees, this is another example of how quickly and easily the Senate can act when we proceed cooperatively with consensus nominees. The Senate's record fairly considered has been outstanding—especially when contrasted with the obstruction of President Clinton's moderate judicial nominees by Republicans between 1996 and 2001.

I hope the White House would note the strong support for this conservative Republican nominee to the Second Circuit. I know my good friends from New York are aware this is a case where the White House actually worked with them and consulted with them on a nominee. That has not been the case of other parts of this country that has brought about divisiveness.

Again I urge, and I have been urging for a little over 2 years, the White House might start a new course, one of seeking to unite and not divide our judicial nominees, to have consultation, not arbitrariness, on judicial nominees.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Richard C. Wesley, of New York, to be United States Circuit Judge for the Second Circuit? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Illinois (Mr. FITZGERALD) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 215 Ex.]

YEAS—96

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo

Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—4

Fitzgerald
Graham (FL)
Hollings
Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

The Senator from Louisiana.

ORDER OF BUSINESS

Mr. BREAUX. Mr. President, I say to the managers of the Energy bill, I would like to speak for a couple minutes on a subject that is going to be coming up in the Senate next week and in the Senate Finance Committee on tomorrow. The subject is Medicare. I do not want to interfere with anybody who has a pending amendment, but I think this would be an appropriate time to make a few comments on this subject.

The PRESIDING OFFICER. The Senator from Louisiana.

MEDICARE AND PRESCRIPTION DRUGS

Mr. BREAUX. Mr. President, my colleagues, the Senate will begin, this week in the Finance Committee—on Thursday, tomorrow—marking up a historic reform piece of legislation dealing with the subject of Medicare and prescription drugs for our Nation's older Americans. I think it is a historic opportunity for the Senate, in a bipartisan fashion, to come together and produce a product that is something of which we can all be proud.

Many Members of the Senate, when you talk about Medicare, would like the Federal Government to do everything and the private sector to not be involved at all. There are other Members, on the other hand, who would like the private sector to do everything and the Federal Government to not be involved at all. The answer to how we craft this legislation really is by trying to combine the best of what Government can do with the best of what the private sector can do.

My colleagues, the bill that will be brought before the committee tomorrow, in a bipartisan fashion, under the leadership of Chairman GRASSLEY and Ranking Member BAUCUS, does exactly that. I would like to take just a minute to try to explain what the bill will do in more general terms so everybody can get an idea what they are going to be looking at next week.

A Medicare beneficiary, beginning next year, will have the opportunity to have a prescription drug discount card. That will be something they will start with at the beginning of the year. They will be able to take that card to their local drugstore and get anywhere from a 20-, 25-percent discount on the drugs they buy. In addition, we will provide a subsidy to low-income seniors, in addition to that discount card, to help them buy drugs.

While that is happening, the Government will be engaged in trying to set up a process whereby, in the year 2006, Medicare beneficiaries will have more choices than they would otherwise.

Under the principle of saying the Government should do what it does best and the private sector should do what it does best, we have established in the legislation a Medicare Program that says to seniors, if they want to stay right where they are in traditional Medicare, they will have the opportunity to do that, and they will also have the opportunity to get prescription drugs under their traditional Medicare Program.

If they think that a new program being offered will be a better opportunity for them, they can voluntarily move into what we call Medicare Advantage, where they would also have access to a prescription drug plan.

It is important to note that both of these opportunities, both of these choices, are Government-run programs. Both of those programs will be under HHS, Health and Human Services. Both of them will have the Federal Government supervising how the program is being run, to make sure no one in the private sector is scamming it or is not capable of producing the programs they are saying they can produce. That is what Government can do best—as well as help pay for them.

If you are in traditional Medicare fee-for-service, all your doctor and hospital programs will be just like they are today. Then you will have the opportunity to have a prescription drug program which will have a standard benefit package spelled out in law. What we are talking about is a program with about a $35-a-month premium, with about a $275 deductible and a 50 percent coinsurance for seniors for the drugs for which they pay.

That is a generous plan that is very similar to what we have as Members of Congress and Members of the Senate. That drug program, unlike the hospital and doctor benefits, will be provided by the private sector to bring about competition, to have companies come in and say: We will provide it at this amount. They can vary the premiums as long as the Federal Government would approve it. For example, someone may like a higher deductible, someone may like a lower deductible. They could make those adjustments within a range, but the Government would have to make sure that is acceptable and that is approved by HHS.

If a senior—for example, most younger seniors and seniors going into the program in the future—would like to go into that type of program for everything—for doctors and hospitals and for drugs—if they think that is the good program for them, that gives them choice, they will start selecting the Medicare Advantage Program where they will get doctor coverage, hospital coverage, and prescription drug coverage.

This will still be in HHS, but it will be run by a new, competitive agency within HHS—not micromanaged, not price fixing, as we have now, but a new, competitive agency within HHS which will be created in order to make sure that the new program is being run properly. It will be run very similarly to how our program is run that is for Federal employees. We have Federal health insurance, but they use a private delivery system, and the Government makes sure everybody follows the rules and that there is competition, there is choice—that some plans may be better than others—and they have an opportunity, every year, to take a look at what is being offered; and sometimes they will pick this plan, sometimes they may pick another plan, but they will have the choice to pick the plan that is best for them.

So I think, in summary, what we have before the committee is a plan that combines the best of what the Government can do with the best of what the private sector can do. The programs will still be under Health and Human Services, whether you take this plan or that plan.

I think when you have private companies competing, you will have private companies that will be more involved in doing risk management and preventive medicine, preventive health services for the individuals who are involved. The Federal Government does not do any of that.

We simply fix prices and we do nothing with regard to risk management or preventive health care. So we will have an intense debate. We will have a markup in the Finance Committee on Thursday. Then this bill will come to the floor.

I think we will have an opportunity to do something that I think, for the first time, gives seniors an opportunity to have a federally run program that provides private sector delivery, with choices that will benefit seniors. I think in the long term it will benefit all of us who are concerned about this.

I commend Senator BAUCUS for his work and for working with the chairman, Senator GRASSLEY, in putting together this package. The only way it is going to get done is bipartisan. Some will argue it is not enough, and I understand that, but this is 100 percent more than seniors have today. Congress should not walk away from a $400 billion program for providing prescription drugs to seniors because it is not more money, because that simply is not looking at what is possible and what is likely to happen in the real world.

This is a once-in-a-lifetime opportunity. I encourage my colleagues to work with us to produce this package.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I appreciate a moment to have a chance to give an alternative view. I thank my colleague from Louisiana. He has worked diligently on the issue of prescription drug coverage for many years, as have other of my colleagues on the floor regarding this issue. I wish to take this moment following his presentation to speak to the fact that there is much work left to be done by this body before we have prescription drug coverage that in fact meets the needs and the desires of the seniors of America.

The plan being put forward tomorrow in the Finance Committee basically does two things. It offers two structures. The majority of those supporting it will openly indicate that they would prefer that the seniors of America go into managed care rather than stay in traditional fee-for-service Medicare, where the senior determines their doctor, pharmacy, and other choices.

There is a desire to move people into what are called PPOs and HMOs and other managed care. We have experience with this because, since 1997, there has been the choice on behalf of American seniors to stay in traditional Medicare, choose their own doctor and pharmacies, and so on, or to go into a Medicare HMO. We know as of today that 89 percent of the seniors who chose—they made their choice—have chosen to remain in traditional Medicare, which I believe is a very strong message about the confidence seniors have in the current system, the stability of it, the dependability of it. They know what the premium is, they know what the services are, and they decide their doctor. This has been in place and serving the seniors of the country since 1965.

So the plan the committee is intending to report out tomorrow would create more choices of HMOs and PPOs and other managed care, and I support that for seniors. But what it does not do is add a prescription drug benefit under traditional Medicare as an integrated part of the traditional fee-for-service Medicare.

All of the prescription drug plans that are part of this report tomorrow involve private insurance first. If private insurance is available in your State, or available in the region, if there are two or more companies there, regardless of the premium they choose, the benefits they choose, and how they structure it, the pharmacies that they will let you go to, however they structure it, you would have to choose one of those two private insurance plans.

Now, technically, they are saying it is under Medicare but this is not a Medicare prescription drug benefit as the seniors of the country have asked to have provided to them. The seniors, potentially every year, would get paperwork in the mail about two different insurance companies—if that is available in their area—and they would have to wade through the paperwork and decide which of the two is best for them. The next year, if those two companies were not both available—if there was only two and one decided it didn't want to cover seniors anymore; it was too costly—then there would only be one insurance company; and the senior would have the ability, then, to go to a backup plan—something administered through Medicare.

Then the next year, if there were two companies that decided they wanted to try their hand in covering Medicare prescription drug coverage in their region, they could not get the Medicare plan anymore; they would have to pick between those two companies.

Potentially, this could happen every single year for a senior. Seniors are not asking for more paperwork or more choices of insurance companies. They already picked—89 percent of them—traditional Medicare, run through Medicare. Yet we are not giving 89 percent of them that choice.

That is a major concern I have about this plan. There is a better way to do this, to give people more choices, but make sure one of the choices is traditional Medicare.

I find it quite amazing that we are even talking about the structuring of a plan in this way at this time when we look at the fact that Medicare has been rising in cost about 5 percent a year and private insurance is going up 15 to 20 percent a year. In fact, I have small businesses, as well as large businesses, including auto manufacturers and many others, coming to me concerned about the explosion in their private health insurance premiums every year instead of choosing an approach that costs less so we can take some of those pressures off and put them into the best benefit, the best way to provide medicine for seniors. This approach uses what is a more expensive model—arguably, putting more dollars into the pockets of insurance companies but certainly not more dollars into the pockets of our senior citizens in the form of access to more lower cost medicines.

This is a deep concern of mine. Why are we going through all this convoluted process? Well, I think there are two reasons. One is, there are those who philosophically believe we should move to private insurance, managed care. I respect that. I have a disagreement with that but I respect the philosophical difference. Some don't believe we should have universal health coverage under Medicare. I disagree.

I think Medicare has been a great American success story since 1965. In fact, it is the one part of the universal health care we have in this country, and it concerns me deeply if we are going to roll that back. There is a difference in philosophy—and I appreciate that—on the part of colleagues on both sides of the aisle.

We know there is something else at work here, and that is a very large and powerful prescription drug lobby, which I believe, at all costs, wants to make sure our seniors are not in one insurance plan together—40 million seniors and disabled people in our country, who would then be able to negotiate big discounts in prices. By dividing folks up into lots of different insurance plans, making it more confusing for people to stay in traditional Medicare and get prescription drug help, and trying in every way to move people more to managed care, the prescription drug companies know they will not be put in a position of having to substantially lower their prices for our seniors. I have deep concerns about this. I agree with my colleagues that we have to work together in a bipartisan way if we are going to put forward a bill. I am hopeful that through amendments we can, in fact, provide a better bill. I will be offering an amendment that will set up a real choice for seniors, allow them prescription drug coverage under Medicare, which is what they want, and then also allow the other options colleagues have put together in the legislation that will be in front of us.

I believe that is a true choice, and I believe it is a choice that will allow prescription drug prices to go down, and that is a more cost-effective choice overall for Medicare as a system as well as for our seniors.

I will also be working with colleagues, as we have been for the last 2 years, on other efforts to lower prices for everyone. I am very proud of the fact that on this side of the aisle, we have brought the issue to this Chamber of lowering prices through greater competition in the marketplace and, in fact, we are seeing headway in that area.

I commend my colleagues on both sides of the aisle who have been coming together in agreement on the issue of generic drugs. I commend the leader of the HELP Committee, the Senator from New Hampshire, Mr. GREGG, for his leadership, the Senator from Massachusetts, Mr. KENNEDY, and the Senator from New York, Mr. SCHUMER, who helped lead this effort with Senator McCAIN to close loopholes that have allowed brand-name companies essentially to game the system, to keep lower cost medicine off the market, unadvertised brands called generics.

There is a coming together that is very positive and bipartisan to pass legislation to close loopholes and allow greater competition. I believe this is one of the most important ways we will, in fact, lower prices more than anything else to get more competition for unadvertised brands in the marketplace.

There are two other issues about which we have been offering amendments that I encourage colleagues to support as a part of this process. One is to open the border to Canada for prescription drug coverage. From the State of Michigan, it is frustrating for the seniors, families and, in fact, the businesses in Michigan to literally look across the river and know that on the other side of that river they can get their American-made prescriptions at half the price and, in some cases, at even deeper discounts.

I urge we come together and open the border to Canada, and for colleagues who have resisted that, I ask that we look between now and 2006, when the prescription drug bill takes effect, at the idea of a pilot project of opening the border to Canada until 2006 so that we can drop prices immediately.

Our seniors have waited long enough. They do not need to wait another 2½, 3 years to see prices go down and Medicare help come. Let's open the border now. Let's sunset the pilot project when this bill takes effect, and then we can evaluate any concerns that have been raised about that process. That is something we can do right now that would have 10 times the effect of lowering prices than another discount card for seniors.

The other issue I am hopeful we can support on a bipartisan basis is to support States that are being creative in their purchasing power to get discounts for their citizens; efforts such as in the State of Maine to use their discount power to lower prices for the uninsured.

There are very positive steps we can take together. The generic drugs bill is a very positive initiative. I appreciate the leadership on both sides of the aisle for bringing that forward and coming together in a positive way.

To conclude, when it comes to Medicare prescription drug coverage, I remain deeply concerned about the direction in which we are going. I believe we are moving in a direction that actually dismantles the only part of universal care we have; that, in fact, will end up with more subsidies and more money in the pockets of insurance companies and drug companies as opposed to putting money in the pockets of our seniors who desperately need help with their prescription drugs.

I hope that as we enter into amendments in the next week, we will come together in a way that improves this bill and strengthens it, keeping in mind that our first priority should be the people right now who need the help. We can do that if we are willing to work together.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Nevada.

ORDER OF BUSINESS

Mr. REID. Madam President, I know the Senator from New Jersey wishes to speak. There is a unanimous consent request that will be propounded which will help people understand what will happen. We are waiting for someone on the other side to read the request, and then we can agree to it. If the Senator will withhold for a moment.

Mr. LAUTENBERG. Without losing my opportunity to the floor.

Mr. REID. I have the floor. Madam President, we are shortly going to enter into an agreement to have a vote late today for two more judges. This will make 131 judges—I think that is the number—we have approved during the time the present President Bush has been President.

I am really not certain as to the number, but I believe it is 36 or 37 circuit court judges. The vacancy rate, as we discussed yesterday, is extremely low. There has been a lot of agitation and talk about how poorly the administration is being treated with their judicial nominees. Even the President can understand that a count of 131 to 2 is a pretty good record for him.

The PRESIDING OFFICER. The Senator from New Hampshire.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. SUNUNU. Madam President, I ask unanimous consent, as in executive session, that at 2:15 p.m. today, the Senate proceed to executive session for the consideration of Calendar No. 221, the nomination of J. Ronnie Greer to be a U.S. District Judge for the U.S. District of Tennessee; provided that the Senate then proceed immediately to a vote on the confirmation of the nomination, with no intervening action or debate; provided, further, that immediately following that vote, the Senate proceed to the consideration of Calendar No. 222, the nomination of Mark Kravitz to be a U.S. District Judge for the District of Connecticut; that there then be 5 minutes for debate equally divided between the chairman and ranking member or their designees; and that following the use of that time, the Senate proceed to vote on the confirmation of the nominees. Finally, I ask unanimous consent that following the votes, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, in the statement I just gave, I indicated there have been 36 circuit judges approved. It is 26 circuit judges approved. I misspoke. The 131 figure that will be completed about quarter to 3 today is an accurate number of judges who have been approved in this administration.

Also, Madam President, the chairman of the full Energy Committee, the manager of this bill, along with Senator BINGAMAN, is in the Chamber, and the record should reflect we on this side are not holding up this Energy bill. I have no objection to the unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY POLICY ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, as a manager of the bill, our side is awaiting communication from the executive branch by way of explanation of the Feinstein amendment. That should be arriving shortly. When it arrives, we will be ready on our side for the conclusion of any discussion. So it should not be too long—probably after lunch—before we are ready on our side for a vote on the Feinstein amendment.

For those who are wondering, that is what is happening. There is no need to be in the Chamber on that amendment until that event occurs. I am certain nothing will happen on the Energy bill until that time because there is no concurrence that anything can happen. In other words, we cannot do anything because the Feinstein amendment cannot be set aside for any other amendments.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I say to my friend from New Mexico, I am very appreciative of the statement he just made because I am going to do as he just did during this lull of time: Go get my hair cut.

Mr. DOMENICI. We hope it will be here shortly. I noted the presence a short time ago of the chairman of the Agriculture Committee, which has primary jurisdiction on the Feinstein amendment. He, too, was wondering what was happening. I want him and his staff to know that is exactly what is happening. It should not be too much longer until we then proceed in due course for a vote.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. LAUTENBERG are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 876

Mr. SHELBY. Madam President, I rise today to encourage my colleagues to oppose the amendment of the senior Senator from California, Mrs. FEINSTEIN.

First, I address the second-degree amendment the senior Senator from Nevada, Senator REID, is offering. I encourage my colleagues to oppose this second-degree amendment, also. The Reid second-degree amendment would exempt derivative contracts on precious metals from the new regulatory scheme the Feinstein amendment creates. We are told the Feinstein amendment is necessary to avoid the manipulation of markets for commodities that are in limited supply like oil or metals.

Underpinning the Feinstein amendment is the belief the Enron debacle and the California energy crisis occurred because there was insufficient regulation and wrongdoers were able to accomplish massive frauds and manipulation. The Feinstein amendment is intended to close the alleged regulatory loophole for off-exchange transactions for exempt commodities.

Assume, only for argument's sake, that Senator FEINSTEIN is correct. Assume the regulatory regime established only 2½ years ago is insufficient and that we must close a so-called regulatory loophole. If you believe this and support the Feinstein amendment, you must necessarily oppose the Reid second-degree amendment, which will carve a vast number of derivative contracts out of the regulatory scheme the Feinstein amendment creates.

I don't believe we can have it both ways. What is necessary for the energy markets is necessary for the metals markets. I encourage my colleagues to oppose both the Reid second-degree amendment and the Feinstein amendment as unnecessary, redundant, and potentially destabilizing to our financial markets. I encourage my colleagues who feel compelled to support the Feinstein amendment to not support the Reid amendment, which is at direct cross-purposes to the underlying amendment.

Less than 3 years ago, in December 2000, Congress enacted the Commodity Futures Modernization Act of 2000, which was landmark legislation that provided legal certainty regarding the regulatory status of derivatives. Passage of the modernization act was the result of many months of analysis of the role that derivatives play in the marketplace and the consequences of increased regulation. In fact, because the modernization act addressed derivative products pertaining to commodities and financial products, both the Agriculture Committee and Banking Committee held numerous hearings to help Members and the public better understand the role the various derivative financial instruments and contracts played in our economy and what regulatory landscape, if any, is appropriate.

Now, only 3 years after enactment of the modernization act, Senator FEINSTEIN's amendment proposes fundamental changes to the law. I believe this amendment could create many regulatory problems, including creating jurisdictional confusion between the Federal Energy Regulatory Commission, FERC, and the Commodity Futures Trading Commission, CFTC, imposing problematic capital requirements on facilities trading derivatives, and impugning the legal certainty of OTC derivatives put in place in 2000.

I am concerned this body does not have full appreciation of these consequences and potential unintended consequences that will likely follow if we were to adopt the Feinstein amendment.

I also believe it is premature to adopt this amendment because we have simply not had enough time to review the results of the modernization act. We have not received any reports from the CFTC detailing shortfalls in the regulatory authority conferred by the modernization act or recommendations requesting broader authority over derivatives. In fact, the CFTC had brought several major cases involving market manipulation since the passage of the modernization act. Congress should have more than a 2-year record before it decides to make rash but fundamental changes to legislation that was the product of so much deliberation a short time ago.

Proponents of the Feinstein amendment argue that the collapse of Enron and the disruption of the California energy market are prime examples of the need for greater regulation of derivatives. This assertion is simply not true. Enron collapsed as a result of deceptive accounting practices involving special purpose entities and poor corporate governance practices that permitted abusive business practices. Congress addressed such abuses in last year's Sarbanes-Oxley Act. More importantly, Enron's derivative business was in operation prior to enactment of the Modernization Act and was one of the business lines that retained value for sale after the collapse when most others didn't.

Further, FERC, the Federal Energy Regulatory Commission, recently concluded a year-long review of potential manipulation of electric and natural gas prices in the Western markets. Although FERC did find market manipulation, it also concluded:

> Significant supply shortfalls and a fatally flawed market design were the root causes of the California market meltdown.

In short, it was lack of energy supplies and poor State regulations that caused the disruption. I fear that the adoption of the Feinstein amendment could lead to uninformed and premature changes to the carefully considered provisions of the Modernization Act.

I believe the Feinstein amendment proposes unnecessary regulatory measures and significantly undermines the legal certainty achieved in the Modernization Act. Therefore, I strongly urge my colleagues to vote against the Feinstein amendment.

The President's Working Group on Financial Markets, which is comprised of the Secretary of the Treasury, the Chairman of the Federal Reserve Board, the Chairman of the Securities and Exchange Commission, and the Chairman of the CFTC, will be sending a letter today expressing its concerns with this amendment and urging Congress to carefully consider the potential unintended consequences of the amendment before acting. I intend to submit this letter for the RECORD when I receive it. I anticipate this letter will raise the same concerns that were raised in the working group's letter last year.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Madam President, I rise to join my colleague, Senator SHELBY, my committee chairman on the Banking Committee as well, in opposing the Feinstein amendment. This amendment was debated at length about a year ago during the previous Senate Energy bill debate. At that time, Senator Phil Gramm raised a number of issues, a number of concerns with the legislation. He said a great many wise and commonsense things. One of the perspectives that he pointed out that stuck with me was noting that, in raising concerns about failures, companies that had gone bankrupt such as Long Term Capital Management, or perhaps closer to home for the Senator from California, the bankruptcy of Orange County, CA, that involved to a certain extent derivatives and then called for regulation—we were, in effect, blaming the instrument itself, blaming the derivative, which is a little bit like blaming a thermometer for a warm day. That is not the right approach for legislation and I think it will lead us to bad conclusions in trying to structure legislation that will strengthen financial markets.

As the Senator from Alabama indicated, at the root is our concern that we not pass legislation that has unintended consequences, not pass legislation that is counterproductive, and rather than strengthen the markets or increase confidence in markets, actually has the opposite effect.

This legislation would give a great deal of new power to FERC, which is a concern to me because that would be power given over to the FERC not just to regulate but really to arbitrate, to refer claims to different regulatory authorities. On its face, I ask whether FERC has the expertise or the knowledge in all of these sophisticated markets to make such decisions. It is, perhaps, a power best not given to FERC. But it is also a power, in referring and making these decisions as to which regulatory body a particular claim or complaint would go, that would have the effect of creating uncertainty, uncertainty as to which organization had regulatory oversight.

The Commodity Futures Trading Commission and FERC already coordinate their enforcement with respect to the energy markets. The CFTC has subpoena power. I think, as a number of other speakers indicated, in the year 2000 there was a Commodity Futures Modernization Act that was passed that was a good piece of legislation. A lot of work went into that. It drew from recommendations made by the President's working group. In particular, it strengthened the CFTC's hand in regulation in a number of areas.

I certainly do not think offering an amendment at this time on this particular bill is the appropriate way to modify that legislation, the Commodity Futures Modernization Act, that was a product of extended negotiations. The piece of legislation such as being offered by the Senator from California ought to go through the regular committee process. We ought to have hearings on it and certainly we ought to have an opportunity to debate it in the key area of the Banking Committee and Agriculture Committee jurisdictions.

Of particular interest as well is the fact that this amendment is opposed by a number of organizations, a number of the regulators themselves who are most concerned with stability and confidence in the markets—by the Fed, by the SEC, and by the CFTC. Even though this bill gives additional powers to the CFTC, they still oppose it. It is not often in Washington you have someone opposing an effort to give them more power and more jurisdiction, but these very organizations are worried every day about safety and soundness, about regulatory clarity, about ensuring a greater degree of stability and solvency in the marketplace. Why would they oppose this effort, to give more regulatory power to them or to their sister organizations?

I believe it is in part because of their concern that this might have unintended consequences, that this, unfortunately, might add uncertainty to the markets, that this might stifle transactions that so often act to reduce the risk in the marketplace.

Particularly telling is the fact that an amendment is being offered to strike the coverage of various metals from this provision. Obviously, someone recognizes that this might not be good, might not be healthy for a particular area of our economy, of the derivatives exchanges, and therefore wants to protect them from the uncertainty and the instability I have described.

Unintended consequences, we have to be so careful about exactly in an example such as this. These derivative markets are so complicated so the potential to have unintended consequences is effectively magnified by our collective lack of knowledge. There are some Senators who know more than others about these markets. The Senator from California has spent more time than others debating and discussing these issues. But any time we venture into an area of such complexity we enhance the risk that a piece of legislation will have unintended consequences.

I certainly do not fault the intentions or question the intentions or the motives in offering the legislation. We share the goals of ensuring that we have good regulatory agencies with appropriate enforcement powers, but we also should be careful that we not disturb a market which I believe functions extremely efficiently. As complex as it is, and as large as it is—I have seen estimates of the size of the global derivatives market as high as $75 trillion—as large as that market is, it works very effectively.

These are not products that are sold on any exchanges and there is a reason for that. The principal reason is that they are unique. They are unique to the organizations that seek them out. The vast majority of these organizations seek out a particular swap or derivative transaction in order to reduce the risk they are exposed to at any given day. That is why these instruments were developed and exist in such great numbers in the first place. Companies, institutions, financial service companies, banks—they seek out these derivatives to reduce their exposure to risk. When they are able to do that, they ensure greater stability, they ensure greater certainty for their investors, and it has the effect of, obviously, making our markets stronger. And helping our economy to grow.

We have exercised great caution before stepping forward and trying to substitute some kind of new regulatory regime when a market is functioning this effectively and arguably enforcing its own level of discipline in the way that it functions. What kind of discipline is that? If I am going to engage in an interest rate swap, or some other derivative transaction with a financial institution, rest assured that I as an investor or as a counter-party to that transaction am going to want to know a great deal about the solvency, the exposure to other risks, exposure to interest rate changes, and exposure to different portions of our economy with which that institution I am engaging with in a transaction is dealing.

There is a level of inspection and a level of due diligence that takes place in this marketplace every single day, which I might argue is more detailed and more thorough and more consistent than any government regulatory agency could ever provide.

I believe we should oppose this amendment because it hasn't gone through the regular order because it attempts to impose a level of regulation that might well be counterproductive, that might increase the level of uncertainty in certain areas where jurisdiction is concerned, and that springs from a concern that somehow the derivatives themselves—the instruments themselves—are to blame rather than managers who have made some very bad decisions.

Derivatives didn't cause the energy crisis in California. Derivatives didn't cause the collapse of Enron. Managers making bad decisions did. In some cases, managers engaging in fraudulent behavior did. Certainly the Commodity Futures Trading Commission has the power to go after cases where fraud or price manipulation are concerned. They are completely empowered to do just that.

I encourage my colleagues to vote against the amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, I would like to use this time to respond to some of the comments that have been made.

It is really a misconception to think this is an amendment against derivatives. This isn't an amendment against derivatives. I have never said derivatives caused the western energy crisis. What I said was that there is a loophole in the law: Where all other finite commodities, except for energy and metals, have certain regulations with respect to transparency, these particular finite commodities do not; and that certain traders use this loophole to practice, if you will, a kind of fraud in their trading. The fraud was to artificially find ways to boost their products. I wish to respond to that.

Let's go into one of the ways they proceeded to do this—through what is called a round trip or a wash trade. Yesterday on the floor, Senator FITZGERALD and I, as well, very clearly pointed out what a wash trade is: I sell you a finite commodity, and you sell that same commodity back to me. On our balance sheets, we both carry a sale. Yet nothing ever changes hands. What we are saying is that this should be an illegal practice. What we are saying is that, at the very least, it ought to have transparency to it. We ought to be required to keep a record, to have an audit trail, and to have anti-fraud and anti-manipulation oversight of these practices by the Commodity Futures Trading Commission.

What we more fundamentally say is that a great deal of this was done in the western energy crisis through electronic trading.

Madam President, I understand I have the right to modify the amendment. Is that not correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 876, AS MODIFIED

Mrs. FEINSTEIN. Madam President, I would like to send a modified amendment to the desk. That modified amendment contains an additional cosponsor, Senator KENNEDY. The modified amendment makes two changes to the amendment which I submitted before. The first change is to be absolutely crystal clear that this does not affect financial derivatives. I said that in my comments yesterday. I say it again today. To make it crystal clear, because some are concerned, and say, "Oh, well, this will upset the financial derivatives marketplace," this is not the intent. It would only apply to finite commodities.

Right upfront, we are clearly saying that this title shall not apply to financial derivatives trading.

The other change to this amendment simply takes Senator REID's amendment to exclude metals and adds this to this bill.

If I may, I send that amendment, as a modified, to the desk at this time.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

Mrs. FEINSTEIN. I thank the Chair.

The amendment (No. 876), as modified, is as follows:

At the end, add the following:

TITLE —ENERGY MARKET OVERSIGHT

SEC. 01. NO EFFECT ON FINANCIAL DERIVATIVES.

This title shall not apply to financial derivatives trading.

SEC. 02. JURISDICTION OF THE FEDERAL ENERGY REGULATORY COMMISSION OVER ENERGY TRADING MARKETS.

Section 402 of the Department of Energy Organization Act (42 U.S.C. 7172) is amended by adding at the end the following:

"(i) JURISDICTION.—

"(1) REFERRAL.—

"(A) IN GENERAL.—To the extent that the Commission determines that any contract involving energy delivery that comes before the Commission is not under the jurisdiction of the Commission, the Commission shall refer the contract to the appropriate Federal agency.

"(B) NO EFFECT ON AUTHORITY.—The authority of the Commission or any Federal agency shall not be limited or otherwise affected based on whether the Commission has or has not referred a contract described in subparagraph (A).

"(2) MEETINGS.—A designee of the Commission shall meet quarterly with a designee of the Commodity Futures Trading Commission, the Securities Exchange Commission, the Federal Trade Commission, the Department of Justice, the Department of the Treasury, and the Federal Reserve Board to discuss—

"(A) conditions and events in energy trading markets; and

"(B) any changes in Federal law (including regulations) that may be appropriate to regulate energy trading markets.

"(3) LIAISON.—The Commission shall, in cooperation with the Commodity Futures Trading Commission, maintain a liaison between the Commission and the Commodity Futures Trading Commission.".

SEC. 02. INVESTIGATIONS BY THE FEDERAL ENERGY REGULATORY COMMISSION UNDER THE NATURAL GAS ACT AND FEDERAL POWER ACT.

(a) INVESTIGATIONS UNDER THE NATURAL GAS ACT.—Section 14(c) of the Natural Gas Act (15 U.S.C. 717m(c)) is amended—

(1) by striking "(c) For the purpose of" and inserting the following:

"(c) TAKING OF EVIDENCE.—

"(1) IN GENERAL.—For the purpose of";

(2) by striking "Such attendance" and inserting the following:

"(2) NO GEOGRAPHIC LIMITATION.—The attendance";

(3) by striking "Witnesses summoned" and inserting the following:

"(3) EXPENSES.—Any witness summoned"; and

(4) by adding at the end the following:

"(4) AUTHORITIES.—The exercise of the authorities of the Commission under this subsection shall not be subject to the consent of the Office of Management and Budget.".

(b) INVESTIGATIONS UNDER THE FEDERAL POWER ACT.—Section 307(b) of the Federal Power Act (16 U.S.C. 825f(b)) is amended—

(1) by striking "(b) For the purpose of" and inserting the following:

"(b) TAKING OF EVIDENCE.—

"(1) IN GENERAL.—For the purpose of";

(2) by striking "Such attendance" and inserting the following:

"(2) NO GEOGRAPHIC LIMITATION.—The attendance";

(3) by striking "Witnesses summoned" and inserting the following:

"(3) EXPENSES.—Any witness summoned"; and

(4) by adding at the end the following:

"(4) AUTHORITIES.—The exercise of the authorities of the Commission under this subsection shall not be subject to the consent of the Office of Management and Budget.".

SEC. 04. CONSULTING SERVICES.

Title IV of the Department of Energy Organization Act (42 U.S.C. 7171 et seq.) is amended by adding at the end the following:

"SEC. 408. CONSULTING SERVICES.

"(a) IN GENERAL.—The Chairman may contract for the services of consultants to assist the Commission in carrying out any responsibilities of the Commission under this Act, the Federal Power Act (16 U.S.C. 791a et seq.), or the Natural Gas Act (15 U.S.C. 717 et seq.).

"(b) APPLICABLE LAW.—In contracting for consultant services under subsection (a), if the Chairman determines that the contract is in the public interest, the Chairman, in entering into a contract, shall not be subject to—

"(1) section 5, 253, 253a, or 253b of title 41, United States Code; or

"(2) any law (including a regulation) relating to conflicts of interest.".

SEC. 04. LEGAL CERTAINTY FOR TRANSACTIONS IN EXEMPT COMMODITIES.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by striking subsections (g) and (h) and inserting the following:

"(g) OFF-EXCHANGE TRANSACTIONS IN EXEMPT COMMODITIES.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED ENTITY.—The term 'covered entity' means—

"(i) an electronic trading facility; and

"(ii) a dealer market.

"(B) DEALER MARKET.—

"(i) IN GENERAL.—The term 'dealer market' has the meaning given the term by the Commission.

"(ii) INCLUSIONS.—The term 'dealer market' includes each bilateral or multilateral agreement, contract, or transaction determined by the Commission, regardless of the means of execution of the agreement, contract, or transaction.

"(2) EXEMPTION FOR TRANSACTIONS NOT ON TRADING FACILITIES.—Except as provided in paragraph (4), nothing in this Act shall apply to an agreement, contract, or transaction in an exempt commodity that—

"(A) is entered into solely between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction; and

"(B) is not entered into on a trading facility.

"(3) EXEMPTION FOR TRANSACTIONS ON COVERED ENTITIES.—Except as provided in paragraphs (4), (5), and (7), nothing in this Act shall apply to an agreement, contract, or transaction in an exempt commodity that is—

"(A) entered into on a principal-to-principal basis solely between persons that are eligible contract participants at the time at which the persons enter into the agreement, contract, or transaction; and

"(B) executed or traded on a covered entity.

"(4) REGULATORY AND OVERSIGHT REQUIREMENTS.—

"(A) IN GENERAL.—An agreement, contract, or transaction described in paragraph (2) or (3) (and the covered entity on which the agreement, contract, or transaction is executed) shall be subject to—

"(i) sections 5b, 12(e)(2)(B), and 22(a)(4);

"(ii) the provisions relating to manipulation and misleading transactions under sections 4b, 4c(a), 4c(b), 4o, 6(c), 6(d), 6c, 6d, 8a, and 9(a)(2); and

"(iii) the provisions relating to fraud and misleading transactions under sections 4b, 4c(a), 4c(b), 4o, and 8a.

"(B) TRANSACTIONS EXEMPTED BY COMMISSION ACTION.—Notwithstanding any exemption by the Commission under section 4(c), an agreement, contract, or transaction described in paragraph (2) or (3) shall be subject to the authorities in clauses (i), (ii), and (iii) of subparagraph (A).

"(5) COVERED ENTITIES.—An agreement, contract, or transaction described in paragraph (3) and the covered entity on which the agreement, contract, or transaction is executed, shall be subject to (to the extent the Commission determines appropriate)—

"(A) section 5a, to the extent provided in section 5a(g)) and 5d;

"(B) consistent with section 4i, a requirement that books and records relating to the business of the covered entity on which the agreement, contract, or transaction is executed be made available to representatives of the Commission and the Department of Justice for inspection for a period of at least 5 years after the date of each transaction, including—

“(i) information relating to data entry and transaction details sufficient to enable the Commission to reconstruct trading activity on the covered entity; and

“(ii) the name and address of each participant on the covered entity authorized to enter into transactions; and

“(C) in the case of a transaction or covered entity performing a significant price discovery function for transactions in the cash market for the underlying commodity, subject to paragraph (6), the requirements (to the extent the Commission determines appropriate by regulation) that—

“(i) information on trading volume, settlement price, open interest, and opening and closing ranges be made available to the public on a daily basis;

“(ii) notice be provided to the Commission in such form as the Commission may require;

“(iii) reports be filed with the Commission (such as large trader position reports); and

“(iv) consistent with section 4i, books and records be maintained relating to each transaction in such form as the Commission may require for a period of at least 5 years after the date of the transaction.

“(6) PROPRIETARY INFORMATION.—In carrying out paragraph (5)(C), the Commission shall not—

“(A) require the real-time publication of proprietary information;

“(B) prohibit the commercial sale or licensing of real-time proprietary information; and

“(C) publicly disclose information regarding market positions, business transactions, trade secrets, or names of customers, except as provided in section 8.

“(7) NOTIFICATION, DISCLOSURES, AND OTHER REQUIREMENTS FOR COVERED ENTITIES.—A covered entity subject to the exemption under paragraph (3) shall (to the extent the Commission determines appropriate)—

“(A) notify the Commission of the intention of the covered entity to operate as a covered entity subject to the exemption under paragraph (3), which notice shall include—

“(i) the name and address of the covered entity and a person designated to receive communications from the Commission;

“(ii) the commodity categories that the covered entity intends to list or otherwise make available for trading on the covered entity in reliance on the exemption under paragraph (3);

“(iii) certifications that—

“(I) no executive officer or member of the governing board of, or any holder of a 10 percent or greater equity interest in, the covered entity is a person described in any of subparagraphs (A) through (H) of section 8a(2);

“(II) the covered entity will comply with the conditions for exemption under this subsection; and

“(III) the covered entity will notify the Commission of any material change in the information previously provided by the covered entity to the Commission under this paragraph; and

“(iv) the identity of any derivatives clearing organization to which the covered entity transmits or intends to transmit transaction data for the purpose of facilitating the clearance and settlement of transactions conducted on the covered entity subject to the exemption under paragraph (3);

“(B)(i) provide the Commission with access to the trading protocols of the covered entity and electronic access to the covered entity with respect to transactions conducted in reliance on the exemption under paragraph (3); and

“(ii) on special call by the Commission, provide to the Commission, in a form and manner and within the period specified in the special call, such information relating to the business of the covered entity as a covered entity exempt under paragraph (3), including information relating to data entry and transaction details with respect to transactions entered into in reliance on the exemption under paragraph (3), as the Commission may determine appropriate—

“(I) to enforce the provisions specified in paragraph (4);

“(II) to evaluate a systemic market event; or

“(III) to obtain information requested by a Federal financial regulatory authority to enable the authority to fulfill the regulatory or supervisory responsibilities of the authority;

“(C)(i) on receipt of any subpoena issued by or on behalf of the Commission to any foreign person that the Commission believes is conducting or has conducted transactions in reliance on the exemption under paragraph (3) on or through the covered entity relating to the transactions, promptly notify the foreign person of, and transmit to the foreign person, the subpoena in a manner that is reasonable under the circumstances, or as specified by the Commission; and

“(ii) if the Commission has reason to believe that a person has not timely complied with a subpoena issued by or on behalf of the Commission under clause (i), and the Commission in writing directs that a covered entity relying on the exemption under paragraph (3) deny or limit further transactions by the person, deny that person further trading access to the covered entity or, as applicable, limit that access of the person to the covered entity for liquidation trading only;

“(D) comply with the requirements of this subsection applicable to the covered entity and require that each participant, as a condition of trading on the covered entity in reliance on the exemption under paragraph (3), agree to comply with all applicable law;

“(E) certify to the Commission that the covered entity has a reasonable basis for believing that participants authorized to conduct transactions on the covered entity in reliance on the exemption under paragraph (3) are eligible contract participants;

“(F) maintain sufficient capital, commensurate with the risk associated with transactions; and

“(G) not represent to any person that the covered entity is registered with, or designated, recognized, licensed, or approved by the Commission.

“(8) HEARING.—A person named in a subpoena referred to in paragraph (7)(C) that believes the person is or may be adversely affected or aggrieved by action taken by the Commission under this subsection, shall have the opportunity for a prompt hearing after the Commission acts under procedures that the Commission shall establish by rule, regulation, or order.

“(9) PRIVATE REGULATORY ORGANIZATIONS.—

“(A) DELEGATION OF FUNCTIONS UNDER CORE PRINCIPLES.—A covered entity may comply with any core principle under subparagraph (B) that is applicable to the covered entity through delegation of any relevant function to—

“(i) a registered futures association under section 17; or

“(ii) another registered entity.

“(B) CORE PRINCIPLES.—The Commission may establish core principles requiring a covered entity to monitor trading to—

“(i) prevent fraud and manipulation;

“(ii) prevent price distortion and disruptions of the delivery or cash settlement process;

“(iii) ensure that the covered entity has adequate financial, operational, and managerial resources to discharge the responsibilities of the covered entity; and

“(iv) ensure that all reporting, recordkeeping, notice, and registration requirements under this subsection are discharged in a timely manner.

“(C) RESPONSIBILITY.—A covered entity that delegates a function under subparagraph (A) shall remain responsible for carrying out the function.

“(D) NONCOMPLIANCE.—If a covered entity that delegates a function under subparagraph (A) becomes aware that a delegated function is not being performed as required under this Act, the covered entity shall promptly take action to address the noncompliance.

“(E) VIOLATION OF CORE PRINCIPLES.—

“(i) IN GENERAL.—If the Commission determines, on the basis of substantial evidence, that a covered entity is violating any applicable core principle specified in subparagraph (B), the Commission shall—

“(I) notify the covered entity in writing of the determination; and

“(II) afford the covered entity an opportunity to make appropriate changes to bring the covered entity into compliance with the core principles.

“(ii) FAILURE TO MAKE CHANGES.—If, not later than 30 days after receiving a notification under clause (i)(I), a covered entity fails to make changes that, as determined by the Commission, are necessary to comply with the core principles, the Commission may take further action in accordance with this Act.

“(F) RESERVATION OF EMERGENCY AUTHORITY.—Nothing in this paragraph limits or affects the emergency powers of the Commission provided under section 8a(9).

“(10) METALS.—Notwithstanding any other provision of this subsection, an agreement, contract, or transaction in metals—

“(A) shall not be subject to this subsection (as amended by section 05 of the Energy Policy Act of 2003); and

“(B) shall be subject to this subsection and subsection (h) (as those subsections existed on the day before the date of enactment of the Energy Policy Act of 2003).

“(11) NO EFFECT ON OTHER AUTHORITY.—This subsection shall not affect the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C 717 et seq.).”.

SEC. 06. PROHIBITION OF FRAUDULENT TRANSACTIONS.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

“(a) PROHIBITION.—It shall be unlawful for any person, directly or indirectly, in or in connection with any account, or any offer to enter into, the entry into, or the confirmation of the execution of, any agreement, contract, or transaction subject to this Act—

“(1) to cheat or defraud or attempt to cheat or defraud any person (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information);

"(2) willfully to make or cause to be made to any person any false report or statement, or willfully to enter or cause to be entered for any person any false record (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information);

"(3) willfully to deceive or attempt to deceive any person by any means whatsoever (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information); or

"(4) except as permitted in written rules of a board of trade designated as a contract market or derivatives transaction execution facility on which the agreement, contract, or transaction is traded and executed—

"(A) to bucket an order;

"(B) to fill an order by offset against 1 or more orders of another person; or

"(C) willfully and knowingly, for or on behalf of any other person and without the prior consent of the person, to become—

"(i) the buyer with respect to any selling order of the person; or

"(ii) the seller with respect to any buying order of the person.".

SEC. 07. FERC LIAISON.

Section 2(a)(9) of the Commodity Exchange Act (7 U.S.C. 2(a)(9)) is amended by adding at the end the following:

"(C) Liaison with Federal Energy Regulatory Commission.—The Commission shall, in cooperation with the Federal Energy Regulatory Commission, maintain a liaison between the Commission and the Federal Energy Regulatory Commission.".

SEC. 08. CRIMINAL AND CIVIL PENALTIES.

(a) Enforcement Powers of Commission.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in paragraph (3) of the tenth sentence—

(1) by inserting "(A)" after "assess such person"; and

(2) by inserting after "each such violation" the following: ", or (B) in any case of manipulation of, or attempt to manipulate, the price of any commodity, a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to such person for each such violation,".

(b) Manipulations and Other Violations.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence—

(1) by striking "paragraph (a) or (b) of section 9 of this Act" and inserting "subsection (a), (b), or (f) of section 9"; and

(2) by striking "said paragraph 9(a) or 9(b)" and inserting "subsection (a), (b), or (f) of section 9".

(c) Nonenforcement of Rules of Government or Other Violations.—Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended—

(1) in the first sentence—

(A) by inserting "section 2(g)(9)," after "sections 5 through 5c,"; and

(B) by inserting before the period at the end the following: ", or, in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty of not more than $1,000,000 for each such violation"; and

(2) in the second sentence, by inserting before the period at the end the following: ", except that if the failure or refusal to obey or comply with the order involved any offense under section 9(f), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(f)".

(d) Action To Enjoin or Restrain Violations.—Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a–1(d)) is amended by striking "(d)" and all that follows through the end of paragraph (1) and inserting the following:

"(d) Civil Penalties.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

"(1) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

"(2) in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.".

(e) Violations Generally.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) by redesignating subsection (f) as subsection (e); and

(2) by adding at the end the following:

"(f) Price Manipulation.—It shall be a felony punishable by a fine of not more than $1,000,000 for each violation or imprisonment for not more than 10 years, or both, together with the costs of prosecution, for any person—

"(1) to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity;

"(2) to corner or attempt to corner any such commodity;

"(3) knowingly to deliver or cause to be delivered (for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication) false or misleading or knowingly inaccurate reports concerning market information or conditions that affect or tend to affect the price of any commodity in interstate commerce; or

"(4) knowingly to violate section 4 or 4b, any of subsections (a) through (e) of subsection 4c, or section 4h, 4o(1), or 19.".

SEC. 09. CONFORMING AMENDMENTS.

(a) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in subsection (d)(1), by striking "section 5b" and inserting "section 5a(g), 5b,";

(2) in subsection (e)—

(A) in paragraph (1), by striking ", 2(g), or 2(h)(3)"; and

(B) in paragraph (3), by striking "2(h)(5)" and inserting "2(g)(7)";

(3) by redesignating subsection (i) as subsection (h); and

(4) in subsection (h) (as redesignated by subparagraph (C))—

(A) in paragraph (1)—

(i) by striking "No provision" and inserting "In general.—Subject to subsection (g), no provision"; and

(ii) in subparagraph (A)—

(I) by striking "section 2(c), 2(d), 2(e), 2(f), or 2(g) of this Act" and inserting "subsection (c), (d), (e), or (f)"; and

(II) by striking "section 2(h)" and inserting "subsection (g)"; and

(B) in paragraph (2), by striking "No provision" and inserting "In general.—Subject to subsection (g), no provision".

(b) Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended in the first sentence by inserting ", or pursuant to an exemption under section 4(c)" after "transaction execution facility".

(c) Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended—

(1) by inserting "or covered entity under section 2(g)" after "direct the contract market";

(2) by striking "on any futures contract"; and

(3) by inserting "or covered entity under section 2(g)" after "given by a contract market".

Mrs. FEINSTEIN. Madam President, once again, what we are seeking to do is close a loophole that was created in 2000 when this Congress passed the Commodity Futures Modernization Act. That act exempted just energy and metals. It was not the intention actually to do that. The Senate part of that bill did not exempt them. What happened was Enron went to the House and Enron secured an exemption of energy and metals in the House. That exemption was handled in the conference, and the Senate language was not in the bill.

The exemption was effectively created. The loophole was created. We are just trying to eliminate that loophole. We are not attacking derivatives. All we are saying is: If you do this kind of trading, you must keep a record just as anybody else does. You must be transparent. You must have an audit trail, and you are subject to any fraud or manipulation oversight by the Commodity Futures Trading Commission.

This is where it gets a little complicated. If I sell energy to you and you deliver, then that is covered by the Federal Energy Regulatory Commission. If I sell energy to you and you sell it to a third person or entity that sells it to a fourth entity that sells it to a fifth entity and then it goes into the field, those interim trades are not covered.

That is what we seek to cover because that is where the games exist. It is a rather subtle point, but it is also an important point.

I heard people say that this will stifle the market. I will tell you what has been happening out there. Without transparency and without record keeping stifles the market.

When Mr. Fortney was arrested last week for creating schemes such as Ricochet, Death Star, and Get Shorty, you don't think that stifles the market when you have other traders pleading guilty to fraud and wire fraud?

Does that not stifle the market? And does that not give the average consumer the belief that they cannot trust this marketplace as being fair and transparent? I believe it does. More fundamentally, I believe the rules that govern the marketplace should be rules to protect the average consumer, not the big boys; they can take care of themselves. But the average consumer has to have confidence in the marketplace that it is fair and that it is transparent.

I would like to correct the idea that this amendment has not gone through regular order. I moved this amendment last year to the Energy bill. Senator Gramm of Texas, who, incidentally, subsequently went to work for EnronOnline in its new life with UBS Warburg—which is fine—argued against my amendment. We tried to settle our differences. It took quite some time. We could not settle our differences on this amendment, and we did have a vote.

Another reason for the vote is there were people who believed this had not had enough committee hearing. So we had a vote, and I think we got 48 votes. The amendment went to the Agriculture Committee. The Agriculture Committee held hearings. The staff of both sides reviewed the legislation. Senator HARKIN, who was chairman, and Senator LUGAR, who was ranking member, are both cosponsors of this amendment.

The problem is, the end of the session came without a markup, so this is really the opportunity we have to place this amendment into some form of law, and so we take this opportunity.

I also wish to say that the President's working group in 1999, in their report—this was before the Commodity Futures Modernization Act of 2000—very specifically said, on page 2 of their report, that:

> An exclusion from the CEA [Commodities Exchange Act] for electronic trading systems for derivatives, provided that the systems limit participation to sophisticated counterparties trading for their own accounts and are not used to trade contracts that involve non-financial commodities with finite supplies. . . .

In other words, they are saying that commodities with finite supplies should be included in the bill, but they are recommending that those that do not have finite supplies, such as financials derivatives, not be included in the bill. Now, apparently, they are changing their position. But I want to make very clear that was the position of the "Over-the-Counter Derivatives Markets and the Commodity Exchange Act, Report of The President's Working Group on Financial Markets" dated November 1999. And the Senate version of the Commodity Futures Modernization Act actually did just what this working group stated.

Again, to refute the allegation that I am in some way blaming derivatives for the western energy crisis—I am not—I am blaming this loophole which allows all this secret trading, which we have seen result in fraudulent schemes, to try to close that loophole. And the way to close it is to bring the light of day to it. That is what we are trying to do.

I pointed out yesterday, because some people said, well, we need to study this more, that it has been studied more and that the "Final Report On Price Manipulation In Western Markets, Fact-Finding Investigation Of Potential Manipulation Of Electric And Natural Gas Prices," which was prepared by the staff of the Federal Energy Regulatory Commission, and dated March 2003, says the following as one of their recommendations:

> Recommend that Congress consider giving direct authority to a Federal agency to ensure that electronic trading platforms for wholesale sales of electric energy and natural gas in interstate commerce are monitored—

That is what we do—

> and provide market information that is necessary for price discovery in competitive energy markets.

That is exactly what this does, as recommended by this report of the Federal Energy Regulatory Commission.

With the modification I made, metals will have the same level of oversight as exists under current law today.

Now, let me go back again to 2000. I mentioned the change that was made to accommodate Enron lobbying to the Commodity Futures Modernization Act. It also did not take long for EnronOnline and others in the energy sector to take advantage of this new freedom by trading energy derivatives absent any transparency or regulatory oversight. Thus, after the 2000 legislation—and really right away—EnronOnline began to trade energy derivatives bilaterally without being subject to proper regulatory oversight.

It should not surprise anyone that without this transparency, prices soared. In 2000, if Enron's derivatives business had been a stand-alone company, it would have been the 256th largest company in America. That year, Enron claimed it made more money from its derivatives business—$7.23 billion—than Tyson Foods made from selling chicken. That is according to author Robert Bryce, who wrote a book on Enron called "Pipe Dreams."

EnronOnline rapidly became the biggest platform for electronic energy trading. But unlike regulated exchanges, such as the New York Mercantile Exchange, the Chicago Mercantile Exchange, the Chicago Board of Trade, EnronOnline was not registered with the CFTC, the Commodity Futures Trading Commission, so it set its own standards. And that is the problem. Traders and others in the energy sector came to rely on EnronOnline for pricing information. Yet the company's control over this information, and its ability to manipulate it, was large.

As this same author, Robert Bryce, describes—and let me quote—

> Enron didn't just own the casino. On any given deal, Enron could be the house, the dealer, the oddsmaker, and the guy across the table you're trying to beat in diesel fuel futures, gas futures, or the California electricity market.

The Electric Power Supply Association, EPSA, has sent a letter to all Senators asking them to oppose our oversight amendment. This should not be strange to anybody because its members are exactly the same companies that are being investigated and have been investigated by FERC for wrongdoing in the western energy crisis. It is AES Corporation; it is BP Energy; it is Duke Energy; it is Mirant Energy; it is Reliant Energy; it is UBS Warburg, which purchased Enron's trading unit; and it is Williams Energy. Now, with others, they are all members of EPSA, not companies that Westerners trust very much these days in light of what we have been through.

Now, I want to just document some of this.

Let me quickly run through these again because, again, a lot of these round-trip trades were done on the Internet.

Other schemes were carried out on the Internet. Let's just go through this. Duke Energy disclosed that $1.1 billion worth of trades were round trip since 1999. Roughly two-thirds of these were done on the Intercontinental Exchange, which is an online trading platform owned by the banks, again, where there is no transparency, no net capital requirements, and no recordkeeping whatsoever. Now, this also meant that thousands of subscribers would have seen false price signals.

Why would they see false price signals? That is because of the nature of a wash or round-trip trade. Again, a wash or round-trip trade would be that I am going to sell you energy at a certain price and you are going to sell me energy at a certain price, but no energy ever changes hands; yet we both post sales. That is what a wash trade or a round-trip trade is.

A class action suit accused the El Paso Corporation of engaging in dozens of round-trip energy trades that artificially bolstered its revenues and trading volumes over the last 2 years.

CMS Energy admitted conducting wash energy trades that artificially inflated its revenue by more than $4.4 billion. These round-trip trades accounted for 80 percent of their trade in 2001. So 80 percent of this company's trades in 2001—in the heart of the energy crisis—were not trades at all. No energy ever traded hands. They just boosted their sales—artificially.

This is another facet of artificially filing false reports: reporting fictitious natural gas transactions to an industry publication. You can read it for yourself. The overwhelming figure in this is, if you look at what was done with energy and you look at California, where one year the total cost of energy was $7 billion and the next year it was

$28 billion, which is a 400 percent increase, there is no way that could be legitimate. There is no way the energy need of a State could increase 400 percent in 1 year. Demand didn't increase 400 percent.

So without this type of legislation, there really is insufficient authority to investigate and prevent fraud and price manipulations since parties making the trade are not required to keep a record. What we would require them to do is keep a record. Therefore, the Commodity Futures Trading Commission, in the event of many of these interim trades, and the FERC, where energy is directly delivered as a product of a trade, has the ability to do the investigation based on records. If you don't keep records, it is very hard to prove that.

I would like to repeat that this amendment does not ban trades. This amendment does not affect financial derivatives. This amendment would only require oversight and transparency for those energy trades that are now taking place within this loophole, and it would provide oversight, as recommended in the FERC report.

We are very proud to have the support of the National Rural Electric Cooperative Association, the Derivative Study Center, the American Public Gas Association, American Public Power Association, California Municipal Utilities Association, Southern California Public Power Authority, Transmission Excess Policy Study Group, U.S. Public Interest Research Group, Consumers Union, Consumers Federation of America, Calpine, Southern California Edison, Pacific Gas and Electric, and FERC Chairman Patrick Wood.

Again, this amendment is not going to do anything to change what happened in California and the West. But it does provide the necessary authority for the CFTC and the FERC to help protect against another energy crisis.

I might say I am very suspicious of people who want to do trading in the dark. I am very suspicious when they say, oh, we are so sophisticated you cannot possibly know how this is done and you are going to stifle trade, because they don't want to keep a record of that trade, they don't want transparency, they don't want to keep an audit on trade, and they don't want any Government agency assuring there isn't fraud or manipulation. I am doubly suspicious of them, particularly because of the fraud and manipulation we now know took place.

So, please, don't tell me I am not sophisticated enough to understand. I understand plenty. I understand, when the price goes from $7 billion to $28 billion in a very short period of time, that you have to begin to look. I understand now that these arrests are occurring and the manipulations of Ricochet and Death Star and Get Shorty and wash trades are all becoming well known. I understand. The point is it is wrong. The point is, you cannot prove it is wrong if there are no records of those trades.

So what we are saying is these trades can go on, but you keep records. We give the CFTC the responsibility to set net capital requirements commensurate with risk. That is good oversight for the public and that is good oversight for anybody who is going to invest, because when net capital is not available and the house begins to collapse, as it did with Enron, the company goes bankrupt.

I think I have made my case. We have gone over this. I sent this legislation to the head of Goldman Sachs. They run an electronic exchange. I said, please, if you have problems with it, let me know. I did not hear. We have vetted it and talked over the past year and a half, 2 years, with virtually anyone who wanted to come in and talk with us about it.

Mr. President, I am absolutely determined and I am going to come back and back and back until this loophole is closed. Nobody can tell me I am not sophisticated enough to know that sunshine and records and transparency are critical to the effective functioning of a free marketplace, because I believe that just as much as I believe in the Pledge of Allegiance—and I do believe in the Pledge of Allegiance. When you allow hiding and you allow these trades to take place surreptitiously, that is when there are problems.

I am afraid I have said this over and over again, but we went through it and we saw it. We read the 3,000 pages California has sent to the FERC. This is another intrigue. Can you imagine that no State has the right today to present evidence to the FERC of fraud or manipulation?

California had to go to the Supreme Court to get that right, and then when we got that right, we were told it had to be in in 100 days. California submitted 3,000 pages within the 100 days, and it is loaded with examples of fraud and manipulation.

We know there is fraud, we know there is manipulation, and we know that was present in the western energy crisis, and all we are trying to do is bring light of day to one loophole that was in the Commodity Futures Modernization Act because a major offender lobbied for it in the laws. It was not in the Senate bill. The Senate bill originally covered this, but they lobbied in the House. It was taken out in conference, and the loophole was created.

If the past 3 years have not been evidence enough, if the arrests are not evidence enough, if we do not want a transparent marketplace, if we want people to be able to do this trading—and we can tell you the language of some of these trades; if they knew they were being recorded, I do not think they would do it in the way they did it—if we want to allow those procedures to continue to happen, that is what a motion to table and a tabling vote will do.

I am very hopeful and I am asking my colleagues to vote nay on the motion to table and vote yea on the modified amendment which is now at the desk.

I thank the Chair, and I yield the floor. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 877, WITHDRAWN

Mr. REID. Mr. President, I ask that the Reid amendment be withdrawn.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, the Senate is considering the amendment offered by the distinguished Senator from California, Mrs. FEINSTEIN, to the Energy bill now before the Senate. This amendment seeks to transfer, in effect, regulatory authority from the body that now has that authority, the Commodity Futures Trading Commission, to the Federal Energy Regulatory Commission.

There are several good reasons why the Senate should not adopt this amendment and force that transfer of regulatory authority. First, the Federal Energy Regulatory Commission has special responsibilities but this will give them new and different responsibilities where there is no experience, there is no body of law or regulatory decisionmaking on which to base the assumption that this kind of regulation or this regulation carried out by this Commission would be of any better character or type than that which would be exercised by the Commodity Futures Trading Commission.

The Commodity Futures Trading Commission has been operating for some time now and has actually shown that it is capable of taking action to prevent abuses and illegal activities that can occur in these trading markets and in the energy trading area as well.

The Feinstein amendment would give the Federal Energy Regulatory Commission authority over areas that are currently regulated by the Commodity Futures Trading Commission and would require, in addition, regulation of energy derivatives. These are complex instruments. They are used to transfer risks among traders and they are important tools in the energy markets today.

Congress considered in the past, when it took up the Commodity Futures Modernization Act of 2000 several years ago, regulating these instruments. But it decided not to do so. The Federal Energy Regulatory Commission has no current responsibility in regulating derivatives.

It seems to me that when you look to see who has been carrying out duties now complained about by some Senator, you can find that the Commodity Futures Trading Commission has a record of taking legal action against companies such as Enron, El Paso, and others regarding energy market problems. The Commodity Futures Trading Commission has recovered millions of dollars in fines from these companies, and it has several ongoing investigations in this area, and more charges are possible.

To transfer now the regulatory authority to a different commission and purport to take away the authority from the Commodity Futures Trading Commission is going to create disruption in ongoing investigations and actions that are taken to discipline this market and make it more predictable and trustworthy.

The Senator from California has suggested that the amendment she has offered is needed to prevent wash trades. These are trades that are fictitious. A company will buy a commodity and then sell it creating the impression that this is a legitimate trade. It establishes a price. It establishes volume. But it is fictitious trading. It shouldn't have that effect but it does.

The Commodity Futures Trading Commission has taken action to discourage that activity and to punish that activity. It has specific authority to do that under the Commodity Exchange Act. The Commodity Futures Trading Commission has brought several actions under that authority in the last several years. Its authority to take this kind of action has been upheld by two decisions from U.S. appeals courts.

Just this year, the Commodity Futures Trading Commission has recovered tens of millions of dollars from merchant energy traders for so-called wash trades and false trades.

Another claim that is made in support of the amendment of the Senator from California is that because the exempt commercial markets are not regulated under the Commodity Exchange Act that they have no regulatory oversight. That is just not true. Those markets are required by statute today to have electronic audit trails. They are required by statute to keep records for 5 years. They are required to be subject to the Commodity Futures Trading Commission's antifraud and antimanipulation authorities. They are subject to special call examinations by the Commodity Futures Trading Commission. To suggest there are no regulatory requirements on those exempt commercial markets is just not true.

It is also claimed that the Feinstein amendment would impose capital requirements on exempt commercial markets. It would require capital requirements. That doesn't necessarily solve anything. Capital requirements aren't imposed now on the Chicago Mercantile Exchange, or the New York Mercantile Exchange, or the Chicago Board of Trade. They are not viewed as necessary. Those markets have been functioning without capital requirements. To now impose them on exempt commercial markets is inappropriate and unnecessary.

Capital requirements or other exempt commercial markets would be difficult to establish. They would change on a regular basis—weekly probably—because of new contracts being offered, and change financial positions of participants. Capital requirements would impose significant costs and there are no identifiable benefits.

The amendment would also impose large trader reporting on exempt commercial markets. Large trader reporting works on retail futures exchanges with standardized contracts but would not work on exempt commercial markets. They don't have the same type of standardization. Large trader reporting on exempt commercial markets could actually lead to misleading information being provided to the public. Large trader reporting is used for market surveillance in retail futures markets.

The Commodity Futures Trading Commission's statutory authority for exempt commercial markets is after the fact, antifraud and antimanipulation enforcement, and is inconsistent with a large trader reporting scheme.

In closing, the Senate has to take into account the fact that the leading figures in our Government who are responsible for enforcement and managing the departments that understand financial markets and the impact they have on our economy and on our place in the world economy are urging that the Senate not adopt the Feinstein amendment.

This is a letter which was put on every Senator's desk in the last several minutes signed by John W. Snow, Secretary of the Department of the Treasury, Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System, William H. Donaldson, Chairman, U.S. Securities and Exchange Commission, and James E. Newsome, Chairman of the Commodity Futures Trading Commission.

With the permission of the Chair, I will read the letter.

It is addressed to Senator CRAPO of Idaho and Senator MILLER of Georgia.

> Thank you for your letter of June 10, 2003, requesting the views of the President's Working Group on Financial Markets [PWG] on proposed Amendment No. 876—

That is the Feinstein amendment—

> to S. 14, the pending energy bill.
>
> As this amendment is similar to a proposed amendment on which you sought the views of the PWG last year, we reassert the positions expressed in the PWG's response dated September 18, 2002, a copy of which is enclosed. The proposed amendment could have significant unintended consequences for an extremely important risk management market—serving businesses, financial institutions, and investors throughout the U.S. economy. For that reason, we believe that adoption of this amendment is ill-advised.
>
> We would also point out that, since we wrote that letter last year, various federal agencies have initiated actions against wrongdoing in the energy markets. As you note, the CFTC has brought formal actions against Enron, Dynegy, and El Paso for market manipulation, wash (or roundtrip) trades, false reporting of prices, and operation of illegal markets. The Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Department of Justice have also initiated formal actions in the energy sector. Some of these actions have already resulted in substantial monetary penalties and other sanctions. These initial actions alone make clear that wrongdoing in the energy markets are fully subject to the existing enforcement authority of federal regulators.
>
> The Commodity Futures Modernization Act of 2000 brought important legal certainty to the risk management marketplace. Businesses, financial institutions, and investors throughout the economy rely upon derivatives to protect themselves from market volatility triggered by unexpected economic events. This ability to manage risks makes the economy more resilient and its importance cannot be underestimated. In our judgment, the ability of private counterpart surveillance to effectively regulate these markets can be undermined by inappropriate extensions of government regulation.

It is clear from the letter that the Senate has received no response to inquiries from Senator CRAPO and Senator MILLER clearly explaining the dangers in adopting the Feinstein amendment.

At the appropriate time it will be our intention to move to table the Feinstein amendment and ask for the yeas and nays at that time. I hope Senators will carefully review the information we now have available on each Senator's desk and vote to table the Feinstein amendment.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Madam President, I ask unanimous consent that the vote in relation to the Feinstein amendment No. 876 occur at 3:15 today, with no amendments in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, it is my understanding that would be a motion to table.

Mr. FRIST. That is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF J. RONNIE GREER, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The senior assistant bill clerk read the nomination of J. Ronnie Greer, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

Mr. FRIST. Madam President, in a few moments, I believe at 2:15, the vote for J. Ronnie Greer's nomination as a United States District Court Judge for the Eastern District of Tennessee will take place.

As we come to the final few moments before that vote, I want to express my strong support for a very good friend over the years, Ronnie Greer.

People who come from the mountains of northeast Tennessee are known in our State for certain qualities. They are the qualities of loyalty, of steadfastness, of a can-do spirit. This individual, who we will be voting on in a few minutes, really personifies that tradition. He is a highly accomplished public servant who has served as an attorney in Tennessee's judicial system with great distinction for more than 20 years. His academic career speaks for itself—he graduated at the top of his class at the University of Tennessee Law School and was invited to be on Law Review. Since starting his own law office in Greeneville, he has represented numerous clients on a wide range of issues, and he has considerable experience before the Federal courts. Recognizing the need to help his fellow man, he has not hesitated to accept the appointments of indigent clients, representing them in both the District Court and the Sixth Circuit Court of Appeals.

Ronnie has also had a distinguished career in politics and public service outside of his law practice. He was a State Senator in Tennessee's General Assembly for nine years, ably serving the people of District One. He served on both the Judiciary Committee and as Chairman of the Environment, Conservation and Tourism Committee. Ronnie also served as a Special Assistant in then-Governor LAMAR ALEXANDER's first term, forming a friendship and a bond that continues to this day.

You can't demand respect from the people of northeast Tennessee, you have to earn it, and Ronnie has without question. He is known for his sense of fair play and his compassion for others. With his easy-going, thoughtful manner, yet quick mind and keen legal ability, he has the temperament and judgement required for the Federal bench. For the last nineteen years, Judge Thomas Hull has served as District Judge in Tennessee's Eastern District, and his distinguished career will long be remembered. While Judge Hull leaves big shoes to fill, I am confident Ronnie is up to the task.

Mr. President, Ronnie Greer's dedication to the citizens of our State, his love of the law, and his desire to serve his country make him an ideal choice to serve as a U.S. District Judge. He has my highest recommendation and unqualified support, and I am delighted to urge my colleagues to vote for his confirmation today.

Mr. ALEXANDER. Madam President, within a few minutes, we will be voting on the President's nomination of J. Ronnie Greer, of Greeneville, TN, to be a Federal District Judge for the Eastern District of Tennessee. I want to just say a word about that.

The President has made a superb nomination. Ronnie Greer is a distinguished lawyer. He knows the people of east Tennessee. He has earned our respect. I am delighted the Senate has moved so expeditiously to consider this exceptional nominee.

I had the privilege, as Governor, of appointing nearly 50 men and women as judges, and I know how important it can be. What I always looked for was intelligence and good character; someone who knew and understood the people; and someone who would be courteous to the men and women to come before the judge once the judge assumes the bench. In this case, it is a lifetime position, and it is even more important that the judge have those qualities.

Ronnie Greer has all those qualities. I have known him since he was student body president at East Tennessee State University. He was a champion debater. That was some 30 years ago. I knew then he would amount to something special, and he already has.

He has served his community in many ways. He has served his political party, the Republican party, in many important ways. He has been a State senator from his part of upper east Tennessee. He has been active on issues that have to do with solid waste and the environment. He has been chairman of his local committee.

I think one of the things that most strongly recommends Ronnie Greer is he takes this most important position in what we call in upper east Tennessee having been a trial judge. He will have lots of people before him, litigants before him trying cases, making decisions on many different kinds of things. He has actually practiced law in the grand manner. He has been the kind of lawyer we used to see all over the country, where a single lawyer would try many different kinds of cases. They would have a criminal case one day, a civil case the next day, and a domestic relations case the next day. The lawyer had many talents and was broad gauged. Today, so much of our legal profession is in very large law firms, where we have very specialized lawyers. They do not see big slices of life. As a result, many of them are not very well prepared for a Federal judgeship, particularly a district judgeship where many slices of life come before that judge.

Ronnie Greer is well prepared. He has tried hundreds of cases in his career. He has represented the people of his area. The fact the President nominated him and that this Senate has moved so quickly to confirm him suggests his reputation goes well before him.

Mr. Greer was born and raised in Mountain City, TN. He received his Bachelor of Science degree from the East Tennessee State University in 1974. He received his Juris Doctorate from the University Of Tennessee College Of Law in 1980.

Mr. Greer served in the Tennessee General Assembly as a Senator for 8 years and served on the judiciary committee for 5 years. During his term of service, the committee considered legislation relative to the judiciary, State criminal code and criminal sentencing. This committee approved bills: that rewrote the Tennessee Criminal Code; that dealt with the appointment and retention of State appellate court judges; and that revised the Tennessee Rules of Evidence; the Tennessee Rules of Civil Procedure; and the Tennessee Rules of Criminal Procedure.

While in the Tennessee General Assembly, Mr. Greer also served as Chairman of the Senate Environment, Conservation and Tourism Committee for 7 years. This committee considered bills related to environmental issues, wildlife, State parks and tourism. He also authored and was chief sponsor of the Tennessee Solid Waste Management Act and sponsored and cosponsored numerous pieces of significant environmental legislation.

Mr. Greer has vast litigation experience in civil and criminal law. He served as County Attorney for Greene County, TN. In his capacity of County Attorney and in private practice, Mr.

Greer tried approximately 200 lawsuits in State or Federal courts as sole or chief counsel. As a practicing attorney, he practiced general civil litigation primarily in the areas of personal injury, environmental law and bankruptcy. Mr. Greer has represented many defendants in criminal cases in both State and Federal courts. Mr. Greer has represented numerous cases for indigent clients on a pro bono basis and routinely accepted two to three criminal cases appointed by federal courts per year.

Mr. Greer has received honors and awards for his outstanding service to the community. To name a few, he was the 1989 recipient of the Tennessee Conservation League's Legislator of the Year Award and, in 1993, he received the Environmental Action Fund's Legislator of the Year Award.

Madam President, I join Senator FRIST in saying how proud we both are of his nomination. I look forward to casting my vote for him in a few minutes and urge all my colleagues to support this nomination.

Mr. HATCH. Madam President, I rise in support of the nomination of James Ronnie Greer to the U.S. District Court for the Eastern District of Tennessee. Mr. Greer has extensive experience in both the private and public sectors of the legal community.

Upon graduating from the University of Tennessee College of Law, Mr. Greer became the special assistant to then-Gov. LAMAR ALEXANDER.

For the past 20 years, Mr. Greer has maintained a successful general legal practice. During this time, his practice has consisted of considerable litigation involving both jury and bench trials in the areas of State and Federal criminal defense, personal injury, and workers compensation. He has also practiced in the areas of domestic relations and has represented a number of clients on environmental issues. From 1985 to 1986, Mr. Greer was county attorney for Green County, TN.

From 1986 to 1994, Mr. Greer served as a State senator in the Tennessee General Assembly, during which time he was a member of the Judiciary Committee, and chairman of the Environment, Conservation and Tourism Committee. During his tenure, he helped pass bills which rewrote the Tennessee Criminal Code, revised the Rules of Evidence, Civil Procedure, and Criminal Procedure. Mr. Greer was also the author and chief sponsor of the Tennessee Solid Waste Management Act.

I am confident that he will serve on the bench with integrity and fairness, and I urge my colleagues to confirm him today.

Mr. LEAHY. Madam President, today, we vote to confirm J. Ronnie Greer to the United States District Court. With this confirmation we will have filled the sole vacancy on this court, one that arose in October 2002. Judge Greer will join Judge J. Daniel Breen and Judge Thomas Varlan, who we confirmed to lifetime appointments to the Western District of Tennessee and Eastern District of Tennessee, respectively, earlier in March of this year. These three confirmations build on the progress we were able to make while I chaired the Judiciary Committee during the 107th Congress. During those months we proceeded expeditiously to consider and confirm Judge Thomas Phillips to the Eastern District of Tennessee and Samuel Hardy Mays, Jr. to the Western District of Tennessee. In addition, during my tenure as chairman we broke the logjam on appointments to the United States Court of Appeals to the Sixth Circuit by confirming Judge Julia Smith Gibbons of Tennessee to that circuit court. She was the first Sixth Circuit confirmation in almost 5 years during which the Republican Senate majority had refused to proceed on three of President Clinton's Sixth Circuit nominees and vacancies grew to half the circuit court.

The Tennessee total during the last few years now stands at six and its Federal bench is completely filled. Working with Senator FRIST, Senator ALEXANDER, and before them my good friend Senator Thompson, we have been able to make tremendous progress during the last 2 years.

Mr. FRIST. Madam President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Shall the Senate advise and consent to the nomination of J. Ronnie Greer, of Tennessee, to be United States District Judge for the Eastern District of Tennessee?

The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Illinois (Mr. FITZGERALD) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 216 Ex.]

YEAS—97

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—3

Fitzgerald
Hollings
Kerry

The nomination was confirmed.

NOMINATION OF MARK R. KRAVITZ, OF CONNECTICUT, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Mark R. Kravitz, of Connecticut, to be U.S. District Judge for the District of Connecticut.

The PRESIDING OFFICER. Under the previous order, there will be 5 minutes for debate equally divided between the chairman and ranking member or their designees prior to a vote.

Who yields time?

Mr. LEAHY. I yield such time as the senior Senator from Connecticut desires.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I thank Senator LEAHY and Senator HATCH for moving the nomination of Mark Kravitz. This is a first-rate nomination. I commend the President and others who recommended Mark Kravitz. He is a first-class nominee to sit on the Federal bench. My colleague Senator LIEBERMAN and I strongly support this nomination. He has been a wonderful lawyer in Connecticut, a graduate of Wellesley University, Georgetown Law School, a clerk for then-Justice Rehnquist, has written extensively and taught at the University of Connecticut Law School. He is going to be a wonderful addition to the district court bench.

We wanted our colleagues to know how strongly Senator LIEBERMAN and I felt about this nomination. We urge our colleagues to give their unanimous support.

I yield back my remaining time.

Mr. LEAHY. Madam President, I thank the Senator from Connecticut. This was a case where the White House worked with the Senators from the home State in an effort to unite rather than divide. I suspect this nominee will be easily confirmed.

With the confirmation of Mark R. Kravitz to the District Court, we will have filled the only vacancy on that court. I commend Senator DODD and Senator LIEBERMAN for their work in connection with this outstanding nomination and congratulate the nominee and his family.

The Senate has now confirmed 131 judges, including 26 circuit court judges, nominated by President Bush. One hundred judicial nominees were confirmed when Democrats acted as the Senate majority for 17 months from the summer of 2001 to adjournment last year. After today, 31 will have been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President Bush. This total of 131 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996 and 1997 the first 3 full years of his last term. In those 3 years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already significantly exceeded that total with 6 months remaining to us this year.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995-97. In addition, the vacancies on the federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997. We continue well below the 67 vacancy level that Senator HATCH used to call "full employment" for the federal judiciary.

Indeed, we have reduced vacancies to their lowest level in the last 13 years. So while unemployment has continued to climb for Americans to 6.1 percent last month, the Senate has helped lower the vacancy rate in federal courts to an historically low level that we have not witnessed in over a decade. Of course, the Senate is not adjourning for the year and the Judiciary Committee continues to hold hearings for Bush judicial nominees at between two and four times as many as he did for President Clinton's.

For those who are claiming that Democrats are blockading this President's judicial nominees, this is another example of how quickly and easily the Senate can act when we proceed cooperatively with consensus nominees. The Senate's record fairly considered has been outstanding—especially when contrasted with the obstruction of President Clinton's moderate judicial nominees by Republicans between 1996 and 2001.

Mr. DODD. Mr. President, I thank Chairman Hatch, Senator LEAHY and all the members of the Judiciary Committee for acting on this judicial nomination in a thorough and expeditious manner. I am pleased to recommend Mr. Kravitz to my colleagues to serve as Federal District Judge for the District of Connecticut.

Mark Kravitz is a graduate of Wesleyan University in Middletown, Connecticut and Georgetown Law School. After graduating from law school, Mr. Kravitz clerked for Judge James Hunter of the U.S. Court of Appeals for the Third Circuit. Mr. Kravitz also served as a clerk for then-Justice William H. Rehnquist of the United States Supreme Court.

In 1976, Mr. Kravitz joined the respected law firm of Wiggin & Dana in New Haven, CT, where he is now a partner and heads their appellate practice. Mr. Kravitz's law practice has been devoted to civil litigation in State and Federal courts. He has been lead counsel on more than 60 appeals in State and Federal courts. In addition to his appellate and litigation practice, Mr. Kravitz has been an Adjunct Professor of Law at the University of Connecticut School of Law.

Over the course of the last quarter of a century, Mr. Kravitz has built an excellent reputation. He has become a respected and admired member of the Connecticut bar and he has contributed to the larger community, giving his time and talents to such causes as the Guilford Land Conservation Trust, the Connecticut Foundation for Open Government, and the Connecticut Council on Environmental Quality. Mr. Kravitz has been listed as one of the Best Lawyers in America since 1991. He has been elected as a fellow to the American Academy of Appellate Lawyers and as a member of the American Law Institute. In 1995, Mr. Kravitz received the Deane C. Avery Award for "advancing the cause of freedom of information and freedom of speech in Connecticut."

Recently, there has been a great deal of debate in the Senate about judicial nominations. I don't believe there should be any debate about this nomination. Mark Kravitz is the kind of nominee whom I believe the Framers of the Constitution had in mind when they envisioned an independent judiciary composed of jurists whose experience, intellect, and commitment to justice are unquestionable.

I believe that Mark Kravitz possesses the intellect, the experience, and the disposition to be an impartial finder of fact, a faithful legal analyst, and a fair and just jurist. He is an outstanding lawyer, and given everything I know about him, I am certain that he has the capacity to be an outstanding judge, as well. The State of Connecticut is proud to have him as one of our own. I'm certain that he will serve his country with honor and distinction, and I look forward to his confirmation. Again, I commend Mark Kravitz without reservation and I urge my colleagues to vote to confirm his nomination.

Mr. LIEBERMAN. Mr. President. I rise to support the nomination of Mark Kravitz, whose nomination to the U.S. District Court for the District of Connecticut the Senate is currently considering.

Mr. Kravitz's confirmation will be good for Connecticut and for the Federal bench.

Connecticut isn't the biggest State in the Union, but we are blessed to have countless principled and professional lawyers, judges, and legal scholars. Maybe that is because we were the first State to have a written constitution; maybe it is due to the gravitational tug of fine law schools like UConn and my own alma mater, Yale. Regardless, in a State filled with lawyers, it is no exaggeration to say that Mark Kravitz has proven himself among the best. And I have no doubt he will uphold the highest standards of jurisprudence on the Federal bench.

Mark graduated magna cum laude and Phi Beta Kappa in 1972 from Wesleyan University in Middletown, Connecticut. He later graduated from Georgetown Law School, where he was managing editor of the Law Review. Out of law school, Mark clerked for Judge James Hunter of the Third Circuit Court of Appeals, and Supreme Court Justice William Rehnquist. He is currently a partner at Wiggin and Dana in New Haven, where he has worked since 1976. He has served as lead counsel on more than 60 appeals in State and Federal courts, and has argued before the United States Supreme Court.

Mark has been listed as one of the Best Lawyers in America since 1991. He was endorsed by the Connecticut Bar Association as exceptionally well qualified to be a District Judge, and has been unanimously rated as Well Qualified by the American Bar Association.

Forgive the pun, but this is an open and shut case. Mark Kravitz has the intellect, the independence, and the integrity to do this job and do it well. I am confident he will carefully read and apply the laws of the United States in Federal court, abiding only by the law-not by any ideology, passion, or prejudice. He will be an exemplary judge. I urge my colleagues to confirm him today.

Mr. HATCH. Madam President, I rise today in support of Mark. R. Kravitz to be a United States District Judge for the District of Connecticut. I am confident that with his accomplishments and experience, Mr. Kravitz will make an excellent Federal judge. After graduating from Georgetown University

Law Center, where he was managing editor of the Georgetown Law Journal, Mr. Kravitz clerked for the Honorable James Hunter III of the U.S. Court of Appeals for the Third Circuit. He then went on to clerk for the Honorable William H. Rehnquist on the U.S. Supreme Court.

Mr. Kravitz has spent the bulk of his legal career at the firm of Wiggin & Dana in New Haven, CT, where he is currently a partner. He also serves as an adjunct professor of law at the University of Connecticut School of Law and has also been a visiting lecturer at Yale University Law School. For the past 12 years, Mr. Kravitz has been recognized in the publication "The Best Lawyers in America." He enjoys the support of both home State Democrat Senators and was unanimously approved by the Judiciary Committee. I urge my colleagues to vote in favor of this exceptional nominee.

I yield back our remaining time.

Mr. LEAHY. Madam President, I yield back the remaining time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Mark R. Kravitz, of Connecticut, to be United States District Judge for the District of Connecticut? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Illinois (Mr. FITZGERALD) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "Yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 217 Ex.]

YEAS—97

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—3

Fitzgerald
Hollings
Kerry

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ENERGY POLICY ACT OF 2003—Continued

AMENDMENT NO. 876, AS MODIFIED

Mr. REID. Madam President, I ask unanimous consent that the time be equally divided and that Senator FEINSTEIN control our time and Senator COCHRAN control the time on the other side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. REID. Madam President, on behalf of Senator FEINSTEIN, I yield to the Senator from Washington 4 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Thank you, Madam President.

I am here to support the Feinstein amendment, which I am pleased to cosponsor. It is a very important piece of legislation. I thank my colleague for her hard work on this very important issue. We have all heard about the dysfunctions in our western regional power market and how it has cost our western economy more than $35 billion.

Madam President, it was more than a year ago that the Senator from California and I stood on the floor to have this debate with many of my colleagues. During the Omnibus Appropriations bill in 2000, Congress granted an exemption from regulatory scrutiny for businesses such as EnronOnline and electronic trading platforms. Unsurprisingly, Enron was chief among its boosters in lobbying for this language. Even though Congress listened to Enron and not the President's Working Group on Financial Markets, which opposed this exemption.

Now we have history. What has happened? We know that the Enron loophole has caused quite a bit of a problem. In fact, in light of evidence which during last year's debate was just beginning to emerge, we have found that the markets for energy derivatives and the physical energy prices and supplies have caused a problem. In the West, we had huge spikes. We have had a long and vigorous floor debate about this amendment.

There were many detractors who basically said at the time there was no conclusive evidence that Enron manipulated western energy markets and there was no need to proceed. This year, we have heard a lot about how Enron in fact has manipulated markets.

Less than a month after the Senate passed this comprehensive Energy bill with this language in it, Enron's "smoking gun" memos were released detailing a number of the company's schemes for driving up the prices. My colleagues are aware that Enron has continued to release various amounts of information about this unbelievable scandal and manipulation of prices.

Just last week, another Enron trader was arrested. And the complaint of Federal prosecutors said they are uncovering even more details of ploys to manipulate energy prices. We wanted evidence. We got it. In a long-awaited report, the Federal Energy Regulatory Commission concluded this spring that manipulation was "epidemic" in the western market during the crisis of 2000-2001.

But more specifically, in a staff report the Federal Energy Regulatory Commission detailed the manner in which EnronOnline helped Enron to game the California markets. The Commission concluded that "the relationship between the financial and physical energy products . . . provides the opportunity to manipulate the physical markets and profit in the financial markets."

Further, the Federal Energy Regulatory Commission estimated that EnronOnline allowed the company to reap more than $500 million in additional profits. There it is, right from the Federal Commission: EnronOnline allowed them to reap those additional profits.

As we approach this very important issue in a vote here in a few minutes, my colleagues need to step up and close this loophole that the President's Working Group on Financial Markets first argued against because it said we didn't have real credibility on manipulation. Now we have the credibility, and we have a Federal Commission pointing to the fact that EnronOnline was responsible for part of this market manipulation.

I urge my colleagues to support the Feinstein amendment.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Madam President, I yield such time as he may consume to the Senator from Idaho, Mr. CRAPO.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Thank you, Madam President. I will be very brief.

I want to reiterate, once again, we are not here dealing with a question of whether those who did try to and succeeded in manipulating markets should be held accountable for that. We are talking about what is the correct way to regulate the derivatives market in our country.

I would like to read into the RECORD, once again, a portion of a letter which we have just received signed by the Secretary of the Department of the Treasury, John W. Snow; Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System; William H. Donaldson, Chairman of the U.S. Securities and Exchange Commission; and James E. Newsome, Chairman of the Commodity Futures Trading Commission. They write:

> Dear Senators Crapo and Miller:
>
> Thank you for your letter of June 10, 2003, requesting the views of the President's Working Group on Financial Markets on proposed Senate Amendment # 876 to S. 14, the pending energy bill. As this amendment is similar to a proposed amendment on which you sought the views of the PWG last year, we reassert the positions expressed in the PWG's response dated September 18, 2002, a copy of which is enclosed. The proposed amendment could have significant unintended consequences for an extremely important risk management market—serving businesses, financial institutions, and investors throughout the U.S. economy. For that reason, we believe that adoption of this amendment is ill-advised.

And this next paragraph responds directly to the allegations that there is some manipulation in the market and there is a loophole there. They go on to say:

> We would also point out that, since we wrote that letter last year, various federal agencies have initiated actions against wrongdoing in energy markets.

I do not have time to go through the list of wrongdoing they have initiated action against, but they conclude in their letter:

> These initial actions alone make clear that wrongdoers in the energy markets are fully subject to the existing enforcement authority of federal regulators.

This amendment will not be helpful to our economy. It will take away one of the needed elements of our economy that gives it the dynamic nature that it has, to be able to resist some of the difficult burdens that the economy has faced in the last several years.

Madam President, I ask unanimous consent that the letter I just referred to dated June 11, 2003, and an additional letter dated September 18, 2002, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, U.S. SECURITIES AND EXCHANGE COMMISSION, COMMODITY FUTURES TRADING COMMISSION,
Washington, DC, June 11, 2003.

Hon. MICAHEL D. CRAPO,
U.S. Senate, Russell Senate Office Building, Washington, DC.
Hon. ZELL B. MILLER,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS CRAPO AND MILLER: Thank you for your letter of June 10, 2003, requesting the views of the President's Working Group on Financial Markets (PWG) on proposed Senate Amendment No. 876 to S. 14, the pending energy bill. As this amendment is similar to a proposed amendment on which you sought the views of the PWG last year, we reassert the positions expressed in the WPG's response dated September 18, 2002, a copy of which is enclosed. The proposed amendment could have significant unintended consequences for an extremely important risk management market—serving businesses, financial institutions, and investors throughout the U.S. economy. For that reason, we believe that adoption of this amendment is ill-advised.

We would also point out that, since we wrote that letter last year, various federal agencies have initiated actions against wrongdoing in the energy markets. As you note, the CFTC has brought formal actions against Enron, Dynegy, and El Paso for market manipulation, wash (or roundtrip) trades, false reporting of prices, and operation of illegal markets. The Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Department of Justice have also initiated formal actions in the energy sector. Some of these actions have already resulted in substantial monetary penalties and other sanctions. These initial actions alone make clear that wrongdoers in the energy market are fully subject to the existing enforcement authority of federal regulators.

The Commodity Futures Modernization Act of 2000 brought important legal certainty to the risk management marketplace. Businesses, financial institutions, investors throughout the economy rely upon derivatives to protect themselves from market volatility triggered by unexpected economic events. This ability to manage risks makes the economy more resilient and its importance cannot be underestimated. In our judgment, the ability of private counterparty surveillance to effectively regulate these markets can be undermined by inappropriate extensions of government regulation.

Yours truly,

JOHN W. SNOW,
Secretary, Department of the Treasury.
WILLIAM H. DONALDSON,
Chairman, U.S. Securities and Exchange Commission.
ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System.
JAMES E. NEWSOME,
Chairman, Commodity Futures Trading Commission.

DEPARTMENT OF TREASURY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, U.S. SECURITIES AND EXCHANGE COMMISSION, COMMODITY FUTURES TRADING COMMISSION,
Washington, DC, September 18, 2002.

Hon. MICHAEL D. CRAPO,
U.S. Senate, Russell Senate Office Building, Washington, DC.
Hon. ZELL B. MILLER,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS CRAPO AND MILLER: In response to your letter of September 13, we write to express our serious concerns about the legislative proposal to expand regulation of the over-the-counter (OTC) derivatives markets that has recently been proposed by Senators Harkin and Lugar.

We believe that the OTC derivatives markets in question have been a major contributor to our economy's ability to respond to the stresses and challenges of the last two years. This proposal would limit this contribution, thereby increasing the vulnerability of our economy to potential future stresses.

The proposal would subject market participants to disclosure of proprietary trading information and new capital requirements. We do not believe a public policy case exists to justify this governmental intervention. The OTC markets trade a wide variety of instruments. Many of these are idiosyncratic in nature. These customized markets generally do not serve a significant price discovery function for non-participants, nor do they permit retail investors to participate. Public disclosure of pricing data for customized OTC transactions would not improve the overall price discovery process and may lead to confusion as to the appropriate pricing for other transactions, as terms and conditions can vary by contract. The rationale for imposing capital requirements is unclear to us, and the proposal's capital requirements also could duplicate or conflict with existing regulatory capital requirements.

The trading of these instruments arbitrages away inefficiencies that exist in all financial and commodities markets. If dealers had to divulge promptly the proprietary details and pricing of these instruments, the incentive to allocate capital to developing and finding markets for these highly complex instruments would be lessened. The result would be that the inefficiencies in other markets that derivatives have arbitraged away would reappear.

It is also unclear who would benefit from the proposed disclosures and regulations other than whoever simply copied existing products and instruments for their own short-term advantage. Weakening the protection of proprietary intellectual property rights in the market arena would undercut a complex of highly innovative markets that is among this nation's most valuable assets.

While the derivatives markets may seem far removed from the interests and concerns of consumers, the efficiency gains that these markets have fostered are enormously important to consumers and to our economy. We urge Congress to protect these market's contributions to the economy, and to be aware of the potential unintended consequences of current legislative proposals.

Yours truly,

PAUL H. O'NEILL,
Secretary, Department of the Treasury.
HARVEY L. PITT,
Chairman, U.S. Securities and Exchange Commission.

ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System.
JAMES E. NEWSOME,
Chairman, Commodity Futures Trading Commission.

Mr. CRAPO. Madam President, I encourage my colleagues to vote against the amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. Madam President, do they have any time left on their side?

The PRESIDING OFFICER. Fifty-five seconds.

Mrs. FEINSTEIN. I yield our time to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I join Senator FEINSTEIN as a cosponsor of her amendment to strengthen Federal oversight of energy markets. I strongly support the amendment's provisions enhancing the ability of the Commodity Futures Trading Commission to investigate and punish fraud and manipulation in over-the-counter markets in energy derivatives and derivatives based on other "exempt commodities" under the Commodity Exchange Act.

As chairman of the Committee on Agriculture, Nutrition and Forestry during the last Congress, I held a hearing on the scope of the CFTC's authority to insure market transparency and prevent fraud and manipulation in markets in OTC derivatives based on "exempt commodities," such as energy and metals, following passage of the CFMA. Following that hearing, Senator LUGAR and I worked closely with Senator FEINSTEIN on an earlier version of this amendment to improve it. At the beginning of the 108th Congress, Senator FEINSTEIN introduced S. 509, incorporating the work we did within the Agriculture Committee last summer and fall. The only difference between S. 509 and this amendment is that S. 509 was drafted to fill a gap in oversight created by the CFMA and fully and clearly affirm the CFTC's authority to oversee trading in all "exempt commodities"—OTC energy and metals derivatives as well as derivatives based on other commodities such as broadband and weather—whereas this amendment now does not change the treatment of metals derivatives. I have some concerns about this approach. Metals, like energy, are commodities of finite supply. They are equally susceptible to market manipulation and should therefore be subject to the same level of oversight. The legislative process often requires compromise in order to make progress toward important policy goals, however, and because I hope this amendment will result in significant progress in addressing a problem created by the CFMA, I support it.

The CFMA amended the Commodity Exchange Act in a number of positive ways, based for the most part on the recommendations of the President's Working Group on Financial Markets issued in 1999. The President's Working Group recommended that certain transactions involving financial derivatives be excluded from the CFTC's jurisdiction. The President's Working Group did not recommend a similar exclusion for transactions involving energy and metals derivatives, or other commodities of finite supply.

During 1999 and 2000, as legislation was being developed in the Senate, there was discussion of the issue of oversight of energy and metals derivatives markets, and Senator LUGAR who was at the time chairman, and I both supported, in the committee, a version of the legislation that was consistent with the recommendations of the President's Working Group, and excluded only financial derivatives—not energy and metals derivatives—from the CFTC's jurisdiction. The bill codified an exemption, with specific safeguards, for certain commodities such as energy and metals, but clearly retained the CFTC's authority to investigate and act against fraud and manipulation.

The final version of the CFMA included in the omnibus appropriations bill in December 2000 differed from our committee bill regarding energy and metals derivatives markets. I supported the CFMA, although I had some concerns about its treatment of energy and metals products, because I thought it had a number of very positive features, and on the whole was a good bill. I still believe so. It is important that we not undermine the legal certainty that legislation brought to the OTC derivatives markets. I would not support this amendment if I thought it would do that. But I do believe it is important to close the loophole that has resulted in an important segment of the overall OTC derivatives market—that is, derivatives based on energy and other "exempt commodities," as the CFMA defined them—being completely excluded from oversight. At the time of passage of the CFMA, many Members of Congress believed these exempt commodities would no longer be subject to most requirements of the Commodity Exchange Act, but they certainly did not believe these commodities would be removed entirely from oversight by the CFTC or any other agency, which is what has happened.

We know now that this lack of oversight has resulted in harm to consumers. Last August, the Federal Energy Regulatory Commission, FERC, issued a report finding significant evidence that Enron used its unregulated OTC electronic trading platform, Enron Online, to manipulate natural gas prices to increase its revenue. This manipulation affected prices not only for Enron's trading partners but industry-wide, as reporting firms used price information displayed electronically on Enron Online as a significant source of natural gas pricing data. And a recent report prepared by the Minority Staff of the U.S. Senate Permanent Subcommittee on Investigations, after a year-long investigation on crude oil price volatility, found that crude oil prices are similarly affected by trading on unregulated OTC markets, and that the lack of information on prices and large positions in OTC markets makes it difficult if not impossible to detect price manipulation. This report concluded that routine market disclosure and oversight of the OTC energy derivatives markets are essential to halt manipulation before economic damage is inflicted upon the market and the public.

This amendment will provide the CFTC with the authority it needs to require routine market disclosure and ensure effective oversight of the OTC energy derivatives markets and markets for other "exempt commodities," such as broadband and weather derivatives. The amendment clarifies that the CFTC has anti-fraud and anti-manipulation authority over transactions in "exempt commodities" other than metals. This amendment is not regulatory overreaching by any means. It just gives the CFTC the authority it needs to establish adequate notice, transparency, reporting, record-keeping, and other transparency requirements which are the minimum needed to allow the agency to effectively police OTC markets in energy derivatives, and thereby detect and deter fraud and manipulation of these markets. It also increases criminal and civil penalties for manipulation, including "wash" or "round trip" trades.

It is clear that the impact of OTC energy derivatives markets reaches well beyond the immediate parties to the transactions. Derivatives play an increasingly important role in the diverse range of energy markets, which are in turn critical to our overall economy. We must ensure the integrity of these markets and restore shareholder, investor, and consumer confidence in them. This amendment moves us in that direction, and I urge my colleagues to support it.

Madam President, this amendment basically closes a small loophole that was left in the Commodity Futures Modernization Act passed in the year 2000. We saw what happened with Enron. And what happened is, Enron Online was used to influence energy prices far beyond Enron. This impacted consumers not only on the West Coast but in my State and all over the United States.

As a result, we looked at this amendment last year. Both Senator LUGAR and I looked at it. We had a hearing on it last year in the Agriculture Committee.

This amendment, I believe, does exactly what we want it to do: that is, to make sure the Commodity Futures Trading Commission——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. Madam President, I ask unanimous consent for 30 more seconds to complete my sentence.

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. Madam President, how much time is on this side?

The PRESIDING OFFICER. Two minutes 39 seconds.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. I just wanted to say, this gives the CFTC the authority again to provide the oversight they need to make sure we have integrity in these markets for derivatives based on energy, but also for derivatives based on other things, too, such as weather and broadband. It is a step in the right direction to provide that oversight and transparency.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, what this amendment really does is transfer some new power and authority to the Federal Energy Regulatory Commission to regulate some of these highly sophisticated and important markets. They have never done this before. There is no expertise, background, or experience in the Federal Energy Regulatory Commission to do the things this amendment would have them do. So that is not plugging a loophole. It may be creating a bigger one. It may be counterproductive. That is what I am suggesting the Senate should consider.

Look at the letter that has been signed by Alan Greenspan, by John Snow, the Secretary of the Treasury, by the head of the Securities and Exchange Commission. These are the people who understand the impact of this amendment on our economy and on our economic power in the world today.

This is serious business. I am hopeful the Senate will look carefully. The amendment appears to grant FERC authority with respect to derivatives, but it leaves a jurisdictional gap. The amendment would replace regulatory certainty with regulatory uncertainty. It is a bad amendment and it ought to be defeated.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, do we have any time remaining on our side?

The PRESIDING OFFICER. One minute 21 seconds.

Mr. DOMENICI. I yield the Senator from Wyoming the remainder of our time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I do want to point out we debated this issue a year ago. The conclusion was these are professionals dealing with professionals. The people who have the oversight over it do have oversight and are taking advantage of that oversight.

We also passed Sarbanes-Oxley in the meantime. And if the Feinstein amendment were to be adopted, it would lead to some confusion over exactly who has jurisdiction.

I know this is an extremely difficult issue. This is my third time debating it. I do know how to spell it now. But it is a very complicated issue, and it is not something we ought to be doing in a reaction that will result in overreaction. So I ask that we vote against this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I yield back any time we have on our side.

The PRESIDING OFFICER. Time is yielded back.

Mr. DOMENICI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announced that, if present and voting, the the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—55

Alexander
Allard
Allen
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Carper
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Landrieu
Lincoln
Lott
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Pryor
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Byrd
Cantwell
Chafee
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
McCain
Mikulski
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—1

Kerry

The motion was agreed to.

Mr. DOMENICI. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 880

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. ALEXANDER], for himself, Mr. SANTORUM, Mr. CORNYN, Ms. LANDRIEU, Mr. BINGAMAN, and Mr. DOMENICI, proposes an amendment numbered 880.

Mr. ALEXANDER. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a report from the Secretary of Energy on natural gas supplies and demand)

Page 52, after line 22, insert:

"SEC. . NATURAL GAS SUPPLY SHORTAGE REPORT.

"(a) REPORT.—Not later than six months after the date of enactment of this act, the Secretary of Energy ("Secretary") shall submit to the Congress a report on natural gas supplies and demand. In preparing the report, the Secretary shall consult with experts in natural gas supply and demand as well as representatives of State and local units of government, tribal organizations, and consumer and other organizations. As the Secretary deems advisable, the Secretary may hold public hearings and provide other opportunities for public comment. The report shall contain recommendations for federal actions that, if implemented, will result in a balance between natural gas supply and demand at a level that will ensure, to the maximum extend practicable, achievement of the objectives established in subsection (b).

"(b) OBJECTIVES OF REPORT.—In preparing the report, the Secretary shall seek to develop a series of recommendations that will result in a balance between natural gas supply and demand adequate to—

"(1) provide residential consumers with natural gas at reasonable and stable prices;

"(2) accommodate long-term maintenance and growth of domestic natural gas dependent industrial, manufacturing and commercial enterprises;

"(3) facilitate the attainment of natural ambient air quality standards under the Clean Air Act;

"(4) permit continued progress in reducing emissions associated with electric power generation; and

"(5) support development of the preliminary phases of hydrogen-based energy technologies

"(c) CONTENTS OF REPORT.—The report shall provide a comprehensive analysis of natural gas supply and demand in the United States for the period from 2004 to 2015. The analysis shall include, at a minimum,—

"(1) estimates of annual domestic demand for natural gas that takes into account the effect of federal policies and actions that are likely to increase and decrease demand for natural gas;

"(2) projections of annual natural gas supplies, from domestic and foreign sources, under existing federal policies;

"(3) an identification of estimated natural gas supplies that are not available under existing federal policies;

"(4) scenarios for decreasing natural gas demand and increasing natural gas supplies comparing relative economic and environmental impacts of federal policies that—

"(A) encourage or require the use of natural gas to meet air quality, carbon dioxide emission reduction, or energy security goals;

"(B) encourage or require the use of energy sources other than natural gas, including coal, nuclear and renewable sources;

"(C) support technologies to develop alternative sources of natural gas and synthetic gas, including coal gasification technologies;

"(D) encourage or require the use of energy conservation and demand side management practices; and

"(E) affect access to domestic natural gas supplies; and

"(5) recommendations for federal actions to achieve the objectives of the report, including recommendations that—

"(A) encourage or require the use of energy sources other than natural gas, including coal, nuclear and renewable sources;

"(B) encourage or require the use of energy conservation or demand side management practices;

"(C) support technologies for the development of alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

"(D) will improve access to domestic natural gas supplies.".

Mr. ALEXANDER. Madam President, I offer an amendment on behalf of Senator SANTORUM, Senator CORNYN, Senator LANDRIEU, Senator BINGAMAN, the ranking member of our committee, and Senator DOMENICI, the chairman of our committee has joined the amendment as well, which I deeply appreciate.

This is an amendment about the emerging natural gas crisis. It would require the Secretary of Energy, within 6 months from the date of enactment of this Energy bill, to submit a report on natural gas supplies and demand. I offer this amendment because I believe it will help us deal with what I am afraid is an emerging natural gas crisis. If that were to occur, we would be able to protect our jobs, heat or cool our homes at reasonable costs, and clean our air to the standard that we wish.

As chairman of the Subcommittee on Energy, working with our chairman of the full committee, I intend to help schedule hearings as soon as possible on this emerging crisis. This report and these hearings should help us take a hard, honest look at what we do short term and long term.

Alan Greenspan is usually a little difficult to interpret when he testifies but he was not difficult to understand on May 21 when he testified before the Joint Economic Committee. This is what he said about natural gas:

> In contrast, prices for natural gas have increased sharply in response to very tight supplies. Working gas in storage is presently at extremely low levels, and the normal seasonal rebuilding of these inventories seems to be behind the typical schedule. The colder-than-average winter played a role in producing today's tight supply as did the inability of heightened gas well drilling to significantly augment net marketed production. Canada, our major source of gas imports, has little room to expand shipments to the United States. Our limited capacity to import liquefied natural gas effectively restricts our access to the world's abundant supplies of natural gas. The current tight domestic natural gas market reflects the increases in demand over the past two decades. That demand has been spurred by myriad new uses for natural gas in industry and by the increased use of natural gas as a clean-burning source of electric power.

I asked Mr. Greenspan to elaborate on that, and I will not read all of his remarks but this is the way he began his response to my question on May 21:

> Senator Alexander, I am surprised at how little attention the natural gas problem has been getting. Because it is a very serious problem. It's partly the result of new technologies employed in the areas of growing technologies and the whole exploratory procedures which embarked over the last decade or so.

He talked about our contradictory Federal policies. This is not some abstract issue. The price of natural gas was $3.50 or so last summer. It spiked to $9 or better in the winter. Today it is $6.25 or so. That affects the cost of heating and cooling our homes, but it affects our jobs in a big way.

For example, someone from a large chemical industry in our State came to see me a few weeks ago when gas prices spiked up. The thousands of employees there had taken a voluntary 3-percent cut in their pay. The management had taken a 6-percent cut in their pay. They were worried about the price of natural gas which is a raw material for that chemical industry.

It does not just affect the chemical industry. In California, for example, where not much coal is burned because it pollutes the air, natural gas effectively sets the price of electricity. So this emerging crisis in natural gas affects jobs in the whole economy, as we have been debating.

There are answers but we have contradictory policies. We have plenty of gas but no access to the gas. We have a lot of alternatives, and we are trying to encourage them, but when we talk about windmills, we think we may want a limit on the number of windmills we want to see. When we talk about nuclear, we have very close votes because people are skeptical about nuclear power. When we talk about coal, it pollutes the air. When we talk about drilling more oil, we vote no about going to Alaska. When we consider liquid gas from overseas, we are worried it might blow up in big terminals on the sea coast. And hydrogen we all are for but it is 20 years away.

The bottom line: We have contradictory policies short term. This could slow down our recovery and keep unemployment high and hurt our jobs long term. It could mean electric rates go sky high and our manufacturing jobs go to Mexico and China. We need to take an honest, hard look at the consequences of our failure to achieve a balance of natural gas and its alternatives, and I hope this report required by this amendment will help do just that. I will work with the chairman, with the ranking member, to make certain our committee hearings help do that, as well.

I yield the floor.

Mr. DOMENICI. Madam President, I understand that amendment will be accepted on both sides.

Mr. BINGAMAN. Madam President, that is correct. We support the amendment and urge its passage.

Mr. DOMENICI. The Senator from Louisiana asked if she might speak for 1 minute.

Ms. LANDRIEU. I understand the amendment offered by my colleague from Tennessee will be accepted. That is good. It is a good amendment and certainly should be part of this bill.

Since I am in the Chamber, I wish to speak a minute in support of the amendment and add to the record he has so ably outlined. In one case in Louisiana—and there are many cases, but in one case Louisiana Ammonia Producers has gone from, in 1998, 9 companies employing more than 3,500 people to 3 companies employing fewer than 1,000 people. Part of the reason for this tremendous decline at a time when we are trying to create jobs instead of losing them is the rising price of natural gas. The price of natural gas, because supplies are so tight, in the first quarter of 2003, was $5.91 a million Btu's, a 129 percent increase over the average price for the first quarter of the previous 10 years.

The Senator from Tennessee is absolutely right. A commission to study ways to increase the supply of natural gas is critical and important if we are going to keep the companies, large and small, in this country competitive.

I yield the floor.

Mr. DOMENICI. Madam President, I congratulate the Senator. The first comment was on a question the Senator put to Dr. Greenspan and his response about being surprised at how little attention was being paid to matters. We are quite proud that this committee started paying attention to natural gas as soon as we convened this year. Our first hearings indicated, through our experts, that we were going to have a serious shortage. We were questioning even then; that was only 3 or 4 months ago.

We have nothing further.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 880) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Madam President, staff is retyping the proposed agreement, but to save time I wonder if we could go to the Bingaman amendment. Originally, the plan was to vote on Bingaman and the Burma matter after debate was completed on both issues. We have an objection on our side to doing that. We could go to the Bingaman amendment immediately, have 40 minutes of debate equally divided, then following that have a vote on or in relation to the Bingaman amendment, and then go to the Burma matter after that.

Mr. DOMENICI. I ask Senator CAMPBELL if that is all right.

Mr. CAMPBELL. That is fine.

Mr. DOMENICI. We have no objection.

AMENDMENT NO. 881

(Purpose: To provide for a significant environmental review process associated with the development of Indian energy projects, to establish duties of the federal government to Indian tribes in implementing an energy development program, and for other purposes)

Mr. BINGAMAN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. INOUYE, and Mr. DASCHLE, proposes an amendment numbered 881.

Mr. BINGAMAN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. BINGAMAN. Madam President, this is an amendment I am offering on behalf of myself and Senator INOUYE. It is an amendment that will make several changes in section 303 of the Indian energy title in this legislation that is pending before the Senate.

First, a little background on these issues so my colleagues understand what is at stake. Title III of S. 14 contains a very strong Indian energy title. It would provide tribes with the financial and technical assistance they need to help them develop and utilize energy resources on Indian land.

This title III represents a combination of sections from two separate bills. One was introduced by Senator CAMPBELL; the other was introduced by Senator INOUYE and myself. I very much appreciate the willingness of the majority to work with us and include in the bill now before the Senate a number of sections from the Bingaman-Inouye bill. Most of these measures were included as part of last year's Senate-passed Energy bill and were generally agreed to in the House-Senate conference without controversy. Unfortunately, as we all know, those sections did not become law.

Notwithstanding the general support that exists for the Indian energy title in this bill, there is one section that is fairly controversial. That is the subject of our amendment. It is section 2604. It would authorize tribes to enter into leases and business agreements and issue rights-of-way for energy development projects on tribal lands without the separate approval of the Secretary of the Interior. These leases and business agreements and rights-of-way would involve a broad range of energy projects, including oil and gas extraction, powerplants development and construction, and even some mining activity would be covered under the language in the bill. This activity could take place on any tribal trust lands, not just those on reservation but also lands that have been designated as tribal trust lands off reservation. There are many of those, as we know.

There is no disagreement on whether we should allow tribes to exercise more control over development on tribal lands. There is, however, a disagreement on how we go about that.

The present language in section 2604 raises two significant issues. The first is that by eliminating the Secretarial approval of leases and agreements and rights-of-way, section 2604 eliminates the "major Federal action" determination that triggers the application of the National Environmental Policy Act, NEPA. This effectively waives the analysis and the public participation requirements that are in that law. It thereby reduces the ability to protect the interests of both those residing on reservations and those residing in adjacent communities.

While a substantial environmental review process is included in section 2604, it is limited in the range of impacts that require review. It does not require the implementation of mitigation measures. It does not require any changes in response to the concerns of affected tribal members or the concerns of local communities.

Obviously, eliminating NEPA is a concern to many national and local environmental groups and also to some Native American organizations that have weighed in with strong letters on the issue. It is also of concern to the counties around the country. In a letter dated May 14 of this year, the National Association of Counties is calling for section 2604 to be modified so that a NEPA analysis is completed for each new energy project that goes forward on Indian lands.

There is a bipartisan group of attorneys general representing the States of Arizona, New Mexico, Nevada, North Dakota, Utah, Wyoming, and Connecticut that have also expressed strong concerns about the diminishment of environmental review for tribal energy resource development projects. They have expressed their views in a letter dated June 9 of this year. In that letter they wrote:

> While we understand that this provision is intended to promote the worthy goals of tribal self-determination and sovereignty, we are concerned that it goes too far in facilitating significant development activity without ensuring that adequate protections exist for affected communities and adjacent lands. Section 2604 represents a significant change in the law that could have serious implications for the States that we represent. We therefore urge the provision be amended to ensure that significant energy development activity on tribal lands continues to be subject to meaningful environmental review, including an ability for State and local governments to participate in the process.

The concern expressed by those attorneys general and the counties underscores the fact that without some applicable Federal law related to the significant development activity contemplated under this section 2604, it is unclear what standard is to apply. Some have argued that tribal lands should be treated just as private lands are and tribes should be free, as private landowners are, to go forward with development projects. In my view, that is not a good analogy because private lands are subject to State and local laws; tribal lands are not. We are all aware that a private landowner has requirements by virtue of State and local law that do not apply on tribal lands. Tribal law can and should apply to energy development on tribal lands, but at the same time Congress has a responsibility to ensure that certain Federal parameters are in place.

The second issue that is raised by this section 2604 is that the language in the section undermines the Secretary's trust responsibility to Indian tribes. A number of tribes have expressed strong concerns about the language which appears to change the traditional trust relationships between the Federal Government and Indian tribes. Tribal concern is driven by a decision 3 months ago by the U.S. Supreme Court in the case of United States v. Navajo Nation. The Supreme Court specifically addressed the Federal trust responsibility and the standard for ensuring that statutes affecting Native Americans contain fiduciary duties by which the Federal Government as trustee can be held accountable for its actions that may have serious and negative impacts on tribal interests.

Section 2604, the subject of our amendment here, as currently drafted does not meet the standards established by the Supreme Court. In fact, it goes in the opposite direction. It diminishes the Federal Government's trust responsibility and accountability to tribes. This is inconsistent with the current Federal policy of tribal self-determination and self-governance. These policies, in effect since the landmark Indian Self-Determination Act of 1975, clearly preserved the Federal trust responsibility and accountability to tribes while facilitating tribal control over Federal Indian programs.

The amendment Senator INOUYE and I are offering addresses both the environmental review question I talked about and the trust responsibility issues, as well as other miscellaneous matters, in the hope that we can improve the final Indian energy title from a tribal perspective, from an environmental perspective, from a State perspective, and from a local perspective.

With respect to the environmental issue, the amendment does the following four things:

No. 1, it ensures sufficient time for the Secretary to review the proposed tribal energy resource agreements without a waiver of Federal environmental laws.

No. 2, it improves the environmental review process so that it is comparable to the standards required under NEPA, while maintaining tribal control over that review.

No. 3, it removes language limiting who can petition for a review of the implementation of tribal energy resource agreements.

No. 4, it requires Congress to review and reauthorize this section of the program 7 years from now, without it just continuing indefinitely.

With respect to trust responsibility, the amendment deletes language that would prevent the tribes from asserting claims against the Secretary of the Interior related to the Secretary's approval of tribal energy resource agreements. It also eliminates a broad waiver that limits the liability of the United States for any losses associated with the leases or with agreements or with rights-of-way.

The language being eliminated is unacceptable to a large number of Indian tribes. Because of the language, the Navajo Nation, the largest tribe in our country and the one involved in this recent Supreme Court decision that I described, stated in a letter they sent to us dated June 4 that the "tribal energy proposal must be defeated."

The letter goes on to say that the language, if successfully included in the bill:

> . . . would be a virtual endorsement by the Indian tribes' trustee itself [of course, that is the Federal Government], of the fraud, dishonesty, and unethical treatment that was the subject of the Navajo Nation's claim against the United States, and would open the door for future similar conduct by federal officials.

The Jicarilla Apache Tribe, in a letter dated April 28, stated that the provisions currently in the bill "are inconsistent with the United States' trust relationship with Indian tribes . . ." This is a quotation from their letter. They go on to say they would "actually turn the current legal and political relationship between Indian tribes and the United States Government on its head."

In addition to deleting most of the offending language, our amendment also established Secretarial duties to the tribes in implementing section 2604. In light of the United States v. Navajo Nation decision, we view this language as necessary to maintain a trust relationship in which the Federal Government has some accountability to the tribes electing to enter into agreements under section 2604. The language we are proposing to add is taken directly from the existing self-determination law and therefore relies on longstanding precedent.

Finally, our amendment includes a number of minor changes that are technical. I believe it is a good, constructive improvement to the bill, and I urge my colleagues to support it.

Madam President, let me ask, how much time remains on our side?

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. BINGAMAN. I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Colorado.

Mr. CAMPBELL. Madam President, I rise in opposition to the Bingaman amendment. I will try to go through this as quickly as I can because I know Senator DOMENICI also wants to speak.

On Thursday I introduced an amendment and withdrew it yesterday. That amendment was supported by the National Congress of American Indians, which is over 300 tribes, the Council of Energy Resource Tribes, which represents 50 additional tribes, and the U.S. Eastern and Southern Tribes, which represents 50. It was supported by five New Mexico Pueblos, including the Jicarilla Apache Tribe of New Mexico, the National Tribal Environmental Council, which represents 180 tribes, and the U.S. Chamber of Commerce.

I pulled that back yesterday to refine some of the language but will be reintroducing it shortly—tomorrow or as soon as I can, as soon as we revise a little bit of the language.

Let me point out this chart I have over here. Under existing law, current law, we have a real disparity among tribes. Tribes are treated like individuals in that, if they own land and want to develop the land for minerals or oil or gas, they could do it without complying with NEPA as individual owners or States can. If the Secretary gets involved by virtue of the tribe signing some agreement with an outside entity, she has to then approve the lease or not approve the lease.

What has happened is that wealthy tribes have had the ability to develop their own resources. I live on one reservation, the Southern Ute Reservation, and they do that; they don't have to comply with NEPA. Most tribes are not that wealthy and have to seek an outside partner. Basically, that puts them at a terrific disadvantage for developing their own resources.

I will not go into all resources now under Indian land because I did go through that the other day, but it is very clear that a great deal of American unutilized oil, natural gas, coal, and other minerals are under Indian land now. We are talking about a people who have 70 percent unemployment in some cases, so they definitely need the jobs and help as well as America needs the energy to become less dependent on foreign energy.

In any event, let me go through the Bingaman amendment a little, if I may. We spoke about 2604 primarily. As I understand it, and as I believe, Senator BINGAMAN's amendment would force the statutory NEPA equivalent upon all tribes. As it is now, some are not required to go through NEPA, as I just mentioned.

Also, it will create an unfunded mandate that will completely defeat the goal of facilitating energy development on tribal lands and diminish tribal sovereignty.

I take strong issue with another aspect of the Bingaman amendment having to do with the liability of the United States for tribal decisions. Under title III, along with the power to create approved leases, agreements, and rights-of-ways without Secretarial approval, the tribes have the responsibility for the decisions they make.

Mr. BINGAMAN's amendment in effect de-links the two, eliminating the language that says the Secretary will not be liable for losses arising under the terms of the leases the tribe negotiates on its own. That would mean he would keep the Secretary on the hook for those losses arising from lease terms negotiated by the tribe, even though the Secretary had nothing to do with the negotiations. I don't think that is very good policy, frankly.

Paradoxically, Senator BINGAMAN's amendments would give the Secretary of the Interior authority to negotiate a tribe's remedies against the United States for breach of its duties under the tariff on a tribe-by-tribe basis.

I know of one tribe—I believe two now—the Navajo, that supported the Bingaman amendment but opposes this one. But I think it has very little to do with section 2604. It has more to do with court cases recently which did not go their way. As I understand it, they really want some language that would effectively bail them out of losing that court case.

The vast majority of tribes support the amendment that I introduced the other day.

I think it is a particularly dangerous idea. In some instances, speaking of the Secretary's obligations, the Secretary might effectively negotiate away her obligations, although by including a provision that says the tribe will have no remedies against the United States, the Bingaman amendment expressly allows her to do that without limitation.

Do the obligations referred to in the Bingaman amendment include the trust obligation? They must because there are no obligations on the part of the Secretary mentioned in his amendment other than duty to conduct annual trust evaluations.

I point out that in the amendment I offered the other day, in section 2604 there was some question about whether it decreased trust responsibility. I know my colleagues can read as I can. Let me read, on page 14, section (6)(a), line 19:

> Nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including those which derive from the trust relationship or from any treaties, Executive Orders, or agreements between the United States and any Indian tribe.
>
> The Secretary shall continue to have trust obligation to ensure the rights of an Indian tribe are protected in the event of a violation of Federal law or the terms of any lease, business agreement or right-of-way under this section or any other party to any such lease, business agreement or right-of-way.

Under the amendment which I introduced and which I will reintroduce, these trust responsibilities are very well protected.

Finally, Senator BINGAMAN's amendment would sunset section 2604 in 7 years. I think that has somewhat of a chilling effect. First of all, if a tribe wants to avail itself of section 2604 as an alternative to the status quo, it will have to make considerable effort to develop this relationship and agreement to demonstrate its capacity to be able to develop its minerals resources.

Under the Bingaman amendment, the alternative procedure would evaporate in 7 years. Very frankly, the tribe advances to self-determination would evaporate right with it. I think that would effectively prevent any tribe from pursuing the section 2604 alternatives.

Senator BINGAMAN, as I understand his amendment, believes that section 2604 effectively waives NEPA. It does not. The language in the amendment expressly states that the Secretary must review the direct effects of her approving agreement under the provisions of NEPA. That means even though the tribe, when it is making agreements with an outside entity, will have to comply with NEPA upfront, before the Secretary can approve that agreement, she has to subscribe and conform to all NEPA provisions.

The other provisions in the section require an opportunity for public and local governmental input and comment.

The Senator mentioned some opposition from local communities. This is also taken care of under 2604, and it must ensure compliance with all applicable environmental laws in 2604.

The Bingaman amendment also states that there is a tribal concern for section 2604 as it undermines the trust responsibility. I have already dealt with that.

But, clearly, the United States is only held harmless from losses arriving from terms negotiated by a tribe operating under an approved agreement. Hopefully, as we move forward, we will be able to deal with the Navajo problem.

I understand the Navajo. It is a very important tribe. And I have many friends in the tribe who are very willing to do that.

Very frankly, when we talk about the responsibility of the Federal Government to Indians, let me go back a little bit and refresh my colleagues' memory about how tough they have had it in this Nation.

This Government, as you know, took by hook or crook—and usually at gunpoint—roughly 98 percent of all the land from the American Indians. This Government also reduced the very proud, independent people to the poorest ethnic group in America with the highest unemployment rate, the highest degree of poor health, the highest high school dropout rate, and the highest suicide rate among any other group. This Government also has time and again told the Indians: We know what is best for you whether you like it or not.

That is basically what I think the Bingaman amendment does. We will stifle your religious beliefs, destroy your culture, relocate and relegate you to a life of poverty and deprivation, as happened in the 1950s under the Terminations Act and the Relocation Act. We will drive you through a time bordering on ethnic cleansing, and we will not let you be a citizen in your own land—until 1924. That is when Indians got the right to vote in the United States.

Through all of those years, the few threads of hope Indians clung to were that they would not lose what little they had left. And a few things that gave them hope were closely held beliefs about so-called Mother Earth, their belief in a creator, and that all things will get better. And one in particular was that U.S. Government promise; that promise is called "trust responsibility."

For the past 30 years, since the Nixon Doctrine of Self-Determination, American Indians have been making small strides. But in their culture, they are rather big gains considering how far they have come. It has been an endless struggle to try to share in the same American dream that Members of this body take for granted.

In my view, the Bingaman amendment would literally strip tribes of 30 years of that direction of self-determination and would circumvent the trust responsibilities this Government has to tribes because it would force the statutory equivalent of NEPA on all decisions they make with their own land. As I mentioned, it is an unfunded mandate.

I say to my colleagues in this body that if you want to keep American Indians on their knees, unable to provide jobs for their families and facing a dead end future, then vote for the Bingaman amendment. If you believe that fairness should be right for all Americans, including Indians, to do best what they can with their own resources and for their own people, vote against the Bingaman amendment and help me craft a better alternative, which is the one I mentioned that I introduced and pulled back and which I am going to reintroduce, and which already has the support of the vast majority of Indian people in this Nation.

I yield the floor. I thank my colleague, Senator DOMENICI, for giving me time.

Mr. DOMENICI. Mr. President, how much time do we have on our side?

The PRESIDING OFFICER. Ten minutes 30 seconds.

Mr. DOMENICI. I will use 7 minutes and leave 3 minutes.

First, I congratulate the distinguished Senator CAMPBELL from the State of Colorado. I don't believe I could say it any better.

In a nutshell, the Bingaman amendment is not good for the Indians in the United States. If we are crafting a bill here that says we want them to develop their energy resources, the amendment before us takes the unprecedented step of applying the NEPA process to the Indian tribes just as if they were the Federal Government.

This amendment goes well beyond current environmental regulations and adds unnecessary regulations and costs to the tribal energy projects.

This proposal is opposed by numerous Indian tribes and tribal associations that are already burdened by the lease approval process through the Federal bureaucracy.

I will read a list of Indian tribes and associations that I would assume do not favor the Bingaman amendment because they were in favor of the amendment alluded to by the distinguished Senator, Mr. CAMPBELL, with whom I was going to cosponsor, for they all refer to it:

The National Congress of American Indians, the Council of Energy Resource Tribes, National Tribal Environmental Council, Southern Ute Tribe, Cherokee Nation, Chickasaw Nation, Native American Energy Group, Mohegan Tribe, Five Sandoval Indian Pueblos, Dine Power Corporation, Jicarilla Apache Nation, and the U.S. Chamber of Commerce.

I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRIBAL LETTER SUPPORTING CAMPBELL/DOMENICI AMENDMENT TO TITLE III

1. National Congress of American Indians (NCAI)—Is the largest and oldest Tribal organization.

2. Council of Energy Resource Tribes (CERT)—Represents over 50 tribes interested in developing energy resources.

3. National Tribal Environmental Council—Represents 180 tribes on environmental matters.

4. Southern Ute Tribe (Colorado).

5. Cherokee Nation (Oklahoma).

6. Chicasaw Nation (Oklahoma).

7. Native American Energy Group (Wyoming).

8. Mohegan Tribe (Connecticut).

9. Five Sandoval Indian Pueblos (New Mexico).

10. Dine Power Corporation—A Navajo Corporation (New Mexico, Arizona).

11. Jicarilla Apache Nation (New Mexico).

12. U.S. Chamber of Commerce.

Mr. DOMENICI. Mr. President, the amendment will do the following:

It will force the tribes to pay the cost of NEPA, extend the bureaucratic delays of energy projects, and diminish tribal sovereignty.

There isn't a tribe in the country that would volunteer for this program because it doesn't do anything to improve their current process. So why would they volunteer to join it?

I am confused by the purpose of the amendment. If the intention is to mandate that the tribes comply with NEPA for every single lease or permit, why not offer an amendment to strike the entire Indian energy title and argue for the status quo?

This amendment goes far beyond existing law and expands NEPA beyond the scope of the Federal Government to cover tribes, independent of any Federal action.

By requiring an environmental impact statement to be performed for every lease, it will impose a cost of hundreds of thousands of dollars to be financed by the tribes. A cost they should not have to afford.

If adopted, the amendment would encourage the generation of paper, not the generation of natural gas and crude oil and coal, which I thought we were supposed to do here.

The objective of title III has to be to help the tribes by streamlining current lease approval processes that have hampered investment and the development of the Indian tribal lands as far as energy is concerned.

Senator CAMPBELL and I have worked closely with the tribes to craft a careful compromise that will protect the trust responsibility of the Secretary and the environment. That bill will be offered later, but it is not the bill pending before the Senate. It is a bill you will know because it will bear the name of the distinguished chairman of the Committee on Indian Affairs, Senator CAMPBELL.

The Secretary's approval of the tribes' energy resource agreement will trigger NEPA if the Secretary of the Interior believes it will have a significant impact on the environment. Once an energy resource agreement is approved, tribes will not be required to seek Secretarial approval but will be required to comply with relevant environmental laws, just like any other landowner.

Senator CAMPBELL and I have worked with tribes to ensure that the trust relationship between tribes and the Secretary of the Interior is protected.

This proposal is embodied in the Campbell-Domenici amendment which will be offered at a later date.

The Bingaman amendment, however, would require the Secretary of the Interior to take full responsibility for all liability incurred by tribes—even if the Secretary wasn't party to the negotiations. That simply doesn't make sense.

However, a separate and conflicting provision in this amendment allows the Secretary to negotiate all remedies to the Secretary's trust responsibility in the energy resource agreement.

As I read it this will give the Secretary authority to drive a hard bargain with individual tribes that are desperate to gain the Secretary's approval of their energy resource agreement. Of course, this will vary from tribe to tribe and further confuse the trust issues.

I believe a more simple solution is to ensure that tribes take full responsibility for the leases and business agreements they negotiate. The Secretary will not be liable for anything she is not a party to, but will continue to conduct annual trust evaluation to ensure that the assets are protected.

Such a solution as included in the Campbell amendment has the support of many tribes.

I am not aware that the administration has reviewed the Bingaman amendment and I am not aware of how many tribes support Senator BINGAMAN's amendment.

The current system has failed to stimulate investment on Indian land, despite the resource potential.

The Bingaman amendment will only exacerbate this problem and continue to restrict the quest for Tribal self-determination.

I urge my colleagues to oppose the Bingaman amendment.

I will state, I would not be offering these kinds of remarks in any normal situation regarding the relationship between the Indian people, the Federal Government, and third parties. But clearly when you have an energy bill, and the purpose of the bill is to have a section in it that will encourage, will cause, will say to the Indian people, we want you to be players, participants, owners of energy, so that you can be part of America's energy solutions and become owners in that solution, then I think we cannot adopt the laws that are as restrictive as the ones proposed in the amendment that is pending.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise this moment to speak in favor of an amendment proposed by my dear friend from New Mexico, Senator BINGAMAN.

I find it rather uncomfortable and sad that my remarks may be counter to that of my colleague from New Mexico, my dear friend, Mr. DOMENICI, and my colleague, the chairman of the Indian Affairs Committee.

Mr. President, as you know, there is a longstanding relationship between the United States and the sovereign Indian nations that won exercise, exclusive dominion, and control over lands that now comprise our great country.

The large body of Federal Indian law is known as trust responsibility, and it was first given expression by the Chief Justice of the United States Supreme Court, John Marshall, in 1832. This relationship is premised upon the sovereignty of the Indian nations, a sovereignty that existed well before the U.S. Government was formed, and it is memorialized in the United States Constitution.

This trust relationship that has always formed the course of dealings between the U.S. and Indian tribes is well understood and beyond debate. The United States holds legal title to lands that it held in trust for Indian tribes. Accordingly, activities affecting Indian lands and resources have always been subject to approval by the Secretary of the Interior Department, acting as the principal agent for the United States. That is the law of the land.

In the Congress, we have always understood the United States trust responsibility as being derived from treaties, statutes, regulations, executive orders, rulings, and agreements between the Federal Government and Indian tribal governments. We have legislated on this basis. The courts have issued rulings on this basis. And until recently the executive branch has premised policy on this basis and promulgated regulations on this fundamental principle of law.

However, in the arguments before the U.S. Supreme Court earlier this year, the Government took the position that the duties of the U.S., as trustee for Indian lands and resources, exist only as they may be spelled out in statute, and are legally enforceable only if a statute provides a remedy for any breach of the trust.

The Supreme Court accepted the Government's argument that the duties of the trustee must be spelled out in statute, but ruled that as long as the Government had complete management control over the trust land or trust resources at issue, then the trustee's duties could be legally enforced and there could be a damage remedy for a breach of the Government's trust duties.

Tribal governments are also paying keen attention to the arguments that are being advanced by the Government in pending legislation over the management of funds which are held in trust by the United States for individual Indians and Indian tribes. Most of us have heard of the assertions in this case in which it maintained that the Government is unable to account for more than $2 billion in Indian trust funds.

With the Government's advocacy for a new perspective on the United States trust responsibility, it is readily apparent why the eyes of Indian country are sharply focused on the tribal provisions of this bill and the amendments that are the subject of our discussion today.

Native America wants to see what position the Congress will adopt as it relates to the ongoing viability of the trust relationship. They are closely scrutinizing our words and our actions in the context of this measure to determine whether they signal a departure from the traditional and well-established principles of the United States trust responsibility.

That is why I believe it is incumbent upon us to make sure we understand what is at stake in this debate. There has always been, and likely always will be, a tension between a greater measure of tribal control and a diminished Federal presence in Indian country, one that has to be reconciled in each distinct area. But the reality is that as long as the United States holds legal title to Indian lands, the Federal Government and tribal governments will have to work together on these matters.

Not all tribal governments have managed their resources, and not all of those who do seek to develop those resources. But for those that do, we well understand that they would want to reduce the amount of time that is customarily involved in securing the Secretary's approval of leases of tribal land and grants of right of way over Indian lands.

Can this be accomplished without altering or diminishing the trust relationship? I believe it can. The tribal industry resource agreements that are authorized, the amendment that we consider today, can serve as an instrument for defining and adapting this relationship to accommodate the unique circumstances of each tribe's energy resource development objectives.

But should the United States trust responsibility for Indian lands and resources be waived? I am not aware of any tribal government that supports an unlimited waiver of the United States trust responsibility. Certainly, one of the largest land-based tribes in the United States, the Navajo Nation, has made it clear that it will not countenance such a waiver.

Indian country has a long history and a long memory. That history documents the sad reality that there have been too many times in the past when those who did not have the best interests of Indian country in mind have exploited tribal lands and resources and then walked away.

In those instances, tribal governments and the United States shared a common interest in addressing the damage to tribal lands and in pursuing those who caused the damage.

Mr. President, I think it is clear that the provisions of this title as currently formulated, and if not further amended, will foreclose the cause of action when there is damage to tribal lands. So I join my colleague, Senator BINGAMAN, in sponsoring this amendment because I believe strongly in Federal Indian responsibility for Indian lands, and the resources must be maintained and strengthened, not diminished.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Colorado is recognized.

Mr. CAMPBELL. How much time do we have?

The PRESIDING OFFICER. The Senator has consumed 16 minutes.

Mr. CAMPBELL. We have 20 minutes; correct?

The PRESIDING OFFICER. It is the understanding of the Chair that no agreement has been reached about the time limit on this amendment.

Mr. CAMPBELL. Mr. President, I will just make a couple of comments. Senator INOUYE and I have been friends for a great number of years. When he was chairman, and now as the ranking member, we have worked on an awful lot of Indian legislation together.

With all due respect, I think he might be mistaken about what 2604 did. In fact, maybe something else, too, and that is simply this. Tribes, generally, if they are not absolutely sure of themselves when they enter into agreements, or when they are dealing with the Federal Government, hire pretty sophisticated attorneys to do the research for them. All of these different groups, including the National Congress of American Indians, representing over 300 tribes; the Council of Energy Resource Tribes, representing over 50 tribes; the U.S. Eastern and Southern Tribes, representing over 50 tribes; the Pueblos of New Mexico; the Jicarilla Apache Tribe of New Mexico; and the National Tribal Environmental Council have had attorneys look at 2604 and, clearly, none of them has said anything about erosion of trust responsibility because—and I mentioned earlier—it is stated in 2604, on page 14, line 18 through page 15, line 3, that, if anything, tribal trust relationship is strengthened under 2604, which is the amendment I introduced the other day and am going to reintroduce.

Unlike the Bingaman amendment, which I think, frankly, weakens trust responsibility—as near as I can tell, the language in his amendment weakens it. That is one of the questions: which one strengthens it and which one weakens it? My belief is that 2604 would be strengthened with the language I will be reintroducing.

The other one is NEPA. I do not believe, frankly, that tribes are off the hook for NEPA unless they want to develop resources with their own money on their own land without outside agreements or Secretarial approval. Once the Secretary looks into it, or agrees to take it up after they have reached some negotiated agreement, she has to conform with all NEPA requirements. That is clear in 2604. Nobody is off the hook from NEPA for trust responsibility.

One more thing. Under 2604, which hasn't been mentioned, and the amendment that I introduced and will reintroduce, no tribe needs to participate in this agreement at all. It is totally voluntary, tribe by tribe. Senator BINGAMAN mentioned that the Navajo Nation was not supportive of 2604 and my amendment. That is all right; they don't have to participate. This is open for the tribes that want to, and those that do not want to don't have to.

As I understand the Bingaman amendment, they are all going to be caught in the same net. That is, they will all be required to come up with the money, as Senator DOMENICI mentioned, to subscribe to NEPA even before they reach an agreement. They don't have the money to do that. All it is going to do is prevent tribes from moving forward in this Nation.

I have no further comments. I yield the floor.

Mr. DOMENICI. Mr. President, I thought we agreed to 20 minutes on each side.

Mr. BINGAMAN. That is my understanding. I was hoping we would have a vote right away. How much time remains on each side?

The PRESIDING OFFICER. The majority has consumed 20 minutes.

Mr. DOMENICI. They want to set it aside and go to the Burma measure. We had 20 minutes on each side, but they want to proceed to the Burma debate and vote, stacked, with yours going first.

Mr. BINGAMAN. I thought the agreement was that we would have a vote on ours.

Mr. DOMENICI. They want to stack them.

Mr. REID. Mr. President, we entered into an agreement, and we all thought there was going to be a vote following this 40 minutes of debate. The majority leader was not part of that agreement. In deference to him, we will not push our 40-minute vote. We will agree to go to that. That time is gone now, isn't it?

The PRESIDING OFFICER. The majority has used 20 minutes.

Mr. BINGAMAN. We were anxious to get a vote. Senator SCHUMER wanted to be here for a vote. He had to leave. He indicates he will have to leave.

Mr. REID. He has left.

Mr. BINGAMAN. I request that we do our vote so he can be here later on. Is that acceptable?

Mr. DOMENICI. What was the request again?

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. How much time would remain on our side if we had entered into that agreement?

The PRESIDING OFFICER. Two minutes.

Mr. BINGAMAN. I will use those 2 minutes.

Mr. President, the underlying bill, which we are trying to amend here, has in it really clear language that essentially lets the Secretary of the Interior off the hook. It eliminates responsibilities that the Secretary of the Interior would otherwise have. It says the United States shall not be liable for any loss or injury sustained by any party, including an Indian tribe, or any member of an Indian tribe, to a lease, business agreement, right-of-way, executed in accordance with the tribal energy resource agreements approved under this subsection.

Then it says that on approval of a tribal energy resource agreement of an Indian tribe, under paragraph 1, the Indian tribe shall be estopped from asserting a claim against the United States on the grounds that the Secretary should not have approved this agreement.

That is a clear statement by the Congress—if that becomes law—that the Secretary of the Interior is off the hook. This may be on Indian trust land. It may be that the Secretary of the Interior is the trustee of that Indian trust land. We are saying in this language—if we don't amend it by the amendment Senator INOUYE and I have prepared, we are saying that the Secretary of the Interior is off the hook and the Indian tribe has no one to go to for any kind of remedy. I don't think we intend to do that.

Senator INOUYE and I have put together an amendment we believe keeps trust responsibility with the Federal Government, where it should be. It sets up a good procedure that the tribe can work with the Federal Government. The tribe still has decisions, makes decisions over these energy development projects, but clearly the Federal Government needs to be part of that and needs to have responsibility for seeing that decisions are in the best interest of the tribe.

Mr. President, I think this is a good amendment. I hope that once we do get to a vote, whenever that occurs, we will see this amendment adopted. It will strengthen the bill, and I hope very much we can approve it.

I yield the floor.

Mr. JEFFORDS. I rise in support of the amendment offered by Senator BINGAMAN.

His amendment does not go as far as I would wish, because it does not fully preserve the integrity of NEPA or the Endangered Species Act.

These two Federal statutes, which are under the jurisdiction of the Environment and Public Works Committee, have been cornerstones for the protection of environmental quality for decades. Section 2604 of the bill negates or weakens application of these laws to most energy development on tribal lands.

Section 2604 would allow tribes to grant leases or rights-of-way for mineral development, electric generation, transmission or distribution facilities or facilities to process energy resources of any sort on tribal lands.

The tribes could do this without the approval of the Secretary of the Interior.

This would effectively remove the current legislative authority of the Department of the Interior over these matters.

Under existing law, the oversight of the Secretary of the Interior over energy development on tribal lands triggers a variety of Federal permitting requirements which will ensure that NEPA, section 7 of the Endangered Species Act, and a variety of other Federal laws will apply to these activities.

Removal of the Secretary's approval authority over many of these actions would have a number of consequences.

First, it would mean that Federal NEPA laws would no longer apply. It would also mean that the section 7 Federal consultation provisions of the Endangered Species Act would cease to apply.

This is particularly significant in that tribal lands are often adjacent to some of the most protected and pristine Federal lands, including wildlife refuges, wilderness areas, and National Parks. Wholesale changes in the application of the Federal mineral leasing and development laws—and potentially a host of environmental laws—to tribal lands, could have significant impacts on adjacent sensitive lands, air quality, water quality and wildlife.

Because of their sovereign immunity and special trust status, tribes are also generally exempt from many State environmental and other laws, to which private lands are subject.

Section 2604 represents a sweeping reversal of years and years of established environmental and energy laws, many of which are within the jurisdiction of the Senate Environment and Public Works Committee. Our committee has never held hearings on this, nor had the opportunity to examine the extent to which this language would weaken or amend Federal environmental laws, or laws relating to the development of commercial nuclear power.

My preference would be to insert language which I filed yesterday, which would clarify that Federal environmental and nuclear laws would continue to apply to these tribal lands, regardless of removing the approval of the Secretary of the Interior under the Indian Mineral Development Act.

However, because I think that the language offered by Senator BINGAMAN has a greater chance for success, I will vote in favor of his amendment.

At a minimum, his amendment would remove any implicit waiver of Federal environmental laws and would create an environmental review process to be conducted by tribes to ensure at least some modicum of public involvement in what could possibly be massive energy development on tribal lands.

Section 2604 creates an unprecedented lack of Federal oversight for development with potentially massive environmental impacts, and I urge my colleagues to adopt Senator BINGAMAN's amendment.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, we yield back our time on our side. I move to table the Bingaman amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The PRESIDING OFFICER (Ms. COLLINS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—52

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—47

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—1

Kerry

The motion was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. CAMPBELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. I thank my colleagues for voting for this on the last motion to table. I know it is a difficult vote for some of my colleagues. I want to reintroduce tomorrow the amendment I spoke to earlier. I want to assure Senator BINGAMAN and Senator INOUYE, who have worked on a lot of different Indian issues with us in the past, that if the language on trust is not strong enough, I will be more than happy to review that and work with you to make it even stronger and also to try to clarify the language dealing with NEPA.

The PRESIDING OFFICER. The Senator from Kentucky.

UNANIMOUS CONSENT AGREEMENT—S. 1215

Mr. McCONNELL. Madam President, I ask unanimous consent the Senate now proceed to the consideration of S. 1215, the Burma sanctions bill; that there then be 60 minutes of debate equally divided under the control of myself and the Democratic leader or his designee; further, that no amendments be in order other than a substitute amendment and a technical amendment to that substitute. I ask unanimous consent that following the debate time and the disposition of the above amendments, the bill be read a third time and the Senate proceed to a vote on the passage of the bill, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I will have none. But when the matters that have just been agreed upon have been completed, we will then have another amendment on the Energy bill. It will be offered by the distinguished Democratic Senator from Florida with reference to an inventory of the Outer Continental Shelf assets, inventory that is provided for in the bill. He will move that be taken out. That will be debated tonight and voted on tomorrow.

Mr. REID. Reserving the right to object, the two leaders have indicated that we would have more debate on that in the morning, however, on the offshore oil inventory. I don't know what time they are going to schedule a vote, but I think it will be sometime in the morning and that will be worked out later tonight.

Mr. DOMENICI. I would like to comment, before we proceed, just a further 30 seconds?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. We have been working very hard to get a complete list—I think we are very close—of amendments we can agree to and put at the desk. As everybody knows, a lot is riding on this Energy bill: a full ethanol package; soon there will be the renewables that many are relying on in this country which have extenders that are required that are part of the tax amendments that are going to go on this bill. Those are providing for the existing—continuation of the renewables in the area of wind and Sun and others. If we do not get the bill moving, none of that moves along.

So I do ask all Senators who have amendments to concur that they can write them up, get them in, get them on this list so we know where we are and when we might look for daylight on this bill. I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, I say to the distinguished Senator from New Mexico, the chairman of the committee, we have a list on our side. We are now waiting. Tentative lists have been exchanged by the two sides. As far as we are concerned, we are ready at any time to enter into that agreement. We do have a finite list of amendments. As soon as we get a finite list of amendments from the majority, a unanimous consent agreement could go forward at that time.

Mr. DOMENICI. Madam President, I thank the distinguished Senator for his cooperation. That is a true statement.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the assistant Republican leader? Without objection, it is so ordered.

BURMESE FREEDOM AND DEMOCRACY ACT OF 2003

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

> A bill (S. 1215) to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

The PRESIDING OFFICER. The assistant Republican leader.

Mr. McCONNELL. Madam President, the situation in Burma is indeed dire and requires our immediate response. We will make that response within the next hour.

S. 1215, which is now the pending business in the Senate, has 56 cosponsors. I particularly want to thank Senator FEINSTEIN, who will be speaking on this measure, and Senator McCAIN, who have had a particular interest in this subject for quite some time.

Until yesterday, Aung San Suu Kyi and other democracy activists have been held incommunicado by the repressive State Peace and Development Council, SPDC, following an ambush on her convoy several hundred kilometers north of Rangoon. Scores are feared murdered and injured in this blatant assault on democracy in Burma.

In the 11th hour of his trip to Rangoon, the SPDC finally allowed U.N. Special Envoy Razali Ismail a 15-minute meeting with Suu Kyi. We are all relieved that his initial statements indicate that she is alive and unharmed, but the fate of other activists arrested remains unknown.

But simply seeing is not freeing. Razali's meeting with Suu Kyi was not a private one and she remains under the total control of SPDC thugs. Her continued silence in the wake of this bloodshed could not be more deafening, nor—despite Razali's brief visit—her predicament more pressing.

Horrific details of the attack continue to emerge and heighten the need for a swift and decisive response to the SPDC's brutality.

According to Monday's front-page article in the Washington Post, in the "pitch dark amid the rice paddies" thugs posing as Buddhist monks stopped Suu Kyi's car. Soon after, a crowd "set upon her convey, attacking the entourage with wooden clubs and bamboo spikes. . . . Several hundred more assailants ambushed the motorcade from the rear.”

This is no simple act of harassment or intimidation. It was an act of terrorism against innocent civilians who simply believe in democracy and the rule of law in Burma.

The free world and free press have been quick to condemn the SPDC. But strong words from foreign capitals must be matched by stronger actions.

Last week, I introduced the Burmese Freedom and Democracy Act of 2003, along with Senators FEINSTEIN and MCCAIN. As I indicated earlier, we now have 56 cosponsors. I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1215 COSPONSORS

Akaka, Alexander, Allard, Allen, Baucus, Bennett, Biden, Bingaman, Boxer, Breaux, Brownback, Bunning, Burns, Chambliss, Clinton, Coleman, Collins, Corzine, Daschle, Dayton, Dole, Domenici, Dorgan, Durbin, Edwards, Feingold, Feinstein, Frist, and Grassley.

Hagel, Harkin, Hutchison, Jeffords, Kennedy, Kerry, Kyl, Lautenberg, Leahy, Levin, Lieberman, Lugar, McCain, Mikulski, Murkowski, Murray, Nelson, Ben (Nebraska), Reid, Rockefeller, Santorum, Sarbanes, Schumer, Smith, Specter, Stabenow, Voinovich, and Wyden.

Mr. MCCONNELL. Madam President, this bill, among other sanctions, imposes a ban on imports from Burma.

I am pleased that many of my colleagues—including the majority and minority leaders of the Senate and the chairmen and ranking members of the Senate Foreign Relations and Finance Committees—are cosponsors of this important legislation.

Let me share with my colleagues some of the feedback we have gotten from around the country on the act:

An editorial in today's Los Angeles Times stated:

> [Burma's] trading partners, other countries in the region and aid givers like Japan need to get tougher by imposing sanctions and aid suspensions to push the country toward democracy; that's the outcome Myanmar's citizens show they favor every time they get the chance.

By the way, they haven't gotten a chance since 1990.

A Washington Post editorial yesterday advised that because Burmese dictators “control the nation' economy, an import ban would affect those most responsible for Burma's repression, and senators supportive of democracy in Asia should vote for the bill without conditions or expiration dates.”

Deputy Secretary of State Rich Armitage recently wrote:

> . . . we support the goal and intent of this legislation and agree on the need for many similar measures. . . . We are also considering an import ban, as proposed in your legislation.

A June 6 editorial in the Washington Post suggested that:

> While the [Burmese Freedom and Democracy Act] moves through Congress, Mr. Bush could implement many of its provisions by executive order. He could find no better way to demonstrate his commitment to democracy and his revulsion at a brutal dictatorship.

A New York Times editorial endorsed the import ban and recommended that:

> Europe . . . should now block Myanmar's exports as well. The junta has had a year to demonstrate that its opening was genuine. Now all ambiguity is gone, and the world's response must be equally decisive.

A Boston Globe editorial stated that President Bush:

> . . . could and should issue an executive order that would swiftly accomplish [an import ban]. This is not a partisan matter. The great lesson that ought to have been learned in the last century is that free democrats betray their unfree brothers and sisters when they seek to appease dictatorships.

Dallas Morning News editor at large Rena Pederson, who also penned a superb article on this topic in the Weekly Standard, wrote in an op-ed:

> The strongest possible pressure must be turned on the Burmese generals, who apparently calculated their opposition could be decapitated while the world was preoccupied with events in the Middle East. They shouldn't be allowed to get away with such a cowardly fast one. The Bush administration should support tougher sanctions now. Senator Mitch McConnell, R–KY., is pushing for increased sanctions.

That is the bill we have before us.

“He will need help . . .”

And we obviously are going to have help with 56 cosponsors, and I hope a very overwhelming vote shortly.

“He will need help, or the Bush administration could accomplish the same thing by executive order.”

A Baltimore Sun editorial rightly concluded: “. . . this regime ought to be treated somewhat like North Korea, from which imports have long been barred.”

Finally, in endorsing the act, the American Apparel and Footwear Association called upon “the rest of Congress for the swift and immediate passage of such import legislation.”

The idea of a ban on imports from Burma is not a new one to this body. In the 107th Congress, S. 926 sought to impose such restrictions and was cosponsored by 21 Senators. I would offer that the need for an important ban has only become more urgent in the wake of the May 30 attack on democracy in Burma.

Supporters of a free Burma want America to take the lead in defending democracy in that country.

Supporters of a free Burma believe that serving the cause of freedom is America's challenge and obligation. We should not abandon the people of Burma during the greatest moments of need. The people of Burma have made their aspirations known, and the regime has not silenced them into submission. They have not stilled their hearts for political change and they will not succeed in stemming our collective resolve.

Supporters of a free Burma agree with President Bush that:

> Men and women in every culture need liberty like they need food and water and air. Everywhere that freedom arrives, humanity rejoices: and everywhere that freedom stirs, let tyrants fear.

It's time for tyrants to fear in Burma.

I ask unanimous consent that the following items be printed in the RECORD: a Washington Post article dated June 9; a letter from Under Secretary of State Rich Armitage; editorials from the Los Angeles Times, and the Baltimore Sun, and a Rena Pederson article in the Weekly Standard.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 9, 2003]

ATTACK ON BURMESE ACTIVIST SEEN AS WORK OF MILITARY

(By Alan Sipress and Ellen Nakashima)

BANGKOK, June 8.—Burmese opposition leader Aung San Suu Kyi's motorcade was rattling along a pocked one-lane road near Mandalay in Northern Burma after the sunset when a pair of men, disguised in the burnt orange robes of Buddhist monks, motioned for it to stop. They asked her to alight and make an impromptu speech to at least 100 people gathered at a narrow bridge over a creek and blocking her way, according to Burmese exiles who spoke with witnesses. But she was running late. It was already pitch dark amid the rice paddies.

When one of her bodyguards, a young unarmed man, got out of the four-wheel-drive vehicle to convey Suu Kyi's regrets, the crowd set upon her convoy, attacking the entourage with wooden clubs and bamboo spikes, according to the exiles and diplomats who also have spoken to witnesses. Several hundred more assailants ambushed the motorcade from the rear.

By the time the battle was over late in the evening of May 30, at least four of Suu Kyi's bodyguards were dead. Burmese exiles and diplomats said scores of her supporters were also probably killed. And Suu Kyi, the 1991 Nobel Peace Prize laureate, suffered head and shoulder injuries, they said, when her car windows were shattered and she was detained by Burmese soldiers along with at least 17 supporters.

U.S. and other diplomats have concluded that the attack was an ambush orchestrated by Burma's military rulers and carried out by a pro-government militia reinforced by specially trained prison inmates.

Suu Kyi, 57, has remained in custody, incommunicado and out of public sight ever since, prompting protests from the United Nations, the United States other governments.

The attack was not only a stunning bid to intimidate Suu Kyi and deflate a pro-democracy movement that over recent months had been attracting larger and larger crowds despite mounting governmental harassment, according to exiles and diplomats in Rangoon and Bangkok. It was also an effort by Burma's top leader, Gen. Than Shwe, who had been consolidating control in recent months, to make clear he had lost patience with those in the military advocating dialogue with Suu Kyi.

“This was a brutal power play to show them who is in charge here,” a European diplomat said. “This was a message from Than

Shwe to the softies in the military that you [had] better watch out. You are not to tolerate Aung San Suu Kyi."

Although supporters of political reform have despaired of progress for months, the attack outside Mandalay—the bloodiest confrontation since Burma crushed a pro-democracy uprising in 1988—could mark the end to the spring of hope that began almost exactly one year ago.

Under intense international pressure, the Burmese government had released Suu Kyi from house arrest in May 2002. Some high-ranking military officers had calculated that Suu Kyi's popularity had faded during her detention and that she no longer posed the same threat as she had in 1990 when her party, the National League for Democracy, won a landslide election victory, Burmese and other analysts said. Those results were voided by the military, plunging Burma into its current political crisis and a decade of international isolation.

The Burmese government, however, discovered that Suu Kyi still attracted jubilant crowds when she traveled the country reopening nearly 200 local offices for her party. Tens of thousands turned out to chant her name. Many supporters walked miles to see her. Increasingly, her rallies drew Buddhist monks, who command great respect in Burmese society, further alarming the military.

"They are worried that despite all the threats they can employ against the pro-democracy movement, people are continuing to go out and see Aung San Suu Kyi," said Win Min, a Burmese researcher who studies civilian-military relations.

Suu Kyi, who has always preached reconciliation, was also becoming openly critical of the government's unwillingness to engage in meaningful dialogue for a political settlement. The optimism that accompanied her release from house arrest had long dissipated.

These developments were an affront to Than Shwe, the junta's leader, who so loathes Suu Kyi that, as one European diplomat said, he "hates even to hear her name mentioned."

Than Shwe, 70, chairman of the ruling State Peace and Development Council and armed forces commander, has moved since last year to strengthen his grip on power. He has beefed up the United Solidarity and Development Association, the pro-government militia that witnesses said attacked Suu Kyi's motorcade. He has manipulated the military, government and courts to weaken his leading rivals while placing his loyalists in influential post, said diplomats and Burmese exiles.

"Than Shwe has been taking his time," said Zin Linn of the opposition National Coalition Government of the Union of Burma. "He has purged many of the senior military men who are soft-liners and are in some way impressed with Aung San Suu Kyi" and Tin Oo, the vice chairman of her party.

Most notably, Than Shwe's ascent has come at the expense of Gen. Khin Nyunt, 64, the head of military intelligence and a leading advocate of dialogue with Suu Kyi. His patron, former dictator Gen. Ne Win, died in December. While Khin Nyunt remains the third-highest-ranking official in the junta, his authority in running military intelligence has been limited and he has told diplomats that he no longer has a mandate to pursue the reconciliation talks, which had been medicated by U.N. special envoy Razali Ismail.

The dispute pits so-called pragmatists, such as Khin Nyunt, who believe Burma can string out the talks with Suu Kyi while placating foreign governments, against officers urging that the pro-democracy movement be crushed. But diplomats and analysts stress that the military is united in its determination to retain power.

Suu Kyi's recent month-long swing through northern Burma offered an opportunity for Than Shwe to deliver a resounding message to the pragmatists that their moment had passed, diplomats and exiles said.

As expedition to the northernmost state of Kachin, which began May 6, was her seventh road trip since her release. It was meant in part to bolster the morale of loyalists in her party, who were disappointed that the reconciliation talks had ground to a halt, said Debbie Stothard, coordinator of ALTSEAN-Burma, a human rights group in Southeast Asia.

The trips, especially this last, had provoked growing harassment by the government, which has staged protests by machete-wielding activists, blasted music to drown out Suu Kyi's speeches and blocked her way with logs and barbed wire. At least once, a firetruck turned its hoses on her supporters.

If the military wanted to escalate the confrontation, Sagaing Division northwest of Mandalay was a good place, Burmese exiles and diplomats said. This impoverished region is the stronghold of Lt. Gen. Soe Win, a Sagaing native and former military commander in the area. He was promoted by Than Shwe in February to the junta's fourth-highest position. Soe Win is also a leading activist in the militia and had toured several towns earlier this year demanding that dialogue with Suu Kyi be halted.

Diplomats and exiles said they have received reports that Soe Win was at a military headquarters in nearby Monywa either during or shortly before the ambush against Suu Kyi's motorcade. Exiles said they believe he ran the operation.

Military officials knew Suu Kyi was coming. She had been required to give them her itinerary.

"Clearly, orders were given for a violent attack," a U.S. Embassy official in Rangoon said.

The following account of the May 30 attack was provided by that official based on the findings of a two-person U.S. Embassy team dispatched to Sagaing Division late last week to investigate the incident. Much of the story has been corroborated by information from witnesses, provided to other diplomats and exiles.

As Suu Kyi's motorcade traveled north toward the town of Dipeyin about two miles from Monywa, it was met by 100 to 200 people at the bridge. Most of them were disguised as monks but shed the costumes when the fighting erupted. About 400 other convicts and militia recruits disguised as monks with shaved heads, and wearing white armbands, blocked the motorcade from behind.

Though Suu Kyi's supporters tried to assuage the mob, the assailants began beating them and smashing the vehicles' windows. Trying to stave off the attack and shelter Suu Kyi, members of her party stood on the road and locked arms.

At the site, the investigating team found bloodied clothes, clubs and spears, broken glass and debris from damaged vehicles.

"It was pretty clear that a big fight had taken place," the embassy official said.

The team's findings contradict the brief version provided by the government—that the confrontation lasted two hours and was provoked by Suu Kyi's party. The government said four people were killed and 50 others injured.

The U.S. team reported that gunfire was heard in the middle of the night when the army arrived to clean up the site. According to other accounts, gunshots rang out during or shortly after the clash.

Reports reaching other diplomats and exile groups said Suu Kyi's driver, trying to remove the democracy activist from the melee, gunned the engine as the crowd pounded the car with rocks and other objects. She was detained by security forces farther down the road in Dipeyin.

Tin Oo, 75, the vice chairman of Suu Kyi's party, was assaulted when he left his car, according to Burmese exiles, who have expressed concern about his condition and whereabouts.

Following the attack, the military closed most of the party's offices across Burma, arrested other democracy activists and criticized Suu Kyi's movement in the press. Some suggest that these steps were part of a planned, concerted crackdown, not just a hurried attempt to prevent Suu Kyi's supporters from protesting the attack and arrests. They noted that in the weeks before the incident, 10 activists from the opposition party were arrested and sentenced to prison terms of two to 28 years.

Since the attack, more than 100 party activists have been arrested and at least a dozen imprisoned, said Stothard, coordinator of the human rights group.

Those killed trying to protect Suu Kyi, or "The Lady," as she is popularly known, reportedly included Toe Lwin, 32, a rising star in the party's youth division who held a philosophy degree and was studying English in Rangoon, a Western diplomat said. He was in Suu Kyi's vehicle, wearing his orange opposition party jacket with its red badge emblazoned with a gold fighting peacock. Suu Kyi treated these supporters as "surrogate sons," and saw in them a future generation of political leaders, Stothard said.

Suu Kyi is being held at Yemon military camp, about 25 miles outside Rangoon, without access to her doctor, party members or Western envoys, concerned diplomats said.

"If they lift her incommunicado status, she will speak," a European diplomat said. "She will speak the truth and this will be damaging for them."

DEPUTY SECRETARY OF STATE,
Washington, June 6, 2003.

Hon. MITCH MCCONNELL,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: We are outraged by the May 30 attack on Aung San Suu Kyi and her convoy. The deteriorating conditions in Burma are of grave concern to the Administration and we appreciate your leadership in advancing legislation to respond to these events.

The Department of State also appreciates the opportunity to review and comment on the "Burmese Freedom and Democracy Act of 2003 (S. 1182)," which you introduced on June 4, 2003. We fully support the goal and intent of this legislation and agree on the need for many similar measures. For example, we are working on a unilateral expansion of the visa ban, extending it to all officials of the Union Solidarity Development Association (part of the SPDC) and their immediate families, rather than just to senior officials, as is current practice. We will also be adding managers of the state-run enterprises and their families to the list.

We agree on the need to prevent IFI funds going to the junta. We will continue to use our voice and vote in those institutions to oppose loans that benefit the military regime. We also agree on the need to express strong support for the NLD, and are doing so in every international forum in which the United States participates, including at the UN. Also significant are the findings of the annual Country Report on Human Rights Practices, Trafficking in Persons Report and Report on International Religious Freedom, which identify and strongly condemn known SPDC abuses. The President's Annual Report on Major Drug Transit or Major Illicit Drug Producing Countries has also identified Burma as a country that demonstrably has failed to meet its international obligations regarding narcotics.

In addition to the above efforts, which are already underway, we are determined to pursue additional measures against the regime, including an asset freeze, a possible ban on remittances and, with appropriate legislation, a ban on travel to Burma. We hope to move forward with these measures expeditiously and with the support of the Congress. We are also considering an import ban, as proposed in your legislation. We support the intent behind the ban but are reviewing the proposal in light of our international obligations, including our WTO commitments.

Again, thank you for your leadership on this issue and your commitment to the cause of freedom. We look forward to working with you on the bill.

Sincerely,

RICHARD L. ARMITAGE.

[From the Los Angeles Times, June 11, 2003]

FREEZE MYANMAR ASSETS

The military thugs running Myanmar finally may have opened their eyes to the esteem in which Aung San Suu Kyi is held outside their nation. They already knew how much their oppressed citizens thought of the woman who should be leading the nation formerly known as Burma: The huge numbers greeting her on her journeys around her country provided graphic evidence of her popularity.

Harboring despots' fears of ouster by a charismatic pro-democracy leader, the army rulers arrested Suu Kyi, again, after a deadly attack on her motorcade May 30. However, they let United Nations representative Razali Ismail meet with the democracy activist Tuesday after stalling for days.

Delay is not new for Razali, who has sought for two years to push the nation's autocrats toward democracy. He deserves credit for insisting on a meeting with Suu Kyi, so does his boss, U.N. Secretary-General Kofi Annan, who denounces the generals.

In 1947 a political rival assassinated Suu Kyi's father, an architect of the independence movement. Forty years later, his daughter began campaigning against the military regimes that ruled the country for much of its post-independence history. In 1990, she and her party won a parliamentary election but the military scrapped those results and kept her under house arrest. It also refused to let her leave to receive her 1991 Nobel Peace Prize or to be with her husband as he lay dying in England.

But a year ago, the junta let Suu Kyi travel again. Seeing her popularity undimmed, the government organized the May 30 ambush of her motorcade and cited the violence as cause for her arrest. She was held incommunicado until Razali met her. Nearby nations like Thailand and Malaysia feebly protested the assault and arrest.

The U.S. Congress is considering tougher measures to freeze the assets of the Myanmar government held in the United States and to bar the country's leaders from traveling here.

Those steps are warranted unless Suu Kyi is released and allowed to travel freely. The United States and other countries earlier imposed economic sanctions on Myanmar that devastated its economy. Trade with Thailand and China, plus the export of narcotics, has kept it afloat.

The trading partners, other countries in the region and aid givers like Japan need to get tougher by imposing sanctions and aid suspensions to push the country toward democracy; that's the outcome Myanmar's citizens show they favor every time they get the chance.

[From the Baltimore Sun, June 6, 2003]

SQUEEZE THE JUNTA

A top United Nations envoy was to arrive today in Myanmar, formerly known as Burma, and not a moment too soon: Human rights and democracy once again are under siege by the narco-state's ruling military party.

The United Nations is demanding that Yangon's generals release 1991 Nobel Peace Prize laureate Aung San Suu Kyi, arrested Saturday after a violent attack on her pro-democracy party by security forces.

The violence, in which activists allege scores were killed, and the subsequent closing of Myanmar's universities and all of the offices of Ms. Suu Kyi's National League for Democracy mark a sudden darkening of the new dawn proclaimed last May when the military regime last released her from house arrest, promising dialogue with the NLD aimed at national reconciliation.

The renewed repression begs for stronger economic sanctions by the United States to squeeze this illegal junta.

This is a regime that competes with North Korea on human-rights abuses—including long quashing the NLD, a legally elected opposition party. As U.N. Secretary General Kofi Annan recently put it, the political aspirations of the Burmese people "are overwhelming in favor of change."

In 1990, Ms. Suu Kyi's party crushed the military's candidates in Myanmar's last legal parliamentary election; since then, she has spent much of the time under house arrest. In response, the United States barred new American investments in Myanmar in 1997. But that didn't end the involvement of Unocal Corp., the California energy giant, in a 1995 deal with the junta to extract natural gas off the Burmese coast and transport it via a 250-mile pipeline—a project allegedly built with forced labor and accompanied by military murders and rapes.

As a result, Unocal faces a groundbreaking federal lawsuit brought by international activists for 15 unnamed Burmese villagers under a 1789 U.S. statute allowing lawsuits against U.S. multinational corporations, holding them abroad to the same standards as at home. The outcome could be far-reaching; the Bush administration has weighed in on Unocal's side, arguing that such human-rights cases interfere with U.S. foreign policy and the war on terrorism.

This is precisely the wrong stance. Instead, the U.S. government ought to be moving quickly toward tightening the screws on Myanmar's generals and anyone keeping them afloat financially.

Trade sanctions against Myanmar were proposed last year but dropped when Ms. Suu Kyi was last released. This week, House and Senate bills were entered that call for an import ban and other sanctions, all of which seem fully warranted. Already, a leading U.S. apparel and footwear trade group and many large retailers—from Wal-Mart to Saks—are boycotting Burmese goods.

In other words, this regime ought to be treated somewhat like North Korea, from which imports have long been barred. Granted, Myanmar doesn't pose North Korea's nuclear threat, but it plays such a major role in the world's heroin trade that it's a destabilizing force internationally.

Ms. Suu Kyi is again detained and her party remains under attack because Myanmar's generals figure they can get away with it. The United States must send a stronger message that that's no longer an option.

BURMA'S JUNTA "DISAPPEARS" THE COUNTRY'S LEADING DEMOCRACT

(By Rena Pederson)

In the Trademark manner of thugocracies, Burma's military government, seeking to silence its critics, sent a mob to attack the motorcade of longtime democracy activist Aung San Suu Kyi on the night of Friday, May 30, as she traveled to a speaking engagement in the north of the country. The Nobel Peace Prize winner was assaulted and taken to an undisclosed location.

The government would say only that she had been placed in "protective custody" and that she had not been injured. But reports persisted that Suu Kyi had suffered a severe blow to the head and possibly a broken arm. Inside Burma, it was said that hundreds of her supporters had been murdered; international news agencies reported at least 70 killed and 50 injured. At least 18 people were believed detained.

"The problem with getting an accurate story about what happened is that everyone who could speak the truth in Burma is under arrest," said one democracy advocate in Washington. The government controls the only two newspapers and TV stations, and the leading journalist is in prison. One in four citizens reportedly spies for the government, so everyone is guarded about what is said in public.

Nevertheless, clandestine sources inside Burma that have proved reliable in the past report that hundreds of armed men attacked the motorcade, some disguised as Buddhist monks. Some were convicts released at the government's behest. They beat Suu Kyi's supporters with bamboo clubs three feet long and riddled her car with bullets. The window was shattered, and either a rock or a brick was thrown at Suu Kyi's head while she was seated in the car. Several students reportedly tried to shield her with their bodies, but they were beaten severely, and she was dragged away bleeding. According to this account, she was taken to a military hospital for stitches and then transferred to Yemon military camp about 25 miles from Rangoon.

Plainly, Suu Kyi, who is 57 and weighs about 100 pounds, faces long odds—though not for the first time. Since 1988, she has been standing up to one of the most brutal regimes in the world. In the process, she has become the photogenic symbol of democracy in Asia. In 1990, her party, the National League for Democracy, won 80 percent of the vote in elections the junta mistakenly had thought they could control. Instead of seating the winners in parliament, the generals threw many NLD leaders in jail and placed Suu Kyi under house arrest, where she remained for most of the ensuing 13 years.

In this country, few people know her name, much less how to pronounce it (awn sawn soo chee). But her story has the sweep and drama of "Gone With The Wind." Her father, General Aung San, was a leader of the democracy movement in Burma after World War II and was expected to become the first president after Great Britain relinquished control. He was assassinated when his daughter was only 2. His wife, a wartime nurse, went on to become ambassador to India.

Suu Kyi was educated at Oxford and married a fellow student, who became a professor of Tibetan studies. She lived quietly in England as a wife and mother of two boys until her own mother suffered a stroke in 1988, and she returned to Burma to care for her. In riots that year, soldiers shot and killed more student demonstrators than would die in 1989 at Tiananmen Square. Suu Kyi was entreated to stay and help lead the democracy effort, which she did, at great personal sacrifice. She has seen her sons only sporadically since. And four years ago, as her husband was dying of cancer, the junta refused to grant him a visa to visit her.

The international response to her rearrest has been near unanimous condemnation. In the midst of peace negotiations in the Middle East, President Bush expressed his deep concern and called for the immediate release of Suu Kyi and her supporters, as did United Nations Secretary General Kofi Annan. The most tepid responses came from Burma's Southeast Asian neighbors, who have their own concerns about stability. They asked for an explanation of Suu Kyi's detention, but would not demand her release. Japan, the leading investor in Burma, said the situation was not "good" and dialogue was needed for a democratic solution.

It will be up to the United States to increase pressure on the Burmese generals, who apparently thought they could decapitate their opposition while the world was concentrating on the Middle East. The Bush administration must back up its words with actions. On Capitol Hill, Sen. Mitch McConnell, a Kentucky Republican, and Rep. Tom Lantos, a Democrat from California, moved to toughen existing sanctions on Thursday. They will need help. As the Boston Globe pointed out, President Bush could issue an executive order that would accomplish the same thing.

The world hardly needs another crisis at this moment, but the situation in Burma could be destabilizing. Burma has been seeking aid from China, its neighbor to the north, which wouldn't mind having Burma as a vassal state providing port access to the Indian Ocean. That prospect has alarmed India, its neighbor to the west. At the same time, Thailand, to the east, is overwhelmed by the thousands of refugees pouring across the border each day to escape the rapacious Burmese military.

Further complicating the picture, Burma is one of the world's largest producers of heroin and amphetamines. Drug dealers are often seen playing golf with high-ranking generals and hold high positions in major banks. And, oh yes, Burma has one of the fastest-growing AIDS rates in the world—and one of the worst health systems.

When I spoke with Aung San Suu Kyi in February, she expressed frustration that the junta had not opened a dialogue with her party after her release from house arrest in May 2002. "The government promised that it would begin discussions about the transition to democracy," she said. "They have not. They promised they would release all political prisoners. They have not." And they promised to allow the publication of independent newspapers. She asked with a wry smile, "You haven't seen one, have you?"

This spring she began speaking out more forcefully. When she ventured into the northern states two weeks ago, thousands of supporters risked their lives to greet the woman they call "the Lady." Government harassment then increased. On May 24, 10 NLD members were jailed. On May 29, the day before the ambush, clashes broke out between government supporters armed with machetes and NLD backers, leaving several dead.

Even if Aung San Suu Kyi eventually emerges unharmed, the movement for free elections has been set back by the violent turn of events. The main office of the National League for Democracy, in Rangoon, has been closed, padlocked, and placed under guard, and other party offices have been shuttered. Universities, too, have been shut to prevent student protests.

"The Lady" is in greater jeopardy than ever before. It remains to be seen what the long-repressed Burmese people and the much-distracted international community will do about it.

Mr. MCCONNELL. Madam President, I note that Senator FEINSTEIN is here. I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair, and I also thank the distinguished Senator from Kentucky for his leadership on this issue. I am very proud to join with him.

Madam President, in 1996, Senator William Cohen and I introduced a sanctions bill on Bumra. It passed in 1996, and was signed by the President. In 1997, the sanctions were exercised.

We had a brief period of hope during that time, and the ASEAN nations were going to be helpful. It looked like the military junta was going to be receptive. Then, recently, for a brief period, Aung San Suu Kyi, the democratic leader of Burma, was released, and discussions took place. Well, that was short lived and this diabolical attack took place on Aung San Suu Kyi.

According to reports, her motorcade was met by 100 to 200 people at a bridge near Mandalay in northern Burma. Most of these people were disguised as monks. Another 400 people—convicts and other militia recruits who were also disguised as monks—blocked the convoy from the rear. Both groups then discarded their costumes and attacked the entourage with bamboo sticks and wooden clubs, smashing vehicles and beating up their targets. Officially, four people were killed and 50 injured. Witnesses contend that as many as 70 may have been killed and many more injured.

This is outrageous. The level of coordination, the deception, and the brutality of the crimes cannot go unanswered. They really demand a forceful and a substantive response that makes clear the United States will not deal with this junta and will not tolerate such blatant disregard for common human decency.

This legislation sends a message. It says: We will not import their products. And those Burmese exports to the United States are about 25 percent of what Burma exports. So it is a considerable message. It has to be remembered, Aung San Suu Kyi is the democratic leader of Burma. She has never been permitted to serve. Her people have been arrested. Members of the Parliament have been arrested and held in custody. Over 1,300 political prisoners are still in jail, many of them elected parliamentarians. The practice of rape as a form of repression has been sanctioned by the Burmese military. The use of forced labor is widespread. Trafficking in young boys and girls as sex slaves is rampant, and the government engages in the production and distribution of opium and methamphetamine. So the United States must act. Now, in general, I do not support trade embargoes as an effective instrument of foreign policy. However, there are certain circumstances—South Africa was one of them, largely because of the world response, and the world saying enough is enough—where there must be change, and where we are prepared to carry out these sanctions together to effect that change. I hope in this sense the United States will lead the way to enact these sanctions in a meaningful way in which other nations will follow.

Our legislation imposes a complete ban on all imports until the President determines and certifies to Congress that Burma has made substantial and measurable progress on a number of democracy and human rights issues.

As Senator MCCONNELL will indicate, there is a provision in the legislation, similar to the most favored nation status for China, that will allow an annual review of this to assess progress. It allows the President to waive the ban should he determine and notify Congress that it is in the national security interest of the United States to do this. It would freeze the assets of the Burmese regime in the United States. It directs United States executive directors at international financial institutions to vote against loans to Burma. It expands the visa ban against past and present leadership of the junta, and it encourages the Secretary of State to highlight the abysmal record of the junta in the international community.

Now, Senator MCCONNELL mentioned that both business and labor are united in support of this legislation. He said the American Apparel and Footware Association, which represents apparel, footware, and sewn products companies and their suppliers, has called for this ban. The president and CEO has stated—and I think this is worth being in the RECORD—"The government of Burma continues to abuse its citizens through force and intimidation, and refuses to respect the basic human rights of its people. AAFA believes this unacceptable behavior should be met with condemnation from not only the international public community, but from private industry as well."

So well said.

A number of stores, including Saks, Macy's, Bloomingdales, Ames, and The Gap have already voluntarily stopped importing or selling goods from Burma. The AFL-CIO and other labor groups also support this legislation.

In addition, the International Labor Organization, for the first time in its history, called on all ILO members to impose sanctions on Burma.

Such diversity in support of this legislation speaks volumes about the brutality of this military junta and its single-minded unwillingness to take even a modest step toward democracy and national reconciliation.

And to add to it, Aung San Suu Kyi, the democratic leader, is once again being held in custody. This is unacceptable.

The military junta knows full well they do not enjoy the popular support of the Burmese people. That is why they resort to such actions.

As Aung San Suu Kyi traveled the country, and thousands turned out to hear her speak, the junta realized that after years of house arrest and repression, they had failed to curb the power of her message of democracy, of human rights, and the rule of law. They realized that the Burmese people were determined to see the democratic elections of 1990 fully implemented without delay. So in a cowardly and despicable manner they took this action.

Now we must take action. We must take a stand on the side of the people of Burma and on the side of the values we cherish the most.

I urge support and I hope it will be unanimous.

Thank you very much, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Madam President, I ask unanimous consent that Senator KOHL be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Madam President, I say to my friend from California, as she was describing the provisions of the bill, the way it is now structured, we will have an annual debate about whether or not these sanctions should be lifted. It will be reminiscent of the most favored nation debates that we had annually regarding the People's Republic of China, which has now graduated to a new status.

But if ever there were a regime that deserved an annual review by those of us here in the Congress, this is a regime that deserves that. So I think that is a debate we are going to look forward to having.

Would you not agree, I say to my friend from California?

Mrs. FEINSTEIN. I certainly agree, I say to the Senator through the Chair. I think it would be very useful. And I think when the recalcitrance, the repression, is on the floor of this Senate every year, hopefully it will be helpful in changing the minds of this military junta.

Mr. McCONNELL. Madam President, I first introduced a bill on this subject back in 1993. It is one of these issues that, I must regretfully say, you take an interest in and follow over a period of time and never see anything change. There is never any progress that could be measured—until a year or so ago when the junta led Aung San Suu Kyi basically out of house arrest. We were supposed to applaud that as some kind of remarkable step in the direction of recognizing the outcome of the election in 1998 in which she and her party got 80 percent of the vote. She won the Nobel Peace Prize in 1991 while she was essentially incarcerated. She remained under house arrest—except for about a year or so—ever since.

Various strategies have been tried. The Thai Prime Minister, who was in town yesterday—some of us talked with him, and I know he met with the President—this new Prime Minister in Thailand decided to engage in what he called "constructive engagement." Obviously, constructive engagement doesn't work. What this regime needs is to be isolated. I know there are some skeptics even in this body with regard to the ability of sanctions to have a real impact.

Let me tell you, if there is one place in the world where sanctions worked, it was South Africa. The reason it worked there is because everybody participated and they were truly isolated. They became a pariah regime throughout the world, and that led to the dramatic changes that brought Nelson Mandela to power after decades in jail.

That can happen here. The United States needs to lead. Secretary Powell is going out to the ASEAN regional forum in Phnom Penh on June 18 and 19 next week. This is an opportunity for him to put it at the top of the agenda.

I said to the Thai Prime Minister that I thought constructive engagement wasn't working and they needed to join with us and help us lead the other ASEAN countries in the direction of a sanctions regime, on a multilateral basis, that could shut these people down. Some would say, well, if you have effective economic sanctions, it hurts the people. It doesn't hurt the people in Burma because the regime takes all profits off of the exports. They make money on the exports and the drug traffic, which they are quite good at.

So this regime needs to be squeezed by the entire world, isolated, and that is a strategy that we hope to begin today with the passage of this legislation in the next 30 or 45 minutes.

I know on our side, Senator MCCAIN wants to speak, KAY HUTCHISON wants to speak, and, I believe, Senator BROWNBACK wants to speak. How much time remains?

The PRESIDING OFFICER. There are 15 minutes 43 seconds.

AMENDMENT NO. 882

Mr. McCONNELL. Madam President, there is a substitute amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mr. FRIST, Mr. HAGEL, Mr. DORGAN, Mr. BURNS, Mr. KOHL, Mr. HARKIN, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, Mr. VOINOVICH, Mr. WYDEN, Mr. GRASSLEY, and Mr. BAUCUS, proposes an amendment numbered 882.

Mr. McCONNELL. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

AMENDMENT NO. 883 TO AMENDMENT NO. 882

Mr. McCONNELL. Madam President, there is a technical amendment to the substitute at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. GRASSLEY, and Mr. BAUCUS, proposes an amendment numbered 883 to amendment No. 882.

Mr. McCONNELL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify the duration of certain sanctions against Burma, and for other purposes)

On page 5, line 5, insert "and except as provided in section 9" after "law".

Beginning on page 7, line 23, strike all through page 8, line 3, and insert the following:

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this Act, the term "appropriate congressional committees" means the Committee on Foreign Relations, the Committee on Finance, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on Ways and Means, and the Committee on Appropriations of the House of Representatives.

On page 8, beginning on line 5, strike all through line 13, and insert the following:

(1) IN GENERAL.—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the appropriate congressional committees that to do so is in the vital national security interest of the United States.

On page 11, beginning on line 16, strike "Committees on Appropriations and Foreign Relations of the Senate" and all that follows through "House of Representatives" on line 19, and insert "appropriate congressional committees".

On page 12, beginning on line 1, strike "Committees on Appropriations and Foreign Relations of the Senate" and all that follows through "House of Representatives" on line 4, and insert "appropriate congressional committees".

On page 12, after line 16, insert the following:

(3) REPORT ON TRADE SANCTIONS.—Not later than 90 days before the date that the import restrictions contained in section 3(a)(1) are to expire, the Secretary of State, in consultation with the United States Trade Representative and other appropriate agencies, shall submit to the appropriate congressional committees, a report on—

(A) conditions in Burma, including human rights violations, arrest and detention of democracy activists, forced and child labor, and the status of dialogue between the SPDC and the NLD and ethnic minorities;

(B) bilateral and multilateral measures undertaken by the United States Government and other governments to promote human rights and democracy in Burma; and

(C) the impact and effectiveness of the provisions of this Act in furthering the policy objectives of the United States toward Burma.

SEC. 9. DURATION OF SANCTIONS.

(a) TERMINATION BY REQUEST FROM DEMOCRATIC BURMA.—The President may terminate any provision in this Act upon the request of a democratically elected government in Burma, provided that all the conditions in section 3(a)(3) have been met.

(b) CONTINUATION OF IMPORT SANCTIONS.—

(1) EXPIRATION.—The import restrictions contained in section 3(a)(1) shall expire 1 year from the date of enactment of this Act unless renewed under paragraph (2) of this section.

(2) RESOLUTION BY CONGRESS.—The import restrictions contained in section 3(a)(1) may be renewed annually for a 1-year period if, prior to the anniversary of the date of enactment of this Act, and each year thereafter, a renewal resolution is enacted into law in accordance with subsection (c).

(c) RENEWAL RESOLUTIONS.—

(1) IN GENERAL.—For purposes of this section, the term "renewal resolution" means a joint resolution of the 2 Houses of Congress, the sole matter after the resolving clause of which is as follows: "That Congress approves the renewal of the import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003."

(2) PROCEDURES.—

(A) IN GENERAL.—A renewal resolution—

(i) may be introduced in either House of Congress by any member of such House at any time within the 90-day period before the expiration of the import restrictions contained in section 3(a)(1); and

(ii) the provisions of subparagraph (B) shall apply.

(B) EXPEDITED CONSIDERATION.—The provisions of section 152 (b), (c), (d), (e), and (f) of the Trade Act of 1974 (19 U.S.C. 2192 (b), (c), (d), (e), and (f)) apply to a renewal resolution under this Act as if such resolution were a resolution described in section 152(a) of the Trade Act of 1974.

Mr. McCONNELL. Madam President, I ask unanimous consent that the substitute amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 882) was agreed to.

Mr. McCONNELL. I ask unanimous consent that the technical amendment to amendment No. 882 be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 883) was agreed to.

Mr. McCONNELL. Madam President, I will retain the remainder of my time, if I may.

Mrs. FEINSTEIN. Madam President, I will just use a quick minute. I mentioned some of the retail establishments supporting this but I left out a couple. I mentioned Saks Fifth Avenue, and there is also Macy's, the Gap, Bloomingdale's, Ames, Williams Sonoma, IKEA, Wal-Mart, Nautica, and Pottery Barn. I am very proud of these retail establishments for standing up and joining us. I wanted to recognize that on the floor.

Mr. McCONNELL. Madam President, I am glad the Senator from California mentioned those important corporations. Obviously, they could conceivably benefit from low-cost imports but they are choosing not to allow the regime to make a profit off of these American corporations. They deserve our commendation.

I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, I ask unanimous consent to be able to proceed on the time controlled by Senator FEINSTEIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, I rise in support of the efforts of Senator MCCONNELL and Senator FEINSTEIN and acknowledge the leadership of Senator BAUCUS, as well, in working this out. Senator MCCONNELL has been tireless in his efforts to promote democracy in Burma and has been an acknowledged leader in this area. I thank him for not relenting.

I think it is to state the obvious that it is vital for us to express our concern for the freedom of Aung San Suu Kyi, leader of the National League for Democracy and a winner of the Nobel Peace Prize. On May 30, Government-affiliated thugs ambushed an automobile convoy carrying the leader and many of her supporters. Dozens of people were reportedly killed and injured in the clash. She was detained by Government authorities, who also ordered the NLD offices closed nationwide.

Aung San Suu Kyi remains under arrest, and the Government has refused to allow supporters or members of the diplomatic community to meet with her.

When Burma's military rulers freed Aung San Suu Kyi of house arrest last year, they claimed her release was unconditional and they pledged to continue the U.N.-facilitated dialog, which led to her freedom. With last month's premeditated attack and her current detention, the junta has abrogated all of its commitments and warrants no more time.

It is not hard to discern the motives of the junta.

They are scared. They are scared the people of Burma will rally and remove them from power, and they are right to be afraid. As Aung San Suu Kyi has toured schools, hospitals, businesses, and government organizations around Burma, she has been met by joyous crowds, and it is obvious to all observers that she remains as loved by the people of Burma as the military junta is reviled. It is time for the present military oligarchy to fade into history.

Burma's transition to democracy would be a most welcome development for all of Southeast Asia.

Despite pledges to crack down on narcotics production, the military continues to collaborate with heroin and methamphetamine traffickers. It has failed to address the legitimate demands of ethnic minorities for significant regional autonomy within a federal state, preferring military pressure to political accommodation.

The generals have enriched themselves while bankrupting the country. They have dismantled Burma's education system and ignored the growing threat to public health posed by AIDS, malaria, and tuberculosis. As the State Department notes with characteristic understatement in its most recent human rights report:

> The quality of life in Burma continues to deteriorate.

That may be the understatement of the month. It is well past time for the generals to do what they said they would do; namely, begin a process that would eventually transfer the reins to a representative civilian government that would enjoy domestic and international legitimacy.

Unfortunately, there are few indications that the regime intends to step down. Indeed, they apparently had high hopes the United States Government, taking note of Aung San Suu Kyi's release last year, would take steps to lift the many sanctions imposed when the army brutally suppressed Burma's democracy movement in 1988. The regime spent $450,000 to retain the services of a prominent Washington lobbying firm to help push the President and Congress to normalize relations, restore access to international financial institutions, and resume foreign aid.

They were willing to spend $450,000 to improve their image, but last year the officials operating the government spent less than $40,000 nationwide on HIV/AIDS care and prevention. Each of the nation's 35,000 primary schools receives on average less than $1 from the central government each year; $35,000 for the national education budget; $450,000 for lobbying in Washington.

No amount of money can hide the character of the Burmese military rulers. As the United States people stood with Nelson Mandela in his bid for freedom and democracy for the people of South Africa, so we should now stand with those who are moving Burma toward a free and open society and the National League for Democracy as they try through peaceful means to end the tyrannical, brutal rule of Burma's military rulers.

Again, I thank Senators McCONNELL and FEINSTEIN for their leadership in this area, and I am confident we will win wide support of our colleagues. It is time that we are clearly standing on the right side of this issue.

The PRESIDING OFFICER. The assistant Republican leader.

Mr. McCONNELL. Madam President, I thank my friend, the ranking member of the Foreign Relations Committee, for his contributions to the debate. I very much appreciate it.

I yield 8 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I thank my colleague from Kentucky, Senator McCONNELL, for his leadership, and I thank the Senator from California, Mrs. FEINSTEIN. I thank Senator McCONNELL for his longstanding support of this brave and heroic person and the movement she leads.

Several years ago, I happened to visit Myanmar, which I will refer to from now on as Burma. I had the great honor—one of the great honors of my life—to meet this incredible hero, this incredible leader, this incredible person who has spent her life under duress, under punishment, under pressure, under house arrest, even to the point of physical mistreatment at the hands of this gang of thugs that runs and has ruined this country.

I will never forget the day I met her. I will never forget the grace, the dignity, and the heroism that was clearly radiating from every part of this incredible person who very appropriately has been recognized with the Nobel Peace Prize.

I remind my colleagues that she has been kept under house arrest for many years. She was released in 1995 finally, and then she was again confined to house arrest in 2000. Just a few days ago, as a motorcade of about 250 people drove through, about 500 armed soldiers, members of the military-backed Union Solidarity and Development Association, and an unknown number of convicts recruited from Mandalay prison with the promise of reward and freedom rushed and attacked it.

In the ensuing melee, which lasted about an hour, the attackers beat up NLD members, shot them with catapults, soldiers opening and firing, killing and wounding a large number of NLD members.

Aung San Suu Kyi was taken into custody in an unknown place. Apparently, thank God, according to the U.N. envoy, Mr. Ishmael, she is in good physical condition.

This junta has ruined the country. It has deprived the people of their fundamental freedoms. This gang of thugs has mistreated this great person in the most disgraceful fashion. She should be free. She should be free to lead her country as was already endorsed by one free and fair election overwhelmingly.

Why did they do that this time? Because everyplace Aung San Suu Kyi went, the people welcomed her by the thousands, and the junta could not stand it. So they had to kill her people, her supporters, and they had to throw her back into prison.

What did one of the leaders who is supposed to be a moderate, whom I also met when I was in Burma, GEN Khin Nyunt—remember that name—say? He said:

> Everyone needs to abide by the rules and regulations to be observed everywhere.

Adding:

> It is to be noted that the basic human rights would not protect those who violate an existing law.

What existing law? What existing law that would ever be judged a legitimate law in any court in the world was Aung San Suu Kyi in violation of when they killed her supporters, mistreated her, and put her back into prison?

I do not know why the Japanese, the Thais, the Chinese, and the ASEAN nations, that ostensibly are supposed to be standing up for freedom and democracy, are not doing everything possible to punish this regime, free this incredible person, and let the people of Burma have a free and fair election.

I thank, again, Senator McCONNELL. I point out that we should be taking every single measure possible, and I do not believe the Secretary of State should attend the ASEAN gathering in Phnom Penh, Cambodia, unless Aung San Suu Kyi and the situation in Burma are No. 1 on the agenda of ASEAN. Are we going to sit by and watch the brutalization of a people, the imprisonment of a Nobel Peace Prize winner, and the repression and devastation of a nation be carried out by a gang of thugs that call themselves generals? I hope not.

I hope the message today in the legislation we are considering, thanks to the Senator from Kentucky, is a message that this is the beginning—this is the beginning—of our efforts to free this person and to free the people of Burma.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I strongly support the Burmese Freedom and Democracy Act of 2002 that has been introduced by Senators McCONNELL and FEINSTEIN. The legislation, as was said, seeks to pressure the military junta in Burma to release Aung San Suu Kyi, and to help bring democracy and human rights to Burma.

Several days last week—in fact, time and time again—Senator McCONNELL came to the floor to speak on this issue. I want to commend my colleague, the senior Senator from Kentucky, for his steadfast leadership. I associate myself gladly with his remarks. I have also joined him as an original cosponsor of this legislation.

The message the legislation sends to the ruling junta in Burma is clear: Its behavior is outrageous. By any standard anywhere in the world, its behavior is outrageous. Aung San Suu Kyi is the rightful and democratically elected leader of Burma. It is that simple. Aung San Suu Kyi is the rightful, elected leader of Burma, and the ruling junta does not want her to take office because they know that their days of repression, corruption, torture, and murder would be over. She and her fellow opposition leaders must be immediately released.

This legislation also sends a clear signal to the administration, to ASEAN members, and to the international community that we need to turn up the heat on this illegitimate regime.

The efforts of Senators McCONNELL and FEINSTEIN are already having an impact. On June 5, 2003, our State Department issued a strong statement, which reads:

> The continued detention in isolation of Aung San Suu Kyi and other members of her political party is outrageous and unacceptable.

I agree. But we all know that U.S. actions can only go so far. Bringing democracy and human rights to Burma is going to require active pressure from Burma's neighbors in Southeast Asia, particularly Thailand, Japan, and China. I hope they apply the pressure for human rights and democracy that many of them profess to support. They should disavow the failed policies of engagement.

I am pleased to see that the McConnell-Feinstein legislation attempts to trigger a process to ratchet up the regional pressure on the Burmese Government. I am glad to see that the United States has demarched every government in Southeast Asia on this issue. I agree with the Bush administration on this very much. We have to bring this kind of pressure. As Senator MCCONNELL has pointed out, the administration could, on its own initiative, impose many of the sanctions called for in this legislation.

All of us were relieved yesterday when the U.N. envoy in Burma was finally able to see Aung San Suu Kyi. According to CNN, the U.N. envoy said that she shows no sign of injury following clashes with the pro-government group. His exact words were:

> She did not have a scratch on her and was feisty as usual.

That is indeed good.

I was also glad to see the U.N. envoy calling on the members of the ASEAN to drop the organization's policy of nonintervention. He stated:

> ASEAN has to break through the straitjacket and start dealing with this issue. . . .The situation in Burma can only be changed if regional actors take their positions to act on it.

I agree. The international community has the responsibility to act together to pressure the SPDC. The time, if there ever was a time, for appeasement is over. It is always a time for democracy to flourish. Democracy has spoken. It is being held back by the junta in Burma. It is time for them to step aside.

I see the distinguished senior Senator from Kentucky in the Chamber. I again commend him for his leadership, and I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Kentucky.

Mr. MCCONNELL. I thank my good friend from Vermont for his important contribution in this debate and his kind words about how we got to this point. Ultimately, I guess we will all be judged by whether or not this is effective, I say to my friend from Vermont. For these sanctions to be truly effective, we have to lead and the rest of the world has to join us in sanctions of a regime that truly operates on a multilateral basis like those that worked in South Africa.

I ask unanimous consent that Senator CAMPBELL be added as a cosponsor to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, today I am pleased to express my strong support for the Burmese Freedom and Democracy Act of 2003. This bill sends a powerful message to the ruling military junta in Burma that their violent restrictions against freedom and democracy will not be tolerated and will have serious consequences. Their recent actions have yet again demonstrated to the world that this junta cannot be trusted.

The international community cannot allow the crimes committed by the Burmese military against the rightfully elected leader of Burma, Aung San Suu Kyi, her followers, and the Burmese people to go unpunished. So, it is my great hope that the actions that the Senate is taking today will provide the international leadership needed to put the spotlight on the Burmese military junta and make them change their ways.

I know that other countries, including the European Union, are also considering sanctions against Burma. A multilateral effort must be made so that we send the right message and so that our efforts are as effective as possible.

I am proud to be an original cosponsor of the Burmese Freedom and Democracy Act of 2003. I look forward to continuing to work with my colleagues to help bring freedom and justice to the Burmese people.

Mr. KENNEDY. Mr. President, when Aung San Suu Kyi and her supporters were so viciously assaulted last month, Burma's brutal leaders were responsible for yet another major crime against human rights. The violent repression of these democracy activists is a tragic and appalling example of the Burmese Government's shameful and continuing suppression of genuine reform.

Only a year ago, Suu Kyi had been released from one of her previous house arrests in Burma, and that arrest had lasted 19 months. This new atrocity has outraged the world once again, and stronger action by the United States and the entire international community is long overdue.

The Burmese Freedom and Democracy Act calls for stiffer economic sanctions and the immediate release of Suu Kyi and her supporters. She won the Nobel Peace Prize in 1991 for her inspiring courageous leadership. Again and again, she shows us why she deserves it. She is an inspiration to all who care about justice and human rights.

Mrs. HUTCHISON. Mr. President, I stand today in support of S. 1182, introduced by Senator MCCONNELL that I am cosponsoring. This bill answers the rising concern that democracy cannot begin to take its first promising steps in Burma. The news in the last few days clearly indicates that democracy in Burma is in serious trouble again.

On Friday, May 30, in its latest crackdown against the National League of Democracy, Burma's military regime detained Aung San Suu Kyi, a popular prodemocracy activist, and other leaders of her political party. There are reports that her car had been hit by gunfire, and conflicting reports whether she had been hurt.

The clash came in a town 400 miles north of the capital city of Rangoon. She was transported to Rangoon where she remains under house arrest. It took nearly 2 weeks of constant international pressure on Burma's military regime for a United Nation's envoy to visit her yesterday. The envoy reported she is in good spirits and had not been hurt in the clash that resulted in her detention, but Burmese officials still refuse to give a timetable for her release.

When Aung San Suu Kyi was detained, the Burmese Government closed the offices of the National League of Democracy and arrested some of its provincial leaders. They also closed all university and college campuses. The Burmese military government is acting with renegade abandon.

The detention of Aung San Suu Kyi follows a clear pattern by the ruling military over the past decade to prevent her and her political party from assuming power, despite the democratic election they won by a landslide in 1990. Barely a year ago, the Burmese Government released her from 19 months of house arrest, but only after intense international pressure.

Aung San Suu Kyi captured the world's attention as a leader in the prodemocracy movement in her country after her Government refused to let her party take office. She received the Nobel Peace Prize in 1991 for her nonviolent efforts to promote democracy. Today, the military rule in Burma has shackled Aung Sun Suu Kyi again, but the world has not lost notice.

It is time to isolate this oppressive regime and demand the release of those it is holding for doing nothing more than seeking democracy for their nation.

Senator MCCONNELL'S bill will sanction the ruling Burmese military junta, strengthen Burma's democratic forces, and support and recognize the National League of Democracy as the legitimate representative of the Burmese people. It is time to increase the pressure on those who seek to snuff out the flame of democracy in a nation whose people clearly support it.

Mr. BAUCUS. Mr. President, I rise today to echo the condemnations of the military rulers of Burma that my colleagues have so forcefully offered.

Burma should by all rights be a prosperous country. It has over 50 million people, abundant natural resources, and a population hungry for democracy.

Instead, it is an international outcast, ruled by a few military men who finance their country through drug trafficking and forced labor.

Perhaps most egregious is the failure of the military rulers to recognize the results of a free and fair election in which the Burmese people overwhelmingly chose Aung San Suu Kyi as their leader. Rather than sitting at the head of a democratic Burmese Government, she is sitting in a Burmese jail, a prisoner of the military rulers.

The existence of a democratically elected government-in-waiting makes

Burma unique, but that is not all that makes Burma unique.

Suu Kyi has consistently supported sanctions against the military rulers of Burma, and 3 years ago, the International Labor Organization, for the first time in its 82-year history, urged the world to impose sanctions against those rulers.

The bill we consider today will send a strong message to the illegitimate military regime in Burma that their recent actions in attacking Suu Kyi and her followers and imprisoning Suu Kyi are intolerable. A unanimous passage would send that signal loud and clear.

These sanctions would be most effective if the whole world joined us. Unilateral sanctions can send a strong message, but they are rarely effective. In fact, they can even end up unintentionally adding further misery to an already oppressed people while leaving their rulers unscathed.

Multilateral sanctions, on the other hand, can have a dramatic effect. I know that others are considering sanctions, including the European Union. I applaud their attention to this issue and urge them to act as we have acted.

I also urge the administration to work with our allies, particularly those in the region, to create a united front of sanctions against the military rulers of Burma. We must work toward multilateral support.

Importantly, this bill ensures that Burma will never fade from congressional minds. We will not simply impose sanctions now and then forget all about Burma.

Every year, we will vote on renewing sanctions. Every year, we will be talking about Burma and how best we can work to aid those working for democratic change in that country.

The military rulers of Burma should know that their crimes against Suu Kyi, her followers, and the Burmese people will be neither forgiven nor forgotten.

I appreciate the leadership of Senators McCONNELL and FEINSTEIN on this issue. They deserve our thanks for consistently bringing the important issue of human suffering in Burma to the attention of this body.

I would also like to thank Senator GRASSLEY. He and I worked hard to make changes to this bill that, in my view, make it better.

I urge my colleagues to pass this bill unanimously today, and I urge the House of Representatives and the President to act soon to pass this bill into law. Let's send the strongest signal possible to the illegitimate regime in Burma.

Mrs. BOXER. Mr. President, 13 years ago, Aung San Suu Kyi and her party, the National League for Democracy, won an election in Burma with 82 percent of the vote.

It was a clear sign that the Burmese people had rejected its military rulers that had been in place since 1962. Unfortunately, the people of Burma were denied its true leader when the military regime arrested Suu Kyi and thousands of her supporters.

For the past 13 years, Suu Kyi has courageously pushed for democratic reform in Burma through nonviolent means even through she spent a great deal of this time under house arrest. For her bravery and dedication to freedom and democracy, she was awarded the Nobel Peace Prize in 1991.

Last year, the military rulers of Burma released Suu Kyi from house arrest. But, apparently, the strong support Suu Kyi continues to receive from the Burmese people was too much for the ruling military regime.

On May 30, in a northern Burmese town 400 miles from Rangoon, supporters of the military regime attacked Suu Kyi's convoy and had her arrested. Suu Kyi and thousands of her supporters were reportedly injured in the attack. Scores of Suu Kyi supporters were reportedly killed.

The international community must not let this act of brutality stand. That is why I am pleased to cosponsor and support Senator McCONNELL's legislation to increase sanctions on Burma.

This legislation will impose a total import ban on Burmese goods, freeze the military regime's assets in the United States, tighten the visa ban on Burmese Government officials, and make it U.S. policy to oppose any new international loans to Burma's current leaders.

This is an important step. It is also important to make sure that the international community and regional powers do their part to provide real and sustained pressure on Burma's illegitimate rulers.

I was pleased to see that the United States has sent formal diplomatic requests to 11 nations in the region asking them to pressure the Burmese Government on the release of Suu Kyi.

I also sent a letter to the Japanese Ambassador asking his nation to put more pressure on Burma's military rules after Japan's Foreign Minister indicated that this incident would not set back democratization efforts in Burma. I know our Japanese friends will help us in this important issue of human rights and provide a stronger condemnation of the attack on Suu Kyi.

All nations, the international community, and regional organizations must take a stand against this outrage carried out by Burma's military leaders. We must do our part to support this brave woman and her followers.

Mr. LAUTENBERG. Mr. President, I rise today to support S. 1215 and to express my dismay about the current human rights situation in Burma.

On May 30, opposition leader Aung San Suu Kyi and at least 17 officials of her party were detained after a violent clash with members of the Union Solidarity Development Association, a government-created organization that has increasingly taken on paramilitary activities.

The military junta that rules Burma has stated that "only" four died in the violence.

But the National League for Democracy, Suu Kyi's party, has put the death toll at 75. Furthermore, it is likely the Burmese Government deliberately provoked the clashes to justify cracking down on opposition leaders and closing down universities.

Since May 30, the junta has kept Suu Kyi, who is the 1991 Nobel Peace Prize recipient, in an undisclosed location.

We have recently received word from a U.N. envoy that Suu Kyi is safe, and members of the Burmese Government have promised that they will release her expeditiously.

I join with my colleagues in this body, and with the American people, in demanding that the Burmese regime fulfill this promise immediately. The Government must also find those responsible for the violence and hold them accountable.

The bill we have before us today addresses the serious human rights situation in Burma. The recent violence and detainment of opposition leaders exemplify Government repression conducted on a systematic and frequent basis.

S. 1215 would punish Burma's dictators, who have a chokehold on the nation's economic life, by barring the import into the United States of goods manufactured in Burma and by freezing the U.S. assets of the regime's leading generals. These are targeted sanctions that would punish the military dictators in Burma, those who are directly responsible for suppressing human rights there.

Nearly 55 years after the Universal Declaration of Human Rights, and only weeks after fighting a war to liberate 24 million Iraqis, the U.S. Senate must remain steadfast in its resolve to preserve the freedom of peoples throughout the world.

As a strong advocate for human rights and democratic governance in Southeast Asia, I call on this body to stand up to the military junta of Burma by passing this important legislation. We need to send a message to these thugs that their brutal reign of oppression and terror does not go unnoticed and will not last.

Mr. McCONNELL. How much time do I have remaining?

The PRESIDING OFFICER. Five minutes.

Mr. McCONNELL. I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I believe I have about 5 minutes remaining.

Mr. ALEXANDER. That is correct.

Mr. McCONNELL. How much time remains on the other side?

The PRESIDING OFFICER. One minute 48 seconds.

Mr. McCONNELL. Maybe we could get some time on the other side. I yield the remainder of my time to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank my colleagues for allowing me to speak on this legislation.

The weekend before last, the military junta in Burma, ironically going by the name of the State Peace and Development Council, staged a violent clash between a government-supported militia called the United Solidarity and Development Association and activists of the National League for Democracy, the NLD.

As reported in the press, during the ensuing assault on the NLD, these thugs attacked the caravan of supporters led by Nobel Peace Prize laureate and democratic activist Aung San Suu Kyi and subsequently detained her and 19 members of the NLD, killed scores of NLD activists and, in the aftermath, closed down universities and NLD offices in the country. This is intolerable. Today I hope this institution can stand tall by roundly condemning this thieving, bantam tyranny that is taking place in Burma.

The regime claims they are detaining her, a Nobel Peace Prize winner, and NLD supporters for their safety. They accuse her of causing unrest and violence and claim she is in danger because of inflammatory speeches she has been giving on her tour of northern Burma.

I find this accusation to be absolutely ridiculous, but nevertheless, a common refrain coming from a government known for flaunting its human rights abuses which include slave labor, rape and forced prostitution, pressing children into the military, all a carefully constructed campaign to terrorize the people of Burma and consolidate the petty kleptocracy.

Aung San Suu Kyi's whereabouts are now known; the UN Secretary General's envoy Mr. Razali Ishmail is in Rangoon working to negotiate her release. I cannot bring myself to believe a word of what the SPDC says. It was reported in the press that she has a serious head injury; however, today I hear that Mr. Razali has seen her and that she is unharmed. My colleague from Kentucky and I do not believe it. And the regime has done nothing to reassure any member of the international community of their intentions. Aung San Suu Kyi is not free, Burma is not free.

In fact, this is part of a clear pattern of continually thwarting the advance of democracy and freedom in Burma—something for which Aung San Suu Kyi is the living symbol. More than that, she has recruited some of the most talented and most dedicated young people to her cause.

As reported by yesterday's Washington Post, one of those young people was a young man by the name of Toe Lwin. This young man, and many others in NLD like him, dedicated every once of his being to the cause. Bringing change to Burma and protecting Aung San Suu Kyi were the things for which he was willing to die.

This young man died trying to protect her. I am told that she sees all of these dedicated, inspiring young people as her children. I am sure that it breaks her heart to know that blood has been spilt in this effort.

We cannot seek a better tribute to this young man's life than by aiding the cause of democracy by passing this bill.

The SPDC seems like a bunch of bush-league autocrats. But what I want my colleagues to know is that this group of thugs is not just some common banana republic or petty dictatorship.

In 1988, the then-called State Law and Order Restoration Council, SLORC, took power and began its repression of pro-democracy demonstrations. After National Assembly elections in 1990, which were poised to overwhelmingly bring to power Aung San Suu Kyi and the NLD, SLORC annulled the elections, began jailing thousands of democracy activists, suppressed all political liberties, and periodically placed Aung San Suu Kyi under house arrest.

And this is just the opening line of the story. These thugs conscript thousands of their citizens, including children, into the military to serve as porters and to work on state development projects. In addition, narcotics is a big business for the ruling Burmese generals; however, there are some who will claim that we are getting full cooperation in combatting Burma's trade in heroin and amphetamines.

The most recent International Narcotics Control Strategy Report published by the Department of State reads, "Burma is the world's second largest producer of illicit opium." It continues stating ". . . no Burma Army Officer over the rank of full Colonel has ever been prosecuted for drug offenses in Burma. This fact, the prominent role in Burma of the family of notorious narcotics traffickers, and the continuance of large-scale narcotics trafficking over the years of intrusive military rule have given rise to speculation that some senior military leaders protect or are otherwise involved with narcotics traffickers."

Yet I understand there was an active effort by some embedded bureaucrats to give the junta a free pass on drug certification. We are not dealing with the boy scouts of Southeast Asia.

I think that is the wrong approach to dealing with the problem of the SPDC's brutal rule. If today's paper is accurate, then it looks as if our government is beginning to take the correct steps to respond to the situation. We have put eleven countries on notice, notably Thailand and China, for their support of Burma.

This may be the mortal blow that weakens the regime. That is why next Wednesday I have planned hearings to discuss the support for the SPDC coming from key players in the region. Some of these countries need to give us some private assurances about their willingness to forgo continued support of the regime. Others need to be put on notice for the degree and nature of support for the SPDC junta.

Singapore, North Korea, Russia, and Malaysia have all been in cooperation or given assistance in the political, economic or military spheres. I will be inviting members of the administration and the NGO community to give their knowledge of on-the-ground support for the SPDC.

This week, the Prime Minister Thaksin Shinawatra of Thailand is in town for an important visit with President Bush. It was reported that the President has already weighed in with the Prime Minister. I hope to do the same when I attend a luncheon today for the Prime Minister hosted by Senator BOND.

Because they can predict the perils of dealing with a thieving, murderous dictatorship, many companies, especially here in the U.S., are avoiding doing business with these guys altogether. Department stores, clothing manufacturers, footwear and apparel companies are all telling the junta to take a hike.

Maybe the Senate should consider telling them the same.

I note my personal experience. I was on the Thai-Burma border in late 2000. This was on a trip where we were working on the issue of trafficking in persons, sex trafficking. We found at that point in time in 2000, and it continues today, one of the highest trafficked areas in the world was between Burma and Thailand. What was taking place was the people of Burma were fleeing this totalitarian dictatorship that brutalized its own people. The people of Burma were fleeing into Thailand. On that border, then, they were fresh meat for the people who traffic in persons, primarily for sex exploration, primarily of young girls. We saw girls 11, 12, 13 years of age, even younger, being taken—abducted in some cases—and in some cases sold because the family was so poor, sold into what they thought was a condition they would serve someone in a home or work in a restaurant. Instead, they were put in a brothel in Bangkok or someplace else in Thailand to a horrific environment at this very young age, with most of them contracting AIDS, tuberculosis, and dying at a young age. This was one of the key traffic areas of the world. It was being caused by this government in Burma that cared nothing about its people.

These were the most wonderful people in the world. They were trying to eke out some mere existence. This was a government that cared absolutely nothing at all about them.

Now they have gone and arrested the Nobel Prize-winning activist, democracy activist who has done this in a peaceful way in Burma to try to bring her country forward. They have taken the next step down the road on this anarchy of horrific treatment of their own people, a complete movement against the way the rest of the world is moving.

I support this resolution. It is very timely. I applaud Senator MCCONNELL for his work. It is important we send this message that this regime is treating its own people so badly that these sorts of conditions arise. We need to be on record. The rest of the world needs to be on record to press this regime to stop persecuting its own people in such terrible ways.

I hope this will send a message to the regime in Burma and to people around the rest of the world that we will continue to bring economic and diplomatic pressure in a quick fashion against this regime in Burma. This should not wait for years to develop.

Furthermore, there are big questions many times about whether these sanctions work. Against a big economy there are legitimate questions. Against a small economy, against a situation in a country such as Burma, where it is located, I think these work very well and it sends an extraordinary message to Burma. It also sends a big message to Thailand, which is a key country for us, to get their attention that they should not repatriate the Burmese back into Burma and we should recognize the refugee status for the Burmese in Thailand, a country that wants to work closely and carefully with us.

I yield the floor.

Mr. MCCONNELL. Mr. President, I thank the Senator from Kansas for his contribution. I am not aware of any more speakers on this side.

Mr. LEAHY. Nor on this side. I am willing to yield back the remainder of the time.

Mr. MCCONNELL. Therefore, I ask unanimous consent all time be yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—97

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—1

Enzi

NOT VOTING—2

Kerry
Schumer

The bill (S. 1215), as amended, was passed, as follows:

S. 1215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Burmese Freedom and Democracy Act of 2003".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The State Peace and Development Council (SPDC) has failed to transfer power to the National League for Democracy (NLD) whose parliamentarians won an overwhelming victory in the 1990 elections in Burma.

(2) The SPDC has failed to enter into meaningful, political dialogue with the NLD and ethnic minorities and has dismissed the efforts of United Nations Special Envoy Razali bin Ismail to further such dialogue.

(3) According to the State Department's "Report to the Congress Regarding Conditions in Burma and U.S. Policy Toward Burma" dated March 28, 2003, the SPDC has become "more confrontational" in its exchanges with the NLD.

(4) On May 30, 2003, the SPDC, threatened by continued support for the NLD throughout Burma, brutally attacked NLD supporters, killed and injured scores of civilians, and arrested democracy advocate Aung San Suu Kyi and other activists.

(5) The SPDC continues egregious human rights violations against Burmese citizens, uses rape as a weapon of intimidation and torture against women, and forcibly conscripts child-soldiers for use in fighting indigenous ethnic groups.

(6) The SPDC has demonstrably failed to cooperate with the United States in stopping the flood of heroin and methamphetamines being grown, refined, manufactured, and transported in areas under the control of the SPDC serving to flood the region and much of the world with these illicit drugs.

(7) The SPDC provides safety, security, and engages in business dealings with narcotics traffickers under indictment by United States authorities, and other producers and traffickers of narcotics.

(8) The International Labor Organization (ILO), for the first time in its 82-year history, adopted in 2000, a resolution recommending that governments, employers, and workers organizations take appropriate measures to ensure that their relations with the SPDC do not abet the government-sponsored system of forced, compulsory, or slave labor in Burma, and that other international bodies reconsider any cooperation they may be engaged in with Burma and, if appropriate, cease as soon as possible any activity that could abet the practice of forced, compulsory, or slave labor.

(9) The SPDC has integrated the Burmese military and its surrogates into all facets of the economy effectively destroying any free enterprise system.

(10) Investment in Burmese companies and purchases from them serve to provide the SPDC with currency that is used to finance its instruments of terror and repression against the Burmese people.

(11) On April 15, 2003, the American Apparel and Footwear Association expressed its "strong support for a full and immediate ban on U.S. textiles, apparel and footwear imports from Burma" and called upon the United States Government to "impose an outright ban on U.S. imports" of these items until Burma demonstrates respect for basic human and labor rights of its citizens.

(12) The policy of the United States, as articulated by the President on April 24, 2003, is to officially recognize the NLD as the legitimate representative of the Burmese people as determined by the 1990 election.

SEC. 3. BAN AGAINST TRADE THAT SUPPORTS THE MILITARY REGIME OF BURMA.

(a) GENERAL BAN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in section 9, until such time as the President determines and certifies to Congress that Burma has met the conditions described in paragraph (3), no article may be imported into the United States that is produced, mined, manufactured, grown, or assembled in Burma.

(2) BAN ON IMPORTS FROM CERTAIN COMPANIES.—The import restrictions contained in paragraph (1) shall apply to, among other entities—

(A) the SPDC, any ministry of the SPDC, a member of the SPDC or an immediate family member of such member;

(B) known narcotics traffickers from Burma or an immediate family member of such narcotics trafficker;

(C) the Union of Myanmar Economics Holdings Incorporated (UMEHI) or any company in which the UMEHI has a fiduciary interest;

(D) the Myanmar Economic Corporation (MEC) or any company in which the MEC has a fiduciary interest;

(E) the Union Solidarity and Development Association (USDA); and

(F) any successor entity for the SPDC, UMEHI, MEC, or USDA.

(3) CONDITIONS DESCRIBED.—The conditions described in this paragraph are the following:

(A) The SPDC has made substantial and measurable progress to end violations of internationally recognized human rights including rape, and the Secretary of State, after consultation with the ILO Secretary General and relevant nongovernmental organizations, reports to the appropriate congressional committees that the SPDC no longer systematically violates workers rights, including the use of forced and child labor, and conscription of child-soldiers.

(B) The SPDC has made measurable and substantial progress toward implementing a democratic government including—

(i) releasing all political prisoners;

(ii) allowing freedom of speech and the press;

(iii) allowing freedom of association;

(iv) permitting the peaceful exercise of religion; and

(v) bringing to a conclusion an agreement between the SPDC and the democratic forces led by the NLD and Burma's ethnic nationalities on the transfer of power to a civilian government accountable to the Burmese people through democratic elections under the rule of law.

(C) Pursuant to the terms of section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228), Burma has not failed demonstrably to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take other effective counternarcotics measures, including the arrest and extradition of all individuals under indictment in the United States for narcotics trafficking, and concrete and measurable actions to stem the flow of illicit drug money into Burma's banking system and economic enterprises and to stop the manufacture and export of methamphetamines.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this Act, the term "appropriate congressional committees" means the Committee on Foreign Relations, the Committee on Finance, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on Ways and Means, and the Committee on Appropriations of the House of Representatives.

(b) WAIVER AUTHORITIES.—

(1) IN GENERAL.—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the appropriate congressional committees that to do so is in the vital national security interest of the United States.

(2) INTERNATIONAL OBLIGATIONS.—The President may waive any provision of this Act found to be in violation of any international obligations of the United States pursuant to any final ruling relating to Burma under the dispute settlement procedures of the World Trade Organization.

SEC. 4. FREEZING ASSETS OF THE BURMESE REGIME IN THE UNITED STATES.

Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall direct, and promulgate regulations to the same, that any United States financial institution holding funds belonging to the SPDC or the assets of those individuals who hold senior positions in the SPDC or its political arm, the Union Solidarity Development Association, shall promptly report those assets to the Office of Foreign Assets Control. The Secretary of the Treasury may take such action as may be necessary to secure such assets or funds.

SEC. 5. LOANS AT INTERNATIONAL FINANCIAL INSTITUTIONS.

The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose, and vote against the extension by such institution of any loan or financial or technical assistance to Burma until such time as the conditions described in section 3(a)(3) are met.

SEC. 6. EXPANSION OF VISA BAN.

(a) IN GENERAL.—

(1) VISA BAN.—The President is authorized to deny visas and entry to the former and present leadership of the SPDC or the Union Solidarity Development Association.

(2) UPDATES.—The Secretary of State shall coordinate on a biannual basis with representatives of the European Union to ensure that an individual who is banned from obtaining a visa by the European Union for the reasons described in paragraph (1) is also banned from receiving a visa from the United States.

(b) PUBLICATION.—The Secretary of State shall post on the Department of State's website the names of individuals whose entry into the United States is banned under subsection (a).

SEC. 7. CONDEMNATION OF THE REGIME AND DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—Congress encourages the Secretary of State to highlight the abysmal record of the SPDC to the international community and use all appropriate fora, including the Association of Southeast Asian Nations Regional Forum and Asian Nations Regional Forum, to encourage other states to restrict financial resources to the SPDC and Burmese companies while offering political recognition and support to Burma's democratic movement including the National League for Democracy and Burma's ethnic groups.

(b) UNITED STATES EMBASSY.—The United States embassy in Rangoon shall take all steps necessary to provide access of information and United States policy decisions to media organs not under the control of the ruling military regime.

SEC. 8. SUPPORT DEMOCRACY ACTIVISTS IN BURMA.

(a) IN GENERAL.—The President is authorized to use all available resources to assist Burmese democracy activists dedicated to nonviolent opposition to the regime in their efforts to promote freedom, democracy, and human rights in Burma, including a listing of constraints on such programming.

(b) REPORTS.—

(1) FIRST REPORT.—Not later than 3 months after the date of enactment of this Act, the Secretary of State shall provide the appropriate congressional committees a comprehensive report on its short- and long-term programs and activities to support democracy activists in Burma, including a list of constraints on such programming.

(2) REPORT ON RESOURCES.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall provide the appropriate congressional committees a report identifying resources that will be necessary for the reconstruction of Burma, after the SPDC is removed from power, including—

(A) the formation of democratic institutions;

(B) establishing the rule of law;

(C) establishing freedom of the press;

(D) providing for the successful reintegration of military officers and personnel into Burmese society; and

(E) providing health, educational, and economic development.

(3) REPORT ON TRADE SANCTIONS.—Not later than 90 days before the date that the import restrictions contained in section 3(a)(1) are to expire, the Secretary of State, in consultation with the United States Trade Representative and other appropriate agencies, shall submit to the appropriate congressional committees, a report on—

(A) conditions in Burma, including human rights violations, arrest and detention of democracy activists, forced and child labor, and the status of dialogue between the SPDC and the NLD and ethnic minorities;

(B) bilateral and multilateral measures undertaken by the United States Government and other governments to promote human rights and democracy in Burma; and

(C) the impact and effectiveness of the provisions of this Act in furthering the policy objectives of the United States toward Burma.

SEC. 9. DURATION OF SANCTIONS.

(a) TERMINATION BY REQUEST FROM DEMOCRATIC BURMA.—The President may terminate any provision in this Act upon the request of a democratically elected government in Burma, provided that all the conditions in section 3(a)(3) have been met.

(b) CONTINUATION OF IMPORT SANCTIONS.—

(1) EXPIRATION.—The import restrictions contained in section 3(a)(1) shall expire 1 year from the date of enactment of this Act unless renewed under paragraph (2) of this section.

(2) RESOLUTION BY CONGRESS.—The import restrictions contained in section 3(a)(1) may be renewed annually for a 1-year period if, prior to the anniversary of the date of enactment of this Act, and each year thereafter, a renewal resolution is enacted into law in accordance with subsection (c).

(c) RENEWAL RESOLUTIONS.—

(1) IN GENERAL.—For purposes of this section, the term "renewal resolution" means a joint resolution of the 2 Houses of Congress, the sole matter after the resolving clause of which is as follows: "That Congress approves the renewal of the import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003."

(2) PROCEDURES.—

(A) IN GENERAL.—A renewal resolution—

(i) may be introduced in either House of Congress by any member of such House at any time within the 90-day period before the expiration of the import restrictions contained in section 3(a)(1); and

(ii) the provisions of subparagraph (B) shall apply.

(B) EXPEDITED CONSIDERATION.—The provisions of section 152 (b), (c), (d), (e), and (f) of the Trade Act of 1974 (19 U.S.C. 2192 (b), (c), (d), (e), and (f)) apply to a renewal resolution under this Act as if such resolution were a resolution described in section 152(a) of the Trade Act of 1974.

Mr. SANTORUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY POLICY ACT OF 2003—Continued

Mr. REID. Mr. President, in speaking to the managers of the bill and the interested parties in this matter, the thought is—and this is not in the way of a unanimous consent request but just to inform Members what we are doing—the Senator from Florida will offer his amendment. He will speak on it tonight. Perhaps the other Senator from Florida, Mr. NELSON, will speak on his amendment. There are a number of Senators who have requested time in the morning.

The manager of the bill has suggested—and we think it would be OK on our side—that tomorrow we would have an hour on our side and the majority would have 30 minutes on their side, and then the two leaders can decide if we vote at that time or sometime later in the day. Staff is putting that in the form of a unanimous consent request, and perhaps we can enter into that sometime later tonight.

Mr. DOMENICI. We are looking for a unanimous consent request that says in the morning 1 additional hour on that side, a half hour on our side on the Graham amendment, and afterwards there will be a vote. That is being prepared. In the meantime, the Graham amendment is going to be offered for discussion this evening.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 884

Mr. GRAHAM of Florida. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Florida [Mr. GRAHAM], for himself, Mrs. FEINSTEIN, Ms. CANTWELL, Mr. WYDEN, Mr. NELSON of Florida, Mrs. BOXER, Mr. LAUTENBERG, Mr. EDWARDS, Mr. KERRY, Mrs. MURRAY, Mr. LIEBERMAN, Mr. AKAKA, Mr. LEAHY, Ms. SNOWE, Mr. DODD, Mr. CHAFEE, Mrs. DOLE, Mr. KENNEDY, Mr. CORZINE, and Ms. COLLINS, proposes an amendment numbered 884.

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To strike the provision requiring the Secretary of the Interior to conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the outer Continental Shelf)
>
> Beginning on page 23, strike line 20 and all that follows through page 25, line 8.

Mr. GRAHAM of Florida. Mr. President, the amendment I have just offered will strike section 105 from the legislation we are currently considering.

This amendment is cosponsored by a long and diverse list of Senators: Senators FEINSTEIN, DOLE, CANTWELL, WYDEN, NELSON of Florida, BOXER, LAUTENBERG, EDWARDS, KERRY, MURRAY, LIEBERMAN, AKAKA, LEAHY, SNOWE, DODD, CHAFEE, KENNEDY, CORZINE, and COLLINS.

In this legislation, section 105 appears to be benign. It calls for an inventory of Outer Continental Shelf oil and gas resources that may be in the ownership of the Federal Government. However, there are some insidious objectives and means to achieve those objectives in this legislation.

In my judgment, section 105 is nothing more than a prelude to a direct attack on the moratorium which currently exists in the Gulf of Mexico, off New England, the Pacific Northwest, and California, and to do so in a way that will avoid a full and public debate.

The OCS inventory, which is suggested in section 105, is neither benign nor innocuous. It will provide for a totally duplicative survey to one that is already conducted by the same office that would be directed to do the study under section 105, which is the U.S. Department of the Interior Minerals Management Service. This is the front page of the latest of the 5-year reports, which the Mineral Management Service does on U.S. resources and reserves in the Outer Continental Shelf. As you will see, this latest assessment was done in the year 2000. So it has been only 3 years since we had a comprehensive analysis.

In light of that, why would we oppose this new study? We would oppose the new study because we think it is duplicative and redundant. We oppose it because it would allow certain techniques, which have previously not been used but which have been shown to be detrimental to the resources of the Outer Continental Shelf, including the fish resources, to be utilized. But, in my judgment, the most insidious aspect is a provision in section 105 which states that after the inventory is completed it should be used as the purpose of analysis of the Outer Continental Shelf. Let me read to you subparagraph 5 under section 105:

> The inventory and analysis shall identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they may affect domestic supply, such as moratoria, lease terms and conditions, operational stipulations and requirements, approval delays by the Federal Government and coastal States, and local zoning restrictions on onshore processing facilities, and pipeline landings.

I think that language is clearly intended to take the results of this newly mandated inventory and use them as the basis, focusing exclusively on the issue of affecting domestic supply, to build the case that the moratoria, which California and other coastal States have had now for 20 years, would be undermined.

That moratoria has been voted on by Congress on many occasions in recognition of the fact that, first, there are other interests involved beyond maximizing the exploitation of our Continental Shelf oil and gas resources. There are issues of the environment and there are issues of the economy, which are dependent upon the environment—particularly, the purity of the water and the security of the coastal areas.

Second is the fact that it does not take into consideration the question of we want to have a domestic supply of oil and gas, but for what time period? If we were to initiate a policy that says we will drain America first, we can rest assured that our grandchildren, if not our children, will live in an America that will be totally dependent upon foreign petroleum sources.

The estimate is that, as of today, we have known reserves of petroleum which, at current levels of utilization, will last approximately 50 years. We have much longer reserves of natural gas, stretching into the 200-year-plus estimate.

I think it is eminently wise public policy to say we will try to husband our domestic resources as long as possible to delay the date when we will be fully dependent upon foreign resources. This practice of providing moratoria on certain of our resources plays a significant positive role in that policy of attempting to stretch our domestic resources.

As the list of cosponsors indicates, this is by no means a partisan issue. The moratoria have broad bipartisan support, and have had it for over 20 years. This is also not an issue that is bicameral. The House of Representatives has already adopted an Energy bill, stripping out language that was virtually verbatim to that which is in 105 of the Senate bill.

Our desire is to have the Senate take the same position that our House colleagues have already taken, so when this issue is taken up in conference, the issue of an inventory that has as its objective undermining the moratoria will not be a conferenceable item.

I believe our colleagues in the House have shown wisdom in the course of action they have taken, and I ask my Senate colleagues to show the same wisdom by eliminating section 105. I urge my colleagues to vote in favor of this amendment, which will adopt or reinforce a policy where we look at multiple issues in the management of our coastal areas, including the issue of exploitation of the resources but also the potential effect of that exploitation on other economic and environmental considerations; that we also recognize the valid function of those adjacent State and local communities and how this issue would be resolved, and the legitimacy of the Federal Government's Coastal Zone Management Act as the means by which those interests would be expressed. For all those reasons, I urge my colleagues to adopt this amendment and strike section 105 from this bill, and then with the joy that we will know that we have taken a step to protect some of our most critical ocean resources, move on to the consideration of other provisions in this legislation.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I understand Senator DOLE desires to speak on the same side. I don't intend to speak but for a moment. I will do my speaking and other members of the committee will be welcome to do so in the morning. I will take a couple of minutes and then yield to them for the evening.

As you well know, as you are a member of the energy committee, not too long ago the Senate of the United States said to this committee of Senators: Give us an energy policy for America's future, prepare a blueprint, a program, a policy, a set of activities that tells us what we ought to be doing for America's economic future, for our jobs, for our prosperity, as it relates to energy. We thought that if we did nothing else, perhaps that little mission meant we ought to find out what we have. What does America own?

We thought about it for a while and we said that is pretty simple. That is exactly what they would like us to do. They would like us to find out—even if we don't know what to do about it—what we have. What do we own? So a simple proposition was put in here, using the most modern techniques, disturbing nothing, to go out and find out how much oil and gas is in the Outer Continental Shelf of the United States—the property marked by my good friend from Florida in green on his chart—that we have already, as a nation, said based on today's circumstances we don't want to touch.

Does that mean we should not know what is there? The distinguished Senator from Florida says: We do know what is there. No, we do not know what is there because the most modern techniques are clearly changing what we know about what we own and what is underground. We do not have one of those most modern evaluations that has been put over that property that is within our control that could be used for America if we ever needed it and, I would even say, in a crisis.

As an ultimate reserve, should we not know what is there? That is the issue. It is, do we want to adopt an ostrich policy or do we want to adopt a policy of being on the surface, above board with our eyes open and know precisely what we are looking at? That is it. You can read the language. We will read it very precisely.

It matters not too much to this Senator from New Mexico what this Senate decides to do about this issue. It matters a lot to me as chairman of the Committee on Energy that I do what I was asked to do, and I thought I was asked to ask the committee members: Would you like to spend some American tax dollars to find out what we own so that it will be there in the inventory on the rack, so to speak, in the event something happened to America?

I thought the answer to that question was yes. We wrote it up, and we put the issue to the members. One member is sitting here, the new Senator from Tennessee. There was a rather large bipartisan vote on a simple proposition. Of course we want to know. Why would we want to stick our head in the sand and say we know there is oil there, we know there is gas there, but we do not want to use the most modern techniques to tell America what is there? As is going to happen tonight and tomorrow, there will be all this fear aroused that we are going to harm the sea line, the coastal shore, the beauty of America that is alongside these shores.

This says nothing about doing that, and everybody knows that we are not saying do anything whatsoever to these shorelines. What we are saying is, is it not, one, the responsibility of the committee to suggest to the Congress that we find out? I think the answer to that is unequivocal. Yes, we sure should.

Second, since you should have and you did, should the Senate now turn around and say you should have, you did, but we want to take it out, we want to throw it away, and we do not want to do it? That is the issue.

I sense that there is going to be enough fear established that people are going to be voting as if we are destroying something. Quite the contrary, I think we are doing something positive. I do not think we are destroying a thing. We are saying to folks: We have a lot of oil and gas out there. If the situation really gets bad—and what that might be, I do not know; none of us in this room knows—but if things got bad enough, there it is, and we know it is there, and it has been measured with the most modern-day techniques which are, indeed, not only marvels but they are marvelous in terms of what they will tell us about the capacity for the future.

Unless my friend from Tennessee wants to say a few words, I do not intend to spend any more time tonight. We will split our half hour tomorrow among three or four Senators from the committee in further response to the amendment that our distinguished friend from Florida has brought to the floor in a bipartisan manner with a lot of Senators.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from North Carolina.

Mrs. DOLE. Mr. President, I rise in favor of the Graham amendment to S. 14, the omnibus Energy bill. My State like so many others, is going through a painful economic transition. We have lost tens of thousands of jobs in textiles and the furniture industry, family farms are going out of business, and many of these traditional manufacturing jobs have been in rural areas, where there are fewer jobs and residents are already struggling to make ends meet.

In 1999, North Carolina had the 12th lowest unemployment rate in the United States. By December 2001, the State had fallen to 46th—from 12th to 46th. That same year, according to the Rural Center, North Carolina companies announced 63,222 layoffs. Our State lost more manufacturing jobs between 1997 and the year 2000 than any State except New York. Entire communities have been uprooted by this crisis. According to the Employment Security Commission of North Carolina, the jobless rate rose from 6 percent in March to 6.4 percent just one month later.

So you can see, Mr. President, North Carolina is hurting. But one area that remains strong is tourism—one of the State's largest industries. Each year, travelers venture into our State to enjoy the mountains of Asheville, the Southern-city charm of Charlotte, the beaches of the Outer Banks, and many other State treasures.

Last year, there were 44.4 million visitors to North Carolina, ranking it the sixth most popular destination behind California, Florida, Texas, Pennsylvania and New York. In fact, last year domestic travelers spent nearly $12 billion across the State, generating $2.2 billion in tax receipts.

The industry remains strong, despite the war, and the Nation's economic concerns. In fact, while the tourism volume nationwide increased by less than 1 percent last year, North Carolina saw a 3 percent increase in visitors.

Put simply, tourism plays a vital role in North Carolina's economy, but offshore drilling could drastically impact these numbers.

Communities along the Outer Banks have spoken out time and again against offshore drilling because of the impact it could have on the economy and the environment—and I agree with them.

I thank my good friend, Chairman DOMENICI, for his hard work and dedication to produce a comprehensive energy bill, one that will help our country end its dependency on foreign oil. While I fully support Senator DOMENICI's efforts, I must disagree with regard to section 105.

Section 105 in the Senate bill has been presented as a study of the oil and gas reserves in the Outer Continental Shelf, but the effect of this section would be to open up scientific *exploration*. The final bill that passed the House of Representatives, as we have heard, rejects language that would open up scientific exploration of the Outer Continental Shelf.

The waters off the coasts of North Carolina have been placed off limits to further leasing under the current moratoria. President Bush extended the moratorium and Secretary Norton has been very clear about the administration's intention to uphold it. Congress and the Administration in the past have agreed with States in the moratoria areas that drilling would pose too many risks to their economies and shores.

Why then, in these tough economic times, should States such as North Carolina be asked to bear the risk of exploration for resources that are under moratoria and not even accessible for development? Section 105 hints to a backsliding from that protection by allowing intrusive activities into moratoria areas, through a study that is not needed.

The Minerals Management Service already compiles estimates of Outer Continental Shelf oil and gas resources every 5 years. In fact, the last one was completed in the year 2000, and includes estimates of undiscovered conventionally and economically recoverable oil and natural gas. We already know, for instance, that 80 percent of the Nation's undiscovered, economically recoverable Outer Continental Shelf gas is located in the Central and Western part of the Gulf of Mexico, which is currently not subject to the moratorium.

So it would appear that section 105 of this energy bill is duplicative and unnecessary.

In fact, the only logical explanation for new data under section 105 would be for future exploration activity like drilling, which is inconsistent with the current moratorium. We have a national crisis. Now, more than ever, we must work to end our dependence on foreign oil sources. It is vital that this Nation boost its domestic oil production, but we cannot do so by ignoring the wishes of coastal communities in North Carolina and other States that oppose drilling.

Our local people, not the Federal Government, should decide what is best for their areas. The Federal Government should not take action that will further hurt our already struggling State economies. That is why I urge support for the Graham amendment, which would continue to protect those areas under moratorium. We owe it to our States. We owe it to our local communities.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask unanimous consent that when the Senate resumes consideration of the bill tomorrow morning at 9:30, there then be 90 minutes of debate remaining prior to the vote in relation to the pending Graham amendment; provided further that Senator GRAHAM or his designee be in control of 60 minutes and the chairman in control of the remaining 30 minutes. Further, I ask consent that following the use of that time, the Senate proceed to a vote in relation to the amendment, with no amendments in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection? The Senator from Florida.

Mr. GRAHAM of Florida. The Senator from New Mexico said "in relation to." That would not preclude the possibility of an up-or-down vote as opposed to a tabling motion?

Mr. DOMENICI. Either/or.

The PRESIDING OFFICER. That is correct. It would be either/or.

Without objection, it is so ordered.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise this evening to support the amendment offered by the Senator from Florida and commend him on his leadership on this issue. The amendment that is before us tonight will prevent exploration in offshore areas that are currently protected under law. The truth is, we should not need a special amendment to protect sensitive offshore areas that are currently off limits to energy drilling and exploration, but today we find this amendment is needed because the underlying Energy Bill would essentially roll back a longstanding ban on exploration that protects our coastal areas.

This Energy Bill calls for the Department of Interior to inventory oil and gas resources. It does not rule out exploration or drilling in any part of the Outer Continental Shelf and it does not prevent exploration or drilling in areas that are currently protected.

Some may say they just want to allow an inventory of oil and gas off our coasts, but taking an inventory of what lies beneath the sea floor is not like taking an inventory of what is in the kitchen pantry. Looking for oil and gas off our coasts is an invasive process. It carries risks. It harms marine life and it can create serious environmental damage.

If it was just taking an inventory, it would be one set of environmental concerns, but I think we all know what is really going on and it is much more than inventory. This is not just about seeing what is out there. It is really about preparing to drill for oil and gas in areas that have been protected for years, for decades actually, by law.

Let's be clear. Oil companies are not going to spend millions of dollars to inventory our coasts just for the fun of it. They want to begin drilling in areas that are protected, and this Energy Bill would give them the start they want.

I am reminded of that analogy about how if a camel gets its nose under the tent, pretty soon the whole camel will follow. Well, if we do not want the camel in our tent, stop it when it tries to poke its nose in.

Once those oil companies get their equipment down there, they will be steps away from setting up oil rigs and creating a host of dangers on our shores. If we do not want oil companies drilling off our shores, then we cannot let them get started with these so-called inventory projects.

There are good reasons why over the years Congress and past Presidents have agreed to protect parts of our Outer Continental Shelf. In fact, that moratorium that today protects the coast of my State of Washington was passed by Congress in 1990 and protected by an executive order by the first President Bush. Today, the current Bush administration wants to repeal that protection and pave the way for drilling off our coasts.

Those who want to explore for energy off our coasts would like us to believe it is harmless, but it is not. When we consider offshore oil and gas development, we have to be concerned about oil spills and the release of other toxic materials. There are other environmental effects that pose dangers to marine mammal populations, fish populations, and air quality. Seismic testing techniques used by the offshore oil and gas industry can kill marine animals. This is not harmless.

If this administration had a better record on the environment, I might be inclined to give them more leeway, but this administration has shown an eagerness to roll back environmental protections on so many issues that they do not have much credibility when they say they want to just look for oil off our coasts.

Last month, the Bush administration took another disturbing step to undermine our environmental protection related to oil and gas drilling. In fact, on May 26, 2003, the New York Times reported that the administration proposed to defer for 2 years requirements for permits under the Clean Water Act for certain activities of oil and gas producers to prevent contaminated runoff. This is a bad precedent and a step in the wrong direction for protecting our environment. There is no good reason for oil and gas developers to be exempt from requirements that are imposed on other developers to prevent contaminated runoff.

So not only do they want to let the big oil and gas companies start looking for oil in areas that have been protected for decades, this Bush administration is going to free those oil and gas companies from the rules everyone else has to follow to protect contaminated runoff. Not on my watch. We know there is a better way. Congress should be seeking long-term solutions that make sense for energy development and that balance environmental protection and economic growth. The proposal to drill in areas of the OCS that are currently under moratoria falls far short of the balanced approach we need. I urge my colleagues to support this amendment to stop an attack on decades of protection for our sensitive coastal areas.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I rise to support the Graham amendment. I am a cosponsor. BOB GRAHAM and I have been battling on the question of oil and gas drilling off the coast of Florida, and it is very clear to us, as we have waged this battle over the course of the last 25 years in public office, that the people of Florida do not want it for environmental reasons but also for business reasons; that Florida's $50 billion tourism industry in large part is because we have beautiful, unspoiled beaches.

I know what the people in my State of Florida want. They do not want oil drilling off their shore. I ask the Senator from Washington what is the thinking of her people in her State of Washington?

Mrs. MURRAY. Mr. President, I say to my colleague from Florida, I have listened to his battles for many years as he has fought to protect the beautiful shores of Florida. I have seen the shores of Florida, and they are gorgeous. He is right, tourism is a critical part of the economy of his State of Florida, as it is to mine. People come to Washington State to see our beautiful mountains, our beautiful forests, and to fish. The last thing they want to see is oil drilling off our coasts.

This underlying bill that allows an inventory is simply a step for the oil companies to then get in and drill. My State would be absolutely appalled to see that happen.

Mr. NELSON of Florida. What do you think about the rest of the Pacific coast States, Oregon and California? What would the people think?

Mrs. MURRAY. As the Senator from Florida knows well, for all who live on coastal States, our economies are struggling today; the high-tech industry is struggling; Boeing has lost thousands of jobs.

There is still the beautiful environment that people come to visit. The last thing anyone wants in our rain forests, whether in Oregon or Washington, or the beaches of California, the last thing they want to see is an oil rig or, worse, an oilspill in the areas we care so much about.

Mr. NELSON of Florida. I talked at length with the senior Senator from North Carolina earlier today. Senator EDWARDS is quite concerned about the oil drilling off of the Outer Banks.

The people directly affected are crying out. There are States that do not mind drilling off the coast—the State of Louisiana, the State of Texas. There are about 2,000 wells in the Gulf of Mexico and they are primarily off of Texas and Louisiana, some off of Alabama, some off of Mississippi, all of those States whose Senators do not seem to mind because it must reflect their people's feeling that there be oil drilling. In the Gulf of Mexico, the geology shows that is where the oil and gas is, in the western gulf, in the central gulf, but not in the eastern gulf.

The people of Florida simply do not think it is worth the tradeoff of spoiling the environment and spoiling a $50 billion tourism industry to take the risk where the geology shows there is very little likelihood of oil, to take the risk that a well will be hit, that an oilspill will occur.

There is another reason. We have tremendous military facilities in the State of Washington. What we are finding is with so many of the military facilities on the gulf coast now that the naval facility on Vieques Island in Puerto Rico is being closed down, some of that training for the U.S. Navy is being shifted to the gulf coast of Florida, not necessarily on the land.

Because of computers and virtual training, they can now image what would be the target zone, and it can be out in the middle of the Gulf of Mexico. That helps in preparation of our Navy for its proper training, but will that Navy be able to train if there are oil rigs in the eastern Gulf of Mexico? The answer is no.

I ask the Senator from Washington, is there any similar military activity in the Senator's State? I certainly know there is in California where they are launching from Vandenberg Air Force Base. Is there such a facility?

Mrs. MURRAY. The Senator from Florida makes an excellent point. Our military needs to be ready for whatever conflicts come to them on the war on terror. They need to be out there training. Certainly at Makah Air Force Base and the other bases we have, they need to know they have a place they can train and not be interfered with.

I add, as the Senator from Florida knows, there are other economies that we count on as well. Fishing is a tremendous economy and part of our economy base in the State of Washington. They would not be excited about having oil rigs out there where people are fishing, as well as tourism, but certainly the military is an important part of my State. We want to make sure they have the space they need for training. The Senator makes an excellent point.

Mr. NELSON of Florida. I have to tell a little story to the Senator from Washington before she leaves. In the middle of the 1980s I was the junior Congressman from the east coast of the State of Florida. There was a Secretary of the Interior named James Watt who was absolutely intent on drilling. They offered for lease off the east coast of the United States leases for sale all the way from North Carolina south to Fort Pierce, FL.

Perhaps I was green enough—I didn't know any better—to take him on. I took him on, as a junior Congressman. I was getting absolutely nowhere. We beat it back one year. They left it alone the next year and came back with a new Secretary of the Interior the third year and they were intent they were going to ram through those leases. The only way I was able to beat it was I finally got the Department of Defense and NASA to own up to the fact and to press that on the administration back in the mid-1980s that you cannot be dropping the solid rocket boosters off of the space shuttle with oil rigs down there and you cannot be dropping off the first stage, after it is spent, on the expendable launch vehicles coming out of Cape Canaveral with oil rigs out there. That is the only way we beat it back in the mid-1980s.

I thought they were going to leave us alone. Two years ago, when an important appointment was up in the Department of the Interior, I went to the Secretary of the Interior, Secretary Norton, and she assured me that in the eastern Gulf of Mexico there would be no attempt at oil drilling for the next 5 years. That was a commitment made to me with regard to an appointment and the Senate's consideration. What is in this bill does not break her commitment, but it clearly starts to imply that what is being done is the intention of drilling.

I hope we are going to be able to muster the votes with Senators who do not have coasts, with help from Senators such as the distinguished Senator in the chair, listening to this debate. With their help, we may just have the votes.

When Senator GRAHAM and I tried 2 years ago just with regard to the Gulf of Mexico off the State of Florida to keep the moratorium there, we did not get but 35 votes for our amendment, so the amendment did not pass. It was later that I got that commitment from Secretary of the Interior Gale Norton.

But this is portending something else. We are going to fight. I hope we have the votes.

Mrs. MURRAY. Mr. President, I say to my colleague from Florida, thank you on behalf of all who care about this issue for your longtime battle and diligence. Every time you are right, they keep coming back at you, but you keep winning.

I agree, there are a number of Senators on this floor who are not from coastal States but they should be joining because certainly they all come to our States to see the beautiful coastlines, whether it is Florida, Washington State, California, or Maine. They want to preserve that, too. They want to take their grandchildren and great-grandchildren, some day, to your State. I certainly hope they want to come to ours, too. If we devastate the environment, the tourism will not be there.

I thank my colleague for working on this issue.

Mr. NELSON of Florida. I am not a junior Congressman anymore but I am a junior Senator. Although there have been some birthdays between the time I was a junior Senator and a junior Congressman, I still have a lot of fight in me.

I think we have a decent shot of winning this amendment and this vote will take place tomorrow.

There is no need repeating a number of the things that have been said. Let me summarize, on first glance, section 105 of this bill seems reasonable. Do we know what the resources are so we can prepare an assessment? Upon further reflection, upon reading the language, it becomes unnecessary and unreasonable when you recognize the Secretary of the Interior has conducted an inventory just 2 years ago. On the plan there is going to be an inventory that is going to be conducted in 2005, just 2 years from now. Why should the U.S. Congress and the Secretary of the Interior go about duplicating the efforts that had just been done and were going to be done? We know most of the Outer Continental Shelf is under a moratorium. Almost all of those areas, under this plan, of section 105 of the bill would be required to be reassessed under the moratorium. So I am just not sure. I kind of smell something fishy here.

Why does the Congress want to waste taxpayer money on a duplicative inventory of areas off limits to oil and gas exploration?

The House of Representatives has already realized the importance of this amendment. They passed it with a voice vote in an overwhelming show of bipartisan support. So if we can pass this amendment of Senator GRAHAM, this issue is over and done with because of an identical provision in the bill that has passed the House.

We already know that many coastal States exercise their rights under the Coastal Zone Management Act because oil and gas exploration plans that have been proposed would threaten those States. In their own efforts to control the destiny of their own shores and their own environment, they have exercised their rights under the Coastal Zone Management Act not to have oil drilling.

Those who oppose this amendment, when we hear the final debate tomorrow, are going to argue that it is the only section in the Energy bill that addresses the volatility of natural gas prices. But how does it do that? We already know where natural gas is from. We know where it is from the 2000 assessment. We already know the President and the Congress have acted to prevent leasing of oil and gas drilling, so what is the true purpose? What I smell is a kind of fishy smell: what is the true purpose? You have to come to the conclusion it is to roll back the moratorium on oil and gas drilling in the Outer Continental Shelf. What is the true purpose? It is to weaken the States' rights under the Coastal Zone Management Act.

For those reasons, I urge my colleagues to support this Graham amendment and strike this unnecessary language from the Energy bill.

Mr. President, I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise to speak on behalf of Senator GRAHAM's amendment.

This amendment, which I cosponsor, would strike language in the Energy Policy Act that would authorize an inventory of the oil and gas resources on the Outer Continental Shelf.

This amendment mirrors a bill that Senator CORZINE and I introduced last month. It would protect the sensitive marine areas off the coast of New Jersey and of other coastal States.

For over 20 years both Democratic and Republican administrations have respected the moratorium on leasing and preleasing activities on Outer Continental Shelf.

In his 2004 budget request, President Bush also honored the wishes of the coastal States.

His request included the traditional moratorium language—and so should the Energy bill before us.

The people of New Jersey, and the residents of all coastal States, do not want oil and gas rigs marring their treasured beaches and fishing grounds.

Such drilling poses serious threats to our environment and to our economy, and so do the technologies used to gather data.

The seismic surveys authorized in the Energy bill produce explosive pulses which have produced documented organ damage in marine species and have been associated with fatal whale strandings.

Dart core sampling, also authorized in the bill, is known to cause the destruction of fish habitat on the sea floor and to smother seabed marine life with silt.

Is all of this damage and destruction justified—just to gather data? I don't think it is.

Additionally, in New Jersey our economy depends heavily on shoreline tourism.

Tourism in my State is a 10-billion-dollar-a-year industry and provides employment for thousands of people.

We simply cannot afford damage to our shorelines, nor to the marine life which inhabits our coastal waters.

What the Energy bill proposes is a step in the wrong direction. What purpose would be served by performing an inventory of oil and natural gas resources along the Outer Continental Shelf, if there is no intention of drilling in these regions?

This provision completely undercuts the language which Congress has approved for years—and it clearly undercuts the stated wishes of the coastal States that would incur the greatest damage.

Our country needs new sources of energy. And there are many energy sources vastly underutilized in America.

We have barely scratched the surface of our country's potential for developing renewable energy.

The enormous energy conservation and efficiency savings that are possible are largely untapped. Too often these measures are voluntary rather than a part of the way we do business.

If we better utilize these untapped sources of domestic energy, perhaps Congress won't be tempted to sweep aside the will of the people of New Jersey and the will of the citizens of other coastal States.

We must continue, as we historically have, to recognize the right of States to govern their own shorelines.

I urge my colleagues to vote for Senator GRAHAM's amendment.

Mr. KYL. Mr. President, what kind of energy policy does this country need? There is little argument about the need for affordable, reliable energy from diverse sources. The bill before us seeks to achieve that laudable goal in the worst possible manner: on the back of the American taxpayer. This bill subsidizes two types of energy. That which few consumers would be willing to pay for and that which companies would produce and consumers would pay for in the absence of subsidies. I ask my colleagues if this makes any sense?

Let's let the competitive market determine our energy future. Let's let the market, with millions of individual consumers pursuing their individual energy needs, based on their own unique situations, steer this country's energy economy. Let us not dictate to consumers and taxpayers how they should spend their energy dollars.

Recently this body voted on a tax bill that allows taxpayers to keep more of their hard-earned money in an attempt to jump-start this economy. The tax cut was passed on the premise that consumers and businesses are better suited than government to make sound economic decisions that translate into economic growth. That same premise applies to energy. Yet the Energy bill under debate tosses that premise out the window. Suddenly the consumers and businesses of this country, which we are trusting to make sound economic decisions to put the whole economy back on track, cannot be trusted to make sound energy decisions. Instead, we are dictating their energy choices for them. No body of persons, not even a panel of 100 of the world's most brilliant economists, let alone the Senate of the United States, has the knowledge, wisdom or foresight to make such decisions rationally for millions of American citizens.

Let's take a look at what this bill would do. It mandates greater use of ethanol, a fuel that is already heavily subsidized. Without subsidies and mandates, ethanol would virtually cease to exist as a motor fuel. It subsidizes renewable energies such as wind power, which again would not survive in the competitive marketplace due to the high cost and low value of the electricity produced. It subsidizes coal, already the most plentiful and affordable energy source in this country. Coal power will continue to thrive in this country whether subsidized or not, as long as we don't regulate it out of existence, yet we are providing subsidies for coal power. This bill subsidizes nuclear power, which would probably be competitive were it not for the onerous regulatory restrictions that needlessly burden that industry. The list goes on.

Let me suggest that the greatest obstacle to affordable and reliable energy in this country is the U.S. Government. Before this body looks outward for solutions to our energy problems, it should look inward. It should identify those laws, regulations, and other Government impediments that prevents this country's citizens and businesses from making sound energy decisions. We encumber the U.S. energy economy with all sorts of onerous and often unneeded and outmoded rules that raise the cost of energy and distort energy markets. Instead of fixing this state of affairs, this bill compounds these errors by further raising the cost of energy to American taxpayers and further distorting energy markets through subsidies.

Mr. KERRY. Mr. President, I rise today to speak to an amendment to fix a funding gap that exists for meritorious Women's Business Centers that are graduating from the first stage of the program and entering the sustainability portion.

I would like to first thank Senator SNOWE, Chair of the Committee on Small Business and Entrepreneurship, for working very closely with me on this issue. Her leadership and support has been invaluable. I would also like to thank Senator BINGAMAN for his support on this issue. As a long-time ally of the Women's Business Centers and all SBA programs, his assistance on this amendment has been very helpful. Last, I want to express my gratitude to Senators HARKIN, EDWARDS, CANTWELL, ENZI and DOMENICI, as well as Congressman MCINTYRE, for their backing and for their hard work to resolve this issue.

As I have said on more than one occasion, women business owners do not get the recognition they deserve for their contribution to our economy: Eighteen million Americans would be without jobs today if it weren't for these entrepreneurs who had the courage and the vision to strike out on their own. For 18 years, as a member of the Senate Committee on Small Business and Entrepreneurship, I have worked to increase the opportunities for these enterprising women in a variety of ways, leading to greater earning power, financial independence, and asset accumulation. These are more than words. For these women, it means having a bank account, buying a home, sending their children to college, calling the shots.

And helping them at every step are the Women's Business Centers. In 2002 alone, these centers helped 85,000 women with the business counseling and assistance they likely could not find anywhere else. Cutting funding for any centers would be harmful to the centers, to the women they serve, to their States, and to the national economy.

The funding gap for Women's Business Centers in sustainability exists because the Small Business Administration has chosen to short-change existing, proven centers in order to open new, unproven ones. By incorrectly interpreting the funding formula set up in the Women's Business Centers program, the SBA has made way for new centers at the expense of those that are already established. This is both bad policy and contrary to congressional intent.

As the author of the Women's Business Centers Sustainability Act of 1999, I can tell you that when the Women's Business Centers Sustainability Act of 1999 was signed into law, it was Congress's intent to protect the established and successful infrastructure of worthy, performing centers. The law was designed to allow all graduating Women's Business Centers that meet certain SBA standards to receive continued funding under sustainability grants, while still allowing for new centers—but not by penalizing those that have already demonstrated their worth.

Currently there are 81 Women's Business Centers in 48 States. Forty-six of these are in the initial program, 29 are already in sustainability, and 6 more are graduating or have graduated from the initial program and are now applying for sustainability grants. Because of these potentially 6 new sustainability centers—from Georgia, Iowa, Illinois, North Carolina, Texas, and Washington State—and because the SBA is incorrectly interpreting the funding formula for sustainability grants in order to open new centers, the amount of funds reserved for Women's Business Centers in sustainability must be increased from 30.2 percent to 36 percent.

This amendment does just that. It directs the SBA to reserve 36 percent of the appropriated funds for the sustainability portion of the Women's Business Centers program—even though the SBA already has the authority on its own to increase the reserve—thereby protecting the established Women's Business Centers form almost certain grant funding cuts and still providing enough funds to open six or more new centers across the country.

I want to again express my sincere and steadfast support for the growing community of women entrepreneurs across the Nation and for the invaluable programs through which the SBA provides women business owners with the tools they need to succeed. As a long-time advocate for women entrepreneurs and SBA's programs, my record in support of the SBA's women's programs and for women business owners speaks for itself. I have continually fought for increased funding for the women's programs at the SBA, for sustaining and expanding the women's business centers, and for giving women entrepreneurs their deserved representation within the Federal procurement process, to name a few. With respect to laws assisting women-owned businesses, I have been proud to either introduce the underlying legislation or strongly advocate to ensure their passage and adequate funding.

This amendment is necessary to continue the good work of SBA's Women's Business Center network, and I urge all of my colleagues to support it.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EULOGY OF DAVE DEBUSSCHERE

Mr. REID. Mr. President, I read in a number of national publications brief excerpts of the eulogy that former Senator Bill Bradley gave at the funeral of Dave Debusschere. The paragraphs I saw were really moving.

I was able to obtain a copy of the full eulogy that Senator Bradley gave on May 19 at St. Joseph's Church in Garden City, NY. It is really, truly, a moving eulogy. It outlines the context and the relationship of Dave Debusschere and Bill Bradley and other members of the New York Knicks team, but especially those two who were roommates during many years of their travels around the country playing championship basketball. It explains their personal relationship, as Bill Bradley can do. He explains also what a team is all about. We, both in the majority and minority, are always working with our team. I recommend this as reading for everyone.

I ask unanimous consent that the full text of the speech given by Bill Bradley at the funeral of Dave Debusschere be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EULOGY OF DAVE DEBUSSCHERE

Geri, Michelle, Peter, Dennis, DeBusschere sisters and family.

Today, Willis asked me to speak for him, for Clyde, Earl and all the Knicks who loved Dave. The moment I heard the news last Wednesday, it was as if a lightning bolt hit my heart. It was so shocking, so unexpected, so final.

When I saw the newspaper stories after Dave's death, one photo caught my eye. It was of Dave driving to the basket, the ball in his left hand, legs sturdy, shoulders strong, shock of dark hair matted with sweat, and a face full of his unique determination. As I looked at it, I was reminded of a time when we were all younger, and there was a magic about life. A magic about life—there is no other way to describe those years on our Knick teams. How it felt to hear the roar of the Garden crowd, to know the satisfaction of a play well-executed, to feel the chills of winning a championship, to share the camaraderie, even brotherhood, of working in an environment of mutual trust, with people you respected, each of whom had the courage to take the last second shot.

Dave's strength, his dedication, his unselfishness, his fierce desire to win, and, above all, his commitment to the team, were all at the core of that success. He seemed to say, "What's the point of achieving anything in basketball if you can't share it?" That's the beauty of having teammates. They know what it takes to get through a long season, to recover from a loss, to pull out a win when you're hurt or tired. Dave believed that once good players have put on their uniforms, everything else about them—race, ethnicity, personal history, off-court style—fades into the background. It's time to play—together. And we did.

Dave DeBusschere left all of himself on the court every game. He held nothing back. I can remember those nights on the road in late February. Dave, his face drawn from the long season; and Willis, with his brow furrowed, and heating packs on each knee. They would look at each other in the locker room of the fourth town in five nights, and their glances alone seemed to say, "I'm tired to my bones. I don't want to go out there, but if you do it, I will too." And they always did. Together they set the character tone for the team in a kind of shared leadership that rarely needed words.

If I had $100 for every night Dave played hurt, I could buy a nice car. One night, Dave caught an elbow in the face that broke his nose. The pain was obvious. I didn't see how he was going to play the next night. But, there he was, ready to go, when the buzzer sounded—with a strip of plastic over his nose, held in place by white adhesive tape forming an "H" above and below his eyes.

I think the fans loved Dave because they sensed what his teammates already knew: he was the real thing. No pretense. He hated phonies. No guile. He told you exactly how he felt. No greediness. I never heard him talk about points. No excuses. He always took responsibility for his mistakes.

Dave was a man of action, not words. He was above the petty things in life, and he wasn't impressed easily. Power, fame, money, were not the currencies he traded in. Friendship, loyalty, hard work, were what he placed the greatest value in. If Bush or Madonna or Rockefeller walked into a bar, I bet he'd barely look up from the beer he was sharing with a friend.

There was a time when I'd slept in a room with Dave DeBusschere more than I had with my wife. We were roommates on the road for six years. That's about 250 games, 250 cities, 250 hotels.

If the truth be told (as Geri knows), on many occasions Dave woke me up with his snoring. I'd say, "Dave." To no avail. I'd shout, "Dave!" Still no success. Finally I'd get out of bed, put my hands on his back and push him over on his side. he still wouldn't wake up, but the snoring would stop. And I'd get a few hours of sleep . . . until the next time.

You get to know someone when you're with him that much. You hear about his life; you meet his friends and family; you know what he likes to eat, what he likes to do in his downtime, what forms his daily habits; you learn what he admires in people and what he can't stand.

You can learn a lot of from your roommate, too, especially if he's an experienced pro and you are not. It was my second year in the NBA. I had just made the Knicks starting team as a forward, and we had lost a close one in Philadelphia on a bad pass I made when the Sixers were applying full court pressure. After the game I was dejected. Back at the hotel, Dave, who had joined the team from Detroit two months earlier, saw how I felt and put me straight. "You can't go through a season like this," he said. "There are too many games, Sure, you blew it tonight, but when it's over, it's over. Let it go. Otherwise you won't be ready to play tomorrow night." It was NBA lesson #1; Don't make today's loss the enemy of tomorrow's victory.

On occasion, Dave, Willis and I would go to dinner on the road, and Willis would begin telling hunting stories—what weapons he used, where he used them and what the weather was, how be tracked the animals, what his gear consisted of, the angle at which he shot with his gun, or his bow and arrow, and so forth. Dave and I were not hunters, but once Willis got started, it took him more than a little while to finish. After one such evening when we got back to our room, Dave said, "You know, I think Willis likes to hunt!"

Dave also was not above practical jokes. Once after a championship season, the DeBusscheres, Kladis's and Bradleys chartered a boat to tour the Greek islands. One day we pulled up off an island beach, and Dave and I dove off the boat to swim ashore. As we were coming out of the water, we found a lone man, laying on a towel. An American. He watched us emerge from the sea, and shouted, "DeBusschere—Dave DeBusschere. Bradley. Oh my God! Wait til my family sees this!" and he took off. Dave looked at me; I looked at him, and with a grin he said, "Let's go." We swam back to the boat, hid behind towels and watched as the man, his wife and kids behind him, ran back onto the beach. "Honest they were here!" We could hear him shout. "I saw them! Really! They were here I swear it."

It's been a long time since the Knicks were champions and I roomed with Dave. But time has only deepened our friendship. I always looked forward to our one-on-one lunches, our dinners with Ernestine and the irrepressible Geri, our family visits to Long Island, and on occasion a game like the one last spring when Willis, Dave, Earl and I went to New Jersey for a Lakers/Nets playoff game with loyalties split between Willis's Nets and Phil's Lakers.

Over the years I commiserated with Dave about the way the Garden treated him when he was G.M. I spoke at Peter's college graduation. I shared the pride that he and Geri felt as Michelle, Peter and Dennis grew into spectacular young adults.

And, I will never forget when he told me how proud he was to be sitting in the gallery the day I was sworn into the Senate. Over the years he made campaign appearances in New Jersey on my behalf, attended fundraisers to add star power, and sloughed through the snows of Iowa and New Hampshire in 2000. Whenever I asked him to do something, he was there; and every place he went, he made people feel good.

Until last Wednesday, one of the most enjoyable things in life was talking basketball with Dave DeBusschere. The players and the teams, the rules and style of play have all changed, but the sharpness of his insights never diminished. What he said was always so clear and simple that I'd ask myself afterwards, "Why didn't I think of that?"

Championship teams share a moment that few other people know. The overwhelming emotion derives from more than pride. Your devotion to your teammates, the depth of your sense of belonging, is something like blood kinship, but without the complications. Rarely can words express it. In the nonverbal world of basketball, it's like grace and beauty and ease, and it spills into all areas of your life.

So I say to my big brother: Be proud. You brought all these things to the many lives you touched. Goodbye, we'll miss you, #22. May God grant you a peaceful journey.

ORDER OF PROCEDURE—S. 14

Mr. REID. Mr. President, I ask unanimous consent, with respect to the Graham amendment No. 884, to which we are going to proceed in the morning, and the hour of time we have, that Senator FEINSTEIN, Senator BOXER, and Senator CANTWELL each control 15 minutes of the 60 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CRISIS IN THE MIDDLE EAST

Mr. WARNER. Mr President, I rise today to express my concern about the horrific violence which has erupted over the past few days in the Middle East. The world is distressed to see the images on T.V. of today's suicide bombing in Jerusalem and the attacks in Gaza. Condolences are extended to all of those who continue to pay the price of this intolerable seemingly uncontrollable cycle of violence in the Middle East.

This human suffering must be brought to an end. Once again I take the floor of the Senate to call on both sides both Israel and the Palestinians to take the initiative to invite NATO forces to undertake a peacekeeping role and to help provide a measure of stability needed to allow the "road map" process to maintain a momentum forward.

President Bush is to be commended for his personal commitment to bring the Israelis and the Palestinians together on a path toward peace. Last week, President Bush, joining with world leaders, gave new impetus to the Middle East peace process. He met with the Israeli and Palestinian prime ministers at Aqaba, Jordan, where these two leaders agreed to begin to implement the early steps of the "road map" to peace.

In Aqaba, both sides agreed to a step-by-step process whereby each takes positive steps and makes some concessions to achieve the stated goal of an Israeli and a Palestinian state, living side-by-side in peace.

Unfortunately, there are third parties, such as Hamas and other radical groups, that are making every effort to continue the violence and disrupt the path to peace. These groups must not be permitted to hijack the peace process.

How can others help the Palestinian leadership gain control of the security situation on its side?

The Israeli and Palestinian leaders should be urged first to fulfill their commitments to establish and help to enforce a cease-fire; and, second, to ask the North Atlantic Council to consider sending a peacekeeping contingent as soon as practical.

I have spoken before on this subject here on the Senate floor, and have written to President Bush, about my idea concerning how NATO might play a useful role in the quest for Middle East peace. I ask that my letter to President Bush and his reply be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 14, 2003.

President GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I would like to commend you on the step you took today to give new impetus to the Middle East peace process by announcing that it was time to share with Israel and the Palestinians the road map to peace that the United States has developed with its "Quartet" partners. This is a welcome and timely initiative, given the complex way in which the Middle East conflict, Iraq and the global war against terrorism are intertwined.

The festering hostilities in the Middle East are an enormous human tragedy. Along with you, and many others, I refuse to accept that this is a conflict without end. You have articulated a vision of an Israeli and a Palestinian state living side by side in peace and security. That is a bold initiative that deserves strong international support. With the Israeli elections concluded, and the imminent confirmation of a Palestinian Prime Minster, you are right to refocus international attention on the Middle East peace process.

Mr. President, in August 2002, I wrote to you to propose an idea concerning the possibility of offering NATO peacekeepers to help implement a cease-fire in the Middle East. I have spoken of this idea numerous times on the Senate Floor. I am now even more convinced that the United States and its NATO partners should consider an additional element for the "road map" concept: NATO should offer, and I stress the word "offer," to provide a peacekeeping force, once a cease-fire has been established by the Israeli Government and the Palestinian Authority. This NATO force would serve in support of the cease-fire mechanisms agreed to by Israel and the Palestinian Authority. The NATO offer would have to be willingly accepted by both governments, and it in no way should be viewed as a challenge to either side's sovereignty. The acceptance of this offer would have to be coupled with a commitment by Israel and the Palestianian Authority to cooperate in every way possible to permit the peacekeeping mission to succeed.

I fully recognize that this would not be a risk-free operation for the participating NATO forces. But I nonetheless believe that the offer of peacekeepers from NATO would have many benefits. First, it would demonstrate a strong international commitment to peace in the Middle East. Second, it would offer the prospect of a peacekeeping force that is ready today. It is highly capable, rapidly deployable, and has a proven record of success in the Balkans. A NATO peacekeeping force is likely to be acceptable to both parties, given the traditional European sympathy for the Palestinian cause and the traditional United States support of Israel.

Third, this would be a worthy post-Cold War mission for NATO in a region where NATO member countries have legitimate national security interests. It could even be an area of possible collaboration with Russia through the NATO-Russia Council. A NATO peacekeeping mission in the Middle East would be wholly consistent with the Alliance's new Strategic Concept. Approved at the NATO Summit in Washington in April 1999, the new Strategic Concept envisioned so called "out-of-area" operations for NATO.

Given the fractious debate in NATO over Iraq and the defense of Turkey, it would be important to show that NATO can work together to make a positive contribution to solving one of the most challenging security issues of our day.

There will be many detractors to the idea of sending NATO peacekeepers to the Middle East to help implement a cease-fire. But I think there is broad agreement on the imperative to giving new hope to the peace process and redoubling diplomatic efforts to keep Israel and the Palestinians moving on the road to peace. Peacekeepers coming from many NATO nations could give new hope and confidence to the peoples of Israel and Palestine that there could soon be an end to the violence that overhangs their daily lives.

Mr. President, I hope that you will receive this idea in the constructive spirit in which it is offered.

With kind regards, I am
Respectfully,

JOHN WARNER,
Chairman.

THE WHITE HOUSE,
Washington, April 29, 2003.

Hon. JOHN W. WARNER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter about the proposed roadmap to Middle East peace, and your suggestion concerning a NATO peacekeeping force. I understand your view that such an offer could be a further inducement to the parties to reach agreement.

As you know, the issues dividing Israelis and Palestinians are deep, complex, and hotly contested. The security arrangements of any settlement are one important element among many. Ultimately, our goal is for two states living side by side in peace. Over the long term, such an arrangement must be sustainable without the presence of outside peacekeeping forces. As we engage the parties in our effort to forge a peace agreement, I will keep your proposal under consideration.

I also agree with your comments about the importance of NATO's role as we face the security challenges of the 21st Century. As you know, at the NATO Prague Summit, Allied leaders joined me in launching an ambitious agenda for modernizing NATO, including the creation of a NATO Response Force, reforming the command structure, and bringing in new members who are committed to democracy and collective defense. I appreciate your strong support for this important effort.

We have begun steps to increase NATO's role in Afghanistan, and have asked NATO to consider assistance it could provide in post-war Iraq. I welcome your support on these matters as well.

Sincerely,

GEORGE W. BUSH.

Mr. WARNER. Mr. President, I spoke today with the press about the idea that NATO, if requested, might provide a peacekeeping force to support a cease-fire previously agreed to by the Israeli Government and the Palestinian Authority. NATO peacekeepers would have to be invited by both governments, and in no way should be viewed as a challenge to either side's sovereignty. The acceptance of this offer would have to be coupled with a commitment by Israel and the Palestinian Authority to cooperate in every way possible to permit the peacekeeping mission to succeed.

I fully recognize that this would not be a risk-free operation for the participating NATO forces, some of which could be American. But I nonetheless believe that the offer of peacekeepers from NATO would have many benefits.

First, it would demonstrate a strong international commitment to peace in the Middle East. By their presence, NATO peacekeepers might give hope to people on both sides that violence will be curtailed.

Second, it would offer the prospect of a peacekeeping force that is ready to go, today. It is highly capable, rapidly deployable, and has a proven record of success with peacekeeping in the Balkans.

Third, a NATO peacekeeping force is likely to be acceptable to both parties, given the traditional European associations with the Palestinian people and the traditional United States associations with the people of Israel.

Fourth, it would be a worthy post-Cold War mission for NATO in a region where NATO member countries have legitimate national security interests. In 1999, NATO adopted a new Strategic Concept that envisioned NATO operations, including peacekeeping operations, taking place outside of Europe.

There will be many detractors to the idea of sending NATO peacekeepers to the Middle East to help implement a cease-fire. There is, I acknowledge, a historical record of outside forces being unsuccessful in security mission in this area. But I invite the debate, first and foremost among the NATO members themselves.

I think we can all agree on the imperative of redoubling our efforts to keep Israel and the Palestinians moving on the road to peace, and of offering an alternative that may break the tragic cycle of violence. This is the responsibility not only of the United States, but indeed, of the entire international community.

Progress on Middle East peace would help us to continue the gains we have made in Iraq to spread peace in the Middle East and to address the underlying causes that have given rise to terrorist groups like al-Qaeda.

Mr. LAUTENBERG. Mr. President, I rise to talk about something that is unrelated to any of the subjects we have been discussing today. I rise to talk about the news we just heard about an explosion in Israel and the killing of 13 to 15 people—and it is going to be more because, in addition to that, there are over 50 who have been seriously injured. We have witnessed an attack like this on innocent civilians by mad men who encourage a son, a daughter, a brother, or a sister to blow themselves to smithereens, and their mission is to simply kill innocents.

For a few moments, let's review a scenario that perhaps would be better understood in our country. Think about a shopping mall or a busy street in New York, Detroit, Minneapolis, Los Angeles, or Louisiana, and think about people who might be on the bus, youngsters going to school, people going to the doctor, people going to work, people carrying on commerce, and imagine that someone came along with a bomb in one of those cities, Washington, DC, and created an explosion that killed 700 people at one shot. That is the equivalent, if we take the size of Israel, about 6 million people—we have 280 million—it is about 45 to 1, so just do the multiplication. We are talking about 700 people who would die in this senseless attack. What would our response be in America? We would call out the Army, the Navy, the Marines, the FBI, the police, every agency that could retaliate, either to capture or gun down the leader of an organization that would seduce a young person to sacrifice their life for such a heinous purpose.

Purportedly this was a response to a tragic accident that took place as the Israelis were pursuing the leader of Hamas, the organization that took credit today for killing those innocent people and that takes credit for lots of attacks on innocent people in Israel. So there was a pursuit by the Israelis of the leader of Hamas because Hamas was an organization that helped take five soldiers' lives in Israel on Sunday night. Unfortunately, the hunt went awry and some innocent people were tragically killed.

When an attack such as that takes place, it is in response, it is in retaliation, to the violence that was visited upon the citizens in Israel. When these attacks take place, there is only one mission. They are not hunting criminals. They are not trying to capture somebody. What they are doing is killing innocent people—young people, old people, it does not matter.

Today's horrible attack on Jerusalem is another illustration of why Hamas has no place in any peace process. Hamas is a terror organization, has always been a terror organization, and desires to continue as a terror organization. I think it is time for the world to recognize that Hamas is in the same league as al-Qaida, and we know what we did when our people were attacked. We did the right thing. We sent our troops out. We were looking to capture the leader of that organization.

We would not stand by 5 minutes and accept it. And Israel should not stand by 5 minutes and accept it. We cannot look at the equal violence on both sides of the issue in Israel and with the Palestinians. They are not the same. Israel's attacks are always in retaliation for violence that was put upon Israelis. The other side delights in recording the fact that a suicide bomber took 8, 10, 12 lives, their count—600 people, or whatever the number is, in equivalence in America.

It is time to understand what is going on there. I strongly believe the peace process has to continue, but it should continue with Palestinian leaders who have demonstrated that they are interested in peace, as is now-Prime Minister Mr. Abbas. I commend the administration for deciding to reengage in the Mideast conflict by introducing and promoting a roadmap, a design, for Middle East peace.

President Bush's recent visit to the region was an important first step in renewing U.S. commitment to this endeavor, and the administration has to remain committed to peace in the area. President Bush must forcefully deliver a message to the Palestinians about their need to reconstitute and consolidate their security agencies in order to fulfill their stated goal to deter and punish terrorists such as Hamas, and he has to tell the Israelis that they have the right to defend themselves. They have made very important overtures, especially when it comes to talk about dismantling some of the settlements.

Mr. Abbas' clear statement that the violence of the intifada was a betrayal of the Palestinian cause is the most important reason that there is hope for progress in the Middle East. I am also encouraged that as a goodwill gesture Israel has opened its borders to Palestinian workers, released about 100 Palestinian prisoners, and has begun to dismantle some outposts. They are important first steps.

Israel and the settlers have to come to terms with the inevitability of dismantling some settlements in order to allow for the eventual creation of a contiguous Palestinian state. I was gratified to hear five Arab leaders—President Hosni Mubarak of Egypt, Crown Prince Abdullah of Saudi Arabia, King Abdullah of Jordan, King Hamada of Bahrain, and the new Palestinian Prime Minister, Mahmoud Abbas—release a statement last Tuesday, June 3, clearly asserting that they oppose terrorism and will not finance or arm extremist Palestinian groups.

This statement was long overdue. Right now the Arab leaders must translate this statement into action through one central task, and that is strengthening the hand of the new Palestinian Prime Minister, Mahmoud Abbas.

This means conferring on Mr. Abbas the authority they once gave Yasser Arafat and condemning violent groups such as Hamas and their rejectionist agendas. Only a united international front critical of terrorists and supportive of Mr. Abbas' plan for the Palestinians' future can facilitate the implementation of the roadmap.

The United States should continue exerting pressure on Syria to shut down its support for Palestinian terrorists, Hezbollah, and other organizations, the organizations that have no function except to disrupt the prospect for peace. They should encourage the withdrawal of the Syrians from occupied Lebanon and stem any production or research on weapons of mass destruction.

Sometimes it is hard to understand why an embattled country like Israel will be so effective, so hard, in its response. It is only hard to understand if you have not been there. This is a country that seeks peace more than any other place on Earth that we can imagine. They have lost thousands of people, perhaps hundreds of thousands in the equivalent American counts. There is a history of the people there that says they are always the subject of some cruelty, some attacks, some injury, some dead, from outsiders.

The last century saw the killing of millions of Jewish people. That sets a tone. That tone says, make peace, make life satisfactory. Do the things you have to to create a society, a country. Do what we can do about fighting disease, research what can be done about turning arid lands into farm lands, do what can be done to make life more livable. Yet, these criminal organizations continue to press their attack on Israel.

I make this suggestion. If the people in Paris or London or Berlin or other capital cities around the world had an attack such as this, we would have a response from the U.N. and everybody else. But when it comes to attacks on Israel, there is a notable silence, except for the only friend that Israel has in the world, and that is the United States and the American people.

We look with horror and grief at what took place this day. Unfortunately, this is not an unusual occurrence as far as Israel is concerned. We have to say that we in the United States of America will not tolerate this kind of violence, that we are going to let Israel fight back as hard as she has to, to defend herself and force the communities in the Middle East to understand that there will be no peace for anybody. That is very dangerous. That conflict could escalate into a major confrontation in other parts of the world.

We send our sadness and condolences to the people of Israel. We wish them well in the future and hope peace will soon be the only confrontation that takes place, and that would be across the table.

I yield the floor.

HONORING UWE E. TIMPKE

Mr. GREGG. Mr. President, I ask unanimous consent that the following resolution from the HELP Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS, U.S. SENATE, JUNE 11, 2003, IN RECOGNITION OF UWE E. TIMPKE

Whereas, Uwe E. Timpke has faithfully served the Committee on Health, Education, Labor, and Pensions since September, 1972 as a Detailee, Assistant Editor, and Editor, working under six chairman of both parties; and

Whereas, he has worked conscientiously on behalf of the 74 members of the Senate who have served on the committee during his tenure; and

Whereas, he has upheld the highest standards of the Senate and of the committee in his professionalism, unfailing courtesy, and unflagging dedication to his work; and

Whereas, his knowledge of all aspects of printing and editing committee documents has earned him the respect and admiration of all those with whom he worked on the committee and throughout the Senate; and

Whereas, his willingness to make time in a busy schedule to meet the special needs of the individual members of the committee, as well as his fellow staff members: Now, therefore, be it

Resolved, That the Committee on Health, Education, Labor, and Pensions expresses its deep gratitude to Uwe E. Timpke for his over thirty years of tireless service to the committee and to the United States Senate; and be it further

Resolved, That the members of the Committee on Health, Education, Labor, and Pensions of the United States Senate express their sincerest wishes that Uwe E. Timpke will enjoy a happy and well-deserved retirement.

AMERICA'S WORSENING FISCAL SITUATION

Mr. LEAHY. Mr. President, the new Congressional Budget Office, CBO, budget deficit numbers announced Monday should trouble us all.

Only 1 month ago CBO, estimated that the Federal deficit would be $300 billion—an alarming number considering that when President Bush took office the Federal Government was running a surplus. Now, CBO has notified Congress that the deficit will be a record $400 billion.

> CBO now projects that the federal government is likely to end fiscal year 2003 with a deficit of more than $400 billion, or close to 4 percent of gross domestic product. The deterioration in the short-term budget outlook stems from continued weakness in revenue collections and from enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003, which will add an estimated $61 billion to this year's deficit in the form of tax cuts, refundable credits, and aid to states. The recent extension of unemployment benefits will boost outlays by another $3 billion this year. For the first eight months of 2003, the government ran a deficit of $291 billion, CBO estimates, about twice the shortfall it incurred in the same period last year.

When President Bush entered the White House in January 2001, the Nation was enjoying a record budget surplus that was built with hard choices and determination over the previous 8 years. With breathtaking speed, this administration's fiscal irresponsibility has quickly turned those record surpluses into record deficits. In 3 short years, these policies have driven us further into debt, transferred a greater share of tax receipts to the pockets of the Nation's most privileged, and turned millions of hard-working Americans out of their jobs.

In fact, the Labor Department recently reported that the Nation's unemployment rate rose to 6.1 percent last month, the highest level in 9 years. Since the economy began slumping in early 2001, nearly 2.5 million jobs have disappeared.

In 2001, I voted against the President's first tax plan because it was too skewed toward the wealthiest Americans and it was too fiscally irresponsible. Since then, we have gone from record surpluses to red ink, and the economy is still adrift.

Yet Congress passed a budget this year—including another ill-advised tax plan of $350 billion—that will only further deepen our deficits and pump up the national debt. I voted against the tax bill again this year because it is so clearly harmful to the economic health of our country, especially with the cost of the war in Iraq and the ever-increasing peacekeeping expenses.

The budget plans this administration has sent to Congress each year have been full of misguided priorities and squandered opportunities. The President's plans have severely underfunded essential health, employment training and education efforts. They have contained enormous Government giveaways to wealthy corporations and the wealthiest individuals instead of providing relief for hard-working Americans and their families. And they have been wholly inadequate to meet the domestic security needs of the first-responder agencies that we are counting on to defend against and prepare for future acts of terrorism.

The President's economic plan is not about growing the economy or creating jobs. It is a fiscally irresponsible plan that threatens to economically divide our country. Cutting taxes is a popular thing to do; and I am delighted to vote for tax cuts when they make good fiscal sense. But it is not always the right thing to do for the country and for the security and economic well-being of the American people.

The 1993 budget bill set the framework to eliminate the Federal deficit and passed by the narrowest of margins. It was a tough vote for everyone who voted for that plan and many Senators and Congressmen lost their seats in the subsequent election before the benefits of the plan could be fully realized. That momentous vote set this country on a course of surpluses, budget discipline and fiscal responsibility unmatched in American history. Unfortunately, the current administration—with its lack of fiscal responsibility—has blown all of the progress that many worked so hard to achieve. And the proof is in the latest CBO deficit figures.

Earlier this year, the President said we should not pass on our fiscal problems to future Presidents, Congresses, and generations. On that point, I agree with him. Regrettably, year after year his budgets have driven us deeper into debt, and his policies will do exactly what the President says we should avoid: They will burden our children.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on November 10, 2001. In San Antonio, TX, two people in ski masks robbed and beat the female owner of a small Persian restaurant, leaving behind racial slurs on the walls. The attackers forced open a back door. One of them bound the victim's hands and legs with duct tape and beat her to the ground. The second attacker sprayed hate messages on the walls.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

DR. SAMUEL B. HAND, UNIVERSITY OF VERMONT PROFESSOR OF HISTORY EMERITUS

Mr. LEAHY. Mr. President, I come to the floor today to talk about an extraordinary Vermonter, Dr. Samuel B. Hand. Many people argue about what makes you a true Vermonter. Some say it is if you were born there; some say it is if you plan to die there. Until the debate is concluded, the person who could settle the matter is Dr. Hand.

While originally from Long Island, in 1961, Dr. Hand became a professor of European history at the University of Vermont, UVM. As a scholar with a passion for history, Dr. Hand quickly became one who added to Vermont's achievements and glories. He emphasized to his students the importance and the excitement of the history of Vermont, resulting in a number of his former students becoming teachers and archivists in Vermont.

Last month, the University of Vermont's Center for Research on Vermont honored Dr. Hand as the recipient of a lifetime achievement award for his expertise in Vermont history and his generous mentoring skills.

In addition to being the "heart" of the history department, as his colleagues called him, Dr. Hand coauthored a number of books, including "Vermont Voices, A Documentary History of the Green Mountain State" and "A Vermont Encyclopedia", and directed a National Endowment for the Humanities-funded series, "Lake Champlain: Reflections on Our Past." He was also one of the founding members of the University of Vermont's Center for Research on Vermont and served as president of the Vermont Historical Society and as president of the Oral History Society. Today's editorial in the Burlington Free Press praises Dr. hand for "extend[ing] his base beyond the walls of UVM and reinforced the important collaboration between the state's flagship university and Vermont."

Both the University of Vermont and the State of Vermont are truly fortunate to have benefited from the dedication and intelligence of Dr. Hand. Vermonters likes him make me proud to represent such a great State. Mr. President, I would ask that this statement and the Burlington Free Press editorial be placed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, June 11, 2003]

A VERMONT SCHOLAR

Samuel B. Hand still has a trace of Long Island in his voice, but the retired University of Vermont history professor knows more about Vermont than many of the state's residents.

Hand was recognized for his contributions to the study of his adopted state last month when he received a lifetime achievement award from the University of Vermont's Center for Research on Vermont, of which he was a founding member.

Although he started out teaching European history when he arrived at UVM in 1961, Hand quickly saw the merit of specializing in Vermont history.

His graduate students had a greater opportunity to have their work published than if they had chosen a broader and more heavily researched topic, and many of the students had a personal connection to the state's history.

"I might have a student from California who was a sixth-generation UVMer with a grandfather who was once a state senator," Hand said in an interview. "Vermont history is very personal."

Beyond his mentoring of students—for which he was named UVM graduate faculty teacher of the year in 1994, the year he retired—Hand has been a prolific researcher and writer.

The professor of history emeritus has written many articles about Vermont, and co-authored "Vermont Voices, A Documentary History of the Green Mountain State" in 1998 and "A Vermont Encyclopedia," which will be out in August.

His book, "The Star That Set, The Vermont Republican Party, 1854–1974," was published last year.

Hand, 72, has brought together organizations and university disciplines that share a common interest in Vermont. As a former president of the Vermont Historical Society and last year's recipient of the Founders Circle Award from the Ethan Allen Homestead, Hand has extended his base beyond the walls of UVM and reinforced the important collaboration between the state's flagship university and Vermont.

Along the way, he has influenced students and aspiring historians to see Vermont history—not as dry and distant—but as alive and brimming with dramatic stories and interesting characters, such as Ethan Allen, Samuel de Champlain and former Gov. George Aiken, described by Hand as "the quintessential Vermonter against whom other Vermonters measured themselves."

Hand has played a major role in bringing Vermont stories to life and encouraging people to know their roots and appreciate their home. It is work well worth a lifetime achievement award.

AN OKLAHOMA LOSS IN OPERATION IRAQI FREEDOM

Mr. NICKLES. Mr. President, over the past few months we have seen the fall of Saddam Hussein's brutal regime coupled with the dawning of a new day for the Iraqi people.

With major military combat operations in Iraq over and the security of our homeland bolstered, America and her allies are turning our efforts toward helping the Iraqi people build a free society.

Like many Americans, I was thrilled and heartened by the dramatic images of U.S. troops helping Iraqi citizens tear down statues and paintings of Saddam Hussein. The Iraqi people needed our help, our tanks, our troops, and our commitment to topple Saddam Hussein.

For the first time in their lives, many Iraqis are tasting freedom, and like people everywhere, they think it is wonderful. I am proud of our military and America's commitment to make the people of the Middle East more free and secure.

Our military men and women surely face more difficult days in Iraq, and the Iraqi people will be tested by the responsibilities that come with freedom. The thugs who propped up the previous regime and outside forces with goals of their own will seek to cause problems, stir up trouble, and initiate violence. Freedom is messy—nowhere more so than in a country that has just shaken off a brutal dictatorship.

But the journey toward a democratic Iraq has now begun. Like so many nations before it, Iraq now endures the growing pains common to a fledgling democracy. The uncertainty in today's Iraq will soon give way to the promise of a better future for the Iraqi people. As we move closer to this goal, we must remember those who sacrificed for this noble cause.

Today, I rise to honor a man who made the ultimate sacrifice one can make for his country and the cause of freedom. Petty Officer 3rd Class Doyle Wayne Bolinger, Jr., 21, of Poteau, died last week in Iraq when an unexploded ordnance accidently detonated in the area where he was working. Bolinger, who joined the Navy shortly after high school, was assigned to the Naval Mobile Construction Battalion 133 based in Gulfport, MS, whose members are commonly known as Seabees. His unit has been in the Middle East since January providing construction support to our Armed Forces during military operations.

Everybody liked Bolinger. He was known to always have a smile on his face. People in Poteau, who he often helped out with various jobs, will miss him especially.

His family recently issued a statement saying, "Wayne is a very special young man and is proud to be a Navy Seabee. He died defending his country. He is without a doubt one of America's finest."

I could not possibly agree more. This young man represents the very best this Nation has to offer. Petty Officer Bolinger did not die in vain. He died so many others could live in security and freedom. For that sacrifice we are forever indebted. Our thoughts and prayers are with him and his family today and with the troops who are putting their lives on the line in Iraq.

REMEMBERING THE MIAS OF SULTAN YAQUB ON THE 21ST ANNIVERSARY OF THEIR CAPTURE

Mr. SCHUMER. Mr. President, I rise today to ask my colleagues to join me in remembering the Israeli soldiers captured by the Syrians during the 1982 Israeli war with Lebanon. It is with great sadness that we mark today 21 long years of anguish for their families, who continue to desperately seek information about their sons.

On June 11, 1982, an Israeli unit battled with a Syrian armored unit in the Bekaa Valley in northeastern Lebanon. Sergeant Zachary Baumel, First Sergeant Zvi Feldman, and Corporal Yehudah Katz were captured by the Syrians that day. They were identified as an Israeli tank crew, and reported missing in Damascus. the Israeli tank, flying the Syrian and Palestinian flag, was greeted with cheers from bystanders.

Since that terrible day in 1982, the governments of Israel and the United States have been doing their utmost by working with the office of the International Committee of the Red Cross, the United Nations, and other international bodies to obtain any possible information about the fate of the missing soldiers. According to the Geneva Convention, Syria is responsible for the fates of the Israeli soldiers because the area in Lebanon where the soldiers disappeared was continually controlled by Syria. To this day, despite promises made by the government of Syria and by the Palestinians, very little information has been released about the condition of Zachary Baumel, Zvi Feldman, and Yehudah Katz.

Today marks the anniversary of the day that these soldier were reported missing in action. Twenty-one pain-filled years have passed since their families have seen their sons, and still Syria has not revealed their whereabouts nor provided any information as to their condition.

One of these missing soldiers, Zachary Baumel, is an American citizen from my home of Brooklyn, NY. An ardent basketball fan, Zachary began his studies at the Hebrew School in Boro Park. In 1979, he moved to Israel with other family members and continued his education at Yeshivat Hesder, where religious studies are integrated with army service. When the war with Lebanon began, Zachary was completing his military service and was looking forward to attending Hebrew University, where he had been accepted to study psychology. but fate decreed otherwise and on June 11, 1982, he disappeared with Zvi Feldman and Yehudah Katz.

During the 106th Congress, I cosponsored and helped to pass Public Law 106-89, which specifies that the State Department must raise the plight of these missing soldiers in all relevant discussions and report findings to Congress regarding the development in the Middle East. We need to know that every avenue has been pursued in order to help bring about the speedy return of these young men. Therefore, I strongly feel that we must be sure to continue the full implementation of Public Law 106-89, so that information about these men can be brought to light.

Zachary's parents Yonah and Miriam Baumel have been relentless in their pursuit of information about Zachary and his compatriots. I have worked closely with the Baumels, as well as the Union of Orthodox Jewish Congregations of America, and the American Coalition of Missing Israeli Soldiers, and the MIA Task Force of the Conference of Presidents of Major American Jewish Organizations. These groups have been at the forefront of this pursuit of justice. I want to recognize their good work and ask my colleagues to join me in supporting their efforts. For two decades these families have been without their children. Answers are long overdue.

The agony of the families of these kidnapped Israeli soldiers is extreme. They have not heard a word regarding the fate of their sons. I believe that we must pledge to do our utmost to obtain information about these soldiers and to bring them home, for the sake of peace, decency and humanity.

THE COAL ACT

Mr. SMITH. Mr. President, on June 10, Senator GRASSLEY, chairman of the Senate Committee on Finance, issued a statement concerning the Coal Act, included in the 1992 Energy bill, and very specifically the intolerable situation regarding reachback and superreachback coal companies.

The tax levied on these companies in that act is unfair. It never should have been enacted to begin with. It even applies to companies that are no longer in the coal mining business. The Coal Act created the combined benefit fund, CBF, in an attempt to solve many of the pension problems of retired coal miners. There were never any hearings. There was no serious debate on the Senate floor.

The combined benefit fund is approaching insolvency. There are accountants who today would say it is already insolvent. It has been saved from terminable illness only by annual appropriations in recent Appropriations bills. These appropriations do not permanently solve the problem.

I, for a number of years, have attempted to pass legislation to solve this issue. It is my hope that the House of Representatives would at last send to the Senate a bill rectifying this problem so we might also enact it and at least put an end to this inequity.

DEDICATION OF THE BATTLE CREEK FEDERAL CENTER

Mrs. DOLE. Mr. President, on Saturday, May 31, I had the honor of being present at the renaming of the Battle Creek, MI Federal Center for three American heroes, the late Senator Phil Hart, my husband Bob Dole, and my Senate colleague DAN INOUYE.

This recognition would not have happened without the efforts of my friend and colleague, CARL LEVIN. At the dedication Senator LEVIN spoke eloquently and his message about honor, duty, country captured the attention and respect of all those present at this important event. I thank him again and ask unanimous consent that his remarks be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"What an overwhelming moment this is for all of us just to be with these heroes and their families. For Barb and me it's a treasured moment to join with Bob Dole, Danny Inouye, and two sons of Phil Hart, Jim and Walter Hart; to be with my colleague Libby Dole. You know, I used to say that the U.S. Senate was the world's most exclusive club. They used to say that. But now, Barb, my wife, and Bob will testify to this, are members of the truly most exclusive club in the world which is the Senate's spouse club, because now that Libby Dole is in the Senate, Bob Dole knows what it's like to be a Senate spouse.

Thanks are due to so many people for making this day possible. We are very grateful to the General Services Administration for their prompt response to the idea; Administrator Perry, thank you. To the people of Battle Creek, first and foremost, for again accepting three American soldiers into your heart as you did tens of thousands of American soldiers many years ago. By renaming this building and accepting these three names, you have again said what this community truly is all about and what you, in Battle Creek, and what the workers in this federal center are all about. Thank you for taking them back into your hearts and embracing them by accepting these three names.

For thousands of young soldiers, this was the place they came home, the place where a grateful America cared for the injuries they received defending our nation. And today, by renaming this building we are paying tribute to three soldiers who became close friends during their convalesces at Percy Jones Army Hospital, and went on to serve together in the United States Senate. Renaming the federal center after these three heroes recognizes their unique achievements while honoring all those who received care here and who provided care here. As a new generation of valiant soldiers emerges from the conflict in the Persian Gulf, and we greeted many of them just a few weeks ago here in Battle Creek, it is more appropriate than ever we remember past heroes who were wounded in service to their country. By honoring these three men we will inspire a new generation to follow their example.

Phil Hart, a native son of Michigan, was wounded during the D-Day assault. He spent more than three months at the Army hospital here in Battle Creek. According to Bob Dole, Phil Hart would tirelessly spend from morning 'til night running errands for the rest of us. He was, in Bob Dole's words, and I know Danny Inouye shared this very deeply, 'he was without a doubt one of the finest men I ever knew'. Phil Hart became the conscience of the Senate, whose decency was legendary and whose integrity was so deep that he would without flinching take on an unpopular cause, or a powerful constituency, for the good of the nation.

Bob Dole arrived at Percy Jones in a plaster body cast. His recovery program overall took three years, which underscores his courage and his determination. When told by doctors his disability would be career dooming, he refused to accept their diagnosis and he fought successfully to prove them wrong. In his first speech in the Senate, in 1969, which was 25-years to the day after his serious wounds were received in Italy, leading his squad of the 10th Mountain Division in the Italian Alps, Bob Dole, in that first speech, called for the creation of a commission to seek ways to assist people with disabilities. Two decades later, the Americans With Disabilities Act crowned that effort and in Bob Dole's last speech in the United States Senate, he spoke of his meeting and his friendship, his lifelong friendship that was created here with Phil Hart and Danny Inouye.

As a seventeen-year-old, Danny Inouye joined the Army. He joined the 442nd Regimental Combat Team, the 'go for broke' regiment comprised of Japanese American soldiers. Their courage, in the face of often-insurmountable odds make them the most decorated unit in Europe. His extraordinary display of valor led to him receiving the Congressional Medal of Honor.

I want to read just a few words from that particular Medal of Honor award to Danny Inouye. 'He directed his platoon through a hail of automatic weapon and small arms fire. In a swift and developing movement that resulted in the capture of an artillery and mortar post, he brought his men within 40 yards of the hostile force. Emplaced in bunkers and rock formations, the enemy halted the advance with crossfire from three machine guns. With complete disregard for his personal safety, Second Lieutenant Daniel Inouye crawled up the treacherous slope to within five yards of the nearest machine gun and hurled two grenades, destroying the emplacement. Before the enemy could retaliate, he stood up and neutralized a second machine gun. Although wounded by a sniper's bullet, he continued to engage other hostile positions at close range until an exploding grenade shattered his right arm. Despite the intense pain, he refused evacuation and continued to direct his platoon until enemy resistance was broken, and his men were again deployed in defensive positions'.

Now, I read that, not to single out Danny, but to remind us all, that all the while that he, and so many other Americans of Japanese descent like Danny, were fighting for us. Their families were in internment camps, where they had been placed because of their ancestry during World War II, having been torn from their homes at the beginning of the war. In combat, these men learned a valuable lesson that shaped their work in the Senate. In the foxhole, there are no Democrats and Republicans, liberals or conservatives. There are only Americans. Having fought to defeat those who would steal our nation's freedom, each of them, in their Senate careers, sought to ensure that all Americans would continue to realize the promise of justice and liberty, a promise in our Constitution.

Tom Brokaw's name has been mentioned and I just wanted to read for you a short excerpt from an interview that Tom Brokaw had with Larry King:

Tom Brokaw: "Difficult conditions are a test for great people. About whether they can measure up to it or not. And a lot of these veterans that I have written about", referring to his book, "said that it made a man out of me, or a young woman would say I went from being a giddy teenager to being a mature woman overnight."

And then Brokaw went on, "I'll just tell you one quick story. I've been talking about the renewed need for public service and having a sense that you do owe your country something. In one hospital ward in Michigan, there was a young man from Kansas who had had his arm shattered in combat in Italy, and in the next bed was a young man from Honolulu who was a Japanese American, who had lost his arm in the 442nd, and in the third bed was a young man from a family in Michigan who was also wounded. And he was able to get out of the hospital, to get theatre tickets and other things. Bob Dole was one. Danny Inouye was the other one. And Phil Hart, for whom the largest Senate office building is now named, was the third one. And they talked about their future lives, and they all decided it would be public service. They had just given up their youth in combat, but they came back and said they wanted to get involved running for public office. And they all ended up in the Senate."

Larry King said, "Who could write that? That's fiction." And Tom Brokaw said, "I know, it's amazing."

This building has helped define our nation for one hundred years, and how truly fitting it is that three of our nation's heroes, in war and in peace, whose lives were first intertwined so closely here, whose friendships were forged here, who had a seminal life experience here, who were later united in the Senate, are reunited again in the naming, and renaming, of this federal building. They gained strength here, and then they gave again of that strength to brighten the future of the nation that they loved. The renaming of this building after them is icing on the 100th birthday cake of this wonderful, historic building.

Thank you.

TRIBUTE TO AMBASSADOR JACQUES PAUL KLEIN

Mr. WARNER. Mr. President, I rise today to honor a friend and an outstanding citizen of the Commonwealth of Virginia, Ambassador Jacques Paul Klein, on the occasion of his retirement from the U.S. Foreign Service.

Ambassador Klein was born in Selestat in the Alsace region of France in 1939 and spent the first 5 years of his life living in a war zone. When World War II ended, Ambassador Klein and his mother came to the United States in search of a better life and a brighter future. They settled in Chicago, where Mr. Klein worked his way through school and eventually joined the U.S. Air Force, volunteering to serve his new country in Vietnam. In so doing, he realized a dream that started as a young boy when he watched victorious allied fighter planes flying over France.

In 1971 Mr. Klein joined the Foreign Service. His initial tour of duty was in the Center of the Executive Secretariat, Office of the Secretary of State. He was posted abroad to serve as Consular Officer at the American Consulate General in Bremen, Germany. In 1979 he was selected to attend the National War College and upon graduation served as a Senior Advisor for International Affairs to the Secretary of the Air Force. In 1990 he once again answered the call of his country returning to Europe to serve as Senior Political Advisor to the Commander and Chief of the United States European Command in Stuttgart, Germany.

In 1996 United Nations Secretary General Boutros Boutros Ghali selected him to serve as Transitional Administrator for Eastern Slavonia and Baranya with the rank of Under Secretary-General. After directing another successful international mission, Ambassador Klein once again answered the call of his country—accepting the nomination of the U.S. Government as the Principal Deputy High Representative in Bosnia and Herzegovina.

In 1999 after more then 2 years of dedicated work to rebuild the war-torn Bosnia and Herzegovina, Mr. Klein was named by United Nations Secretary General Kofi Annan as Under Secretary General to the United Nations Mission in Bosnia and Herzegovina. Under the direction of Ambassador Klein, the UN Mission in Bosnia and Herzegovina completed the most extensive police reform and restructuring mission ever undertaken at the United Nations.

Ambassador Klein's distinguished career in the U.S. Foreign Service and U.S. Air Force and Air Force Reserve demonstrates his continued willingness to valiantly serve his country. In addition to retiring as Major General of the

U.S. Air Force, Ambassador Klein has been awarded the Secretary of Defense Outstanding Public Service award, the Air Force Distinguished Service Medal, and a Bronze Star.

I am particularly proud of Ambassador Klein for his service to the United States and to the international community. His hard work and commitment to further the cause of international peace, to alleviate suffering, and to help those affected by international conflict have made him a respected member of the U.S. Foreign Service. His central goal in life has been to give something back, through his military and government service, to the country that took him in after World War II and provided him with so many opportunities. To that end, he has been a success that all Virginians and all Americans can be proud of.

I wish to extend my sincerest congratulations to Ambassador Jacques Paul Klein and his family on the occasion of his retirement. I am honored to recognize his many accomplishments and applaud his distinguished service to our great Nation.

IN REMEMBRANCE OF JANINE LOUISE JOHNSON

• Mr. LEAHY. Mr. President, I am here to remember the life of Janine Johnson—formerly with the Senate's Office of Legislative Counsel—who sadly passed away last month while still in the prime of her young life of 37 years.

Janine served in the Senate for 13 years. Some of her major responsibilities included drafting child nutrition and agriculture legislation for me, and for many other Senators.

After beginning her work for the Senate, she had a hand in crafting every major child nutrition law while I was chairman of the Agriculture, Nutrition, and Forestry Committee, when Senator LUGAR took over as chairman after me, and for Chairman TOM HARKIN.

She will be sorely missed as the Senate prepares to complete the child nutrition reauthorization this year.

She was a careful, creative, and precise drafter of some of America's most important nutrition laws, which stand now in silent testament to her life.

She was as cheerful and careful at 2:00 p.m. working out complicated drafts, as she was at 2:00 a.m. working on even more complicated drafts. My senior nutrition counsel for many years, Ed Barron, drove her home more than once after the metro closed at midnight.

I know how hard this tragic loss weighs on her friends and colleagues at the Senate Legislative Counsel's Office.

She was admired by her peers, her friends, and her Senate clients.

It was clear from an early age that Janine would be a star. She graduated first in her class from Winchester High School in Massachusetts.

In 1986, she graduated with high honors from Harvard Law School. She clerked for the Honorable Cecil Poole on the U.S. Court of Appeals for the Ninth Circuit.

Following her clerkship, she came to the Senate Office of Legislative Counsel.

According to Janine's friends here in the Senate, she loved life outside the Senate as much as her work within it. Janine loved theater, music, and swing dancing.

Of Janine it can truly be said, that there has "passed away a glory from the Earth."

The poet Wordsworth continues—

"Though nothing can bring back the hour
Of splendor in the grass, of glory in the flower;
We will grieve not, rather find
Strength in what remains behind."

Janine has touched many of our lives and honored the Senate with her dedicated and outstanding service.•

HONORING OUR ARMED FORCES

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Indianapolis, IN. Private Jesse M. Halling, 19 years old, was killed in Tikrit, Iraq on June 7, 2003 when his military police station came under grenade and small-arms fire. Jesse joined the Army with his entire life before him. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world from home.

Jesse was the sixth Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Today, I join Jesse's family, his friends, and the entire Indianapolis community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Jesse, a memory that will burn brightly during these continuing days of conflict and grief.

Jesse Halling was a hard-working student, admired by all who knew him for his strong work ethic and remembered by both friends and teachers as a well-liked young man. Friends recall that Jesse always wanted to be a soldier, to follow in the footsteps of his father, who had served for 4 years in the Air Force.

Jesse graduated from Ben Davis High School in 2002, where he was a member of the weighlifting and Spanish clubs. After graduating high school, where he served as part of his school's ROTC unit, Jesse joined the Army in the military police division.

Jesse leaves behind his father, Alma Halling, and his mother, Pamela Halling. As I search for words to do justice in honoring Jesse Halling's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Jesse Halling's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Jesse M. Halling in the official record of the Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Jesse's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears form off all faces."

May God grant strength and peace to those who mourn, and may God bless the United States of America.

ADDITIONAL STATEMENTS

HONORING JESSICA COLLINS

• Mr. BUNNING. Mr. President, I have the privilege and honor of rising today to recognize Miss Jessica Collins of Brandenburg, KY. Jessica was selected as Kentucky's winner of the 2003 Future Farmers of America Award. Jessica was recognized at an awards gala hosted by the Louisville Courier-Journal Newspaper as part of their 2003 Salute to Young Achievers.

Jessica earned this distinguished honor by sharing her commitment to agricultural development through a written essay reviewed and selected by the Kentucky Association of Future Farmers of America and the Kentucky Department of Education. The thoughts conveyed in her essay are not empty words, but instead, hours of hard work show her commitment to excellence.

A graduate of Meade County High School, Jessica's future plans include pursuing a college degree and continuing her passion of ranching. Currently, over 19 Angus cows and numerous farming equipment fall under her ownership and direction. This strong business interest was first sparked in her local 4-H chapter and will aid her as she seeks an economics degree at Western Kentucky University.

I am pleased that Jessica takes such an interest in her community and in agriculture. Her expertise and experience will serve Kentucky well. I want to thank the Senate for allowing me to congratulate Jessica Collins. She is one of Kentucky's finest gems.•

IN HONOR OF NIRMAL K. SINHA OF OHIO

• Mr. VOINOVICH. Mr. President, I rise today to congratulate and pay tribute to Mr. Nirmal K. Sinha of Worthington, OH, as a 2003 Ellis Island Medal of Honor recipient.

The prestigious Ellis Island Medal of Honor award is presented annually to "remarkable Americans who exemplify outstanding qualities in both their personal and professional lives," and "who have distinguished themselves as citizens of the United States, while continuing to preserve the richness of their particular heritage."

Nirmal Sinha is such an American. In addition to creating a business in Ohio and being active in numerous civic organizations, Nirmal and his wife Tripta have maintained strong ties to the Asian Indian American community. I have often said, "show me someone who is proud of their ethnic heritage and I'll show you a great American!"

I am proud to say I have worked with Nirmal Sinha for many years. In 1992, as Governor of Ohio, I appointed him to the Ohio Civil Rights Commission. I reappointed him in 1997, and I am gratified that Mr. Sinha served two 5-year terms, helping to enforce State laws prohibiting discrimination in housing, employment, credit, and higher education. He has worked with the U.S. Department of Housing and Urban Development and the U.S. Equal Employment Opportunity Commission to develop outreach programs, particularly to Hispanic and Asian Americans.

As mayor of Cleveland and as Governor of Ohio, I was close to the Asian Indian American community and knew of Nirmal's distinguished record as a business leader and someone who was active in a variety of civic organizations. Some of those organizations include the Asian Indian American Business Group, AIABG, of Columbus, founding member of the Global Organization of People of Indian Origin, GOPIO, the Asian Indian Alliance of Ohio, and the Asian Indian Forum for Political Education.

Mr. Sinha also has served as a member of the Ameritech Consumer Advisory Board, Columbus International Program, and Main Street Business Association, member of the advisory board to the Ohio State University's Department of Communications, and a director of the Central Ohio March of Dimes and the International Center in Columbus.

Nirmal Sinha is an accomplished professional who always makes time to give to others. Mr. Sinha is active in both the National Association of Human Rights Workers, NAHRW, and the International Association of Official Human Rights Agencies, IAOHRA.

In 1998, the Columbus Dispatch awarded Mr. Sinha the Outstanding Community Service Award. In 1989, he received the Outstanding Community Service Award from the mayor of Columbus.

Mr. Sinha's record in human rights is exceptional. In 1998, he initiated the first ever "Asian Roundtable" discussion on Civil Rights with joint efforts involving the Equal Employment Opportunity Commission and the Ohio Rights Commission. Also in 1998, Mr. Sinha received the Dr. Martin Luther King, Jr. Award for Community Service to the State of Ohio.

In his profession, Mr. Sinha is an accomplished mechanical engineer and has been involved in the design and construction of large electric power plants. He holds a bachelor's degree in mechanical engineering from Jadavapur University in Calcutta, India, and a master's degree from the Polytechnic University of New York. He also studied management at the Ohio State University and computer science at Franklin University. Currently, he is president of Marketing USA Group, a consulting firm he founded which advises clients on energy, telecommunications, technology, and global business.

As a humanitarian, Mr. Sinha is known for his quiet leadership. He has been called "a humble man with a compassion for human and civil rights." Throughout his career, Nirmal Sinha has exemplified the highest American values, including good citizenship, and responsibility to his fellow man.

Nirmal Sinha is very deserving of the Ellis Island Medal of Honor. America is a nation of immigrants, and I believe our cultural and ethnic diversity helps make us strong.

When I was Governor of Ohio, one of the goals that I set for my administration was to celebrate the cultural diversity of our State by seeking out individuals from nontraditional ethnic groups and giving them an opportunity to serve. I am proud that I appointed a number of Asian Indian Americans, such as Nirmal Sinha, to various boards and commissions, particularly in such fields, as medicine, manufacturing, and higher education.

Mr. Sinha is in good company as a recipient of the Ellis Island Medal of Honor. Former recipients include four Presidents, several Senators and Congressmen, and Nobel Prize winners.

As someone who has had the pleasure of knowing and working with Mr. Sinha, I can guarantee that his significant contributions to his community and to the State of Ohio will not stop, but will continue to grow. I also know that he does not seek recognition for his humanitarian service. Instead, he lives in accordance with his strong faith, and his commitment to education, his family, and his community.

Nirmal Sinha is someone all of us would do well to emulate and I am pleased and proud to salute him and his wife Tripti and their two daughters.

I congratulate Nirmal Sinha as a 2003 Ellis Island Medal of Honor winner. He is an outstanding American whose dedicated service to others helps improve the quality of life for his fellow Americans every day.•

MESSAGE FROM THE HOUSE

At 3:30 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 925. An act to redesignate the facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, as the "Cesar Chavez Post Office".

H.R. 1086. An act to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

H.R. 1529. An act to amend title 11 of the United States Code with respect to the dismissal of certain involuntary cases.

H.R. 2030. An act to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the "Patsy Takemoto Mink Post Office Building".

H.R. 2143. An act to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes;

The message also announced that pursuant to 22 U.S.C. 6913, and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Congressional-Executive Commission on the People's Republic of China: Mr. LEVIN of Michigan; Ms. KAPTUR of Ohio; Mr. BROWN of Ohio.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 925. An act to redesignate the facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, as the "Cesar Chavez Post Office"; to the Committee on Governmental Affairs.

H.R. 1086. An act to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes; to the Committee on the Judiciary.

H.R. 1529. An act to amend title 11 of the United States Code with respect to the dismissal of certain involuntary cases; to the Committee on the Judiciary.

H.R. 2030. An act to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the "Patsy Takemoto Mink Post Office Building"; to the Committee on Governmental Affairs.

H.R. 2143. An act to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 11, she had presented to the President of the United States the following enrolled bills:

S. 222. An act to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

S. 273. An act to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2657. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Rock Rapids, IA; Docket No. 03–ACE–28 (2120–AA66) (2003–0097)" received on June 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2658. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace Crete, NE; Docket No. 03–ACE–33 (2120–AA66) (2003–0096)" received on June 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2659. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Saginaw, MI; Docket No. 02–AGL–17 (2120–AA66) (2003–0095)" received on June 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2660. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Berrien Springs, MI; Docket No. 02–AGL–20 (2120–AA66) (2003–0094)" received on June 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2661. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Greenfield; IA; Docket No. 03–ACE–19 (2120–AA66) (2003–0093)" received on June 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2662. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; St. Louis, MO; Docket No. 03–ACE–26 (2120–AA66) (2003–0092)"; to the Committee on Commerce, Science, and Transportation.

EC–2663. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace Marshalltown, IA; Docket No. 03–ACE–24 (2120–AA66) (2003–0091)"; to the Committee on Commerce, Science, and Transportation.

EC–2664. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas model MD 90–30 Airplanes; Docket No. 2001–NM–173 (2120–AA64) (2003–0215)"; to the Committee on Commerce, Science, and Transportation.

EC–2665. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 90–30 Airplanes; Docket No. 2001–NM–386 (2120–AA64) (2003–0214)"; to the Committee on Commerce, Science, and Transportation.

EC–2666. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757–200, 200CB, and 200PF Series Airplanes; Docket No. 2001–NM–329 (2120–AA64) (2003–0213)"; to the Committee on Commerce, Science, and Transportation.

EC–2667. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes; Docket No. 2000–NM–343 (2120–AA64) (2003–0212)"; to the Committee on Commerce, Science, and Transportation.

EC–2668. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company Model 1900D Airplanes; Docket No. 2002–CE–26 (2120–AA64) (2003–0211)"; to the Committee on Commerce, Science, and Transportation.

EC–2669. A communication from the Program Analyst; Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric CF34–8C1 Turbofan Engines; Docket No. 2002–NE–23 (2120–AA64) (2003–0210)"; to the Committee on Commerce, Science, and Transportation.

EC–2670. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: New Poper Aircraft, Inc. Models PA 23, 160, 235, 250, and PA–E23–250 Airplanes; Docket No. 2002–CE–44 (2120–AA64) (2003–0209)"; to the Committee on Commerce, Science, and Transportation.

EC–2671. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company Beech Models C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B Airplanes; Docket No. 93–CE–37 (2120–AA64) (2003–0208)"; to the Committee on Commerce, Science, and Transportation.

EC–2672. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportion, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc RB211 Series Turbofan Engines; Docket No. 2003–NE–15 (2120–AA64) (2003–0207)"; to the Committee on Commerce, Science, and Transportation.

EC–2673. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model 717–200 Airplanes; Docket No. 2001–NM–245 (2120–AA64) (2003–0206)"; to the Committee on Commerce, Science, and Transportation.

EC–2674. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model 717–200 Airplanes; Docket No. 309 (2120–AA64) (2003–0205)"; to the Committee on Commerce, Science, and Transportation.

EC–2675. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model Beech 400A and 400T Series Airplanes; Docket No. 2001–NM–335 (2120–AA64) (2003–0204)"; to the Committee on Commerce, Science, and Transportation.

EC–2676. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: MORAVAN a.s. Model Z 242L Airplanes; Docket No. 2003–CE–24 (2120–AA64) (2003–0203)"; to the Committee on Commerce, Science, and Transportation.

EC–2677. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–200 and 300 Series Airplanes; Docket No. 2002–N–10 (2120–AA64) (2003–0202)"; to the Committee on Commerce, Science, and Transportation.

EC–2678. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures: Miscellaneous Amendments (19); Amdt. No. 3060 (2120–AA65) (2003–0025)"; to the Committee on Commerce, Science, and Transportation.

EC–2679. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600–IA11, CL 600 2A12, and CL600–2B16, Series Airplanes: Docket No. 2002–NM–317 (2120–AA64) (2003–0183)"; to the Committee on Commerce, Science, and Transportation.

EC–2680. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–200, 200C, 300, 400, and 500 Series

Airplanes; Docket No. 2002–NM–329 (2120–AA64) (2003–0182)''; to the Committee on Commerce, Science, and Transportation.

EC–2681. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft Ltd., Models PC–12 and PC 12/45 Airplanes; Docket No. 2003–CE–02 (2120–AA64) (2003–0181)''; to the Committee on Commerce, Science, and Transportation.

EC–2682. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textron Canada Model 222, 22b, 22u, and 230 Helicopters; Docket No. 2003–SW–01 (2120–AA64) (2003–0178)''; to the Committee on Commerce, Science, and Transportation.

EC–2683. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 10–10, 10F, 15, 30, 30, 40, 40F, 10F, 30, MD–11 and MD–11F Airplanes; Docket No. 2003–NM–42 (2120–AA64) (2003–0180)''; to the Committee on Commerce, Science, and Transportation.

EC–2684. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD 11 and 11F S Airplanes; Docket No. 2001–NM–62 (2120–AA64) (2003–0198)''; to the Committee on Commerce, Science, and Transportation.

EC–2685. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Aerospatiale Model ATR 42 500 Airplanes; and Model ATR72–102, 202, 212, and 212A Series Airplanes; Docket No. 2002–NM–73 (2120–AA64) (2003–0197)'' received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2686. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 10–10F, 15, 30, 30F (KC10A and KDC 10), 40, 40F, MD 10 10F and 10 30F Airplanes; Docket No. 2001–NM–99 (2120–AA64) (2003–0196)'' received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2687. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft Ltd. Models PC 12 and PC 12/45 Airplanes; Docket No. 2003–CE–06 (2120–AA64) (2003–0195)'' received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2688. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–200, 300 and 300F Series Airplanes; Docket No. 2002–NM–158 (2120–AA64) (2003–0194)'' received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 686. A bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers (Rept. No. 108–68).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. GREGG for the Committee on Health, Education, Labor, and Pensions.

*Anne Rader, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS):

S. 1. A bill to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. ALLARD:

S. 1230. A bill to provide for additional responsibilities for the Chief Information Officer of the Department of Homeland Security relating to geospatial information; to the Committee on Governmental Affairs.

By Mr. SCHUMER:

S. 1231. A bill to eliminate the burdens and costs associated with electronic mail spam by prohibiting the transmission of all unsolicited commercial electronic mail to persons who place their electronic mail addresses on a national No-Spam Registry, and to prevent fraud and deception in commercial electronic mail by imposing requirements on the content of all commercial electronic mail messages; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 1232. A bill to designate the newly-constructed annex to the E. Barrett Prettyman Courthouse located at 333 Constitution Ave., N.W. in Washington D.C., as the ''James L. Buckley Annex to the E. Barrett Prettyman United States Courthouse''; to the Committee on Environment and Public Works.

By Ms. MIKULSKI (for herself, Mr. HATCH, Mr. SARBANES, Mr. EDWARDS, Mr. LAUTENBERG, Mrs. CLINTON, and Mr. CORZINE):

S. 1233. A bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself and Mr. SMITH):

S. 1234. A bill to reauthorize the Federal Trade Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. EDWARDS (for himself, Mr. REED, and Mr. ROBERTS):

S. 1235. A bill to increase the capabilities of the United States to provide reconstruction assistance to countries or regions impacted by armed conflict, and for other purposes; to the Committee on Foreign Relations.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 1236. A bill to direct the Secretary of the Interior to establish a program to control or eradicate tamarisk in the western States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BENNETT (for himself, Mr. HATCH, Mr. CRAPO, Mr. CRAIG, and Mr. DORGAN):

S. 1237. A bill to amend the Rehabilitation Act of 1973 to provide for more equitable allotment of funds to States for centers for independent living; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN (for herself, Mrs. MURRAY, Ms. LANDRIEU, and Ms. CANTWELL):

S. 1238. A bill to amend titles XVIII, XIX, and XXI of the Social Security Act to improve women's health, and for other purposes; to the Committee on Finance.

By Mr. CRAIG:

S. 1239. A bill to amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LUGAR:

S. 1240. A bill to establish the Millennium Challenge Corporation, and for other purposes; to the Committee on Foreign Relations.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 1241. A bill to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DODD:

S. 1242. A bill to designate the Department of Veterans Affairs outpatient clinic in New London, Connecticut, as the ''John J. McGuirk Department of Veterans Affairs Outpatient Clinic''; to the Committee on Veterans' Affairs.

By Mr. SCHUMER (for himself and Mr. DURBIN):

S. 1243. A bill to amend section 924, title 18, United States Code, to increase the maximum term of imprisonment for interstate firearms trafficking and to include interstate firearms trafficking in the definition of racketeering activity, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, and Mrs. HUTCHISON):

S. 1244. A bill to authorize appropriations for the Federal Maritime Commission for fiscal years 2004 and 2005; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORNYN:

S. Res. 166. A resolution recognizing the United States Air Force's Air Force News

Agency on the occasion of its 25th anniversary and honoring the Air Force personnel who have served the Nation while assigned to that agency; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. Con. Res. 53. A concurrent resolution honoring and congratulating chambers of commerce for their efforts that contribute to the improvement of communities and the strengthening of local and regional economies; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. Con. Res. 54. A concurrent resolution commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams for their lives and accomplishments, designating a Medgar Evers National Week of Remembrance, and for other purposes; considered and agreed to.

ADDITIONAL COSPONSORS

S. 56

At the request of Mr. JOHNSON, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 56, a bill to restore health care coverage to retired members of the uniformed services.

S. 68

At the request of Mr. INOUYE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 98

At the request of Mr. ALLARD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States, to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 136

At the request of Mrs. LINCOLN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 136, a bill to amend the Tariff Act of 1930 to provide for an expedited antidumping investigation when imports increase materially from new suppliers after an antidumping order has been issued, and to amend the provision relating to adjustments to export price and constructed export price.

S. 340

At the request of Mr. BUNNING, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 340, a bill to authorize the Secretary of Health and Human Services to make grants to nonprofit tax-exempt organizations for the purchase of ultrasound equipment to provide free examinations to pregnant women needing such services, and for other purposes.

S. 448

At the request of Mr. DODD, the names of the Senator from California (Mrs. BOXER) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 448, a bill to leave no child behind.

S. 481

At the request of Mr. ALLEN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 481, a bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes.

S. 493

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 493, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 517

At the request of Mrs. MURRAY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 517, a bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war.

S. 518

At the request of Ms. COLLINS, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from New Jersey (Mr. CORZINE) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 620

At the request of Mr. EDWARDS, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 620, a bill to amend title VII of the Higher Education Act of 1965 to provide for fire sprinkler systems, or other fire suppression or prevention technologies, in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories.

S. 640

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 678

At the request of Mr. AKAKA, the names of the Senator from Montana (Mr. BURNS) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 684

At the request of Mr. SMITH, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 684, a bill to create an office within the Department of Justice to undertake certain specific steps to ensure that all American citizens harmed by terrorism overseas receive equal treatment by the United States Government regardless of the terrorists' country of origin or residence, and to ensure that all terrorists involved in such attacks are pursued, prosecuted, and punished with equal vigor, regardless of the terrorists' country of origin or residence.

S. 700

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 700, a bill to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 854

At the request of Mr. DAYTON, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Washington (Mrs . MURRAY) were added as cosponsors of S. 854, a bill to authorize a comprehensive program of support for victims of torture, and for other purposes.

S. 854

At the request of Mr. COLEMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 854, supra.

S. 884

At the request of Ms. LANDRIEU, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 902

At the request of Ms. LANDRIEU, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 902, a bill to declare, under the authority of Congress under Article I, section 8, of the Constitution to "provide and maintain a Navy", a national policy for the naval force structure required in order to "provide for the common defense" of the United States throughout the 21st century.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 990

At the request of Ms. LANDRIEU, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 990, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Challenge Program, and for other purposes.

S. 1091

At the request of Mr. DURBIN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1091, a bill to provide funding for student loan repayment for public attorneys.

S. 1121

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1121, a bill to extend certain trade benefits to countries of the greater Middle East.

S. 1138

At the request of Mr. COLEMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1138, a bill to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage.

S. 1146

At the request of Mr. CONRAD, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1146, a bill to implement the recommendations of the Garrison Unit Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, North Dakota.

S. 1155

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 1155, a bill to repeal section 801 of the Revenue Act of 1916.

S. 1182

At the request of Mrs. FEINSTEIN, the names of the Senator from Michigan (Mr. LEVIN), the Senator from New York (Mrs. CLINTON) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1182, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

S. 1215

At the request of Mr. MCCONNELL, the names of the Senator from Connecticut (Mr. DODD), the Senator from Colorado (Mr. CAMPBELL) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1215, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

S. 1215

At the request of Mr. KERRY, his name was added as a cosponsor of S. 1215, supra.

S. 1215

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1215, supra.

S. CON. RES. 40

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Con. Res. 40, a concurrent resolution designating August 7, 2003, as "National Purple Heart Recognition Day".

S. RES. 164

At the request of Mr. ENSIGN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

AMENDMENT NO. 876

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 876 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS):

S. 1. A bill to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; to the Committee on Finance.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; SENSE OF THE CONGRESS.

(a) SHORT TITLE.—This Act may be cited as the "Prescription Drug and Medicare Improvement Act of 2003".

(b) SENSE OF THE CONGRESS.—It is the Sense of the Congress that the Congress should enact, and the President should sign, legislation to amend title XVIII of the Social Security Act to make improvements in the medicare program and to provide prescription drug coverage under the medicare program.

By Mr. HATCH:

S. 1232. A bill to designate the newly-constructed annex to the E. Barrett Prettyman Courthouse located at 333 Constitution Ave., NW., in Washington, DC., as the "James L. Buckley Annex to the E. Barrett Prettyman United States Courthouse"; to the Committee on Environment and Public Works.

Mr. HATCH. Mr. President, I rise today to introduce a bill to designate the newly-constructed annex to the E. Barrett Prettyman United States Courthouse as the "James L. Buckley Annex." As members of this body well know, Judge Buckley served in this Senate from 1971-77, as a trusted colleague from the State of New York. During his tenure here, Judge Buckley was greatly admired for his dedication, integrity, and professionalism.

Judge Buckley's lengthy public service career is one of great distinction. In addition to the time he spent here in the Senate, Judge Buckley served in the United States Navy during World War II, as Undersecretary of State for Security Assistance, and as President of Radio Free Europe. Most recently, he served for more than a decade as a Circuit Judge on the United States Court of Appeals for the District of Columbia Circuit, in the E. Barrett Prettyman courthouse.

Earlier this Congress, we honored Judge Buckley, on the celebration of his 80th birthday, by passing unanimously a resolution, S. Res. 88, acknowledging his distinguished career in the executive, legislative, and judicial branches of the United States.

Naming the new annex to the E. Barrett Prettyman courthouse after Judge Buckley would be a fitting tribute to our former colleague and prominent jurist. I am honored to offer this legislation, and I urge my colleagues to support this well-deserved commendation.

By Ms. MIKULSKI (for herself, Mr. HATCH, Mr. SARBANES, Mr.

EDWARDS, Mr. LAUTENBERG, Mrs. CLINTON, and Mr. CORZINE):

S. 1233. A bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center; to the Committee on the Judiciary.

Ms. MIKULSKI. Mr. President, I rise to introduce the National Great Black Americans Commemoration Act. I am proud to sponsor this legislation. Black Americans have a rich history that must be cherished and remembered. This bill will honor African American leaders from across the country—some who are well known, and others who are almost forgotten—by helping to preserve their names, faces, and stories for generations to come.

This legislation will provide Federal assistance to expand exhibits and educational programs at the National Great Blacks in Wax Museum and Justice Learning Center in Baltimore, Maryland. The museum showcases the lives of great Black Americans who have proudly served the United States—from civil servants like Mary McLeod Bethune, to military heroes like Colin Powell, to Congressional leaders like Senator Edward Brooke, R-MA, and civil rights leaders like Rosa Parks. Some are household names, like Frederick Douglass and Dr. Martin Luther King, Jr. Yet many more are unfamiliar, like the 22 African Americans who served in Congress in the 1800s. It's time we give these pioneers the recognition they deserve.

Maryland is proud to be home to so many important figures in black history. From the dark days of slavery through the civil rights movement, Marylanders have led the way. The brilliant Frederick Douglass was the voice of the voiceless in the struggle against slavery. The courageous Harriet Tubman delivered 300 slaves to freedom on the Underground Railroad. The great Thurgood Marshall argued the Brown v. Board of Education Case before the Supreme Court, and later became a Supreme Court Justice himself.

Maryland is home to contemporary leaders, too. The dynamic Kweisi Mfume, president of the NAACP, who, like me, came out of the Baltimore City Council. The passionate ELIJAH CUMMINGS, Chair of the Congressional Black Caucus. Clarence Mitchell who was called by many the 101st Senator. Parren Mitchell and AL WYNN, fighting for their constituents. And all the members of the NAACP, which calls Baltimore home.

It is fitting that the National Great Blacks in Wax Museum and Justice Learning Center also calls Baltimore home. The museum and learning center is a popular and respected black history museum. Approximately 300,000 people a year from around the country and the world visit the museum. Many are school children, who can see historical figures come to life in the museum's exhibits. Expansion will allow the museum to teach even more visitors about the important contributions of Black Americans. It will also help revitalize a poor neighborhood in East Baltimore. There will be new jobs. There will be more tourists. There will be new small businesses. And most important, there will be new inspiration for our young people.

The State of Maryland and City of Baltimore have already contributed over $5 million toward this expansion project. Private donors are contributing too. Now it's time for the Federal Government to do its part. Let's help make this museum a treasure for the entire Nation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Great Black Americans Commemoration Act of 2003".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Black Americans have served honorably in Congress, in senior executive branch positions, in the law, the judiciary, and other fields, yet their record of service is not well known by the public, is not included in school history lessons, and is not adequately presented in the Nation's museums.

(2) The Great Blacks in Wax Museum, Inc. in Baltimore, Maryland, a nonprofit organization, is the Nation's first wax museum presenting the history of great Black Americans, including those who have served in Congress, in senior executive branch positions, in the law, the judiciary, and other fields, as well as others who have made significant contributions to benefit the Nation.

(3) The Great Blacks in Wax Museum, Inc. plans to expand its existing facilities to establish the National Great Blacks in Wax Museum and Justice Learning Center, which is intended to serve as a national museum and center for presentation of wax figures and related interactive educational exhibits portraying the history of great Black Americans.

(4) The wax medium has long been recognized as a unique and artistic means to record human history through preservation of the faces and personages of people of prominence, and historically, wax exhibits were used to commemorate noted figures in ancient Egypt, Babylon, Greece, and Rome, in medieval Europe, and in the art of the Italian renaissance.

(5) The Great Blacks in Wax Museum, Inc. was founded in 1983 by Drs. Elmer and Joanne Martin, 2 Baltimore educators who used their personal savings to purchase wax figures, which they displayed in schools, churches, shopping malls, and festivals in the mid-Atlantic region.

(6) The goal of the Martins was to test public reaction to the idea of a Black history wax museum and so positive was the response over time that the museum has been heralded by the public and the media as a national treasure.

(7) The museum has been the subject of feature stories by CNN, the Wall Street Journal, the Baltimore Sun, the Washington Post, the New York Times, the Chicago Sun Times, the Dallas Morning News, the Los Angeles Times, USA Today, the Afro American Newspaper, Crisis, Essence Magazine, and others.

(8) More than 300,000 people from across the Nation visit the museum annually.

(9) The new museum will carry on the time honored artistic tradition of the wax medium; in particular, it will recognize the significant value of this medium to commemorate and appreciate great Black Americans whose faces and personages are not widely recognized.

(10) The museum will employ the most skilled artisans in the wax medium, use state-of-the-art interactive exhibition technologies, and consult with museum professionals throughout the Nation, and its exhibits will feature the following:

(A) Blacks who have served in the Senate and House of Representatives of the United States, including those who represented constituencies in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia during the 19th century.

(B) Blacks who have served in the judiciary, in the Department of Justice, as prominent attorneys, in law enforcement, and in the struggle for equal rights under the law.

(C) Black veterans of various military engagements, including the Buffalo Soldiers and Tuskegee Airmen, and the role of Blacks in the settlement of the western United States.

(D) Blacks who have served in senior executive branch positions, including members of Presidents' Cabinets, Assistant Secretaries and Deputy Secretaries of Federal agencies, and Presidential advisers.

(E) Other Blacks whose accomplishments and contributions to human history during the last millennium and to the Nation through more than 400 years are exemplary, including Black educators, authors, scientists, inventors, athletes, clergy, and civil rights leaders.

(11) The museum plans to develop collaborative programs with other museums, serve as a clearinghouse for training, technical assistance, and other resources involving use of the wax medium, and sponsor traveling exhibits to provide enriching museum experiences for communities throughout the Nation.

(12) The museum has been recognized by the State of Maryland and the city of Baltimore as a preeminent facility for presenting and interpreting Black history, using the wax medium in its highest artistic form.

(13) The museum is located in the heart of an area designated as an empowerment zone, and is considered to be a catalyst for economic and cultural improvements in this economically disadvantaged area.

SEC. 3. ASSISTANCE FOR NATIONAL GREAT BLACKS IN WAX MUSEUM AND JUSTICE LEARNING CENTER.

(a) ASSISTANCE FOR MUSEUM.—Subject to subsection (b), the Attorney General, acting through the Office of Justice Programs of the Department of Justice, shall, from amounts made available under subsection (c), make a grant to the Great Blacks in Wax Museum, Inc. in Baltimore, Maryland, to pay the Federal share of the costs of expanding and creating the National Great Blacks in Wax Museum and Justice Learning Center, including the cost of its design, planning, furnishing, and equipping.

(b) GRANT REQUIREMENTS.—

(1) IN GENERAL.—To receive a grant under subsection (a), the Great Blacks in Wax Museum, Inc. shall submit to the Attorney General a proposal for the use of the grant, which shall include detailed plans for the design, construction, furnishing, and equipping of the National Great Blacks in Wax Museum and Justice Learning Center.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (a) shall not exceed 25 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000, to remain available until expended.

Mr. HATCH. Mr. President, I am proud to join Senator MIKULSKI as cosponsor of the "National Great Black Americans Commemoration Act of 2003." This legislation will help offer a more complete portrayal of our Nation's proud history—one that includes an increased awareness of the contributions made by many great black Americans of various fields and accomplishments.

This legislation seeks to recognize the contributions of African Americans who have served in Congress or other government capacities, in the military, or in other important roles as educators, authors, scientists, inventors, athletes, clergy and civil rights leaders. Clearly, there are few, if any, areas of American culture and history that have not been touched and improved upon by the impact of black individuals. As we recognize this, it is important that we also recognize those whose goal is to make available the history of these outstanding people.

One such institution, is The Great Blacks in Wax Museum, a nonprofit organization in Baltimore, MD, whose mission is to present the history of black Americans and to highlight their contributions to our nation. I believe that this institution's work thus far and its goals for the future make it worthy of our support. This legislation not only commends the efforts made by this museum to date, but authorizes the appropriation of funds that will help the museum to improve and expand. Appropriate Federal assistance, coupled with other funding raised by the museum, will allow the current institution to become the National Great Blacks in Wax Museum and Justice Learning Center, which will be better equipped to serve its purposes. This improved museum will be a bright example for projects with similar goals and will provide an excellent source of historical education for all who visit.

I am a strong believer that our history should be presented in a complete and accurate manner. Where we have understated in the past, we should make amends. The development of the National Great Blacks in Wax Museum and Justice Learning Center will be a valuable statement recognizing the contributions of so many great African Americans. I hope that my colleagues will see the merit in this endeavor and will lend their support to the National Great Black Americans Commemoration Act.

By Mr. MCCAIN (for himself and Mr. SMITH):

S. 1234. A bill to reauthorize the Federal Trade Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am joined by the Chairman of the Senate Commerce Committee's Competition, Foreign Commerce, and Infrastructure Subcommittee, Senator SMITH, in introducing the Federal Trade Commission Reauthorization Act of 2003. This legislation is designed to reauthorize the Federal Trade Commission, FTC or Commission, in furtherance of its mission to enhance the efficient operation of the marketplace by both eliminating acts or practices that are unfair or deceptive and preventing anti-competitive conduct. This vital consumer protection agency has not been reauthorized since 1996.

Title I of the bill is nearly identical to legislation that was reported by the Commerce Committee last year. It would authorize funding for Fiscal Years 2004 through 2006. In addition, this portion of the bill would authorize the FTC to provide investigative and other services to a requesting law enforcement agency and receive from that agency, if offered, reimbursement for the FTC's involvement. This part of the bill also would grant the Commission the authority it has requested to receive gifts or items that would be useful to the Commission as long as a conflict of interest is not created by such receipt.

The second title of the bill is designed to mitigate the challenges that the FTC currently faces in combating cross-border fraud. The FTC's responsibility to protect consumers is essential, particularly in today's global climate of high-speed information and marketing, which knows no international borders. This title would improve the Commission's ability to: share information involving cross-border fraud with foreign consumer protection agencies; secure confidential information from those foreign agencies; take legal action in foreign jurisdictions; seek redress on behalf of foreign consumers victimized by U.S.-based wrongdoers; make criminal referrals for cross-border criminal activity; and strengthen its relationship with foreign consumer protection agencies. The Competition Subcommittee will hold a hearing later today on the FTC's reauthorization and will consider a number of issues including the Commission's cross-border fraud proposal.

Not included in the bill is language that was reported by the Commerce Committee last Fall that would repeal the "common carrier" exemption in the FTC's organizing statute that currently precludes the Commission from exercising authority over certain activities of telecommunications common carriers. The Federal Communications Commission, FCC, currently has jurisdiction over these common carriers.

While I fully support any effort to combat entities that perpetrate fraud on consumers, and I respect the expertise and ability of the FTC and FCC to seek redress for victims of such fraud, I made it clear during the Commerce Committee's executive session last Fall that a discussion was necessary between the two agencies to resolve any overlap in jurisdiction that may exist. It is our understanding that the FTC and FCC are in the process of negotiating an agreement that would satisfy the objectives of both agencies to further their respective consumer protection missions. Thus, for now, we will reserve judgment as to whether such a repeal is necessary.

Meanwhile, I look forward to working on this important consumer protection legislation and I hope that my colleagues will agree to join us in expeditiously moving this reauthorization through the legislative process. Reauthorizing the FTC is important if the agency is to continue to successfully carry out its many responsibilities.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Trade Commission Reauthorization Act of 2003".

TITLE I—REAUTHORIZATION

SEC. 101. REAUTHORIZATION.

The text of section 25 of the Federal Trade Commission Act (15 U.S.C. 57c) is amended to read as follows:

"There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission not to exceed $194,742,000 for fiscal year 2004, $224,695,000 for fiscal year 2005, and $235,457,000 for fiscal year 2006.".

SEC. 102. AUTHORITY TO ACCEPT REIMBURSEMENTS, GIFTS, AND VOLUNTARY AND UNCOMPENSATED SERVICES.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(1) by redesignating section 26 as section 28; and

(2) by inserting after section 25 the following:

"SEC. 26. REIMBURSEMENT OF EXPENSES.

"The Commission may accept payment or reimbursement, in cash or in kind, from a domestic or foreign law enforcement authority, or payment or reimbursement made on behalf of such authority, for expenses incurred by the Commission, its members, or employees in carrying out any activity pursuant to a statute administered by the Commission without regard to any other provision of law. Any such payments or reimbursements shall be considered a reimbursement to the appropriated funds of the Commission.

"SEC. 27. GIFTS AND VOLUNTARY AND UNCOMPENSATED SERVICES.

"(a) IN GENERAL.—In furtherance of its functions the Commission may accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property and, notwithstanding section 1342 of title 31, United States Code, accept voluntary and uncompensated services.

"(b) LIMITATIONS.—

"(1) CONFLICTS OF INTEREST.—Notwithstanding subsection (a), the Commission may not accept, hold, administer, or use a gift, donation, or bequest if the acceptance, holding, administration, or use would create a conflict of interest or the appearance of a conflict of interest.

"(2) VOLUNTARY SERVICES.—A person who provides voluntary and uncompensated service under subsection (a) shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, (relating to compensation for injury) and section 2671 through 2680 of title 28, United States Code, (relating to tort claims).".

TITLE II—INTERNATIONAL CONSUMER PROTECTION

SEC. 201. FINDINGS.

The Congress finds the following:

(1) The Federal Trade Commission protects consumers from fraud and deception. Cross-border fraud and deception are growing international problems that affect American consumers and businesses.

(2) The development of the Internet and improvements in telecommunications technologies have brought significant benefits to consumers. At the same time, they have also provided unprecedented opportunities for those engaged in fraud and deception to establish operations in one country and victimize a large number of consumers in other countries.

(3) An increasing number of consumer complaints collected in the Consumer Sentinel database maintained by the Commission, and an increasing number of cases brought by the Commission, involve foreign consumers, foreign businesses or individuals, or assets or evidence located outside the United States.

(4) The Commission has legal authority to remedy law violations involving domestic and foreign wrongdoers, pursuant to the Federal Trade Commission Act. The Commission's ability to obtain effective relief using this authority, however, may face practical impediments when wrongdoers, victims, other witnesses, documents, money and third parties involved in the transaction are widely dispersed in many different jurisdictions. Such circumstances make it difficult for the Commission to gather all the information necessary to detect injurious practices, to recover offshore assets for consumer redress, and to reach conduct occurring outside the United States that affects United States consumers.

(5) Improving the ability of the Commission and its foreign counterparts to share information about cross-border fraud and deception, to conduct joint and parallel investigations, and to assist each other is critical to achieve more timely and effective enforcement in cross- border cases.

(6) Consequently, Congress should enact legislation to provide the Commission with more tools to protect consumers across borders.

SEC. 202. FOREIGN LAW ENFORCEMENT AGENCY DEFINED.

Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following:

" 'Foreign law enforcement agency' means—

"(1) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters;

"(2) any multinational organization, to the extent that it is acting on behalf of an entity described in paragraph (1); or

"(3) any organization that is vested with authority, as a principal mission, to enforce laws against fraudulent, deceptive, misleading, or unfair commercial practices affecting consumers, in accordance with criteria laid down by law, by a foreign state or a political subdivision of a foreign state.".

SEC. 203. SHARING INFORMATION WITH FOREIGN LAW ENFORCEMENT AGENCIES.

(a) IN GENERAL.—Section 21(b)(6) of the Federal Trade Commission Act (15 U.S.C. 57b–2(b)(6)) is amended by adding at the end "The custodian may make such material available to any foreign law enforcement agency upon the prior certification of any officer of any such foreign law enforcement agency that such material will be maintained in confidence and will be used only for official law enforcement purposes, provided that the foreign law enforcement agency has set forth a legal basis for its authority to maintain the material in confidence. Nothing in the preceding sentence authorizes disclosure of material obtained in connection with the administration of Federal antitrust laws or foreign antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)) to any officer or employee of a foreign law enforcement agency.".

(b) PUBLICATION OF INFORMATION; REPORTS.—Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended—

(1) by striking "agencies or to any officer or employee of any State law enforcement agency" and inserting "agencies, to any officer or employee of any State law enforcement agency, or to any officer or employee of any foreign law enforcement agency";

(2) by striking "Federal or State law enforcement agency" and inserting "Federal, State, or foreign law enforcement agency"; and

(3) by adding at the end "Such information shall be disclosed to an officer or employee of a foreign law enforcement agency only if the foreign law enforcement agency has set forth a legal basis for its authority to maintain the information in confidence. Nothing in the preceding sentence authorizes the disclosure of material obtained in connection with the administration of Federal antitrust laws or foreign antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)) to any officer or employee of a foreign law enforcement agency.".

SEC. 204. OBTAINING INFORMATION FOR FOREIGN LAW ENFORCEMENT AGENCIES.

Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by adding at the end the following:

"(j)(1) Upon request from a foreign law enforcement agency, to provide assistance in accordance with this subsection if the requesting agency states that it is investigating, or engaging in enforcement proceedings against, possible violations of laws prohibiting fraudulent, deceptive, misleading, or unfair commercial conduct, or other conduct that may be similar to conduct prohibited by any provision of the laws administered by the Commission, other than Federal antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)), the Commission may, in its discretion—

"(A) conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance, using all investigative powers authorized by this Act; and

"(B) seek and accept appointment by a United States district court of Commission attorneys to provide assistance to foreign and international tribunals and to litigants before such tribunals on behalf of a foreign law enforcement agency pursuant to section 1782 of title 28, United States Code.

"(2) The Commission may provide assistance under paragraph (1) without regard to whether the conduct identified in the request would also constitute a violation of the laws of the United States.

"(3) In deciding whether to provide such assistance, the Commission shall consider—

"(A) whether the requesting agency has agreed to provide or will provide reciprocal assistance to the Commission; and

"(B) whether compliance with the request would prejudice the public interest of the United States.

"(4) If a foreign law enforcement agency has set forth a legal basis for requiring execution of an international agreement as a condition for reciprocal assistance, or as a condition for disclosure of materials or information to the Commission, the Commission, after consultation with the Secretary of State, may negotiate and conclude an international agreement, in the name of either the United States or the Commission and with the final approval of the agreement by the Secretary of State, for the purpose of obtaining such assistance or disclosure. The Commission may undertake in such an international agreement—

"(A) to provide assistance using the powers set forth in this subsection;

"(B) to disclose materials and information in accordance with subsection (f) of this section and section 21(b)(6) of this Act; and

"(C) to engage in further cooperation, and protect materials and information received from disclosure, as authorized by this Act.

"(5) The authority in this subsection is in addition to, and not in lieu of, any other authority vested in the Commission or any other officer of the United States.".

SEC. 205. INFORMATION SUPPLIED BY AND ABOUT FOREIGN SOURCES.

Section 21(f) of the Federal Trade Commission Act (15 U.S.C. 57b-2(f)) is amended—

(1) by inserting "(1) before "Any"; and adding at the end the following:

"(2)(A) Except as provided in subparagraph (C) of this paragraph, the Commission shall not be compelled to disclose—

"(i) material obtained from a foreign law enforcement agency or other foreign government agency, if the foreign law enforcement agency or other foreign government agency has requested confidential treatment as a condition of disclosing the material;

“(ii) material reflecting consumer complaints obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of disclosing the material; or

“(iii) material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign law enforcement agencies or other foreign government agencies.

“(B) For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

“(C) Nothing in this paragraph shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.”.

SEC. 206. CONFIDENTIALITY AND DELAYED NOTICE OF PROCESS.

(a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21 (15 U.S.C. 57b-2) the following:

“SEC. 21A. CONFIDENTIALITY AND DELAYED NOTICE OF COMPULSORY PROCESS FOR CERTAIN THIRD PARTIES.

“(a) Confidentiality of Compulsory Process Issued by the Commission.—

“(1) This subsection shall apply only in connection with compulsory process issued by the Commission where the recipient of such process is not a subject of the investigation or proceeding at the time such process is issued.

“(2) Notwithstanding any law or regulation of the United States, any constitution, law or regulation of any State or political subdivision of any State or any Territory or the District of Columbia, or any contract or other legally enforceable agreement, the Commission may seek an order requiring the recipient of compulsory process described in paragraph (1) to keep such process confidential, upon an ex parte showing to an appropriate United States district court that there is a reason to believe that disclosure may—

“(A) result in the transfer of assets or records outside the territorial limits of the United States;

“(B) impede the ability of the Commission to identify or trace funds;

“(C) endanger the life or physical safety of an individual;

“(D) result in flight from prosecution;

“(E) result in destruction of or tampering with evidence;

“(F) result in intimidation of potential witnesses;

“(G) result in the dissipation or concealment of assets; or

“(H) otherwise seriously jeopardize an investigation or unduly delay a trial.

“(3) Upon a showing described in paragraph (2), the presiding judge or magistrate judge shall enter an ex parte order prohibiting the recipient of process from disclosing that information has been submitted or that a request for information has been made, for such period as the court deems appropriate.

“(b) Materials Subject to Government Notification Under the Right to Financial Privacy Act.—

“(1) When section 1105 or 1107 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3405 or 3407) would otherwise require notice, notwithstanding such requirements, the Commission may obtain from a financial institution access to or copies of financial records of a customer, as these terms are defined in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401), through compulsory process described in subsection (a)(1) or through a judicial subpoena, without prior notice to the customer, upon an ex parte showing to an appropriate United States district court that there is reason to believe that the required notice may cause an adverse result described in subsection (a)(2).

“(2) Upon such showing, the presiding judge or magistrate judge shall enter an ex parte order granting a delay of notice for a period not to exceed 90 days and an order prohibiting the financial institution from disclosing that records have been submitted or that a request for records has been made.

“(3) The court may grant extensions of the period of delay of notice provided in paragraph (2) of up to 90 days, upon a showing that the requirements for delayed notice under subsection (a)(2) continue to apply.

“(4) Upon expiration of the periods of delay of notice ordered under paragraphs (2) and (3), the Commission shall serve upon, or deliver by registered or first-class mail, or as otherwise authorized by the court to, the customer a copy of the process together with notice that states with reasonable specificity the nature of the law enforcement inquiry, informs the customer or subscriber when the process was served, and states that notification of the process was delayed under this subsection.

“(c) Materials Subject to Government Notification Under the Electronic Communications Privacy Act.—

“(1) When section 2703(b)(1)(B) of title 18 would otherwise require notice, notwithstanding such requirements, the Commission may obtain, through compulsory process described in subsection (a)(1) or through judicial subpoena,

“(A) from a provider of remote computing services, access to or copies of the contents of a wire or electronic communication described in section 2703(b)(1) of title 18, and as those terms are defined in section 2510 of title 18, or

“(B) from a provider of electronic communications services, access to or copies of the contents of a wire or electronic communication that has been in electronic storage in an electronic communications system for more than 180 days, as those terms are defined in section 2510 of title 18,

without prior notice to the customer or subscriber, upon an ex parte showing to an appropriate United States district court by a Commission official that there is reason to believe that notification of the existence of the process may cause an adverse result described in subsection (a)(2). Upon such a showing, the presiding judge or magistrate judge shall issue an exparte order granting a delay of notice for a period not to exceed 90 days. A court may grant extensions of the period of delay of notice of up to 90 days, upon application by the Commission and a showing that the requirements for delayed notice under subsection (b)(2) continue to apply.

“(2) The Commission may apply to a court for an order prohibiting a provider of electronic communications service or remote computing service to whom process has been issued under this subsection, for such period as the court deems appropriate, from disclosing that information has been submitted or that a request for information has been made. The court shall enter such an order if it has reason to believe that such disclosure may cause an adverse result described in subsection (b)(2).

“(3) Upon expiration of the periods of delay of notice ordered under subparagraph (1), the Commission shall serve upon, or deliver by registered or first-class mail, or as otherwise authorized by the court to, the customer or subscriber a copy of the process together with notice that states with reasonable specificity the nature of the law enforcement inquiry, informs the customer or subscriber when the process was served, and states that notification of the process was delayed under this subsection.

“(4) Nothing in the Electronic Communications Privacy Act shall prohibit a provider of electronic communications services or remote computing services from disclosing complaints received by it from a customer or subscriber or information reflecting such complaints to the Commission.

“(d) Liability Limitation.—The recipient of compulsory process under subsections (a), (b), or (c) shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State or any Territory or the District of Columbia, or under any contract or other legally enforceable agreement, for failure to provide notice that such process has been issued or that the recipient has provided information in response to such process. The preceding sentence does not provide any exemption from liability for the underlying conduct reported.

“(e) In-camera Proceedings.—Upon application by the Commission, all judicial proceedings pursuant to this section shall be held in camera and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate judge may permit.

“(f) Procedure Inapplicable to Certain Proceedings.—This section shall not apply to compulsory process issued in an investigation or proceeding related to the administration of Federal antitrust laws or foreign antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)).”.

(b) Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) by striking “or” after the semicolon in subparagraph (C);

(2) by striking “Act;” in subparagraph (D) and inserting “Act; or”; and

(3) by inserting after subparagraph (D) the following:

“(E) under section 21a of this Act;”.

SEC. 207. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21a, as added by section 206 of this title, the following:

“SEC. 21B. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

“(a) In General.—An entity described in subsection (d)(1) that voluntarily provides material to the Commission that it reasonably believes is relevant to—

“(1) a possible unfair or deceptive act or practice, as defined in section 5(a) of this Act, or

“(2) assets subject to recovery by the Commission, including assets located in foreign jurisdictions,

shall not be liable to any person under any law or regulation of the United States, or any constitution, law, or regulation of any State or political subdivision of any State or any Territory or the District of Columbia, for such disclosure or for any failure to provide notice of such disclosure. The preceding sentence does not provide any exemption from liability for the underlying conduct reported.

"(b) LIABILITY LIMITATION.—An entity described in subsection (d)(2) that makes a voluntary disclosure to the Commission regarding the subjects described in subsection (a)(1) and (2) shall be exempt from liability in accordance with the provisions of section 5318(g)(3) of title 31, United States Code.

"(c) FOIA EXEMPTION.—Material submitted pursuant to this section with a request for confidential treatment shall be exempt from disclosure under section 552 of title 5, United States Code.

"(d) ENTITIES TO WHICH SECTION APPLIES.—This section applies to the following entities, whether foreign or domestic:

"(1) A courier service, a commercial mail receiving agency, an industry membership organization, a payment system provider, a consumer reporting agency, a domain name registrar and registry, a provider of remote computing services or electronic communication services, to the limited extent such a provider is disclosing consumer complaints received by it from a customer or subscriber, or information reflecting such complaints; and

"(2) a bank or thrift institution, a commercial bank or trust company, an investment company, a credit card issuer, an operator of a credit card system, and an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments.".

SEC. 208. INFORMATION SHARING WITH FINANCIAL REGULATORS.

Section 1112(e) of the Right to Financial Privacy Act (12 U.S.C. 3412(e)) is amended by inserting "the Federal Trade Commission," after "the Securities and Exchange Commission,".

SEC. 209. REPRESENTATION IN FOREIGN LITIGATION.

Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended by adding at the end the following:

"(c)(1) The Commission may designate Commission attorneys to assist the Department of Justice in connection with litigation in foreign courts in which the Commission has an interest, pursuant to the terms of a memorandum of understanding to be negotiated by the Commission and the Department of Justice.

"(2) The Commission is authorized to expend appropriated funds for the retention of foreign counsel for consultation and for litigation in foreign courts, and for expenses related to consultation and to litigation in foreign courts in which the Commission has an interest.".

SEC. 210. AVAILABILITY OF REMEDIES.

Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following:

"(o) UNFAIR OR DECEPTIVE ACTS OR PRACTICES INVOLVING FOREIGN COMMERCE.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'unfair or deceptive acts or practices' includes such acts or practices involving foreign commerce that—

"(A) cause or are likely to cause reasonably foreseeable injury within the United States; or

"(B) involve material conduct occurring within the United States.

"(2) APPLICATION OF REMEDIES TO SUCH ACTS OR PRACTICES.—All remedies available to the Commission with respect to unfair and deceptive acts or practices shall be available for acts and practices described in paragraph (1), including restitution to domestic or foreign victims.".

SEC. 211. CRIMINAL REFERRALS.

Section 6 of the Federal Trade Commission Act (15 U.S.C. 46), as amended by section 204 of this title, is amended by adding at the end the following:

"(k) REFERRAL OF EVIDENCE FOR CRIMINAL PROCEEDINGS.—Whenever the Commission obtains evidence that any person, partnership or corporation, either domestic or foreign, may have engaged in conduct that could give rise to criminal proceedings, to transmit such evidence to the Attorney General who may, in his discretion, institute criminal proceedings under appropriate statutes. Provided that nothing in this subsection affects any other authority of the Commission to disclose information.".

SEC. 212. STAFF EXCHANGES.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 25 (15 U.S.C. 57c) the following:

"SEC. 25A. STAFF EXCHANGES.

"(a) IN GENERAL.—The Congress consents to—

"(1) the retention or employment of officers or employees of foreign government agencies on a temporary basis by the Commission under section 3109 of title 5, United States Code, section 202 of title 18, United States Code, or section 2 of this Act (15 U.S.C. 42); and

"(2) the retention or employment of officers or employees of the Commission on a temporary basis by such foreign government agencies.

"(b) FORM OF ARRANGEMENTS.—Staff arrangements under subsection (a) need not be reciprocal. The Commission may accept payment or reimbursement, in cash or in kind, from a foreign government agency to which this section is applicable, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, and employees in carrying out such arrangements.".

SEC. 213. EXPENDITURES FOR COOPERATIVE ARRANGEMENTS.

(a) IN GENERAL.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) as amended by section 211 of this title, is further amended by adding at the end the following:

"(p) To expend appropriated funds for—

"(1) operating expenses and other costs of bilateral and multilateral cooperative law enforcement groups conducting activities of interest to the Commission and in which the Commission participates; and

"(2) expenses for consultations and meetings hosted by the Commission with foreign government agency officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to the Commission's mission, development and implementation of cooperation agreements, and provision of technical assistance for the development of foreign consumer protection or competition regimes, such expenses to include necessary administrative and logistic expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including—

"(A) such incidental expenses as meals taken in the course of such attendance;

"(B) any travel and transportation to or from such meetings; and

"(3) any other related lodging or subsistence.".

(b) AUTHORIZATION OF APPROPRIATIONS.—The Federal Trade Commission is authorized to expend appropriated funds not to exceed $100,000 per fiscal year for purposes of section 6(p) of the Federal Trade Commission Act (15 U.S.C. 46(p)), including operating expenses and other costs of the following bilateral and multilateral cooperative law enforcement groups:

(1) The International Consumer Protection and Enforcement Network.

(2) The International Competition Network.

(3) The Mexico-U.S.-Canada Health Fraud Task Force.

(4) Project Emptor.

(5) The Toronto Strategic Partnership and other regional partnerships with a nexus in a Canadian province.

By Mr. EDWARDS (for himself, Mr. REED, and Mr. ROBERTS):

S. 1235. A bill to increase the capabilities of the United States to provide reconstruction assistance to countries or regions impacted by armed conflict, and for other purposes; to the Committee on Foreign Relations.

Mr. EDWARDS. Mr. President, today I am proud to join with two of my colleagues—Senator REED and Senator ROBERTS—to introduce legislation that will help America meet a critical challenge that, during the past decade, it has faced over and over: helping countries that have suffered from conflict work to rebuild their societies.

Over the past two years, America has proved again that we have the finest military force in the world. In Afghanistan and Iraq, the men and women of America's military performed with great bravery and skill. By defeating the Taliban and removing Saddam Hussein's regime from power, they showed that they are the world's best trained troops using the world's most sophisticated weapons. This is a powerful example of the leadership and commitment both here in the Congress and in successive Administrations—both Democrat and Republican—to ensure that our military remains the best equipped, best trained, most prepared fighting force in the world.

But these decisive military victories have been followed by a peace where success has not been so clear. First in Afghanistan, and now in Iraq, our efforts to help these societies get back on their feet have produced mixed results. To be sure, the challenges in both countries are profound: Afghanistan suffered from nearly a quarter-century of civil war, and Iraq suffered for more than two decades under the thumb of Saddam Hussein and his brutal regime. Both countries have deep internal divisions and little experience with representative government. While it is reasonable to assume post-conflict reconstruction efforts in both nations will take considerable time, these realities cannot be an excuse for the overall shortcoming in our own efforts, especially because we have the resources and capabilities to do better.

This is not the first time we have faced such challenges. Since the end of the Cold War, thousands of American military, diplomatic and humanitarian personnel have also been involved in major post-conflict reconstruction efforts in such places as Bosnia, Kosovo, Somalia, Rwanda, Haiti, and East Timor. Each of these efforts has had varying degrees of success, but on balance, I think we all can agree that we could have done better.

Too often, our response to post-conflict situations has been haphazard and slow to start. And once underway, our efforts often suffer from a cumbersome chain-of-command, lack of resources, and inadequate accountability.

The problem is that our government is still not well organized to deal with such situations. Each time we get involved in a post-conflict reconstruction effort we end up making it up as we go. We waste valuable time reinventing the bureaucratic wheel. And we get in unnecessary arguments about who should do what and who should be in charge.

It is remarkable that even with all the commitments we have made during the past decade, next to nothing has been done to reform the way our government works to enhance our capacity to deal with these situations effectively. Governmental mechanisms developed during the Cold War are outdated and not suited to addressing the complex set of challenges created by failed states.

We must do better. After more than ten years of improvising our responses to these challenges, it is time to change the way we do things. We need to improve our ability to plan, coordinate, and organize U.S. government resources to assist with post-conflict reconstruction. We need to train our people more effectively. We need a better sense of what works and what does not. We need greater accountability. And we need to promote the means for involving other countries in these efforts, including through institutions like NATO.

I believe that the "Winning the Peace Act" is an important step toward accomplishing these goals. This legislation is based upon the work of the bipartisan "Commission on Post-Conflict Reconstruction," convened by the Association of the U.S. Army and the Center for Strategic and International Studies, CSIS. This Commission was very ably led by Dr. John Hamre, the former Deputy Secretary of Defense, and General Gordon Sullivan, the former Army Chief of Staff. The Commission was composed of twenty-seven distinguished military, diplomatic and humanitarian experts, including myself and my two Senate cosponsors.

The legislation includes five key proposals:

First, it calls on the President to appoint a Director of Reconstruction for areas where the U.S. will assist with post-conflict reconstruction. These Directors will provide oversight, help coordinate, and have decision-making authority for all U.S. government reconstruction activities in a particular country. They will also coordinate with the representatives of the country in question, other foreign governments, multilateral organizations, and relevant NGOs.

Second, it establishes a permanent office within the State Department to provide support to Directors of Reconstruction, ensuring that these Directors can hit the ground running and not waste valuable time hiring staff and getting office space.

Third, it establishes within USAID an Office of International Emergency Management. This new office will develop and maintain a database of individuals with expertise in reconstruction, and provide support for mobilizing these experts.

Fourth, it calls on NATO to develop an "Integrated Security Support Component" to assist with reconstruction. This NATO-led force will help provide security, including assistance with policing ensuring that America will not be forced to shoulder these burdens alone.

Finally, this bill establishes an interagency training center for post-conflict reconstruction. This will be run by the State Department, and will help train personnel in assessment, strategy development, planning, and coordination related to providing reconstruction services. It will also develop and certify experts in the field, and conduct lesson-learned reviews of operations.

Having these resources in place will enhance America's capacity to assist reconstruction in four critical areas: Security and public safety, such as assisting with disarmament and training of police forces; Justice, such as developing the rule of law, preventing human rights violations, and bringing war criminals to justice; Governance, such as reforming civil administration, restoring basic civil functions, and establishing processes of governance and participation; and Economic and Social Well-being, such as providing humanitarian assistance and developing national economic institutions.

With these changes, we will not only make America's efforts to assist in post-conflict reconstruction more efficient and accountable. We will also make our efforts more effective contributing more to the safety and security of the people we are trying to help, and helping them run their countries on their own.

By ensuring that we maintain the best military in the world, we have made a full commitment to winning wars. It is now time to ensure that we are capable of winning the peace.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Winning the Peace Act of 2003".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) President George W. Bush has stated that the United States security strategy takes into account the fact that "America is now threatened less by conquering states than we are by failing ones".

(2) Failed states can provide safe haven for a diverse array of transnational threats, including terrorist networks, militia and warlords, global organized crime, and narcotics traffickers who threaten the security of the United States and the allies of the United States.

(3) The inability of the authorities in a failed state to provide basic services can create or contribute to humanitarian emergencies.

(4) It is in the interest of the United States and the international community to bring conflict and humanitarian emergencies stemming from failed states to a lasting and sustainable close.

(5) Since the end of the Cold War, United States military, diplomatic, and humanitarian personnel have been engaged in major post-conflict reconstruction efforts in such places as Iraq, Bosnia, Kosovo, Somalia, Haiti, Rwanda, East Timor, and Afghanistan.

(6) Assisting failed states in emerging from violent conflict is a complex and long-term task, as demonstrated by the experience that 50 percent of such states emerging from conditions of violent conflict slip back into violence within 5 years.

(7) In 2003, the bipartisan Commission on Post-Conflict Reconstruction created by the Center for Strategic and International Studies and the Association of the United States Army, released a report explaining that "United States security and development agencies still reflect their Cold War heritage. The kinds of complex crises and the challenge of failed states encountered in recent years do not line up with these outdated governmental mechanisms. If regional stability is to be maintained, economic development advanced, lives saved, and transnational threats reduced, the United States and the international community must develop a strategy and enhance capacity for pursuing post-conflict reconstruction.".

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the United States Agency for International Development.

(2) DIRECTOR.—The term "Director" means a Director of Reconstruction for a country or region designated by the President under section 4.

(3) RECONSTRUCTION SERVICES.—The term "reconstruction services" means activities related to rebuilding, reforming, or establishing the infrastructure processes or institutions of a country that has been affected by an armed conflict, including services related to—

(A) security and public safety, including—

(i) disarmament, demobilization, and reintegration of combatants;

(ii) training and equipping civilian police force; and

(iii) training and equipping of national armed forces;

(B) justice, including—

(i) developing rule of law and legal, judicial, and correctional institutions;

(ii) preventing human rights violations;

(iii) bringing war criminals to justice;

(iv) supporting national reconciliation processes; and

(v) clarifying property rights;

(C) governance, including—

(i) reforming or developing civil administration and other government institutions;

(ii) restoring performance of basic civil functions, such as schools, health clinics, and hospitals; and

(iii) establishing processes of governance and participation; and

(D) economic and social well-being, including—

(i) providing humanitarian assistance;

(ii) constructing or repairing infrastructure;

(iii) developing national economic institutions and activities, such as a banking system; and

(iv) encouraging wise stewardship of natural resources for the benefit of the citizens of such country.

SEC. 4. DIRECTOR OF RECONSTRUCTION POSITIONS.

(a) Authorization of Positions.—The President is authorized to designate an individual who is a civilian as the Director of Reconstruction for each country or region in which—

(1) units of the United States Armed Forces have engaged in armed conflict; or

(2) as a result of armed conflict, the country or region will receive reconstruction services from the United States Government.

(b) Authority To Provide Reconstruction Services.—Notwithstanding any provision of law, other than section 553 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 200), the President is authorized to provide reconstruction services for any country or region for which a Director has been designated under subsection (a).

(c) Duties.—A Director who is designated for a country or region under subsection (a) shall provide oversight and coordination of, have decision making authority for, and consult with Congress regarding, all activities of the United States Government that are related to providing reconstruction services in such country or region, including implementing complex, multidisciplinary post-conflict reconstruction programs in such country or region.

(d) Coordination.—A Director shall coordinate with the representatives of the country or region where the Director is overseeing and coordinating the provision of reconstruction services, and any foreign government, multilateral organization, or nongovernmental organization that is providing services to such country or region—

(1) to avoid providing reconstruction services that duplicate any such services that are being provided by a person or government other than the United States Government;

(2) to capitalize on civil administration systems and capabilities available from such person or government; and

(3) to utilize individuals or entities with expertise in providing reconstruction services that are available through such other person or government.

(e) Support Services.—The Secretary of State is authorized to establish within the Department of State a permanent office to provide support, including administrative services, to each Director designated under subsection (a).

SEC. 5. INTERNATIONAL EMERGENCY MANAGEMENT OFFICE.

(a) Authorization.—The Administrator is authorized to establish within the United States Agency for International Development an Office of International Emergency Management for the purposes described in subsection (b).

(b) Purposes.—

(1) In general.—The purposes of the Office authorized by subsection (a) shall be—

(A) to develop and maintain a database of individuals or entities that possess expertise in providing reconstruction services; and

(B) to provide support for mobilizing such individuals and entities to provide a country or region with services applying such expertise when requested by the Director for such country or region.

(2) Experts.—The individuals or entities referred to in paragraph (1) may include employees or agencies of the Federal Government, any other government, or any other person, including former Peace Corps volunteers or civilians located in the affected country or region.

SEC. 6. INTEGRATED SECURITY SUPPORT COMPONENT.

(a) Sense of Congress Regarding the Creation of an Integrated Security Support Component of NATO.—It is the sense of Congress that—

(1) the Secretary of State and the Secretary of Defense should present to the North Atlantic Council a proposal to establish within the North Atlantic Treaty Organization an Integrated Security Support Component to train and equip selected units within the North Atlantic Treaty Organization to assist in providing security in countries or regions that require reconstruction services; and

(2) if such a Component is established, the President should commit United States personnel to participate in such Component, after appropriate consultation with Congress.

(b) Authority To Participate in an Integrated Support Component.—

(1) In general.—If the North Atlantic Council establishes an Integrated Security Support Component, as described in subsection (a), the President is authorized to commit United States personnel to participate in such Component, after appropriate consultation with Congress.

(2) Capabilities.—The units composed of United States personnel participating in such Component pursuant to the authority in paragraph (1) should be capable of—

(A) providing for security of a civilian population, including serving as a police force; and

(B) providing for the performance of public functions and the execution of security tasks such as control of belligerent groups and crowds, apprehending targeted persons or groups, performing anti-corruption tasks, and supporting police investigations.

SEC. 7. TRAINING CENTER FOR POST-CONFLICT RECONSTRUCTION OPERATIONS.

(a) Establishment.—The Secretary of State shall establish within the Department of State an interagency Training Center for Post-Conflict Reconstruction Operations for the purposes described in subsection (b).

(b) Purposes.—The purposes of the Training Center authorized by subsection (a) shall be to—

(1) train interagency personnel in assessment, strategy development, planning, and coordination related to providing reconstruction services;

(2) develop and certify experts in fields related to reconstruction services who could be called to participate in operations in countries or regions that require such services;

(3) provide training to individuals who will provide reconstruction services in a country or region;

(4) develop rapidly deployable training packages for use in countries or regions in need of reconstruction services; and

(5) conduct reviews of operations that provide reconstruction services for the purpose of—

(A) improving subsequent operations to provide such services; and

(B) developing appropriate training and education programs for individuals who will provide such services.

SEC. 8. REPORTS TO CONGRESS.

Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the actions planned to be taken to carry out the provisions of this Act.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 1236. A bill to direct the Secretary of the Interior to establish a program to control or eradicate tamarisk in the western States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, I rise today to introduce the Tamarisk Control & Riparian Restoration Act.

Tamarisk is a noxious weed that is not native to the Americas, but has spread across 11 States, from California to Oklahoma, like a plague. Many westerners consider Tamarisk, also known as Salt Cedar, to be one of the West's most significant natural resources problems for a variety of reasons.

Tamarisk's major threat is that it uses a significant amount of water, far more water than many realize. Yet, folks out West know all too well that we have been and are still experiencing one of the worst droughts in the West's recorded history. People who have been farming and ranching for generations have been forced to sell their homesteads and give up the life they love because there just hasn't been enough water for crops or to maintain livestock. I've personally felt the effects of the drought as my wife and I have had to sell our little cow/calf operation.

I mentioned earlier that Tamarisk uses significant amounts of water, but I want to speak a little bit now about just how much water it uses. Studies have found that Tamarisk uses from 2 to 4½ million acre feet of water each year, water we frankly cannot afford to lose.

To put that in perspective, several other States and the Republic of Mexico are delivered 10 million acre feet from all of Colorado's rivers and streams, including the mighty Colorado River. California is allotted 4½ million acre feet of Colorado water per year. That means that Tamarisk, a noxious, nonnative weed, uses the same amount of water flowing from Colorado to California. We must address the preventable loss of this most valuable resource before it's too late.

My bill seeks to begin get the Tamarisk problem under control in a few innovative ways. First, my bill requires the Secretary of the Interior to assess the extent of Tamarisk invasion, identifying where it is in each affected State, and estimate the costs to restore the land.

Second, my bill establishes a State Tamarisk Assistance Program to provide States the needed funds to control or eradicate Tamarisk. Grant funds will be distributed to states in accordance with the severity of the Tamarisk problem they have.

The Governor of each State will appoint a state lead agency to administer the program in the State, working with Indian Tribes, colleges and universities, nonprofit organizations, soil and water conservancy districts, and Federal partners. This coordinate approach provides sufficient flexibility to deal with Tamarisk's spread and to reduce duplicative efforts.

A watershed or basin can stretch across all kinds of land, including Federal, State, or tribal lands. Noxious weeds don't recognize those ownership boundaries and neither can we.

Since my bill's focus is on getting rid of this water-sucking weed, it requires that 90 percent of the Federal funds must be used for eradiction or rehabilitation.

This legislation authorizes $20 million for 2004 and such sums as necessary thereafter. States must share the burden by ponying up 25 percent of the costs. The Tamarisk problem hurts everyone and the non-Federal share can come from counties, municipalities, special districts, nongovernmental entities, or the States themselves.

Our Nation is in a deficit, and every state is experiencing money shortages. Americans demand to know that their hard earned money is being spent wisely and in the most effient way possible. That is why my bill requires that each participating State must submit a report of the Secretary describing the purpose and results of the project in order to receive funding. In the West, water is more precious and scarce than elsewhere in our great nation. To do nothing about the preventable loss of precious water by the spread of this noxious plant and the loss of native habitat will cost us untold millions more in the future.

Back in my State of Colorado, constituents tell me how the drought has affected them, even devastated their livelihoods. No one can control the weather and bring rain. However, getting a handle on the water-sucking Tamarisk plaguing the West is possible—if we act now.

My bill provides the necessary tools to deal with this problem so that ther will be enough water for all of us, and habitat suitable for native species of plants and animals.

I ask unanimous consent that the next of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tamarisk Control and Riparian Restoration Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the western United States is currently experiencing its worst drought in modern history;

(2) the drought in the western United States has caused—

(A) severe losses in rural, agricultural, and recreational economies;

(B) detrimental effects on wildlife; and

(C) increased risk of wildfires;

(3) it is estimated that throughout the western United States tamarisk, a noxious and non-native plant—

(A) occupies between 1,000,000 and 1,500,000 acres of land; and

(B) is a nonbeneficial user of 2,000,000 to 4,500,000 acre-feet of water per year;

(4) the amount of nonbeneficial use of water by tamarisk—

(A) is greater than the amount that valuable native vegetation would have used; and

(B) represents enough water for—

(i) use by 20,000,000 or more people; or

(ii) the irrigation of over 1,000,000 acres of land;

(5) scientists have established that tamarisk infestations can—

(A) increase soil and water salinity;

(B) increase the risk of flooding through increased sedimentation and decreased channel conveyance;

(C) increase wildfire potential;

(D) diminish human enjoyment of and interaction with the river environment; and

(E) adversely affect—

(i) wildlife habitat for threatened and endangered species; and

(ii) the abundance and biodiversity of other species; and

(6) as drought conditions and legal requirements relating to water supply accelerate water shortages, innovative approaches are needed to address the increasing demand for a diminishing water supply.

SEC. 3. DEFINITIONS.

In this Act:

(1) PROGRAM.—The term "program" means the Tamarisk Assistance Program established under section 5.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(3) STATE.—The term "State" means—

(A) each of the States of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oklahoma, Texas, Utah, and Wyoming; and

(B) any other State that is affected by tamarisk, as determined by the assessment conducted under section 4.

SEC. 4. TAMARISK ASSESSMENT.

(a) IN GENERAL.—Not later than 180 days after the date on which funds are made available to carry out this section, the Secretary shall complete an assessment of the extent of tamarisk invasion in the western United States.

(b) COMPONENTS.—The assessment under subsection (a) shall—

(1) address past and ongoing research on tested and innovative methods to control tamarisk;

(2) estimate the costs for destruction of tamarisk, biomass removal, and restoration and maintenance of land;

(3) identify the States affected by tamarisk; and

(4) include a gross-scale estimation of infested acreage within the States identified.

SEC. 5. STATE TAMARISK ASSISTANCE PROGRAM.

(a) ESTABLISHMENT.—Based on the findings of the assessment under section 4, the Secretary shall establish the Tamarisk Assistance Program to provide grants to States to carry out projects to control or eradicate tamarisk.

(b) AMOUNT OF GRANT.—The amount of a grant to a State under subsection (a) shall be determined by the Secretary, based on the estimated infested acreage in the State.

(c) DESIGNATION OF LEAD STATE AGENCY.—On receipt of a grant under subsection (a), the Governor of a State shall designate a lead State agency to administer the program in the State.

(d) PRIORITY.—

(1) IN GENERAL.—The lead State agency designated under subsection (c), in consultation with the entities described in paragraph (2), shall establish the priority by which grant funds are distributed to projects to control or eradicate tamarisk in the State.

(2) ENTITIES.—The entities referred to in paragraph (1) are—

(A) the National Invasive Species Council;

(B) the Invasive Species Advisory Committee;

(C) representatives from Indian tribes in the State that have weed management entities or that have particular problems with noxious weeds;

(D) institutions of higher education in the State;

(E) State agencies;

(F) nonprofit organizations in the State; and

(G) soil and water conservation districts in the State that are actively conducting research on or implementing activities to control or eradicate tamarisk.

(e) CONDITIONS.—A lead State agency shall require that, as a condition of receipt of a grant under this Act, a grant recipient provide to the lead State agency any necessary information relating to a project carried out under this Act.

(f) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the amount of a grant provided under subsection (a) may be used for administrative expenses.

(g) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be not more than 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share may be paid by a State, county, municipality, special district, or nongovernmental entity.

(h) REPORT.—To be eligible for additional grants under the program, not later than 180 days after the date of completion of a project carried out under this Act, a lead State agency shall submit to the Secretary a report that describes the purposes and results of the project.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $20,000,000 for fiscal year 2004; and

(2) such sums as are necessary for each fiscal year thereafter.

By Mr. BENNETT (for himself, Mr. HATCH, Mr. CRAPO, Mr. CRAIG, and Mr. DORGAN):

S. 1237. A bill to amend the Rehabilitation Act of 1973 to provide for more equitable allotment of funds to States for centers for independent living; to the Committee on Health, Education, Labor, and Pensions.

Mr. BENNETT. Mr. President, today I am introducing The Independent Living Improvement Act of 2003, a bill to provide a more equitable allotment of funds to States for Centers for Independent Living.

Centers for Independent Living, CILs, are non-profit organizations that assist people with significant disabilities who want to live more independently. CILs are primarily staffed by people with disabilities who act as role models, mentors, and counselors to other individuals with disabilities. Each center not only offers fundamental services such as information referral, and independent living skills training, it also tailors its services to the particular needs of its community. The ultimate goal of these centers is to help individuals become more independent and decrease the need for institutional care.

Currently, funds authorized for CILs under Title VII, Part C of the Rehabilitation Act are essentially allocated to States on the basis of their share of the total population. States with small populations are guaranteed the larger of $450,000 or $\frac{1}{3}$ of 1 percent of the funds available for the fiscal year in which the allocation is made, with a guaranteed minimum at the fiscal 1992 funding level for each State.

While the Federal appropriation to CILs has increased over the last five years, the growing disparity between funding for small States and larger States is problematic. The proposed formula change would amend the current funding formula for CILs to provide for more equitable distribution of future funds to each state. Fifty percent of any increase in CILs appropriated fund would be allocated according to population, as is currently done, and the remaining fifty percent would be divided equally among all States. The formula would only be applicable to any future increases in funding. This more equitable sharing of funds ensures that each State's CILs will receive additional funding each time there is an increase in funding and programs will be developed for people with disabilities regardless of where they live in the country.

This bill is supported by the National Council on Independent Living. I believe this a reasonable approach to solving this problem and look forward to working with my colleagues on this issue.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Living Improvement Act of 2003".

SEC. 2. STATE ALLOTMENTS FOR CENTERS FOR INDEPENDENT LIVING.

Section 721 of the Rehabilitation Act of 1973 (42 U.S.C. 796f) is amended by striking subsection (c) and inserting the following:

"(c) ALLOTMENTS TO STATES.—

"(1) DEFINITIONS.—In this subsection:

"(A) ADDITIONAL APPROPRIATION.—The term 'additional appropriation' means the amount (if any) by which the appropriation for a fiscal year exceeds the total of—

"(i) the amount reserved under subsection (b) for that fiscal year; and

"(ii) the appropriation for fiscal year 2003.

"(B) APPROPRIATION.—The term 'appropriation' means the amount appropriated to carry out this part.

"(C) BASE APPROPRIATION.—The term 'base appropriation' means the portion of the appropriation for a fiscal year that is equal to the lesser of—

"(i) an amount equal to 100 percent of the appropriation, minus the amount reserved under subsection (b) for that fiscal year; or

"(ii) the appropriation for fiscal year 2003.

"(2) ALLOTMENTS TO STATES FROM BASE APPROPRIATION.—After the reservation required by subsection (b) has been made, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount that bears the same ratio to the base appropriation as the amount the State received under this subsection for fiscal year 2003 bears to the total amount that all States received under this subsection for fiscal year 2003.

"(3) ALLOTMENTS TO STATES ADDITIONAL APPROPRIATION.—From any additional appropriation for each fiscal year, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount equal to the sum of—

"(A) an amount that bears the same ratio to 50 percent of the additional appropriation as the population of the State bears to the population of all States; and

"(B) $\frac{1}{56}$ of 50 percent of the additional appropriation.

"(4) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—The Commissioner shall not make a payment for the allotments described in this subsection to any State for a fiscal year unless the Commissioner—

"(i) determines that the State independent living expenditure for the first preceding fiscal year is not less than the State independent living expenditure for the second preceding fiscal year; or

"(ii) reduces the amount of the payment by the amount by which the State independent living expenditure for the second preceding fiscal year exceeds the State independent living expenditure for the first preceding fiscal year.

"(B) DEFINITION.—In this subsection, the term 'State independent living expenditure', used with respect to a fiscal year, means the total expenditure in the State of other Federal funds (other than funds made available to carry out this part), State funds, and local funds for that fiscal year to provide assistance for centers for independent living.".

SEC. 3. REPORT.

Section 704(m)(4)(D) of the Rehabilitation Act of 1973 (42 U.S.C. 795c(m)(4)(D)) is amended by inserting ", including reports indicating the manner in which and extent to which the State complied with the maintenance of effort requirement specified in section 721(c)(4)(A)(i)" before the semicolon.

By Mrs. LINCOLN (for herself, Mrs. MURRAY, Ms. LANDRIEU, and Ms. CANTWELL):

S. 1238. A bill to amend titles XVIII, XIX, and XXI of the Social Security Act to improve women's health, and for other purposes; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I am pleased to introduce the Improving Women's Health Act of 2003, which seeks to make Medicare, Medicaid, and S-CHIP better programs for women. I am pleased to be joined in this effort today by my friends Senators MURRAY, LANDRIEU, and CANTWELL.

Women are the majority of Medicare recipients, and, at age 85, women make up 71 percent of the Medicare population. By adding several modern treatments to the list of Medicare benefits, we will begin to address some of the most prominent, underlying risk factors for illness that face women Medicare beneficiaries today. These new benefits represent the highest recommendations for Medicare beneficiaries in the U.S. Preventive Services Task Force and the Institute of Medicine. These benefits can help reduce Medicare beneficiaries' risk for health problems such as diabetes, stroke, cancer, osteoporosis, and heart disease.

This bill would also eliminate all cost-sharing for these and existing preventive health benefits to encourage women to get screened for diseases such as osteoporosis and breast cancer. We need to get rid of all barriers to preventative services. Studies have shown that cost-sharing deters beneficiaries, especially those with low-incomes, from getting screened.

Because heart disease is the number one killer of women, this bill would add new preventive services to Medicare, such as cholesterol screening, medical nutrition therapy services for beneficiaries with cardiovascular disease, counseling for cessation of tobacco use, and diabetes screening.

In addition, this bill provides for coverage of annual pap smear and pelvic exams and boosts the payment amount for screening mammography under Medicare. Numerous reports in the media have indicated that screening mammography is not adequately reimbursed and, as a result, facilities are closing or ending their service. Facilities are saying that they are losing money on every patient that comes through the door, and patient load is rising.

Recognizing the role women play as caregivers for aging family members, this bill provides Medicare beneficiaries with a new option of receiving home health services in an adult day care setting. Adult day centers enable family caregivers to continue working or simply take a break from their caregiving duties. Most importantly, adult day care patients benefit from social interaction, therapeutic activities, nutrition, health monitoring, and medication management.

More than 22 million families nationwide, or nearly 1 in 4 families, serve as caregivers for aging seniors, providing close to 80 percent of the care of to individuals requiring long-term care. Nearly 75 percent of people providing care for aging family members are women who also maintain other responsibilities, such as working outside of the home and raising young children. The average loss of income to these caregivers has been shown to be over $650,000 in wages, pension, and Social Security benefits. The loss of productivity in U.S. businesses ranges from $11 to $29 billion a year. The services offered in adult day care facilities provide continuity of care and an important sense of community for both the senior and the caregiver. This important provision will benefit women of all ages.

Finally, this legislation provides States with the flexibility and Federal resources to improve and expand prenatal care for low-income pregnant women. It gives States new options to cover pregnant women under their State Children's Health Insurance Program, S-CHIP, to cover low-income legal immigrant pregnant women and children under Medicaid and S-CHIP, and to cover tobacco cessation counseling services for pregnant women under the Medicaid program. The bill also gives States the option to provide family planning services and supplies to low-income women. In recent years, a number of States, including Arkansas, have sought and received Federal permission in the form of waivers to provide Medicaid-financed family planning services and supplies to lower income, uninsured residents whose incomes are above the state's regular Medicaid eligibility ceilings. Under this section, States would no longer have to seek a waiver to extend Medicaid coverage for family planning services; instead they could establish these programs at their option.

I encourage my colleagues to join me by supporting this important legislation that will make Medicare, Medicaid, and S-CHIP better programs for all women.

By Mr. LUGAR:

S. 1240. A bill to establish the Millennium Challenge Corporation, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce legislation that is intended to unite Senators behind the President's bold new commitment to international development. As my colleagues are aware, the President has offered a plan called the Millennium Challenge Corporation that will focus U.S. energy and resources on countries that, while very poor, show commitment to economic reform and development. It is a unique plan that would reward and showcase what we Americans believe to be the essential ingredients for success: good government, investments in people, and a reliance on free markets.

My colleagues on the Senate Foreign Relations Committee strongly supported the goals of the President's initiative and applauded his enthusiasm and personal commitment. But, when we considered the MCC legislation a few weeks ago, organizational issues divided the Committee. The Committee voted 11 to 8 against creating the MCC as an independent agency. Instead the functions of the MCC were integrated into the State Department.

This outcome did not capture the President's vision of a fresh start for a unique approach to development assistance. The Secretary of State himself argued against the Committee's majority on that vote. Secretary Powell said that the President's plan would be best achieved through the establishment of an innovative, flexible, narrowly targeted and highly visible separate organization that can complement other assistance provided through more traditional means.

I believe the Senate should work for a consensus on this issue. This important initiative cannot be allowed to founder on a question of organization.

I have been working to develop a middle ground that will satisfy the basic goals of all sides. My bill creates the needed ingredients for interagency coordination, a top priority among a majority on the Committee. But it does not undermine the integrity of the President's concept. It puts the MCC under the authority of the Secretary of State and has the MCC's Chief Executive Officer report to the Secretary. It gives the MCC the same status within the State Department as the U.S. Agency for International Development, with the right to manage itself, hire staff, and create its own culture. It mandates coordination between the MCC and USAID in the field and give USAID the primary role in preparing countries for MCC eligibility. It also includes the Administrator of USAID on the MCC board to ensure that the perspective of USAID is considered.

Through these means, I believe that the MCC can be substantially independent, as envisioned by the President, while preserving the leadership of the Secretary of State and the input of USAID.

I would emphasize that the President has invested his personal attention and time in the MCC concept. It is rare for a President of either party to provide such strong leadership in the area of development assistance. President Bush's advocacy is critical to the success of this initiative. I believe Congress will regret its actions if we undercut this opportunity for U.S. foreign policy by failing to reach a workable consensus on the MCC's organization.

I am hoping for a strong Senate vote on the MCC and will bring up my compromise proposal at an appropriate time. The MCC provides a way to focus single-mindedly on economic development that is results-based and meets clear benchmarks of success. We can have the coordination we seek while also insulating it from short-term political considerations so that it can focus on widening the universe of countries that live in peace and look to a prosperous and stable future.

I ask unanimous consent that the two accompany pages be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MILLENNIUM CHALLENGE CORPORATION

ORIGINAL PROPOSAL

MCC is an independent agency.

President of the United States—Appoints MCC Chief Exec. Officer subject to advice and consent.

MCC Board Composition—Secretary of the Treasury, Director of OMB, Secretary of State, Chrman.

MCC Board Responsibilities—Directs all MCC activities, Develops indicators, Determines eligible countries, Writes contracts with MCC countries, Selects proposals for funding.

Secretary of State—Serves as Chairman of the MCC Board.

MCC Chief Exec. Officer—Shall exercise the functions and powers vested in him/her by the President and the Board.

USAID Administrator—Role not mentioned.

MARKED-UP VERSION

MCC does not exist; functions integrated into State.

President has no direct role.

MCC Board does not exist.

MCC Board does not exist.

Secretary of State—

Coordinates all MCA assistance.

Designates appropriate officer as coordinator.

Determines eligible countries.

Writes contracts with MCC countries.

Coordinator/Millennium Challenge Acct.—

Develops indicators.

Coordinates MCA aid with other govt. agencies.

Pursues MCA coordination with int'l donors.

Oversees other govt. agencies doing MCA work.

Resolves disputes amg agencies doing MCA work.

USAID Administrator—Role not mentioned.

COMPROMISE

MCC in State but has same autonomy as USAID.

President—Same as in Original Proposal.
MCC Board Composition.
Secretary of the Treasury.
Administrator of USAID.
US Trade Representative.
MCC Chief Exec. Officer.
Secretary of State, Chrmn.
MCC Board Responsibilities.
Develops indicators.
Determines eligible countries.
Writes contracts with MCC countries.
Select proposals for funding.
Secretary of State.
Coordinates all US foreign assistance.
Oversees the MCC Chief Exec. Officer.
Provides foreign policy guidance to the MCC.
Suspends MCC assistance in certain cases.
Serves as Chairman of the MCC Board.
MCC Chief Exec. Officer.
Manages the MCC.
Serves on the MCC board.
Coordinates MCC aid with other govt. agencies.
Pursues MCC coordination with int'l donors.
Oversees MCC work done by other govt. agencies.
Resolves disputes amg. agencies doing MCC work.
USAID Administrator.
Sits on the MCC board.
MCC required to coordinate with USAID in field.
USAID has primary role in preparing countries for MCC eligibility.

By Mr. McCAIN (for himself, Mr. HOLLINGS, and Mrs. HUTCHISON):

S. 1244. A bill to authorize appropriations for the Federal Maritime Commission for fiscal years 2004 and 2005; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, I am pleased to be joined by Senator HOLLINGS, the Ranking Member of the Senate Commerce Committee; and Senator HUTCHISON, the Chairman of the Surface Transportation and Merchant Marine Subcommittee, in introducing a bipartisan bill to reauthorize the Federal Maritime Commission, FMC.

The Federal Maritime Commission is an independent agency comprised of five commissioners. Its primary responsibility is administering the Shipping Act of 1984 and enforcing the Foreign Shipping Practices Act and Section 19 of the Merchant Marine Act of 1920. The work carried out by the FMC is critical to protecting shippers and carriers from restrictive or unfair practices by foreign-flag carriers.

This legislation would authorize funding for the Commission to continue its important work through fiscal year 2005. Specifically, the bill would authorize $18.5 million for fiscal year 2004, which is the level requested by the Administration, and $19.5 million for fiscal year 2005. The bill also would amend Section 102(b) of the Reorganization Plan No. 7 of 1961 to require that the Commission's chairman be subject to Senate confirmation. Additionally, the bill would require the Commission to report to Congress on the status of any agreements or discussions with other Federal, State, or local governmental agencies concerning issues dealing with the sharing of ocean shipping information for the purpose of assisting law enforcement or anti-terrorism efforts. The Commission also would be directed to make recommendations on how the Commission's ocean shipping information could be better utilized to improve port security efforts.

I look forward to working with my colleagues in moving this bill through the legislative process in the weeks ahead.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 166—RECOGNIZING THE UNITED STATES AIR FORCE'S AIR FORCE NEWS AGENCY ON THE OCCASION OF ITS 25TH ANNIVERSARY AND HONORING THE AIR FORCE PERSONNEL WHO HAVE SERVED THE NATION WHILE ASSIGNED TO THAT AGENCY

Mr. CORNYN submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 166

Whereas the Air Force News Agency has served as the primary news and information organization for the United States Air Force since the agency was organized on June 1, 1978;

Whereas the Air Force News Agency currently has more than 480 personnel stationed around the world in 28 locations gathering news, information, and images about United States military missions;

Whereas the Air Force News Agency is capable of providing news, information, and images in the widest array of formats to the American public and the world, including print, television, radio, Internet, and telephone formats;

Whereas the Air Force News Agency provides a critical service to senior leaders and commanders of the Department of Defense and the United States Air Force by providing news, information, and images to service members wherever they are stationed around the world;

Whereas the Air Force News Agency helps ensure the morale and readiness of the members of the United States Armed Forces around the world by covering and reporting on the critical services they provide in service to the Nation, to their remote locations, to their family members, and to the American public;

Whereas the Air Force News Agency has recently contributed significantly in Operation Enduring Freedom, Operation Noble Eagle, Operation Anaconda in Afghanistan, and Operation Iraqi Freedom;

Whereas during Operation Desert Shield and Operation Desert Storm, the Air Force News Agency's Air Force Broadcasting Service delivered continuous radio and television news and information to coalition forces through the American Forces Desert Network;

Whereas the Air Force News Agency's Air Force News Service provides news, information, and images about the United States Air Force through its official web site, Air Force Link, to more than 3,700,000 Internet users every week, biweekly television news programs to more than 800 television stations and cable systems, and print news stories and images to more than 30,000 subscribers every weekday;

Whereas the Air Force News Agency's Army and Air Force Hometown News Service annually provides more than 800,000 news releases to 12,000 daily and weekly hometown newspapers of active, Reserve, and Guard service members and distributes more than 13,500 Holiday Greetings to 1,085 television stations and 2,906 radio stations each holiday season; and

Whereas the year 2003 marks the 25th anniversary of the Air Force News Agency: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the United States Air Force's Air Force News Agency on the occasion of its 25th anniversary; and

(2) honors the Air Force personnel who have served the Nation while assigned to that agency.

SENATE CONCURRENT RESOLUTION 53—HONORING AND CONGRATULATING CHAMBERS OF COMMERCE FOR THEIR EFFORTS THAT CONTRIBUTE TO THE IMPROVEMENT OF COMMUNITIES AND THE STRENGTHENING OF LOCAL AND REGIONAL ECONOMIES

Mr. LEVIN (for himself, and Ms. STABENOW) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 53

Whereas chambers of commerce throughout the United States contribute to the improvement of their communities and the strengthening of their local and regional economies;

Whereas in the Detroit, Michigan area, the Detroit Regional Chamber, originally known as the Detroit Board of Commerce, typifies the public-spirited contributions made by the chambers of commerce;

Whereas, on June 30, 1903, the Detroit Board of Commerce was formally organized with 253 charter members;

Whereas the Detroit Board of Commerce played a prominent role in the formation of the United States Chamber of Commerce;

Whereas the Detroit Board of Commerce participated in the Good Roads for Michigan campaign in 1910 and 1911, helping to gain voter approved of a $2,000,000 bond proposal to improve the roads of Wayne County, Michigan;

Whereas, in 1925, the Safety Council of the Detroit Board of Commerce helped develop the first traffic lights in Detroit;

Whereas, in 1927, the Detroit Board of Commerce brought together all of the cities, villages, and townships in southeast Michigan to tentatively establish boundaries for a metropolitan district for Detroit, embracing all or parts of Wayne, Oakland, Macomb, Monroe, and Washtenaw Counties at the request of the United States Census Bureau in advance of the 1930 census;

Whereas, in 1932, the Federal Home Loan Bank Board designated the Detroit Board of Commerce as the authorized agent for stock subscriptions in the Federal Home Loan Bank, as an early response to the Great Depression;

Whereas, in 1945, the Detroit Board of Commerce promoted the making of Victory Loans to veterans returning from service in the United States Armed Forces during World War II as a way of expressing thanks for the veterans' wartime service, and raised more than half of the total amount contributed in Wayne County, Michigan, to fund Victory Loans;

Whereas, in 1969, the Detroit Board of Commerce, then known as the Greater Detroit Chamber of Commerce, was instrumental in the establishment of a bus network connecting inner-city workers and jobs, which resulted in the creation of the Southeast Metropolitan Transportation Authority, now known as SMART;

Whereas the Detroit Board of Commerce has been known by several names during its century of existence, eventually becoming known as the Detroit Regional Chamber in November 1997;

Whereas the Detroit Regional Chamber is the largest chamber of commerce in the United States and has been in existence for over 100 years;

Whereas more than 19,000 businesses across southeast Michigan have decided to make an initial investment in the Detroit Regional Chamber to help develop the region;

Whereas the Detroit Regional Chamber has supported the concept of regionalism in southeast Michigan, representing the concerns of business and the region as a whole;

Whereas the mission of the Detroit Regional Chamber is to help power the economy of southeastern Michigan;

Whereas the Detroit Regional Chamber successfully advocates public policy concerns on behalf of its members at the local, regional, State, and national levels;

Whereas the Detroit Regional Chamber has implemented programs promoting diversity in its work force and has won recognition for such efforts;

Whereas the Detroit Regional Chamber is committed to promoting the interests of its members in the global marketplace through economic development efforts; and

Whereas, on June 30, 2003, the Detroit Regional Chamber celebrates its 100th anniversary: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), that Congress honors and congratulates chambers of commerce for their efforts that contribute to the improvement of their communities and the strengthening of their local and regional economies.

SENATE CONCURRENT RESOLUTION 54—COMMENDING MEDGAR WILEY EVERS AND HIS WIDOW, MYRLIE EVERS-WILLIAMS FOR THEIR LIVES AND ACCOMPLISHMENTS, DESIGNATING A MEDGAR EVERS NATIONAL WEEK OF REMEMBRANCE, AND FOR OTHER PURPOSES

Mr. COCHRAN (for himself and Mr. LOTT) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 54

Whereas a pioneer in the fight for racial justice, Medgar Wiley Evers, was born July 2, 1925, in Decatur, Mississippi, to James and Jessie Evers;

Whereas, to faithfully serve his country, Medgar Evers left high school to join the Army when World War II began and, after coming home to Mississippi, he completed high school, enrolled in Alcorn Agricultural and Mechanical College, presently known as Alcorn State University, and majored in business administration;

Whereas, as a student at Alcorn Agricultural and Mechanical College, Evers was a member of the debate team, the college choir, and the football and track teams, was the editor of the campus newspaper and the yearbook, and held several student offices, which gained him recognition in Who's Who in American Colleges;

Whereas, while a junior at Alcorn Agricultural and Mechanical College, Evers met a freshman named Myrlie Beasley, whom he married on December 24, 1951, and with whom he spent the remainder of his life;

Whereas, after Medgar Evers received a bachelor of arts degree, he moved to historic Mound Bayou, Mississippi, became employed by Magnolia Mutual Life Insurance Company, and soon began establishing local chapters of the National Association for the Advancement of Colored People (referred to in this resolution as the "NAACP") throughout the Delta region;

Whereas, moved by the plight of African-Americans in Mississippi and a desire to change the conditions facing them, in 1954, after the United States Supreme Court ruled school segregation unconstitutional, Medgar Evers became the first known African-American person to apply for admission to the University of Mississippi Law School, but was denied that admission;

Whereas, as a result of that denial, Medgar Evers contacted the NAACP to take legal action;

Whereas in 1954, Medgar Evers was offered a position as the Mississippi Field Secretary for the NAACP, and he accepted the position, making Myrlie Evers his secretary;

Whereas, with his wife by his side, Medgar Evers began a movement to register people to vote in Mississippi and, as a result of his activities, Medgar Evers received numerous threats;

Whereas, in spite of the threats, Medgar Evers persisted, with dedication and courage, to organize rallies, build the NAACP's membership, and travel around the country with Myrlie Evers to educate the public;

Whereas Medgar Evers' passion for quality education for all children led him to file suit against the Jackson, Mississippi public schools, which gained him national media coverage;

Whereas Medgar Evers organized students from Tougaloo and Campbell Colleges, coordinated and led protest marches, organized boycotts of Jackson businesses and sit-ins, and challenged segregated bus seating, and for these heroic efforts, he was arrested, beaten, and jailed;

Whereas the violence against Medgar Evers came to a climax on June 12, 1963, when he was shot and killed in front of his home;

Whereas, after the fingerprints of an outspoken segregationist were recovered from the scene of the shooting, and 2 juries deadlocked without a conviction in the shooting case, Myrlie Evers and her 3 children moved to Claremont, California, where she enrolled in Pomona College and earned her bachelor's degree in sociology in 1968;

Whereas, after Medgar Evers' death, Myrlie Evers began to create her own legacy and emerged as a national catalyst for justice and equality by becoming active in politics, becoming a founder of the National Women's Political Caucus, running for Congress in California's 24th congressional district, serving as Commissioner of Public Works for Los Angeles, using her writing skills to serve as a correspondent for Ladies Home Journal and to cover the Paris Peace Talks, and rising to prominence as Director of Consumer Affairs for the Atlantic Richfield Company;

Whereas Myrlie Evers became Myrlie Evers-Williams when she married Walter Williams in 1976;

Whereas, in the 1990's, Evers-Williams convinced Mississippi prosecutors to reopen Medgar Evers' murder case, and the reopening of the case led to the conviction and life imprisonment of Medgar Evers' killer;

Whereas Evers-Williams became the first female to chair the 64-member Board of Directors of the NAACP, to provide guidance to an organization that was dear to Medgar Evers' heart;

Whereas Evers-Williams has published her memoirs, entitled "Watch Me Fly: What I Learned on the Way to Becoming the Woman I Was Meant to Be", to enlighten the world about the struggles that plagued her life as the wife of an activist and empowered her to become a community leader;

Whereas Evers-Williams is widely known as a motivational lecturer and continues to speak out against discrimination and injustice;

Whereas her latest endeavor has brought her home to Mississippi to make two remarkable contributions, through the establishment of the Evers Collection and the Medgar Evers Institute, which advance the knowledge and cause of social injustice and which encompass the many lessons in the life's work of Medgar Evers and Myrlie Evers-Williams;

Whereas Evers-Williams has presented the extraordinary papers in that Collection and Institute to the Mississippi Department of Archives and History, where the papers are being preserved and catalogued; and

Whereas it is the policy of Congress to recognize and pay tribute to the lives and accomplishments of extraordinary Mississippians such as Medgar Evers and Myrlie Evers-Williams, whose life sacrifices have contributed to the betterment of the lives of the citizens of Mississippi as well as the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) Congress commends Medgar Wiley Evers and his widow, Myrlie Evers-Williams, and expresses the greatest respect and gratitude of Congress, for their lives and accomplishments;

(2) the Senate—

(A) designates the period beginning on June 9, 2003, and ending on June 16, 2003, as the "Medgar Evers National Week of Remembrance"; and

(B) requests that the President issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities; and

(3) copies of this resolution shall be furnished to the family of Medgar Wiley Evers and Myrlie Evers-Williams.

AMENDMENTS SUBMITTED AND PROPOSED

SA 878. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table.

SA 879. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 880. Mr. ALEXANDER (for himself, Mr. SANTORUM, Mr. CORNYN, Ms. LANDRIEU, Mr.

Bingaman, Mr. Domenici, Mr. Grassley, and Ms. Murkowski) proposed an amendment to the bill S. 14, supra.

SA 881. Mr. BINGAMAN (for himself, Mr. Inouye, and Mr. Daschle) proposed an amendment to the bill S. 14, supra.

SA 882. Mr. McCONNELL (for himself, Mrs. Feinstein, Mr. McCain, Mr. Akaka, Mr. Alexander, Mr. Allard, Mr. Allen, Mr. Bennett, Mr. Biden, Mr. Bingaman, Mrs. Boxer, Mr. Breaux, Mr. Brownback, Mr. Bunning, Mr. Chambliss, Mrs. Clinton, Mr. Coleman, Ms. Collins, Mr. Corzine, Mr. Daschle, Mr. Dayton, Mrs. Dole, Mr. Domenici, Mr. Durbin, Mr. Edwards, Mr. Feingold, Mr. Frist, Mr. Hagel, Mr. Dorgan, Mr. Burns, Mr. Kohl, Mr. Harkin, Mrs. Hutchison, Mr. Jeffords, Mr. Kennedy, Mr. Kerry, Mr. Kyl, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mr. Lugar, Ms. Mikulski, Ms. Murkowski, Mrs. Murray, Mr. Nelson of Nebraska, Mr. Reid, Mr. Rockefeller, Mr. Santorum, Mr. Sarbanes, Mr. Schumer, Mr. Smith, Mr. Specter, Ms. Stabenow, Mr. Voinovich, Mr. Wyden, Mr. Graham of Florida, Mr. Baucus, and Mr. Campbell) proposed an amendment to the bill S. 1215, to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

SA 883. Mr. McCONNELL (for himself, Mr. Grassley, and Mr. Baucus) proposed an amendment to amendment SA 882 proposed by Mr. McConnell (for himself, Mrs. Feinstein, Mr. McCain, Mr. Akaka, Mr. Alexander, Mr. Allard, Mr. Allen, Mr. Bennett, Mr. Biden, Mr. Bingaman, Mrs. Boxer, Mr. Breaux, Mr. Brownback, Mr. Bunning, Mr. Chambliss, Mrs. Clinton, Mr. Coleman, Ms. Collins, Mr. Corzine, Mr. Daschle, Mr. Dayton, Mrs. Dole, Mr. Domenici, Mr. Durbin, Mr. Edwards, Mr. Feingold, Mr. Frist, Mr. Hagel, Mr. Dorgan, Mr. Burns, Mr. Kohl, Mr. Harkin, Mrs. Hutchison, Mr. Jeffords, Mr. Kennedy, Mr. Kerry, Mr. Kyl, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mr. Lugar, Ms. Mikulski, Ms. Murkowski, Mrs. Murray, Mr. Nelson of Nebraska, Mr. Reid, Mr. Rockefeller, Mr. Santorum, Mr. Sarbanes, Mr. Schumer, Mr. Smith, Mr. Specter, Ms. Stabenow, Mr. Voinovich, Mr. Wyden, Mr. Graham of Florida, Mr. Baucus, and Mr. Campbell) to the bill S. 1215, supra.

SA 884. Mr. GRAHAM of Florida (for himself, Mrs. Feinstein, Ms. Cantwell, Mr. Wyden, Mr. Nelson of Florida, Mrs. Boxer, Mr. Lautenberg, Mr. Edwards, Mr. Kerry, Mrs. Murray, Mr. Lieberman, Mr. Akaka, Mr. Leahy, Ms. Snowe, Mr. Dodd, Mr. Chafee, Mrs. Dole, Mr. Kennedy, Mr. Corzine, and Ms. Collins) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 885. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 878. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 150, after line 14, insert the following:

SEC. 443. PLAN FOR WESTERN NEW YORK SERVICE CENTER.

Not later than December 31, 2003, the Secretary of Energy shall transmit to the Congress a plan for the transfer to the Secretary of title to, and full responsibility for the possession, transportation, disposal, stewardship, maintenance, and monitoring of, all facilities, property, and radioactive waste at the Western New York Service Center in West Valley, New York. The Secretary shall consult with the President of the New York State Energy Research and Development Authority in developing such plan.

SA 879. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SUSTAINABILITY GRANTS FOR WOMEN'S BUSINESS CENTERS.

Section 29(k)(4)(A)(iv) of the Small Business Act (15 U.S.C. 656(k)(4)(A)(iv)) is amended by striking "30.2 percent" and inserting "36 percent".

SA 880. Mr. ALEXANDER (for himself, Mr. Santorum, Mr. Cornyn, Ms. Landrieu, Mr. Bingaman, Mr. Domenici, Mr. Grassley, and Ms. Murkowski) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Page 52, after line 22, insert:

"SECTION . NATURAL GAS SUPPLY SHORTAGE REPORT.

"(a) Report.—Not later than six months after the date of enactment of this act, the Secretary of Energy ("Secretary") shall submit to the Congress a report on natural gas supplies and demand. In preparing the report, the Secretary shall consult with experts in natural gas supply and demand as well as representatives of State and local units of government, tribal organizations, and consumer and other organizations. As the Secretary deems advisable, the Secretary may hold public hearings and provide other opportunities for public comment. The report shall contain recommendations for federal actions that, if implemented, will result in a balance between natural gas supply and demand at a level that will ensure, to the maximum extent practicable, achievement of the objectives established in subsection (b).

"(b) Objectives of Report.—In preparing the report, the Secretary shall seek to develop a series of recommendations that will result in a balance between natural gas supply and demand adequate to—

"(1) provide residential consumers with natural gas at reasonable and stable prices;

"(2) accommodate long-term maintenance and growth of domestic natural gas dependent industrial, manufactured and commercial enterprises;

"(3) facilitate the attainment of national ambient air quality standards under the Clean Air Act;

"(4) permit continued progress in reducing emissions associated with electric power generation; and

"(5) support development of the preliminary phases of hydrogen-based energy technologies.

"(c) Contents of Report.—The report shall provide a comprehensive analysis of natural gas supply and demand in the United States for the period from 2004 and 2015. The analysis shall include, at a minimum—

"(1) estimates of annual domestic demand for natural gas that take into account the effect of federal policies and actions that are likely to increase and decrease demand for natural gas;

"(2) projections of annual natural gas supplies, from domestic and foreign sources, under existing federal policies;

"(3) an identification of estimated natural gas supplies that are not available under existing federal policies;

"(4) scenarios for decreasing natural gas demand and increasing natural gas supplies comparing relative economic and environmental impacts of federal policies that—

"(A) encourage or require the use of natural gas to meet air quality, carbon dioxide emission reduction, or energy security goals;

"(B) encourage or require the use of energy sources other than natural gas, including coal, nuclear and renewable sources;

"(C) support technologies to develop alternative sources of natural gas and synthetic gas, including coal gasification technologies;

"(D) encourage or require the use of energy conservation and demand side management practices; and

"(E) affect access to domestic natural gas supplies; and

"(5) recommendations for federal actions to achieve the objectives of the report, including recommendations that—

"(A) encourage or require the use of energy sources other than natural gas, including coal, nuclear and renewable sources;

"(B) encourage or require the use of energy conservation or demand side management practices;

"(C) support technologies for the development of alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

"(D) will improve access to domestic natural gas supplies.".

SA 881. Mr. BINGAMAN (for himself, Mr. Inouye, and Mr. Daschle) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Page 101, line 1, strike "electrify Indian tribal land" and all that follows through page 128, line 24, and insert:

"(4) electrify Indian tribal land and the homes of tribal members."

(b) Conforming Amendments.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking "Section" and inserting "Sec."; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

"Sec. 213. Establishment of policy for National Nuclear Security Administration.
"Sec. 214. Establishment of security, counterintelligence, and intelligence policies.
"Sec. 215. Office of Counterintelligence.
"Sec. 216. Office of Intelligence.
"Sec. 217. Office of Indian Energy Policy and Programs

(2) Section 5315 of title 5, United States Code, is amended by inserting "Director, Office of Indian Energy Policy and Programs, Department of Energy." after "Inspector General, Department of Energy.".

SEC. 303. INDIAN ENERGY.

(a) Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

“TITLE XXVI—INDIAN ENERGY

“SEC. 2601. DEFINITIONS.

“For purposes of this title:

“(1) The term ‘Director’ means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

“(2) The term ‘Indian land’ means—

“(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

“(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

“(i) in trust by the United States for the benefit of an Indian tribe;

“(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

“(iii) by a dependent Indian community; and

“(C) land conveyed to a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“(3) The term ‘Indian reservation’ includes—

“(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

“(B) a public domain Indian allotment;

“(C) in Oklahoma, all land that is—

“(i) within the jurisdictional area of an Indian tribe, and

“(ii) within the boundaries of the last reservation of such tribe that was established by treaty, executive order, or secretarial order; and

“(D) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

“(i) on original or acquired territory of the community; or

“(ii) within or outside the boundaries of any particular State.

“(4) The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), except the term, for the purpose of Section 2604, shall not include any Native Corporation.

“(5) The term ‘Native Corporation’ has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

“(6) The term ‘organization’ means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

“(7) The term ‘Program’ means the Indian energy resource development program established under section 2602(a).

“(8) The term ‘Secretary’ means the Secretary of the Interior.

“(9) The term ‘tribal energy resource development organization’ means an organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other guarantee authorized by sections 2602 or 2603 of this title.

“(10) The term ‘tribal land’ means any land or interests in land owned by any Indian tribe, band, nation, pueblo, community, rancheria, colony or other group, title to which is held in trust by the United States or which is subject to a restriction against alienation imposed by the United States.

“(11) The term ‘vertical integration of energy resources” means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission facility), on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

“SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

“(a) Department of the Interior Program.—

“(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, and with the consent of any affected Indian tribe, the Secretary shall establish and implement an Indian energy resource development program to assist Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

“(2) In carrying out the Program, the Secretary shall—

“(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues;

“(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the vertical integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

“(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development and vertical integration of energy resources on Indian land.

“(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2004 through 2014.

“(b) Indian Energy Education Planning and Management Assistance.—

“(1) The Director shall establish programs to assist Indian tribes in meeting energy education, research and development, planning, and management needs.

“(2) In carrying out this section, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

“(A) energy, energy efficiency, and energy conservation programs;

“(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities;

“(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

“(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

“(3)(A) The Director may develop, in consultation with Indian tribes, a formula for providing grants under this section.

“(B) In providing a grant under this subsection, the Director shall give priority to an application received from an Indian tribe with inadequate electric service (as determined by the Director).

“(4) The Secretary of Energy may promulgate such regulations as necessary to carry out this subsection.

“(5) There is authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2004 through 2011.

“(c) Loan Guarantee Program.—

“(1) Subject to paragraph (3), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development.

“(2) A loan guaranteed under this subsection shall be made by—

“(A) a financial institution subject to examination by the Secretary of Energy; or

“(B) an Indian tribe, from funds of the Indian tribe.

“(3) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

“(4) The Secretary of Energy may promulgate such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

“(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

“(6) Not later than 1 year from the date of enactment of this section, the Secretary of Energy shall report to the Congress on the financing requirements of Indian tribes for energy development on Indian land.

“(d) Indian Energy Preference.—

“(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

“(2) In carrying out this subsection, a Federal agency or department shall not—

“(A) pay more than the prevailing market price for an energy product or byproduct; and

“(B) obtain less than prevailing market terms and conditions.”.

“SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

“(a) Grants.—The Secretary may provide to Indian tribes and tribal energy resource development organizations, on an annual basis, grants for use in developing, administering, implementing, and enforcing tribal laws (including regulations) governing the development and management of energy resources on Indian land.

“(b) Use of Funds.—Funds from a grant provided under this section may be used by an Indian tribe or tribal energy resource development organization for—

“(1) the development of a tribal energy resource inventory or tribal energy resource on Indian land;

“(2) the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

“(3) the development and enforcement of tribal laws and the development of technical infrastructure to protect the environment under applicable law; or

“(4) the training of employees that—

“(A) are engaged in the development of energy resources on Indian land; or

“(B) are responsible for protecting the environment.

“(c) Other Assistance.—To the maximum extent practicable, the Secretary and the Secretary of Energy shall make available to Indian tribes and tribal energy resource development organizations scientific and technical data for use in the development and management of energy resources on Indian land.

“SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

“(a) Leases and Agreements.—Subject to the provisions of this section—

"(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

"(A) exploration for, extraction of, processing of, or other development of energy resources on tribal land; and

"(B) construction or operation of an electric generation, transmission, or distribution facility located on tribal land; or a facility to process or refine energy resources developed on tribal land; and

"(2) such lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) or any other provision of Title 25, U.S. Code, if—

"(A) the lease or business agreement is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

"(B) the term of the lease or business agreement does not exceed—

"(i) 30 years; or

"(ii) in the case of a lease for the production of oil and gas resources, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

"(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

"(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without specific approval by the Secretary if—

"(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

"(2) the term of the right-of-way does not exceed 30 years;

"(3) the pipeline or electric transmission or distribution line serves—

"(A) an electric generation, transmission, or distribution facility located on tribal land; or

"(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

"(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

"(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

"(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources pursuant to the provisions of this section shall be valid unless the lease, business agreement, or right-of-way is authorized in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

"(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

"(1) On promulgation of regulations under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

"(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1) (or one year if the Secretary determines such additional time is necessary to comply with applicable federal law), the Secretary shall approve or disapprove the tribal energy resource agreement.

"(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

"(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe; and

"(ii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

"(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

"(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

"(III) address amendments and renewals;

"(IV) address consideration for the lease, business agreement, or right-of-way;

"(V) address technical or other relevant requirements;

"(VI) establish requirements for environmental review in accordance with subparagraph (C);

"(VII) ensure compliance with all applicable environmental laws;

"(VIII) identify final approval authority;

"(IX) provide for public notification of final approvals;

"(X) establish a process for consultation with any affected States concerning potential off-reservation impacts associated with the lease, business agreement, or right-of-way;

"(XI) describe the remedies for breach of the lease, agreement, or right-of-way; and

"(XII) describe tribal remedies, if any, against the United States for breach of any duties of the United States under such tribal energy resource agreement.

"(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

"(i) Except as provided in clause (ii) of this subparagraph, the preparation of a document comparable to an environmental assessment as provided for in existing regulations issued by the President's Council on Environmental Quality, including brief discussions of the need for the proposal and the environmental impacts (including impacts on cultural resources) of the proposed action and alternatives (which may be limited to a no-action alternative except in circumstances in which section 102(2)(E) of the National Environmental Policy Act (42 U.S.C. 4332(2)(E)) would require a broader consideration of alternatives if such action were proposed by a federal agency);

"(ii) in the event that the environmental analysis specified in clause (i) leads to a determination by the responsible tribal official that the impacts of the proposed action will be significant, the tribe will prepare an environmental impact statement comparable to that required pursuant to existing regulations of the Council on Environmental Quality, provided that the preparation of an environmental assessment pursuant to clause (i) is not required if the responsible tribal official makes a threshold determination that an environmental impact statement pursuant to this clause (ii) will be required;

"(iii) the identification of proposed mitigation and mechanisms to ensure that any mitigation measures that are incorporated into the environmental documents required pursuant to clause (i) or (ii) will be enforceable;

"(iv) a process for ensuring that the public is informed of and has an opportunity to comment on the environmental impacts of any proposed lease, business agreement, or right-of-way before the issuance of a final document under clauses (i) or (ii), and before tribal approval of the lease, business agreement, or right-of-way (or any amendment to or renewal of the lease, business agreement, or right-of-way); and

"(v) sufficient administrative support and technical capability to carry out the environmental review process.

"(D) A tribal energy resource agreement negotiated between the Secretary and an Indian tribe in accordance with this subsection shall include—

"(i) provisions requiring the Secretary to conduct an annual trust asset evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources on tribal land by the Indian tribe; and

"(ii) in the case of a finding by the Secretary of imminent jeopardy to a physical trust asset, provisions authorizing the Secretary to reassume responsibility for activities associated with the development of energy resources on tribal land.

"(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted under paragraph (1).

"(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall—

"(A) notify the Indian tribe in writing of the basis for the disapproval;

"(B) identify what changes or other actions are required to address the concerns of the Secretary; and

"(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

"(5) If an Indian tribe executes a lease or business agreement or grants a right-of-way in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements set forth in the Secretary's regulations adopted pursuant to subsection (e)(8), provide to the Secretary—

"(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

"(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

"(6)(A) Nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including those which derive from the trust relationship as set forth in treaties, statutes, regulations, Executive Orders, court decisions, and agreements between the United States and any Indian tribe; provided further that the Secretary shall carry out the actions required in this section in a manner consistent with the trust responsibility to protect and conserve the trust resources of Indian tribes and individual Indians, and shall act in good faith in upholding such trust responsibility.

“(B) The Secretary shall continue to have a trust obligation to ensure that the rights of an Indian tribe are protected in the event of a violation of federal law or the terms of any lease, business agreement or right-of-way under this section by any other party to any such lease, business agreement or right-of-way.

“(7)(A) In this paragraph, the term ‘interested party’ means any person or entity the interests of which have sustained or will sustain an adverse environmental impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

“(B) After exhaustion of tribal remedies, and in accordance with the process and requirements set forth in regulations adopted by the Secretary pursuant to subsection (e)(8), an interested party may submit to the Secretary a petition to review compliance of an Indian tribe with a tribal energy resource agreement of the Indian tribe approved under this subsection.

“(C) If the Secretary determines that an Indian tribe is not in compliance with a tribal energy resource agreement approved under this subsection, the Secretary shall take such action as is necessary to compel compliance, including—

“(i) suspending a lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with the approved tribal energy resource agreement; and

“(ii) rescinding approval of the tribal energy resource agreement and reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way described in subsections (a) and (b).

“(D) If the Secretary seeks to compel compliance of an Indian tribe with an approved tribal energy resource agreement under subparagraph (C)(ii), the Secretary shall—

“(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

“(ii) provide the Indian tribe with a written notice of the violation together with the written determination; and

“(iii) before taking any action described in subparagraph (C)(ii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

“(E) An Indian tribe described in subparagraph (D) shall retain all rights to appeal as provided in regulations promulgated by the Secretary.

“(F) Any decision of the Secretary with respect to a review or appeal described in this paragraph (7) shall constitute a final agency action.

“(8) Not later than 180 days after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall promulgate regulations that implement the provisions of this subsection, including—

“(A) criteria to be used in determining the capacity of an Indian tribe described in paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe; and

“(B) a process and requirements in accordance with which an Indian tribe may—

“(i) voluntarily rescind an approved tribal energy resource agreement approved by the Secretary under this subsection; and

“(ii) return to the Secretary the responsibility to approve any future leases, business agreements, and rights-of-way described in this subsection.

“(f) No Effect on Other Law.—Nothing in this section affects the application of—

“(1) any Federal environmental law;

“(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

“(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

“(g) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of the Interior $2,000,000 for each of fiscal years 2004 through 2010 to make grants or provide other appropriate assistance to Indian tribes to assist them in the implementation of any tribal energy resource agreements entered into pursuant to this section.

“(h) Expiration of Authority.—The authority of an Indian tribe to enter into, or issue, leases, business agreements or rights-of-way pursuant to this section, and the Secretary's authority to approve tribal energy resource agreements pursuant to this section, shall expire seven years after the date of enactment of the Indian Energy Development and Self-Determination Act of 2003, unless reauthorized by a subsequent Act of Congress.

“SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.

“(a) Definitions.—In this section:

“(1) The term ‘Administrator’ means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

“(2) The term ‘power marketing administration’ means—

“(A) the Bonneville Power Administration;

“(B) the Western Area Power Administration; and

“(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

“(b) Encouragement of Indian Tribal Energy Development.—Each Administrator shall encourage Indian tribal energy development by taking such actions as are appropriate, including administration of programs of the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section.

“(c) Action by the Administrator.—In carrying out this section, and in accordance with existing law—

“(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes.

“(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming, supplemental, and reserve needs of Indian-owned energy projects on Indian land;

“(3) the Administrator of the Western Area Power Administration may purchase power from Indian tribes to meet the firming, supplemental, and reserve requirements of the Western Area Power Administration; and

“(4) each Administrator shall not pay more than the prevailing market price for an energy product nor obtain less than prevailing market terms and conditions.

“(d) Assistance for Transmission System Use.—

“(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

“(2) The costs of technical assistance provided under paragraph (1) shall be funded by the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the applicable Indian tribes.

“(e) Power Allocation Study.—Not later than 2 years after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary of Energy shall submit to the Congress a report that—

“(1) describes the use by Indian tribes of Federal power allocations of the Western Area Power Administration (or power sold by the Southwestern Power Administration) and the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of those administrations; and

“(2) identifies—

“(A) the quantity of power allocated to Indian tribes by the Western Area Power Administration;

“(B) the quantity of power sold to Indian tribes by other power marketing administrations; and

“(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to facilitate the use of Federal power by Indian tribes.

“(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.

“SEC. 2606. INDIAN MINERAL DEVELOPMENT REVIEW.

“(a) In General.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

“(b) Report.—Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall submit to the Congress a report that includes—

“(1) the results of the review;

“(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

“(3) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers), along with recommendations for the removal of those barriers.

“SEC. 2607. WIND AND HYDROPOWER FEASIBILITY STUDY.

“(a) Study.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary, shall conduct a study of the cost and feasibility of developing a demonstration project that would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming and supplemental power to the Western Area Power Administration.

“(b) Scope of Study.—The study shall—

“(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

“(2) review historical purchase requirements and projected purchase requirements for firming and the patterns of availability and use of firming energy;

"(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

"(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

"(5) include an independent tribal engineer as a study team member.

"(c) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary and Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

"(1) an analysis of the potential energy cost or benefits to the customers of the Western Area Power Administration through the blend of wind and hydropower;

"(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

"(3) recommendations for a demonstration project that could be carried out by the Western Area Power Administration in partnership with an Indian tribal government or tribal energy resource development organization to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration or any other Federal power marketing agency; and

"(4) an identification of—

"(A) the economic and environmental costs or benefits to be realized through such a Federal-tribal partnership; and

"(B) the manner in which such a partnership could contribute to the energy security of the United States.

"(d) Funding.—

"(1) There is authorized to be appropriated to carry out this section $500,000, to remain available until expended.

"(2) Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.".

(b) Conforming Amendments.—The table of contents for the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended by striking items relating to Title XXVI, and inserting:

"Sec. 2601. Definitions.
"Sec. 2602. Indian tribal energy resource development.
"Sec. 2603. Indian tribal energy resource regulation.
"Sec. 2604. Leases, business agreements, and rights-of-way involving energy development or transmission.
"Sec. 2605. Federal Power Marketing Administrations.
"Sec. 2606. Indian mineral development review.
"Sec. 2607. Wind and hydropower feasibility study.

SA 882. Mr. McCONNELL (for himself, Mrs. FEINSTEIN, Mr. McCAIN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mr. FRIST, Mr. HAGEL, Mr. DORGAN, Mr. BURNS, Mr. KOHL, Mr. HARKIN, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, MR. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, Mr. VOINOVICH, Mr. WYDEN, Mr. GRAHAM of Florida, Mr. BAUCUS, and Mr. CAMPBELL,) proposed an amendment to the bill S. 1215, to sanction the ruling Burmese military junta, to strengthen Burma's democratic foreces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Burmese Freedom and Democracy Act of 2003".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The State Peace and Development Council (SPDC) has failed to transfer power to the National League for Democracy (NLD) whose parliamentarians won an overwhelming victory in the 1990 elections in Burma.

(2) The SPDC has failed to enter into meaningful, political dialogue with the NLD and ethnic minorities and has dismissed the efforts of United Nations Special Envoy Razali bin Ismail to further such dialogue.

(3) According to the State Department's "Report to the Congress Regarding Conditions in Burma and U.S. Policy Toward Burma" dated March 28, 2003, the SPDC has become "more confrontational" in its exchanges with the NLD.

(4) On May 30, 2003, the SPDC, threatened by continued support for the NLD throughout Burma, brutally attacked NLD supporters, killed and injured scores of civilians, and arrested democracy advocate Aung San Suu Kyi and other activists.

(5) The SPDC continues egregious human rights violations against Burmese citizens, uses rape as a weapon of intimidation and torture against women, and forcibly conscripts child-soldiers for the use in fighting indigenous ethnic groups.

(6) The SPDC has demonstrably failed to cooperate with the United States in stopping the flood of heroin and methamphetamines being grown, refined, manufactured, and transported in areas under the control of the SPDC serving to flood the region and much of the world with these illicit drugs.

(7) The SPDC provides safety, security, and engages in business dealings with narcotics traffickers under indictment by United States authorities, and other producers and traffickers of narcotics.

(8) The International Labor Organization (ILO), for the first time in its 82-year history, adopted in 2000, a resolution recommending that governments, employers, and workers organizations take appropriate measures to ensure that their relations with the SPDC do not abet the government-sponsored system of forced, compulsory, or slave labor in Burma, and that other international bodies reconsider any cooperation they may be engaged in with Burma and, if appropriate, cease as soon as possible any activity that could abet the practice of forced, compulsory, or slave labor.

(9) The SPDC has integrated the Burmese military and its surrogates into all facets of the economy effectively destroying any free enterprise system.

(10) Investment in Burmese companies and purchases from them serve to provide the SPDC with currency that is used to finance its instruments of terror and repression against the Burmese people.

(11) On April 15, 2003, the American Apparel and Footwear Association expressed its "strong support for a full and immediate ban on U.S. textiles, apparel and footwear imports from Burma" and called upon the United States Government to "impose an outright ban on U.S. imports" of these items until Burma demonstrates respect for basic human and labor rights of its citizens.

(12) The policy of the United States, as articulated by the President on April 24, 2003, is to officially recognize the NLD as the legitimate representative of the Burmese people as determined by the 1990 election.

SEC. 3. BAN AGAINST TRADE THAT SUPPORTS THE MILITARY REGIME OF BURMA.

(a) General Ban.—

(1) In general.—Notwithstanding any other provision of law, until such time as the President determines and certifies to Congress that Burma has met the conditions described in paragraph (3), no article may be imported into the United States that is produced, mined, manufactured, grown, or assembled in Burma.

(2) Ban on imports from certain companies.—The import restrictions contained in paragraph (1) shall apply to, among other entities—

(A) the SPDC, any ministry of the SPDC, a member of the SPDC or an immediate family member of such member;

(B) known narcotics traffickers from Burma or an immediate family member of such narcotics trafficker;

(C) the Union of Myanmar Economics Holdings Incorporated (UMEHI) or any company in which the UMEHI has a fiduciary interest;

(D) the Myanmar Economic Corporation (MEC) or any company in which the MEC has a fiduciary interest;

(E) the Union Solidarity and Development Association (USDA); and

(F) any successor entity for the SPDC, UMEHI, MEC, or USDA.

(3) Conditions described.—The conditions described in this paragraph are the following:

(A) The SPDC has made substantial and measurable progress to end violations of internationally recognized human rights including rape, and the Secretary of State, after consultation with the ILO Secretary General and relevant nongovernmental organizations, reports to the appropriate congressional committees that the SPDC no longer systematically violates workers rights, including the use of forced and child labor, and conscription of child-soldiers.

(B) The SPDC has made measurable and substantial progress toward implementing a democratic government including—

(i) releasing all political prisoners;

(ii) allowing freedom of speech and the press;

(iii) allowing freedom of association;

(iv) permitting the peaceful exercise of religion; and

(v) bringing to a conclusion an agreement between the SPDC and the democratic forces led by the NLD and Burma's ethnic nationalities on the transfer of power to a civilian government accountable to the Burmese people through democratic elections under the rule of law.

(C) Pursuant to the terms of section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228), Burma has not failed demonstrably to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take other effective counternarcotics measures, including the arrest and extradition of all individuals under indictment in the United States for narcotics trafficking, and concrete and measurable actions to stem the flow of illicit drug money into Burma's banking system and economic enterprises and to stop the manufacture and export of methamphetamines.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this subsection, the term "appropriate congressional committees" means the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives.

(b) WAIVER AUTHORITIES.—

(1) IN GENERAL.—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives that to do so is in the national security interest of the United States.

(2) INTERNATIONAL OBLIGATIONS.—The President may waive any provision of this Act found to be in violation of any international obligations of the United States pursuant to any final ruling relating to Burma under the dispute settlement procedures of the World Trade Organization.

SEC. 4. FREEZING ASSETS OF THE BURMESE REGIME IN THE UNITED STATES.

Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall direct, and promulgate regulations to the same, that any United States financial institution holding funds belonging to the SPDC or the assets of those individuals who hold senior positions in the SPDC or its political arm, the Union Solidarity Development Association, shall promptly report those assets to the Office of Foreign Assets Control. The Secretary of the Treasury may take such action as may be necessary to secure such assets or funds.

SEC. 5. LOANS AT INTERNATIONAL FINANCIAL INSTITUTIONS.

The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose, and vote against the extension by such institution of any loan or financial or technical assistance to Burma until such time as the conditions described in section 3(a)(3) are met.

SEC. 6. EXPANSION OF VISA BAN.

(a) IN GENERAL.—

(1) VISA BAN.—The President is authorized to deny visas and entry to the former and present leadership of the SPDC or the Union Solidarity Development Association.

(2) UPDATES.—The Secretary of State shall coordinate on a biannual basis with representatives of the European Union to ensure that an individual who is banned from obtaining a visa by the European Union for the reasons described in paragraph (1) is also banned from receiving a visa from the United States.

(b) PUBLICATION.—The Secretary of State shall post on the Department of State's website the names of individuals whose entry into the United States is banned under subsection (a).

SEC. 7. CONDEMNATION OF THE REGIME AND DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—Congress encourages the Secretary of State to highlight the abysmal record of the SPDC to the international community and use all appropriate fora, including the Association of Southeast Asian Nations Regional Forum and Asian Nations Regional Forum, to encourage other states to restrict financial resources to the SPDC and Burmese companies while offering political recognition and support to Burma's democratic movement including the National League for Democracy and Burma's ethnic groups.

(b) UNITED STATES EMBASSY.—The United States embassy in Rangoon shall take all steps necessary to provide access of information and United States policy decisions to media organs not under the control of the ruling military regime.

SEC. 8. SUPPORT DEMOCRACY ACTIVISTS IN BURMA.

(a) IN GENERAL.—The President is authorized to use all available resources to assist Burmese democracy activists dedicated to nonviolent opposition to the regime in their efforts to promote freedom, democracy, and human rights in Burma, including a listing of constraints on such programming.

(b) REPORTS.—

(1) FIRST REPORT.—Not later than 3 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a comprehensive report on its short- and long-term programs and activities to support democracy activists in Burma, including a list of constraints on such programming.

(2) REPORT ON RESOURCES.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a report identifying resources that will be necessary for the reconstruction of Burma, after the SPDC is removed from power, including—

(A) the formation of democratic institutions;

(B) establishing the rule of law;

(C) establishing freedom of the press;

(D) providing for the successful reintegration of military officers and personnel into Burmese society; and

(E) providing health, educational, and economic development.

SA 883. Mr. McCONNELL (for himself, Mr. GRASSLEY, and Mr. BAUCUS) proposed an amendment to amendment SA 882 proposed by Mr. McCONNELL (for himself, Mrs. FEINSTEIN, Mr. McCAIN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mr. FRIST, Mr. HAGEL, Mr. DORGAN, Mr. BURNS, Mr. KOHL, Mr. HARKIN, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, Mr. VOINOVICH, Mr. WYDEN, Mr. GRAHAM of Florida, Mr. BAUCUS, and Mr. CAMPBELL) to the bill S. 1215, to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; as follows:

On page 5, line 5, insert "and except as provided in section 9" after "law".

Beginning on page 7, line 23, strike all through page 8, line 3, and insert the following:

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this Act, the term "appropriate congressional committees" means the Committee on Foreign Relations, the Committee on Finance, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on Ways and Means, and the Committee on Appropriations of the House of Representatives.

On page 8, beginning on line 5, strike all through line 13, and insert the following:

(1) IN GENERAL.—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the appropriate congressional committees that to do so is in the vital national security interest of the United States.

On page 11, beginning on line 16, strike "Committees on Appropriations and Foreign Relations of the Senate" and all that follows through "House of Representatives" on line 19, and insert "appropriate congressional committees".

On page 12, beginning on line 1, strike "Committees on Appropriations and Foreign Relations of the Senate" and all that follows through "House of Representatives" on line 4, and insert "appropriate congressional committees".

On page 12, after line 16, insert the following:

(3) REPORT ON TRADE SANCTIONS.—Not later than 90 days before the date that the import restrictions contained in section 3(a)(1) are to expire, the Secretary of State, in consultation with the United States Trade Representative and other appropriate agencies, shall submit to the appropriate congressional committees, a report on—

(A) conditions in Burma, including human rights violations, arrest and detention of democracy activists, forced and child labor, and the status of dialogue between the SPDC and the NLD and ethnic minorities;

(B) bilateral and multilateral measures undertaken by the United States Government and other governments to promote human rights and democracy in Burma; and

(C) the impact and effectiveness of the provisions of this Act in furthering the policy objectives of the United States toward Burma.

SEC. 9. DURATION OF SANCTIONS.

(a) TERMINATION BY REQUEST FROM DEMOCRATIC BURMA.—The President may terminate any provision in this Act upon the request of a democratically elected government in Burma, provided that all the conditions in section 3(a)(3) have been met.

(b) CONTINUATION OF IMPORT SANCTIONS.—

(1) EXPIRATION.—The import restrictions contained in section 3(a)(1) shall expire 1

year from the date of enactment of this Act unless renewed under paragraph (2) of this section.

(2) RESOLUTION BY CONGRESS.—The import restrictions contained in section 3(a)(1) may be renewed annually for a 1-year period if, prior to the anniversary of the date of enactment of this Act, and each year thereafter, a renewal resolution is enacted into law in accordance with subsection (c).

(c) RENEWAL RESOLUTIONS.—

(1) IN GENERAL.—For purposes of this section, the term "renewal resolution" means a joint resolution of the 2 Houses of Congress, the sole matter after the resolving clause of which is as follows: "That Congress approves the renewal of the import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003."

(2) PROCEDURES.—

(A) IN GENERAL.—A renewal resolution—

(i) may be introduced in either House of Congress by any member of such House at any time within the 90-day period before the expiration of the import restrictions contained in section 3(a)(1); and

(ii) the provisions of subparagraph (B) shall apply.

(B) EXPEDITED CONSIDERATION.—The provisions of section 152 (b), (c), (d), (e), and (f) of the Trade Act of 1974 (19 U.S.C. 2192 (b), (c), (d), (e), and (f)) apply to a renewal resolution under this Act as if such resolution were a resolution described in section 152(a) of the Trade Act of 1974.

SA 884. Mr. GRAHAM of Florida (for himself, Mrs. FEINSTEIN, Ms. CANTWELL, Mr. WYDEN, Mr. NELSON of Florida, Mrs. BOXER, Mr. LAUTENBERG, Mr. EDWARDS, Mr. KERRY, Mrs. MURRAY, Mr. LIEBERMAN, Mr. AKAKA, Mr. LEAHY, Ms. SNOWE, Mr. DODD, Mr. CHAFEE, Mrs. DOLE, Mr. KENNEDY, Mr. CORZINE, and Ms. COLLINS) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Beginning on page 23, strike line 20 and all that follows through page 25, line 8.

SA 885. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

Subtitle I—Miscellaneous

SEC. 1195. ENERGY SECURITY OF ISRAEL.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President may export oil to, or secure oil for, any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to any country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency.

(b) MEMORANDUM OF AGREEMENT.—The following agreements shall be deemed to have entered into force by operation of law and shall be deemed to have no termination date:

(1) The agreement entitled "Agreement amending and extending the memorandum of agreement of June 22, 1979", entered into force November 13, 1994 (TIAS 12580).

(2) The agreement entitled "Agreement amending the contingency implementing arrangements of October 17, 1980", entered into force June 27, 1995 (TIAS 12670).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, June 11, 2003. The following agenda will be considered:

S. 648, Pharmacy Education Aid Act of 2003.

S __, Greater Access to Affordable Pharmaceuticals Act.

Any nominees that have been cleared for action.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 11, 2003, at 10 a.m., in room 485 of the Russell Senate Office Building to conduct a hearing on the nomination of Charles W. Grim, D.D.S., to be the Director of the Indian Health Service at the Department of Health and Human Services; to be followed immediately by another hearing on S. 1146, to implement the recommendations of the Garrison Unit Joint Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, ND.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Judicial and Executive Nominations" on Wednesday, June 11, 2003, at 9:30 a.m., in the Dirksen Senate Office Building Room 650.

Panel I: Senators.

Panel II: William H. Pryor, Jr., to be United States Circuit Judge for the Eleventh Circuit.

Panel III: Diane M. Stuart to be Director, Violence Against Women Office, United States Department of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT ECONOMIC COMMITTEE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in room 628 of the Dirksen Senate Office Building, Wednesday, June 11, 2003, from 9:30 a.m. to 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMPETITION, FOREIGN COMMERCE, AND INFRASTRUCTURE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Subcommittee on Competition, Foreign Commerce, and Infrastructure be authorized to meet on Wednesday, June 11, 2003, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Wednesday, June 11, 2003, at 9 a.m., for a hearing entitled "Patient Safety: Instilling Hospitals with a Culture of Continuous Improvement."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. ENZI. Mr. President, I ask unanimous consent that Greg Dean of my office be given floor privileges during the debate on the Energy Bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent that Mindy Yergin, an intern in my office, be granted floor privileges for the remainder of the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I ask unanimous consent that Andrea Lee, a legislative fellow in my office, be granted the privilege of the floor for the remainder of the debate on S. 14, the Energy Bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION DISCHARGED AND EXECUTIVE CALENDAR

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session and that the nomination of Clay Johnson, to be Deputy Director for Management, OMB, be discharged from the Governmental Affairs Committee; I further ask consent that the Senate proceed to its consideration and the consideration of Executive Calendar No. 224 en bloc; further, that the nominations be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

Clay Johnson III, of Texas, to be Deputy Director of Management, Office for Management and Budget.

DEPARTMENT OF JUSTICE

Harlon Eugene Costner, of North Carolina, to be United States Marshal for the Middle

District of North Carolina for the term of four years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

COMMENDING MEDGAR WILEY EVERS AND HIS WIDOW, MYRLIE EVERS-WILLIAMS

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 54, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 54) commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams, for their lives and accomplishments, designating a Medgar Evers National Week of Remembrance, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 54) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 54

Whereas a pioneer in the fight for racial justice, Medgar Wiley Evers, was born July 2, 1925, in Decatur, Mississippi, to James and Jessie Evers;

Whereas, to faithfully serve his country, Medgar Evers left high school to join the Army when World War II began and, after coming home to Mississippi, he completed high school, enrolled in Alcorn Agricultural and Mechanical College, presently known as Alcorn State University, and majored in business administration;

Whereas, as a student at Alcorn Agricultural and Mechanical College, Evers was a member of the debate team, the college choir, and the football and track teams, was the editor of the campus newspaper and the yearbook, and held several student offices, which gained him recognition in Who's Who in American Colleges;

Whereas, while a junior at Alcorn Agricultural and Mechanical College, Evers met a freshman named Myrlie Beasley, whom he married on December 24, 1951, and with whom he spent the remainder of his life;

Whereas, after Medgar Evers received a bachelor of arts degree, he moved to historic Mound Bayou, Mississippi, became employed by Magnolia Mutual Life Insurance Company, and soon began establishing local chapters of the National Association for the Advancement of Colored People (referred to in this resolution as the "NAACP") throughout the Delta region;

Whereas, moved by the plight of African-Americans in Mississippi and a desire to change the conditions facing them, in 1954, after the United States Supreme Court ruled school segregation unconstitutional, Medgar Evers became the first known African-American person to apply for admission to the University of Mississippi Law School, but was denied that admission;

Whereas, as a result of that denial, Medgar Evers contacted the NAACP to take legal action;

Whereas in 1954, Medgar Evers was offered a position as the Mississippi Field Secretary for the NAACP, and he accepted the position, making Myrlie Evers his secretary;

Whereas, with his wife by his side, Medgar Evers began a movement to register people to vote in Mississippi and, as a result of his activities, Medgar Evers received numerous threats;

Whereas, in spite of the threats, Medgar Evers persisted, with dedication and courage, to organize rallies, build the NAACP's membership, and travel around the country with Myrlie Evers to educate the public;

Whereas Medgar Evers' passion for quality education for all children led him to file suit against the Jackson, Mississippi public schools, which gained him national media coverage;

Whereas Medgar Evers organized students from Tougaloo and Campbell Colleges, coordinated and led protest marches, organized boycotts of Jackson businesses and sit-ins, and challenged segregated bus seating, and for these heroic efforts, he was arrested, beaten, and jailed;

Whereas the violence against Medgar Evers came to a climax on June 12, 1963, when he was shot and killed in front of his home;

Whereas, after the fingerprints of an outspoken segregationist were recovered from the scene of the shooting, and 2 juries deadlocked without a conviction in the shooting case, Myrlie Evers and her 3 children moved to Claremont, California, where she enrolled in Pomona College and earned her bachelor's degree in sociology in 1968;

Whereas, after Medgar Evers' death, Myrlie Evers began to create her own legacy and emerged as a national catalyst for justice and equality by becoming active in politics, becoming a founder of the National Women's Political Caucus, running for Congress in California's 24th congressional district, serving as Commissioner of Public Works for Los Angeles, using her writing skills to serve as a correspondent for Ladies Home Journal and to cover the Paris Peace Talks, and rising to prominence as Director of Consumer Affairs for the Atlantic Richfield Company;

Whereas Myrlie Evers became Myrlie Evers-Williams when she married Walter Williams in 1976;

Whereas, in the 1990's, Evers-Williams convinced Mississippi prosecutors to reopen Medgar Evers' murder case, and the reopening of the case led to the conviction and life imprisonment of Medgar Evers' killer;

Whereas Evers-Williams became the first female to chair the 64-member Board of Directors of the NAACP, to provide guidance to an organization that was dear to Medgar Evers' heart;

Whereas Evers-Williams has published her memoirs, entitled "Watch Me Fly: What I Learned on the Way to Becoming the Woman I Was Meant to Be", to enlighten the world about the struggles that plagued her life as the wife of an activist and empowered her to become a community leader;

Whereas Evers-Williams is widely known as a motivational lecturer and continues to speak out against discrimination and injustice;

Whereas her latest endeavor has brought her home to Mississippi to make two remarkable contributions, through the establishment of the Evers Collection and the Medgar Evers Institute, which advance the knowledge and cause of social injustice and which encompass the many lessons in the life's work of Medgar Evers and Myrlie Evers-Williams;

Whereas Evers-Williams has presented the extraordinary papers in that Collection and Institute to the Mississippi Department of Archives and History, where the papers are being preserved and catalogued; and

Whereas it is the policy of Congress to recognize and pay tribute to the lives and accomplishments of extraordinary Mississippians such as Medgar Evers and Myrlie Evers-Williams, whose life sacrifices have contributed to the betterment of the lives of the citizens of Mississippi as well as the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) Congress commends Medgar Wiley Evers and his widow, Myrlie Evers-Williams, and expresses the greatest respect and gratitude of Congress, for their lives and accomplishments;

(2) the Senate—

(A) designates the period beginning on June 9, 2003, and ending on June 16, 2003, as the "Medgar Evers National Week of Remembrance"; and

(B) requests that the President issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities; and

(3) copies of this resolution shall be furnished to the family of Medgar Wiley Evers and Myrlie Evers-Williams.

ORDERS FOR THURSDAY, JUNE 12, 2003

Mr. FITZGERALD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, June 12. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 14, the Energy bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FITZGERALD. For the information of all Senators, tomorrow morning the Senate will resume consideration of S. 14, the Energy bill. The Graham amendment relating to the Outer Continental Shelf is currently pending to the energy bill. Under a previous agreement, when the Senate resumes consideration of the bill tomorrow morning, there will be up to 90 minutes of debate prior to a vote on or in relation to the amendment. Therefore, the first vote of tomorrow's session will occur at approximately 11 a.m. In addition to the Graham amendment, the Senate will consider other amendments to the Energy bill, and Members should expect rollcall votes throughout the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FITZGERALD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:57 p.m., adjourned until Thursday, June 12, 2003, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 11, 2003:

EXECUTIVE OFFICE OF THE PRESIDENT

CLAY JOHNSON III, OF TEXAS, TO BE DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET.

THE JUDICIARY

RICHARD C. WESLEY, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

J. RONNIE GREER, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE.

MARK R. KRAVITZ, OF CONNECTICUT, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT.

DEPARTMENT OF JUSTICE

HARLON EUGENE COSTNER, OF NORTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS.

EXTENSIONS OF REMARKS

IN RECOGNITION OF MORNINGSIDE-WESTSIDE COMMUNITY ACTION CORPORATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to the Morningside-Westside Community Action Corporation, MWCAC. For nearly a decade, MWCAC has worked tirelessly in order to serve the mental health community of New York City.

Founded in 1994, the Morningside Westside Community Action Corporation has been instrumental in advocating positive changes in governmental health programs, distributing information about issues facing the mental health community and promoting awareness and understanding towards those who suffer from mental illness. MWCAC strives to assist the mentally ill on their road to recovery and to help them achieve their goals and live productive lives.

Realizing that society has a place for all, the MWCAC has long been a proponent of helping the mentally disabled live normally within the mainstream. Morningside-Westside Community Action Corporation actively promotes reintegration, mainstream living, steady employment and recovery for all those who suffer from mental illness.

Over the last eight and a half years, under the leadership of Nancy Walder, their President, dedicated staff members have worked on mental health advocacy projects, and opened lines of communication between those who administer mental health services and those who require them.

In order to spread their message throughout the city and beyond, mental health service workers, members of the mentally disabled community and their friends and family members publish The Morningside-Westside Bulletin, an award-winning monthly mental health journal. Journal articles detail issues facing the mental health community and provide advice and avenues for help for those who are in need of assistance.

Under MWCAC's auspices, members of the mentally disabled community produce an annual Outsider Art Show, a forum that encourages members to contribute their own original pieces. The Morningside-Westside Community Action Corporation has also sponsored educational and informational events such as "Harlem Mental Health Day" and "Healthy Mind, Healthy Body." Future events include "Back to Work, Back to Life Day," an all day event to be held in Bryant Park, and a conference to be held in connection with the New York City Department of Health Federation.

A mental illness can be a paralyzing and debilitating condition. For years, many individuals have been forced to wander in the darkness of this disease without a helping hand. Thanks to MWCAC, those who need assistance in the New York area have a place to go for help.

In recognition of their outstanding contributions to the community and their commitment to the quality of life of the mentally disabled, I ask that my colleagues join me in saluting Nancy Walder and her dedicated staff at MWCAC.

* * *

IN HONOR OF CAROL BARTZ

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Ms. ESHOO. Mr. Speaker, I rise to honor Carol Bartz, special guest and honoree at the June 18, 2003 Forum for Women Entrepreneurs Silent Auction and Awards Dinner.

Carol Bartz is the Board Chair, President and CEO of Autodesk, Inc., and she has earned an honors degree in computer science from the University of Wisconsin, and been granted honorary degrees from the New Jersey Institute of Technology, Worcester Polytechnic Institute and William Wood University. During her tenure at Autodesk the company has diversified and revenues have grown to more than $947 million in 2002.

Carol Bartz gives generously of her leadership skills, both in Silicon Valley and elsewhere through her service on the boards of organizations such as TEA Systems, Cisco Systems, Network Appliance, Technet, and the Foundation for the National Medals of Science and Technology. She serves on the Board of Directors of the New York Stock Exchange and is one of its 12 members who represent public companies. She was recently appointed to the President's Council of Advisors on Science and Technology where she will play a key role in setting our nation's high-tech agenda.

Carol Bartz has earned many well-deserved honors, including the Ernst and Young Northern California Master Entrepreneur of the Year Award, the Horatio Alger Award and the Donald C. Burnham Manufacturing Management Award and she's been named a member of the Women in Technology International Hall of Fame.

Mr. Speaker, I ask my colleagues to join me in honoring Carol Bartz for her extraordinary accomplishments and for the leadership she is known for in everything she does. It is a special privilege to represent her and to honor her for all she has done to make our country stronger and better.

IN RECOGNITION OF THE MANY CONTRIBUTIONS OF ATHANASIOS (TOM) ALAFOGIANNIS, A LEADER IN QUEENS AND THE GREEK AMERICAN COMMUNITY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mrs. MALONEY. Mr. Speaker, with great sadness I rise to pay tribute to Athanasios (Tom) Alafogiannis, a much admired and beloved leader of the Greek-American community in Queens. Unfortunately, Tom Alafogiannis passed away last week, leaving much of the community in mourning.

Tom was born in Dafno, Greece on February 28th, 1933. Talented with his hands, Tom completed the technical school of engineering. Although he was a hard worker who loved his family, he decided to leave Greece to seek a better life in America.

At the age of 36 he came to the United States, working his way over as a ship's engineer. In America, he attended school and became a licenced master plumber. His talents were quickly recognized and he built a successful business. In 1969 he married the love of his life, Rose Anne Benevento. They have four children: Apostolos (Paul), Jennifer, Joseph and Vasilios (Billy).

Understanding the responsibilities that come with prosperity, Tom devoted a great deal of time and attention to giving back to the community. His unwavering dedication and boundless energy made him a popular leader. He served as President of the Hermes Chapter of AHEPA, three time President of the Greek American Homeowners and President of Sterea Hellas. Concerned with the quality of life in Astoria, he became a member of Queens Community Board 1. As a successful business leader, he became a member of the Board of Directors of the Kiwanis Club.

Tom never became involved in anything halfway. In every organization in which he participated, he left his mark. Tom was, quite simply, a charming man of great energy and deep concern for others. He will be sorely missed.

I ask my colleagues to join me in celebrating the life and accomplishments of Tom Alafogiannis, a truly remarkable man.

* * *

IN HONOR OF JAMES C. MORGAN

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Ms. ESHOO. Mr. Speaker, I rise to honor James C. Morgan who recently retired as Chief Executive Officer of Applied Materials, Inc., of Santa Clara, California.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Morgan was named Chairman of Applied Materials' Board of Directors in 1987 and continues to serve in that position today. He joined Applied Materials as President in 1976, after serving as senior partner at WestVen Management.

Mr. Morgan received his B.S.M.E. and MBA degrees from Cornell University and has earned countless honors and awards. He received the National Medal of Technology in 1996 and is Vice-Chair of the President's Export Council. He was appointed to the 2002 U.S.-Japan Private Sector Government Commission and served on the Commission on U.S.-Pacific Trade and Investment Policy from 1996 to 1997. He serves on the boards of Cisco Systems, the National Center for Asia-Pacific Economic Cooperation, the California Nature Conservancy, and as a member of the Advisory Board of the Center for Science, Technology and Society at Santa Clara University.

Under Mr. Morgan's leadership Applied Materials has been recognized as one of our nation's leading corporations. Fortune Magazine named Applied Materials one of America's Most Admired Companies, one of the Top Ten in Total Return to Shareholders, one of the 100 Best Companies to Work For and one of the Best Companies for Asians, Blacks and Hispanics.

Mr. Speaker, I ask my colleagues to join me in honoring James C. Morgan for his extraordinary corporate leadership and corporate citizenship. Our community and our country have been strengthened by his countless contributions and his lifetime of service. How proud I am to know and represent Jim and his distinguished wife Becky, and wish them great health and every blessing.

IN RECOGNITION OF BOB WILSON

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to Bob Wilson, whose commitment to various organizations has helped make the local community a better place to live. In honor of his contributions, Mr. Wilson will be honored by the Dutch Kills Civic Association on June 12th, 2003.

A lifetime New Yorker, Mr. Wilson was born and raised in the Bronx. As a young man, Mr. Wilson joined the United States Navy during the Korean Conflict. After leaving the United States Navy, Mr. Wilson returned home and began a long and successful career of 38 years with Local 731 as a General Foreman, building and rebuilding many of New York City's highways and bridges.

An enthusiastic and dedicated community advocate, Mr. Wilson joined the Dutch Kills Civic Association upon his retirement, eventually becoming President of the organization.

As President of the Dutch Kills Civic Association for ten years, Mr. Wilson was dedicated to improving quality of life in the neighborhood. Through his efforts with Walter McCaffrey, a much-needed hockey rink was built in Dutch Kills Park. He worked with Tony Maloni in his fight to remove graffiti in the area. In addition, Mr. Wilson was a steady leader in calling the 114th Precinct to help rid the neighborhood of constant prostitution.

In typical fashion, Mr. Wilson was the 'go-to' guy for many of the concerns raised by the organization, including such problems as catch basins not being cleaned in the area. Recognizing that the organization would benefit from a strong revenue stream, he envisioned holding an annual street fair. His vision is now a reality that brings revenue to the organization each year.

Mr. Wilson is described by his peers as a man of boundless energy and commitment to the community he has been a part of for so many years. In recognition of these outstanding achievements, I ask my colleagues to join me in honoring Bob Wilson for his spirit and dedication.

IN SPECIAL RECOGNITION OF THE CITY OF BELLEVUE'S SESQUICENTENNIAL CELEBRATION

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to the City of Bellevue. This City in my congressional district was first settled in 1815. It is generally acknowledged that Mark Hopkins was its first resident, building a log cabin on East Main Street in 1816. The site is presently marked with a plaque first erected in 1915. Bellevue was known as Amsden's Corners after a prominent early settler, Thomas Amsden, who traded with the Indians and opened a general store at the site of present day City Hall.

Later in the 1830's, the City was known as York Roads and in 1839 it was named Bellevue in honor of James H. Belle, an engineer who surveyed the first railroad through the town. The first major road was constructed in 1823, which began at the town square and terminated at the Maumee River in Perrysburg. In 1839, the first railroad from Sandusky to Bellevue was completed and this began Bellevue's long history as a railroad center.

Bellevue was incorporated as a village in 1851 with a population of 300 and incorporated as a city in 1912. Early commerce and industry consisted of a sawmill, tannery, cabinet shop, cooperage, wagon shop, farm products, four mill, railroad, and Mill Pond liquor distillery.

The City's industrial base has developed steadily and is well diversified. Products range from aluminum windows and doors and heating/air conditioning equipment, to metal stamping, plastics and commercial balers.

Several subdivisions have been completed recently, and an additional allotment of apartments and single family dwellings are also in the works.

Area residents are served by an active central city business district. Recreational opportunities include numerous parks, a community center, golf course, as well as water recreation associated with Lake Erie, just 15 miles north.

Local educational facilities and programs include five elementary, one junior high, and one senior high school. This is supplemented by participation in the EHOVE vocational school district. Higher education is available at two branch universities, a technical college, three nursing schools, and two four-year colleges within 25 miles.

Mr. Speaker, I ask my colleagues to join me in paying tribute to the City of Bellevue on the occasion of it Sesquicentennial celebration. I am proud to offer these sentiments today properly documenting this event in the record of the 108th Congress.

TRIBUTE TO MATT JOHNSON

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to Mr. Matt Johnson, a young man who served Michigan's First Congressional District well for nearly 9 years, and has now become Michigan Governor Jennifer Granholm's Upper Peninsula Representative.

Matt started working for me in May of 1994 as an intern while attending Northern Michigan University (NMU). Matt took on significant responsibility during his internship, working some extended hours and learning the ropes of how a congressional district office is run.

After completing his degree in Public Administration at NMU, Matt assumed a full-time position in my Marquette district office as a congressional aide. Another staff member in my Marquette office at the time, Brian Schlientz, unfortunately took ill with a brain tumor and passed away several months later. I mention this, Mr. Speaker, because Matt's new role as a congressional aide fresh out of college was no doubt a difficult enough adjustment, but when compounded with the tragedy of losing his mentor, Matt faced significant challenges.

After working as a congressional aide for nearly three years, Matt was promoted to the role of District Administrator when my District Administrator, Scott Schloegel, moved to Washington to become Chief of Staff. Matt was responsible for coordination and oversight of the staff in my six district offices. He also did outreach, grants, and special projects throughout Michigan's Upper Peninsula.

Mr. Speaker, I have had the pleasure of watching Matt Johnson grow from a fresh-faced college intern into a seasoned public servant. Along the way he has traveled tens of thousands of miles, held hundreds of meetings, assisted thousands of constituents, and learned volumes of information about federal—and now state—government. Matt has also taken time to settle down a bit with his wife, Cheri and their 1-year-old daughter, Jacey, on their horse farm in Skandia. On their farm, Matt and Cheri host various horse events, including a charity fund raiser each year. As anyone in public service knows, one's spouse often sacrifices as much as the public servant does. I would be remiss in not thanking Cheri for sharing Matt with us and being understanding on those dozens of occasions when duty called Matt to drive several hours away to attend meetings, dinners, and other functions on my behalf.

Thank you, Mr. Speaker, for this opportunity to publicly recognize a dedicated former employee, a good friend, and a wonderful human being for his contributions to Michigan's First Congressional District.

TRIBUTE TO LIEUTENANT COLONEL MALCOM A. SHORTER, UNITED STATES ARMY UPON HIS RETIREMENT AFTER 22 YEARS OF SERVICE

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. MEEHAN. Mr. Speaker, today, I am pleased to recognize the outstanding service to our Nation by Lieutenant Colonel Malcom A. Shorter, who will be retiring from the Army on September 30, 2003 after a distinguished career that has spanned over 22 years of dedicated service. Malcom Shorter distinguished himself as a leader who epitomized the modern American professional soldier.

Malcom Shorter's illustrious career as an Infantry Officer embodied all of the Army's values of Loyalty, Duty, Respect, Selfless Service, Honor, Integrity, and Personal Courage.

Throughout his career Lieutenant Colonel Shorter demonstrated his outstanding tactical and operational expertise in numerous command and staff positions both overseas and in the continental United States. Continually serving in positions of ever-increasing responsibility, highlights of his career include serving as an Infantry Company Commander twice, and as a Brookings Congressional Fellow for the United States Army in my office during the 1st session of the 106th Congress. Malcom also served as the Chief of Plans and Operations for the 3rd Brigade, 3rd Infantry Division (Mechanized) at Fort Benning, Georgia and was responsible for the development of worldwide contingencies and the training of a combined arms combat maneuver brigade focused on South West Asia.

Malcom's talent for solving complex management problems complemented his proven operational skill. While serving as my Military Legislative Assistant, he provided sound policy guidance and operational expertise on the Department of Defense Budget, Military Readiness and Veterans Affairs issues. Malcom's prudent opinions and sound judgment were invaluable in my making good decisions on issues that affect our Soldiers, Sailors, Airmen, Marines, and Veterans.

As evidence of the quality of Lieutenant Colonel Shorter's leadership, management, and interpersonal skills, he was specially selected to serve as the Deputy Chief of the Army's Congressional Liaison Office in the United States House of Representatives. He was responsible for maintaining liaison with 435 Members of Congress, their personal staffs, and twenty permanent or select legislative committees. During that period, Malcom personally escorted more than 200 Members of Congress on fact-finding missions to over 75 foreign countries. His dedication, candor and professionalism while serving in that capacity earned him the reputation as the best source on Capitol Hill to resolve issues pertaining to the Army.

Accordingly, I invite my colleagues to join in offering our heartfelt congratulations to Lieutenant Colonel Malcom A. Shorter on a career of selfless service marked by his resolute dedication and unwavering integrity. He represents the very best that our great Nation has to offer. We wish Malcom, his wife Joan, and his daughters, Alex and Tori, continued success and happiness in all of their future endeavors.

A PROCLAMATION HONORING MR. AND MRS. MANIFOLD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. NEY. Mr. Speaker, Whereas, Richard and Carol Manifold were united in marriage on June 13, 1953; and

Whereas, Richard and Carol Manifold are celebrating 50 years of marriage; and

Whereas, Richard and Carol Manifold have demonstrated a firm commitment to each other; and

Whereas, Richard and Carol Manifold should be commended for their loyalty and dedication to their family; and

Whereas, Richard and Carol Manifold have proven, by their example, to be a model for all married couples.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Mr. and Mrs. Manifold as they celebrate their 50th Wedding Anniversary.

RECOGNITION OF DR. DAVID HARMON

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize Dr. David Harmon of Jerseyville, Illinois for being honored as the Illinois Family Physician of the Year.

Inspired by a family doctor's kindness and compassion, Dr. Harmon went to medical school at Southern Illinois University in Springfield and Carbondale, then did a residency in Davenport, Iowa, spent some time in Roodhouse, Illinois, and moved to Jerseyville in 1987. He has treated patients there ever since.

Nominated for the award by both patients and colleagues, Dr. Harmon is now well known for his kindness and compassion, as well as his dedication to the community. Not only is Dr. Harmon a medical doctor, but he has also served as a professor at Saint Louis University and at the family practice department at Southern Illinois University School of Medicine. He is the medical director of the Jerseyville Manor Nursing Home, vice president of the Jersey County Board of Health, a volunteer with the Jerseyville Fire Department, an assistant hockey coach at Jersey High School, and a Sunday School teacher and board member at First United Methodist Church.

Dr. Michael McNair, one of his former students and now one of his partners at Illini Medical Associates praises Dr. Harmon in saying, "He taught me that medicine is not about the technology. It's how you treat people and how much you listen to them." This commitment to the people is exemplary, and could be applied to almost every job in society.

While he admits that the business end of being a doctor has become more difficult in recent years, Dr. Harmon is not ready to retire anytime soon. He plans on being a doctor in Jerseyville for another 20 years, and I would like to wish him the best. The Illinois Family Physician of the Year deserves it.

CELEBRATION OF BIRTH OF ISABELLA L. MESFUN

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. CONYERS. Mr. Speaker, I rise today to celebrate the healthy birth of Isabella L. Mesfun on Sunday, May 25, 2003. I hope Isabella has a life filled with happiness and success.

HONORING GIDEON SOFER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. PALLONE. Mr. Speaker, I would like to draw the attention of my colleagues to a remarkable constituent from the Sixth District of New Jersey, Gideon Sofer. This young man has tremendous determination and has recently been recognized as one of America's top ten youth volunteers by the Prudential Spirit of Community Awards. This distinction carries not only national recognition, but also a $5,000 award, and $25,000 in toys, clothing and other juvenile products donated in his name to needy children in his area by Kids in Distressed Situations, Inc.

Gideon has lived most of his formative years with an incredibly painful and often debilitating sickness, Crohn's disease. He has been living with this disease since he was diagnosed when he was twelve. During the last 6 years, he has been thorough numerous surgeries, and has often faced death during the painful procedures. Most people would have just been concerned with their survival, but Gideon has turned his personal suffering into a quest: to educate the public about Crohn's disease.

In 1932, Dr. Burrill B. Crohn, Dr. Leon Ginzburg, and Dr. Gordon D. Oppenheimer published a landmark paper describing the clinical features of what is known today as Crohn's disease.

Crohn's and a related disease, ulcerative colitis, are the main divisions of the group of illnesses called inflammatory bowel disease (IBD). Because the symptoms of these two illnesses are so similar, approximately 10 percent of cases are unable to be diagnosed definitively as either ulcerative colitis or Crohn's disease. In both illnesses, there is an abnormal immune response. White blood cells infiltrate the intestinal lining, causing chronic inflammation. These cells then produce noxious products that ultimately lead to tissue injury. When this happens, the patient experiences the symptoms of IBD. The precise cause of the chronic inflammation associated with IBD is not known.

Mr. Speaker, Gideon Sofer is an example to us all. He selflessly offers his energy to the education of the public about Crohn's. Please join me in recognizing this young man and his achievements.

COMMENDING OUR MILITARY FORCES, THEIR FAMILY MEMBERS AND THEIR SUPPORTERS

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. TANNER. Mr. Speaker, I wish to affirm my unwavering support for H. Con. Res. 177 and H. Res. 201, which this House of Representatives passed in tribute to the men and women who serve our nation, their families, and those businesses and other community members who have supported them through this difficult time in our nation's history.

The purpose of House Concurrent Resolution 177 is "recognizing and commending the members of the United States Armed Forces and their leaders, and the allies of the United States and their armed forces, who participated in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq and recognizing the continuing dedication of military families and employers and defense civilians and contractors and the countless communities and patriotic organizations that lent their support to the Armed Forces during those operations."

This body also passed, by a unanimous vote, House Resolution 201, "expressing the sense of the House of Representatives that our Nation's businesses and business owners should be commended for their support of our troops and their families as they serve our country in many ways, especially in these days of increased engagement of our military in strategic locations around our Nation and around the world."

Tennessee has long been proud of its military heritage, having been nicknamed the "Volunteer State" when thousands of Tennesseans agreed to serve in the War of 1812. There are more than 14,000 men and women serving in the Tennessee National Guard under the leadership of Tennessee Adjutant General Gus Hargett. More than 20,000 additional troops are stationed at Fort Campbell Army Base, which straddles the border between Tennessee and Kentucky. Fort Campbell troops, including the 101st Airborne Screaming Eagles, and Guard members and reservists from our state have served proudly in Operation Enduring Freedom and Operation Iraqi Freedom.

I am proud to represent Naval Support Activity Mid-South in Millington, Tennessee. Under the direction of Captain Helen Dunn, this unit is very important to the operations of the United States Navy. Our district in Tennessee also includes the Milan Army Arsenal, whose facilities help manufacture much of the ammunition used by the United States Army. Tennessee has many such military and military-support institutions and is home to more than 500,000 military veterans who have served our nation honorably.

Our troops and their families are to be commended and thanked for the sacrifices they have made to protect our nation. Please join with me, Mr. Speaker, in expressing gratitude for employers who have made sacrifices to allow Guard and Reserve troops to leave their permanent positions to serve our country. We are also appreciative of those civic and community leaders who have come together to support our men and women in uniform and their families at this difficult time in our nation's history. In Tennessee, our communities have come together to show their patriotism and their appreciation for those who are making sacrifices to protect us all.

Mr. Speaker, I ask that you join me in praising the passage of House Concurrent Resolution 177 and House Resolution 201, saluting our troops, their families, our military-support staff, and community leaders who have shown their appreciation to the men and women who are performing their duty to protect our country.

TRIBUTE TO KRYSTAL MIZE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McINNIS. Mr. Speaker, it is with great pleasure that I rise before this body of Congress to pay tribute to Krystal Mize of Pueblo, Colorado, for her incredible achievement at the University of Southern Colorado. Krystal is the deserving recipient of the Threlkeld Prize for Excellence for her success in the field of psychology and today I would like to recognize her accomplishment before this nation.

Krystal, a single mother of three boys, is not only dedicated to her education but also donates her time to work as a peer mentor, psychology lab assistant and tutor. Krystal is the true embodiment of the "American Dream", having overcome adversity to achieve the highest of goals. She has proven to her family, the community and most importantly, herself that she can succeed.

Mr. Speaker, I am proud to recognize Krystal Mize's achievements before this body of Congress. It is the work of people like Krystal that makes the community of Pueblo strong. It is truly an honor to praise Krystal's hard work, and I wish her the best in her future endeavors.

DANIEL ESPINOZA, "LABOR LEADER OF THE YEAR" SAN DIEGO-IMPERIAL COUNTIES LABOR COUNCIL

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. FILNER. Mr. Speaker, I rise to salute Daniel Espinoza on receiving the "Labor Leader of the Year" Award from the San Diego-Imperial Counties Labor Council, in recognition of his outstanding contributions to the working women and men of our community.

From the age of eighteen, Daniel has participated in and supported organized labor. He joined Theatrical Stage Employees, IATSE Local 122, in 1977 and been an active officer for the past 16 years. In 1993, Daniel became the youngest elected Business Representative in the history of Local #122 and is currently serving his fifth term. In addition, he serves on the Executive Board for the San Diego-Imperial Counties Labor Council, and is a founding member of the United Labor Foundation.

Daniel has established a reputation of vigorously representing the members of Local 122 while still being responsive to the needs of the employer and their constant struggles with decreased funding for the arts. His commitment and dedication to the working men and women in the entertainment industry has led to successful organizational efforts at a number of San Diego area entertainment venues, including the La Jolla Playhouse, the California Center for the Arts Escondido, and the Audio Visual Technicians for the San Diego Marriott Marina and the Coronado Island Marriott Resort. Under his leadership, Theatrical Stage Employees #122 has increased its jurisdiction and stature in the San Diego entertainment community, and has more than doubled its membership.

Daniel Espinoza exemplifies the high values, standards, and principles of the hardworking men and women who are represented by the San Diego-Imperial Counties Labor Council. I offer my congratulations to him on his receipt of the "Labor Leader of the Year" Award.

IN HONOR OF MONSIGNOR EDWARD J. HAJDUK

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Monsignor Edward J. Hajduk for his years of service to St. Henry's Church and the people of Bayonne, Newark, and Elizabeth. Monsignor Hajduk celebrated the 50th Anniversary of his ordination to the priesthood on Sunday, June 1 at St. Henry's Church in Bayonne, New Jersey.

Monsignor Hajduk has led a long life of commitment and service to congregations throughout Bayonne, Newark, and Elizabeth area. Ordained on May 30, 1953, Monsignor Hajduk first served at the Sacred Heart

Church in Lyndhurst, New Jersey, where he was a parochial vicar for sixteen years. During his time at Sacred Heart, Monsignor Hajduk was the assistant director and moderator of the Catholic Youth Organization of Bergen County, a teacher at the Immaculate Conception High School, and a professor of Theology at Felician College.

In 1969, Monsignor Hajduk was appointed by Archbishop Boland to serve as the youth director of the Archdiocese of Newark, where he worked until 1971. The Monsignor then served as administrator of St. James Church in Newark, where he played a vital role in reorganizing the parish. In 1979, Monsignor Hajduk was named chaplain to Pope John Paul II and given the title of Reverend Monsignor. In 1984, Monsignor Hajduk became a pastor at St. Hedwig's Church in Elizabeth, where he served for twelve years. During his service at St. Hedwig's, Monsignor Hajduk undertook the task of renovating the interior of the church. The Monsignor was elected dean of the Elizabeth Deanery, and asked by Archbishop McCarrick to lead a city-wide study of the future of the church in Elizabeth.

Born and raised in Bayonne, Monsignor Hajduk returned to Bayonne in 1992 to serve as pastor of St. Henry's Church, where he is currently serving his second term. At St. Henry's, Monsignor Hajduk has helped restore and renovate the interior of the church and upgrade some if its facilities. Under his leadership, the Religious and Youth Center at the Church has grown substantially, and now serves over 500 students.

Monsignor Hajduk continues to be an active member of the Bayonne community. He is currently a member of the Bayonne Faith Based Initiative Advisory Board, serves on the board of directors of the Bayonne Mental Health Center, is active in the Bayonne Interfaith Council, and was a representative to the Bayonne Census in 2000.

Today I ask my colleagues to join me in honoring Monsignor Edward J. Hajduk for his exceptional service and dedication to the people of New Jersey.

TRIBUTE TO FRED CORTESE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Fred Cortese and thank him for his extraordinary contributions to his community and to his state. As a resident of Pueblo County, Colorado, Fred has dedicated himself to helping his community through his work as a law enforcement officer with the Pueblo County Sheriff's Office. It is with pride that I pay tribute to Fred today for the tremendous accomplishments for which he is being recognized by the Pueblo County Sheriff's Department with the Medal of Valor for saving the lives of two men, asleep as their home burned around them.

On February 22nd of this year, Fred and another officer, Jonathan Post, arrived at the scene of a house fire. Believing people to be trapped inside, they entered the burning building at great risk to their own lives. Inside, they found two men asleep, unaware of the imminent danger threatening them. Fred and Jonathan successfully persuaded the two residents to leave their burning home through a window, until one of them disregarded orders and reentered the house, necessitating another dangerous rescue. Fred then assisted Jonathan, who was suffering from smoke inhalation, out of the building.

Mr. Speaker, I ask you to join me in recognizing Fred Cortese upon the receipt of the Medal of Valor from the Pueblo County Sheriff's Department. Fred's courage and selflessness serve as an inspiration to the citizens of Colorado, his peers and his country. With men like Fred in the Pueblo County Sheriff's Department, the citizens of Pueblo County can rest assured that their lives are and their neighborhoods are well protected. Congratulations, Fred, and good luck.

JOHN D. HULL, "FRIEND OF THE LABOR COUNCIL WARD", SAN DIEGO-IMPERIAL COUNTIES LABOR COUNCIL

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. FILNER. Mr. Speaker, I rise to salute John D. Hull on receiving the "Friend of the Labor Council Award" from the San Diego-Imperial Counties Labor Council, in recognition of his outstanding contributions to the working women and men of our community.

John is Vice-President of SBC Communications, Inc. in San Diego, overseeing a region that includes San Diego, Orange and Imperial Counties, and the Inland Empire region of Southern California.

Mr. Hull joined Southwestern Bell Telephone Company in 1974 following his graduation from college. He has held numerous management positions during this career, culminating in his appointment as Regional President for the San Diego in May 2001. He represents SBC on the boards of the San Diego Regional Chamber of Commerce, the San Diego Regional Economic Development Corporation, United Way of San Diego County and the American Heart Association—San Diego Chapter.

During his career, John D. Hull has been an important friend of the hardworking men and women who are represented by the San Diego-Imperial Counties Labor Council. I offer my congratulations to him on his receipt of the "Friend of the Labor Council Award."

IN HONOOR OF LARRY BARULLI, RECIPIENT OF THE LANCE CORPORAL STANLEY J. KOPCINSKI MEMORIAL AWARD

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Larry Barulli, recipient of the Lance Corporal Stanley J. Kopcinski Memorial Award. The Bayonne Detachment #191, Marine Corps League honored Mr. Barulli on May 26, 2003, at the VFW hall in Bayonne, New Jersey.

Mr. Barulli served with the United States Army from 1950 until 1952, and was stationed with the "C" Company 79th Engineers Battalion in Korea from September 1951 until September 1952. For the past seven years, Larry Barulli has been an active member of the Korean War Veterans Association of Hudson County 38th Parallel Chapter. He is currently a member of the Korean War Veterans Association of Hudson County, the Catholic War Veterans Assumption Post 1612, and the American Legion—Mackenzie Post 165.

Mr. Barulli played a critical role in establishing a monument in memory of the 126 Hudson County residents who gave their lives in the Korean War. The monument, which sits at the end of Washington Street in Jersey City, memorializes 126 men from twelve Hudson County communities who lost their lives during the Korean War. As the war often referred to as the "Forgotten War," Mr. Barulli has helped ensure that the memory of these men will live on forever.

The Lance Corporal Stanley J. Kopcinski Award is given out each year by the Bayonne Detachment of the Marine Corps League in memory of Stanley J. Kopcinski, the first Marine from Bayonne killed in the Vietnam War. Lance Corporal Kopcinski was well revered by his fellow Marines and was voted "most likely to receive the Medal of Honor." The award is presented to those who follow in the spirit of Lance Corporal Kopcinski's dedication and service.

A graduate of Bayonne High School, Mr. Barulli is now retired from Barulli's Deli Grocery, which he owned and ran with his father until 1980. Larry Barulli and his wife Elizabeth Ann Siwek Barulli will celebrate their 40th Wedding Anniversary in December, 2003.

Today, I ask my colleagues to join me in honoring Larry Barulli and congratulating him on receiving a well-deserved award. His continued service to the veterans of Bayonne and to the people of Hudson County is an inspiration for us all.

TRIBUTE TO SUE PURVIS AND TASHA THE SEARCH DOG

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McINNIS. Mr. Speaker, I would like to pay tribute today to a woman and her dog who willingly give their time to provide assistance to others. Sue Purvis and her search dog Tasha of Crested Butte, Colorado volunteer to help locate victims of avalanches. In doing so, they help bring closure to victims' families and perform a public service to their community.

During one week in March of this year, Sue and Tasha were called to the scene of two avalanches. The first trapped a 33-year-old man who had been caught in a slide while snowmobiling. Some 30 rescuers searched unsuccessfully for several hours before calling in Sue and Tasha. Together, working with another canine search team, they found the man's body within half an hour.

A few days later, the pair received a call involving another snowmobiler. This time, the victim triggered a massive slide 10-feet deep and several hundred feet wide. The slide packed so much power that the debris field was 20 feet deep and contained chunks of snow and ice the size of a van. Despite working by themselves, Sue and Tasha found the man's body buried in six feet of snow about an hour later.

Mr. Speaker, when Sue and Tasha venture off into the Colorado backcountry to search for victims, they often enter very unstable and dangerous snow conditions. Still, they do so willingly to help bring closure to the victim's families as quickly as possible. That unselfish spirit of neighbor-helping-neighbor is what helped make this country great, and I am truly honored to have the opportunity to honor Sue and her amazing search dog Tasha here before this body of Congress today.

FY04 DEPARTMENT OF DEFENSE AUTHORIZATION BILL (H.R. 1588)

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Ms. McCOLLUM. Mr. Speaker, I rise today in opposition to H.R. 1588, the fiscal year 2004 Defense Authorization bill. While I strongly believe we must support our armed servicemen and women around the world, this bill contains several unnecessary provisions intended to weaken employee protections and the environment while authorizing billions of dollars on a national missile defense policy that is unproven and untested. It is unfortunate that these controversial measures were included in such an important piece of legislation.

I agree that the Department of Defense (DOD) should have the flexibility to manage itself in an efficient manner and provide the strongest national defense. This flexibility, however, should not come at the expense of worker's protections. H.R. 1588 gives the DoD broad authority to strip almost 700,000 civilian employees of fundamental rights relating to due process, appeal and collective bargaining rights. This means the DoD will be able to fire employees with no notice and no opportunity to respond, prevent discrimination actions from being heard by the Equal Employment Opportunity Commission, strip employees of their right to join a union and repeal the laws preventing nepotism. Civil service employees at DoD have defended our Nation bravely and made enormous sacrifices to support the military effort in Iraq. DOD should not be given unlimited authority to trample on their basic rights.

H.R. 1588 also unnecessarily weakens long-standing environmental protections at our military facilities by lowering the accountability standard DoD must follow when recovering imperiled species under the Endangered Species Act. The new standard fails to ensure the DOD's conservation plans are actually effective in assisting the recovery of imperiled species. H.R. 1588 also creates a far less protective definition of 'harassment' of marine life by military activities under the Marine Mammal Protection Act. This new definition allows DoD to avoid ensuring its activities are conducted in a manner to minimize harm to marine life such as whales, dolphins and sea lions.

Although I fully appreciate the importance of military training and readiness, the DOD has not made the case that exemptions to important and long-standing environmental laws are necessary or that training is greatly impaired because of those laws. Furthermore, the President already has the authority to waive environmental laws if he deems it a matter of national security, and not once has a waiver requested by the President been turned down. Until our national security is at stake, no government agency—including the DOD—should be above laws that preserve our air and water and sustain America's wildlife.

This measure also authorizes $9.1 billion for the unproven and untested National Missile Defense system. This costly program fails to address the rising threat of a chemical or biological weapons attack by terrorists and will divert precious resources away from the very real human investments needed to keep our military, intelligence agencies and domestic security agencies strong. At a time when the Federal Government shortchanges our local communities and neighborhoods in their hometown security efforts, it is irresponsible to be adding billions of dollars to a risky National Missile Defense program. We must strengthen our home security and provide our citizens with the appropriate resources necessary to ensure a terrorist attack never happens again on American soil.

Although I oppose H.R. 1588, I am encouraged that the bill provides a significant boost for military salaries, health care, housing allowances and housing construction opportunities. We need to assure our military that as we continue to support their readiness capabilities, we remember the personal well being of the men and women in uniform as well as their families.

When the Conference Report on this bill between the House and Senate is addressed in the House, we will have another opportunity to pass a measure that reflects the critical needs of our military while protecting the civil service protections of our employees and our environment. I look forward to working with my colleagues on these efforts.

CONCENTRATION OF OWNERSHIP IN MEDIA

SPEECH OF

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 2, 2003

Ms. LEE. Mr. Speaker, The Federal Communications Commission (FCC) decision to allow for monopolies in media markets represents a grave day for free speech. It also represents the defeat of the belief that the American people will benefit from a variety of viewpoints on issues, not the few that will be ushered in by the huge media conglomerates.

The Bush Administration and FCC Chairman Michael Powell have bowed to the demands of giant media companies. These companies, in effect, claimed that they needed another government handout to remain "viable," even though they have already been absorbing television stations and newspapers.

With this ruling, the Administration has also indicated that it is not interested in preserving multiple media voices and opinions in the electronic and print media industries. The old FCC rules protected the participation of minority-owned media outlets. In fact, with minorities owning only 3.8 percent of United States commercial radio and television stations, including 1.9 percent of the country's commercial television licenses, we need more protection, not less. Yet under the new rules, these minority-owned media outlets will be squeezed out by media conglomerates.

Mr. Powell also argued that new modes of communication, like the Internet and digital TV, reduce the need for these rules. Yet, television and newspapers remain the public's main sources of information. And while the Internet has certainly revolutionized our society, a look at the 20 most visited websites reveals that they are run by the same companies that own the most popular TV networks and newspapers. So Mr. Powell's argument holds no water.

Media ownership rules are actually more important now than they were 50 years ago because the power and resources of large media companies have grown exponentially over the last fifteen to twenty years. As a result, smaller, independent companies do not have the resources to compete with Viacom or Newscorp. These rules are needed to ensure that we don't lose what's left of our locally owned media and that we do have access to diverse sources of information.

By lifting these rules, we will lose our independent media watchdog. Americans don't want a handful of companies controlling their access to information.

We must now redouble our efforts to pass legislation that will ensure a democratic media. We must not only mobilize members of Congress but grassroots organizations to send a message that the exclusion of all other voices except those provided by the media giants is not acceptable for our society.

I am very disappointed that Mr. Powell and his allies on the FCC did not heed the American public's deep concerns and leave our media ownership rules intact.

TRIBUTE TO DON AND KARYL DIPRINCE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize the fifty-seven years of public service Don and Karyl DiPrince have given to the public schools of La Junta, Colorado. Don and Karyl have made tremendous contributions in the lives of generations of La Junta's school children, serving as teachers, mentors, coaches and role models.

Don comes from a family of teachers and wanted to continue his family's tradition of helping youth, whereas Karyl decided to become a teacher because of her love of children. While Karyl has spent the majority of her career teaching fourth and fifth grades at West School, Don has spent many years teaching physical education and coaching baseball, basketball and football at the high school level. La Junta's children have benefited immensely from Don and Karyl's efforts both in and out of the classroom. Don and Karyl have shaped both the minds and the bodies of our children and we could not have entrusted this important responsibility to a more dedicated and beloved pair of public servants.

Mr. Speaker, it is with deep respect for Don and Karyl that I congratulate them before this body of Congress and this nation upon their retirement from La Junta public school system. They have dedicated over half a century of their lives to the advancement of Colorado's youth and their influence will not be forgotten. Don and Karyl, thank you and good luck to you in all of your future endeavors.

INTRODUCTION OF A BILL TO AMEND THE ORGANIC ACT OF GUAM FOR THE PURPOSES OF CLARIFYING THE LOCAL JUDICIAL STRUCTURE OF GUAM

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Ms. BORDALLO. Mr. Speaker, today I am introducing legislation to amend the Organic Act of Guam to establish the Guam Judiciary as the third, co-equal and independent branch of the Government of Guam. My bill also clarifies that the Supreme Court of Guam shall have authority over all inferior courts in the Guam Judiciary.

Currently, the Guam Legislature and the Guam Executive Branch have the power to abolish the Supreme Court of Guam, and as such, may infringe upon the Judiciary's independence. This unequal balance of power was created by the 1984 Omnibus Territories Act which authorized the creation of an appellate court on Guam; however, this statute unintentionally left the newly created court subordinate to the powers of the Legislature and the Executive. My bill to amend the Organic Act of Guam remedies this unacceptable situation by making the Supreme Court of Guam an "Organic" court equal in stature to the other branches of government and providing the Guam Judiciary the same protection as the other branches have in their status under the Organic Act of Guam. Just as the Governor cannot disband the Legislature, and the Legislature cannot abolish the Executive, so too should the Judiciary be free from the threat of abolishment by the Legislative or Executive branches if their judicial decisions come under political fire. The Guam Judiciary needs to be insulated from the possibility of political interference by the Legislative and Executive branches, and the balance of power among these branches needs to be restored and protected.

This bill has received strong support from the Supreme Court of Guam, the Guam Bar Association, along with various members of the Guam Legislature, including Speaker Vicente (Ben) C. Pangelinan. In addition, Senator F. Randall Cunliffe, Chairman of the Committee on Judiciary and Transportation in the 27th Guam Legislature, fully supports this bill.

The bill I am introducing today is in the same form as reported out by the Committee on Resources in the 107th Congress. This bill has evolved since it was first introduced in the 105th Congress by former Congressman Robert Underwood, my predecessor, as the Guam Judicial Empowerment Act, and in its current form, this bill reflects improvements suggested by the U.S. District Court of Guam and the Committee.

I urge my colleagues to support this bill to amend the Organic Act of Guam in recognition of the importance of having a strong Judiciary and in furtherance of Guam's efforts to achieve the greatest amount of self-governance possible. I look forward to working with the leadership on this issue, and I hope that this legislation would be reported expeditiously to the House by the Committee on Resources for consideration on the floor.

TRIBUTE TO DR. CHARLES NATHANSON

HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mrs. DAVIS of California. Mr. Speaker, I rise to commemorate the life of a valuable San Diego leader, Dr. Charles Nathanson. He was a unique individual because he developed the capacity to create dialogue among important leaders of differing views on the critical issues of our region.

Chuck was valued not only by a host of San Diego's leading citizens but also by those in Baja California and our metropolitan partner Tijuana.

At the University of California San Diego in 1991, Chuck founded the San Diego Dialogue, which brought over 150 regional leaders together on a frequent basis for panel discussions on the challenges to our community. He fostered the binational Forum Fronterizo Council, which held well-attended bilingual luncheon meetings to hear distinguished speakers from both sides of the border.

Baja California Governor Eugenio Elorduy Walther, co-Chairman of the Forum Fronterizo Council, quoted in a local newspaper obituary, recognized Dr. Nathanson as "the spark plug" of San Diego Dialogue as its Executive Director.

President of San Diego State University, Stephen Weber, also noted, "He understood we can never be separated from our friends and neighbors in Mexico . . ."

While his work building human bridges across our international border was his best known focus, he also volunteered his skills to create dialogue between the opposing sides on San Diego issues and gave endless personal energy to resolve differences. He formed a distinguished panel of city leaders, leading educators, and legislators to develop a common understanding of the critical issues we faced locally in education.

As both a journalist and a professor of Sociology, Chuck understood the importance of facts and of making those results part of public discussion. Realizing that basic information was critical to good educational decisions, he found the resources to have his staff undertake an important study of how minority parents interact within their school community.

I particularly appreciate that Dr. Nathanson sponsored a study of the reasons people cross the border into San Diego. It showed that many people repeatedly enter San Diego for education and shopping, and this led to the development of a fast-track, electronic inspection lane called SENTRI. Indeed, I am currently working on legislation to expedite access to this successful program.

He was hailed in the local press by Robert Dynes, the Chancellor of the University of California San Diego, as serving "town and gown superbly as strategist, ambassador, activist and taskmaster."

Born in Detroit August 22, 1941, Charles E. Nathanson graduated from Harvard and worked as a journalist and manager of a chain of weeklies before earning a doctorate in sociology at Brandeis University.

The broad spectrum of his interests included serving on a number of cultural and civic boards addressing the breadth of issues affecting the future of the region including education, business, transportation, and housing. Typically, he had become a member of the advisory group for one of San Diego's newest projects, development of the Immigrant Museum of the New Americas.

San Diego and Baja California have been uniquely served by this determined visionary. Chuck Nathanson has left an indelible heritage for our region.

TRIBUTE TO JONATHAN POST

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Jonathan Post from Colorado's Pueblo County Sheriff's Department. Jonathan was recently recognized with his department's Medal of Valor. Although he has worked with the Department only a short time, he has already served with great distinction and I would like to acknowledge Jonathan's service before this body of Congress and this nation.

In February of this year, Jonathan arrived at the scene of a fire where two men were trapped inside. Although the structure was in danger of collapse, Jonathan entered the building to save the two men alongside his fellow officer, Fred Cortese. Unfortunately, the men that Jonathan and Fred were attempting to rescue were not initially cooperative, being unaware of the imminent danger they faced. Even after successfully getting the men to safety through a window exit, it became necessary for Jonathan and Fred to rescue one of the men a second time when he disregarded their orders and rushed back into his burning home.

Mr. Speaker, it is dedicated men and women like Jonathan that work selflessly to protect our rights and freedoms. I would like to draw attention to the further service he has shown to our country as a Marine Reservist serving in Operation Iraqi Freedom. I extend my gratitude to Jonathan for the heroism he has shown and for the great services he has performed for Colorado and for this Nation.

RECOGNIZING OF EVELYN H. LAUDER

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to Evelyn Lauder, who will be presented tonight with The Alice Award by the Sewall Belmont House and Museum. As founder and chairman of The Breast Cancer Research Foundation, Mrs. Lauder has devoted her life to the fight against breast cancer. She is a shining example of how much one individual with unrelenting passion can accomplish.

A woman of boundless compassion and generosity towards others, Mrs. Lauder has touched countless lives through her efforts in leading The Breast Cancer Research Foundation. She has spearheaded the growth of what is today the largest national organization dedicated exclusively to funding exceptional research relating to the causes, treatment, and possible prevention of breast cancer. Since 1993, the Foundation has raised $70 million for research funding that has fueled some of the most innovative work on breast cancer in the country.

In October of 2002, the Foundation awarded an outstanding $11.7 million to 63 researchers at 41 leading institutions in the United States and abroad. Originally conferring eight research grants in its founding year, the Foundation is now able to award grants of approximately $250,000 to each of their research institutions. The core of the Foundation's mission is to direct a minimum of 85 cents of each dollar donated to the purpose of clinical and genetic research on breast cancer.

Breast cancer is an issue that affects both men and women of all walks of life. Mrs. Lauder's inspired leadership is the driving force behind the Foundation's many gains in the treatment and prevention of this disease. Her remarkable vision led her to establish the Pink Ribbon as the now globally recognized symbol of breast health, putting breast cancer awareness at the forefront of public attention.

Mrs. Lauder has every expectation that we will achieve the goal of "prevention and a cure in our lifetime." With boundless enthusiasm and extraordinary dedication, she has made it possible for top notch research and diagnosis to be done all over the country. One prime example is located in my district, the first of its kind, the comprehensive breast and diagnostic center at Memorial Sloan-Kettering Cancer Center, which Mrs. Lauder was instrumental in creating. Mrs. Lauder was recently recognized by Rockefeller University with the Brooke Astor Award for Outstanding Contributions to the Advancement of Science for her incomparable role in creating the center as well as for the compassion and generosity with which she leads the Foundation in the fight against breast cancer.

In recognition of these outstanding achievements, I ask my colleagues to join me in honoring Evelyn H. Lauder for her indomitable spirit and tenacity in leading The Breast Cancer Research Foundation to fund the research that will conquer breast cancer.

STATEMENT ON CHILD TAX CREDIT

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. REYES. Mr. Speaker, I wish to express my deep disappointment with the tax bill recently signed into law by the President. While providing approximately $350 billion in tax cuts, this law neglects many of our hard-working, low-income families. At the same time that the bill provides tax cuts of $93,500 to the 200,000 taxpayers making over $1 million in our country, this bill leaves behind 8 million children by denying their families full access to the child tax credit.

This law fails to apply the child tax credit to some of America's neediest families—those earning between $10,500 and $26,625 per year. Of the 8 million children left behind in this tax law, 1 million live with parents who are on active duty service or are veterans. The children of our working families, especially those of our armed services, deserve our greatest support.

There are approximately 16,500 military families with children at Fort Bliss in my district. Anxiously awaiting news about the status of the members of the 507th Maintenance Company in late March, these families understand, more than most, what it means to sacrifice for our nation. These are the families of the brave men and women who fight to defend our freedoms, and they certainly do not deserve to be left out of this tax cut. I urge my colleagues to pass legislation immediately to extend the child tax credit to families making between $10,500 and $26,625 a year. Let us send a message to our hard-working families that they count too and that we recognize their efforts.

It is my sincere hope that we can work together to provide our hard-working families with a fair and equitable child tax credit.

TRIBUTE TO RICK ORESKEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McINNIS. Mr. Speaker, it is with profound pleasure today that I pay tribute to Commander Rick Oreskey of the Pueblo County Sheriff's Department, who has recently been honored by the Department with its Medal of Valor. In his many years of dedication to the police force and to the Pueblo community, Rick has embodied the ideals of integrity and courage that make Coloradans and all Americans proud of their police men and women. I am proud to pay tribute to Rick for his contributions to his community, his state and his country.

Rick has served with distinction for many years, having previously earned the Silver Star of the American Law Enforcement Association for saving the lives of two police detectives. This incident occurred in 1977 when a man, disregarding orders to drop his gun, instead aimed it at the two police detectives attempting to apprehend him. Rick acted swiftly and professionally to protect the lives of the two detectives.

Mr. Speaker, Commander Rick Oreskey is a law enforcement officer of exemplary courage and commitment to his community. He has made Pueblo County a happier place to live and a safer community. It is Rick's unrelenting commitment to his community as well as his spirit of courage and integrity that I wish to bring to the attention of this body of Congress. It is my privilege to extend to Rick my heartfelt congratulations on his being honored with the Medal of Valor.

RECOGNIZING GEORGINA SUAREZ GONZALEZ AND LUIS L. GONZALEZ

HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. BELL. Mr. Speaker, I rise to honor Georgina Suarez Gonzalez and Luis L. Gonzalez on the occasion of their fortieth wedding anniversary.

Both Georgina and Luis Gonzalez were born in Havana, Cuba. Mrs. Gonzalez came to the United States in 1947 to enter into religious study. She graduated from the College of New Rochelle in New York, a college rich with Ursuline heritage. After completing her education, Georgina realized she had fallen in love with her new country and decided to stay to make a life in the United States. Although she dated Luis in her youth in Cuba, her determination to live the American dream and Luis's plans to stay in Cuba made marriage an unlikely scenario.

Luis Gonzalez attended the University of Havana in 1945, the same year Fidel Castro entered the university. Like so many Cuban patriots and students during the politically turbulent and corrupt years of General Fulgencio Batista, Luis fought for a more democratic and independent nation. As is known from history, the dictatorship of Batista was followed by the dictatorship of Fidel Castro.

Facing political persecution, Luis fled Cuba in December 1960 to begin his new life in America. Finally, Georgina and Luis found themselves in the same country and in love.

Mr. and Mrs. Gonzalez married on June 10, 1963 in Westphalia, Missouri. Monsignor Kutz performed the wedding ceremony. After they married, Georgina left her job on Wall Street to join her new husband in Houston where he was employed with Dow Chemical. They settled in Houston's Sharpstown area and began a family.

In addition to raising three children, Georgina enjoyed a successful career with Prudential Insurance Company of America. She became the first woman in the nation to lead the company in insurance sales. Luis joined Georgina at Prudential in 1967 where they worked together to build a strong family insurance business.

Georgina and Luis Gonzalez are true reminders of the power and promise of the American dream. The couple immigrated to this country, raised three loving children, and built a strong, flourishing business. Together with their children, John Michael, Ana Maria and Luis Gaston and grandchildren, Carolina Andrea Wood, William Alexander Wood, and Gabriella Grace Gonzalez, I congratulate Georgina and Luis Gonzalez on their fortieth wedding anniversary.

BATTALION CHIEF HAL CHASE

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. HONDA. Mr. Speaker, I rise today to honor the contributions and achievements of Battalion Chief Hal Chase on his retirement from the Santa Clara County Fire Department. Chief Chase has dedicated over thirty years to the community and fire department of Santa Clara County.

Chief Chase lives in Los Gatos, California, with his lovely wife, Karen, and three beautiful children, Brian, Christine, and Michael. He met his wife while serving as the President of the International Association of Fire Fighters Local 1165, during which he worked diligently to increase benefits and improve working conditions for his fellow fire fighters. Currently, Chief Chase oversees Battalion 3 of the Santa Clara County Fire Department, consisting of seven stations and their heroic crews.

Affectionately referred to as "The Senator" by his peers, Chief Chase has served as the Program Facilitator for the Hazardous Materials Program. He is a member of the California State FIRESCOPE Task Force. In addition, Hal manages the Department's Response Map Program, Hose Program, and Hydrant Testing Program.

With these awesome responsibilities, it is a wonder how Chief Chase can reserve time for other commitments. But his contributions to his community are just as extensive. Chief Chase is committed to the high school anti-drinking campaign, "Every 15 Minutes." Through his tireless efforts, much needed fire equipment was donated to Mexico, including coats, hats, and even fire engines. Hal is also a strong supporter of the Democratic Party.

On occasion, Chief Chase has been known to forego his fire fighting skills to purposely starting them, in the kitchen. He has applied his passion for cooking for not only the pleasure of his crew, but also for charity. Along with the raised monies, raffled dinners at the firehouse have promoted stronger relations with the community.

Mr. Speaker, I commend Battalion Chief Hal Chase for his magnanimous dedication to the community and fire department of Santa Clara County. Although we celebrate his retirement, I know Chief Chase will continue serving Santa Clara, even if only out of the kitchen.

TRIBUTE TO BETTY PFISTER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McINNIS. Mr. Speaker, I am honored to pay tribute today to a pioneer in the field of aviation. Betty Pfister of Aspen, Colorado has been named by Women in Aviation International as one of the 100 Most Influential Women in aviation history. Betsy joins well-known figures Amelia Earhart and Sally Ride, on the list, and it is easy to see why—her accomplishments are truly impressive.

Sally began flying while in high school and served as a Woman's Air Service Pilot (WASP) during World War II. WASPs piloted planes around the country to help free-up men to fly combat missions in Europe and Asia. After the war, Sally worked as both a pilot and flight attendant, getting in plenty of flying on her own time as well.

In 1950 and 1952 Sally won international air races, and in 1973 and 1978 she piloted for the United States in the World Helicopter Championships. Sally also piloted balloons, founded the Pitkin County Air Rescue, and created scholarships to enable flight instruction among high school age children. One of her former planes, a World War fighter she named "Galloping Gertie," is on display at the Smithsonian's Air And Space Museum.

Mr. Speaker, Betty is more than a talented and versatile pilot. She is a leader who, through her remarkable success, helped motivate and inspire future generations of young male and female pilots alike. Betty embodies the competence and can-do spirit that helped make America great, and I am proud to recount her impressive story here today.

HONORING McLEAN COUNTY, ILLINOIS AS A COMMUNITY OF EXCELLENCE

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. WELLER. I rise today to congratulate McLean County, Illinois, recipient of the 2003 Communities Can! Community of Excellence Award. Communities Can! is a program initiated by the Department of Health and Human Services, coordinated by the Georgetown University Center for Child and Human Development.

The Community of Excellence Award is presented to only four communities each year for demonstrating their ability to efficiently collaborate and utilize resources provided by public and private programs for supporting young children and their families. McLean County has successfully tailored these complex programs to meet their specific needs.

McLean County, a community of 154,000 people located in Central Illinois, received this honor for their innovation, flexibility, and the broad range of service and support they provide. Their approach is to identify the needs of families in the community, match those needs with appropriate service, and do so in a cost effective manner, which has produced great results.

I am proud to represent McLean County, Illinois, and commend her citizens of for their hard work and the success it yielded, leading to their receiving the Community of Excellence award. I look forward to working with them as they enjoy future success, hopefully leading other communities to adopt the creative, effective service to needy families that our Nation needs to meet the challenges ahead.

INFORMING THE HOUSE OF THE DEATH OF FORMER U.S. REPRESENTATIVE TOM GETTYS

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. SPRATT. Mr. Speaker, I have the sad duty of informing the House of the death of Tom S. Gettys, who served in the House of Representatives from 1964 to 1974, representing the Fifth District of South Carolina, and served even longer as administrative assistant to Rep. James P. Richards.

On Sunday, Tom Gettys and his wife, Mary Phillips, went a last time together to the First ARP Church in Rock Hill, South Carolina. On Sunday evening, he slipped quietly away, dying in the town he loved, where he had spent his life, much of it serving the people.

The term "public servant" is often misapplied, but in the case of Tom Gettys, it is a perfect fit. He was a school principal and coach; right-hand aide to a high-ranking congressman; a naval officer who volunteered for duty and served in the Pacific; a postmaster; a night-school, self-taught lawyer; and for ten years, a Member of Congress.

As congressman, he endeared himself to the people who elected him. If folks in the Fifth District revered Dick Richards and admired Bob Hemphill, they loved Tom Gettys. They loved him because he had an easy-going affinity for all sorts of people, and because he put his constituents first and worked hard for them, and they knew it.

When he was at the top of his form, Tom Gettys retired. He had the good grace not to hang on in Washington to capitalize on his relationships, but instead came back to Rock Hill, hung out his shingle and practiced law. As a young lawyer, I used to run into him checking titles with the rest of us in the clerk of court's office. This was the self-deprecating side of the man that people appreciated. He took his work seriously, but never himself.

I saw this side of Tom Gettys when I was in Washington in the 1970s and walked with him to the House floor. Tom knew the capitol police, the elevator operators, the doorkeepers, all by first name. He told me later that having been a staffer, he knew who ran the House.

I got an even better insight when Tom visited me soon after I was elected. I begged him to sit and talk, but could tell he had something else on his mind, and soon found out what it was. He wanted to go downstairs to the Longworth Cafeteria and speak to Odessa. Odessa ran the breakfast line, and was a spirited soul, full of chatter and advice, which she dished out freely while you decided how you wanted your eggs. Tom seldom came to Capitol Hill without visiting Odessa.

Tom Gettys belonged to the old school, to the era before pollsters, spin-masters, and 30-second spots, and he often told me, it was a good thing. He enjoyed introducing me as the "second-best looking congressman to represent the 5th District." I enjoyed telling him, "Tom, if good looks had anything to do with being elected to this office, you would have lost to Bate Harvey in 1964." He was not some political artifact, crafted to win elections. He was the genuine article—of the people, by the people, for the people. When many of his conservative colleagues voted against Medicare, Tom Gettys stood with his people. He voted for it, and was proud of it.

If he were to give his own farewell, he would tell us that marrying Mary Phillips White surpassed all of his achievements, and Julia and Beth were their crowning glory. He was a doting grandparent and used to say that if he had the chance to come back after dying, he would want come back as one of his grandchildren.

Those of us who learned from Tom Gettys and looked up to him will miss him. We will miss the wisdom he shared with us, and the stories that never grew old. He exemplified what life in a democracy is about. He earned the satisfaction every public servant wants: he left his country better than he found it.

HONORING LADISLAV COLIN "POPS" BAUER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McINNIS. Mr. Speaker, I stand before the nation and this Congress with a heavy heart, as the communities of Alamosa, Colorado and Adams State College have lost a tremendous human being. Ladislav Colin "Pops" Bauer is nothing short of a legend in Alamosa, particularly to the Adams State College cross-country team, where he served as a source of employment and motivation to numerous student athletes.

"Pops," as the students affectionately knew him, was the owner of the legendary Campus Café. This small restaurant served as a way for Colin to provide jobs to the school's student athletes, enabling them to earn a little extra money between classes and practice. It was here that Colin displayed incredible heart, and he was the type of guy that just kept on giving. When one of the Adams State runners could not find a sponsor to send him to the Olympic trials, it was Colin and the Campus Café who stepped forward with the money. This is just one example of the kindness and dedication that Colin displayed toward the Adams State Cross Country team.

Mr. Speaker, I am saddened by the loss of such a kind and caring individual. However, I am inspired to know that men like Ladislav Colin "Pops" Bauer were able to have an impact on America's youth. It is Colin's heart, modesty, and loyalty to the students of Adams State that garnered him respect, and it is for those very qualities that he has earned my respect here today.

ESTABLISHING JOINT COMMITTEE TO REVIEW HOUSE AND SENATE MATTERS ASSURING CONTINUING REPRESENTATION AND CONGRESSIONAL OPERATIONS FOR THE AMERICAN PEOPLE

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 2003

Mr. PAUL. Mr. Speaker, while may seem reasonable to establish a Joint Committee on the Continuity of Congress, I wish to bring to my colleagues' attention my concerns relative to certain proposals regarding continuity of government, which would fundamentally alter the structure of our government in a way detrimental to republican liberty.

In particular, I hope this Committee does not endorse the proposal contained in "Preserving our Institutions, The Continuity of Government Commission" which recommends that state governors appoint new representatives. Appointing representatives flies in the face of the Founders' intention that the House of Representatives be the part of the federal government most directly accountable to the people. Even with the direct election of Senators, the fact that members of the House are elected every two years while Senators run for statewide office every six years, means members of the House of Representatives are still more accountable to the people than any other part of the federal government.

Therefore, any action that abridges the people's constitutional authority to elect members of the House of Representatives abridges the people's ability to control their government. Supporters of this plan claim that the appointment power will be necessary in the event of an emergency and that the appointed representatives will only be temporary. However, Mr. Speaker, the laws passed by these "temporary" representatives will be permanent.

I would remind my colleagues that this country has faced the possibility of threats to the continuity of this body several times throughout our history, yet no one suggested removing the people's right vote for members of Congress. For example, the British in the War of 1812 attacked the city of Washington, yet nobody suggested the states could not address the lack of a quorum in the House of Representatives though elections. During the Civil War, the neighboring state of Virginia, where today many Capitol Hill staffers and members reside, was actively involved in hostilities against the United States Government, yet Abraham Lincoln never suggested that non-elected persons serve in the House. Forty-two years ago, Americans wrestled with a hostile superpower that had placed nuclear weapons just 90 miles off the Florida coast, yet no one suggested we consider taking away the people's right to elect their representatives in order to ensure "continuity of government!"

I have no doubt that the people of the states are quite competent to hold elections in a timely fashion. After all, isn't it in each state's interest to ensure it has adequate elected representation in Washington as soon as possible? Mr. Speaker, there are those who say that the power of appointment is necessary in order to preserve checks and balances and thus prevent an abuse of executive power. Of course, I agree that it is very important to carefully guard our constitutional liberties in times of crisis, and that an over-centralization of power in the Executive Branch is one of the most serious dangers to that liberty. However, I would ask my colleagues who is more likely to guard the people's liberties, representatives chosen by, and accountable to, the people, or representatives hand-picked by the executive of their state?

Finally, Mr. Speaker, I wish to question the rush under which this bill is being brought to the floor. Until this morning, most members had no idea this bill would be considered today! The rules committee began its mark-up of the bill at 9:15 last night and by 9:31 the report was filed and the bill placed on the House Calendar. Then, after Congress had finished legislative business for the day and with only a handful of members on the floor, unanimous consent was obtained to consider this bill today.

It is always disturbing when bills dealing with important subjects are rushed through the House before members have adequate time to consider all the implications of the measure. I hope this does not set a precedent for shutting members of Congress out of the debate on this important issue.

In conclusion, Mr. Speaker, while there is no harm in considering ideas for continuity of Congress, I hope my colleagues will reject any proposal that takes away the people's right to elect their representatives in this chamber.

COMMEMORATING THE 25TH ANNIVERSARY OF THE PASSAGE OF PROPOSITION 13

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. OSE. Mr. Speaker, twenty-five years ago, on June 6, 1978, California voters made history when they passed Proposition 13.

Millions of Californians can still remember the condition of our state in 1978, and the irresponsible government actions that moved people to create a new and better way. Skyrocketing property taxes literally drove people from their homes, and a similar fate would surely have been visited on thousands more. Many complained, but few in Sacramento heeded their plight, and this sparked the citizen movement that swept our state and demonstrated the best traditions of direct democracy.

The landslide vote that approved the initiative validated what Howard Jarvis himself said at the time: Californians from all regions of the state believed the time had come for serious reform, and they could simply wait no longer.

Proposition 13 was a voter-approved proposal that cut California's property taxes by 30 percent and then limited future increases. Other opponents of high taxes used Proposition 13 as a model that led many additional states to institute similar reforms. Almost all of these reforms are still in effect today.

The passage of Proposition 13 has resulted in a reduction in property taxes of approximately 57 percent in California. It has been an indispensable element in the way that our state moved forward to outperform the rest of the country in personal income growth, employment growth, and appreciation of real property values.

As we again face tough financial decisions and rising tax burdens, I am encouraged when I recall 1978, a time when Californians seized control of their own fate and reformed a runaway tax system. I hope Californians and all Americans will remember on this day that we can control our government and our own destinies.

HONORING BILL HARDING

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress to recognize a man who has served as a chief and mentor for many of Colorado's brave young firefighters. Bill Harding of Glenwood Springs, Colorado, will be leaving the Glenwood Springs Fire Department soon to pursue his career as the Fire Marshal for the Basalt and Rural Fire Department.

In his 19 years of service in Glenwood Springs, Bill has been instrumental in stopping fires such as Storm King, and Coal Seam Fire. His knowledge, hard work and expertise have allowed him to occupy a variety of positions, such as battalion chief, training captain, EMT, and fire inspector.

However, if you ask his co-workers, it is not Bill's knowledge that makes him a great firefighter. What makes him stand out is his ability to teach others. Bill has been instrumental in the training and development of firefighters all over Colorado. He was never too busy to help a firefighter who wanted to learn and his passion and determination brought out the best in everyone.

Mr. Speaker, I am proud to stand before this Congress and this nation to pay tribute to Chief Bill Harding. Bill's diligence, hard work, and positive attitude have helped develop a group of well-trained, hard-working individuals who protect our cities, homes, and families. Thank you, Bill, for your years of outstanding service.

RECOMMENDATIONS FROM TRIP REPORT ON VISIT TO IRAQ

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. WOLF. Mr. Speaker, I recently shared with our colleagues observations following my recent two-day trip to southern Iraq. I was there Sunday, May 25, and Monday, May 26. I also spent a day, Tuesday, May 27, in Kuwait, where I met with Kuwaiti government officials, members of the U.S. military, State Department officials and staff from the U.S. Agency for International Development (USAID).

Today I want to share with our colleagues a number of recommendations concerning the reconstruction of Iraq.

Recommendations: these recommendations are based on my observations and conversations with the people I met during the course of my visit. Some were discussed in greater detail in the observations section of my trip report.

Security: security is priority one. While the coalition forces have made great strides in trying to improve security in recent weeks, there is still a long way to go. Security is the linchpin to winning the peace in Iraq. That means security for coalition forces. Security for the NGOs. Security for the contractors. And security for the Iraqi people so they can go about their life. The gun turn-back program recently announced by Ambassador Bremer is a positive step but many are concerned that people may turn in only one gun and keep two. In addition to concerns about personal safety, looting remains a problem. I was told that looters continue to target electrical substations in southern Iraq, stealing the copper wire to sell on the black market. These substations provide much of the power for Baghdad. Coalition forces should provide security until it can be provided by the Iraqis.

Justice System: re-establishing a fair and just judicial system in a timely fashion is critical. Figuring out what to do with locals who break the law, such as looters, but are not a threat to U.S. security must be addressed as soon as possible. The laws need to be clear and must be enforced.

'Play to Win': "Play to Win," the final report of the bipartisan Commission on Post-Conflict Reconstruction, should be used as the blueprint for rebuilding Iraq.

The report, released in January, was produced jointly by the Association of the United States Army and the Center for Strategic and International Studies. Its 17 recommendations provide an excellent model to follow. The commission is made up of 27 distinguished individuals with extensive experience in government, the military, non-governmental organizations and international aid groups. It met throughout 2002 to "consider recommendations that surfaced over two years of research, expert working groups, and vetting with current policymakers and practitioners." The report can be found on the Internet at *http://www.pcrproject.org*

Commission Visits: a select group of the Commission on Post Conflict Reconstruction should travel to Iraq.

The panel's co-chairmen, Dr. John Hamre, former deputy secretary of defense, and Gen. Gordon Sullivan, former chief of staff of the U.S. Army, should appoint a select number of commissioners to travel to Iraq to assess how the reconstruction efforts are going. Their assessment, a second opinion, if you will, would be impartial and could prove to be invaluable. They should travel in a small group with a military escort to ensure their safety.

Congressional Oversight: small groups of members of Congress should make the trip to Iraq. They should go without publicity to ensure their safety and the safety of those who would be providing protection. Their visit to learn more about what is happening in the country and what it is going to take to rebuild the country would be helpful in their oversight responsibility in Congress. The chairmen and ranking Members—or their designees—of the House and Senate Armed Services committees, Appropriations committees and International Relations/Foreign Relations committees should consider going.

In addition to meeting with military commanders, the members should meet with Ambassador Bremer and other officials in the Office of Reconstruction and Humanitarian Assistance (ORHA), USAID officials, representatives from the NGO community and other international organizations, and Iraqi citizens.

Partnering with Iraqi People: every effort must be made to involve the Iraqi people in rebuilding their country, from governance to security to repairing the country's infrastructure. The Iraqi people must be an equal partner in the process.

"Play to Win" is instructive on this point: ". . . every effort must be taken to build (or rebuild) indigenous capacity and governance structures as soon as possible. Leadership roles in the reconstruction effort must be given to host country nationals at the earliest possible stage of the process. Even if capacity is limited, host country representatives should chair or co-chair pledging conferences, priority-setting meetings, joint assessment of needs, and all other relevant processes."

American companies awarded contracts to rebuild Iraq's infrastructure should hire locals whenever possible. There are many skilled and educated people in Iraq and they should be tapped to help rebuild their country.

Reconstruction Support: the sooner the Office of Reconstruction and Humanitarian Assistance, now called the Coalition Provisional Authority, is completely operational the better. Every effort should be made to ensure that Ambassador Bremer and his staff have the necessary tools and resources to successfully complete the job.

Provincial Officers: the military's Civil Affairs detachments in Iraq have worked diligently to help restore order and are making more and more progress every day. Consideration should be given to providing the officer in charge of each of the 18 provinces in Iraq with access to a ready cash account—perhaps up to $500,000—so they can more quickly hire translators, laborers and other locals to assist in their efforts in putting together a government without having to get every expenditure signed off by headquarters or Washington.

The money also could be used to purchase goods and services in-country, such as generators, pumps or even a trash truck, on a more timely basis rather than waiting for it to be brought in by coalition forces.

Government on any level needs money to operate. Clearly, this money must be accounted for, but it would greatly assist in the efforts to rebuild the country.

Civilian Expertise: consideration also should be given to helping augment the work of the Civil Affairs detachments by bringing in U.S. civilians with expertise in local government, such as county administrators and city managers, as well as experts in agriculture and public works. In each of the 18 provinces, the head of each military Civil Affairs detachment acts like a governor. They need experts—much like a cabinet—at their disposal who can advise them on issues like banking, education, public works and health care.

For example, the National Association of County Administrators could assist in rotating in civilian administrators to work with the military and local Iraqis in setting up and running local governments. There could be one for each of the 18 provinces. Some of the leading agriculture companies in the country could lend their expertise on irrigation and production. The head of the public works department in any large county or city in the country would bring an inordinate amount of experience to the table. There also is a great deal of expertise in the Federal Government which can be tapped. Again, these individuals would work hand-in-hand with the military and the locals.

Post-Combat Skills: the U.S. military has to begin thinking about training more of its soldiers for a postcombat environment to help fill any void until the necessary Civil Affairs and Military Police units can be put in place. I realize this is asking our war fighters to take on a new mission, but in this new world environment, I believe this skill is necessary.

Communications Systems: communications and communication systems remain a problem for both the military and the aid organizations working in Iraq. I was told that not all of the Civil Affairs detachments are readily able to communicate with each other or with the Humanitarian Assistance Center in Kuwait, which is coordinating all the civil affairs and humanitarian assistance in Iraq. Contacting U.S. officials in Baghdad also is problematic. I was told part of the problem is that most Civil Affairs detachments are made up of reserve units which do not always have compatible communications equipment. This needs to be addressed. It is imperative that all 18 provinces be linked with each other and headquarters. Congress should provide DOD with the necessary funding to ensure that these detachments have radios, computers and other communications equipment that are interoperable.

Aid organizations also are encountering problems communicating with their staff in southern Iraq because telephone and other data transmission lines have yet to be repaired. This presents a problem, especially for sharing data and supplying information.

Iraq's banking system: the issue of Iraqi currency must be dealt with immediately. Many people in Iraq will not accept payment with the old regime's currency. The World Bank should provide its expertise in helping get Iraq's banking system back up and running.

The Story of Democracy: the State Department working with the National Endowment for Democracy and other groups with similar expertise should develop a program on democracy and how a democratic government works.

I was told that Iraqis watch a great deal of television. Perhaps whatever program is developed should be put on videotapes and tailored to specific age groups so that all Iraqis can understand the democratic process. This program must be made available to the Civil Affairs units in each of the 18 provinces. I understand money already has been appropriated and some contracts have been let. This program must be put into place as soon as possible.

A pro-democracy newspaper also should begin to be published on a daily basis in Iraq.

Ordnance Removal: finding and removing unexploded ordnance needs to be a priority. Sadly, many Iraqi children have been seriously hurt by exploding weapons while playing outdoors. When I visited the General Hospital in Nasiriyah, a young boy had just been brought into the emergency room after either a mine or unexploded ordnance blew up near him. He was severely burned and there was a piece of shrapnel in his right eye. Clearing this ordnance will be a long and laborious process.

Health Care: while great progress has been made to improve health care in southern Iraq since the war ended, there is still a long way to go. While the major hospitals in southern Iraq used to bear Saddam Hussein's name—and are all identically constructed—there was little or no medicine and the conditions inside are deplorable. One NGO that is providing invaluable assistance is the International Medical Corps (IMC). Their doctors, nurses, nutritionists and other health care professionals are making great strides in assessing the health care needs of Iraq. They are also helping provide care. I was told that IMC has helped distribute more than two tons of donated medicine to hospitals and clinics in southern Iraq. There is concern, however, that diseases like malaria and visceral leishmaniasis—also called Dum Dum Fever or Black Fever—could ravage the region this summer because no spraying was done this spring to kill the mosquito larvae or sand flea larvae. Bites from sand fleas are the cause of visceral leishmaniasis, which attacks internal organs. This disease has an 80 percent fatality rate for young children unless treated with a 21-day shot routine. Cholera is another concern. Area hospitals and American drug companies should work with medical NGOs in Iraq to ensure they have an adequate drug supply and the necessary equipment to provide medical services. Any assistance must be coordinated with NGOs on the ground so there is not any duplication of efforts or unnecessary equipment donated.

Women's Health: improving health services for women will be particularly important as the reconstruction of Iraq moves forward. More focus is needed on pre- and post-natal care. The surgical capabilities in the country are seriously lacking. Special instruments for delivering babies and performing cesarean sections are needed. So are the proper medications for delivery. More nurses also need to be trained.

Religious Freedom: as a new government is established in Iraq, care must be given to protect the rights of religious minorities. I urge the Bush Administration to develop a strategy and governance structure within the new Iraqi government to ensure that the hard won freedoms of the Iraqi people also will include the right and protection of religious liberties.

Quality of Life for Troops: the troops serving in the Gulf region are outstanding. The ones I spoke with were highly skilled, highly motivated and extremely professional. They all have made great sacrifices to serve their country. In turn, we should do everything possible to make sure their morale remains high. Hearing from home is a big part of that. Congress should provide DOD with the necessary resources to ensure these service men and women serving in the Gulf, and around the globe for that matter, are able to get messages from home, whether by phone, e-mail or regular mail.

Commendation for Kuwait: Congress should approve a resolution thanking the government and people of Kuwait for their assistance in helping to provide humanitarian relief to Iraq. The Kuwaiti government has provided millions of dollars in assistance, both in-kind and in material goods. The United States' Humanitarian Operations Center is run out of a former government facility in Kuwait City.

NGOs Valuable Role: the NGOs on the ground in the region also have done a tremendous job responding to the needs of the Iraqi people. From helping provide food to medical care to caring for orphans, their experience and expertise has proven invaluable. I was told some of the NGOs in the region are concerned that the humanitarian assistance is being coordinated by the U.S. military. Some of their misgivings may be justified. As the ORHA/CPA gets up and running, however, I suspect many of their concerns will be alleviated. Care must be given though to ensure that ORHA/CPA does not duplicate efforts that are already underway.

Conclusion: in closing, I want to thank all those who helped make my trip possible. For security reasons I cannot mention people by name, but I am forever grateful for their assistance.

I also want to thank all the NGOs who are providing humanitarian assistance in Iraq. The people who work and volunteer for these organizations are extremely dedicated. They work long hours and give up the many comforts of home to serve others, often in very dangerous places around the globe, like Iraq and Afghanistan. They are a special breed and deserve our thanks and praise.

Finally, I want to thank several members of my staff for their help in putting together this report. Dan Scandling, my chief of staff, accompanied me on the trip and served as photographer. Janet Shaffron, my legislative director, edited the report and Colin Samples did the layout and design.

IN HONOR OF DR. ALFRED O. HEATH

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to salute a true renaissance man of the

U.S. Virgin Islands, Dr. Alfred O. Heath. Mr. Speaker, Dr. Heath is being honored this weekend in St. Thomas with the Alexander A. Farrelly Public Service Award, given by Virgin Islanders for Responsible Government, an honor of which he is more than deserving.

A fellow physician, Dr. Heath is also renowned in the territory as a businessman, educator, health care administrator, musician and licensed pilot. Dr. Heath is most recognized for performing one of the territory's earliest heart surgeries, and for restoring the operable use of a patient's severed arm. In addition to the many "medical miracles" that he performed, Dr. Heath served as the Attending Senior Surgeon at the Roy Schneider Hospital and as a General Surgeon at the U.S. Army Hospital in Heidelberg, Germany.

Mr. Speaker, Dr. Heath has also served as the Medical Director of Sea View Nursing and Rehabilitation Facility, as Commissioner of Health of the Government of the U.S. Virgin Islands, and Professor of Surgery at American University of the Caribbean in St. Maarten, West Indies.

His business pursuits include the founding of the Seaview facility, Heath Health Enterprises, the Medical Arts Complex of St. Thomas, Medical Arts Slender You Salon, and St. Thomas Health Care Management, Inc.

An all around gentleman, Dr. Heath's voice can be heard in local chorales and choirs, and entertaining a spellbound audience with his violin. He is also an adept pilot, and an avid boater.

Mr. Speaker, Dr. Heath has been toasted by the Rotary International as the Man of the Year, the Paul Harris Fellow, and the Costas Coulianos Fellow. The Business and Professional Women, the Virgin Islands Toastmasters, the National Guard, the Virgin Islands Medical Society and the American Cancer Society have all at various times noted his talents and his willingness to share them with his community.

Mr. Speaker, Dr. Alfred O. Heath was born and raised in St. Thomas to Mr. and Mrs. Oswald Heath. Upon graduation from Charlotte Amalie High School in 1947, he attended the University of Puerto Rico's School of Pharmacy for two years from 1947 to 1949. He later graduated from Temple University's School of Pharmacy with a Bachelor of Science degree in 1953. He received a Medical Degree from Jefferson Medical College followed by a surgical residency, which focused on general, thoracic and cardiovascular surgery between 1953 and 1960. He also attended the University of Heidelberg from 1962 to 1963.

Married to Geraldine Cheatham, they are the parents of one son, Alfred, Jr., and two daughters, Anita and Judy.

Dr. Heath's military career culminated with 50 years of service to the U.S. Army and the U.S. Army National Guard at the rank of Brigadier General.

Finally, Mr. Speaker, I had the honor of serving under this outstanding individual in good times and bad. I will never forget his strength, endurance and leadership during the evacuation of the St. Croix Hospital after Hurricane Hugo. That experience and the emergency delivery that he performed during the crisis demonstrated the measure of this great man.

Mr. Speaker, the people of my district, the U.S. Virgin Islands are grateful to Dr. Heath for his many years of dedicated service to our islands. His selfless example of excellence, foresight and commitment is one that we hope will be emulated by our young people.

Mr. Speaker, it is my hope that my colleagues will join me in honoring a man so deserving as Dr. Heath.

TRIBUTE TO BILL MASHAW

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McINNIS. Mr. Speaker I rise today to pay tribute to the exemplary efforts of Bill Mashaw of Durango, Colorado. Bill has been awarded the Community Builder Award by the La Plata County Community Summit Coordinating Committee for going far beyond the call of duty. Today I wish to recognize the accomplishments and character of this great citizen before this body of Congress and this Nation.

Bill has proven his commitment to the community by organizing the Big Brothers, Big Sisters program and through his involvement in the Community Development Corporation, which works on affordable housing projects. In addition, Bill has served with the Red Cross and the Salvation Army and currently serves on the board of directors for the Fort Lewis College Foundation. Bill also reaches out to children in the Durango area by helping with the D.A.R.E. program, and a number of other programs geared towards youth.

Mr. Speaker, the work of Bill Mashaw has touched the lives of many in his community. It is with great pride that I stand to honor a man who has lived a life of love, service and passion. I add my voice to that of the Durango Area Chamber Resort Association, who has named Bill Mashaw both Citizen and Volunteer of The Year. Thank you, Bill, for your dedication.

BUSH ADMINISTRATION DECEPTIONS ABOUT IRAQ THREATEN CONSTITUTIONAL DEMOCRACY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. CONYERS. Mr. Speaker, my service in this House has often shown me the profound tension between government secrecy and democratic decision-making. Rarely however, has that tension been as starkly posed as in the current revelations of divergence between President Bush's assertions based on "secret information" about the alleged threat to America posed by Iran and the actual assessment of that threat by America's intelligence professionals.

I have seen the American people apparently deceived into supporting invasion of sovereign nation, in violation of UN charter and international law, on the basis of what now appear to be false assurances. The power of the Congress to declare war was usurped. The consent of the governed was obtained by manipulation rather than candid persuasion.

Instead of conducting a sustained all-out war against the genuine terrorists behind 9/11, President Bush chose to terrorize the American people. The President, Vice President CHENEY and Secretary Rumsfeld painted lurid nightmares of al Qaeda's attacking U.S. cities with insidious anthrax or clouds of deadly nerve gas. All of this was portrayed as coming courtesy of Saddam Hussein, unless we destroyed the Iraq regime. They also wielded the ultimate threat that Iraq would imminently endanger America and our closest allies with nuclear weapons. Members of Congress who voiced deep distrust of those claims were privately briefed with even more vivid descriptions of the deadly threats that Saddam posed to American security.

In public speech after speech, the President and his supporting players assured America's anxious citizens that attacking Iraq was absolutely necessary to prevent the imminent threat of Iraq's weapons of mass destruction from harming them and their loved ones.

In addition, President Bush was determined to convince the public that Saddam was personally behind, or at least intimately involved in 9/11. He and Vice President CHENEY repeated that mantra incessantly. No wonder that about half of the country still believes that Saddam was involved, although our intelligence community has emphasized that there is no credible evidence that is true.

The manipulation was massive and malicious. The motive was simple. The Administration wanted to attack Iraq for a variety of ideological and geopolitical reasons. But the President knew that the American people would not willingly risk shedding the blood of thousands of Americans and Iraqis without the immediate threat of deadly attack on the United States. As Deputy Secretary of Defense Wolfowitz recently admitted to an interviewer in an unguarded moment, when the threat of weapons of mass destruction was chosen as the banner to lead a march to war, it was chosen for "bureaucratic reasons," not because the danger was imminent or paramount.

The President and his Cabinet were well aware that these claims either rested on flimsy projections or came from sources that most of our Intelligence Community disdained. The President and his Cabinet knew that in some cases those discredited sources' assertions were flatly contradicted by the professional assessments of the intelligence Community experts at CIA, the Defense Intelligence Agency and the State Department, and were only supported by a rogue special office established under Secretary Rumsfeld precisely to "find" or reinterpret intelligence in order to support the Administration's determination to invade Iraq.

When war came, our own military field commanders were surprised by the fierce, often deadly, resistance that our troops faced from Saddam's "militia." We, and our British allies, were surprised when the Iraqi people in Basra and elsewhere did not rise up to welcome our troops with open arms. Most of all, our military commanders, the Congress and the American people all were surprised when no weapons of mass destruction (WMD) were found. Now, as each day passes, and no WMD has been found, that surprise has turned to suspicion, to concern and finally to outrage at the deception practiced by the Bush Administration.

In response, President Bush, Vice President CHENEY, Secretary Rumsfeld, and their spokespersons have offered one excuse after another. As reporters and whistle-blowers have exposed the flaws in each excuse, the White House has scrambled to create another, with the confusing speed of a kaleidoscope's changing patterns. Law students are taught to plead in the alternative: "I never borrowed your pot." "Besides, it wasn't cracked when I returned it." "Anyway, it was not cracked when I borrowed it in the first place." The Bush Administration has learned that lesson well:

> The Bush White House assures us that weapons of mass destruction will inevitably be found.
>
> At the same time, the Bush White House argues that they never really said Iraq had such weapons in 2002, only that they had programs to develop those weapons.
>
> Finally, the Bush White House argues that it doesn't matter whether Iraq did or did not have such weapons posing a threat to the United States, because Saddam was a repressive ruler and its good that the world is rid of him.

They cannot succeed with this shell game because they cannot outrun the truth. There are too many previous contradictory statements, too many reports leaked by outraged veteran intelligence analysts, and too great a record of established facts. The Administration's arrogantly crafted script is unraveling. President Bush and his courtiers now have learned the wisdom of the Scottish poet Robert Burns, who warned:

> "Oh what a tangled web we weave, when first we practice to deceive."

Now, the Administration's final refuge is that the public thinks the war was justified even if no weapons are found. Obviously, those poll results reflect the American people's relief that our military's losses, and the loss of Iraqi civilians, regrettable as they are, have not been even greater. They reflect understandable revulsion at the horrors of Saddam's regime. Nevertheless, continued ethnic conflict and violence, ambushes of American soldiers, political disarray, malnutrition and disease mount daily in the aftermath of this "easy war." Also, the Bush White House is forced to acknowledge the re-emergence of al Qaeda's terrorist threat. So the American people have begun to focus on how badly it appears that they, and their congressional representatives, may have been misled by a president anxious to stampede America into war.

In any event, regardless of the final tally on the war in Iraq, there is a growing awareness that this disturbing presidential conduct raises issues that transcend any particular hostilities in which America might engage. It raises the most profound constitutional questions. How can the separation of powers and checks and balances designed to protect our Republic continue to do, if the Executive can work its will through falsehood, deception and concealment?

Equally pressing is a determination of the appropriate remedy, should the Administration's assurances to Congress and to the electorate prove to have been as knowingly false as now seems to be the case. In the days ahead, I shall consult with my colleagues, with legal scholars, political scientists and historians, in order to weigh the appropriate actions necessary to prevent this or any future Administration from usurping the power of Congress and the power of the people to decide public policy on the basis of accurate knowledge.

An accurately informed public is the essence of our democracy. It is most essential on the ultimate question of peace or war. To deceive the Congress and the public about the facts underlying that momentous decision is to transgress one of the president's supreme constitutional responsibilities. I believe the House Committee on the Judiciary should consider whether this situation has reached that dimension.

That question is especially acute at this time because President Bush's disturbing doctrine of "preventive war" means he plans to persuade the Congress and the electorate that additional "preventive wars" are necessary. Will that advocacy be based on deception and false statements, too? The prospect is frightening.

Finally, I note the provocative analysis on this point recently offered by former Counsel to the President John Dean, who has carefully analyzed the nature and context of the President's many assertions about the threats allegedly posed by Iraq and the constitutional implications should they prove false upon further examination. It deserves wide dissemination.

IN SUPPORT OF H.R. 1738, "THE AMERICAN PARITY ACT"

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Ms. SLAUGHTER. Mr. Speaker, we all know that it will take years, if not decades, for Iraq to be restored and rebuilt in the wake of Operation Iraqi Freedom. Our nation's desire to restore and rebuild Iraq—for the Iraqi people—is to be commended. It reflects the most dearly held values in American society.

As Americans, we want to make the world a better place. We want people to live full, healthy lives without fear of violence and hunger. We want children to have full stomachs, clear heads and the educational resources to realize their potential. We believe that healthcare should not be available to only the rich.

Certainly, as a nation, we want to elevate the quality of life for the Iraqi people, who bear the scars of years of hunger, violence and fear. At the same time, we must ask, what is being done to end the hunger, violence and fear that dominates the lives of far too many Americans?

As USAID makes the first down-payment of $1.7 billion that the United States has dedicated to the housing, education, health care, and the infrastructure of rebuilding Iraq, we must ask—what is the Administration's plan to "Rebuild America "?

Here at home, our schools are closing, summer school activities are being shut down, hospitals are not able to provide the health care, and state and local first responder budgets are being stretched thin.

Over the past two years, 3.1 million Americans have lost their jobs, nearly 5 million Americans have lost their health care coverage, and 2 million families that were living the American Dream have dropped out of the middle class into poverty.

This is not progress. We need a plan to "Rebuild America."

Enacting more tax cuts, as the Administration favors, is illogical. How can a $550 billion tax cut that primarily changes the tax treatment of corporate dividends stimulate the economy? How will this tax cut help state and local authorities address the shortfalls in our nation's critical infrastructure? Twenty billion dollars, as provided in the tax package, is wholly inadequate. Moreover, it is a drop in the bucket as compared to our $1.7 trillion commitment to Iraq.

Mr. Speaker, while I believe that rebuilding Iraq will be important to secure lasting peace in the region, it must not come at the expense of rebuilding America.

My colleague, RAHM EMANUEL, has introduced legislation to require that for every dollar spent rebuilding Iraq, at least one dollar is spent addressing the health care crisis in America, urgent school construction, funding for first responders, and other domestic priorities.

In looking over USAID's plans for Iraq, I cannot understand how the Administration can justify building 12,500 new schools in Baghdad, without doing anything for children in America. Today, far too many America children are forced to study in trailers because their school districts simply do not have the funds to build a new school.

How can the Administration justify providing health care services to 13 million Iraqis while 42 million Americans struggle to live without health care? It's indefensible. Why, just today, Paul Bremer, the U.S. civil administrator of Iraq, announced plans to invest $100 million to create jobs in Iraq.

IN IRAQ?

Mr. Speaker, how can the Administration justify launching this ambitious initiative in Iraq when there are thousands of workers in Western New York that have been unemployed for over two years?

Mr. Speaker, the Administration must not sit idly by and let America fall apart, just as unprecedented resources are being dedicated to reconstructing Iraq. I strongly believe that enactment of H.R. 1738 will help us make significant strides in the effort to restore this nation.

We must rebuild America. We owe it to the men and women who fought in Iraq, risking their lives to protect our homeland. We owe it to our children. We owe it to our seniors. We owe it to all Americans.

THE DEPARTMENT OF VETERANS AFFAIRS CHIROPRACTIC EMPLOYMENT ACT

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. MORAN of Kansas. Mr. Speaker, today I am introducing the Department of Veterans Affairs Chiropractic Employment Act. I do so to prompt the Department of Veterans Affairs to make chiropractic care available to America's veterans.

Currently, thousands of veterans enrolled in the VA health care system could benefit from chiropractic care. Millions of Americans use the services of chiropractors. However, veterans who are enrolled in VA's health care system are unable to receive this specialty care. Numerous studies have shown that chiropractic is an effective therapy, and can be an effective approach to low back pain, spasm, and other maladies of the spinal region, including health problems caused by the aging process and physical exertion. This bill would grant specific employment authority in VA for chiropractors as clinicians under Title 38 of the United States Code.

Signed into law in 1999, section 303 of Public Law 106–117, the Veterans Millennium Health Care and Benefits Act, required the VA Under Secretary for Health to establish a defined policy regarding the role of chiropractic care for veterans enrolled in the Veterans Health Administration. Issued almost a year later, VHA Directive 2000–014, established what the Department deemed a policy on chiropractic care. However, the Committee on Veterans' Affairs found that declaration to be woefully inadequate and less than a policy. It was a way for VA to further delay the advent of VA chiropractic services for veterans. As a result, Congress enacted section 204 of the Department of Veterans Affairs Health Care Programs Act of 2001 (Public Law 107–135). This statute required the Secretary of VA to create a program to provide chiropractic care and services for veterans who are enrolled in VA's health care system, and specified that each of VA's 21 Veterans Integrated Service Networks put at least one chiropractic care program in place. This law also required the establishment of a Chiropractic Advisory Committee within the Department, and charged the Committee to provide assistance to the Secretary in the development and implementation of the chiropractic health program the law authorized, including recommendations on scope of practice, qualifications, privileging and credentialing matters, among other factors that might influence the employment of chiropractors and the deployment of the new program nationwide.

While some progress has been made by the advisory committee on chiropractic care, the Department is now contending that formal organizational, qualification, and classification studies are needed due to VA's lack of a specified employment authority in Title 38 of the United States Code for chiropractors. Other unnamed technical and professional fields are already specifically authorized. Such an undertaking by VA may require extensive usage of resources and much time investment on the part of the Central Office, advisory committee, Office of Personnel Management staffs, as well as outside consultants. A number of Members of the House Veterans' Affairs Committee believe we can remedy this situation with the bill I am introducing today, to speed VA's decision-making on establishing chiropractic clinical care positions within the staff of the Department.

Mr. Speaker, I am pleased today to introduce this legislation that would address the authority for VA to appoint chiropractors in the Veterans Health Administration of the Department so that those veterans who are in need of chiropractic care may indeed and at last receive it in VA facilities. This bill will allow a fair compensation schedule with other comparable categorical providers already authorized in Title 38. Furthermore, this bill will permit the Secretary to appoint chiropractors on a full-time basis. Currently, chiropractors are only available to veterans on a fee or contract basis, thereby causing VA additional administrative expenses and inconveniencing the veterans who need this care. With this bill chiropractors may also be appointed to intern or residency positions, or on a part time or intermittent basis, as dictated by need. My bill will afford to chiropractors practicing in VA facilities the same privileges and responsibilities of other VA caregivers.

I urge my colleagues to support this important legislation. My bill will provide an additional, needed specialty care program for our nation's veterans, who are most deserving of this benefit.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. BECERRA. Mr. Speaker, on Monday, June 9, 2003, I was unable to cast my floor vote on roll call numbers 249, 250, and 251. The votes I missed include rollcall vote 249 on Suspending the Rules and Passing H.R. 1610, the Walt Disney Post Office Building Designation Act; rollcall vote 250 on Suspending the Rules and Agreeing to H. Con. Res. 162, Honoring the city of Dayton, Ohio for hosting "Inventing Flight: the Centennial Celebration;" and rollcall vote 251 on Suspending the Rules and Passing S. 763, the Birch Bayh Federal Building and U.S. Court House Designation Act.

Had I been present for the votes, I would have voted "aye" on rollcall votes 249, 250, and 251.

CONGRATULATING AETNA ON THE OCCASION OF ITS 150TH ANNIVERSARY

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. LARSON of Connecticut. Mr. Speaker, I rise today on behalf of the Connecticut delegation to congratulate Aetna as it celebrates a milestone. On June 14, 2003 Aetna Inc. will observe the 150th anniversary of its founding.

The year 1853 was an extraordinary one for America. Our country was 77 years old and on the brink of Civil War. Despite the strife of the times a handful of leading business, civic and cultural leaders founded a company that would evolve into Aetna Inc., one of the nation's largest health care and employee benefits companies serving over thirteen million Americans with medical coverage, over eleven million group customers and eleven million dental members, all served by over a half million health care service providers.

Since 1853 Aetna has never lost sight of its customers, always striving to meet their changing needs. The people of Aetna have been inspired by the fact that what they do is truly important: helping people protect against the risks and uncertainties of life and promising to be there when needed the most.

Today Aetna is one of the nation's premier providers of health care and related benefits, dedicated to helping people achieve health and financial security. This occasion offers us the opportunity to thank Aetna for this commitment.

It is with great pleasure that we commend the employees of Aetna for their excellence and determination with which they perform their work. In its 150 years of existence Aetna has become an indispensable asset to the people and culture of Connecticut. Its contributions to both the business world and the fabric of life in our home state of Connecticut have been tremendous. It is therefore with great appreciation that we offer congratulations to Aetna on the occasion of its 150th Anniversary and wish Aetna and all those associated with it continued success for many years to come.

TRIBUTE TO JOHN SEHE JONG HA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of John Sehe Jong Ha in recognition of his dedication to his community and his commitment to world peace.

John's life is best defined by his service to both his immediate community and the global community. John is currently an Ambassador for Peace for the Inter-religious and International Federation for World Peace. The goal of the organization is to develop world peace by harmonizing both the spiritual and material dimensions of life. He is also a member of the Global Cooperation Society Club. The goal of this group is to establish social harmony and friendship among nations around the world. Additionally, he is a member of the Advisory Council on Democratic and Peaceful Unification U.S.A New York Area Councils. The Council advises the president of The Republic of Korea on issues pertaining to the unification of North and South Korea.

John is the CEO of Korean American Senior Citizens Society of Greater New York. He is responsible for overseeing the operation for the benefit of its 2400 members. He is also on the senior advisory council of The Korean-American Youth Foundation. John also serves as president of the Korean-American Traditional Art Development Association. This organization preserves traditional Korean Art and develops talent among the 1st, 2nd and 3rd Korean generations throughout the United States. He is also the chairman of the Greater New York TaeKwon-Do Association. He is responsible for the association's membership of 300 grandmasters.

John has been honored by the Republic of Korea with a Certificate of Official Commendation and a Certificate of Appreciation. Our government has awarded him a certificate of Appreciation as well.

John came to the United States in 1956 and became a citizen in 1972. He began his professional career at McCann-Erickson Advertising, Inc. in 1962. He followed this position as the CEO/President/Producer of Korean Television Broadcasting Corporation of New York from 1974 to 1983. For his last professional job, John was CEO/President of Galaxy Children's Shoes, Inc. from 1984 to 1995. Currently, he is retired.

John is married and has two sons. He enjoys golf, table tennis, and travel. He is fluent in English and Korean and speaks some Spanish.

Mr. Speaker, John Sehe Jong Ha is committed to assisting the Korean-American community in New York and working toward world peace. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

HONORING THE LIFE OF VICENTA B. PEREDO

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Ms. BORDALLO. Mr. Speaker, I rise today to inform the House that Vicenta B. Peredo recently passed away. She was also known as "Seabee Betty" and for years she had provided a home away from home for the Seabees in Guam. She frequently held fiestas for the deployed battalions, which were always well attended, and gave her world renowned status within the Seabees. She was also annually crowned queen of the Seabees Ball. It was said that stories circulated about Seabee Betty even in Gulf Port, Mississippi.

Vicenta Peredo lived in the village of Yona, where she held these fiestas since 1951. At the fiestas she served all different types of local food to give the Seabees the experience of Chamorro hospitality and to make them feel right at home.

Even the Seabees helped to make sure the fiestas would continue when her house was damaged by a typhoon. After the roof of her kitchen collapsed, one of her daughters jokingly said that the Seabees might fix it tomorrow. It actually took the Seabees two days to fix her kitchen.

Vicenta Peredo also had fiestas that coincided with the birthdays of the Saints. She would pray for nine days, a novena, then cook a large amount of food and invite the Seabees over to enjoy the fiesta. She also wanted to give the Seabees a place to get away from the Naval Base and enjoy the rest of the island. She was a woman who always thought about the Seabees first and in return she received the rare distinction of being named an honorary Navy Seabee.

I join the Peredo family and all the people of Guam in sorrow that Vicenta Peredo is no longer with us, but I am proud to say that she touched so many people during her life. I am also very proud of the way that she reached out to the Seabees and her ability to be a great symbol of the generosity that the people of Guam have to extend to the visitors of the island.

We love you Vicenta and our thoughts and prayers are with your family. I am sure she will be remembered by the Seabees with the honor and generosity she showed them in life. She showed us all that one person can make a difference, that one person can affect many lives.

PERSONAL EXPLANATION

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. FLETCHER. Mr. Speaker, on Tuesday, June 10, 2003, had I been present for rollcall vote Nos. 252, 253, 254, 255, and 256, I would have voted the following way: Rollcall vote No. 252—"aye"; rollcall vote No. 253—"aye"; rollcall vote No. 254—"nay"; rollcall vote No. 255—"aye"; rollcall vote No. 256—"aye."

THE BENEFITS OF FACILITIES-BASED COMPETITION

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. REYES. Mr. Speaker, there is little doubt that true head-to-head facilities-based competition benefits consumers. This is certainly true in the cable industry, where prices in areas where there are two facilities-based cable systems competing head-to-head are 17 percent lower than in areas where there is only one cable system.

In the world of residential high-speed Internet access, facilities-based competition is coming. Right now, cable dominates the market. Cable serves about two out of every three broadband consumers. One reason cable dominates the market is because cable broadband is essentially unregulated, where as broadband provided by telephone companies, called DSL, is regulated as if it were regular telephone service.

The Federal Communications Commission is in the process of creating regulatory parity between the two competitors. I encourage the FCC to continue down this road towards regulatory parity among broadband providers. We are seeing the benefits of this deregulation already. For example, Verizon just announced a 40 percent price cut in the cost of their DSL product. Consumers will have a real choice between two distinct head-to-head competitors.

In the regular telephone world, however, the FCC decided not to stimulate head-to-head facilities-based competition. Instead, the FCC left in place rules that permit a competitor to use the existing telephone network at a substantial discount, up to 55 percent. The problem with this is that it lacks a sufficient incentive for a competing telephone company to build any facilities because it costs less to use the existing network at these below-cost prices. Regulatory pricing arbitrage does not result in true competition. The FCC needs to stop making the incumbent telephone companies subsidize long distance carriers' entry into the local markets. If the long distance carriers want to use the incumbent's network, they should do so at a reasonable price, not one that shifts money from the local telephone company to the long distance carriers. This system cannot be maintained.

The FCC should adopt rules that give incentives for long distance carriers and others to build their own infrastructure. Then, there will be true head-to-head facilities-based competition. Consumers will benefit with lower prices, better service and more choices.

In addition, there are national security and safety benefits to multiple networks. If one network is knocked out, communications can be routed over the other network.

I urge the FCC to adopt rules that ensure the existence of true, head-to-head facilities-based competition for all types of communications services, especially voice telephony and broadband.

IN RECOGNITION OF THE RARITAN HIGH SCHOOL BOYS BASEBALL TEAM

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. PALLONE. Mr. Speaker, I rise today to acknowledge the members of the Raritan High School Boys Baseball team from Hazlet, New Jersey in the 6th district of New Jersey. On Tuesday June 10, 2003, they completed a season of hard work and personal sacrifice with the first State Baseball Championship in school history. Two weeks prior they won their first Central New Jersey Sectional Championship in over a decade continuing their improbable underdog journey defeating Spotswood High School. The true measure of their achievement came this past Tuesday when this Cinderella story finally was granted the glass slipper. Down for much of the game, the team rallied to defeat statewide ranked Hanover Park to win the school's first ever state championship.

This occasion cannot be fully appreciated unless I recognize the graduating seniors and leaders of this gifted group of student athletes. Two of the team's coaches, T.J. O'Donnell and Tim Hildner, members of previous Raritan championship teams, returned to their alma mater to guide this team to the state championship never realized during their tenure as players. Remaining coaches, long time teachers at the school, Andrew Milewski and Robert Generelli gave this group the extra guidance that made them champions. Though the team's full potential was put into motion by the group's undisputed leaders, such as first basemen Gregory Casha, shortstop Alex Mautone, pitcher Sean Walsh, left fielder Steve Plagianakos, utility fielder Ernie Scelia, first basemen Patrick Wood, and center fielder Jared Pflug all of who which will be graduating this June, moving on to several of our state's great universities and leaving their current teammates with a title to defend. The contributions of underclassmen such as second basemen Sal Straniero, catcher Sean Hanrahan, designated hitter Ricky Russomano, center fielder Steve Bilowus, right fielder Andrew Mandeville, and third basemen Michael Nunes were the extra pieces to the puzzle that together turned a small high school on the Jersey Shore into a state powerhouse in one short season.

Today I speak to you as a proud representative of the 6th district of New Jersey due to the inspiration that these young men have contributed to the residents in Township of Hazlet. So on this day, June 11, 2003 I wish congratulations to the players, coaches, and parents of the 2003 Group II State Champions, the Raritan High School Rockets!

RECOGNIZING MEN'S HEALTH WEEK

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. CUNNINGHAM. Mr. Speaker, on May 10, 1972 I flew my 300th mission over North Vietnam. I shot down three MIGs that day to become the first Ace of the Vietnam War. Shortly after my third kill, I was hit by enemy fire and forced to eject along with my backseat, Willie Driscoll. As we parachuted down into enemy territory, I did not know whether I was going to live, die, or possibly be taken as a prisoner of war. It was indeed the scariest moment in my life—until the day my doctor looked me in the eye and told me that I had cancer.

I am one of thousands of men who was diagnosed following a simple prostate-specific antigen (PSA) test. During my annual examination in the summer of 1998, my doctor noted a slight elevation in my PSA test. He followed up with a sonogram and an MRI, neither of which revealed the disease. It was only after a prostate biopsy that it was determined that I had cancer. Following the diagnosis, in consultation with my family, I decided to pursue surgery as my treatment option. I am fortunate—early detection saved my life. My doctor was familiar with PSA results, and I had healthcare coverage for my treatments. Early detection and treatment meant the difference between life and death.

This year, 198,100 men will be diagnosed with prostate cancer and 31,500 will die from this terrible disease. But prostate cancer is only a small component of the men's health crisis: Men have a higher death rate than women do for every single one of the ten leading causes of death in this country. We're twice as likely to die of heart disease—the number one killer—and 40 percent more likely to die of cancer. Life expectancy has been longer for women than for men for several decades. Sadly, the largest part of the problem is that men do not take particularly good care of themselves. Only one-half of all men have received preventative health care services in the past year.

I am proud to work with the Men's Health Network to raise awareness regarding the need for regular health screenings, and it is an honor for me to host the annual men's health screenings on Capitol Hill. I urge my colleagues to visit the screenings, and to help me raise awareness about the fact that screenings like these can save lives.

HONORING CORNELIA GRUMMAN OF THE CHICAGO TRIBUNE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. LIPINSKI. Mr. Speaker, I rise today to pay special tribute to Cornelia Grumman of the Chicago Tribune, winner of the 2003 Pulitzer Prize for editorial writing.

A native of Evanston, a resident of Chicago, a graduate of Duke, Cornelia Grumman has graced the Chicago Tribune for many years with her thought provoking, influential editorials on the reform of the death penalty. As a veteran reporter whose journalistic prowess earned her much recognition, Cornelia was made a member of the Chicago Tribune editorial board in 2000.

Cornelia's Pulitzer citation reads: For distinguished editorial writing, the test of excellence being clearness of style, moral purpose, sound reasoning, and power to influence public opinion in what the writer conceives to be the right direction. Awarded to Cornelia Grumman of the Chicago Tribune for her powerful, freshly challenging editorials on reform of the death penalty.

Mr. Speaker, I ask that my colleagues join me in honoring Cornelia Grumman on her achievements and wish Cornelia many years of future success.

TRIBUTE TO JUAN GUILLEN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Juan Guillen in recognition of his significant and diverse contributions to his community in the fields of media, business, and arts.

Representing and reaching out to the Dominican community, Juan is currently publisher and Chief Executive Officer of the Dominican Times Magazine, La Revista Offical de Dominicanos. From his office in the East New York section of Brooklyn, New York, he heads the regional, bi-lingual publication, Dominican Times, which targets Dominican-Americans. This publication is distributed in seven states in the northeast and its voice is very influential in the Dominican-American community.

In the world of enterprise, Juan has owned and operated various businesses from 1982 through 2002 throughout Brooklyn and Queens. He has developed diverse companies, ranging from three successful dry cleaning businesses to a fitness club and a retail store for clothing and sneakers.

Juan has also made a contribution to the arts in his community through his independent feature film, "A Madness in Brooklyn." This comedy, filmed entirely on location in Brooklyn, was written, directed and produced by Juan.

Mr. Speaker, Juan Guillen has made several important contributions to his community. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

INTRODUCTION OF THE INSULAR AREAS COMMUNITY DEVELOPMENT ACT

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Ms. BORDALLO. Mr. Speaker, today I am introducing legislation that will authorize qualified public housing entities in Guam, the Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands to participate in the "Section 108 Loan Guarantee Program." Congresswoman DONNA CHRISTENSEN of the Virgin Islands and Congressman ENI FALEOMAVAEGA of American Samoa have joined me as original co-sponsors of this legislation, which is important to the economic development of the insular areas.

Currently, all qualified entitlement public housing entities in the States are authorized to apply for government-backed loans to finance long-term projects under the Community Development Assistance Act of 1974 (P.L. 93–383), which established the Section 108 Loan Guarantee Program. Under "Section 108," the States and their local governments may apply for amounts up to five times their annual allotments of Community Development Block Grant (CDBG) funding.

Guam receives CDBG funding on an annual basis from the Department of Housing and Urban Development (HUD). However, many projects for which the funding could be utilized cost more than the annual allotment. My bill would authorize the insular areas that receive CDBG funding to apply for government-backed loans to help finance more expensive long-term projects. Future CDBG grant money could then be used as collateral in the insular areas, similar to how it is currently used in several of the States.

Officials at HUD have informed me that Guam, the Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands are excluded on the basis that their CDBG grant funds are authorized under a separate sub-section from the States. My bill would clarify that States and Territories would have access to the HUD financing program irrespective of this technical distinction.

My bill, the Insular Areas Community Development Act of 2003, would strengthen the law to provide for the same flexibility for the insular areas as is currently granted to the States in using CDBG funds. Support for this bill would recognize the need for long-term financing of community development projects important to the economic progress of the insular areas, and will result in improved planning and more efficient use of limited resources.

PERSONAL EXPLANATION

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. FLETCHER. Mr. Speaker, on Thursday, June 5, 2003, had I been present for rollcall vote No. 248, I would have voted the following way: Rollcall vote No. 248 "aye".

CHILD TAX CREDIT

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. REYES. Mr. Speaker, I wish to express my deep disappointment with the tax bill recently signed into law by the President. While providing approximately $350 billion in tax cuts, this law neglects many of our hard-working, low-income families. At the same time that the bill provides tax cuts of $93,500 to the 200,000 taxpayers making over $1 million in our country, this bill leaves behind 8 million children by denying their families full access to the child tax credit.

This law fails to apply the child tax credit to some of America's neediest families—those earning between $10,500 and $26,625 per year. Of the 8 million children left behind in this tax law, one million live with parents who are on active duty service or are veterans. The children of our working families, especially those of our armed services, deserve our greatest support.

There are approximately 16,500 military families with children at Fort Bliss in my district. Anxiously awaiting news about the status of the members of the 507th Maintenance Company in late March, these families understand, more than most, what it means to sacrifice for our nation. These are the families of the brave men and women who fight to defend our freedoms, and they certainly do not deserve to be left out of this tax cut. I urge my colleagues to pass legislation immediately to extend the child tax credit to families making between $10,500 and $26,625 a year. Let us send a message to our hard-working families that they count too and that we recognize their efforts.

It is my sincere hope that we can work together to provide our hard-working families with a fair and equitable child tax credit.

IN RECOGNITION OF THE REVEREND DR. HENRY P. DAVIS, JR.

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. PALLONE. Mr. Speaker, I proudly pause to recognize an exemplary individual, Reverend Dr. Henry P. Davis, Jr. This year marks Reverend Davis's 30th Anniversary as Pastor for the Saint Paul Baptist Church of Atlantic Highlands, New Jersey. On July 13, 2003 Reverend Davis will be honored for his commitment and extraordinary service to his community over the past 30 years.

Reverend Davis's educational achievement has aided him tremendously in serving his congregation and surrounding communities. After earning his Bachelor of Science degree from Huston-Tillotson College in Austin, Texas, the Reverend went on to receive a Master of Education degree from Prairie View A&M University. He was later awarded a Master of Divinity degree from the New Brunswick Theological Seminary and a honorary Doctor of Divinity degree from Rankin's Theological Clinic. Reverend Davis is also the recipient of a Doctor of Ministry degree from Drew University.

Reverend Davis has stood out amongst his peers for his exceptional leadership skills. Over the past few years Reverend Davis has served as the Moderator of the Seacoast Missionary Baptist Association, which consists of 32 churches throughout Monmouth and Ocean counties. He is the former Treasurer of the General Baptist Convention of New Jersey and served as the Secretary of the Moderator's Auxiliary of the National Baptist Convention, for over a decade. Presently, Reverend Davis serves on the Executive Board of the Hampton University Ministers Conference and the New Jersey Council of Churches.

Reverend Davis has also devoted much of his time to various youth, community service, and civil rights organizations. He currently serves as a Trustee of the Brookdale Community College Foundation and member of the Youth Services Commission of Monmouth County. He is the Vice-President of the Monmouth County Board of Alcohol and Drug Abuse Service. At present Reverend Davis is the Chairman of the Monmouth County Minority Youth Vicinage Committee and is a life member of the NAACP. Through his work with these different groups Reverend Davis has positively influenced the lives of countless individuals.

In addition to the award he will receive on July 13, 2003 Reverend Davis has been the recipient of a number of previous awards for the remarkable work he does. Those awards include the Seacoast Association's Outstanding Service Award; New Jersey's State Federation of Colored Women's Club's Outstanding Community Service Award and Humanitarian Award; as well as recognition from the greater Red Bank NAACP.

Mr. Speaker, on this day I rise up to acknowledge a truly remarkable individual and I ask that my colleagues join me in honoring the distinguished Reverend Dr. Henry P. Davis, Jr. for his 30 years of devoted service to his community.

CONGRATULATING PACIFICARE HEALTH SYSTEMS ON THEIR 25TH ANNIVERSARY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. CUNNINGHAM. Mr. Speaker, I rise today to congratulate PacifiCare Health Systems on their 25th anniversary as one of the nation's largest consumer health organizations. PacifiCare's primary operations include health insurance products for employer groups and Medicare beneficiaries in eight states and Guam. Currently, PacifiCare has approximately $11 billion in annual revenues, and serves more than 3 million health plan members and over 9 million specialty company members nationwide with dental, vision, behavioral health and pharmacy benefit management services. PacifiCare Health Systems also operates a nonprofit organization, called the PacifiCare Foundation, that is devoted to charitable and educational causes that enhance the health, wellness and welfare of individuals, families, and the public at large.

On June 16, 2003, PacifiCare will celebrate its 25th anniversary as one of the nation's largest consumer health organizations, offering individuals, employers, and Medicare beneficiaries the best in consumer-driven health care and insurance products. PacifiCare Health Systems is also celebrating another important milestone—the 10th anniversary of the PacifiCare Foundation. The PacifiCare Foundation has donated more than 17 million dollars during the past 10 years to charitable and educational causes, with a focus on specific community needs in several areas, including: Health Promotion, Human/Social Service Programs; Senior Programs; Education Programs and Child/Youth Programs.

I take great pleasure in congratulating PacifiCare and its 7,500 employees on the occasion of its 25th anniversary of service to its beneficiaries, and I commend PacifiCare for its outstanding record of contributions to the health and welfare of the people of California.

HONORING JOHN McCORMICK OF THE CHICAGO TRIBUNE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. LIPINSKI. Mr. Speaker, I rise today to pay special tribute to John McCormick, winner of the Walker Stone Award for editorial writing from the Scripps Howard Foundation.

John McCormick is the deputy editorial page editor of the Chicago Tribune. He joined the Chicago Tribune editorial board in 2000 and was promoted to deputy editor the following year. Prior to joining the Tribune, John worked for several years as the Chicago bureau chief for Newsweek magazine.

A native of Iowa, a graduate of Northwestern University, John gained recognition for his series of editorials on how and why Chicago must respond to its high murder rate.

Once a small-town boy, John tackled big city crime head-on, proving to be a highly regarded and influential asset to Chicago's political leaders, law enforcement officers, and neighborhood groups.

Mr. Speaker, I ask that my colleagues join me in honoring John McCormick on his achievements and wish John many years of future success.

TRIBUTE TO ROLAND JEROME HILL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Roland Jerome Hill in recognition of his service to his nation and his community.

Roland was born in Mount Carmel, Lancaster County, South Carolina. He began his schooling in a one-room schoolhouse. Later, he attended Mather Academy. Through his participation in various civic and political causes, Roland has continued to learn throughout his entire adult life.

Roland also coached high school football, baseball, and track for two years as an official in the South Atlantic Colored Intercollegiate Athletic Association (SACIAA). More importantly, he served his country for three and a half years in WWII in the 183rd Aviation Engineers Battalion in the China-India-Burma theatre.

After arriving in New York he became involved in a long list of political and civic affairs. He has served his community through a wide range of activities that include: Master Plumber Licensing and Control Board; Fire Suppression Board; Vice President of the Local Two of the Hotel and Restaurant Employees Union; Vice-President of the 45th Assembly Democratic Club; Co-Chairman of the Federal Government Scatter Housing Program; Chairman of the South Shore Fair Housing Committee; Coney Island Hospital Advisory Board; Sixty on Aging; HRA Advisory Board and HRA Subcommittee on Social Services; and as an Elder in the Homecrest Presbyterian Church.

Some of the positions he has filled in the political arena include: Co-Chairman of the Finance Committee for Shirley Chisholm for Congress, Co-Chairman of the Mel Durbin and Eugene McCarthy campaign, and Director of Senior Citizen Groups in the 10th Congressional District.

Mr. Speaker, Roland Jerome Hill is committed to improving the lives of the elderly population in his community. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable gentleman.

TRIBUTE TO SUSAN S. LAFFOON

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. PORTMAN. Mr. Speaker, I rise today to recognize the outstanding service of Susan Laffoon, a friend and distinguished constituent, who is stepping down from her duties as Vice President for Public Affairs at the Greater Cincinnati Chamber of Commerce on June 13, 2003.

Susan is a Cincinnati native, graduated from the University of Cincinnati with a BA in History, and has served our community with distinction all her adult life.

For over a quarter century, Susan has dedicated herself to the Greater Cincinnati Chamber of Commerce, where her accomplishments are impressive. She began at the Chamber in 1977 as a Specialist for Minority Business Development, took over as Program Director for Leadership Cincinnati in 1978, and became Group Executive for Administration in 1982. In 1984, she was promoted to Vice President of Government and Community Affairs. Her title changed in 2002 to Vice President, Public Affairs. In 1997, Susan was appointed Acting President of the Chamber for three months. Her commitment to the Chamber and our community is outstanding. Michael Fisher, the Chamber's President and CEO, says it best: "Susan leads by example in her collaborative style, willingness to go the extra mile, and enthusiasm for her work. She has built strong relationships with key volunteers, government officials and her staff. Equally important, she has helped deliver impressive results for our region—from State Capital bill funding wins to revised environmental policies that better balance the needs of all stakeholders."

In addition to her service at the Chamber, Susan has been active with a number of other important community organizations. Past and current leadership posts include: Trustee of the United Way and Community Chest of Greater Cincinnati; Trustee of WGUC-FM; founding Trustee and officer of the Cincinnati Horticultural Society; Trustee and alumna of the Seven Hills School; Trustee of the American Red Cross, Cincinnati Area Chapter; and Trustee of the Cincinnati Arts Festival, Inc. Susan also has been Trustee of the Cincinnati Symphony Orchestra for 20 years, and has given a great deal of time (over 15 years) to the Fine Arts Fund, where she was elected a Life Trustee last year.

Mr. Speaker, I hope my colleagues will join me in recognizing Susan's many accomplishments as she steps down as Vice President for Public Affairs at the Greater Cincinnati Chamber of Commerce on June 13, 2003. I know Susan will continue to make a difference in our community. All of us in the Cincinnati area thank her for her dedication to improving our community and wish her the very best in her future endeavors.

HONORING ANDREW T. RINGGOLD

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Ms. THOMPSON of California. Mr. Speaker, I rise today to recognize Andrew T. Ringgold, Superintendent, Redwood National and State Parks, Crescent City, California, who is being honored on the occasion of his retirement after 36 years with the National Park Service.

A native of Washington, D.C., Andy Ringgold grew up in Williamsburg, Virginia and received his Bachelors Degree from Bucknell University. He began his outstanding career in the National Park Service as a Park Ranger at Sequoia National Park in California in 1967. In 1972 Andy became District Ranger at Lassen Volcanic National Park and then served as Chief Ranger at Petrified Forest National Park in Arizona from 1976 to 1979. After serving as Chief Ranger at New River Gorge in West Virginia, he became Staff Park Ranger, Division of Ranger Activities at the Headquarters Office in Washington, D.C. in 1984. In 1987 Andy Ringgold served as Chief of the Branch of Resource and Visitor Protection at the Headquarters Office and then, in 1989, became Superintendent at Cape Cod National Seashore in Massachusetts. In 1995 he assumed the duties of Superintendent at Redwood National Park in California.

In 2002, Mr. Ringgold received the United States Department of the Interior Honor Award for Meritorious Service in recognition of his contributions to the management and protection of resources at Redwood National Park. He spearheaded the use of alternative methods and partnerships to achieve park goals. He has received numerous awards in recognition of his outstanding and innovative leadership.

Andrew Ringgold has guided the management of Redwood National and State Parks, which includes three California state parks and the national park as one unit, a precedent setting agreement that has evolved into a model partnership of cooperation and efficiency. It is a model that has set the standard for similar partnerships in other regions across the nation.

Andrew Ringgold has served the National Park Service with honesty, integrity and expertise. His high standards and dedication to his profession are widely recognized.

Mr. Speaker, it is appropriate at this time that we recognize Andrew T. Ringgold for his vision and leadership and for his contributions to the preservation of the natural resources of our Nation.

WOMEN PIONEERING THE FUTURE

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mrs. WILSON of New Mexico. Mr. Speaker, in honor of Women's History Month, I asked New Mexicans to send me nominations of women in New Mexico who have given special service to our community, but may have never received recognition for their good deeds.

On Thursday, April 17, 2003, I had the honor and privilege of recognizing forty-five worthy nominations describing sacrifices and contributions these women have made for our community. The people who nominated the women describe the dedication they have witnessed: volunteer hours for veterans services, service on nonprofit boards, homeless programs, mentors for young women, healthcare providers going above the call of duty, child advocates, volunteers at churches and synagogues, successful business woman, wives, mothers and friends.

Allow me to share information about this year's nominees:

Jan Dodson Barnhart—Jan recently retired as a 30 year employee of the University of New Mexico's General Library. She has worked diligently to promote historic preservation and recognition of the cultural treasures that exist in New Mexico's built environment. She served on the Governor's committee on historical records, with the Oral History Association, and with the Albuquerque Museum Foundation.

Dian Baughman—Dian is a nurse at Paloma Blanca Nursing and Rehab Center. She works numerous hours dedicating time and service to residents of the center to ensure good care and quality of life. During her off hours, she travels the state with her husband to provide medical assistance to homeless veterans during veterans functions.

Tess Ruiz Burleson—Tess is the Chief Financial Officer for Lovelace Respiratory Research and Director of Lovelace Scientific Research. She is also an active Board Member of many community organizations, such as Next Generation Economy Initiative, Behavior Health Research, Wells Fargo Leadership Council, Performance Arts Charter School, and Magnifico/Festival of Arts.

Joann Castillo—Joann is the Library Director at Carnegie Public Library in Las Vegas, NM. Joann is very involved in community activities, such as the Las Vegas San Miguel Literacy Volunteers, Communities that Care and the Las Vegas Youth Commission. She feels that these young men and women are our future and need to be active in community events also.

Alvorn Clifton—Mrs. Clifton has provided the Trumbull Village with a legacy of working for the betterment of children, families and our community. She is a leader making a difference. As the President of the Trumbull Village Neighborhood Association, she advances the lives of children through support and guidance. Each year, she hosts Halloween, Christmas and Easter parties so the neighborhood kids have a safe place to celebrate.

Leslie Cunningham-Sabo—Leslie works tirelessly as a doctor at Pediatrics Department at UNM for obesity and diabetes prevention program which works with the pueblos and the Navajo Nation. She volunteers at Project Share, Asbury Pie Café, and for anybody that needs a helping hand.

Kathy Cyman—Kathy is an Instructor and Adjunct Faculty Member at UNM. As a teacher and practicing artist, she maintains a high standard of professionalism. She is a tireless worker and role model for women who struggle to make a living. She gives her all to her community and to aspiring educators.

Rebecca Dakota—Rebecca is the former Director of the NM Commission on the Status of Women. She is supportive of women and works diligently to address the issue of domestic violence. She has helped to make police departments around NM more aware of the problem so that training could be implemented for officers. She has worked to assist poor women with job training partnerships and scholarship assistance.

Brenda Delaurentis—Brenda is Manager of the Payroll Services and Financial Training Organization at Sandia National Labs. She has worked with "Shared Vision," spearheaded Sandia's involvement in the Science and Technology Magnet School initiative sponsored by DOE, and helped organize the first "School to World" event, a career fair targeting 8th graders. Brenda has also been a Girl Scout Leader for seven years.

Gail Doherty—Gail is the state coordinator for Project Linus, which provides handmade blankets for needy children. In her 5 years, 5000 blankets have been distributed to fire victims in Los Alamos, September 11 Pentagon families and numerous others. Each week, she visits the Senior Centers to work with the knitters and weavers to make blankets and she takes their therapy-trained dog to Carrie Tingley to visit the children.

Viola Edwards—Mrs. Edwards works tirelessly each month to provide food boxes with the Share Program for needy or low income families. Monthly, she orders 16–17 food boxes and distributes them to families that can use it. She has also collected and recycled clothing to provide for the clothing needs of children and families.

Shannon Enright Smith—As the Executive Director of Resources, Inc., Shannon has been a passionate voice for victims of domestic violence, especially for the children who witness domestic violence. In a typical day, Shannon performs duties from walking a victim through the legal system, doing interviews for local media, to testifying before the state legislature.

Deirdre Firth—Deirdre, a Senior Economic Developer for the City of Albuquerque, works tirelessly to bring economic vitality to New Mexico. She represents the City in the development of the Sandia Science and Technology Park, a public/private partnership which is bringing thousands of high-paying technology jobs to New Mexico.

Linda Flanigan—Linda has lived in Albuquerque for most of her life. She has helped teenagers with career and life decisions. She was a Brownie Troop Sponsor and she helps people recover from various addictions and through family problems through her activity and her community church.

Linda Fleisher—Linda is a Crime Free Multi-Housing Coordinator. Her inspiration and driving force were instrumental in bringing a "rebirth" to the Alta Monte Neighborhood. She has inspired many landlords to participate in the program, making great strides in improving the quality of life for the residents of the neighborhood.

Annabell Gallegos—Annabell manages the "Keep Albuquerque Beautiful/Keep America Beautiful" program for the City of Albuquerque. The department tries to change customer behavior and get the public to "recycle" and be aware of what a clean environment means for our future. Teacher and student training, field trips and community clean-ups are just a few of Annabell's many accomplishments.

Cindy Hansen—Cindy is the Resident Care Director at the Cottages of Albuquerque for Alzheimer's Specialty Care. She cares and helps the families get through the "long death." She spends what little free time she has talking to and holding the hands of residents. Her love for both the residents and their families is apparent.

Blesila Hartom—Blesila has served as a registered nurse for Presbyterian, Health South and University Hospitals for fifteen years. She is also a proud member of the Filipino-American Association, serving on several committees and participating in numerous fundraising activities. She has become a part of the Filipino Historical Society to establish a foundation that recognizes the importance of Filipino heritage.

Elizabeth Holm—Elizabeth is a computational materials scientist at Sandia National Labs. She is active in the Albuquerque Chapter of the American Society for Metals and she is a mentor of many young women in the sciences. She is very involved in the Albuquerque schools, serving as a guest science speaker, science instructor, book fair host, and debate and speech tournament judge.

Kathleen Holt—Kathleen is a Technologist in the Environmental Decisions and WIPP Support organization. As an adviser to the La Cueva Key Club, she has involved students in leadership training and strategic planning experiences as well as mentoring many of the kids. She teaches students mediation and arbitration techniques and has organized daylong experiential leadership training events for high school students.

Debbie Hughes—Debbie is the dynamic force behind the rise of the New Mexico Agricultural community to the status it is beginning to enjoy today. As Executive Director of the NM Association of Conservation Districts, she has been instrumental in bringing agricultural issues and solutions to the forefront. She has been a leader in crafting and executing this most prominent New Mexico water conservation project.

Diana Jackson—Diana is an Administrator in the Attorney General's office and she manages her tasks with skill and grace. She is also quite active in her church, First United Methodist, taking on many volunteer efforts. Through her commitment to community and church, she has become increasingly involved in the social dilemmas confronting our society and works behind the scenes to make a difference.

Elsie Kear—Elsie came to NM as an R.N. and decided to start nursing at the OB/GYN ward at the Base Hospital (run by the Army at the time). Elsie soon became acquainted with the other 3 major hospitals in Albuquerque by becoming a "Pool Nurse." One of her biggest challenges was flying out of the local airport, picking up patients in NM and Texas and bringing them back to the Veteran's Hospital in Albuquerque.

Blanche Lange—Mrs. Lange served WWI, WWII, Korea, and Vietnam veterans. She also taught nursing at Einstein Medical Center, Philadelphia, and at UNM. At the age of 84, she still provides comfort and support to all who ask. She is an Associate Professor at UNM's College of Nursing, was published in the Journal of Nursing, and she has received commendations from UNM, the VA, and other Veterans organizations.

Dr. Mary Lipscomb—Dr. Lipscomb is the chair of Pathology at the University of New Mexico. In addition, she is the principal investigator for a National Institutes of Health (NIH) Asthma Specialized Center of Research (SCOR) grant. She is an internationally recognized expert in pulmonary immunity who has mentored numerous students, fellows, and faculty.

Laurel Moore—Laurel Moore is the Project Manager for Strengthening Quality in Schools, an initiative that has improved the New Mexico K–12 education system. Laurel has worked tirelessly to improve New Mexico's schools through the use of Quality principles and the Malcolm Baldridge Criteria for Performance Excellence.

Carolyn Moralez—Carolyn has been the primary caregiver for the past two and a half years for her mother who has ALS (Lou Gehrig's Disease). This terminal illness has touched Carolyn's life so deeply that she has dedicated herself to raising money to find a cure for the disease, building awareness, and helping other caregivers cope with the life changes this disease has on its victims and their families.

Christine Morgan—Chris is a Distinguished Member of the Technical Staff Systems in the Adaptive Cyber Systems Deployment and Control Organization at Sandia Laboratories. She is a trained facilitator; a Master Trainer for adults and girls for the Girl Scouts; member of the Board of Directors for Girl Scouts of Chaparral Council; and an advisor/leader/Assistant Scoutmaster for Girl Scouts, Boy Scouts and Cub Scouts.

Tina Nenoff—Tina is a Materials Chemist at Sandia National Laboratories. She is active in mentoring numerous students through Women in Science and Engineering at the University of New Mexico. Tina served as the past President and is currently a volunteer for the Women's Community Association, helping women subjected to domestic violence. Tina also volunteers at St. Martin's Hospitality Center for the homeless.

Carolyn Olona—Carolyn is one of our nursing unsung heroines. Carolyn began her nursing career as a student nurse in September 1961 and has continued to this day in various areas of nursing. Finally, she spent the last twenty one years at Sandia Laboratory as an Occupational Health Nurse. Carolyn is a highly dedicated, professional Registered Nurse. Her focus is always the welfare of the patient, above all else.

Dr. Renee Ornelas—Dr. Ornelas examines children suspected to have been sexually abused. She has been a child sex abuse expert since 1990 and uses her expertise to ensure sex offenders are convicted and the children they scar are well taken care of. Presently, Doctor Ornelas serves as the Director of Para Los Ninos, a specialized clinic which handles the medical exams for children who are victims of sexual abuse.

Georgianna Pena-Kues—Georgianna is recognized for her years of commitment to the well-being of her neighborhood, community, and the Bataan Corrigedor Veterans Association. In addition, as a board member of the Bataan Corrigedor Veterans Association, Georgianna was instrumental in the planning, funding, and publicizing the new memorial in Bataan Park.

Wynona Ratliff—She and her late husband, Jack, were missionaries to South America for almost 20 years. In 1975, they bought Sunset Mesa Schools and turned it into one of the best private schools in New Mexico. They have been involved in a multitude of charitable and community activities including the New Mexico Boys and Girls Ranches.

Martha Romero—Martha has been nominated to be recognized as a "Hometown Hero" with KOB–TV Channel 4. She raised 9 children. She is most famous for her Annual Chili Roasting sales and the hundreds of beautiful quilts that she makes. She gives endlessly to her children, her extended family, her friends and her community.

Patsy Sanchez—Patsy serves as the Lincoln County Planning Director with tremendous responsibilities. Her greatest strength is her unwavering goal toward an accurate accounting of the water resources in the county. She urges commissioners to seek legislative allocations for water and for changing rules regarding land and water issues.

Kaye Sinclair—Kaye has held central positions in Albuquerque Radio Emergency Services, which handles all communications for any Search and Rescue emergency in the state. She has also served on the board of the Emergency Services Council, a meeting of all rescue groups in New Mexico and surrounding areas. Kaye has given at least a decade and a half to rescue and emergency service for New Mexico.

Jackie Lee Barnes Brown Soderstrom—Jackie is known for being a loving and caring person who gives of herself without asking for anything in return. She cared for her mother as she was dying and she is the caregiver to her husband. Among Jackie's accomplishments, she was crowned Miss New Mexico in 1957 and Mrs. New Mexico in 1979.

Amy Tapia—Amy is a Program Manager in the corporate Outreach Organization at Sandia National Laboratories. As the project Leader for School to World, she led a team of business and education representatives in putting on the most successful career familiarization event in the state. Amy also developed the CroSSlinks program to match Sandia scientists, engineers and technicians with schools, teachers, and students to help them appreciate the wonders of science and technology.

Tia Turco—Tia is a teacher at La Cueva High School. She works tirelessly for the benefit of others. In addition to teaching 6 classes a day, Tia serves as the sponsor and coach of the La Cueva High School Speech and Debate team. Her responsibilities include organizing a team of over 30 members.

Jennifer Wade—Jennifer works more than full-time as an officer of a locally headquartered, publicly traded technology company, SBS Technologies. She also serves on her Church's Council, prepares meals for the UNM Campus Ministry. Jennifer also donates her time to Project Share.

Patsy Welch—Patsy works on Kirtland Air Force Base. A few months ago, she noticed that some of the Security Force entry controllers (gate guards) didn't have gloves on during cold days and she felt sorry for their freezing hands. She went to Wal-Mart and bought every black pair of gloves they had and put them in her car. Now, every time she goes through the gate, if the guard doesn't have gloves, she asks if they want a pair.

Dominique Wilson—As the program coordinator for Critical Skills Development at Sandia National Laboratories, Dominique advances workforce development by merging critical skills needs of the national laboratories with the resources of APS, TVI, UNM and Sandia technical staff to create pipeline programs to benefit middle and high school students. She has established advanced learning academies for Albuquerque students, creating opportunities for post-secondary education and technical internships in math and science.

Anne Haines Yatskowitz—Anne is the President and CEO and one of the ACCION New Mexico principal founders. She served on boards of Jewish Family Services and Jewish Federation of Greater Albuquerque. She was a member of the Greater Albuquerque Chamber of Commerce Leadership Albuquerque program and she served as Chair of the Chamber's Maxie Anderson Award Selection Committee.

Elisabeth Zimmer—Elisabeth gives her time to help young pregnant girls and young mothers in Albuquerque. Following a successful career with Intel, she has done volunteer work at Maria Amadea Shelter. Last year, she started a non-profit organization to create a residential program for pregnant teens and mothers. Life Options Academy is the projected goal and it will help many young women in our community.

Lt. Katherine Zimmerman—Kate is an outstanding Air Force Officer supporting Ballistic Missile Defense development. She is the Detachment's blood drive organizer and she collected over 180 pints. She is also a Big Brother/Big Sister volunteer, and recruited 18 volunteers from UNM. Kate was the UNM Spring Storm organizer, recruiting over 700 students, faculty and alumni to perform 82 community service projects.

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of Thursday, June 5, 2003, the House voted on H. Res. 258 that provided for the consideration of S. 222 and S. 273. On House rollcall vote No. 245, I was unavoidably detained. Had I been present, I would have voted "yea."

TRIBUTE TO MARA ROSKE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Mara Roske in recognition of her dedication to improving her community through both her professional and personal endeavors.

The youngest of four children, Mara was born and raised in Brooklyn, New York. She is married and the mother of one daughter. Her interests include sewing, gardening, and cooking. Growing vegetables in her yard to use in her Southern European cuisine makes Sundays at her home a popular place for friends and family.

Mara joined the New York City Police Department in 1987, and the following year she was assigned to the 75th Precinct in East New York. She patrolled the area for ten years before entering the Anti-Crime plain clothes unit. During this time, her lieutenant noticed that she had a flair for calming certain situations and a sincere interest in community relations. It was suggested that Mara join community affairs She is currently serving East New York in this capacity.

Mara is also active in various advisory boards and community projects. She has been instrumental in closing the gap that often exists between the community and the police. She encourages her fellow officers to become more involved and concerned with community issues in the area in which they serve.

Mr. Speaker, Mara Roske is committed to making a positive difference in her community. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

HONORING CLARA CORRIN FOR 29 YEARS OF TEACHING REDLANDS SCHOOLCHILDREN

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. LEWIS of California. Mr. Speaker, I would like today to pay a special tribute to a very special teacher, Clara Corrin, who is retiring after 48 years in education—including 3 decades molding thousands of fourth graders into knowledgeable and confident youngsters at Kimberly Elementary School in my hometown of Redlands.

Clara Corrin got her start working with children even before she finished her own education, starting in 1955 as a nursery school teacher in Orange, NJ. She taught at a number of nursery schools and eventually became assistant director of the Head Start program in Springfield, MA.

Showing a lifelong dedication to improving her teaching expertise, Mrs. Corrin earned a bachelor's degree in elementary education in 1970, and went on to get her Masters of Arts in Education in 1976. She has continued her training with an administrative credential in 1977 and received a Mott Fellowship for studies in Educational Counseling at the University of Redlands.

A generation of fourth graders has now benefited from that expertise at Kimberly Elementary. Mrs. Corrin began her career with Redlands Unified as a substitute in 1972, and began full time the next year. In recent years, many of her former students, who have gone on to become doctors, lawyers, teachers and successful business owners, have been delighted to find that their own children are also in Mrs. Corrin's classroom and capable hands.

Her dedication led to a nomination for Teacher of the Year for the Redlands Unified School District in 1993, and she was appointed Summer School principal at Cram School in Redlands. Going beyond the classroom, Mrs. Corrin coordinated the district's "Here's Looking at You 2000" drug abuse prevention program, and has been an active member in the Redlands Teachers' Association and the State teachers association. She is also active in the Phi Delta Kappa and Pi Lambda Theta teachers' sororities.

Outside of the school, Mrs. Corrin has served as chapter president for the California Association of Neurologically Handicapped Children, and has been a board member for the Redlands Valley Rehabilitation Workshop. She is an active member of The Links, Incorporated and raised more than $19,000 for scholarships awarded by the San Bernardino Valley Chapter.

Mr. Speaker, the thousands of students who passed through Clara Corrin's door learned well the motto posted there: "Enter to Learn, Exit to Lead." Please join me in congratulating this exemplary leader of youth for a lifetime of public service, and wish her well in her well-deserved retirement.

INTRODUCTION OF THE INDIAN HEALTH CARE IMPROVEMENT ACT REAUTHORIZATION IN FY 2003

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. YOUNG of Alaska. Mr. Speaker, I rise today to introduce amendments to the Indian Health Care Improvement Act. I am pleased to be joined in the co-sponsorship of this measure by both Republican and Democratic members of the U.S. House of Representatives.

The Indian Health Care Improvement Act (IHCIA) became Public Law 94–437 in the 94th Congress (September 30, 1976), and was amended by:

P.L. 96–537—December 17, 1980;
P.L. 100–579—October 31, 1988;
P.L. 100–690—November 18, 1988;
P.L. 100–713—November 23, 1988;
P.L. 101–630—November 28, 1990;
P.L. 102–573—October 29, 1992; and
P.L. 104–313—October 19, 1996.

The purpose of the Act is to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging the maximum participation of American Indians and Alaska Natives in such programs, and other purposes.

The IHCIA provides for health care delivery to over 2 million American Indians and Alaska Natives. Congress enacted a one-year extension to extend the life of the Act through FY 2001 but efforts at further extensions were interrupted due to 9/11/01 events. Appropriations for Indian health have continued through authorization of the Snyder Act, a permanent law authorizing expenditures of funds for a variety of Indian programs, including health. For FY 2003, Congress appropriated $2.9 billion to help provide health care services to American Indians and Alaska Natives. The IHCIA requires Reauthorization this year.

Since 1998, the Indian Health Service (IHS) started the reauthorization process under the IHS's Tribal Consultation Policy by conveying a Roundtable to begin the discussion of the reauthorization and to give guidance to the consultation process which included all stakeholders, I/T/U (Indian Health Service/Tribes/Urban).

Coordinators from the 12 IHS areas formed workgroups of I/T/U and National Indian Health Board (NIHB) representatives. These meetings were to inform the I/T/U's about the reauthorization process, and provide opportunities to discuss and reach consensus on recommendations for the Act.

Four regional consultation meetings were held to provide further opportunities for I/T/U's to provide input, share recommendations from the 12 IHS Areas, and build consensus among participants for a unified position. The final report entitled "Speaking with One Voice" identified areas of consensus and differences.

The IHS Director convened a National Steering Committee (NSC) to be responsible for the final drafting of the report on the IHCIA recommendations. The NSC is composed of one elected and one alternative tribal representative from each of the 12 IHS Areas, a representative from the National Indian Health Board, National Council of Urban Indian Health, and the Self-Governance Advisory Committee. During the course of the 4 meetings, this group's responsibility evolved from compiling a final report of recommendations to the drafting of the actual IHCIA reauthorization bill language.

During the last year and a half, House Resources Committee, Office of Native American and Insular Affairs Committee staff, Cynthia A. Ahwinona, has traveled to "American Indian and Alaska Natives country" to observe the work of the NSC of the tribal leaders comprised to propose IHCIA reauthorization revisions to Congress. The draft bill was drafted by dozens of tribal attorneys and had technical, legal citation errors and, in some instances, was drafted very poorly and did not accomplish what was intended by the NSC.

As consensus was arrived, House Resources Committee and several members of the NSC met with House Legislative Counsel, Lisa Daly, Edward Grossman and Pierre Poisson in person and via teleconference to start the redrafting of the bill. Invited participants included both the Republican and Democratic health staff of the House Resources Committee and the Senate Committee on Indian Affairs, a representative from the National Indian Health Board, representatives of the IHS, and tribal attorneys from the NSC.

I want to personally thank Lisa Daly, Edward Grossman and Pierre Poisson of the House Legislative Counsel, Myra Munson of Sonosky, Chambers, Sachse, Endrieson and Perry, LLP. and Carol Barbero of Hobbs, Straus, Dean and Walker for all their efforts in the drafting of this bill. Thank you all, you have done a wonderful job. Attached is brief summary of each Title of the Indian Health Care Improvement Act Reauthorization of FY 03.

INDIAN HEALTH CARE IMPROVEMENT ACT REAUTHORIZATION OF FY 03

Section 1. Short Title.

Section 2. Findings. Sets forth the national goal of the U.S. in providing the quantity and quality of health services to bring the health status of Indians to the highest possible level.

Section 3. Declaration of Health Objectives. Sets forth 6 Health Status Objectives to be reached by the year 2010.

Section 4. Definitions. States the definitions of terms used throughout the Act.

TITLE I. INDIAN HEALTH MANPOWER

The purpose of this title is to increase, to the maximum extent feasible, the number of American Indians and Alaska natives entering the health professions. It also seeks to assure an adequate supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the delivery of health care to American Indians and Alaska natives. This title covers recruitment, scholarships, extern programs, continuing education, community health representatives, loan repayment, advanced training and research, nursing, tribal cultural and history, inmed, health training, incentives, residency, community health aide for Alaska, and a University of South Dakota pilot project.

TITLE II. HEALTH SERVICES

The purpose of this title is to establish programs that respond to the health needs of American Indians and Alaska natives. For example, American Indians and Alaska natives have a disproportionately high rate of diabetes (death rate for this disease is more than 300% of the rate for the U.S. population generally), so this title has a specific diabetes provision. It also includes the Indian Health Care Improvement Fund through which the Appropriation Acts supply funds to eliminate health deficiencies and disparities in resources made available to American Indians and Alaska Native tribes and communities. This title contains catastrophic health emergency fund; health promotion and disease prevention services; diabetes prevention, treatment and control; hospice feasibility; research; mental health; managed care feasibility; Arizona, North Dakota, South Dakota, Trenton and California contract health services programs; mammography; patient travel; epidemiology; school health education; Indian youth; psychology; tuberculosis; environmental and nuclear health hazards and women's health.

TITLE III. FACILITIES

The purpose of this title relates to the construction of health facilities, including hospitals, clinics, and health stations including necessary staff quarters, and of sanitation facilities for Indian communities and homes. It also would require the IHS to annually report on Indian Health Service/Tribes/Urban (ITU's) needs for inpatient, outpatient and specialized care facilities, including renovation of existing facilities. It also would require newly-constructed/renovated facilities, whenever practicable, to meet the construction standards of any nationally recognized accrediting bodies. There is also a provision to waive the Davis-Bacon when a tribe has its own wage law and performs the construction project instead of IHS.

TITLE IV. ACCESS TO HEALTH SERVICES

The purpose of this title is to address payments to the IHS and tribes for services covered by Social Security Act Health Care programs, and to enable Indian health programs to access reimbursements from third party collections. This title states that any payments received by a hospital or skilled nursing facility of the IHS for services provided to American Indians and Alaska Natives eligible for benefits under the Social Security Act Health Care programs will not be considered in determining appropriations for health care of American Indians or Alaska Natives.

Requires the Secretary to enter into agreements with tribes, tribal organizations and urban Indian organizations to assist them in enrolling qualified Indians in Medicare, Medicaid and SCHIP (State children's health insurance program), and to enable tribes to pay premiums for coverage. Authorizes the Secretary to enter into agreements with I/T/U's for receipt/processing of Medicaid/Medicare/SCHIP applications. Condition continuing approval of State Medicaid plan on taking steps to provide for Medicaid enrollment on reservations, and to obtain input from tribes in the State on matters relating to impact of changes in the State plan on Indian health programs. If tribe/tribal organizations performs outreach, the agreement may provide for 100% reimbursement of costs and assures that 100% FMAP (Federal Medical Assistance Payment) continues to apply to Medicaid and SCHIP services provided by tribes/tribal organizations who directly bill for the services they provide. Ensures that insurance companies must reimburse I/T/U's for the services they provide. Ensure that managed care plans must reimburse I/T/U's for the services they provide.

Authorize IHS and tribal programs to receive reimbursement for all Medicare Part B services and eliminates ambiguity about Medicaid coverage. Authorizes Federal/State/tribal agreements for tribal operation of Indian SCHIP programs; places a Medicare-like rate ceiling on hospital services purchased under the IHS's Contract Health Service program; directs the Secretary of HHS to study the Medicare and Medicaid payment methodology for Indian health programs and report to Congress; and directs the Secretary to establish a National Indian Technical Advisory Group to assist the Secretary in identifying and addressing issues regarding the health care programs under the Social Security Act (including medicare, medicaid and SCHIP) that have implications for Indian Health Programs or Urban Indian Organizations.

TITLE V. HEALTH SERVICES FOR URBAN INDIANS

The purpose of this title is to establish programs in urban centers to make health services more accessible to Indians who live in urban areas rather than on reservations or Alaska Native villages. The Secretary through the IHS is authorized to enter into contracts or grants to urban Indian organizations to help these agencies with establishing and administering health programs which meet the requirements of the IHCIA and will require evaluations renewals. Authorizes the establishment of an Office of Urban Indian Health which shall be responsible for carrying out the provisions of this title, providing central oversight of the programs and services authorized under this title and, providing technical assistance to Urban Indian Organizations. The bill would also extend FTCA (Federal Tort Claims Act) coverage to urban Indian organizations (Federal law already extends FTCA coverage to tribally-operated health programs).

TITLE VI. ORGANIZATIONAL IMPROVEMENTS

This title addresses the establishment of the IHS as an agency of the PHS(Public Health Service). It covers the appointment of the Director of IHS by the President and confirmed by the Senate. This title also authorizes the Secretary through the Director of IHS to establish an automated management information system as well as other duties as assigned by the Secretary for the IHS. Authorizes appropriations to carry out this title.

TITLE VII. BEHAVIORAL HEALTH PROGRAMS

This title is revised from current law (which only addresses substance abuse programs) in order to focus on behavioral health. It combines all substance abuse, mental health and social service programs in one title and integrates these programs to enhance performance and efficiency. The title addresses the responsibilities of the IHS as outlined by the Memorandum of Agreement pursuant to the section 402 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986. The IHS will determine the scope of the alcohol and substance abuse among Indian people; they must assess the existing and needed resources for prevention of alcohol and substance abuse and the treatment of Indians affected. Finally, IHS must estimate the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected. The IHS will also provide a comprehensive alcohol and substance abuse prevention and treatment programs, a rehabilitation and aftercare services, IHS youth program, and training and community education. In this section demonstration projects are outlined as well as grants focusing of Fetal Alcohol Syndrome and Fetal Alcohol effect. It also expands the authorization to establish inpatient mental health facilities in each Area. Authorizes funding for development of innovative community-based behavioral health services. The requirement of matching funds has been eliminated here. Allows the Fetal Alcohol Disorder programs to be funded under the ISDEAA (Indian Self-Determination and Education Assistance Act). Provides for a program to treat both the victims and the perpetrator of child sexual abuse. And, has been expanded to allow Indian Tribes and Tribal Organizations to obtain funding for behavioral health research.

TITLE VII. MISCELLANEOUS

The purpose of this title is to address various topics including the President's reporting of the progress made in meeting the objectives of this Act to Congress at the time of submitting the budget. It also applies the Negotiated Rulemaking Act to the development of IHCIA regulations. Other provisions require the Secretary to develop a plan of implementation to submit to Congress; describe the eligibility of California Indians for IHS services and sets out the conditions for the issue of Indian health funding as an entitlement.

AMENDMENTS TO THE SOCIAL SECURITY ACT

Amendments to the Social Security Act appear at the end of the bill. These provisions are necessary to reflect a number of the objectives described above in the Title IV summary.

HONORING THE 80TH BIRTHDAY OF SID YUDAIN

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to pay tribute to Sid Yudain upon his 80th birthday for his long, distinguished, and dedicated service to the world of journalism.

"At every dramatic turning point of our long national nightmare known as Watergate, Roll

Call was there. Sid Yudain reported the Watergate break-in a full three days before Nixon's resignation," quipped Washington's favorite political satirist, Mark Russell some twenty years ago.

Russell's dig was aimed at the man credited with discovering him, Sid Yudain, founder, publisher, editor, and even occasional delivery boy of Capitol Hill's own newspaper, Roll Call. This weekend Mark and his wife Ali will host—and perhaps roasting—Sid at a party celebrating his 80th birthday.

Sid, who spent several years in Hollywood following World War II as a columnist and raconteur for movie stars, came to Washington in the early 1950's to work as press secretary for Congressman Al Morano of his home state of Connecticut. He soon noticed a general lack of information about the happenings of the Capitol Hill community. In 1955, Sid was inspired to create his own newspaper, Roll Call, when he overheard an Ohio Congressman's shocked exclamation at learning that a member of his state legislation had passed away.

As Mr. Yudain envisioned it, Roll Call was not to be a newspaper about Capitol Hill, but as its masthead boldly proclaimed, "The newspaper of Capitol Hill." Judging by the names of those, including Members of Congress and staffers, who contributed early columns and stories to the newspaper, it lived up to the assertion. Vice President Richard Nixon insisted on writing a piece about a doorman who had passed away, and Senate Majority Leader Lyndon Johnson related through the pages of Roll Call his experiences and thanks following his recovery from a recent heart attack.

Throughout the 32 years that Sid owned Roll Call, the paper chronicled life on the Hill and promoted a community spirit where Members and staffers of all political persuasions could come together to celebrate their common service to the American people. Roll Call nurtured clubs and organizations, issued the "Outstanding Staffer" award each year, sponsored Congress' annual baseball game, and gave gifted and often famous writers of all backgrounds the opportunity to inform and entertain arguably the most influential readership on the planet.

In 1988, after owning Roll Call for over 32 years, Mr. Yudain sold his newspaper in order to devote more time to his family, friends, and saxophone.

Mr. Speaker, I heartily commend Mr. Sid Yudain for his initiative and his commitment to serving his government and his country. His distinguished career is truly impressive and inspiring. I wish Mr. Yudain all the best on his 80th birthday and many more to come. I call upon my colleagues to join me along with Sid's wife Lael, their children Rachel (and husband Amar Kuchinad) and Raymond, and family and friends in applauding Sid Yudain for all he has done.

IN CELEBRATION OF FOSTER'S DAILY DEMOCRAT'S 130TH ANNIVERSARY

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. BASS. Mr. Speaker, I rise today in honor of the management, staff, and readers of Foster's Daily Democrat as they prepare to celebrate the newspaper's 130th anniversary. Since June 18, 1873, Foster's Daily Democrat has provided readers with credible, fair, and balanced coverage of local, state, and national news and world events. Foster's Daily Democrat currently serves residents of Southeastern New Hampshire and Southern Maine.

For five generations, the Foster family has operated in the public's interest by providing extensive coverage of the local community. The paper's thorough local coverage, thoughtful editorials, and the family's involvement in the community it serves have helped Foster's Daily Democrat thrive for 130 years as an independently owned and operated newspaper, which is a laudable achievement in an industry dominated by major media chains.

I commend the Publisher, Robert H. Foster; his wife and Editor, Therese Foster; their daughter and Vice President of Administration, Patrice Foster; and all members of the Foster Family and their employees for the service they have provided to their readers through 130 years of daily publication. I offer them my sincere congratulations on this momentous occasion and I look forward to their continued success.

HONORING SERGEANT NORM ROSS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Sergeant Norm Ross, on the occasion of his retirement from the Mariposa County Sheriff's Department. His retirement will be honored on July 12, 2003 at a community event in Coulterville.

Sergeant Ross has been a dedicated community servant since 1960. Norm was educated in Los Angeles and in 1960 joined the Army National Guard. He began to work in law enforcement in 1963 for the L.A. Police Department until 1983. After a short retirement from the police department, he returned to help others and began to work in the Mariposa County Sheriff's Department. He worked with the department to make sure the community was involved in their safety and quality of life. Norm became a Sergeant in 1986, because of his undying commitment to the people of North County. One of the many reasons he received the promotion came from his evaluations which stated, "When it comes to intervention and prevention, Norm established a standard that is unmatched in the department." A leader in Mariposa County, Sergeant Ross has been an active member of the community and is very deserving of a comfortable retirement. We are truly grateful for everything he has accomplished.

Mr. Speaker, I urge my colleagues to join me in recognizing Sergeant Norm Ross for his significant and steadfast efforts for the betterment of Mariposa County.

TRIBUTE TO AL DAVIS

SPEECH OF

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. KLECZKA. Mr. Speaker, on May 30th the House of Representatives lost one of its most brilliant and dedicated employees when Al Davis died of complications resulting from a traffic accident. We remember him today and offer our sincere condolences to his family, loved ones, and especially his long-time companion Mary Bielefeld.

As my colleagues before me have attested, the facts and figures produced by Al Davis have provided an immeasurable benefit to the Democratic Members of the Ways and Means Committee—and often proved to be a thorn in the side of my friends across the aisle. What most of my colleagues don't know is that I was the beneficiary of Al's budgetary wisdom long before he came to Washington to work on the staff of the Ways and Means Committee or the House Budget Committee before that. In the late 1970s when I served as Chairman of the Wisconsin Legislature's Joint Committee on Finance Al was toiling away as an economist for the Wisconsin Department of Revenue.

In his work for the Ways and Means Committee Al himself was often unseen and unheard by the public, but the information he produced was routinely cited in the media. Not only did Al author remarkably insightful memos and produce easy-to-understand charts for us to use in debate on the floor and in the Ways and Means Committee, he frequently briefed reporters and opinion leaders about the effects of arcane budget and tax matters before Congress. Even though Al routinely prepared Ranking Member RANGEL and numerous other Members of Congress for television and radio interviews, I'm sure that his most proud achievement was coming up with the chart I used in my Spring 2001 newsletter to the constituents of Wisconsin's 4th District.

Al Davis was a kind and public-spirited man whose good work in this institution will not soon be forgotten. He was an expert in his field and earned the respect of his colleagues through his thoughtful analysis and wise counsel. Al simply had an answer for every conceivable question. One of his greatest attributes was his skill at explaining how tax and budget proposals would affect the working families and average Americans that we represent.

His dedication to his work was unmatched. He would often e-mail memos to staff late into the night so that Members of the Committee would prepared for debate first thing in the morning. The Ways and Means Committee and this Congress as a whole will be at a loss without his vast expertise.

I am proud to stand with my colleagues in the House today to honor and recognize the career of our friend Al Davis. His integrity, character, and expertise in all matters related to the tax code and the federal budget will be sorely missed by this body.

TRIBUTE TO GUADALUPE SANCHEZ DE OTERO

HON. STEVAN PEARCE

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. PEARCE. Mr. Speaker, I rise today to acknowledge the work of Guadalupe Sanchez de Otero, the director of the Andrew Sanchez Memorial Youth Center. Ms. Otero was recently selected as a 2003 Robert Wood Johnson Community Health Leader. She was one of ten people nationally to be selected for this prestigious award, which includes a grant of over $100,000 to enhance her work.

Ms. Otero is the founder and director, without pay, of the Andrew Sanchez Memorial Youth Center in Columbus, New Mexico. The center provides a safe play space for local children, many of whose parents are farm laborers who work long hours and cannot afford childcare. The center's programs also include health fairs, community meetings, sewing classes, and craft activities. Ms. Otero expanded the center's services when she saw growing numbers of senior residents suffering from isolation and poor nutrition. To combat this problem, she and her mother cashed in hundreds of aluminum cans to be able to serve seniors hot meals at the center. They also organized young people to deliver food to homebound seniors.

Ms. Otero founded the center in 1996 in an old fire station after launching the Health Promotores program in 1995. Through her work with the Health Promotores program, Ms. Otero quickly saw the many needs of the rural area on the U.S.-Mexican border, an area where more than half of the families live below the poverty line.

In addition to founding the Andrew Sanchez Memorial Youth Center, Ms. Otero helped launch a mobile health clinic, created a bilingual support group for diabetics, provided farm worker health and pesticide safety education, and assisted with the effort to turn around an abandoned tavern into the Columbus Public Library.

Mr. Speaker, I am honored to congratulate Ms. Guadalupe Sanchez de Otero on this well-earned distinction, and express my gratitude for her determination and leadership. I commend Ms. Otero and her staff for the hard work they continue to perform, and I am proud to recognize her today before my colleagues a model of commitment to human service.

Ms. Otero's nominator for the award put it best by saying, "Lupe doesn't just talk about what's needed, but rather recognizes it and takes action in her own special way."

RECOGNIZING CLEVELAND, TENNESSEE AS "FLAG CITY"

HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. WAMP. Mr. Speaker, I rise today to honor the city of Cleveland, Tennessee, which I have the awesome privilege to represent and join them in celebrating the upcoming Flag Day ceremonies on June 14th.

Beginning in the late 1800s, communities across the nation began envisioning a special day for celebrating our flag and the freedoms we enjoy as Americans. In 1949, President Harry Truman signed a Congressional Resolution designating June 14th of each year as Flag Day.

The "Stars and Stripes" is a symbol to the world of the eternal principles that our nation was founded upon. Our flag is also a powerful reminder that our freedoms and liberties exist only because of the incredible sacrifices made by countless Americans in defense of our country. It is for that reason we must honor and pay tribute to our flag.

I invite my colleagues to join me in commending the work of a very special group of individuals from Cleveland, Tennessee who came together as a community to find a truly patriotic way to celebrate Flag Day. Members of the Cleveland Kiwanis Club raised over $22,000 from community businesses and volunteers and organized efforts to fly over 500 American flags on the streets of Cleveland.

It is a humbling sight and a perfect tribute to America and to the veterans who defended her. When a noble idea is coupled with a dedicated group of people—great things can happen.

I would like to personally thank Mayor Tom Rowland, State Senator Jeff Miller, State Representatives Dewayne Bunch and Chris Newton, the Cleveland Kiwanis Club, and the citizens of Cleveland and Bradley County, Tennessee for their efforts in this endeavor. It is an honor to represent and serve a "flag city."

HONORING THE 50TH WEDDING ANNIVERSARY OF JOSEPH AND CLARA LEE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. GORDON. Mr. Speaker, I rise today to congratulate Joseph and Clara Lee for 50 years of marriage, a remarkable milestone and testament to their love for each other. The Nashville, Tennessee, couple will celebrate their 50th wedding anniversary on July 12.

Joseph and Clara's marriage has been blessed. They have five children, six grandchildren, one great-grandchild, five step-grandchildren and six step-great-grandchildren, as well as countless friends. The Lees place a strong emphasis on family and friends, which is evident in their everyday deeds. And they made sure each of their children had the opportunity to get a college education, with all five receiving college degrees. And they have striven to help friends in any way they could.

Joseph was a longtime educator and counseled many children during his work with several youth programs over the years. Clara helped countless people during her work as a nurse. Both are very active in their church and community and have garnered a wealth of respect along the way.

I cordially congratulate Joseph and Clara for their commitment to one another, their family and their community. All of us should follow the example of Joseph and Clara, whose entire existence exudes compassion, loyalty and service to others. I wish them the very best on their 50th wedding anniversary and hope more of us can follow in their footsteps.

TRIBUTE TO COACH LELAND YOUNG

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise to pay tribute to the life and accomplishments of Mr. Leland Young of Rosedale, Mississippi. He dedicated his life to serving Mississippi's local youth athletes for 61 years.

Mr. Young was born July 28, 1941, in Ripley, Mississippi to Leland and Willie Young. He married Mary Katherine Jacob of Clarksdale on June 6, 1964. Together they had one daughter.

During his coaching career he built an impressive record of 221–63–2. He led Rosedale High School to four North Mississippi State Championships and three State Championships in football. His team also won the Delta Valley Conference Football Championship. At the time of his retirement, Rosedale High School held the state record for the most consecutive wins.

Mr. Young also led the track team to a State Track Championship in 1983. He won the "DVC Track Coach of the Year" award in 1983 and the "State Track Coach of the Year" award the same year.

Mr. Young was inducted into the Delta State University Alumni Coaches Hall of Fame in 1999 and the Mississippi High School Coaches Hall of Fame in 2001. The Phi Beta Sigma Fraternity awarded him in 2001 with a plaque for distinguished service rendered in the field of sports. He was the 2002 Bolivar Commercial Coach of the Year and was in The Bolivar Commercial Quarter Century Club in 2000. He was also Co-Coach of Year for the Delta Democrat Times in 2002.

He was an avid golfer and outdoorsman. He was a member of the Delta State University Athletic Alumni Association, Mississippi Association of Coaches, Donaldson Point Hunting Club, Rosedale Country Club and Rosedale Methodist Church. Mr. Leland Young will be dearly missed by his community.

INTRODUCING THE CHILD PROTECTION SERVICES WORKFORCE IMPROVEMENT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. STARK. Mr. Speaker, I rise today to introduce the Child Protection Services Workforce Improvement Act. This bill is aimed at helping states improve their child protection services through grants and assistance that allow them to expand and enhance their child welfare workforce.

Many State child protection agencies are the last line of defense in caring for abused and neglected children. Today, these agencies are suffering from staffing problems that have been compounded by budget cuts and inadequate funding. The result in many cases is a failure to meet the needs of the most vulnerable children in our society.

I am sure that many of my colleagues have seen in their local newspapers or heard of a case where a child was severely abused or killed because a child protection agency ignored dangers posed to a child by their foster family or adoptive parents. Just look at the case of Indiana. A total of 70 kids died there from abuse and neglect in July 2001 to July 2002—this was a new State record. The U.S. Department of Health and Human Service Children Family and Service Review found that the cause of this was in part due to the state child protection agencies failure to sufficiently reduce incidences of repeated mistreatment. It also warned that state budget cuts will further impact Indiana's limited ability to track such incidences.

In Colorado, State budget cuts have reduced the size of foster care review teams to the point that the State won't be able to meet federal requirements that foster children be checked on at least twice a year. In Arizona, budget cuts there have led to 32 percent of children in State custody being stuck in temporary placements for over 2 years. In South Carolina, some 500 positions in the State's social service agency—many involving child welfare—have been zeroed out. The same is true for many other States. There is no question that States need federal help to improve their ability to help and care for children in need.

These nationwide problems are why I am introducing the Child Protection Services Workforce Improvement Act. It provides States with $500 million in matching grants over 5 years to improve these services where it is needed most: Increasing the number of qualified child welfare workers. States can use these matching grants for their private and public child welfare agencies to: Reduce the turnover and vacancy rate of child welfare agencies, increase education and training of child welfare workers, attract and retain qualified candidates and coordinate services with other agencies, improve child welfare workers' wages, and increase the number of child welfare workers,

To retain qualified child welfare workers, my bill also allows student loan forgiveness for those who have been with an agency for at least two years. In order to improve the availability of quality services, this legislation provides a 75 percent federal match to pay for training of private child welfare workers, which is the same match rate provided to public child welfare agencies. My bill also allocates funding for child welfare agencies to provide short-term mental health training to caseworkers.

A recent General Accounting Office (GAO) report found that child welfare workers are leaving the child welfare profession because of low wages, risk of on the job violence, staff shortages, high caseloads, administrative burdens, lack of support from supervisors, and lack of proper training for child welfare workers and their supervisors.

The high turnover rate and high caseloads of child welfare workers limits the ability and efficiency of agencies to investigate and solve problems of child abuse and neglect. For instance, the study found that the above staff problems: Provides insufficient time for remaining staff to establish critical trusting relationships with the families and children which are important to make the necessary decisions to ensure safe and stable permanent placements; delays the timeliness of child abuse and neglect investigation; limits the frequency of worker visits with children who are the victims or alleged victims of child abuse or neglect; and hampers agencies' attainment of some key federal goals of ensuring the safety of children and placing them in permanent homes either through adoption, kinship care or reuniting them with their families.

The Child Welfare League of America, the Alliance for Children and Families, the National Association of Social Workers, the Lutheran Services in America and the Catholic Charities of America have endorsed this bill. These organizations understand the needed support this legislation will provide State efforts to help abused and neglected children.

Please join with us in supporting the Child Protection Services Workforce Improvement Act and provide much needed financial resources to our child welfare workforce to protect the most vulnerable children in our society. Congress has a responsibility to respond to this urgent need.

RECOGNIZING SCIENTIFIC SIGNIFICANCE OF SEQUENCING OF HUMAN GENOME AND EXPRESSING SUPPORT FOR GOALS AND IDEALS OF HUMAN GENOME MONTH AND DNA DAY

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Ms. JACKSON-LEE of Texas, Mr. Speaker, let me join in with the gentleman from Florida and the gentleman from Ohio for their wisdom in bringing this legislation to the floor, and certainly to the gentlewoman from New York, who I enthusiastically join, along with the gentleman from Louisiana and the gentleman from Michigan on this important legislative initiative.

H. Con. Res. 110 is a resolution that helps to educate our colleagues but also it speaks truth to the American people, and gives due recognition to a great accomplishment for humankind. As a member of the House Committee on Science, we spent many, many hours on the question of the human genome and the Human Genome Project in particular. Sequencing of the human genome as one of the most significant scientific accomplishments of the past 100 years and expressing support of the goals and ideals of the Human Genome Month and DNA Day really is a statement about life.

It is a statement about the ability of the new science to be able, Mr. Speaker, to understand life, to help us understand where we came from, and how we fit into the world. It will also create improved health where that was not a possibility 10, 15, or 50 years ago.

It is crucial as the human genome project achieves its goal, and the essential completion of the reference sequence of the human genome carrying, that we begin to put our new knowledge to work. This has been a great investment, and the payoffs should benefit all of the American people. However, we must move thoughtfully and cautiously. One of the challenges that we have in this Congress is the whole question of human cloning. It is important not to equate these projects—research on the human genome DNA with the idea of the creation of a human being. We can have one without the other. We should not be so afraid of creating monsters, that we do not attempt to create cures.

It is important now as we have begun or understand the sequence that we allow this project to grow and to be utilized to help us determine the cures for diseases such as Parkinson's, Alzheimer's disease, diabetes, stroke, and yes, HIV/AIDS. The more we understand about the human being and its makeup, the more we can create a better way of life.

We well know of our renowned fictional character Superman. Christopher Reeves, who was the embodiment of the man of steel, has become a different kind of superman today. He may be in a wheelchair, but he is still making great bounds, trying time after time with a number of efforts to find the cure for those who suffer spinal injuries, some of the most devastating injuries that we will face. As we look to the wounded who will be coming home from the war in Iraq and Afghanistan, they will be coming home with major injuries, some continuing to be life-threatening. The greater knowledge of our ability to be able to respond to those kinds of devastating injuries, physical injuries through weapons, the better off we will be. The more we can find a way to determine and fight against the war against bioterrorism, the better off we will be. Advances in these and many other fields will hinge on our ability to understand and manipulate the human genome and its products. That is why the Human Genome Project was such a great accomplishment, and why we should continue to draw attention to this critical research through Human Genome Month and DNA Day.

This is an excellent resolution, Mr. Speaker, because it educates my colleagues and educates the public.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. ORTIZ. Mr. Speaker, due to business in my district, I was unable to vote during the following rollcall votes. Had I been present I would have voted: No. 244—"no"; No. 245—"no"; No. 246—"yes"; No. 247—"yes"; No. 248—"yes."

* * *

TRIBUTE TO THOMAS N. JACOBSON

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. BACA. Mr. Speaker, I rise to pay tribute to Thomas N. Jacobson, who recently won the Rabbi Norman F. Feldheym Award for service to our community. Mr. Jacobson is an individual of great distinction, and we join with family and friends in honoring his remarkable achievements and expressing pride in this recognition that has been afforded to him.

Thomas is a remarkable individual who has devoted his life to helping people throughout his community. His kindness and passionate spirit render him a vital resource to his congregation and beloved community member.

For the past 25 years, Thomas has dedicated himself to the Congregation Emanu El, serving as Commission Chair, Legal Counsel, member of the Board of Managers of the Home of Eternity Cemetery, Secretary, Treasurer, Vice President, and President. In these capacities, he has been an integral contributor to the management and administration of Congregational affairs, as well as a participant in raising crucial funds for the Congregation.

In addition to these contributions, Thomas has been a partner in the firm of Gresham, Savage, Nolan & Tilden, receiving the highest possible evaluation of his profession for integrity and performance, and has taken a proactive approach to leadership in the community.

Through his participation in countless activities and committees, Thomas has exhibited kindness, love, humility, and a deep resolve to ameliorate all aspects of community life, so it is only appropriate that he receive Rabbi Norman F. Feldheym Award.

I join today with his wife, Lorie, and his daughters, Jolene and Gretchen, in their joy at this wonderful honor he has received. He is a symbol of all that is good in his profession and an inspiration to his community.

And so, Mr. Speaker, we salute Thomas N. Jacobson. We express admiration he has received this wonderful and well-deserved honor and hope that others may recognize his good works in the community.

REMEMBERING MR. ALDO PINESCHI, SR. OF ROSEVILLE, CALIFORNIA

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. DOOLITTLE. Mr. Speaker, today I wish to remember and honor an outstanding citizen, Mr. Aldo Pineschi, Sr., from the City of Roseville, California. Following a lifetime of dedication to family and community, Aldo Pineschi passed away on May 30, 2003. He was 79 years old.

After his parents emigrated from Northern Italy and settled in Chicago, Aldo was born in the Windy City in 1924. Three years later, the Pineschi family relocated to Roseville, which would remain Aldo's home for the rest of his life. Shortly after graduating from Roseville High School in 1942, he served in the United States Army during World War II in England and France. He returned home in 1945 and wed Claire Bertolucci a year later.

Aldo began his professional life by going to work for the Pacific Fruit Express (PFE) railroad just as his father did. During the nearly 20 years he was with PFE, he also helped raise his four children and attended college. He first attended Placer College (now Sierra College) and eventually completed his degree at California State University, Sacramento. He then went to work for Aerojet for several years.

In 1965, Aldo became the Personnel/Purchasing Manager for the City of Roseville. Then, from 1970 until his retirement in 1980, he served as Roseville's Assistant City Manager. In this capacity, he helped set the stage for Roseville's transformation from a once-sleepy railroad town to what is now a vibrant, well-planned community with award-winning parks, law enforcement, and city management. The City is also home to nationally-recognized, high-performing public schools. Its railroad past blends with its newer high-tech industry and thriving commercial centers. Its residential areas include dynamic new developments as well as historic neighborhoods. In short, Mr. Speaker, Roseville is a model community with a high quality of life and a bright horizon, and Aldo's vision and hard work are a large part of the reason why.

In addition to his professional accomplishments, Aldo left a legacy of volunteer service. Many remember his years-long participation with the George Buljian Cooking Crew, a group of community leaders headed by a former mayor, who helped raise over one million dollars for local charities by serving up steak dinners.

Aldo also played an active role in shaping local politics, helping to elect numerous candidates to local offices. In the late 1950s he himself served on the Roseville Joint Union School District Board of Trustees. He also made a run for the California State Senate, and in 1962, fell just 78 votes shy of becoming Placer County Clerk. His involvement in and discussion of politics was one of his loves.

However, his truest love remained his wife of 57 years, Claire. She survives him, along with their four children and seven grandchildren. These include daughter Leah and son-in-law Mario; son Alan and daughter-in-law Susan; son Aldo, Jr. and his wife Lesli; son Neil; and grandchildren Howard and Gina Gibson; Matt, Michael, and Alina Pineschi; and Evangeline and Anthony Pineschi.

Today, I join with Aldo Pineschi, Sr.'s family, friends, and community to commemorate his life of committed service, good citizenship, and uncommon decency. May he rest in peace.

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IN RECOGNITION OF VIC SOOD ON HIS SERVICE TO THE LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mrs. TAUSCHER. Mr. Speaker, I rise to pay tribute to Vic Sood, General Manager of the Livermore Amador Valley Transit Authority (LAVTA), as he prepares to retire after 32 years of service in public transportation. For his unyielding commitment and dedication to running what has become one of the most effectively operated transit agencies in the entire Bay Area region, I would like to thank my good friend Vic Sood. The skillful craftsmanship of his work will endure far into the future.

Before moving to California, Vic Sood made many contributions to the public in the state of Washington. He was responsible for getting transit legislation passed into law in 1974 and 1975, which allowed for the formation and financing of new public transit systems, known as Public Transit Benefit Areas.

In September 1976, Vic Sood was appointed to serve as the first Executive Director of Community Transit after voters in Snohomish County, Washington, approved a sales tax increase to finance the Snohomish County Public Transit Benefit Area Corporation in June of that year. As a result of the legislation which he had labored to get passed, many new transit agencies were likewise created throughout the state of Washington.

While Executive Director of Snohomish County Community Transit, Vic Sood also served as President of the Washington State Transit Association in 1982 and 1983 and served as a regional representative to the American Public Transit Association's (APTA) Board of Directors in 1983 and 1984.

Subsequent to the formation of LAVTA in May 1986, as a Joint Powers Agency of the cities of Dublin, Pleasanton, Livermore and Alameda County for the provision of public transit in the area, Vic Sood was hired as the General Manager and started work in January 1986.

LAVTA began operating with only nine leased buses in 1986. Under Sood's management and with a quickly growing Livermore Valley, the system expanded to meet the area's needs and by 1990 the agency had placed an order for 34 new buses. By 1996, LAVTA was serving one million passengers each year. In 2001, it was two million. LAVTA has grown to a fleet of 75 buses and 16 paratransit vehicles during Vic Sood's tenure.

Currently, Vic Sood serves as a member of APTA's Legislative Committee, Transportation

Equity Act for the 21st Century (TEA–21) Task Force and the Small Operators Steering Committee. He is also a member of the Legislative Committee of the California Transit Association and a Board Member of RIDES for Bay Area Commuters, Inc., the San Francisco Bay Area Partnership Board and California Transit Insurance Pool.

It has been my great pleasure to have worked with Vic Sood over the past seven years on transit issues both local and regional in perspective. He has been a supportive colleague and a good friend. I wish him and his wife, Manu, good fortune in their future endeavors together.

Vic Sood has made a substantial and positive impact upon those communities for which he has worked during his remarkable career. He has been an invaluable servant to the public. His tireless efforts will not soon be forgotten by those who worked with him or for him. It is with honor that I commend Vic Sood for his service to the community and to the Livermore Amador Valley Transit Authority for over 17 years.

COMMENDING BARRY B. ANDERSON, DEPUTY DIRECTOR, CONGRESSIONAL BUDGET OFFICE

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. NUSSLE. Mr. Speaker, I rise today to pay tribute to the longtime and exemplary public service of Barry B. Anderson, Deputy Director of the Congressional Budget Office, CBO. Barry is leaving CBO to pursue new challenges as a fiscal advisor to the International Monetary Fund.

Barry has been involved in Federal budgeting and program evaluation for more than 30 years. He began his career in 1972 with the General Accounting Office. In 1980, he moved to the Office of Management and Budget, OMB, where he was a budget examiner for various programs. In 1988, he was promoted to the senior career civil servant position in OMB, which he held for 10 years. He was responsible for directing the analysis and the production of the President's budget under the administrations of Presidents Reagan, Bush, and Clinton.

In 1999, Barry joined CBO as the Deputy Director under Dan L. Crippen. In that capacity, he directed the operations of the agency, helping CBO to build a stronger staff, obtain better access to data, and improve administrative processes. He testified on budget trends and conceptual budget issues, and represented the United States at the Organization of Economic Cooperation and Development. In January of this year, Barry served briefly as the Acting Director of CBO.

During his tenure as CBO's Deputy and Acting Director, Barry's expertise, experience, and broad knowledge of the Federal budget proved invaluable to the Budget Committee and to the Congress. Barry has built a reputation as a staunch guardian of budgetary integrity and honesty. He has helped to oversee CBO during a tumultuous period of Federal budgeting, and his advice and counsel will be greatly missed. So, on the occasion of Barry Anderson's departure from CBO, I want to commend his many accomplishments and wish him well in the new challenges that await him in the next phase of his distinguished career.

PAPERWORK AND REGULATORY IMPROVEMENTS ACT OF 2003

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. OSE. Mr. Speaker, today, I rise to introduce a bill entitled the "Paperwork and Regulatory Improvements Act of 2003." I am pleased to have six other original co-sponsors of this bi-partisan legislation, including: JOHN TANNER; TOM DAVIS, Chairman of Government Reform Committee; DENNIS MOORE; BILL JANKLOW, who is the Viçe Chairman of my Subcommittee; JIM MATHESON; and, PAUL RYAN. The bill includes legislative changes to: (a) increase the probability of results in paperwork reduction, (b) assist Congress in its review of agency regulatory proposals, and (c) improve regulatory accounting.

Background: In Fall 2001, the Small Business Administration released a report which estimated that in 2000, Americans spent $843 billion to comply with Federal regulations. This report concluded, "Had every household received a bill for an equal share, each would have owed $8,164." The Office of Management and Budget (OMB) estimates the Federal paperwork burden on the public at over 8 billion hours. The Internal Revenue Service (IRS) accounts for 81 percent of the total. In its March 2002 draft regulatory accounting report, OMB estimated that the price tag for all paperwork imposed on the public is $230 billion a year.

Because of Congressional concern about the increasing costs and incompletely estimated benefits of Federal rules and paperwork, in 1996 Congress required OMB to submit its first regulatory accounting report. In 1998, Congress changed the annual report's due date to coincide with the President's budget. Congress established this simultaneous deadline so that Congress and the public would have an opportunity to simultaneously review both the on-budget and off-budget costs associated with each Federal agency imposing regulatory or paperwork burdens on the public. In 2000, Congress required OMB to permanently submit an annual regulatory accounting report. This provision requires OMB to estimate the total annual costs and benefits for all Federal rules and paperwork in the aggregate, by agency, by agency program, and by major rule, and to include an associated report on the impacts of Federal rules and paperwork on certain groups, such as small business.

From September 1997 to February 2003, OMB issued five final and one draft regulatory accounting reports. All six failed to meet some or all of the statutorily-required content requirements. Part of the reason for this failure is that OMB has not requested agency estimates for each agency bureau and program, as it does annually for its Information Collection Budget (paperwork budget) and for the President's budget (fiscal budget).

In 1980, Congress passed the Paperwork Reduction Act (PRA) and established an Office of Information and Regulatory Affairs (OIRA) in OMB. By law, OIRA's principal responsibility is paperwork reduction. It is responsible for guarding the public's interest in minimizing costly, time-consuming, and intrusive paperwork burden. In 1995, Congress passed amendments to the PRA and set government-wide paperwork reduction goals of 10 or 5 percent per year from Fiscal Year (FY) 1996 to 2001. After annual increases in paperwork, instead of decreases, in 1998 Congress required OMB to identify specific expected reductions in FYs 1999 and 2000. OMB's resulting report was unacceptable. In response, in 2000, Congress required OMB to evaluate major regulatory paperwork and identify specific expected reductions in regulatory paperwork in FYs 2001 and 2002. Again, OMB's resulting report was unacceptable. The bottom line is that, despite explicit statutory directives to reduce paperwork burden on the public, there have been seven years of increases in paperwork burden.

Since I became Chairman of the Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs in 2001, my Subcommittee has held multiple hearings that form the basis for the provisions in the bill. These include a March 11, 2003 hearing entitled "How To Improve Regulatory Accounting: Costs, Benefits, and Impacts of Federal Regulations," and an April 11, 2003 hearing entitled "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" The witnesses at these hearings made several thoughtful recommendations, which are reflected in the bill.

Bill: My bi-partisan bill makes improvements in processes governing both paperwork and regulations. With respect to paperwork, the bill requires OMB to have at least two full-time staff working solely on tax paperwork reduction. Currently, there is only one OMB employee working part-time on tax paperwork even though IRS accounts for over 80 percent of all government-imposed paperwork. In July 2002, the Appropriations Committee included a directive to OMB in House Report 107–575, which accompanied its 2003 Treasury-Postal Appropriations bill, to focus more of OMB staff attention on reducing IRS paperwork. In addition, I have repeatedly asked OMB to increase its staff effort devoted to tax paperwork to no avail.

Also, the bill removes unjustified exemptions from various paperwork review and regulatory due process requirements in the Farm Security and Rural Investment Act of 2002. This law exempted certain Department of Agriculture regulations both from the Administrative Procedure Act's due process protections for affected parties and the PRA's required review and approval by OMB. Under the PRA, OMB is charged with assuring practical utility to all information collections imposed on the public. Also, the PRA includes a public protection clause, which assures that the public cannot be penalized for not providing information in unauthorized paperwork. The Department of

Agriculture has one of the worst track records in terms of compliance with the PRA. The legislative history for this 2002 law includes no justification for this significant change in regulatory and paperwork promulgation procedures.

With respect to regulations, the bill makes permanent the authorization for the General Accounting Office (GAO) to respond to Congressional requests for an independent evaluation of selective agency regulatory proposals. To date, GAO has not hired staff for this function since the law only authorized a 3-year pilot project. To assume oversight responsibility for Federal regulations, Congress needs to be armed with an independent evaluation. What is needed is an analysis of legislative history, e.g., to see if there is a non-delegation problem or backdoor legislating. Instructed by GAO's independent evaluations, Congress will be better equipped to review final agency rules under the Congressional Review Act. More importantly, Congress will be better equipped to submit timely and knowledgeable comments on proposed rules during the public comment period.

In addition, the bill requires certain changes to improve regulatory accounting. These include: (a) requiring Federal agencies to annually submit estimates of the costs and benefits associated with the Federal rules and paperwork for each of their agency programs; (b) requiring OMB's regulatory accounting statement to cover the same 7–year time series as the President's budget; (c) requiring integration into the President's budget; and (d) establishing pilot projects for regulatory budgeting. Currently, the economic impacts of Federal regulation receive much less scrutiny than programs in the fiscal budget. Requiring OMB presentation using the same time series as the fiscal budget and being fully integrated into the fiscal budget documents, Congress will be better able to simultaneously review both the on-budget and off-budget costs associated with each Federal agency imposing regulatory or paperwork burdens on the public. Lastly, the bill includes a pilot test to determine the feasibility of regulatory budgeting. This vehicle would help ensure that agencies address the worst societal problems first.

I believe that the public expects and deserves paperwork reduction results. In addition, I believe that the public has the right to know if it is getting its money's worth from Federal regulation.

CLEMENT ZABLOCKI, THE ORIGINAL DEMOCRAT FROM THE REAGAN ERA

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. KLECZKA. Mr. Speaker, I wish to enter into the CONGRESSIONAL RECORD an article that appeared in the April 29, 2003 issue of The Hill. This piece, written by John Komacki details the career and legacy of my predecessor in Congress, U.S. Rep. Clem Zablocki.

CLEMENT ZABLOCKI: THE ORIGINAL DEMOCRAT FROM THE REAGAN ERA

He is now all but forgotten unless you stop at the branch public library on the corner of 35th and Oklahoma Avenue, just across the street from Villa Roma Pizza and Oak Park Lanes on Milwaukee's South Side. Or you might know of him if you visit the Ambulatory Care Wing at the Polish-American Hospital in Krakow, Poland.

Yet he left an important mark in U.S. foreign affairs that all presidents follow, in spirit if not approval. He was also a model for his party who predated the Sen. Henry "Scoop" Jackson (D-Wash.) pro-defense Democrats of the '70s and is again becoming fashionable in an age of terrorism and preemption.

The first thing most people noticed about Rep. Clement J. Zablocki (D-Wis.) was how unnoticeable he was. With a dark, Thomas Dewey-like mustache, the short, squat, reticent man looked more like a church organist or a high school teacher than a congressman.

He was, of course, both before being elected to the Wisconsin Senate in 1942. In 1948, he was elected to the U.S. House of Representatives, and he was re-elected by large majorities until his death in 1983.

Zablocki became one of Wisconsin's most popular and endearing politicians. His Milwaukee district was the core of city's Catholic. Polish-American community, and he reflected the working-class patriotism and morality of the second- and third-generation Eastern European-immigrant community.

As such, he valued hard work and was staunchly anti-Communist and religiously conservative. Yet his standing with liberal groups especially on economic matters and on important issues in foreign policy was generally higher than with conservative groups.

It is, however, in foreign policy that Zablocki's legacy remains.

Since his first term in Congress, Zablocki was a member of what was then called the Foreign Affairs Committee, not considered a prize committee assignment then—or now, for that matter. It remained his only major committee throughout his long tenure in the House.

He became an expert on a broad range of international issues and, over time, was able to blend his pro-Western, Cold War perspectives with an understanding of the more liberal views of Democrats who joined the committee in the '60s. Even so, he was an advocate of American intervention in Vietnam as chairman of the Subcommittee on Asian and Pacific Affairs between 1959 and 1969.

As escalation continued in Vietnam without appreciable results. Zablocki began to judiciously question the strategy and the information he and fellow committee members were receiving from the White House and the Defense Department. In the early '70s, he led the House effort to reassert congressional authority in foreign policy decision-making.

By then, Zablocki was chairman of the Subcommittee on National Security Policy and Scientific Developments. He became floor manager of a 1971 resolution directing the president to consult with Congress before committing troops "whenever feasible." A year, later he sponsored another resolution without the qualifier. The House passed both but the Senate took no action.

In 1973, with President Nixon weakened from revelations of the Watergate scandal, the House and Senate passed the War Powers Resolution, restricting the executive warmaking power over Nixon's veto.

Though preferring close scrutiny of most presidential actions, Zablocki still favored executive flexibility, especially in intelligence and security matters. He supported President Jimmy Carter's position on limiting congressional oversight of the CIA yet disagreed with Carter's emphasis on human rights as a determining factor in providing foreign aid.

Zablocki became chairman of the full committee as Ronald Reagan became president in 1981. While Reagan stressed defense priorities in foreign assistance programs, Zablocki emphasized direct economic aid to the poorest regions. Eventually he provided a compromise on key issues that bolstered strategic concerns while building stronger economies abroad. Zablocki was also able to pass a rare two-year aid authorization package in 1981.

Though supportive of Reagan's Caribbean Basin Initiative, Zablocki differed with Reagan on nuclear-proliferation policy. Later, when it became apparent that the administration was supporting Nicaraguan insurgents, which the House majority felt was ill-conceived, he co-wrote the amendment that cut off assistance to the Contras. Though better known today as the Boland Amendment, it was officially the Boland-Zablocki Amendment. The administration's surreptitious reaction to that led to the Iran-Contra scandal that roiled the Gipper.

The unimposing, diminutive man from a working-class district tempered executive authority while increasing the prestige of both his committee and the House. He also provided a timeless lesson in how the opposition party may boldly assert itself in matters of foreign policy without sacrificing principle in matters of national security or compassion. The Reagan Democrats were named for voters such as his constituents, but they never left Clem Zablocki.

RECOGNIZING SERGEANT ATANASIO HARO MARIN

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Ms. SOLIS. Mr. Speaker, I rise today to honor and remember Sergeant Atanasio Haro Marin who lost his life in service to our nation during Operation Iraqi Freedom. Sergeant Haro Marin was a member of Battery C, 3rd Battalion, 16th Field Artillery, 4th Infantry Division (Mechanized) of Fort Hood, Texas, and was from Baldwin Park, CA.

Sergeant Haro Marin exemplified the very best of our great nation. He represents the spirit of the brave soldier, exhibiting courage, selfless service, and honor beyond measure. His heroic actions have contributed to the safety, freedom, and security of our nation, Iraq, and the world.

I would like to extend my sincerest sympathy and condolences to the family and friends of Sergeant Haro Marin, and would ask that all Americans join me in remembering our soldiers and their loved ones during these challenging times.

Though Sergeant Haro Marin has passed, his spirit remains in the freedom that each and every American enjoys. Through his valiancy, bravery, and fearless commitment to the Armed Services of our nation, many lives have been touched. Our nation is privileged to have service men and women like Sergeant Haro Marin willing to risk their lives for the greater good of our country. I urge my colleagues to join me in remembering the life of Sergeant Atanasio Haro Marin.

HONORING THE LIFE AND ACCOMPLISHMENTS OF WILLIAM STILL, "FATHER OF THE UNDERGROUND RAILROAD"

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. ANDREWS. Mr. Speaker, I rise today to pay tribute to the memory of Mr. William Still and to celebrate the upcoming National Underground Railroad Family Reunion Festival. Mr. Still, known as the "Father of the Underground Railroad," was one of the primary architects of the legendary passage that assisted slaves in achieving their long sought freedom in the North.

From early childhood, William Still worked on his father's farm in Burlington County, New Jersey. When he was 23, he left the family farm for Philadelphia, arriving poor and friendless. But, as a testament to his determined nature and a foreshadowing of his future success, Mr. Still taught himself to read so by 1847, he was able to hold a secretarial position in the Pennsylvania Society for the Abolition of Slavery. While in this position, Mr. Still became directly involved in assisting African-Americans with their escape from the institution of slavery, and was able to provide boarding for many of the fugitives who rested in Philadelphia before continuing their journey to Canada.

William Still became well known for his hard work and dedication, and in 1951 when Philadelphia abolitionists organized the Vigilance Committee to assist fugitives traveling through the city, Mr. Still was elected chairman. During this time, Mr. Still used his house as one of the busiest stations on the Underground Railroad, being awoken endlessly and tirelessly throughout the night to provide fugitives with clothing and food. By some estimates, Mr. Still helped a total of 649 slaves obtain freedom. In addition, Mr. Still interviewed the fleeing slaves, including the famous conductor, Harriet Tubman, and kept careful records so that families and friends would be able to locate their relatives in the future. The result was his 1872 publication, The Underground Railroad; a seminal work documenting the perilous journeys slaves took for freedom.

In addition to his work on the Underground Railroad, Mr. Still, an active member of the Presbyterian Church, established a Mission School in North Philadelphia and organized one of the early YMCAs for black youth. Through these efforts, Mr. Still helped African-American youth embrace their newfound freedom, and it was with his strong leadership that the African-American community successfully made the difficult transition from the cruelty of slavery to the joys of emancipation.

In honor of his esteemed and gracious work, the William Still Underground Railroad Foundation, Inc., as requested by the Harriet Tubman Historical Society, is sponsoring the first annual National Underground Railroad Family Reunion Festival to take place in Camden, NJ and Philadelphia, PA from June 27–29, 2003. The three-day celebration will reunite descendants of conductors, abolitionists, stationmasters, fugitives, and all those whose ancestors were associated with the Underground Railroad in a public arena.

Mr. Speaker, I ask that my colleagues join me in honoring Mr. William Still, a man who dedicated his life to ensure the freedom and survival of others. In addition, I offer my sincere admiration and appreciation to the William Still Underground Railroad Foundation for planning and sponsoring the first annual National Underground Railroad Family Reunion Festival.

COMMENDING ELROY CHRISTOPHER AND CLAYTON GUYTON FOR ACHIEVING A 2003 ROBERT WOOD JOHNSON COMMUNITY HEALTH LEADERSHIP PROGRAM (CHLP) AWARD

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. CUMMINGS. Mr. Speaker, I rise today to congratulate, Elroy Christopher and Clayton Guyton, who stood up to drug dealers and opened a community center in their Baltimore neighborhood to save it from the ravages of crime and addiction. Mr. Christopher and Mr. Guyton are among an elite group of individuals from across the country selected this year to receive a Robert Wood Johnson Community Health Leadership Program (CHLP) award of $120,000.

Elroy and Clayton met while doing volunteer grassroots work to change the environment of crime and drug abuse in Baltimore. In 1999, they combined forces to open the Rose Street Community Center in an abandoned row house and "take back" the predominantly African-American neighborhood from drug dealers who sold their wares openly on the street corner. Their goal was to create a "civil life" on the street where children could play safely and all residents could live without fear.

Despite regular threats, Elroy and Clayton continue to work with residents to help them get addiction treatment and job training. They run a tutoring program for youths in cooperation with nearby Johns Hopkins Hospital, they help organize computer workshops and Bible study classes, and sponsor community events such as cookouts and tree plantings.

They also created a program for court-ordered community service participants in which minor offenders clean up the streets in lieu of jail time. In the past two years, they have helped 100 men re-enter the community after being in prison.

"Before these two men began their work, Rose Street was a drug haven with open-air drug markets, intimidation of law-abiding citizens, and violence and murder," said their nominator, Polly Walker, Associate Director, Center for a Livable Future. "Theirs is a single-minded commitment to help others escape the cycle of poverty, drug and alcohol addiction, and crime."

Mr. Speaker, I proudly ask you to join me in commending Elroy Christopher and Clayton Guyton for their accomplishments in founding the Rose Street Community Center and for their efforts put forth in achieving a 2003 Robert Wood Johnson Community Health Leadership Program (CHLP) award.

IN HONOR OF THE RETIREMENT OF DR. ANNA JOHNSON-WINEGAR

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. SAXTON. Mr. Speaker, today I rise to honor the retirement of Dr. Anna Johnson-Winegar after 3 years of public service. Dr. Johnson-Winegar led a distinguished career, culminating as the Deputy Assistant to the Secretary of Defense for Chemical and Biological Defense. In this position, Dr. Johnson-Winegar served as the focal point within the Office of the Secretary of Defense for all issues related to the highly critical Chemical and Biological Defense Program.

Dr. Johnson-Winegar received a Bachelor of Arts degree in Biology from Hood College, and Masters of Science and Ph.D. degrees in Microbiology from Catholic University of America. Along her career, she has served at the Army Medical Research and Materiel Command, the Office of the Director, Defense Research and Engineering, and the Office of Naval Research. She also participated as a biological weapons inspector in Iraq for the United Nations Special Commission, UNSCOM. In 1998 she received the Lifetime Achievement Award from Women in Science and Engineering. Dr. Johnson-Winegar came to her current position in October 1999.

In response to the President's emerging defense strategy, coupled with the events of September 11, 2001, Dr. Johnson-Winegar spearheaded a paradigm shift within the Department of Defense Chemical Biological Defense Program. Under her leadership and expertise, defending our men and women in uniform against the threat of biological and chemical attack has taken on a heightened priority at the forefront of defense planning. She has lead the effort to improve the overall capability to defend against weapons of mass destruction, from increasing and focusing research efforts which identify and mature promising new technologies, to fielding tested and proven equipment to the warfighter engaged in ongoing operations worldwide. In an era of increasing global threat, Dr. Johnson-Winegar has helped shape how this Nation will defend both itself and its soldiers, sailors, airmen and marines against the threat of chemical and biological warfare agents. We honor Dr. Johnson-Winegar as a true patriot whose many accomplishments serving our country have helped keep this Nation strong and secure.

FACTS, NOT POLITICAL CORRECTNESS, SHOULD DETERMINE MILITARY PERSONNEL POLICIES

HON. ROSCOE G. BARTLETT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. BARTLETT of Maryland. Mr. Speaker: The men and women who serve in America's Armed Services performed exceptionally well during Operation Iraqi Freedom.

During the three weeks of initial heavy combat, members of the Army's 507th Maintenance Unit were ambushed along the lengthy supply lines within Iraq. The death, brief imprisonment, and serious injuries to three women in that unit briefly captured the attention of the world.

Pfc. Lori Piestewa, a single mother of two toddlers, a 3-year old and a 4-year old, was killed in the attack. Pfc. Piestewa had joined the military 2 years earlier after being divorced.

Spec. Shoshana Johnson, a single mother of a 2-year old, had joined the Army to gain experience as a cook. She was held briefly as a POW. In gross violation of the Geneva Convention, the Iraqis videotaped and distributed footage of the clearly terrified Spec. Johnson and her fellow American captives being interrogated.

Pfc. Jessica Lynch joined the military to earn educational benefits to fulfill her dream of becoming a teacher. She is now recovering from serious injuries following her rescue from an Iraqi hospital by American Special Forces.

Spec. Johnson's family was shocked to find out that her Army career as a cook for a Maintenance Unit placed her in harm's way within enemy territory during the invasion of Iraq. It was news to millions of Americans that military personnel policies deliberately assign women to serve in units that are routinely deployed in harm's way.

As a scientist, I believe that government policies should be based upon facts. The facts are that men and women are different. As the only Member of Congress with a Ph.D. in Human Physiology, I can assert this as a matter of scientific fact. However, you don't need to be a scientist to know this is true. It is basic common sense.

The military is a profession where the stakes involved are a matter of life and death. On a battlefield, the differences between men and women have potentially life and death consequences. I would like to submit for the record and edification of my colleagues and the nation a number of documents examining the evidence of the impact of the differences between men and women on the battlefield.

Most of the documents have been organized by Ms. Elaine Donnelly, the President of the Center for Military Readiness, an independent public policy organization that specializes in military personnel issues. Ms. Donnelly is also a former member of the 1992 Presidential Commission on the Assignment of Women in the Armed Forces, and of the Defense Advisory Committee on Women in the Services (DACOWITS, 1984–86). For additional information, you may log onto the CMR website: www.cmrlink.org.

Included among these documents are: "Army Gender-Integrated Basic Training (GIBT)—Summary of Relevant Findings and Recommendations: 1993–2002." Additional articles from major news organizations include: "No More GI Orphans," Editorial, The Boston Globe, April 9, 2003; "Mothers at War," Editorial, The Washington Post, March 25, 2003; "Mothers At Sea," Editorial, The Wall Street Journal, December 3, 1999.

I am also including an article by Anita Ramasastry, "What Happens When GI Jane is Captured: Women Prisoners of War and the Geneva Conventions," April 2, 2003. Ms. Ramasastry is an Assistant Professor of Law at the University of Washington School of Law in Seattle and the Associate Director of the Shidler Center for Law, Commerce & Technology.

I hope these documents will encourage our nation and policy makers to address this important issue.

All of these documents ask tough questions about the impact, costs and consequences of current military personnel policies concerning the assignments of men and women. A number of significant changes in military personnel policies affecting men and women were adopted during the previous administration. These policy changes did not receive public attention or scrutiny until Operation Enduring Freedom and Operation Iraqi Freedom.

It is not an exaggeration to say that among policy makers, at least for the public record, there has been a reluctance to ask, let alone endeavor to discover the answers to these tough questions. This is a mistake.

The fear that the facts that we might discover about the real world impact of changes in military personnel policies might prove inconvenient or politically incorrect is no justification for ignoring the necessity to do so. From my previous work as a scientist and engineer and now as a Member of Congress, I believe public policies should be grounded in facts, not wishful thinking. This is especially true with respect to military personnel polices. We, as public policy makers, owe the individual men and women who sacrifice so much to serve in our military personnel policies that will enhance their capability to achieve the military's mission and to protect their lives. We can never forget that military service is a profession where the stakes can not be higher or have graver consequences.

I hope the material I have submitted for publication in the CONGRESSIONAL RECORD encourages a vigorous inquiry and debate about military personnel policies by both the public and government officials.

ARMY GENDER-INTEGRATED BASIC TRAINING (GIBT)—SUMMARY OF RELEVANT FINDINGS AND RECOMMENDATIONS: 1993–2002

In a slide presentation prepared for presentation to the Secretary of the Army on March 22, 2002, the Army Training and Doctrine Command claimed that GIBT is "effective" in terms of social benefits. TRADOC also conceded that gender-integrated basic training (GIBT) is an "inefficient" format for basic instruction of recruits. Inefficiencies associated with GIBT, some of which were admitted but downplayed by TRADOC in March 2002, include the following:

Less discipline, less unit cohesion, and more distraction from training programs.

Voluntary and involuntary misconduct, due to an emotionally volatile environment for which leaders and recruits are unprepared.

Higher physical injury and sick call rates that detract from primary training objectives.

Diversion from essential training time due to interpersonal distractions and the need for an extra week of costly "sensitivity training."

A perceived decline in the overall quality and discipline of GIBT; lack of confidence in the abilities of fellow soldiers; and the need to provide remedial instruction to compensate for military skills not learned in basic training.

Re-defined or lowered standards, gender-normed scores, and elimination of physically demanding exercises so that women will succeed.

Additional stress on instructors who must deal with different physical abilities and psychological needs of male and female recruits.

Contrivances to reduce the risk of scandal, such as changing rooms, extra security equipment and personnel hours to monitor barracks activities, and "no talk, no touch" rules, which interfere with informal contacts between recruits and instructors.

No evidence of objectively measured positive benefits from GIBT, and no evidence that restoration of separate gender training would have negative consequences for women or men.

An admittedly "inefficient" method of basic training that produces little or no tangible benefits cannot be described as "effective" in military terms. This is especially so when findings of two major blue ribbon commissions on co-ed basic training have indicated otherwise.

GIBT was implemented administratively in 1994. It is possible to restore superior gender-separate basic training, which is both efficient and effective in military terms, in the same way. For the sake of military efficiency and the best interests of Army men and women, this should be done without further delay.

1. The need for women in the military is unquestioned and not relevant to the issue of Gender-Integrated Training. The real question is whether it makes sense to retain an expensive, inefficient form of Army training that offers minimal benefits in terms of military necessity.

The Final Report of the 1999 Congressional Commission on Military Training and Gender-Related Issues noted that "Whether [gender-integrated basic training] improves the readiness of the performance of the operational force is subjective."

A close look at data and testimony gathered by this and other recent studies indicate that there are no significant benefits from gender integrated basic training, but many problems and complications that detract from the primary purpose of GIBT.

2. The only argument offered by TRADOC in 2002 in favor of retaining GIBT is that male and female recruits prefer training together for social reasons.

Young people entering the services today are more "gender-aware" than generations past, and making recruits happy is not the purpose of basic training. Three years after the return of GIBT, sensational sex scandals involving everything from sexual abuse to consensual but exploitive relationships between cadre and junior trainees made headlines nationwide.

The 1997 Federal Advisory Committee on Gender-Integrated Training and Related

Issues, headed by former Kansas Senator Nancy Kassebaum Baker, found that ". . . the present organizational structure in integrated basic training is resulting in less discipline, less unit cohesion, and more distraction from training programs."

The Kassebaum Baker Commission, whose members were largely independent and free of conflicts of interest, voted unanimously that gender-integrated basic training should be discontinued.

3. The 1999 Congressional Commission reported abundant evidence of inappropriate relationships and distractions in GIBT.

The Congressional Commission report cataloged numerous policies and practices, made necessary by GIBT, which create inefficiencies and detract from concentration. These include separate changing rooms, loss of informal counseling opportunities (due to the need to meet in the presence of a "battle buddy" on neutral territory), differences in needs and abilities, the need to enforce "no talk, no touch" rules, and miscommunications due to lost messages between platoon leaders. All have placed great stress on already overburdened instructors.

Collateral policies introduced to cope with these distractions make it more difficult for instructors to enforce necessary discipline. For example, special "hot lines" set up to receive anonymous complaints have ruined careers, caused several suicides, and driven a wedge between Army men and women. Tolerance of false or exaggerated accusations is as demoralizing as sexual misconduct itself.

4. Problems associated with gender-integrated basic training (GIBT) cannot be resolved with "leadership" or "sensitivity training" alone.

Continuing a program that increases costs and complicates the training mission, while providing minimal benefits, is not responsible leadership. Military policy makers should establish basic training programs that encourage discipline, rather than indiscipline.

Excessive "sensitivity/diversity" training has become a jobs program for civilian "equal opportunity" consultants, paid for with funds diverted from more essential military training. When the 1997 Army Senior Review Panel (SRP) recommended an extra week of sensitivity or "values" education to counter sexual harassment, Army Times estimated the cost to be equivalent to that of three battalions of soldiers in the field.

Given today's threat environment, the substantial amount of time devoted to sensitivity training in basic training might be better spent on potentially life-saving training in areas such as antiterrorism and force protection.

5. Higher physical injury and sick call rates among female trainees create serious "inefficiencies" that detract from the primary goal of basic training.

Prof. Charles Moskos, a respected military sociologist and member of the Congressional Commission, wrote in the panel's Final Report: "I am particularly perturbed by the high physical injury rate of women trainees compared to men. Likewise, I am put off by the double-talk in training standards that often obscures physical strength differences between men and women. The extraordinarily high dropout rate of women in IET cannot be overlooked (nor should the fact that females are more than twice as likely to be non-deployable than are male servicemembers) The bottom line must be what improves military readiness."

In Great Britain in 1997, Army commander noted that co-ed basic training was causing many young women to drop out early, due to injuries to their lower limbs. Restoration of all female platoons for a one-year trial in 1996 reduced women's injury rates by 50%, and first-time pass rates increased from 50% to 70%. Incidents of sexual misconduct between instructors and recruits also decreased significantly. Col. Simon Vandeleur, commanding officer of the Army Training Regiment at Pirbright, Surrey, said that the move to train women separately "started as a trial, but has continued unquestioned, due to its success."

Recent Army figures indicate that female soldiers take sick calls at rates double those of men.

Extensive tests conducted with ROTC cadets indicate that a wide gap exists between the physical performance and potential of men and women. Among other things, testimony and charts prepared by training expert Dr. William J. Gregor indicate that only 2.5% of female ROTC cadets were able to attain the male mean score on the 2-mile run, and only 4.5% could do so on the strength test. Only 19% of all cadet women achieved the minimum level of aerobic fitness set for men.

6. Every commission study since 1992, including the 2002 TRADOC report, found evidence that real or perceived double or relaxed standards are demoralizing to all who are aware of them.

In the aftermath of the 1996 Aberdeen scandals, then-Army Secretary Togo D. West, Jr., formed a Senior Review Panel (SRP) to study the issue of sexual harassment. The SRP was staunchly supportive of Secretary West's policies (which several members had helped to formulate), but nonetheless reported disturbing findings.

Among men surveyed, 60% were either "not sure" or "disagreed" that "The soldiers in this company have enough skills that I would trust them with my life in combat." The combined figure for women was 74%. In response to "If we went to war tomorrow, I would feel good about going with this company," 63% of the men said they weren't sure or disagreed, while 76% of the women said the same.

A 1997 congressionally authorized RAND study on GIBT was released in an edited version that differed greatly from the original draft. RAND originally found, for example, that gender-norming reduces female injuries but heightens resentment of double standards and degrades morale. In the chapter on "cohesion," the study declared "success" under a civilianized "workplace" definition, instead of the classic principle that ". . . group members must meet all standards of performance and behavior in order not to threaten group survival."

7. There is no empirical evidence that GIBT improves the quality of military training for male or female trainees.

According to surveys conducted by the Congressional Commission, 48% of Army recruit trainers said that the quality of basic training declines when men and women are in the same units.

When asked about the current quality of entry-level graduates compared to five years ago, 74% of Army leaders who responded to the survey indicated that "Overall quality" had declined, and 80% said that "Discipline" had declined.

8. GIBT always requires adjustments in standards to accommodate physical differences. Gender-normed qualification requirements reduce excessive stress fractures and other injuries among female trainees, but also have the effect of making training less rigorous for men.

Training standards frequently measure "team" accomplishments rather than individual performance, which contributes to mutual trust, teamwork, and genuine unit cohesion. Under this concept, which is stressed in the TRADOC slide presentation, stronger members fill in for weaker ones, and recognition is given for "equal effort" rather than equal accomplishment.

This means that some trainees are allowed to graduate simply by trying to accomplish given training tasks, such as scaling high walls or throwing practice grenades, even if they do not succeed. Claims that women's training is "exactly the same as men" ignore the reality of gender-normed scores and qualification standards that are inherently demoralizing.

The concept is inherently dubious, since trainees know that there are extra step stools, protective barriers, or gender-normed scores on the battlefield. Attempts to ignore that reality have hurt the credibility of Army leadership.

9. There is no evidence that GIBT would be more successful if women are actually "held to the same high standards as men."

This argument disregards the effect of political pressures from feminists who demand "equality," but are the first to demand "fairer" gender-normed standards so that women will not fail. In the past two decades, attempts to toughen training or match the person to the job were withdrawn because organized civilian feminists perceived them as threatening to women's "career opportunities."

The Army tried twice in the early 1980s to implement realistic strength standards, commensurate with wartime demands, in occupations rated from light to very heavy. In both instances, tests showed that most women were unable to meet the standards for nearly 70% of Army occupational specialties. The recommendations were never implemented as planned because the former Defense Advisory Committee on Women in the Services (DACOWITS) complained that such systems would have a "disproportionate impact" on the careers of female soldiers.

10. Numerous military and civilian studies done in the United States and in other countries have documented significant differences in male and female physiology that are relevant to military performance.

Numerous American studies have confirmed that in general, women are shorter, weigh less, and have less muscle mass and greater relative fat content than men. Women are at a distinct disadvantage because dynamic upper torso muscular strength is approximately 50–60% that of males, and aerobic capacity (important for endurance) is approximately 70–75% that of males.

A test of Army recruits found that women had a 2.13 times greater risk for lower extremity injuries and a 4.71 times greater risk for stress fractures. Men sustained 99 days of limited duty due to injury while women incurred 481 days of limited duty.

In the United Kingdom, major studies were ordered in 1998 to ascertain the feasibility of co-ed basic training. Army doctors found that eight times as many women as men were being discharged during basic training, due to injury rates that doubled following the introduction of identical training programs for both sexes. Differences in strength, bone mass, stride length and lower body bone structure caused women to suffer disproportionately from Achilles tendon problems, knee, back and leg pain, and fractures of the tibia, foot, and hip.

The "gender-free" system was ended in January 2002 because stress fractures for women rose from 4.6% to 11.1%, compared to less than 1.5% for male trainees.

11. Contrary to the claims of GIBT proponents, studies conducted by the Army Research Institute (ARI) in 1993–1995 did not confirm that mixed training produced better results.

After a 1993 pilot test at Fort Jackson, SC, commanders recommended the continuance of gender-separate training because they observed no improvements in fitness and military proficiency for men or women.

Later in 1993, the Army ordered a new 3-year study from ARI, this time to include an assessment of soldiers' attitudes toward mixed or separate training. Inquiries centered on measures of social/psychological interest (i.e., how well do people get along together?) instead of measures of military interest (i.e., how well will people trained in this way fulfill their duties, especially under crisis conditions?)

The latter 1993 ARI study proclaimed GIBT superior because it was found in separate-gender focus groups that the morale of women improved by 14 points. At the same time, however, the men's morale dropped by 17 points. The gap narrowed somewhat when subsequent focus groups were gender-mixed. ARI questions still focused on "touchy-feely" questions, i.e., whether others want to do a good job."

12. There are no empirical studies showing that women perform better in GIBT than they formerly did in separate-gender training prior to 1994.

After the initial 1993 study, the Army never again compared results of mixed versus separate training formats. Tests thereafter were to determine the best mix of males and females in a platoon (75/25, a ratio almost never observed). Even before the ARI surveys of "attitudes" were complete, the Army announced its decision to discontinue gender-separate training, except for ground combat trainees, in August 1994.

When GIBT was implemented in 1994, the training regimen was adjusted to reduce the risk of injuries among female recruits. Meanings of the words "soldierization" and "proficiency" were re-defined, physical requirements were de-emphasized, and "success" was measured with new training exercises that would not disadvantage women, such as map reading, first aid, and putting on protective gear.

The Army informed the Congressional Commission, in response to a specific demand by Congress, that it has not, and does not plan to, objectively measure or evaluate the effectiveness of GIBT. Many officials taking this position were responsible for implementing and making a "success" of GIBT in the first place.

13. The Army slogan "Train as We Fight" is an important goal in advanced training. For basic training, however, "Train to Transform" is a more appropriate slogan. Basic training is the first step in a progressive, building block process of training soldiers to serve, fight, and win.

Within only a few weeks, young civilian recruits must learn to wear a uniform properly, have respect for authority, observe proper customs and courtesies, and accept and live by the core values of the service. Operational commanders should not have to spend time for remedial training in these matters, due to inadequacies at the basic level.

Maj. Gen. William Keys, USMC (Ret.), a member of the Congressional Commission, wrote in a statement to Congress that "Basic training teaches basic military skills such as physical fitness, close order drill and marksmanship. It is a military socialization process—civilians are transformed into soldiers, sailors, airmen and Marines. This training provides recruits the basic military skills needed to integrate into an operational unit. It does not teach war-fighting skills nor should it be the staging ground for "gender" etiquette skills."

The slogan is also inconsistent with special "lights out" security alarms and other security measures, as described on Slide #18, which are not available in an operational environment. These include barracks guards who conduct "bed-checks" of GIBT trainees every 30 minutes and are changed every two hours.

14. The Marine Corps has demonstrated that a well-designed single-gender basic training program, with same-sex drill instructors, can be tailored to challenge male and female trainees to the limit.

Separate sex training increases "rigor" for all soldiers, forces female recruits to be self-reliant, and reduces the risk of demoralizing injuries that cause female recruits to drop out.

The Kassebaum Baker Commission found that the Marines' single sex approach was producing "impressive levels of confidence, team building and esprit de corps in all female platoons at the Parris Island base."

The Congressional Commission found that female Marine trainees scored significantly higher than any other group in commitment, group identity and respect for authority—all of which are important elements of military cohesion.

Separate housing and instruction improves the ability of male and female recruits to concentrate on transformation. As stated by then-Marine Assistant Commandant Richard I. Neal, "We don't want them to think about anything else than becoming a Marine."

15. There is no evidence that restoration of gender-separate basic training would "reinforce negative attitudes and stereotypes," or hurt morale among female soldiers.

On the contrary, members of the Congressional Commission noticed that GIBT might be reinforcing, rather than eliminating, stereotypes. Female trainees frequently said that they liked training with the men because "The guys really help us." When asked how, they typically answered, "They motivate us. They lift heavy stuff for us. We trade—we do their ironing, and they clean our floors." Women Marines, by contrast, have to do every task themselves, without passing off dirty or difficult jobs to men. They must team up and find a way to lug heavy objects, and are motivated to climb walls by other women who have demonstrated that it can be done.

Separate-gender training develops self-reliance and confidence as well as teamwork. In the Marine Corps, female trainees must find ways to accomplish basic training tasks on their own, without assistance from male trainees to assist them with heavy loads.

Military historian S.L.A. Marshall has noted that "Authentic morale does not grow in its own soil, [with] combat efficiency as a mysterious byproduct. . . . [Rather,] high morale flows when the ranks are at all times conscious that they are service in a highly efficient institution." Attorney Adam G. Mersereau amplified the point as follows:

"[M]orale without combat efficiency is most likely an inauthentic form of morale, brought on by false confidence. . . To try to build a military's morale without first, or at least concurrently, establishing a foundation of unshakable efficiency is a dangerous error."

The Congressional Commission found that among male soldiers in training, the most frequently mentioned recommendations for change were to separate males and females during basic combat training (BCT), make the training harder; and require recruiters to tell the truth. Female recruits called for an end to "battle buddy" restrictions, improved barracks, and more sexual harassment training.

16. Army women deserve the same high quality training as women Marines have today, and Army women had prior to 1994.

The drawbacks of GIBT conflict with the tradition of Army discipline and the current concept of Transformation, which depends on personnel who are stronger, more versatile, and better prepared.

Short-term costs for returning to single sex basic training would be minimal, and long-term savings related to fewer disciplinary problems and injuries could be substantial.

Sound policies regarding basic training should not be based on unrealistic theories or feminist ideology, including the belief that men and women are interchangeable in all military roles. Nor should gender integration be considered an "end" in itself. The Army needs to encourage competence in training, not egalitarianism at all costs.

17. It is possible that restoration of separate gender training would have a positive effect on recruiting for the volunteer Army.

The 1998 Youth Attitudes Tracking Study (YATS) found that the great majority of both men (83%) and women (77%) said it would make no difference to them whether basic training was conducted with or without the opposite sex. The YATS also found that young men, who constitute 80% of enlistees, are more interested in seeking physical challenge than young women, and they perceive the Air Force and the Navy as less physically challenging than the Marine Corps and the Army. Members of the Congressional Commission concluded that: "Only the Marine Corps and the Army have all-male training, and it is not unreasonable to suppose that this enhances their image of being physically challenging. Overall, the results of the 1998 YATS suggest that the Army, Navy, and Air Force probably would suffer no loss in terms of recruiting (and might gain) if they decided to change, in whole or in part, from gender-integrated training to gender-separate training."

18. Military personnel policies are bi-partisan, but there is evidence of political support to "fix the clock" on this and other social policies implemented during the previous administration.

During the 2000 Presidential Campaign, the American Legion Magazine asked then-Texas Governor George W. Bush about his views on co-ed basic training. Candidate Bush replied, "The experts tell me, such as Condoleezza Rice, that we ought to have separate basic training facilities. I think women in the military have an important and good role, but the people who study the issue tell me that the most effective training would be to have the genders separated."

Dr. Rice, who is now National Security Advisor to President, Bush, voted with all other members of the 1998 Kassebaum Baker Commission to end co-ed basic training.

A mandate for change was evident in votes cast by military personnel, their families, and supporters, who were told by Governor Bush's running mate, Dick Cheney, that "help is on the way."

19. GIBT can and should be eliminated administratively, without further delay.

GIBT was not authorized by Congress after careful deliberation, but imposed by administrative directives written by former Assistant Secretary of the Army Sara Lister, a civilian lawyer who notoriously depicted the Marines as "extremist."

No one has seen a written order setting forth a logical rationale for the Army's action. Indications are, however, that the decision was accepted as a trade-off to head off even more egregious mandates being promoted by Sara Lister at the time: i.e., gender integration of multiple launch rocket systems (MLRS) and special operations helicopters.

In 1994, uniformed leaders of the Army implemented GIBT without dissent. One brigade training commander told the Washington Post that it was necessary to take the "Attila the Hun approach" with drill instructors that resisted. "I told them that gender integration was our mission, and any outward manifestation of noncompliance would not be tolerated."

Having invested so much in the process, some Army officials lobbied hard to defeat legislation, which passed the House in 1998, to implement recommendations of the Kassebaum Baker Commission. Nevertheless, during the March 17, 1998, HNSC hearing, senior officers representing the armed forces had difficulty making a convincing case for gender-mixed basic training.

20. This is not a question of turning the clock backward or forward. If the clock is broken, it should be fixed.

A five-year experiment with GIBT during the Carter Administration was summarily terminated in 1982 not because of lack of confidence in women's abilities to become soldiers, but because women were suffering injuries in far greater numbers, and men were not being challenged enough. Contemporaneous news reports indicated that GIBT was eliminated in order "to facilitate the Army's toughening goals and enhance the soldierization process."

Civilian oversight of the military includes the responsibility to set policies for the future, not to continue flawed policies of the past.

[From the New York Times, Apr. 9, 2003]

No More GI Orphans

Lori Piestewa died in combat in the Iraq war's first week. She was a single parent who left two small children. Shoshana Johnson, who was taken prisoner in the same clash, is the single parent of a small child. It is high time the Defense Department redrew its policies to stop single custodial parents—female or male—from being deployed in harm's way. The military should not run the risk that children will be orphaned or face extended separations from their single parent.

During the first Gulf War, Senator Barbara Boxer of California was so concerned that she sponsored a Gulf orphan bill. Boxer's measure would also have kept the services from deploying both parents when both a father and mother were in the military. The Pentagon resisted, however, and before Congress could take any action the war ended. About 80,000 children have a single parent or both parents in the services. Women still cannot serve in ground combat infantry, tank, or artillery positions, but since 1991 the Defense Department has opened up more front-line opportunities to women, who are more likely than men to be single custodial parents. In light of the Piestewa and Johnson cases, Boxer and others in Congress should force the military to ask why its policies place so many children at risk of being orphaned.

The issue brings into conflict the interests of the parent-soldier, the commanding officer, and the child. A parent seeking advancement might be reluctant to accept limits on assignments that could slow promotions. A commanding officer does not want to have several positions filled by soldiers who have to stay at the base when the fighting starts.

But it is the interest of the child in not losing a custodial parent forever, or for a long time, that should be paramount. Instead, the Pentagon, in opposing bills like Boxer's, worried about the abstract unfairness of granting single-parent soldiers the full set of career and educational benefits without the obligation of front-line service. The military does require that parents submit "family care plans" for alternative caregivers when they are deployed. But an alternate caregiver, whether it is a grandparent, aunt, uncle, or family friend, is not the same as a parent.

The late senator John Heinz of Pennsylvania favored limits on single-parent deployment in 1991. To critics who said that parent-soldiers knew what they were getting into, Heinz replied that it was "questionable whether an 18-year-old tantalized by offers of tuition money has any inkling of what he or she is giving up in 'volunteering' to leave children yet to be born behind. Our righteous insistence that 'a deal is a deal' is reminiscent of the story of Rumpelstiltskin, the dwarf in German folklore who exacts a terrible price for helping a desperate young woman—her first-born child." A humane military would limit the sacrifices it asks of parents—and their children.

[From the Washington Post, Mar. 25, 2003]

Mothers at War

Yesterday morning relatives of one of the American prisoners of war in Iraq, Army Spc. Shoshawna Johnson, went on television to say how much everyone missed her: her parents, her cousins and especially her 2-year-old daughter, Janelle. Spc. Johnson is a single mother, one of about 90,000 in the active-duty service. Lately such women have been featured in heartbreaking photos in Air Force Times and Army Times: Staff Sgt. Rikki Hurston, for example, feeding her four-month-old while her 8-year-old daughter looks up with wide eyes, clutching her mother's kit bag. Sgt. Hurston was headed with her unit to the Persian Gulf. "Who knows when I'll be back," she said to the reporter; with her children she strove for more cheerfulness. More than ever, women are crucial to the U.S. military; they make up 16 percent of the force and perform key front-line jobs. But the increased integration comes at a price, in the form of tens of thousands of temporary orphans.

Almost 10 percent of active-duty service members are either single with children or married to another active-duty person, which means both can be called up. In the first Persian Gulf war this produced 36,704 children who had no parent left at home; this time the number is expected to be much larger. These children range from infants to teenagers. In school, many act brave and resilient; anxieties come out obliquely. Boisterous ones retreat and want only to draw strange pictures; an 11-year-old in Colorado has suddenly started failing some of his classes.

Most militaries in the world do not have women serving; those that do make allowances for family circumstance, infant children at home or two parents away. But this is a touchy issue for the U.S. military. Integrationists have fought hard over the past two decades to win full acceptance of women, who in many cases bristle at any notion that they should be treated differently. No one would want to let down her unit; besides, downsizing in the volunteer force means that any no-show is disruptive. During the first Gulf war, a presidential commission tried to address this question, recommending flexibility for the primary caregivers of children under 2. Then there was resistance; women were still a fairly new and unproven presence in many jobs. Now, and especially following this war, they will be tested and no doubt proven: "Now, you're the fighter pilot—not the female fighter pilot," Capt. "Charlie" recently told Time magazine.

If women are to continue their critical role in the armed services, which they should, perhaps it's time to loosen up a little on the deployment rule. Right now families are required to have a child-care plan in place in case of deployment. A commander can grant exceptions if no plan is available, but service spokesmen say they almost never do. Even if no family or friends are available, the Navy can place children in volunteer families resembling foster care, so it's difficult for parents to say no. Perhaps the flexibility could start slowly. For starters, the services could coordinate and try to stagger deployments of two parents; right now it's not even a consideration. Then maybe they could tackle the more sensitive issue of single mothers, giving, say, mothers of children under 2 a real option of deferring if they had no comfortable child-care available. Surely integration would survive that.

[From the Wall Street Journal, Dec. 3, 1999]

Mothers at Sea

Amid all the flotsam crossing our desk lately came one surprise: a new Defense Department report on women sailors. The study focuses on families in which the enlisted mothers of small children are away at sea five or six months at a stretch. Not surprisingly, small children who spend months without their mothers do not fare so very well.

As interesting as the findings has been the reaction: zilch. As it happens, these days a mom at sea is not so unusual. Of the 51,000 women in the Navy, 10,000 serve on shipboard. Many of them are single moms. The study, by Michelle Kelley of Old Dominion University, compared the children of women with land jobs to the kids of women who serve on extended tours. Turns out that half of these Navy women were single or divorced. This meant that when they were shipped off to sea, many of their children, whose ages ranged from one to three, had no parent at home.

If you didn't even know this was a problem, you're not alone. The idea seems to be that to admit even the slightest difficulty with women in the service threatens to drag women back to the 1950s. So instead of an open debate we get the movie version. In "Courage Under Fire" actress Meg Ryan plays a heroic Army helicopter captain who leaves her daughter behind with grandma as she goes off to die in the Gulf War—and feels just fine about it.

Unfortunately, no amount of Hollywood glitz is likely to console the real-world children of these military moms. And, by the way, it's not just those children. An earlier Navy study showed that four out of 10 pregnancies of women on sea duty culminated in abortion or miscarriage. That compares to two out of 10 for women sailors on shore duty. The news comes in the wake of a controversial 1995 ruling from the admirals saying that pregnancy was compatible with a Navy career, meaning that pregnant women could even serve aboard ships up to their 20th week. To put it harshly, there is a sense here that some babies are being thrown out with the seawater.

Of course, the problems of the extended tour are by no means confined to women. Military families have long suffered from the prolonged absence of fathers. In his memoir, John McCain notes that one reason he found it so easy, as a child, to idolize his father was that his father wasn't around enough to mar the golden image. What makes the Mom-Goes-to-Sea story different is the all-too-frequent absence of any parent.

Could it be that the unwillingness to address this issue signals a belief that women will suffer from any retreat from the feminist absolute? Perhaps. Whatever the reason, there is a noticeable slippery-slope effect. Thus we must have not only a woman in the military, but a mother; not only a mother but a single one; not only a trip abroad but an extended one, and so on. As the White House wonk bleats in "Courage Under Fire": "She has to get the medal of honor. She's a woman. That's the point!"

Surely we are beyond that. The late 1990s are not, after all, the 1950s. No one is talking about keeping women out of the boardroom, or shutting them out of the officer's club. A little consideration for the realities of family life can only strengthen the cause of women. Owning up to the problem will, however, require courage. Maybe there should be a medal for that.

WHAT HAPPENS WHEN GI JANE IS CAPTURED?

WOMEN PRISONERS OF WAR AND THE GENEVA CONVENTIONS

(By Anita Ramasastry)

Just over one week ago, American television viewers saw disturbing images of American soldiers who had become prisoners of war (POWs) in Iraq. Among those taken captive was Specialist Shoshana Johnson, an Army cook—America's first female POW in the Iraqi conflict. Meanwhile, two other women were missing in action—Privates First Class Jessica Lynch and Lori Piestewa. (Lynch was just rescued yesterday.)

Seeing Shoshana Johnson—thirty years old, and the single mother of a two-year old child—held captive in Iraq bothered me more than I would have imagined. Like the male soldiers held with her, she faces a ruthless regime. Unlike them, however, she may also be the target of misogynistic treatment, and a potential victim of sexual assault.

Anthony Dworkin recently discussed, in a column for this site, some of the protections the Geneva Conventions offer all POWs. But what, if anything, in the Geneva Conventions protects women POWs, in particular?

Before addressing that question, it's worth examining the history of women in the U.S. military in recent years, and of women as POWs, to provide some context for the Conventions' guarantees.

WOMEN'S ROLE IN THE U.S. MILITARY NOW AND IN THE PAST

Overall, more than 200,000 women currently serve in the armed forces. These women make up 15 percent of both the enlisted ranks and the officer corps, 6 percent of the Marines, and 19 percent of the Air Force.

These women serve in a wide variety of positions. In part, that is because in 1994, during the Clinton Administration, the Pentagon discarded the "Risk Rule," and authorized women to serve in any military post other than in frontline infantry, Special Forces, or armor or artillery units.

As a result, women reportedly now are allowed to hold 52 percent of active-duty positions in the Marines—about a twofold increase since the 1994 rule change. Women in the Army can hold 70 percent of such positions. And women in the Air Force and Navy can perform in 99 percent of such positions. For example, women in the Navy can now serve on ships, though not on submarines. Women in the Air Force can now fly combat missions.

American women have been in combat ever since Margaret Corbin replaced her fallen husband behind cannon during the Revolution. But this war promises to involve more women in combat than ever before.

Meanwhile, due to the nature of modern warfare, and the war on Iraq in particular, a soldier can be in serious jeopardy whether or not he or she is technically in a combat unit. There is no longer a clear "front" line.

Thus, support units, whose job is maintenance or supply, can find themselves in grave danger. For instance, Shoshana Johnson and her fellow POWs were a maintenance crew in a convoy that got ambushed.

WOMEN AS POWS THROUGHOUT U.S. HISTORY

Long before the 1994 rule change, there were women POWs. During the Civil War, for example, Dr. Mary Walker was imprisoned for four months by the Confederacy, accused of spying for the Union Army. (Doctor Walker is the only woman to receive the Congressional Medal of Honor.)

During World War II, more than 80 military nurses, including 67 from the Army and 16 from the Navy, spent three years as prisoners of the Japanese. Many were captured when Corregidor fell in 1942. The nurses were subsequently transported to the Santo Tomas Internment camp in Manila in the Philippines—which was not liberated until February of 1945. Five Navy nurses were captured on Guam and interned in a military prison in Japan.

Meanwhile, during the 1991 Gulf War, there were two American female POWs: an Army Flight Surgeon, Major Rhonda Cornum, and an Army Transportation Specialist, Melissa Rathbun-Nealy. Cornum was subjected to "sexual indecencies" within hours of her capture. (She was released eight days later, but said nothing in public about the sexual assault for more than a year.)

And women, like men, have been casualties of war. According to various reports, there have also been nearly 1,000 women killed in action since the Spanish American War. Women casualties include including two aboard the USS Cole when it was attacked by terrorists in 2000, sixteen in Desert Storm, and eight in Vietnam.

WOMEN AND THE LAWS OF WAR

The Geneva Conventions of 1949 govern the treatment of soldiers and civilians during armed conflicts. The Geneva Convention III relates to the Treatment of Prisoners of War. The August 1949 treaties, whose signatories include the United States and Iraq, took effect on October 21, 1950, after the Nuremberg war crimes trials in Germany. They continue to apply now.

With respect to POWs generally, Article 13 of Geneva Convention III requires that they "must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention." And Article 3 (common to all four Conventions) prohibits "violence to the life, health, or physical or mental well-being of persons" including torture of all kinds, whether physical or mental. Such acts of violence "remain prohibited at any time and in any place . . ." with respect to persons being detained.

The Geneva Convention III says relatively little about women—primarily because, at the time it was drafted, women were not involved on the battlefield to the same extent as men.

It does provide some privacy guarantees for women, however. Article 25 states that women prisoners must be housed separately from the men. And Article 29, which deals with hygiene and medical attention states that "[i]n any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them."

Meanwhile, Article 14 provides an equality guarantee of sorts for women POWs. It says that "women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favorable as that granted to men."

As with domestic laws, there is a question as to how far this equality guarantee requires additional safeguards for women, beyond what men are entitled to. Some commentators argue that it does, for women have specific needs arising from gender differences, honor and modesty, and pregnancy and childbirth.

Other specific protections are also included. Women prisoners who are being disciplined are required to be confined in separate quarters under the immediate supervision of women—apparently to prevent any risk that an isolated women might be subject to sexual assault or mistreatment.

In addition, all women POWs who are pregnant or mothers with infants and small children are to be conveyed and accommodated in a neutral country. Shoshana Johnson, as the mother of a 2-year old toddler, would seem to qualify.

And more generally, under international humanitarian law, the ill-treatment of persons detained in relation to armed conflict is prohibited.

Meanwhile, civilians taken captive are meant to be afforded similar protections pursuant to Geneva Convention IV. Women are to be protected "against rape, enforced prostitution or any form of indecent assault." Additional Protocol I to the Geneva Conventions, relating to civilians, notes that "women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault." One need only remember the conflict in the former Yugoslavia, however, to see that rape has often been used against civilian women during armed conflict. Finally, with respect to relief shipments for civilians, Convention IV notes that "expectant mothers, maternity cases and nursing mothers" are to be given priority.

POTENTIAL REMEDIES: RED CROSS FACTFINDERS AND WAR CRIMES TRIBUNALS

Iraq has claimed publicly that it is adhering to the Conventions. But the recent video footage of American POWs has given others a different impression.

In addition, past history leads to reasonable fears that woman POWs will be mistreated by Iraq in ways particular to their gender. Consider, for instance, the sexual assault suffered by Major Cornum. Will there be any recourse if women are, in fact harmed or mistreated?

The answer is: Perhaps during the war, and certainly after the war.

The International Committee of the Red Cross (ICRC)—which drafted the original treaties—serves as a fact finder with respect to possible violations. During war, the ICRC attempts to protect military prisoners of war, civilians caught in war zones, and wounded or sick service members.

An ICRC delegate who witnesses disturbing violations at a jail, hospital, or other facility has the duty to report it to the ICRC, who advise the victim what to do. Thus, if U.S. POWs are mistreated in Iraq, and the Red Cross is let in to see them, and they feel comfortable reporting their mistreatment, there may be some recourse for them.

But all of these contingencies may not actually become reality—and remedies may have to wait until the war's end. At that point, a special war crimes tribunal may well be created in order to prosecute individuals for "grave breaches" of international humanitarian law.

Not all violations of the law of war, indeed not all violations of the Geneva Convention, are grave breaches. "Grave breaches" are defined in the Geneva Convention III to include intentional killing, torture, or inhumane treatment.

Today, such breaches would include sexual violence against women POWs. Such violence, under international law, is criminal.

Both the Red Cross and the international community—through war crimes tribunals—should insist on strict adherence to Geneva Convention III, for men and women prisoners of war alike, and equally.

Unless women prisoners are truly protected equally—meaning that they are protected when it comes to gender-specific crimes and with respect to crimes with gender-specific additional impact—the equality of women in the military will itself be imperiled.

SEX CRIMES IN WAR MAY ALSO BE BREACHES OF INTERNATIONAL HUMANITARIAN LAW

As the ICRC has previously stated, "although both men and women are subject to sexual assault, a distinction needs to be drawn between them. Sexual torture as such, particularly during interrogation, with its full spectrum of humiliation and violence can, and often does, culminate in the rape of the victim, and is more common with women prisoners. In male prisoners, direct violence to sexual organs is more common during this same phase."

To note this is not in any way to minimize the terrible things that may happen to male POWs. But it is to say that women do face a special risk: the risk of rape, and of being pregnant as a result of rape.

To cope with a pregnancy as a result of rape is terrible enough, and is made all the worse by being in detention. Women may also be forced to terminate their ongoing pregnancies against their will.

Other abuses inflicted on POWs, while not suffered solely by women, could be worse for women than men. They might include beatings, strip searches by men, intimate and abusive medical examinations or body searches, and sexual or gender-based humiliation (such as non-provision of sanitary protection).

Under international law, rape, sexual assault, sexual slavery, forced prostitution, forced sterilization, forced abortion, and forced pregnancy may all qualify as crimes.

RAPE AS A WAR CRIME, AND A CRIME AGAINST HUMANITY

The crime of rape, in particular, has long existed under customary international law. Some treaties have mentioned rape specifically, whereas other treaties and international conventions have made reference to rape as a crime against humanity when directed against a civilian population.

The nineteenth century Leiber Code, for example, listed rape as a specific offense, and made it a capital offense. Later, World War II prosecutions, and the Geneva Conventions, reinforced the prohibitions on rape and other sexual violence, although the focus was on crimes of sexual violence against civilian populations.

Some evidence of sexual violence was presented before the International Military Tribunals, after World War II. Most notably, in the judgments of the International Military Tribunal for the Far East, rape was first specifically referenced. Allied Control Council Law No. 10, which governed the prosecution of defendants at Nuremberg, listed rape as one of the enumerated acts constituting a crime against humanity.

In the Tokyo war crimes trials, acts of sexual violence and rape were not placed at a level that would allow them to stand alone. The Tribunal presented evidence relating to sexual atrocities committed upon women in places such as Nanking, Borneo, the Philippines, and French Indochina. Rape and acts of sexual violence were categorized as crimes against humanity because they amounted to inhumane treatment.

Today, the prohibition against rape and sexual violence in armed conflict is even stronger. In 1993 and 1994, rape was specifically codified as a recognizable and independent crime within the statutes of the International Criminal Tribunals for the Former Yugoslavia (ICTY) and for Rwanda (ICTR).

In addition, the ICTY and ICTR cases have also reinforced the legal basis for arguing that rape and sexual violence are both individual crimes against humanity, and violations of the laws and customs of war.

Finally, the new statute of the International Criminal Court also recognizes rape as crime against humanity when it occurs in the context of armed conflict.

I hope that all of the POWs are treated humanely, and come home soon. And I hope Shoshana Johnson is transported to a neutral country—as she is entitled to be, as the mother of an infant—if she continues to be held.

To ensure that these things happen, it is also important for the international community to make clear what obligations Iraq has with respect to all POWs, and the special obligations it bears to female POWs in particular.

TRIBUTE TO REV. DR. GEORGE E. McRAE ON HIS ELECTION AS PRESIDENT OF THE FLORIDA GENERAL BAPTIST CONVENTION

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. MEEK of Florida. Mr. Speaker, I know that my colleagues will join me in offering our prayerful best wishes and congratulations to the Reverend Dr. George E. McRae of Miami, Florida, my Pastor and the Pastor of Mount Tabor Missionary Baptist Church, on the occasion of his election as the new President of the Florida General Baptist Convention.

Reverend McRae is perhaps uniquely qualified, by both education and experience, to carry out this important responsibility. He earned his Bachelor's degree at Bethune-Cookman College at Daytona Beach; His Master of Divinity degree at the Interdenominational Theological Center in Atlanta; and his Doctor of Ministry degree at Columbia Theological Seminary in Atlanta. In addition to his fourteen years as Pastor of Mount Tabor Missionary Baptist Church, Rev. McRae has served as Pastor of Shiloh Baptist Church in Daytona Beach; and the Bethlehem Baptist Church and the New Mount Zion Baptist Church, both in Palatka.

Reverend McRae has received numerous awards for his work, including the NAACP's Humanitarian Award and the Miami Herald's Charles Whited Spirit of Excellence Award, and he has lectured extensively. He was also featured in a front page article in the Wall Street Journal, which chronicled his work at Mount Tabor and the establishment of M.O.V.E.R.S. Inc.—Minorities Overcoming The Virus Through Education, Responsibility and Spirituality—which provides comprehensive treatment, education, counseling and housing assistance to AIDS victims and their families in low-income Miami neighborhoods.

In addition to these great achievements, though, Pastor McRae's highest qualification as leader of Florida's Baptist faithful must truly be the strength of his commitment to Christ's teachings, as exemplified by the caring and humanity of his ministry.

He is a person of great personal power whose very presence cheers those who are afflicted. He is a person of great vision who inspires people to help other people—from caring for the hungry in the church basement after Sunday services to making health care available, in their own neighborhoods, to people who otherwise could not afford health care, even if they had access to it. He is a person who has devoted a lifetime of energy and creativity to the betterment of others.

I extend my best wishes to Pastor McRae and his wife, Mary, for the sacrifices they have made to help others, for their caring and their leadership, and for taking on this additional burden and responsibility, which is so important to our families and our community.

HONORING CHRISTY WHITNEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to a deeply compassionate and sensitive woman. Christy Whitney has devoted much of her life to helping others in need as a Registered Nurse, and ultimately as CEO and President of Hospice and Palliative Care of Western Colorado. Today, I recognize Christy's years of service before this body of Congress.

Christy has touched many lives while working in the nursing profession for the past 27 years. As recognition of these years of dedicated service, she was recently named recipient of the 18th Annual Nightingale Award

Celebrating Nursing Excellence. Coworkers nominated Christy for the award through an essay and several letters of recommendation. Peers noted that Christy has an intelligent and passionate approach to nursing, characteristics she shares with Florence Nightingale, the renowned nineteenth century nurse. Christy remains humble about her successes and emphasizes that her responsibility as an administrator is to create an environment in which others can perform their job well.

Mr. Speaker, I am proud to stand before this body of Congress today to recognize Christy's compassion and devotion to helping others. I would like to congratulate Christy on her prestigious award and the profound respect that she has earned from her coworkers. Her lifelong commitment to serving others certainly warrants the respect of this body and our nation. Christy has answered a noble calling by tending to those in need and I commend her for her selfless public service.

HONORING JEFF HANCOCK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to a successful businessman who has provided Western Colorado with years of service. Jeff Hancock has devoted much of the past ten years to serving as CEO of the Grand Junction-based organization, Rocky Mountain Nurses, Inc. Today, I would like to honor Jeff's accomplishments and the impact he has had on the Grand Junction community by expanding his prominent full-service home health-care firm.

Rocky Mountain Nurses, Inc. was founded in 1995 as a small temporary nursing service. Through small business loans, it was recently able to add fifty new jobs in Mesa County. The firm is now located in a new corporate office, employs approximately 180 people, and has opened a medical equipment retail store. The expansion of Jeff's firm has allowed him to provide nursing services to more than 350 people per month. The U.S. Small Business Administration recently honored Jeff by selecting him as Colorado Small Business Person of the Year. He was one of 53 recipients of this award, and is currently in the running to be named as National Small Business Person of the Year.

Mr. Speaker, I am proud to stand before this body of Congress today to recognize the positive impact that Rocky Mountain Nurses, Inc. has had in my district. Jeff embodies the combination of ambition and altruism necessary to guide an expanding firm dedicated to serving the community. I would like to congratulate him on this prestigious award and the respect that he has earned from his peers. I wish Jeff all the best in his future endeavors.

THE ASSISTANCE FOR NEEDY FAMILIES, TANF

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mrs. JONES of Ohio. Mr. Speaker, I rise to acknowledge the importance for Congress to address the concerns of a welfare reform bill. I support the 3-month extension to reauthorize the Temporary Assistance for Needy Families Block Grant Program through fiscal year 2003. I also ask the U.S. Senate to move on this important legislation.

Mr. Speaker, more than 35 States have made cuts in programs funded with TANF and child care block grant funds. Most importantly, these cuts are in programs that promote the goals of welfare reform. These cuts reflect both the exhaustion of many States' surplus. Cuts are in welfare to work programs, cuts are in programs to help the most disadvantaged families, cuts are in transportation assistance, cuts are in basic cash assistance benefits, cuts are in teen pregnancy prevention programs, and cuts are in child care. My dear colleagues, let us come together—set aside our differences—and work to pass a bipartisan measure that will provide adequate aid to families with dependent children (AFDC) and critique the job opportunities and basic skills training (JOBS) programs.

Mr. Speaker, our Governors have spoken out and printed on recycled paper critical funding and flexibility of the Temporary Assistance for Needy Families block grant, which must be preserved—without any set-asides. The program should be reauthorized to ensure that States are able to continue their current innovative efforts to assist low-income individuals and families. I ask that we work together to provide meaningful legislation that will lead our families to self sufficiency.

HONORING REBECCA JOHNSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress today to recognize a dedicated educator. Rebecca Johnson has provided exemplary service as a teacher at Redlands Middle School in Grand Junction, Colorado, and it is my pleasure to honor the creativity that Rebecca has employed in touching the lives of her students and incorporating real life lessons in her classroom.

Rebecca has used a number of tools and methods to bring her academic lessons to life for the children she teaches. She has reinforced her students' interest in reading, turning her classroom into a movie set based on a book they read together. Rebecca has also encouraged interest in the arts as she supervises murals painted at the school. Rebecca's creativity has surely impacted her students in a positive manner and assisted them in developing a life-long appreciation for learning.

Mr. Speaker, I am proud to stand before this body of Congress today to express my admiration and gratitude for Rebecca's service and devotion to teaching. Individuals like Rebecca symbolize the dedication and commitment necessary to impart strong values to future generations and allow them the opportunity to succeed. Rebecca has answered a noble call that demands the utmost admiration and respect. Thank you, Rebecca, for your dedication and selfless public service.

TRIBUTE TO BOB TAYLOR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. McINNIS. Mr. Speaker, it is my privilege to recognize one of my district's most prominent and accomplished agriculturalists. Bob Taylor is the founder of a farming dynasty that has flourished for the last fifty years in La Plata County, Colorado. In addition to a wealth of agricultural knowledge, his reputation precedes him throughout the county as a fair and honest man. I would like to take this opportunity to pay tribute to Bob for the contributions that he has made throughout Colorado.

In spite of adverse conditions for area farmers, Bob has persevered throughout the last decade. He is consistently one of the top agricultural producers in the area and is always willing to offer advice to fellow agriculturalists. For his efforts, the Durango Area Chamber of Commerce has recently honored Bob as Agriculturalist of the Year.

The community also recognizes Bob for his long history of service to his church and the surrounding community. He embarked upon his two-year Mormon Church Mission after high school and began his service to the nation when he joined the Army during World War II. Bob was elected to a County Board position in 1954, but declined to run again after his church's local ward summoned him to serve as Bishop. Bob continues to maintain his public involvement by serving on two water-district boards.

Mr. Speaker, it is my distinct privilege to recognize Bob Taylor before this body of Congress and this nation. He served his country with honor as a soldier, and he has excelled in his agricultural career ever since. I congratulate Bob on his recent award and wish him all the best in his future endeavors.

HONORING ALUMNI OF THE FRANCES PAYNE BOLTON SCHOOL OF NURSING

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mrs. JONES of Ohio. Mr. Speaker, I rise today to extend my sincere congratulations and gratitude to the nurses who served in the United States military during World War II and the U.S. Cadet Nurse Corps who are alumni of the Frances Payne Bolton School of Nursing at Case Western Reserve University.

These nurses were honored during their Reunion Celebration, which took place on May 17, 2003 at Severance Hall in Cleveland, Ohio.

Representative Frances Payne Bolton acquired the congressional seat of her late husband, which she maintained from 1939–1969. As a Member of Congress, she led the effort to create the U.S. Cadet Nurse Corps which trained 125,000 nurses in 1,100 nursing schools from 1943 to 1948 to reduce the nursing shortage and improve health care in the military and throughout the entire nation. She was the very first Congresswoman to serve the state of Ohio.

It is my pleasure to join with the Case Western Reserve University community and the citizens of the 11th Congressional District in honoring this group of nurses for their untiring service to this country.

NATIVE AMERICAN SACRED LANDS PROTECTION ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. RAHALL. Mr. Speaker, many would argue that the United States Capitol is sacred. It is a testament to freedom, a symbol of government, a monument of national historical and cultural significance. Throughout its halls there are statues of our founders, our heroes, our history. For the past 200 years, legislators have sweat blood and tears debating the laws of our great country.

It is sacred to me, to the American people and to the underlying principles of this country. No patriotic American or friend of this great country would even think to spoil or mar the sanctity of this building.

But there are many places across this country no less sacred than the Capitol building, that are being desecrated as we speak. It is inconceivable to have open-pit mining in Arlington Cemetery or to imagine an oil rig plopped in the middle of the Sistine Chapel. But in fact that is the very problem facing Native American sacred lands today.

For example, the proposed site for a 1,600-acre, open-pit gold mine in Indian Pass, California, is a place where "dream trails" were woven. The Bush administration revoked a Clinton-era ruling that said mining operations would cause undue impairment to these ancestral lands, an extremely sacred place to the Quechan Indian tribe. Now the tribe is left fighting for its religious and cultural history. Although the state of California has taken action to help protect this site, the Federal government remains poised to permit the gold mine.

Long before my ancestors arrived on these shores, American Indians were the first stewards of this land. They respected the earth, water and air. They understood you take only what you need and leave the rest. They demonstrated you do not desecrate that which is sacred.

Most Americans understand a reverence for the great Sistine Chapel, or even the United States Capitol. Too often non-Indians have difficulty giving the same reverence we give to our sacred places to a mountain, valley, stream or rock formation.

We cannot fight to preserve Native American sacred lands on a case by case basis. We need a comprehensive process to protect bona fide Native American sacred sites wherever they may lie on the public domain.

That is why today I am introducing the Native American Sacred Lands Protection Act.

First, the bill would enact into law a 1996 Executive Order designed to protect sacred lands. Specifically, it ensures access and ceremonial use of sacred lands and mandates all federal land management agencies take the necessary steps to prevent significant damage to sacred lands.

Second, my bill gives Indian tribes the ability to petition the government to place federal lands off-limits to energy leasing or other incompatible developments when they believe those proposed actions would cause significant damage to their sacred lands.

This is an extremely important provision. The tribes would no longer have to depend on the good graces of federal bureaucrats to protect these lands. Rather, the tribes themselves could initiate those protections.

Third, the bill respects the confidentiality requirements of some Native American religions. And finally, the bill would permit sacred lands be transferred from the Federal government to the affected Indian or co-management plans to be implemented.

If you look to our national parks, forests and monuments you see the commitment to preserve many of our country's natural treasures. The Federal government has put its full weight behind protecting these lands, and we can do the same for Indian country.

At a time when the Bush administration is promoting increased energy development, we must enact comprehensive legislation that prohibits the further loss of Native American sacred lands. We must not stand idly by as these unique places are wiped off the face of the earth.

HONORING VIRGINIA ROCKWELL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress today to recognize a dedicated school counselor. Virginia Rockwell has served as a kindergarten through twelfth grade counselor for schools in Swink, Colorado for the past 21 years. For two decades, Virginia has provided enthusiastic service to our state's youth. Now, as she enters retirement, it is my pleasure to honor the character and achievements that have defined Virginia's dedicated career.

While Virginia has always been reluctant to take credit for her students' achievements, she has turned out a remarkable number of accomplished scholars, athletes and dedicated citizens. However, some of the students of which she is most proud are those who had to work the hardest to graduate. Virginia's commitment to her students and caring touch have not gone unnoticed. She was the state multi-level Counselor of the Year and runner up nationally in the early 1990s. Having little experience with schools in rural areas when she started, Virginia has come to appreciate the support and unique relationships that she has made while working in Swink. Upon her retirement, Virginia's peers and students will certainly reciprocate the touch of sadness that she experiences when her students graduate.

Mr. Speaker, I am proud to stand before this Congress today to express my gratitude for Virginia Rockwell's many years of service. Individuals like Virginia symbolize the dedication and commitment necessary to impart strong values to our next generation and allow them the opportunity to succeed. Virginia Rockwell has answered a noble call that demands our admiration and respect. Thank you, Virginia, for your many years of dedicated and selfless public service.

TRIBUTE TO FRANK AND SUE MENEGATTI

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. McINNIS. Mr. Speaker, it is an honor to stand before this body of Congress today to recognize Frank and Sue Menegatti of Walsenburg, Colorado. Frank and Sue have spent years managing The Capps Ranch Limited Partnership. During this time, they have enhanced stream quality, increased wildlife populations and protected the lands under their care from the ravages of fire. For their conscientious stewardship, Frank and Sue have received the Colorado Agricultural Outlook Forum's Leopold Conservation Award.

The exemplary efforts of Frank and Sue are all the more notable in light of the devastating drought that Colorado experienced in 2002. Frank and Sue have constructed ponds, developed twenty-five springs, and laid twenty-six miles of subterranean water pipeline in order to increase their ability to store water and protect it from evaporation. Their labor has benefited Colorado for many years, particularly at critical times, and it has helped develop a successful ranch while also caring for the natural beauty of Colorado's environment. Today, their ranch provides a habitat for twice as many elk, antelope, deer and sage grouse as it did before they began their remarkable stint as stewards.

Mr. Speaker, it is a pleasure to bring Frank and Sue's achievements to the attention of this body of Congress and this nation. Frank and Sue Menegatti serve as role models and inspirations not only to ranchers, but also to all who understand the need to protect our nation's great natural beauty for future generations.

COMMEMORATING THE 100TH ANNIVERSARY OF THE HEPPNER FLOOD

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. WALDEN of Oregon. Mr. Speaker, I rise today in observance of one of the most tragic events in the history of Oregon and a defining chapter in the story of the small town of Heppner. June 14, 2003, will mark the 100th anniversary of the Heppner Flood, a natural catastrophe of unprecedented scale in my state that took the lives of 247 Oregonians, almost a quarter of the town's 1,146 residents. Though generations have passed since the people of Heppner witnessed nature's awesome, destructive wrath, even today the residents of this resilient community carry with them the painful memory of the devastation that occurred a full century ago.

June 14, 1903, was like any other Sunday in the peaceful town of Heppner, when the humble, God-fearing townspeople went about their lives, worshipping together and resting from a week spent toiling in their fields, minding their stores and tending their flocks and herds. As evening approached, none sensed the pending calamity that would befall the close-knit community and alter the lives of its residents forever.

Mr. Speaker, the rain came in an instant, swelling streams and unleashing a torrent that careened toward the town and destroyed everything in its wake. Trees were uprooted, structures crushed liked matchbox houses and homes and livestock were swept away in the deadly cascade. So, too, were many of the people of Heppner—men, women and children who drowned by the hundreds. An account of the disaster in the East Oregonian newspaper later estimated that more than three billion pounds of water passed through Heppner that night at a rate of 70 million pounds per minute.

Whole families were swept from the face of the earth, joining the horrendous flotsam of bodies and debris that rushed forward and disappeared into the churning water. With astonishing and merciless speed, the Heppner Flood destroyed the town's water system, ruined the railroad, took down telegraph lines and collapsed the bridges over Willow Creek. In a few short minutes, what had been a sleepy, idyllic Oregon town was transformed into a seething, watery graveyard. Scarcely a resident of the town could be found who had not lost a friend or family member or suffered the loss of property. Many of the hundreds of dead lay buried in the Heppner Masonic Cemetery, where today their descendants tend their graves and honor their precious memories.

The outpouring of assistance from nearby communities following this tragedy said much about the compassion and humanity of the people of the Northwest. In a poignant letter to Heppner's Mayor, Frank Gilliam, three little girls in Colfax, Washington, sent $11 they collected by selling homemade candy to help victims of the flood. Mayor Gilliam, touched by the gesture, wrote a note of thanks that tragically captured the sorrow that had been visited upon his town. "Two weeks ago yesterday morning, Heppner was a happy little town," he wrote. "Our church bells rang and our little ones sang songs of praise and worshipped by their mother's side. Evening came, and with it the storm, and many of our precious little children were carried away to worship at the throne of God. Those who have gone before are happy now, while those of us who remain are sad. Sad because of the little ones who are no more—who cannot be with us to cheer our weary way."

Mr. Speaker, a century has passed since the disaster, yet the Heppner Flood remains the worst natural disaster in the history of Oregon. Though the buildings that had been torn down would be rebuilt, the fields would be replanted and herds replenished, the overwhelming human loss would remain like an open wound, the horror of the flood a constant nightmare from which the survivors would never awaken. In my travels to Heppner, I have come to know many descendants of both survivors and victims of the flood. It is a profound honor to represent them in the House of Representatives.

Mr. Speaker, as a tribute to the victims of this devastating event, I ask that my colleagues observe one minute of respectful silence.

TRIBUTE TO GAGLIANO'S ITALIAN MARKET

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

Mr. McINNIS. Mr. Speaker, it is my distinct privilege to recognize a local business that truly symbolizes the "American Dream." Tony and Josephine Gagliano own and operate Gagliano's Italian Market, a Pueblo, Colorado fixture for the last 80 years. As the store has evolved over time, it continues to provide a distinct taste of home to numerous Puebloans. For this reason, I would like to pay tribute to the unique service that the Gagliano family has provided to the Pueblo Community.

Joe and Carmela Gagliano, the market's founders, were washed out of their home in Pueblo's flood of 1921. They recovered from that flood and embarked on a venture in the grocery business. Joe and Carmela's market originally catered to the basic needs of the growing Italian-American community in Pueblo. Today, Gagliano's Italian Market sells products that range from Italian foods to Italian cookware, dishes, pasta makers, and novelty items. Josephine, Joe and Carmela's daughter, does most of the baking with help from her grown children and their families. The Gaglianos are proud to serve the Pueblo community and are enthusiastic about continuing this family tradition.

Mr. Speaker, I am honored to recognize the Gagliano's story before this body of Congress and this nation. The Gaglianos provide a unique service to the community by honoring their family's culture and tradition. Their strength of spirit and dedication to the "American Dream" are the characteristics that have made this nation great. I congratulate them on their successes and wish them all the best with their future endeavors.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 12, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 17

9:30 a.m.

Environment and Public Works

Fisheries, Wildlife, and Water Subcommittee

To hold hearings to examine S. 525, the National Aquatic Invasive Species Act of 2003, to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

SD–406

Foreign Relations

To hold hearings to examine the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal May 28, 1999 (Treaty Doc. 106–45), Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on October 12, 1929, done at The Hague September 28, 1955 (The Hague Protocol) (Treaty Doc. 107–14), Stockholm Convention on Persistent Organic Pollutants, with Annexes, done at Stockholm, May 22–23, 2001 (Treaty Doc. 107–05), Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, with Annexes, done at Rotterdam, September 10, 1998 (Treaty Doc. 106–21), Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population done at Washington on October 16, 2001 (Treaty Doc. 107–10), Agreement Amending the Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges done at

Washington May 26, 1981 (the "Treaty"), effected by an exchange of diplomatic notes at Washington on July 17, 2002, and August 13, 2002 (the "Agreement"). Enclosed is the report of the Secretary of State on the Agreement and a related agreement, effected by an exchange of notes at Washington on August 21, 2002, and September 10, 2002, amending the Annexes to the Treaty (Treaty Doc. 108-01), and Amendments to the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, with Annexes and agreed statements, done at Port Moresby, April 2, 1987, done at Koror, Palau, March 30, 1999, and at Kiritimati, Kiribati, March 24, 2002. Also transmitted, related Amendments to the Treaty Annexes, and the Memorandum of Understanding (Treaty Doc. 108-02).
SD-419

Rules and Administration
To hold hearings to examine Senate Resolution 151, requiring public disclosure of notices of objections (holds) to proceedings to motions or measures in the Senate.
SR-301

10 a.m.
Governmental Affairs
Business meeting to consider pending calendar items.
SD-342

Judiciary
To hold hearings to examine the FTC study on barriers to entry in the pharmaceutical marketplace.
SD-226

Aging
To hold oversight hearings to examine Section 202 housing, focusing on efforts to do the right thing for seniors through better government.
SD-628

2 p.m.
Judiciary
To hold hearings to examine whether personal and national security risks compromise the potential of P2P File-Sharing Networks.
SD-226

2:30 p.m.
Veterans' Affairs
To hold hearings to examine the nominations of Alan G. Lance, Sr., of Idaho, and Lawrence B. Hagel, of Virginia, both to be a Judge of the United States Court of Appeals for Veterans Claims.
SR-418

JUNE 18

9:30 a.m.
Governmental Affairs
To hold hearings to examine the nominations of Fern Flanagan Saddler, Judith Nan Macaluso, Joseph Michael Francis Ryan III, and Jerry Stewart Byrd, all of the District of Columbia, each to be an Associate Judge of the Superior Court of the District of Columbia.
SD-342

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the New Basel Capital Accord.
SD-538

Health, Education, Labor, and Pensions
Employment, Safety, and Training Subcommittee
To hold hearings to examine proposed legislation authorizing funds for the Workforce Investment Act.
SD-430

Indian Affairs
To hold oversight hearings to examine Native American sacred places.
SR-485

2:30 p.m.
Judiciary
Antitrust, Competition Policy and Consumer Rights Subcommittee
To hold hearings to examine the NewsCorp/DirecTV deal, focusing on global distribution.
SD-226

JUNE 19

10 a.m.
Governmental Affairs
To hold hearings to conduct an initial review of the ULLICO matter, focusing on self-dealing and breach of duty.
SD-342

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold oversight hearings to examine grazing programs of the Bureau of Land Management and the Forest Service, focusing on grazing permit renewal, BLM's potential changes to grazing regulations, range monitoring, drought, and other grazing issues.
SD-366

JUNE 21

10 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to examine a national export strategy.
SD-538

JUNE 24

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine bus rapid transit and other bus service innovations.
SD-538

Governmental Affairs
To hold hearings to examine controlling the cost of Federal Health Programs by curing diabetes, focusing on a case study.
SH-216

Health, Education, Labor, and Pensions
Substance Abuse and Mental Health Services Subcommittee
To hold hearings to examine proposed legislation authorizing funds for the Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.
SD-430

2:30 p.m.
Armed Services
Personnel Subcommittee
Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold joint hearings to examine support for military families.
SD-106

JUNE 25

10 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD-366

JUNE 26

9:30 a.m.
Governmental Affairs
To hold hearings to examine the need for Federal real property reform, focusing on deteriorating buildings and wasted opportunities.
SD-342

2 p.m.
Foreign Relations
To hold hearings to examine the Department of State's Office of Children's Issues, focusing on responding to international parental abduction.
SD-419

POSTPONEMENTS

JUNE 17

2 p.m.
Judiciary
To hold hearings to examine P2P file-sharing networks, focusing on personal and national security risks.
SD-226

HOUSE OF REPRESENTATIVES—*Thursday, June 12, 2003*

The House met at 10 a.m.

The Reverend Michael Dolan, Pastor, Immaculate Heart of Mary Parish, Lexington Park, Maryland, offered the following prayer:

Almighty God, give us light and strength to know Your will, to make it our own, and to live it in our lives.

Guide us by Your wisdom, support us by Your power, for You are God.

You desire justice for all: Enable us to uphold the rights of others; do not allow us to be misled by ignorance or corrupted by fear or favor.

Unite us to Yourself in the bond of love, and keep us faithful to all that is true.

As we gather in Your name, may we temper justice with love, so that all Your decisions may be pleasing to You and earn the rewards promised to good and faithful servants. Therefore, teach us to be generous, to serve You as You deserve, to give and not to count the cost, to fight and not to heed the wounds, to toil and ask for no reward except that of knowing that we are doing Your holy will. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. GREEN) come forward and lead the House in the Pledge of Allegiance.

Mr. GREEN of Texas led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under clause 2 of rule I, it is the responsibility of the Speaker to preserve order and decorum in the proceedings of the House. As stated on page 330 of the House Rules and Manual, this responsibility requires that the Chair disallow the use of an exhibit that tends to degrade decorum. Thus, the Speakers previously have disallowed the introduction of a person on the floor as a guest of the House as an "exhibit."

Pursuant to clause 2 of rule I, the Chair reiterates the ruling of June 11, 2003, that it is inappropriate to use Pages of the House as part of a visual exhibit during debate. Although Members may enlist the assistance of Pages to manage the placement of exhibits on easels, it is not appropriate to use Pages as though part of an exhibit or otherwise include them in an exhibition.

The Chair also will continue to scrutinize the number of charts and other visual exhibits used simultaneously during the debate for any tendency to impair decorum.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain five 1-minute speeches on each side.

FREE DR. OSCAR BISCET

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, on March 18 the Cuban Government began a massive crackdown on the best, the brightest, and the most courageous in Cuba. Some 75 journalists and human rights activists were arrested and subjected to kangaroo trials and now have gotten prison terms from 6 to 28 years.

Last week Amnesty International called it the most severe crackdown on dissents since the year following the Cuban revolution.

Sadly, these brave Cubans join 400 other political prisoners who are languishing in Castro's gulags. Their only crime is their love of freedom.

Among those unjustly imprisoned, is Dr. Oscar Biscet, a pro-life Afro-Cuban who has been a leader in the human rights movement for years. Although he was recently released, Mr. Speaker, from a 3-year term, he was rearrested, and now has been sentenced to 25 years in prison for organizing a human rights meeting.

His wife, Elsa Morejon, reports that Dr. Biscet is kept in a 6 by 3 punishment cell. They have been refused any visits and any kind of parcels of food or medicines. On May 28 Dr. Biscet wrote, "I am innocent of the charges of which I have been condemned. A true man cannot betray himself, so I only appeal to the living God and pray to our Lord, as He is not neutral and never abandons his flock."

According to his wife, Dr. Biscet's only crime is trying to observe and uphold the universal declaration on human rights, his opposition to abortion, his opposition to the death penalty, and for organizing civil rights movement through nonviolent civil disobedience.

We join this man and his wife and all of those who are suffering. We have got to speak out and not give up until they are free.

MISUSE OF FEDERAL POWER

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, we have so much to be proud of in our country: our young people serving in the military, protecting our Nation, our law enforcement working long hours to make us safe. We can even celebrate last night the Houston Astros winning a no-hitter against the New York Yankees with six pitchers.

What we cannot be proud of and what bothers many Americans is we have had three different congressional committee members ask the Department of Homeland Security, the Department of Justice, and the FBI to release all the information and audiotapes concerning the use of our Federal law enforcement to track Texas legislators. This sounds like an abuse of authority, and it smells.

Our law enforcement should not be used for partisan political purposes. Release these tapes and let the American people decide who is wasting our law enforcement's time, when they should be protecting our Nation, looking for Texas legislators.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

FREE MARTA BEATRIZ ROQUE

(Mr. LINCOLN DIAZ-BALART of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, today we speak of a heroine, an extraordinary woman and leader who languishes in Castro's gulag, Marta Beatriz Roque, sentenced to 25 years for speaking her mind on behalf of freedom and democracy.

To those who wish to send billions of dollars to the dictatorship in Cuba by sending U.S. tourists to savor tropical drinks in the tourism apartheid resorts and take advantage of the regime-encouraged child prostitution, I think it is worthwhile to listen to Marta Beatriz, one of the last statements before she was picked up and sent to a gulag for 25 years.

We exhort all the governments of the civilized world not to prolong the agony of the Cuban people, not to finance the tyranny, not to support the tyranny; that they condemn the tourism apartheid, that they condemn the exploitation of laborers, the prostitution of our youth, the traffic of stolen property, the plunder of the Cuban nation. Solidarity is required today with those who advocated freedom in Cuba and those who also advocated freedom in exile.

Marta Beatriz Roque and all of the Cuban political prisoners, we do not forget you for one day. We will continue to fight until you are free and until all Cubans are free.

GROWING BUDGET DEFICIT

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to voice my anger, my anger over the Bush administration's willingness to plunge our economy further into debt.

The Congressional Budget Office had projected that this year's shortfall to the budget would be $300 billion. But recently they came back and they now tell us it is going to be over $400 billion.

This year's budget deficit will be the biggest one since 1992 and it will be the second consecutive one under this President after we had 4 years of surplus by President Clinton's administration.

Instead of enacting fiscally responsible legislation, this administration continues to do further tax cuts for the wealthy. Former President Clinton recently said, When you find yourself in a hole, a practical person stops digging. But this Bush administration, it is asking for a bigger shovel.

Mr. Speaker, it is time to stop digging. Fiscal responsibility needs to be the rule and not the exception to the rule.

□ 1015

WESTERN SAHARA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I am deeply concerned that the negotiations over the Western Sahara for the past decade have all been for nothing.

Former Moroccan Minister of Interior Driss Basri recently said, "The Houston agreement did not come as a way to find a solution to the issue of Sahara. It came as a starting point of an American plan . . . and it will preserve the American interests," and as U.N. diplomat Marrack Goulding wrote, "for enhanced autonomy for Western Sahara within the kingdom of Morocco."

I find it deplorable and offensive that various officials of Morocco, the U.N., and the U.S. engaged in what amounted to a farce. They spent over $530 million and negotiated an agreement to hold a referendum for the people of Western Sahara without ever intending to hold that referendum.

Mr. Speaker, this is not a game. The people of Western Sahara agreed to a ceasefire on the basis that all parties would uphold the negotiated agreement of a free, fair, and transparent referendum for self-determination. The people of Western Sahara have no desire to suffer under the colonial rule of the kingdom of Morocco; and so the United States, the U.N., and Morocco should stop the game-playing and implement the referendum.

TAKE UP THE SENATE-PASSED CHILD TAX CREDIT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, it has been nearly 2 weeks since the embarrassing revelations that the $350 billion Republican tax cut left behind 6.5 million working families with incomes of $10,000 to $27,000 a year. Not a penny to them and their 12 million children. They were stiffed to make room for more millionaire tax cuts.

Last week, the Senate rushed to fix this. The President has endorsed what the Senate did; and if the Republican leaders here in the House really cared about these families and their kids, they would take up, pass the Senate bill today, send it down to the President tonight, get him to sign it; and they could get refund checks next month along with other families. But, no, that is not what they are going to do.

They are going to turn these families into second-class citizens. If this bill passes today, they can file for the money next year. A lot of working families with parents in combat will be excluded under this bill. They will be left out altogether, but it really does one thing that they really want to do. It assures this bill will not become law because they really do not care about those 6.5 million families and their 12 million kids. They are low-income people. They do not care.

CALL FOR RESPONSIBLE FATHERHOOD

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, as we approach Father's Day, I rise to emphasize the importance of the father in a child's life. A father's presence at home contributes to a child's success in school. It also encourages a child to abstain from drugs and remain crime-free. Until we recognize these facts, we will struggle to defeat many of society's problems.

We provide funding to alleviate problems that are caused by absent fathers, but what we really need are fathers who are physically, emotionally, and spiritually present in their child's life.

I hope that this Father's Day will not just be a day for children to honor their fathers, but also a day for fathers to honor their children by investing in their lives.

Rather than writing legislation, I am calling on my fellow fathers in Congress to lead by example. Doing so will leave a powerful and lasting legacy. It is my prayer that our actions will set a standard for fathers across America and awaken the hearts of many to the necessity and the responsibility of fatherhood.

NOTICE OF DISCHARGE PETITION ON CONCURRENT RECEIPTS

(Mr. MARSHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARSHALL. Mr. Speaker, today I will sign a discharge petition that I bring to right a wrong that has been done to disabled American veterans for more than a century.

In 1891, the United States of America imposed a tax on disabled veterans. We did not call it a tax. We called it a prohibition on concurrent receipts, something average Americans would not understand. Mr. Speaker, it is time to call the concurrent receipt prohibition what it is, the disabled veterans tax. It was wrong then; it is wrong now. It is time to end the disabled veterans tax.

Mr. Speaker, for years the majority and the Members of this House have cosponsored House Resolution 303, which would end the disabled veterans tax; and for years, House Resolution 303 has been bottled up in committee just like campaign reform was bottled up in committee. The discharge petition process forced a vote on campaign finance reform. I am using that same process to force a vote on ending the disabled veterans tax.

Mr. Speaker, at last count, 322 Members of this Congress have cosponsored House Resolution 303. Only 218 of these cosponsors must sign the discharge petition for it to be successful.

ALL-AMERICAN TAX RELIEF ACT OF 2003

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, last month this Congress, with the President's leadership, undertook to pass a tax relief measure that would get this economy moving again. Today, we will continue that good work with the All-American Tax Relief Act of 2003.

While some come to this floor, as we even heard this morning, and suggest that Republicans do not care about children, about 6.5 million families and 12 million children that they say were left out of the refundable per child tax credit, the truth is, Mr. Speaker, as we all know, it was Republican leadership that saw to it that that tax cut was already in place, set to take effect in 2005; but we will accelerate that today.

We will also encourage marriage by eliminating the marriage penalty. In the tax credit we will assist veterans and the heroes in space, we will do justice, we will love kids, and we will provide the compassionate Republican leadership that is so characteristic of this institution when we adopt the All-American Tax Relief Act today.

IT IS TIME TO STOP PENALIZING DISABLED MILITARY RETIREES

(Mr. EDWARDS asked and was given permission to address the House for 1 minute.)

Mr. EDWARDS. Mr. Speaker, it is time to stop penalizing disabled military retirees for having served our country for 20 or 30 years. It is time to stop the disabled veterans tax that reduces military retirees' benefits when the Veterans' Administration determines that they are disabled.

This issue is known by veterans as the concurrent receipt problem. I know it as the concurrent deceit problem.

Today, through the strong leadership of the gentleman from Georgia (Mr. MARSHALL), the 300-plus House Members who have year after year cosponsored the Bilirakis bill to deal with concurrent receipt for military retirees can actually do something about passing that bill, rather than just taking credit for cosponsoring it as they speak at home to their veteran service groups.

It is time to be honest with America's veterans. It is time to stop the hypocrisy of year after year having a majority of the House cosponsor this bill and we never have a hearing, never have a vote on it.

If cosponsors will sign the gentleman from Georgia's (Mr. MARSHALL) petition today, we can have a vote on this bill before the 4th of July. Let us pass the Marshall discharge petition.

APPOINTMENT OF MEMBER TO BOARD OF TRUSTEES OF HARRY S TRUMAN SCHOLARSHIP FOUNDATION

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to 20 U.S.C. 2004(b), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Trustees of the Harry S Truman Scholarship Foundation:

Mr. AKIN, Missouri.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO FILE SUPPLEMENTAL REPORT ON H.R. 1950, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2004 AND 2005

Mr. PENCE. Mr. Speaker, I ask unanimous consent to file a supplemental report from the Committee on International Relations to accompany the bill H.R. 1950, the Foreign Relations Authorization Act, Fiscal Years 2004 and 2005.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1115, CLASS ACTION FAIRNESS ACT OF 2003

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 269 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 269

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1115) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Texas (Mr. FROST), the ranking member of our committee, pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, H. Res. 269 is a structured rule providing for the consideration of H.R. 1115, the Class Action Fairness Act of 2003.

The rule provides 1 hour of general debate equally divided and controlled between the chairman and ranking minority member of the Committee on the Judiciary. It provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill be considered as an original bill for the purpose of amendment.

The rule makes in order only those amendments printed in the Committee on Rules report accompanying the resolution. Each amendment may be offered only in the order printed, may be offered only by a Member designated in the report, shall be debatable for the time specified equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment or demand for a division of the question.

The rule waives all points of order against consideration of the amendment in the nature of a substitute now printed in the bill and waives all points of order against such amendment.

Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, I would like to point out to my colleagues that while this is a structured rule, it is a balanced rule. This rule makes in order four amendments, three Democrat amendments and one bipartisan amendment. In fact, only eight amendments were originally submitted to the Committee on Rules, and two of those amendments were withdrawn from consideration. In a world often frequented with sports analogies, we would say that four for six is pretty good at the plate.

Mr. Speaker, the history of our judicial process was purposely and deliberately constructed by our forefathers to be a system that employs fairness and balance in the rendering of justice. One of the many tools of this judicial system is the class action lawsuit. In its ideal form, the class action suit is meant to give many individuals who hold the same claim of wrongdoing against the same defendant an efficient and effective way to have their grievances heard as a unified voice. Essentially, it acts as a pedestal and a megaphone using the collective nature of the many to increase the profile and the potency of the group's accusations of injustice.

As used by public interest organizations and truly injured groups of individuals, class action lawsuits have proven effective in restoring justice and righting wrongs. By correcting egregious negligence, curbing dangerous misconduct, or even convincing people in organizations to merely abide by the law, class action suits are an integral part of the American system of justice.

However, and very sadly, these suits are also one of the most grossly abused parts of the American system of justice.

□ 1030

We have seen a deluge of frivolous lawsuits designed to coerce quick and often unwarranted settlements only to enrich a few. This abuse of the system stunts economic growth and job creation, and it clogs the courtroom and our system, making it more difficult to receive justice in valid lawsuits. In fact, class action filings in State courts have increased 1,000 percent in just 10 years; 1,000 percent in just 10 years. Somebody is catching onto something around here.

One wonders how effective local courts and judges can even start to get through their workload when it is increasing so rapidly. Perhaps worst of all is the abusive way in which class action suits enrich a small group of trial attorneys and a very small fraction of plaintiffs while leaving most of the rest of the entire class with little or next to nothing.

In one instance, and there are thousands and thousands of these types of stories, but in one instance a State court approved a class action settlement in a case brought by account holders against a bank. The result, the plaintiffs' attorneys received over $8 million in fees and the 700,000 members of the class only received $10 each. Eight million dollars to the trial lawyers, $10 to the plaintiffs. In addition, each class member was stuck holding the remainder of the bank's legal bills, approximately $100 each. These class members had to pay the bank's liabilities, a net loss at the end of the day of $90. How thick the irony, and we want people to respect our system of justice when they see this type of result? This may seem extreme, but it is becoming the norm very, very rapidly.

My colleagues on the other side of the aisle will dispute these facts. They will allege that the system is fine as it is, and that by passing this plan and working to restore justice to our system, we are robbing consumers of their legal rights. Let me be clear, no one is eliminating or diminishing anybody's rights to sue. No one is taking a wrecking ball to the court system that our forefathers so carefully established, and no one is ignoring legitimate claims of negligence or advocating bad guys being left off the hook. We are not doing that.

This bill simply curbs the abuse of class action suits. It curbs the abuses while preserving the rights of the truly injured to bring meritorious claims to court. In addition, this plan would remove large interstate class action lawsuits to Federal court where appropriate. This provision would enable more efficient and effective consolidation of claims. It would also provide greater uniformity in consideration of these cases by requiring the decisions that affect individuals from all across the country be decided by courts that represent the Nation as a whole and not just one State which might have a particular bias for particular parties.

As this plan cracks down on the abuses of class action suits, it also protects the legal rights of individuals through a consumer class action bill of rights. This bill of rights requires that the notices sent to class members be simple and intelligible, ensures that victorious plaintiffs do not suffer a net loss because the attorneys took all of the money, it prevents geographic discrimination against certain class members, and it prohibits disproportionate awards from going to some class members at the expense of others.

The bottom line is that this plan provides greater judicial scrutiny to make our court system more efficient and effective, while restoring fairness to ensure that truly wronged victims receive their fair share of settlements.

Mr. Speaker, as a former judge, I have to say, our court system and the judges and attorneys that serve within it serve nobly by administering and executing true justice when they can. But it is the job of this Congress to make sure that our judicial system is not misused or abused to the point where it cannot perform its very purpose, or it provides the very opposite of justice.

The Class Action Fairness Act creates important reforms that will reduce lawsuit abuse and protect individuals. It is as simple as that. I urge support for this legislation and for the fair and balanced rule before us.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this can be a complicated legal issue, but at its core, this bill that Republicans have given such a misleading name, the Class Action Fairness Act, is very simple. Here is what it does. It protects big corporate wrongdoers like Enron and WorldCom against individuals that they harm. It makes it easier for fraudulent and unethical corporations and their executives to escape accountability for their actions.

That may not be what some of its supporters intend, but that is exactly what this bill would do, and it is exactly the type of thing the Republican House has been doing for the past 8½ years, turning the American people's government over to a small, elite group of the wealthiest and most powerful. We have seen it for the past week as House Republicans have tried to block tax relief for working and military families who need it the most. They gave millionaires tax breaks totaling $93,000, but they called it welfare when Democrats tried to give $150 in tax relief to the military families who need it most to feed and clothe their children.

We are seeing it again here today on this class action bill. Believe it or not, the latest version of the Republican bill is even worse for consumers than the versions they have offered in the past two Congresses. That is because this one does not just protect future corporate wrongdoers, it acts retroactively to pull the rug out from under the victims of some of the worst corporate scandals in recent memory. If Members do not think that was intentional, just take a look at the rule the Republican leadership has written for this bill.

In the past two Congresses, the House has been allowed to vote on every amendment offered by a Member. In fact, let me read from the Congressional Record from a year ago when my friend the gentlewoman from Ohio (Ms. Pryce) who is handling the rule today was handling the rule at that time.

"I would like to take a moment to clarify for my colleagues that while this is a structured rule, our committee, the Committee on Rules, did make in order every amendment submitted to us on this legislation. The rule simply incorporates some time confines equally applied to all of the amendments in order to provide some level of certainty and order during consideration of the legislation in the House."

In other words, last year and, in fact, the year before, the Republican majority made in order every amendment that was submitted to the committee. Now, this year they have neglected to make in order two amendments. Which two did they not make in order? The one dealing with retroactivity; that is, one cannot sue somebody for what they did a couple of years ago and suits are already on file, those suits will suddenly go away. Who are we talking about? We are talking about wrongdoers at Enron and WorldCom and other places. But they will not make that amendment in order. That, of course, is the amendment offered by the ranking member of the Committee on the Judiciary, the gentleman from Michigan (Mr. Conyers), and the gentleman from Massachusetts (Mr. Delahunt).

What is the other amendment that they will not make in order this time? That deals with unnecessarily delaying lawsuits by interlocutory appeals and freezing everything in place. What is wrong with that? Well, because as it is written, this class action bill would give Enron the power to unilaterally freeze the case that defrauded retirees in Texas have filed against it. Many of these people have lost their life savings in a massive corporate fraud. Their case has already been delayed more than a year and a half, a delay that allowed Arthur Andersen to shred important documents; and now this bill would give Enron the power to unilaterally delay the case for many more years.

Just to be clear, last year, and 2 years ago, Republicans let all of the amendments be made in order. This year, they cannot do that; no amendment on the question of retroactivity and no amendment on the question of freezing lawsuits pending appeals.

That is not just wrong, it is indefensible, because it is simply welfare for some of the worst corporate wrongdoers, companies like WorldCom, Arthur Andersen, and Enron. But the Republican leadership has used this power to protect corporate criminals, killing the Conyers-Delahunt amendment on retroactivity last night in the Committee on Rules so they would not have to debate it in the light of day on the House floor.

Mr. Speaker, there are other major problems with the Republican bill. Its operating principle is: Justice delayed is justice denied. State and Federal judiciaries, including the Chief Justice of the Supreme Court, William Rehnquist, oppose it. And because the Federal courts are already overburdened, consumers will have to wait for years for their claims to be heard. In the meantime, big corporate wrongdoers like WorldCom and Enron will have new procedural tactics to run up the bills and run out the clock on the consumers they have injured.

At the same time, the so-called consumer protection provisions of the bill are a cynical sham. They do not provide any new protections for consumers, they just codify the ones that already exist, and they do not come close to making up for the fundamental lack on consumer rights that the entire bill represents.

I am sure the Republicans will come to the floor to complain about the so-called coupon settlements which are no more common in State courts than they are in Federal courts that Republicans favor. No matter how many times Republicans talk about this problem, their bill does not do anything about it. Only the Democratic alternative increases consumer protections against coupon settlements.

The truth is the Democratic alternative offered by the gentleman from Michigan (Mr. Conyers) and the gentleman from Texas (Mr. Sandlin) is the only sensible and workable class action reform on the House floor today. It will help consumers hold corporations accountable for their actions, and it will help courts manage large class action litigation. It tightens the rules on lawyers' fees and coupon settlements. It protects consumers against unfair settlements and enacts other consumer-friendly revisions that have been recommended by the Judicial Conference of the United States. And to protect the rights of out-of-State defendants, it establishes a State level multidistrict litigation panel, like those operating on the Federal level, to manage large class action suits filed in multiple jurisdictions.

So I urge my colleagues to support the Democratic alternative. But first I urge my Republican friends to stand up to the Republican leadership and oppose the previous question. If we defeat the previous question, then the House can consider the Conyers-Delahunt amendment to strike the retroactive provisions of this bill, and it also can consider another very important amendment on the provisions that permit lawsuits to be frozen in place. This is the only way we can block welfare for corporate wrongdoers like Enron and WorldCom.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to set the record straight. Many of the objections that the gentleman from Texas (Mr. Frost) just iterated about the Committee on Rules being unfair about are contained in the Democratic substitute which was allowed by our committee. Retroactivity is specifically addressed there, so there is a chance to debate and vote on that. And it will be a lively debate, I am sure.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Dreier), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentlewoman from Columbus, Ohio (Ms. Pryce), my good friend and able colleague, and I thank her for her fine leadership on this and other issues.

Obviously our goal here is very simple. We want to empower individuals rather than the lawyers. That is what this comes down to. There is bipartisan interest in doing that, based on a number of amendments which have been proposed. And I would argue, Mr. Speaker, that we have a very fair and balanced process around which we are going to be debating this issue.

We have heard this juxtaposition between the consideration of this measure in the 107th Congress and what we are doing today. In the 107th Congress, we had a rule just like this one. It was a structured rule. We also have a structured rule in this measure. We had 8 amendments that were filed, 6 Democratic amendments, a bipartisan amendment and a Republican amendment. Two amendments were subsequently withdrawn. We made 4 amendments in order. Three of those 4 amendments have been offered by Democrats, including something they did not offer in the 107th Congress, and that is a Democratic substitute. We make a Democratic substitute in order.

In the last Congress, the gentleman from Texas (Mr. Frost) talked about the number of amendments made in order. Well, of the amendments made in order, 55 percent of them in the last Congress were Democratic amendments, and in this Congress, it is 75 percent. Three of the 4 amendments made in order have been offered by Democrats. That is why when we hear this issue of fairness continually raised, I argue that this is a very fair, a very balanced rule, that will allow us to take on one of the very, very important issues of the rights of individuals under this system of justice that we have.

□ 1045

I congratulate the members of the Committee on the Judiciary who have worked long and hard on this. We continue to try and bring this back, and we hope very much we will be able to bring about a resolution in behalf of the American people.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Of course, I just heard the comments by my friend, the chairman of the Committee on Rules; and my only point was in the last Congress, both times this came up, the last Congress and the Congress preceding, all amendments that were filed we permitted to be made in order. This time the majority has cherry-picked and said, well, we will have these couple of amendments made in order, but the ones that are really important, we are not going to let those be made in order.

Also, I would like to read from the hometown newspaper of my good friend, the gentlewoman from Ohio, who is managing the bill. This is an editorial that appeared in the Columbus Dispatch May 8, 2003: "Courts have the power to police such abuses, and proponents of the bill have not shown that abuses are widespread or that the courts have failed such that the Congress needs to step in. If there are problems that require a legislative solution, the solution should be one that is carefully tailored, not the blunt instrument of this bill."

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. McGOVERN), a member of the Committee on Rules.

Mr. McGOVERN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the Committee on Rules works in mysterious ways. As the newest member of the committee, I continue to be fascinated by the twists and contortions in the process. I have seen some crazy things: entire bills rewritten behind closed doors; Members of this House shut out of the process, and debate stifled. But last night takes the cake. Last night the Republicans in charge of the committee denied two of the six amendments that were filed. My good friend and colleague, the gentleman from Massachusetts (Mr. DELAHUNT), sponsored both of the denied amendments. He took time out of his busy schedule to testify before the Committee on Rules in support of his amendments, but the chairman and the other committee Republicans decided that the Delahunt amendments would not be considered by the House.

Now, I am sure that they had their reasons. After all, one of the Delahunt amendments would repeal the retroactive provision of the bill. In other words, the lawsuits filed by the former workers at Enron against Ken Lay after he destroyed their life savings would be delayed for years without the Delahunt amendments. And just in case all of the tax cuts for Ken Lay and his rich friends were not enough, now the Republicans are protecting him from facing his former employees in court.

Now, when we saw the rule in committee and I saw that the Delahunt amendments were not made in order, I assumed the chairman had a good reason, so I asked him why he denied these two amendments; and the chairman of the Committee on Rules, whom I have great respect for, replied that he denied these amendments "because that is what they decided." I was even more surprised to hear another Republican on the committee declare that "these amendments were denied because he wanted them denied."

Now, the irony is almost overwhelming. Every day we hear the Republican leadership whine and complain about the other body, about how a single Senator can shut down the whole process, about how so-called "holds" and filibusters are threatening the very foundation of our democracy. I want my colleagues and the American people to know that there are holds right here in the House of Representatives. Apparently, a single member of the Committee on Rules, on a thoughtless whim, has the power to shut down debate on a critical issue.

Mr. Speaker, these amendments were thoughtfully and carefully drafted. They addressed real problems with the legislation. But shockingly, we were not even given the courtesy of a genuine response to our questions. Real questions about real public policy issues were simply waved away like nuisances. We were essentially told that what happens in the Committee on Rules and in this House really is none of our business.

Now, we have debated, as the gentleman from Texas (Mr. FROST) has said, the issue of class action reform twice before, both times under an open process with relevant amendments made in order by the Committee on Rules, but not anymore. The Republicans are setting a very dangerous precedent, Mr. Speaker; and people deserve to know what is happening behind closed doors in the people's House.

The leadership of this House has become so arrogant, they believe they can stifle debate without any accountability. This body, the greatest deliberative body in the world, and the constituents we represent deserve much, much better.

Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 3 minutes to my good friend and very distinguished colleague, the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank my friend and colleague of the Committee on Rules, the gentlewoman from Ohio (Ms. PRYCE), for yielding me this time.

I rise in support of House Resolution 269 and urge the House to approve this rule so that we can move on to consideration of the underlying legislation, H.R. 1115, the Class Action Fairness Act of 2003.

This structured rules makes in order a total of four amendments. In fact, three of those amendments are sponsored by Democrats. The other amendment has bipartisan sponsorship. Thus this rule will allow the House to work its will on the key issues that these amendments raise, and H. Res. 269 should receive bipartisan support for doing so.

The editorial staff for The Washington Post once wrote that "no portion of the American civil justice system is more of a mess than the world of class actions. None is in more desperate need of policymakers' attention." I agree.

Class action litigation is one of America's most embarrassing judicial practices, pitting settlement-hungry lawyers against unsuspecting consumers seeking redress for their grievances. I know that all of the Members of this House are very familiar with some of the outrageous class action settlements that have become depressingly common in States all across the Nation.

In these instances, skillful trial lawyers earn million-dollar fees for filing meritless class action lawsuits which are frequently settled rather than litigated in court. When this happens, trial lawyers are the primary beneficiaries, and the individuals with the class action lawsuits receive very modest financial payments or even, in some cases, just coupons toward future purchases. Surely we can do better than that for the American people.

Mr. Speaker, H.R. 1115 contains a number of commonsense reforms all designed to curb these abusive lawsuits, while still ensuring that legitimate lawsuits can move through the court system.

The fact that this class action reform was crafted in a bipartisan fashion is a credit to its authors, the gentlemen from Virginia (Mr. GOODLATTE) and (Mr. BOUCHER). I support their responsible collection of legal reforms, and I hope legislation of this nature can be enacted during this Congress.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT), a member of the Committee on the Judiciary.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

I rise in opposition to the rule and the bill, H.R. 1115, the so-called Class Action Fairness Act. This is an unfair bill that does nothing to resolve disputes. Moreover, the bill has a number of significant problems.

First, the bill will disrupt ongoing litigation because it applies to pending class actions. Some of those class actions that would be affected would be those cases against Enron, WorldCom, and Arthur Andersen for financial fraud; other major cases involving environmental damage or employment discrimination; and several drug companies involving problems with their pharmaceuticals. It is fundamentally unfair for Congress to change the rules for consumers midstream by including these pending cases and, therefore, making it more difficult to resolve disputes in a timely manner.

This bill is overly broad. It defines class actions not only to include class actions, but also State actions brought on behalf of the general public by State attorneys general. These cases are important consumer protection tools in some States, particularly California; and all of these cases would be considered class actions and subject to the provisions of the bill, even though they were not filed as class actions and even though they were brought by the State attorney general under State law.

Mr. Speaker, by shifting class actions to Federal court, H.R. 1115 will overload the Federal judiciary and increase delays. Criminal cases are always given priority in Federal courts; and because the courts are already overloaded with criminal cases, including many traditionally State cases that have been transferred to Federal jurisdiction over the past few years, State actions that are referred to Federal courts by this bill will be delayed. They also may get caught up in some judicial districts that have been dealing with terrorism cases or the temporary, onslaught of other criminal cases. Adding in complex class action litigation to an already overloaded docket will only add to additional delays.

These delays will be exacerbated by the provision in the bill that grants an automatic, pretrial appeal and a stay of discovery during that appeal. Guilty corporations who use their appeals under the bill will be able to delay their inevitable judgment day by several years. A rule that was offered in committee by the gentleman from Massachusetts and myself would have specifically dealt with this problem, but that amendment was rejected by the Committee on Rules.

Mr. Speaker, many of the cases, in fact, should remain in State court. H.R. 1115 would often require Federal judges to apply State law when State judges have more familiarity with the law in their own States. This may result in mistakes being made in the application of State law, affecting both plaintiffs and defendants.

H.R. 1115 violates uniform rules of Federal procedure. For example, Federal courts will be required to apply one set of rules on diversity jurisdictions for everybody except class actions. There will be a separate rule for class actions. There will also be rules on removal, dismissal, remand, appellate review, and discovery where there will be rules for everybody, except class actions, another set of rules for class actions.

Now, there has been a whole lot of hoopla about so-called coupon settlements, about how legislation is necessary to address that problem when plaintiffs get a negligible recovery. Now, as the gentleman from Texas has pointed out, there are as many examples of Federal court abuses regarding coupon settlements as there are State court abuses.

But there is nothing inherently wrong with coupon settlements. If a business has been stealing only 50 cents at a time, the recovery for each individual class member will be minuscule. But a class action, even with a coupon settlement, will be effective in stopping the ongoing theft. One recent case involved a business which fraudulently calibrated its cash registers to steal small amounts of money from each customer. Now, how much will each customer be entitled to if they are cheated out of 3 cents? If you cannot have a favorable verdict when the individual damages are de minimis, you give an unscrupulous corporation a free pass, so long as they do not steal too much from each person.

Federal and State judges oppose this bill. The Federal Judicial Conference headed by the Chief Justice of the United States, the Conference of the Chief Justices which represents chief justices around the country, both oppose H.R. 1115. It is also opposed by the American Bar Association and consumer advocacy groups.

We have the responsibility to our citizens to ensure timely access to the courts for damages sustained. This bill will do nothing to help that issue. It will only give unscrupulous defendants new procedural schemes to delay justice, and justice delayed is justice denied.

Mr. Speaker, I ask that we reject the rule and reject the bill as unnecessary, unwise, and creating more problems than it solves. I urge my colleagues to oppose the bill.

Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 3 minutes to the gentleman from Missouri (Mr. BLUNT), my very distinguished colleague and the whip of the Republican majority.

Mr. BLUNT. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I am here in favor of the rule and, of course, the underlying bill, and looking forward to the debate today.

This is an issue that we have brought to the floor now for the last several Congresses. And every time we do it, I see our Members on both sides of the aisle, many of whom will vote for it on both sides of the aisle, begin to understand that this is a great opportunity to talk about how badly the current system works. A debate that we used to dread, a debate that we used to fear, a debate that we used to be concerned about, now our Members are eager to talk about because of the incredible abuses out there in the system. We will see the gentleman from Virginia (Chairman GOODLATTE) and others stand up here during the day today with chart after chart after chart that shows what happens when consumers are unfairly treated in this system.

The changes we advocate today create an environment where the people that are impacted have a better chance to get money rather than the lawyers who put these class action suits together. It creates an opportunity to go to a court that will look carefully at the issues. We are going to see example after example of the millions of dollars that go to the lawyers involved and the $1 coupons and the smallest box of Cheerios and the 33-cent check that goes to the people in the class. Obviously, the lawyers thought the class had very little impact, as demonstrated by the settlement that they were willing to agree to.

□ 1100

If people were affected by this terrible thing that the lawyers contend happened, how is 33 cents a proper settlement? How is $1 a proper settlement? How is a coupon with money off, to go back to the same company that apparently had been so dastardly in launching suit, how could that possibly be a proper settlement?

How could any attorney spend time and go to the court and say to them at the end of this case, I want you to give my client a $1 coupon? I want you to give my client the smallest possible box of cereal? I want you to give my client a check for 33 cents?

This system is terribly abused. It needs to be changed. Vote for this rule. Seeing Democrats and Republicans on the floor today vote for the bill sends a message that will change this system in a way that benefits consumers and benefits justice.

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentleman from Massachusetts (Mr. DELAHUNT), a member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Speaker, I thank the ranking member for yielding time to me.

Mr. Speaker, the proponents, they do not want to reform class actions; they really want to destroy them.

Not only have they for all intents and purposes barred States from considering these cases by means of a massive expansion of Federal jurisdiction, against the advice, by the way, of the Chief Justice of the Supreme Court, Chief Justice Rehnquist, the Judicial Conference of the United States, and the Conference of State Chief Justices, but they have cleverly changed the rules in the Federal courts to further thwart class action suits. I want to acknowledge that it is a brilliant strategy.

Do Members realize that even Washington cannot dictate the rules by which State courts handle their cases? So they simply remove most of these cases to the Federal court. Then once they are in the Federal court, they design an obstacle course to make sure that most of these cases will just linger and linger and linger and never see the light of day. They did this by adding a section which creates an automatic right of appeal. If a Federal district court simply certifies, simply certifies a class, that appeal comes before the case is even heard on the merits.

Now, that is not all. The bill, as others have indicated, would halt all discovery proceedings in the case until the appeal, until the appeal is completed. This unprecedented new right for defendants is unheard of in the American civil justice system.

What does it mean in practical terms? There is already an enormous backlog in the Federal courts, as others have suggested. This bill in and of itself will seriously exacerbate that problem and it will delay the resolution of these cases by years. As the gentleman from Virginia has said: Justice delayed is justice denied.

What I find particularly unconscionable is that the sponsors claim that the first purpose of this act is to ensure fair and prompt, and prompt, recoveries for class members with legitimate claims. Well, as that great philosopher, Rodney Dangerfield, said, Give me a break. It is important to understand that class actions do not exist solely, solely, to provide relief for private wrongs. No, they exist to correct and punish and deter; most importantly, deter corporate misconduct that harms large numbers of ordinary people and can put all Americans at risk.

Remember, Mr. Speaker, the Firestone case, the tobacco cases, where it was class action suits that revealed the ugly truth that lives had been sacrificed because of corporate greed? Because of this bill, we will create fertile ground for future Firestone and tobacco cases. That is a tragedy.

We should also understand that the existing practice which was adopted by rule in 1998 gives the judge discretion to permit an appeal of a class certification order and to stay proceedings. But as Judge Scirica, writing on behalf of the Judicial Conference of the United States, said in a recent letter to the committee, and now I am quoting, "Providing an appeal as a right might tempt a party to appeal solely for tactical reasons."

He pointed out that many appeals are unnecessary, wasteful, and expensive. He said that he was unaware of any dissatisfaction, not a single complaint from the bench or bar, with the current rule; and that since the rule had only been promulgated recently, any consideration of it being amended should be deferred.

Well, as my colleague, the gentleman from Virginia (Mr. SCOTT) said, we agreed with Judge Scirica and filed an amendment to undo their damage. Of course, it was not made in order. I guess I should not be surprised.

Members should know that these concerns would not only affect future class action suits in the Federal court. No, the sponsors were not satisfied with that. They wanted the whole enchilada. Unbelievably, they made that provision retroactive, so it will alter the course of hundreds of cases that have already been filed in Federal court and cause further delay, further delay; cases like the ImClone case, in which that CEO was just sentenced to 7 years in prison for fraud and perjury and obstruction of justice; and like the Enron case, brought by thousands of investors who claim more than $20 billion in damages as a result of the series of fraudulent transactions that destroyed the company and rendered its stock worthless.

Are there abuses of the system? Of course. That is undeniable. The Democratic substitute would address them; but the underlying bill does not. That is not its purpose. Its purpose is to shield corporate wrongdoers from civil liability and leave the public unprotected.

This is not about protecting plaintiffs, and, as I said, ensuring prompt recoveries; it is about protecting large corporations whose conduct has been egregious. It is about protecting the powerful at the expense of the powerless, and to prevent people from banding together as a class to challenge power in the only way they can.

Defeat the rule and defeat the bill.

Mr. Speaker, there's a lot that's wrong with this bill. But nothing is as wrong as the provision that was added to it during our committee debate to give it retroactive effect with respect to cases already pending in court.

It's one thing to make new policy for future cases. It's quite another to rewrite the rules once the whistle has sounded.

Why in the world would the sponsors of the bill insist on making it retroactive?

During our markup, one of the supporters of the amendment making the bill retroactive said, and I quote, "If this bill is enacted but pending cases that have not been certified for class treatment are excluded, it would discriminate against those who may be joined to a class in a pending case after the date of enactment."

In other words, Mr. Speaker, we must transfer all pending cases to federal court and make every class certification subject to automatic appeal to ensure that no individual is forced to be a member of a class against his or her will. That's like saying that we have to quarantine the entire U.S. population to contain a single outbreak of West Nile virus. The truth is that individuals can already opt out of the class at the time they receive notice of the suit. And under rules that go into effect in December, judges will be able to extend the opt-out even after certification.

Such an argument does not deserve to be taken seriously. But the supporters also make a second argument. Unless we apply the new rules to pending cases, they say, there will be a rush to the courthouse by new plaintiffs seeking to file "frivolous" lawsuits under the old rules.

Here again, they propose to disrupt the hundreds of cases now awaiting class certification, some of which have already been in court proceedings for many months, in order to prevent certain other people, as yet unknown, from racing to file other cases.

This argument is almost so absurd that one is embarrassed to respond to it. If a suit is frivolous, it will survive a motion to dismiss, where it is filed in state or federal court. That is the customary remedy for frivolous lawsuits, and the courts are quite capable of using it.

No, I'm afraid that "this dog won't hunt," as my good friend, the gentleman from North Carolina (Mr. COBLE), is so fond of saying.

The real reason they're so desperate to make the bill retroactive is obvious. It's the only way to throw a monkey wrench into the class actions that are now proceeding against the former executives at companies like Enron, WorldCom, and Global Crossing, who are facing both civil and criminal liability for the systematic looting of their companies. For the brazen misconduct and self-dealing that defrauded creditors and investors of billions of dollars, and stripped employees and retirees of their livelihood and life savings.

If this bill passes, those executives will be able to breathe a sigh of relief. In fact, they'll get another year or two in which to spend down their ill-gotten gains before they need to worry about going to trial.

It's no surprise that the House leadership was unwilling to make in order an amendment that would have stripped the retroactivity language from the bill. They don't want the public to know what they're doing. They're embarrassed by it. And they ought to be.

Oppose the rule and vote "no" on the bill.

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 8 minutes to my distinguished colleague, the gentleman from Virginia (Mr. GOODLATTE), chairman of the Committee on Agriculture; but more importantly, today, the author of this important reform legislation and a very valued member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Speaker, I thank the gentlewoman, our excellent conference chairman, for yielding me this time.

Mr. Speaker, this is a good and fair rule. I would urge my colleagues to adopt it. It makes in order important amendments that should be considered and debated carefully. It makes in order an amendment offered by the gentleman from the other side of the aisle, the gentleman from Virginia (Mr. BOUCHER), along with the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) and myself, which will take into account some of the provisions that were considered in the Senate. We are pleased to do that because we are certainly interested in making the bill better.

I would urge my colleagues to defeat the other amendments that are going to be offered because they do not make this legislation better; they would gut it, they would harm it. I would urge Members' opposition to it.

In response to my good friend, the gentleman from Virginia (Mr. SCOTT), this is not tort reform; this is court reform. As a result, we are not harming the ability of any of those cases that the gentleman cited to be considered carefully and fairly.

In fact, because this legislation improves the court process, it is court reform, and it will make those cases heard better in courts more capable of hearing them. We will address some of those specific cases as the debate proceeds.

With regard to his comments about coupon settlement reform, let me point out that while the gentleman may laud coupon settlements, most of us think they are a considerable abuse. The reason is very simple: The plaintiffs' attorney sues a company and then settles the case for millions of dollars, not for the plaintiffs but in attorneys' fees. The plaintiffs, the people he is supposed to be protecting, supposed to be representing, get a coupon to buy more of the product that he alleged was defective in the first place.

Coupon settlements are a gross abuse, and what this bill does to correct the problem is to require greater scrutiny of those cases. It also cuts out the abuse of that plaintiffs' attorney going to his or her secretary or friend or neighbor and saying, hey, help me bring this case because you fit into this class, and I will give you $100,000 for doing that when we settle the case; but the rest of the plaintiffs will get a coupon. That is an abuse. It ought to be ended.

To the gentleman from Texas (Mr. FROST), I would point out that while he may cite the newspaper of the gentlewoman from Ohio criticizing this legislation, that newspaper is by far in the minority in this country on this issue.

America's newspapers know that this is a class act when they see it, and that is what this legislation is. The Washington Post called it "Making Justice Work." They said, "This", the current system, "is not justice. It's an extortion racket that only Congress can fix."

Newsday, not a newspaper that ordinarily endorses legislation from this side of the aisle, they said, "Congress should stem abuses of class-action lawsuits. Class-action lawsuits are ripe for reform."

The Christian Science Monitor: "Reforming Class-Action Suits." "Class-action suits have also become an ATM for unscrupulous lawyers . . . "

USA Today: "Class-action Plaintiffs Deserve More Than Coupons." " . . . lawyers, who put their own welfare ahead of their client's needs," under the current system.

The Hartford Current: The Class-Action Racket." They described the current system. " . . . the Class Action Fairness Act would help eliminate some of the worst abuses."

It does not stop there. The Buffalo News, the Indianapolis Star, the Des Moines Register, the St. Louis Post Dispatch, the Omaha World Herald, the Wall Street Journal, the Providence Journal, the Financial Times, the Chicago Tribune, the Oregonian, Cedar Rapids Gazette, the Akron Beacon Journal, the Albany Times Union, the list goes on and on of newspapers endorsing what we are trying to do. Why? Because of the abuses.

Here is a great case: A settlement with Cheerios over food additives produced a $2 million settlement in attorneys' fees, while class members only received coupons for more Cheerios.

Here is another one: After being named in 23 class action lawsuits, Blockbuster agreed to provide class members with only $1-off coupons; buy one, get one free coupons; and free Blockbuster Favorites video rentals. And those are the old videos you come back and hope they will rent more of, not the latest ones. Attorneys for the plaintiff received $9.2 million in fees.

It gets better. A settlement of a suit against an airline gave class members $25 coupons off to use when they purchased an additional airline ticket of $250 or more from the same airline from which, I presume, there was some complaint regarding the service they were providing. You get a 10 percent discount if you buy another ticket for $250 or more. What did the plaintiff's attorneys get? Sixteen million dollars.

The Bank of Boston, a settlement over disputed accounting practices produced an $8.5 million attorneys' fee and actually cost the class members they were representing. Why? Because they had to pay an additional $80. Later, the plaintiffs' attorney came into the case and sued the class members, the people they were representing, for an additional $25 million. You did not pay them enough. Even though you had to pay $80 in the settlement of the case and you did not get a coupon, they had to get more.

Here is my favorite. This is the case where consumers were awarded a 33-cent check in a class action against Chase Manhattan Bank, 33 cents. Great. There was a catch, though. At that time, in order to accept your 33-cent check, you had to use a 34-cent stamp to send in the acceptance.

□ 1115

Sounds like a 1-cent net loss. The attorneys in the case, well, they came out all right, $4 million in attorney fees. Here is one of the checks: 33 cents.

Now, some have said that there is an issue of federalism here, that somehow we are taking away rights from the States. But under current law, a simple slip-and-fall lawsuit involving a Virginia defendant and a Maryland plaintiff can be brought in Federal district court today. Yet, a nationwide class action lawsuit worth $100 million, $1 billion, with plaintiffs in the hundreds of thousands from all 50 States, with multiple defendants from more than one State, that winds up in a State court in Illinois. It cannot be removed to Federal court because of the antiquated class action laws.

Now, do people understand this? You bet they do. Here is a USA Today poll. Opinions on class action lawsuits. Who benefits most from class action lawsuits? Is it the plaintiffs? Is it consumers? No, they know. Lawyers for the plaintiffs, 47 percent of the public says that. Who is second? Lawyers for the defendants. They come out all right, too. They are going to get paid.

How about the plaintiffs themselves? Nine percent. Sixty-seven percent say the lawyers benefit. Nine percent say the plaintiffs themselves are benefiting.

And, again, I remind you, there is broad bipartisan support for this legislation. The clients get token payments while the lawyers get enormous fees.

This is not justice. This is an extortion racket that only Congress can fix. Who said it? The Washington Post.

I urge my colleagues to support this rule and to support the underlying legislation. This has great prospect for success this year. We are very close in the Senate to passage of this legislation as well. The President anxiously awaits it on his desk.

Let us support this bipartisan simple tort reform that will make it possible for class actions to be heard and dealt with fairly throughout this country.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN), my very distinguished colleague.

Mr. SULLIVAN. Mr. Speaker, I would like to thank the gentleman from Virginia (Mr. GOODLATTE) for those very informative charts. I believe we need to stop the lawsuit lottery in this country.

Today I rise in support of H.R. 1115, the Class Action Fairness Act of 2002. H.R. 1115 is a critical piece of legislation that can reform tort law and give reprieve to our beleaguered State and local courts that are suffering under the weight of frivolous lawsuits.

Statistics have shown that upwards of 93 percent of Americans believe tort reforms are needed. These statistics also show that 50 percent of all tort awards go towards lawyers' fees and their administrative costs. From these figures it is easy to discern that the American people demand tort reform and protection from lawyers who are looking out for their own interests rather than those of the plaintiffs they represent.

The Class Action Fairness Act of 2003 seeks a balanced and sensible approach to address the worst class action abuses. It provides protections for consumers and assures fair and prompt recoveries for class members with legitimate claims. The bill specifically discourages lawyers from forum shopping for courts most likely to approve a prospective class of plaintiffs and award large monetary decisions.

By curbing these abuses of the class action system, consumer costs will be driven down and these lawsuits will benefit plaintiffs they are intended to compensate. This sensible legislation will restore balance, fairness, and uniformity to our civil justice system. It is a good step in the right direction in reforming tort law and will protect plaintiffs and consumers alike.

I urge my colleagues to vote in favor of H.R. 1115 to set a precedent of judicial fairness.

Ms. PRYCE of Ohio. Mr. Speaker, I have one remaining speaker. Does the gentleman from Texas (Mr. FROST) have anyone further?

Mr. FROST. Mr. Speaker, does the gentlewoman have one speaker, and then will she close after that?

Ms. PRYCE of Ohio. Yes, Mr. Speaker.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. SIMPSON). The gentlewoman from Ohio (Ms. PRYCE) has 5½ minutes remaining. The gentleman from Texas (Mr. FROST) has 7½ minutes remaining.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. KING), my distinguished colleague and a member of the Committee on the Judiciary.

Mr. KING of Iowa. Mr. Speaker, I would like to remark on the distinguished gentleman from Virginia's (Mr. GOODLATTE) comments.

There is nothing I can add to the emphasis he has put here today. I simply add my voice and I wish to associate myself with the very dramatic and emphatic presentation that the gentleman from Virginia (Mr. GOODLATTE) has made.

I would point out that our tort system consumes up to 3 percent of our gross domestic product. If we need 3½ growth just to sustain our economy, and our freedom, I might add, then our economy has to grow at 6½ percent in order to make up for the 3 percent that is consumed in our tort system.

It is a deep problem that we must address. It is a loophole in our current system that allows class action lawsuits involving plaintiffs from nearly every State to file suits in those few States that are known to be plaintiff-friendly and hostile to out-of-State defendants.

These few State courts are making the decisions that set the policy for other States and the entire country. Out-of-State companies and residents are being sued in class action lawsuits in other States where their rights are being determined under those State laws. H.R. 1115 appropriately addresses this forum shopping problem by allowing Federal courts to hear class action lawsuits involving plaintiffs or defendants from multiple States or foreign countries.

The biggest winners in the current class action scheme are trial lawyers, not consumers. The public knows that, as was pointed out. The large fees awarded class action lawyers through settlements all too often do not constitute legitimate harm, because many companies agree to these settlements in order to lower the costs of nuisance lawsuits. Unfortunately, settling cases with little or no merit results in higher prices for consumers. Frivolous class action cases are, in effect, a litigation tax imposed on consumers because the economic damage to a company results in higher prices for its products.

The explosion of class actions lawsuits has reached crisis proportions. I encourage you to vote for H.R. 1115 and help address the growing class action problem in America.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have been listening to the great crocodile tears shed on the other side on the issue of coupon settlement proposition. Of course, if they want to change that, they should support the Democratic substitute which is stronger on the issue of coupon settlements than their underlying bill.

Also, it is fascinating to listen to the advocates of States rights on the other side suddenly shift gears and become advocates of a very strong Federal system. I guess there is just a fundamental distrust of our State court system on the part of Republicans, and I find that very curious and very interesting. Also, particularly in light of the fact that the Chief Justice of the Supreme Court of the United States is opposed to dumping these additional lawsuits into the already overburdened Federal system.

So we just have a peculiar situation in which people on the other side of the aisle are disregarding the Chief Justice of the United States, a member of their own party, and are also suddenly, in this particular instance, advocating for stronger action by the Federal system which would override the State system that they normally support.

Mr. Speaker, I urge Members to vote no on the previous question. Last night the Committee on Rules broke with its past precedents and refused to make in order two important amendments Democratic Members brought to the committee.

If the previous question is defeated, I will offer an amendment to the rule that will restore fairness in the debate on class action reform that the House has adopted in the previous two Congresses. Under my proposal, the House will be allowed to debate one amendment by the gentleman from Michigan (Mr. CONYERS) and the gentleman from Massachusetts (Mr. DELAHUNT) that will delete the bill's retroactive provisions; and, two, the Delahunt-Scott amendment to prevent corporations from using interlocutory appeals to run out the clock on class action lawsuits.

No matter what their position is on this bill or on these particular amendments, all Members should support bringing fairness back to the process and vote no on the previous question.

I am merely asking that all Members with serious amendments be allowed to bring them to the House floor just as they have been able to on the earlier occasions when we have debated class action reform.

Let me make it very clear. A no vote would not stop the House from taking up the Class Action Fairness Act and would not prevent any of the amendments made in order by the rule from being offered. However, a yes vote will preclude the House from considering these two very important amendments that are critical to the debate on class action lawsuits.

Mr. Speaker, I ask unanimous consent to insert the text of the amendments immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker, again, vote no on the previous question.

Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing let me just remind my colleagues that the critics had it backwards. This bill restores, rather than undermines, the principled balance of Federalism. It is the other 49 States' rights that are being protected when one State's judge is precluded from making law and determining the law and the outcome for the other 49. This is truly an example of a principle of federalism.

This legislation provides important and needed reform. It will help plaintiffs that are part of a class receive more than just a coupon for a box of cereal, a coupon that goes back to the very company that was sued in the first place.

It is laughable, Mr. Speaker. It will give needed accountability while preserving the rights of the truly injured. But more importantly for me as a former member of the bench, it will bring back the public's faith in our justice system, because really it has become a joke. As you listen to the debate this afternoon, it is so sad that it is almost funny. This country is only as strong as the faith our citizens have in its laws and how they are applied to them. When it becomes a joke, it weakens us.

H.R. 1115 has the strong support of the administration. It is an important step forward in commonsense reform. I urge my colleagues to put the plaintiffs first. Let us get justice back in our system. Support this fair and balanced rule and the underlying legislation.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION FOR H. RES. 269—RULE ON H.R. 1115, CLASS ACTION FAIRNESS ACT OF 2003

At the end of the resolution, add the following:

"SEC. 2. Notwithstanding any other provision of this resolution, the amendments printed in section 3 shall be in order as though printed after the amendment numbered 3 in the report of the Committee on Rules if offered by the Member designated. Each amendment may be offered only in the order specified in section 3 and shall be debatable for 20 minutes equally divided and controlled by the proponent and an opponent.

"SEC. 3. The amendments referred to in section 2 are as follows:"

(1) Amendment by Representative CONYERS of Michigan or a designee:

Strike section 8 and insert the following:

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

(2) Amendment by Representative DELAHUNT of Massachusetts or a designee:

Strike section 6 and redesignate the succeeding sections accordingly.

Ms. PRYCE of Ohio. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 and 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered on the question of adoption of the resolution and, thereafter, on approving the Journal.

The vote was taken by electronic device, and there were—yeas 229, nays 193, not voting 12, as follows:

[Roll No. 265]

YEAS—229

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—193

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—12

Ackerman
Conyers
Cubin
Eshoo
Gephardt
Jefferson
Johnson (CT)
Marshall
Nunes
Rothman
Sherman
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1148

Messrs. CAPUANO, BOYD, BAIRD and RODRIGUEZ changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 188, not voting 11, as follows:

[Roll No. 266]

AYES—235

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert

Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte

Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley

Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—188

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)

Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)

Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah

Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski

Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes

Rodriguez
Ross
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Ackerman
Cubin
Eshoo
Gephardt

Johnson (CT)
Nunes
Rothman
Rush

Sherman
Smith (WA)
Sullivan

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1157

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question de novo of the Chair's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McNULTY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 347, noes 74, not voting 13, as follows:

[Roll No. 267]

AYES—347

Abercrombie
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Cox
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle

Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Hall
Harman
Harris
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood

Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Owens
Oxley
Pallone
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)

Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Van Hollen
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Whitfield
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—74

Aderholt
Baird
Baldwin
Berry
Brady (PA)
Brown (OH)
Capuano
Carson (IN)
Clay
Costello
Crane
DeFazio
Delahunt
Deutsch
English
Evans
Filner
Fletcher
Ford
Fossella
Franks (AZ)
Gonzalez
Green (TX)
Gutierrez
Gutknecht
Hart
Hastings (FL)
Hefley
Hinchey
Holt
Kaptur
Kucinich
Larsen (WA)
Lee
Lewis (GA)
Lipinski
LoBiondo
Matheson
McDermott
McGovern
McNulty
Miller, George
Moore
Oberstar
Obey
Olver
Ortiz
Pascrell
Pastor
Peterson (MN)
Ramstad
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Shadegg
Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Weller
Wexler
Wicker
Wu

NOT VOTING—13

Ackerman
Cubin
Davis (IL)
Eshoo
Gephardt
Johnson (CT)
Musgrave
Nunes
Rothman
Sherman
Smith (WA)
Vitter
Wilson (NM)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1204

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SHERMAN. Mr. Speaker, I was unavoidably detained during rollcall votes 265, 266 and 267. Had I been present, I would have voted: "No" on rollcall vote 265 and 266 and "yes" on rollcall vote 267.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 1115.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CLASS ACTION FAIRNESS ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 269 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1115.

☐ 1205

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1115) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes, with Mr. LATOURETTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 1115, the Class Action Fairness Act of 2003. In years past, the occasional news account of some outrageous class action verdict or settlement was light humor. Now the stories are so common there is no punch line, the class action judicial system itself has become a joke, and no one is laughing except the trial lawyers, all the way to the bank.

Abuse of State class action lawsuits is now systemic and this mounting crisis is a threat to the integrity of our civil justice system and a persistent drain on the national economy. Since this House passed nearly identical class action reform legislation in the 107th Congress, a bill which died in the Democrat-controlled Senate, the problem has only gotten worse. One major element of the worsening crisis is the exponential increase in State class action cases, many of which deal with national issues and classes.

In the past 10 years, State court class actions filing nationwide have increased over 1,000 percent. In certain "magnet courts" known for certifying even the most speculative class action suits, the increase in filings over the last 5 years is approaching 4,000 percent. Take, for example, the court in Madison County, Illinois, a rural county of 250,000 people which is on pace for a projected 3,650 percent increase in class action filings over 1998 levels. Eighty-one percent of those cases sought to certify nationwide cases, including all nationwide Sprint customers ever disconnected on a cell phone, all Roto-Rooter customers nationwide whose drains were repaired by unlicensed plumbers, and all nationwide customers who purchased a "limited edition" Barbie doll at a higher price.

So why are all these class action cases filed there? Madison County did not experience a similar growth in population during this time, nor did it suddenly become a hub for interstate commerce. Furthermore, there is no evidence to suggest that the good people of Madison County are somehow cursed or more plagued by injuries than the average citizen. Indeed, the only explanation for this phenomenon is aggressive forum shopping by trial lawyers to find courts and judges who will act as willing accomplices in a judicial power grab, hearing nationwide cases and setting policy for the entire country in a local court.

A second major element of the present class action crisis is a system producing outrageous settlements that benefit only lawyers and trample the rights of class members. Class actions were originally created to efficiently address a large number of similar claims by people suffering small harms. Today they are too often used to efficiently transfer large fees to a small number of trial lawyers doing great harm. The present rules encourage a race to any available State courthouse in hopes of a rubber-stamped nationwide settlement that produces millions in attorneys' fees. Clearly, some trial lawyers are winners in this race, but as the Justice Department testified at the committee's last hearing, the losers in this race are the victims who often gain little or nothing through the settlement, yet are bound by it in perpetuity. These same victims and all consumers often bear the cost of these settlements through increased prices for goods and insurance.

Mr. Chairman, I would like to share with Members a survey that was published in the USA Today newspaper on Monday, March 24, 2003: "Opinions on Class Action Lawsuits, Who Benefits the Most From Class Action Lawsuits." Forty-seven percent said lawyers for plaintiffs, 20 percent said lawyers for companies, 12 percent said don't know, 9 percent said plaintiffs, 7 percent said companies being sued, and 5 percent said buyers of products.

Two-thirds of the American public according to this survey indicate that the beneficiaries of class action lawsuits are lawyers and only 14 percent said plaintiffs and buyers of products. This bill is designed to change this mix so that the consumers and the plaintiffs are the ones that benefit rather than lawyers for plaintiffs or lawyers for defendants.

Summarizing the problem last November, The Washington Post editorial board in a critique of the present system wrote:

"Class actions permit almost infinite venue shopping; national class actions can be filed just about anywhere and are disproportionately brought in a handful of State courts whose judges get elected with lawyers' money. These judges effectively become regulators of products and services produced elsewhere and sold nationally. And when cases are settled, the clients get token payments while the lawyers get enormous fees. This is not justice. It is an extortion racket only Congress can fix."

Mr. Chairman, today Congress has an opportunity to end this extortion racket and fix this problem. Article 3 of the Constitution empowers Congress to establish Federal jurisdiction over cases between citizens of different States, but current rules on class actions require that all plaintiffs and defendants be residents of different States and that every plaintiff's claim be valued at $75,000 or more. These jurisdictional statutes enacted before the advent of modern class actions lead to results the framers would find perverse.

For example, under current law, a citizen of one State may bring in Federal court a simple $75,001 slip-and-fall claim against a party from another State. But if a class of 25 million product owners or users living in all 50 States bring claims collectively worth $15 billion against a manufacturer, that lawsuit usually must be heard in State court.

H.R. 1115 would apply new diversity standards to class actions by changing the diversity requirements for class actions where any plaintiff and any defendant reside in different States and where the aggregate of all plaintiffs' claims is at least $2 million. These modest changes will keep large actions of a national character in Federal court where they belong.

□ 1215

H.R. 1115 also addresses the other major area in need of reform, the incentives for settlements in class action cases and scrutiny of those settlements. Under current rules, the first case settled wins. Those left out must either find a way to join the settlement or forgo their claim. This leads to bad settlements favoring lawyers over consumers in jurisdictions with lax class action requirements. In the last year, more such one-sided settlements benefiting only the lawyers occurred.

Example: A settlement with Blockbuster over late fees produced $9.25 million in lawyers' fees, and nothing more but dollar coupons for the consumers represented, only 20 percent of which are likely to be redeemed.

Another example: A settlement with Crayola over asbestos included in crayons produced $600,000 in attorneys' fees, and nothing but a 75-cent discount on more crayons for affected consumers.

In order to prevent abuses like this, H.R. 1115 aims to protect plaintiffs by prohibiting the payment of bounties to class representatives, barring the approval of net loss settlements, adopting better notice requirement provisions which clarify class members' rights, and by requiring greater scrutiny of coupon settlements and settlements involving out-of-State class members.

Finally, Mr. Chairman, it is important to note that the costs of class action abuses are not limited to the parties of the settlements. They are shared by the American consumer through higher prices and higher insurance premiums.

Class action lawsuits also pose a threat to investors and the security of American retirement plans, which are largely invested in equity securities of American corporations. While class action liability can be enormous, news of these lawsuits on Wall Street can drive down any particular stock by as much as 10 points in one day.

I also would note that we are likely to hear names like Enron, Adelphia and WorldCom tossed about today, and rhetoric that this bill would let such noted corporate wrongdoers off the hook. The truth of the matter is that nothing in H.R. 1115 would limit the rights of plaintiffs to seek redress in court in these types of cases.

Under current law, most lawsuits against these companies will be heard in Federal bankruptcy court, for the same reasons that Federal courts should be able to resolve many of the class actions. Federal courts protect the interests of diverse parties from all parts of the country. In addition, section 4 of H.R. 1115 specifically excludes a number of Federal securities and State-based corporate fraud lawsuits.

Mr. Chairman, the need to restore some common sense, fairness, certainty, and dignity in our class action system is clear. The time to act is now, and I urge my colleagues to vote for this bill and to put some sense back into our legal system.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, welcome to "Bash Trial Lawyers Day" in the House of Representatives. My friend the chairman used the term 13 times in his presentation.

I just keep wondering, I would ask the gentleman from Wisconsin (Chairman SENSENBRENNER), what kind of law did you practice? I am intrigued by the right of trial lawyers not to be as effective as they can in court.

I notice that the Enron people have pretty good trial lawyers. I notice that WorldCom has pretty good trial lawyers. I notice that Adelphia has pretty good trial lawyers. These are all Republican supporters. I notice that Tyco has pretty good trial lawyers.

Why cannot people with class action suits have trial lawyers that are effective and doing a good job and get compensated for it?

I would yield to the gentleman, if he chooses to comment on that.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Everybody has a right to have a lawyer, but you ought to be for court reform.

Mr. CONYERS. Mr. Chairman, reclaiming my time, everybody has a right to a lawyer. I thank the gentleman very much. I am very happy this gets reiterated.

I just want to count the number of times trial lawyers get it in the neck. Property lawyers, they are okay. Domestic relation lawyers, have you got any beef about them? They are okay. But trial lawyers that try these kinds of class action cases, they are making out like bandits, so, let us put it in the Federal courts. Let us take all of the class action cases and send them to the Federal courts, exactly where the Federal judiciary is begging you not to send them; begging you not to send them. All the consumer groups are begging you not to send them there.

Yet you tried it in 1998, 1999, 2001, and, now for the fourth time in 6 years, you are back at it again.

Why? What is the problem, guys? Should not people, consumers injured, be able to bring their cases to their State courts where they have traditionally?

Well, the answer is, for me, yes: but for you, no.

Could somebody explain to me why we would make the cases retroactive on top of it? I yield the floor. Tell me why Tyco, Enron, WorldCom, Adelphia, just tell me why those five corporations should be granted a delay?

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield with pleasure to the gentleman from Virginia, my friend on the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Chairman, it is not a delay, it is an expedition. Quite frankly, they have no different treatment in Federal courts than State courts.

Mr. CONYERS. Mr. Chairman, I take my time back. I thank the gentleman very much for his contribution.

What this bill does, and I just ask that you would read it, I will quote you the exact place in the bill, is grant an automatic right of appeal in class certification cases automatically. Is that going to expedite things?

Most of the judges do not even grant an appeal if they had the discretion, and think I think you or your staff may be aware of this. That is a delay. I would say to the gentleman from Virginia (Mr. GOODLATTE).

Now, in addition to the automatic delay, there is a stay of all discovery proceedings while the right of appeal is exercised. Do you know how long that could take, I would ask the gentleman from Virginia (Mr. GOODLATTE)? About 2 years. Now you are telling me that is really expediting the process. I wait to hear your explanation of that.

I rise in strong opposition to H.R. 1115. Although the legislation is described by its proponents as a simple procedural fix, in actuality it represents a major rewrite of the class action rules that would bar most forms of State class actions and massively tilt the playing field in favor of corporate defendants.

This is why the legislation is opposed by both the State and Federal judiciaries, consumer and public interest groups, environmental and health groups, and civil rights groups. There are several critical problems with the bill before us.

First, H.R. 1115 will have serious adverse impact on the ability of consumers and other harmed individuals to obtain compensation in cases involving widespread harm. At a minimum, the legislation will force most State class action claims into Federal courts where there will be far more victims to litigate cases and where defendants could force plaintiffs to travel long distances to attend proceedings. At worst, because it is so much more difficult to certify class actions at the Federal level, the bill will operate to terminate most class action entirely.

Second, the bill includes a whole series of unrelated provisions that have nothing to do with class action jurisdiction, but will serve to benefit corporate wrongdoers. For example, section 6 of the bill gives the defendant an absolute right to appeal preliminary court decisions, which will delay the case by up to 2 years. The section also stops the discovery process dead in its tracks while the appeal is pending.

Most outrageously of all, the bill was amended so that it applies retroactively to pending cases. This means that the bill would apply to pending in corporate fraud cases. As my hometown paper, the Detroit Free Press wrote yesterday, "the House version of the legislation is particularly offensive because it is retroactive, meaning it would affect class action claims now pending against Enron, Worldcom, Adelphia and other corporations accused of defrauding investors while their executives made millions of dollars." Is there a single Member in this Chamber who could defend Congress intervening in a pending case to help these corporate scam artists?

Fourth, the bill federalizes far more than just class actions. Section 4 provides that private attorney general actions and mass tort actions are to be treated as class actions and removed to Federal court. This means that district attorneys will no longer be able to combat fraud and abuse in their own State courts, and groups of harmed tort victims will be forced out of their State courts as well.

Do not be fooled by the Boucher amendment, which proponents claim will incorporate the Feinstein language from the Senate. What they do not tell you is that unlike the Feinstein compromise, the Majority's bill applies retroactively, allows for two year delays or more, and knocks out private attorney general actions. None of these provisions were in the Feinstein amendment in the Senate.

I believe it is time for more corporate accountability, not less. I urge a no vote on this one-sided, anti-consumer legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would be happy to invite the gentleman from Michigan to my district, or I would be happy to go to Detroit, and have him explain to my constituents or me explain to his constituents why giving a consumer a coupon for 75 cents or $1 off a product that was manufactured by the company that injured that consumer and had a judgment entered against them, while giving a lawyer hundreds of thousands or millions of dollars' worth of legal fees, or having the lawyer send a deficiency bill to every member of the class, this bill takes care of this, is correct, and how it puts consumers in charge rather than lawyers.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia, Mr. GOODLATTE.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding me time and for his leadership in moving this legislation to the floor.

The reason why the interlocutory appeal allowed in the bill expedites the process and does not make it longer is that that issue is going to be heard on appeal anyway at the end of the trial, and, as you know, that takes years and years. Interlocutory appeals have historically been heard on average faster than appeals at the end of the trial, and, therefore, this will speed up the bringing of whatever allows the process to come to a conclusion.

Now, here is what we are talking about. Cheerios. What justice is done when the plaintiffs' attorney gets $2 million in attorney's fees and his clients get a box of Cheerios, the very product they allege was defective in the first place? What kind of justice for the plaintiffs is done there? I see the justice for the attorneys.

By the way, I say to the gentleman from Michigan, most trial lawyers are embarrassed by this abuse. Only a small cartel of very wealthy class action attorneys benefit from the current system. Most trial lawyers who represent most plaintiffs in America are embarrassed by this kind of abuse in the current system.

Abuses like $8.5 million in the Bank of Boston case for the plaintiffs' attorneys. The plaintiffs wound up having to pay money to their attorneys. Why did the attorneys get fees in a contingent fee case when their plaintiffs wound up having to pay them? They did not get anything.

Or the Blockbuster case that the gentleman from Wisconsin cited: $9.25 million to plaintiffs, $1 off on your movie ticket.

The great airline case, the frequent flier case. A 10 percent discount on your plane flight, if you buy another ticket on this so-called defective airline for $250 or more. The attorneys got $25 million.

The Coca-Cola case, the lawyers got $1.5 million, the plaintiffs got a 50-cent coupon.

Of course, my favorite case, the case of Chase Manhattan Bank, the attorneys got $4 million, the plaintiffs got 33 cents. Here is one of the checks, 33 cents. There is a little catch though, because you had to use a 34-cent stamp in order to send in the acceptance to get the 33 cents. That does not sound like a good deal for me either.

This restores federalism. It removes to our Federal courts the cases that involve the complexity and the diversity that our Founding Fathers created diversity jurisdiction for. A simple change in the law does not change the substance of class action, does not take away the right of anybody to bring a class action, but it does protect our system and the integrity of justice in America.

Mr. CONYERS. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, my distinguished friend, the gentleman from Virginia, forgot to put in Enron class action cases. I guess that was an oversight.

Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Ohio (Mrs. JONES), a former prosecutor, judge, and attorney.

Mrs. JONES of Ohio. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in opposition to H.R. 1115. It is another series in ill-advised attempts to institute broad tort reform measures by this body. Class actions are often the only way in which small but meritorious claims can find redress, and, as such, they are an essential tool for enforcing civil rights, public health, environmental and consumer rights and laws.

It is very important, because my colleague disparages the integrity of elected State court judges. As a former State court judge, I speak for all of my colleagues to say that we are as qualified as those appointed by Presidents to the Federal bench.

I would also say that it is very important that if you look at the campaign funds of the people who are supporting this legislation, I guarantee you the organizations that do not want class actions are funding their campaigns.

I do not have enough time to say much more, except to say to all of you, vote against this legislation. It is not good for the consumer.

Mr. Chairman, I rise today in opposition to H.R. 1115, another in a series of ill-advised attempts to institute broad tort reform measures by this body. Class action lawsuits play an important role in our Nation's civil justice system, serving the dual objectives of practicality and fairness. Class actions are often the only way in which the small, but meritorious claims can find redress, and, as such, they are an essential tool for enforcing civil rights, public health, environmental and consumer rights and laws. The bill before us seeks to remove this tool and impair consumers' access to justice. Further, it disregards longstanding principals of federalism and would stress an already overburdened Federal judiciary.

There is no statistical evidence of a State class action "crisis" as proponents of this bill claim. In fact, there is empirical evidence to the contrary. For the past several years, the RAND Institute for Civil Justice has been studying class action settlements, only to find that given the small dollar amount of individuals' losses, it was "highly unlikely that any individual claiming such losses would find legal representation without incurring significant personal expense." This study also found that class actions often resulted in changes to a companies business practices and that "class counsel's fees were a modest share of the negotiated settlements." Overall, it concluded that its survey "contradicts the view that damage class actions invariably produce little for class members and that class action attorneys routinely garner the lion's share of settlements."

There is also no basis for the unfounded premise that big companies cannot get a fair trial in State courts—claims that are promulgated by sensationalist rhetoric surrounding a mere fraction of the class action suits that are introduced. Where the infrequent abuse has occurred, it is important to note that it is not an endemic feature of State judiciaries as proponents of this legislation would have us believe—in fact, many Federal class acitons have expeirenced the same outcomes that attract criticism at the state level.

My colleague disparges the integrity of elected State court judges. As a former judge I protest—if the campaign coffers of those supporting this legislation were reviewed—I venture a guess then—the contributors are supportive of this legislation.

But there is an overwhelming amount of evidence pointing to the fact that this bill would make it harder—if not impossible—to bring cases against major corporations in an era of increasing consumer and shareholder vulnerability. Legitimate lawsuits could be thrown out or stalled if defendants are given the right to move just about any class action case from States to a crowded Federal court docket. Since the mid-1990s, the Federal civil dockets have been severely backlogged. From 1993 to 2002, U.S. district court civil filings climbed by nearly 37,000 cases (16 percent). And according to the U.S. Judicial Conference, the Federal courts are short by 150 judges.

This legislation would not only further overburden the schedules of Federal judges, but would put them in the difficult position of interpreting a host of State law issues that don't belong in Federal courts in the first place. This would result not only in extended delays in obtaining benefits for class members, but also increase delays for individual plaintiffs in other cases. And since Federal judges are required to provide speedy trials to criminal defendants, it is likely that class action suits would end up at the end of the long Federal docket line, giving corporate offenders more time to "shred" documents or dump stock shares.

There is no doubt that State courts are institutionally better suited to handle class actions than Federal courts. State courts' civil dockets typically experience smaller caseloads than their Federal counterparts, not to mention greater experience with State civil laws. State courts are also more prepared to decide controversial issues of State law than Federal courts. Without State court interpretations, States' bodies of law will not develop solutions to new problems, or guide future conduct of businesses.

It is also important to remember that State courts are held to the very same standards of due process as their Federal counterparts. If State judges fail to perform their duties appropriately, States have adequate mechanisms for reprimanding them. And let us not forget that State judiciaries are capable of self-regulation. Where real problems with the certification process have occurred, the offending States have responded with reforms aimed at improvement. In Alabama, the often-cited "swamp justice" State according to the proponents of this legislation—both the legislature and the judiciary have been acting to tighten class action procedure in response to accusations for "drive-by" certifications.

If the foundation of our democracy relies on the strength and preservation of federalism and deference to State's rights, how can we support legislation that has as its backbone the notion that State judiciaries are not as competent as Federal courts? Just ask the substantial number of Federal judges who have served on State judiciaries if they are "better judges" now that they operate on a Federal court level. I doubt any of them will respond that they are more neutral, or less biased, as a result of their Federal appointment. Put simply, neither the State nor Federal judiciaries are seeking class action reform because they are quite confident in their own competence.

Indeed, Chief Justice Rehnquist and the Judicial Conference of the United States are opposed to this legislation for reasons beyond "unduly burdened" Federal courts and disturbing States' jurisdiction over in-State class actions—they are opposed because at its heart it questions the principles that our Nation's courts are the backbone of a fair and unbiased justice system.

Class actions play an important role in our civil justice system. We need to refrain from targeting the few class-action infractions at the expense of many citizens' right to their day in court. We also need to refrain from altering the delicate balance between State and Federal judiciaries established by the drafters of the Constitution and carefully engineered by their contemporaries.

Let us heed the advice of our most senior authority on this matter, Chief Justice Rehnquist, that "Congress should commit itself to conserving the Federal courts as a distinctive judicial forum of limited jurisdiction in our system of federalism." This legislation is nothing more than a technically unsupportable effort to enact institutional advantages for large corporations in all class actions. Instead of promoting fairness and efficiency, H.R. 1115 simply gives tobacco companies, Enrons, Worldcoms, HMO's and polluters the power to choose the legal forum they believe will benefit them most.

A vote against the bill will send the reassuring message to our State and Federal judiciaries that their judgment and integrity is recognized by Congress. As a former judge, and now as a Member of this body, I urge my colleagues to vote against this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Courts, the Internet, and Intellectual Property of the Committee on the Judiciary.

□ 1230

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from Wisconsin, the chairman of the Committee on the Judiciary, for yielding me this time.

Mr. Chairman, I support H.R. 1115, the Class Action Fairness Act. This bill reforms the class action system and addresses the abuses that harm so many Americans.

In recent years, State courts have been flooded with thousands of frivolous lawsuits. Lawyers looking for the most favorable jurisdictions conduct the equivalent of a legal shopping spree. They use loopholes so class action suits can be heard in State courts rather than Federal courts. Today, State courts employ criteria so loosely defined that virtually any controversy can qualify as a class action.

We have all heard of the lawsuits in which the plaintiffs walk away with pennies, sometimes literally, while their attorneys walk away with millions of dollars in fees. For instance, in a suit against Chase Manhattan Bank that was referred to by the gentleman from Virginia (Mr. GOODLATTE) a few minutes ago, consumers were awarded 33-cent checks while the attorneys pocketed $4 million in fees. Mr. Chairman, to describe this suit, as well as other class action lawsuits, as "frivolous" is an insult to frivolousness. Even The Washington Post has acknowledged that under the present system "lawyers cash in, while the 'clients' get coupons."

There are many "magnet" State courts that have a reputation for doling out enormous judgments. This bill makes it easier to get cases into Federal court to avoid such unfair results.

Mr. Chairman, I, along with the gentleman from Virginia (Mr. BOUCHER), amended this bill in the Committee on the Judiciary to apply the law to cases that have been filed, but not yet certified as class actions. Cases that gain class certification after the date of enactment will have, in fact, the new rules apply to them.

This language eliminates any incentive to rush to the courthouse to avoid the reforms contained in the legislation. It also prevents individuals from being made part of a frivolous suit that has been filed before enactment of the new laws.

The widespread abuse of class action lawsuits must be stopped. The Class Action Fairness Act includes bipartisan, sensible reforms that clarify the rights of consumers and restore confidence in America's civil justice system.

Mr. Chairman, I urge my colleagues to support this legislation, and I also thank the chairman of the committee for his action in passing this today.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 2½ minutes to the gentleman from New York (Mr. WEINER), a distinguished member of the committee.

Mr. WEINER. Mr. Chairman, something in me enjoys this exercise in self-flagellation by all of the lawyers in this Chamber. From time to time, those of us who are not lawyers in this Chamber, we convene a meeting, and we can do it in the phone booth in the cloakroom; but now we are all so angry at lawyers.

But this is not about lawyers. Frankly, most Americans are neither lawyers nor, thank God, are they victims, so they do not have to go into courts; and that is a good thing. But the groups that do represent victims, that do represent average Americans, almost universally oppose this legislation. Those that represent cancer patients, the American Cancer Society, oppose this legislation. Those who fight against pollution, the Clean Water Action, oppose this legislation. Those who represent seniors, the Gray Panthers, oppose this legislation. Those who represent consumers oppose this legislation. Those who fight against violence against women, the National Women's Health Network, oppose this legislation, because it is bad for victims and it is bad for those who use the system.

The gentleman from Virginia had these great charts. I am going to have to gesture because he would not let me use them. He had these great charts about 35 cents; that is all people are getting. Do my colleagues know why? Because there are millions and millions of victims; millions and millions of victims in that class. That is all that can go around is 35 cents. There are hundreds and thousands of victims in this class. When you brag that, well, all the money that was left after they gave out these multimillion dollars was only 35 cents a person, that is a subject of how many people there were in that class.

I say to my colleagues, the bottom line is that it is ironic to hear the same people who came to this floor a couple of weeks ago and said, oh, the amount the victims are getting is too high, let us cap it at $250,000, now they are saying that 35 cents is too low. Do my Republican colleagues want to have a minimum? Sign me up. What is the number going to be? I know it is lower than $250,000 and higher than 35 cents, but we have to let my colleagues decide, because a jury cannot handle it. Oh, no. It is too mind-boggling for a jury to handle, because that is nine or 12 people from your district. They chose you, but they cannot figure out if Cheerios was right to short-change millions of consumers.

And let me say one other thing. Let me tell my colleagues one other group who should oppose this legislation: anyone that has the audacity to call themselves conservative. If you think it is conservative to take power away from the people and their States and give it to 1,500 Federal judges who sit in there in their marble chambers, who never talk to anyone or touch anyone, if you think that is conservative, you have it completely backwards. But then again, you do. You have it completely backwards.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 1 minute.

The gentleman from New York unfortunately has got it all wrong. What this bill does is it takes the power away from one State court judge to decide national legal and national economic policy and puts it in the Federal courts where the founders intended it to be when they established the right of Congress to establish diversity jurisdiction.

The second point that I would like to make is why did all of these consumers only get 33-cent checks? It is because the lawyers signed off in the settlement that filled their pockets to overflowing with legal fees and giving 33-cent checks to the clients that they supposedly represented. Now, if those lawyers were a little bit more fighting for their clients and less for themselves, maybe those checks would have been bigger because the fees would have been smaller.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Chairman, I thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his work on this issue.

I am a lawyer. I am for class action reform. These lawsuits continue to victimize the victims. Even The Washington Post, as the gentleman from Texas referred to, said the clients get token payments: 33-cent checks, boxes of Cheerios. In one case, the clients even ended up having to pay. The lawyers get enormous fees. This is not justice; it is an extortion racket that only Congress can fix. That is why we are here today. We are here to fix it.

The intent of the class action system is to facilitate large groups who have similar harm caused to them to efficiently recover damages. Recover damages. That is appropriate damages, not 33-cent checks. We are here to change that so that appropriate damages will be recovered.

How are we going to do that? We are going to change the system. We are going to make sure that not one small court in one State makes a decision for an entire Nation of victims. We are going to put it in the Federal court where it should be.

Recent studies of the class action system show there is a 1,315 percent increase in class action suits filed in State courts. Listen closely: 1,315 percent increase in class action suits filed in State courts. Why? Because some of those State courts have been very friendly to that small group of trial lawyers who take on these suits and get 33 cents for their clients and large, million-dollar settlements for themselves.

Here is another number: those attorneys who search for local friendly courts like Madison County, Illinois. Madison County, Illinois, has seen a 1,850 percent increase in class action filings that certify their classes and they will rubber-stamp these ridiculous, useless settlements.

This abuse has three larger consequences. First, as I said, the plaintiffs are denied real relief, and we have heard many examples, while the attorneys pocket huge rewards. It is time for us to take responsibility and make sure that clients get proper settlements. Support this reform.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, let me tell my colleagues who does support this bill, and particularly the provision that makes the automatic appeal and the stay of the discovery proceedings retroactive. It is none of the groups that were enumerated by the gentleman from New York, no. We have two letters that were submitted as testimony, as exhibits before the Committee on the Judiciary. One is the Association to Advance Technology. Another is a similar trade association involving the high-tech industry. My memory is that it was submitted by the gentleman from Virginia.

I just wonder, and I am really posing a question, I guess, do any members of either of these trade associations have class action suits pending against them now? I do not know, and I do not see the gentleman responding. But he was very effective with his parade of horror stories.

Well, let me tell my colleagues, too, I do not have any charts; but maybe we could present pictures here, pictures of dead people, people who died as a result of defective tires that were manufactured by Firestone. Maybe we could read the names of those who died as a result of not being informed by the tobacco industry about the carcinogens that are present in a cigarette. But thank God we had class action suits, because this Congress is not ready to take action until some lawyer, yes, a lawyer, went out and filed a class action suit and finally revealed what the truth was, that these industries were withholding information that affected the public welfare of the people of the United States.

Mr. Chairman, this bill doesn't "reform" the class action system. It eviscerates it. And before we curtail the ability of our citizens to bring class actions, we need to be clear about why they exist in the first place.

Class actions do not exist solely or even primarily to provide relief for private wrongs. They exist to correct, punish and deter misconduct that harms large numbers of ordinary people and society as a whole. Class actions level the playing field, uniting ordinary citizens who could never undertake complex and costly litigation on their own.

You can understand why a mechanism like this is threatening to major corporations. Faced with a single lawsuit by an average citizen, most major companies can barely stifle a yawn. It is only the prospect of a class action suit joined by hundreds or thousands of such citizens that can get their attention.

You can understand why corporate defendants would do all they can to stack the deck in their favor. Or in this case, to shuffle the deck in their favor.

The sponsors have hit on a brilliant strategy. Since Congress cannot dictate the rules by which state courts handle their cases, the bill simply removes the cases from state court and transfers them tp federal court. Then, once they're in federal court, the bill changes the rules to make sure that most of these cases will never see the light of day.

As soon as the district court either grants or denies certification to the class, the bill gives the parties the right to an automatic interlocutory appeal of the decision. And as soon as a party files an appeal, the bill halts all discovery proceedings in the case until the appeal is completed.

What does this mean in practical terms? Given the huge backlogs in federal court—backlogs which this bill will only make worse—it will be years before discovery can resume. And years more before plaintiffs who have suffered grievous injuries can get to trial on the merits.

What's important to understand is that this doesn't just delay recoveries. It undermines the very purpose of the class action system by removing the incentive for corporate defendants to fix problems. And delaying the release to the public of information that might save lives.

The current federal rules permit the judge to entertain an appeal of a class certification order, and even to stay proceedings until the appeal is resolved. But as Judge Scirica has explained in a recent letter to the committee on behalf of the Judicial Conference of the United States: "Providing an appeal as of right might tempt a party to . . . appeal solely for tactical reasons. Staying discovery and other proceedings in the district court would only increase the tactical advantages of filing an interlocutory appeal, particularly because resolution of the appeal may not occur for 12 to 18 months."

Nor will this problem affect only the cases that the bill transfers to federal court. It will also affect the hundreds of cases that are already there, since the bill applies retroactively to cases that have not yet been certified at the time it goes into effect.

Those cases include some of the most notorious corporate fraud cases in history, including—

The Enron case, on behalf of thousands of investors who claim more than $20 billion in damages as a result of the series of fraudulent transactions that destroyed the company and rendered its stock worthless.

The WorldCom case, in which the plaintiffs contend that corporate insiders and auditors disseminated materially false and misleading information and used illegitimate accounting schemes to hide losses and inflate reported earnings.

The Adelphia case, in which plaintiffs allege violations of federal securities laws flowing from the failure to disclose billions of dollars in debt.

The Global Crossing case, in which plaintiffs cite the accounting schemes that grossly misrepresented the company's financial picture and precipitated the ruin of the company.

The ImClone case, in which senior corporate executives engaged in fraud, perjury, and obstruction of justice for which the CEO has just been convicted in federal court and other indictments are pending.

These class actions seek to address the looting of company after company by corporate insiders, whose brazen misconduct and self-dealing defrauded creditors and investors of billions of dollars, and stripped employees and retirees of their livelihood and life savings.

Yet if this bill becomes law, the victims of those practices will face new obstacles in their efforts to call those executives to task.

Are there abuses of the class action system? Of course. We've all herd about abusive coupon settlements, collusive settlements, excessive fees, and the like. The Democratic substitute would address these problems. But the bill does not. That is not its purpose. Its purpose isn't to fine-tune the class action system but to eviscerate it. To shield corporate malefactors from civil liability and leave the public unprotected.

At our markup of this bill, one of its supporters said, "The goal of this bill is to ensure that legitimate plaintiffs receive fair and prompt recoveries."

Plainly that is not the goal of the bill. The goal is to ensure that legitimate plaintiffs are denied any recovery at all. And that whatever recovery they do receive is delayed as long as possible.

This bill is not about protecting plaintiffs. It's not about protecting the public. It's about protecting large corporations whose conduct has been egregious. It's about protecting the powerful at the expense of the powerless. And to prevent people from banding together as a class to challenge that power in the only way we can.

We must also see this bill in its proper context. It is only part of an ambitious and multi-pronged campaign by major corporations to evade their obligations to society.

Under the guise of "deregulation" we're watching the wholesale dismantling of health and safety standards, environmental protections, and longstanding limits on concentration of ownership within the media and other key industries.

This House has just passed a bill that releases gun manufacturers from liability for the death and destruction they cause. And a bankruptcy "reform" bill that rewards abuses by credit card companies and does nothing to curb the greed and irresponsibility that have bankrupted major corporations and left employees, retirees and creditors holding the bag. And a medical malpractice bill that caps recovery for the injuries inflicted on patients by negligent health care providers, while doing nothing to reduce the rate of medical errors or curb the exorbitant premiums charged by insurance companies.

Today's bill completes this picture. It takes aim at the civil justice system that exists to correct the wrongs that the government cannot or will not address. Not content to put an end to regulation, the proponents seek to muzzle the courts as well.

We cannot allow them to do it, Mr. Chairman. I urge my colleagues to vote "no."

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, I rise in support of H.R. 1115, the Class Action Fairness Act, and I want to thank the chairman of the Committee on the Judiciary and the gentleman from Virginia (Mr. GOODLATTE) for bringing this legislation to the floor today. It is critical that the House act on this issue.

Over the past 10 years, there has been a dramatic increase in the filing of class action lawsuits in the United States. Some of these lawsuits have played a valuable role in our legal system allowing for the efficient resolution of legitimate claims where there were numerous parties involved. Unfortunately, too many class actions are frivolous and are brought about by greedy trial lawyers who are more concerned with shopping for the best venue to collect fees than with producing justice for the injured parties.

We have heard about some of these examples. The Blockbuster Video case where customers got a coupon for a dollar off the next video. The court in Minnesota that gave the credit card company that was engaged in deceptive practices, those customers got some coupons, and the chance to apply for a credit card at a lower rate. The attorneys got $5.6 million there. In the Blockbuster case, we heard they split $9.25 million. The Coca Cola case, the customers got some 50-cent coupons and the lawyers split $1.5 million.

Mr. Chairman, Americans love couponing. They love double couponing. They love triple couponing. But let me tell my colleagues something: this is a mighty expensive way to do it. The American people get ripped off, and the big-time lawyers and the greedy trial lawyers are getting the millions of dollars. They are hitting the coupon jackpot.

It is time to reform the system. I encourage my colleagues to support this legislation.

Mr. CONYERS. Mr. Chairman, I am happy to yield 3 minutes to the gentlewoman from California (Ms. WATERS), a member of the Committee on the Judiciary.

Ms. WATERS. Mr. Chairman, I thank the gentleman for yielding me this time.

The so-called Class Action Fairness Act has nothing to do with fairness. This corporate defendants' "Choice of Forum Act" is a one-sided, unfair gift to the polluters, the Enrons, and the pharmaceutical companies that will hurt consumers by delaying their access to justice. It will indefinitely delay hearings for people who may be victims of defective products, fraud, discrimination, and environmental pollution.

Mr. Chairman, this class action bill was a terrible bill when the House passed it in the last Congress; and fortunately, that bill died in the other body. Incredibly, H.R. 1115, this year's iteration of the bill, is even worse, as it now contains retroactivity language that will allow some of the worst corporate wrongdoers, companies like Enron, WorldCom, and Arthur Andersen, to remove cases filed against them in State court to the Federal courts where their attorneys can use the huge civil case backlogs in our Federal court system to just "slow-walk" the victims of their misconduct.

□ 1245

The bill provides an automatic right of an interlocutory appeal of a class action certification, slow walk, and a stay on all discovery while the class certification appeal is pending. Slow walk.

This unwise, ill-conceived intrusion on the jurisdiction of the State courts will destroy access to justice while overwhelmingly increasing the burdens on our Federal courts. That is why this bill is opposed by the Judicial Conference of the United States and the Conference of Chief Justices.

It is also strenuously opposed by every Democratic member of the caucus who has served as a trial judge at either the State or Federal level. It is even opposed by Chief Justice Rehnquist.

Finally, the bill will destroy the efficacy of private attorney general actions that consumers may now bring in the State of California to combat corporate fraud and wrongdoing. No one is better situated than the people of California to protect their rights as consumers under California law. That is why we should not support any bill that would allow corporate defendants to remove these cases to Federal court where they can avoid having to answer to those State court judges with real expertise and the greatest knowledge of California law.

I strongly support the amendment that the gentlewomen from California (Ms. LOFGREN) and (Ms. LINDA T. SÁNCHEZ) will offer to strike the language permitting California private attorney general actions to be removed to Federal court. Mr. Chairman, this bill will injure consumers and assist those corporate defendants who simply want to game the system.

We can protect consumers from any perceived abuses in coupon settlements without adopting this assault on consumer access to full, fair, and timely justice. I urge my colleagues to reject this latest Republican miscarriage of justice. I urge my colleagues, just simply oppose this bad bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, once again the opponents of this bill are wrong. The gentlewoman from California (Ms. WATERS) is talking about Enron and WorldCom cases being removed to Federal court. They already are there. Both of these corporations have filed for bankruptcy. Once there is a bankruptcy filing by anybody, the cases are heard in Federal court, simple as that.

I really would hope that they get their facts straight before they attack the bill the next time.

Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. Mr. Chairman, I want to congratulate and thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Virginia (Mr. GOODLATTE) for this fine bill. This is a commonsense reform of the class action process throughout the United States.

Mr. Chairman, this bill does not deny anybody access to a court or to a judge. What it does say is that lawyers that have a special relationship with a judge cannot forum shop and select their own judge; they have to have equal-handed justice. This cuts down on the lottery mentality in the court system and gives everybody the same fair and equal access.

Mr. Chairman, the Founders of our great Republic were very concerned about some forum shopping throughout the States where some States would not treat out-of-state defendants fairly, so they created diversity jurisdiction to allow Federal courts to make sure there was an even-handed array of justice.

In some States where they elect their justices, literally we have special interests, in some cases the trial lawyers, that are actually able to buy elections and have their favorite justices determine the entire constitutionality of issues because they run the supreme court.

All this bill does is to say everybody gets a fair shot at a Federal judge if there is legitimate diversity jurisdiction. It stops the lottery game in our court system.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER), ranking member of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. BOUCHER), as well.

The CHAIRMAN. The gentleman from Virginia (Mr. BOUCHER) is recognized for 3 minutes.

Mr. BOUCHER. Mr. Chairman, I thank both gentlemen for yielding time to me. It is my pleasure to rise in support of the bill that is before us.

In the 20 years that it has been my privilege to serve in the House, the class action reform measure that is before us today is the most modest litigation reform that has been debated, and it strikes in a narrow and appropriate way at an egregious abuse and miscarriage of justice.

The bill that is before us makes procedural changes only. There are no restrictions on the substantive rights of plaintiffs. There are no caps on damages. There is no limitation on the rights of plaintiffs to recover. The bill simply permits the removal to Federal court of class actions that are national in scope, with plaintiffs living across the Nation and a large corporate defendant doing business throughout the country, even if current diversity of citizenship rules are not strictly met.

This change is much needed. Cases that are truly national in scope are being filed as State class actions before certain favored judges who employ an almost anything-goes approach that renders virtually any controversy subject to certification as a class action. Once the certification occurs, there is then a rush to settle the case. The lawyers who filed the case tend to make an offer that is very hard for the corporate defendant to refuse. They ask for large fees for themselves, typically in the millions of dollars, and then coupons are requested for the class members.

Rather than go through years of expensive litigation, the defendant settles. The judge who certified the case quickly approves the settlement. The lawyer who filed the case gets rich; the plaintiff class members he represents get virtually nothing. That is the problem. That is the abuse that this reform is designed to resolve.

This reform permits the removal of these national cases to the Federal court in the State in which the State class action is pending. In the Federal court, the rights of plaintiffs will be more carefully observed. Any settlement involving noncash compensation will be carefully reviewed to assure that it is fair. Under the bill, cases that are local in scope will remain in the State court where they are filed.

Later today I will be joining with the gentleman from Wisconsin (Mr. SENSENBRENNER) and other Members in offering an amendment that the Committee on the Judiciary and the other body adopted, originally drafted by Senator FEINSTEIN of California, that gives Federal judges greater direction in deciding which cases are national in scope and should be removed to Federal court, and which cases should remain in the State courts in which they are filed.

This is a needed reform. It is a modest remedy. It is procedural only. The rights of all plaintiffs to participate in a class action will be respected, either in State or Federal court. I am pleased to rise in support of this measure and urge its adoption in the House.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Chairman, I rise in strong support of the Class Action Fairness Act of 2003.

Mr. Chairman, I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Virginia (Mr. GOODLATTE) for proposing this good legislation.

As chairman of the Subcommittee on the Constitution, I welcome this opportunity to address some of the criticism that we have heard about this legislation, that it would diminish State court authority or otherwise offend basic federalism principles.

Opponents of this bill have suggested that removing a lawsuit filed in State court to Federal court deprives the State court of its right to decide matters of State law, but all State law-based actions do not presumptively belong in State court. Federal diversity jurisdiction, established by the Framers of the Constitution, allows State law-based claims to be moved from local courts to Federal courts to ensure that all parties will be able to litigate on a level playing field and to ensure that interstate commerce interests will be protected.

Additionally, the expansion of diversity included in the Class Action Fairness Act is consistent with current diversity law, since it allows Federal courts to hear large cases which have interstate implications. By nature, class actions fulfill these requirements.

Mr. Chairman, in most State law-based class actions, the proposed classes encompass residents of multiple States. Therefore, the trial court, regardless of whether it is a State or a Federal court, must interpret and apply the laws of multiple jurisdictions. It is far more appropriate for a Federal court to interpret the laws of various States as opposed to having one State court dictate the substantive laws of others States.

I strongly support this legislation and urge my colleagues to do the same.

Mr. CONYERS. Mr. Chairman, I am happy to yield 3 minutes to the gentleman from North Carolina (Mr. WATT), a distinguished member of the Committee on the Judiciary.

Mr. WATT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have followed my colleagues' debate about this, particularly my colleague on the Democratic side, the gentleman from Virginia, who says that there are no substantive changes in this bill, there are only procedural changes, and that this is a modest change.

The thing that is amazing about that is the modest change is going to move a tremendous volume of cases from the State court to the Federal courts, which is exactly why the Federal judges are opposed to this.

If this is only procedural in nature, I am not sure that I, for the life of me, can understand why we are doing it. If this is only process, it would seem to me that we should be able to get the same result in the Federal court or the State court, because if we listen to what the supporters of this bill are saying, they are not making any substantive changes.

Now, I used to think that I understood my Republican colleagues when they said that they believed in States' rights, and that when we have the level of government or a judicial system that is close to the people, that is where we are likely to get the best kinds of results in cases.

Why, then, if we follow that theory, would we take all of the cases that are now being tried in State court and pick them up and move them into Federal court? For some reason, there is something wrong with that picture. They say the rights of the parties will be carefully preserved in the Federal court. I think that is what I heard my friend, the gentleman from Virginia, say. Well, does that mean that the rights of the parties for all of these years have not been carefully preserved in the State court? I thought that is what the Republican Party stood for, taking things back to the local and State level. I thought they believed in States' rights.

They said, well, if we move to Federal court, we are going to get fairness. We are going to get fairness. They have also said, for some reason, if we move the cases into Federal court we are going to get fairness. The opposite of that is if we leave them in the State court somehow we are not going to get fairness. If we are not changing the substance, then why are they doing this? Why are they doing this?

So this must be about the results that some people are getting that they are not happy with. I am telling the Members, I think if we have the same case in Federal court or State court, we ought to get the same result. That is the way it has always been, and that is the way it would be in the absence of this new bill. I encourage my colleagues to oppose the bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, my friend, the gentleman from North Carolina (Mr. WATT), seems to have forgotten that the civil rights laws that were passed in the 1960s were passed with Republican support because his predecessors in North Carolina would not support civil rights laws, no way, no how. Those laws took away from the States the right to ensure equal treatment of all American citizens. I am proud my party, the party of Lincoln, led the charge on that.

Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank the gentleman for yielding time to me.

I thank others who have advanced this legislation, the gentleman from California (Mr. DOOLEY), the gentleman from Virginia (Mr. BOUCHER), on our side, and the gentleman from Virginia (Mr. GOODLATTE), and many others.

Mr. Chairman, we know that class actions have played a very important role in advancing progressive goals, like civil rights and consumer rights. But something has gone wrong. A lot of trial lawyers will tell us, privately, that this has to be fixed, and, You guys need to rein it in.

There is an unintended loophole in the interpretation of diversity jurisdiction. That is where we are getting the abuse. We are getting a few trial lawyers who go forum shopping, and they go into the courts of judges who are elected, oftentimes with the contributions of trial lawyers. I am not saying this alone, but The Washington Post said this in their own editorial. They know what decision they are going to get. Oftentimes, they get the thing certified before even notifying the defendants, and then they wind up settling.

□ 1300

But who gets hurt? The consumer gets hurt. And it is not just in paying higher prices for products. They get those worthless coupons. A lot of them do not even know they are members of the plaintiff class. There is any number of consumer provisions in here. It requires scrutiny of these coupon settlements. It prohibits settlements where the class members come out as losers. It bars bounties for class representatives. Settlement awards cannot be based on geography. How unfair a system to base it on where you happen to live. It requires the settlement to be put in plain English so the consumers know what they are dealing with.

This is commonsense legislation. Let us pass it.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I appreciate the gentleman yielding me time.

Every time a black Member of Congress gets up to talk about an issue like this, it always becomes a race debate; but I want to tell the gentleman that he is absolutely right.

We used to file every race discrimination case in America in the Federal court, but the law allows those cases to be filed in the State courts, too. And in many cases now, because the States have started appointing judges who came out of this century as opposed to the 19th and 18th century in their racial opinions, then you can get a fair trial in the State courts. And I think you can get a fair trial in the State courts on this issue if you will let the State courts do what they are supposed to do.

Mr. CONYERS. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I just want to remind my friend, the chairman, of the Committee on the Judiciary, that he was not that happy with Federal courts in the University of Michigan affirmative action case. Remember that one?

Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I would like to also voice my strong opposition to this bill, H.R. 1115. This bill is worse than what we saw last year, and it would be applied retroactively to pending cases, including those brought by employees at Enron for financial fraud, Dow Chemical for environmental charges, and Wal-Mart for employment discrimination against women.

In midstream the bill would strip the rights of plaintiffs in these cases, causing expensive and wasteful interruption of their pursuit for justice and equal treatment under the law.

In the wake of corporate scandals, workers in our country have lost well over $175 billion in retirement savings. Let us look at the real facts here. In California alone, workers have lost over $18 billion in retirement savings. At a time when we should be holding corporations more accountable, not less, their bill sends the wrong message.

Congress should stand up and protect consumers, employees, pensioners, and not corporate wrongdoers. They call this the Class Action Fairness bill? I am sorry. In my language it is a mentiras. That means it is a lie.

I urge my colleagues to please vote for the Sandlin-Conners substitute.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Chairman, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me time.

Mr. Chairman, I rise to oppose H.R. 1115 and in support of the Democratic substitute. There is no fairness in this so-called Class Action Fairness Act. This bill amounts to a sweeping Federal takeover of State class action lawsuits.

Instead of improving the class action litigation process, this bill guarantees that those victims of discrimination of corrupt corporate practices will be forced to wait for years for any hope of justice.

H.R. 1115 alters the constitutional distribution of judicial power by moving State class action suits into the Federal court system. This bill undermines State rights and jeopardizes civil rights. Adding cases to the already clogged Federal court system will delay hearings for all class action cases and cause those civil rights class action cases that truly belong in the Federal courts to await behind cases that should be heard in the State court.

This misnamed bill is opposed by both Federal and State judges. It is opposed by consumer groups. It is opposed by civil rights groups. It is opposed by environmental groups. But predictably it is supported and endorsed by the big corporations. I urge my colleagues to adopt the Democratic substitute.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, Teddy Roosevelt would be spinning in his grave if he knew his party had decided to join ranks with what he referred to as the malefactors of great wealth. And that is exactly what this bill does.

It is incredible to me that some of my colleagues who support this bill come to this well and purport, say that they are on the side of consumers because they have such great sorrow and empathy for consumers. Well, you have to decide what you are on. The Consumers Federation of America knows this is a bad bill for consumers and they are against it. The Consumers Union of America knows this is a bad bill and they are against it. The Consumers for Auto Liability and Safety know this is a bad bill and they are against it. The consumers of America recognize this bill reduces their rights.

And the part that I want to focus on, and I heard one speaker refer to it as mere rhetoric that the consumers are going to get hurt, tell that to the thousands of people that are damaged by Ken Lay and Enron's depredations on them, whose lawsuit will be stayed for at least another year and a half to 2 years if this bill passes. You ought to know what side consumers are on, and in this bill they are against it.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, what are the Republicans trying to hide with H.R. 1115? Who are they are trying to protect? Do the names WorldCom, Enron and Arthur Andersen strike a familiar note?

Our colleagues on the other side of the aisle are jumping up and down like rodeo dogs trying to claim that they are interested in protecting individuals. Now, is that not a fine kettle of fish?

They must mean individuals like Ken Lay, Jeff Skilling, Bernie Ebbers and the CEOs of corporate wrongdoers who enrich themselves at the expense of American families and pensioners.

Oh, now, I understand. Those are the individuals who we are protecting.

Mr. Chairman, these CEOs do not need further protections. They have the fifth amendment and they use it all the time. Individual groups, the real individual groups such as the American Cancer Society, the American Heart Association, the American Lung Association, CWA, MALDEF, National Education Association, National Women's Health Network, SEIU, United Church of Christ, NAACP, true individuals oppose this legislation. They are the ones that need protections.

Mr. Chairman, who knows more about the judicial system than the Chief Justice of the United States Supreme Court? He is opposed. How about the Judicial Conference of the United States? Opposed. How about ten attorney generals who gave a statement just yesterday? Opposed. Federal courts? Opposed. State courts? Opposed. And I find it interesting that the Republicans have now adopted the Washington Post as their spokesman.

Well, Mr. Chairman, I will see their Washington Post and raise them the Augusta Journal. I will raise them the Columbus Dispatch. I will raise them the Wilmington, North Carolina Star News. I will raise them the Salt Lake City Tribune. I will raise them the Milwaukee Journal Sentinel. The list goes on and on.

And why, oh why, did our Republican friends make this retroactive? We do not do that. Who are they trying to protect? The individuals they are claiming to be interested in? Give me a break, Mr. Chairman. Do the Republicans actually believe anyone in America will believe that the Republicans are standing up for individuals against corporate wrongdoers? And the automatic appeal? That gives Enron some extra years to destroy evidence. That is why they want that.

Make no mistake about it. Thus far it is Enron, for; the American Cancer Society, opposed. Worldcom says yes; the National Education Association, the teachers, they say no. Arthur Andersen, good; United Church of Christ and NAACP, bad.

This act should be called exactly what it is: the Corporate Wrongdoer Past, Present and Future Protection Act; and, by the way, do not forget to send the money.

Let us shred up this document. Let us shred up this piece of legislation just like the documents that the corporate wrongdoers love to destroy. That would be true justice. That is what ought to happen to this legislation.

It is improper. It is unconstitutional. Our friends on the other side know it, and the judicial system of the United States has said this should be opposed.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I wish the Democrats would get their facts straight before they come to the floor. First, any entity, individual or corporate, that is in bankruptcy is in Federal court and all claims go there: Enron, WorldCom, anybody else that is in bankruptcy.

Secondly, page 16 of the bill, which I will send over to the gentleman from Texas (Mr. SANDLIN), provides specific exemptions for the removal of class action cases to Federal court for all the types of corporate wrongdoing that he said on the floor.

Read the bill, be accurate in your arguments, and support it.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman from Detroit, Michigan (Mr. CONYERS), the ranking member, for yielding me time, and I appreciate this debate. I just wish it was longer, to be able to be more edifying of what we are talking about.

My voice is a little raspy this morning, but it seems that day after day and time after time, we come to this floor to try to keep the door of justice open.

This seems like a one-sided victory. We know they have the votes. But this is personal. And I have always been taught that when we uphold the Constitution and speak on behalf of the American people, we should remove our personal considerations. There is a fight between a few defense lawyers who have come up against worthy plaintiffs' lawyers who prevailed on behalf of class action plaintiffs in a myriad of issues, whether it is the Ford Pinto, whether it has to do with thalidomide that made babies deformed in the 1950s. These are the causes that we are talking about.

This class action legislation is an abuse of power because it undermines the tenth amendment that I have thought we respected in some instances; and that is, we leave certain issues to the States. There are 68 vacancies in the Federal court. All you need to do is kick class action lawsuits out of the State courts that have moved progressively along to allow plaintiffs to have their say, and you will have a backlog of Federal jurisdiction and docket, and you will never see the light of day.

So individuals who have been injured with respect to medical devices or other kinds of manufacturing devices and have drawn together because their resources are small will not have their day in court.

The Lawyers Committee for Civil Rights have brought up another issue. Is it because the juries are predominantly minority in many cases that you run away from justice? Let me say to my friends, justice comes in all shapes, colors, and sizes. I want to stand for justice.

Vote against this bad bill. It closes the door of justice to the American people.

Mr. Chairman, today this Chamber is considering H.R. 1115, the "Class Action Fairness Act of 2003." I oppose H.R. 1115 for several policy reasons including severe infringement on the discretion of the judiciary. I remain steadfast in my belief that this legislation is yet another example of the legislature interfering in the affairs of the judiciary.

It is remarkable that the proponents of this legislation have always espoused the wisdom of allowing state courts and legislatures to decide for their own citizens what is best for them. They have professed that, as much as possible, the Federal government should not interfere in state business. But H.R. 1115 directly interferes with state court discretion by broadening Federal jurisdiction over state class action lawsuits.

H.R. 1115 makes severe changes to diversity jurisdiction requirements. The bill also makes substantial revisions to the rules governing aggregation of claims. Both of these changes would result in significantly more state court actions being removed to federal courts thereby overburdening the federal caseload.

H.R. 1115 also provides a party to a class action lawsuit with the right to an interlocutory appeal of the court's class certification decision provided an appeal notice is filed within 10 days. The appeal would stay discovery and other proceedings during the pendency of the appeal. This is a substantial change to Rule 23(f) which presently provides the court with discretion to allow an appeal of the class certification order without staying other proceedings. The automatic stay under H.R. 1115 provides defendants with another delaying tactic and another tool to increase the expense for plaintiffs.

These delay tactics and other provisions give a decisive advantage to well-financed corporate defendants. I am deeply concerned that if we pass H.R. 1115 we would eliminate the means by which innocent victims of corporate giants can find justice. First, I believe that before we consider this legislation, Congress should insist on receiving objective and comprehensive data justifying such a dramatic intrusion into state court prerogatives. This legislation has the potential to damage federal and state court systems. H.R. 1115 will expand federal class action jurisdiction to include most state class actions. H.R. 1115 will dramatically increase the number of cases in the already overburdened federal courts.

For example, as of February 2, 2002, there were 68 federal judicial vacancies. Judicial vacancies mean other courts must assume the workload. Assuming this additional burden contributes to federal district court judges having a backlogged docket with an average of 416 pending civil cases. These workload problems caused Supreme Court Chief Justice Rehnquist to criticize Congress for taking actions that have exacerbated the courts' workload problem.

H.R. 1115 also raises serious constitutional issues because it strips state courts of the discretion to decide when to utilize the class action format. In those cases where a federal court chooses not to certify the state class action, the bill prohibits the states from using class actions to resolve the underlying state causes of action. Federal courts have indicated in numerous decisions that efforts by Congress to dictate such state court procedures implicate important Tenth Amendment federalism issues and should be avoided. The Supreme Court has already made clear that state courts are constitutionally required to provide due process and other fairness protections to the parties in class action cases.

H.R. 1115 also adversely impacts the ability of consumers and other victims to receive compensation in cases concerning extensive damages. The bill has the potential to force state class actions into federal courts which may result in increased litigation expenses. Corporate defendants may attempt to force less-financed plaintiffs to travel great distances to participate in court proceedings. There are also added pleading costs for plaintiffs. For example, under the bill, individuals are required to plead with particularity the nature of the injuries suffered by class members in their initial complaints. The plaintiff must even prove the defendant's "state of mind," such as fraud or deception, to be included in the initial complaint. This is a very high standard to impose of plaintiffs who may not yet have had the benefit of formal discovery. If the pleading requirements are not met, the judge is required to dismiss the plaintiff's complaint.

Additionally, plaintiffs under H.R. 1115 will face a far more arduous task of certifying their class actions in the federal court system. Fourteen states, representing some 29 percent of the nation's population, have adopted different criteria for class action rules than Rule 23 of the federal rules of civil procedure. Plaintiffs may also be disadvantaged by the vague terms used in the legislation, such as "substantial majority" of plaintiffs, "primary defendants," and claims "primarily" governed by a state's laws, as they are entirely new and undefined phrases with no precedent in the United States Code or the case law.

Mr. Chairman, H.R. 1115 is riddled with provisions that are burdensome to potential plaintiffs and that potentially infringe on the discretion of state courts. I urge all of my colleagues to reject H.R. 1115 as it is presently written. I commend my colleagues for proposing numerous amendments to this bill and I hope that these amendments will address the gross inequities in this legislation.

Mr. CONYERS. Mr. Chairman, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman is recognized for 2½ minutes.

Mr. CONYERS. Mr. Chairman, this bill is class warfare with a vengeance.

Here my conservative friends, Republicans, are supporting the bill that will help Enron, Ken Lay, that is right, Adelphia, WorldCom, Tyco, by making retroactive all the automatic appeal provisions. By the way, the Chambers of Commerce are enthusiastic that maybe the fourth time this will get through the Congress. The National Association of Manufacturers are for it, and so is the President of the United States. That is one side.

Now, who are the victims? All consumers groups are against the bill. All civil rights groups are against the bill. All environmental groups are against the bill. All health care groups are against the bill. All judges, Federal and State, including the Chief Justice of the Supreme Court, are against the bill.

Get the picture? We do. And so do the people in your districts from whom you are taking the right to be jurors in these trials away from.

□ 1315

Let us talk about the coupon business, because in the Democratic substitute, on page 12, section 1711, is the only corrective action to coupons, which have been cried about on this floor this morning. If there is any provision in the bill that is on the floor now about coupons that will eliminate it or make it harder to bring, I would sure like to hear about it in the closing comments: and I have a Detroit Free Press editorial that came out yesterday saying class action, the plan seems less about justice than helping business. And I will insert it and a letter from the NAACP for the RECORD at this point.

[From the Detroit Free Press, June 11, 2003]

CLASS ACTION: PLAN SEEMS LESS ABOUT JUSTICE THAN HELPING BUSINESS

Now don't go making a federal case of it . . .

That old expression is a good one to direct at Congress, since the House and Senate appear to be racing each other to pass bills that would discourage class-action lawsuits by shifting them from state courts to the federal system. This is an interesting tack for a lot of conservative lawmakers who profess to want less federal involvement in American lives. Federal judges, already buckling under case overload, are opposed to it. So are state judges. Consumer groups see the bills as an overkill remedy for a system that's already being repaired by judicial initiatives.

Class-action suits allow one or a few people to seek damages for hundreds or even thousand of individuals who may have been affected by a bad product or policy. They are, understandably, the bane of big business and have been outrageously lucrative to some lawyers. But they also have produced changes in dangerous products or practices and held companies accountable.

Shifting such suits to federal courts sets up new procedural hurdles, appeal possibilities, and delays even before the merits of a claim are addressed. Even suits in which the entire "class" of potentially harmed people resides in the same state as the company being sued would be moved to the federal system, where cases languish years longer than in state courts.

The House version of the legislation is particularly offensive because it is retroactive, meaning it would affect class-action claims now pending against Enron, WorldCom, Adelphia and other corporations accused of defrauding investors while their executives made millions of dollars.

Supporters will say these bills are about reforming a bad process. What they really are about is discouraging a legitimate right to seek redress for wrongdoing—without making a federal case of it.

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, June 11, 2003.

MEMBERS,
House of Representatives,
Washington, DC.

RE: OPPOSE H.R. 1115 CLASS ACTION LAWSUIT LEGISLATION

DEAR REPRESENTATIVE: On behalf of the NAACP, our nation's oldest, largest and most widely-recognized grassroots civil rights organization, I urge you, in the strongest terms possible, to oppose H.R. 1115, the so-called "Class Action Fairness Act of 2003", legislation that would substantially alter the constitutional distribution of judicial power and have a severely negative impact on the struggle for civil rights in this country.

Class action lawsuits are essential to the enforcement of our nation's civil rights and voting rights laws. They are often the only means by which individuals can challenge and obtain relief from systemic discrimination. Indeed, federal class actions were designed to accommodate, and have served as a primary vehicle for, civil rights litigation seeking broad equitable relief.

The proposed legislation, if enacted, would remove most state law class actions into federal court; clog the federal courts with state law cases and make it more difficult to have federal civil rights cases heard; deter people from bringing class actions; and impose barriers and burdens on settlement of class actions. The pending legislation would also discourage people from bringing class actions by prohibiting settlements that provide named plaintiffs full relief for their claims and would impose new, burdensome delay tactics for all class actions by automatically allowing a defendant to appeal any class certification in federal court and staying all the proceedings while the appeal is pending.

I urge you again, in the strongest terms possible, to oppose H.R. 1115, the so-called "Class Action Fairness Act of 2003" if and when it comes before you. If enacted, its impact would be profound, and it would result in new and substantial limitations on access to the courts for victims of discrimination. Should you have any questions about the NAACP position, please feel free to contact me at (202) 638-2269. Thank you for your attention.

Sincerely,

HILARY O. SHELTON,
Director.

My colleagues may get a Tyco and Enron out of jail with this delay, but they are not going to get this bill through the Federal legislative body.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, this country has a crisis in manufacturing. Particularly, small- and medium-sized manufacturing jobs are going overseas by the droves, particularly to China, and there are a whole lot of reasons for that; but one of the reasons is a judicial system that is out of control.

My colleagues can talk about business, but it is business that creates the jobs that hire our constituents who pay the taxes to make the government run; and by having court reform, which is what this bill does, it is not tort reform because nobody's rights to a jury trial or to get into a court are constricted by one iota. It is where this is done and how class actions get certified and protections for consumers such as the coupon settlements and the deficiency judgments that are entered against class members.

This is going to help keep America's economy vibrant. Pass the bill.

Mr. STARK. I rise today to oppose this misguided legislation. Don't be fooled by the title of this bill. It would lead some to believe that Congress is standing up for the average American—modifying certain inequities in our judicial system. Instead, it is a Republican sponsored hoax unfairly threatening the very people we are all elected to protect.

I don't think that the American public would be satisfied knowing that if H.R. 1115 passes, the accountability of such companies as Enron, WorldCom, and Arthur Anderson and pharmaceutical giants like Eli Lilly, Aventis Pasteur and Abbott laboratories would be held less responsible in pending class action cases againt them. This bill will adversely affect low-income groups and consumers to effectively assert their rights against large corporations.

Why should corporations reap the benefits of our judicial system by avoiding civil penalties? They are the ones committing crimes. The intent of pursuing a class action suit in court allows redress for average Americans financially unable to launch a judicial battle on their own. Class action suits empower consumers to challenge wrongdoings by wealthy corporations who would otherwise ignore their appeal.

We know that truthful law-abiding citizens are the ones who will lose if this bill becomes law. Apparently, in America today, you must contribute a significant amount to the Republican Party's campaign pocketbook to be considered protected under the law. This bill certainly protects major Republican campaign contributors—too bad for all the average working people who are left behind.

I ask my colleagues to stand up for real people and vote against H.R. 1115.

Mr. BLUMENAUER. Mr. Chairman, the pages of our newspapers have been filled with accounts of corporate abuse of investors and consumers. Part of the reason Oregon has the highest unemployment rate in America for over a year is the result of the Enron scandal and the California energy crisis. To make it harder for Oregonians who have been abused to seek legal redress is nothing short of outrageous.

This legislation would severely undermine the ability of Americans to seek relief from activities that harm consumers, the environment and public health. We should be working in Congress to help mend the relationship between corporations and the American public, rather than promote measures like this which will make it more difficult for injured consumers to bring class-action lawsuits.

By allowing corporations to move most class-action lawsuits from state courts, where they properly belong, into already overburdened federal courts and by imposing new procedural hurdles, the measure would delay, if not deny, justice to plaintiffs in legitimate class-action lawsuits. The federal courts have fewer than 1,500 judges compared to more than 30,000 judges currently serving on state courts. Thousands of class actions lawsuits spending in state courts around the country would be added to the federal docket under H.R. 1115 because of its retroactivity provision.

This legislation would also dilute the right of consumers to bring class action lawsuits against the firearms industry. Firearms are one of the only consumer products not subject to federal consumer safety regulation. Citizen lawsuits—including class actions—are one of the only incentives for the firearms industry to act responsibly.

We should not take away this important tool for the American public to protect their rights and secure compensation for their injuries and losses.

Ms. SCHAKOWSKY. Mr. Chairman, I rise today in opposition to H.R. 1115, the so-called Class Action Fairness Act. This bill is actually unfair to consumers because it would make it more difficult, more expensive, and more time-consuming for Americans with legitimate claims to access justice in class-action lawsuits. Instead, this bill rewards corporate wrongdoers and companies that fail to avoid dangerous practices and refuse to remove faulty products from store shelves.

Class action suits are an invaluable asset to consumers and all who engage in business of any kind. No one is immune from potentially being treated unfairly, being discriminated against, being taken advantage of, or being cheated. However, those who are victims are often those with no voice and no resources to fight back. But class action suits allow them to join with hundreds of others who have suffered the same harm and, together, become a strong voice for justice. In many cases, class action lawsuits are the only way that those who have been harmed can be heard and have their day in court.

Unfortunately, this bill would make most class action suits and the empowerment they provide to consumers a thing of the past. We've seen this bill repeatedly in the past, and we're seeing it again today because the Republicans will stop at nothing to protect their big money corporate supporters—those who get them elected—from being held accountable for their actions. This is especially evident in the bill before us today which goes further than the Republican class action bills of the past by making the legislation retroactive! If passed, this bill would apply to pending class actions, including the cases against Enron and WorldCom for financial fraud, Dow Chemical for environmental damage, Wal-Mart for employment discrimination, and Eli Lilly, GlaxoSmithKline, Abbott Laboratories and others for autism and other neurological damage.

This bill would change the rules midstream. While a class action has been filed against Enron by retirees, this class has yet to be certified. Under this bill, Enron for the first time would be given the opportunity to make an immediate appeal of any court decision granting class certification. The result could be a hold on all proceedings, including investigations to make discoveries of evidence, while the appeal was pending. This is an unwarranted, expensive, and wasteful use of time, and all while Enron retirees sit and wait for a decision regarding their retirement funds. This is not compassionate and not fair.

This bill looks the other way as workers are taken advantage of by big corporations, as patients are abused by HMOs, and as the environment continues to suffer damage from big polluters. In such a claim, it is critical that people have access to justice. This bill takes away that access and protects those who will continue to do harm. Republicans are committing fraud against the American people by proposing this bill, and I urge my colleagues to oppose H.R. 1115.

Mr. POMEROY. Mr. Chairman, I rise in reluctant opposition to H.R. 1115, the Class Action Fairness Act.

Our system of class action litigation is in dire need of reform. Most class action cases are national in scope and should be heard in federal court, where like claims may be combined and uniform decisions rendered. Under the current system, however, these interstate suits are often filed in state or country court, where the decision of a local judge and jury may affect the laws of all 50 states. As a former state insurance commissioner, I am deeply troubled that a jury panel in a class action case in Mississippi or New Mexico could effectively overturn state regulations in my home state of North Dakota.

In addition, by allowing interstate class action claims to be filed in any of the thousands of local courts across the country, the likelihood is increased that a plaintiffs lawyer will find at least one judge who is willing to entertain a claim that most people would consider to be without merit. Once a sympathetic judge is found, the plaintiffs' attorney can leverage nationwide settlements that all too often provide little benefit to the actual plaintiffs but enormous benefit to the attorney.

I support the amendment brought forward by Representatives SENSENBRENNER, BOUCHER, DOOLEY, STENHOLM, and TERRY, that incorporates the so-called "Feinstein Amendment." Through this amendment, class action suits would be apportioned to federal or state courts depending on the domicile of the plaintiffs. I believe that the Feinstein Amendment addressed an important criticism to the bill in that it would leave lawsuits that are clearly of local concern, with state courts.

However, I was disheartened to learn that an amendment that would effectively strike the retroactivity provision in the bill was ruled out-of-order and will not be brought forward for a vote here today. This provision would unfairly apply the new law to cases already filed in state courts, but not granted class certification. It sets bad public policy because it changes the rules for injured plaintiffs in the middle of the game. I understand that this provision was added during Committee debate of the bill and was added at the urging of a special interest. Such political favoring produces bad policy that I cannot support. Therefore, I cannot support class action reform that retroactively applies to active cases.

We have not heard the last of this issue. I look forward to continuing to work on this issue so that we can finally reform the class action system.

Mr. BACA. Mr. Chairman, I rise in opposition to H.R. 1115, the Class Action Fairness Act of 2003.

H.R. 1115 is just another attempt by Republicans to deny people their fair day in court. Once again, they are siding with Goliath at the expense of David. They are siding with the big corporate interests at the expense of the public interest. They are siding with their campaign contributors at the expense of the American people.

This legislation is unfair to consumers. It wrongly limits the authority of State courts, bogs down Federal courts, and makes it more difficult for consumer claims to be heard. This is a deliberate attempt by conservatives to protect big businesses like WorldCom, Arthur Andersen and Enron.

When a company violates the rights of consumers, consumers are entitled to have their claim go before a judge and jury in a timely manner. Republicans would love to be the judge and jury in these cases, siding with and protecting their corporate friends. But that's not the way it works.

In my home state, the University of California pension plan lost $353 million as a result of the WorldCom accounting scandal. Like many other Americans, they were victims of the fraudulent activities of Arthur Andersen.

Under H.R. 1115, the University of California would have been prevented from having their day in a State court. Instead, the suit would have been moved to Federal court, causing terrible delays and hurting those Californians who depended on their pensions.

The people of California and all across this nation deserve to have fair and easy access to a speedy judicial system.

This legislation places huge barriers in the path of consumers. It limits the rights of consumers, undermines the authority of state courts, and increases the burden on federal courts.

That sound you hear is the sound of big business applauding this legislation. They appreciate the additional time this bill would give them to shred documents, destroy evidence and cause harm to hard-working Californians and to all Americans.

It simply isn't fair and we must do more to protect our consumers.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Appeals of class action certification orders.
Sec. 7. Enactment of Judicial Conference recommendations.
Sec. 8. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:

(1) Class action lawsuits are an important and valuable part of our legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for the judicial system in the United States.

(3) Class members have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including—

(A) plaintiffs' lawyers receiving large fees, while class members are left with coupons or other awards of little or no value;

(B) unjustified rewards being made to certain plaintiffs at the expense of other class members; and

(C) the publication of confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where—

(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;

(B) less scrutiny may be given to the merits of the case; and

(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.

(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are—

(A) handling interstate class actions that affect parties from many States;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.

(b) PURPOSES.—The purposes of this Act are—

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) to protect responsible companies and other institutions against interstate class actions in State courts;

(3) to restore the intent of the framers of the Constitution by providing for Federal court consideration of interstate class actions; and

(4) to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.
"1711. Judicial scrutiny of coupon and other noncash settlements.
"1712. Protection against loss by class members.
"1713. Protection against discrimination based on geographic location.
"1714. Prohibition on the payment of bounties.
"1715. Definitions.

"§ 1711. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1712. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

"§ 1713. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1714. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit any payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling his or her obligations as a class representative.

"§ 1715. Definitions

"In this chapter—

"(1) CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States pursuant to rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class.

"(2) CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.

"(3) CLASS MEMBERS.—The term 'class members' means the persons who fall within the definition of the proposed or certified class in a class action.

"(4) PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.

"(5) PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement that resolves claims in a class action, that is subject to court approval, and that, if approved, would be binding on the class members.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

"114. Class Actions .... 1711".

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d)(1) In this subsection—

"(A) the term 'class' means all of the class members in a class action;

"(B) the term 'class action' means any civil action filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons on behalf of a class;

"(C) the term 'class certification order' means an order issued by a court approving the treatment of a civil action as a class action; and

"(D) the term 'class members' means the persons who fall within the definition of the proposed or certified class in a class action.

"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—

"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

"(3) Paragraph (2) shall not apply to any civil action in which—

"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of proposed plaintiff class members is less than 100.

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the requirements of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action brought by shareholders that solely involves a claim that relates to—

"(A) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) of this subsection shall nevertheless be deemed a class action if—

"(A) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(B) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact. In any such case, the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members. The provisions of paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (A). The provisions of paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (B).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' have the meanings given these terms in section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.

"(d) PROCEDURE FOR REMOVAL.—The provisions of section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.—The provisions of section 1447 shall apply to any removal of a case under this section, except that, notwithstanding the provisions of section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action brought by shareholders that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

"1453. Removal of class actions.".

SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.

(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:

"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".

(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

SEC. 7. ENACTMENT OF JUDICIAL CONFERENCE RECOMMENDATIONS.

Notwithstanding any other provision of law, the amendments to Rule 23 of the Federal Rules of Civil Procedure which are embraced by the order entered by the Supreme Court of the United States on March 27, 2003, shall take effect on the date of the enactment of this Act or on December 1, 2003 (as specified in that order), whichever occurs first.

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall apply to—

(1) any civil action commenced on or after the date of the enactment of this Act; and

(2) any civil action commenced before such date of enactment in which a class certification order (as defined in section 1332(d)(1)(C) of title 28, United States Code, as amended by section 4 of this Act) is entered on or after such date of enactment.

(b) FILING OF NOTICE OF REMOVAL.—In the case of any civil action to which subsection (a)(2) applies, the requirement relating to the 30-day period for the filing of a notice of removal under section 1446(b) and section 1453(d) of title 28, United States Code, shall be met if the notice of removal is filed within 30 days after the date on which the class certification order referred to in subsection (a)(2) is entered.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 108–148. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–148.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

In section 1332(d) of title 28, United States Code, as proposed to be inserted by section 4(a)(2) of the bill—

(1) in paragraph (2), strike "$2,000,000" and insert "$5,000,000";

(2) redesignate paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(3) strike paragraph (3) and insert the following:

"(3) A district court may, in the interests of justice, decline to exercise jurisdiction under paragraph (2) over a class action in which greater than one-third but less than two-thirds of the members of all proposed plaintiff classes in the aggregate and the primary defendants are citizens of the State in which the action was originally filed based on consideration of the following factors:

"(A) Whether the claims asserted involve matters of national or interstate interest.

"(B) Whether the claims asserted will be governed by laws other than those of the State in which the action was originally filed.

"(C) In the case of a class action originally filed in a State court, whether the class action has been pleaded in a manner that seeks to avoid Federal jurisdiction.

"(D) Whether the number of citizens of the State in which the action was originally filed in all proposed plaintiff classes in the aggregate is substantially larger than the number of citizens from any other State, and the citizenship of the other members of the proposed class is dispersed among a substantial number of States.

"(E) Whether 1 or more class actions asserting the same or similar claims on behalf of the same or other persons have been or may be filed.

"(4) Paragraph (2) shall not apply to any class action in which—

"(A) two-thirds or more of the members of all proposed plaintiff classes in the aggregate and the primary defendants are citizens of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of members of all proposed plaintiff classes in the aggregate is less than 100.";

(4) in paragraph (5), as so redesignated, strike "$2,000,000" and insert "$5,000,000"; and

(5) in paragraph (10), as so redesignated—

(A) in the third sentence, strike "paragraphs (3) and (6)" and insert "paragraph (7)"; and

(B) in the last sentence, strike "(6)" and insert "(7)".

The CHAIRMAN. Pursuant to House Resolution 269, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bipartisan amendment is intended to mirror the amendment offered by Senator FEINSTEIN over in the other body. It is in keeping with the spirit and intent of the bill and would slightly broaden the category of class action cases that would remain in State court in two ways.

First, the amendment raises the aggregate amount and controversy required for Federal jurisdiction from $2 million to $5 million. Second, it allows Federal courts discretion to return intrastate class actions in which local law governs the State courts after weighing five factors to determine the case is appropriately of a local character.

This discretion would come into play when between one-third and two-thirds of the plaintiffs are citizens of the same State as the primary defendants. If less than one-third are citizens of the same State, the case would automatically be eligible for Federal court jurisdiction under the new diversity rules in the bill. Likewise, if more than two-thirds are citizens of the same State, the case would not be subject to the new rules in this bill and would remain in State court.

I urge my colleagues to adopt this amendment to help speed passage of this important legislation.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Who seeks time in opposition to the amendment?

Mr. CONYERS. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this is to celebrate the gentlewoman, the Senior Senator from California Day in addition to Attorney Bashing Day. We have a letter from the senior Senator of California, which says she is opposed to the bill and why she is. So what we have here is a Feinstein-lite or a fake Feinstein here.

I do not know what we are trying to do here, but this attempt to fix the class action bill creates, as I expected, more confusion and does not deal with the real defects in the bill.

Her letter says: "As I said in committee before this amendment was adopted, I will not support any class action legislation that moves those suits to Federal court."

So we have the senior Senator from California saying that this is a class action bill, and there has been general agreement that we need reform on class actions; but these provisions in the bill do not relate to class actions.

This is far from a done deal. I do not think we correct the basic defects in the bill; and since this is Feinstein-lite, I am going to reject the amendment that I am sure is made in good faith by the chairman of the Committee on the Judiciary.

I include the letter from Senator FEINSTEIN in the RECORD at this point.

JUNE 11, 2003.

Hon. RICK BOUCHER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BOUCHER: I wanted to clarify several issues with regard to S.274, the Class Action Fairness Act, and two Amendments I offered to it in the Senate Judiciary Committee. During House consideration of H.R. 1115, there has been some misunderstanding about my position. I thought a clarification might be helpful to you in your deliberations.

During Committee consideration of S. 274, I offered an amendment to raise the amount in controversy to $5 million and to set specific criteria based on a percentage formula to determine whether certain intrastate cases should be heard in state or federal court. This is what has popularly become known as the "Feinstein Amendment." It is my understanding that Chairman Sensenbrenner and a number of Democrats plan to offer this as an amendment to H.R. 1115 on the House floor, and of course, I support its inclusion.

I also co-authored an amendment with Senator Specter to strike a provision from the bill that would have made certain citizen suits and "private attorney general" actions removable to Federal Court as well. I felt strongly then, and I feel strongly now, that such suits—particularly those brought under Section 17200 of the California Business and Professional Code—properly belong in state court and should not be classified as class actions under the bill. As I said in Committee before this amendment was adopted, I will not support any class action legislation that moves those suits to federal court.

Senators Specter's amendment also, however, struck a provision from the bill that would make so-called "Mass Actions" subject to the same removal provisions in the bill that apply to class actions. That was not my concern, and in fact I believe that truly national "Mass Actions" should be removable to Federal Court under the same procedures as class actions.

I hope this clarifies some of my views on this matter. I appreciate your concerns about this important legislation and welcome you to contact me or to have your staff contact my Chief Counsel, David Hantman, at 224-4933 if you have further questions.

Sincerely,

DIANNE FEINSTEIN.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 15 seconds.

What the gentleman from Michigan is saying is this is a good amendment but not good enough. I think if it is a good amendment, it ought to be supported; and I know my cosponsor, the gentleman from Virginia (Mr. BOUCHER), will tell us it is a very good amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me the time and for his willingness to accept the amendment that was drafted by Senator FEINSTEIN of California, which was approved by the Committee on the Judiciary of the other body when that committee reported class action fairness legislation.

We are joined in offering this amendment by the gentleman from Virginia (Mr. GOODLATTE), the gentleman from Virginia (Mr. MORAN), the gentleman from California (Mr. DOOLEY), the gentleman from Texas (Mr. STENHOLM), and the gentleman from Nebraska (Mr.

TERRY); and I thank them for their cosponsorship as well.

Under the approach of the bill, only cases that are filed as State class actions which are national in scope will be removable to Federal court, notwithstanding the absence of complete diversity of citizenship. Cases that are local in nature will remain in the State courts where they are filed.

Senator FEINSTEIN's amendment, which is the same as the amendment we are now offering, gives Federal judges clear directions in determining which cases are national in character and which are local. Under this test, if two-thirds of the members of the plaintiff class reside outside of the State and at least one of the primary defendants resides outside of the State, the case is deemed to be national in scope and can be removed to Federal court. By contrast, if two-thirds of the plaintiffs and the primary defendants are residents of the foreign State, the case is local and will remain in State court.

There is a middle category of cases in which more than one-third and less than two-thirds of plaintiffs are residents of the foreign State, and in these instances the amendment directs the Federal judge to weigh five specific criteria that will be set forth in the statute in order to determine whether the case is national or local in character. This approach will promote a higher degree of uniformity among the Federal districts in the application of the new law and assure that local class actions remain in State courts.

The amendment also raises from $2 million to $5 million the aggregate jurisdictional amount for removals under the bill, assuring that cases which are of lesser value remain in the State courts.

The amendment is a useful addition to the bill, and I urge its adoption.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, the name of the senior Senator from California, Ms. FEINSTEIN, has been bandied about on both sides of the aisle; and she has sent a letter to the gentleman from Virginia (Mr. BOUCHER), which says in part: "It is my understanding that Chairman SENSENBRENNER and a number of Democrats plan to offer this as an amendment to H.R. 1115 on the House floor, and of course, I support its inclusion."

Mr. Chairman, I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, I rise in support of the amendment and the bill.

Mr. Chairman, over the last decade, elements of the class action litigation system have gone terribly wrong. H.R. 1115 is a moderate, sensible measure. This bill is not tort reform. This legislation makes a common sense correction in Federal law so that large, multistate class action lawsuits can be heard in Federal court. Cases that are national in scope should be decided by courts that represent the nation at large, not individual county courts, where oftentimes, judges are elected by the very trial lawyers who are bringing suits to their courtroom.

This bill does not take away anyone's right to file a class action. This bill does not cap damages. This bill is a process improvement.

Chairman SENSENBRENNER has worked with Democrats to improve the bill and make key changes to include a provision crafted by Senator DIANNE FEINSTEIN that keeps a single state case in that state's courts, not Federal court.

On February 10th 2003, the American Bar Association's House of Delegates overwhelmingly endorsed a resolution of the ABA's Class Action Task Force, voicing qualified support for the principle of expanded Federal jurisdiction over class actions.

That is precisely what this bill accomplishes.

H.R. 1115 is the only proposal on the table that will curb abuse.

Vote "yes" on Final Passage. Vote "yes" on the Sensenbrenner, Boucher, Moran, Dooley, Stenholm, Terry amendment.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to my good friend, the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I rise in support of this amendment, and I commend the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Virginia (Chairman GOODLATTE) and the gentleman from Virginia (Mr. BOUCHER) for their work on this bill and the amendment.

Mr. Chairman, I rise in support of this amendment and the underlying bill. As one who often comes to this well to express frustration at the unwillingness of the other side of the aisle to work with members on this side, I am extremely pleased to come to the floor in support of this bipartisan amendment which reflects the input of several members on this side of the aisle.

I want to thank Chairman SENSENBRENNER and Mr. GOODLATTE for working with me and other members on this side of the aisle to develop a balanced approach on this issue that deserves strong bipartisan support. I also want to comment Mr. BOUCHER for his hard work on this legislation.

This legislation is based on a simple, common sense principle that class action lawsuits that affect several states should be considered in federal courts. It does not make sense to allow state judges in a few local jurisdiction to make decisions that will affect businesses and consumers nationwide. Cases that are brought on behalf of folks from across the country and will have consequences in many states should be heard in the federal court.

The amendment before us, which was the product of bipartisan negotiations in the other body, clarifies the line between class actions that may be handled by federal courts and class actions that should be resolved by state courts. It ensures that class actions of predominantly local concern remain in state court, while allowing federal courts to handle larger cases that are national or interstate in character. In other words, if a class action lawsuit is primarily a multi-state lawsuit, it goes to federal court and if it is primarily a single state lawsuit it stays in state court.

The legislation before us is much stronger because of the commitment of Chairman SENSENBRENNER to deal with this issue in a truly bipartisan manner. The legislative process and the American people are served best when we work together across party lines to find a reasonable middle ground on legislation. I hope that the process by which Chairman SENSENBRENNER has handled this legislation is a model for other legislation in this body.

Mr. CONYERS. Mr. Chairman, I yield the balance of the time to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Chairman, I thank my friend for yielding me the time.

Mr. Chairman, we have heard some very charming stories about this amendment, but how about a little truth in advertising. The Sensenbrenner amendment that we are considering today is not Feinstein. While it is true that a rose by any other name is still a rose, calling a dandelion a rose do not make it so. Yet that is precisely the hoax that is being perpetrated by the Sensenbrenner amendment.

In a desperate attempt to make H.R. 1115 appear moderate, trying to hide that it is really a radical expansion of Federal authority and away from the States, the proponents of the Sensenbrenner amendment want the House to believe that adopting this amendment makes H.R. 1115 the same proposal advanced by Senator FEINSTEIN last month in the Senate Committee on the Judiciary.

Mr. Chairman, that is just not so. The Feinstein amendment was only about class actions, period. That is it. It was not meant to apply, nor does it apply, to mass tort cases, consolidated cases, joinder cases or State Attorney General actions; and as my friends on the other side of the aisle are so prone to say, why do they not read their own darn amendment.

Let us get real on this. Here is what the proponents of the Sensenbrenner amendment will not tell my colleagues and do not want us to know:

In the Senate, committee passage of the bill, including adoption of the Feinstein amendment, was tied to the passage of another amendment, the Feinstein-Specter amendment that narrowed the scope of the bill so that it applied only to class action. Now Sensenbrenner is more extreme in other ways, of course. That is what we are about here, extremist policy.

There are three very important ways that it is more extreme. Feinstein does not apply to joinder or consolidated cases or attorney general actions. Sensenbrenner does. Feinstein does not apply retroactively to pending cases such as ongoing actions against Enron and WorldCom. Sensenbrenner does. We know who they are protecting. We know what they are doing.

Feinstein does not allow defendants to remove cases into a Federal settlement and give those same defendants the right to delay proceedings, appeal intelocutory orders, and stay discovery. Sensenbrenner does.

It is time to tell the truth about the Sensenbrenner amendment. We know what it does. We know what it says. We know who it protects. We have read the thing.

In closing, I have brought a chart to explain this amendment. If my colleagues can understand it, they are wasting their time in the House. They should be confirmed as the Chief Justice of the United States Supreme Court if they can go over the Sensenbrenner amendment and the Feinstein wording and make any sense whatsoever of it. It is poorly drafted, it does not have definitions, it does not allow one to remain in Federal court or State court. It bumps a person back and forth on a jurisdictional merry-go-round that never ends, that protects corporate wrongdoers. It is bad for America.

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 108–148.

☐ 1330

AMENDMENT NO. 2 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. JACKSON-LEE of Texas:

In section 1332(d) of title 28, United States Code, as proposed to be inserted by section 4(a)(2) of the bill—

(1) in paragraph (9), strike the quotation marks and second period at the end; and

(2) add after paragraph (9) the following:

"(10)(A) For purposes of this subsection and section 1453 of this title, a foreign corporation which acquires a domestic corporation in a corporate repatriation transaction shall be treated as being incorporated in the State under whose laws the acquired domestic corporation was organized.

"(B) In this paragraph, the term 'corporate repatriation transaction' means any transaction in which—

"(i) a foreign corporation acquires substantially all of the properties held by a domestic corporation;

"(ii) shareholders of the domestic corporation, upon such acquisition, are the beneficial owners of securities in the foreign corporation that are entitled to 50 percent or more of the votes on any issue requiring shareholder approval; and

"(iii) the foreign corporation does not have substantial business activities (when compared to the total business activities of the corporate affiliated group) in the foreign country in which the foreign corporation is organized.".

The CHAIRMAN. Pursuant to House Resolution 269, the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rose earlier today and said this is a personal conflict. This is a personal issue. This is the issue of some powerful lawyers who have lost cases in the courts of America against those who have stood for those individuals who could find no way to enter into the court of justice except to join together as many plaintiffs on behalf of their issue.

The issue today is whether or not we can ensure that whatever happens in this legislation, if a corporation that has a class action against them decides to abscond by being purchased by a foreign corporation, that that class action lawsuit will not be null and void.

Specifically, Mr. Chairman, the language says "a foreign corporation which acquires a domestic corporation in a corporate repatriation transaction shall be treated as being incorporated in the State under whose laws the acquired domestic corporation was organized."

Let me give an example, Mr. Chairman. The example is as follows. Just remember the case that dealt with the parent company of Jack-in-the-Box restaurants that agreed to pay $14 million in a class action settlement. The class involved 500 people, mostly children. They had to come in a class represented by an attorney. They became sick in 1993 after eating undercooked hamburgers tainted with E. coli bacteria. The children did not go to Jack-in-the-Box to fake injury or to fake sickness. They did not go to the place they enjoyed to eat a hamburger that was tainted. Just imagine that Jack-in-the-Box subsequently had been bought by a foreign corporation. That would have quashed or could have quashed both the settlement and the judgment that was obtained on behalf of sick children.

So this is an amendment that protects consumers, it protects the innocent, it is not a personal amendment; it is an amendment that rids itself of a personal conflict between allegedly defense lawyers who have lost and those plaintiff attorneys who may have won a class action case once in awhile. If we pass this class action litigation, it will inhibit those individuals from being heard.

Mr Chairman, I propose this amendment to H.R. 1115, to prevent domestic corporations from escaping liability from class action lawsuits by incorporating abroad. I ask the Rules Committee to make my amendment in order.

Under this amendment, "a foreign corporation which acquires a domestic corporation in a corporate repatriation transaction shall be treated as being incorporated in the State under whose laws the acquired domestic corporation was organized."

Simply put, this amendment ensures that U.S. corporations cannot escape class action liability or the jurisdiction of U.S. courts by repatriating or merging with a foreign-based corporation. Under this amendment if an American corporation is guilty of corporate crimes or malfeasance, and thereafter the corporation merges with a foreign corporation, the corporation will be deemed incorporated in the State where the corporation was domiciled before the merger.

This amendment prevents American companies from fleeing abroad to avoid liability in a class action lawsuit.

To see the benefit of this amendment one need only consider the hypothetical impact on Enron employees without this amendment. In the Enron collapse, corporate executives criminally failed to disclose corporate decision-making in pension plans, and in other financial decisions. In the Enron case, executives and senior management staff were fraudulently encouraging employees to buy company stock. At the same time, those same executives and senior managers were cashing out millions of dollars shortly before the company declared bankruptcy in December of 2001. As a result of the corporate executives crimes, 4,500 Enron employees lost their jobs in my home district alone.

Without my amendment, it would be possible for the bankrupt Enron corporation to agree to be acquired by a foreign company, relinquish their status as a company incorporated in the United States, avoid the jurisdiction of Federal courts, and avoid liability for their corporate crimes.

A result of this egregious would be a slap in the face to the 4,500 Enron employees who lost their jobs because of corporate wrongdoing and are undoubtedly entitled to damages. It would also be a slap in the face to the victims of tobacco companies, negligent automobile manufacturers, asbestos litigation clients, and any number of other class action plaintiffs who are opposed by well-finance, business and legal savvy defendants. This amendment would ensure that potential corporate defendants are unable to avoid liability.

Mr. Chairman, I urge my colleagues to support my amendment to protect victimized class action plaintiffs form runaway corporations.

Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, the problem that is presented in the bill that the Jackson-Lee amendment attempt to correct is the incredible ability of corporations doing business in this country to move offshore, Bermuda as an example, to do business and then escape coming into State court on class action by claiming they are a foreign corporation.

These are the same companies that are eager to put "Made in the U.S.A."

on their products, while they at the same time avoid United States taxes and attempt to minimize their legal liability by merely shuffling corporate documents. Support the Jackson-Lee amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I ask my colleagues to support this amendment. Think of the children playing on playgrounds and broken equipment with a class action lawsuit and ultimately the company is bought by a foreign corporation. This amendment makes this litigation better on behalf of the consumers and the people who need justice in America.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I rise in opposition to this amendment. This is the "if you cannot win the argument, try to change the subject" amendment. This amendment would preclude companies opened by foreign or offshore companies from using the jurisdictional provisions in H.R. 1115. The amendment would make for bad policy, and I urge my colleagues to reject it.

Apparently the gentlewoman from Texas (Ms. JACKSON-LEE) believes that the State class action abuse problem is so bad that companies forced to litigate in State court will move back onshore. Well, I think that belief tells us a lot about how unfair some of these select magnet State courts are around the country where these abuses occur to defendants and to consumers in this country.

Nonetheless, this bill is not the proper vehicle for debating tax policy. Our goal today is to curb class action abuse, to stop coupon settlements that rip off consumers, and to make sure that county courts do not dictate our Nation's economic policies. If this body wants to debate the problems regarding foreign ownership of companies, let us do that in the appropriate context.

Let me add that one of the important things that we need to understand and that the other side of the aisle keeps trying to target here is that somehow there are certain companies that are bad actors, and that we should write Federal policy based on that rather than having one fair, across-the-board treatment of one type of lawsuit. That is exactly what this legislation is attacking and why they are objecting to it.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment I think can probably be referred to as the "back-door erosion of the 14th amendment to the Constitution amendment" to this bill because it erodes the concept of equal protection under the law, meaning everybody gets treated equally in court.

What the gentlewoman from Texas (Ms. JACKSON-LEE) is trying to do is to say for certain types of corporations, they would be treated under a different law than other types of corporations. That poses some really profound problems as far as I am concerned.

The crux of this whole matter is that this is an attempt to establish tax policy in a civil litigation procedure bill. It mixes up apples and oranges. It is not going to have the effect that the gentlewoman from Texas (Ms. JACKSON-LEE) is stating, and that is preventing corporations that wish to go offshore from going offshore. The amendment is not wrong, it just does not make any sense. It should be rejected.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 108–148.

AMENDMENT NO. 3 OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. LOFGREN:

In section 1332(d)(9) of title 28, United States Code, as proposed to be inserted by section 4(a)(2) of the bill—

(1) in the first sentence, strike "if—" and all that follows through "(B) monetary relief" and insert "if monetary relief—";

(2) strike "The provisions of paragraphs (3) and (6)" and all that follows through "subparagraph (A)."; and

(3) in the last sentence, strike "subparagraph (B)" and insert "this paragraph".

The CHAIRMAN. Pursuant to House Resolution 269, the gentlewoman from California (Ms. LOFGREN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, the question is not whether there have been problems with coupon-award cases; there have been. The question is whether this bill is the remedy for those problems. I have two concerns about the bill. One, it goes too far; and secondly, I do not see how the bill really addresses and solves the coupon settlement problem.

But what is really offensive to me is the scorched-earth approach of the bill does not just stop at class actions, it also targets California's prosecutors.

California has strong consumer protection, section 17200 of the Business and Professions Code, and it provides that not just AGs, but district attorneys, can sue in the public interest. District attorneys are not bringing abusive class actions to collect attorneys' fees; they are trying to protect their constituents.

For example, in People v. National Travel, two California DAs shut down an unscrupulous Florida travel agency. In People v. Providian Bank, the San Francisco district attorney stopped predatory credit card practices and recovered $300 million for California consumers. In People v. Rite-Aid, DAs stopped the sale of expired baby formula. In People v. Cook Brothers, DAs stopped an Illinois company from selling illegal weapons through a mail-order catalog. These are a few examples of how local DAs use consumer protection actions to safeguard Californians. Their ability to bring these cases in State court would be eliminated under this bill.

Put simply, if my amendment is not passed, this will have a chilling effect on local DAs, and that is why it is opposed by the California District Attorneys Association. I want to read from a letter I received from the California District Attorneys Association. They say, As currently written, H.R. 1115 would severely limit our ability to protect the public. Under the definition of class action, our consumer protection cases would be eligible for removal.

They wrote, That if these offenders remove our cases to Federal court, the cost of prosecution and inconvenience to the victims will make pursuit of many such cases a practical impossibility.

So the question is not whether there are problems with class actions, but whether this bill is the remedy. I say it is not.

CALIFORNIA DISTRICT
ATTORNEYS ASSOCIATION,
Sacramento, CA, June 11, 2003.

Re HR 1115, oppose unless amended.

Hon. ZOE LOFGREN,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE LOFGREN: The California District Attorneys Association (CDAA) has taken an Oppose Unless Amended position on HR 1115 (Goodlatte), the Class Action Fairness Act of 2003.

As you may know, District Attorneys in California and many other states are charged with protecting the public from unfair, unlawful, and predatory practices used by unscrupulous businesses. In California, our Business and Professions Code §17200 allows District Attorneys to bring civil actions against such businesses in the name of the People of the State of California, and thereby seek civil penalties, restitution, and injunctions on the People's behalf. This law has been successfully used by California's District Attorneys to protect the public from false advertising, predatory lending, fake cures for cancer, and other shameful scams perpetrated by out-of-state businesses.

As currently written, HR 1115 would severely limit our ability to protect the public from these wrongs. Under the definition of class action currently used by HR 1115, our consumer protection cases would be eligible for removal to Federal court. If these offenders remove our cases to Federal court, the cost of prosecution and the inconvenience to the victims will make pursuit of many such cases a practical impossibility.

We appreciate that HR 1115 currently exempts actions brought by Attorneys General from its provisions. For this reason, we are hopeful that the supporters of HR 1115 did not intend to extend its provisions to actions brought by District Attorneys and other public prosecutors. Therefore, we ask that the author considers amending page 15, line 20 to read ". . . attorney general, state or local district attorney, other governmental prosecutor, or group thereof . . ." We would also ask that the following text be inserted at page 13, between lines 6 and 7; "(D) the action is brought by a State attorney general, state or local district attorney, other governmental prosecutor, or group thereof." With these amendments, HR 1115 would preserve the ability of California's District Attorneys, and those of many other states, to protect the public from unlawful, unfair, and predatory practices disguised as legitimate businesses.

We also appreciate the recent efforts of Senators Feinstein and Specter to address our identical concerns with S 274 (Grassley). We look forward to continuing to work with the Senators, and any other interested party, to resolve this issue. Please feel free to contact us if we can be of any further assistance.

Very truly yours,
GILBERT G. OTERO,
President,
District Attorney, Imperial County.

Mr. SENSENBRENNER. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentlewoman from California (Ms. LOFGREN) has spent a lot of time referring to suits by local district attorneys being removed to Federal court under this bill because she believes they would not be covered by the exemption contained in the bill for State attorney generals.

I would say to the gentlewoman that we believe that suits by local elected district attorneys do fall within that exempted category, and are not covered by the bill. It is clearly the intent of the bill to exclude elected law enforcement officials like district attorneys.

If we need to work further with the gentlewoman from California (Ms. LOFGREN) as this bill moves forward to clarify that intent with regard to suits by local officials, I would offer her to do that. However, I do want to make it quite clear that private attorney general actions are another matter. If the gentlewoman will withdraw her amendment, we can work on clarification of this. Otherwise, I would urge the membership to vote against the amendment since the gentlewoman has rejected my offer.

Mr. Chairman, I reserve the balance of my time.

Ms. LOFGREN. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), my colleague on the Committee on the Judiciary and a cosponsor of this amendment.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I rise to speak in support of this amendment. I agree that there are some problems with our class action system, but the so-called Class Action Fairness Act is not the solution.

I am particularly concerned because the bill intrudes on a specific provision of California law, one which allows State laws to be enforced by district and city attorneys as well as private attorneys general. This California law has been used successfully to protect the public from false advertising, predatory lending, fake cures for cancer and other shameful scams perpetrated by out-of-State business.

For example, in People v. Life Alert, California's district attorney stopped Life Alert, the purveyors of the "I have fallen and cannot get up" advertisements from aggressive door-to-door sales tactics. Those tactics included refusing to leave elderly people's homes until they bought the product, and refusing to issue refunds to consumers who complained about such tactics.

□ 1345

Unfortunately, the Class Action Fairness Act takes away California's ability to protect consumers in this way. It does so by defining private attorney general actions as class actions and removing them to Federal court. Why does this matter? Because private attorney general lawsuits are less likely to proceed if they are deemed class action lawsuits. That would force the private attorney general to certify a class when in fact he or she is bringing the suit to protect consumers from harm. In addition, Federal court is more expensive and time consuming for plaintiffs, especially when it involves greater travel.

This bill is also an insult to States' rights. It usurps decisions made by States regarding their court system and their class action system. Some members of Congress talk about the importance of States' rights, but in the end it appears that that is only true when it is convenient for their purposes. Apparently federalism is not as important when consumer protections are at stake.

I urge my colleagues to support this amendment and to oppose the underlying bill. Voting for H.R. 1115 is like trying to address automobile fatalities by dumping gasoline into the ocean. It fails to do anything about the first problem while creating a second one. If we are going to fix the class action system, then let us do it right. This bill is not the way to do it.

Ms. LOFGREN. Mr. Chairman, I yield myself the balance of my time.

I wanted to quote from a letter I received from Senator FEINSTEIN. This amendment is identical to what Senator FEINSTEIN wrought in the Senate, and she has pointed out that she will not support this bill unless this amendment is adopted and that is to protect section 17200 of California's Business and Professions Code in its entirety. There is no rationale, no reason, there have been no problems with section 17200; and I would urge all members of the House, and especially the Californians, to stand up for federalism and protect California State law.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I really regret that the gentlewoman from California was not interested in the compromise and clarification that I proposed, where we would allow elected district attorneys to continue to utilize the State court, but not private citizens with private attorney general actions which are authorized only in California and no place else. One of these private attorney general actions should not set national legal and economic policy. When you have an elected official like a district attorney or a State attorney general, that is one thing, because these people represent the public and it is their job to do this. When you have a private citizen in a procedure that has not been adopted by 49 out of the 50 States, they should not get a carve-out under this bill. Because there was no compromise that was agreed to, I would urge the rejection of this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. LOFGREN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. LOFGREN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by gentlewoman from California (Ms. LOFGREN) will be postponed.

It is now in order to consider amendment in the nature of a substitute No. 4 printed in House Report 108-148.

AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 4 OFFERED BY MR. SANDLIN

Mr. SANDLIN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute No. 4 offered by Mr. SANDLIN:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Improvement Act of 2003".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Improved procedures for certain interstate class actions.
Sec. 3. Establishment of State Court Multidistrict Litigation Panel.
Sec. 4. Establishment of procedure for transferring certain actions to Federal court.
Sec. 5. Best practices study.

SEC. 2. IMPROVED PROCEDURES FOR CERTAIN CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.
"1711. Coupons and other noncash settlements.
"1712. Protection against loss by class member.
"1713. Protection against discrimination based on geographic location.
"1714. Additional requirements.
"1715. Protecting the integrity of the courts.
"1716. Interlocutory appeals.
"1717. Definitions.".

"§1711. Coupons and other noncash settlements

"(a) CONTINGENT FEES.—If a proposed settlement in a class action provides for an award of a noncash benefit to a class member, and the attorney's fee to be paid to class counsel is based upon a portion of the recovery, then the attorney's fee shall be based on the value of the noncash benefit that is redeemed.

"(b) OTHER ATTORNEY'S FEE AWARDS.—If a proposed settlement in a class action includes a noncash benefit to a class member, and a portion of the recovery is not used to determine the attorney's fee to be paid to class counsel, then the attorney's fee shall be based upon the actual amount of time class counsel expended working on the action. Any attorney's fee under this subsection shall be subject to approval by the court. Nothing in this subsection shall be construed to prohibit application of a lodestar with a multiplier method of determining attorney's fees whenever appropriate under applicable law.

"(c) SETTLEMENT VALUATION EXPERTISE.—In a class action involving the awarding of noncash benefits, the court may in its discretion, upon the motion of a party, receive expert testimony from a witness qualified to provide information on the actual value of the settlement.

"§1712. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court first makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

"§1713. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§1714. Additional requirements

"(a) SETTLEMENTS.—The court may not approve a proposed settlement of a class action unless the court determines that—

"(1) the settlement is fair, reasonable, and adequate to the plaintiff class; and

"(2) the settlement applies only to claims with respect to which the plaintiff class was authorized to represent class members.

"(b) NOTICE TO DEFENDANTS.—The court in a class action shall require that, before the class is certified, defendants receive notice of the action and be given an opportunity to respond to the complaint.

"(c) BLOCKING REMOVAL.—A defendant in a class action may not elect to block removal of the action to Federal court that is sought by other defendants if the court finds that plaintiffs named the defendant solely for purposes of blocking such removal.

"§1715. Protecting the integrity of the courts

"(a) OPEN RECORDS.—No order, opinion, or record of the court in a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or made subject to a protective order unless the court finds—

"(1) that the sealing or protective order is narrowly tailored and necessary to protect the confidentiality of a particular trade or business secret of one or more of the settling parties and is in the public interest; or

"(2) that—

"(A) the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and

"(B) if the action by the court would prevent the disclosure of information, disclosing the information is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of such information.

"(b) DESTRUCTION OF DOCUMENTS PROHIBITED.—All parties filing or receiving service of a class action shall maintain all documents, including those in electronic format, related to the subject matter of the class action. Any person who knowingly alters, destroys, mutilates, conceals, or falsifies any record, document, or tangible object with the intent to impede, obstruct, or influence the outcome of a class action shall be fined not more than $5,000 for each record, document, or object destroyed, imprisoned not more than 5 years, or both.

"§1716. Interlocutory appeals

"A court of appeals may in its discretion permit an appeal from an order of a district court granting or denying class action certification under Rule 23 of the Federal Rules of Civil Procedure if application is made to the court within 10 days after entry of the order. An appeal does not stay proceedings in the district court unless the district court or the court of appeals so orders.

"§1717. Definitions

"In this chapter—

"(1) CLASS ACTION.—The term 'class action' means—

"(A) any civil action filed in a district court of the United States pursuant to Rule 23 of the Federal Rules of Civil Procedure; and

"(B) any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class;

"(2) CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.

"(3) CLASS MEMBERS.—The term 'class members' means the persons who fall within the definition of the proposed or certified class in a class action.

"(4) PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement that resolves any or all claims in a class action, that is subject to court approval, and that, if approved, would be binding on each class member, except to the extent that a class member has requested to be excluded from the class action.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

"114. Class Actions .... 1711".

SEC. 3. ENACTMENT OF JUDICIAL CONFERENCE RECOMMENDATIONS.

Notwithstanding any other provision of law, the amendments to Rule 23 of the Federal Rules of Civil Procedure, relating to notice to members of a class, which are embraced by the order entered by the Supreme Court of the United States on March 27, 2003, shall take effect on the date of the enactment of this Act or on December 1, 2003 (as specified in that order), whichever occurs first.

SEC. 4. ESTABLISHMENT OF STATE COURT MULTIDISTRICT LITIGATION PANEL.

(a) CREATION OF MULTIDISTRICT LITIGATION PANEL.—The National Center for State Courts is authorized to develop and implement, in coordination with the Conference of Chief Judges, a State court multidistrict litigation panel for class actions, to be called the "State Court Panel on Multidistrict Litigation", in accordance with the following:

(1) CONSOLIDATION OF CLASS ACTIONS.—The SCPML shall allow State court judges, or parties with class actions pending in State courts, to seek to consolidate within one State court for pretrial proceedings related class actions pending in different States. No pending class action may be consolidated without the approval of the State court judge handling the pending action.

(2) FOR PRETRIAL PROCEEDINGS.—When class actions involving one or more common questions of fact are pending in the courts of different States, such actions may be transferred, with permission of the court, to any of these State courts for coordinated or consolidated pretrial proceedings. Such transfers shall be made by the SCPML upon its determination that transfers for such proceedings will be for the convenience of the parties and witnesses and will promote the just and efficient conduct of such actions. Each action so transferred shall be remanded by the SCPML at or before the conclusion of such pretrial proceedings to the State court from which it was transferred unless it has been previously terminated, except that the SCPML may separate any claim, cross-claim, counter-claim, or third-party claim and remand any such claim before the remainder of the action is remanded.

(3) JUDICIAL ASSIGNMENTS.—Coordinated or consolidated pretrial proceedings under paragraph (2) shall be conducted by a judge

or judges to whom such actions are assigned by the SCPML. With the consent of the transferee court or courts, such actions may be assigned by the SCPML to a judge or judges from any relevant State court. The judge or judges to whom such actions are assigned and the members of the SCPML may exercise the powers of a trial court judge of any of the relevant State courts for the purpose of conducting pretrial depositions in such coordinated or consolidated pretrial proceedings.

(4) COMPOSITION OF SCPML.—The SCPML shall consist of nine judges designated from time to time by the CCJ, no two of whom shall be from the same State. The concurrence of five members shall be necessary to any action by the SCPML. The members of the SCPML shall each serve for a term of three years. The CCJ is urged to develop a system to ensure that States from varying regions and States of different sizes are equitably represented on the SCPML.

(5) ESTABLISHMENT OF RULES.—The SCPML may prescribe procedural rules for the conduct of its business not inconsistent with Federal law and the Federal Rules of Civil Procedure, including rules establishing procedures for initiating the transfer of a class action under this section, providing notice to all affected parties, determining whether such transfer shall be made, issuing orders either directing or denying such transfer, and providing notice of and appealing any order of the SCPML under this section.

(b) AUTHORIZATION.—There are authorized to be appropriated to the National Center for State Courts for the establishment and administration of the State Court Panel on Multidistrict Litigation $1,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal year 2005 and thereafter.

(c) DEFINITIONS.—In this section:

(1) CLASS ACTION.—The term "class action" means any civil action that—

(A) is brought in a State court pursuant to a State statute or rule of judicial procedure authorizing an action be brought by one or more representatives on behalf of a class; and

(B) is not removed to a court of the United States.

(2) CCJ.—The term "CCJ" means the Conference of Chief Justices.

(3) NCSC.—The term "NCSC" means the National Centers for State Courts.

(4) SCPML.—The term "SCPML" means the State Court Panel on Multidistrict Litigation established pursuant to subsection (b).

SEC. 5. ESTABLISHMENT OF PROCEDURE FOR TRANSFERRING CERTAIN ACTIONS TO FEDERAL COURT.

(a) ESTABLISHMENT OF PROCEDURE.—The National Center for State Courts is authorized to develop and implement, in coordination with the Conference of Chief Judges, a procedure by which the applicable State court or the SCMPL shall have the authority to transfer a class action to the appropriate Federal court if the matter in controversy of the civil action exceeds the sum or value of $5,000,000, exclusive of interest and costs, and is a class action in which—

(1) any member of a class of plaintiffs is a citizen of a State different from any defendant;

(2) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

(3) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

(b) DISCRETION TO DECLINE TO TRANSFER JURISDICTION.—The applicable State court or the SCMPL may, in the interests of justice, decline to transfer jurisdiction under subsection (a) over a class action in which greater than one-third but less than two-thirds of the members of all proposed plaintiff classes in the aggregate and the primary defendants are citizens of the State in which the action was originally filed, based on consideration of the following factors:

(A) Whether the claims asserted involve matters of national or interstate interest.

(B) Whether the claims asserted will be governed by laws other than those of the State in which the action was originally filed.

(C) Whether the class action has been pleaded in a manner that seeks to avoid Federal jurisdiction.

(D) Whether the number of citizens of the State in which the action was originally filed in all proposed plaintiff classes in the aggregate is substantially larger than the number of citizens from any other State, and the citizenship of the other members of the proposed class is dispersed among a substantial number of States.

(E) Whether one or more class actions asserting the same or similar claims on behalf of the same or other persons have been or may be filed.

(c) CASES IN WHICH JURISDICTION MAY NOT BE TRANSFERRED.—The applicable State court or the SCMPL shall not transfer jurisdiction under subsection (a) over a class action in which—

(A) two-thirds or more of the members of all proposed plaintiff classes in the aggregate and the primary defendants are citizens of the State in which the action was originally filed;

(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

(C) the number of members of all proposed plaintiff classes in the aggregate is less than 100.

(d) JURISDICTION OF FEDERAL COURTS.—Any Federal court to which a class action is transferred under subsection (a) shall have, and exercise, jurisdiction of the case.

(e) DEFINITIONS.—In this section, the terms "class action" and "SCMPL" have the meanings given those terms in section 4.

SEC. 6. BEST PRACTICES STUDY.

The National Center for State Courts is authorized and requested to—

(1) conduct a study for the purpose of identifying problems that arise in the litigation of State class actions;

(2) develop recommendations on ways to address the problems so identified; and

(3) report to the Congress, within 1 year after the date of the enactment of this Act, on the results of such study and recommendations.

The CHAIRMAN. Pursuant to House Resolution 269, the gentleman from Texas (Mr. SANDLIN) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 10 minutes.

The Chair recognizes the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, my good friend, the gentleman from Virginia (Mr. GOODLATTE), mentioned earlier that we need fair, across-the-board reform in the area of class action. I agree with that; it needs to be fair, reasonable and workable. That is what we should pursue.

In typical fashion, our friends have cited isolated cases over a number of years that they say cry out for reform. However, they forgot to mention the case in Georgia at the Tri-State Crematory where they had been foregoing cremations for bodies received from funeral homes. Instead, they passed off wood chips and other substances as ashes. They forgot to mention the Ohio case wherein an Ohio neighborhood was filled with noxious gases when an 8,500-gallon resin kettle exploded at a Georgia Pacific plant. An employee was killed, 13 were injured, and 15 houses near the plant were evacuated. They forgot to mention the Foodmaker case which we heard earlier where the parent company of Jack-in-the-Box agreed to pay $14 million in a class action settlement in the State of Washington. That class included 500 people, mostly children, who became sick in early 1993 after eating undercooked hamburgers tainted with E coli. They forgot to mention the Indiana case, TRG Marketing LLC, who sold fraudulent health insurance policies to more than 5,000 Floridians who were left with several million dollars in unpaid medical bills.

As you might imagine, we could go on day after day, case by case, a tit for tat, going forward and comparing our cases. But let us look at reasonable reform that protects business and consumers, that respects State law, that can be supported by both sides of the aisle. The Democratic alternative, importantly, is reasonable and, more importantly, it is not retroactive. If we change the law, let us do it properly. Let us do it from this point forward. There is no reason to pass a law that is retroactive. The Democratic alternative is not retroactive. The Democratic alternative does not contain compulsory appeal requirements to ultimately delay justice by years. Certainly the appeal is permissible. The appeal is available, just like it is in the law now. The Democratic alternative does not cede jurisdiction to the Federal courts. It says that we respect the State courts. The State courts are the ones where these cases were originally filed.

Class actions were originally founded in State court. Even when you go to Federal court, there is a requirement of the use and interpretation of State law. The Democratic substitute respects the sovereignty of State courts. The Democratic alternative provides substantial protection to consumers and other class action plaintiffs that could result in settlements; and we want to make sure that the settlements are fair, reasonable, and adequate to address the injuries of the parties and their claims. The Democratic alternative provides specific, reasonable reforms to address concerns about so-called magnet State adjudication of multistate class actions. This act does not preempt State attorney general mass tort cases as we mentioned earlier.

We also have protection on fees to make sure that they are reviewed by the courts to make sure that they are fair and reasonable. Any coupon settlements that we have heard all about today, which I notice that the Republicans did not ban, but any coupon settlements can be examined by a court and expert testimony can be received on the actual value of the settlement. Attorneys' fees under our bill would be determined and measured by the amount of the actual noncash benefit redeemed, not what was awarded, to make sure that that is fair and equitable.

Additional requirements on settlements. The courts can only approve the settlement of a class action if it determines the settlement is fair, reasonable and adequate, and it applies to only the claims that are currently before the court. We protect the integrity of the courts, we say that the primary authority should be in the State courts, we prohibit the destruction of documents. As I mentioned on interlocutory appeals, they are permissible, not mandatory. We create, much as the Federal courts have, a State multicourt litigation panel to operate as a panel in the States just as we do in the Federal. If we have a concern about Federal versus State and not having a panel, our legislation takes care of that. We have an establishment of procedure for transferring actions to Federal court, but it puts the discretion within the State courts. It says the State courts know best how to interpret State law for their State citizens.

Also, importantly, we have a best practices study. Let us let the National Center for State Courts conduct a study to identify problems that arise in the litigation of State class actions. Let us get them to recommend things to us that will cause us to pause and to make corrections. Let us let them report to Congress about problems that they see and potential corrections.

It just boils down to this: Do you want the States to decide or the Federal Government to decide? State courts, Federal courts. We feel like that our substitute and the summary that I have just gone on is a reasonable, fair way to address the problems.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this substitute amendment, I think, can probably be called the Madison County, Illinois, Judicial Protection Act of 2003, because what it does is it goes on for a long, long text, preserving essentially the status quo, and then throws a million dollars a year in for the next 2 fiscal years to have some kind of a study.

The most important sentence in the Sandlin amendment that demonstrates the author's true intent is tucked away in the middle of the legislation toward the top of page 8. For those Members who missed it, let me read this sentence to them: "No pending class action may be consolidated without the approval of the State court judge handling the pending action."

Let me tell my colleagues what this means. If you are a magnet State court judge and you want to keep running your class action factory, this bill will not affect you, because you do not approve any consolidation. You can continue to certify class action cases without considering the rules. You can continue to approve settlements, even if they do nothing for class members, even coupons. And you can continue to support the trial lawyers who got you elected to the bench.

It claims to offer better consumer provisions; but those provisions only apply to Federal court cases, of which there will be very few, if any, if this substitute is adopted. It is just a piece of paper for consumer protections. It claims to offer a proposal for consolidating State court class actions, but even if that proposal were constitutional, which it is not, it is completely discretionary. It claims to offer a proposal for transferring cases to Federal court, but it lets the State court judge where the suit was brought decide whether to take advantage of this procedure. This amendment is not worth the paper it is printed on.

The gentleman from Texas has given a few examples, and I think they came from a document that was originally circulated by the American Trial Lawyers Association. Let me respond to three of the examples he gave to show Members how much his bill misses the mark and ours addresses the problem. The Dow Chemical case he cited filed by Michigan residents alleging contamination at a Michigan plant likewise would not be affected by this bill. Because Dow and the proposed class members were all Michigan citizens, under our bill that suit would remain in State court.

The Tri-State Crematory cases actually present a perfect example of the benefits of our bill. Many Federal and State class actions have been filed in that matter. The Federal cases were consolidated in a multidistrict litigation proceeding where a Federal judge certified a class action in advance of any State court doing so. Finally, the TRG Marketing case, which is scattered amongst a number of State courts that are duplicating each other's work. Under our bill, all such cases would be removed to Federal court and handled by a single Federal judge. There is no reason to believe that consumers would fare worse under that scenario. Actually, under the substitute, duplicative litigation would end up being allowed, and the lawyers' meters are ticking. Studies show that State courts are much more likely to produce bad settlements, money for lawyers and no relief for consumers. And the Federal court would not be slower. Florida State court judges are each assigned four times the number of new cases annually than each Florida Federal court judge.

This amendment in the nature of a substitute is having the fox watch the hen house. The foxes are the plaintiffs' lawyers. They are the ones that the USA Today poll believes benefit disproportionately under this bill. It is time to send the fox packing. Defeat the substitute, pass the bill and the fox can go back to the woods.

Mr. Chairman, I reserve the balance of my time.

Mr. SANDLIN. Mr. Chairman, I yield myself 15 seconds. I think it is important that the other side read the Federal rules and be familiar with Federal procedure. If they would look on page 8, first paragraph, where it says: "No pending class action may be consolidated without the approval of the State court judge handling the pending action." That is consistent and completely accurate with Federal practice as it currently exists.

Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER), the distinguished minority whip.

Mr. HOYER. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of this substitute and reiterate what the distinguished gentleman from Texas said.

□ 1400

Obviously, adversely affecting pending cases, in my opinion, is extraordinarily bad policy and precedent that we should not follow. Have we done it from time to time? We have. Have I opposed it? I have. I think that is not the way we ought to go.

Now, I think that legislation in this area is appropriate. The gentleman from Texas (Mr. SANDLIN) I think has offered an appropriate substitute. Are there abuses in our system of civil justice specifically regarding class action lawsuits? I want to tell the gentleman that I believe there are, and we need to write legislation that addresses and remedies those problems.

However, the bill offered on the floor today, if not amended, in my opinion, does not do that. Instead, its provisions would apply to pending class actions, making it more difficult for shareholders, retirees, and former employees frankly to hold companies such as Enron, WorldCom and Arthur Andersen accountable for their alleged wrongdoing. We ought not to, because of our desire to protect those cases, therefore not address other corporate citizens who are responsible and who are doing a good job and who want to be, ought to be subject, obviously, to suits, but ought to be subject to suits that are legitimate.

The addition of this retroactivity provision is a major change. Let me stress that, Mr. Chairman. This is a major change from the class action bill considered in the last Congress. I do not know who it is in there to protect. I do not know who came forward and said we need protection; it is not a question of reform in the future, but we need protection.

We have seen a few reports of that, from people who want protection. Maybe that is what that retroactivity is for. As matter of fact, invariably in my plus-30 years of service in legislative bodies, when retroactive provisions are included in the bill, invariably it is there to protect somebody. And it is very bad policy. Congress should not be changing the rules that govern this resolution of civil disputes in midstream.

Furthermore, this legislation would give defendants in class actions vast new opportunities to delay cases for 2 years or more and stay discovery during the same period. Again, these rule changes would apply retroactively to pending cases.

H.R. 1115 also would force our Federal courts to handle State class actions, in addition to their large caseload and judicial vacancy rate. Thus, it is not surprising, I tell my colleagues, that both Federal and State judges oppose this measure. In fact, the Federal Judicial Conference, which is headed by Chief Justice Rehnquist, recently wrote a letter in which it "strongly cautions Congress to uphold principles of federalism and to not increase the workload of the already overburdened Federal courts."

In sharp contrast to this overreaching GOP bill, Democrats have offered legislation that, among other things, would base attorneys' fees on the amount redeemed by class members rather than the amount of the settlement. I think that is appropriate.

I understand the concerns of corporate leaders when they say the attorneys get all the money, and the aggrieved parties get a piece of paper saying that they may get something prospectively if they buy another product. That is a legitimate concern. This substitute speaks to it.

Our bill would require courts to determine that a class action settlement is fair, reasonable and adequate to the class. That is a protection against specious suits and those who would misuse the system.

This substitute would bar litigants from sealing court records and documents under protective orders unless a court finds that it is necessary to protect a trade or business secret and it is in the public interest.

Mr. Chairman, I urge my colleagues to support this substitute and then support its passage. We need reform. This is the appropriate step for us to take.

The CHAIRMAN pro tempore (Mr. GILLMOR). The time of the gentleman from Texas (Mr. SANDLIN) has expired.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would like to commend my friend from Maryland and my friend from Texas for being very consistent on the issue of retroactivity. Retroactivity is in here to prevent a race to the courthouse to avoid the new rules that are contained in this bill, should it be enacted into law. But, then again, they were against the retroactive tax cut. The tax cut that was enacted into law just a little while ago is retroactive to the first of January and, as a result of that retroactivity, there is going to be a reduction in withholding rates beginning the first of July that would be twice the amount if it were not retroactive.

So I guess they are against providing benefits of good legislation retroactively to anybody, because they are against good legislation.

Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. GOODLATTE).

The CHAIRMAN pro tempore. The gentleman from Virginia is recognized for 4 minutes.

Mr. GOODLATTE. Mr. Chairman, I rise in strong opposition to the substitute bill. This substitute bill commissions studies, creates new advisory panels, and even allows State court judges to voluntarily consolidate class actions. However, the substitute bill fails to accomplish one thing: to prevent the current abuses in the class action system.

Welcome to Madison County, Illinois. It is hard to imagine why the bizarre system of delegations, panels and transfers in the substitute system is preferable to a system allowing parties to utilize the existing Federal removal procedure to have their cases heard in Federal Court through a process that has existed and served this country well for over 200 years.

The substitute bill authorizes a group of State court judges to think about the class action problem and to propose a solution, if they wish. The bill, however, H.R. 1115, offers real change. It moves large interstate class actions to Federal courts, which have a better track record of dealing with these cases and more resources to handle them efficiently, and it offers real consumer benefits that will apply to real cases and makes sure that lawyers do not sell their clients short and take home all the money.

Like the Blockbuster case, where the plaintiffs got $1 coupons and the plaintiffs' attorneys got $9.2 million in attorneys' fees.

Like the Bank of Boston case, where the lawyers got $8.5 million and the plaintiffs paid money. They did not get anything.

Like the frequent flier case, where the lawyers got $25 million, and the plaintiffs got coupons for discount air fares on the same airlines that the plaintiffs' attorneys alleged had performed some sort of wrongdoing.

Like the Coca-Cola sweetener case, the lawyers got $1.5 million. That was a real sweetener for them. The plaintiffs only got 50-cent coupons for their sweetener.

That is what is wrong. That is what the substitute does not cover.

The transfer provision in the substitute bill is meaningless. The substitute would also authorize State courts to develop a procedure for transferring certain cases to Federal courts. But, once again, State courts that do not want to participate do not have to. It is a safe bet that the courts, like the ones in Madison County, are not going to exercise that option. They are giving class actions a bad name, and they are not going to voluntarily send their class actions to Federal Court.

Thus, this provision is a sham, and I urge my colleagues to defeat the substitute and support the underlying bill.

The CHAIRMAN pro tempore. All time having expired, the question is on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. SANDLIN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SANDLIN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. SANDLIN) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 2 offered by Ms. JACKSON-LEE of Texas, Amendment No. 3 offered by Ms. LOFGREN of California, and Amendment No. 4 by offered by Mr. SANDLIN of Texas.

The first electronic vote will be conducted as a 15-minute vote, and the remaining votes will be conducted as 5-minute votes.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON-LEE

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 238, not voting 11, as follows:

[Roll No. 268]

AYES—185

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Duncan
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Hastings (FL)
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wamp
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—238

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Ackerman
Cubin
Eshoo
Filner
Flake
Gephardt
Johnson (CT)
Jones (OH)
Rothman
Smith (WA)
Solis

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The CHAIRMAN pro tempore (Mr. GILLMOR)(during the vote). There are 2 minutes remaining in this vote.

□ 1430

Ms. HARRIS and Messrs. NUNES, WELLER, DEAL of Georgia, BOOZMAN, KINGSTON, WICKER, HYDE, ENGLISH, TURNER of Ohio, EHLERS, and PICKERING changed their vote from "aye" to "no".

Ms. LOFGREN and Messrs. HOLDEN, WAMP and DOGGETT changed their vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chairman, on rollcall No. 268, I was caught in traffic and missed the vote. Had I been present, I would have voted "aye."

Ms. SOLIS. Mr. Chairman, during rollcall vote No. 268 on the Jackson-Lee amendment to H.R. 1115, I was unavoidably detained. Had I been present, I would have voted "aye."

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, the remainder of this series will be conducted as 5-minute votes.

AMENDMENT NO. 3 OFFERED BY MS. LOFGREN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Ms. LOFGREN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 186, noes 234, not voting 14, as follows:

[Roll No. 269]

AYES—186

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)

Rahall
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—234

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Ackerman
Barton (TX)
Boehner
Cubin
Delahunt
Eshoo
Ford
Gephardt
Johnson (CT)
Jones (OH)
Marshall
Rothman
Smith (WA)
Solis

□ 1438

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SOLIS. Mr. Chairman, during rollcall vote No. 269 on the Lofgren/Sánchez amendment to H.R. 1115 I was unavoidably detained. Had I been present, I would have voted "aye."

AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 4 OFFERED BY MR. SANDLIN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. SANDLIN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment in the nature of a substitute.

The Clerk redesignated the amendment in the nature of a substitute.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 170, noes 255, not voting 9, as follows:

[Roll No. 270]

AYES—170

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (AL)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doyle
Edwards
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Hall
Hastings (FL)
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—255

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis (CA)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Majette
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons

Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Ackerman
Berkley
Cubin
Eshoo
Gephardt
Johnson (CT)
Rothman
Smith (WA)
Solis

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1447

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SOLIS. Mr. Chairman, during rollcall vote No. 270 on the Sandlin amendment to H.R. 1115 I was unavoidably detained. Had I been present, I would have voted "yea."

Ms. BERKLEY. Mr. Chairman, I was under the impression that I had voted on rollcall vote No. 270. In reviewing the record, my vote did not register. If the vote had registered, I would have voted "aye" on rollcall vote No. 270.

The CHAIRMAN. There being no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Accordingly, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. OSE) having assumed the chair, Mr. GILLMOR, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1115) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes, pursuant to House Resolution 269, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WEINER

Mr. WEINER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WEINER. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WEINER moves to recommit the bill H.R. 1115 to the Committee on the Judiciary with instructions that the Committee report the same back to the House forthwith with the following amendments:

Strike section 8 (EFFECTIVE DATE) and insert the following:

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

Strike section 6 (APPEALS OF CLASS ACTION CERTIFICATION ORDERS) and redesignate the succeeding sections accordingly.

Conform the table of contents accordingly.

Mr. WEINER (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. WEINER) is recognized for 5 minutes in support of his motion.

Mr. WEINER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me begin by offering a word of apology and concern for the many lawyers in this Chamber. This has been a very bad afternoon for all of the lawyers who have seen their reputations dragged through the mud. And those of us who are not lawyers, the seven or eight of us here, will be meeting later in a phone booth off the cloakroom to discuss how badly we feel for all of these horrible lawyers who have been flogging themselves on the floor all afternoon.

I should also express my sorrows to those victims who use the courts to try to find redress. Now, most Americans are thankfully not lawyers and they are not victims. And we are grateful and thank God for that. But for the organizations who do represent victims, this has been a very bad day, whether it is the American Cancer Society that opposes this legislation because they represent victims of cancer. A bad day for them. It has been a bad day for those who advocate against water pollution like Clean Water Action. It has been a very bad day because they oppose this bill.

This bill is also a setback for those who advocate for seniors who have been victims, for those who advocate on behalf of women who have been victims. All of these groups are against this bill.

This has also been a very bad day for anyone in this Chamber who calls themselves a conservative. This has been a very bad day for you, because for all of the efforts that you put in to returning power to the States, returning power to individuals, this bill does the exact opposite. It says that the people in our local States, the people in our State courts are simply not smart enough to handle these cases. They are simply not sophisticated enough. We trust them to put them in charge of choosing their Congressman, but we do not trust them on a jury. No, that is too big a mistake. So we take out of the hands of about the 50,000 State courts and give them to about 1,500 Federal judges.

This is a huge setback for all of you who support stronger State government.

This has also been a very bad day for anyone who wants to be intellectually consistent. Was it not about 2 weeks ago you voted on putting a cap on the amount that victims can get, and now you come up here with your charts saying, oh, it is terrible how little victims are getting.

There is a reason victims are getting 35 cents, 40 cents, $1, $2.50. It is because there are millions and hundreds of thousands of victims in these cases all chopping up the 5-, 6-, 7-, $8 million claims. So it is a very bad day if you want to be consistent.

Although, any of those who claim about how low the amount that victims are getting, I look forward to a bill on this floor sometime in the near future putting a minimum amount that victims have to get in these cases. By the way, I will vote for that. You can sign me up as a cosponsor.

While I cannot improve the day for those groups, if there are some of you in this body who see that this is a terrible power grab, for those of you who do not mind the power grab against the States, who do not mind sticking it to victims, who do not mind flogging yourself as a lawyer, who do not mind being inconsistent conservatives, there are a couple of ways to improve the bill in case you do not want to be a pig.

If you do not want to be a pig about it, there are two things in this bill that no one asked for, were not in the original version of the bill, and really are an affront to our basic elements of fairness. One is the element that says you can have retroactive effects of this bill, meaning taking things that are presently going through the process, even if they are due to be judged tomorrow, and sending them back; and the second is the provision that gives mandatory appeal on the certification of a class.

What that will have the effect of doing is that at any point in the process, if someone wanted to challenge the certification of a class, whether it be Enron or WorldCom, if they are in the case right now, even if it is in the Federal court, this will allow them to stop everything in its tracks and go back on appeal.

By the way, for those of you who think that the lower courts get overturned a lot on appeal, it has never happened. It has never happened.

So these are two minor ways for those of you who spend so much time flogging yourself because you are such evil lawyers to be able to vote for this bill and improve it in a minor way. This does not make this a good bill. That is too much to hope for in this Congress in this day and age. But what it will do is make it a little less offensive to those victims who are now waiting for some redress to that grievance.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is unfortunate that the gentleman from New York (Mr. WEINER) did not spend more time talking about his motion to recommit. And I can understand why he did not do it. Because it opens up two big loopholes in this bill to allow the minority of the bar that abused the class action laws to continue to be on the gravy train.

I will tell you how he proposes to do it. First of all, he changes the effective date of the bill. What the bill says is that any class action where the class has not been certified will go under the new rules.

The motion to recommit changes that. It says that the new rules become effective as of the date of enactment of the bill. And this will result in a rush to the courthouse in Madison County, Illinois and the other class action mills to get cases filed so that they will be exempt from the modest civil action court reforms that are contained in H.R. 1115.

Now, the other red herring that is in this motion to recommit is that it takes away the so-called interlocutory appeal. This has nothing to do with Enron or WorldCom or any other firm or individual that is in bankruptcy. They are already in the Federal bankruptcy court, and all civil litigation against them in State or Federal courts is stayed and the bankruptcy court decides those claims. But interlocutory appeals are not the bad things that we hear from the gentleman from New York (Mr. WEINER).

The average time to decide an appeal for all types of cases nationwide is 10.7 months. The average time for a merits ruling and class certification appeals in the Seventh Circuit, which includes Illinois, is only 3.2 months. So you are not talking about having justice be unduly delayed. These appeals are decided promptly, even in a very busy circuit. This motion is a red herring. It should be defeated.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WEINER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of final passage.

The vote was taken by electronic device, and there were—ayes 185, noes 240, not voting 9, as follows:

[Roll No. 271]

AYES—185

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Duncan
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—240

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan

Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Ackerman
Cubin
Eshoo
Gephardt
Johnson (CT)
Markey
Payne
Royce
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1516

Mr. HOEKSTRA changed his vote from "aye" to "no."

Mr. BLUMENAUER changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. OSE). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 253, nays 170, not voting 11, as follows:

[Roll No. 272]

YEAS—253

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Majette
Manzullo
Matheson
McCarthy (NY)
McCotter
McCrery
McInnis
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—170

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doolittle
Engel
English
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCollum
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Ackerman
Cubin
Edwards
Eshoo
Gephardt
Johnson (CT)
McDermott
McHugh
Smith (WA)
Tiahrt
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1523

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. TIAHRT. Mr. Speaker, in rollcall No. 272 I was unavoidably detained. Had I been present, I would have voted, "yea."

Stated against:

Mr. EDWARDS. Mr. Speaker, I missed rollcall No. 272. Had I been present, I would have voted, "nay."

CONFERENCE REPORT ON S. 342, KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003

Mr. BOEHNER submitted the following conference report and statement on the Senate bill (S. 342) to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes:

CONFERENCE REPORT (H. REPT. 108–150)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 342), to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

(a) SHORT TITLE.—This Act may be cited as the "Keeping Children and Families Safe Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

Sec. 101. Findings.

Subtitle A—General Program

Sec. 111. National clearinghouse for information relating to child abuse.
Sec. 112. Research and assistance activities and demonstrations.
Sec. 113. Grants to States and public or private agencies and organizations.

Sec. 114. Grants to States for child abuse and neglect prevention and treatment programs.
Sec. 115. Grants to States for programs relating to the investigation and prosecution of child abuse and neglect cases.
Sec. 116. Miscellaneous requirements relating to assistance.
Sec. 117. Authorization of appropriations.
Sec. 118. Reports.

Subtitle B—Community-Based Grants for the Prevention of Child Abuse

Sec. 121. Purpose and authority.
Sec. 122. Eligibility.
Sec. 123. Amount of grant.
Sec. 124. Existing grants.
Sec. 125. Application.
Sec. 126. Local program requirements.
Sec. 127. Performance measures.
Sec. 128. National network for community-based family resource programs.
Sec. 129. Definitions.
Sec. 130. Authorization of appropriations.

Subtitle C—Conforming Amendments

Sec. 141. Conforming amendments.

TITLE II—ADOPTION OPPORTUNITIES

Sec. 201. Congressional findings and declaration of purpose.
Sec. 202. Information and services.
Sec. 203. Study of adoption placements.
Sec. 204. Studies on successful adoptions.
Sec. 205. Authorization of appropriations.

TITLE III—ABANDONED INFANTS ASSISTANCE

Sec. 301. Findings.
Sec. 302. Establishment of local projects.
Sec. 303. Evaluations, study, and reports by Secretary.
Sec. 304. Authorization of appropriations.
Sec. 305. Definitions.
Sec. 306. Conforming amendment.

TITLE IV—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

Sec. 401. State demonstration grants.
Sec. 402. Secretarial responsibilities.
Sec. 403. Evaluation.
Sec. 404. Information and technical assistance centers.
Sec. 405. Related assistance.
Sec. 406. Authorization of appropriations.
Sec. 407. Grants for State domestic violence coalitions.
Sec. 408. Evaluation and monitoring.
Sec. 409. Family member abuse information and documentation project.
Sec. 410. Model State leadership grants.
Sec. 411. National domestic violence hotline and internet grant.
Sec. 412. Youth education and domestic violence.
Sec. 413. Demonstration grants for community initiatives.
Sec. 414. Transitional housing assistance.
Sec. 415. Technical and conforming amendments.
Sec. 416. Conforming amendment to another Act.

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 101. FINDINGS.

Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended—

(1) in paragraph (1), by striking "close to 1,000,000" and inserting "approximately 900,000";

(2) by redesignating paragraphs (2) through (11) as paragraphs (4) through (13), respectively;

(3) by inserting after paragraph (1) the following:

"(2)(A) more children suffer neglect than any other form of maltreatment; and

"(B) investigations have determined that approximately 60 percent of children who were victims of maltreatment in 2001 suffered neglect, 19 percent suffered physical abuse, 10 percent suffered sexual abuse, and 7 percent suffered emotional maltreatment;

"(3)(A) child abuse can result in the death of a child;

"(B) in 2001, an estimated 1,300 children were counted by child protection services to have died as a result of abuse or neglect; and

"(C) children younger than 1 year old comprised 41 percent of child abuse fatalities and 85 percent of child abuse fatalities were younger than 6 years of age;";

(4) by striking paragraph (4) (as so redesignated), and inserting the following:

"(4)(A) many of these children and their families fail to receive adequate protection and treatment; and

"(B) slightly less than half of these children (42 percent in 2001) and their families fail to receive adequate protection or treatment;";

(5) in paragraph (5) (as so redesignated)—

(A) in subparagraph (A), by striking "organizations" and inserting "community-based organizations";

(B) in subparagraph (D), by striking "ensures" and all that follows through "knowledge," and inserting "recognizes the need for properly trained staff with the qualifications needed"; and

(C) in subparagraph (E), by inserting before the semicolon the following: ", which may impact child rearing patterns, while at the same time, not allowing those differences to enable abuse";

(6) in paragraph (7) (as so redesignated), by striking "this national child and family emergency" and inserting "child abuse and neglect"; and

(7) in paragraph (9) (as so redesignated)—

(A) by striking "intensive" and inserting "needed"; and

(B) by striking "if removal has taken place" and inserting "where appropriate".

Subtitle A—General Program

SEC. 111. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

(a) FUNCTIONS.—Section 103(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(b)) is amended—

(1) in paragraph (1), by striking "all programs," and all that follows through "neglect; and" and inserting "all effective programs, including private and community-based programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect and hold the potential for broad scale implementation and replication;";

(2) in paragraph (2), by striking the period and inserting a semicolon;

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting after paragraph (1) the following:

"(2) maintain information about the best practices used for achieving improvements in child protective systems;"; and

(5) by adding at the end the following:

"(4) provide technical assistance upon request that may include an evaluation or identification of—

"(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

"(B) ways to mitigate psychological trauma to the child victim; and

"(C) effective programs carried out by the States under this Act; and

"(5) collect and disseminate information relating to various training resources available at the State and local level to—

"(A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and

"(B) appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel.".

(b) COORDINATION WITH AVAILABLE RESOURCES.—Section 103(c)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(c)(1)) is amended—

(1) in subparagraph (E), by striking "105(a); and" and inserting "104(a);";

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

"(F) collect and disseminate information that describes best practices being used throughout the Nation for making appropriate referrals related to, and addressing, the physical, developmental, and mental health needs of abused and neglected children; and".

SEC. 112. RESEARCH AND ASSISTANCE ACTIVITIES AND DEMONSTRATIONS.

(a) RESEARCH.—Section 104(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), in the first sentence, by inserting ", including longitudinal research," after "interdisciplinary program of research"; and

(B) in subparagraph (B), by inserting before the semicolon the following: ", including the effects of abuse and neglect on a child's development and the identification of successful early intervention services or other services that are needed";

(C) in subparagraph (C)—

(i) by striking "judicial procedures" and inserting "judicial systems, including multidisciplinary, coordinated decisionmaking procedures"; and

(ii) by striking "and" at the end; and

(D) in subparagraph (D)—

(i) in clause (viii), by striking "and" at the end;

(ii) by redesignating clause (ix) as clause (x); and

(iii) by inserting after clause (viii), the following:

"(ix) the incidence and prevalence of child maltreatment by a wide array of demographic characteristics such as age, sex, race, family structure, household relationship (including the living arrangement of the resident parent and family size), school enrollment and education attainment, disability, grandparents as caregivers, labor force status, work status in previous year, and income in previous year; and";

(E) by redesignating subparagraph (D) as subparagraph (I); and

(F) by inserting after subparagraph (C), the following:

"(D) the evaluation and dissemination of best practices consistent with the goals of achieving improvements in the child protective services systems of the States in accordance with paragraphs (1) through (12) of section 106(a);

"(E) effective approaches to interagency collaboration between the child protection system and the juvenile justice system that improve the delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems;

"(F) an evaluation of the redundancies and gaps in the services in the field of child abuse and neglect prevention in order to make better use of resources;

"(G) the nature, scope, and practice of voluntary relinquishment for foster care or State

guardianship of low income children who need health services, including mental health services;

"(H) the information on the national incidence of child abuse and neglect specified in clauses (i) through (xi) of subparagraph (H); and";

(2) in paragraph (2), by striking subparagraph (B) and inserting the following:

"(B) Not later than 2 years after the date of enactment of the Keeping Children and Families Safe Act of 2003, and every 2 years thereafter, the Secretary shall provide an opportunity for public comment concerning the priorities proposed under subparagraph (A) and maintain an official record of such public comment.";

(3) by redesignating paragraph (2) as paragraph (4);

(4) by inserting after paragraph (1) the following:

"(2) RESEARCH.—The Secretary shall conduct research on the national incidence of child abuse and neglect, including the information on the national incidence on child abuse and neglect specified in subparagraphs (i) through (ix) of paragraph (1)(I).

"(3) REPORT.—Not later than 4 years after the date of the enactment of the Keeping Children and Families Safe Act of 2003, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that contains the results of the research conducted under paragraph (2).".

(b) PROVISION OF TECHNICAL ASSISTANCE.—Section 104(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(b)) is amended—

(1) in paragraph (1)—

(A) by striking "nonprofit private agencies and" and inserting "private agencies and community-based"; and

(B) by inserting ", including replicating successful program models," after "programs and activities"; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(D) effective approaches being utilized to link child protective service agencies with health care, mental health care, and developmental services to improve forensic diagnosis and health evaluations, and barriers and shortages to such linkages.".

(c) DEMONSTRATION PROGRAMS AND PROJECTS.—Section 104 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105) is amended by adding at the end the following:

"(e) DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary may award grants to, and enter into contracts with, States or public or private agencies or organizations (or combinations of such agencies or organizations) for time-limited, demonstration projects for the following:

"(1) PROMOTION OF SAFE, FAMILY-FRIENDLY PHYSICAL ENVIRONMENTS FOR VISITATION AND EXCHANGE.—The Secretary may award grants under this subsection to entities to assist such entities in establishing and operating safe, family-friendly physical environments—

"(A) for court-ordered, supervised visitation between children and abusing parents; and

"(B) to safely facilitate the exchange of children for visits with noncustodial parents in cases of domestic violence.

"(2) EDUCATION IDENTIFICATION, PREVENTION, AND TREATMENT.—The Secretary may award grants under this subsection to entities for projects that provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.

"(3) RISK AND SAFETY ASSESSMENT TOOLS.—The Secretary may award grants under this subsection to entities for projects that provide for the development of research-based strategies for risk and safety assessments relating to child abuse and neglect.

"(4) TRAINING.—The Secretary may award grants under this subsection to entities for projects that involve research-based strategies for innovative training for mandated child abuse and neglect reporters.".

SEC. 113. GRANTS TO STATES AND PUBLIC OR PRIVATE AGENCIES AND ORGANIZATIONS.

(a) DEMONSTRATION PROGRAMS AND PROJECTS.—Section 105(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(a)) is amended—

(1) in the subsection heading, by striking "DEMONSTRATION" and inserting "GRANTS FOR";

(2) in the matter preceding paragraph (1)—

(A) by inserting "States," after "contracts with,";

(B) by striking "nonprofit"; and

(C) by striking "time limited, demonstration";

(3) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "nonprofit";

(B) in subparagraph (A), by striking "law, education, social work, and other relevant fields" and inserting "law enforcement, judiciary, social work and child protection, education, and other relevant fields, or individuals such as court appointed special advocates (CASAs) and guardian ad litem,";

(C) in subparagraph (B), by striking "nonprofit" and all that follows through "; and" and inserting "children, youth and family service organizations in order to prevent child abuse and neglect;";

(D) in subparagraph (C), by striking the period and inserting a semicolon; and

(E) by adding at the end the following:

"(D) for training to support the enhancement of linkages between child protective service agencies and health care agencies, including physical and mental health services, to improve forensic diagnosis and health evaluations and for innovative partnerships between child protective service agencies and health care agencies that offer creative approaches to using existing Federal, State, local, and private funding to meet the health evaluation needs of children who have been subjects of substantiated cases of child abuse or neglect;

"(E) for the training of personnel in best practices to promote collaboration with the families from the initial time of contact during the investigation through treatment;

"(F) for the training of personnel regarding the legal duties of such personnel and their responsibilities to protect the legal rights of children and families;

"(G) for improving the training of supervisory and nonsupervisory child welfare workers;

"(H) for enabling State child welfare agencies to coordinate the provision of services with State and local health care agencies, alcohol and drug abuse prevention and treatment agencies, mental health agencies, and other public and private welfare agencies to promote child safety, permanence, and family stability;

"(I) for cross training for child protective service workers in research-based strategies for recognizing situations of substance abuse, domestic violence, and neglect; and

"(J) for developing, implementing, or operating information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

"(i) professionals and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health care facilities; and

"(ii) the parents of such infants.";

(4) by redesignating paragraph (2) and (3) as paragraphs (3) and (4), respectively;

(5) by inserting after paragraph (1), the following:

"(2) TRIAGE PROCEDURES.—The Secretary may award grants under this subsection to public and private agencies that demonstrate innovation in responding to reports of child abuse and neglect, including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, law enforcement agencies, developmental disability agencies, substance abuse treatment entities, health care entities, domestic violence prevention entities, mental health service entities, schools, churches and synagogues, and other community agencies, to allow for the establishment of a triage system that—

"(A) accepts, screens, and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program, or project;

"(B) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

"(C) provides further investigation and intensive intervention where the child's safety is in jeopardy.";

(6) in paragraph (3) (as so redesignated), by striking "nonprofit organizations (such as Parents Anonymous)" and inserting "organizations";

(7) in paragraph (4) (as so redesignated)—

(A) by striking the paragraph heading;

(B) by striking subparagraphs (A) and (C); and

(C) in subparagraph (B)—

(i) by striking "(B) KINSHIP CARE.—" and inserting the following:

"(4) KINSHIP CARE.—

"(A) IN GENERAL.—"; and

(ii) by striking "nonprofit"; and

(8) by adding at the end the following:

"(5) LINKAGES BETWEEN CHILD PROTECTIVE SERVICE AGENCIES AND PUBLIC HEALTH, MENTAL HEALTH, AND DEVELOPMENTAL DISABILITIES AGENCIES.—The Secretary may award grants to entities that provide linkages between State or local child protective service agencies and public health, mental health, and developmental disabilities agencies, for the purpose of establishing linkages that are designed to help assure that a greater number of substantiated victims of child maltreatment have their physical health, mental health, and developmental needs appropriately diagnosed and treated, in accordance with all applicable Federal and State privacy laws.".

(b) DISCRETIONARY GRANTS.—Section 105(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(b)) is amended—

(1) in the matter preceding paragraph (1), by striking "subsection (b)" and inserting "subsection (a)";

(2) by striking paragraph (1);

(3) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(4) by inserting after paragraph (2) (as so redesignated), the following:

"(3) Programs based within children's hospitals or other pediatric and adolescent care facilities, that provide model approaches for improving medical diagnosis of child abuse and neglect and for health evaluations of children for whom a report of maltreatment has been substantiated."; and

(5) in paragraph (4)(D), by striking "nonprofit".

(c) EVALUATION.—Section 105(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(c)) is amended—

(1) in the first sentence, by striking "demonstration";

(2) in the second sentence, by inserting "or contract" after "or as a separate grant"; and

(3) by adding at the end the following: "In the case of an evaluation performed by the recipient of a grant, the Secretary shall make available technical assistance for the evaluation, where needed, including the use of a rigorous application of scientific evaluation techniques.".

(d) TECHNICAL AMENDMENT TO HEADING.—The section heading for section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106) is amended to read as follows:

"SEC. 105. GRANTS TO STATES AND PUBLIC OR PRIVATE AGENCIES AND ORGANIZATIONS.".

SEC. 114. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

(a) DEVELOPMENT AND OPERATION GRANTS.—Section 106(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(a)) is amended—

(1) in paragraph (3)—

(A) by inserting ", including ongoing case monitoring," after "case management"; and

(B) by inserting "and treatment" after "and delivery of services";

(2) in paragraph (4), by striking "improving" and all that follows through "referral systems" and inserting "developing, improving, and implementing risk and safety assessment tools and protocols";

(3) by striking paragraph (7);

(4) by redesignating paragraphs (5), (6), (8), and (9) as paragraphs (6), (8), (9), and (12), respectively;

(5) by inserting after paragraph (4), the following:

"(5) developing and updating systems of technology that support the program and track reports of child abuse and neglect from intake through final disposition and allow interstate and intrastate information exchange;";

(6) in paragraph (6) (as so redesignated), by striking "opportunities" and all that follows through "system" and inserting "including—

"(A) training regarding research-based strategies to promote collaboration with the families;

"(B) training regarding the legal duties of such individuals; and

"(C) personal safety training for case workers;";

(7) by inserting after paragraph (6) (as so redesignated) the following:

"(7) improving the skills, qualifications, and availability of individuals providing services to children and families, and the supervisors of such individuals, through the child protection system, including improvements in the recruitment and retention of caseworkers;";

(8) by striking paragraph (9) (as so redesignated), and inserting the following:

"(9) developing and facilitating research-based strategies for training for individuals mandated to report child abuse or neglect;

"(10) developing, implementing, or operating programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

"(A) existing social and health services;

"(B) financial assistance; and

"(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption;

"(11) developing and delivering information to improve public education relating to the role and responsibilities of the child protection system and the nature and basis for reporting suspected incidents of child abuse and neglect;";

(9) in paragraph (12) (as so redesignated), by striking the period and inserting a semicolon; and

(10) by adding at the end the following:

"(13) supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems; or

"(14) supporting and enhancing collaboration among public health agencies, the child protection system, and private community-based programs to provide child abuse and neglect prevention and treatment services (including linkages with education systems) and to address the health needs, including mental health needs, of children identified as abused or neglected, including supporting prompt, comprehensive health and developmental evaluations for children who are the subject of substantiated child maltreatment reports.".

(b) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Section 106(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)) is amended—

(A) in paragraph (1)(B)—

(i) by striking "provide notice to the Secretary of any substantive changes" and inserting the following: "provide notice to the Secretary—

"(i) of any substantive changes; and";

(ii) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(ii) any significant changes to how funds provided under this section are used to support the activities which may differ from the activities as described in the current State application.";

(B) in paragraph (2)(A)—

(i) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), and (xiii) as clauses (iv), (vi), (vii), (viii), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi) and (xvii), respectively;

(ii) by inserting after clause (i), the following:

"(ii) policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, including a requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants, except that such notification shall not be construed to—

"(I) establish a definition under Federal law of what constitutes child abuse; or

"(II) require prosecution for any illegal action;

"(iii) the development of a plan of safe care for the infant born and identified as being affected by illegal substance abuse or withdrawal symptoms;";

(iii) in clause (iv) (as so redesignated), by inserting "risk and" before "safety";

(iv) by inserting after clause (iv) (as so redesignated), the following:

"(v) triage procedures for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service;";

(v) in clause (viii)(II) (as so redesignated), by striking ", having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect" and inserting ", as described in clause (ix)";

(vi) by inserting after clause (viii) (as so redesignated), the following:

"(ix) provisions to require a State to disclose confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;";

(vii) in clause (xiii) (as so redesignated)—

(I) by inserting "who has received training appropriate to the role, and" after "guardian ad litem,"; and

(II) by inserting "who has received training appropriate to that role" after "advocate";

(viii) in clause (xv) (as so redesignated), by striking "to be effective not later than 2 years after the date of enactment of this section";

(ix) in clause (xvi) (as so redesignated)—

(I) by striking "to be effective not later than 2 years after the date of enactment of this section"; and

(II) by striking "and" at the end;

(x) in clause (xvii) (as so redesignated), by striking "clause (xii)" each place that such appears and inserting "clause (xvi)"; and

(xi) by adding at the end the following:

"(xviii) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

"(xix) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment;

"(xx) provisions and procedures for improving the training, retention, and supervision of caseworkers;

"(xxi) provisions and procedures for referral of a child under the age of 3 who is involved in a substantiated case of child abuse or neglect to early intervention services funded under part C of the Individuals with Disabilities Education Act; and

"(xxii) not later than 2 years after the date of enactment of the Keeping Children and Families Safe Act of 2003, provisions and procedures for requiring criminal background record checks for prospective foster and adoptive parents and other adult relatives and non-relatives residing in the household;"; and

(C) in paragraph (2), by adding at the end the following flush sentence:

"Nothing in subparagraph (A) shall be construed to limit the State's flexibility to determine State policies relating to public access to court proceedings to determine child abuse and neglect, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and families.".

(2) LIMITATION.—Section 106(b)(3) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)(3)) is amended by striking "With regard to clauses (v) and (vi) of paragraph (2)(A)" and inserting "With regard to clauses (vi) and (vii) of paragraph (2)(A)".

(c) CITIZEN REVIEW PANELS.—Section 106(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(c)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by striking "and procedures" and inserting ", procedures, and practices"; and

(II) by striking "the agencies" and inserting "State and local child protection system agencies"; and

(ii) in clause (iii)(I), by striking "State" and inserting "State and local"; and

(B) by adding at the end the following:

"(C) PUBLIC OUTREACH.—Each panel shall provide for public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community and in order to meet its obligations under subparagraph (A)."; and

(2) in paragraph (6)—

(A) by striking "public" and inserting "State and the public"; and

(B) by inserting before the period the following: "and recommendations to improve the child protection services system at the State and local levels. Not later than 6 months after the date on which a report is submitted by the panel to the State, the appropriate State agency shall submit a written response to State and local child protection systems and the citizen review panel that describes whether or how the State will incorporate the recommendations of such panel (where appropriate) to make measurable progress in improving the State and local child protective system".

(d) ANNUAL STATE DATA REPORTS.—Section 106(d) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(d)) is amended by adding at the end the following:

"(13) The annual report containing the summary of the activities of the citizen review panels of the State required by subsection (c)(6).

"(14) The number of children under the care of the State child protection system who are transferred into the custody of the State juvenile justice system.".

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress a report that describes the extent to which States are implementing the policies and procedures required under section 106(b)(2)(B)(ii) of the Child Abuse Prevention and Treatment Act.

SEC. 115. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.

Section 107(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106c(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) the handling of cases involving children with disabilities or serious health-related problems who are victims of abuse or neglect.".

SEC. 116. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE.

Section 108 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106d) is amended by adding at the end the following:

"(d) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should encourage all States and public and private agencies or organizations that receive assistance under this title to ensure that children and families with limited English proficiency who participate in programs under this title are provided materials and services under such programs in an appropriate language other than English.

"(e) ANNUAL REPORT.—A State that receives funds under section 106(a) shall annually prepare and submit to the Secretary a report describing the manner in which funds provided under this Act, alone or in combination with other Federal funds, were used to address the purposes and achieve the objectives of section 106.".

SEC. 117. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 112(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)(1)) is amended to read as follows:

"(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to carry out this title $120,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2008.".

(b) DEMONSTRATION PROJECTS.—Section 112(a)(2)(B) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)(2)(B)) is amended—

(1) by striking "Secretary make" and inserting "Secretary shall make"; and

(2) by striking "section 106" and inserting "section 104".

SEC. 118. REPORTS.

.. Section 110 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106f) is amended by adding at the end the following:

"(c) STUDY AND REPORT RELATING TO CITIZEN REVIEW PANELS.—

"(1) STUDY.—The Secretary shall conduct a study by random sample of the effectiveness of the citizen review panels established under section 106(c).

"(2) REPORT.—Not later than 3 years after the date of enactment of the Keeping Children and Families Safe Act of 2003, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that contains the results of the study conducted under paragraph (1).".

Subtitle B—Community-Based Grants for the Prevention of Child Abuse

SEC. 121. PURPOSE AND AUTHORITY.

(a) PURPOSE.—Section 201(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116(a)(1)) is amended to read as follows:

"(1) to support community-based efforts to develop, operate, expand, enhance, and, where appropriate to network, initiatives aimed at the prevention of child abuse and neglect, and to support networks of coordinated resources and activities to better strengthen and support families to reduce the likelihood of child abuse and neglect; and".

(b) AUTHORITY.—Section 201(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A) by striking "Statewide" and all that follows through the dash, and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate) that are accessible, effective, culturally appropriate, and build upon existing strengths-that—";

(B) in subparagraph (F), by striking "and" at the end; and

(C) by striking subparagraph (G) and inserting the following:

"(G) demonstrate a commitment to meaningful parent leadership, including among parents of children with disabilities, parents with disabilities, racial and ethnic minorities, and members of other underrepresented or underserved groups; and

"(H) provide referrals to early health and developmental services;"; and

(2) in paragraph (4)—

(A) by inserting "through leveraging of funds" after "maximizing funding";

(B) by striking "a Statewide network of community-based, prevention-focused" and inserting "community-based and prevention-focused"; and

(C) by striking "family resource and support program" and inserting "programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)".

(c) TECHNICAL AMENDMENT TO TITLE HEADING.—Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116) is amended by striking the heading for such title and inserting the following:

"TITLE II—COMMUNITY-BASED GRANTS FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT".

SEC. 122. ELIGIBILITY.

Section 202 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "a Statewide network of community-based, prevention-focused" and inserting "community-based and prevention-focused"; and

(ii) by striking "family resource and support programs" and all that follows through the semicolon and inserting "programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate);"

(B) in subparagraph (B), by inserting "that exists to strengthen and support families to prevent child abuse and neglect" after "written authority of the State)";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "a network of community-based family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)";

(B) in subparagraph (B)—

(i) by striking "to the network"; and

(ii) by inserting ", and parents with disabilities" before the semicolon;

(C) in subparagraph (C), by striking "to the network"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)";

(B) in subparagraph (B), by striking "Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)";

(C) in subparagraph (C), by striking "and training and technical assistance, to the Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "training, technical assistance, and evaluation assistance, to community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)"; and

(D) in subparagraph (D), by inserting ", parents with disabilities," after "children with disabilities".

SEC. 123. AMOUNT OF GRANT.

Section 203 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116b) is amended—

(1) in subsection (b)(1)(B)—

(A) by striking "as the amount leveraged by the State from private, State, or other non-Federal sources and directed through the" and inserting "as the amount of private, State or other non-Federal funds leveraged and directed through the currently designated";

(B) by striking "State lead agency" and inserting "State lead entity"; and

(C) by striking "the lead agency" and inserting "the current lead entity"; and

(2) in subsection (c)(2), by striking "subsection (a)" and inserting "subsection (b)".

SEC. 124. EXISTING GRANTS.

Section 204 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5115c) is repealed.

SEC. 125. APPLICATION.

Section 205 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116d) is amended—

(1) in paragraph (1), by striking "Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)";

(2) in paragraph (2)—

(A) by striking "network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)"; and

(B) by striking ", including those funded by programs consolidated under this Act,";

(3) by striking paragraph (3), and inserting the following:

"(3) a description of the inventory of current unmet needs and current community-based and prevention-focused programs and activities to prevent child abuse and neglect, and other family resource services operating in the State;";

(4) in paragraph (4), by striking "State's network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(5) in paragraph (5), by striking "Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "start up, maintenance, expansion, and redesign of community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(6) in paragraph (7), by striking "individual community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(7) in paragraph (8), by striking "community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(8) in paragraph (9), by striking "community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(9) in paragraph (10), by inserting "(where appropriate)" after "members";

(10) in paragraph (11), by striking "prevention-focused, family resource and support program" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect"; and

(11) by redesignating paragraph (13) as paragraph (12).

SEC. 126. LOCAL PROGRAM REQUIREMENTS.

Section 206(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116e(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "prevention-focused, family resource and support programs" and inserting "and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(2) in paragraph (3)(B), by inserting "voluntary home visiting and" after "including"; and

(3) by striking paragraph (6) and inserting the following:

"(6) participate with other community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect in the development, operation and expansion of networks where appropriate.".

SEC. 127. PERFORMANCE MEASURES.

Section 207 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116f) is amended—

(1) in paragraph (1), by striking "a Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(2) by striking paragraph (3), and inserting the following:

"(3) shall demonstrate that they will have addressed unmet needs identified by the inventory and description of current services required under section 205(3);";

(3) in paragraph (4),

(A) by inserting "and parents with disabilities," after "children with disabilities,"; and

(B) by striking "evaluation of" the first place it appears and all that follows through "under this title" and inserting "evaluation of community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect, and in the design, operation and evaluation of the networks of such community-based and prevention-focused programs";

(4) in paragraph (5), by striking ", prevention-focused, family resource and support programs" and inserting "and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(5) in paragraph (6), by striking "Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect"; and

(6) in paragraph (8), by striking "community based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect".

SEC. 128. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

Section 208(3) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116g(3)) is amended by striking "Statewide networks of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect".

SEC. 129. DEFINITIONS.

(a) CHILDREN WITH DISABILITIES.—Section 209(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116h(1)) is amended by striking "given such term in section 602(a)(2)" and inserting "given the term 'child with a disability' in section 602(3) or 'infant or toddler with a disability' in section 632(5)".

(b) COMMUNITY-BASED AND PREVENTION-FOCUSED PROGRAMS AND ACTIVITIES TO PREVENT CHILD ABUSE AND NEGLECT.—Section 209 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116h) is amended by striking paragraphs (3) and (4) and inserting the following:

"(3) COMMUNITY-BASED AND PREVENTION-FOCUSED PROGRAMS AND ACTIVITIES TO PREVENT CHILD ABUSE AND NEGLECT.—The term 'community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect' includes organizations such as family resource programs, family support programs, voluntary home visiting programs, respite care programs, parenting education, mutual support programs, and other community programs or networks of such programs that provide activities that are designed to prevent or respond to child abuse and neglect.".

SEC. 130. AUTHORIZATION OF APPROPRIATIONS.

Section 210 of the Child Abuse Prevention and Treatment Act (42 U.S.C. .5116i) is amended to read as follows:

"SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $80,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2008.".

Subtitle C—Conforming Amendments

SEC. 141. CONFORMING AMENDMENTS.

The table of contents of the Child Abuse Prevention and Treatment Act, as contained in section 1(b) of such Act (42 U.S.C. 5101 note), is amended as follows:

(1) By striking the item relating to section 105 and inserting the following:

"Sec. 105. Grants to States and public or private agencies and organizations.".

(2) By striking the item relating to title II and inserting the following:

"TITLE II—COMMUNITY-BASED GRANTS FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT".

(3) By striking the item relating to section 204.

TITLE II—ADOPTION OPPORTUNITIES

SEC. 201. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

Section 201 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) through (4) and inserting the following:

"(1) the number of children in substitute care has increased by nearly 24 percent since 1994, as our Nation's foster care population included more than 565,000 as of September of 2001;

"(2) children entering foster care have complex problems that require intensive services, with many such children having special needs because they are born to mothers who did not receive prenatal care, are born with life threatening conditions or disabilities, are born addicted to alcohol or other drugs, or have been exposed to infection with the etiologic agent for the human immunodeficiency virus;

"(3) each year, thousands of children are in need of placement in permanent, adoptive homes;";

(B) by striking paragraph (6);

(C) by striking paragraph (7)(A) and inserting the following:

"(7)(A) currently, there are 131,000 children waiting for adoption;"; and

(D) by redesignating paragraphs (5), (7), (8), (9), and (10) as paragraphs (4), (5), (6), (7), and (8) respectively; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ", including geographic barriers," after "barriers"; and

(B) in paragraph (2), by striking "a national" and inserting "an Internet-based national".

SEC. 202. INFORMATION AND SERVICES.

Section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 203. INFORMATION AND SERVICES.";

(2) by striking "SEC. 203. (a) The Secretary" and inserting the following:

"(a) IN GENERAL.—The Secretary";

(3) in subsection (b)—

(A) by inserting "REQUIRED ACTIVITIES.—" after "(b)";

(B) in paragraph (1), by striking "nonprofit" each place that such appears;

(C) in paragraph (2), by striking "nonprofit";

(D) in paragraph (3), by striking "nonprofit";

(E) in paragraph (4), by striking "nonprofit";

(F) in paragraph (6), by striking "study the nature, scope, and effects of" and insert "support";

(G) in paragraph (7), by striking "nonprofit";

(H) in paragraph (9)—

(i) by striking "nonprofit"; and

(ii) by striking "and" at the end;

(I) in paragraph (10)—

(i) by striking "nonprofit"; each place that such appears; and

(ii) by striking the period at the end and inserting "; and"; and

(J) by adding at the end the following:

"(11) provide (directly or by grant to or contract with States, local government entities, or public or private licensed child welfare or adoption agencies) for the implementation of programs that are intended to increase the number of older children (who are in foster care and with the goal of adoption) placed in adoptive families, with a special emphasis on child-specific recruitment strategies, including—

"(A) outreach, public education, or media campaigns to inform the public of the needs and numbers of older youth available for adoption;

"(B) training of personnel in the special needs of older youth and the successful strategies of child-focused, child-specific recruitment efforts; and

"(C) recruitment of prospective families for such children.";

(4) in subsection (c)—

(A) by striking "(c)(1) The Secretary" and inserting the following:

"(c) SERVICES FOR FAMILIES ADOPTING SPECIAL NEEDS CHILDREN.—

"(1) IN GENERAL.—The Secretary";

(B) by striking "(2) Services" and inserting the following:

"(2) SERVICES.—Services"; and

(C) in paragraph (2)—

(i) by realigning the margins of subparagraphs (A) through (G) accordingly;

(ii) in subparagraph (F), by striking "and" at the end;

(iii) in subparagraph (G), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

"(H) day treatment; and

"(I) respite care."; and

(D) by striking "nonprofit"; each place that such appears;

(5) in subsection (d)—

(A) by striking "(d)(1) The Secretary" and inserting the following:

"(d) IMPROVING PLACEMENT RATE OF CHILDREN IN FOSTER CARE.—

"(1) IN GENERAL.—The Secretary";

(B) by striking "(2)(A) Each State" and inserting the following:

"(2) APPLICATIONS; TECHNICAL AND OTHER ASSISTANCE.—

"(A) APPLICATIONS.—Each State";

(C) by striking "(B) The Secretary" and inserting the following:

"(B) TECHNICAL AND OTHER ASSISTANCE.—The Secretary";

(D) in paragraph (2)(B)—

(i) by realigning the margins of clauses (i) and (ii) accordingly; and

(ii) by striking "nonprofit";

(E) by striking "(3)(A) Payments" and inserting the following:

"(3) PAYMENTS.—

"(A) IN GENERAL.—Payments"; and

(F) by striking "(B) Any payment" and inserting the following:

"(B) REVERSION OF UNUSED FUNDS.—Any payment"; and

(6) by adding at the end the following:

"(e) ELIMINATION OF BARRIERS TO ADOPTIONS ACROSS JURISDICTIONAL BOUNDARIES.—

"(1) IN GENERAL.—The Secretary shall award grants to, or enter into contracts with, States, local government entities, public or private child welfare or adoption agencies, adoption exchanges, or adoption family groups to carry out initiatives to improve efforts to eliminate barriers to placing children for adoption across jurisdictional boundaries.

"(2) SERVICES TO SUPPLEMENT NOT SUPPLANT.—Services provided under grants made under this subsection shall supplement, not supplant, services provided using any other funds made available for the same general purposes including—

"(A) developing a uniform homestudy standard and protocol for acceptance of homestudies between States and jurisdictions;

"(B) developing models of financing cross-jurisdictional placements;

"(C) expanding the capacity of all adoption exchanges to serve increasing numbers of children;

"(D) developing training materials and training social workers on preparing and moving children across State lines; and

"(E) developing and supporting initiative models for networking among agencies, adoption exchanges, and parent support groups across jurisdictional boundaries.".

SEC. 203. STUDY OF ADOPTION PLACEMENTS.

Section 204 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5114) is amended—

(1) by striking "The" and inserting "(a) IN GENERAL.—The";

(2) by striking "of this Act" and inserting "of the Keeping Children and Families Safe Act of 2003";

(3) by striking "to determine the nature" and inserting "to determine—

"(1) the nature";

(4) by striking "which are not licensed" and all that follows through "entity";"; and

(5) by adding at the end the following:

"(2) how interstate placements are being financed across State lines;

"(3) recommendations on best practice models for both interstate and intrastate adoptions; and

"(4) how State policies in defining special needs children differentiate or group similar categories of children.".

SEC. 204. STUDIES ON SUCCESSFUL ADOPTIONS.

Section 204 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5114) is amended by adding at the end the following:

"(b) DYNAMICS OF SUCCESSFUL ADOPTION.—The Secretary shall conduct research (directly or by grant to, or contract with, public or private nonprofit research agencies or organizations) about adoption outcomes and the factors affecting those outcomes. The Secretary shall submit a report containing the results of such research to the appropriate committees of the Congress not later than the date that is 36 months after the date of the enactment of the Keeping Children and Families Safe Act of 2003.

"(c) INTERJURISDICTIONAL ADOPTION.—Not later than 1 year after the date of the enactment of the Keeping Children and Families Safe Act of 2003, the Secretary shall submit to the appropriate committees of the Congress a report that contains recommendations for an action plan to facilitate the interjurisdictional adoption of foster children.".

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

Section 205(a) of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115(a)) is amended to read as follows:

"There are authorized to be appropriated $40,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2008 to carry out programs and activities authorized under this subtitle.".

TITLE III—ABANDONED INFANTS ASSISTANCE

SEC. 301. FINDINGS.

Section 2 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2)—

(A) by inserting "studies indicate that a number of factors contribute to" before "the inability of";

(B) by inserting "some" after "inability of";

(C) by striking "who abuse drugs"; and

(D) by striking "care for such infants" and inserting "care for their infants";

(3) by amending paragraph (5) to read as follows:

"(5) appropriate training is needed for personnel working with infants and young children with life-threatening conditions and other special needs, including those who are infected with the human immunodeficiency virus (commonly known as 'HIV'), those who have acquired immune deficiency syndrome (commonly known as 'AIDS'), and those who have been exposed to dangerous drugs;";

(4) by striking paragraphs (6) and (7);

(5) in paragraph (8)—

(A) by striking "such infants and young children" and inserting "infants and young children who are abandoned in hospitals"; and

(B) by inserting "by parents abusing drugs," after "deficiency syndrome,";

(6) in paragraph (9), by striking "comprehensive services" and all that follows through the semicolon at the end and inserting "comprehensive support services for such infants and young children and their families and services to prevent the abandonment of such infants and young children, including foster care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services;";

(7) by striking paragraph (11);

(8) by redesignating paragraphs (2), (3), (4), (5), (8), (9), and (10) as paragraphs (1) through (7), respectively; and

(9) by adding at the end the following:

"(8) private, Federal, State, and local resources should be coordinated to establish and maintain services described in paragraph (7) and to ensure the optimal use of all such resources.".

SEC. 302. ESTABLISHMENT OF LOCAL PROJECTS.

Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 101. ESTABLISHMENT OF LOCAL PROJECTS.";

and

(2) by striking subsection (b) and inserting the following:

"(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to give priority to abandoned infants and young children who—

"(1) are infected with, or have been perinatally exposed to, the human immunodeficiency virus, or have a life-threatening illness or other special medical need; or

"(2) have been perinatally exposed to a dangerous drug.".

SEC. 303. EVALUATIONS, STUDY, AND REPORTS BY SECRETARY.

Section 102 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"SEC. 102. EVALUATIONS, STUDY, AND REPORTS BY SECRETARY.

"(a) Evaluations of Local Programs.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as a result of such projects.

"(b) Study and Report on Number of Abandoned Infants and Young Children.—

"(1) In general.—The Secretary shall conduct a study for the purpose of determining—

"(A) an estimate of the annual number of infants and young children relinquished, abandoned, or found deceased in the United States and the number of such infants and young children who are infants and young children described in section 101(b);

"(B) an estimate of the annual number of infants and young children who are victims of homicide;

"(C) characteristics and demographics of parents who have abandoned an infant within 1 year of the infant's birth; and

"(D) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for abandoned infants and young children.

"(2) Deadline.—Not later than 36 months after the date of enactment of the Keeping Children and Families Safe Act of 2003, the Secretary shall complete the study required under paragraph (1) and submit to Congress a report describing the findings made as a result of the study.

"(c) Evaluation.—The Secretary shall evaluate and report on effective methods of intervening before the abandonment of an infant or young child so as to prevent such abandonments, and effective methods for responding to the needs of abandoned infants and young children.".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—Section 104 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) In General.—

"(1) Authorization.—For the purpose of carrying out this Act, there are authorized to be appropriated $45,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2008.

"(2) Limitation.—Not more than 5 percent of the amounts appropriated under paragraph (1) for any fiscal year may be obligated for carrying out section 102(a).";

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting "Authorization.—" after "(1)" the first place it appears; and

(ii) by striking "this title" and inserting "this Act"; and

(B) in paragraph (2)—

(i) by inserting "Limitation.—" after "(2)"; and

(ii) by striking "fiscal year 1991." and inserting "fiscal year 2003."; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(b) Redesignation.—The Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by redesignating section 104 as section 302; and

(2) by moving that section 302 to the end of that Act.

SEC. 305. DEFINITIONS.

(a) In General.—Section 301 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"SEC. 301. DEFINITIONS.

"In this Act:

"(1) Abandoned; abandonment.—The terms 'abandoned' and 'abandonment', used with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

"(2) Acquired immune deficiency syndrome.—The term 'acquired immune deficiency syndrome' includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

"(3) Dangerous drug.—The term 'dangerous drug' means a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"(4) Natural family.—The term 'natural family' shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation, with respect to infants and young children covered under this Act.

"(5) Secretary.—The term 'Secretary' means the Secretary of Health and Human Services.".

(b) Repeal.—Section 103 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is repealed.

SEC. 306. CONFORMING AMENDMENT.

Section 421(7) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061(7)) is amended by striking "infant described in section 103" and inserting "infant who is abandoned, as defined in section 301".

TITLE IV—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

SEC. 401. STATE DEMONSTRATION GRANTS.

(a) Underserved Populations.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by striking "underserved populations," and all that follows and inserting the following: "underserved populations, as defined in section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2);".

(b) Report.—Section 303(a) of such Act (42 U.S.C. 10402(a)) is amended by adding at the end the following:

"(5) Upon completion of the activities funded by a grant under this title, the State shall submit to the Secretary a report that contains a description of the activities carried out under paragraph (2)(B)(i).".

(c) Children Who Witness Domestic Violence.—Section 303 of such Act (42 U.S.C. 10402) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

"(c) The Secretary shall use funds provided under section 310(a)(2), for a fiscal year described in section 310(a)(2), to award grants for demonstration programs that provide—

"(1) multisystem interventions and services (either directly or by referral) for children who witness domestic violence; and

"(2) training (either directly or by referral) for agencies, providers, and other entities who work with such children.".

SEC. 402. SECRETARIAL RESPONSIBILITIES.

Section 305(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10404(a)) is amended—

(1) by striking "an employee" and inserting "1 or more employees";

(2) by striking "of this title." and inserting "of this title, including carrying out evaluation and monitoring under this title."; and

(3) by striking "The individual" and inserting "Any individual".

SEC. 403. EVALUATION.

Section 306 of the Family Violence Prevention and Services Act (42 U.S.C. 10405) is amended in the first sentence by striking "Not later than two years after the date on which funds are obligated under section 303(a) for the first time after the date of the enactment of this title, and every two years thereafter," and inserting "Every 2 years,".

SEC. 404. INFORMATION AND TECHNICAL ASSISTANCE CENTERS.

Section 308 of the Family Violence Prevention and Services Act (42 U.S.C. 10407) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) National Resource Center.—The national resource center established under subsection (a)(2)—

"(1) shall offer resource, policy, collaboration, and training assistance to Federal, State, and local government agencies, to domestic violence service providers, and to other professionals and interested parties on issues pertaining to domestic violence, including issues relating to children who witness domestic violence; and

"(2) shall maintain a central resource library in order to collect, prepare, analyze, and disseminate information and statistics, and analyses of the information and statistics, relating to the incidence and prevention of family violence (particularly the prevention of repeated incidents of violence) and the provision of immediate shelter and related assistance."; and

(2) by striking subsection (g).

SEC. 405. RELATED ASSISTANCE.

Section 309(5) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(5)) is amended by striking the second sentence and inserting the following: "The term 'related assistance' shall include—

"(A) prevention services such as outreach and prevention services for victims and their children, assistance to children who witness domestic violence, employment training, parenting and other educational services for victims and their children, preventive health services within domestic violence programs (including services promoting nutrition, disease prevention, exercise, and prevention of substance abuse), domestic violence prevention programs for school-age children, family violence public awareness campaigns, and violence prevention counseling services to abusers;

"(B) counseling with respect to family violence, counseling or other supportive services provided by peers individually or in groups, and referral to community social services;

"(C) transportation, technical assistance with respect to obtaining financial assistance under Federal and State programs, and referrals for appropriate health care services (including alcohol and drug abuse treatment), but shall not include reimbursement for any health care services;

"(D) legal advocacy to provide victims with information and assistance through the civil and criminal courts, and legal assistance; or

"(E) children's counseling and support services, and child care services for children who are victims of family violence or the dependents of such victims, and children who witness domestic violence.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

(a) General Authorization.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) In General.—

"(1) Authorization.—There are authorized to be appropriated to carry out sections 303 through 311, $175,000,000 for each of fiscal years 2004 through 2008.

"(2) Projects to address needs of children who witness domestic violence.—For a fiscal year in which the amounts appropriated under paragraph (1) exceed $130,000,000, the Secretary shall reserve and make available a portion of the excess to carry out section 303(c).".

(b) Allocations for Other Programs.—Subsections (b), (c), and (d) of section 310 of such Act (42 U.S.C. 10409) are amended by inserting "(and not reserved under subsection (a)(2))" after "each fiscal year".

(c) Grants for State Domestic Violence Coalitions.—Section 311(g) of such Act (42 U.S.C. 10410(g)) is amended to read as follows:

"(g) Funding.—Of the amount appropriated under section 310(a) for a fiscal year (and not reserved under section 310(a)(2)), not less than 10 percent of such amount shall be made available to award grants under this section.".

SEC. 407. GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended by striking subsection (h).

SEC. 408. EVALUATION AND MONITORING.

Section 312 of the Family Violence Prevention and Services Act (42 U.S.C. 10412) is amended by adding at the end the following:

"(c) Of the amount appropriated under section 310(a) for each fiscal year (and not reserved under section 310(a)(2)), not more than 2.5 percent shall be used by the Secretary for evaluation, monitoring, and other administrative costs under this title.".

SEC. 409. FAMILY MEMBER ABUSE INFORMATION AND DOCUMENTATION PROJECT.

Section 313 of the Family Violence Prevention and Services Act (42 U.S.C. 10413) is repealed.

SEC. 410. MODEL STATE LEADERSHIP GRANTS.

Section 315 of the Family Violence Prevention and Services Act (42 U.S.C. 10415) is repealed.

SEC. 411. NATIONAL DOMESTIC VIOLENCE HOTLINE AND INTERNET GRANT.

Section 316 of the Family Violence Prevention and Services Act (42 U.S.C. 10416) is amended to read as follows:

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE AND INTERNET GRANT.

"(a) In General.—The Secretary may award 1 or more grants to private, nonprofit entities—

"(1) to provide for the establishment and operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence; or

"(2) to provide for the establishment and operation of a highly secure Internet website to provide that information and assistance to those victims.

"(b) Duration.—A grant under this section may extend over a period of not more than 5 years.

"(c) Annual Approval.—The provision of payments under a grant awarded under this section shall be subject to annual approval by the Secretary and subject to the availability of appropriations for each fiscal year to make the payments.

"(d) Hotline Activities.—An entity that receives a grant under this section for activities described, in whole or in part, in subsection (a)(1) shall use funds made available through the grant to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. In establishing and operating the hotline, the entity shall—

"(1) contract with a carrier for the use of a toll-free telephone line;

"(2) employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assemble and maintain a current database of information relating to services for victims of domestic violence to which callers may be referred throughout the United States, including information on the availability of shelters that serve battered women; and

"(4) publicize the hotline to potential users throughout the United States.

"(e) Secure Website Activities.—

"(1) In general.—An entity that receives a grant under this section for activities described, in whole or in part, in subsection (a)(2) shall use funds made available through the grant to provide grants for startup and operational costs associated with establishing and operating a highly secure Internet website.

"(2) Availability.—The website shall be available to the entity operating the hotline and domestic violence shelters.

"(3) Information.—The website shall provide accurate information that describes—

"(A) the services available to victims of domestic violence, including health care and mental health services, social services, transportation, services for children (including children who witness domestic violence), and other relevant services; and

"(B) the domestic violence shelters available, and services provided by the shelters.

"(4) Rule of construction.—Nothing in this Act shall be construed to require any shelter or service provider, whether public or private, to be linked to the website or to provide information to the recipient of the grant described in paragraph (1) or to the website.

"(f) Application.—The Secretary may not award a grant under this section unless the Secretary approves an application for such grant. To be approved by the Secretary under this subsection an application shall—

"(1) contain such agreements, assurances, and information, be in such form, and be submitted in such manner, as the Secretary shall prescribe through notice in the Federal Register;

"(2) in the case of an application for a grant to carry out activities described in subsection (a)(1), include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

"(C) the methods for the creation, maintenance, and updating of a resource database;

"(D) a plan for publicizing the availability of the hotline;

"(E) a plan for providing service to non-English speaking callers, including service through hotline personnel who speak Spanish; and

"(F) a plan for facilitating access to the hotline by persons with hearing impairments;

"(3) in the case of an application for a grant to carry out activities described in subsection (a)(2)—

"(A) include a complete description of the applicant's plan for the development, operation, maintenance, and updating of information and resources of the website;

"(B) include a certification that the applicant will implement a high level security system to ensure the confidentiality of the website, taking into consideration the safety of domestic violence victims; and

"(C) include an assurance that, after the third year of the website project, the recipient of the grant will develop a plan to secure other public or private funding resources to ensure the continued operation and maintenance of the website;

"(4) demonstrate that the applicant has recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence, including a demonstration of support from advocacy groups;

"(5) demonstrate that the applicant has a commitment to diversity, and to the provision of services to ethnic, racial, and non-English speaking minorities, in addition to older individuals and individuals with disabilities; and

"(6) contain such other information as the Secretary may require.

"(g) Authorization of Appropriations.—

"(1) In general.—There is authorized to be appropriated to carry out this section $3,500,000 for each of fiscal years 2004 through 2008.

"(2) Conditions on appropriations.—Notwithstanding paragraph (1), the Secretary shall make available a portion of the amounts appropriated under paragraph (1) to award grants under subsection (a)(2) only for any fiscal year for which the amounts appropriated under paragraph (1) exceed $3,000,000.

"(3) Availability.—Funds authorized to be appropriated under paragraph (1) shall remain available until expended.".

SEC. 412. YOUTH EDUCATION AND DOMESTIC VIOLENCE.

Section 317 of the Family Violence Prevention and Services Act (42 U.S.C. 10417) is repealed.

SEC. 413. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

(a) In General.—Section 318(h) of the Family Violence Prevention and Services Act (42 U.S.C. 10418(h)) is amended to read as follows:

"(h) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $6,000,000 for each of fiscal years 2004 through 2008.".

(b) Regulations.—Section 318 of such Act (42 U.S.C. 10418) is amended by striking subsection (i).

SEC. 414. TRANSITIONAL HOUSING ASSISTANCE.

Section 319(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10419(f)) is amended by striking "fiscal year 2001" and inserting "each of fiscal years 2003 through 2008".

SEC. 415. TECHNICAL AND CONFORMING AMENDMENTS.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended—

(1) in section 302(1) (42 U.S.C. 10401(1)) by striking "demonstrate the effectiveness of assisting" and inserting "assist";

(2) in section 303(a) (42 U.S.C. 10402(a))—

(A) in paragraph (2)—

(i) in subparagraph (C), by striking "State domestic violence coalitions knowledgeable individuals and interested organizations" and inserting "State domestic violence coalitions, knowledgeable individuals, and interested organizations"; and

(ii) in subparagraph (F), by adding "and" at the end; and

(B) by aligning the margins of paragraph (4) with the margins of paragraph (3);

(3) in section 303(g) (as so redesignated)—

(A) in the first sentence, by striking "309(4)" and inserting "320"; and

(B) in the second sentence, by striking "309(5)(A)" and inserting "320(5)(A)";

(4) in section 305(b)(2)(A) (42 U.S.C. 10404(b)(2)(A)) by striking "provide for research, and into" and inserting "provide for research into";

(5) by redesignating section 309 as section 320 and moving that section to the end of the Act; and

(6) in section 311(a) (42 U.S.C. 10410(a))—

(A) in paragraph (2)(K), by striking "other criminal justice professionals,;" and inserting "other criminal justice professionals;" and

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking "family law judges," and inserting "family law judges,";

(ii) in subparagraph (D), by inserting ", criminal court judges," after "family law judges"; and

(iii) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children" and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children".

SEC. 416. CONFORMING AMENDMENT TO ANOTHER ACT.

Section 102(42) of the Older Americans Act of 1965 (42 U.S.C. 3002(42)) is amended by striking "(42 U.S.C. 10408)".

And the House agree to the same.

From the Committee on Education and the Workforce, for consideration of the Senate bill and the House amendment, and modifications committed to conference:

JOHN BOEHNER,
PETE HOEKSTRA,
JON PORTER,
JAMES GREENWOOD,
CHARLIE NORWOOD,
PHIL GINGREY,
MAX BURNS,
GEORGE MILLER,
RUBÉN HINOJOSA,
SUSAN A. DAVIS,
TIM RYAN,
DANNY K. DAVIS,
Managers on the Part of the House.

JUDD GREGG,
LAMAR ALEXANDER,
MIKE DEWINE,
EDWARD M. KENNEDY,
CHRIS DODD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 342), to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

THE KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003—EXPLANATION OF THE COMMITTEE OF CONFERENCE

The conference agreement to S. 342, the Keeping Children and Families Safe Act of 2003, builds upon reforms made during the last reauthorization of CAPTA and FVPSA to improve program implementation and make improvements to current law to ensure that states have the necessary resources and flexibility to properly address issues of child abuse and neglect and family violence. It makes changes that serve to assist states in improving their child protective services systems and enhance the federal government's role in providing support for the child protective services system infrastructure. The conference agreement also makes changes to better serve victims of domestic violence and their dependents.

The Senate bill and House amendment were very similar with only a few major differences. This conference report reflects the agreements on these major differences.

CAPTA

Comprehensive Adolescent Victim/Victimizer Program

The Senate bill, but not the House amendment, includes a new demonstration program that establishes a network of trainers who will work with schools to implement school-based adolescent victim/victimizer programs that are comprehensive, meet state guidelines for health education, and reduce child sexual abuse by focusing on prevention for both adolescent victims and victimizers.

The conference agreement does not include this provision.

Safety Training for Caseworkers

The Senate bill, but not the House amendment, includes language to permit "personal safety training for caseworkers" as part of the training for which states may use their CAPTA dollars. Personal safety training will help child protective services personnel be prepared when faced with a variety of complex situations and emotions as they confront families with allegations of child abuse and neglect.

The conference agreement includes this provision with no modifications.

Infants Born Addicted to Substances

The House amendment and the Senate bill include provisions to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms. The House amendment requires procedures for infants born with fetal alcohol effects, fetal alcohol syndrome, neonatal intoxication or withdrawal syndrome, or neonatal physical or neurological harm resulting from prenatal drug exposure. The Senate bill requires procedures for infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure. The House amendment, but not the Senate, requires the notification of child protective services and permits the consideration of providing the mother with additional services, and providing the infant with referral to IDEA, Part C services for evaluation.

The conference agreement follows the Senate bill with a modification. The agreement includes the requirement that health care providers involved in the delivery or care of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms notify child protective services of the occurrence of such condition in such infants.

GAO Study

The Senate bill, but not the House amendment, includes a study to have GAO review and evaluate training (including cross-training in domestic violence and substance abuse) of child protective services workers including the effects of caseloads, compensation and supervision of staff; the efficiencies and effectiveness of agencies that provide cross-training with court personnel; and recommendations to strengthen child protective services effectiveness to improve outcomes for children.

The conference agreement does not include this provision. The House and Senate conferees agree to write a joint letter to GAO to request the study be conducted.

Children's Justice Act

The House amendment, but not the Senate bill, includes language to allow states to handle cases involving children with disabilities or serious health conditions with their children's justice grant funding. Children's justice grants help states improve their child protection programs in investigation and prosecution of child abuse and neglect cases.

The conference agreement includes this provision with no modifications.

IDEA

The House amendment, but not the Senate bill, requires states to have provisions and procedures for referral of a child under the age of 3 who is involved in a substantiated case of child abuse or neglect to the statewide early intervention program funded under Part C, of the Individuals with Disabilities Education Act for an evaluation of services.

The conference agreement does not include this provision. The conferees agree to provide for a reference to similar provisions for referral of such children in Part C of IDEA.

State CAPTA Reports

The Senate bill, but not the House amendment, requires states to report on the manner in which CAPTA dollars, alone or in combination with other funds, were used to address the purposes and achieve the objectives of Kinship Care. Kinship care is a living situation in which a grandparent, other close relative or someone else who is emotionally close to a child takes primary responsibility for the care of that child.

The conference agreement includes this provision with modifications. The agreement requires states to report on all CAPTA programs, rather than just Kinship Care.

Respite Care

The House amendment, but not the Senate bill, adds respite care, home visiting and family support services to the list of optional core services that a state may provide as a part of family support services under Community-Based Programs within CAPTA.

The conference agreement does not include this provision. However, the conferees want to recognize the importance of respite care and other services as positive, cost-effective, community-based child abuse and neglect prevention programs. As evidence shows, respite and crises care programs are effective prevention strategies associated with avoiding more costly and traumatic out-of-home placements, including foster care. By retaining current law for local program criteria, the conferees have not intended to discourage or limit the ability of the lead entity or local program to provide or arrange for respite care.

FVPSA

Children Who Witness Domestic Violence

The Senate bill, but not the House amendment, establishes a new program to address the needs of children who witness domestic violence to provide direct services; training for and collaboration among child welfare agencies, domestic violence victim service providers, courts, law enforcement and other entities, and multi-system interventions. This new program is conditioned upon appropriations exceeding $150 million. At such time 50 percent of the excess must be used to fund this program.

The conference agreement follows the intent of the Senate bill with modifications. The agreement would not create a new program. The agreement adds services for children who witness domestic violence to the list of allowable activities under the state demonstration grants within FVPSA. It requires that once appropriations exceed $130 million for the state demonstration grants, that grants include programs of multi-system interventions, training, and services (either directly or by referral) for children who witness domestic violence. The agreement also requires the national resource center to include children who witness domestic violence as part of their research and training services, and adds children who witness domestic violence to the definition of "related assistance."

Domestic Violence Hotline/Internet Enhancement

The Senate bill, but not the House amendment, creates a new five year grant program to establish and operate a highly secure Internet website that links the national domestic violence hotline, U.S. domestic violence shelters, state and local domestic violence agencies, and other domestic violence organizations in order to connect a victim of domestic violence to domestic violence shelters. The website must also contain continuously updated information concerning the availability of services and space in domestic violence shelters across the U.S. This new program is conditioned upon appropriations for the domestic violence hotline exceeding $3 million. The Senate bill, but not the House amendment, increases the authorization for the domestic violence hotline from $2 million to $4 million. The domestic violence hotline is currently funded at $2.6 million.

The conference agreement follows the intent of the Senate bill with modifications. The agreement would not create a new program. The agreement requires that once appropriations for the domestic violence hotline exceed $3 million, grants shall be made for startup and operational costs associated with establishing a highly secure Internet website available to the hotline and to shelters. The website shall serve as a database of information describing the services available to victims of domestic violence, including medical and mental health services, social services, transportation, services for children (including children who witness domestic violence) and other relevant services; domestic violence shelters available; and services provided by participating shelters. The authorization for the domestic violence hotline is $3.5 million. As a result of recent significant authorization and appropriation increases occurring since the committee's last consideration of this act, the conferees believe an authorization level of $3.5 million will sustain the services provided as a part of the domestic violence hotline during the current five year authorization without the need for intervening authorization.

From the Committee on Education and the Workforce, for consideration of the Senate bill and the House amendment, and modifications committed to conference:

JOHN BOEHNER,
PETER HOEKSTRA,
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Managers on the Part of the House.

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LAMAR ALEXANDER,
MIKE DEWINE,
EDWARD M. KENNEDY,
CHRIS DODD,
Managers on the Part of the Senate.

RELATING TO CONSIDERATION OF SENATE AMENDMENTS TO H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 270 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 270

Resolved, That upon adoption of this resolution the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, with the Senate amendments thereto, be, and the same are hereby, taken from the Speaker's table to the ends that the Senate amendment to the title be, and the same is hereby, agreed to, and the Senate amendment to the text be, and the same is hereby, agreed to with the amendment printed in the report of the Committee on Rules accompanying this resolution.

SEC. 2. It shall be in order for the chairman of the Committee on Ways and Means to move that the House insist on its amendment to the Senate amendment to H.R. 1308, or that the House disagree to any further Senate amendment, and request or agree to a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 270.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. REYNOLDS. Mr. Speaker, House Resolution 270 is a customary rule relating to the consideration of an amendment to the Senate amendments to H.R. 1308, the Tax Relief, Simplification, and Equity Act of 2003. The rule allows the House to proceed with consideration of legislation providing tax relief to millions of American workers and families.

Upon adoption of this resolution, the House will have agreed to the disposition of the Senate amendments.

Mr. Speaker, when I return to my district each week, my constituents tell me they want me to do two things: create jobs and cut taxes. Thanks to the Economic Growth and Tax Relief Act and the Jobs Growth Tax Relief Act, Congress is doing just that, and taxpayers in my district and all across America now have greater control over more of their hard-earned dollars, providing greater incentive for savings and investment and expanding job opportunities.

Today's legislation is another important step in our ongoing efforts to create greater fairness in the Tax Code for working families. In fact, upon adoption, it will be retitled the All-American Tax Relief Act in recognition of the fact that it puts even more money back into the hands of more Americans.

Mr. Speaker, much of what we are debating today we have debated and supported before. Many of the important measures in H.R. 1308 have passed this body or the other body over the last few years. For instance, the House passed its version of H.R. 1308 by voice vote under suspension in March of this year.

Last week the Senate took up H.R. 1308 with revised and added provisions, including an accelerated increase in the refundability of the child tax credit currently scheduled to take place in 2005.

□ 1530

While the House language contains the same provision, it has the added benefit of ensuring that the child tax credit remains at $1,000 through 2010, unlike the Senate amendment that offers only the $1,000 tax credit during taxable years 2003 and 2004. Simply put, the House language provides more and longer-lasting benefits for families at all income levels. And it does not take it away in just a couple of years.

This bill will eliminate the marriage penalty and the child tax credit even sooner, by raising the phaseout for married couples from $110,000 to $150,000. This is a fundamental issue of fairness. Working men and women should not face a higher tax burden simply because they choose to get married and raise a family.

The House bill is more responsive to more Americans than the other body's version in other ways. It honors the men and women of our Armed Forces with over $800 million in tax relief over 11 years. This includes capital gains tax relief on home sales, tax-free death gratuity payments, and tax-free dependent care assistance for members of the military. Our men and women in uniform protect our country and ensure our security every day and deserve sensible tax relief for their hard work and sacrifice.

Also, the bill will suspend the tax-exempt status of terrorist organizations, a provision that passed both the House and the other body in 2002. In short, Mr. Speaker, this bill will achieve even greater parity and fairness in the Tax Code. That is something I know my constituents and working Americans all over the country want, need, and deserve.

Mr. Speaker, I expect that in the course of this debate, we will hear a great deal about procedural terminology, but this vote is actually quite simple. A "yes" vote means greater fairness in the Tax Code and more tax relief for American workers, families, and children. A "no" vote stops that relief from moving forward and hurts the very people I know many of my colleagues eagerly want to assist.

I urge my colleagues to join me in voting "yes" on the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while this bill purports to give low-income people a tax break, it also gives Members of Congress a tax break. We see that there is an additional tax break for people who earn $150,000 a year. Who earns $150,000 a year? Members of the United States Congress. It is very generous of them in the majority to do that.

Mr. Speaker, let us be clear about what is at stake on the House floor today. At the conclusion of this debate, there will be an important procedural vote known as the previous question. If we defeat it, then the child tax credit bill and the Armed Forces tax assistance bill can become law tomorrow, and military and working families will get immediate relief. Those two bills are here, at the Speaker's table, already passed by the Senate and ready to be signed by the President, but only if Republicans will stand up to their leadership. On the other hand, if Republicans vote for the previous question, then those bills will not become law anytime soon, if at all, and millions of military and working families will not receive immediate tax relief.

To quote President Kennedy: "To govern is to choose." When Republicans vote on the previous question today, Americans will know whether they choose tax relief for working and military families or party loyalty to the House Republican leadership that is blocking it.

Mr. Speaker, since George W. Bush took office, Republicans have successfully enacted their economic plan. It consists of not just one, but two budget-busting tax giveaways for the richest few. I call these bills part I and part II of the Bush Pioneers Enrichment Act because they shower expensive tax breaks on the wealthiest few, people like that small, elite group of rich Bush Pioneers who funded the 2000 Bush campaign.

But where is the country after these Republican tax giveaways? Some 3 million Americans have lost their jobs. And just today the nonpartisan Congressional Budget Office increased this year's deficit projection to $400 billion, the largest single-year deficit in this Nation's history. All in all, Americans are still suffering from the second Bush recession and the third Republican recession in the last 20 years. So I suspect that we will hear a lot of clever Republican rhetoric today. We will hear them swear that this latest Republican tax bill will finally boost the economy. They will claim that they are simply trying to improve on the bipartisan bill which the Senate passed overwhelmingly last week. But as John Adams once said, Mr. Speaker, facts are stubborn things. Even poll-tested Republican rhetoric cannot change those facts.

And the facts today are straightforward. House Republicans are the sole remaining obstacle to immediate tax relief for millions of working and military families who pay taxes. Unless House Republicans stand up to the Republican leadership today, then the families of 12 million children, 1 million of whom live in military families, will not get the immediate tax relief they need and they deserve.

Here is why, Mr. Speaker. When Republicans wrote part II of the Pioneers Enrichment Act last month, they denied the child tax credit to these hardworking, tax-paying families. The reason was simple: so that they could spend even more on tax breaks for the wealthiest few. As a result, millionaires got a tax break of $93,500, which is just shy of the $100,000 in campaign contributions necessary to qualify as a Bush Pioneer, while millions of military and working families got stiffed. Republicans gave $100,000 in tax breaks to those making $1 million a year, but they call it welfare when Democrats try to give $150 in tax relief to the military families who need it most to feed and clothe their children. This is shameful, Mr. Speaker. And if Republicans are not ashamed, then I am ashamed for them.

Fortunately, the Senate has overwhelmingly passed a bipartisan, fiscally responsible bill to fix this one especially shameful feature of the Bush Pioneers Enrichment Act. And the White House says the President wants to sign it immediately. But many Republicans do not believe these working and military families deserve immediate tax relief, despite the fact that they work hard and pay taxes. So the Republican leadership is using their power to stop the full House from voting on the bipartisan Senate-passed bill which could become law tomorrow.

Specifically, they have brought up their plan as a motion to concur in the Senate amendments with a House amendment, a very boring title. In plain English, that means they are using a parliamentary maneuver to rig the rules to prevent Democrats from offering an alternative, or the motion to recommit that is guaranteed in the House rules. The Republican leadership's rule is so restrictive that it does not allow the House any general debate on the Republicans' $82 billion tax plan. But make no mistake, the Republican leadership's actions on the House floor today will have a very real consequence.

Simply put, they are holding hostage immediate tax relief for 6.5 million working families. They are using this bill to give high-income families a new tax break that is worth nearly six times as much as the tax credit for low-income families. They are taking a $3.5 billion problem that they created and they are using it to spend $82 billion of the Social Security trust fund to drive America even deeper into debt, raising the debt tax on all Americans. All of this, Mr. Speaker, means that this spendthrift House Republican plan will not pass the Senate and everybody knows it. Let me say that again. What we are voting on today will not pass the Senate and everyone knows it. So this is a meaningless gesture that will simply delay for days and weeks and maybe even months the tax relief that the Republicans claim that they want to offer to working families. If the Republican leadership wins today, then millions of working and military families will lose because they will not get the immediate tax relief that they desperately need.

As a result, there is just one question on the floor today: Do you want to give to military and working families at least a fraction of the tax cuts that Republicans have given the millionaires, the Bush Pioneers and others of the wealthy? If the answer is "no," then proudly explain why these hardworking, tax-paying families do not deserve tax relief. But if the answer is "yes," then there is only one way to do it. Stand up to the House Republican leadership and vote against the previous question. If we defeat the previous question, then I will offer an amendment to the rule to allow the House to pass both the bipartisan child tax credit bill and the Armed Forces tax fairness bill, both of which are here at the Speaker's table and both of which have already passed the Senate.

As I said before, Mr. Speaker, those are the facts; and that is the choice House Republicans face today.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

In listening to the ranking member's remarks, I would first say, to my recollection of the law, no Member of Congress would be eligible for this program. Number two, I want at least the voters of my district and the people of New York to know that while we have listened to class warfare and tax cuts, I know those New Yorkers that make $100,000 in their income, or even as much as $150,000, if you are a fireman or you are a cop, you are a teacher, you are a salesman and work in a store, I know you are not rich. I know you are middle America. And I know that as we look at fair tax relief, it is not just helping the poor or the class warfare message of the rich. We are trying to make sure we take care of the middle class, and we know that $150,000 combined income could be a middle-class income.

Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, it is always interesting to hear the rhetoric of some of my friends on the other side of the aisle. Let me tell you something. Here is the news. The All-American Tax Relief Act provides immediate tax relief for working families and for our military. Immediate tax relief. It does it in a number of ways. A tremendous benefit to working and military families. In fact, not only do we recognize that we increase the child tax credit in the legislation the President signed a few weeks ago from $500 to $1,000 but we extend that through the end of the decade. Our friends on the other side of the aisle would like to see it sunset in a couple of years and drop back to $700.

I would also note that we eliminate the marriage tax penalty in the child tax credit. One of the great successes of the Republican majority is we have targeted and worked to eliminate the marriage tax penalty; but in the child tax credit, it still exists. If you make $75,000 as a single person, you can claim the full child tax credit. But you can only claim the full child tax credit as a married couple if you make up to $110,000. That is not right. Those who are joint filers, men and women who happen to be married who are both in the workforce, if you want to eliminate the marriage tax penalty and treat them equally and fairly, you should allow a married couple to earn twice as much as a single and still be able to qualify for that credit without being punished for being married. That is why we raise the eligibility level to $150,000. It is a single 75, and then we double it for a married couple to 150. That is policeman and a teacher in the south suburbs of Chicago. Some would say they do not deserve that child tax credit, but they have earned it and we, of course, want to assure that we will bring fairness by eliminating the marriage tax penalty.

We also accelerate the increase in the refundable tax credit, a point that my Democratic friends say we need to do. What they omit is it is already law. All this legislation does is move it up to this year. That acceleration for low-income families was to be phased in over the next couple of years. We make it effective immediately, this year. Not only do we accelerate the increase in the refundable child tax credit but we bring up an issue which is so important. Remember the men and women who went to Iraq? Remember those men and women who fought so valiantly and liberated the 28 million people who were oppressed under Saddam Hussein? This House passed tax relief specifically targeted to help them. Unfortunately, that has yet to become law. We on the Republican side of the aisle feel it is time to take care of those military men and women who fought in Iraq and that is why we combine this child tax credit with the legislation which provides tax relief and enhances tax fairness for members of our United States Armed Forces.

Ladies and gentlemen, this is legislation that deserves bipartisan support. I ask for that kind of vote.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. TAYLOR), one of the most conservative Members on the Democratic side.

Mr. TAYLOR of Mississippi. Mr. Speaker, I cannot begin to say how hypocritical I think it is that a bill that purports to be for tax relief for children would burden our children with $80 billion worth of new debt to solve a $3 billion problem. There is a lot of inconsistency and, of course, there is a much stronger word than that.

On March 17, 1994, I believe it was right there, then-Member Hastert stood on this floor and said clearly, "Until our monstrous $4.3 trillion Federal debt is eliminated, interest payments will continue to eat away at the important initiatives which the government must fund.

□ 1545

I will not stand by and watch Congress recklessly squander the future of our children and grandchildren." That was Speaker HASTERT.

The same day he said, "In light of Congress' exhibited inability to control spending and vote for fiscal responsibility, it is imperative that we have a balanced budget amendment to compel Congress to end its siege on our financial future."

The Speaker has now been Speaker for 1,622 days and has yet to have scheduled a vote on a balanced budget amendment. But I can tell you what happened in the 2 years and 3 weeks since the passage of the Bush budget spending increases and the Bush budget deficit decreases. We are now $914 billion dollars deeper in debt.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Texas.

Mr. STENHOLM. Under House rules, I would like to have our colleagues help us. How much debt did the gentleman say we have accumulated since the budget first passed on May 9? Is it $914?

Mr. TAYLOR of Mississippi. Mr. Speaker, reclaiming my time, no, under Speaker HASTERT's tutelage for the past 2 years, we have added not $914 dollars of debt. In fact, under the rules of the House, I am going to ask my colleagues to step to their right, because we are going to need four more of our colleagues to come forward.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman will suspend.

The Chair notices that we have a number of Members entering the well. The Chair has responsibility under clause 2 of rule I to preserve proper decorum in the proceedings of the House, and the Chair is constrained to distinguish between an exhibit, which a Member may employ for the edification of his colleagues, and an exhibition.

Although a Member may supplement ordinary oratory with a visual aid, he may not stage an exhibition, nor should other Members traffic the well.

PARLIAMENTARY INQUIRIES

Mr. FROST. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FROST. Mr. Speaker, what rule are you stating?

The SPEAKER pro tempore. Clause 2 of rule I.

Mr. FROST. Mr. Speaker, would the Chair be kind enough to read the provision, because I have never heard of this ruling given from the Chair before. I would be very grateful if the Chair could read it to the House.

The SPEAKER pro tempore. To the knowledge of the Chair, we have not had an exhibition such as this before.

Mr. FROST. Do we have the rules book handy?

The SPEAKER pro tempore. The relevant provision is, "The Speaker shall preserve order and decorum and, in the case of disturbance or disorderly conduct in the galleries or in the lobby, may cause the same to be cleared."

The Chair has ruled that while an exhibit is quite acceptable, an exhibition such as being conducted at the current time is in violation of the rules, in the opinion of the Chair.

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a parliamentary inquiry.

Mr. FROST. Mr. Speaker, further parliamentary inquiry.

The SPEAKER pro tempore. The gentlemen will suspend.

The Chair also would observe that while one Member is addressing the House, other Members should not traffic the well, as is happening.

Mr. FROST. Mr. Speaker, I just want to be clear. So what the gentleman is saying is the Members who are standing in the well right now——

The SPEAKER pro tempore. Who are trafficking the well.

Mr. FROST. The ones who are in the well with 914878724867, they are out of order for advising the country what the size of the debt is?

The SPEAKER pro tempore. In the opinion of the Chair, it has a tendency to impair the decorum of the House.

Mr. HOYER. Mr. Speaker, I have a parliamentary observation.

The SPEAKER pro tempore. Does the gentleman from Mississippi (Mr. TAYLOR) yield for a parliamentary inquiry?

Mr. TAYLOR of Mississippi. Well, you have not recognized me for mine, so I might as well.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. HOYER. Mr. Speaker, I would make a parliamentary observation. If we keep raising the debt as fast as we are raising it——

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry.

Mr. HOYER. Well, I am, because it will be a moot point, because there will not be enough room in the Chamber to make the display.

Mr. FROST. Mr. Speaker, further parliamentary inquiry. I have to ask, because I am a little confused, I will not refer directly to the Members at this point, but I am confused, Mr. Speaker, because the rule, I have my rule book, it says, "The Speaker shall preserve order and decorum, and in the case of disturbances or disorderly conduct in the galleries or in the lobby, may cause the same to be cleared."

This seems to relate to decorum in the galleries or in the lobby. I do not read the rule to relate to matters on the floor of the House.

The SPEAKER pro tempore. Clause 2 of rule I applies to the proceedings of the House.

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TAYLOR of Mississippi. Mr. Speaker, if an elected Representative of the people of the United States, who represents about 700,000 American citizens, wishes to make his colleagues aware of the growth of the national debt in just 2 years and 2 weeks, without creating——

The SPEAKER pro tempore. Is the gentleman stating a parliamentary inquiry or engaging in debate? The Chair is open to parliamentary inquiry.

Mr. TAYLOR of Mississippi. I am continuing, sir.

The SPEAKER pro tempore. Proceed.

Mr. TAYLOR of Mississippi. And if 16 of his colleagues, also elected, wished to make the Chair aware, in a very orderly manner, and to make our colleagues aware of the growth of the debt in a very orderly manner, I would like you to cite which section of the House rules, which, by the way you waive on a daily basis at your discretion, are being violated?

The SPEAKER pro tempore. The Chair would state that a Member may use an exhibit when that Member is under recognition, but other Members, who are not under recognition, may not separately display exhibits.

The Chair at this point would ask that the Members clear the well.

Mr. TAYLOR of Mississippi. Mr. Speaker, I wish to continue at this time. How much time do I have remaining, sir?

The SPEAKER pro tempore. The gentleman from Mississippi has 45 seconds remaining.

Mr. TAYLOR of Mississippi. Mr. Speaker, I would like to speak with deep regret at the continued efforts of the majority to hide from the American people the true nature of the deficit that they have employed; that they have increased more debt in 2 years than in the first 200 years of our Nation. Their answer to that debt is $80 billion of more debt.

I do not think you should dare call yourself fiscal conservatives. I think what you should call yourself are the seeds of destruction for the greatest Nation this world has ever known.

Mr. REYNOLDS. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, following that fascinating display, I would like to rise and indicate that as the economic downturn began during the last 2 quarters of 2000, we worked very hard to ensure that we could put into place policies that will encourage economic growth that will once again get us back on the path of a balanced budget.

Now, we all know that the challenges with which we have had to deal stem from not only the economic downturn that began during the last 2 quarters of the year 2000, but also September 11, the war with Iraq, and I am proud that we were able to stand together in a bipartisan way, Democrats and Republicans, to stand up to the threat of international terrorism and the repression that Saddam Hussein was imposing.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to my dear friend, the gentleman from Georgia, a member of the Committee on Appropriations.

Mr. KINGSTON. Mr. Speaker, is it not true that the Democrats did not pass a budget last year, and during the period of time after 9/11 when we were trying to fund the troops and the war on terrorism, homeland and internationally, that the Democrats on the Committee on Appropriations, bill after bill, insisted on more spending, and in fact offered amendments on every appropriations subcommittee to increase spending; and now they are coming out here as fiscal conservatives. It seems there is a little tap dance going on that is difficult to follow.

Mr. DREIER. Mr. Speaker, reclaiming my time, it is fascinating. I know when the gentleman from Texas (Mr. FROST) yielded to the gentleman from Mississippi (Mr. TAYLOR) he talked about the fact that he is one of the most conservative Democrats in the House. But clearly if you look at the pattern that we have gone through for decades and decades, it clearly has not been Democrats who have stood forward as the great champions of fiscal responsibility. It is wonderful to see them join us now as we work towards encouraging economic growth so that we can get back onto this course of balancing the budget.

I would like to take just a few moments, if I might, Mr. Speaker, to talk about some substantive issues here.

My friend the gentleman from Dallas (Mr. FROST), the ranking minority member of our Committee on Rules, has talked about the fact that he knows exactly what the other body is going to do. I do not. I do not know what the Senate is going to do.

But I do know this: We passed $726 billion in tax cuts with the budget that we put into place, and we know that action was taken over in the other body that imposed a limit of $350 billion. But I think it is wrong for the United States House of Representatives, the people's House, the one that has every Representative here on behalf of the between 600,000 and 700,000 Americans, simply kowtow to action over there.

I think we have a responsibility to do everything that we can to take action, and let me say that I believe we need to do everything that we can to stand up for what it was that we did in our budget, to try and ensure that the American people can keep more of their own hard-earned dollars and to put into place tax policies which will encourage economic growth. That is exactly what we are doing here today.

Now, we heard in our Committee on Rules yesterday and we have heard here on the floor that somehow the President of the United States has made a determination as to exactly what he wants to do.

I have here, Mr. Speaker, a copy of the Statement of Administration Policy. That is the statement of the President of the United States. Contrary to some of the arguments put forward by my Democratic colleagues, this is what the statement of administration policy says:

"The Administration supports passage of H.R. 1308, the All-American Tax Relief Act of 2003, and urges the House and Senate to quickly resolve their differences."

The administration understands the bicameral process that takes place here. For some reason, our colleagues on the other side of the aisle want to just buckle under, and not realize that we can do even better than what was done in the other body.

That is what we are striving to do. We are striving to get this economy growing. We have already seen very positive signs from what has taken place with passage of the Jobs and Growth Act. We have seen positive signs with the Dow above 9200. That has taken place since we have passed this legislation.

We have indicators out there that we can get this thing growing to the point where we will be able to generate the revenue that we need to deal with the very important prescription drug program, which we are working on right now as part of Medicare reform, education priorities, transportation issues which we were addressing earlier.

This measure today is a very important part of that, and, Mr. Speaker, I urge my colleagues to support this package.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. SCOTT), one of our very respected new members.

Mr. SCOTT of Georgia. Mr. Speaker, I am one of the few Democrats that joined my colleagues on the other side to vote for the President's tax cut on the last time, largely because my voters in Georgia felt it would be good for them if we were able to get some badly needed dollars back to our State.

But this is a different story, and I think we ought to recognize why the American people have us here in the first place at this time.

□ 1600

It is not to come back for another tax cut. It is to address an omission, a very serious omission from the first tax cut, and that is to correct that by bringing a clean, crisp bill that pointedly addresses bringing the child tax credit to those working families at the lower-income levels. That is what we are about to do here. I think it is a sham.

Unfortunately, I think it is disrespectful for our Republican friends to do this, and they know full well that what they are doing with this measure is nothing but to delay and certainly, quite possibly, kill any tax credit. That is why I come and urge all of my colleagues to vote against this rule. Let us follow President Bush's lead. Let us get a clean-cut bill; and let us pass it so that he can sign it this weekend and give the Nation's families and poor people an opportunity to have an outstanding Father's Day gift.

I come down here as one of the few Democrats who voted for the President's tax cut because it was a good plan for my Georgia constituents, but it has one problem. It did not provide child tax credits for many working families.

Fortunately, this is an easy problem to fix. The Senate overwhelmingly passed a clean child tax credit which the President has said that he would sign into law. If we passed the Senate child tax credit, it could be on the President's desk before this weekend. President Bush is right about this. He's asked us to pass the Senate Bill with just the 10 billion for the child tax credit for lower income families, so we can get the checks in the mail immediately. By next month at the same time higher income Americans get theirs.

The Republican measure now before us will not do that. It will only guarantee that working families would not get child tax credits anytime soon if at all. By tying on the 82 billion additional tax cuts we would guarantee that the Senate would reject the bill. This is a sham.

Let's vote against this rule so that we can get a clean child tax credit before us today. You would then have my vote and an overwhelming majority of the House and a certain signature by President Bush.

I stand with President Bush on this. Let's stand together and do the right thing, pass a clean child tax credit and help working families immediately. Get it to President Bush so he can sign it, give our nation's working families in lower brackets the relief they need and a wonderful Father's Day gift this weekend.

Let's treat the lower income working families with the respect they deserve. Give them the tax credit immediately—now.

Mr. REYNOLDS. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to say, first of all, this door is wide open on the Republican side of the House. If the Democrats want to join us in holding the line on appropriations spending, we welcome you. If you want to join us in cracking down on waste, fraud, and abuse in government, we welcome you. If you want to join us in eliminating some duplication in government programs, we welcome you. And I hope that the Blue Dogs will work with us and anybody else over there who will.

On this issue, which is one of expanding welfare, we are trying to work with you. You know you voted against welfare reform, and you know it worked. There were 14 million people on welfare when we passed welfare reform. President Clinton signed it. So we can claim bipartisanship, even though the majority of the House Democrats voted against it. Welfare reform has been a success. Nine million people are not on welfare that used to be on welfare.

Now we still have 5 million; that is too many people. It may be your way of giving them an additional benefit, and maybe this is a good idea. It is not a tax rebate because you do not get a rebate on a tax that you do not pay. I know a lot of my colleagues will say, well, they do pay sales tax and so forth; that is true, but that is disingenuous on your part. As my colleagues know, we are talking about income taxes, and those folks do not pay income taxes.

Now, that being the case, and I will yield to my friend from Texas; that being the case, let me say this. There is a guy out there, as the gentleman from Illinois (Mr. WELLER) said, he is a policeman, his wife is a teacher. He shops at Wal-Mart for Christmas. He goes to Home Depot on Saturdays to pick up a hammer and some two-by-fours to do a little home repair. When his car needs tires, he goes out and gets three different quotes for them. He owes on his house. He owes on one of his cars. The other car is paid for because it is 8 years old. He scrimps, he saves to get his kids into college. His son goes off to war. They are the first in standing up for the country.

It is very difficult for that guy to get any tax credit because he falls through the cracks in this country. The combined income is $125,000. This gives him eligibility for that $1,000 tax credit. And I am a believer that the more money we put in his pocket, the more money he is going to spend on the economy. When he spends, small businesses expand. When they expand, more jobs are created, more jobs are created, and less people are on public assistance, more people go to work, more people are paying into the system rather than taking out of it. I believe that tax reductions actually increase revenues. They are good for jobs; they are good for the economy. That is why I am going to support this.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. Mr. Speaker, if I have time remaining for my friend, the gentleman from Texas (Mr. STENHOLM), I yield.

Mr. STENHOLM. Mr. Speaker, you look at this chart, the bill we have before us today; this is the problem you are fixing. This is the interest.

The SPEAKER pro tempore (Mr. GILLMOR). The time of the gentleman from Georgia (Mr. KINGSTON) has expired.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, as the majority leader said just the other day, "Well, well, well."

Mr. Speaker, the majority does not want to be here today. They do not want to talk about the child tax credit. They wanted this whole issue to simply disappear. To many on the other side, as we have already heard, the child tax credit is just another form of welfare. If it were up to them, they would be cutting Ken Lay's taxes, again, instead of giving a soldier in Iraq who makes only $16,000 a year a small tax credit.

But we on this side of the aisle and the American people refuse to let this issue go. And I do not know whether it is shame or exasperation, but the other side has finally agreed to discuss the child tax credit. Well, sort of.

The sensible, responsible thing to do would be to bring up and pass a very good bill that passed the Senate last week by a bipartisan vote of 94 to 2, a bill that is fully paid for with offsets. But the Republican leadership rarely misses the opportunity to be insensible and irresponsible. That leadership knows very well that the Senate-passed bill would become law in a snap, because Members on both sides of the aisle would vote for it, and even the President supports it.

Instead, the majority leader and the gentleman from California (Mr. THOMAS) have brought us a bill that costs $82 billion. And, get this: there are no offsets. It is not paid for. The Republican leadership simply wants to saddle our children and our grandchildren with ever-increasing debt. How do they justify that?

If this bill stands as it is, it will help bankrupt our children, including the 12 million low- and moderate-income children the Republicans first ignored by deleting the child tax credit from the last tax bill. They are so ashamed of their strategy that not one Republican came to the Committee on Rules to testify on behalf of this $82 billion bill. Not one Republican.

They refuse to allow us to vote on the Senate-passed bill, a bill that passed 94 to 2. This process is undemocratic, it is irresponsible, it is outrageous; and it ought to be stopped.

Mr. Speaker, I urge my Republican colleagues to put a stop to this. Do the right thing. Do the right thing. Let us vote on a sensible, bipartisan child tax credit. Vote "no" on the previous question.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. BACHUS), my friend.

Mr. BACHUS. Mr. Speaker, whatever we do here today, let us be honest with the American people. Now, the gentleman from Massachusetts kept talking about the child tax credit. It is not a tax refund; it is not a tax credit. If we are going to do it, let us call it what it is, and it is welfare.

When you get back money you have paid in, when we give the American people money they have paid in, that is a tax refund. That is a tax credit. When we take money away from some American taxpayers and we give it to someone else, that is not a tax credit. That is not a refund. That is welfare. And that is what you have proposed to do. If an American pays in $1,500 and we give them back $4,000, that $2,500 is not a refund; it is not a credit. It is someone else's money. And if we want to turn our Tax Code into a welfare system, let us be honest with the American people that that is what we are doing. That is what we are doing.

Why represent this as a credit? Where is the credit? You pay in $1,500, you get back $3,000; $1,500 is a credit, but the other $1,500 is someone else's money.

Today, of 100 American families, 50 of them paid 96.1 percent of the taxes before the last tax cut, and in the last tax cut, we gave Americans back their own money. And what the Democrats have proposed is taking Americans' money, your money, America, and we are giving it to someone else, and that is not a tax credit. That is welfare. Let us be honest with the American people. We are turning our Tax Code into a welfare system. And if we want to do that, let us call it what it is. Let us have a little truth in labeling. We are requiring 86 percent of the American people to pay their tax dollars to someone else, and that is welfare.

Mr. FROST. Mr. Speaker, I do not have any additional time, but I wish I had time to question the last speaker.

Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, in 1 minute I want to tell you why this bill, compared to the Senate bill, taxes could be raised, could be raised on enlisted men and women serving in Iraq by as much as $1,000 per child. It is a fact, a shocking fact about this bill.

Let us take an E6, a sergeant, making $29,000. You have to make more than $10,500 in order to qualify for the child tax credit. That leaves him if he is state-side $18,500 times the 15 percent, two child tax credits for his two children.

But let us assume now he goes to Iraq and let us assume he stays 8 months. That means $18,500 of his income, because he is in a combat zone, will not be subject to taxation. It is not taxable income. Therefore, his taxable income is only $9,500. What happens? By going to Iraq, by serving his country for 8 months in a combat zone, his family loses both of the child tax credits.

This is not necessary. The Senate bill worked it out. It was deliberately deleted from the Senate bill, for what reasons I would certainly like the other side to explain.

Let me tell my colleagues one other thing. At this desk is a military tax fairness bill passed by the other body. If we really want to do something for the military, call it up. Because in every respect, the bill at the desk is more liberal, more beneficial to our service men and women. I hope you will answer the charges I have just made, rather than supporting the provisions included in this bill. This is an outrage.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, to hear the Republicans tell it, you might think that they were bringing this bill to the floor to extend the child tax credit to the families of 12 million children. One might think that they believe that 6.5 million families, including more than 200,000 military families, deserve the child tax credit.

Where were they when they stole, when the Republicans stole the child tax credit in the dead of night from these hard-working families? For that matter, where were they when I offered an amendment back in March in the Committee on the Budget to extend this credit to those families and they all voted "no," families who earn between $10,500 and $26,625. Yes, they pay taxes: payroll taxes, sales taxes, property taxes, excise taxes. Where was the compassion from my Republican colleagues when these families needed them? It was the Republican majority leader not 2 days ago who said he had more important things to do.

I will tell my colleagues where that compassion was. It was with Enron and all of the corporations who avoid paying taxes by relocating overseas and taking American jobs with them. You want to talk about welfare? That is welfare on a grand scale. Enron paid no taxes the last 4 out of 5 years, a disgrace; and they just ate away and took away people's pensions, and nobody in this House on the other side of the aisle is willing to do anything about that.

Now the Republicans hold hostage responsible legislation, overwhelmingly passed in the other body 94 to 2. And why? Because they want to use these families as a bargaining chip in their endless, endless quest to cut taxes for only the wealthiest Americans, driving our country deeper and deeper in debt.

Let us consider the other body's legislation. The White House wants to do it. Today the Republicans bring to the floor this irresponsible $82 billion bill. It is cynical, and it is designed to fail in the other body and to prevent these families from receiving the tax relief that they need. And to see more cynicism about this, most families are going to receive their tax credit on July 1.

Mr. Speaker, these families, these families, military families as well, have got to claim the tax credit next April. They cannot get it now when everyone else is going to. They do not deserve this. They are hard-working. They pay taxes. Let us give them a chance. Pass an honest child tax credit bill.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Sometimes we get lost here a little bit about the result of the 2003 tax cuts. In 2003, 91 million taxpayers will receive on average a tax cut of $1,126 under the Jobs and Growth Act of 2003. Sixty-eight million women will see their taxes decline on average by $1,338. Forty-five million married couples will receive an average tax cut of $1,786. Thirty-four million families with children will benefit from an average tax cut of $1,549, and 6 million single women with children will receive an average tax cut of $558. Twelve million elderly taxpayers will receive an average tax cut of $1,401. Twenty-three million small business owners will receive tax cuts averaging $2,209, and 3 million individuals and families will have their income tax liability completely eliminated by this act.

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Now, today, we are going to do even more, because unlike some of the debate here, let us not kid ourselves, the other body sent a bill that does something for us from now until next election. That is 2004. That is when the child tax credit ends.

This bill today, when we vote it up or down, it is going to go to 2010. A $1,000 child tax credit is scheduled to sunset in 2005. It will gradually increase back to $1,000 in 2010. In this bill, it puts it up right up front, now to 2010, a $1,000 tax credit. It eliminates the marriage penalty on the child credit. It accelerates the increase to the refundable child credit. It provides tax relief and enhances tax fairness for members of the Armed Forces. It suspends the tax-exempt status of designated terrorist organizations. It provides tax relief for astronauts who die in space missions.

We are getting the job done, Mr. Speaker. America knows it.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), the distinguished ranking member.

Mr. RANGEL. Mr. Speaker, we should thank the heavens that we have got such an honest person like the gentleman from Texas (Mr. DELAY). They do not make people like that anymore.

The gentleman from Georgia who spoke so eloquently about the welfare bill that we are talking about today, and those who made these nasty, disparaging remarks and left the floor, this is honesty. This is the United States of America.

I wondered why, why would these good people, albeit Republicans, why would they drop a provision that only costs $3.5 billion that would help 12 million kids and 6.5 million working families? It is because in their minds if one is not an investor, one is on welfare.

Do we get where they are finally coming from? Have Members listened to the debate? They said refundable tax credits. That is not a tax credit. You can work every day, you can pay Social Security taxes, you can pay Medicare, you can raise your family, you can join the Army, you can fight in Iraq. But guess what, look into the Republican book and see how you are listed. As a hardworking American, as a mother and father concerned about their children, someone struggling every day to make ends meet, to pay the rent, to pay the mortgage, to pay the tuition? No. Look under welfare.

Then, of course, if we really want to find out who they think deserves tax relief, look at the hardworking people who get their dividends every day while they are at the clubhouse. Look at those that clip the coupons. These are the people, as they would say, who pay taxes; and they are the ones who get relief.

But when they said that they will never, never, never give welfare to these families, the President of the United States said, enough is enough. We got a bipartisan agreement. True, it is $10 billion. Swallow it, go home. But they said, no, no. No welfare.

Let us give them an offer that they have to refuse. For $3.5 billion, they are asking this hardworking family to pay back, for this, $82 billion. I do not know how this would work, whether the family gets $100 a year. But I do know one thing, that this deficit that they keep building on day after day, month after month, and the gentleman from Texas (Mr. DELAY) said they will be coming back, but each time they borrow money to give tax cuts to the coupon-clippers and those who get the dividends, they are asking the kids and the grandkids that we are trying to help today to pay for it. But $82 billion for $3.5 billion? That is so shameful.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman and I were not here when some of the tax-and-spend left kept spending us through an oblivion of deficits. We were here after 9–11 when we faced terrible tragedy in our country which has caused us to address the war on terrorism, to rebuild our cities, to address some of the complications of an economy that has slowed down.

I do not mind that the debate that America hears is whether we have a bigger central government that spends more of their money on programs that the government figures out; or whether the economy began moving because middle America and the poor of America had more money in their pockets to make their decisions what they wanted to do with that money, whether they wanted to pay off a consumer loan, whether they wanted to pay tuition, whether they wanted to use it just to help have some opportunity for their child, their mother, or father.

The decision that voters are going to make down the road is whether they want a smaller government that allows people to make more decisions on their hard-earned money, money out of their pocket; or whether they need more money in the downtown central government in Washington, D.C., or some government bureaucrat trying to figure out some way to help them out.

I am going to tell the Members, we have started on a tax cut. I read earlier the millions of Americans who are going to benefit across the board. We are now in a situation where we are going to watch.

Some of my colleagues on the other side of the aisle had every nay and say about what is going to happen with the economy. I do not know, they do not know. But by 2004, in that fourth quarter, we are going to find out whether the economy of consumer goods began moving, confidence of investors began moving, and whether America started to see a resolve from a terrible tragedy of 9–11; to see, as the gentleman from California (Chairman DREIER) said, in the third and fourth quarters of 2000 when it slowed down, if it moved.

If it does move, there are going to be more Republicans on this side of the aisle; if it does not, maybe there will be a little less. But the conviction of the majority is, people have an opportunity and a right to have more money in their pockets for them to decide how to spend it, not Washington.

The only proven way to restrict government spending is to reduce revenues. Tightening the purse strings but providing much-needed tax relief is the only way to get money back in the hands of hardworking Americans and out of Washington.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, the rubber-stamp Congress is in session. Last night, they came up to the Committee on Rules. Nobody even bothered to come up and talk about the bill. They had an order from the President. Ari Fleischer said, the President says, pass it so he can sign it. So they had the little meeting up there and rifled it down here, with no hearings in the Committee on Ways and Means, not one single minute of debate in a hearing where we could listen to anybody give any opinion about what this bill does. But all of them came with their rubber stamps.

Let me tell the Members, if they go for what they put out there, the chairman has put out there, the President is going to be real mad, because the President does not like that bill. He likes the one that the Senate passed. So hold rubber stamps on the one for the gentleman from California (Mr. THOMAS) and save it for the one for the President.

All he asks Members to do is to approve; to say, I approve everything George Bush wants. That is what this Congress is about. They do not want any debate. They do not want to talk about how much this debt builds up or anything else; they simply want to be rubber stamps for the President. Boom.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I rise in strong opposition to this unfair and undemocratic rule and proposal.

Only in Washington would the Republican tax cuts just signed into law by the President come at the expense of working families.

Only in Washington would Republicans borrow money to pay for that Republican tax package while failing to include child care tax credits for the working families whose very children will be forced to pay for the Republicans' fiscal irresponsibility.

Only in Washington would the Republican tax package leave one in five children of active duty U.S. military families out from benefiting from the increased tax credit while their parents are off risking their lives in Iraq, Afghanistan, or elsewhere for their Nation.

Only in Washington would Republicans then propose an $82 billion tax bill, adding another $100 billion to the national debt to fix a $3.5 billion problem.

If we repeal every sunset in their tax bill, which is what we are beginning to do here, we will have $400 billion in annual deficits. That is not what we want to do to the very children we are trying to help in this bill.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, there are two bills at the desk. They are right next to the podium there, H.R. 1307 and H.R. 1308. They are right there. The question to the gentleman from New York (Mr. REYNOLDS) and his leadership is, why not take those two bills, pass them today, and have them signed by the President? That is the question.

Well, someone comes here, the gentleman from California (Mr. DREIER), and reads a statement from the President. Oh, but just a few days ago his spokesperson said, he, the President, believes what the Senate has done is the right thing to do, a good thing to do, and he wants to sign it. Instead, they want to do something else.

The gentleman from Texas (Mr. DELAY) has maybe made clear, he said, as mentioned earlier, that there are a lot of things more important to do. Then a little later he says, to me it is a little difficult to give tax relief to people who do not pay income tax, though they pay all other kinds of taxes. So what they are doing is a bill with a huge, huge addition to the deficit. Maybe they hope that they will kill this bill when it goes over to the Senate.

There is a kind of legislative machoism going on here: we are going to show the Senate, at the cost of the people of this country. They are making wimps out of some Republicans who would like to vote the right way by tying this into a rule. They are making the President issue a statement that contradicts what was said on his behalf just a few days ago. Most importantly of all, what they are saying once again is, deficits be damned. Pile them up. Pile them up. Pile them up.

What I say is take these bills, let us pass them today, and get on with our work for the children of the United States of America.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, only a week ago I do not think the gentleman was advocating any tax cuts. But I just want to remind our colleagues that are both here and throughout the offices that in fiscal year 2004, in the adopted budget resolution, language was included for the first time limiting the amount of revenue reductions in the Senate to a deficit impact of $350 billion.

The House articulated its clear reservations to this maneuver because all revenue measures must originate in the House; we retained our right to develop more measures to reduce the tax burden on the American people.

So the options for the Committee on Rules, they could, one, accept the Senate proposals as a whole imposing offset requirements; two, call up an entirely new House bill, starting the process anew, with likely substitutes, in essence dragging out the process that would take the ability to move, and I am not sure whether the gentleman knows for sure we have a quorum tomorrow; and, three, we could stipulate the House prerogative to provide tax relief with a comprehensive proposal that has broad policy support.

Why should the House impose offsets when our own budget made room for a proposal just like this, the one I have outlined that does so much for working families across the country?

Mr. Speaker, I reserve the balance of my time.

□ 1630

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, the gentleman from New York (Mr. REYNOLDS) talked about averages. Beware of averages.

If the gentleman from New York (Mr. REYNOLDS) gets $100,000 tax cut and I get a zero tax cut, that means the two of us got a $50,000 average tax cut. Beware of Republicans quoting average tax cuts.

The GOP's intransigence is on full display with the self-executing rule on this legislation to allow low-income working American families to benefit from the increase in the child tax credit.

Let there be no mistake: With this rule, the GOP leadership wants to send this legislation into conference committee where it hopes to tie up the bill and watch it die a slow death.

Two days ago, when the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS) unveiled the House GOP's fiscally irresponsible version of this bill, he had the audacity to say, "We are not in the business of politics, but rather policy."

Well, I ask, is the United States Senate playing politics with this issue?

That body passed a responsible bipartisan bill, 94 Senators voting for it, giving relief to 12 million children and 6.5 million families. I ask, is the President of the United States playing politics when he said he would sign the Senate bill and urged us to pass it? And the Democratic Caucus on this side of the aisle, every one of whom is prepared to vote for the bill that the President says he will sign that will give immediate relief to 12 million children and 6.5 million working families.

So we all know who is really playing politics on this issue. And it is not Senate Republicans, Senate Democrats, House Democrats, and President Bush who support the immediate passage of the Senate bill. It is the House Republicans who have proposed an irresponsible, $82 billion bill that is not paid for, that would drive us even deeper into debt and possibly prevent low-income working families from receiving this benefit.

I have said on this floor before, when you did not allow us to offer a substitute, that you did not have the courage of your convictions. I have said on this floor before when you did not allow us to offer amendments, that you did not have the courage of your convictions. Now, you not only do not allow us to offer a substitute, you do not allow us to offer amendments, you do not even have the courage to put your own bill on the floor.

The public probably does not understand that. This is a rule. Not the bill. We are not debating the bill. And, as a matter of fact, the committee whose jurisdiction has this bill is not even on the floor and they have not spoken on this bill. The leadership of the committee has not come forward and said that it is good bill. They have handled it on a procedural matter. Why? To muzzle us and to muzzle their folks who they do not rely on to vote on the substance of this bill, but hope and pray they will get enough of their people on the procedural end of this bill to carry the day. That is unfortunate.

Eighty-two billion dollars of deficit that Americans are going to have to pay for, my children are going to have to pay for, my grandchildren are going to have to pay for; and we do not even have the courage to put the bill on the floor, but this rule ruse is what we are confronted with.

Vote no on the previous question. Vote no on the bill.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not think there are any rubber stamps in that package.

Mr. Speaker, in this short time, it is 4:34, daylight, we will have an opportunity to have our colleagues come in, and they are going to vote yes and they will do a tax cut that varies on the All-American Tax Relief Act of 2003, or they will vote no and say all those press releases I put out last week wanting to move expeditiously on this, they do not really matter because now it is before us.

Well, it is here. And I must say both the chairman, the gentleman from California (Mr. THOMAS), and others from the Committee on Ways and Means and the Committee on Rules found a solution to meet what seemed to be Republican and Democrats wanting to expedite this bill. And so we took the House resolution with a Senate amendment. The Senate amendment we have disposed with, the House coming back quickly with the amendments to go to the other body. And it is going to be done today. It is not going to be done tomorrow. It is not going to be done next week. We have an opportunity to do it right now.

And while we are listening to all of this, some of them on procedure, I just want to remind the esteemed whip that I think we have been debating the merits of this bill for an hour; and some agree, some do not. Pretty soon we will put it up, 4:35, and take a look at how it ends. But I want to remind my colleagues that this bill, as amended, and sent back to the Senate will increase the child credit for $1,000 for an eligible child through 2010; not for some slick promise of 2003 and 2004, and then it slides back after the next election. It is straightforward, straight up, right until 2010. It eliminates the marriage penalty on child credit. It accelerates the increase in the refundable child credit. It provides tax relief and enhances tax fairness for members of the Armed Forces. It suspends the tax-exempt status of designated terrorist organizations and provides tax relief for astronauts who die on space missions.

Those pieces of legislation, as they were before us or the other body, have been dealt with in the last several months and years by this body or the other body. So when we get done here with this debate, we are going to have an opportunity, yes or no. If you vote yes, you are going to give America that tax cut. If not, you are going to find some way to wrangle out of it with a press release. But what I heard was everybody wanted to get underway and make this happen. The Committee on Ways and Means and the Committee on Rules is giving this honorable body that action today.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. SWEENEY). The Chair will inform Members that the gentleman from New York (Mr. REYNOLDS) has 3½ minutes remaining. The gentleman from Texas (Mr. FROST) has 4 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I would remind the gentleman from New York (Mr. REYNOLDS) here that I am a member of the Committee on Ways and Means, and we did not have any markup. We did not have any opportunity to debate this bill in committee.

We call it the All-American Tax Relief Act. It is red, white and blue. And you say to yourself, who could possibly object? I object. And I object on behalf of those 200,000 military families who are ineligible for this enhanced child tax credit, even though they served honorably in Iraq and Afghanistan and other combat zones. They apparently are not all-American enough to qualify for this bill. That provision is missing from the House All-American Tax Relief Act.

You might have noticed that the refundable tax credit has no revenue impact this year under the House bill but does so under the Senate bill. How could it be that the stars-and-stripes House bill provides no relief this year? That is because the all-American bill rejects the notion that low-income families deserve immediate relief as every other American family will get in the next 6 weeks.

Low-income families must wait for their checks until next year, and, of course, those serving in a combat zone, they can wait forever. Reject this bill. It is unpatriotic.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Speaker, one of our esteemed colleagues on the other side of the aisle is very fond of beginning his speeches by saying that nothing underscores more the difference between our two parties than whatever we are debating that day. And I happen to agree with him on this issue, Mr. Speaker.

I have only been here for 4 months, and I have heard a lot of debate in this Chamber, but I say this very candidly: My party would not have reached into the pockets of hardworking Americans to get to a $350 billion cutoff number. My party would not leave veterans out of a package that purports to help people. And my party would not have to depend on a procedural maneuver to get votes to pass a tax credit for working families.

There are very fundamental differences between our parties and they are very much on display today. I urge all of my colleagues in this Chamber to understand that the very people who are steamrolling this particular bill through this Chamber today in the form of a rule vowed to kill it just several days ago. That would be very powerful proof if we had a jury and we had a trial here.

The very people that are pushing this measure today vowed several days ago that it would not be.

Mr. REYNOLDS. Mr. Speaker, if the ranking member would consider, I have one speaker to close. And if he would like to close, then I will do that and yield to the majority leader. If he has more speakers, I will reserve the balance of my time.

Mr. FROST. Mr. Speaker, I have one speaker and then I will close.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me time and for the magnificent way that he has managed this rule today.

Little did we know when we were discussing this issue of an expansion of a tax credit for working families in our country and for the children of our military men and women, that it would be a bill that would be managed by the Committee on Rules. Little did we know that a bill of the magnitude of $82 billion would be something that would be unveiled on Tuesday night, not go to committee for review; when it went to the Committee on Rules yesterday, to not have the leadership, the author of the bill, present to defend it. And now we know why. Because they never intended to have a rule to bring the bill to the floor.

So frightened of debate on this issue are the Republicans, so frightened of the outcome that their own Members could not support this outrage that they are putting forth today, that they had to hide their ill will towards America's children behind a procedural vote to command the loyalty of the Republicans on a procedural vote while they knew they could not hold them on the substance of their bill. But that is the reality of it. And so we have to use the opportunities under this rule, as limited as it is, to point out what is so very, very wrong about what is going on on the floor of the House today.

Let us talk about the children. President Kennedy said that children are our greatest resources and our best hope for the future. A beautiful statement. One I am sure that we would all agree with. He did not say children of those making over a certain level of income in our country are our greatest resources, and if their parents do not serve in the military, they are our best hope for the future. But that is what this rule says today.

We had an opportunity in this body to expand the tax credit for children of working families and of military families by simply calling from the desk the Senate bill. It is right there at the desk. We could take it up by unanimous consent. The distinguished majority leader is here. We could agree to take it up by unanimous consent. It would be passed unanimously. It would be on the President's desk within the hour, signed into law, and all of the children that we are talking about, children of our men and women in uniform, children of families making between $10,000 and $26,000 would get the tax credit expansion this year.

No matter what the Republicans want to say about their proposal, it sabotages that good intention. There is no way with the proposal that they are putting forth, costing $82 billion unpaid for, indebting the same children they purport to care about, indebting those same children to the tune of $82 billion, granting with one hand but not granting to all children, and not granting this year but taking away with the other for a long time to come, burying our children in a mountain of debt heaped onto the debt incurred by their previous tax legislation, and depriving the children of the Federal initiatives to invest in their education, in their health, in their well-being, in their future, and in the future of our country.

The Republicans insist on doing this even though the opportunity that I said earlier exists. And why? One would have to suspect that they do not want to have a tax credit for the children of America's military and the children of working families between the income of $10,000 and $26,000, certainly not this year.

□ 1645

Even though we cannot take up a full consideration of the bill or, heaven forbid, a substitute to it, indeed even the Senate bill which passed 94 to 2, a bipartisan piece of legislation, approved by the President, even though we cannot do it and we cannot have that discussion, it is important to note several facts.

One is the families that we are talking about here, working full time, working full time, many of those families make in a year less than Members of Congress do in 1 month; and yet Members of Congress, their children will receive the expansion of the tax credit this year; but no, no, no, if you make $10,000 to $26,000, I am sorry, children, you are out of luck. The Republicans give new meaning to the biblical phrase, "Suffer little children."

The other point to make is about the military. In the military, it is important to note that combat pay does not count toward consideration of the children's tax credit. Under current law, and this is important to note, under current law an E–5 or an E–6 sergeant with 6 years of service and two children would not be entitled to the full tax credit if he is in combat. So the minute that sergeant went to Iraq, if he stayed there for 6 months, his combat pay would not count toward his income for tax purposes, and so his children would not receive the tax credit expansion. This is not corrected in the Republican bill. The Senate bill helps these military families. The House bill does not.

It is important also to know that this legislation really is suspected as one that would kill the expansion of the tax credit. The Senators have said that they will not support the package if it is not paid for. They certainly have made it clear that they are not going to add $82 billion, $82 billion to the deficit, to the debt.

The issue before the House is clear. We can pass a fiscally responsible tax credit bill that helps 12 million children, including 250,000 children from military families, or we can indebt them for future generations. We can invest in our children, or we can indebt them. That is the choice that the Republicans have put before us.

Mr. Speaker, when I referenced the comments of President Kennedy, it was with the hope that we would agree in a bipartisan way in this body that when we say children are our greatest resource and our best hope for the future, that we are talking about all of the children in our country. We all want the best for our children. Many of us are privileged. I have five children, five grandchildren. I want the best for them, but they cannot have the best opportunity unless every child in America has opportunity. The Senate bill would enable that. The House bill does not.

I urge my colleagues to vote "no" on the rule and, in doing so, to support the value that we place on our children as our messengers to a future we will never see but that we want them to take forward a message of respect for all children in our country.

Mr. FROST. Mr. Speaker, just to clarify, does the gentleman——

Mr. REYNOLDS. Mr. Speaker, am I to be recognized?

The SPEAKER pro tempore (Mr. SWEENEY). The gentleman from New York (Mr. REYNOLDS) has 3½ minutes remaining. The gentleman from Texas (Mr. FROST) has 1 minute remaining.

Mr. REYNOLDS. Mr. Speaker, I want to know if I can be recognized.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

As I listened here, I kind of got the same confusion of when I listened to some of my colleagues on the debate when we just did some tax relief not long ago. Class warfare, this is all for the rich. I reminded my colleagues that I come from kind of a small town in upstate New York, and the debate occurred with my colleague, the gentleman from New York (Mr. RANGEL) from Harlem, and the gentleman from Texas (Mr. FROST), the ranking member of the Committee on Rules from Grand Prairie. None of them are really rich communities, and I cited that the tax bill the House Republicans moved forward on the floor after the adoption of the rule and then later passed took a family of four to make 40,000 bucks in my district and took their tax relief from $1,785 they had to pay down to about $40. I think that is real tax relief. I do not think $40,000 is rich.

When I look at the legislation, I watch the press releases all over America say let us get on with it. We are on with it. Today we are either going to vote "yes," and I think it is going to be bipartisan, we are going to vote "yes" and send it to the Senate, or we are going to vote "no."

But I want to remind some of my colleagues when we get the light of day on this tax bill that was sent to us by the Senate there a couple of things we might have made an improvement on as House Republicans because my colleagues on the other side of the aisle might argue that the Republican tax relief plans rob Peter to pay Paul, in other words, tax cuts for the rich. However, the Senate proposed offsets, Customs user fee extensions. I would argue this is robbing Peter to pay Paul because if you are raising taxes on those who actually pay them in order to subsidize tax refunds for those who share in no income tax liability whatsoever, it is fiscally and fundamentally unsound.

The only proven way to restrict government spending is to reduce revenues. Tightening the purse strings by providing much needed tax relief is the only way to get money back to hardworking Americans, no matter how wealthy or poor they are. Get it out of Washington and back in the pockets of American taxpayers.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, Republicans face a choice. They can do the right thing by passing the Senate bill, giving 12 million children and their working families immediate tax relief, or they can do the wrong thing by continuing to explode the deficit with a bill that the other body will never accept.

I urge Members to do the right thing and vote "no" on the previous question. Do the right thing for working families. Do the right thing for military families. It is not hard. Just do the right thing. If the Republicans tried it, Mr. Speaker, they might find they actually liked it. Come on in, Democrats say, the water is just fine; the water is warm.

If the previous question is defeated, we will immediately take from the Speaker's table H.R. 1307 and H.R. 1308, the Senate-passed version of the Armed Forces Tax Fairness bill and the child tax credit. This House will pass them unanimously and send them to the President for his signature. This is it. No games, no delay. Just immediate tax relief for working and military families that is completely paid for.

Mr. Speaker, these bills are at the Speaker's table. What is the choice? Do Republicans want to pass the bills, or do they want to kill the bills? Will they ever choose the right thing? Democrats await their answers. Vote "no" on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

This vote is actually quite simple. A "yes" vote means greater fairness in the Tax Code and a mere tax relief for American workers families and children. A "no" vote stops that relief from moving forward and hurts the very people I know many of my colleagues eagerly want to assist.

I urge my colleagues to join me in voting "yes" on this resolution at the end of the debate.

Mr. Speaker, I am honored to yield 1 minute to the gentleman from Texas (Mr. DELAY), the distinguished majority leader.

Mr. DELAY. Mr. Speaker, this is a big one. This bill really crystallizes the differences between the two parties, and the American people should know exactly what is going on here today.

We are here to answer one question, do you support a $1,000 child tax credit, or do you not support it? This bill that we are debating here today provides $80 billion in tax relief and $77 billion of it extends the life of the child tax credit instead of cutting it off in 2004.

At the end of this vote, the American people will see that the Republican Party believes in helping families through the child tax credit and the Democrat Party does not. The record up to now is very clear. In 2001, a Republican Congress and a Republican President doubled the child tax credit to $1,000, and the Democrats voted "no." Just a few weeks ago, the President's jobs and growth package expanded the child tax credit and took 3 million low-income Americans off the tax roles altogether, and on[illegible]in, the Democrats voted "no."

Now our critics said it was [illegible] big. Then they turned right around and demanded that we make it bigger. You said working Americans needed additional tax relief, and you know what, the Republicans could not agree more with you.

Consider a single mother of two earning $20,000 a year. Under the Clinton tax hike of 1993, her total tax bill, including income tax, payroll tax, local taxes, State taxes and the sales tax was more than $800. Now, after the Bush tax relief of 2001, that same single mother's total tax bill shrunk to less than $100, and under the President's jobs and growth package we just passed, that same single mother's total tax bill is now zero, and in fact, she now gets additional money from the American people because of tax relief that the Republicans passed, and all along the Democrats voted "no."

Under the bill we pass today, not only will that same single mother pay no taxes, but she will get more than $400 in additional help from the American people; and yet if this debate is any indication at all, you will still vote "no."

Our critics talk a very good game, but this is their chance to put their money where their mouth is. I will ask again, are you for a $1,000 child tax credit, or are you against it?

This bill is real simple, Mr. Speaker. It extends the life of the child tax credit. It provides additional help for lower-income families, and it eliminates the marriage penalty. It includes, by the way, tax relief for military families, which you all have been calling for, and revokes the tax-exempt status of terrorist organizations.

Finally, it will provide tax relief for the families of astronauts who lose their lives in the service of their Nation in space like the Columbia 7. This is a pretty important point, especially for me. Members from Florida and Texas, whose constituents include astronauts and members of the NASA family, have a clear choice to make. Will they cast their votes with their courageous constituents or with the empty promises of the obstructionists? How can Members from Texas and Florida, how can any Member, oppose this piece of legislation?

In this bill, we have given our critics everything that they have said they wanted to help lower-income Americans, and now with the whole world watching and the credibility of the Democratic Party on the line, are you for a $1,000 child tax credit, or are you against it?

In just a few moments we will once again see which party stands up for the cameras and which party stands up for working families.

Ms. MCCARTHY of Missouri. Mr. Speaker, the issue today is fixing a mistake of the last round of tax cuts: the inherent bias of the Child Tax Credit. Although the Child Tax Credit was a great victory for the families of America, it was not perfect. It created an inequality between the poor and rich by excluding 6 million members of the working class from the tax breaks.

Recognizing this error, the Senate, with support of the President, passed a bill correcting this inequality. This bill extends the tax breaks to those 6 million previously left out, while also providing an effective way of paying for the breaks. It solves the problem facing us while also being fiscally responsible.

By accepting the Senate's bill, the House could get the legislation quickly on the President's desk, expediting financial aid to those who most need it. If only it was that easy. Instead of moving to accept this legislation, the House Leadership has seized this opportunity to further their cause of additional tax relief for the wealthy. They have taken this bill and manipulated it into a tax cut with an $82 billion price tag, which will further contribute to the exponential rise of our nation's debt. Additionally, in a rarely used political maneuver, they have attached this bill to a vote upon the rule governing consideration, not the measure itself.

I urge this House to stop these political games, defeat the rule and address equity in the Child Tax Credit by passing the measure agreed to by the Senate and President Bush.

Mr. BLUMENAUER. Mr. Speaker, it is appalling that a substantive vote on H.R. 1308 has been denied. The use of a self-executing rule has transformed the House action into a procedural vote guaranteeing its passage while denying any kind of fair fight on the spending of nearly $80 billion additional dollars.

The bill before us today says more about our long-term priorities than about helping the lower income families and children left out of the recently enacted tax cut. Apparently, based on the actions of the Republican leadership, there is not enough money for hard-working, low-income people, but there is money to help people who are much better off. The gist of the tax credit debate these last two weeks has been about the lesser tax credit offered to families that make between $10,500 and $26,625 per year. Providing these families with the same child tax credit as families making up to $110,000 per year would cost $3.5 billion.

Today, we are debating a bill with a price tag of $82 billion. This comes on the heels of new projections that our budget deficit this year will surpass $400 billion, far exceeding any other one year budget shortfall in history. Many economists are projecting a 2004 budget deficit on one half of a trillion dollars. The exploding deficit will, in this year alone, add about $16 billion in extra interest payments, which simply reduces funding available to other needed programs.

All the groups that care deeply about children and poor people are appalled by this bill, and will be left to hope that the Senate has the good sense to resist it. If this bill succeeds it will accelerate the pace of reauthorizing these proposals, eliminating the sunsets and making them permanent leading to even more dramatic budget shortages. These deficits will squeeze out funding for necessary programs and establish the principle that we are not going to help those that are struggling in this depressed economy.

The Republican leadership is spending 6 times as much to give the tax credit to the top 10 percent of the population as they are to extend the benefit to the modest income families they left out. For about the same cost as giving it to the most well off, they could extend coverage to those making as little as $7,500 per year. It's all about priorities.

I do not share these priorities. I only wish there would have been a chance to vote against their proposal.

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in strong opposition to H.R. 1308, the "Only If you Make Enough Money" All American Tax Relief Act of 2003.

In the Federalist Papers, Alexander Hamilton writes, "I know that powerful individuals, in this and in other States, are enemies to a general government in every possible shape." Perhaps Hamilton had the current Republican Caucus in mind when he issued this warning more than 225 years ago. Clearly, the bill that this body is considering today is an example of power, ignorance, and plain and simple greed.

When the President signed into law the most recent tax cut, he signed a flawed bill. It was flawed when it first passed the House and it was flawed when the Conference Report was approved. Honestly, Mr. Speaker, I'm not surprised. As in so many other instances, during the still of the night—when the majority of Americans had already gone to bed—House Republicans cut a deal with Senate Republicans and rushed to complete a tax cut requested by an over zealous President.

As America has had a chance to sift through the most recent tax cut, it has become clear that the Republican Majority passed a bill which neglects more than 12 million children who are growing up in low-income families and the ability for their parents to benefit from the expansion of the child tax credit. Even worse, when provided with an opportunity to fix what is wrong with the initial bill—in a non-controversial manner and at a relatively inexpensive cost—the Republican Majority has proven that it is more interested in scoring political points with the rich at the expense of America's children.

Now, I'd like to give the Majority the benefit of the doubt and believe that the exclusion of families making between $10,500 and $26,625 was a simple oversight. However, after examining the bill that the House is considering today, as well as the reluctance at which the Majority is bringing it to the floor, it is increasingly clear that the "oversight" Republicans made in the most recent tax bill was anything but an oversight. Instead, it was a concerted effort to avoid extending the credit to all families, rich and poor, to save offset room for an international business tax bill that the Majority Leader and Chairman of the Ways and Means Committee have each indicated is a priority.

Well, Mr. Speaker, I can think of no greater priority than helping America's children and neediest families. This bill does little of the sort.

The Majority may try and sell this bill to the American public as one that helps those who need it most, but the truth remains that the bill is filled with tax cuts that benefit the wealthy more than six times as much as they do the needy. This is a tax cut that further drives our country into debt and deficit spending, and it lacks even the slightest bit of fiscal responsibility.

Mr. Speaker, I've often been referred to as a "tax and spend liberal." Well, I'm liberal and I'm proud of it. Frankly, I don't mind spending our tax dollars on government programs that, one, help people, and two, can be paid for through honest fiscal policy and, to the extent possible, balanced budgets. On the contrary, perhaps it might be best to describe the Majority as a bunch of "cut and charge conservatives." The key difference between them and us is that Democrats pay up front for the government programs we support, whereas Republicans pay for their priorities on credit cards and leave the debt for future Democratic Majorities to pay off. This bill further runs up America's charge account for generations to come.

I urge my colleagues to reject this bill and join America's children and call on the Republican Majority to bring the Senate passed child tax credit bill to the floor for its immediate consideration.

Mr. BEREUTER. Mr. Speaker, it is unfortunate, but H.R. 1308 is a new $82 billion tax cut package that simply is too large. The House-passed version of H.R. 1308 will add to the already unprecedented national debt that future generations will face. Apparently, the Senate last week initially considered a proposal similar to the House-passed version of H.R. 1380 during its negotiations on child tax credit legislation, but the Senate rejected this proposal out of hand because of the effect it would have in worsening the deficit.

Furthermore, while the focus of debate has been on the extension of the child tax credit, only a tiny fraction, about 4 percent, of the $82 billion tax cut amount—$3.5 billion—goes toward extending the child tax credit for the estimated 12 million children who were left out of the previously enacted tax cut legislation. It is also unfortunate that over two-thirds of the House-passed version for child tax credit benefits will go to many higher-income families through an increase in the income level from $110,000 to $150,000 at which the child tax credit begins to phase down for married families. This would make married families in the $110,000–150,000 income range, who now receive a partial child tax credit, eligible for a full credit. It also extends a partial tax credit to many families in the $150,000–$200,000 range or, in the case of families with more than two children, to some families with incomes exceeding $200,000. The extension of the credit to these higher-income families would cost $20.4 billion through 2010 under the House-passed bill. While the Senate-passed child tax credit bill has a similar provision, it costs only $4.8 billion because the Senate provision would not begin to phase in until 2008 and would not take full effect until 2010.

Mr. Speaker, therefore, what is at stake is more than a simple extension of the child tax credit, instead what is at stake is whether or not many of the major tax cuts already passed will be extended beyond their sunsets and whether new additional tax cuts will be passed to further add to our deficit without the costs being offset. This Member believes that if this happens then our nation's long-term fiscal status is destined to markedly decline. Furthermore, this Member has been an outspoken critic that the original tax cut proposal from the Administration was too large, and this Member continues to believe that unless we take a more fiscally responsible course of tax cuts, then we will simply be passing a greater mountain of debt of our nation's children and their children. This Member also believes that such fiscally irresponsible tax cuts will increase the pressure to make even more draconian cuts in our Federal programs—beyond what is considered to be the necessary cuts to eliminate waste, fraud and abuse in such programs.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the Republican Tax Cut bill, H.R. 1308, and in strong support of the Democrat's Child Credit package passed in the Senate.

I stand today in solidarity with my Democratic colleagues to stop the attack on America's children and families. The Democrats have proposed a clean child tax credit bill that will provide relief to millions of America's children and families. The Republicans are trying to bog our bill down with unnecessary provisions. America's children are our number one priority. I don't understand why the Republicans continue to put our children at risk.

The America we believe in is one of fairness. The Republican tax cuts have failed to live up to that test. At the expense of America's children they chose to give tax breaks to the wealthiest Americans. In fact, an advocacy group study found that under the Republicans' plan, a million children of active-duty military families and military veterans would not get tax relief. That is wrong and we must do better.

The Democrats have given the Republicans a means of reversing their damaging tax cut and helping America's children. If they chose to take up the Senate legislation, House Republicans could get 6.5 million hard working families child tax credit checks this year. This would provide America's working class families with the same breaks as families with higher incomes. Some of these families work full-time at the minimum wage and still make less than $11,000 per year.

The Republican's bill contains is damaging to the families and children of our brave men and women in uniform. Under current law, an E–5 or E–6 sergeant with 6 years of service and 2 children is paid $29,000 a year. If he did not serve in combat, both of his children would be entitled to the full $1,000 tax credit; but if he goes to combat for 6 months his credit would drop to approximately $450 under the House bill. The Senate bill helps these military families, the House bill does not.

Republicans are exploiting the child tax credit provision in order to pass even more tax cuts that will burden America's children with insurmountable debt for years to come. This was all done in order to make room for a dividend tax cut target to the wealthy few. It is time for House Republicans to right this wrong, stop playing politics, and pass the Senate bill.

Strengthening our nation means investing in all of our children. Further, the Republican decision to delay the increase of the child tax credit disproportionately harms military families and black and Hispanic families. Experts estimate that 260,000 children—or one in five—from families of active military will lose some of the child credit because of the Republican's decision to drop the Lincoln provision. It also disproportionately penalizes black and Hispanic children. Minority children, including 2.4 million black children, and 4.1 million Hispanic children will be left in the cold by the Republican plan.

The Senate Bill is the Way to Strengthen the Economy. The Democrat's plan is preferable because it puts money in the hands of working Americans by keeping our fiscal house in order can we create jobs and build a strong economy.

For these reasons, Mr. Speaker, I support the bill passed by the Senate and say shame on the supporters of H.R. 1308, who insist on doing harm to America's children.

Mr. MEEKS of New York. Mr. Speaker, I stand here today to discuss real intentions. The real intentions of the majority party to continue its careless actions that further devastate a suffering economy, that further diminish the opportunities of working and military families to care for their loved ones, and that further helps the rich become richer and the poor become poorer.

My colleagues, last month's $350 billion tax-cut package that passed was not really about stimulating the economy, but instead it was about borrowing nearly a trillion dollars to engineer a permanent shift in the tax burden away from the very wealthy, and a permanent reduction in federal revenues. If the tax bill's real intention was to stimulate the economy, those 12 million checks of up to $400 would have been first in, not first out, of the legislation. Again, the real intentions of the majority came to light—to provide relief for upper-income taxpayers. These real intentions are best seen in H. Res. 270, which provides low-income families with a child tax credit, but only if higher-income families are also eligible.

The intentions of the majority have caused many upper-income taxpayers to pay attention to what is currently happening and they send a thank you to those who support this shady legislation. They want to say:

Thank you for borrowing another $82 billion at a time when the federal deficit has exceeded $400 billion for 2003 and approaches $500 billion for 2004, adding billions of dollars in "debt tax" onto the backs of the very families that need this assistance the most.

Thank you for making a compromise between the two parties so hard to reach, for you are only further preventing discussion of a real prescription drug benefit and the rising percentage of unemployed people across this great nation.

Thank you for ignoring the agreement reached in the Senate, you are only further keeping Congress from focusing on other important issues such as the 41 million uninsured people in this nation.

Thank you for the corporate welfare to criminal enterprises like MCI Worldcom who stole the retirement savings of more than 1 million pension holders in New York State. These pension holders were victimized by MCI Worldcom's fraud and now see MCI abusing Sec. 108 of the Internal Revenue Code of 1986 in order to avoid paying about $4 billion in future taxes because of its past criminal behavior.

Finally, thank you for the deceptive games being played, we truly see how as a majority party how careless and clueless you are about what it takes to restart this economy and support needy families throughout this nation.

Mr. PORTMAN. Mr. Speaker, I rise today in strong support of the All-American Tax Relief Act of 2003. This is a balanced approach to extending tax relief to America's families.

This tax package not only gives relief to American families that need a helping hand, but it also provides fair tax relief to military families and young married couples.

Tax relief to military families, Mr. Speaker, who sacrifice so much to protect and contribute to our American way of life.

Tax relief to young married couples, Mr. Speaker, who are just starting out and building a family of their own.

We have heard the Democrats all day say that Republicans are giving more tax breaks to the rich . . . Well I don't know about you, Mr. Speaker, but I don't know too many military families or young married couples that I would call rich.

Two weeks ago, the Democrats said we were providing too much tax relief to American families, then last week the Democrats said we were not giving enough tax relief to American families, and, as we have heard here time and time again today, the Democrats now say we are once again giving too much tax relief to American families.

I say to my friends across the aisle, which is it?

I also say to my friends across the aisle, stop playing politics with the American people's money.

The All-American Tax Relief Act of 2003 is a balanced approach to providing tax relief to families with children. Every parent knows there is always another pair of sneakers to buy, or another text book or calculator to buy and this bill gives parents more of the money they earn to spend it on the needs they have.

This bill brings long overdue tax fairness to America's military families.

No longer will the surviving family members of soldiers that lost their lives protecting this country have to be taxed for the money they receive for their loved ones' sacrifice.

No longer will military families be taxed on assistance they receive when their home values drop because Congress closes bases.

No longer, Mr. Speaker, will our military Reservists be prevented from deducting travel expenses incurred by serving this country.

The All-American Tax Relief Act of 2003 does just what it says; it provides balanced tax relief to all of America's families.

I urge my colleagues to support this bill and I urge the Democrats to stop listening to their pollsters and start listening to the many Americans that not only want, but need tax relief. This is not an issue to play politics with; this is an issue to provide leadership on.

Mr. MOORE. Mr. Speaker, I rise today in opposition to H.R. 1308, a measure brought to the floor by House Republican leadership with little intention of truly helping America's working families.

On June 9, I sponsored important bipartisan legislation that would help each and every parent pay their bills during this time of financial uncertainty. My bill, H.R. 2392, would restore the child tax credit to working families; it is the House version of a bill passed by the Senate last week, on a vote of 94–2, supported by our Senators ROBERTS and BROWNBACK.

If the House passes my bill without amendment, it would immediately go to the President for his signature. President Bush has asked Congress to act on this bill now.

My bill would fully restore those provisions of the President's tax cut that were stripped out by the House leadership in order to make room for a larger dividend and capital gains tax cut.

This bill would restore the child tax credit to the families of over 12 million children nationwide, 1 million of whom have parents serving in the military. In Kansas, this bill would assist over 162,000 children and their families who have received this credit since 1997—a credit which was taken from them by the leadership in the House.

These families earn between $10,500 and $26,625 per year. They work hard to raise their children—and helping hard-working families make ends meet and raise their kids is the goal of the child tax credit.

This bill is not about welfare. This bill is about helping working families who pay taxes to receive tax relief. This bill is about fairness for all families and children.

My bill is about our priorities; and our priorities reflect our values.

Taking the child tax credit away from hard-working Kansans doesn't represent Kansas values. It wasn't compassionate. It wasn't fair. And it still isn't right.

My bill will help parents struggling to make ends meet. They will use the additional $400-per-child tax cut to buy clothes or shoes or books for their kids—helping their families and providing an immediate boost to our economy at the same time.

The House leadership hopes to appear to be assisting our most needy families when, in fact, their real goal is to kill this bill. Indeed, the Senate has already moved to bring relief and President Bush has called for quick House action on a measure to restore this portion of the child credit. In vote after vote this week, my colleagues and I who support helping working families have given House leaders the opportunity to follow the Senate; heed the President's call; and bring up my bill. They have repeatedly said—and voted—no.

Instead, they have decided to slow and muddy this process by considering a budget-busting bill that will cause a tedious conference committee; thus, serving only a defeat any attempt to bring relief to working families across America.

In addition, Mr. Speaker, the Thomas proposal costs $82 million and is irresponsibly laden with goodies and extras, in an attempt to slow this process. My alternative offers clean language mirroring the Senate legislation, in accordance with the President's request, and a $10 million paid-for price tag.

This is Washington politics-as-usual at its worst.

I applaud the effort underway to defeat the rule on this bill so that either the Senate bill or Castle-Tanner-Moore can be taken from the desk, considered, passed and immediately sent to the President for enactment.

Mr. Speaker, I ask my colleagues to consider their values and priorities when voting on this legislation. Passage will slow the process to help alleviate fiscal pressures endured by families across the nation; rejection of the Thomas bill will be a step forward in the flight for hard-working families who need and deserve this support.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION TEXT FOR H. RES. 270

Strike all after the resolving clause and insert in lieu thereof the following:

"Immediately upon adoption of this resolution the House shall be considered to have taken from the Speaker's table the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purpose, with Senate amendments thereto, and a single motion that the House concur in each of the Senate amendments shall be considered as pending without intervention of any point of order. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

"SEC. 2. Immediately after disposition of the bill H.R. 1308 the House shall be considered to have taken from the Speaker's table the bill (H.R. 1307) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the unformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes, with Senate amendment thereto, and a motion that the House concur in the Senate amendment shall be considered as pending without intervention of any point of order. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion."

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. REYNOLDS. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 225, nays 201, not voting 8, as follows:

[Roll No. 273]

YEAS—225

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—201

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Ackerman
Blumenauer
Cubin
Eshoo
Gephardt
Johnson (CT)
Linder
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1720

Mr. GORDON and Mr. DAVIS of Tennessee changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 224, nays 201, not voting 10, as follows:

[Roll No. 274]

YEAS—224

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford

Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Janklow
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—201

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (NY)
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Ehlers
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—10

Ackerman
Blumenauer
Brown-Waite, Ginny
Cubin
Eshoo
Gephardt
Johnson (CT)
Linder
Smith (MI)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1728

Mr. CARSON of Oklahoma changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 270, the House, A, concurs in the Senate amendment to the title of H.R. 1308; and, B, concurs in the Senate amendment to the text of H.R. 1308 with the amendment printed in House Report 108-149.

The text of the Senate amendments is as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Relief for Working Families Tax Act of 2003".

TITLE I—CHILD TAX CREDIT

SEC. 101. ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.

(a) ACCELERATION OF REFUNDABILITY.—

(1) IN GENERAL.—Section 24(d)(1)(B)(i) of the Internal Revenue Code of 1986 (relating to portion of credit refundable) is amended by striking "(10 percent in the case of taxable years beginning before January 1, 2005)".

(2) ADVANCE PAYMENT.—Subsection (b) of section 6429 of such Code (relating to advance payment of portion of increased child credit for 2003) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) section 24(d)(1)(B)(i) applied without regard to the first parenthetical therein.".

(3) EARNED INCOME INCLUDES COMBAT PAY.—Section 24(d)(1) of such Code is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.".

(b) EFFECTIVE DATES.—

(1) SUBSECTIONS (a)(1) AND (a)(3).—The amendments made by subsections (a)(1) and (a)(3) shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTION (a)(2).—The amendments made by subsection (a)(2) shall take effect as if included in the amendments made by section 101(b) of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

SEC. 102. REDUCTION IN MARRIAGE PENALTY IN CHILD TAX CREDIT.

(a) IN GENERAL.—Section 24(b)(2) of the Internal Revenue Code of 1986 (defining threshold amount) is amended—

(1) by inserting "($115,000 for taxable years beginning in 2008 or 2009, and $150,000 for taxable years beginning in 2010)" after "$110,000", and

(2) by striking "$55,000" in subparagraph (C) and inserting "½ of the amount in effect under subparagraph (A)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 103. APPLICATION OF EGTRRA SUNSET TO THIS SECTION.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE II—UNIFORM DEFINITION OF CHILD

SEC. 201. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 of the Internal Revenue Code of 1986 is amended to read as follows:

"SEC. 152. DEPENDENT DEFINED.

"(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

"(1) a qualifying child, or

"(2) a qualifying relative.

"(b) EXCEPTIONS.—For purposes of this section—

"(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

"(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

"(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

"(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

"(i) for the taxable year of the taxpayer, the child's principal place of abode is the home of the taxpayer, and

"(ii) the taxpayer is a citizen or national of the United States.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(C) who meets the age requirements of paragraph (3), and

"(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

"(2) RELATIONSHIP TEST.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

"(A) a child of the taxpayer or a descendant of such a child, or

"(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

"(3) AGE REQUIREMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

"(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

"(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

"(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

"(i) a parent of the individual, or

"(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

"(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

"(i) the parent with whom the child resided for the longest period of time during the taxable year, or

"(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

"(d) QUALIFYING RELATIVE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

"(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

"(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

"(A) A child or a descendant of a child.

"(B) A brother, sister, stepbrother, or stepsister.

"(C) The father or mother, or an ancestor of either.

"(D) A stepfather or stepmother.

"(E) A son or daughter of a brother or sister of the taxpayer.

"(F) A brother or sister of the father or mother of the taxpayer.

"(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

"(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(A) no one person contributed over one-half of such support,

"(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

"(C) the taxpayer contributed over 10 percent of such support, and

"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

"(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

"(ii) the income arises solely from activities at such workshop which are incident to such medical care.

"(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

"(i) which provides special instruction or training designed to alleviate the disability of the individual, and

"(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

"(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of paragraph (1)(C), in the case of an individual who is—

"(A) a child of the taxpayer, and

"(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account in determining whether such individual received more than one-half of such individual's support from the taxpayer.

"(6) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

"(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent,

"(B) amounts expended for the support of a child or children shall be treated as received from the noncustodial parent (as defined in subsection (e)(3)(B)) to the extent that such parent provided amounts for such support, and

"(C) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"(e) SPECIAL RULE FOR DIVORCED PARENTS.—

"(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

"(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

"(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(ii) who are separated under a written separation agreement, or

"(iii) who live apart at all times during the last 6 months of the calendar year, and

"(B) such child is in the custody of 1 or both of the child's parents for more than ½ of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

"(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

"(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

"(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

"(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, and

"(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

"(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

"(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

"(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

"(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) CHILD DEFINED.—

"(A) IN GENERAL.—The term 'child' means an individual who is—

"(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

"(ii) an eligible foster child of the taxpayer.

"(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child of such individual by blood.

"(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

"(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

"(3) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.

"(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

"(5) TREATMENT OF MISSING CHILDREN.—

"(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the individual is kidnapped.

"(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

"(i) the deduction under section 151(c),

"(ii) the credit under section 24 (relating to child tax credit),

"(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

"(iv) the earned income credit under section 32.

"(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

"(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

"(6) CROSS REFERENCES.—

"For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).".

SEC. 202. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

"(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

"(I) is married at the close of the taxpayer's taxable year, and

"(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)3), or both, or".

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) of such Code are amended to read as follows:

"(i) subparagraph (H) of section 152(d)(2), or

"(ii) paragraph (3) of section 152(d).".

SEC. 203. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) of the Internal Revenue Code of 1986 is amended by striking "In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))" and inserting "In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual".

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

"(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

"(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.".

SEC. 204. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.".

(b) CONFORMING AMENDMENT.—Section 24(c)(2) of the Internal Revenue Code of 1986 is amended by striking "the first sentence of section 152(b)(3)" and inserting "subparagraph (A) of section 152(b)(3)".

SEC. 205. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) of the Internal Revenue Code of 1986 is amended to read as follows:

"(3) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

"(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

"(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

"(D) IDENTIFICATION REQUIREMENTS.—

"(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

"(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).".

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) of such Code is amended by striking "(3)(E)" and inserting "(3)(C)".

(3) Section 32(m) of such Code is amended by striking "subsections (c)(1)(F)" and inserting "subsections (c)(1)(E)".

SEC. 206. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 of the Internal Revenue Code of 1986 is amended to read as follows:

"(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.".

SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(2) Section 21(e)(5) of the Internal Revenue Code of 1986 is amended—

(A) by striking "paragraph (2) or (4) of" in subparagraph (A), and

(B) by striking "within the meaning of section 152(e)(1)" and inserting "as defined in section 152(e)(3)(A)".

(3) Section 21(e)(6)(B) of such Code is amended by striking "section 151(c)(3)" and inserting "section 152(f)(1)".

(4) Section 25B(c)(2)(B) of such Code is amended by striking "151(c)(4)" and inserting "152(f)(2)".

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) of such Code are each amended by striking "paragraphs (1) through (8) of section 152(a)" both places it appears and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(B) Section 51(i)(1)(C) of such Code is amended by striking "152(a)(9)" and inserting "152(d)(2)(H)".

(6) Section 72(t)(2)(D)(i)(III) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(7) Section 72(t)(7)(A)(iii) of such Code is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(8) Section 42(i)(3)(D)(ii)(I) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(9) Subsections (b) and (c)(1) of section 105 of such Code are amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(10) Section 120(d)(4) of such Code is amended by inserting "(determined without regard to

subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(11) Section 125(e)(1)(D) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(12) Section 129(c)(2) of such Code is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(13) The first sentence of section 132(h)(2)(B) of such Code is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(14) Section 153 of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) of such Code is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(16) Section 170(g)(3) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(17) Section 213(a) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(18) The second sentence of section 213(d)(11) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(19) Section 220(d)(2)(A) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(20) Section 221(d)(4) of such Code is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(21) Section 529(e)(2)(B) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(22) Section 2032A(c)(7)(D) of such Code is amended by striking "section 151(c)(4)" and inserting "section 152(f)(2)".

(23) Section 2057(d)(2)(B) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(24) Section 7701(a)(17) of such Code is amended by striking "152(b)(4), 682," and inserting "682".

(25) Section 7702B(f)(2)(C)(iii) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(26) Section 7703(b)(1) of such Code is amended—

(A) by striking "151(c)(3)" and inserting "152(f)(1)", and

(B) by striking "paragraph (2) or (4) of".

SEC. 208. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years beginning after December 31, 2003.

TITLE III—CUSTOMS USER FEES

SEC. 301. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "March 31, 2010".

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.".

The text of the House amendment to the Senate amendments is as follows:

House amendment to Senate amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) Short Title.—This Act may be cited as the "All-American Tax Relief Act of 2003".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) Table of Contents.—

Sec. 1. Short title, etc.

TITLE I—CHILD TAX CREDIT

Sec. 101. Expansion of child tax credit.

TITLE II—ARMED FORCES TAX FAIRNESS

Sec. 201. Special rule for members of uniformed services and Foreign Service in determining exclusion of gain from sale of principal residence.

Sec. 202. Restoration of full exclusion from gross income of death gratuity payment.

Sec. 203. Exclusion for amounts received under Department of Defense homeowners assistance program.

Sec. 204. Expansion of combat zone filing rules to contingency operations.

Sec. 205. Modification of membership requirement for exemption from tax for certain veterans' organizations.

Sec. 206. Clarification of the treatment of certain dependent care assistance programs.

Sec. 207. Clarification relating to exception from additional tax on certain distributions from qualified tuition programs, etc., on account of attendance at military academy.

Sec. 208. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.

TITLE III—SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS

Sec. 301. Suspension of tax-exempt status of terrorist organizations.

TITLE IV—RELIEF FOR ASTRONAUTS

Sec. 401. Tax relief and assistance for families of astronauts who lose their lives on a space mission.

TITLE I—CHILD TAX CREDIT

SEC. 101. EXPANSION OF CHILD TAX CREDIT.

(a) Credit Refundability.—Clause (i) of section 24(d)(1)(B) (relating to portion of credit refundable) is amended by striking "(10 percent in the case of taxable years beginning before January 1, 2005)".

(b) Increase in Credit Through 2010.—Subsection (a) of section 24 (relating to child tax credit) is amended to read as follows:

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to $1,000.".

(c) Removal of Marriage Penalty in Phaseout Thresholds.—Paragraph (2) of section 24(b) is amended to read as follows:

"(2) Threshold amount.—For purposes of paragraph (1), the term 'threshold amount' means $75,000 ($150,000 in the case of a joint return).".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(e) Application of EGTRRA Sunset.—Each amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as section 201 of such Act.

TITLE II—ARMED FORCES TAX FAIRNESS

SEC. 201. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) In General.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

"(10) Members of uniformed services and foreign service.—

"(A) In general.—At the election of an individual with respect to a property, the running of the 5-year period referred to in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or as a member of the Foreign Service.

"(B) Maximum period of suspension.—Such 5-year period shall not be extended more than 5 years by reason of subparagraph (A).

"(C) Qualified official extended duty.—For purposes of this paragraph—

"(i) In general.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 150 miles from such property or while residing under Government orders in Government quarters.

"(ii) Uniformed services.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

"(iii) Foreign service.—The term 'member of the Foreign Service' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

"(iv) Extended duty.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

"(D) Special rules relating to election.—

"(i) Election limited to 1 property at a time.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

"(ii) Revocation of election.—An election under subparagraph (A) may be revoked at any time.".

(b) Effective Date; Special Rule.—

(1) Effective date.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) Waiver of limitations.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 202. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) In General.—Paragraph (3) of section 134(b) (relating to qualified military benefit) is amended by adding at the end the following new subparagraph:

“(C) Exception for death gratuity adjustments made by law.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted before December 31, 1991.”.

(b) Conforming Amendment.—Section 134(b)(3)(A) is amended by striking “subparagraph (B)” and inserting “subparagraphs (B) and (C)”.

(c) Effective Date.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 203. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) In General.—Subsection (a) of section 132 (relating to certain fringe benefits) is amended by striking “or” at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting “, or” and by adding at the end the following new paragraph:

“(8) qualified military base realignment and closure fringe.”.

(b) Qualified Military Base Realignment and Closure Fringe.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) Qualified Military Base Realignment and Closure Fringe.—

“(1) In general.—For purposes of this section, the term ‘qualified military base realignment and closure fringe’ means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection).

“(2) Limitation.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all such payments related to such property exceeds the amount described in clause (1) of subsection (c) of such section (as in effect on such date).”.

(c) Effective Date.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 204. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) In General.—Subsection (a) of section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting “or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law” after “section 112”,

(2) by inserting in the first sentence “or at any time during the period of such contingency operation” after “for purposes of such section”,

(3) by inserting “or operation” after “such an area”, and

(4) by inserting “or operation” after “such area”.

(b) Conforming Amendments.—

(1) Section 7508(d) is amended by inserting “or contingency operation” after “area”.

(2) The heading for section 7508 is amended by inserting “OR CONTINGENCY OPERATION” after “COMBAT ZONE”.

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting “or contingency operation” after “combat zone”.

(c) Effective Date.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 205. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) In General.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking “or widowers” and inserting “, widowers, ancestors, or lineal descendants”.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 206. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) In General.—Subsection (b) of section 134 (defining qualified military benefit) is amended by adding at the end the following new paragraph:

“(4) Clarification of certain benefits.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).”.

(b) Conforming Amendments.—

(1) Section 134(b)(3)(A) (as amended by section 202) is further amended by inserting “and paragraph (4)” after “subparagraphs (B) and (C)”.

(2) Section 3121(a)(18) is amended by striking “or 129” and inserting “, 129, or 134(b)(4)”.

(3) Section 3306(b)(13) is amended by striking “or 129” and inserting “, 129, or 134(b)(4)”.

(4) Section 3401(a)(18) is amended by striking “or 129” and inserting “, 129, or 134(b)(4)”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 207. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC., ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) In General.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking “or” at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

“(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or”.

(b) Effective Date.—The amendment made by this section shall take effect for taxable years beginning after December 31, 2002.

SEC. 208. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) Deduction Allowed.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

“(p) Treatment of Expenses of Members of Reserve Component of Armed Forces of the United States.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such services.”.

(b) Deduction Allowed Whether or Not Taxpayer Elects To Itemize.—Paragraph (2) of section 62(a) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

“(E) Certain expenses of members of reserve components of the armed forces of the united states.—The deductions allowed by section 162 which consist of expenses, not in excess of $1,500, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.”.

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

TITLE III—SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS

SEC. 301. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) In General.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

“(p) Suspension of Tax-Exempt Status of Terrorist Organizations.—

“(1) In general.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

“(2) Terrorist organizations.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

“(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

“(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

“(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

“(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

"(ii) such Executive order refers to this subsection.

"(3) Period of suspension.—With respect to any organization described in paragraph (2), the period of suspension—

"(A) begins on the later of—

"(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

"(ii) the date of the enactment of this subsection, and

"(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

"(4) Denial of deduction.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

"(5) Denial of administrative or judicial challenge of suspension or denial of deduction.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

"(6) Erroneous designation.—

"(A) In general.—If—

"(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

"(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

"(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

"(B) Waiver of limitations.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

"(7) Notice of Suspensions.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.".

(b) Effective Date.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

TITLE IV—RELIEF FOR ASTRONAUTS

SEC. 401. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF ASTRONAUTS WHO LOSE THEIR LIVES ON A SPACE MISSION.

(a) Income Tax Relief.—

(1) In general.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

"(5) Relief with respect to astronauts.—The provisions of this subsection shall apply to any astronaut whose death occurs while on a space mission, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.".

(2) Conforming amendments.—

(A) Section 5(b)(1) is amended by inserting ", astronauts," after "Forces".

(B) Section 6013(f)(2)(B) is amended by inserting ", astronauts," after "Forces".

(3) Clerical amendments.—

(A) The heading of section 692 is amended by inserting ", ASTRONAUTS," after "FORCES".

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting ", astronauts," after "Forces".

(4) Effective date.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) Death Benefit Relief.—

(1) In general.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

"(4) Relief with respect to astronauts.—The provisions of this subsection shall apply to any astronaut whose death occurs while on a space mission.".

(2) Clerical amendment.—The heading for subsection (i) of section 101 is amended by inserting "or Astronauts" after "Victims".

(3) Effective date.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) Estate Tax Relief.—

(1) In general.—Subsection (b) of section 2201 (defining qualified decedent) is amended by striking "and" at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) any astronaut whose death occurs while on a space mission.".

(2) Clerical amendments.—

(A) The heading of section 2201 is amended by inserting ", DEATHS OF ASTRONAUTS," after "FORCES".

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting ", deaths of astronauts," after "Forces".

(3) Effective date.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

In lieu of the matter inserted by the Senate to the long title of the bill, insert the following: "An Act to amend the Internal Revenue Code of 1986 to enhance fairness in the internal revenue laws, and for other purposes.".

□ 1730

MOTION TO GO TO CONFERENCE

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 270, I move to take from the Speaker's table the House amendment to the Senate amendment to the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, insist on the House amendment, and request a conference with the Senate thereon.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Sweeney). Without objection, the motion is agreed to.

Mr. RANGEL. Mr. Speaker, reserving the right to object, it is my understanding that the chairman of the Committee on Ways and Means has the opportunity to be recognized for 1 hour debate, and I want to know whether that was included in his request, which I understand from the Parliamentarian the gentleman is entitled to, to discuss this issue.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I have requested the hour.

Mr. RANGEL. Mr. Speaker, I remove my reservation of objection.

The SPEAKER pro tempore. The gentleman from California (Mr. Thomas) is recognized for 1 hour.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the 1 hour time I have, I would indicate to my colleagues that based upon the very lively debate that occurred on the rule, I believe the positions have been completely illuminated, and that when I ask for the previous question, the minority has the right to move the motion to instruct.

Having been given the motion to instruct, I would tell my friends that I can live up to almost all of these provisions and intend to do so, and, therefore, any time that this House takes in debating the motion to instruct will be the time that the minority has on the motion to instruct, because the majority intends to move the previous question and indicates that it does not intend to use any of the time on the motion to instruct, and, therefore, the time at which the House adjourns today will be entirely in the hands of the minority.

Mr. Speaker, I move the previous question.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

PARLIAMENTARY INQUIRY

Mr. RANGEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RANGEL. Mr. Speaker, could the Parliamentarian or the Speaker tell me, does the eloquent statement made by the chairman of the Committee on Ways and Means mean that he did not intend to use the hour of debate that he has?

The SPEAKER pro tempore. The gentleman from California has moved the previous question.

Is there objection to ordering the previous question?

Mr. RANGEL. No, I made a parliamentary inquiry. I was not objecting to the previous question. I asked whether or not what the gentleman said meant that he did not intend to debate.

The SPEAKER pro tempore. If the House orders the previous question by unanimous consent, that will end debate.

Without objection, the previous question is ordered on the motion to go to conference.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. THOMAS).

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. RANGEL moves that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to H.R. 1308 be instructed as follows:

1. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides immediate payments to taxpayers receiving an additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.

2. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides families of military personnel serving in Iraq, Afghanistan, and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.

3. The House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provisions.

4. To the maximum extent possible within the scope of conference, the House conferences shall be instructed to include in the conference report other tax benefits for military personnel and the families of the astronauts who died in the *Columbia* disaster.

Mr. RANGEL (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Pursuant to rule XXII, the gentleman from New York (Mr. RANGEL) and the gentleman from California (Mr. THOMAS) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I move that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to H.R. 1308 be instructed as follows:

One, the House conferees shall be instructed to include in the conference report the provision of the Senate amendment that is not included in the House amendment that provides immediate payment to taxpayers receiving an additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payment under the Jobs and Growth Tax Reconciliation Act of 2003.

Two, the House conferees be instructed to include in the conference report the provision of the Senate amendment, that is not included in the House amendment, that provides families of the military personnel serving in Iraq, Afghanistan, and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.

Three, the House conferees be instructed to include in the conference report all of the other provisions of the Senate amendment and shall report back a conference report that includes additional tax benefits not offset by other provisions.

Four, to the maximum extent possible within the scope of the conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and the families of the astronauts who died in the *Columbia* disaster.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), a distinguished member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, working families that make between $10,000 and $26,000 a year were left out of the tax bill that was recently signed by the President. These are people who pay taxes, Mr. Speaker. They pay sales taxes, they pay property taxes, they pay excise taxes, they pay FICA taxes. In fact, many of them pay a greater percentage of their income in taxes than the wealthy people who got the benefits of the recently enacted tax bill.

To correct this oversight, it will cost a modest amount of money, about 1 percent of what it cost in the recent tax bill. We have a Senate bill that corrects this. It is fully paid for. It passed the other body by a vote of 94-to-2. It is supported by the President of the United States. Why are we not taking this bill up? But for the leadership in this House, the Republican leadership, we could have passed this bill tonight.

What this motion says, Mr. Speaker, is that we support the effort of the other body so that we could correct this bill now. This is a vote to help those working families. This is a vote to help the military families. This is a vote to say that we do not want to follow what the Republican leader has said, which is "This ain't going to happen." We want it to happen, and our motion allows it to happen.

I urge my fellow Members to support the effort in the other body, support the President in saying that he would sign this legislation. This is our opportunity to do it.

Mr. Speaker, I just urge my colleagues not to hold low-wage worker families hostage to the notion that we have to do a lot more that is not going to happen in order for them to get the same type of tax relief that was provided to high-income families in the bill that was signed by the President.

This is the right thing for us to do. I urge my colleagues to support the motion to instruct.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. THOMAS. Mr. Speaker, not withstanding the language of the motion to instruct, which says "I move that," and three of the four provisions that say "The House conferees shall be instructed to," is the gentleman from California correct in understanding that the motion to instruct does not in any way bind or dictate to the conferees?

The SPEAKER pro tempore. Motions to instruct are not necessarily binding on the conferees.

Mr. THOMAS. Mr. Speaker, if in fact the motion to instruct is not binding, I would tell my friends we are ready to accept this motion. I will reserve my time, and whenever you are ready to move the question for a vote, since it is not binding, we are ready to go.

Mr. FRANK of Massachusetts. Mr. Speaker, point of order. This is not a parliamentary inquiry.

Mr. THOMAS. Mr. Speaker, I am on my time. Does the gentleman from Massachusetts now wish to deny me the time that is mine?

The SPEAKER pro tempore. The gentleman will suspend.

Does the gentleman from California (Mr. THOMAS) yield himself time?

Mr. THOMAS. I certainly do.

The SPEAKER pro tempore. The gentleman from California is recognized.

Mr. THOMAS. As I was saying, since this motion to instruct is not in any way binding on the conferees, the gentleman from California awaits the awarding of the motion to instruct, and it can either be now and we can vote on it, or you can exhaust your time and we can vote on it. The effect is the same.

Therefore, I reserve the balance of my time until they exhaust theirs or move for a vote.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I apologize to the gentleman from California. I know he is very thick-skinned, so he did not mind. But he had been speaking under the guise of a parliamentary inquiry, and he was not making a parliamentary inquiry, although the parliamentary inquiry made was about a rule which has been in effect ever since he got here, and I was surprised he had forgotten it. But he did not say he was going to use his time. I did want to clarify. Apparently he decided to use his time, but he decided to use his time to tell us he did not plan to use his time.

I think it is somewhat unfortunate that, having shut off debate, having refused to an allow an amendment, he is suggesting that it is somehow improper for Members on our side to talk about the substance. He has said that he will accept the instruction, having made it clear with his usual consideration for other opinions that having accepted it in the vote, he plans to disregard it in the conference.

So we continue to think it is important to point out the difference between what we want to do, provide real help to poor children, and what he plans to do.

□ 1745

Mr. RANGEL. Mr. Speaker, in the interests of saving time, I ask unanimous consent that H.R. 1308 and H.R. 1307, both passed by the Senate, be considered and accepted by the House, and that way we can send the bill immediately to the President and we can get out of here early, without amendment, of course.

The SPEAKER pro tempore (Mr. SWEENEY). The Chair is unable to entertain that request under the Speaker's guidelines recorded on page 712 of the House Rules and Manual.

Mr. RANGEL. I am sorry. I cannot hear what the Speaker is saying.

The SPEAKER pro tempore. The Speaker's guidelines for recognition do not allow the Chair to recognize for that request.

Mr. RANGEL. Not for unanimous consent, without objection from the chairman of the distinguished Committee on Ways and Means? He does not object.

The SPEAKER pro tempore. The gentleman is correct.

Mr. RANGEL. I am correct? I can do it? What is it?

The SPEAKER pro tempore. The gentleman is correct that the Chair is unable to entertain that request.

PARLIAMENTARY INQUIRY

Mr. RANGEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RANGEL. Mr. Speaker, if I ask for unanimous consent and no one objects, would the Parliamentarian tell me why I cannot be recognized?

The SPEAKER pro tempore. The Speaker has announced and enforced a policy of conferring recognition for unanimous consent requests for consideration of bills and resolutions only when assured that the majority and minority floor and committee leaderships have no objection.

Mr. RANGEL. Mr. Speaker, if the gentleman from California (Mr. THOMAS) does not say anything, Mr. Speaker, then there is no objection. So, I have unanimous consent until such time as he objects.

The SPEAKER pro tempore. The Chair has not been apprised of the requisite clearances to entertain such a request.

Mr. RANGEL. Well, could I ask unanimous consent that the chairman of the Committee on Ways and Means be given an opportunity to instruct the Speaker that he has no objection to accepting the Senate bill as passed?

The SPEAKER pro tempore. The Chair would inform the gentleman that that is not a proper unanimous consent request.

Mr. RANGEL. Well, the chairman of the Committee on Ways and Means knows that we will not allow parliamentary obstacles to move this bill that the Senate has passed in a bipartisan way and that the President has supported it. Now, I know a lot of time and money has gone into building up this $82 billion, but since the distinguished chairman has said that he wants to move this bill swiftly and the initial bill only cost $3.5 billion, if we knock off the $72 billion put on the Senate bill, it would seem to me, even with a little help from the Parliamentarian, that we could expedite this bill by not instructing the conferees to do anything which the chairman already has indicated he does not intend to do but, rather, to just have it pass as is. I do not know why we cannot do this. But I will get the Parliamentarian and get together with the chairman and see what we can do to expedite this.

Meanwhile, Mr. Speaker, I yield 2 minutes to the gentleman from the sovereign State of California (Mr. MATSUI), the distinguished senior member of the Committee on Ways and Means.

Mr. MATSUI. Mr. Speaker, I thank the gentleman from New York, the ranking Democrat on the Committee on Ways and Means, for yielding me this time.

I can understand why the majority does not want to debate this issue. Perhaps he wants to catch a plane to California, I do not know. But I can understand why he would not want to debate this issue, given the fact that the President of the United States and the U.S. Senate, on a 94 to 2 vote, basically came up with a bill that was totally different. It basically paid for its tax cuts and, at the same time, it tried to restrict itself basically to the main issue, that is, taking care of families that make between $10,000 and $26,000 a year.

I might just for a moment go back to May 23 when the conference report was passed. As my colleagues know, the big issue on that bill was the dividend reduction and the capital gains tax reduction. At the same time, as we know, that bill also took out from the other body the provision that would have taken care of people that made, families that made between $10,000 and $26,000 a year, a measly tax credit of $150 to $400.

At the same time, what this bill did, Mr. Speaker, it might be kind of interesting to really discuss why there is a lot of concern about this. We looked at the FCC filings of the annual report of Microsoft Corporation. Bill Gates, and this is not anything about Bill Gates, but Bill Gates will get, under the bill that passed, that became law on May 23, $14,538,000; $14 million. Sandy Weill, again, somebody who is a good person, Citicorp, will get $2.7 million.

What is very interesting, what is very interesting, Mr. Speaker, if we would have just taken that $14 million from Bill Gates and given it to families that earn between $10,000 and $26,000 a year, we could have taken care of 52,000 families.

So I can understand why the majority does not want to discuss this; I can understand why they do not want to see this have the light of day, because they are really taking care of people that do not need the money. This will not help the economy of the United States. It is basically just game-playing, and it is really unfortunate that this is happening. This bill will not become law because the other body will ensure it does not become law because it is not paid for. I would have hoped that we would have adopted the other body's legislation.

Mr. RANGEL. Mr. Speaker, the gentleman from California, nobody wants to dispute anything we say?

The SPEAKER pro tempore. The gentleman from California continues to reserve his time. The gentleman from New York is recognized.

Mr. RANGEL. Then Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), a distinguished member of the Committee on Ways and Means.

Mr. LEVIN. Mr. Speaker, I want to refer to the motion. It says in paragraph 3, if the chairman, the distinguished chairman would listen, "The House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that would result in increased deficits by reason of additional tax benefits not offset by other provisions."

We all know that motions to instruct are not technically binding, but I would like to yield to the chairman of the committee to ask him if he will commit verbally on the floor that he will not bring back a conference report that will result in increased deficits by reasons of additional tax benefits not offset by other provisions.

Mr. THOMAS. Mr. Speaker, I told the gentleman from the initial introduction, and I am pleased to respond on his time, that three of the four seem to be somewhat reasonable; and my assumption is that as we go to conference, since it is the Senate that has been significantly concerned about the question of offsets, under the budget which was agreed upon by the House and the Senate, there is ample provision for us to move tax bills that are not required to be offset.

Mr. LEVIN. So is the answer, if I could then ask the gentleman, since it is my time, is the gentleman willing to say here on the floor that he will not bring back a conference report that would result in increased deficits by reason of additional tax benefits not offset by other provisions?

Mr. THOMAS. Mr. Speaker, if the gentleman will yield, under the budget agreement, the House is entitled to move tax bills that are not offset or are required to modify the deficit. If the Senate brings, if the Senate brings offsets to the conference to cover the House bill, I am more than willing to look at them.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. LEVIN. He is unwilling to answer, then.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Well, just a minute. If the gentleman from Michigan (Mr. LEVIN) needs 30 seconds in order to get a response to his question, notwithstanding the fact that the majority is not using their time, I will be glad to do it.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. LEVIN) is recognized for 30 seconds.

Mr. LEVIN. Mr. Speaker, I will wait for the gentleman from California (Mr. THOMAS) to say yes or no.

Mr. THOMAS. The answer is, if the Senate brings offsets, I will be happy to look at them.

Mr. LEVIN. No, but does the gentleman agree that he will not report back a conference report that will result in increased deficits by reason of additional tax benefits not offset by other provisions? Yes or no.

Mr. THOMAS. Mr. Speaker, if the gentleman will yield, I asked of the Speaker a parliamentary inquiry which said this is not binding, yet the gentleman continues to pursue a yes or no as to whether or not an unbinding statement will bind me. The answer is, and it will be, if the Senate brings offsets, we will look at them.

Mr. LEVIN. Mr. Speaker, the gentleman is making a mockery out of this procedure.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA), a member of the Committee on Ways and Means.

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, for my colleagues and the American public that perhaps have not quite figured out what is going on here when we are trying to help working families through a child tax credit, H.R. 1308, I believe, boils down to two things, and probably the best way to describe it is to remind folks about the very common joke we hear about how many people does it take to screw in a light bulb, except in this case, we have to ask how many people and how much money does it take to correct the $3.5 billion omission for working families through a child tax credit. The punch line, as funny as it may sound, is $80 billion, is what we are being told by our colleagues and friends on the other side of the aisle that it takes to correct the $3.5 billion omission: $80 billion.

And if it is not a joke, then it is either a very smart, some might say sneaky, others might say sinister, ploy, to try to sneak in all of these other tax cuts for very wealthy American families into what is a good package for working families, and a lot of our men and women who work in uniform who were left out by this House in the tax cuts under the child tax credit.

It has got to be one of the two. Either it is a real joke on the American people, or it is a very cleverly planned, intentional way of sneaking through $76.5 billion of additional tax cuts that have nothing to do with the working families that we are trying to help.

Now, it would not be so sinister or such a joke if it were not for the fact that our Federal Government is running a $400 billion deficit this year; and next year, we are being told by the White House and by our own congressional budget estimators that we will probably have about a $500 billion deficit next year. And yet, somehow our colleagues on the other side of the aisle believe we can spend an additional $6.5 billion to correct the problem that costs $3.5 billion.

I think it is clear what is going on, and I would urge my colleagues to support this motion to instruct.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT), a member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, perhaps President Bush is wrong about this bill. Perhaps the 94 Members of the Senate who voted on this child tax credit measure are wrong, and perhaps all of the Democrats who have supported relief now, not some day, with reference to the child tax credit are also wrong, that all of us who together have supported meaningful relief that is paid for, that does not add a death tax to future generations of Americans, perhaps all of us are out of line and the gentleman from Texas (Mr. DELAY), standing there along with his minions who insist on having an approach that is different than that and killing this child tax credit, perhaps they are right.

But I rather expect they are not just right, but far right, extremists and outside of the mainstream of American thinking; that those who work very hard, be they police officers, be they teachers' aids, be they home health care workers, be they the people that empty the bedpans in the nursing homes and do the hard work in our society, that they deserve a chance too. I believe that it is today, with the obedience to the gentleman from Texas (Mr. DELAY) and his thinking out of the mainstream, that our Republican colleagues have sentenced this child tax credit to death, death by conference committee.

□ 1800

Many Members will remember that death by conference committee was the appropriate execution method used to kill the Patients' Bill of Rights, so people in this country still do not have the rights they need to protect themselves from the giant insurance HMOs that often deny them the health care they need.

Today, by sending this bill to conference, this is an attempt to kill a proposal that the gentleman from Texas (Mr. DELAY) never wanted this House to consider, and today again rejects.

It means for people in Texas almost 1 in 4 families will not get the child tax credit relief that they deserve. It means 1.3 million, 1,312,000 children, will not have tax relief that they deserve; they will instead be saddled with a giant debt tax as a result of the approach that is being proposed.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. McDERMOTT), a member of the Committee on Ways and Means.

Mr. McDERMOTT. Mr. Speaker, there seems to be some confusion here in the rubber-stamp Congress today.

I will quote from an article in Roll Call this morning which explains to me what happened.

It says that the President invited them all down to the White House, and this is from a senior Republican aide: "Most people in the GOP leadership think it is inappropriate for the White House to bring our bosses down there to discuss congressional business and then not invite any staff to go with them." The aide said, "Members who attend meetings are frustrated by the exclusion of the staff because it leaves them without aides to jog their memories of the sessions later."

Now it is clear what has happened. The President said pass the Senate bill. The gentleman from Texas (Mr. DELAY) had on his mind that he had to find all these legislators in Texas, so he had to call up the home security board and he had to call up the FBI, and he got confused and got down in there and told the chairman of the Committee on Ways and Means, Do anything you want.

Now, here we are coming out here with no debate, and nobody wants to have anybody talk about what the issues here are. They just want to slam another $80 million on this bill, and wind up with what? A dead bill. They know the Senate is going to kill it. They are not as wild and radical as they are. With 74 to 2, this is a conservative Senate; or 94 to 2. I get carried away.

This rubber-stamp Congress is really out of control. They are the gang that cannot shoot straight. They should at least have one meeting on this.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Perhaps if the White House has a shortage of space, it might help if they invite the Members without staff and next week they invite the staff without the Members, and we might function better.

Mr. McDERMOTT. I think that is a good idea.

Mr. Speaker, I include for the RECORD the article from Roll Call this morning to which I referred earlier.

The article referred to is as follows:

[From Roll Call, June 12, 2003]

HILL AIDES SPURNED

(By Ethan Wallison)

Republican aides on Capitol Hill are incensed over a new White House policy to exclude virtually all Congressional staff from the semi-regular "bi-cam" meetings between President Bush and the GOP leadership.

The aides contend that they are being kept out of the meetings even as White House staffers and other senior officials, such as top Congressional lobbyist David Hobbs, continue to sit in.

"It does strike one as a little bit arrogant," one senior Senate GOP aide said. But, the aide added, "I think that's the way some people at the White House think about Congressional staff."

Noting that the meetings focus on the Congressional agenda, one senior House Republican aide added, "Most people [in the GOP leadership] think it's inappropriate for [the White House] to bring our bosses down there to discuss Congressional business and then not invite any staff to go with them."

The aide said Members who attend the meetings are as frustrated by the exclusions as the staff, because it leaves them without aides to help jog their account of the sessions later.

A White House official denied that there are any "hard and fast rules" about whether Congressional staff can attend the meetings.

"It comes down to the space that's available in the room and the topics that are being covered," the official said, adding that the same factors apply to White House staff.

But Congressional sources said they have been told that the staff directive comes straight from the top and President Bush, who simply wanted less staff in the meetings.

Under the new guidelines, according to these sources, Speaker Dennis Hastert's (R-Ill.) top aide, Scott Palmer, and Lee Rawls, Senate Majority Leader Bill Frist's chief of staff, will be permitted to attend the bi-cam sessions.

The new policy appears to be the upshot of a months-long give-and-take between the White House and the Congressional GOP leadership on the staff issue. Senior Congressional aides said the White House has been seeking ways to pare down the number of aides at the bi-cam meetings, but were finding it difficult to exclude some Capital Hill staff while allowing others to continue to attend.

"The figured they couldn't get away with the half-way approach, so they went all-or-nothing," one senior House GOP aide said.

The same aide said the White House has pledged to pare down the number of administration officials and staff at the meetings as well in the weeks ahead. Congressional aides remain skeptical.

One source noted that even Rawls was among the Capitol Hill aides who were kept out of the room Tuesday evening, when the GOP leadership went to the White House to discuss appropriations. (The spending meeting immediately preceded the bi-cam session.)

Rawls made the trip to the White House along with Senate Appropriations Committee Staff Director Jim Morhard and Kevin Fromer, Hastert's policy director.

All three were forced to wait outside the door to the meeting, even though Hobbs and Candida Wolff, Vice President Cheney's legislative affairs director, were allowed to participate.

Neither Rawls nor Palmer responded to phone calls on Wednesday.

To be sure, frustrated Congressional aides acknowledge that the personnel who are allowed into meetings at the White House reflects Bush's sense of what's appropriate.

Some of the meetings in the past have taken place in the White House residence, a more intimate setting that provides less space for visitors, according to a White House official.

But the exclusions have nevertheless fed resentments on Capitol Hill about what some Congressional Republicans believe to be the White House's disregard for Congress' role in shaping the overall agenda.

"It's particularly unhelpful in the same week that [the White House] cut our legs out from under us on the child tax credit," one senior House GOP aide said.

And some senior GOP aides contend that the shortage of first-hand accounts has at times had significant practical consequences, such as misunderstandings about deals and other arrangements that were sealed behind closed doors.

"When it comes down to implementing an agreement, it's the staff that has to do that," a senior Senate aide said, citing the appropriations process as one area where such miscommunication has been a problem.

"It's just frustrating."

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER), a member of the Committee on Ways and Means.

Mr. TANNER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I know I sound like Johnny one-note when I get up here talking about the debt and the deficit on everything that seems to come along. But I want to tell the Members this is serious business, what is happening. If Members want to talk about spending, we and this Congress are spending more money now than any Congress in the history of this country. We are spending it every year, beginning next year and into perpetuity, on interest.

The difference between the bill the chairman has and what we tried to do to fix the problem like the Senate did in spending is $3.39 billion additional in spending, because that is what the interest over 10 years is on $80-something billion that is not paid for.

Now, anybody who wants to get into an argument about spending, we are spending ourselves into oblivion. CBO just came out and said that the deficit this year will be $400 billion. They raised it $100 billion in a month. So $400 billion at 4 percent is an additional $16 billion next year just to pay the interest on the operation of this government that has lasted over 200 years.

They sit here and they talk about spending. We are spending this country silly, and they are doing it by borrowing money that we have to pay interest on every year from now on.

Last year we paid or accrued $336 billion in interest, for which nobody gets a job, nobody gets an aircraft carrier, nobody gets health care, nobody gets an education. It is gone. It is payment on past consumption that we either did not have the courage to ask people to pay for, or we did not have the guts to cut the programs that need cutting.

Members want to talk about spending; let us talk about it. Here is $30 billion right now that we can save if Members want to accept what we have done with the motion to recommit.

Mr. RANGEL. Mr. Speaker, I yield 2½ minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, let me explain to the House how under this Republican bill that we have just passed, compared to the Senate bill, taxes can be raised or child tax credits can be denied to many of our service men and women serving in places like Iraq and Iran and Afghanistan.

Let us take for example an E-6, a staff sergeant with two children who makes $29,000. His family will qualify for the full child tax credit, get this, so long as he stays stateside, in the United States. His pay is $29,000. He has to make more than $10,500 to qualify.

Subtract the 105 from the 29, you get 18.5; multiply it by 15, he is fully qualified for two child tax credits at $1,000 apiece.

Now let us assume that he is assigned to Iraq, Afghanistan, or a combat zone. His pay while he is in a combat zone is tax-exempt. Let us assume he stays there 8 months. That is two-thirds of the year. Two-thirds of his income is therefore tax-exempt. It is not considered to be taxable income. His taxable income, therefore, is about $9,700, less than the $10,500 threshold. As a consequence, for serving in Iraq, serving in Afghanistan, he loses the two child tax credits.

Is this necessary? Absolutely not. The Senate bill avoided this problem. The language was there in the Senate bill. For some reason that has yet to be explained to these service members, much less the whole House. We do not know why it was dropped; we just know it was dropped.

As a consequence, an E–6, an average serviceman or woman serving in a combat zone, will be denied the benefit of these child tax credits that we are giving other people. Perversely, the longer he stays in the combat zone, the less his entitlement to these two child tax credits. That is absolutely outrageous. We should never have passed this bill; but having passed it, we certainly should pass the motion to instruct.

Maybe Members can say the reason we did that is we had to trim back this child tax credit so we could fit it into the overall bill. But this chart right here shows down in the little blue corner how much of the total cost of this bill is committed or required for the refundability of the child tax credit to apply to families making less than $26,000. There it is right there. $3 billion 48 million.

This represents the additional cost of the bill, all the other provisions that were extraneous, and this is the additional interest. It did not have to be done. There was plenty of room. Will somebody please tell us why we are treating our service members in this manner?

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATSON), the distinguished former Ambassador.

Ms. WATSON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, just a few minutes ago we had the pleasure and the honor of hosting Specialist POW Shoshana Johnson. Shoshana Johnson was the young woman who we saw worldwide taken captive by the Iraqi military. She served well. She endured, shot through both of her ankles. Once she was freed, they took care of her and flew her home. She has been in the States a few weeks, and agreed to come here so we could pay the most deserving tribute to her.

I want Members to know she has a 2-year-old child. She is a specialist. She will make less than $18,000 this year. She will be denied the child tax credit under the bill that just passed.

These young people who were willing not only to serve their country, but to give their lives and their limbs. I want Members to know she was up there in Rayburn with a cast on her left leg. She was brought in with a wheelchair. She is proud, and did not even realize what she did for her country.

But, Mr. Speaker, if we do not take care of the Shoshana Johnsons and take care of the very wealthy, we are abdicating our values under a democracy. I ask Members to please let us accept the Senate proposal for the child tax credit.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I intend to close the debate on this issue, hoping that perhaps the conferees would have an opportunity to review what has been done by the Senate and what has been done by the House, and to recognize this all started with us trying to help 6.5 million families and 12 million kids.

Why this was dropped by the majority, this provision that was in the Senate bill, I do not know. Why it was so vigorously resisted by the Republican leadership I do not know. Why they continuously referred to giving assistance to hardworking people throughout the United States and our military people as being welfare, I do not know.

Why they do not understand that a stronger America, a productive America, an increase in the purchasing power not just for those who clip coupons but for those who work every day, that have to buy clothes for their kids and pay for prescription drugs and pay rent, these are the things that really spur the economy.

It would just seem to me that somewhere we could find some type of compassion, to say we made a mistake, we left it out. And even for political reasons to be able to say, since the Senate has reached some type of bipartisan agreement, we looked it over, the President wants us to get relief out there as fast as we can; it is $6.5 billion more than we expected, but we will accept it.

What went into the thinking when people said, this is not going to happen? There are a lot of other things that are more important than that. The President can suggest, but he cannot vote. Then all of a sudden someone said, oh, no, we have to find some way politically that we can vote for it but make certain that it never sees the light of day. What can we possibly do to get a positive vote on this but to make certain that the Senate cannot accept it?

I was not privy to what happened, but one thing is clear: That other body knocked down the President's request from a tax cut for $726 billion. When they got finished with that, they knocked down the House tax cut from $550 billion to $350 billion. So it appears as though the Senate is very, very concerned about the size of the deficit.

Now, I know that that does not concern us in the House. I am glad to see the distinguished chairman of the Committee on the Budget that is here, because God knows he picked the wrong time to head the Committee on the Budget. They just threw that away. But things change, and maybe we will see better days.

But if they really wanted to find out what is it that they could do to politically irritate the Senate and to have them reverse themselves on the child credit, some demon could have whispered in their ear, Why don't you increase the deficit more? And they would say, yes, why not double it?

So we would come out in the House with a $20 billion, go to conference and adjust it, and it will be $15 billion. But then they said, but if you do that, you still would have a child credit bill. We want to make certain that when the majority leader says that it is not going to happen, it is not going to happen.

So then they said, Why not increase it to $30 billion, $40 billion, $50 billion, $80 billion? Bingo. The House will accede to the President's request and consider the legislation for giving child tax credits to working people by increasing the deficit by $82 billion. See how they like that.

□ 1815

See how the bleeding hearts like that? You really want to help the working families?

Well, this is what the deal is: We will give the working families a break today, but when it comes time to pay down the deficit, those kids are going to pay and they are going to pay big time. That is the decision that you are leaving to the Senate. It is shameful because I do not doubt the dedication of members of the other party. You just have a different way of looking at government. You really believe that government should be so small that we will reduce the revenue so low that we will starve each and every program that we believe in.

Some of those programs will not go away by legislation. You cannot kill Social Security by privatization. You cannot kill Medicare by vouchers. You cannot kill Medicaid by block grant. But there is one thing, whether you are a bleeding heart, a liberal, a Democrat or a moderate Republican, if the money is not there, then the leader is right, it is not going to happen. And let me tell you, every bit of taxes that we reduce here, that tax comes up somewhere. It comes up when Governors try to say, well, maybe we can fill up the gap, but politically they cannot. They have a limit on how much taxes they can raise, how much money they can borrow. And then it gets down to the cities, and, God knows, I know it. We got a good mayor, trying to do all of the things that the Congress has said in terms of homeland security, but we are closing fire departments, we are closing clinics, we are closing libraries. And while you are cutting taxes here, guess what we are doing in the great city of New York with the working people?

They are not getting welfare. They are working every day. They have got kids, but they are paying more for buses, for subways, for buying food and clothing, for day care, everything. They are paying more, including paying for Social Security and Medicare expenses.

So I know a lot of you think that these working people that we are trying to protect are welfare recipients. You do not pay taxes, you do not get tax relief. Well, they deserve some relief. They are entitled when we are giving the people back, those who pay taxes. God knows who makes America great, except those people who work every day, hoping that life will get better for them and a lot better for their kids.

And so if you want to say that that is not the Congress' responsibility, leave it to the United Jewish Appeal, leave it to Catholic Charities, leave it to the Protestants Council, but leave us out as the Federal Government. Let local and State government do it.

If you believe that, then what you do is starve the great reserves of this country. And if you cannot kill the programs legislatively, you kill them by not having the money there. So what you are saying is that one day when you accomplish your purpose, we will be paying more in interest on the trillions of dollars that we have borrowed than we will be able to pay for the programs that America has been so proud of.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from California said, "This really has nothing to do with working families."

I will tell the gentleman, it has everything to do with working families. The provision that was offered and accepted on the Senate side, which was included in the Senate bill, was not supported by the authors of that amendment. This measure was never presented to, asked for, or included in the Senate provisions. We are now at a position of examining the Senate's behavior.

The movement for the refundable tax credit from 10 percent to 15 percent is in underlying law. It will occur January 1, 2005. The entire debate is over whether or not it ought to be accelerated. But what also ends on January 1, 2005 is the $1,000 child credit, because the Senate decided it was more important to create the opportunity so that between now and the elections of 2004, someone can show their compassion for working families. The $57 billion of this proposal says, after the election, will you show your compassion for working families in the year 2005, 2006, 2007, 2008, 2009 and 2010, which just happens to correspond to the 6-year term of the Senate.

We thought it might be appropriate if there is compassion between now and November that the people are going to vote. No compassion will be there for the next 6 years as well. I believe one move was politics, the other is policy.

Let us talk about working families. In New York City, a fireman who responded on 9/11 and his wife, a teacher, make about $150,000 together. The Senate in its wisdom said we ought to raise the child credit from $110,000 to $150,000. And if you read the fine print of the Senate proposal, they are going to do that for 1 year, in 2010. Is that politics or policy? The $21 billion of this measure says if it is good enough for the $150,000-a-year joint working family in 2010, it is good enough for the working family today, next year, and every year until 2010.

Do you want politics or do you want policy? Politics is cheap. Policy costs money. We are asking you to put your dollars where your mouth is.

July 9, 2002, as a matter of urgency we sent to the Senate a military tax fairness bill that would provide appropriate changes in the laws for our men and women in uniform. Underscore that: July 9, 2002.

It still languishes over in the Senate. If they really cared about the men and women in uniform, we would have seen that bill-signing ceremony already. We are including that provision in this bill and asking the Senate once again to put policy where their mouth is. If the Senate has provisions in their measure that they want to bring to conference that we did not include, we invite them. But we invited them to a conference that does policy and not politics.

Mr. STARK. Mr. Speaker, I rise today in opposition to H.R. 1308, the House Republicans' phony attempt to fix the problem they created when they dumped low-income families from eligibility for the increased child tax credit passed as part of the President's latest tax cut package.

The Senate has already passed a bill to fix the problem with nearly unanimous support. But, House Republicans refuse to bring forth that bill. Instead, they've written an $82 billion bill with numerous tax breaks unrelated to the child tax credit for low income working families—and none of those $82 billion are paid for. It will increase our ballooning deficit even more.

This bill is nothing more than a way for the House Republicans' to look like they're trying to address the needs of working families. In fact, their goal is to sabotage this issue so they can hide the fact that they excluded low-income families from the child tax credit in the first place. They don't care at all if these families ever qualify for tax credit.

The House Republicans have brought this Trojan horse to the floor in order to pass further tax relief to upper-income families while betting that the Senate won't touch such an expensive bill with a ten-foot pole.

The House Republicans believe that they will then be able to blame defeat of the bill on the Senate, when in fact they are the ones to blame! The Senate bill has already overwhelmingly passed the Senate on a bipartisan basis. The bill is paid for, unlike the House version. And most important, the President has already signed-off on the Senate-passed bill.

These families work hard and contribute their fair share through payroll taxes and sales taxes. There is no question that they also deserve their fair share of tax relief, especially when the child tax credit has been increased by $400 for parents just one rung higher on the income ladder. They can use this tax credit to help pay for their children's needs—like food, clothing, medical care, and childcare.

I applaud Senate Republicans for heeding the call of Democrats and reversing course to pass a bill reinstating the child tax credit for these low-income working families. While it doesn't go far enough, it is a step in the right direction. Now it is time for House Republicans to do the same. It is the right and fair thing to do for America's families.

I urge my colleagues to support the Democratic motion to instruct conferees on H.R. 1308 so that the conference will agree to the Senate child tax credit bill. That's the only way these low-income families are going to get the tax credit. These are the families that need those few extra dollars the most. Vote for the motion to instruct.

Mr. KLECZKA. Mr. Speaker, last week the Senate passed legislation to restore to children of low-income working families the tax relief that was—at the last minute—removed from the tax cut signed into law last month. This new Senate bill's cost of 9.7 billion dollars is fully offset and is waiting at the desk right here, right now for our action. We could pass the bill today and send it to the President for his signature tomorrow.

However, my House Republican colleagues couldn't resist taking this important non-controversial bill—which passed the other body by a vote of 94–2—and weighing it down with more deficit growing tax cuts. The package before us today is almost 9 times larger than the Senate bill and every nickel of its 82 billion dollar price tag will be put onto our National Debt and repaid by our children and grandchildren.

The Congressional Budget Office reported earlier this week that the tax cut signed into law last month, coupled with increasing defense spending, will send the federal budget deficit above $400 billion this year. If House Republicans were serious about giving child tax credit relief they would have paid for their bill. And, knowing that the Senate is fiscally responsible—they know this product won't pass.

This is a cute way to appear to be for "something" while knowingly killing it. Let's be honest—most poor working folks don't vote for your guys so you're punishing their children today. Shame on you.

I urge my colleagues to reject this bill and to send a message to the 94 members of the other body that we are with them.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SWEENEY). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New York (Mr. RANGEL).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. RANGEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 205, nays 201, not voting 29, as follows:

[Roll No. 275]

YEAS—205

Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Becerra
Bell
Bereuter
Berkley
Berry
Bishop (GA)
Bishop (NY)
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Burr
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gillmor
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (MI)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—201

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Buyer
Calvert
Camp
Cantor
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Johnson, Sam
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McKeon
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tauzin
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—29

Abercrombie
Ackerman
Berman
Blumenauer
Burton (IN)
Cannon
Cubin
Davis (FL)
Eshoo
Ford
Fossella
Gallegly
Gephardt
Janklow
Jenkins
Johnson (CT)
Linder
Lipinski
McInnis
Miller, Gary
Moran (VA)
Paul
Pickering
Royce
Sessions
Smith (WA)
Tancredo
Taylor (NC)
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1840

Mr. WHITFIELD and Mr. HERGER changed their vote from "yea" to "nay."

Mr. GUTIERREZ changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. MORAN of Virginia. Mr. Speaker, on rollcall No. 275, I was unavoidably detained in traffic due to the thunderstorm in Northern Virginia. Had I been present, I would have voted "yea."

Ms. KAPTUR. Mr. Speaker, on rollcall vote 275, the motion to instruct, I would like the RECORD to show that I intended to vote "yea" and inadvertently voted "no."

APPOINTMENT OF CONFEREES

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. THOMAS, DELAY, and RANGEL.

There was no objection.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 54. Concurrent resolution commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams for their lives and accomplishments, designating a Medgar Evers National Week of Remembrance, and for other purposes.

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senators as members of the Senate Delegation to the Mexico-United States Interparliamentary Group during the First Session of the One Hundred Eighth Congress——

the Senator from Tennessee (Mr. FRIST);

the Senator from Tennessee (Mr. ALEXANDER); and

the Senator from Texas (Mr. CORNYN).

ORBIT TECHNICAL CORRECTIONS ACT OF 2003

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 2312) to amend the Communications Satellite of 1962 to provide for the orderly dilution of the ownership interest in Inmarsat by former signatories to the Inmarsat Operating Agreement, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "ORBIT Technical Corrections Act of 2003".

SEC. 2. INITIAL PUBLIC OFFERING DEADLINES.

Clause (ii) of section 621(5)(A) of the Communications Satellite Act of 1962 (47 U.S.C. 763(5)(A)) is amended—

(1) by striking "December 31, 2002" and inserting "June 30, 2004"; and

(2) by striking "June 30, 2003" and inserting "December 31, 2004".

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 2312, a bill to extend the deadline for Inmarsat to conduct the initial public offering required of it by the ORBIT Act.

The ORBIT Act was adopted in March of 2000 to promote a competitive market for satellite communications through privatization of inter-governmental organizations, one of which is Inmarsat. To further the twin goals of the privatization and independence of satellite carriers, the ORBIT Act called on Inmarsat to conduct an initial public offering (IPO) by December 31, 2001. As that December 2001 deadline approached, however, it became clear, given market conditions at the time, that it would be punitive to effectively force Inmarsat to conduct its IPO by the specified date. As a result, Congress passed legislation to provide an additional year to conduct the IPO, and also provided the FCC the ability to grant a six-month extension if warranted by market conditions.

Unfortunately, the market conditions have not improved to a point where it would be reasonable to require the IPO, and the current deadline—June 30, 2003—is now less than a month away. H.R. 2312, the ORBIT Technical Corrections Act, would not require Inmarsat to conduct its IPO until June 30, 2004, and it permits the FCC to grant an additional six months delay should market conditions continue to warrant such regulatory action. This legislation is clearly necessary at this time, lest the government would unfairly require one company and its investors to risk capital by offering shares to the public at a time when such shares are likely to be undervalued—perhaps grossly undervalued.

The Committee on Energy and Commerce continues to take an interest in the state of competition in the industry and the financial health of those who invest capital to build networks and offer satellite communications services. But as we proceed to grant one carrier additional time with which to conduct its IPO, I would observe that another provider—New Skies Satellites—long ago fulfilled the ORBIT Act's IPO and substantial dilution requirements. Since that time, it has diluted its original shareholder base yet again with a 10 percent share buyback. And New Skies is competing for satellite business independently, with strong independent management, precisely as congress envisioned in ORBIT. As the Committee considers holding hearings to examine the state of competition in the satellite industry, I believe that Congress, having introduced a new market competitor to the satellite industry, ought to examine whether the many restrictions the ORBIT Act placed on "separated entities"—in effect New Skies—are still necessary to preserve that company's independence and promote competition.

I look forward to working with my colleagues on the Committee on these issues. Today, I am satisfied simply to enact H.R. 2312. I urge my colleagues to support it as well.

Mr. SHIMKUS. Mr. Speaker, I rise today in support of H.R. 2312.

This bill is very straightforward. H.R. 2312 amends the ORBIT Act and gives the satellite company, Inmarsat, a little more time to complete their Initial Public Offering (IPO). Specifically, this legislation gives Inmarsat a 12-month extension from their pending June 30, 2003, deadline. It also gives the FCC the discretion to grant Inmarsat an additional 6-month extension on top of that if the company can demonstrate a legitimate need.

This legislation is necessary because the ORBIT Act—which was enacted in March 2000—did not anticipate the collapse of the IPO markets, especially in the telecommunications sector. In today's economic climate, Inmarsat cannot complete an IPO.

Without swift action by Congress on this bill, American farmers will face disrupted service of their precision farming technologies that rely on Inmarsat-distributed signals at the end of this month. Currently, many farmers, including many in my home state of Illinois, are utilizing GPS-based guidance systems to improve their productivity and efficiency. These systems enable farmers to more accurately apply seed, fertilizer and other inputs, reduce fuel use, and increase yields while reducing costs.

I want to emphasize that H.R. 2312 does not reopen the battles over the ORBIT law or challenge its underlying public policy. Rather, it simply makes this law workable as we suffer through this continuing down market.

I urge my colleagues to vote for this important and time-sensitive legislation.

Mr. TAUZIN. Mr. Speaker, I rise today in support of H.R. 2312, which will extend the deadline for Inmarsat to conduct the initial public offering required of it by the ORBIT satellite privatization law. H.R. 2312, introduced by Representatives SHIMKUS and MARKEY, is unopposed.

The ORBIT Act was enacted in March of 2000 to promote a competitive market for satellite communications through privatization of inter-governmental organizations, one of which is Inmarsat. The Federal Commications Commission has since found that Inmarsat has indeed satisfied the privatization criteria of the ORBIT Act.

In addition, ORBIT called on Inmarsat to conduct an initial public offering (IPO) by a date certain—December 31, 2001. However, as that December 2001 deadline approached, it became quite apparent that the volatility in the financial markets in general, and the telecommunications sector specifically, necessitated a grant of additional time within which Inmarsat could conduct its statutorily mandated IPO. As a result, Congress took the prudent step of including language in the Commerce-Justice-State FY 2002 Appropriations bill to provide an additional year to conduct the IPO, and also provide the FCC the ability to grant a six-month extension if warranted by market conditions. This action was non-controversial.

Unfortunately, the market conditions have not improved to a point where it would be reasonable to require the IPO and the current deadline (June 30, 2003) is now less than a month away. H.R. 2312, the ORBIT Technical Corrections Act, allows Inmarsat until June 30, 2004, to conduct its IPO.

The purpose of this IPO requirement was to substantilly dilute the ownership of the privatized Inmarsat by its former owners, many of which are foreign governmental entities, so as to further ensure its independence. I fully supported this goal when we enacted ORBIT, and still do today. Indeed, the action we take today, in my view, is consistent with this policy objective.

If forced to move ahead with an IPO at this time, Inmarsat will probably receive a reduced price for its shares offered. Foreign entities that still own significant portions of Inmarsat would likely be discouraged from offering their ownership interests for sale. Instead of resulting in substantial dilution of prior owners as envisioned by the ORBIT Act, a current year IPO might not achieve much dilution whatsoever. In that instance, Inmarsat would have complied with the procedural requirement of ORBIT without the substantive result that we in Congress sought: dilution of previous government owners. Given the state of the markets, the only way to ensure the dilution sought by ORBIT is to allow Inmarsat to further delay its IPO. That result is good public policy that is also good for the long-term health of the satellite communications industry.

The health of the satellite communications industry and ORBIT's implementation are important to the Committee on Energy and Commerce. We are currently exploring the possibility of holdings hearings on the state of the industry in the future. At the appropriate time, we need to examine ORBIT's implementation, and the efficiency of the existing regulatory regime. For instance, New Skies Satellites has fulfilled the requirements of ORBIT and now is a fully independent competitor in the international satellite marketplace. Some have questioned whether it makes sense to hold New Skies to a continuing list of regulatory restrictions and requirements. I look forward to working with my colleagues on the Committee to ensure that current law reflects the current realities of the satellite industry. However, today we need to enact H.R. 2312. I thank my collleagues for their support and I urge the prompt passage of this legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2312, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

LEADERSHIP NEEDS TO MAKE SURE THE ELEVATORS ARE WORKING SO MEMBERS CAN VOTE

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute.)

Mr. ABERCROMBIE. Mr. Speaker, I and other Members are as anxious as everyone else in here and leadership on both sides to vote in an expeditious manner; but if that is going to take place, then the leadership has to see to it that we are able to get into these elevators and get downstairs and get over here.

If it says "Members Only" during the time that the bells are ringing, then you have got to either put some signage up or get some people into the elevators that see to it that happens. I cannot see trying to kick people off the elevators who are citizens, trying to come see us, who operate in good faith, and we cannot get here to vote.

Now if you are so anxious to get this thing done in 15 minutes or 17 or whatever it is, that is fine. I will do my best, as I am sure everybody else will; but, Mr. Speaker, you have got to see to it then that we are able to get to do this in the manner in which we are supposedly designated to do it.

If you have elevators that are supposed to be for us during this time, then you are going to have to do things to see we can use them. I am not the only one who was disenabled from voting because I simply could not get down here. I could not get here fast enough because these elevators are stuck, and there are all kinds of people on them asking directions and you cannot get down here. If they are on the seventh floor in Longworth or end of the Cannon building, it is just not easy to do that in the 15 minutes, particularly when you are trying to kick people out of your office or get finished with what you have to get done in order to get over here to vote.

I am just asking on behalf of not just myself but any Member that finds himself or herself in these circumstances. Had I been over here, I am sure I would have voted aye, depending on what the wisdom of my colleagues would have directed me to do in the interest of the national purpose.

The SPEAKER pro tempore. The gentleman's request is respectfully noted.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I rise for the purpose of inquiring of the distinguished majority whip the schedule for tomorrow, and I will be pleased to yield to my friend, the distinguished majority whip.

Mr. BLUNT. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Missouri.

Mr. BLUNT. Mr. Speaker, I thank the gentleman from Maryland, my good friend, the Democratic whip for yielding to me.

Mr. Speaker, the House will convene on Monday at 12:30 p.m. for morning hour and 2 p.m. for legislative business and will consider several measures under suspension of the rules, and a final list of those bills will be sent to Members' offices by the end of this week.

☐ 1845

Mr. Speaker, any votes called on those measures will be rolled until 6:30 p.m.

On Tuesday, we may consider additional legislation under suspension of the rules as well as the conference report on S. 342, the Keeping the Children and Families Safe Act. Next week we expect to consider several bills under a rule, including H.R. 8, the Death Tax Permanency Act; H.R. 1528, the Taxpayers Protection and IRS Accountability Act; and H.R. 660, the Small Business Health Fairness Act.

I would like to note for all Members that we are making a change to schedules that were sent to offices at the beginning of the year, and we do not plan to have votes next Friday, June 20.

Mr. HOYER. Mr. Speaker, I thank the gentleman for the information he provided us. I would like to ask a number of questions about bills that we see on the horizon, to see whether or not they may be scheduled in the near future.

The Associated Health Plans, can you tell us what day we might consider that bill, and how the bill will be considered, and whether or not we will be allowed a substitute and/or amendment?

Mr. BLUNT. If the gentleman will continue to yield, we intend to bring that bill to the floor this coming week, I think on Wednesday or Thursday.

Mr. HOYER. Does the gentleman have any information as to whether or not the minority would be allowed a substitute to that bill?

Mr. BLUNT. We look forward to a fair and full debate on that bill. Our rules generally leave that to the Committee on Rules, but if the proposed substitute is within the rules of the House, that is normally the procedure.

Mr. HOYER. Mr. Speaker, I appreciate the gentleman's remarks and I hope that we will be able to get a substitute and such amendments as we might deem to be appropriate to be considered by the full House.

On the State tax bill, can you tell us when we might consider that bill and also the status of any rule?

Mr. BLUNT. Again, I have announced that we intend to bring that bill to the floor next week. Again I would expect that would be on Wednesday or Thursday.

Mr. HOYER. Do you know which would come first, the associated health plans or the State tax?

Mr. BLUNT. I do not know which will come first.

Mr. HOYER. The IRS Accountability Act, can you tell us what day we might consider that bill and under what type of rule?

Mr. BLUNT. We are working with the Committee on Ways and Means on that bill and intend to have that bill up the two heavy working days, Wednesday and Thursday of next week.

Mr. HOYER. Medicare prescription drugs, there has been a lot of activity on that, and I know that a lot of work is going on in the Senate and here in the House. Can you tell us about when we can expect to see the Medicare prescription drug legislation considered in the committee of jurisdiction and then on the floor?

Mr. BLUNT. If the gentleman will continue to yield, this is one of the most important topics we will deal with, one of the most important debates we will have this year. Both the Committee on Ways and Means and the Committee on Energy and Commerce have been working hard for months now on a bill. That bill appears to be very near completion. We hope to have that bill on the floor before we take a district work break later this month.

Mr. HOYER. Mr. Speaker, I thank the gentleman.

Appropriations bills, I know we have started to mark up appropriations bills in the committee. When do you expect the first appropriations bills may come to the floor, now that some of the subcommittees are beginning to mark up their bills, and how many bills do you expect to consider before the July 4 district work period?

Mr. BLUNT. As the gentleman knows, the Committee on Appropriations has begun to move forward on these bills. Two bills, Military Construction and Homeland Security, were able to mark up their bills this week. We believe the Committee on Appropriations will have several additional markups in the next week. I would anticipate that we would have some of these appropriations bills on the floor this month.

Mr. HOYER. Lastly, Mr. Whip, the child tax credit, we have just instructed the conference committee to pass the Senate bill out of conference on a bipartisan vote. I do not see the chairman of the Committee on Ways and Means, but is there any feel when that bill might come out of conference?

Mr. BLUNT. Mr. Whip, I do not have any specific feel for that, but I have heard that the other body has indicated a willingness to go to conference fairly quickly on that. I would expect that conference to move in the relatively near future.

Mr. HOYER. Mr. Speaker, would it be fair to expect that we would consider that conference committee prior to the July 4 district work period?

Mr. BLUNT. It is always difficult to expect anything out of a conference committee, but it is certainly possible it could happen that quickly; but it is possible that is a little quicker than the conference could move. That would be some time within the next 2 weeks. I do not think that is impossible, but I think it might be a little optimistic.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments, and I would simply say from our side of the aisle, and I know I speak for the leader and myself, in light of the fact that the House has urged the conference committee to report out the Senate bill, and in light of the fact that the Senate passed it 94–2, it would seem to be a relatively easy matter if the conferees followed the instructions of the House to pass the Senate bill. I believe the Senate would probably concur in that judgment, and we could have a bill out of here perhaps as early as next week.

Mr. BLUNT. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Missouri.

Mr. BLUNT. I would only say that the motion to instruct was a much narrower decision than the vote on the bill itself. There were many Members not making that vote. Certainly the motion to instruct did carry, but perhaps it was because of those elevators that Members were stuck in.

Mr. HOYER. Reclaiming my time, I do not know about everybody else, but of course had the gentleman who complained made the vote, we would have had one more vote on our side, as the gentleman indicated.

Mr. BLUNT. I would not want to overclaim where our votes were, but I was told we had more people in the elevator getting here. I think the gentleman's comments about time and ability to get to the floor were well taken, and I am sure the Speaker and the leaders on both sides of the aisle will take that under serious consideration.

Mr. MORAN of Virginia. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman. I missed the vote as well. There was a thunderstorm. I was caught in traffic, and I had no idea that such a quick gavel would be called on such an important vote. Had I been present, I would have voted "aye."

Mr. HOYER. Mr. Speaker, it is almost an avalanche of support for the position of this side, and some enlightened souls on your side of the aisle, and so perhaps we ought to conclude before we have such an overwhelming majority that there will be no alternative but to follow those instructions.

Mr. BLUNT. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Missouri.

Mr. BLUNT. By the speed of some of the things we do, my friend, a couple of Members stepping up in 10 minutes of time is almost an avalanche. The gentleman may be right about that.

ADJOURNMENT TO MONDAY, JUNE 16, 2003

Mr. GUTKNECHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

The SPEAKER pro tempore (Mr. SWEENEY). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GUTKNECHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

ROADLESS RULE REVISION AND ALASKA

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I rise today to express my strong opposition to the decision earlier this week by the Bush administration to roll back protection for over 14 million acres of pristine forestland in the Tongass and Chugach National Forests in Alaska, the crown jewels of our national forest system.

In its most blatant example of catering to corporate special interests to date, the administration has once again put its wealthy contributors before the health and safety of our environments. Whether it comes to the stewardship of our precious forestlands, it appears the administration's priority is the timber industry, first and foremost, not the taxpayers or the environment. This decision, which was the result of a settlement with the State of Alaska, was made despite over 2.2 million comments and 600 public meetings and hearings on the roadless policy, the vast majority in support of protecting the Tongass and the Chugach, which is home to America's last great rainforest.

Just as damaging, the decision will allow individual States to seek additional exemptions, eroding national protections for 58.5 million acres of pristine national forests in 39 States.

I urge my colleagues to support the legislation that I have introduced, the Alaska Rainforest Protection Act, and the Inslee-Boehlert National Forest Roadless Area Conservation Act.

HONORING PASTOR CHARLES McGOWAN

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today I rise to honor a man who has been a role model for me and my 2,500 fellow church members in how to honor the Lord and serve our brothers and sisters. He has shown us the path to both living a life of service and leaving a legacy of service.

Charles McGowan, the senior pastor of Christ Presbyterian Church in Nashville, Tennessee, is retiring. His decades of service to congregations and his mission outreach are a testament to the good a single man can do when firmly planted in a place by God. Under Pastor McGowan's leadership, we have developed a strong extension training site for the Covenant Theological Seminary. And in a time when we seek international understanding, our congregation, guided by Pastor McGowan, has forged a Ukraine partnership that has led to the Ukraine Biblical Seminary in Kiev.

Not only has Charles served his country as a man of God, he has served his country as a captain in the U.S. Army Reserve, Military Intelligence. Pastor McGowan and his wife Alice found time to raise a family of four children. Charles and Alice McGowan have shared generously with us. Theirs is truly the story of a life of grace, a life dedicated to others, and to their Lord and Savior, Jesus Christ.

RECOGNIZING SERGEANT ATANASIO HARO MARIN

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, I rise today to honor and remember Sergeant Atanasio Haro Marin, who lost his life in service to our Nation during Operation Iraqi Freedom. Today was his funeral. He came from a city I represent in Baldwin Park.

He was a member of Battery C, 3rd Battalion, 16th Field Artillery, 4th Infantry Division of Fort Hood, Texas. Today I pay tribute to him, to his loved ones, to his family for the safety and freedom and protections that he gave us. Let us not forget the other soldiers that are there that are also protecting our freedoms.

Mr. Speaker, I ask that Members of Congress please join me in extending my sincerest sympathy and condolences to the family and friends of Sergeant Atanasio Haro Marin, and would ask that all Americans join me in remembering our soldiers at this time.

☐ 1900

COMMUNICATION FROM HON. NANCY PELOSI, DEMOCRATIC LEADER

The SPEAKER pro tempore (Mr. FRANKS of Arizona) laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader:

U.S. HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, June 12, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to 44 U.S.C. 2702, I hereby appoint Mr. Joseph cooper of Baltimore, Maryland to the Advisory Committee On The Records Of Congress for a term of two years.

Best regards,

NANCY PELOSI.

REPORT ON ADMINISTRATION OF COASTAL ZONE MANAGEMENT ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources:

To the Congress of the United States:

I am pleased to transmit the Biennial Report to Congress on the Administration of the Coastal Zone Management Act by the Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration for fiscal years 2000 and 2001. This report is submitted as required by section 316 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451, *et seq.*).

The report provides an overview of the Coastal Zone Management Act and describes progress in addressing the major goals of the Act; partnerships to enhance coastal and ocean management; and research, education, and technical assistance.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 12, 2003.*

REVIEW OF ALL FEDERAL DRUG AND SUBSTANCE ABUSE PROGRAMS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services, the Committee on Education and the Workforce, the Committee on Energy and Commerce, the Committee on Government Reform, the Committee on the Judiciary, the Committee on Small Business, and the Committee on Veterans' Affairs:

To the Congress of the United States:

Consistent with section 2202 of the Public Law 107–273, I hereby transmit a report prepared by my Administration detailing the findings of a comprehensive review of all Federal drug and substance abuse treatment, prevention, education, and research programs. The report also presents an inventory of all such programs, indicating the legal authority for each program and the amount of funding in the last 2 fiscal years.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 12, 2003.*

FATHER'S DAY 2003

(Ms. CARSON of Indiana asked and was given permission to address the House for 1 minute.)

Ms. CARSON of Indiana. Mr. Speaker, Sunday, June 15 is Father's Day in America. Children and families will give tribute to men who are wonderful, caring parents. According to the 2000 census, there were 27 million fathers who had children under the age of 18 in their households in the year 2000. According to the National Fatherhood Initiative, an estimated 25 million children live absent from their biological fathers, up from under 10 million in 1960. Of the children under 18 in the United States, 66 percent lived with both parents and 5 percent lived with only their father in 2000.

All fathers can be important contributors to the well-being of their children. Kristin Clark Taylor, author of "Black Fathers, A Call for Healing," in her introduction writes:

"We are in need of our fathers. Our stomachs are growling, hungry for their presence. Our throats are parched, thirsty for the moment, the minute, the second that they walk back into our lives and bring smiles."

I encourage, Mr. Speaker, the fathers across this land to do all that they can do to be with their children, not just for a Sunday holiday but to be a permanent part of their life. To quote Marian Wright Edelman, director of the Children's Defense Fund, "We do not need an $82 billion bill to correct a $3.5 billion injustice." Fathers are struggling to be the best dad for the most part.

I salute Father's Day 2003 and fatherhood. I call upon the Congress to do what they can do to help the fathers, fatherhood and the wannabe fathers through responsible child tax credit legislation.

Happy Father's Day.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

EXCHANGE OF SPECIAL ORDER TIME

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to give my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, today's vote on the Republican child tax credit bill was a squandered opportunity, a squandered opportunity to invest in our children and their families. We missed the chance to pass legislation that would immediately grant our Nation's hardworking families an increased child tax credit. The families I am talking about are those with dedicated workers that put in full-time hours at a low wage, pay taxes, and earn less than $26,000 a year. It is unfortunate that Republicans believe these forgotten children and families do not contribute enough to deserve a break. Their actions today left me no doubt that their priorities are dead wrong.

Why could the House Republican leadership not follow the other body and bring a clean child tax credit bill before us today? According to a colleague on the other side of the aisle, "If we're going to do it, we should get something in exchange. If we give people a tax break that don't pay taxes, it's really welfare."

Mr. Speaker, these families are not on welfare. They do pay taxes. They are not seeking welfare. They are seeking the same acknowledgment for their hard work as the rich received in the Republican tax package earlier, and they deserve tax relief now. This supposed party of compassionate conservatism has exploited the child tax credit issue to pass even more tax cuts for their wealthy friends. Rather than bringing up a child tax credit bill costing $3.5 billion with full offsets, which means fully paid for, they passed a bill that costs over $80 billion with no offsets, totally unpaid for, at a time when America's Federal deficit will exceed $400 billion.

Our priority should be to put money in the hands of working Americans while keeping our fiscal house in order. That way we can create jobs and build a strong economy. If we do not help our children now, I ask you, when will we? How can we ever expect to strengthen our Nation in the future when we ignore our children, 25 percent of our population, 100 percent of our future?

Mr. Speaker, the House Republican leadership failed our children today. They failed working families. The other body handed us a bill that would have increased tax credits for 6.5 million tax-paying families. The President, after hearing from the public and getting the pressure from the majority of the people in this Nation, actually came out in strong support of this cleaner legislation. He supported what the other body passed 94 to 2. But the bill passed today will not address the real needs of this Nation's hard-working, low-wage-earning families in the same way at all.

Mr. Speaker, it is time to restore true compassion for our Nation's working families rather than our Nation's millionaires. Our families need to know that we have not forgotten them. They are the core, they are the engine, they are what makes this Nation work, and we cannot forget them.

EXCHANGE OF SPECIAL ORDER TIME

Mr. GUTKNECHT. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Indiana (Mr. BURTON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

ADDRESSING THE HIGH COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise again tonight to talk about the high cost that Americans pay for prescription drugs. I am so lucky. Today I got to spend a good part of my day with a true American hero. Her name is Kate Stahl. For Members who have not seen it, I recommend, and I will submit for the RECORD, a copy of last week's U.S. News and World Report; and they did a story, the title of which is "Health on the Border. Elderly Americans head north and south to find drugs they can afford."

Featured in the story is this American hero. Her name is Kate Stahl. She is an 84-year-old grandmother. She was here in Washington today. She wore a little sign. It just said, "Kate Stahl, Old Woman." In my opinion, Kate Stahl is an American hero, and she is a patriot. She stands on the shoulders of great patriots like the Sons of Liberty who threw tea in Boston Harbor, because she has said in this article, and I will quote, "I'd like nothing better than to be thrown in jail."

Kate Stahl has thrown herself into this fight for lower prescription drug prices. She calls herself a drug runner. She goes to Canada regularly to bring back prescription drugs for her friends and neighbors who cannot afford them. She is a patriot. Recently, the Kaiser Foundation did a study. They found that 29 percent of seniors say that they have had prescriptions that have gone unfilled because they could not afford them. I do not say shame on the pharmaceutical industry. Shame on us. Because we have the power to change it. The reason that we pay so much, and no one disputes this, and they have charts in here and comparisons of what people pay in Canada, Mexico and in Europe. No one disputes the charts. The numbers are always the same. America, the world's best market for prescription drugs, pays the world's highest prices. No one disputes that.

But the question is why. The answer I think is pretty simple. Because we are a captive market. Because the FDA has literally said that Americans, unlike most other people in the world, cannot take drugs across the border.

I am a Republican, and I happen to believe that there is nothing wrong with the word "profit." But, ladies and gentlemen, there is something wrong with the word "profiteer." They have every right to expect a reasonable rate of return on their investment and their research, but they should not get it all from American consumers like Kate Stahl. Kate Stahl, is she a common criminal? I do not think so. But our own government treats her like a common criminal. In the end, we are going to have a debate in the next several weeks about prescription drugs; and in the end every one of us is going to have to decide, will we stand with those brave patriots like Kate Stahl or will we stand with the huge pharmaceutical industry? I hope we make the right choice.

[From U.S. News & World Report, June 9, 2003]

HEALTH ON THE BORDER

ELDERLY AMERICANS HEAD NORTH AND SOUTH TO FIND DRUGS THEY CAN AFFORD

(By Susan Brink)

It's become something of a joke along the Maine-Canada border. So many busloads of retired people crisscross the line looking for affordable drugs that the roadside stands should advertise, "Lobsters. Blueberries. Lipitor. Coumadin." Except, of course, that such a market in prescription drugs would be illegal.

These senior long-distance shopping sprees fall in a legal gray zone. But as long as people cross the border with prescriptions from a physician and have them filled for no more than a three-month supply for personal use, customs and other federal officials leave them alone. The trip might be tiring, but people can save an average of 60 percent on the cost of their prescription drugs. For some, that's the difference between taking the drugs or doing without. "The last bus trip I was on six months ago had 25 seniors," says Chellie Pingree, former Maine state senator and now president of Common Cause. "Those 25 people saved $19,000 on their supplies of drugs." Pingree sponsored a bill known as Maine Rx, which authorizes a discounted price on drugs for Maine residents who lack insurance coverage. The law was challenged by drug companies but recently upheld by the U.S. Supreme Court. It hasn't yet taken effect.

For years, field trips of senior citizens who live near the borders have been organized to roll north to Canada and south to Mexico. People in the middle of the country sometimes found, if their prescription drug costs were especially high, that they could save money on medications even if they flew to Europe. The Internet has made it even easier for people to fill their prescriptions from mail-order pharmacies.

Figuring out ways to spend less on prescription drugs has become a multi-faceted national movement of consumers, largely senior citizens. The prescription drug bill in America is $160 billion annually, and people over 65 fill five times as many prescriptions as working Americans on average. "But they do it on health benefits that are half as good and on incomes that are half as large," says Richard Evans, senior analyst at Sanford C. Bernstein, an investment research firm. What's more, seniors account for 20 percent of the voting public.

Face-off. It's little wonder that the May 19 Supreme Court ruling got the attention of drug manufacturers and politicians across the country. The often-over-looked state of 1.3 million tucked in the northeast corner of the country became David to the pharmaceutical industry's Goliath. The face-off began three years ago when state legislators like Pingree began questioning why Maine's elderly population had to take all those bus trips.

Americans who are elderly and uninsured pay the world's highest prices for prescription drugs. That's because they buy their drugs individually, without the bulk bargaining power of an insurance company or the federal government. Other industrialized countries, like Canada, France, Germany, and Japan, have national healthcare systems and can use the bargaining power of their entire populations to negotiate drug prices and set limits on how much drug manufacturers can charge.

Though Congress has been debating a prescription drug plan for years, seniors today still have no drug coverage under Medicare. The Maine plan does not provide a drug benefit. Seniors and the uninsured would still purchase their own medicines, but the plan helps them get a discounted price on drugs similar to that available to Medicaid recipients, in effect bringing hundreds of thousands of individual (and powerless) consumers into a powerful negotiating block.

Teaming the elderly and uninsured with Medicaid recipients gives them bargaining power they've never had before. Drug manufacturers are required to give Medicaid a discount of about 15 percent below the list price or match the lowest price on the market. That creates an incentive to keep the market price as high as possible, says Katharine Greider, author of The Big Fix: How the Pharmaceutical Industry Rips Off American Consumers. But most consumers don't notice the high drug prices, because with health insurance they only pay a small copayment. Only those lacking prescription drug coverage—including many elderly—end up paying full retail price for drugs.

The law's leverage disturbs the drug industry. It would create formulary, or list of preferred drugs, for this block of patients, similar to those used by many managed-care organizations. If a manufacturer did not lower its prices, it would not be on the state's formulary. Drug companies oppose the law as a quality-of-care issue. "Under Maine's program, government officials, rather than doctors and patients, would effectively decide which medicines will be available for Medicaid and non-Medicaid patients," says a statement from Pharmaceutical Research and Manufacturers of America, the industry's trade organization.

The Maine drug plan was crafted three years ago, and health officials are now refining a draft of the law to send to the Legislature. But the pharmaceutical industry is far from ready to give up the fight. "I don't go to any meetings that don't have five lawyers sitting around the table," says Peter Walsh, acting commissioner or the Maine Department of Human Services. Even when it goes forward, one small New England state's law won't solve the nation's prescription drug crisis.

The greater hope for consumers—and the greater threat to the industry—is the clout of about 18 other states that have filed bills similar to Maine's. "The point at which you get half or more states to do this, it becomes a more and more significant intrusion into the market. And it becomes harder for the pharmaceutical industry to fight back. That's why they had to fight so hard against Maine's law," says Sara Rosenbaum, professor of health-policy law at George Washington University.

Going south. Meanwhile, individual consumers are figuring out their own ways to bypass steep American drug prices. For example, Bill Goff goes to Tijuana, Mexico, four times a year. He flies from his home in Reno, Nev., to San Diego, stays in the Travelodge, rents a car for a day, and crosses the border to visit Carlos Cortez of Farmacia Internacional with a fist-full of prescriptions. He has a host of medical disorders, including rheumatoid arthritis, diabetes, asthma, glaucoma, and osteoporosis. He would spend $32,000 a year on prescription drugs in the United States, but he has cut his annual cost to $9,500, even including travel costs. "It's not a matter of saving money. It's a matter of living," says Goff. "If I didn't go to Mexico, I couldn't afford the drugs. I'd be dead."

Others are skipping the travel altogether, some with the help of 84-year-old Kate Stahl. She is not above using the "grandmother" image to further a cause. "I'd like nothing better than to be thrown in jail. People would say, 'Oh, the poor, frail old granny,'" she says with a laugh. "I can be very frail if I have to." Stahl volunteers with the Minnesota Senior Federation, helping people get the forms and information they need to get mail-order prescription from Canada. The plan, called the Canadian Prescription Drug Importation Program (www.mnseniorfed.org), is open to anyone in the United States. But while no one seems ready to throw the likes of Stahl in the slammer, the program's legality is murky.

Though the Food and Drug Administration says it cannot guarantee the safety of imported drugs (even if they're exported from the United States, then reimported, as many are), individuals filling their personal prescriptions are generally left alone. But the agency has sent warning letters to profit-making drugstores in the United States that help consumers get mail-order prescriptions from Canada, saying that reimporting cheap drugs is a violation of the law and a risk to public health.

Since Stahl and her organization do not profit from their efforts, so far no one has hassled them. Rep. Gil Gutknecht, a Minnesota Republican, is trying to pass legislation that would make it easier for people to get their drugs from Canada or overseas. Laws to that effect have passed twice before, but both times the FDA protested that it could not guarantee the safety of drugs reimported from Canada, and so the law has not taken effect. Still, Gutknecht is not alone in interpreting present laws in a way that allows people to buy personal three-month supplies of drugs overseas without problems.

Cortez has a conference table display of brand-name prescription drugs in his Tijuana office. One by one he holds them up. Pfizer's Lipitor, Eli Lilly's Prozac. Merck's Fosamax. They're not loose pills; they are individually bubble-wrapped within sealed boxes. "We have no doubt that what we're buying is what it is. It comes from world-class labs," he says. And the 30 percent of his customers who are American seem to agree.

He's aware of the irony: a businessman from the developing world profiting on sales to desperate citizens of the wealthiest country on Earth. "It doesn't get more stark than right here. You can see so clearly: Third World," he says, pointing to the roadside squalor in Tijuana, the concrete barriers at dusk crowded with men waiting for nightfall and a risky dash across the border. "First World," he finishes, pointing toward the city of San Diego across the border. "My business thrives on people coming here from the States. But I shouldn't have people thanking me for making it possible for them to survive when they are from a country like the United States."

ORDER OF BUSINESS

Mr. HENSARLING. Mr. Speaker, I ask unanimous consent to give my Special Order now.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LITIGATION REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, today the House passed landmark legislation in the passage of the Class Action Fairness Act of 2003. Lawsuit abuse is everywhere. It is harming American businesses, consumers, and families.

Mr. Speaker, there is something wrong with our legal system when it is easier to sue a doctor than it is to see a doctor. There is something wrong with our legal system when a plaintiff can be awarded millions of dollars because McDonald's serves hot coffee and not lukewarm coffee. There is something wrong with our legal system when people can sue Kentucky Fried Chicken for their weight gain because they ate too much fried chicken. And, Mr. Speaker, there is definitely something wrong with our legal system when the awards and settlements from class action lawsuits more often than not benefit the trial attorneys and not the purported victims.

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That is right, studies show that over half of all tort liability costs go to trial lawyers and administrative expenses, not the victims, real or imagined. In one egregious example, a Bank of Boston settlement ordered $8.64 to each class member, but then turned right around and assessed each of those members $90 in trial lawyer fees.

In a case against Blockbuster, the attorneys took home $9.25 million in fees, while customers got a $1-off coupon for future video rentals.

In a suit against Cheerios, the trial lawyers were paid nearly $2 million in fees, while the customers from the suit received coupons for a free box of cereal.

Mr. Speaker, the examples go on and on and on; millions for trial lawyers, pennies for purported and real victims.

In recent years, State courts have been flooded with interstate class action lawsuits, many without merit. In fact, more than 15 million civil lawsuits were filed in 1999 alone. That is one lawsuit for every 18 people in our country.

Over the last 10 years alone, class action filings in State courts have increased 1,000 percent. That is right, 1,000 percent. Why is this happening? Well, with so many class action suits and so much at stake, most companies are deciding to settle these suits, even if they do not have merit, enriching trial lawyers and giving little or nothing to victims and costing the rest of us dearly.

How does it cost us, Mr. Speaker? The cost of litigation accounts for one-third of the price of an 8-foot aluminum ladder, it doubles the price of a football helmet, it adds $500 to the sticker price of a new car, and it increases the cost of a pacemaker by $3,000.

Mr. Speaker, the American people may not realize it, but they are paying $1.200 a year more for goods and services because of lawsuit abuse. That is enough to pay a couple of months of day care, purchase a home computer for a child, or buy 9 months of prescription drugs for a senior citizen. That is what each of us is losing.

It costs us in other ways as well. Another survey has found that for fear of product liability, almost half of small businesses have had to withdraw products from the marketplace, and 39 percent decided not to introduce new products. Litigation concerns have led several companies to postpone or cancel promising AIDS vaccines.

Class action lawsuit abuse especially hurts small businesses, because small businesses are often named as defendants in these suits so that the suits can be kept in trial-lawyer-friendly local courts.

These suits cause huge increases in insurance premiums, causing many small businesses to either pay up or go belly up. What a loss, Mr. Speaker, because two out of three jobs in America are created by small business.

Mr. Speaker, we must make the class action process more fair. The Class Action Fairness Act of 2003 will implement several important changes to dramatically improve our judicial system. By expanding Federal jurisdiction for truly multistate lawsuits, the Class Action Fairness Act will reduce the number of frivolous lawsuits and help prevent venue shopping by trial attorneys for favorable rulings. The judicial review and approval process will prohibit courts from awarding larger settlements to plaintiffs based solely on their proximity to the courthouse, and, very, very important, it will provide a much-needed safeguard for plaintiffs from being shortchanged by trial attorneys.

Mr. Speaker, many class action lawsuits are valid, meritorious, and address legitimate grievances by groups of people with similar claims. But the abuse of this legal tool is overwhelming. It is costing us jobs, bankrupting businesses, depleting businesses, and gouging consumers. We must have reform.

REPUBLICANS AND SPENDING

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentleman from Texas (Mr. STENHOLM) is recognized for 5 minutes.

Mr. STENHOLM. Mr. Speaker, just yesterday, the Congressional Budget Office projected the Federal Government will end fiscal year 2003 with the largest deficit in the history of our country, more than $400 billion. The Republican leadership responded to that news by scheduling a vote today on legislation that would add another $100 billion in debt over the next decade. The Republican leadership claims that we can afford their tax cuts and balance the budget by controlling spending. Unfortunately, the Republican rhetoric about controlling spending does not match the reality of their own record.

In the 8 years since Republicans took control of Congress, discretionary spending has increased by an average of 6.5 percent per year, compared to an average of 1.6 percent in the previous 8 years. President Bush signed spending bills increasing spending by nearly 22 percent in the first 2 years he was in office.

Now, some of that was uncontrollable, due to the war and 9/11, but not all of it. When Republicans took control of Congress in 1994, total spending was $1.4 trillion. Under their budget they propose to spend $2.2 trillion next year, an increase of over $800 billion over 10 years.

If we are going to come to the floor day after day, tax cut after tax cut, a tax cut a week, if that is your strategy, and you say we are going to control spending, you have got to do something about your record.

This is the way spending is going to increase under the budget that the majority has put forward this year. By the end of this decade, total spending under the Republican budget will be more than double what it was when Republicans gained control of Congress. You would not gather that by the rhetoric we heard again today. We just keep talking over each other.

But these are the facts of what is happening. If we are going to cut taxes and if we are going to do the things that you propose to do every week, then you have got to cut spending. Otherwise we are going to run this country into the ground. And you are not proposing to do it.

Earlier this week, the administration and Republican leadership have already agreed to increase discretionary spending for the next year by $5.2 billion, an increase above the budget resolution they passed just 2 months ago.

Just today, the administration has informed the Committee on Appropriations that they will request another $1.6 billion in supplemental spending for the current fiscal year, an increase. The Blue Dog budget called for tough spending limits by adopting the President's overall spending levels.

I have no quarrel with what the majority proposed on discretionary spending. This is the green line. I have no quarrel with that.

The budget conference report the Republicans passed earlier this year is essentially adopting the spending levels we had in the Blue Dog budget, and that was supported by a majority of Democrats. The Blue Dogs are willing to work with Republicans to hold the line on spending at levels in their budget resolution. Unfortunately, the actions of the last few days show that the Republicans are not willing to stick with the spending levels in their own budget, but yet we keep talking about we are going to control spending.

The Republican budget policies are increasing the most wasteful spending in the Federal budget, the $332 billion collected from taxpayers simply to cover our national interest payments. This debt tax consumed a whopping 18 percent of all Federal tax dollars this year, and will increase to 20.1 percent by 2013. This is an increase in the debt tax that working men and women are going to have to pay in order to fulfill the economic policy that we keep hearing about every day.

The bill that passed the House today would add another $31 billion in spending, spending, spending. We had a $3.48 billion problem, and what does the leadership on this side of the aisle propose to do? Spend $30.39 billion more to solve a $3.48 billion problem.

I do not know how much longer we can do that. It does not seem to bother anybody on the other side of the aisle. I used to join with you day after day after day in saying we need to balance our Federal budget. I used to vote with you. I have not changed my voting pattern.

Under the Republican budget plan, the national debt will increase to over $12 trillion by 2013. Now, that may not bother anyone, and we can have another tax cut next week, which I understand we are going to have.

But let me say at this point, in closing, Mr. Speaker, the Blue Dogs have issued a letter of challenge to the Republican Message Group. I have spoken with the gentleman from Georgia (Mr. KINGSTON). We would like to have a little debate on this. We have got responsible people on both sides of the aisle that are just as worried about this as we are.

Instead of talking over each other and reading our 2-minute speeches and acting like we are not even in the same world, the Blue Dogs are challenging at least once every week, every night, for the rest of this year, if that is what we agree to do, to talk about these issues, and not just have me standing up pointing to the charts, but having my friends on the other side stand up and say, "You are all wet, Charlie. That is not the way it is," even though these come right out of your budget and the OMB.

I think we need to have a real debate on this issue. So we are making this challenge, I am making it publicly right now, and I look forward to Special Orders next Monday, Tuesday or Wednesday, in which we can sit down and talk about this.

If we are going to talk about controlling spending, then let us propose a budget that does it. Let us not vote down the Blue Dog budget that would have been balanced. Let us not talk about a constitutional amendment, which, by the way, I am for and we will be starting the charge on that also next week to require a balanced budget.

If you are going to talk about it, you have to be prepared to do those things necessary to do it. And you do not cut taxes and increase the debt cost, the interest debt cost by $30 billion to solve a $3 billion problem. It will not work.

As we say back home in Texas, "that dog won't hunt."

CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I rise tonight to discuss the refundable child tax credit that we voted on earlier this evening.

I appreciate the remarks of my good friend and next-door neighbor from Texas, but, Mr. Speaker, I have to ask, how did we get here?

Our friends on the other side of the aisle have characterized the recently passed Jobs and Growth Tax Act as "misdirected" and targeted to the wrong people. They say that in order to stimulate the economy we do not need to return the tax dollars to people who pay taxes.

Well, in 2001, and, of course, I was not here then, but this House did pass a tax bill that did return tax dollars to people who do not pay taxes, but the stimulatory effect to the economy from that activity was minimal. So 2 weeks ago we did something different, and we passed the President's economic stimulus plan, which put tax dollars back in the hands of the people who make our economy go. The other side complained about the deficit again, and yet this week they advocated extending the refundable child credit another $3.5 billion.

Mr. Speaker, the fact remains that small businesses are becoming more and more important to the Nation's overall business activity. They create the majority of new jobs and account for half of the economy's private output.

The jobs and growth plan gives small businesses the ability to immediately expense up to $100,000, instead of the current write-off of $25,000 in capital purchases. This encourages small businesses to buy technology, machinery and other equipment that they need to expand their business and meet the needs of their consumers.

The jobs and growth plan increased the child tax credit and eliminated the marriage penalty and exempted another 3.8 million workers from Federal tax liability. And low-income families in particular benefited from this economic growth and tax relief package through a number of provisions.

We accelerated the expansion of the 10 percent bracket. This means workers can earn more before they get moved into the 15 or 25 percent tax brackets.

Our jobs and growth program eliminated the marriage penalty.

We also accelerated the President's 2001 tax cut provision to increase the child tax credit to $1,000. Accelerating the expansion of the child tax credit will provide 26 million families with an average tax cut of $623. Obviously it means a great deal for a family of four, working to make ends meet each year.

While I recently was surprised to learn that the Democratic Caucus was interested in passing additional tax relief, I am pleased to work with them to accomplish several things. I would like to see us eliminate the marriage penalty in the child tax credit.

I would like to see us repeal the sunset included in the jobs and growth economic package to ensure that the child tax credit stays at $1,000 through 2010, not just through the next election year.

I would like to reiterate with my good friend from Texas our commitment to the military tax relief provisions that passed this House in March. These provisions include the capital gains tax relief on home sales, tax-free death gratuity payments, and tax-free dependent care assistance for members of the military.

In the future, Mr. Speaker, I look forward to working with my friend from Texas and our friends on the other side of the aisle on fundamental tax reform, including permanent elimination of the death tax. I also look forward to holding the line on the Federal deficit by controlling discretionary spending as we start this year's appropriations process.

Mr. Speaker, in closing, I think it is time that we have to focus on the fact that we cannot any longer punish those who work hard, take risks and are successful, the small business entrepreneurs in our society. America's economic recovery depends on the jobs created by the success of that segment of the population.

Mr. Speaker, our majority leader said it so well tonight: It is time for some of us not just to stand up for the cameras, but to stand up for America.

PUBLICATION OF THE RULES FOR THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE, 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GOSS) is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I am pleased to transmit herewith the Rules of Procedure for the Permanent Select Committee on Intelligence for the 108th Congress. The enclosed rules were adopted by the Committee, in February 2003.

Pursuant to rule XI, clause 2(a)(2) of the Rules of the House of Representatives, I request that the enclosed Rules of Procedure be printed in the CONGRESSIONAL RECORD at the earliest convenient date.

RULES OF PROCEDURE FOR THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

1. SUBCOMMITTEES

(a) Generally.

(1) Creation of subcommittees shall be by majority vote of the Committee.

(2) Subcommittees shall deal with such legislation and oversight of programs and policies as the Committee may direct.

(3) Subcommittees shall be governed by these rules.

For purposes of these rules, any reference herein to the "Committee" shall be interpreted to include subcommittees and the working group, unless otherwise specifically provided.

(b) Establishment of Subcommittees. The Committee establishes the following subcommittees:

(1) Subcommittee on Human Intelligence, Analysis, and Counterintelligence;

(2) Subcommittee on Technical and Tactical Intelligence;

(3) Subcommittee on Intelligence Policy and National Security; and,

(4) Subcommittee on Terrorism and Homeland Security.

For purposes of these rules, any reference herein to the "Committee" shall be interpreted to include subcommittees, unless otherwise specifically provided.

(d) Subcommittee Membership.

(1) Generally. Each Member of the Committee may be assigned to at least one of the four subcommittees.

(2) Ex Officio Membership. In the event that the Chairman and Ranking Minority Member of the full Committee do not choose to sit as regular voting members of one or more of the subcommittees, each is authorized to sit as an ex officio Member of the subcommittees and participate in the work of the subcommittees. When sitting ex officio, however, they—

(A) shall not have a vote in the subcommittee; and

(B) shall not be counted for purposes of determining a quorum.

2. MEETING DAY

(a) Regular Meeting Day for the Full Committee.

(1) Generally. The regular meeting day of the Committee for the transaction of Committee business shall be the first Wednesday of each month, unless otherwise directed by the Chairman.

(2) Notice Required. Such regular business meetings shall not occur, unless Members are provided reasonable notice under these rules.

(b) Regular Meeting Day for Subcommittees. There is no regular meeting day for subcommittees.

3. NOTICE FOR MEETINGS

(a) Generally. In the case of any meeting of the Committee, the Chief Clerk of the Committee shall provide reasonable notice to every Member of the Committee. Such notice shall provide the time and place of the meeting.

(b) Definition. For purposes of this rule, "reasonable notice" means:

(1) written notification;

(2) delivered by facsimile transmission or regular mail, which is

(A) delivered no less than 24 hours prior to the event for which notice is being given, if the event is to be held in Washington, D.C.; or

(B) delivered no less than 48 hours prior to the event for which notice is being given, if the event is to be held outside Washington, D.C.

(c) Exception. In extraordinary circumstances only, the Chairman may, after consulting with the Ranking Minority Member, call a meeting of the Committee without providing notice, as defined in subparagraph (b), to Members of the Committee.

4. PREPARATIONS FOR COMMITTEE MEETINGS

(a) Generally. Designated Committee Staff, as directed by the Chairman, shall brief Members of the Committee at a time sufficiently prior to any Committee meeting in order to:

(1) assist Committee Members in preparation for such meeting; and

(2) determine which matters Members wish considered during any meeting.

(b) Briefing Materials.

(1) Such a briefing shall, at the request of a Members, include a list of all pertinent papers, and such other materials, that have been obtained by the Committee that bear on matters to be considered at the meeting; and

(2) The staff director shall also recommend to the Chairman any testimony, papers, or other materials to be presented to the Committee at the meeting of the Committee.

5. OPEN MEETINGS

(a) Generally. Pursuant to Rule XI of the House, but subject to the limitations of subsection (b), Committee meetings held for the transaction of business, and Committee hearings, shall be open to the public.

(b) Exceptions. Any meetings or portion thereof, for the transaction of business, including the markup of legislation, or any hearing or portion thereof, shall be closed to the public, if:

(1) the Committee determines by record vote, in open session with a majority of the Committee present, that disclosure of the matters to be discussed may:

(A) endanger national security;

(B) compromise sensitive law enforcement information;

(C) tend to defame, degrade, or incriminate any person; or

(D) otherwise violate any law or Rule of the House.

(2) Notwithstanding paragraph (1), a vote to close a Committee hearing, pursuant to this subsection and House Rule X shall be taken in open session—

(A) with a majority of the Committee being present; or

(B) pursuant to House Rule X, clause 11(d)(2), regardless of whether a majority is present, so long as at least two Members of the Committee are present, one of whom is a member of the Minority, and votes upon the motion.

(c) Briefings. All Committee briefings shall be closed to the public.

6. QUORUM

(a) Hearings. For purposes of taking testimony, or receiving evidence, a quorum shall consist of two Committee Members.

(b) Other Committee Proceedings. For purposes of the transaction of all other Committee business, other than the consideration of a motion to close a hearing as described in rule 5(b)(2)(B), a quorum shall consist of a majority of Members.

7. REPORTING RECORD VOTES

Whenever the Committee reports any measure or matter by record vote, the report of the Committee upon such measure or matter shall include a tabulation of the votes cast in favor of, and the votes cast in opposition to, such measure or matter.

8. PROCEDURES FOR TAKING TESTIMONY OR RECEIVING EVIDENCE

(1) Notice. Adequate notice shall be given to all witnesses appearing before the Committee.

(b) Oath or Affirmation. The Chairman may require testimony of witnesses to be given under oath or affirmation.

(c) Administration of Oath or Affirmation. Upon the determination that a witness shall testify under oath or affirmation, any Member of the Committee designated by the Chairman may administer the oath or affirmation.

(d) Interrogation of Witnesses.

(1) Generally. Interrogation of witnesses before the Committee shall be conducted by Members of the Committee.

(2) Exceptions.

(A) The Chairman, in consultation with the Ranking Minority Member, may determine that Committee Staff will be authorized to question witnesses at a hearing in accordance with clause (2)(j) of House Rule XI.

(B) The Chairman and Ranking Minority Member are each authorized to designate Committee Staff to conduct such questioning.

(e) Counsel for the Witness.

(1) Generally. Witnesses before the Committee may be accompanied by counsel, subject to the requirements of paragraph (2).

(2) Counsel Clearances Required. In the event that a meeting of the Committee has been closed because the subject to be discussed deals with classified information, counsel accompanying a witness before the Committee must possess the requisite security clearance and provide proof of such clearance to the Committee at least 24 hours prior to the meeting at which the counsel intends to be present.

(3) Failure to Obtain Counsel. Any witness who is unable to obtain counsel should notify the Committee. If such notification occurs at least 24 hours prior to the witness' appearance before the Committee, the Committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain counsel, however, will not excuse the witness from appearing and testifying.

(4) Conduct of Counsel for Witnesses. Counsel for witnesses appearing before the Committee shall conduct themselves ethically and professionally at all times in their dealings with the Committee.

(A) A majority of Members of the Committee may, should circumstances warrant, find that counsel for a witness before the Committee failed to conduct himself or herself in an ethical or professional manner.

(B) Upon such finding, counsel may be subject to appropriate disciplinary action.

(5) Temporary Removal of Counsel. The Chairman may remove counsel during any proceeding before the Committee for failure to act in an ethical and professional manner.

(6) Committee Reversal. A majority of the Members of the Committee may vote to overturn the decision of the Chairman to remove counsel for a witness.

(7) Role of Counsel for Witness.

(A) Counsel for a witness:

(i) shall not be allowed to examine witnesses before the Committee, either directly or through cross-examination; but

(ii) may submit questions in writing to the Committee that counsel wishes propounded to a witness; or

(iii) may suggest, in writing to the Committee, the presentation of other evidence or the calling of other witnesses.

(B) The Committee may make such use of any such questions, or suggestions, as the Committee deems appropriate.

(f) Statements by Witnesses.

(1) Generally. A witness may make a statement, which shall be brief and relevant, at the beginning and at the conclusion of the witness' testimony.

(2) Length. Each such statements shall not exceed five minutes in length, unless otherwise determined by the Chairman.

(3) Submission to the Committee. Any witness desiring to submit a written statement for the record of the proceeding shall submit a copy of the statement to the Chief Clerk of the Committee.

(A) Such statements shall ordinarily be submitted no less than 48 hours in advance of the witness' appearance before the Committee.

(B) In the event that the hearing was called with less than 24 hours notice, written statements should be submitted as soon as practicable prior to the hearing.

(g) Objections and Ruling.

(1) Generally. Any objection raised by a witness, or counsel for the witness, shall be ruled upon by the Chairman, and such ruling shall be the ruling of the Committee.

(2) Committee Action. A ruling by the Chairman may be overturned upon a majority vote of the Committee.

(h) Transcripts.

(1) Transcript Required. A transcript shall be made of the testimony of each witness appearing before the Committee during any hearing of the Committee.

(2) Opportunity to Inspect. Any witness testifying before the Committee shall be given a reasonable opportunity to inspect the transcript of the hearing, and may be accompanied by counsel to determine whether such testimony was correctly transcribed. Such counsel:

(A) shall have the appropriate clearance necessary to review any classified aspect of the transcript; and

(B) should, to the extent possible, be the same counsel that was present for such classified testimony.

(3) Corrections.

(A) Pursuant to Rule XI of the House Rules, any corrections the witness desires to make in a transcript shall be limited to technical, grammatical, and typographical.

(B) Corrections may not be made to change the substance of the Testimony.

(C) Such corrections shall be submitted in writing to the Committee within 7 days after the transcript is made available to the witnesses.

(D) Any questions arising with respect to such corrections shall be decided by the Chairman.

(4) Copy for the Witness. At the request of the witness, any portion of the witness' testimony given in executive session shall be made available to that witness if that testimony is subsequently quote or intended to be made part of a public record. Such testimony shall be made available to the witness at the witness' expense.

(i) Requests to Testify.

(1) Generally. The Committee will consider requests to testify on any matter or measure pending before the Committee.

(2) Recommendations for Additional Evidence. Any person who believes that testimony, other evidence, or commentary, presented at a public hearing may tend to affect adversely that person's reputation may submit to the Committee, in writing:

(A) a request to appear personally before the Committee;

(B) A sworn statement of facts relevant to the testimony, evidence, or commentary; or

(C) proposed questions for the cross-examination of other witnesses.

(3) Committees Discretion. The Committee may take those actions it deems appropriate with respect to such requests.

(j) Contempt Procedures. Citations for contempt of Congress shall be forwarded to the House, only if:

(1) reasonable notice is provided to all Members of the Committee of a meeting to be held to consider any such contempt recommendations;

(2) the Committee has meet and considered the contempt allegations;

(3) The subject of the allegations was afforded an opportunity to state either in writing or in person, why he or she should not be held in contempt; and

(4) the Committee agreed by majority vote to forward the citation recommendations to the House.

((k) Release of Name of Witness.

(1) Generally. At the request of a witness scheduled to be heard by the Committee, the name of that witness shall not be released publicly prior to, or after, the witness' appearance before the Committee.

(2) Exceptions. Notwithstanding paragraph (1), the chairman may authorize the release to the public of the name of any witness scheduled to appear before the Committee.

9. INVESTIGATIONS

(a) Commencing Investigations.

(1) Generally. The Committee shall conduct investigations only if approved by the full Committee. An investigation may be initiated either:

(A) by a vote of the full Committee;

(B) at the direction of the Chairman of the full Committee, with notice to the Ranking Minority Member; or

(C) by written request of at lease five Members of the full Committee, which is submitted to the Chairman.

(2) Full Committee Ratification Required. Any investigation initiated by the Chairman pursuant to paragraphs (B) and (C) must be brought to the attention of the full Committee for approval, at the next regular meeting of the full Committee.

(b) Conducting Investigation. An authorized investigation may be conducted by Members of the Committee or Committee Staff members designated by the Chairman, in consultation with the Ranking Minority Member, to undertake any such investigation.

10. SUBPOENAS

(a) Generally. All subpoenas shall be authorized by the Chairman of the full Committee, upon consultation with the Ranking Minority member, or by vote of the Committee.

(b) Subpoena Contents. Any subpoena authorized by the Chairman of the full Committee, or the Committee, may compel:

(1) the attendance of witnesses and testimony before the Committee, or

(2) the production of memoranda, documents, records, or any other tangible item.

(c) Signing of Subpoena. A subpoena authorized by the Chairman of the full Committee, or the Committee, may be signed by the Chairman, or by any Member of the Committee designated to do so by the Committee.

(d) Subpoena Service. A subpoena authorized by the Chairman of the full Committee, or the Committee, may be served by any person designated to do so by the Chairman.

(e) Other Requirements. Each subpoena shall have attached thereto a copy of these rules.

11. COMMITTEE STAFF

(a) Definition. For the purpose of these rules, "Committee Staff" or "staff of the Committee" Means:

(1) employees of the Committee;

(2) consultants to the Committee;

(3) employees of other Government agencies detailed to the Committee; or

(4) any other person engaged by contract, or otherwise, to perform services for, or at the request of, the Committee.

(b) Appointment of Committee Staff.

(1) Chairman's Authority. The appointment of Committee Staff shall be by the Chairman, in consultation with the Ranking Minority Member. The Chairman shall certify Committee Staff appointments to the Clerk of the House in writing.

(2) Security Clearance Required. All offers of employment for prospective Committee Staff positions shall be contingent upon:

(A) the results of a background investigation; and

(B) a determination by the Chairman that requirements for the appropriate security clearances have been met.

(c) Responsibilities of Committee Staff.

(1) Generally. The Committee Staff works for the Committee as a whole, under supervision and direction of the Chairman of the Committee.

(2) Authority of the Staff Director.

(A) Unless otherwise determined by the Committee, the duties of Committee Staff shall be performed under the direct supervision and control of the staff director.

(B) Committee Staff personnel affairs and day-to-day Committee Staff administrative matters, including the security and control of classified documents and material, shall be administered under the direct supervision and control of the staff director.

(3) Staff Assistance to Minority Membership. The Committee Staff shall assist the Minority as fully as the Majority of the Committee in all matters of Committee business, and in the preparation and filing of supplemental, minority, or additional views, to the end that all points of view may be fully considered by the Committee and the House.

12. LIMIT ON DISCUSSION OF CLASSIFIED WORK OF THE COMMITTEE

(a) Prohibition.

(1) Generally. Except as otherwise provided by these rules and the Rules of the House of Representatives, Members and Committee staff shall not at any time, either during that person's tenure as a Member of the Committee or as Committee Staff, or anytime thereafter, discuss or disclose:

(A) the classified substance of the work of the Committee;

(B) any information received by the Committee in executive session;

(C) any classified information received by the Committee from any source; or

(D) the substance of any hearing that was closed to the public pursuant to these rules or the Rules of the House.

(2) Non-Disclosure in Proceedings.

(A) Members of the Committee and the Committee Staff shall not discuss either the substance or procedure of the work of the Committee with any person not a Member of the Committee or the Committee Staff in connection with any proceeding, judicial or otherwise, either during the person's tenure as a Member of the Committee, or of the Committee Staff, or at any time thereafter, except as directed by the Committee in accordance with the Rules of the House and these rules.

(B) In the event of the termination of the Committee, Members and Committee Staff shall be governed in these matters in a manner determined by the House concerning discussions of the classified work of the Committee.

(3) Exceptions.

(A) Notwithstanding the provisions of subsection (a)(1), Members of the Committee and the Committee Staff may discuss and disclose those matters described in subsection (a)(1) with—

(i) Members and staff of the Senate Select Committee on Intelligence designated by the chairman of that committee;

(ii) the chairmen and ranking minority members of the House and Senate Committees on Appropriations and staff of those committees designated by the chairmen of those committees; and

(iii) the chairman and ranking minority member of the Subcommittee on Defense of the House Committee on Appropriations and staff of that subcommittee as designated by the chairman of that subcommittee.

(B) Notwithstanding the provisions of subsection (a)(1), Members of the Committee and the Committee Staff may discuss and disclose only that budget-related information necessary to facilitate the enactment of the annual defense authorization bill with the chairmen and ranking minority members of the House and Senate Committees on Armed Services and the staff of those committees designated by the chairmen of those committees.

(C) Notwithstanding the provisions of subsection (a)(1), Members of the Committee and the Committee staff may discuss with and disclose to the chairman and ranking minority member of a subcommittee of the House Appropriations Committee with jurisdiction over an agency or program within the National Foreign Intelligence Program (NFIP), and staff of that subcommittee as designated by the chairman of that subcommittee, only that budget-related information necessary to facilitate the enactment of an appropriations bill within which is included an appropriation for an agency or program within the NFIP.

(D) The Chairman may, in consultation with the Ranking Minority Member, upon the written request to the Chairman from the Inspector General of an element of the Intelligence Community, grant access to Committee transcripts or documents that are relevant to an investigation of an allegation of possible false testimony or other inappropriate conduct before the Committee, or that are otherwise relevant to the Inspector General's investigation.

(E) Upon the written request of the head of an Intelligence Community element, the Chairman may, in consultation with the Ranking Minority Member, make available Committee briefing or hearing transcripts to that element for review by that element if a representative of that element testified, presented information to the Committee, or was present at the briefing or hearing the transcript of which is requested for review.

(F) Members and Committee Staff may discuss and disclose such matters as otherwise directed by the Committee.

(b) Non-Disclosure Agreement.

(1) Generally. All Committee Staff must, before joining the Committee, agree in writing, as a condition of employment, not to divulge any classified information, which comes into such person's possession while a member of the Committee Staff, to any person not a Member of the Committee or the Committee Staff, except as authorized by the Committee in accordance with the Rules of the House and these rules.

(2) Other Requirements. In the event of the termination of the Committee, Members and Committee Staff must follow any determination by the House of Representatives, with respect to the protection of classified information received while a Member of the Committee or as Committee Staff.

(3) Requests for Testimony of Staff.

(A) All Committee Staff must, as a condition of employment agree in writing, to notify the Committee immediately of any request for testimony received while a member of the Committee Staff, or at any time thereafter, concerning any classified information received by such person while a member of the Committee Staff.

(B) Committee Staff shall not disclose, in response to any such request for testimony, any such classified information, except as authorized by the Committee in accordance with the Rules of the House and these rules.

(C) In the event of the termination of the Committee, Committee Staff will be subject to any determination made by the House of Representatives with respect to any requests for testimony involving classified information received while a member of the Committee Staff.

13. CLASSIFIED MATERIAL

(a) Receipt of Classified Information.

(1) Generally. In the case of any information that has been classified under established security procedures and submitted to the Committee by any source, the Committee shall receive such classified information as executive session material.

(2) Staff Receipt of Classified Materials. For purposes of receiving classified information, the Committee Staff is authorized to accept information on behalf of the Committee.

(b) Non-Disclosure of Classified Information.

Generally. Any classified information received by the Committee, from any source, shall not be disclosed to any person not a Member of the Committee or the Committee Staff, or otherwise released, except as authorized by the Committee in accord with the Rules of the House and these rules.

14. PROCEDURES RELATED TO HANDLING OF CLASSIFIED INFORMATION

(a) Security Measures.

(1) Strict Security. The Committee's offices shall operate under strict security procedures administered by the Director of Security and Registry of the Committee under the direct supervision of the staff director.

(2) U.S. Capitol Police Presence Required. At least one U.S. Capitol Police officer shall be on duty at all times outside the entrance to Committee offices to control entry of all persons to such offices.

(3) Identification Required. Before entering the Committee's offices all persons shall identify themselves to the U.S. Capitol Police officer described in paragraph (2) and to a Member of the Committee or Committee Staff.

(4) Maintenance of Classified Materials. Classified documents shall be segregated and maintained in approved security storage locations.

(5) Examination of Classified Materials. Classified documents in the Committee's possession shall be examined in an appropriately secure manner.

(6) Prohibition on Removal of Classified Materials. Removal of any classified document from the Committee's offices is strictly prohibited, except as provided by these rules.

(7) Exception. Notwithstanding the prohibition set forth in paragraph (6), a classified document, or copy thereof, may be removed from the Committee's offices in furtherance of official Committee business. Appropriate security procedures shall govern the handling of any classified documents removed from the Committee's offices.

(b) Access to Classified Information by Member. All Members of the Committee shall at all times have access to all classified papers and other material received by the Committee from any source.

(c) Need-to-know.

(1) Generally. Committee Staff shall have access to any classified information provided to the Committee on a strict "need-to-know" basis, as determined by the Committee, and under the Committee's direction by the staff director.

(2) Appropriate Clearances Required. Committee Staff must have the appropriate clearances prior to any access to compartmented information.

(d) Oath.

(1) Requirement. Before any Member of the Committee, or the Committee Staff, shall have access to classified information, the following oath shall be executed:

"I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service on the House Permanent Select Committee on Intelligence, except when authorized to do so by the Committee or the House of Representatives."

(2) Copy. A copy of such executed oath shall be retained in the files of the Committee.

(e) Registry.

(1) Generally. The Committee shall maintain a registry that:

(A) provides a brief description of the content of all classified documents provided to the Committee by the executive branch that remain in the possession of the Committee; and

(B) lists by number all such documents.

(2) Designation by the Staff Director. The staff director shall designate a member of the Committee Staff to be responsible for the organization and daily maintenance of such registry.

(3) Availability. Such registry shall be available to all Members of the Committee and Committee Staff.

(f) Requests by Members of Other Committees. Pursuant to the Rules of the House, Members who are not Members of the Committee may be granted access to such classified transcripts, records, data, charts, or files of the Committee, and be admitted on a non-participatory basis to classified hearings of the Committee involving discussions of classified material in the following manner:

(1) Written Notification Required. Members who desire to examine classified materials in the possession of the Committee, or to attend Committee hearings or briefings on a non-participatory basis, must notify the Chief Clerk of the Committee in writing.

(2) Committee Consideration. The Committee shall consider each such request by non-Committee Members at the earliest practicable opportunity. The Committee shall determine, by roll call vote, what action it deems appropriate in light of all of the circumstances of each request. In its determination, the Committee shall consider:

(A) the sensitivity to the national defense or the confidential conduct of the foreign relations of the United States of the information sought;

(B) the likelihood of its being directly or indirectly disclosed;

(C) the jurisdictional interest of the Member making the request; and

(D) such other concerns, constitutional or otherwise, as may affect the public interest of the United States.

(3) Committee Action. After consideration of the Member's request, the Committee may take any action it may deem appropriate under the circumstances, including but not limited to:

(A) approving the request, in whole or part;

(B) denying the request; or

(C) providing the requested information or material in a different form than that sought by the Member.

(4) Requirements for Access by Non-Committee Members. Prior to a non-Committee Member being given access to classified information pursuant to this subsection, the requesting Member shall—

(A) provide the Committee a copy of the oath executed by such Member pursuant to House Rule XXIII, clause 13; and

(B) agree in writing not to divulge any classified information provided to the Member pursuant to this subsection to any person not a Member of the Committee or the Committee Staff, except as otherwise authorized by the Committee in accordance with the Rules of the House and these rules.

(5) Consultation Authorized. When considering a Member's request, the Committee may consult the Director of Central Intelligence and such other officials it considers necessary.

(6) Finality of Committee Decision.

(A) Should the Member making such a request disagree with the Committee's determination with respect to that request, or any part thereof, that Member must notify the Committee in writing of such disagreement.

(B) The Committee shall subsequently consider the matter and decide, by record vote, what further action or recommendation, if any, the Committee will take.

(g) Advising the House or Other Committees. Pursuant to Section 501 of the National Security Act of 1947 (50 U.S.C.§413), and to the Rules of the House, the Committee shall call to the attention of the House, or to any other appropriate committee of the House, those matters requiring the attention of the House, or such other committee, on the basis of the following provisions:

(1) By Request of Committee Member. At the request of any Member of the Committee to call to the attention of the House, or any other committee, executive session material in the Committee's possession, the Committee shall meet at the earliest practicable opportunity to consider that request.

(2) Committee Consideration of Request. The Committee shall consider the following factors, among any others it deems appropriate:

(A) the effect of the matter in question on the national defense or the foreign relations of the United States;

(B) whether the matter in question involves sensitive intelligence sources and methods;

(C) whether the matter in question otherwise raises questions affecting the national interest; and

(D) whether the matter in question affects matters within the jurisdiction of another Committee of the House.

(3) Views of Other Committees. In examining such factors, the Committee may seek the opinion of Members of the Committee appointed from standing committees of the House with jurisdiction over the matter in question, or submissions from such other committees.

(4) Other Advice. The Committee may, during its deliberations on such requests, seek the advice of any executive branch official.

(h) Reasonable Opportunity to Examine Materials. Before the Committee makes any decision regarding any request for access to any classified information in its possession, or a proposal to bring any matter to the attention of the House or another committee, Members of the Committee shall have a reasonable opportunity to examine all pertinent testimony, documents, or other materials in the Committee's possession that may inform their decision on the question.

(i) Notification to the House. The Committee may bring a matter to the attention of the House when, after consideration of the factors set forth in this rule, it considers the matter in question so grave that it requires the attention of all Members of the House, and time is of the essence, or for any reason the Committee finds compelling.

(j) Method of Disclosure to the House.

(1) Should the Committee decide by roll call vote that a matter requires the attention of the House as described in subsection (i), it shall make arrangements to notify the House promptly.

(2) In such cases, the Committee shall consider whether:

(A) to request an immediate secret session of the House (with time equally divided between the Majority and the Minority); or

(B) to publicly disclose the matter in question pursuant to clause 11(g) of House Rule X.

(k) Requirement to Protect Sources and Methods. In bringing a matter to the attention of the House, or another committee, the Committee, with due regard for the protection of intelligence sources and methods, shall take all necessary steps to safeguard materials or information relating to the matter in question.

(l) Availability of Information to Other Committees. The Committee, having determined that a matter shall be brought to the attention of another committee, shall ensure that such matter, including all classified information related to that matter, is promptly made available to the chairman and ranking minority member of such other committee.

(m) Provision of Materials. The Director of Security and Registry for the Committee shall provide a copy of these rules, and the applicable portions of the Rules of the House of Representatives governing the handling of classified information, along with those materials determined by the Committee to be made available to such other committee of the House or Member (not a Member of the Committee).

(n) Ensuring Clearances and Secure Storage. The Director of Security and Registry shall ensure that such other committee or Member (not a Member of the Committee) receiving such classified materials may properly store classified materials in a manner consistent with all governing rules, regulations, policies, procedures, and statutes.

(o) Log. The Director of Security and Registry for the Committee shall maintain a written record identifying the particular classified document or material provided to such other committee or Member (not a Member of the Committee), the reasons agreed upon by the Committee for approving such transmission, and the name of the committee or Member (not a Member of the Committee) receiving such document or material.

(p) Miscellaneous Requirements.

(1) Staff Director's Additional Authority. The staff director is further empowered to provide for such additional measures, which he or she deems necessary, to protect such classified information authorized by the Committee to be provided to such other committee or Member (not a Member of the Committee).

(2) Notice to Originating Agency. In the event that the Committee authorizes the disclosure of classified information provided to the Committee by an agency of the executive branch to a Member (not a Member of the Committee) or to another committee, the Chairman may notify the providing agency of the Committee's action prior to the transmission of such classified information.

15. LEGISLATIVE CALENDAR

(a) Generally. The Chief Clerk, under the direction of the staff director, shall maintain a printed calendar that lists:

(1) the legislative measures introduced and referred to the Committee;

(2) the status of such measures; and

(3) such other matters that the Committee may require.

(b) Revisions to the Calendar. The calendar shall be revised from time to time to show pertinent changes.

(c) Availability. A copy of each such revision shall be furnished to each Member, upon request.

(d) Consultation with Appropriate Government Entities. Unless otherwise directed by the Committee, legislative measures referred to the Committee shall be referred by the Chief Clerk to the appropriate department or agency of the Government for reports thereon.

16. COMMITTEE TRAVEL

(a) Authority. The Chairman may authorize Members and Committee Staff to travel on Committee business.

(b) Requests.

(1) Member Requests. Members requesting authorization for such travel shall state the purpose and length of the trip, and shall submit such request directly to the Chairman.

(2) Committee Staff Requests. Committee Staff requesting authorization for such travel shall state the purpose and length of the trip, and shall submit such request through their supervisors to the staff director and the Chairman.

(c) Notification to Members.

(1) Generally. Members shall be notified of all foreign travel of Committee Staff not accompanying a Member.

(2) Content. All Members are to be advised, prior to the commencement of such travel, of its length, nature, and purpose.

(d) Trip Reports.

(1) Generally. A full report of all issues discussed during any travel shall be submitted to the Chief Clerk of the Committee within a reasonable period of time following the completion of such trip.

(2) Availability of Reports. Such report shall be:

(A) available for the review of any Member or Committee Staff; and

(B) considered executive session material for purposes of these rules.

(e) Limitations on Travel.

(1) Generally. The Chairman is not authorized to permit travel on Committee business of Committee Staff who have not satisfied the requirements of subsection (d) of this rule.

(2) Exception. The Chairman may authorize Committee Staff to travel on Committee business, notwithstanding the requirements of subsections (d) and (e) of this rule—

(A) at the specific request of a Member of the Committee; or

(B) in the event there are circumstances beyond the control of the Committee Staff hindering compliance with such requirements.

(f) Definitions. For purposes of this rule the term "reasonable period of time" means:

(1) no later than 60 days after returning from a foreign trip; and

(2) no later than 30 days after returning from a domestic trip.

(C) DISCIPLINARY ACTIONS

(a) Generally. The Committee shall immediately consider whether disciplinary action shall be taken in the case of any member of the Committee Staff alleged to have failed to conform to any rule of the House of Representatives or to these rules.

(b) Exception. In the event the House of Representatives is:

(1) in a recess period in excess of 3 days; or

(2) has adjourned sine die; the Chairman of the full Committee, in consultation with the Ranking Minority Member, may take such immediate disciplinary actions deemed necessary.

(c) Available Actions. Such disciplinary action may include immediate dismissal from the Committee Staff.

(d) Notice to Members. All Members shall be notified as soon as practicable, either by facsimile transmission or regular mail, of any disciplinary action taken by the Chairman pursuant to subsection (b).

(e) Reconsideration of Chairman's Actions. A majority of the Members of the full Committee may vote to overturn the decision of the Chairman to take disciplinary action pursuant to subsection (b).

18. BROADCASTING COMMITTEE MEETINGS

Whenever any hearing or meeting conducted by the Committee is open to the public, a majority of the Committee may permit that hearing or meeting to be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, subject to the provisions and in accordance with the spirit of the purposes enumerated in the Rules of the House.

19. COMMITTEE RECORDS TRANSFERRED TO THE NATIONAL ARCHIVES

(a) Generally. The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with the Rules of the House of Representatives.

(b) Notice of Withholding. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to the Rules of the House of Representatives, to withhold a record otherwise available, and the matter shall be presented to the full Committee for a determination of the question of public availability on the written request of any Member of the Committee.

20. CHANGES IN RULES

(a) Generally. These rules may be modified, amended, or repealed by vote of the full Committee.

(b) Notice of Proposed Changes. A notice, in writing, of the proposed change shall be given to each Member at least 48 hours prior to any meeting at which action on the proposed rule change is to be taken.

ENCOURAGING PEACE TALKS IN SRI LANKA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise this evening to encourage a new round of peace talks between the Sri Lankan Government and the Liberation Tigers of Tamil Eelam, LTTE, also known as the Tamil Tigers. Recent conciliatory actions by the Sri Lankan Government, as well as strong international support for peace, offers progress in finding a resolution to this conflict. However, the Tamil Tigers need to be encouraged to return to the negotiating table in order to continue this momentum towards peace.

□ 1930

Sri Lanka, Mr. Speaker, is a nation that has suffered a tremendous loss of nearly 65,000 lives due to a long-standing conflict between Sri Lankans and the Tamil Tigers. Finally, on February 22nd of last year, the Norwegian Government brokered a cease-fire signed by both groups, but the peace process remains far from complete.

Excluded from a preliminary conference held in Washington this April, the Tamil Tigers then withdrew from participating in the Tokyo Donor Conference that is currently taking place. However, recent developments on the part of the Sri Lankan Government and the international community offer some progress. On Monday, the Prime Minister of Sri Lanka offered a provisional administrative structure for the Tamil majority region of the island, a step toward meeting a central demand of the Tamil Tigers for resuming peace talks.

The Tigers have said they would return to the negotiating table only if an interim administration in the Tamil-majority north and east was established, and the Prime Minister's proposal does just that. Having taken this important step, the Prime Minister must further lay out a more specific outline for addressing the Tamil Tigers' concerns.

The movement towards peace in Sri Lanka is further solidified by the vast influx of international support for peace on the island. At the Donor meeting in Tokyo, host Japan has already pledged $1 billion in assistance. Another $1 billion has been offered by the Asian Development Bank, and a spokesman for the European Union said it will contribute $290 million over the next 3 years. The U.S. has committed to $54 million in aid, and the World Bank recently announced before the conference that it would provide Sri Lanka with $200 million a year for 4 years.

Mr. Speaker, these donations show an enormous interest by the international community in rebuilding postconflict Sri Lanka and finding a peaceful resolution. Any aid will come with strict conditions in an effort to provide the international community with the ability to compel the Sri Lankan Government and the Tamil Tigers to move quickly toward resolving their conflict.

Mr. Speaker, I have to say the atmosphere for peace in Sri Lanka, I think, is right. Strong international financial and moral support for peace, and recent Sri Lankan compromises to the Tamil Tigers will hopefully lead to the Tamil Tigers' return to the negotiating table and, hopefully, eventually lead to a peaceful resolution in Sri Lanka.

REVISIONS TO THE FISCAL YEAR 2004 BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, in accordance with section 507 of H. Con. Res. 95 and consistent with section 310 of the Congressional Budget Act, I submit for printing in the CONGRESSIONAL RECORD revisions to the fiscal year 2004 budget resolution to reflect the enactment of H.R. 2, the Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27).

Section 201 of the budget resolution (H. Con. Res. 95) directed the Committee on Ways and Means to report a bill that would increase outlays and reduce revenue by specified amounts. The conference report accompanying H.R. 2 exceeded the target for outlays, but reduced revenue by less than the amount allowed under the revenue target.

Since the overage in outlays was within 20 percent of the total cost of the bill and was offset on the revenue side, as permitted under section 310 of the Budget Act, the conference report was deemed to be in compliance with its reconciliation instructions.

I am, therefore, adjusting the 302(a) allocation to the Committee on Ways and Means to reflect the enacted levels of budget authority, outlays and revenue in the tax bill. This will hold other measures assumed in the budget resolution harmless for the permissible variance in budget authority and revenue between the budget resolution and enacted tax bill.

Accordingly, the adjusted 302(a) allocation to the Committee on Ways and Means is as follows:

Fiscal year 2003: $14,576,000,000 in new budget authority and $14,512,000,000 in outlays.

Fiscal year 2004: $20,626,000,000 in new budget authority and $20,054,000,000 in outlays.

The period of fiscal years 2004–2008: $24,079,000,000 in new budget authority and $23,876,000,000 in outlays.

The period of fiscal years 2004–2013: $39,261,000,000 in new budget authority and $39,128,000,000 in outlays.

The changes in the Ways and Means allocation cause changes in the budgetary aggregates. Accordingly, I also modify the budgetary aggregates to the following levels:

Fiscal year 2003: $1,877,204,000 in new budget authority and $1,829,299,000 in outlays; $1,310,347,000 in revenues.

Fiscal year 2004: $1,880,555,000 in new budget authority and $1,903,502,000 in outlays.

The period of fiscal years 2004–2013: $19,632,020,000,000 in revenues.

Questions may be directed to Dan Kowalski at 67270.

BUSH ADMINISTRATION STRIPS VETERANS' BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, these are difficult days for our country. The war is not over. We continue to have young Americans killed, almost on a daily basis in Iraq, and that country is very unsettled. But that is not why I rise to speak tonight. I rise to speak about soldiers of wars passed.

Just this past weekend in Marietta, Ohio, I attended a meeting of the Purple Heart Association; and later on that evening I spoke to a group of veterans who had served on the LST ships, those large ships that transported cargo and goods and soldiers, landing them on the beaches of Normandy and elsewhere; and I was struck by the fact that these veterans are full of goodwill and wonderful stories about their lives as members of the United States Armed Forces. They went through some hellish experiences, things that we can only imagine, I guess, in our darkest moments.

But I am concerned, Mr. Speaker, that this country, as rich as we are and as willing as we are to take care of the well-off among us, that this country is failing to live up to its obligations to our Nation's veterans. I would just like to share some of the actions that have been recently taken by the President and this administration that I think are so harmful to veterans.

Approximately a year and a half or so ago, the VA made a decision that they were going to increase the cost of a prescription drug that a veteran would have to pay from $2 a prescription to $7 a prescription, and I thought that was outrageous at the time, and I introduced legislation to roll back that decision. But the matter has gotten worse. In the President's budget which he sent to us a few months ago, in fact, the budget that he sent to us in January at the very time when we were preparing to send our young men and women into harm's way in Iraq, the President sent us a budget that asked that the cost of a prescription drug be increased, the copayment, not at $7, but that that be increased up to $15 a prescription. I felt like that was a shameful act. But the President also asked in his budget that the cost of a clinic visit be increased from $15 to $20. The President asked in his budget that there be an annual enrollment fee of $250 imposed upon Priority 7 and 8 veterans. It just seems as if it does not stop.

Then, Secretary Principi created a new priority group of veterans, which is now known as Priority Group 8, and these are veterans who do not have service-connected disabilities and are considered higher-income veterans. So the decision was made that these Priority 8 veterans simply could no longer enroll in the VA health care system. Now, how much money does one have to make in order to be considered a higher-income Priority 8 veteran? Well, in my district and in other parts of the country, one can make as little as $22,000 a year.

Now, Mr. Speaker, those of us who serve in this Chamber make over $150,000 a year, and maybe we just cannot understand what it is like to make $22,000 a year. Maybe we just think if one makes $22,000 a year, one is going to have all one needs to pay their bills and support their families and so on. But, quite frankly, I think it is shameful that at a time when we are giving huge tax breaks to the richest among us, that we would impose a $250 annual enrollment fee on veterans who have honorably served this Nation, whose incomes are as little as $22,000 a year.

Well, I do not know what the solution is. I know some of my colleagues in this Chamber say, well, we are never going to have these requests that the President has made passed into law; but just this week, I am on the Committee on Veterans Affairs, and just this week we had representatives from the Veterans Affairs Department before our committee. And I asked them if it was current administration policy to pursue these efforts to increase the cost of prescription drugs to impose an annual enrollment fee on veterans, and to exclude Priority 8 veterans from even participation in the VA system. I was told that it continues to be the intention of this administration of the President to pursue these efforts.

There is something else I would like to mention tonight. About a year or so ago, the VA put out a memo to all of its health care providers around the country, a memo which consists of, in my judgment, little more than a gag order. The memo basically said, and I am certainly paraphrasing, but what I am saying is true to the spirit of the memo, the memo said: too many veterans are coming in for service. We do not have enough money to provide those services, and so you are no longer able to actively pursue the dissemination of information to our veterans.

So, Mr. Speaker, these are troublesome things, and I would just ask that my colleagues in this Chamber rethink the direction in which we are going.

THE NEW APOLLO ENERGY PROJECT: A BOLD NEW ENERGY POLICY FOR AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized for 60 minutes as the designee of the minority leader.

Mr. INSLEE. Mr. Speaker, I have come to the House Chamber tonight to talk about a tremendous opportunity for our great country, and it is an opportunity that follows in the historical path that John Kennedy set forth back on May 9, 1961. The path that I would like to talk about tonight is a path towards a new energy future for our country, a future that is befitting of this century and our technological progress and achievements we have made and can make in the next decade or two.

What we are going to be introducing for the House consideration in the next week or two is what we call the New Apollo Energy Project, because many of my colleagues and myself believe that our country deserves a bold, vigorous, aggressive new energy policy that is befitting of the technological wherewithal and talents of our country. So we are calling it the New Apollo Energy Project.

The reason we are calling it the New Apollo Energy Project is because we think that we need to follow in the footsteps of what John F. Kennedy did in challenging America right behind us. He came to this Chamber on May 9, 1961 as a young President, way back before computers, biotechnologies, solar cells, fuel cells; and he stood behind me and looked out to America and challenged America to put a man on the Moon within the decade, which was an extraordinary challenge to America in 1961. Computers were in their infancy, our rocketry was failing repeatedly at that time. At that moment, people really scratched their heads to ask how a President could be so bold to challenge the country to reach such an ambitious goal. But Kennedy did make that challenge; and the Nation responded and, indeed, America put a man on the Moon within that decade.

I think Kennedy recognized some things about America that were perhaps unique in the world that others did not who were skeptical about that effort. He recognized the basic can-do spirit of the culture and the American economy; and he recognized that when challenged, Americans can deliver technologically much more than people would otherwise think so, and so he set forth a challenge and a promise to Americans that we could do this.

Many of us now believe that we need to do a similar thing in the field of energy, in our energy policy in this country. And we are very optimistic that if we set high bars and high goals for America, we can meet them just as we did in the original Apollo project.

So in the coming weeks, my colleagues and I will be introducing the New Apollo Energy Project, which will basically set three goals for a new energy policy of our Nation. Not one that is sort of captured by the artifacts of old industries, not one that is captured by a feeling that we just have to continue down the same old road, but one that can really lift our eyes and see a higher plane that will solve three challenges that America has now that we need a new policy to address. I will briefly mention what those three are.

Number one, we need to get our economy growing again. And to do that, America needs to seize the moment by the reins and create these new, clean energy technologies that can create high-paying jobs in America. So job creation is job number one for a new energy policy, and we are optimistic that that can be done; and I will talk about that in a moment.

Second, we set a goal in our national energy policy of reducing our contributions to global warming gases that are now polluting our atmosphere and causing a warming and climate change in our planet, and this is something we can do using new technology; and it is required if we want to avoid climactic changes to change the world as we know it.

Three, and perhaps as important, we set a goal to break addiction to Middle Eastern oil, which has enslaved us to certain policies over the last several decades that are now clearly not in our security interests.

□ 1945

It is time for America to become more self-reliant for fuel so that we do not have to make foreign policy decisions in one shape or another that are affected by our now current addiction for over half our fuel from those sources.

So those are the three goals we have set for the New Apollo Energy Project: Job creation, reduction of global climate gas emissions, and reduction of our dependence on foreign oil, particularly Mideast oil sources. And we believe all of them are very achievable.

Let me talk about the first goal which is job creation and getting a new sort of horizon, a new scope of our economy. And that is to adopt measures that will spur the development of these new high-paying jobs in high-tech industries. Let me talk about what some of them are.

Right now we have the capacity in this country which we are not using as much as we should, for instance, to create hundreds of thousands of jobs in the wind turbine industry, a growing industry, very rapidly growing industry, but one that needs to continue to increase that rate of acceleration. And what we are now proposing as one measure out of many is to continue the tax incentive, the investment tax credit for wind turbine construction in the United States. And we believe and the economics show very clearly that when we do this, when we foster the creation of this industry, we actually create ten times as many jobs as fostering megawatt creation instead of our old industries. For every megawatt of energy, a new renewable energy program develops, we create 10 times more jobs than if we do so in the old 19th century fossil fuel-based economic systems.

So now we believe we should be building wind turbines in the United States. We should have the high-paid jobs to do that and high-sector, high-skilled manufacturing jobs. We should be having construction jobs putting them on line. We should be building transmission facilities, all of which creates jobs in our country.

Now, we have the capability to do this. We are doing this in the State of Washington. Using an existing wind tax credit, we are building the largest wind turbine facility, farm essentially, in North America in the southeast corner of the State of Washington. It will create enough energy for 70,000 homes. And with the tax credit, it will do so on a market-based rate. But without the Apollo energy project or some other way, that tax credit will expire and we will lose the ability to create these jobs. And these jobs come at a very beneficial moment where the cost of wind turbine energy and a variety of other sources, I am just picking wind turbine to start this discussion, is becoming market based.

And, in fact, there is an interesting phenomenon that has occurred with many of our new technologies and that is what gives us such optimism about our new technologies. The fact of the matter is that over the last decade or so, the cost of energy produced by new technologies has come down dramatically. With every increase in the units of production of wind turbine, solar power, fuel cells, you name it, these new technologies, the cost of energy has come down dramatically.

I have a chart here that indicates how significant that reduction cost has been. For wind-powered energy, if you start in 1980, wind power was costing about 35 cents a kilowatt hour. Now, because of efficiencies caused by new production efficiencies, in 2000 that has come down to 2½, 3 cents; a reduction of a factor of 10 in the last 20 years. And it is projected that that will continue to decline in cost as we get efficiencies in production. And, of course, anyone who thinks about this knows why that happens. The more of these units you produce, we get economies of scale and the price comes down.

The same is the situation in photovoltaics and solar cells. In 1980, just 23 years ago, the price was over $1 a kilowatt hour. That has now come down to about 21, 22 cents, still above markets rates. But the interesting thing about this curve is you see this very significant reduction in cost as the rate of production has gone on up and it is predicted to continue on the downward slope. That is true for geothermal as well. It has had a reduction of more than half the cost in the last 20 years. And biomass, not quite as steep a curve, but still a reduction of cost.

What this shows us is we ought to be optimistic about, if we do engage in the production and incentivize the production of these new technologies, we will reduce cost, we will create jobs, and we will bring those jobs home.

This is a very important issue of bringing these jobs home. It is very clear for anyone who has thought about the future of the world's energy sources, is that the world is going to adopt new technologies. There is no question about that. The question is which countries are going to draw the jobs that are associated with that. And right now, unfortunately, it is not us as much as it should be.

In wind, many of these wind turbines are manufactured in Denmark. In hybrid automobile manufacturing, the cars are being manufactured in Japan. In photovoltaic manufacturing, a German company is leading the way, although much of the production is in the United States. And we are thinking about opening a Denmark-based turbine manufacturer as well. Those jobs need to be in America. Those jobs need to be American jobs. Just as we dominated the aeronautics industry for the last 50 years, as we created the first auto industry at the turn of the century, we need to create an industry that is homegrown and growing those jobs right here in America. And the New Apollo Energy Project is signed to do exactly that. And we do it by using the whole scope of tools that is available to the Federal Government to help to do that.

Number one is to use our tax policy in a way that will actually create jobs in a meaningful way. We have passed a lot of tax cuts in this Chamber recently, but virtually none of them have actually been directed to try to create new technologically driven jobs. And we need to use the Tax Code to create incentives for business people to create these new industries, to give them a little leg up to.a little start, and that is why we have created investment tax credits for a whole slew of these new industries, both to the manufacturers, photovoltaics, wind turbine, fuel-efficient hybrid vehicles, retooling costs to the auto industry. It is clear that our local auto industry is going to have some retooling costs to go to either hybrid vehicles or, in the long term, fuel-cell vehicles.

We believe we ought to give our local domestic auto industry tax breaks to help those retooling costs to build this new generation of vehicles to get this job done. But it should not be just for manufacturers; we need to take care of consumers and, ultimately, buyers as well. And that is why in the New Apollo Energy Project we have created incentives to give tax breaks for people to buy fuel-efficient vehicles. Significant incentives. And not only fueled vehicles, but also other energy producing materials including air-conditioning units, including tax credits in a new mortgage incentivized program to help people who build energy-efficient homes. We have a lot to do to get that done.

Now, let me just also indicate there is optimism in getting this job done in real life today. I would like to show a picture of a home in Virginia, and this is a home that was built about a year and a half ago in Virginia, which is not a tropical climate. We have a picture actually in the snow. And this is a home built for $365,000 which is relatively close, maybe a little bit more than actual building costs of a typical home of Virginia in this area, but this home is special. This home, which is a very comfortable home, I have actually been in it or actually the prototype, it was built on the Mall at one time to show us what it was like, or a very similar home. This home, using existing technologies today, has zero net energy consumption, zero net energy consumption.

It does so by using photovoltaic cells incorporated in the roof in the actual shingles to produce electricity. It has a very high degree of insulation value. It uses an in-ground heat pump, and it has a net energy consumption of zero because it can produce, and we one get a net metering bill which allows homeowners who generate electricity to feed their excess electricity back into the grid and to get a credit for doing that. This is a model for the future that is here today. And we need to utilize our Tax Code in a way that helps homeowners who want to recreate homes like this across America, which can happen today in a variety of climates, in almost every climate, to help reduce energy costs. To do that we need to pass a bill that is similar like that.

So what we are saying is this is not pie-in-the-sky, Buck Rogers, over the horizon, next decade. Some of these technologies may take a decade to, in fact, become cost effective; but some are on the market today with a very modest boost, and America ought to be doing it.

Now, I would like to turn to the second goal of the New Apollo Energy Project and that is the goal to reduce America's contribution to global warming gases. We unfortunately, with every other industrialized country, are contributing an enormous load of pollutants to the atmosphere; and what we are creating, all of us, we are putting out of the tailpipes of our cars and out of our smokestacks of our industry and a whole host of any fossil fuel-based system, we are putting millions of tons of carbon dioxide and methane into the air. And these are invisible gases. They really do not bother our eyesight but they will bother our climate in the long term.

To the extent that now science is irrefutable that the concentration of these gases are going to significantly increase during our lifetime, and I have a chart to indicate that, to indicate how significant this problem is, I have a chart of the levels of concentrations of carbon dioxide. And carbon dioxide is a global warming gas basically. The levels of carbon dioxide you will see are relatively consistent for 1,000 years, starting at 800,000. Then we get to the Industrial Age of 1800. We started burning coal and other fossil fuels. And when we do that, we create carbon dioxide and it goes out to the atmosphere. We dump it for free. We treat the atmosphere sort of as a big garbage dump. When that happens, those rates of concentration of carbon dioxide started to go up dramatically, and now in the early 2000s start to rise in almost a vertical fashion.

So for thousands of years we had levels in the 240 parts per million range, which are now going to be skyrocketing in the next century, are anticipated to double at least in the next century. This is doubling of an unprecedented occurrence in the history of the world. And the reason that is significant is that carbon dioxide acts, in a manner of speaking, like a pane of glass or a blanket, depending on how you look at it.

The way carbon dioxide works is that carbon dioxide allows the rays of the sun to come in. Because the rays of the sun come in, there is ultraviolet light. But when the energy bounces back, it bounces back at the infrared spectrum. It is a different spectrum of light. And carbon dioxide traps infrared light. So as a pane of glass works, it traps, if you will, the infrared radiation from going back into space and it warms the planet. And it is a really good thing we have some carbon dioxide in our atmosphere because we would have a very cold planet if we did not have it.

But the problem is if we are going to double the rate of carbon dioxide in the atmosphere, it is going to, as you can imagine, trap enormous amounts of energy. And we are already seeing the ramifications of that. The 5 hottest years in recorded history have been in the last 10 years; 1999, I believe, probably was the hottest year in record in the last 10,000 years. And we saw extraordinary damage associated with the change in our climate already.

We have seen significant changes right here in America. We have seen the glaciers in Glacier National Park disappear. It is predicted in the next 75 years, if we keep going at the rate we are going, there will not be any glaciers in Glacier National Park.

In the Arctic, dead Intuit Indians are popping out of the ground because the tundra is melting and the caskets are popping out of the ground.

□ 2000

In the Arctic ice sheet, it could be reduced by 40 percent in the next couple of decades and in depth reduced 40 percent, almost in half; and it is reduced at least 10 percent already.

We are seeing huge increases in very severe hurricane thunderstorm activity so that the insurance losses in the domestic industry have gone up something like 40 or 50 percent in the last several years.

So we are seeing now just a little taste of very significant changes in our climate that are going to continue to go up if we do not do something about it.

What we have proposed, we have introduced in the new Apollo Energy project, we can do this better than this. We have achieved really dramatic results, improving our environment in the last 2 decades because the Federal Government's got busy and it has done some things to clean our air. We have got a lot cleaner air than we did 25 years ago. In sulfur dioxide and various particulate matter, we have made some real strides because the Federal Government has acted, but in this situation Congress has sort of adopted the pose of an ostrich. We have put our heads in the sand, our tails in the air, rather than the American eagle; and it is time for us to pull our heads out of the sand and do something about the climate, and there are some things happening here in Congress.

We have this proposal we have suggested in the House. In the other Chamber there will be an energy debate in the next week or two. There will be a very important vote on trying to create a cap to try to limit the amount of CO_2 that goes into the global atmosphere, and that is something that is in America's long-term interest. We hope that the other Chamber will show some action in that regard.

What we have done is we have used the tools in the Federal tool box to try to reduce the rate of global gas emissions in a way that will preserve the way we live because Americans still want to continue to enjoy easy, accessible transportation, safe transportation. We want to have enjoyable homes. We do not want to change dramatically our lifestyle, and we can do that if we will make some smart investments in new technology.

So what we have done is to try to create incentives to use new technology to reduce global emissions in a variety of ways. One, we suggested that we, in fact, improve the efficiency, for instance, of our air conditioners which have enormous improvements we can make of the efficiency of air conditioners to reduce the demand of electricity and reduce the fossil fuel we burn to create electricity.

We think people who buy autos that are efficient ought to get a tax break to try to reduce the amount of CO_2 emissions we put into the air. We think that we ought to use the regulatory basis to improve the efficiency of our automobiles through the government acting as well as we have to improve the CAFE standards which we stopped in the early 1980s.

It is interesting, we improved the mileage of our cars dramatically in the 1970s, but we stopped in 1983; and we actually have gone backwards in the mileage of our cars. I mean, think about that. At the very time we have created the world's best computers, the world's most vibrant biotech industry, we have gone backwards in what our auto industry has given us for mileage of our cars. That is an abysmal record, and we ought to improve this and get back on this track of improving the fuel efficiency of our vehicles; and that is very possible. That is part of our new Apollo Energy Project.

Now I want to say, too, it is very important to realize there are no silver bullets to any of the challenges we have here tonight, and we recognize that. There is no one technology that is going to solve all of our energy challenges. We believe we have to have a very broad-based approach to do the research and development work that it is going to take to meet our challenges, and that means that we just do not look at wind or solar or geothermal. We think about things outside of the box, if you will, one of those being, for instance, clean coal technology.

There may be a way for us to burn coal and trap, or as the scientists use it, a $24 word, sequester the carbon dioxide as it comes out of the smokestack. If we can sequester the carbon dioxide from coal, we can continue to use coal without, in fact, increasing our CO_2 emission, and we have an enormous supply of coal in this country.

There are other environmental challenges we have to address with this mining; but this is something we need to explore, and we need to have sort of an all-comers approach when we are doing research and development to look at all the potential energy efficiencies and new technologies that we can use in this regard. So we have taken an all-comers approach.

The third goal that we have is to break our addiction from Middle Eastern oil, and I do not think anyone has to be a foreign policy genius to understand that we have to act. Not just Republicans or Democrats, multiple administrations have skewed our foreign policy by necessity because of our addiction to oil. We certainly have not been as aggressive in insisting on Saudi Arabia's ending the terrorist threat to this country as we should have been, and one of the reasons is because of our addiction to Saudi oil. It has made us lethargic in multiple administrations in dealing with this terrorist threat which now we are starting to actually make some improvements on. I heard today that Saudi Arabia is going to start to take some steps finally, way too late, to cut off financing for terrorism; but we need to get rid of this anchor on our foreign policy.

We need to make foreign policy decisions based on the security of Americans, rather than the security of the oil industry. To do that we have got to reduce our dependence on Middle Eastern oil; and what we have suggested is to set a goal, set a goal of saving or eliminating 600,000 barrels of oil a day, oil we otherwise would buy from the Mideast, by the year 2010; and that is an achievable goal using these new technologies. We set the goal of eliminating 2.4 million barrels of oil a day by the year 2015; and assessments by the Department of Energy have indicated that if we use our smarts and use these new technologies, we can, in fact, break that addiction to Middle Eastern oil if, in fact, we will use our heads.

Certainly, jobs are a good reason to do this. Our environment is a good reason to do this, but our personal security is an excellent reason to do this; and we ought to do that for all three reasons. Therefore, we set those effective goals that we would like to achieve.

Now we realize that we do not have all the answers starting out in this effort. So we have also essentially given future administrations flexibility to act; and in our bill, we have basically said that if these goals are not being met in a timely fashion, if we are not reducing our CO_2 emissions down to 1990 levels, as is our goal, if we are not reducing our oil by 600,000 barrels a day, as is our goal, if we are not on a path to create those millions of jobs that we want to create, we would give the administration further flexibility to, in fact, act in ways that it sees fit and certain efficiency measures to improve our productive capability to continue on the path of jobs and improve our efficiency because it is going to be a flexible standard in that regard.

In conclusion this evening, Mr. Speaker, we are very optimistic about our country's energy future. We are only optimistic if the U.S. Congress starts to act in a progressive way that really is in keeping with the can-do spirit of America. There are some naysayers who would say that we are just not smart enough, bright enough, creative enough, we are just going to have to sort of stick with the technologies that were invented in 1899, which much of our industrial energy policy we are still using; but we are the folks who believe that America is brilliant because we keep changing. America is successful because we are not sort of shackled by the ideas of the past or the technologies of the past. So we believe that we ought to adopt this new approach.

I will be working with my colleagues to pass the new Apollo Energy Project. I do not know if it will be this year; but we believe it is going to happen, and it must happen because this is the destiny of the United States of America, the greatest country on Earth.

FEDERAL PRISON INDUSTRIES

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 60 minutes as the designee of the majority leader.

Mr. HOEKSTRA. Mr. Speaker, I want to spend a few minutes talking about an issue that I have got a passion for because it impacts workers around the country, and then I am going to be joined by my colleague from Minnesota to talk about another issue that we feel passionate about because it affects those folks who want to buy prescription drugs.

The first thing I want to do is I want to introduce my colleagues to a Federal program. Actually, I want to introduce my colleagues to a company in the United States of America, a company that is growing rapidly; and its automotive component sector last year grew by about 216 percent, and its office furniture segment grew by over 30 percent last year and grew in textiles, grew in a wide variety of different product categories that it produces. An outstanding company, creating jobs.

You kind of say who is this company, who is this great company? We are having some economic tough times around the country. Who is this company that is growing, growing in a number of different market segments and what is its secret to being competitive and growing in a tough economy? What is it doing that maybe other U.S. companies ought to be taking a look at?

The company that we are talking about tonight is called Federal Prison Industries. You say, excuse me, Federal Prison Industries, they are growing jobs? And the answer is, absolutely yes. Federal Prison Industries is one of these government monopolies. They enjoy an advantage which is called "mandatory sourcing"; and it means that if the Federal Government is looking at buying a product, whether it is shirts for the military, whether it is office furniture for the Federal Aviation Administration, or whether it is automotive components for its fleet of cars, the Federal Government is required to buy these products from Federal Prison Industries regardless of the price, regardless of the quality, regardless of the delivery schedule; and this has enabled Federal Prison Industries, or UNICORP as it is called, to become one of the fastest-growing companies in America today.

So as in certain parts of the country in my district or right outside of my district, unemployment has now reached 8 percent, the highest in 11 years, home to the largest office furniture manufacturing company in America. You wonder how the Federal Government can grow office furniture by double digits in the last 12 months while the industry itself over the last 30 months has probably declined by 30 to 40 percent. Let's see, if the Federal Prison Industries is growing by double digits, the private sector is declining by double digits on an annual basis, what is happening?

What is happening is that Federal Prison Industries is going in and taking some significant business and using their preferred or mandatory source capability, is putting people in the private sector, we call them taxpayers, we call them workers, putting them out of jobs.

Just recently, Federal Prison Industries took this form of competition that they have to a new height. What happened was there was a project, and this was the Federal Aviation Administration requiring $6 million, roughly $6 million of new office furniture for their facilities. It is kind of like, yes, that is a good sized project that any one of a number of private sector companies would be thrilled to get. It is like, yes, we are going to go out and bid for that project.

So Federal Aviation Administration put this project out to bid and a number of companies went through the design process, the specification process, the pricing process and they put in a bid. The Federal Aviation Administration opened the bids and company A won the bid. The company was excited, like yes, we need this business, we have laid off workers with up to 25 years of seniority, up to 28 years of seniority, $6 million may provide the opportunity, it is not going to solve their problem, but it may provide the opportunity to put some of these people back to work.

Are these people back to work? No, because as Federal Prison Industries came into the process, this is very unique. This company had won the bid, ready to go to work and at the last minute Federal Prison Industries walks in and says no, no, no, excuse me, you do not understand the bidding process when you are doing business with the Federal Government.

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They said first round of bidding is you guys out in the private sector; the second round of bidding is we get to come in as Federal Prison Industries and take a look at the winning bid, and then we have a second round of bidding. Of course the second round of bidding is one company, Federal Prison Industries. And in this case Federal Prison Industries came in and literally copied the winning bid to the penny.

So they said we matched the bid price of the private sector, we are taking this business. And so now some folks in west Michigan who were hoping to go back to work are not going to have the opportunity to go back to work, but we are going to be creating jobs for folks in Federal prisons.

It is not only the office furniture industry. Federal Prison Industries are huge in textiles. They put a number of textile companies out of business. Just last fall, Hathaway Shirts in New England closed. One of the reasons was one of the dress shirt contracts put out by the Air Force went not to Hathaway Shirts, went to Federal Prison Industries. This time, though, it was not that a few workers would be laid off, the company shut its doors and Hathaway Shirts, at least being made in that plant, are no longer made in the United States. Hathaway Shirts tried to compete. Federal Prison Industries was the organization that put the last nail in the coffin that resulted in the factory closing and these people being put out of work.

It is absolutely outrageous what is going on and what is going on with this Department of Justice, that this Department of Justice believes that the best way to rehabilitate Federal prisoners is by putting taxpayers out of work, and that the best way to compete and create high-quality and high-paying jobs in America today is to create new jobs for prisoners. And they are talking about building 11 new plants, new jobs for prisoners that are high-quality, high-paying jobs that pay in the neighborhood of 23 cents to $1.15 an hour. Of course they pay no benefits.

They pay no taxes. Think about it. They pay absolutely no local taxes, so that is an advantage. They pay no State taxes, no sales taxes or Federal taxes. They do not pay any taxes. They put taxpayers out of work. It is a huge, huge problem. They are doing this in a whole series of different industries.

Look at the kinds of things that they make. Clothing and textiles is a business group. Electronics is a business group. Graphics business group; fleet management; vehicular components business group; industrial products business group; office furniture business group; and recycling activities business group.

They have declared war on American manufacturing, American manufacturing that is already under attack by low-cost producers in China and other parts of Asia, and it is very interesting. My colleagues come to the floor and they rail against Chinese prison labor, saying these people work in unsafe conditions. It is interesting. American prisoners, do they have the protection of OSHA? Absolutely not. So they are low paid, and work in unsafe conditions. They are government sponsored, just like our prisoners are government sponsored. So our manufacturers not only have to compete against low-cost manufacturing from overseas, they are also now in the process of having to fight their own government, their own Department of Justice.

Like I said, this is an industry that this Department of Justice has said is going to be a growth industry for the Federal Government. They anticipate growing. And in office furniture alone, and this is an industry that has declined 30–40 percent, one would think that Federal Prison Industries would realize this is an industry that is facing some hard economic times, and that they might slack off in terms of the amount of business that they would take out of the Federal Government and let the private sector compete for more of this business. But when we look from 2002 to 2003, what has Federal Prison Industries' strategy been in office furniture? They are authorized to grow their business in office furniture by an additional 50 percent.

Office furniture workers in America who are competing against Canada, China, Korea, Indonesia, now are also competing against their own Federal Government, and their own Federal Government is not even giving them the slightest of a break and saying we have got the opportunity, we are going to increase our volume by up to 50 percent. They are looking for the growth numbers.

Federal Prison Industries, taxes; and this is from their annual report. As a wholly-owned corporation of the Federal Government, Federal Prison Industries is exempt from Federal and State income taxes, gross receipts taxes, and property taxes. That is not a bad way to run a business.

We have a reform proposal in place. The interesting thing for the reform proposal, we are not asking for Federal Prison Industries to be eliminated, although some of my colleagues would say that they should not be competing for these jobs, and that is exactly what Congress said back in the 1930s when they created Federal Prison Industries. They said they should have minimal to no impact on free labor, they should not be competing with the private sector. But they do.

All I am asking is let the workers in west Michigan, Minnesota, New England, and other States in the South, let them just compete for the opportunity to sell their products. Right now they cannot compete. What are the businesses that they are in? Clothing and textiles, $157 million; electronics, $116 million. They grew from $116 million to $132 million in electronics. Fleet management, automotive, which is an industry facing tough competition from overseas, and now they are facing it from their own government. Fleet management; in 2001 Federal Prison Industries grew their automotive component sales from $31 million in 2001 to $99 million in 2002.

Thank you very much, Federal Prison Industries. I wonder how many private sector workers they put out of work when they grew their business by $68 million?

Office furniture, they went from $174 million to $217 million. They are authorized for another expansion of up to 50 percent in 2004.

Services, they grew from only $8 million, but they are on the right track as far as they are concerned. They are up to $12 million.

Mr. Speaker, this is an area that needs congressional oversight. When American workers are under attack, I think it is time for this Congress to stand up and say we are going to stand up for American workers, we are going to stand up for American taxpayers. It is the right thing to do. And we are going to allow these folks to compete, to keep their jobs and compete against Chinese workers, to compete against Korean workers, and we are going to allow them to compete against American prison labor, labor that is paid 23 cents an hour to $1.15 an hour in tax-free facilities which have no OSHA safeguards. It is the right thing to do.

We need a manufacturing base in the United States. And our reform bill does not say we are not going to have prisoners do nothing. We increase technical training. We increase the amount of work opportunities that we give to prisoners, but we say they should make things that will be used in the not-for-profit sectors. That is what Michigan does in its prisons. It does not compete against the private sector. We should take that kind of model and apply it to the Federal Government and Federal Prison Industries.

It is time for this Congress to act. We are looking forward to the Committee on the Judiciary moving a reform bill that does exactly that, allows American workers to again compete for their jobs, compete for the jobs that enable them to provide health care and a living to their families.

I walk around my district and I cringe every time when I run into a worker who says, I just got laid off; recognizing that as that person has gotten laid off, we have put people in our prisons to work for maybe the first time. But it is totally inappropriate for this government, for this Department of Justice to believe that its best strategy for dealing with inmates is to put them to work at the expense of American workers.

Mr. Speaker, I welcome one of my colleagues who is here tonight and change the subject. This is an issue that my colleague, the gentleman from Minnesota (Mr. GUTKNECHT), and I have a passion on because it addresses a real concern that we have, and again it is about competitiveness. I know my colleague is a firm believer in competitiveness, whether it is supplying products to the Federal Government or whether it is providing prescription drugs to our senior citizens or to other Americans. It is not just senior citizens.

One of the things that we face in America today is the gentleman and I both live in border States. One of the things that is happening in border States on the north and the southern borders of the U.S. is that consumers are rather smart. What are they doing?

Mr. Speaker, I yield to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman, and it is not just Minnesotans and Michiganers who are smart. One of our favorite Presidents, Ronald Reagan, said it best: Markets are more powerful than armies. Starting several years ago, consumers figured out that they could buy their prescription drugs cheaper in Canada and Mexico, and now they know in Europe and almost every other industrialized country in the world they can buy the same drugs for dramatically less.

Mr. HOEKSTRA. Mr. Speaker, if my colleague will explain to me, many of these drugs are manufactured in the U.S. We are the largest market in the world for most of these prescription drugs. One would think in the largest market in the world, and when the drugs, many of them are made in the United States, we would not be paying a premium, we would be paying the lowest price. That is not the case?

Mr. GUTKNECHT. Mr. Speaker, as they used to say on The Tonight Show, you would be wrong, oh, great one. That is the irony. We are the world's best customers by any measure, and some people have challenged some of the sources, but nobody challenges the numbers. The numbers speak for themselves. Even now the pharmaceutical industry acknowledges that the world's best customers, the Americans, pay the world's highest prices for their drugs.

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We are not just talking about a little bit more.

Mr. HOEKSTRA. We pay the highest prices. We do the development, the testing, we do all the market research and all of that here in the United States. We are the largest market. These drugs are made here, and we pay the highest prices.

Mr. GUTKNECHT. The gentleman is correct. It is one of the mysteries that we as public policymakers have been wrestling with for several years trying to figure out why is it the world's best customers pay the world's highest prices. It seems to me that we have an obligation as policymakers not only to try and get answers to those questions but, more importantly, to try and do something about it. I think the reason is, if I can just say this, if you go to Tokyo, Japan, and this is starting to change in Japan because Japan is starting to open up its markets, but for many years, if you went to Tokyo and you wanted to have a good steak——

Mr. HOEKSTRA. You would never want a good steak in Tokyo. It is too expensive.

Mr. GUTKNECHT. It would be over $100. The same steak that you could get in Grand Rapids, Michigan, for $15 or the same steak that I could get in Rochester, Minnesota, for $15, you would pay over $100 in Tokyo. Another example is blue jeans in the former Soviet Union. The Soviets decided that people did not need blue jeans, did not want blue jeans, and therefore they were not going to produce blue jeans in the former Soviet Union. So a black market started to develop for blue jeans. The price reached over $100 a pair for blue jeans. The example is analogous because any time you have a captive market, as they have in Japan with beef or they had in the Soviet Union with blue jeans, you will find that market forces will just go amuck because you are a captive market. Americans are being held captive not so much by the big pharmaceutical companies, but by our own FDA.

Mr. HOEKSTRA. I am assuming that the differences in price between the U.S. and Canada or the U.S. and Europe are not that significant. You would think that with the trade agreements and those types of things that we have that there would be some leveling out of prices. You might be able to explain some of the differences because of currency fluctuations and maybe some government regulations from one country to another, but I would not expect that you would find major differences in prices for products that many times were made in the same factory and just distributed from one point and distributed around the world. I am wrong again?

Mr. GUTKNECHT. Wrong again. Let me give you an example. This is a drug that my 85-year-old father takes. It is called Coumadin. Coumadin is a wonderful drug. It actually was developed at the University of Wisconsin.

Mr. HOEKSTRA. It was probably funded with some government research dollars.

Mr. GUTKNECHT. It was paid for by the taxpayers. Originally, as it was developed, the drug was called Warfarin. They are basically identical drugs, but Warfarin is used as a rat poison. It is a blood thinner. What they do is they give it to rats, rats will eat it, they go back to their little dens, they bleed to death internally, no mess, no fuss. It kills rats. They found that this made a great blood thinner for human beings as well.

Let me give you the differences in what Americans pay. The average price for this package of Coumadin in the United States is about $84.

Mr. HOEKSTRA. I think you have just given me more information on Coumadin than I would like to have. I really did not want to know all of that. Let us just talk about the price.

Mr. GUTKNECHT. Warfarin, Coumadin, developed at the University of Wisconsin. The price here in the United States, about $84 for this package. The price in Canada, only $25. But here is the real kicker. Over in Europe they buy this same drug, as a matter of fact we bought this drug in Munich, Germany, for about $16. About $85 in the United States; $16 in Germany. Here is the other interesting thing. People say, well, they have price controls in Canada. To a certain degree that is true. I am not one that supports price controls and neither, I think, do you.

Mr. HOEKSTRA. Not at all.

Mr. GUTKNECHT. Here is the interesting thing. They do not have price controls in Germany. What they do in Germany is what we ought to do here, and that is they allow the pharmacists to shop for the best price.

Mr. HOEKSTRA. Whether it is from the Swiss or Spain or Canada or the U.S. Again, I am assuming many times that that product is going to be built in a factory perhaps even in the United States; or a single or a couple of factories are going to supply the world market for this product.

Mr. GUTKNECHT. There are only 600 FDA-approved facilities that make prescription drugs in the world. They have to be made in an FDA-approved facility. So, yes, these drugs essentially, this probably came out of a plant in the United States. Or it may have come out of a plant in Puerto Rico, which is part of the United States. Or it may have been made over in Europe somewhere, but they supply essentially the entire world from that plant. It is much more efficient.

I also have in my hand something, and it bothers me, some of these prices because we bought 10 and if anybody doubts my research, we have the receipt for the 10 largest-selling drugs. We bought these at the airport pharmacy in Munich, Germany. The total for this worked out to about $373 American. Those same drugs, we checked the prices here in the United States of America, and again cash prices, walking in off the street, we are not talking about going to an HMO or any of these other things, the cash price was almost $1,100 in the United States, more than double, almost triple the price for the same 10 most popular drugs.

Let me give you this example. This is the one that really chaps my hide. This is a drug called Tamoxifen. It is a very effective breast cancer drug. But it was developed essentially with Federal taxpayer dollars at the National Institutes of Health. They paid for almost all the research. This drug in the United States, this package of drugs sells for $360. We bought it at the Munich airport pharmacy about a month ago for $59.05 American. $360 here, $60 there. Worse than that, the American taxpayers paid for almost all the research costs on this drug.

Mr. HOEKSTRA. And you do not have to go to Germany. I met, I think, one of your constituents today or at least a woman from Minnesota today who I thought was dynamic. What was her name. Kate?

Mr. GUTKNECHT. Kate. Kate Stahl.

Mr. HOEKSTRA. Kate Stahl. She wants to get arrested. Why would she get arrested?

Mr. GUTKNECHT. Kate Stahl is a true American patriot. Once in a while you meet some people like this; and you just say again, as Ronald Reagan said, people who say there are no more American heroes, they do not know where to look. We met an American hero today. Her name is Kate Stahl. I want every Member of Congress to get a copy of last week's edition of the U.S. News and World Report, and there is a special report by Susan Brink, the title of which is "Health on the Border, Elderly Americans head north and south to find drugs they can afford." It features Kate Stahl who works with the Senior Federation in the State of Minnesota. The caption above her little picture here says, "I'd like nothing better than to be thrown in jail." She stands on the shoulders of the Sons of Liberty who threw tea in Boston Harbor and said, enough is enough. She calls herself a drug runner. She goes to Canada to buy drugs for her friends.

Mr. HOEKSTRA. What does she do that would get her thrown into jail? Going to Canada or going to Mexico or going to Europe is not illegal to buy these drugs, is it?

Mr. GUTKNECHT. The FDA says it is.

Mr. HOEKSTRA. All right. Wrong again?

Mr. GUTKNECHT. Wrong again. They treat Kate Stahl and literally almost a million, or more than a million, Americans just like her, they treat her like a common criminal. This is an 84-year-old grandmother who is only doing this to try and save her friends and neighbors some dollars on the cost of prescription drugs. If one of them is suffering from breast cancer, $360 is a lot of money. They can afford $60, but $360 is a lot of money. And it repeats itself, with all the drugs. Zoloft, Zocor, we have got all the drugs. Glucophage. This is outrageous what they charge for Glucophage here in the United States. This drug has been around a long time. It is a miracle, marvelous drug. It really helps people with diabetes. But the bottom line is Americans are required to pay way too much because they are a captive market.

Mr. HOEKSTRA. The interesting thing, reclaiming my time, why is it so critical that we are talking about this tonight? The reason that my colleague from Minnesota and I are talking about this, and how many years has the gentleman been working on this?

Mr. GUTKNECHT. Longer than I want to remember. Actually I got started with this about 5 years ago. I always tell people that I have moved from fan to fanatic. Winston Churchill said a fanatic is one that cannot change his mind and will not change the subject.

Mr. HOEKSTRA. Which is kind of where I am with Federal Prison Industries. I have never been a fan of them, but I have been fanatical about it just because of the sheer injustice. But this is absolutely critical right now, just like the Federal Prison Industries because we are in a manufacturing slump right now and we need every manufacturing job we can get. But this is critical because we are looking at creating a Federal benefit, expanding the Medicare program to include prescription drugs. Actually, we could probably take care of much of the problem with prescription drugs if we would just deal with the pricing.

That is the scary thing. You cannot create a Federal entitlement for prescription drugs and just promise folks that you are going to, and help folks that probably genuinely need it. We are going to do that and we are going to feel good about doing that; but at the same time as we provide them with that benefit, you cannot ignore the price side. Because if you ignore the price side, we are just going to explode the cost. And if we get at the price side, we can offer more benefits to more individuals, or we can offer the same benefits at a much lower cost to the American taxpayer. That is why we need to work on the benefit side at the same time that we are working on the price side, or we are going to find ourselves with a program that we just cannot afford.

Mr. GUTKNECHT. Absolutely. Let me just talk about this Glucophage. This package of Glucophage in the United States sells for over $100. We bought it in Munich, Germany for $5. $5.

Mr. HOEKSTRA. Let us run this by again. $100 in the U.S. and $5 in Germany. This may be one of the bigger differentials of the drugs that you bought.

Mr. GUTKNECHT. I must admit I am using it as an example because it is probably the most egregious example, with the possible exception of Tamoxifen, which the taxpayers paid for.

Mr. HOEKSTRA. But just the sheer difference between these, for $5 in Germany to $100. The thing is, for anybody who has traveled, you typically do not go to an airport and expect best prices. It would be interesting what would happen if you went to a pharmacy in Germany and see whether you would be paying more or less. But the bottom line is an American could be in Munich and could buy that, the same package that when they left the U.S. it would cost them $100; if they needed a refill, they would be paying $5 in Germany.

Mr. GUTKNECHT. That is the point. If we are going to have a prescription drug benefit for seniors, which I think virtually everyone agrees we should, we ought to first of all deal with the issue of affordability. Because just shifting the responsibility of buying $100 Glucophage onto the shoulders of the taxpayers really makes no sense, because ultimately we are going to bankrupt our children if we make a stupid mistake and do not deal with this issue of affordability in price. Listen, we are Republicans. I am a Republican. I do not think the word "profit" is a dirty word, but I do think the word "profiteer" is. I think it is time if we are going to get in this business, we ought to demand some accountability from the pharmaceutical industry.

Mr. HOEKSTRA. The other thing that happens on this, there is a ripple effect, because when you go to Canada, and we are competing against Canada for automotive manufacturing, furniture manufacturing, when a Canadian worker needs to pay for health care and if prescription drugs are a part of their benefit, all of a sudden providing that benefit to a Canadian worker is a whole lot cheaper than it is providing that same benefit to a UAW employee or retiree in Detroit, Michigan, or to an active worker. That just says we are making it more expensive.

If you talk to your manufacturing people today, what are they complaining about? They are complaining about the escalating cost of health care which many and most people say is being driven primarily by the escalating cost of prescription drugs. The cost of prescription drugs is one thing. The cost of health care is another. But that has a ripple effect into other parts of our economy, which makes it more difficult for our workers to be competitive against other workers around the world. Again, Germany, they are buying that stuff for $5. So for a German company or the German Government to provide that benefit to a factory worker is $5. Here it is $100. Where do you think it is going to be more expensive to manufacture a car or anything else? It is going to be more expensive here in the United States. So it has a ripple effect. It is not just prescription drugs. It is a ripple effect throughout. It is kind of like a cancer that starts eating at all these unintended consequences. That is why we have got to deal with it, and we have got to deal with it as we go through this prescription drug plan and this prescription drug debate.

Mr. GUTKNECHT. Absolutely. The time is now. You mentioned in coming from Michigan, General Motors has been a fabulous employer. Not only in the State of Michigan but for suppliers all over the world. The interesting thing is General Motors, I met with a General Motors lobbyist last week. Do you know how much they are going to spend this year on prescription drugs, the company? This is just for their employees and their retirees. $1.3 billion. GM will spend $1.3 billion. What is worse, that number is going up 16, 17, 18 percent per year. That is a cost before they sell the first automobile, before they sell any cars. Those are costs they have to pay for.

Mr. HOEKSTRA. Just think, the numbers and the examples you are using, a conservative estimate says rather than the U.S. price being 20 times what they might be able to get it somewhere else, let us say U.S. companies could save, 25, 30 percent. For a company like General Motors, for any employer, that gets to be real money. Think about it. For General Motors if they are spending $1.3 billion, that would be $300 million, either in lower prices, increased competitiveness, or better services and more benefits to their employees.

Mr. GUTKNECHT. Right.

□ 2045

We are absorbing that cost, and I think when we talked about this at a conference today, what somebody said is we are subsidizing the rest of the world in health care and prescription drugs, and we are subsidizing, I think your term is, the "starving French," or the "starving Swedes," or the "starving Swiss."

Mr. GUTKNECHT. You can use whichever. I would say Americans are willing to pay their fair share. We understand there is a cost for research. We understand we have to pay that $3.9 billion that one of the big pharmaceutical companies will spend this year on advertising and marketing. We understand that has to be paid. We are willing to pay our fair share. We are willing to subsidize the people in Sub-Saharan Africa. But we should not be willing to subsidize the starving Swiss.

Mr. HOEKSTRA. This affects the ability of GM to sell cars in Europe. This affects the ability of GM to sell cars in the United States against cars that are made in Europe by companies who are providing benefits to their workers. And we are subsidizing their health care. We are subsidizing health care in Canada, we are subsidizing it in Mexico, we are subsidizing it in Japan and in Europe, because we are paying prices that the rest of the world is unwilling to pay which means these companies can go to other places in the world and sell the prescription drugs for prices significantly lower than ours.

Mr. GUTKNECHT. Well, the real bottom line is virtually every other company has to compete in a world marketplace. What we are saying is let markets work. Open up the markets.

Finally, we are all concerned about safety. But this is a counterfeit-proof package. It is a blister pack, one of the first versions. It is getting better.

There is a great little company out in California that is helping to develop the technology for the new $20 bills to make them counterfeit-proof. It is good enough for the U.S. Treasury, but, so far, not good enough for the FDA.

We are going to demonstrate in the coming weeks how we can have safety-sealed counterfeit-proof packaging which will guarantee the safety of drugs wherever they happen to come from. If the drug companies have to compete in a world marketplace, the way General Motors does, the way Eastman Kodak does, the way IBM does, the way Microsoft does, or the way every other company in America has to compete, you will see prices in the United States drop dramatically; and that amounts to billions and billions of dollars of savings, not just for retirees, but for all Americans.

Mr. HOEKSTRA. There is no reason drugs cannot cross borders safely. We have food that crosses borders safely, and there is no reason we cannot develop a system to maintain the integrity of prescription drugs as they go from Canada into the U.S. and those types of things. We can put the measure in place to ensure the safety and security of our prescription drug supply.

Mr. GUTKNECHT. We just have a few more minutes, and I will close by saying this. The gentleman is exactly right. We import in the United States thousands and thousands of tons of fruits and vegetables and meats. As a matter of fact, this year we will import 318,000 tons of plantains. If we can safely import 318,000 tons of plantains, we can surely figure out a way to import Prilosec and Glucophage.

There is no way people will argue we cannot do this safely. We have the technology today. The time has come to open up markets, let our people go and stop this captive market. We will see prices drop in the United States by at least 30 percent.

Mr. HOEKSTRA. I thank my colleague for joining me talking about prescription drugs and talking about Prison Industries.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, June 19.

Mrs. BLACKBURN, for 5 minutes, June 19.

Mr. GOSS, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, June 16 and 17.

Mr. HENSARLING, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 1625. An act to designate the facility of the United States Postal Service located at 1114 Main Avenue in Clifton, New Jersey, as the "Robert P. Hammer Post Office Building".

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 763. An act to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse."

S.J. Res. 8. Joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

ADJOURNMENT

Mr. HOEKSTRA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 48 minutes p.m.), under its previous order, the House adjourned until Monday, June 16, 2003, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2645. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement Vice Admiral Joseph W. Dyer, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

2646. A letter from the Director of Congressional Affairs, Consumer Product Safety Commission, transmitting the Commission's final rule — Requirements for Low-Speed Electric Bicycles — received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2647. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations

(Minot, North Dakota) [MB Docket No. 02-282, RM-10523] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2648. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Derby, Kansas) [MM Docket No. 01-44, RM-10022] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2649. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Jackson, Wyoming) [MB Docket No. 02-375, RM-10605] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2650. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Junction, Texas) [MM Docket No. 01-132, RM-10149] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2651. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Buffalo, Oklahoma) [MB Docket No. 02-383, RM-10614] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2652. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Comanche, Mullin and Mason, Texas) [MM Docket No. 01-159, RM-10164; RM-10395] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2653. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Alamo and Milan, Georgia) [MM Docket No. 01-111, RM-10124; RM-10341] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2654. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Reydon, Oklahoma) [MM Docket No. 01-227, RM-10255] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2655. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Opelousas, Louisiana) [MB Docket No. 02-322, RM-10584] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2656. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations (O'Brien, Texas) [MB Docket No. 02-296, RM-10571]; (Stamford, Texas) [MB Docket No.02-297]; (Panhandle, Texas) [MB Docket No. 02-298, RM-10574]; (Shamrock, Texas) [MB Docket No.02-299, RM-1 0575]; (Colorado City, Texas) [MB Docket No. 02-300, RM-10576]; (Taloga, Oklahoma) [MB Docket No. 02-302, RM-10579] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2657. A letter from the Special Assistant to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Hartford, Connecticut) [MB Docket No. 01-306, RM-10152] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2658. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's "Major" final rule — Revision of Fee Schedules; Fee Recovery for FY 2003 (RIN: 3150-AH14) received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2659. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2660. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the third annual "Traffiking in Persons Report," pursuant to Public Law 106—386, section 110; to the Committee on International Relations.

2661. A letter from the Secretary, Department of Agriculture, transmitting the semiannual report of the Inspector General for the 6-month period ending March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2662. A letter from the Chairman, Broadcasting Board of Governors, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2002 to March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2663. A letter from the Secretary, Department of Transportation, transmitting the Department's Strategic Plan for Fiscal Years 2003 through 2008; to the Committee on Government Reform.

2664. A letter from the Administrator, General Services Administration, transmitting a semiannual report on Office of Inspector General auditing activity, together with a report providing management's perspective on the implementation status of audit recommendations, pursuant to 5 app.; to the Committee on Government Reform.

2665. A letter from the Chairman and General Counsel, National Labor Relations Board, transmitting the semiannual report on the activities of the Office of Inspector General of the National Labor Relations Board for the period October 1, 2002 through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

2666. A letter from the Chairman, National Science Board, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2002 through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2667. A letter from the Director, Office of Personnel Management, transmitting the Office's report entitled, "Federal Student Loan Repayment Program FY 2002," pursuant to 5 U.S.C. 5379(a)(1)(B) Public Law 106—398, section 1122; to the Committee on Government Reform.

2668. A letter from the Attorney for National Council on Radiation Protection and Measurements, National Council on Radiation Protection and Measurements, transmitting the 2002 Annual Report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, a federally chartered corporation, pursuant to 36 U.S.C. 4514; to the Committee on the Judiciary.

2669. A letter from the Chairman, United States International Trade Commission, transmitting the Commission's report entitled, "U.S. Chile Free Trade Agreement: Potential Economywide and Selected Sectoral Effects"; to the Committee on Ways and Means.

2670. A letter from the Chairman, United States International Trade Commission, transmitting the Commission's report entitled, "U.S. Singapore Free Trade Agreement: Potential Economywide and Selected Sectoral Effects"; to the Committee on Ways and Means.

2671. A letter from the Board Members, Railroad Retirement Board, transmitting the 2003 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly to the Committees on Ways and Means and Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on International Relations. Supplemental report on H.R. 1950. A bill to authorize appropriations for the Department of State for the fiscal years 2004 and 2005, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal years 2004 and 2005, and for other purposes (Rept. 108–105 Pt. 2).

Mr. TOM DAVIS of Virginia: Committee on Government Reform. H.R. 2122. A bill to enhance research, development, procurement, and use of biomedical countermeasures to respond to public health threats affecting national security, and for other purposes; with an amendment (Rept. 108–147 Pt. 2). Ordered to be printed.

Mr. BOEHNER: Committee of Conference. Conference report on S. 342. An act to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes (Rept. 108–150). Ordered to be printed.

Mr. OXLEY: Committee on Financial Services. H.R. 23. A bill to amend the Housing and Community Development Act of 1974 to authorize communities to use community development block grant funds for construction of tornado-safe shelters in manufactured home parks; with an amendment (Rept. 108–151). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

[Omitted from the Record of June 11, 2003]

Pursuant to clause 2 of rule XII the Committee on Armed Services discharged from further consideration of H.R. 2122.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 1375. A bill to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes, with an amendment: Rept. 108–152, Part I referred to the Committee on Judiciary for a period ending not later than July 14, 2003, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Ms. DUNN (for herself, Mr. Cramer, Mr. Burns, Mr. Cox, Mr. Shuster, Mr. DeMint, Mr. Nethercutt, Mr. Kolbe, Mr. Herger, Mr. Hastings of Washington, Mr. Camp, Mr. Foley, Mr. Wilson of South Carolina, Mr. Weller, Mr. Putnam, Mr. Toomey, Mr. McKeon, Mr. Mica, Mr. Wicker, Mr. Boehner, Mr. Platts, Mr. Goode, Mr. Tom Davis of Virginia, Mr. Norwood, Mr. Weldon of Florida, Mr. Gibbons, Mr. Bass, Mr. Cunningham, Mr. Shimkus, Mr. Wamp, Mrs. Myrick, Mr. Pickering, Mr. Ryan of Wisconsin, Mr. Rogers of Michigan, Mr. Kirk, Mr. Jones of North Carolina, Mr. Wolf, Mr. Boucher, Mr. Reynolds, Mr. English, Mr. Hall, Mrs. Northup, Mr. Knollenberg, Mr. Hayworth, Mr. Dreier, Mr. McInnis, Mr. Crane, Mr. Shaw, Mr. Souder, Mrs. Wilson of New Mexico, Mr. Rogers of Kentucky, Mr. Sam Johnson of Texas, Mr. Rehberg, Mr. Calvert, Mrs. Jo Ann Davis of Virginia, Mr. Bachus, Mr. Simpson, Mr. Baker, Mrs. Emerson, Mr. Oxley, Mr. Simmons, Mr. Graves, Mr. Pence, Mr. Johnson of Illinois, Mr. Sessions, Mr. Goss, Mr. McHugh, Mr. Tancredo, Mr. Cannon, Mr. Coble, Mr. Bonilla, Mr. Whitfield, Mr. Saxton, Mr. Burton of Indiana, Mr. Duncan, Mr. Schrock, Mr. Otter, Mr. Doolittle, Mr. Paul, Mr. Rohrabacher, Mr. Jenkins, Mr. Lucas of Kentucky, Ms. Granger, Mr. Hayes, Mr. Everett, Mr. Ferguson, Mr. Lewis of Kentucky, Mr. Bartlett of Maryland, Mr. Sweeney, Mr. Keller, Mr. Shadegg, Mr. Barrett of South Carolina, Mr. Walden of Oregon, Mr. Walsh, Mr. Mario Diaz-Balart of Florida, Ms. Pryce of Ohio, Mr. Istook, Mr. Issa, Ms. Berkley, Ms. Ros-Lehtinen, Mr. Sensenbrenner, Mrs. Cubin, Mr. Miller of Florida, Mr. Latham, Mrs. Capito, Mr. Radanovich, Mr. Gary G. Miller of California, Mr. LoBiondo, Mr. Janklow, Mr. Hefley, Mr. Isakson, Mr. Larsen of Washington, Mr. Boehlert, Mr. Tiahrt, Mr. Crenshaw, Mr. LaTourette, Mr. Feeney, Mr. Peterson of Pennsylvania, Mr. Weldon of Pennsylvania, Mr. Pombo, Mr. Osborne, Mr. Pearce, Mr. Kline, Mr. Beauprez, Mr. King of Iowa, Mr. Rogers of Alabama, Mr. Matheson, Mr. Fletcher, Mr. Hoekstra, Mr. Renzi, Ms. Harris, Mr. Culberson, Mr. Manzullo, Mr. Chocola, Mr. Smith of Texas, Mr. Gerlach, Mr. Tauzin, Ms. Ginny Brown-Waite of Florida, Mr. Gutknecht, Mrs. Musgrave, Mr. Forbes, Mr. Bishop of Utah, Mr. Aderholt, Mr. Brown of South Carolina, Mr. Scott of Georgia, Mr. Porter, Mr. Blunt, Mr. Akin, Mr. Sullivan, Mr. Garrett of New Jersey, Mr. Hostettler, Mr. Sherwood, Mr. Lucas of Oklahoma, Mr. Thornberry, Mr. Vitter, Mr. Cantor, Mr. Terry, Mr. Kennedy of Minnesota, Mr. Bradley of New Hampshire, Mr. Gillmor, Mr. Pitts, Mr. Carter, Mr. Ney, Ms. Hart, Mr. Frelinghuysen, Mrs. Bono, Mr. Hensarling, Mr. Brady of Texas, Mr. Murphy, Mr. Hastert, Mr. Bonner, Mr. Burr, Mr. Deal of Georgia, Mr. Fossella, Mr. LaHood, Mr. Sandlin, Mr. Collins, Mr. Ryun of Kansas, Mr. Ramstad, Mr. Gilchrest, Mr. Lampson, Mrs. Blackburn, Mr. Nunes, Mr. Hyde, Mr. Ose, Mr. Goodlatte, Mrs. Biggert, Mr. Chabot, Mr. DeLay, Mr. Hulshof, Mr. Burgess, Mr. Cardoza, Mr. McCotter, Mrs. Miller of Michigan, Mr. Bishop of Georgia, Mrs. Kelly, Mr. Franks of Arizona, Mr. Royce, Mr. Nussle, Mr. Portman, Mr. Gingrey, Mr. Turner of Ohio, Mr. Neugebauer, Mr. Linder, Mr. Young of Alaska, Mr. Rahall, Mr. Cole, and Mr. Gallegly):

H.R. 8. A bill to make the repeal of the estate tax permanent; to the Committee on Ways and Means.

By Mr. HYDE (for himself, Mr. Lantos, Mr. Green of Wisconsin, Ms. Harris, Ms. Lee, Mr. Crowley, Mr. LaHood, and Mr. Janklow):

H.R. 2441. A bill to establish the Millennium Challenge Account to provide increased support for developing countries that have fostered democracy and the rule of law, invested in their citizens, and promoted economic freedom; to assess the impact and effectiveness of United States economic assistance; to authorize the expansion of the Peace Corps, and for other purposes; to the Committee on International Relations.

By Mr. FILNER (for himself and Mr. McHugh):

H.R. 2442. A bill to amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions; to the Committee on Government Reform.

By Mr. YOUNG of Alaska (for himself, Mr. LoBiondo, Mr. Oberstar, and Mr. Filner):

H.R. 2443. A bill to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. AKIN (for himself, Mr. Lucas of Kentucky, Mr. Tiahrt, Mrs. Myrick, Mr. Terry, Mr. Manzullo, Mr. Ryun of Kansas, Mr. Paul, Mr. Wamp, Mr. Istook, Mr. Schrock, Mr. Sullivan, Mr. Lipinski, Mr. Aderholt, Mr. Smith of New Jersey, Mr. Crane, Mr. Taylor of Mississippi, Mr. Pitts, Mrs. Musgrave, Mr. Doolittle, Mr. Hostettler, Mr. Jones of North Carolina, Mr. McIntyre, Mr. Burgess, Mr. Vitter, Mr. Sam Johnson of Texas, Mr. Kline, Mr. Weldon of Florida, Mr. Souder, Mr. King of Iowa, Mr. Wilson of South Carolina, Mr. DeMint, Mr. Gutknecht, Mr. Toomey, Mr. Norwood, Mr. Hoekstra, Mr. Shadegg, Mr. Pearce, Mr. Chabot, Mr. Pence, Mr. Pickering, Mr. Bachus, Mr. Blunt, Mr. Lewis of Kentucky, Mrs. Cubin, Mr. Barton of Texas, Mr. Burr, Mr. Ferguson, Mr. Rogers of Michigan, Mr. Fletcher, Mr. Whitfield, Ms. Hart, Mrs. Blackburn, Mr. Duncan, Mr. Kennedy of Minnesota, Mr. Bartlett of Maryland, Mr. Franks of Arizona, Mr. Garrett of New Jersey, Mr. Barrett of South Carolina, Mr. Rogers of Alabama, Mrs. Jo Ann Davis of Virginia, Mr. Tancredo, Mr. Janklow, Mr. Goode, Mr. Crenshaw, Mr. Chocola, Mr. Renzi, Mr. Bishop of Utah, Mr. Graves, Mr. Beauprez, Mr. Wicker, Mr. Hayes, Mr. Shimkus, Mr. Forbes, Mr. Stearns, Mr. Ryan of Wisconsin, Mr. Cole, Mr. Sessions, Mr. Culberson, Mr. Brady of Texas, Mr. Hunter, Mr. Neugebauer, Mr. Feeney, Mr. Murphy, Mr. LaHood, and Mr. Cantor):

H.R. 2444. A bill to establish certain requirements relating to the provision of services to minors by family planning projects under title X of the Public Health Service Act; to the Committee on Energy and Commerce.

By Mr. EVANS:

H.R. 2445. A bill to amend title 38, United States Code, to make permanent the requirement for the Secretary of Veterans Affairs to provide nursing home care to certain veterans with service-connected disabilities and to expand eligibility for such care to all veterans with compensable service-connected disabilities; to the Committee on Veterans' Affairs.

By Mr. WELLER (for himself, Mr. Young of Alaska, Mr. Crane, Mr. Hayworth, Mr. Hayes, Mr. Ney, Mr. Garrett of New Jersey, Mr. Wamp, Mr. Barrett of South Carolina, Mr. Rehberg, Mr. Terry, Mrs. Myrick, and Mr. LaHood):

H.R. 2446. A bill to amend the Internal Revenue Code of 1986 to permanently extend the marriage penalty tax relief enacted by the Jobs and Growth Tax Relief Reconciliation Act of 2003; to the Committee on Ways and Means.

By Mr. SMITH of Michigan (for himself, Mr. Paul, Mr. Ballenger, Mr. Royce, Mrs. Jo Ann Davis of Virginia, Mr. Chabot, Mr. Rohrabacher, Mr. Peterson of Minnesota, Mr. Weller, Ms. Eddie Bernice Johnson of Texas, Mr. Larson of Connecticut, Mr. Bachus, Mrs. Emerson, Mr. Hyde, Mr. Bereuter, Ms. Lofgren, and Mr. Hall):

H.R. 2447. A bill to establish a Federal interagency task force to promote the benefits, safety, and potential uses of agricultural biotechnology to improve human and animal nutrition, increase crop productivity, and improve agricultural sustainability while ensuring the safety of food and the environment; to the Committee on International Relations, and in addition to the

Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELLER (for himself and Mr. Camp):

H.R. 2448. A bill to amend the Internal Revenue Code of 1986 to extend the special 5-year carryback of certain net operating losses to losses for 2003, 2004, and 2005; to the Committee on Ways and Means.

By Mr. BAKER (for himself, Mr. Alexander, Mr. John, Mr. Vitter, Mr. McCrery, Mr. Goode, and Mr. Platts):

H.R. 2449. A bill to establish a commission to commemorate the sesquicentennial of the American Civil War; to the Committee on Government Reform.

By Mr. GORDON (for himself, Mr. Sensenbrenner, Ms. Jackson-Lee of Texas, Mr. Udall of Colorado, Mr. Cooper, Mr. Frank of Massachusetts, Mr. Lampson, Mr. Hall, Mr. Sherman, Mr. Larson of Connecticut, Mr. Weiner, Ms. Lofgren, Mr. Honda, Mr. Frost, Mr. Costello, Mr. Davis of Tennessee, Mr. Wynn, Mr. Baird, and Ms. Eddie Bernice Johnson of Texas):

H.R. 2450. A bill to provide for the establishment of an independent, Presidentially-appointed investigative Commission in the event of incidents in the Nation's human space flight program that result in loss of crew, passengers, or the spacecraft, and for other purposes; to the Committee on Science.

By Mr. KING of Iowa:

H.R. 2451. A bill to amend title XVIII of the Social Security Act to improve geographic equity in the provision of items and services provided to Medicare beneficiaries; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York:

H.R. 2452. A bill to designate the facility of the United States Postal Service located at 339 Hicksville Road in Bethpage, New York, as the "Brian C. Hickey Post Office Building"; to the Committee on Government Reform.

By Mr. KLECZKA (for himself and Mr. Stark):

H.R. 2453. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of substitute adult day care services; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATOURETTE (for himself, Mr. Young of Alaska, Mr. Oberstar, and Ms. Norton) (all by request):

H.R. 2454. A bill to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARKEY (for himself, Mr. Shays, Mr. Langevin, Mr. Thompson of Mississippi, Mr. Frank of Massachusetts, Mr. Andrews, Mrs. Lowey, and Mr. Etheridge):

H.R. 2455. A bill to improve air cargo security; to the Committee on Transportation and Infrastructure.

By Mrs. McCARTHY of New York (for herself and Mr. Quinn):

H.R. 2456. A bill to require increased activities by the National Institutes of Health and the Centers for Disease Control and Prevention regarding Diamond-Blackfan anemia, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MICA:

H.R. 2457. A bill to authorize funds for an educational center for the Castillo de San Marcos National Monument, and for other purposes; to the Committee on Resources.

By Mr. POMEROY (for himself, Mr. Isakson, Mr. English, and Mr. Andrews):

H.R. 2458. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income a percentage of lifetime annuity payments, and for other purposes; to the Committee on Ways and Means.

By Mr. REHBERG (for himself, Mr. Edwards, Mrs. Emerson, Mr. Walsh, Mr. Platts, Mr. Towns, and Mr. Stenholm):

H.R. 2459. A bill to establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes; to the Committee on Government Reform.

By Mr. REYES:

H.R. 2460. A bill to provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District, El Paso County, Texas; to the Committee on International Relations.

By Ms. LORETTA SANCHEZ of California:

H.R. 2461. A bill to amend title XVIII of the Social Security Act to provide for establishment of a Medicare prescription drug benefit covering costs that exceed a percentage of a beneficiary's income; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDERS (for himself, Mr. Abercrombie, Ms. Baldwin, Mr. Brown of Ohio, Ms. Carson of Indiana, Mr. Case, Ms. DeLauro, Mr. Fattah, Mr. Jackson of Illinois, Mr. DeFazio, Mr. Grijalva, Mr. Hastings of Florida, Mr. Hinchey, Mr. Inslee, Mr. Kucinich, Ms. Lee, Mr. McDermott, Mrs. Maloney, Mr. George Miller of California, Mr. Nadler, Mr. Olver, Mr. Owens, Ms. Schakowsky, Ms. Slaughter, Ms. Solis, Ms. Velázquez, and Ms. Watson):

H.R. 2462. A bill to invalidate the actions of the Federal Communications Commission in abrogating the media ownership limitations under the Communications Act of 1934; to the Committee on Energy and Commerce.

By Mr. SAXTON (for himself, Mr. Smith of New Jersey, Mr. Andrews, and Mr. LoBiondo):

H.R. 2463. A bill to amend title 10, United States Code, to require certain contractors with the Department of Defense to perform background investigations, psychological assessments, and behavioral observations, and provide fingerprint cards, with respect to individuals who perform work on military installations or facilities; to the Committee on Armed Services.

By Mr. SAXTON (for himself and Mr. Andrews):

H.R. 2464. A bill to direct the Secretary of Education to provide grants to promote Holocaust education and awareness; to the Committee on Education and the Workforce.

By Mr. SENSENBRENNER:

H.R. 2465. A bill to extend for six months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. SHERMAN (for himself, Mr. Smith of New Jersey, Mr. Waxman, Mr. Souder, Ms. Berkley, Mr. King of New York, Mr. Israel, Mr. Weiner, Mr. Crowley, Mr. Holden, Mr. Nadler, Mr. Deutsch, and Mr. Engel):

H.R. 2466. A bill to encourage democratic reform in Iran and to strengthen United States policy toward the current Government of Iran; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Washington (for himself and Mr. Dooley of California):

H.R. 2467. A bill to extend certain trade benefits to countries of the greater Middle East; to the Committee on Ways and Means.

By Mr. STUPAK:

H.R. 2468. A bill to amend the Transportation Equity Act for the 21st Century to modify a high priority project in the State of Michigan; to the Committee on Transportation and Infrastructure.

By Mr. TERRY (for himself, Mr. Tancredo, Mrs. Musgrave, Mr. Sessions, Mr. Manzullo, and Mr. Jenkins):

H.R. 2469. A bill to amend the Social Security Act to modify the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS (for herself, Mr. Kucinich, Ms. Lee, and Mr. Stark):

H.R. 2470. A bill to require certain actions with respect to the availability of medicines for HIV/AIDS and other diseases in developing countries; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DELAHUNT (for himself, Mr. Gilchrest, Mr. George Miller of California, Mr. Smith of New Jersey, Mr. Farr, Mr. Greenwood, Mr. Allen, and Mr. Abercrombie):

H. Con. Res. 216. Concurrent resolution expressing the sense of the Congress regarding the policy of the United States at the 55th Annual Meeting of the International Whaling Commission; to the Committee on International Relations.

By Mr. HASTINGS of Florida:

H. Con. Res. 217. Concurrent resolution condemning the Islamic Republic of Iran (also known as Iran) for constructing a facility to enrich uranium with potential for developing a program for the proliferation of weapons of mass destruction, and for its support of global terrorism; to the Committee on International Relations.

By Mr. PASCRELL (for himself, Mr. Frelinghuysen, Mr. Holden, Ms. DeLauro, Mr. Davis of Illinois, Mr. Rangel, Mr. Udall of Colorado, Mr. Doyle, and Mr. Fossella):

H. Con. Res. 218. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued honoring Gunnery Sergeant John Basilone, a great American hero; to the Committee on Government Reform.

By Mr. SMITH of Texas (for himself and Mr. Vitter):

H. Con. Res. 219. Concurrent resolution expressing the sense of Congress with respect to raising awareness and encouraging education about safety on the Internet and supporting the goals and ideals of National Internet Safety Month; to the Committee on Energy and Commerce.

By Mr. THOMPSON of Mississippi (for himself and Mr. Pickering):

H. Con. Res. 220. Concurrent resolution commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams, for their lives and accomplishments; to the Committee on Government Reform.

By Mr. CALVERT (for himself and Mrs. Bono):

H. Res. 271. A resolution expressing the sense of the House of Representatives that the flag of the United States should be displayed in each classroom or other similar educational setting in the United States; to the Committee on Education and the Workforce.

By Mr. CARDOZA (for himself, Ms. Eshoo, Mr. Emanuel, Mr. Lipinski, Mr. Payne, Ms. Watson, Mr. McGovern, Mr. Radanovich, Ms. Lofgren, and Mr. Honda):

H. Res. 272. A resolution expressing concern for the status of the Assyrian people in post-war Iraq; to the Committee on International Relations.

By Mr. ISRAEL (for himself, Mr. Wolf, Ms. Watson, Mr. Weiner, Mrs. Maloney, Mr. McDermott, Mr. Evans, Mr. Case, Mr. Frost, Mr. Berman, Mr. McNulty, Mr. Faleomavaega, Mr. Wexler, Ms. Ginny Brown-Waite of Florida, Mr. Snyder, and Mr. Bell):

H. Res. 273. A resolution expressing the sense of the House of Representatives that the United States Postal Service should issue a postage stamp commemorating Anne Frank; to the Committee on Government Reform.

By Mr. MATHESON (for himself and Mr. Nethercutt):

H. Res. 274. A resolution honoring John Stockton for an outstanding career, congratulating him on his retirement, and thanking him for his contributions to basketball, to the State of Utah, and to the Nation; to the Committee on Government Reform.

By Mr. TAYLOR of Mississippi:

H. Res. 275. A resolution providing for consideration of the joint resolution (H.J. Res. 22) proposing a balanced budget amendment to the Constitution of the United States; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. Saxton.

H.R. 22: Mr. Terry.

H.R. 23: Mr. Moran of Kansas.

H.R. 33: Mr. Bell and Mr. Johnson of Illinois.

H.R. 49: Ms. Harman.

H.R. 141: Mr. Barrett of South Carolina, Mr. DeMint, Mr. Norwood, and Mr. Aderholt.

H.R. 198: Mrs. Jo Ann Davis of Virginia and Mr. Cox.

H.R. 235: Mr. Oxley, Mr. Cunningham, Ms. Ginny Brown-Waite of Florida, Ms. Dunn, Mr. Pombo, Mr. Bonilla, and Ms. Granger.

H.R. 236: Mr. Langevin, Mr. Pomeroy, Mr. Emanuel, Mr. Stenholm, Mr. Stupak, Mr. John, Mr. Alexander, and Mr. Thompson of California.

H.R. 261: Mr. Ford.

H.R. 262: Mr. Vitter.

H.R. 276: Mr. Doolittle and Mr. Ryun of Kansas.

H.R. 284: Mr. Pallone, Mr. Conyers, and Mr. Saxton.

H.R. 290: Mr. Cramer, Mr. Deutsch, and Mr. Snyder.

H.R. 296: Mr. Ross and Mr. Green of Texas.

H.R. 303: Ms. Granger, Mr. Engel, Mr. George Miller of California, and Ms. Norton.

H.R. 308: Mr. LoBiondo.

H.R. 315: Mr. Goode.

H.R. 369: Mr. Kucinich.

H.R. 371: Mr. Bell and Mr. Delahunt.

H.R. 391: Mr. Kline.

H.R. 424: Mrs. Jo Ann Davis of Virginia.

H.R. 488: Mrs. Jo Ann Davis of Virginia.

H.R. 490: Mr. Wu.

H.R. 528: Mr. Grijalva, Mr. Meehan, and Mr. Ackerman.

H.R. 580: Mr. Moran of Virginia.

H.R. 589: Mr. Walsh, Mr. Delahunt, Mr. Gilchrest, Mr. Gerlach, Mr. DeMint, Mr. Chocola, Mr. Stenholm, Mr. Beauprez, Mr. Issa, Mr. Young of Alaska, Mr. Ose, Mr. Calvert, and Mr. Moran of Kansas.

H.R. 660: Mr. Blunt, Mr. Bradley of New Hampshire, Mr. Turner of Ohio, and Ms. Pryce of Ohio.

H.R. 664: Mr. Crowley.

H.R. 665: Mr. Moran of Virginia.

H.R. 687: Mr. Istook.

H.R. 713: Mr. Boucher.

H.R. 714: Mr. Crane.

H.R. 737: Ms. Harman.

H.R. 742: Mr. Gary G. Miller of California, Mr. Burns, Mr. Hinchey, Mr. Tiberi, Ms. Baldwin, and Mr. Strickland.

H.R. 792: Mr. Lewis of Kentucky and Mr. Strickland.

H.R. 806: Mr. Brown of Ohio.

H.R. 828: Mr. Bell.

H.R. 834: Mr. Emanuel, Mr. Baca, and Mr. Akin.

H.R. 839: Mr. Larsen of Washington, Mr. Rothman, Mr. Pallone, Mr. McHugh, Mr. Doolittle, Mr. Boehlert, Mr. Davis of Illinois, Mr. Lewis of Georgia, Mr. Doyle, Mr. Allen, and Mr. Hoeffel.

H.R. 872: Mr. Ryun of Kansas and Mr. Brown of South Carolina.

H.R. 883: Mr. Engel.

H.R. 898: Mr. Thompson of Mississippi, Mr. Lampson, Mr. Brady of Pennsylvania, and Mr. Houghton.

H.R. 906: Mr. Mario Diaz-Balart of Florida, Mr. Ney, Mr. Platts, and Mr. Bachus.

H.R. 919: Mr. Fossella and Mr. Johnson of Illinois.

H.R. 934: Mr. Frank of Massachusetts and Mr. Conyers.

H.R. 941: Mr. Lewis of Georgia.

H.R. 962: Mr. Moran of Virginia, Mr. Sherman, Mrs. Capps, Mr. Andrews, and Mr. Ehlers.

H.R. 973: Mr. Cole and Mr. Neal of Massachusetts.

H.R. 980: Mr. LoBiondo, Mr. Vitter, Mr. Terry, and Mr. Pomeroy.

H.R. 996: Mr. Gordon, Mr. Barton of Texas, Mr. Skelton, Mr. Hensarling, Mr. Duncan, and Mr. Kingston.

H.R. 997: Mrs. Blackburn, Mr. Upton, Mr. Collins, Mr. Ballenger, Mr. Rehberg, Mr. Burr, and Mr. Bereuter.

H.R. 1006: Mr. Acevedo-Vilá, Mr. Allen, Ms. McCollum, Mr. Cramer, Mr. Schiff, Mr. Bartlett of Maryland, Mrs. Bono, and Mr. Peterson of Minnesota.

H.R. 1073: Mr. Boehner, Mr. Kirk, and Mr. Houghton.

H.R. 1078: Mr. Walden of Oregon, Ms. Jackson-Lee of Texas, Mr. Bartlett of Maryland, Mr. Young of Florida, Mr. Cantor, Mr. Gutknecht, and Mr. Hensarling.

H.R. 1083: Mr. Wexler and Mr. Michaud.

H.R. 1087: Mrs. Ginny Brown-Waite of Florida.

H.R. 1093: Mr. Upton, Ms. Millender-McDonald, and Ms. Jackson-Lee of Texas.

H.R. 1110: Mr. Norwood, Mr. Davis of Illinois, and Mr. Emanuel.

H.R. 1114: Mr. Pitts.

H.R. 1117: Mr. Stearns.

H.R. 1120: Mrs. Jo Ann Davis of Virginia.

H.R. 1125: Mr. Turner of Ohio.

H.R. 1130: Mr. Acevedo-Vilá and Mrs. Christensen.

H.R. 1154: Mrs. Jo Ann Davis of Virginia.

H.R. 1160: Mr. Hoekstra, Mr. Gary G. Miller of California, and Ms. McCarthy of Missouri

H.R. 1167: Mr. Gingrey, Mr. Pearce, Mr. Schrock, and Mr. Whitfield.

H.R. 1206: Mrs. Jo Ann Davis of Virginia.

H.R. 1214: Mr. Gordon, Mr. Ross, Mr. Sabo, Mr. Berry, Mr. Blumenauer, Mr. Burton of Indiana, Mr. Nethercutt, and Mr. Conyers.

H.R. 1220: Mr. Cannon.

H.R. 1231: Mr. Calvert, Mr. Toomey, Mr. Brown of South Carolina, Mr. Bell, Mr. Serrano, Mr. Scott of Georgia, and Mr. Skelton.

H.R. 1258: Mr. Cummings and Mr. Clay.

H.R. 1264: Ms. Bordallo and Mr. Etheridge.

H.R. 1267: Mr. Inslee and Mr. Smith of Washington.

H.R. 1268: Mr. Lantos.

H.R. 1288: Mr. Forbes, Mr. Owens, Mr. Bradley of New Hampshire, and Mr. Snyder.

H.R. 1301: Mr. Sandlin.

H.R. 1336: Mr. Ferguson and Mr. Cole.

H.R. 1359: Mr. Bell.

H.R. 1367: Mr. Jenkins.

H.R. 1414: Mr. Waxman and Mr. George Miller of California.

H.R. 1421: Mr. Young of Alaska.

H.R. 1426: Mr. Pomeroy.

H.R. 1428: Ms. Berkley.

H.R. 1470: Mr. Payne.

H.R. 1472: Ms. Roybal-Allard, Mr. Udall of New Mexico, Mr. Lipinski, and Ms. Eshoo.

H.R. 1511: Mr. Otter, Mr. McKeon, Mr. Calvert, Mr. Jenkins, Mr. Istook, Mr. Knollenberg, Mr. Greenwood, Mr. Hastings of Washington, Mr. Frelinghuysen, and Mr. Kolbe.

H.R. 1554: Ms. Corrine Brown of Florida.

H.R. 1565: Mr. Strickland and Mr. Ryan of Ohio.

H.R. 1580: Mr. Nussle.

H.R. 1592: Mr. Ryan of Ohio, Mr. Owens, Ms. Lofgren, and Ms. Woolsey.

H.R. 1599: Ms. Corrine Brown of Florida.

H.R. 1606: Mr. Wilson of South Carolina, Mr. Ballenger, Mr. Paul, Mr. Burr, Mr. McIntyre, and Mr. Calvert.

H.R. 1608: Mr. RANGEL.

H.R. 1612: Mr. WICKER.

H.R. 1622: Mr. GALLEGLY, Mrs. CHRISTENSEN, Mr. MOORE, Mr. TIBERI, Mr. WILSON of South Carolina, Mr. LYNCH, Mr. ROGERS of Michigan, Mr. KLECZKA, Mr. BELL, Mr. ALLEN, Mr. DEUTSCH, Mr. STRICKLAND, Mr. LOBIONDO, Mr. LEWIS of Georgia, Mr. RUSH, Mr. GREEN of Texas, and Mr. SCHROCK.

H.R. 1627: Mr. WICKER.

H.R. 1628: Mr. RAHALL, Mr. GRIJALVA, Mr. ROHRABACHER, and Mr. TAYLOR of Mississippi.

H.R. 1653: Mr. MCGOVERN and Mr. BARRETT of South Carolina.

H.R. 1675: Mr. NEY.

H.R. 1717: Ms. LOFGREN and Mr. DELAHUNT.

H.R. 1735: Mr. GARRETT of New Jersey.

H.R. 1746: Mr. REYNOLDS, Mr. NUSSLE, Mr. FATTAH, and Ms. HARMAN.

H.R. 1749: Mr. WALDEN of Oregon, Mr. EVANS, and Mr. DEUTSCH.

H.R. 1754: Mr. DAVIS of Tennessee.

H.R. 1767: Mr. SIMPSON, Mr. HENSARLING, and Mr. SESSIONS.

H.R. 1769: Mr. SHERWOOD, Mr. WYNN, Mr. BROWN of Ohio, and Mr. ACKERMAN.

H.R. 1776: Mr. WILSON of South Carolina, Mr. REYNOLDS, and Mr. NUSSLE.

H.R. 1778: Mr. LUCAS of Oklahoma and Mr. MANZULLO.

H.R. 1785: Mr. GOODLATTE, Mr. GOODE, Mrs. JO ANN DAVIS of Virginia, Mr. HOLT, Mr. HASTINGS of Washington, and Mr. SCHROCK.

H.R. 1800: Ms. BALDWIN, Mr. SHERMAN, and Mr. LANGEVIN.

H.R. 1819: Mr. BARTON of Texas.

H.R. 1821: Ms. HARRIS, Mr. TERRY, Mr. WALSH, Mr. TAUZIN, Mr. WHITFIELD, Mr. ENGLISH, Mr. FLETCHER, Mr. GILLMOR, Ms. GRANGER, Mr. GREEN of Wisconsin, Mrs. MYRICK, Mr. NEY, Mr. OSE, Mr. OXLEY, Mr. SHERWOOD, Mr. BARTON of Texas, Mr. BURR, Mr. TOM DAVIS of Virginia, Mr. FRANKS of Arizona, Mr. NETHERCUTT, Mr. PUTNAM, Mr. STEARNS, and Mr. AKIN.

H.R. 1828: Ms. SLAUGHTER, Mr. REGULA, Mrs. TAUSCHER, Mr. BASS, Mr. SMITH of Texas, and Ms. DELAURO.

H.R. 1829: Mr. FEENEY, Mr. MICHAUD, Mr. NUSSLE, Mr. HOEFFEL, Mr. MCHUGH, Mr. LEVIN, Mr. BEAUPREZ, Ms. CARSON of Indiana, Mr. SHUSTER, Mr. STUPAK, and Mr. CARTER.

H.R. 1858: Ms. WATSON and Mr. ABERCROMBIE.

H.R. 1889: Ms. BALDWIN and Ms. CARSON of Indiana.

H.R. 1910: Mr. LARSEN of Washington, Mr. HOYER, Mr. POMEROY, Mr. RUSH, Mr. CLYBURN, Mr. CONYERS, and Mr. HONDA.

H.R. 1912: Mr. FOLEY.

H.R. 1913: Mr. KUCINICH.

H.R. 1914: Mr. RUPPERSBERGER.

H.R. 1916: Mr. PLATTS and Mr. BRADY of Pennsylvania.

H.R. 1917: Mr. FATTAH and Mr. OWENS.

H.R. 1918: Mr. FATTAH, Mr. OWENS, and Mr. PLATTS.

H.R. 1919: Mr. OLVER, Mr. OWENS, Mr. TANNER, and Mr. FATTAH.

H.R. 1923: Mr. KUCINICH.

H.R. 1930: Mr. FRANK of Massachusetts.

H.R. 1943: Mr. CAMP.

H.R. 1985: Ms. ESHOO.

H.R. 1989: Mr. TERRY.

H.R. 1997: Mr. BURNS.

H.R. 1999: Mr. LUCAS of Kentucky.

H.R. 2000: Ms. ROYBAL-ALLARD.

H.R. 2022: Mr. ABERCROMBIE.

H.R. 2037: Mr. FATTAH.

H.R. 2045: Ms. GINNY BROWN-WAITE of Florida.

H.R. 2047: Mr. PAYNE, Mr. RAMSTAD, and Mr. NEAL of Massachusetts.

H.R. 2052: Mr. LANTOS, Mrs. JO ANN DAVIS of Virginia, Mr. ISTOOK, Mr. MCDERMOTT, Mr. SANDERS, Mr. GREEN of Texas, Mr. CLAY, Mr. DEFAZIO, Mr. COSTELLO, Mr. KLECZKA, Mr. OLVER, Mr. TAYLOR of Mississippi, Mr. SIMMONS, Mrs. JONES of Ohio, Mr. BECERRA, Mr. BAIRD, Mrs. CAPPS, Mr. LEVIN, Mr. STENHOLM, Mr. BERRY, Mr. SABO, Ms. MILLENDER-MCDONALD, Mr. LEWIS of Georgia, Mr. MATSUI, Mr. ROTHMAN, Mr. LIPINSKI, Mr. MCGOVERN, Mr. OBERSTAR, Mr. TANNER, Ms. CORRINE BROWN of Florida, Mr. THOMPSON of Mississippi, Mr. OBEY, Mr. PASTOR, Mr. BLUMENAUER, Ms. KAPTUR, Mr. OWENS, Mr. GEORGE MILLER of California, Mr. KUCINICH, Mr. TIERNEY, Mr. HASTINGS, of Florida, Mr. KILDEE, and Mr. PETRI.

H.R. 2079: Mr. OSBORNE.

H.R. 2121: Mr. MCDERMOTT.

H.R. 2124: Mr. LANTOS, Mr. GREEN of Texas, and Mr. TERRY.

H.R. 2172: Mr. ENGLISH.

H.R. 2183: Mr. WELLER, Mr. VITTER, Mr. BAKER, and Mr. SCOTT of Virginia.

H.R. 2193: Mr. BAKER.

H.R. 2198: Mr. MARSHALL and Mr. LUCAS of Oklahoma.

H.R. 2214: Ms. GINNY BROWN-WAITE of Florida, Mr. TERRY, and Mr. WAMP.

H.R. 2237: Mr. MCDERMOTT, Mr. FROST, and Mr. PUTNAM.

H.R. 2242: Mr. INSLEE.

H.R. 2246: Mr. GUTIERREZ, Mr. BELL, Mr. TERRY, and Mr. LARSON of Connecticut.

H.R. 2249: Ms. GINNY BROWN-WAITE of Florida and Mr. TOOMEY.

H.R. 2250: Ms. CORRINE BROWN of Florida.

H.R. 2253: Mr. HERGER, Mr. ACEVEDO-VILÁ, Mr. SOUDER, Mr. GIBBONS, Mr. DOOLITTLE, Mr. LATOURETTE, Mr. CUNNINGHAM, and Mr. RADANOVICH.

H.R. 2256: Ms. MCCOLLUM, Mr. WAXMAN, Mr. CONYERS, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK, Ms. BALDWIN, Mr. HINCHEY, Mr. MCNULTY, Mr. KLECZKA, Mr. SOUDER, and Mr. WAMP.

H.R. 2291: Mr. TIERNEY and Mr. EMANUEL.

H.R. 2318: Mr. TIERNEY, Mr. PORTER, and Mr. KUCINICH.

H.R. 2325: Ms. VELÁZQUEZ.

H.R. 2327: Ms. HART.

H.R. 2330: Mr. BAIRD, Mr. ALLEN, Ms. SCHAKOWSKY and Mr. KUCINICH.

H.R. 2333: Mrs. WILSON of New Mexico, Mr. STENHOLM, Mr. RYUN of Kansas, and Mr. STUPAK.

H.R. 2347: Mr. WILSON of South Carolina and Mr. RYUN of Kansas.

H.R. 2351: Mr. LUCAS of Kentucky.

H.R. 2360: Mr. FRANK of Massachusetts and Mr. FROST.

H.R. 2361: Mr. RAHALL and Mr. STUPAK.

H.R. 2372: Ms. LEE, Mr. JEFFERSON, and Mr. MARSHALL.

H.R. 2373: Mr. GEORGE MILLER of California.

H.R. 2379: Mr. GREEN of Wisconsin.

H.R. 2392: Mr. THOMPSON of California and Mr. QUINN.

H.R. 2404: Mr. REGULA.

H.R. 2406: Mr. JONES of North Carolina.

H.R. 2424: Mr. SCOTT of Virginia.

H.R. 2435: Mr. ISSA.

H.J. Res. 58: Mr. HAYWORTH, Mr. BARRETT of South Carolina, and Mr. KING of Iowa.

H. Con. Res. 60: Mr. TOOMEY, Mr. FRANKS of Arizona, Mr. CRANE, Mr. WYNN, Mr. CARDOZA, Mr. PICKERING, Mr. BACA, Mr. CALVERT, Mr. WAMP, Mr. STUPAK, Mr. WHITFIELD, and Mr. HERGER.

H. Con. Res. 98: Mr. ROHRABACHER and Mr. HASTINGS of Florida.

H. Con. Res. 194: Mr. WEXLER, Mr. MURTHA, Mr. HINCHEY, Mr. KILDEE, Mr. DAVIS of Tennessee, and Mr. PICKERING.

H. Con. Res. 209: Mr. KING of New York, Mr. GILLMOR, Mr. LAMPSON, Mr. EHLERS, Mr. TANNER, Mr. PRICE of North Carolina, and Mr. UDALL of Colorado.

H. Con. Res. 213: Mr. ANDREWS.

H. Res. 58: Ms. BERKLEY.

H. Res. 198: Mr. CALVERT and Mr. JANKLOW.

H. Res. 199: Mr. WYNN.

H. Res. 234: Mr. DAVIS of Florida and Mr. ROTHMAN.

H. Res. 242: Mr. ORTIZ.

H. Res. 260: Mr. KLECZKA.

H. Res. 264: Mr. BEREUTER.

H. Res. 267: Mr. MCINTYRE and Mr. MARSHALL.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 2. June 12, 2003, by Mr. JIM MARSHALL on House Resolution 251, was signed by the following Members: Jim Marshall, Chet Edwards, William D. Delahunt, Loretta Sanchez, Bill Pascrell, Jr., Tom Udall, Maurice D. Hinchey, Zoe Lofgren, Michael R. McNulty, Juanita Millender-McDonald, Robert Menendez, Betty McCollum, Joe Baca, Bob Filner, Artur Davis, Linda T. Sánchez, Lois Capps, James R. Langevin, Vic Snyder, Carolyn McCarthy, Dennis Moore, Steve Israel, Tammy Baldwin, Danny K. Davis, Raúl M. Grijalva, Hilda L. Solis, Lane Evans, Charles B. Rangel, Timothy H. Bishop, Dale E. Kildee, Patrick J. Kennedy, Sanford D. Bishop, Jr., Mike McIntyre, Bobby L. Rush, Robert E. Andrews, Jay Inslee, Julia Carson, Diane E. Watson, Thomas H. Allen, David E. Price, Charles A. Gonzalez, Stephen F. Lynch, Wm. Lacy Clay, Eddie Bernice Johnson, Lincoln Davis, Sheila Jackson-Lee, Susan A. Davis, Lynn C. Woolsey, Michael F. Doyle, Charles W. Stenholm, Jim Cooper, Rodney Alexander, John Lewis, Christopher John, Joseph Crowley, Gene Taylor, Nick J. Rahall, II, Bob Etheridge, David Scott, Edolphus Towns, Tom Lantos, Michael H. Michaud, John B. Larson, Rick Larsen, Rosa L. DeLauro, Frank W. Ballance, Jr., Peter A. DeFazio, Ellen O. Tauscher, Bernard Sanders, Mike Ross, Barney Frank, Mark Udall, Mike Thompson, Timothy J. Ryan, Shelley Berkley, John W. Olver, Chris Bell, John S. Tanner, Rahm Emanuel, William J. Jefferson, Steny H. Hoyer, Nydia M. Velázquez, Darlene Hooley, Diana DeGette, Jim Matheson, Adam B. Schiff, Nancy Pelosi, Gregory W. Meeks, James P. McGovern, Elijah E. Cummings, Chris Van Hollen, Jim McDermott, Baron P. Hill, Thomas G. Tancredo, Karen McCarthy, José E. Serrano, Maxine Waters, Corrine Brown, Marcy Kaptur, Sander M. Levin, Brad Carson, Bart Gordon, Kendrick B. Meek, Ken Lucas, Bennie G. Thompson, Earl Pomeroy, James P. Moran, Martin Frost, Janice D. Schakowsky, Lucille Roybal-Allard, Xavier Becerra, Albert Russell Wynn, James E. Clyburn, Ciro D. Rodriguez, Stephanie Tubbs Jones, Barbara Lee, Allen Boyd, Leonard L. Boswell, and Robert Wexler.

SENATE—*Thursday, June 12, 2003*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Dr. Virgil A. Wood of the Pond Street Baptist Church in Providence, RI.

PRAYER

The guest Chaplain offered the following prayer:

Dear God, we thank You for the remnants of love that remain within beloved America.

We confess that far too often, we have embraced the anti-love, in thought, word, and deed; please forgive us and mend our every flaw.

In the conflicts of life itself may we find the courage to meditate, to ponder, and to wrestle with the principalities and the powers.

When the conscious light of Your love breaks through our common journey, may we take off our shoes and worship, for that indeed will have become holy ground.

Grant us grace, dear God, to go forward and match deeds of love to our sacred words, that the love which is in the community of all humanity may perfect itself in us.

Having come now to understand how we of all faiths, races, and nationalities, as one people under God, could go forward, may we forever trust and abide in love.

And in the name of the one God of love, we offer this prayer. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, June 12, 2003.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. SUNUNU thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. CHAFEE. Mr. President, for the information of all Senators, this morning the Senate will resume consideration of S. 14, the Energy bill. The Graham amendment relating to the Outer Continental Shelf is currently pending. Under a previous agreement, there will be up to 90 minutes of debate prior to the vote on or in relation to the amendment. Therefore, the first vote will occur at approximately 11 a.m.

In addition to the Graham amendment, the Senate will consider other amendments to the Energy bill, and Members should expect rollcall votes throughout the day.

It is also possible that the Senate will be able to consider the FAA reauthorization later today. We will notify Members if that becomes available. Also, the Senate may consider additional nominations on the Executive Calendar. We will be working to schedule votes on the nominations that can be cleared.

Mr. REID. Mr. President, we recognize there are efforts being made to go to the FAA bill. We are attempting to clear that on this side. We have a couple of hurdles. I think we have completed one, and we still have one other problem to eliminate. We will certainly know that in the next hour or so.

If that is the case, it is my understanding, having spoken to the two leaders, after we dispose of the amendments pending, the leader would want to go off of the Energy bill and go to the FAA bill. We are trying to allow that to happen if we can clear that.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

ENERGY POLICY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

> Graham (FL) Amendment No. 884, to strike the provision requiring the Secretary of the Interior to conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the Outer Continental Shelf.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

Mr. REID. Mr. President, before we do that, I ask unanimous consent that the time on this matter, which is divided an hour on that side and 30 minutes on this side, be divided equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged equally to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, we have two Senators who wish to speak on the pending amendment. The junior Senator from Texas wishes to speak for 5 minutes. I understand the Senator from California wishes to speak for 15 minutes immediately following the Senator from Texas.

Mrs. BOXER. Mr. President, I will not object at all. I want to understand. I thought I already had 15 minutes from yesterday. I am just clarifying that point.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, some of the time has been used on quorum calls. That time was charged equally against both sides this morning. The Senator still has 15 minutes.

Mrs. BOXER. Mr. President, I thank the Senator.

Mr. REID. We may not have 15 minutes for somebody else, but there are 15 minutes for the Senator from California, Mrs. BOXER.

The ACTING PRESIDENT pro tempore. Quorum calls have been charged proportionately to both sides. At this time, the Senator from Texas is recognized for 5 minutes.

AMENDMENT NO. 884

Mr. CORNYN. Mr. President, I rise to say a few words in opposition to the Graham-Feinstein amendment. I am opposed to this amendment for several significant reasons.

This amendment would restrict our ability to conduct an inventory and analysis of our own energy resources. Section 105 of this bill will commission a comprehensive scientific study by the Department of the Interior concerning the energy resources of the U.S. Outer Continental Shelf. It will provide the groundwork for an informed debate on the offshore drilling issue.

This amendment will only decrease our knowledge of these issues. That is why I call it a know-nothing amendment. The American public has a right and a need to know the status of its national resources. We survey, catalog, and inventory our forests, our fisheries, our coal reserves, and other valuable living and non-living natural resources. We should also allow for the study of our domestic offshore energy resources.

The information that we currently have concerning our oil and natural gas resources is limited, dated, and lacks the specificity required for this important debate. This legislation will allow the Department of the Interior to use the latest technology, except drilling, to update its resource estimates using all the available scientific data.

As we reexamine our growing energy needs for the future, the geopolitical reality of our Nation's dependence on foreign oil becomes all the more disturbing. The demand for natural gas in this country continues to increase, while domestic production continues to decrease. Decreased production will result in American increased prices for natural gas, fertilizers, agricultural chemicals and electricity.

The OCS survey is vital to our energy future, and to our ability in the Senate to make energy decisions based on the best available information.

The energy industry in my home State of Texas and all throughout the Nation has established a strong record on safety and environmental issues, and they are the most critical part of our continuing work to find alternative sources for energy.

While we are debating this matter on the floor, Cuba has already launched well projects north of the island in the Gulf of Mexico. Just last month, the Castro regime invited oil companies from other nations to drill, just miles away from our own international borders. We should not restrict our Nation's knowledge and ability to make responsible decisions regarding energy policy, while other nations plow ahead, with no U.S. oversight, no U.S. safety regulations, and no U.S. environmental standards.

With the prospect of energy challenges looming on the horizon, now is not the time to ransom our sovereignty over our energy resources for the sake of short term political gain.

These natural resources belong to the American people, and they deserve an accounting of them. The debate over offshore drilling is a critical one, and it deserves our full attention.

I oppose this amendment as imprudent and inappropriate. That is why it was defeated by a strong bipartisan vote in the Senate Energy Committee. That is why it deserves to be defeated again.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Mr. President, I thank my colleague from Texas for being brief and to the point. I am also glad he went first because I could not disagree more with what he said. It gives me a really good jumping-off place for my comments this morning.

I am pleased to cosponsor Senator GRAHAM's amendment to strike section 105 from the Senate Energy Bill, and I thank him and Senators FEINSTEIN, WYDEN, and CANTWELL for their heroic efforts in the committee itself to remove this section so we would not have to have this fight on the Senate floor.

The Senator from Texas called this amendment a know-nothing amendment. I call it an amendment that stands up for American values. What could be more of an American value than protecting and honoring the environmental legacy given to us by God, a legacy we must protect. It is our duty to protect. Section 105, which I wish to strike, would require the Secretary of the Interior to conduct an inventory and analysis of oil and gas reserves beneath the waters of the Outer Continental Shelf, including the moratorium areas. Let me repeat that. This is such a radical proposal that it would allow harmful analysis to go on, and I will explain why, beneath the waters of an area or areas in our country where they are so precious, they are so beautiful, they are so respected by the people we represent, that they have been subjected to moratoria by this Congress for 20 years now.

By the way, that tracks how long I have been in Congress actually, just about. I have supported that all the time, and this provision undermines the premise behind these moratoria, which is to protect these magnificent areas from activities such as the ones authorized in this bill.

It may sound very simple to say, oh, we are going to analyze what resources lie off our coasts and in our ocean, but when we realize the kind of work that will go on—seismic surveys, sediment samplings, other destructive exploration technologies that harm ocean habitat and marine life—it is worth getting upset about.

To this point, this bill is really an abomination. I do not know how else to put it. I am known to be very direct. It brings back nuclear energy, and I compliment the Presiding Officer today for his work to try and strip the subsidies to the nuclear power industry from this bill. We do not even know what to do with the nuclear waste we have. It is dangerous. It lasts for thousands of years. We do not even know what to do with it, and now this Senate has decided to turn away from the Wyden-Sununu amendment and say to nuclear power companies, before we know what to do with this waste, we are going to back you up, we are going to give you a loan guarantee so if you want to build a nuclear powerplant, you can go get a $3 billion loan guarantee from the Federal Government. So if there is a crisis, if there is a problem, if the plant does not work, you are going to be bailed out by the taxpayers.

Well, on behalf of the taxpayers of California, we are a State that has turned away from a couple of our nuclear powerplants because we have had problems—and now we are encouraging it. That is what this bill does. This bill has a safe harbor provision for ethanol. Maybe ethanol will be fine, but we are not sure. A blue ribbon panel in EPA said they are not sure. If there are problems, if people get sick, if children are harmed, there is a safe harbor for the companies making ethanol. What a corporate give-away is this bill. And now we are turning our back on 20 years of bipartisanship and 20 years of leadership from Republican and Democratic Presidents and saying, go into those precious areas in the ocean, drill your heart away and we are going to tell you, as the Senator from Texas said, oh, that is a good thing for the country.

Wrong. It is a bad thing for our country. It is a bad thing for our children. It is a bad thing for their children because we would be undermining the protections for these valued, sensitive coastal areas and ignoring again this bipartisan moratoria we have had for years on the Outer Continental Shelf.

By the way, we beat this back 2 years ago. I cannot wait to tell the people of California what is happening. I am saddened by it, but I cannot wait to tell them because they need to hear it. This is another environmental rollback that is deadly serious. It was tried 2 years ago and it did not succeed, but I am not sanguine this time because we have had changes in this particular body.

Two years ago, Senator JOHN KERRY and I offered an amendment, which was included in the manager's amendment, to strip this deadly language out and to preserve the moratorium, and it passed.

Now, I will tell my colleagues why my people in California are so adamantly opposed to drilling off our coast. A very long time ago, 34 years ago, there was an incident that was so horrific that Californians who were around then will never forget it, and their children are told stories. In 1969, disaster struck when a major oil spill occurred from a platform 6 miles offshore from Santa Barbara, CA. Over 4 million gallons of oil poured into the ocean, contaminating the waters, killing thousands of animals and ruining over 200 square miles of Santa Barbara's coastline. Prior to that event, Santa Barbara's beaches were considered a recreational paradise with some of the most beautiful coastline in our country. After the spill, these same beaches smothered with a slick coating of oil, resulting in a loss of millions of dollars in tourism and recreation and broken hearts all over my State. Local governmental officials, community leaders, grassroots organizations, conservation groups, and citizens rallied for justice after the destruction of their coast. They decided then that absolutely no more drilling should be permitted off the coast.

Due to the Santa Barbara spill in California, there is strong and enduring support for the protection of our oceans and our coastlines, and any candidate for any office coming into my State saying we ought to go back to the days of drilling off that coast is not going to get the support of Democrats, is not going to get the support of Republicans, is not going to get the support of independents, and everybody else in between. They can sugar-coat it any way they want. We know the truth. We saw it in Santa Barbara. We made a decision that any potential benefits that might be derived from future oil and gas development were not worth the risk of destroying our priceless coastal treasures. I will show a picture of my coastline because it is worth looking at.

My friends on both sides of the aisle who support this underlying amendment, if they think they are helping the economy, they are not. The economy of mine and other coastal States relies on a beautiful and clean environment. The economic benefits of our California beaches are very clear. Two-thirds of California residents visit one of the State beaches at least once a year. In 2001, there were at least 132 million visits to California beaches by people from outside the State. These are your constituents. Maybe it is even you. Maybe you even came with your family to our beaches. These visits generated $61 billion in total spending in my State. That is an economic boom.

There are some in this Senate who think the only economic boom to their States is drilling on precious areas. That is a good debate. But the people of California have made this decision. They have decided they do not want it. They understand the commercial fishing industry relies on a beautiful unspoiled coast and ocean. It is a $554 million industry with 17,000 jobs, and they say no to this bill; the shipping industry, 8.6 billion and 179,000 jobs. We are talking tourism, we are talking fishing, we are talking shipping, and we are saying no to this bill.

This Graham amendment will help us preserve that economy. These are hard economic times in our State. The last thing we need is to go back. Tourism, beautiful beaches, a clean ocean, that is what my State is about. We saw what happened in Santa Barbara. We made that decision. We have permanently banned new oil and gas development in State waters. How can we go out adjacent to State waters to the Outer Continental Shelf and run the risk of destroying this value of our State? It is about California's economy. It is also about a beautiful environment.

I will show a couple of other pictures of this breathtaking environment. This is our southern California coast. The picture we show now is Malibu Beach.

We are talking about $61 billion in total spending each year because of our magnificent coast and our ocean. When it is added up, the underlying bill is destructive to our environment, which Republicans, Democrats, and Independents in my State agree must be preserved. It undermines our economy.

By allowing predrilling activities to occur, our coast is threatened, commercial fishing jobs are at risk, fishing jobs are at risk, tourism is at risk, California's economy is at risk, and the beauty of California's coastline is at risk. That goes for every State along my coast, be it Washington, Oregon, or California.

As I look back to the bipartisanship we have had with the President in the past, Republicans and Democrats, this is the first time we have seen this move.

What is the history of Federal moratoria? For two decades Federal waters off the coast of California have been protected from additional offshore oil and gas development through a series of temporary bans. President George H.W. Bush signed an executive memorandum in 1990 which placed the 10-year moratorium on new oil and gas leasing. He did not try to go in there with seismic testing and destructive methods. He did not get up and say, we better drill there and find out what is there. He understood it. President Clinton understood it. He extended this moratorium to 2012.

Section 105 of this Energy bill completely ignores this moratoria by promoting destructive exploratory drilling in the Outer Continental Shelf. In a letter to me, the California Coastal Commission states the provision "would seriously undermine the long-standing bipartisan legislative moratoria . . . that has been included in every appropriations bill for more than 20 years." We must defeat efforts to undermine the protection of our coast and the rights of coastal States and local governments to make decisions to protect their coasts. Section 105 of the Energy bill is intended for one purpose, I say to my colleagues, and one purpose only. You can dress up a pig and you can put lipstick on a pig, but it is still a pig. In this case, it is to promote oil and gas development on our precious coast.

Republicans in my State don't want that. Democrats in my State don't want that. Independents in my State don't want that. By allowing the Secretary of the Interior to use invasive, exploratory technologies, including the seismic surveys—sections 105 permits activities that have detrimental impacts on the marine environment, including air pollution from machinery and disturbance to the sea flora. While these seismic surveys sound innocent, let me explain what we are talking about.

Huge boats with large acoustic equipment go out into the ocean, a high-pressure air gun sends out constant high-decibel explosive pulses through the water and deep into the sea floor. We know these sounds have been reported to cause significant damage to fish and their ability to locate prey and avoid predators. As a result, the survival of fish populations is threatened by this technology. That is why the commercial fishing business in my State opposes this bill. These explosive pulses are also within the auditory range of many other marine species, including whales. In fact, when this technology was used in the Bahamas and off the coast of Mexico, it caused whales to become disoriented and as a result to be fatally stranded on beaches.

Seismic surveys are accompanied by extraction of numerous samples from the sea floor. These samples are collected by dropping large hollow metal tubes from ships to vertically puncture the sea floor. Reports from Environmental Defense show the collection of these samples damages the ocean floor and harms the habitat of numerous species.

The Graham amendment is supported by the California Coastal Commission, in addition to the Natural Resources Defense Council, Environmental Defense, U.S. Public Interest Research Group, Sierra Club, Coast Alliance, Ocean Conservancy, Oceana, and the League of Conservation Voters.

This is a serious issue for the most populous State in the Union and for the entire west coast. I urge my colleagues who say they care about what people believe, care about the values of the American people, to seriously look at the danger and the damage this is going to cause. We stripped it out of the appropriations bill a couple years ago, and it is back now. I hope my colleagues will strip it out again. If you do not, there are going to be a lot of outraged citizens in this country when they find out what could happen from the underlying bill. I again urge colleagues to support this Graham amendment.

Since my colleague from Washington is in the Chamber, Senator CANTWELL, let me say to her—I mentioned this in her absence—how much I appreciated the heroic effort she made in the committee to strip this out of the bill. I hope we will be successful today.

I thank my colleague. I yield the remainder of my time to the managers of the bill, and I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Wyoming.

Mr. THOMAS. Madam President, I wish to comment on what I hope is the progress of our Energy Policy Act of 2003 that is before us. It is a policy that is essential to our Nation's energy security, to our economic security. I think it will play a vital role in where we go with energy.

This is comprehensive legislation that has to do with production, particularly in the West; let's say domestic production. It has to do with research, which is what this amendment is about. It has to do with understanding where we go in the future with alternative fuels. We take a total look at where we are.

One important provision calls for an inventory of the Outer Continental Shelf and the resources there for the United States. This requires the Secretary of the Interior to survey all the Outer Continental Shelf resources currently under production and under moratoria, and to develop an inventory of those reserves in the areas that are not in production. An analysis will utilize the latest available remote sensing technologies, but the legislation specifically states that drilling will not be permitted in conducting this inventory. The measure directs the Secretary of the Interior to submit a report to Congress on the inventory 6 months after enactment of the bill.

Offshore production, of course, has played an important part in our domestic picture. The western and central Gulf of Mexico have proven world class areas for natural gas and petroleum production, accounting for over 25 percent of domestic production.

It is believed substantial natural gas resources exist in the eastern gulf, Atlantic Ocean, and off the coast of California. However, exploration of these areas has been prohibited by previous Presidential moratoria. Senator GRAHAM's amendment now on the floor will strike that inventory from the Energy Policy Act of 2003.

Opponents contend the passage will violate the Presidential moratoria and open the door for development of coastal areas. This is completely untrue. The sole purpose of the offshore inventory in S. 14 is to collect data on domestic offshore oil and gas resources to fully understand the potential of these regions instead of making future policy judgments on information that is outdated and incomplete.

A number of people are very interested in this. I understand that. But I think we are being misled a little as to what it means. It is a comprehensive scientific inventory. I think the public has a right to know what the status of our national natural resources are for the future. We need to reexamine them because many of the assessments that were done some time ago are not up to par in terms of current technology.

We need to do this. A number of organizations are opposed to the amendment—the National Association of Manufacturers, the U.S. Chamber of Commerce, the American Farm Bureau Federation—simply because they are so dependent on energy in the future. This is something that really affects lots of people.

I have to say once again, it is an inventory of the resources that are available, not a license to produce.

I yield the floor.

Mr. DOMENICI. May I ask the Senator a question?

Mr. THOMAS. Absolutely.

Mr. DOMENICI. You mentioned various organizations that support this. I wonder if it might be fair to say that, regarding future jobs for America, we might have some interest in knowing what our resources are. Those concerned about jobs for the future, might they also be interested?

Mr. THOMAS. The Senator raises, of course, a basic question. As we talk about energy, what we are talking about is the future of our economy, in terms of jobs, in terms of doing the things we will want to do economically and environmentally.

I have the same kind of feelings about my place in Wyoming. We have mountains and we have areas we are going to protect. But that does not mean we ought to avoid the idea of having a notion of where those resources are, and to be able to use some of them where they work together, preserving the environment.

Certainly the U.S. Chamber, certainly the National Association of Manufacturers, are concerned about the future and the availability of energy so we can create jobs and continue to build the future economy.

Mr. DOMENICI. I thank the Senator for his remarks this morning.

The Senator from Oklahoma, Mr. INHOFE, is here. He asked if he might have time. How much time do we have?

The PRESIDING OFFICER. There are 17 and a half minutes remaining.

Mr. DOMENICI. I yield 7 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I think it appropriate I make a few comments. My committee does have jurisdiction over any environmental aspects of the OCS. I consider this to be significant. I think it is very important for us. We hear all the stuff about the environment and we hear some extremist groups who are saying they don't want this to take place. There are some out there, maybe even some Senators, who might believe this somehow is going to authorize exploration or authorize drilling.

Section 105 of the bill directs the Secretary of the Interior to conduct an inventory and analysis of oil and natural gas resources in the Outer Continental Shelf. It does not in any way authorize any type of exploration; it doesn't authorize any kind of drilling. It will provide the American people, for the first time, using new technology—and we have new technology—a comprehensive overview of the country's offshore oil and natural gas resources.

This 3-D seismic technology—I have heard the chairman of the Energy Committee talk about this modern technology. It was developed in the 1990s and has allowed us to identify 100 trillion cubic feet more natural gas in the Gulf of Mexico than was previously found.

We have surveys for the rest of the country's natural resources. We have surveys of how many forests we have, how many trees we have, how many fish we have, how much coal we have. Why is there so much resistance to knowing how many oil and gas resources or reserves are out there? How can we have a comprehensive national energy policy without knowing how much oil and gas the country has? That is really the key to this.

I have criticized Republican and Democrat administrations alike for not having a comprehensive energy policy. I remember, during the Reagan administration, trying to get a comprehensive energy policy. We were not able to do it. During the first Bush administration, we were not able to do it.

Consequently, back when I was so concerned about our dependence upon foreign oil for our ability to fight a war, during the Reagan administration, our dependence was only 36 percent. Now it is 57 percent. So it has just gotten worse and worse.

Finally, I applaud the President for saying we are going to have a comprehensive energy policy, and I applaud the Senator, the chairman of the Energy Committee, for coming up with a well-thought-out plan. But, again, how can we have a comprehensive policy if we don't even know what resources the Nation has?

Many colleagues are concerned that section 105 undermines the State's right to determine what happens in Federal waters off its shores.

How can that happen? It is just a study. In fact, not knowing what oil and gas is off States' shores infringes upon a State's right to make an informed decision. Indeed. The liberal mantra here is the right to know. Given that, how can they oppose knowledge? No State has the right to infringe upon interstate commerce. That would be unconstitutional. If legislators are successful in prohibiting the access to the people's resources, then no amount of information about America's oil and natural gas reserves is going to change that protection.

Secretary of the Interior Norton, in a recent letter to my colleagues, Senators GRAHAM and NELSON, states:

> The language does not affect the moratoria.

You have to understand that. I just hope the people of America are watching this because we are really just saying we don't want the knowledge. We are facing a natural gas crisis. I don't think anyone is going to stand up here and say that we are not. This crisis is universally acknowledged through widespread awareness. This crisis has really just begun in the past year or so.

In a wonderfully bipartisan way, Congress has come together to try to reduce America's reliance on foreign sources of energy, including oil and natural gas.

Limiting the American people's access to knowledge about the American people's resources, let alone the resources themselves, is a guaranteed way to increase dependence on foreign sources of energy. It is sort of an "ignorance-is-bliss" strategy.

Also, many States are facing budget shortfalls. They turn to us for options for addressing these shortfalls. The ones I have talked with are appreciative of the fact that we need to know what resources are off our shores.

Again, this amendment authorizes only a study and will allow us to make good and informed decisions about resources. I can't imagine anyone being against something which is merely shedding light on what we have and informing the people of America what the resources are so we can intelligently address those resources in the future.

I certainly encourage my colleagues to oppose this amendment which would strike the people's right to know what kinds of resources are out there.

Again, I repeat that it has nothing to do with exploration. It has nothing to do with drilling oil. All it deals with is finding out what our resources are.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I rise to support the Graham amendment. I thank my colleague from California for speaking so eloquently about how important it is for the entire west coast of the United States. I know Senator GRAHAM is articulating those same concerns in Florida. I am sure we will hear from Members of other parts of the country. I find this debate almost amazing—amazing in the sense that Congress has enacted moratoria on drilling since 1982. In every instance since 1982, Congress has responded and said we don't want to explore for natural gas or oil off of our pristine coasts. So we go over this time and time again. Yes. We are going to go over it again today. People have raised these economic arguments. I can tell you what the people in Washington State think.

We have a 7.4-percent unemployment rate. We want jobs. But I guarantee this is not where we think we are going to get jobs. In fact, we want protection from our high energy costs. My ratepayers have had a 50-percent rate increase. Why? Because we were gouged by Enron contracts.

To say to the people of the Northwest that somehow your economy and your future are going be taken care of because we are going to let you drill off the coast of Washington is ludicrous. We want economic relief. We want statutory relief from the Federal Energy Regulatory Commission to do their job. We want them to basically say that the fat boys and these Enron schemes have been illegal and we are going to help you get out of your high energy prices.

The fact that we are out here talking about this isn't really going to lead to drilling. Then why spend the taxpayers' dollars trying to study something we don't want to do. I don't want to drill off the coast of Washington. I don't want to spend the taxpayers' money assessing that situation. I don't think we ought to spend the taxpayers' money looking in the Great Lakes for oil. I don't know that we want to go and say let us valuate putting a nuclear powerplant in North Dakota because it might be close to the Missouri River and a water source.

There are a lot of issues we can explore. The question is, do we want to follow through on those policies? I believe the answer is absolutely no, as to our pristine coastline. That coastline has already been a key part of our economy on the west coast. We have many fishing industries, shellfishing industries, and tourism dollars that all rely on that pristine coastline.

The Federal Government has entered into treaties with the tribes on shellfish and harvesting rights. Are we going to abrogate those Federal obligations that we have signed onto?

We also, as the Federal Government, implemented the Olympic Coast National Marine Sanctuary which encompasses most of the waters off the Northwest coast. It is a sanctuary for hundreds of species, including marine mammals. These mammals include the majestic orca whale, whose 20 percent population decline over the past decade recently triggered a "depleted" listing under the Marine Mammal Protection Act. Now are going to say to the country that we think we should look at putting oil rigs and transportation of oil in an area that we, as a country, have already designated as a pristine national monument?

If you want to know whether the people of my State are watching, they are watching. Guess what. They have a memory. They do remember. They remember thick carpets of oil, hundreds of dead birds and great shards of oil-blackened timber that followed the 1989 oil spill off of Grays Harbor. That disaster stained over 300 miles of coastline. An oil well blowout could be many times worse.

While some argue that simply studying this just gives us information, my response is that we should not spend millions of taxpayer dollars that could be put towards something else. My constituents won't accept drilling rigs off the vibrant coastline of Willapa Bay, Neah Bay, or the mouth of the Columbia River. Rigs are unsightly and the risk of an ecologically disastrous oil spill is just too high.

Instead of looking for oil and gas on the Outer Continental Shelf, my State is willing to do a variety of things.

We are still the home to the Hanford Nuclear Reservation, and we are spending billions of taxpayer dollars to clean up the nuclear waste. We are progressing on that in an aggressive fashion.

We have one of the largest wind farms in the West. We are trying to be a leader in new energy technology. We are even willing to look at wave energy technology off the coast of Washington and in other areas where it might be more appropriate.

I am a big advocate of moving forward on natural gas in Alaska to make sure we get a natural gas pipeline to give more natural gas resources to the lower 48 States. That is something which I think is critically important. The Pew Ocean Commission has recently highlighted the fragile nature of our oceans and coastal resources and recommended we look at our oceans in a holistic manner.

I think that report, which came out less than 10 days ago, basically says that we don't have our act together as it relates to our oceans and the health of our oceans.

I find it very frustrating being from a State that has high unemployment and a State that has high energy costs. Those energy costs have been costing us and no one is trying to help give us relief from those contracts.

Public documents say there has been market manipulation. Now somebody thinks they are proposing to us some panacea of studying drilling off the coast of Washington and you are going to have a great economy. It is a bunch of bunk.

What we need to do is what Congress has done since 1982, enact a moratorium on drilling. Stand up and say it is not appropriate. Follow the Bush administration, follow the Clinton administration, and follow the previous Bush administration. I am not sure where this Bush administration is, but basically say we don't want drilling off of our pristine coastline.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. LANDRIEU addressed the Chair.

The PRESIDING OFFICER. Who yields to the Senator?

Ms. LANDRIEU. Madam President, I understand the Senator from New Mexico has 11 minutes remaining. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Ms. LANDRIEU. Thank you, Madam President. I would like 5 of those minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Ms. LANDRIEU. Madam President, today I rise in opposition to Senate Amendment No. 884, offered by the Senator from Florida. Everywhere you turn these days you hear talk of a natural gas crisis facing this country. On May 21, the Chairman of the Federal Reserve testified before Congress that he was "quite surprised at how little attention the natural gas problem has been getting," he said, "because it is a very serious problem." Yesterday, while testifying before the House Energy and Commerce Committee, he went on to add that the increase in gas prices—more than double what they were last year—have put significant segments of the North America gas-using industry—chemical, fertilizer, steel and aluminum—in a weakened competitive position against industries overseas.

What Mr. Greenspan is referring to is the looming gap between natural gas demand and supply in this country. Currently, we produce about 84 percent of the natural gas we consume. By 2025, the Energy Information Administration, EIA, projects that imports of natural gas will provide 22 percent of demand. Quite simply, we are facing the prospect of our natural gas market following in the footsteps of our oil market where imports continue to account for a growing percentage of supply.

For years we have pursued a policy that is in conflict with itself. On the one hand, we encourage the use of natural gas in this country to meet our energy needs and environmental goals. It is viewed as a clean fuel to improve air quality and a low carbon-dioxide fuel to meet climate change targets.

However, we have ignored the supply side of the equation. National output has remained stagnant since 1995 but one of out of every two homes in the United States is now heated by natural gas. The amount of natural gas used to generate electricity has increased 33 percent in the past 5 years and will likely grow an additional 60 percent by 2015.

So, we now find ourselves living in a state of denial when demand outstrips supply and volatile prices occur.

In my State of Louisiana, chemical plants, which use natural gas as both a fuel and a feedstock, face record-high prices. Because of tight supplies, the average natural gas price—NYMEX—for the first quarter of 2003 was $5.91 per million Btus. This represents a staggering 129 percent increase over the average natural gas price for the first quarters of the previous 10 years, which was $2.58.

For ammonia plants in particular, the cost of natural gas can represent 70 to 90 percent of the total cost of manufacturing its products. Since 1998, the number of Louisiana Ammonia Producers, who account for approximately 40 percent of the U.S. production of ammonia, has gone from 9 companies employing more than 3,500 employees to 3 companies employing less than 1,000.

Thanks to the good work of the Energy Committee, led by Chairman DOMENICI, I believe there are some provisions in this Bill, that if enacted, would stimulate natural gas production in the short term. For example, I offered an amendment at committee that was accepted and would encourage deep gas production from wells in shallow waters on existing leases. Provisions such as this one can bring gas to market quickly.

While there are some conservation and efficiency measures we can take to try and slow high prices in the short term, we cannot continue to pretend that the supply imbalance does not exist. Believe it or not, the fight today is not over whether to produce more natural gas but instead focuses on a mere study, albeit a critical one.

The proponents of the amendment before us would have you believe that enacting the inventory called for under section 105 of the bill would open Pandora's Box and lead to oil and gas production everywhere on the Outer Continental Shelf, regardless of whether an area is currently under moratoria.

The fact is the inventory will do nothing of the sort. Section 105 will in no way affect existing moratoria on oil and gas activity in the OCS, nor will it diminish the rights of those States that oppose drilling off their coasts. Section 105 does not provide for the use of exploratory wells. The real truth behind section 105 is simply to inform the American public about how much potential oil and natural gas there is within these areas of the United States.

I believe that the American people should have the most up-to-date and accurate projections of these public assets. An amendment such as the one pending before the Senate sends a signal to America's consumers, homeowners and manufacturing industries that Congress is out of touch and not committed to addressing a problem that only continues to get worse.

The question might arise, why do we need to re-examine our offshore resources when many assessments of oil and natural gas resources off our coasts have been done? The answer is most, if not all, of these assessments relied solely on the geophysical and geological data yielded by company exploration and production efforts. In some areas, where moratoria have been in place for some time, the data is very old—10 years or more—and the estimates may no longer be accurate.

Since this frontier was officially opened to significant oil and gas exploration in 1953, no single region has contributed as much to the Nation's energy production as the OCS. The OCS accounts for more than 25 percent of our Nation's natural gas and oil production.

With annual returns to the Federal Government averaging between $4 to $5 billion annually, no single area has contributed as much to the federal treasury as the OCS. In fact, since 1953 the OCS has contributed $140 billion to the U.S. Treasury.

In light of these tremendous contributions, it is particularly interesting to realize that almost all of our OCS production comes from a very concentrated area of the OCS, the western half, which really means offshore Louisiana and Texas. Ninety-eight percent of the Nation's offshore production comes from this half of the Gulf of Mexico. In fiscal year 2001, offshore Louisiana accounted for almost 80 percent of total OCS gas production.

By taking this inventory, maybe we discover there are more resources on the OCS than we originally thought or maybe we actually learn less is out there. Regardless, we owe it to ourselves to find out.

Madam President, I yield the remainder of my time to the Senator from New Mexico.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Madam President, I want to reserve the remainder of our time. However, I thank the distinguished Senator from Louisiana for her excellent remarks. The real issue is knowledge: What should the American people know about their future in terms of our own resources?

I reserve the remainder of my time and yield the floor.

Ms. COLLINS. Mr. President, I rise to express my concern over provisions included in the Senate Energy bill that threaten the existing moratoria on leasing and preleasing activities related to oil drilling on Georges Bank, off the coast of Maine, and other areas of the outer continental shelf.

Section 105 of the Energy bill requires the Department of the Interior to inventory all potential oil and natural gas resources in the entire outer continental shelf. This provision would allow potentially damaging seismic technology in the vital fishing grounds of Georges Bank.

Georges Bank is a magnificent American resource. The unusual underwater topography and tidal activity of Georges Bank create an almost self-contained ecosystem, unique within the ocean that surrounds it. It is one of the most productive fisheries in the world, where Mainers and many others harvest cod, haddock, yellowtail flounder, scallops, lobsters, swordfish, and herring.

Mainers have fished Georges Bank for hundreds of years. Hundreds of small communities in New England depend on fish from Georges Bank for economic support and their maritime-based way of life. In recent years, Maine's fishermen have made significant economic sacrifices to work toward sustainable and healthy fish stocks. I am extremely worried that any drilling activities, even preleasing activities, could destroy their work.

An oil spill on Georges Bank would have catastrophic effects on the Georges Bank ecosystem and the economies of the coastal communities of New England. Georges Bank experiences some of the most severe weather in the world, and the frequent storms, strong currents, and high winds would cripple any post-spill cleanup effort. For this reason, and because of its great biological value, many scientists, fishermen, and other persons concerned with and knowledgeable about the unique ecosystem of Georges Bank have urged that no drilling activities occur in this region.

I have long worked to protect Georges Bank from the potentially devastating impacts of offshore oil and gas drilling. In 1999, when the Government of Canada was considering whether or not to drill on Georges Bank, I introduced a resolution in the Senate that asked the Government of Canada to impose a moratorium on drilling on the Canadian side of Georges Bank until 2012. I was very relieved when, several months later, Canada did indeed impose such a moratorium. The United States also has a moratorium on drilling Georges Bank until 2012.

This issue again arose in May of 2001, when the Outer Continental Shelf Policy Committee recommended to the Secretary of the Interior that she encourage congressional funding to assess the oil and gas potential of offshore areas covered by the moratorium. The recommendations also included a suggestion to explore lifting parts of the existing moratorium.

In response, I worked to include language in the fiscal year 2002 Interior Appropriations bill that would prohibit the use of funds for offshore preleasing, leasing, or related activity on Georges Bank. Along with Senators KERRY, KENNEDY, and SNOWE, I cosponsored an amendment that prohibits the Department of the Interior from spending any funds on leasing, preleasing, or related activities in Georges Bank and the entire North Atlantic, as well as the West Coast off California, Oregon, and Washington, and the eastern Gulf of Mexico. Our amendment was signed into law, and similar language has been included in subsequent Interior Appropriations bills.

I believe that Section 105 of the Energy bill is contradictory to the Interior Appropriations bill language and the expressed will of the Senate against the expenditure of funds for the use of preleasing activities in Georges Bank. I am pleased to join Senators GRAHAM, FEINSTEIN, DOLE, and many others in cosponsoring an amendment that will remove these provisions from the bill. I urge my colleagues to support our amendment.

Mr. REID. Madam President, would the Chair indicate how much time remains on each side?

The PRESIDING OFFICER. The Senator from New Mexico has 4 minutes 20 seconds; the Senator from Washington has 5 minutes, and the Senator from California, Mrs. FEINSTEIN, has 13 minutes.

Mr. REID. So a total of 18 minutes on this side, 4 on the other side.

The PRESIDING OFFICER. The Senator is correct.

Who yields time?

Mr. REID. Madam President, it is my understanding that the leader wants to vote at 11:15.

Mr. DOMENICI. My understanding is we would like to change the time to 11:15, assure the time at 11:15.

Mr. REID. Madam President, I ask unanimous consent that the time, after whatever time expires that has already been allocated, be divided equally between the two sides.

Mr. DOMENICI. Between now and 11:15?

Mr. REID. Not the time between now and 11:15. Whenever the time expires—we have 18 minutes and you have 4 minutes; so 22 minutes—so it would be about 13 minutes would be allocated evenly.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, I trust, with the time being so much more on their side, a Senator from that side will soon come to the floor and talk.

Mr. REID. Yes. I say to my friend, Senator FEINSTEIN is due here momentarily. Senator GRAHAM is expected. But I think, in fairness to Senator DOMENICI, that their time—they should be here, so I will suggest the absence of a quorum.

Mr. DOMENICI. I think that is fair, and I thank the Senator for suggesting it.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

Mr. REID. Mr. President, if the Senator will yield, how much time does the Senator from California have remaining?

The PRESIDING OFFICER. There are 9 minutes remaining.

Mr. REID. Mr. President, I say to the Senator from California, if she needs more time, there is time available. Does the Senator know how much time she will need?

Mrs. FEINSTEIN. I may need another 5 minutes.

Mr. REID. I ask unanimous consent that the time remaining to the Senator from California be a total of 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I thank Senator REID.

I wish to speak as cosponsor of the Graham-Feinstein amendment to remove the inventory of Outer Continental Shelf oil and gas resources from the Energy bill. I deeply believe that this proposed inventory threatens our coasts and should not be part of this Energy bill. The House already stripped the studies out of the Energy bill. The Senate should do the same.

The Energy bill's current language requires a new inventory of all the Outer Continental Shelf resources and a study of impediments to production. We oppose these studies because the purpose of the studies is really meant to undermine the moratoria which is in place. Many of these moratoria have been in place with bipartisan support on both coasts for 20 years.

Proponents of the inventory argue that it is meant to provide information and nothing more. However, the real intent is clear: The Minerals Management Service is specifically directed to inventory moratorium areas that are not available for development. Inventorying these areas does not make sense unless you want to overturn the moratoria.

The provision's second study on impediments to production makes the intent of the studies even clearer. In section 105, the popular moratorium that now protects our States' coastal resources is disparaged as "an impediment to production." An impediment is something to be removed. So this is a hint as to the intention of these studies.

Perspective is important in this debate. The moratorium is there to protect our coast, not just to impede production of oil and gas. Facts are that we do not need the information these studies would provide to make an informed decision. We have inventoried the Outer Continental Shelf's resources before. In fact, the Minerals Management Service already publishes an update of this inventory every 5 years. We have a good idea what resources are out there, and we do not need additional studies.

Californians are also too familiar with the consequences of offshore drilling. An oilspill in 1969 off the coast of Santa Barbara killed thousands of birds, as well as dolphins, seals, and other animals. We know this could happen again, and how well I remember that cleanup effort on those beaches.

A healthy coast is also vital to California's economy and our quality of life. One of our major economic areas is the visitor industry—conventions, tourists. People do not want to see oil rigs off the coast of California, and they do not come there for that purpose. The ocean-dependent industry is estimated to contribute $17 billion to our State each year. So the economics of what the ocean produces in its pristine state are critical to our State.

In 1991, the California Department of Parks and Recreation found that almost 70 percent of Californians participated in beach activities and 25 percent of our population did some saltwater fishing. So Californians know what is at stake, and we made an informed decision: We do not want drilling off our coast.

As Mike Reilly, chairman of the California Coastal Commission, said to me in a letter:

> The energy bill's provision is directly contrary to California's strong interest in safeguarding its precious coastal resources from offshore oil and gas-drilling related activities, and for that reason we oppose this study.

The California Coastal Commission is the State governmental agency in charge of the coastline. I myself served on one of the regional boards of the Coastal Commission, so I know it well.

Even without the threat of future drilling, we would oppose conducting these studies in moratorium areas. We have moratoria to protect our coasts. The studies would harm resources we want to protect.

I wish to focus for a moment on the destructive studies required by this provision. The provision's original language would have allowed for exploratory drilling. I appreciate that the current version no longer allows for exploratory drilling. However, the bill still requires invasive study methods that will harm our coastal resources.

The provision specifically calls for 3-D seismic testing. One might ask, What is that? This technology requires a sparker or air gun and loud repeated pulses of underwater sound. These sounds can be heard for miles under water.

Seismic surveys harm marine mammals and have been linked to strandings of whales on beaches on multiple occasions. Seismic testing also hurts fish. Recent studies show these surveys damage the ears of at least some fish species, and that the damage may well be permanent. Fish rely on their hearing for survival. Additional seismic testing would threaten our fishery resources and our commercial fishing industries. This is a $17 billion industry in California, so we cannot afford threats to our fisheries and our fishing industry.

The inventory would also likely include something called dart core sampling. Dart cores are collected by dropping large metal tubes from ships. The tubes sink fast enough to penetrate the sea floor to a substantial depth, remove a column of rock, and then are retrieved to the ship. This is suspiciously similar to drilling. So that is what is going to go on. This is not just a benign study of people sitting at their desks on land studying something. They are sinking these tubes down to some depth, obviously to examine core samples to determine the presence of natural gas or oil.

Dart core sampling also damages organisms and habitat on the ocean floor. The dart cores also create silt plumes that smother nearby organisms.

Protecting our coastlines is not a partisan issue. The Governors of both Florida and California oppose these studies. Furthermore, the successful effort to defeat the studies in the House was a bipartisan effort. A broad coalition of Senators, including the distinguished Senators from Florida and North Carolina, opposes the studies in this provision. We should not override the wishes of the most affected States and people to protect their own coastlines.

So I ask my colleagues to vote for our amendment to strike the Outer Continental Shelf study from the Energy bill. Directly following my remarks, I ask unanimous consent that a letter from the League of Conservation Voters dated June 10 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEAGUE OF CONSERVATION VOTERS,
Washington, DC, June 10, 2003.

U.S. SENATE,
Washington, DC.

RE: SUPPORT AN AMENDMENT TO S. 14 TO PROTECT SENSITIVE COASTAL AREAS FROM OIL AND GAS DRILLING

DEAR SENATOR: The League of Conservation Voters (LCV) is the political voice of the national environmental community. Each year, LCV publishes the National Environmental Scorecard, which details the voting records of members of Congress on environmental legislation. The Scorecard is distributed to LCV members, concerned voters nationwide, and the press.

LCV urges you to support an amendment that will be offered by Senators Graham (FL), Feinstein, Cantwell, Wyden, Nelson (FL), Lautenberg, Boxer, Edwards, Kerry, Murray, Lieberman, Leahy, Snowe, Dodd and Chafee to strike section 105 of S. 14. This provision would undermine the existing bipartisan Outer Continental Shelf (OCS) moratorium that currently protects some of the nation's most sensitive coastal and marine areas.

Section 105 requires the Interior Department to inventory potential oil and gas resources of the entire Outer Continental Shelf (OCS), including the moratorium areas, using seismic surveys, sediment sampling, and other exploration technologies that can damage sea life and ocean habitat. Section 105 also requires the Secretary to report to Congress on "impediments" to the development of OCS oil and gas, including the moratoria, and the role coastal states and localities have played in stopping environmentally harmful offshore oil-related activities. This lays the groundwork for an attack on the moratoria, as well as on the rights of coastal states and local governments to raise legitimate objections to offshore development and related onshore industrial development that affects their coasts.

Since 1982, Congress has included language in the Interior Appropriations bill that prevents the Department of the Interior from conducting leasing, pre-leasing and related activities in areas under moratoria. President George W. Bush included the traditional legislative moratorium language in his FY 04 budget request.

Section 105 is clearly inconsistent with more than 20 years of bipartisan legislative and administrative actions that protect sensitive coastal areas around the country from offshore oil and gas activity. Please support the Graham amendment to strike this damaging provision when the energy bill comes to the Senate floor, and please oppose this dirty, dangerous energy bill.

LCV's Political Advisory Committee will strongly consider including votes on this issue in compiling LCV's 2003 Scorecard. If you need more information, please call Betsy Loyless or Mary Minette in my office at (202) 785-8683.

Sincerely,

DEB CALLAHAN,
President.

Mrs. FEINSTEIN. That letter, of course, on behalf of the League, which has stood fast in defending and advocating important environmental issues solidly is in support of the Graham-Feinstein amendment.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, parliamentary inquiry: How much time remains now for debate?

The PRESIDING OFFICER. Fourteen minutes evenly divided.

Mr. DOMENICI. If there are any Senators who wish to speak who favor this amendment, we will give them some of our time if they want to get down here and take a few minutes. It is a very interesting and exciting issue.

I will take a few minutes now. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMENICI. Will the Chair inform me when I have used 5 minutes.

The PRESIDING OFFICER. The Chair will so inform the Senator.

Mr. DOMENICI. Mr. President, a lot has been said about this. A lot is not true. In a very few minutes, I will go through exactly what is true by reading specifically what the bill says and the interpretations that we have.

I do not believe there is any right-thinking American, knowing the dangerous nature of our reliance upon both oil and natural gas, who would not want to know tomorrow morning, if they could, how much in resources we have if we ever needed them. We only want to know about certain ones. We do not want to know about those who might want to drill out in the ocean. We just want to know about some of them. I think every American would say: Tell us how much we own, and then later on we will discuss whether it is worthwhile trying to use them.

The provisions in this bill do not lift the moratorium. It simply authorizes the Secretary to conduct a study. This language prohibits the use of drilling to obtain data, and it also directs the Secretary to use existing data. It is a prudent move to take an inventory of our domestic resources and where they are located. Technology has changed significantly over the years, and resource data that were developed in the 1970s are totally outdated. We did not have the advantage of 3-D seismic analysis, and MMS has never included 3-D data in its assessment of the Atlantic OCS resources.

Nearly 60 percent of our oil is imported today. Supply disruptions left the world oil markets in short supply. Not too many years ago, it also left lines in America where in New York they started waiting in lines at 4 in the morning. They got so mad at each other, they even shot each other because one was jumping ahead of the other in line. Just think of what would happen if that were the case and if then somebody stood up on the floor of the Senate and said, well, if 10 years ago that amendment would have passed and they would have taken an inventory, we could at least be taking a look to see whether we could use our own oil that is in the ocean that we already know how to get out without destroying anything.

Experts agree that the country faces a crisis. Over time, technological advances have allowed us to identify additional oil and gas in areas where they once were thought to be in limited supply. In 1995, the Federal Government estimated that the Gulf of Mexico contained 95 trillion cubic feet of undiscovered natural gas. Five years later, in 2000, which is not too long ago, that number was increased to 193 trillion of undiscovered gas, an increase of 100 percent.

Restrictions on preleasing activities do not preclude environmental, geological, physiological, economic engineering, or other scientific analysis studies and evaluations. Congress passed its own drilling moratoria. It included language in the conference report that specifically provided for new studies. The statute says what I just stated, that restrictions on preleasing activities do not preclude environmental, geological, physiological, economic, and engineering activities.

I am convinced that with the energy supply, a short supply in our country, the shortages in the 2000 and 2001 and the higher prices again this year, we are going to need to take prudent steps.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. DOMENICI. I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMENICI. It is no surprise that informed people know what America's concern is, such as the American Chemistry Council, American Iron and Steel Institute, Council of Industrial Boiler Owners, National Association of Manufacturers, the Fertilizer Institute, the American Gas Association, the Farm Bureau, the U.S. Chamber of Commerce. Federal Reserve Chairman Alan Greenspan has also spoken out, not on this issue but on natural gas prices and the shortage. He said: I am quite surprised how little attention the natural gas problem has been getting because it is a very serious problem.

That is a true statement, and because of a committee that was asked to do work to plan a policy, we are doing something that Alan Greenspan said. He said he was surprised we are not doing more. We want to do more. This more is a simplistic more. It is a let-us-know-what-we-have more. That is all there is to it. Knowledge is better than no knowledge when it comes to problems. Knowledge of what you own is better than not knowing what you own, and that is the issue.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, it is my understanding that the vote is scheduled for 11:15.

The PRESIDING OFFICER. Time will expire at 11:15; that is correct.

Mr. NELSON of Florida. Mr. President, I would like to close on the amendment that is sponsored by Senator GRAHAM, and a number of other Senators, including this junior Senator from the State of Florida.

The PRESIDING OFFICER. The Senator is recognized.

Mr. NELSON of Florida. Mr. President, there are a lot of States that are quite concerned about this so-called inventory, or so-called survey, to be done with regard to oil and gas drilling in the Outer Continental Shelf off our respective States. Why are we concerned? In a bipartisan way, we have heard Senators from each of these coastal States stand up in this debate that started last night and has continued through today tell the reasons, and they usually will boil down to two reasons. I will give a third today.

The two reasons are usually: No. 1, the harm to our environment if oil is spilled as a result of offshore drilling. In the experiences this country has had, we clearly understand what that does to the coastal environment.

There is a second reason that has been articulated in this debate, and it is that it will so devastatingly affect our State economies. In most of our coastal States, the travel and tourism industry is inextricably entwined with the viability and the beauty of our beaches. In the case of Florida, a coastline only exceeded by the coastline of a place such as Alaska in number of miles, we have a $50 billion annual tourism industry. A lot of that is reflective upon the desirability of people to enjoy our beautiful beaches.

So, too, in Georgia, South Carolina, North Carolina, and Virginia. And so, too, with the extraordinary environment in New England, especially in places such as Maine.

On the gulf coast of the United States, the Gulf of Mexico is generally divided into the eastern gulf, the central gulf, and the western gulf. There are 2,000 oil rigs in the Gulf of Mexico. All are in the central gulf off of Alabama, Mississippi, and Louisiana and in the western gulf off of Texas. Those particular States' populations support offshore oil drilling; on the eastern gulf, Floridians do not.

The Senate should listen to the coastal States. That is the first part of the argument. The second part of the argument is, where is the oil and gas? The geology shows it is not in the eastern Gulf of Mexico off the State of Florida; it is where the oil wells are now in the central and western gulf.

We did a survey in the year 2000 and we are scheduled to do another survey in the year 2005, 2½ years from now. What is the rush? That is why we are suspicious. We think it is the inevitable push by the oil interests playing out here, wanting to start drilling for oil and gas.

The debate articulated thus far is the environment and our economies. I mentioned a third reason. The third reason is the defense of this country, in the preparation of the defense of this country and the training that takes place off the coast of the United States. The military cannot train with a carrier if there are oil rigs out there. Since the naval training facility at Vieques, Puerto Rico, is being shut down, a lot of that training is now off the east coast of the United States and the gulf coast. Specifically, a lot of that training will occur off the coast of Eglin Air Force Base at Fort Walton Beach, the Pensacola Naval Air Station at Pensacola, and Tyndall Air Force Base at Panama City. We are able to do this because of the advance of technology. You can virtually create the target area desired, although it is in unrestricted airspace over the waters—in this case, the Gulf of Mexico. Can we have that kind of training if there are oil and gas wells out there? The answer is no.

The environment, the economy, and the preparation of our military to engage in the defense of this country are three obvious reasons.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON of Florida. I yield the floor and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 884.

The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—44

Akaka
Biden
Boxer
Cantwell
Chafee
Clinton
Coleman
Collins
Corzine
Daschle
Dayton
Dodd
Dole
Durbin
Feingold
Feinstein
Fitzgerald
Graham (FL)
Gregg
Harkin
Hollings
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
McCain
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith
Snowe
Stabenow
Sununu
Wyden

NAYS—54

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Carper
Chambliss
Cochran
Conrad
Cornyn
Craig
Crapo
DeWine
Domenici
Dorgan
Ensign
Enzi
Frist
Graham (SC)
Grassley
Hagel
Hatch
Hutchison
Inhofe
Inouye
Kyl
Landrieu
Lincoln
Lott
Lugar
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Specter
Stevens
Talent
Thomas
Voinovich
Warner

NOT VOTING—2

Edwards
Lieberman

The amendment (No. 884) was rejected.

Mr. DOMENICI. I move to reconsider the vote.

Mr. BROWNBACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 824

Mr. FRIST. Mr. President, I ask unanimous consent that at 12:15 p.m. today the Senate proceed to the consideration of calendar item No. 83, S. 824, FAA reauthorization.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that the list of amendments that I will send to the desk be the only remaining first-degree amendments in order to S. 14 other than any amendments which may be pending at the time this agreement is entered; that any listed first-degree amendment be subject to second-degree amendments which must be relevant to the first degree to which offered; and that if any first-degree amendment on the list is described as "relevant," that the definition of "relevant" be "related to the subject matter of the bill" and/or "energy related"; provided, further, that following the disposition of the amendments which may be offered from the list, the bill be read a third time; further, that the Senate then proceed to the consideration of calendar No. 85, H.R. 6, the House Energy bill, and that all after the enacting clause be stricken and the text of S. 14, as amended, be inserted in lieu thereof; I further ask that H.R. 6 then be read a third time and the Senate proceed to a vote on passage.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. FRIST. I will suggest the absence of the quorum shortly, and we will have a discussion in a few minutes among ourselves.

Mr. President, in terms of the course of the day, we would like to work out the unanimous consent request just objected to, which had to do with getting the amendments on both sides of the aisle, which we have finally done after about a week and a half of discussion. That is real progress. It allows us to focus and give some order to the range of issues that must be discussed on the Energy bill. They are all very important amendments.

It is absolutely critical that we come to an agreement on what those amendments are so we can further that discussion.

Mr. DORGAN. Will the majority leader yield for a question?

Mr. FRIST. Yes.

Mr. DORGAN. Mr. President, I wanted to ask a question about the issue of relevancy. That piqued my interest because we have had experience here with respect to the definition of relevancy on amendments.

Could the majority leader explain it to me so that I understand the unanimous consent request that he had propounded dealing with relevancy? I think there is some merit in the discussions going on to try to get a list. I am not wanting to be destructive to that effort, but I would like to understand the discussion about relevancy. That has become an increasingly important issue for many of us.

Mr. FRIST. Indeed, Mr. President. In response to my distinguished colleague, the issue of relevance has become an issue. Therefore, in the unanimous consent request I said, "'relevant be related to the subject matter of the bill' and/or energy related." That is really to add what I think the Senator's concern is—is this relevancy going to be so tight that something having to do with energy will be excluded? By adding this clause, "energy related," it is the understanding that we will consider other amendments on the list.

Mr. DORGAN. Mr. President, if the majority leader will yield further, that would satisfy my concerns, if I understand exactly what is intended by the leader. As I indicated, we have some concerns about the relevancy issues and the determination of what is relevant. If the wording is as the majority leader suggested, that would satisfy my concerns.

Mr. DURBIN. Mr. President, reserving the right to object, do I understand correctly that there are 350 amendments pending?

Mr. FRIST. Yes.

Mr. DURBIN. Has anybody looked at those and decided which ones are relevant?

Mr. DOMENICI. Mr. President, normally, we look at them when we get them—both sides—and we make decisions and talk with the proponents and we winnow down the list. The answer is, not yet.

Mr. DURBIN. That is my concern then, Mr. President. In all fairness to the Parliamentarian, the definition of relevancy, even as we define it may turn out to be a lot different when individual amendments are actually offered. I would object to the UC if it includes reference to relevancy until we have had a chance to look and determine whether my amendments or any others are irrelevant. Amendments have been written and a decision can be made.

The PRESIDING OFFICER. Objection was already heard on the proffered unanimous consent.

Mr. DORGAN. If the Senator will yield, my understanding from the majority leader is that it is not the relevancy determined by the Parliamentarian, but they must be related to the subject of energy, which is infinitely a broader definition. That is my understanding.

Mr. DASCHLE. If the majority leader will yield, there is one other clarification I think is important, and that is we have had a lot to do with putting the list together. There is no relevancy requirement for first-degree amendments. If it is stated as an amendment to the Energy bill, it can be on any subject matter. If it says relevant, then we will use, as the distinguished majority leader has noted, the criteria he has laid out, subject generally to the energy issue.

So the relevancy requirement is only a requirement in those areas where relevancy is listed as a factor in the amendment itself. There is no relevancy with regard to first-degree amendments.

Mr. DURBIN. Mr. President——

The PRESIDING OFFICER. The majority leader has the yield.

Mr. FRIST. I am happy to yield to the Senator for a question.

Mr. DURBIN. I ask the leader, in reference to second-degree amendments, is there a relevancy requirement?

Mr. DOMENICI. Mr. President, there always has been on the first degree to which they are offered.

Mr. FRIST. Once again, I renew the unanimous consent request that I propounded and the proposal as spelled out before.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, first of all, I'll comment on this relevancy issue. I believe there is an understanding among the managers and the leadership. So I am confident we will be able to take care of the concerns just expressed.

With regard to the schedule, we will be turning to one more amendment on energy, which Senator CAMPBELL will be putting forward in a few minutes.

After that, at 12:15 today, we will be turning to consideration of the FAA reauthorization. My intent is to complete this FAA reauthorization before we leave for the weekend.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I briefly want to thank the leaders, particularly the majority leader, for helping to get the last Senators to sign up. This means we will get an Energy bill that contains plenty of what people want. It has ethanol and, before we are finished, it will have all of the what people want with reference to the continuation of wind and related energies.

This just means people will have every opportunity to look at amendments, and they have listed everything under the sun. There will be a chance to work on them. We thank everyone for cooperating. It looks to me that, with the majority leader and minority leader helping us, after we return from the recess, we can complete this bill in a week, based upon us finally having this list. I thank everybody.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Colorado is recognized.

AMENDMENT NO. 886

(Purpose: To replace "tribal consortia" with "tribal energy resource development organizations," and for other purposes)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL] proposes an amendment numbered 886.

Mr. CAMPBELL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. CAMPBELL. Mr. President, I will try to explain the amendment. Indian lands comprise approximately 5 percent of the land area in the United States but contain an estimated 10 percent of all energy reserves in the United States, including 30 percent of the known coal deposits located in the western portion of the U.S.; 5 percent of the known onshore oil deposits of the U.S.; and 10 percent of the known onshore natural gas deposits in the United States.

Coal, oil, natural gas, and other energy minerals produced from Indian land represent more than 10 percent of the total nationwide onshore production of energy minerals.

Even though in 1 year alone over 9.3 million barrels of oil, 299 billion cubic feet of natural gas, and 21 million tons of coal were produced from Indian land, representing $700 million in Indian energy revenue, the Department of the Interior estimates that only 25 percent of the oil and less than 20 percent of all natural gas reserves on Indian land have been fully developed.

I have put up a pie chart to show the relationship of realized revenue and potential or unrealized revenue.

Despite what we may read once in a while in the Washington Post or New York Times about the so-called "rich Indians" and Indian gambling, it is also indisputable that Indians are the most economically deprived group in the United States, with unemployment levels far above the national average—in some cases well over 70 percent—and per capita incomes well below the national average.

The Labor Department just released the latest unemployment figures for the United States, which were about 6.1 percent, and they say that is the highest in 10 years. If you think 6.1 percent is bad, try 70 percent. For every tribe that is doing pretty well, there are 10 that are just barely making it through their daily lives.

Indian country suffers from the highest substandard housing, poor health, alcohol and drug abuse, diabetes and amputations, and a general malaise and hopelessness, even a high suicide rate among teenagers. Given the vast potential wealth residing in energy resources which could change this deprivation, it has long been a puzzle why these resources have not been more fully developed.

The answer lies partly in the fact that the energy research development is, by its very nature, capital intensive. Most tribes simply do not have the financial wherewithal to fund extensive energy projects on their own and so they must lease out their energy resources in return for royalty payments.

History also plays a big part in the evolution of this problem. Toward the end of the 19th century, Indian tribes were forcibly relocated to isolated areas and reservations where it was believed they would not hinder the westward expansion of the U.S. Government.

The natural resources on those lands were taken into trust by the Federal Government, to be administered for the benefit of Indian tribes. The ostensible reason for the trust was the belief that Indians were incapable of administering their own resources and would be susceptible to land and resource predators.

A legal and bureaucratic apparatus was formed to administer this trust, and over a century later this apparatus remains in place.

In her capacity as trustee of Indian resources, the Secretary of the Interior must review each and every lease of Indian trust resources to ensure the terms of the lease benefit the tribe and that the trust asset is not wasted.

However, this review and approval process is often so lengthy that potential lessees or investors that otherwise would like to partner with Indian tribes to develop their energy resources are reluctant to become entangled in the bureaucratic redtape that inevitably accompanies the leasing of tribal resources.

Hence, the framework that was originally designed to protect tribes has also become a disincentive to the development of tribal resources.

This is a case now, of course, of what fit the 19th century does not fit the modern day, and the Indians have the ability and right to make their own decision.

To help remedy these problems, earlier this year I, along with Senator DOMENICI, introduced the Indian Tribal Energy Development and Self-Determination Act of 2003 to provide assistance and encouragement to Indian tribes to develop their energy resources. This not only would help the tribal economy but it would help make us less dependent on foreign energy.

The assistance included the establishment of an Indian Energy Office; grants, loans, and technical assistance; capacity building; and regulatory changes to the rules governing the leasing of Indian lands for energy purposes.

At the same time, the other Senator from New Mexico, Mr. BINGAMAN, introduced his own Indian Energy bill, S. 424, that mirrored my bill. After several hearings and much debate, I merged the best of these two bills into a composite bill that came to be title III of the bill before us.

There are two major differences between the Bingaman bill, which was offered as a second-degree amendment yesterday, and our bill. That second-degree amendment was defeated, by the way, as my colleagues know. If I had not withdrawn my amendment we would not need to proceed any further than we did yesterday.

One of the most important features of title III of S. 14 is section 2604 which deals with leases, business arrangements, and rights-of-way involving energy development and transmission.

Section 2604 establishes a voluntary process for those tribes that choose it to help develop their energy resources. No tribe is required to participate. They do not have to if they do not wish to, but if they do participate, under the process, an Indian tribe must first demonstrate to the Secretary of the Interior that it has the technical and financial capacity to develop and manage its own resources. Once it meets this burden, the tribe can negotiate energy resource development leases, agreements, and rights-of-way with third parties without first obtaining the Secretary's approval. That will not, however, circumvent the NEPA process. It will simply transfer the responsibility of NEPA compliance to the Secretary of the Interior.

By the way, this second chart points out very clearly under existing law that Indian tribes do not have to come under the jurisdiction of NEPA. If they use their own money on their own land, they are treated as State land, private land, or non-Federal land. They do not have to comply with NEPA. Only if they go to outside investors to get investment money do they have to comply with NEPA.

This bill will provide streamlining to the leasing process that is now burdened with this disparity in Federal regulation. Under current law, in order to be valid, all leases, business agreements, and the rights-of-way involving tribal trust or restricted lands must be submitted to and approved by the Secretary of the Interior.

Section 2604 provides tribes with the option of submitting to the Secretary a proposed government-to-government agreement, a "tribal energy resource agreement," called TERA, that will set forth mandatory provisions for future leases, business agreements, and rights-of-way involving energy development on tribal lands.

If approved by the Secretary, the TERA will govern the future development of that tribe's energy resources. The TERA, by virtue of this section, will require tribal leases and agreements to have certain business terms, require compliance with all applicable environmental laws, notice to the public, and consultation with the States as to the potential off-reservation impact.

That was one of Senator BINGAMAN's concerns yesterday, consultation with off-reservation groups. That is covered in this amendment.

Remember, current law does not require tribes to comply with NEPA if they use their own land. However, neither the TERA nor any provision of title III would operate to subject the tribe's decision to enter into a particular energy lease or agreement to the provisions of the National Environmental Policy Act of 1969. The Secretary, in deciding whether to approve the TERA, would be required to examine the potential direct impacts of her decision under NEPA. The tribe would have to develop an environmental review process. It would have to follow it thereafter. The tribe itself would not be subject to NEPA but, as I said, that responsibility would be transferred to the Secretary.

There have been disincentives for poor tribes because they simply cannot afford to develop energy on their own land and thereby not comply with NEPA. It does not diminish the NEPA process at all. Under current law, if an Indian tribe chooses to develop its own energy resources using its own funds and, as I mentioned, there is no lease or Secretary approval, NEPA is not necessary.

It is not mineral development per se that triggers NEPA; it is the Federal action, the approval of the Secretary is what triggers NEPA.

I wish to mention there was also a concern that section 2604 would somehow diminish tribal sovereignty. I know that was Senator INOUYE's concern. It dealt really with trust responsibility. But the amendment I am offering today does not weaken the Government's obligations to Indian tribes to absolve it of its duties.

I point out on page 14, line 18 to page 15, line 3. If my colleagues cannot clearly read this, I will read it for them:

> (6)(A) Nothing in this section shall absolve the United States of any responsibility to Indians or Indian tribes, including those which derive from the trust relationship or from any treaties, Executive Orders, or agreements between the United States and any Indian tribe.
>
> (B) The Secretary shall continue to have a trust obligation to ensure that the rights of an Indian tribe are protected in the event of a violation of federal law or the terms of any lease, business agreement, or right-of-way under this section by any other party to any such lease, business agreement, or right-of-way.
>
> (C) Notwithstanding subparagraph (A), the United States shall not be liable to any party (including any Indian tribe) for any of the terms of, or any losses resulting from the terms of, a lease, business agreement, or a right-of-way executed pursuant to and in accordance with a tribal energy resources agreement approved by the subsection (e)(2).

Subparagraph (C) is basically new. If the Secretary has no input at all in developing the agreement, then we are concerned that the Federal Government should have a liability component if they did not have anything to do with helping decide the issue.

In any event, I remind my colleagues that Native Americans are the only group in the United States who believe that the Earth is their mother, and they certainly do not need to be told how to take care of the Earth because it is in their religion. It is in their nature and has been for thousands of years. It is in their culture. It is a cultural thing with which youngsters grow up. For that matter, they do not need the Senate to tell them how to take care of the Earth either. An Indian mandate to take care of the Earth comes from a higher order than the Senate, and it is sometimes found insulting to be told that they need the Government to oversee what their own religion and culture teach them from childhood.

That is why so many tribes do support the Campbell-Domenici amendment, and I will list them, as I did the other day. A few more have come in: The National Congress of American Indians, which represents over 300 tribes; the Council of Energy Resource Tribes, which represents 50 energy-producing tribes. We have a number of individual letters from the Cherokee Nation, which is the largest Indian tribe in the United States; from the Chickasaw Nation, another very progressive and highly respected tribe in Oklahoma; from the Mohegan Tribe; from the Five Sandoval Indian Pueblos, which is in

New Mexico; the Jicarilla Apache Tribe; the Oneida Indian Nation; the Eastern Shoshone Tribe of the Wind River Reservation in Wyoming, which receives a very large share of its governmental revenues from oil and gas production on its tribal lands; also from the National Tribal Environmental Council, an organization in Albuquerque, whose membership includes over 180 tribal governments; the Southern Ute Indian Tribal Council; the Native American Energy Group; the United South and Eastern Tribes, an organization consisting of 22 tribes located on the eastern seaboard from Maine to Florida. Also, support continues to come in. One non-Indian group that has submitted support is the U.S. National Chamber of Commerce.

I ask unanimous consent that those letters of support be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

National Congress of
American Indians,
June 2, 2003.

Senator Ben Nighthorse Campbell,
Chairman, U.S. Senate, Committee on Indian Affairs, Hart Office Building, Washington, DC.

Dear Senator Campbell: This letter is to offer general support for the Indian Tribal Energy Development and Self-Determination Act of 2003 (Title III). Since the release of your mark in April, NCAI has been working feverishly to offer a solution to the concerns expressed by tribal representatives. NCAI engaged in this effort so that we could provide general support for this significant piece of legislation once these concerns were addressed. Through this collaborative process, we believe this legislation has the potential to enhance economic development initiatives and will be of great benefit to economic development in Indian country.

As you may be aware, concerns were raised by a number of tribes and tribal advocates regarding some provisions of the Chairman's mark for this measure. We shared in their concern regarding provisions that significantly limit the United State's liability and release the Secretary of Interior from any accountability to Indian tribes for actions that she is required to undertake pursuant to the legislation. Additionally, we were concerned about the definition of "tribal consortium" which differed greatly from the definition that is traditionally employed in legislation affecting Indian tribes and offers federal money to non-tribal entities that should be going to Indian tribes. In addition to these two central concerns, we were not satisfied with provisions pertaining to environmental review and we had some general drafting-related issues.

Given these concerns, NCAI has convened several conference calls with tribal representatives including the Navajo Nation, Council of Energy Resources Tribes, and the Intertribal Council on Utility Policy, and developed a series of tribal recommendations for modifying Title III. We also convened with your staff and Senate Energy and Natural Resources Committee staff to discuss the tribal recommendations. Thereafter your staff held a conference call for those same representatives and staffers from the Senate Energy and Natural Resource Committee. Although we are pleased that we were able to craft better language for the trust responsibility provisions, we are still concerned with some of the limitations.

Nonetheless, we realize that in this political climate, the language as currently revised is likely the best compromise that can be reached. We appreciate the effort of your staff and other committee staffers to negotiate language that attempts to address the tribal concerns in light of the current political environment. Again, I want to underscore that the tribal support comes from working with a group of tribal representatives and organizations from diverse perspectives, but not all perspectives. Because of this, our revised version of your mark may not reflect the needs and desires of all tribes who wish to utilize this legislation to develop their energy resources.

We would like to thank you and your staff for all of their hard work on this very important issue. I cannot stress enough how grateful we are to your commitment to developing legislative solutions to age-old problems in Indian country. Title III is just one more example of how Indian tribes benefit from your championship.

Sincerely,

Jacqueline Johnson
Executive Director.

Council of Energy Resource Tribes,
Denver, CO, June 3, 2003.

Hon. Pete V. Domenici,
U.S. Senate,
Washington, DC.

Dear Senator Domenici: On behalf of the 53 CERT member Tribes, I am writing to express CERT's support for the Title III Indian Energy provisions of S. 14.

As you know, there are some provisions in section 2604 of the Title III of the bill as reported that has caused concern among CERT member Tribes. Fortunately, we believe those concerns have largely been addressed by language agreed to between Committee staff and representatives of CERT and several member Tribes. At this time, we believe we have reached agreement that addresses the concerns of CERT and the Southern Ute Indian Tribe, the Navajo Nation and the Jicarilla Apache Nation. We expect you will hear from each of those Tribes as well.

CERT has agreed to language that insures that the Tribal Energy Resource Agreements (TERA) process is a voluntary, opt-in program for development of Tribal energy resources. We have also agreed to language to be certain that the public comment opportunities go to the environmental and other impacts of the development and not to the terms of the business agreements themselves. CERT accepts the revised language that better describes the Secretary's trust duties under this section. Finally, the scope of the Secretary's NEPA review of the TERA is settled.

While drafting final language for this section has been somewhat difficult, we compliment the staff of both the Senate Energy Committee and the Senate Indian Affairs Committee for their dedication to resolving the remaining differences between us on language relating to trust protections and environmental issues.

Again, we are pleased to support Title III with these changes to section 2604 and appreciate your steadfast support of the right of Indian Tribes to gain a better measure of control over the development of energy resources on their own lands.

Sincerely,

A. David Lester,
Executive Director.

Cherokee Nation,
Tahlequah, OK, June 2, 2003.

Hon. Ben Nighthorse Campbell,
Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Hon. Daniel K. Inouye,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Dear Mr. Chairman and Mr. Vice Chairman: It has come to my attention that several changes have been made to Title III of the Senate Energy bill. I understand that these changes will reduce any risk to Tribes, and wish to offer the Cherokee Nation's continued support of S. 14, the Energy Policy Act of 2003.

I thank the Committee for its hard work on this issue and for incorporating tribal recommendations into the bill. Your leadership is greatly appreciated.

Please feel free to contact my office if you have any questions or comments. I may be reached at (918) 456-0671.

Sincerely,

Chad Smith,
Principal Chief.

Office of the Governor,
The Chickasaw Nation,
Ada, OK, June 5, 2003.

Hon. Ben Nighthorse Campbell,
Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Dear Mr. Chairman: We support the inclusion of Title III, as it is, in Senate Bill 14. Thoughtful development of our tribal natural resources serves all Americans.

We are grateful for the opportunities and support Title III provides to the Chickasaw Nation, and for all of Indian Country, as we explore and develop our natural resources. The language allows us to exercise our own progressive style in development and regulation; yet, it provides for those tribes which prefer the more traditional approach.

Having a voice in the U.S. Department of Energy will highlight and expedite tribal energy issues. This is an opportunity for every tribe to enter into the nation's economic mainstream with the support of the federal government.

Your help, and that of Senators Bingaman and Domenici, is appreciated.

Sincerely,

Bill Anoatubby,
Governor.

The Mohegan Tribe,
Uncasville, CT, June 5, 2003.

Hon. Ben Nighthorse Campbell,
U.S. Senate, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Mohegan Tribe supports the inclusion of Title III in S. 14, the Energy Policy Act of 2003. Offering flexibility and support in developing natural resources throughout Indian Country, Title III creates opportunities in which all Indian nations can benefit. We also appreciate the hard work of Senators Domenici and Bingaman in this matter.

Sincerely,

Mark F. Brown,
Chairman.

Five Sandoval Indian Pueblos, Inc.,
Bernalillo, NM, June 5, 2003.
Hon. Ben Nighthorse Campbell,
U.S. Senate, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Five Sandoval Indian Pueblos, Inc. supports the inclusion of Title III in S. 14, the Energy Policy Act of 2003. We appreciate all aspects of the language and the flexibility it creates with obvious regard for the individual strengths and needs of each tribe.

We are grateful to Senator Domenici and to Senator Bingaman for their thoughtful hard work and leadership on our behalf.

Having Title III in the Energy bill provides every tribal nation in this country an opportunity to enter into the nation's economic mainstream through development of their natural resources.

Thank you.

Sincerely,
James Roger Madalena,
Executive Director,
Five Sandoval Indian Pueblos, Inc.

The Jicarilla Apache Nation,
Dulce, NM, June 9, 2003.
Hon. Pete V. Domenici,
U.S. Senate,
Senate Hart Building, Washington, DC

Dear Senator Domenici: I am writing on behalf of the Jicarilla Apache Nation ("Nation") to express our general support for the Indian Energy Title in S. 14. This legislation will provide a strong policy directive for the Department of Energy to formalize and institutionalize its support of tribal energy development needs, and the legislation will provide critical resources and tools for Tribes to access for these purposes. We applaud your focus on Indian energy and commitment to addressing the energy needs of Indian Tribes in New Mexico and across the country.

Oil and gas development on the Jicarilla Apache Reservation is critical to our tribal governmental operations. Our Reservation is located on the eastern edge of the Sam Juan Basin, the second largest gas field in the lower 48 states. The Nation relies on revenue generated from the development and production of our oil and gas to provide essential government services to our members and other residents; revenue from royalties and taxes accounts for over 90% of the Nation's operating budget. Clearly, the legislation at hand is extremely important to the Nation.

During the Senate Energy and Natural Resources Committee markup of the Indian Energy Title in late April, the Nation expressed concerns with some of those provisions. In the past month, the Nation joined a tribal workgroup which included the National Congress of American Indian (NCAI), the Council of Energy Resource Tribes (CERT), the Navajo Nation, the Southern Ute Tribe and other tribal representatives in developing language to address some of our mutual concerns. The tribal workgroup presented and discussed our proposed language in several key discussions with staff from both the Senate Indian Affairs and Energy & Natural Resources Committee. We appreciate your efforts and that of your committee staff to work with the Tribes and be responsive to our concerns.

We arrived at a compromise that was deemed to be the most political viable approach given that the energy bill is currently being debated on the Senate floor and the fact that the House has already passed its energy bill which does not include a comprehensive Indian energy title. The Nation believes that this collaborative effort addressed most of the central concerns that we raised.

Specifically, the Nation's primary concern relate to section 2406, the provisions on leases, business agreements, and rights-of-way involving energy development or transmissions. The policy goals of this measure, as stated in Section 2602(a), would be "to assist Indian tribes in the development of energy resources and further the goal of Indian self-determination." Section 2604 would establish a voluntary program, through a Tribal Energy Resource Agreement (TERA) submitted by a Tribe for approval by the Secretary of the Interior. The TERA approach provides a mechanism for participating Tribes to streamline the approval process for energy development on Indian Reservations. While the Nation does not take issue with these important objectives, we have concerns about Section 2604's impact on the United States' Indian trust responsibility.

For instance, Section 2604(7)(A) would absolve the Secretary of any liability "for any loss or injury sustained by any party (including an Indian tribe or any member of an Indian tribe) to a lease, business agreement, or right-of-way executed in accordance with tribal energy resource agreements approved under this subsection." Section 2604(7)(B) would further bar an Indian Tribe "from asserting a claim against the United States on the grounds that the Secretary should not have approved the Tribal energy resource agreement." The Nation, along with NCAI, CERT, the Navajo Nation and others strongly objected to these provisions because they would significantly limit the United States' liability and release the Secretary from any accountability to Indian tribes for actions that she is required to undertake pursuant to the legislation.

To address these concerns, the tribal workgroup first proposed to delete the language that would bar an Indian Tribe from asserting a claim against the Secretary for her failure to abide by the statutory directive in the legislation itself. Second, we proposed a more concrete recognition of the general Indian trust responsibility and language reaffirming the Secretary's specific trust obligation "to ensure that the rights of an Indian tribe are protected in the event of a violation of federal law or the terms of any lease, business agreement or right-of-way under this section by any other party to any such lease, business agreement or right-of-way." With regard to the release of the Secretary's lability, we limited such release of liability to "any of the terms of, or any losses resulting from the terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with tribal energy resource agreements" approved under section 2604(e)(2). Our proposed language would limit the liability question to the specific terms agreed to by a Tribe in the TERA itself, and would not affect existing statutory and regulatory duties and obligations of the Secretary in the management of trust minerals and other assets. We understand that these changes were deemed to be acceptable by Committee staff.

These changes are vitally important to the Nation's on-going activities in auditing and overseeing royalty collections of our oil and gas leases. The Nation has a cooperative agreement with the Secretary pursuant to Section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), to carry out inspection, auditing, investigation, enforcement and other oil and gas royalty management functions. Under this statutory scheme, the Nation has taken a lead role in performing these functions, and even has an office set up in the Mineral Management Service (MMS) in Dallas, Texas. The MMS provides operational costs to the Nation under the 202 Agreement, and works closely with us to ensure compliance with leases and the various statutory royalty payment requirements. FOGRMA does not release the Secretary from liability for the functions taken over by the Nation, but rather embraces an approach that provides an avenue for tribal self-determination while keeping the federal Indian trust responsibility fully intact. If the Nation were to consider entering into a TERA at some point in the future, we would likely do so without releasing the Secretary of her responsibility under the 202 Agreement. Therefore, the language crafted by the tribal workgroup is extremely important to ensure the vitality of these specific FOGRMA provisions as well as relevant judicial decisions that delineate the Secretary's obligations in the leasing of oil and gas on our Reservation.

The Nation also endorses other revisions negotiated by the tribal workgroup regarding the definition of "tribal consortium" and the provisions pertaining to the environmental review process. We believe our central concerns have been satisfied to ensure that federal money authorized by the legislation be directed to Indian Tribes and not to non-tribal entities that may use Tribes as a front for these purposes. We also worked to ensure that Tribes not be overly burdened in the environmental review process and that public notification and commenting requirements be limited to the environmental document while ensuring that a Tribe's proprietary and business dealings be protected from public disclosure. With regard to our concerns about the legislation's lack of capacity building assurance, the Nation will continue to raise such concerns in the context of the appropriations process to implement the legislation.

While not a part of the Indian Energy Title, the Nation continues to pursue and support the enactment of a federal tax credit for Indian oil and gas production to stimulate additional domestic production. We supported your bill (S. 1106) in the 107th Congress to establish a federal tax credit based on the volume of production of oil and gas from Indian lands. This type of a credit would make our reserves more competitive and increase the return on our nonrenewable trust resources. Generating significant new revenue to tribal mineral owners, in the form of tax credits, royalties, and tribal taxes, tax incentives would stimulate tribal economies and increase the overall domestic oil and gas supplies, thereby reducing the United States dependency on foreign sources of energy. We urge your continued support for this measure during the floor consideration of the energy tax provisions.

Thank you for your consideration of our views. As always, we appreciate your strong leadership and understanding of our needs. Please contact me in Dulce at (505) 759-3242 if you have any questions or need additional information.

Sincerely,
Claudia Vigil-Muniz,
President.

Oneida Indian Nation,
Oneida Nation Homelands,
Veruna, NY, June 10, 2003.
Hon. Ben Nighthorse Campbell,
Chairman, U.S. Senate, Committee on Indian Affairs, Hart Building, Washington, DC.

Dear Chairman Campbell: On behalf of the Oneida Indian Nation of New York, I am writing in support of S. 14, specifically Title III, the Indian Tribal Energy Development and Self-Determination Act of 2003. This bill will significantly strengthen the ability of Indian tribes to develop the energy resources that are currently going underutilized on their land.

Your legislation will create a mechanism to allow Indian nations access to grants and low-interest loans from a newly established Office of Indian Energy Policy and Programs. The legislation would allow certain tribes to cut through the red tape that has discouraged third parties from investing in Native American energy in the past.

In addition, under the legislation, federal agencies may provide preference in Indian firms when purchasing energy; this will help the new industry get started while also promoting national energy self-sufficiency. Energy production is a capital-intensive industry, and without the assistance of your bill, too many tribes will remain mired in dismal economic limbo.

The bill will help to bring electricity to the 14.2 percent of Indian homes that now have none. And by encouraging the vertical integration of tribal energy resources, the bill will help to bring jobs to reservation communities, where unemployment levels have reached as high as 70 percent.

The Oneida Indian Nation of New York appreciates your leadership in tackling the myriad challenges facing Indian Country. The Indian Tribal Energy Development and Self-Determination Act of 2003 is a positive step that not only makes sound national energy policy but would provide Indian nations with additional tools in their efforts to become self-sufficient and self-determining.

Naki'wa,

RAY HALBRITTER,
Nation Representative.

JUNE 9, 2003.

Re supporting Campbell-Domehici amendment to Title III—Indian Energy Title to S. 14, The Energy Policy Act of 2003.

Hon. PETE V. DOMENICI,
Chairman, Senate Energy and Natural Resources Committee, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR CHAIRMAN DOMENICI: On behalf of the Eastern Shoshone Tribe of the Wind River Reservation in Wyoming, I am writing in support of the Campbell-Domenici amendment to the Indian Energy Title in S. 14. Our Tribe participated in the tribal workgroup effort which resulted in the amended language embodies in this amendment. We appreciate your efforts and that of the Senate Energy and Natural Resources and Indian Affairs Committee staff to work with our tribal workgroup to resolve some of the earlier controversial provisions.

The Eastern Shoshone Tribe and the Northern Arapaho Tribe share the Wind River Reservation, which encompasses over 2.2 million acres with significant quantities of oil and gas reserves. The production of oil and gas reserves on the Wind River Reservation is the primary source of revenue for the Tribes accounting for over 90% of the Tribes' governmental revenue. Accordingly, the Wind River Reservation Tribes have a keen interest in supporting the enactment of comprehensive energy legislation for Indian reservation development.

In summary, we believe that the Campbell-Domenici amendment addresses our primary concerns regarding the United States trust relationship owed to Indian Tribes in the context of mineral production, protection of sensitive tribal business dealing, and a sound environmental review process. Specifically, the amendment eliminates language that would have barred an Indian Tribe from asserting a claim against the Secretary for her failure to abide by the statutory directive in the legislation itself. The amendment also provides a specific affirmation of the United States' trust responsibility and duty to ensure that the rights of an Indian tribe are protected against statutory or lease violations of leases executed pursuant to secretarial approved Tribal Energy Resource Agreements (TERA). Moreover, the Campbell-Domenici amendment appropriately limits the release of the Secretary's liability to the specific terms agreed to by a Tribe in the TERA itself. Accordingly, this language would not affect existing statutory and regulatory duties and obligations of the Secretary in the management of trust minerals and other assets. Finally, the Campbell-Domenici amendment addresses our concerns that a Tribe's sensitive commercial business dealing are protected from public disclosure and that Tribes not be subject to overly burdensome environmental review requirements.

The Eastern Shoshone Tribe remains concerned with capacity building for Tribes interested in pursuing a TERA. Given the immediate movement of the legislation, however, we do not believe these concerns should prevent Congress from acting favorably on the entire Indian Energy Title. We will urge full support for tribal capacity during the appropriations process.

I would also like to take this opportunity to apprise you of our efforts with Senator Thomas to secure an amendment in the energy tax title for a federal tax credit for oil and gas produced on Indian lands. This provision is similar to the bill, S. 1106, you introduced in the 107th Congress which would structure the credit based on the volume of production of oil and gas from Indian lands. This type of a credit would make our reserves more competitive and increase the return on our nonrenewable trust resources. The proposal would not only generate new revenue to tribal mineral owners, it would also stimulate tribal economies and contribute to the Nation's domestic oil and gas supply. We are awaiting the revenue estimate from the Joint Taxation Committee, and we urge your continued support for this proposal during the floor debate on energy tax provisions.

In closing, I want to again express our appreciate to you, and recognize the efforts of Senator Thomas, in moving forward with the historic piece of legislation.

Sincerely,

VERNON HILL,
Chairman, Eastern Shoshone Tribe.

NATIONAL TRIBAL
ENVIRONMENTAL COUNCIL,
Albuquerque, NM, June 5, 2003.

Hon. Senator BEN NIGHTHORSE-CAMPBELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR NIGHTHORSE-CAMPBELL: On behalf of the National Tribal Environmental Council, we are writing in support of the Title III Indian Energy Provisions in S. 14.

The National Tribal Environmental Council is a not-for-profit organization with a membership comprised of over 180 tribal governments. As such, we strongly support the principle embodied in the authorizing language of the amendment that Tribes can develop their energy resources in a manner that respects the ecological integrity of their reservation environments as well as their sacred sites, cultural resources, historical, archeological resources and other cultural patrimony.

We condition our support of Title III to acknowledge that we are aware of the serious concerns of the Navajo Nation that this legislation has the potential to legislate the recent Supreme Court decision against their interests. We respectfully request you consider clarifying the legislative history to reflect the fact that the Secretary must continue to act in the best interests of the Indian tribe, as was similarly included in the Indian Minerals Development Act of 1982.

Another concern we have with the provisions of Sec 2604 of the Title III is not the delegation of federal authority based on the voluntary opt-in program but the potential for the federal responsibility to transfer to the tribes without the commensurate resources to ensure an adequate the tribal regulatory infrastructure.

As you know, tribal governments have been struggling but succeeding in their efforts to develop complex and tribal-specific environmental programs with very limited resources. Maintaining the trend of increasingly sophisticated and consistent implementation of tribal environmental processes and standards on a national scale is dependent on increased funding. Adding additional needs to the tribal governments at this time—without adequate funding—is cause for concern. This is a concern, however, that we will voice as part of the appropriations process and it should not be viewed as undermining our support for the Senate amendments to S. 14.

Thank you for this opportunity to support this important initiative for Indian Country and for your on-going efforts to recognize and include Indian Country in these important national policy debates.

Sincerely,

DAVID F. CONRAD,
Executive Director.

SOUTHERN UTE INDIAN
TRIBAL COUNCIL,
Ignacio, CO, May 27, 2003.

Re Indian Tribal Energy Development and Self-Determination Act of 2003; S. 14, Title III.

Chairman PETE V. DOMENICI,
Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN DOMENICI: Approximately one month ago, the Southern Ute Indian Tribe submitted a statement of conceptual, but qualified, support for the Indian Tribal Energy Development and Self-Determination Act of 2003. Our Tribe's activities have shown that tribal energy development can provide tremendous economic development opportunities for tribes while simultaneously assisting the Nation in meeting its energy demands. For tribes that have demonstrated the capacity to represent themselves effectively in energy development activities, we have long-advocated legislation that would provide the option of bypassing the stifling effects of the Bureau of Indian Affairs approval requirements applicable to tribal leases, business agreements and rights-of-way. The reference legislation addressed this very matter, however, as Section 2604 of Title III emerged from the Senate Committee of Indian Affairs and the Senate Committee on Energy and Natural Resources, it contained a number of provisions that were objectionable to the Indian community.

Over the last month, committee staff members and representatives of tribes and

Indian organizations have engaged in an intense dialogue about the problems in the draft legislation, and, as a result of their tireless efforts, proposed amendments have been developed that would eliminate the problems previously identified. A list of those proposed amendments is attached for reference purposes. Among the different matters resolved to our satisfaction have been the following: (i) confirmation that Section 2604 is a voluntary program available to Tribes on an opt-in/opt-out basis; (ii) inclusion of pre-approval public notice and comment opportunities regarding the environmental impacts of a proposed tribal mineral lease, business agreement or right-of-way, but preservation of the confidentiality of the business terms of such documents; (iii) acceptable balancing of the limitations on and ongoing responsibility of the Secretary to perform trust duties associated with a participating tribe's activities undertaken pursuant to this legislation; and (iv) confirmation of the appropriate scope of NEPA review that would be associated with the Secretary's decision to approve a Tribal Energy Resource Agreement ("TERA"), which is the enabling document permitting a tribe to proceed with independent development of mineral leases, business agreements, or rights-of-way. Again, we helped develop and wholly support these amendments.

During the course of debate on this legislation, some have suggested that Section 2604 will eliminate effective environmental protection on affected tribal lands. We want to assure the members of the Senate that this is not the case. Energy resource development by a tribe generally carries with it a deep commitment to preserving one's backyard. Tribal leaders are directly accountable to their members for preserving environmental resources. In the Four Corners Region, it is not unusual for private landowners or BLM lessees to comment enviously on the environmental diligence employed by our Tribe in the development of our energy resources. We renew our invitation to members of the Senate to visit our Reservation and see first-hand our energy resource projects.

In conclusion, with the referenced amendments, we strongly support S. 14, Title III. We urge other members of the Senate to also support this legislation, and we commend those who have worked toward its development and passage.

Sincerely,

HOWARD D. RICHARDS, SR.,
Chairman, Southern Ute Indian Tribal Council.

NATIVE AMERICAN
ENERGY GROUP, LLC,
Ft. Washakie, WY, May 7, 2003.

Senator PETE V. DOMENICI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOMENICI: Native American Energy Group (NAEG) is an Indian owned company working with tribes and allottees throughout the country to determine how best to develop oil and gas reserves and help provide for the energy security of this country while also protecting the interests of mineral owners. The recent Indian provisions of the Energy Bill are a big step in the right direction to accomplish positive results for the Indian people of this country.

One of the areas of contention is the environmental area with many people stating that these provisions will gut the NEPA process. While this is a legitimate concern, nowhere have I read or heard that this is the intent of these provisions. In fact recent language in the Bill clearly denotes compliance with all applicable tribal and federal environmental laws. Even without this new language though my understanding was always that the intent was not to gut environmental laws. Tribal governments with energy resources are pro-development but by the same token they are also pro-environment. This may seem a dichotomy of sorts but my read on this bill is that the language will strengthen tribal sovereignty, develop tribal capacities and make tribal and allotted oil and gas operations more accountable with less impacts. In addition, the federal trust oversight will not be diminished which is always a concern of tribal governments.

NAEG appreciates the work and coordination that goes into an effort of this magnitude and you and your staff are to be commended for the recent provisions as presented in the bill. The history and discussions surrounding this bill recognize the importance of bringing tribes into the mainstream of the energy picture of this country and providing the mechanisms for the technical, administrative and legislative efforts to occur.

The research your staff has undertaken in support of this bill very well explains the amounts of energy resources situated on tribal and allotted lands. This largely untapped resource can be a boost for this country as we seek to provide jobs and diversify our economy, while helping America meet its energy needs. Please share with the rest of the Senate Indian Committee our support for these endeavors and if there is any information we can provide to assist you in your work please do not hesitate to call me.

Sincerely,

WES MARTEL,
President.

UNITED SOUTH AND
EASTERN TRIBES, INC.,
Nashville, TN, June 9, 2003.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Hon. DANIEL K. INOUYE,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN AND MR. VICE CHAIRMAN: I am writing on behalf of the United South and Eastern Tribes, Inc. (USET), an intertribal organization comprised of twenty-four federally recognized tribes from twelve states. I am writing in support of the Indian Tribal Energy Development and Self-Determination Act of 2003, Title III and its inclusion in S. 14, the Energy Policy Act of 2003.

We understand that tribal energy development can provide tremendous economic development opportunities for our member tribes while simultaneously assisting tribes in meeting energy demands. Our tribes are aware that other tribes have concerns regarding the provision of Title III to which tribal input has been solicited and received to address the issues.

Our tribes support the compromises reached by the parties and we call upon the leadership of the committee to further engage and respond to tribal concerns. We hope that compromises on the remaining outstanding points may be reached whereby all of Indian Country can support inclusion of Title III in S. 14.

Sincerely,

JAMES T. MARTIN,
Executive Director.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, June 6, 2003.

To the Members of the United States Senate:

The U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses of every size, sector, and region, supports an amendment to S. 14, the Energy Policy Act of 2003, offered by Senators Domenici and Campbell. This amendment would add an Indian Energy title to the bill that facilitates energy exploration on Indian lands while ensuring the same level of environmental protection as is provided in the state in which the lands are located.

The Domenici-Campbell amendment is a sensible component of a comprehensive national energy policy. While Indian land accounts for five percent of the land area of the U.S., it contains 30 percent of the nation's identified coal deposits, five percent of its oil deposits, and 10 percent of its natural gas reserves. However, the Department of the Interior estimates that less than one quarter of these assets have been developed. This amendment will spur domestic energy development by removing bureaucratic obstacles on Indian lands and by providing grants and loan guarantees for building the necessary energy infrastructure.

An amendment to the Domenici-Campbell amendment is anticipated that would require a tribe to comply with the National Environmental Policy Act each time it enters into an energy project with a private sector company. Such an amendment is simply an attempt to force a tribe into undertaking an environmental impact statement as if it was a federal government agency. If such an amendment passes, it will subject tribes to years of bureaucratic study followed by years of litigation, notwithstanding the fact that the project has complied with all federal and state environmental permitting laws.

Our nation will need 43 percent more energy in the next twenty years and will need it from all sources, including coal, oil, gas, nuclear, and alternative fuels. These tribal territories are sovereign and the federal government must allow them the means for adequate economic development so they can participate in the many benefits of our nation, including the right to economic self-determination.

The U.S. Chamber of Commerce urges you to support the Domenici-Campbell amendment that would increase domestic energy supplies in an environmentally compatible manner and reject all weakening amendments.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President.

Mr. CAMPBELL. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I know we will be back on this bill. I note that the Indian tribes and organizations listed are not in full. We have additional ones since this was prepared, and they will be added in due course.

I compliment the distinguished Senator, Mr. CAMPBELL. I am pleased to be his cosponsor, and I say for those who are going to now look at this bill, I hope our Indian leaders also are aware that there will be those who look at it from the standpoint of how can they make it more difficult for the Indian people to be able to develop their resources. That is what some of the time and effort will be spent on during the intervention between this bill and its final vote. How can organizations that do not want the Indian people to produce their raw materials into energy and resources, thus jobs and opportunity for the Indian people, get their hands on this bill and try to offer amendments to try to harm this bill? I am certain some will do that.

We will be vigilant, we will be aware, and we are asking the Indian leaders who support this to inform their Senators that this is the bill they want as part of America's policy on energy. We are asking every Indian leader to advise those Senators who have been with them in the past to support this bill. This bill is their bill. It is for their future. It is for jobs and money and resources for them. We need them telling their Senators that this is the bill they want. If they do that, come July we will have a real Fourth of July celebration for the Indian people, for in a sense they will be free, free to develop their resources, where heretofore their hands have been tied.

There will be those during the intervening time who will look for ways to put more ties and strings back into the Campbell bill. We want to tell our Indian leaders to tell their friends in the Senate they do not want that; they do not want changes to this bill that will make it harder for them to develop their resources in partnership, singularly or otherwise, with other Americans.

This amendment is the product of many hours of negotiation and cooperation among the interested tribes, the Indian Affairs Committee and the Energy and Natural Resources Committee.

I am also pleased that this amendment enjoys the support of numerous tribes including the Jicarilla Apache Nation, the Cherokee Nation, the Southern Utes, the Chickasaw Nation, the Native American Energy Group, the National Congress of American Indians, Dine Power—a Navajo Corporation, the Council of Energy Resource Tribes, which represents nearly 50 energy producing tribes and The National Tribal Environmental Council, which represent 180 tribe,

I am pleased that Indian tribes across the country will play an important role in our national energy plan. By passing this legislation, we will streamline the tribal leasing process that outside parties have more incentive to partner with tribes in developing energy resources and provide investment in critical energy infrastructure on Indian land.

Indian lands contain some of the richest energy reserves in the Nation. Although Indian land accounts for only 5 percent of the land area of the U.S. it contains: 30 percent of identified coal deposits; 5 percent of our nation's oil; and 10 percent of our natural gas, which is in very tight supply.

Despite the fact that reserves are present, the Department of the Interior estimates that only 20 to 25 percent of these assets have been developed.

Energy projects are capital intensive and most tribes do not have the financial capability to develop the resources.

Tribes face an additional burden in attracting partners and that is a result of the paternalistic lease approval system that requires the Secretary of the Interior to approve all tribal leases. This delays action and creates investment uncertainty.

In an attempt to resolve this out-of-date process, the Indian Affairs Committee and the Senate Energy Committee have taken key elements of both Senator CAMPBELL's legislation S. 522 and Senator BINGAMAN proposal, S. 424.

The title adopts Senator BINGAMAN's proposal to create the Office of Indian Energy Policy and Programs within the Department of Energy. This office will provide grants and loan guarantees to tribes to facilitate the development of their energy resources and infrastructure.

Section 303, of this title will change the existing lease agreements between the Secretary of the Interior and tribes to allow tribes to enter into a lease or agreement without the approval of the Secretary so long as those leases or business agreements conform to regulations promulgated by the Secretary.

The section establishes a process by which a tribe may submit a plan governing leases and rights-of-way to the Secretary for approval. It also requires the tribe to demonstrate to the Secretary that the plan includes provisions regarding lease and contract terms, environmental regulation, and public notification and comment.

I think that is very important to note that this entire proposal is voluntary. Let me repeat that. This proposal is completely voluntary. Tribes will not be forced to adopt this proposal if they feel it would not benefit the tribe as a whole.

We have numerous letters from tribes who support the proposal and I am confident they will benefit. However, any tribe that opposes this proposal probably will not participate and can continue to operate under the status quo.

This amendment also protects the environment. I think the statement of President Joe Shirley of the Navajo Nation before the Senate Indian Affairs Committee accurately captures the environmental responsibilities all tribes must comply with. President Shirley stated,

> Tribes may already promulgate regulations that are more, but not less, stringent than Federal regulations governing the same subject matters (environment). The following is a list of some of the federal statutes that already control regulations for land use, both State and tribal: National Environmental Policy Act, Clean Air Act, Clean Water Act, Endangered Species Act, Federal Land Management and Policy Act, National Historic Preservation Act, Native American Graves Protection and Repatriation Act, Surface Mining Control and Reclamation Act and the Indian Mineral Leasing Act.

Clearly, the tribes must fully comply with our environmental statutes.

Following markup of S. 14, the Indian Affairs and Energy Committees have worked to address concerns regarding the trust responsibilities between tribes and the Secretary of the Interior. These agreed-upon changes make up the amendment Senator CAMPBELL has offered.

This amendment deserves the strong support of the Senate.

I ask unanimous consent for 1 additional minute for Senator CAMPBELL to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I thank the Senator from New Mexico, who is a stalwart supporter of this movement.

There is no question, if we do not take this back up between now and July, if there is a second degree offered at that time, we will be giving the opponents of this bill—instead of giving Indians an opportunity to get up off their knees and get some jobs—an opportunity to gin up some opposition. I think that is what the delay is for. I appreciate the support of the Senator from New Mexico.

AVIATION INVESTMENT AND REVITALIZATION VISION ACT

The PRESIDING OFFICER. Under the previous order, the time of 12:15 having arrived, the Senate will proceed to consideration of S. 824, which the clerk will report by title.

The bill clerk read as follows:

> A bill (S. 824) to reauthorize the Federal Aviation Administration, and for other purposes.

The Senate proceeded to consider the bill (S. 824) to reauthorize the Federal Aviation Administration, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 824

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49.

[(a) SHORT TITLE.—This Act may be cited as the "Aviation Investment and Revitalization Vision Act".

[(b) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

[SEC. 2. TABLE OF CONTENTS.

[The table of contents for this Act is as follows:

[Sec. 1. Short title; amendment of title 49.
[Sec. 2. Table of contents.

[TITLE I—REAUTHORIZATIONS; FAA MANAGEMENT

[Sec. 101. Airport improvement program.
[Sec. 102. Airway facilities improvement program.
[Sec. 103. FAA operations.
[Sec. 104. Research, engineering, and development.
[Sec. 105. Other programs.
[Sec. 106. Reorganization of the Air Traffic Services Subcommittee.
[Sec. 107. Clarification of responsibilities of chief operating officer.

[TITLE II—AIRPORT DEVELOPMENT

[Sec. 201. National capacity projects.
[Sec. 202. Categorical exclusions.
[Sec. 203. Alternatives analysis.
[Sec. 204. Increase in apportionment for, and flexibility of, noise compatibility planning programs.
[Sec. 205. Secretary of Transportation to identify airport congestion-relief projects and forecast airport operations annually.
[Sec. 206. Design-build contracting.
[Sec. 207. Special rule for airport in Illinois.
[Sec. 208. Elimination of duplicative requirements.
[Sec. 209. Streamlining the passenger facility fee program.
[Sec. 210. Quarterly status reports.
[Sec. 211. Noise disclosure requirements.
[Sec. 212. Prohibition on requiring airports to provide rent-free space for FAA or TSA.
[Sec. 213. Special rules for fiscal year 2004.

[TITLE III—AIRLINE SERVICE DEVELOPMENT

[Sec. 301. Delay reduction meetings.
[Sec. 302. Reauthorization of essential air service program.
[Sec. 303. Small community air service development pilot program.
[Sec. 304. DOT study of competition and access problems at large and medium hub airports.
[Sec. 305. Competition disclosure requirement for large and medium hub airports.

[Title IV—Aviation Security

[Sec. 401. Study of effectiveness of transportation security system.
[Sec. 402. Aviation security capital fund.
[Sec. 403. Technical amendments related to security-related airport development.

[Title V—Miscellaneous

[Sec. 501. Extension of war risk insurance authority.
[Sec. 502. Cost-sharing of air traffic modernization projects.
[Sec. 503. Counterfeit or fraudulently represented parts violations.
[Sec. 504. Clarifications to procurement authority.

[TITLE I—REAUTHORIZATIONS; FAA MANAGEMENT

[SEC. 101. AIRPORT IMPROVEMENT PROGRAM.

[(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103 is amended—

[(1) by inserting "(a) IN GENERAL.—" before "The";

[(2) by striking "and" in paragraph (4);

[(3) by striking "2003." in paragraph (5) and inserting "2003;";

[(4) by inserting after paragraph (5) the following:

[''(6) $3,400,000,000 for fiscal year 2004;

[''(7) $3,500,000,000 for fiscal year 2005; and

[''(8) $3,600,000,000 for fiscal year 2006."; and

[(5) by adding at the end the following:

[''(b) ADMINISTRATIVE EXPENSES.—From the amounts authorized by paragraphs (6) through (8) of subsection (a), there shall be available for administrative expenses relating to the airport improvement program, passenger facility fee approval and oversight, national airport system planning, airport standards development and enforcement, airport certification, airport-related environmental activities (including legal service), to remain available until expended—

[''(1) for fiscal year 2004, $69,737,000;

[''(2) for fiscal year 2005, $71,816,000; and

[''(3) for fiscal year 2006, $74,048,000.".

[(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "2003," and inserting "2006,".

[SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.

[Section 48101(a) is amended by adding at the end the following:

[''(6) $2,916,000,000 for fiscal year 2004.

[''(7) $2,971,000,000 for fiscal year 2005.

[''(8) $3,030,000,000 for fiscal year 2006.".

[SEC. 103. FAA OPERATIONS.

[Section 106(k)(1) is amended—

[(1) by striking "and" in subparagraph (C);

[(2) by striking "2003." in subparagraph (D) and inserting "2003;"; and

[(3) by adding at the end the following:

[''(E) $7,591,000,000 for fiscal year 2004;

[''(F) $7,732,000,000 for fiscal year 2005; and

[''(G) $7,889,000,000 for fiscal year 2006.".

[SEC. 104. RESEARCH, ENGINEERING AND DEVELOPMENT.

[Section 48102 is amended—

[(1) by striking paragraphs (1) through (8) of subsection (a) and inserting:

[''(1) For fiscal year 2004, $289,000,000.

[''(2) For fiscal year 2005, $204,000,000.

[''(3) For fiscal year 2006, $317,000,000."; and

[(2) by redesignating subsection (h) as subsection (g).

[SEC. 105. OTHER PROGRAMS.

[Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century is amended—

[(1) by striking "2003" in subsection (a)(1)(A) and subsection (c)(2) and inserting "2006"; and

[(2) by striking "2003," in subsection (a)(2) and inserting "2006,".

[SEC. 106. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE.

[(a) IN GENERAL.—Section 106 is amended—

[(1) by redesignating subsections (q) and (r) as subsections (r) and (s), respectively; and

[(2) by inserting after subsection (p) the following:

[''(q) AIR TRAFFIC MANAGEMENT COMMITTEE.—

[''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an advisory committee which shall be known as the Air Traffic Services Committee (in this subsection referred to as the 'Committee').

[''(2) MEMBERSHIP.—

[''(A) COMPOSITION AND APPOINTMENT.—The Committee shall be composed of—

[''(i) the Administrator of the Federal Aviation Administration, who shall serve as chair; and

[''(ii) 4 members, to be appointed by the Secretary, after consultation with the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

[''(B) NO FEDERAL OFFICER OR EMPLOYEE.—No member appointed under subparagraph (A)(ii) may serve as an officer or employee of the United States Government while serving as a member of the Committee.

[''(C) ELIGIBILITY.—Members appointed under subparagraph (A)(ii) shall—

[''(i) have a fiduciary responsibility to represent the public interest;

[''(ii) be citizens of the United States; and

[''(iii) be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas:

[''(I) Management of large service organizations.

[''(II) Customer service.

[''(III) Management of large procurements.

[''(IV) Information and communications technology.

[''(V) Organizational development.

[''(VI) Labor relations.

At least one of such members should have a background in managing large organizations successfully. In the aggregate, such members should collectively bring to bear expertise in all of the areas described in subclauses (I) through (VI).

[''(D) PROHIBITIONS ON MEMBERS OF COMMITTEE.—No member appointed under subparagraph (A)(ii) may—

[''(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

[''(ii) engage in another business related to aviation or aeronautics; or

[''(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.

[''(E) CLAIMS AGAINST MEMBERS.—

[''(i) IN GENERAL.—A member appointed under subparagraph (A)(ii) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member of the Air Traffic Services Committee.

[''(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

[''(I) to affect any other immunity or protection that may be available to a member of the Committee under applicable law with respect to such transactions;

[''(II) to affect any other right or remedy against the United States under applicable law; or

[''(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

[''(F) ETHICAL CONSIDERATIONS.—

[''(i) FINANCIAL DISCLOSURE.—During the entire period that an individual appointed under subparagraph (A)(ii) is a member of the Committee, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act; except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

["(ii) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, an individual appointed under subparagraph (A)(ii) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Committee; except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

["(G) TERMS FOR AIR TRAFFIC SERVICES COMMITTEE MEMBERS.—A member appointed under subparagraph (A)(ii) shall be appointed for a term of 5 years.

["(H) REAPPOINTMENT.—An individual may not be appointed under subparagraph (A)(ii) to more than two 5-year terms.

["(I) VACANCY.—Any vacancy on the Committee shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

["(J) CONTINUATION IN OFFICE.—A member whose term expires shall continue to serve until the date on which the member's successor takes office.

["(K) REMOVAL.—Any member appointed under subparagraph (A)(ii) may be removed for cause by the Secretary.

["(3) GENERAL RESPONSIBILITIES.—

["(A) OVERSIGHT.—The Committee shall oversee the administration, management, conduct, direction, and supervision of the air traffic control system.

["(B) CONFIDENTIALITY.—The Committee shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

["(4) SPECIFIC RESPONSIBILITIES.—The Committee shall have the following specific responsibilities:

["(A) STRATEGIC PLANS.—To review, approve, and monitor the strategic plan for the air traffic control system, including the establishment of—

["(i) a mission and objectives;

["(ii) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

["(iii) annual and long-range strategic plans.

["(B) MODERNIZATION AND IMPROVEMENT.—To review and approve—

["(i) methods to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control; and

["(ii) procurements of air traffic control equipment in excess of $100,000,000.

["(C) OPERATIONAL PLANS.—To review the operational functions of the air traffic control system, including—

["(i) plans for modernization of the air traffic control system;

["(ii) plans for increasing productivity or implementing cost-saving measures; and

["(iii) plans for training and education.

["(D) MANAGEMENT.—To—

["(i) review and approve the Administrator's appointment of a Chief Operating Officer under section 106(s);

["(ii) review the Administrator's selection, evaluation, and compensation of senior executives of the Administration who have program management responsibility over significant functions of the air traffic control system;

["(iii) review and approve the Administrator's plans for any major reorganization of the Administration that would impact on the management of the air traffic control system;

["(iv) review and approve the Administrator's cost accounting and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation; and

["(v) review the performance and compensation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets.

["(E) BUDGET.—To—

["(i) review and approve the budget request of the Administration related to the air traffic control system prepared by the Administrator;

["(ii) submit such budget request to the Secretary; and

["(iii) ensure that the budget request supports the annual and long-range strategic plans.

["(5) CONGRESSIONAL REVIEW OF PRE-OMB BUDGET REQUEST.—The Secretary shall submit the budget request referred to in paragraph (4)(E)(ii) for any fiscal year to the President who shall transmit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President's annual budget request for the Federal Aviation Administration for such fiscal year.

["(6) COMMITTEE PERSONNEL MATTERS.—

["(A) COMPENSATION OF MEMBERS.—Each member of the Committee, other than the chair and vice chair, shall be compensated at a rate of $25,000 per year.

["(B) STAFF.—The chairperson of the Committee may appoint and terminate any personnel that may be necessary to enable the Committee to perform its duties.

["(C) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

["(7) ADMINISTRATIVE MATTERS.—

["(A) POWERS OF CHAIR.—Except as otherwise provided by a majority vote of the Committee, the powers of the chairperson shall include—

["(i) establishing subcommittees;

["(ii) setting meeting places and times;

["(iii) establishing meeting agendas; and

["(iv) developing rules for the conduct of business.

["(B) MEETINGS.—The Committee shall meet at least quarterly and at such other times as the chairperson determines appropriate.

["(C) QUORUM.—Three members of the Committee shall constitute a quorum. A majority of members present and voting shall be required for the Committee to take action.

["(D) APPLICATION OF SUBSECTION (p) PROVISIONS.—The following provisions of subsection (p) apply to the Committee to the same extent as they apply to the Management Advisory Council:

["(i) Paragraph (4)(C) (relating to access to documents and staff).

["(ii) Paragraph (5) (relating to nonapplication of Federal Advisory Committee Act).

["(iii) Paragraph (6)(G) (relating to travel and per diem).

["(iv) Paragraph (6)(H) (relating to detail of personnel).

["(8) REPORTS.—

["(A) ANNUAL.—The Committee shall each year report with respect to the conduct of its responsibilities under this title to the Administrator, the Management Advisory Council, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

["(B) COMPTROLLER GENERAL'S REPORT.—Not later than April 30, 2003, the Comptroller General of the United States shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the success of the Committee in improving the performance of the air traffic control system.".

[(b) CONFORMING AMENDMENTS.—

[(1) Subsection (p) of section 106 is amended—

[(A) by striking "18" in paragraph (2) and inserting "13";

[(B) by inserting "and" after the semicolon in subparagraph (C) of paragraph (2);

[(C) by striking "Transportation; and" in subparagraph (D) of paragraph (2) and inserting "Transportation.";

[(D) by striking subparagraph (E) of paragraph (2);

[(E) by striking paragraph (3) and inserting the following:

["(3) NO FEDERAL OFFICER OR EMPLOYEE.—No member appointed under paragraph (2)(C) may serve as an officer or employee of the United States Government while serving as a member of the Council.";

[(F) by striking subparagraphs (C), (D), (H), and (I) of paragraph (6) and redesignating subparagraphs (E), (F), (G), (J), (K), and (L) as subparagraphs (C), (D), (E), (F), (G), and (H), respectively; and

[(G) by striking paragraphs (7) and (8).

[(2) Section 106(s) (as redesignated by subsection (a) of this section) is amended—

[(A) by striking "Air Traffic Services Subcommittee of the Aviation Management Advisory Council." and inserting "Air Traffic Services Committee." in paragraphs (1)(A) and (2)(A); and

[(B) by striking "Air Traffic Services Subcommittee of the Aviation Management Advisory Council," and inserting "Air Traffic Services Committee," in paragraph (3).

[(3) Section 106 is amended by adding at the end the following:

["(t) AIR TRAFFIC CONTROL SYSTEM DEFINED.—In this section, the term 'air traffic control system' has the meaning such term has under section 40102(a).".

[(c) TRANSITION FROM AIR TRAFFIC SERVICE SUBCOMMITTEE TO AIR TRAFFIC SERVICE COMMITTEE.—

[(1) TERMINATION OF MANAGEMENT ADVISORY COUNCIL MEMBERSHIP.—Effective on the day after the date of enactment of this Act, any member of the Management Advisory Council appointed under section 106(p)(2)(E) of title 49, United States Code, (as such section was in effect on the day before such date of enactment) who is a member of the Council on such date of enactment shall cease to be a member of the Council.

[(2) COMMENCEMENT OF MEMBERSHIP ON AIR TRAFFIC SERVICES COMMITTEE.—Effective on the day after the date of enactment of this Act, any member of the Management Advisory Council whose membership is terminated by paragraph (1) shall become a member of the Air Traffic Services Committee as provided by section 106(q)(2)(G) of title 49, United States Code, to serve for the remainder of the term to which that member was appointed to the Council.

[SEC. 107. CLARIFICATION OF RESPONSIBILITIES OF CHIEF OPERATING OFFICER.

[Section 106(s) (as redesignated by section 106(a)(1) of this Act) is amended—

[(1) by striking "Transportation and Congress" in paragraph (4) and inserting "Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate,";

[(2) by striking "develop a strategic plan of the Administration for the air traffic control system, including the establishment of—"

in paragraph (5)(A) and inserting "implement the strategic plan of the Administration for the air traffic control system in order to further—";

[(3) by striking "To review the operational functions of the Administration," in paragraph (5)(B) and inserting "To oversee the day-to-day operational functions of the Administration for air traffic control,";

[(4) by striking "system prepared by the Administrator;" in paragraph (5)(C)(i) and inserting "system;";

[(5) by striking "Administrator and the Secretary of Transportation;" in paragraph (5)(C)(ii) and inserting "Administrator;"; and

[(6) by striking paragraph (5)(C)(iii) and inserting the following:

["(iii) ensure that the budget request supports the agency's annual and long-range strategic plans for air traffic control services.".

[TITLE II—AIRPORT DEVELOPMENT

[SEC. 201. NATIONAL CAPACITY PROJECTS.

[(a) IN GENERAL.—Part B of subtitle VII is amended by adding at the end the following:

["CHAPTER 477. NATIONAL CAPACITY PROJECTS

["47701. Capacity enhancement
["47702. Designation of national capacity projects
["47703. Expedited coordinated environmental review process; project coordinators and environment impact teams.
["47704. Compatible land use initiative for national capacity projects
["47705. Air traffic procedures at national capacity projects
["47706. Pilot program for environmental review at national capacity projects
["47707. Definitions

["§47701. Capacity enhancement

["(a) IN GENERAL.—Within 30 days after the date of enactment of the Aviation Investment and Revitalization Vision Act, the Secretary of Transportation shall identify those airports among the 31 airports covered by the Federal Aviation Administration's Airport Capacity Benchmark Report 2001 with delays that significantly affect the national air transportation system.

["(b) TASK FORCE; CAPACITY ENHANCEMENT STUDY.—

["(1) IN GENERAL.—The Secretary shall direct any airport identified by the Secretary under subsection (a) that is not engaged in a runway expansion process and has not initiated a capacity enhancement study (or similar capacity assessment) since 1996—

["(A) to establish a delay reduction task force to study means of increasing capacity at the airport, including air traffic, airline scheduling, and airfield expansion alternatives; or

["(B) to conduct a capacity enhancement study.

["(2) SCOPE.—The scope of the study shall be determined by the airport and the Federal Aviation Administration, and where appropriate shall consider regional capacity solutions.

["(3) RECOMMENDATIONS SUBMITTED TO SECRETARY.—

["(A) TASK FORCE.—A task force established under this subsection shall submit a report containing its findings and conclusions, together with any recommendations for capacity enhancement at the airport, to the Secretary within 9 months after the task force is established.

["(B) CES.—A capacity enhancement study conducted under this subsection shall be submitted, together with its findings and conclusions, to the Secretary as soon as the study is completed.

["(c) RUNWAY EXPANSION AND RECONFIGURATION.—If the report or study submitted under subsection (b)(3) includes a recommendation for the construction or reconfiguration of runways at the airport, then the Secretary and the airport shall complete the planning and environmental review process within 5 years after report or study is submitted to the Secretary. The Secretary may extend the 5-year deadline under this subsection for up to 1 year if the Secretary determines that such an extension is necessary and in the public interest. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure of any such extension.

["(d) AIRPORTS THAT DECLINE TO UNDERTAKE EXPANSION PROJECTS.—

["(1) IN GENERAL.—If an airport at which the construction or reconfiguration of runways is recommended does not take action to initiate a planning and environmental assessment process for the construction or reconfiguration of those runways within 30 days after the date on which the report or study is submitted to the Secretary, then—

["(A) the airport shall be ineligible for planning and other expansion funds under subchapter I of chapter 471, notwithstanding any provision of that subchapter to the contrary;

["(B) no passenger facility fee may be approved at that airport during the 5-year period beginning 30 days after the date on which the report or study is submitted to the Secretary, for—

["(i) projects that, but for subparagraph (A), could have been funded under chapter 471; or

["(ii) any project other than on-airport airfield-side capacity or safety-related projects.

["(2) SAFETY-RELATED AND ENVIRONMENTAL PROJECTS EXCEPTED.—Paragraph (1) does not apply to the use of funds for safety-related, security, or environment projects.

["(e) AIRPORTS THAT TAKE ACTION.—The Secretary shall take all actions possible to expedite funding and provide options for funding to any airport undertaking runway construction or reconfiguration projects in response to recommendations by its task force.

["§47702. Designation of national capacity projects

["(a) IN GENERAL.—In response to a petition from an airport sponsor, or in the case of an airport on the list of airports covered by the Federal Aviation Administration's Airport Capacity Benchmarks study, the Secretary of Transportation may designate an airport development project as a national capacity project if the Secretary determines that the project to be designated will significantly enhance the capacity of the national air transportation system.

["(b) DESIGNATION TO REMAIN IN EFFECT FOR 5 YEARS.—The designation of a project as a national capacity project under paragraph (1) shall remain in effect for 5 years. The Secretary may extend the 5-year period for up to 2 additional years upon request if the Secretary finds that substantial progress is being made toward completion of the project.

["§47703. Expedited coordinated environmental review process; project coordinators and environment impact teams.

["(a) IN GENERAL.—The Secretary of Transportation shall implement an expedited coordinated environmental review process for national capacity projects that—

["(1) provides for better coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

["(2) provides for an expedited and coordinated process in the conduct of environmental reviews that ensures that, where appropriate, the reviews are done concurrently and not consecutively; and

["(3) provides for a date certain for completing all environmental reviews.

["(b) HIGH PRIORITY FOR AIRPORT ENVIRONMENTAL REVIEWS.—Each department and agency of the United States Government with jurisdiction over environmental reviews shall accord any such review involving a national capacity project the highest possible priority and conduct the review expeditiously. If the Secretary finds that any such department or agency is not complying with the requirements of this subsection, the Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure immediately.

["(c) PROJECT COORDINATORS; EIS TEAMS.—

["(1) DESIGNATION.—For each project designated by the Secretary as a national capacity project under subsection (a) for which an environmental impact statement or environmental assessment must be filed, the Secretary shall—

["(A) designate a project coordinator within the Department of Transportation; and

["(B) establish an environmental impact team within the Department.

["(2) FUNCTION.—The project coordinator and the environmental impact team shall—

["(A) coordinate the activities of all Federal, State, and local agencies involved in the project;

["(B) to the extent possible, working with Federal, State and local officials, reduce and eliminate duplicative and overlapping Federal, State, and local permit requirements;

["(C) to the extent possible, eliminate duplicate Federal, State, and local environmental review procedures; and

["(D) provide direction for compliance with all applicable Federal, State, and local environmental requirements for the project.

["§47704. Compatible land use initiative for national capacity projects

["(a) IN GENERAL.—The Secretary of Transportation may make grants under chapter 471 to States and units of local government for land use compatibility plans directly related to national capacity projects for the purposes of making the use of land areas around the airport compatible with aircraft operations if the land use plan or project meets the requirements of this section.

[“(b) CONDITIONS.—A land use plan or project meets the requirements of this section if it—

[“(1) is sponsored by the public agency that has the authority to plan and adopt land use control measures, including zoning, in the planning area in and around the airport and that agency provides written assurances to the Secretary that it will work with the affected airport to identify and adopt such measures; eddie

[“(2) does not duplicate, and is not inconsistent with, an airport noise compatibility program prepared by an airport owner or operator under chapter 475 or with other planning carried out by the airport.

[“(3) is subject to an agreement between the public agency sponsor and the airport owner or operator that the development of the land use compatibility plan will be done cooperatively;

[“(4) is consistent with the airport operation and planning, including the use of any noise exposure contours on which the land use compatibility planning or project is based; and

[“(5) has been approved jointly by the airport owner or operator and the public agency sponsor.

[“(c) ASSURANCES FROM SPONSORS.— The Secretary may require the airport sponsor, public agency, or other entity to which a grant may be awarded under this section to provide such additional assurances, progress reports, and other information as the Secretary determines to be necessary to carry out this section.

[“§ 47705. Air traffic procedures at national capacity projects

[“(a) IN GENERAL.—The Secretary of Transportation may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of the project during the environmental planning process for a national capacity project that involves the construction of new runways or the reconfiguration of existing runways. If the Secretary determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, then, at the request of the airport sponsor, the Administrator may, in a manner consistent with applicable Federal law, commit to prescribing such procedures in any record of decision approving the project.

[“(b) MODIFICATION.—Notwithstanding any commitment by the Secretary under subsection (a), the Secretary may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

[“§ 47706. Pilot program for environmental review at national capacity projects

[“(a) IN GENERAL.—The Secretary of Transportation shall initiate a 5-year pilot program funded by airport sponsors—

[“(1) to hire additional fulltime-equivalent environmental specialists and attorneys, or

[“(2) to obtain the services of such specialists and attorneys from outside the United States Government, to assist in the provision of an appropriate nationwide level of staffing for planning and environmental review of runway development projects for national capacity projects at the Federal Aviation Administration.

[“(b) ELIGIBLE PARTICIPANTS.—Participation in the pilot program shall be available, on a voluntary basis, to airports with an annual passenger enplanement of not less than 3 million passengers. The Secretary shall specify the minimum contribution necessary to qualify for participation in the pilot program, which shall be not less than the amount necessary to compensate the Department of Transportation for the expense of a fulltime equivalent environmental specialist and attorney qualified at the GS-14 equivalent level.

[“(c) RETENTION OF REVENUES.—The salaries and expenses account of the Federal Aviation Administration shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by subsection (a). Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Such offsetting collections are authorized to remain available until expended for such purpose.

[“§ 47707. Definitions

[“In this chapter:

[“(1) NATIONAL CAPACITY PROJECT.—The term ‘national capacity project’ means a project designated by the Secretary under section 44702.

[“(2) OTHER TERMS.—The definitions in section 47102 apply to any terms used in this chapter that are defined in that section.”.

[(b) ADDITIONAL STAFF AUTHORIZED.—The Secretary of Transportation is authorized to hire additional environmental specialists and attorneys needed to process environmental impact statements in connection with airport construction projects and to serve as project coordinators and environmental impact team members under section 47703 of title 49, United States Code.

[(c) CLERICAL AMENDMENT.—The analysis for subtitle VII is amended by inserting after the item relating to section 475 the following:

[“477. National capacity projects .... 47701”.

[SEC. 202. CATEGORICAL EXCLUSIONS.

[Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall report to the Senate Committee on Commerce, Science, and Transportation on the categorical exclusions currently recognized and provide a list of proposed additional categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports. In determining the list of additional proposed categorical exclusions, the Secretary shall include such other projects as the Secretary determines should be categorically excluded in order to ensure that Department of Transportation environmental staff resources are not diverted to lower priority tasks and are available to expedite the environmental reviews of airport capacity enhancement projects at congested airports.

[SEC. 203. ALTERNATIVES ANALYSIS.

[(a) NOTICE REQUIREMENT.—Not later than 30 days after the date on which the Secretary of Transportation identifies an airport capacity enhancement project at a congested airport under section 47171(c) of title 49, United States Code, the Secretary shall publish a notice in the Federal Register requesting comments on whether reasonable alternatives exist to the project.

[(b) CERTAIN REASONABLE ALTERNATIVES DEFINED.—For purposes of this section, an alternative shall be considered reasonable if—

[(1) the alternative does not create an unreasonable burden on interstate commerce, the national aviation system, or the navigable airspace;

[(2) the alternative is not inconsistent with maintaining the safe and efficient use of the navigable airspace;

[(3) the alternative does not conflict with a law or regulation of the United States;

[(4) the alternative would result in at least the same reduction in congestion at the airport or in the national aviation system as the proposed project; and

[(5) in any case in which the alternative is a proposed construction project at an airport other than a congested airport, firm commitments to provide such alternate airport capacity exists, and the Secretary determines that such alternate airport capacity will be available no later than 4 years after the date of the Secretary's determination under this section.

[(c) COMMENT PERIOD.—The Secretary shall provide a period of 60 days for comments on a project identified by the Secretary under this section after the date of publication of notice with respect to the project.

[(d) DETERMINATION OF EXISTENCE OF REASONABLE ALTERNATIVES.—Not later than 90 days after the last day of a comment period established under subsection (c) for a project, the Secretary shall determine whether reasonable alternatives exist to the project. The determination shall be binding on all persons, including Federal and State agencies, acting under or applying Federal laws when considering the availability of alternatives to the project.

[(e) LIMITATION ON APPLICABILITY.—This section does not apply to—

[(1) any alternatives analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.); or

[(2) a project at an airport if the airport sponsor requests, in writing, to the Secretary that this section not apply to the project.

[SEC. 204. INCREASE IN APPORTIONMENT FOR, AND FLEXIBILITY OF, NOISE COMPATIBILITY PLANNING PROGRAMS.

[Section 47117(e)(1)(A) is amended—

[(1) by striking the first sentence and inserting: “At least 35 percent for grants for airport noise compatibility planning under section 47505(a)(2) for a national capacity project, for carrying out noise compatibility programs under section 47504(c) of this title, and for noise mitigation projects approved in an environmental record of decision for an airport development project designated as a national capacity project under section 47702.”; and

[(2) by striking “or not such 34 percent requirement” in the second sentence and inserting “the funding level required by the preceding sentence”.

[SEC. 205. SECRETARY OF TRANSPORTATION TO IDENTIFY AIRPORT CONGESTION-RELIEF PROJECTS AND FORECAST AIRPORT OPERATIONS ANNUALLY.

[(a) IDENTIFICATION OF PROJECTS.—

[(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall provide—

[(A) a list of planned air traffic and airport-capacity projects at congested Airport Capacity Benchmark airports the completion of which will substantially relieve congestion at those airports; and

[(B) a list of options for expanding capacity at the 8 airports on the list at which the most severe delays are occurring, to the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure. The Secretary shall provide updated lists to those Committees 2 years after the date of enactment of this Act.

[(2) DELISTING OF PROJECTS.—The Secretary shall remove a project from the list provided to the Committees under paragraph (1) upon the request, in writing, of an airport operator if the operator states in the request that construction of the project will not be completed within 10 years from the date of the request.

[SEC. 206. DESIGN-BUILD CONTRACTING.

[(a) IN GENERAL.—Subchapter I of chapter 471 is amended by adding at the end the following:

[“§ 47138. Design-build contracting

[“(a) IN GENERAL.—The Administrator may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if—

[“(1) the Administrator approves the application using criteria established by the Administrator;

[“(2) the design-build contract is in a form that is approved by the Administrator;

[“(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

[“(4) use of a design-build contract will be cost effective and expedite the project;

[“(5) the Administrator is satisfied that there will be no conflict of interest; and

[“(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least three or more bids will be submitted for each project under the selection process.

[“(b) REIMBURSEMENT OF COSTS.—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under this chapter 471, if the project were carried out after a grant agreement had been executed.

[“(c) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term ‘design-build contract’ means an agreement that provides for both design and construction of a project by a contractor.”.

[(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47137 the following:

[“47138. Design-build contracting.”.

[SEC. 207. SPECIAL RULE FOR AIRPORT IN ILLINOIS.

[(a) IN GENERAL.—Nothing in this title shall be construed to preclude the application of any provision of this Act to the State of Illinois or any other sponsor of a new airport proposed to be constructed in the State of Illinois.

[(b) AUTHORITY OF THE GOVERNOR.—Nothing in this title shall be construed to preempt the authority of the Governor of the State of Illinois as of August 1, 2001, to approve or disapprove airport development projects.

[SEC. 208. ELIMINATION OF DUPLICATIVE REQUIREMENTS.

[(a) IN GENERAL.—Section 47106(c)(1) is amended—

[(1) by inserting “and” after “project;” in subparagraph (A)(ii);

[(2) by striking subparagraph (B); and

[(3) by redesignating subparagraph (C) as subparagraph (B).

[(b) CONFORMING AMENDMENTS.—Section 47106(c) of such title is amended—

[(1) by striking paragraph (4);

[(2) by redesignating paragraph (5) as paragraph (4); and

[(3) by striking “(1)(C)” in paragraph (4), as redesignated, and inserting “(1)(B)”.

[SEC. 209. STREAMLINING THE PASSENGER FACILITY FEE PROGRAM.

[Section 40117 is amended—

[(1) by striking from “finds—” in paragraph (4) of subsection (b) through the end of that paragraph and inserting “finds that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103.”;

[(2) by adding at the end of subsection (c)(2) the following:

[“(E) The agency will include in its application or notice submitted under subsection (1) copies of all certifications of agreement or disagreement received under subparagraph (D).

[“(F) For the purpose of this section, an eligible agency providing notice and consultation to an air carrier and foreign air carrier is deemed to have satisfied this requirement if it limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest on the airport. In developing regulations to implement this provision, the Secretary shall consider a significant business interest to be defined as an air carrier or foreign air carrier that has no less than 1.0 percent of boardings at the airport in the prior calendar year, except that no air carrier or foreign air carrier may be considered excluded under this section if it has at least 25,000 boardings at the airport in the prior calendar year, or if it operates scheduled service, without regard to such percentage requirements.”;

[(3) by redesignating paragraph (3) of subsection (c) as paragraph (4) and inserting after paragraph (2) the following:

[“(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least—

[“(A) a requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies who may be affected, including—

[“(i) publication in local newspapers of general circulation;

[“(ii) publication in other local media; and

[“(iii) posting the notice on the agency's website;

[“(B) a requirement for submission of public comments no sooner than 30 days after publishing of the notice and not later than 45 days after publication; and

[“(C) a requirement that the agency include in its application or notice submitted under paragraph (1) copies of all comments received under subparagraph (B).”;

[(4) by striking “shall” in the first sentence of paragraph (4), as redesignated, of subsection (c) and inserting “may”; and

[(5) by adding at the end the following:

[“(l) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT SMALL AIRPORTS.—

[“(1) There is established a pilot program for the Secretary to test alternative procedures for authorizing small airports to impose passenger facility fees. An eligible agency may impose a passenger facility fee at a non-hub airport (as defined in section 47102 of this title) that it controls for use on eligible airport-related projects at that airport, in accordance with the provisions of this subsection. These procedures shall be in lieu of the procedures otherwise specified in this section.

[“(2) The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2), and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

[“(3) The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee, which notice shall include—

[“(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility charge is sought;

[“(B) the amount of revenue from passenger facility charges that is proposed to be collected for each project; and

[“(C) the level of the passenger facility charge that is proposed.

[“(4) The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

[“(5) Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice.

[“(6) Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

[“(7) The authority granted under this subsection shall expire three years after the issuance of the regulation required by paragraph (6).

[“(8) An acknowledgement issued under paragraph (4) shall not be considered an order of the Secretary issued under section 46110 of this title.”.

[SEC. 210. QUARTERLY STATUS REPORTS.

[Beginning with the second calendar quarter ending after the date of enactment of this Act, the Secretary of Transportation shall provide quarterly status reports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of construction of each major runway project undertaken at the largest 40 commercial airports in terms of annual enplanements.

[SEC. 211. NOISE DISCLOSURE REQUIREMENTS.

[(a) DEFINITIONS.—Section 47501 is amended by adding at the end—

[“(3) ‘Federal agency’ means any department, agency, corporation, or other establishment or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

[“(4) ‘Federal entity for lending regulation’ means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution.

[“(5) ‘Federal agency lender’ means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity.

[“(6) ‘residential real estate’ means real estate upon which a residential dwelling is located.

[“(7) ‘noise exposure map’ means a noise exposure map that complies with section 47503 of this title and part 150 of title 14, Code of Federal Regulations.

[“(8) ‘regulated lending institution’ means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation.”.

[(b) NOISE EXPOSURE MAPS.—Section 47503(b) is amended to read as follows:

[“(b) REVISED MAPS.—If, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, beyond the forecast year, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction.”.

[(c) NOTIFICATION OF NOISE EXPOSURE.—Chapter 457 is amended by adding at the end the following:

[“§ 47511. Notification of noise exposure

[“(a) NOISE EXPOSURE MAP.—An airport operator shall make available to lending institutions, upon request, the most recent noise exposure map submitted under section 47503 of this title.

[“(b) LIST OF AIRPORTS.—The Secretary shall maintain a list of airports for which the airport operators have submitted a noise exposure map under section 47503 of this title.

[“(c) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall direct by regulation that a regulated lending institution may not make, increase, extend or renew any loan secured by residential real estate or a mobile home that is located or to be located in the vicinity of an airport on the Secretary's list described in subsection (b), unless the loan applicant's purchase agreement for the residential real estate or mobile home provides notice to the purchaser (or satisfactory assurances are provided that the seller has provided written notice to the purchaser prior to the purchaser's signing of the purchase agreement) that the property is within the area of the noise contours on a noise exposure map submitted under section 47503 of this chapter. The notice to the purchaser shall be acknowledged by the purchaser's signing of the purchase agreement or other notification document and the regulated lending institution shall retain a record of the receipt of the notice by the purchaser.

[“(d) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation require notification in the manner provided in subsection (c) with respect to any loan that is made by the Federal agency lender and secured by residential real estate or a mobile home located or to be located in the vicinity of an airport on the Secretary's list described in subsection (b).

[“(e) CONTENTS OF NOTICE.—The notice required under this section shall disclose—

[“(1) that the property is located within the noise contours depicted on the most recent noise exposure map submitted by the airport operator according to section 47503 of this chapter, and is subject to aircraft noise exposure; and

[“(2) the name and telephone number of the airport where the purchaser may obtain more information on the aircraft noise exposure.”.

[SEC. 212. PROHIBITION ON REQUIRING AIRPORTS TO PROVIDE RENT-FREE SPACE FOR FAA OR TSA.

[(a) IN GENERAL.—Chapter 401 is amended by adding at the end the following:

[“§ 40129. Prohibition on rent-free space requirements for FAA or TSA

[“(a) IN GENERAL.—Neither the Secretary of Transportation nor the Secretary of Homeland Security may require airport sponsors to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration or the Transportation Security Administration without cost for services relating to air traffic control, air navigation, aviation security, or weather reporting.

[“(b) NEGOTIATED AGREEMENTS.—Subsection (a) does not prohibit—

[“(1) the negotiation of agreements between either Secretary and an airport sponsor to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration or the Transportation Security Administration without cost or at below-market rates; or

[“(2) either Secretary from requiring airport sponsors to provide land without cost to the Federal Aviation Administration for air traffic control facilities or space without cost to the Transportation Security Administration for necessary security checkpoints.”.

[(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 401 is amended by adding at the end the following:

[“40129. Prohibition on rent-free space requirements for FAA or TSA.”.

[SEC. 213. SPECIAL RULES FOR FISCAL YEAR 2004.

[(a) APPORTIONMENT TO CERTAIN AIRPORTS WITH DECLINING BOARDINGS.—

[(1) IN GENERAL.—For fiscal year 2004, the Secretary of Transportation may apportion funds under section 47114 of title 49, United States Code, to the sponsor of an airport described in paragraph (2) in an amount equal to the amount apportioned to that airport under that section for fiscal year 2002, notwithstanding any provision of section 47114 to the contrary.

[(2) AIRPORTS TO WHICH PARAGRAPH (1) APPLIES.—Paragraph (1) applies to any airport determined by the Secretary to have had—

[(A) less than one-half of 1 percent of the total United States passenger boardings (as defined in section 47102(10) of title 49, United States Code) for the calendar year used for determining apportionments under section 47114 for fiscal year 2004;

[(B) less than 10,000 passenger boardings in calendar year 2002; and

[(C) 10,000 or more passenger boardings in calendar year 2000.

[(b) TEMPORARY INCREASE IN GOVERNMENT SHARE OF AIP PROJECT COSTS AT CERTAIN AIRPORTS.—Notwithstanding section 47109(a)(3) of title 49, United States Code, the Government's share of allowable project costs for a grant made in fiscal year 2004 under chapter 471 of that title to an airport described in that section shall be 95 percent.

[TITLE III—AIRLINE SERVICE DEVELOPMENT

[SEC. 301. DELAY REDUCTION MEETINGS.

[(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following new section:

[“§ 41723. Delay reduction actions

[“(a) DELAY REDUCTION MEETINGS.—

[“(1) SCHEDULING REDUCTION MEETINGS.—The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during hours of peak operation if—

[“(A) the Administrator of the Federal Aviation Administration determines that it is necessary to convene such a meeting; and

[“(B) the Secretary determines that the meeting is necessary to meet a serious transportation need or achieve an important public benefit.

[“(2) MEETING CONDITIONS.—Any meeting under paragraph (1)—

[“(A) shall be chaired by the Administrator;

[“(B) shall be open to all scheduled air carriers; and

[“(C) shall be limited to discussions involving the airports and time periods described in the Administrator's determination.

[“(3) FLIGHT REDUCTION TARGETS.—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

[“(4) DELAY REDUCTION OFFERS.—An air carrier attending the meeting shall make any delay reduction offer to the Administrator rather than to another carrier.

[“(5) TRANSCRIPT.—The Administrator shall ensure that a transcript of the meeting is kept and made available to the public not later than 3 business days after the conclusion of the meeting.

[“(b) STORMY WEATHER AGREEMENTS LIMITED EXEMPTION.—

[“(1) IN GENERAL.—The Secretary may establish a program to authorize by order discussions and agreements between 2 or more air carriers for the purpose of reducing flight delays during periods of inclement weather.

[“(2) REQUIREMENTS.—An authorization issued under paragraph (1)—

[“(A) may only be issued by the Secretary after a determination by the Federal Aviation Administration that inclement weather is likely to adversely and directly affect capacity at an airport for a period of at least 3 hours;

[“(B) shall apply only to discussions and agreements concerning flights directly affected by the inclement weather; and

[“(C) shall remain in effect for a period of 24 hours.

[“(3) PROCEDURE.—The Secretary shall establish procedures within 30 days after such date of enactment for—

[“(A) filing requests for an authorization under paragraph (1);

[“(B) participation under paragraph (5) by representatives of the Department of Transportation in any meetings or discussions held pursuant to such an order; and

[“(C) the determination by the Federal Aviation Administration about the impact of inclement weather.

[“(4) COPY OF PARTICIPATION REQUEST FILED WITH SECRETARY.—Before an air carrier may request an order under paragraph (1), it shall file a request with the Secretary, in such form and manner as the Secretary may prescribe, to participate in the program established under paragraph (1).

["(5) DOT Participation.—The Secretary shall ensure that the Department is represented at any meetings authorized under this subsection.

["(c) Exemption Authorized.—When the Secretary finds that it is required by the public interest, the Secretary, as part of an order issued under subsection (b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the activities approved in the order.

["(d) Antitrust Laws Defined.—In this section, the term 'antitrust laws' has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

["(e) Sunset.—The authority of the Secretary to issue an order under subsection (b)(1) of this section expires at the end of the 2-year period that begins 45 days after the date of enactment of the Aviation Investment and Revitalization Vision Act. The Secretary may extend the 2-year Period for an additional 2 years if the Secretary determines that such an extension is necessary and in the public interest. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure of any such extension.".

[(b) Conforming Amendment.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 41722 the following new item:

["41723. Delay reduction actions.".

[SEC. 302. REAUTHORIZATION OF ESSENTIAL AIR SERVICE PROGRAM.

[There are authorized to be appropriated to the Secretary of Transportation to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, $113,000,000 for each of the fiscal years 2004, 2005, and 2006.

[SEC. 303. SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM.

[(a) 3-Year Extension.—Section 41743(e)(2) of title 49, United States Code, is amended—

[(1) by striking "There is" and inserting "There are";

[(2) by striking "2001 and" and inserting "2001,"; and

[(3) by striking "2003" and inserting "2003, and $27,500,000 for the 3 fiscal year period beginning with fiscal year 2004.".

[(b) Additional Communities.—Section 41743(c)(4) of such title is amended by striking "program." and inserting "program each year. No community, consortia of communities, or combination thereof may participate in the program twice.".

[SEC. 304. DOT STUDY OF COMPETITION AND ACCESS PROBLEMS AT LARGE AND MEDIUM HUB AIRPORTS.

[(a) In General.—The Secretary of Transportation shall study competition and airline access problems at hub airports (as defined in section 41731(a)(3)) of title 49, United States Code, and medium hub airports (as defined in section 41714(h)(9) of that title). In the study, the Secretary shall examine, among other matters—

[(1) gate usage and availability; and

[(2) the effects of the pricing of gates and other facilities on competition and access.

[(b) Report.—The Secretary shall transmit a report of the Secretary's findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving competition and airline access at such airports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act.

[SEC. 305. COMPETITION DISCLOSURE REQUIREMENT FOR LARGE AND MEDIUM HUB AIRPORTS.

[Section 47107 is amended by adding at the end the following:

["(q) Competition Disclosure Requirement.—

["(1) In general.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.

["(2) Competitive access.—If an airport denies an application by an air carrier to receive access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport, then, within 30 days after denying the request, the airport sponsor shall—

["(A) notify the Secretary of the denial; and

["(B) transmit a report to the Secretary that—

["(i) describes the request;

["(ii) explains the reasons for the denial; and

["(iii) provides a time frame within which, if any, the airport will be able to accommodate the request.

["(3) Definitions.—In this subsection:

["(A) Hub airport.—The term 'hub airport' has the meaning given that term by section 41731(a)(3).

["(B) Medium hub airport.—The term 'medium hub airport' has the meaning given that term by section 41714(h)(9).".

[TITLE IV—AVIATION SECURITY

[SEC. 401. STUDY OF EFFECTIVENESS OF TRANSPORTATION SECURITY SYSTEM.

[(a) In General.—The Secretary of Homeland Security shall study the effectiveness of the aviation security system, including the air marshal program, hardening of cockpit doors, and security screening of passengers, checked baggage, and cargo.

[(b) Report.—The Secretary shall transmit a report of the Secretary's findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving the effectiveness of aviation security to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act. In the report the Secretary shall also describe any redeployment of Transportation Security Administration resources based on those findings and conclusions. The Secretary may submit the report to the Committees in classified and redacted form.

[SEC. 402. AVIATION SECURITY CAPITAL FUND.

[(a) In General.—There is established within the Department of Transportation a fund to be known as the Aviation Security Capital Fund. There are appropriated to the Fund to $500,000,000 for each of the fiscal years 2004 through 2007, such amounts to be derived from fees received under section 44940 of title 49. United States Code. Amounts in the fund shall be allocated in such a manner that—

[(1) 40 percent shall be made available for hub airports;

[(2) 20 percent shall be made available for medium hub airports;

[(3) 15 percent shall be made available for small hub airports and non-hub airports; and

[(4) 25 percent may be distributed at the Secretary's discretion.

[(b) Purpose.—Amounts in the Fund shall be available to the Secretary of Transportation, after consultation with the Under Secretary of Homeland Security for Border and Transportation Security to provide financial assistance to airport sponsors to defray capital investment in transportation security at airport facilities in accordance with the provisions of this section. The program shall be administered in concert with the airport improvement program under chapter 417 of title 49, United States Code.

[(c) Apportionment.—Amounts made available under subsection (a)(1), (a)(2), or (a)(3) shall be apportioned among the airports in each category in accordance with a formula based on the ratio that passenger emplanements at each airport in the category bears to the total passenger emplanements at all airports in the that category.

[(d) Matching Requirements.—

[(1) In general.—Not less than the following percentage of the costs of any project funded under this section shall be derived from non-Federal sources:

[(A) For hub airports and medium hub airports, 25 percent.

[(B) For airports other than hub airports and medium hub airports, 10 percent.

[(2) Use of bond proceeds.—In determining the amount of non-Federal sources of funds, the proceeds of State and local bond issues shall not be considered to be derived, directly or indirectly, from Federal sources without regard to the Federal income tax treatment of interest and principal of such bonds.

[(e) Letters of Intent.—The Secretary of Transportation, or his delegate, may execute letters of intent to commit funding to airport sponsors from the Fund.

[(f) Conforming Amendment.—Section 44940(a)(1) of title 49, United States Code, is amended by adding at the end the following:

["(H) The costs of security-related capital improvements at airports.".

[(g) Definitions.—Any term used in this section that is defined or used in chapter 417 of title 49 United States Code has the meaning given that term in that chapter.

[SEC. 403. TECHNICAL AMENDMENTS RELATED TO SECURITY-RELATED AIRPORT DEVELOPMENT.

[(a) Definition of Airport Development.—Section 47102(3)(B) is amended—

[(1) by inserting "and" after the semicolon in clause (viii);

[(2) by striking "circular; and" in clause (ix) and inserting "circular."; and

[(3) by striking clause (x).

[(b) Improvement of Facilities and Equipment.—Section 301(a) of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 44901 note) is amended by striking "travel." and inserting "travel if the improvements or equipment will be owned and operated by the airport.".

[TITLE V—MISCELLANEOUS

[SEC. 501. EXTENSION OF WAR RISK INSURANCE AUTHORITY.

[(a) Extension of Policies.—Section 44302(f)(1) is amended by striking "2003," each place it appears and inserting "2006,".

[(b) Extension of Liability Limitation.—Section 44303(b) is amended by striking "2003," and inserting "2006,".

[(c) Extension of Authority.—Section 44310 is amended by striking "2003." and inserting "2006.".

[SEC. 502. COST-SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS.

[(a) IN GENERAL.—Chapter 445 is amended by adding at the end the following:

[“§ 44517. Program to permit cost-sharing of air traffic modernization projects

[“(a) IN GENERAL.—Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation's air transportation system by encouraging non-Federal investment in critical air traffic control facilities and equipment.

[“(b) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117 of this title.

[“(c) LIMITATION ON GRANT AMOUNTS.—No eligible project may receive more than $5,000,000 in Federal funds under the program.

[“(d) FUNDING.—The Secretary shall use amounts appropriated under section 48101(a) of this title to carry out this program.

[“(e) DEFINITIONS.—In this section:

[“(1) ELIGIBLE PROJECT.—The term ‘eligible project’ means a project relating to the Nation's air traffic control system that is certified or approved by the Administrator and that promotes safety, efficiency, or mobility. Such projects may include—

[“(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landing systems, weather and wind shear detection equipment, lighting improvements, and control towers;

[“(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

[“(C) facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and offshore flight tracking.

[“(2) PROJECT SPONSOR.—The term ‘project sponsor’ means any major user of the National Airspace System, as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more air carriers.

[“(f) TRANSFERS OF EQUIPMENT.—Notwithstanding any other provision of law, and upon agreement by the Administrator of the Federal Aviation Administration, project sponsors may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, or automation tools, the purchase of which was assisted by a grant made under this section, if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

[“(g) GUIDELINES.—The Administrator shall issue advisory guidelines on the implementation of the program, which shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5.”.

[(b) CONFORMING AMENDMENT.—The chapter analyses for chapter 445 is amended by adding at the end the following:

[“44517. Program to permit cost-sharing of air traffic modernization projects.”.

[SEC. 503. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS.

[Section 44726(a)(1) is amended —

[(1) by striking “or” after the semicolon in subparagraph (A);

[(2) by redesignating subparagraph (B) as subparagraph (D);

[(3) by inserting after subparagraph (A) the following:

[“(B) who knowingly, and with intent to defraud, carried out or facilitated an activity punishable under a law described in subparagraph (A);

[“(C) whose certificate is revoked under subsection (b) of this section; or”; and

[(4) by striking “convicted of such a violation.” in subparagraph (D), as redesignated, and inserting “described in subparagraph (A), (B) or (C).”.

[SEC. 504. CLARIFICATIONS TO PROCUREMENT AUTHORITY.

[(a) UPDATE AND CLARIFICATION OF AUTHORITY.—

[(1) Section 40110(c) is amended to read as follows:

[“(c) DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration may—

[“(1) notwithstanding section 1341(a)(1) of title 31, lease an interest in property for not more than 20 years;

[“(2) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace; and

[“(3) dispose of property under subsection (a)(2) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under sections 121, 123, and 126 and chapter 5 of title 40.”.

[(2) Section 40110(d)(1) is amended by striking “implement, not later than January 1, 1996,” and inserting “implement”.

[(b) CLARIFICATION.—Section 106(f)(2)(A)(ii) is amended by striking “property” and inserting “property, services,”.]

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49.

(a) SHORT TITLE.—This Act may be cited as the “Aviation Investment and Revitalization Vision Act”.

(b) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. TABLE OF CONTENTS.

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Sec. 401. Study of effectiveness of transportation security system.
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Sec. 516. National commission on small community air service.
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TITLE VI—SECOND CENTURY OF FLIGHT

Sec. 601. Findings.

Subtitle A—The Office of Aerospace and Aviation Liaison

Sec. 621. Office of Aerospace and Aviation Liaison.

Sec. 622. National Air Traffic Management System Development Office.
Sec. 623. Report on certain market developments and government policies.

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Sec. 641. Aerospace and Aviation Safety workforce initiative.
Sec. 642. Scholarships for service.

Subtitle C—FAA Research, Engineering, and Development

Sec. 661. Research program to improve airfield pavements.
Sec. 662. Ensuring appropriate standards for airfield pavements.
Sec. 663. Assessment of wake turbulence research and development program.
Sec. 664. Cabin air quality research program.
Sec. 665. International role of the FAA.
Sec. 666. FAA report on other nations' safety and technological advancements.
Sec. 667. Development of analytical tools and certification methods.
Sec. 668. Pilot program to provide incentives for development of new technologies.
Sec. 669. FAA center for excellence for applied research and training in the use of advanced materials in transport aircraft.
Sec. 670. FAA certification of design organizations.
Sec. 671. Report on long term environmental improvements.

TITLE I—REAUTHORIZATIONS; FAA MANAGEMENT

SEC. 101. AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103 is amended—

(1) by inserting "(a) IN GENERAL.—" before "The";

(2) by striking "and" in paragraph (4);

(3) by striking "2003." in paragraph (5) and inserting "2003;";

(4) by inserting after paragraph (5) the following:

"(6) $3,400,000,000 for fiscal year 2004;

"(7) $3,500,000,000 for fiscal year 2005; and

"(8) $3,600,000,000 for fiscal year 2006."; and

(5) by adding at the end the following:

"(b) ADMINISTRATIVE EXPENSES.—From the amounts authorized by paragraphs (6) through (8) of subsection (a), there shall be available for administrative expenses relating to the airport improvement program, passenger facility fee approval and oversight, national airport system planning, airport standards development and enforcement, airport certification, airport-related environmental activities (including legal service), to remain available until expended—

"(1) for fiscal year 2004, $69,737,000;

"(2) for fiscal year 2005, $71,816,000; and

"(3) for fiscal year 2006, $74,048,000.".

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "2003," and inserting "2006,".

SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.

(a) IN GENERAL.—Section 48101(a) is amended by adding at the end the following:

"(6) $2,916,000,000 for fiscal year 2004.

"(7) $2,971,000,000 for fiscal year 2005.

"(8) $3,030,000,000 for fiscal year 2006.".

(b) BIANNUAL REPORTS.—Beginning 180 days after the date of enactment of Act, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure every 6 months that describes—

(1) the 10 largest programs funded under section 48101(a) of title 49, United States Code;

(2) any changes in the budget for such programs;

(3) the program schedule; and

(4) technical risks associated with the programs.

SEC. 103. FAA OPERATIONS.

(a) IN GENERAL.—Section 106(k)(1) is amended—

(1) by striking "and" in subparagraph (C);

(2) by striking "2003." in subparagraph (D) and inserting "2003;"; and

(3) by adding at the end the following:

"(E) $7,591,000,000 for fiscal year 2004;

"(F) $7,732,000,000 for fiscal year 2005; and

"(G) $7,889,000,000 for fiscal year 2006.".

(b) ANNUAL REPORT.—Beginning with the submission of the Budget of the United States to the Congress for fiscal year 2004, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that describes the overall air traffic controller staffing plan, including strategies to address anticipated retirement and replacement of air traffic controllers.

SEC. 104. RESEARCH, ENGINEERING, AND DEVELOPMENT.

(a) AMOUNTS AUTHORIZED.—Section 48102(a) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(3) by adding at the end the following:

"(9) for fiscal year 2004, $289,000,000, including—

"(A) $200,000,000 to improve aviation safety, including icing, crashworthiness, and aging aircraft;

"(B) $18,000,000 to improve the efficiency of the air traffic control system;

"(C) $27,000,000 to reduce the environmental impact of aviation;

"(D) $16,000,000 to improve the efficiency of mission support; and

"(E) $28,000,000 to improve the durability and maintainability of advanced material structures in transport airframe structures;

"(10) for fiscal year 2005, $304,000,000, including—

"(A) $211,000,000 to improve aviation safety;

"(B) $19,000,000 to improve the efficiency of the air traffic control system;

"(C) $28,000,000 to reduce the environmental impact of aviation;

"(D) $17,000,000 to improve the efficiency of mission support; and

"(E) $29,000,000 to improve the durability and maintainability of advanced material structures in transport airframe structures; and

"(11) for fiscal year 2006, $317,000,000, including—

"(A) $220,000,000 to improve aviation safety;

"(B) $20,000,000 to improve the efficiency of the air traffic control system;

"(C) $29,000,000 to reduce the environmental impact of aviation;

"(D) $18,000,000 to improve the efficiency of mission support; and

"(E) $30,000,000 to improve the durability and maintainability of advanced material structures in transport airframe structures.".

SEC. 105. OTHER PROGRAMS.

Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century is amended—

(1) by striking "2003" in subsection (a)(1)(A) and subsection (c)(2) and inserting "2006"; and

(2) by striking "2003," in subsection (a)(2) and inserting "2006,".

SEC. 106. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE.

(a) IN GENERAL.—Section 106 is amended—

(1) by redesignating subsections (q) and (r) as subsections (r) and (s), respectively; and

(2) by inserting after subsection (p) the following:

"(q) AIR TRAFFIC MANAGEMENT COMMITTEE.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an advisory committee which shall be known as the Air Traffic Services Committee (in this subsection referred to as the 'Committee').

"(2) MEMBERSHIP.—

"(A) COMPOSITION AND APPOINTMENT.—The Committee shall be composed of—

"(i) the Administrator of the Federal Aviation Administration, who shall serve as chair; and

"(ii) 4 members, to be appointed by the Secretary, after consultation with the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

"(B) NO FEDERAL OFFICER OR EMPLOYEE.—No member appointed under subparagraph (A)(ii) may serve as an officer or employee of the United States Government while serving as a member of the Committee.

"(C) ELIGIBILITY.—Members appointed under subparagraph (A)(ii) shall—

"(i) have a fiduciary responsibility to represent the public interest;

"(ii) be citizens of the United States; and

"(iii) be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas:

"(I) Management of large service organizations.

"(II) Customer service.

"(III) Management of large procurements.

"(IV) Information and communications technology.

"(V) Organizational development.

"(VI) Labor relations.

At least one of such members should have a background in managing large organizations successfully. In the aggregate, such members should collectively bring to bear expertise in all of the areas described in subclauses (I) through (VI).

"(D) PROHIBITIONS ON MEMBERS OF COMMITTEE.—No member appointed under subparagraph (A)(ii) may—

"(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

"(ii) engage in another business related to aviation or aeronautics; or

"(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.

"(E) CLAIMS AGAINST MEMBERS.—

"(i) IN GENERAL.—A member appointed under subparagraph (A)(ii) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member of the Air Traffic Services Committee.

"(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

"(I) to affect any other immunity or protection that may be available to a member of the Committee under applicable law with respect to such transactions;

"(II) to affect any other right or remedy against the United States under applicable law; or

"(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

"(F) ETHICAL CONSIDERATIONS.—

"(i) FINANCIAL DISCLOSURE.—During the entire period that an individual appointed under subparagraph (A)(ii) is a member of the Committee, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act; except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

"(ii) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, an individual appointed under subparagraph (A)(ii) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Committee; except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

"(G) TERMS FOR AIR TRAFFIC SERVICES COMMITTEE MEMBERS.—A member appointed under subparagraph (A)(ii) shall be appointed for a term of 5 years.

"(H) REAPPOINTMENT.—An individual may not be appointed under subparagraph (A)(ii) to more than two 5-year terms.

"(I) VACANCY.—Any vacancy on the Committee shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

"(J) CONTINUATION IN OFFICE.—A member whose term expires shall continue to serve until the date on which the member's successor takes office.

"(K) REMOVAL.—Any member appointed under subparagraph (A)(ii) may be removed for cause by the Secretary.

"(3) GENERAL RESPONSIBILITIES.—

"(A) OVERSIGHT.—The Committee shall oversee the administration, management, conduct, direction, and supervision of the air traffic control system.

"(B) CONFIDENTIALITY.—The Committee shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

"(4) SPECIFIC RESPONSIBILITIES.—The Committee shall have the following specific responsibilities:

"(A) STRATEGIC PLANS.—To review, approve, and monitor the strategic plan for the air traffic control system, including the establishment of—

"(i) a mission and objectives;

"(ii) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

"(iii) annual and long-range strategic plans.

"(B) MODERNIZATION AND IMPROVEMENT.—To review and approve—

"(i) methods to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control; and

"(ii) procurements of air traffic control equipment in excess of $100,000,000.

"(C) OPERATIONAL PLANS.—To review the operational functions of the air traffic control system, including—

"(i) plans for modernization of the air traffic control system;

"(ii) plans for increasing productivity or implementing cost-saving measures; and

"(iii) plans for training and education.

"(D) MANAGEMENT.—To—

"(i) review and approve the Administrator's appointment of a Chief Operating Officer under section 106(s);

"(ii) review the Administrator's selection, evaluation, and compensation of senior executives of the Administration who have program management responsibility over significant functions of the air traffic control system;

"(iii) review and approve the Administrator's plans for any major reorganization of the Administration that would impact on the management of the air traffic control system;

"(iv) review and approve the Administrator's cost accounting and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation; and

"(v) review the performance and compensation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets.

"(E) BUDGET.—To—

"(i) review and approve the budget request of the Administration related to the air traffic control system prepared by the Administrator;

"(ii) submit such budget request to the Secretary; and

"(iii) ensure that the budget request supports the annual and long-range strategic plans.

"(5) CONGRESSIONAL REVIEW OF PRE-OMB BUDGET REQUEST.—The Secretary shall submit the budget request referred to in paragraph (4)(E)(ii) for any fiscal year to the President who shall transmit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President's annual budget request for the Federal Aviation Administration for such fiscal year.

"(6) COMMITTEE PERSONNEL MATTERS.—

"(A) COMPENSATION OF MEMBERS.—Each member of the Committee, other than the chair and vice chair, shall be compensated at a rate of $25,000 per year.

"(B) STAFF.—The chairperson of the Committee may appoint and terminate any personnel that may be necessary to enable the Committee to perform its duties.

"(C) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(7) ADMINISTRATIVE MATTERS.—

"(A) POWERS OF CHAIR.—Except as otherwise provided by a majority vote of the Committee, the powers of the chairperson shall include—

"(i) establishing subcommittees;

"(ii) setting meeting places and times;

"(iii) establishing meeting agendas; and

"(iv) developing rules for the conduct of business.

"(B) MEETINGS.—The Committee shall meet at least quarterly and at such other times as the chairperson determines appropriate.

"(C) QUORUM.—Three members of the Committee shall constitute a quorum. A majority of members present and voting shall be required for the Committee to take action.

"(D) APPLICATION OF SUBSECTION (p) PROVISIONS.—The following provisions of subsection (p) apply to the Committee to the same extent as they apply to the Management Advisory Council:

"(i) Paragraph (4)(C) (relating to access to documents and staff).

"(ii) Paragraph (5) (relating to nonapplication of Federal Advisory Committee Act).

"(iii) Paragraph (6)(G) (relating to travel and per diem).

"(iv) Paragraph (6)(H) (relating to detail of personnel).

"(8) ANNUAL REPORT.—The Committee shall each year report with respect to the conduct of its responsibilities under this title to the Administrator, the Management Advisory Council, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (p) of section 106 is amended—

(A) by striking "18" in paragraph (2) and inserting "13";

(B) by inserting "and" after the semicolon in subparagraph (C) of paragraph (2);

(C) by striking "Transportation; and" in subparagraph (D) of paragraph (2) and inserting "Transportation.";

(D) by striking subparagraph (E) of paragraph (2);

(E) by striking paragraph (3) and inserting the following:

"(3) NO FEDERAL OFFICER OR EMPLOYEE.—No member appointed under paragraph (2)(C) may serve as an officer or employee of the United States Government while serving as a member of the Council.";

(F) by striking subparagraphs (C), (D), (H), and (I) of paragraph (6) and redesignating subparagraphs (E), (F), (G), (J), (K), and (L) as subparagraphs (C), (D), (E), (F), (G), and (H), respectively; and

(G) by striking paragraphs (7) and (8).

(2) Section 106(q) (as redesignated by subsection (a) of this section) is amended—

(A) by striking "Air Traffic Services Subcommittee of the Aviation Management Advisory Council." and inserting "Air Traffic Services Committee." in paragraphs (1)(A) and (2)(A); and

(B) by striking "Air Traffic Services Subcommittee of the Aviation Management Advisory Council," and inserting "Air Traffic Services Committee," in paragraph (3).

(3) Section 106 is amended by adding at the end the following:

"(t) AIR TRAFFIC CONTROL SYSTEM DEFINED.—In this section, the term 'air traffic control system' has the meaning such term has under section 40102(a).".

(c) TRANSITION FROM AIR TRAFFIC SERVICE SUBCOMMITTEE TO AIR TRAFFIC SERVICE COMMITTEE.—

(1) TERMINATION OF MANAGEMENT ADVISORY COUNCIL MEMBERSHIP.—Effective on the day after the date of enactment of this Act, any member of the Management Advisory Council appointed under section 106(p)(2)(E) of title 49, United States Code, (as such section was in effect on the day before such date of enactment) who is a member of the Council on such date of enactment shall cease to be a member of the Council.

(2) COMMENCEMENT OF MEMBERSHIP ON AIR TRAFFIC SERVICES COMMITTEE.—Effective on the day after the date of enactment of this Act, any member of the Management Advisory Council whose membership is terminated by paragraph (1) shall become a member of the Air Traffic Services Committee as provided by section 106(q)(2)(G) of title 49, United States Code, to serve for the remainder of the term to which that member was appointed to the Council.

SEC. 107. CLARIFICATION OF RESPONSIBILITIES OF CHIEF OPERATING OFFICER.

Section 106(s) (as redesignated by section 106(a)(1) of this Act) is amended—

(1) by striking "Transportation and Congress" in paragraph (4) and inserting "Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate,";

(2) by striking "develop a strategic plan of the Administration for the air traffic control system, including the establishment of—" in paragraph (5)(A) and inserting "implement the strategic plan of the Administration for the air traffic control system in order to further—";

(3) by striking "To review the operational functions of the Administration," in paragraph (5)(B) and inserting "To oversee the day-to-day operational functions of the Administration for air traffic control,";

(4) by striking "system prepared by the Administrator;" in paragraph (5)(C)(i) and inserting "system;";

(5) by striking "Administrator and the Secretary of Transportation;" in paragraph (5)(C)(ii) and inserting "Administrator;"; and

(6) by striking paragraph (5)(C)(iii) and inserting the following:

"(iii) ensure that the budget request supports the agency's annual and long-range strategic plans for air traffic control services.".

TITLE II—AIRPORT DEVELOPMENT

SEC. 201. NATIONAL CAPACITY PROJECTS.

(a) In General.—Part B of subtitle VII is amended by adding at the end the following:

"CHAPTER 477. NATIONAL CAPACITY PROJECTS

"47701. Capacity enhancement.
"47702. Designation of national capacity projects.
"47703. Expedited coordinated environmental review process; project coordinators and environment impact teams.
"47704. Compatible land use initiative for national capacity projects.
"47705. Air traffic procedures at national capacity projects.
"47706. Pilot program for environmental review at national capacity projects.
"47707. Definitions.

"§47701. Capacity enhancement

"(a) In General.—Within 30 days after the date of enactment of the Aviation Investment and Revitalization Vision Act, the Secretary of Transportation shall identify those airports among the 31 airports covered by the Federal Aviation Administration's Airport Capacity Benchmark Report 2001 with delays that significantly affect the national air transportation system.

"(b) Task Force; Capacity Enhancement Study.—

"(1) In general.—The Secretary shall direct any airport identified by the Secretary under subsection (a) that is not engaged in a runway expansion process and has not initiated a capacity enhancement study (or similar capacity assessment) since 1996—

"(A) to establish a delay reduction task force to study means of increasing capacity at the airport, including air traffic, airline scheduling, and airfield expansion alternatives; or

"(B) to conduct a capacity enhancement study.

"(2) Scope.—The scope of the study shall be determined by the airport and the Federal Aviation Administration, and where appropriate shall consider regional capacity solutions.

"(3) Recommendations submitted to secretary.—

"(A) Task force.—A task force established under this subsection shall submit a report containing its findings and conclusions, together with any recommendations for capacity enhancement at the airport, to the Secretary within 9 months after the task force is established.

"(B) CES.—A capacity enhancement study conducted under this subsection shall be submitted, together with its findings and conclusions, to the Secretary as soon as the study is completed.

"(c) Runway Expansion and Reconfiguration.—If the report or study submitted under subsection (b)(3) includes a recommendation for the construction or reconfiguration of runways at the airport, then the Secretary and the airport shall complete the planning and environmental review process within 5 years after report or study is submitted to the Secretary. The Secretary may extend the 5-year deadline under this subsection for up to 1 year if the Secretary determines that such an extension is necessary and in the public interest. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure of any such extension.

"(d) Airports That Decline To Undertake Expansion Projects.—

"(1) In general.—If an airport at which the construction or reconfiguration of runways is recommended does not take action to initiate a planning and environmental assessment process for the construction or reconfiguration of those runways within 30 days after the date on which the report or study is submitted to the Secretary, then—

"(A) the airport shall be ineligible for planning and other expansion funds under subchapter I of chapter 471, notwithstanding any provision of that subchapter to the contrary; and

"(B) no passenger facility fee may be approved at that airport during the 5-year period beginning 30 days after the date on which the report or study is submitted to the Secretary, for—

"(i) projects that, but for subparagraph (A), could have been funded under chapter 471; or

"(ii) any project other than on-airport airfield-side capacity or safety-related projects.

"(2) Safety-related and environmental projects excepted.—Paragraph (1) does not apply to the use of funds for safety-related, security, or environment projects.

"(e) Airports That Take Action.—The Secretary shall take all actions possible to expedite funding and provide options for funding to any airport undertaking runway construction or reconfiguration projects in response to recommendations by its task force.

"§47702. Designation of national capacity projects

"(a) In General.—In response to a petition from an airport sponsor, or in the case of an airport on the list of airports covered by the Federal Aviation Administration's Airport Capacity Benchmarks study, the Secretary of Transportation may designate an airport development project as a national capacity project if the Secretary determines that the project to be designated will significantly enhance the capacity of the national air transportation system.

"(b) Designation To Remain in Effect for 5 Years.—The designation of a project as a national capacity project under paragraph (1) shall remain in effect for 5 years. The Secretary may extend the 5-year period for up to 2 additional years upon request if the Secretary finds that substantial progress is being made toward completion of the project.

"§47703. Expedited coordinated environmental review process; project coordinators and environment impact teams

"(a) In General.—The Secretary of Transportation shall implement an expedited coordinated environmental review process for national capacity projects that—

"(1) provides for better coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(2) provides for an expedited and coordinated process in the conduct of environmental reviews that ensures that, where appropriate, the reviews are done concurrently and not consecutively; and

"(3) provides for a date certain for completing all environmental reviews.

"(b) High Priority for Airport Environmental Reviews.—Each department and agency of the United States Government with jurisdiction over environmental reviews shall accord any such review involving a national capacity project the highest possible priority and conduct the review expeditiously. If the Secretary finds that any such department or agency is not complying with the requirements of this subsection, the Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure immediately.

"(c) Project Coordinators; EIS Teams.—

"(1) Designation.—For each project designated by the Secretary as a national capacity project under subsection (a) for which an environmental impact statement or environmental assessment must be filed, the Secretary shall—

"(A) designate a project coordinator within the Department of Transportation; and

"(B) establish an environmental impact team within the Department.

"(2) Function.—The project coordinator and the environmental impact team shall—

"(A) coordinate the activities of all Federal, State, and local agencies involved in the project;

"(B) to the extent possible, working with Federal, State and local officials, reduce and eliminate duplicative and overlapping Federal, State, and local permit requirements;

"(C) to the extent possible, eliminate duplicate Federal, State, and local environmental review procedures; and

"(D) provide direction for compliance with all applicable Federal, State, and local environmental requirements for the project.

"§47704. Compatible land use initiative for national capacity projects

"(a) In General.—The Secretary of Transportation may make grants under chapter 471 to States and units of local government for land use compatibility plans directly related to national capacity projects for the purposes of making the use of land areas around the airport compatible with aircraft operations if the land use plan or project meets the requirements of this section.

"(b) Conditions.—A land use plan or project meets the requirements of this section if it—

"(1) is sponsored by the public agency that has the authority to plan and adopt land use control measures, including zoning, in the planning area in and around the airport and that agency provides written assurances to the Secretary that it will work with the affected airport to identify and adopt such measures;

"(2) does not duplicate, and is not inconsistent with, an airport noise compatibility program prepared by an airport owner or operator under chapter 475 or with other planning carried out by the airport;

"(3) is subject to an agreement between the public agency sponsor and the airport owner or operator that the development of the land use compatibility plan will be done cooperatively;

"(4) is consistent with the airport operation and planning, including the use of any noise exposure contours on which the land use compatibility planning or project is based; and

"(5) has been approved jointly by the airport owner or operator and the public agency sponsor.

"(c) Assurances From Sponsors.—The Secretary may require the airport sponsor, public agency, or other entity to which a grant may be awarded under this section to provide such additional assurances, progress reports, and other information as the Secretary determines to be necessary to carry out this section.

"§47705. Air traffic procedures at national capacity projects

"(a) In General.—The Secretary of Transportation may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of the project during the environmental planning process for a national capacity project that involves the construction of new runways or the reconfiguration

of existing runways. If the Secretary determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, then, at the request of the airport sponsor, the Administrator may, in a manner consistent with applicable Federal law, commit to prescribing such procedures in any record of decision approving the project.

"(b) MODIFICATION.—Notwithstanding any commitment by the Secretary under subsection (a), the Secretary may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

"§47706. Pilot program for environmental review at national capacity projects

"(a) IN GENERAL.—The Secretary of Transportation shall initiate a 5-year pilot program funded by airport sponsors—

"(1) to hire additional fulltime-equivalent environmental specialists and attorneys, or

"(2) to obtain the services of such specialists and attorneys from outside the United States Government, to assist in the provision of an appropriate nationwide level of staffing for planning and environmental review of runway development projects for national capacity projects at the Federal Aviation Administration.

"(b) ELIGIBLE PARTICIPANTS.—Participation in the pilot program shall be available, on a voluntary basis, to airports with an annual passenger enplanement of not less than 3 million passengers. The Secretary shall specify the minimum contribution necessary to qualify for participation in the pilot program, which shall be not less than the amount necessary to compensate the Department of Transportation for the expense of a fulltime equivalent environmental specialist and attorney qualified at the GS-14 equivalent level.

"(c) RETENTION OF REVENUES.—The salaries and expenses account of the Federal Aviation Administration shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by subsection (a). Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Such offsetting collections are authorized to remain available until expended for such purpose.

"§47707. Definitions

"In this chapter:

"(1) NATIONAL CAPACITY PROJECT.—The term 'national capacity project' means a project designated by the Secretary under section 44702.

"(2) OTHER TERMS.—The definitions in section 47102 apply to any terms used in this chapter that are defined in that section.".

(b) ADDITIONAL STAFF AUTHORIZED.—The Secretary of Transportation is authorized to hire additional environmental specialists and attorneys needed to process environmental impact statements in connection with airport construction projects and to serve as project coordinators and environmental impact team members under section 47703 of title 49, United States Code.

(c) CLERICAL AMENDMENT.—The analysis for subtitle VII is amended by inserting after the item relating to section 475 the following:

"477. National capacity projects .. 47701".

SEC. 202. CATEGORICAL EXCLUSIONS.

Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall report to the Senate Committee on Commerce, Science, and Transportation on the categorical exclusions currently recognized and provide a list of proposed additional categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports. In determining the list of additional proposed categorical exclusions, the Secretary shall include such other projects as the Secretary determines should be categorically excluded in order to ensure that Department of Transportation environmental staff resources are not diverted to lower priority tasks and are available to expedite the environmental reviews of airport capacity enhancement projects at congested airports.

SEC. 203. ALTERNATIVES ANALYSIS.

(a) NOTICE REQUIREMENT.—Not later than 30 days after the date on which the Secretary of Transportation identifies an airport capacity enhancement project at a congested airport under section 47171(c) of title 49, United States Code, the Secretary shall publish a notice in the Federal Register requesting comments on whether reasonable alternatives exist to the project.

(b) CERTAIN REASONABLE ALTERNATIVES DEFINED.—For purposes of this section, an alternative shall be considered reasonable if—

(1) the alternative does not create an unreasonable burden on interstate commerce, the national aviation system, or the navigable airspace;

(2) the alternative is not inconsistent with maintaining the safe and efficient use of the navigable airspace;

(3) the alternative does not conflict with a law or regulation of the United States;

(4) the alternative would result in at least the same reduction in congestion at the airport or in the national aviation system as the proposed project; and

(5) in any case in which the alternative is a proposed construction project at an airport other than a congested airport, firm commitments to provide such alternate airport capacity exists, and the Secretary determines that such alternate airport capacity will be available no later than 4 years after the date of the Secretary's determination under this section.

(c) COMMENT PERIOD.—The Secretary shall provide a period of 60 days for comments on a project identified by the Secretary under this section after the date of publication of notice with respect to the project.

(d) DETERMINATION OF EXISTENCE OF REASONABLE ALTERNATIVES.—Not later than 90 days after the last day of a comment period established under subsection (c) for a project, the Secretary shall determine whether reasonable alternatives exist to the project. The determination shall be binding on all persons, including Federal and State agencies, acting under or applying Federal laws when considering the availability of alternatives to the project.

(e) LIMITATION ON APPLICABILITY.—This section does not apply to—

(1) any alternatives analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(2) a project at an airport if the airport sponsor requests, in writing, to the Secretary that this section not apply to the project.

SEC. 204. INCREASE IN APPORTIONMENT FOR, AND FLEXIBILITY OF, NOISE COMPATIBILITY PLANNING PROGRAMS.

Section 47117(e)(1)(A) is amended—

(1) by striking the first sentence and inserting: "At least 35 percent for grants for airport noise compatibility planning under section 47505(a)(2) for a national capacity project, for carrying out noise compatibility programs under section 47504(c) of this title, and for noise mitigation projects approved in an environmental record of decision for an airport development project designated as a national capacity project under section 47702."; and

(2) by striking "or not such 34 percent requirement" in the second sentence and inserting "the funding level required by the preceding sentence".

SEC. 205. SECRETARY OF TRANSPORTATION TO IDENTIFY AIRPORT CONGESTION-RELIEF PROJECTS AND FORECAST AIRPORT OPERATIONS ANNUALLY.

(a) IDENTIFICATION OF PROJECTS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall provide—

(A) a list of planned air traffic and airport-capacity projects at congested Airport Capacity Benchmark airports the completion of which will substantially relieve congestion at those airports; and

(B) a list of options for expanding capacity at the 8 airports on the list at which the most severe delays are occurring, to the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure. The Secretary shall provide updated lists to those Committees 2 years after the date of enactment of this Act.

(2) DELISTING OF PROJECTS.—The Secretary shall remove a project from the list provided to the Committees under paragraph (1) upon the request, in writing, of an airport operator if the operator states in the request that construction of the project will not be completed within 10 years from the date of the request.

SEC. 206. DESIGN-BUILD CONTRACTING.

(a) IN GENERAL.—Subchapter I of chapter 471 is amended by adding at the end the following:

"§47138. Design-build contracting

"(a) IN GENERAL.—The Administrator may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if—

"(1) the Administrator approves the application using criteria established by the Administrator;

"(2) the design-build contract is in a form that is approved by the Administrator;

"(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

"(4) use of a design-build contract will be cost effective and expedite the project;

"(5) the Administrator is satisfied that there will be no conflict of interest; and

"(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least three or more bids will be submitted for each project under the selection process.

"(b) REIMBURSEMENT OF COSTS.—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under this chapter 471, if the project were carried out after a grant agreement had been executed.

"(c) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term 'design-build contract' means an agreement that provides for both design and construction of a project by a contractor.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47137 the following:

"47138. Design-build contracting.".

SEC. 207. SPECIAL RULE FOR AIRPORT IN ILLINOIS.

(a) IN GENERAL.—Nothing in this title shall be construed to preclude the application of any provision of this Act to the State of Illinois or any other sponsor of a new airport proposed to be constructed in the State of Illinois.

(b) Authority of the Governor.—Nothing in this title shall be construed to preempt the authority of the Governor of the State of Illinois as of August 1, 2001, to approve or disapprove airport development projects.

SEC. 208. ELIMINATION OF DUPLICATIVE REQUIREMENTS.

(a) In General.—Section 47106(c)(1) is amended—

(1) by inserting "and" after "project;" in subparagraph (A)(ii);

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) Conforming Amendments.—Section 47106(c) of such title is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) by striking "(1)(C)" in paragraph (4), as redesignated, and inserting "(1)(B)".

SEC. 209. STREAMLINING THE PASSENGER FACILITY FEE PROGRAM.

Section 40117 is amended—

(1) by striking from "finds—" in paragraph (4) of subsection (b) through the end of that paragraph and inserting "finds that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103.";

(2) by adding at the end of subsection (c)(2) the following:

"(E) The agency will include in its application or notice submitted under subsection (1) copies of all certifications of agreement or disagreement received under subparagraph (D).

"(F) For the purpose of this section, an eligible agency providing notice and consultation to an air carrier and foreign air carrier is deemed to have satisfied this requirement if it limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest on the airport. In developing regulations to implement this provision, the Secretary shall consider a significant business interest to be defined as an air carrier or foreign air carrier that has no less than 1.0 percent of boardings at the airport in the prior calendar year, except that no air carrier or foreign air carrier may be considered excluded under this section if it has at least 25,000 boardings at the airport in the prior calendar year, or if it operates scheduled service, without regard to such percentage requirements.";

(3) by redesignating paragraph (3) of subsection (c) as paragraph (4) and inserting after paragraph (2) the following:

"(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least—

"(A) a requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies who may be affected, including—

"(i) publication in local newspapers of general circulation;

"(ii) publication in other local media; and

"(iii) posting the notice on the agency's website;

"(B) a requirement for submission of public comments no sooner than 30 days after publishing of the notice and not later than 45 days after publication; and

"(C) a requirement that the agency include in its application or notice submitted under paragraph (1) copies of all comments received under subparagraph (B).";

(4) by striking "shall" in the first sentence of paragraph (4), as redesignated, of subsection (c) and inserting "may"; and

(5) by adding at the end the following:

"(l) Pilot Program for Passenger Facility Fee Authorizations at Small Airports.—

"(1) There is established a pilot program for the Secretary to test alternative procedures for authorizing small airports to impose passenger facility fees. An eligible agency may impose a passenger facility fee at a non-hub airport (as defined in section 47102 of this title) that it controls for use on eligible airport-related projects at that airport, in accordance with the provisions of this subsection. These procedures shall be in lieu of the procedures otherwise specified in this section.

"(2) The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2), and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

"(3) The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee, which notice shall include—

"(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility charge is sought;

"(B) the amount of revenue from passenger facility charges that is proposed to be collected for each project; and

"(C) the level of the passenger facility charge that is proposed.

"(4) The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

"(5) Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice.

"(6) Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

"(7) The authority granted under this subsection shall expire three years after the issuance of the regulation required by paragraph (6).

"(8) An acknowledgement issued under paragraph (4) shall not be considered an order of the Secretary issued under section 46110 of this title.".

SEC. 210. QUARTERLY STATUS REPORTS.

Beginning with the second calendar quarter ending after the date of enactment of this Act, the Secretary of Transportation shall provide quarterly status reports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of construction of each major runway project undertaken at the largest 40 commercial airports in terms of annual enplanements.

SEC. 211. NOISE DISCLOSURE REQUIREMENTS.

(a) Definitions.—Section 47501 is amended by adding at the end—

"(3) 'Federal agency' means any department, agency, corporation, or other establishment or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

"(4) 'Federal entity for lending regulation' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution.

"(5) 'Federal agency lender' means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity.

"(6) 'residential real estate' means real estate upon which a residential dwelling is located.

"(7) 'noise exposure map' means a noise exposure map that complies with section 47503 of this title and part 150 of title 14, Code of Federal Regulations.

"(8) 'regulated lending institution' means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation.".

(b) Noise Exposure Maps.—Section 47503(b) is amended to read as follows:

"(b) Revised Maps.—If, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, beyond the forecast year, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction.".

(c) Notification of Noise Exposure.—Chapter 457 is amended by adding at the end the following:

"§47511. Notification of noise exposure

"(a) Noise Exposure Map.—An airport operator shall make available to lending institutions, upon request, the most recent noise exposure map submitted under section 47503 of this title.

"(b) List of Airports.—The Secretary shall maintain a list of airports for which the airport operators have submitted a noise exposure map under section 47503 of this title.

"(c) Regulated Lending Institutions.—Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall direct by regulation that a regulated lending institution may not make, increase, extend or renew any loan secured by residential real estate or a mobile home that is located or to be located in the vicinity of an airport on the Secretary's list described in subsection (b), unless the loan applicant's purchase agreement for the residential real estate or mobile home provides notice to the purchaser (or satisfactory assurances are provided that the seller has provided written notice to the purchaser prior to the purchaser's signing of the purchase agreement) that the property is within the area of the noise contours on a noise exposure map submitted under section 47503 of this chapter. The notice to the purchaser shall be acknowledged by the purchaser's signing of the purchase agreement or other notification document and the regulated lending institution shall retain a record of the receipt of the notice by the purchaser.

"(d) Federal Agency Lenders.—Each Federal agency lender shall by regulation require notification in the manner provided in subsection (c) with respect to any loan that is made by the Federal agency lender and secured by residential real estate or a mobile home located or to be located in the vicinity of an airport on the Secretary's list described in subsection (b).

"(e) Contents of Notice.—The notice required under this section shall disclose—

"(1) that the property is located within the noise contours depicted on the most recent noise exposure map submitted by the airport operator according to section 47503 of this chapter, and is subject to aircraft noise exposure; and

"(2) the name and telephone number of the airport where the purchaser may obtain more information on the aircraft noise exposure.".

SEC. 212. PROHIBITION ON REQUIRING AIRPORTS TO PROVIDE RENT-FREE SPACE FOR FAA OR TSA.

(a) In General.—Chapter 401 is amended by adding at the end the following:

"§40129. Prohibition on rent-free space requirements for FAA or TSA

"(a) In General.—Neither the Secretary of Transportation nor the Secretary of Homeland Security may require airport sponsors to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration or the Transportation Security Administration without cost for services relating to air traffic control, air navigation, aviation security, or weather reporting.

"(b) Negotiated Agreements.—Subsection (a) does not prohibit—

"(1) the negotiation of agreements between either Secretary and an airport sponsor to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration or the Transportation Security Administration without cost or at below-market rates; or

"(2) either Secretary from requiring airport sponsors to provide land without cost to the Federal Aviation Administration for air traffic control facilities or space without cost to the Transportation Security Administration for necessary security checkpoints.".

(b) Conforming Amendment.—The chapter analysis for chapter 401 is amended by adding at the end the following:

"40129. Prohibition on rent-free space requirements for FAA or TSA.".

SEC. 213. SPECIAL RULES FOR FISCAL YEAR 2004.

(a) Apportionment to Certain Airports With Declining Boardings.—

(1) In general.—For fiscal year 2004, the Secretary of Transportation may apportion funds under section 47114 of title 49, United States Code, to the sponsor of an airport described in paragraph (2) in an amount equal to the amount apportioned to that airport under that section for fiscal year 2002, notwithstanding any provision of section 47114 to the contrary.

(2) Airports to which paragraph (1) applies.—Paragraph (1) applies to any airport determined by the Secretary to have had—

(A) less than 0.05 percent of the total United States passenger boardings (as defined in section 47102(10) of title 49, United States Code) for the calendar year used for determining apportionments under section 47114 for fiscal year 2004;

(B) less than 10,000 passenger boardings in calendar year 2002; and

(C) 10,000 or more passenger boardings in calendar year 2000.

(b) Temporary Increase in Government Share of Certain AIP Project Costs.—Notwithstanding section 47109(a) of title 49, United States Code, the Government's share of allowable project costs for a grant made in fiscal year 2004 under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.

SEC. 214. AGREEMENTS FOR OPERATION OF AIRPORT FACILITIES.

Section 47124 is amended—

(1) by inserting "a qualified entity or" after "with" in subsection (a);

(2) by inserting "entity or " after "allow the" in subsection (a);

(3) by inserting "entity or" before "State" the last place it appears in subsection (a);

(4) by striking "contract," in subsection (b)(2) and inserting "contract with a qualified entity, or";

(5) by striking "the State" each place it appears in subsection (b)(2) and inserting "the entity or State";

(6) by striking "PILOT" in the caption of subsection (b)(3);

(7) by striking "pilot" in subsection (b)(3)(A);

(8) by striking "pilot" in subsection (b)(3)(D);

(9) by striking "$6,000,000 per fiscal year" in subsection (b)(3)(E) and inserting "$6,500,000 for fiscal 2004, $7,000,000 for fiscal year 2005, and $7,500,000 for fiscal year 2006"; and

(10) by striking "$1,100,000." in subsection (b)(4)(C) and inserting "$1,500,000.".

SEC. 215. PUBLIC AGENCIES.

Section 47102(15) is amended—

(1) by striking "or" after the semicolon in subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) the Department of the Interior with respect to an airport owned by the Department that is required to be maintained for commercial aviation safety at a remote location; or".

SEC. 216. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT APPORTIONMENTS.

(a) In General.—Section 47117(c)(2) is amended to read as follows:

"(2) Waiver.—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under sections 47114(c) and 47114(d)(2)(A) of this title if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.".

(b) Conforming Amendments.—

(1) Section 47108(a) is amended by inserting "or section 47114(d)(2)(A)" after "under section 47114(c)".

(2) Section 47110 is amended—

(A) by inserting "or section 47114(d)(2)(A)" in subsection (b)(2)(C) after "of section 47114(c)";

(B) by inserting "or section 47114(d)(2)(A)" in subsection (g) after "of section 47114(c)";

(C) by striking "of project." in subsection (g) and inserting "of the project."; and

(D) by adding at the end the following:

"(h) Nonprimary Airports.—The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport and for which the Government's share is paid only with funds apportioned to a sponsor under section 47114(d)(2)(A), if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.".

(3) Section 47119(b) is amended by—

(A) striking "or" after the semicolon in paragraph (3);

(B) striking "1970." in paragraph (4) and inserting "1970; or"; and

(C) adding at the end the following:

"(5) to a sponsor of a nonprimary airport referred to in subparagraph (A) or (B) paragraph (2), any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) of this title for project costs allowable under section 47110(d) of this title.".

(c) Apportionment for All-Cargo Airports.—Section 47114(c)(2)(A) is amended by striking "3" and inserting "3.5".

(d) Considerations for Cargo Operations.—Section 47115(d) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the ability of the project to foster United States competitiveness in securing global air cargo activity at a United States airport.".

TITLE III—AIRLINE SERVICE DEVELOPMENT

Subtitle A—Program Enhancements

SEC. 301. DELAY REDUCTION MEETINGS.

(a) In General.—Subchapter I of chapter 417 is amended by adding at the end the following new section:

"§41723. Delay reduction actions

"(a) Delay Reduction Meetings.—

"(1) Scheduling reduction meetings.—The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during hours of peak operation if—

"(A) the Administrator of the Federal Aviation Administration determines that it is necessary to convene such a meeting; and

"(B) the Secretary determines that the meeting is necessary to meet a serious transportation need or achieve an important public benefit.

"(2) Meeting conditions.—Any meeting under paragraph (1)—

"(A) shall be chaired by the Administrator;

"(B) shall be open to all scheduled air carriers; and

"(C) shall be limited to discussions involving the airports and time periods described in the Administrator's determination.

"(3) Flight reduction targets.—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

"(4) Delay reduction offers.—An air carrier attending the meeting shall make any delay reduction offer to the Administrator rather than to another carrier.

"(5) Transcript.—The Administrator shall ensure that a transcript of the meeting is kept and made available to the public not later than 3 business days after the conclusion of the meeting.

"(b) Stormy Weather Agreements Limited Exemption.—

"(1) In general.—The Secretary may establish a program to authorize by order discussions and agreements between 2 or more air carriers for the purpose of reducing flight delays during periods of inclement weather.

"(2) Requirements.—An authorization issued under paragraph (1)—

"(A) may only be issued by the Secretary after a determination by the Federal Aviation Administration that inclement weather is likely to adversely and directly affect capacity at an airport for a period of at least 3 hours;

"(B) shall apply only to discussions and agreements concerning flights directly affected by the inclement weather; and

"(C) shall remain in effect for a period of 24 hours.

"(3) Procedure.—The Secretary shall establish procedures within 30 days after such date of enactment for—

"(A) filing requests for an authorization under paragraph (1);

"(B) participation under paragraph (5) by representatives of the Department of Transportation in any meetings or discussions held pursuant to such an order; and

"(C) the determination by the Federal Aviation Administration about the impact of inclement weather.

"(4) Copy of participation request filed with Secretary.—Before an air carrier may request an order under paragraph (1), it shall file a request with the Secretary, in such form and manner as the Secretary may prescribe, to participate in the program established under paragraph (1).

"(5) DOT PARTICIPATION.—The Secretary shall ensure that the Department is represented at any meetings authorized under this subsection.

"(c) EXEMPTION AUTHORIZED.—When the Secretary finds that it is required by the public interest, the Secretary, as part of an order issued under subsection (b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the activities approved in the order.

"(d) ANTITRUST LAWS DEFINED.—In this section, the term 'antitrust laws' has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

"(e) SUNSET.—The authority of the Secretary to issue an order under subsection (b)(1) of this section expires at the end of the 2-year period that begins 45 days after the date of enactment of the Aviation Investment and Revitalization Vision Act. The Secretary may extend the 2-year Period for an additional 2 years if the Secretary determines that such an extension is necessary and in the public interest. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure of any such extension.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 41722 the following new item:

"41723. Delay reduction actions.".

SEC. 302. SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM.

(a) 3-YEAR EXTENSION.--Section 41743(e)(2) is amended—

(1) by striking "There is" and inserting "There are";

(2) by striking "2001 and" and inserting "2001,"; and

(3) by striking "2003" and inserting "2003, and $27,500,000 for each of fiscal years 2004, 2005, and 2006".

(b) ADDITIONAL COMMUNITIES.—Section 41743(c)(4) of such title is amended by striking "program." and inserting"program each year. No community, consortia of communities, or combination thereof may participate in the program twice.".

SEC. 303. DOT STUDY OF COMPETITION AND ACCESS PROBLEMS AT LARGE AND MEDIUM HUB AIRPORTS.

(a) IN GENERAL.—The Secretary of Transportation shall study competition and airline access problems at hub airports (as defined in section 41731(a)(3)) of title 49, United States Code, and medium hub airports (as defined in section 41714(h)(9) of that title). In the study, the Secretary shall examine, among other matters—

(1) gate usage and availability; and

(2) the effects of the pricing of gates and other facilities on competition ǎnd access.

(b) REPORT.—The Secretary shall transmit a report of the Secretary's findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving competition and airline access at such airports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act.

SEC. 304. COMPETITION DISCLOSURE REQUIREMENT FOR LARGE AND MEDIUM HUB AIRPORTS.

Section 47107 is amended by adding at the end the following:

"(q) COMPETITION DISCLOSURE REQUIREMENT.—

"(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.

"(2) COMPETITIVE ACCESS.—If an airport denies an application by an air carrier to receive access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport, then, within 30 days after denying the request, the airport sponsor shall—

"(A) notify the Secretary of the denial; and

"(B) transmit a report to the Secretary that—

"(i) describes the request;

"(ii) explains the reasons for the denial; and

"(iii) provides a time frame within which, if any, the airport will be able to accommodate the request.

"(3) DEFINITIONS.—In this subsection:

"(A) HUB AIRPORT.—The term 'hub airport' has the meaning given that term by section 41731(a)(3).

"(B) MEDIUM HUB AIRPORT.—The term 'medium hub airport' has the meaning given that term by section 41714(h)(9).".

Subtitle B—Small Community and Rural Air Service Revitalization

SEC. 351. REAUTHORIZATION OF ESSENTIAL AIR SERVICE PROGRAM.

Section 41742(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out the essential air service under this subchapter, $113,000,000 for each of fiscal years 2004 through 2007, $50,000,000 of which for each such year shall be derived from amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration.".

SEC. 352. INCENTIVE PROGRAM.

(a) IN GENERAL.—Chapter 417 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM

"Sec. 41781. Purpose.
"Sec. 41782. Marketing program.
"Sec. 41783. State marketing assistance.
"Sec. 41784. Definitions.
"Sec. 41785. Authorization of appropriations.

"§41781. Purposes

"The purposes of this subchapter are—

"(1) to enable essential air service communities to increase boardings and the level of passenger usage of airport facilities at an eligible place by providing technical, financial, and other marketing assistance to such communities and to States;

"(2) to reduce subsidy costs under subchapter II of this chapter as a consequence of such increased usage; and

"(3) to provide such communities with opportunities to obtain, retain, and improve transportation services.

"§41782. Marketing program

"(a) IN GENERAL.—The Secretary of Transportation shall establish a marketing incentive program for eligible essential air service communities receiving assistance under subchapter II under which the airport sponsor in such a community may receive a grant of not more than $50,000 to develop and implement a marketing plan to increase passenger boardings and the level of passenger usage of its airport facilities.

"(b) MATCHING REQUIREMENT; SUCCESS BONUSES—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), not less than 25 percent of the publicly financed costs associated with the marketing plan shall come from non-Federal sources. For purposes of this paragraph—

"(A) the non-Federal portion of the publicly financed costs may be derived from contributions in kind; and

"(B) State or local matching contributions may not be derived, directly or indirectly, from Federal funds, but the use by a state or local government of proceeds from the sale of bonds to provide the matching contribution is not considered to be a contribution derived directly or indirectly from Federal funds, without regard to the Federal income tax treatment of interest paid on those bonds or the Federal income tax treatment of those bonds.

"(2) BONUS FOR 25-PERCENT INCREASE IN USAGE.—Except as provided in paragraph (3), if, after any 12-month period during which a marketing plan has been in effect, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport facilities at the eligible place, by 25 percent or more, then only 10 percent of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources for the following 12-month period.

"(3) BONUS FOR 50-PERCENT INCREASE IN USAGE.—If, after any 12-month period during which a marketing plan has been in effect, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport facilities at the eligible place, by 50 percent or more, then no portion of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources for the following 12-month period.

"§41783. State marketing assistance

"The Secretary of Transportation may provide up to $50,000 in technical assistance to any State within which an eligible essential air service community is located for the purpose of assisting the State and such communities to develop methods to increase boardings in such communities. At least 10 percent of the costs of the activity with which the assistance is associated shall come from non-Federal sources, including contributions in kind.

"§41784. Definitions

"In this subchapter:

"(1) ELIGIBLE PLACE.—The term 'eligible place' has the meaning given that term in section 41731(a)(1).

"(2) ELIGIBLE ESSENTIAL AIR SERVICE COMMUNITY.—The term 'eligible essential air service community' means an eligible place that—

"(A) submits an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including a detailed marketing plan, or specifications for the development of such a plan, to increase average boardings, or the level of passenger usage, at its airport facilities; and

"(B) provides assurances, satisfactory to the Secretary, that it is able to meet the non-Federal funding requirements of section 41782(b)(1).

"(3) PASSENGER BOARDINGS.—The term 'passenger boardings' has the meaning given that term by section 47102(10).

"(4) SPONSOR.—The term 'sponsor' has the meaning given that term in section 47102(19).

"§41785. Authorization of appropriations

"There are authorized to be appropriated to the Secretary of Transportation $12,000,000 for each of fiscal years 2004 through 2007, not more than $200,000 per year of which may be used for administrative costs.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41767 the following:

"SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM

"41781. Purpose.
"41782. Marketing program.
"41783. State marketing assistance.
"41784. Definitions.
"41785. Authorization of appropriations.".

SEC. 353. PILOT PROGRAMS.

(a) IN GENERAL.—Subchapter II of chapter 417 of title 49, United States Code, is amended by adding at the end the following:

"§ 41745. Other pilot programs

"(a) IN GENERAL.—If the entire amount authorized to be appropriated to the Secretary of Transportation by section 41785 is appropriated for fiscal years 2004 through 2007, the Secretary of Transportation shall establish pilot programs that meet the requirements of this section for improving service to communities receiving essential air service assistance under this subchapter or consortia of such communities.

"(b) PROGRAMS AUTHORIZED.—

"(1) COMMUNITY FLEXIBILITY.—The Secretary shall establish a pilot program for not more than 10 communities or consortia of communities under which the airport sponsor of an airport serving the community or consortium may elect to forego any essential air service assistance under preceding sections of this subchapter for a 10-year period in exchange for a grant from the Secretary equal in value to twice the annual essential air service assistance received for the most recently ended calendar year. Under the program, and notwithstanding any provision of law to the contrary, the Secretary shall make a grant to each participating sponsor for use by the recipient for any project that—

"(A) is eligible for assistance under chapter 471;

"(B) is located on the'airport property; or

"(C) will improve airport facilities in a way that would make such facilities more usable for general aviation.

"(2) EQUIPMENT CHANGES.—

"(A) IN GENERAL.—The Secretary shall establish a pilot program for not more than 10 communities or consortia of communities under which, upon receiving a petition from the sponsor of the airport serving the community or consortium, the Secretary shall authorize and request the essential air service provider for that community or consortium to use smaller equipment to provide the service and to consider increasing the frequency of service using such smaller equipment. Before granting any such petition, the Secretary shall determine that passenger safety would not be compromised by the use of such smaller equipment.

"(B) ALTERNATIVE SERVICES.—For any 3 aiport sponsors participating in the program established under subparagraph (A), the Secretary may establish a pilot program under which—

"(i) the Secretary provides 100 percent Federal funding for reasonable levels of alternative transportation services from the eligible place to the nearest hub airport or small hub airport;

"(ii) the Secretary will authorize the sponsor to use its essential air service subsidy funds provided under preceding sections of this subchapter for any airport-related project that would improve airport facilities; and

"(iii) the sponsor may make an irrevocable election to terminate its participation in the pilot program established under this paragraph after 1 year.

"(3) COST-SHARING.—The Secretary shall establish a pilot program under which the sponsors of airports serving a community or consortium of communities share the cost of providing air transportation service greater than the basic essential air service provided under this subchapter.

"(4) EAS LOCAL PARTICIPATION PROGRAM.—

"(A) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air service subsidy costs for a 3-year period.

"(B) DESIGNATION OF COMMUNITIES.—

"(i) IN GENERAL.—The Secretary may not designate any community under this paragraph unless it is located within 100 miles by road of a hub airport and is not located in a noncontiguous State. In making the designation, the Secretary may take into consideration the total traveltime between a community and the nearest hub airport, taking into account terrain, traffic, weather, road conditions, and other relevant factors.

"(ii) ONE COMMUNITY PER STATE.—The Secretary may not designate—

"(I) more than 1 community per State under this paragraph; or

"(II) a community in a State in which another community that is eligible to participate in the essential air service program has elected not to participate in the essential air service program.

"(C) APPEAL OF DESIGNATION.—A community may appeal its designation under this section. The Secretary may withdraw the designation of a community under this paragraph based on—

"(i) the airport sponsor's ability to pay; or

"(ii) the relative lack of financial resources in a community, based on a comparison of the median income of the community with other communities in the State.

"(D) NON-FEDERAL SHARE.—

"(i) NON-FEDERAL AMOUNTS.—For purposes of this section, the non-Federal portion of the essential air service subsidy may be derived from contributions in kind, or through reduction in the amount of the essential air service subsidy through reduction of air carrier costs, increased ridership, pre-purchase of tickets, or other means. The Secretary shall provide assistance to designated communities in identifying potential means of reducing the amount of the subsidy without adversely affecting air transportation service to the community.

"(ii) APPLICATION WITH OTHER MATCHING REQUIREMENTS.—This section shall apply to the Federal share of essential air service provided this subchapter, after the application of any other non-Federal share matching requirements imposed by law.

"(E) ELIGIBILITY FOR OTHER PROGRAMS NOT AFFECTED.—Nothing in this paragraph affects the eligibility of a community or consortium of communities, an airport sponsor, or any other person to participate in any program authorized by this subchapter. A community designated under this paragraph may participate in any program (including pilot programs) authorized by this subchapter for which it is otherwise eligible—

"(i) without regard to any limitation on the number of communities that may participate in that program; and

"(ii) without reducing the number of other communities that may participate in that program.

"(F) SECRETARY TO REPORT TO CONGRESS ON IMPACT.—The Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

"(i) the economic condition of communities designated under this paragraph before their designation;

"(ii) the impact of designation under this paragraph on such communities at the end of each of the 3 years following their designation; and

"(iii) the impact of designation on air traffic patterns affecting air transportation to and from communities designated under this paragraph.

"(c) CODE-SHARING.—Under the pilot program established under subsection (a), the Secretary is authorized to require air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports (as defined in section 41731(a)(3)) to participate in multiple code-share arrangements consistent with normal industry practice whenever and wherever the Secretary determines that such multiple code-sharing arrangements would improve air transportation services. The Secretary may not require air carriers to participate in such arrangements under this subsection for more than 10 such communities.

"(d) TRACK SERVICE.—The Secretary shall require essential air service providers to track changes in service, including on-time arrivals and departures.

"(e) ADMINISTRATIVE PROVISIONS.—In order to participate in a pilot program established under this section, the airport sponsor for a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41744 the following:

"41745. Other pilot programs.".

SEC. 354. EAS PROGRAM AUTHORITY CHANGES.

(a) RATE RENEGOTIATION.—If the Secretary of Transportation determines that essential air service providers are experiencing significantly increased costs of providing service under subchapter II of chapter 417 of title 49, United States Code, the Secretary of Transportation may increase the rates of compensation payable under that subchapter within 30 days after the date of enactment of this Act without regard to any agreements or requirements relating to the renegotiation of contracts. For purposes of this subsection, the term "significantly increased costs" means an average monthly cost increase of 10 percent or more.

(b) RETURNED FUNDS.—Notwithstanding any provision of law to the contrary, any funds made available under subchapter II of chapter 417 of title 49, United States Code, that are returned to the Secretary by an airport sponsor because of decreased subsidy needs for essential air service under that subchapter shall remain available to the Secretary and may be used by the Secretary under that subchapter to increase the frequency of flights at that airport.

(c) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM.—Section 41743(h) of such title is amended by striking "an airport" and inserting "each airport".

TITLE IV—AVIATION SECURITY

SEC. 401. STUDY OF EFFECTIVENESS OF TRANSPORTATION SECURITY SYSTEM.

(a) IN GENERAL.—The Secretary of Homeland Security shall study the effectiveness of the aviation security system, including the air marshal program, hardening of cockpit doors, and security screening of passengers, checked baggage, and cargo.

(b) REPORT.—The Secretary shall transmit a report of the Secretary's findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving the effectiveness of aviation security to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act. In the report the Secretary shall also describe any redeployment of Transportation Security Administration resources based on those findings and conclusions. The Secretary may submit the report to the Committees in classified and redacted form.

SEC. 402. AVIATION SECURITY CAPITAL FUND.

(a) In General.—There is established within the Department of Transportation a fund to be known as the Aviation Security Capital Fund. The first $500,000,000 derived from fees received under section 44940(a)(1) of title 49, United States Code, in each of fiscal years 2004, 2005, and 2006 shall be available to the Fund. The Under Secretary of Homeland Security for Border and Transportation Security shall impose the fee authorized by section 44940(a)(1) of such title so as to collect at least $500,000,000 in each of fiscal years 2004, 2005, and 2006 for deposit into the fund. Amounts in the fund shall be allocated in such a manner that—

(1) 40 percent shall be made available for hub airports;

(2) 20 percent shall be made available for medium hub airports;

(3) 15 percent shall be made available for small hub airports and non-hub airports; and

(4) 25 percent shall be distributed by the Secretary on the basis of aviation security risks.

(b) Purpose.—Amounts in the Fund shall be available to the Secretary of Transportation, after consultation with the Under Secretary of Homeland Security for Border and Transportation Security to provide financial assistance to airport sponsors to defray capital investment in transportation security at airport facilities in accordance with the provisions of this section. The program shall be administered in concert with the airport improvement program under chapter 417 of title 49, United States Code.

(c) Apportionment.—Amounts made available under subsection (a)(1), (a)(2), or (a)(3) shall be apportioned among the airports in each category in accordance with a formula based on the ratio that passenger emplanements at each airport in the category bears to the total passenger emplanements at all airports in the that category.

(d) Matching Requirements.—

(1) In general.—Not less than the following percentage of the costs of any project funded under this section shall be derived from non-Federal sources:

(A) For hub airports and medium hub airports, 25 percent.

(B) For airports other than hub airports and medium hub airports, 10 percent.

(2) Use of bond proceeds.—In determining the amount of non-Federal sources of funds, the proceeds of State and local bond issues shall not be considered to be derived, directly or indirectly, from Federal sources without regard to the Federal income tax treatment of interest and principal of such bonds.

(e) Letters of Intent.—The Secretary of Transportation, or his delegate, may execute letters of intent to commit funding to airport sponsors from the Fund.

(f) Conforming Amendments.—

(1) Use of passenger fee funds.—Section 44940(a)(1) is amended by adding at the end the following:

"(H) The costs of security-related capital improvements at airports.".

(2) Limitation on collection.—Section 44940(d)(4) is amended by striking "Act." and inserting "Act or in section 402(a) of the Aviation Investment and Revitalization Vision Act.".

(g) Definitions.—Any term used in this section that is defined or used in chapter 417 of title 49 United States Code has the meaning given that term in that chapter.

SEC. 403. TECHNICAL AMENDMENTS RELATED TO SECURITY-RELATED AIRPORT DEVELOPMENT.

(a) Definition of Airport Development.—Section 47102(3)(B) is amended—

(1) by inserting "and" after the semicolon in clause (viii);

(2) by striking "circular; and" in clause (ix) and inserting "circular."; and

(3) by striking clause (x).

(b) Improvement of Facilities and Equipment.—Section 301(a) of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 44901 note) is amended by striking "travel." and inserting "travel if the improvements or equipment will be owned and operated by the airport.".

SEC. 404. ARMED FORCES CHARTERS.

Section 132 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is amended by adding at the end the following:

"(c) Exemption for Armed Forces Charters.—

"(1) In general.—Subsections (a) and (b) of this section, and chapter 449 of title 49, United States Code, do not apply to passengers and property carried by aircraft when employed to provide charter transportation to members of the armed forces.

"(2) In general.—The Secretary of Defense, in consultation with the Secretary of Homeland Security and the Secretary of Transportation, shall establish security procedures relating to the operation of aircraft when employed to provide charter transportation to members of the armed forces to or from an airport described in section 44903(c) of title 49, United States Code.

"(3) Armed forces defined.—In this subsection, the term 'armed forces' has the meaning given that term by section 101(a)(4) of title 10, United States Code.".

TITLE V—MISCELLANEOUS

SEC. 501. EXTENSION OF WAR RISK INSURANCE AUTHORITY.

(a) Extension of Policies.—Section 44302(f)(1) is amended by striking "2004," each place it appears and inserting "2006,".

(b) Extension of Liability Limitation.—Section 44303(b) is amended by striking "2004," and inserting "2006,".

(c) Extension of Authority.—Section 44310 is amended by striking "2004." and inserting "2006.".

SEC. 502. COST-SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS.

(a) In General.—Chapter 445 is amended by adding at the end the following:

"§44517. Program to permit cost-sharing of air traffic modernization projects

"(a) In General.—Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation's air transportation system by encouraging non-Federal investment in critical air traffic control facilities and equipment.

"(b) Federal Share.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117 of this title.

"(c) Limitation on Grant Amounts.—No eligible project may receive more than $5,000,000 in Federal funds under the program.

"(d) Funding.—The Secretary shall use amounts appropriated under section 48101(a) of this title to carry out this program.

"(e) Definitions.—In this section:

"(1) Eligible project.—The term 'eligible project' means a project relating to the Nation's air traffic control system that is certified or approved by the Administrator and that promotes safety, efficiency, or mobility. Such projects may include—

"(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landing systems, weather and wind shear detection equipment, lighting improvements, and control towers;

"(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

"(C) facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and offshore flight tracking.

"(2) Project sponsor.—The term 'project sponsor' means any major user of the National Airspace System, as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more air carriers.

"(f) Transfers of Equipment.—Notwithstanding any other provision of law, and upon agreement by the Administrator of the Federal Aviation Administration, project sponsors may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, or automation tools, the purchase of which was assisted by a grant made under this section, if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

"(g) Guidelines.—The Administrator shall issue advisory guidelines on the implementation of the program, which shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5.".

(b) Conforming Amendment.—The chapter analyses for chapter 445 is amended by adding at the end the following:

"44517. Program to permit cost-sharing of air traffic modernization projects.".

SEC. 503. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS.

Section 44726(a)(1) is amended—

(1) by striking "or" after the semicolon in subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (D);

(3) by inserting after subparagraph (A) the following:

"(B) who knowingly, and with intent to defraud, carried out or facilitated an activity punishable under a law described in subparagraph (A);

"(C) whose certificate is revoked under subsection (b) of this section; or"; and

(4) by striking "convicted of such a violation." in subparagraph (D), as redesignated, and inserting "described in subparagraph (A), (B) or (C).".

SEC. 504. CLARIFICATIONS TO PROCUREMENT AUTHORITY.

(a) Update and Clarification of Authority.—

(1) Section 40110(c) is amended to read as follows:

"(c) Duties and Powers.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration may—

"(1) notwithstanding section 1341(a)(1) of title 31, lease an interest in property for not more than 20 years;

"(2) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace; and

"(3) dispose of property under subsection (a)(2) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under sections 121, 123, and 126 and chapter 5 of title 40.".

(2) Section 40110(d)(1) is amended by striking "implement, not later than January 1, 1996," and inserting "implement".

(b) Clarification.—Section 106(f)(2)(A)(ii) is amended by striking "property" and inserting "property, services,".

SEC. 505. JUDICIAL REVIEW.

Section 46110(c) is amended by adding at the end the following: "Except as otherwise provided in this subtitle, judicial review of an order issued, in whole or in part, pursuant to this part, part B of this subtitle , or subsection (l) or (s) of section 114 of this title, shall be in accordance with the provisions of this section.".

SEC. 506. CIVIL PENALTIES.

(a) INCREASE IN MAXIMUM CIVIL PENALTY.—Section 46301(a) is amended—

(1) by striking "$1,000" in paragraph (1) and inserting "$25,000";

(2) by striking "or" the last time it appears in paragraph (1)(A);

(3) by striking "section)" in paragraph (1)(A), and inserting "section), or section 47133";

(4) by striking paragraphs (2), (3), (6), and (7) and redesignating paragraphs (4), (5), and (8) as paragraphs (2), (3), and (4), respectively; and

(5) by striking "paragraphs (1) and (2)" in paragraph (4), as redesignated, and inserting "paragraph (1)".

(b) INCREASE IN LIMIT ON ADMINISTRATIVE AUTHORITY AND CIVIL PENALTY.—Section 46301(d) is amended—

(1) by striking "$50,000;" in paragraph (4)(A) by inserting "$50,000, if the violation occurred before the date of enactment of the Aviation Authorization Act of 2003, or $1,000,000, if the violation occurred on or after that date;"; and

(2) by striking "$50,000." in paragraph (8) and inserting "$50,000, if the violation occurred before the date of enactment of the Aviation Authorization Act of 2003, or $1,000,000, if the violation occurred on or after that date.".

SEC. 507. MISCELLANEOUS AMENDMENTS.

(a) AMOUNTS SUBJECT TO APPORTIONMENT UNDER CHAPTER 471.—

(1) IN GENERAL.—Section 47102 is amended—

(A) by striking paragraph (6) and inserting the following:

"(6) 'amount newly made available' means the amount newly made available under section 48103 of this title as an authorization for grant obligations for a fiscal year, as that amount may be limited in that year by a provision in an appropriations Act, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f)."; and

(B) by redesignating paragraphs (7) through (20) as paragraphs (8) through (21), and inserting after paragraph (6) the following:

"(7) 'amount subject to apportionment' means the amount newly made available, less the amount made available for the fiscal year for administrative expenses under section 48105.".

(2) CONFORMING AMENDMENTS.—

(A) Section 41742(b) is amended by striking "Notwithstanding section 47114(g) of this title, any" and inserting "Any".

(B) Section 47104(b) is amended to read as follows:

"(b) INCURRING OBLIGATIONS.—The Secretary may incur obligations to make grants from the amount subject to apportionment as soon as the apportionments required by sections 47114(c) and (d)(2) of this title have been issued.".

(C) Section 47107(f)(3) is amended by striking "made available to the Secretary under section 48103 of this title and" and inserting "subject to apportionment, and is".

(D) Section 47114 is amended—

(i) by striking subsection (a);

(ii) by striking "apportionment for that fiscal year" in subsection (b) and inserting "apportionment";

(iii) by striking "total amount made available under section 48103" in subsections (c)(2)(C), (d)(3), and (e)(4) and inserting "amount subject to apportionment";

(iv) by striking "each fiscal year" in subsection (c)(2)(A); and

(v) by striking "for each fiscal year" in subsection (d)(2).

(E) Subsection 47116(b) is amended by striking "amounts are made available under section 48103 of this title" and inserting "an amount is subject to apportionment".

(F) Section 47117 is amended—

(i) by striking "amounts are made available under section 48103 of this title." in subsection (a) and inserting "an amount is subject to apportionment.";

(ii) by striking "a sufficient amount is made available under section 48103." in subsection (f)(2)(A) and inserting "there is a sufficient amount subject to apportionment.";

(iii) in subsection (f)(2)(B), by inserting "in" before "the succeeding";

(iv) by striking "NEWLY AVAILABLE" in the caption of subsection (f)(3) and inserting "RESTORED";

(v) by striking "newly available under section 48103 of this title," in subsection (f)(3)(A) and inserting "subject to apportionment,";

(vi) by striking "made available under section 48103 for such obligations for such fiscal year." in subsection (f)(4) and inserting "subject to apportionment."; and

(vii) by striking "enacted after September 3, 1982," in subsection (g).

(b) RECOVERED FUNDS.—Section 47117 is amended by adding at the end the following:

"(g) CREDITING OF RECOVERED FUNDS.—For the purpose of determining compliance with a limitation on the amount of grant obligations that may be incurred in a fiscal year imposed by an appropriations Act, an amount that is recovered by canceling or reducing a grant obligation—

"(1) shall be treated as a negative obligation that is to be netted against the gross obligation limitation, and

"(2) may permit the gross limitation to be exceeded by an equal amount.".

(c) AIRPORT SAFETY DATA COLLECTION.—Section 47130 is amended to read as follows:

"§47130. Airport safety data collection

"Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. If a grant is provided, the United States Government's share of the cost of the data collection shall be 100 percent.".

(d) STATUTE OF LIMITATIONS.—Section 47107(l)(5)(A) is amended by inserting "or any other governmental entity" after "sponsor".

(e) AUDIT CERTIFICATION.—Section 47107(m) is amended—

(1) by striking "promulgate regulations that" in paragraph (1) and inserting "include a provision in the compliance supplement provisions to";

(2) by striking "and opinion of the review" in paragraph (1); and

(3) by striking paragraph (3).

(f) NOISE EXPOSURE MAPS.—Section 47503(a) is amended by striking "1985," and inserting "a forecast year that is at least 5 years in the future,".

(g) CLARIFICATION OF APPLICABILITY OF PFCS TO MILITARY CHARTERS.—Section 40117(e)(2) is amended—

(1) by striking "and" after the semicolon in subparagraph (D);

(2) by striking "passengers." in subparagraph (E) and inserting "passengers; and"; and

(3) by adding at the end the following:

"(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the United States Department of Defense.".

SEC. 508. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE.

(a) PURPOSE.—The purpose of this section is to permit the use of funds made available under subchapter 471 to encourage commercial service airports in air quality nonattainment and maintenance areas to undertake projects for gate electrification, acquisition or conversion of airport vehicles and airport-owned ground support equipment to acquire low-emission technology, low-emission technology fuel systems, and other related air quality projects on a voluntary basis to improve air quality and more aggressively address the constraints that emissions can impose on future aviation growth. Use of those funds is conditioned on airports receiving credits for emissions reductions that can be used to mitigate the air quality effects of future airport development. Making these projects eligible for funding in addition to those projects that are already eligible under section 47102(3)(F) is intended to support those projects that, at the time of execution, may not be required by the Clean Air Act (42 U.S.C. 7501 et seq.), but may be needed in the future.

(b) ACTIVITIES ADDED TO DEFINITION OF "AIRPORT DEVELOPMENT".—Section 47102(3) is amended by adding at the end the following:

"(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a) and if such project will result in an airport receiving appropriate emission credits, as described in section 47139 of this title. The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission modifications and improvements and stating how airport sponsors will demonstrate benefits.

"(L) a project for the acquisition or conversion of vehicles and ground support equipment, owned by a commercial service airport, to low-emission technology, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139 of this title. The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission vehicle technology and stating how airport sponsors will demonstrate benefits. For airport-owned vehicles and equipment, the acquisition of which are not otherwise eligible for assistance under this subchapter, the incremental cost of equipping such vehicles or equipment with low-emission technology shall be treated as eligible for assistance.".

(c) LOW-EMISSION TECHNOLOGY DEFINED.—Section 47102 is amended by redesignating paragraphs (10) through (20), as paragraphs (11) through (21) respectively, and inserting after paragraph (9) the following:

"(10) 'low-emission technology' means technology for new vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially non-petroleum based, as defined by the Department of Energy, but not excluding hybrid systems.".

(d) EMISSIONS CREDITS.—

(1) IN GENERAL.—Subchapter I of chapter 471, as amended by section 206 of this Act, is further amended by adding at the end the following:

“§47139. Emission credits for air quality projects

“(a) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall jointly agree on how to assure that airport sponsors receive appropriate emission credits for projects described in sections 40117(a)(3)(G), 47102(3)(K), or 47102(3)(L) of this title. The agreement must, at a minimum, include provisions to ensure that—

“(1) the credits will be consistent with the Clean Air Act (42 U.S.C. 7402 et seq.);

“(2) credits generated by the emissions reductions in criteria pollutants are kept by the airport sponsor and may be used for purposes of any current or future general conformity determination or as offsets under the New Source Review program;

“(3) there is national consistency in the way credits are calculated and are provided to airports;

“(4) credits are provided to airport sponsors in a timely manner; and

“(5) there is a method by which the Secretary can be assured that, for any specific project for which funding is being requested, the appropriate credits will be granted.

“(b) ASSURANCE OF RECEIPT OF CREDITS.—

“(1) IN GENERAL.—As a condition for making a grant for a project described in section 47102(3)(K), 47102(3)(L), or 47140 of this title, or as a condition for granting approval to collect or use a passenger facility fee for a project described in sections 40117(a)(3)(G), 47102(3)(K), 47102(3)(L), or 47140 of this title, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal Implementation Plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this subsection.

“(2) CREDITS FOR CERTAIN EXISTING PROJECTS.—The Secretary and the Administrator of the Environmental Protection Agency shall jointly agree on how to provide emission credits to projects previously approved under section 47136 of this title during fiscal years 2001 through 2003, under terms consistent with this section.”.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47138 the following:

“47139. Emission credits for air quality projects.”.

(e) AIRPORT GROUND SUPPORT EQUIPMENT EMISSIONS RETROFIT PILOT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

“§47140. Airport ground support equipment emissions retrofit pilot program

“(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount subject to apportionment to retrofit existing eligible airport ground support equipment which burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

“(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.—A commercial service airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a)).

“(c) SELECTION CRITERIA.—In selecting applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

“(d) MAXIMUM AMOUNT.—Not more than $500,000 may be expended under the pilot program at any single commercial service airport.

“(e) GUIDELINES.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under this pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

“(f) ELIGIBLE EQUIPMENT DEFINED.—For purposes of this section, the term ‘eligible equipment’ means ground service or maintenance equipment that—

“(1) is located at the airport;

“(2) used to support aeronautical and related activities on the airport; and

“(3) will remain in operation at the airport.”.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is further amended by inserting after the item relating to section 47139 the following:

“47140. Airport ground support equipment emissions retrofit pilot program.”.

SEC. 509. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT.

Section 40117(a)(3) is amended by inserting at the end the following:

“(G) A project for the acquisition or conversion of ground support equipment or airport-owned vehicles used at a commercial service airport with, or to, low-emission technology or cleaner burning conventional fuels, or the retrofitting of such equipment or vehicles that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a), and if such project will result in an airport receiving appropriate emission credits as described in section 47139 of this title. The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance for eligible projects and for how benefits must be demonstrated. The eligible cost is limited to the incremental amount that exceeds the cost of acquiring other vehicles or equipment that are not low-emission and would be used for the same purpose, or to the cost of low-emission retrofitting. For purposes of this paragraph, the term ‘‘ground support equipment’’ means service and maintenance equipment used at an airport to support aeronautical operations and related activities.”.

SEC. 510. PACIFIC EMERGENCY DIVERSION AIRPORT.

(a) IN GENERAL.—The Secretary of Transportation shall enter into a memorandum of understanding with the Secretaries of Defense, the Interior, and Homeland Security to facilitate the sale of aircraft fuel on Midway Island, so that the revenue from the fuel sales can be used to operate Midway Island Airport in accordance with Federal Aviation Administration airport standards. The memorandum shall also address the long term potential for promoting tourism as a means of generating revenue to operate the airport.

(b) NAVIGATIONAL AIDS.—The Administrator of the Federal Aviation Administration may support and be responsible for maintaining all aviation-related navigational aids at Midway Island Airport.

SEC. 511. GULF OF MEXICO AVIATION SERVICE IMPROVEMENTS.

(a) IN GENERAL.—The Secretary of Transportation may develop and carry out a program designed to expand and improve the safety, efficiency, and security of—

(1) air traffic control services provided to aviation in the Gulf of Mexico area; and

(2) aviation-related navigational, low altitude communications and surveillance, and weather services in that area.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section for the 4 fiscal year period beginning with fiscal year 2004.

SEC. 512. AIR TRAFFIC CONTROL COLLEGIATE TRAINING INITIATIVE.

The Secretary of Transportation may use, from funds available to the Secretary and not otherwise obligated or expended, such sums as may be necessary to carry out and expand the Air Traffic Control Collegiate Training Initiative.

SEC. 513. INCREASE IN CERTAIN SLOTS.

(a) IN GENERAL.—Section 41714(d)(1)(C) is amended by striking “2” and inserting “3”.

(b) BEYOND-PERIMETER EXEMPTIONS.—Section 41718(a) of title 49, United States Code, is amended by striking “12” and inserting “24”.

SEC. 514. AIR TRANSPORTATION OVERSIGHT SYSTEM PLAN.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure an action plan, with an implementation schedule—

(1) to provide adequate oversight of repair stations (known as Part 145 repair stations) and ensure that Administration-approved repair stations outside the United States are subject to the same level of oversight and quality control as those located in the United States; and

(2) for addressing problems with the Air Transportation Oversight System that have been identified in reports by the Comptroller General and the Inspector General of the Department of Transportation.

(b) PLAN REQUIREMENTS.—The plan transmitted by the Administrator under subsection (a)(2) shall set forth the action the Administration will take under the plan—

(1) to develop specific, clear, and meaningful inspection checklists for the use of Administration aviation safety inspectors and analysts;

(2) to provide adequate training to Administration aviation safety inspectors in system safety concepts, risk analysis, and auditing;

(3) to ensure that aviation safety inspectors with the necessary qualifications and experience are physically located where they can satisfy the most important needs;

(4) to establish strong national leadership for the Air Transportation Oversight System and to ensure that the System is implemented consistently across Administration field offices; and

(5) to extend the Air Transportation Oversight System beyond the 10 largest air carriers, so it governs oversight of smaller air carriers as well.

SEC. 515. NATIONAL SMALL COMMUNITY AIR SERVICE DEVELOPMENT OMBUDSMAN.

(a) IN GENERAL.—Subchapter II of chapter 417, as amended by section 353 of this Act, is amended by adding at the end the following:

“§41746. National Small Community Air Service Development Ombudsman

“(a) ESTABLISHMENT.—There is established in the Department of Transportation the position of National Small Community Air Service Ombudsman (in this section referred to as the ‘Ombudsman’). The Secretary of Transportation *shall appoint the Ombudsman. The Ombudsman shall report to the Secretary.*

"(b) PURPOSE.—The Ombudsman, in consultation with officials from small communities in the United States, State aviation agencies, and State and local economic development agencies, shall develop strategies for retaining and enhancing the air service provided to small communities in the United States.

"(c) OUTREACH.—The Ombudsman shall solicit and receive comments from small communities regarding strategies for retaining and enhancing air service, and shall act as a liaison between the communities and Federal agencies for the purpose of developing such strategies."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 47145 the following:

"47146. National small community air service development ombudsman.".

SEC. 516. NATIONAL COMMISSION ON SMALL COMMUNITY AIR SERVICE.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Small Community Air Service" (in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 9 members of whom—

(A) 3 members shall be appointed by the Secretary;

(B) 2 members shall be appointed by the Majority Leader of the Senate;

(C) 1 member shall be appointed by the Minority Leader of the Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives; and

(E) 1 member shall be appointed by the Minority Leader of the House of Representatives.

(2) QUALIFICATIONS.—Of the members appointed by the Secretary under paragraph (1)(A)—

(A) 1 member shall be a representative of a regional airline;

(B) 1 member shall be a representative of an FAA-designated small-hub airport; and

(C) 1 member shall be a representative of a State aviation agency.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(c) CHAIRPERSON.—The member appointed by the Secretary under subsection (b)(2)(B) shall serve as the Chairperson of the Commission (in this section referred to as the "Chairperson").

(d) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) the challenges faced by small communities in the United States with respect to retaining and enhancing their scheduled commercial air service; and

(B) whether the existing Federal programs charged with helping small communities are adequate for them to retain and enhance their existing air service.

(2) ESSENTIAL AIR SERVICE COMMUNITIES.—In conducting the study, the Commission shall pay particular attention to the state of scheduled commercial air service in communities currently served by the Essential Air Service program.

(e) RECOMMENDATIONS.—Based on the results of the study under subsection (d), the Commission shall make such recommendations as it considers necessary to—

(1) improve the state of scheduled commercial air service at small communities in the United States, especially communities described in subsection (d)(2); and

(2) improve the ability of small communities to retain and enhance their existing air service.

(f) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (e).

(g) COMMISSION PANELS.—The Chairperson shall establish such panels consisting of members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(h) COMMISSION PERSONNEL MATTERS.—

(1) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(2) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(3) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Chairperson, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (f).

(k) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 517. TRAINING CERTIFICATION FOR CABIN CREW.

Section 44935 is amended by adding at the end the following:

"(g) TRAINING STANDARDS FOR CABIN CREW.—

"(1) IN GENERAL.—The Administrator shall establish standards for cabin crew training, consistent with the Homeland Security Act of 2002, and the issuance of certification. The Administrator shall require cabin crew members to complete a cabin crew training course approved by the Federal Aviation Administration and the Transportation Security Administration.

"(2) CERTIFICATION.—

"(A) IN GENERAL.—The Administrator shall provide for the issuance of an appropriate certificate to each individual who successfully completes such a course.

"(B) CONTENTS.—The cabin crew certificate shall—

"(i) be numbered and recorded by the Administrator of the Federal Aviation Administration;

"(ii) contain the name, address, and description of the individual to whom the certificate is issued; and

"(iii) contain the name of the current air carrier employer of the certificate holder;

"(iv) contain terms the Administrator determines are necessary to ensure safety in air commerce, including terms that the certificate shall remain valid unless the Administrator suspends or revokes the certificate; and

"(v) designate the type and model of aircraft on which the certificate holder cabin crew member has successfully completed all Federal Aviation Administration and Transportation Security Administration required training in order to be assigned duties on board such type and model of aircraft.

"(3) CABIN CREW DEFINED.—In this subsection, the term 'cabin crew' means individuals working in an aircraft cabin on board a transport category aircraft with 20 or more seats.".

SEC. 518. AIRCRAFT MANUFACTURER INSURANCE.

(a) IN GENERAL.—Section 44302(f) is amended by adding at the end the following:

"(3) AIRCRAFT MANUFACTURERS.—The Secretary may offer to provide war and terrorism insurance to aircraft manufacturers for loss or damage arising from the operation of an American or foreign-flag aircraft, in excess of $50,000,000 in the aggregate or in excess of such other amounts of available primary insurance, on such terms and conditions as the Secretary may prescribe.".

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF AIRCRAFT MANUFACTURER.—Section 44301 is amended by adding at the end the following:

"(3) 'aircraft manufacturer' means any company or other business entity the majority ownership and control of which is by United States citizens that manufactures aircraft or aircraft engines.".

(2) COVERAGE.—Section 44304(a) is amended by adding at the end the following:

"(6) war and terrorism losses or damages of an aircraft manufacturer arising from the operation of an American or foreign-flag aircraft.".

SEC. 519. GROUND-BASED PRECISION NAVIGATIONAL AIDS.

(a) IN GENERAL.—The Secretary of Transportation may establish a program for the installation, operation, and maintenance of ground-based precision navigational aids for terrain-challenged airports. The program shall include provision for—

(1) preventative and corrective maintenance for the life of each system of such aids; and

(2) requisite staffing and resources for the Federal Aviation Administration's efficient maintenance of the program.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out the program established under subsection (a) such sums as may be necessary.

SEC. 520. STANDBY POWER EFFICIENCY PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Transportation, in cooperation with the Secretary of Energy and, where applicable, the Secretary of Defense, may establish a program to improve the efficiency, cost-effectiveness, and environmental performance of standby power systems at Federal Aviation Administration sites, including the implementation of fuel cell technology.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for each of fiscal years 2004 through 2008 to carry out the provisions of this section.

TITLE VI—SECOND CENTURY OF FLIGHT

SEC. 601. FINDINGS.

The Congress finds the following:

(1) Since 1990, the United States has lost more than 600,000 aerospace jobs.

(2) Over the last year, approximately 100,000 airline workers and aerospace workers have lost their jobs as a result of the terrorist attacks in the United States on September 11, 2001, and the slowdown in the world economy.

(3) The United States has revolutionized the way people travel, developing new technologies and aircraft to move people more efficiently and more safely.

(4) Past Federal investment in aeronautics research and development have benefited the economy and national security of the United States and the quality of life of its citizens.

(5) The total impact of civil aviation on the United States economy exceeds $900 billion annually—9 percent of the gross national product—and 11 million jobs in the national workforce. Civil aviation products and services generate a significant surplus for United States trade accounts, and amount to significant numbers of America's highly skilled, technologically qualified work force.

(6) Aerospace technologies, products and services underpin the advanced capabilities of our men and women in uniform and those charged with homeland security.

(7) Future growth in civil aviation increasingly will be constrained by concerns related to aviation system safety and security, aviation system capabilities, aircraft noise, emissions, and fuel consumption.

(8) The United States is in danger of losing its aerospace leadership to international competitors aided by persistent government intervention. Many governments take their funding beyond basic technology development, choosing to fund product development and often bring the product to market, even if the products are not fully commercially viable. Moreover, international competitors have recognized the importance of noise, emission, fuel consumption, and constraints of the aviation system and have established aggressive agendas for addressing each of these concerns.

(9) Efforts by the European Union, through a variety of means, will challenge the United States' leadership position in aerospace. A recent report outlined the European Union's goal of becoming the world's leader in aviation and aeronautics by the end of 2020, utilizing better coordination among research programs, planning, and funding to accomplish this goal.

(10) Revitalization and coordination of the United States' efforts to maintain its leadership in aviation and aeronautics are critical and must begin now.

(11) A recent report by the Commission on the Future of the United States Aerospace Industry outlined the scope of the problems confronting the aerospace and aviation industries in the United States and found that—

(A) Aerospace will be at the core of America's leadership and strength throughout the 21st century;

(B) Aerospace will play an integral role in our economy, our security, and our mobility; and

(C) global leadership in aerospace is a national imperative.

(12) Despite the downturn in the global economy, Federal Aviation Administration projections indicate that upwards of 1 billion people will fly annually by 2013. Efforts must begin now to prepare for future growth in the number of airline passengers.

(13) The United States must increase its investment in research and development to revitalize the aviation and aerospace industries, to create jobs, and to provide educational assistance and training to prepare workers in those industries for the future.

(14) Current and projected levels of Federal investment in aeronautics research and development are not sufficient to address concerns related to the growth of aviation.

Subtitle A—The Office of Aerospace and Aviation Liaison

SEC. 621. OFFICE OF AEROSPACE AND AVIATION LIAISON.

(a) ESTABLISHMENT.—There is established within the Department of Transportation an Office of Aerospace and Aviation Liaison.

(b) FUNCTION.—The Office shall—

(1) coordinate aviation and aeronautics research programs to achieve the goal of more effective and directed programs that will result in applicable research;

(2) coordinate goals and priorities and coordinate research activities within the Federal Government with United States aviation and aeronautical firms;

(3) coordinate the development and utilization of new technologies to ensure that when available, they may be used to their fullest potential in aircraft and in the air traffic control system;

(4) facilitate the transfer of technology from research programs such as the National Aeronautics and Space Administration program established under section 681 and the Department of Defense Advanced Research Projects Agency program to Federal agencies with operational responsibilities and to the private sector;

(5) review activities relating to noise, emissions, fuel consumption, and safety conducted by Federal agencies, including the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Commerce, and the Department of Defense;

(6) review aircraft operating procedures intended to reduce noise and emissions, identify and coordinate research efforts on aircraft noise and emissions reduction, and ensure that aircraft noise and emissions reduction regulatory measures are coordinated; and

(7) work with the National Air Traffic Management System Development Office to coordinate research needs and applications for the next generation air traffic management system.

(c) PUBLIC-PRIVATE PARTICIPATION.—In carrying out its functions under this section, the Office shall consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, and the space industry), members of the public, and other interested parties.

(d) REPORTING REQUIREMENTS.—

(1) INITIAL STATUS REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of the establishment of the Office of Aerospace and Aviation Liaison, including the name of the program manager, the list of staff from each participating department or agency, names of the national team participants, and the schedule for future actions.

(2) PLAN.—The Office shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science a plan for implementing paragraphs (1) and (2) of subsection (b) and a proposed budget for implementing the plan.

(3) ANNUAL REPORT.—The Office shall submit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Science an annual report that—

(A) contains a unified budget that combines the budgets of each program coordinated by the Office; and

(B) describes the coordination activities of the Office during the preceding year.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,000,000 for fiscal years 2004 and 2005 to carry out this section, such sums to remain available until expended.

SEC. 622. NATIONAL AIR TRAFFIC MANAGEMENT SYSTEM DEVELOPMENT OFFICE.

(a) ESTABLISHMENT.—There is established within the Federal Aviation Administration a National Air Traffic Management System Development Office, the head of which shall report directly to the Administrator.

(b) DEVELOPMENT OF NEXT GENERATION AIR TRAFFIC MANAGEMENT SYSTEM.—

(1) IN GENERAL.—The Office shall develop a next generation air traffic management system plan for the United States that will—

(A) transform the national airspace system to meet air transportation mobility, efficiency, and capacity needs beyond those currently included in the Federal Aviation Administration's operational evolution plan;

(B) result in a national airspace system that can safely and efficiently accommodate the needs of all users;

(C) build upon current air traffic management and infrastructure initiatives;

(D) improve the security, safety, quality, and affordability of aviation services;

(E) utilize a system-of-systems, multi-agency approach to leverage investments in civil aviation, homeland security, and national security;

(F) develop a highly integrated, secure architecture to enable common situational awareness for all appropriate system users; and

(G) ensure seamless global operations for system users, to the maximum extent possible.

(2) MULTI-AGENCY AND STAKEHOLDER INVOLVEMENT.—In developing the system, the Office shall—

(A) include staff from the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Homeland Security, the Department of Defense, the Department of Commerce, and other Federal agencies and departments determined by the Secretary of Transportation to have an important interest in, or responsibility for, other aspects of the system; and

(B) consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, and the space industry), members of the public, and other interested parties.

(3) DEVELOPMENT CRITERIA AND REQUIREMENTS.—In developing the next generation air traffic management system plan under paragraph (1), the Office shall—

(A) develop system performance requirements;

(B) select an operational concept to meet system performance requirements for all system users;

(C) ensure integration of civil and military system requirements, balancing safety, security, and efficiency, in order to leverage Federal funding;

(D) utilize modeling, simulation, and analytical tools to quantify and validate system performance and benefits;

(E) develop a transition plan, including necessary regulatory aspects, that ensures operational achievability for system operators;

(F) develop transition requirements for ongoing modernization programs, if necessary;

(G) develop a schedule for aircraft equipment implementation and appropriate benefits and incentives to make that schedule achievable; and

(H) assess, as part of its function within the Office of Aeronautical and Aviation Liaison, the technical readiness of appropriate research technological advances for integration of such research and advances into the plan.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration $300,000,000 for the period beginning with fiscal year 2004 and ending with fiscal year 2010 to carry out this section.

SEC. 623. REPORT ON CERTAIN MARKET DEVELOPMENTS AND GOVERNMENT POLICIES.

Within 6 months after the date of enactment of this Act, the Department of Transportation's Office of Aerospace and Aviation liaison, in cooperation with appropriate Federal agencies, shall submit to the Senate Committee on Commerce, Science, and Transportation, the House *of Representatives Committee on Science, and the House of Representatives Committee on Transportation and Infrastructure a report about market developments and government policies influencing the competitiveness of the United States jet transport aircraft industry that—*

(1) describes the structural characteristics of the United States and the European Union jet transport industries, and the markets for these industries;

(2) examines the global market factors affecting the jet transport industries in the United States and the European Union, such as passenger and freight airline purchasing patterns, the rise of low-cost carriers and point-to-point service, the evolution of new market niches, and direct and indirect operating cost trends;

(3) reviews government regulations in the United States and the European Union that have altered the competitive landscape for jet transport aircraft, such as airline deregulation, certification and safety regulations, noise and emissions regulations, government research and development programs, advances in air traffic control and other infrastructure issues, corporate and air travel tax issues, and industry consolidation strategies;

(4) analyzes how changes in the global market and government regulations have affected the competitive position of the United States aerospace and aviation industry vis-à-vis the European Union aerospace and aviation industry; and

(5) describes any other significant developments that affect the market for jet transport aircraft.

Subtitle B—Technical Programs

SEC. 641. AEROSPACE AND AVIATION SAFETY WORKFORCE INITIATIVE.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration and the Administrator of the Federal Aviation Administration shall establish a joint program of competitive, merit-based grants for eligible applicants to increase the number of students studying toward and completing technical training programs, certificate programs, and associate's, bachelor's, master's, or doctorate degrees in fields related to aerospace and aviation safety.

(b) INCREASED PARTICIPATION GOAL.—In selecting projects under this paragraph, the Director shall consider means of increasing the number of students studying toward and completing technical training and apprenticeship programs, certificate programs, and associate's or bachelor's degrees in fields related to aerospace and aviation safety who are individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(c) SUPPORTABLE PROJECTS.—The types of projects the Administrators may consider under this paragraph include those that promote high quality—

(1) interdisciplinary teaching;

(2) undergraduate-conducted research;

(3) mentor relationships for students;

(4) graduate programs;

(5) bridge programs that enable students at community colleges to matriculate directly into baccalaureate aerospace and aviation safety related programs;

(6) internships, including mentoring programs, carried out in partnership with the aerospace and aviation industry;

(7) technical training and apprenticeship that prepares students for careers in aerospace manufacturing or operations; and

(8) innovative uses of digital technologies, particularly at institutions of higher education that serve high numbers or percentages of economically disadvantaged students.

(d) GRANTEE REQUIREMENTS.—In developing grant requirements under this section, the Administrators shall consider means, developed in concert with applicants, of increasing the number of students studying toward and completing technical training and apprenticeship programs, certificate programs, and associate's or bachelor's degrees in fields related to aerospace and aviation safety.

(e) DEFINITIONS.—In this section:

(1) ELIGIBLE APPLICANT DEFINED.—The term "eligible applicant" means—

(A) an institution of higher education;

(B) a consortium of institutions of higher education; or

(C) a partnership between—

(i) an institution of higher education or a consortium of such institutions; and

(ii) a nonprofit organization, a State or local government, or a private company, with demonstrated experience and effectiveness in aerospace education.

(2) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term by subsection (a) of section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), and includes an institution described in subsection (b) of that section.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) NASA.—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(2) FAA.—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(g) REPORT, BUDGET, AND PLAN.—Within 180 days after the date of enactment of this Act, the Administrators jointly shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report setting forth—

(1) recommendations as to whether the program authorized by this section should be extended for multiple years;

(2) a budget for such a multi-year program; and

(3) a plan for conducting such a program.

SEC. 642. SCHOLARSHIPS FOR SERVICE.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration and the Administrator of the Federal Aviation Administration shall develop a joint student loan program for fulltime students enrolled in an undergraduate or post-graduate program leading to an advanced degree in an aerospace-related or aviation safety-related field of endeavor.

(b) INTERNSHIPS.—The Administrators may provide temporary internships to such students.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) NASA.—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(2) FAA.—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(g) REPORT, BUDGET, AND PLAN.—Within 180 days after the date of enactment of this Act, the Administrators jointly shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report setting forth—

(1) recommendations as to whether the program authorized by this section should be extended for multiple years;

(2) a budget for such a multi-year program; and

(3) a plan for conducting such a program.

Subtitle C—FAA Research, Engineering, and Development

SEC. 661. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

The Administrator of the Federal Aviation Administration shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of rigid concrete airfield pavements to aid in the development of safer, more cost-effective, and more durable airfield pavements. The Administrator may use grants or cooperative agreements in carrying out·this section. Nothing in this section requires the Administrator to prioritize an airfield pavement research program above safety, security, Flight 21, environment, or energy research programs.

SEC. 662. ENSURING APPROPRIATE STANDARDS FOR AIRFIELD PAVEMENTS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall review and determine whether the Federal Aviation Administration's standards used to determine the appropriate thickness for asphalt and concrete airfield pavements are in accordance with the Federal Aviation Administration's standard 20-year-life requirement using the most up-to-date available information on the life of airfield pavements. If the Administrator determines that such standards are not in accordance with that requirement, the Administrator shall make appropriate adjustments to the Federal Aviation Administration's standards for airfield pavements.

(b) REPORT.—Within 1 year after the date of enactment of this Act, the Administrator shall report the results of the review conducted under subsection (a) and the adjustments, if any, made on the basis of that review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 663. ASSESSMENT OF WAKE TURBULENCE RESEARCH AND DEVELOPMENT PROGRAM.

(a) ASSESSMENT.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Research Council for an assessment of the Federal Aviation Administration's proposed wake turbulence research and development program. The assessment shall include—

(1) an evaluation of the research and development goals and objectives of the program;

(2) a listing of any additional research and development objectives that should be included in the program;

(3) any modifications that will be necessary for the program to achieve the program's goals and objectives on schedule and within the proposed level of resources; and

(4) an evaluation of the roles, if any, that should be played by other Federal agencies, such as the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, in wake turbulence research and development, and how those efforts could be coordinated.

(b) REPORT.—A report containing the results of the assessment shall be provided to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration $500,000 for fiscal year 2004 to carry out this section.

SEC. 664. CABIN AIR QUALITY RESEARCH PROGRAM.

In accordance with the recommendation of the National Academy of Sciences in its report entitled "The Airliner Cabin Environment and the Health of Passengers and Crew", the Federal Aviation Administration shall establish a research program to address questions about improving cabin air quality of aircraft, including methods to limit airborne diseases.

SEC. 665. INTERNATIONAL ROLE OF THE FAA.

Section 40101(d) is amended by adding at the end the following:

"(8) Exercising leadership with the Administrator's foreign counterparts, in the International Civil Aviation Organization and its subsidiary organizations, and other international organizations and fora, and with the private sector to promote and achieve global improvements in the safety, efficiency, and environmental effect of air travel.".

SEC. 666. FAA REPORT ON OTHER NATIONS' SAFETY AND TECHNOLOGICAL ADVANCEMENTS.

The Administrator of the Federal Aviation Administration shall review aviation and aeronautical safety, and research funding and technological actions in other countries. The Administrator shall submit a report to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate, together with any recommendations as to how such activities might be utilized in the United States.

SEC. 667. DEVELOPMENT OF ANALYTICAL TOOLS AND CERTIFICATION METHODS.

The Federal Aviation Administration shall conduct research to promote the development of analytical tools to improve existing certification methods and to reduce the overall costs for the certification of new products.

SEC. 668. PILOT PROGRAM TO PROVIDE INCENTIVES FOR DEVELOPMENT OF NEW TECHNOLOGIES.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may conduct a limited pilot program to provide operating incentives to users of the airspace for the deployment of new technologies, including technologies to facilitate expedited flight routing and sequencing of take-offs and landings.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator $500,000 for fiscal year 2004.

SEC. 669. FAA CENTER FOR EXCELLENCE FOR APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall develop a Center for Excellence focused on applied research and training on the durability and maintainability of advanced materials in transport airframe structures, including the use of polymeric composites in large transport aircraft. The Center shall—

(1) promote and facilitate collaboration among academia, the Federal Aviation Administration's Transportation Division, and the commercial aircraft industry, including manufacturers, commercial air carriers, and suppliers; and

(2) establish goals set to advance technology, improve engineering practices, and facilitate continuing education in relevant areas of study.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator $500,000 for fiscal year 2004 to carry out this section.

SEC. 670. FAA CERTIFICATION OF DESIGN ORGANIZATIONS.

(a) GENERAL AUTHORITY TO ISSUE CERTIFICATES.—Section 44702(a) is amended by inserting "design organization certificates," after "airman certificates,".

(b) DESIGN ORGANIZATION CERTIFICATES.—

(1) IN GENERAL.—Section 44704 is amended—

(A) by striking the section heading and inserting the following:

"§44704. Design organization certificates, type certificates, production certificates, and airworthiness certificates";

(B) by redesignating subsections (a) through (d) as subsections (b) through (e);

(C) by inserting before subsection (b) the following:

"(a) DESIGN ORGANIZATION CERTIFICATES.—

"(1) PLAN.—Within 3 years after the date of enactment of the Aviation Investment and Revitalization Vision Act, the Administrator of the Federal Aviation Administration shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure for the development and oversight of a system for certification of design organizations under paragraph (2) that ensures that the system meets the highest standards of safety.

"(2) IMPLEMENTATION OF PLAN.—Within 5 years after the date of enactment of the Aviation Investment and Revitalization Vision Act, the Administrator of the Federal Aviation Administration may commence the issuance of design organization certificates under paragraph (3) to authorize design organizations to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

"(3) ISSUANCE OF CERTIFICATES.—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization in accordance with the regulations prescribed by the Administrator to determine that the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under that section. The Administrator shall include in a design organization certificate terms required in the interest of safety.

"(4) NO EFFECT ON POWER OF REVOCATION.—Nothing in this subsection affects the authority of the Secretary of Transportation to revoke a certificate.";

(D) by striking subsection (b), as redesignated, and inserting the following:

"(b) TYPE CERTIFICATES.—

"(1) IN GENERAL.—The Administrator may issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under paragraph (2)(A) of this subsection—

"(A) when the Administrator finds that the aircraft, aircraft engine, or propeller, or appliance is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a) of this title; or

"(B) based on a certification of compliance made by a design organization certificated under subsection (a).

"(2) INVESTIGATION AND HEARING.—On receiving an application for a type certificate, the Administrator shall investigate the application and may conduct a hearing. The Administrator shall make, or require the applicant to make, tests the Administrator considers necessary in the interest of safety.".

(c) REINSPECTION AND REEXAMINATION.—Section 44709(a) is amended by inserting "design organization, production certificate holder," after "appliance,".

(d) PROHIBITIONS.—Section 44711(a)(7) is amended by striking "agency" and inserting "agency, design organization certificate,".

(e) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 447 is amended by striking the item relating to section 44704 and inserting the following:

"44704. Design organization certificates, type certificates, production certificates, and airworthiness certificates.".

(2) CROSS REFERENCE.—Section 44715(a)(3) is amended by striking "44704(a)" and inserting "44704(b)".

SEC. 671. REPORT ON LONG TERM ENVIRONMENTAL IMPROVEMENTS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration, in consultation with the Administrator of the National Aeronautics and Space Administration and the head of the Department of Transportation's Office of Aerospace and Aviation Liaison, shall conduct a study of ways to reduce aircraft noise and emissions and to increase aircraft fuel efficiency. The study shall—

(1) explore new operational procedures for aircraft to achieve those goals;

(2) identify both near term and long term options to achieve those goals;

(3) identify infrastructure changes that would contribute to attainment of those goals;

(4) identify emerging technologies that might contribute to attainment of those goals;

(5) develop a research plan for application of such emerging technologies, including new combuster and engine design concepts and methodologies for designing high bypass ratio turbofan engines so as to minimize the effects on climate change per unit of production of thrust and flight speed; and

(6) develop an implementation plan for exploiting such emerging technologies to attain those goals.

(b) REPORT.—The Administrator shall transmit a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration $500,000 for fiscal year 2004 to carry out this section.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I believe Senator MCCAIN will arrive momentarily to manage this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. May I ask what the pending Senate business is?

The PRESIDING OFFICER. S. 824.

Mr. MCCAIN. Mr. President, I thank my colleagues, Senator HOLLINGS, Senator LOTT, and Senator ROCKEFELLER, for their hard work on this very important legislation. Senator LOTT and Senator ROCKEFELLER held extensive hearings in the Aviation Subcommittee. They have come up with a product that has addressed many of the concerns and very important issues associated with aviation. I believe what they have done is a very agreeable product.

I note that our friends on the other side of the Capitol have completed their work on this bill, so if we could complete this legislation and go quickly to conference, I think we could have this done pretty quickly.

I am pleased the Senate is now considering S. 824, the Aviation Investment and Revitalization Vision Act, AIR–V. This legislation was introduced by Senators LOTT, HOLLINGS, ROCKEFELLER, and myself on April 8, 2003, and approved by the Senate Commerce Committee on May 1, 2003.

I don't think that anyone could have predicted 100 years ago, when the Wright Brothers first flew their Wright Flyer over Kitty Hawk, NC, that air travel would become such a significant part of our Nation's economy. Aviation has evolved from the first controlled flight that traveled about 120 feet, to a system that has reached more than 550 million enplanements annually. Air travel has revolutionized the world. We are becoming a global culture for which air travel has contributed significantly. The United States has played a critical role in the explosion in air travel, with nearly two-thirds of world aviation travelers taking off or landing on U.S. soil.

Mr. President, 4 years ago, the Congress approved the Aviation Investment Reform Act for the 21st Century, known as AIR–21. That reauthorization measure provided for far reaching changes to our Federal aviation policies, coupled with significant investment in aviation. We increased airport spending by significant amounts and greatly improved our aviation system. At the same time, a great deal has happened in aviation during the past few years. The airlines have gone through several cycles of good and bad times.

The tragic events of September 11, 2001, forced a major restructuring of aviation transportation security. As a result of September 11 and other economic factors, Congress has twice voted to provide the airline industry aid totaling $8 billion in cash and the potential for $11 billion in other benefits. We have taken unprecedented actions to help ensure the continued viability of the airlines. I recognize that intervening events have been the cause of many of the industry's problems, which is why I was a strong supporter of these initiatives. However, I do believe that the industry must begin to solve its own problems and not come back to Congress when confronted with new challenges.

It is time for Congress to now focus its efforts on the Federal Aviation Administration. We must continue to ensure the safety and efficiency of our aviation system. We must address the continued modernization of our air traffic control system. We must continue our oversight of the FAA so that it continues to move towards more efficient operation. We must continue the expansion of our infrastructure. And, we must continue to strive to promote the security of our traveling public.

I believe the legislation before us, S. 824, the Aviation Investment and Revitalization Vision Act, AIR-Vision, meets these objectives. This bill would reauthorize FAA programs for 3 years and continue the investments in the aviation system that began under AIR 21. Specifically, it would authorize funding for FAA Operations at $7.6 billion for fiscal year 2004; $7.7 billion for fiscal year 2005; and $7.9 billion for fiscal year 2006, and it would authorize funding for the Airport Improvement Program at $3.4 billion in fiscal year 2004; $3.5 billion in fiscal year 2005; and $3.6 billion in fiscal year 2006. The bill also authorizes $2.9 billion in fiscal year 2004; $2.97 billion in fiscal year 2005; and $3 billion in fiscal year 2006 for the Airway Facilities Improvement Program and requires a report on major FAA modernization programs.

The funding levels in this bill do not require any new or increased taxes or user fees. The taxes currently paid by air travelers and others into the Aviation Trust Fund are in place through fiscal year 2007 and are sufficient to pay for this bill.

We also must ensure that the FAA manages its resources wisely. The bill includes provisions, first proposed by former FAA Administrator Garvey and endorsed by the current Administrator, to improve FAA management. The FAA's management of its programs, especially its modernization efforts, continue to be of particular interest to Congress. I note that the FAA has finally hired its first Chief Operating Officer, Russ Chew, three and one-half years after the office was authorized. This bill would provide additional clarification of the FAA's Chief Operating Officers' responsibilities for managing the FAA's air traffic control system.

The bill would create a process to enhance airport capacity at certain large hub airports that significantly add to delays in the national aviation system by ensuring that these airports' needs are continually reviewed. It also attempts to streamline the environmental review process by coordinating the reviews by different agencies. This is important as this process is sometimes used to unnecessarily delay airport expansion.

The bill makes several improvements and reforms to services to small communities and the essential air service program by continuing programs created in AIR–21 to incentivize communities to take a greater ownership role in their service. It also allows the communities flexibility to opt out of the program in return for payment or to look at alternate services for the community.

The bill extends the small community air service development pilot program, established in AIR–21, until 2006, and provides funding of $27.5 million per year during the 3-year extension. It also clarifies that 40 communities per year may participate in the program and that no community may participate twice. This program has been well-received for the innovative ideas that have sprung from it regarding the provision of and payment for air service to small communities, and we believe it is important for the program to continue in the near term.

Regarding competition, the bill instructs the Secretary of Transportation to study competition and airline access problems at hub airports. Specifically, the Department of Transportation is to look at gate usage and availability, and the effects of pricing of gates and other facilities on competition and access. Within 6 months, the Secretary's findings, conclusions, and recommendations are to be submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

In addition, the bill requires that airports which deny applications by an air carrier for access to gates or other facilities submit to the Secretary notification of the denial and a report explaining the reasons for the denial and a time line, if any, for when the request will be accommodated.

For security, the bill establishes the Aviation Security Capital Fund which is financed with $500 million annually in security service fees which are already collected by the Transportation Security Administration. The fund will be administered by the TSA and the TSA will make grants to airports to assist with capital security costs. The fund will allocate 40 percent to hub airports; 20 percent to medium hub airports; 15 percent to small hub airports; and 25 percent is to be distributed at the Secretary's discretion to address security risks. At the same time, the bill protects the AIP funding from continued raids on what was created for capital improvement funding, but which in recent years has been used for security funding.

The bill also directs the Secretary of the Department of Homeland Security to study the effectiveness of the aviation security system. Within 6 months, the Secretary's findings, conclusions, and recommendations are to be submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The Secretary is directed to redeploy the department's resources based on the results of the study.

For aviation modernization, the bill establishes a new Office of Aerospace and Aviation Liaison within the DOT. This office will be charged with coordinating aviation and aeronautics research programs, activities, goals, and priorities within the Federal Government. Areas of responsibility include air traffic control, technology transfer from government programs to private sector, noise, emissions, fuel consumption, and safety. This office will work with the FAA and the National Aeronautics and Space Administration to ensure that aviation and aerospace research is coordinated and funds are well spent.

This bill also establishes a National Air Traffic Management System Development Office within the FAA with the mission of developing a next generation air traffic management system plan for the United States. This plan is required to focus on transforming the national airspace system to meet air transportation mobility, efficiency, and capacity needs beyond those currently included in the FAA's Operational Evolution Plan in an effort to build on existing capabilities while improving the security, safety, quality, and affordability of the system.

Finally, we have developed a manager's amendment which has been agreed to by myself and Senator LOTT, HOLLINGS, and ROCKEFELLER. It includes a number of technical changes and improvements recommended by the executive agencies affected by this bill. It also includes some substantive changes to the bill, including: extending whistle blower protections to the employees of contractors doing business with the FAA; requiring that the GAO periodically report to Congress on the economic state of the airline industry and on airline executives' compensation; clarifying that the war risk insurance provision only applies to U.S. air carriers; moving the new security capital fund from the FAA to the TSA; and removing the provision adding additional "outside the perimeter" slots at Reagan National Airport.

I yield to my colleague from South Carolina and perhaps the Senator from Mississippi.

I say to my colleagues, if they are prepared to bring forward an amendment, we would like to consider that quickly and move forward with the amending process as it would be our intention to try to finish this legislation this evening.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I rise today in support of legislation that will reauthorize the programs of the Federal Aviation Administration for the next 3 years, S. 824, the Aviation Investment and Revitalization Vision Act, AIR–V. I would like to thank Chairman MCCAIN, Senator LOTT and Senator ROCKEFELLER for their hard work in helping to craft this bipartisan bill that seeks to address the needs of the Nation's air transportation system.

The troubled state of the aviation industry has made FAA reauthorization a high priority of the 108th Congress. From the start, the Senate Commerce Committee pursued an ambitious schedule, and held several hearings on this matter in the first few months of the year. Our focus on this matter permitted all involved parties to express their concerns about the aviation system in the United States, and helped us develop a constructive approach to improve the work of the FAA as we move into an unclear future. We have crafted a strong bill that focuses properly on safety, security, efficiency and environmental friendliness in the realm of aviation.

AIR–V is a good starting point, but we have a long way to go to make certain that the FAA's budget adequately supports the agency's ability to oversee an increasingly complex system to ensure safe flying. Recent reports have pointed to the FAA's laxity on plane maintenance as airlines have increasingly farmed out repair work to trim more expensive in-house operations over the past decade. The Department of Transportation Inspector General found that major air carriers paid contractors $2.9 billion for maintenance in 2001, which was 80 percent more than in 1996. While maintenance responsibility has shifted, the FAA's policies have not, and the DOT IG is currently conducting an audit of repair stations and the FAA's oversight of them. We must take steps to provide FAA needed funding to improve outdated oversight, monitor gaps in overseas repair service, and update training methods which have not changed significantly in almost 50 years. It is vital that we adequately fund to FAA's budget to ensure the safest aviation system possible.

The impact of the aviation industry on our Nation is clear. Prior to September 11, 2001, the total impact of civil aviation on the national economy exceeded $900 billion and 11 million jobs, representing 9 percent of the U.S. gross domestic product. Since that time, the airline industry has faced consecutive years of record multibillion dollar losses while our national economy continues to struggle. This has made reauthorization of the FAA that much more critical, and I believe AIR–V strikes the proper balance among key FAA programs to advance our Nation's air transportation system.

After September 11, 2001, Congress created the Transportation Security Administration, which has taken charge of a massive restructuring of transportation security, which has led to a greater confidence in the traveling public. Even with the vast downturn in aviation traffic over the past couple of years, the FAA's Aerospace Forecast anticipates that enplanements in the U.S. are expected to increase over the next 10 years by roughly 50 percent, with as many as 1 billion passenger boardings expected annually by 2013.

Knowing of the expected growth in airline traffic, we must press our efforts to make system-wide improvements that will allow the U.S. aviation industry to flourish in the coming years and beyond. Air–V promotes airport development with increased funding for the Airport Improvement Program, and additional support for vital components of the National Airspace System through the designation of certain essential undertakings as "national capacity" projects. When the Bush Administration's FAA reauthorization proposal was unveiled it was criticized by Aviation Week for not providing enough long-term support for AIP at a time when the FAA is in a tight budget situation and the Nation's airports are looking for increased funding to pursue needed projects to improve their facilities. AIR–V also takes steps to resolve the bleeding of hundred of millions of dollars from AIP for security purposes and seeks to expedite the installation of EDS machines at airports across the country while diverting none of the AIP funds away from important infrastructure projects through the creation of an Aviation Security Capital Fund to be financed with $500 million annually in security service fees to allow TSA to make grants to airports to assist with capital security costs.

I have had increasing concerns that the European Community will continue its bold efforts to surpass the American aerospace industry in the coming years. We must recognize the importance of the FAA's Research, Engineering and Development program in maintaining our position as the worldwide leader in the aviation and aerospace industries. AIR–V will significantly increase funding for the R,E&D program with the understanding that long term planning will be needed to keep up with the rapidly changing dynamic of this industry. The EC has already introduced a "2020 plan" aimed at surpassing America—FAA, NASA and our aerospace industry—as the world's aerospace leaders within the next two decades. We must respond to this challenge with an emphasis on technology, and public-private cooperation that will ensure our advantage over the EC by strengthening our R,E&D programs and U.S. education and interest in aerospace.

I am pleased that key components of S. 788, the Second Century of Flight Act, legislation I introduced along with Senators BROWNBACK, ROCKEFELLER, INOUYE, CANTWELL, and KERRY have been included in this reauthorization effort. Among the most important steps that the bill takes to promote FAA, R,E&D is the creation of a national office to coordinate aviation and aerospace research activities within the U.S. Government tasked with coordinating programs and developing goals to facilitate the nation's R.E&D technologies, and a national office to focus on a next generation air traffic management system. Of equal importance is the establishment of a new educational program to train the next generation of aeronautics engineers and mechanics. According to the Commission Report on Aerospace, more than a quarter of the U.S. science, engineering and manufacturing workforce will be eligible to retire in the next 5 years. This workforce initiative is aimed at increasing participation of U.S. students in fields related to aerospace and aviation safety through the use of grants and scholarships for service to ensure the growth of interest in the United States and increase the talent pool of American students.

To ensure that the U.S. continues to have the safest aviation system possible we must also make improvements to the FAA's Facilities and Equipment program which contains financing for the purchase, installation and construction of equipment and facilities required to maintain the NAS. Through this bill we should boost the F&E program so that it will be a better complement to the improved AIP program in preparation for increased passenger levels. However, we must consider ways to make further advances to this program to ensure our ability to provide crucial enhancements to the safety of our aviation system.

AIR-V will have an enormous impact on the future of our entire air transportation system, and makes a strong statement about the direction that we want our air transportation system to go. Please support this effort and work with us to help the FAA take real steps forward and maintain our strength in aviation for the future.

I yield to our distinguished leader who really held the hearings and led for this particular measure.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. I thank the distinguished Senator from South Carolina for those comments. He and Senator MCCAIN certainly have been very interested in this important issue. A couple of hearings we had on this legislation were in the full committee because of the importance of the issues involved.

I also particularly thank Senator ROCKEFELLER, who is the ranking member on the Aviation Subcommittee, for his work and his cooperation on this legislation. This is truly bipartisan legislation: Senator MCCAIN, Senator HOLLINGS, Senator ROCKEFELLER and I all have worked on it. Where we have had problems we have been able to work out most of them. I think we have a really good product.

I want to say at the beginning we are hoping to move this legislation through rapidly. Hopefully we could even complete it today. We have a few issues that have not been resolved yet. Two or three of them may require votes. We ask our colleagues to come to the floor, let's have a debate and, if we have to, we will have a vote. There are not that many amendments that I think would actually require a vote.

I also want to emphasize the importance of this legislation. Because we have moved it fast, and because we have been able to get an agreement worked out to bring it to the floor, and because we may be able to handle it in a brief period of time, it should not diminish at all the importance of passing this legislation. Transportation in America is unique. If we are going to have a strong economy, we have to have good transportation systems—not just roads and bridges, which are very important, and not just a good railroad system, freight and passenger, and not just good ports and harbors, but we also need a strong aviation system in America.

We all know the industry has been having difficult times for a variety of reasons. In some cases it was bad management decisions. Obviously all of them have been affected by high fuel costs. There have been some difficult management-labor decisions. But also probably no other industry was as dramatically and directly affected by 9/11 as the aviation industry. Aircraft were involved on that infamous day, used as weapons of destruction, as missiles—both in New York and, of course, one plane that hit the Pentagon and the one that went down in Pennsylvania. We saw the industry basically shut down that day—for days. We are still having fallout, the ramifications of that day and those decisions in terms of access to airports, including Washington Reagan National. General aviation is still dealing with the problems as a result.

There is no question the industry has had difficulties and some of those difficulties have been related to 9/11. Government decisions were made that needed to be made. We had to deal with security considerations on our airplanes and at our airports. So a lot of costs have been put on the industry that have caused them additional problems.

We have taken action immediately after 9/11, of course, to provide some assistance to the aviation industry. We did it again in the supplemental appropriations this year. But this is the third step and in some respects maybe the most important step in helping the airline industry, helping aviation get back to where they can see blue skies and begin to make profits and provide the kind of service the American people are entitled to.

I do think it is important we get this bill done, that we get into conference and see if we can come to a reasonable and relatively quick agreement with the House. That will allow this bill to be completed before we get into the time-consuming and very important TEA-21 extension, and the appropriations process.

This bill's title is Aviation Investment and Revitalization Vision Act—AIR-V. Our intent is to go all the way from stabilizing the industry, giving them dependability and reliability of what they can expect from FAA, from the Airport Improvement Program, to all the different programs that are involved in aviation including service to small communities. I think we do have the fundamental provisions we need to make sure that happens. We will ensure the Airport Improvement Program will continue uninterrupted for the next 3 years. We also are going to make sure the funds that go into Airport Improvement Programs are actually used for their original purpose, and that is to improve our airports, the runways, the terminals, and the services our constituents need and deserve.

On that note, this legislation also no longer allows AIP funds to be used for security mandates. Up to this point approximately $500 million has been skimmed off the top of the AIP fund to pay for security mandates that the Federal government placed on our local airports. The Transportation Security Administration—TSA—predicts that an additional $500 million will be needed to complete these capital improvements that have been deemed necessary for security purposes. This bill proposes that these unfunded mandates be paid for by directing the passenger security fee into a separate fund to cover these costs. The first $500 million of these fees that is collected will be directed to this fund.

This legislation also looks at excessiveness at TSA. It will require TSA to do a study to look at the efficiency of their employees and then redeploy them as necessary based on the results of the study. I am pleased that TSA is already reassessing their workforce. While it is not the goal of this Congress to have less than adequate security at any airport, it is important for TSA to recognize the areas in which they have gold-plated security.

In another effort to help the industry, this legislation also makes permanent a provision already in the annual appropriations bill that requires TSA to pay fair market value for the space they occupy at airports. The bill also keep AIP funding at the fiscal year 2003 level for FY04, but changes the match requirement from 10 percent to 5 percent for that 1 year. AIP funding will then be increased by $100 million for the out years. This is very important to local communities that are hard pressed to make that local match, because their funds have been depleted due to these unfunded mandates. AIR-V also maintains the budget firewalls that were put in place during the debate over Air-21. These firewalls require that the trust fund continues to be spent down.

Of particular importance to my home state of Mississippi is language in this legislation that continues the authorization of the Small Community Pilot Program. This provision will allow 40 new communities to be eligible to receive one-time money each year. This is a good program that requires innovative thinking on the part of airports and their local communities.

Another important issue to rural States such as mine and Senator ROCKEFELLER's is the Essential Air Service Program. The two of us introduced legislation that works to improve this program, while not implementing the drastic change the administration has pushed. In short, it provides incentive to the local communities to get involved in determining the quality and type of air service their community receives. We have included that legislation in this bill.

Transportation infrastructure spending is important, and it is one of my top priorities. I want to continue the Republican congressional majority's commitment to transportation infrastructure. Our Nation's growing economy demands attention to this issue. Passage of this bill will be a step in that direction.

I say again, in Senator MCCAIN's presence, I appreciate his attention to this and his interest and his desire to move forward. Without his tenacity we would not be here now. I believe we have a good bill that we can complete in short order.

I am glad to yield the floor at this time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Senator from Mississippi for his kind comments.

Mr. President, we are awaiting the appearance of Senator LAUTENBERG, who has an amendment we will be considering shortly. Until then, I remind my colleagues we would like to move forward with amendments.

I understand that Senator COCHRAN may have an amendment, and several others. But I don't think there are many. We could go ahead and move forward as quickly as possible with the legislation.

Pending their arrival, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 889

Mr. McCAIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 889.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. McCAIN. Mr. President, this is a managers' amendment which we have developed working with Senators LOTT, HOLLINGS, and ROCKEFELLER. It includes a number of technical changes and improvements recommended by the executive agencies affected by the bill. It also includes some substantive changes, including whistleblower protections for the employees of contractors doing business with the FAA; requiring the GAO to periodically report to Congress on the economic state of the airline industry; airline executives' compensation; clarifying that the war risk insurance provision only applies to U.S. air carriers; moving the new security capital fund from FAA to TSA; and removing a provision—I emphasize "removing"—a provision that was added in the markup concerning outside-the-perimeter slots at Reagan National Airport.

Mr. HOLLINGS. Mr. President, these particular modifications have been checked through by both the chairman and ranking member of our Aviation Subcommittee. Let the RECORD show that the distinguished Senator from West Virginia, Senator ROCKEFELLER, our ranking member, is at an important Finance Committee markup at the moment with respect to prescription drugs and Medicare. I have checked it through with him, and it has been checked through on this side. We ask for support of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendment is agreed to.

The amendment (No. 889) was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I wanted to alert my colleagues that I intend to offer an amendment to this bill this afternoon. I have talked to several people about it. I will not take a lot of time. I don't intend to delay the bill at all. But there is an important piece of policy in this legislation.

Before I explain it, I should congratulate my colleagues, Senator MCCAIN, chairman of the full committee, and Senator HOLLINGS, ranking member, for their work on this bill. It is really important for us to complete this legislation. Hopefully, perhaps we can complete it today, in fact.

On page 145, there is an aviation security capital fund of $500 million. I think that is an important fund which it establishes in the Department of Transportation. I think that is perhaps transferred in the managers' amendment in fact to homeland security.

This capital fund provides funds for the security needs at airports around the country, and for investment in the construction and infrastructure for security purposes.

All of us know in the shadow of 9/11 and the terrorist attacks that occurred in our country that security, especially aviation security, is critically important.

This provision, as important as it is, however, has a local match requirement. My great concern is that this money will not be invested in aviation security because many communities and States around the country simply won't have the capability of coming up with the local match. That is why we put money in legislation previously. In the tax bill that passed the Congress, we included a substantial amount of money to try to help State and local governments, many of which are flat on their backs financially. They are having trouble funding their own needs.

I think having a security capital fund is very important. But having that fund available only if there is matching money available for it locally will mean that much of it will not be spent, much of it will not be invested, and much of it will not contribute anything to this country's security.

What I propose to do on this occasion, because it deals with security, which is a national issue, and because the State and local governments are in a pretty precarious fiscal position, is eliminate the local match so we could expect that this money would be invested. The construction and the infrastructure that will be completed with this money will contribute, in fact, to aviation security in this country.

I have visited with my colleague, the Senator from Mississippi. I think he has some persuasive reasons for not eliminating the local match. But, on the other hand, I think there is a persuasive argument that the only way we will see this money truly invested in airports around the country is if we eliminate the local match.

Perhaps I should offer this amendment now and have it pending. I have to chair a luncheon in a few minutes and will have to leave the floor.

If it is all right with the chairman and ranking member, I will offer the amendment. We will have it pending.

AMENDMENT NO. 890

Mr. DORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 890.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To delete the matching requirement for airport security related capital investment grants)

On page 146, beginning with line 20, strike through line 8 on page 147.

Mr. McCAIN. Mr. President, I understand the Senator from North Dakota has to leave at this time. We will be glad to discuss this amendment at his convenience, hopefully later this afternoon, and perhaps we can get something worked out on it.

Mr. DORGAN. Mr. President, I have explained my amendment already. What I would like to do is work with my colleagues, Senator McCAIN, Senator LOTT, Senator HOLLINGS, and others. I think this is an important amendment. I am not suggesting this be a precedent forever, for all time. At this moment, in this place, for this reason, I believe if we want to invest $500 million in aviation security in this country, it is likely the only way that will be invested is to eliminate the State and local match. I think there are good reasons to do that. So if I can work with my colleagues in the next several hours, I hope we can make some progress on this amendment.

I do want to make one final point. It is not my intention in any way to hold up this bill. I do not expect this would be a lengthy debate, in any event. I would agree to a short time agreement. But my hope is perhaps we could support this by a voice vote at some point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, Senator LAUTENBERG is in the Chamber to offer an extremely important amendment. He will be ready to do that in a matter of a few minutes.

In the meantime, Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 891

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 891.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify the apportionment of funds from the Aviation Security Capital Fund)

On page 146, line 17, insert "origination and destination" before "emplanements".

On page 146, line 19, insert "origination and destination" before "emplanements".

Mr. REID. Mr. President, the events of September 11, 2001, have been catastrophic on the aviation and travel industry. And that is an understatement. I strongly supported the formation of the Transportation Security Administration because I believed then and believe now it is critical that the public has confidence in the safety and security of our airports and airlines.

This enhanced security will save jobs, protect Americans' ability to travel freely and safely, and boost business for the travel and tourism industries.

The need for capital security costs, such as explosives detection and screeners, should be based on real need. Unfortunately, the formula in this bill that allocates grants in the aviation security fund to assist with capital security costs is not based on real needs. It does not accurately account for the number of passengers who must be carefully screened as they enter airport terminals at their point of origin. That is where delays occur and additional security equipment is always badly needed.

My amendment corrects the language in section 402 of this bill that allocates funding for capital security costs based on "emplanements." This is wrong.

My amendment would change the formula for allocating funding in the aviation security fund from "emplanements" to "origination and destination emplanements."

My amendment allocates resources to airports that are screening the largest number of passengers and not at airports where passengers simply connect to another flight. As an example: Someone flies from New York to Chicago and they have a connection to go to Des Moines, IA. They don't leave the airport. The problem in Las Vegas is people come to Las Vegas. They go downtown or to the strip and then they come back and have to get back through all the screening. That is where the need should be, for people who enter and leave the airport not simply the fact that people land at the airport.

My amendment would allocate resources, as I said, to airports that are screening the largest number of passengers, and not at airports where passengers simply connect to another flight.

At large hub airports many passengers simply change flights. They don't enter and leave the terminal where security is most needed. These passengers have already been screened.

This is especially important in Las Vegas but it is a bigger issue. It is important that we prevent another terrorist attack on our airlines. Terrorists will search for the weakest link in our security and try to exploit it.

Capital security resources must be allocated fairly and equitably and correctly. Las Vegas McCarran Airport has the second largest number of origination and destination passengers in the entire Nation, second only to LAX. This means that McCarran processes more people through TSA security checkpoints than every other airport, except Los Angeles.

Under the present formula, other airports would get far more security resources even though they screen fewer passengers. McCarran clearly needs more resources than many hub airports where a great number of passengers emplane but do not need to be screened.

Nothing could be worse for the Nation than allocating its precious security resources in the wrong manner. We need additional security at origination and destination airports—and we need it now—where passengers are actually screened. We do not want resources allocated where they are unnecessary, especially at a time when Congress is asking TSA to get its costs under control.

Mr. President, I ask unanimous consent that Senator ENSIGN be added as a cosponsor of this amendment with the Senator now speaking.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I urge my colleagues to support this amendment for the safety of the flying public and the health of our economy. We need to put our security resources in the right place. Let's keep the skies safe.

Now, Mr. President, I have spoken——

Mr. McCAIN. Will the Senator yield for a question?

Mr. REID. I am happy to yield.

Mr. McCAIN. It is my understanding, from talking with you and your colleague, that at McCarran Airport—for example, on a Sunday—a 3-hour delay is a routine kind of experience. That is a normal experience rather than an exception, which is remarkably different from almost every other airport in America. Is that true?

Mr. REID. That is absolutely right. It is based upon the formula I have just given.

I say to the managers of this bill—the chairman of the Commerce Committee and the ranking member of the Commerce Committee—I have spoken to their staffs, I have spoken to them, as has Senator ENSIGN. We have been given an assurance by these two fine men and their staffs that this is something the conference will look at as soon as the bill leaves this body. The staff will start reviewing this.

They have a concern now that they may not have adequate figures to justify what Senator ENSIGN and I are saying. We want them to have adequate numbers so that what we are saying is valid.

We want, as I have indicated in my statement, there to be a fair allocation of resources. We believe, as the Senator from Arizona has indicated, that Las Vegas is a very unique place. It is not like Chicago O'Hare. It is not like the airports in New York. It is similar to what we have in Phoenix. Phoenix has a problem similar to us. I believe Phoenix would benefit from the formula I am suggesting.

But I have been given an assurance, as I have indicated, by the two managers of this very important committee, that they will do what they can in conference to allocate the resources fairly.

The language I have in this amendment may not be perfect. There may be some need to look at other issues to have a fair apportionment of these resources.

So based upon the assurances I have been given by the two managers of this bill, I will withdraw this amendment, on behalf of Senators REID and ENSIGN, and look to the good offices of these two gentlemen to make sure that, for our country, there is a fair allocation of resources.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Before the Senator from Nevada leaves the Chamber, I would like to ask him another question.

So that my colleagues will understand this problem—and it is a serious one—if I fly from here to the Atlanta Airport, or the Dallas/Fort Worth Airport, which I will do tomorrow, and then change airplanes but stay within the terminal, not having to go through security again, and then I go on to the Phoenix, AZ, airport, that, for the purposes of the present formula, would be counted as the same as someone who enters an airport, flies and lands at another airport, leaves that airport, and then later on has to reenter the airport to leave that area.

In other words, what we are saying is, we have a formula now where someone who remains within the airport and does not have to go through security is basically counted the same as a person who does have to go through security.

Mr. REID. That is right.

Mr. McCAIN. So that, obviously, is an incredible burden if you have to put every passenger through security where a large majority of them, particularly at hub airports, do not have to send passengers through security. Is that basically the problem we are trying to confront here?

Mr. REID. The Senator is absolutely right. We have places, such as at McCarran Airport, where, if we had additional help, we could move people into the airport more quickly but we simply don't have the TSA people to do that. We have some of our hub airports where, as the Senator has indicated, they have people standing around looking at each other because they are not having people coming in and out of the airport like we have at McCarran.

Mr. McCAIN. I say to the Senator, I think your concern is legitimate. I think the formula needs to be changed. We will work on it.

First, we will get a letter over to communications with TSA and tell them we need to look at this formula again. I have been told they are already doing that, but I want to assure the Senator from Nevada, we will try to do everything in our power to address this clear inequity that exists in the formula as we go to conference.

I thank the Senator.

Mr. REID. If I could say one additional thing before I sit down. I do not have the opportunity very often to talk about the good work of the committee but, as far as this Senator is concerned, some of the best work of this committee is to allow flights from National Airport to Las Vegas, to Phoenix, to Salt Lake. I would suggest that the Senator from Arizona—and I am sure he will check with his staff—I think he might find a better flight than going from Dallas to Phoenix.

Mr. McCAIN. I thank the Senator from Nevada. But I have done many foolish things in my life—many. One of those that ranks up in the top 10 is when I was being accused by the local newspaper for attempting to seek some relief from the perimeter rule in hopes that I might then have the convenience of flying direct from Reagan National Airport to Phoenix. I swore I would never fly direct from Reagan National Airport. Many years have gone by, and I had hoped that people's memories had grown dim on that, but now I will probably have to go another 5 years since the Senator has raised that.

Mr. REID. Well, the statute of limitations has run.

Mr. McCAIN. I thank my colleague.

Mr. HOLLINGS. Mr. President, the Senator from Nevada is correct. The money is for security, and a security check is what we are trying to fund, finance. It just hasn't been vetted at FAA. It is very logical to this particular Senator that the Senator from Nevada is correct, and I will make every effort in the conference to change the particular formula or rather embellish the word emplanement, so as to get destinations and takeoffs considered as going just through the security and the money be allocated thereof.

So I assure the Senator from Nevada that I will support it in every way I can.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

AMENDMENT NO. 890

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. Mr. President, while discussions are taking place on other issues or amendments, I wanted to go back and comment briefly on the statement by Senator DORGAN and his amendment.

First of all, I appreciate his membership on the committee and his interest in this aviation hearing. Most of the time we agree on how we can be helpful to the aviation industry. I appreciated the fact that he said he thought it was important we have this revolving fund for TSA security. There are those who are going to speak against that fund later today.

The appropriators feel as if the fund is not a positive thing, that it is taking funds from their bottom line. My concern is, if we have these fees collected for airport security and there is no specification that it go into that area, then it may be spread all over the place. If you go into port security, Coast Guard, or any number of programs—which may be very important and may be needed—if fees are collected for a purpose, they should not be spread out into other areas. It is like the highway trust fund. You collect gasoline taxes for highways, and to let it be spent for airports or ports—that is not the intended purpose and what people think they are paying for.

This fund is not intended in any way to get into the appropriators' job. They have a tough job. I know my colleague from Mississippi and Senator STEVENS will work hard to help our homeland security. We will continue to work to see if we can come up with some compromise agreement that will accommodate all concerned. Our goal is to just make sure we have these fees that are collected for airport security and security for the TSA used for that purpose.

With regard to the local share, I have a State that, obviously, is not a wealthy State. We have a limited number of airports. Several of them are relatively small. So any kind of cost share is not easy for them, plus the airline industry will tell you very quickly that in a lot of airports—particularly the bigger ones—any kind of a local cost share, the airlines will wind up having to pick up the cost because airports cannot get money from the local government. So they will say, all right, we have to get it from the airlines and they will pass it on to the airlines. That is a legitimate concern. It is really not fair.

I know it is not easy for the local airports sometimes to get a match. But we are talking about a small match here. Even if we can have the match 10 percent, it would still have the principle that the local governments are doing their share. Airports and airline service is a very important part of the economy in these smaller towns. It creates jobs, helps attract industry, and it is a big plus. Yet the cities or counties, even the big cities—Detroit, Chicago, New York—get tremendous benefits from their international airports, but they don't want to participate or pay any of the costs. Of course not. The trend in America is just let the Federal Government do it. Let the Federal Government do it all. Let the Federal Government pay for all of the airport costs, pay for all the housing costs, pay for all of the farming costs—just let the Federal Government do it. That is why we are going to have a $500 billion deficit this year, and probably the same next year, and it may come down some in 2005, but it is still going to be really ugly. Let Uncle Sam do it.

All I am saying is, let the local communities do a little bit, participate some, help a little in the cost of this huge benefit. I promote local airports in my State, such as Tupelo, Meridian, Golden Triangle, Biloxi, Pine Belt, and others. We have small airports that mean a lot. For them to help a little bit looks to me like a good idea. So I realize maybe that is not the way to do things around here. I am arguing on principle and some degree of responsibility for everybody to pay a little bit. Why should the Federal Government always have to pay the first and the last dollar?

We will work with Senator DORGAN, a very valuable member of the committee. I understand his concerns in these smaller communities. But the problem is not really the smaller communities; it is actually the bigger airports that will be inclined to pass them along to the airlines. I realize they have plenty of burdens of their own.

I wanted to respond and make it clear why I feel that some small amount of local participation is a responsible thing to do. It makes good, common sense. We may have a way to work it out. I wanted to get that on the record before we got too far away from Senator DORGAN's remarks.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 892

Mr. MCCAIN. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The pending amendments are set aside and the clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 892.

(Purpose: To express the sense of the Senate with respect to air fares provided to members of the Armed Forces)

At the appropriate place, insert the following:

SEC. . AIR FARES FOR MEMBERS OF ARMED FORCES.

It is the sense of the Senate that each United States air carrier should—

(1) make every effort to allow active duty members of the armed forces to purchase tickets, on a space-available basis, for the lowest fares offered for the flights desired, without regard to advance purchase requirements and other restrictions; and

(2) offer flexible terms that allow members of the armed forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, or penalties.

Mr. MCCAIN. Mr. President, this is a sense-of-the-Senate amendment. Frankly, I would like to see it in law, but I am not sure whether it would be constitutional and in keeping with existing law.

Basically, it says that the airlines should do whatever they can to make sure that members of the Armed Forces can get the lowest fare even if they are late; that they will offer them the lowest fare available; and that when there are cancellations or other reasons they have to change their travel plans, the airlines will show the flexibility that will afford them the lowest possible cost for their airfare.

We have a lot of transience amongst the men and women in the military and their families, not just being transferred from one place to another but, generally speaking, they are not based where they grew up and where their families or friends are located.

There are a lot of men and women in the military who make use of the airlines and many times on short notice. We are simply urging the airlines to show the kind of patriotism that is necessary to provide these very low income Americans the ability to move from one place to another.

I might add, this amendment was offered by Senator KAY BAILEY HUTCHISON on the DOD authorization bill as well. I hope the airlines will react positively to this sense-of-the-Senate resolution. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank the distinguished chairman and Senator KAY BAILEY HUTCHISON for this initiative. It is well deserved. Whether or not it can be worked out—as the Senator indicates, we hope it can be. It has been cleared on our side, and I urge its adoption.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 892.

The amendment (No. 892) was agreed to.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 893

Mr. LAUTENBERG. Mr. President, I commend the chairman and the ranking member of the Commerce Committee for moving this reauthorization forward. It is critical. The FAA is an essential part of our travel and aviation system. I encourage its consideration promptly.

A principal issue these days in aviation is security. How do we best protect those who are flying and those who are working in the airplanes, the cockpit crew, the cabin crew? How do we best protect all of those people? Well, we review the passenger lists. We review the baggage. We look at what anybody brings aboard. One of the things that does not always get the attention it deserves is what happens with the FAA. What kind of people are they? Are they up to snuff in their training? Have we a reservoir, a reserve, of people who are trained and ready to take over when we are looking forward to a fairly large retirement possibility for those people who came in after some of the labor problems were resolved?

I send an amendment to the desk to make certain that FAA is going to be able to maintain its integrity, and I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 893.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the Secretary of Transportation from transferring certain air traffic control functions to non-governmental entities)

On page 193, after line 23, insert the following:

SEC. 624. TRANSFER OF CERTAIN AIR TRAFFIC CONTROL FUNCTIONS PROHIBITED.

(a) IN GENERAL.—The Secretary of Transportation may not authorize the transfer to a private entity or to a public entity other than the United States Government of—

(1) the air traffic separation and control functions operated by the Federal Aviation Administration on the date of enactment of this Act; or

(2) the maintenance of certifiable systems and other functions related to certification of national airspace systems and services operated by the Federal Aviation Administration on the date of enactment of this Act or flight service station personnel.

(b) CONTRACT TOWER PROGRAM.—Subsection (a)(1) shall not apply to a Federal Aviation Administration air traffic control tower operated under the control tower program as of the date of enactment of this Act.

On page 69, after the item relating to section 623, insert the following:

Sec. 624. Transfer of certain air traffic control functions prohibited.

Mr. LAUTENBERG. I rise to offer a critical safety and security amendment to this FAA bill. My amendment would ensure that the air traffic control system and its personnel remain a government function.

There is an attempt underway right now in the executive branch to open up air traffic control to private contractors. I believe we in the Congress must put a stop to this. There are some areas where it makes sense to contract work out to private entities, but air traffic control is not one of them. The safety of our skies should not be put in the hands of the lowest bidder. We should not be looking to buy security on the cheap.

I believe those who operate and maintain our air traffic control system are almost like a wing of the military. They keep us safe. They police our skies.

On September 11, 2001, we had a tragic day for all Americans. In my State of New Jersey, nearly 700 people lost their lives. As my colleagues know, Transportation Secretary Norman Mineta ordered all aircraft in the U.S. airspace grounded that day. They wanted those airplanes safely out of the sky. It was a massive undertaking.

I have a visual of 9/11 at 12:30 p.m. The assault took place around the 9 hour. This is a picture of the traffic, each one of these denoting an airplane, that was in the sky at 12:30. Many planes had already landed, but there were still thousands in the air, as we can see. The bulk of this traffic was in the East, as it was still early morning on the west coast. My home State of New Jersey is all but covered in air traffic in this picture.

In the next visual, we will see what the skies looked like roughly an hour later, at 1:45. We see some reduction in the cluster, but there are still hundreds, if not thousands, of airplanes in the sky. Planes are being rapidly grounded in the Northeast, and they are headed to the points in the Midwest to try to land safely, to take care of their passengers.

We have the next picture, which is only half an hour later, and look at this. Look at how empty the space, on a relative basis, is compared to where it was. The first one, this is now 3 to 3½ hours after the terrible assault on our buildings and our people took place. There is a cluster. We cannot even see the ground. But the air traffic controllers went to work, the system went to work, and now at 2:15, an hour and three-quarters later, they have cleared the skies, which is not an insignificant job.

We did not have one accident that day. We had the attacks with the aircraft on the towers, but all other aircraft that were in the sky that day got to the ground safely. People were able to call their families and say: Do not worry about me. I was flying. I am here. I am safe. I am well. I will be home tonight. I will be home this weekend. To the children: Daddy is alive and well, and we will be there.

We can see a massive number of planes were landing in that last half hour. Meanwhile, we can see the clusters of airplanes circling major airports, waiting for clearance to land, making sure the separations were maintained. The airports were at Dallas, Fort Worth, Atlanta, Kansas City, Denver, Indianapolis, Cincinnati, Minneapolis-St. Paul. That was the extent of the impact of this attack and the need to disperse the airplanes in the sky. And out west, Phoenix, Salt Lake City, Las Vegas, NV, Los Angeles, San Francisco, all of these planes landed safely in an amazingly short amount of time.

Let's look at the picture at 3:45. The sky almost looks clear, and thank goodness. Those were tense moments for everybody, for those who saw the smoke coming out of the Trade Center buildings and noted the absence of these two giant towers that were built, this testimonial to man, gone.

We did what we had to in the rest of the country to make sure those planes got on the ground safely. There were still some government planes in the air. We can see the military aircraft in the blue—they are a little hard to discern—as they patrolled the near empty skies.

On September 11, those who operated our Federal air traffic system demonstrated great heroism and dedication. Air traffic controllers across the Nation performed heroically as they guided thousands of aircraft out of the sky.

I wish to point out a bit of a technicality. They think of the air traffic control group sometimes as just the people in the tower who have the microphones at that moment, but we have specialists who keep this equipment going, and it is a complicated network. We have those flight service people who are on the ground giving advice, watching the separation, making sure that the system is in an orderly condition. It is a package. It is one part of it. It is very obvious that we in this body need lots of people around to make the system work, such as our staff people who are very good. We could not take part of them and have them working for one entity while we worked for another. It would not make sense, especially if there is a moment of need when the owner of the company says we are cutting back on some of the company benefits. It does not work. This is a unified system.

In my home State, from the tower of Newark International Airport, the air traffic controllers looking out the window could see the World Trade Center on fire as they worked to return tens of thousands of Americans to the ground safely. Like many public servants on that day, they were heroes, along with the police and firefighters and other emergency personnel. These public employees gave 110 percent of their ability to secure the safety of the American people.

In the aftermath of these tragic events, our people demanded one thing in particular of their government. They wanted government personnel, not private contracting firms, to perform security screening of baggage at our Nation's airports. If the American people demanded that baggage screeners become Federal employees at substantially increased salaries, this was an enormous cost burden we picked up. We took it out of the hands of the private sector, away from the airlines, to say: You were not buying security appropriately; you were not spending the money needed to keep the people interested, trained, and functioning.

Why in the world, if we wanted the baggage screeners to become Federal employees, would we contract out air traffic control to the lowest bidder? It does not make sense. One bag getting through at the wrong time could be a terrible tragedy. But one airplane in the wrong place at the wrong time would dwarf many of the opportunities others have to attack an airplane with a piece of baggage.

The safety and security of the American people should not be the responsibility of the lowest bidder. It is a core responsibility of our Government. To be able to muster the forces we need for our military endeavors, we have to know the people in the towers and their support system are always on the job, that they are reliable, that there is no dispute between a company or corporate headquarters and the need of the people.

That is why it is so shocking the FAA is being asked to take steps to privatize air traffic control in this country. It makes no sense, especially after September 11. It is the opposite of what the public wants.

Mr. LOTT. Will the Senator yield?

Mr. LAUTENBERG. I yield.

Mr. LOTT. My questions and my comments are related to your subject.

First of all, I appreciate Senator LAUTENBURG and what he is doing here. I understand his point. I indicated to him on the committee we would work with him and see if we could come up with compromise language that we could agree to. Unfortunately, we could not get that done. However, the Senator knows I have tried to act in good faith. I know he has, too. I appreciate that.

My concern is, I, like you, have concern about privatizing the air traffic controllers themselves. I also have sympathy for the flight weather service people because, in effect, in some areas I am familiar with, they are the air traffic controllers. But the amendment, as I understand it, and I think the Senator admitted, goes beyond demanding the tower or demanding the actual person looking at the screen and the flight weather service, it does expand to the other employees who are employed in the area—the service people, the repairmen, and perhaps even further than that.

My question is, is that a fact? Would your amendment expand beyond the professional air traffic controller or even the FWS employee and other employees? Could you perhaps specify some of the areas that might be covered, just for the edification of myself and the other Senators.

Mr. LAUTENBERG. The Senator from Mississippi is a sincere advocate of safety in our skies and has been very supportive of introductions of technology. The Senator has had a long period of service as chairman of the Subcommittee on Aviation. There is mutual respect.

We are including all parts of the FAA, of the controller system, systems specialists, and the safety inspectors. As I tried to demonstrate, it is a whole unit. One thing and is quite apparent. Very often when you have an organization the size of FAA, when functions are parceled out, very often the segment you have taken out—look at railroads where you have different unions that control different parts. If one of those unions has a disagreement with the management or with the operations of the company, they go out and can tie the whole thing up.

Keeping this team together—the nurses in the operating room, the orderlies, all those people, beside the doctor and the guy now who is the person developing the equipment that in many cases now is doing the surgery—is all one thing. Would you think of splitting off parts of that and saying one part ought to be here, one part ought to be there? I think not. We include them all. We say this is one integrated system.

I come out of the technology business—of course, it was 20 years ago—but there are certain buttons you have to push to connect everything. You have to make sure the equipment is working properly. If one asks the distinguished Senator from Alaska, Senator STEVENS—and I take this from recall so I am not giving his statement—he talked about the value of the flight service people in the State of Alaska and remote places. The Senator from Mississippi said it himself; very often they turn into controllers.

It is our intention to keep this package together. If we want to talk about it at another time in the future, certainly I would like to do so.

Mr. LOTT. If the Senator will continue to yield, we will continue to work on this. I know Senator MCCAIN will have something to say about it later. Regardless of how it works here, we will continue to work together.

I want to make note of the fact for the record that Secretary Mineta has determined that air traffic control is a core function of the FAA and as such the administration would not consider outsourcing beyond the current contract tower program. I note that is a program that is in place, the contract towers, and it has broad general support. Twenty-five percent of all takeoffs and landings, mainly general aviation in the United States, occur at these traffic towers. There is an example of how contracting out has been done and is working.

We will continue to work with the Senator. While I have some sympathy with what the Senator is trying to do as the amendment presently exists, it is too broad and I would have to oppose it.

I thank the Senator for yielding.

Mr. LAUTENBERG. We are leaving out the contract tower program. We do not touch that at all. Those are special situations, smaller airports where more is demanded from the operation than can be given as part of the FAA. We have no problem with those.

The amendment we offer now is smaller in scope than my original bill. It covers only air traffic control, separation functions, system specialists, and flight service station controllers.

There is a world far larger than that, that could be included which we have not included.

The administration has already changed the designation of air traffic control from "inherently governmental" to "commercial." It is more than a technical change. It opens the door to privatizing the air traffic control system.

We currently have the best air traffic control system in the world, with 15,000 dedicated Federal air traffic controllers who guide home safely more than 2 million passengers a day. They are expert professionals who perform under pressure every day to keep our skies safe.

Air traffic controllers play a major role in homeland security. When President Bush gave his State of the Union speech this year, it was the flight service station air traffic controllers who sent alerts to pilots around here to avoid the expanded no-fly zone around Washington. We wanted to keep the President safe. We wanted the security to be maintained. It takes a certain skill and dedication and experience to make sure it gets done, that it gets done in a timely fashion.

When the Space Shuttle Columbia tragically exploded in the skies over Texas, it was the air traffic controllers who directed the aircraft away from the falling debris field.

These men and women perform a critical function. Our security ought not be up for bid. Some claim privatization will save money, but we have to take a look at other countries' experiments with air traffic control privatization. When you do, you see financial messes and safety hazards. Australia, Canada, and Great Britain have all privatized systems that are now in crisis. Costs have gone up and safety has gone down. Since Great Britain adopted privatization, near misses have increased. That means near misses in the sky. When I told someone this, he said, You mean people missed more flights? I said, No, no, airplanes missing one another. Near misses have increased by 50 percent, and delays have increased by 20 percent. The British government has already had to bail out the privatized air traffic control company twice.

Look at this quote from a Member of the British Parliament.

> The privatization of the UK's air traffic control system was a grave mistake, and one that the United States can still avoid making. British Air Traffic Controllers are among the best in the world, and they fought tooth and nail to keep ATC in the public sector. They insisted that the sale of the National Air Traffic Services—NATS—would lead to a collapse in morale, the unwise introduction of inadequate and unreliable equipment, and an increasing danger of catastrophic accidents. The Government did not listen and went ahead. They were wrong and the air traffic controllers were right.

This is from Gwyneth Dunwoody, a British MP in the House of Commons.

Why should we jeopardize the public's safety in the skies? We have the best system in the world now. Why should we risk making it more dangerous and costly. We should not repeat the mistake other countries have already made.

I want to make clear to my colleagues my amendment does not affect the expansion of the contract tower program. That is one that is contracted out away from the FAA, typically in smaller communities, and that service seems to function very well. It has been in place a long time. That program, which affects the small visual-flight-rules airports, can be expanded to any of the 4,000 airports that are eligible. My amendment only affects FAA towers.

Our luggage is important, important enough to be screened by trained Federal workers. But once you are up in the sky, it seems the administration believes your safety should be in the hands of the lowest bidder. It makes no sense.

My amendment declares air traffic control functions to be "inherently governmental" and therefore it means they ought to stay with the Government and they are therefore not eligible for outsourcing.

I want to point out the Member of the British Parliament, Gwyneth

Dunwoody, the MP, is the equivalent of our distinguished Senator MCCAIN in this body. So we have a considered opinion from someone who has the responsibility and has been through it.

I urge my colleagues to support safety and security in our skies by voting for the amendment, keeping the FAA as a body in the hands of the Government.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I oppose this amendment and I think we ought to understand this amendment does more than tie FAA's hands with respect to air traffic control management. It would prevent a host of broader measures as well. Certain FAA responsibilities are best fulfilled by contract, using a combination of Government and private services, as is the case today.

Congress gave the FAA unique procurement authority for exactly this reason and the amendment would compromise that authority. For example, the FAA's air traffic control systems are increasingly composed of commercial components and software that build upon privately developed computer programs. If this amendment passes, the FAA's costs to maintain and install its systems would most likely increase significantly as the FAA tries to acquire needed data rights to maintain the equipment or forgoes the advantages of using commercial products.

Furthermore, the FAA would pay ever-escalating training costs to provide its workforce with the changing skills needed to maintain multiple systems.

The amendment prevents the FAA's ability to reduce its operating costs by contracting out certain operations—such as providing weather information to pilots. Congress has been very critical of the FAA's continually increasing operating costs. This amendment would take a very important tool for controlling costs away from the FAA.

The FAA is currently conducting a competition to evaluate the performance of its 61 flight service stations, which provide needed services, such as weather briefings, to general aviation pilots. The FAA expects that the competition will identify innovations and lead to greater value for America's pilots at a lower cost to the taxpayer. The bottom line is that the legislation would stop this study—a study that encourages the FAA.

Finally, this amendment prevents the FAA from expanding the existing contract tower program. This program allows smaller airports to continue to have air traffic control where an FAA tower might not be fully justified.

The Transportation Department's Inspector General has examined this program. He found that contract towers are just as safe and effective as FAA towers and on average cost $800 thousand a year less. This amendment would prohibit any other existing towers from becoming contract towers.

FAA continues to operate about 71 towers that are similar in traffic and complexity to towers currently in the contract program. For example, in Virginia, the tower at Manassas Regional Airport, which has general aviation only, is FAA-operated but the tower at Charlottesville-Albemarle Airport, which has frequent commercial service, is a contract tower. Converting these towers could save the FAA about $57 million dollars per year in operating costs and free up 900 controllers that could be used in more complex facilities and help meeting the pending wave of controller retirements.

The Administration is adamantly opposed to this amendment or any other provisions that would reduce the FAA's flexibility and ability to control costs. In a letter to the House, Secretary Mineta indicated that he will recommend a veto of any bill that contained provisions similar to this amendment.

We will hear today a lot of discussion about how admirably the air traffic controllers performed on September 11, and it is true. It is absolutely true. They did a magnificent job. It is also true that the air traffic controllers in Canada worked extremely well with their partners, the counterparts in the U.S., and they are not government employees. They are privatized air control providers.

All of us appreciate the enormous contributions and terrific jobs that our air traffic controllers did, and do. The question is, Will the administration be able to have the flexibility necessary to do such things as contract towers that operate without the complexities and difficulties that are associated with major air traffic control centers?

I ask unanimous consent that a letter dated June 12 from the Office of Management and Budget, Statement of Administration Policy, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 12, 2003.

STATEMENT OF ADMINISTRATION POLICY

S. 824—AVIATION INVESTMENT AND REVITALIZATION VISION ACT

The Administration strongly supports Senate passage of S. 824. Like the Administration's proposal, S. 824 would authorize federal aviation programs without increasing taxes or fees on an industry that has been severely impacted since the attacks on September 11th. The bill contains important environmental provisions including voluntary air quality initiatives; environmental streamlining elements for safety and airport capacity projects, and a more flexible use of the Airport Improvement Program (AIP) noise setaside. The bill also adopts structural changes to the Federal Aviation Administration (FAA) that were included in the Administration's bill, as well as important clarifications in the area of judicial review of both airport environmental and agency acquisition decisions.

The Administration will work with Congress to ensure, in the version of the bill presented to the President, that: (1) spending during the authorization period conforms to the amounts requested by the Administration; (2) environmental streamlining provisions include safety projects and are optimized to promote their intended goals; (3) the Aviation War Risk Insurance program remains focused on aircraft used to support U.S. military and foreign policy objectives; (4) responsibility for transportation security expenditures is consolidated in the Department of Homeland Security and fees collected for security activities are not diverted to purposes other than the provision of direct security services; (5) the appointment of members and the operation of any committees or commissions created by the bill are consistent with the appointments clause of the Constitution and the President's constitutional authority to supervise the unitary executive branch and make recommendations to Congress; (6) any provision for airline collaboration or coordinated capacity reduction preserves competition to the maximum extent possible; (7) maximum flexibility is provided in the use of AIP funds for security costs, noise set-aside and emissions research and mitigation; (8) provisions regarding the use of space by the FAA at airports do not impose costs which preclude the continued provision of essential services by FAA; and (9) mandates which might interfere with the FAA's ability to optimize its organization or research programs are minimized.

The Administration is aware that an amendment may be offered to S. 824 that would inappropriately prohibit the conversion of any FAA facilities or function from the Federal Government to the private sector. Such restrictions are unnecessary and would hinder the FAA's ability to manage the air traffic control system. If such an amendment were included in the final legislation presented to the President, his senior advisors would recommend that he veto the bill.

PAY-AS-YOU-GO-SCORING

The Budget Enforcement Act's Pay-As-You-Go requirements and discretionary spending caps expired on September 30, 2002. The Administration supports the extension of these budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's Budget. OMB scoring of the bill is under development.

Mr. MCCAIN. Mr. President, I will not bother with the entire letter except to say that the administration strongly supports passage of the bill. It talks about all the good things which will happen as a result of the bill, most of which we have already covered. I am sure we will cover it again. But it also says the administration is aware that an amendment may be offered to S. 824 that would inappropriately prohibit conversion of any FAA facilities or functions from the Federal Government to the private sector. They say that such restrictions are unnecessary and would hinder the FAA's ability to manage the air traffic control system;

and, if such an amendment were included in the final legislation presented to the President, his senior advisers would recommend that he veto the bill.

I very much dislike having all the work that has been done on this legislation for literally months be negated by one amendment. Although it may be emotionally an important issue, I would hate to see that provision destroy all the hard work and important programs that are included in this bill.

I don't know what the plans are for the other side. We would obviously like to have a vote on the Lautenberg amendment. I think there are negotiations going on and conversations concerning that. In the meantime, I note the presence of the Senator from Texas.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Arizona. I also thank the Senator from South Carolina for making sure that we have an FAA reauthorization bill on the floor in a timely manner.

There has been so much impact on the aviation industry over the last 2 years that I think we have had to refocus our efforts from capacity issues which we were trying to address before 9/11 to now security issues. Certainly, the parts of the bill that deal with capacity are still here. I think it is warranted that we look ahead. The aviation industry is going to come back, and we need to make sure we have the expedited environmental procedures for building new runways and help communities be able to meet the needs of increased demand when that occurs. If we can do that before a crisis, it will help us allow airports to grow in an environmentally positive way. In a way, that can be handled by the community effectively.

I think this bill is a good bill. I have worked on it as the former chairman of the Aviation Subcommittee and now as a member of the Aviation Subcommittee. I think it is very important that we look at the major issues of security.

I commend the committee for keeping the Security Trust Fund, which I think is so important. People pay a ticket tax for security. I want to make sure this ticket tax goes for security purposes. That is what this bill does. If we start having a shoestring for the Transportation Security Agency, they are going to start cutting corners, and we are not going to have an airtight system that a number of us want to ensure. We have a safer aviation system today than we had on 9/10 in 2001. We want to make sure it stays that way. We should not let our guard down. The kind of enemies there are today are looking for vulnerabilities, and we are not going to allow them to have that.

I think that is why this reauthorization discusses and handles the security issues, the capacity issues, and the issues of air traffic control and safety all in a way that I think is quite positive.

I appreciate the chairman of the committee and the ranking member working to get this bill out. It came out of our Commerce Committee, and I look forward to supporting it.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I listened carefully to comments made by our leader, the distinguished colleague from Arizona. I want to say that there are places where the contract tower process can be used. There are some 4,000 airports across the country where the contract tower program might apply. I have no objection to those smaller airports converting to that system. But we are grandfathering those that are presently FAA controlled to continue in that vein to make sure that the system is intact, and that the integrity of the functioning is as planned. If there is a point in time at some future date when we want to look at this, I am more than willing to discuss it. But I want to know exactly what the implications are to the total system, and not simply look at this as a financial gain because in the long run, the financial gains are ephemeral. We saw it in the British experience. We saw it in the Canadian experience.

The Senator from Arizona talked about how nobly the controllers from Canada performed on 9/11. Yes, we give them credit for that. But still in all, their system falls into higher costs all the time, and it is in financial despair, if I can use the terminology. We believe we take care of the issues concerned.

I think we would like to see what our colleagues have to say about that. In due time, I hope we will bring it to a vote.

I yield the floor.

Mrs. CLINTON. Mr. President, I thank my colleague from New Jersey for offering this amendment, which I am proud to cosponsor. This amendment will bar the use of funds to privatize the functions of the air traffic control system in the United States, which will ensure that air traffic control will remain a Government function under the control of the Federal Aviation Administration.

I believe that there are few functions of Government more inherent to our responsibility than guaranteeing the safety and security of consumers of transportation in our country. Since September 11, 2001, we have worked to increase the Federal role in improving air security. Air traffic control is essential to our Nation's security and it is vital that we keep air traffic control within the Government's function in order to ensure a safe aviation system on a day-to-day basis. It is also vital in the case of a terrorist attack. This was demonstrated vividly on September 11, when central Government control of air traffic proved essential in quickly clearing our skies and possibly preventing further casualties.

Furthermore, it is clear that the intention of those who oppose this amendment is to open the door for privatization of air traffic control. This would be a disaster. An extensive Columbia University study that looked at air traffic control privatization in other countries found that there are no operational or economic advantages to privatizing air traffic control. In fact, there is some evidence that suggests privatization can lead to an increase in incidents, as fewer controllers are used in an attempt to cut costs. For example, privatization in Canada has led to an operational irregularity rate twice ours despite the fact that their air system is 7 percent the size of ours. Privatization may also increase costs. The British Government has twice had to bail out its privatized system for $131 million, about two-thirds of what they originally sold it for.

I urge all of my colleagues to support this amendment in order to ensure the continued safety of our aviation system. Let us focus on how to improve our air traffic control system without compromising safety.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent the pending amendment be set aside so I may offer an amendment to the bill.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. Mr. President, if my friend from Mississippi would not mind, the Senator from Wyoming has a brief statement counter to the Lautenberg amendment.

So that we can be agreeable, I ask unanimous consent that immediately following the Senator from Wyoming, we set aside the Lautenberg amendment for the purpose of the Senator from Mississippi proposing an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I thank the President, and I thank the Senator from Mississippi. I will not take long. In fact, I just came from a markup in health care. I was very much interested in the discussion that was going on here. We are all involved, of course, in one way or another in air traffic control. I am a former private pilot and have experienced a great deal over the years. I don't fly anymore because I don't get enough opportunity to be safe. Nevertheless, I have listened.

First of all, I am very much interested in doing all we can in government to modernize and make it as efficient as can be. That is what the administration seeks to do in various kinds of activities, taking a look at those to see if there is something that can be done governmentally. If they can do it just as well or better in the private sector, there ought to be some competition for that. I believe that. I believe that very strongly.

I am always sort of surprised at the efforts made to keep the government from doing that. If they study it and come up with the right answer, I think that is a good idea, instead of saying we ought not to be doing any of those things.

I am an advocate of trying to have competition to see how we can do the best thing.

Currently, the FAA is reviewing the jobs done by the flight services staff to determine if these jobs could indeed be done better by the private sector.

I think most everyone knows that President Bush and his Secretary have no intention of having private competition for the air traffic controllers.

What we are talking about here is the flight service function, which is quite different. Currently provided for in general aviation, of course, is that pilots currently review it to see if flight service functions could be modernized by allowing the private sector to provide some of these services.

So it seems to me that is reasonable. And to come in with an amendment that says you cannot take a look at doing something better is a surprise to me.

The commercial airlines rely on the private sector for weather and all kinds of things. There is really no reason to think that is something that is done better by Government people than it is by private sector people. Who is flying the airplane, for example? That is where the real test comes.

So it seems to me we ought not to adopt this kind of an amendment. Remember, this is a current A-76 study that is underway. It is a study, and we ought to give that an opportunity to happen.

The FAA has categorized air traffic controllers as noninherently governmental. They have shielded the air traffic controllers from the A-76 study.

Mr. LAUTENBERG. Will the Senator from Wyoming yield for a question?

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I asked if the Senator from Wyoming would yield for a question.

Mr. THOMAS. Sure. Yes.

Mr. LAUTENBERG. I ask if the Senator from Wyoming is aware of the fact that some $20 million has already been spent on a survey or a study of this process?

Mr. THOMAS. I am not aware of that. Are you aware of the outcome?

Mr. LAUTENBERG. No.

Mr. THOMAS. No.

Mr. LAUTENBERG. The outcome is one we see that says perhaps we ought to put the security of the FAA out to the cheapest bidder. I am aware that is where it comes out. And can the distinguished Senator from Wyoming explain why it is we took this very comfortable, privately managed sector of our aviation system, the baggage screeners, and brought them into Government at three times the wage they were working? There are 33,000 or 28,000 of those people.

Mr. THOMAS. May I answer the question, please?

I do know why that is, and I would think you do, too.

We decided it right here. I voted against it. I voted for having the private sector continue. That is why it was done, because it is a political thing, and you know it and I know it.

Mr. LAUTENBERG. I am delighted—I always enjoy the comments of my friend from Wyoming. We talk the same language in New Jersey.

But to say it was a political decision, then it sounds relatively meritoriousless. But I hear people say things are better with the folks working for Government. Of course, we have started to lay off a lot of baggage screeners already. And so, to me, the chances of baggage screening being of the same danger as changing the system that now——

Mr. THOMAS. Is there a question?

Mr. LAUTENBERG. Mr. President, I am sorry. Forgive me. I did not mean to use the time of the Senator from Wyoming. I was just trying to respond to his answer.

Mr. THOMAS. I understand, and you will probably have an opportunity to do that. Let me respond to what you are saying.

You talk about how much better it is. I think if you had spent that many billions of dollars doing it on the other side, it perhaps would have been better as well.

So I urge Senators to not accept this amendment and to let us continue to have a study of what might better be done rather than saying, flatly, we cannot even take a look at a possible modernization.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Mississippi.

AMENDMENT NO. 898

Mr. COCHRAN. Mr. President, under the unanimous consent agreement propounded by the distinguished Senator from Arizona, I ask unanimous consent that the pending amendments be set aside, and I send an amendment to the desk and ask it be reported. The amendment is at the desk.

Mr. REID. Reserving the right to object, Mr. President, I missed the unanimous consent request. What is it? What is the request?

Mr. COCHRAN. The request is that the pending amendments be set aside and that I may be permitted to offer an amendment to the bill.

Mr. REID. I would agree to that if we have a time set for a vote on the Lautenberg amendment. Other than that, because I don't want his amendment to——

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. When would the Senator like to have that vote?

Mr. REID. We would like to have it as soon as possible.

Mr. McCAIN. Mr. President, I ask unanimous consent that pending the discussion of the Cochran amendment, we move then to a vote.

Mr. REID. Well, I know we have two of our most senior Members here involved in this debate, Senator COCHRAN and Senator BYRD, and they usually do not talk for 5 minutes.

Mr. COCHRAN. Mr. President, if the Senator will yield, I do not intend to talk long. I do hope we can permit Senator BYRD to make a statement on this amendment. I do not know how much time he would need for that purpose.

Mr. BYRD. Five minutes.

Mr. McCAIN. The Senator says 5 minutes.

Mr. President, I say, we are prepared to accept the amendment by Senator COCHRAN.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] for himself and Mr. BYRD, proposes an amendment numbered 898.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide authorization for an Aviation Security Capital Fund)

On page 145, beginning with line 8, strike all down through and including line 24 on page 147, and insert the following:

"SEC. 402. AVIATION SECURITY CAPITAL FUND.

"(a) IN GENERAL.—There may be established within the Department of Homeland Security a fund to be known as the Aviation Security Capital Fund. There are authorized to be appropriated to the Fund up to $500,000,000 for each of the fiscal years 2004 through 2007, such amounts to be derived from fees received under section 44940 of title 49, United States Code. Amounts in the fund shall be allocated in such a manner that—

"(1) 40 percent shall be made available for hub airports;

"(2) 20 percent shall be made available for medium hub airports;

"(3) 15 percent shall be made available for small hub airports and non-hub airports; and

"(4) 25 percent may be distributed at the Secretary's discretion.

"(b) PURPOSE.—Amounts in the Fund shall be available to the Secretary of Homeland Security to provide financial assistance to airport sponsors to defray capital investment in transportation security at airport facilities in accordance with the provisions of this section. The program shall be administered in concert with the airport improvement program under chapter 417 of title 49, United States Code.

"(c) APPORTIONMENT.—Amounts made available under subsection (a)(1), (a)(2), or (a)(3) shall be apportioned among the airports in each category in accordance with a formula based on the ratio that passenger enplanements at each airport in the category bears to the total passenger enplanements at all airports in that category.

"(d) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—Not less than the following percentage of the costs of any project funded under this section shall be derived from non-Federal sources:

"(A) For hub airports and medium hub airports, 25 percent.

"(B) For airports other than hub airports and medium hub airports, 10 percent.

"(2) USE OF BOND PROCEEDS.—In determining the amount of non-Federal sources of funds, the proceeds of State and local bond issues shall not be considered to be derived, directly or indirectly, from Federal sources without regard to the Federal income tax treatment of interest and principal of such bonds.

"(e) LETTERS OF INTENT.—The Secretary of Homeland Security, or his delegate, may execute letters of intent to commit funding to airport sponsors from the Fund.

"(f) CONFORMING AMENDMENT.—Section 44940(a)(1) of title 49, United States Code, is amended by adding at the end the following:

'(H) The costs of security-related capital improvements at airports.'.

"(g) DEFINITIONS.—Any term used in this section that is defined or used in chapter 417 of title 49 United States Code has the meaning given that term in that chapter.".

Mr. COCHRAN. Mr. President, I also note that Senator BYRD is a cosponsor of the amendment. I appreciate very much hearing the assurance of the Senator from Arizona that this amendment will be accepted, so I am not going to talk long. I do not want to talk our way out of getting this amendment accepted, but I do briefly want to say what it does, and then I will be happy to yield to Senator BYRD for whatever comments he would like to make.

This amendment seeks to amend section 402 of the bill. Section 402 creates a new entitlement program, in effect, and it is a capital fund program that would permit the Transportation Security Administration to use up to $500 million—the first $500 million collected each year from the emplanement fee; $2.50 per passenger that is now collected under current law—and transfer those funds to the Department of Transportation for administration of this capital fund.

The Department of Transportation could then allocate those funds to airports for security improvements. There are provisions in the amendment about how much hub airports would be entitled to—40 percent; 20 percent to medium hub airports, and the like. But the problem with it is the CBO says that, unlike the arrangement under current law, where the Transportation Security Administration spends these funds for airport screeners and other activities under the jurisdiction of the Transportation Security Administration, it would no longer be able to have those activities offset by the funds that are collected from the passengers, which means we would have to appropriate additional money each year to pay for those purposes that are now being paid for out of the emplanement fund that is designated and earmarked for that purpose now.

So what we are doing is saying, it is OK to set up this new capital fund, and it is OK to authorize the Transportation Security Agency to collect the money and make it available, but we need to make that subject to appropriations. That is the point because we are going to divert money from the Department of Homeland Security for this new purpose, and we have a letter from Secretary Ridge explaining that. I ask unanimous consent that a copy of his letter dated June 11 to me be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF HOMELAND SECURITY, OFFICE OF THE SECRETARY,

June 11, 2003.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Homeland Security, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Administration appreciates the continued support of Congress for improvements in the security of the Nation's civil aviation system and supports Senate passage of S. 824, the Aviation Investment and Revitalization Vision Act (Air-V). However, the Administration opposes a provision in S. 824 that would divert fees collected for security activities for purposes other than the provision of direct security services.

With the Homeland Security Act of 2002, Congress identified the Department of Homeland Security (DHS) as the focal point of the federal government's homeland security efforts, with the mission of preventing terrorist attacks and reducing the nation's vulnerability to terrorism. While the Department welcomes and appreciates the assistance of other agencies in improving security, any diversion of security fees, such as that proposed in S. 824, would directly undermine the Department's ability to fulfill its mission. Air-V would establish an Aviation Security Capital Fund that is both outside the control of the Department and funded by diverting $500 million per year of passenger and air carrier security fees collected by the Transportation Security Administration (TSA). This would diminish the Department's funding capacity. As you know, the direct annual costs of operating the aviation security system are not fully offset by these fees, and diverting fee revenue for other purposes clearly weakens the intended financing structure of TSA set forth in the Aviation and Transportation Security Act. Diversion of the fees into a fund outside of DHS undermines the ability of the Administration to apply these resources to the most pressing security needs.

The Administration looks forward to working with Congress to ensure that the version of the bill presented to the President eliminates this objectionable provision.

The Office of Management and Budget has advised that there is no objection, from the standpoint of the Administration's program, to the submission of these views for the consideration of the Congress.

Sincerely,

TOM RIDGE.

Mr. COCHRAN. Mr. President, I am hopeful we can go forward. I appreciate very much the assurance of the Senator from Arizona that the amendment will be included in the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I am pleased to join my friend and the Chairman of the Homeland Security Appropriations Subcommittee, Senator COCHRAN, in offering this amendment today. At the same time, I deeply regret the fact that we are being forced to have to come to this floor and offer this amendment.

S. 824 contains a brand new $500 million entitlement program. This legislation would earmark $500 million of existing aviation security fees for grants to airports for construction.

The Transportation Security Administration was created by the Congress in response to the attacks of September 11. It was a failure of our airport screening procedures that allowed 19 men to board domestic airliners with weapons and turn four planes into instruments of death and destruction. With the creation of the Department of Homeland Security, the TSA was transferred from the Department of Transportation to the new Homeland Security Department. The Appropriations Subcommittee on Homeland Security, which is so ably chaired by the senior Senator from Mississippi, is charged with funding the TSA—one of many agencies now in the Department of Homeland Security.

The President's Fiscal Year 2004 budget request for the TSA assumes that $2 billion and $70 million in aviation security fees will go to the TSA to meet its security requirements. These fees are used to fund the thousands of screeners at our airports, for purchasing security equipment such as explosives detection equipment, and for the Federal Air Marshals program, all of which help secure our airports and the millions of travelers who use them. The provision in this bill that Senator COCHRAN and I are seeking to modify would take $500 million of those fees that the President has requested for the TSA and instead earmark the $500 million for a new entitlement program for airport construction grants.

This new mandatory program purports to "solve" an airport security construction problem. However, the provision actually creates a homeland security problem. The provision will create a $500 million hole in the TSA budget—a hole that the Homeland Security Subcommittee will be unable to fill without creating other holes in our homeland security budget.

How should we fill that $500 million hole? Should we take Border Patrol agents off our Southwest border? Should we cut port security programs? Should we further slow down the Coast Guard's modernization program? Should we reduce the numbers of inspectors at our ports of entry on our borders and increase the waiting time for agricultural produce to enter the U.S. from Mexico and Canada? Should we cut grants to our States and cities to equip and train first responders? These are the very real choices we on the Homeland Security Appropriations Subcommittee will have to face if the provision in this bill is permitted to pass.

I sympathize with the dilemma facing the members of the Commerce Committee. They are attempting to relieve the security construction burden facing our Nation's airports. I support these airport security programs and have provided funds in the past to begin to meet these airport security needs. However, the President did not request one dime for airport security construction in his budget, not one dime. So if this provision became law, we would need to cut $500 million from homeland security priorities requested by the President.

Our amendment is a simple one. Instead of creating a new entitlement program, instead of creating a colossal new $500 million earmark, instead of putting airport construction grants at the front of the line, ahead of border security, port security or first responder grants, this amendment would simply turn this new $500 million program into an authorization. It would allow the Senate to use the appropriations process to make careful choices among the competing homeland security priorities.

I urge my colleagues to join us on this amendment and strike this ill-advised provision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, we are ready to accept the amendment on this side.

Mr. HOLLINGS. It has been cleared on this side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 898) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. If the Senator will yield briefly, I thank the Senator from Arizona and the comanager on this side of the aisle for their accepting the amendment. I think it is a real service.

Mr. McCAIN. Mr. President, I understand it is the agreement of the Senator from Nevada that we will have a vote at 2:30 on the pending amendment.

Mr. REID. Yes.

Mr. McCAIN. Could I have a small modification, a technical amendment?

Mr. REID. Yes.

AMENDMENT NO. 889, AS MODIFIED

Mr. McCAIN. Mr. President, I have a modification of amendment No. 889 at the desk. It is a technical correction concerning the sale of airline tickets that was inadvertently included in the managers' package.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The modification is as follows:

On page 10, strike lines 11 through 18

Mr. McCAIN. Mr. President, I ask unanimous consent that the vote in relation to the Lautenberg amendment No. 893 occur at 2:30 today, with no amendments in order to the amendment prior to the vote; further, that the remaining time until 2:30 be equally divided in the usual form.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I wish to mention to my colleagues that we are moving along on the amendments on this side. I know there is an amendment by the Senator from Oklahoma, Mr. INHOFE, which I hope we can consider rather quickly. It is a very interesting amendment on raising the age from 60 to 65. There are several amendments by Senator BURNS.

I say to my friend on this side that I think we can probably agree to at least a majority of them. I know of no other amendments that would be pending on this side. If there are, we hope that during the vote that takes place at 2:30 we can get pending amendments at least brought to our attention so we can schedule them. I still believe there is a very good opportunity to finish this legislation tonight.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 891, WITHDRAWN

Mr. REID. Mr. President, I ask that my amendment No. 891 which I offered earlier today be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask for the yeas and nays on the Lautenberg amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 893.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Connecticut (Mr. LIEBERMAN), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS —- 56

Akaka
Baucus
Bayh
Biden
Bingaman
Bond
Boxer
Breaux
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Fitzgerald
Graham (FL)
Gregg
Harkin
Hollings
Inhofe
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Specter
Stabenow
Talent
Voinovich
Wyden

NAYS—41

Alexander
Allard
Allen
Bennett
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Dole
Ensign
Enzi
Frist
Graham (SC)
Grassley
Hagel
Hatch
Hutchison
Kyl
Lott
Lugar
McCain
McConnell
Miller
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Thomas
Warner

NOT VOTING—3

Edwards
Jeffords
Lieberman

The amendment (No. 893) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I may have the attention of the managers of the bill.

The PRESIDING OFFICER. The Senate will be in order.

Mr. REID. One of the important amendments on this bill is the Inhofe amendment that has been discussed at some length, on both sides, off the floor. But both have agreed that the Inhofe amendment will be handled in 40 minutes, equally divided.

I ask unanimous consent that the Inhofe amendment be the next in order and that the time for the amendment be 40 minutes.

Mr. McCAIN. Equally divided.

Mr. REID. And no second-degree amendments be in order prior to the vote, on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. Forty minutes equally divided.

Mr. REID. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. McCAIN. Mr. President, before we move to the Inhofe amendment, I wish to state for the benefit of my colleagues, we have a Dorgan amendment which is being worked on. We have a Bunning amendment which is being worked on.

I believe a Burns amendment is being worked on as well. I think we are close to completion of work on the amendments. If our colleagues have additional amendments, we would certainly like to see them during this 40 minutes of debate on the Inhofe amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 986

Mr. INHOFE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself, Mr. KYL, Mr. THOMAS, Mr. BROWNBACK, Mr. GRASSLEY, and Mr. ENZI, proposes an amendment numbered 986.

Mr. INHOFE. Mr. President. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To establish age limitations for airmen)

At the end of title V, add the following new section:

SECTION 521. AGE LIMITATIONS.

(a) GENERAL.—Notwithstanding any other provision of law, beginning on the date that is 30 days after the date of enactment of this Act—

(1) section 121.383(c) of title 14, Code of Federal Regulations, shall not apply;

(2) no certificate holder may use the services of any person as a pilot on an airplane engaged in operations under part 121 of title 14, Code of Federal Regulations, if that person is 65 years of age or older; and

(3) no person may serve as a pilot on an airplane engaged in operations under part 121 of title 14, Code of Federal Regulations, if that person is 65 years of age or older.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of this section shall take effect on the date that is 30 days after the date of enactment of this Act.

(2) INTERIM LIMITATION.—During the period that begins on the date that is 30 days after the date of enactment of this Act and ending on the date that is one year after such date—

(A) subsection (a)(2) shall be applied by substituting "64" for "65"; and

(B) subsection (a)(3) shall be applied by substituting "64" for "65".

(c) CERTIFICATE HOLDER.—For purposes of this section, the term "certificate holder" means a holder of a certificate to operate as an air carrier or commercial operator issued by the Federal Aviation Administration.

(d) RESERVATION OF SAFETY AUTHORITY.—Nothing in this section is intended to change the authority of the Federal Aviation Administration to take steps to ensure the safety of air transportation operations involving a pilot who is 60 years of age or older.

Mr. INHOFE. Mr. President, first of all, I would like to say this is a noncontroversial amendment which everyone is for.

That is not true. But it is a very old subject. I say that in two ways.

It is a subject that has been around for a long time and one that needs to be addressed one way or another.

Second, I am offering an amendment that passed out of the Commerce Committee last year. It does one very simple thing. Currently, the age limit for a commercial pilot is age 60. That was established some 40 years ago. The life expectancy since that time has increased by about 12 years. There is no medical reason that anyone has ever put forward why a pilot should have to stop flying at age 60. Quite frankly, I know pilots who are too old to fly at age 50. I am an exception. I am age 68, and I am a better pilot than I was 40 years ago. But age is arbitrary. There are no two people alike.

For that reason, age 60 being an arbitrary number and having been around for some 40 years, my preference would be not to have any age limit at all. Frankly, I think we should have very strong, stringent medical requirements. That is in the law today. And we should have very strong proficiency requirements. That is in the law today. So long as a person is able to do that, that person should be able to continue. But, realistically, I believe people are going to say, well, that could lead up to very old ages—even my age. They do not want that to happen.

So we are putting an arbitrary age limit of 65 so we can at least look at it for a period of time. There have been a lot of studies. Johns Hopkins University School of Hygiene did a study as to what age someone would not have the proficiency in flying an airplane. They came back and said age has absolutely nothing to do with it. There are other predictors that are much more important. In fact, some studies have shown that airline pilots exceed population norms for physical health and mental ability. I believe that is true because they are required to take physicals on a regular basis.

I am a commercially rated pilot. I have been for some 40 years. I can tell you from personal experience in my particular case. Some of you in this Chamber will remember this. I had an experience just a couple of years ago with a single-engine airplane where the front end of the airplane came off in flight. Normally, with that situation you are through. However, drawing upon experience, I was able to determine where the new stalling speed was, which was three times what the stalling speed normally would be for that aircraft, and come back and made somewhat of a crash landing, I guess, only because I didn't have any gears down there. But, nonetheless, quite frankly, I wonder if I would have been able to do that before.

At this time, I would like to yield the floor so I can see what type of opposition is here today.

I would like to tell you that everyone is for it. Quite frankly, ALPA, the Airline Pilots Association, is not for it. There is a very good reason. It is not a safety reason. It is not an age reason. It is a monetary reason. I have a great deal of respect for younger pilots who are commercial pilots working for the airlines. By getting rid of older pilots, that leaves more upward mobility. That is true. I think that is one of the reasons they are opposed to it. In fact, I think that is the only reason they are opposed to it. Many of the airlines are for it, and some are against it. Some of them are in opposition to my amendment as an economic issue. As a pilot becomes older, he is paid more money. Consequently, the payrolls in an ailing industry would go up. I am sensitive to that. I have weighed that carefully and have determined this is the best thing.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, let me take such time as I may consume on our side.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I intend to oppose the amendment. In many ways, I regret opposing my friend from Oklahoma. He is quite a remarkable pilot. I have had the opportunity to ride with him. I believe he flew around the world in a single-engine airplane at one point.

Mr. INHOFE. It was actually a twin-engine plane.

Mr. DORGAN. Nonetheless, he is a pilot who has flown around the world. He knows a bit about flying.

I learned to fly at one point in my life. I know something about the wonders of it. I know something about the time the instructor steps out of the plane and says: It is your turn. Take it up alone. That is one of the moments in your life you will always remember.

The issue here is about an age limit for commercial pilots. I don't stand here as an expert on this subject. I don't expect there is an expert in the Senate on this subject. The question of the age rule is a question that the FAA has dealt with, and they have dealt with it repeatedly.

The history of this rule goes back many years. It is a rule that has been around for a long while. It was established by the FAA as a matter of safety. I know this rule has actually been considered by the Senate previously as well.

At one point during its consideration in the Senate, it was considered and proposed that we had a shortage of pilots, and, therefore, we should remove this age restriction and increase it some. Of course, now we have exactly the opposite. We have many pilots who are furloughed and laid off and would like to come to work. That is not the issue. The issue is one of safety.

I think the FAA has always erred on the side of safety. I expect that all of us want them to err on the side of safety.

My judgment about this is that the decision about age requirements for commercial pilots ought to be left to the regulatory agency, the FAA. They are the experts in this area. We are not. They know more about this subject than we do.

I just feel uncomfortable substituting our judgment, with an arbitrary number, for the judgment of the FAA.

Let me say I am sure the Senator from Oklahoma would agree, the FAA has the opportunity and the discretion and the ability right now this afternoon to make that age change, if they wish to do that. The FAA has the authority under law, as I understand it, to change the rule as they see fit. They have continuously, however, kept the 60-year age rule because they want to maintain the highest degree of safety in air transportation.

There have been a number of studies dealing with this issue. In 1979, Congress mandated a study conducted under the auspices of the NIH. In 1990, the House Committee on Public Works asked the Office of Technology Assessment to examine the medical aspects of the Federal requirement that airline pilots retire at age 60 and to assess the state of the art medical risk assessment. There have been a number of these studies.

I chose not to go into the conclusions of all the studies except to say that the FAA, in reviewing the body of information in those studies, decided that they believed the 60-year age retirement rule was appropriate.

Again, in April 2000, the FAA reaffirmed its position and decision to maintain the 60-year retirement age. That decision was appealed to the courts actually in 2001, and the Seventh Circuit Court of Appeals upheld the FAA's decision.

Once again, I say I am not an expert. I would expect, perhaps, the Senator from Oklahoma would make the same statement. The question of safety and the question of the proper retirement age given medical circumstances with respect to commercial flight and the commercial license that one needs to fly is a decision that is enormously complicated. It is a decision that has been studied and restudied by the FAA folks whose job it is to provide the assurance of safety. I frankly am comfortable with whatever decision they make.

If they were to decide this afternoon, look, we have studied this from six more angles and here is what we have concluded, and it came up with a different number, that would be fine with me. But I must say, I am not comfortable with the Senate arbitrarily deciding there is a number that we know better than the FAA which represents the risk assessment with respect to this mandatory retirement age. For that reason, I regret I have to oppose the amendment.

Again, let me finish by saying this is not a new subject and not a new debate. We may not know much more about it than we did the last time we debated it, but I believed then and believe now it is appropriate to allow the Federal Aviation Administration—the regulatory agency that has the experts and has the charge to make these decisions—to make this judgment.

Again, it is my contention, if they decided this afternoon to increase that mandatory retirement age, that would be fine with me. And they have that capability under current law to do so, but they have not because they believe it not advisable. I think the Senate would be well advised to listen to the FAA on this subject.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, I have a great deal of respect for the Senator from North Dakota, and some of the things he says certainly do make sense. I would have to say this, though. There is not a bureaucracy out there that, now and then, does not have to be prodded a little bit because it is the very nature of a bureaucracy not to change. They do not want to change.

Not long ago, I had a bill, on which I believe the Senator from North Dakota supported me, called the emergency revocation bill. It took 3 years before we got the votes to pass it. It was something that should have been done, I believe, by the FAA; and I think most of them would agree. Many of them in the field have told me since then that it was something they should have done. They are very busy, they have their hands full, and probably the furthest thing from their minds is making a change.

When it gets down to age, when you talk about 60, age 60, when this rule was put in, is the same as age 72 today. Everything that is tied to an index—whether it is retirement, Social Security—they all have increased in age, except this one issue.

As far as safety is concerned, I do not think the FAA would tell you the arbitrary age of 60 or 65 is going to relate to safety. But what they relate to safety is the medical and proficiency requirements, which are very stringent. And the older you get, I suggested to my friend from North Dakota, the more stringent they become, because I have had to live through this myself.

On the argument that there is not a shortage of pilots, now we are going through a temporary phase. I think, as everyone in this Chamber knows, we are going through a rebuilding process of our military, and the supply and demand of pilots is something that is going to change. I just hope that does not influence a person into making that decision on a vote.

I say to the Senator, he is right, safety is the big issue. But we can show—and have testimony, a lot of which I have already talked about—that safety is not related to age; it is related to medical conditions and proficiency.

With that, I yield the floor to see if there are those who want to be heard. If not, I will yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have been on the Commerce Committee for quite a few years, not nearly as long as my friend from South Carolina, but long enough to know that this issue has been around for a long time.

When it was first presented to me, it was presented to my office by a group of pilots who were nearing the age of 60. And they said: Gee, we are in great shape. We fly planes that have two pilots in the cockpit. We would be willing to take three or four physicals every year if necessary. We all know people are living longer. We know that fewer and fewer people smoke. We have rigorous physicals.

I said: Gee, it makes good sense to me. And as I grow older, it makes even more sense to me, I might add to my friend from Oklahoma.

But here is the problem. The airlines do not want it because they do not want to pay senior pilots the amount of money they have to pay them, and so they want to get rid of them at age 60 and bring in lower salaried pilots. And, of course, then, incredibly, the younger members of ALPA, the Airline

Pilots Association, want the old geezers gone so they can move up more rapidly. It is really kind of an incredible scenario, when you think about it.

We all know that people live longer and are healthier longer. And the Senator from Oklahoma probably knows when this rule went into effect. I am not sure.

Mr. INHOFE. Forty years ago.

Mr. McCAIN. Forty years ago. The demographics have changed, and everything else has changed. It argues for at least allowing pilots to fly longer.

By the way, I might say, also—again, maybe I have a little senior's bias here—more experienced pilots are better pilots. And if they are in good health, and there are two of them in almost every commercial airliner, why in the world are we opposed to allowing them to fly longer? Southwest Airlines supports the efforts. SWAPA and other organizations and individuals allow pilots to fly commercial jet aircraft beyond age 60. JetBlue supports it. The low-cost airlines all support it. The most expensive airlines, the more established ones—most of them are rotating in and out of bankruptcy because of their outstanding management practices—are opposed to it.

So this is really a no-brainer, Mr. President. We should allow these pilots to serve longer and fly longer and be able to realize an income that comes from serving these airlines and the American public for a long time.

Having said that, we will probably lose because right now, ALPA, the Airline Pilots Association, and the executives and lobbyists for the major airlines are on the phone saying: Don't do this. This could be really dangerous.

It is hard for me to believe that someone 61 years old, who passed a physical, who is flying with another qualified pilot, plus, in many cases, a flight engineer, is in any way a danger. Not only that, in case there is some kind of emergency, that pilot is probably better qualified to handle that emergency by virtue of that pilot's experience than a much younger individual would be.

So I will clearly be supporting the amendment of the Senator from Oklahoma. I appreciate his courage in bringing up this issue. Maybe someday we will be able to allow these young men and women to serve past age 60 if they are physically and mentally qualified to do so.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, I thank the Senator from Arizona. I would suggest that this is exactly like the bill that came out of the Commerce Committee last year or the year before, the 107th Congress. I really believe it is time for us to do this. I know where the pressures are against it.

If there is no one else on the other side who wants to be heard, I will yield back.

Yes.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me make one final point.

It is not quite so simple to say it is ALPA, the airlines. The fact is, the Federal Aviation Administration, the FAA, has the authority today to make a decision about increasing this retirement age. It has chosen not to, I assume because the experts there have taken a look at the OTA study, the accident rates, and whole series of things.

I agree, people are living longer, better lives. I have an 81-year-old uncle who runs in the Senior Olympics. He runs the 400 and the 800 at age 81. People are living longer. I understand all that.

The issue is, what the proper age is for retirement of commercial airline pilots is not a function of the Senate, making a judgment on the floor of the Senate. In my judgment, it is a function of people who know, the medical experts at the FAA, looking through the data and making a considered judgment on behalf of the American people of what constitutes their best safety.

So that is the basis of this position. It is not, in my judgment, about ALPA or the airlines; it is just saying, look, whatever the judgment is, let it be, but let's have the experts make it. That is my whole point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I think we have responded to everything the Senator from North Dakota has said. I would only say that there are a lot of forces out there against it. But every argument that is against it that is a legitimate argument, is an economic argument.

I believe everyone in this Chamber has to understand that what was being age 60, 40 years ago, is not the same as being age 60 today. And everything else, every other schedule we have written into law, has changed more than this amount during that 40-year period.

Mr. HOLLINGS. Mr. President, I yield as much time as the Senator from Mississippi wants from the time remaining.

Mr. LOTT. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 12 minutes 55 seconds remaining.

Mr. LOTT. I don't believe I will need the entire time. I will take a few minutes to say that, in this case, I do feel the need to oppose this amendment by Senator INHOFE. Our Commerce Committee has discussed this issue several times in the past and at various times we have gone different ways on it. In this case, I think you need to look at how we got where we are.

The Federal Aviation Administration has the responsibility that is mandated to ensure aviation safety. In 1959, they concluded, after concerns developed of potential detrimental effects of aging and the risk of acute and incapacitating medical conditions, that commercial pilots need to be required to retire at age 60. Today I believe there is sufficient evidence to keep that rule. There is not enough evidence to reverse that. There is a case here where I believe most of the airlines, although not all, support keeping it at 60. There is no question that the representatives of the pilots prefer to keep it at 60. So you have an agreement.

Also, I do feel as if, particularly in the aviation area, there is a need right now to have some opportunity for retirement at 60, to bring in newer, young pilots or, as a matter of fact, to decide they don't need all those pilots. This is a unique time in the aftermath of 9/11, where at this time I am inclined not to think we should raise the age to 65, whereas some time down the road I might be so inclined.

I do worry about age discrimination. As I get older, I worry about it more than I used to. I think in this case, with medical science and the acknowledgement of the current situation in the industry, we should keep it at 60.

I don't like to be on the other side of my good friend, the Senator from Oklahoma, but I think, all things considered, we should stick with what the rule has been.

Mr. INHOFE. Mr. President, the three arguments used by the distinguished Senator from Mississippi are, first, economic. The pilots' union is opposed to it. I said that in my opening statement. There is a justified reason for that. If I were a young pilot and a member of the union, I might feel the same way because they want more upward mobility. As far as the airlines are concerned, yes, they are going to have to pay a little more. The average older pilots have greater salaries and benefits. These are economic reasons.

I think we should consider these reasons but I don't want anybody voting on this and believing in their heart that they are doing it for safety or because of the supply and demand of pilots. We all know that will change; we know that with the restructuring of our military.

As I said, if it is a good age—first, it should not be an age at all. It ought to be based on medical tests and proficiency tests. If 40 years ago 60 was a good age, 65 would be better now.

We will have a chance to look at this. I think there are a lot of people who would like to see a realistic approach to this. I think we used the same thing for 40 years and certainly it is justified to raise that at this time.

I yield the floor.

Mr. DORGAN. Will the Senator yield for a question?

Mr. INHOFE. Yes.

Mr. DORGAN. The Senator talked about a proficiency test. We would not have difficulty if the FAA could find a device that is appropriate to deal with that. I think they have evaluated that for a long period of time and have not been able to come to that conclusion. I don't think even those of us who would agree with your amendment believe there is a magic number here. I am not qualified to set the number.

I am not suggesting that it is ever appropriate to increase the age limit. I would prefer someone with the capabilities of the FAA to evaluate the medical histories to be able to do that.

Mr. INHOFE. In terms of proficiency tests, I am a flight instructor. I test people, and I think everybody doing that takes into consideration age, and they are more stringent with them as they get older.

Again, a person could be more proficient at age 70 than at age 40. This happens to some people. That is why age should not be the determining factor; proficiency and health should be. Certainly, economic factors should not.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Are they prepared to yield back their time?

Mr. INHOFE. I yield back my time.

Mr. HOLLINGS. We yield back our time on this side.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the amendment.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from MA (Mr. KERRY) would vote "nay".

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 52, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—44

Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Collins
Cornyn
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Hatch
Hutchison
Inhofe
Kyl
Lugar
McCain
McConnell
Murkowski
Nelson (FL)
Nickles
Roberts
Santorum
Schumer
Sessions
Smith
Specter
Stevens
Sununu
Thomas
Voinovich
Warner

NAYS—52

Akaka
Alexander
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chambliss
Clinton
Cochran
Coleman
Conrad
Corzine
Daschle
Dayton
Dodd
Dole
Dorgan
Durbin
Feinstein
Graham (FL)
Gregg
Hagel
Harkin
Hollings
Inouye
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Mikulski
Miller
Murray
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Shelby
Snowe
Stabenow
Talent
Wyden

NOT VOTING—4

Edwards
Jeffords
Kerry
Lieberman

The amendment (No. 896) was rejected.

Mr. McCAIN. Mr. President, we have four Members here who have pending amendments which are going to be accepted. All four Members want to have their amendment proposed and discussed. I ask unanimous consent Senator BINGAMAN be recognized for his amendment, and Senator BUNNING, Senator DORGAN, and Senator INHOFE, in that order. I know all will speak briefly.

Mr. LOTT. Reserving the right to object, I want to clarify there were no time agreements included, just the order that they would discuss the amendments briefly.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 906

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, and Mr. INHOFE, Ms. SNOWE, Mr. JEFFORDS, Ms. COLLINS, Mr. SPECTER, Mr. HARKIN, Mrs. CLINTON, Mr. SCHUMER, Mr. PRYOR, Mr. NELSON of Nebraska, Mrs. LINCOLN, and Mr. GRASSLEY, proposes amendment No. 906.

Mr. BINGAMAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To preserve the essential air service program)

Beginning on page 138, line 15, strike all through page 142, line 11.

Mr. BINGAMAN. Mr. President, I rise today to speak briefly about the Bingaman-Inhofe amendment to preserve the Essential Air Service Program. Our amendment is cosponsored by Senators SNOWE, JEFFORDS, COLLINS, SPECTER, HARKIN, CLINTON, SCHUMER, PRYOR, BEN NELSON, LINCOLN, and GRASSLEY. I thank them for their support.

I first want to compliment Commerce Committee Chariman McCAIN, Aviation Subcomittee Chairman LOTT, and Ranking Members HOLLINGS and ROCKEFELLER for their good work on this bill to reauthorize FAA. The bill the Senate is now considering, S. 824, will do much to assure the safety and security of the traveling public.

I am also pleased S. 824 includes a number of provisions that will help improve commercial air service in rural areas, including a reauthorization of the Small Community Air Service Development Pilot Program.

However, we do take issue with one provision in this bill that would for the first time impose new costs on some communities that participate in the EAS program.

As the bill now stands, some communities would be required to pay to continue to receive scheduled air service. I believe this arbitrary proposal could eliminate scheduled air service from many rural communities. Yesterday, the House of Representatives voted to eliminate all mandatory cost sharing language from the FAA reauthorization bill. I hope the Senate will do the same.

Congress established the Essential Air Service Program in 1978 to ensure that communities that had commercial air service before airline deregulation could continue to receive scheduled service. Without EAS, many rural communities would have no commercial air service at all.

All across America, small communities face ever-increasing hurdles to promoting their economic growth and development. Today, many rural areas lack access to interstate or even four-lane highways, railroads or broadband telecommunications. Business development in rural areas frequently hinges on the availability of scheduled air service. For small communities, commercial air service provides a critical link to the national and international transportation system.

A recent study from the Department of Agriculture, titled "How Important Is Airport Access for Rural Businesses" underscores the importance of commercial air service to rural communities. In a survey of rural businesses, access to airport facilities and air service was frequently cited as one of the top problems for businesses in most rural counties. Air facilities, services, and fares were also found to be important to tourist-related and service businesses in rural areas. Not surprisingly, airport access was one of the least cited concerns of manufacturers in large- and medium-sized cities.

The Essential Air Service Program currently ensures commercial air service to over 100 communities in thirty-four states. EAS supports an additional 33 communities in Alaska. Because of increasing costs and the current financial turndown in the aviation industry, particularly among commuter airlines, about 28 additional communities have been forced into the EAS program since the terrorist attacks in 2001.

Congress already limits the eligibility of the EAS program to communities more than 70 miles from a major airport. In addition, the amount of the subsidy must be less than $200 per passenger for communities less than 210 miles from a major airport. These requirements serve to limit the cost to the government of the EAS program. In fact, in the past two years, about a dozen airports, including one in New Mexico, have been eliminated from EAS because the cost per passenger has exceeded the limit. We feel the additional requirements imposed in this bill are not appropriate and could force a number of communities to lose their commercial air service.

In my State of New Mexico, five cities currently rely on EAS for their commercial air service. The communities are Clovis, Hobbs, Carlsbad, Alamogordo and my hometown of Silver City. In each case commercial service is provided to Albuquerque, the State's largest city and business center.

I hope that all Senators recognize the vast distances between communities in my State. If you drive, Hobbs is 320 miles from Albuquerque, Carlsbad is 283 miles, Silver City 233, Clovis 216, and Alamogordo 210 miles. None of these cities are on interstate highways, so the driving times to Albuquerque can be 4, 5, and even 6 hours. Commercial air service is the only practical way to make the trip for business people or community leaders going to Albuquerque or to the nearby state capital in Santa Fe. Though so called "hub" airports may be located a hundred miles away in another state, it is just not practical to drive the long distance to another airport in order to fly to Albuquerque. However, that's exactly what is likely to happen if the Congress imposes new costs on our communities to maintain their commercial air service.

As I understand it, under the proposal in this bill communities in 16 states could be affected by the mandatory cost-sharing requirements in the Senate bill. These States are, Alabama, Arkansas, Colorado, Georgia, Iowa, Kansas, Maine, Mississippi, New Hampshire, New Mexico, New York, Oklahoma, Pennsylvania, Tennessee, Texas, and Vermont.

The House-reported bill—H.R. 2115—also requires some rural communities to pay or lose their commercial air service. We believe this ill-conceived proposal could not come at a worse time for small communities already facing depressed economies and declining tax revenues.

The Governor of my state of New Mexico, Bill Richardson, said in a letter to me supporting this amendment: The cost sharing provision has the potential to affect the economic welfare of small communities in over 35 states—particularly those in New Mexico.

I also have a letter of support from the New Mexico State Aviation Director, Mike Rice, who said this: This significant additional financial burden would have profound negative impacts on both current sir service and economic development efforts in several of our cities. Changes to current EAS funding could very well jeopardize existing air service in our state.

Mayor Donald Carroll of Alamogordo, writes that it is improbable that funding will be available to locally subsidize air service. He also notes that the city is actively working with the commercial carrier, Rio Grande Air, to increase enplanements.

The National Association of Development Organizations says:

> During these challenging economic times, Congress should be working to improve and enhance air service to rural and underserved communities, instead of adding new requirements that would further isolate hundreds of our nation's smaller communities.

I'm not entirely sure that the proposal to charge the communities to continue their air service has been thoroughly thought out. The chairman's report on this bill from the Commerce Committee indicates that the Secretary will select 10 EAS communities to pay for their air service. However, the way I read the reported bill, only a one city in each of 8 states would be required to pay. Now, the chairman has offered an amendment that ups that total to 16 states with about 27 communities that could be impacted.

At the same time, the bill isn't clear on what exactly is a "hub" airport. As I understand it, the FAA compiles one set of data on annual enplanements, but the Department of Transportation currently uses a different set of data from the department's Bureau of Transportation Statistics to determine eligibility for EAS. These data produce a different list of "hub" airports, which could change which airports would be required to pay, simply because of the source of the data the government chooses to use. Finally, new cities are coming into the EAS program, so that additional states could have cities that would be required to pay for their air service.

Just one last point on the impacts of this proposal. I think we should make clear this isn't about saving the Government a lot of money. We estimate the payments from the communities would amount to less than $2 million a year out of a $113 million annual program.

Advocates of this proposal may claim they've made it as easy as possible for the communities to provide the mandatory 10 percent match. I just don't believe these alternatives will be all that effective. I understand, none of the five EAS cities in New Mexico currently charge the commercial carrier any fees to land at the airport. In this way, our cities are already contributing to the cost of their commercial air service.

I think we all appreciate the current concerns about the aviation industry and the EAS program. Ridership levels to rural cities are down. Meanwhile operating costs continue to increase, resulting in ticket prices that fewer people can afford. There are too many commuter aircraft flying at less than half capacity. Clearly, some improvements are needed.

But what are some better options? Well, I think senators need only look in this same bill for the answer. In my view the bill already includes a number of excellent improvements in the EAS program that I believe will significantly enhance commercial air service in rural communities.

For example, section 352 of the bill authorizes a new Marketing Incentive Program to increase ridership, reduce the Federal subsidies, and improve service. Section 353 provides for a number of pilot programs to help communities improve their commercial air service. One option is to allow communities to receive service with a smaller airplane. In my State, Alamogordo has decided to try service with a nine-passenger plane. In addition, communities may opt to convert their EAS service to alternative transportation, which might include bus or vans. I think these ideas represent a better approach to improving commercial air service in rural areas. I support these proposals and want to thank the chairman and ranking member for including them.

The choice here is clear: If we do not preserve the Essential Air Service Program today, we could well see the end of all commercial air service in rural areas. The EAS program provides vital resources that help link rural communities to the national and global aviation system. Our amendment will help ensure affordable, reliable, and safe air service remains available in rural America.

The House of Representatives has already voted to eliminate the mandatory cost sharing language from the FAA reauthorization bill. I hope all Senators will vote for this amendment.

I ask unanimous consent that a listing of the communities that could be affected and a letter of support for the amendment by the Governor of New Mexico, a letter of support for the amendment from the Director of the New Mexico Aviation Division of the New Mexico Department of Transportation, a letter from the Mayor of Alamogordo, NM, and a letter from the National Association of Development Organizations, all in support of this amendment, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE I—100 MILES FROM A SMALL OR HUB AIRPORT

State	EAS city	Distance to small hub	Distance to hub airport
Alabama	Muscle Shoals	Huntsville, AL 69 miles	Nashville, TN 122 miles.
Arkansas	Hot Springs	Little Rock 53 miles	Memphis 197 miles.
	Harrison	Fayetteville, AR 77 miles	Tulsa 183 miles.
	Jonesboro		Memphis 79 miles.
Colorado	Pueblo	Colorado Springs 43 miles	Denver 125 miles.
Georgia	Athens		Atlanta 80 miles.
Iowa	Fort Dodge	Des Moines 94 miles	Minneapolis 208 miles.
	Burlington	Moline, IL 73 miles	St. Louis 186.
Kansas	Salina	Wichita 93 miles	Kansas City 182 miles.
Maine	Augusta	Portland, ME 68 miles	Manchester 153, Boston 172 miles.
	Rockland	Portland, ME 80 miles	Manchester 176, Boston 183 miles.
Mississippi	Laurel	Gulfport-Biloxi 85 miles	New Orleans 137 miles.
New Hampshire	Lebanon		Manchester 76 miles.
New Mexico	Hobbs	Midland/Odessa 88 miles	Albuquerque 320.
	Alamogordo		El Paso 91 miles.
New York	Saranac Lake	Burlington 63 miles	Boston 266 miles.
	Watertown	Syracuse 65 miles	Buffalo 190 miles.
	Jamestown		Buffalo 76 miles.
	Plattsburgh	Burlington 30 miles	*
Oklahoma	Ponca City	Wichita, KS 81 miles	Oklahoma City 102 miles.
	Enid		Oklahoma City 84 miles.
Pennsylvania	Johnstown		Pittsburgh 82 miles.
	Oil City		Pittsburgh 86 miles.
	Bradford		Buffalo NY 79 miles.
Tennessee	Jackson		Memphis 85 miles.
Texas	Victoria	Corpus Christi 94 miles	San Antonio 122 miles.
Vermont	Rutland	Burlington 69 miles Albany 90	Manchester 125, Boston 159 miles.

Hub classification based on TBTS's 2001 "Airport Activity Statistics of Certificated Air Carriers: Summary Tables," instead of FAA's enplanement activity data. BTS's data don't include commuter, intrastate, and foreign flag carriers. Hub airports have at least 0.25% of enplanements, small hubs have at least 0.05% but less than 0.25% (49 USC 41731).

*TBD.

STATE OF NEW MEXICO,
OFFICE OF THE GOVERNOR,
Santa Fe, NM, May 22, 2003.

Hon. JEFF BINGAMAN,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: I am writing regarding S. 824, the Aviation Investment and Revitalization Vision Act that reauthorizes the Federal Aviation Administration. Although several aspects of this reauthorization bill are to be commended, I am opposed to one specific provision, which calls for a 10 percent cost-sharing requirement for selected Essential Air Service (EAS) communities. This provision has the potential to affect the economic welfare of small communities in over 35 states—particularly those in New Mexico.

During my tenure in Congress I understood the importance, which the EAS program played within our small communities by preserving the scheduled air service and ensuring that these communities would retain a link to the national air transportation system. As Governor, I recognize the economic benefits associated with this program, which is integral to the economic development of our small rural communities.

The language calling for the Secretary to arbitrarily select 10 EAS communities that are within 100 miles of a hub airport and requiring them to pay a 10 percent cost share for a three year period is not only unfair but unpractical given the current economic conditions in states and within the airline industry. It is my hope that you will work with your colleagues in the Senate to amend this language, which only serves to impose new costs on EAS communities.

Last March, I announced the formation of a task force to improve and increase intrastate air service, and air cargo activity in New Mexico. Air service to and within New Mexico is vital to strengthening our economy and those of our communities. Your leadership and support for the EAS program as well as the Small Community Air Service Development Program will go along way to improving and increasing air service in New Mexico.

Sincerely,

BILL RICHARDSON,
Governor.

NEW MEXICO AVIATION DIVISION,
Santa Fe, NM, May 8, 2003.

Re essential air service rule changes.

Senator JEFF BINGAMAN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BINGAMAN: I am writing to express my opposition to proposed Essential Air Service (EAS) rule changes (Section 353) of Senate Bill 824, the FAA Reauthorization legislation. While this bill does have many favorable aspects, Section 353 contains major program funding changes. As written, affected EAS pilot program communities would be required to assume ten percent (10%) of their subsidy costs for a three year period. This could very easily cost a community $80,000—$90,000 per year! If approved, this significant additional financial burden would have profound negative impacts on both current air service and economic development efforts in several of our cities (Alamogordo and Hobbs) that would be affected. Any changes to current EAS funding could very well jeopardize existing air service in our state.

The timing of this change could not have come at a worst time for us. Just recently, Governor Bill Richardson established a high level task force (three Cabinet Secretaries) to determine ways to improve intra-state air service for New Mexicans. I am concerned that the basic foundation of the EAS program, as we know it, could be further weakened by these types of rule changes, and in turn defeat our Governor's initiative.

I am well aware of the need to adjust the current EAS program but firmly believe that both the states and communities participating in the program should have an input to the reconstruction process.

I am respectfully requesting your assistance in removing the EAS Local Program cost sharing provisions from Senate Bill 824.

Sincerely,

JOHN D. "MIKE" RICE,
Director,
New Mexico Aviation Division.

CITY OF ALAMOGORDO,
Alamogordo, NM, May 15, 2003.

Re essential air service rule changes.

Senator JEFF BINGAMAN,
Hart Senate Office,
Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of the City of Alamogordo, I am writing to express my concerns and opposition to the proposed Essential Air Service (EAS) rule changes (Section 353) of Senate Bill 824, the FAA Reauthorization Legislation. Although this bill has many favorable aspects, the program funding changes are not an alternative for the City of Alamogordo and the surrounding communities the airport serves. In pertinent part, Section 353(4)(A) would require the City of Alamogordo to assume ten percent (10%) of the subsidy cost or approximately Eighty-Five Thousand Dollars ($85,000) annually for the next three (3) years.

This change could not have come at a more inappropriate time for the City. With City revenues declining from a depressed economy, and capital desperately needed to repair Alamogordo's water problems, it is improbable funding will be available to locally subsidize air service. The airport relies solely on City revenue to operate since eighty-eight percent (88%) of Otero County land is Federally and Tribally owned and generates no revenue for the City. However, we have taken measures which we believe will ultimately permit air service in Alamogordo to be a stand alone enterprise. As you know, Alamogordo was the first EAS community nationwide to request smaller commercial aircraft in an effort to stabilize federal subsidy and ticket costs. Additionally, our air carrier, Rio Grande Air, reduced fares by sixty percent (60%) last month in an effort to increase enplanements at the airport. We have noted a marked increase in ridership since implementation of this low fare. If the EAS rule changes are passed as proposed, the City of Alamogordo may be forced to discontinue commercial air service and thus, sacrifice all Airport Improvement Program (AIP) entitlement/grant funds.

Otero County is below the State average for median income. The County has no passenger train service and is not located near a freeway making the airport and air service a vital link to the national transportation system.

I am respectfully requesting your assistance in removing the EAS local program cost sharing provisions from Senate Bill 824.

Sincerely,

DONALD CARROLL,
Mayor of Alamogordo.

NATIONAL ASSOCIATION OF
DEVELOPMENT ORGANIZATIONS,
Washington, DC, June 12, 2003.

Hon. JEFF BINGAMAN,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of the National Association of Development Organizations (NADO), I am writing to express our strong support for your amendment to preserve rural air service as part of the FAA reauthorization bill (S. 824).

The national transportation network functions properly when it helps form vital social and economic connections. This is especially true in small metropolitan and rural America where distance and a scattered population make these connections even more important. The national aviation system is essential not only for linking people to jobs, health care and family in a way that enhances their quality of life, but also for contributing to regional economic growth and development by linking business to customers, goods to markets and tourists to destinations.

Within the transportation system, the aviation network plays an enormous role in transporting goods and people. In 2001, 542 million people flew domestically and another 52 million flew internationally on US carriers, according to the US Department of Transportation. Unfortunately, since the deregulation of the aviation industry in the late 1970s the availability of affordable and reliable air service in most rural and small metropolitan areas has dramatically declined.

During these challenging economic times, Congress should be working to improve and enhance air service to rural and underserved communities, instead of adding new requirements that would further isolate hundreds of our nation's smaller communities. While the Essential Air Service (EAS) program is small by Washington standards, we believe it offers vital resources for linking rural communities to the national and global aviation systems. By adopting your amendment, the US Senate would be reinforcing its support of maintaining affordable, reliable and safe air service to rural America.

Thank you for your leadership on this important issue.

Sincerely,

ALICEANN WOHLBRUCK,
Executive Director.

Mr. PRYOR. Mr. President, I rise today in support of the Bingaman-Inhofe amendment to strike language requiring certain communities enrolled in the Essential Air Service to provide a local cost-share.

We are asking our towns and communities, our local governments, hardest hit by difficult economic times to suddenly find thousands of dollars in their already overstretched budgets to replace a significant source of Federal funding, for a critical economic function.

In this time of economic uncertainty, rural communities are struggling to maintain their daily ways of life. With an added burden placed upon them, survival and the opportunity for further rural development will be nearly impossible.

Local airports and the commercial air service they provide are extremely important to small towns, and a strong component of a State's economy. By enacting a cost-share provision, we run the risk of losing these airports, and cutting off a vital economic lifeline to rural America.

In my State, airports in Jonesboro, Hot Springs, and Harrison provide affordable and reliable service to over 10,000 customers a year. The EAS funding they receive is a sound investment in our State's transportation network. Cost share provisions, however, could put those airports out of business.

We are already putting enough strain on our small towns and local governments. We do not need to add to that by eliminating a vital source of funding for a vital function. This amendment would prevent that from happening, and I urge my colleagues to support it.

Mr. BINGAMAN. I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 906) was agreed to.

AMENDMENT NO. 903

The PRESIDING OFFICER. Under the previous order, the Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I rise today, along with Senator BOXER, to offer the Arming Cargo Pilots Against Terrorism Act as an amendment to this bill. This amendment closes a loophole to better protect our homeland against terrorists. As a result of the airplane hijackings on September 11, 2001, Congress took the appropriate action to prevent the use of airliners being used as missiles. Last year, large majorities of the Senate and House of Representatives voted to arm both cargo and passenger pilots who voluntarily went for stringent training as part of a program of homeland security which was in the Homeland Security bill. Arming these pilots served to protect the pilots and crew, passengers, and those on the ground from ever being victims of another airline hijacking. It was the right thing to do.

However, during conference of the Homeland Security bill, the cargo pilots were yanked out of the bill. This amendment will return them and close the loophole created when they were left out last year.

This provision enjoys broad support and has already passed the Senate as part of the Air Cargo Security Act earlier this year.

Obviously, I would not be offering it had not the bill gotten tied up in conference and we need another vehicle to get it back to the House, so that is the reason we are offering it on this bill.

Not too many people realize that cargo space is usually not secured as well as passenger space. There are no air marshals, there are no passengers to help protect against terrorists, and there are sometimes invasions of privacy on these planes. In fact, someone from North Dakota actually broke the security and entered an aircraft. Thank God she was found out before the aircraft took off.

We would like this to be added to this bill so we can get it back to the House and a new conference. The whole area of cargo aircraft is not secured by the TSA and many other people who secure passenger terminals or commercial flights. I hope we can agree and get this bill over to the House.

I hope the rest of my colleagues here in the Senate will support this amendment.

Mr. President, I ask for a voice vote.

Mr. MCCAIN. Will the Senator yield for a question? Isn't it the case the Senator has added language that indicates that nonlethal weapons——

Mr. BUNNING. Nonlethal weapons, and totally voluntary.

Mr. MCCAIN. I support the amendment.

Mr. BUNNING. They are called Tasers.

Mr. BOXER. Mr. President, this amendment is to close a loophole in the Federal Flight Deck Officer program.

Last year, in response to the September 11 attacks, I worked along with our former colleague Senator Bob Smith to pass the Arming Pilots Against Terrorism and Cabin Defense Act, which allowed passenger and cargo pilots who volunteer and receive special training to have guns in the cockpit as a last line of defense.

The bill passed the Senate 87-6 as an amendment to the Homeland Security bill.

Unfortunately, during the Homeland Security conference, cargo pilots were left out of the program.

This amendment will close this dangerous loophole in the law and add an important new layer to our homeland security by allowing cargo pilots to participate in the Federal Flight Deck Officer program.

With less security than passenger aircraft, cargo planes are tempting targets for terrorists. These planes do not have strengthened cockpit doors, Federal Air Marshals, trained cabin crew, or alert passengers on board.

Cargo planes are usually more vulnerable on the tarmac than passenger aircraft. Most cargo planes are parked in remote areas with relatively easy access; many operate at airfields that do not have the same level of security as passenger airports.

Late last year in Fargo, ND, a mentally unbalanced woman walked across a runway, boarded a cargo aircraft, entered the cockpit, and asked the crew to fly her to California.

Just think what a terrorist could do. A terrorist could hijack a cargo plane and fly it into a building, nuclear power plant, or other target on the ground.

Cargo pilots must be given a last line of defense to keep terrorists from gaining control of their aircraft.

We need to close this gap in our homeland security.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] for himself and Mrs. BOXER, proposes an amendment numbered 903.

The amendment is as follows.

(Purpose: To amend title 49, United States Code, to allow the arming of pilots of cargo aircraft)

At the appropriate place insert the following new section:

SEC. . ARMING CARGO PILOTS AGAINST TERRORISM.

(a) SHORT TITLE.—This section may be cited as the "Arming Cargo Pilots Against Terrorism Act".

(b) FINDINGS.—Congress makes the following findings:

(1) During the 107th Congress, both the Senate and the House of Representatives overwhelmingly passed measures that would have armed pilots of cargo aircraft.

(2) Cargo aircraft do not have Federal air marshals, trained cabin crew, or determined passengers to subdue terrorists.

(3) Cockpit doors on cargo aircraft, if present at all, largely do not meet the security standards required for commercial passenger aircraft.

(4) Cargo aircraft vary in size and many are larger and carry larger amounts of fuel than the aircraft hijacked on September 11, 2001.

(5) Aircraft cargo frequently contains hazardous material and can contain deadly biological and chemical agents and quantities of agents that cause communicable diseases.

(6) Approximately 12,000 of the nation's 90,000 commercial pilots serve as pilots and flight engineers on cargo aircraft.

(7) There are approximately 2,000 cargo flights per day in the United States, many of which are loaded with fuel for outbound international travel or are inbound from foreign airports not secured by the Transportation Security Administration.

(8) Aircraft transporting cargo pose a serious risk as potential terrorist targets that could be used as weapons of mass destruction.

(9) Pilots of cargo aircraft deserve the same ability to protect themselves and the aircraft they pilot as other commercial airline pilots.

(10) Permitting pilots of cargo aircraft to carry firearms creates an important last line of defense against a terrorist effort to commandeer a cargo aircraft.

(c) SENSE OF CONGRESS.—It is the sense of Congress that members of a flight deck crew of a cargo aircraft should be armed with a firearm and taser to defend the cargo aircraft against an attack by terrorists that could result in the use of the aircraft as a weapon of mass destruction or for other terrorist purposes.

(d) ARMING CARGO PILOTS AGAINST TERRORISM.—Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "passenger" each place that it appears; and

(2) in subsection (k)—

(A) in paragraph (2)—

(i) by striking "or," and all that follows; and

(ii) by inserting "or any other flight deck crew member."; and

(B) by adding at the end the following new paragraph:

"(3) ALL-CARGO AIR TRANSPORTATION.—For the purposes of this section, the term air transportation includes all-cargo air transportation.".

(e) TIME FOR IMPLEMENTATION.—The training of pilots as Federal flight deck officers required in the amendments made by subsection (d) shall begin as soon as practicable and no later than 90 days after the date of enactment of this Act.

(f) EFFECT ON OTHER LAWS.—The requirements of subsection (e) shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 903) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Is my amendment the amendment pending before the Senate?

The PRESIDING OFFICER. It is not pending but it is in order.

Mr. DORGAN. Mr. President, I ask it be considered at this point.

The PRESIDING OFFICER. The Senator is correct, the amendment is now pending.

AMENDMENT NO. 890

Mr. DORGAN. Mr. President, I visited with my colleagues Senator LOTT and Senator MCCAIN on this amendment. I believe they are prepared to accept it. This deals with the creation of an aviation security capital fund. Many of us know both revenues and passenger boardings are down in airports. We have gone through a pretty difficult time. The creation of this aviation security capital fund is very important in order for these funds to be invested in what that will make aviation safer and deal with the security issues we intend to have dealt with with this fund.

I think it appropriate at this point to waive the local match, State and local match, which I believe in most cases cannot be raised because of the circumstances I mentioned earlier.

I believe accepting this amendment will give us the assurance that this investment in security will be made across this country. It will be a wise investment. I think it ought not be borne by the carriers at this point, nor the local airports that can least afford it.

I appreciate very much the fact this will now be accepted by the Senate. I want to especially say thanks to the Senator from Mississippi. We have talked about this, I suppose, 10 times in recent days. He is a tireless advocate for what makes sense for our aviation system in this country. Of course, he is chairing the subcommittee here in the Senate on those issues.

I thank him for his cooperation in allowing us to move forward with this amendment at this stage.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Has Senator DORGAN completed his remarks?

Mr. DORGAN. I have.

Mr. LOTT. I think the order was for Senator INHOFE to be next, but since he is not here, I ask unanimous consent I be permitted to speak at this time, despite the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, certainly I always enjoy working with Senator DORGAN on these issues. I think he has a legitimate point.

He does note that we need a fund to make sure these security fees go for the purpose they were intended. But he does think, at least in this instance because of the security aspect, we should waive the local requirement.

It should also be noted that, in fact, local communities, particularly with bigger airports, are probably not going to get or could not get a cost share, and, even if they did in some ways, it would be passed on to the airlines, therefore undermining a lot of what we are trying to do now.

We are trying to get the priorities set where the people who are getting certain parts of the security should be the ones who pay for it, and we shouldn't always try to find a way to pass it off to the airlines. Sometimes it is a Federal responsibility. In other instances, other people—I think also local governments—should have some part of this pie. But we agreed for a variety of reasons to accept Senator DORGAN's amendment.

But I want colleagues to know and the American people to know the Bingaman amendment does the same thing but in a different category. I think, in fact, it is even worse. In the essential air service area, where special help goes to small airports and a lot of rural airports—that affects airports in West Virginia, North Dakota, and probably in my State of Mississippi—with this additional Federal assistance to keep airports functioning, there would be some small local match. The administration recommended, by the way, that we eliminate the EAS problem; or, if we had EAS, you have the local match required for all of the airports.

The language in the bill specifies that there would be 10 airports where we would have this local match to see how it would work, and if it would work.

We now are agreeing to accept the Bingaman amendment because right now, I think out of concern for local communities and trying to have this essential air service, the amendment would probably pass.

But I want to say, again, I think for us to set the precedent and require not even a dollar from local communities when they are getting additional security, particularly where they are getting essential air service which is vital to their communities and which is important from an economic standpoint for the local cities and counties to put up no money—and in the case of the Dorgan amendment—at least in the bigger airports, it could create definite problems in terms of costs being passed on to the airlines. In this case, it is just a question of these local communities not wanting to have to share at all.

I think we should continue to look at some small amount—10 percent or 5 percent, some amount of local share.

But for now, we will accept it. We will continue to work on these issues. It is important for us to get this important legislation completed so that the airlines, the airports, general aviation, and the American people will know what they can count on in terms of the Federal Aviation Administration and their programs over the next 3 years. I thank my colleagues for allowing me to interject my remarks at this point.

I believe Senator INHOFE is next in order to speak.

I yield the floor, unless Senator DORGAN would like me to yield to him. Does he want to get action on his amendment?

Mr. DORGAN. Mr. President, let me ask the Senator to yield for a moment.

I think there is great merit in local matching, by and large, because you need local support. We ought not just create pools of money here in the Congress to send out around the country unless there is evidence of local support.

The Senator from Mississippi made the point, and I think it is an important point.

First, I ask unanimous consent that a letter from the American Association of Airport Executives, and a letter from the Air Transport Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. BYRON L. DORGAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DORGAN: We are writing to express our support for an amendment that you may offer to S. 824, the Aviation Investment and Revitalization Vision Act, that will help airports in North Dakota and throughout the country pay for their increased capital security costs.

As you know, S. 824 would establish an aviation security capital fund to pay for installation of Explosive Detection Systems (EDS) and other capital security costs at airports. Specifically, the bill calls for $500 million every year between 2004 and 2007 to pay for the security capital costs. The funds would be derived from revenue generated by the $2.50 passenger security fee.

Airports Council International-North America and The American Association of Airport Executives strongly support the creation of an aviation security capital fund. Without a separate source of funds to pay for capacity security projects, airports will be forced to continue to divert their Airport Improvement Program funds, which they traditionally use for much-needed safety and capacity projects.

The Senate proposal calls for large- and medium-hub airports to pay a 25 percent match, and smaller airports to pay a 10 percent match. While we are grateful that S. 824 would create the aviation security capital fund, we strongly support your proposal to eliminate the matching requirement. Installing explosive detection machines is a federal national security mandate, and we think the federal government should reimburse airports for those and other new security costs.

Airports like others in the aviation industry have been struggling since September 11. It would be difficult for airports to cover the proposed match at a time when their revenues and passenger boarding are down, and their costs have skyrocketed due to a host of unfunded federal security mandates. Again, we strongly believe that airports should not be forced to divert critical safety and capacity funds to pay for security.

Moreover, airports are reluctant to pass additional costs on to airport users including airlines that are facing their own financial challenges. Since September 11, airports around the country have been taking numerous steps to reduce costs in an effort to pass those savings on to the airlines. Eliminating the matching requirement is just one more way that airports can help their partners in the aviation industry.

Thank for your leadership on this and other aviation issues.

Sincerely,

DAVID Z. PLAVIN,
President, ACI–NA.
CHARLES BARCLAY,
President, AAAE.

Hon. BYRON DORGAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DORGAN: On behalf of ATA member airlines, I am writing in support of your efforts to remove the "local match" requirement in the Security Capital Fund found in the Senate FAA reauthorization bill. Your amendment will ensure that airport security projects will not be subject to an unworkable funding scheme.

As you are aware, the Aviation and Transportation Security Act of 2001 imposed sweeping security mandates on the airlines and airports, many of which were unfunded. Today, in this constrained, unsettled financial environment, our members continue to incur substantial costs to meet these mandates. While the airlines have been and will continue to fully support efforts by the U.S. Government, particularly the Transportation Security Administration, to assume primary responsibility for aviation security, the airlines simply cannot continue to absorb additional costs. Sufficient federal funding for mandated airport security projects, such as installation of Explosive Detection Systems and additional law enforcement personnel makes common sense and is absolutely critical.

If, as is provided in the current bill, local airports must provide 25% matching funds at large and medium hub airports and 10% matching at smaller airports, the airports (also experiencing declining reserves) will have no option other than to pass through these costs to the airlines. On top of existing security costs, airlines will see significant increases in airport rates and charges, as well as other airport costs, to fund these mandatory contributions. Although the airlines, of course, support security enhancements, the industry can ill afford hundreds of millions of dollars in additional unfunded mandates as the aviation system struggles to survive economically.

Thank you for your efforts on this critical issue. I look forward to working with you as we work to maintain a viable, safe, and efficient air transportation system.

Sincerely,

JAMES C. MAY.

Mr. DORGAN. Mr. President, the American Association of Airport Executives and the Air Transport Association, and others, have told us it is unlikely we would see the security investment—after all, this is national security—we would not see the security investment in airport improvement and safety with this money if we did not waive the local match.

I continue to believe we ought to make this habit forming. The value expressed by the Senator from Mississippi is on the mark in many cases. I appreciate very much the ability to work this out and be able to move this amendment. If appropriate, I think it has been agreed to by both sides. I ask if we can have the amendment considered at this point.

The PRESIDING OFFICER. Is there further debate? Without objection, the amendment was agreed to.

The amendment (No. 890) was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NOS. 894 AND 895 EN BLOC

Mr. INHOFE. Mr. President, I have two technical amendments. They have been agreed to.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes amendments numbered 894 and 895 en bloc.

Mr. INHOFE. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments en bloc are as follows:

(Purpose: To amend the provisions dealing with security measures for general aviation and air charters)

At the end of title IV, add the following:

SEC. 405. GENERAL AVIATION AND AIR CHARTERS.

Section 132(a) of the Aviation and Transportation Security Act (49 U.S.C. 44944 note) is amended by striking "12,500 pounds or more" and inserting "more than 12,500 pounds".

(Purpose: To establish reporting requirements with respect to the Air Defense Identification Zone)

At the end of title IV, add the following:

SEC. 405. AIR DEFENSE IDENTIFICATION ZONE.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration establishes an Air Defense Identification Zone (in this section referred as an "ADIZ"), the Administrator shall, not later than 60 days after the date of establishing the ADIZ, transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report containing an explanation of the need for the ADIZ. The Administrator shall provide the Committees an updated report every 60 days until the establishment of the ADIZ is rescinded. The reports and updates shall be transmitted in classified form.

(b) EXISTING ADIZ.—If an ADIZ is in effect on the date of enactment of this Act, the Administrator shall transmit an initial report under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 30 days after the date of enactment of this Act.

(c) REPORTING REQUIREMENTS.—If a report required under subsection (a) or (b) indicates that the ADIZ is to be continued, the Administrator shall outline changes in procedures and requirements to improve operational efficiency and minimize the operational impacts of the ADIZ on pilots and air traffic controllers.

(d) DEFINITION.—In this section, the terms "Air Defense Identification Zone" and "ADIZ" mean a zone established by the Administrator with respect to airspace under 18,000 feet in approximately a 15 to 38 mile radius around Washington, District of Columbia, for which security measures are extended beyond the existing 15-mile-no-fly zone around Washington and in which general aviation aircraft are required to adhere to certain procedures issued by the Administrator.

Mr. LOTT. Mr. President, we have considered these amendments and we find no problem with them at this point. They have been cleared on both sides.

The PRESIDING OFFICER. Is there further debate on amendments? If not, without objection, the amendments are agreed to en bloc.

The amendments (Nos. 894 and 895) were agreed to.

AMENDMENT NO. 908

Mr. HOLLINGS. Mr. President, the distinguished chairman, Senator MCCAIN, and myself have four amendments that we will send to the desk in due time. One is a Wyden amendment which is a privacy study of the CAPP Program, Computer Assisted Passenger Prescreening.

I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. WYDEN, proposes an amendment numbered 908.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Secretary of Homeland Security to report to the Congress in writing on the impact of the Computer Assisted Passenger Prescreening System, proposed to be implemented by the Transportation Security Administration, on the privacy and civil liberties of United States citizens)

At the appropriate place, insert the following:

SEC. . REPORT ON PASSENGER PRESCREENING PROGRAM.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Attorney General, shall submit a report in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the potential impact of the Transportation Security Administration's proposed Computer Assisted Passenger Prescreening system, commonly known as CAPPS II, on the privacy and civil liberties of United States Citizens.

(b) SPECIFIC ISSUES TO BE ADDRESSED.—The report shall address the following:

(1) Whether and for what period of time data gathered on individual travelers will be retained, who will have access to such data, and who will make decisions concerning access to such data.

(2) How the Transportation Security Administration will treat the scores assigned to individual travelers to measure the likelihood they may pose a security threat, including how long such scores will be retained and whether and under what circumstances they may be shared with other governmental, non-governmental, or commercial entities.

(3) The role airlines and outside vendors or contractors will have in implementing and operating the system, and to what extent will they have access, or the means to obtain access, to data, scores, or other information generated by the system.

(4) The safeguards that will be implemented to ensure that data, scores, or other information generated by the system will be used only as officially intended.

(5) The procedures that will be implemented to mitigate the effect of any errors, and what procedural recourse will be available to passengers who believe the system has wrongly barred them from taking flights.

(6) The oversight procedures that will be implemented to ensure that, on an ongoing basis, privacy and civil liberties issues will continue to be considered and addressed with high priority as the system is installed, operated and updated.

Mr. LOTT. Mr. President, are we going to dispose of that amendment now?

Mr. HOLLINGS. Yes, we are going to go ahead and vote on it.

Mr. LOTT. It has been cleared. It may save some time if we could go ahead and agree to it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 908) was agreed to.

AMENDMENT NO. 909

Mr. HOLLINGS. Mr. President, I also have another amendment by the distinguished Senator from Florida, Mr. NELSON, which deals with the background checks of new pilots on the smaller planes.

Mr. LOTT. Has this been approved on both sides?

Mr. HOLLINGS. Yes, it has been approved.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. NELSON of Florida, proposes an amendment numbered 909.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify requirements regarding training to operate aircraft)

At the appropriate place, insert the following:

SEC. . MODIFICATION OF REQUIREMENTS REGARDING TRAINING TO OPERATE AIRCRAFT.

(a) IN GENERAL.—Section 44939 of title 49, United States Code, is amended to read as follows:

"§ 44939. Training to operate certain aircraft

"(a) IN GENERAL.—

"(1) WAITING PERIOD.—A person subject to regulation under this part may provide training in the United States in the operation of an aircraft to an individual who is an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Under Secretary of Homeland Security for Border and Transportation Security only if—

"(A) that person has notified the Under Secretary that the individual has requested such training and furnished the Under Secretary with that individual's identification in such form as the Under Secretary may require; and

"(B) the Under Secretary has not directed, within 30 days after being notified under subparagraph (A), that person not to provide the requested training because the Under Secretary has determined that the individual presents a risk to aviation security or national security.

"(2) NOTIFICATION-ONLY INDIVIDUALS.—

"(A) IN GENERAL.—The requirements of paragraph (1) shall not apply to an alien individual who holds a visa issued under title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and who—

"(i) has earned a Federal Aviation Administration type rating in an aircraft or has undergone type-specific training, or

"(ii) holds a current pilot's license or foreign equivalent commercial pilot's license that permits the person to fly an aircraft with a maximum certificated takeoff weight of more than 12,500 pounds as defined by the International Civil Aviation organization in Annex 1 to the Convention on International Civil Aviation.

if the person providing the training has notified the Under Secretary that the individual has requested such training and furnished the Under Secretary with that individual's visa information.

"(B) Exception.—Subparagraph (A) does not apply to an alien individual whose airman's certificate has been suspended or revoked under procedures established by the Under Secretary.

"(3) Expedited processing.—the waiting period under paragraph (1) shall be expedited for an individual who—

"(A) has previously undergone a background records check by the Foreign Terrorist Tracking Task Force;

"(B) is employed by a foreign air carrier certified under part 129 of title 49, Code of Federal Regulations, that has a TSA 1546 approved security program and who is undergoing recurrent flight training;

"(C) is a foreign military pilot endorsed by the United States Department of Defense for flight training; or

"(D) who has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii).

"(4) Investigation authority.—In order to determine whether an individual requesting training described in paragraph (1) presents a risk to aviation security or national security the Under Secretary is authorized to use the employment investigation authority provided by section 44936(a)(1)(A) for individuals applying for a position in which the individual has unescorted access to a secured area of an airport designated under section 449369(a)(1)(A)(ii).

"(5) Fee.—

"(A) In general.—The Under Secretary may assess a fee for an investigation under this section, which may not exceed $100 per individual (exclusive of the cost of transmitting fingerprints collected at overseas facilities) during fiscal years 2003 and 2004. For fiscal years 2005 and thereafter, the Under Secretary may adjust the maximum amount of the fee to reflect the costs of such an investigation.

"(B) Offset.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this section—

"(i) shall be credited to the amount in the Treasury from which the expenses were incurred and shall be available to the Under Secretary for those expenses; and

"(ii) shall remain available until expended.

"(b) Interruption of Training.—If the Under Secretary, more than 30 days after receiving notification under subsection (a)(1)(A) from a person providing training described in subsection (a)(1) or at any time after receiving notice from such a person under subsection (a)(2)(A), determines that an individual receiving such training presents a risk to aviation or national security, the Under Secretary shall immediately notify the person providing the training of the determination and that person shall immediately terminate the training.

"(c) Covered Training.—For purposes of subsection (a), the term 'training'—

"(1) includes in-flight training, training in a simulator, and any other form or aspect of training; but

"(2) does not include classroom instruction (also known as ground school training), which may be provided during the 30-day period described in subsection (a)(1)(B).

"(d) Interagency Cooperation.—The Attorney General, the Director of Central Intelligence, and the Administrator of the Federal Aviation Administration shall cooperate with the Under Secretary in implementing this section.

"(e) Security Awareness Training for Employees.—The Under Secretary shall require flight schools to conduct a security awareness program for flight school employees, and for certified instructors who provide instruction for the flight school but who are not employees thereof, to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.".

(b) Procedures.—

(1) In general.—Not later than 60 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security shall promulgate an interim final rule to implement section 44939 of title 49, United States Code, as amended by subsection (a).

(2) Use of overseas facilities.—In order to implement section 44939 of title 49, United States Code, as amended by subsection (a), United States Code, as amended by subsection (a), United States Embassies and Consulates that possess appropriate fingerprint collection equipment and personnel certified to capture fingerprints shall provide fingerprint services to aliens covered by that section if the Under Secretary requires fingerprints in the administration of that section, and shall transmit the fingerprints to the Under Secretary or other agency designated by the Under Secretary. The Attorney General and the Secretary of State shall cooperate with the Under Secretary in carrying out this paragraph.

(3) Use of united states facilities.—If the Under Secretary requires fingerprinting in the administration of section 44939 of title 49, United States Code, the Under Secretary may designate locations within the United States that will provide fingerprinting services to individuals covered by that section.

(c) Effective Date.—The amendment made by subsection (a) takes effect on the effective date of the interim final rule required by subsection (b)(1).

(d) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the effectiveness of the activities carried out under section 44939 of title 49, United States Code, in reducing risks to aviation security and national security.

Mr. NELSON of Florida. Mr. President. I rise to offer an amendment that will close a serious loophole regarding foreign flight student training that was created in the Aviation Security Act of 2001. This amendment has passed the Senate twice on other bills since I first introduced it in the 107th Congress.

This amendment is another important step toward fully protecting the United States and all Americans from terrorists who intend to use our aviation system to commit future attacks.

We must continue to be vigilant in protecting our Nation. This amendment addresses a deep concern regarding foreign citizens coming to the United States to receive pilot training on all sizes of aircraft. This concern clearly is shared by the administration. In fact, the Department of Homeland Security, DHS, released an advisory on May 1, 2003 titled "The Continuing Threat to Aviation" citing that al-Qaida operatives may "attempt to use charter or general aviation aircraft to conduct future attacks because of their availability, less stringent protective measures, and destructive potential." The advisory continued on to say that "[c]harter aircraft also may be attractive because terrorists may only need an established line of credit to gain access to an aircraft and because some agencies allow the use of customer pilots." Finally, and of greatest concern, the DHS warns that "[r]eliable information . . . indicated al-Qaida might use experienced non-Arab pilots to rent three to four light aircraft under the guise of flying lessons." This threat to our national security is real and cannot be understated. I ask unanimous consent that the Department of Homeland Security advisory be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Department of Homeland Security Advisory 03-019—Security Information for General Aviation Pilots/Airports

This advisory was produced by the Department of Homeland Security based on information and analysis from the Terrorist Threat Integration Center received during the last 24 hours.

THE CONTINUING THREAT TO AVIATION

Al-Qaida has long considered attacking U.S. Homeland targets using light aircraft. Recent reliable reporting indicates that al-Qaida was in the late stages of planning an aerial suicide attack against the U.S. Consulate in Karachi. Operatives were planning to pack a small fixed-wing aircraft or helicopter with explosives and crash it into the consulate. This plot and a similar plot last year to fly a small explosive-laden aircraft into a U.S. warship in the Persian Gulf demonstrate al-Qaida's continued fixation with using explosive-laden small aircraft in attacks. General aviation aircraft that were loaded with explosives to enhance their destructive potential would make them the equivalent of a medium-sized truck bomb.

Al-Qaida may attempt to use charter or general aviation aircraft to conduct future attacks because of their availability, less stringent protective measures, and destructive potential. The group has a fair sized pilot cadre and the use of small aircraft requires far less skill and training than some larger aircraft.

Charter aircraft also may be attractive because terrorists may only need an established line of credit to gain access to an aircraft and because some agencies allow the use of customer pilots. Security procedures typically are not as rigorous as those for commercial airlines and terrorists would not have to control a large number of passengers.

Reliable information obtained last year indicated al-Qaida might use experienced non-Arab pilots to rent three or four light aircraft under the guise of flying lessons.

In consideration of the above information, the Department of Homeland Security asks members of the General Aviation community to report all unusual and suspicious activities. If your observe persons, aircraft, and operations that do not fit the customary pattern at your airport, you should immediately advise law enforcement authorities.

Your immediate action is requested for these items:

Secure unattended aircraft to prevent unauthorized use.

Verify the identification of crew and passengers prior to departure.

Verify that baggage and cargo are known to the persons on board.

Where identification systems are in place, ensure employees wear proper identification and challenge persons not doing so.

Increased vigilance should be directed toward the following:

Unknown pilots and/or clients for aircraft or helicopter rentals or charters.

Unknown service/delivery personnel.

Aircraft with unusual or unauthorized modifications.

Persons loitering in the vicinity of aircraft or air operations areas.

Persons who appear to be under stress or the control of other persons.

Persons whose identification appears altered or inconsistent.

Persons loading unusual or unauthorized payload onto aircraft.

NOTE: All charter operators subjected to the 12-5 rule, Standard Security Program and the Private Charter Security Program, are reminded to ensure compliance with these security requirements.

Persons should immediately report such activity to local law enforcement and the TSA General Aviation Hotline at 866-GASECUR (866-427-3287).

Mr. NELSON of Florida. Unfortunately, we all have seen what can happen when people come to our country with the specific intent to do us great harm. It has become painfully clear that many of the September 11 hijackers learned to fly the planes they used as deadly weapons at flight schools here in the United States, some in my home State of Florida.

Section 113 of the Aviation and Transportation Security Act, which was enacted in the 107th Congress, requires background checks of all foreign flight school applicants seeking training to operate aircraft weighing 12,500 pounds or more. While this provision should help prevent September 11 style attacks by U.S. trained pilots using hijacked jets in the future, it does nothing to prevent different types of potential attacks against our domestic security. To rectify this problem, I introduced S. 236 together with Senators CORZINE, ENZI, FEINSTEIN, and THOMAS earlier this year.

Small aircraft can be used by terrorists to attack nuclear facilities, carry explosives, or deliver biological or chemical agents. For example, if a crop duster filled with a combination of fertilizers and explosives were crashed into a filled sporting event stadium thousands of people could be seriously injured or killed. We cannot allow this to happen. We need to ensure that we are not training terrorists to perform these activities. We cannot allow critical warnings to go unheeded.

This bill will close an important loophole and answer these critical warnings by extending the background check requirement to all foreign applicants to U.S. flight schools, regardless of the size aircraft they seek to learn to fly. It also transfers the entire security background check program from the Department of Justice to the Department of Homeland Security, specifically to the Transportation Security Administration. It is my expectation that the Transportation Security Administration, which provided excellent advice in the fine tuning of this legislation, will apply a stringent level of background screening to all foreign nationals who seek flight training here in the United States. We cannot allow anyone to slip through the cracks. We cannot aid anyone who intends to do harm to Americans and to our Nation.

I yield the floor.

Mr. HOLLINGS. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 909) was agreed to.

AMENDMENT NO. 910

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senator from Vermont, Mr. JEFFORDS, this amendment takes care of the EAS eligibility up in Vermont.

This has been checked through.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. JEFFORDS, proposes an amendment numbered 910.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide a 1 year extension of essential air service to an airport whose eligibility was terminated due to the impact of decreased air travel)

At the appropriate place, insert the following:

SEC. . 1-YEAR EXTENSION OF EAS ELIGIBILITY FOR COMMUNITIES TERMINATED IN 2003 DUE TO DECREASED AIR TRAVEL.

Notwithstanding the rate of subsidy limitation in section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000, the Secretary of Transportation may not terminate an essential air service subsidy provided under chapter 417 of title 49, United States Code, before the end of calendar year 2004 for air service to a community—

(1) whose calendar year ridership for 2000 was sufficient to keep the per passenger subsidy below that limitation; and

(2) that has received notice that its subsidy will be terminated during calendar year 2003 because decreased ridership has caused the subsidy to exceed that limitation.

Mr. HOLLINGS. Mr. President, let me check with my distinguished colleague from Mississippi. This is a Jeffords amendment.

Mr. LOTT. Mr. President, I wanted to make sure I understood what this amendment is. I had not had a chance to look at it. It is not specific to a particular airport or a particular State.

Mr. HOLLINGS. That is correct.

Mr. LOTT. It does change the formula on how these funds will be spent. Is that correct?

Mr. HOLLINGS. Eligibility; that is right.

Mr. LOTT. We have no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 910) was agreed to.

AMENDMENT NO. 911

Mr. HOLLINGS. Mr. President, on behalf of the Senator from Indiana, Mr. BAYH, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. BAYH and Mr. LUGAR, proposes an amendment numbered 911.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To expand aviation capacity and alleviate congestion in the greater Chicago metropolitan area)

At the end of title II, add the following:

SEC. 217. GARY/CHICAGO AIRPORT FUNDING.

The Administrator of the Federal Aviation Administration shall, for purposes of chapter 471 of title 49, United States Code, give priority consideration to a letter of intent application for funding submitted by the City of Gary, Indiana, or the State of Indiana, for the extension of the main runway at the Gary/Chicago Airport. The letter of intent application shall be considered upon completion of the environmental impact statement and benefit cost analysis in accordance with Federal Aviation Administration requirements. The Administrator shall consider the letter of intent application not later than 90 days after receiving it from the applicant.

Mr. HOLLINGS. Mr. President, does the Senator from Arizona approve of the amendment?

Mr. McCAIN. Yes.

The PRESIDING OFFICER. Is there further debate on the amendment? Without objection, the amendment is agreed to.

The amendment (No. 911) was agreed to.

AMENDMENT NO. 912

Mr. HOLLINGS. Mr. President, on behalf of the Senator from Connecticut, Mr. DODD, I send an amendment to the desk on the study of the shuttle services at Reagan National Airport. It merely requires a study with respect to housing of gates used by the shuttle services, and as to whether or not that is feasible.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. DODD, proposes an amendment numbered 912.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a study on the housing of the gates used by shuttle services within the same terminal at Ronald Reagan Washington National Airport)

At the appropriate place insert the following:

SEC—. LOCATION OF SHUTTLE SERVICE AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

The Airports Authority (as defined in section 49103(1)) of title 49, United States Code) shall in conjunction with the Department of Transportation conduct a study on the feasibility of housing the gates used by all air carriers providing shuttle service from Ronald Reagan Washington National Airport in the same terminal.

Mr. HOLLINGS. Mr. President, if there is no further debate——

Mr. MCCAIN. Mr. President, it is my understanding the Dodd amendment studies the situation at National Airport where there is some distance between both airlines that conduct shuttles along the east coast.

Mr. HOLLINGS. Right.

Mr. MCCAIN. I can see why Senator DODD might want that looked at as he grows older, shuttling himself back and forth from one end of Reagan National Airport to the other, which is a bit of a trial. And I certainly am in support, having undergone that unique experience.

Mr. HOLLINGS. Particularly becoming a recent father, he is wearing down.

Mr. MCCAIN. That is right. Having to carry a small child with him has become a bit of a burden. So on behalf of Senator DODD, and all of us who are aging, I ask that this amendment, which asks the airlines to take a look at the possibility of making these shuttles closer together, be adopted. I think it is appropriate and I support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 912) was agreed to.

Mr. MCCAIN. I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, it is my understanding we have a number of additional amendments which have been agreed to but have not been presented at this time. If the staffs of the Members who have these amendments we have discussed and have agreed to—one is a Nelson amendment. That has already been accepted. One is a Feinstein amendment. We are in agreement with it, but it has not been formally offered. One is a Specter amendment that we are considering now, a Burns amendment concerning general aviation, a Murkowski amendment concerning decision on a tower. We would like to consider those amendments as soon as possible, if the sponsors of those amendments would come here, while we are preparing to debate a Specter amendment at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 913

Mr. THOMAS. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Wyoming [Mr. THOMAS] proposes an amendment numbered 913.

Mr. THOMAS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit Jackson Hole Airport to adopt certain noise reduction measures)

At the end of title V, add the following new section:

SEC. 521. EXEMPTION FOR JACKSON HOLE AIRPORT.

(a) IN GENERAL.—Notwithstanding chapter 475 of title 49, United States Code, or any other provision of law, if the Board of the Jackson Hole Airport in Wyoming and the Secretary of the Interior agree that Stage 3 aircraft technology represents a prudent and feasible technological advance which, if implemented at the Jackson Hole Airport, will result in a reduction in noise at Grand Teton National Park—

(1) the Jackson Hole Airport may impose restrictions on, or prohibit, the operation of Stage 2 aircraft weighing less than 75,000 pounds, with reasonable exemptions for public health and safety;

(2) the notice, study, and comment provisions of subchapter II of chapter 475 of title 49, United States Code, and part 161 of title 14, Code of Federal Regulations, shall not apply to the imposition of the restrictions;

(3) the imposition of the restrictions shall not affect the Airport's eligibility to receive a grant under title 49, United States Code; and

(4) the restrictions shall not be deemed to be unreasonable, discriminatory, a violation of the assurances required by section 47107(a) of title 49, United States Code, or an undue burden on interstate commerce.

(b) DEFINITIONS.—In this section, the terms "Stage 2 aircraft" and "Stage 3 aircraft" have the same meaning as those terms have in chapter 475 of title 49, United States Code.

Mr. THOMAS. Mr. President, this is a very short, simple amendment. What it deals with is Teton National Park. I think it is probably the only park in the country that has in it a commercial airport.

Some years ago, the airport and the park agreed they could limit noise in the park. They had done so with commercial airlines, but they have not been able to do so with private jets. This would give them that authority.

It has been approved by the Park Service, by the Interior Department, and we would like very much to have the authority for them to be able to deal with the noncommercial jets and the noise they create in Teton National Park.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senator THOMAS for his sponsorship of this amendment. One of the greatest problems we have today in America is aircraft noise over national parks. We have been fighting it in the Grand Canyon, trying to balance the needs of commercial aircraft—not only those taking off and arriving but air tours—and that of preserving the incredible park experience.

I thank Senator THOMAS for his effort to try to bring about the restoration of that marvelous experience in one of our Nation's crown jewels.

I support the amendment.

Mr. HOLLINGS. Mr. President, the Department of the Interior and the Park Service approved the amendment. We also support its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 913) was agreed to.

Mr. MCCAIN. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

AMENDMENT NO. 915

Mr. SPECTER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 915.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title V, add the following new section:

(g) Measurement of Highway Mileage for Purposes of Determining Eligibilty for Essential Air Service Subsidies.—

(1) Determination of eligibility.—Subchapter II of Chapter 417 of title 49, United States Code, (as amended by subsection (f) of this bill) is further amended by adding at the end the following new section:

"§41746. Distance requirement applicable to eligibility for essential air service subsidies

"(a) In General.—The Secretary shall not provide assistance under this subchapter with respect to a place in the 48 contiguous States that—

"(1) is less than 70 highway miles from the nearest hub-airport; or

"(2) requires a rate of subsidy per passenger in excess of $200, unless such place is greater than 210 highway miles from the nearest hub airport.

"(b) Determination of Mileage.—For purposes of Lancaster, Pennsylvania, the highway mileage between a place and the nearest hub airport is the highway mileage of the most commonly used route between the place and the hub airport. In identifying such route, the Secretary shall—

"(1) promulgate by regulation a standard for calculating the mileage between Lancaster, Pennsylvania and a hub airport, and

"(2) identify the most commonly used route for a community by—

"(A) consulting with the Governor of a State or the Governor's designee; and

"(B) considering the certification of the Governor of a State or the Governor's designee as to the most commonly used route.".

"(b) Conforming Amendment.—The analysis for subchapter II of chapter 417 of title 49, United States Code, (as amended by subsection (f) of this bill) is further amended by inserting after the item relating to section 41745 the following new item:

"41746. Distance requirement applicable to eligibility for essential air service subsidies.".

(h) Repeal.—The following provisions of law are repealed:

"(1) Section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note).

(2) Section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note).

(3) Section 334 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (section 101(g) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999) (Public Law 105-277; 112 Stat. 2681—471).

(i) Secretarial Review.—

(1) Request for review.—Any community with respect to which the Secretary has, between September 30, 1993, and the date of the enactment of this Act, eliminated subsidies or terminated subsidy eligibility under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note), Section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note), or any prior law of similar effect, may request the Secretary to review such action.

(2) Eligibility determination.—Not later than 60 days after receiving a request under subsection (i), the Secretary shall—

(A) determine whether the community would have been subject to such elimination of subsidies or termination of eligibility under the distance requirement enacted by the amendment made by subsection (g) of this bill to subchapter II of chapter 417 of title 49, United States Code; and

(B) issue a final order with respect to the eligibility of such community for essential air service subsidies under subchapter II of chapter 417 of title 49, United States Code, as amended by this Act.

Mr. SPECTER. Mr. President, this amendment is an accommodation and compromise worked out after discussion with the chairman of the committee and the chairman of the subcommittee. I have already filed amendment No. 904, which is part of the record. This amendment goes to the issue of providing essential air services to Lancaster, Pennsylvania. The existing law provides that essential air services shall be provided if there is a distance of 70 miles or more to the hub of a major airport.

Lancaster is 66 miles from the Philadelphia International Airport, if you travel along Route 30, which is the old Lincoln Highway, where there is a traffic light every other block with the most extraordinary congestion. Nobody who travels from Lancaster to the Philadelphia Airport takes congested Route 30. The commonly used route is to take 222 to the turnpike and then to the Schuylkill Expressway, and that is a distance of some 80 miles. So the route that any rational person would use would be the 80-mile route, not the 66-mile route.

We have worked with the Department of Transportation for several years in trying to work out this arrangement, but they have refused to listen to reason. The City of Lancaster took an expensive appeal to the Court of Appeals for the Third Circuit, and the Court felt bound to honor the discretion of the Secretary of Transportation, even though the discretion was very unwisely used. The Court found itself constrained to let the Secretary determine it.

The amendment I had intended to offer, which has been denominated as 904, provides that the determination of the appropriate mileage would be determined by the Governor or by the Metropolitan Planning Organization. A concern was expressed as to that—to have the State make a determination as to what would be done with the Federal expenditure of funds. Well, that is not all the time, but I am not going to belabor that argument because we have an accommodation.

Mr. LOTT. Will the Senator yield to me at this point?

Mr. SPECTER. Yes.

Mr. LOTT. I note that I have looked at this situation and I am going to support what this amendment is trying to do. I think, in this case, this area he is referring to has been disadvantaged. We do not want to and do not intend to start down the line of making an exception here and there. This is a case where, clearly, you have been disadvantaged by the way it has been interpreted.

I appreciate the Senator being willing to work out a fair solution.

Mr. McCAIN. Mr. President, I thank the Senator from Pennsylvania. I did have the opportunity to meet with a group of his fellow citizens from Lancaster. They made a very compelling case on the burden they bear. I think this is a fair and equitable solution. I thank the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, to complete the discussion here regarding giving these essential air services to Lancaster, they had one small airline that serviced Lancaster. They withdrew because, in the absence of a modest subsidy, they could not serve Lancaster anymore. In an era when we are helping airlines with loan guarantees and bailouts and so many other provisions, this is really minimal.

This amendment, as provided, will take care of Lancaster. If I may say for the record—if I may have the attention of the Senator from Mississippi, the chairman of the subcommittee, who will be principal conferee—this provision will be fought for in conference. In the House, the matter has been handled by Congressman Joe Pitts, a very able Congressman who represents the area including Lancaster. I am sure Congressman Pitts will be amenable to this amendment, which gives further assurance and protection to Lancaster, Pennsylvania. So it is in the context of this assurance of our tough position in conference, which ought to prevail, that I have agreed to this accommodation.

I thank the Senator from Mississippi and I thank the Senator from Arizona for working out this issue. I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HOLLINGS. I thank the Senator from South Carolina for supporting the amendment.

Mr. SPECTER. Mr. President, I associate myself with the last remarks of Senator Hollings. Like the Senator from South Carolina, I thank the Senator from South Carolina.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 915) was agreed to.

Mr. REID. Mr. President, our cloakroom has indicated that Senators have had an all-day-long notice that we are trying to complete this bill today. Statements have been made on the floor by the managers many times to that effect.

On the Democratic side, the only amendments we know of that people wish to offer are by Senators Feinstein, Inouye, Hollings, and Senator Rockefeller has an amendment. Other than those, we don't know of any other amendments on our side.

On the other side, I have been told there is a Burns amendment, a Murkowski amendment, and a Stevens amendment. Other than that, I don't know of any other amendments.

My point is, within a relatively short period of time, we will ask unanimous consent that these be the only amendments in order. If people are out there with amendments, they should come forward in the next couple of minutes.

Mr. McCAIN. Mr. President, in about 10 minutes, if that is OK—that will give plenty of time for people who have additional amendments—I will propose that we have a unanimous consent that no further amendments be in order.

I yield the floor.

Mr. SPECTER. Mr. President, I supplement what the Senator from Nevada said. I have already given notice that I have another amendment. If I may inquire of the manager, the Senator from Arizona, I am prepared to proceed at this time with the amendment.

If I may have the attention of the Senator from Arizona, is it agreeable that I may call up my amendment?

Mr. McCAIN. Yes.

AMENDMENT NO. 905

Mr. SPECTER. Mr. President, I call up amendment No. 905, which has been filed.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself, Mrs. BOXER, Mr. DURBIN, Mr. DAYTON, proposes an amendment numbered 905.

Mr. SPECTER. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide safety and security with respect to aviation repair stations)

At the end of title IV, add the following:

SEC. 405. FOREIGN REPAIR STATION SAFETY AND SECURITY.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) DOMESTIC REPAIR STATION.—The term "domestic repair station" means a repair station or shop that—

(A) is described in section 44707(2) of title 49, United States Code; and

(B) is located in the United States.

(3) FOREIGN REPAIR STATION.—The term "foreign repair station" means a repair station or shop that—

(A) is described in section 44707(2) of title 49, United States Code; and

(B) is located outside of the United States.

(4) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary for Border and Transportation Security of the Department of Homeland Security.

(b) APPLICABILITY OF STANDARDS.—Within 180 days after the date of enactment of this Act, the Administrator shall issue regulations to ensure that foreign repair stations meet the same level of safety required of domestic repair stations.

(c) SPECIFIC STANDARDS.—In carrying out subsection (b), the Administrator shall, at a minimum, specifically ensure that foreign repair stations, as a condition of being certified to work on United States registered aircraft—

(1) institute a program of drug and alcohol testing of its employees working on United States registered aircraft and that such a program provides an equivalent level of safety achieved by the drug and alcohol testing requirements that workers are subject to at domestic repair stations;

(2) agree to be subject to the same type and level of inspection by the Federal Aviation Administration as domestic repair stations and that such inspections occur without prior notice to the country in which the station is located; and

(3) follow the security procedures established under subsection (d).

(d) SECURITY AUDITS.—

(1) IN GENERAL.—To ensure the security of maintenance and repair work conducted on United States aircraft and components at foreign repair stations, the Under Secretary, in consultation with the Administrator, shall complete a security review and audit of foreign repair stations certified by the Administrator under part 145 of title 14, Code of Federal Regulations. The review shall be completed not later than 180 days after the date on which the Under Secretary issues regulations under paragraph (6).

(2) ADDRESSING SECURITY CONCERNS.—The Under Secretary shall require a foreign repair station to address the security issues and vulnerabilities identified in a security audit conducted under paragraph (1) within 90 days of providing notice to the repair station of the security issues and vulnerabilities identified.

(3) SUSPENSIONS AND REVOCATIONS OF CERTIFICATES.—

(A) FAILURE TO CARRY OUT EFFECTIVE SECURITY MEASURES.—If the Under Secretary determines as a result of a security audit that a foreign repair station does not maintain and carry out effective security measures or if a foreign repair station does not address the security issues and vulnerabilities as required under subsection (d)(2), the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall suspend the certification of the repair station until such time as the Under Secretary determines that the repair station maintains and carries out effective security measures and has addressed the security issues identified in the audit, and transmits the determination to the Administrator.

(B) IMMEDIATE SECURITY RISK.—If the Under Secretary determines that a foreign repair station poses an immediate security risk, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall revoke the certification of the repair station.

(4) FAILURE TO MEET AUDIT DEADLINE.—If the security audits required by paragraph (1) are not completed on or before the date that is 180 days after the date on which the Under Secretary issues regulations under paragraph (6), the Administrator may not certify, or renew the certification of, any foreign repair station until such audits are completed.

(5) PRIORITY FOR AUDITS.—In conducting the audits described in paragraph (1), the Under Secretary and the Administrator shall give priority to foreign repair stations located in countries identified by the United States Government as posing the most significant security risks.

(6) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Under Secretary, in consultation with the Administrator, shall issue final regulations to ensure the security of foreign and domestic repair stations. If final regulations are not issued within 180 days of the date of enactment of this Act, the Administrator may not certify, or renew the certification of, any foreign repair station until such regulations have been issued.

Mr. SPECTER. Mr. President, I am offering this amendment on behalf of myself and Senators BOXER, DURBIN, and DAYTON. Senator INHOFE had indicated some support, but I think he has a little different approach, so I am going to proceed with it on this basis.

The amendment provides for foreign aircraft repair stations to be subject to the same provisions as domestic air stations.

What we have at the present time is a very different set of standards for foreign repair stations than are in effect for domestic stations. In foreign stations, for example, there need not be drug and alcohol testing. In foreign stations, there are not the kinds of requirements and regulations as to the maintenance for safety, and there are no requirements as to security.

I realize this kind of an amendment may result in some higher costs; however, I believe these costs are warranted in the interest of the traveling public so there is an adequate assurance of safety. If you do not have the kinds of requirements that are in effect by the FAA in the United States, then we do not have the maintenance of the same kind of safety standards.

With respect to foreign competition, I think it is a fair requirement to say that you are not requiring "Buy American," but you are saying that the people in the United States who provide these services ought to have the same sort of security standards, the same sort of maintenance standards, and the same sort of drug testing or alcohol testing as in foreign standards. So this goes beyond the idea of protectionism. These requirements that are in effect in the United States are to provide for the safety of the traveling public. If it costs X dollars to provide for the safety of the traveling public, then I think that is what we ought to do, and that is the gravamen and the thrust behind this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 911 TO AMENDMENT NO. 905

(Purpose: To require the Administrator of the FAA to conduct a study of safety standards at foreign repair stations)

Mr. LOTT. Mr. President, I send a second-degree amendment to the desk and ask it be read in its entirety.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 914 to amendment No. 905:

At the end of the amendment add the following:

( ) STUDY.—Notwithstanding the preceding provisions of this section—

(1) the Administrator shall conduct a study of the need to establish a program to ensure that foreign repair stations meet the conditions and standards described in subsection (c);

(2) report the results of that study, together with the Administrator's recommendations and conclusions, to the Congress within 180 days after the date of enactment of this Act; and

(3) the Administrator shall not issue regulations under subsection (h).

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, let me explain why I offered this amendment. Senator SPECTER raises some very legitimate concerns, and we need to know what the situation is with regard to safety standards and the conditions of the workers in these foreign repair stations.

First, I was not aware of this amendment or the committee was not aware of this amendment until about an hour ago. We have not had a chance to find out more about what the ramifications are, the need for it, or what we need to do. We have had no hearings on this matter.

There is no question we need to make sure these foreign repair stations for airlines are good ones and the workers at these stations meet certain qualifications. They are doing good work basically.

I am offering this amendment on behalf of Senator INHOFE who has some experience in this area, has been to some of these foreign repair stations and has some concerns. Being a pilot himself, having served on the committee of jurisdiction in the House, this is something we would like to know his feelings about and make sure of what the situation is today.

He thought, though, we needed to look into it and understand what is happening. For instance, we may, by doing this, be imposing more requirements on these foreign repair stations that do not need certain laws or regulations in the various countries. We may be taking actions that would drive up costs. We may be taking actions that would have a dramatic impact on our own domestic airlines, which, by the way, some of the most profitable routes are overseas routes. This is a reason Northwest was Northwest Orient. There is no question American, Delta—the big airlines—do have very important overseas routes.

I would like to know if they think they are getting good service. What problems and what costs are going to be the result of this action?

That is what I say to Senator SPECTER. It is a legitimate concern. We may need to do something more in this area, but I would like to know what the ramifications are before we actually put this requirement in place.

This amendment, as I understand it and as it has been read, says the Administrator has to have a study of the need to establish this program to ensure that foreign repair stations meet the conditions of standards described in other sections of the law, that they report the results of that study, together with the Administrator's recommendations and conclusions, to the Congress within a specified period of time. This is not just an open-ended generic thing. That would also give us time on the committee to ask questions of all those impacted by the requirement.

I think this is a good solution to a problem we should not ignore, but before we act we need to know what the impact is going to be.

I yield the floor.

Mr. DURBIN. Mr. President, I strongly support the Specter amendment to S. 824, the Aviation Investment and Revitalization Vision Act, that would address safety and security issues at foreign aircraft repair stations working on U.S. aircraft.

For a number of years, I have been working with the AFL-CIO's Transportation Trades Department and its mechanic unions—the International Association of Machinists, the Transport Workers Union, and the International Brotherhood of Teamsters—to close the safety loopholes that many foreign stations present.

I would like to submit for the RECORD a letter I received from these unions expressing their continued opposition to unsafe foreign stations.

I would also like to submit for the RECORD a letter recently sent from the AFL-CIO and its Transportation Trades Department to the Administration highlighting their concerns about the security at foreign stations.

As these letters clearly demonstrate, we have legitimate concerns with regard to the current rules governing certification and oversight of foreign stations. For these reasons, I am cosponsoring the Specter amendment and urge my colleagues to support it as well.

I ask unanimous consent that the aforementioned letters, dated April 10, 2003, and May 22, 2003, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, April 10, 2003.

Hon. NORMAN Y. MINETA,
Secretary of Transportation, Washington, DC.

Hon. MARION BLAKEY,
Administrator, Federal Aviation Administration, Washington, DC.

Hon. JAMES M. LOY,
Under Secretary for Security, Transportation Security Administration, Arlington, VA.

DEAR SECRETARY MINETA, ADMINISTRATOR BLAKEY AND ADMIRAL LOY: On behalf of the 13 million members of the AFL-CIO and the Transportation Trades Department, AFL-CIO (TTD) we urge you to take immediate action to temporarily revoke the certification of certain foreign-based aircraft repair stations until such time as thorough security audits are conducted by responsible agencies and rules are put in place to ensure that these stations do not pose an imminent national and aviation security risk. As you know, there are currently over 600 foreign aircraft repair stations, certified under 14 CFR Part 145 (Subpart C), that are permitted to work on U.S. registered aircraft. Because of the unique combination of national security and economic conditions that currently exist in the aviation industry, as outlined below, we believe that the Department of Transportation (DOT), the Federal Aviation Administration (FAA), and the Transportation Security Administration (TSA) are required to act upon this petition in the interest of aviation safety.

It is well known that this nation continues to be the target of terrorist intentions both domestically and abroad. In fact, the U.S. State Department and other government agencies have frequently warned about threats occurring outside the U.S. but directed at U.S. citizens and interests. We are concerned that certified foreign aircraft repair stations that are eligible to work on U.S. aircraft could provide terrorists with an opportunity to jeopardize U.S. aviation safety without having to physically enter this country. At a time of heightened alert around the globe, our government must do everything possible to protect against terrorist agents infiltrating foreign repair stations and sabotaging air operations headed back to the United States.

While there is no publicly known evidence that terrorists have pursued this agenda, it makes little sense for the Bush Administration to leave it to chance. In fact, the DOT's Inspector General recently announced that as part of a larger audit of air carriers' use of aircraft repair stations, it found security vulnerabilities at stations located at commercial and general-aviation airports and off airport property. While the IG recommended that the TSA conduct risk-based security assessments as a first-step in determining the actions needed to address repair station security, we would maintain that until the security "fitness" of foreign stations can be assured, their FAR 145 rights to work on U.S. aircraft should be suspended.

The security risks posed by foreign stations is compounded by the unprecedented financial distress faced by the commercial aviation industry. Two major carriers have declared bankruptcy, others have announced severe workforce and service cuts, and virtually every airline has been forced to institute dramatic cost cuts to satisfy lenders and to keep flying. In this environment, U.S. carriers will undoubtedly pursue, over the strong objections of the International Association Machinists and Aerospace Workers, the Transport Workers Union and the International Brotherhood of Teamsters, the outsourcing of major overhaul and other repair work to lower cost, potentially substandard third party contractors including those based overseas. A real life illustration of these concerns are the management rights secured by Northwest Airlines in its 2001 collective bargaining agreement with its mechanics union under which the airline can contract out almost 40 percent of repair and overhaul work to outside contractors around the globe. In fact, Northwest Airlines already relies on a Singapore-based repair operation for significant overhaul work on its DC–10 aircraft and the carrier could use the freedoms it secured in its 2001 collective bargaining agreement for mechanics to ship significantly more of that work abroad. And with the lax FAA oversight and surveillance of unknown security procedures at many foreign stations, the potential for terrorist security breaches grows as these stations see more work from the U.S.

It is interesting that in the pursuit of aviation security the FAA and the TSA recently issued rules that require the FAA to revoke the airman certificate, which includes a Part 65 mechanic certification, of any individual who the TSA determines poses a threat to aviation security. But from a practical standpoint these rules will only affect mechanics at domestic stations since only domestic stations, and not foreign stations, are required to have FAA-certified employees on premise. Furthermore, there are a number of oversight activities that occur at domestic facilities, both formally and informally, that simply do not occur at foreign facilities.

Indeed, the AFL-CIO: TTD and its mechanics union affiliates have long been concerned that foreign aircraft repair stations can receive FAA certification and then work on U.S.-registered aircraft without meeting the same safety and security standards imposed on domestic facilities and their employees. In addition to regulatory differences, we know that the oversight of foreign stations pales in comparison to the surveillance performed on domestic stations, especially those managed within major air carrier operations. For example, FAA inspectors, represented by the Professional Airways Systems Specialists (PASS), do not have the same type of access to foreign stations as they do with domestic facilities. This reality is complicated by the fact that insufficient FAA inspector staffing levels do not allow for proper oversight of stations located outside the U.S. Given this situation, it is troubling that the effective date for modifications to Part 145 was recently and inexplicably postponed at the request of industry trade groups and that such postponement was granted without giving the public any notice or opportunity to comment.

For these reasons we urge the DOT, the FAA, and the TSA to issue an emergency order to temporarily prevent certain foreign stations certified under 14 CFR Part 145 from working on U.S. aircraft or components. The FAA should use these temporary revocations to conduct thorough security audits of foreign stations and to promulgate rules that impose security procedures at these facilities. In particular, the FAA should focus on ensuring that mechanics and other workers who come into contact with U.S. aircraft or components do not pose a security risk and that other precautions are taken to ensure the integrity of the aircraft maintenance work performed. We would suggest that Joint Aviation Authority members and certain countries that have current Bilateral Aviation Safety Agreements with the U.S. may already meet many of the security standards needed and would not need to have their FAR 145 rights suspended while rules are being drafted.

As you know, the Secretary of Transportation is charged with the responsibility of "assigning and maintaining safety as the highest priority in air commerce." 49 U.S.C. §40101(a)(1). Furthermore, when the Administrator is of the "opinion that an emergency related to safety in air commerce requires immediate action, the Administrator, on the initiative of the Administrator or on complaint, may prescribe regulations and issue orders immediately to meet the emergency . . ." 49 U.S.C. §46105(c). We would maintain that a unique confluence of factors described above create a situation that necessitates federal government action in the public interest and to maintain aviation safety.

Thank you for your immediate attention to this matter and we look forward to your response.

Sincerely,

RICHARD L. TRUMKA,
Secretary-Treasurer, AFL-CIO.
SONNY HALL,
President, Transportation Trades Department, AFL-CIO.

TRANSPORTATION TRADES DEPARTMENT, AFL–CIO,
Washington, DC, May 22, 2003.

Hon. RICHARD J. DURBIN,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DURBIN: On behalf of the Transportation Trades Department, AFL–CIO (TTD) and its aircraft mechanics unions, we write to ask for your assistance in protecting the safety and security of our aviation system and the jobs of thousands of aircraft mechanics due to deficient federal government policy and efforts by the major airlines to cut costs through outsourcing of maintenance and heavy overhaul work to foreign-based repair stations.

As an original cosponsor of the Aircraft Repair Station Safety Act (S. 1089) in the 105th Congress, legislation strongly supported by AFL–CIO unions, we know that you are well aware of this problem and we appreciate your leadership in protecting aviation safety and U.S. jobs. As we have discussed with you over many years, the Federal Aviation Administration (FAA), pursuant to 14 CFR Part 145 (Subpart C), allows foreign stations to receive certification to work on U.S. aircraft even though these stations do not have to meet the same standards as those located in this country. While AFL–CIO mechanics unions have long argued that this situation threatens mechanics' jobs and the safety of the flying public, the current drive by air carriers to ship work overseas, combined with unique security concerns at these stations, has exacerbated this problem and your help is urgently needed to address this issue.

We know that U.S. carriers will pursue, over the strong objections of the International Association of Machinists and Aerospace Workers, the Transport Workers Union and the International Brotherhood of Teamsters, outsourcing of major overhaul and other repair work to lower cost and potentially substandard third party contractors based overseas. In fact, Northwest Airlines, secured the right in its 2001 collective bargaining agreement with its non-mechanics union (AMFA) to contract out almost 40 percent of repair and overhaul work to outside contractors in Singapore and around the globe. While the mechanics at Northwest are not members of our unions, we are deeply concerned that the carrier will continue to exploit these harmful contract concessions to the detriment of all the nation's professional aircraft mechanics, the vast majority of which are our members. Mechanics at other airlines will face increasing pressure to adopt the dangerous practices of Northwest-AMFA that permit almost four out of 10 jobs to be shipped to foreign contractors. Unless Congress steps in aggressively, aviation safety and security will suffer and the jobs of thousands of workers will be at risk.

For these reasons, we urge you to work with us to address this issue as part of the FAA Reauthorization bill that will be considered by the full Senate in the coming weeks. Together, we can protect the flying public and in the process ensure the future of America's highly skilled and professional aircraft mechanics. Thank you for your attention to this matter.

Sincerely,

ROBERT ROACH,
General Vice President, International Association of Machinists and Aerospace Workers.
SONNY HALL,
International President, Transport Workers Union.
DON TREICHLER,
Director, Airline Division, International Brotherhood of Teamsters.
EDWARD WYTKIND,
Executive Director, Transportation Trades Dept., AFL–CIO.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the second-degree amendment proposed by the Senator from Mississippi is an improvement over where the record stands at the present time, however, I think it does not go far enough. When he states that he does not know the consequences of my amendment, I would disagree with him.

The amendment provides that there will be standards on the level of inspection, which are of the same type as now promulgated by the Federal Aviation Administration. So if you have that level of inspection, which they have now, there is no question as to its not being onerous, or at least if it is onerous, it is onerous now, however, it is the same.

We should have drug and alcohol testing as a very minimal requirement so we know specifically what is involved there. We know people who are drug addicts or who are unduly influenced by alcohol to be carrying on these inspections.

When it comes to the third factor, security, the amendment I have proposed calls for ensuring the security of maintenance and repair work conducted on

U.S. aircraft and components at foreign repair stations by the Under Secretary in consultation with the Administrator.

Those security arrangements are going to be determined by the Department of Transportation. We certainly can rely on them. I think the issue has been joined. I think we understand what is involved.

I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask that the vote be delayed until such time—

Mr. REID. Will the Senator yield without losing his right to the floor? The two leaders want these votes to be stacked. They are in a very important Finance Committee meeting which is going on now. I ask this be set aside for a later time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I also note that Senator BOXER wishes to speak on this amendment for up to 10 minutes.

Mr. MCCAIN. Mr. President, I ask unanimous consent that we withhold the vote until such time as the two leaders decide on a time, which I do not think will be very long. We have a couple of other amendments which are pending that we could dispose of, I would imagine, within the next 10 or 15 minutes.

Also, I ask unanimous consent that no further amendments be considered at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. The pending amendments on our side are a Stevens amendment, a Burns amendment, and a Santorum amendment.

Mr. REID. Mr. President, we want to have a list just as quickly as my friend from Arizona. We do need to have floor staff look at the subject matter of these amendments because we do not know what they could be. We can take the 10 minutes the Senator from Arizona suggested—the only addition I know we have is an amendment by Senator KOHL—and have our staffs look at these amendments while Senator BOXER is speaking for up to 10 minutes.

Following that, I think we would be in a position to look at the amendments and order the closure of the amendment process.

Mr. MCCAIN. I ask unanimous consent that Senator HAGEL be added as a cosponsor of amendment No. 906.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, as part of the agreement, it is my understanding that the Senator from California will be recognized for up to 10 minutes. Is that right?

The PRESIDING OFFICER. No agreement has been propounded.

Mr. REID. Did not the Senator from Arizona ask unanimous consent that the vote be put over until later and that request was propounded at that time? I thought the agreement was that the Senator from California would speak on the amendment that was just set aside for a vote for 10 minutes. I ask the Senator from California, would that be appropriate?

Mrs. BOXER. I am sorry. I was concentrating on my remarks.

Mr. REID. Is 10 minutes sufficient time for the Senator?

Mrs. BOXER. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I ask unanimous consent that Senator SANTORUM be added as an original cosponsor on the Lancaster amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I understand Senator LOTT has second-degreed Senator SPECTER's amendment, of which I am a proud cosponsor, with a study. Something can be studied and studied but, frankly, this would gut what we are trying to do in our amendment. I do not mind a study, but I think the time for studying this has passed.

I want to show my colleagues an important op-ed that appeared in the USA Today on June 9: "Evidence Points to FAA's Laxity on Plane Maintenance."

It specifically cites the overseas gaps that are happening. There are 629 foreign repair stations certified by the FAA to service U.S. aircraft. They point out that they may not be strictly monitored because of their distance from U.S.-based airline operations, increasing the potential risk for error.

That is an opinion of an expert on safety, Michael Barr, director of the University of Southern California's aviation safety program.

I think all of us want to see safety. One obvious place is making sure that we cut down on the number of aircraft that are overhauled abroad. That is why I think Senator SPECTER's amendment is so important, for the safety and security of the flying public. We all have worked very hard in the Commerce Committee to improve our aviation security, and I do believe our system is more secure than it was.

We have much more to do. My colleagues have heard me speak about the importance of the missile defense system, against shoulder-fired missiles, and there will be a lot more on that subject. But while we are improving our security at our airports in this country and rooting out potential threats among employees in the United States, meaning employees who work for the airlines, there are no security regulations or standards for foreign repair stations that work on U.S. aircraft.

I know the Senate is rushing to get through with this very important bill, but there is a huge gap in our aviation security. There is a huge safety concern that I have that Senator SPECTER's amendment will remedy. It is important to remember that foreign repair stations work on planes that not only fly internationally but planes that serve domestic routes as well.

There is a huge gap in our aviation security, and foreign repair stations do not have the same standards. Senator LOTT wishes to study this matter, and I am glad he wishes to study it, but we all know that the underlying amendment is the one that would bring about the changes. The underlying amendment would require foreign repair stations to meet the same safety standards required at domestic repair stations.

Specifically, under the Specter amendment, foreign repair stations would have to institute a drug and alcohol testing program of its employees if they want to work on American aircraft.

I say to my friends in the Senate, the people at these foreign stations are not even tested for drugs and alcohol, but American workers are required to have drug and alcohol tests.

There is no drug and alcohol testing program of employees on these foreign repair stations. We demand it in our own country. Our employees go through it and we do not have it at these foreign repair stations. We want these foreign repair stations to agree to FAA inspections.

In addition, the Under Secretary of Homeland Security must complete a security review and audit of all foreign repair stations. The foreign repair stations must address security issues identified by the Homeland Security Department within 90 days, and if they do not prove to the FAA and to the Homeland Security Department that they are not meeting our heightened security needs, FAA must revoke the certification of that repair station.

After all of the work that has been undertaken to improve our aviation security, and I must say on both sides of the aisle we have seen this work, we must not allow this loophole to continue. We do not know who is working on our planes at foreign repair stations, and I would hate to be a Senator who voted to study the issue but not to move quickly to solve the problem if, God forbid, there is an accident because some employee in a foreign repair station was either inebriated or high on drugs or perhaps even was terrorist connected.

We owe the American people safe and secure skies, and I think the Specter amendment is critical to preventing terrorism and unnecessary accidents. My colleagues want a study? Then they are saying they do not think this is a problem.

Evidence points to FAA's laxity on plane maintenance, and if we do not adopt Senator SPECTER's amendment, I think we are making a big mistake. These planes not only fly internationally but nationally.

I have a parliamentary inquiry. Are we going to vote on Senator LOTT's second degree at a time certain?

Mr. REID. No.

The PRESIDING OFFICER (Mr. CORNYN). The yeas and nays have been ordered on that amendment but no time has yet been set for that vote.

Mrs. BOXER. Another question. If that fails, will we then be voting on the Specter amendment? And have the yeas and nays been ordered on that?

The PRESIDING OFFICER. That would be the normal course of business, but the yeas and nays have not yet been ordered on the Specter amendment.

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. It is not in order at this time.

Mr. HOLLINGS. I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Parliamentary inquiry. This is a request to have the yeas and nays on the second-degree amendment?

Mr. HOLLINGS. You already got that. This is on the Specter amendment, the yeas and nays on the Specter amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. We are waiting for the unanimous consent request to be typed. I hope during that period of time we will have six or seven more people calling for amendments.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MCCAIN. I ask unanimous consent to set aside the pending amendment so Senator BURNS can be recognized for his two amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 900, AS MODIFIED

Mr. BURNS. Mr. President, I thank the chairman of the committee and the chairman of the subcommittee and the ranking member. I submitted two amendments. One has to do with general aviation and reimbursement to organizations that suffered losses due to September 11. We took care of the airlines and a lot of service industries in and around airports, but we forgot and left out one very important part of the American aviation scene, very important to my State of Montana, those people involved in general aviation, in other words, the charter business, as they were impacted, too, and received no reimbursement in any way to recover the damages or the losses they may have incurred.

We have talked about this. I ask the amendment which is at the desk to be considered. It has been amended and worked on by both sides of the aisle. There is agreement on this amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 900, as modified.

Mr. BURNS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide grants to reimburse general aviation entities for the security costs incurred and revenue foregone as a result of terrorism and the military action against Iraq)

At the appropriate place, insert the following:

SEC. . REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES.

(a) IN GENERAL.—The Secretary of Transportation may make grants to reimburse the following general aviation entities for economic losses as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001:

(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act and general aviation entities operating at those airports.

(5) Any other general aviation entity that is prevented from doing business or operating by an action of the Federal Government prohibiting access to airspace by that entity.

(b) DOCUMENTATION.—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

(c) GENERAL AVIATION ENTITY DEFINED.—In this section, the term "general aviation entity" means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

(3) provides services necessary for nonmilitary operations under such part 91; or

(4) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—

(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such term includes fixed based operators, persons engaged in nonscheduled air taxi service or aircraft rental.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000. Such sums shall remain available until expended.

Mr. BURNS. It has been worked on by both sides and I ask for its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment numbered 900, as modified.

The amendment (No. 900), as modified, was agreed to.

Mr. MCCAIN. I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 899

Mr. BURNS. The second amendment I have has to do with recommendations concerning air travel agents who have been part of a report requested of the Transportation Department. This is only language that requires the Department of Transportation to recommend the changes they see as a result of this report. I ask it be considered at this time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 899.

Mr. BURNS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Secretary of Transportation to transmit to Congress a report on any actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on travel agents)

At the appropriate place, insert the following:

SEC. . RECOMMENDATIONS CONCERNING TRAVEL AGENTS.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on—

(1) the travel agent arbiter program; and

(2) the special box on tickets for agents to include their service fee charges.

(b) CONSULTATION.—In preparing this report, the Secretary shall consult with representatives from the airline and travel agent industry.

Mr. BURNS. I ask the amendment be agreed to.

The PRESIDING OFFICER. Is there no further debate on the amendment?

Mr. BURNS. By the way, it has been cleared by both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 899.

The amendment (No. 899) was agreed to.

Mr. BURNS. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURNS. I appreciate the leadership on both sides of the aisle for consideration of the amendments.

I yield the floor.

Mr. STEVENS. Mr. President, sorry to interrupt. I call attention to the Senate that Special Operations is hosting a reception for Members of the Senate and staff tonight from 5:30 to 7:30 in room 106 of the Dirksen Building. General Holland would be honored if Members could stop by. My Defense Subcommittee visited General Holland and saw many of the things that are going to be on display in 106 Dirksen. There will be members of the armed services who worked with the unified commands, Marines, Army, Navy, Air Force. Individual members of the service who actually participated in Afghanistan and Iraq are there to explain to Members of the Senate and staff some of the engagements they were involved in.

I think every Member and members of the staff would find it very interesting. I hope they will stop by.

AMENDMENT NO. 916

Mr. HOLLINGS. Mr. President, I send an amendment to the desk that has been cleared which I ask the clerk to report.

It is a cap on the staffing level of the Transportation Security Administration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 916.

The amendment is as follows:

(Purpose: To remove the staffing level limitation imposed on the Transportation Security Administration)

At the appropriate place, insert the following:

SEC. . REMOVAL OF CAP ON TSA STAFFING LEVEL.

The matter appearing under the heading "AVIATION SECURITY" in the appropriations for the Transportation Security Administration in the Transportation and Related Agencies Appropriate Act, 2003 (Public Law 108–7; 117 Stat. 386) is amended by striking the fifth proviso.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 916.

The amendment (No. 916) was agreed to.

AMENDMENT NO. 917

Mr. HOLLINGS. On behalf of the distinguished Senator, Senator FEINSTEIN, I send an amendment to the desk and ask it be reported. This has to do with air quality on new aircraft.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] for Mrs. FEINSTEIN, proposes an amendment numbered 917.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for air quality in aircraft cabins)

Strike section 664 and insert the following:

SEC. 664. AIR QUALITY IN AIRCRAFT CABINS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled "The Airliner Cabin Environment and the Health of Passengers and Crew".

(b) REQUIRED ACTIVITIES.—In carrying out this section, the Administrator, at a minimum, shall—

(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

(2) collect pesticide exposure data to determine exposures of passengers and crew;

(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the contaminants to which passengers and crew were exposed;

(4) analyze and study cabin air pressure and altitude; and

(5) establish an air quality incident reporting system.

(c) REPORT.—Not later than 30 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce an amendment to improve the air quality on commercial aircraft.

In 1986, in response to a National Research Council Report, the FAA took several actions to improve aircraft cabin air quality on flights, including banning smoking on nearly all domestic flights. However, over 15 years later, many cabin air quality issues remain and new health questions have been raised by passengers and crew.

More recently, the National Research Council released a study of the air quality on commercial airline flights that was funded by the Federal Aviation Administration. The National Research Council found that:

There is no operational standard for the ventilation of an aircraft cabin, but that such an operation standard should be established to ensure that passenger aircraft are properly ventilated;

Passengers have been exposed to airborne contaminants while onboard aircraft, and that such contaminants can originate outside and inside the aircraft, and within the aircraft's environmental control system itself;

The environmental control system on a passenger aircraft can become contaminated with engine oils, hydraulic fluids, or deicing fluids and those fluid contaminants can enter the passenger cabin through the air supply system;

Contaminants in the air of a passenger aircraft may be responsible for acute and chronic health effects in crew and passengers;

Reduced partial oxygen levels in aircraft air may adversely affect health-compromised passengers, particularly those with cardiopulmonary disease;

Aircraft passengers may be exposed to ozone during flight, and studies suggest that ozone concentrations on some flights can exceed the Federal Aviation Administration and Environmental Protection Agency ozone levels;

Air that contains elevated ozone concentrations is associated with airway irritation, decreased lung function, exacerbation of asthma, and impairments of the immune system;

Since carbon monoxide is an indicator of mechanical fluids contaminating the air supply, the FAA should require aircraft to install monitors and establish procedures for responding to elevated levels of carbon monoxide; and

The FAA should establish a passenger aircraft air quality and health surveillance program to determine compliance with existing FAA regulations and document health effects and complaints so that data is collected in a way that allows analysis of the relationship between health effects and aircraft air quality.

The amendment I rise to introduce today addresses several findings on cabin air quality. It incorporates the original House language plus two additional provisions.

The House language is as follows:

(a) In General.—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled "The Airliner Cabin Environment and the Health of Passengers and Crew."

(b) Required Activities.—In carrying out this section, the Administrator, at a minimum, shall—

(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

(2) collect pesticide exposure data to determine exposures of passengers and crew; and

(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the contaminants to which passengers and crew were exposed.

(c) Report.—Not later than 30 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.

My amendment builds on the above language by adding the following two provisions:

Authorizes an FAA study to analyze cabin air pressure and altitude; and

Requires the FAA to establish an air quality incident reporting system.

Poor air quality in flight cabins poses a health risk for the flying public and crew members who spend most of their working hours onboard commercial aircraft. Passengers should feel confident that they are not endangering their health when they fly, and airline industry workers should not feel their health is threatened as they earn a living. I hope you will join me in supporting this legislation. And finally I want to thank Senator McCAIN and Senator HOLLINGS for allowing me to introduce this amendment.

Mr. HOLLINGS. This has to do with air quality of new equipment that has been cleared.

I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 917) was agreed to.

AMENDMENT NO. 918

Mr. HOLLINGS. On behalf of the distinguished Senator from West Virginia, Senator ROCKEFELLER, I send an amendment to the desk and ask the clerk to report. It has to do with the small carrier sharing and the war supplemental.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. ROCKEFELLER, proposes an amendment numbered 918.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require air carriers that received a refund of passenger security fees under title IV of the Emergency Wartime Supplemental Appropriations Act, 2003, to pass-through to their code-share partners that portion of the refund attributable to such fees collected and paid by those partners)

At the appropriate place, insert the following:

SEC. . PASS-THROUGH OF REFUNDED PASSENGER SECURITY FEES TO CODE-SHARE PARTNERS.

(a) IN GENERAL.—Within 30 days after the date of enactment of this Act, each United States flag air carrier that received a payment made under the second proviso of first appropriation in title IV of the Emergency Wartime Supplemental Appropriations Act, 2003 (Pub. L. 108-011; 117 Stat. 604) shall transfer to each air carrier with which it had a code-share arrangement during the period covered by the passenger security fees remitted under that proviso an amount equal to that portion of the remittance under the proviso that was attributable to passenger security fees paid or collected by that code-share air carrier and taken into account in determining the amount of the payment to the United States flag air carrier.

(b) DOT INSPECTOR GENERAL OVERSIGHT.—The Inspector General of the Department of Transportation shall review the compliance of United States flag air carriers with subsection (a), including determinations of amounts, determinations of eligibility of code-share air carriers, and transfers of funds to such air carriers under subsection (a).

(c) CERTIFICATION.—The chief executive officer of each United States flag air carrier to which subsection (a) applies shall certify to the Under Secretary of Homeland Security for Border and Transportation Security, under penalty of perjury, the air carrier's compliance with sub-section (a).

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 918) was agreed to.

AMENDMENT NO. 919

Mr. HOLLINGS. Mr. President, on behalf of the Senator from Hawaii, Senator INOUYE, and the Senator from Ohio, Senator VOINOVICH, I send an amendment to the desk and ask it be reported. It has to do with credit cards, when one of the carriers is in default and the other carrier has to pick up or honor the tickets. Since there is a peculiar situation, this is taking care of that situation. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] for Mr. INOUYE and Mr. VOINOVICH, proposes an amendment numbered 919.

(Purpose: To clarify the criteria for air carriers to honor tickets for suspended service)

At the end of subtitle A of title III, insert the following:

SEC. 305. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE.

(a) IN GENERAL.—Section 145(a) of the Aviation and Transportation Security Act of 2001 (49 U.S.C. 40101 note) is amended by adding at the end the following: "The Secretary of Transportation shall give favorable consideration to waiving the terms and conditions established by this section, including those set forth in the guidance provided by the Department in notices, dated August 8, 2002, November 14, 2002, and January 23, 2003, in cases where remaining carriers operate additional flights to accommodate passengers whose service was suspended, interrupted, or discontinued under circumstances described in the preceding sentence over routes located in isolated areas that are unusually dependent on air transportation.".

(b) EXTENSION.—Section 145(c) of such Act (49 U.S.C. 40101 note) is amended by striking "more than" and all that follows through "after" and inserting "more than 36 months after".

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 919) was agreed to.

Mr. McCAIN. Mr. President, Senator STEVENS is here to offer an amendment.

First, before that, I ask unanimous consent that following the disposition of the previously mentioned amendments, which we will mention in a minute, the bill be read for the third time, and further, the Senate then proceed to the consideration of H.R. 2115, the House companion bill; provided further that all after the enacting clause be stricken and the text of S. 824, as amended, be inserted in lieu thereof; further, that the bill then be read the third time and the Senate proceed to a vote on passage of the bill, with no intervening action or debate. Finally, I ask unanimous consent that following that vote the Senate then insist on its amendment, request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate with a ratio of 5 to 4. I ask unanimous consent that following the vote, S. 824 be placed back on the calendar.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McCAIN. It is my understanding the only amendments also remaining are an amendment by Senator STEVENS, an amendment by Senator SANTORUM, a Finance Committee amendment, and an amendment by Senator MURKOWSKI.

Mr. REID. And Senator HARKIN?

Mr. McCAIN. An amendment by Senator HARKIN.

I ask unanimous consent that no amendments be considered other than those I just described.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, the subject matter of the amendments has been discussed on both sides so there are no surprises as to the subject matter of the amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

AMENDMENT NO. 920

(Purpose: To codify the requirement that United States air carriers be effectively controlled by United States citizens)

Mr. STEVENS. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 920:

At the end of title V, insert the following:

SEC. 521. AIR CARRIER CITIZENSHIP.

Section 40102(a)(15)(C) of title 49, United States Code is amended by inserting "which is under the actual control of citizens of the United States," before "and in which".

Mr. STEVENS. Mr. President, my amendment codifies the existing requirement that U.S. air carriers be effectively controlled by U.S. citizens. It will ensure reciprocity with countries in the European Union which codified a comparable requirement.

The United States has enforced an effective control standard for decades.

DOT's Inspector General recently identified seven factors that DOT has relied on to determine whether an airline is effectively controlled by foreign entities.

The I.G. identified "significant contracts" as one of the key factors in this process.

A DOT administrative law judge is currently considering whether this should be applied to a situation where 7 year guaranteed cost-plus contracts that provide virtually all of a carrier's business are significant contracts leading to foreign control.

Ironically, in this same proceeding one carrier has argued that the effective control test should not apply at all because it has not been codified.

My amendment will codify the existing standard. It leaves the interpretation of effective control up to DOT, but the department can draw from its decades of precedents to reach these conclusions. It is critical that DOT closely examine the effective control of this transaction.

If the present arrangement is allowed to stand, DOT will set a precedent which allows foreign governments to compete with U.S. companies for business which, by statute, is reserved to U.S. carriers.

Mr. McCAIN. I would like to highlight some changes that Senator STEVENS made to this amendment in response to concerns expressed by the Department of Transportation.

Senator STEVENS changed the term "effective control" in his amendment to "actual control" to more accurately represent the test that DOT uses in these types of reviews.

In addition, Senator STEVENS removed the limitation of "at all times" regarding the actual control test it conform with current DOT practices.

DOT has represented to me that these changes accurately reflect the current state of law regarding citizenship and assures me that this amendment will not in any way affect their determination of what constitutes a citizen of the United States.

I would not have agreed to this amendment without these changes and an understanding that this is simply a reflection of current law. The terms that I have agreed to will not be altered in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 920) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 907

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Ms. MURKOWSKI] proposes an amendment numbered 907.

Ms. MURKOWSKI. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the FAA to complete a study and report regarding the feasibility of consolidating the Anchorage Terminal Radar Approach Control and the Anchorage Air Route Traffic Control Center)

At the end of title II, add the following:

SEC. 217. ANCHORAGE AIR TRAFFIC CONTROL.

(a) IN GENERAL.—Not later than September 30, 2004, the Administrator of the Federal Aviation Administration shall complete a study and transmit a report to the appropriate committees regarding the feasibility of consolidating the Anchorage Terminal Radar Approach Control and the Anchorage Air Route Traffic Control Center at the existing Anchorage Air Route Traffic Control Center facility.

(b) APPROPRIATE COMMITTEES.—In this section, the term "appropriate committees" means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Ms. MURKOWSKI. Mr. President, the amendment I have sent to the desk gives the Federal Aviation Administration a year to complete the study of the consolidation of the Anchorage Terminal Approach Control, TRACON, with the Anchorage Air Route Traffic Control Center at the center's existing facility.

The current physical location will be facing significant demands this decade. In order to expand TRACON's current control room, it needs to be housed in a larger facility. What we are asking is a year to give the FAA ample time to complete this study while the Ted Stevens International Airport is undergoing expansion.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 907) was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, as far as I can see, we are waiting for Senator SANTORUM, who has a pending amendment, according to the unanimous consent agreement. Then there will be a Finance Committee amendment after the disposition of that amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent that the Santorum amendment be withheld at this time. That will leave us with the Harkin amendment, to my understanding.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 921

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senator from Iowa, Mr. HARKIN, I send the amendment to the desk and ask it be reported.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. HARKIN, for himself, Mr. INHOFE, and Mr. GRASSLEY, proposes an amendment numbered 921.

Mr. HOLLINGS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To impose a civil penalty for the closure of an airport without sufficient notice)

At the end of title II, insert the following:

SEC. 217. CIVIL PENALTY FOR CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

"SEC. 46319. CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

"(a) PROHIBITION.—A public agency (as defined in section 47102) may not close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

"(b) PUBLICATION OF NOTICE.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

"(c) CIVIL PENALTY.—A public agency violating subsection (a) shall be liable for a civil penalty of $10,000 for each day that the airport remains closed without having given the notice required by this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 463 is amended by adding at the end the following:

"46319. Closure of an airport without providing sufficient note.".

Mr. HOLLINGS. Mr. President, this has to do with the notice, the 60-day notice of the closing of an airport. It has been cleared on both sides, I think.

Mr. HARKIN. Mr. President, I offer an amendment with Senators INHOFE and GRASSLEY that simply requires that an airport on the National Plan of Integrated Airport Systems, (NPIAS), cannot be closed down without giving the FAA 30 days' notice.

That list includes over 3,000 airports including all commercial airports and many of the airports only used by general aviation, that is nonscheduled private aircraft so important to the efficient operation of businesses across our nation.

Chicago's Meigs Field was included in this integrated system of airports until it was dug up in the middle of the night with no notice on March 30, leaving a number of airplanes trapped at the unusable facility. The city government made a unilateral decision to shut down the airport by bulldozing the landing strips, runaway, and taxiways. That action by the city was dangerous and at least one aircraft carrying State employees had to be turned away from the airport since notification that the airport was now closed had not been provided in advance.

I do not dispute that it is within the purview of a local government or other operator evaluate the infrastructure needs of an area and move to close an airport. But, I do believe that they need to give reasonable notice of that intention. I would also note that almost every airport on the NPIAS system has received FAA funding for facilities and equipment.

This provision is not retroactive and would not affect the city of Chicago for the closure of Meigs Field.

I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 921) was agreed to.

AMENDMENT NO. 922

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I propose an amendment on behalf of Mr. GRASSLEY and Mr. BAUCUS and others. I ask for its immediate consideration. I send the amendment to the desk.

The senior assistant bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. GRASSLEY, for himself and Mr. BAUCUS, proposes an amendment numbered 922.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To extend the Airport and Airway Trust Fund expenditure authority)

On page 209, after line 13, add the following:

TITLE VII—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 701. EXTENSION OF EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 2003" and inserting "October 1, 2006", and

(2) by inserting before the semicolon at the end of subparagraph (A) the following: "or the Aviation Investment and Revitalization Vision Act".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(f) of the Internal Revenue Code of 1986 is amended by striking "October 1, 2003" and inserting "October 1, 2006".

Mr. McCAIN. This is an amendment on behalf of the Finance Committee to make sure all authorizations here are in line with the jurisdiction and proper authorization responsibilities of the Finance Committee. I urge its adoption.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 922) was agreed to.

REAGAN NATIONAL AIRPORT

Mr. ALLEN. Mr. President, I rise today to speak to an issue of great importance to the people of the Commonwealth of Virginia, the operations at two airports important to all Senators, and to the issue of local control.

I support the managers' amendment and the legislation before the Senate today. This is an important bill. I was very concerned when this bill passed the Senate Commerce Committee with an amendment that increased the number of flights at Reagan National Airport by 12. Those flights were designated to fly beyond the so-called "perimeter"—a rule that restricts the length of flights at Reagan National to a maximum 1,250 miles.

Through the managers' amendment today, the language increasing flights at Reagan National has been dropped. I appreciate the chairman of the Commerce Committee's willingness to work with me to see that this provision was not included in the final bill on the Senate floor.

I have several very serious concerns about Congress increasing the number of flights beyond the perimeter at National Airport, all of which were detailed in a letter I submitted to the majority leader on May 9, 2003.

There is a critical principle at stake here that cannot be overlooked by the Senate. The right of the people of Virginia to decide what is best for their communities without unwarranted Federal intrusion is at stake here. The responsibility for operating the airports at Reagan National and Dulles is up to the local and regional airport authority, not Congress. Yet each time this body considers FAA reauthorization, we must revisit attempts at Federal intrusion on an issue of local control. There is an extremely delicate balance between how Reagan National is designed to operate in conjunction with the international hub at Dulles Airport. Congressional intervention, even in the form of a few more flights, disrupts that balance and creates a slippery slope that undermines this region's ability to determine for itself what is in our own best interests.

I believe that a permanent solution to this continual Federal intrusion into local affairs needs to be found. The Senate and House of Representatives should strengthen the mandate we have already given to the local airport authority to make decisions on whether to increase flights at Reagan National or not, especially with respect to flying beyond the perimeter.

Mr. HOLLINGS. Will the Senator yield?

Mr. ALLEN. I would be glad to yield to the Senator from South Carolina.

Mr. HOLLINGS. I thank the Senator. As you know, I voted against this amendment when it came before the Senate Commerce Committee. I agree with the Senator from Virginia that we should not change the slot rules at National whatsoever. It is foolhardy and is bad aviation policy. We should not change the rules just because of politics. They have served the local community well, enabling the expansion of Dulles while protecting those that live near the airport. Short hauls leave from National, and long hauls from Dulles. We may not like to drive all the way out to Dulles, but we built, with Federal airport grant moneys, that highway dedicated to access to Dulles. We used the law to plan for growth. We should not change it now at the behest of some. I yield back to the Senator from Virginia.

Mr. ALLEN. I thank the Senator from South Carolina.

Mr. ROCKEFELLER. Will the Senator yield time?

Mr. ALLEN. I yield time to the Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Senator. Mr. President, I also rise in support of the managers' amendment, and particularly for dropping the provision on adding long-haul flights at National Airport. The current aviation system, as it has evolved, is an intricately connected web of hubs, spokes, and direct flights. Some airlines thrive on the hub and spoke network, and some derive the ability to operate by flying directly between communities. However, I want to make clear a point on why it is so important that we maintain this balance between National Airport and Dulles Airport that was maintained by Congress in 1987, when we leased the facilities to the Metropolitan Washington Airports Authority. The slot rules have been in place since 1968 and should not be changed now.

When the Interstate Highway System was developed in the 1950s, many communities located in the path of the new interstates suddenly prospered by being directly connected to the rest of the Nation. Communities that were once sound economic entities, but were left miles from any access to the interstate system suffered, shuttered their doors and many times just barely survived. The same is true in the aviation system. Not every community in this country can maintain an airport. Not every community can enjoy the economic benefits of a hub. But hub economics dictate that feed from small- and medium-sized communities is necessary for them to survive.

National Airport is an important asset for those, like my constituents in West Virginia, who are trying to reach the capital region. Obviously, however, it can never become an international hub. The airport has only one runway and no ability to expand. National Airport serves a good and valuable purpose. My greatest concern is that by changing National Airport, Congress will hurt this area's ability to serve small- and medium-sized communities on the east coast, including my home State, West Virginia. The slot rule and perimeter rule were put in place at National Airport to maintain its important function while at the same time allowing the DC area to create a major international hub serving both Europe and South America. I would look forward to working with the chairman of the Senate Commerce Committee, the ranking member Senator HOLLINGS and Senators ALLEN and WARNER to find a permanent solution to this issue. I yield back to the Senator from Virginia.

Mr. ALLEN. I thank the Senator from West Virginia and appreciate his support.

Mr. WARNER. Will the Senator yield?

Mr. ALLEN. I yield to the senior Senator from Virginia.

Mr. WARNER. I thank the Senator. Let me just say that I associate myself with the remarks of Senator ALLEN. Three years ago, during debate over this same bill, I stood on the floor of the Senate and fought this battle. I hope that we are not doing this again a few years down the road. I understand that despite the best efforts of counterparts in the House, Congressmen WOLF, DAVIS, MORAN and Delegate NORTON, the House of Representatives has unfortunately approved an FAA reauthorization bill that would increase flights at Reagan National by 12 slots beyond the perimeter and 8 slots within the perimeter. I thank my colleague from Virginia and join him in agreeing to work with the Commerce Committee chairman and ranking member to see that this issue is resolved once and for all at Reagan National Airport. I yield back to my friend from Virginia.

Mr. ALLEN. I appreciate the Senator's comments. In sum, let me just say that this issue is very important to the people of the Commonwealth of Virginia. We have a long and proud tradition of protecting our interests and our ability to govern our own actions. I fought those battles every step of the way in my public life—from my service in the Virginia House of Delegates until now. It is my responsibility as an elected official of the Commonwealth of Virginia to adhere to principles, fight for the will of Virginia, and protect the sovereignty of our people and their rights. I yield back the remainder of my time.

Ms. CANTWELL. Mr. President, I rise this afternoon to strongly support the Aviation Investment and Revitalization Vision Act.

I want to first applaud the tremendous leadership on this bill from my chairman on the Commerce Committee, Senator McCAIN, and Senator HOLLINGS, the ranking member.

This legislation reaffirms our Government's critical commitment to a safe, efficient, and state-of-the-art airline system for the 21st century—a commitment that is crucially important to my home State.

The Seattle-Tacoma International Airport is the principal airport for the Northwest region, making it the Nation's 16th largest passenger airport, with over 26.5 million passengers annually on almost 40 different airlines going in and out of the Seattle-Tacoma airport.

Washington State is also the home to the ninth largest airline in the country, Alaska Airlines, which employs over 10,000 people and is one of the few airlines in the country actually posting growth rates over the last few years. In addition, Alaska is nationally recognized for its leadership to incorporate technology into its business model.

As the proud home of Boeing's commercial aviation division, Washington State leads the Nation in large civil aircraft manufacturing.

With Boeing and hundreds of smaller businesses in aerospace and aviation, we have over 75,000 workers designing and manufacturing the present and future of U.S. aircraft industry.

Obviously, a solid, well functioning, state-of-the-art national air traffic system and a strong domestic aircraft manufacturing capability are critical to my State and our Nation.

I am proud to say that this bipartisan legislation takes tremendous steps towards this goal in several ways.

First, this bill increases funding for airport infrastructure investments that will help our Nation's airports make the improvements, upgrades and expansions necessary to meet our Nation's airline demands in the 21st century.

The bill also increases the funding that will be used to upgrade the FAA air traffic control system, to ensure that our traffic controllers are given the resources they need to continue getting planes where they need to go—in the safest and most efficient manner.

In addition, this bill addresses a critical resource need facing our Nation's airports since 9/11 increased security updates. The legislation not only provides $500 million in funding for security enhancements, but it ensures that this funding is not taken from the airport trust fund money that is already committed to make important structural upgrades and airport improvements.

Last, in what I think is one of the most important contributions of this bill, the legislation includes a dramatic expansion in our Nation's commitment to aviation research and safety.

Mr. President, a renewed commitment to research and development in the aerospace industry is absolutely necessary—and we need it now.

The Final Report of the Commission on the Future of the United States Aerospace Industry argued that current Federal aerospace R&D is "insufficient and unfocused" and recommended in the Federal Government significantly increase its investment in aerospace research to foster an efficient, secure, and safe aerospace transportation system.

We must clearly recognize that if we are not willing to make the commitments to retain leadership in this realm, our allies on the other side of the Atlantic certainly are willing to take our place—in fact, this effort has become European policy.

Indeed, the European Commission has declared in its "STAR-21" report that it is willing to explore "all available means" to ensure the competitiveness of the European aerospace sector—including Airbus.

This support to the European aerospace sector comes in the form of substantial research and development, but also in direct product development grants, concessionary financing, and other direct subsidies.

While we have chosen, as a matter of Government policy, not to pursue such direct subsidies or provide assistance for product development, we have been able to help the research and development effort through a variety of research programs that both of your agencies have pursued.

It is time for the United States to reinforce our Nation's place as a leader in the aerospace sector—an industry is an absolutely crucial component of our domestic industrial base.

For this reason, I am very proud that this bill includes provisions originally introduced by Senator HOLLINGS, that would establish an Office of Aerospace and Aviation Liaison in the Department of Transportation that will draw upon staff from FAA, NASA, DHS, DOD, DOC, and other appropriate agencies to coordinate Federal research programs, as well as establish goals and priorities for research.

Such an office will be well equipped to meet the challenge of the Aerospace Commission and bring direction and coordination to our Federal support for long-term research and innovation.

In addition, this bill authorizes almost $3 billion over the next 3 years for FAA and NASA research priorities. This is a dramatic expansion of the research agenda, almost five times more than previously authorized funding—previous authorization was approximately $600 million over 3 years.

As part of these research provisions, I am particularly proud to have worked with the committee to include funding and authority for future work on the durability and maintainability of advanced materials, such as composites.

These next generation materials have been called the aluminum of the future. Indeed, given their strength, durability, lightweight and unique properties, composites are currently used in most major defense aircraft.

Composites not only make for stronger, safer materials but also lighter and more efficient aircraft.

Already, the Boeing Company has increased its use of composites in the production of the 777 and Airbus is also using composites in its planes. Additionally, Boeing has plans for even greater use in the production of the next generation of commercial airplanes.

In addition to authorizing funds for general research in advanced materials, this legislation would direct the FAA Administrator to establish a "Center for Excellence" that would harness the great engineering research in materials science at path-breaking institutions like the University of Washington, which has taken great strides in pursuing work on how to advance the maintainability and durability of advanced materials and composites in large civilian aircraft.

While we know that these materials hold tremendous potential, we need to be absolutely sure that they are safe and that we have the technologies and processes necessary to maintain the materials and ensure their durability.

Such a center, which I have drafted in partnership with the University of Washington's Department of Engineering, would address these issues by facilitating close, working collaboration among industry, the FAA's Transportation Division, and academic institutions, to ensure that research matches the practical manufacturing needs.

This center will advance efforts to capitalize on the potential of this field.

In closing, Mr. President, as a government, we need to step up to the plate to ensure that our aerospace industry remains competitive and capable of leading the world toward the future for aerospace.

This bill takes an important step in affirming our Nation's leadership in the areas of safety, research, infrastructure, and security, and I am proud to support it.

Mrs. BOXER. Mr. President, I rise today in support of the FAA Authorization Act. However, I must express my serious concerns that two sections in the bill on streamlining, sections 47701 and 47703, may be interpreted in a manner that the committee never intended. The purpose of these sections is to cure delays that have occurred because of interagency wrangling and bureaucratic disputes. These sections call for the relevant agencies to undertake concurrent planning and environmental reviews for critical airport projects in order to ensure that the projects move forward expeditiously. They are not designed to circumvent NEPA and should be so used.

Ms. SNOWE. Mr. President, I rise today in support of the Senate's Federal Aviation Administration, FAA, reauthorization bill, S. 824, the Aviation Investment and Revitalization Vision Act. Further, I share Senate Commerce Committee Chairman McCAIN's and Ranking Member HOLLINGS' goal of enacting this legislation before the end of this fiscal year. If airports are going to plan for the future, Congress must avoid being forced into passing a series of stopgap measures that make such planning difficult.

This legislation addresses the most critical component of FAA reauthorization—how to finance the operation and development of the nearly 3,500 airports eligible for Federal assistance. S. 824 authorizes a total of $10.5 billion over 3 years for the Airport Improvement Program, AIP, a critical program that funds airport safety and capacity projects, among other programs. Additionally, this bill authorizes $23.2 billion for FAA operations through fiscal year 2006.

At the same time we address the overall aviation funding challenges, I am pleased that this bill takes on the individual issues that go to the heart of securing commercial aviation against another terrorist attack. Installing Explosives Detection System, EDS, machines into airports is a necessity that we must grapple with and is part of a broader debate on the appropriate level of AIP funding that should go towards security-related projects. During fiscal year 2002, airports used over $561 million, or 17 percent of all of AIP funds, for security projects—this compared with an annual average of less than 2 percent through fiscal year 2001. As such, it is encouraging that S. 824 creates an annual $500 million Aviation Security Capital Fund to help airports cope with post-9/11 security requirements like EDS installation. Funding for this capital fund would come out of the security fees currently levied by the Transportation Security Administration, TSA, and not AIP grant funding.

S. 824 would also extend the Government's authority to issue war-risk insurance through fiscal year 2006, which would save the airlines more than $800 million annually. The recently enacted fiscal year 2003 Iraq supplemental bill authorized a 1-year extension of the program—through the end of fiscal year 2004—but by extending it through 2006, we can provide a small measure of financial stability to the airlines and not have to keep coming back every 6 months to revisit the issue.

To try to improve FAA management, S. 824 establishes a committee of outside experts to oversee the operation and modernization of the air traffic control system—which has tripled in cost to an estimated $7.6 billion since 1996. This bill also contains provisions designed to expedite the process for construction of airport capacity and safety projects, by allowing DOT to designate certain airport expansion proposals as National Capacity Projects, which would receive dedicated resources and expedited procedures for environmental reviews. This provision is intended to address the fact that, as the General Accounting Office, GAO, has reported, it takes anywhere between 10 and 14 years for new runways to be built—and this has an adverse effect on efforts to increase the aviation system's capacity.

As we consider this bill, I want to turn to the issue of small community air service. As we work to address the larger aviation issues, we cannot forget the challenges that small communities in Maine, and throughout the Nation, face in attracting and retaining air service. I have always believed that adequate, reliable air service in our Nation's rural areas is not simply a luxury or a convenience. It is an imperative. And quite frankly, I have serious concerns about the impact deregulation of the airline industry has had on small- and medium-sized cities in rural areas, like Maine. The fact is, since deregulation, many of these communities, in Maine and elsewhere, have experienced a decrease in flights and size of aircraft while seeing an increase in fares. More than 300 have lost air service altogether.

Many air carriers are experiencing an unprecedented financial crisis, and the first routes on the chopping block will be those to small- and medium-sized communities. This will only increase demand for the two existing Federal forms of assistance, Essential Air Service and the Small Community Air Service Grant Program.

Given the challenge faced by small communities in retaining their existing air service, I was pleased that, during our May 1 markup, the Commerce Committee unanimously accepted two amendments I authored to address this issue. The first amendment would create a new Small Community Air Service Ombudsman within DOT. The ombudsman's mission would be to work with carriers and communities to develop air service. This provision is intended to give small communities a seat at the table as DOT crafts national air transportation policy.

The second amendment approved by the committee creates a National Commission on Small Community Air Service. The 9-member commission would report back to Congress after 2 years to describe the problems faced by small communities with regard to access to commercial air service and suggest legislative solutions. I believe that, given the complexity of the issue, having all of the stakeholders sit down and consider what can and can't be done will be extremely helpful as Congress exercises its aviation oversight authority.

I also wanted to address the Essential Air Service, EAS, provisions in the bill. EAS provides subsidized air service to 125 small communities in the country—including 4 in Maine—that would otherwise be cut off from the Nation's air transportation network. As approved by the committee, S. 824 reauthorized and flat-funds the program for 3 years, and includes certain changes to the program, which are drastically scaled back from what the administration proposed earlier this year for EAS "reform." The administration had called for EAS towns to provide up to 25 percent matching contributions to keep their air service. The committee bill creates a number of new programs to help EAS communities grow their ridership, including a marketing incentive program that would financially reward EAS towns for achieving ridership goals. With regard to local cost-sharing—the centerpiece of the administration's EAS proposal—the Commerce bill would create a pilot program to allow for a 10 percent annual community match at no more than 10 airports within 100 miles of a large airport.

While the cost-sharing provisions in the committee bill are much less strict than the administration proposal, and could only be applied to an EAS community under certain specific conditions, I remain concerned about the concept of requiring EAS towns—some of which are cash strapped and economically depressed—from kicking in hundreds of thousands of dollars annually to keep their air service. For example, if Augusta or Rockland, ME, were to be chosen for the cost-sharing pilot program, they would have to come up with over $120,000 annually to retain their air service.

As such, I strongly supported Senator BINGAMAN's amendments to strike the cost-sharing section from the bill and am pleased that it has been approved. The EAS program is not perfect, and Congress certainly needs to do all we can to keep subsidy levels as low as possible. I look forward to working with members of the Commerce Committee and the Senate on the issue, but I believe that requiring cost sharing in today's aviation environment is clearly a wrong headed approach.

In short, when considering this legislation, I believe that we need do all we can to help small communities maintain their access to the national transportation system during these difficult times.

Mr. President, in conclusion, I am hopeful that my colleagues will join me in taking this step toward strengthening and improving Federal aviation policy today. S. 824 enhances the Federal investment in our Nation's aviation system, and the funding in the bill is critical to the development of America's airports, big and small. Furthermore, quick passage of this 3-year legislation is key to allow airports to plan for the future. As such, I am pleased to support it.

Mr. ROCKEFELLER. Mr. President, I am pleased to join my friend and colleague, the Senator from Arizona, to bring before you S. 824, the Aviation Investment and Revitalization Vision Act, which reauthorizes the Federal Aviation Administration (FAA) and its programs for the next 3 years.

The reauthorization of the FAA is a vitally important piece of legislation that the Senate must pass this year. It is the first real economic stimulus bill that the Senate has considered this year.

I cannot emphasize the importance of a vibrant and strong aviation industry. It is critical to our Nation's long-term economic growth. It is also vitally important to the economic future of countless small and local communities that are linked to the rest of the nation and world through aviation.

The significance of aviation to our economy cannot be overstated. Over 10 million people are employed directly in the aviation industry. For every job in the aviation industry, 15 related jobs are produced. The aviation industry accounts for over $800 billion of our gross domestic product.

The growth of the modern aviation system has created vast economic efficiencies such as just in time delivery, allowed the air cargo industry to grow exponentially, and has opened up the world to millions of Americans.

Just as the aviation industry is a catalyst of growth for the national economy, airports are a catalyst of growth for their local communities. Airports create over $500 billion in economic activity and directly employ 1.9 million people. Almost 2 million people and 38,000 tons of cargo pass through our Nation's airports each day. In my State of West Virginia, aviation represents $3.4 billion of the State's gross domestic product and directly and indirectly employs over 51,000 people.

Aviation also links our Nation's small and rural citizens and communities to the national and world marketplace. My home State of West Virginia has been able to attract firms from Asia and Europe because of reliable access to their West Virginia investments.

Without access to an integrated air transportation network, small communities can not attract the investment necessary to grow or allow home grown businesses to expand. A modern and adequately funded network is fundamental to making sure that all Americans can participate in the economy.

No question exists that since the tragedy of September 11, aviation in this country has been permanently changed.

When the Senate debated the last FAA reauthorization bill, capacity and competition issues were at the forefront of that debate. We have seen a decrease in the demand for air travel, hundreds of thousand of aerospace and aviation employees have lost their jobs and the economic pain has rippled through the economy. We will not have an economic recovery in this country until we have a recovery in the aviation industry.

Even though these issues seem less important today, they will again become serious challenges for the industry. In the drive to expand our aviation infrastructure to meet future needs, the resources for aviation security will also have to increase. More passenger and cargo will add strains to aviation security.

Now is the time to make the investments in air traffic modernization and airport development and research. Aviation security must be ready to handle the future growth that will occur. We must also continue to develop new aviation security processes and technologies to meet future challenges.

The legislation before us builds upon our commitment to improving the aviation infrastructure of the nation that started with the landmark Aviation Investment and Reform Act for the 21st Century. I believe that this legislation meets the challenges facing the FAA and the aviation industry in the years ahead.

This bill focuses on improving our Nation's aviation safety and security, airport and air service development, and aeronautical research. While my distinguished colleague has provided an excellent overview of the bill, I would like to highlight some areas of the bill that I believe are particularly important.

In this bill, we have created a stable stream of funding for security upgrades at our Nation's airports. Not only will these funds allow airports to improve security they will allow airports to improve the efficiency of these security measures.

In addition, the legislation provides for increases in funding for airport safety and capacity projects, which are a true economic stimulus.

I am very proud that the bill expands upon our commitment to making sure small and rural communities have access to air transportation services.

Finally, we have authorized a significant increase in aeronautical and aviation research in order to preserve America's leadership in these industries.

No higher goal exists than the safety and security of the Nation's airports and airspace. Over the past 18 months, we have worked every day to improve security in our airports and on our airplanes. However, until this bill, we have fallen short on providing funding to make sure our Nation's airports have the resources available to make the required improvements.

Airports estimate that they have $3 billion in unmet security infrastructure needs. The administration's Homeland Security proposal did not include any provisions to address this huge need. Airports have been forced to tap their expansion and development funds to pay for security. It makes no sense to raid funds for safety improvements for security improvements. The security of our Nation is a Federal responsibility and the Federal Government must pay for it.

One of the most important provisions in this bill is the creation of a $500 million fund, financed by security fees established by the Aviation and Transportation Security Act to assist airports with capital security costs. This new fund will also stop the diversion of airport development funds meant for safety and capacity enhancements. We will be able to pay for new security requirements while simultaneously improving safety and expanding capacity.

Even in these difficult budgetary times, we were able to modestly increase the Airport Improvement Program funding, which will provide the economy a real stimulus through direct and indirect job creation. Airport development is economic development as airports are economic development for their local communities. It is estimated that U.S. Airports are responsible for nearly $507 billion each year in total economic activity nationwide. Investment in airport infrastructure is a real economic stimulus that creates both immediate jobs and long-term economic development.

In order to facilitate airport development, I am pleased that this bill includes much of the text of the legislation that Senator HUTCHISON and I worked on last Congress to streamline and expedite the airport development process. This country needs to expand its airport infrastructure. Without a substantial increase in this area, aviation delays would increase resulting in billions of dollars of costs to the economy.

Today, we also meet the challenge of making sure our small and rural communities have access to the nation's air transportation network. I am very concerned that air carriers have abandoned small and rural markets disproportionately when reducing their service levels. We cannot let these communities go without adequate and affordable air service—their future depends upon it.

I am enormously pleased that the bill extends and expands the Small Community Air Service Development Program, which I fought for in AIR 21. One hundred forty communities applied for 40 available grants under this initiative. This program has assisted these 40 communities, including Charleston, WV, in attracting new air service. This program has proven an innovative and flexible tool for communities to address air service needs. Under our legislation, another 120 communities will be able to participate.

Many of our most isolated and vulnerable communities whose only service is through the Essential Air Service Program have indicated that they would like to develop innovative and flexible programs similar to those communities who received Small Community Air Service Development grants to improve the quality of their air service.

It is for this reason that I, along with Senator LOTT, developed the Small Community and Rural Air Service Revitalization Act of 2003, which has been included in this legislation. The legislation reauthorizes the Essential Air Service (EAS) program and creates a series of new innovative pilot programs for EAS communities to participate in to stimulate passenger demand for air service in their communities.

Under the bill, communities are given the option on continuing their EAS as is or they may apply to participate in new incentive programs to help them develop new and innovative solutions to increasing local demand for air service. The EAS Marketing and Community Flexibility Programs would provide communities new resources and tools to implement locally developed plans to improve their air service. By providing communities the ability to design their own service proposals, a community has the ability to develop a plan that meets its locally determined needs, improves air service choices, and gives the community a greater stake in the EAS program.

Small and rural communities are the first to bear the brunt of bad economic times and the last to see the benefits of good times. The general economic downturn and the dire straits of the aviation industry have placed exceptional burdens on air service to our most isolated communities. The Federal Government must provide additional resources and tools for small communities to help themselves attract adequate air service. The Federal Government must make sure that our most vulnerable towns and cities are linked to the rest of the nation. This legislation authorizes the tools and resources necessary to attract air service, related economic development, and most importantly expand their connections to the national and global economy.

This bill meets the challenges facing our aviation system—increasing security, expanding airport safety and capacity, and making sure our smallest communities have access to the network. We can all be proud of this bill.

Finally, I would like to again thank Senator McCAIN, Senator LOTT, and Senator HOLLINGS for all their hard work and commitment to developing and securing passage of this legislation.

Mr. McCAIN. Mr. President, I understand we are waiting for the possibility of one other amendment. Other than that, we will be prepared, at the discretion of the leaders, to vote on the second-degree amendment to the Specter amendment, and then we would be prepared to go to final passage.

In anticipation of that, I would like to thank all who have been involved with this legislation, and specifically my dear friend from South Carolina. He and I have worked side by side for many years on many issues that have come before the Commerce Committee. I thank him for his usual extreme courtesy, consideration, and efficiency.

I thank the staff on both sides for their excellent work.

Also, I thank Senators LOTT and ROCKEFELLER who really did the hard labor in bringing this legislation to the floor of the Senate. Senator ROCKEFELLER and Senator LOTT worked assiduously during numerous hearings with a full appreciation and understanding of the impact this legislation has on the United States of America. I thank all of them.

Again, I thank our loyal staff for all the great work they have done.

I look forward to swift passage of this legislation.

I yield the floor.

Mr. HOLLINGS. Mr. President, let me also thank the distinguished chairman of our committee who has led the fight on the floor today. He did a most efficient job.

With respect to, of course, Senator LOTT and Senator ROCKEFELLER of the Subcommittee on Aviation of the Commerce Committee, they are the ones who did the lion's share of the work with the hearings and preparing us so that we could handle this with expedition today.

I thank staff on both sides.

Let me add this for my good friend, the Senator from Mississippi. I happen to favor the Specter amendment for the simple reason that I cannot understand the Federal Aviation Administration requiring rules of safety for repair facilities in the United States but not requiring those same rules of safety for repair facilities by the U.S. contractors for U.S. aircraft. I just can't get that separation in my mind. I have listened closely. I hate to not come down on the side of the Senator from Mississippi because he has been our chairman and has led the way all day here.

I say that publicly because, on the Democratic side of the aisle, there could be those who would favor language and the admonition of the Senator from Mississippi in the perfecting amendment.

Senator BOXER has spoken in behalf of Senator SPECTER's amendment. I happen to favor it. Usually we note at the desk the disposition on this side. I don't want to mislead.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent, with the agreement of both sides, that Senator STEVENS be recognized to offer one final amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

AMENDMENT NO. 923

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 923.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend section 41703 of title 49, United States Code, to support the United States presence in the global air cargo industry)

At the end of title V, add the following new section:

SEC. 521. UNITED STATES PRESENCE IN GLOBAL AIR CARGO INDUSTRY.

Section 41703 is amended by adding at the end the following new subsection:

"(e) CARGO IN ALASKA.—

"(1) IN GENERAL.—For the purposes of subsection (c), eligible cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by any combination of 2 or more air carriers or foreign air carriers in either direction between a place in the United States and a place outside the United States shall not be deemed to have broken its international journey in, be taken on in, or be destined for Alaska.

"(2) ELIGIBLE CARGO.—For purposes of paragraph (1), the term 'eligible cargo' means cargo transported between Alaska and any other place in the United States on a foreign air carrier (having been transported from, or thereafter being transported to, a place outside the United States on a different air carrier or foreign air carrier) that is carried—

"(A) under the code of a U.S. air carrier providing air transportation to Alaska;

"(B) on an air carrier way bill of U.S. air carrier providing air transportation to Alaska; or

"(C) under a term arrangement or block space agreement with an air carrier.".

(D) under the code of a U.S. air carrier for purposes of transportation within the U.S.

Mr. STEVENS. Mr. President, this amendment deals with protecting existing jobs and creating new jobs on the ground in Alaska in connection with the airport I am honored to have named after me.

Mr. President, as I say, this amendment is about jobs—protecting existing jobs and creating new jobs on the ground in Alaska.

Anchorage is the top-ranked cargo airport in North America: 600 wide body cargo carriers per week; 19 airlines providing all-cargo main deck freighter service through Anchorage; 9 hours by air from 95 percent of the industrialized world; 3000 miles from Tokyo; 3000 miles from New York city; 4000 miles from London; 4000 miles from Frankfurt; 4400 miles from Hong Kong.

Foreign airlines provide much of this international cargo lift to and from the U.S. through Anchorage. Federal law allows these planes to land in Alaska, creating an enormous number of jobs on the ground.

But Federal law, as currently interpreted, does not allow U.S. carriers to use excess capacity on their foreign partners to move international cargo from Anchorage to the lower 48. The foreign carrier must make the full trip by itself. It is prohibited from transferring cargo to or from a U.S. carrier flying the international leg of the journey.

Anchorage is under attack from foreign cargo hubs seeking to exploit this weakness. Cities such as Tashkent, Kharbarovsk, and Anadyr in Asia and Calgary and Vancouver in Canada are aggressively pursuing the cargo carriers that Anchorage now serves.

We are losing U.S. jobs to foreign countries because of it.

This amendment will reverse that decline.

American carriers, both cargo carriers and passenger carriers, which accept cargo will make use of this amendment in various ways: relocation of sort and transfer operations from Asia back to the United States; enhanced service to U.S., Asian, and European cities; increased opportunities for integrated logistics products sold by U.S. companies; more opportunities to strengthen U.S. carriers through international partnering.

This requires a narrow modification of title 49.

My amendment does not create more flights by foreign carriers. It does not reduce the number of flights flown by U.S. carriers. All cargo moving under this authority must be shipped on a U.S. codeshare or similar arrangement, such as a U.S. waybill.

It preserves and creates American jobs in the increasingly important global air cargo sector.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 923.

The amendment (No. 923) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, I ask unanimous consent that with regard to the amendment that was proposed on behalf of Senators INOUYE and VOINOVICH, that Senator VOINOVICH's name be deleted from that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent that the vote on the Lott second-degree amendment take place at 5:45, immediately followed by either a voice vote or recorded vote on the underlying Specter amendment, followed by final passage.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 914

Mr. REID. Mr. President, have the yeas and nays been ordered on the Lott amendment?

The PRESIDING OFFICER. They have.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The PRESIDING OFFICE (Mr. CHAMBLISS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 52, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—42

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Chafee
Chambliss
Cochran
Cornyn
Craig
Crapo
DeWine
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—52

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Campbell
Cantwell
Carper
Clinton
Coleman
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dole
Domenici
Dorgan
Durbin
Feingold
Feinstein
Harkin
Hollings
Hutchison
Inouye
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Snowe
Specter
Stabenow
Wyden

NOT VOTING—6

Byrd
Edwards
Graham (FL)
Jeffords
Kerry
Lieberman

The Amendment (No. 914) was rejected.

Mr. McCAIN. Mr. President, I ask unanimous consent to vitiate the yeas and nays on the Specter amendment.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

The question is on agreeing to the amendment numbered 905.

The amendment (No. 905) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute, as amended.

The committee substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report the House companion bill.

The bill clerk read as follows:

A bill (H.R. 2115) to amend Title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the text of the Senate measure is inserted in lieu of the House language and the bill is read the third time.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, the next vote, final passage of the FAA reauthorization, will be the last vote of the evening. We will have a vote tomorrow morning at 10 a.m.

After that 10 a.m. we will not have further votes until Tuesday. No votes on Monday. We will be going to Medicare prescription drugs on Monday. We will come in early afternoon on Monday for opening statements. We will have no votes on Monday. I believe that is pretty much it for the schedule.

Later tonight, after talking to the Democratic leader, if there is any change in the schedule, we will let people know. The next vote is the last of the evening and we will vote at 10 a.m. tomorrow morning.

Mr. HOLLINGS. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—94

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—6

Byrd
Edwards
Graham (FL)
Jeffords
Kerry
Lieberman

The bill (H.R. 2115), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Ms. COLLINS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments and requests a conference with the House.

The PRESIDING OFFICER (Mr. CHAMBLISS) appointed Mr. McCAIN, Mr. STEVENS, Mr. BURNS, Mr. LOTT, Mrs. HUTCHISON, Mr. HOLLINGS, Mr. INOUYE, Mr. ROCKEFELLER, and Mr. BREAUX conferees on the part of the Senate.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar:

No. 223 and on the Secretary's Desk, PN443 and PN182.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JOHN W. WOODCOCK TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MAINE

Ms. COLLINS. Mr. President, for the information of my colleagues, Executive Item No. 223 is the nomination of John Woodcock to be a District Judge for the District of Maine. I am very pleased to rise tonight to speak on his behalf. Maine's senior Senator, Olympia Snowe, and I are very proud to have recommended John for this prestigious position on the Federal bench.

I have known John Woodcock for many years. John, in fact, recruited me several years ago to serve as a trustee on the board of the Eastern Maine Medical Center, which he has chaired for 23 years. This is typical of John's service to his community. He has devoted countless hours volunteering his time and energy to his alma mater, Bowdoin College; Eastern Maine Charities; the Maine State Commission on Arts and Humanities; the Good Samaritan Agency; and the Bangor Children's Home, to name just a few.

The Woodcock family has a proud tradition of public service that spans generations. In fact, two of John's sons have served as members of my staff. Jack currently serves on my Governmental Affairs Committee staff, while Patrick works as a college intern in my Bangor office. I once remarked to John—and repeated it at the Judiciary

Committee hearing, which the Presiding Officer chaired that day—that his sons' hard work and professional demeanor were proof that the apple does not fall far from the tree. After the hearing, John wrote to me, in his typically gracious and unassuming and self-effacing way, and said in his mind the tree has always been his wife, Beverly.

Lest John's modesty hide his extensive accomplishments, let me take just a moment to share with my colleagues his qualifications to be a Federal judge.

John began practicing law nearly 30 years ago and has built a distinguished career as a litigator. He has served as an assistant district attorney for the State of Maine and has worked in private practice as an associate and as a partner of several law firms in the great State of Maine.

In 1991, he joined several colleagues to form the Bangor law firm of Weatherbee, Woodcock, Burlock & Woodcock.

During his career, John has served as lead counsel in 47 separate appeals to the Maine Supreme Judicial Court on issues ranging from trust law to criminal law.

John has also taken an active role in improving the standards of the legal profession, serving, for example, on the Maine Supreme Judicial Court's Advisory Committee on Professional Responsibility. As a member of this committee, John worked to draft a series of aspirational goals to help guide lawyers who elect to advertise with their professional obligations in this area.

Those of us who are familiar with John Woodcock's sterling character and stellar legal career were not surprised when the American Bar Association's Standing Committee on the Federal Judiciary unanimously rated him as "well qualified"—the highest possible rating. Indeed, it would be difficult for Senator SNOWE and I to come up with another candidate better suited to serve as a Federal judge in the State of Maine.

The Senate Judiciary Committee also voted unanimously to approve his nomination on June 5.

Mr. President, John has the legal excellence, the temperament, and the integrity to serve on the Federal bench. I have every confidence he will faithfully follow the law as interpreted by higher courts and that he will bring justice to the parties before him.

I wholeheartedly and enthusiastically support John Woodcock's nomination for a Federal district court judgeship, and I urge my colleagues, in voting this evening, to confirm this terrific individual.

Ms. SNOWE. Mr. President, I rise to speak in support of Senate confirmation of Mr. John A. Woodcock, Jr. of Hamden, ME, as Federal judge for the United States District Court for the District of Maine in Bangor.

John's roots run deep in the Bangor community. His family has been there for generations, and John attended John Bapst High School in the heart of downtown. He began his law career in Bangor 26 years ago, and today he is with the Bangor law firm of Woodcock, Weatherbee, Burlock, and Woodcock, having argued 46 cases before the Maine Supreme Judicial Court. He has served on the Maine Supreme Court Advisory Committee on Professional Responsibility, while also giving of himself personally to the community.

Indeed, for about 25 years he has served on the board of Eastern Maine Healthcare Systems and is now president of Eastern Maine Medical Center's Board of Directors. Among other involvements, over the last 7 years John has also served as the attorney-coach for the Hampden Academy Mock Trial Team.

Mr. Woodcock is well-qualified for this position, as evidenced by the unanimous decision of the Senate Judiciary Committee to favorably report his nomination to the full Senate on June 5, 2003. Moreover, the American Bar Association unanimously named John as "well qualified"—meaning, "The nominee is at the top of the legal profession in his or her legal community, has outstanding legal ability, breadth of experience, the highest reputation for integrity, and either has demonstrated, or exhibited the capacity for, judicial temperament."

In Maine, the Federal Judicial Nomination Advisory Committee that Senator COLLINS and I assembled—with over 270 combined years practicing law—selected John Woodcock as their top recommendation. And former Senator and Secretary of Defense Bill Cohen has said of John that, "In his years of practice, John has developed a statewide reputation as a skilled litigator and an effective counselor. He has deep experience in litigation at trial and appellate levels and is well regarded throughout the Maine Bar."

As I told the Judiciary Committee when I had the privilege of introducing John to the committee at his hearing on May 22, Maine's U.S. District Court has a long history, as one of the first such courts established in 1789. Should Mr. Woodcock be confirmed, he would become only the 16th judge appointed to the court by the President of the United States over its 213-year history. Moreover, the position for which Mr. Woodcock has been nominated is the lone Federal judge position in northern Maine. With John's record and qualifications, he has the depth of experience, the temperament, and the integrity demanded by the gravity of the office for which he has been chosen. He will uphold and enhance not only Maine's tradition of exceptional trial judges, but he will also reflect the finest ideals and expectations of our Federal judiciary.

As I also told the Judiciary Committee, from a layman's point of view—the best trial judges are distinguished by their ability to balance several, sometimes competitive personal dynamics. They balance broad lie exposure with specific courtroom experience, raw legal aptitude with common sense, patience with firmness, and intellectual curiosity with focused decision-making. John Woodcock embodies all of those traits and characteristics, and with his substantial and broad legal and courtroom experience, as well as his keen intellect and perspective, solid character, and outstanding reputation, I am most proud to recommend to my colleagues that he be confirmed as Federal judge for the United States District Court for the District of Maine.

I ask unanimous consent a copy of Secretary Cohen's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE COHEN GROUP,
Washington, DC, May 19, 2003.

Hon. ORRIN HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR ORRIN: I have recently learned that John A. Woodcock, Jr., who has been nominated for a U.S. District judgeship for the District of Maine, is scheduled to appear before the Committee on the Judiciary on May 22, 2003. Senator Olympia Snowe recommended Mr. Woodcock for this position in conjunction with the support of Senator Susan Collins.

I have known John Woodcock for many years. He is a native of my hometown, Bangor, and attended my alma mater, Bowdoin College, graduating in 1972. He attended the University of Maine School of Law, graduating in 1976, and has been continuously engaged in the practice of law ever since. In his years of practice, John has developed a statewide reputation as a skilled litigator and an effective counselor. He has deep experience in litigation at trial and appellate levels and is well regarded throughout the Maine Bar.

John has also given his time and energies unstintingly to local civic groups. He has recently completed more than 20 years of service on the board of the Eastern Maine Medical Center, an institution vital to providing quality health care in northern and eastern Maine. John is married to Beverly Woodcock and they have a fine family of three boys, Jack, Patrick, and Chris. Jack now works on the Governmental Affairs Committee for Senator Collins.

The U.S. District Court for the District of Maine has a long practice of excellence in its judicial appointments and the nomination of John Woodcock is in every way consistent with that tradition. I recommend him to you with enthusiasm and without reservation.

With best personal regards, I am

Sincerely,

WILLIAM S. COHEN,
Chairman and CEO.

Mr. HATCH. Mr. President, I rise today to express my enthusiastic support for the nomination of John A. Woodcock to be a United States District Judge for the District of Maine.

Mr. Woodcock possesses over 25 years of litigation experience and will serve his country well as a Federal judge.

After graduating from the University of Maine Law School in 1976, Mr. Woodcock joined the law firm of Stearns, Finnegan & Needham where he practiced general civil litigation until 1980. From 1977–1978, Mr. Woodcock was a part-time assistant district attorney. While in the district attorney's office, he handled all criminal appeals from two different counties to the Maine Supreme Judicial Court and was the lead prosecutor in approximately 20 criminal jury trials. In 1980, Mr. Woodcock joined Mitchell & Stearns until forming the smaller law firm of Weatherbee, Woodcock, Burlock & Woodcock in 1991, where he currently practices general civil litigation.

During his career, Mr. Woodcock has been involved in 47 separate appeals to the Maine Supreme Judicial Court on issues ranging from criminal law to trust law. Mr. Woodcock has volunteered his time as a member of several community boards and he is also the attorney-coach for the local high school mock trial team.

After reviewing his record, the ABA gave Mr. Woodcock their highest rating of unanimously well qualified. The committee also received a letter from former Clinton administration Secretary of Defense William Cohen praising Mr. Woodcock's skills as a litigator. He writes, "I have known John Woodcock for many years. . . . The U.S. District Court for the District of Maine has a long practice of excellence in its judicial appointments and the nomination of John Woodcock is in every way consistent with that tradition."

I will submit a copy of this letter for the RECORD. These are words of high praise and I applaud Mr. Woodcock on his many accomplishments. I am certain he will bring great credit to the Federal bench and I urge my colleagues to join me in supporting this highly qualified nominee.

I ask unanimous consent that the above-mentioned letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE COHEN GROUP,
Washington, DC, May 19, 2003.

Hon. ORRIN HATCH,
Chairman, Committee on the Judiciary,
SD–224,
U.S. Senate,
Washington, DC.

DEAR ORRIN: I have recently learned that John A. Woodcock, Jr., who has been nominated for a U.S. District judgeship for the District of Maine, is scheduled to appear before the Committee on the Judiciary on May 22, 2003. Senator Olympia Snowe recommended Mr. Woodcock for this position in conjunction with the support of Senator Susan Collins.

I have known John Woodcock for many years. He is a native of my hometown, Bangor and attended my alma mater, Bowdoin College, graduating in 1972. He attended the University of Maine School of Law, graduating in 1976, and has been continuously engaged in the practice of law ever since. In his years of practice, John has developed a statewide reputation as a skilled litigator and an effective counselor. He has deep experience in litigation at trial and appellate levels and is well regarded throughout the Maine Bar.

John has also given his time and energies unstintingly to local civic groups. He has recently completed more than 20 years of service on the board of the Eastern Maine Medical Center, an institution vital to providing quality health care in northern and eastern Maine. John is married to Beverly Woodcock and they have a fine family of three boys, Jack, Patrick, and Chris. Jack now works on the Governmental Affairs Committee for Senator Collins.

The U.S. District Court for the District of Maine has a long practice of excellence in its judicial appointments and the nomination of John Woodcock is in every way consistent with that tradition. I recommend him to you with enthusiasm and without reservation.

With best personal regards, I am,
Sincerely,
WILLIAM S. COHEN.

Mr. LEAHY. Mr. President, today, we vote to confirm John A. Woodcock, Jr. to a lifetime appointment on the United States District Court for the District of Maine. With this confirmation we will have helped fill the sole vacancy on that court. That vacancy, which arose early this year when Judge Carter took senior status, is important to the people of Maine and New England. I have been glad to work with the Senators from Maine to expedite the confirmation of this nominee and provide bipartisan support. I congratulate the nominee and his family.

The Senate has now confirmed 132 judges nominated by President Bush, including 26 circuit court judges. One hundred judicial nominees were confirmed when Democrats acted as the Senate majority for 17 months from the summer of 2001 to adjournment last year. After today, 32 will have been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President Bush. This total of 132 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996 and 1997—the first 3 years they controlled the Senate process for President Clinton. In those 3 full years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit judges. We have already exceeded that total by 19 percent and the circuit court total by 40 percent with 6 months remaining to us this year. In truth, we have achieved all this in less than 2 years because of the delays in organizing and reorganizing the Senate in 2001. The Judiciary Committee was not even reassigned until July 10, 2001, so we have now confirmed 132 judges in less than 2 years.

In the first half of this year, the 32 confirmations is more than Republicans allowed to be confirmed in the entire 1996 session, when only 17 district court judges were added to the Federal courts across the nation. In the first half of this year, with 9 circuit court confirmations, we have already exceeded the average of 7 per year achieved by Republican leadership from 1995 through the early part of 2001. That is more circuit court confirmations in 6 months than Republicans allowed confirmed in the entire 1996 session, in which there were none confirmed; in all of 1997, when there were 7 confirmed; in all of 1999, when there were 7 confirmed; or in all of 2000, when there were 8 confirmed. The Senate has now achieved more in fewer than 6 full months for President Bush than Republicans used to allow the Senate to achieve in 4 of the 6 full years they were in control of the Senate when President Clinton was making judicial nominations. We are moving two to three times faster for this President's nominees, despite the fact that the current appellate court nominees are more controversial, divisive and less widely-supported than President Clinton's appellate court nominees were.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995–97 or the period 1996–99. In addition, the vacancies on the Federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997 or the 110 vacancies that Democrats inherited in the summer of 2001. We continue well below the 67 vacancy level that Senator HATCH used to call "full employment" for the Federal judiciary. Indeed we have reduced vacancies to their lowest level in the last 13 years. So while unemployment has continued to climb for Americans to 6.1 percent last month, the Senate has helped lower the vacancy rate in Federal courts to an historically low level that we have not witnessed in over a decade. Of course, the Senate is not adjourning for the year and the Judiciary Committee continues to hold hearings for Bush judicial nominees at between two and four times as many as it did for President Clinton's.

For those who are claiming that Democrats are blockading this President's judicial nominees, this is another example of how quickly and easily the Senate can act when we proceed cooperatively with consensus nominees. The Senate's record fairly considered has been outstanding—especially when contrasted with the obstruction of President Clinton's moderate judicial nominees by Republicans between 1996 and 2001.

Ms. COLLINS. Mr. President, I now ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

John A. Woodcock, Jr., of Maine, to be United States District Judge for the District of Maine.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

C-PN443 Air Force nominations (23) beginning EUGENE L. CAPONE, and ending ALLEN L. WOMACK, which nominations were received by the Senate and appeared in the Congressional Record of March 24, 2003.

C-PN182 Air Force nominations (104) beginning ELISE A. *AHLSWEDE, and ending PAUL K. *YENTER, which nominations were received by the Senate and appeared in the Congressional Record of January 13, 2003.

Ms. COLLINS. Mr. President, I further ask unanimous consent that at 10 a.m. on Friday, June 13, the Senate proceed to executive session for the consideration of Calendar No. 218, the nomination of R. Hewitt Pate to be an Assistant Attorney General; provided further that the Senate immediately proceed to a vote on the confirmation of the nomination, and that following the vote, the President be immediately notified of the Senate's action, and that the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Ms. COLLINS. Mr. President, I now ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BURMA

Mr. McCONNELL. Mr. President, last night at about this time we passed a Burma sanctions bill 97 to 1, which I hope sent a strong message to the thugs who are running the country at the moment that someday—and hopefully someday soon—they will have to honor the results of the 1990 election, won overwhelmingly by Aung San Suu Kyi and her party.

As I suspect the military junta may be trying to decipher what took place in Washington yesterday, I thought I would take a moment or two to help them out.

The U.S. Senate overwhelmingly condemned and sanctioned the State Peace and Development Council, SPDC, for its May 30 attack against Suu Kyi and her supporters and for its continued repressive actions that violate the human rights and dignity of the people of Burma.

I also had an opportunity to talk today to Secretary Colin Powell, who is going out to Phnom Penh to the ASEAN Regional Forum next week, and I think they can anticipate a strong message from him when he is out in the region at that time.

Fifty-seven Senators cosponsored the legislation that passed last night to impose an import ban, expand visa restrictions, and freeze SPDC assets in the United States. Ninety-seven Senators voted to repudiate the actions of the Burmese junta.

This was a vote for freedom in Burma that demonstrated unequivocal support for Suu Kyi and all democrats in that country.

The generals in Rangoon should take note that a provision was included in the bill that guarantees that every year Burma will come up for discussion and debate in Congress. Every single year, we will have an opportunity to take a look at the fate of freedom in that country.

It is my hope we will not need that opportunity. It is my hope that Suu Kyi and other democrats will be governing Burma and that the only debate on the floor will be about the level of foreign assistance America should provide to a newly free Burma.

If this hope is not realized, within a year we will again discuss the persistent rapes of minority girls and women, the use of child and forced labor, and the manufacturing and trafficking of narcotics.

If the junta continues its repressive rule, we will again examine the number of political prisoners languishing in Burmese jails, efforts taken to counter an exploding HIV/AIDS infection rate, and opportunities to further democracy and the rule of law throughout the country.

If, however, American leadership translates into a full court press on junta, we might be able to celebrate a new dawn for democracy for the people of Burma.

The comments of Secretary of State Colin Powell in the Wall Street Journal today are both welcomed and promising.

As I indicated earlier, he is going to the ASEAN regional meeting next week, and I think the regime in Burma is going to hear a good deal more about the U.S. position on their behavior and activities.

He said this:

> By attacking Aung San Suu Kyi and her supporters, the Burmese junta has finally and definitively rejected the efforts of the outside world to bring Burma back into the international community. Indeed, their refusal of the work of Ambassador Razali and of the rights of Aung San Suu Kyi and her supporters could not be clearer. Our response must be equally clear if the thugs who now rule Burma are to understand that their failure to restore democracy will only bring more and more pressure against them and their supporters.

Secretary Powell must work tirelessly to secure the release of Suu Kyi and all other democrats who continue to be detained by the SPDC. U.N. Special Envoy Razali's brief meeting with her does not assuage my fears that she is under intense pressure or that her supporters continue to be tortured or killed. She and her supporters should be released immediately and unconditionally.

In the future, it might behoove Razali to temper his enthusiastic comments to more accurately reflect the climate of fear in Burma. He failed to secure Suu Kyi's release, and I am surprised that he did not say more to condemn the outrageous actions of the thugs in Rangoon.

Let me close by thanking my colleagues—and their staffs—for their support of this legislation. I could ask for no better allies than Senators FEINSTEIN and McCAIN on this issue, and I look forward to continue to work with them to free Suu Kyi and bring democracy to Burma. Senators FRIST, LUGAR, BIDEN, BAUCUS, GRASSLEY, HAGEL, and BROWNBACK also deserve recognition for their support of freedom in Burma. The people of Burma will count on our support in the future—and we should not, and must not, fail them.

Mr. President, I ask that a copy of Secretary Powell's op-ed and an editorial from today's Baltimore Sun on Burma be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 12, 2003]

STANDING FOR FREEDOM

GET TOUGH ON RANGOON

(By Colin L. Powell)

United Nations Special Envoy Razali Ismail has just visited Burma and was able to bring us news that Aung San Suu Kyi, a Nobel Peace Prize winner and the leader of a peaceful democratic party known as the National League for Democracy, is well and unharmed. The thoughts and prayers of free people everywhere have been with her these past two weeks. Our fears for her current state of health are now somewhat lessened.

On May 30, her motorcade was attacked by thugs, and then the thugs who run the Burmese government placed her under "protective custody." We can take comfort in the fact that she is well. Unfortunately, the larger process that Ambassador Razali and Aung San Suu Kyi have been pursuing—to restore democracy in Burma—is failing despite their good will and sincere efforts. It is time to reassess our policy towards a military dictatorship that has repeatedly attacked democracy and jailed its heroes.

There is little doubt on the facts. Aung San Suu Kyi's party won an election in 1990 and since then has been denied its place in Burmese politics. Her party has continued to pursue a peaceful path, despite personal hardships and lengthy periods of house arrest or imprisonment for her and her followers. Hundreds of her supporters remain in prison, despite some initial releases and promises by the junta to release more. The party's offices have been closed and their supporters persecuted. Ambassador Razali has pursued every possible opening and worked earnestly to help Burma make a peaceful transition to democracy. Despite initial statements last year, the junta—which shamelessly calls itself the State Peace and Development Council (SPDC)—has now refused his efforts and betrayed its own promises.

At the end of last month, this rejection manifested itself in violence. After the May 30 attack on Aung San Suu Kyi's convoy, we sent U.S. Embassy officers to the scene to gather information. They reported back that the attack was planned in advance. A series of trucks followed her convoy to a remote location, blocked it and then unloaded thugs to swarm with fury over the cars of democracy supporters. The attackers were brutal and organized; the victims were peaceful and defenseless. The explanation by the Burmese military junta of what happened doesn't hold water. The SPDC has not made a credible report of how many people were killed and injured. It was clear to our embassy officers that the members of the junta were responsible for directing and producing this staged riot.

We have called for a full accounting of what happened that day. We have called for Aung San Suu Kyi to be released from confinement of any kind. We have called for the release of the other leaders of the National League for Democracy who were jailed by the SPDC before and after the attack. We have called for the offices of the National League for Democracy to be allowed to reopen. We are in touch with other governments who are concerned about the fate of democracy's leader and the fate of democracy in Burma to encourage them, too, to pressure the SPDC.

The Bush administration agrees with members of Congress, including Sen. Mitch McConnell, who has been a leading advocate of democracy in Burma, that the time has come to turn up the pressure on the SPDC.

Here's what we've done so far. The State Department has already extended our visa restrictions to include all officials of an organization related to the junta—the Union Solidarity and Development Association—and the managers of state-run enterprises so that they and their families can be banned as well.

The United States already uses our voice and our vote against loans to Burma from the World Bank and other international financial institutions. The State Department reports honestly and frankly on the crimes of the SPDC in our reports on Human Rights, Trafficking in Persons, Drugs, and International Religious Freedom. In all these areas, the junta gets a failing grade. We also speak out frequently and strongly in favor of the National League of Democracy, and against the SPDC. I will press the case in Cambodia next week when I meet with the leaders of Southeast Asia, despite their traditional reticence to confront a member and neighbor of their association, known as Asean.

Mr. McConnell has introduced the Burmese Freedom and Democracy Act in the Senate; Reps. Henry Hyde and Tom Lantos have introduced a similar bill in the House. We support the goals and intent of the bills and are working with the sponsors on an appropriate set of new steps. Those who follow this issue will know that our support for legislation is in fact a change in the position of this administration and previous ones as well. Simply put, the attack on Ms. Suu Kyi's convoy and the utter failure of the junta to accept efforts at peaceful change cannot be the last word on the matter. The junta that oppresses democracy inside Burma must find that its actions will not be allowed to stand.

There are a number of measures that should now be taken, many of them in the proposed legislations. It's time to freeze the financial assets of the SPDC. It's time to ban remittances to Burma so that the SPDC cannot benefit from the foreign exchange. With legislation, we can, and should, place restrictions on travel-related transactions that benefit the SPDC and its supporters. We also should further limit commerce with Burma which enriches the junta's generals. Of course, we would need to ensure consistency with our World Trade Organization and other international obligations. Any legislation will need to be carefully crafted to take into account our WTO obligations and the president's need for waiver authority, but we should act now.

By attacking Aung San Suu Kyi and her supporters, the Burmese junta has finally and definitely rejected the efforts of the outside world to bring Burma back into the international community. Indeed, their refusal of the work of Ambassador Razali and of the rights of Aung San Suu Kyi and her supporters could not be clearer. Our response must be equally clear if the thugs who now rule Burma are to understand that their failure to restore democracy will only bring more and more pressure against them and their supporters.

[From the Baltimore Sun, June 12, 2003]

TIME FOR TYRANTS TO FEAR

A year ago, when the military junta illegally controlling Myanmar last released its democratically elected leader, Aung San Suu Kyi, from house arrest, the generals promised a dialogue aimed at national reconciliation.

True dialogue in the nation once known as Burma would lead to a decided weakening, if not the total loss, of the generals' power, so that hasn't happened.

And as of yesterday, Ms. Suu Kyi, a Nobel Peace Prize laureate, remained back in detention after a violent government attack late last month on her and her supporters—and even after a Untied Nations envoy spent days trying to gain her release.

Given that Myanmar's military also has a long record of slave labor and drug trafficking, what more do responsible nations need to now get tougher with this regime?

With that in mind, these days are critical—starting with passage late yesterday of a U.S. senate bill to ban imports from Myanmar, seize the regime leaders' U.S. assets and bar U.S. visas for them.

This ban should give greater weight to heightened U.S. diplomatic effort to isolate these despots.

Virtually all Senate leaders from both parties, led by Kentucky Republican Mitch McConnell and California Democrat Dianne Feinstein, supported the ban. Maryland Sens. Barbara A. Mikulski and Paul S. Sarbanes were among its many co-signers, Mr. Sarbanes having signed on just yesterday after activists complained he hadn't.

A House subcommittee has approved a similar bill. Everything possible should be done to see that this ban—affecting a quarter of Myanmar's exports, worth about $350 million a year—becomes law soon.

But even just Senate passage of the ban gives Secretary of State Colin L. Powell a bigger stick when he attends a meeting of the Association of Southeast Asian Nations (ASEAN) in Cambodia next week—a gathering at which the United States needs to lean even harder on Thailand and Japan to back off aiding this terrible regime.

Time is well past for allowing Myanmar's generals to enslave their own people. As Senator McConnell said yesterday in calling for the import ban vote:. "It's time for tyrants to fear in Burma."

The import ban likely won't bring down these generals in itself. But it provides a key tool in building an effective worldwide movement—with roles for ASEAN, the European Union and the United Nations—to end their illegal reign.

Mr. McCONNELL. Mr. President, also the Travel Goods Association of America today came out for the legislation and for an import ban as well. This is an important organization related to this whole issue of import restrictions—an organization that potentially would benefit from continuing imports from Burma. But they said they don't want to make money off of this regime. They, too, have announced their support for a ban today.

I ask unanimous consent that a press release indicating their support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TGA ANNOUNCES SUPPORT FOR A TOTAL BAN ON U.S. TRAVEL GOODS IMPORTS FROM BURMA—APPLAUDS PASSAGE OF LEGISLATION BY U.S. SENATE

PRINCETON, NJ, June 12, 2003.—Travel Goods Association (TGA) President Anne L. DeCicco announced today that, due to the on-going cruel and repressive nature of the ruling regime in Burma, TGA—the national trade association of the travel goods industry (luggage, handbags, briefcases, backpacks, flatgoods, etc.)—has called for an immediate and total ban on U.S. travel goods imports from that nation (SEE POLICY STATEMENT BELOW). Furthermore, TGA appauds Rep. Tom Lantos (D–CA) and Rep. Peter King (R–NY), and Diane Feinstein (D–CA) and their colleagues in both the House and Senate, for introducing The Burmese Freedom and Democracy Act of 2003 into both houses of the United States Congress. The bills call for a ban on all imports from Burma until it can be determined that the ruling Burmese government has made substantial and measurable progress to end its human rights abuses. The legislation passed the Senate on June 11, 2003 in a 97–1 vote.

"The government of Burma continues to abuse its citizens through force and intimidation, and refuses to respect the basic human rights of its people. TGA believes this unacceptable behavior should be met with condemnation from not only the international public community, but from private industry as well," said DeCicco.

According to the U.S. government's "2002 Country Report on Human Rights Practices" on Burma, the Burmese government has

". . . continued to restrict workers rights, ban unions, and use forced labor for public works and for the support of military garrisons. Other forced labor, including child labor, remain a serious problem despite recent ordinances outlawing the practice."

Additionally, in 2000, the International Labor Organization (ILO)—for the first time in its history—called on all ILO members to impose sanctions on Burma.

"TGA is pleased to learn that Congress, led by the U.S. Senate's historic vote on Wednesday, is taking an important step towards ending the human rights crisis that is happening in Burma today. We hope that Congress' efforts are only the first step towards international condemnation and sanctions on Burma through the United Nations," commented TGA Chairman Tom Sandler of Samsonite Corporation. He continued, "TGA, through its trade policy, promotes best practices to ensure that travel goods are produced in a socially responsible manner by encouraging its members to operate under programs that are compliant with applicable labor laws. Thus, the association and its membership fully support the legislation introduced by Reps. Lantos and King, as well as Senators McConnell and Feinstein and calls upon the U.S. House of Representatives to follow the Senate's lead in the swift and immediate passage of such important legislation."

The necessity for Congressional action is highlighted by the recent attacks of the country's ruling military junta on Nobel Laureate Aung San Suu Kyi, the leader of Burma's pro-democracy opposition, and her supporters. These attacks illustrate that Burma's regime has grown more oppressive than ever, despite worldwide condemnation.

TGA International Committee Chairman Michael Korchmar of the Leather Specialty Company, noted that, "TGA also wants to recognize and applaud the efforts of its own members that have already imposed bans on U.S. imports of Burmese travel goods from their own firms. Thanks in large part to the efforts of TGA members, U.S. imports of travel goods from Burma fell an incredible 74 percent between 2001 and 2002." Furthermore, TGA applauds the efforts of numerous U.S. and international governmental and non-governmental organizations to force Burma to respect the basic human rights of its citizens.

TRAVEL GOODS ASSOCIATION,
Princeton, NJ, June 12, 2003.

POLICY STATEMENT ON BURMA, JUNE 12, 2003

The Travel Goods Association (TGA)—the national trade association of the travel goods (luggage, briefcases, handbags, backpacks, flatgoods) industry—hereby expresses its strong support for a full and immediate ban on U.S. travel goods imports from Burma and strongly encourages the U.S. government to:

Impose an immediate and total ban on U.S. imports of travel goods from Burma;

Maintain this ban until Burma's rulers demonstrate that they respect and enforce basic human and labor rights for its own citizens;

Continue both unilaterally and through multilateral organizations to exert diplomatic, economic, and political pressure on Burma to respect and enforce basic human rights for its own citizens; and

Sign into law current legislation in Congress to impose such sanctions.

The TGA supports a U.S. ban on Burmese travel goods because Burma's military regime has:

Consistently rejected international demands to stop government-sanctioned forced and child labor practices against its own people;

According to the U.S. government's "2002 Country Report on Human Rights Practices" on Burma, "... continued to restrict worker rights, ban unions, and used forced labor for public works and for the support of military garrisons. Other forced labor, including forced child labor remained a serious problem, despite recent ordinances outlawing the practice;" and

Repeatedly failed to comply with internationally recognized conventions on labor, including forced and child labor. Due to its "widespread and systematic" use of forced labor, the International Labor Organization (ILO) in 2000, for the first time in its history, called on all ILO members to impose sanctions on Burma.

Through its trade policy, TGA:

"Promotes best practices to ensure that goods are produced in a socially responsible manner," by "Encouraging TGA members to operate under programs that foster socially responsible production practices compliant with applicable labor and environmental laws and regulations; Encouraging the United States, other governments and foreign trade associations to recognize and support programs designed to achieve these goals; and Pursuing policies that encourage development of human rights and democratic values in countries in which TGA members conduct business and discourage trade with countries that promote or support terrorism."

Strongly supports the travel goods industry's use of effective social responsibility programs;

Applauds and supports the efforts of TGA member companies that have already imposed bans on U.S. imports of Burmese travel goods for their own firms;

Recognizes and applauds the efforts of numerous U.S. and international governmental and nongovernmental organizations to force Burma to respect the basic human rights of its citizens.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUING CHALLENGES IN AFGHANISTAN

Mr. LEAHY. Mr. President, although our attention today is focused on the persistent attacks against U.S. Armed Forces in Iraq and the escalation of the bloodshed between Israelis and Palestinians, it is imperative that we not ignore the challenges we continue to face in Afghanistan.

In southeast Afghanistan, U.S. soldiers continue to battle with the remnants of al-Qaida and the Taliban, whose fighters have managed to regroup across the border inside Pakistan. Despite hundreds of millions of dollars in U.S. aid, the national impact has been difficult for many Afghans to see. Afghanistan is such a large, inaccessible, impoverished country that it will take many billions of dollars over many years to recover from decades of war, and that will be possible only if adequate security exists to implement these programs. Security will remain elusive as long as political and economic power outside of Kabul continues to be wielded by regional warlords.

An article by Carlotta Gall in yesterday's New York Times provides a sobering description of the continuing challenges in Afghanistan. I hope officials at USAID, the State Department, the Defense Department, and OMB took the time to read it. As with so many aid programs, we often focus on the trees and lose sight of the forest. We can point to lots of small success stories—new well dug here, a bridge repaired there, more girls enrolled in school. But when you step back the picture looks very different, as Ms. Gall's article shows.

We and our Allies have major stakes in Afghanistan's future, and I am confident that we will remain engaged. But let's do the job that needs to be done, not half measures. Without a more effective strategy to enhance security, strengthen the central government and support civil society, we will fall far short of our goals.

I ask unanimous consent that Ms. Gall's June 11, 2003, article in the New York Times entitled "In Warlord Land, Democracy Tries Baby Steps" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IN WARLORD LAND, DEMOCRACY TRIES BABY STEPS

KABUL, Afghanistan, June 10.—In the hushed, rose-filled gardens of the royal palace in Kabul, life seems calm and good. Under the chandeliers of the meeting hall upstairs, President Hamid Karzai, just back from a trip to Britain and a meeting with the queen, manages to combine an expression of condolence for German peacekeepers killed in a suicide bomb attack in the capital Saturday with an upbeat assessment of the situation in his country.

The heavily armed American bodyguards who stand in the gardens and by the windows of the palace have become like the wallpaper, so much are they part of the scene now. The Taliban threat in the south and southeast, the car bomber who drove this week right into the city, the persistent factional fighting in the north of the country, all seem far away.

But in the last few months there has been a crisis of confidence in Afghanistan, a sense that the security situation may be spiraling downward and that the rise of regional warlords may be more than a temporary phenomenon. Attacks on peacekeepers and aid workers are increasing. After more than a year of waiting patiently for results, people here are increasingly asking: are the Americans getting it right?

Today, as American forces in Iraq struggle to establish order, as one or two American soldiers seem to fall every day, it seems likely to be a question the United States will soon face in Iraq as well.

Even the most pessimistic Afghanistan watchers acknowledge that this time is different from the sliding chaos of the early 1990's. The Americans are not going to turn their back on Afghanistan the way they did then, and the way they did in Iraq after the Persian Gulf war in 1991. The Americans are here and, by all accounts and appearances, here to stay.

But there is only a year left for Mr. Karzai and his American backers to get things right before his term is up. The Bonn process, which set up the interim administration led by Mr. Karzai, lays out a rapid program for a new constitution to be drawn up and approved by a grand assembly this October, and for national elections to be held next June.

For Afghanistan, one key to establishing order is the disarmament of the factional armies around the country. The United Nations and Afghanistan's new Human Rights Commission have already stressed that if the much delayed disarmament and demobilization program does not go ahead, the drafting of the constitution and national elections could be thrown into jeopardy.

"There is a real, but still avoidable, risk that the Bonn process will stall if security is not extended to the regions, and that Afghans will lose confidence in the central government if it cannot protect them," the United Nations special representative to Afghanistan, Lakhdar Brahimi, told the Security Council in New York last month.

Another difficulty is that the allies are tackling the problems in piecemeal fashion, a strategy that will only advance the country by tiny steps, critics say.

United States diplomats and aid officials like to draw attention to a large wall map in their embassy that is covered in a "blizzard" of yellow Post-it stickers marking every single project under way in the country. They trumpet the provincial reconstruction teams, United States military-civil affairs teams that are trying to win hearts and minds in the provinces by building schools, or latrines for schools. And they talk of the program to train the Afghan National Army, which should produce a 9,000-member force by next year.

But the national impact of all of this is virtually nil. As one director of a donor agency, which completed 160 construction projects last year, said, "The dimension of the destruction is such that people don't see it."

Compared with the enormous military-political Gordian knot that needs to be cut, the attention to human needs can only be described as paltry, even irrelevant.

Little has been done to disarm and dismantle the power bases of the factions, and as time goes on the armed men who rule the districts, regions and whole provinces are becoming more and more entrenched and increasingly powerful economically. They are likely to dominate politics during the next year, which could fatally erode all public trust in the process and the results. The country could end up being ruled by a mixture of drug lords and fundamentalist mujahedeen—in other words, people not much different from the Taliban.

Everyone has a different idea of what the United States should be doing, but most Afghans and Westerners working here agree that there are two basic requirements for nation-building that the United States cannot afford to ignore—providing security and establishing a functioning political system. They are interconnected, most here agree; in fact, it is impossible to have one without the other.

Only a legitimate, national political system will have the authority to establish a police and justice system with the necessary powers to establish real security. Without real security, there can be no widespread development; American soldiers cannot stand on every street corner, or monitor every business transaction and tax collection.

The problem here, as in Iraq, is that the American military is still running the show and views Afghanistan through the prism of the campaign against terrorism and not according to the country's political and economic demands. But if Afghanistan is to seize the chance this year to start becoming a stable and prosperous society, there is much, much more to be done.

Many are saying that Washington needs to exert more political pressure—on Mr. Karzai to act more decisively on this government to work more proactively, on the police nationwide to ensure law and order, on commanders to disarm, on ministers to reform their ministries and even out the balance of power, on warlords to give up their fiefs and join the government, on Pakistan to stop supporting the Taliban and other opponents of the Bonn process. The list goes on.

All those steps would be a help. But fundamentally, the Americans need to create an atmosphere in which democratic politics can take hold. That means doing more than attending to human needs and offering military training. It means, in the view of many Western officials here and prominent Afghans, putting pressure on the warlords, disarming them and cutting their power bases, leveling the political playing field so that the coming elections are free and fair.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Champaign, IL. On December 16, 2001, a Muslim Tunisian-American university student was beaten by a mob of several men. Participants in the attack restrained the victim's brother and his friends to prevent them from coming to his aid. The student was beaten by more than six of the men, one of whom broke his nose with a blunt object.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

THE INDICTMENT OF CHARLES TAYLOR

Mr. LEAHY. Mr. President, I see that the senior Senator from New Hampshire, Mr. GREGG, is on the floor. Knowing of his longstanding interest in Sierra Leone, I wonder if he wants to speak briefly about the indictment last week of Charles Taylor by the Special Court for Sierra Leone.

Mr. GREGG. I thank the Senator from Vermont. He is correct about my longstanding interest in Sierra Leone. With respect to the Special Court, I am well aware of the events of the past week, where the Prosecutor of the Court, David Crane, unsealed an indictment for Charles Taylor, while Mr. Taylor was in Ghana.

Unfortunately, the international community did not act in time and Mr. Taylor was able to escape to Liberia. In doing so, the world missed a great opportunity to bring to justice one of the world's most notorious war criminals and advance the cause of international justice.

Mr. LEAHY. I agree with the Senator from New Hampshire. I spoke about this subject last week. Since then, it has come to my attention that some officials in the State Department and other governments are upset at Mr. Crane for the timing of this indictment, as they saw it as disruptive to the peace talks in West Africa.

While I can appreciate those concerns, I agree with one of Mr. Crane's statements on this issue, which I will read:

> [T]he timing of this announcement was carefully considered in light of the important peace process begun this week. To ensure the legitimacy of these negotiations, it is imperative that the attendees know they are dealing with an indicted war criminal. These negotiations can still move forward, but they must do so without the involvement of this indictee. The evidence upon which this indictment was approved raises serious questions about Taylor's suitability to be a guarantor of any deal, let alone a peace agreement.

I was wondering if Senator GREGG had any thoughts on this issue.

Mr. GREGG. I agree with Mr. Crane's statement about the indictment of Charles Taylor. As much as anyone, I want to bring peace and prosperity to West Africa. But, Mr. Crane has a mandate to bring to justice those most responsible for the atrocities committed in Sierra Leone, and the trail led to Charles Taylor. Not indicting Mr. Taylor would have been outrageous. Justice would not have been served.

I also want to read from a Washington Post editorial, dated June 5, 2003, that summarizes the issue. It said, and I am quoting:

> After years of afflicting his own country with the worst kind of brutality and aiding and abetting a cruel civil war in neighboring Sierra Leone, Mr. Taylor is now being pressed on his own soil by rebel movements bent on driving him from power. That he was out of the country this week was no accident. The purpose of his trip to Ghana, organized by the Economic Community of West Africa and a United Nations contact group that includes the United States, was to join peace talks with Liberian opposition groups.

> Military and political weaknesses, not strength, drove him from his haven in Liberia to the Ghana peace parley. Fear of international justice is what has sent him scurrying back home. . . . The idea of Mr. Taylor working out an eleventh-hour agreement that restores peace and stability to Liberia strikes many human rights observers as ludicrous given both his record of broken pledges and his overwhelming contribution to that country's misery. Faced with tightening international opposition, he now says he will consider stepping aside if that will bring peace. He's now even making noises about supporting a transitional government of national unity while remaining on the sidelines. Mr. Taylor, as usual, has it all wrong. He is in no position to guarantee any deal, let alone a peace agreement, as Mr. Crane said yesterday. Indicted as a war criminal, Charles Taylor today is nothing more than a wanted man.

In short, I agree with the Post's editorial and commend Mr. Crane for taking decisive action to indict Charles Taylor.

Mr. LEAHY. I share Senator GREGG's sentiments. I would also point out that Mr. Crane's office unsealed the indictment in a responsible way. According to information I received, the Special Court's chief of security was instructed to inform all organizations with personnel in Liberia, including the U.S. Embassy, Freetown, that "within 24 hours the Special Court was going to take an action that could possibly destabilize Monrovia." These actions were undertaken to ensure that all government and humanitarian personnel had notice to withdraw or stay home.

This effectively "unsealed" the indictment to governments and humanitarian organizations without tipping Mr. Taylor off. In addition, 3 hours before the press conference and public announcement, and minutes after the Court had confirmation that Ghanaian authorities were served with the arrest warrant for Mr. Taylor, private letters were hand-delivered to all representatives of a number of key governments in Freetown.

Mr. GREGG. Does the Senator share my view that the United States and other members of the international community should continue to strongly support the Special Court and vigorously pursue Mr. Taylor and other indicted war criminals?

Mr. LEAHY. Yes. In fact, I am going to work with Senator MCCONNELL, with the goal of providing $2 million in the fiscal year 2004 foreign operations bill for additional support to the Court.

Mr. GREGG. I support the efforts of the Senator from Vermont and thank him for discussing this issue with me.

Mr. LEAHY. I thank the Senator from New Hampshire. In closing, I would just add that there have been recent reports of a possible "deal" with Mr. Taylor under which he would go into exile in exchange for immunity from the Court. While I want to see an end to the fighting in West Africa, which has claimed many innocent lives, an immunity deal with Mr. Taylor would be a grave mistake. It will undermine peace and reconciliation efforts in the region. It will let a major war criminal escape justice. It would be unacceptable.

HONORING SERGEANT DUANE RIOS

Mr. BAYH. Mr. President, I rise today with great sadness and tremendous gratitude to honor the life of yet another brave Hoosier killed in action in Iraq. Sgt. Duane Rios of Griffith, IN was 25 years old. On Saturday, April 5, 2003, while serving as an engineer with the 1st Marine Expeditionary Force, Duane was mortally wounded. Duane had reached Eastern Baghdad, where he was killed in a firefight. Sgt. Rios was a brave American who left behind family, friends and the comforts of home to defend the principles of democracy and freedom that we all enjoy.

Duane Rios is the fourth Hoosier to be killed while bravely serving our Nation in Operation Iraqi Freedom. Today, I mourn along with Duane's family, friends, fellow Marines and community. While all are very proud of Duane, there is also a tremendous sense of loss. Duane's life was too short, yet he will always be remembered for his heroism and dedication to his country. Such a life shall serve as an inspiration to all as we continue to fight for the liberation of Iraq.

Duane Rios was a charismatic and friendly person who never passed someone without smiling and saying hello. Duane attended Griffith High School, graduating in 1996. After graduation he married his high school sweetheart, Erica. He will be greatly missed by all who knew him. It was with great pride that he left for Iraq, prepared to do his duty and was willing to make the ultimate sacrifice, if fate dictated, for a country he loved dearly.

President Chester Arthur once said: "Men may die, but the fabrics of free institutions remain unshaken." These words force us to see the larger picture and give some solace as we mourn the loss of Duane Rios and honor the sacrifice he made for America and for all humanity.

It is my sad duty to enter the name of Duane Rios in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy, and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Duane's can find comfort in the words of the prophet Isaiah, who said: "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn the loss of such young lives, and may God bless the United States of America.

ADDITIONAL STATEMENTS

VOTE EXPLANATION

• Mr. EDWARDS. Mr. President, I was not present for rollcall vote No. 221 on the Graham amendment. Were I present for that vote, I would have voted in favor of the amendment.

Mr. President, I was not present for rollcall vote No. 222 on the Lautenberg amendment. Were I present for that vote, I would have voted in favor of the amendment.•

THE AMERICAN SPA: HISTORIC BATHHOUSES OF HOT SPRINGS, ARKANSAS

• Mr. PRYOR. Mr. President, on May 29, 2003, the National Trust for Historic Preservation named Bathhouse Row in Hot Springs National Park, AR, one of America's 11 Most Endangered Historic Places.

I come to the floor today to applaud the National Trust's efforts to preserve these bathhouses. I also want to bring the dire condition of these historic sites to the Senate's attention and urge my colleagues to support my and Senator LINCOLN's work to provide critical funding this year to save the eight bathhouses in Hot Springs.

During the early 1900s, a variety of bathhouses were built in Hot Springs, AR, to accommodate the thousands of travelers who sought the curative waters from 47 natural thermal springs. These bathhouses were elaborately constructed with remarkable architectural design, including stained-glass skylights and patterned mosaic floors and walls. The bathhouse provided restful baths and services—some peculiar and bizarre—that inspired the resort nickname "The American Spa." In short, Bathhouse Row shaped America's "Golden Age of Bathing" and was internationally renowned, with the likes of Babe Ruth and the infamous Al Capone visiting the resort.

Arkansans have long known what the National Trust for Historic Preservation has announced to the Nation: that these one-of-a-kind historic treasures are on the verge of disappearing due to neglect. These amazing buildings are literally falling apart. But the story for the bathhouses doesn't have to end there. We have a plan that works for both preservationists and budget hawks. Reasonable Federal investment into reconditioning these buildings will be leveraged by private leasing agreements. Once restored, private ventures will breathe new life and usher a new generation of use into Bathhouse Row for all Americans to enjoy.

Lastly, I think that it is important to note that Congress has recognized the national importance of Hot Springs for 171 years. On April 20, 1832, the Congress had the foresight to establish Hot Springs Reservation—making it the oldest park currently in the National Park System. On March 4, 1921, Congress changed the name to Hot Springs National Park.

Today, Congress has the opportunity to act again in support of Hot Springs. I believe that our predecessors in Congress intended for the park to protect Bathhouse Row and the unique glimpse that it provides into our Nation's social and historic past.

I urge my colleagues to support funding in the fiscal year 2004 Interior appropriations bill for Bathhouse Row in Hot Springs National Park.●

SALUTING LOUISIANA FAITH IN ACTION GRANTEES

● Mr. BREAUX. Mr. President, I am proud to serve as ranking member of the Senate Special Committee on Aging, a position which allows me to focus on issues important to older Americans. One of the most critical concerns of our Nation's seniors is the need for long-term care services. And though the lack of available long-term care service is a substantial problem today, the demand for long-term care services will overwhelm an already-strained system as our Nation's 77 million baby boomers age.

Family caregivers are the cornerstone of our long-term care system, providing 80 percent of all long-term care in this country. Most older and disabled Americans prefer to remain in their own homes or in the community and many do so, thanks to the support and love of family caregivers. But we all know that family caregivers cannot provide around-the-clock care—many have jobs and children to raise. Caregiving is stressful and it places heavy emotional, physical and financial burdens on caregivers. Research shows that caregivers need a variety of services to support them in their caregiving roles. One innovative and valuable service to family caregivers is the "Faith in Action" program sponsored by the Robert Wood Johnson Foundation.

The Robert Wood Johnson Foundation, one of our Nation's leading philanthropic health care organizations, has been supporting creative programs for the delivery of health care for many years. Their Faith in Action program is a faith-based initiative which enables elderly and disabled individuals to continue to live in their homes with the support of coordinated efforts between interfaith coalitions and social service agencies including senior centers, parish councils on aging, area agencies on aging, and hospitals.

The Faith in Action program provides grant money to help these groups provide services, including organizing outreach to the homebound; training group leaders who oversee outreach ministries; locating homebound people who have lost touch with their communities; recruiting volunteers from church congregations and communities; connecting with local medical and social services; and providing emotional support services to community members. All of these organizations share a common goal—to provide long-term care to their neighbors in need.

Next week, the 14 Faith in Action grantees in Louisiana and interested faith and community leaders will join me in New Orleans for an event where we will honor the current grantees and volunteers and encourage other interested groups and individuals to become Faith in Action grantees. Together they can use their expertise and energy to make a real difference in the lives of Louisiana seniors and disabled persons.

Mr. President, today I want to recognize these 14 existing grantees in Louisiana: Rapides Station Community Ministries, Inc., The Shepherd Center, Inter-Faith Caregivers of the Greater Baton Rouge Federation of Churches & Synagogues, The Mental Health Association of Louisiana, Faith in Action of Acadiana, Love Inc., of Acadiana, Volunteers of America Inc., Boys & Girls Club of Minden, Inc., Alzheimer's Disease and Related Disorders Association Northeast/Central Louisiana Chapter, G.T. Consultants Services, Inc., St. Francis Medical Center, Uptown Area Senior Adult Ministry, Inc., H.O.P.E. Ministry, Inc., and Shreveport-Bossier Community Renewal Inc.

Thanks to their contribution to their communities, these grantees have enabled over 1100 elderly and disabled persons in Louisiana to remain at home. Keeping families together and allowing our seniors and disabled persons to live independently saves money, improves quality of life and strengthens our communities. Again, I applaud the Louisiana Faith in Action grantees, community partners and volunteers for their contribution to Louisiana families and to broadening long-term care options for the people of Louisiana.●

ON THE RETIREMENT OF MR. ADRIAN DELL ROBERTS

● Mrs. BOXER. Mr. President, I rise to recognize the life work of Mr. Adrian Dell Roberts as he retires from Riverside Unified School District after more than 38 years of dedicated service, leaving a legacy of community-building and a belief in the potential of young people.

Dell Roberts' ability to promote student safety, teamwork, and self-confidence has been apparent at every stage of his career with Riverside Unified School District; starting with his initial part-time position coaching track and football at Riverside Polytechnic High School in 1965, and culminating with his role as Administrative Assistant for Campus and Community Services. He also served as an administrative aid and assistant principal in charge of discipline at Riverside Polytechnic High School.

As Administrative Assistant for Campus and Community Services, Mr. Roberts has worked to identify and meet the needs of Riverside's youth. He has done much to help students and staff understand the diverse cultural values of the students in the district. Under his leadership, multi-cultural councils were established at high schools and middle schools, facilitating peaceful group problem solving. He also played a leading role in the successful formation of the Black Student Union at Riverside Polytechnic High School and is the founder and coordinator of the statewide Black Student Union.

In addition to his contributions on campus, Mr. Roberts has lent his involvement and leadership to organizations that work to improve the lives of young people and provide enriching educational and recreational resources to the Riverside community. Many, many students have had opportunities that would not have been available to them without Mr. Roberts' hard work to expand their horizons and perceptions of their own potentials.

Mr. Roberts' impressive accomplishments and affiliations are too numerous to mention in their entirety, but we can reflect on the important underlying beliefs that have guided his work. A portion of Mr. Roberts' biography includes his statement that he ". . . has faith in our youth because they are our present as well as our future." Indeed, Mr. Roberts' ability to reach out in friendship and support and to inspire respect between individuals and groups has enriched the lives of countless young people. I invite all of my colleagues to join me in commending Dell Roberts for his years of loving work for the academic and personal advancement of our children.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawals which were referred to the appropriate communities.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON ALL FEDERAL DRUG AND SUBSTANCE ABUSE TREATMENT, PREVENTION, EDUCATION, AND RESEARCH PROGRAMS—PM 39

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

Consistent with section 2202 of Public Law 107–273, I hereby transmit a report prepared by my Administration detailing the findings of a comprehensive review of all Federal drug and substance abuse treatment, prevention, education, and research programs. The report also presents an inventory of all such programs, indicating the legal authority for each program and the amount of funding in the last 2 fiscal years.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 12, 2003.*

REPORT ON THE ADMINISTRATION OF THE COASTAL ZONE MANAGEMENT ACT (CZMA) FOR FISCAL YEARS 2000 AND 2001—PM 40

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

I am pleased to transmit the Biennial Report to Congress on the Administration of the Coastal Zone Management Act by the Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration for fiscal years 2000 and 2001. This report is submitted as required by section 316 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451, et seq.).

The report provides an overview of the Coastal Zone Management Act and describes progress in addressing the major goals of the Act; partnerships to enhance coastal and ocean management; and research, education, and technical assistance.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 12, 2003.*

MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests that concurrence of the Senate:

H.R. 1320. An act to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governments to commercial users.

H.R. 2115. An act to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

H.R. 2350. An act to reauthorize the Temporary Assistance for Needy Families block grant program through fiscal year 2003, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 110. Concurrent resolution recognizing the sequencing of the human genome as one of the most significant scientific accomplishments of the past one hundred years and expressing support for the goals and ideals of Human Genome Month and DNA Day.

The message further announced that pursuant to 20 U.S.C. 2004(b), and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Board of Trustees of the Harry Truman Scholarship Foundation: Mr. AKIN of Missouri.

At 6:21 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1115. An act to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements of class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1115. An act to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes; to the Committee on the Judiciary.

H.R. 1320. An act to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 110. Concurrent resolution recognizing the sequencing of the human genome as one of the most significant scientific accomplishments of the past one hundred years and expressing support for the goals and ideals of Human Genome Month and DNA Day; to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2115. An act to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2607. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $100,000,000 or more to Belgium; to the Committee on Foreign Relations.

EC–2698. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas DC 10 30 Airplanes; Docket no. 2002-NM-134 (2120-AA64) (2003-0176)" received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2699. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS350B, B1, B2, BA, and D Helicopters; Docket no. 2002-SW-37 (2120-AA64) (2003-0177)" received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2700. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 11 and 11F Airplanes; Docket no. 2001-NM-56 (2120-AA64) (2003-0199)" received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2701. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS350B Helicopters; Docket no. 2002-SW-05 (2120-AA64) (2003-0179)" received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2702. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model 11 and 11F Airplanes;

Docket no. 2001-NM-160 (2120-AA64) (2003-0200)" received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2703. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 11 and 11F Airplanes; Docket no. 2001-NM-166 (2120-AA64) (2003-0201)" received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2704. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model EC120B Helicopters; Docket no. 2001-SW-52 (2120-AA64) (2003-0175)" received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2705. A communication from the Deputy Assistant Administrator, Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Framework Adjustment 37 to the Northeast Multispecies Fishery Management Plan (0648-AQ35)"; to the Committee on Commerce, Science, and Transportation.

EC–2706. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Inseason Adjustment; Opening the Chiniak Gully Research Area in the Gulf of Alaska (GOA) to directed fishing for groundfish using trawl gear from August 1, 2003, through September 20, 2003 because NMFS' Alaska Fisheries Science Center (AFSC) will not conduct research in this area in 2003. (0679)"; to the Committee on Commerce, Science, and Transportation.

EC–2707. A communication from the Deputy Assistant Administrator, Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; 2003 Specifications for the Atlantic Bluefish Fishery (0648-AQ26)"; to the Committee on Commerce, Science, and Transportation.

EC–2708. A communication from the Deputy Assistant Administrator, Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement Corrected Charter Vessel/Headboat Permit Moratorium Amending the Reef Fish Management Plan of the Gulf of Mexico and the Coastal Migratory Pelagics Fishery Management Plan of the South Atlantic and Gulf of Mexico (0648-AQ70)" received on June 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2709. A communication from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: (Including 12 regulations) [COTP Philadelphia 03-003] [COTP Miami 03-083] [COTP Miami 03-075] [COTP 03-082] [COTP Philadelphia 03-007] [COTP Philadelphia 03-006] [COTP San Francisco Bay 03-010] [COTP Miami 03-081] [COTP Philadelphia 03-004] [COTP Miami 03-073] [CGD13-03-016] [CGD13-03-017] (1625-AA00) (2003-0025)" received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2710. A communication from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: St. Thomas, U.S. Virgin Islands (COTP San Juan 03-0024) (1625-AA00) (2003-0024)" received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2711. A communication from the Commander (Acting), Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Alabama River at Coy, AL (CGD08–03–018) (1625–AA09) (2003–0015)"; to the Committee on Commerce, Science, and Transportation.

EC–2712. A communication from the Commander (Acting), Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Manasquan River, NJ (CGD05–02–054) (1625–AA09) (2003–0014)" received on June 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2713. A communication from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area: Hampton Road, VA (CGD05–02–099) (1625–AA11) (2003–0007)"; to the Committee on Commerce, Science, and Transportation.

EC–2714. A communication from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: (Including 05 regulations) [CGD09–03–215] [COTP Huntington 03–002] [COTP Huntington 03-001] [CGD09–03–216] [CGD09–03–217]" received on June 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2715. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, transmitting, pursuant to law, the report of a rule entitled "Transportation of Household Goods; Consumer Protection Regulations (2126–AA32)"; to the Committee on Commerce, Science, and Transportation.

EC–2716. A communication from the Deputy Assistant, Office of the Secretary Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Participation by disadvantaged business enterprises in DOT financial program (2105–AC84)"; to the Committee on Commerce, Science, and Transportation.

EC–2717. A communication from the Acting Director, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Procedures for Transportation Workplace Drug and Alcohol Testing Programs (2105–AD26)"; to the Committee on Commerce, Science, and Transportation.

EC–2718. A communication from the Acting Assistant Secretary of the Army, Civil Works, Department of the Secretary, transmitting, pursuant to law, the report relative to a comprehensive plan for the purpose of restoring, preserving, and protecting the Illinois River Basin, received on May 20, 2003; to the Committee on Environment and Public Works.

EC–2719. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a document entitled "Regional Haze: Final Revisions to the Regional Haze Rule Incorporating Provisions Related to Stationary Sources of Sulfur Dioxide for Nine Western States and Eligible Indian Tribes: Fact Sheet" received on June 3, 2003; to the Committee on Environment and Public Works.

EC–2720. A communication from the Assistant Secretary, Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Blackburn's Sphinx Moth (1018–AH94)" received on June 9, 2003; to the Committee on Environment and Public Works.

EC–2721. A communication from the Assistant Secretary, Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Designation and nondesignation of critical habitat for 46 Plant Species From the Island of Hawaii, Hawaii (1018–AH02)" received on June 9, 2003; to the Committee on Environment and Public Works .

EC–2722. A communication from the Assistant Secretary, Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Preble's Meadow Jumping Mouse (1018–AI46)" received on June 9, 2003; to the Committee on Environment and Public Works.

EC–2723. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, the report relative to the building Project Survey for Columbia, MO; to the Committee on Environment and Public Works.

EC–2724. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report relative to the Coer d' Alene Basin, Idaho, Superfund Site; to the Committee on Environment and Public Works.

EC–2725. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Rhode Island Update to Materials Incorporated by Reference (7493–4)"; to the Committee on Environment and Public Works.

EC–2726. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Vermont Update to Materials Incorporated by Reference (7493–5)"; to the Committee on Environment and Public Works.

EC–2727. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plan; Washington (7493–8)" received on June 5, 2003; to the Committee on Environment and Public Works.

EC–2728. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Kansas (7510–4)" received on June 5, 2003; to the Committee on Environment and Public Works.

EC–2729. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designation Facilities and Pollutants; Large Municipal Waste Combustors; California" received on June 5, 2003; to the Committee on Environment and Public Works.

EC–2730. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Air Pollution from Motor Vehicles and New Motor Vehicle Engines; Revisions to Regulations Requiring Availability of Information for use of On-Board Diagnostic Systems and Emission-Related Repairs on 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks and 2003 and Later Model Year Heavy-Duty Vehicles and Engines Weighing 14,000 Pounds Gross Vehicle Weight or Less" received on June 5, 2003; to the Committee on Environment and Public Works.

EC–2731. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Air Pollution from the New Motor Vehicles and New Motor Vehicles and New Motor Vehicle Engines; Modification of Federal On-board Diagnostic Regulations for: Light-Duty Vehicles, Light-Duty Trucks; Medium Duty Passenger Vehicles, Complete Heavy Duty Vehicles and Engines Intended for the Use in Heavy Duty Vehicles weighing 14,000 pounds GVWR or less; Extension of Acceptance of California OBD II Requirements (7492–6)" received on June 5, 2003; to the Committee on Environment and Public Works.

EC–2732. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Authorization of State Hazardous Waste Management Program Revision (7510–1)" received on June 5, 2003; to the Committee on Environment and Public Works.

EC–2733. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Determining Conformity of Federal Actions to State or Federal Implementation Plans (7507–4)"; to the Committee on Environment and Public Works.

EC–2734. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Availability of Allocation of Fiscal Year 2003 and the Environment Training and Employment Program Funds"; to the Committee on Environment and Public Works.

EC–2735. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clarifications to Existing National Emissions Standards for Hazardous Air Pollutants Delegations Provisions (7508–8)"; to the Committee on Environment and Public Works.

EC–2736. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Methoprene, Watermelon Mosaic Virus–2 Coat Protein, and Zucchini Yellow Mosaic Virus Coat Protein; Final Tolerance Actions (7309–5)"; to the Committee on Environment and Public Works.

EC–2737. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Bay Area Air Quality (7495–3)"; to the Committee on Environment and Public Works.

EC–2738. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan Bay Area Air Quality Management District; San Diego County Air Pollution Control District (7495–1)"; to the Committee on Environment and Public Works.

EC–2739. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "State of Massachusetts; Withdrawal of Direct Final Rule (7509–2)"; to the Committee on Environment and Public Works.

EC–2740. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Thymol and Eucalyptus Oil; Exemption from the Requirement of a Tolerance (7308–1)"; to the Committee on Environment and Public Works.

EC–2741. A communication from the Director, Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Event Notification Requirements (3150–AG90)" received on June 10, 2003; to the Committee on Environment and Public Works.

EC–2742. A communication from the Director, Office of Congressional Affairs, Office of the Chief Financial Officer, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Revision of Fee Schedules; Fee Recovery for FY 2003 (3150–AH14)" received on June 11, 2003; to the Committee on Environment and Public Works.

EC–2743. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Connecticut, Massachusetts and Rhode Island; Nitrogen Oxides Budget and Allowances Trading Program (7513–2)" received on June 11, 2003; to the Committee on Environment and Public Works.

EC–2744. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Louisiana, New Mexico, Oklahoma, and Bernalillo County, New Mexico; Negative Declarations (7511–4)"; to the Committee on Environment and Public Works.

EC–2745. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Burkholderia Cepacia Complex, Significant New Use Rule (7200–3)" received on June 11, 2003; to the Committee on Environment and Public Works.

EC–2746. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Partial Withdrawal of Direct Final Rule; Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards for the Pharmaceutical Manufacturing Point Category (7510–6)" received on June 11, 2003; to the Committee on Environment and Public Works.

EC–2747. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Preliminary Assessment Information Reporting; Addition of Certain Chemical (7306–7)" received on June 11, 2003; to the Committee on Environment and Public Works.

EC–2748. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Utah: Final Authorization of State Hazardous Waste Management Program Revision (7511–1)" received on June 11, 2003; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 1015. A bill to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes (Rept. No. 108–69).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 141. A resolution recognizing "Inventing Flight: The Centennial Celebration", a celebration in Dayton, Ohio of the centennial of Wilbur and Orville Wright's first flight.

S. Res. 163. A resolution commending the Francis Marion University Patriots men's golf team for winning the 2003 National Collegiate Athletic Association Division II Men's Golf Championship.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

Eduardo Aguirre, Jr., of Texas, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security.

David G. Campbell, of Arizona, to be United States District Judge for the District of Arizona.

Richard James O'Connell, of Arkansas, to be United States Marshal for the Western District of Arkansas for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. COLLINS (for herself, Mr. CARPER, Mr. ROCKEFELLER, Mr. VOINOVICH, Mr. FEINGOLD, Mr. SUNUNU, Mr. COLEMAN, Mr. PRYOR, Mr. ALLARD, and Mr. AKAKA):

S. 1245. A bill to provide for homeland security grant coordination and simplification, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ROBERTS:

S. 1246. A bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. BOND, Ms. CANTWELL, Mr. BURNS, Mr. LEVIN, Mr. ENZI, Mr. GRASSLEY, Mr. BAUCUS, Mr. DOMENICI, Mr. BINGAMAN, Mr. KOHL, Mrs. DOLE, Mr. CORZINE, Ms. LANDRIEU, Mr. COLEMAN, Mr. KENNEDY, Mr. DURBIN, Mr. EDWARDS, Mr. DAYTON, and Mr. HARKIN):

S. 1247. A bill to increase the amount to be reserved during fiscal year 2003 for sustainability grants under section 29(l) of the Small Business Act; considered and passed.

By Mr. GREGG (for himself and Mr. KENNEDY):

S. 1248. A bill to reauthorize the Individuals with Disabilities Education Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENSIGN (for himself and Mrs. LINCOLN):

S. 1249. A bill to amend title XVIII of the Social Security Act to waive the part B late enrollment penalty for military retirees who enroll December 31, 2004, and to provide a special part B enrollment period for such retirees; to the Committee on Finance.

By Mr. BURNS (for himself and Mrs. CLINTON):

S. 1250. A bill to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E-911 calls, and to support the construction and operation of a ubiquitous and reliable citizen activated system, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CHAFEE:

S. 1251. A bill to deauthorize portions of a Federal channel in Pawtuxet Cove, Rhode Island; to the Committee on Environment and Public Works.

By Mr. DAYTON (for himself, Mr. LIEBERMAN, Mr. KERRY, Mrs. CLINTON, and Mrs. MURRAY):

S. 1252. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Governmental Affairs.

By Ms. MURKOWSKI:

S. 1253. A bill to amend the Internal Revenue Code of 1986 to provide a minimum credit of $200 per month for stay-at-home parents, to allow the dependent care credit to be taken against the minimum tax, and to allow a carryforward of any unused dependent care credit; to the Committee on Finance.

By Mr. KERRY:

S. 1254. A bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a vocational and technical entrepreneurship development program; to the Committee on Small Business and Entrepreneurship.

By Mr. KERRY (for himself, Mr. ENSIGN, Mr. JEFFORDS, Mr. BINGAMAN, Ms. LANDRIEU, Mr. LEAHY, Mr. MILLER, Mr. CRAIG, and Ms. STABENOW):

S. 1255. A bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. HARKIN (for himself and Mr. LUGAR):

S. 1256. A bill to protect the critical aquifers and watersheds that serve as a principal water supply for Puerto Rico, to protect the tropical forests of the Karst Region, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. COLEMAN:

S. 1257. A bill to conduct statewide demonstration projects to improve health care quality and to reduce costs under the medicare program under title XVIII of the Social Security Act and to conduct a study on payment incentives and performance under the Medicare+Choice program under such title; to the Committee on Finance.

By Mr. BAYH:

S. 1258. A bill to improve United States litigation efforts at the WTO, establish a WTO Dispute Settlement Review Commission, promote reform of the WTO dispute settlement process, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL (for himself, Mr. KOHL, Mr. ALLARD, and Mr. SANTORUM):

S. Res. 167. A resolution recognizing the 100th anniversary of the founding of the Harley-Davidson Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a leading force for product and manufacturing innovation throughout the 20th century; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. Res. 168. A resolution designating May 2004 as "National Motorcycle Safety and Awareness Month"; to the Committee on the Judiciary.

By Mrs. CLINTON:

S. Res. 169. A resolution expressing the sense of the Senate that the United States Postal Service should issue a postage stamp commemorating Anne Frank; to the Committee on Governmental Affairs.

By Mr. DODD (for himself and Mr. COCHRAN):

S. Res. 170. A resolution designating the years 2004 and 2005 as "Years of Foreign Language Study"; to the Committee on the Judiciary.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. MCCAIN, Mr. HOLLINGS, Mr. KENNEDY, Mr. REED, Mr. LIEBERMAN, Mr. DODD, Mr. SMITH, Mr. LEVIN, Mr. AKAKA, Ms. COLLINS, Mr. CHAFEE, Mr. BIDEN, Mr. CORZINE, Mrs. BOXER, Mr. LAUTENBERG, and Mr. COCHRAN):

S. Con. Res. 55. A concurrent resolution expressing the sense of the Congress regarding the policy of the United States at the 55th Annual Meeting of the International Whaling Commission; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 139

At the request of Mr. LIEBERMAN, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 139, a bill to provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances that could be used interchangably with passenger vehicle fuel economy standard credits, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances.

S. 436

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 436, a bill to amend the Foreign Intelligence Surveillance Act of 1978 to improve the administration and oversight of foreign intelligence surveillance, and for other purposes.

S. 451

At the request of Ms. SNOWE, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 481

At the request of Mr. ALLEN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 481, a bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes.

S. 499

At the request of Ms. LANDRIEU, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 499, a bill to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

S. 557

At the request of Ms. COLLINS, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 560

At the request of Mr. CRAIG, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 560, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 564

At the request of Ms. LANDRIEU, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 564, a bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes.

S. 678

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 684

At the request of Mr. SMITH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 684, a bill to create an office within the Department of Justice to undertake certain specific steps to ensure that all American citizens harmed by terrorism overseas receive equal treatment by the United States Government regardless of the terrorists' country of origin or residence, and to ensure that all terrorists involved in such attacks are pursued, prosecuted, and punished with equal vigor, regardless of the terrorists' country of origin or residence.

S. 693

At the request of Mr. ALLARD, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 693, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to make volunteer members of the Civil Air Patrol eligible for Public Safety Officer death benefits.

S. 752

At the request of Mr. BINGAMAN, the names of the Senator from Oklahoma (Mr. NICKLES) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 752, a bill to amend the Internal Revenue Code of 1986 to treat distributions from publicly traded partnerships as qualifying income of regulated investment companies, and for other purposes.

S. 851

At the request of Mr. ENSIGN, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 851, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 875

At the request of Mr. KERRY, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 985

At the request of Mr. DODD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 990

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 990, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Challenge Program, and for other purposes.

S. 1023

At the request of Mr. HATCH, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1023, a bill to increase the annual salaries of justices and judges of the United States.

S. 1035

At the request of Mr. CORZINE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1035, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55.

S. 1046

At the request of Mr. STEVENS, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1076

At the request of Mr. HAGEL, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1076, a bill to authorize construction of an education center at or near the Vietnam Veterans Memorial.

S. 1148

At the request of Mr. JEFFORDS, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1148, a bill to amend title XVIII of the Social Security Act to provide for the establishment of medicare demonstration programs to improve health care quality.

S. 1153

At the request of Mr. SPECTER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1153, a bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

S. 1196

At the request of Mrs. HUTCHISON, the names of the Senator from Texas (Mr. CORNYN), the Senator from Virginia (Mr. ALLEN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 1196, a bill to eliminate the marriage penalty permanently in 2003.

S. 1201

At the request of Mr. GRAHAM of South Carolina, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1201, a bill to promote healthy lifestyles and prevent unhealthy, risky behaviors among teenage youth.

S. 1215

At the request of Mr. MCCONNELL, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Arizona (Mr. MCCAIN), the Senator from Hawaii (Mr. AKAKA), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Colorado (Mr. ALLARD), the Senator from Virginia (Mr. ALLEN), the Senator from Utah (Mr. BENNETT), the Senator from Delaware (Mr. BIDEN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from California (Mrs. BOXER), the Senator from Louisiana (Mr. BREAUX), the Senator from Kansas (Mr. BROWNBACK), the Senator from Kentucky (Mr. BUNNING), the Senator from Georgia (Mr. CHAMBLISS), the Senator from New York (Mrs. CLINTON), the Senator from Minnesota (Mr. COLEMAN), the Senator from Maine (Ms. COLLINS), the Senator from New Jersey (Mr. CORZINE), the Senator from South Dakota (Mr. DASCHLE), the Senator from Minnesota (Mr. DAYTON), the Senator from North Carolina (Mrs. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Illinois (Mr. DURBIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Tennessee (Mr.

FRIST), the Senator from Nebraska (Mr. HAGEL), the Senator from North Dakota (Mr. DORGAN), the Senator from Montana (Mr. BURNS), the Senator from Iowa (Mr. HARKIN), the Senator from Texas (Mrs. HUTCHISON), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arizona (Mr. KYL), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Indiana (Mr. LUGAR), the Senator from Maryland (Ms. MIKULSKI), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Nebraska (Mr. NELSON), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Maryland (Mr. SARBANES), the Senator from New York (Mr. SCHUMER), the Senator from Oregon (Mr. SMITH), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Michigan (Ms. STABENOW), the Senator from Oregon (Mr. WYDEN), the Senator from Florida (Mr. GRAHAM), the Senator from Montana (Mr. BAUCUS), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1215, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

S. 1220

At the request of Mr. ALLARD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1220, a bill to amend title XVIII of the Social Security Act to extend reasonable cost contracts under the medicare program, to expand the area in which plans offered under such contracts may operate, to apply certain provisions of the Medicare+Choice program to such plans, and for other purposes.

S. 1231

At the request of Mr. SCHUMER, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1231, a bill to eliminate the burdens and costs associated with electronic mail spam by prohibiting the transmission of all unsolicited commercial electronic mail to persons who place their electronic mail addresses on a national No-Spam Registry, and to prevent fraud and deception in commercial electronic mail by imposing requirements on the content of all commercial electronic mail messages.

S. 1233

At the request of Ms. MIKULSKI, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1233, a bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center.

S. CON. RES. 54

At the request of Mr. COCHRAN, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Con. Res. 54, a concurrent resolution commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams for their lives and accomplishments, designating a Medgar Evers National Week of Remembrance, and for other purposes.

S. RES. 153

At the request of Mrs. MURRAY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

S. RES. 164

At the request of Mr. ENSIGN, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Michigan (Ms. STABENOW), the Senator from Wisconsin (Mr. FEINGOLD), and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

* * *

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Mr. CARPER, Mr. ROCKEFELLER, Mr. VOINOVICH, Mr. FEINGOLD, Mr. SUNUNU, Mr. COLEMAN, Mr. PRYOR, Mr. ALLARD, and Mr. AKAKA):

S. 1245. A bill to provide for homeland security grant coordination and simplification, and for other purposes; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce legislation, the Homeland Security Grant Enhancement Act, to streamline and strengthen the way we help our States, communities, and first responders protect our homeland. I am pleased to be joined by a number of my colleagues including Senators CARPER, ROCKEFELLER, VOINOVICH, FEINGOLD, SUNUNU, COLEMAN, PRYOR, ALLARD, and AKAKA.

Last year, the Senate spent nearly three months on the Homeland Security Act, yet the law contains virtually no guidance on how the Department is to assist State and local governments with their homeland security needs. In fact, the 187-page Homeland Security Act mentions the issue of grants to first responders in but a single paragraph. As a result, the Department of Homeland Security currently allocates billions of dollars of grant funds according to formulas borrowed from the USA Patriot Act. The Homeland Security Act left the decisions on how Federal dollars should be spent or how much money should be allocated for another day. Today is that day.

Much of the burden for homeland security has fallen on the shoulders of State and local officials across America, especially our first responders—the firefighters, police officers and ambulance crews on the front lines. Over the past months, the Committee on Governmental Affairs has listened to them describe the challenges associated with constructing effective homeland security strategies. We have also listened to State and local officials as well as Department of Homeland Security Secretary Tom Ridge. This series of three hearings looked at the issues from a variety of perspectives and helped shape the legislation we introduce today.

At our first hearing, we heard from first responders: our firefighters, law enforcement officials, and emergency medical technicians, who discussed the challenges they face protecting our communities.

Arlington Fire Chief Ed Plaugher, the incident commander at the Pentagon on September 11, told the Committee that he had received little homeland security funding since 9–11. Chief Paugher also underscored the gaps in the homeland security planning process. Many law enforcement officials shared Chief Plaughter's concerns. Portland, ME, Police Chief Mike Chitwood, for example, expressed his frustrations about the roadblocks to accessing Federal funding and the lack of coordination by Federal agencies with local jurisdictions.

Secretary Ridge testified at our second hearing. He discussed the ongoing challenges involved in providing Federal resources to States, communities and first responders. He also outlined ways we can improve the efficiency and effectiveness of homeland security grant programs to help first responders get the resources they need.

Secretary Ridge's comments underscored the need to improve the way the Department of Homeland Security's first responder grant programs are organized within the Department, and the way the Department distributes these grants.

The Committee's third hearing featured State and local officials who expressed their support for more flexibility, coordination, and simplification of Federal homeland security grant programs.

Maine's emergency manager, Art Cleaves, said the current maze of homeland security programs has caused so much paperwork that States may be forced to hire additional staff just to deal with a multiplicity of forms and planning documents.

Other witnesses, including Governor Mitt Romney of Massachusetts, outlined the need for coordinating homeland security funding across the Federal Government. Their comments underscored how communities can access funding for interoperable communications equipment through six different Federal programs, including the FIRE Act, COPS, two Department of Health and Human Services' bio-terrorism grant programs, FEMA's Emergency Management Performance Account, and ODP's State homeland security grant program. Despite the unified goals of these grants—to purchase interoperable equipment—Federal agencies are under no requirement to coordinate their efforts.

While State and local officials agreed on the need to coordinate programs and make it easier to apply for grants, Mayor Kwame Kilpatrick and Governor Romney commented on the differences between States and localities regarding how best to allocate funds, through States or directly to the local level.

I am pleased that these hearings have helped to build a consensus on this issue. Yesterday, I received a letter from State and local organizations including the National League of Cities, the National Association of Counties, and the National Governors Association, which have come together in support of our approach, to provide funds through States, but to require that eighty percent be passed through to the local level.

Our legislation will provide a map that will better connect our front-line protectors with the funding they need. It will eliminate duplicative homeland security planning requirements; make it easier to apply for grants; coordinate the many grant programs that provide homeland security funds; and promote a community-based approach to homeland security funding. I would like to briefly describe the approach we have taken.

The first provision of our legislation would promote the same kind of coordination among Federal agencies that we require of our States and localities. It would require Federal agencies to build a clear, well-marked path that would lead our first responders to the funding that enables them to do what they do best: prepare for and respond to emergencies.

Second, the legislation would coordinate government-wide homeland security funding by promoting one-stop-shopping for homeland security funding opportunities. It would establish an information clearinghouse to assist first responders and State and local governments in accessing homeland security grant information and other resources within the new department. The clearinghouse would improve access to homeland security grant information, coordinate technical assistance for vulnerability and threat assessments, provide information regarding homeland security best practices, and compile information regarding homeland security equipment purchased with Federal funds.

The legislation also recognizes the importance of building on existing successful programs, such as the FIRE Act, which provides funding directly to fire departments for equipment and training on a competitive, peer reviewed basis. It would allow the FIRE Act to continue to be administered in its current form, but would coordinate its activities with other Federal programs. For example, it would make sure that two neighboring jurisdictions receiving funding from the FIRE Act are aware of industry standards regarding the interoperability of communications equipment.

The third provision of our legislation would strengthen the Office for Domestic Preparedness's State Homeland Security Grant Program by simplifying the grant process, promoting more local input in homeland security funding, and promoting more flexibility in the use of funds.

The lack of guidance in the Homeland Security Act has forced State and local governments and first responders to engage in a 12-step odyssey to obtain funding from ODP's State homeland security grant program. And this program is just one of several homeland security grant programs to which a State, locality, police, or fire department can apply.

The legislation distills the homeland security grant process from twelve steps to two. First, State and local governments and emergency responders will develop a three-year homeland security plan that outlines vulnerabilities and capabilities, and a process for allocating resources to meet State and local needs. This plan will also require the development of measurable goals and objectives, such as increasing the number of local jurisdictions participating in local and statewide exercises. Second, States and communities will apply for funds based on this plan, which they can revise each year pending approval from the Secretary.

This legislation would ensure that local government officials and first responders have a louder voice in the homeland security planning process and can access homeland security dollars and equipment in an efficient manner. It would also require that eighty percent of these resources reach the local level within sixty days of the grant allocation.

When I met with the Maine fire chiefs, they expressed concerns about the lack of flexibility in homeland security funding, especially in the area of overtime costs for training. They told me that since homeland security funds cannot be used for most overtime costs, some of Maine's firefighters have been forced to turn down training opportunities at the National Fire Academy. Because there was no funding to pay the overtime costs for someone to fill in while the firefighter trained at the Academy, they had to forego this valuable training opportunity.

Our legislation would address their concerns by allowing funds to be used not only for planning, equipment, exercises, and training, but also for certain overtime costs associated with training activities.

Our legislation also recognizes that certain high threat areas have critical vulnerabilities that must be addressed immediately. This legislation will direct the Secretary to use ten percent of total funding for this program to address these critical vulnerabilities. While this provision provides flexibility, it requires that any direct funding be consistent with the State plan. Furthermore, this legislation formally authorizes the Emergency Management Preparedness Grant, which provides resources to the backbone of our emergency management structure, and ensures an adequate level of funding under this program.

While some States and communities face a more imminent threat, our Nation must provide for the safety of all of our citizens. This grant program maintains the current baseline level of homeland security assistance to each State. It then allocates the bulk of the funds not based solely on population, as is the case now, but on risk assessments undertaken for each State.

Right now, States and localities must complete numerous homeland security plans, each with its own set of questions and benchmarks. Terrorists will not be deterred by paperwork or by communities answering the same question six different ways.

That's why our legislation would streamline the planning process by requiring a single set of cooperatively developed performance standards to help States and localities evaluate homeland security plans.

When I met with officials of Maine's Emergency Management Agency, they told me that the rigid structure of many homeland security grant programs frustrates their efforts to help first responders secure communities across our State.

In past years, for example, the Office for Domestic Preparedness's homeland security grant program allocated the same percentage of each State's funds for training, equipment, exercises, and planning, thus leaving no room to accommodate different States' priorities. In allocating funds this way, the Federal Government effectively said that

Maine must spend exactly the same portion of its homeland security dollars on training as Hawaii. Moreover, States cannot transfer surplus funds from one category to another to meet their needs.

As a result, Maine may be forced to return some of the Homeland Security funds allocated for exercises. This one size fits all formula used in past homeland security funding makes no sense. I believe all States and communities should have the flexibility to spend homeland security dollars where they are most needed. That is why this legislation would allow flexibility in homeland security funds that have already been appropriated but remain unspent.

The current homeland security grant structure is unacceptable. Secretary Ridge has done an admirable job distributing billions of dollars of homeland security funds based on borrowed authorities and with no real guidance. It is time to deal the Secretary a full hand of cards and give our States, localities, and first responders a straight path to homeland security programs, not a maze. We must topple the mountain of paperwork. We must help, not hinder, our front-line defenders.

I urge my colleagues to join me in sponsoring this legislation to build a stronger and better homeland security partnership in the months and years ahead.

Mr. CARPER. Mr. President, I rise today to join my friend from Maine, Ms. COLLINS, in introducing the Homeland Security Grant Enhancement Act of 2003, legislation that greatly improves the method currently used to distribute much-needed first responder aid.

When my colleagues and I on the Governmental Affairs Committee worked last year under Senator LIEBERMAN's leadership to create the Department of Homeland Security, we all hoped that what we were setting up would help the Federal Government be better able to prevent and respond to terrorist attacks. As of March 1st of this year, we have in place the skeleton of an organization that aims to pull together under one roof information on threats and vulnerabilities and use that information to improve security and prepare first responders.

As I've pointed out a number of times, however, no matter how well Secretary Ridge does his work on the Federal level, we will not be much safer than we were on September 10, 2001 unless our first responders are better prepared to do their work on the local level. While homeland security should certainly be a shared responsibility, it is vitally important that the Federal Government does its part to provide each State and its first responders with the assistance necessary to ensure that the citizens they serve are adequately protected. The Homeland Security Grant Enhancement Act is an important step toward making this happen.

Today, States, localities and first responders can receive Federal assistance from a number of different aid programs administered by several different agencies. All of the programs serve different purposes and require different applications. The Homeland Security Grant Enhancement Act sets up a process to streamline these programs to allow them to work well together and avoid imposing redundant or duplicative requirements on applicants. The aim is not to eliminate programs, but to ensure that existing homeland security and homeland security-related grant programs are well coordinated and impose as small an administrative burden on applicants as possible.

The Homeland Security Grant Enhancement Act also creates a "one-stop shop" for grant information within the Department of Homeland Security by moving the Office of Domestic Preparedness, ODP, the agency within the Department of Homeland Security charged with administering the current state homeland security grant program, from the Directorate for Border and Transportation Security to the Office for State and Local Government Coordination. In its new location, ODP will operate a "clearinghouse" for grant information that would offer services such as a toll-free hotline and a list of recommended first responder equipment. ODP will also maintain a compilation of "best practices" made up of successful homeland security programs from across the country and offer states technical assistance in developing the terrorism risk assessments that will be a part of the new State grant program.

Most importantly, the Homeland Security Grant Enhancement Act also makes key improvements to the formula for distributing first responder aid among the States. The new formula maintains the requirement that all money go to State governments and that 80 percent of that money be passed through to cities and localities. It also maintains the current small state minimum in which each State receives an equal share of 40 percent of funds made available for state grants. It makes a major improvement, however, by dividing the remaining 60 percent of the money among the states according to an analysis of potential threats in each State.

The current formula for distributing first responder aid ignores the fact that Delaware, though small in population, is located in the Northeast midway between New York and Washington. It ignores the fact that Delaware is home to a major port, oil refineries and chemical plants. It ignores the fact that Delaware every day hosts scores of ships, trains and trucks on their way to destinations up and down the East Coast. It also ignores the fact that Delaware is home to the Dover Air Force Base, a facility that played a crucial role in the recent conflicts in Afghanistan and Iraq.

I understand the need to give larger States, especially those with densely populated urban areas, enough resources to protect their larger populations. No State, however, should be less safe than its neighbors simply because it has a smaller population. The Federal Government should be working to bring every state and locality to the point where they are capable of responding effectively to any potential threat. I am concerned that the current formula, based mostly on population does not prepare all States adequately.

The Homeland Security Grant Enhancement Act still requires that population be taken into account when distributing first responder aid. However, it adds the requirement that the Secretary of Homeland Security also account for threats and risk to critical infrastructure identified in State risk assessments that would be submitted to the department as part of the grant application process. The bill also ensures that all localities within States get their fair share of money by requiring that local leaders be included in the planning and application process in each state and that the distribution method a given state will use once it receives its money is approved by the department before a check is cut.

Finally, the Homeland Security Grant Enhancement Act gives states new flexibility in spending their first responder aid by incorporating provisions from S. 838, legislation Ms. COLLINS and I introduced in April. That bill allows States to apply for a waiver from the Department of Homeland Security so that they can move their first responder aid around between the four categories—equipment, training, exercises and planning—in which it is sent to them. This change will allow States to better meet needs identified in their State terrorism response plans.

I applaud the Senator from Maine for her leadership on these important issues. I look forward to working with her and all of my colleagues in getting this important legislation passed and signed into law as soon as possible.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. BOND, Ms. CANTWELL, Mr. BURNS, Mr. LEVIN, Mr. ENZI, Mr. GRASSLEY, Mr. BAUCUS, Mr. DOMENICI, Mr. BINGAMAN, Mr. KOHL, Mrs. DOLE, Mr. CORZINE, Ms. LANDRIEU, Mr. COLEMAN, Mr. KENNEDY, Mr. DURBIN, Mr. EDWARDS, Mr. DAYTON, and Mr. HARKIN):

S. 1247. A bill to increase the amount to be reserved during fiscal year 2003 for sustainability grants under section 29(l) of the Small Business Act; considered and passed.

Ms. SNOWE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Business Centers Preservation Act of 2003".

SEC. 2. SUSTAINABILITY GRANTS FOR WOMEN'S BUSINESS CENTERS.

Section 29(k)(4)(A)(iv) of the Small Business Act (15 U.S.C. 656(k)(4)(A)(iv)) is amended by striking "30.2 percent" and inserting "36 percent".

By Mr. GREGG (for himself and Mr. KENNEDY):

S. 1248. A bill to reauthorize the Individuals with Disabilities Education Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, today, I join my esteemed colleague, the Senator from Massachusetts, Senator KENNEDY, in introducing the Individuals with Disabilities Education Improvement Act of 2003.

In the past, the Individuals with Disabilities Education Act, IDEA, bills received bipartisan votes at the end of a long, divisive and arduous process. What makes today's introduction of a bipartisan IDEA bill so unique is that it is bipartisan in its inception.

The reason this is a bipartisan bill is because it strikes the appropriate balance between protecting the educational rights of children with disabilities while simultaneously making IDEA less litigious and compliance based. Above all, the bill is designed to ensure that IDEA resources are directed to help children with disabilities obtain the same opportunity to succeed as all other students.

The bill streamlines State and local requirements to ensure that paperwork focuses on improved results for children with disabilities. By eliminating the need for an 800+ procedural checklist, these amendments favor the improvement of educational and functional results for children with disabilities over burdensome bureaucratic rules.

The bill responds to concerns that we've heard from both parents and school administrators alike on how the law has evolved into a full employment government program for lawyers. Over and over again, we hear of fights about past procedural issues and technical errors instead of making sure that the children are being well served in the here and now.

The bill includes many common sense provisions to alleviate the stress in disagreements between schools and parents and encourages them to seek out mediation to address their concerns before they move to formal hearings. The bill restores trust by; providing parents with better access to information and resources to understand their rights and work through conflicts; making clear that parents can request an initial evaluation of a child for IDEA services and making it easier for parents to make changes to their child's individual education plan; requiring complaints of either the school or parents to be clear and specific before going to due process; and requiring hearing officers to make decisions based upon substantive grounds not technical issues that have no bearing on a child's education.

This bill currently does not specifically address the issue of full funding, because Senator KENNEDY and I decided at the very outset to postpone that issue to the floor, since that is an issue that merits the attention and active participation of the entire Senate. However, in addition to simplifying funding formulas so that both States and local school districts have a better indication of the funding available, the bill includes 2 key provisions that will provide additional fiscal relief for school districts than what is provided to them under current law.

First, we allow school districts to treat 8 percent of their IDEA funds as local funds. This will allow school districts to better align funding among programs based on local priorities. Second, we require States to reserve 2 percent of their overall IDEA Part B grant to establish risk pool accounts to provide new resources to assist local school districts and charter schools in addressing the costs of providing services to high-need children and unanticipated enrollment of students with disabilities.

Finally, the bill addresses the discipline provisions in current law that schools and parents have found to be confusing, hard to administer, and have resulted in outcomes that were not always fair to every child. The bill simplifies the framework for schools to administer the law, while ensuring the rights and the safety of all children.

Importantly, the bill will require schools to consider whether a child's behavior was the result of their disability when considering disciplinary action, and ensure that individualized education plans contain positive behavioral interventions and supports when a child's behavior impedes his or her own learning, or that of others.

Senator KENNEDY and I were determined to make this a bipartisan process from the beginning. We have crafted a bill that we're confident will be overwhelmingly supported by both Republicans and Democrats—and most importantly by parents, the disabled community and the school community.

Mr. KENNEDY. Mr. President, it is a privilege to join with Senator GREGG to introduce the reauthorization of the Individuals with Disabilities Act. Our goal is a quality education for every disabled child.

We know that education opens the golden door of opportunity for every child, and it is especially important for children with disabilities. Since it was first enacted, IDEA has opened that door and helped millions of children with disabilities to lead independent and productive lives. For them, IDEA has been the difference between dependence and independence, between lost potential and productive careers.

The need for IDEA is greater now than ever. Over 6 million children with disabilities rely on the Act to obtain the same learning opportunities as their non-disabled fellow students.

We know that schools need Federal help to make IDEA work. Over the last two years we have listened to students, parents, teachers, and school administrators. We have weighed thousands of comments on the most effective ways to live up to the great promise of this law.

They told us they needed stronger enforcement of IDEA. This bill provides it, by giving the Secretary of Education and State education agencies greater power and new ways to measure compliance and impose sanctions when schools fail to live up to the standards we've set.

They told us they needed stronger accountability. This bill provides it, by requiring schools to meet strict benchmarks for student achievement, by providing better delivery of transition services, and by dealing with the overrepresentation of minorities in IDEA.

They told us they wanted a stronger and more flexible Individualized Education Program. This bill provides it, by requiring that every student's plan contain positive ways to support the child and to increase parental involvement.

They told us they wanted to protect students from being expelled from school because of their disability. This bill provides it, by requiring schools to determine whether a child's behavior is the result of the disability, or the lack of other supports that should have been provided.

They told us they wanted better teachers in the classroom—as well-trained as other teachers. This bill provides it, by requiring all special education teachers to be highly qualified by 2007, and by designating 100 percent of State improvement grants to support professional development of teachers.

They told us they wanted more help for their children in the transition from school to college or to work. This bill provides it, by giving greater access to the vocational rehabilitation system and taking other steps to assist the child in meeting post-secondary goals.

The debate over how best to fund these reforms goes on. Schools urgently need the resources to make the IDEA a reality. It is not enough to provide only some of the promised federal aid. We must find a way to fully fund IDEA, because every dollar lost is another child that slips through the cracks.

We will have an opportunity to debate this issue and others in our committee and in the Senate in the weeks ahead. I look forward to these debates and to working with Senator GREGG and all our colleagues to make this bill even stronger.

By Mr. ENSIGN (for himself and Mrs. LINCOLN):

S. 1249. A bill to amend title XVIII of the Social Security Act to waive the part B late enrollment penalty for military retirees who enroll December 31, 2004, and to provide a special part B enrollment period for such retirees; to the Committee on Finance.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the text of "The TRICARE Retirees Opportunity Act of 2003" be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "The TRICARE Retirees Opportunity Act of 2003".

SEC. 2. WAIVER OF MEDICARE PART B LATE ENROLLMENT PENALTY FOR CERTAIN MILITARY RETIREES; SPECIAL ENROLLMENT PERIOD.

(a) WAIVER OF PENALTY.—

(1) IN GENERAL.—Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is amended by adding at the end the following new sentence: "No increase in the premium shall be effected for a month in the case of an individual who is 65 years of age or older, who enrolls under this part during 2001, 2002, 2003, or 2004 and who demonstrates to the Secretary before December 31, 2004, that the individual is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code). The Secretary of Health and Human Services shall consult with the Secretary of Defense in identifying individuals described in the previous sentence.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to premiums for months beginning with January 2001. The Secretary of Health and Human Services shall establish a method for providing rebates of premium penalties paid for months on or after January 2001 for which a penalty does not apply under such amendment but for which a penalty was previously collected.

(b) MEDICARE PART B SPECIAL ENROLLMENT PERIOD.—

(1) IN GENERAL.—In the case of any individual who, as of the date of the enactment of this Act, is 65 years of age or older, is eligible to enroll but is not enrolled under part B of title XVIII of the Social Security Act, and is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), the Secretary of Health and Human Services shall provide for a special enrollment period during which the individual may enroll under such part. Such period shall begin as soon as possible after the date of the enactment of this Act and shall end on December 31, 2004.

(2) COVERAGE PERIOD.—In the case of an individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

By Mr. BURNS (for himself and Mrs. CLINTON):

S. 1250. A bill to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E-911 calls, and to support the construction and operation of a ubiquitous and reliable citizen activated system and other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhanced 911 Emergency Communications Act of 2003".

SEC. 2. FINDINGS.

The Congress finds that—

(1) for the sake of our Nation's homeland security and public safety, a universal emergency telephone number (911) that is enhanced with the most modern and state-of-the-art telecommunications capabilities possible should be available to all citizens in all regions of the Nation;

(2) enhanced emergency communications require Federal, State, and local government resources and coordination;

(3) any funds that are collected from fees imposed on consumer bills for the purposes of funding 911 services or enhanced 911 should go only for the purposes for which the funds are collected; and

(4) enhanced 911 is a high national priority and it requires Federal leadership, working in cooperation with State and local governments and with the numerous organizations dedicated to delivering emergency communications services.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to coordinate emergency communications systems, including 911 services and E-911 services, at the Federal, State, and local levels;

(2) to provide stability and resources to State and local Public Safety Answering Points, to facilitate the prompt deployment of enhanced 911 services throughout the United States in a ubiquitous and reliable infrastructure; and

(3) to ensure that funds collected on telecommunications bills for enhancing emergency 911 services are used only for the purposes for which the funds are being collected.

SEC. 4. EMERGENCY COMMUNICATIONS COORDINATION.

(a) IN GENERAL.—Part C of title I of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended by adding at the end the following:

"SEC. 158. COORDINATION OF EMERGENCY COMMUNICATIONS.

"(a) ESTABLISHMENT OF TASK FORCE.—The Assistant Secretary shall establish an Emergency Communications Task Force to facilitate coordination between Federal, State, and local emergency communications systems, emergency personnel, and public safety organizations. The task force shall include the following:

"(1) Representatives from Federal agencies, including—

"(A) the Department of Justice;

"(B) the Department of Homeland Security;

"(C) the Department of Defense;

"(D) the Department of the Interior;

"(E) the Department of Transportation; and

"(F) the Federal Communications Commission;

"(2) State and local first responder agencies;

"(3) national 911 and emergency communications leadership organizations;

"(4) telecommunications industry representatives; and

"(5) other individuals designated by the Assistant Secretary.

"(b) PURPOSE OF TASK FORCE.—The task force shall provide advice and recommendations with respect to methods to improve coordination and communications between agencies and organizations involved in emergency communications, including 911 services to enhance homeland security and public safety.

"(c) REPORTS.—The Assistant Secretary shall provide an annual report to Congress by the first day of October of each year on the task force activities and make recommendations on how Federal, State, and local governments and emergency communications organizations can improve coordination and communications.

"(d) MISCELLANEOUS PROVISIONS.—Members of the task force shall serve without special compensation with respect to their activities on behalf of the task force.".

SEC. 5. GRANTS FOR E–911 ENHANCEMENT.

Part C of title I of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901), as amended by section 4, is amended by adding at the end:

"SEC. 159. EMERGENCY COMMUNICATIONS GRANTS.

"(a) MATCHING GRANTS.—The Assistant Secretary, after consultation with the Secretary of Homeland Security, shall provide grants to State and local governments and tribal organizations (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l))) for the purposes of enhancing emergency communications services through planning, infrastructure improvements, equipment purchases, and personnel training and acquisition.

"(b) MATCHING REQUIREMENT.—The Federal share of the cost of a project eligible for a grant under this section shall not exceed 50 percent. The non-Federal share of the cost shall be provided from non-Federal sources.

"(c) PREFERENCE.—In providing grants under subsection (a), the Assistant Secretary shall give preference to applicants who—

"(1) coordinate their applications with the needs of their public safety answering points; and

"(2) integrate public and commercial communications services involved in the construction, delivery, and improvement of emergency communications, including 911 services.

"(d) Criteria.—The Assistant Secretary shall issue regulations within 180 days of the enactment of the Enhanced E-911 Emergency Communications Act of 2003, after a public comment period of not less than 60 days, prescribing the criteria for selection for grants under this section and shall update such regulations as necessary.

"(e) Authorization of Appropriations.—There are authorized to be appropriated to the Assistant Secretary not more than $500,000,000 for each fiscal year for grants under this section.".

SECTION 6. STATE AND LOCAL 911 PRACTICES.

(a) Certification.—Part IV of title VI of the Communications Act of 1934 (47 U.S.C. 631 et seq.) is amended by adding at the end the following:

"SEC. 642. DIVERSION OF 911 FUNDS.

"(a) In General.—

"(1) Assessment and audit.—The Commission shall review, no less frequently than twice a year—

"(A) the imposition of taxes, fees, or other charges imposed by States or political subdivisions of States that—

"(i) appear on telecommunications services customers' bills; and

"(ii) are designated or presented as dedicated to improve emergency communications services, including 911 services or enhanced 911 services, or related to emergency communications services operations or improvements; and

"(B) the use of revenues derived from such taxes, fees, or charges.

"(2) Certification.—Each State shall certify annually to the Commission that no portion of the revenues derived from such taxes, fees, or charges have been obligated or expended for any purpose other than the purposes for which such taxes, fees, or charges are designated or presented.

"(b) Notification of Congress and the Public.—If the Commission fails to receive the certification described in subsection (a)(2), then, within 30 days after the date on which such certification was due, the Commission shall cause to be published in the Federal Register, and notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce of—

"(1) the identity of each State or political subdivision that failed to make the certification; and

"(2) the amount of revenues obligated or expended by that State or political subdivision for any purpose other than the purposes for which such taxes, fees, or charges were designated or presented.

"(c) Withholding of Funds.—Notwithstanding any other provision of law, the Assistant Secretary shall withhold any Federal grant funds that would otherwise be made available under section 159 of the National Telecommunications and Information Administration Organization Act to a State or political subdivision identified by the Commission under subsection (b)(1) in an amount not to exceed twice the amount described in subsection (b)(2). In lieu of withholding grant funds under this subsection, the Secretary may require a State or political subdivision to repay to the Secretary the appropriate amount of funds already disbursed to that State or political subdivision.".

By Ms. MURKOWSKI:

S. 1253. A bill to amend the Internal Revenue Code of 1986 to provide a minimum credit of $200 per month for stay-at-home parents, to allow the dependent care credit to be taken against the minimum tax, and to allow a carryforward of any unused dependent care credit; to the Committee on Finance.

Ms. MURKOWSKI. Mr. President, I have come to the floor today to introduce legislation that will help many young families in America meet the financial challenges associated with raising children. The legislation I am introducing attempts to alleviate some of the financial costs incurred by the more than one out of three families when one of the parents decides to leave the work force to raise children at home.

Current tax law recognizes that when both parents remain in the work force, they incur additional child care costs because, in order to keep their jobs, they have to pay for day care services. Current tax law provides a sliding scale tax credit that allows parents to claim a tax credit of up to 35 percent to offset as much as $3,000 of day care costs for one child, $6,000 for two or more children. The maximum $1,050 tax credit, $2,100 for two or more children, phases down as income rises. The minimum, 20 percent credit, applies to families with incomes above $43,000.

I strongly support this dependent care tax credit because it makes it easier for husbands and wives to maintain their careers and provide for their families. However, there are many families that have made the decision that one of the parents will give up a job in order to raise their children. In fact, this is a growing trend. In 2001, 37.7 percent of families had one parent at home raising the child; that's up from 35.3 percent in 1995. And the stay-at-home parent is, overwhelmingly, the mother. Barely 3.6 percent of stay-at-home parents are husbands.

When a working woman makes the decision to interrupt her career to raise her child, the family incurs an immediate financial penalty. And more often than not, the career interruption may damage the woman's future earnings potential, what some have referred to as the "Mommy Track."

The immediate loss of income when a parent leaves the workforce significantly changes the family's lifestyle. For example, consider a childless couple where the husband earns $35,000 and the wife earns $27,000. After paying Federal income and payroll taxes, the family retains slightly more than $50,000 in disposable income. If the family has a child, and both parents continue their careers, after taxes they still will keep more than $49,000 of their earnings, even if they incur child care expenses of $3,000. However, in this example, if the father gives up his job, the family's disposable income drops by nearly 40 percent to less than $32,000. Put another way, the family's monthly income drops from $4,100 to $2,700. That's a difficult adjustment for any family, especially one that has to incur the additional costs of a newborn.

I respect the parents who choose to maintain their careers while raising a family and the parents who make the financial sacrifice to give up their careers to raise a family. But I believe the tax code should treat both equally.

My legislation attempts to alleviate the current inequity in the code by giving stay-at-home moms or dads a $200 a month tax credit. This credit would be indexed for inflation. The credit would apply until the child reaches the age of 6. While this credit could never make up the financial loss that families face when one of the parents stops working, it will provide some important financial relief to these families. In the example I cited earlier, if the father did not work for a full year, the $2,400 tax credit would completely eliminate the family's $1,500 Federal tax bill, giving the family that much more to spend on their living expenses.

In addition, under this proposal, any unused tax credits could be carried forward indefinitely. Many parents who leave the work force to raise their children return to work when their kids enter school. By allowing the carry forward of unused credits, the parent who re-enters the work force will be able to keep more of his or her earnings to make up for the financial sacrifice made when choosing to stay home with the family. I think it is only fair that society recognize the financial sacrifice these parents have made.

Congress recently acted to eliminate the marriage penalty. We should now act to eliminate the penalty imposed on families when a parent leaves the workforce to raise a child at home. It makes sense for our families and it is good tax policy.

I ask unanimous consent that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stay-At-Home Parents' Tax Credit Act of 2003".

SEC. 2. MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.

(a) In General.—Section 21(e) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new paragraph:

"(11) Minimum credit allowed for stay-at-home parents.—Notwithstanding subsection (d), in the case of any taxpayer with

1 or more qualifying individuals described in subsection (b)(1)(A) under the age of 6 at any time during the taxable year, such taxpayer shall be deemed to have employment-related expenses with respect to such qualifying individuals in an amount equal to the greater of—

"(A) the amount of employment-related expenses incurred for such qualifying individuals for the taxable year (determined under this section without regard to this paragraph), or

"(B) $200 for each month in such taxable year during which such qualifying individual is under the age of 6.".

(b) Credit Allowed Against Minimum Tax.—

(1) In general.—Section 21(c) of the Internal Revenue Code of 1986 is amended—

(A) by striking "The amount of" and inserting the following:

"(1) Dollar limit.—The amount of", and

(B) by adding at the end the following new paragraph:

"(2) Limitation based on amount of tax.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of credits allowable under this subpart (other than this section and sections 23, 24, and 25B) and section 27 for the taxable year.".

(2) Conforming amendments.—

(A) The heading of section 21(c) of such Code is amended to read "Limitations.—".

(B) Section 26(a)(1) of such Code is amended by inserting "21," after "sections".

(c) Carryforward of Credit.—Section 21 of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Carryforward of Unused Credit.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by subsection (c)(4) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

By Mr. KERRY:

S. 1254. A bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a vocational and technical entrepreneurship development program; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I rise today as Ranking Member of the Committee on Small Business and Entrepreneurship to introduce the Vocational and Technical Entrepreneurship Development Act of 2003, which is the companion bill to H.R. 1387, which bears the same name and was reintroduced in the House by Congressman Robert Brady of Pennsylvania earlier this year.

I want to commend Representative Brady for his hard work on behalf of small businesses not just from his home State of Pennsylvania but for every trades industry entrepreneur that has ever attempted to open his or her own business.

Often Americans who work in the trade sector—construction, plumbing, electrical work etc.—enter these professions with the goal of one day starting a business; however many of these aspiring business owners who partake in career training or vocational training in certain trades, unfortunately, fail to obtain the necessary education in the successful growth and development of their newly formed business. This initiative would develop a program that allows workers within the trades industry to move toward starting a new business.

The purpose of the Vocational and Technical Entrepreneurship Development Act is to assist in the development of curricula that will encourage the successful growth of small businesses. This legislation passed the House last Congress on October 2, 2001 and was subsequently taken up and passed by this Committee last Congress, but was not taken up by the full Senate.

The bill, in a business-education partnership, establishes a "vocational entrepreneurship development demonstration program," under which the SBA would provide grants, through the Small Business Development Centers program, to provide technical assistance to high school and technical career institutes, Vo-Tech schools, to promote small business ownership in their curriculum.

The SBDC program is designed to deliver such up-to-date counseling, training and technical assistance in all aspects of small business management and is the ideal candidate to provide such a program. Each grant awarded under this program will be worth over $200,000—which, in today's environment where Vo-Tech programs get shortchanged in government education budgets, can do a great deal to help rebuild a worker-strapped trades industry.

I urge all of my colleagues to support Vocational and Technical Entrepreneurship Development Act.

By Mr. KERRY (for himself, Mr. Ensign, Mr. Jeffords, Mr. Bingaman, Ms. Landrieu, Mr. Leahy, Mr. Miller, Mr. Craig, and Ms. Stabenow):

S. 1255. A bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I am pleased to join with my distinguished colleague from Nevada, Senator John Ensign, and the cosponsors of our legislation in reintroducing the National Small Business Regulatory Assistance Act.

The bill we are reintroducing today is the same Cleland-Kerry legislation that was introduced last Congress, and it is the companion to Congressman Sweeney's bill, H.R. 205, which bears the same name as our legislation. The Sweeney bill recently passed the House overwhelmingly, 417-4, with the strong support of the House Committee on Small Business, as it did in the 107th. Our Senate version, which is nearly identical to the Sweeney bill, passed the Committee on Small Business and Entrepreneurship last year but was not taken up by the full Senate. Because Senator Ensign and I are fully committed to helping small business owners understand and navigate complicated government regulations, we are reintroducing this legislation, the National Small Business Regulatory Assistance Act.

Small businesses, particularly small businesses with very few employees, often face an overwhelming task when seeking advice on how to comply with Federal regulations, especially when implementation varies for different regions of the country, or from state to state. Many small businesses fail to comply with important and needed labor and environmental regulations not because they want to break the law, but because they are unaware of the actions they need to take to comply. Often, small businesses are afraid to seek guidance from Federal agencies for fear of exposing problems at their businesses.

One important way to help small businesses comply with Federal regulations is to provide them with free, confidential advice outside of the normal relationship between a small business and a regulatory agency. The Small Business Administration's, SBA, Small Business Development Centers, SBDCs, are in a unique position to provide this type of assistance.

Our bill establishes a pilot program to award competitive grants to 20 selected SBDCs, two from each SBA region, which would allow these SBDCs to provide regulatory compliance assistance to small businesses. The SBA would be authorized to award grants between $150,000 and $300,000, depending on the population of the SBDC's state.

Under our legislation, the SBDCs would need to form partnerships with Federal compliance programs, conduct educational and training activities and offer free-of-charge compliance counseling to small business owners. Further, the measure would guarantee privacy to those who receive compliance assistance, which is integral to the reaching out to as many small businesses as possible. This privacy provision has also been extended to all small businesses that seek any assistance from their local SBDC.

The legislation we are reintroducing today uses only SBA funds and will serve to complement current small business development assistance as well as existing compliance assistance programs. Versions of this legislation introduced in previous Congresses used Environmental Protection Agency, EPA, enforcement funds to pay for these grants.

Small businesses can succeed when it comes to complying with Federal regulations, if provided with the necessary tools and information. The National Small Business Regulatory Assistance Act will go a long way toward assisting our Nation's small businesses that want to comply with Federal regulations.

I am pleased to say that we have the full support of the Association of Small Business Development Centers, which has been working closely with us since January of last year to draft the Senate version of this legislation, as well as support from National Small Business United, the American Industrial Hygiene Association, and Congressman SWEENEY.

I want to express my sincere thanks to Senator ENSIGN for his hard work and continued support on this issue. I urge all of my colleagues to support this legislation.

By Mr. HARKIN (for himself and Mr. LUGAR):

S. 1256. A bill to protect the critical aquifers and watersheds that serve as a principal water supply for Puerto Rico, to protect the tropical forests of the Karst Region, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, I am proud to introduce, along with Senator LUGAR, the Puerto Rico Karst Conservation Act of 2003.

This very important bill will provide protection for Puerto Rico's karst region by helping to maintain biodiversity within the tropical forest ecosystem and to protect its valuable aquifers and watersheds. The area is threatened by development which, if unabated, could cause permanent damage to its outstanding natural and environmental assets.

Karst is permeable and soluble limestone that originated millions of years ago. The land identified in the bill contains the last remnants of tropical forests that once covered the island. This area, including the habitats of many endangered and threatened species and tropical birds, is home to over 1,300 species of plants and animals.

The area also provides drinking water through subterranean aquifers to many of the island's citizens. Sixty-four percent of Puerto Rico's aquifer area is contained within the northern karst belt. This aquifer area discharges approximately 120 million gallons of water per day, of which the citizens of Puerto Rico consume 52 million gallons per day. The pharmaceutical industry is one of the mainstays of Puerto Rico's economy and it is dependent on the area's fresh water supplies as well.

An August 2001 U.S. Forest Service report, Puerto Rican Karst: A Vital Resource, documents the ecologically unique and scientifically valuable karst region, stating "the northern limestone contains Puerto Rico's most extensive freshwater aquifer, largest continuous expanse of mature forest, and largest coastal wetlands, estuary,and underground cave system. The karst belt is extremely diverse, and its multiple land forms, concentrated in such a small area, make it unique in the world." It should come as no surprise, then, that Forest Service Chief dale Bosworth has expressed his strong support for the protection of the karst.

The Puerto Rico Karst Conservation Act of 2003 authorizes the Secretary of Agriculture to carry out land acquisition by using funds from a Conservation Fund created by the Act, and from the Forest Legacy Program, the Land and Water Conservation Fund and other sources. The legislation also authorizes the Secretary to make grants to and enter into agreements with the Commonwealth of Puerto Rico, other federal agencies, organizations, and corporations for the acquisition, protection, and management of land in the region. In addition, the bill makes this region eligible for inclusion under the Forest Legacy Program.

I want to thank Senator LUGAR for co-sponsoring the Puerto Rico Karst Conservation Act of 2003. His strong support for this legislation and his steadfast commitment to tropical forest conservation is invaluable. It is also important to note that Representative ACEVEDO-VILÁ and Representative DUNCAN have just introduced this measure in the House of Representatives where, I'm told, it has strong bipartisan support.

I am proud to introduce this legislation, and I urge my colleagues to support this important bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1256

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Karst Conservation Act of 2003".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in the Karst Region of the Commonwealth of Puerto Rico there are—

(A) some of the largest areas of tropical forests in Puerto Rico, with a higher density of tree species than any other area in the Commonwealth; and

(B) unique geological formations that are critical to the maintenance of aquifers and watersheds that constitute a principal water supply for much of the Commonwealth;

(2) the Karst Region is threatened by development that, if unchecked, could permanently damage the aquifers and cause irreparable damage to natural and environmental assets that are unique to the United States;

(3) the Commonwealth has 1 of the highest population densities in the United States, which makes the protection of the Karst Region imperative for the maintenance of the public health and welfare of the citizens of the Commonwealth;

(4) the Karst Region—

(A) possesses extraordinary ecological diversity, including the habitats of several endangered and threatened species and tropical migrants; and

(B) is an area of critical value to research in tropical forest management; and

(5) coordinated efforts at land protection by the Federal Government and the Commonwealth are necessary to conserve the environmentally critical Karst Region.

(b) PURPOSES.—The purposes of this Act are—

(1) to authorize and support conservation efforts to acquire, manage, and protect the tropical forest areas of the Karst Region, with particular emphasis on water quality and the protection of the aquifers that are vital to the health and wellbeing of the citizens of the Commonwealth; and

(2) to promote cooperation among the Commonwealth, Federal agencies, corporations, organizations, and individuals in those conservation efforts.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMONWEALTH.—The term "Commonwealth" means the Commonwealth of Puerto Rico.

(2) FOREST LEGACY PROGRAM.—The term "Forest Legacy Program" means the program established under section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c)..

(3) FUND.—The term "Fund" means the Puerto Rico Karst Conservation Fund established by section 5.

(4) KARST REGION.—The term "Karst Region" means the areas in the Commonwealth generally depicted on the map entitled "Karst Region Conservation Area" and dated March 2001, which shall be on file and available for public inspection in—

(A) the Office of the Secretary, Puerto Rico Department of Natural and Environmental Resources; and

(B) the Office of the Chief of the Forest Service.

(5) LAND.—The term "land" includes land, water, and an interest in land or water.

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. CONSERVATION OF THE KARST REGION.

(a) FEDERAL COOPERATION AND ASSISTANCE.—In furtherance of the acquisition, protection, and management of land in and adjacent to the Karst Region and in implementing related natural resource conservation strategies, the Secretary may—

(1) make grants to and enter into contracts and cooperative agreements with the Commonwealth, other Federal agencies, organizations, corporations, and individuals; and

(2) use all authorities available to the Secretary, including—

(A) the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.);

(B) section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318); and

(C) section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(b) Funding Sources.—The activities authorized by this section may be carried out using—

(1) amounts in the Fund;

(2) amounts in the fund established by section 4(b) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643(b));

(3) funds appropriated from the Land and Water Conservation Fund;

(4) funds appropriated for the Forest Legacy Program; and

(5) any other funds made available for those activities.

(c) Management.—

(1) In general.—Land acquired under this Act shall be managed, in accordance with the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.), in a manner to protect and conserve the water quality and aquifers and the geological, ecological, fish and wildlife, and other natural values of the Karst Region.

(2) Failure to manage as required.—In any deed, grant, contract, or cooperative agreement implementing this Act and the Forest Legacy Program in the Commonwealth, the Secretary may require that, if land acquired by the Commonwealth or other cooperating entity under this Act is sold or conveyed in whole or part, or is not managed in conformity with paragraph (1), title to the land shall, at the discretion of the Secretary, vest in the United States.

(d) Willing Sellers.—Any land acquired by the Secretary in the Karst Region shall be acquired only from a willing seller.

(e) Relation to Other Authorities.—Nothing in this Act—

(1) diminishes any other authority that the Secretary may have to acquire, protect, and manage land and natural resources in the Commonwealth; or

(2) exempts the Federal Government from Commonwealth water laws.

SEC. 5. PUERTO RICO KARST CONSERVATION FUND.

(a) Establishment.—There is established in the Treasury an interest bearing account to be known as the "Puerto Rico Karst Conservation Fund".

(b) Credits to Funds.—There shall be credited to the Fund—

(1) amounts appropriated to the Fund;

(2) all amounts donated to the Fund;

(3) all amounts generated from the Caribbean National Forest that would, but for this paragraph, be deposited as miscellaneous receipts in the Treasury of the United States, but not including amounts authorized by law for payments to the Commonwealth or authorized by law for retention by the Secretary for any purpose;

(4) all amounts received by the Administrator of General Services from the disposal of surplus real property in the Commonwealth under subtitle I of title 40, United States Code; and

(5) interest derived from amounts in the Fund.

(c) Use of Fund.—Amounts in the Fund shall be available to the Secretary until expended, without further appropriation, to carry out section 4.

SEC. 6. MISCELLANEOUS PROVISIONS.

(a) Donations.—

(1) In general.—The Secretary may accept donations, including land and money, made by public and private agencies, corporations, organizations, and individuals in furtherance of the purposes of this Act.

(2) Conflicts of interest.—The Secretary may accept donations even if the donor conducts business with or is regulated by the Department of Agriculture or any other Federal agency.

(3) Applicable law.—Public Law 95-442 (7 U.S.C. 2269) shall apply to donations accepted by the Secretary under this subsection.

(b) Relation to Forest Legacy Program.—

(1) In general.—All land in the Karst Region shall be eligible for inclusion in the Forest Legacy Program.

(2) Cost sharing.—The Secretary may credit donations made under subsection (a) to satisfy any cost-sharing requirements of the Forest Legacy Program.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. COLEMAN

S. 1257. A bill to conduct statewide demonstration projects to improve health care quality and to reduce costs under the medicare program under title XVIII of the Social Security Act and to conduct a study on payment incentives and performance under the Medicare+Choice program under such title; to the Committee on Finance.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the text of the bill I introduce today to improve health care quality and reduce costs under the Medicare program be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Payment for Quality and Value Act of 2003".

SEC. 2. DEMONSTRATION PROJECTS TO IMPROVE HEALTH CARE QUALITY AND REDUCE COSTS UNDER MEDICARE.

(a) Definitions.—In this section:

(1) Demonstration project.—The term "demonstration project" means a demonstration project established by the Secretary under subsection (b)(1).

(2) Low-cost high-quality state.—The term "low-cost high-quality State" means a State in the top quartile of cost and quality efficiency as measured by the Centers for Medicare & Medicaid Services using 1999 program data.

(3) Medicare beneficiary.—The term "medicare beneficiary" means an individual who is entitled to (or enrolled for) benefits under part A of the medicare program, enrolled for benefits under part B of the medicare program, or both (including an individual who is enrolled in a Medicare+Choice plan under part C of the medicare program).

(4) Medicare program.—The term "medicare program" means the health benefits program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(5) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(b) Demonstration Projects to Improve Health Care Quality and Reduce Costs Under Medicare.—

(1) Establishment.—There is established a demonstration program under which the Secretary shall establish demonstration projects in accordance with the provisions of this section for the purpose of improving the quality of care—

(A) provided to medicare beneficiaries with high-volume and high-cost conditions; and

(B) for which payment is made under the medicare program.

(2) Rewarding quality care.—Under the demonstration projects, the Secretary shall increase payments under the medicare program by an amount determined by the Secretary for purposes of the demonstration projects to health care providers (as defined by the Secretary) in low-cost high-quality States that demonstrate adherence to quality standards identified by the Secretary for purposes of the demonstration projects.

(c) Conduct of Demonstration Projects.—

(1) Demonstration areas.—

(A) In general.—The Secretary shall conduct demonstration projects in low-cost high-quality States selected on the basis of proposals submitted under subparagraph (B). Each demonstration project shall be conducted on a statewide basis.

(B) Proposals.—The Secretary shall accept proposals to establish the demonstration projects from entities that demonstrate an intent to include multiple public and private payers and a majority of practicing physicians in a low-cost high-quality State.

(2) Duration.—The Secretary shall complete the demonstration projects by the date that is 5 years after the date on which the first demonstration project is implemented.

(d) Report to Congress.—Not later than the date that is 6 months after the date on which the demonstration projects end, the Secretary shall submit to Congress a report on the demonstration projects together with such recommendations for legislation or administrative action as the Secretary determines is appropriate.

(e) Waiver of Medicare Requirements.—The Secretary shall waive compliance with such requirements of the medicare program to the extent and for the period the Secretary finds necessary to conduct the demonstration projects.

(f) Funding.—

(1) Demonstration projects.—

(A) In general.—Subject to subparagraph (B) and paragraph (2), the Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and Federal Supplementary Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in such proportion as the Secretary determines appropriate, of such funds as are necessary for the costs of carrying out the demonstration projects under this section.

(B) Limitation.—In conducting the demonstration projects under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under the medicare program do not exceed the amount which the Secretary would have paid under the medicare program if the demonstration projects under this section were not implemented.

(2) Evaluation and report.—There are authorized to be appropriated such sums as are necessary for the purpose of developing and submitting the report to Congress under subsection (d).

SEC. 3. INSTITUTE OF MEDICINE REPORT ON PAYMENT INCENTIVES AND PERFORMANCE UNDER THE MEDICARE+CHOICE PROGRAM.

(a) STUDY.—The Secretary of Health and Human Services shall enter into an arrangement with the Institute of Medicine of the National Academy of Sciences under which the Institute shall conduct a study on clinical outcomes, performance, and quality of care under the Medicare+Choice program under part C of title XVIII of the Social Security Act.

(b) MATTERS STUDIED.—

(1) IN GENERAL.—In conducting the study under subsection (a), the Institute shall review and evaluate the public and private sector experience related to the establishment of performance measures and payment incentives. The review shall include an evaluation of the success, efficiency, and utility of structural process and performance measurements, and different methodologies that link performance to payment incentives. The review shall include the use of incentives—

(A) aimed at plans and their enrollees;

(B) aimed at providers and their patients;

(C) to encourage consumers to purchase based on quality and value; and

(D) to encourage multiple purchasers, providers, beneficiaries, and plans within a community to work together to improve performance.

(2) IDENTIFICATION OF OPTIONS.—As part of the study, the Institute shall identify options for providing incentives and rewarding performance, improve quality, outcomes, and efficiency in the delivery of programs and services under the Medicare+Choice program, including—

(A) periodic updates of performance measurements to continue rewarding outstanding performance and encourage improvements;

(B) payments that vary by type of plan, such as preferred provider organization plans and MSA plans;

(C) extension of incentives in the Medicare+Choice program to the fee for service program under title XVIII of the Social Security Act; and

(D) performance measures needed to implement alternative methodologies to align payments with performance.

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Institute shall submit to Congress and the Secretary a report on the study conducted under subsection (a).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 167—RECOGNIZING THE 100TH ANNIVERSARY OF THE FOUNDING OF THE HARLEY-DAVIDSON MOTOR COMPANY, WHICH HAS BEEN A SIGNIFICANT PART OF THE SOCIAL, ECONOMIC, AND CULTURAL HERITAGE OF THE UNITED STATES AND MANY OTHER NATIONS AND A LEADING FORCE FOR PRODUCT AND MANUFACTURING INNOVATION THROUGHOUT THE 20TH CENTURY

Mr. CAMPBELL (for himself, Mr. KOHL, Mr. ALLARD, and Mr. SANTORUM) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 167

Whereas in 1903, boyhood friends, hobby designers, and tinkerers William S. Harley, then 21 years old, and Arthur Davidson, then 20 years old, completed the design and manufacture of their first motorcycle, with help from Arthur Davidson's brothers, Walter Davidson and William A. Davidson;

Whereas, also in 1903, Harley and the Davidson brothers completed 2 additional motorcycles in a makeshift "factory" shed in the Davidson family's backyard at the corner of 38th Street and Highland Boulevard in Milwaukee, Wisconsin;

Whereas the design features and construction quality of the early Harley-Davidson motorcycles proved significantly more innovative and durable than most other motorcycles of the era, giving Harley-Davidson a distinct competitive advantage;

Whereas in 1905, Walter Davidson won the first of many motorcycle competition events, giving rise to a strong tradition of victory in motorcycle racing that continues today;

Whereas in 1906, Harley-Davidson Motor Company constructed its first building, financed by the Davidsons' uncle James McClay, on the site of the Company's current world headquarters one block north of the Davidson home site, and manufactured 50 motorcycles that year;

Whereas in 1907, Harley-Davidson Motor Company was incorporated and its 18 employees purchased shares;

Whereas in 1908, the first motorcycle for police duty was delivered to the Detroit Police Department, beginning Harley-Davidson's long and close relationship with law enforcement agencies;

Whereas in 1909, to enhance power and performance, Harley-Davidson added a second cylinder to its motorcycle, giving birth to its hallmark 45-degree V-Twin configuration and the legendary Harley-Davidson sound;

Whereas during the years 1907 through 1913, manufacturing space at least doubled every year, reaching nearly 300,000 square feet by 1914;

Whereas Arthur Davidson, during Harley-Davidson's formative years, set up a worldwide dealer network that would serve as the focal point of the company's "close to the customer" philosophy;

Whereas Harley-Davidson, early in its history began marketing motorcycles as a sport and leisure pursuit, thus laying the groundwork for long-term prosperity;

Whereas in 1916, Harley-Davidson launched "The Enthusiast" magazine, which today is the longest running continuously published motorcycle magazine in the world;

Whereas also in 1916, Harley-Davidson motorcycles saw their first military duty in skirmishes in border disputes along the United States border with Mexico;

Whereas in World War I, Harley-Davidson supplied 17,000 motorcycles for dispatch and scouting use by the Allied armed forces, and whereas the first Allied soldier to enter Germany after the signing of the Armistice was riding a Harley-Davidson motorcycle;

Whereas by 1920, Harley-Davidson was the world's largest motorcycle manufacturer, both in terms of floor space and production, with continual engineering and design innovation;

Whereas during the Great Depression of the 1930s, the company survived when all but 1 other domestic motorcycle manufacturer failed, on the strength of its product quality, the loyalty of its employees, dealers, and customers, steady police and commercial business, and a growing international presence;

Whereas in 1936, Harley-Davidson demonstrated foresight, resolve, and faith in the future by introducing the company's first overhead valve engine, the "Knucklehead" as it would come to be known, on its Model EL motorcycle, thus establishing the widely recognized classic Harley-Davidson look and the company's reputation for styling;

Whereas Harley-Davidson workers in 1937 elected to be represented by the United Auto Workers of America, thus launching a proud tradition of working with Harley-Davidson to further build the company through advocacy and the development of effective programs and policies;

Whereas William H. Davidson, son of the late founder William A. Davidson, became president of Harley-Davidson in 1942 and would lead the company until 1971;

Whereas Harley-Davidson built more than 90,000 motorcycles for United States and Allied armed forces use during World War II, earning 4 Army-Navy "E" Awards for excellence in wartime production;

Whereas Harley-Davidson, during the 1950s and 1960s, recharged its sales and popularity with new models, including the Sportster and the Electra Glide, new engines, and other technological advances;

Whereas the Company developed the concept of the "factory custom" motorcycle with the 1971 introduction of the Super Glide and the 1977 Low Rider, under the design leadership of William "Willie G" Davidson, vice president of Styling and grandson of company founder William A. Davidson;

Whereas since 1980, as a national corporate sponsor of the Muscular Dystrophy Association, Harley-Davidson has raised more than $40,000,000 through company, dealer, customer, and supplier contributions, to fund research and health services;

Whereas in 1981, a group of 13 Harley-Davidson executives, led by chairman and CEO Vaughn Beals purchased Harley-Davidson from its then corporate parent AMF Incorporated;

Whereas by 1986, Harley-Davidson, against incredible odds, restored the company's reputation for quality and innovation and returned the company to vitality, thus ensuring a highly successful initial public stock offering;

Whereas throughout the 1980s and 1990s, Harley-Davidson became a national role model for positive labor-management relations, product innovation, manufacturing quality and efficiency and phenomenal growth;

Whereas President Ronald Reagan, President William J. Clinton, and President George W. Bush all have visited Harley-Davidson manufacturing facilities and extolled the example set by Harley-Davidson through its practices;

Whereas the Harley Owners Group, with more than 800,000 members and 1,200 chapters worldwide, is celebrating its 20th anniversary year in 2003 as a driving force in the company's heralded "close to the customer" operating philosophy; and

Whereas Harley-Davidson Motor Company is today the world's leading seller of large displacement (651 cc plus) motorcycles, with annual revenues in excess of $4,000,000,000, annual motorcycle shipments in excess of 290,000 units, strong international sales, and 17 consecutive years of annual revenue and earnings growth since becoming a publicly held company: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the achievements of Harley-Davidson Motor Company, widely regarded

as a tremendous American business success story and one of the top performing companies in America, as its employees, retirees, suppliers, dealers, customers, motorcycle enthusiasts, and friends worldwide commemorate and celebrate its 100th anniversary milestone;

(2) recognizes the great impact that Harley-Davidson has had on the business, social, and cultural landscape and lives of Americans and citizens of all nations, as a quintessential icon of Americana; and

(3) congratulates the Harley-Davidson Motor Company for this achievement and trusts that Harley-Davidson will have an even greater impact in the 21st century and beyond as a leading force for innovative business practices and products that will continue to provide enjoyment, transportation, and delight for generations to come.

Mr. CAMPBELL. Mr. President, today I am submitting a resolution to pay tribute to the Harley-Davidson Motor Company in honor of this great American company's 100th anniversary. I am pleased to be joined by my colleagues, Senators KOHL, ALLARD and SANTORUM.

As a long-time Harley-Davidson rider, I have enjoyed many years of satisfaction with the company and its legendary machines.

I can tell you that there is no better way to enjoy Colorado's great scenic beauty than from the saddle of a Harley-Davidson, the freedom of the open road and the often imitated, but never duplicated, throaty roar of an American-made machine is something that I have thoroughly enjoyed for countless thousands of miles.

Harley-Davidson not only makes great motorcycles, it also exemplifies the kind of company that I am proud to support. From its humble beginnings in a small 10 foot by 15 foot shed in a Milwaukee backyard in 1903, this company had its share of good times and bad. The Great Depression was a major blow to the American motorcycle industry, and when the dust finally cleared Harley-Davidson was one of only two U.S. motorcycle manufacturers left standing.

And it is a good thing that Harley-Davidson survived because when World War II erupted, our country needed to call on Harley-Davidson to build bikes for U.S. and Allied troops. Many of the military orders and other intelligence messages that were vital to achieving victory would not have been delivered to the front lines if it had not been for brave G.I. messengers riding Harley-Davidson motorcycles.

Following the Allied Victory in War World II, the Harley-Davidson Company refocused on developing new styles of motorcycles for the individual American consumer to enjoy. The company's second generation of management brought fresh ideas that helped usher in the celebrated "motorcycle culture" of the 1950's and 60's.

When Harley-Davidson hit a rough patch of road in the 1980's it was a daring combination of re-found independence, innovation and serious re-engineering that brought this legendary company back from the brink. Harley-Davidson successfully carried out a classic textbook comeback that exemplifies many of our nation's best traits: independence, daring, grit, tenacity, smarts, and a penchant for continuous innovation and progress while remaining firmly rooted in our heritage.

On that note, I conclude my tribute to the people of Harley-Davidson with my congratulations on 100 amazing years. I, and many others, look forward to many more.

I urge my colleagues to join us in supporting passage of this important resolution.

SENATE RESOLUTION 168—DESIGNATING MAY 2004 AS "NATIONAL MOTORCYCLE SAFETY AND AWARENESS MONTH"

Mr. CAMPBELL (for himself and Mr. ALLARD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 168

Whereas the United States of America is the world leader in motorcycle safety, promoting education, training, and motorcycle awareness;

Whereas motorcycles occupy a very important position in the history of this Nation and of the world;

Whereas over two-thirds of car-motorcycle crashes and nearly one-half of all motorcycle crashes are caused by car drivers, not by motorcyclists;

Whereas of the 1,400 fatal car-motorcycle crashes in 2001, 36 percent involved another vehicle violating the motorcyclist's right-of-way by turning left while the motorcycle was going straight, passing, or overtaking the vehicle;

Whereas although the motorcycling community has made efforts to mitigate these right-of-way crashes through enhancing motorcycle awareness via billboards, posters, media, and other campaigns, the message to "watch for motorcycles" continues to go unheeded by the general motoring public;

Whereas the motorcycling community has invested considerable time and effort to improve its safety record through safety initiatives such as increased rider training and licensing campaigns, but many times demand for rider training exceeds enrollment capacity and the programs often lack support from the larger traffic safety community;

Whereas the larger traffic safety community, highway designers, law enforcement, the medical community, designers of other vehicles, government, researchers working in related areas, insurers, and all road users can accomplish much more toward improving motorcycle safety;

Whereas the motorcycle is an efficient vehicle which conserves fuel, has little impact on our overworked roads and highway system, is an important mode of transportation involving such activities as commuting, touring, and recreation, and promotes friendship by attracting riders from all over the world through various clubs and organizations;

Whereas the month of May marks the traditional start of the motorcycle riding season; and

Whereas, due to the increased number of motorcycles on the road, it is appropriate to set aside the month of May 2004 to promote motorcycle awareness and safety and to encourage all citizens to safely share the roads and highways of this great Nation by paying extra attention to those citizens who ride motorcycles: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2004 as "National Motorcycle Safety and Awareness Month"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Mr. CAMPBELL. Mr. President, today I submit a resolution to designate May 2004 as National Motorcycle Safety and Awareness Month. As many of you know, the month of May marks the traditional start of the motorcycle riding season.

Motorcycles have become a big part of the American landscape and occupy a very important position in the history of this Nation. The use of motorcycles has served this country well through numerous military campaigns as well as playing a pivotal role in law enforcement. For many Americans, motorcycles have become their sole source of transportation and for others, a form of weekend recreation. According to the National Highway Traffic Safety Administration, there are well over four million motorcycles registered in this country. It is no secret that the United States is viewed as the world's leader in motorcycle safety and motorcycle awareness.

As a motorcycle enthusiast for more than 50 years, I am concerned that more needs to be done to educate the general motoring public about motorcycle safety and awareness. According to the American Motorcycle Association, over two-thirds of car-motorcycle crashes, and nearly half of all motorcycle crashes are caused by auto drivers, not by motorcyclists. Think of it: Most drivers, when leaving an intersection, look right and left for cars and trucks, not always for motorcycles. Of the 1,400 fatal car-motorcycle crashes in 2001, 36 percent involved another vehicle violating the motorcyclist's right-of-way by turning left while the motorcycle was going straight, passing, or overtaking the vehicle. These statistics can and must be addressed.

The motorcycling community has made efforts to mitigate these right-of-way crashes through enhancing motorcycle awareness via bill boards, posters, media and other campaigns, the message to "watch for motorcycles" continues to go unheeded by the general motoring public—not intentionally I am sure.

In addition, the motorcycling community has invested considerable time and effort to improve its safety record through safety initiatives such as increased rider training and licensing campaigns, but the programs are overutilized and underfunded and often lack support from the larger traffic safety community.

Clearly enough is not being done by motorists to take extra care in looking for motorcyclists and conversely, motorcyclists need to take an active role in protecting themselves as well.

As we continue to move through the riding season, I will continue to work with my colleagues here in the Senate and motorcycle rights groups such as the National Coalition of Motorcyclists and the American Motorcycle Riders Foundation to find solutions to educate the general motoring public about motorcycle safety and awareness. This resolution is a strong, positive step in the right direction to help achieve this goal.

For all the motorcyclists who have been injured through no fault of their own, and for the many thousands of others who will be injured this year and for every year to come for quite some time, I encourage my colleagues to join this effort to help raise the awareness Nationwide of all motorized vehicle operators of motorcycles and those who operate them. To do nothing invites more needless and preventable injury and death to far too many innocent Americans.

I urge my colleagues to join us in supporting passage of this important resolution.

SENATE RESOLUTION 169—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES POSTAL SERVICE SHOULD ISSUE A POSTAGE STAMP COMMEMORATING ANNE FRANK

Mrs. CLINTON submitted the following resolution; which was referred to the Committee on Governmental Affairs.

S. RES. 169

Whereas Anne Frank and her family fled Nazi persecution of Jews in Germany and sought safety by moving to Amsterdam, the Netherlands;

Whereas subsequent Nazi occupation of the Netherlands forced the Frank family to go into hiding in an annex located above the office of Anne's father;

Whereas Anne Frank and her family spent 25 months in hiding, during which time Anne Frank kept a diary of her life and experiences;

Whereas Anne Frank and her family were eventually betrayed to the Nazis;

Whereas Anne Frank died in March 1945 in the Bergen-Belsen Nazi concentration camp;

Whereas Anne Frank was 1 of approximately 1,500,000 Jewish children who died at the hands of the Nazis during World War II;

Whereas Anne Frank's diary, published by her father after the end of the war, has become one of the most widely read memoirs of the Holocaust;

Whereas "The Diary of Anne Frank" has been translated into more than 67 languages and has sold more than 31,000,000 copies worldwide;

Whereas "The Diary of Anne Frank" is the first educational encounter with the Holocaust for many American students;

Whereas the story of Anne Frank has been repeatedly portrayed in motion pictures and theatrical productions;

Whereas millions of Americans have come to identify with Anne Frank and she has become an inspiration to children of all faiths;

Whereas Anne Frank is thought of as a representative of children throughout the world who find themselves in situations of war, subjugation, and oppression;

Whereas Anne Frank represents the victims of the Holocaust and serves as an enduring symbol of bravery, hope, and tolerance in the face of harsh and brutal conditions;

Whereas "The Diary of Anne Frank" has proven beneficial in assisting young people in dealing with issues of discrimination, bigotry, and hate crimes; and

Whereas Anne Frank would have been 75 years old in 2004: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States Postal Service should issue a postage stamp commemorating Anne Frank; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

Mrs. CLINTON. Mr. President, today is Anne Frank's birthday. If she had survived the horror of the Bergen-Belsen concentration camp, then she would have been 74 years old. But she did not survive and because of her moving and thoughtful diary, the world got to know her and understand what it was like living in that apartment during the Nazis' reign of terror. Anne Frank's diary has educated generations around the world about tolerance and dignity. It has left a mark in a way that few books can, and the world is a better place because of Anne Frank's story.

That is why I am proud to submit a resolution expressing the sense of the Senate that the United States Postal Service should issue a postage stamp commemorating Anne Frank and the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

Anne Frank was born on June 12, 1929, in Frankfurt, Germany to a German-Jewish family. She and her family fled the Nazi persecution of Jews in Germany and sought safety by moving to Amsterdam, the Netherlands. Following the Nazi occupation of the Netherlands, Anne Frank and her family were forced into hiding in an annex located above her father's office. The family spent 25 months in hiding which Anne Frank described in her diary.

The family was betrayed and turned over to the Nazis. Anne Frank was imprisoned in the Bergen-Belsen Nazi concentration camp, where she died in March 1945. She was one of approximately 1,500,000 Jewish children who died at the hands of the Nazis during World War II. In the midst of this unthinkable horror, her diary survived, and was published by her father after the end of the war. It has become one of the most widely read memoirs of the Holocaust experience. It has been translated into more than 67 languages and has touched people around the world.

The Diary of Anne Frank holds a special place of honor in the United States. It is the first educational encounter with the Holocaust for many American students. It has been repeatedly dramatized in motion pictures and in the theater. Millions of Americans have come to identify with Anne Frank. She has become an inspiration to children of all faiths and assists young people to deal with important issues such as discrimination, bigotry and hate crimes.

Anne Frank serves as an enduring symbol of bravery, hope, and tolerance in the face of harsh and brutal conditions. A commemorative postage stamp would be a meaningful way for Americans to honor Anne Frank's inextinguishable courage and dignity. I urge my colleagues to co-sponsor this resolution and assist our efforts to convince the Citizens' Stamp Advisory Committee to recommend the issuance of a postage stamp commemorating Anne Frank.

SENATE RESOLUTION 170—DESIGNATING THE YEARS 2004 AND 2005 AS "YEARS OF FOREIGN LANGUAGE STUDY"

Mr. DODD (for himself and Mr. COCHRAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 170

Whereas according to the European Commission Directorate General for Education and Culture, 52.7 percent of Europeans speak both their native language and another language fluently;

Whereas the Elementary and Secondary Education Act of 1965 names foreign language study as part of a core curriculum that includes English, mathematics, science, civics, economics, arts, history, and geography;

Whereas according to the Joint Center for International Language, foreign language study increases a student's cognitive and critical thinking abilities;

Whereas according to the American Council on the Teaching of Foreign Languages, foreign language study increases a student's ability to compare and contrast cultural concepts;

Whereas according to a 1992 report by the College Entrance Examination Board, students with 4 or more years in foreign language study scored higher on the verbal section of the Scholastic Aptitude Test (SAT) than students who did not;

Whereas the Higher Education Act of 1965 labels foreign language study as vital to secure the future economic welfare of the United States in a growing international economy;

Whereas the Higher Education Act of 1965 recommends encouraging businesses and foreign language study programs to work in a mutually productive relationship which benefits the Nation's future economic interest;

Whereas according to the Centers for International Business Education and Research program, foreign language study provides the ability to both gain a comprehensive understanding of and interact with the cultures of United States trading partners, and thus establishes a solid foundation for successful economic relationships;

Whereas Report 107-592 of the Permanent Select Committee on Intelligence of the House of Representatives concludes that American multinational corporations and nongovernmental organizations do not have the people with the foreign language abilities and cultural exposure that are needed.

Whereas the 2001 Hart-Rudman Report on National Security in the 21st Century names foreign language study and requisite knowledge in languages as vital for the Federal Government to meet 21st century security challenges properly and effectively;

Whereas the American intelligence community stresses that individuals with proper foreign language expertise are greatly needed to work on important national security and foreign policy issues, especially in light of the terrorist attacks on September 11, 2001;

Whereas a 1998 study conducted by the National Foreign Language Center concludes that inadequate resources existed for the development, publication, distribution, and teaching of critical foreign languages (such as Arabic, Vietnamese, and Thai) because of low student enrollment in the United States; and

Whereas a shortfall of experts in foreign languages has seriously hampered information gathering and analysis within the American intelligence community as demonstrated by the 2000 Cox Commission noting shortfalls in Chinese proficiency, and the National Intelligence Council citing deficiencies in Central Eurasian, East Asian, and Middle Eastern languages: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF YEARS OF LANGUAGE.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that foreign language study makes important contributions to a student's cognitive development, our national economy, and our national security.

(b) DESIGNATION AND PROCLAMATION.—The Senate—

(1) designates the years 2004 and 2005 as "Years of Foreign Language Study", during which foreign language study is promoted and expanded in elementary schools, secondary schools, institutions of higher learning, businesses, and government programs; and

(2) requests that the President issue a proclamation calling upon the people of the United States to—

(A) encourage and support initiatives to promote and expand the study of foreign languages; and

(B) observe the "Years of Foreign Language Study" with appropriate ceremonies, programs, and other activities.

SENATE CONCURRENT RESOLUTION 55—EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE POLICY OF THE UNITED STATES AT THE 55TH ANNUAL MEETING OF THE INTERNATIONAL WHALING COMMISSION

Ms. SNOWE (for herself, Mr. KERRY, Mr. MCCAIN, Mr. HOLLINGS, Mr. KENNEDY, Mr. REED, Mr. LIEBERMAN, Mr. DODD, Mr. SMITH, Mr. LEVIN, Mr. AKAKA, Ms. COLLINS, Mr. CHAFEE, Mr. BIDEN, Mr. CORZINE, Mrs. BOXER, Mr. LAUTENBERG, and Mr. COCHRAN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 55

Whereas whales have very low reproductive rates, making whale populations extremely vulnerable to pressure from commercial whaling;

Whereas whales migrate throughout the world's oceans and international cooperation is required to successfully conserve and protect whale stocks;

Whereas in 1946 a significant number of the nations of the world adopted the International Convention for the Regulation of Whaling, which established the International Whaling Commission to provide for the proper conservation of whale stocks;

Whereas the Commission adopted a moratorium on commercial whaling in 1982 in order to conserve and promote the recovery of whale stocks, many of which had been hunted to near extinction by the commercial whaling industry;

Whereas the Commission has designated the Indian Ocean and the ocean waters around Antarctica as whale sanctuaries to further enhance the recovery of whale stocks;

Whereas many nations of the world have designated waters under their jurisdiction as whale sanctuaries where commercial whaling is prohibited, and additional regional whale sanctuaries have been proposed by nations that are members of the Commission;

Whereas one nation has joined the Commission under questionable authority and claims it has a reservation to the moratorium that is not recognized by all other Commission members;

Whereas two member nations currently have reservations to the Commission's moratorium on commercial whaling, and one member nation is currently conducting commercial whaling operations in spite of the moratorium and the protests of other nations;

Whereas the Commission has adopted several resolutions at recent meetings asking member nations to halt commercial whaling activities conducted under reservation to the moratorium and to refrain from issuing special permits for research involving the killing of whales;

Whereas one member nation of the Commission has taken a reservation to the Commission's Southern Ocean Sanctuary and also continues to conduct unnecessary lethal scientific whaling in the Southern Ocean and in the North Pacific Ocean;

Whereas whale meat and blubber are being sold commercially from whales killed pursuant to such unnecessary lethal scientific whaling, further undermining the moratorium on commercial whaling;

Whereas the Commission's Scientific Committee has repeatedly expressed serious concerns about the scientific need for such lethal research and recognizes the importance of demonstrating and expanding the use of non-lethal scientific research methods;

Whereas one member nation in the past unsuccessfully sought an exemption allowing commercial whaling of up to 50 minke whales, now uses a scientific permit for these same vessels to take 50 minke whales, and continues to seek avenues to allow lethal takes of whales by vessels from specific communities in a manner that would undermine the moratorium on commercial whaling;

Whereas more than 7,500 whales have been killed in lethal scientific whaling programs since the adoption of the commercial whaling moratorium and the lethal take of whales under scientific permits has increased both in quantity and species, with species now including minke, Bryde's, sei, and sperm whales, and a new proposal has been offered to include fin whales for the first time;

Whereas the first international trade of whale meat in 15 years occurred last year between two member countries, and other member countries have stated their intentions to engage in international trade of whale products, despite a ban on such trade under the Convention on International Trade in Endangered Species: and

Whereas engaging in commercial whaling under reservation and lethal scientific whaling undermines the conservation program of the Commission: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) at the 55th Annual Meeting of the International Whaling Commission the United States should—

(A) remain firmly opposed to commercial whaling;

(B) initiate and support efforts to ensure that all activities conducted under reservations to the Commission's moratorium or sanctuaries are ceased;

(C) not recognize the reservation to the moratorium against commercial whaling claimed by one nation that has joined the Commission under questionable authority;

(D) oppose the lethal taking of whales for scientific purposes unless such lethal taking is specifically authorized by the Scientific Committee of the Commission to be necessary for scientific purposes, seek support for expanding the use of non-lethal research methods, and seek to end the sale of whale meat and blubber from whales killed for unnecessary lethal scientific research;

(E) seek the Commission's support for specific efforts by member nations to end trade in whale meat;

(F) support the permanent protection of whale populations through the establishment of whale sanctuaries in which commercial whaling is prohibited; and

(G) support efforts to expand data collection on whale populations, monitor and reduce whale bycatch and other incidental impacts, create a Conservation Committee, and otherwise expand whale conservation efforts;

(2) at the 13th Conference of the Parties to the Convention on International Trade in Endangered Species, the United States should oppose all efforts to reopen international trade in whale meat or downlist any whale population;

(3) the United States should make full use of all appropriate diplomatic mechanisms, relevant international laws and agreements, and other appropriate mechanisms to implement the goals set forth in paragraphs (1) and (2); and

(4) if the Secretary of Commerce certifies to the President, under section 8(a)(2) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(2)), that nationals of a foreign country are engaging in trade or a taking which diminishes the effectiveness of the Convention, then the United States should take appropriate steps at its disposal pursuant to Federal law to convince such foreign country to cease such trade or taking.

Mr. KERRY. Mr. President, As Ranking Member of the Oceans, Fisheries and Coast Guard Subcommittee of the Committee on Commerce, Science and Transportation, I am pleased to join the Chair of the Subcommittee, Senator SNOWE, in submitting a resolution regarding the policy of the United States at the upcoming 55th Annual Meeting of the International Whaling Commission, IWC. I wish to also thank my colleagues Mr. HOLLINGS, Mr. McCAIN, Mr. KENNEDY, Mr. AKAKA, Mr. REED, Ms. COLLINS, Mr. DODD, Mr. SMITH, Mr. LEVIN, Mr. CHAFEE, Mr. BIDEN, Mr. CORZINE, Mrs. BOXER, Mr. LAUTENBERG, Mr. COCHRAN, and Mr. LIEBERMAN for cosponsoring as well.

The IWC will meet in Berlin from June 16–19, 2003. The IWC was formed in 1946 under the International Convention for the Regulation of Whaling, in recognition of the fact that whales are highly migratory and that international cooperation is necessary for their preservation. In 1982, due to the severe impacts of whaling on the populations of large whale species, the IWC agreed on an indefinite moratorium on all commercial whaling beginning in 1985.

Whales are already under enormous pressure world wide from collisions with ships, entanglement in fishing gear, coastal pollution, noise emanating from surface vessels and other sources. The need to conserve and protest these magnificent mammals is clear.

Despite the IWC moratorium on commercial whaling, significant whaling has continued. First, pursuant to its reservation to the moratorium, Norway has continued to commercially harvest whales. Second, Japan has been using a provision in the Convention—which allows countries to issue themselves permits for whaling under scientific purposes—to kill whales in the name of science, and later sell the meat commercially. More than 7500 whales have been killed in lethal scientific whaling programs since the adoption of the commercial whaling moratorium, and the lethal take of whales under scientific permits has increased both in quantity and species, with species now including minke, Bryde's sei, and sperm whales.

The IWC Scientific Committee has not requested any of the information obtained by killing these whales and has stated that the scientific whaling data obtained through this so-called research is not required for management. Iceland, which joined the IWC last year under questionable legal authority—subject to the condition that it can unilaterally begin commercial whaling after 2006—has recently indicated its intent to lethally hunt hundreds of whales, including endangered species such as fin whales, pursuant to this same scientific whaling exception.

Despite a ban under the Convention on International Trade in Endangered Species, the first international trade of whale meat in 15 years occurred last year between Norway and Iceland, both member countries of the IWC. Reports indicate that Norway is seeking to broaden such trade.

One positive development expected to be addressed at the meeting is a proposal from Mexico to establish a conservation committee under the IWC. Such a committee would strengthen the focus of the IWC on conservation measures that are critically important for the survival of cetaceans.

This resolution calls for the U.S. delegation to the IWC to remain firmly opposed to commercial whaling. In addition, this resolution calls for the U.S. oppose the lethal taking of whales for scientific purposes unless such lethal taking is specifically authorized by the Scientific Committee of the Commission. It also calls on the U.S. to seek to end the sale of whale meat and blubber from whales killed for unnecessary lethal scientific research to remove this perverse incentive. The resolution calls for the U.S. delegation to support an end to the illegal trade of whale meat and to support the permanent protection of whale populations through the establishment of whale sanctuaries in which commercial whaling is prohibited. It further calls on the U.S. to support the establishment of a Conservation Committee, and to otherwise expand whale conservation efforts. Finally, the resolution directs the U.S. to make full use of all appropriate mechanisms to encourage a change in the behavior of other nations which are undermining the protection of these great creatures.

AMENDMENTS SUBMITTED AND PROPOSED

SA 886. Mr. CAMPBELL proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 887. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 888. Mr. BAYH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table.

SA 889. Mr. McCAIN proposed an amendment to the bill S. 824, supra.

SA 890. Mr. DORGAN proposed an amendment to the bill S. 824, supra.

SA 891. Mr. REID (for himself and Mr. ENSIGN) proposed an amendment to the bill S. 824, supra.

SA 892. Mr. McCAIN proposed an amendment to the bill S. 824, supra.

SA 893. Mr. LAUTENBERG (for himself and Mr. JOHNSON) proposed an amendment to the bill S. 824, supra.

SA 894. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 824, supra.

SA 895. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 824, supra.

SA 896. Mr. INHOFE (for himself, Mr. KYL, Mr. THOMAS, Mr. BROWNBACK, Mr. GRASSLEY, Mr. ENZI, and Mr. McCAIN) submitted an amendment intended to be proposed by him to the bill S. 824, supra.

SA 897. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table.

SA 898. Mr. COCHRAN (for himself and Mr. BYRD) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes.

SA 899. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 824, supra.

SA 900. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 824, supra.

SA 901. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 824, supra; which was ordered to lie on the table.

SA 902. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 48, supporting the goals and ideals of "National Epilepsy Awareness Month" and urging support for epilepsy research and service programs; which was referred to the Committee on the Judiciary.

SA 903. Mr. BUNNING (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes.

SA 904. Mr. SPECTER (for himself, Mr. SANTORUM, and Mr. DASCHLE) submitted an amendment intended to be proposed by him to the bill S. 824, supra; which was ordered to lie on the table.

SA 905. Mr. SPECTER (for himself, Mrs. BOXER, Mr. DURBIN, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 824, supra.

SA 906. Mr. BINGAMAN (for himself, Mr. INHOFE, Ms. SNOWE, Mr. JEFFORDS, Ms. COLLINS, Mr. SPECTER, Mr. HARKIN, Mrs. CLINTON, Mr. SCHUMER, Mr. PRYOR, Mr. NELSON, of Nebraska, Mrs. LINCOLN, Mr. GRASSLEY, Mr. HAGEL, and Mr. BROWNBACK) proposed an amendment to the bill S. 824, supra.

SA 907. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 824, supra.

SA 908. Mr. HOLLINGS (for Mr. WYDEN) proposed an amendment to the bill S. 824, supra.

SA 909. Mr. HOLLINGS (for Mr. NELSON, of Florida) proposed an amendment to the bill S. 824, supra.

SA 910. Mr. HOLLINGS (for Mr. JEFFORDS (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 824, supra.

SA 911. Mr. HOLLINGS (for Mr. BAYH (for himself and Mr . LUGAR)) proposed an amendment to the bill S. 824, supra.

SA 912. Mr. HOLLINGS (for Mr. DODD) proposed an amendment to the bill S. 824, supra.

SA 913. Mr. THOMAS proposed an amendment to the bill S. 824, supra.

SA 914. Mr. LOTT proposed an amendment to amendment SA 905 submitted by Mr. SPECTER (for himself, Mrs. BOXER, Mr. DURBIN, and Mr. DAYTON) to the bill S. 824, supra.

SA 915. Mr. SPECTER (for himself and Mr. SANTORUM) proposed an amendment to the bill S. 824, supra.

SA 916. Mr. HOLLINGS proposed an amendment to the bill S. 824, supra.

SA 917. Mr. HOLLINGS (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 824, supra.

SA 918. Mr. HOLLINGS (for Mr. Rockefeller) proposed an amendment to the bill S. 824, supra.

SA 919. Mr. HOLLINGS (for Mr. Inouye) proposed an amendment to the bill S. 824, supra.

SA 920. Mr. STEVENS proposed an amendment to the bill S. 824 , supra.

SA 921. Mr. HOLLINGS (for Mr. Harkin (for himself, Mr. Inhofe, and Mr. Grassley)) proposed an amendment to the bill S. 824, supra.

SA 922. Mr. McCAIN (for Mr. Grassley (for himself and Mr. Baucus)) proposed an amendment to the bill S. 824, supra.

SA 923. Mr. STEVENS proposed an amendment to the bill S. 824 , supra.

SA 924. Mr. McCONNELL (for Mrs. Lincoln) proposed an amendment to the concurrent resolution S. Con. Res. 48, supporting the goals and ideals of "National Epilepsy Awareness Month" and urging support for epilepsy research and service programs.

SA 925. Mr. McCONNELL (for Mrs. Lincoln) proposed an amendment to the concurrent resolution S. Con. Res. 48, supra.

SA 926. Mr. McCONNELL (for Mrs. Lincoln) proposed an amendment to the concurrent resolution S. Con. Res. 48, supra.

TEXT OF AMENDMENTS

SA 886. Mr. CAMPBELL proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Page 101, strike line 1 and all that follows through page 128, line 24, and insert:

"(4) electrify Indian tribal land and the homes of tribal members."

(b) Conforming Amendments.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking "Section" and inserting "Sec."; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

"Sec. 213. Establishment of policy for National Nuclear Security Administration.
"Sec. 214. Establishment of security, counterintelligence, and intelligence policies.
"Sec. 215. Office of Counterintelligence.
"Sec. 216. Office of Intelligence.
"Sec. 217. Office of Indian Energy Policy and Programs.

(2) Section 5315 of title 5, United States Code, is amended by inserting "Director, Office of Indian Energy Policy and Programs, Department of Energy." after "Inspector General, Department of Energy.".

SEC. 303. INDIAN ENERGY.

(a) Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

"TITLE XXVI—INDIAN ENERGY

"SEC. 2601. DEFINITIONS.

"For purposes of this title:

"(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

"(2) The term 'Indian land' means—

"(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

"(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

"(i) in trust by the United States for the benefit of an Indian tribe;

"(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

"(iii) by a dependent Indian community; and

"(C) land conveyed to a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

"(3) The term 'Indian reservation' includes—

"(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

"(B) a public domain Indian allotment.

"(C) a former reservation in the State of Oklahoma;

"(D) a parcel of land owned by a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

"(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

"(i) on original or acquired territory of the community; or

"(ii) within or outside the boundaries of any particular State.

"(4) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(5) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(6) The term 'organization' means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

"(7) The term 'Program' means the Indian energy resource development program established under section 2602(a).

"(8) The term 'Secretary' means the Secretary of Interior.

"(9) The term 'tribal energy resource development organization' means an organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other guarantee authorized by sections 2602 or 2603 of this title.

"(10) The term 'tribal land' means any land or interests in land owned by any Indian tribe, band nation, pueblo, community, rancheria, colony or other group, title to which is held in trust by the United States or which is subject to a restriction against alienation imposed by the United States.

"(11) The term 'vertical integration of energy resources' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission facility) on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

"SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

"(a) Department of the Interior Program.—

"(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

"(2) In carrying out the Program, the Secretary shall—

"(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues;

"(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the vertical integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

"(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development and vertical integration or energy resources on Indian land.

"(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2004 through 2014.

"(b) Indian Energy Education Planning and Management Assistance.—

"(1) The Director shall establish programs to assist Indian tribes in meeting energy education, research and development, planning, and management needs.

"(2) In carrying out this section, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

"(A) energy, energy efficiency, and energy conservation programs;

"(B) studies and other activities supporting tribal acquisitions of energy supplies, services, and facilities.

"(C) planning, construction, development, operation maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

"(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

"(3)(A) The Director may develop, in consultation with Indian tribes, a formula for providing grants under this section.

"(B) In providing a grant under this subsection, the Director shall give priority to an application received from an Indian tribe with inadequate electric service (as determined by the Director).

"(4) The Secretary of Energy may promulgate such regulations as necessary to carry out this subsection.

"(5) There is authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2004 through 2011.

"(c) Loan Guarantee Program.—

"(1) Subject to paragraph (3), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development.

"(2) A loan guarantee under this subsection shall be made by—

"(A) a financial institution subject to examination by the Secretary of Energy; or

"(B) an Indian tribe, from funds of the Indian tribe.

"(3) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

"(4) The Secretary may promulgate such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

"(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

"(6) Not later than 1 year from the date of enactment of this section, the Secretary of Energy shall report to the Congress on the financing requirements of Indian tribes for energy development on Indian land.

"(d) INDIAN ENERGY PREFERENCE.—

"(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

"(2) In carrying out this subsection, a Federal agency or department shall not—

"(A) pay more than the prevailing market price for an energy product or byproduct; and

"(B) obtain less than prevailing market terms and conditions.".

"SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

"(a) GRANTS.—The Secretary may provide to Indian tribes and tribal energy resource development organizations, on an annual basis, grants for use in developing, administering, implementing, and enforcing tribal laws (including regulations) governing the development and management of energy resources on Indian land.

"(b) USE OF FUNDS.—Funds from a grant provided under this section may be used by an Indian tribe or tribal energy resource development organization for—

"(1) the development of a tribal energy resource inventory or tribal energy resource on Indian land;

"(2) the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

"(3) the development and enforcement of tribal laws and the development of technical infrastructure to protect the environment under applicable law; or

"(4) the training of employees that—

"(A) are engaged in the development of energy resources on Indian land; or

"(B) are responsible for protecting the environment.

"(c) OTHER ASSISTANCE.—To the maximum extent practicable, the Secretary and the Secretary of Energy shall make available to Indian tribes and tribal energy resource development organizations scientific and technical data for use in the development and management of energy resources on Indian land.

"SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

"(a) LEASES AND AGREEMENTS.—Subject to the provisions of this section—

"(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

"(A) exploration for, extraction of, processing of, or other development of energy resources on tribal land; and

"(B) construction or operation of an electric generation, transmission, or distribution facility located on tribal land; or a facility to process or refine energy resources developed on tribal land; and

"(2) such lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) or any other provision of law, if—

"(A) the lease or business agreement is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

"(B) the term of the lease or business agreement does not exceed—

"(i) 30 years; or

"(ii) in the case of a lease for the production of oil and gas resources, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

"(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

"(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without specific approval by the Secretary if—

"(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

"(2) the term of the right-of-way does not exceed 30 years;

"(3) the pipeline or electric transmission or distribution line serves—

"(A) an electric generation, transmission, or distribution facility located on tribal land; or

"(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

"(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

"(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

"(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources pursuant to the provisions of this section shall be valid unless the lease, business agreement, or right-of-way is authorized in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

"(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

"(1) On promulgation of regulations under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

"(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1) (or such later date as may be agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

"(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

"(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe; and

"(ii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

"(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

"(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

"(III) address amendments and renewals;

"(IV) address consideration for the lease, business agreement, or right-of-way;

"(V) address technical or other relevant requirement;

"(VI) establish requirements for environmental review in accordance with subparagraph (C);

"(VII) ensure compliance with all applicable environmental laws;

"(VIII) identify final approval authority;

"(IX) provide for public notification of final approvals;

"(X) establish a process for consultation with any affected States concerning potential off-reservation impacts associated with the lease, business agreement, or right-of-way; and

"(XI) describe the remedies for breach of the lease, agreement, or right-of-way.

"(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

"(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative), including effects on cultural resources;

"(ii) the identification of proposed mitigation;

"(iii) a process for ensuring that the public is informed of and has an opportunity to comment on the environmental impacts of the proposed action before tribal approval of the lease, business agreement, or right-of-way; and

"(iv) sufficient administrative support and technical capability to carry out the environmental review process.

"(D) A tribal energy resource agreement negotiated between the Secretary and an Indian Tribe in accordance with this subsection shall include—

"(i) provisions requiring the Secretary to conduct an annual trust asset evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources on tribal land by the Indian tribe; and

"(ii) in the case of a finding by the Secretary of imminent jeopardy to a physical trust asset, provisions authorizing the Secretary to reassume responsibility for activities associated with the development of energy resources on tribal land.

"(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted under paragraph (1). The Secretary's review of a tribal energy resource agreement under the National Environmental Policy Act (42 U.S.C. 4321 et seq.) shall be limited to the direct effects of that approval.

"(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall—

"(A) notify the Indian tribe in writing of the basis for the disapproval;

"(B) identify what changes or other actions are required to address the concerns of the Secretary; and

"(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

"(5) If an Indian tribe executes a lease or business agreement or grants a right-of-way in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements set forth in the Secretary's regulations adopted pursuant to subsection (e)(8), provide to the Secretary—

"(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

"(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

"(6)(A) Nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including those which derive from the trust relationship or from any treaties, Executive Orders, or agreements between the United States and any Indian tribe.

"(B) The Secretary shall continue to have a trust obligation to ensure that the rights of an Indian tribe are protected in the event of a violation of federal law or the terms of any lease, business agreement or right-of-way under this section by any other party to any such lease, business agreement or right-of-way.

"(C) Notwithstanding subparagraph (A), the United States shall not be liable to any party (including any Indian tribe) for any of the terms of, or any losses resulting from the terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with a tribal energy resource agreement approved under subsection (e)(2).

"(7)(A) In this paragraph, the term 'interested party' means any person or entity the interests of which have sustained or will sustain a significant adverse environmental impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

"(B) After exhaustion of tribal remedies, and in accordance with the process and requirements set forth in regulations adopted by the Secretary pursuant to subsection (e)(8), an interested party may submit to the Secretary a petition to review compliance of an Indian tribe with a tribal energy resource agreement of the Indian tribe approved under this subsection.

"(C) If the Secretary determines that an Indian tribe is not in compliance with a tribal energy resource agreement approved under this subsection, the Secretary shall take such action as is necessary to compel compliance, including—

"(i) suspending a lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with the approved tribal energy resource agreement; and

"(ii) rescinding approval of the tribal energy resource agreement and reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way associated with an energy pipeline or distribution line described in subsections (a) and (b).

"(D) If the Secretary seeks to compel compliance of an Indian tribe with an approved tribal energy resource agreement under subparagraph (C)(ii), the Secretary shall—

"(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

"(ii) provide the Indian tribe with a written notice of the violations together with the written determination; and

"(iii) before taking any action described in subparagraph (C)(ii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

"(E)(i)) An Indian tribe described in subparagraph (D) shall retain all rights to appeal as provided in regulations promulgated by the Secretary.

"(ii) The decision of the Secretary with respect to an appeal described in clause (i), after any agency appeal provided for by regulation, shall constitute a final agency action.

"(8) Not later than 180 days after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall promulgate regulations that implement the provisions of this subsection, including—

"(A) criteria to be used in determining the capacity of an Indian tribe described in paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe; and

"(B) a process and requirements in accordance with which an Indian tribe may—

"(i) voluntarily rescind an approval tribal energy resource agreement approved by the Secretary under this subsection; and

"(ii) return to the Secretary the responsibility to approve any future leases, business agreements, and rights-of-way described in this subsection.

"(f) No Effect on Other Law.—Nothing in this section affects the application of—

"(1) any Federal environment law;

"(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

"(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) and the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

"SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.

"(a) Definitions.—In this section:

"(1) The term 'Administrator' means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

"(2) The term 'power marketing administration' means—

"(A) the Bonneville Power Administration;

"(B) the Western Area Power Administration; and

"(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

"(b) Encouragement of Indian Tribal Energy Development.—Each Administrator shall encourage Indian tribal energy development by taking such actions as are appropriate, including administration of programs of the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section.

"(c) Action by the Administrator.—In carrying out this section, and in accordance with existing law—

"(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes.

"(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

"(3) the Administrator of the Western Area Power Administration may purchase power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

"(4) each Administrator shall not pay more than the prevailing market price for an energy product nor obtain less than prevailing market terms and conditions.

"(d) Assistance for Transmission System Use.—

"(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

"(2) The costs of technical assistance provided under paragraph (1) shall be funded by the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the applicable Indian tribes.

"(e) Power Allocation Study.—Not later than 2 years after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary of Energy shall submit to the Congress a report that—

"(1) describes the use by Indian tribes of Federal power allocations of the Western Area Power Administration (or power sold by the Southwestern Power Administration) and the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of those administrations; and

"(2) identifies—

"(A) the quantity of power allocated to Indian tribes by the Western Area Power Administration;

"(B) the quantity of power sold to Indian tribes by other power marketing administrations; and

"(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to facilitate the use of Federal power by Indian tribes.

"(f) Authorization of Appropriations.—there is authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.

"SEC. 2606. INDIAN MINERAL DEVELOPMENT REVIEW.

"(a) In General.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

"(b) Report.—Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall submit to the Congress a report that includes—

"(1) the results of the review;

"(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

"(3) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers), along with recommendations for the removal of those barriers.

"SEC. 2607. WIND AND HYDROPOWER FEASIBILITY STUDY.

"Study.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary, shall conduct a study of the cost and feasibility of developing a demonstration project that would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

"(b) SCOPE OF STUDY.—The study shall—

"(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

"(2) review historical purchase requirements and projected purchase requirements for firming and the patterns of availability and use of firming energy;

"(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

"(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

"(5) include an independent tribal engineer as a study team member.

"(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

"(1) an analysis of the potential energy cost or benefits to the customers of the Western Area Power Administration through the blend of wind and hydropower;

"(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

"(3) recommendations for a demonstration project that could be carried out by the Western Area Power Administration in partnership with an Indian tribal government or tribal energy resource development organization to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration or any other Federal power marketing agency; and

"(4) an identification of—

"(A) the economic and environmental costs or benefits to be realized through such a Federal-tribal partnership; and

"(B) the manner in which such a partnership could contribute to the energy security of the United States.

"(d) FUNDING.—

"(1) There is authorized to be appropriated to carry out this section $500,000, to remain available until expended.

"(2) Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.".

(b) CONFORMING AMENDMENTS.—The table of contents for the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended by striking items relating to Title XXVI, and inserting:

"Sec. 2601. Definitions.
"Sec. 2602. Indian tribal energy resource development.
"Sec. 2603. Indian tribal energy resource regulation.
"Sec. 2604. Leases, business agreements, and rights-of-way involving energy development or transmission.
"Sec. 2605. Federal Power Marketing Administrations.
"Sec. 2606. Indian mineral development review.
"Sec. 2607. Wind and hydropower feasibility study.

SA 887. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table as follows:

On page 466, after line 22, insert the following:

Subtitle —Transmission Facilities

SEC. . TRANSMISSION FACILITIES.

(a) EXISTING FACILITIES.—The Secretary of Energy (acting through the Western Area Power Administration, the Southwestern Power Administration, or the Southeastern Power Administration) may design, develop, construct, operate, and maintain, or participate with other entities in designing, developing, constructing, operating, and maintaining, an electric power transmission facility and related facilities needed to upgrade existing transmission facilities owned or operated by the applicable Federal power marketing agency if the Secretary of Energy determines that the proposed project is—

(1) necessary or advisable to accommodate an actual or projected increase in electric power transmission demand on, or to increase the reliability of, any part of the Federal or non-Federal electric power grid; and

(2) in the public interest.

(b) NEW FACILITIES.—The Secretary of Energy (acting through the Western Area Power Administration, the Southwestern Power Administration, or the Southeastern Power Administration) may design, develop, construct, operate, and maintain, or participate with other entities in designing, developing, constructing, operating, and maintaining, a new electric power transmission facility and related facilities located within any State in which the applicable Power Administration operates if the Secretary determines that the proposed facility—

(1)(A) is located in an interstate congestion area and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary or advisable to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) a plan approved by the appropriate regional transmission organization, if such an organization exists and is conducting such planning functions; and

(B) efficient and reliable operation of the transmission grid;

(3) would not duplicate the functions of transmission facilities proposed to be constructed, or operated, by any other transmitting utility; and

(4) would be operated by or in conformance with the rules of the appropriate regional transmission organization, if such an organization exists.

(c) OTHER FUNDS.—

(1) IN GENERAL.—In carrying out a project under subsection (a) or (b), the Secretary of Energy may accept and use funds contributed by another entity for the purpose of carrying out the project.

(2) AVAILABILITY.—The funds shall be available for expenditure for the purpose of carrying out the project—

(A) without fiscal year limitation; and

(B) as if the funds had been appropriated specifically for that purpose.

(3) ALLOCATION OF COSTS.—In carrying out a project under subsection (a) or (b), any costs of the project not paid for by contributions from another entity shall be allocated equitably among the project beneficiaries, including any non-Federal project participants and existing transmission users of the applicable Federal power marketing agency.

(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section affects any requirement of—

(1) any Federal environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(2) any Federal or State law relating to the siting of energy facilities.

SA 888. Mr. BAYH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table as follows:

At the end of title II, add the following:

SEC. 217. GARY/CHICAGO AIRPORT FUNDING.

The Administrator of the Federal Aviation Administration shall, for purposes of chapter 471 of title 49, United States Code, give priority consideration to a letter of intent application for funding submitted by the City of Gary, Indiana, or the State of Indiana, for the extension of the main runway at the Gary/Chicago Airport. The letter of intent application shall be considered upon completion of the environmental impact statement and benefit cost analysis in accordance with Federal Aviation Administration requirements. The Administrator shall consider the letter of intent application not later than 90 days after receiving it from the applicant.

SA 889. Mr. MCCAIN proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

On page 68, after the item relating to section 107, insert the following:

Sec. 108. Whistle-blower protection under Acquisition Management System.

On page 68, after the item relating to section 205 and insert the following:

Sec. 205. Secretary of Transportation to identify airport congestion-relief projects.

On page 68 strike the item relating to section 211 and insert the following:

Sec. 211. Noise disclosure.

On page 68, after the item relating to section 216, insert the following:

Sec. 217. Share of airport project costs.
Sec. 218. Pilot program for purchase of airport development rights.

On page 68, after the item relating to section 304, insert the following:

Sec. 305. Air carriers required to honor tickets for suspended air service.

On page 68, after the item relating to section 354, insert the following:

Subtitle C—Financial Improvement Effort and Executive Compensation Report

Sec. 371. GAO report on airlines actions to improve finances and on executive compensation.

On page 68, after the item relating to section 513 and redesignate the items relating to sections 514 through 520 as relating to sections 513 and 519.

On page 68, after the item relating to section 520, as redesignated, insert the following:

Sec. 520. Certain interim and final rules.

On page 83, beginning in line 23, strike "chair and vice chair," and insert "chair,".

On page 84, line 1, strike "chairperson" and insert "chair".

On page 84, line 6, strike "chairperson" and insert "chair".

On page 84, line 13, strike "chairperson" and insert "chair".

On page 84, line 23, strike "chairperson" and insert "chair".

On page 89, between lines 15 and 16, insert the following:

SEC. 108, WHISTLE-BLOWER PROTECTION UNDER ACQUISITION MANAGEMENT SYSTEM.

Section 40110(d)(2)(C) is amended by striking "355)." and inserting "355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system, the term "exective agency" is deemed to refer to the Federal Aviation Administration.".

On page 104, beginning with line 4, strike through line 7 on page 105 and insert the following:

SEC. 205. SECRETARY OF TRANSPORTATION TO IDENTIFY AIRPORT CONGESTION-RELIEF PROJECTS.

(a) In General.—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall provide to the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure—

(1) a list of planned air traffic and airport-capacity projects at congested airport capacity benchmark airports the completion of which will substanially relieve congestion at these airports; and

(2) a list of options for expanding capacity at the 8 airports on the list at which the most severe delays are occurring.

(b) 2-Year Update.—The Secretary shall provide updated lists under subsection (a) to the Committees 2 years after the date of enactment of this Act.

(c) Delisting of Projects.—The Secretary shall remove a project from the list provided to the Committees under this section upon the request, in writing, of an airport operator if the operator states in the request that construction of the project will not be completed within 10 years from the date of the request.

On page 110, line 17, strike "non-hub airport (as defined in section 47102" and insert "nonhub airport (as defined in section 41762(11)".

On page 112, beginning with line 21, strike through line 12 on page 116, and insert the following:

SEC. 211. NOISE DISCLOSURE.

(a) Noise Disclosure System Implementation Study.—The Administrator of the Federal Aviation Administration shall conduct a study to determine the feasibility of developing a program under which prospective home buyers of property located in the vicinity of an airport could be notified of information derived from noise exposure maps that may affect the use and enjoyment of the property. The study shall assess the scope, administration, usefulness, and burdensome of any such program, the costs and benefits of such a program, and whether participation in such a program should be voluntary or mandatory.

(b) Public Availability of Noise Exposure Maps.—The Federal Aviation Administration shall make copies or facsimiles of noise exposure maps available to the public via the Internet on its website in an appropriate format.

(c) Noise Exposure Map.—In this section, the term "noise exposure map" means a noise exposure map prepared under section 47503 of title 49, United States Code.

On page 121, line 23, strike "47114(d)(2)(A)" and insert "47114(d)(3)(A)".

On page 123, between line 3 and 4, insert the following:

(c) Terminal Development Costs.—Section 47119(a)(1)(C) is amended by striking "3 years" and inserting "1 year".

SEC. 217. SHARE OF AIRPORT PROJECT COSTS.

(a) In General.—Section 47109 of title 49, United States Code, is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

"(c) Grandfather Rule.—

"(1) In general.—In the case of any project approved after September 30, 2001, at an airport that has less than .25 percent of the total number of passenger boardings at all commercial service airports, and that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, the Government's share of allowable costs of the project shall be increased by the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979. This subsection shall apply only if—

'"(A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and

"(B) the application under subsection (b), does not increase the Government's share of allowable costs of the project

"(2) Limitation.—The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b).".

(b) Conforming Amendment.—Subsection (a) of Section 47109, title 49, United States Code, is amended by striking "Except as provided in subsection (b)", and inserting in lieu thereof "Except as provided in subsection (b) or subsection (c)".

SEC. 218. PILOT PROGRAM FOR PURCHASE OR AIRPORT DEVELOPMENT RIGHTS.

(a) In General.—Chapter 471 is amended by adding at the end the following:

"§ 47141. Pilot program for purchase of airport development rights

"(a) In General.—The Secretary of Transportation shall establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly affecting the use of, privately owned public use airports located in that State. Under the program, the Secretary may make a grant to a State or political subdivision of a State from funds apportioned under section 47114 for the purchase of such rights.

"(b) Grant Requirements.—

"(1) In general.—The Secretary may not make a grant under subsection (a) unless the grant is made—

"(A) to enable the State or political subdivision to purchase development rights in order to ensure that the airport property will continue to be available for use as a public airport; and

"(B) subject to a requirement that the State or political subdivision acquire an easement or other appropriate covenant requiring that the airport shall remain a public use airport in perpetuity.

"(2) Matching requirement.—The amount of a grant under the program may not exceed 90 percent of the costs of acquiring the development rights.

"(c) Grant Standards.—The Secretary shall prescribe standards for grants under subsection (a), including—

"(1) grant application and approval procedures; and

"(2) requirements for the content of the instrument recording the purchase of the development rights.

"(d) Release of Purchased Rights and Covenant.—Any development rights purchased under the program shall remain the property of the State or political subdivision unless the Secretary approves the transfer or disposal of the development rights after making a determination that the transfer or disposal of that right is in the public interest.

"(c) Limitation.—The Secretary may not make a grant under the pilot program for the purchase of development rights at more than 10 airports.".

(b) Conforming Amendment.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47140 the following:

"47141. Pilot program for purchase of airport development rights.".

On page 127, line 18, strike "and"

On page 127, line 21, strike "2006'." and insert "2006'; and".

On page 127, between lines 21 and 22, insert the following:

(4) by striking "section." and inserting "section, not more than $275,000 per year of which may be used for administrative costs in fiscal years 2004 through 2006.".

On page 127, beginning with "No" in line 24, strike through line 2 on page 128 and insert the following: "No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.'.".

On page 130, between lines 10 and 11, insert the following:

SEC. 305. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED AIR SERVICE.

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking "more than" and all that follows through "after" and inserting "more than 36 months after".

On page 131, beginning in line 21, strike "eligible essential air service communities receiving assistance under subchapter II" and insert "communities that receive subsidized service by an air carrier under section 41733".

On page 133, line 23, strike "essential air service community" and insert "point that receives subsidized service by an air carrier under section 41733".

On page 134, line 8, strike "41731(a)(1)." and insert "41731(a)(1), subject to the provisions of section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note).

On page 135, line 6, strike "2007," and insert "2006 to carry out this subchapter,".

On page 137, line 14, after "equipment." insert "Any community that participates in a pilot program under this subparagraph is deemed to have waived the minimum service requirements under section 41732(b) for purposes of its participation in that pilot program.".

On page 138, line 19, after "airports" insert "or small hub airports".

On page 143, strike lines 1 through 3 and insert the following:

"(d) TRACKING SERVICE.—The Secretary shall require carriers providing subsidy for service under section 41733 to track changes in services, including on-time arrivals and departures, on such subsidized routes, and to report such information to the Secretary on a semi-annual basis in such form as the Secretary may require.

On page 143, line 24, strike "monthly cost increase of 10 percent or more." and insert "annual total unit cost increase (but not increases in individual unit costs) of 10 percent or more in relation to the unit rates used to construct the subsidy rate, based on the carrier's internal audit of its financial statements.".

On page 144, between lines 11 and 12, insert the following:

SUBTITLE C—FINANCIAL IMPROVEMENT EFFORT AND EXECUTIVE COMPENSATION REPORT

SEC. 371. GAO REPORT ON AIRLINES ACTIONS TO IMPROVE FINANCES AND ON EXECUTIVE COMPENSATION.

(a) FINDING.—The Congress finds that the United States government has by law provided substantial financial assistance to United States commercial airlines in the form of war risk insurance and reinsurance and other economic benefits and has imposed substantial economic and regulatory burdens on those airlines. In order to determine the economic viability of the domestic commercial airline industry and to evaluate the need for additional measures or the modification of existing laws, the Congress needs more frequent information and independently verified information about the financial condition of these airlines.

(b) SEMIANNUAL REPORTS.—The Comptroller General shall prepare a semiannual report to the Congress—

(1) analyzing measures being taken by air carriers engaged in air transportation and intrastate air transportation (as such terms are used in subtitle VII of title 49, United States Code) to reduce costs and to improve their earnings and profits and balance sheets; and

(2) stating—

(A) the total compensation (as defined in section 104(b) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note)) paid by the air carrier to each officer or employee of that air carrier to whom that section applies for the period to which the report relates; and

(B) the terms and value (determined on the basis of the closing price of the stock on the last business day of the period to which the report relates) of any stock options awarded to such officer during that period.

(c) GAO AUTHORITY.—In order to compile the reports required by subsection (b), the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, documents, papers, and records of such air carriers that relate to the information required to compile the reports. The Comptroller General shall submit with each such report a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(d) REPORTS TO CONGRESS.—The Comptroller General shall transmit the compilation of reports required by subsection (c) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

On page 144, beginning in line 15, strike "Security" and insert "Security, in consultation with representatives of the airport community,".

On page 145, line 10, strike "Transportation" and insert "Homeland Security".

On page 146, line 6, strike "Transportation" and insert "Homeland Security".

On page 146, line 7, strike "Homeland Security" and insert "Transportation".

On page 146, beginning in line 11, strike "The program shall be administered in concert with the airport improvement program under chapter 417 of title 49, United States Code." and insert "The requirements that apply to grants and letters of intent issued under chapter 471 of title 49, United States Code, shall apply to grants and letters of intent issued under this section.".

On page 147, line 9, strike "Transportation" and insert "Homeland Security".

On page 147, line 23, strike "417" and insert "471".

On page 148, line 11, strike "301(a)" and insert "308(a)".

On page 149, strike lines 14 through 21 and insert the following:

Section 44310 is amended by striking "2004." and inserting "2006.".

On page 153, beginning in line 22, strike "sections 121, 123, and 126 and chapter 5 of chapter 5 of title 40." and insert "subchapter III of chapter 5 of title 40, United States Code.".

On page 158, line 23, strike "(g)" and insert "(h)".

On page 170, beginning with line 23, strike through line 3 on page 171.

On page 171, line 4, strike **"SEC. 514."** and insert **"SEC. 513."**.

On page 172, line 18, strike **"SEC. 515."** and insert **"SEC. 514."**.

On page 174, line 1, strike **"SEC. 516."** and insert **"SEC. 515."**.

On page 175, strike lines 13 through 16, and insert the following:

(c) CHAIRPERSON.—The Secretary shall designate, from among the individuals appointed under subsection (b)(1), an individual to serve as Chairperson of the Commission.

On page 178, between lines 9 and 10, insert the following:

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $250,000 to be used to fund the Commission.

On page 178, line 10, strike **"SEC. 517."** and insert **"SEC. 516."**.

On page 180, line 7, strike **"SEC. 518."** and insert **"SEC. 517."**.

On page 180, beginning in line 13, strike "American or foreign-flag aircraft," and insert "aircraft by an air carrier,".

On page 181, line 1, strike "44304(a)" and insert "44303(a)".

On page 181, line 5, strike "American or foreign-flag aircraft.'." and insert "aircraft by an air carrier.'.".

On page 181, line 6, strike **"SEC. 519."** and insert **"SEC. 518."**.

On page 181, line 21, strike **"SEC. 520."** and insert **"SEC. 519."**.

On page 182, between lines 8 and 9, insert the following:

SEC. 520. CERTAIN INTERIM AND FINAL RULES.

Notwithstanding section 141(d)(1) of the Aviation and Transportation Security Act (49 U.S.C. 44901 note), section 45301(b)(1)(B) of title 49, United States Code, as amended by section 119(d) of that Act, is deemed to apply to, and to have been in effect with respect to, the authority of the Administrator of the Federal Aviation Administration with respect to the Interim Final Rule and Final Rule issued by the Administrator on May 30, 2000, and August 13, 2001, respectively.

SA 890. Mr. DORGAN proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

On page 146, beginning with line 20, strike through line 8 on page 147.

SA 891. Mr. REID (for himself and Mr. ENSIGN) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

On Page 146, line 17, insert "origination and destination" before "emplanements;".

On page 146, line 19, insert "origination and destination" before "emplanements".

SA 892. Mr. MCCAIN proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . AIR FARES FOR MEMBERS OF ARMED FORCES.

It is the sense of the Senate that each United States air carrier should—

(1) make every effort to allow active duty members of the armed forces to purchase tickets, on a space-available basis, for the lowest fares offered for the flights desired, without regard to advance purchase requirements and other restrictions; and

(2) offer flexible terms that allow members of the armed forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, or penalties.

SA 893. Mr. LAUTENBERG (for himself and Mr. JOHNSON) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

On page 193, after line 23, insert the following:

SEC. 624. TRANSFER OF CERTAIN AIR TRAFFIC CONTROL FUNCTIONS PROHIBITED.

(a) IN GENERAL.—The Secretary of Transportation may not authorize the transfer to a private entity or to a public entity other than the United States Government of—

(1) the air traffic separation and control functions operated by the Federal Aviation Administration on the date of enactment of this Act; or

(2) the maintenance of certifiable systems and other functions related to certification of national airspace systems and services operated by the Federal Aviation Administration on the date of enactment of this Act or flight service station personnel.

(b) CONTRACT TOWER PROGRAM.—Subsection (a)(1) shall not apply to a Federal Aviation Administration air traffic control tower operated under the contract tower program as of the date of enactment of this Act.

On page 69, after the item relating to section 623, insert the following:

Sec. 624. Transfer of certain air traffic control functions prohibited.

SA 894. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Adminstration, and for other purposes; as follows:

At the end of title IV, add the following:

SEC. 405. GENERAL AVIATION AND AIR CHARTERS.

Section 132(a) of the Aviation and Transportation Security Act (49 U.S.C. 44944 note) is amended by striking "12,500 pounds or more" and inserting "more than 12,500 pounds".

SA 895. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of title IV, add the following:

SEC. 405. AIR DEFENSE IDENTIFICATION ZONE.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration establishes an Air Defense Identification Zone (in this section referred as an "ADIZ"), the Administrator shall, not later than 60 days after the date of establishing the ADIZ, transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report containing an explanation of the need for the ADIZ. The Administrator shall provide the Committees an updated report every 60 days until the establishment of the ADIZ is rescinded. The reports and updates shall be transmitted in classified form.

(b) EXISTING ADIZ.—If an ADIZ is in effect on the date of enactment of this Act, the Administrator shall transmit an initial report under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 30 days after the date of enactment of this Act.

(c) REPORTING REQUIREMENTS.—If a report required under subsection (a) or (b) indicates that the ADIZ is to be continued, the Administrator shall outline changes in procedures and requirements to improve operational efficiency and minimize the operational impacts of the ADIZ on pilots and air traffic controllers.

(d) DEFINITION.—In this section, the terms "Air Defense Identification Zone" and "ADIZ" mean a zone established by the Administrator with respect to airspace under 18,000 feet in approximately a 15 to 38 mile radius around Washington, District of Columbia, for which security measures are extended beyond the existing 15-mile-no-fly zone around Washington and in which general aviation aircraft are required to adhere to certain procedures issued by the Administrator.

SA 896. Mr. INHOFE (for himself, Mr. KYL, Mr. THOMAS, Mr. BROWNBACK, Mr. GRASSLEY, Mr. ENZI, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of title V, add the following new section:

SECTION 521. AGE LIMITATIONS.

(a) GENERAL.—Notwithstanding any other provision of law, beginning on the date that is 30 days after the date of enactment of this Act—

(1) section 121.383(c) of title 14, Code of Federal Regulations, shall not apply;

(2) no certificate holder may use the services of any person as a pilot on an airplane engaged in operations under part 121 of title 14, Code of Federal Regulations, if that person is 65 years of age or older; and

(3) no person may serve as a pilot on an airplane engaged in operations under part 121 of title 14, Code of Federal Regulations, if that person is 65 years of age or older.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of this section shall take effect on the date that is 30 days after the date of enactment of this Act.

(2) INTERIM LIMITATION.—During the period that begins on the date that is 30 days after the date of enactment of this Act and ending on the date that is one year after such date—

(A) subsection (a)(2) shall be applied by substituting "64" for "65"; and

(B) subsection (a)(3) shall be applied by substituting "64" for "65".

(c) CERTIFICATE HOLDER.—For purposes of this section, the term "certificate holder" means a holder of a certificate to operate as an air carrier or commercial operator issued by the Federal Aviation Administration.

(d) RESERVATION OF SAFETY AUTHORITY.—Nothing in this section is intended to change the authority of the Federal Aviation Administration to take steps to ensure the safety of air transportation operations involving a pilot who is 60 years of age or older.

SA 897. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Section 133 is amended:

(1) on page 66, line 2 by inserting between "717(f)(e)" and the period at the end the following:

"and paragraph (3) of this subsection."

(2) at subsection (b) by inserting the following new paragraph:

"(3) The Commission may issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under this section or otherwise to an applicant only if an Alaska group has a meaningful economic stake in such applicant.

(3) by inserting at the end the following new subsection:

"(j) DEFINITIONS.—In this section, the following definitions apply:

(1) The term "Alaska group" means an entity in which one or more Regional Corporations (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et. seq.)) has a controlling interest and in which such Regional Corporations own, directly or indirectly, two-thirds of the equity interest. The remaining one-third of the equity interest in the Alaska group shall be held by an entity established by the State of Alaska that facilitates indirect broad-based economic participation by residents of the State of Alaska who elect to participate in such ownership. If the State of Alaska elects not to establish such an entity, or the entity established by the State of Alaska elects to purchase less than all of its allocated one-third equity interest, such remaining interest shall be offered to the Regional Corporations holding the controlling interest.

(2) the term "meaningful economic stake" means a direct or indirect equity interest of ten percent or more (or, at an Alaska group's election, less) with adequate protections for a minority interest holder."

SA 898. Mr. COCHRAN (for himself and Mr. BYRD) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

On page 145, beginning with line 8, strike all down through and including line 24 on part 147, and insert the following:

SEC. 402. AVIATION SECURITY CAPITAL FUND.

(a) IN GENERAL.—There may be established within the Department of Homeland Security a fund to be known as the Aviation Security Capital Fund. There are authorized to be appropriated to the Fund up to $500,000,000 for each of the fiscal years 2004 through 2007, such amounts to be derived from fees received under section 44940 of title 49, United States Code. Amounts in the fund shall be allocated in such a manner that—

(1) 40 percent shall be made available for hub airports;

(2) 20 percent shall be made available for medium hub airports;

(3) 15 percent shall be made available for small hub airports and non-hub airports; and

(4) 25 percent may be distributed at the Secretary's discretion.

(b) PURPOSE.—Amounts in the Fund shall be available to the Secretary of Homeland Security to provide financial assistance to airport sponsors to defray capital investment in transportation security at airport facilities in accordance with the provisions of this section. The program shall be administered in concert with the airport improvement program under chapter 417 of title 49, United States Code.

(c) APPORTIONMENT.—Amounts made available under subsection (a)(1), (a)(2), or (a)(3) shall be apportioned among the airports in each category in accordance with a formula based on the ratio that passenger enplanements at each airport in the category bears to the total passenger enplanements at all airports in that category.

(d) MATCHING REQUIREMENTS.—

(1) IN GENERAL.—Not less than the following percentage of the costs of any project funded under this section shall be derived from non-Federal sources:

(A) For hub airports and medium hub airports, 25 percent.

(B) For airports other than hub airports and medium hub airports, 10 percent.

(2) USE OF BOND PROCEEDS.—In determining the amount of nonfederal sources of funds, the proceeds of State and local bond issues shall not be considered to be derived, directly or indirectly, from Federal sources without regard to the Federal income tax treatment of interest and principal of such bonds.

(e) LETTERS OF INTENT.—The Secretary of Homeland Security, or his delegate, may execute letters of intent to commit funding to airport sponsors from the Fund.

(f) CONFORMING AMENDMENT.—Section 44940(a)(1) of title 49, United States Code, is amended by adding at the end the following:

"(H) The costs of security-related capital improvements at airports.".

(g) DEFINITIONS.—Any term used in this section that is defined or used in chapter 417 of title 49 United States Code has the meaning given that term in that chapter.

SA 899. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. .—RECOMMENDATIONS CONCERNING TRAVEL AGENTS.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on—

(1) the travel agent arbiter program; and

(2) the special box on tickets for agents to include their service fee charges.

(b) CONSULTATION.—In preparing this report, the Secretary shall consult with representatives from the airline and travel agent industry.

SA 900. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES.

(a) IN GENERAL.— The Secretary of Transportation may make grants to reimburse the following general aviation entities for the security costs incurred and revenue foregone as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001, or the military action to free the people of Iraq that commenced in March 2003:

(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act and general aviation entities operating at those airports.

(3) General aviation entities that were affected by Federal Aviation Administration Notice to Airmen FDC 2/0199 and section 352 of the Department of Transportation and Related Agencies Appropriations Act, 2003 (P.L. 108–7, Division I).

General aviation entities affected by implementation of section 44939 of title 49, United States Code.

(5) Any other general aviation entity that is prevented from doing business or operating by an action of the Federal Government prohibiting access to airspace by that entity.

(b) DOCUMENTATION.—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

(c) GENERAL AVIATION ENTITY DEFINED.—In this section, the term "general aviation entity" means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

(2) manufacture nonmilitary aircraft with a maximum seating capacity of fewer than 20 passengers or aircraft parts to be used in such aircraft;

(3) provides services necessary for nonmilitary operations under such part 91; or

(4) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that

(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such terms includes fixed based operators, flight schools, manufacturers of general aviation aircraft and products, persons engaged in nonscheduled aviation enterprises, and general aviation independent contractors.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000. Such sums shall remain available until expended.

SA 901. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REPORT ON PASSENGER PRESCREENING PROGRAM.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Attorney General, shall submit a report in writing to the Senate Committee on Commerce, Science, and Transportation and Infrastructure on the potential impact of the Transportation Security Administration's proposed Computer Assisted Passenger Prescreening system, commonly known as CAPPS II, on the privacy and civil liberties of United States Citizens.

(b) SPECIFIC ISSUES TO BE ADDRESSED.—The report shall address the following:

(1) Whether and for what period of time data gathered on individual travelers will be retained, who will have access to such data, and who will make decisions concerning access to such data.

(2) How the Transportation Security Administration will treat the scores assigned to individual travelers to measure the likelihood they may pose a security threat, including how long such scores will be retained and whether and under what circumstances they may be shared with other governmental, non-governmental, or commercial entities.

(3) The role airlines and outside vendors or contractors will have in implementing and operating the system, and to what extent will they have access, or the means to obtain access, to data, scores, or other information generated by the system.

(4) The safeguards that will be implemented to ensure that data, scores, or other information generated by the system will be used only as officially intended.

(5) The procedures that will be implemented to mitigate the effect of any errors, and what procedural recourse will be available to passengers who believe the system has wrongly barred them from taking flights.

(6) The oversight procedures that will be implemented to ensure that, on an ongoing basis, privacy and civil liberties issues will continue to be considered and addressed with high priority as the system is installed, operated and updated.

SA 902. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 48, supporting the goals and ideals of "National Epilepsy Awareness Month" and urging support for epilepsy research and service programs; which was referred to the Committee on the Judiciary; as follows:

On page 3, line 2, strike "an annual" and insert "a".

On page 3, line 6, after the semicolon insert "and".

On page 3, line 7, strike "an increase in funding" and insert "support".

On page 3, line 10, strike "; and" and all that follows and insert a period.

After the eighth clause of the preamble, insert the following:

Whereas a significant number of people with epilepsy may lack access to medical care for the treatment of the disease;

Amend the title by striking "funding" and inserting "support".

SA 903. Mr. BUNNING (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place, insert the following new section:

SEC. . ARMING CARGO PILOTS AGAINST TERRORISM.

(a) SHORT TITLE.—This section may be cited as the "Arming Cargo Pilots Against Terrorism Act".

(b) FINDINGS.—Congress makes the following findings:

(1) During the 107th Congress, both the Senate and the House of Representatives overwhelmingly passed measures that would have armed pilots of cargo aircraft.

(2) Cargo aircraft do not have Federal air marshals, trained cabin crew, or determined passengers to subdue terrorists.

(3) Cockpit doors on cargo aircraft, if present at all, largely do not meet the security standards required for commercial passenger aircraft.

(4) Cargo aircraft vary in size and many are larger and carry larger amounts of fuel than the aircraft hijacked on September 11, 2001.

(5) Aircraft cargo frequently contains hazardous material and can contain deadly biological and chemical agents and quantities of agents that cause communicable diseases.

(6) Approximately 12,000 of the nation's 90,000 commercial pilots serve as pilots and flight engineers on cargo aircraft.

(7) There are approximately 2,000 cargo flights per day in the United States, many of which are loaded with fuel for outbound international travel or are inbound from foreign airports not secured by the Transportation Security Administration.

(8) Aircraft transporting cargo pose a serious risk as potential terrorist targets that could be used as weapons of mass destruction.

(9) Pilots of cargo aircraft deserve the same ability to protect themselves and the aircraft they pilot as other commercial airline pilots.

(10) Permitting pilots of cargo aircraft to carry firearms creates an important last line

of defense against a terrorist effort to commandeer a cargo aircraft.

(c) SENSE OF CONGRESS.—It is the sense of Congress that members of a flight deck crew of a cargo aircraft should be armed with a firearm and taser to defend the cargo aircraft against an attack by terrorists that could result in the use of the aircraft as a weapon of mass destruction or for other terrorist purposes.

(d) ARMING CARGO PILOTS AGAINST TERRORISM.—Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "passenger" each place that it appears; and

(2) in subsection (k)—

(A) in paragraph (2)—

(i) by striking "or," and all that follows; and

(ii) by inserting "or any other flight deck crew member."; and

(B) by adding at the end the following new paragraph:

"(3) ALL-CARGO AIR TRANSPORTATION.—For the purposes of this section, the term air transportation includes all-cargo air transportation.".

(e) TIME FOR IMPLEMENTATION.—The training of pilots as Federal flight deck officers required in the amendments made by subsection (d) shall begin as soon as practicable and no later than 90 days after the date of enactment of this Act.

(f) EFFECT ON OTHER LAWS.—The requirements of subsection (e) shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

SA 904. Mr. SPECTER (for himself, Mr. SANTORUM, and Mr. DASCHLE) submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table as follows:

On page 174, before line 1, insert the following new section.

SEC. 515A. MEASUREMENT OF HIGHWAY MILEAGE FOR PURPOSES OF DETERMINING ELIGIBILITY FOR ESSENTIAL AIR SERVICE SUBSIDIES.

(a) DETERMINATION OF ELIGIBILITY.—Subchapter II of chapter 417, as amended by section 515 of this Act, is amended by adding at the end the following new section:

"§ 41747. Distance requirement applicable to eligibility for essential air service subsidies

"(a) IN GENERAL.—The Secretary shall not provide assistance under this subchapter with respect to a place in the 48 contiguous States that—

"(1) is less than 70 highway miles from the nearest hub airport; or

"(2) requires a rate of subsidy per passenger in excess of $200, unless such place is greater than 210 highway miles from the nearest hub airport.

"(b) DETERMINATION OF MILEAGE.—For purposes of this section, the highway mileage between a place and the nearest hub airport is the highway mileage of the most commonly used route between the place and the hub airport. In identifying such route, the Secretary shall—

"(1) consult with—

"(A) the metropolitan planning organization designated under section 134 of title 23, United States Code, for the metropolitan planning area within which such place is located; or

"(B) if no such organization exists, the Governor of the State in which such place is located, or the Governor's designee; and

"(2) request, and accept as binding if provided within 60 days, the certification of such organization or person as to the most commonly used route and the corresponding highway mileage.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 41746 the following new item:

"41747. Distance requirement applicable to eligibility for essential air service subsidies.".

(c) REPEAL.—The following provisions of law are repealed:

(1) Section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note).

(2) Section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note).

(3) Section 334 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (section 101(g) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999) (Public Law 105–277; 112 Stat. 2681–471).

(d) SECRETARIAL REVIEW.—

(1) REQUEST FOR REVIEW.—Any community with respect to which the Secretary of Transportation has, between September 30, 1993, and the date of the enactment of this Act, eliminated subsidies or terminated subsidy eligibility under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note), section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note), or any prior law of similar effect, may request the Secretary to review such action.

(2) ELIGIBILITY DETERMINATION.—Not later than 60 days after receiving a request under paragraph (1), the Secretary shall—

(A) determine whether the community would have been subject to such elimination of subsidies or termination of eligibility under the distance requirement enacted by this Act; and

(B) issue a final order with respect to the eligibility of such community for essential air service subsidies under subchapter II of chapter 417 of title 49, United States Code, as amended by this Act.

SA 905. Mr. SPECTER (for himself, Mrs. BOXER, Mr. DURBIN, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of title IV, add the following:

SEC. 405. FOREIGN REPAIR STATION SAFETY AND SECURITY.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) DOMESTIC REPAIR STATION.—The term "domestic repair station" means a repair station or shop that—

(A) is described in section 44707(2) of title 49, United States Code; and

(B) is located in the United States.

(3) FOREIGN REPAIR STATION.—The term "foreign repair station" means a repair station or shop that—

(A) is described in section 44707(2) of title 49, United States Code; and

(B) is located outside of the United States.

(4) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary for Border and Transportation Security of the Department of Homeland Security.

(b) APPLICABILITY OF STANDARDS.—Within 180 days after the date of enactment of this Act, the Administrator shall issue regulations to ensure that foreign repair stations meet the same level of safety required of domestic repair stations.

(c) SPECIFIC STANDARDS.—In carrying out subsection (b), the Administrator shall, at a minimum, specifically ensure that foreign repair stations, as a condition of being certified to work on United States registered aircraft—

(1) institute a program of drug and alcohol testing of its employees working on United States registered aircraft and that such a program provides an equivalent level of safety achieved by the drug and alcohol testing requirements that workers are subject to at domestic repair stations;

(2) agree to be subject to the same type and level of inspection by the Federal Aviation Administration as domestic repair stations and that such inspections occur without prior notice to the country in which the station is located; and

(3) follow the security procedures established under subsection (d).

(d) SECURITY AUDITS.—

(1) IN GENERAL.—To ensure the security of maintenance and repair work conducted on United States aircraft and components at foreign repair stations, the Under Secretary, in consultation with the Administrator, shall complete a security review and audit of foreign repair stations certified by the Administrator under part 145 of title 14, Code of Federal Regulations. The review shall be completed not later than 180 days after the date on which the Under Secretary issues regulations under paragraph (6).

(2) ADDRESSING SECURITY CONCERNS.—The Under Secretary shall require a foreign repair station to address the security issues and vulnerabilities identified in a security audit conducted under paragraph (1) within 90 days of providing notice to the repair station of the security issues and vulnerabilities identified.

(3) SUSPENSIONS AND REVOCATIONS OF CERTIFICATES.—

(A) FAILURE TO CARRY OUT EFFECTIVE SECURITY MEASURES.—If the Under Secretary determines as a result of a security audit that a foreign repair station does not maintain and carry out effective security measures or if a foreign repair station does not address the security issues and vulnerabilities as required under subsection (d)(2), the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall suspend the certification of the repair station until such time as the Under Secretary determines that the repair station maintains and carries out effective security measures and has addressed the security issues identified in the audit, and transmits the determination to the Administrator.

(B) IMMEDIATE SECURITY RISK.—If the Under Secretary determines that a foreign repair station poses an immediate security risk, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall revoke the certification of the repair station.

(4) FAILURE TO MEET AUDIT DEADLINE.—If the security audits required by paragraph (1) are not completed on or before the date that is 180 days after the date on which the Under

Secretary issues regulations under paragraph (6), the Administrator may not certify, or renew the certification of, any foreign repair station until such audits are completed.

(5) PRIORITY FOR AUDITS.—In conducting the audits described in paragraph (1), the Under Secretary and the Administrator shall give priority to foreign repair stations located in countries identified by the United States Government as posing the most significant security risks.

(6) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Under Secretary, in consultation with the Administrator, shall issue final regulations to ensure the security of foreign and domestic repair stations. If final regulations are not issued within 180 days of the date of enactment of this Act, the Administrator may not certify, or renew the certification of, any foreign repair station until such regulations have been issued.

SA 906. Mr. BINGAMAN (for himself, Mr. INHOFE, Ms. SNOWE, Mr. JEFFORDS, Ms. COLLINS, Mr. SPECTER, Mr. HARKIN, Mrs. CLINTON, Mr. SCHUMER, Mr. PRYOR, Mr. NELSON of Nebraska, Mrs. LINCOLN, Mr. GRASSLEY, Mr. HAGEL, and Mr. BROWNBACK) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

Beginning on page 138, line 15, strike all through page 142, line 11.

SA 907. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of title II, add the following:

SEC. 217. ANCHORAGE AIR TRAFFIC CONTROL.

(a) IN GENERAL.—Not later than September 30, 2004, the Administrator of the Federal Aviation Administration shall complete a study and transmit a report to the appropriate committees regarding the feasibility of consolidating the Anchorage Terminal Radar Approach Control and the Anchorage Air Route Traffic Control Center at the existing Anchorage Air Route Traffic Control Center facility.

(b) APPROPRIATE COMMITTEES.—In this section, the term "appropriate committees" means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SA 908. Mr. HOLLINGS (for Mr. WYDEN) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . REPORT ON PASSENGER PRESCREENING PROGRAM.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Attorney General, shall submit a report in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the potential impact of the Transportation Security Administration's proposed Computer Assisted Passenger Prescreening system, commonly known as CAPPS II, on the privacy and civil liberties of United States Citizens.

(b) SPECIFIC ISSUES TO BE ADDRESSED.—The report shall address the following:

(1) Whether and for what period of time data gathered on individual travelers will be retained, who will have access to such data, and who will make decisions concerning access to such data.

(2) How the Transportation Security Administration will treat the scores assigned to individual travelers to measure the likelihood they may pose a security threat, including how long such scores will be retained and whether and under what circumstances they may be shared with other governmental, non-governmental, or commercial entities.

(3) The role airlines and outside vendors or contractors will have in implementing and operating the system, and to what extent will they have access, or the means to obtain access, to data, scores, or other information generated by the system.

(4) The safeguards that will be implemented to ensure that data, scores, or other information generated by the system will be used only as officially intended.

(5) The procedures that will be implemented to mitigate the effect of any errors, and what procedural recourse will be available to passengers who believe the system has wrongly barred them from taking flights.

(6) The oversight procedures that will be implemented to ensure that, on an ongoing basis, privacy and civil liberties issues will continue to be considered and addressed with high priority as the system is installed, operated and updated.

SA 909. Mr. HOLLINGS (for Mr. NELSON of Florida) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . MODIFICATION OF REQUIREMENTS REGARDING TRAINING TO OPERATE AIRCRAFT.

(a) IN GENERAL.—Section 44939 of title 49, United States Code, is amended to read as follows:

"§ 44939. Training to operate certain aircraft

"(a) IN GENERAL.—

"(1) WAITING PERIOD.—A person subject to regulation under this part may provide training in the United States in the operation of an aircraft to an individual who is an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Under Secretary of Homeland Security for Border and Transportation Security only if—

"(A) that person has notified the Under Secretary that the individual has requested such training and furnished the Under Secretary with that individual's identification in such form as the Under Secretary may require; and

"(B) the Under Secretary has not directed, within 30 days after being notified under subparagraph (A), that person not to provide the requested training because the Under Secretary has determined that the individual presents a risk to aviation security or national security.

"(2) NOTIFICATION-ONLY INDIVIDUALS.—

"(A) IN GENERAL.—The requirements of paragraph (1) shall not apply to an alien individual who holds a visa issued under title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and who—

"(i) has earned a Federal Aviation Administration type rating in an aircraft or has undergone type-specific training, or

"(ii) holds a current pilot's license or foreign equivalent commercial pilot's license that permits the person to fly an aircraft with a maximum certificated takeoff weight of more than 12,500 pounds as defined by the International Civil Aviation Organization in Annex 1 to the Convention on International Civil Aviation,

if the person providing the training has notified the Under Secretary that the individual has requested such training and furnished the Under Secretary with that individual's visa information.

"(B) Exception.—Subparagraph (A) does not apply to an alien individual whose airman's certificate has been suspended or revoked under procedures established by the Under Secretary.

"(3) EXPEDITED PROCESSING.—The waiting period under paragraph (1) shall be expedited for an individual who—

"(A) has previously undergone a background records check by the Foreign Terrorist Tracking Task Force;

"(B) is employed by a foreign air carrier certified under part 129 of title 49, Code of Federal Regulations, that has a TSA 1546 approved security program and who is undergoing recurrent flight training;

"(C) is a foreign military pilot endorsed by the United States Department of Defense for flight training; or

"(D) who has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii).

"(4) INVESTIGATION AUTHORITY.—In order to determine whether an individual requesting training described in paragraph (1) presents a risk to aviation security or national security the Under Secretary is authorized to use the employment investigation authority provided by section 44936(a)(1)(A) for individuals applying for a position in which the individual has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii).

"(5) FEE.—

"(A) IN GENERAL.—The Under Secretary may assess a fee for an investigation under this section, which may not exceed $100 per individual (exclusive of the cost of transmitting fingerprints collected at overseas facilities) during fiscal years 2003 and 2004. For fiscal year 2005 and thereafter, the Under Secretary may adjust the maximum amount of the fee to reflect the cost of such an investigation.

"(B) OFFSET.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this section—

"(i) shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Under Secretary for those expenses; and

"(ii) shall remain available until expended.

"(b) INTERRUPTION OF TRAINING.—If the Under Secretary, more than 30 days after receiving notification under subsection (a)(1)(A) from a person providing training described in subsection (a)(1) or at any time after receiving notice from such a person under subsection (a)(2)(A), determines that an individual receiving such training presents a risk to aviation or national security, the Under Secretary shall immediately notify the person providing the training of the determination and that person shall immediately terminate the training.

"(c) COVERED TRAINING.—For purposes of subsection (a), the term 'training'—

"(1) includes in-flight training, training in a simulator, and any other form or aspect of training; but

"(2) does not include classroom instruction (also known as ground school training), which may be provided during the 30-day period described in subsection (a)(1)(B).

"(d) INTERAGENCY COOPERATION.—The Attorney General, the Director of Central Intelligence, and the Administrator of the Federal Aviation Administration shall cooperate with the Under Secretary in implementing this section.

"(e) SECURITY AWARENESS TRAINING FOR EMPLOYMENT.—The Under Secretary shall require flight schools to conduct a security awareness program for flight school employees, and for certified instructors who provide instruction for the flight school but who are not employees thereof, to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.".

(b) PROCEDURES.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security shall promulgate an interim final rule to implement section 44939 of title 49, United States Code, as amended by subsection (a).

(2) USE OF OVERSEAS FACILITIES.—In order to implement section 44939 of title 49, United States Code, as amended by subsection (a), United States Embassies and Consulates that posses appropriate fingerprint collection equipment and personnel certified to capture fingerprints shall fingerprint services to aliens covered by that section if the Under Secretary requires fingerprints in the administration of that section, and shall transmit the fingerprints to the Under Secretary or other agency designated by the Under Secretary. The Attorney General and the Secretary of State shall cooperate with the Under Secretary in carrying out this paragraph.

(3) USE OF UNITED STATES FACILITIES.—If the Under Secretary requires fingerprinting in the administration of section 44939 of title 49, United States Code, the Under Secretary may designate locations within the United States that will provide fingerprinting services to individuals covered by that section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the effective date of the interim final rule required by subsection (b)(1).

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the effectiveness of the activities carried out under section 44939 of title 49, United States Code, in reducing risks to aviation security and national security.

SA 910. Mr. HOLLINGS (for Mr. JEFFORDS (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . 1-YEAR EXTENSION OF EAS ELIGIBILITY FOR COMMUNITIES TERMINATED IN 2003 DUE TO DECREASED AIR TRAVEL.

Notwithstanding the rare of subsidy limitation in section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000, the Secretary of Transportation may not terminate an essential air service subsidy provided under chapter 417 of title 49, United States Code, before the end of calendar year 2004 for air service to a community—

(1) whose calendar year ridership for 2000 was sufficient to keep the per passenger subsidy below that limitation; and

(2) that has received notice that its subsidy will be terminated during calendar year 2003 because decreased ridership has caused the subsidy to exceed that limitation.

SA 911. Mr. HOLLINGS (for Mr. BAYH (for himself and Mr. LUGAR)) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of title II, add the following:

SEC. 217. GARY/CHICAGO AIRPORT FUNDING.

The Administrator of the Federal Aviation Administration shall, for purposes of chapter 471 of title 49, United States Code, give priority consideration to a letter of intent application for funding submitted by the City of Gary, Indiana, or the State of Indiana, for the extension of the main runway at the Gary/Chicago Airport. The letter of intent application shall be considered upon completion of the environmental impact statement and benefit cost analysis in accordance with Federal Aviation Administration requirements. The Administrator shall consider the letter of intent application not later than 90 days after receiving it from the applicant.

SA 912. Mr. HOLLINGS (for Mr. DODD) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. . LOCATION OF SHUTTLE SERVICE AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

The Airports Authority (as defined in section 49103(1) of title 49, United States Code) shall in conjunction with the Department of Transportation conduct a study on the feasibility of housing the gates used by all air carrier providing shuttle service from Ronald Reagan Washington National Airport in the same terminal.

SA 913. Mr. THOMAS proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes as follows:

At the end of title V, add the following new section:

SEC. 521. EXEMPTION FOR JACKSON HOLE AIRPORT.

(a) IN GENERAL.—Notwithstanding chapter 475 of title 49, United States Code, or any other provision of law, if the Board of the Jackson Hole Airport in Wyoming and the Secretary of the Interior agree that Stage 3 aircraft technology represents a prudent and feasible technological advance which, if implemented at the Jackson Hole Airport, will result in a reduction in noise at Grand Teton National Park—

(1) the Jackson Hole Airport may impose restrictions on, or prohibit, the operation of Stage 2 aircraft weighing less than 75,000 pounds, with reasonable exemptions for public health and safety;

(2) the notice, study, and comment provisions of subchapter II of chapter 475 of title 49, United States Code, and part 161 of title 14, Code of Federal Regulations, shall not apply to the imposition of the restrictions;

(3) the imposition of the restrictions shall not affect the Airport's eligibility to receive a grant under title 49, United States Code; and

(4) the restrictions shall not be deemed to be unreasonable, discriminatory, a violation of the assurances required by section 47107(a) of title 49, United States Code, or an undue burden on interstate commerce.

(b) DEFINITIONS.—In this section, the terms "Stage 2 aircraft" and "Stage 3 aircraft" have the same meaning as those terms have in chapter 475 of title 49, United States Code.

SA 914. Mr. LOTT proposed an amendment to amendment SA 905 submitted by Mr. SPECTER (for himself, Mrs. BOXER, Mr. DURBIN, and Mr. DAYTON) to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of the amendment add the following:

( ) STUDY.—Notwithstanding the preceding provisions of this section—

( ) the Administrator shall conduct a study of the need to establish a program to ensure that foreign repair stations meet the conditions and standards described in subsection (c);

(2) report the results of that study, together with the Administrator's recommendations and conclusions to the Congress within 180 days after the date of enactment of this Act; and

(3) the Administrator shall not issue regulations under subsection (h).

SA 915. Mr. SPECTER (for himself and Mr. SANTORUM) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of Title V, add the following new section:

(g) MEASUREMENT OF HIGHWAY MILEAGE FOR PURPOSES OF DETERMINING ELIGIBILITY FOR ESSENTIAL AIR SERVICE SUBSIDIES.—

(1) DETERMINATION OF ELIGIBILITY.—Subchapter II of Chapter 417 of title 49, United States Code, (as amended by subsection (f) of this bill) is further amended by adding at the end the following new section:

"§ 41746. Distance requirement applicable to eligibility for essential air service subsidies

"(a) IN GENERAL.—The Secretary shall not provide assistance under this subchapter with respect to a place in the 48 contiguous States that—

"(1) is less than 70 highway miles from the nearest hub airport; or

"(2) requires a rate of subsidy per passenger in excess of $200, unless such place is greater than 210 highway miles from the nearest hub airport.

"(b) DETERMINATION OF MILEAGE.—For purposes of Lancaster, Pennsylvania, the highway mileage between a place and the nearest hub airport is the highway mileage of the most commonly used route between the place and the hub airport. In identifying such route, the Secretary shall—

"(1) promulgate by regulation a standard for calculating the mileage between Lancaster, Pennsylvania and a hub airport; and

"(2) identify the most commonly used route for a community by—

"(A) consulting with the Governor of a State or the Governor's designee; and

"(B) considering the certification of the Governor of a State or the Governor's designee as to the most commonly used route.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter II of chapter 417 of title 49, United States Code, (as amended by subsection (f) of this bill) is further amended by inserting after the item relating to section 41745 the following new item:

"41746. Distance requirement applicable to eligibility for essential air service subsidies.".

(h) REPEAL.—The following provisions of law are repealed:

(1) Section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note).

(2) Section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note).

(3) Section 334 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (section 101(g) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999) (Public Law 105–277; 112 Stat. 2681–471).

(i) SECRETARIAL REVIEW.—

(1) REQUEST FOR REVIEW.—Any community with respect to which the Secretary has, between September 30, 1993, and the date of the enactment of this Act, eliminated subsidies or terminated subsidy eligibility under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note), Section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note), or any prior law of similar effect, may request the Secretary to review such action.

(2) ELIGIBILITY DETERMINATION.—Not later than 60 days after receiving a request under subsection (i), the Secretary shall—

(A) determine whether the community would have been subject to such elimination of subsidies or termination of eligibility under the distance requirement enacted by the amendment made by subsection (g) of this bill to subchapter II of chapter 417 of title 49, United States Code; and

(B) issue a final order with respect to the eligibility of such community for essential air service subsidies under subchapter II of chapter 417 of title 49, United States Code, as amended by this Act.

SA 916. Mr. HOLLINGS proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . REMOVAL OF CAP ON TSA STAFFING LEVEL.

The matter appearing under the heading "AVIATION SECURITY" in the appropriations for the Transportation Security Administration in the Transportation and Related Agencies Appropriation Act, 2003 (Public Law 108–7; 117 Stat. 386) is amended by striking the fifth proviso.

SA 917. Mr. HOLLINGS (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

Strike section 664 and insert the following:

SEC. 664. AIR QUALITY IN AIRCRAFT CABINS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled "The Airliner Cabin Environment and the Health of Passengers and Crew".

(b) REQUIRED ACTIVITIES.—In carrying out this section, the Administrator, at a minimum, shall—

(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

(2) collect pesticide exposure data to determine exposures of passengers and crew;

(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the contaminants to which passengers and crew were exposed;

(4) analyze and study cabin air pressure and altitude; and

(5) establish an air quality incident reporting system.

(c) REPORT.—Not later than 30 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.

SA 918. Mr. HOLLINGS (for Mr. ROCKEFELLER) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . PASS-THROUGH OF REFUNDED PASSENGER SECURITY FEES TO CODE-SHARE PARTNERS.

(a) IN GENERAL.—Within 30 days after the date of enactment of this Act, each United States flag air carrier that received a payment made under the second proviso of first appropriation in title IV of the Emergency Wartime Supplemental Appropriations Act, 2003 (Pub. L. 108–011; 117 Stat. 604) shall transfer to each air carrier with which it had a code-share arrangement during the period covered by the passenger security fees remitted under that proviso an amount equal to that portion of the remittance under the proviso that was attributable to passenger security fees paid or collected by that code-share air carrier and taken into account in determining the amount of the payment to the United States flag air carrier.

(b) DOT INSPECTOR GENERAL OVERSIGHT.—The Inspector General of the Department of Transportation shall review the compliance of United States flag air carriers with subsection (a), including determinations of amounts, determinations of eligibility of code-share air carriers, and transfers of funds to such air carriers under subsection (a).

(c) CERTIFICATION.—The chief executive officer of each United States flag air carrier to which subsection (a) applies shall certify to the Under Secretary of Homeland Security for Border and Transportation Security, under penalty of perjury, the air carrier's compliance with subsection (a).

SA 919. Mr. HOLLINGS (for Mr. INOUYE) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of subtitle A of title III, insert the following:

SEC. 305. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE.

(a) IN GENERAL.—Section 145(a) of the Aviation and Transportation Security Act of 2001 (49 U.S.C. 40101 note) is amended by adding at the end the following: "The Secretary of Transportation shall give favorable consideration to waiving the terms and conditions established by this section, including those set forth in the guidance provided by the Department in notices, dated August 8, 2002, November 14, 2002, and January 23, 2003, in cases where remaining carriers operate additional flights to accommodate passengers whose service was suspended, interrupted, or discontinued under circumstances described in the preceding sentence over routes located in isolated areas that are unusually dependent on air transportation.".

(b) EXTENSION.—Section 145(c) of such Act (49 U.S.C. 40101 note) is amended by striking "more than" and all that follows through "after" and inserting "more than 36 months after".

SA 920. Mr. STEVENS proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of title V, insert the following:

SEC. 521. AIR CARRIER CITIZENSHIP.

Section 40102(a)(15)(C) of title 49, United States Code, is amended by inserting "which is under the actual control of citizens of the United States," before "and in which".

SA 921. Mr. HOLLINGS (for Mr. HARKIN (for himself, Mr. INHOFE, and Mr. GRASSLEY)) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of title II, insert the following:

SEC. 217. CIVIL PENALTY FOR CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

"SEC. 46319. CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

"(a) PROHIBITION.—A public agency (as defined in section 47102) may not close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

"(b) PUBLICATION OF NOTICE.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

"(c) CIVIL PENALTY.—A public agency violating subsection (a) shall be liable for a civil penalty of $10,000 for each day that the airport remains closed without having given the notice required by this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 463 is amended by adding at the end the following:

"46319. Closure of an airport without providing sufficient notice.".

SA 922. Mr. MCCAIN (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

On page 209, after line 13, add the following:

TITLE VII—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 701. EXTENSION OF EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 2003" and inserting "October 1, 2006", and

(2) by inserting before the semicolon at the end of subparagraph (A) the following: "or the Aviation Investment and Revitalization Vision Act".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(f) of the Internal Revenue Code of 1986 is amended by striking "October 1, 2003" and inserting "October 1, 2006".

SA 923. Mr. STEVENS proposed an amendment to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of title V, add the following new section:

SEC. 521. UNITED STATES PRESENCE IN GLOBAL AIR CARGO INDUSTRY.

Section 41703 is amended by adding at the end the following new subsection:

"(e) CARGO IN ALASKA.—

"(1) IN GENERAL.—For the purposes of subsection (c), eligible cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by any combination of 2 or more air carriers or foreign air carriers in either direction between a place in the United States and a place outside the United States shall not be deemed to have broken its international journey in, be taken on in, or be destined for Alaska.

"(2) ELIGIBLE CARGO.—For purposes of paragraph (1), the term 'eligible cargo' means cargo transported between Alaska and any other place in the United States on a foreign air carrier (having been transported from, or thereafter being transported to, a place outside the United States on a different air carrier or foreign air carrier) that is carried—

"(A) under the code of a U.S. air carrier providing air transportation to Alaska;

"(B) on an air carrier way bill of an air carrier providing air transportation to Alaska;

"(C) under a term arrangement or block space agreement with an air carrier; or

"(D) under the code of a U.S. air carrier for purposes of transportation within the U.S.".

SA 924. Mr. MCCONNELL (for Mrs. LINCOLN) proposed an amendment to the concurrent resolution S. Con. Res. 48, supporting the goals and ideals of "National Epilepsy Awareness Month" and urging support for epilepsy research and service programs; as follows:

On page 3, line 2, strike "an annual" and insert "a".

On page 3, line 6, after the semicolon insert "and".

On page 3, line 7, strike "an increase in funding" and insert "support".

On page 3, line 10, strike "; and" and all that follows and insert a period.

SA 925. Mr. MCCONNELL (for Mrs. LINCOLN) proposed an amendment to the concurrent resolution S. Con. Res. 48, supporting the goals and ideals of "National Epilepsy Awareness Month" and urging support for epilepsy research and service programs; as follows:

After the eighth clause of the preamble, insert the following:

Whereas a significant number of people with epilepsy may lack access to medical care for the treatment of the disease;

SA 926. Mr. MCCONNELL (for Mrs. LINCOLN) proposed an amendment to the concurrent resolution S. Con. Res. 48, supporting the goals and ideals of "National Epilepsy Awareness Month" and urging support for epilepsy research and service programs; as follows:

Amend the title as to read a concurrent resolution supporting the goals and ideals of "National Epilepsy Awareness Month" and urging support for epilepsy research and service programs.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Tuesday, June 17, 2003, in Room 301 Russell Senate Office Building, to conduct a hearing on Senate Resolution 151, requiring public disclosure of notices of objections ("holds") to proceedings to motions or measures in the Senate.

For further information concerning this meeting, please contact Susan Wells at 202-224-6352.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session of the Senate on Thursday, June 12, 2003. The purpose of this hearing is to discuss the United States Department of Agriculture's implementation of the Agricultural Risk Protection Act of 2000 and related crop insurance issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 12, 2003, at 10:00 a.m. to conduct a hearing on "expanding homeownership opportunities."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, June 12, 2003, at 9:30 a.m. on Global Overfishing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Thursday, June 12, 2003, at 9:00 a.m., to consider an original bill entitled, The Prescription Drug and Medicare Improvement Act of 2003; to consider S. 312, "Availability of SCHIP Allotments for Fiscal Years 1998 through 2001".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 12, 2003, at 9:30 a.m., to hold a Hearing on Beyond Iraq: Repercussions of Iraq Stabilization and Reconstruction Policies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH EDUCATION, LABOR, AND PENSIONS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on TWA/American Airline Workforce Integration during the session of the Senate on Thursday, June 12, 2003 at 2:00 p.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 12, 2003, at 9:30 a.m. in Dirksen Room 226.

AGENDA

I. Nominations: David G. Campbell to be U.S. District Judge for the District of Arizona; Thomas M. Hardiman to be U.S. District Judge for the Western District of Pennsylvania; Eduardo Aguirre, Jr., to be Director, Bureau of Citizenship and Immigration Services, U.S. Department of Homeland Security; Richard James O'Connell to be U.S. Marshal for the Western District of Arkansas.

II. Bills: S. 724, A bill to amend Title 18, United States Code, to exempt certain rocket propellants from prohibitions under that title on explosive materials. [Enzi, Craig, Durbin, Sessions]; S. 1125, Fairness in Asbestos Injury Resolution Act of 2003 ("The FAIR Act") [Hatch, DeWine, Chambliss]; S. Res. 141, A resolution recognizing "Inventing Flight: The Centennial Celebration," a celebration in Dayton, Ohio of the centennial of Wilbur and Orville Wright's first flight [Voinovich, DeWine]; H.R. 1954. Armed Forces Naturalization Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND PROPERTY RIGHTS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet to conduct a markup on Thursday, June 12, 2003, immediately following the Full Committee markup scheduled to begin at 9:30 a.m. in Dirksen Room 226.

AGENDA

Executive Business Meeting: Senate Judiciary Committee Subcommittee on the Constitution, Civil Rights & Property Rights; Thursday, June 12, 2003 9:30 a.m. (or, if a Full Committee markup is scheduled that morning, immediately following the Full Committee markup) Dirksen Senate Office Room 226.

I. Bill: S. J. Res. 1, A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims. Note: As agreed by Senators CORNYN and FEINGOLD, only amendments circulated to all other members of the subcommittee by 12:00 noon on Wednesday, June 11, 2003 shall be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, June 12, at 2:30 p.m. in Room SD–366 to receive testimony on S. 434—a bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System resources; S. 435—a bill to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, and for other purposes; S. 490—a bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California; H.R. 762—to amend the Federal Land Policy and Management Act of 1976 and the Mineral Leasing Act and for other purposes; S. 1111—a bill to provide suitable grazing arrangements on National Forest System land to persons that hold a grazing permit adversely affected by the standards and guidelines contained in the record of decision of the Sierra Nevada Forest Plan Amendment and pertaining to the Willow Flycatcher and the Yosemite Toad; and H.R. 622—to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. McCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Thursday, June 12, 2003, at 2:30 p.m. on Cloning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Peter Winokur, a fellow on my staff, be granted the privilege of the floor during the debate on the FAA reauthorization legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. I ask unanimous consent that staff member William Hunt in my office be granted the privilege of the floor during the consideration of S. 824.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—NOMINATION OF MICHAEL GARCIA

Mr. McCONNELL. As in executive session, I ask unanimous consent that when the Governmental Affairs Committee reports the nomination of Michael Garcia (PN 451), to be Assistant Secretary of Homeland Security, the nomination then be sequentially referred to the Judiciary Committee for a period not to exceed 15 days of session; provided further that if the nomination is not reported by that time, the nomination be automatically discharged and placed on the calendar.

Mr. President, I withdraw that request.

The PRESIDING OFFICER. The request is vitiated.

WOMEN'S BUSINESS CENTERS PRESERVATION ACT OF 2003

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1247.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

> A bill (S. 1247) to increase the amount to be reserved during FY2003 for sustainability grants under section 29(l) of the Small Business Act.

There being no objection, the Senate proceeded to consider the bill.

Ms. SNOWE. Mr. President, I rise in support of the "Women's Business Centers Preservation Act of 2003" in recognition of the critical need to preserve the operations of existing Women's Business Centers currently serving women entrepreneurs in almost every state and territory. I am pleased to be joined in offering this bill by Senator KERRY, Ranking Member, Committee on Small Business and Entrepreneurship, and Senators BOND, CANTWELL, BURNS, LEVIN, ENZI, GRASSLEY, BAUCUS, DOMENICI, and BINGAMAN.

While I am totally supportive of the Administration's efforts to add new centers to serve a broader constituency, I am very concerned that we may lose valuable resources established in rural and urban areas. The value of the Women's Business Center Program is stated best by the text taken from the Small Business Administration's (SBA) promotional materials on the Women's Business Center Program:

> Each women's business center is uniquely designed to serve the needs of its individual community and to place special emphasis on helping those who are economically disadvantaged.
>
> The Women's Business Center Program has become a strong and effective part of the SBA's entrepreneurial-development efforts.

And—

> In tough economic times, when both employment and funding resources are harder to come by, support for the WBC Program is more important than ever.

As Chair of the Small Business Committee, I totally agree with the SBA's assessment. In fact, Congress has agreed six times since the program was introduced through the Small Business Ownership Act of 1988, and made permanent in 1997, that this program is critical for women-business owners. The program's appropriations has grown from $2 million in 1989 to $12 million in 2003, and the results have been impressive. In Fiscal Year 2002, for every dollar invested in the program, centers reported a return of $161 in gross receipts of clients.

Even more remarkable is the fact that since 1997, the Women's Business Centers have served more than 240,000 women entrepreneurs. In Fiscal Year 2002, almost 86,000 customers were served through the centers. As reported in the SBA Performance and Accountability Report of 2002, "the WBC Program has more than doubled its goal of a 3 percent annual increase in the number of clients served in the past two years. This is due in large part to the success of the sustainability grants, which enable established centers to continue SBA funding. SBA expects this trend to continue as more centers become firmly established and as their reputations for excellence spread."

If we look at the centers that are achieving the greatest impact, it is the established centers. The results of their outreach and one-on-one assistance has made it possible for the Small

Business Administration to achieve its goals as it measures the success of the products and programs offered by these centers.

It is true that this month only five Women's Business Centers face the possibility of closing their doors without the dollar-to-dollar matching funds that are provided through sustainability funding. The sustainability grant provisions reserve 30.2 percent of the $12 million program funding for sustainability grants for existing centers with the balance of available funds designated for the creation and operation of new centers. Based on information provided by the SBA, there are not sufficient sustainability reserve funds to offer continuation contracts to five centers in Iowa, Illinois, North Carolina, Texas and Washington. Therefore, SBA has proposed a reduction in grants for all centers currently funded by sustainability grants. By increasing the reserve amount to 36 percent, only during Fiscal Year 2003, adequate funds will be available for eligible existing centers operating with sustainability grants.

Next year, there will be more than 20 States and the U.S. Virgin Islands affected by the lack of funding to continue operations. Last month, I introduced the "Women's Small Business Programs Improvement Act of 2003", S. 1154, to correct deficiencies in the program and provide a fair, competitive process to operate and grow the Women's Business Center Program. I expect that bill will be taken up as part of the SBA reauthorization legislation my Committee will consider in July.

While we can fix the funding problem in the long-run, we still face a crisis today. That is the reason for the bill I am introducing. By increasing the formula for sustainability grants from 30.2 percent to 36 percent, existing centers would be able to operate without disruption in funding and the programs and services currently offered in our communities. This provision will not require an additional appropriation, just a reallocation of current funds.

I believe this approach offers the best path available to sustain the centers approaching the end of their grant cycles without creating undue hardship for all existing centers. At the same time, it should not hinder the Administration's efforts to create new centers.

These centers have been extraordinarily successful in providing assistance to women in all walks of life—from those who once received public assistance but now operate businesses and create jobs, to women transitioning from employee to small business employer, to established women-business owners who create and manufacture products for sale at home and abroad. The Centers nurture women entrepreneurs through business and financial planning and help with critical issues like securing funding for startup and expansion. Yet—despite these successes—funding questions have long plagued the program.

I am committed to resolving the temporary funding crisis through the bill I introduce today and will work with my colleagues to ensure the long-term viability of the Women's Business Center program for today's women entrepreneurs and those of tomorrow.

Mr. KERRY. Mr. President, I rise today as Ranking Member of the Committee on Small Business and Entrepreneurship with my esteemed colleague and Chair of the Committee, Senator SNOWE, to offer legislation to fix a funding gap that exists for meritorious Women's Business Centers that are graduating from the first stage of the program and entering the sustainability portion.

I would first like to thank Senator SNOWE for working very closely with me on this issue. Her leadership and support has been invaluable. I would also like to thank our House counterparts on the Small Business Committee, Chairman MANZULLO and Ranking Member VELÁZQUEZ, who have also been working diligently on the issue of sustainability grants as we take on the process of reauthorizing the majority of the SBA's programs. In addition, I want to thank all of the cosponsors of this legislation, all of which have shown resounding support for women entrepreneurs and recognize the positive impact all small businesses have on our national economy.

As I have said on more than one occasion, women business owners do not get the recognition they deserve for their contribution to our economy: Eighteen million Americans would be without jobs today if it weren't for these entrepreneurs who had the courage and the vision to strike out on their own. For 18 years, as a member of the Senate Committee on Small Business and Entrepreneurship, I have worked to increase the opportunities for these enterprising women in a variety of ways, leading to greater earning power, financial independence and asset accumulation. These are more than words. For these women, it means having a bank account, buying a home, sending their children to college, calling the shots.

And helping them at every step are the Women's Business Centers. In 2002 alone, these centers helped 85,000 women with the business counseling and assistance they likely could not find anywhere else. Cutting funding for any centers would be harmful to the centers, to the women they serve, to the States, and to the national economy.

The funding gap for Women's Business Centers in the sustainability portion of the program exists because the Small Business Administration has chosen to adopt a funding policy that shortchanges existing, proven centers in order to open new, unproven ones. By incorrectly interpreting the funding formula set up in statute for the Women's Business Center program, the SBA intends to make way for new centers at the expense of those that are already established, operational and successful. This is both bad policy and contrary to congressional intent.

As the author of the Women's Business Centers Sustainability Act of 1999, I can tell that when the Women's Business Centers Sustainability Act of 1999 was signed into law, it was Congress's intent to protect the established and successful infrastructure of worthy, performing centers. The law was designed to allow all graduating Women's Business Centers that meet certain SBA standards to receive continued funding under sustainability grants, while still allowing for new centers—but not by penalizing those that have already demonstrated their effectiveness.

Currently there are 81 Women's Business Centers in 48 states. Forty-six of these are in the initial program, 29 are already in sustainability, and six more are graduating or have graduated from the initial program and are now applying for sustainability grants. Because the SBA is incorrectly interpreting the funding formula for sustainability grants in order to open new centers, and in order to accommodate funding for potentially six new sustainability centers, those from Georgia, Iowa, Illinois, North Carolina, Texas, and Washington State, the amount of funds reserved for Women's Business Centers in sustainability must be increased from 30.2 percent to 36 percent.

This legislation does just that. It directs the SBA to reserve 36 percent of the appropriated funds for the sustainability portion of Women's Business Centers program—even though the SBA already has the authority on its own to increase the reserve—thereby protecting the established Women's Business Centers from almost certain grant funding cuts and still providing enough funds to open six or more new centers across the country.

I want to again express my sincere and steadfast support for the growing community of women entrepreneurs across the Nation and for the invaluable programs through which the SBA provides women business owners with the tools they need to succeed. As a long-time advocate for women entrepreneurs and SBA's programs, my record in support of the SBA's women's programs and for women business owners speaks for itself. I have continually fought for increased funding for the women's programs at the SBA, for sustaining and expanding the women's business centers, and for giving women entrepreneurs their deserved representation within the Federal procurement process, to name a few. With respect to laws assisting women-owned businesses. I have been proud to either introduce the underlying legislation or strongly advocate to ensure their passage and adequate funding.

This bill is necessary to continue the good work of SBA's Women's Business Center network, and I urge all of my colleagues to support it.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1247) was read the third time and passed, as follows:

S. 1247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Business Centers Preservation Act of 2003".

SEC. 2. SUSTAINABILITY GRANTS FOR WOMEN'S BUSINESS CENTERS.

Section 29(k)(4)(A)(iv) of the Small Business Act (15 U.S.C. 656(k)(4)(A)(iv)) is amended by striking "30.2 percent" and inserting "36 percent".

SUPPORTING THE GOALS AND IDEALS OF NATIONAL EPILEPSY AWARENESS MONTH

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 48 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 48) supporting the goals and ideals of "National Epilepsy Awareness Month" and urging funding for epilepsy research and service programs.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the amendment to the concurrent resolution be agreed to; that the resolution, as amended, be agreed to; that the amendment to the preamble be agreed to; that the preamble, as amended, be agreed to; that the amendment to the title be agreed to; that the title, as amended, be agreed to; that the motion to reconsider be laid upon the table, all without intervening action or debate; and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 924) was agreed to, as follows:

On page 3, line 2, strike "an annual" and insert "a".

On page 3, line 6, after the semicolon insert "and".

On page 3, line 7, strike "an increase in funding" and insert "support".

On page 3, line 10, strike "; and" and all that follows and insert a period.

The concurrent resolution (S. Con. Res. 48), as amended, was agreed to.

The amendment (No. 925) was agreed to, as follows:

After the eighth clause of the preamble, insert the following:

Whereas a significant number of people with epilepsy may lack access to medical care for the treatment of the disease;

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, reads as follows:

S. CON. RES. 48

Whereas epilepsy is a neurological condition that causes seizures and affects 2,300,000 people in the United States;

Whereas a seizure is a disturbance in the electrical activity of the brain, and 1 in every 12 Americans will suffer at least 1 seizure;

Whereas 180,000 new cases of seizures and epilepsy are diagnosed each year, and 3 percent of Americans will develop epilepsy by the time they are 75;

Whereas 41 percent of people who currently have epilepsy experience persistent seizures despite the treatment they are receiving;

Whereas a survey conducted by the Centers for Disease Control and Prevention demonstrated that the hardships imposed by epilepsy are comparable to those imposed by cancer, diabetes, and arthritis;

Whereas epilepsy in older children and adults remains a formidable barrier to leading a normal life by affecting education, employment, marriage, childbearing, and personal fulfillment;

Whereas uncontrollable seizures in a child can create multiple problems affecting the child's development, education, socialization, and daily life activities;

Whereas the social stigma surrounding epilepsy continues to fuel discrimination, and isolates people who suffer from seizure disorders from mainstream life;

Whereas a significant number of people with epilepsy may lack access to medical care for the treatment of the disease;

Whereas in spite of these formidable obstacles, people with epilepsy can live healthy and productive lives and make significant contributions to society;

Whereas November is an appropriate month to designate as "National Epilepsy Awareness Month"; and

Whereas the designation of a "National Epilepsy Awareness Month" would help to focus attention on, and increase understanding of, epilepsy and those people who suffer from it: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideals of a "National Epilepsy Awareness Month";

(2) requests the President to issue a proclamation declaring a "National Epilepsy Awareness Month";

(3) calls upon the American people to observe "National Epilepsy Awareness Month" with appropriate programs and activities; and

(4) urges support for epilepsy research programs at the National Institutes of Health and at the Centers for Disease Control and Prevention.

The amendment (No. 926) was agreed to, as follows:

Amend the title as to read: A concurrent resolution supporting the goals and ideals of "National Epilepsy Awareness Month" and urging support for epilepsy research and service programs.

The title, as amended, was agreed to.

THE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 135 and 136 en bloc.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the measures en bloc.

Mr. McCONNELL. I ask unanimous consent that the resolutions be agreed to en bloc; that the preambles be agreed to en bloc; that the motions to reconsider be laid upon the table en bloc; and that any statements relating to the resolutions be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

CENTENNIAL OF WILBUR AND ORVILLE WRIGHT'S FIRST FLIGHT

The resolution (S. Res. 141) recognizing "Inventing Flight: The Centennial Celebration," a celebration in Dayton, Ohio, of the centennial of Wilbur and Orville Wright's first flight, was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 141

Whereas 2003 marks the centennial of Wilbur and Orville Wright's achievement of the first controlled, powered flight in history;

Whereas Wilbur and Orville Wright grew up and worked at a bicycle shop in Dayton, Ohio, where they developed, built, and refined the first successful, heavier-than-air, manned, powered aircraft;

Whereas the Wright brothers developed the world's first flying field, the world's first flying school, and the world's first airplane manufacturing company in the Dayton area;

Whereas many legacies of the Wrights' inventiveness and creativity still exist in the region, including Wright-Patterson Air Force Base, the Dayton Aviation Heritage National Historical Park, the United States Air Force Museum, the National Aviation Hall of Fame, the Wright "B" Flyers, and the Engineers Club of Dayton;

Whereas the city of Dayton, area communities, a number of civic groups, private businesses, government agencies, and military partners, are joining together to honor the Nation's aerospace achievements;

Whereas Dayton is considered the "Birthplace of Aviation" and from July 3 through July 20, 2003, the Dayton region will host "Inventing Flight: The Centennial Celebration", the largest public centennial event in Ohio celebrating the first flight and one of only 4 events nationwide endorsed as a full partner by the United States Centennial of Flight Commission; and

Whereas the celebration will feature pavilions with aviation displays, blimp and hot-air balloon races, dance and cultural performances, river shows, historical reenactments, an international air and space symposium, National Aviation Hall of Fame ceremonies, and a military and general aviation show at the Dayton International Airport: Now, therefore, be it

Resolved, That the Senate recognizes "Inventing Flight: The Centennial Celebration", a celebration in Dayton, Ohio of the centennial of Wilbur and Orville Wright's first flight.

COMMENDING THE FRANCIS MARION UNIVERSITY PATRIOTS MEN'S GOLF TEAM

The resolution (S. Res. 163) commending the Francis Marion University Patriots men's golf team for winning the 2003 National Collegiate Athletic Association Division II Men's Golf Championship was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 163

Whereas on Friday, May 27, 2003, the Francis Marion University Patriots men's golf team won the 2003 NCAA Division II Men's Golf Championship, the first National Championship for Francis Marion University since it left the Peach Belt Conference in 1992 and moved to Division II;

Whereas the Patriots finished the Championship with a four-round total of 1,149 strokes, for 3 shots under par, beating the second place Rollins College Tars by 14 strokes;

Whereas the Patriots won the National Championship on the course of Crosswater Golf Club in Sunriver, Oregon;

Whereas the Patriots finished the season with a 112-43-2 record against opponents ranked in the top 25 teams in the country;

Whereas the Patriots led at the end of every round and became the second straight team to win the National Championship as an at-large selection;

Whereas players Fredrik Ohlsson, Matt Dura, and Dylan Keylock were honored as All-Americans, and Juan Pablo Bossi and Per Hallberg earned honorable mention recognition for the 2002-03 season;

Whereas Francis Marion University men's golf team has displayed outstanding dedication, teamwork, and sportsmanship throughout the season in achieving Division II collegiate golf's highest honor; and

Whereas the Patriots have brought pride and honor to the State of South Carolina: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Francis Marion University Patriots for winning the 2003 National Collegiate Athletic Association Division II Men's Golf Championship;

(2) recognizes the achievements of all the team's players, coaches, and staff and invites them to the United States Capitol Building to be honored in an appropriate manner; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Francis Marion University for appropriate display and to transmit an enrolled copy of this resolution to each coach and member of the 2003 NCAA Division II Men's Golf Championship team from Francis Marion University.

ORDERS FOR FRIDAY, JUNE 13, 2003

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Friday, June 13. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business until the hour of 10 a.m., with the first 15 minutes under the control of Senator HUTCHISON and the remaining 15 minutes under the control of the minority leader or his designee; provided that at 10 a.m., the Senate proceed to executive session to consider Calendar No. 218, the nomination of R. Hewitt Pate, to be an assistant attorney general, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, for the information of all Senators, tomorrow morning the Senate will be in a period for morning business until 10 a.m. Under a previous order, at 10 a.m. the Senate will proceed to executive session and immediately vote on the nomination of R. Hewitt Pate to be an assistant attorney general. This will be the first and last vote of tomorrow's session.

As a reminder, there will be no votes during Monday's session. We will be in session on Monday for Senators to make their opening remarks on the Medicare/prescription drug bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:59 p.m., adjourned until Friday, June 13, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 12, 2003:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MARK C. BRICKELL, OF NEW YORK, TO BE DIRECTOR OF THE OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR A TERM OF FIVE YEARS, VICE ARMANDO FALCON, JR., RESIGNED.

FEDERAL DEPOSIT INSURANCE CORPORATION

THOMAS J. CURRY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF SIX YEARS, VICE JOSEPH H. NEELY, RESIGNED.

NATIONAL INSTITUTE OF BUILDING SCIENCES

ANN C. ROSENTHAL, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2003, VICE STEVE M. HAYS, TERM EXPIRED.

ANN C. ROSENTHAL, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2006. (REAPPOINTMENT)

FEDERAL TRADE COMMISSION

PAMELA HARBOUR, OF NEW YORK, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2002, VICE SHEILA FOSTER ANTHONY, TERM EXPIRED.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MICHAEL YOUNG, OF PENNSYLVANIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2008, VICE THEODORE FRANCIS VERHEGGEN, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. WILLIAM T. HOBBINS, 8417

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RANDALL M. SCHMIDT, 1246

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WALTER E. L. BUCHANAN III, 7387

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL GEORGE A. ALEXANDER, 7321
BRIGADIER GENERAL EDMUND T. BECKETTE, 5971
BRIGADIER GENERAL WESLEY E. CRAIG JR., 6586
BRIGADIER GENERAL JAMES R. MASON, 7632
BRIGADIER GENERAL GERALD P. MINETTI, 5388
BRIGADIER GENERAL RICHARD C. NASH, 9717
BRIGADIER GENERAL GARY A. PAPPAS, 3580
BRIGADIER GENERAL CLYDE A. VAUGHN, 8410
BRIGADIER GENERAL DEAN A. YOUNGMAN, 4722

To be brigadier general

COLONEL WILLIAM E. ALDRIDGE, 6293
COLONEL LOUIS J. ANTONETTI, 5832
COLONEL MICHAEL W. BEAMAN, 0589
COLONEL ROBERT T. BRAY, 7857
COLONEL NELSON J. CANNON, 2178
COLONEL JAMES G. CHAMPION, 8508
COLONEL ROBERT P. DANIELS, 0451
COLONEL DAVID M. DAVISON, 7296
COLONEL DAVID M. DEARMOND, 0169
COLONEL MYLES M. DEERING, 1556
COLONEL JAMES B. GASTON JR., 0282
COLONEL ALAN C. GAYHART SR., 1480
COLONEL DAVID K. GERMAIN, 1847
COLONEL FRANK J. GRASS, 1493
COLONEL GARY L. JONES, 7353
COLONEL JAMES E. KELLY, 1864
COLONEL KEVIN R. MCBRIDE, 7136
COLONEL JAMES I. PYLANT, 3241
COLONEL STEVEN R. SEITER, 6859
COLONEL THOMAS L. SINCLAIR, 7981
COLONEL FRANK T. SPEED JR., 2477
COLONEL DEBORAH C. WHEELING, 9217
COLONEL MATTHEW J. WHITTINGTON, 0327

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be colonel

JEAN B. DORVAL, 5748
RICHARD L. NEEL, 6698
GARY M. WALKER, 9049

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be colonel

RICHARD J. DELORENZO JR., 3315

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

GERALD M. SCHNEIDER, 3572

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

JANE B. TAYLOR, 1657

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

DARRELL A. JESSE, 1554
PETER R. MASCIOLA, 9753
DONALD L. SCHENSE, 8946
LAURA B. STEVENS, 0295
NORBERT S. WALKER, 5333

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

THOMAS C. BARNETT, 5366
ROBERT J. KELLER, 8883
ALPHONSE J. STEPHENSON, 1248
JEAN A. VARGO, 5089

THE FOLLOWING NAMED OFFICER FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant colonel

EDWARD C. CALLAWAY, 0312

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

H. MICHAEL TENNERMAN, 7627

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

STEVEN E. RITTER, 6997

THE FOLLOWING NAMED OFFICER FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be major

BRYAN A. KEELING, 5543

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ROBERT L. ZABEL JR., 4428

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

DARRYL G. ELROD JR., 2706
CRAIG A. HARTMAN, 3142
KEVIN R. VANVALKENBURG, 9006

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

DREW Y. JOHNSTON JR., 3922

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

RACHEL L. BECK, 6683

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JANE M. ANDERHOLT, 6784
THOMAS H. KATKUS, 2719
DUANE M. TUSHOSKI, 3464
JOE M. WELLS, 4764
JAY A. WHITAKER, 9622

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

RODNEY A. ARMON, 6461
BENNETT G. BOWLIN, 8619
BRETT A. CALL, 3235
JOHN S. CARTER III, 4906
PAUL R. LEVEILLEE, 7134
CHRISTINE A. STARK, 2844
MARK W. THACKSTON, 8115

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

ANTHONY SULLIVAN, 5956

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS AND FOR APPOINTMENT IN THE REGULAR ARMY UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

BRYAN C. SLEIGH, 7330

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant

SHERRY L. BRELAND, 1710
SHANE D. COOPER, 3788
FRANKIE D. HUTCHISON, 8066
JESSICA M. PYBURN, 6361
KRISTINA B. REEVES, 7556
RYAN C. TORGRIMSON, 7743
JULIA D. WORCESTER, 9577

CONFIRMATIONS

Executive nominations confirmed by the Senate June 12, 2003:

THE JUDICIARY

JOHN A. WOODCOCK, JR., OF MAINE, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MAINE.

AIR FORCE NOMINATIONS BEGINNING ELISE A. * AHLSWEDE AND ENDING PAUL K. * YENTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 13, 2003.

AIR FORCE NOMINATIONS BEGINNING EUGENE L. CAPONE AND ENDING ALLEN L. WOMACK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 24, 2003.

WITHDRAWALS

Executive message transmitted by the President to the Senate on June 12, 2003, withdrawing from further Senate consideration the following nominations:

PAUL PATE, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2003, WHICH WAS SENT TO THE SENATE ON APRIL 7, 2003.

PAUL PATE, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2006, WHICH WAS SENT TO THE SENATE ON APRIL 7, 2003.

SENATE—*Friday, June 13, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by retired U.S. Navy Chaplain Arnold Resnicoff.

PRAYER

The guest Chaplain offered the following prayer:

O God who made the rainbows in the sky, You made our land a rainbow, too: from purple mountain majesties to amber waves of grain, we marvel at the colors of our Nation, and the beauty of our land.

Today, this week, and tomorrow in a special way—Flag Week, and June 14, Flag Day—we set aside some time to honor special colors: the colors of our flag. We celebrate the values our flag in all its colors and its glory represents, and the memories and dreams our Stars and Stripes—our Star-Spangled Banner—still invokes. "The grand old flag," as the old song goes, is still "the emblem of the land I love"—we love—"the home of the free and the brave."

In a moment we will pledge our allegiance to the flag—and to the Republic for which it stands. As we take that pledge today, let us make that pledge a prayer. Let us pray that the colors of our flag, and the true colors of our Nation and our people—our dedication to the cause of liberty and justice for all; our courage and determination even in the face of adversity; and our faith—are forever represented by our flag. May it bring hope of better times to all the citizens of our land, and all the nations of our world. May it forever wave, o'er the land of the free, and the home of the brave.

And may we say, Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, for the information of all Senators, the Senate will be in a period for morning business until 10 a.m. Under the previous order, at 10 a.m. the Senate will proceed to executive session and immediately vote on the nomination of Hewitt Pate to be Assistant Attorney General. That will be the first and only vote today.

On Monday, we will begin consideration of S. 1, the prescription drug/Medicare bill. As a reminder, there will be no votes during Monday's session. However, Senators will be able to make their opening remarks on the prescription drug bill.

Late last night, the Finance Committee completed the markup of that bill, and it will be available for debate on Monday. It is our intention to stay on that bill until completion, working through the debate and amendment process to everyone's satisfaction. I will have more to say on the schedule later today.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. While the majority leader is in the Chamber—it was not appropriate yesterday when we finished the FAA bill—I wish to say in his presence that it seems the press always focuses on the flare-ups that take place in the Senate in committee or on the floor and they do not often recognize the good work done by the Senate. I think the work done yesterday on the FAA bill was exemplary. The managers of the bill, the chairman and ranking member, Senator MCCAIN and Senator HOLLINGS, showed their maturity. They worked through these amendments. When there was a debate that was necessary, they had one. When votes were necessary, they had votes. There were no unnecessary votes yesterday. They were aided by the two subcommittee chairs, Senator ROCKEFELLER and Senator LOTT.

I thought yesterday was really a good day for the Senate. The FAA reauthorization was one of the most important bills we could do. There are things in that bill that will help every part of our country. The conferees have already been appointed. They can go to conference as early as next week and come back with a bill very soon.

Again, I say that it is more press worthy to focus on things that go wrong and not very press worthy to focus on things that go right, but it is a testament to what the Senate can do with the work we did yesterday on this bill.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period of morning business until the hour of 10 a.m.

FOSTER CARE REFORM

Mr. FRIST. Mr. President, I will take a few minutes to comment on some events that occurred over the last couple of days that were not necessarily apparent to a lot of people, either in Washington, DC, or around the country. It has to do with a visit from somebody everybody recognizes, and that is Bruce Willis.

Mr. Willis came to our Nation's Capitol a couple of days ago to spotlight the issue of foster care reform. This is the first time I had the opportunity to speak with him on this particular issue. He is clearly a long-time advocate for children in foster care and has dedicated a huge amount of time to bring attention to the problem of children who are aging out of the system.

I take this opportunity to thank Mr. Willis for his efforts and to take a moment to underscore the importance of the issue he came to share with us, and that is foster care reform.

Thousands of children are cared for by loving families in our foster care system, and we owe these families a debt of gratitude for opening their lives, their homes, and indeed their hearts to these children. Because of their generosity, many foster children do become adopted and experience that gift of a warm and a loving family.

But too many children—and Mr. Willis made crystal clear based on his experiences and the information he has gathered—end up being bounced from place to place, never having that opportunity to have four walls and what can be called a home, or even really one person they can turn to and call family.

Imagine spending your entire childhood as a virtual orphan: No one to come to your high school graduation, no one to keep your picture in their wallet. Most of us do take for granted having a family, but for many children in America childhood is the time they spend waiting in vain for someone to call mom or dad.

Even worse, some foster children end up in situations where they experience severe mental and physical abuse. Many develop health problems and suffer emotional and even physical neglect.

It is my hope that through our efforts in this legislative body, through the efforts of the National Adoption

Center and other groups such as Children in Foster Care, by public awareness campaigns such as National Adoption Day, through PSAs featuring well-known figures and the participation of people whom everybody recognizes, such as Mr. Willis, America's foster children will get what they need most, and that is a family. I applaud my colleagues for their efforts on behalf of America's foster children.

A few minutes ago, I was listening to LARRY CRAIG. He has been one of the Senate's leading voices on this whole issue of adoption and foster care. In 2001, he cosponsored the Hope For Children Act as part of the Economic Growth and Tax Relief Reconciliation Act which we just passed and which has become the law of the land.

Others, such as Senator JIM BUNNING, the distinguished Senator from Kentucky, worked to pass a bill to exclude foster care payments from taxation. Other Senators, including Senators HUTCHISON, LANDRIEU, ROCKEFELLER, and CLINTON, have all worked to improve foster care and adoption issues. America's foster children are helped immeasurably by their efforts.

As we debate the big issues, the bold issues, the issues that make the headlines—the Medicare modernization, the addition of prescription drugs to give seniors health care security, to give them greater choice, to have plans that better meet their needs—as we debate the important issues, such as energy this week and FAA reauthorization and tax credits, we should not forget to protect our most vulnerable citizens. Truly, America's foster children are depending on us to look out for them.

HAPPY BIRTHDAY PRESIDENT GEORGE HERBERT WALKER BUSH

Mr. FRIST. Mr. President, I wish our 41st President, George Herbert Walker Bush, a happy birthday. Yesterday he turned a robust 79 years of age.

DAVID BRINKLEY

Mr. FRIST. On behalf of my colleagues and myself, I express our condolences to the family and friends on the passing of news giant and television pioneer David Brinkley. Over the course of his 60 outstanding years in journalism, David Brinkley covered every President from Franklin Delano Roosevelt to President Clinton. He earned nearly every award in journalism, including 10 Emmy Awards and 3 Peabody Awards. In 1992, David Brinkley was bestowed by President George Bush the highest civilian honor, the Medal of Freedom award.

He died in his home Wednesday night in Houston. We all say Godspeed to a great American.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDENT pro tempore. I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF R. HEWITT PATE, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL

The PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will proceed to executive session to consider the nomination of R. Hewitt Pate, of Virginia, to be an Assistant Attorney General.

The legislative clerk read the nomination of R. Hewitt Pate, of Virginia, to be an Assistant Attorney General.

Mr. ALLEN. Mr. President, I ask my fellow Senators to vote for R. Hewitt Pate to be Assistant Attorney General for the Antitrust Division of the United States Department of Justice. I rise today to share with my colleagues my views, familiarity and admiration for R. Hewitt Pate.

We all know, and the Presiding Officer recognizes, how important our antitrust laws are and their beneficial influence in making sure we have competition in our free market society. Competition is absolutely essential because it forces us to always be innovative to ensure a good market share for whatever the product or service. Our antitrust laws are vital for free competition in our society and in our economy.

Mr. Pate, as Assistant Attorney General in the Antitrust Division of the Justice Department, will be one of the key leaders, if not the key leader, in making sure that monopolistic or anticompetitive practices do not occur in this country. I can confidently say Mr. Pate is very well qualified to decide antitrust matters effectively. He will lead with impartiality, dignity and fairness in this important position.

When I was Governor of Virginia, I appointed Mr. Pate to the Virginia Commission of Higher Education and the Governor's Commission on Self-Determination and Federalism.

I have known Hew Pate since he was at the University of Virginia. I was a relatively young delegate at the time, representing Mr. Jefferson's seat in Albemarle and Nelson Counties, which surround the University of Virginia. Ever since those years, Hew Pate has constantly amazed me. Even then, as a very young man at the University of Virginia School of Law, he was always very conscientious and knowledgeable, and he has been a very good friend and ally ever since.

Hew Pate graduated first in his class from the University of Virginia Law School in 1987 and went on to clerk for Judge J. Harvie Wilkinson on the Fourth Circuit Court of Appeals. In addition, Mr. Pate clerked for both Justice Louis Powell and Justice Anthony Kennedy on the United States Supreme Court.

After these impressive clerkships, Mr. Pate went on to practice antitrust law for 10 years at Hunton & Williams, which is one of Virginia's largest and most highly respected law firms. Hew Pate also taught competition law at the University of Virginia.

Since 2001, Mr. Pate has performed with distinction, handling several significant matters in a scholarly, reasoned, and admirable manner for the Department of Justice's Antitrust Division. Since November 2002, Hew Pate has been the Acting Assistant Attorney General for Antitrust. In fact, on a case affecting a major company in the Commonwealth of Virginia, my good colleague Senator WARNER and I were on one side advocating a certain result, and Mr. Pate was on the other side. Mr. Pate briefed us on how our views were not necessarily in accordance with the views of the Department of Justice, but he did it in a very careful, considerate, and well-reasoned way. Afterward, we did not have any reason to appeal because the conclusion was so well briefed and researched.

It is my sincere pleasure to highly recommend this exceptional nominee and outstanding Virginian this morning.

I respectfully urge all my colleagues to support the confirmation of R. Hewitt Pate to this important position in the Department of Justice. I think he will be an outstanding Assistant Attorney General, leading the Antitrust Division.

Mr. LEAHY. Mr. President, today, we confirm R. Hewitt Pate to be Assistant Attorney General of the Antitrust Division at the Department of Justice. The Antitrust Division is charged with a critically important role in protecting our nation's consumers and their markets, and I look forward to Mr. Pate fulfilling that role with diligence and distinction.

As the boundaries of our marketplaces are expanding ever outward, many of the competitive issues that were once only local have become regional, national, or even global in their impact. That global economy is also increasingly dominated by high tech and information industries. In those arenas, technological change and innovation are taking place at dizzying speed, and we are seeing new and creative products and services developed every day. Fair and efficient policing of corporate behavior in those swiftly evolving markets is particularly important to ensure that the early entrants do not preclude competition from later rivals, and that a rapid accumulation of market power cannot be used to harm consumers.

Another hallmark of antitrust problems arising in recent years has been the increasing number of situations in which suppliers and distributors join forces, possibly to the detriment of consumers. Many of us are accustomed to thinking of antitrust enforcement as focused on mergers of competitors, but as more and more vertical arrangements are entered into, we must be aware—and be wary—of such deals. While in some cases they may permit consumers a greater range of choice than they would otherwise enjoy, they can also facilitate grievously anticompetitive behavior. As we all move more and more of our acquisition of information, of goods, and of services, to the Internet, the online businesses and markets will need the scrutiny of the Antitrust Division to help guarantee that those marketplaces provide digital-age consumers with the quality and quantity of offerings that have long been the promise of the Internet.

As Mr. Pate confronts these issues, with the help of the many seasoned career lawyers and economists in the Antitrust Division, I am confident that he will be able to protect and promote the competitive health of the American economy. We all stand to benefit if he does his job well. I stand by ready to help him ensure that consumers and producers alike enjoy the benefits of a properly functioning marketplace.

Mr. KOHL. I rise today in support of the confirmation of Hew Pate to the important post of Assistant Attorney General for Antitrust. I am confident that Mr. Pate's talents and dedication will serve the Justice Department and the American people very well in this vital position.

The responsibilities of the Justice Department's Antitrust Division have never been more important. In our challenging economic times, we all depend on the dynamism of competition to provide economic growth and jobs necessary to propel our economy forward. And I am convinced that only the aggressive enforcement of our Nation's antitrust laws—our fundamental charter of economic liberty proven for over 110 years—will ensure that competition will flourish and ensure that consumers will obtain the highest quality products and services at the lowest possible prices. The Antitrust Division must be a vigilant watchdog to ensure that the antitrust laws are properly enforced to prevent companies from stifling competition and harming consumers.

Moreover, Mr. Pate will assume his post at a time when the Antitrust Division will have to serve as our last line of defense against excessive media consolidation. Now that the FCC has substantially relaxed media ownership restrictions, many expect a new wave of media mergers and acquisitions. These acquisitions will come before the Justice Department for review. We will expect that Mr. Pate will be careful to review these transactions to ensure that they do not unduly diminish competition in the marketplace of ideas nor unduly harm the diversity of news and information so essential to our democracy.

It is essential, then, that the next head of the Antitrust Division be committed to the Justice Department's tradition of vigorous antitrust enforcement. The performance of the Antitrust Division over the last 2 years under Mr. Pate's predecessor's leadership gave me considerable cause for concern. From the defects in the Microsoft settlement—which many believe was unnecessarily weak and riddled with loopholes—to the general decline in the division's enforcement activities, we were left to wonder if the division was truly committed to its crucial mission of protecting competition. We will expect the next Antitrust Division Chief to return to the tradition of strong and energetic antitrust enforcement.

I believe that Mr. Pate is well qualified to restore our confidence and lead the Antitrust Division in the years ahead. He has compiled an impressive record of achievement at a relatively young age as an attorney in private practice, and we have heard a great deal of praise for his talents and legal acumen. Since joining the Justice Department as a Deputy Assistant Attorney General in the Antitrust Division more than 2 years ago, Mr. Pate has proven to be an effective enforcer of our Nation's antitrust laws. As a Deputy, he was responsible for many of the division's most important matters, including its successful challenge last year to the Echostar/DirectTV merger in the satellite television industry. And I have been particularly impressed with his dedication and hard work since he assumed the leadership of the Antitrust Division on an acting basis last fall.

My favorable impression of Mr. Pate has been enhanced by my own dealings with the nominee. He demonstrated his knowledge and expertise in antitrust law at our confirmation hearing several weeks ago. And I was particularly pleased with his forthrightness and candor in our private meeting in advance of the hearing, where he impressed me with the sincerity and seriousness with which he would take his new responsibilities.

I will therefore vote in favor of confirming Mr. Pate. I will look forward to working with Mr. Pate in the months and years ahead.

Mr. HATCH. Mr. President, I rise in support of R. Hewitt Pate's nomination for Assistant Attorney General for the Antitrust Division.

I would note that Mr. Pate's nomination was unanimously approved by the Judiciary Committee. I fully expect that the Senate will follow suit and quickly approve his nomination to this important position.

Over the last decade, the position of the Assistant Attorney General for Antitrust has grown in importance. The rapid transformation of our country's economy, particularly in new technologies and international markets, has raised public attention and policy focus on a variety of important antitrust issues. The Assistant Attorney General plays a crucial role in formulating competition policy and enforcing existing antitrust laws to make sure that our free-market economy operates efficiently and serves the public.

Mr. Pate comes before the United States Senate with an impressive track record of public service in the Antitrust Division. In June 2001, he was appointed as the Deputy Assistant Attorney General responsible for Regulatory Matters, and served ably under then Assistant Attorney General Charles James. In November 2002, after Mr. James' departure, Mr. Pate was appointed as Acting Assistant Attorney general for the Antitrust Division. During that time, he has demonstrated his talent and ability to lead the Antitrust Division.

Prior to joining the Justice Department in 2001, Mr. Pate practiced at the distinguished law firm of Hunton & Williams in Richmond, Virginia, where he had a distinguished record in representing both plaintiffs and defendants in a variety of antitrust and business law cases. After graduating first in his class at the University of Virginia Law School in 1987, Mr. Pate went on to clerk for the honorable J. Harvie Wilkinson, at the United States Court of Appeals for the Fourth Circuit, Supreme Court Justice Lewis Powell, and Supreme Court Justice Anthony Kennedy. During his tenure at the firm of Hunton & Williams, Mr. Pate found time to teach at the University of Richmond and University of Virginia Law Schools.

With such an impressive background, both in private practice and in antitrust enforcement, particularly given his proven track record, I am confident that Mr. Pate will be an excellent Assistant Attorney General for the Antitrust Division. I am hopeful that this Senate will act quickly to confirm Mr. Pate's nomination.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. CHAFEE). Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of R. Hewitt Pate, of Virginia, to be an Assistant Attorney General? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Wyoming (Mr. ENZI), the Senator from North Carolina (Mrs. DOLE), the Senator from Illinois (Mr. FITZGERALD), the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. INHOFE), the Senator from Oklahoma (Mr. NICKLES), the Senator from KANSAS (Mr. ROBERTS), the Senator from Oregon (Mr. SMITH), the Senator from Wyoming (Mr. THOMAS), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from Delaware (Mr. CARPER), the Senator from North Dakota (Mr. DORGAN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Georgia (Mr. MILLER), the Senator from Washington (Mrs. MURRAY), the Senator from Florida (Mr. NELSON), and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. REED) is absent attending a funeral.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring a vote?

The result was announced—yeas 71, nays 0, as follows:

[Rollcall Vote No. 226 Ex.]

YEAS—71

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Chafee
Chambliss
Clinton
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Durbin
Ensign
Feingold
Feinstein
Frist
Grassley
Gregg
Hagel
Hatch
Hutchison
Inouye
Johnson
Kennedy
Kohl
Kyl
Landrieu
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Murkowski
Pryor
Reid
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Wyden

NOT VOTING—29

Breaux
Carper
Cochran
Dole
Dorgan
Edwards
Enzi
Fitzgerald
Graham (FL)
Graham (SC)
Harkin
Hollings
Inhofe
Jeffords
Kerry
Lautenberg
Lieberman
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Roberts
Smith
Thomas
Voinovich
Warner

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

UNANIMOUS CONSENT AGREEMENT—S. 1

Mr. ALEXANDER. MR. President, I ask unanimous consent that at 2 p.m. on Monday, June 16, the Senate proceed to the consideration of S. 1, the Prescription Drug Benefits bill, reported by the Finance Committee; provided further that this order will be vitiated if the bill is not available by that time. I ask consent that on Monday there be debate only with respect to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. ALEXANDER. I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF VOTE

Mr. BAYH. Mr. President, on rollcall vote No. 221 I voted nay. It was my intention to vote yea. Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

ZIMBABWE

Mr. ALEXANDER. Mr. President, I rise today to bring to the attention of the Senate the oppression of democracy and freedom underway in Zimbabwe. A number of my colleagues, including the Senators from Arizona and Kentucky, have led this body in discussions about oppression in Burma. I share their concerns.

But as Chairman of the Foreign Relations Subcommittee on African Affairs, I would be remiss not to note a struggle in Zimbabwe that bears at least some similarity to events in Burma. As in Burma, the leader of the democratic opposition in Zimbabwe has been imprisoned by an illegitimate government in a cruel attempt to maintain power.

The so-called "President" of Zimbabwe, Robert Mugabe, has engaged in a systematic campaign of intimidation, torture, and terror to oppress opposition to his rule over Zimbabwe. Since the elections of 2000, when Mugabe's ruling party rigged the elections in its favor and terrorized voters for the opposition, Zimbabwe has been thrown into a downward spiral. Youth brigades not unlike the Hitler Youth or Chinese Red Guard roam the streets and invoke terror on those who resist Mugabe's rule. The country's infrastructure, which was fairly good prior to this time, has deteriorated rapidly.

In the last week the situation has grown worse. A little over 1 week ago, for the second time this year, the people of Zimbabwe stood up and said enough is enough. Strikes and work stoppages occurred throughout the country as many citizens engaged in a massive protest of Mugabe's illegitimate regime. Many rightly blame Mugabe not only for political turmoil, but also economic decay, led by fuel and food shortages.

The government's response was swift and brutal. Armed troops descended upon neighborhoods where opposition members lived and violently beat those suspected of opposing Mugabe. More than 800 individuals were arrested, many of them tortured. According to the most recent reports I have seen, about 150 individuals have now been released, but only after paying an "admission of guilt" penalty of $3,000 to $5,000. In order to get out of jail, you have to admit your guilt and pay a huge fine.

Here is Mugabe's justification. He is quoted as saying, "The actions are blatantly illegal in that they are aimed at an unconstitutional removal of the country's head of state." He is essentially saying that by protesting his rule, protestors are committing a crime. And he is arresting and torturing them as a result. The only crime being committed is the continued rule of Robert Mugabe.

Just prior to the first crackdown in March, which followed a similar protest and work stoppage, Mugabe said, and I am quoting, "I am still the Hitler of the time." Let me say that again. He said, "I am still the Hitler of the time." He purposely chose to compare himself to Adolph Hitler, perhaps the most evil leader in the entire 20th century. After that announcement in March, military forces loyal to Mugabe burst into people's homes in pre-dawn raids, raping and beating those suspected of supporting the Movement for Democratic Change, Zimbabwe's opposition party. Torture tactics included rape, electrocution, forced consumption of chemicals and urine, cigarette burning, whipping with steel cable, barbed wire and sustained beatings.

What makes these events truly tragic is that prior to Mugabe's actions, Zimbabwe was not a dilapidated country ready to collapse. On the contrary, it was a leading African nation with a strong economy and infrastructure. Zimbabwe's roads were among the best in Africa, and its agricultural sector was a major exporter. As an example of the rapid decline Zimbabwe faces, their GDP has shrunk from $9.3 billion in 2001 to only $5.4 billion today. It has been cut nearly in half in only 2 years.

The latest news reports from Zimbabwe show that Mugabe is now actively imprisoning and torturing leaders of the opposition party, the Movement for Democratic Change or MDC. Morgan Tsvangirai, the leader of the MDC, is in prison and charged with treason as are hundreds of party activists. Tsvangirai lost last year's rigged Presidential elections, and has begun legal proceedings against Mugabe because the elections were not conducted properly. I can only hope that Tsvangirai and the MDC survive Mugabe's violent rampage against them.

The White House and the State Department have responded to this crisis, and I hope will continue to work to achieve a change of leadership in Zimbabwe. President Bush recently imposed sanctions on the Mugabe government. The sanctions, which began on March 7, prohibit any U.S. corporation from making business deals with Zimbabwe and also freeze any assets top Zimbabwean officials in the Mugabe government may have in U.S. banking institutions. The State Department has condemned Mugabe's actions, and taken other appropriate diplomatic action.

The people of Zimbabwe deserve better. They deserve better than a regime that commits violence on its own people. They deserve better than to see their economic infrastructure destroyed by a dictator-on-the-rampage. And they are standing up for themselves by actively demonstrating against this terrible regime. I hope other countries in the region will join with the United States and others in opposing this brutal regime in the hope of bringing new, democratic leadership to power in Zimbabwe.

The PRESIDING OFFICER. The Senator from Texas.

TRIBUTE TO SENATOR KAY BAILEY HUTCHISON

Mr. CORNYN. Mr. President, I want to take a few moments to say some words in tribute to the senior Senator from Texas, one who this week marks her tenth anniversary as a Member of this august body, Senator Kay Bailey Hutchison.

Senator HUTCHISON is a wonderful spouse to her husband, Ray; a wonderful mother to her children, Bailey and Houston; an excellent Senator; and a great Texan. I am enormously grateful to be able to work alongside of a woman of her vision, a woman of her energy, and someone who represents the very best of the State of Texas.

After 10 years in the Senate, Senator HUTCHISON has shown herself to be a great leader in so many different ways. She has devoted herself to our national security. She has dedicated herself to preserving our homeland security. She has energetically sought legislation that will create jobs and greater opportunities for all Americans. She has worked hard to improve health care, not just for people in our State, the State of Texas, but for all Americans.

All of us came here from our various States to serve those States, but we also came here to serve this great Nation. Senator HUTCHISON came here, in addition, to make a difference, to work to find solutions to the complex problems of modern society, to attain real and lasting change for the good. She has succeeded in brilliant fashion.

President Ronald Reagan once said:

> We have been blessed with the opportunity to stand for something, for liberty and freedom and fairness, and these are things worth fighting for, worth devoting our lives to.

Senator HUTCHISON has devoted her life to these very values. Her life serves as an example to us all, a life of patriotism, responsibility, dedication, and abundant friendship. She has been a leader in Texas and here in the Senate. It is lives like Senator HUTCHISON's that make me proud to say I am from the great State of Texas, and prouder still to call her my friend.

Senator HUTCHISON, over these last 10 years in the Senate, has made Texas proud as she works hard for all Americans as a woman of great valor. I thank Senator HUTCHISON for her leadership, for her counsel, and for her steadfast service to the great State of Texas and to the United States of America.

I yield the floor.

Mr. ALEXANDER. Mr. President, I commend my colleague, Senator CORNYN, for his remarks. Senator KAY BAILEY HUTCHISON has distinguished herself over these 10 years. It is very appropriate that her junior colleague bring that to the attention of the Senate. She is a Senator from our second largest State. She has been a pioneer in women's rights and advancement by women. When she began her career, as was true for our colleague from North Carolina, Senator DOLE, not many legal jobs were available to women, much less positions in the Senate.

She has achieved a lot. She is part of our leadership, and I am glad I was here to hear Senator CORNYN's remarks.

I hope both Senators will permit me to comment on the fact that some of the best things in Texas come from Tennessee. A lot of Tennesseans went to Texas in the 1830s. One of Senator HUTCHISON's ancestors was Governor Hall, of Tennessee, just as Sam Houston was Governor of Tennessee before he was Governor and Senator from Texas. So Tennesseans take special pride in 10 years of service by someone we consider, if not our daughter, at least our cousin.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I thank my desk mate and member of the freshman class of 2002 in the Senate, LAMAR ALEXANDER, for his comments and his friendship and his great service, not only on behalf of Tennessee but on behalf of the Nation. He did make a very appropriate observation about the connection between the people of the State of Tennessee and Texas. Some have said many of the people who populated Texas were evading their creditors in Tennessee, which is one reason for their going to Texas in the first place, where they believed there would be great opportunity. With a land the size of Texas, with the opportunity to till the soil and take risks and perhaps reap the rewards of that risk, many people came from all over the United States—indeed, the world—to Texas.

One great Tennessean—and I want to just make this comment while Senator ALEXANDER is here—with whom I am proud to connect myself is Sam Houston, who was a distinguished figure in Tennessee before he came to Texas, then served as Governor, President of the Republic, and whose seat in the U.S. Senate I now hold. When Texas was annexed to the United States of America in 1845, Thomas Jefferson Rusk, a former member of the Texas Supreme Court at that time, and Sam Houston, came to Washington to represent the State of Texas.

So I am proud to have that connection, another connection with the good people of Tennessee and with my friend LAMAR ALEXANDER, and to be connected through that lineage to that seat originally held by a great Tennessean, and we claim him as a great Texan, a great American still, Sam Houston.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. BYRD. Mr. President, is the Senate in morning business?

The PRESIDING OFFICER. It is in morning business.

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Chair.

SALLY GOFFINET

Mr. BYRD. Mr. President, Sally Goffinet is an unsung hero. Like many thousands of Senate staffers, her name is not widely known. There are no news accounts of her 31 years of service to her country. Her quiet professionalism will never be the subject of wide acclaim. But she is a star of the Senate family. Sally is one of the thousands of people stretching back over the history of our Republic to whom the Senate owes a very great debt.

Sally Goffinet was hired in 1972 by one of the greatest Parliamentarians ever to serve the Senate, the late Dr. Floyd Riddick. Sally was the first woman ever to be assigned to that office. She continued to serve the Parliamentarian's office until the spring of this year, at which time she retired. Sally has worked for every Parliamentarian since the office was established, except for the very first Senate Parliamentarian, Mr. Charles Watkins. Charles Watkins was the Parliamentarian when I came to the Senate 45 years ago.

Sally graduated from college with a BA in history. So her interest in the Senate came naturally.

Can you imagine the institutional knowledge and the institutional memory she possesses? She possesses something there.

When I say that, I mean an institutional memory. And not every Senator has that, an institutional memory. It is acquired after one is here a great while, normally. But it is not normally that every Senator acquires an institutional memory.

Why is that? One has to be interested. A Senator must be interested in the Senate as an institution, its history, its customs, its folklore, its rules, and its precedents. Then one will have an institutional memory.

The institution means something. The institution is always at the center of a Senator's public life, if he or she has an institutional memory.

Can you imagine the institutional memory that Sally possesses? When one works alongside so many Parliamentarians, one acquires a deep, deep exposure to Senate rules and precedents. Senate rules and precedents—how important are they?

Thomas Jefferson in his manual, "Jefferson's Manual," spoke of Speaker Onslow.

I watched television when it was good. There is a good show on most Saturday nights. I get it on Channel 22 in McLean, or I get it on 26 over in McLean. On some evenings, this particular picture, or show, will be on both—possibly on 22 at a given time and a half hour later on Channel 26. This picture is British. Ah, what actors they are. We have few Americans, in my judgment, who are real, honest-to-goodness actors. They are conscious of the fact that they are acting in that show. It comes out at you when you watch it, but not with the British. They just act in a very natural way, and speak—what great English, what grammar. The British have it all over us, for the most part.

On Saturday nights, my wife Erma and I watch "Keeping Up Appearances." It is good, clean comedy. So tune in on "Keeping Up Appearances."

As I talk about Sally, she has seen Members come and go. She has acquired an institutional memory. And such long service in such a position imparts almost a sixth sense about the Senate and about its unique role in our constitutional system.

And as I was about to say, Thomas Jefferson spoke of the Speaker of the British Parliament when he spoke of Mr. Onslow. The reason I got off on this other part about the Saturday evening TV is because there is a person in this comedy show whose name is Onslow. When Jefferson spoke of Onslow, he was speaking of a different Onslow. He was talking of the Speaker of the House of Commons, who said—and Jefferson said it also—that it is more important that there be a rule than what the actual rule says. And he makes a very good point in saying that it is more important that there be a rule than what the rule actually says. Because if there is a rule, there will be order, and a minority will be heard. If there is a rule, there will be order.

And so we are talking now about the Parliamentarians. The Senate has not always had a Parliamentarians. But Charlie Watkins was the Parliamentarian when I came. That is a long time ago as we measure service in the Senate.

So Sally acquired that deep exposure, that I referred to, to the Senate rules and precedents. And one who is in such a position naturally witnesses the Senate's dynamic change as events occur. History progresses and Members come and go. Such long service in such a position imparts, as I say, almost a sixth sense about the Senate and about its unique role in our constitutional system. Such an individual really can never be replaced.

Today, when so many Members and staffers in our Senate family do not stay very long, I often wonder how we will fare in keeping that sense of the institution alive in future years, that institutional pride, pride in being a Member, an individual who has been selected by the constituents of that particular State, who have gone to the voting booths and cast their votes for a particular individual to serve in this great institution. We must find a way because, year by year, an understanding of the Senate's ultimate role and purpose is slipping away.

We have these pages on the Republican side and the Democratic side, and they are wholesome, fine young people. I talk with every new class that comes in. I get acquainted with them. I talk with them. I tell them stories. I tell them, for example, the story written by that great author, Tolstoy, "How Much Land Does a Man Need?"

I have not talked to this new group yet, but probably the first story I will tell them will be "How Much Land Does a Man Need" by Tolstoy. Then I may tell them that story that great Chataquan speaker told 5,000 times. Russel Conwell, that great Chataquan speaker, told the story "Acres of Diamonds." He said he had told that story 5,000 times. Well, I am going to tell that story to the pages also.

These are great stories, and I look forward to talking with them. In this way, I help to preserve an understanding of what the Senate is all about. We talk about that. We talk about politics and about the Senate so that these young people, when they leave here, will go out and they will spread the word also.

Individuals like Sally Goffinet have helped to keep us true to our course. And, today, I thank Sally for her long years of service, her pleasant and professional demeanor, which I will miss, and her wisdom, born of long experience and deep appreciation for the special place which is the United States Senate.

I send my best to her husband of 31 years, Joe Goffinet, and to her daughter, Sarah. Joe is a special education teacher. Sarah is a graduate of Bowdoin College in Maine, and she is presently working at the Corcoran Gallery of Art. So the Senate's loss is their gain.

FLAG DAY

Mr. BYRD. Well, the next subject I want to talk about today—and may I say to any other Senator who wishes to have the floor, I will be glad to give it up at any time. So I do not want to hog the floor, if I may use that word, "hog."

Tomorrow is Flag Day.

Now, from time to time, I speak on events such as Flag Day, these national holidays—Independence Day, Father's Day, Mother's Day, Columbus Day, and so on. When I first came to the Congress, now over a half century ago, there were Senators and there were Members of the House who spoke on these subjects. I do not see much of that anymore. So I try to preserve that way of Senate tradition, talking about these days every year as they come along. It enables us to be still and know and to remember the things that are our heritage, the things that made America great. We hear a lot about family values, and so I speak on Mother's Day about our mothers, I speak in advance of Father's Day—as I will a little later this morning—about Father's Day, to preserve this heritage.

Mr. President, since 1885, Americans have observed Flag Day on June 14. In

1949, President Truman signed an Act of Congress designating June 14 of each year as National Flag Day. That day, June 14, which this year falls on Saturday, was chosen because it was on June 14, 1777, that the Continental Congress adopted the Flag Act establishing an official flag for the new Nation.

The first Flag Act was a model of brevity. Here is what it said in its entirety:

> Resolved, That the Flag of the United States be made of thirteen stripes, alternate red and white: that the Union be thirteen stars, white in a blue field, representing a new Constellation.

As many Senators may remember from their schooldays, in the early years of the Nation there were a number of different variations of the flag including, of course, the one consisting of a circle of 13 stars that was attributed in our schoolbooks to Betsy Ross.

As the Nation grew, however, changes were made to the flag. Each change was authorized by an Act of Congress or, in later years, by an Executive order of the President.

In 1818, Congress provided for a flag of 13 stripes, 1 for each of the original 13 Colonies, and 1 star for each State to be added to the flag on the Fourth of July following the admission of each new State to the Union.

The most recent change was made by Executive order of President Eisenhower on August 21, 1959. His order provided for the arrangement of the stars in 9 rows of stars staggered horizontally and 11 rows of stars staggered vertically. That is the flag that flies over this Capitol Building today, and that is the flag that stands majestically as it does beside the desk of the President of the Senate, to the right of the Presiding Officer.

Today that Presiding Officer is from the State of Tennessee, and he presides over the Senate with great dignity and aplomb.

While we are on that subject, people all over the country watch the United States Senate, which is the premier upper legislative body in the world today. Aren't you proud that you serve in this body? Always keep in mind that the world is watching. It is watching that Presiding Officer, how he or she presides, and that is why I try to suggest to new Members that they preside in a way that lets the world know that here is truly the greatest body of all.

I suggest they not read mail, they not read newspapers while they are presiding; that they give their full attention to the Senate, to the Chamber, to the individual Senator who is speaking. Members of State legislatures watch this Presiding Officer, believing that here is the best, and we have to be conscious of that when we preside. We should be. Professors, students, coal miners, housewives—people in every walk of life—watch that desk.

There used to be a telephone at that desk. When I became majority leader, I took it out. I believe I was majority leader at that time, or perhaps majority whip. But I took that telephone out so the Senators would not sit at that desk and be talking on the telephone while they were presiding. A few of them did that, so I just moved out the telephone.

So there is the flag right there by the Presiding Officer. We see it every day when we address the Chair. That is the flag, as I say, that flies over the Capitol Building today.

This very abridged, short history now of the flag does not, of course, do justice to the emotions that we all feel as we look at that flag. Imagine the excitement in each new State as a new flag is unfurled for the first time with its new constellation of stars. Imagine the excitement in the State of Alaska when that new flag was unfurled. Imagine the excitement in the State of Hawaii in 1959, when I first came to the Senate—there was a new star in that constellation. Imagine the excitement in Hawaii as the people saw that flag with the new star. West Virginia was the 35th star on the flag.

We have but to think of the explorers who have carried the American flag to the ends of the Earth and into space. We have but to look at the classic photograph of the American flag being erected at Iwo Jima to share in the determination and triumph of that moment. And in the wake of September 11, 2001, who was not touched to the core by the sight of all the American flags that sprang up defiantly, as it were, across the Nation immediately after that attack, showing our sympathy, our resolve.

There is no doubting the love and the sorrow when you catch a tear creeping down the face of a man in uniform as taps is played and another flag is carefully and ceremoniously folded from atop the coffin and preserved for a grieving widow.

Mr. President, our flag is our Nation's greatest symbol, the icon by which we are recognized around the world. Old Glory—there is nothing, nothing, that can match it is our flag. That is the way we feel about it. It has withstood war. It has withstood assaults upon its fabric. But no assault has yet bested the fabric of this Nation or the ideals upon which the Nation was founded.

I firmly believe that if we hold true to our Constitution—here it is; I hold it in my hand, the Constitution of the United States—our flag will never fail, and this great constellation of stars and States will shine on through ages to come.

So I close with one of my favorite poems by Henry Holcomb Bennett, entitled "The Flag Goes By."

> Hats off.
> Along the street there comes
> A blare of bugles, a ruffle of drums,
> A flash of color beneath the sky:
> Hats off.
> The flag is passing by.
> Blue and crimson and white it shines,
> Over the steel-tipped, ordered lines.
> Hats off.
> The colors before us fly;
> But more than the flag is passing by.
> Sea-fights and land-fights, grim and great,
> Fought to make and to save the State:
> Weary marchers and sinking ships;
> Cheers of victory on dying lips;
> Days of plenty and years of peace;
> March of a strong land's swift increase;
> Equal justice, right in law,
> Stately honor and reverend awe.
> Sign of a nation, great and strong
> To ward her people from foreign wrong;
> Pride and glory and honor—all
> Live in the colors to stand or fall.
> Hats off.
> Along the street there comes
> A blare of bugles, a ruffle of drums;
> And loyal hearts are beating high;
> Hats off.
> The flag is passing by.

FATHER'S DAY

Mr. BYRD. Mr. President, this Sunday, June 15, is Father's Day. It is a day of lovely chosen, if sometimes unstylish, ties; a day of lumpy clay bowls and golf tee puzzles; of handmade cards and big brunches. It is a day for family members to struggle over what to get dad, in a reflection of both the many hours that fathers spend away from home working and of his proclivity for just buying himself what he wants.

What does dad need? Nothing, really. What he wants is more time with his family and more time for fun, but that cannot be purchased. That is something that cannot be purchased at the mall.

This Father's Day will be even more special for the men returning from service in Iraq in time to meet newborn sons and daughters for the first time. They will be coming home to a precious new life that they see for the first time in many instances. It is difficult to imagine the poignant first meeting as the same large hands that wrestled weapons on aircraft or into tanks now cradle small bundles squirming with life and happy, toothless smiles. What moments of simple, unalloyed joy.

If we are fortunate this Father's Day, it will be a day of beautiful June skies, warm weather and lush lawns trimmed close and smelling of fresh cut grass. If we are lucky in this very rainy spring, it will be a day to enjoy family activities outside, to preside over savory picnics or barbecues, to play ball games, to take long walks with the dog.

I look forward to that. I take a walk with my dog every day before I come to work. When she sees me getting ready she knows I am going to leave and go to work. When she sees me put on a tie, she stays at my feet and does not leave me until I take her for that walk.

I used to have a little dog named Billy. I spoke of Billy many times on this floor during his 15 years with us, but Billy is gone. Now we have a little shitzu, and she was named "Trouble" by my wife. These dogs were to be the palace dogs in Tibet, exceedingly friendly. She just loves everybody so I have to be very careful that she does not get out the door and go. She will leave with anybody. I call her "baby."

But that walk with the dog, or to have fun at the pool or lake, it is in these venues that we see the best sides of fathers, relaxed and happy, even a bit goofy as they play with their kids and banter with their wives.

In a suit or a uniform at work, we do not commonly see fathers but rather bosses, or officials, men with titles, men with responsibilities, mindful of production goals or other targets and deadlines. In this work-a-day mode, men set fine role models for their children of strong work ethics and integrity and responsibility for their families. But it is the kid tossing dad in the pool or the dad as softball coach who children are thinking of as they scrawl their "I love yous" on Father's Day cards.

One may well appreciate the hours and effort that fathers put into their jobs in order to provide the best for their children, but that sacrifice does not fill the heart with memories in the same way that quiet moments do. Late nights at work or at home paying bills and preparing taxes are important but not remembered or as appreciated by children as when dad reads bedtime stories and passes out good night kisses.

It has been a long time since I had young children, but I remember how it was then. My children, who have grown into adulthood, have children of their own, who have grandchildren of their own, meaning that Erma and I have great-grandchildren. Erma and I remember the time when we put our children to bed and when they said their prayers and we gave them our goodnight kisses.

Fathers play an important role in families far beyond their title as breadwinner. Their comforting presence adds to family life and their loss is felt profoundly.

It was in recognition of both roles that one of the first Father's Day services was held, in my own State of West Virginia. It makes me proud that my State figures in the history of both Mother's Day and Father's Day.

That first Father's Day service was conducted by Dr. Robert Webb at the Central United Methodist Church in Fairmont, WV, in 1908. The service was to honor the 210 fathers killed in the terrible mine explosion at Monongah, WV, on December 6, 1907, that took the lives of more than 360 men in all. Think about it. There was no joy at Christmas in Monongah in 1907. The idea for the service was the inspiration of Mrs. Charles Clayton, who sympathized with the grieving families of these men, as she still mourned the loss of her own father. Reverend Webb, was Mrs. Clayton's pastor, and he agreed with her thoughts and prepared a special mass held in honor and remembrance of fathers on July 5, the very next year, 1908. This service was but a one-time event.

It was the selfless efforts of one father that inspired his daughter to advocate a national Father's Day. After listening to a Mother's Day sermon in 1909, Mrs. Sonora Smart Dodd proposed the idea of a "father's day" to honor her father, Willam Smart. Mr. Smart was a Civil War veteran who was widowed when his wife died in childbirth delivering their sixth child. Mr. Smart raised the newborn and his other five children on a rural farm in eastern Washington State. That would be quite a feat even today, but imagine doing so in the late 19th century! There were no disposable diapers then, no prepared formula or baby food, no day care, no automatic washing machines and dryers, no frozen orange juice. Frozen orange juice came along in 1947. No sliced bread here. That did not come along until 1930. You hear people say: This is the greatest thing since sliced bread. That doesn't go very far back. Mechanically sliced bread sold commercially by 1930.

So there were none of the conveniences that we take for granted today. Mrs. Dodd gives her father great credit, and credit he deserves, but without the help of his five older children, it is difficult to imagine how Mr. Smart could have met the challenge.

In my own life, as my mother approached death during the influenza pandemic of 1918, when I was just under a year old, she chose to ask relatives to raise me. She asked my father to give me, the baby, she said, to the Byrds, Titus Dalton Byrd and his wife Vlurma. His wife Vlurma was my natural father's sister. My father, my natural father, had several sisters.

So when my mother died of influenza in that great epidemic that swept the world, 20 million people died—nobody really knows how many—throughout the world, 12 million in India, perhaps 750,000, give or take, in the United States. They would become ill one morning and die that afternoon or the next day—the great influenza epidemic.

So my mother felt that if she did not recover, she wanted this family, Tyson Dalton Byrd and his wife, to raise me. That was her wish. Of my three older brothers and a sister, the three older brothers were given to the other sister. My father had several sisters. My father kept the daughter, my sister. So that is the way it was.

The people who reared me were kind. They were not well educated. I was the first person ever, I suppose, in my family to go to the second or third grade, if that far. Nobody else in my family ever went beyond that. They could barely read and write, but they were good people. They were honest, they were hard working, and they loved me.

So that is what I remember. My dad was my uncle, you see. I never knew any other father because my uncle and his wife, my aunt, brought me to West Virginia from North Carolina when I was 2 or 3 years old. So I remember this man, Titus Dalton Byrd as my father. He loved me.

I can remember his coming from work. He was a coal miner. I can remember seeing him come down the railroad track from a half mile, three-quarters of a mile away. I could see him coming, this tall man with black hair and red mustache and watch chain. I could see the watch chain; I could see him coming down the railroad tracks. I would run to meet him.

When I came near to him, he would put down his dinner bucket. He would lift up the lid. He would reach down into that dinner bucket and pull out a cake. My mom—my aunt; I called her my mom—always put a cake, a 5-cent cake, in the dinner bucket. He took the cake—he never ate it—but always brought it back. He saved the cake for me. So he put that dinner bucket down on the wooden cross tie, the railroad cross tie, reached in to get that cake, and I ran up to meet him, and he would give me the cake.

This fine old couple had had a son, but that child had died of scarlet fever before I was born. So they took me into their home and they raised me. That must have been a difficult choice for my father and my mother. She was concerned that she might not recover, and they decided to give me, the baby, to the Byrds.

So without the conveniences that we take for granted today, you might imagine how it was to raise an infant or a toddler in 1918, bringing a child in 1918 to manhood. Under the circumstances, with three older brothers and a sister, I know it must have been a very difficult thing for my father to try to raise this family with the mother gone. So I was raised by my uncle, Titus Dalton Byrd, and my aunt, Vlurma Byrd. As I already said, I called my uncle my dad, and he was my dad. He was the only dad I ever knew until I was ready to graduate from high school, when he told me the story about how my mother died and how my mother's wish was what it came to be, that I be made a part of the Byrd family.

So my uncle—he was a patient, quiet man—toiled in the dark pits of the West Virginia coal mines without any complaint. I never saw him sit at the table and complain about the food—never. He always thought to save me that cake. And, like good fathers everywhere, he encouraged me always to do my best. He encouraged me in my school work. He and she always wanted to see my report card and there was a line on that report card designated "deportment." He always looked at that as well. He wanted to see how I behaved in school. And he always told me that if I got a whipping in school, I could be sure of getting another one at home.

So he encouraged me in my school work. He did not want me to follow him into the mines which were, in those days, just as dangerous as they had been in 1907, in Monongah.

In all my years, I say to these wonderful young people and to those who are watching out there watching this Senate Chamber today, in all those years I never heard him use God's name in vain. I never heard him complain about his lot in life. He simply toiled on, doing the best he could, a man of few words and few affectionate gestures, but loving nonetheless.

In any event, the first Father's Day was observed on June 19, 1910, in Spokane, WA. In 1924, President Calvin Coolidge supported the idea of a national observance of Father's Day, but it was not until 1966 that President Lyndon Johnson signed a Presidential proclamation declaring the third Sunday in June as the national Father's Day. In 1972, President Nixon established the permanent national observance of Father's Day.

The Bible admonishes us: "Honor thy father and thy mother." And on this day in June we honor our fathers with gifts, cards, and time spent together as a family. The rest of the year we can only hope to honor our fathers by our own hard work, as we try to live up to the dreams—yes, the dreams—that they have for us.

I think of Kipling's lines at this moment. I think they are quite appropriate:

Our Fathers in a wondrous age,
Ere yet the Earth was small,
Ensured to us an heritage,
And doubted not at all
That we, the children of their heart,
Which then did beat so high,
In later time should play like part
For our posterity.

Then, fretful, murmur not they gave
So great a charge to keep,
Nor dream that awestruck Time shall save
Their labour while we sleep.
Dear-bought and clear, a thousand year,
Our fathers' title runs.
Make we likewise their sacrifice,
Defrauding not our sons.

Mr. President, I close with a short poem by Grace V. Watkins entitled "I Heard My Father Pray." I offer it in honor of Titus Dalton Byrd, my Dad, who is looking down from Heaven.

Once in the night I heard my father pray.
The house was sleeping, and the dark above
The hill was wide. I listened to him say
Such phrases of devotion and of love,
So far beyond his customary fashion,
I held my breath in wonder. Then he spoke
My name with such tenderness and such compassion,
Forgotten fountains in my heart awoke.
That night I learned that love is not a thing
Measured by eloquence of hand or tongue,
That sometimes those who voice no whispering
Of their affection harbor love as strong,
As powerful and deathless as the sod,
But mentioned only when they talk with God.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

THE FAA REAUTHORIZATION ACT OF 2003

Mr. SANTORUM. Mr. President, I rise today with my colleague Senator SPECTER to engage the distinguished chairman of the Commerce Committee in a colloquy regarding a proposal to allow airports increased flexibility with the use of the Passenger Facility Charge, PFC, revenues.

Mr. President, as you know, many airports are impacted by the downturn in the aviation industry. In my State, the Commonwealth of Pennsylvania is working with US Airways to maintain its presence at both Pittsburgh and Philadelphia International Airports. Our activities in Pennsylvania include efforts to reduce costs in order to make our airports even more competitive.

The amendment that I filed today would change current law to allow airports increased flexibility in the use of the Passenger Facility Charge revenues so that an airport may choose to use such funds to help retire outstanding debt. I believe that this change would be an important tool for airports, which could benefit from the option of using the funds they receive more effectively.

According to information provided to me, this change, if implemented at Pittsburgh International Airport, would result in millions of dollars in immediate cost savings for both the airport and tenant airplanes operating there.

It is my understanding that Chairman MCCAIN is aware of this issue but has concerns about the approach taken by this amendment. I am also informed, however, that the Chairman indicated that he plans to examine issues related to airport financing and competitiveness in the current aviation industry environment.

I would like to inquire of Chairman MCCAIN if he would agree to examine this issue and continue discussions to identify solutions that can allow airports to be more competitive in this challenging aviation industry environment.

Mr. SPECTER. Mr. President, I rise as a cosponsor of the amendment offered by my colleague Senator SANTORUM that would provide airports with increased flexibility in the use of their Passenger Facility Charge funds. As Senator SANTORUM mentioned, we are working hard to assist US Airways and to keep the company's large presence in Pennsylvania with its hubs in both Pittsburgh and Philadelphia. Earlier this week I hosted a meeting with US Airways CEO David Siegel in my office that included Governor Rendell, Senator SANTORUM, most of our delegation from the House of Representatives, as well as local elected officials. The purpose of this meeting was to work with US Airways to make our Pennsylvania hubs in Pittsburgh and Philadelphia more cost competitive so that those airports can remain critical assets to US Airways. If enacted, proposals such as our amendment will be of great help to Pennsylvania and will be available for use by other airports throughout the Nation.

Mr. MCCAIN. I thank the distinguished Senators from Pennsylvania for filing this amendment. I am aware of interest in proposals to allow increased flexibility in the use of Passenger Facility Charges as well as other Federal revenues. The Commerce Committee does plan to continue its examination of appropriate Federal policy measures that might address the concerns raised by my colleagues. I look forward to working with my colleagues on this issue.

Mr. SANTORUM. I thank Chairman MCCAIN for agreeing to work with us on this important issue.

Mr. SPECTER. I also thank the chairman.

THE HOMELAND SECURITY GRANT ENHANCEMENT ACT OF 2003

Mr. ROCKEFELLER. Mr. President, I am very proud today to join my colleague, the Senator from Maine, Ms. COLLINS, in introducing the Homeland Security Grant Enhancement Act of 2003. This legislation will bring much-needed coordination to the fund application process for our first responders and State and local officials.

The coordination of grant programs called for by this bill will go a long way to make certain that those who will be first called upon to deal with a threat to the security of the United States will be better prepared to face it. By enacting the Homeland Security Grant Enhancement Act, we can free municipal governments and first responders of bureaucratic guesswork, allowing them to focus instead on training and execution of response plans.

Currently, Federal programs within the Department of Homeland Security, the Department of Justice, the Department of Health and Human Services, and other Federal agencies provide our first responders with a basic level of support with respect to training and equipment procurement. However, in order to receive this support, State and local officials often must complete separate emergency plans and redundant grant application forms. The information demanded by the various homeland security plans is frequently similar; nonetheless, different Federal agencies require grant applicants to start from square one in each case.

The Homeland Security Grant Enhancement Act of 2003 will put an end to this inefficient practice. Our bill creases an interagency committee, composed of representatives from the Department of Homeland Security, the Department of Health and Human Services, the Department of Transportation, the Department of Justice, and the Environmental Protection Agency, as well as any other department or agency deemed necessary by the President, to eliminate duplication in planning requirements and to simplify the application process. The committee will engage in a three-step process to accomplish this goal. First, within 2 months, it will compile a list of the homeland security assistance programs, identifying planning and administrative requirements for each program. Second, it will conduct a 4-month review of these requirements. Finally, within 8 months, it will report to Congress and to the President with recommendations as to how to streamline and standardize requirements.

In order to provide first responders with the support they need, our bill also creates a Homeland Security Information Clearinghouse. The clearinghouse will work with the interagency committee to make grant information available to first responders and local officials, easing the application process. Many State and local agencies, as well as firefighters, police, and emergency service officials, have found the Homeland Security Act provides insufficient guidance from Federal agencies as to the use of government funding and technical expertise in order to meet security needs. Through the clearinghouse, our bill will provide the coordination needed to locate grant information and other resources within the Federal Government. Easy access to this kind of information will improve immeasurably our State and local agencies' ability to deal with potential threats.

First responders have also cited the Homeland Security Act's lack of guidance regarding how Federal dollars can be spent and to whom these funds can be allocated. Neither the Homeland Security Act nor the Department of Homeland Security's efforts to implement the law has done much to relieve this problem. Our bill seeks to remedy this by streamlining the Office for Domestic Preparedness homeland security grant process from as many as 12 deliberate steps to just 2 commonsense requirements.

When enacted, the Homeland Security Grant Enhancement Act will put in place grant application processes that are much more efficient and user-friendly. State and local authorities will be called upon to develop a single, 3-year homeland security plan that outlines vulnerabilities and capabilities. Federal grant programs will be reconciled to establish a process for a more logical allocation of resources to meet State and local needs. Local agencies or government officials will then apply for funds based on this plan, which can be revised each year pending approval by the Secretary of Homeland Security. These steps will lead to greater ease in securing funding for local police, fire, and emergency service departments. This means greater security for West Virginians and all Americans.

Perhaps more importantly, this will make certain that State and local officials and first responders are all included in the homeland security planning process, allowing them to access funds and equipment in a timely and efficient manner. Our legislation requires that 80 percent of homeland security funding and resources will reach the local level within 60 days of allocation. The bill encourages flexibility in the use of these funds by authorizing local officials to determine their allocation to planning, equipment, exercises, training, or other homeland security functions.

In order to ensure that rural States are included in Federal grant programs whose eligibility criteria sometime favor urban areas, the Homeland Security Grant Enhancement Act follows a procedure that benefited my State of West Virginia earlier this year when we partially funded first responder programs in the Emergency Supplemental Appropriations bill. As with that legislation, our bill provides that any State whose application for funding through this grant program is approved will receive a minimum of .75 percent of the total amount appropriated for homeland security in a given fiscal year, thereby providing an adequate preparedness funding baseline for all States. The Secretary, acting in cooperation with congressional appropriators, would naturally exercise the authority to make upward adjustments with the remaining funds. However, the .75 percent baseline will make certain that rural first responders are not left out. At the same time, this mechanism will see to it that areas facing higher risk and greater vulnerabilities might receive more funds. Rural areas will not be left out, but areas that are home to elements of the Nation's critical infrastructure, as well as areas with higher population density—both of which are the most likely targets for international terrorists—will be safeguarded.

Finally, this bill also provides a logical flexibility for Federal officials who oversee unspent funds previously appropriated to the Office for Domestic Preparedness. Rather than allowing this money to sit idle while our first responders clamor for adequate funding, this legislation will enable DHS to dispense funds to those States that obtain a waiver from the Secretary. Funds earmarked for one purpose, such as training, may then be used to pay costs associated with another first responder need, such as equipment.

I commend the Senator from Maine for her close personal attention to the matter at hand, and for her hard work in putting this legislation together. She has worked closely with many of the groups who will benefit directly from this legislation. While many of these organizations do not endorse legislation, the approach we offer today has been supported by the National Governors Association, the National Conference State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the International City/County Management Association, and the International Association of Fire Fighters.

I believe the Homeland Security Grant Enhancement Act will greatly improve coordination between the various agencies that distribute homeland security funds to our States, communities, and first responders. Relevant information will flow more freely and the grant application and funding process will become more clear and more flexible. While we have made great strides in our efforts against international terrorists, stifling their ability to conduct operations, the danger of an attack remains. This legislation improves efficiency within a multi-agency bureaucracy, easing the burdens on those who are charged with defending the homeland. These changes will also better prepare our first responders to meet the threats they face.

PROSECUTING GUN-RELATED CRIMES

Mr. LEVIN. Mr. President, last month I spoke about a report released by Americans for Gun Safety Foundation entitled, "The Enforcement Gap: Federal Gun Laws Ignored," analyzing the Justice Department's commitment to enforcing and prosecuting gun laws. The report examines prosecution data acquired from the Justice Department under the Freedom of Information Act for fiscal years 2000 through 2002. The AGS study reveals a significant gap between the number of federal gun crimes committed and the number of Federal prosecutions initiated.

In response to this report, Representative JOHN DINGELL, the Dean of the

Michigan delegation in the House, sent a letter to Attorney General Ashcroft asking "how the Justice Department plans to improve its abysmal record of enforcement of all of the major federal firearms statutes." He goes on to say, "by not enforcing existing federal firearm laws, we are not only allowing criminals to arm themselves, we are eliminating any deterrent effect these laws may have."

Justice Department officials regularly point to a 38 percent increase in prosecutions of gun crimes since 2001 as evidence of their success. However, according to the AGS report, at the end of fiscal year 2002, federal prosecutors filed 197 cases for gun trafficking, despite 100,000 guns showing signs of trafficking. Only 27 cases were filed against corrupt gun dealers, even though AGS reports that gun dealers are the leading source of firearms recovered in gun trafficking operations. Across the country, only seven cases for illegally selling a gun to a minor were filed, even though more than 30,000 gun crimes were committed by youths age 17 or under. Only 202 cases were filed for possessing or selling a stolen firearm, despite nearly 140,000 reported gun thefts that year in which the make, model and serial number of a stolen gun was reported to police. And, a mere 98 cases for possessing or selling a firearm with an obliterated serial number were prosecuted, despite thousands of these guns being recovered in cities across the country each year.

I believe vigorous and fair enforcement of our gun safety laws is a critical step toward reducing gun violence. I commend Congressman DINGELL questioning the Justice Department about the enforcement gap, and I hope the Justice Department will step up its efforts to prosecute not only people who commit gun crimes but those corrupt or negligent dealers who put guns in criminal hands.

ADDITIONAL STATEMENTS

LOCAL LAW ENFORCEMENT ACT OF 2003

• Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Palos Heights, IL. On September 11, 2001, a man attacked a Moroccan-American gas station attendant with the blunt end of a 2-foot machete. The attacker was arrested and charged with a hate crime.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

RETIREMENT OF MR. WILLIAM M. COFFEY

• Mr. BREAUX. Mr. President, I rise today to extend my congratulations and best wishes to Mr. William M. (Bill) Coffey on his retirement as president and chief executive officer of Volunteers of America Greater Baton Rouge.

It is my privilege to recognize Bill's dedicated service to the people of our State. During his nearly 40 years as a public servant and a nonprofit leader, Bill has helped countless individuals and families in need.

Born in 1940 on a small farm in north Louisiana, Bill began working for the State Department of Health and Human Services in 1964 after earning a master's in social work from Louisiana State University. His distinguished career as a State employee spanned 25 years and a day, before his retirement in 1987 as deputy director of the Department of Mental Retardation.

He then joined Volunteers of America—one of our Nation's leading human services charities B and in 1989 was appointed president /CEO of the organization's Baton Rouge affiliate. Under his leadership, Volunteers of America expanded its vital mission of service, opening new programs in Lafayette, Lake Charles and many smaller communities across south Louisiana.

Today, Volunteers of America serves more than 14,000 south Louisiana residents every year—abused and neglected children, at-risk youth, the elderly, homeless families, people with mental illness or mental retardation, people living with HIV/AIDS, victims of hurricanes and other disasters, and many more.

Above all, Bill has been a community-builder, bringing together those in need with those who have a need to serve.

My wife Lois and I have experienced the joy of service through Volunteers of America many times, especially on our visits with the children at Parker House in Baton Rouge, a therapeutic setting for young victims of the most severe abuse and neglect. We were honored to be part of a recent $1.2-million fundraising campaign to acquire a new residence for these children, and a center to prevent child abuse. The outpouring of support for this new facility helped fulfill one of Bill's long-term dreams. It will surely be the crowning touch of his life of service, and his legacy for generations to come.

For all Louisianans, I wish to express our thanks and best wishes to Bill and his family—his wife, Cooky, and their children, Pam and Blake—for many happy years ahead.•

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

EXPLANATION OF ABSENCE

• Mr. REED. Mr. President, I am necessarily absent today to attend funeral services for the former Rhode Island Superior Court's Presiding Justice, Anthony A. Giannini, in Providence.

Were I present today, I would vote "yea" on Executive Calendar No. 218, the nomination of R. Hewitt Pate to be an Assistant Attorney General.•

CONGRATULATIONS TO BRYAN JONES

• Mr. COCHRAN. Mr. President, I commend Mr. Bryan Jones of Yazoo City, MS, for his distinguished service as President of Delta Council.

Delta Council is an area development organization representing the 18 Delta and part-Delta counties of Northwest Mississippi. Delta Council was organized in 1935 to bring together the agricultural, business, and professional leadership of the region to confront the major problems facing the region at that time. Since then, and over the past 68 years, the organization has expanded its role under leaders like Bryan Jones, for the purpose of working in the fields of educational policy, water resource conservation, highway developments, agricultural research, and flood control.

As President of Delta Council, Bryan has served unselfishly and in an effective role to lead the people of the Delta during very stressful economic times. He has performed admirably and gained the respect of his peers through the use of sound judgment and meaningful action.

Bryan has distinguished himself in many areas on behalf of the Mississippi Delta region that he loves so much. Bryan has led the organization of Delta Council into new fields of endeavor such as health care and adult literacy. He has supported innovative approaches toward expanding the conservation provisions of our farm laws. He has been a strong advocate for water resource developments that include significant features for improved environmental restoration. And, he has become well known throughout the region and among members of the Mississippi Congressional Delegation as an effective spokesperson on behalf of the Delta's largest industry, which is agriculture.

After graduating from the University of Mississippi, Bryan Jones could have been placed in a senior executive position in almost any company located anywhere in the United States. However, because of his love for the Mississippi Delta, Bryan returned to the Delta region and joined his local peers in building a $1 billion banking system which has rapidly grown throughout our State. In addition to serving as the Chief Executive Officer of the Delta Division of BankPlus, Bryan operates a cotton, soybean, corn, and wheat farm which is located in Holmes and Humphreys Counties.

Bryan is a member of the Second Presbyterian Church in Yazoo City and he and his wife, Sara, have three children. He is an enthusiastic outdoorsman and a director of Delta Wildlife, which and a leading advocate for the enhancement of the Mississippi Delta's rich wildlife resources.

It is a great privilege for me to congratulate Bryan Jones for his many contributions to the Delta region of Mississippi and the Nation, and I look forward to working with Bryan and other Delta Council leaders in the future who share our common goal of improving the quality of life for the people of this great part of this Nation.•

COMMEMORATING THE 228TH BIRTHDAY OF THE UNITED STATES ARMY

• Mr. HAGEL. Madam President, I rise today to wish the United States Army "happy birthday." It was 228 years ago tomorrow, June 14, 1775, that the Continental Army of the United States was formed. The United States Army has had a monumental impact on our country.

Millions of men and women over the past 228 years have served in the senior most branch of our military forces. The Army is woven in the culture of America.

For 228 years, the Army has protected the American values of liberty, freedom and democracy. Many people around the globe enjoy these freedoms because of the U.S. Army.

The principles of "Duty, Honor, Country" are the foundation of the U.S. Army. It is America. Every generation of Americans who have served in the U.S. Army—from the Continental army to today's fighting men and women—have been shaped by these principles. It has molded lives in ways that are hard to explain, just as the Army has touched our national life and history and made the world more secure, prosperous, and a better place for all mankind.

On this 228th birthday of the U.S. Army, as a proud U.S. Army veteran, I say happy birthday to the Army veterans of our country. We recognize and thank those who have sacrificed and served and those whose examples inspired those of us who have had the opportunity to serve in the U.S. Army.

On this, the 228th birthday of the Army, I say "Happy Birthday" and, in the great rich tradition of the U.S. Army, I proclaim my annual Senate floor . . . "HOOAH"•

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 231. A bill to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools (Rept. No. 108-70).

S. 504. A bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes (Rept. No. 108-71).

By Mr. GRASSLEY, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

S. 1. A bill to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN:

S. 1259. A bill to amend title XVIII of the Social Security Act to extend the minimum medicare deadlines for filing claims to take into account delay in processing adjustments from secondary payor status to primary payor status; to the Committee on Finance.

By Mr. McCAIN (for himself and Mr. BROWNBACK):

S. 1260. A bill to promote the development of the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN (for himself and Mr. FITZGERALD):

S. 1261. A bill to reauthorize the Consumer Product Safety Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN:

S. 1262. A bill to authorize appropriations for fiscal years 2004, 2005, and 2006 for certain maritime programs of the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HAGEL:

S. 1263. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income interest received on loans secured by agricultural real property; to the Committee on Finance.

By Mr. McCAIN (for himself and Mr. HOLLINGS):

S. 1264. A bill to reauthorize the Federal Communications Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CORZINE:

S. 1265. A bill to limit the applicability of the annual updates to the allowance for State and other taxes in the tables used in the Federal Needs Analysis Methodology for the award year 2004-2005, published in the Federal Register on May 30, 2003; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself, Mr. LEVIN, Mr. REID, Mr. KERRY, Ms. COLLINS, Ms. LANDRIEU, Ms. STABENOW, Mr. VOINOVICH, Mr. DURBIN, Mr. PRYOR, Mr. CORZINE, Mr. LAUTENBERG, and Mr. HATCH):

S. 1266. A bill to award a congressional gold medal to Dr. Dorothy Height, in recognition of her many contributions to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

ADDITIONAL COSPONSORS

S. 189

At the request of Mr. WYDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 189, a bill to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes.

S. 255

At the request of Mrs. FEINSTEIN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 255, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks; to require fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight; to increase the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 595

At the request of Mr. HATCH, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Minnesota (Mr. DAYTON) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 794

At the request of Mr. DURBIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 794, a bill to amend title 49, United States Code, to improve the system for enhancing automobile fuel efficiency, and for other purposes.

S. 894

At the request of Mr. WARNER, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 1095

At the request of Mr. SUNUNU, the names of the Senator from New York

(Mrs. CLINTON) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 1095, a bill to amend title XVIII of the Social Security Act to improve outpatient vision services under part B of the medicare program.

S. 1227

At the request of Mr. SANTORUM, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1227, a bill to amend title XVIII of the Social Security Act to provide for coverage of substitute adult day services under the medicare program.

S. 1244

At the request of Mr. MCCAIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1244, a bill to authorize appropriations for the Federal Maritime Commission for fiscal years 2004 and 2005.

S. 1255

At the request of Mr. KERRY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1255, a bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. CON. RES. 54

At the request of Mr. COCHRAN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. Con. Res. 54, a concurrent resolution commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams for their lives and accomplishments, designating a Medgar Evers National Week of Remembrance, and for other purposes.

S. RES. 109

At the request of Mr. FEINGOLD, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. Res. 109, a resolution expressing the sense of the Senate with respect to polio.

S. RES. 151

At the request of Mr. WYDEN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Res. 151, a resolution eliminating secret Senate holds.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself and Mr. FITZGERALD):

S. 1261. A bill to reauthorize the Consumer Product Safety Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am joined by the Chairman of the Senate Commerce Committee's Consumer Affairs and Product Safety Subcommittee, Senator FITZGERALD, in introducing the Consumer Product Safety Commission Reauthorization Act of 2003. This legislation is designed to reauthorize the Consumer Product Safety Commission, CPSC or Commission, in furtherance of its mission to protect consumers by reducing the risk of injuries and deaths associated with consumer products. This vital consumer protection agency has not been reauthorized since 1990.

This bill would authorize funding for the Commission for fiscal years 2004 through 2007. The bill also would clarify CPSC employee position titles that have evolved informally over time.

The CPSC is essential to ensuring the safety of the approximately 15,000 consumer and household products marketed and sold to American consumers. However, because the agency has not been reauthorized for more than a decade, the Commission has fallen behind in its ability to upgrade its technology, meet its overhead expenses, and retain needed staff. Funding for the Commission has not kept pace with the cost of regulating the ever-increasing number of products covered by its jurisdiction.

I look forward to working on this important consumer protection legislation and I hope that my colleagues will join us in expeditiously moving this reauthorization through the legislative process. Reauthorizing the CPSC is crucial to the Commission's successful efforts to protect American consumers.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Product Safety Commission Reauthorization Act of 2003".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) $60,000,000 for fiscal Year 2004;

"(2) $66,800,000 for fiscal year 2005;

"(3) $70,100,000 for fiscal year 2006; and

"(4) $73,600,000 for fiscal year 2007.".

SEC. 3. FTE STAFFING LEVELS.

Section 4(g) of the Consumer Product Safety Act (15 U.S.C. 2053(g)) is amended by adding at the end the following:

"(5) The Commission is authorized to hire and maintain a full time equivalent staff of 471 persons in each of fiscal years 2004 through 2007.".

SEC. 4. EXECUTIVE DIRECTOR AND OFFICERS.

So much of section 4(g) of the Consumer Product Safety Act (15 U.S.C. 2053(g) as precedes paragraph (2) is amended to read as follows:

"(g) EXECUTIVE DIRECTOR; OFFICERS AND EMPLOYEES.—(1)(A)The Chairman, subject to the approval of the Commission, shall appoint as officers of the Commission an Executive Director, a General Counsel, an Associate Executive Director for Engineering Sciences, an Associate Executive Director for Laboratory Sciences, an Associate Executive Director for Epidemiology, an Associate Executive Director for Health Sciences, an Assistant Executive Director for Compliance, an Associate Executive Director for Economic Analysis, an Associate Executive Director for Administration, an Associate Executive Director for Field Operations, an Assistant Executive Director for Office of Hazard Identification and Reduction, an Assistant Executive Director for Information Services, and a Director for Office of Information and Public Affairs. Any other individual appointed to a position designated as an Assistant or Associate Executive Director shall be appointed by the Chairman, subject to the approval of the Commission. The Chairman may only appoint an attorney to the position of Assistant Executive Director for Compliance, but this restriction does not apply to the position of Acting Assistant Executive Director for Compliance.".

By Mr. MCCAIN:

S. 1262. A bill to authorize appropriations for fiscal years 2004, 2005, and 2006 for certain maritime programs of the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am introducing legislation to reauthorize the Maritime Administration, MARAD, for fiscal years 2004, 2005, and 2006. The bill was developed in consultation with Administration officials and would provide for needed reforms in a number of maritime programs.

The bill would authorize appropriations for MARAD operations and training, administrative costs associated with the shipbuilding loan guarantee program authorized by Title XI of the Merchant Marine Act of 1936, and the disposal of vessels in the National Defense Reserve Fleet that have been identified by the Secretary of Transportation as obsolete.

The bill is designed to reform how MARAD manages the Title XI maritime loan guarantee program. Both the Department of Transportation Inspector General and the General Accounting Office have found that MARAD has failed to provide effective oversight in receiving and approving loan guarantees; has failed to closely monitor the financial condition of borrowers during the term of the loan; and has failed to adequately monitor the condition of projects subject to guarantees. They also found that MARAD was flagrant in its use of authority in granting waivers to its own regulations governing the program without taking steps to better secure the taxpayer against defaults. The bill includes reform provisions to address these findings.

Furthermore, the bill would amend the Merchant Marine Act to give the Secretary of Transportation the authority to convey obsolete National

Defense Reserve Fleet vessels to non-profit organizations, a State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof or the District of Columbia for their use and to U.S. territories and foreign governments for use as artificial reefs. The bill also would amend the Merchant Marine Act to allow, under certain circumstances, otherwise unqualified U.S.-flag vessels to carry reference cargo reserved for qualified U.S. vessels.

Finally, the bill would amend requirements for enforcement of the commitment agreements for students at the United States Merchant Marine Academy, USMMA, and students at the state maritime academies who receive student incentive payments, SIP; allow MARAD to use funds received from a settlement for legally authorized purposes, including completion of repairs to the Merchant Marine Academy, Fitch Building; provide the Secretary with the authority to also exclude vessels from the carriage of Government impelled cargoes that have been detained for violations of security standards contained within international agreements to which the United States is a party; allow MARAD to retain funds received as a result of final judgments and settlements in the Vessel Operations Revolving Fund; and clarify the decades-old authority of the Saint Lawrence Seaway Development Corporation, SLSDC, to carry out the provisions of the Ports and Waterways Safety Act, PWSA, in the case of the Saint Lawrence Seaway.

I look forward to working on this important legislation and hope my colleagues will join me in expeditiously moving this authorization through the legislative process.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maritime Administration Authorization Act of 2003".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2004, 2005, AND 2006.

There are authorized to be appropriated to the Secretary of Transportation for the Maritime Administration—

(1) for expenses necessary for operations and training activities, not to exceed $104,400,000 for the fiscal year ending September 30, 2004, $106,000,000 for the fiscal year ending September 2005, and $109,000,000 for the fiscal year ending 2006;

(2) for administrative expenses related to loan guarantee commitments under title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), $4,498,000 for each of fiscal years 2004, 2005, and 2006; and

(3) for ship disposal, $11,422,000 for each of fiscal years 2004, 2005, and 2006.

SEC. 3. CONVEYANCE OF OBSOLETE VESSELS UNDER TITLE V, MERCHANT MARINE ACT, 1936.

Section 508 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1158) is amended—

(1) by inserting "(a) AUTHORITY TO SCRAP OR SELL OBSOLETE VESSELS.—" before "If"; and

(2) by adding at the end the following:

"(b) AUTHORITY TO CONVEY VESSELS.—

"(1) IN GENERAL.—Notwithstanding section 510(j) of this Act, the Secretary of Transportation may convey the right, title, and interest of the United States Government in any vessel of the National Defense Reserve Fleet that has been identified by the Secretary as an obsolete vessel of insufficient value to warrant its further preservation, if—

"(A) the recipient is a non-profit organization, a State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof, or the District of Columbia;

"(B) the recipient agrees not to use, or allow others to use, the vessel for commercial transportation purposes;

"(C) the recipient agrees to make the vessel available to the Government whenever the Secretary indicates that it is needed by the Government;

"(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government;

"(E) the recipient has a conveyance plan and a business plan, each of which have been submitted to and approved by the Secretary; and

"(F) the recipient has provided proof, as determined by the Secretary, of resources sufficient to accomplish the transfer, necessary repairs and modifications, and initiation of the intended use of the vessel.

"(2) OTHER EQUIPMENT.—At the Secretary's discretion, additional equipment from other obsolete vessels of the National Defense Reserve Fleet may be conveyed to assist the recipient with maintenance, repairs, or modifications.

"(3) ADDITIONAL TERMS.—The Secretary may require any additional terms the Secretary considers appropriate.

"(4) DELIVERY OF VESSEL.—If conveyance is made under this subsection the vessel shall be delivered to the recipient at a time and place to be determined by the Secretary. The vessel shall be conveyed in an 'as is' condition.

"(5) LIMITATIONS.—If at any time prior to delivery of the vessel to the recipient, the Secretary determines that a different disposition of a vessel would better serve the interests of the Government, the Secretary shall pursue the more favorable disposition of the obsolete vessel and shall not be liable for any damages that may result from an intended recipient's reliance upon a proposed transfer.".

SEC. 4. CARGO PREFERENCE UNDER TITLE IX.

(a) CONSTRUCTION OF U.S.-FLAG TANK SHIPS.—Section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1)) is amended by striking "three years;" and all that follows and inserting "3 years. Notwithstanding the preceding sentence, the term 'privately owned United States-flag commercial vessel' shall include a United States documented self-propelled tank vessel when the owner of such a vessel has notified the Maritime Administration in writing of the existence of an executed contract between the owner and a United States shipyard for the construction of 2 or more self-propelled, double hulled tank vessels to be documented under the laws of the United States, each to be capable of carrying more than 2 types of refined petroleum products. The preceding sentence shall apply to such a privately owned United States-flag commercial vessel for a 3-year period commencing on the date the contract is executed for construction of the vessels and shall continue to apply to the vessel throughout the 3-year period so long as the vessel remains documented under the laws of the United States.".

(b) CONFORMING CARGO PREFERENCE YEAR TO FEDERAL FISCAL YEAR.—Section 901b(c)(2) of the Merchant Marine Act, 1936 (46 U.S.C App. 1241f(c)(2)) is amended by striking "1986." and inserting "1986, the 18-month period beginning April 1, 2002, and the 12-month period beginning October 1, 2003, and each year thereafter.".

SEC. 5. EQUITY PAYMENTS BY OBLIGOR FOR DISBURSEMENT PRIOR TO TERMINATION OF ESCROW AGREEMENT UNDER TITLE XI.

(a) IN GENERAL.—Section 1108 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279a) is amended by adding at the end the following:

"(g) PAYMENTS REQUIRED BEFORE DISBURSEMENT.—

"(1) IN GENERAL.—No disbursement shall be made under subsection (b) to any person until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 per centum or 12½ per centum, whichever is applicable, of the actual cost of the vessel. The Secretary shall establish a system of controls, including automated controls, to ensure that no loan funds are disbursed to a shipowner or shipyard owner before the shipowner or shipyard owner meets the requirement of the preceding sentence.

"(2) DOCUMENTED PROOF OF PROGRESS REQUIREMENT.—The Secretary shall, by regulation, establish a transparent, independent, and risk-based process for verifying and documenting the progress of projects under construction before disbursing guaranteed loan funds. At a minimum, the process shall require documented proof of progress in connection with the construction, reconstruction, or reconditioning of a vessel or vessels before disbursements are made from the escrow fund. The regulations shall require that the obligor provide a certificate from an independent party certifying that the requisite progress in construction, reconstruction, or reconditioning has taken place.".

(b) DEFINITION OF ACTUAL COST.—Section 1101(f) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271(f)) is amended to read as follows:

"(f) ACTUAL COST DEFINED.—The term 'actual cost' means the sum of—

"(1) all amounts paid by or for the account of the obligor as of the date on which a determination is made under section 1108(g)(1); and

"(2) all amounts that the Secretary reasonably estimates that the obligor will become obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of the vessel, including guarantee fees that will become payable under section 1104A(e) in connection with all obligations issued for construction, reconstruction, or reconditioning of the vessel or equipment to be delivered, and all obligations issued for the delivered vessel or equipment.".

SEC. 6. WAIVERS OF PROGRAM REQUIREMENTS UNDER TITLE XI.

Section 1104A(d) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(d)) is amended by redesignating paragraph (4) as paragraph (5), and inserting after paragraph (3) the following:

"(4) The Secretary shall promulgate regulations concerning circumstances under which waivers of or exceptions to otherwise applicable regulatory requirements concerning financial condition can be made. The regulations shall require that—

"(A) a waiver of otherwise applicable regulatory requirements be made only with the documented concurrence of program offices with expertise in economic, technical, and financial aspects of the review process;

"(B) the economic soundness requirements set forth in paragraph (1)(A) of this subsection are met after the waiver of the financial condition requirement; and

"(C) the waiver shall provide for the imposition of other requirements on the obligor designed to compensate for the increased risk associated with the obligor's failure to meet regulatory requirements applicable to financial condition.".

SEC. 7. PROJECT MONITORING UNDER TITLE XI.

(a) Project Monitoring.—Section 1104A of the Merchant Marine Act. 1936 (46 U.S.C. App. 1274) is amended by adding at the end the following:

"(k) Monitoring.— The Secretary shall monitor the financial conditions and operations of the obligor on a regular basis during the term of the guarantee. The Secretary shall document the results of the monitoring on a quarterly or monthly basis depending upon the condition of the obligor. If the Secretary determines that the financial condition of the obligor warrants additional protections to the Secretary, then the Secretary shall take appropriate action under subsection (m) of this section. If the Secretary determines that the financial condition of the obligor jeopardizes its continued ability to perform its responsibilities in connection with the guarantee of obligations by the Secretary, the Secretary shall make an immediate determination whether default should take place and whether further measures should be taken to protect the interests of the Secretary while insuring that program objectives are met.".

(b) Separation of Duties and Other Requirements.—Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274), as amended by subsection (a), is further amended by adding at the end the following:

"(l) Review of Applications.—No commitment to guarantee, or guarantee of, an obligation shall be made by the Secretary unless the Secretary certifies that a full and fair consideration of all the regulatory requirements, including economic soundness and financial requirements applicable to obligors and related parties, has been made through an documented independent assessment conducted by offices with expertise in technical, economic, and financial aspects of the loan application process.

"(m) Agreement with Obligor.—The Secretary shall include provisions in loan agreements with obligors that provide additional authority to the Secretary to take action to limit potential losses in connection with defaulted loans or loans that are in jeopardy due to the deteriorating financial condition of obligors. Provisions that the Secretary shall include in loan agreements include requirements for additional collateral or greater equity contributions that are effective upon the occurrence of verifiable conditions relating to the obligors financial condition or the status of the vessel or shipyard project.".

SEC. 8. DEFAULTS UNDER TITLE XI.

(a) Actions To Be Taken in Event of Default.—Section 1105 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1275) is amended by adding at the end the following:

"(f) Default Response.—In the event of default on a obligation, the Secretary shall conduct operations under this title in a manner which—

"(1) maximizes the net present value return from the sale or disposition of assets associated with the obligation;

"(2) minimizes the amount of any loss realized in the resolution of the guarantee;

"(3) ensures adequate competition and fair and consistent treatment of offerors; and

"(4) requires appraisal of assets by an independent appraiser.".

(b) Restrictions.—

(1) Section 1104A(d)(1)(A)(i) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274 (d)(1)(A)(i)) is amended by striking "equipment for which a guarantee under this title is in effect;" and inserting "equipment;".

(2) Section 1104A(d)(1)(A) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274 (d)(1)(A)) is amended—

(A) by striking "and" after the semicolon in clause (v);

(B) by striking "safety." in clause (vi) and inserting "safety; and"; and

(C) by adding at the end the following:

"(vii) the past performance of the shipyard doing the construction on commercial projects, including cost-over-runs and on-time performance.".

SEC. 9. 270-DAY DECISION PERIOD.

Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274), as amended by section 7, is amended by adding at the end the following:

"(n) 270-day decision.—The Secretary of Transportation shall approve or deny an application for a loan guarantee under this title within 270 days after the date on which the signed application is received by the Secretary.".

SEC. 10. LOAN GUARANTEES UNDER TITLE XI.

Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C App. 1274) is amended—

(1) by adding at the end of subsection (d)(1) the following:

"(C) The Secretary may make a determination that aspects of an application under this title require independent analysis to be conducted by third party experts due to risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary. Any independent analysis conducted pursuant to this provision shall be performed by a party chosen by the Secretary.

"(D) Notwithstanding any other provision of this title, the Secretary may make a determination that an application under this title requires additional equity because of increased risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary.

"(E) In determining whether to approve an application under this title, the Secretary may consider a proposed shipyard's past performance on commercial projects including cost increases, quality of work, and ability to meet work and delivery schedules. After consideration of these factors the Secretary may impose additional requirements on a shipyard, require additional security, or disapprove an application.

"(F) The Secretary may charge and collect fees to cover the costs of independent analysis under subparagraph (C). Notwithstanding section 3302 of title 31, United States Code, any fee collected under this subparagraph shall—

"(i) be credit as an offesetting collection to the account that finances the administration of the loan guarantee program;

"(ii) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

"(iii) shall remain available until expended."; and

(2) by striking "(including for obtaining independent analysis under subsection (d)(4))," in subsection (f) .

SEC. 11. ANNUAL REPORT ON TITLE XI PROGRAM.

The Secretary of Transportation shall report to Congress annually on the loan guarantee program under title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.). The reports shall include—

(1) the size, in dollars, of the portfolio of loans guaranteed;

(2) the size, in dollars, of projects in the portfolio facing financial difficulties;

(3) the number and type of projects covered;

(4) a profile of pending loan applications;

(5) the amount of appropriations available for new guarantees;

(6) a profile of each project approved since the last report; and

(7) a profile of any defaults since the last report.

SEC. 12. REVIEW OF TITLE XI LOAN GUARANTEE PROGRAM.

(a) In General.—The Secretary of Transportation shall conduct a comprehensive assessment of the human capital and other resource needs in connection with the title XI loan guarantee program under the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.). In connection with this assessment, the Secretary shall develop an organizational framework for the program offices that insures that a clear separation of duties is established among the loan application, project monitoring, and default management functions.

(b) Program Enhancements.—

(1) Section 1103(h)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1273(h)(1)) is amended—

(A) by striking "subsection" in subparagraph (A) and inserting "subsection, and update annually,";

(B) by inserting "annually" before "determine" in subparagraph (B);

(C) by striking "and" after the semicolon in subparagraph (A);

(D) by striking "category." in subparagraph (B) and inserting "category; and"; and

(E) by adding at the end the following:

"(C) ensure that each risk category is comprised of loans that are relatively homogenous in cost and share characteristics predictive of defaults and other costs, given the facts known at the time of obligation or committment, using a risk category system that is based on historical analysis of program data and statistical evidence concerning the likely costs of defaults or other costs that expected to be associated with the loans in the category.".

(2) Section 1103(h)(2)(A) of that Act (46 U.S.C. App. 1273(h)(2)(A)) is amended by inserting "and annually for projects subject to a guarantee," after "obligation,".

(3) Section 1103(h)(3) of that Act (46 U.S.C. App. 1273(h)(3)) is amended by adding at the end the following:

"(K) A risk factor for concentration risk reflecting the risk presented by an unduly large percentage of loans outstanding by any 1 borrower or group of affiliated borrowers.".

(c) Report.—The Secretary shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Armed Services on the results of the development of an organizational framework under subsection (a) by January 2, 2004.

(d) Funding.—It is the sense of the Congress that no further appropriations should be made for purposes of extending loan guarantees under the title XI loan guarantee program of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) until the Secretary of Transportation has developed sufficient internal controls and resource allocation to ensure that the loan guarantee program is efficiently and effectively fulfilling the purposes for which it was established and has updated default and recovery assumptions used in estimating the credit subsidy costs of the program to more accurately reflect the actual costs associated with the program.

SEC. 13. WAR RISK INSURANCE.

(a) International Agreements.—Section 1205 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1285) is amended by adding at the end the following:

"(c) Insuring International Operations.—The Secretary of Transportation is authorized, upon the request of the Secretary of Defense or any other agency, with the approval of the President, to make payments on behalf of the United States with regard to an international sharing of risk agreement or any lesser obligation on the part of the United States for vessels supporting operations of the North Atlantic Treaty Organization or similar international organization or alliance in which the United States is involved, regardless of registration or ownership, and without regard to whether the vessels are under contract with a department or agency of the United States. In order to segregate moneys received and disbursed in connection with an agreement authorized under this subsection, the Secretary of Transportation shall establish a subaccount within the insurance fund established under section 1208 of this Act.

"(d) Receipt of Contributions.—

"(1) In general.—Notwithstanding the provisions of section 3302(b) of title 31, United States Code, if the international agreements referenced in subsection (c) of this section provide for the sharing of risks involved in mutual or joint operations, contributions for losses incurred by the fund subaccount or financed pursuant to section 1208 that are received from foreign entities, may be deposited in the fund subaccount.

"(2) Indemnity agreement.—Such risk sharing agreements shall not affect the requirement that the Secretary of Defense or a head of a department, agency, or instrumentality designated by the President make an indemnity agreement with the Secretary of Transportation under subsection (b) for a waiver of premium on insurance obtained by a department, agency or instrumentality of the United States Government.

"(3) Crediting of contributory payments.—If the Secretary of Defense, or a designated head of a department, agency or instrumentality, has made a payment to the Secretary of Transportation on account of a loss, pursuant to an indemnification agreement under subsection (b), and the Secretary of Transportation subsequently receives from an entity a contributory payment on account of the same loss, pursuant to a risk sharing agreement referred to in paragraph (1), the amount of the contribution shall be deemed to be a credit in favor of the indemnifying department, agency, or instrumentality against any amount that such department, agency, or instrumentality owes or may owe to the Secretary of Transportation under a subsequent indemnification agreement.".

(b) Permanent Budgetary Resource.—Section 1208 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288) is amended by adding at the end the following:

"(c) Authorization of Appropriations.—To the extent that the fund balance is insufficient to fund current obligations arising under this chapter, there are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to pay such obligations.".

(c) Clerical Amendment.—The section heading for section 1205 of the Merchant Marine Act, 1936 (46 U.S.C App. 1285) is amended to read as follows:

"SEC. 1205. INSURANCE ON PROPERTY OF GOVERNMENT DEPARTMENTS, AGENCIES AND INTERNATIONAL ORGANIZATIONS.".

SEC. 14. MARITIME EDUCATION AND TRAINING.

(a) Cost of Education Defined.—Section 1302 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a) is amended—

(1) by striking "and" after the semicolon in paragraph (3);

(2) by striking "States." in paragraph (4)(B) and inserting "States; and"; and

(3) by adding at the end the following:

"(5) the term 'cost of education provided' means the financial costs incurred by the Federal Government for providing training or financial assistance to students at the United States Merchant Marine Academy and the State maritime academies, including direct financial assistance, room, board, classroom academics, and other training activities.".

(b) Commitment Agreements.—Section 1303(e) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(e)) is amended—

(1) by striking "Academy, unless the individual is separated from the" in paragraph (1)(A);

(2) by striking paragraph (1)(C) and inserting the following:

"(C) to maintain a valid license as an officer in the merchant marine of the United States for at least 6 years following the date of graduation from the Academy of such individual, accompanied by the appropriate national and international endorsements and certification as required by the United States Coast Guard for service aboard vessels on domestic and international voyages;";

(3) by striking paragraph (1)(E)(iii) and inserting the following:

"(iii) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or other maritime-related employment with the Federal Government which serves the national security interests of the United States, as determined by the Secretary; or";

(4) by striking paragraph (2) and inserting the following:

"(2)(A) If the Secretary determines that any individual who has attended the Academy for not less than 2 years has failed to fulfill the part of the agreement required by paragraph (1)(A), such individual may be ordered by the Secretary of Defense to active duty in one of the armed forces of the United States to serve for a period of time not to exceed 2 years. In cases of hardship as determined by the Secretary, the Secretary may waive this provision in whole or in part.

"(B) If the Secretary of the Navy is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary may recover from the individual the cost of education provided by the Federal Government.";

(5) by striking paragraph (3) and inserting the following:

"(3)(A) If the Secretary determines that an individual has failed to fulfill any part of the agreement required by paragraph (1), as described in subparagraphs (1)(B), (C), (D), (E), or (F), such individual may be ordered to active duty to serve a period of time not less than 3 years and not more than the unexpired portion, as determined by the Secretary, of the service required by paragraph (1)(E). The Secretary, in consultation with the Secretary of Defense, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship, as determined by the Secretary, the Secretary may waive this provision in whole or in part.

"(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary may recover from the individual the cost of education provided in an amount proportionate to the unfulfilled portion of the service obligation as determined by the Secretary. In cases of hardship the Secretary may waive this provision in whole or in part."; and

(6) by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (3) the following:

"(4) To aid in the recovery of the cost of education provided by the Federal Government pursuant to a commitment agreement under this section, the Secretary may request the Attorney General to begin court proceedings, or the Secretary may make use of the Federal debt collection procedures in chapter 176 of title 28, United States Code, or other applicable administrative remedies.".

(c) Degrees Awarded.—Section 1303(g) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(g)) is amended to read as follows:

"(g) Degrees Awarded.—

"(1) Bachelor's degree.—The Superintendent of the Academy may confer the degree of bachelor of science upon any individual who has met the conditions prescribed by the Secretary and who, if a citizen of the United States, has passed the examination for a merchant marine officer's license. No individual may be denied a degree under this subsection because the individual is not permitted to take such examination solely because of physical disqualification.

"(2) Master's degree.—The Superintendent of the Academy may confer a master's degree upon any individual who has met the conditions prescribed by the Secretary. Any master's degree program may be funded through non-appropriated funds. In order to maintain the appropriate academic standards, the program shall be accredited by the appropriate accreditation body. The Secretary may make regulations necessary to administer such a program.".

(d) Student Incentive Payments.—Section 1304(g) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c(g)) is amended—

(1) by striking "$3,000" in paragraph (1) and inserting "$4,000";

(2) in paragraph (3)(A) by striking "attending, unless the individual is separated by such academy;" and inserting "attending;";

(3) by striking paragraph (3)(C) and inserting the following:

"(C) to maintain a valid license as an officer in the merchant marine of the United States for at least 6 years following the date of graduation from such State maritime academy of such individual, accompanied by the appropriate national and international endorsements and certification as required by the United States Coast Guard for service aboard vessels on domestic and international voyages;";

(4) by striking paragraph (3)(E)(iii) and inserting the following:

"(iii) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related employment with the Federal Government which serves the national security interests of the United States, as determined by the Secretary; or";

(5) by striking paragraph (4) and inserting the following:

"(4)(A) If the Secretary determines that an individual who has accepted the payment described in paragraph (1) for a minimum of 2 academic years has failed to fulfill the part of the agreement required by paragraph (1) and described in paragraph (3)(A), such individual may be ordered by the Secretary of the Navy to active duty in the United States Navy to serve for a period of time not to exceed 2 years. In cases of hardship, as determined by the Secretary, the Secretary may waive this provision in whole or in part.

"(B) If the Secretary of the Navy is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary may recover from the individual the cost of education provided by the Federal Government.";

(6) by striking paragraph (5) and inserting the following:

"(5)(A) If the Secretary determines that an individual has failed to fulfill any part of the agreement required by paragraph (1), as described in paragraphs (3)(B), (C), (D), (E), or (F), such individual may be ordered to active duty to serve a period of time not less than 2 years and not more than the unexpired portion, as determined by the Secretary, of the service required by paragraph (3)(E). The Secretary, in consultation with the Secretary of Defense, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship, as determined by the Secretary, the Secretary may waive this provision in whole or in part.

"(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary may recover from the individual the cost of education provided in an amount proportionate to the unfulfilled portion of the service obligation as determined by the Secretary. In cases of hardship the Secretary may waive this provision in whole or in part."; and

(7) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and inserting after paragraph (5) the following:

"(6) To aid in the recovery of the cost of education provided by the Federal Government pursuant to a commitment agreement under this section, the Secretary may request the Attorney General to begin court proceedings, or the Secretary may make use of the Federal debt collection procedures in chapter 176 of title 28, United States Code, or other applicable administrative remedies.".

(e) AWARDS AND MEDALS.—Section 1306 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295e) is amended by adding at the end the following:

"(d) AWARDS AND MEDALS.—The Secretary may establish and maintain a medals and awards program to recognize distinguished service, superior achievement, professional performance, and other commendable achievement by personnel of the United States Maritime Service.".

SEC. 15. PROHIBITION AGAINST CARRYING GOVERNMENT IMPELLED CARGOES FOR VESSELS WITH SUBSTANDARD SECURITY MEASURES.

Section 2302(e)(1) of title 46, United States Code, is amended—

(1) by inserting "including violations for substandard security measures," in subparagraph (A) after "party,"; and

(2) by inserting "including violations for substandard security measures," in subparagraph (B) after "party,".

SEC. 16. AUTHORITY TO CONVEY OBSOLETE VESSELS TO U.S. TERRITORIES AND FOREIGN COUNTRIES FOR REEFING.

(a) Section 3 of the Act entitled "An Act To authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce, and for related purposes." (16 U.S.C. 1220), Title 16, United States Code, is amended to read as follows:

"SEC. 3. PREPARATION OF VESSELS FOR USE AS ARTIFICIAL REEFS.

"(a) GUIDANCE.—

"(1) IN GENERAL.—Not later than September 30, 2003, the Administrator of the Environmental Protection Agency and the Secretary of Transportation, acting through the Maritime Administration, shall jointly develop guidance recommending environmental best management practices to be used in the preparation of vessels for use as artificial reefs. Before issuing the guidance, the Administrator and the Secretary shall consult with interested Federal and State agencies.

"(2) REQUIREMENTS.—The guidance shall—

"(A) recommend environmental best management practices for the preparation of vessels that would ensure that the use of vessels so prepared as artificial reefs would be environmentally beneficial;

"(B) promote the nationally consistent use of such practices; and

"(C) provide a basis for estimating the costs associated with the preparation of vessels for use as artificial reefs.

"(3) USE BY FEDERAL AGENCIES.—The guidance shall serve as national guidance for Federal agencies preparing vessels for use as artificial reefs.

"(4) REPORT.—The Secretary of Transportation shall submit to Congress a report on the environmental best management practices developed under paragraph (1) through the existing ship disposal reporting requirements in section 3502 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (16 U.S.C. 5405 note). The report shall describe such practices, and may include such other matters as the Secretary considers appropriate.

"(b) APPLICATION REQUIRED.—

"(1) IN GENERAL.—A State, commonwealth, possession of the United States or foreign government may apply for any vessel of the National Defense Reserve Fleet that has been identified by the Secretary as an obsolete vessel of insufficient value to warrant its further preservation in such a manner and form as the Secretary shall prescribe. At a minimum, the application shall state—

"(A) the location at which the applicant proposes to sink the vessel or vessels;

"(B) the environmental goals to be achieved by the use of the vessel or vessels; and

"(C) that the applicant agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government.

"(2) STATES.—

"(A) ADDITIONAL DOCUMENTATION REQUIRED.—A State, commonwealth, or possession of the United States shall also provide to the Secretary and the Administrator in its application documentation that the proposed use of the particular vessel or vessels requested will comply with all applicable water quality standards and will benefit the environment in the vicinity of the proposed reef, taking into account the guidance issued under subsection (a) and other appropriate environmental considerations.

"(B) EPA CERTIFICATION.—Before any vessel may be used as an artificial reef, the State, commonwealth, or possession of the United States shall demonstrate to the Environmental Protection Agency, and that Agency shall determine in writing, that the use of the vessel as an artificial reef at the proposed location will be environmentally beneficial.

"(3) Foreign governments.—A foreign government shall also provide to the Secretary and the Administrator in its application—

"(A) documentation of—

"(i) how the proposed use of the vessel or vessels will benefit the environment; and

"(ii) remediation that the vessel will undergo prior to use as an artificial reef; and

"(B) certification that such remediation shall take into account the guidance issued under subsection (a).

"(4) DETERMINATION OF ENVIRONMENTAL BENEFIT.—No obsolete vessel shall be conveyed unless the Maritime Administration and the Environmental Protection Agency jointly determine, in writing, that the proposed remediation measures will ensure that use of the vessel as an artificial reef will be environmentally beneficial. The contract conveying the vessel or vessels from Maritime Administration to the foreign government shall require the use of the remediation measures determined by Maritime Administration and the Environmental Protection Agency to ensure that use of the vessel or vessels as an artificial reef will be environmentally beneficial.

"(c) APPLICATION WITH OTHER LAW.—Nothing in this section shall be construed as affecting in any manner the application of any other provision of law, including laws relating to the conveyance of obsolete vessels, their distribution in commerce, or their use as artificial reefs.".

SEC. 17. MAINTENANCE OF CURRENT SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION SAFETY RESPONSIBILITIES.

Section 3(2) of the Ports and Waterways Safety Act (33 U.S.C. 1222(2)) is amended by striking "operating." and inserting "operating, except that 'Secretary' means the Secretary of Transportation with respect to the applicability of this Act to the Saint Lawrence Seaway.".

SEC. 18. USE OF INSURANCE PROCEEDS FOR REPAIRS AT UNITED STATES MERCHANT MARINE ACADEMY.

Notwithstanding section 3302 of title 31, United States Code, the Maritime Administration may deposit into its operations and training account (account number 69X1750) and use, for purposes otherwise authorized by law and in addition to amounts otherwise appropriated, the amount received by the Maritime Administration as insurance proceeds as a result of the fire that occurred on December 16, 1996, at the United States Merchant Marine Academy, Fitch Building.

SEC. 19. AVAILABILITY TO THE VESSEL OPERATIONS REVOLVING FUND OF FUNDS FROM LAWSUITS AND SETTLEMENTS.

The Vessel Operations Revolving Fund, created by the Third Supplemental Appropriations Act, 1951 (65 STAT. 59), shall, after the date of enactment of this Act, be credited with amounts received by the United States from final judgments and dispute settlements that arise from the operation of vessels in the National Defense Reserve Fleet, including the Ready Reserve Force. Funds credited to the Fund under this section shall be available until expended.

By Mr. HAGEL:

S. 1263. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income interest received on loans secured by agricultural real property; to the Committee on Finance.

Mr. HAGEL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Economic Investment Act of 2003".

SEC. 2. EXCLUSION FOR INTEREST ON LOANS SECURED BY AGRICULTURAL REAL PROPERTY.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 132 the following new section:

"SEC. 133. INTEREST ON LOANS SECURED BY AGRICULTURAL REAL PROPERTY.

"(a) EXCLUSION.—Gross income shall not include interest received by a qualified lender on any qualified real estate loan.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED LENDER.—The term 'qualified lender' means any bank or savings association the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.).

"(2) QUALIFIED REAL ESTATE LOAN.—The term 'qualified real estate loan' means any loan secured by agricultural real estate or by a leasehold mortgage (with a status as a lien) on agricultural real estate.

"(3) AGRICULTURAL REAL ESTATE.—The term 'agricultural real estate' means—

"(A) real property used for the production of 1 or more agricultural products, and

"(B) any single family residence—

"(i) which is the principal residence (within the meaning of section 121) of its occupant, and

"(ii) which is located in a rural area (as determined by the Secretary of Agriculture) with a population (determined on the basis of the most recent decennial census for which data are available) of 2,500 or less.".

(b) CLERICAL AMENDMENT.—The table of sections for such part III is amended by inserting after the item relating to section 132 the following new item:

"Sec. 133. Interest on loans secured by agricultural real property.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. MCCAIN (for himself and Mr. HOLLINGS):

S. 1264. A bill to reauthorize the Federal Communications Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am introducing the Federal Communications Commission Reauthorization Act of 2003. This legislation is designed to reauthorize the Federal Communications Commission, FCC or Commission, so that it may continue to carry forth its charge to ensure interference-free communication on interstate and international radio, television, wire, satellite, and cable communications. This independent agency has not been reauthorized since 1991.

The FCC is responsible for a wide range of duties, including establishing regulatory policies that promote competition, innovation, and investment in broadband services; ensuring that a comprehensive and sound national competitive framework for communications services exists; encouraging the best use of spectrum domestically and internationally; and providing leadership for the rapid restoration of the Nation's communications infrastructure in the event of disruption.

This bill would reauthorize the Commission through fiscal year 2007. It would require that all application and regulatory fees paid to the Commission be deposited with the Commission subject to Appropriations.

The legislation also would authorize the Commission to allocate sufficient funds to be used for an audit of the e-rate program to determine the specific fraud or abuse that has occurred during the operation of the program. Serious allegations of fraud in the operation of the e-rate fund have been raised in recent months, and we should provide the Commission adequate resources to ensure that e-rate funds are being used for the purposes intended. The Commission would be required to transmit a report of its findings and conclusions to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the anniversary of the Act's enactment for each year between 2004 and 2007.

Further, this bill would clarify the Commission's review of its media ownership rules. Specifically, the bill sets forth the timing and the standard the FCC will use for reviewing its broadcast ownership rules. Currently, the FCC is required to review its broadcast ownership rules every 2 years. The bill lengthens the duration between reviews from 2 years to 5 years. At a recent hearing, all five FCC Commissioners recommended this change.

The legislation also would clarify the actions the FCC may take during its media ownership reviews. Courts have found the current review standard to carry "with it a presumption in favor of repealing or modifying ownership rules" as part of "a process of deregulation." This bill modifies the review standard to specifically allow the FCC to repeal, strengthen, limit, or retain media ownership rules if it determines such changes are in the public interest. At a recent hearing, several of the FCC Commissioners endorsed this change.

The bill would increase the Commission's ability to enforce the Communications Act of 1934, the 1934 Act, by raising the statutory cap on Commission fines and forfeitures by a factor of ten. The Commission has sought this increased enforcement ability to ensure communications providers do not accept Commission fines as a "cost of doing business." The bill also increases the statute of limitations for violations of FCC rules or regulations from one year to two years. The legislation also allows the Commission to assess fines against direct broadcast satellite (DBS) operators for violations of the Communications Act in the same manner that the Commission may assess fines against broadcasters and cable operators.

The bill would further clarify that a party injured by a common carrier's violation of FCC rules or orders may recover damages for such injury in an action before the FCC or before a United States District Court. The need for this clarification is underscored by the recent decision by the United States Court of Appeals or the Second Circuit in Conboy v. AT&T Corp. Moreover, the new section would allow for the recovery of attorneys' fees in complaints filed either in district court or at the FCC.

The bill also would allow the Commission to seize broadcasting equipment where one engages in malicious interference to radio communications. This type of behavior is particularly egregious when parties attempt to maliciously interfere with public safety frequencies.

Furthermore, the bill would ensure that valuable spectrum does not lie fallow unnecessarily. It precludes a successful bidder in a spectrum auction from using bankruptcy to avoid its obligation to pay for its spectrum license. The bill also establishes an office within the Commission for the recording and perfecting of security interests related to licenses.

It also would ban any payment or reimbursement to the FCC of travel costs for FCC officials or staff from a nongovernmental sponsor of a convention, conference, or meeting. Recent reports indicate that during the last eight years, FCC officials and staff have taken more than 2,500 trips paid for by the industries they regulate. Although this is perfectly legal and it is often appropriate for FCC officials and staff to attend such conventions, conferences, or meetings, it should be without the appearance of impropriety. Therefore, the bill authorizes the Commission sufficient funds to pay for their own travel costs in the future.

The bill would impose a one year lobbying ban on high-level FCC staffers who leave the FCC's employment.

Finally, the bill contains language in response to a recent court case before the D.C. Circuit Court of Appeals, which held that the Commission lacked jurisdiction to promulgate regulations necessary to require video descriptions of television programming to assist those who are visually impaired. This section would provide the FCC such authority.

Reauthorizing the FCC is important so the agency may continue to successfully carry out its many responsibilities. I look forward to working on this important legislation and I hope that my colleagues will agree to join me in expeditiously moving this reauthorization through the legislative process.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF COMMUNICATIONS ACT OF 1934.

(a) SHORT TITLE.—This Act may be cited as the "FCC Reauthorization Act of 2003".

(b) AMENDMENT OF COMMUNICATIONS ACT.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 6 (47 U.S.C. 156) is amended—

(1) by striking subsections (a), (b), and (c);

(2) by redesignating subsection (d) as subsection (c);

(3) by inserting "REGULATORY FEES OFFSET.—" before "Of" in subsection (c), as redesignated; and

(4) by inserting before subsection (c), as redesignated, the following:

"(a) IN GENERAL.—There are authorized to be appropriated for the administration of this Act by the Commission $281,289,000 for fiscal year 2004, $299,500,000 for fiscal year 2005, $318,982,000 for fiscal year 2006, and $334,931,000 for fiscal year 2007, to carry out this Act including amounts necessary for unreimbursed travel, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of such years.

"(b) STAFFING LEVELS.—The Commission may hire and maintain an adequate number of full time equivalent staff, to the extent of the amounts authorized by subsection (a), necessary to carry out the Commission's powers and duties under this Act.".

(b) DEPOSIT OF APPLICATION FEES.—Section 8(e) is amended to read as follows:

"(e) DEPOSIT OF COLLECTIONS.—Moneys received from fees established under this section shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.".

SEC. 3. AUDITS AND INVESTIGATIONS OF E-RATE BENEFICIARY COMPLIANCE WITH PROGRAM REQUIREMENTS.

(a) IN GENERAL.—The Federal Communications Commission shall conduct an investigation into the implementation, utilization, and Commission oversight of activities authorized by section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) and the operations of the National Education Technology Funding Corporation established by section 708 of the Telecommunications Act of 1996 for each of fiscal years 2004 through 2007, with a particular emphasis on determining the specific fraud or abuse of Federal funds that has occurred in connection with such activities or operations.

(b) REPORTS.—The Commission shall transmit a report, setting forth its finding, conclusions, and recommendations, of the results of its investigation for each of fiscal years 2004 through 2007 to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce within 1 year after the date of enactment of this Act.

(c) FUNDING.—Of the amounts authorized by section 6(a) of the Communications Act of 1934 (47 U.S.C. 156(a)), the Commission shall allocate such sums as may be necessary for fiscal years 2004 through 2007 to be used for audits and investigations of compliance by beneficiaries with the rules and regulations of the Universal Service Fund program under section 254(h), commonly known as the "e-rate program".

SEC. 4. CLARIFICATION OF CONGRESSIONAL INTENT WITH RESPECT TO BIENNIAL REVIEW MODIFICATIONS; FREQUENCY OF REVIEW.

(a) COMMISSION REVIEW OF OWNERSHIP RULES.—Section 202(h) of the Telecommunications Act of 1996 is amended to read as follows:

"(h) FURTHER COMMISSION REVIEW.—

"(1) IN GENERAL.—The Commission shall review its rules adopted pursuant to this section, and all of its ownership rules quinquennially (beginning with 2007), and shall determine whether—

"(A) any rule requires strengthening or broadening;

"(B) any rule requires limiting or narrowing;

"(C) any rule should be repealed; or

"(D) any rule should be retained.

"(2) CHANGE, REPEAL, OR RETAIN.—The Commission shall change, repeal, or retain such rules pursuant to its review under paragraph (1) as it determines to be in the public interest.".

(b) OTHER REGULATORY REFORM REVIEWS.—Section 11 of the Communications Act of 1934 (47 U.S.C. 161) is amended by adding at the end the following:

"(c) OWNERSHIP RULES.—Subsections (a) and (b) do not apply to ownership rules reviewable under section 202(h) of the Telecommunications Act of 1996.".

SEC. 5. FCC ENFORCEMENT ENHANCEMENTS.

(a) FORFEITURES IN CASES OF REBATES AND OFFSETS.—

(1) BROADCAST AND MULTICHANNEL VIDEO PROVIDERS.—Section 503(b)(2)(A) (47 U.S.C. 503(b)(2)(A)) is amended—

(A) by striking "operator, or" in clause (i) and inserting "operator or any other multichannel video distributor, or";

(B) by striking "$25,000" and inserting "$250,000"; and

(C) by striking "$250,000" and inserting "$2,500,000".

(2) COMMON CARRIERS.—Section 503(b)(2)(B) (47 U.S.C. 503(b)(2)(B)) is amended—

(A) by striking "$100,000" and inserting "$1,000,000"; and

(B) by striking "$1,000,000" and inserting "$10,000,000".

(3) OTHERS.—Section 503(b)(2)(C) (47 U.S.C. 503(b)(2)(C)) is amended—

(A) by striking "$10,000" and inserting "$100,000"; and

(B) by striking "$75,000" and inserting "$750,000".

(4) STATUTE OF LIMITATIONS.—Section 503(b)(6) (47 U.S.C. 503(b)(6)) is amended—

(A) by striking "1 year" in subparagraph (A)(i) and inserting "2 years";

(B) by striking "1 year" in subparagraph (B) and inserting "2 years".

(b) FORFEITURES OF COMMUNICATIONS DEVICES.—Section 510 (47 U.S.C. 510) is amended by inserting "and any equipment used to create malicious interference in violation of section 333," after "302,".

(c) LIABILITY OF CARRIERS FOR DAMAGES.—Section 206 (47 U.S.C. 206) is amended to read as follows:

"SEC. 206. LIABILITY OF CARRIERS FOR DAMAGES.

"A common carrier that does, or causes or permits to be done, any act, matter, or thing prohibited or declared to be unlawful in this Act, or in any rule, regulation, or order issued by the Commission, or that fails to do any act, matter, or thing required to be done by this Act, or by any rule, regulation, or order of the Commission is liable to any person injured by such act or failure for the full amount of damages sustained in consequence of such act or failure, together with a reasonable attorney's fee. The amount of the attorney's fee shall be—

"(1) fixed by the court in every case of recovery in a judicial proceeding; or

"(2) fixed by the Commission in every case of recovery in a Commission proceeding.".

(d) VIOLATIONS OF REGULATIONS, RULES, AND ORDERS.—Section 208 (47 U.S.C. 208) is amended by inserting "or of any rule, regulation, or order of the Commission," after "thereof,".

SEC. 6. APPLICATION OF COMMUNICATIONS ACT WITH BANKRUPTCY AND SIMILAR LAWS.

Section 4 (47 U.S.C. 154) is amended by adding at the end the following:

"(p) APPLICATION WITH BANKRUPTCY LAWS.—

"(1) IN GENERAL.—The bankruptcy laws shall not be applied—

"(A) to avoid, discharge, stay, or set-off any pre-petition debt obligation to the United States arising from an auction under this Act,

"(B) to stay the payment obligations of the debtor to the United States if such payments were a condition of the grant or retention of a license under this Act, or

"(C) to prevent the automatic cancellation of licenses for failure to comply with any monetary or non-monetary condition for holding any license issued by the Commission, including automatic cancellation of licenses for failure to pay a monetary obligation of the debtor to the United States when due under an installment payment plan arising from an auction under this Act,

except that, upon cancellation of a license issued by the Commission, the United States shall have an allowed unsecured claim for any outstanding debt to the United States with respect to such canceled licenses, and that unsecured debt may be recovered by the United States under its rights as a creditor under title 11, United States Code, or other applicable law.

"(2) DEBTOR TO HAVE NO INTEREST IN PROCEEDS OF AUCTION.—A debtor in a proceeding under the bankruptcy laws shall have no right or interest in any portion of the proceeds from an auction of any license reclaimed by the Commission for failure to pay a monetary obligation of the debtor to the United States in connection with the grant or retention of a license under this Act.

"(3) SECURITY INTERESTS.—Notwithstanding any other provision of law, the Commission may—

"(A) establish rules and procedures governing security interests in licenses, or the proceeds of the sale of licenses, issued by the Commission; and

"(B) establish an office within the Office of Secretary for the recording and perfection of such security interests without regard to otherwise applicable State law.

"(4) BANKRUPTCY LAWS DEFINED.—In this subsection, the term 'bankruptcy laws' means title 11, United States Code, or any otherwise applicable Federal or State law regarding insolvencies or receiverships, including any Federal law enacted or amended after the date of enactment of the FCC Reauthorization Act of 2003 not expressly in derogation of this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cases and proceedings commenced on or after the date of enactment of this Act.

SEC. 7. BAN ON REIMBURSED TRAVEL EXPENSES.

Section 4(g)(2) (47 U.S.C. 154(g)(2)) is amended to read as follows:

"(2) Notwithstanding section 1353 of title 31, United States Code, section 4111 of title 5, United States Code, or any other provision of law in pari materia, no Commissioner or employee of the Commission may accept, nor may the Commission accept, payment or reimbursement from the nongovernmental sponsor (or any affiliated organization) of any convention, conference, or meeting for expenses for travel, subsistence, or related expenses incurred by a commissioner or employee of the Commission for the purpose of enabling that commissioner or employee to attend and participate in any such convention, conference, or meeting. The Commission may establish a de minimus level of payment or value to which the preceding sentence does not apply.".

SEC. 8. APPLICATION OF ONE-YEAR RESTRICTIONS TO CERTAIN POSITIONS.

For purposes of section 207 of title 18, United States Code, an individual serving in any of the following positions at the Federal Communications Commission is deemed to be a person described in section 207(c)(2)(A)(ii) of that title, regardless of the individual's rate of basic pay:

(1) Chief, Office of Engineering and Technology.

(2) Director, Office of Legislative Affairs.

(3) Inspector General, Office of Inspector General.

(4) Managing Director, Office of Managing Director.

(5) General Counsel, Office of General Counsel.

(6) Chief, Office of Strategic Planning and Policy Analysis.

(7) Chief, Consumer and Governmental Affairs Bureau.

(8) Chief, Enforcement Bureau.

(9) Chief, International Bureau.

(10) Chief, Media Bureau.

(11) Chief, Wireline Competition Bureau.

(12) Chief, Wireless Telecommunications Bureau.

SEC. 9. VIDEO DESCRIPTION RULES AUTHORITY.

Notwithstanding the decision of the United States Court of Appeals for the District of Columbia Circuit in Motion Picture Association of America, Inc., et al. v. Federal Communications Commission, et al (309 F. 3d 796, November 8, 2002), the Federal Communications Commission—

(1) shall, within 90 days after the date of enactment of this Act, reinstate its video description rules contained in the report and order identified as Implementation of Video Description of Video Programming, Report and Order, 15 F.C.C.R. 15,230 (2000); and

(2) may amend, repeal, or otherwise modify such rules.

AVIATION INVESTMENT AND REVITALIZATION VISION ACT

(On Thursday, June 12, 2003, the Senate passed H.R. 2115, as follows:)

Resolved, That the bill from the House of Representatives (H.R. 2115) entitled "An Act to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49.

(a) SHORT TITLE.—This Act may be cited as the "Aviation Investment and Revitalization Vision Act".

(b) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of title 49.
Sec. 2. Table of contents.

TITLE I—REAUTHORIZATIONS; FAA MANAGEMENT

Sec. 101. Airport improvement program.
Sec. 102. Airway facilities improvement program.
Sec. 103. FAA operations.
Sec. 104. Research, engineering, and development.
Sec. 105. Other programs.
Sec. 106. Reorganization of the Air Traffic Services Subcommittee.
Sec. 107. Clarification of responsibilities of chief operating officer.
Sec. 108. Whistle-blower protection under Acquisition Management System.

TITLE II—AIRPORT DEVELOPMENT

Sec. 201. National capacity projects.
Sec. 202. Categorical exclusions.
Sec. 203. Alternatives analysis.
Sec. 204. Increase in apportionment for, and flexibility of, noise compatibility planning programs.
Sec. 205. Secretary of Transportation to identify airport congestion-relief projects.
Sec. 206. Design-build contracting.
Sec. 207. Special rule for airport in Illinois.
Sec. 208. Elimination of duplicative requirements.
Sec. 209. Streamlining the passenger facility fee program.
Sec. 210. Quarterly status reports.
Sec. 211. Noise disclosure.
Sec. 212. Prohibition on requiring airports to provide rent-free space for FAA or TSA.
Sec. 213. Special rules for fiscal year 2004.
Sec. 214. Agreements for operation of airport facilities.
Sec. 215. Public agencies.
Sec. 216. Flexible funding for nonprimary airport apportionments.
Sec. 217. Share of airport project costs.
Sec. 218. Pilot program for purchase of airport development rights.
Sec. 219. Gary/Chicago Airport funding.
Sec. 220. Civil penalty for closure of an airport without providing sufficient notice.
Sec. 221. Anchorage air traffic control.

TITLE III—AIRLINE SERVICE DEVELOPMENT

Subtitle A—Program Enhancements

Sec. 301. Delay reduction meetings.
Sec. 302. Small community air service development pilot program.
Sec. 303. DOT study of competition and access problems at large and medium hub airports.
Sec. 304. Competition disclosure requirement for large and medium hub airports.
Sec. 305. Location of shuttle service at Ronald Reagan Washington National Airport.
Sec. 306. Air carriers required to honor tickets for suspended service.

Subtitle B—Small Community and Rural Air Service Revitalization

Sec. 351. Reauthorization of essential air service program.
Sec. 352. Incentive program.
Sec. 353. Pilot programs.
Sec. 354. EAS program authority changes.
Sec. 355. One-year extension of EAS eligibility for communities terminated in 2003 due to decreased air travel.

Subtitle C—Financial Improvement Effort and Executive Compensation Report

Sec. 371. GAO report on airlines actions to improve finances and on executive compensation.

TITLE IV—AVIATION SECURITY

Sec. 401. Study of effectiveness of transportation security system.
Sec. 402. Aviation security capital fund.
Sec. 403. Technical amendments related to security-related airport development.
Sec. 404. Armed forces charters.
Sec. 405. Arming cargo pilots against terrorism.
Sec. 406. General aviation and air charters.
Sec. 407. Air defense identification zone.
Sec. 408. Report on passenger prescreening program.
Sec. 409. Removal of cap on TSA staffing level.
Sec. 410. Foreign repair station safety and security.

TITLE V—MISCELLANEOUS

Sec. 501. Extension of war risk insurance authority.
Sec. 502. Cost-sharing of air traffic modernization projects.

Sec. 503. Counterfeit or fraudulently represented parts violations.
Sec. 504. Clarifications to procurement authority.
Sec. 505. Judicial review.
Sec. 506. Civil penalties.
Sec. 507. Miscellaneous amendments.
Sec. 508. Low-emission airport vehicles and infrastructure.
Sec. 509. Low-emission airport vehicles and ground support equipment.
Sec. 510. Pacific emergency diversion airport.
Sec. 511. Gulf of Mexico aviation service improvements.
Sec. 512. Air traffic control collegiate training initiative.
Sec. 513. Air transportation oversight system plan.
Sec. 514. National small community air service development Ombudsman.
Sec. 515. National commission on small community air service.
Sec. 516. Training certification for cabin crew.
Sec. 517. Aircraft manufacturer insurance.
Sec. 518. Ground-based precision navigational aids.
Sec. 519. Standby power efficiency program.
Sec. 520. Certain interim and final rules.
Sec. 521. Air fares for members of armed forces.
Sec. 522. Modification of requirements regarding training to operate aircraft.
Sec. 523. Exemption for Jackson Hole Airport.
Sec. 524. Distance requirement applicable to eligibility for essential air service subsidies.
Sec. 525. Reimbursement for losses incurred by general aviation entities.
Sec. 526. Recommendations concerning travel agents.
Sec. 527. Pass-through of refunded passenger security fees to code-share partners.
Sec. 528. Air carrier citizenship.
Sec. 529. United States presence in global air cargo industry.

TITLE VI—SECOND CENTURY OF FLIGHT

Sec. 601. Findings.

Subtitle A—The Office of Aerospace and Aviation Liaison

Sec. 621. Office of Aerospace and Aviation Liaison.
Sec. 622. National Air Traffic Management System Development Office.
Sec. 623. Report on certain market developments and government policies.
Sec. 624. Transfer of certain air traffic control functions prohibited.

Subtitle B—Technical Programs

Sec. 641. Aerospace and aviation safety workforce initiative.
Sec. 642. Scholarships for service.

Subtitle C—FAA Research, Engineering, and Development

Sec. 661. Research program to improve airfield pavements.
Sec. 662. Ensuring appropriate standards for airfield pavements.
Sec. 663. Assessment of wake turbulence research and development program.
Sec. 664. Air quality in aircraft cabins.
Sec. 665. International role of the FAA.
Sec. 666. FAA report on other nations' safety and technological advancements.
Sec. 667. Development of analytical tools and certification methods.
Sec. 668. Pilot program to provide incentives for development of new technologies.
Sec. 669. FAA center for excellence for applied research and training in the use of advanced materials in transport aircraft.
Sec. 670. FAA certification of design organizations.
Sec. 671. Report on long term environmental improvements.

TITLE VII—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

Sec. 701. Extension of expenditure authority.

TITLE I—REAUTHORIZATIONS; FAA MANAGEMENT

SEC. 101. AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103 is amended—

(1) by inserting "(a) IN GENERAL.—" before "The";

(2) by striking "and" in paragraph (4);

(3) by striking "2003." in paragraph (5) and inserting "2003;";

(4) by inserting after paragraph (5) the following:

"(6) $3,400,000,000 for fiscal year 2004;

"(7) $3,500,000,000 for fiscal year 2005; and

"(8) $3,600,000,000 for fiscal year 2006."; and

(5) by adding at the end the following:

"(b) ADMINISTRATIVE EXPENSES.—From the amounts authorized by paragraphs (6) through (8) of subsection (a), there shall be available for administrative expenses relating to the airport improvement program, passenger facility fee approval and oversight, national airport system planning, airport standards development and enforcement, airport certification, airport-related environmental activities (including legal service), to remain available until expended—

"(1) for fiscal year 2004, $69,737,000;

"(2) for fiscal year 2005, $71,816,000; and

"(3) for fiscal year 2006, $74,048,000.".

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "2003," and inserting "2006,".

SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.

(a) IN GENERAL.—Section 48101(a) is amended by adding at the end the following:

"(6) $2,916,000,000 for fiscal year 2004.

"(7) $2,971,000,000 for fiscal year 2005.

"(8) $3,030,000,000 for fiscal year 2006.".

(b) BIANNUAL REPORTS.—Beginning 180 days after the date of enactment of Act, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure every 6 months that describes—

(1) the 10 largest programs funded under section 48101(a) of title 49, United States Code;

(2) any changes in the budget for such programs;

(3) the program schedule; and

(4) technical risks associated with the programs.

SEC. 103. FAA OPERATIONS.

(a) IN GENERAL.—Section 106(k)(1) is amended—

(1) by striking "and" in subparagraph (C);

(2) by striking "2003." in subparagraph (D) and inserting "2003;"; and

(3) by adding at the end the following:

"(E) $7,591,000,000 for fiscal year 2004;

"(F) $7,732,000,000 for fiscal year 2005; and

"(G) $7,889,000,000 for fiscal year 2006.".

(b) ANNUAL REPORT.—Beginning with the submission of the Budget of the United States to the Congress for fiscal year 2004, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that describes the overall air traffic controller staffing plan, including strategies to address anticipated retirement and replacement of air traffic controllers.

SEC. 104. RESEARCH, ENGINEERING, AND DEVELOPMENT.

(a) AMOUNTS AUTHORIZED.—Section 48102(a) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(3) by adding at the end the following:

"(9) for fiscal year 2004, $289,000,000, including—

"(A) $200,000,000 to improve aviation safety, including icing, crashworthiness, and aging aircraft;

"(B) $18,000,000 to improve the efficiency of the air traffic control system;

"(C) $27,000,000 to reduce the environmental impact of aviation;

"(D) $16,000,000 to improve the efficiency of mission support; and

"(E) $28,000,000 to improve the durability and maintainability of advanced material structures in transport airframe structures;

"(10) for fiscal year 2005, $304,000,000, including—

"(A) $211,000,000 to improve aviation safety;

"(B) $19,000,000 to improve the efficiency of the air traffic control system;

"(C) $28,000,000 to reduce the environmental impact of aviation;

"(D) $17,000,000 to improve the efficiency of mission support; and

"(E) $29,000,000 to improve the durability and maintainability of advanced material structures in transport airframe structures; and

"(11) for fiscal year 2006, $317,000,000, including—

"(A) $220,000,000 to improve aviation safety;

"(B) $20,000,000 to improve the efficiency of the air traffic control system;

"(C) $29,000,000 to reduce the environmental impact of aviation;

"(D) $18,000,000 to improve the efficiency of mission support; and

"(E) $30,000,000 to improve the durability and maintainability of advanced material structures in transport airframe structures.".

SEC. 105. OTHER PROGRAMS.

Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century is amended—

(1) by striking "2003" in subsection (a)(1)(A) and subsection (c)(2) and inserting "2006"; and

(2) by striking "2003," in subsection (a)(2) and inserting "2006,".

SEC. 106. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE.

(a) IN GENERAL.—Section 106 is amended—

(1) by redesignating subsections (q) and (r) as subsections (r) and (s), respectively; and

(2) by inserting after subsection (p) the following:

"(q) AIR TRAFFIC MANAGEMENT COMMITTEE.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an advisory committee which shall be known as the Air Traffic Services Committee (in this subsection referred to as the 'Committee').

"(2) MEMBERSHIP.—

"(A) COMPOSITION AND APPOINTMENT.—The Committee shall be composed of—

"(i) the Administrator of the Federal Aviation Administration, who shall serve as chair; and

"(ii) 4 members, to be appointed by the Secretary, after consultation with the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

"(B) NO FEDERAL OFFICER OR EMPLOYEE.—No member appointed under subparagraph (A)(ii) may serve as an officer or employee of the United States Government while serving as a member of the Committee.

"(C) ELIGIBILITY.—Members appointed under subparagraph (A)(ii) shall—

"(i) have a fiduciary responsibility to represent the public interest;

"(ii) be citizens of the United States; and

"(iii) be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas:

"(I) Management of large service organizations.

"(II) Customer service.

"(III) Management of large procurements.

"(IV) Information and communications technology.

"(V) Organizational development.

"(VI) Labor relations.

At least one of such members should have a background in managing large organizations successfully. In the aggregate, such members should collectively bring to bear expertise in all of the areas described in subclauses (I) through (VI).

"(D) PROHIBITIONS ON MEMBERS OF COMMITTEE.—No member appointed under subparagraph (A)(ii) may—

"(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

"(ii) engage in another business related to aviation or aeronautics; or

"(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.

"(E) CLAIMS AGAINST MEMBERS.—

"(i) IN GENERAL.—A member appointed under subparagraph (A)(ii) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member of the Air Traffic Services Committee.

"(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

"(I) to affect any other immunity or protection that may be available to a member of the Committee under applicable law with respect to such transactions;

"(II) to affect any other right or remedy against the United States under applicable law; or

"(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

"(F) ETHICAL CONSIDERATIONS.—

"(i) FINANCIAL DISCLOSURE.—During the entire period that an individual appointed under subparagraph (A)(ii) is a member of the Committee, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act; except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

"(ii) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, an individual appointed under subparagraph (A)(ii) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Committee; except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

"(G) TERMS FOR AIR TRAFFIC SERVICES COMMITTEE MEMBERS.—A member appointed under subparagraph (A)(ii) shall be appointed for a term of 5 years.

"(H) REAPPOINTMENT.—An individual may not be appointed under subparagraph (A)(ii) to more than two 5-year terms.

"(I) VACANCY.—Any vacancy on the Committee shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

"(J) CONTINUATION IN OFFICE.—A member whose term expires shall continue to serve until the date on which the member's successor takes office.

"(K) REMOVAL.—Any member appointed under subparagraph (A)(ii) may be removed for cause by the Secretary.

"(3) GENERAL RESPONSIBILITIES.—

"(A) OVERSIGHT.—The Committee shall oversee the administration, management, conduct, direction, and supervision of the air traffic control system.

"(B) CONFIDENTIALITY.—The Committee shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

"(4) SPECIFIC RESPONSIBILITIES.—The Committee shall have the following specific responsibilities:

"(A) STRATEGIC PLANS.—To review, approve, and monitor the strategic plan for the air traffic control system, including the establishment of—

"(i) a mission and objectives;

"(ii) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

"(iii) annual and long-range strategic plans.

"(B) MODERNIZATION AND IMPROVEMENT.—To review and approve—

"(i) methods to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control; and

"(ii) procurements of air traffic control equipment in excess of $100,000,000.

"(C) OPERATIONAL PLANS.—To review the operational functions of the air traffic control system, including—

"(i) plans for modernization of the air traffic control system;

"(ii) plans for increasing productivity or implementing cost-saving measures; and

"(iii) plans for training and education.

"(D) MANAGEMENT.—To—

"(i) review and approve the Administrator's appointment of a Chief Operating Officer under section 106(s);

"(ii) review the Administrator's selection, evaluation, and compensation of senior executives of the Administration who have program management responsibility over significant functions of the air traffic control system;

"(iii) review and approve the Administrator's plans for any major reorganization of the Administration that would impact on the management of the air traffic control system;

"(iv) review and approve the Administrator's cost accounting and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation; and

"(v) review the performance and compensation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets.

"(E) BUDGET.—To—

"(i) review and approve the budget request of the Administration related to the air traffic control system prepared by the Administrator;

"(ii) submit such budget request to the Secretary; and

"(iii) ensure that the budget request supports the annual and long-range strategic plans.

"(5) CONGRESSIONAL REVIEW OF PRE-OMB BUDGET REQUEST.—The Secretary shall submit the budget request referred to in paragraph (4)(E)(ii) for any fiscal year to the President who shall transmit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President's annual budget request for the Federal Aviation Administration for such fiscal year.

"(6) COMMITTEE PERSONNEL MATTERS.—

"(A) COMPENSATION OF MEMBERS.—Each member of the Committee, other than the chair, shall be compensated at a rate of $25,000 per year.

"(B) STAFF.—The chair of the Committee may appoint and terminate any personnel that may be necessary to enable the Committee to perform its duties.

"(C) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chair of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(7) ADMINISTRATIVE MATTERS.—

"(A) POWERS OF CHAIR.—Except as otherwise provided by a majority vote of the Committee, the powers of the chair shall include—

"(i) establishing subcommittees;

"(ii) setting meeting places and times;

"(iii) establishing meeting agendas; and

"(iv) developing rules for the conduct of business.

"(B) MEETINGS.—The Committee shall meet at least quarterly and at such other times as the chair determines appropriate.

"(C) QUORUM.—Three members of the Committee shall constitute a quorum. A majority of members present and voting shall be required for the Committee to take action.

"(D) APPLICATION OF SUBSECTION (p) PROVISIONS.—The following provisions of subsection (p) apply to the Committee to the same extent as they apply to the Management Advisory Council:

"(i) Paragraph (4)(C) (relating to access to documents and staff).

"(ii) Paragraph (5) (relating to nonapplication of Federal Advisory Committee Act).

"(iii) Paragraph (6)(G) (relating to travel and per diem).

"(iv) Paragraph (6)(H) (relating to detail of personnel).

"(8) ANNUAL REPORT.—The Committee shall each year report with respect to the conduct of its responsibilities under this title to the Administrator, the Management Advisory Council, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (p) of section 106 is amended—

(A) by striking "18" in paragraph (2) and inserting "13";

(B) by inserting "and" after the semicolon in subparagraph (C) of paragraph (2);

(C) by striking "Transportation; and" in subparagraph (D) of paragraph (2) and inserting "Transportation.";

(D) by striking subparagraph (E) of paragraph (2);

(E) by striking paragraph (3) and inserting the following:

"(3) NO FEDERAL OFFICER OR EMPLOYEE.—No member appointed under paragraph (2)(C) may serve as an officer or employee of the United States Government while serving as a member of the Council.";

(F) by striking subparagraphs (C), (D), (H), and (I) of paragraph (6) and redesignating subparagraphs (E), (F), (G), (J), (K), and (L) as subparagraphs (C), (D), (E), (F), (G), and (H), respectively; and

(G) by striking paragraphs (7) and (8).

(2) Section 106(s) (as redesignated by subsection (a) of this section) is amended—

(A) by striking "Air Traffic Services Subcommittee of the Aviation Management Advisory Council." and inserting "Air Traffic Services Committee." in paragraphs (1)(A) and (2)(A); and

(B) by striking "Air Traffic Services Subcommittee of the Aviation Management Advisory

Council," and inserting "Air Traffic Services Committee," in paragraph (3).

(3) Section 106 is amended by adding at the end the following:

"(t) AIR TRAFFIC CONTROL SYSTEM DEFINED.—In this section, the term 'air traffic control system' has the meaning such term has under section 40102(a).".

(c) TRANSITION FROM AIR TRAFFIC SERVICE SUBCOMMITTEE TO AIR TRAFFIC SERVICE COMMITTEE.—

(1) TERMINATION OF MANAGEMENT ADVISORY COUNCIL MEMBERSHIP.—Effective on the day after the date of enactment of this Act, any member of the Management Advisory Council appointed under section 106(p)(2)(E) of title 49, United States Code, (as such section was in effect on the day before such date of enactment) who is a member of the Council on such date of enactment shall cease to be a member of the Council.

(2) COMMENCEMENT OF MEMBERSHIP ON AIR TRAFFIC SERVICES COMMITTEE.—Effective on the day after the date of enactment of this Act, any member of the Management Advisory Council whose membership is terminated by paragraph (1) shall become a member of the Air Traffic Services Committee as provided by section 106(q)(2)(G) of title 49, United States Code, to serve for the remainder of the term to which that member was appointed to the Council.

SEC. 107. CLARIFICATION OF RESPONSIBILITIES OF CHIEF OPERATING OFFICER.

Section 106(s) (as redesignated by section 106(a)(1) of this Act) is amended—

(1) by striking "Transportation and Congress" in paragraph (4) and inserting "Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate,";

(2) by striking "develop a strategic plan of the Administration for the air traffic control system, including the establishment of—" in paragraph (5)(A) and inserting "implement the strategic plan of the Administration for the air traffic control system in order to further—";

(3) by striking "To review the operational functions of the Administration," in paragraph (5)(B) and inserting "To oversee the day-to-day operational functions of the Administration for air traffic control,";

(4) by striking "system prepared by the Administrator;" in paragraph (5)(C)(i) and inserting "system;";

(5) by striking "Administrator and the Secretary of Transportation;" in paragraph (5)(C)(ii) and inserting "Administrator;"; and

(6) by striking paragraph (5)(C)(iii) and inserting the following:

"(iii) ensure that the budget request supports the agency's annual and long-range strategic plans for air traffic control services.".

SEC. 108. WHISTLE-BLOWER PROTECTION UNDER ACQUISITION MANAGEMENT SYSTEM.

Section 40110(d)(2)(C) is amended by striking "355)." and inserting "355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system, the term 'executive agency' is deemed to refer to the Federal Aviation Administration.".

TITLE II—AIRPORT DEVELOPMENT

SEC. 201. NATIONAL CAPACITY PROJECTS.

(a) IN GENERAL.—Part B of subtitle VII is amended by adding at the end the following:

"CHAPTER 477. NATIONAL CAPACITY PROJECTS

"47701. Capacity enhancement.
"47702. Designation of national capacity projects.
"47703. Expedited coordinated environmental review process; project coordinators and environment impact teams.
"47704. Compatible land use initiative for national capacity projects.
"47705. Air traffic procedures at national capacity projects.
"47706. Pilot program for environmental review at national capacity projects.
"47707. Definitions.

"§ 47701. Capacity enhancement

"(a) IN GENERAL.—Within 30 days after the date of enactment of the Aviation Investment and Revitalization Vision Act, the Secretary of Transportation shall identify those airports among the 31 airports covered by the Federal Aviation Administration's Airport Capacity Benchmark Report 2001 with delays that significantly affect the national air transportation system.

"(b) TASK FORCE; CAPACITY ENHANCEMENT STUDY.—

"(1) IN GENERAL.—The Secretary shall direct any airport identified by the Secretary under subsection (a) that is not engaged in a runway expansion process and has not initiated a capacity enhancement study (or similar capacity assessment) since 1996—

"(A) to establish a delay reduction task force to study means of increasing capacity at the airport, including air traffic, airline scheduling, and airfield expansion alternatives; or

"(B) to conduct a capacity enhancement study.

"(2) SCOPE.—The scope of the study shall be determined by the airport and the Federal Aviation Administration, and where appropriate shall consider regional capacity solutions.

"(3) RECOMMENDATIONS SUBMITTED TO SECRETARY.—

"(A) TASK FORCE.—A task force established under this subsection shall submit a report containing its findings and conclusions, together with any recommendations for capacity enhancement at the airport, to the Secretary within 9 months after the task force is established.

"(B) CES.—A capacity enhancement study conducted under this subsection shall be submitted, together with its findings and conclusions, to the Secretary as soon as the study is completed.

"(c) RUNWAY EXPANSION AND RECONFIGURATION.—If the report or study submitted under subsection (b)(3) includes a recommendation for the construction or reconfiguration of runways at the airport, then the Secretary and the airport shall complete the planning and environmental review process within 5 years after report or study is submitted to the Secretary. The Secretary may extend the 5-year deadline under this subsection for up to 1 year if the Secretary determines that such an extension is necessary and in the public interest. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure of any such extension.

"(d) AIRPORTS THAT DECLINE TO UNDERTAKE EXPANSION PROJECTS.—

"(1) IN GENERAL.—If an airport at which the construction or reconfiguration of runways is recommended does not take action to initiate a planning and environmental assessment process for the construction or reconfiguration of those runways within 30 days after the date on which the report or study is submitted to the Secretary, then—

"(A) the airport shall be ineligible for planning and other expansion funds under subchapter I of chapter 471, notwithstanding any provision of that subchapter to the contrary; and

"(B) no passenger facility fee may be approved at that airport during the 5-year period beginning 30 days after the date on which the report or study is submitted to the Secretary, for—

"(i) projects that, but for subparagraph (A), could have been funded under chapter 471; or

"(ii) any project other than on-airport airfield-side capacity or safety-related projects.

"(2) SAFETY-RELATED AND ENVIRONMENTAL PROJECTS EXCEPTED.—Paragraph (1) does not apply to the use of funds for safety-related, security, or environment projects.

"(e) AIRPORTS THAT TAKE ACTION.—The Secretary shall take all actions possible to expedite funding and provide options for funding to any airport undertaking runway construction or reconfiguration projects in response to recommendations by its task force.

"§ 47702. Designation of national capacity projects

"(a) IN GENERAL.—In response to a petition from an airport sponsor, or in the case of an airport on the list of airports covered by the Federal Aviation Administration's Airport Capacity Benchmarks study, the Secretary of Transportation may designate an airport development project as a national capacity project if the Secretary determines that the project to be designated will significantly enhance the capacity of the national air transportation system.

"(b) DESIGNATION TO REMAIN IN EFFECT FOR 5 YEARS.—The designation of a project as a national capacity project under paragraph (1) shall remain in effect for 5 years. The Secretary may extend the 5-year period for up to 2 additional years upon request if the Secretary finds that substantial progress is being made toward completion of the project.

"§ 47703. Expedited coordinated environmental review process; project coordinators and environment impact teams

"(a) IN GENERAL.—The Secretary of Transportation shall implement an expedited coordinated environmental review process for national capacity projects that—

"(1) provides for better coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(2) provides for an expedited and coordinated process in the conduct of environmental reviews that ensures that, where appropriate, the reviews are done concurrently and not consecutively; and

"(3) provides for a date certain for completing all environmental reviews.

"(b) HIGH PRIORITY FOR AIRPORT ENVIRONMENTAL REVIEWS.—Each department and agency of the United States Government with jurisdiction over environmental reviews shall accord any such review involving a national capacity project the highest possible priority and conduct the review expeditiously. If the Secretary finds that any such department or agency is not complying with the requirements of this subsection, the Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure immediately.

"(c) PROJECT COORDINATORS; EIS TEAMS.—

"(1) DESIGNATION.—For each project designated by the Secretary as a national capacity project under subsection (a) for which an environmental impact statement or environmental assessment must be filed, the Secretary shall—

"(A) designate a project coordinator within the Department of Transportation; and

"(B) establish an environmental impact team within the Department.

"(2) FUNCTION.—The project coordinator and the environmental impact team shall—

"(A) coordinate the activities of all Federal, State, and local agencies involved in the project;

"(B) to the extent possible, working with Federal, State and local officials, reduce and eliminate duplicative and overlapping Federal, State, and local permit requirements;

"(C) to the extent possible, eliminate duplicate Federal, State, and local environmental review procedures; and

"(D) provide direction for compliance with all applicable Federal, State, and local environmental requirements for the project.

"§47704. Compatible land use initiative for national capacity projects

"(a) IN GENERAL.—The Secretary of Transportation may make grants under chapter 471 to States and units of local government for land use compatibility plans directly related to national capacity projects for the purposes of making the use of land areas around the airport compatible with aircraft operations if the land use plan or project meets the requirements of this section.

"(b) CONDITIONS.—A land use plan or project meets the requirements of this section if it—

"(1) is sponsored by the public agency that has the authority to plan and adopt land use control measures, including zoning, in the planning area in and around the airport and that agency provides written assurances to the Secretary that it will work with the affected airport to identify and adopt such measures;

"(2) does not duplicate, and is not inconsistent with, an airport noise compatibility program prepared by an airport owner or operator under chapter 475 or with other planning carried out by the airport;

"(3) is subject to an agreement between the public agency sponsor and the airport owner or operator that the development of the land use compatibility plan will be done cooperatively;

"(4) is consistent with the airport operation and planning, including the use of any noise exposure contours on which the land use compatibility planning or project is based; and

"(5) has been approved jointly by the airport owner or operator and the public agency sponsor.

"(c) ASSURANCES FROM SPONSORS.—The Secretary may require the airport sponsor, public agency, or other entity to which a grant may be awarded under this section to provide such additional assurances, progress reports, and other information as the Secretary determines to be necessary to carry out this section.

"§47705. Air traffic procedures at national capacity projects

"(a) IN GENERAL.—The Secretary of Transportation may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of the project during the environmental planning process for a national capacity project that involves the construction of new runways or the reconfiguration of existing runways. If the Secretary determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, then, at the request of the airport sponsor, the Administrator may, in a manner consistent with applicable Federal law, commit to prescribing such procedures in any record of decision approving the project.

"(b) MODIFICATION.—Notwithstanding any commitment by the Secretary under subsection (a), the Secretary may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

"§47706. Pilot program for environmental review at national capacity projects

"(a) IN GENERAL.—The Secretary of Transportation shall initiate a 5-year pilot program funded by airport sponsors—

"(1) to hire additional fulltime-equivalent environmental specialists and attorneys, or

"(2) to obtain the services of such specialists and attorneys from outside the United States Government, to assist in the provision of an appropriate nationwide level of staffing for planning and environmental review of runway development projects for national capacity projects at the Federal Aviation Administration.

"(b) ELIGIBLE PARTICIPANTS.—Participation in the pilot program shall be available, on a voluntary basis, to airports with an annual passenger enplanement of not less than 3 million passengers. The Secretary shall specify the minimum contribution necessary to qualify for participation in the pilot program, which shall be not less than the amount necessary to compensate the Department of Transportation for the expense of a fulltime equivalent environmental specialist and attorney qualified at the GS-14 equivalent level.

"(c) RETENTION OF REVENUES.—The salaries and expenses account of the Federal Aviation Administration shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by subsection (a). Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Such offsetting collections are authorized to remain available until expended for such purpose.

"§47707. Definitions

"In this chapter:

"(1) NATIONAL CAPACITY PROJECT.—The term 'national capacity project' means a project designated by the Secretary under section 44702.

0"(2) OTHER TERMS.—The definitions in section 47102 apply to any terms used in this chapter that are defined in that section.".

(b) ADDITIONAL STAFF AUTHORIZED.—The Secretary of Transportation is authorized to hire additional environmental specialists and attorneys needed to process environmental impact statements in connection with airport construction projects and to serve as project coordinators and environmental impact team members under section 47703 of title 49, United States Code.

(c) CLERICAL AMENDMENT.—The analysis for subtitle VII is amended by inserting after the item relating to section 475 the following:

"477. National capacity projects .... 47701".

SEC. 202. CATEGORICAL EXCLUSIONS.

Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall report to the Senate Committee on Commerce, Science, and Transportation on the categorical exclusions currently recognized and provide a list of proposed additional categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports. In determining the list of additional proposed categorical exclusions, the Secretary shall include such other projects as the Secretary determines should be categorically excluded in order to ensure that Department of Transportation environmental staff resources are not diverted to lower priority tasks and are available to expedite the environmental reviews of airport capacity enhancement projects at congested airports.

SEC. 203. ALTERNATIVES ANALYSIS.

(a) NOTICE REQUIREMENT.—Not later than 30 days after the date on which the Secretary of Transportation identifies an airport capacity enhancement project at a congested airport under section 47171(c) of title 49, United States Code, the Secretary shall publish a notice in the Federal Register requesting comments on whether reasonable alternatives exist to the project.

(b) CERTAIN REASONABLE ALTERNATIVES DEFINED.—For purposes of this section, an alternative shall be considered reasonable if—

(1) the alternative does not create an unreasonable burden on interstate commerce, the national aviation system, or the navigable airspace;

(2) the alternative is not inconsistent with maintaining the safe and efficient use of the navigable airspace;

(3) the alternative does not conflict with a law or regulation of the United States;

(4) the alternative would result in at least the same reduction in congestion at the airport or in the national aviation system as the proposed project; and

(5) in any case in which the alternative is a proposed construction project at an airport other than a congested airport, firm commitments to provide such alternate airport capacity exists, and the Secretary determines that such alternate airport capacity will be available no later than 4 years after the date of the Secretary's determination under this section.

(c) COMMENT PERIOD.—The Secretary shall provide a period of 60 days for comments on a project identified by the Secretary under this section after the date of publication of notice with respect to the project.

(d) DETERMINATION OF EXISTENCE OF REASONABLE ALTERNATIVES.—Not later than 90 days after the last day of a comment period established under subsection (c) for a project, the Secretary shall determine whether reasonable alternatives exist to the project. The determination shall be binding on all persons, including Federal and State agencies, acting under or applying Federal laws when considering the availability of alternatives to the project.

(e) LIMITATION ON APPLICABILITY.—This section does not apply to—

(1) any alternatives analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(2) a project at an airport if the airport sponsor requests, in writing, to the Secretary that this section not apply to the project.

SEC. 204. INCREASE IN APPORTIONMENT FOR, AND FLEXIBILITY OF, NOISE COMPATIBILITY PLANNING PROGRAMS.

Section 47117(e)(1)(A) is amended—

(1) by striking the first sentence and inserting: "At least 35 percent for grants for airport noise compatibility planning under section 47505(a)(2) for a national capacity project, for carrying out noise compatibility programs under section 47504(c) of this title, and for noise mitigation projects approved in an environmental record of decision for an airport development project designated as a national capacity project under section 47702."; and

(2) by striking "or not such 34 percent requirement" in the second sentence and inserting "the funding level required by the preceding sentence".

SEC. 205. SECRETARY OF TRANSPORTATION TO IDENTIFY AIRPORT CONGESTION-RELIEF PROJECTS.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall provide to the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure—

(1) a list of planned air traffic and airport-capacity projects at congested airport capacity benchmark airports the completion of which will substantially relieve congestion at those airports; and

(2) a list of options for expanding capacity at the 8 airports on the list at which the most severe delays are occurring.

(b) 2-YEAR UPDATE.—The Secretary shall provide updated lists under subsection (a) to the Committees 2 years after the date of enactment of this Act.

(c) DELISTING OF PROJECTS.—The Secretary shall remove a project from the list provided to

the Committees under this section upon the request, in writing, of an airport operator if the operator states in the request that construction of the project will not be completed within 10 years from the date of the request.

SEC. 206. DESIGN-BUILD CONTRACTING.

(a) In General.—Subchapter I of chapter 471 is amended by adding at the end the following:

"§ 47138. Design-build contracting

"(a) In General.—The Administrator may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if—

"(1) the Administrator approves the application using criteria established by the Administrator;

"(2) the design-build contract is in a form that is approved by the Administrator;

"(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

"(4) use of a design-build contract will be cost effective and expedite the project;

"(5) the Administrator is satisfied that there will be no conflict of interest; and

"(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least three or more bids will be submitted for each project under the selection process.

"(b) Reimbursement of Costs.—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under this chapter 471, if the project were carried out after a grant agreement had been executed.

"(c) Design-Build Contract Defined.—In this section, the term 'design-build contract' means an agreement that provides for both design and construction of a project by a contractor.".

(b) Conforming Amendment.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47137 the following:

"47138. Design-build contracting.".

SEC. 207. SPECIAL RULE FOR AIRPORT IN ILLINOIS.

(a) In General.—Nothing in this title shall be construed to preclude the application of any provision of this Act to the State of Illinois or any other sponsor of a new airport proposed to be constructed in the State of Illinois.

(b) Authority of the Governor.—Nothing in this title shall be construed to preempt the authority of the Governor of the State of Illinois as of August 1, 2001, to approve or disapprove airport development projects.

SEC. 208. ELIMINATION OF DUPLICATIVE REQUIREMENTS.

(a) In General.—Section 47106(c)(1) is amended—

(1) by inserting "and" after "project;" in subparagraph (A)(ii);

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) Conforming Amendments.—Section 47106(c) of such title is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) by striking "(1)(C)" in paragraph (4), as redesignated, and inserting "(1)(B)".

SEC. 209. STREAMLINING THE PASSENGER FACILITY FEE PROGRAM.

Section 40117 is amended—

(1) by striking from "finds—" in paragraph (4) of subsection (b) through the end of that paragraph and inserting "finds that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103.";

(2) by adding at the end of subsection (c)(2) the following:

"(E) The agency will include in its application or notice submitted under subsection (1) copies of all certifications of agreement or disagreement received under subparagraph (D).

"(F) For the purpose of this section, an eligible agency providing notice and consultation to an air carrier and foreign air carrier is deemed to have satisfied this requirement if it limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest on the airport. In developing regulations to implement this provision, the Secretary shall consider a significant business interest to be defined as an air carrier or foreign air carrier that has no less than 1.0 percent of boardings at the airport in the prior calendar year, except that no air carrier or foreign air carrier may be considered excluded under this section if it has at least 25,000 boardings at the airport in the prior calendar year, or if it operates scheduled service, without regard to such percentage requirements.";

(3) by redesignating paragraph (3) of subsection (c) as paragraph (4) and inserting after paragraph (2) the following:

"(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least—

"(A) a requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies who may be affected, including—

"(i) publication in local newspapers of general circulation;

"(ii) publication in other local media; and

"(iii) posting the notice on the agency's website;

"(B) a requirement for submission of public comments no sooner than 30 days after publishing of the notice and not later than 45 days after publication; and

"(C) a requirement that the agency include in its application or notice submitted under paragraph (1) copies of all comments received under subparagraph (B).";

(4) by striking "shall" in the first sentence of paragraph (4), as redesignated, of subsection (c) and inserting "may"; and

(5) by adding at the end the following:

"(l) Pilot Program for Passenger Facility Fee Authorizations at Small Airports.—

"(1) There is established a pilot program for the Secretary to test alternative procedures for authorizing small airports to impose passenger facility fees. An eligible agency may impose a passenger facility fee at a nonhub airport (as defined in section 41762(11) of this title) that it controls for use on eligible airport-related projects at that airport, in accordance with the provisions of this subsection. These procedures shall be in lieu of the procedures otherwise specified in this section.

"(2) The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2), and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

"(3) The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee, which notice shall include—

"(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility charge is sought;

"(B) the amount of revenue from passenger facility charges that is proposed to be collected for each project; and

"(C) the level of the passenger facility charge that is proposed.

"(4) The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

"(5) Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice.

"(6) Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

"(7) The authority granted under this subsection shall expire three years after the issuance of the regulation required by paragraph (6).

"(8) An acknowledgement issued under paragraph (4) shall not be considered an order of the Secretary issued under section 46110 of this title.".

SEC. 210. QUARTERLY STATUS REPORTS.

Beginning with the second calendar quarter ending after the date of enactment of this Act, the Secretary of Transportation shall provide quarterly status reports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of construction of each major runway project undertaken at the largest 40 commercial airports in terms of annual enplanements.

SEC. 211. NOISE DISCLOSURE.

(a) Noise Disclosure System Implementation Study.—The Administrator of the Federal Aviation Administration shall conduct a study to determine the feasibility of developing a program under which prospective home buyers of property located in the vicinity of an airport could be notified of information derived from noise exposure maps that may affect the use and enjoyment of the property. The study shall assess the scope, administration, usefulness, and burdensomeness of any such program, the costs and benefits of such a program, and whether participation in such a program should be voluntary or mandatory.

(b) Public Availability of Noise Exposure Maps.—The Federal Aviation Administration shall make copies or facsimiles of noise exposure maps available to the public via the Internet on its website in an appropriate format.

(c) Noise Exposure Map.—In this section, the term "noise exposure map" means a noise exposure map prepared under section 47503 of title 49, United States Code.

SEC. 212. PROHIBITION ON REQUIRING AIRPORTS TO PROVIDE RENT-FREE SPACE FOR FAA OR TSA.

(a) In General.—Chapter 401 is amended by adding at the end the following:

"§ 40129. Prohibition on rent-free space requirements for FAA or TSA

"(a) In General.—Neither the Secretary of Transportation nor the Secretary of Homeland Security may require airport sponsors to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration or the Transportation Security Administration without cost for services relating to air traffic control, air navigation, aviation security, or weather reporting.

"(b) Negotiated Agreements.—Subsection (a) does not prohibit—

"(1) the negotiation of agreements between either Secretary and an airport sponsor to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration or the Transportation Security Administration without cost or at below-market rates; or

"(2) either Secretary from requiring airport sponsors to provide land without cost to the Federal Aviation Administration for air traffic control facilities or space without cost to the Transportation Security Administration for necessary security checkpoints.".

(b) Conforming Amendment.—The chapter analysis for chapter 401 is amended by adding at the end the following:

"40129. Prohibition on rent-free space requirements for FAA or TSA.".

SEC. 213. SPECIAL RULES FOR FISCAL YEAR 2004.

(a) Apportionment to Certain Airports With Declining Boardings.—

(1) In general.—For fiscal year 2004, the Secretary of Transportation may apportion funds under section 47114 of title 49, United States Code, to the sponsor of an airport described in paragraph (2) in an amount equal to the amount apportioned to that airport under that section for fiscal year 2002, notwithstanding any provision of section 47114 to the contrary.

(2) Airports to which paragraph (1) applies.—Paragraph (1) applies to any airport determined by the Secretary to have had—

(A) less than 0.05 percent of the total United States passenger boardings (as defined in section 47102(10) of title 49, United States Code) for the calendar year used for determining apportionments under section 47114 for fiscal year 2004;

(B) less than 10,000 passenger boardings in calendar year 2002; and

(C) 10,000 or more passenger boardings in calendar year 2000.

(b) Temporary Increase in Government Share of Certain AIP Project Costs.—Notwithstanding section 47109(a) of title 49, United States Code, the Government's share of allowable project costs for a grant made in fiscal year 2004 under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.

SEC. 214. AGREEMENTS FOR OPERATION OF AIRPORT FACILITIES.

Section 47124 is amended—

(1) by inserting "a qualified entity or" after "with" in subsection (a);

(2) by inserting "entity or " after "allow the" in subsection (a);

(3) by inserting "entity or" before "State" the last place it appears in subsection (a);

(4) by striking "contract," in subsection (b)(2) and inserting "contract with a qualified entity, or";

(5) by striking "the State" each place it appears in subsection (b)(2) and inserting "the entity or State";

(6) by striking "PILOT" in the caption of subsection (b)(3);

(7) by striking "pilot" in subsection (b)(3)(A);

(8) by striking "pilot" in subsection (b)(3)(D);

(9) by striking "$6,000,000 per fiscal year" in subsection (b)(3)(E) and inserting "$6,500,000 for fiscal 2004, $7,000,000 for fiscal year 2005, and $7,500,000 for fiscal year 2006"; and

(10) by striking "$1,100,000." in subsection (b)(4)(C) and inserting "$1,500,000.".

SEC. 215. PUBLIC AGENCIES.

Section 47102(15) is amended—

(1) by striking "or" after the semicolon in subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) the Department of the Interior with respect to an airport owned by the Department that is required to be maintained for commercial aviation safety at a remote location; or".

SEC. 216. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT APPORTIONMENTS.

(a) In General.—Section 47117(c)(2) is amended to read as follows:

"(2) Waiver.—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under sections 47114(c) and 47114(d)(2)(A) of this title if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.".

(b) Conforming Amendments.—

(1) Section 47108(a) is amended by inserting "or section 47114(d)(2)(A)" after "under section 47114(c)".

(2) Section 47110 is amended—

(A) by inserting "or section 47114(d)(2)(A)" in subsection (b)(2)(C) after "of section 47114(c)";

(B) by inserting "or section 47114(d)(2)(A)" in subsection (g) after "of section 47114(c)";

(C) by striking "of project." in subsection (g) and inserting "of the project."; and

(D) by adding at the end the following:

"(h) Nonprimary Airports.—The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport and for which the Government's share is paid only with funds apportioned to a sponsor under section 47114(d)(3)(A), if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.".

(3) Section 47119(b) is amended by—

(A) striking "or" after the semicolon in paragraph (3);

(B) striking "1970." in paragraph (4) and inserting "1970; or"; and

(C) adding at the end the following:

"(5) to a sponsor of a nonprimary airport referred to in subparagraph (A) or (B) paragraph (2), any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) of this title for project costs allowable under section 47110(d) of this title.".

(c) Apportionment for All-Cargo Airports.—Section 47114(c)(2)(A) is amended by striking "3" and inserting "3.5".

(d) Considerations for Cargo Operations.—Section 47115(d) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the ability of the project to foster United States competitiveness in securing global air cargo activity at a United States airport.".

(e) Terminal Development Costs.—Section 47119(a)(1)(C) is amended by striking "3 years" and inserting "1 year".

SEC. 217. SHARE OF AIRPORT PROJECT COSTS.

(a) In General.—Section 47109 of title 49, United States Code, is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

"(c) Grandfather Rule.—

"(1) In general.—In the case of any project approved after September 30, 2001, at an airport that has less than .25 percent of the total number of passenger boardings at all commercial service airports, and that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, the Government's share of allowable costs of the project shall be increased by the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979. This subsection shall apply only if—

"(A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and

"(B) the application under subsection (b), does not increase the Government's share of allowable costs of the project

"(2) Limitation.—The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b).".

(b) Conforming Amendment.—Subsection (a) of Section 47109, title 49, United States Code, is amended by striking "Except as provided in subsection (b)", and inserting in lieu thereof "Except as provided in subsection (b) or subsection (c)".

SEC. 218. PILOT PROGRAM FOR PURCHASE OF AIRPORT DEVELOPMENT RIGHTS.

(a) In General.—Chapter 471 is amended by adding at the end the following:

"§47141. Pilot program for purchase of airport development rights.

"(a) In General.—The Secretary of Transportation shall establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly affecting the use of, privately owned public use airports located in that State. Under the program, the Secretary may make a grant to a State or political subdivision of a State from funds apportioned under section 47114 for the purchase of such rights.

"(b) Grant Requirements.—

"(1) In general.—The Secretary may not make a grant under subsection (a) unless the grant is made— .

"(A) to enable the State or political subdivision to purchase development rights in order to ensure that the airport property will continue to be available for use as a public airport; and

"(B) subject to a requirement that the State or political subdivision acquire an easement or other appropriate covenant requiring that the airport shall remain a public use airport in perpetuity.

"(2) Matching requirement.—The amount of a grant under the program may not exceed 90 percent of the costs of acquiring the development rights.

"(c) Grant Standards.—The Secretary shall prescribe standards for grants under subsection (a), including—

"(1) grant application and approval procedures; and

"(2) requirements for the content of the instrument recording the purchase of the development rights.

"(d) Release of Purchased Rights and Covenant.—Any development rights purchased under the program shall remain the property of the State or political subdivision unless the Secretary approves the transfer or disposal of the development rights after making a determination that the transfer or disposal of that right is in the public interest.

"(e) Limitation.—The Secretary may not make a grant under the pilot program for the purchase of development rights at more than 10 airports".

(b) Conforming Amendment.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47140 the following:

"47141. Pilot program for purchase of airport development rights".

SEC. 219. GARY/CHICAGO AIRPORT FUNDING.

The Administrator of the Federal Aviation Administration shall, for purposes of chapter 471 of title 49, United States Code, give priority consideration to a letter of intent application for funding submitted by the City of Gary, Indiana, or the State of Indiana, for the extension of the main runway at the Gary/Chicago Airport. The letter of intent application shall be considered upon completion of the environmental impact statement and benefit cost analysis in accordance with Federal Aviation Administration requirements. The Administrator shall consider the letter of intent application not later than 90 days after receiving it from the applicant.

SEC. 220. CIVIL PENALTY FOR CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

"SEC. 46319. CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

"(a) PROHIBITION.—A public agency (as defined in section 47102) may not close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

"(b) PUBLICATION OF NOTICE.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

"(c) CIVIL PENALTY.—A public agency violating subsection (a) shall be liable for a civil penalty of $10,000 for each day that the airport remains closed without having given the notice required by this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 463 is amended by adding at the end the following:

"46319. Closure of an airport without providing sufficient note.".

SEC. 221. ANCHORAGE AIR TRAFFIC CONTROL.

(a) IN GENERAL.—Not later than September 30, 2004, the Administrator of the Federal Aviation Administration shall complete a study and transmit a report to the appropriate committees regarding the feasibility of consolidating the Anchorage Terminal Radar Approach Control and the Anchorage Air Route Traffic Control Center at the existing Anchorage Air Route Traffic Control Center facility.

(b) APPROPRIATE COMMITTEES.—In this section, the term "appropriate committees" means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

TITLE III—AIRLINE SERVICE DEVELOPMENT

Subtitle A—Program Enhancements

SEC. 301. DELAY REDUCTION MEETINGS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following new section:

"§41723. Delay reduction actions

"(a) DELAY REDUCTION MEETINGS.—

"(1) SCHEDULING REDUCTION MEETINGS.—The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during hours of peak operation if—

"(A) the Administrator of the Federal Aviation Administration determines that it is necessary to convene such a meeting; and

"(B) the Secretary determines that the meeting is necessary to meet a serious transportation need or achieve an important public benefit.

"(2) MEETING CONDITIONS.—Any meeting under paragraph (1)—

"(A) shall be chaired by the Administrator;

"(B) shall be open to all scheduled air carriers; and

"(C) shall be limited to discussions involving the airports and time periods described in the Administrator's determination.

"(3) FLIGHT REDUCTION TARGETS.—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

"(4) DELAY REDUCTION OFFERS.—An air carrier attending the meeting shall make any delay reduction offer to the Administrator rather than to another carrier.

"(5) TRANSCRIPT.—The Administrator shall ensure that a transcript of the meeting is kept and made available to the public not later than 3 business days after the conclusion of the meeting.

"(b) STORMY WEATHER AGREEMENTS LIMITED EXEMPTION.—

"(1) IN GENERAL.—The Secretary may establish a program to authorize by order discussions and agreements between 2 or more air carriers for the purpose of reducing flight delays during periods of inclement weather.

"(2) REQUIREMENTS.—An authorization issued under paragraph (1)—

"(A) may only be issued by the Secretary after a determination by the Federal Aviation Administration that inclement weather is likely to adversely and directly affect capacity at an airport for a period of at least 3 hours;

"(B) shall apply only to discussions and agreements concerning flights directly affected by the inclement weather; and

"(C) shall remain in effect for a period of 24 hours.

"(3) PROCEDURE.—The Secretary shall establish procedures within 30 days after such date of enactment for—

"(A) filing requests for an authorization under paragraph (1);

"(B) participation under paragraph (5) by representatives of the Department of Transportation in any meetings or discussions held pursuant to such an order; and

"(C) the determination by the Federal Aviation Administration about the impact of inclement weather.

"(4) COPY OF PARTICIPATION REQUEST FILED WITH SECRETARY.—Before an air carrier may request an order under paragraph (1), it shall file a request with the Secretary, in such form and manner as the Secretary may prescribe, to participate in the program established under paragraph (1).

"(5) DOT PARTICIPATION.—The Secretary shall ensure that the Department is represented at any meetings authorized under this subsection.

"(c) EXEMPTION AUTHORIZED.—When the Secretary finds that it is required by the public interest, the Secretary, as part of an order issued under subsection (b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the activities approved in the order.

"(d) ANTITRUST LAWS DEFINED.—In this section, the term 'antitrust laws' has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

"(e) SUNSET.—The authority of the Secretary to issue an order under subsection (b)(1) of this section expires at the end of the 2-year period that begins 45 days after the date of enactment of the Aviation Investment and Revitalization Vision Act. The Secretary may extend the 2-year Period for an additional 2 years if the Secretary determines that such an extension is necessary and in the public interest. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure of any such extension.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 41722 the following new item:

"41723. Delay reduction actions.".

SEC. 302. SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM.

(a) 3-YEAR EXTENSION.—Section 41743(e)(2) is amended—

(1) by striking "There is" and inserting "There are";

(2) by striking "2001 and" and inserting "2001,";

(3) by striking "2003" and inserting "2003, and $27,500,000 for each of fiscal years 2004, 2005, and 2006"; and

(4) by striking "section." and inserting "section, not more than $275,000 per year of which may be used for administrative costs in fiscal years 2004 through 2006.".

(b) ADDITIONAL COMMUNITIES.—Section 41743(c)(4) of such title is amended by striking "program." and inserting "program each year. No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.

SEC. 303. DOT STUDY OF COMPETITION AND ACCESS PROBLEMS AT LARGE AND MEDIUM HUB AIRPORTS.

(a) IN GENERAL.—The Secretary of Transportation shall study competition and airline access problems at hub airports (as defined in section 41731(a)(3)) of title 49, United States Code, and medium hub airports (as defined in section 41714(h)(9) of that title). In the study, the Secretary shall examine, among other matters—

(1) gate usage and availability; and

(2) the effects of the pricing of gates and other facilities on competition and access.

(b) REPORT.—The Secretary shall transmit a report of the Secretary's findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving competition and airline access at such airports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act.

SEC. 304. COMPETITION DISCLOSURE REQUIREMENT FOR LARGE AND MEDIUM HUB AIRPORTS.

Section 47107 is amended by adding at the end the following:

"(q) COMPETITION DISCLOSURE REQUIREMENT.—

"(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.

"(2) COMPETITIVE ACCESS.—If an airport denies an application by an air carrier to receive access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport, then, within 30 days after denying the request, the airport sponsor shall—

"(A) notify the Secretary of the denial; and

"(B) transmit a report to the Secretary that—

"(i) describes the request;

"(ii) explains the reasons for the denial; and

"(iii) provides a time frame within which, if any, the airport will be able to accommodate the request.

"(3) Definitions.—In this subsection:

"(A) Hub airport.—The term 'hub airport' has the meaning given that term by section 41731(a)(3).

"(B) Medium hub airport.—The term 'medium hub airport' has the meaning given that term by section 41714(h)(9).".

SEC. 305. LOCATION OF SHUTTLE SERVICE AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

The Airports Authority (as defined in section 49103(1) of title 49, United States Code) shall, in conjunction with the Department of Transportation, conduct a study on the feasibility of housing the gates used by all air carriers providing shuttle service from Ronald Reagan Washington National Airport in the same terminal.

SEC. 306. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE.

(a) In General.—Section 145(a) of the Aviation and Transportation Security Act of 2001 (49 U.S.C. 40101 note) is amended by adding at the end the following: "The Secretary of Transportation shall give favorable consideration to waiving the terms and conditions established by this section, including those set forth in the guidance provided by the Department in notices, dated August 8, 2002, November 14, 2002, and January 23, 2003, in cases where remaining carriers operate additional flights to accommodate passengers whose service was suspended, interrupted, or discontinued under circumstances described in the preceding sentence over routes located in isolated areas that are unusually dependent on air transportation.".

(b) Extension.—Section 145(c) of such Act (49 U.S.C. 40101 note) is amended by striking "more than" and all that follows through "after" and inserting "more than 36 months after".

Subtitle B—Small Community and Rural Air Service Revitalization

SEC. 351. REAUTHORIZATION OF ESSENTIAL AIR SERVICE PROGRAM.

Section 41742(a) of title 49, United States Code, is amended to read as follows:

"(a) In General.—There are authorized to be appropriated to the Secretary of Transportation to carry out the essential air service under this subchapter, $113,000,000 for each of fiscal years 2004 through 2007, $50,000,000 of which for each such year shall be derived from amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration.".

SEC. 352. INCENTIVE PROGRAM.

(a) In General.—Chapter 417 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM

"Sec. 41781. Purpose.
"Sec. 41782. Marketing program.
"Sec. 41783. State marketing assistance.
"Sec. 41784. Definitions.
"Sec. 41785. Authorization of appropriations.

"§41781. Purposes

"The purposes of this subchapter are—

"(1) to enable essential air service communities to increase boardings and the level of passenger usage of airport facilities at an eligible place by providing technical, financial, and other marketing assistance to such communities and to States;

"(2) to reduce subsidy costs under subchapter II of this chapter as a consequence of such increased usage; and

"(3) to provide such communities with opportunities to obtain, retain, and improve transportation services.

"§41782. Marketing program

"(a) In General.—The Secretary of Transportation shall establish a marketing incentive program for communities that receive subsidized service by an air carrier under section 41733 under which the airport sponsor in such a community may receive a grant of not more than $50,000 to develop and implement a marketing plan to increase passenger boardings and the level of passenger usage of its airport facilities.

"(b) Matching Requirement; Success Bonuses—

"(1) In general.—Except as provided in paragraphs (2) and (3), not less than 25 percent of the publicly financed costs associated with the marketing plan shall come from non-Federal sources. For purposes of this paragraph—

"(A) the non-Federal portion of the publicly financed costs may be derived from contributions in kind; and

"(B) State or local matching contributions may not be derived, directly or indirectly, from Federal funds, but the use by a state or local government of proceeds from the sale of bonds to provide the matching contribution is not considered to be a contribution derived directly or indirectly from Federal funds, without regard to the Federal income tax treatment of interest paid on those bonds or the Federal income tax treatment of those bonds.

"(2) Bonus for 25-percent increase in usage.—Except as provided in paragraph (3), if, after any 12-month period during which a marketing plan has been in effect, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport facilities at the eligible place, by 25 percent or more, then only 10 percent of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources for the following 12-month period.

"(3) Bonus for 50-percent increase in usage.—If, after any 12-month period during which a marketing plan has been in effect, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport facilities at the eligible place, by 50 percent or more, then no portion of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources for the following 12-month period.

"§41783. State marketing assistance

"The Secretary of Transportation may provide up to $50,000 in technical assistance to any State within which an eligible point that receives subsidized service by an air carrier under section 41733 is located for the purpose of assisting the State and such communities to develop methods to increase boardings in such communities. At least 10 percent of the costs of the activity with which the assistance is associated shall come from non-Federal sources, including contributions in kind.

"§41784. Definitions

"In this subchapter:

"(1) Eligible place.—The term 'eligible place' has the meaning given that term in section 41731(a)(1), subject to the provisions of section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note).

"(2) Eligible essential air service community.—The term 'eligible essential air service community' means an eligible place that—

"(A) submits an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including a detailed marketing plan, or specifications for the development of such a plan, to increase average boardings, or the level of passenger usage, at its airport facilities; and

"(B) provides assurances, satisfactory to the Secretary, that it is able to meet the non-Federal funding requirements of section 41782(b)(1).

"(3) Passenger boardings.—The term 'passenger boardings' has the meaning given that term by section 47102(10).

"(4) Sponsor.—The term 'sponsor' has the meaning given that term in section 47102(19).

"§41785. Authorization of appropriations

"There are authorized to be appropriated to the Secretary of Transportation $12,000,000 for each of fiscal years 2004 through 2006, to carry out this subchapter, not more than $200,000 per year of which may be used for administrative costs.".

(b) Conforming Amendment.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41767 the following:

"SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM

"41781. Purpose.
"41782. Marketing program.
"41783. State marketing assistance.
"41784. Definitions.
"41785. Authorization of appropriations.".

SEC. 353. PILOT PROGRAMS.

(a) In General.—Subchapter II of chapter 417 of title 49, United States Code, is amended by adding at the end the following:

"§41745. Other pilot programs

"(a) In General.—If the entire amount authorized to be appropriated to the Secretary of Transportation by section 41785 is appropriated for fiscal years 2004 through 2007, the Secretary of Transportation shall establish pilot programs that meet the requirements of this section for improving service to communities receiving essential air service assistance under this subchapter or consortia of such communities.

"(b) Programs Authorized.—

"(1) Community flexibility.—The Secretary shall establish a pilot program for not more than 10 communities or consortia of communities under which the airport sponsor of an airport serving the community or consortium may elect to forego any essential air service assistance under preceding sections of this subchapter for a 10-year period in exchange for a grant from the Secretary equal in value to twice the annual essential air service assistance received for the most recently ended calendar year. Under the program, and notwithstanding any provision of law to the contrary, the Secretary shall make a grant to each participating sponsor for use by the recipient for any project that—

"(A) is eligible for assistance under chapter 471;

"(B) is located on the airport property; or

"(C) will improve airport facilities in a way that would make such facilities more usable for general aviation.

"(2) Equipment changes.—

"(A) In general.—The Secretary shall establish a pilot program for not more than 10 communities or consortia of communities under which, upon receiving a petition from the sponsor of the airport serving the community or consortium, the Secretary shall authorize and request the essential air service provider for that community or consortium to use smaller equipment to provide the service and to consider increasing the frequency of service using such smaller equipment. Before granting any such petition, the Secretary shall determine that passenger safety would not be compromised by the use of such smaller equipment. Any community that participates in a pilot program under this subparagraph is deemed to have waived the minimum service requirements under section

41732(b) for purposes of its participation in that pilot program.

“(B) Alternative Services.—For any 3 aiport sponsors participating in the program established under subparagraph (A), the Secretary may establish a pilot program under which—

“(i) the Secretary provides 100 percent Federal funding for reasonable levels of alternative transportation services from the eligible place to the nearest hub airport or small hub airport;

“(ii) the Secretary will authorize the sponsor to use its essential air service subsidy funds provided under preceding sections of this subchapter for any airport-related project that would improve airport facilities; and

“(iii) the sponsor may make an irrevocable election to terminate its participation in the pilot program established under this paragraph after 1 year.

“(3) Cost-sharing.—The Secretary shall establish a pilot program under which the sponsors of airports serving a community or consortium of communities share the cost of providing air transportation service greater than the basic essential air service provided under this subchapter.

“(c) Code-Sharing.—Under the pilot program established under subsection (a), the Secretary is authorized to require air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports (as defined in section 41731(a)(3)) to participate in multiple code-share arrangements consistent with normal industry practice whenever and wherever the Secretary determines that such multiple code-sharing arrangements would improve air transportation services. The Secretary may not require air carriers to participate in such arrangements under this subsection for more than 10 such communities.

“(d) Tracking Service.—The Secretary shall require carriers providing subsidy for service under section 41733 to track changes in services, including on-time arrivals and departures, on such subsidized routes, and to report such information to the Secretary on a semi-annual basis in such form as the Secretary may require.

“(e) Administrative Provisions.—In order to participate in a pilot program established under this section, the airport sponsor for a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require.”.

(b) Conforming Amendment.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41744 the following:

“41745. Other pilot programs.”.

SEC. 354. EAS PROGRAM AUTHORITY CHANGES.

(a) Rate Renegotiation.—If the Secretary of Transportation determines that essential air service providers are experiencing significantly increased costs of providing service under subchapter II of chapter 417 of title 49, United States Code, the Secretary of Transportation may increase the rates of compensation payable under that subchapter within 30 days after the date of enactment of this Act without regard to any agreements or requirements relating to the renegotiation of contracts. For purposes of this subsection, the term “significantly increased costs” means an average annual total unit cost increase (but not increases in individual unit costs) of 10 percent or more in relation to the unit rates used to construct the subsidy rate, based on the carrier's internal audit of its financial statements.

(b) Returned Funds.—Notwithstanding any provision of law to the contrary, any funds made available under subchapter II of chapter 417 of title 49, United States Code, that are returned to the Secretary by an airport sponsor because of decreased subsidy needs for essential air service under that subchapter shall remain available to the Secretary and may be used by the Secretary under that subchapter to increase the frequency of flights at that airport.

(c) Small Community Air Service Development Pilot Program.—Section 41743(h) of such title is amended by striking “an airport” and inserting “each airport”.

SEC. 355. ONE-YEAR EXTENSION OF EAS ELIGIBILITY FOR COMMUNITIES TERMINATED IN 2003 DUE TO DECREASED AIR TRAVEL.

Notwithstanding the rate of subsidy limitation in section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000, the Secretary of Transportation may not terminate an essential air service subsidy provided under chapter 417 of title 49, United States Code, before the end of calendar year 2004 for air service to a community—

(1) whose calendar year ridership for 2000 was sufficient to keep the per passenger subsidy below that limitation; and

(2) that has received notice that its subsidy will be terminated during calendar year 2003 because decreased ridership has caused the subsidy to exceed that limitation.

Subtitle C—Financial Improvement Effort and Executive Compensation Report

SEC. 371. GAO REPORT ON AIRLINES' ACTIONS TO IMPROVE FINANCES AND ON EXECUTIVE COMPENSATION.

(a) Finding.—The Congress finds that the United States government has by law provided substantial financial assistance to United States commercial airlines in the form of war risk insurance and reinsurance and other economic benefits and has imposed substantial economic and regulatory burdens on those airlines. In order to determine the economic viability of the domestic commercial airline industry and to evaluate the need for additional measures or the modification of existing laws, the Congress needs more frequent information and independently verified information about the financial condition of these airlines.

(b) Semiannual Reports.—The Comptroller General shall prepare a semiannual report to the Congress—

(1) analyzing measures being taken by air carriers engaged in air transportation and intrastate air transportation (as such terms are used in subtitle VII of title 49, United States Code) to reduce costs and to improve their earnings and profits and balance sheets; and

(2) stating—

(A) the total compensation (as defined in section 104(b) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note)) paid by the air carrier to each officer or employee of that air carrier to whom that section applies for the period to which the report relates; and

(B) the terms and value (determined on the basis of the closing price of the stock on the last business day of the period to which the report relates) of any stock options awarded to such officer during that period.

(c) GAO Authority.—In order to compile the reports required by subsection (b), the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, documents, papers, and records of such air carriers that relate to the information required to compile the reports. The Comptroller General shall submit with each such report a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(d) Reports to Congress.—The Comptroller General shall transmit the compilation of reports required by subsection (c) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

TITLE IV—AVIATION SECURITY

SEC. 401. STUDY OF EFFECTIVENESS OF TRANSPORTATION SECURITY SYSTEM.

(a) In General.—The Secretary of Homeland Security, in consultation with representatives of the airport community, shall study the effectiveness of the aviation security system, including the air marshal program, hardening of cockpit doors, and security screening of passengers, checked baggage, and cargo.

(b) Report.—The Secretary shall transmit a report of the Secretary's findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving the effectiveness of aviation security to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act. In the report the Secretary shall also describe any redeployment of Transportation Security Administration resources based on those findings and conclusions. The Secretary may submit the report to the Committees in classified and redacted form.

SEC. 402. AVIATION SECURITY CAPITAL FUND.

(a) In General.—There may be established within the Department of Homeland Security a fund to be known as the Aviation Security Capital Fund. There are authorized to be appropriated to the Fund up to $500,000,000 for each of the fiscal years 2004 through 2007, such amounts to be derived from fees received under section 44940 of title 49, United States Code. Amounts in the fund shall be allocated in such a manner that—

(1) 40 percent shall be made available for hub airports;–

(2) 20 percent shall be made available for medium hub airports;–

(3) 15 percent shall be made available for small hub airports and nonhub airports; and–

(4) 25 percent may be distributed at the Secretary's discretion.

(b) Purpose.—Amounts in the Fund shall be available to the Secretary of Homeland Security to provide financial assistance to airport sponsors to defray capital investment in transportation security at airport facilities in accordance with the provisions of this section. The program shall be administered in concert with the airport improvement program under chapter 417 of title 49, United States Code.

(c) Apportionment.—Amounts made available under subsection (a)(1), (a)(2), or (a)(3) shall be apportioned among the airports in each category in accordance with a formula based on the ratio that passenger enplanements at each airport in the category bears to the total passenger enplanements at all airports in that category.

(d) Letters of Intent.—The Secretary of Homeland Security, or his delegate, may execute letters of intent to commit funding to airport sponsors from the Fund.

(e) Conforming Amendment.—Section 44940(a)(1) of title 49, United States Code, is amended by adding at the end the following:

“(H) The costs of security-related capital improvements at airports.”.

(f) Definitions.—Any term used in this section that is defined or used in chapter 417 of title 49, United States Code, has the meaning given that term in that chapter.

SEC. 403. TECHNICAL AMENDMENTS RELATED TO SECURITY-RELATED AIRPORT DEVELOPMENT.

(a) Definition of Airport Development.—Section 47102(3)(B) is amended—

(1) by inserting "and" after the semicolon in clause (viii);

(2) by striking "circular; and" in clause (ix) and inserting "circular."; and

(3) by striking clause (x).

(b) IMPROVEMENT OF FACILITIES AND EQUIPMENT.—Section 308(a) of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 44901 note) is amended by striking "travel." and inserting "travel if the improvements or equipment will be owned and operated by the airport.".

SEC. 404. ARMED FORCES CHARTERS.

Section 132 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is amended by adding at the end the following:

"(c) EXEMPTION FOR ARMED FORCES CHARTERS.—

"(1) IN GENERAL.—Subsections (a) and (b) of this section, and chapter 449 of title 49, United States Code, do not apply to passengers and property carried by aircraft when employed to provide charter transportation to members of the armed forces.

"(2) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of Homeland Security and the Secretary of Transportation, shall establish security procedures relating to the operation of aircraft when employed to provide charter transportation to members of the armed forces to or from an airport described in section 44903(c) of title 49, United States Code.

"(3) ARMED FORCES DEFINED.—In this subsection, the term 'armed forces' has the meaning given that term by section 101(a)(4) of title 10, United States Code.".

SEC. 405. ARMING CARGO PILOTS AGAINST TERRORISM.

(a) SHORT TITLE.—This section may be cited as the "Arming Cargo Pilots Against Terrorism Act".

(b) FINDINGS.—Congress makes the following findings:

(1) During the 107th Congress, both the Senate and the House of Representatives overwhelmingly passed measures that would have armed pilots of cargo aircraft.

(2) Cargo aircraft do not have Federal air marshals, trained cabin crew, or determined passengers to subdue terrorists.

(3) Cockpit doors on cargo aircraft, if present at all, largely do not meet the security standards required for commercial passenger aircraft.

(4) Cargo aircraft vary in size and many are larger and carry larger amounts of fuel than the aircraft hijacked on September 11, 2001.

(5) Aircraft cargo frequently contains hazardous material and can contain deadly biological and chemical agents and quantities of agents that cause communicable diseases.

(6) Approximately 12,000 of the nation's 90,000 commercial pilots serve as pilots and flight engineers on cargo aircraft.

(7) There are approximately 2,000 cargo flights per day in the United States, many of which are loaded with fuel for outbound international travel or are inbound from foreign airports not secured by the Transportation Security Administration.

(8) Aircraft transporting cargo pose a serious risk as potential terrorist targets that could be used as weapons of mass destruction.

(9) Pilots of cargo aircraft deserve the same ability to protect themselves and the aircraft they pilot as other commercial airline pilots.

(10) Permitting pilots of cargo aircraft to carry firearms creates an important last line of defense against a terrorist effort to commandeer a cargo aircraft.

(c) SENSE OF CONGRESS.—It is the sense of Congress that members of a flight deck crew of a cargo aircraft should be armed with a firearm and taser to defend the cargo aircraft against an attack by terrorists that could result in the use of the aircraft as a weapon of mass destruction or for other terrorist purposes.

(d) ARMING CARGO PILOTS AGAINST TERRORISM.—Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "passenger" each place that it appears; and

(2) in subsection (k)—

(A) in paragraph (2)—

(i) by striking "or," and all that follows; and

(ii) by inserting "or any other flight deck crew member."; and

(B) by adding at the end the following new paragraph:

"(3) ALL-CARGO AIR TRANSPORTATION.—For the purposes of this section, the term air transportation includes all-cargo air transportation.".

(e) TIME FOR IMPLEMENTATION.—The training of pilots as Federal flight deck officers required in the amendments made by subsection (d) shall begin as soon as practicable and no later than 90 days after the date of enactment of this Act.

(f) EFFECT ON OTHER LAWS.—The requirements of subsection (e) shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

SEC. 406. GENERAL AVIATION AND AIR CHARTERS.

Section 132(a) of the Aviation and Transportation Security Act (49 U.S.C. 44944 note) is amended by striking "12,500 pounds or more" and inserting "more than 12,500 pounds".

SEC. 407. AIR DEFENSE IDENTIFICATION ZONE.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration establishes an Air Defense Identification Zone (in this section referred to as an "ADIZ"), the Administrator shall, not later than 60 days after the date of establishing the ADIZ, transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report containing an explanation of the need for the ADIZ. The Administrator shall provide the Committees an updated report every 60 days until the establishment of the ADIZ is rescinded. The reports and updates shall be transmitted in classified form.

(b) EXISTING ADIZ.—If an ADIZ is in effect on the date of enactment of this Act, the Administrator shall transmit an initial report under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 30 days after the date of enactment of this Act.

(c) REPORTING REQUIREMENTS.—If a report required under subsection (a) or (b) indicates that the ADIZ is to be continued, the Administrator shall outline changes in procedures and requirements to improve operational efficiency and minimize the operational impacts of the ADIZ on pilots and air traffic controllers.

(d) DEFINITION.—In this section, the terms "Air Defense Identification Zone" and "ADIZ" mean a zone established by the Administrator with respect to airspace under 18,000 feet in approximately a 15 to 38 mile radius around Washington, District of Columbia, for which security measures are extended beyond the existing 15-mile-no-fly zone around Washington and in which general aviation aircraft are required to adhere to certain procedures issued by the Administrator.

SEC. 408. REPORT ON PASSENGER PRESCREENING PROGRAM.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Attorney General, shall submit a report in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the potential impact of the Transportation Security Administration's proposed Computer Assisted Passenger Prescreening System, commonly known as CAPPS II, on the privacy and civil liberties of United States citizens.

(b) SPECIFIC ISSUES TO BE ADDRESSED.—The report shall address the following:

(1) Whether and for what period of time data gathered on individual travelers will be retained, who will have access to such data, and who will make decisions concerning access to such data.

(2) How the Transportation Security Administration will treat the scores assigned to individual travelers to measure the likelihood they may pose a security threat, including how long such scores will be retained and whether and under what circumstances they may be shared with other governmental, nongovernmental, or commercial entities.

(3) The role airlines and outside vendors or contractors will have in implementing and operating the system, and to what extent will they have access, or the means to obtain access, to data, scores, or other information generated by the system.

(4) The safeguards that will be implemented to ensure that data, scores, or other information generated by the system will be used only as officially intended.

(5) The procedures that will be implemented to mitigate the effect of any errors, and what procedural recourse will be available to passengers who believe the system has wrongly barred them from taking flights.

(6) The oversight procedures that will be implemented to ensure that, on an ongoing basis, privacy and civil liberties issues will continue to be considered and addressed with high priority as the system is installed, operated and updated.

SEC. 409. REMOVAL OF CAP ON TSA STAFFING LEVEL.

The matter appearing under the heading "AVIATION SECURITY" in the appropriations for the Transportation Security Administration in the Transportation and Related Agencies Appropriation Act, 2003 (Public Law 108–7; 117 Stat. 386) is amended by striking the fifth proviso.

SEC. 410. FOREIGN REPAIR STATION SAFETY AND SECURITY.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) DOMESTIC REPAIR STATION.—The term "domestic repair station" means a repair station or shop that—

(A) is described in section 44707(2) of title 49, United States Code; and

(B) is located in the United States.

(3) FOREIGN REPAIR STATION.—The term "foreign repair station" means a repair station or shop that—

(A) is described in section 44707(2) of title 49, United States Code; and

(B) is located outside of the United States.

(4) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary for Border and Transportation Security of the Department of Homeland Security.

(b) APPLICABILITY OF STANDARDS.—Within 180 days after the date of enactment of this Act, the Administrator shall issue regulations to ensure that foreign repair stations meet the same level of safety required of domestic repair stations.

(c) SPECIFIC STANDARDS.—In carrying out subsection (b), the Administrator shall, at a minimum, specifically ensure that foreign repair stations, as a condition of being certified to work on United States registered aircraft—

(1) institute a program of drug and alcohol testing of its employees working on United States registered aircraft and that such a program provides an equivalent level of safety achieved by the drug and alcohol testing requirements that workers are subject to at domestic repair stations;

(2) agree to be subject to the same type and level of inspection by the Federal Aviation Administration as domestic repair stations and that such inspections occur without prior notice to the country in which the station is located; and

(3) follow the security procedures established under subsection (d).

(d) SECURITY AUDITS.—

(1) IN GENERAL.—To ensure the security of maintenance and repair work conducted on United States aircraft and components at foreign repair stations, the Under Secretary, in consultation with the Administrator, shall complete a security review and audit of foreign repair stations certified by the Administrator under part 145 of title 14, Code of Federal Regulations. The review shall be completed not later than 180 days after the date on which the Under Secretary issues regulations under paragraph (6).

(2) ADDRESSING SECURITY CONCERNS.—The Under Secretary shall require a foreign repair station to address the security issues and vulnerabilities identified in a security audit conducted under paragraph (1) within 90 days of providing notice to the repair station of the security issues and vulnerabilities identified.

(3) SUSPENSIONS AND REVOCATIONS OF CERTIFICATES.—

(A) FAILURE TO CARRY OUT EFFECTIVE SECURITY MEASURES.—If the Under Secretary determines as a result of a security audit that a foreign repair station does not maintain and carry out effective security measures or if a foreign repair station does not address the security issues and vulnerabilities as required under subsection (d)(2), the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall suspend the certification of the repair station until such time as the Under Secretary determines that the repair station maintains and carries out effective security measures and has addressed the security issues identified in the audit, and transmits the determination to the Administrator.

(B) IMMEDIATE SECURITY RISK.—If the Under Secretary determines that a foreign repair station poses an immediate security risk, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall revoke the certification of the repair station.

(4) FAILURE TO MEET AUDIT DEADLINE.—If the security audits required by paragraph (1) are not completed on or before the date that is 180 days after the date on which the Under Secretary issues regulations under paragraph (6), the Administrator may not certify, or renew the certification of, any foreign repair station until such audits are completed.

(5) PRIORITY FOR AUDITS.—In conducting the audits described in paragraph (1), the Under Secretary and the Administrator shall give priority to foreign repair stations located in countries identified by the United States Government as posing the most significant security risks.

(6) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Under Secretary, in consultation with the Administrator, shall issue final regulations to ensure the security of foreign and domestic repair stations. If final regulations are not issued within 180 days of the date of enactment of this Act, the Administrator may not certify, or renew the certification of, any foreign repair station until such regulations have been issued.

TITLE V—MISCELLANEOUS

SEC. 501. EXTENSION OF WAR RISK INSURANCE AUTHORITY.

Section 44310 is amended by striking "2004." and inserting "2006.".

SEC. 502. COST-SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS.

(a) IN GENERAL.—Chapter 445 is amended by adding at the end the following:

"§44517. Program to permit cost-sharing of air traffic modernization projects

"(a) IN GENERAL.—Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation's air transportation system by encouraging non-Federal investment in critical air traffic control facilities and equipment.

"(b) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117 of this title.

"(c) LIMITATION ON GRANT AMOUNTS.—No eligible project may receive more than $5,000,000 in Federal funds under the program.

"(d) FUNDING.—The Secretary shall use amounts appropriated under section 48101(a) of this title to carry out this program.

"(e) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROJECT.—The term 'eligible project' means a project relating to the Nation's air traffic control system that is certified or approved by the Administrator and that promotes safety, efficiency, or mobility. Such projects may include—

"(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landing systems, weather and wind shear detection equipment, lighting improvements, and control towers;

"(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

"(C) facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and offshore flight tracking.

"(2) PROJECT SPONSOR.—The term 'project sponsor' means any major user of the National Airspace System, as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more air carriers.

"(f) TRANSFERS OF EQUIPMENT.—Notwithstanding any other provision of law, and upon agreement by the Administrator of the Federal Aviation Administration, project sponsors may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, or automation tools, the purchase of which was assisted by a grant made under this section, if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

"(g) GUIDELINES.—The Administrator shall issue advisory guidelines on the implementation of the program, which shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5.".

(b) CONFORMING AMENDMENT.—The chapter analyses for chapter 445 is amended by adding at the end the following:

"44517. Program to permit cost-sharing of air traffic modernization projects.".

SEC. 503. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS.

Section 44726(a)(1) is amended—

(1) by striking "or" after the semicolon in subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (D);

(3) by inserting after subparagraph (A) the following:

"(B) who knowingly, and with intent to defraud, carried out or facilitated an activity punishable under a law described in subparagraph (A);

"(C) whose certificate is revoked under subsection (b) of this section; or"; and

(4) by striking "convicted of such a violation." in subparagraph (D), as redesignated, and inserting "described in subparagraph (A), (B) or (C).".

SEC. 504. CLARIFICATIONS TO PROCUREMENT AUTHORITY.

(a) UPDATE AND CLARIFICATION OF AUTHORITY.—

(1) Section 40110(c) is amended to read as follows:

"(c) DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration may—

"(1) notwithstanding section 1341(a)(1) of title 31, lease an interest in property for not more than 20 years;

"(2) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace; and

"(3) dispose of property under subsection (a)(2) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under subchapter III of chapter 5 of title 40, United States Code.".

(2) Section 40110(d)(1) is amended by striking "implement, not later than January 1, 1996," and inserting "implement".

(b) CLARIFICATION.—Section 106(f)(2)(A)(ii) is amended by striking "property" and inserting "property, services,".

SEC. 505. JUDICIAL REVIEW.

Section 46110(c) is amended by adding at the end the following: "Except as otherwise provided in this subtitle, judicial review of an order issued, in whole or in part, pursuant to this part, part B of this subtitle, or subsection (l) or (s) of section 114 of this title, shall be in accordance with the provisions of this section.".

SEC. 506. CIVIL PENALTIES.

(a) INCREASE IN MAXIMUM CIVIL PENALTY.—Section 46301(a) is amended—

(1) by striking "$1,000" in paragraph (1) and inserting "$25,000";

(2) by striking "or" the last time it appears in paragraph (1)(A);

(3) by striking "section)" in paragraph (1)(A), and inserting "section), or section 47133";

(4) by striking paragraphs (2), (3), (6), and (7) and redesignating paragraphs (4), (5), and (8) as paragraphs (2), (3), and (4), respectively; and

(5) by striking "paragraphs (1) and (2)" in paragraph (4), as redesignated, and inserting "paragraph (1)".

(b) INCREASE IN LIMIT ON ADMINISTRATIVE AUTHORITY AND CIVIL PENALTY.—Section 46301(d) is amended—

(1) by striking "$50,000;" in paragraph (4)(A) by inserting "$50,000, if the violation occurred before the date of enactment of the Aviation Authorization Act of 2003, or $1,000,000, if the violation occurred on or after that date;"; and

(2) by striking "$50,000." in paragraph (8) and inserting "$50,000, if the violation occurred before the date of enactment of the Aviation Authorization Act of 2003, or $1,000,000, if the violation occurred on or after that date.".

SEC. 507. MISCELLANEOUS AMENDMENTS.

(a) AMOUNTS SUBJECT TO APPORTIONMENT UNDER CHAPTER 471.—

(1) IN GENERAL.—Section 47102 is amended—

(A) by striking paragraph (6) and inserting the following:

"(6) 'amount newly made available' means the amount newly made available under section 48103 of this title as an authorization for grant obligations for a fiscal year, as that amount may be limited in that year by a provision in an appropriations Act, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f)."; and

(B) by redesignating paragraphs (7) through (20) as paragraphs (8) through (21), and inserting after paragraph (6) the following:

"(7) 'amount subject to apportionment' means the amount newly made available, less the amount made available for the fiscal year for administrative expenses under section 48105.".

(2) CONFORMING AMENDMENTS.—

(A) Section 41742(b) is amended by striking "Notwithstanding section 47114(g) of this title, any" and inserting "Any".

(B) Section 47104(b) is amended to read as follows:

"(b) INCURRING OBLIGATIONS.—The Secretary may incur obligations to make grants from the amount subject to apportionment as soon as the apportionments required by sections 47114(c) and (d)(2) of this title have been issued.".

(C) Section 47107(f)(3) is amended by striking "made available to the Secretary under section 48103 of this title and" and inserting "subject to apportionment, and is".

(D) Section 47114 is amended—

(i) by striking subsection (a);

(ii) by striking "apportionment for that fiscal year" in subsection (b) and inserting "apportionment";

(iii) by striking "total amount made available under section 48103" in subsections (c)(2)(C), (d)(3), and (e)(4) and inserting "amount subject to apportionment";

(iv) by striking "each fiscal year" in subsection (c)(2)(A); and

(v) by striking "for each fiscal year" in subsection (d)(2).

(E) Subsection 47116(b) is amended by striking "amounts are made available under section 48103 of this title" and inserting "an amount is subject to apportionment".

(F) Section 47117 is amended—

(i) by striking "amounts are made available under section 48103 of this title." in subsection (a) and inserting "an amount is subject to apportionment.";

(ii) by striking "a sufficient amount is made available under section 48103." in subsection (f)(2)(A) and inserting "there is a sufficient amount subject to apportionment.";

(iii) in subsection (f)(2)(B), by inserting "in" before "the succeeding";

(iv) by striking "NEWLY AVAILABLE" in the caption of subsection (f)(3) and inserting "RESTORED";

(v) by striking "newly available under section 48103 of this title," in subsection (f)(3)(A) and inserting "subject to apportionment,";

(vi) by striking "made available under section 48103 for such obligations for such fiscal year." in subsection (f)(4) and inserting "subject to apportionment."; and

(vii) by striking "enacted after September 3, 1982," in subsection (g).

(b) RECOVERED FUNDS.—Section 47117 is amended by adding at the end the following:

"(h) CREDITING OF RECOVERED FUNDS.—For the purpose of determining compliance with a limitation on the amount of grant obligations that may be incurred in a fiscal year imposed by an appropriations Act, an amount that is recovered by canceling or reducing a grant obligation—

"(1) shall be treated as a negative obligation that is to be netted against the gross obligation limitation, and

"(2) may permit the gross limitation to be exceeded by an equal amount.".

(c) AIRPORT SAFETY DATA COLLECTION.—Section 47130 is amended to read as follows:

"§47130. Airport safety data collection

"Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. If a grant is provided, the United States Government's share of the cost of the data collection shall be 100 percent.".

(d) STATUTE OF LIMITATIONS.—Section 47107(l)(5)(A) is amended by inserting "or any other governmental entity" after "sponsor".

(e) AUDIT CERTIFICATION.—Section 47107(m) is amended—

(1) by striking "promulgate regulations that" in paragraph (1) and inserting "include a provision in the compliance supplement provisions to";

(2) by striking "and opinion of the review" in paragraph (1); and

(3) by striking paragraph (3).

(f) NOISE EXPOSURE MAPS.—Section 47503(a) is amended by striking "1985," and inserting "a forecast year that is at least 5 years in the future,".

(g) CLARIFICATION OF APPLICABILITY OF PFCS TO MILITARY CHARTERS.—Section 40117(e)(2) is amended—

(1) by striking "and" after the semicolon in subparagraph (D);

(2) by striking "passengers." in subparagraph (E) and inserting "passengers; and"; and

(3) by adding at the end the following:

"(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the United States Department of Defense.".

SEC. 508. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE.

(a) PURPOSE.—The purpose of this section is to permit the use of funds made available under subchapter 471 to encourage commercial service airports in air quality nonattainment and maintenance areas to undertake projects for gate electrification, acquisition or conversion of airport vehicles and airport-owned ground support equipment to acquire low-emission technology, low-emission technology fuel systems, and other related air quality projects on a voluntary basis to improve air quality and more aggressively address the constraints that emissions can impose on future aviation growth. Use of those funds is conditioned on airports receiving credits for emissions reductions that can be used to mitigate the air quality effects of future airport development. Making these projects eligible for funding in addition to those projects that are already eligible under section 47102(3)(F) is intended to support those projects that, at the time of execution, may not be required by the Clean Air Act (42 U.S.C. 7501 et seq.), but may be needed in the future.

(b) ACTIVITIES ADDED TO DEFINITION OF "AIRPORT DEVELOPMENT".—Section 47102(3) is amended by adding at the end the following:

"(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a) and if such project will result in an airport receiving appropriate emission credits, as described in section 47139 of this title. The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission modifications and improvements and stating how airport sponsors will demonstrate benefits.

"(L) a project for the acquisition or conversion of vehicles and ground support equipment, owned by a commercial service airport, to low-emission technology, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139 of this title. The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission vehicle technology and stating how airport sponsors will demonstrate benefits. For airport-owned vehicles and equipment, the acquisition of which are not otherwise eligible for assistance under this subchapter, the incremental cost of equipping such vehicles or equipment with low-emission technology shall be treated as eligible for assistance.".

(c) LOW-EMISSION TECHNOLOGY DEFINED.—Section 47102 is amended by redesignating paragraphs (10) through (20), as paragraphs (11) through (21) respectively, and inserting after paragraph (9) the following:

"(11) 'low-emission technology' means technology for new vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially non-petroleum based, as defined by the Department of Energy, but not excluding hybrid systems.".

(d) EMISSIONS CREDITS.—

(1) IN GENERAL.—Subchapter I of chapter 471, as amended by section 206 of this Act, is further amended by adding at the end the following:

"§47139. Emission credits for air quality projects

"(a) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall jointly agree on how to assure that airport sponsors receive appropriate emission credits for projects described in sections 40117(a)(3)(G), 47102(3)(K), or 47102(3)(L) of this title. The agreement must, at a minimum, include provisions to ensure that—

"(1) the credits will be consistent with the Clean Air Act (42 U.S.C. 7402 et seq.);

"(2) credits generated by the emissions reductions in criteria pollutants are kept by the airport sponsor and may be used for purposes of any current or future general conformity determination or as offsets under the New Source Review program;

"(3) there is national consistency in the way credits are calculated and are provided to airports;

"(4) credits are provided to airport sponsors in a timely manner; and

"(5) there is a method by which the Secretary can be assured that, for any specific project for which funding is being requested, the appropriate credits will be granted.

"(b) ASSURANCE OF RECEIPT OF CREDITS.—

"(1) IN GENERAL.—As a condition for making a grant for a project described in section 47102(3)(K), 47102(3)(L), or 47140 of this title, or as a condition for granting approval to collect or use a passenger facility fee for a project described in sections 40117(a)(3)(G), 47102(3)(K), 47102(3)(L), or 47140 of this title, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal Implementation Plan, that the airport sponsor will receive appropriate emission *credits in accordance with the conditions of this subsection.*

"(2) CREDITS FOR CERTAIN EXISTING PROJECTS.—The Secretary and the Administrator of the Environmental Protection Agency shall jointly agree on how to provide emission credits to projects previously approved under section 47136 of this title during fiscal years 2001 through 2003, under terms consistent with this section.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47138 the following:

"47139. Emission credits for air quality projects.".

(e) AIRPORT GROUND SUPPORT EQUIPMENT EMISSIONS RETROFIT PILOT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

"§47140. Airport ground support equipment emissions retrofit pilot program

"(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount subject to apportionment to retrofit existing eligible airport ground support equipment which burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

"(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.—A commercial service airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a)).

"(c) SELECTION CRITERIA.—In selecting applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

"(d) MAXIMUM AMOUNT.—Not more than $500,000 may be expended under the pilot program at any single commercial service airport.

"(e) GUIDELINES.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under this pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

"(f) ELIGIBLE EQUIPMENT DEFINED.—For purposes of this section, the term 'eligible equipment' means ground service or maintenance equipment that—

"(1) is located at the airport;

"(2) used to support aeronautical and related activities on the airport; and

"(3) will remain in operation at the airport.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is further amended by inserting after the item relating to section 47139 the following:

"47140. Airport ground support equipment emissions retrofit pilot program.".

SEC. 509. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT.

Section 40117(a)(3) is amended by inserting at the end the following:

"(G) A project for the acquisition or conversion of ground support equipment or airport-owned vehicles used at a commercial service airport with, or to, low-emission technology or cleaner burning conventional fuels, or the retrofitting of such equipment or vehicles that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a), and if such project will result in an airport receiving appropriate emission credits as described in section 47139 of this title. The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance for eligible projects and for how benefits must be demonstrated. The eligible cost is limited to the incremental amount that exceeds the cost of acquiring other vehicles or equipment that are not low-emission and would be used for the same purpose, or to the cost of low-emission retrofitting. For purposes of this paragraph, the term "ground support equipment" means service and maintenance equipment used at an airport to support aeronautical operations and related activities.".

SEC. 510. PACIFIC EMERGENCY DIVERSION AIRPORT.

(a) IN GENERAL.—The Secretary of Transportation shall enter into a memorandum of understanding with the Secretaries of Defense, the Interior, and Homeland Security to facilitate the sale of aircraft fuel on Midway Island, so that the revenue from the fuel sales can be used to operate Midway Island Airport in accordance with Federal Aviation Administration airport standards. The memorandum shall also address the long term potential for promoting tourism as a means of generating revenue to operate the airport.

(b) NAVIGATIONAL AIDS.—The Administrator of the Federal Aviation Administration may support and be responsible for maintaining all aviation-related navigational aids at Midway Island Airport.

SEC. 511. GULF OF MEXICO AVIATION SERVICE IMPROVEMENTS.

(a) IN GENERAL.—The Secretary of Transportation may develop and carry out a program designed to expand and improve the safety, efficiency, and security of—

(1) air traffic control services provided to aviation in the Gulf of Mexico area; and

(2) aviation-related navigational, low altitude communications and surveillance, and weather services in that area.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section for the 4 fiscal year period beginning with fiscal year 2004.

SEC. 512. AIR TRAFFIC CONTROL COLLEGIATE TRAINING INITIATIVE.

The Secretary of Transportation may use, from funds available to the Secretary and not otherwise obligated or expended, such sums as may be necessary to carry out and expand the Air Traffic Control Collegiate Training Initiative.

SEC. 513. AIR TRANSPORTATION OVERSIGHT SYSTEM PLAN.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure an action plan, with an implementation schedule—

(1) to provide adequate oversight of repair stations (known as Part 145 repair stations) and ensure that Administration-approved repair stations outside the United States are subject to the same level of oversight and quality control as those located in the United States; and

(2) for addressing problems with the Air Transportation Oversight System that have been identified in reports by the Comptroller General and the Inspector General of the Department of Transportation.

(b) PLAN REQUIREMENTS.—The plan transmitted by the Administrator under subsection (a)(2) shall set forth the action the Administration will take under the plan—

(1) to develop specific, clear, and meaningful inspection checklists for the use of Administration aviation safety inspectors and analysts;

(2) to provide adequate training to Administration aviation safety inspectors in system safety concepts, risk analysis, and auditing;

(3) to ensure that aviation safety inspectors with the necessary qualifications and experience are physically located where they can satisfy the most important needs;

(4) to establish strong national leadership for the Air Transportation Oversight System and to ensure that the System is implemented consistently across Administration field offices; and

(5) to extend the Air Transportation Oversight System beyond the 10 largest air carriers, so it governs oversight of smaller air carriers as well.

SEC. 514. NATIONAL SMALL COMMUNITY AIR SERVICE DEVELOPMENT OMBUDSMAN.

(a) IN GENERAL.—Subchapter II of chapter 417, as amended by section 353 of this Act, is amended by adding at the end the following:

"§41746. National Small Community Air Service Development Ombudsman

"(a) ESTABLISHMENT.—There is established in the Department of Transportation the position of National Small Community Air Service Ombudsman (in this section referred to as the 'Ombudsman'). The Secretary of Transportation shall appoint the Ombudsman. The Ombudsman shall report to the Secretary.

"(b) PURPOSE.—The Ombudsman, in consultation with officials from small communities in the United States, State aviation agencies, and State and local economic development agencies, shall develop strategies for retaining and enhancing the air service provided to small communities in the United States.

"(c) OUTREACH.—The Ombudsman shall solicit and receive comments from small communities regarding strategies for retaining and enhancing air service, and shall act as a liaison between the communities and Federal agencies for the purpose of developing such strategies."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 47145 the following:

"47146. National small community air service development ombudsman.".

SEC. 515. NATIONAL COMMISSION ON SMALL COMMUNITY AIR SERVICE.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Small Community Air Service" (in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 9 members of whom—

(A) 3 members shall be appointed by the Secretary;

(B) 2 members shall be appointed by the Majority Leader of the Senate;

(C) 1 member shall be appointed by the Minority Leader of the Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives; and

(E) 1 member shall be appointed by the Minority Leader of the House of Representatives.

(2) QUALIFICATIONS.—Of the members appointed by the Secretary under paragraph (1)(A)—

(A) 1 member shall be a representative of a regional airline;

(B) 1 member shall be a representative of an FAA-designated small-hub airport; and

(C) 1 member shall be a representative of a State aviation agency.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(c) CHAIRPERSON.—The Secretary shall designate, from among the individuals appointed under subsection (b)(1), an individual to serve as Chairperson of the Commission.

(d) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) the challenges faced by small communities in the United States with respect to retaining and enhancing their scheduled commercial air service; and

(B) whether the existing Federal programs charged with helping small communities are adequate for them to retain and enhance their existing air service.

(2) ESSENTIAL AIR SERVICE COMMUNITIES.—In conducting the study, the Commission shall pay particular attention to the state of scheduled commercial air service in communities currently served by the Essential Air Service program.

(e) RECOMMENDATIONS.—Based on the results of the study under subsection (d), the Commission shall make such recommendations as it considers necessary to—

(1) improve the state of scheduled commercial air service at small communities in the United States, especially communities described in subsection (d)(2); and

(2) improve the ability of small communities to retain and enhance their existing air service.

(f) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (e).

(g) COMMISSION PANELS.—The Chairperson shall establish such panels consisting of members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(h) COMMISSION PERSONNEL MATTERS.—

(1) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(2) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(3) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Chairperson, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (f).

(k) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $250,000 to be used to fund the Commission.

SEC. 516. TRAINING CERTIFICATION FOR CABIN CREW.

Section 44935 is amended by adding at the end the following:

"(g) TRAINING STANDARDS FOR CABIN CREW.—

"(1) IN GENERAL.—The Administrator shall establish standards for cabin crew training, consistent with the Homeland Security Act of 2002, and the issuance of certification. The Administrator shall require cabin crew members to complete a cabin crew training courses approved by the Federal Aviation Administration and the Transportation Security Administration.

"(2) CERTIFICATION.—

"(A) IN GENERAL.—The Administrator shall provide for the issuance of an appropriate certificate to each individual who successfully completes such a course.

"(B) CONTENTS.—The cabin crew certificate shall—

"(i) be numbered and recorded by the Administrator of the Federal Aviation Administration;

"(ii) contain the name, address, and description of the individual to whom the certificate is issued; and

"(iii) contain the name of the current air carrier employer of the certificate holder;

"(iv) contain terms the Administrator determines are necessary to ensure safety in air commerce, including terms that the certificate shall remain valid unless the Administrator suspends or revokes the certificate; and

"(v) designate the type and model of aircraft on which the certificate holder cabin crew member has successfully completed all Federal Aviation Administration and Transportation Security Administration required training in order to be assigned duties on board such type and model of aircraft.

"(3) CABIN CREW DEFINED.—In this subsection, the term 'cabin crew' means individuals working in an aircraft cabin on board a transport category aircraft with 20 or more seats.".

SEC. 517. AIRCRAFT MANUFACTURER INSURANCE.

(a) IN GENERAL.—Section 44302(f) is amended by adding at the end the following:

"(3) AIRCRAFT MANUFACTURERS.—The Secretary may offer to provide war and terrorism insurance to aircraft manufacturers for loss or damage arising from the operation of an aircraft by an air carrier, in excess of $50,000,000 in the aggregate or in excess of such other amounts of available primary insurance, on such terms and conditions as the Secretary may prescribe.".

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF AIRCRAFT MANUFACTURER.—Section 44301 is amended by adding at the end the following:

"(3) 'aircraft manufacturer' means any company or other business entity the majority ownership and control of which is by United States citizens that manufactures aircraft or aircraft engines.".

(2) COVERAGE.—Section 44303(a) is amended by adding at the end the following:

"(6) war and terrorism losses or damages of an aircraft manufacturer arising from the operation of an aircraft by an air carrier.".

SEC. 518. GROUND-BASED PRECISION NAVIGATIONAL AIDS.

(a) IN GENERAL.—The Secretary of Transportation may establish a program for the installation, operation, and maintenance of ground-based precision navigational aids for terrain-challenged airports. The program shall include provision for—

(1) preventative and corrective maintenance for the life of each system of such aids; and

(2) requisite staffing and resources for the Federal Aviation Administration's efficient maintenance of the program.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out the program established under subsection (a) such sums as may be necessary.

SEC. 519. STANDBY POWER EFFICIENCY PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Transportation, in cooperation with the Secretary of Energy and, where applicable, the Secretary of Defense, may establish a program to improve the efficiency, cost-effectiveness, and environmental performance of standby power systems at Federal Aviation Administration sites, including the implementation of fuel cell technology.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for each of fiscal years 2004 through 2008 to carry out the provisions of this section.

SEC. 520. CERTAIN INTERIM AND FINAL RULES.

Notwithstanding section 141(d)(1) of the Aviation and Transportation Security Act (49 U.S.C. 44901 note), section 45301(b)(1)(B) of title 49, United States Code, as amended by section 119(d) of that Act, is deemed to apply to, and to have been in effect with respect to, the authority of the Administrator of the Federal Aviation Administration with respect to the Interim Final Rule and Final Rule issued by the Administrator on May 30, 2000, and August 13, 2001, respectively.

SEC. 521. AIR FARES FOR MEMBERS OF ARMED FORCES.

It is the sense of the Senate that each United States air carrier should—

(1) make every effort to allow active duty members of the Armed Forces to purchase tickets, on a space-available basis, for the lowest fares offered for the flights desired, without regard to advance purchase requirements and other restrictions; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, or penalties.

SEC. 522. MODIFICATION OF REQUIREMENTS REGARDING TRAINING TO OPERATE AIRCRAFT.

(a) IN GENERAL.—Section 44939 of title 49, United States Code, is amended to read as follows:

"§44939. Training to operate certain aircraft

"(a) IN GENERAL.—

"(1) WAITING PERIOD.—A person subject to regulation under this part may provide training in the United States in the operation of an aircraft to an individual who is an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Under Secretary of Homeland Security for Border and Transportation Security only if—

"(A) that person has notified the Under Secretary that the individual has requested such training and furnished the Under Secretary with that individual's identification in such form as the Under Secretary may require; and

"(B) the Under Secretary has not directed, within 30 days after being notified under subparagraph (A), that person not to provide the requested training because the Under Secretary has determined that the individual presents a risk to aviation security or national security.

"(2) NOTIFICATION-ONLY INDIVIDUALS.—

"(A) IN GENERAL.—The requirements of paragraph (1) shall not apply to an alien individual who holds a visa issued under title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and who—

"(i) has earned a Federal Aviation Administration type rating in an aircraft or has undergone type-specific training, or

"(ii) holds a current pilot's license or foreign equivalent commercial pilot's license that permits the person to fly an aircraft with a maximum certificated takeoff weight of more than 12,500 pounds as defined by the International Civil Aviation Organization in Annex 1 to the Convention on International Civil Aviation,

if the person providing the training has notified the Under Secretary that the individual has requested such training and furnished the Under Secretary with that individual's visa information.

"(B) EXCEPTION.—Subparagraph (A) does not apply to an alien individual whose airman's certificate has been suspended or revoked under procedures established by the Under Secretary.

"(3) EXPEDITED PROCESSING.—The waiting period under paragraph (1) shall be expedited for an individual who—

"(A) has previously undergone a background records check by the Foreign Terrorist Tracking Task Force;

"(B) is employed by a foreign air carrier certified under part 129 of title 49, Code of Federal Regulations, that has a TSA 1546 approved security program and who is undergoing recurrent flight training;

"(C) is a foreign military pilot endorsed by the United States Department of Defense for flight training; or

"(D) who has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii).

"(4) INVESTIGATION AUTHORITY.—In order to determine whether an individual requesting training described in paragraph (1) presents a risk to aviation security or national security the Under Secretary is authorized to use the employment investigation authority provided by section 44936(a)(1)(A) for individuals applying for a position in which the individual has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii).

"(5) FEE.—

"(A) IN GENERAL.—The Under Secretary may assess a fee for an investigation under this section, which may not exceed $100 per individual (exclusive of the cost of transmitting fingerprints collected at overseas facilities) during fiscal years 2003 and 2004. For fiscal year 2005 and thereafter, the Under Secretary may adjust the maximum amount of the fee to reflect the costs of such an investigation.

"(B) OFFSET.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this section—

"(i) shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Under Secretary for those expenses; and

"(ii) shall remain available until expended.

"(b) INTERRUPTION OF TRAINING.—If the Under Secretary, more than 30 days after receiving notification under subsection (a)(1)(A) from a person providing training described in subsection (a)(1) or at any time after receiving notice from such a person under subsection (a)(2)(A), determines that an individual receiving such training presents a risk to aviation or national security, the Under Secretary shall immediately notify the person providing the training of the determination and that person shall immediately terminate the training.

"(c) COVERED TRAINING.—For purposes of subsection (a), the term –'training'—

"(1) includes in-flight training, training in a simulator, and any other form or aspect of training; but

"(2) does not include classroom instruction (also known as ground school training), which may be provided during the 30-day period described in subsection (a)(1)(B).

"(d) INTERAGENCY COOPERATION.—The Attorney General, the Director of Central Intelligence, and the Administrator of the Federal Aviation Administration shall cooperate with the Under Secretary in implementing this section.

"(e) SECURITY AWARENESS TRAINING FOR EMPLOYEES.—The Under Secretary shall require flight schools to conduct a security awareness program for flight school employees, and for certified instructors who provide instruction for the flight school but who are not employees thereof, to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.".

(b) PROCEDURES.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security shall promulgate an interim final rule to implement section 44939 of title 49, United States Code, as amended by subsection (a).

(2) USE OF OVERSEAS FACILITIES.—In order to implement section 44939 of title 49, United States Code, as amended by subsection (a), United States Embassies and Consulates that possess appropriate fingerprint collection equipment and personnel certified to capture fingerprints shall provide fingerprint services to aliens covered by that section if the Under Secretary requires fingerprints in the administration of that section, and shall transmit the fingerprints to the Under Secretary or other agency designated by the Under Secretary. The Attorney General and the Secretary of State shall cooperate with the Under Secretary in carrying out this paragraph.

(3) USE OF UNITED STATES FACILITIES.—If the Under Secretary requires fingerprinting in the administration of section 44939 of title 49, United States Code, the Under Secretary may designate locations within the United States that will provide fingerprinting services to individuals covered by that section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the effective date of the interim final rule required by subsection (b)(1).

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the effectiveness of the activities carried out under section 44939 of title 49, United States Code, in reducing risks to aviation security and national security.

SEC. 523. EXEMPTION FOR JACKSON HOLE AIRPORT.

(a) IN GENERAL.—Notwithstanding chapter 475 of title 49, United States Code, or any other provision of law, if the Board of the Jackson Hole Airport in Wyoming and the Secretary of the Interior agree that Stage 3 aircraft technology represents a prudent and feasible technological advance which, if implemented at the Jackson Hole Airport, will result in a reduction in noise at Grand Teton National Park—

(1) the Jackson Hole Airport may impose restrictions on, or prohibit, the operation of Stage 2 aircraft weighing less than 75,000 pounds, with reasonable exemptions for public health and safety;

(2) the notice, study, and comment provisions of subchapter II of chapter 475 of title 49, United States Code, and part 161 of title 14, Code of Federal Regulations, shall not apply to the imposition of the restrictions;

(3) the imposition of the restrictions shall not affect the Airport's eligibility to receive a grant under title 49, United States Code; and

(4) the restrictions shall not be deemed to be unreasonable, discriminatory, a violation of the assurances required by section 47107(a) of title 49, United States Code, or an undue burden on interstate commerce.

(b) DEFINITIONS.—In this section, the terms "Stage 2 aircraft" and "Stage 3 aircraft" have the same meaning as those terms have in chapter 475 of title 49, United States Code.

SEC. 524. DISTANCE REQUIREMENT APPLICABLE TO ELIGIBILITY FOR ESSENTIAL AIR SERVICE SUBSIDIES.

(a) MEASUREMENT OF HIGHWAY MILEAGE FOR PURPOSES OF DETERMINING ELIGIBILITY FOR ESSENTIAL AIR SERVICE SUBSIDIES.—

(1) DETERMINATION OF ELIGIBILITY.—Subchapter II of Chapter 417 of title 49, United States Code, is amended by adding at the end the following new section:

"§41746. Distance requirement applicable to eligibility for essential air service subsidies

"(a) IN GENERAL.—The Secretary shall not provide assistance under this subchapter with respect to a place in the 48 contiguous States that—

"(1) is less than 70 highway miles from the nearest hub airport; or

"(2) requires a rate of subsidy per passenger in excess of $200, unless such place is greater than 210 highway miles from the nearest hub airport.

"(b) DETERMINATION OF MILEAGE.—For purposes of Lancaster, Pennsylvania, the highway mileage between a place and the nearest hub airport is the highway mileage of the most commonly used route between the place and the hub airport. In identifying such route, the Secretary shall—

"(1) promulgate by regulation a standard for calculating the mileage between Lancaster, Pennsylvania and a hub airport; and

"(2) identify the most commonly used route for a community by—

"(A) consulting with the Governor of a State or the Governor's designee; and

"(B) considering the certification of the Governor of a State or the Governor's designee as to the most commonly used route.".

(2) CONFORMING AMENDMENT.—The analysis for subchapter II of chapter 417 of title 49, United States Code, is amended by inserting after the item relating to section 41745 the following new item:

"41746. Distance requirement applicable to eligibility for essential air service subsidies.".

(b) REPEAL.—The following provisions of law are repealed:

(1) Section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note).

(2) Section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note).

(3) Section 334 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (section 101(g) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999) (Public Law 105–277; 112 Stat. 2681–471).

(c) SECRETARIAL REVIEW.—

(1) REQUEST FOR REVIEW.—Any community with respect to which the Secretary has, between September 30, 1993, and the date of the enactment of this Act, eliminated subsidies or terminated subsidy eligibility under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49

U.S.C. 41731 note), section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note), or any prior law of similar effect, may request the Secretary to review such action.

(2) ELIGIBILITY DETERMINATION.—Not later than 60 days after receiving a request under subsection (i), the Secretary shall—

(A) determine whether the community would have been subject to such elimination of subsidies or termination of eligibility under the distance requirement enacted by the amendment made by subsection (g) of this bill to subchapter II of chapter 417 of title 49, United States Code; and

(B) issue a final order with respect to the eligibility of such community for essential air service subsidies under subchapter II of chapter 417 of title 49, United States Code, as amended by this Act.

SEC. 525. REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES.

(a) IN GENERAL.—The Secretary of Transportation may make grants to reimburse the following general aviation entities for economic losses as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001:

(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act and general aviation entities operating at those airports.

(3) Any other general aviation entity that is prevented from doing business or operating by an action of the Federal Government prohibiting access to airspace by that entity.

(b) DOCUMENTATION.—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

(c) GENERAL AVIATION ENTITY DEFINED.—In this section, the term "general aviation entity" means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

(2) provides services necessary for nonmilitary operations under such part 91; or

(3) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—

(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such term includes fixed based operators, persons engaged in nonscheduled air taxi service or aircraft rental.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000. Such sums shall remain available until expended.

SEC. 526. RECOMMENDATIONS CONCERNING TRAVEL AGENTS.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on—

(1) the travel agent arbiter program; and

(2) the special box on tickets for agents to include their service fee charges.

(b) CONSULTATION.—In preparing this report, the Secretary shall consult with representatives from the airline and travel agent industry.

SEC. 527. PASS-THROUGH OF REFUNDED PASSENGER SECURITY FEES TO CODE-SHARE PARTNERS.

(a) IN GENERAL.—Within 30 days after the date of enactment of this Act, each United States flag air carrier that received a payment made under the second proviso of first appropriation in title IV of the Emergency Wartime Supplemental Appropriations Act, 2003 (Pub. L. 108–011; 117 Stat. 604) shall transfer to each air carrier with which it had a code-share arrangement during the period covered by the passenger security fees remitted under that proviso an amount equal to that portion of the remittance under the proviso that was attributable to passenger security fees paid or collected by that code-share air carrier and taken into account in determining the amount of the payment to the United States flag air carrier.

(b) DOT INSPECTOR GENERAL OVERSIGHT.—The Inspector General of the Department of Transportation shall review the compliance of United States flag air carriers with subsection (a), including determinations of amounts, determinations of eligibility of code-share air carriers, and transfers of funds to such air carriers under subsection (a).

(c) CERTIFICATION.—The chief executive officer of each United States flag air carrier to which subsection (a) applies shall certify to the Under Secretary of Homeland Security for Border and Transportation Security, under penalty of perjury, the air carrier's compliance with subsection (a).

SEC. 528. AIR CARRIER CITIZENSHIP.

Section 40102(a)(15)(C) of title 49, United States Code, is amended by inserting "which is under the actual control of citizens of the United States," before "and in which".

SEC. 529. UNITED STATES PRESENCE IN GLOBAL AIR CARGO INDUSTRY.

Section 41703 is amended by adding at the end the following new subsection:

"(e) CARGO IN ALASKA.—

"(1) IN GENERAL.—For the purposes of subsection (c), eligible cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by any combination of 2 or more air carriers or foreign air carriers in either direction between a place in the United States and a place outside the United States shall not be deemed to have broken its international journey in, be taken on in, or be destined for Alaska.

"(2) ELIGIBLE CARGO.—For purposes of paragraph (1), the term 'eligible cargo' means cargo transported between Alaska and any other place in the United States on a foreign air carrier (having been transported from, or thereafter being transported to, a place outside the United States on a different air carrier or foreign air carrier) that is carried—

"(A) under the code of a United States air carrier providing air transportation to Alaska;

"(B) on an air carrier way bill of an air carrier providing air transportation to Alaska;

"(C) under a term arrangement or block space agreement with an air carrier; or

"(D) under the code of a United States air carrier for purposes of transportation within the United States.".

TITLE VI—SECOND CENTURY OF FLIGHT

SEC. 601. FINDINGS.

The Congress finds the following:

(1) Since 1990, the United States has lost more than 600,000 aerospace jobs.

(2) Over the last year, approximately 100,000 airline workers and aerospace workers have lost their jobs as a result of the terrorist attacks in the United States on September 11, 2001, and the slowdown in the world economy.

(3) The United States has revolutionized the way people travel, developing new technologies and aircraft to move people more efficiently and more safely.

(4) Past Federal investment in aeronautics research and development have benefited the economy and national security of the United States and the quality of life of its citizens.

(5) The total impact of civil aviation on the United States economy exceeds $900,000,000,000 annually—9 percent of the gross national product—and 11 million jobs in the national workforce. Civil aviation products and services generate a significant surplus for United States trade accounts, and amount to significant numbers of America's highly skilled, technologically qualified work force.

(6) Aerospace technologies, products and services underpin the advanced capabilities of our men and women in uniform and those charged with homeland security.

(7) Future growth in civil aviation increasingly will be constrained by concerns related to aviation system safety and security, aviation system capabilities, aircraft noise, emissions, and fuel consumption.

(8) The United States is in danger of losing its aerospace leadership to international competitors aided by persistent government intervention. Many governments take their funding beyond basic technology development, choosing to fund product development and often bring the product to market, even if the products are not fully commercially viable. Moreover, international competitors have recognized the importance of noise, emission, fuel consumption, and constraints of the aviation system and have established aggressive agendas for addressing each of these concerns.

(9) Efforts by the European Union, through a variety of means, will challenge the United States' leadership position in aerospace. A recent report outlined the European Union's goal of becoming the world's leader in aviation and aeronautics by the end of 2020, utilizing better coordination among research programs, planning, and funding to accomplish this goal.

(10) Revitalization and coordination of the United States' efforts to maintain its leadership in aviation and aeronautics are critical and must begin now.

(11) A recent report by the Commission on the Future of the United States Aerospace Industry outlined the scope of the problems confronting the aerospace and aviation industries in the United States and found that—

(A) Aerospace will be at the core of America's leadership and strength throughout the 21st century;

(B) Aerospace will play an integral role in our economy, our security, and our mobility; and

(C) global leadership in aerospace is a national imperative.

(12) Despite the downturn in the global economy, Federal Aviation Administration projections indicate that upwards of 1 billion people will fly annually by 2013. Efforts must begin now to prepare for future growth in the number of airline passengers.

(13) The United States must increase its investment in research and development to revitalize the aviation and aerospace industries, to create jobs, and to provide educational assistance and training to prepare workers in those industries for the future.

(14) Current and projected levels of Federal investment in aeronautics research and development are not sufficient to address concerns related to the growth of aviation.

Subtitle A—The Office of Aerospace and Aviation Liaison

SEC. 621. OFFICE OF AEROSPACE AND AVIATION LIAISON.

(a) ESTABLISHMENT.—There is established within the Department of Transportation an Office of Aerospace and Aviation Liaison.

(b) FUNCTION.—The Office shall—

(1) coordinate aviation and aeronautics research programs to achieve the goal of more effective and directed programs that will result in applicable research;

(2) coordinate goals and priorities and coordinate research activities within the Federal Government with United States aviation and aeronautical firms;

(3) coordinate the development and utilization of new technologies to ensure that when available, they may be used to their fullest potential in aircraft and in the air traffic control system;

(4) facilitate the transfer of technology from research programs such as the National Aeronautics and Space Administration program established under section 681 and the Department of Defense Advanced Research Projects Agency program to Federal agencies with operational responsibilities and to the private sector;

(5) review activities relating to noise, emissions, fuel consumption, and safety conducted by Federal agencies, including the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Commerce, and the Department of Defense;

(6) review aircraft operating procedures intended to reduce noise and emissions, identify and coordinate research efforts on aircraft noise and emissions reduction, and ensure that aircraft noise and emissions reduction regulatory measures are coordinated; and

(7) work with the National Air Traffic Management System Development Office to coordinate research needs and applications for the next generation air traffic management system.

(c) PUBLIC-PRIVATE PARTICIPATION.—In carrying out its functions under this section, the Office shall consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, and the space industry), members of the public, and other interested parties.

(d) REPORTING REQUIREMENTS.—

(1) INITIAL STATUS REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of the establishment of the Office of Aerospace and Aviation Liaison, including the name of the program manager, the list of staff from each participating department or agency, names of the national team participants, and the schedule for future actions.

(2) PLAN.—The Office shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science a plan for implementing paragraphs (1) and (2) of subsection (b) and a proposed budget for implementing the plan.

(3) ANNUAL REPORT.—The Office shall submit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Science an annual report that—

(A) contains a unified budget that combines the budgets of each program coordinated by the Office; and

(B) describes the coordination activities of the Office during the preceding year.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,000,000 for fiscal years 2004 and 2005 to carry out this section, such sums to remain available until expended.

SEC. 622. NATIONAL AIR TRAFFIC MANAGEMENT SYSTEM DEVELOPMENT OFFICE.

(a) ESTABLISHMENT.—There is established within the Federal Aviation Administration a National Air Traffic Management System Development Office, the head of which shall report directly to the Administrator.

(b) DEVELOPMENT OF NEXT GENERATION AIR TRAFFIC MANAGEMENT SYSTEM.—

(1) IN GENERAL.—The Office shall develop a next generation air traffic management system plan for the United States that will—

(A) transform the national airspace system to meet air transportation mobility, efficiency, and capacity needs beyond those currently included in the Federal Aviation Administration's operational evolution plan;

(B) result in a national airspace system that can safely and efficiently accommodate the needs of all users;

(C) build upon current air traffic management and infrastructure initiatives;

(D) improve the security, safety, quality, and affordability of aviation services;

(E) utilize a system-of-systems, multi-agency approach to leverage investments in civil aviation, homeland security, and national security;

(F) develop a highly integrated, secure architecture to enable common situational awareness for all appropriate system users; and

(G) ensure seamless global operations for system users, to the maximum extent possible.

(2) MULTI-AGENCY AND STAKEHOLDER INVOLVEMENT.—In developing the system, the Office shall—

(A) include staff from the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Homeland Security, the Department of Defense, the Department of Commerce, and other Federal agencies and departments determined by the Secretary of Transportation to have an important interest in, or responsibility for, other aspects of the system; and

(B) consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, and the space industry), members of the public, and other interested parties.

(3) DEVELOPMENT CRITERIA AND REQUIREMENTS.—In developing the next generation air traffic management system plan under paragraph (1), the Office shall—

(A) develop system performance requirements;

(B) select an operational concept to meet system performance requirements for all system users;

(C) ensure integration of civil and military system requirements, balancing safety, security, and efficiency, in order to leverage Federal funding;

(D) utilize modeling, simulation, and analytical tools to quantify and validate system performance and benefits;

(E) develop a transition plan, including necessary regulatory aspects, that ensures operational achievability for system operators;

(F) develop transition requirements for ongoing modernization programs, if necessary;

(G) develop a schedule for aircraft equipment implementation and appropriate benefits and incentives to make that schedule achievable; and

(H) assess, as part of its function within the Office of Aeronautical and Aviation Liaison, the technical readiness of appropriate research technological advances for integration of such research and advances into the plan.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration $300,000,000 for the period beginning with fiscal year 2004 and ending with fiscal year 2010 to carry out this section.

SEC. 623. REPORT ON CERTAIN MARKET DEVELOPMENTS AND GOVERNMENT POLICIES.

Within 6 months after the date of enactment of this Act, the Department of Transportation's Office of Aerospace and Aviation liaison, in cooperation with appropriate Federal agencies, shall submit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Committee on Transportation and Infrastructure a report about market developments and government policies influencing the competitiveness of the United States jet transport aircraft industry that—

(1) describes the structural characteristics of the United States and the European Union jet transport industries, and the markets for these industries;

(2) examines the global market factors affecting the jet transport industries in the United States and the European Union, such as passenger and freight airline purchasing patterns, the rise of low-cost carriers and point-to-point service, the evolution of new market niches, and direct and indirect operating cost trends;

(3) reviews government regulations in the United States and the European Union that have altered the competitive landscape for jet transport aircraft, such as airline deregulation, certification and safety regulations, noise and emissions regulations, government research and development programs, advances in air traffic control and other infrastructure issues, corporate and air travel tax issues, and industry consolidation strategies;

(4) analyzes how changes in the global market and government regulations have affected the competitive position of the United States aerospace and aviation industry vis-à-vis the European Union aerospace and aviation industry; and

(5) describes any other significant developments that affect the market for jet transport aircraft.

SEC. 624. TRANSFER OF CERTAIN AIR TRAFFIC CONTROL FUNCTIONS PROHIBITED.

(a) IN GENERAL.—The Secretary of Transportation may not authorize the transfer to a private entity or to a public entity other than the United States Government of—

(1) the air traffic separation and control functions operated by the Federal Aviation Administration on the date of enactment of this Act; or

(2) the maintenance of certifiable systems and other functions related to certification of national airspace systems and services operated by the Federal Aviation Administration on the date of enactment of this Act or flight service station personnel.

(b) CONTRACT TOWER PROGRAM.—Subsection (a)(1) shall not apply to a Federal Aviation Administration air traffic control tower operated under the contract tower program as of the date of enactment of this Act.

Subtitle B—Technical Programs

SEC. 641. AEROSPACE AND AVIATION SAFETY WORKFORCE INITIATIVE.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration and the Administrator of the Federal Aviation Administration shall establish a joint program of competitive, merit-based grants for eligible applicants to increase the number of students studying toward and completing technical training programs, certificate programs, and associate's, bachelor's, master's, or doctorate degrees in fields related to aerospace and aviation safety.

(b) Increased Participation Goal.—In selecting projects under this paragraph, the Director shall consider means of increasing the number of students studying toward and completing technical training and apprenticeship programs, certificate programs, and associate's or bachelor's degrees in fields related to aerospace and aviation safety who are individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(c) Supportable Projects.—The types of projects the Administrators may consider under this paragraph include those that promote high quality—

(1) interdisciplinary teaching;

(2) undergraduate-conducted research;

(3) mentor relationships for students;

(4) graduate programs;

(5) bridge programs that enable students at community colleges to matriculate directly into baccalaureate aerospace and aviation safety related programs;

(6) internships, including mentoring programs, carried out in partnership with the aerospace and aviation industry;

(7) technical training and apprenticeship that prepares students for careers in aerospace manufacturing or operations; and

(8) innovative uses of digital technologies, particularly at institutions of higher education that serve high numbers or percentages of economically disadvantaged students.

(d) Grantee Requirements.—In developing grant requirements under this section, the Administrators shall consider means, developed in concert with applicants, of increasing the number of students studying toward and completing technical training and apprenticeship programs, certificate programs, and associate's or bachelor's degrees in fields related to aerospace and aviation safety.

(e) Definitions.—In this section:

(1) Eligible applicant defined.—The term "eligible applicant" means—

(A) an institution of higher education;

(B) a consortium of institutions of higher education; or

(C) a partnership between—

(i) an institution of higher education or a consortium of such institutions; and

(ii) a nonprofit organization, a State or local government, or a private company, with demonstrated experience and effectiveness in aerospace education.

(2) Institution of higher education.—The term "institution of higher education" has the meaning given that term by subsection (a) of section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), and includes an institution described in subsection (b) of that section.

(f) Authorization of Appropriations.—

(1) NASA.—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(2) FAA.—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(g) Report, Budget, and Plan.—Within 180 days after the date of enactment of this Act, the Administrators jointly shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report setting forth—

(1) recommendations as to whether the program authorized by this section should be extended for multiple years;

(2) a budget for such a multi-year program; and

(3) a plan for conducting such a program.

SEC. 642. SCHOLARSHIPS FOR SERVICE.

(a) In General.—The Administrator of the National Aeronautics and Space Administration and the Administrator of the Federal Aviation Administration shall develop a joint student loan program for fulltime students enrolled in an undergraduate or post-graduate program leading to an advanced degree in an aerospace-related or aviation safety-related field of endeavor.

(b) Internships.—The Administrators may provide temporary internships to such students.

(c) Authorization of Appropriations.—

(1) NASA.—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(2) FAA.—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(g) Report, Budget, and Plan.—Within 180 days after the date of enactment of this Act, the Administrators jointly shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report setting forth—

(1) recommendations as to whether the program authorized by this section should be extended for multiple years;

(2) a budget for such a multi-year program; and

(3) a plan for conducting such a program.

Subtitle C—FAA Research, Engineering, and Development

SEC. 661. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

The Administrator of the Federal Aviation Administration shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of rigid concrete airfield pavements to aid in the development of safer, more cost-effective, and more durable airfield pavements. The Administrator may use grants or cooperative agreements in carrying out this section. Nothing in this section requires the Administrator to prioritize an airfield pavement research program above safety, security, Flight 21, environment, or energy research programs.

SEC. 662. ENSURING APPROPRIATE STANDARDS FOR AIRFIELD PAVEMENTS.

(a) In General.—The Administrator of the Federal Aviation Administration shall review and determine whether the Federal Aviation Administration's standards used to determine the appropriate thickness for asphalt and concrete airfield pavements are in accordance with the Federal Aviation Administration's standard 20-year-life requirement using the most up-to-date available information on the life of airfield pavements. If the Administrator determines that such standards are not in accordance with that requirement, the Administrator shall make appropriate adjustments to the Federal Aviation Administration's standards for airfield pavements.

(b) Report.—Within 1 year after the date of enactment of this Act, the Administrator shall report the results of the review conducted under subsection (a) and the adjustments, if any, made on the basis of that review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 663. ASSESSMENT OF WAKE TURBULENCE RESEARCH AND DEVELOPMENT PROGRAM.

(a) Assessment.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Research Council for an assessment of the Federal Aviation Administration's proposed wake turbulence research and development program. The assessment shall include—

(1) an evaluation of the research and development goals and objectives of the program;

(2) a listing of any additional research and development objectives that should be included in the program;

(3) any modifications that will be necessary for the program to achieve the program's goals and objectives on schedule and within the proposed level of resources; and

(4) an evaluation of the roles, if any, that should be played by other Federal agencies, such as the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, in wake turbulence research and development, and how those efforts could be coordinated.

(b) Report.—A report containing the results of the assessment shall be provided to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration $500,000 for fiscal year 2004 to carry out this section.

SEC. 664. AIR QUALITY IN AIRCRAFT CABINS.

(a) In General.—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled "The Airliner Cabin Environment and the Health of Passengers and Crew".

(b) Required Activities.—In carrying out this section, the Administrator, at a minimum, shall—

(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

(2) collect pesticide exposure data to determine exposures of passengers and crew;

(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the contaminants to which passengers and crew were exposed;

(4) analyze and study cabin air pressure and altitude; and

(5) establish an air quality incident reporting system.

(c) Report.—Not later than 30 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.

SEC. 665. INTERNATIONAL ROLE OF THE FAA.

Section 40101(d) is amended by adding at the end the following:

"(8) Exercising leadership with the Administrator's foreign counterparts, in the International Civil Aviation Organization and its subsidiary organizations, and other international organizations and fora, and with the private sector to promote and achieve global improvements in the safety, efficiency, and environmental effect of air travel.".

SEC. 666. FAA REPORT ON OTHER NATIONS' SAFETY AND TECHNOLOGICAL ADVANCEMENTS.

The Administrator of the Federal Aviation Administration shall review aviation and aeronautical safety, and research funding and technological actions in other countries. The Administrator shall submit a report to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate, together with any recommendations as to how such activities might be utilized in the United States.

SEC. 667. DEVELOPMENT OF ANALYTICAL TOOLS AND CERTIFICATION METHODS.

The Federal Aviation Administration shall conduct research to promote the development of analytical tools to improve existing certification methods and to reduce the overall costs for the certification of new products.

SEC. 668. PILOT PROGRAM TO PROVIDE INCENTIVES FOR DEVELOPMENT OF NEW TECHNOLOGIES.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may conduct a limited pilot program to provide operating incentives to users of the airspace for the deployment of new technologies, including technologies to facilitate expedited flight routing and sequencing of take-offs and landings.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator $500,000 for fiscal year 2004.

SEC. 669. FAA CENTER FOR EXCELLENCE FOR APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall develop a Center for Excellence focused on applied research and training on the durability and maintainability of advanced materials in transport airframe structures, including the use of polymeric composites in large transport aircraft. The Center shall—

(1) promote and facilitate collaboration among academia, the Federal Aviation Administration's Transportation Division, and the commercial aircraft industry, including manufacturers, commercial air carriers, and suppliers; and

(2) establish goals set to advance technology, improve engineering practices, and facilitate continuing education in relevant areas of study.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator $500,000 for fiscal year 2004 to carry out this section.

SEC. 670. FAA CERTIFICATION OF DESIGN ORGANIZATIONS.

(a) GENERAL AUTHORITY TO ISSUE CERTIFICATES.—Section 44702(a) is amended by inserting "design organization certificates," after "airman certificates,".

(b) DESIGN ORGANIZATION CERTIFICATES.—

(1) IN GENERAL.—Section 44704 is amended—

(A) by striking the section heading and inserting the following:

"§44704. Design organization certificates, type certificates, production certificates, and airworthiness certificates" *;*

(B) by redesignating subsections (a) through (d) as subsections (b) through (e);

(C) by inserting before subsection (b) the following:

"(a) DESIGN ORGANIZATION CERTIFICATES.—

"(1) PLAN.—Within 3 years after the date of enactment of the Aviation Investment and Revitalization Vision Act, the Administrator of the Federal Aviation Administration shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure for the development and oversight of a system for certification of design organizations under paragraph (2) that ensures that the system meets the highest standards of safety.

"(2) IMPLEMENTATION OF PLAN.—Within 5 years after the date of enactment of the Aviation Investment and Revitalization Vision Act, the Administrator of the Federal Aviation Administration may commence the issuance of design organization certificates under paragraph (3) to authorize design organizations to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

"(3) ISSUANCE OF CERTIFICATES.—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization in accordance with the regulations prescribed by the Administrator to determine that the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under that section. The Administrator shall include in a design organization certificate terms required in the interest of safety.

"(4) NO EFFECT ON POWER OF REVOCATION.—Nothing in this subsection affects the authority of the Secretary of Transportation to revoke a certificate.";

(D) by striking subsection (b), as redesignated, and inserting the following:

"(b) TYPE CERTIFICATES.—

"(1) IN GENERAL.—The Administrator may issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under paragraph (2)(A) of this subsection—

"(A) when the Administrator finds that the aircraft, aircraft engine, or propeller, or appliance is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a) of this title; or

"(B) based on a certification of compliance made by a design organization certificated under subsection (a).

"(2) INVESTIGATION AND HEARING.—On receiving an application for a type certificate, the Administrator shall investigate the application and may conduct a hearing. The Administrator shall make, or require the applicant to make, tests the Administrator considers necessary in the interest of safety.".

(c) REINSPECTION AND REEXAMINATION.—Section 44709(a) is amended by inserting "design organization, production certificate holder," after "appliance,".

(d) PROHIBITIONS.—Section 44711(a)(7) is amended by striking "agency" and inserting "agency, design organization certificate, ".

(e) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 447 is amended by striking the item relating to section 44704 and inserting the following:

"44704. Design organization certificates, type certificates, production certificates, and airworthiness certificates.".

(2) CROSS REFERENCE.—Section 44715(a)(3) is amended by striking "44704(a)" and inserting "44704(b)".

SEC. 671. REPORT ON LONG TERM ENVIRONMENTAL IMPROVEMENTS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration, in consultation with the Administrator of the National Aeronautics and Space Administration and the head of the Department of Transportation's Office of Aerospace and Aviation Liaison, shall conduct a study of ways to reduce aircraft noise and emissions and to increase aircraft fuel efficiency. The study shall—

(1) explore new operational procedures for aircraft to achieve those goals;

(2) identify both near term and long term options to achieve those goals;

(3) identify infrastructure changes that would contribute to attainment of those goals;

(4) identify emerging technologies that might contribute to attainment of those goals;

(5) develop a research plan for application of such emerging technologies, including new combuster and engine design concepts and methodologies for designing high bypass ratio turbofan engines so as to minimize the effects on climate change per unit of production of thrust and flight speed; and

(6) develop an implementation plan for exploiting such emerging technologies to attain those goals.

(b) REPORT.—The Administrator shall transmit a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration $500,000 for fiscal year 2004 to carry out this section.

TITLE VII—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 701. EXTENSION OF EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 2003" and inserting "October 1, 2006", and

(2) by inserting before the semicolon at the end of subparagraph (A) the following: "or the Aviation Investment and Revitalization Vision Act".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(f) of the Internal Revenue Code of 1986 is amended by striking "October 1, 2003" and inserting "October 1, 2006".

LEGISLATIVE PROGRESS

Mr. FRIST. Mr. President, in a few moments we will be adjourning until Monday afternoon. But in looking back over the last 5 days, I do want to share with my colleagues my satisfaction with the progress we have made.

I have had the pleasure of opening the Senate most every day, and then closing it most every day or evening and at the end of the week, so it gives me an opportunity to look back. For just a few minutes I would like to comment on some of the things we accomplished this week.

We had very good debate—strong debate, effective debate—on the Energy bill over the past week and, in fact, over the past 2 weeks.

I do want to take this opportunity to thank, praise and commend the chairman of the Energy Committee, the distinguished Senator from New Mexico, Chairman DOMENICI, for his tremendous work in moving us forward on this critically important bill. We have made solid progress. We have had a number of votes this week.

As all of my colleagues know—because I have said it on this floor and in many other places almost daily—we will be turning to the Medicare prescription drug bill next week. We will stay on the bill until we complete that legislation. I think we can finish it actually in less than 2 weeks, although I have targeted a 2-week period, which gives more than adequate time for debate and amendment. I am even more confident that we will be able to pass that bill after spending about 12 hours yesterday in the Finance Committee meeting, where we looked at the bill, debated it, amended it, and passed it with a strong bipartisan majority in preparation for coming to the floor.

But I do want to make it very, very clear that we will be coming back to the Energy bill, and we will finish it.

Also, this week, we accomplished a lot, locking in an agreement which limits the number of amendments that can be considered on the Energy bill. That is real progress because now we have a finite number of amendments, and we can talk to the various Members and see what they have proposed and get those amendments organized in such a way that we can spend time on each of the amendments in a way that makes sense, that is systematic, and whereby we will be able to, I believe, lay out a glidepath to bring that bill to conclusion.

It is imperative for the United States of America that we have a comprehensive energy policy. It is America's future that is at stake, our economic future, so much so that, in fact, the Federal Reserve Chairman, Alan Greenspan, came to the Hill this past week to speak specifically on the need for action on energy policy.

The price of natural gas for July delivery is 150 percent higher than it was 3 years ago. Meanwhile, natural gas storage levels are at their lowest in almost 3 decades. Chairman Greenspan warns that the volatility in the price of natural gas could eventually contribute to "erosion" in the economy. We simply cannot afford that.

American industry, at the same time, is caught between regulations limiting the supply of natural gas and regulations encouraging its use. The result of that is we have rising gas prices, with some industries cutting jobs or being priced out altogether, and consumers getting hit with rising electric bills.

As we talked about a lot this week, and looked at the various amendments, we absolutely must diversify our sources of energy. We must do so in a way that lessens our overall dependence on foreign sources.

America's energy policy should be consistent with our foreign policy in the sense that both should be independent and secure—independent and secure.

By increasing America's domestic production of sources of energy—whether it is clean coal, oil and gas, nuclear, solar, or other renewable energy sources—we increase not only our energy supply but our national security.

In closing, I want to say one other thing about the comprehensive nature of a national energy policy. We will, by doing so, create needed jobs. The Energy bill, it is estimated, will create at least 500,000 jobs, and we know it will save even more. The Alaskan pipeline, for example, will create at least 400,000 jobs alone. The hundreds of millions of dollars that will be invested in research and development of new technologies will not only benefit the environment but will also create new jobs. These are the types of jobs that are increasingly important, I would argue, in this century—jobs of engineering, mathematics, chemistry, physics, and science.

Thus, I am committed, as majority leader, to get a comprehensive national energy bill passed as soon as we possibly can. We hear the Democrats warning, darkly, of a weak economy and increasing unemployment, while we, as Republicans, are talking about taking action and making our economy strong with such action.

So again, Mr. President, we will return to this bill. We will dispose of the remaining amendments, and we will deliver to the American people energy that is cleaner, more abundant, and more secure.

In addition to the Energy legislation which we spent most of the week on, we actually touched on a number of other very important legislative matters. The Senate last night passed the Federal Aviation Administration reauthorization bill. We were able to consider a number of amendments, and as the Democratic assistant leader said earlier today at the opening of the Senate this morning, it was remarkable to see how that bill was handled on the floor. It came together in a bipartisan way, in a way that really is a good model for us in handling this type of legislation when it comes to the floor.

I thank the chairman and ranking member and Members on both sides of the aisle for their cooperation in moving us forward and passing that very important bill.

We also passed this week the Burmese Freedom and Democracy Act. I am pleased the Senate was able to consider that bill to address the tragedy that is occurring, as we speak, in Burma and the issues of freedom and democracy for which we have fought so hard in other parts of the world. It shows we understand, that we are caring, we are compassionate, and we will take action when freedom and democracy are challenged.

I thank the majority whip, the distinguished Senator from Kentucky, Mr. MCCONNELL, for bringing that bill to our attention and bringing it to the floor.

We also passed the Women Business Centers Preservation Act which was sponsored by our colleague, Senator OLYMPIA SNOWE. In addition, we were able to clear a number of executive nominations. Just a few minutes ago I was looking at the nominations that are pending, and I will continue to work toward clearing these nominations on the Executive Calendar and scheduling rollcall votes as necessary.

(Mr. BENNETT assumed the Chair.)

A WEEKEND OF CELEBRATIONS

Mr. FRIST. Mr. President, there are two other issues I wish to quickly mention. It has to do with important holidays that occur this weekend. Sandwiched between Memorial weekend and the Fourth of July, Flag Day often gets overlooked. Believed to have been started in 1885 by a Wisconsin schoolteacher, the purpose of Flag Day, June 14, is to celebrate the birthday of the American flag. It gives us all the opportunity to reflect on the great Nation that the American flag symbolizes.

The American flag is recognized worldwide as a symbol of democracy and freedom. It is the flag which leads us in every American battle and many struggles of freedom in foreign lands. It flies over our Capitol Building. It is unfurled at public events, large and small. It even flies on the face of the Moon.

I encourage my fellow citizens to pause tomorrow evening at 7 p.m. and join in the annual recitation of the Pledge of Allegiance. The first pledge we make, after all, is to that Flag of the United States of America.

Also this weekend we celebrate Father's Day. All across the country families will be honoring their dads with special dinners, handmade gifts, and probably goofy ties for one or two dads across the country, and rightly so. Every day we learn more and more about how vital fathers are to the wellbeing of their families, and especially their children.

Children with involved loving fathers, as compared to children without fathers, are more likely to do well in school, to have a healthy self-esteem, to show empathy, to avoid drug use, to avoid truancy, and to avoid criminal activity.

The National Fatherhood Initiative, a nonprofit organization devoted to promoting responsible fatherhood, reports that today's fathers are present in their children's lives more than ever.

The phenomenon of father absence has stopped growing. Dads in two-parent families are spending more time with their children than fathers did a generation ago. What is more, these fathers seem to be more active and more nurturing. Indeed, that is progress.

Perhaps even more heartening is the large number of national surveys which find that young men identify fatherhood and family time as a major priority. Indeed, that is great news.

On Saturday, let us salute our flag and, on Sunday, America's dads. From a grateful Nation, happy Flag Day and happy Father's Day.

SEQUENTIAL REFERRAL OF NOMINATION

Mr. FRIST. Madam President, as in executive session, I ask unanimous consent that when the Governmental Affairs Committee reports the nomination of Michael Garcia, PN 451, to be Assistant Secretary of Homeland Security, the nomination then be sequentially referred to the Judiciary Committee for a period not to exceed 15 days of session; provided further, that if the nomination is not reported by that time, the nomination be automatically discharged and placed on the calendar.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

ORDERS FOR MONDAY, JUNE 16, 2003

Mr. FRIST. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 2 p.m., Monday, June 16. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of S. 1, the prescription drug benefits bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Madam President, for the information of all Senators, on Monday, the Senate will begin consideration of S. 1, the prescription drug benefits bill. Under a previous agreement, during Monday's session, the consideration of S. 1 will be limited to debate only. Therefore, there will be no votes during Monday's session. Members are welcome to come to the floor—in fact, I encourage them to do so—to make their opening statements on the prescription drug legislation during Monday's session. The next vote will occur during Tuesday's session of the Senate. Members will be notified when that vote is scheduled.

I reiterate to all Members that the next 2 weeks will be very busy as we consider this important legislation on Medicare and prescription drugs. Senators should expect rollcall votes and late nights, if necessary, in order to pass this measure prior to the Fourth of July recess.

ADJOURNMENT UNTIL 2 P.M., MONDAY, JUNE 16, 2003

Mr. FRIST. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:26 p.m., adjourned until Monday, June 16, 2003, at 2 p.m.

CONFIRMATION

Executive nomination confirmed by the Senate June 13, 2003:

DEPARTMENT OF JUSTICE

R. HEWITT PATE, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

EXTENSIONS OF REMARKS

TRIBUTE TO BETTE LUNN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to honor a lifelong educator from my district. Bette Lunn, of Pueblo, Colorado, has given the gift of music to students for 46 years. As Bette embarks on her retirement, I would like to recognize her career before this body of Congress and this nation.

Bette began teaching in Ohio in 1957 and moved with her husband to Pueblo in 1972. After spending 12 years as the vocal music teacher at Heaton Middle School, Bette transferred to East High School where she has taught for the last 19 years. Her ability to connect with children has inspired a number of students to become teachers and has also earned her a number of awards. Bette has been named an outstanding teacher in her district and is also a member of the Colorado Music Educators Hall of Fame.

Mr. Speaker, I am proud to stand before this body today to recognize Bette Lunn, a woman who has clearly demonstrated her commitment to our nation's youth. Even though she is retiring, Bette still plans to volunteer to work with young people in her community. She possesses the spirit of giving that helped make our country great. Thank you, Bette, for many years of service to the youth of Pueblo.

HONORING T. KEITH KING FOR A LIFETIME OF LEADERSHIP AND SERVICE

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. BONNER. Mr. Speaker, it is with great pride that I rise to honor a truly exemplary Alabamian, a man who grew up in the tiny town of Frisco City, Alabama, and today has become one of our most outstanding business and community leaders.

For more than 43 years, T. Keith King, P.E., of Mobile, Alabama, has dedicated his life to his community, his family and his profession. A graduate of Auburn University, he has continued to remain active and involved with his Alma Mater. Recently, Mr. King completed two years as chairman of the Auburn Alumni Engineering Council. He is a life member of the Auburn Alumni Association, having served on the Board of Directors and as chairman of the Finance Committee.

Mr. King has made many contributions to the field of engineering due in part to his position as President, CEO and Chairman of the Board of Volkert & Associates in Mobile, Alabama. Climbing from a design engineer position with the firm in 1960, today Keith King leads one of the finest engineering firms in the country. Under Mr. King's leadership, Volkert currently employs 650 engineers, architects, planners, surveyors, environmental scientists, technicians and administrative support personnel in 12 offices located throughout eight Southeastern states.

His commitment to excellence has earned him numerous awards by the engineering industry. He was recently inducted into the Alabama Engineering Hall of Fame. Some of his other professional honors include: The American Council of Engineering Companies (ACEC) College of Fellows 2003 Community Service Award, recognition as one of the Top Ten Engineers in Alabama by the Alabama Section of the American Society of Civil Engineers, induction into the Alabama Engineering Hall of Fame and receipt of the National Society of Professional Engineers Distinguished Service Award.

As a recent chairman of the Business Council of Alabama, Keith King has also done much to improve the quality of life for all Alabamians by working to bring growth, jobs and business opportunities to the state of Alabama. His commitment to Alabama and the First Congressional District in particular is nothing short of inspirational. Keith King is a member of the Leadership Alabama Class of XII and is a longtime member of the Mobile Area Chamber of Commerce. He has been actively involved with the Mobile Area Council of the Boy Scouts of America for many years and has held many high ranking positions within that organization. Mr. King also gives generously of his time to the Boys and Girls Clubs of South Alabama, the National Multiple Sclerosis Society and the Mobile Lions Club and is a member of the USS Battleship Alabama Memorial Park Restoration Committee, to name just a few of the many other areas where he gives freely of his time and talents.

By example, Keith King has shown that unselfish dedication and service to your community, your state and your nation can truly make a difference. Mr. Speaker, I salute Keith King as a model citizen and as a leader to many in the First Congressional District. I know his lovely wife Julia and their daughter, two sons and seven grandchildren along with all of his friends and neighbors are extremely proud of the many contributions being made by this outstanding man.

TRIBUTE TO DIONISIA AMAYA-BONILLA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Dionisia Amaya-Bonilla in recognition of her service to her local community and her native home of Honduras. Dionisia is proud of her heritage as a member of the Garinagu community, people who are descendants of West African slaves and Arawak Indians from St. Vincent who were deported to Honduras by the British in 1797.

Dionisia was born in La Ceiba, Honduras Central America on February 8, 1933. She came to the U.S. in May 1964, and became an American citizen in 1977. In 1979, Dionisia decided to go to college, earning a Bachelor of Arts Degree in Education with high honors from Medgar Evers College. Later, she earned a Masters/Advanced Certificate in Guidance and Counseling from Brooklyn College.

Dionisia's first connection with her community was through her church, St. Mathews Catholic Church where she has served for more than 22 years. When Hurricane Fifi struck Honduras in September 1974, many Garinagu, like Dionisia, got together to help their people back in Honduras. In 1990, after another tragedy occurred in the Garifuna community, Dionisia was there to help in anyway possible. This time it was the Happy Land Fire. Her organization, Mugama, which was started a year earlier, named a scholarship fund in honor of a promising young Garifuna who died in the fire.

Dionisia worked for the Board of Education for 16 years. She began as a paraprofessional, and would later go on to teach following the completion of her education. Ultimately, she became a school guidance counselor, a position she continued until her retirement in 1996.

Dionisia's biggest role in the community is being the coordinator of Mugama's education program. Her importance to the community is reflected by how the residents refer to her, with comments like: Mamma, Madre, and Abuelita. Recently, people have taken to call her the "glue" of the community.

Dionisia has received many honors in her life as a student, woman and community activist. During her college years, she was consistently on the Dean's List, and as a result, she was listed in the national Book of Excellent students. One of her greatest honors was meeting Isabel Arriola. Ms. Arriola is a Garifuna who survived Hurricane Mitch.

The ultimate honor for her is being able to serve her community by working with Mugama. She says that the Mugama Advocacy Center is a dream come true. Being there daily and helping to empower people provides Dionisia with all of the satisfaction she needs. Dionisia has been married to her husband Alejandro Bonilla for 14 years.

Mr. Speaker, Dionisia Amaya-Bonilla is committed to improving the lives of her community. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IN HONOR OF WILLIAM D. MASON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Cuyahoga County Prosecutor William D. Mason as he is being honored by the Cuyahoga County Democratic Party on May 18, 2003.

Mr. Mason graduated from Cleveland-Marshall College of Law in 1986. Shortly thereafter, he began working with the Cuyahoga County Prosecutor's Office as an assistant prosecutor. In 1993, Mr. Mason was elected to hold the office of Law Director and Chief Prosecutor for the City of Parma. During his six-year tenure as Law Director, Mr. Mason maintained and implemented high standards within all areas of Parma's legal department—from working with County agencies to prosecute criminals, to saving the City thousands of dollars in the reduction of legal fees.

Since January of 1999, Mr. Mason has held the elected position of Chief Prosecuting Attorney for Cuyahoga County—the twentieth largest county in the United States, and the largest county in Ohio. In this capacity, Mr. Mason and his staff are responsible for the indictment and prosecution of more than 25,000 criminal felony and juvenile delinquency cases every year. Additionally, Mr. Mason is the Chairman of the Internet Crimes Against Children Task Force. The Task Force is a team effort, comprised of local, state and federal authorities whose focus and goal is the apprehension and prosecution of Internet child molesters. In addition to his professional accomplishments, Mr. Mason continues his significant service to his community as coach, mentor and volunteer.

Mr. Speaker and Colleagues, please join me in honor of Mr. William D. Mason, Cuyahoga County Prosecutor, as we recognize his significant expertise, dedication and contribution—all focused on the safety and welfare of every citizen within our entire community.

WATCHMAN, WHAT OF NIGHT?

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. LANTOS. Mr. Speaker, last month leaders and citizens from throughout America gathered in the Capitol Rotunda to commemorate the Days of Remembrance. The ceremony had many powerful moments, but none more moving than the remarks of my good friend Dr. Elie Wiesel, the Founding Chair of the United States Holocaust Memorial Council and one of the world's foremost champions for human rights and civil liberties.

A native of Romania, Elie Wiesel was fifteen when he and his family were deported to Auschwitz. His mother and younger sister perished, but he survived with the conviction that the international community must never forget the lessons of the Holocaust. During the past fifty years, as both an author and a teacher, Dr. Wiesel has devoted his life to this end.

However, to classify Elie Wiesel's legacy as one of remembrance takes into account only a small portion of his impact on society. He has spoken out not only against anti-Jewish atrocities, but also on behalf of victims from every corner of the globe, from Argentina's Desaparecidos to refugees of Cambodia's Khmer Rouge regime. When Dr. Wiesel was awarded the Nobel Peace Prize in 1986, his speech clearly elucidated the link between the Holocaust and all other human rights abuses:

> Human suffering anywhere concerns men and women everywhere. . . . As long as one dissident is in prison, our freedom will not be true. As long as one child is hungry, our life will be filled with anguish and shame. What all these victims need above all is to know that they are not alone; that we are not forgetting them, that when their voices are stifled we shall lend them ours, that while their freedom depends on ours, the quality of our freedom depends on theirs.

Mr. Speaker, on April 30 we were once again privileged to learn from this extraordinary man. Dr. Wiesel used his remarks to remind us that horrific memories of the Holocaust do not constitute a social end in and of themselves; rather, they must be used to ameliorate suffering in today's world and in that of tomorrow. "If we want to remember," he said, "if we want you to remember all those emaciated faces, all those burning eyes, all those muted prayers, it is not only for our sake but also for your children's and theirs. . . . Is memory the only answer to the tragedy itself? But whatever the answer, memory is its most indispensable element."

Mr. Speaker, I am honored to enter the full text of Elie Wiesel's remarks into the CONGRESSIONAL RECORD.

DAYS OF REMEMBRANCE REMARKS

ELIE WIESEL, FOUNDING CHAIR UNITED STATES HOLOCAUST MEMORIAL COUNCIL, APRIL 30, 2003—THE CAPITOL ROTUNDA

From Isaiah, chapter 21: Shomer, ma milail? Watchman, what of the night? This ancient call of the prophet of chastisement and consolation reverberates in our memory today as we remember the men and women, young and old, rich and poor, learned and ignorant, secular and pious, dreamers of sacred blessings and seekers of hidden redemption, who were sentenced to suffer unparalleled agony and solitude in ghettos and death-camps not for what they have done or possessed or believed in but for what they were, sons and daughters of a people whose memory of persecution was the oldest in recorded history.

All the rivers run to the sea, days come and go, generations vanish, others are born, remembrance ceremonies follow one another—and hatred is still alive, and some of us, the remnant of the remnant, wonder with the poet Paul Celan: who will bear witness for the witness, who will remember what some of us tried to relate about a time of fear and darkness when so many, too many victims felt abandoned, forgotten, unworthy of compassion and solidarity? Who will answer questions whose answers the dead took with them? Who will feel qualified enough and strong enough, faithful enough to confront their fiery legacy?

What was and remains clear to some of us, here and elsewhere, is the knowledge that if we forget them, we too shall be forgotten.

But is remembrance enough? What does one do with the memory of agony and suffering? Memory has its own language, its own texture, its own secret melody, its own archeology and its own limitations: it too can be wounded, stolen and shamed; but it is up to us to rescue it and save it from becoming cheap, banal, and sterile.

Like suffering, like love, memory does not confer special privileges. It all depends on what one does with what we receive, for what purpose, in the name of what ideal. If we invoke our right, our obligation to remember a frightened child who, in a ghetto, was assassinated before the eyes of his mother, an old teacher beaten to death in the presence of his disciples, a nocturnal procession walking towards open pits already filled with corpses, a beautiful woman driven insane with grief before being knifed by the killer—if we want to remember, if we want you to remember all those emaciated faces, all those burning eyes, all those muted prayers, it is not only for our sake but also for your children's and theirs.

If it weren't for their memory, much of what has been undertaken and even accomplished would be without relevance—and worse: without meaning.

To remember means to lend an ethical dimension to all endeavors and aspirations. When you, my good friend Secretary Powell, search deep into your heart, you find that most of your diplomatic initiatives and military responses have been rooted in your faith in the mysterious power of History of which memory is made. Isn't that principle the one that keeps on governing all our lives? Wasn't 1938 the main factor in your recent decision-making regarding Iraq? In those years there were two great powers in Europe: France and Great Britain. Had they intervened instead of preaching appeasement, there would have been no world war, no Auschwitz.

Watchman, what of the night?

Is memory the only answer to the Tragedy itself? But whatever the answer, memory is its most indispensable element.

An ancient Talmudic legend tells us that when the soul leaves the body to return to heaven, it cries out in great pain: and the outcry is so powerful that it reverberates throughout creation. What about the outcry of six million souls?

Well, among the victims who were killed there was a 12-year-old girl, Yunite Vishniatzky, from a small village named Byten near Slutsk. This is her last letter, dated July 31, 1942: . . . "Dear Father, I say good-bye to you before dying . . . We want very much to live . . . But they won't let us—that's how it goes . . . I am so afraid of dying: small children are thrown into the grave alive . . . I say good-bye to you forever . . . And give you a big kiss . . . Your Yunite . . ."

Watchman, what of the night? Watchman, what of the night? And the watchman says: the morning comes, and also the night . . .

So—we remember all the children whose lives bothered the enemy so much he felt the irresistible urge to wipe them out. We remember Yunite Vishniatzky . . .

When her soul left her frail body, was her cry heard by anyone, anywhere?

ON THE RECOGNITION OF THE CITY OF DEERFIELD BEACH BEING NAMED A 2003 ALL-AMERICA CITY AWARD FINALIST

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. SHAW. Mr. Speaker, I rise today to recognize the city of Deerfield Beach, Florida for their selection as 2003 All-America City Award Finalist. It is my pleasure to congratulate the mayor, the city commission, and the citizens of Deerfield Beach as they are recognized by our nation with consideration for the oldest and most respected community recognition award in the nation. I applaud the residents of Deerfield Beach for their strong civic pride and their dedication to their community.

Mr. Speaker, located in Florida's 22nd Congressional District, the city of Deerfield Beach has previously been recognized as America's First Project Impact Community and as a four-time National Blue Wave award-winner, as well as an All-America City finalist in 2001. Deerfield Beach is not only home to many quality corporations and non-profit organizations, but the city also thrives on the strong partnerships between non-profit organizations, the government and the private sector for the betterment of the community. The philosophy of these relationships is seen through the three projects that helped Deerfield Beach receive the title of an All-America City finalist. The NE Focal Point/CASA (Children, Alzheimer's Senior and Adult Services), Inc., is a not-for-profit organization that provides members of the Deerfield community with many philanthropic services for the community. Second, the Gateway Community Outreach (GCO), Inc., operates as a food distribution facility for those in need. Gateway provides homeless prevention guidance and financial assistance to its clients. Lastly, the Youth Automotive Training Center (YATC) is a non-profit organization that educates disadvantaged youth in not only automotive repair but in academic and future life management skills through an intensive, nine-month classroom and an automotive hands-on training program.

Mr. Speaker, I would like to again congratulate those citizens of Deerfield, Florida and the delegation of 70 friends, residents and officials of Deerfield Beach who have worked incredibly hard over the past year to receive the title of All-America City finalist. I go on to wish the city of Deerfield Beach good luck as they challenge the other 30 finalists for this award, in hopes to receive the ultimate recognition as the All-America City.

FALCON NEST 725 CELEBRATES 87TH ANNIVERSARY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. KLECZKA. Mr. Speaker, on Saturday, June 28, 2003, the Polish Falcons of America Nest 725 of Milwaukee will celebrate its 87th anniversary as well as its role in hosting the 2003 PFA District II Meet and Convention.

The Polish Falcons of America came together in 1887 as an outgrowth of a similar organization in Poland. A fraternal benefit society and physical fitness organization, the group has pursued the goal of a "sound mind in a sound body" for all of its members. This saying in Polish, "Wzdrowym ciele zdrowy duch," is the organization's maxim.

After the founding of the first Nest in Chicago, Illinois, the PFA quickly expanded, and by 1894 the organization included twelve Nests. Because of the growing popularity of these local Nests, leaders established the Alliance of Polish Turners of the United States of America.

In 1916 a group of Polish-Americans in Milwaukee organized Nest 725. Young men and women in the organization participated in district rallies, forming drilling teams and a group choir and band.

More recently, Nest 725 has participated in District and National Gymnastic Meets and Dance competitions, winning national awards in 1984, 1986, 1988, 1992, and 1994. It continues to hold physical fitness and Polish dance classes. Leaders showcase members' abilities in meets and performances at nursing homes and schools.

As an exemplary community association, Nest 725 has given generously over the years to many charitable and patriotic causes including the American Red Cross, Diabetes Foundation, March of Dimes, and Polish Army Veterans. The group has also sent donations overseas to those in need in Poland.

Through their contributions to the Polish community, Polish Falcons of America Nest 725 has positively impacted youth throughout the Milwaukee area. It is with great pleasure that I congratulate Nest 725 on its long and prosperous 87-year history and wish the group the best of luck in the years to come.

SUPPORTING GOALS AND IDEALS OF NATIONAL SEXUAL ASSAULT AWARENESS AND PREVENTION MONTH

SPEECH OF

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of S.J. Res. 8 to raise awareness and encourage prevention of sexual assault in the United States. I commend the leadership for calling up this resolution.

When I worked at the White House to help pass the Violence Against Women Act, I became aware that sexual assault is a national trauma that affects hundreds of thousands of people each year. According to the National Criminal Victimization Study, 248,000 people over the age of 12 reported being raped in 2001. While no one is immune from sexual assault, some are more vulnerable than others. Sadly, children are at the greatest risk. According to the U.S. Bureau of Justice Statistics, 67 percent of all reporting victims of sexual assault were younger than 18; 34 percent of all victims were under age 12, and one of every seven victims of sexual assault were under age 6.

Most sexual assaults fit a similar profile where a child is assaulted by a family member, another trusted adult, or by a juvenile. The American Academy of Child and Adolescent Psychiatry reports that although sexual abuse of children is reported up to 80,000 times a year, that number may be a low estimate of the actual number of such cases. Regrettably, too many cases go unreported because of children's fear of their abusers and a law enforcement and legal system that does not accommodate their special needs.

Sexual assault can cripple a child's psyche and deprive him or her of hope. According to the American Academy of Child and Adolescent Psychiatry, "A child who is the victim of prolonged sexual abuse usually develops low self-esteem, a feeling of worthlessness and an abnormal or distorted view of sex. The child may become withdrawn and mistrustful of adults, and can become suicidal." While no single solution will eliminate sexual assault, education and awareness can go a long way toward its prevention. Young adults must be given the assistance necessary to stop unwanted sexual advances and to minimize such risk.

Mr. Speaker, I urge my colleagues to join me in heightening awareness and encouraging prevention of this urgent problem by voting for this important resolution.

HONORING TONY SANTY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to a beloved football coach and Grand Junction, Colorado native. Tony Santy has touched many lives in the past 25 years as a teacher, football coach, and mentor. Today, I would like to recognize his accomplishments before this body of Congress and this nation.

Tony grew up in Grand Junction where his family has lived since the 1890s. Tony played football in his younger years and went on to play at Mesa State College. He later attended the University of Colorado and proceeded to earn his teaching certificate from Western State College. Although Tony's father had originally encouraged him to become a lawyer, his high school coach, George Ryan, inspired Tony to pursue his interest in coaching.

As recognition for his efforts, Tony was selected as one of the 2002 AFLAC National Assistant Coaches of the Year. However, he deflects the attention from this award by explaining that the most gratifying part of his job is the interaction with his student-athletes. He has been particularly pleased to see some of his former athletes follow his example and dedicate their lives to coaching.

Mr. Speaker, I am proud to stand before this body of Congress today to recognize the positive influence that Tony has had upon the students and student-athletes of Grand Junction. I commend Tony for the fundamental role that he has played in imparting strong values to our future generations. Congratulations, Tony, and good luck with all your future endeavors.

CONGRATULATIONS TO AMANDA TURBERVILLE, MOBILE AREA OUTSTANDING EDUCATOR OF THE YEAR

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor and congratulate Mrs. Amanda Turberville for having recently received the Mobile Area Education Foundation's 2003 Outstanding Educator Award. She truly deserves our warmest and most sincere congratulations. Her dedication and hard work have rightly earned her this prestigious award.

While among the younger faculty members of Phillips Preparatory Magnet School, Amanda Turberville has brought her excitement and love for science to all of her seventh grade classes. Her cheerful spirit and love for children make her a joy to be around, both in and out of the classroom. Mrs. Turberville works hard to keep her classroom an exciting and creative workplace for her students. Her students do not just learn science, they learn to love science.

Amanda Turberville graduated from Mississippi State University in 1997 and has been teaching middle school science at Phillips Preparatory Magnet School for 7 years. She has been energizing to her students since day one and she still brings the enthusiastic spark with which she began teaching to the classroom. Her desire to not just teach but to help her students want to learn has made her well-deserving of this distinguished award.

Amanda Turberville has given an unequaled level of hard work and service to her school and to her students. Her level of creativity and her desire to make learning fun, have allowed her to touch so many of her students' lives. My personal heroes are not the big celebrities but rather the people you do not hear much about. My heroes are the people like Amanda Turberville who dedicate their entire lives to helping people and making a difference in the lives of others as well as in our community. Once again, I congratulate Amanda Turberville for her service, leadership and dedication to her students and the future of our great country.

TRIBUTE TO ALFRED STEIGER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Alfred Steiger in recognition of his dedication to improving the lives of foster care children.

Al was born on Marion Street in the Bushwick section of Brooklyn, New York. He and his wife Victoria have been married for 29 years and are the proud parents of five children, Victoria, Mary Beth, Al Jr., Virginia and Jeffery, and the grandparents of three children, Justine, Joseph, and John. Al and his wife reside in Oceanside and are members of the First Presbyterian Church in Oceanside.

Al joined the New York City Sanitation Department in 1981 and was promoted to Supervisor in 1989 and was assigned to Brooklyn Community Board 8 (BK8) as a field officer on the midnight shift. He conducted field operations in the Crown Heights and Bedford Stuyvesant Community Board (BK3) areas of Brooklyn. He was promoted to District Superintendent of Brooklyn North 5, which is East New York's Community Board 5. As District Superintendent, his responsibilities include keeping East New York cleaned by garbage collection and the removal of snow during winter. In September 2001, Al became President of the Steuben Association of the New York City Sanitation Department. He also serves as union delegate for Local 444 Sanitation Officers.

In early 1990, Al and his wife felt the need to give back something to the community for all of the blessings they have received. So after filing the necessary documents, they were accepted as foster parents in Nassau County for the Department of Social Services. Since becoming foster parents, they have fostered over 35 children in their care. They were blessed again when they had the opportunity to adopt their son Jeffrey who came to them when he was only 4 days old.

In 1995, Al and Mary saw a need for foster parents to come together to better serve the children for which they were caring. After several meetings, the Nassau County Foster Parent Association was formed and Al was voted in as President. The NCFPA is a not-for-profit organization that has raised thousands of dollars for various functions for foster children. The funds are used to take children on picnics, swimming trips and various other outings. Scholarship and burial funds are also available. As President of the organization, Al goes to Albany once a year to lobby for children's rights and also to attend a conference held by the New York State Citizens Coalition for Children. He feels it is an honor to volunteer in the community where he resides and for the Department for which he works.

Mr. Speaker, Alfred Steiger is committed to improving the lives of children, especially those in need. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

IN HONOR AND REMEMBRANCE OF MAYOR WALTER F. EHRNFELT, JR.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Mayor Walter F. Ehrnfelt, Jr.—devoted family man, accomplished community leader, and admired friend and mentor. Mayor Ehrnfelt's vision, integrity and love for his community led the City of Strongsville through an amazing journey that lasted more than 2 decades—from a quiet farming village to a thriving, family-oriented suburb—all without compromising the City's rustic charm.

Mayor Ehrnfelt was born and raised in Strongsville and reflected a life-long commitment to his community his entire life. From his childhood on, Mayor Ehrnfelt was instilled with a clear focus on family, faith and community. His deep work ethic and high level of integrity was reinforced daily while he worked as a butcher at the family-owned meat stand at Cleveland's West Side Market. Mayor Ehrnfelt was content to work in the family business and did not seek elected office—it sought him.

In 1973, Mayor Ehrnfelt's neighbors and friends urged him to run for the office of City Council. He ran reluctantly, and won. Just 5 years later, Mayor Ehrnfelt was appointed Mayor. In 1979 he won his first mayoral race by a landslide, and served as Mayor ever since. He quickly became the most popular and beloved Mayor in the history of Strongsville, and successfully served as Mayor for 25 years.

Mayor Ehrnfelt's unwavering integrity, kindness and humble nature reflected his character and defined his tenure as Mayor. Yet his gentle and humble nature belied his deep intellect, vision and keen business savvy. His work is clearly evidenced within the significant growth and carefully planned development of his beloved City. From the smallest to the most significant civic endeavor, Mayor Ehrnfelt offered the same respect and consideration to everyone involved—regardless of their status or political affiliation.

Titles and accolades did not hold significance for him—care for his family and service to community did. Mayor Ehrnfelt was a true leader in every sense—a genuine individual whose modesty and strong sense of self cast a rare and steady beacon of light across the dark game of politics. He consistently disregarded political pressures and kept focused on his community—working tirelessly on behalf of Strongsville. Mayor Ehrnfelt expected others to do their best—and he brought out the best in everyone.

Mr. Speaker and Colleagues, please join me in honor, gratitude and remembrance of Mayor Walter F. Ehrnfelt—an exceptional man and caring leader whose life profoundly impacted the lives of thousands. His passing marks a deep loss for countless who called him friend—including me. Mayor Ehrnfelt's brilliant and flawless legacy of community progress tempered with preservation will be remembered always by the people of Strongsville—and far beyond. Moreover, it was the power of his kindness, grace, tenacity and heart that uplifted every level of the Strongsville community.

I extend my deepest condolences to Mayor Ehrnfelt's beloved wife, Anne; his beloved children, Walter F. III, Susan, Robert and Judy; his beloved grandchildren and his beloved great-grandchild. Mayor Ehrnfelt's life will serve as an ageless example of leadership, service to others and heart—and his legacy will forever resound throughout the City of Strongsville and throughout our entire community.

FOR YOUR FREEDOM AND OURS: FRED S. ZEIDMAN'S ELOQUENT REMARKS COMMEMORATING THE DAYS OF REMEMBRANCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. LANTOS. Mr. Speaker, last month leaders and citizens from throughout America gathered in the Capitol Rotunda to commemorate the Days of Remembrance. This annual ceremony assumed special significance this year, as it took place during the 60th anniversary of the Warsaw Ghetto Uprising, an event that epitomizes the true meaning of bravery and honor.

Why must we remember this tragedy? Fred S. Zeidman, the Chairman of the United States Holocaust Memorial Council, reminded us in his remarks. The Holocaust Museum, he explained, must serve "as a warning to all people, whatever their backgrounds, about the consequences of hatred and indifference, and the failure to act."

Mr. Speaker, given the challenges our country faces today, Mr. Zeidman's words echo with uncommon strength. America faces a war against international terrorism, a fight against forces that allow bigotry to drive rivers of violence. The Holocaust taught us that such evils do not go away if they are ignored. They must be battled by a global community conscious of its responsibilities and mindful of its past.

"For your freedom and ours." Mr. Zeidman used this refrain to characterize the Holocaust's legacy. It was the theme of Jewish fighters in the Warsaw Ghetto. It remains true today.

Fred Zeidman is the Chairman of Seitel, Inc., a member of the New York Stock Exchange that is a leading provider of seismic data and related geophysical expertise to the petroleum industry. He is also a prominent activist in the Jewish community; in addition to his service as Chairman of the U.S. Holocaust Memorial Council, he holds leadership positions in the Anti-Defamation League (Southwest Region), the Jewish Institute for National Security Affairs (JINSA), Jewish Federation of Greater Houston, and the American Jewish Committee

Mr. Speaker, I would like to enter the remarks of Fred S. Zeidman into the CONGRESSIONAL RECORD.

DAYS OF REMEMBRANCE REMARKS

FRED S. ZEIDMAN, CHAIRMAN UNITED STATES HOLOCAUST MEMORIAL COUNCIL, APRIL 30, 2003—THE CAPITOL ROTUNDA

Survivors of the Holocaust; The Museum's founding chairman Elie Wiesel, our moral compass and humanity's moral compass; Secretary Powell; Senate Majority Leader Frist, House Majority Leader DeLay, House Democratic Leader Pelosi, Senator Voinovich, Senator Corzine, and other members of Congress; Ambassador Ayalon; -My distinguished predecessor Miles Lerman and my co-chair Ruth Mandel; Friends of the Museum.

Secretary Powell, you have devoted your entire life to liberating oppressed people and fighting for freedom. We are particularly gratified, Mr. Secretary, that you are able to join us today.

For your freedom and ours—there could hardly be a more appropriate time, or a more appropriate place in which to consider these words.

Consider the figures in these murals that surround us, the statues on their pedestals. I think the leaders they represent would be hard-pressed to find a phrase that better captures what drove them to create a "new nation, conceived in liberty, and dedicated to the proposition that all men are created equal."

For your freedom and ours—the theme of the manifesto smuggled out of the Warsaw ghetto and posted across the city, written by its Jewish freedom fighters in what they surely knew would become, in effect, their last testament. For your freedom and ours—it is a call to service that resonates all the more in light of recent events. What better words to characterize our national sense of urgency as we confront international terrorism today. It is an urgency echoed in our vigorous international leadership, represented here by Secretary Powell, and the courage of our armed forces, represented by the flags of the liberating units and the young men and women who carry them.

So, mindful of the dedication others have demonstrated on our behalf—whether 60 years ago or today—we are here to remember all the victims of the Holocaust as individuals with full and vibrant lives.

For your freedom and ours—I truly believe the resonance of this battle cry lies behind the American public's commitment to the United States Holocaust Memorial Museum.

The last ten years have demonstrated that Americans understand our living memorial as a warning to all people, whatever their backgrounds, about the consequences of hatred and indifference, and the failure to act. That understanding is based on our Holocaust survivors' most precious legacy—their memories. We cannot see all that passed before their eyes. We cannot endure the terror they suffered. We cannot grasp the human capacity for evil in the way that they can. But through them, it is possible that future generations may be spared a similar fate. But only, that is, if we learn from, and take up, their stories, the lessons of their history. That is the purpose and the hope of the Museum.

We may not all be called to the heroism of Vladka Meed, but in one way or another we are called to demonstrate moral courage. And each of us, as individuals, does have the power and responsibility to make a difference, to act.

As we confront the terrorism, hatred, and virulent antisemitism that pollute today's world, we must draw strength from the survivors' strength, courage from their courage.

For your freedom and ours—their history calls out to us. It is our obligation to ensure that the world listens, both now and for generations to come.

ON THE RECOGNITION OF THE CITY OF POMPANO BEACH BEING NAMED A 2003 ALL-AMERICA CITY AWARD FINALIST

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. SHAW. Mr. Speaker, I rise today to recognize the city of Pompano Beach, Florida for their selection as a 2003 All-America City Award Finalist. It is my pleasure to congratulate the mayor, the city commission, and the residents of this city as they are recognized by our nation with consideration for the oldest and most respected community recognition award in the United States. I also applaud the residents of Pompano Beach for their strong civic pride and their dedication to their community.

Mr. Speaker, located in Florida's 22nd Congressional District, the city of Pompano Beach has been selected as one of the 30 Finalists for this year's All-America City Award. This award is the nation's most prestigious civic recognition presented to the city who best exemplifies the award's mission to reward ideal communities where citizens, government, business and nonprofit organizations together exhibit superior civic ideals. The city of Pompano Beach proudly exhibits the All-America City criteria, along with an increased level of community pride and spirit amongst the city residents. In the final round of this competition, Pompano Beach will present their innovative ideas for addressing a wide array of social and community issues to a 10–member panel, during their current stay in Washington, D.C.

Mr. Speaker, I would like to again congratulate the citizens of Pompano Beach, Florida and the distinctive members of their community who have worked incredibly hard over the past year to instill such strong civic pride in the residents of Pompano Beach which has to lead the city to its title of an All-America City finalist. I go on to wish the city of Pompano Beach, Florida good luck as they challenge the other 30 finalists for this award, in hopes to receive the ultimate recognition as the All-America City.

MEDICARE SHOULD OFFER COMMUNITY HEALTH CARE CHOICES FOR SENIOR CITIZENS JUNE 12, 2003

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. KLECZKA. Mr. Speaker, today I am reintroducing the Medicare Substitute Adult Day Care Services Act. This important bill would provide new rehabilitative care choices for Medicare beneficiaries while simultaneously assisting family caregivers with the difficulties in caring for a homebound family member.

Specifically, this bill would update the Medicare home health benefit by allowing beneficiaries the option of substituting some, or all, of their Medicare home health services for care in an adult day care center (ADC).

The ADC would be paid the same rate that would have been paid for the service had it been delivered in the patient's home. In addition, the ADC would be required, with that one payment, to provide a full day of care to the patient at no additional cost to the Medicare program. That care would include the home health benefit as well as transportation, meals, medication management, and a program of supervised activities.

The ADC is able to provide these extra services at the same payment rate as home health care because there are inherent cost savings in the adult day care setting. In the home care arena, a skilled nurse, a physical therapist, or other home health provider must travel from home to home providing services to one patient per site. There are significant transportation and time costs associated with this method of care. In an adult day facility, the patients are brought to the providers, who see a larger number of patients in a shorter period of time.

I would like to point out that the bill would not expand the Medicare home health benefit. It does not make any new people eligible for the home health benefit nor would it expand the definition of what qualifies for reimbursement by Medicare for home health services. To be eligible for this new option, a patient would still need to qualify for Medicare home health benefits just like they do today. They would need to be homebound and have certification from a doctor for skilled therapy in the home.

The Medicare Substitute Adult Day Care Services Act simply recognizes that adult day care facilities can provide the same health services with the added benefits of social interaction, activities and meals. They also offer a therapeutic environment, in which a group of trained professionals can treat, monitor and support Medicare beneficiaries who would otherwise be monitored at home by a single caregiver.

Not only does ADC aid in the rehabilitation of the patient, it provides a tremendous benefit to the family caregiver. Many frail beneficiaries cannot be left alone; therefore, caregivers are unable to have a respite or maintain employment. If senior citizens could utilize ADC services, they would receive supervised care for an entire day and the caregiver would have the opportunity to work outside the home and/or leave the house for longer periods of time. Adult day care centers offer high-quality, safe, and often preferable alternatives to senior citizens who face complete confinement in the home. I urge my colleagues to cosponsor and support this important legislation.

CESAR CHAVEZ POST OFFICE

SPEECH OF

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H.R. 925 to designate Chicago's 1859 South Ashland Avenue postal facility as the Cesar Chavez Post Office.

Born on the cusp of the Depression, he knew that hard work in hard times brought only hard luck for farm workers. As a 15-year-old, Chavez left school when his father was disabled in a car accident, and he took up work that would inform his legacy. He worked twelve hours a day hoeing beets and lettuce to help sustain his family. As a child he learned that farm workers' pay depended on the farm owner's good will or whim. As fields of fruit ripened before him, he saw that the agricultural economy depended on growers' abilities to hire enough short-term workers to harvest the crop. He also saw how immigration policies like the bracero program ensured a steady supply of labor willing to accept depressed wages.

But the work that nearly broke his back only strengthened his spirit, and Cesar Chavez went on to be one of this nation's greatest advocates for farm workers.

With first-hand knowledge of the field's wretched conditions, of farm workers' vulnerabilities and of the workers' essential role in maintaining agricultural production, he gave voice to hundreds of thousands of migrant workers who were too afraid to speak out alone. He mobilized the isolated and vulnerable into a unified power, and in the process strengthened the burgeoning civil rights movement. The union he founded, United Farm Workers, adhered to Gandhi's principles of nonviolence, and slowly improved the lives of farm workers and their families by insisting that work conditions are safe and humane.

Cesar Chavez is an American hero. He believed in the dignity of work, and fought for the humane treatment of each worker. His life's work and guiding values make our society a better place. I am privileged to stand in support commemorating his life and work with the designation of the U.S. Postal Service facility at 1859 South Ashland Avenue in Chicago as the Cesar Chavez Post Office.

HONORING ESCO BILLINGS JR.

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress today to pay tribute to a hardworking American. Esco Billings Jr., of Pueblo, Colorado, selflessly served this great nation throughout his long and dedicated life. It is with great pride that I take this opportunity to highlight the many contributions Esco made to his community throughout his life.

Esco answered the honorable call to military service twice in his lifetime, serving with the U.S. Navy during both World War II and the Korean War. Esco continued his life of public service when he returned home in 1951, embarking on a career with the Pueblo Fire Department. He ascended to the position of Assistant Chief in 1964, where he continued to serve until his retirement in 1979.

Esco's strong commitment to public service was only superseded by his devotion to family. Within his extended family of fellow policemen and firemen, he will be remembered as a devoted husband, father, and grandfather.

Mr. Speaker, I am proud to stand before this Congress today to recognize Esco's devotion to his family and service to his country. Citizens like Esco provide the strength of spirit and character that make this nation great. While he will be dearly missed, we can all take solace in the fact that Esco's spirit will live on through the lives of those whom he has touched.

CONGRATULATIONS TO MARY SMITH, MOBILE AREA OUTSTANDING EDUCATOR OF THE YEAR

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor and congratulate Mrs. Mary Smith for having recently received the Mobile Area Education Foundation's 2003 Outstanding Educator Award. She deserves our sincere and respectful congratulations. Her dedication and service have rightly earned her this prestigious award.

Mary Smith has taught middle school science at the Clark School of Mathematics and Science for eleven years. She has been very interactive with her science students, and she always gives her time and energy to her students and to her school. She frequently takes her classes on field trips and exposes them to hands-on experiments in and out of the classroom. She also gives up many nights and Saturdays to coach the Clark Science Olympiad. Her dedication and involvement have made a difference in many young lives.

One of Mrs. Smith's newest projects has been to capture the interest of her students with the NASA space program. "Signatures in Space" is a new government sponsored program that allows 500 different schools throughout the country to send their students' signatures into outer space with the next shuttle launch. Mary Smith was instrumental in procuring a spot on the signature list for the Clark School of Mathematics and Science. She also successfully helped a student to apply and get initiated into an extremely competitive national program allowing the student to communicate directly with the astronauts via a live telecast. Her devoted spirit and good-natured heart have made her more than deserving of this honorary award.

Mary Smith has been a real treasure to the students and faculty of Clark School of Mathematics and Science. The extra effort she always puts forth has allowed her to touch so many young lives. She is always going above and beyond and it shows in the hearts of all that she has touched. Heroes are not just the powerful and popular figures seen on television. True heroes are the people that touch lives, giving their heart and dedication to everything they do. True heroes are the Mary Smiths in the world. I can think of no one better deserving of this award and distinction. Once again, I congratulate Mary Smith for her hard work, dedication, and service to her students, to her community, and to our great country.

A TRIBUTE TO DANIEL H. KAHN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Daniel H. Kahn in recognition of his accomplishments in the field of business travel and for his public service.

Daniel H. Kahn, CTC is a principal of Marketing Solutions Network, LLC. He is a recognized expert in the areas of leisure travel, tourism, corporate travel, and travel and expense management. Dan has held numerous executive and managerial positions in travel management during his 34 years at American Express.

Most recently, Dan was vice-president of Global and Corporate travel for American Express. In this capacity, he was responsible for the negotiations and management of all of the company's contracts with the world's leading travel suppliers, as well as the company's corporate travel policies. On an annual basis, he negotiated contracts in excess of $200 million.

Dan was selected to serve as Deputy Director of the White House Conference on Travel and Tourism. As an Executive-on-Loan from American Express, he was responsible for travel industry relations and fundraising activities for the conference, which was held in Washington, DC in 1995. Dan enjoys favorable relationships with virtually all of the leading travel companies throughout the world.

Throughout his career at American Express, Dan held positions of increasing responsibility including Vice President of Consumer Travel, Vice President of National Accounts, Vice President of Sales Planning and Development, and Vice President/General Manager of Destinations Services for the U.S. and Canada.

Dan is active in a number of travel industry and civic organizations. These include the National Business Travel Associations (NBTA), Association for Corporate Travel Executives (ACTE), American Society of Travel Agents (STA), and the Institute of Certified Travel Agents (ICTA). He is also on the advisory board and a charter member of American Sightseeing International, and on the Board of Directors for the Vocational Foundation, Inc. (VFI), the nation's first job training and placement agency for youth. He is Chairman of VFI's Hospitality program. In his personal life, Dan is on the Board of Trustees of Temple Beth Haverim in Mahwah, New Jersey.

Dan earned a B.S. in Business Administration from Rider College and acquired his Certified Travel Counselor (CTC) designation from the Institute of Certified Travel Agents (ICTA) in 1972. He lives in Upper Saddle River, New Jersey, with his wife Nancy and two daughters, Stefanie and Jamie.

Mr. Speaker, Daniel Kahn has reached the highest level of accomplishment in business travel. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

IN HONOR OF THE 85TH ANNIVERSARY OF THE UKRAINIAN BANDURIST CHORUS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. KUCINICH. Mr. Speaker, I rise today to honor and recognition of the Ukrainian Bandurist Chorus as they celebrate 85 years of promoting Ukrainian arts and culture through their historic and significant musical achievement focused on the bandura—the ageless instrument and melodic voice of the Ukraine.

The bandura, an instrument that connects acoustic principles of the lute and harp, produces a sound that is both strong and fragile; it is a sound that has echoed the culture, spirit and people of Eastern Europe for thousands of years—a sound kept alive by the artistic talent of the bandurists—a sound that signifies a nation's struggle for freedom—a sound that is taught to every new generation—a sound that reaches across oceans and spans centuries.

The heart and soul of the Ukrainian Bandurist Chorus encompasses ideals of faith, freedom and the human spirit—reflecting the soul of the Ukraine. The Chorus also represents survival and renewel of a persecuted people. Like countless individuals and groups seeking freedom from the dark days of European oppression and war during the 1930's and 1940's—the artists and musicians of the Ukraine were persecuted for their art, faith, and love of country. But their music and heritage would survive and grow—in the Ukraine, and in communities across North America, as Ukrainian artists and musicians sought refuge in the United States and Canada.

Mr. Speaker and Colleagues, please join me in honoring the internationally reknowned Ukrainian Bandurist Chorus, as they celebrate eighty-five years of Ukrainian culture and history by blending the ageless sound of the bandura with voices of song—resounding Ukrainian history, faith, and struggle for liberty. The Ukrainian Bandurist Chorus symbolizes triumph over oppression and the bandura serves as a stark historical metaphor—lest we forget—the strength in our struggle for freedom, and the fragility in our struggle to preserve it—as fragile and strong as the melody of the bandura.

MEMORY AND ACTION: RUTH MANDEL'S REMARKS COMMEMORATING THE DAYS OF REMEMBRANCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. LANTOS. Mr. Speaker, last month leaders and citizens from throughout America gathered in the Capitol Rotunda to commemorate the Days of Remembrance. This annual ceremony assumed special significance this year, as it took place during the 60th anniversary of the Warsaw Ghetto Uprising, an event that epitomizes the true meaning of bravery and honor.

In April 1943, the Gestapo set out to liquidate the surviving Jews of Warsaw. Most ghetto residents—over 300,000—had been deported to Treblinka the previous year, where they faced immediate death in the gas chambers of the notorious extermination camp. Those left in Warsaw vowed not to meet a similar fate.

The Gestapo expected the clearing out of the ghetto to be a simple operation. How could a small number of Jews, poorly fed and with few arms, even think about fighting back against thousands of machine gun-toting storm troopers? When the Nazis entered the ghetto on the early morning of April 19th, this question met with an emphatic answer. Young Jewish fighters greeted the Gestapo with a hail of bullets and homemade Molotov cocktails, forcing the Nazis into a panicked retreat. "Juden haben waffen," they yelled at the top of their lungs. "Juden haben waffen." Translated literally: "The Jews have arms." The men and women of the ghetto would not die quietly.

For the next month, the Jews of Warsaw fought with a fierce determination that stunned the Nazi leaders and inspired the world. Few expected to survive, and few did. Nevertheless, the courageous men and women of the Warsaw Ghetto live on through the power of their heroism and the strength of their sacrifice.

Mr. Speaker, the Days of Remembrance ceremony included moving remarks on the Warsaw Ghetto Uprising by Ruth B. Mandel, the Vice Chair of the United States Holocaust Memorial Council (USHMC) since 1993. Professor Mandel is the Director of the Eagleton Institute of Politics and Board of Governors Professor of Politics at Rutgers, The State University of New Jersey. Her contributions to the USHMC have been extraordinary, and I'm honored to enter her remarks into the CONGRESSIONAL RECORD.

DAYS OF REMEMBRANCE REMARKS

RUTH B. MANDEL, VICE CHAIR UNITED STATES HOLOCAUST MEMORIAL COUNCIL APRIL 30, 2003—THE CAPITOL ROTUNDA

Memory and Action

Honored guests, one and all: It is April 30, 2003. We gather to Remember and to pay our respects. To light a candle in memory.

The memory of a past we wish not to repeat is tantamount to a hope. Hope can be uplifting or comforting, an expectation that something positive might happen—I hope for good luck; I hope for a cure; I hope for happiness. Yet in itself, hope is a passive stance, a rather weak force.

For memory to be a strong force, it must be the fuel for action. An active stance can be inspired by memory, but it cannot linger in memory. It must move beyond memory.

Thus, as we observe this Day of Remembrance, as we recall our personal nightmares and once again revisit our losses, even as we honor those we memorialize—the millions in the human family, our families, annihilated by guns and gas in the unspeakably grotesque collapse of civilized society, let us each consider how to link memory to action.

In these frightening, worrisome times, the understandable question of despair—"But what can I do?"—s a perfectly rational individual response to the magnitude of pain and threat humanity visits on itself regularly. But it is not an adequate response.

Honoring memory as an active stance requires some effort to use it. Even in the smallest ways, use memory.

Honored guests, one and all: It is April 30, 2003, and we are here to memorialize children . . . and men . . . and women—millions annihilated by guns and gas in the grotesque collapse of civilized society.

Today we pay special tribute to some of those who defied evil with heroic action. Their actions offer lessons, warnings, and even inspiration for the issues we face in our own times. The Warsaw Ghetto Uprising of 60 years ago is just such an event. At the beginning of a new and, so far, troubled century, the uprising's power to inform, enlighten, and challenge our own choices remains strong.

On April 23, 1943, determined to uphold the honor of the Jewish people in the face of odds they knew they could not overcome, the Warsaw Ghetto fighters wrote:

Let it be known that every threshold in the ghetto has been and will continue to be a fortress, that we may all persist in this struggle, but we will not surrender; that, like you, we breathe with desire for revenge for the crimes of our common foe. A battle is being waged for your freedom as well as ours. For your and our human, civic, and national honor and dignity.

That battle was waged not only in Warsaw. Although Warsaw is most well known, throughout occupied Europe there were many brave individuals who took up arms against their oppressors in order to affirm their humanity, and ours.

These brave fighters bequeathed the memory of heroic action to a people. Reflecting on the future of the Jewish people, they realized that the memory of their efforts would be as important as the struggle itself.

The Warsaw revolt began in desperation; ultimately, it was an act of inspiration. They spoke about fighting for their freedom and ours; they taught us a lesson for their time and for ours. In lighting a candle to remember those who stood against the Nazis, we honor those who perished and are in turn reminded that the moral conscience of the individual can be a great weapon against evil. This was a lesson of the last century; this is a warning for the present one.

TRIBUTE TO VIRGINIA ROCKWELL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. McINNIS. Mr. Speaker, I take this time to pay tribute to a remarkable woman, Virginia Rockwell of Swink, Colorado. Virginia has devoted more than twenty years of her life to mentoring and guiding many of Colorado's children. From kindergarten to their senior year of high school—and often times beyond—Virginia has performed her duties as a school counselor in the Swink schools admirably. Virginia's devotion to our youth is remarkable and it is fitting that she be recognized here before this body of Congress and this nation upon her retirement.

In the early nineties, Virginia was State Multi-Level Counselor of the Year, as well as a runner-up nationally. She has worked not only with children but also with their parents and their teachers in order to provide them the support and guidance they need to flourish in school and in life. Even after college, former students have not hesitated to come back and seek help from Virginia, whose door is always open.

Mr. Speaker, Virginia has touched the lives of generations of Swink's children and I know that she will continue to influence lives in the future. She has inspired Colorado with the spirit of dedication and hard work that have contributed so much to this great nation and I thank her for her efforts. Good luck to you, Virginia.

CONGRATULATIONS TO LYNN GARNER, MOBILE AREA OUTSTANDING EDUCATOR OF THE YEAR

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor and congratulate Mrs. Lynn Garner for having recently received the Mobile Area Education Foundation's 2003 Outstanding Educator Award. She deserves our sincere and respectful congratulations. Her dedication and service have rightly earned her this prestigious award.

Dodge Elementary School has been delighted with the 18 years of service Lynn Garner has given as a faculty member. She works with all 1,050 students and 66 faculty members as the technology coordinator. Her bright smile, energetic attitude, and unwavering dedication bring a level of cheerfulness and enrichment to the entire school.

Mrs. Lynn Garner has always been known to go above and beyond in everything she does. She comes to school early and stays late everyday to provide extra classes and help for students and faculty alike, and has often been known to work on the weekends as well. She gives all of her time while still managing to take classes at the University of South Alabama in pursuit of a certification in Media Education. One of her more recent projects includes redesigning the school's entire computer lab system to allow her students to benefit by using technology to enhance their education. She has been vital to the success of the Dodge Elementary School technology program.

Lynn Garner has shown the type of dedication and service that is rare. Her career has not earned her fortune or fame, but she has been able to touch and bless the lives of a countless number of children. Teachers are the real heroes of our time, heroes that have touched us all.

Once again, I congratulate Lynn Garner for her hard work, dedication, and service to her students, to her community, and to our great country.

A TRIBUTE TO FRANK ESTRADA, MD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Dr. Frank Estrada in recognition of his dedication to serving his community.

Dr. Estrada was born in Santurce, Puerto Rico and immigrated to New York in 1951. After graduating cum laude from Boys High School in Brooklyn, New York. Dr. Estrada joined the U.S. Navy where he was honorably discharged with commendation for heroic action and participation in the Cuban blockade. Following his service in the Navy, Dr. Estrada enrolled in New York University, earning his Bachelor of Arts Degree. He was on the Dean's List for three years. Dr. Estrada earned his M.D. degree from New York University. He has been married for 38 years and has three children and two grandchildren.

Dr. Estrada practices Family Medicine. Since 1995, he has worked with Mt. Sinai Services at Elmhurst Hospital Center as an attending physician to the Women's Primary Care Health Service. In this capacity, he offers direct patient care, supervises direct patient care, and assures that the medical teams provide effective care to patients. In addition to his hospital duties, Dr. Estrada has a private family medical practice.

Dr. Estrada has a deep interest in the evolution of managed care. He is especially concerned with the development of protocols for primary care management in a cost effective system that engenders patient satisfaction as well as staff satisfaction and efficiency.

At this time, Dr. Estrada is actively involved with many organizations including the Urban Health Plan, Inc., where he serves on the Board of Directors; the New York University School of Medicine Alumni Association, where he is the Vice-President; the Spanish American Medical Society, where he served as Past President, and the Queens GYN Society, where he was the first non-ob/gyn doctor to be elected. Additionally, he has been certified by the American Board of Family Practice for 25 years.

Dr. Estrada has also worked with the Chippewa Indians in Red Lake, Minnesota, and spent a year at Brookdale hospital where he served in a variety of capacities. He has also been an interviewer with NYU School of Medicine Admissions Committee and has appeared on radio and television stations for Spanish and English speaking audiences. Dr. Estrada conducts several speaking engagements at local schools and libraries as well.

His most recent awards include the meritorious Service Award by the Queen Health Network, the Citation of Honor for Professional Achievement by the Queens Borough President, the Recognition Award by the U.S. Customs Service, and the Science Award of the Puerto Rican Institute.

Mr. Speaker, Dr. Frank Estrada is committed to providing his community with quality and effective health care services. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

IN HONOR OF THE 40TH ANNIVERSARY OF THE WESTERLY APARTMENTS AND THE BARTON SENIOR CENTER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the administrators, staff and residents of the Westerly Apartments and Barton Senior Center, as they celebrate 40 years of uplifting the lives of senior citizens in Lakewood, OH. I also rise in honor of the founding members, DeArv G. Barton, Frank Celeste, Gertrude Nelson and Wallace Teare.

The concept of the Barton Senior Center of the Westerly Apartments—combining affordable senior apartments with a social center that offers a variety of social, educational, recreational and health related activities and programs for seniors—was the first of its kind in the country, and has served as the inspiration and model for similar projects in Lakewood and across the Nation ever since.

The Barton Center came to fruition in 1963 when the first residents of the newly-built Westerly Apartments realized their need for a common social area. With help from government loans, foundation gifts and individual donations, a full service senior center was built, complete with a spacious lounge and dining room, a fully equipped kitchen, arts and crafts room, library, pool and game room, workshop and hobby room, and office space. A full-time director and activities coordinator was also hired. Today, the Center also offers daily meal service, banking services, classrooms, computer lab, auditorium and a greenhouse. The Westerly Apartments and the Barton Center both publish regular newsletters that highlight current programs and services such as the Driver Evaluation Program, Home Town Band Concerts, the Holiday Fair and community transportation services.

Mr. Speaker and Colleagues, please join me in honor and recognition of the Fortieth Anniversary of the Westerly Apartments and Barton Senior Center. The founding members, past and present administrators, staff, and residents have transformed a structure of brick and steel into a welcoming and lively social center, and a place that truly is "home."

TRIBUTE TO BARTON PORTER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I honor the life of a well-respected rancher from my district. Barton Porter of New Castle, Colorado recently passed away, and as his loved ones mourn his passing, I would like to pay tribute to this outstanding individual before this body of Congress and this nation today.

Barton was born in Glenwood Springs, Colorado and spent almost his entire life on the state's Western Slope. He was a part of what many call the "Greatest Generation" learning the meaning of hard work and sacrifice on the battlefield. Like so many young men of his day, Barton served his country by joining the U.S. Army during World War II. After the war, he came home to his family ranch and also worked in real estate.

Barton understood what really matters in this world, and he made his family the top priority in his life. Barton was also active in the community through his involvement with the local school board, the 4–H Club, and Stewards on the Range, which promotes sensible management of natural resources.

Mr. Speaker, I am honored to pay tribute to the life and memory of Barton Porter. Barton believed a man could achieve anything he wanted through hard work and perseverance, setting a great example for younger generations. To his family, friends, and the many people in the community whose lives he touched, Barton Porter will be deeply missed.

CONGRATULATIONS TO CATHY MOSS TAYLOR, MOBILE AREA OUTSTANDING EDUCATOR OF THE YEAR

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor Mrs. Cathy Moss Taylor for having recently received the Mobile Area Education Foundation's 2003 Outstanding Educator Award. She deserves our utmost respect and sincere congratulations. Her dedication and service have rightly earned her this prestigious award.

Cathy Moss Taylor has always been committed to service. She is a math teacher at Satsuma High School and is deeply committed to helping her students learn and succeed in life. She recently worked to establish a tutorial program to help seniors successfully retake the math section of the Alabama High School Graduation Exam. This program has proven to be a great success with over a 90 percent passing rate. Her commitment to her students and to the community has been unsurpassed and has impacted all of her students.

Mrs. Cathy Moss Taylor works hard both in and out of the classroom. Despite the time she has spent raising her two children and her niece, she also gives her afternoons by helping to sponsor the Miss Satsuma High School Pageant and the Satsuma High School screening committee for the Azalea Trail Maid selection. She has touched so many young lives with her caring and support and has gone well beyond the duties required by her job.

Hard work and dedication are just a few words that can only begin to describe Cathy Moss Taylor. She is a joy to her students and her peers and her ability to reach out and touch the lives of others is a rarity and a special treasure. Once again, I congratulate Cathy Moss Taylor for her hard work, dedication, and service to her students, to her community and to our great country.

IN RECOGNITION OF AMERICHOICE OF NEW YORK: A UNITEDHEALTH GROUP COMPANY FOR BEING A 2003 AAHP/WYETH HERA AWARD WINNER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. TOWNS. Mr. Speaker, I rise to recognize AmeriChoice of New York, which is a UnitedHealth Group Company, for winning this year's Bronze AAHP/Wyeth HERA award in the health plan category.

Wyeth Pharmaceuticals, together with the American Association of Health Plans (AAHP), offers this prestigious award to honor those who have made a significant difference in the area of women and children's health outcomes. AmeriChoice received this recognition for significant progress in working to ensure that New York City's youngest, most vulnerable children receive appropriate well care in the first 15 months of life.

AmeriChoice of New York serves more than 90,000 members in New York City, the majority residing in Brooklyn. In 2000, the health plan launched a targeted Well Child Outreach Initiative, designed to increase the number of children receiving five or more comprehensive well child visits with a primary care physician in the first 15 months of life. The goal of this initiative was to meet or exceed New York State's goal for Medicaid plans in this area.

The plan's multi-tiered approach entails four essential elements. The first part is member education and support, which includes telephone calls from multilingual Member Services staff, postcard reminders and transportation assistance to support this initiative. Next, is provider education and incentives, which includes regular patient profile mailings, listing members due for care and quality award payments for physicians whose patients met the well child visit requirements. The approach also provides for significant community outreach that includes partnerships with community-based organizations and other opinion makers to educate members as to the importance of well child visits. Finally, AmeriChoice employs database development systems that monitor physicians and members regarding well child visits and provides real-time information on member compliance.

In two years, the plan has more than doubled the number of children completing the series of well child visits and exceeded New York State's goal of 55 percent in 2000 and 65 percent in 2001. In fact, the plan scored highest of all Medicaid plans in New York City in 2001.

Mr. Speaker, the leaders of AmeriChoice of New York have taken extraordinary steps to improve the delivery of health care services for children. As such, the company and its leaders are worthy of receiving our recognition today.

TRIBUTE TO QUIGG NEWTON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I stand before this body of Congress today to mourn the passing of Quigg Newton, who served the state of Colorado with distinction as Mayor of Denver and as President of the University of Colorado. For ninety-one years, the energy and spirit Quigg Newton brought to life made many of us believe that he would never pass away. I honor his many accomplishments here today.

Returning from his service in the Navy after the Second World War, Quigg Newton moved to Denver where he ran for mayor and served two terms, retiring in 1955. He was the grandson of a Colorado territory pioneer and his tenure as mayor is fittingly known for the hard work and pioneering spirit he brought to the office. For his dedication and commitment, the city has named a senior center and an auditorium after him.

Mr. Speaker, Quigg Newton will be remembered fondly. His service to this country serves as an example to us all. Quigg Newton lived his life with integrity, honor, and bravery. It is an honor to stand before this body of Congress and this nation to pay tribute to a fine man. My prayers go out to all of Quigg's friends and family in their time of mourning.

HONORING NOBLE FIELDS

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Ms. LEE. Mr. Speaker, I rise today to honor a great community leader, educator, and real estate practitioner, Ms. Noble Fields, for her years of service and commitment to the community. Noble Fields is the founder and director of the Noble Fields Realty & Investment Company and School of Real Estate. She is also a woman of many talents.

Noble Fields was born in Fresno and enlisted in the Army after high school. She was originally trained as a teletype operator, but after a career counseling course, she became an Army recruiter and then an instructor for recruiters.

While still in the service, Noble Fields entered and won an Army talent contest which resulted in her performing as a singer and dancer in many NCO clubs around the world and with the All Army Entertainment show. She became an accomplished actress, and has since appeared on the San Francisco stage and has had small parts in major movie productions. She also holds an FCC broadcasting license that she earned while in the Army and was a radio broadcaster and cable television show host in the Bay Area and Indianapolis.

After 20 years, this Army veteran retired as a Staff Sergeant with a full brass band ceremony. She has a service-connected disability and is the Commander of Disabled American Veterans Chapter No. 144, the first woman ever to serve in that position.

After leaving the military, Noble worked for the National Alliance of Businessmen, a partnership of private businesses, labor, and government. As the Jobs for Veterans Manager, she was instrumental in securing jobs and job training for Vietnam veterans.

In 1985, Ms. Fields started the Noble Fields School of Real Estate and Appraisal. The school offers approved home study license qualification classes and continuing education courses for real estate and appraiser licensees. As we honor Ms. Fields today, I want to thank her for her work in promoting the participation of minorities in the real estate industry. I take great pride in joining Ms. Fields' family, friends and colleagues to recognize and salute the accomplishments and contributions of Noble Fields.

ISRAEL

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. CROWLEY. Mr. Speaker, I rise today to speak about the continued terrorist attacks against Israel.

As we all know the President has recently returned from his first official visit to the Middle East where he attempted to move the peace process forward.

During the summit Israel and the Palestinians agreed to the road map—now comes the hard part.

Progress will be difficult and we must focus now on action, not words. In short, performance matters.

The United States must do more to put pressure on Israel's neighbors and make sure they cease all support of terrorist groups like Hamas and Islamic Jihad.

With 16 Israelis dead from Wednesday's bus bombing, four soldiers killed last weekend, and hundreds of other Israelis dead from Hamas attacks, Israel has the right to protect herself and her people from terrorists.

Hamas and other terrorist groups oppose the road map, they oppose any lasting peace with Israel. They oppose the existence of the Jewish State.

These groups have been tolerated for years by the Palestinian Authority and the PA chairman, Yassir Arafat.

The administration must also increase dialog with our European allies who continue to have relations with Yassir Arafat, as if he were the head of state. Support for Yassir Arafat and his terrorist ways must stop.

More support must be given to Abu Mazen so he can disarm the terrorist groups so Israel can live in safety and security.

There will be no peace and there should be no peace plan until all sides agree that Israel has the right to exist and her people the right to live in safety on the streets, in cafés and on their buses—anything else is a failure that the U.S. should take no part in.

MINNESOTA CITIZENS CONCERNED FOR LIFE

HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to pay tribute to Minnesota Citizens Concerned for Life on their 35th anniversary.

MCCL is Minnesota's largest and oldest organization dedicated to preserving the sanctity of human life. It was founded in 1968 with the goal of protecting the lives of the unborn and elderly from conception until natural death. Since then, MCCL has grown from a handful of individuals meeting in their kitchens to 77,000 members in 241 local chapters today.

MCCL works tirelessly to educate the public on the precious nature of life. MCCL is a major force behind efforts to create a culture of life that refuses to accept as common practice euthanasia, human cloning, assisted suicide, and abortion on demand.

Through their efforts, MCCL has allowed thousands to enjoy the banquet of life who otherwise would not have.

I also applaud the vision and leadership of Scott Fischbach, MCCL's new Executive Director.

Mr. Speaker, I salute MCCL for its 35 years of work on behalf of our most vulnerable citizens.

SURVIVOR BENEFIT PLAN

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. CALVERT. Mr. Speaker, the Survivor Benefit Plan was, at one time, a good plan intended to provide for surviving spouses of veterans. Unfortunately, that intention has been lost.

Now surviving spouses are experiencing the reality of a one-third drop in benefits when they turn 62 and Congress has yet to take any action on rectifying this wrong.

Well, the time has come for Congress to step up to the plate and provide for our veterans what we already provide to our federal civilian retirees.

I believe the message of this tragic inequality is best conveyed by those who must live with it. I would like to read a statement from a constituent of mine from Riverside, California, Mrs. Marilyn T. Owsley about her experience with the Survivor Benefit Plan:

> My husband would turn over in his grave had he known what was happening to me with his annuity. He chose SBP for me to have a decent income along with his Social Security. Also, he liked the idea of this annuity because you get a cost of living increase each year where other types of annuities did not. Together with his Social Security and the SBP annuity, I manage. I rent my apartment and pray they don't increase the rent too much each year. I gave up driving my 1983 Chevy as it was too costly to keep up with repairs and insurance. I have to depend on someone else to go to the store or the doctor. If not for my children, I don't know what I would do. I will be 78 years old on October 9, 2003. They say the Golden Years are good. I say my gold turned to rust. I pray every night the government will do something about this problem of the annuity reduction.

Let's return the benefits to the Survivor Benefit Plan and keep our word to the millions of veterans who, in good faith, signed up for this plan with the expectation of taking care of their loved ones after they passed.

PROVIDING FURTHER CLARITY AS TO THE INTENT OF CONGRESS WITH REGARD TO H.R. 1904, THE HEALTHY FORESTS RESTORATION ACT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. McINNIS. Mr. Speaker, last month, the House passed the Healthy Forests Restoration Act on an overwhelming bipartisan basis. The bill creates a number of new procedures and programs to deal with the nation's exploding forest health crisis. Importantly, Title VI of the bill would authorize and direct federal land managers to establish early detection programs for insect and disease infestations, with an emphasis on hardwood forests, so that agencies can isolate and treat adverse conditions before they reach epidemic levels.

Even though the bill was first considered and marked up in the Resources Committee, the House Agriculture Committee, under the outstanding leadership of Chairman BOB GOODLATTE, received primary referral. While associating myself with the able and accurate work in the Agriculture Committee's Report on H.R. 1904, as the bill's primary author I want to insert some additional language into H.R. 1904's legislative history so as to provide further clarity as to the intention of Congress in Title VI.

Title VI of H.R. 1904 authorizes the Secretary of Agriculture to establish a program that uses geospatial and information management technologies (remote sensing imaging and decision support systems) to inventory, monitor, characterize, assess, and identify forest stands (and potential forest stands) in the southern and eastern portions of the United States, with special emphasis on hardwood forest types. The approach for this effort includes utilizing NASA remote sensing technology, emerging geospatial capabilities in research activities, validating techniques using application demonstrations, and integrating results into pilot operational systems. Important issues to be addressed in this region of the U.S. include, but are not limited to, early detection, identification and assessment of environmental threats (insect, disease, invasive species, fire and weather-related risks, other episodic events), loss or degradation of forests, degradation of stand quality due to inadequate forest regeneration practices, quantification of carbon uptake rates, and other counter management practices. Developing a comprehensive early warning system for potential catastrophic environmental threats to Eastern forests would significantly increase the likelihood that managers could isolate and treat any such outbreak before it gets out of control. Such a system could prevent the kind of epidemic, like that of the American chestnut blight in the first half of the twentieth century, which could be environmentally and economically devastating to Eastern forests.

Mr. Speaker, H.R. 1904 is as important as any environmental legislation that this House has passed in a very long time. Title VI in the bill is a critical piece of that landmark forest health program.

STATEMENT FROM REPRESENTATIVE TOM DAVIS HONORING THE 80TH BIRTHDAY OF SID YUDAIN, THE ROLL CALL NEWSPAPER FOUNDER

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, "At every dramatic turning point of our long national nightmare known as Watergate, Roll Call was there. Sid Yudain reported the Watergate break-in a full three days before Nixon's resignation," quipped Washington's favorite political satirist, Mark Russell some twenty years ago.

Russell's dig was aimed at the man credited with discovering him, Sid Yudain, founder, publisher, editor, and even occasional delivery boy of Capitol Hill's own newspaper, Roll Call. Now, this weekend Mark and his wife Ali are hosting—and perhaps roasting—Sid at a party celebrating his 80th birthday.

Sid, who had spent several years in Hollywood following World War II where he became a columnist and raconteur for movie stars, had come to Washington in the early 1950s to work as press secretary for Congressman Al Morano of his home State of Connecticut. He soon noticed an ongoing void of information about what was going on around the Capitol Hill community. Sure, there were plenty of newspapers in town that wrote about Congressional legislation and political debates. But an incident involving two Ohio Congressmen, who were exchanging greetings when one expressed total surprise at learning from the other that a member of their State delegation had died, provided the spark that finally led Sid to create his own newspaper, Roll Call, in 1955.

Interestingly, Roll Call was not to be a newspaper about Capitol Hill, but as its masthead boldly proclaimed, "The newspaper of Capitol Hill." Judging by the names of those who wrote its early columns and stories, it lived up to its assertion, because Members of Congress and their staffs eagerly contributed to its pages. Vice President Richard Nixon insisted on writing a piece about a doorman who had passed away, and Senate Majority Leader Lyndon Johnson related through the pages of Roll Call his experiences and thanks following his recovery from a recent heart attack.

For the 32 years that Sid owned Roll Call, the paper chronicled life on the Hill and promoted a community spirit where Members and staffers of all political persuasions could come together to celebrate their common service to the American people. Roll Call nurtured clubs and organizations, issued the "Outstanding Staffer" award each year, sponsored Congress' annual baseball game, and gave gifted and often famous writers of all backgrounds the opportunity to inform and entertain arguably the most influential readership on the planet.

And, all this time Sid was having the time of his life. His Capitol Hill townhouse parties featuring steaming cauldrons of his homemade soups fed to noteworthy musical and journalistic friends were legendary, and his zany humor brought raucous laughter to any occasion.

Sid sold Roll Call in 1988 to spend more time with his family, friends, and saxophone, and to get more use out of the stage he built in his back yard for his music parties, a facility dubbed by associates as "Sid Trap." Mr. Speaker, his get-togethers fall somewhere between a Pavarotti concert and a Don Rickles roast.

Mr. Speaker, I ask my colleagues to join me with Sid's wife, Lael; their children, Rachel (and husband, Amar Kuchinad) and Raymond; Sid's other family members; and his cadre of friends in wishing him a most happy 80th birthday. And, with all that talent he still holds in reserve, perhaps it's time to get started on the book he's promised to write.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. GALLEGLY. Mr. Speaker, on June 11, 2003, I was unable to vote on the motion for the previous question on the rule for H.R. 2115. Had I been present, I would have voted yes (rollcall 257). I was also unable to vote on the rule for H.R. 2115. Had I been able to vote, I would have voted yes (rollcall 258). Finally, I was unable to vote on H. Con. Res. 110, recognizing the sequencing of the human genome. Had I been able to vote, I would have voted yes (rollcall 259).

CONCERN OVER ILLEGAL USE OF PAINKILLER OXYCONTIN

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. WOLF. Mr. Speaker, today I want to bring attention to the illegal use and abuse of the powerful painkiller OxyContin that is destroying families and crippling communities, particularly in rural parts of the country. Southwest Virginia, western Kentucky, and Maine have been hit particularly hard.

OxyContin does serve a very real and useful purpose for people with chronic, debilitating pain or who are terminally ill. It is hailed as a miracle drug for terminally ill cancer patients. I know what it is like to see people suffer from cancer. Both my mother and father died of cancer.

My concern is that this powerful painkiller has increasingly become a drug of choice for people who choose to abuse it; for people who have no legitimate need for this pain-killing drug. When taken properly, OxyContin is a wonder drug. But when it is ground up or chewed, the time release mechanism in the tablet is disabled, providing abusers with a heroin-like high.

I am also concerned about how this drug has been allowed to be marketed. Clearly, OxyContin should be available for the terminally ill. It should also be available to those people who suffer with severe chronic pain. I do not believe it should be prescribed to treat moderate pain.

Earlier this year I wrote to the Honorable Tommy Thompson, Secretary of the Department of Health and Human Services, asking him to review the marketing of OxyContin and its classification for treatment of moderate to severe pain. Here is the text of the letter:

> DEAR SECRETARY THOMPSON: In December 2001, the Commerce-Justice-State and the Judiciary appropriations subcommittee held a hearing on the illegal diversion of the prescription drug OxyContin, a pain-killing Schedule II narcotic manufactured by Purdue Pharma L.P. One of the witnesses, the father of a recovering OxyContin addict, told a gripping story of the devastating impact the drug has had on his family and his son, who was in his early 20s. He proudly told the committee how his son had just finished rehab and had kicked his addiction. Sadly, a few months after appearing before the subcommittee, the son died as a result of abusing the drug.
>
> When used properly, OxyContin is considered a wonder drug, especially for terminally ill cancer patients. I know what it is like to see people suffer from cancer. Both my mother and father died of cancer. I can remember my mother constantly asking the nurses for more morphine but being told she couldn't have any more. My mother was in a great deal of pain. OxyContin, if it had been available when she was dying, probably would have made her a lot more comfortable at the end.
>
> When used illegally, however, OxyContin destroys families and communities. It also can lead to death. This powerful painkiller has increasingly become a drug of choice for people who choose to abuse it by chewing it or grinding it up. By disabling the time release mechanism in OxyContin, abusers get a heroin-like high.
>
> Initially, cases of abuse and illegal diversion occurred primarily in poor, rural communities in Virginia, Kentucky, West Virginia, and Ohio. Abuse is no longer limited to Appalachia. The drug has found its way to urban areas and there are now reports of widespread abuse as far away as Arizona. Florida, I am told, has been hit extremely hard.
>
> Several pharmacies in my congressional district have been robbed at gun point in recent months for OxyContin. No money was taken; the robbers only demanded the drug. Earlier this month, a prominent defense lawyer in northern Virginia who twice served as a local prosecutor in Prince William County pleaded guilty to Federal drug charges linked to a large-scale investigation into the illegal distribution of OxyContin and other painkillers.
>
> Communities where the illegal drug has taken hold are being completely destroyed. I am told there is one county in southwest Virginia where no one isn't either using the drug, knows someone using the drug or been the victim of a crime by someone needing the drug.
>
> When a professional baseball player recently died after taking the dietary supplement ephedra, your agency immediately issued fact sheets regarding potential serious risks of dietary supplements containing ephedra. You were even quoted as cautioning all Americans about using dietary supplements that contain ephedra.
>
> According to fact sheets produced by the FDA, two deaths, four heart attacks, nine strokes and five psychiatric cases involving ephedra have been reported. More than 240 people have died from the abuse of OxyContin and countless numbers of families and communities have been torn apart by this drug.
>
> Your agency has done a good job educating the public about the dangers of ephedra and other dietary supplements. I urge you to initiate a similar public information campaign about the dangers of abusing OxyContin.
>
> I have previously written to your department asking for a review of the marketing of OxyContin and its classification for treatment of moderate to severe pain. The Food and Drug Administration did change the warning label on OxyContin but more needs to be done. The drug should not be marketed to treat moderate pain. I urge you to no longer allow OxyContin to be prescribed for moderate pain.
>
> Too many people have died, too many families have suffered, and too many communities have been devastated by the improper use of this drug.
>
> Sincerely,
>
> FRANK R. WOLF,
> *Chairman,*
> *Subcommittee on Commerce, Justice,*
> *State and the Judiciary*

I also have written Mark McClellan, the commissioner of the Food and Drug Administration, six times since April 1 about this issue, imploring the FDA to take another look at for whom and for what this drug can be prescribed. I have yet to receive a response.

The following is an excerpt from a news article that appeared in the Orlando Sentinel in February that cuts right to the heart of the issue. The article was written by staff writer Doris Bloodsworth. It ran on February 21, 2003.

> Fort Lauderdale—The maker of the highly profitable narcotic painkiller OxyContin has been aggressively marketing the drug far beyond its original purpose to ease the suffering of cancer patients, according to company documents released Thursday.
>
> Purdue Pharma for several years has promoted the powerful drug to treat less-threatening ailments, such as arthritis and back pain, according to company marketing plans. Those materials also discuss future marketing of the drug to obstetricians and specialists in sports medicine.
>
> The company fought to keep the sensitive documents secret, but a circuit judge in Broward County ordered them released as a result of a suit by the Orlando Sentinel and the South Florida Sun-Sentinel.
>
> Purdue officials say OxyContin is a highly effective product and, when used properly, has a relatively low addiction rate.
>
> Federal officials have admonished the company several times for marketing the narcotic inappropriately. And a number of class-action suits have been filed against Purdue in other States.
>
> OxyContin, which has come under fire because of the number of deaths linked to its abuse, was introduced in 1996 to help cancer patients and others cope with chronic pain.
>
> But Purdue, based in Stamford, Conn., recognized early on that non-cancer patients represented a larger and more lucrative market and sought to expand the use of its time-release painkiller, according to the marketing plans. In a marketing overview for 2002, the company noted that $2.1 billion in opiate sales were for non-cancer pain compared with $396 million for cancer patients. The 1999 plans state more than 70 percent of OxyContin prescriptions were written for non-cancer pain.
>
> Purdue's most recent marketing plan states: "In 2002 OxyContin Tablets will continue to be promoted for use in the non-malignant pain market." The plan cited as examples back pain, osteoarthritis, injury and trauma.
>
> Another goal was an attempt to "broaden OxyContin Tablets" usage in the management of pain due to various causes (e.g., back pain, osteoarthritis, neuropathic pain, post-operative pain).

This is only one of several news stories about OxyContin that have been appearing in papers across the country. My congressional district has not been immune from the damage inflicted by the illegal use and abuse of OxyContin. Several pharmacies in my district have been robbed at gunpoint for OxyContin. A former county prosecutor in my district has pled guilty to Federal drug charges as part of a large-scale investigation into the illegal distribution of OxyContin. Last month there was a murder in my district that is potentially linked to OxyContin. Sadly, the daughter of the man who was murdered died last week of a drug overdose. Press reports allude that OxyContin may have been involved in the overdose. Just last week The Post reported that two slayings in another part of my district are possibly linked to the trade of OxyContin.

Families, communities, and careers—particularly rural communities—in Virginia, Kentucky, West Virginia, Maine, Ohio, and Pennsylvania are being devastated by the illegal use and abuse of OxyContin. Clearly, there is a problem. Some law enforcement officials I have talked to say the illegal use of this drug could be the next crack cocaine. A recent story in The New York Times said that "no other drug in the last 20 years has been abused more widely so soon after its introduction" than OxyContin.

My subcommittee on the Commerce-Justice-State and the Judiciary appropriations held a hearing last December on OxyContin and is pushing the DEA to develop an aggressive plan to combat the illegal use of the drug. The hearing was comprehensive. We heard from the DEA, the pharmaceutical company that manufactures OxyContin, representatives from the American Cancer Society and the parents of recovering addicts.

My subcommittee also set aside a significant amount of money for the Justice Department for a grant program to help States develop a prescription drug monitoring system. Ideally, the program would be aimed at monitoring Schedule II drugs, not all prescription drugs.

In the meantime, I urge the Department of Health and Human Services and the FDA to reexamine to whom this drug can be prescribed before it does any more harm. Failure to take action will result in more deaths.

CREATING A COMMISSION FOR THE SESQUICENTENNIAL COMMEMORATION OF THE CIVIL WAR

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. BAKER. Mr. Speaker, in 1996, Congress designated the United States Civil War

Center (USCWC) at Louisiana State University (LSU) and the Civil War Institute at Gettysburg College as the co-facilitators of the Sesquicentennial, or 150th, Commemoration of the Civil War in 2011–2015. Legislation establishing the Sesquicentennial Commission was to be introduced in Congress in 2003. Today I rise to offer this aforementioned legislation.

The American Civil War (1861–1865) was one of the most violent times in the history of the United States, touching not only every State and territory, but claiming more than 600,000 lives, bringing freedom to over 4 million black slaves and destroying property valued at $5 billion. The ripple effects of the Civil War and Reconstruction remain today as our nation continues to wrestle with its legacy of race relations and Federal, State and civil rights.

In 1993, the USCWC was created as a department of the LSU College of Arts and Sciences under founding director David Madden. In 2000, the USCWC became a department of LSU Libraries' Special Collections. The mission of the USCWC is to promote the study of the American Civil War from the perspectives of all professions, occupations, and academic disciplines in order to facilitate a deeper, more thorough understanding of one of the most important events in our nation's history. This mission is fulfilled through a variety of projects, including an official website featuring over 9,000 links to Civil War-related sites, the Michael Shaara Award for Civil War Fiction, Civil War Book Review, the Michael Lehman Williamson Collection of Civil War Books for Young People, the David Madden Collection of Civil War Fiction, and the Sesquicentennial Commemoration of the Civil War.

Mr. Speaker, I fully support the objectives and services the USCWC provides. What is more, I am pleased to introduce legislation today that will include the USCWC in the creation of the commission to provide grants and other assistance to institutions nationwide to conduct interdisciplinary Civil War commemorative activities between the years 2011 to 2015. The commission will include members of the U.S. Senate and House of Representatives, directors of the Library of Congress and National Archives, and academics in history, anthropology, sociology, political science, art history, and law. I believe this commission will provide the direction and resources needed for proper Sesquicentennial Commemorations of the Civil War throughout this nation.

INTRODUCTION OF THE SECURE ANNUITY INCOME FOR LIFE ACT OF 2003

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. POMEROY. Mr. Speaker, I rise today to introduce the bi-partisan Secure Annuity Income for Life Act (S.A.I.L.), legislation cosponsored with Rep. JOHNNY ISAKSON (R–GA). This legislation will encourage workers to annuitize their savings to provide them with retirement income for life.

Traditionally, guaranteed monthly income sources have provided the best means of retirement income security. However, these sources are playing an ever smaller role in ensuring retirement income stability. Social Security is facing a funding challenge. The personal savings rate is at an all-time low while consumer debt is at an all-time high. The number of defined benefit plans, or pensions, has decreased by half since 1977—putting pressure on defined contribution plans, like the 401(k), to be the primary retirement plan.

As a result of the growth in 401(k) plans, greater amounts of retirement savings will not be annuitized. According to the Department of Labor, only 38 percent of workers in a 401(k) plan have an annuity option available to them. However, about $2.5 trillion in retirement assets are invested in individual retirement accounts (IRAs), mostly as a result of rollovers from defined contribution plans. That compares with $1.8 trillion in defined benefit plans and $2.4 trillion in defined contribution plans. The amount of IRA rollovers is expected to increase by 50% in the next ten years, mostly as a result of retirements. Workers will face a number of risks when managing these savings in retirement.

When workers take a lump-sum distribution, or rolls his 401(k) savings into an IRA, they face a number of risks when managing these savings in retirement:

Unpredictable Time Horizon—Life expectancy at 65 is at least 18 years—but that is only an average and not very useful in planning. In fact, 28 percent of females that are 65 years old will live to age 90 and 17 percent of males that are 65 will live to age 90. The probability that at least one person from a married couple that is 65 years old will live to age 90 is 40 percent.

Market Risk—Retirees have a shorter time horizon in which to recover from market downturns. Market downturns at the beginning of retirement can significantly reduce how long a retiree's nest egg will last.

Inflation—Income must double over a twenty-year period just to stay even with average rates of inflation. Since most pension plans do not have cost of living income adjustments each year (unlike Social Security), personal savings experience even greater strain.

By annuitizing retirement assets—either through an employer or private commercial entity—retirees reduce the risk of retirement income instability. Public policy should encourage individuals to manage their savings during retirement in a manner that accommodates their daily needs but also ensures that their savings will not be exhausted prematurely. Only annuities can make this guarantee. Annuities transfer the risk of outliving assets from the individual to an insurance company -just as individuals transfer risks to insurance companies for their properties, accidents, and health costs.

The S.A.I.L. Act is designed to encourage individuals to annuitize their retirement savings as an efficient solution to what otherwise could be an overwhelming asset management task. Specifically, it would allow workers who participate in employer sponsored retirement savings plans, and who save through IRAs, to receive $3,000 of annual taxfree income from annuities. Some may consider this a small incentive, but it is a progressive way to entice low to moderate income individuals to annuitize some of their retirement savings.

I look forward to working with my colleagues to ensure that retirement income security encourages workers' to annuitize their savings so that they will receive guaranteed monthly income for life. I believe this is an important policy objective and encourage my colleagues to co-sponsor the bill.

HONORING AUDREY WARRICK ON HER RETIREMENT FROM MONROE COUNTY COMMUNITY COLLEGE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. DINGELL. Mr. Speaker, today, I rise to recognize and pay tribute to the President of Monroe County Community College (MCCC), Ms. Audrey M. Warrick. She began her career at MCCC as a counselor in 1967 and, as the college has grown, Ms. Warrick has grown with it. In 1977 Ms. Warrick was promoted to Assistant Director of Continuing Education and Community Services. After several promotions, she was eventually appointed, in 1988, Dean of Student Services, a cabinet level position. Ms. Warrick was again promoted in 1991 to Dean of Instruction and, finally, in May 2000 Ms. Warrick was appointed President.

In her 36 years at MCCC, Ms. Warrick has served on various committees, including Chair of the Management Negotiating Team, and member of the Faculty and Management Negotiating Team. However, it was during her presidential leadership that Ms. Warrick was able to make significant changes and improvements. She was instrumental in expanding the college curriculum and services to meet the changing needs of students, business and industry, and community partners. A comprehensive computer lab was added to help facilitate additional open access for students and to provide instructional support for nine new computer science programs. In 2002, she helped secure $6 million dollars in matching funds from the State of Michigan to build the Instructional Center for Business Training and the Performing Arts, for which ground will be broken within the week.

Ms. Warrick has also been actively involved in community leadership. She is a member on the Monroe County Industrial Development Corporation Board of Directors, the Monroe County Superintendents Association, the Monroe County Education Personnel Committee, the Education Advisory Group of the Southeast Michigan Community Alliance, and the Monroe County Chamber of Commerce. Moreover, she is a member of Soroptimist International of Monroe, where she has served as the scholarship chair for the past nine years.

Ms. Warrick's leadership contributions to various professional associations during the course of her tenure have also been appreciated. Currently, she is serving on the Executive Board of Michigan American Council in Education (ACE), Network for Women Leaders in Higher Education, the M–TEC Advisory Board for Henry Ford Community College, Michigan Community College Association

(MCCA) Executive Committee and Presidents Committee. In addition, she has served as a Consultant Evaluator for the North Central Association of Colleges and Schools since 1986.

Throughout her tenure at MCCC, Ms. Warrick has helped the College grow and prosper. Her commitment to the college and the students has contributed to the success of MCCC. Ms. Warrick is to be commended for her tremendous dedication to Monroe County Community College, and the Monroe Community.

Mr. Speaker, I ask that you join me in congratulating Ms. Warrick on her retirement from Monroe County Community College.

TRIBUTE TO LIEUTENANT COLONEL LISA LEONARD

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. KNOLLENBERG. Mr. Speaker, I rise today to recognize an outstanding Army Officer, Lieutenant Colonel Lisa Leonard, who has served with distinction and dedication for almost 2 years for the Secretary of the Army, as the Congressional Liaison Officer for Military Construction Appropriations, Congressional Budget Liaison Office under the Assistant Secretary of the Army, Financial Management and Comptroller. It is a privilege for me to recognize her many outstanding achievements and commend her for the superb service she has provided to the Department of the Army, the Congress, and our great Nation as a whole.

During her tenure in the Congressional Budget Liaison Office, which began in July of 2001, Lieutenant Colonel Leonard has provided members of the House Appropriations Committee, Subcommittee on Military Construction as well as our professional and personal staffs with timely and accurate support regarding Department of Army plans, programs and budget decisions. Her valuable contributions have enabled the Subcommittee on Military Construction and the Department of the Army to strengthen its close working relationship and to ensure the most modern, well trained and well equipped soldiers attainable for the defense of our great Nation.

Mr. Speaker, Lisa Leonard and her husband, Lieutenant Colonel Mark Leonard, have made many sacrifices during their careers in the Army. Her distinguished service has exemplified honor, courage and commitment. As she departs the Congressional Budget Liaison Office to embark on yet another great Army tour in the service of a grateful Nation, I call upon my colleagues to wish them both every success.

APPRECIATION FOR EXCEPTIONAL STUDENTS AT ST. MARY'S SCHOOL

HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. BOEHLERT. Mr. Speaker, I would like to take this opportunity to express my appreciation for some exceptional students in my district in Waterloo, NY. Since Waterloo has been officially recognized as the birthplace of Memorial Day, which Americans had been celebrating for generations, the community takes pride in this historical recognition.

The students of St. Mary's school, under the guidance of Principal Fred Smith, recently spent a great deal of their free time painting a large American flag on Russ and Teresa Tuthill's barn at their request. Their patriotism and pride in America shine through as a bright beacon of hope for the future of our Nation. At a time when our very security is at risk, it's a simple reminder of what liberty means for us.

I am proud to have such patriotic students in my district and I am comforted to know that they will be the leaders of tomorrow. I thank the students of St. Mary's school for their creative expression of the principals upon which this great Nation was founded.

PERSONAL EXPLANATION

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. KOLBE. Mr. Speaker, yesterday, during the vote on the Welfare Reform Extension Act of 2003 (H.R. 2350), I was present on the floor of the House of Representatives and did register my vote. However, due to a faulty voting card my vote was not counted. Had this malfunction not occurred, I would have voted "aye" on this vote (No. 261).

H.R. 2418, ENDING TAX BREAKS FOR DISCRIMINATION ACT OF 2003

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mrs. MALONEY. Mr. Speaker, welcome. Today, we're introducing a bill to end government subsidies for private clubs that discriminate against women. Ending Tax Breaks for Discrimination Act of 2003 makes it illegal to take income tax deductions for expenses at clubs with "No Women Allowed" membership policies. We think it's wrong for corporations to write-off big expenditures for entertainment, meetings and advertising at clubs that keep women out while they target women's pocketbooks. Men play and women pay.

I am joined by my distinguished colleagues, Representative BRAD SHERMAN from California, Representative LOUISE SLAUGHTER from New York, and my friend, Martha Burk—all tireless workers in the fight for equality. As a matter of fact, in the early '90s Mr. SHERMAN, as a member of the California tax board, implemented this same type of legislation. Since then, other States, like Colorado and Kentucky, have followed.

Right now, conventions and meetings come right off corporate income tax as legitimate business deductions, including those held at private clubs that discriminate. Half the price of a business lunch is deductible. But if you're a woman, you subsidize one-half a guy's lunch with your taxes, even though you can't join the club.

The whole point is that members of these clubs get financial gains—either indirectly through career opportunities and board appointments, or directly through tax deductions. Women can't get these same financial gains—just because they're women. Golf is so ingrained as a part of business success that business schools teach students how to make the most of club memberships—the PGA even sponsors a program called "Golf: For Business and Life" to do just that. But, if you're a woman and you can't get a membership, you can't play golf or get the same elite club bonus package from your employer that your male counterparts can, you're clearly missing out. Men get the membership, the deal, the deduction, and women get the bill.

This bill ends deductions for advertising, travel, accommodation, and meals associated with these clubs. And it requires discriminatory clubs to print right on their receipts, "not tax deductible".

When I went with Martha in April to protest male-only membership at Augusta National Golf Club, it was obvious that this legislation was the next logical step. Money talks. At Augusta, at least 10 major corporations, including IBM, Lucent and American Express either withdrew or cut back spending on advertising and corporate hospitality. But all the while these same companies are reaching out to sell their products to women.

Mr. SHERMAN and I have asked the U.S. Chamber of Commerce to support this legislation. We're looking forward to their response. Frankly, who in this day and age can object to ending government subsidized sex discrimination?

I like big business, but women must have a seat at the table—the board table. Legitimate tax deductions should continue, but when these deductions support clubs that bar women from becoming equal partners, equal players, equal earners—they are not legitimate. This bill is past due and the time for discrimination is over.

MEMORIALIZING MR. KEITH GARVEY

HON. MICHAEL M. HONDA

OF CALIFORNIA

HON. ZOE LOFGREN

OF CALIFORNIA

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. HONDA. Mr. Speaker, today I join with my colleagues, Representatives LOFGREN and ESHOO, in honoring the life of a dedicated public servant, Keith Garvey. Mr. Garvey's recent death ended a life committed to work, people, humor, compassion, and most importantly, his family. We also lost a great union leader, who fought for the rights of working families, and a dedicated Democratic Party activist. His work and legacy will be endure through the many lives he touched.

Born in 1946 to Joseph and Virginia Garvey in Pensacola, FL, Keith and his family later moved to Chicago where his parents raised him to develop a love for public service. Both of Keith's parents served in World War II in the Navy. His father, Joseph Garvey, was a wartime pilot and his mother, Virginia Brewster Garvey, taught instrument flying to British and United States personnel. Keith followed in their footsteps in many ways.

After graduating from Northwestern University in 1968 with a Bachelors Degree in History, Keith answered the Nation's call to duty by enlisting in the Army. During his time in the Army, he became an excellent soldier and leader. In fact, his leadership inspired confidence in his troops who followed him into battle in Vietnam. His bravery earned him two bronze stars and the rank of First Lieutenant.

After his honorable discharge in 1971, Keith explored the world and ventured to Australia for a 6 month learning experience, selling encyclopedias door to door. Following his trip in Australia, Keith returned to the United States moving to the Bay Area, a region he would call home for the remainder of his life.

In the Bay Area, Keith started his career in public service when he was hired by the city of San Jose as an emergency dispatcher. When the county took over these services in 1974, Keith began what would be 28 years of service to the county as a supervising dispatcher and union leader.

In 1978, Keith met his wife Carol at work, where both served as emergency dispatchers. After 2 years of dating and working with one another, they married in Alaska, and, together as a team, worked to help the public.

With his partner by his side, Keith became more involved in his union. Through his dedication and tireless efforts, he became a respected union leader. His involvement within the Service Employee International Union (SEIU) Local 715 offered a clear and effective voice to the people he served. As a representative of his union, Keith earned the respect and confidence of his fellow colleagues. Eventually his volunteer work in the SEIU earned him the position of president of the County Employees Management Association (CEMA).

During his term as president, Keith ventured out into the region to help others. He fought for livable wages and worker rights for all people. He also joined the United Farm Workers' Movement and became a close friend of the Cesar Chavez family.

After leaving CEMA, he became president and overseer for the County Employees Labor Association. Similar to his work at CEMA, Keith continued his mission helping county workers up to his death.

In addition to decades of service fighting for the rights of workers and the underrepresented, Keith dedicated countless hours to the Democratic Party through his service on the Santa Clara County Democratic Central Committee, on hundreds of democratic campaigns, on issue campaigns important to working people, and in his work with his wife for Democratic Activists for Women Now.

Mr. Speaker, we rise to mourn the loss of a friend and mentor. We have had many opportunities to work with Mr. Garvey, and what was most amazing about him was the hard work and determination he had in helping others. Along with an unmatched sense of humor, the passion and love he had for public service will be missed by many. The Bay Area was fortunate to have Mr. Garvey as a resident and activist, and we are personally fortunate to represent a region that Mr. Garvey touched with his courageous works.

LEHIGH VALLEY HERO—TONY IASIELLO

HON. PATRICK J. TOOMEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. TOOMEY. Mr. Speaker, today I would like to share my Report from Pennsylvania for my colleagues and the American people.

All across Pennsylvania's 15th Congressional District there are some amazing people who do good things to make our communities a better place. These are individuals of all ages who truly make a difference and help others.

I like to call these individuals Lehigh Valley Heroes for their good deeds and efforts.

Today, I would like to recognize Bethlehem Catholic High School Head Wrestling Coach Tony Iasiello as a Lehigh Valley Hero. He is working hard to make a difference in his community.

Tony has built a remarkable record during his 38 years at Bethlehem Catholic High School. From 1966 to 2003, Tony has amassed an overall record of 408–228–3. He has coached 11 state champions, which ranks seventh in the state. The state champions he coached in 1979 achieved that feat through an undefeated, 18–0, record. He coached five straight PCIAA Catholic State Team Championships from 1968 through 1972. He has coached 29 Catholic PCIAA State Championships and 11 PIAA State Champions. Two of his wrestlers won NCAA championships.

Tony also has been president of the District XI Wrestling Coaches Association for the past 22 years, and served 4 years on the board of the National Wrestling Coaches Association. He served as a PIAA referee for 20 years and an EIWA College official.

Given his very active participation in our community, and his work in helping shape young men into responsible adults, Tony Iasiello is a Lehigh Valley Hero in my book.

Mr. Speaker, this concludes my Report from Pennsylvania.

HONORING THE SERVICE OF MICHAEL A. WEISS

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Ms. HART. Mr. Speaker, today I have the honor of saluting a dedicated leader from Pittsburgh, PA who has spent the past year doing some remarkable work to help people living with diabetes.

Michael A. Weiss has had a long, successful and diverse career benefiting numerous community and charitable organizations, and it all started following his graduation from our alma mater, Washington and Jefferson College in Washington, PA. He graduated with honors from W&J in 1970, and went on to earn his law degree from Vanderbilt University in 1973. He currently serves as a leader of my former law firm, the DKW Law Group's Corporate Practice in downtown Pittsburgh. Mike was a mentor to me, and the perfect professional. He is the kind of attorney who takes good cases, returns calls and gives good advice to avoid litigation. Today, however, I want to pay tribute to his service outside his profession, and on an issue very special to Mike, my family and countless others.

For the past year, Mike Weiss has served as Chairman of the National Board of Directors at the American Diabetes Association. The ADA is the nation's leading nonprofit health organization providing diabetes research, information and advocacy. The mission of the organization is to prevent and cure diabetes and to improve the lives of all people affected by diabetes. It has had many successes, making living with diabetes less constraining and providing info on healthier lifestyles, possibly preventing the onset of Type II.

Within his role as Chairman, Mike Weiss has spearheaded the expansion of the ADA's advocacy programs. He is responsible for broadening the reach of ADA and increasing its partnerships with other groups and associations working towards the same goals.

For his work with the ADA, Mike Weiss will be awarded the 2003 Charles Best Award for Outstanding Contributions and Service to the Cause of Diabetes.

I wish Mike continued success with the organization and his other generous work, and I commend him on his superior service to his neighbors, community and all those who work toward an end of diabetes.

RECOGNIZING A TRADITION THAT HONORS ALL DISABLED AMERICAN VETERANS

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mrs. WILSON. Mr. Speaker, June 13th, 2003 marks the continuation of a long, established tradition by the Disabled American Veterans organization, with their 62nd annual State Convention at the Santa Ana Hotel and Casino on Santa Ana Pueblo, New Mexico. Its purpose is to bring together and recognize those who have fought courageously in our Armed Forces from our state and from our region; who have sacrificed much in the name of our great country to insure the security and freedom of all its citizens. When a citizen thinks of Old Glory, of stars and stripes, of red, white and blue, they ultimately remember our men and women in uniform, and the price they have paid to defend this nation against all threats, both foreign and domestic. Some have paid the ultimate price with their lives, while others have endured great physical and mental hardships, from the wounds they have suffered, and the memories they have lived with from knowing the consequences of war. Every veteran present at this convention is an example of this enduring and proud spirit. These veterans' sacrifices and the courage they have shown must never be forgotten.

I am also honored to recognize the spouses and other family members of those veterans who have gone to war for the sake of the United States of America. It is never easy knowing that your family member is going to war; of not knowing of the conditions that he or she is fighting in, or the actions he or she must take to accomplish the mission, or to protect a fellow soldier. Separation from a loved one is always difficult, and trying. Life continues even during war, as children are born, as they continue to grow and mature, and holidays and other personal milestones pass during this time of separation. Separation also requires a great deal of endurance as well, with the hope that their family members will come home safely. It is this lasting sense of endurance, patriotism, and dedication to our nation that characterizes what it means to be an American.

Mr. Speaker, please join with me to recognize these remarkable individuals who are in attendance at this convention, both physically and in spirit, and to remember all that they have fought for, and all the victories they have achieved during their careers in the Armed Forces.

CREDIT UNIONS

HON. CHRIS CHOCOLA

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. CHOCOLA. Mr. Speaker, it has come to my attention that some in my state have questioned the patriotism of credit unions, saying that because they don't pay federal income tax they are "unpatriotic." Nothing could be further from the truth. While credit unions are, indeed, tax-exempt nonprofit financial cooperatives owned by their members, their record of patriotic service to the people of this nation should not be questioned.

Since first established in the United States during the early 20th century, credit unions have helped to serve those in our military; they are a role model for other financial institutions to follow. Many credit unions have worked with our soldiers, sailors and airmen while they have been stationed overseas during the recent conflict in the' Persian Gulf. For example, the Navy Federal Credit Union set up branches and ATM's in the Persian Gulf and onboard ships in order to serve their members during this conflict.

Credit unions have honored those in service to our country, not just in this most recent war, but in other wars as well. For example, the members of the National Association of Federal Credit Unions (NAFCU) have raised over $140,000 for the World War II Memorial Fund.

Credit unions serve teachers, firefighters, police, federal employees, students and more on a daily basis—including many in this Congress. I thank them for supporting the leaders of our government. As non-profit financial cooperatives with volunteer boards, credit unions serve their members' needs and have been ranked number one in an independent consumer satisfaction survey for eighteen straight years—since the inception of the survey.

I applaud the credit unions of this nation for supporting America's freedom and urge my colleagues to do so as well.

SUPPORTING HEAD START

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. BACA. Mr. Speaker, Head Start is a time-tested program that has improved the lives of children and their families for 38 years. I am proud to say that Head Start has improved the lives of those in my home district of San Bernardino County, California.

I recently received a letter from Ms. Brenda Clayton, a Head Start staff member in San Bernardino County. In her letter, Ms. Clayton says that she sees first-hand, every day, what a difference Head Start makes to children and their parents.

Ms. Clayton writes, "I generally see the parents at initial application or enrollment process, then I'll see these same parents 2 to 3 months later and they are excited to share with me all the good and wonderful things their child is now able to say and do, how their child has a zest for learning."

As we face the Head Start reauthorization process, Ms. Clayton has asked me that I do everything in my authority to see that her program does not become block-granted. Unfortunately, I must face the reality that this Republican-led Congress will impose these block grants, leaving less money, less oversight and leaving even more children behind.

Under a block grant system, Head Start is not guaranteed to receive funding. We must make sure that Head Start receives funding and receives it directly so that what little funds that are given to this highly important program are not diluted even further.

It simply doesn't make sense to put the fate of Head Start into the hands of the States. Our States are bankrupt! My State of California faces a budget shortfall of $35 billion. But once again, we are forcing our cash-strapped States to pick up the tab at our children's expense.

We have already forced States to pick up the tab for the unfunded mandates of No Child Left Behind. And we're now forcing States to take over what the Federal Government has proven is a success! Republicans are taking an essential program and completely dismantling it. It just doesn't make sense!

My Republican colleagues are at it once again—trying to limit the role of the Federal Government in public education under the excuse of "accountability" and better State and Federal coordination. If accountability was such a huge concern, then why does the Head Start reauthorization bill remove standards and requirements? And if States are facing such drastic budget shortfalls, then why are we tempting them with the opportunity to reduce services and transfer funds from Head Start to other services? It just doesn't make sense.

The only thing that makes sense is to bring Head Start back to its original, bipartisan state with the same strong, Federal accountability standards and increased funding so all eligible children can benefit from Head Start services. That is a program that makes sense.

PERSONAL EXPLANATION

HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. FOSSELLA. Mr. Speaker, I am not recorded on rollcall Nos. 257, 258, 259, 260, 261, 262, 263 and 264. I was unavoidably detained and was not present to vote. Had I been present, I would have voted "yes," on rollcall Nos. 257, 258, 259, 260, 261, 262, 263 and 264.

RECOGNITION OF ART BROWN OF HECLA MINING CO.

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. OTTER. Mr. Speaker, I rise today to bring to the attention of the House the distinguished accomplishments of Art Brown, chief executive officer of Hecla Mining Company, on the occasion of his retirement.

Art Brown retired last month from Hecla Mining after 36 years of service. Mr. Brown was manager of the Lucky Friday Mine in 1979, when silver prices rose from $5 to $50 per ounce, and Hecla became the No. 1 performer on the New York Stock Exchange. Last year, Hecla's stock rose 400 percent, again making it a top NYSE performer. However, it was not an easy task to keep the company afloat during the years between in which it was plagued by low market prices, environmental litigation and cash-flow problems. Under Mr. Brown's leadership, however, the company has moved from close to bankruptcy to a viable, growing enterprise producing record amounts of gold and silver in 2002. Under the visionary leadership of Art Brown, Hecla Mining Co. has survived and flourished. The company is now positioned to move forward into a future of growth and continued profitability.

I congratulate Art Brown on his success, and wish him an enjoyable retirement.

INTRODUCTION OF MEDICARE REFORM ACT

HON. LEE TERRY

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. TERRY. Mr. Speaker, I am proud today to introduce the Medicare Reform Act. Along with the original cosponsors of the bill, Representative TOM TANCREDO, Representative

MARILYN MUSGRAVE, Representative PETE SESSIONS, Representative WILLIAM JENKINS, and Representative DON MANZULLO, I believe that this proposal can improve Medicare and preserve it for the future.

Our current system is a patchwork program governed by tens of thousands of pages of rigid rules, regulations, guidelines and administrative decisions and the current system is filled with inefficiencies and waste. While Medicare will cover medicine for a patient who receives an injection at a doctor's office, it will not provide the same coverage to a patient who chooses to save Medicare doctors' fees by administering the same injection at home.

Medicare will pay for a kidney transplant—but not for anti-rejection drugs for the new kidney. If you stop taking medication because of the cost, Medicare will pay for a second kidney transplant.

Medicare covers the costs of home visits by occupational therapists and physical therapists but not respiratory therapists. The patient must come to the hospital or doctor's office—more expensive options.

In 2002, improper payments in the Medicare program were estimated at $13.3 billion. Of that amount, $7 billion was for services the government later deemed medically unnecessary.

I have authored the Medicare Reform Act of 2003, legislation that would reshape Medicare to closely resemble the health care system for federal employees. The Federal Employees Health Benefits Program provides high-quality health benefits to 8.6 million federal employees and retirees, including Members of Congress, in all 50 states. It is a typical employee health plan, except employees have a choice—they receive a guidebook describing their coverage options and choose the option that best meets their needs.

I want to give Medicare beneficiaries the same options.

By providing senior citizens and disabled individuals with the same health care benefits Members of Congress enjoy, my bill would improve preventive care and treatment of disease. It would provide modern insurance benefits, such as preventive and maintenance care for chronic conditions. And as in all private plans, a modern prescription drug benefit is an inherent part of this policy.

The health care plan for federal employees has demonstrated success in rural areas. 98 percent of rural counties offer at least three plans, and 87 percent offer six or more choices. My bill would create insurance parity through Medicare, by offering identical insurance options to beneficiaries in urban and rural areas on a state-by-state basis.

Finally, my bill would recognize the difference between poor and middle class seniors, and those in the highest income brackets, since premiums would be based on level of income. My proposal would pay the entire premium for senior citizens earning up to $17,952 for singles and $24,288 for couples (200 percent of the poverty level). Above that level, the premium paid would decrease by ten percent for each additional 100 percent over the poverty level. For senior citizens earning over $71,809 for singles and over $101,153 for couples (800 percent of the poverty level), the program would pay 30 percent of their premiums.

Income sensitive premiums, competitive plans, better cost control and preventative care will ensure that Medicare's price tag is kept low. In this way, we can assure Medicare will evolve with the times and be solvent for the future.

Government cannot prevent Americans from growing older. But we can help senior citizens enjoy higher quality of life, while providing the retirees of tomorrow with a sound Medicare program that will still exist for them, too.

CENTRAL NEW JERSEY HONORS JULIE T. WU OF THE U.S. PHYSICS OLYMPIAD TEAM

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. HOLT. Mr. Speaker, I rise today in recognition of Julie T. Wu of Manalapan High School in Englishtown, New Jersey. Ms. Wu was in Washington, recently as one of 24 members of the U.S. Physics Olympiad Team vying for a chance to represent the United States at the International Physics Olympiad on July 12th in Taipei, Taiwan.

The U.S. Physics Olympiad program has a long history of success. It is designed to encourage excellence in physics education and to reward outstanding physics students. It provides an opportunity for top students to take part in an outstanding scientific and cultural experience that would not normally be available through the tradition high school curriculum.

The U.S. Physics Team members were selected from a pool of more than 1400 students who where nominated by their high school physics teachers to take the Olympiad physics exams. These students represent the "best and the brightest" physics talent in our Nation. Julie is a perfect example of the type of talented and motivated students that take part in the program.

Julie's accomplishments as a young scholar are impressive. She has received the Siemens' Award for her performance on the Advanced Placement exams in math and science. Julie is also a National Merit Scholar, and has placed 1st in the New Jersey Science League for biology and physics, 2nd in Chemistry Nomenclature in the New Jersey Chemistry Olympics, 3rd for the US National Chemistry Olympiad qualifying exam, and 1st for biology and 3rd in chemistry in the National Science Olympiad.

In addition to her impressive list of academic achievements, Julie has excelled outside the classroom as well. She is co-captain of the varsity tennis team, treasurer of her school's chapter of Junior Statesmen of America, and a section editor of her school's yearbook.

We are honored to have Julie representing the 12th district of New Jersey at this prestigious competition.

SADDAM'S BEHAVIOR JUSTIFIES LIBERATION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. BEREUTER. Mr. Speaker, this Member wishes to commend to his colleagues the June 11, 2003, editorial from the Omaha World Herald, entitled "The Right Thing." This editorial correctly notes that the atrocities committed by the horrific, repressive regime of Saddam Hussein were reason enough for liberating the people of Iraq.

[From the Omaha (NE) World-Herald, June 11, 2003]

THE RIGHT THING

Amid all the talk about whether, or even if, substantial numbers of weapons of mass destruction are going to be found in Iraq, it is also important to ask how much it matters.

Our assessment is that, yes, it does matter—in the sense that strongly couched reports of such weaponry were at the heart of the Bush administration's argument for toppling Saddam Hussein. Yet we also believe that the answer to the question, while instructive, is not pivotal. Ousting Saddam will turn out to be an overarching good deed. It stands on its own merits.

At present, the purported weapons are not turning up. Does this mean they just weren't there, or does it mean that Saddam's regime and the Baath zealots that undergirded it were exceptionally good at hiding them or destroying them or spiriting them across international borders? Let's hope the Pentagon's new weapons-hunting team, slated to take over the search soon, will provide definitive answers.

Four months ago, Secretary of State Colin Powell made an impassioned case before the U.N. Security Council that the weapons existed, along with equipment for making more. We said then that if one-half or even one-fourth of what Powell was asserting were true, there would be a strong case that the Iraqis weren't complying with U.N. mandates. At this point, there has been no hard evidence that the existence of even those fractions will be borne out. In addition (as we said then), the evidence of a Saddam-al Qaida link was iffy.

Fair enough. But we also went on to say that Saddam nonetheless should be ousted.

We stand by that. Saddam's behavior was that of some sort of devil incarnate. He murdered tens of thousands of his own citizens, starved others, tortured and maimed unknown numbers more, snubbed agreed-upon arms inspections and other mandates after the Gulf War of 1991 and attacked aircraft attempting to enforce "no-fly" zones.

We also said earlier that there were three scenarios for Saddam's departure. In descending order of desirability, they were abdication, liberation of Iraq by a U.N. force or liberation via a U.S. attack, aided only by allies.

The last of these three was what played out. That's unfortunate, but this is an imperfect world. Now that world wants to know: Did the U.S. administration, in company with Britain's Tony Blair, (1) get the weapons allegations right at the time when they were articulated; (2) err in assessing the evidence; or (3) just plain confabulate in order to drum up popular support?

If it turns out to be the last of those three, then the U.S. and British administrations will take their lumps in the marketplace of public opinion and perhaps at the polls as well. We're not saying that's what happened; time will sort such matters out. But it ought to go without saying that Americans and Britons don't need to be "spun" ("conned," in older terminology) in order to do the right thing.

The right thing: Ousting Saddam was that. Exactly that. He was a murderer and a brutal oppressor who helped destabilize a whole region and robbed his people of a generation of progress. On that basis, Americans and Britons—along with others in the international community who will now seek to help Iraqis back to their rightful place in the world—have nothing to apologize for.

IN RECOGNITION OF KAREN McCANN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. LEVIN. Mr. Speaker, I rise today to recognize the long career of Karen McCann as she retires from teaching in the Troy Public Schools District in June, after 35 years in the classroom. Beginning in 1968, Karen McCann brought dedication and innovation to teaching which continue unabated. Throughout her career, she has been a model for teachers, new and old alike, as well as a role model for her students.

After graduating from Michigan State University in 1967 with a degree in Elementary Education, Karen McCann began teaching English and Social Studies for seventh through ninth grade in the Farmington Public Schools District. She eventually taught all subjects for students in grades ranging from fifth to ninth before moving to Bemis Elementary in the Troy Public Schools District in 1985.

During the course of her career, she has been nominated for numerous awards, including the Disney American Teacher Award in 2000 and the WDIV Outstanding Teacher Award in 2001, and was selected as a Mentor Teacher/Trainer by EDS for the MI JASON Project from 1997 through the present.

That she is a good teacher is evident from what her students have said about her; that she is a great teacher is evident from the remarks of parents and colleagues. Parents frequently expressed admiration for her positive attitude, her willingness to communicate with them, and her ability to challenge each child regardless of their initial interest in learning. Her colleagues have praised her for her enthusiasm and creativity.

She brought programs to the classroom that gave her students the opportunity to learn in creative ways and offered them unique educational experiences. She integrated Hyperstudio, multimedia, Internet, and videoconferencing into her lesson plans, allowing her students to teleconference other students so that they could learn from each other. She also succeeded in making learning about science and technology fun for all of her students, through her work with the JASON Project and the First Lego League.

Mr. Speaker, I ask my colleagues to join me in recognizing the important contributions Karen McCann has made to so many children and their families during her long and celebrated teaching career.

IN HONOR OF JENNIFER BERNARDES

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the inspiring dedication of Jennifer Bernardes, a 13-year-old student whose compassion has had a wonderful effect on the life of her fellow New Jerseyan, Harry Ettlinger.

Ms. Bernardes was one of the first students in New Jersey to take part in the "Adopt-a-Survivor" program, which matches young students with Holocaust survivors. Sponsored by the Holocaust Council of the United Jewish Communities of Metro West in Whippany, NJ, this program provides an amazing opportunity for young students to develop lasting relationships with and learn from those who have survived or escaped the Holocaust.

Mr. Ettlinger, a World War II veteran who escaped the Holocaust, was the adoptee of Jennifer Bernardes, an eighth-grade student at Oliver Street School in Newark, NJ. As a participant in this program, Jennifer agreed to learn about Mr. Ettlinger's experiences, and to tell his story in 2045, the 100th anniversary of the liberation of the Nazi death camps.

Jennifer Bernardes has demonstrated a strong commitment to learn about Mr. Ettlinger's experiences and met with him several times over the course of a year to hear his first-hand accounts. Recently, Jennifer spoke at Newark's Municipal Holocaust Commemoration sponsored by Mayor Sharpe James. She has also taken part in talks at the Jewish Community Campus in Whippany, NJ, and Oliver Street School, and has spoken with other school groups about participating in the program. Jennifer's dedication has taught her about humanity's darkest hour, and, in learning Mr. Ettlinger's story, she has inspired others to participate in this invaluable program.

Jennifer's commitment has gone beyond what the "Adopt-a-Survivor" program hopes to accomplish. Earlier this year, Jennifer helped reunite Mr. Ettlinger with Hanne Hirsch, a childhood neighbor and schoolmate from his hometown of Karlsruhe, Germany, who he had not been able to locate after the Holocaust. On a visit to the Holocaust Museum in Washington, DC, Jennifer and a fellow student noticed Mrs. Hirsch's story at an exhibit, and after successfully tracking her down, Mr. Ettlinger was reunited with Mrs. Hirsch after 64 years.

Today, I ask my colleagues to join me in honoring Jennifer Bernardes for her devotion and enthusiasm, and for her commitment to keeping alive the personal histories of Holocaust survivors. It is through the dedication of America's youth that we can ensure that these important stories are never forgotten.

CONDEMNING IRAN FOR CONSTRUCTING A FACILITY TO ENRICH URANIUM, AND FOR SUPPORTING TERRORISM

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise to introduce a resolution, which calls on the government of Iran to comply with its NPT obligations, sign the AIEA Model Additional Protocol, and halt support for terrorism. Also, it asks President Bush and the international community to renew their commitment to the war against terrorism, and impede the proliferation of weapons of mass destruction.

The proliferation of nuclear weapons anywhere in the world poses a serious threat to international peace and security. The knowledge, non-nuclear materials, and components needed for the production of nuclear weapons are already accessible worldwide. The main technical barrier is obtaining the nuclear material. Therefore, to prevent any further proliferation of nuclear weapons, we must work to prevent the propagation of nuclear materials.

The director of the International Atomic Energy Agency (AIEA) has recently announced that Iran has built a plant to enrich uranium—a key component of advanced nuclear weapons. This deeply worries me, because U.S. intelligence sources indicate that Iran could develop as many as 50 nuclear weapons from this facility.

Mr. Speaker, members of this chamber have not yet given adequate attention to the dangers of a nuclear Iran.

Iran's nuclear intentions are a cause of fear. It is unclear whether Iran, by pursuing a sophisticated and advanced nuclear program, has chosen to break from the NPT treaty now; but it is obvious that it has positioned itself to do so within a very short time if it ever decides to.

Iran is the most active state sponsor of terrorism, and continues to provide material support to Hizballah, Hamas, and Islamic Jihad—all recognized terrorist groups. The country's construction of nuclear facilities coupled with its known ties to terrorist groups constitutes a threat to global peace and security.

Nuclear materials that could be used to develop nuclear weapons must not fall into the hands of terrorists or state sponsors of terrorism—like Iran. Preventing Iran from developing nuclear weapons capabilities must remain a foreign policy and homeland security priority.

There are many difficulties, but also opportunities, on the road towards nuclear non-proliferation. For the last few decades a number of diplomatic and political strategies have been pursued. Let me empathetically opine that we need to redouble these efforts. If we are to achieve a non-nuclear Iran, we must commit to a thoughtful strategy of dialogue.

COMMENDING PASCHAL HIGH SCHOOL IN FORT WORTH, TEXAS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. FROST. Mr. Speaker, I rise today to commend the faculty and students of my alma mater, Paschal High School in Fort Worth, Texas for being ranked among the nation's finest schools by Newsweek magazine. Officially, Paschal placed No. 12 in Texas and No. 200 nationally based on advanced placement test scores. This year alone, the senior class included 11 National Merit Scholarship semifinalists.

Founded in 1885, Fort Worth's oldest high school has always been regarded as an academic leader. Today, Paschal exists primarily as a large, urban school with a diverse population and student body. The curriculum emphasizes balance, preparing students for college or university life through a variety of academic disciplines, clubs, advanced placement classes, and a host of athletic teams. This preparation enables students to understand and appreciate other cultures, become active participants of their community, and take ownership of their education.

Paschal High School is a terrific example of a successful collaboration between students, community representatives, faculty members, parents, alumni, and the Fort Worth Independent School district. This collaboration is truly remarkable, when considering the awards and accolades that this school has amassed since its inception.

Again, congratulations to the students and faculty of Paschal High School in Fort Worth, Texas for this latest achievement.

TRIBUTE TO MRS. SHEILA O'LEARY FOR HER 14 YEARS OF SERVICE TO THE IMMACULATE CONCEPTION REGIONAL SCHOOL

HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. GARRETT of New Jersey. Mr. Speaker, I rise to recognize the efforts of Mrs. Sheila O'Leary. After nearly 40 years as an educator, 14 years of which as the principal of the Immaculate Conception Regional School (ICRS) in Franklin, New Jersey, Mrs. O'Leary is now moving on to work at the Catholic Diocese of Paterson.

Political theorist Henry Adams once wrote, "A teacher affects eternity." He believed that the influence of educators over children is never ending. He understood that educators like Mrs. O'Leary play a vital role in the moral and intellectual education of our children.

During her years of dedicated service Mrs. O'Leary has inspired students, fueled their imaginations, advanced their natural abilities and encouraged them to explore the possibilities that life has to offer.

As an educator, Mrs. O'Leary could have chosen any school to work at—yet she chose Immaculate Conception. She took road less traveled and chose to take on the challenge of building ICRS into the great school it is today. With her guidance and a strong commitment to helping her students, Immaculate is now a better place. By increasing attendance and expanding the number of classrooms, constructing new science labs and starting a pre-K program, to name just a few, Mrs. O'Leary has fulfilled her deep conviction in giving every child a chance to learn and succeed in life. Truly she has brought new life to the school and its community.

Over the last 40 years, not only has she taught children the important concepts of reading and writing, but she has also educated them about the difference between right and wrong. She taught them to welcome knowledge and to reject ignorance. For this, Mrs. O'Leary is a model for America's educators and young people to follow.

On behalf of the people of New Jersey's Fifth Congressional District, it is with great honor, that I recognize and thank Mrs. Sheila O'Leary for her years of service to the Immaculate Conception community. Our nation is very fortunate to have her in our schools working with the future of our great Nation.

FLAG DAY

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. RUPPERSBERGER. Mr. Speaker, I rise today to celebrate and acknowledge the observance of Flag Day, June 14, 2003.

The American Flag is an integral component of many national holidays commemorating the creation of our nation, the lives of our Founding Fathers, the legacies of great leaders, and the sacrifices of our military service men and women, veterans, and retirees. But Flag Day is the one day we acknowledge the American Flag itself and all it symbolizes. On this day, we celebrate the 53rd National Flag Day.

As our national symbol, the American Flag is our ambassador to all corners of the globe and beyond, reminding people of who we are and what we stand for. The Flag symbolizes what is great about American democracy: the liberties and freedoms provided by the Constitution. It serves as a hopeful symbol of freedom to many people in the world, embodying the great American Dream of equal opportunity for all citizens.

The American Flag serves as a source of pride for special and outstanding achievements, from athletes winning Olympic gold medals to astronauts reaching the moon. It has inspired poets, musicians, and artists. It was the very inspiration for Francis Scott Key in 1814 to write the Star Spangled Banner. With the British attacking Fort McHenry in Baltimore, Maryland, Key was overwhelmed by emotion when the sun rose revealing the wartorn flag was still there.

The Flag continues to inspire people across the world and encourages them to recognize their potential and ability to achieve their own version of the American Dream. It is a focal point of respect for our active duty service men and women, military retirees, veterans, and those who work tirelessly to protect us: our police, firefighters, and first-responders.

In times of difficulty the tattered Flag reminds us of the sadness of war and terror, and the tragic loss of life that all too often occurs. Yet in such difficult times, the Flag inspires and reminds us that we are still here, and that we remain steadfast in our commitment to American democracy.

From school children to Members of Congress, many begin their day by reciting the Pledge of Allegiance. We do not do this as mere habit nor do we do it lightly. I, along with my colleagues and fellow Americans, have great respect for the American Flag and for all it represents. It is a great privilege to represent the Maryland 2nd Congressional District and to honor the American Flag for all it embodies at this critical time in our nation's history.

RECOGNIZING THE MILITARY SURVIVOR BENEFITS IMPROVEMENT ACT OF 2003

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to be a cosponsor of H.R. 548, the Military Survivor Benefits Improvement Act of 2003. This bill aims to ensure the well-being of our veterans, an issue of crucial importance to me.

Many veterans in my congressional district expressed to me their concerns regarding the treatment of elderly military survivors. Several veterans wrote letters to me stating their worry that "unlike other federal survivor programs, the military Survivor Benefit Plan (SBP) annuity is reduced at age 62 from 55 percent to as little as 35 percent of SBP-covered retired pay."

Many older retirees and survivors were not informed of the age-62 reduction when they signed up for SBP in the 1970s, and are shocked to learn their survivor's annuity will be far less than expected. The government provides federal civilian survivors a substantially higher share of retired pay for life, with no benefit reduction at any age.

For some, the sharp annuity drop at age 62 offsets the amount of the survivor's Social Security benefit attributable to the member's uniformed service. For those who have become retirement eligible since 1985, it is a reduction from 55 percent to 35 percent of SBP-covered retirement pay.

In order to respond to these valid concerns, I strongly support H.R. 548. This bill increases the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, and provides for a one-year open season under that plan. The bill seeks to balance equity and cost considerations by phasing out the age-62 benefit reduction over five years.

The Military Survivor Benefits Improvement Act of 2003 is an important piece of legislation that addresses the needs of our Nation's veterans and their families. This bill will certainly improve the lives of our country's veterans by giving them the benefits that they deserve.

VETERANS NURSING HOME CARE ACT OF 2003

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. EVANS. Mr. Speaker, I rise in support of H.R. 2445, the Veterans Nursing Home Care Act of 2003. I am introducing this bill in order to extend the assurance of a meaningful nursing home benefit for the majority of our service-connected veterans. I want to ensure that medically necessary nursing care is at least available to those with conditions related to their military service.

This winter, the administration surprised us with a new proposal for saving VA about $235 million. Instead of using the guarantee for nursing home care as a minimum threshold for veterans to whom VA must provide unlimited nursing home care, it proposed to define this group as the only veterans who would be eligible for nursing home services. This was definitely not Congress's intention and I want to ensure that the Department is very clear about that.

Congress passed the Veterans Millennium Health Care and Benefits Act (P.L. 106–117) in 1999. The bill contained a number of measures designed to shore up the long-term care mission in VA. Even then, it was apparent that VA had begun to abandon its role in traditional long-term care. VA now acknowledges that the majority of its "nursing home" beds are dedicated to post-acute care, short-term evaluation, and rehabilitative care missions. It continues to turn away from custodial care for veterans.

In response to this shift in mission, Congress was able to agree to a small core-group (now known as Priority Group 1A) who would be eligible for long-term placement in a VA nursing home. VA would not be able to discharge these veterans without the consent of the veteran or his representative. In addition, Congress agreed to inclusion of non-institutional long-term services in the definition of "medical services" that comprise VA's benefits package. The Millennium Bill also established a "capacity requirement" that required VA to maintain its long-term care services at the FY 1998 level.

What has occurred in response to this legislation has been discouraging to say the least. A letter covering a report VA prepared to discuss implementation of the law signed by Secretary of Veterans Affairs Anthony J. Principi states: ". . . there is evidence of only small changes in VA's long-term care (LTC) services that were a direct result of the Act versus what VA had already planned in providing LTC for veterans. In addition, there was only a small increase in numbers of veterans 70 percent service-connected or greater who were estimated to need nursing home care but who actually received that care from VA."

In addition there is a long history of correspondence between Congress and the Administration about the "capacity" requirement. As part of its proposal for fiscal year 2004, VA would cut an additional 5000 nursing home beds from its program projecting an average daily census (ADC) of 8500. At the end of FY 2002, it was already considerably short (ADC of 11,969) of its FY 1998 required level (an average daily census of 13,391).

The news is not just bad for institutional care. This May, the General Accounting Office released a report I requested that looked at the availability of non-institutional long-term care. It identified major gaps in access and availability of services—including those Congress meant to include as part of the "basic benefits" package available to every enrolled veteran.

I note that I am not the only one who is apparently concerned about VA's vanishing nursing home mission. The Chairman of the Senate Veterans Affairs Committee, Arlen Specter has introduced legislation, S. 1156, which extends the requirement to provide long-term nursing home care to veterans with service-connected conditions rated at least 50 percent. I look forward to working with him on this legislation. I urge all Members of the House to support this measure.

UNLAWFUL INTERNET GAMBLING FUNDING PROHIBITION ACT

SPEECH OF

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2143) to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes:

Mr. SHERMAN. Mr. Chairman, I rise to express my support for H.R. 2143, the Internet Gambling Prevention Act of 2003, passed by the House on June 10, 2003.

I am a strong believer of the simple principle: "You should have to leave your house to lose your house." Thus, I believe we should prohibit Internet gambling except when the gambler is known to be physically present in a location the "sovereign" of which authorizes the particular gaming. This does take steps to prevent unlawful Internet gambling, especially gambling through websites based off-shore, outside of the regulatory jurisdiction of the United States.

During consideration of H.R. 2143, I voted for the Sensenbrenner/Conyers/Cannon amendment which would have removed language from the bill that would have excluded transactions with businesses licensed by a state from the definition of "bet and wager." There are at least two problems with this provision which unfortunately (due to the non-adoption of the said amendment) remains in the bill.

First, the provision does not assure that the gaming is legal at the location where the gambler is actually located. Second, the loophole does not provide parity for tribal governments running casinos. Because tribes that run casinos enter into compacts with the State to offer these facilities, they are not licensed by the state.

Mr. Speaker, as H.R. 2143 moves to the Senate and ultimately to a conference committee, I am hopeful that we can remove this loophole from the legislation.

HONORING MYRA KELLY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. ENGEL. Mr. Speaker, I rise today to honor a woman who believes that every child, regardless of color, creed, economic status, or disability has the inherent right to receive a quality education. And it is because of this deeply held personal belief that Myra Kelly has dedicated her life to a career serving the children of her community.

A lifelong New Yorker, Myra began her career as a teacher in Community School District 9. While there, she taught general elementary school, junior high school math and elementary special education. Myra then proceeded to spend the next 30 years of her professional career in the New York Department of Education. In this capacity, she acted as a school Psychologist in District 10 and was the Supervisor of Psychologists for District 11. While Myra has excelled in each of her professional positions and given of herself freely to every student, the most rewarding experience of her career was her work with children with severe emotional disabilities.

Myra's dedication to education was also evident in her own life. And like all good teachers, she practiced what she preached. Ms. Kelly's academic credentials are truly impressive. She received both a Bachelors and a Masters degree from Lehman College, her Professional Diploma from the City College of New York, and a School District Administrator's credential from the College of New Rochelle. Except for her dissertation she has also completed all of her work for a Doctorate in the Learning, Language, and Literacy program at Fordham University.

I hope that new teachers and school psychologists are inspired by Myra's dedication to her chosen career. The New York Department of Education will sorely miss her.

I would like to join the New York Department of Education, her family and friends in thanking Myra for her years of service and wishing her congratulations on the occasion of her retirement.

HONORING THE SERVICE OF BATON ROUGE ADVOCATE REPORTER JOAN McKINNEY

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. JOHN. Mr. Speaker, I am honored to have been a member of this body for the past seven years. In that time our world and our Congress have gone through times of grief, destruction, joy and prosperity. Through it all, there has been a constant voice at my side asking me the tough questions and reporting news of my actions in Congress to the news consumers in Louisiana.

As of today, that voice will move on to ask others the tough questions and aid Capitol Hill's press gallery reporters in relaying the latest news to their vast readerships. After 24 years as the Baton Rouge Advocate's Washington reporter, Joan McKinney is putting her skills to use in a new arena as Deputy Director of the U.S. Senate's Daily Press Gallery.

My colleagues and I in the Louisiana delegation will miss her energy, her attentiveness, and most of all her objectivity. Joan's depth of historical and institutional knowledge of both House proceedings and the Louisiana Congressional Delegation is unrivaled. Having begun her career as press secretary to U.S. Senator FRITZ HOLLINGS of South Carolina, Joan understands the challenge of being both question asker and information giver.

Her colleagues at The Advocate describe Joan as "an excellent reporter who worked very hard to understand the complex issues she covered through the years. She understood the federal system and was able to anticipate developments on important stories. And, she was very good at understanding and communicating how federal issues might play out in Louisiana and how they might affect people here."

We will all miss Joan's coverage of our lively delegation, her ear for a unique angle and her inquisitive spirit. She's not going far—perhaps only a few desks from her current one in the Senate Press Gallery—but she leaves a gaping hole for her predecessor to fill.

Joan, I wish you all the best in your new job. You'll be missed. Congratulations!

THE CHILDREN OF WORKING AND WELFARE FAMILIES ARE ON THE FRONT LINES

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. OWENS. Mr. Speaker, yesterday, on a suspension vote we reauthorized the current Temporary Assistance For Needy Families (TANF) legislation leaving in place a very hard hearted and contemptuous piece of the so-called safety net. Farm subsidies may go as high as 200,000 dollars per recipient with few qualifying provisions attached; however, welfare recipients with a famjly of four receive between 4,000 and 6,000 dollars per year. On the day before the reauthorization there was yet another nasty Republican slur at the poor and at families on welfare: "These people want a welfare check, not a child care tax credit." This demonization of the poor has escalated among Republicans despite the fact that it has clearly been established that on the front lines in Iraq, Afghanistan, the Baltic states and elsewhere more than ninety per cent of our troops are from poor and working class families. Because most of them were draftees it is probable that more than two-thirds of the heroes whose names are carved on the Viet Nam Memorial Wall came from families eligible for welfare and other social services. Washington decision-makers should try to imagine the emotions of welfare mothers who search for the names of their sons at the Viet Nam Memorial Wall. To prime the imagination of those who will soon be deciding how many more American sons and daughters are going to be sent to Iraq I offer the following RAP meditation:

WELFARE MOTHER AT THE VIETNAM WALL

O so long I saved
For the Greyhound bus fare
To travel to this great wall
Just to sit and stare.
From across the park
They all look the same
But take it slow
I find each separate name.
Girls names you can play with—
Towana Shoshana Sojourner;
But all my boys I gave
Names from the holy bible—
Joshua, Joseph and Paul
Now they decorate this great American Wall.
Officers respected my boys
And found them strong,
They used to get rough
But they did no wrong.
Angry snakes inside me
Keep coiling,
Maybe I shouldn't be bitter
But nobody asked
When they drafted my litter.
O God!
Stop my streaming blood
From boiling,
All my days
Are filled with toiling;
Never owned a dress of silk
But my breasts
Filled up rich with milk.
Nobody ever said thanks
When my babies
Climbed into their tanks;
Never had accounts in banks
Only crumbs for welfare ranks,
Butt of jokes and office pranks,
Pride they always made me smother—
Despised begging welfare mother.
Welfare clerks take up
So many hours of my time
Shuffling me round from line to line.
Clerk questions and forms
Nearly choked me to death,
Governors and Mayors held me down
Till I almost ran out of breath.
Worked in many stores
Scrubbed a whole lot of floors,
Once was tempted to hang out
With a ring of cheap whores;
At home always heavy chores,
Too tired to keep a job,
Then my welfare clerk attacked
With poison arrow eyes;
In front of her something in me dies,
Acts like its her money
Used to ask if I had a honey,
Charges me with lies,
Envies what was once
Between my thighs.
Be nice if I still had a man,
I miss hugging and stuff
But men are like babies
And six kids was enough.
They all had the same daddy
But my husband died too soon,
Strangled by escaping gas
With no mask
In the factory back room.
All my kids
I found some way to feed—
They grown now
And your molasses pity
Don't none of them need.
I let my daughters-in-law
Keep all the war insurance money;
They take good care of their kids
As far as I can see;
Don't want my grandsons
Still standing
In the soup kitchen line with me.
Its me alone now—
My social security
Covers most of the rent
But then its all spent;
For food each month
I survive on
Whatever crumbs God has sent.
My struggle goes on
With MedicAid Madams
Demanding my birth certificate
Again and again
They keep on trying to break me in.
Let them shove their questions and forms—
Don't push on me no more
I done come through too many storms.
Why go back to the welfare folks?
Maybe I'll just die
Right here and my boys
Will bear my body home.
Soldiers hear your mama call!
Break from the ranks
And leave the wall!
From each of your flags
A little bit of cloth
To quilt me a coffin cover;
Maybe somebody will blow a horn
To let the world know I'm your mother.
No, God forgive me!
I am a mighty American mother!
It wouldn't be right
To die here and spoil this place,
I got a duty to uphold our dignity,
We are a proud and loyal race.
My bus return ticket is here,
I'll face that MedicAid Madam
And swallow my fear;
My heroes would be ashamed
If I ever shed another tear.
O God!
Stop my steaming blood from boiling;
Angry snakes inside me keep coiling.
I'll tell the snob
To take her fancy form and shove it,
Her trashy mind can't spoil me
I'll fly high way up above it.
Witch look down on me no more
I'm ready to settle the score;
Tell me face to face
Before I crawl—
How many of your sons
Have their names
Carved up on the Vietnam Memorial Wall?

RECOGNIZING WEST POTOMAC HIGH SCHOOL VIRGINIA SCHOLASTIC ROWING CHAMPIONSHIPS GOLD MEDAL WINNERS

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to recognize an extraordinary group of young men and women in Northern Virginia. This year, athletes on the West Potomac crew team took four gold medals at the Virginia Scholastic Rowing Championships. These accomplished individuals are tenacious, driven contributors to their high school community,

On April 26, 2003, West Potomac achieved its unprecedented success on the Occoquan River. The four first place West Potomac boats were the men's first four boat, the women's first four boat, the men's second four boat, and the women's second four boat. Crew is a difficult sport that requires strength, cooperation, coordination, strategy, and persistence. The youthful athletes of West Potomac demonstrated all of these traits in their quest for the state championship, and I am sure that they will continue to excel as sports team members and as citizens.

In a thrilling race, the men's first four earned gold for West Potomac for the first time in 16 years. Trailing McLean for much of their race, the Wolverines sprinted just past their opponents in the closing meters for a photo finish. At the official ceremony, the results of the race were revealed: West Potomac won the 1,500-meter race by four-tenths of a second! The members of the winning men's first four boat were coxswain Helen McGuirk, stroke Kip Wanser, 3-seat Will Aramony, 2-seat Luke Urban, and bow seat Paul Burgess. These Wolverines took the crown from defending champion, McLean in a high-paced, enthralling display of teamwork and athleticism.

The women's first four also came from behind in a tense and hard-fought race to win their gold. Gloucester led for most of the race, with West Potomac taking the lead with about 500 meters remaining and holding off Gloucester for a 1.5-second victory. Coxswain Ashley Morris, stroke Natalie Jones, 3-seat Dorothy Baden-Mayer, 2-seat C.J. Jenkins, and bow Kate Lord made history with their win as the first West Potomac women's varsity quartet to claim Virginia Scholastic Gold.

Continuing the winning streak for the Wolverines that same day was the men's second four boat, manned by coxswain Stephanie Zvonkovich, stroke Trey Burnett, 3-seat Justin Brown, bow Alex Fedgatten, and 2-seat Andrew Norbert. West Potomac held off Mathews and Gloucester for the win with a time of 5:37.3.

Members of the women's second four boat were: coxswain Ashley Thompson, stroke Stephanie Baker, 3-seat Amber Flynn, 2-seat Kelly Wernecke, and bow Moria Holt. This time it was Fairfax and West Springfield left behind in the Wolverines' wake, as West Potomac posted a winning time of 6:25.6 with their skilled and cohesive rowing.

Mr. Speaker, in closing, I would like to take this opportunity to congratulate all of the athletes of the West Potomac High School rowing program. Their dedication, persistence and resolve deserve our highest praise. I ask that my colleagues join me in congratulating this group of extraordinary competitors.

TRIBUTE TO PERK VICKERS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. McINNIS. Mr. Speaker, it is an honor to rise today to recognize the hours of dedication and hard work that Perk Vickers has invested for the betterment of the Lake Fork community of Colorado. Perk has recently announced his retirement from his seat on the Hinsdale County Planning Commission, a seat he has held for almost 30 years. I would like to take this opportunity to recognize the great leadership that Perk has shown and to highlight the many accomplishments he has made to his community.

Perk has served Colorado with vision and commitment for over half a century. Besides his notable service to the Hinsdale County Planning Commission, Perk has served as chairman of the Hinsdale Republican Party for over 50 years, as well as serving as the 34-year director of the Upper Gunnison River Conservancy District. In addition, Perk has spent 36-years serving as Hinsdale County's representative to the Colorado River Water Conservation District. In the 1950's, Perk was instrumental in the creation of Club 20, which he helped form to bring twenty Western Slope counties together in order to promote roads and tourism. He also founded the Hinsdale County Chamber of Commerce, which celebrated its 50th anniversary this year. In short, Perk's dedication has been inspirational, and Colorado has benefited greatly from his service.

Mr. Speaker, it is with great admiration that I pay tribute today to the many services Perk Vickers has performed on behalf of the citizens of Colorado. I wish to extend my heartfelt gratitude for his many examples of community service that have helped make Colorado a more prosperous, friendlier, and beautiful place to live. I know that men like Perk never rest, and so I wish to congratulate him now on his Lifetime Achievement Award and his retirement. I wish him success in all of his future endeavors. Perk, thank you for your service.

PERSONAL EXPLANATION

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. BROWN of South Carolina. I was unable to participate in the following vote because of a death in the family. If I had been present, I would have voted as follows: June 5, 2003, rollcall vote 248, on agreeing to S. 273, I would have voted "yea."

TRIBUTE TO DANA JOHNSON OF BATTLE CREEK, MICHIGAN—EXCEPTIONAL TEACHER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. SMITH of Michigan. Mr. Speaker, Education is the key for our Nation's future prosperity and security. The formidable responsibility of molding and inspiring young minds to the avenues of hope, opportunity and achievement rests partly in the hands of our teachers. Today I would like to recognize a teacher from Battle Creek, Michigan that most influenced and motivated exceptional students in academics and leadership that were winners of the LeGrand Smith scholarship.

Mr. Dana Johnson teaches mathematics at the Battle Creek Area Mathematics & Science Center. He is credited for instilling in students an enthusiasm for mathematics. In one student's own words, "Mr. Johnson made math come alive, and he always gave real-world examples of even the most abstract topics." –The respect and gratitude of his students speaks well of Mr. Johnson's ability to challenge young minds to stretch the mental muscles and strive to achieve the best that is in them.

Mr. Johnson's excellence in teaching challenges and inspires students to move beyond the teen-age tendency toward surface study and encourage deeper thought and connections to the real world. No profession is more important in its influence and daily interaction with the future leaders of our community and our country, and Dana Johnson's impact on his students is certainly deserving of recognition.

On behalf of the Congress of the United States of America, I am proud to extend our highest praise to Mr. Dana Johnson as a master teacher. We thank him for his continuing dedication to teaching and his willingness and ability to challenge and inspire students for leadership and success.

INTRODUCING A RESOLUTION FOR A U.S. POSTAGE STAMP COMMEMORATING ANNE FRANK

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. ISRAEL. Mr. Speaker, I rise today to introduce a resolution that expresses the sense of Congress that the United States Postmaster General should issue a postage stamp commemorating the 75th birthday of Anne Frank.

As we all know, Anne Frank documented her life during the Nazi occupation of Amsterdam in a diary that she called "Kitty." The diary became her confidant, and she wrote about her experiences before the occupation, going into hiding, and the tortuous years in hiding. She has come to be a girl we all feel we know well, a personification of good in the face of hatred, murder and genocide.

Anne Frank: The Diary of a Young Girl has been translated into 67 languages and has sold more than 31 million copies. It is the most widely read memoir of the Holocaust. For many American students, this book is their first exposure to the horror and historical uniqueness of the Holocaust.

Anne Frank has become an inspiration to youth of all faiths and is a symbol of children throughout the world who suffer in war, subjugation and oppression. She serves as a beacon of bravery, hope and tolerance under the most harsh, inhumane conditions. Her life and death are reminders of the need for constant vigilance and international human rights.

U.S. postage stamps have honored well-respected and influential people, and I believe that Anne Frank deserves recognition. It is appropriate to honor her in this very unique way.

Today Anne Frank would have been 74 years old. She was a talented writer, and her contribution to the world cannot be understated. In one year from today, we will be remembering her on her 75th birthday. I am hopeful that this postage stamp will be issued in time for this milestone.

I encourage all my colleagues to cosponsor this important resolution.

SOUTH CAROLINA SEWER DIVERS

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. BROWN of South Carolina. Mr. Speaker, in South Carolina, a new breed of heroes are saving the city of Charleston from a potentially catastrophic sewage explosion and subsequent environmental disaster. It will take years and millions of dollars to replace the aging Charleston sewage tunnels. Until then, the Commissioners of Public Works are calling upon divers to repair the existing pipes and tunnels. Already two sewage tunnels have suffered minor cave-ins, but these divers were able to prevent the dumping of millions of gallons of wastewater into the harbor. Sewage divers are crawling more than 120 feet underground into a mire which is so dark and filled with murky sludge that even the strongest light is unable to reveal what surrounds them.

Daily, these brave men risk their lives to protect the well being of other citizens in their community. Although their job has a high level of difficulty, the divers do not complain but fearlessly complete what they believe is "just their job."

On behalf of the residents of South Carolina and especially Charleston, I would like to commend the sewer divers for their bravery, selflessness, and dedication to the historic city and its overall welfare.

DISABLED VETERANS TAX

HON. JIM MARSHALL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. MARSHALL. Mr. Speaker, today I am signing a discharge petition that I brought to the House floor to right a wrong that has been done to disabled American veterans for more than a century. In 1891, the United States of America imposed the Disabled Veterans Tax. We did not call it by this name. We did not even call it a tax. Instead we called it a prohibition upon concurrent receipt. We called it something few Americans would understand.

Mr. Speaker, our predecessors in Congress called their law a prohibition upon concurrent receipt because they did not want to call it what it is, a tax on disabled veterans. This bad law prohibits retired veterans from receiving both their retirement pay and any benefit for a service-related disability at the same time. In effect, it is a 100% tax on a retired veteran's disability benefits. As a veteran's disability increases, so does the tax imposed by our government.

Mr. Speaker, it is time to call the concurrent receipt prohibition what it really is: the Disabled Veterans Tax. It was wrong then. It is wrong now. It is time to end the Disabled Veterans Tax.

Mr. Speaker, I receive a disability benefit for wounds received in Vietnam. But my benefits are not taxed away. The Disabled Veterans Tax does not apply to me because I only served two years. Had I provided more service to my country—enough to be entitled to military retirement benefits—then the Disabled Veterans Tax would tax away my disability benefit completely.

Mr. Speaker, I cannot imagine how any member of this body can defend the Disabled Veterans Tax, a tax that not only punishes disabled veterans, but punishes most those who served our country most, those who made the military a career. Congress should be ashamed of itself.

Mr. Speaker, for years a large majority of the members of this House have cosponsored House Resolution 303, a bill that would end the Disabled Veterans Tax. And for years, House Resolution 303 has been bottled up in committee, just like campaign finance reform was bottled up. The discharge petition process forced a vote on campaign finance reform. I am using that same process to force a vote on ending the Disabled Veterans Tax.

At last count 322 members of this Congress are co-sponsors of House Resolution 303. Only 218 of these co-sponsors must sign the discharge petition for us to force a vote. This bill has broad bipartisan support. Both Democrats and Republicans have co-sponsored House Resolution 303. I am a Georgia Democrat, but by my discharge petition seeks to force a vote on a bill authored by a Florida Republican.

Mr. Speaker, some will ask whether we can afford this tax cut, whether we can afford to let these disabled veterans keep their benefit money. I believe many cosponsors of House Resolution 303 have already answered that question twice this year. These cosponsors already have voted for tax cuts 400 billion dollars and 200 billion dollars greater than what we eventually enacted. So Mr. Speaker, on the question whether we should finally eliminate the Disabled Veterans Tax, I trust we will not hear questions about affordability coming from those already on record in support of far, far larger tax cuts.

Mr. Speaker, the Disabled Veterans Tax is wrong. As of this morning, 322 cosponsors of House Resolution 303 agree with me. Let's bring it to a vote. No more half measures. No more evasions. No more hypocrisy. It's time for members who continually co-sponsor this bill to put up or shut up, once and for all.

TRIBUTE TO THE McCOLLOUGH INVADERS IN THEIR 38TH YEAR

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. RANGEL. Mr. Speaker, today I rise to honor the McCollough Invaders, a gospel missionary brass band who this week will be celebrating their 38th Anniversary.

These men are only a few of the many unsung heroes of our community, who have given of their time and have never asked for anything in return. This group of men began their careers as early as 9 years of age. During the 1960s, these boys were encouraged by the late Bishop Walter McCollough to make a positive contribution to the community while simultaneously improving the quality of their own lives.

Many came from broken homes where there was no father figure. Their grandparents, aunts, uncles, older brothers, sisters, other relatives or friends would step in when a parent was not around. In order to make ends meet, many of their families depended on public assistance. In some cases, these boys were left to themselves to survive on their own.

Despite these personal obstacles, these young boys devoted their lives to ministering music to many in need of relief from the day-to-day frustrations and anxieties of life. Throughout the 1960s, they performed around the country. Their dedication to the peace movement and to playing Gospel music helped shaped the America we know today.

Today the McCollough Invaders are still making history. Some of these young men no longer live in New York. However, they continue to influence and help others cope with life's frustrations by making burdens just a little bit lighter. Some have used what they have learned many years ago by working with young Gospel bands and marching bands in other inner cities in Washington, DC, and Charlotte, N.C. Their travels have taken them as west as California and as south as Florida.

Others have become business leaders or entrepreneurs in the fields of finance, healthcare, energy, and technology. Many continue to work with youngsters who are mirrored images of themselves almost two scores ago. It is certain that these young men have been and will continue to be role models for others who will also make significant contributions to our communities.

Though the McCollough Invaders can be heard on any given Sunday at the same venue in Harlem, New York at 125th Street and Frederick Douglass Boulevard, we join the City of New York on Saturday, June 14, 2003 as The McCollough Invaders celebrate 38 priceless years of providing service to the Harlem community and the world.

A TRIBUTE TO AL DAVIS

SPEECH OF

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. BECERRA. Mr. Speaker, I rise this evening to join with my colleagues and celebrate the life and mourn the untimely, tragic death Friday evening, May 30, of Albert J. Davis, Chief Democratic Economist of the House Ways and Means Committee.

Let me express my deepest condolences to Al's longtime companion, Mary Beilefeld. While our words today cannot replace the loss felt by Mary, I hope it is somehow comforting that her loss is not only hers but is shared by the Members and staff of the House Committee on Ways and Means and by all inside and outside of this institution who had the privilege of working with Al.

I never saw a day when Al did not possess an amiable and peaceful air about him. And when you got him talking, it was wonderful seeing this gentle man's passion for his work, for economic justice and fairness come pouring out, the passion that fueled his mind and body while he spent long hours in his Longworth office writing the reports and memos on which my colleagues and I on the House Ways and Means Committee relied.

During the past several years, Al provided us with the most up-to-date, readable, and, dare I say, entertaining analyses of budget and tax information available in Washington. There were many flights back to Los Angeles where a stack of Al's most recent memos written late the night before or bright and early that morning helped me pass the time and prepare for the committee or floor debates ahead.

I have many fond remembrances of Al. For instance, there were the times when the two of us and perhaps John Buckley, his colleague on the Ways and Means Committee Democratic staff and accomplice in such matters, would sit behind the committee dais in 1100 Longworth and in an effort to liven things up a bit, devise a spirited line of questioning for a witness before the committee. Or other times when with only moments to spare, Al would come through with a quote, note, number, or other factoid from his encyclopedic memory or his always-threatening-to-burst accordion file folder that was central to the argument I was preparing to make during a tax mark-up. But perhaps my fondest memories of Al will be the after-hours, informal banter in the hallways or whenever we would run into each other in which the thoughtful, comedic, and interesting character of this wonderful human being would shine.

Mr. Speaker, Al Davis was a public servant in the best sense of the phrase. The work he did, whether it was writing memos, crunching numbers, or producing charts and graphs, was all with the goal of ensuring that the public was served well by its government. I will long remember Al and his contributions to the Ways and Means Committee and this House and I ask that my colleagues remember and honor his memory as well.

THOMAS FRIEDMAN COLUMN ON SERVICE CUTS

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. RAHALL. Mr. Speaker, as the Republican majority shortchanges working families on the child tax credit; as our veterans' benefits are cut; as the majority approaches cuts in transportation funding; as we experience a lack of funding for education and homeland security initiatives, and as the President is cutting services for the many in his incessant thirst to help the wealthy few, Thomas Friedman offers a view in his column "Read My Lips" in the June 11, 2003 edition of the New York Times, which I recommend to all my colleagues, Democrats and Republicans alike. It is as follows:

[From the New York Times, June 11, 2003]

READ MY LIPS

(By Thomas L. Friedman)

Democrats have been groping for a way to counter George Bush's maniacal tax cuts, which are designed to shrink government and shift as many things as possible to the market. May I make a suggestion? When you shrink government, what you do, over time, is shrink the services provided by federal, state and local governments to the vast American middle class. I would suggest that henceforth Democrats simply ask voters to substitute the word "services" for the word "taxes" every time they hear President Bush speak.

That is, when the president says he wants yet another round of reckless "tax cuts," which will shift huge burdens to our children, Democrats should simply refer to them as "service cuts," because that is the only way these tax cuts will be paid for—by cuts in services. Indeed, the Democrats' bumper sticker in 2004 should be: "Read my lips, no new services. Thank you, President Bush."

Say it with me now: "Read my lips, no new services—or old ones."

Whenever Mr. Bush says, "It's not the government's money, it's your money," Democrats should point out that what he is really saying is, "It's not the government's services, it's your services"—and thanks to the Bush tax cuts, soon you'll be paying for many of them yourself.

As the former Nixon-era commerce secretary Peter Peterson just observed in this newspaper, when Mr. Bush took office the 10-year budget projection showed a $5.6 trillion surplus—something that would easily prefinance the cost of Social Security. The first Bush tax cut, coupled with continued spending growth and the post-9/11 costs, brought the projected surplus down to $1 trillion. "Unfazed by this turnaround," notes Mr. Peterson, "the Bush administration proposed a second tax-cut package in 2003 in the face of huge new fiscal demands, including a war in Iraq and an urgent 'homeland security' agenda." Result: now the 10-year fiscal projection is for a $4 trillion deficit.

This in turn will shrink the federal government's ability to help out the already strapped states. Since most states have to run balanced budgets, that will mean less health care and kindergarten for children and the poor, higher state college tuition, smaller local school budgets and fewer state service workers. And Lord only knows how we'll finance Social Security.

Everyone wants taxes to be cut, but no one wants services to be cut, which is why Democrats have to reframe the debate—and show President Bush for what he really is: a man who is not putting money into your pocket, but who is removing government services and safety nets from your life.

Ditto on foreign policy. As we and our government continue to spend and invest more than we save, we will become even more dependent on the outside world to finance the gap. Foreigners will have to buy even more of our T-bills and other assets. And do you know on whom we'll be most dependent: for that? China and Japan. Yes, that China—the one the Bush team says is our biggest geopolitical rival.

"In the 1990's, Japan's and China's excess savings were financing our private sector investment, because the government was in surplus," says Robert Hormats, vice chairman of Goldman Sachs International. "Now, with these looming deficits, China and Japan are being asked to finance our government's actual operations." That makes us very dependent on their willingness to continue sending us hundreds of billions of dollars of their savings. Should China and Japan not want to play along, your services will very likely be cut even sooner (unless you believe in "voodoo economics"). Which is why Democrats should rename this tax bill the China-Japan Economic Dependency Act.

I don't think Democrats can win the presidency with a single issue. You win the presidency by connecting with the American people's gut insecurities and aspirations. You win with a concept. The concept I'd argue for is "neoliberalism." More Americans today are natural neolibs, than neocons. Neoliberals believe in a muscular foreign policy and a credible defense budget, but also a prudent fiscal policy that balances taxes, deficit reduction and government services.

To name something is to own it. And the Democrats, for too long, have allowed the Bush team to name its radical reduction in services, and the huge dependence it is creating on foreign capital, as an innocuous "tax cut." Balderdash. This new tax cut is a dangerous foray into wretched excess and it will ultimately make our government, ourselves and our children less secure.

FLORIDA'S FALLEN HEROES

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. MICA. Mr. Speaker, as our Nation remembered its war dead on Memorial Day and June 6th D-Day, I believe it is fitting to pay tribute to all of those who have paid the ultimate sacrifice. In our most recent conflict in Iraq, 14 individuals from my State of Florida gave their lives in service to our Nation in that war. While we honor and remember all those brave men and women and their loved ones who have given their full measure of devotion to their country from the days of the American Revolution to this hour, I submit the names of the following members of our military, their age, service and Florida hometown for special remembrance:

Lance Cpl. Andrew J. Aviles, Tampa,–18, Marine Corps.

Cpl. Armando A. Gonzalez, Hialeah, 25, Marine Corps.

Cpl. John T. Rivero, Tampa, 23, Army National Guard Infantry.

Lance Cpl. Brian R. Buesing, Cedar Key, 20, Marine Corps.

Lance Cpl. David K. Fribley, Fort Myers, 26, Marine Corps.

PFC Michael R. Creighton Weldon, Palm Bay, 20, Army.

Lance Cpl. Antonio J. Sledd, Tampa, 20, Marine Corps.

Ranger Specialist Marc A. Anderson, Brandon, 30, Army.

Army Ranger Sgt. Bradley S. Crose, Orange Park, 30, Army.

Navy SEAL Chief Petty Officer Matthew J. Bourgeois, Tallahassee, 35, Navy.

Sgt. Michael C. Barry, Brandon, 29, Army National Guard.

CWO Timothy W. Moehling, Panama City, 35, Army.

Master Sgt. Michael Maltz, St. Petersburg, 42, Air Force.

Specialist Pedro Pena, (Last residence in Florida), 35, Army.

FLIGHT 100—CENTURY OF AVIATION REAUTHORIZATION ACT OF 2003

SPEECH OF

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

Mr. SHERMAN. Mr. Chairman, I rise to express my support for H.R. 2115, the Century of Aviation Reauthorization Act. This bipartisan legislation authorizes $58.9 billion over four years for the activities of the Federal Aviation Administration (FAA), and continues provisions in current law that ensure that all aviation trust fund revenues are spent only on aviation programs.

While I was pleased to join my colleagues in voting for passage of this important legislation, it is disappointing that the legislation does nothing to improve local control over flight curfews at airports. Noise generated by airports is a constant infringement on the quality of life for residents in surrounding communities.

I believe that local authorities, working in conjunction with the Federal Aviation Administration, should be making the decisions with respect to flight curfews at locally controlled airports. I did not submit such an amendment to the Rules Committee because I was told the Committee would not make it in order.

I hope that as this legislation proceeds to the Senate, we can work to strengthen the provisions of the legislation with respect to airport noise and to give more control to local authorities.

SENATE—*Monday, June 16, 2003*

The Senate met at 2 p.m. and was called to order by the Honorable CRAIG THOMAS, a Senator from the State of Wyoming.

The PRESIDING OFFICER. The Chaplain will lead us in prayer. Today, we are pleased to have with us as guest Chaplain, Rabbi Arnold E. Resnicoff, U.S. Navy retired.

PRAYER

The guest Chaplain offered the following prayer:

Almighty God of freedom, who gave us the promise and the dream of liberty to be proclaimed throughout the land, we pause before this session to recall words spoken by a Senate nominee—Abe Lincoln—on this day, June 16, in 1858. "A nation divided against itself cannot stand," he said, and we "cannot endure half slave, half free."

O Lord our God and God of generations past, we offer thanks for all the progress we have made since that historic speech, even as we recognize we still have more to do. Slavery, the institution, is no more. But let us unite in our resolve that none should be enslaved by prejudice or hatred that threatens the humanity and dignity we have fought to recognize and guarantee: that none, victimized by ignorance or discrimination, live lives half slave, half free.

Grant us and all our leaders the wisdom to debate and disagree, with civility and respect, the issues of the day. But give us, we pray, the wisdom and the faith we need to safeguard a nation united, not divided—indivisible, as we pledge—in our pursuit of liberty and justice for us all.

And may we say, Amen.

PLEDGE OF ALLEGIANCE

The Honorable CRAIG THOMAS, a Senator from the State of Wyoming, led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, Monday, June 16, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CRAIG THOMAS, a Senator from the State of Wyoming, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. THOMAS thereupon assumed the Chair as Acting President pro tempore.

SCHEDULE

Mr. MCCONNELL. Mr. President, today the Senate will begin consideration of S. 1, a prescription drug benefits bill, for debate only. There will be no votes during today's session. Today is an excellent opportunity for Senators to deliver their opening statements. We encourage all Senators to participate in this debate. Hopefully, Members will take the next day or two and deliver their opening remarks. The next vote will occur during Tuesday's session of the Senate and Members will be notified when that vote is scheduled.

PRESCRIPTION DRUGS AS PART OF MEDICARE

Mr. MCCONNELL. Mr. President, I will make a very brief opening statement and then our friend and colleague from Nebraska, Senator HAGEL, who has been extremely active and has a very innovative proposal to deliver prescription drugs to our seniors, is going to take over for this side for the remainder of the afternoon.

This is indeed a historic debate. "Historic debate" is a term perhaps over used in the Senate but that is not the case today. Today, after almost 40 years from Medicare's creation, we begin debate on legislation to help our most frail citizens acquire the miraculous but expensive prescription drugs they need.

For decades, we have witnessed the ever-expanding power of innovative pharmaceutical drugs both to cure and to treat. For decades, we have talked about providing our seniors, the poor and fragile of our society, the financial aid and means to acquire those wonder drugs. For years, colleagues on both sides of the aisle have talked of the need. Today, the talk ends and the action begins.

What begins today will be completed this year. There are many reasons but none greater than the leadership of one man, George W. Bush. He is the reason we are at this point in the Senate today. It is President Bush who has made the commitment, shown the leadership, and challenged the Congress to act that has made this day possible. Yet President Bush's Medicare effort, like that of past Presidents, might have been for naught except for the leadership of Dr. BILL FRIST. As a doctor and reformer in the 1997 Medicare Commission and now as Senate majority leader, he is uniquely qualified to make a difference, and a difference he has made in that his decisive leadership has resulted in this bill, S. 1, which we have before us today and will have before us for the next 2 weeks, if that is what it takes to get final action.

Other prescription drug bills have been before the Senate, but this is the first time the Senate considers a bill actually reported out of the Finance Committee with an overwhelming bipartisan vote. That is truly unprecedented and a further tribute to Dr. FRIST.

Success has many fathers and anyone would be hard-pressed to limit just one Democrat as critical to the success we have today. Senators BREAUX, BAUCUS, and KENNEDY have all been as unwavering as they have been untiring in their efforts to provide prescription drugs to our senior citizens. On our side of the aisle, Chairman GRASSLEY skillfully navigated this bill through the Finance Committee to a strong bipartisan vote. Senator NICKLES, the Budget chairman, is to be commended for ensuring full funding of the President's Medicare proposal in the budget and his tireless work to ensure the bill keeps faith with the President's original proposal and the future generations his proposal sought to protect. I look forward to continuing working with him to produce the best bill possible.

I want to say again the efforts of our colleagues, Senator CHUCK HAGEL and Senator JOHN ENSIGN, with their innovative proposal, which I hope will be thoroughly vetted in the course of this debate, are to be commended for their outstanding leadership on this issue. Combined, these efforts have produced a bill that will strengthen and improve Medicare and guarantee a prescription drug benefit. It will improve the quality of Medicare to guarantee its benefits for our parents and our children. It preserves traditional Medicare while allowing seniors to choose a benefit package that best fits their needs and gives them the same type of choices enjoyed by those of us in Congress and other Federal employees. It protects low-income seniors by giving them additional help in paying for prescription drugs. It protects all seniors from catastrophic drug costs. It addresses many of the problems associated with rural health care for our seniors on Medicare.

Debate on this bill will be difficult. Some will say it does too little. Others insist it does too much. Some will say the reforms go too far. Others will say the reforms do not go far enough. Where I stand is about where the President stands. He applauds the product but believes we need to do more reform, and I agree with that entirely. He believes in a fair competition between Government and the private sector to provide goods and services at the lowest costs, the private sector will win. I certainly agree with that, provided we craft this in a way that gets the private sector a chance.

He believes any reform of Medicare must begin with the infusion of private sector responsiveness and cost control. Again, I certainly agree.

The questions we share are: Will we achieve more reform? Will we ensure fair competition between the Government and the private sector? Will the reform we inject exceed the costs of the new benefit? That is what this debate is about. Today we begin to shoot with real bullets. This is no longer a ploy for the next election; this is about the next generation. This is not just about Medicare prescriptions; it is about Medicare preservation. This is not just about our parents and our grandparents; it is about our children and our grandchildren. If we keep this in mind, I believe we can produce a product that preserves the social contract of Medicare with our parents, as well as our children.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 2 p.m. having arrived, the Senate will proceed to the consideration of S. 1 which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1) to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. HAGEL. Mr. President, I wish to acknowledge my colleague, the distinguished Republican assistant majority leader, for his remarks.

I see Senator KENNEDY in the Chamber.

Senator KENNEDY, thank you for your leadership.

I have a statement, and my understanding is that we will then rotate statements on both sides for the rest of the afternoon.

Over the next 2 weeks, the Senate will begin a historic effort to reform and strengthen Medicare. What we do here over the coming weeks will affect every American and future generations. Health care is a defining issue for our Nation. We must take the long view and recognize that if we do it right, the changes we make in health care, in the delivery of that care, will result in improved access to quality care and lower costs for Americans well into the future. This must be our objective.

The Senate Finance Committee bill represents a good solid beginning. The Senate Finance Committee, under the leadership of Chairman GRASSLEY and Ranking Minority Member BAUCUS, deserves great credit for its hard work and efforts in bringing the bill to the floor of the Senate. Over the next 2 weeks, the Senate will work with members to improve upon their bill.

Medicare is one of the two largest programs in the Federal Government. Today, Medicare covers over 40 million Americans, including 35 million over the age of 65 and nearly 6 million younger adults with permanent disabilities.

Medicare serves all eligible beneficiaries without regard to income or medical history. It is projected to pay out $269 billion in both Part A and Part B benefits this year. This accounts for 13 percent of the Federal budget and $1 out of every $5 spent in America on health care.

In 1965, when Medicare was created, only about half of America's seniors had health insurance and fewer than 25 percent had adequate hospitalization insurance. Now, because of Medicare, nearly all seniors have coverage. Medicare has been good for seniors and has become a dominant part of the U.S. health care system.

But Medicare does more for seniors than protect their health. Medicare improves their quality of life. Since Medicare was enacted, people are living longer and living better. Life in America has changed dramatically over the last 40 years, especially health care.

Medicine today addresses all conditions and diseases, with a special emphasis on preventive medicine and management of chronic conditions. This includes an emphasis on prescription drugs, diet, exercise, and lifestyle—health dynamics that were not given much consideration when Medicare was enacted in 1965.

Medical technology has exploded, and we have experienced a revolution in the development of new and effective pharmaceuticals. Outpatient treatment and prescription drugs have become mainstays of medical care, but the Medicare Program does not reflect these changes in health care. Like medicine itself, the Medicare Program must adjust and reform to address these new realities in health care delivery, consumer demand, and costs. Medicare is a 1960s model trying to operate in a 21st century world. Our goal in this debate is to bring this valuable program in line with today's health care needs in a responsible and sustainable program and prepare for the future.

As we look forward, we should also heed the lessons learned when Medicare was created. When Medicare was enacted in 1965, the Federal Government's lead actuary at the time projected that the hospital program, Medicare Part A, would grow to $9 billion by 1990. But the program actually ended up costing more than $66 billion by 1990. Even after adjusting for inflation and other factors, the cost of Medicare Part A in constant dollars was 165 percent higher than the official Government estimate according to the actuary who produced those numbers. In unadjusted dollars, actual costs were 639 percent above estimates.

A 1968 Tax Foundation study found that public spending on medical care had nearly doubled in just the first 3 years of Medicare. A recent example of these accelerating costs is that since 1999, drug prices have risen about 20 percent. The average cost of these lifesaving pharmaceuticals will likely continue to increase, placing further pressure on seniors with fixed incomes.

In addition to the internal problem of the changing realities of health care, Medicare is facing a looming external program. The largest generation in American history, the baby boomers, is aging. These Americans—over 75 million—will be added to the Medicare rolls over the next few years. The baby boom generation has changed and shaped every market in which it has ever participated. Medicare health care will be no exception. We have a responsibility to address this demographic pressure now or risk the system collapsing under its own weight in the future.

The task before us is immense but so is the opportunity. Although Congress has been working with health care professionals, we must continue to listen carefully to those who know most about health care. We need to assure the American people that the promises made to them will be kept and that seniors on Medicare today will not be forced to change or lose their benefits, but for the future enhancement and viability of Medicare, changes will be required. The American people must have confidence in the medical reform process, the process we use to reform Medicare. This is important because as we move forward, all Americans, especially seniors, must then have confidence in the results.

Facing these challenges will require difficult decisions. There will be no perfect solutions. There will always be imperfect solutions at the end of the day. At the same time, we must be responsible with our efforts. We are adding a costly new benefit to America's largest health entitlement program. In making decisions, we must not discount or minimize what we know has worked and what has not worked.

Much of the debate over the next 2 weeks will focus on prescription drugs. Medicare does not currently cover outpatient prescription drugs. Adding a responsible, sustainable, and meaningful drug benefit is a top priority for most in the Senate. Seniors are expecting to spend nearly $1.9 trillion on drugs over the next 10 years. Clearly, the Federal Government simply cannot take on all of that expense. But seniors need help. They need help now. More than one-third of Medicare beneficiaries have no prescription drug coverage.

Mr. Joseph Antos of the American Enterprise Institute was quoted in the New York Times on Saturday as saying:

> These seniors are the last people in America who are paying retail. When I turn 65, I'd hate to be the only one in the pharmacy line who's not in some kind of pain.

Also in Saturday's New York Times, Mr. Dana Goldman of the RAND Corporation, said:

> What you really want to do is insure against very high expenditures. A catastrophic plan would be a cautious approach to sticking your toe in the water.

We should heed their advice as we move forward.

Any Medicare drug benefit must be sustainable. The benefit must deal with the realities that people are living longer and better, and have higher health care expectations than ever before.

A new drug benefit should strengthen public/private partnerships that work. Any new drug benefit must pay particular attention to those in greatest need who have no options today, but this should not be at the exclusion of other seniors.

We must take care that we do not inadvertently stifle innovation in the private pharmaceutical, medical research, and healthcare sectors.

We know advances in research and medicine have been the critical factors in our increased lifespans, better health, and improved quality of life. The public/private relationship in these areas has been essential to that success.

The United States leads the world in medical innovation. Our actions over the next 2 weeks must not jeopardize that continued innovation but, rather strengthen it for the future.

The special healthcare needs of rural areas are of great importance to me and many of my colleagues. What we do in this body over the next 2 weeks should enhance rural healthcare as well as urban healthcare.

Tough choices and difficult decisions will have to be made. Not everyone will agree with the choices we make, but we owe it to the American people to face these challenges and produce a reformed Medicare program that will take America's seniors well into the 21st Century. That is doable, and I look forward to working with my colleagues in this important effort.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, let me begin by praising the chairman of the Senate Finance Committee, Senator CHUCK GRASSLEY, for his fine leadership and cooperative management of this bill. He has been very good. I know the folks in Iowa know that, but I want everybody else tuning in to know it as well. The chairman of the Senate Finance Committee, CHUCK GRASSLEY, has done a tremendous job. He deserves a lot of praise for this bill.

On that point, sometimes we fail to recognize just how historic some legislation is. This is truly a historic bill. This is not some garden variety piece of legislation that has come up and will pass in the Senate. This is a major expansion of Medicare—major. It is going to make a huge difference in the lives of many senior citizens in America. I again thank Senator GRASSLEY for his help putting this together.

I also thank many Senators who have helped bring us here today. Senator JOHN BREAUX from Louisiana has been tireless in his effort on the Medicare Commission and other efforts to get prescription drug benefits and to try to reform Medicare. His work has been indispensable.

Senator OLYMPIA SNOWE from Maine, Senator HATCH from Utah, Senator JEFFORDS from Vermont, have all contributed mightily to these efforts. It would take me a long time to go through all the efforts they have undertaken if I were to recite chapter and verse all they have done. It has been monumental.

Any discussion for the long struggle for improved health care in America would be absolutely incomplete without the mention of the longstanding effort of the Senator from Massachusetts, Mr. KENNEDY. Senator KENNEDY is on the floor. He is probably going to speak a little later. Without Senator KENNEDY and his efforts, I am not so sure we would be here today, on cusp of passing truly historic legislation.

We are here today to make a meaningful improvement in health care for our seniors. That is why we are here. We are here at last to bring prescription drug coverage to Medicare.

On July 30, the Nation will celebrate the 38th anniversary of the enactment of Medicare. Without exaggeration, Medicare is simply one of the most successful enterprises ever taken by a free people working through their government. Today we are about the business of making it even better.

Medicare took a long time in coming. Following the enactment of Social Security in 1933, progressives called unsuccessfully for a program of national health insurance. President Harry Truman repeatedly advocated national health insurance funded through payroll deductions, but as we know, his plan went nowhere. But the fact remains, retired Americans had a particularly difficult time getting health insurance in the private sector.

In 1951, planners at the Federal Security Agency, recognizing that difficulty, examined extending health insurance to this population. The idea slowly gained popularity in the 1950s.

Senator John Kennedy raised health care as a campaign issue in his successful 1960 Presidential campaign. Taking the reins of the Presidency from his fallen predecessor, President Lyndon Johnson spoke of moving, "not only toward the rich society and the powerful society, but upward toward the Great Society."

At the height of legislative action of President Johnson's Great Society in July 1965, Congress enacted Medicare into law in the Health Insurance for the Aged Act. With President Truman at his elbow, President Johnson signed the bill in Independence, MO. President Johnson at that time said, "No longer will older Americans be denied the healing miracle of modern medicine."

And President Truman told President Johnson, "You have made me a very happy man."

Since then, over the nearly four decades of its life, Medicare has improved the lives of over 100 million Americans. Medicare now provides health insurance coverage to more than 35 million seniors, virtually everyone aged 65 or older, and 6 million disabled enrollees for hospital or related care under the Hospital Insurance Program. It covers nearly as many for doctors' services, outpatient hospital services, and other medical expenses under the Supplemental Medical Insurance Program.

Medicare has been a success. Health care expenses used to impoverish seniors. In conjunction with Social Security, Medicare has significantly reduced poverty among seniors. Despite progress on poverty among seniors, they are by no means an affluent group. From 2001 data, we can see that nearly two-thirds of Social Security beneficiaries rely on Social Security for most of their income. A third of beneficiaries rely on Social Security for 90 percent or more of their income. In 2001, the median income for all eligible households was $19,000, and one-fifth have incomes under $10,000; thus, vast numbers of America's seniors need Medicare and Social Security to keep out of poverty.

With the nearly universal health insurance coverage and decreasing poverty achieved by Medicare and Social Security, seniors are also living longer. Before Social Security and Medicare, in 1930, for example, a 60-year-old had a life expectancy of 77 years of age. In the year 2000, 70 years later, a 65-year-old-man could expect to live to 81 and a 65-year-old woman could expect to live to 84. Partly because of Medicare, more and more Americans are living into their late eighties and into their nineties.

Medicare has also improved the quality of seniors' lives. It has helped them to combat debilitating illnesses. It has helped them be free from pain. It has helped them to live fuller, better lives.

But the practice of medicine has also progressed since Congress set up the structure of Medicare. Prescription drugs have taken on a much greater role in maintaining health, replacing procedures, as has more prevention. Prescription drugs are just proportionately so much more important today than they were when Medicare was created.

The Congress that created Medicare did not envision that role of prescription drugs. Although former employers and other private insurance plans cover some seniors, about 10 million seniors have no prescription drug coverage at all.

Because seniors are not a wealthy group, for many this reality means a painful choice between filling their prescriptions and buying food.

I visited a community health center and talked to an internist—a doctor—the administrator of that health center. She told me she had to cut back on her medicine. She has to give up some of her medicine. Why? In order to pay for the medicines for her mother. Just think of it. A doctor who has to cut back on medicines for herself because they are so expensive and because her mother can't afford them. The doctor is sacrificing her health care to make sure her mother has prescription drug benefits. That is not an isolated incident. It is happening over and over again in America, and it is wrong.

Seniors should not have to choose among necessities in order to maintain their health. We can do something about that today.

To maintain Medicare's success, we must expand it to address the health care delivery structure that we have today. The bill that we bring to the floor would take a substantial step in that direction.

This bill would make available Medicare prescription drug insurance universally to all seniors. It maintains the important principle of universalism that has held together the remarkable social compact of Medicare and Social Security.

This bill would ensure that 44 percent of Medicare beneficiaries—those with the lowest incomes—would have truly affordable prescription drug coverage with minimal out-of-pocket costs. For these lower-income seniors with incomes up to 160 percent of the poverty level, co-payments would never exceed 20 percent of the cost of drugs.

Just think of that—never more than 20 percent.

This bill would make it so that an elderly retired couple in Great Falls, MT with an income of $16,000 a year, would be able to buy their prescription drugs without ever having to pay more than 10 percent of the cost of the drugs.

This bill would thus ensure that those who have been least able to receive what President Johnson called "the healing miracle of modern medicine" would now be able to do so. Millions of people would have a better quality of life. Lives would be saved.

This bill would create a strong government fallback. Seniors would have access to at least two private plans for a prescription drug benefit or the government would provide a standard fallback plan. If there is no true competition, then traditional Medicare would provide a fallback.

Now some have raised fears that the competition that this bill seeks to foster would lead to the privatization of Medicare. This is not so. The Department of Health and Human Services would continue to oversee these plans. The plans would operate within tightly-controlled limits. This bill includes strong consumer protections.

This bill does not tilt the playing field. This bill does not make private plans a better deal than traditional Medicare.

But those of us who believe in traditional Medicare should not fear the entry of private options. For either they will work and make things better for beneficiaries, or traditional Medicare will still be there. It is another opportunity. Either private plans will deliver the efficiencies that their advocates on the other side of the aisle promise for them—in which case the beneficiaries who choose them will get more value for their contributions—or traditional Medicare will still be there.

Others have found fault with the costs that this bill would ask beneficiaries to pay. Some have focused on what they call a break-even point—of a little more than a thousands dollars in drug spending—below which higher-income beneficiaries would spend more on the plan than they would receive in benefits. Yes, from a third to half of beneficiaries might spend more in a given year than they receive in benefits. But that means that from half to two-thirds will get more in benefits than they spend.

But it should not be surprising that some will pay more in premiums than they receive in benefits. That is the nature of insurance. We pay for insurance to protect against the risk of something that we hope will not happen. Most of us would be thankful if we do not encounter the ailments that require us to use our health insurance. Many would count that a blessing.

But this bill would provide a substantial subsidy for the health insurance need of Medicare beneficiaries. That is the nature of the cost of this bill. We as a society are choosing to make this insurance available at a substantial subsidy to all seniors.

For millions of Americans who are less fortunate, who have lower incomes and health needs, this bill will make a dramatic difference. For the 44 percent of Medicare beneficiaries with lower incomes, this plan would provide very affordable benefits. And remember that this lower-income population includes precisely the group most likely to be doing without prescription drug coverage today.

I acknowledge that some may have legitimate concerns with this bill. I note, in particular, that I and other drafters of the bill have become struck by CBO's high estimate of the percentage of beneficiaries whose former employers would drop their coverage, if Medicare started providing it. I would also like to find a way to make it so that seniors who were in a fallback plan could stay with that plan longer. I, for one, will look for opportunities during this process to address these concerns and improve the bill.

But this bill would create a $400 billion expansion of a major entitlement program. Yes, we could have done more with more money. But this is a historic opportunity to make a fundamental change for the better, for millions of Americans.

In so doing, this bill would finally do something that the overwhelming majority of industrialized nations have already done; that is, provide prescription drug benefits to their seniors.

Medicare took a long in coming. But it came quickly when it did. Sometimes, the time is simply ripe.

The Health Insurance for the Aged took several decades to come to the Senate floor in 1965. But when the Senate took it up in 1965, it finished its debate in 4 days—July 6 through July 9 of 1965—and passed the bill with 68 votes.

Starting today, we will spend 2 weeks on this debate. And we should. And I look forward to a full and open airing of the issues.

But in the end, I also look forward to passage of this new benefit, with substantial support from both sides of the aisle.

The time was ripe in the summer of 1965, when Congress enacted the Health Insurance for the Aged Act and created Medicare. I believe that the time is ripe again, today.

The time is ripe for a new chapter in the successful story of Medicare. And we begin that chapter today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to at the opening of this debate and discussion recognize the guiding lights of this legislation, Senator GRASSLEY and Senator BAUCUS, for bringing this legislation to the floor.

This legislation in one form or another has been before the Finance Committee for 5 to 6 years in recent times, actually going back to 1978 when legislation was introduced by myself, Senator Thurmond, and others at other times. But this is a major breakthrough, as was pointed out by the Senator from Kentucky. This legislation is going to lead to conference and eventually it will be signed by the President of the United States.

So this is good news for all the seniors of this country. It isn't all that all of us would like to have achieved. But, nonetheless, it is a solid downpayment.

I will take a few minutes of the Senate's time to indicate what I find to be the most compelling reasons for the legislation, and also discuss areas which I hope in the time we have to debate that the Senate will give some focus and attention to.

But we should not minimize the extraordinary work that has been done by the chairman, and the ranking member, Senator BAUCUS of Montana, in moving this legislation through the committee; and also other members of the committee. I also add to that the majority leader, Senator FRIST. Senator FRIST is a member of the Committee on Finance but he is also on the Committee on Health, Education, Labor, and Pensions. He brings a very unique background and experience in health care policy matters. Clearly, he has had a very important influence in the shaping of this legislation. All of us welcome his involvement in the health care debate. We have worked together on a number of the bioterrorism pieces of legislation and in other areas. I think we are fortunate to have his expertise in the Senate on health care matters. We are grateful for his involvement in this legislation.

I was here in the spring of 1994 when the Medicare legislation was defeated. It was defeated by a significant number—I think 15 or 18 votes—at that particular time. And then I was here again in 1995—about 10 months later—when again the Senate considered the legislation, and it passed overwhelmingly; and a number of those who voted against it actually voted in favor of it.

The principal intervening event between 1964 and 1965 was the 1964 election, where this was front and center in terms of President Johnson's election. It had been in the 1960 election, but in 1964, given the fact that Medicare had been defeated, it was a matter of enormous concern to seniors.

As has been appropriately pointed out, it isn't just the seniors who are interested in this legislation, it is generational because so many of those who are not seniors are involved in the quality of life for those who are seniors. They are the children and the grandchildren, and they care very deeply that their parents and grandparents are going to live in peace and security and dignity.

When we passed the Medicare proposal, we gave the assurances to our seniors that if they played by the rules, paid into the health care system, paid into the Medicare system, that their health care needs would be attended to. That was true with regard to hospitalization. It was true with regard to physician services. We did not anticipate the third leg of that stool of Medicare was going to be the prescription drugs. Only about 3 percent of the total private insurance company plans at that time had a prescription drug program. It was not included.

And now, if you look at the needs of our senior citizens, we ask ourselves, why didn't we have the foresight to see that need? And why haven't we taken action in order to remedy that loophole?

It has taken a long time, but we are finding a strong downpayment in meeting that obligation today. I have always believed that every day we fail to pass a prescription drug program we are violating our commitment, our promise, our guarantee to the elderly people in this country in that solemn promise we made when we passed Medicare: Pay into the system, and you will be assured that your health care needs will be attended to. So it has been a long time in coming.

There are those who have been strongly opposed to a prescription drug program for ideological reasons. They are strongly opposed to Medicare. You can go back and look and read the history of the debates on Medicare—both in the past and the statements made in recent times, and as recently as in the past few weeks—where we have found Members, primarily our friends on the other side of the aisle, who do not believe in Medicare and who never believed we ought to have a prescription drug program that was rooted in the Medicare system.

There are recent times most of us can remember where statements were made. There was the Speaker of the House who talked about the Medicare system, that they wanted to see the Medicare system wither on the vine, and so there was an ideological commitment that said: If we are ever going to pass a prescription drug program, it has to be rooted not in Medicare, but it has to be rooted in the private sector, and we will do everything we can to make sure it is. We will provide all the financial incentives. We will effectively bribe individuals into the private sector or coerce them into the private sector and let the Medicare system wither over here.

If that was the program, there would not be anyone on this floor who would take stronger issue with it than I would, as one who has followed the Medicare system, believes in it deeply, and has seen the benefits it has provided to hundreds of thousands of the citizens of my own State of Massachusetts and around this country and knows the great sense of confidence our seniors have in this system and the Social Security system.

In fact, these are the men and women who brought us out of the Depression, who fought in the World Wars, who fought in Korea, who faced the challenge of nuclear terror and the dangers of the expansions of communism. They have sacrificed for their children and their grandchildren, and they are entitled, in the richest country in the world, to live in some security and dignity, and the lack of being able to get prescription drugs is denying them that opportunity. They believe in Social Security and the Medicare system. This legislation will give them the assurance that if that is their desire, they will be able to receive prescription drugs under Medicare. That is why I support this legislation. Those who believe it should be just a private system are not going to vote for this bill. They shouldn't vote for it because it isn't going to be a private system. We will have the opportunity to explain that in more detail.

I will take a moment to review some of the facts that are known to every senior citizen in this country. I think they are reflected on this chart I have in the Chamber.

First of all, let's look at what has happened in terms of the cost of the prescription drugs our seniors need.

The yellow on the chart shows the COLA for Medicare, Social Security. The blue shows the increased costs of prescription drugs over the same period of 1998, 1999, 2000, 2001, 2002, 2003, with the increased costs, respectively, being 10 percent, 19 percent, 16 percent, 15 percent, 14 percent, 13 percent. This all comes out of the income of individuals who effectively have fixed incomes, and this with a modest COLA.

You can see with these extraordinary escalations of costs what is happening to our seniors. Often on the floor we have seen and heard our good friend from Michigan, Senator STABENOW, who has provided great leadership—as have others—about the hard and harsh choices that are taking place in homes all over this country, where seniors are making choices between the prescription drugs which are vital to their health care and the food they need to eat, or in our part of the country, it is the heating so they can survive in the winter, or in other parts of the country, it is the cooling to make life at least livable in the South.

There has been an extraordinary escalation and continuation of costs. We will have an opportunity during the debate and the discussion on this issue to consider legislation that has come out of our Human Resources Committee, out of the Health Committee, that was initiated by Senator MCCAIN and Senator SCHUMER that we addressed last year on the floor of the Senate and which passed the Senate, which will help and assist generic drugs to come further forward. And, in the meantime, over the period of these past months, with a lot of hard work, there is legislation that now has very broad support, which was virtually unanimous out of our committee, with the support of Senator GREGG, myself, and others who are strongly behind it. I supported it last time. We are hopeful of doing something in the totality, not only in the area of coverage, but also in the areas of cost. We are not going to solve all of the problems in either area, but this kind of debate and discussion is going to include both the issues of coverage and the issues of cost.

Let me review very quickly where we are in terms of the coverage for our senior citizens. Of the 38 million seniors, we know 13 million lack any kind of quality drug coverage. They are effectively on their own. They buy at the top price. They do not really get any deduction, and they are virtually without any kind of coverage. Another 10 million have employer-sponsored coverage. Another 5 million have Medicare HMO, 2 million are under the Medigap, and 3 million are under Medicaid.

I believe when we used to debate this issue in years past, we would say the only group among these seniors that was really guaranteed affordable, dependable, reliable prescription drugs were the 3 million under Medicaid. That is not true any longer. Let's see what has happened.

There is a general kind of profile of where our seniors are with regard to the quality of their drug coverage. Let's take, No. 1, the employer-sponsored programs. This will raise an issue on one of the challenges this current bill is facing. But let's just review very quickly what has happened in terms of employer-sponsored coverage in recent times. If you go back to 1988, it was about 80 percent. In 1994, only 40 percent of all the retirees were included in the program. Look at this, as shown on the chart: Going down from 1994 to 2002, now it is about 22 percent, and falling rapidly.

The bottom is falling out in terms of the kinds of guarantees for the millions of Americans who have employer-sponsored plans. So we have one large group of Americans with nothing. We have another group that has employer-sponsored plans, but the total number of programs now providing these is dropping down, and employers who have them in many instances are dropping them. So there is no guarantee for that group of Americans.

What about this other group of Americans, those with regard to the Medicare HMO? If you look at what is happening with regard to the Medicare HMO, you will find out the drug benefit is only offered as an option of the HMO. Thirty-four percent offer no drug coverage at all; more than 2 million Medicare beneficiaries lost their HMO coverage since 1999, so they are dropping. But this is the other insidious factor: 86 percent of HMOs limited the coverage to less than $1,000 in 2003; 70 percent limited coverage to $750 or less in 2003. So you can say on the one hand, some are covered with the employer-based system, but you can see that the system is at the point of collapse. Others say HMOs are offering coverage. But, they are dropping them on the first hand, and they are putting the blockage there to protect themselves, and that is, of course, a disaster for many other seniors.

We say we have the Medigap coverage that provides for 2 to 3 million. You all are familiar with the absolute explosion of the cost and increasing numbers. Both have dropped it.

This is the background. We find millions have no coverage. Even for those who have coverage there is uncertainty, even if they are employer based. If it is HMOs, we are finding increasing restrictions that make it unreliable. We have a whole population that is faced with a serious challenge and a serious need.

Now, what does this proposal do? How will our senior citizens under Medicare benefit under this program? What is basically the delivery mechanism that has been a key element in terms of trying to make sure we were going to give the assurances to our seniors that there will be somewhere, in any part of America, the guarantee that Medicare will be there but also permits the private plans, if they are in local areas, to be able to, if that is the desire at least, if they are going to meet the obligations? We will have a chance during the course of debate to review it. I know the ranking member and chairman have gone over in the markup those particular provisions that talk about the guarantees of the program and why the various kinds of conditions to make sure we are not going to have the excess charges and how we are going to have the standards and how we are going to have a good benefit package.

On the one hand, there is the traditional Medicare Program. The individual will be able to continue. The Government delivers the doctors, hospital, and other services. Then, in many areas, the individual will have a choice between two different private plans and a guaranteed fallback of the Medicare system, if the private plans are not successful. So there is the guarantee there. And in the cases where there is the Medicare Advantage and the private plans, you will have the PPOs and the local HMOs that will be able to submit the plans. We will have the guarantee on the one hand through the Medicare system, and the opportunity on the other. We will have an opportunity to go through it in greater detail.

Let me mention, for those who are watching this broadcast, what this can really mean to individuals. We know the average cost for seniors is $2,300. That is the average cost per year. As we have pointed out, and it has been mentioned earlier, the elderly are going to spend $1.7 trillion, $1.8 trillion over the next 10 years on drugs. This is only $400 billion, 24 or 25 percent. So we know there are large gaps. This will not be everything for everybody, but it is going to provide important coverage to about 35 to 40 percent of our elderly under Medicare, those of the lowest income who are in desperate need, and also be sensitive to those with catastrophic kinds of health needs. And it also provides some important relief for those in the middle, although not all of what we would like because individuals will for a period of time fail to get the coverage, the area that we call the donut, and then pick up coverage later on.

But let me use the example of a typical income which would be about $15,000 for a senior. This is the chart that will indicate what the savings would be. The typical one is $15,000. The typical prescription drug cost would be $2,300. The premium would be $420. Their cost sharing would be $1,250. They would save $600 in this program. I wish it was a good deal more, but that is $600 over the cost of the year.

Take that same individual, $15,000, they have $10,000 in health care costs. They would spend $400, and they would save $5,462 under the bill. This is a dramatic savings for those on the upper end, and let me tell you what it would be on the lower end.

Let's take an individual with $15,000 income who might have expenses at the lower level. I will have a chart for this. I am sorry I don't have it. What we are trying to do with each example is to give individuals who might be watching some idea as to what would happen to them. Say a senior with an income of $9,000 and they currently have monthly drug bills of $500. They would, under this bill, pay a total of $15 and have $484 in savings. Low-income people who have drug bills of $500 would have $484 of savings. If they are $12,000, they would have $468 in savings, if they spend $500. And if they are $13,500, which is the 160 percent of poverty on this thing, and had $500 a month, they would save themselves $416.

So we see for the very needy it is a very important benefit. For those who will be facing catastrophic drug costs, it is a great help. For those in the middle, it is some help but not all the help we would like to see, or that they deserve.

Beyond this, one of the other features I find enormously appealing is what they call the card, the discount card that seniors will be issued. It is called the prescription card. It will be issued next January. Basically, what that will do, for approximately 5 million low-income seniors, if this bill gets passed and signed into law, basically, again, the 5 million low-income seniors, they will be able to get a card for $25 and be guaranteed up to $600 at their pharmacy. If they don't spend it all the first year, say only $400, the remaining $200 will kick over for the next year. That will begin immediately.

This legislation will take time. It will take 2 years before they are able to set up the various kinds of structures which I outlined earlier to achieve it.

There are important areas I am hopeful we can address in this area. This is $400 billion. It is a lot of resources. But we have also seen where this Senate has passed tax cuts for $2.3 trillion. This is $400 billion. So it does seem to me we ought to be able to find some way to help middle-income seniors more than we have by providing additional resources to this particular proposal. An effort certainly will be focused on that.

There is a second area which is of central concern. That is the retirees. The way this legislation has been constructed, there may be those companies that feel that rather than continue to provide coverage for retirees, this will be a way to drop them off and have them picked up under this program rather than meeting their obligations and their responsibilities under the agreements which they have had and committed themselves to over time.

We believe that is an area that needs focus and addressing during the course of the debate. You cannot get away from the fact that this legislation is, as Senator BAUCUS has pointed out, major legislation in terms of the unfinished business and in terms of Medicare, particularly in the area of prescription drugs. Many of us believe this is the life sciences century, where we have seen breakthroughs that are coming, like the mapping and sequencing of the human genome which has permitted us to be able to screen and inform people who might have a predisposition in terms of breast cancer, for example. We are considering legislation to make sure people will not be discriminated against in terms of employment and getting medical insurance because of these kinds of indications. But we are able to find out through the work on the human genome so much about the types of illnesses that people have proclivities to develop.

So we are in the century of the life sciences and breakthroughs. We have doubled our basic commitment in terms of basic research. We are seeing the breakthroughs in these extraordinary kinds of developments of pharmaceutical drugs that can be lifesaving and can relieve the most challenging and difficult illnesses and diseases that we face in the country and around the world. We are going to face a challenge about how we are going to get the best of those prescription drugs into the homes of people who need them. That will be a challenge. That will be a challenge for us here as a matter of national priority, I believe.

A defining aspect of our humanity and decency is whether we are prepared as a nation to make it a priority to be able to do that. This is a downpayment on that commitment. That is why this legislation is of essential importance and consequence and why I look forward to the next days in terms of the debate and discussion that we can move this process forward and move to making sure we are meeting the challenges that our seniors are facing in all parts of the country.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I am pleased we now have gotten to the floor with this bill. Certainly, most everyone agrees that this may be one of the most important issues that we will undertake this year. Along with that, of course—which I guess is not unusual—it will be one of the most difficult. I think there is a strong feeling that this needs to be done. I believe that will drive us. We certainly have had a good deal of support from the administration, from the President, and from Secretary Thompson. So we have an opportunity to move forward.

This is a very difficult issue. It is one that is hard to deal with, to make sure that everybody is treated properly. It is hard to deal with in terms of costs. It is also hard to deal with in terms of different parts of the country and how you have a delivery system that fits everywhere. It will be a challenge, but I believe we have no greater domestic challenge than reforming Medicare and providing seniors with access to prescription drugs. We will hear a great deal of the same sort of conversation during this week. We will also find that there are different ideas about how this is done.

The committee approved a prescription drug bill last Thursday night after an all-day markup, which was interesting—by a substantial bipartisan majority, which is very good. So it is a promise that most of us have made to take a look at Medicare and to be able to strengthen it. It has been mentioned that it is more than 30 years old and hasn't been changed a great deal. The greatest change that has come about is in pharmaceuticals, which has become one of the most expensive aspects of health care and has not been covered under Medicare in the past.

So I think we have two things we are seeking to do, and I hope we don't lose sight of them. One is to make the Medicare delivery system work better. Second is to include a reasonable access to pharmaceutical drugs. The program we have had has been difficult in a number of ways. We have had more and more providers that will not provide care under Medicare because the fees have not been equal to what they get in the private sector, and therefore access is not available. That is a difficult issue, particularly in rural areas where there are not a lot of providers. So we have to make sure we have a plan that puts this kind of program basically in competition with the private health care sector. The program has been inefficient and, no doubt, we need to change some things, particularly with respect to chronic illness.

A relatively small percentage of the elderly use a very high percentage of the total expenditure. So it has to be oriented somewhat toward dealing with those things that we know are the most expensive, and this cannot be done without some special attention to those things. These are the people who need the most expensive drugs. We ought to have a plan in which seniors could choose what fits them best.

We will be continuing to have the general plan that is in place now. If people find they want to stay with it, they will be able to do that. Nobody will be forced to change—at least in the near future. But there will be another plan, an alterative. We have felt that we could follow the plan that is used by Federal employees, generally, as an option. That would be one where there would be a plan laid forth, where we would have different sorts of insurance coverage, and providers will bid on doing that job. Maybe we would take the lowest bids—maybe the three lowest bids, or whatever. It would be a little different—sort of a PPO program, preferred provider program. Some say if you have a PPO, it won't cover everybody. In Wyoming, there are not formal PPOs, but we still have coverage for Federal employees, and there will be an arrangement made so where they are without a form of specific PPOs, they will still be available in the private sector. So I think that is, indeed, the way it ought to be. If we follow that plan, I think it would be one that we can really make available.

One of the things we have been working on—and I happen to be chairman of the Rural Health Caucus—there has always been a considerable amount of difference in the health care programs between urban areas and rural areas. One of the things is, there has not been equity in payments. Payments in urban areas have been higher than in rural areas. They have thought the costs are not as high in rural areas. In fact, because of lower volume, they may be higher in rural areas than in urban areas.

I had an experience recently where an MRI in one town costs almost 50 percent more than the larger city simply because they didn't have the volume. This bill, by the way, has that sort of remedy in it so that we will have urban areas and rural areas that will have equity in the way they are handled. We hope we can do that.

Some have a concern about small counties. We have a situation now in Medicare where we deal with each county to determine the price of service. Here we will have 10 regions over the whole country, so it will be a broader base, which is the basis for insurance, to spread that over a broader number of people so that there is better equity for everyone. I think a lot of provisions in this bill will be much more advantageous for users than what we have had in the past.

We will all be talking about this bill in more detail. I hope we can make some changes and we can remember the objectives. There are so many details involved with Medicare and with health care, as a matter of fact, that I think we have to focus on what it is we are seeking to do and to stay with that.

I hope we can develop a vision of what we want this to be when we are through and try and stay within the parameters of that vision. The objectives will be to strengthen Medicare and provide accessible pharmaceuticals.

There are, as we go about our work, lots of issues involved in health care, many of them beyond Medicare. We have to deal with those issues at another time. I hope we do not try to remedy all problems in health care and get it confused with this program, which is a specific program. For instance, we had some amendments having to do with refugees and legal immigrants. That is an issue, and it is a tough issue, but it is not part of Medicare and we ought to separate those issues so we keep it that way. I hope we maintain our focus so unrelated issues do not become wrapped up in this bill.

We also need to be conscious of spending. We have a budget of $400 billion, an amazing amount of money. But when we compare it to health care costs, it is not huge. I did not think I would ever say $400 billion is not huge. Cost is something, and we have to do something that is efficient. Money is not endless, particularly when it relies largely on what you and I pay in every month. If we have total expenditures that continue out of control, we have to do something different as to how they are paid. We should keep that in mind.

One of the keys—even though we should recognize the needs of low-income people certainly, and that is in the plan and we should do that, as opposed to higher income people—I think it is important everyone who is a beneficiary have some responsibility. When we have a program paying for all of the health care, we get overutilization, without exception. So there has to be some first dollar payment in this program, even though it can be very small, I believe.

We need to take advantage of the opportunity with the volume of pharmaceuticals we will be using, for example, to hold down the costs somewhat. Health care has been going up almost 13 percent a year, which is much higher than almost every other activity. Part of it is because times change and we are doing things so people are healthier, and people are living longer partly because of that. Nevertheless, if you start adding up 13 percent a year on these costs, it would be an almost unmanageable program over time.

I already mentioned this will serve all eligible seniors, whether they are rural or urban. I am hopeful as we go through this very complicated and difficult program. I am very pleased, particularly serving on the committee of jurisdiction, to have been involved in this debate and to see we are as far along as we are, and I am very confident we are going to come out with a package. That, of course, is our responsibility and what we ought to do. As we do that, I hope we have a vision of where we want to be when it is over and take a look at the issues we do in the interim and see if they are going to contribute to providing that program we envision for the future. It is one that ought to strengthen the program. It is one that ought to be available to people all over the country. It is one that ought to recognize the special needs, particularly of very low-income people. It is one that ought to give choice of different kinds of programs so you can choose something that fits you.

I think we have to have a program that does not have runaway spending so that it destroys the whole program over time and that we also recognize related programs, whether it be VA or retirement. These had to be fit in so we could have a total package.

I am looking forward to 2 weeks of considerable debate. I think with all these various issues, we will, frankly, have hundreds of amendments, most of which will be dealt with, and that is good. But as we look at all these different issues, I suggest to my friends in the Senate that we try to focus on what we want the result to be and measure these amendments against that.

I am looking forward to the debate. I am sure most of us are. I think we can come up with a program that will be much better and provide services for the needy better than we have in the past.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I rise to express my strong support for S. 1, the Prescription Drug and Medicare Improvement Act of 2003. Medicare beneficiaries have been waiting decades for a comprehensive and permanent prescription drug benefit. Debate on this legislation is truly a landmark occasion for America's seniors, the disabled, and the United States of America, including our own Senate. I congratulate both the Senate Finance Committee Chairman, Senator GRASSLEY, and the ranking member, Senator BAUCUS, on a job well done. Both of them worked well together. It has been bipartisan. They have done everything they possibly can to bring people together so that we can pass a bill out of the Senate, and they both deserve a lot of credit.

Both of them have been able to put together a Medicare prescription drug bill that not only has bipartisan support but was also approved by the Senate Finance Committee, both remarkable feats. I am so proud of both of them.

The majority leader, BILL FRIST, also deserves credit for his commitment to this issue. He is to be congratulated not only for his behind-the-scenes efforts to move this bill forward but also for his vision in developing with Senator BREAUX the model upon which many of the improvements in this bill are based. Of course, Senator BREAUX deserves a great deal of credit. He has consistently fought to try and get a prescription drug benefit bill, and of course was a member of the tripartisan group in the last Congress.

Finally, I would be remiss unless I recognized the central role the President played in this matter by insisting that Medicare drug coverage must be a top domestic priority. Many believed it could not be done, especially in this, a non-election year.

President Bush's persistence, his commitment, and, indeed, his leadership on this issue will prove those naysayers wrong.

At last, we will provide senior and disabled citizens across the country with the prescription drug coverage they need.

In fact, prescription drug coverage for Medicare beneficiaries has been one of my top priorities, as well, and think everyone knows.

I was the principal cosponsor with then-Chairman Bill Roth of the 1997 legislation creating the Bipartisan Medicare Commission.

That commission, as my colleagues are aware, was charged with making recommendations on how to improve the current Medicare program.

And although commission members were unable to report a recommendation due to the "super-majority" vote requirement, the work they did laid the groundwork for efforts to improve Medicare by including the private competition that could provide prescription drug coverage.

Through their leadership on the commission, my friend and colleague, Senator JOHN BREAUX, and our House colleague, Ways and Means Committee Chairman BILL THOMAS, were instrumental in laying the groundwork for Medicare prescription drug legislation.

More recently, I worked closely with Chairman GRASSLEY, Senator SNOWE, Senator BREAUX, and Senator JEFFORDS in an effort to develop a centrist, Medicare prescription drug bill that the Congress could adopt free from partisan politics. This was an 18-month effort.

We called our effort "tripartisan," because Senators participated from the Democratic, Republican and Independent parties.

I took great pride in our effort, which I believe would have passed the Senate but for election-year maneuvering.

The goal of the tripartisan legislation was to provide all Medicare beneficiaries with quality drug coverage through private health plans. In addition, the tripartisan bill gave seniors and the disabled a choice in health coverage: They could have traditional Medicare, a Medicare+Choice plan or a new enhanced Medicare plan.

It was truly a labor of love. We are proud of that effort and the fact that it laid the foundation for S. 1, the Prescription Drug and Medicare Improvement Act of 2003, which we are considering today.

I predict that S. 1 will not only pass by the Senate by the end of the month, it will be signed into law at the end of the summer. What a difference a year makes.

S. 1 builds on several important foundations we laid in the tripartisan initiative.

And, in many ways, it is far superior to our tripartisan initiative.

It offers beneficiaries a meaningful and reliable drug benefit through the private sector with reasonable and fair cost-sharing. Beneficiaries will have the ability to obtain the drugs of their choice without Government interference and with better coverage choices.

In contrast to last year's bill, the measure we have before us today provides beneficiaries with several choices: A stand-alone drug benefit, a drug benefit through a Preferred Provider Option, PPO, or a drug benefit through an HMO.

Those who do have drug coverage will have the choice of remaining in the existing plans or choosing a Medicare prescription drug benefit. S. 1 also offers beneficiaries a temporary drug discount card available to seniors no later than January 1, 2004. This drug card would be in operation until the Medicare prescription drug benefit is fully implemented.

In sum, S. 1 offers additional assistance to those who cannot afford to purchase their prescriptions.

In a country as prosperous as ours, we can no longer tolerate situations where seniors have to split their pills in half or cannot fill necessary prescriptions because they do not have the money.

A land as great as ours owes it to needy seniors and disabled to help these individuals who many times cannot help themselves.

Another important point is that S. 1 also ensures access to drug benefits for beneficiaries who live in rural areas. This is a must-do for my home State of Utah. S. 1 provides reliable coverage everywhere in America. Wherever there is Medicare coverage, there will be Medicare prescription drug coverage.

In addition, this bill includes important consumer protections. Every plan offered to Medicare beneficiaries will have to be certified by the Federal Government.

A key point is that S. 1 recognizes the role of employers in providing their retirees with health coverage. Let me make it perfectly clear that the intent of this plan is not to disrupt that important relationship between employers and their retirees. We should encourage employers to continue to offer retiree health coverage.

Finally, I must note that this legislation does nothing to dismantle or weaken the traditional Medicare program. The bill offers beneficiaries more coverage options, and does nothing to disrupt the existing physician-patient relationship. That is a fundamental principle that was very important to me as I worked with committee members to draft this legislation.

At this point, I would like to take some time to go into the details of the principles I have just outlined. First, and most important, this legislation provides beneficiaries with more coverage choices.

Let me emphasize, S. 1 does not, I repeat, does not, take anything away from Medicare beneficiaries. If beneficiaries like what they have, they may keep their current coverage. However, if they want coverage similar to private health insurance, S. 1 offers them this choice.

Those remaining in traditional Medicare will be able to receive prescription drug coverage equal to that received by beneficiaries who elect to receive their prescription drug coverage through the new MedicareAdvantage program. MedicareAdvantage is the new name for the current Medicare+Choice program, also known as Medicare Part C.

As my colleagues are aware, today we have Medicare Part A, which is for hospitalizations, and Part B, which is for outpatient and physician coverage.

This legislation will then add Part C, for Medicare Advantage. And, beginning on January 1, 2006, a Medicare prescription drug benefit will be established under a new program which will be codified as Part D of Medicare.

Beneficiaries will have the choice of either adding a new stand-alone drug plan to their current coverage, delivered through fee-for-service reimbursement or they may participate in a program which integrates their basic medical coverage with added pharmaceutical benefits through either a health maintenance organization, HMO, or a preferred provider organization, PPO.

There will be a new Center for Medicare Choices established at the Department of Health and Human Services, with an administrator who will oversee both the new drug plan under Medicare Part D and the new MedicareAdvantage program under Medicare Part C.

To operate the prescription drug plan, the Administrator will create at least 10 regions throughout the country, which must be at least the size of a state. States will not be allowed to be divided among regions.

Private-sector entities will bid to provide coverage. For PPOs, they will contract to provide the entire spectrum of Medicare services, including drug coverage, for the region. For HMOs, they will contract to provide Medicare services, including drugs, for a county.

If a beneficiary elects to remain in the traditional Medicare program, he or she may receive pharmaceutical assistance through a new add-on program which will be administered by a private insurer who has been certified by the government to provide coverage in that region. Many have been concerned that in some areas of the country there will not be private sector entities that wish to provide this new coverage. I share that concern, especially after my own State's experience with Medicare+Choice program.

For this reason, we worked very hard to make certain that there was a safety net, a "fall-back" plan that would provide seniors with the coverage they need if no private sector plans came forward.

I will discuss how the fall-back operates in a few minutes, but I did want to assure my constituents that there will be safety net if it is needed.

Another assurance this bill provides to our constituents is that beneficiaries will be allowed to change plans on an annual basis. We do not want any beneficiary to feel that he or she is locked into a program that is not a good fit. So, I have insisted that the flexibility to change plans was present in the bill, and I am pleased it was included.

As I mentioned earlier, one important principle of our plan is that beneficiaries who continue in traditional Medicare or those who enter a new integrated plan should have the same level of coverage.

So beneficiaries can either purchase standard coverage form an insurer or they will have the benefit of participating in a new HMO or PPO plan that includes pharmaceutical coverage valued at the equivalent amount of the subsidy the government is providing for the stand-alone plan.

In 2006, standard coverage would have a $275 annual deductible. For spending over the deductible up to $4,500, beneficiaries would pay one half, and the government the other half.

Eighty-eight percent of Medicare beneficiaries will not reach this limit of $4,500 in 2006.

Even so, the plan envisions generous subsidies for beneficiaries who cannot afford their drug coverage, in this case those with incomes less than 160 percent of the federal poverty level.

However, for those with incomes at the above 160 percent of the federal poverty level, there would be no government subsidy for out-of-pocket expenditures once drug costs in total reach $4,500, of which the government would have paid roughly half once the deductible was satisfied.

As a protection against extremely high drug costs, which can prove catastrophic to a beneficiary, we have included a provision limiting a beneficiary's spending to 10 percent of costs once their out-of-pocket expenditures for drugs reaches $3,700.

We want this program to be as affordable as possible for beneficiaries. Indeed, the committee was torn.

We needed to make certain that the program is affordable to Federal taxpayers and does not exceed the $400 billion we have planned for in our budget.

On the other hand, we wanted the coverage to be meaningful and really help seniors and disabled who need assistance.

This is one reason the bill contemplates an affordable, national average premium for pharmaceutical assistance of $35 per month. I know this can be very confusing—even for those of us who drafted the bill—so I want to take this opportunity to explain the standard drug plan and the actuarial equivalent drug plan—the two types of drug plans that will be offered to Medicare beneficiaries.

First, both the standard drug plans and the actuarial equivalent drug plans would have the same deductible.

Second, beneficiary out-of-pocket expenditures would be the same in both the standard and actuarial equivalent plans.

Both the stand-alone drug plan and the MedicareAdvantage PPO plan could offer beneficiaries standard coverage that is described in the statute, or they can offer differing coverage as long as certain provisions are met: The actuarial value of the prescription drug plan would have to be at least equal to the actuarial value of the standard plan; and the coverage would be designed to cover the same percentage of costs up to the initial benefit limit as that provided under the standard plan. Again, the limits on beneficiary out-of-pocket expenses and annual deductibles would be the same in both the standard plan and the actuarial equivalent plan.

Finally, actuarially-equivalent plans would be allowed to vary the monthly beneficiary premium and the beneficiary copayments. In addition, if these plans wanted to offer additional benefits to seniors, they may do so and the beneficiary would be responsible for paying additional costs.

In sum, a beneficiary is permitted to choose a drug plan that best suits his or her health care needs.

In S. 1, we are offering seniors choice in drug coverage. Medicare beneficiaries may stay in traditional Medicare fee-for-service and receive their drug plan through a stand-alone drug plan. Or, they may receive their drug coverage through the new MedicareAdvantage program either through an HMO or the new PPO option.

The plans offered through MedicareAdvantage are integrated health plans which means these plans are similar to private health insurance which combines health and drug benefits in one insurance plan. In order to encourage plans to participate as stand-alone drug plans, interested entities would submit bids to the administrator. This bid would include information on benefits, the actuarial value of the prescription drug coverage, the service area for the plan, and the monthly premium.

Plans could submit bids to provide coverage for a specific region, as established by the Administrator, or the entire area covered by Medicare. Plans could also submit bids for more than one region and they may also bid nationally.

A plan would not be accepted by the Secretary unless the premium, for both standard coverage and for any additional benefits, accurately reflected the actuarial value of the benefits.

The administrator will work with bidding plans so a region will have at least with two stand-alone drug plans that will offer prescription drug coverage to Medicare beneficiaries in an area. These contracts would be awarded for 2 years. Finally, the stand-alone drug plans would be required to accept some level risk.

If only one plan, or even no plans, are unwilling to offer stand-alone prescription drug coverage within a region, the Administrator will enter into an annual contract with an entity to provide a prescription drug fallback plan. This fallback plan, which would be given a 1 year contract, would offer Medicare beneficiaries the standard drug plan.

We have designed this fallback plan to ensure that seniors will have prescription drug coverage across the country. In addition, seniors could be offered prescription drug coverage through a MedicareAdvantage HMO or PPO.

During the Finance Committee mark-up, an amendment was offered that would have given the fallback plan a two-year contract instead of a one-year contract.

While I am sympathetic to some of the concerns raised about the administrative difficulties surrounding choosing a fallback plan within a few months, I do not believe that a 2-year fallback plan is the solution.

I believe that having a two-year fallback plan makes it even more difficult to encourage other private plans to bid in a region. As a result, a two-year fallback plan could prevent a private plan from ever wanting to enter the region and beneficiaries are left with a fallback plan that does not offer much flexibility. Therefore, I would strongly oppose such an amendment.

With regard to the low-income, I believe that we should provide additional assistance to the low-income Medicare beneficiaries when it comes to prescription drug coverage. S. 1 provides additional subsidies for drug coverage for Medicare beneficiaries under 160% of the federal poverty level, individuals with income limits of $14,368 for individuals and $19,360 for couples.

Let's face it, these beneficiaries, in many cases, are struggling with their bills and are barely making ends meet. These are the individuals who are deciding between paying the rent and paying for food. This population makes up 37.4 percent of Medicare beneficiaries.

S. 1 continues to provide drug coverage for the dual eligible population, those who are currently eligible for both Medicare and Medicaid, through the Medicaid program.

Dual eligibles have incomes that are below 74 percent of the Federal poverty level—annual income limits are $6,555 for individuals and $8,848 four couples.

During the Committee's consideration of S. 1, I authored a provision that would reward states that already provide both Medicare and Medicaid coverage for low income individuals between 74 percent and 100 percent of the Federal poverty level.

For the 19 States that have expanded their Medicaid coverage to these seniors, the Federal Government would pay for the Medicare Part A cost-sharing of these beneficiaries. The provision is important because it gives incentives to States that expand their dual eligible programs.

This legislation provides these beneficiaries who are below 160 percent of poverty with additional subsidies for their drug coverage.

There are some who are concerned about the Federal Government heavily subsidizing this population because drug coverage is so expensive. In my opinion, providing additional assistance to these lower-income beneficiaries is the right thing to do. End of story.

With regard to the comprehensive drug program, some have expressed concern that the program will not begin until January 1, 2006. I understand the concerns of those who advocate for immediate coverage for seniors. That's why we created the Medicare Prescription Drug Discount Card available to Medicare beneficiaries no later than January 1, 2004 and would provide discounts up to 25 percent on their prescription drugs.

Medicare beneficiaries would be charged an annual enrollment fee of $25 and could only be enrolled in one endorsed card program. The prescription drug card program would continue to operate for at least 6 months after the implementation of the Medicare Prescription Drug Benefit Plan.

At the beginning of 2004 and 2005, low-income beneficiaries under 135 percent of poverty would be given $600 per year for their drug expenses. These beneficiaries would be permitted to carry any left-over money from year to year. Additionally, spouses may share their drug cards.

I worked very hard to make certain that our new plan does not disadvantage rural areas such as my home state of Utah. The bill before us provides assurances that any Medicare beneficiary, regardless of where he or she lives, will have access to prescription drug coverage.

For example, the legislation requires that at least two stand-alone drug plans would be offered to Medicare beneficiaries in each region. And, if only one plan, or worst case scenario, no plans, bid to offer stand-along coverage, there will be a fallback plan to provide prescription drug coverage. No beneficiary, regardless of where he or she lives, would be without prescription drug coverage.

In addition, for those living in rural areas, the MedicareAdvantage plans will offer beneficiaries a maximum of three PPO plans per region. If PPOs decide not to bid in a specific area, these beneficiaries still will have coverage through traditional Medicare and will also have optional prescription drug coverage.

S. 1 also gives the Secretary of Health and Human Services the discretion to make adjustments in geographic regions so there will not be a large discrepancy in Medicare prescription drug premiums across the country.

However, our first and foremost goal in S. 1 is to provide drug coverage to those who currently have no coverage. We need to help beneficiaries first, but we also need to continue our work with the employer community to ensure that they will continue to offer retiree health benefits.

Finally, I want to take a minute to talk about traditional Medicare and why I believe that the PPO option under the MedicareAdvantage program is the better choice.

Most will agree that the current Medicare program is an archaic system that still looks very much like the program when it was created in 1965. Do any of you remember what was popular in 1965? Most of you probably do not but, unfortunately, I do.

What we are trying to do in S. 1 is provide seniors with the same health choices available to those under 65 today, and not offer them only health choices that were available in 1965! While most seniors are comfortable with the current Medicare coverage, traditional Medicare is outdated in several ways. Besides not offering seniors prescription drug coverage, it does not provide protections for the sickest beneficiaries. To me, that is a major flaw of the program. Most drug plans offer catastrophic coverage for seniors once they spend a certain amount of money for their health care costs. Not traditional Medicare. Medicare requires the sickest seniors to continue to pay for their health coverage out of pocket without assistance.

In addition, beneficiaries currently receive their coverage through Medicare Part A, which covers hospital expenses, and Medicare Part B, which covers providers' expenses, such as physicians. There are deductibles for Medicare Part A, which is $840 in 2003, per spell of illness.

Simply put, this means that a beneficiary who is admitted to the hospital for different illnesses ends up paying this hospital deductible more than once per year. The Medicare Part A program also has copayments and other beneficiary cost-sharing that could be very expensive. On top of it, beneficiaries also must pay a $100 annual deductible for Medicare Part B, along with beneficiary copayments for these services.

The bottom line? Medicare beneficiaries are paying two different deductibles each year for different health services. How fair is that to seniors? And why should seniors be the only ones who have to adhere to such a crazy system?

Private health insurance does not operate like this. Those under 65 do not have to pay arbitrary copayments and deductibles. They have prescription drug coverage in many cases. And they typically do not have to pay extra money out of pocket if they are seriously ill.

I believe that Medicare beneficiaries should have those same choices and that's why we created the MedicareAdvantage program in S. 1.

MedicareAdvantage improves the choices offered to beneficiaries. They would have their choice of coverage in MedicareAdvantage through HMOs, the same Medicare+Choice plans many have been offered or the new preferred provider organization, better known as PPOs.

MedicareAdvantage PPOs would have a network of providers that will agree to offer Medicare beneficiaries coverage for benefits in the traditional Medicare program. Through this PPO system, beneficiaries will be able to see their same doctors, and go to the same hospitals.

If these medical providers are in the PPO network, the beneficiaries will pay the standard coverage for participating network providers. If they do not participate in the PPO network, seniors will pay more to see them. The important point is that, through PPOs, beneficiaries would still be able to see the doctor of their choice.

Similar to the regions created for the Medicare prescription drug benefit, S. 1 also creates 10 regions for PPO coverage. To make things simpler, the secretary of Health and Human Services would be allowed to use the same regions as the ones established for the prescription drug program.

Again, these regions must include at least one State—and parts of one State could not be divided up into separate regions. A maximum of three PPO plans per region would be offered to Medicare beneficiaries. The HHS Secretary would calculate what the benchmark payment from the federal government would be for these new PPOs. This benchmark would be based on the higher payment of traditional Medicare FFS or the Medicare+Choice payment for the specific region.

The MedicareAdvantage PPO will provide beneficiaries with the health coverage that is similar to private health insurance. Instead of the crazy patchwork of deductibles and copayments imposed on beneficiaries in traditional Medicare, it would offer them a combined deductible, instead of separate deductibles like traditional Medicare.

MedicareAdvantage PPOs will offer beneficiaries with catastrophic health coverage. If beneficiaries choose the PPO option, they will not longer be completely responsible for bills associated with catastrophic illnesses. The PPO plans would determine appropriate levels of beneficiary cost-sharing—deductibles, catastrophic limits and copayments, not the federal government.

In addition, plans under the MedicareAdvantage program will provide beneficiaries with coordination of care.

It is unfortunate that the traditional Medicare program does not have any disease management or chronic care management programs available for all Medicare beneficiaries. This is something many of us had hoped to improve for years.

Under S. 1, MedicareAdvantage plans will create disease management programs and, in my opinion, do a much better job of monitoring the health care needs of individual Medicare beneficiaries than traditional Medicare.

In the worst case scenario, if PPO plans do not offer coverage for a specific region, the Medicare beneficiary would have traditional Medicare coverage along with a prescription drug benefit. Seniors will always have health insurance coverage and the option of prescription drug coverage as well.

Before I close, I want to address one of other important priority of mine.

Although we have worked for several years to pass a Medicare prescription benefit in the Senate, we have worked just as long to pass a Medicare regulatory reform bill.

That is why I am delighted that the "Prescription Drug and Medicare Improvement Act of 2003" includes "The Medicare Education, Regulatory Reform and Contracting Improvement Act" a bill that I am introducing this year in the Senate. This bill is called MERCI [mercy] because it provides regulatory relief for Medicare providers and improved services for beneficiaries.

Medicare's antiquated regulations—three times longer than the U.S. tax code—prevent providers from delivering health care efficiently and beneficiaries from receiving the care they need.

Secretary Thompson has said, "Patients and providers alike are fed up with excessive and complex paperwork. Rules are constantly changing. Complexity is overloading the system, criminalizing honest mistakes and driving doctors, nurses, and other health care professionals out of the program."

Failure or just the perception of failure to follow Medicare's needlessly complex rules can result in audits, withholding of payments, and crippling of a physicians' practice. Furthermore, obsolete restrictions on Medicare contracting authority impose burdens and inefficiencies on contractors, taxpayers, providers and beneficiaries.

This bill improves the Medicare program for beneficiaries and provides by clarifying regulations, rewarding quality and by enhancing services.

The bill decreases waste, fraud and abuse in Medicare in ways that are just and fair for beneficiaries, contractors, and providers by eliminating retroactive application of regulatory changes, and by expediting the appeals processes for beneficiaries, providers, and suppliers of Medicare services.

It improves communication between HHS and both Medicare providers and beneficiaries by enhancing central toll-free telephone services and providing for provider and beneficiary ombudsmen. It increases competition, improves service and reduces costs by providing for a competitive bidding process for Medicare contractors that takes into account performance quality, price and other factors that are important to beneficiaries.

And, it decreases Medicare billing and claims payment errors by improving education and training programs for Medicare providers and at the same time creates an expedited appeals process for Medicare claim denials.

These provisions will improve the delivery of health care services to Medicare beneficiaries by enhancing the efficiency of the program for all concerned.

It is high time that we made Medicare more user-friendly. I want to thank my colleagues Senators GRASSLEY and BAUCUS for working with me on these provisions.

In conclusion, I believe that this will assist all Medicare beneficiaries, especially those without prescription drug coverage, by providing them with a choice of quality prescription drug coverage and a choice of quality health coverage. Passing this legislation is the right thing to do for our seniors.

It is remarkable to me that close to a year ago, we were having the same debate on the Senate floor.

Last year's outcome was a major disappointment to me and my tripartisan colleagues. At the time, I honestly believed that last year was our final chance to make improvements to the Medicare program for a long time.

But here we are, almost a year later, debating this important issue once again. Thankfully, we have a Finance Committee chairman who has been able to guide this legislation through the Senate in a timely manner. Thankfully, we have a President who made Medicare prescription drug coverage for seniors one of his top priorities.

This year is different than 2002.

This year, we have accomplished what we could not accomplish last year.—We have put partisan politics aside and written a bill that is truly bipartisan.

And because of this bipartisan effort, I believe a Medicare prescription drug benefit will become a reality for Medicare beneficiaries across the country. The wait for Medicare prescription drug coverage will soon be over thanks to the hard work of the Senate Finance Committee, especially Senator GRASSLEY, Senator BAUCUS, Senator SNOWE, Senator BREAUX and Senator JEFFORDS.

This is a historic time for the United States Senate.

I notice my esteemed colleague who has done so much in the field of health care in the House, and who has started anew here in the Senate in many ways, is here to speak.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, I just want to commend the distinguished Senator from Utah on all his extraordinary work in the health care field. If you look at what the Senator from Utah has achieved in the S-CHIP area, his work that led to the Hatch-Waxman legislation, and what he has done on a whole host of health care issues, the senior Senator from Utah has made an extraordinary contribution.

As we begin this discussion on Medicare reform, I commend the Senator from Utah on an excellent statement. I think the Senate will have another success over the next few weeks. After the Senator's success on S-CHIP, Hatch-Waxman, community health centers, and other areas, there will be yet another significant milestone the Senator from Utah will have helped to achieve in the health care area. He and I are working on a variety of initiatives now. I commend the Senator on an excellent statement and wish to associate myself with his remarks.

Mr. HATCH. Mr. President, I thank my colleague. He is a definite leader in health care. I enjoy working with him and appreciate his kind remarks.

Mr. WYDEN. Mr. President, a Congress that can find hundreds of billions of dollars in money for tax cuts and the money to rebuild a foreign country must find a way to make Medicare work better for the Nation's vulnerable senior citizens. That is what the next two weeks are all about, and they are historic weeks for the Senate.

Updating Medicare is an issue I have felt very strongly about for several decades because my public service career began in the early 1970s, when I served as codirector of the Oregon Gray Panthers and ran the Oregon Legal Services Program for the elderly. Back then, the old saw was that Medicare was just half a loaf. Of course, from its beginning, Medicare did not cover eyeglasses, hearing aids, dental care, and a host of services that are so important to vulnerable older people. But of particular concern, even then, was the fact that medicine, in so many instances, was both unaffordable and inaccessible. Now the Senate has an opportunity to do something about that in providing a real measure of relief for the Nation's older people. I believe over the next couple of weeks what the country is going to ask is not what a particular philosophical approach of a Senator was, but whether that Senator was part of an effort to find the common ground in finally getting real results for the Nation's older people.

Senator OLYMPIA SNOWE and I offered the first bipartisan amendment to the budget resolution to fund a Medicare prescription drug program back in 1999. We followed that action up by introducing the first bipartisan proposal called SPICE, the Senior Prescription Insurance Coverage Equity Act. I am very proud to be able to stand on the floor today and say that because of the dedication of members of the Finance Committee, the leadership of both sides, many of the provisions Senator SNOWE and I have been advocating for a number of years have been included in the legislation the Senate will vote on over the next couple of weeks.

We were concerned then that traditional Medicare not be skimpy, that it be a good benefit package, and that it would be affordable for older people. Suffice it to say, under the legislation the Senate will be considering, traditional Medicare will survive. The millions of seniors who want to take that program will be able to do so. Traditional Medicare will not wither. It will not vanish as a result of being underfunded or having provisions that would make it less attractive for seniors to choose.

A number of important consumer protection provisions are included in this legislation, something I think is absolutely critical if you are going to allow private plans to play a bigger role in delivering this benefit.

I have had a great interest in this area since the distinguished minority leader, Senator DASCHLE, and I wrote a Medigap law a number of years ago which eliminated a lot of the unscrupulous practices that were taking place in the insurance market designed to supplement Medicare. Now there are standardized benefit packages for these Medigap supplements, and a lot of the abusive activity that used to go on, that used to exploit older people, has been eliminated.

Many of the consumer protections in this legislation have been borrowed from the Medicare Choice Program, really building on what Senator DASCHLE and I wrote into the Medigap law years ago, and are a significant step in the right direction.

I think there are also important steps included in this legislation to make medicine more affordable to the Nation's older people. It seems to me by giving seniors more choices, you make it possible for seniors to have the opportunity to get medicine that is more affordable because for a private plan to attract a senior subscriber, that private plan is going to have deliver medicine in an affordable way. So there will be a concrete incentive to actually hold down the cost of medicine because those private plans will not be in a position to make money, they will not be in a position to be profitable if they cannot attract seniors by keeping down the cost of medicine.

So it is important that this legislation be enacted. I have always felt Government really comes down to people, and it comes down to those who tell us exactly what their experience has been with health care and various other areas of Government.

What has really colored my judgment on this issue are the accounts I have heard from seniors, many of them going back to my days with the Gray Panthers. Not long ago a woman from my hometown of Portland, with $806 in monthly income, had prescription drug bills totaling $150 a month, and she got no help from Medicare whatsoever. My staff and I inquired about how she was able to get by, and her answer was just heartbreaking. She said: I just do without, and I pray.

I do not think that is good enough. As I said earlier, I think a country and a Congress that can find hundreds of billions of dollars for tax cuts and a hundred billion dollars or so to rebuild a foreign country can do better by seniors on Medicare. So this legislation provides an opportunity to do that.

I think there are a number of important issues for the Senate to zero in on as we begin this debate, the first of which is the cost. A number of Senators have said this legislation is costly and it will be difficult to finance in the years ahead. What I would say, Mr. President and colleagues, is this country cannot afford not to cover this vital service for older people.

Not very long ago a physician in Hillsboro, OR, wrote me and said he put a senior citizen in the hospital for something like six weeks because that person could not afford their medicine on an outpatient basis. That is pretty bizarre by anybody's standards. If a senior is hospitalized, they get their medicine covered under part A of the Medicare program. But, of course, if the senior faces a serious health problem and is not hospitalized, they have to resort to outpatient services, and Medicare part B historically has not picked up the bill for drugs.

So what we saw in Hillsboro, OR, not long ago is that it costs thousands and thousands of dollars for a senior to be hospitalized in order to get the Medicare benefit. It would have cost a small fraction of that if the drugs were covered on an outpatient basis.

When seniors and others wonder about the cost of this benefit, and for Senators who are asking if the Nation can afford prescription drug relief for older people, my message is, America cannot afford not to do this. America cannot afford inaction and having older people hospitalized, facing serious health problems simply because they are not able to get medicine in a cost-effective kind of way.

Second, as we look at this issue, we ought to understand that older people are getting hit by a double whammy when they try to afford their medicine. First, Medicare does not cover their purchases. But secondly, the older people of this Nation are subsidizing those who do have bargaining power, the health plans and big buyers who are using bargaining power to knock the price down. What we have been trying to do, going back to the days when Senator SNOWE and I introduced the SPICE legislation, is give seniors some bargaining power, a chance to be on a level playing field with the big buyers, with the HMOs, with those who have bargaining clout. This legislation puts seniors on a more level playing field so that they are able to better afford their medicine and that is a step in the right direction.

There are going to be a number of issues that will come up in the course of the debate. One that my State feels very strongly about is the fact that Medicare's payment system penalizes those who have been efficient. Historically, States such as Oregon that have been innovative in the health care area have taken concrete steps to hold costs down. You would think the Federal Government would reward them. You would think the Federal Government would give them a break for stressing cost containment. The reality has been just the opposite. The Medicare Program has penalized States for holding costs down.

This legislation doesn't do as much as I would like it to do to remove the penalties against those who have been efficient, and I am hopeful that as we consider the legislation more can be done in that area.

It does take significant steps to address the question of rural health care, something that has been particularly important to me. Senator SMITH and I have included it in our bipartisan agenda for the State of Oregon. All who represent States like ours know that States that are largely rural find it extremely hard for seniors to get the care they need. Very often they don't have hospitals or doctors in close proximity and clearly need extra help in order to ensure that our rural communities survive. The fact is, without rural health care, you cannot have rural life. I am not prepared to sit by and let rural communities become sacrifice zones. That is why the provisions in this legislation to provide better reimbursement for rural health care are heartening.

The provisions in the legislation for rural health take strong steps forward. It would adjust hospital payments to account for the higher costs associated with low-volume hospitals. It makes changes to what is known as the "swing bed concept" which will help critical-access hospitals, and it creates a floor for geographic payments for physicians and offers improvements for rural health clinic reimbursement.

More needs to be done to assure that provider reimbursement is adequate. Better reimbursements obviously keep more qualified doctors and other providers in the Medicare system. That, of course, provides more choice and better care for the Nation's older people.

I have been involved in a number of efforts with respect to trying to help seniors with their prescription drugs over the years. I have been involved in measures to expand access for generic drug coverage. I have been involved in efforts to give more bargaining power to public programs, particularly the Medicaid Program, and the program for the Veterans Administration. I have believed, even most recently with the drug Taxol, which is the largest and biggest selling cancer drug in history, that the Government has to do a better job of striking a balance between the need to get drugs to market quickly and be sensitive to making sure that medicine is affordable and that the interests of taxpayers are protected.

But all of those steps together, which have been of some help in terms of making medicine more affordable for older people, do not rival what the Congress is facing now in terms of modernizing the Medicare Program and providing concrete relief to the millions of the country's elderly who are watching now and urging the Congress, after years of partisan action, to actually produce results and address their drug costs.

The fact is, Medicare reform isn't easy. No Senator walks away with everything he or she wants. But there is a chance now to make sure seniors don't walk away empty handed. It is not going to be inexpensive. There will be some who want to spend more. Certainly, I have believed the key issue for all these years has been to try to find the common ground, to act on a bipartisan basis—Senators BAUCUS and GRASSLEY have done that—and we must not let this legislation go by the wayside once more.

For my part, I will do anything over the next couple weeks to build the bridges that are necessary to make health care more accessible and more affordable for the Nation's older people. This is the issue I care the most about, the question of making health care more affordable and more accessible. We have the most talented, dedicated, and caring health care providers on Earth. They deserve a Congress that does a better job of setting in place the governmental policies that allow them to deliver the best and most affordable health care that is possible. This has been my goal since I came to the Congress. This is the issue that has been most important to me throughout my years in public service.

More than 25 years ago, when I was codirector of the Oregon Grey Panthers, we were talking then about what it would take to modernize the program, to turn that program that began as just half a loaf into a program that would deliver the best possible services to the Nation's older people. You cannot do that without covering prescription drugs for vulnerable elderly. This is an opportunity, if not to do everything that needs to be done, to take substantial steps in the right direction.

I urge my colleagues over the next couple of weeks to work together on a bipartisan basis to finally accomplish the reforms that are necessary.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I rise to address this historic opportunity for strengthening Medicare and providing prescription drug benefits for our seniors. I am pleased that as a member of the Finance Committee I was able to participate in the construction of the legislation which is before us now and to be able to speak to this historic legislation on the first day we are considering it.

My understanding is that as of Wednesday we will be able to begin offering amendments to the legislation, and I know it is the leader's intention that we complete it before the end of the following week so that the bill can be merged with the House bill which should be adopted at roughly the same time. We can go to a conference committee, iron out whatever differences we have, and get this bill to the President as soon as possible. It is the President who has led on this initiative and who has promised the American people that we are going to provide both a new prescription drug benefit for America's seniors and a strengthening of Medicare so that we know that this program can continue on into the long-distant future and not be troubled by financial problems that we can see on the very short-term horizon.

So this Medicare reform legislation, S. 1, that is before us now offers us a historic opportunity, one I think we must be very careful not to squander. In that regard, let me discuss, first of all, the problems we are going to be trying to deal with here, the way the Finance Committee bill attempts to deal with them, and then I will conclude with some concerns I have about some changes I believe we are going to need to make to ensure this will work for the benefit of our Nation's seniors.

First, let me discuss the need. There are a couple of key things to keep in mind here. Just as with the Social Security system, of which Medicare is actually a part, Medicare cannot continue to pay the benefits we have promised America's seniors, primarily because of the good news that America's seniors are living longer, and we are finding more and more ways to treat their diseases and illnesses, all of which, of course, costs money. But we should not consider that bad news. In fact, we consider it a very fortunate dilemma that we face, in which we are not only able to prolong life but enhance the quality of life for our seniors. That is the reason we want to deal with this problem now.

But as seniors are living longer, this is going to provide a greater financial burden on taxpayers, and we find that the number of taxpayers paying for it is actually decreasing in relative size. Therefore, we see a financial insolvency for Medicare not too far down the road. In fact, by the year 2026, the system will be, technically, out of balance. By 2012 or 2013, we are going to have to begin paying out of the trust fund for Medicare, which means that the general fund is going to have to be tapped to help to pay for the Medicare funding and the hospital insurance program is going to be in debt. The long-term costs for Medicare are staggering when you stop and think about it, although, again, this can be looked at as good news since we are finding ways to treat our illnesses. And while it costs money, it still preserves our quality and length of life. Therefore, we should be happy for this condition. But it will cost money.

To give you an idea, over the next 75 years, the average deficit of the hospital insurance program is 2.4 percent of taxable payroll, which is 71 percent greater than the projected funds coming into the program over the same period. So we have a huge deficit we are going to face in how to fund our Medicare commitments to seniors.

In addition, when Medicare was created in 1965, it was a very different program than Americans have become accustomed to now. For one thing, it didn't have a drug benefit. We are all committed, I think, to the proposition that we have to add a drug benefit to Medicare, among other things, because now, unlike in 1965, treating through prescription drugs, through medication, has become really the preferred option in most cases. We no longer need acute surgical care, for example, to treat many situations. We are able to control the illnesses through the use of medications. Isn't that a much more humane and satisfying way to treat diseases than through some intrusive kind of treatment, such as surgery?

So medical advances have permitted us to accomplish a great goal. We are going to have to add this benefit to Medicare, however, if we are to achieve the degree of success we would like to achieve. Nobody who has health insurance in the private sector has a structure like Medicare does today. For example, in the private sector, you usually only have one deductible for your insurance. And then your copayment—if it is for drugs or some other kind of benefit—is usually at the front end of most of those services. Most of the time in the private sector, people have catastrophic insurance coverage. In other words, you will pay a deductible and there will be some copayment for the other services you derive along the way. But if your illness is so severe as to cause huge medical costs, that catastrophic care is paid for with your private sector insurance premium. Not so with Medicare.

With Medicare, it is almost exactly the opposite. There are two deductibles, one for part A and one for part B, for hospital stays and physician services. It is especially complicated for hospital stays. And you have high copayments under Medicare that are toward the back end of the coverage. You have no catastrophic coverage at all, as a result of which seniors have had to go through a distribution of Medigap insurance, private sector coverage, coverage sometimes from their employer, and the Government's Medicare Program and, in some cases, some even do without. There is no drug benefit today as a part of Medicare.

So all of this has to be dealt with. Clearly, we cannot continue to work with a program that is not going to be able to treat our senior citizens as we have moved into the 21st century, which is the historic opportunity we are presented with. The first way to respond to that is to add a drug benefit to Medicare. Clearly, as I said, we are all committed to doing that.

S. 1 provides a generous universal benefit for prescription drugs. I think, given our budget constraints, the bill put together by the chairman and ranking member of the Finance Committee is a very good start to providing that kind of universal benefit of covered pharmaceuticals.

Now, importantly, the way the bill is constructed, no senior will have to leave the traditional Medicare. The first option is you can stay right where you are, and there is a drug benefit added to traditional Medicare. It will have the same actuarial value as the drug benefit added to the alternative choices that will also be provided now. For those who are satisfied with Medicare, except they would like to have a drug benefit, that is precisely what will be available to them. For those who would like to or are used to having a private sector insurance plan, that option or alternative will be available as well. You don't have to choose it, but if you do choose it, it will have a drug benefit with the same actuarial value as that provided or added to the traditional Medicare. But it will also have a variety of other kinds of options.

For example, you will probably have just one premium, one deductible, and copayment then for some of the services at the front end. There will probably be catastrophic coverage at the back end. In other words, you will be protected against the very large medical expenses you may face. That catastrophic coverage will be part of the premium and part of the subsidized care from the Government.

This new option that is being provided is primarily being structured like the preferred provider organizations, or PPOs, which currently serve a lot of our population in the private sector today. If you are part of an employer-based insurance plan, for example, chances are you are enrolled in a PPO, or preferred provider organization. What is this? It is an insurance plan that pays you benefits with a premium, deductibles, and copays, as I said. There is provided a list of physicians you can go to, including specialists, generalists, and so on. Ordinarily, you can even go to a physician not on the list, but you may have to pay a little bit more for the coverage. In other words, the insurance will pay up to a certain amount and you may have to pay the difference. It is your choice. If you want to do that, you can. If you don't want to, you don't have to do that. That is what a lot of us are used to.

There is a third kind of insurance, called the HMO, or managed care. Some people are very happy with the Medicare version of that. It is called Medicare+Choice. That is only available in certain parts of the country. We are not touching that. If you are happy with Medicare+Choice and you are in that, you will be able to continue to participate in that. As a matter of fact, it is hoped there will be more of those kinds of plans operating as a result of the private insurance option that will be made available. But nobody has to participate in that if they don't want to.

The drug benefit that will be provided will have the same actuarial value as that of the PPOs and of traditional Medicare. Think of it in terms of traditional Medicare on one hand, plus a drug benefit and this new option of PPOs on the other hand. It, too, will have the same actuarial value drug benefit.

On the PPO, however, there will be more integrated care. In other words, there will be a group of physicians who are taking care of you and they may have you do more preventive care, more tests. It would be to their benefit to not have to pay a lot of money for your heart attack, for example, so they want to keep you healthy and not get that heart attack. It enables you to take care of yourself in such a way that, hopefully, you will not have the heart attack. Under traditional care, you may not go to the doctor until you are really sick, at which point, of course, then are you not only going to be in trouble but there will be higher bills to pay.

The idea of PPOs is maybe to reduce the overall cost of providing the care by taking care of you better so, of course, you will be more healthy, which is to the benefit of everybody.

It is not going to work out that way for everybody, but at least the alternative or the option is there. Therefore, if you decide this is a better option for you, you will be able to participate in the PPO.

I identified the need briefly, and I went into some description of the alternative plans provided in this legislation. Let me turn now to the one concern I have because I think we all want to make sure that if we are going to provide an alternative, it works.

If we are really going to strengthen Medicare so people will have options or have choices, we expect those choices to provide better care, perhaps for a lesser amount of money, perhaps not, but better care should be the primary goal here. If we are going to attract people to enroll in that option, then we have to make sure it works.

One of the concerns some of us have is that the way the bill is structured currently, it is less likely to succeed than it would if it were as the President originally proposed it. Let me go into a bit more detail what I am talking about.

One of the problems with Medicare today is that we have price controls on the health care providers. The Government decides exactly how much it is going to reimburse doctors, for example, and that is how much they get reimbursed. The problem with that is we are trying to control costs, and so the Government keeps ratcheting down what we pay the doctors until we find the doctors are deciding not to treat Medicare patients anymore, until they decide they just cannot afford to continue to be part of Medicare.

At this point, because we want to make sure seniors have plenty of health care providers available to take care of them—and, frankly, we do not want to put any of the health care providers out of business, obviously—then all of a sudden we are going to pay more to allow them to stay in operation, and that costs a lot of money. We put that back into the system. Then we begin to ratchet down what we pay again. It is the traditional problem of price controls.

Nobody knows better than the market what the price of a good or service ought to be, but some bureaucrats, the idea goes, know better than the market. Whenever it is tempting for us to think that, we ought to look to history for a lesson. Price controls never work.

Think of it in the way earthquakes occur. We have the great tectonic plates of the country, and they are constantly under stress. We may go for quite a long time without an earthquake, but if we have those tectonic plates stressing, all of a sudden, it is going to get to the point where they just cannot stand to be together anymore, and they are going to move. That creates an earthquake.

It is a lot like that when it comes to price controls. We may be able to keep the lid on prices for a while, but the inevitable pressure will increase to the point that eventually something has to give. One thing that can give is that we no longer have the providers willing to provide the service because they are not getting paid enough to stay in business. Therefore, we have a little revolution on our hands where people say: Look, they are all leaving the practice. We want to be cared for; can't you pay them more money? The Government says: OK, we will do that. We provide the money. What have we saved?

It would have been much simpler to have allowed the market to work along the way so that the providers could be reimbursed what they need to stay in practice, the beneficiaries of care continue to be provided that care, and we have a more stable financial situation as well.

Price controls simply do not work, and they have not worked in Medicare where we have tried to control the prices of the providers.

What makes us think that controlling the prices of the PPOs is going to be any more successful? It clearly is not going to be, and yet that is, in effect, what we have in this bill.

We have said we want to provide a private sector option, and then we place price controls on how much we are going to pay the providers. Some people say we might as well just stick with the current system of price controls on the providers. If we are going to provide a real private sector alternative, then do not turn around and cap the prices we are going to pay.

The Government has a legitimate obligation to keep prices down, and I will get to that in a moment. But by the same token, we have an obligation to provide high-quality health care. If we are going to make the decision to provide an alternative to traditional Medicare, one which provides choices for people and relies upon the private sector to design plans that best meet the needs of different seniors all over this country, then we need to let those plans work.

The way the administration designed it was that in deciding which PPOs would be allowed to provide the services, they would simply allow a competitive bid process. The plan is to have approximately 10 regions in the United States, to have the country divided; 50 States divided into 10 regions. Think of it as roughly 5 States per region, although that is not exactly how it will work out.

In each region, if you are an insurance company and you want to provide this alternative to Medicare, you would bid and the three companies that provided the lowest bids would have the opportunity to provide this care. They would then be reimbursed by the Government at the level of the middle bid.

In other words, if you had $10,000 for the top bid and $9,000 for the middle bid and $8,000 for the third bid, then all three companies would be reimbursed at the $9,000 per patient level, speaking hypothetically, of course. That competitive bidding process would enable the insurance companies to figure out how much money they need to make to stay in business, but also how little they can charge in order to get the business.

It is the same process that any company undergoes. For example, a construction company wanting to build a highway bids on the highway. If they bid too high, they are not going to get the job. If they bid too low, they are not going to be able to pay all their workers and make a go of it. So they have to calculate what it is going to take to stay in business, to make a little profit, and still get the business. That is what encourages them to be careful with how they spend their money—to be economical, frugal, and thoughtful with what they do, and keep the customer happy.

The same thing happens with insurance companies. When the Government comes along and says, We are not going to take the three lowest bids, we are going to put a cap on how much you can bid, they have totally distorted the process. So if the Government came along and said, for example, that $10,000, $9,000 and $8,000, no, we are not going to do that, we are going to say no company can bid more than $8,000, what is that going to do? The company that bid $10,000 is going to say: We cannot make any money at that; we cannot even serve the patients; and we are not going to try to fool anybody and go into debt. So we are not going to bid.

The company that bid $9,000 is going to say: I do not know if I can make it work. We had better not bid for the same reasons.

The company that bid $8,000 is going to say: We can make a go; the Government says we cannot bid more than $8,000; we are going to bid that. What kind of choice do the consumers have? One company.

What if the Government decides it knows best and the bureaucrats decide to set the level at $7,000? Then how many companies are going to bid? This is precisely the problem the Congressional Budget Office identified.

The Congressional Budget Office said when you set the bid at the Medicare payment level, which is the way the bill is constructed, that is what the level is going to be, you may end up with nobody bidding. Do you know what the Congressional Budget Office says the participation rate is going to be under the bill? Two percent. Effectively nobody is going to bid. Nobody is going to be able to participate because the Medicare level—remember the price control level I talked about before—that level is going to be the level set under the bill.

What they are saying is almost nobody is going to be able to work under that artificial capped rate. So only 2 percent of the people are going to participate in these plans. The plans are not going to be able to provide a robust enough benefit, a benefit that attracts people into the plan. What are the plans going to do? Obviously, they are not going to participate. What kind of option have we created?

There are some on the far left, I suppose, who will say that is great; that proves the only thing that works is a Government, one-size-fits-all medical benefit, and we can finally get to the single-payer system some wanted to do all along. Those, on the other hand, who want to see the private market system work, will say: No, let's try to adjust the bill; it will not take a huge adjustment, to be sure it can actually work. The way we would adjust it is we would simply substitute this Medicare capped rate, the price control rate, for that which the President originally proposed; mainly, take the three lowest bids. The bids still have to be low enough to get the business, so there is still a big incentive to keep the cost down, but at least you know you are going to get some people bidding.

The estimate in this instance is the participation would be somewhere between 30, 40, or maybe even more than 40. 48 percent, something like that, 43 percent. That is a lot more people participating in the plan. It at least would have a chance to work then.

It seems to me, if we are dealing between estimates of 2 percent on one hand and over 40 percent on the other hand, that is too big a difference for us to be rushing to pass this bill.

Nobody knows for sure what the answer is. Will it be 2 percent? Will it be 40 percent? If we are dealing with that kind of uncertainty, it seems to me we should not be rolling the dice, especially since what is at stake is the quality of health care for our senior citizens. We ought to take our time and do it right.

As I said, fortunately we have the answer in front of us. It is what the President originally proposed, take the three lowest bids and then use the middle of those three bids. We could easily substitute that for what is in the bill today. If I had my druthers, we would even go one step further.

Those of us who say what we are providing for our seniors is very much like what Members of Congress get in health care are almost right but not quite. Under the FEHBP, the Federal Employees Health Benefits Plan, all of us, plus the other 10 million Federal employees, get a chance to enroll in one of several PPOs.

Do the PPOs that provide the care for Federal employees, including Members of Congress, have price caps on them? No. Do they even have to take the three lowest bids? No. Whatever companies would like to bid that will offer the benefits that the Government promises to its employees, if they are qualified companies and they offer the benefits, it does not matter what they bid; they get to offer those benefits to the employees.

Now, if they bid way too high, they can still bid and they can still offer the plan, but none of us are going to join because it will cost too much money. So they still have to be reasonable. But if they want to participate at a rate higher than some of the other plans, they can try. If they can sell their product, then who is hurt? Not so with Medicare. What the President has said is in order to keep the costs down, we are going to take the three lowest bids. Well, that is not as good as what the Federal employees have, but we believe it is a system that can be made to work. What cannot work is to go to the lowest common denominator, and that is the Medicare artificially controlled, capped price control rate that CBO says will not work. That is the change we are working with the chairman and the ranking member of the committee and the administration to effectuate in this legislation. We have to get the score from the Congressional Budget Office; that is to say, they have to tell us how much the two different versions would cost so that we would know and be able to fold that into the $400 billion budgeted amount with which we have to work. It is my hope over the next few days that we will be able to do that and be able to offer an amendment that can be supported by all of us that would permit a more plausible scenario for the preferred provider organizations to succeed so that we can honestly say to our seniors they have two legitimate options.

They can stay in traditional Medicare or there is a good PPO option, their choice, and have some confidence that the PPO option will actually work and will be a good option for them.

I am going to close with this thought: Whenever there is a third party paying for something that is near and dear to you, you have to be very careful because that third party is going to have a dual loyalty. If it is an employer or the Federal Government, let's say, and they are buying your health insurance, they want to take care of you, your employer wants you to be happy and healthy, and in a plan like Medicare, the Government certainly wants to take care of the senior citizens, but there is another motivating factor for either the employer or the Government. What is it? It is, how much does it cost me? The employer can only afford to pay so much for the health care of his or her employees. The Government, because it is taxpayer money, can only afford to pay so much for the care it provides to senior citizens under Medicare. So you always have to ask the question: If I am relying upon my employer's provided insurance or the Government's provided insurance, am I getting the best quality care I can get? Reasonably. Am I getting affordable, high quality care? It is a question you should always be asking because when a third party pays, there are mixed loyalties.

If I am paying for it all out of my own pocket, and I can afford to do that, then I am going to pay for good care for me and my family. But if I am paying for a complete stranger's care just ask yourself: Do I care quite as much? Am I going to be quite as concerned about the quality of care or am I going to be at least equally motivated by how much it costs?

Being concerned about saving money, am I going to maybe skimp and save a little bit? What is the result of that skimping and saving? Is it going to be a lower quality care?

When we set a price and say you can only bid so much, what is the potential effect of that? It is lower quality care. That is the tradeoff we have to be very careful of. We are buying care for senior citizens and we have to be very careful that in our concern about wasting taxpayer dollars and being able to afford this quality care, that quality does not suffer as a result.

I submit the best way to do that, when the third party, the Government, is paying for the bulk of this care, is not to set a price cap because the inevitable result will be the ratcheting down of the prices and very uneven, if not poorer, quality care but, rather to allow the insurance companies to bid what they think they have to to win the contract but enough to provide high-quality care.

Will that cost less than traditional Medicare? A lot of people at CMS, the Government-run Medicare system, think it will be actually less than traditional Medicare. Will it be more than traditional Medicare? It might be. CBO thinks it will be more. The experts are not sure. I suggest that actually there is no one answer. It will depend upon how things evolve. So we cannot know for sure one way or the other.

So why should bureaucrats or Senators think we are so smart as to be able to predict this in advance when, again, one Government agency says 2 percent and another one says over 40 percent? Clearly, the experts are in disagreement. Why would we be so arrogant as to think we know best and can set those prices? Let the market work and determine what can be bid for companies to stay in business but provide high-quality care. Then let the customer, the consumer, the seniors, decide are they getting their money's worth or not. If they think this is a good deal for them, they will choose that option. If they think it is not, they always have the traditional Medicare option to stick with. So it is the best of all worlds.

That is what this is all about, not trying to shoehorn everybody into a one-size-fits-all plan. Regions of the country are different. Urban versus rural is different. The needs of seniors are different. There are so many different factors that we should not presume to know best. We need to be willing to spend what it takes for high-quality care. The only way we are going to know what that amount is, is to let the market work, not to impose an artificial control on it. That is why I think we are going to have to make a change in this bill.

Fortunately, it is a relatively modest change, but I think it is a critical change because it could mean the difference between a successful Medicare Program and one which is not, and we will have missed a historic opportunity to strengthen Medicare if we fail to address these kinds of issues in the legislation that we are dealing with over the course of the next 2 weeks.

I thank the chairman and ranking member of the Finance Committee for their hard work, the administration for the work it has put in, my colleagues who have worked a lot on this, and I am hoping over the next several days we will be able to come together in a bipartisan way to craft a plan that truly provides new drug benefits for our seniors, choices that they will like and appreciate, and a private sector alternative that has a chance at working.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, today the Senate begins a truly historic debate on landmark legislation that will make affordable, comprehensive prescription drug benefits available to our Nation's seniors as well as to people with disabilities who receive Medicare benefits. This legislation is long overdue, but I am confident the Senate will, in fact, approve it before the Fourth of July. That is good news for our Nation's seniors.

The Prescription Drug and Medicare Improvement Act that the Finance Committee approved last week represents the most significant expansion of the Medicare Program in its 38-year history. I commend the chairman, the ranking member, and the other members of the Finance Committee, including my senior colleague, Senator SNOWE, for their hard work in devising and developing this important package.

We now have an unprecedented opportunity to make the improvements necessary to ensure that the Medicare Program can provide peace of mind to our Nation's seniors and true health security, not only to the 40 million American seniors who rely on Medicare today but to future generations as well. We want a strong Medicare Program that meets the needs of our grandparents, our parents, and our children's generation.

With recent advances in research, prescription drugs can become literally a lifeline for patients whose drug regimen protects them from becoming sicker. Prescription drugs reduce the need to treat serious illness through hospitalization and surgery. Soaring prescription drug costs, however, have placed a tremendous financial burden on millions of our seniors who must pay for these necessary drugs out of their own pockets. Monthly drug bills of $300, $400, or even $500 are not at all uncommon for older seniors living on limited incomes.

For example, Emery Jensen of Gorham, ME, has an annual drug bill of about $4,600. That is about one-quarter of the entire income he and his wife receive from Social Security. Another constituent from coastal Maine sent me a 2-page list of the medications her husband took over an 8-month period before he died. The total cost: Nearly $4,000. More and more, I am hearing disturbing accounts of older Americans who are running up huge high-interest credit card bills in order to buy medicine they could not otherwise afford. Even more alarming are the accounts of patients who are either skipping doses to stretch out their prescriptions or forced to choose between paying the bills or buying the pills that keep them healthy.

I will never forget an elderly woman coming up to me in the grocery store in Bangor and saying to me she was only able to get half the number of pills her doctor had prescribed because otherwise she would not be able to buy the food she needed. No senior in our country should be forced to choose between putting food on their table and buying the pills they need to remain healthy.

It is critical we bring Medicare into line with most private sector insurance plans and expand the program to include coverage for prescription drugs. The legislation before the Senate today will make prescription drug coverage a permanent part of Medicare. This is an important improvement over previous versions of this bill which had sunset dates which would have created tremendous anxiety for our seniors on whether this would be only a temporary program.

This bill will make this coverage permanently part of Medicare. It provides a comprehensive prescription drug benefit that will be available to all seniors in Medicare, regardless of where they live. Moreover, that benefit will be equal for everyone, both for those who choose to stay in the traditional program as well as for those seniors who elect one of the new programs, the new plan options available in the Medicare Advantage Program which is modeled after the Federal Employees Health Benefits Program.

Beginning in 2006, seniors will be able to get comprehensive prescription drug coverage, including both upfront and catastrophic protection, for $35 a month premium. Moreover, low-income seniors will receive generous subsidies and get additional protections and assistance. The more than 9 million seniors nationwide, including 60,000 seniors living in Maine, who have incomes below 135 percent of the poverty level will not have to pay any premium to secure coverage. That 135 percent of poverty equals $12,120 for a single person and $16,360 for a couple. It is important we provide that extra assistance for these very low income elderly people who would be hard pressed even to afford that $35 a month. Unfortunately, this is not going to happen overnight. It will take some time for this new benefit to come online.

To provide some interim assistance, starting next year seniors will get prescription drug discount cards that will save them between 15 and 25 percent on each drug purchase. Lower income seniors will receive a benefit of $600 on top of that starting next year.

There are also some other significant features in this bill. Medicare's reimbursement systems have historically tended to favor large urban areas and failed to take into account the needs of more rural States. This simply is not fair to States such as New Hampshire, which the Presiding Officer represents so ably, or my home State of Maine.

Ironically, Maine's low payment rates are also the result of its long history of providing cost effective high-quality care. We have a strange system where, if you delivered care in a low-cost manner, the formula actually penalizes you for doing so. In the early 1980s, lower than average costs in Maine were used to justify lower Medicare payments to doctors and hospitals. Since then, Medicare's payment policies have only served to widen the gap between low- and high-cost States.

This is an issue on which I have been working my entire time in the Senate. I remember in the previous administration meeting with the head of what was then called the Health Care Financing Administration and her telling me that in fact the State of Maine ranked dead last in Medicare reimbursements. Since that time, I have worked hard to improve the reimbursements to Maine, and now we are up to about 46, but that still represents a tremendous inequity.

I am, therefore, particularly pleased the legislation before the Senate takes steps to strengthen the health care safety net by increasing Medicare payments to physicians and hospitals in rural States such as Maine to help even out the reimbursement and eliminate the inequities that have hurt rural States.

According to the American Hospital Association, the provisions in this bill will increase Medicare payments to hospitals in Maine by approximately $63 million over the next 10 years. That is a step in the right direction. It will be particularly helpful for our small community hospitals which are struggling to make ends meet. Those same hospitals tend to serve a population that is older, poorer, and sicker, so they particularly suffer when Medicare reimbursements are unfair because they simply do not cover the cost of treating this older, poorer, sicker population.

This legislation also restores funding to some extent for home health. That benefit has been cut far more deeply and abruptly than any benefit in the history of the Medicare Program. Earlier this month, 54 Senators, at my request, joined me in sending a letter to the chairman and the ranking member of the Finance Committee asking that they avoid any further cuts in home health care and extend the additional payment for home health services in rural areas that expired on April 1 of this year.

I am pleased the legislation before the Senate does provide for a full inflation update for home health agencies and also extends the rural add-on that is vital to sustaining home health care in rural areas of our country. Surveys have shown the delivery of home health services in rural areas can be as much as 12 to 15 percent more costly because of the extra travel time required to cover long distances between patients, higher transportation expenses, and other factors.

While I am disappointed the Finance Committee reduced the add-on payment from 10 percent to 5 percent, at least it has been extended, and that will help to ensure that Medicare patients in rural areas continue to have access to home health care services.

The Prescription Drug and Medicare Improvement Act was approved by the Finance Committee by a strong 16 to 5 bipartisan vote. I think that bodes very well for the future of this legislation. At long last, this legislation holds out real hope to our seniors that they will finally receive an affordable, comprehensive Medicare prescription drug benefit.

Since the cost of providing a meaningful drug benefit will only increase as time passes, it is imperative that we act now. I am pleased the majority leader has scheduled this legislation and set a goal of its passage before we adjourn for the July 4 recess.

Our senior citizens deserve no less from us. We must act. I am confident we will act to provide a long overdue prescription drug benefit.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FITZGERALD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent I be permitted to speak as in morning business for no longer than 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION PROGRAM FOR THE 21ST CENTURY

Mr. CORNYN. Mr. President, I rise today to say a few words about our Nation's immigration policy.

The United States has been built on the labor, industry, and initiative of immigrants. The immigrant character that undergirds our country and enriches our society is expressed through our art, music, and culture—the fulfillment of one of America's greatest gifts to the world: the promise of thriving multi-ethnic democracy. In every war America has fought, from the Revolutionary War to Operation Iraqi Freedom, brave immigrants have fought alongside American-born citizens, with distinction and with courage.

And throughout history, those who have longed for the blessings of liberty have looked to America as a beacon of hope, freedom, and the opportunity of a better life.

The American Dream itself is rooted in the immigrant spirit. What sets this country apart is our conviction that life, liberty, and the pursuit of happiness are not just American rights, but the gift of a benevolent Creator to all humanity. And so America has always welcomed immigrants from every shore, saying: "Give me your tired, your poor, your huddled masses yearning to breathe free."

Yet for too long, we have failed to address the flaws in our nation's current immigration policy. This issue is even more urgent in a post 9/11 world. Special interest groups dominate the discourse, employing the potent but morally repugnant rhetoric of fear.

We must acknowledge that we have done far too little to reform a system that cries out for change. The fruit of our current immigration policy is death, danger, and denial.

For immigrants willing to risk their lives for the opportunity to live here in America, exploitation at the hands of human smugglers can mean a slow and painful death.

According to some estimates, there at as many as ten million individuals who are in this country illegally; our homeland security demands an accounting of the identities of these individuals, their reason for being here, and whether they pose a danger to our citizens. And we can no longer afford to deny both the sheer number of undocumented immigrants in our country and the extent of our economy's dependence on the labor they provide.

Our relationship with Mexico, an important ally and trading partner, is a prime example of the ramifications of the tired old status quo. The stated desire of our Mexican friends for general amnesty for the millions of undocumented immigrants here in America is an untenable position in support of an unrealistic policy.

Instead, the guest worker program I propose acknowledges the vital role hard-working immigrants play in our economy and creates a comprehensive program, which will serve as an important step toward reestablishing respect for our laws and restoring dignity to immigrants who work here. It will enhance America's homeland security, facilitate enforcement of our immigration and labor laws, and protect millions who labor today outside the law. This program will benefit all participating nations and their citizens who wish to work in the United States and contribute to our Nation's prosperity.

Our immigration policy must adapt to modern realities. An effective guest worker program will acknowledge that millions of undocumented men and women go to work every day in America in violation of our immigration law, outside the protection of our labor law, and without any way of our Government knowing who, or where they are.

My proposal will encourage undocumented immigrants to come out of the shadows, to work within the law, and then to return to their homes and families with the pay and skills they acquire as guest workers in the United States. It will help guest workers receive the health care they need, without overburdening already strained health care providers.

It will protect immigrants from exploitation and from violence. And guest workers will no longer fear the authorities, but rather will come to see the law as an ally, not an enemy.

I have always believed that, as Americans, our patriotism isn't just expressed by flying the flag. It's about more than that. Patriotism means we all share in an ideal that is larger than ourselves. In all of our differences, there are some things we all have in common. In all our diversity, each of us still has a bond with all humanity.

We must bring our broken immigration system into the 21st century. We must move transient workers out of the shadows. We must ensure the security of our borders.

We must act for the sake of the rule of law, for the sake our homeland security, for the sake of immigrants who endure exploitation and even death for a chance to share in the blessings of American liberty—in hope, freedom, and the opportunity of a better life.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO STEVE REED

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to an accomplished Kentuckian, Mr. Steve Reed. A native of Hart County, KY, Steve is a respected attorney, inspiring mentor, and loving husband and father of three.

In 2000 Steve became Kentucky's first African-American U.S. attorney. Some of his most significant work as U.S. attorney included fighting the methamphetamine problem in western Kentucky. Steve quickly recognized the problem and requested Federal funds to open an office in western Kentucky to combat meth production. With the new funding, he directed a program that more than doubled the number of labs raided from the previous year. Through Steve's efforts and the cooperation of local law enforcement agencies, Kentucky's young people are better protected and more criminals are being prosecuted.

In addition to serving as U.S. attorney, Steve has supported higher education as a member of the University of Kentucky board of trustees since 1994. In September 2002, Steve became the board's first African-American chairman. He is dedicated to increasing the stature of academics throughout the university and Commonwealth. He is working to create stronger ties between private business and the university's research programs, and Steve has pushed for more minority and financial aid scholarships. Because of UK's prominence, Steve's efforts have not just affected the school but also have had a positive impact throughout the rest of Kentucky's educational system.

Steve grew up in poverty as one of seven children raised by his single mother. His maternal grandmother, Mama Verda, expected greatness from Steve, and emphasized the importance of always doing the right thing. He excelled in high school and moved on to Western Kentucky University where he tutored a fellow student. After earning a psychology degree, he attended UK Law School. Through his hard work and discipline, it is no surprise that Steve has achieved such success.

We are indebted to Steve for his service to the Commonwealth of Kentucky in fighting drugs and supporting education. He stands as a model of hard work and discipline. I ask my colleagues in the Senate to join me in honoring Steve Reed for his dedicated service.•

FRANKLIN HOTEL CELEBRATES 100TH ANNIVERSARY

• Mr. JOHNSON. Mr. President, it is with great honor that I rise today to congratulate the Franklin Hotel in Deadwood, SD, which celebrated its 100th anniversary of service on June 4, 2003.

The Franklin Hotel has been a welcome destination for visitors to the Black Hills region and has catered to guests since its doors opened in 1903. For locals and tourists alike, the past several years have seen a resurgence and interest in history, and the setting the Franklin provides to learn more about Black Hills history continues strong to this day. Whether the visitor was a well-known actor from Hollywood taking a break from daily shooting, noted public servants and athletes visiting the area on business or personal time, or the visiting family from Anywhere, USA or the world, experiencing the professional and welcoming, friendly attitudes of the Franklin Hotel staff is just another reason of making a Black Hills visit one to remember.

In many respects, board of directors president Bill Walsh is as much of an institution in South Dakota as the Franklin Hotel. The two are inseparable when it comes to colorful personalities and both are foundations in the promotion and advocacy of South Dakota and Black Hills tourism. It would be all too easy for Bill to be just concerned about the promotion of the Franklin Hotel. Instead, he has been a stalwart advocate for projects impacting and benefiting Deadwood, the entire Black Hills, and South Dakota. One of Bill's highest priorities is making sure as many people as possible put Deadwood, the Black Hills, and South Dakota on their travel itinerary.

Over the years, I have appreciated Bill's valuable insight on politics, current affairs, tourism, and the economy. I have always appreciated his wit, his hospitality and, most of all, his friendship. Many who gathered for the centennial anniversary celebration have special memories of Bill and the Franklin Hotel. Many local residents will probably never forget that as the Grizzly Gulch fire tickled the edges of Deadwood and as people streamed out of town under evacuation orders last summer, the doors of the Franklin stayed open with a confident Bill Walsh sitting on the porch of the Franklin with a freshly-lit stogie in hand.

I want to take this opportunity to acknowledge Bill and other members of the board of directors, Jo Roebuck-Pearson, Mike Trucano, French Bryan, and Taffy Tucker. I also want to congratulate MacKenzie Roebuck-Walsh, who co-owns the hotel along with her parents, Bill and Jo. Finally, I want to acknowledge the Franklin Hotel staff and the community of Deadwood on the centennial anniversary of the hotel. This event is but another chapter in the living legacy of one of South Dakota's cherished destinations.

I am proud to have this opportunity to honor Bill Walsh and the Franklin Hotel for its 100 years of outstanding service. It is an honor for me to share with my colleagues the strong commitment to history the Franklin Hotel has provided. I strongly commend the staff and board of directors for their years of hard work and dedication, and I am very pleased that their substantial efforts are being publicly honored and celebrated.•

LOCAL LAW ENFORCEMENT ACT OF 2003

• Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Prince William, VA. On November 1, 2001, a 26-year-old and his 25-year-old friend were charged with a hate crime after assaulting a 46-year-old Pakistani taxi driver. The driver had picked up the pair and, during the ride to a nearby motel, the two passengers verbally accosted him. Upon their arrival, the frightened driver exited his car and tried to flee, but the pair caught hold of him and began beating him in the motel parking lot.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

TRIBUTE TO FORT KNOX GAME WARDENS

• Mr. McCONNELL. Mr. President, I rise today to recognize the volunteers of the Fort Knox Game Warden Program for their longstanding commitment to the community. These volunteers assist the Provost Marshal, the Hunt Control and the Range Control offices in maintaining the hunting program's outstanding safety record by enforcing the Fort Knox and Kentucky Fish and Game regulations on the base's 170 square miles.

The program's loyal volunteers have an active role in the community, especially during the deer-hunting season when they operate the deer check stations and monitor hunter activities. Their efforts also have enhanced the natural habitat of the area's wildlife. Throughout the program's 50-year life, volunteers have planted food plots, developed wildlife sanctuaries and reintroduced wild quail to the environment.

These unsung heroes actively devote time to serving the post's six hunting zones consisting of 109,000 acres. They help protect both small and large game including squirrel, dove, rabbit, quail and turkey. In addition to the three weekends available each year for adult firearms deer hunting, the Game Warden Program sponsors a youth gun hunt for one weekend each year.

I would like to acknowledge each of the volunteers for their time and commitment protecting the community and surrounding environment: Donald Buhl, George Phelps, Bob Sherrard, Jack Baxter, Bill Schweiss, Alfred Maruszewski, Michael Dages, Charlie Flowers, Wayne Walters, Gerald Sasser, Jr., Daniel Clifford, Tim Dages, Kenny Kine, Ron O'Bannon, Harold Scott, Walter Sholar, Hugh Harris, William Magruder, James Elliott, Robbie Ammons, James Miller, Jackie Payne, Willard Campbell, Joseph Banks, Michael Gaddie, Richard McQuillen, Mary McQuillen, Wayne Creekmore, Gary Thompson, Martha Campbell, Karl Rohland, Ace Clark, James Prather, Mark McNutt, Kelley Argabright, Dr. Gerald Sasser, Tony Parsley, Crockett Banks, Dwayne Campbell, and Rodney Circle.

The Fort Knox Game Warden Program and its volunteers have faithfully served the community for many years, and their contributions should not be overlooked. On behalf of myself and my colleagues in the Senate, I thank them for their dedicated service to the Commonwealth of Kentucky.•

IN RECOGNITION OF CAPTAIN GABRIEL GRIESS

• Mr. NELSON of Nebraska. Mr. President, I rise today to offer my congratulations to a Nebraska native son. This gentleman is among the many who honor our Nation through their service in our Armed Forces and I am very pleased to have this opportunity to pay tribute to him.

As our Nation faces threats abroad and our military men and women fight to keep us safe, it is important for us to never forget the sacrifices made in our defense. These men and women give up a great deal to protect our Nation and we owe them a debt of gratitude that can never be fully repaid.

Today, it is my honor to offer my heartfelt congratulations to one of their number, CAPT Gabriel Griess, a hometown Nebraska hero. Captain Griess is a proud member of the U.S. Air Force and he has recently been named the 15th Air Force Company Grade Officer of the Year for 2002. This was no easy accomplishment as the criteria for the award ensures that only the best of the best are eligible for consideration. To meet those criteria, Captain Griess had to show clear drive, pursuit of self-improvement, and involvement in base and community activities. Captain Griess met and exceeded all expectations.

He was awarded this title based on his dedication, leadership, and professionalism. Captain Griess' military history speaks volumes about the confidence placed in him by his superiors. He was deployed twice in 2002 in support of Operation Enduring Freedom; given missions such as tracking down al-Qaida leaders, and evacuating critically injured troops from combat zones. He provided support during Operation Anaconda by flying in critical supplies, destroying al-Qaida strongholds, and providing air support for ground troops. He has earned three Air Medals and two Aerial Achievement Medals for his valiant work.

But perhaps more importantly, he has won the respect of his peers. As an instructor navigator with the 317th Airlift Group at Dyess Air Force Base in Texas, he is recognized as the "go to" guy, an officer who will work as part of the team to meet the challenges ahead.

As our military efforts continue in Iraq, Afghanistan, and other regions around the world, we rely on the men and women in uniform to make our Nation safe. With soldiers, sailors, airmen, and marines of the caliber of Captain Griess, I can say with complete confidence our Nation is secure.

I congratulate Captain Griess on this recognition he has so deservedly received. It is truly an honor for him and his family.●

IN RECOGNITION OF MOSAIC

● Mr. NELSON of Nebraska. Mr. President, today I would like to offer my best wishes and support for the beginning of a new organization—Mosaic. On July 1, 2003, Bethphage, founded in Axtell, NE, in 1914, and Martin Luther Home Society, founded in Sterling, NE, in 1925 will come together to form Mosaic. These two organizations bring decades' worth of experience to the field of developmental disabilities, and I applaud their previous efforts while looking forward to a successful partnership. I have enjoyed a great working relationship with Sharon Walters and Bethphage and appreciate the positive things they have brought to the State of Nebraska. Mosaic will be supporting and advocating for more than 3,700 people in 16 States with an annual budget of approximately $165 million. They also provide support in Great Britain, as well as participating in an international alliance called IMPACT. Congratulations, Mosaic.●

A TRIBUTE TO BAKER'S CREEK

● Mrs. HUTCHINSON. Mr. President, in the recent years, there have been many tributes dedicated to celebrating members of what Tom Brokaw so rightly called "The Greatest Generation." Succeeding generations have honored the men and women who led America to victory during World War II, who did nothing less than save the world. The events of World War II have become a shining moment in American history, and the stories of battles and life on the home front are well known by most Americans. However, many stories remain untold, and many heroes remain unrecognized.

As we count on our soldiers, sailors, airmen, marines, and coast guardsmen to defend our Nation in today's time of war, we have a renewed appreciation of the sacrifices made by our men and women in uniform and their families.

Our recent military operations in Afghanistan and Iraq provide an excellent backdrop to tell a story from World War II involving a little-known Texas hero. It is my hope we can join together to honor this man and those whose lives were lost on the fateful day he survived.

June 14 is an historic day in the life of our Nation. On this day in 1775, the United States Army was born. Two years later, broad red stripes on a field of white, and bright stars on a field of blue were officially adopted as our country's banner. In 1949, President Truman signed an Act of Congress officially declaring June 14 as National Flag Day to honor our colors. June 14 also marks a somber anniversary, one that few of us know.

Sixty years ago, on June 14, 1943, 40 Americans were killed when their B–17C airplane crashed in a field near Baker's Creek, five miles south of Mackay in Queensland, Australia. The plane belonged to the 46th Troop Carrier Squadron, Fifth U.S. Air Force. The men aboard the aircraft were returning to combat zones in New Guinea after their brief rest-and-recreation known as R&R at the American Red Cross Center in Mackay. Wartime censorship and reasons of military security prevented the incident from ever being reported in the United States. It was classified until 1958.

Families of those who were killed were never informed how their loved ones perished. Information was so closely guarded they were only told their soldier died in the Pacific while fighting for their country.

Little is known of the crash outside Mackay. Remarkably, one of the 41 men aboard the aircraft survived the crash. He is Foye Kenneth Roberts of Wichita Falls, TX. At the time of the accident, it was the worst plane crash in the Southwest Pacific theater. Australians regard it as their worst aviation disaster.

In May 1992, a monument was built by local citizens at Baker's Creek to mark the B–17C crash site. Thousands of Americans soldiers spent their R&R at Mackay, and many became longtime friends of local families. When the Baker's Creek memorial was unveiled on May 11, 1992, only the names of the six aircrew and the sole survivor were known. A complete list of casualties did not exist in U.S. or Australian archives.

After extensive, painstaking research, a plaque with the names of all casualties was rededicated on June 14, 1995. Their names are: Sgt. Carl A. Cunningham, T/5 George A. Ehrmann, F/0 William C. Erb, Sgt. David E. Tileston, Sgt. Dean H. Busse, Pfc. Jerome Abraham, S/Sgt. Frank E. Whelchel, S/Sgt. Lovell D. Curtis, 1/Lt. Vern J. Gidcumb, Pfc. Norman J. Goetz, T/Sgt. Leo E. Fletcher, Pfc. Frederick C. Sweet, Pfc. Kenneth W. Mann, Pfc. Charles M. Williams, Cpl. Marlin N. Metzger, Pfc. Vernon Johnson, Capt. John O. Berthold, Cpl. Charles W. Sampson, Cpl. Franklin F. Smith, Maj. George N. Powell, Pfc. Arnold Seidel, 2/Lt. Jack A. Ogren, Cpl. Jacob O. Skaggs, Jr., Pvt. James E. Finney, T/Sgt. Alfred H. Fezza, Sgt. Donald B. Kyper, Pfc. Frank S. Penska, Sgt. Anthony Rudnick, Cpl. Raymond H. Smith, T/5 William A. Briggs, Pfc. John W. Parker, Pvt. Charles D. Montgomery, S/Sgt. Charlie O. LaRue, Cpl. Foye K. Roberts (Sole Survivor) S/Sgt. Roy A. Hatlen, S/Sgt. John W. Hilsheimer, Cpl. Edward Tenny and Pfc. Dale Van Fosson. Since the Memorial's unveiling, an effort has been made to locate the final resting places of the victims, and to trace their family relatives. The search continues today.

The men who lost their lives that day and the one who survived, regarded themselves as ordinary men. We know better. They like so many before and after them, answered our Nation's call to arms. We needed them and they came. Many went, some gave all.

These men renewed for the "Greatest Generation" the cherished American ethos of service to Nation. They came from farms and factories, from city streets and country lanes. In doing so, they transcended from ordinary men with common dreams to extraordinary citizens with uncommon valor. Their example enabled our young men and women today to take up arms when we needed them for Operation Iraqi Freedom. Regrettably, some of them made the ultimate sacrifice as well.

It is my fervent hope this June 14, along with the salute to the Army and our grand flag, that we also salute the men who gave their lives at Baker's Creek. We owe a special thanks to the Baker's Creek Memorial Association for keeping their memories alive and for helping their families discover their loved ones' fate.●

TRIBUTE TO SHARLA MOFFETT BEALL

• Mr. CRAPO. Mr. President, I rise to express my appreciation to Sharla Moffett Beall, my Fisheries, Wildlife, and Water Subcommittee staff director, as she returns to her home State of Oregon. Sharla has been an important member of my Senate staff. Her counsel and efforts will be missed.

There is no one in the Senate more knowledgeable on Endangered Species Act issues; issues of real significance to Idaho and the Nation. She has been a tireless advocate for meaningful solutions to recover endangered and threatened salmon species in the Pacific Northwest. She has helped me to lead the fight against bad policies, such as the total maximum daily load rule proposed in 2000, and for good policies, like habitat conservation plans and streamlining of the consultation process.

When I became chairman of the subcommittee, I had little doubt about who I wanted as staff director. I first worked with Sharla when she was professional staff for the House Agriculture Committee. I knew that in Sharla, I had someone experienced, professional, effective, and with a keen legislative sense. She also shared my political philosophy and passion for fish and wildlife issues.

It has also been rewarding to see Sharla start a family during her time as staff director. In her first year on my staff, she married another Oregon native, Jim Beall; during the second year, they had her first child, Anna-Sophia; and just last year a second daughter, Alexandra-Skye, was born. They are a wonderful and loving family.

The Senate has a tough time competing with two beautiful daughters. I will miss Sharla and her family. I wish them all the best, but I know this is not farewell. She will continue to be a valued friend and advisor.•

RECOGNITION OF WJJY-FM FOR RECEIVING THE NAB CRYSTAL RADIO AWARD

• Mr. COLEMAN. Mr. President, I am pleased to recognize a distinguished Minnesota radio station, WJJY-FM, for winning 2003 National Association of Broadcaster's Crystal Radio Award, commending its commitment to community service.

WJJY-FM, based in Brainerd, MN, won a National Association of Broadcaster's Crystal Award, recognizing its continued charitable efforts in the Brainerd community. This award marks the third time the National Association of Broadcasters has recognized WJJY's dedication to service. The station also won a Crystal Award in 2001 and the prestigious NABEF Service to America Award in 1999.

WJJY-FM is active in charitable fundraising, supporting food drives, and providing public service announcements for the community. In 2002 the station set a fundraising record for the Brainerd area by raising $940,500 for the community. WJJY-FM helped collect 7,500 pounds of food for the Salvation Army, gathered 1,300 clothing items for needy families, and broadcasted over 7,350 public service announcements. In addition, WJJY holds the annual Radiothon to End Child Abuse, which raised a record-setting $66,520 in 2002.

WJJY-FM represents a tradition of corporate dedication to community service in the State of Minnesota. Since 1999, 4 Minnesota stations have received the Service to American Award, and since 1987, 17 have received Crystal Awards. This tradition of service is an important Minnesota legacy. Public-private partnerships like these are what truly get things done and leave a lasting positive impact on our state.

I would like to commend WJJY-FM for its diligent efforts to improve the community which it serves.•

COMMENDING COLQUITT COUNTY PACKERS FOR STATE CHAMPIONSHIP

• Mr. CHAMBLISS. Mr. President, I rise today to commend the outstanding hard work, dedication, and team work of the Colquitt County High School baseball team for winning this year's State championship.

This week, the Colquitt County Packers won the Georgia High School Association's Class AAAAA State championship by a stunning victory at Ike Aultman Field, and I couldn't be more proud. This is an exceptional accomplishment not only for the team and high school, but also for the entire Colquitt County community. Winning this year's State championship was the first Packer State championship since 1997 when the team defeated Lassiter High in three games for the first baseball title in Packer history.

I am so proud of each and every team member for their great success. I am especially proud of Packer head coach Jerry Croft for his leadership, devotion, and guidance.

Because Colquitt County has been my home for over 30 years, it gives me great pleasure to share this huge accomplishment of the Packers with my colleagues in the Senate and with the American people.•

RECOGNITION OF KDWB-FM FOR RECEIVING THE NABEF SERVICE TO AMERICA AWARD

• Mr. COLEMAN. Mr. President, I am pleased to recognize a distinguished Minnesota radio station, KDWB-FM, for winning the 2003 National Association of Broadcasters Education Foundation's Service to Amerca Award, commending its commitment to community service.

This award recognizes KDWB-FM's alliance with the University Pediatrics Foundation. For 8 years KDWB, based in Minneapolis, has produced and hosted numerous fundraising events to support the foundation, raising $1.5 million.

In 1999 KDWB and the University Pediatrics Foundation used these funds to open the KDWB University Pediatrics Family Center within the University of Minnesota's Department of Pediatrics. The center serves children living with chronic conditions such as cerebral palsy, sickle cell anemia, and spina bifida, and provides clinical care, research, and emotional support services to the children and their families.

KDWB represents a tradition of corporate dedication to community service in the State of Minnesota. Since 1999, four Minnesota stations have received the Service to America Award. This tradition of service is an important Minnesota legacy. Public-private partnerships like these are what truly get done and leave a lasting positive impact on our state.

I would like to commend KDWB-FM for its diligent efforts to improve the communities which it serves.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid from the Senate message from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, with amendments.

The message also announced that the House insists upon its amendments to the Senate amendments to the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

For consideration of the House amendments to the Senate amendments to the House bill, and modifications committed to conference: Mr. Thomas, Mr. DeLay, and Mr. Rangel.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1625. An act to designate the facility of the United States Postal Service located at 1114 Main Avenue in Clifton, New Jersey, as the "Robert P. Hammer Post Office Building."

S. 763. An act to designate the Federal building and United States courthouse located at 46 Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse."

S.J. Res. 8. A joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with amendments:

S. 555. A bill to establish the Native American Health and Wellness Foundation, and for other purposes (Rept. No. 108–72).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 1954. A bill to revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. COLLINS (for herself, Mr. Lieberman, Mr. Stevens, Mr. Voinovich, Mr. Durbin, Mr. DeWine, and Ms. Landrieu):

S. 1267. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. Daschle, Mr. Jeffords, Mr. Edwards, Mr. Reed, Mrs. Clinton, Mrs. Murray, Mr. Bingaman, and Mr. Dodd):

S. 1268. A bill to provide for a study to ensure that students are not adversely affected by changes to the needs analysis tables, and to require the Secretary of Education to consult with the Advisory Committee on Student Financial Assistance regarding such changes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY:

S. 1269. A bill to amend the Internal Revenue Code of 1986 to clarify the status of professional employer organizations and to promote and protect the interests of professional employer organizations, their customers, and workers; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. Cochran):

S. 1270. A bill to amend title XVIII of the Social Security Act to provide for coverage of medication therapy management services under Part B of the medicare program; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORNYN (for himself and Mrs. Hutchison):

S. Res. 171. A resolution recognizing that the San Antonio Spurs are the 2002–2003 National Basketball Association champions and congratulating the team for its outstanding excellence, discipline, and dominance; considered and agreed to.

ADDITIONAL COSPONSORS

S. 168

At the request of Mrs. Feinstein, the name of the Senator from Virginia (Mr. Warner) was added as a cosponsor of S. 168, a bill to require the Secretary of the Treasury to mint coins in commemoration of the San Francisco Old Mint.

S. 170

At the request of Mr. Voinovich, the names of the Senator from Mississippi (Mr. Cochran) and the Senator from Virginia (Mr. Allen) were added as cosponsors of S. 170, a bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and further purposes.

S. 453

At the request of Mrs. Hutchison, the name of the Senator from South Dakota (Mr. Daschle) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 459

At the request of Mr. Leahy, the name of the Senator from Massachusetts (Mr. Kerry) was added as a cosponsor of S. 459, a bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

S. 525

At the request of Mr. Levin, the name of the Senator from New York (Mrs. Clinton) was added as a cosponsor of S. 525, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 656

At the request of Mr. Reed, the name of the Senator from New Jersey (Mr. Corzine) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 678

At the request of Mr. Akaka, the name of the Senator from Arkansas (Mr. Pryor) was added as a cosponsor of S. 678 , a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 695

At the request of Ms. Collins, the name of the Senator from Nebraska (Mr. Nelson) was added as a cosponsor of S. 695, a bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses.

S. 780

At the request of Mr. Lott, the names of the Senator from Michigan (Mr. Levin) and the Senator from Michigan (Ms. Stabenow) were added as cosponsors of S. 780, a bill to award a congressional gold medal to Chief Phillip Martin of the Mississippi Band of Choctaw Indians.

S. 818

At the request of Mr. Kerry, the name of the Senator from California (Mrs. Feinstein) was added as a cosponsor of S. 818, a bill to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

S. 894

At the request of Mr. Warner, the name of the Senator from Mississippi (Mr. Cochran) was added as a cosponsor of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 899

At the request of Mrs. Hutchison, the name of the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 899, a bill to amend title XVIII of the Social Security Act to restore the full market basket percentage increase applied to payments to hospitals for inpatient hospital services furnished to medicare beneficiaries, and for other purposes.

S. 1001

At the request of Mr. Biden, the names of the Senator from Oregon (Mr.

SMITH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1001, a bill to make the protection of women and children who are affected by a complex humanitarian emergency a priority of the United States Government, and for other purposes.

S. 1108

At the request of Mrs. CLINTON, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1108, a bill to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative Program , and for other purposes.

S. 1120

At the request of Mr. BAUCUS, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1120, a bill to establish an Office of Trade Adjustment Assistance, and for other purposes.

S. 1127

At the request of Ms. STABENOW, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1127, a bill to establish administrative law judges involved in the appeals process provided for under the medicare program under title XVIII of the Social Security Act within the Department of Health and Human Services, to ensure the independence of, and preserve the role of, such administrative law judges, and for other purposes.

S. 1136

At the request of Mr. SPECTER, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1136, a bill to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940.

S. 1143

At the request of Mrs. HUTCHISON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1143, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1206

At the request of Mr. BOND, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1206, a bill to amend title XVIII of the Social Security Act to provide for special treatment for certain drugs and biologicals under the prospective payment system for hospital outpatient department services under the medicare program.

S. 1236

At the request of Mr. CAMPBELL, the names of the Senator from Utah (Mr. HATCH) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 1236, a bill to direct the Secretary of the Interior to establish a program to control or eradicate tamarisk in the western States, and for other purposes.

S. 1247

At the request of Mr. KERRY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1247, a bill to increase the amount to be reserved during fiscal year 2003 for sustainability grants under section 29(1) of the Small Business Act.

S. 1255

At the request of Mr. KERRY, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1255, a bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. CON. RES. 25

At the request of Mr. VOINOVICH, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. Con. Res. 25, a concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes.

S. CON. RES. 55

At the request of Ms. SNOWE, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Con. Res. 55, a concurrent resolution expressing the sense of the Congress regarding the policy of the United States at the 55th Annual Meeting of the International Whaling Commission.

S. RES. 153

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 1269. A bill to amend the Internal Revenue Code of 1986 to clarify the status of professional employer organizations and to promote and protect the interests of professional employer organizations, their customers, and workers; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I am reintroducing the Professional Employer Organization Workers Benefits Act of 2003—legislation that I sponsored in the last Congress. This legislation clarifies certain tax rules for Professional Employer Organizations, PEOs, and will allow PEOs to provide retirement and health benefits for workers at small and medium-sized businesses. By eliminating uncertainty in the current rules, it will also improve the administration of our tax system.

The PEO legislation makes it clear that a PEO that is certified by the IRS as meeting certain rigorous standards will be able to offer employee benefits and remit Federal employment taxes for workers performing services for the PEO's business customers. The bill has won the support of representatives of the small business community, including the National Federation of Independent Business (NFIB), and has been endorsed by an array of employee benefits experts, such as the American Benefits Council, ABC, the American Society of Pension Actuaries, ASPA, and the Employers Council on Flexible Compensation, ECFC. The legislation also has the support of the National Association of Professional Employer Organizations, NAPEO—the largest organization representing the interests of PEOs. Significantly, then-Internal Revenue Service Commissioner Rossotti stated last year that the IRS believes that the PEO bill could provide useful clarification of the federal employment tax and employee benefits obligations of PEOs and their clients.

A well-run PEO provides the expertise and the economies of scale necessary to provide health, retirement and other services to small businesses in an affordable and efficient manner. For many of these workers, the PEO's pension or health plan represents benefits that the worker would not have received from the small business directly because they were too costly for the small business to afford on its own.

We must take every opportunity to encourage businesses to provide retirement and health benefits to their employees through whatever means possible. PEOs offer one creative way to bridge the gap between what workers need and what small businesses can afford to provide them. For example, Merit Resources, based in Iowa, is a PEO that has provided important benefits to many workers in my state. The clarifications provided in the bill I am introducing today would provide PEOs like Merit with the certainty they need. Certainty that will ensure that they can continue to serve small businesses and provide benefits to the workers at those businesses.

I look forward to working with the Administration and my colleagues, on both sides of the aisle, on these important issues. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Professional Employer Organization Workers Benefits Act of 2003''.

SEC. 2. NO INFERENCE.

Nothing contained in this Act or the amendments made by this Act shall be construed to create any inference with respect to the determination of who is an employee or employer—

(1) for Federal tax purposes (other than the purposes set forth in the amendments made by section 3), or

(2) for purposes of any other provision of law.

SEC. 3. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

(a) Employment Taxes.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end the following new section:

``SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

``(a) General Rules.—For purposes of the taxes imposed by this subtitle—

``(1) a certified professional employer organization shall be treated as the employer (and no other person shall be treated as the employer) of any work site employee performing services for any customer of such organization, but only with respect to remuneration remitted by such organization to such work site employee, and

``(2) the exemptions and exclusions which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

``(b) Successor Employer Status.—For purposes of sections 3121(a) and 3306(b)(1)—

``(1) a certified professional employer organization entering into a service contract with a customer with respect to a work site employee shall be treated as a successor employer and the customer shall be treated as a predecessor employer, and

``(2) a customer whose service contract with a certified professional employer organization is terminated with respect to a work site employee shall be treated as a successor employer and the certified professional employer organization shall be treated as a predecessor employer.

``(c) Liability With Respect to Individuals Purported To Be Work Site Employees.—

``(1) General rules.—Solely for purposes of its liability for the taxes imposed by this subtitle—

``(A) the certified professional employer organization shall be treated as the employer of any individual (other than a work site employee or a person described in subsection (e)) who is performing services covered by a contract meeting the requirements of section 7705(e)(2)(F), but only with respect to remuneration remitted by such organization to such individual, and

``(B) the exemptions and exclusions which would (but for subparagraph (A)) apply shall apply with respect to such taxes imposed on such remuneration.

``(d) Special Rule for Related Party.—Subsection (a) shall not apply in the case of a customer which bears a relationship to a certified professional employer organization described in section 267(b) or 707(b). For purposes of the preceding sentence, such sections shall be applied by substituting `10 percent' for `50 percent'.

``(e) Special Rule for Certain Individuals.—For purposes of the taxes imposed under this subtitle, an individual with net earnings from self-employment derived from the customer's trade or business (including a partner in a partnership that is a customer), is not a work site employee with respect to remuneration paid by a certified professional employer organization.

``(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) Employee Benefits.—Section 414 of such Code (relating to definitions and special rules) is amended by adding at the end the following new subsection:

``(w) Certified Professional Employer Organizations.—

``(1) Plans maintained by certified professional employer organizations.—

``(A) In general.—Except as otherwise provided in this subsection, in the case of a plan or program established or maintained by a certified professional employer organization to provide employee benefits to work site employees, then, for purposes of applying the provisions of this title applicable to such benefits—

``(i) such plan shall be treated as a single employer plan established and maintained by the organization,

``(ii) the organization shall be treated as the employer of the work site employees eligible to participate in the plan, and

``(iii) the portion of such plan covering work site employees shall not be taken into account in applying such provisions to the remaining portion of such plan or to any other plan established or maintained by the certified professional employer organization providing employee benefits (other than to work site employees).

``(B) Special exceptions in applying rules to benefits.—

``(i) In general.—In applying any requirement listed in clause (iii) to a plan or program established by the certified professional employer organization—

``(I) the portion of the plan established by the certified professional employer organization which covers work site employees performing services for a customer shall be treated as a separate plan of the customer (including for purposes of any disqualification or correction),

``(II) the customer shall be treated as establishing and maintaining the plan, as the employer of such employees, and as having paid any compensation remitted by the certified professional employer organization to such employees under the service contract entered into under section 7705, and

``(III) a controlled group that includes a certified professional employer organization shall not include in the controlled group any work site employees performing services for a customer.

For purposes of subclause (III), all persons treated as a single employer under subsections (b), (c), (m), and (o) shall be treated as members of the same controlled group.

``(ii) Self-employed individuals.—A work site employee who would be treated as a self-employed individual (as defined in section 401(c)(1)), a disqualified person (as defined in section 4975(e)(2)), a 2-percent shareholder (as defined in section 1372(b)(2), or a shareholder-employee (as defined in section 4975(f)(6)(C)), but for the relationship with the certified professional employer organization, shall be treated as a self-employed individual, disqualified person, a 2-percent shareholder, or shareholder-employee for purposes of rules applicable to employee benefit plans maintained by such certified professional employer organization.

``(iii) Listed requirements.—The requirements listed in this clause are:

``(I) Nondiscrimination and qualification.—Sections 79(d), 105(h), 125(b), 127(b)(2) and (3), 129(d)(2), (3), (4), and (5), 132(j)(1), 274(j)(3)(B), 401(a)(4), 401(a)(17), 401(a)(26), 401(k)(3) and (12), 401(m)(2) and (11), 404 (in the case of a plan subject to section 412), 410(b), 412, 414(q), 415, 416, 419, 422, 423(b), 505(b), 4971 4972, 4975, 4976, 4978, and 4979.

``(II) Size.—Sections 220, 401(k)(11), 401(m)(10), 408(k), and 408(p).

``(III) Eligibility.—Section 401(k)(4)(B).

``(IV) Authority.—Such other similar requirements as the Secretary may prescribe.

``(iv) Welfare benefit funds.—With respect to a welfare benefit fund maintained by a certified professional employer organization for the benefit of work site employees performing services for a customer, section 419 shall be treated as not listed in clause (iii)(I) if the fund provides only 1 or more of the following:

``(I) Medical benefits other than retiree medical benefits.

``(II) Disability benefits.

``(III) Group term life insurance benefits which do not provide for any cash surrender value or other money that can be paid, assigned, borrowed or pledged for collateral for a loan.

``(v) Excise taxes.—Notwithstanding clause (iii), the certified professional employer organization and the customer contracting for work site employees to pay services shall be jointly and severally liable for the tax imposed by section 4971 with respect to failure to meet the minimum funding requirements and the tax imposed by section 4976 with respect to funded welfare benefit plans.

``(vi) Continuation coverage requirements.—For purposes of applying the provisions of section 4980B with respect to a group health plan maintained by a certified professional employer organization for the benefit of work site employees:

``(I) Termination of employment events.—Each of the following events shall constitute a termination of employment of a work site employee for purposes of section 4980B(f)(3)(B):

``(aa) The work site employee ceasing to provide services to any customer of such certified professional employer organization.

``(bb) The work site employee ceasing to provide services to one customer of such certified professional employer organization and becoming a work site employee with respect to another customer of such certified professional employer organization; and

``(cc) The termination of a service contract between the certified professional employer organization and the customer with respect to which the work site employee performs services, provided, however, that such a contract termination shall not constitute a termination of employment under section 4980B(f)(3)(B) for such work site employee if, at the time of such contract termination, such customer maintains a group health plan (other than a plan providing only excepted benefits within the meaning of sections 9831 and 9832 or a plan covering less than two participants who are employees).

``(II) Termination event constituting a qualifying event.—If an event described in subparagraph (vi)(I) also constitutes a qualifying event under section 4980B(f)(3) with respect to the group health plan maintained by the certified professional employer organization for the affected work site employee, such plan shall no longer be required to provide continuation coverage as of any new coverage date.

“(III) New coverage date when termination event constitutes qualifying event.—For purposes of subclause (II), a new coverage date shall be the first date on which—

“(aa) the customer maintains a group health plan other than a plan described in section 4980B(d), a plan providing only excepted benefits within the meaning of sections 9831 and 9832, or a plan covering less than two participants who are employees, or

“(bb) a service contract between such customer and another certified professional employee organization becomes effective under which worksite employees performing services for such customer are covered under a group health plan of such other certified professional employee organization, other than a plan described in section 4980B(d), a plan providing only excepted benefits within the meaning of sections 9831 and 9832, or a plan covering less than two participants who are employees.

“(IV) Effect of customer-maintained plan.—As of a new coverage date described in subclause (III)(aa), the customer shall be required to make continuation coverage available to any qualified beneficiary who was receiving (or was eligible to elect to receive) continuation coverage under a certified professional employer organization's group health plan and who is, or whose qualifying event occurred in connection with, a person whose last employment prior to such employee's qualifying event was as a work site employee providing services to such customer pursuant to a service contract with such certified professional employer organization.

“(C) Effect of new service contract with certified PEO.—As of a new coverage date described in subclause (III)(bb), the second certified professional employee organization shall be required to make continuation coverage available to any qualified beneficiary who was receiving (or was eligible to elect to receive) continuation coverage under the first certified professional employer organization's group health plan and who is, or whose qualifying event occurred in connection with, a person whose last employment prior to such employee's qualifying event was as a work site employee providing services to the customer pursuant to a service contract with the first certified professional employer organization.

“(vii) Continued coverage for qualified beneficiaries.—As of the date that a certified professional employee organization's group health plan first provides coverage to one or more work site employees providing services to a customer, such group health plan shall be required to make continuation coverage available to any qualified beneficiary who was receiving (or was eligible to receive or elect to receive) continuation coverage under a group health plan sponsored by such customer if, in connection with coverage being provided by the organization's plan, such customer terminates each of its group health plans, other than a plan or plans providing only excepted benefits within the meaning of sections 9831 and 9832 or covering less than two participants who are employees.

“(viii) Effect of termination of PEO status.—The termination of a professional employer organization's status as a certified professional employer organization—

“(I) shall constitute an event described in section 4980B(f)(3)(B) for any work site employee performing services pursuant to a contract between a customer and such professional employer organization, but

“(II) no loss of coverage within the meaning of section 4980B(f)(3) occurs unless, in connection with such termination of status as a certified professional employer organization, the individual formerly treated as a work site employee performing services for the customer pursuant to a contract with such professional employer organization ceases to be covered under the arrangement of the professional employer organization that had been, prior to such termination of status, the group health plan of such organization.

“(ix) Person liable for tax.—For purposes of the liability for tax under section 4980B, the person or entity required to provide continuation coverage under this clause (vi) shall be deemed to be the employer under section 4980B(e)(1)(A).

“(2) Plans maintained by customers of certified professional employer organizations.—If a customer of a certified professional employer organization provides (other than through such organization) any employee benefits, then with respect to such benefits—

“(A) work site employees of the organization who perform services for the customer shall be treated as leased employees of such customer,

“(B) such customer shall be treated as a recipient for purposes of subsection (n), and paragraphs (4) and (5) of subsection (n) shall not apply for such purposes, and

“(C) with respect to such work site employees, sections 105(h), 403(b)(12), 422, and 423 shall be treated as a benefit listed in subsection (n)(3)(C).

“(3) Plans maintained by companies in same controlled group as certified professional employer organization.—In applying any requirement listed in paragraph (1)(B)(iii), a controlled group which includes a certified professional employer organization shall not include in such controlled group any work site employees performing services for a customer. For purposes of this paragraph, all persons treated as a single employer under subsections (b), (c), (m) and (o) shall be treated as members of the same controlled group.

“(4) Rules applicable to plans maintained by certified professional employer organizations and plans maintained by their customers.—

“(A) Service crediting for participation and vesting purposes.—In the case of a plan maintained by a certified professional employer organization or a customer, for purposes of determining a work site employee's service for eligibility to participate and vesting under sections 410(a) and 411, rules similar to the rules of paragraphs (1) and (3) of section 413(c) shall apply to service for the certified professional employer organization and customer.

“(B) Compensation.—

“(i) In general.—Except as provided in clause (ii), for purposes of subsection (s) and section 415(c)(3), or other comparable provisions of this title based on compensation which affects employee benefit plans, compensation received from the customer with respect to which the work site employee performs services shall be taken into account together with compensation received from the certified professional employer organization.

“(ii) Exception.—For purposes of applying sections 404 and 412 to a plan maintained by a certified professional employer organization, only compensation received from the certified professional employer organization shall be taken into account.

“(C) Eligible employers.—The provisions of sections 457(f)(1)(A) and (B) apply to a work site employee performing services for a customer that is an eligible employer as defined in section 457(e)(1). The preceding sentence shall not apply in the case of a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), an annuity plan or contract described in section 403, the portion of a plan which consists of a transfer of property described in section 83, the portion of a plan which consists of a trust to which section 402(b) applies, or a qualified governmental excess benefit arrangement described in section 415(m).

“(5) Special rules where multiple plans.—

“(A) In general.—For purposes of applying section 415 with respect to a plan maintained by a certified professional employer organization, the organization and customers of such organization shall be treated as a single employer, except that if plans are maintained by a certified professional employer organization and a customer with respect to a work site employee, any action required to be taken by such plans shall be taken first with respect to the plan maintained by the customer.

“(B) Minimum benefit.—If a minimum benefit is required to be provided under section 416, such benefit shall, to the extent possible, be provided through the plan maintained by the certified professional employer organization.

“(6) Termination of service contract between certified professional employer organization and customer.—

“(A) In general.—

“(i) Treatment of successor plan.—If a service contract between a customer and a certified professional employer organization is terminated and work site employees of the customer were covered by a plan maintained by the organization, then, except as provided in regulations, any plan of another certified professional employer organization or the customer which covers such work site employees shall be treated as a successor plan for purposes of any rules governing in-service distributions.

“(ii) Treatment as severance from employment and separation from service.—If a service contract between a customer and a certified professional employer organization is terminated, and there is no plan treated as a successor plan under clause (i), then such termination shall be treated as a plan termination with respect to each work site employee of such customer.

“(B) Distribution rules applicable to subparagraph (A)(ii).—Except as otherwise required by this title, in any case to which subparagraph (A)(ii) applies, the certified professional employer organization plan may distribute—

“(i) during the 2-year period beginning on the date of such termination (in accordance with plan terms) only—

“(I) elective deferrals and earnings attributable thereto,

“(II) qualified nonelective contributions (within the meaning of section 401(m)(4)(C)) and earnings attributable thereto, and

“(III) matching contributions described in section 401(k)(3)(D)(ii)(I) and earnings attributable thereto,

of former work site employees associated with the terminated customer only in a direct rollover described in section 401(a)(31), and "(ii) after such 2-year period, amounts in such plan in accordance with plan terms.".

(c) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION DEFINED.—Chapter 79 of such Code (relating to definitions) is amended by adding at the end the following new section:

"SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

"(a) IN GENERAL.—For purposes of this title, the term 'certified professional employer organization' means a person who applies to be treated as a certified professional employer organization for purposes of sections 414(w) and 3511 and who has been certified by the Secretary as meeting the requirements of subsection (b).

"(b) CERTIFICATION.—A person meets the requirements of this subsection if such person—

"(1) demonstrates that such person (and any owner, officer, and such other persons as may be specified in regulations) meets such requirements as the Secretary shall establish with respect to tax status, background, experience, business location, and annual financial audits,

"(2) represents that it will satisfy the bond and independent financial review requirements of subsections (c) on an ongoing basis,

"(3) represents that it will satisfy such reporting obligations as may be imposed by the Secretary,

"(4) represents that it will maintain a qualified plan (as defined in section 408(p)(2)(D)(ii)) or an arrangement to provide simple retirement accounts (within the meaning of section 408(p)) which benefit at least 95 percent of all work site employees who are not highly compensated employees for purposes of section 414(q),

"(5) computes its taxable income using an accrual method of accounting unless the Secretary approves another method,

"(6) agrees to verify the continuing accuracy of representations and information which was previously provided on such periodic basis as the Secretary may prescribe, and

"(7) agrees to notify the Secretary in writing of any change that materially affects the continuing accuracy of any representation or information which was previously made or provided.

"(c) REQUIREMENTS.—

"(1) IN GENERAL.—An organization meets the requirements of this paragraph if such organization—

"(A) meets the bond requirements of subparagraph (2), and

"(B) meets the independent financial review requirements of subparagraph (3).

"(2) BOND.—

"(A) IN GENERAL.—A certified professional employer organization meets the requirements of this paragraph if the organization has posted a bond for the payment of taxes under subtitle C (in a form acceptable to the Secretary) that is in an amount at least equal to the amount specified in subparagraph (B).

"(B) AMOUNT OF BOND.—

"(i) IN GENERAL.—For the period April 1 of any calendar year through March 31 of the following calendar year, the amount of the bond required is equal to the greater of:

"(I) 5 percent of the organization's liability for taxes imposed by this subtitle during the preceding calendar year (but not to exceed $1,000,000), or

"(II) $50,000.

"(ii) SPECIAL RULE FOR NEWLY CREATED PROFESSIONAL EMPLOYER ORGANIZATIONS.—During the first three full calendar years that an organization is in existence, subclause (I) of clause (i) shall not apply. For this purpose—

"(I) under rules provided by the Secretary, an organization is treated as in existence as of the date that such organization began providing services to any client which were comparable to the services being provided with respect to worksite employees, regardless of whether such date occurred before or after the organization is certified under section 7705, and

"(II) an organization with liability for taxes imposed by this subtitle during the preceding calendar year in excess of $5,000,000 shall no longer be described in this clause (ii) as of April 1 of the year following such calendar year.

"(3) INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.—A certified professional employer organization meets the requirements of this subparagraph if such organization—

"(A) has, as of the most recent audit date, caused to be prepared and provided to the Secretary (in such manner as the Secretary may prescribe) an opinion of an independent certified public accountant as to whether the certified professional employer organization's financial statements are presented fairly in accordance with generally accepted accounting principles, and

"(B) provides to the Secretary an assertion regarding Federal employment tax payments and an examination level attestation on such assertion from an independent certified public accountant not later than the last day of the second month beginning after the end of each calendar quarter. Such assertion shall state that the organization has withheld and made deposits of all taxes imposed by chapters 21, 22, and 24 of the Internal Revenue Code in accordance with regulations imposed by the Secretary for such calendar quarter and such examination level attestation shall state that such assertion is fairly stated, in all material respects.

"(4) SPECIAL RULE FOR SMALL CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The requirements of paragraph (3)(A) shall not apply with respect to a fiscal year of an organization if such organization's liability for taxes imposed by subtitle C during the calendar year ending on (or concurrent with) the end of the fiscal year were $5,000,000 or less.

"(5) FAILURE TO FILE ASSERTION AND ATTESTATION.—If the certified professional employer organization fails to file the assertion and attestation required by paragraph (3) with respect to a particular quarter, then the requirements of paragraph (3) with respect to such failure shall be treated as not satisfied for the period beginning on the due date for such attestation.

"(6) AUDIT DATE.—For purposes of paragraph (3)(A), the audit date shall be six months after the completion of the organization's fiscal year.

"(d) SUSPENSION AND REVOCATION AUTHORITY.—The Secretary may suspend or revoke a certification of any person under subsection (b) for purposes of section 414(w) or 3511, or both, if the Secretary determines that such person is not satisfying the representations or requirements of subsections (b) or (c), or fails to satisfy applicable accounting, reporting, payment, or deposit requirements.

"(e) WORK SITE EMPLOYEE.—For purposes of this title—

"(1) IN GENERAL.—The term 'work site employee' means, with respect to a certified professional employer organization, an individual who—

"(A) performs services for a customer pursuant to a contract which is between such customer and the certified professional employer organization and which meets the requirements of paragraph (2), and

"(B) performs services at a work site meeting the requirements of paragraph (3).

"(2) SERVICE CONTRACT REQUIREMENTS.—A contract meets the requirements of this paragraph with respect to an individual performing services for a customer if such contract is in writing and provides that the certified professional employer organization shall—

"(A) assume responsibility for payment of wages to the individual, without regard to the receipt or adequacy of payment from the customer for such services,

"(B) assume responsibility for reporting, withholding, and paying any applicable taxes under subtitle C, with respect to the individual's wages, without regard to the receipt or adequacy of payment from the customer for such services,

"(C) assume responsibility for any employee benefits which the service contract may require the certified professional employer organization to provide, without regard to the receipt or adequacy of payment from the customer for such services,

"(D) assume shared responsibility with the customer for firing the individual and for recruiting and hiring any new worker,

"(E) maintain employee records relating to the individual, and

"(F) agree to be treated as a certified professional employer organization for purposes of sections 414(w) and 3511 with respect to such individual.

"(3) WORK SITE COVERAGE REQUIREMENT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to an individual if at least 85 percent of the individuals performing services for the customer at the work site where such individual performs services are subject to 1 or more contracts with the certified professional employer organization which meet the requirements of paragraph (2).

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) WORK SITE.—The term 'work site' means a physical location at which an individual generally performs service for the customer or, if there is no such location, the location from which the individual receives job assignments from the customer.

"(ii) CONTIGUOUS LOCATIONS.—For purposes of clause (i), work sites which are contiguous locations shall be treated as a single physical location.

"(iii) NONCONTIGUOUS LOCATIONS.—For purposes of clause (i), noncontiguous locations shall be treated as separate work sites, except that each work site within a reasonably proximate area must satisfy the 85 percent test under subparagraph (A) for the individuals performing services for the customer at such work site. In determining whether noncontiguous locations are reasonably proximate, all facts and circumstances shall be taken into account.

"(iv) WORK SITES 35 MILES OR MORE APART.—Any work site which is separated from all other customer work sites by at least 35 miles shall not be treated as reasonably proximate under clause (iii).

"(v) DIFFERENT INDUSTRY.—A work site shall not be treated as reasonably proximate to another work site under clause (iii) if the work site operates in a different industry or industries from such other work site as determined by the Secretary.

"(f) EMPLOYER AGGREGATION RULES.—

"(1) IN GENERAL.—For purposes of subsections (c)(2)(B)(ii), (c)(4) and (e), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 person.

"(2) PLANS MAINTAINED BY COMPANIES IN SAME CONTROLLED GROUP AS CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION.—For purposes of subsection (b)(4), if certified professional employer organizations are part of a controlled group, then the certified professional employer organizations (but no other member of the controlled group) shall be treated as 1 person.

"(3) QUALIFIED PLANS.—For purposes of subsection (b)(4)—

"(A) a qualified plan (as defined in section 408(p)(2)(D)(ii)) which is maintained by, or an arrangement to provide a simple retirement account (within the meaning of section 408(p)) to, a customer with respect to a work site employee performing services for such customer shall be treated as if it were maintained by the applicant, and

"(B) work site employees who do not meet the minimum age and service requirements of section 410(a)(1)(A) (or who are excludable from consideration under section 410(b)(3)) shall not be taken into account.

"(g) DETERMINATION OF EMPLOYMENT STATUS.—Except to the extent necessary for purposes of section 414(w) or 3511, nothing in this section shall be construed to affect the determination of who is an employee or employer for purposes of this title.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and sections 414(w) and 6503(k).".

(d) CONFORMING AMENDMENTS.—

(1) Section 45(B) of such Code (relating to credit for portion of employer social security taxes paid with respect to employees with cash tips) is amended by adding at the end the following new subsection:

"(e) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of this section, in the case of a certified professional employer organization that is treated, under section 3511, as the employer of a worksite employee who is a tipped employee, the credit determined under this section does not apply to such organization, but does apply to the customer of such organization. For this purpose the customer shall take into account any remuneration and taxes remitted by the certified professional employer organization.".

(2) Section 707 of such Code is amended by adding at the end the following new subsection:

"(d) PAYMENTS TO CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a partnership that is a customer of â certified professional employer organization (as defined in section 7705) makes a payment to such an organization on behalf of a partner, and the payment, if made directly to the partner, would be treated as a guaranteed payment under section 707(c), the partnership shall treat the payment as if it were a guaranteed payment made to a partner. To the extent that the relevant partner receives all or any portion of such a payment, such partner shall be treated as receiving a guaranteed payment for services under section 707(c).".

(3) Section 3302 of such Code is amended by adding at the end the following new subsection:

"(h) TREATMENT OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a certified professional employer organization (as defined in section 7705) (or a client of such organization) makes a payment to the State's unemployment fund with respect to a work site employee, such organization shall be eligible for the credits available under this section with respect to such payment.".

(4) Section 3303(a) of such Code is amended—

(A) by inserting "and" at the end of paragraph (3),

(B) by inserting immediately after paragraph (3) the following new paragraph:

"(4) a certified professional employer organization (as defined in section 7705) is permitted to collect and remit, in accordance with paragraphs (1), (2), and (3), contributions during the taxable year to the State unemployment fund with respect to a work site employee.", and

(C) in the last sentence—

(i) by striking "paragraphs (1), (2), and (3)" and inserting "paragraphs (1), (2), (3), and (4)", and

(ii) by striking "paragraph (1), (2), or (3)" and inserting "paragraph (1), (2), (3), or (4)".

(5) Section 6053 of such Code (relating to reporting of tips) is amended by adding at the end of subsection (c) the following new paragraph:

"(8) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of any report required by this section, in the case of a certified professional employer organization that is treated, under section 3511, as the employer of a worksite employee, the customer with respect to whom a worksite employee performs services shall be the employer for purposes of reporting under this section and the certified professional employer organization shall furnish to the customer any information necessary to complete such reporting no later than such time as the Secretary shall prescribe.".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 25 of such Code is amended by adding at the end the following new item:

"Sec. 3511. Certified professional employer organizations.".

(2) The table of sections for chapter 79 of such Code is amended by inserting after the item relating to section 7704 the following new item:

"Sec. 7705. Certified professional employer organizations.".

(f) REPORTING REQUIREMENTS AND OBLIGATIONS.—The Secretary of the Treasury shall develop such reporting and recordkeeping rules, regulations, and procedures as the Secretary determines necessary or appropriate to ensure compliance with the amendments made by this Act with respect to entities applying for certification as certified professional employer organizations or entities that have been so certified. Such rules shall be designed in a manner which streamlines, to the extent possible, the application of requirements of such amendments, the exchange of information between a certified professional employer organization and its customers, and the reporting and recordkeeping obligations of the certified professional employer organization.

(g) USER FEES.—Subsection (b) of section 10511 of the Revenue Act of 1987 (relating to fees for requests for ruling, determination, and similar letters) is amended by adding at the end thereof the following new paragraph:

"(4) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The fee charged under the program in connection with the certification by the Secretary of a professional employer organization under section 7705 of the Internal Revenue Code of 1986 shall not exceed $500.".

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this Act shall take effect on the later of—

(A) January 1, 2005, or

(B) the January 1st of the first calendar year beginning more than 12 months after the date of the enactment of this Act.

(2) CERTIFICATION PROGRAM.—The Secretary of the Treasury shall establish the certification program described in section 7705(b) of the Internal Revenue Code of 1986 not later than 3 months before the effective date determined under paragraph (1).

(3) TRANSITION ISSUES.—For years beginning before the effective date specified in paragraph (1), subject to such conditions as the Secretary of the Treasury may prescribe, employee benefit plans in existence on the date of the enactment of this Act shall not be treated as failing to meet the requirements of the Internal Revenue Code of 1986 merely because such plans were maintained by an organization prior to such organization becoming a certified professional employer organization (as defined by section 7705 of such Code (as added by subsection (c) of this section)).

By Mr. JOHNSON (for himself and Mr. COCHRAN):

S. 1270. A bill to amend title XVIII of the Social Security Act to provide for coverage of medication therapy management services under Part B of the Medicare program; to the Committee on Finance.

Mr. JOHNSON. Mr. President, I am pleased to introduce legislation today that will provide for important health care quality and medication safety improvements in the Medicare program. The Medication Therapy Management Services Coverage Act of 2003 will enhance the Medicare program by providing coverage of pharmacists' medication therapy management services for those beneficiaries at risk for potential medication problems due to the presence of multiple or complex chronic diseases. These services, which are coordinated in direct collaboration with physicians and other health care professionals, help patients make the best possible use of their medications.

The members of this body know very well the vital role that today's powerful and effective medications play in the maintenance of health and well-being of our Nation's seniors. The substantial and important discussion now underway on how best to craft and implement a prescription drug benefit for Medicare beneficiaries is an explicit recognition of this vital role. But access to the medications, even at the most affordable prices possible, is only one part of the solution to achieving the kinds of health care outcomes that patients and their health care providers desire. That is where today's pharmacists play a pivotal role.

In addition to the important and continuing responsibility for assuring accurate, safe medication dispensing and counseling services, pharmacists now provide many direct patient care, consultative, and educational services. Forty states, the Veterans Administration, and the Indian Health Service, among others, all recognize the value of collaborative medication therapy management services as a way to provide optimal patient care using the specialized education and training of pharmacists. In addition, several state Medicaid programs have active demonstration projects or waiver programs in place that deliver these important services to their citizens.

More specifically, in its June 2002 report to the Congress, the Medicare Payment Advisory Commission noted that it "sees potential for a Medicare drug therapy management benefit to facilitate access to an important health care service for some beneficiaries" and recommended to Congress that the Secretary of Health and Human Services ". . . assess models for collaborative drug therapy management services in outpatient settings." This is a very important recommendation, because there is no more vulnerable group than our Nation's seniors when it comes to the potential for medication-related problems and the presence of multiple chronic diseases. If other health care systems and programs provide such services, Medicare must be reformed to provide them as well. Indeed, Medicare should be the leader in this regard.

The pharmacist's specialized training in medication therapy management has been demonstrated repeatedly to improve the quality of care patients receive and to control health care costs associated with medication complications. As an essential infrastructure component of any type of Medicare prescription drug benefit, it makes sense to take this proven-initial step to improve the medication use process for our seniors. This will serve all Medicare beneficiaries by ensuring that each precious dollar, regardless of who is paying the "bills for the pills," is spent wisely on a safe and effective medication regimen. This is a benefit that we can all support and deliver now, as we work to also resolve the economic and political challenges in crafting a truly effective and affordable prescription drug benefit.

Because pharmacists improve the efficacy and cost-effectiveness of medication regimens and reduce medication-related problems and adverse effects, the addition of their services represents real value and enhances the prospects of achieving both an affordable Medicare drug benefit and improved health outcomes for Medicare beneficiaries. In fact, numerous studies over the past decade have demonstrated returns on investments of up to $17.00 for every single dollar invested in the provision of pharmacists' clinical and patient care services.

Our legislation provides a logical and very affordable first step in establishing the essential infrastructure of a Medicare prescription drug benefit. As the 1999 Institute of Medicine report "To Err is Human: Building a Safer Health System" stated:

> Because of the immense variety and complexity of medications now available, it is impossible for nurses and doctors to keep up with all of the information required for safe medication use. The pharmacist has become an essential resource . . . and thus access to his or her expertise must be possible at all times.

Our legislation will assure that the Medicare program leads, rather than follows, on this important health care quality issue. Pharmacists' collaborative medication therapy management services can and will make a real difference in the lives of Medicare beneficiaries. I urge my colleagues on both sides of the aisle to give this proposal their very serious consideration.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 171—RECOGNIZING THAT THE SAN ANTONIO SPURS ARE THE 2002–2003 NATIONAL BASKETBALL ASSOCIATION CHAMPIONS AND CONGRATULATING THE TEAM FOR ITS OUTSTANDING EXCELLENCE, DISCIPLINE, AND DOMINANCE

Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted the following resolution; which was considered and agreed to:

S. Res. 171

Whereas the San Antonio Spurs are the undisputed 2002–2003 National Basketball Association champions and thus the basketball champions of the world;

Whereas the San Antonio Spurs are one of America's preeminent sports franchises and have now won their second NBA Championship in 5 years;

Whereas this exceptionally gifted team is guided by Greg Popovich, one of the most successful coaches in the last decade of professional basketball, who has now led the San Antonio Spurs to NBA championships twice in the last 5 years, who was named the winner of the Red Auerbach Trophy as the NBA Coach of the Year for the 2002–2003 season, and who is the first Spurs coach in franchise history to earn the Auerbach Trophy;

Whereas the San Antonio Spurs National Basketball Association championship was characterized by a remarkable team effort, led by the series' Most Valuable Player, Tim Duncan;

Whereas it is appropriate and fitting to congratulate David Robinson, who will now retire after 14 years with the San Antonio Spurs; and

Whereas it is appropriate and fitting to now offer these athletes, their coaches, and the great fans of the City of San Antonio and Bexar County, Texas, the attention and accolades they have earned: Now, therefore, be it

Resolved, That the Senate congratulates the entire 2002–2003 San Antonio Spurs team and its coach Greg Popovich for their remarkable achievement, and their excellence, discipline, and dominance.

AMENDMENTS SUBMITTED & PROPOSED

SA 927. Mr. EDWARDS (for himself, Mr. HARKIN, and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table.

SA 928. Mr. CORNYN (for Mr. CRAPO) proposed an amendment to the bill S. 520, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho.

TEXT OF AMENDMENTS

SA 927. Mr. EDWARDS (for himself, Mr. HARKIN, and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

"MINIMUM STANDARDS FOR ELIGIBLE ENTITIES

"SEC. 1860 . (a) IN GENERAL.—The Secretary shall not award a contract to an eligible entity under this part unless the Secretary finds that the eligible entity agrees to comply with such terms and conditions as the Secretary shall specify, including the following:

"( ) DISCLOSURE REQUIREMENTS:

"(a) ACCESS TO NEGOTIATED PRICES.—

"DISCLOSURE.—The eligible entity shall disclose to the Administrator (at the time of bid submission under section 1860F and annually thereafter for the duration of the contract, in a manner specified by the Administrator) all discounts or rebates or other remuneration of price concessions made available to the eligible entity or an agent thereof by any source. The provisions of section 1927(b)(3)(D) shall apply to information disclosed to the Administrator under this paragraph. The annual disclosure to the Administrator shall include, but shall not be limited to—

"(A) the value, nature, and amount of any rebate, discount, price concession or other form of direct or indirect remuneration provided to the eligible entity, or any agent thereof (such as formulary access fees, formulary market share movement fees, pharmacy and therapeutic fees, disease or patient management programs, administrative fees, data processing fees, direct or indirect educational grants, mail order supplier fees, or other forms of remuneration or compensation) during the preceding calendar year by a drug manufacturer, packer, distributor, pharmacy or other entity; and

"(B) sufficient financial information to allow the Administrator to publish annually specific information on the total amount of discounts, price concessions or other remuneration passed through to enrollees, as well as the total revenues, operating costs and net profit (expressed both in dollar and percentage terms) of the eligible entity for each regional contract.

"(b) Eligible entitles shall report the same information to the General Accounting Office, which is directed to report annually to Congress on the status of the value, nature, and amount of any rebate, discount, price concession or other form of direct or indirect remuneration provided to the eligible entity, or any agent thereof.

"(c) Audits and Reports.—To protect against fraud and abuse and to ensure proper disclosures and accounting, the Administrator shall on an annual basis audit the financial statements and records of the eligible entity or organization. Notwithstanding the provisions of section 1927(b)(3)(D), for each contract with an eligible entity the Administrator shall publicly report the aggregate results of such audits, as well as the disclosures made in subparagraph (d)(2)(B) of this section

"(2) Use of rebated funds to reduce costs to beneficiaries.—

"(A) The eligible entity agrees to allocate funds provided to the entity or retained by the entity from a rebate, discount, other reduction in price or a return of an overpayment in the amount it is required to tender to acquire covered pharmaceuticals as defined in Sec. 1860 so that the amount paid by the participating beneficiary or its predecessor in interest to obtain covered pharmaceuticals is reduced in a proportion that is equal to not less than half of the rebated, discounted, refunded, or otherwise retained amount and that the rebate, discount, other reduction in price or retained amount be applied to the covered pharmaceutical class, category, active ingredient, or other combination thereof for which the rebate, discount, other reduction in price or retained amount was provided or otherwise made available by the manufacturer, distributor, or other party in interest.

"(a) Failure To Comply or Provision of False Information.—Any eligible entity that enters into a contract under this part that knowingly fails to comply with the terms and conditions of this section or that knowingly provides false information related to the terms and conditions of this section is subject to a civil money penalty in an amount not to exceed $100,000 for each instance in which funds described in section (A) were not allocated in the prescribed manner or where the eligible entity knowingly provides false information related to actions required pursuant to section (A). Such civil money penalties are in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

SA 928. Mr. CORNYN (for Mr. Crapo) proposed an amendment to the bill S. 520, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; as follows:

On page 2, lines 14 and 15, strike "(Contract No. 1425-0901-09MA-0910-093310)" and insert "(Contract No. 1425-01-MA-10-3310)".

On page 3, line 10, strike "No. 1425-0901-09MA-0910-093310" and insert "No. 1425-01-MA-10-3310".

On page 4, lines 1 and 2, strike "1425-0901-09MA-0910-093310" and insert "1425-01-MA-10-3310".

On page 4, line 6, strike "7-0907-0910-090W0179" and insert "7-07-10-W0179".

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a meeting on June 18, 2003 in SR–328A at 9 a.m. The purpose of this meeting will be to discuss the nomination of Thomas Dorr to be Under Secretary of Agriculture for Rural Development.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, June 24, at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building.

This is the first in a series of hearings devoted to the improved understanding of the governance of the Department of Energy laboratories and approaches to optimize the capability of those laboratories to respond to national needs.

The purpose of this first hearing is to evaluate changes over time in the relationship between the Department of Energy and its predecessors and contractors operating DOE laboratories and sites to determine if these changes have affected the ability of scientists and engineers to respond to national missions.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

PRIVILEGES OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that privileges of the floor be granted during the consideration of this legislation to Stacey Sachs, Debra Whitman, Jennifer Loukissas, David Dorsey, Prema Arasu, and Eric Sapp.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that a member of my staff, Alan Fishman, and my legislative fellow, Dr. Jon Tilburt, be granted the privilege of the floor during debate on S. 1, the Prescription Drug and Medicare Improvement Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that the following staff members be allowed on the Senate floor for the duration of the debate on the Prescription Drug and Medicare Improvement Act of 2003: Nicholas J. Podsiadly, Collen Haddow, and Molly Zito.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent that Thad Kousser, a legislative fellow in my office, be granted floor privileges for the duration of the debate on Medicare reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNIZING THAT THE SAN ANTONIO SPURS ARE THE 2002-2003 NATIONAL BASKETBALL ASSOCIATION CHAMPIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 171, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A bill (S. Res. 171) recognizing that the San Antonio Spurs are the 2002–2003 National Basketball Association champions and congratulating the team for its outstanding excellence, discipline, and dominance.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CORNYN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table; and that any statements relating to this matter be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 171) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 171

Whereas the San Antonio Spurs are the undisputed 2002–2003 National Basketball Association champions and thus the basketball champions of the world;

Whereas the San Antonio Spurs are one of America's preeminent sports franchises and have now won their second NBA Championship in 5 years;

Whereas this exceptionally gifted team is guided by Greg Popovich, one of the most successful coaches in the last decade of professional basketball, who has now led the San Antonio Spurs to NBA championships twice in the last 5 years, who was named the winner of the Red Auerbach Trophy as the NBA Coach of the Year for the 2002–2003 season, and who is the first Spurs coach in franchise history to earn the Auerbach Trophy;

Whereas the San Antonio Spurs National Basketball Association championship was characterized by a remarkable team effort, led by the series' Most Valuable Player, Tim Duncan;

Whereas it is appropriate and fitting to congratulate David Robinson, who will now retire after 14 years with the San Antonio Spurs; and

Whereas it is appropriate and fitting to now offer these athletes, their coaches, and the great fans of the City of San Antonio and Bexar County, Texas, the attention and accolades they have earned: Now, therefore, be it

Resolved, That the Senate congratulates the entire 2002–2003 San Antonio Spurs team and its coach Greg Popovich for their remarkable achievement, and their excellence, discipline, and dominance.

THE CALENDAR

Mr. CORNYN. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of the following Energy bills: Calendar No. 124, S. 246; Calendar No. 125, S. 500; Calendar No. 127, S. 625; Calendar No. 128, S. 635; Calendar No. 129, H.R. 519; Calendar No. 130, H.R. 733; and Calendar No. 131, H.R. 788.

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. CORNYN. Mr. President, I further ask unanimous consent that, where applicable, the committee amendments be agreed to, the bills, as amended, if amended, be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bills be printed in the RECORD, with the above occurring en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

LAND HELD IN TRUST FOR THE PUEBLO OF SANTA CLARA AND THE PUEBLO OF SAN ILDEFONSO IN THE STATE OF NEW MEXICO

The Senate proceeded to consider the bill (S. 246) to provide that certain Bureau of Land Management land shall be held in trust for the Pueblo of Santa Clara and the Pueblo of San Ildefonso in the State of New Mexico, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term "Agreement" means the agreement entitled "Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract", entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term "boundary line" means the boundary line established under section 4(a).

(3) GOVERNORS.—The term "Governors" means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term "Pueblos" means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) TRUST LAND.—The term "trust land" means the land held by the United States in trust under section 2(a) or 3(a).

SEC. 2. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, [New Mexico.] *New Mexico, as part of the Santa Clara Reservation.*

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., Sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., Sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., Sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., Sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., Sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., Sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., Sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., Sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 3. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, [New Mexico.] *New Mexico, as part of the San Ildefonso Reservation.*

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., Sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., Sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., Sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., Sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., Sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 4. SURVEY AND LEGAL DESCRIPTIONS.

(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 2(b) and 3(b), the boundaries of the trust land.

(b) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 2(b) and 3(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 5. ADMINISTRATION OF TRUST LAND.

[(a) IN GENERAL.—Beginning on the date of enactment of this Act—

[(1) the land held in trust under section 2(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

[(2) the land held in trust under section 3(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

[(b) APPLICABLE LAW.—

[(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

[(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the "Pueblo Lands Act") (25 U.S.C. 331 note):

[(A) The trust land.

[(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

[(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

[(c) USE OF TRUST LAND.—

[(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

[(A) traditional and customary uses; or

[(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

[(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

[(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

[SEC. 6. EFFECT.

[Nothing in this Act—

[(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

[(A) in or to the trust land; and

[(B) in existence before the date of enactment of this Act;

[(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

[(A) based on Aboriginal or Indian title; and

[(B) in existence before the date of enactment of this Act;

[(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

[(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.]

(a) APPLICABLE LAW.—The trust land shall be administered in accordance with laws generally applicable to property held in trust by the United States for Indian tribes.

(b) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (25 U.S.C. 331 note; commonly known as the "Pueblo Lands Act"):

(1) The trust land.

(2) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(3) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Ildefonso in the San Ildefonso Pueblo Grant.

(c) USE OF TRUST LAND.—Subject to criteria developed by the Pueblos in concert with the Secretary, the trust land may be used only for traditional and customary uses or stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust. Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 6. EFFECT.

Nothing in this Act—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of any person or entity (other than the United States) in or to the trust land that is in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land based on Aboriginal or Indian title that is in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right for any purpose with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this act.

The committee amendments were agreed to.

The bill (S. 246), as amended, was read the third time and passed, as follows:

S. 246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term "Agreement" means the agreement entitled "Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract", entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term "boundary line" means the boundary line established under section 4(a).

(3) GOVERNORS.—The term "Governors" means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term "Pueblos" means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) TRUST LAND.—The term "trust land" means the land held by the United States in trust under section 2(a) or 3(a).

SEC. 2. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico, as part of the Santa Clara Reservation.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., Sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., Sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., Sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., Sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., Sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., Sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., Sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., Sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 3. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico, as part of the San Ildefonso Reservation.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., Sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., Sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., Sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., Sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., Sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 4. SURVEY AND LEGAL DESCRIPTIONS.

(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 2(b) and 3(b), the boundaries of the trust land.

(b) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 2(b) and 3(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 5. ADMINISTRATION OF TRUST LAND.

(a) APPLICABLE LAW.—The trust land shall be administered in accordance with laws generally applicable to property held in trust by the United States for Indian tribes.

(b) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (25 U.S.C. 331 note; commonly known as the "Pueblo Lands Act"):

(1) The trust land.

(2) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(3) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Ildefonso in the San Ildefonso Pueblo Grant.

(c) USE OF TRUST LAND.—Subject to criteria developed by the Pueblos in concert with the Secretary, the trust land may be used only for traditional and customary uses or stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust. Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 6. EFFECT.

Nothing in this Act—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of any person or entity (other than the United States) in or to the trust land that is in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land based on Aboriginal or Indian title that is in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right for any purpose with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this act.

BEAUFORT, SOUTH CAROLINA, STUDY ACT OF 2003

The Senate proceeded to consider the bill (S. 500) to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Beaufort, South Carolina, Study Act of 2003".

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) Secretary.—The term "Secretary" means the Secretary of the Interior.

[(2) Study area.—

[(A) In general.—The term "study area" means the area comprised of historical sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era.

[(B) Inclusions.—The term "study area" includes—

[(i) the Penn School;

[(ii) the Old Fort Plantation on the Beaufort River;

[(iii) the Freedmen's Bureau in Beaufort College;

[(iv) the First Freedmen's Village of Mitchellville on Hilton Head Island;

[(v) various historic buildings and archaeological sites associated with Robert Smalls;

[(vi) the Beaufort Arsenal; and

[(vii) other significant sites relating to the Reconstruction Era.

[SEC. 3. SPECIAL RESOURCE STUDY.

[(a) In General.—The Secretary shall conduct a special resource study of the study area to assess the suitability and feasibility of designating the study area as a unit of the National Park System.

[(b) Applicable Law.—The study required under subsection (a) shall be conducted in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

[(c) Report.—Not later than 3 years after the date on which funds are made available to carry out the study under subsection (a), the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

[(1) the findings of the study; and

[(2) any conclusions and recommendations of the Secretary.

[SEC. 4. THEME STUDY.

[(a) In General.—The Secretary shall conduct a national historic landmark theme study to identify sites and resources in the United States that are significant to the Reconstruction Era.

[(b) Contents.—The theme study shall include recommendations for commemorating and interpreting sites and resources identified by the theme study, including—

[(1) sites that should be nominated as national historic landmarks; and

[(2) sites for which further study for potential inclusion in the National Park System should be authorized.

[(c) Report.—Not later than 3 years after the date on which funds are made available to carry out the study under subsection (a), the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

[(1) the findings of the study; and

[(2) any conclusions and recommendations of the Secretary.

[SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Beaufort County, South Carolina, Study Act of 2003".

SEC. 2. DEFINITIONS.

In this Act:

(1) Secretary.—The term "Secretary" means the Secretary of the Interior.

(2) Study area.—The term "study area" means the historical sites in Beaufort County, South Carolina, relating to the Reconstruction Era including—

(A) the Penn School;

(B) the Old Fort Plantation on the Beaufort River;

(C) the Freedman's Bureau in Beaufort College;

(D) the first Freedman's Village of Mitchellville on Hilton Head Island;

(E) various historic buildings and archaeological sites associated with Robert Smalls;

(F) the Beaufort Arsenal; and

(G) other significant sites relating to the Reconstruction Era.

SEC. 3. SPECIAL RESOURCE STUDY.

(a) Study.—The Secretary shall conduct a special resource study of the study area to assess the national significance, suitability and feasibility of designating the study area as a unit of the National Park System in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

(b) Report.—Not later than 3 years after the date on which funds are made available to carry out the special resource study, the Secretary shall submit to Congress a report that describes the findings of the study and any conclusions and recommendations of the Secretary.

SEC. 4. THEME STUDY.

(a) Study.—The Secretary shall conduct a national historic landmark theme study to identify sites and resources in the United States that are significant to the Reconstruction Era, and shall include recommendations for commemorating and interpreting sites and resources identified by the theme study such as sites that should be nominated as national historic landmarks and sites that warrant further study for potential inclusion in the National Park System.

(b) Report.—Not later than 3 years after the date on which funds are made available to carry out the theme study, the Secretary shall submit to the Congress a report that describes the findings of the study and any conclusions and recommendations of the Secretary.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appointed such sums as are necessary to carry out this Act.

The committee amendment, in the nature of a substitute, was agreed to.

The bill (S. 500), as amended, was read the third time and passed.

TUALATIN RIVER BASIN WATER SUPPLY ENHANCEMENT ACT OF 2003

The Senate proceeded to consider the bill (S. 625) to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Oregon, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tualatin River Basin Water Supply Enhancement Act of 2003".

SEC. 2. AUTHORIZATION TO CONDUCT FEASIBILITY STUDIES.

(a) The Secretary of the Interior is authorized to conduct the Tualatin River Basin water supply feasibility study in order to—

(1) identify ways to meet future water supply needs for agriculture, municipal and industrial uses;

(2) identify water conservation and water storage measures;

(3) identify measures that would improve water quality, and enable environmental and species protection; and,

(4) where appropriate, evaluate integrated water resource management and supply needs in the Tualatin River Basin in the State of Oregon.

(b) The federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total, and shall be non-reimbursable and non-returnable.

(c) Activities funded under this Act shall not be considered a supplemental or additional benefit under the Act of June 17, 1902 [(82 Stat. 388)] *(32 Stat. 388)* and all Acts amendatory thereof or supplementary thereto.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized such sums as necessary to carry out the purposes of this Act.

The committee amendment was agreed to.

The bill (S. 625), as amended, was read the third time and passed, as follows:

S. 625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tualatin River Basin Water Supply Enhancement Act of 2003".

SEC. 2. AUTHORIZATION TO CONDUCT FEASIBILITY STUDIES.

(a) The Secretary of the Interior is authorized to conduct the Tualatin River Basin water supply feasibility study in order to—

(1) identify ways to meet future water supply needs for agriculture, municipal and industrial uses;

(2) identify water conservation and water storage measures;

(3) identify measures that would improve water quality, and enable environmental and species protection; and,

(4) where appropriate, evaluate integrated water resource management and supply needs in the Tualatin River Basin in the State of Oregon.

(b) The federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total, and shall be non-reimbursable and non-returnable.

(c) Activities funded under this Act shall not be considered a supplemental or additional benefit under the Act of June 17, 1902 (32 Stat. 388) and all Acts amendatory thereof or supplementary thereto.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized such sums as necessary to carry out the purposes of this Act.

PIONEER NATIONAL HISTORIC TRAILS STUDIES ACT

The Senate proceeded to consider the bill (S. 635) to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Pioneer National Historic Trails Studies Act".

[SEC. 2. REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.

[The National Trails System Act is amended by inserting after section 5 (16 U.S.C. 1244) the following new section:

["SEC. 5A. REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING TRAILS FOR POSSIBLE TRAIL EXPANSION.

["(a) DEFINITIONS.—In this section:

["(1) ROUTE.—The term 'route' includes a trail segment commonly known as a cutoff.

["(2) SHARED ROUTE.—The term 'shared route' means a route that was a segment of more than one historic trail, including a route shared with an existing national historic trail.

["(b) GENERAL RULES.—

["(1) STUDY REQUIREMENTS AND OBJECTIVES.—The study requirements and objectives specified in section 5(b) shall apply to a study required by this section.

["(2) COMPLETION AND SUBMISSION OF STUDY.—Not later than three complete fiscal years after the date of the enactment of this section, the Secretary shall complete and submit to Congress the studies required by subsections (c) through (g). In the case of a study added to this section after that date, the study shall be completed and submitted to Congress not later than three complete fiscal years after the date of the enactment of the law adding the study to this section.

["(c) OREGON NATIONAL HISTORIC TRAIL.—The Secretary of the Interior shall undertake a study of the routes of the Oregon Trail, as generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and such other routes of the Oregon Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Oregon National Historic Trail. The routes to be studied under this subsection include the following:

["(1) Whitman Mission route.

["(2) Upper Columbia River.

["(3) Cowlitz River route.

["(4) Meek cutoff.

["(5) Free Emigrant Road.

["(6) North Alternate Oregon Trail.

["(7) Goodale's cutoff.

["(8) North Side alternate route.

["(9) Cutoff to Barlow Road.

["(10) Naches Pass Trail.

["(d) PONY EXPRESS NATIONAL HISTORIC TRAIL.—The Secretary of the Interior shall undertake a study of the approximately 20-mile southern alternative route of the Pony Express Trail from Wathena, Kansas, to Troy, Kansas, and such other routes of the Pony Express Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Pony Express National Historic Trail.

["(e) CALIFORNIA NATIONAL HISTORIC TRAIL.—The Secretary of the Interior shall undertake a study of certain Missouri Valley, central, and western routes of the California Trail, as generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and such other and shared Missouri Valley, central, and western routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the California National Historic Trail. The routes to be studied under this subsection include the following:

["(1) MISSOURI VALLEY ROUTES.—

["(A) Blue Mills-Independence Road.

["(B) Westport Landing Road.

["(C) Westport-Lawrence Road.

["(D) Fort Leavenworth-Blue River route.

["(E) Road to Amazonia.

["(F) Union Ferry Route.

["(G) Old Wyoming-Nebraska City cutoff.

["(H) Lower Plattsmouth Route.

["(I) Lower Bellevue Route.

["(J) Woodbury cutoff.

["(K) Blue Ridge cutoff.

["(L) Westport Road.

["(M) Gum Springs-Fort Leavenworth route.

["(N) Atchison/Independence Creek routes.

["(O) Fort Leavenworth-Kansas River route.

["(P) Nebraska City cutoff routes.

["(Q) Minersville-Nebraska City Road.

["(R) Upper Plattsmouth route.

["(S) Upper Bellevue route.

["(2) CENTRAL ROUTES.—

["(A) Cherokee Trail, including splits.

["(B) Weber Canyon route of Hastings cutoff.

["(C) Bishop Creek cutoff.

["(D) McAuley cutoff.

["(E) Diamond Springs cutoff.

["(F) Secret Pass.

["(G) Greenhorn cutoff.

["(H) Central Overland Trail.

["(3) WESTERN ROUTES.—

["(A) Bidwell-Bartleson route.

["(B) Georgetown/Dagget Pass Trail.

["(C) Big Trees Road.

["(D) Grizzly Flat cutoff.

["(E) Nevada City Road.

["(F) Yreka Trail.

["(G) Henness Pass route.

["(H) Johnson cutoff.

["(I) Luther Pass Trail.

["(J) Volcano Road.

["(K) Sacramento-Coloma Wagon Road.

["(L) Burnett cutoff.

["(M) Placer County Road to Auburn.

["(f) MORMON PIONEER NATIONAL HISTORIC TRAIL.—The Secretary of the Interior shall undertake a study of certain routes of the Morman Pioneer Trail, as generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and such other routes of the Mormon Pioneer Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Mormon Pioneer National Historic Trail. The routes to be studied under this subsection include the following:

["(1) 1846 Subsequent routes A and B (Lucas and Clarke Counties, Iowa).

["(2) 1856–57 Handcart route (Iowa City to Council Bluffs).

["(3) Keokuk route (Iowa).

["(4) 1847 Alternative Elkhorn and Loup River Crossings in Nebraska.

["(5) Fort Leavenworth Road, including the Ox Bow route and alternates in Kansas and Missouri (Oregon and California Trail routes used by Mormon emigrants).

["(6) 1850 Golden Pass Road in Utah.

["(g) SHARED CALIFORNIA AND OREGON TRAIL ROUTES.—The Secretary of the Interior shall undertake a study of certain shared routes of the California Trail and Oregon Trail, as generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and such other shared routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as shared components of the California National Historic Trail and the Oregon National Historic Trail. The routes to be studied under this subsection include the following:

["(1) St. Joe Road.

["(2) Council Bluffs Road.

["(3) Sublette cutoff.

["(4) Applegate route.

["(5) Old Fort Kearny Road (Oxbow Trail).

["(6) Childs cutoff.

["(7) Raft River to Applegate.".]

SECTION 1. REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.

Section 5 of the National Trails System Act (16 U.S.C. 1244) is amended by inserting the following new subsection:

"(g) The Secretary shall revise the feasibility and suitability studies for certain national trails for consideration of possible additions to the trails.

"(1) IN GENERAL.—

"(A) DEFINITIONS.—In this subsection:

"(i) ROUTE.—The term 'route' includes a trail segment commonly known as a cutoff.

"(ii) SHARED ROUTE.—The term 'shared route' means a route that was a segment of more than one historic trail, including a route shared with an existing national historic trail.

"(B) STUDY REQUIREMENTS AND OBJECTIVES.—The study requirements and objectives specified in subsection (b) shall apply to a study required by this subsection.

"(C) COMPLETION AND SUBMISSION OF STUDY.—A study listed in this subsection shall be completed and submitted to the Congress not later than three complete fiscal years from the date funds are made available for the study.

"(2) OREGON NATIONAL HISTORIC TRAIL.—

"(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the routes of the Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes of the Oregon Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Oregon National Historic Trail.

"(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

"(i) Whitman Mission route.

"(ii) Upper Columbia River.

"(iii) Cowlitz River route.

"(iv) Meek cutoff.

"(v) Free Emigrant Road.

"(vi) North Alternate Oregon Trail.

"(vii) Goodale's cutof.

"(viii) North Side alternate route.

"(ix) Cutoff to Barlow road.

"(x) Naches Pass Trail.

"(3) PONY EXPRESS NATIONAL HISTORIC TRAIL.—The Secretary of the Interior shall undertake a study of the approximately 20-mile southern alternative route of the Pony Express Trail from Wathena, Kansas, to Troy, Kansas, and such other routes of the Pony Express Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Pony Express National Historic Trail.

"(4) CALIFORNIA NATIONAL HISTORIC TRAIL.—

"(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the Missouri Valley, central, and western routes of the California Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other and shared Missouri Valley, central, and western routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the California National Historic Trail.

"(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

"(i) MISSOURI VALLEY ROUTES.—

"(I) Blue Mills-Independence Road.

"(II) Westport Landing Road.

"(III) Westport-Lawrence Road.

"(IV) Fort Leavenworth-Blue River route.

"(V) Road to Amazonia.

"(VI) Union Ferry Route.

"(VII) Old Wyoming-Nebraska City cutoff.

"(VIII) Lower Plattsmouth Route.

"(IX) Lower Bellevue Route.

"(X) Woodbury cutoff.

"(XI) Blue Ridge cutoff.

"(XII) Westport Road.

"(XIII) Gum Springs-Fort Leavenworth route.

"(XIV) Atchison/Independence Creek routes.

"(XV) Fort Leavenworth-Kansas River route.

"(XVI) Nebraska City cutoff routes.

"(XVII) Minersville-Nebraska City Road.

"(XVIII) Upper Plattsmouth route.

"(XIX) Upper Bellevue route.

"(ii) CENTRAL ROUTES.—

"(I) Cherokee Trail, including splits.

"(II) Weber Canyon route of Hastings cutoff.

"(III) Bishop Creek cutoff.

"(IV) McAuley cutoff.

"(V) Diamond Springs cutoff.

"(VI) Secret Pass.

"(VII) Greenhorn cutoff.

"(VIII) Central Overland Trail.

"(iii) WESTERN ROUTES.—

"(I) Bidwell-Bartleson route.

"(II) Georgetown/Dagget Pass Trail.

"(III) Big Trees Road.

"(IV) Grizzly Flat cutoff.

"(V) Nevada City Road.

"(VI) Yreka Trail.

"(VII) Henness Pass route.

"(VIII) Johnson cutoff.

"(IX) Luther Pass Trail.

"(X) Volcano Road.

"(XI) Sacramento-Coloma Wagon Road.

"(XII) Burnett cutoff.

"(XIII) Placer County Road to Auburn.

"(5) MORMON PIONEER NATIONAL HISTORIC TRAIL.—

"(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the routes of the Mormon Pioneer Trail listed in subparagraph (B) and generally depicted in the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes of the Mormon Pioneer Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Mormon Pioneer National Historic Trail.

"(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

"(i) 1846 Subsequent routes A and B (Lucas and Clarke Counties, Iowa).

"(ii) 1856–57 Handcart route (Iowa City to Council Bluffs).

"(iii) Keokuk route (Iowa).

"(iv) 1847 Alternative Elkhorn and Loup River Crossings in Nebraska.

"(v) Fort Leavenworth Road; Ox Bow route and alternates in Kansas and Missouri (Oregon and California Trail routes used by Mormon emigrants).

"(vi) 1850 Golden Pass Road in Utah.

"(6) SHARED CALIFORNIA AND OREGON TRAIL ROUTES.—

"(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the shared routes of the California Trail and Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other shared routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as shared components of the California National Historic Trail and the Oregon National Historic Trail.

"(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

"(i) St. Joe Road.

"(ii) Council Bluffs Road.

"(iii) Sublette cutoff.

"(iv) Applegate route.

"(v) Old Fort Kearny Road (Oxbow Trail).

"(vi) Childs cutoff.

"(vii) Raft River to Applegate.".

The committee amendment, in the nature of a substitute, was agreed to.

The bill (S. 635), as amended, was read the third time and passed.

SAN GABRIEL RIVER WATERSHED STUDY ACT

The bill (H.R. 519) to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes, was considered, read the third time, and passed.

McLOUGHLIN HOUSE NATIONAL HISTORIC SITE ACT

The Senate proceeded to consider the bill (H.R. 733) to authorize the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon City, Oregon, and to administer the site as a unit of the National Park System, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title.

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

❚**SECTION 1. SHORT TITLE; DEFINITIONS.**

❚(a) SHORT TITLE.—This Act may be cited as the "McLoughlin House National Historic Site Act".

❚(b) DEFINITIONS.—For the purposes of this Act, the following definitions apply:

❚(1) ASSOCIATION.—The term "Association" means the McLoughlin Memorial Association, an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

❚(2) CITY.—The term "City" means Oregon City, Oregon.

❚(3) HISTORIC SITE.—The term "Historic Site" means the McLoughlin House National Historic Site which is described in the Acting Assistant Secretary of the Interior's Order of June 27, 1941, and generally depicted on the map entitled "McLoughlin House National Historic Site", numbered 007/80,000, and dated 12/01/01, and includes the McLoughlin House, the Barclay House, and other associated real property, improvements, and personal property.

❚(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

❚**SEC. 2. FINDINGS.**

❚Congress finds the following:

❚(1) On June 27, 1941, Acting Assistant Secretary of the Interior W.C. Mendenhall, by means of the authority granted the Secretary under section 2 of the Historic Sites Act of August 21, 1935, established the McLoughlin Home National Historic Site, located in the City.

❚(2) Since January 16, 1945, the site has been known as McLoughlin House National Historic Site.

❚(3) The Historic Site includes the McLoughlin House and Barclay House, which are owned and managed by the Association.

❚(4) The Historic Site is located in a Charter Park on Oregon City Block 40, which is owned by the City.

❚(5) A cooperative agreement was made in 1941 among the Association, the City, and the United States, providing for the preservation and use of the McLoughlin House as a national historic site.

❚(6) The Association has had an exemplary and longstanding role in the stewardship of the Historic Site but is unable to continue that role.

❚(7) The Historic Site has been an affiliated area of the National Park System and is worthy of recognition as part of the National Park System.

❚**SEC. 3. MCLOUGHLIN HOUSE NATIONAL HISTORIC SITE.**

❚(a) ACQUISITION.—The Secretary is authorized to acquire the Historic Site, from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange, except that lands or interests in lands owned by the City may be acquired by donation only.

❚(b) BOUNDARIES; ADMINISTRATION.—Upon acquisition of the Historic Site, the acquired property shall be included within the boundaries of, and be administered as part of, the Fort Vancouver National Historic Site in accordance with all applicable laws and regulations of the National Park System.❚

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "McLoughlin House Addition to Fort Vancouver National Historic Site Act".

(b) DEFINITIONS.—For the purposes of this Act, the following definitions apply:

(1) CITY.—The term "City" means Oregon City, Oregon.

(2) MCLOUGHLIN HOUSE.—The term "McLoughlin House" means the McLoughlin House National Historic Site which is described in the Acting Assistant Secretary of the Interior's Order of June 27, 1941, and generally depicted on the map entitled "McLoughlin House, Fort Vancouver National Historic Site", numbered 389/92,002, and dated 5/01/03, and includes the McLoughlin House, the Barclay House, and other associated real property, improvements, and personal property.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 2. MC LOUGHLIN HOUSE ADDITION TO FORT VANCOUVER.

(a) ACQUISITION.—The Secretary is authorized to acquire the McLoughlin House, from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange, except that lands or interests in lands owned by the City may be acquired by donation only.

(b) MAP AVAILABILITY.—The map identifying the McLoughlin House referred to in section 1(b)(2) shall be on file and available for inspection in the appropriate offices of the National Park Service, Department of the Interior.

(c) BOUNDARIES; ADMINISTRATION.—Upon acquisition of the McLoughlin House, the acquired property shall be included within the boundaries of, and be administered as part of, the Fort Vancouver National Historic Site in accordance with all applicable laws and regulations.

(d) NAME CHANGE.—Upon acquisition of the McLoughlin House, the Secretary shall change the name of the site from the "McLoughlin House National Historic Site" to the "McLoughlin House".

(e) FEDERAL LAWS.—After the McLoughlin House is acquired and added to Fort Vancouver National Historic Site, any reference in a law, map, regulation, document, paper, or other record of the United States to the "McLoughlin House National Historic Site" (other than this Act) shall be deemed a reference to the "McLoughlin House", a unit of Fort Vancouver National Historic Site.

Amended the title so as to read: "A bill to authorize the Secretary of the Interior to acquire the McLoughlin House in Oregon City, Oregon, for inclusion in Fort Vancouver National Historic Site, and for other purposes."

The committee amendment, in the nature of a substitute, was agreed to.

The bill (H.R. 733), as amended, was read the third time and passed.

GLEN CANYON NATIONAL RECREATION AREA BOUNDARY REVISION ACT

The bill (H.R. 788) to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona was considered, read the third time, and passed.

FREMONT-MADISON CONVEYANCE ACT

Mr. CORNYN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 126, S. 520.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 520) to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho.

There being no objection, the Senate proceeded to consider the bill.

Mr. CORNYN. Mr. President, I ask unanimous consent that the Crapo amendment No. 928, which is at the desk, be agreed to; that the bill, as amended, be read a third time and passed, and the motions to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 928) was agreed to, as follows:

AMENDMENT NO. 928

(Purpose: To make technical corrections)

On page 2, lines 14 and 15, strike "(Contract No. 1425-0901-09MA-0910-093310)" and insert "(Contract No. 1425-01-MA-10-3310)."

On page 3, line 10, strike "No. 1425-0901-09MA-MA-0910-093310" and insert "No. 1425-01-MA-10-3310".

On page 4, lines 1 and 2, strike "1425-0901-09MA-0910-093310" and insert "1425-01-MA-10-3310".

On page 4, line 6, strike "7-0907-0910-09W0179" and insert "7-07-10-W0179".

The bill (S. 520), as amended, was read the third time and passed, as follows:

S. 520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fremont-Madison Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) DISTRICT.—The term "District" means the Fremont-Madison Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. CONVEYANCE OF FACILITIES.

(a) CONVEYANCE REQUIREMENT.—The Secretary of the Interior shall convey to the Fremont-Madison Irrigation District, Idaho, pursuant to the terms of the memorandum of agreement (MOA) between the District and the Secretary (Contract No. 1425-01-MA-10-3310), all right, title, and interest of the United States in and to the canals, laterals, drains, and other components of the water distribution and drainage system that is operated or maintained by the District for delivery of water to and drainage of water from lands within the boundaries of the District as they exist upon the date of enactment of this Act, consistent with section 8.

(b) REPORT.—If the Secretary has not completed any conveyance required under this Act by September 13, 2004, the Secretary shall, by no later than that date, submit a report to the Congress explaining the reasons that conveyance has not been completed and stating the date by which the conveyance will be completed.

SEC. 4. COSTS.

(a) IN GENERAL.—The Secretary shall require, as a condition of the conveyance under section 3, that the District pay the administrative costs of the conveyance and related activities, including the costs of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as described in Contract No. 1425-01-MA-10-3310.

(b) VALUE OF FACILITIES TO BE TRANSFERRED.—In addition to subsection (a) the Secretary shall also require, as a condition of the conveyance under section 2, that the District pay to the United States the lesser of the net present value of the remaining obligations owed by the District to the United States with respect to the facilities conveyed, or $280,000. Amounts received by the United States under this subsection shall be deposited into the Reclamation Fund.

SEC. 5. TETON EXCHANGE WELLS.

(a) CONTRACTS AND PERMIT.—In conveying the Teton Exchange Wells pursuant to section 3, the Secretary shall also convey to the District—

(1) Idaho Department of Water Resources permit number 22-7022, including drilled wells under the permit, as described in Contract No. 1425-01-MA-10-3310; and

(2) all equipment appurtenant to such wells.

(b) EXTENSION OF WATER SERVICE CONTRACT.—The water service contract between the Secretary and the District (Contract No. 7-07-10-W0179, dated September 16, 1977) is hereby extended and shall continue in full force and effect until all conditions described in this Act are fulfilled.

SEC. 6. ENVIRONMENTAL REVIEW.

Prior to conveyance the Secretary shall complete all environmental reviews and analyses as set forth in the Memorandum of Agreement referenced in section 3(a).

SEC. 7. LIABILITY.

Effective on the date of the conveyance the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section may increase the liability of the United States beyond that currently provided in chapter 171 of title 28, United States Code.

SEC. 8. WATER SUPPLY TO DISTRICT LANDS.

The acreage within the District eligible to receive water from the Minidoka Project and the Teton Basin Projects is increased to reflect the number of acres within the District as of the date of enactment of this Act, including lands annexed into the District prior to enactment of this Act as contemplated by the Teton Basin Project. The increase in acreage does not alter deliveries authorized under the District's existing water storage contracts and as allowed by State water law.

SEC. 9. DROUGHT MANAGEMENT PLANNING.

Within 60 days of enactment of this Act, in collaboration with stakeholders in the Henry's Fork watershed, the Secretary shall initiate a drought management planning process to address all water uses, including irrigation and the wild trout fishery, in the Henry's Fork watershed. Within 18 months of enactment of this Act, the Secretary shall submit a report to Congress, which shall include a final drought management plan.

SEC. 10. EFFECT.

(a) IN GENERAL.—Except as provided in this Act, nothing in this Act affects—

(1) the rights of any person; or

(2) any right in existence on the date of enactment of this Act of the Shoshone-Bannock Tribes of the Fort Hall Reservation to water based on a treaty, compact, executive order, agreement, the decision in Winters v.

United States, 207 U.S. 564 (1908) (commonly known as the "Winters Doctrine"), or law.

(b) CONVEYANCES.—Any conveyance under this Act shall not affect or abrogate any provision of any contract executed by the United States or State law regarding any irrigation district's right to use water developed in the facilities conveyed.

MOSQUITO ABATEMENT FOR SAFETY AND HEALTH ACT

Mr. CORNYN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 137, S. 1015.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1015) to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. CORNYN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1015) was read the third time and passed, as follows:

S. 1015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mosquito Abatement for Safety and Health Act".

SEC. 2. GRANTS REGARDING PREVENTION OF MOSQUITO-BORNE DISEASES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by section 4 of Public Law 107–84 and section 312 of Public Law 107–188, is amended—

(1) by transferring section 317R from the current placement of the section and inserting the section after section 317Q; and

(2) by inserting after section 317R (as so transferred) the following:

"SEC. 317S. MOSQUITO-BORNE DISEASES; COORDINATION GRANTS TO STATES; ASSESSMENT AND CONTROL GRANTS TO POLITICAL SUBDIVISIONS.

"(a) COORDINATION GRANTS TO STATES; ASSESSMENT GRANTS TO POLITICAL SUBDIVISIONS.—

"(1) IN GENERAL.—With respect to mosquito control programs to prevent and control mosquito-borne diseases (referred to in this section as 'control programs'), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States for the purpose of—

"(A) coordinating control programs in the State involved; and

"(B) assisting such State in making grants to political subdivisions of the State to conduct assessments to determine the immediate needs in such subdivisions for control programs, and to develop, on the basis of such assessments, plans for carrying out control programs in the subdivisions.

"(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to States that have one or more political subdivisions with an incidence, prevalence, or high risk of mosquito-borne disease, or a population of infected mosquitos, that is substantial relative to political subdivisions in other States.

"(3) CERTAIN REQUIREMENTS.—A grant may be made under paragraph (1) only if—

"(A) the State involved has developed, or agrees to develop, a plan for coordinating control programs in the State, and the plan takes into account any assessments or plans described in subsection (b)(3) that have been conducted or developed, respectively, by political subdivisions in the State;

"(B) in developing such plan, the State consulted or will consult (as the case may be under subparagraph (A)) with political subdivisions in the State that are carrying out or planning to carry out control programs;

"(C) the State agrees to monitor control programs in the State in order to ensure that the programs are carried out in accordance with such plan, with priority given to coordination of control programs in political subdivisions described in paragraph (2) that are contiguous;

"(D) the State agrees that the State will make grants to political subdivisions as described in paragraph (1)(B), and that such a grant will not exceed $10,000; and

"(E) the State agrees that the grant will be used to supplement, and not supplant, State and local funds available for the purpose described in paragraph (1).

"(4) REPORTS TO SECRETARY.—A grant may be made under paragraph (1) only if the State involved agrees that, promptly after the end of the fiscal year for which the grant is made, the State will submit to the Secretary a report that—

"(A) describes the activities of the State under the grant; and

"(B) contains an evaluation of whether the control programs of political subdivisions in the State were effectively coordinated with each other, which evaluation takes into account any reports that the State received under subsection (b)(5) from such subdivisions.

"(5) NUMBER OF GRANTS.—A State may not receive more than one grant under paragraph (1).

"(b) PREVENTION AND CONTROL GRANTS TO POLITICAL SUBDIVISIONS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to political subdivisions of States or consortia of political subdivisions of States, for the operation of control programs.

"(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to a political subdivision or consortium of political subdivisions that—

"(A) has—

"(i) a history of elevated incidence or prevalence of mosquito-borne disease;

"(ii) a population of infected mosquitoes; or

"(iii) met criteria determined by the Secretary to suggest an increased risk of elevated incidence or prevalence of mosquito-borne disease in the pending fiscal year;

"(B) demonstrates to the Secretary that such political subdivision or consortium of political subdivisions will, if appropriate to the mosquito circumstances involved, effectively coordinate the activities of the control programs with contiguous political subdivisions;

"(C) demonstrates to the Secretary (directly or through State officials) that the State in which such a political subdivision or consortium of political subdivisions is located has identified or will identify geographic areas in such State that have a significant need for control programs and will effectively coordinate such programs in such areas; and

"(D) is located in a State that has received a grant under subsection (a).

"(3) REQUIREMENT OF ASSESSMENT AND PLAN.—A grant may be made under paragraph (1) only if the political subdivision or consortium of political subdivisions involved—

"(A) has conducted an assessment to determine the immediate needs in such subdivision or consortium for a control program, including an entomological survey of potential mosquito breeding areas; and

"(B) has, on the basis of such assessment, developed a plan for carrying out such a program.

"(4) REQUIREMENT OF MATCHING FUNDS.—

"(A) IN GENERAL.—With respect to the costs of a control program to be carried out under paragraph (1) by a political subdivision or consortium of political subdivisions, a grant under such paragraph may be made only if the subdivision or consortium agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than ⅓ of such costs ($1 for each $2 of Federal funds provided in the grant).

"(B) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(C) WAIVER.—The Secretary may waive the requirement established in subparagraph (A) if the Secretary determines that extraordinary economic conditions in the political subdivision or consortium of political subdivisions involved justify the waiver.

"(5) REPORTS TO SECRETARY.—A grant may be made under paragraph (1) only if the political subdivision or consortium of political subdivisions involved agrees that, promptly after the end of the fiscal year for which the grant is made, the subdivision or consortium will submit to the Secretary, and to the State within which the subdivision or consortium is located, a report that describes the control program and contains an evaluation of whether the program was effective.

"(6) AMOUNT OF GRANT; NUMBER OF GRANTS.—

"(A) AMOUNT OF GRANT.—

"(i) SINGLE POLITICAL SUBDIVISION.—A grant under paragraph (1) awarded to a political subdivision for a fiscal year may not exceed $100,000.

"(ii) CONSORTIUM.—A grant under paragraph (1) awarded to a consortium of 2 or more political subdivisions may not exceed $110,000 for each political subdivision. A consortium is not required to provide matching funds under paragraph (4) for any amounts received by such consortium in excess of amounts each political subdivision would have received separately.

"(iii) WAIVER OF REQUIREMENT.—A grant may exceed the maximum amount in clause (i) or (ii) if the Secretary determines that the geographical area covered by a political subdivision or consortium awarded a grant under paragraph (1) has an extreme need due to the size or density of—

"(A) the human population in such geographical area; or

"(B) the mosquito population in such geographical area.

"(B) NUMBER OF GRANTS.—A political subdivision or a consortium of political subdivisions may not receive more than one grant under paragraph (1).

"(c) APPLICATIONS FOR GRANTS.—A grant may be made under subsection (a) or (b) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(d) TECHNICAL ASSISTANCE.—Amounts appropriated under subsection (f) may be used by the Secretary to provide training and technical assistance with respect to the planning, development, and operation of assessments and plans under subsection (a) and control programs under subsection (b). The Secretary may provide such technical assistance directly or through awards of grants or contracts to public and private entities.

"(E) DEFINITION OF POLITICAL SUBDIVISION.—In this section, the term 'political subdivision' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs. If State law recognizes an entity of general government that functions in lieu of, and is not within, a county, parish, or borough, the Secretary may recognize an area under the jurisdiction of such other entities of general government as a political subdivision for purposes of this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated **$100,000,000** for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

"(2) PUBLIC HEALTH EMERGENCIES.—In the case of control programs carried out in response to a mosquito-borne disease that constitutes a public health emergency, the authorization of appropriations under paragraph (1) is in addition to applicable authorizations of appropriations under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

"(3) FISCAL YEAR 2004 APPROPRIATIONS.—For fiscal year 2004, 50 percent or more of the funds appropriated under paragraph (1) shall be used to award grants to political subdivisions or consortia of political subdivisions under subsection (b).".

SEC. 3. RESEARCH PROGRAM OF NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following section:

"METHODS OF CONTROLLING CERTAIN INSECT AND VERMIN POPULATIONS

"SEC. 463B. The Director of the Institute shall conduct or support research to identify or develop methods of controlling insect and vermin populations that transmit to human diseases that have significant adverse health consequences.".

SEC. 4. REPORT.

Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, after consultation with the Administrator of the Environmental Protection Agency shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the following:

(1) A description of the status of the development of protocols for ensuring the safety of the blood supply of the United States with respect to West Nile Virus, including—

(A) the status of the development of screening mechanisms;

(B) changes in donor screening protocols; and

(C) the implementation of surveillance systems for the transmission of the virus via the blood supply.

(2) Recommendations for improvements to be made to the safety of the blood supply based on the development of protocols pursuant to paragraph (1), including the need for expedited review of screening mechanisms or other protocols.

(3) The benefits and risks of the spraying of insecticides as a public health intervention, including recommendations and guidelines for such spraying.

(4) The overall role of public health pesticides and the development of standards for the use of such pesticides compared to the standards when such pesticides are used for agricultural purposes.

EXECUTIVE CALENDAR

Mr. CORNYN. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: All nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

AIR FORCE

PN359 Air Force nominations (14) beginning PAUL L. CANNON, and ending FRANK A. YERKES, JR., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 25, 2003

PN441 Air Force nomination of Lawrence Mercandante, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of March 24, 2003

PN442 Air Force nominations (2) beginning STANLEY J. BUELT, and ending CHRISTOPHER W. CASTLEBERRY, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 24, 2003

PN456 Air Force nominations (6) beginning GARY D. BOMBERGER, and ending WARREN R. ROBNETT, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 26, 2003

PN461 Air Force nominations (43) beginning MICHAEL F. ADAMES, and ending SCOTT A. ZUERLEIN, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 26, 2003

PN587 Air Force nomination of Jefferson L. Severs, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of May 1, 2003

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR TUESDAY, JUNE 17, 2003

Mr. CORNYN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, June 17. I further ask unanimous consent that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10 a.m. with the time equally divided between the two leaders or their designees, provided that at 10 a.m. the Senate resume consideration of S. 1, the prescription drug benefits bill. I further ask unanimous consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party lunches.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CORNYN. For the information of all Senators, tomorrow, following morning business, the Senate will resume consideration of S. 1, the prescription drug benefits bill. It is hoped that Senators will continue to make their opening remarks on this legislation. Rollcall votes are possible on Tuesday, and Members will be notified when the first vote is scheduled.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CORNYN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:26 p.m., adjourned until Tuesday, June 17, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 16, 2003:

FEDERAL ENERGY REGULATORY COMMISSION

SUEDEEN G. KELLY, OF NEW MEXICO, TO BE A MEMBER OF FEDERAL ENERGY REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 2004, VICE CURT HEBERT, JR., RESIGNED.

DEPARTMENT OF HOMELAND SECURITY

C. SUZANNE MENCER, OF COLORADO, TO BE THE DIRECTOR OF THE OFFICE FOR DOMESTIC PREPAREDNESS, DEPARTMENT OF HOMELAND SECURITY. (NEW POSITION)

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE CHIEF OF STAFF, UNITED STATES ARMY, AND

APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 688, 601 AND 3033:

To be general

GEN. PETER J. SHOOMAKER (RETIRED), 3788

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624

To be rear admiral (lower half)

CAPT. MARK A. HUGEL, 9650

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

LARRY J. MASTIN, 1103

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

ROBERT L. DAUGHERTY JR., 0938
WILLIAM D. HACK, 6585
DAVID L. LASALLE, 6608
JOHN J. PERNOT, 3228
CHARLES V. RATH JR., 7207

ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

KENNETH S. AZAROW, 5203

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MICHAEL F. MCDONOUGH, 0328

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAIN UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

WILLIAM T BARBEE JR., 8144
JAMES A BENSON, 3262
LARRY E BLUM, 3295
ORMAN W BOYD, 6173
KAREN D BRANDON, 2864
SCOTT R CARSON, 9776
BRENT V CAUSEY, 6334
PHILLIP C CONNER, 6984
STEPHEN P DEMIEN, 3625
THOMAS E ENGLE, 5911
DONALD W EUBANK, 4158
THOMAS G EVANS, 1305
PETER J FREDERICH, 8671
DAVID H HANN, 7482
JOEL C HARRIS, 0292
WILBERT C HARRISON, 5421
RANDALL P HOLMES, 6269
FRANKLIN L JACKSON JR., 4006
STEVEN L JORDAN SR., 4117
STEPHEN D KELLEY, 8606
PAUL R KERR, 9542
THOMAS E KILLGORE, 9641
YOUN H KIM, 3775
WILLIAM H LIPTROT JR., 4206
PAUL R LOOPER, 5083
DAVID A NEETZ, 0827
JIM L PITTMAN, 4163
BARRY W PRESLEY, 9855
DENNIS L PROFFITT, 0414
JOSE A RODRIGUEZ, 2152
DAVID M SCHEIDER, 8600
PEARLEAN SCOTT, 3610
JONATHAN E SHAW, 3308
ALLEN M STAHL, 1545
MARTIN F STEISSLINGER, 7601
THOMAS B WHEATLEY III, 1779
BARRY M WHITE, 5194
MITCHELL S WILK, 9264
KENNETH W YATES, 3665

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR ORIGINAL REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531, AND 5589:

To be lieutenant

RAUL D. BANTOG, 7400
DONNA M. BAPTISTE, 9289
WILLIAM T. BEECHWOOD, 5278
RICHARD M. BURKHAMMER, 1599
RICK L. CHAMBERS, 0112
NORMAN H. CHASSE, 7155
CARRICK B. CHENEY, 5131
DONALD E. CISSELL, 2481
MIKE A. DEHOYOS, 2603
WILLIAM T. DORRIS JR., 5878
HAROLD W. EMPSON, 1835
PETER R. GERYAK, 2816
JEAN A. GREGG, 2952
TERRY F. HALL, 6153
WILLIAM C. HASHEY, 5337
ROBERT K. HAYES, 1413
CHRISTOPHER M. HENVIT, 3667
GREGORY W. HORSHOK, 0347
DONALD JOHNSON, 4576
BRIAN F. KOSKO, 8189
MICHAEL J. KRAFT, 2501
RICHARD G. LANIER, 2397
DAVID A. LAUFFENBURGER, 0760
GREGORY P. LOUK, 3883
MICHAEL B. MARTINEZ JR., 2735
DIANE C. MOLL, 9605
JAMES R. MOON, 5567
THOMAS E. NELSON, 8765
JOHN E OLANOWSKI, 2515
PATRICK O. PADDOCK, 9667
JUAN A. PAGAN, 3819
PATRICK A. PARK, 9505
LAWRENCE D. PARKS, 1058
HERMAN S. PRATT III, 1078
WILLIAM A. REVAK, 6223
CHARLES T. ROUGHSEDGE, 8309
WILLIAM M. SCHAEFER, 5426
DAVID J. SCHESCHY, 3844
NIGEL A. SEALY, 0768
JEFFREY C. SERVEN, 6820
SIATUNUU SIATUNUU JR., 6989,
ROBIN G. TERRELL, 1717
WILLIAM H. TROUTMAN, 2523
EDDIE L. WEST, 0527
CHRISTOPHER A. WILLIAMS, 0097
DONNA M. WILLOUGHBY, 6964

* * *

CONFIRMATIONS

EXECUTIVE NOMINATIONS CONFIRMED BY THE SENATE JUNE 16, 2003:

AIR FORCE NOMINATIONS BEGINNING PAUL L. CANNON AND ENDING FRANK A. YERKES, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.

AIR FORCE NOMINATION OF LAWRENCE MERCANDANTE.

AIR FORCE NOMINATIONS BEGINNING STANLEY J. BUELT AND ENDING CHRISTOPHER W. CASTLEBERRY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 24, 2003.

AIR FORCE NOMINATIONS BEGINNING GARY D. BOMBERGER AND ENDING WARREN R. ROBNETT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 2003.

AIR FORCE NOMINATIONS BEGINNING MICHAEL F. ADAMES AND ENDING SCOTT A. ZUERLEIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 2003.

AIR FORCE NOMINATION OF JEFFERSON L. SEVERS.

HOUSE OF REPRESENTATIVES—*Monday, June 16, 2003*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BURGESS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 16, 2003.

I hereby appoint the Honorable MICHAEL C. BURGESS to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 32 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CULBERSON) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord our God, throughout the course of history, You have called forth people of Your own design to seize a moment of time and make a difference in the course of human events.

Sometimes You have raised up exceptional people, heroes in battle, learned scholars, powerful speakers and world leaders. At other times, You have simply used ordinary people faithful in their daily duties, doctors, laborers, parents or teachers, caught in a moment when a responsible decision, a strong voice or defined action was required of them. But always You have been faithful and Your people have responded in shaping this Nation.

In these exceptional times, You have called singular women and men to serve as Members in the House of Representatives of this 108th Congress. Be with them in their ordinary tasks of meeting people of divergent opinions and needs and representing a variety of peoples united as one Nation.

Forgetting themselves in their efforts to serve the best interests of others and the common good of this Nation, make of them exceptional people, who will be honored now and be remembered forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California (Mr. FILNER) come forward and lead the House in the Pledge of Allegiance.

Mr. FILNER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2115. An act to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2115) "An Act to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MCCAIN, Mr. STEVENS, Mr. BURNS, Mr. LOTT, Mrs. HUTCHISON, Mr. HOLLINGS, Mr. INOUYE, Mr. ROCKEFELLER, and Mr. BREAUX, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed a bill and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 1247. An act to increase the amount to be reserved during fiscal year 2003 for sustainability grants under section 29(l) of the Small Business Act.

S. Con. Res. 48. Concurrent resolution supporting the goals and ideals of "National Epilepsy Awareness Month" and urging support for epilepsy research and service programs.

FCC MUST BE HELD ACCOUNTABLE

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, I rise today to express my concern and many of our concerns over the regulatory uncertainty wrought by the recent Federal Communications Commission so-called triennial review decision. In fact, the FCC has made so many mistakes recently, I think that the initial stands for "Forget Consensus in Congress."

In this case, the FCC missed the opportunity to bring clarity to the rules that promote facilities-based competition and would spur investment and create jobs. Instead, it has punted the decision to the States, all 50 of them. This move will force more State proceedings, more regulatory uncertainly, and without a doubt, more delay.

The telecommunications sector has certainly had its meltdown. It has already lost more than half a million jobs and $2 trillion in market value. And immediately after the February decision, the industry lost a total capital value of $15 billion. Wall Street certainly took note and downgraded the outlook for telecommunications companies. With this regulation stranglehold, these companies cannot effectively recover from recent losses, they cannot invest in expansion, and they cannot create or save American jobs. As many recent decisions show, we must hold the FCC more accountable.

HOUR OF MEETING ON TUESDAY, JUNE 17, 2003

Mr. NETHERCUTT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

meet at 10:30 a.m. tomorrow for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 3 p.m. today.

Accordingly (at 2 o'clock and 6 minutes p.m.), the House stood in recess until approximately 3 p.m.

□ 1500

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CULBERSON) at 3 p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes on postponed questions will be taken after 6:30 p.m. today.

BRUCE WOODBURY POST OFFICE BUILDING

Mr. CARTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2254) to designate the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the "Bruce Woodbury Post Office Building".

The Clerk read as follows:

H.R. 2254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BRUCE WOODBURY POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, shall be known and designated as the "Bruce Woodbury Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Bruce Woodbury Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. CARTER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. CARTER).

GENERAL LEAVE

Mr. CARTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2254, introduced by my distinguished colleague, the gentleman from the State of Nevada (Mr. PORTER), designates the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the "Bruce Woodbury Post Office Building."

Mr. Speaker, this legislation honors a public servant whose contributions may not garner national attention; but in southern Nevada, few citizens are more highly regarded than Bruce Woodbury.

To those who live in and around the Third Congressional District of Nevada, Bruce Woodbury is known as a civic official who has been among the most influential in promoting the remarkable economic development of this booming region. He has chaired the Regional Transportation Commission of Southern Nevada for the last 11 years. In that capacity, his crowning achievement was securing the construction of the Las Vegas Beltway, probably the most ambitious transportation project ever in Clark County.

Bruce Woodbury also has served on the Clark County Commission in southern Nevada for 21 years. Mr. Woodbury has led this commission on the most important issues Clark County has had to face: health care, air and water quality, public transit, gaming, sanitation, and many others. His fellow commissioners have selected him to be the Chair of the Big Ben Water District Board of Trustees, the vice-chair of the Kyle Canyon Water District Board of Trustees, among several other posts.

Mr. Woodbury is also a partner at his law firm of Jolley, Urga, Wirth and Woodbury that has offices in Boulder City and in Las Vegas.

In his time away from work, he is also a member of the Boulder City Chamber of Commerce, Rotary Club, and Elks Lodge. Previously he has sat on the board of trustees at a bank, the Las Vegas chapter of the Red Cross, and the Nevada Special Olympics. Finally, he has been appointed to many state level councils, boards, and other panels, truly too numerous to name.

In whatever spare time that he can find, Mr. Woodbury loves to spend as much time as he can with his wife, Rose, and their seven children, Adam, Ashley, Benjamin, Melissa, Rebecca, Rodney and Wendy, and their seven grandchildren: Anna, Elias, Jess, Joseph, Samuel, and Silvie Jane.

I understand that the gentleman from Nevada, the sponsor of this legislation and former mayor of Boulder City, has worked together with Bruce Woodbury on countless efforts affecting the residents of southern Nevada. They have developed a close relationship, and I applaud my colleague from Nevada for his work on this meaningful measure. This post office in Boulder City, Nevada will hopefully soon be named after a truly wonderful, all-around American.

Therefore, I urge all Members to support the passage of H.R. 2254.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 2254, which names a postal facility in Boulder City, Nevada, after Bruce Woodbury.

H.R. 2254, which was introduced by the gentleman from Nevada (Mr. PORTER) on May 22, 2003, has met the committee policy and has been cosponsored by all members of the Nevada delegation.

Mr. Woodbury is a native of Las Vegas, Nevada, and has lived in Boulder City for over 25 years. A distinguished community and civic-minded member of Boulder City, Mr. Woodbury has long been involved in city politics. As a member of the Clark County Commission for 21 years and the Regional Transportation Commission. Mr. Woodbury has successfully tackled a number of challenging transportation projects.

As chairman of the Regional Transportation Committee, Commissioner Woodbury was a driving force behind the construction of the Las Vegas Beltway and reducing traffic delays.

I commend my colleague for seeking to honor the numerous contributions of Commissioner Bruce Woodbury in this manner. I note that H.R. 2254 also enjoys the support of the Honorable Robert S. Ferraro, mayor of Boulder City, and members of the entire city council.

Mr. Speaker, I certainly concur in the passage of this bill.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the honorable gentleman from the State of Nevada (Mr. PORTER), the sponsor of this legislation.

Mr. PORTER. Mr. Speaker, I rise today in support of H.R. 2254, legislation to name the United States Postal Service facility in Boulder City, Nevada, in honor of Clark County Commissioner Bruce Woodbury.

I introduced this legislation to pay tribute to one of southern Nevada's most distinguished citizens. I have worked closely with the members of the city council of Boulder City and the mayor of Boulder City, Robert Ferraro, to appropriately thank Commissioner Woodbury for his many contributions to the great State of Nevada and to our Nation.

Commissioner Woodbury is a native of Las Vegas and has resided in Boulder City, Nevada, since 1978. He is a graduate of Las Vegas High School and attended the University of Utah where he graduated Phi Kappa Phi, Phi Beta Kappa, and Magna Cum Laude. Mr. Woodbury then attended Stanford School of Law where he earned a Doctor of Jurisprudence and was a member of the Board of Editors of the Stanford Law Review.

In southern Nevada, Commissioner Woodbury has been active for many years as an outstanding civic leader. He has served as a member of the Clark County Commission for 21 years and on the Regional Transportation Commission of southern Nevada for 17 years, the last 11 as that body's chairman. He was also the founding father of the Clark County Regional Flood District and the Southern Nevada Water Authority.

Mr. Speaker, the impact and the magnitude of his contributions are seen by Nevadans every day. Commissioner Woodbury was instrumental in gathering support for the construction of the Las Vegas Beltway, the largest and most visible transportation project ever undertaken in Clark County's history. Through his leadership, Commissioner Woodbury has worked to minimize traffic delays, reduce inconvenience for drivers, and maintain access to local businesses. In addition, Mr. Woodbury has been very involved in local, civic, and youth organizations and is a proud father and grandfather.

It has been my privilege to work with Commissioner Woodbury on a variety of projects; and I can speak to his character as a leader, as a citizen, and as a friend.

Mr. Speaker, on a personal note, Bruce Woodbury is a quiet man. He actually was very embarrassed when I suggested we name the post office after him. Bruce does not like accolades. He is the first, the first man to give everyone else credit before taking credit for himself. Yes, he is quiet; but he is an effective leader, and he is one of the most visionary and caring individuals who has ever served as a public servant. His example sets the standard for all of us serving this great country.

Southern Nevada has grown almost threefold since Mr. Woodbury was elected, to almost 1.6 million people. There is not a project in Nevada that Mr. Woodbury has not touched, whether it be transportation, air quality, schools, health care, water quality, senior citizens, and taking care of our children.

As a matter of fact, when Bruce was first elected over 20 years ago, there was a major flood in southern Nevada. Bruce was there with a shovel helping citizens dig out their cars, their homes, their livestock, making sure they could get their families back in order. Bruce did not just sit back; Bruce then formed the Clark County Flood Control District. We have not had the same challenges that we had in 20 years because of Bruce Woodbury's leadership.

Let us talk about traffic for a second. Bruce travels to work about 20 miles every day and got tired of sitting around in traffic and decided to build and be the leader in developing the Las Vegas Beltway, because Bruce, although quiet, is effective and wanted to get the job done.

Mr. Speaker, as a Member of this body, I am truly honored to have served with Mr. Woodbury. He has been a mentor for me and many other public servants, and words truly cannot express my appreciation for all that he has done to improve the quality of life in Nevada.

I urge all of the Members of this body to support the legislation today.

Mr. CARTER. Mr. Speaker, I have no other speakers at this time. Again, I want to thank my colleague, the gentleman from Nevada, for introducing this important legislation; and I thank the gentleman from Illinois as well. I urge all Members to support the passage of this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. CARTER) that the House suspend the rules and pass the bill, H.R. 2254.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CARTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMMENDING MEDGAR WILEY EVERS AND MYRLIE EVERS-WILLIAMS FOR THEIR LIVES AND ACCOMPLISHMENTS

Mr. CARTER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 220) commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams, for their lives and accomplishments.

The Clerk read as follows:

H. CON. RES. 220

Whereas a pioneer in the fight for racial justice, Medgar Wiley Evers, was born July 2, 1925, in Decatur, Mississippi, to James and Jessie Evers;

Whereas, to faithfully serve his country, Medgar Evers left high school to join the Army when World War II began and, after coming home to Mississippi, he completed high school, enrolled in Alcorn Agricultural and Mechanical College, presently known as Alcorn State University, and majored in business administration;

Whereas, as a student at Alcorn Agricultural and Mechanical College, Evers was a member of the debate team, the college choir, and the football and track teams, was the editor of the campus newspaper and the yearbook, and held several student offices, which gained him recognition in Who's Who in American Colleges;

Whereas, while a junior at Alcorn Agricultural and Mechanical College, Evers met a freshman named Myrlie Beasley, whom he married on December 24, 1951, and with whom he spent the remainder of his life;

Whereas, after Medgar Evers received a bachelor of arts degree, he moved to historic Mound Bayou, Mississippi, became employed by Magnolia Mutual Life Insurance Company, and soon began establishing local chapters of the National Association for the Advancement of Colored People (referred to in this resolution as the "NAACP") throughout the Delta region;

Whereas, moved by the plight of African-Americans in Mississippi and a desire to change the conditions facing them, in 1954, after the United States Supreme Court ruled school segregation unconstitutional, Medgar Evers became the first known African-American person to apply for admission to the University of Mississippi Law School, but was denied that admission;

Whereas, as a result of that denial, Medgar Evers contacted the NAACP to take legal action;

Whereas, in 1954, Medgar Evers was offered a position as the Mississippi Field Secretary for the NAACP, and he accepted the position, making Myrlie Evers his secretary;

Whereas, with his wife by his side, Medgar Evers began a movement to register people to vote in Mississippi and, as a result of his activities, he received numerous threats;

Whereas, in spite of the threats, Medgar Evers persisted, with dedication and courage, to organize rallies, build the NAACP's membership, and travel around the country with Myrlie Evers to educate the public;

Whereas Medgar Evers' passion for quality education for all children led him to file suit against the Jackson, Mississippi public schools, which gained him national media coverage;

Whereas Medgar Evers organized students from Tougaloo and Campbell Colleges, coordinated and led protest marches, organized boycotts of Jackson businesses and sit-ins, and challenged segregated bus seating, and for these heroic efforts, he was arrested, beaten, and jailed;

Whereas the violence against Medgar Evers came to a climax on June 12, 1963, when he was shot and killed in front of his home;

Whereas, after the fingerprints of an outspoken segregationist were recovered from the scene of the shooting, and 2 juries deadlocked without a conviction in the shooting case, Myrlie Evers and her 3 children moved to Claremont, California, where she enrolled in Pomona College and earned her bachelor's degree in sociology in 1968;

Whereas, after Medgar Evers' death, Myrlie Evers began to create her own legacy and emerged as a national catalyst for justice and equality by becoming active in politics, becoming a founder of the National Women's Political Caucus, running for Congress in California's 24th congressional district, serving as Commissioner of Public Works for Los

Angeles, using her writing skills to serve as a correspondent for Ladies Home Journal and to cover the Paris Peace Talks, and rising to prominence as Director of Consumer Affairs for the Atlantic Richfield Company;

Whereas Myrlie Evers became Myrlie Evers-Williams when she married Walter Williams in 1976;

Whereas, in the 1990's, Evers-Williams convinced Mississippi prosecutors to reopen Medgar Evers' murder case, and the reopening of the case led to the conviction and life imprisonment of Medgar Evers' killer;

Whereas Evers-Williams became the first female to chair the 64-member Board of Directors of the NAACP, to provide guidance to an organization that was dear to Medgar Evers' heart;

Whereas Evers-Williams has published her memoirs, entitled "Watch Me Fly: What I Learned on the Way to Becoming the Woman I Was Meant to Be", to enlighten the world about the struggles that plagued her life as the wife of an activist and empowered her to become a community leader;

Whereas Evers-Williams is widely known as a motivational lecturer and continues to speak out against discrimination and injustice;

Whereas her latest endeavor has brought her home to Mississippi to make two remarkable contributions, through the establishment of the Evers Collection and the Medgar Evers Institute, which advance the knowledge and cause of social injustice and which encompass the many lessons in the life's work of Medgar Evers and Myrlie Evers-Williams;

Whereas Evers-Williams has presented the extraordinary papers in that Collection and Institute to the Mississippi Department of Archives and History, where the papers are being preserved and catalogued; and

Whereas it is the policy of Congress to recognize and pay tribute to the lives and accomplishments of extraordinary Mississippians such as Medgar Evers and Myrlie Evers-Williams, whose life sacrifices have contributed to the betterment of the lives of the citizens of Mississippi as well as the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) Congress commends Medgar Wiley Evers and his widow, Myrlie Evers-Williams, and expresses the greatest respect and gratitude of Congress, for their lives and accomplishments;

(2) Congress supports the establishment of a "Medgar Evers National Week of Remembrance"; and

(3) copies of this resolution shall be furnished to the family of Medgar Wiley Evers and Myrlie Evers-Williams.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. CARTER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. CARTER).

GENERAL LEAVE

Mr. CARTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution currently being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 220, introduced by my distinguished colleague, the gentleman from the State of Mississippi (Mr. THOMPSON), commends Medgar Wiley Evers and his widow, Myrlie Evers-Williams for their lives and accomplishments. I am proud that this House is considering this legislation, because it can serve as an important history lesson to all of those who witness these proceedings here today.

Mr. Speaker, as legislative business began this afternoon, we recited the Pledge of Allegiance on this floor as we do every day. But today it seems especially appropriate to revisit that vow just before this House honors a man and a woman who have lived their lives based on the belief that in this country, more than anywhere else in the world, there should surely be "liberty and justice for all."

□ 1515

Mr. Speaker, Medgar Evers and Myrlie Evers-Williams are each remarkable civil rights leaders who have accomplished great deeds on behalf of countless Americans.

Medgar was born in Decatur, Mississippi, in 1925. He dropped out of high school at the age of 17 to join the Army during World War II. When he safely returned home, he completed high school and went on to attend and graduate from Alcorn A&M College. He landed a job with an insurance agency before becoming a field secretary to the National Association for the Advancement of Colored People in Jackson, Mississippi.

Medgar soon met a young Mississippi woman named Myrlie who also worked for the NAACP, and they married in 1951. Tragically, 12 years later, Medgar Evers was dreadfully shot and killed outside his home.

Despite this unbelievable heartbreak, Myrlie Evers-Williams has carried on. She soon moved to Claremont, California, with her three children to begin a new life. Among her many subsequent accomplishments Ms. Evers-Williams became the first black woman to serve on the Los Angeles Board of Public Works where she oversaw nearly 6,000 public employees and a budget of $400 million. In addition, she was the first woman elected to chair the NAACP in 1995 and continues to be a valuable asset to the association as chairman emeritus.

Mr. Speaker, I want to remind this House that last Thursday was the 40th anniversary of the tragic assassination of Medgar Evers that occurred on June 12, 1963. Early this afternoon, a national day of remembrance was observed at Medgar Evers' grave site in Arlington National Cemetery. This sober and beautiful event marked the end of the Medgar Evers National Week of Remembrance organized by the Medgar Evers Institute founded last year by Myrlie Evers-Williams. The week featured events across the State of Mississippi, including celebration of his life in Newton, a prayer and candlelight vigil in Jackson, and a symposium on his works and achievements in Tougaloo.

Mr. Speaker, for all these reasons, I urge all Members to support the adoption of House Concurrent Resolution 220 that honors the lives of these two fine people, Medgar Wiley Evers and Myrlie Evers-Williams. I sincerely thank my colleague from Mississippi for introducing this important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

I want to thank the gentleman from Texas for his remarks, and I am pleased to join with him as we consider H. Con. Res. 220, a bill commending Medgar Wiley Evers and his widow Myrlie Evers-Williams for their lives and accomplishments.

Mr. Speaker, on June 12, 1963, a black civil rights activist was murdered in front of his home and became a martyr for the cause. On that same day, that very same day, his wife became even more committed to the cause and to the work that they were doing.

Medgar Wiley Evers was born July 2, 1925, near Decatur, Mississippi, and attended school there until he was inducted into the Army in 1943. After serving in Normandy, France, he attended Alcorn College, where he met Myrlie Beasley of Vicksburg, Mississippi. They were married the next year on December 14, 1951.

After receiving his degree, Medgar Evers moved to Mound Bayou, Mississippi, during which time he began to establish local chapters of the NAACP throughout the Delta and organizing boycotts of gasoline stations that refused to allow blacks to use their restrooms.

He worked in Mound Bayou as an insurance agent until 1954, the year a Supreme Court decision ruled school desegregation unconstitutional. Despite the Court's rulings, Evers applied for and was denied admission to the University of Mississippi Law School. His actions caught the attention of the NAACP's national office, and he was appointed Mississippi's first field secretary for the NAACP.

Medgar and Myrlie moved to Jackson where they worked together to set up the NAACP office, began to investigate violent crimes committed against blacks and rallied civil rights demonstrators and organized voter registration drives.

On June 12, 1963, a few hours after President Kennedy had made an extraordinary broadcast to the Nation on the subject of civil rights, Medgar Evers was shot in the back and killed. It was then that Myrlie Evers-Williams began her relentless search for her husband's killer.

Medgar Evers's accused killer, Byron De La Beckworth, a white segregationist, was tried and released after two hung jury mistrials. Despite these initial defeats, Myrlie Evers-Williams continued searching for new evidence in the case. Mr. Beckworth was finally convicted in 1994 and sentenced to life in prison.

In June of 1988, Myrlie Evers-Williams became the first black woman to be appointed to the Los Angeles five-member Board of Public Works. In 1995, she ascended to the national chairmanship of the NAACP and served until 1998. She had written two books, one, "For Us, the Living," and two, "Watch Me Fly: What I Learned on the Way to Becoming the Woman I was Meant to Be."

One can look at the number of black elected officials in Mississippi—today the State that has more African Americans elected to public office than any other State in the Nation—and when we do that we see the work of Medgar and Myrlie. Look at the number of blacks enrolled in each of Mississippi's public and private institutions of higher learning, and we see the work of Medgar and Myrlie. We can look at the former Secretary of Agriculture, Mike Espy. We can look at State Senator David Jordan, and of course, we can look at the gentleman from Mississippi (Mr. THOMPSON), a Member of this body and the originator of this legislation.

When we look at all of that development, we see the work, we see the impact, we see the influence, we see the lives of Medgar and Myrlie Evers. So it is indeed altogether fitting and proper that, on this day, I am often reminded of the fact that the Constitution of the United States of America suggests that all men, I guess if we were writing it today, it would say "all men and women, are created equal and endowed by their Creator with certain inalienable rights, and that among those would be life, liberty and the pursuit of happiness."

Medgar and Myrlie Evers pursued rights, not only for themselves but rights for others, and as a result of that pursuit, he gave the most precious thing that one could ever have and the most precious thing that one could ever give, that is, indeed, his life. So I am pleased to join with those who would pause on this day to pay tribute to their lives and to their legacy.

Mr. Speaker, I reserve the balance of my time.

Mr. CARTER. Mr. Speaker, I yield as much time as he may consume to the distinguished gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Speaker, I rise today in support of House Concurrent Resolution 220, introduced by the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from Mississippi (Mr. PICKERING.)

The resolution before us today commends two wonderful people for their wisdom and their vision. Medgar Wiley Evers and his widow Myrlie Evers-Williams were pioneers in the fight for racial justice. Today, we honor them for their efforts and recognize them for their accomplishments.

With a desire to change the conditions facing African Americans in Mississippi, Medgar Evers became the first African American to apply for admission to the University of Mississippi Law School. But in 1954, even after the United States Supreme Court ruled segregation unconstitutional, Mr. Evers was denied admission.

With his wife at his side, Medgar Evers began a movement to register voters in Mississippi. In spite of personal threats, he persevered. His dedication to the improvement of education for all children, regardless of race, led him to challenge the segregationist systems in Jackson, Mississippi public schools. He continued to challenge segregation at every level from educational services to bus seating.

Although Mr. Evers' life was tragically brought to a premature end, his widow Myrlie Evers-Williams remains an effective voice against discrimination and injustice. Through the establishment of the Evers Collection and the Medgar Evers Institute, she advances the knowledge of the many lessons learned through their lives and through their experiences.

This resolution is a way in which to remember the challenges that Myrlie Evers-Williams and Medgar Evers faced and overcame.

Mr. Speaker, I appreciate their work. I appreciate their sacrifice. I appreciate the fact that they pursued a life to improve the lives of African Americans, certainly in this Nation, but they also improved the lives of men, women and children of all races and all faces around the globe.

I urge my colleagues to support this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

As I continue to listen and to hear of the great works and the exploits of Myrlie and Medgar Evers, it occurred to me that in order to have a full appreciation that one perhaps should have been living during that time. It just happened for me that I lived not very far from Mississippi at that time.

I was a young child growing up in the State of Arkansas and actually lived only about 25 miles from Mississippi, and so I knew a great deal about Mississippi and had relatives who lived in Mississippi, and so we would drive across the Mississippi River at Greenville and go and visit in places like Mound Bayou and Cleveland and Schuller and Lexington and Greenwood and all through the Delta back the other way.

There was an environment, there was an atmosphere, as a matter of fact, my brothers and I would sometimes kid ourselves because our father would never have to chastise us in the car to be quiet when we got to Mississippi. I mean, there was a feeling and once we crossed the bridge, we would immediately become silent, and he did not have to say, "You all be quiet, sit down, do not do things."

Then when one travels to Mississippi today, they see a very different Mississippi. They see a Mississippi that in many ways has transformed itself from the Mississippi of the past to the Mississippi of the present and moving on to the Mississippi of the future.

One can attribute much of that change to Medgar and Myrlie Evers. One can attribute much of that change to the era known as the civil rights period, the movement, the marches, the demonstrations, the willingness of people to say that change is so necessary until I am willing to run the risk of being violated or being mutilated of doing whatever it takes to move out of the dark ages to the brightness of possibility of what it is that tomorrow can and should bring.

I know, Mr. Speaker, that the gentleman from Mississippi (Mr. THOMPSON) should be walking in the door at any moment, but while he is about to walk into the door, I know one who was indeed a part of the struggle during that period and was an eloquent voice for civil rights and human rights and for the movement of all people then, as she is today.

Mr. Speaker, I am pleased to yield 6 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

□ 1530

Ms. NORTON. I very much thank the gentleman for yielding me this time, and I thank the chairman for bringing this bill forward; and, of course, I thank my good colleague, the gentleman from Mississippi (Mr. THOMPSON), for introducing this bill.

While this bill has national significance for our country, it has personal significance for me. Of course Medgar Evers is remembered for the sacrifice of his life for human rights in this country. I was an impressionable young law student who had been asked to come to the delta, not to Jackson, but to the delta to help prepare for what became the 1964 freedom summer by doing a pilot for the voter registration schools that we would do ultimately for people on the farms who wanted to learn how to register and vote, a very hard thing to do in Mississippi at the time.

When I came, of course I came not to the delta first but to Jackson and was told to go to the office of the NAACP. I wanted very much to meet Medgar Evers, because it had been national publicity that the sit-ins had only that summer begun in Mississippi. We were through with the sit-ins in the rest of the country. We were on to the next stage of the civil rights movement. But I will tell you. Mississippi was another kettle of fish; and they had been beaten brutally for sitting in.

In the summer of 1963, I wanted to see this brave man. What Medgar Evers tried to do was to kidnap me from the delta. I was a law student at a time when there were very few African American law students, and he wanted me to work in the NAACP office. But I had promised Bob Moses in Greenwood, Mississippi, that I would come there. So instead, he took me all around Jackson to various places so that I could meet people in the Jackson movement.

He took me to his home to meet his extraordinary wife, Myrlie Evers, now Williams; and we met the children, the very little children. And then Medgar Evers took me to the bus station, put me on the bus for Greenwood, Mississippi, and the people got me off the bus in Greenwood, Mississippi, and took me to a farmer's house. And there I was on the morning of June 12.

The sharecropper and his wife had gone off to pick string beans, but they had told me the night before how to take a bath in a tin tub. I said, all right, that's something I have never done before, city girl that I am. And I shall never forget. This is one of the searing moments of my life, when the very young people from the Greenwood Student Nonviolent Coordinating office came and said, "Eleanor, aren't you the student that came in last night? Medgar Evers has been shot and killed."

Medgar Evers was shot and killed as he left, obviously, that night going back to his own home having put me on the bus. Well, when you're sitting in a tin tub your first day in the delta and you learn that one of the great heroes of the civil rights movement, who you just left 8 hours before, has been murdered, you have a memory that will last for a lifetime of a man who our country will remember for a lifetime.

Everybody was gone. People were off raising money. It turned out that I was the senior person. I became the senior person in the SNCC office because other young people were off in the north raising money, and it fell to me to call everybody together to go to the church to do what we always did when one of those terrible things happened in our country.

I want to say that as a young lawyer, young law student, I had to remind myself that I was going to law school because I had faith in the justice system of our country. It took 40 years, but, in fact, the killer of Medgar Evers was brought to justice. Myrlie Evers, all that time made it her business to press for justice and, in fact, got justice. She went on to become the Chair of the NAACP itself, carrying on the work of Medgar Evers.

I shall never forget this gentle man and how he described the brutality that he had faced, as if that is what you should expect and we have to keep going in until it gets done. And the interesting thing is it had gotten done, at least that part of it had gotten done, everywhere but in Mississippi. Mississippi was then a closed part of the country. It was what we meant by terrorism.

The murders of Cheney, Goodman, and Schwerner would occur thereafter; and there are untold murders that will never see the justice that Medgar Evers has since seen, for Myrlie Evers-Williams, for the Evers children who were left without a father, a man who had served in World War II, in Normandy; that the day would come when the House of Representatives would in fact recognize what he did for our country should restore, should restore the faith of those who sometimes lose faith in our justice system.

Justice was done in Mississippi, we will do justice throughout our country, and I thank the gentleman once again for yielding me this time.

Mr. DAVIS of Illinois. Mr. Speaker, may I inquire as to how much time we have left.

The SPEAKER pro tempore (Mr. CULBERSON). The gentleman from Illinois (Mr. DAVIS) has 6 minutes remaining.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. PICKERING), a cosponsor of this legislation.

Mr. PICKERING. Mr. Speaker, I come before the House as a proud cosponsor of this resolution to commend Medgar Wiley Evers and his widow, Myrlie Evers. I had the great privilege of coming from Arlington Cemetery where we gathered with people from all across the country, all across my State to remember the life and the legacy of Medgar Evers today. The gentleman from Mississippi (Mr. THOMPSON), who is the lead sponsor of this resolution, will soon join us.

It was 40 years ago that Mississippi lost one of her bright stars. His flame was extinguished by ignorance and hatred, yet his light shines on. Today, we do not mourn; we celebrate his life. We celebrate his courage; we celebrate his commitment for equal justice, equal protection, equality of opportunity, equality of education, and equal political rights.

And when we look at his legacy today, I am a son of Mississippi. I am 40 years old this year. In 2 months, I celebrate my 40th birthday. My first grade class was integrated. I had the great privilege of attending public schools that were integrated. Political rights came about not only through Medgar Evers but many others who struggled during that time so that Mississippi now, in many ways, is making progress, with the highest number of African American elected officials in the land.

So educationally, economically, and politically Medgar Evers' legacy lives on. My colleague asked the question, did he make a difference? Can one man make a difference? Today, I watched as Myrlie Evers, with her, her daughter, her children, her grandchildren, talked about the rich legacy of their father, her husband, of making a difference in my home State of Mississippi and across this country.

We from Mississippi love our State. We love our people. We want to overcome the sins and the struggles of the past. We want to find common ground. We want to find a dialogue. We want to find common values and a common purpose to move our State forward. Today, in remembrance of Medgar Evers and finding ways to reconcile the differences of the present, to overcome the wrong, we now look to the future of how we can come together as a State and as a people to honor Medgar Evers and the principles for which he stood: for freedom, for courage, from overcoming fear, to finding equal opportunity and equal rights.

Mr. THOMPSON of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. PICKERING. I yield to the gentleman from Mississippi, my good friend and colleague, who is the lead sponsor of this; and I am glad that we could come to the floor and work together and remember a great Mississippian, Medgar Evers.

Mr. THOMPSON of Mississippi. Mr. Speaker, I thank the gentleman from Mississippi (Mr. PICKERING), my colleague, for this opportunity. I would like to pay tribute also to the gentleman from Illinois (Mr. DAVIS) and the gentlewoman from the District of Columbia (Ms. NORTON), who held the fort down while we were out at Arlington Cemetery paying a special tribute to the person we are honoring here today, as well as his widow, Myrlie Evers.

Mr. Speaker, I rise today in honor of America's most undercelebrated martyr of the civil rights movement, Medgar Wiley Evers. Born in Decatur, Mississippi, Medgar dedicated the 37 years of his life to the causes of racial equality and the equal opportunity movement. As a 15-year-old boy in Bolton, Mississippi, I recall one of Medgar's last televised speeches. He said, "Tonight, the Negro plantation worker in the delta knows from his radio and television what happened today all over the world. He knows what black people are doing and he knows what white people are doing. He can see on the 6 o'clock news screen the picture of the 3 o'clock bite by the police dog. He knows about the new free nation of Africa and he knows that a Congo native can be a locomotive engineer, but in Jackson he cannot even drive a garbage truck."

Medgar spoke those words 40 years ago, Mr. Speaker, just days before his assassination. He described a time and place that many African Americans still know all too well. Medgar's legacy is one of opportunity. He often spoke of political, economic, and educational opportunities. Today, we are faced with many of the same challenges. While the poll tax and the literacy tests are no more, the Voting Rights Act, which was enacted 2 years before Medgar's assassination, is still needed to protect the interests of African Americans and other minorities.

I join my colleagues who have been on the floor here today in paying tribute to a great Mississippian, one who paid the ultimate sacrifice, Mr. Speaker, which is to give one's life for what he or she believes in. So part of what we commemorate today is not only Medgar Wiley Evers but his widow, who carried on in his stead. She headed the NAACP, she carried on a number of other organizations, and as we speak today, she has started the Medgar Evers Institute, which will carry on the life and legacy of her assassinated husband. For that we owe Medgar a debt of gratitude.

I am honored to stand here today, Mr. Speaker, and pay tribute and honor to a man who so many of us are indebted to. After all, Medgar was right: "You can kill a man, but you can't kill an idea."

Mr. Speaker, I rise today to honor America's most under-celebrated martyr of the Civil Rights Movement, Medgar Wiley Evers. Born in Decatur, MS, Medgar dedicated the 37 years of his life to the causes of racial equality and equal opportunity. As a 15-year-old boy in Bolton, MS, I recall one of Medgar's last televised speeches. He said:

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>
> He sees a city over 150,000, of which 40% is Negro, in which there is not a single Negro policeman or policewoman, school crossing guard, fireman, clerk, stenographer or supervisor employed in any city department or the Mayor's office in other than menial capacities . . .
>
> What then does the Negro want? He wants to get rid of racial segregation in Mississippi life . . . The Negro citizen wants to register and vote without special handicaps imposed on him alone . . . The Negro Mississippian wants more jobs above the menial level in stores where he spends his money. He believes that new industries that have come to Mississippi should employ him above the laboring category. He wants the public schools and colleges desegregated so that his children can receive the best education that Mississippi has to offer.

40 Years Wasn't That Long Ago

Medgar spoke those words 40 years ago, just days before his assassination. He described a time and place that many African-Americans still know all-too-well. Medgar's legacy is one of opportunity. He often spoke of political, economic and educational opportunities. Today, we are faced with many of the same challenges. While the poll tax and the literacy test are no more, the Voting Rights Act—which was enacted 2 years after Medgar's assassination—is still needed to protect the political interests of African-Americans and other minorities. Mississippi still trumps the rights of her African-American citizens by seizing their land in the name of economic development, then kicking them out of the development. For the last 28 years, Mississippi resisted the efforts of her African-American children to end discrimination at her colleges and universities. Medgar's legacy tells us to embrace the opportunity to make racial equality a reality.

Today, I encourage young people to continue the fight Medgar so bravely began. Medgar Evers is proof that sometimes the good die young. So, the least we can do is to live our lives in such a way that his dying will not have been in vain.

I want to commend Myrlie Evers-Williams and the Medgar Evers Institute for carrying Medgar's torch. As advocates for change, we understand that June 12, 1963, signaled the start of a new chapter in Mississippi and American history. I am proud to say that today, Congress will recognize the enormous contribution Medgar and Myrlie have made and continue to make to, not just Black history, but American history. Their tireless dedication to the disenfranchised is nothing less than admirable. No Mississippian did more to empower the disenfranchised than Medgar Evers.

For that, we all owe him a debt of gratitude. I am honored to stand here today and honor the man to whom so many of us are indebted. After all, Medgar was right—"You can kill a man, but you can't kill an idea."

Mr. PICKERING. Mr. Speaker, how much time is remaining on our side?

The SPEAKER pro tempore. The gentleman from Texas (Mr. CARTER) has 7 minutes remaining, and the gentleman from Illinois (Mr. DAVIS) has 6 minutes remaining.

Mr. CARTER. Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from Mississippi (Mr. PICKERING), for the purposes of control.

The SPEAKER pro tempore. Without objection, the gentleman from Mississippi will control the time.

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume to commend the gentleman from Mississippi (Mr. PICKERING) and the gentleman from Mississippi (Mr. THOMPSON) for introducing this legislation. I also want to commend the gentleman from Texas (Mr. CARTER) and say what a pleasure it has been to work with him this afternoon. I appreciated his comments and the pleasure of having the opportunity to work with him.

Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from Mississippi (Mr. THOMPSON) to close out for our side.

The SPEAKER pro tempore. Without objection, the gentleman from Mississippi will control the time.

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

Today, we have celebrated, in some respects, the 40th anniversary of the assassination of Medgar Wiley Evers who, in his lifetime, was misunderstood by a number of Americans.

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But here we are 40 years from that date on the floor of Congress, many people watching us who probably had not been afforded the right to vote when he was assassinated, but this is the majesty and honor of this country that we serve in that, believe it or not, that hands who pick elected officials who used to pick cotton can now pick Members of Congress. It is in that spirit that we offer this resolution not only for Medgar Wiley Evers, but also for his widow, Myrlie Evers, who has carried on his life and legacy, his spirit and his enthusiasm for making this country a better place.

Ms. NORTON. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of Mississippi. I yield to the gentlewoman from the District of Columbia.

Ms. NORTON. Mr. Speaker, I want to simply say that perhaps the greatest monument to Medgar Wiley Evers would be to see the gentleman from Mississippi (Mr. THOMPSON) on this floor. The notion in 1963 that there could be an African American in the Congress of the United States from the State of Mississippi was very far removed from where we were. We were literally trying to get a cup of coffee and trying to teach people how to respond to the people at the voter registration place just to get the right to vote.

The gentleman from California (Mr. THOMPSON) is the first African American to be elected from the State since Reconstruction. In his own right, he is an historic figure and one that people who love freedom around the country are proud of, precisely because of the reputation of Mississippi. That is Mississippi before. The gentleman from California (Mr. THOMPSON) represents Mississippi after. This is a State where a third of the voters are African Americans, more voters are African Americans than in any other State, and one might expect that there would be more than one African American in Congress, and yet when the gentleman pressed through to become the first in the 20th century, it was a real landmark. Therefore, it seems to me it is appropriate that he would have made it back from the cemetery where Medgar Wiley Evers' life was commemorated to have this moment on the floor, which is perhaps the moment, the moment when the gentleman from Mississippi rushed in to make sure he could speak on the floor of the House of Representatives.

If Medgar Wiley Evers lived for any moment, it is for this moment.

Mr. THOMPSON of Mississippi. Mr. Speaker, I appreciate the gentlewoman's comments.

Mr. Speaker, it was a different day. It is a date that if Medgar Wiley Evers were here, he would be very proud to see debate on this floor, to see individuals from all walks of life representing people here. This is what democracy is all about. I appreciate all that has been said. It is in this spirit that we move forward from this day, not just in my State, but in this country to make it indeed a better place.

Mr. Speaker, I yield back the balance of my time.

Mr. PICKERING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me thank the gentleman from Mississippi (Mr. THOMPSON) for his leadership on the resolution today, for asking me to join with him, as we at the Arlington Cemetery joined together today not only with the gentleman from Mississippi (Mr. THOMPSON), but Senator COCHRAN, who led this resolution in the Senate last week, and Senator LOTT, who was present at the cemetery today, shows that not only does an idea live on, but the example of courage and also the attitude of wanting not only to love all people, to find a way that not only did we demand the equality and the freedom that God gives us, but then we find a way to work together and come together. I think the message from Myrlie Evers today and from the other speakers, from the gentleman from California (Mr. THOMPSON), is in the best sense not only the best example from Mississippi, but one of the best examples for our Nation as we try to heal the wounds and reconcile and work together, and to continue the work and the commitment of equal opportunity for all of our people and all of our citizens.

I am proud to represent the home of Edgar Evers in east central Mississippi, Newton County and Decatur. Last week, Mississippians from all over the State joined to celebrate his birthplace and to commemorate his life and his death 40 years ago, but it was in one of the regions that some of the most violent and hateful struggles, and now 40 years later, all races, all backgrounds, all political parties coming to pay tribute to Medgar Wiley Evers and his family. It is a tribute and example of what our Nation has become and what our State has become and is becoming, but it reminds us that we still have much to do, and that the commitment of Medgar Evers who has harassed, intimidated, beaten and who was eventually killed, that that example, that life lived, makes us all recommit and renew and hope for the great idea, the great ideal and the redemption and the potential and the promise of this country.

Mr. Speaker, I thank the gentleman from Mississippi (Mr. THOMPSON) for his leadership on this issue, and thank all of the Evers family for what they have meant to our home State and to our Nation.

Mr. SMITH of Washington. Mr. Speaker, I appreciate the opportunity to offer my thoughts on H. Con. Res. 220, a resolution commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams, for their lives and accomplishments.

I strongly support this resolution to commend Medgar Evers and his widow, Myrlie Evers-Williams, who were true heroes in their fight for justice, peace, and civil rights.

Medgar and Myrlie set up the first NAACP office in Mississippi, and fought tirelessly to desegregate local businesses and schools. They advocated boycotts of businesses that discriminated against blacks, fought for the enforcement of Brown vs. Board of Education, and helped James Meredith gain admittance to the University of Mississippi. Their efforts made not only Mississippi a better place, made America a better place.

On June 12, 1963, Medgar Evers made the ultimate sacrifice for his beliefs—he was shot in the back and killed. Myrlie later wrote about their struggles and their life together in a book entitled "For us, the Living", which I read as a young man. Her story of how humble and decent people fought hard to make a real difference in the lives of millions inspired me.

I regret that I cannot be here in person to vote on this important resolution, but as we recognize the 40th anniversary of Medgar Evers' assassination and commend him and his widow, the reason why I'm not able to vote is a particularly special one. One June 11, my wife Sara and I welcomed a son into the world, whom we proudly named Jack Evers Smith.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in solidarity with my congressional colleagues to honor the enduring legacy of Medgar Evers and Myrlie Evers-Williams for their lives of service and commitment to racial equality.

Medgar Wiley Evers, was born on July 2, 1925 in Decatur, Mississippi. In 1943, Mr. Evers left high school early and joined the U.S. Army to faithfully serve his country during WWII. After completing his military duties, Mr. Evers completed his high school education and enrolled at Alcorn College in Mississippi. It was here, at Alcorn College, that he met his future wife Myrlie Beasley in 1950. The following year, on December 24, 1951, the two were married.

After completing his undergraduate education Evers and his wife moved to Mound Bayou, Mississippi where they both became deeply involved in the unfolding civil rights era. During his time in Mound Bayou, Evers helped to establish local chapters of the NAACP throughout the Delta and organize boycotts of local gas stations that refused to allow blacks access to their restroom facilities. In 1954, the legendary ruling of Brown vs. Board of Education was passed deeming school segregation of any form legally unconstitutional. Yet despite this groundbreaking legal victory, efforts to actualize the legislation by means of school integration proved to be difficult at best. Mr. Evers applied to and was subsequently denied admission to the University of Mississippi Law School. And while his efforts to integrate the state's oldest public university were constantly ridiculed and criticized by traditionalists, Evers's willingness to fight the racial injustices of the time attracted the attention of many, including the national office of the NAACP.

Mr. Evers was ultimately appointed as the first Field Secretary for the NAACP; Myrlie Evers was his assistant. With her by his side, Medgar Evers worked diligently to register voters in Mississippi. His desire to encourage and promote the political empowerment of African-Americans throughout the south made him the target of violent threats against his life. However, despite the vicious verbal attacks against him, Evers and his wife continued with dedication and courage. They organized rallies and educated the public about the injustices of racial discrimination and the inequality that continued to exist in the public school system. His desire for quality education for all children even led him to file suit against the Jackson, Mississippi public school system. From there, Mr. Evers proceeded to organize college students, coordinate protest marches, organize boycotts of businesses in Jackson, arrange student sit-ins, and challenge the segregated bus system.

Throughout his life, Mr. Evers maintained that "violence is not the way." However even he was not able to avoid the violence that racial hatred produces. On June 12, 1963, Medgar Evers was shot and killed by an assassin's bullet in the driveway of his home in Jackson, Mississippi.

Myrlie Evers was known to say that "you can kill a man, but you can't kill an idea." In the years after her husband's assassination, Myrlie Evers dedicated herself to the preservation of her husband's memory by promoting those same ideas for which he ultimately gave his life. Even after remarrying, Mrs. Evers is often remembered for the diligent and often lonely battle she waged to bring Medgar Evers's killer to justice. Two trials resulting in two hung juries allowed the accused gunman to walk free. It was in 1994 that Byron De La Beckwith was brought to trial for yet a third time and was ultimately found guilty of the murder of Medgar Evers, more than 30 years after the crime was committed. This was the moment for which she had hoped and prayed, and now she could peacefully move on with the next chapter of her life.

On Feb 18, 1995, Myrlie-Evers Williams became the first woman elected to chair the National Board of Directors of the NAACP, a position that she held until 1998. In 1999, she published her memoirs, entitled "Watch Me Fly: What I Learned on the Way To Becoming the Woman I Was Meant To Be", which chronicles her journey from being the wife of a civil rights activist to becoming an acclaimed community leader in her own right. Having lived some of the most difficult times in her life in the face of public scrutiny, Myrlie Evers-Williams has accepted the fate that has been handed to her. She says: "I have reached a point in my life where I understand the pain and the challenges; and my attitude is one of standing up with open arms to meet them all."

The contributions made by both Medgar Evers and Myrlie Evers-Williams to our society are immeasurable. Their tireless efforts to advocate for civil rights during a time when our Nation failed to enforce the fundamental principles of freedom, equality, and justice for all citizens, speaks to the enormous impact these two individuals have had on our society. It is in this vein that I celebrate the life, legacy, and collective spirit of Medgar Evers and Myrlie Evers-Williams.

I would like to thank Representative THOMPSON for sponsoring this resolution and I wholeheartedly support H. Con. Res. 220.

Mr. WICKER. Mr. Speaker, the names Medgar and Myrlie Evers have been well known to me as a Mississippian since my youth. And there is no mistaking that the Mississippi of my youth was far different from today. Today's tribute to these two outstanding civil rights leaders provides an opportunity to look at the progress our State and our Nation have made in pursuit of equality, racial harmony, and reconciliation.

Medgar Evers was a man of principle who was not afraid to stand up for his convictions during a difficult time in our history. Myrlie Evers embodies the virtues of perseverance, faith, and belief in justice. Their legacy is one of courage and commitment to bring social change to Mississippi and to the Nation.

The impact Medgar Evers had on voting registration, black representation, and social justice is significant and lasting. Likewise, the effect Myrlie Evers-Williams has had as a national leader for all African Americans is a legacy to be cherished.

An on-line search for "Medgar Evers" returns 29,600 sites. Among them are "Sergeant, U.S. Army"; "Encyclopedia Britannica Guide to Black History"; "The Writings of Medgar Evers"; and "Medgar Evers College". From the shores of Normandy as a World War II veteran to the back roads of the Mississippi Delta to the streets of New York City, Medgar Evers made a lasting impact.

Many people know the story of Medgar Evers and his wife Myrlie from the acclaimed movie, "The Ghosts of Mississippi". They were leaders throughout their lives and determined to pursue a better life for African Americans in a nonviolent manner. It is ironic that the man who so often said, "Violence is not the way," would die a violent death outside his home in Jackson. As Medgar said before his death, "Freedom has never been free . . . I love my children and I love my wife with all my heart, and I would die, die gladly, if that would make a better life for them."

Even in death, Evers proved to be one of the most influential civil rights activists ever. His death led to John F. Kennedy's final push for a civil rights bill to ban segregation. It also sparked several marches in honor of Evers and in protest of the injustices of the South.

Hours after his death, his wife Myrlie addressed a crowd and said, "Nothing can bring Medgar back, but the cause can live on." How prophetic she was that night. She went on to become the Chair of the NAACP, and she has created the Medgar Evers Institute, which is helping to continue fostering the principles by which he lived and died.

Medgar Evers would be proud of the progress we have made in our native State over these past 40 years. We celebrate his legacy today by acknowledging that more work remains to be done and resolving to join together to continue his vision of achieving racial harmony and equal opportunity for all.

Ms. LEE. Mr. Speaker, today I rise in support of H. Con. Res. 220 and to pay tribute to the life and works of Medgar Wiley Evers.

Medgar Evers was a true pioneer in the fight for racial justice in Mississippi.

Organizing for the NAACP meant defying the political establishment, founded on white supremacy. It was an act of supreme courage and frankly of patriotism: Medger Evers fought to make this country live up to its own ideals. He became the first known African-American person to apply for admission to the University of Mississippi Law School, and was denied admission.

As a result of that denial, Medgar Evers contacted the NAACP to take legal action, and found himself centered in a movement that he felt compelled to advance. As a result of this new commitment, Medgar Evers was offered a position as the Mississippi Field Secretary for the NAACP.

Mr. Evers established local chapters of the National Association for the Advancement of Colored People throughout the Delta region in order to change the social, political, and economic condition of African Americans.

Placing his life and family in jeopardy, he consistently put the movement for equality above his own safety and security.

While organizing students from Tougaloo and Campbell Colleges, leading protest marches for equal and quality education, organizing boycotts of Jackson businesses and sit-ins, and challenging segregated bus seating he was targeted by racist police and community groups, arrested beaten, and even jailed.

The violence against Medgar Evers climaxed on June 12, 1963, when he was shot and killed in front of his own home, dying in front of his own wife and children. Although the racist factions in the Deep South thought they had silenced the great hero and his message; this tragedy catapulted Myrlie Evers into the face of Southern institutionalized racism as she fought for 31 years to have Medgar Evers' killer, Byron De La Beckwith, brought to justice. He was convicted in 1994.

We stand and pledge allegiance that our country will strive to someday provide liberty and justice for all people. The murder of Medgar Evers and the pursuit of justice exemplifies this ongoing struggle and reminds us that the United States has a long, and dark past of racism that we must confront and continue to remedy with racial healing and understanding, with affirmative action, equal opportunity, and access to jobs and education.

Mr. BACA. Mr. Speaker, I rise in support of H. Con. Res. 220, a resolution commending the life and accomplishments of Medgar Evers and his widow, Myrlie Evers-Williams.

History sometimes overlooks great Americans and forgets amazing accomplishments. The actions of Medgar Evers and Myrlie Evers-Williams are too great, too significant to be forgotten. Their accomplishments and sacrifices should not only be footnotes. Their lives should be celebrated and honored.

H. Con. Res. 220 lets America remember the names of these civil rights heroes. Medgar Evers was field secretary of the Mississippi State NAACP and after Medgar's death Myrlie Evers-Williams became chair of the board of directors of the NAACP. They fought for civil rights. They fought for human rights. They fought for someone like me to be considered equal in the eyes of the law and in the eyes of my fellow Americans.

They set up economic boycotts of Jackson, Mississippi businesses that discriminated against African Americans. They worked for school desegregation, helping James Meredith become the first black student at the white-only University of Mississippi. Perhaps most importantly, they fought to secure voting rights for African Americans in the South.

Medgar Evers and Myrlie Evers-Williams suffered greatly for their courage. They endured shouts, jeers, and threats of violence. And then on June 12, 1963, Medgar Evers was assassinated by white supremacists.

Unfortunately, it wasn't until after his death that Medgar Evers won the NAACP's prestigious Springarn Medal in 1963. And it wasn't until 1970 that Medgar Evers College was founded as a senior college of the City University of New York.

But today we will start singing his praise. And we will not stop. Today, we can place Medgar Evers and his widow Myrlie Evers-Williams on the list of civil rights heroes. Their names should be spoken in line with Martin Luther King and Rosa Parks. People will know their stories. Know their deeds. And know their accomplishments.

It is time. It is time to remember and never forget these two great civil rights heroes. These two great Americans.

Mr. RANGEL. Mr. Speaker, I rise today to honor two of the Nation's most outstanding civil rights leaders, Medgar Evers and Mrylie Evers-Williams, on the 40th anniversary of the assassination of Medger Evers. During the 1950s and 1960s, at the height of the civil rights movement, Evers battled racial injustice in his home state of Mississippi by becoming a prominent member of the NACCP in Jackson, Mississippi. He inspired others to utilize peaceful methods of protest to speak out against racial inequality through boycotts, sit-ins, and demonstrations. Myrlie Evers-Williams stood by her husband in the fight for civil rights by serving as his partner in organizing public demonstrations and his secretary when he became Mississippi's first field secretary for the NAACP. After his assassination, she emerged as a prominent figure in the realm of public service by serving on the Los Angeles Board of Public Works and eventually becoming the chairwoman of the NACCP. It is for these reasons, that I wish to acknowledge these two accomplished individuals. As I provide a short biographical sketch of Medgar Evers and Myrlie Evers-Williams, I encourage you to read Myrlie Evers-Williams' published memoirs to better understand the amazing accomplishments of these two individuals.

Medgar Wiley Evers, the son of James and Jessie, was born in Decatur, Mississippi on July 2, 1925. Evers put his high school education on hold to serve his country in the Battle of Normandy during World War II. Once he returned he completed high school and then earned a bachelor's degree in business administration from Alcorn Agricultural and Mechanical College where he met Myrlie Beasley from Vicksburg, Mississippi who he later married on December 24, 1951. He gained recognition in Who's Who in American Colleges for his active participation in his college's choir, debate team, football and track teams and his service to the college's newspaper and student government offices. While he worked as an insurance salesman in Mound Bayou, Mississippi he began to establish small chapters of the NAACP in the Mississippi Delta region. During that time he also began coordinating boycotts of gas stations that prohibited African-Americans from using their bathrooms. When segregation in public schools was ruled unconstitutional with the Brown vs. Board of Education of Topeka Supreme Court decision, Evers decided to apply to the University of Mississippi Law School being the first African-American to do so. He was denied admission thus his desire to fight racial injustice was further ignited. His rejection from the law school grabbed the attention of the NAACP's national office. Later that year, he was named the NACCP's first field secretary for Mississippi. He and his wife then moved to Jackson, Mississippi to establish the Jackson office of the NAACP. Because he was denied admission to the University's law school, he played an instrumental role in the admission of another African-American man James Meredith. In addition to encouraging and organizing African-American communities in Mississippi to participate in public demonstrations, he also urged them to take advantage of their voting rights because of his own voting experience in which he tried to vote in Decatur in 1946, but was turned away by white supremacists. Disregarding the numerous threats he received, Evers continued to publicly speak out against racial inequality, boycott discriminatory merchants, and encourage African-American communities in Mississippi to do the same until he was assassinated in his driveway on June 12, 1963. His brother Charles carried on his work with the NAACP after his death. In 1970, a senior college, part of the City University of New York, was named in his honor. Medgar Evers College is located in Crown Heights in Brooklyn, New York.

The tragic death of her husband led Myrlie Evers-Williams to move her family to California where she attended Pomona College. After earning her bachelor's degree in sociology, she began her career in public service as assistant director of planning and development for the Claremont College system. She later moved to Los Angeles to begin a job as the consumer affairs director for the Atlantic Richfield Company and in 1975 she married Walter Williams. In 1988, she became the first African-American woman to serve on the Los Angeles Board of Public Works when she was appointed by mayor Tom Bradley. During the early 1990s she pressured Mississippi prosecutors to reopen the case on her first husband's assassination. She eventually succeeded and finally in 1994, Medgar Evers's killer was found guilty by a jury and sentenced to life in prison. One year later, she was appointed the first female chair of the NAACP. Sadly, she also lost her second husband to prostate cancer that year. In 1999, her autobiography entitled, Watch Me Fly: What I Learned on the Way To Becoming the Woman I Was Meant To Be, was published. Her autobiography focuses on her life as the wife of a civil rights activist and a community leader.

Medgar Evers and Myrlie Evers-Williams have both made their mark in American history and will always be known for their pioneering efforts in American society.

Ms. WATSON. Mr. Speaker, I rise today in strong support of H. Con. Res. 220 that honors the lives and accomplishments of civil rights leaders Medgar Wiley Evers and his widow, Myrile Evers-Williams. I want to thank Congressman BENNIE THOMPSON for introducing and bringing this meaningful resolution to the floor.

Although their lives and contribution cannot be simply summarized in a few paragraphs, I want to nevertheless pay tribute to these two great civil rights leaders.

As a State senator from California representing parts of Los Angeles, I had the pleasure of working with Myrlie Evers-Williams during her tenure as a member of the Los Angeles Board of Public Works. As the first African American women on the Board, Myrlie oversaw the management of nearly $1 billion in city budget and a staff of 5,000 employees.

However, my admiration of Myrlie's work started over 50 years ago, when she partnered with her husband, Medgar Evers, to advance racial justice in the hostile environment of the 1950s. Medgar had been one of the early principal leaders of the civil rights movement, boldly registering to vote and applying for admission to the University of Mississippi Law School in the early 1950s. In 1954 Medgar became the Mississippi State field secretary for the NAACP and, together with Myrlie, they organized voter registration drives and civil rights demonstrations.

As visible leaders of the movement, the Evers became high-profile targets of terrorist acts of pro-segregationists. Despite the threats, the Evers persisted with courage and the determination to educate the public. However, on June 11, 1963, Medgar Evers was fatally shot in front of his house, and hung juries eventually freed the killer.

Myrlie began creating her own legacy in carrying on the critical work left by Medgar. She emerged in the 1980s and 90s as a political leader and an activist, founding the National Women's Political Caucus, running for Congress, and serving on the Board of Public Works in Los Angeles. In 1995, she became the first woman to chair the 64-member Board of Directors of the NAACP.

During her decades of activism, Myrlie never forgot the death of her husband. In the early 1990s she convinced Mississippi prosecutors to reopen Medgar Evers' murder case and eventually led to the conviction and life imprisonment of Medgar's killer in 1994—31 years after his murder.

The life of Myrlie Evers-Williams has been nothing short of extraordinary. In her autobiography, "Watch Me Fly: What I learned on the way to Becoming the Women I was Meant to Be", Myrlie stated that "for thirty years, my focus had not wavered. Like a tree deeply rooted on the bank of a rushing river, I had not moved." It is this persistence, her unwavering will to fight for equality, her determination and dedication for social justice, that has moved me, moved this legislative body, and moved the course of this entire nation.

I salute you, Myrlie and Medgar, for all you have done, for fighting the good fight.

Mr. PICKERING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Texas (Mr. CARTER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 220.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CARTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CARL T. CURTIS NATIONAL PARK SERVICE MIDWEST REGIONAL HEADQUARTERS BUILDING

Mr. HAYES. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 703) to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the "Carl T. Curtis National Park Service Midwest Regional Headquarters Building."

The Clerk read as follows:

S. 703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF CARL T. CURTIS NATIONAL PARK SERVICE MIDWEST REGIONAL HEADQUARTERS BUILDING.

The regional headquarters building for the National Park Service under construction in Omaha, Nebraska, shall be known and designated as the "Carl T. Curtis National Park Service Midwest Regional Headquarters Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the regional headquarters building referred to in section 1 shall be deemed to be a reference to the Carl T. Curtis National Park Service Midwest Regional Headquarters Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. HAYES) and the gentleman from California (Mr. FILNER) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 703 designates a building under construction in Omaha, Nebraska, as the Carl T. Curtis National Park Service Midwest Regional Headquarters Building.

Carl T. Curtis was born near Minden, Nebraska in 1905. Upon graduating from the public schools in Minden, Curtis attended Nebraska Wesleyan University in Lincoln, Nebraska. After his graduation from Nebraska Wesleyan, he taught in the Minden public schools. Carl Curtis never attended law school, but he obtained his law degree by reading the law on his own and passing the bar exam in 1930. He was in private practice until 1939 when he went on to serve Nebraska and the country in Congress for the next 40 years. He was elected to the U.S. House of Representatives for the first of eight successive terms in 1938, and the United States Senate for four terms until 1979.

Carl Curtis is the only elected official in the history of Nebraska to win statewide office while losing both Omaha and Lincoln. In Nebraska politics, he was known as a giant killer, defeating two incumbent governors, one former governor, one governor-to-be, and two former House Members.

He was chairman of the Republican Conference in the Senate from 1975 until 1979. In Congress, he served on the Committees on Finance, Agriculture, Rules and Space, and led the drive for flood control and irrigation improvements along the Missouri River.

He is the author of one book, and the coauthor of a second book, both on public policy.

Carl T. Curtis passed away in 2000 and is survived by his wife, Mildred, son Carl, Jr., four grandchildren and five great-grandchildren. This is a fitting tribute to a dedicated public servant, and I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today also in support of S. 703. This designation that we do today is a fitting tribute to the distinguished career of Carl Curtis. As the gentleman from North Carolina (Mr. HAYES) stated, he served the citizens of Nebraska for eight terms in the House and four terms in the Senate. He was a strong advocate for small business, agriculture producers and Social Security reform. In fact, he predicted very early in his career that Social Security would be a serious financial problem if the government did not plan for the future. We know he was a devoted family man, dedicated public servant, and distinguished elected official, and so it is both fitting and proper that we honor his civic contributions with this designation. I urge passage of S. 703.

Mr. Speaker, I reserve the balance of my time.

Mr. HAYES. Mr. Speaker, I yield such time as he may consume to the gentleman from Omaha, Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Speaker, I rise in support of S. 703. I have very fond memories as a child of meeting our great Senator from the State of Nebraska, Carl Curtis. In Nebraska, of course, having served as long as he did, he was an icon; but he was known as a statesman who really fought for Nebraska, and agriculture specifically. He has an unparalleled record of service to Nebraska. He was elected to eight terms in the U.S. House of Representatives and four terms to the United States Senate. Those 40 years distinguished Senator Curtis as the Nebraskan with the longest time in service in the U.S. Congress.

□ 1600

Naming a National Park Service building after Senator Curtis is especially fitting. He was a tireless advocate for America's environment and natural resources. One of his greatest accomplishments was sponsoring the resolution that helped create the Pick-Sloan plan for the Missouri River, the Nation's first-ever authorized basin-wide project for flood control and irrigation. By the way, Mr. Speaker, the new National Park Service building is on the banks of the Missouri River. This Pick-Sloan plan has made funding possible for every Bureau of Reclamation project on the Missouri River since 1944. Senator Curtis also authorized legislation establishing Nebraska's third and latest national monument, the Agate Fossil Beds in the city of Harrison. Flood control for the Republican River Valley is another one of his valuable accomplishments.

As chairman of the Republican Conference from 1975 to 1979, Senator Curtis revamped the organization to be the research and information-based body that it is today. As ranking Republican on the Senate Finance Committee, he was instrumental in enacting the Tax Reform Act of 1976. He had a passion for savings. He really understood how important it was for American citizens and American families to save for the future. Hence, his tireless work on what became known as the Roth IRAs. Our Senator Curtis from the State of Nebraska was the originator of the concept. He was considered, because of this tireless work on tax issues, to really be the Senator to go to on those type of issues. He had the honor to serve as Senator Barry Goldwater's floor manager at the 1964 Republican National Convention. Prior to his service, he was a dedicated school teacher and self-educated practicing attorney.

Although he passed on 3 years ago, Senator Curtis remains an inspiration to Nebraskans and a cherished father, grandfather, and great grandfather in the hearts of his family and to his wife, Mildred.

Mr. Speaker, I urge my colleagues to join me in supporting S. 703 to honor Senator Curtis for his outstanding public service.

Mr. HAYES. Mr. Speaker, I yield such time as he may consume to another distinguished gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, as has been mentioned a couple of times, Carl Curtis served in Congress for 40 years, longer than any other Nebraskan in the history of our State. Carl was the Congressman representing the Fourth Congressional District in Nebraska for 16 years. It is kind of interesting to note that at one time Nebraska had five congressional districts. Today we have three. That has to do, of course, with the fact that Nebraska has not grown in population as fast as most other States. Carl was from the central part of the State and was very popular in rural areas. He paid a lot of attention to agriculture.

Carl was a close friend of my father's. I knew Carl quite well. Carl was not a large man in terms of physical stature; but in terms of the way he comported himself in terms of his contribution to the State, he was a person of great proportion. Carl was always well-dressed, he was always well spoken, he was courteous to a fault, and he was truly well respected and well liked by both sides of the aisle. He was not a partisan individual. I think the term "statesman" really represents Carl very well.

I understand that early on in his life he apparently had some aspiration of being a politician and thought that public speaking abilities were important, so having lived on a farm, he went out and rehearsed his speeches to farm animals. Whether that educated them very well or not, we may have had some of the smartest animals in Nebraska due to Carl's rhetoric. As was mentioned earlier, he did pass the bar by "reading the law." I guess at one time you could do that. That is a little bit unusual, but at that time apparently you did not have to go to law school.

As the gentleman from Nebraska (Mr. TERRY) mentioned, probably the trademark legislation that Carl introduced was the Pick-Sloan project. At one time, the Missouri River ran wild every spring and there were numerous floods and whole villages got wiped out. Many people died. From Garrison Reservoir up in Montana to Sakakawea down in North Dakota and the whole series of dams in South Dakota, Oahe, a tremendous flood control project which now has great implications, of course, for recreation and barge traffic on the Missouri River down into Nebraska and Iowa was really very visionary and the most important thing that he did.

I think the gentleman from Nebraska (Mr. TERRY) mentioned that he was the floor manager at the Republican convention in 1964 where Barry Goldwater was nominated for President. Carl lived to age 95. Carl was bright and was articulate right up until the end. He was an amazing gentleman. His wife, Mildred, served on the Park Service board. So I think it is only fitting that because of his interest in flood control and Mildred's work on the Park Service board, that the National Park Service headquarters in Omaha be named after Carl. I along with others urge support of Senate 703.

Mr. FILNER. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. HAYES. Mr. Speaker, I want to once again thank the gentleman from Nebraska (Mr. OSBORNE) and the gentleman from Nebraska (Mr. TERRY) for bringing the distinguished Senator and House Member from the State of Nebraska to our attention for a most appropriate resolution. I recommend the strong support of the membership.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of S. 703, which designates the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the "Carl T. Curtis National Park Service Midwest Regional Headquarters Building." This legislation, which was introduced by Senator CHUCK HAGEL, passed the Senate on April 11, 2003, and was approved by the House Committee on Transportation and Infrastructure on June 2, 2003.

Carl Curtis was born in 1905 near Minden, Nebraska. He served in the House from 1939 until 1955 and subsequently served in the Senate until his retirement from Congress in 1979. His 40 years of congressional service set a record for Nebraska, and he served with dedication and integrity. Carl Curtis passed away in 2000.

This Member recalls how as a thirteen year old on a family vacation he visited Senator Curtis's Washington, D.C. office. On this occasion, and always, he showed his deep Nebraska roots as he spoke glowingly and knowledgeably about Nebraska and our Seward County community.

Carl Curtis believed that elected public service was an honorable calling and he lived up to that conviction. This Member greatly appreciated and admired his commitment to public service and to representative democracy.

This Member urges his colleagues to support S. 703, which would provide a fitting tribute to this outstanding former legislator, since the new National Park Service regional office will be built on the banks of the Missouri River, a river which was the focus of important legislation on which Senator Carl Curtis showed crucial leadership on a number of occasions.

Mr. HAYES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from North Carolina (Mr. HAYES) that the House suspend the rules and pass the Senate bill, S. 703.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HAYES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HAYES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on S. 703, the matter just considered by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 4 o'clock and 6 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1831

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PENCE) at 6 o'clock and 31 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 2254, by the yeas and nays;

H. Con. Res. 220, by the yeas and nays; and

S. 703, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second electronic vote will be conducted as a 5-minute vote.

BRUCE WOODBURY POST OFFICE BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2254.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. CARTER) that the House suspend the rules and pass the bill, H.R. 2254, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 369, nays 0, not voting 65, as follows:

[Roll No. 276]

YEAS—369

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Capps
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Cole
Collins
Conyers
Cooper
Costello
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hoyer
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts

Pombo
Pomeroy
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—65

Baker
Bell
Berman
Bishop (GA)
Boucher
Brady (TX)
Brown-Waite, Ginny
Cannon
Capuano
Carson (IN)
Clay
Coble
Cox
Cramer
Cubin
Davis (AL)
Deal (GA)
DeLay
Edwards
Frank (MA)
Gephardt
Gillmor
Gonzalez
Greenwood
Gutierrez
Gutknecht
Hinchey
Hinojosa
Hostettler
Houghton
Hulshof
Hyde
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Kind
King (IA)
Kingston
Kirk
Kleczka
Lampson
Lipinski
Lofgren
Menendez
Millender-McDonald
Miller, George
Nadler
Ortiz
Paul
Payne
Peterson (PA)
Pryce (OH)
Rodriguez
Rush
Ryun (KS)
Sandlin
Smith (WA)
Souder
Tauzin
Taylor (NC)
Toomey
Towns
Waters
Weldon (FL)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PENCE) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1852

Messrs. CUMMINGS, BLUMENAUER and MILLER of Florida changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. KIRK. Mr. Speaker, on rollcall No. 276, due to mechanical problems on United Flight 618, I missed rollcall No. 276. Had I been present, I would have voted "yea."

COMMENDING MEDGAR WILEY EVERS AND MYRLIE EVERS-WILLIAMS FOR THEIR LIVES AND ACCOMPLISHMENTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 220.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. CARTER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 220, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 376, nays 0, not voting 58, as follows:

[Roll No. 277]

YEAS—376

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Capps
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Cole
Collins
Conyers
Cooper
Costello
Cox
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hoyer
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—58

Bell
Berman
Boucher
Brady (TX)
Brown-Waite, Ginny
Cannon
Capuano
Carson (IN)
Clay
Coble
Cramer
Cubin
Davis (AL)
Deal (GA)
DeLay
Edwards
Frank (MA)
Gephardt
Gillmor
Gonzalez
Greenwood
Gutierrez
Hinchey
Hinojosa
Hostettler
Houghton
Hulshof
Hyde
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Kind
King (IA)
Kingston
Kleczka
Lampson
Lipinski
Lofgren
Menendez
Millender-McDonald
Miller, George
Nadler
Ortiz
Paul
Payne
Peterson (PA)
Pryce (OH)
Rodriguez
Ryun (KS)
Smith (WA)
Souder
Tauzin
Taylor (NC)
Toomey
Towns
Waters
Weldon (FL)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are respectfully advised that there are 2 minutes remaining in this vote.

□ 1900

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CARL T. CURTIS NATIONAL PARK SERVICE MIDWEST REGIONAL HEADQUARTERS BUILDING

The SPEAKER pro tempore (Mr. CULBERSON). The pending business is the question of suspending the rules and passing the Senate bill, S.703.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. HAYES) that the House suspend the rules and pass the Senate bill, S. 703, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 378, nays 0, not voting 56, as follows:

[Roll No. 278]

YEAS—378

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Capps
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Cole
Collins
Conyers
Cooper
Costello
Cox
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hoyer
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—56

Bell
Berman
Boucher
Brady (TX)
Brown-Waite, Ginny
Cannon
Capuano
Carson (IN)
Clay
Coble
Cramer
Cubin
Davis (AL)
Deal (GA)
DeLay
Edwards
Frank (MA)
Gephardt
Gillmor
Gonzalez
Greenwood
Gutierrez
Hinchey
Hinojosa
Hostettler
Houghton
Hulshof
Hyde
Jenkins
Kind
King (IA)
Kingston
Kleczka
Lipinski
Lofgren
Menendez
Millender-McDonald
Miller, George
Nadler
Ortiz
Paul
Payne
Peterson (PA)
Pryce (OH)
Rodriguez
Ryun (KS)
Smith (WA)
Souder
Stupak
Tauzin
Taylor (NC)
Toomey
Towns
Waters
Weldon (FL)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FRANKS of Arizona) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1918

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 342, KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–154) on the resolution (H. Res. 276) waiving points of order against the conference report to accompany the Senate bill (S. 342) to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, because of a rainstorm delay in Houston, I was unavoidably detained on rollcall vote No. 267, the Bruce Woodbury Post Office Building; and to my great disappointment, rollcall vote No. 277 to commend Medgar Wiley Evers and Myrlie Evers-Williams. If I had been present, I would have voted "yea" on rollcall No. 276 and "yea" on rollcall No. 277.

FORD MOTOR COMPANY CELEBRATES CENTENNIAL

(Mr. McCOTTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOTTER. Mr. Speaker, 100 years ago today an innovative man named Henry and 11 pioneering entrepreneurs signed the articles of incorporation of the company destined to revolutionize the entire world. The innovative man was Henry Ford. And the company, an employer of 300,000 Americans, a global automotive leader and a cherished symbol of our Nation's entrepreneurial spirit and manufacturing might is, of course, the Ford Motor Company.

This past weekend, more than 1 million people from across the globe gathered on the grounds of the Ford Motor Company headquarters in Dearborn, Michigan, to celebrate the storied achievements of the first 100 years of the Ford Motor Company and its founder, Henry Ford, and to commence the company's next 100 years of unparalleled economic vitality under its current leader, William Clay Ford, Jr.

Mr. Speaker, let us, too, add our voices to those voices across America and the entire world and wish the Ford Motor Company a hale and heartfelt "Happy Birthday."

ROADLESS RULE ROLLBACK

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, people who care about the environment were heartened 2 weeks ago when the administration declared they would uphold the roadless area conservation rule. But alas, the other shoe dropped. Last week the administration announced it would be proposing new regulations to exempt Alaska's national forests from the rule, reopening them to logging and road-building. More troubling, the administration will also turn over significant authority over Federal forests to States, allowing governors to apply for exemptions.

As pointed out by the Boston Globe on June 15, the national forests are called that because they belong to the Nation as a whole, not to governors, and certainly not to an administration in Washington that has put a former timber lobbyist in charge of them. Now the Bush administration is doing its best to turn over large sections of the forest to timber companies in spite of a Clinton administration rule that would have protected them. The result is the largest, most extensive rulemaking in United States history is now being undertaken, and it is a tragedy.

WOMEN INVOLVED IN MIDDLE EAST PEACE PROCESS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, in the backdrop of 50 Israelis and Palestinians losing their life, there was a glimmer of hope in Oslo, Norway, where I met with Palestinian women, leaders of government, along with Israeli women, members of the Knesset Israeli parliament. Although it started off with tense feelings, members walking out of the meeting, recounting the deaths of their loved ones, at the end these women stood together and committed themselves to a cooperative effort toward peace.

Mr. Speaker, I believe it is imperative that women be engaged in the peace process. That is why I will file legislation to reignite the United Nations resolution which has not been implemented to create a peace commission comprised of women to be involved in the Middle East peace process and peace processes around the world.

I commend the fact that there is an envoy appointed by the President, but I would also commend the names of former Presidents Jimmy Carter, William Clinton and George Bush, and former Secretary of State Madeleine Albright to be engaged in this process that should not be a start and stop, but rather an ongoing process for peace.

Women bring a unique perspective to peace, and this Oslo, Norway summit, in cooperation with the Nobel Peace Institute, is imperative.

Mr. Speaker, in conclusion, I ask for an investigation into the findings of the weapons of mass destruction, and I believe we can do this in the name of truth.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

FIGHTING AUTISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, normally when I come down here, I bring a litany of pictures, a poster, to show the children who have been damaged, their parents believe, by the mercury that has been used in children's vaccines.

Most Americans do not know this, but since the 1930s, many if not most of our vaccinations for children have contained a product called thimerosal, which is partially mercury, and Members know mercury is toxic to the human brain. As children started getting more and more vaccinations required by school boards across the country, the children got more and more mercury injected into their bodies. My grandson received nine shots in one day as an infant, and seven of those contained mercury. Within a matter of a couple of days he became autistic.

People do not know what autism is unless they have experienced it. He ran around flapping his arms. He was a normal child, would walk, talk, smile and laugh like other children, but he flapped his arms, ran around banging his head against the wall, lost his ability to communicate, and he would not look you in the eye anymore. He has had constant diarrhea or constipation, alternating between the two.

Parents across the country have experienced this. I have received thousands of letters from parents who have autistic children who are convinced that the mercury in these vaccines, which has a cumulative effect on the brain, was a contributing factor to their autism.

About 10 years ago, 1 in 10,000 children were adjudged to be autistic. Now it is 1 in 200. We have a 50-fold increase. It is the biggest epidemic that we can remember as far as children are concerned, and yet the American public is not aware of it. We really have to do something about it.

Back in the 1980s, in order to protect the pharmaceutical companies, we passed the Vaccine Injury Compensation Fund Program, and it protected the pharmaceutical companies against lawsuits, but in exchange there was money being put into a fund from each vaccination to take care of those children or adults damaged by vaccinations. It now has $1.8 billion in it. It was supposed to be a nonadversarial program, but it has become very adversarial.

The parents of these children who have had to mortgage their homes and sell their property to help their children, are going bankrupt to take care of their children, have not been able to get a dime out of the fund. And many of those parents did not get in within the 3-year time limit the law required because they were not aware that we had vaccination injury compensation program, and many were not aware that their children were adjudged autistic.

Mr. Speaker, we have to open that program up so that every parent has access to the fund. If we can prove that mercury was the culprit in their children's autism, they ought to be able to get funds from that fund to take care of their family and all of the expenses that they are incurring.

We need to get more money for the IDEA program to help with remedial education for these children that can be helped. If we do not deal with it right now, in 10–15 years when these children become adults, we are going to have a terrible problem because they will not be productive citizens. Many will have to be institutionalized, becoming a burden on the taxpayers. The parents of these children do not want to face that.

Mr. Speaker, we really need to address this issue in both the House and the other body to make sure that every parent has access to the Vaccine Injury Compensation Fund and has a fair hearing, their fair day in court.

□ 1930

GIs FRUSTRATED BY LACK OF RESPONSE TO MEDICAL NEED IN IRAQ

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, this weekend in our local newspaper and across this country, a major story appeared with a photo that is unforgettable, a photo of Sergeant David Borell and Sergeant First Class Bryan Pacholski, both deployed outside of Baghdad, both members of the 323rd Military Police Company based in Toledo, Ohio, the center of my district. The title of the article is "Children's Suffering Wounds GIs: Toledo Soldier Frustrated by Lack of Response to Medical Need." I am going to include this article, the full article, in the RECORD tonight along with Sergeant Borell's comments; also a letter I am sending to Secretary Rumsfeld this evening asking that based on these reports out of Iraq, I am requesting a personal meeting with the Secretary to propose an expedited schedule by the United States to establish temporary field hospitals in Iraq, perhaps in concert with our Arab allies, serving the wounded and the suffering.

With Baghdad's early fall, sufficient funds have been appropriated by our Appropriations Committee to accommodate these facilities. We can work with other organizations around the world, but without question the United States is in the lead now. It is important that we rise to this moral imperative. It is our sacred obligation to do so.

Let me report what Sergeant David Borell says, who, by the way, should get a promotion by the Department of Defense for his honor. He works close to a sign that reads: "Working Together With the Iraqi People for Peace and Prosperity." That sign is placed near the North Gate to Sustainer Army Airfield northwest of Baghdad. He says, "The implications of those words, 'Working Together With the Iraqi People for Peace and Prosperity,' it would seem, are far-reaching. Perhaps even all-encompassing. To me, it would seem to say that we, the Americans, are here to help. Help restore the Iraqi economy, help restore law and order, help the Iraqi people build anew that which has been taken from them. And, surely, help them in their times of dire need. Help them when there are truly none others for them to turn to."

The photo says it all: "Sergeant First Class Bryan Pacholski comforts Sergeant David Borell, both from Toledo." Why is he comforting Sergeant Borell? And it says, Sergeant Borell "saw something that flies in the face of every moral lesson I have ever learned from my leadership in the military." He says, "I used to be proud of what I'm doing and of being an American soldier, but after today I wonder if I will still be able to carry the title soldier with any pride at all. Or simply with the knowledge that a soldier couldn't even help three small severely burned children." He says, "We came here to depose Saddam Hussein, a mission we accomplished. But the second mission was one of greater importance and purpose, to be part of a force that would serve to provide the Iraqi people with a freedom that they have never known." It seemed to him to be the noblest mission of all. In almost 14 years of military service, the Army taught him many things, duty, honor, obligation; and though he was also taught to be a warrior, at the same time he thought he was taught to be a humanitarian. But he saw something during his service in the last week which caused him to question all of that.

While working at that North Gate, he was approached by an Iraqi father in need of assistance who took him to the back of his car where his wife and three children waited with a patience which could only have been borne out of a life of adversity. Once there, the father showed him his first son. He was a boy of 10 or 11 years of age. His eyes were a deep shade of brown, and he stared at the sergeant without tears. His mother held him in her arms and gently fanned him with a piece of cardboard both for comfort and to keep flies off of him. Across his body were wounds of unimaginable origin. Most of his legs and arms were singed clean of the top layers of flesh. His face was contorted with the same manner of burns. The sergeant says, "I can only imagine the intensity of the pain he was in. He said nothing to me, but his eyes pleaded with me nonetheless. He was in need of help, the very help I was trained to offer."

And so the sergeant called the doctors in the field and it took them an hour to arrive. In the front seat of this same car were his two sisters equally burned, one around 5 years old and the older 8 or 9. One blister on her right hand was the size of a baseball. Like their brother, they did not even complain. They made no sound at all. And the chain of command decided they deserved no treatment, and they turned them away.

Mr. Speaker, I would like to end my remarks tonight and read the last two sentences that say, "The Army failed three young children in Iraq today for no reason. After today, I wonder if I will still be able to carry the title soldier with any pride at all, because this soldier couldn't even help three small children."

Secretary Rumsfeld, we need your help. We need field hospitals in Iraq now.

SIRS: The following incident occurred on 13 June 2003. Any exposure you can create for this would be greatly appreciated. Also there when this happened were correspondents or representatives of FoxNews, the Associated Press, the New York Times, the LA Times, the Chicago Tribune, and various foreign media.

WORKING TOGETHER WITH THE IRAQI PEOPLE FOR PEACE AND PROSPERITY.

That's what the sign reads at the North Gate to Sustainer Army Airfield Northwest of Baghdad. The implications of those words, it would seem, are far-reaching. Perhaps even all-encompassing. To me, it would seem to say that we, the Americans, are here to help. Help restore the Iraqi economy, help restore law and order help the Iraqi people build anew that which has been taken from the. And, surely, help them in their times of dire need. Help them when there are truly none others for them to turn to.

As a military force, we came to this country under two pretenses. One, to rid the world of what has been termed a dire and immediate threat to world peace. This threat was embodied in Saddam Hussein and the Baath Party he led. We accomplished, if not completely, then at least practically, that goal. Saddam is no longer in a place of power here. Instead, we created, hopefully, a foundation for the Iraqi people to rule themselves. Our second pretense was much more enigmatic. We came to give the Iraqi people peace and freedom such as many Americans have known all their lives. This second mission was, to me, one of greater import and purpose. I came to be a part of that force that would serve to provide the Iraqi people with a freedom that they have never known. It seemed to me a noble mission at the least.

In almost 14 years of military service, the Army has taught me many things. Most of what I believe about duty, honor and obligation has come from those things I learned as a young soldier. I was taught to be a warrior and an unstoppable, indefatigable combat power, but, at the same time, to be a humanitarian. To give any assistance I could possibly provide to those people who were innocent of hostilities or even those who were not but who no longer represented a threat to U.S. forces. I learned that the American military was meant to be much more than a combat force. That we are a peacekeeping force, trained and equipped not only for the perils of combat, but also, and sometimes above all else to help. To build instead of destroy. I came to Iraq as a Military Policeman to rebuild and practice that which has been so deeply ingrained in me throughout those years of military service. And to be a part of that greater purpose I believe we all seek.

But today, I saw something which caused me to question exactly where the Army as an institution places it teachings. I saw something that flies in the face of every moral lesson I have ever learned from my leadership in the military. Moreover, it flew in the face of simple human dignity and obligation.

While working at that North Gate of Sustainer Army Airfield, not far from the sign at the entrance, I was approached by an Iraqi father in need of assistance. He took me back to his car where his wife and three children waited with a patience that could only have been born of a life of adversity. Once there, he showed me first his son. He was a boy of perhaps 10 or 11 years old. His eyes were a deep shade of brown and stared at me without tears. His mother held him in her arms and gently fanned his with a piece of cardboard both for comfort and to keep flies off of him. Across his body were wounds of unimaginable origin. Most of his legs and arms were singed clean of the top layers of flesh. His face was contorted with the same manner of burns. I can only imagine the intensity of the pain he was in. He said nothing to me, but his eyes pleaded with me nonetheless. He was in need of help. The very help that I was trained to offer. In fact, the very help I was taught, and fervently believe, it is my duty to offer. He didn't ask much, or so I thought. Only some relief from the pain that a boy his age should never have to endure.

But the damage didn't end there. In the front seat were his sisters. The youngest was around 5 years old and the older one around 8 or 9. They too were covered in burns. The five year old had hands covered with burns. The right half of her face had also been burned. On her right hand was a blister the size of a baseball. The eight year old suffered the same agonizing injuries. Both her arms and hands and the left side of her face were covered. Like their brother, they did not cry nor even complain. They made no sound at all. One look into their eyes, though, and no word of complaint was necessary. No verbal communication could possibly have conveyed the amount of pain or suffering they were going through. But, looking into their eyes. I knew that they were pleading with me to help. If not as an American soldier, trained and equipped to do so, than as a fellow human. They were asking me and they were asking America. I could no more ignore this pleading than if it were to have come from my own daughters. And it was my own daughters I saw when I looked at these young girls.

Without hesitation, I made contact with the only people available to me and requested assistance. My chain of command contacted the base hospital and, after what seemed an eternity to me but was more realistically probably only an hour or so, assistance finally came in the form of two Majors, both doctors, from the base hospital. But even an hour of so seemed too long to me. Judging from the traffic on the radio, there was apparently lengthy discussion as to whether or not any assistance at all would be forthcoming. But it did finally come, and I fully believed that these children would receive at least some care. At minimum, a token amount to relieve their suffering until something else could be done. My beliefs, my faith in the Army were not to be realized.

Both "doctors" looked briefly at the son. Perhaps a minute. No probing, no questioning as to the extent of the injuries. No discussion as to how they could help. And, without so much as a cursory examination of the girls, announced that there was nothing they could do. "Long-term care" is what they said was needed. "These wounds are not life-threatening" was emphatically pronounced. And, most injuriously to my conscience, that we, as Americans, had not caused the wounds and, thusly, would not treat them. I was informed that the "rules of engagement" for the treatment of local nationals was that the wounds had to threaten life, limb or eyesight or had to have been caused by Americans. The children were coarsely sent on their way with no treatment administered. I was left with nothing to answer the pleading of these children but to empty my first aid bag of anything useful to give their father. And empty it I did, but to what end? It wasn't enough and he and I both knew it.

What would it have cost us to treat these children? A few dollars perhaps. Some investment of time and resources. But are we not here for just that purpose? Did we not depose the "evil regime"? Or did we just replace it with one of our own making? I cannot imagine the heartlessness required to look into the eyes of a child in horrid pain and suffering and, with medical resources only a brief trip up the road, ignore their plight as though they are insignificant. Only Iraqis seeking that which they should be able to provide themselves. "We are not here to be the treatment center for the country." These words were actually spoken to me by one of the "doctors". But, if not us, then who? The local "hospital", if it can even be called that, had already refused them treatment. There was no one else.

The last time I checked, prior to the arrival of American and coalition forces, the Iraqi people had a government, albeit an appalling one. And they had an infrastructure, albeit a surely inadequate one. But, we, in our "noble" effort to give the Iraqi people freedom and secure peace for the world, have taken what little they had away. They no longer have any real form of government, and, lacking that, no true infrastructure. So who is to provide these things taken from them? By virtue of the morals and standards taught me by the Army, we, as Americans, are. It is we who are here to "work together". It is we who mean to give the Iraqis "peace and prosperity." Apparently, working together does not mean medical treatment for children who have done nothing wrong and have nowhere else to turn.

I wear a silver bracelet on my arm. It was given to me by my wife before I was deployed here. On one side is engraved "Duty, Honor, Country" and on the reverse is "With Love, Rachelle". I wear it to remind me of why I'm here. Why I'm so far from my wife and children, why I'm sacrificing my time and my energy and placing myself at personal risk of injury or death. "Duty, Honor, Country" is what I have been taught for almost 14 years. But the Army failed 3 young children today for no reason. And, in so doing, they betrayed those values. I used to be proud of what I'm doing and of being an American soldier. After today, I wonder if I will still be able to carry the title "soldier" with any pride at all. Or simply with the knowledge that a "soldier" couldn't even help 3 small children.

David J. Borell,
Sergeant, US Army,
323rd Military Police Company,
Balad, Iraq,
North Gate Sustainer Army Airfield,
(Northwest of Baghdad)

[From the Toledo Blade, June 14, 2003]

CHILDREN'S SUFFERING WOUNDS GIs

TOLEDO SOLDIER WANTS TO HELP INJURED IRAQI CHILDREN

(By Joe Mahr)

Ohio Army National Guard Sgt. David Borell peered into a car outside his Iraqi base yesterday, and the Toledoan's mission seemed obvious.

There sat three children with burns on their arms, legs, and faces. One had layers of skin singed from his extremities. Another had a baseball-sized welt on her hand. The look in their eyes said one thing: Help.

The military police sergeant quickly radioed for medics, but it took about an hour for doctors to arrive. Even then, the doctors refused to help—saying the wounds weren't "life threatening." And the sergeant could think only of how he'd react if it were his children back home suffering such pain.

After the doctors left, he broke down.

"I saw something that flies in the face of every moral lesson I have ever learned from my leadership in the military," he wrote in an e-mail sent to The Blade last night.

The 30-year-old's frustration is not the only angst among family, friends, and soldiers of Toledo's 323rd Military Police Company, which has been deployed for 16 of the past 20 months.

They've spent the past two months in Kuwait and Iraq—most of that time based on one of the hottest spots since the declared end of major combat: Balad, about 40 miles northwest of Baghdad.

They've been shot at, had rocks thrown at them, and endured triple-digit heat—with no formal date set for return. Back home, some of their loved ones have begun asking elected leaders to get the Army to set a return date, if only a tentative one, for a unit that could be in Iraq until January, and perhaps longer.

"We understand they've got to be there," said Brad Eckhart, whose wife is a medic with 323rd. "But they're being jerked around, and that's really damaging morale."

For Sergeant Borell, he said the frustration erupted during a shift guarding the north gate of the Sustainer Army Airfield—where the sign reads "Working together with the Iraqi people for peace and prosperity."

The 1991 Sylvania Southview High School graduate has made a career of the military, spending 13 years alternating between the regular forces an the Guard. He said the mission in Iraq seemed noble when the 323rd arrived: Toppling a cruel dictator who threatened world peace and helping the Iraqi people build a new country.

The latter mission seemed a more important and fitting role, he said, for an Army that taught him "to be a warrior, and an unstoppable, indefatigable combat power, but, at the same time, to be a humanitarian."

So he didn't hesitate when a father approached him outside the base gate yesterday to show the sergeant his injured children—who apparently were playing with explosive material.

"He took me back to his car where his wife and three children waited with a patience that could only have been born of a life of adversity," Sergeant Borell recalled.

The mother held a 10 or 11-year-old in her arms, fanning the boy's face with a piece of cardboard to keep the flies off and soothe what the sergeant described as "wounds of unimaginable origin."

"Most of his legs and arms were singed clean of the top layers of flesh," Sergeant Borell said. "His face was contorted with the same manner of burns. I can only imagine the intensity of the pain he was in."

In the front seat, a girl age 8 or 9 had her arms, hands, and the left side of her face covered with burns. Beside her was a girl about 5, the right side of her face covered with burns, and a baseball-sized welt on her hand.

They made no sounds, the sergeant said, but it didn't matter.

"No verbal communication could possibly have conveyed the amount on pain of suffering they were going through," he said. "But looking into their eyes, I knew that they were pleading with me to help. If not as an American soldier, trained and equipped to do so, then as a fellow human. They were asking me and they were asking America."

The sergeant passed on the request to his commanders, who contacted the base hospital, which eventually sent two doctors with the rank of major. They looked at the boy for "perhaps a minute . . . and without so much as a cursory examination of the girls, announced that there was nothing they could do."

The doctors told the sergeant that the wounds were not life-threatening, that the children needed long-term care, and that it wasn't the Americans' responsibility.

Sergeant Borell said that one doctor told him: "We are not here to be the treatment center for the country."

The local hospital already had refused to treat the children. So the sergeant gave the father all the supplies from his personal medical bag, and the father left.

"The last time I checked, prior to the arrival of American and coalition forces, the

Iraqi people had a government, albeit an appalling one," the sergeant said. "And they had an infrastructure, albeit a surely inadequate one. But, we, in our 'noble' effort to give the Iraqi people freedom and secure peace for the world, have taken what little they had away . . . So who is to provide these things taken from them?

The incident was the latest for a unit that has been anything but the old stereotype of "weekend warriors." After the 2001 terrorist attacks, they spent 11 months guarding Fort Bragg, N.C. They returned home for four months, only to be called up for the Iraq war.

The military can't provide direct accounts of what the unit has experienced. But soldiers, in phone calls and e-mails to family and friends, talk about the night a convoy was ambushed by gunfire. Nobody was hurt. They talk of being on patrol and repeatedly having rocks hurled at them.

They now live in an old airport hangar, eating one hot meal a day and the rest from military Meals Ready to Eat, Mr. Eckhart said. They must still use "field toilets."

And rumors continue to circulate about the unit's fate. A Toledo TV station erroneously reported recently that the 323rd was coming home "soon." Another rumor has the unit, or at least some members, headed to Kosovo after Iraq.

Their orders in Iraq are for 365 days, taking them to mid-January, 2004. The Army could keep them another year, but that's unlikely, said Maj. Neal O'Brien, of the Ohio National Guard.

"Obviously, the hope is that they're back earlier, and any day less than a year is a good day," he said. "There's always a chance they could potentially be extended, but it's certainly not expected."

Still, he said, the Ohio National Guard has no way of knowing a formal date of return because when a unit is mobilized for federal duty, the Army assumes complete control over the unit. And the Army isn't offering a date of return.

The National Guard leadership, based in Columbus, tries to keep in touch with its units in Iraq. But Lt. Col. Mike Ore said he hadn't yet heard of the incident with Sergeant Borell and didn't know if the soldier's account was accurate.

"I know the 323rd has been engaged in some pretty heavy stuff," Colonel Ore said.

In previous e-mails back home, Sergeant Borell talked of heat that reached 126 degrees and how the Iraqis had stockpiled weapons all over the country. U.S. troops tried to keep the Iraqi children from playing with the weapons, but it was difficult.

He didn't complain about military leadership until sending the latest e-mail to the media and his family last night, said his father, John Borell.

"For him to write that e-mail, it must have affected him greatly," his father said.

Sergeant Borell, a father of two and stepfather of one, ended his e-mail questioning why he was sacrificing his time, energy, and potentially his life.

"I used to be proud of what I'm doing and of being an American soldier," he said. "After today, I wonder if I will still be able to carry the title 'soldier' with any pride at all. Or simply with the knowledge that a 'soldier' couldn't even help three small children."

[From the Toledo Blade, June 15, 2003]

Kaptur To Press Rumsfeld on Toledo GI's 'Reality Check', Iraqi Kids' Wounds Spark Policy Debate

(By Joe Mahr)

From his hot and dusty base in northern Iraq, Ohio Army National Guard Sgt. David Borell typed an e-mail criticizing the U.S. military's lack of treatment for severely burned Iraqi children.

A day later, the Sylvania native got the attention of his congressman, U.S. Rep. Marcy Kaptur (D., Toledo). She pledged yesterday to speak directly with the secretary of defense himself—an action that could rekindle an international debate over how much U.S. forces should, or even can, help injured Iraqis.

"[Sergeant Borell] is in the finest tradition of the American military," Miss Kaptur said yesterday. "I am going to make sure that the fact that he gave a ground-zero reality check from there can guide policy-makers at the highest level."

Sergeant Borell, of the Toldeo-based 323rd Military Police Company, complained Friday that he tried to get medical help for three children with severe burns on the arms, legs, and faces, but Army doctors told him that the children's wounds were not life-threatening and it was not the Americans' duty to help.

After having to send the family on its way without treatment, the sergeant broke down and had to be comforted by his platoon leader, Sgt. 1st Class Bryan Pacholski. The moment was captured by an Associated Press photographer, and the picture was printed yesterday in The Blade and newspapers across the country.

Upon seeing the picture and article in The Blade, Miss Kaptur said she shared the outrage of the 30-year-old military police sergeant. She said it's not only a moral duty for America, but a strategic one that can help build support in an Arab world that increasingly questions America's motives in Iraq.

"We are losing the battle for respect in that region," said Miss Kaptur, who opposed President Bush's decision to go to war. "We might command the ground—or hold the ground for the moment—but we have to gain the hearts and minds of the people."

Miss Kaptur's criticism was shared by some who contacted The Blade yesterday, such as Dave Pacholski, the brother of the sergeant who comforted Sergeant Borell Friday.

"I have two little ones, and I find it irresponsible on anybody's part to just walk away and say there's nothing they can do," he said. "Not only is that ignorant, but it was totally against what doctors do."

But others said the American military is doing the best it can in what is still a dangerous war zone, and they questioned whether anyone should pass judgment on a scenario before hearing the side of military officials, which was not available Friday or yesterday.

Maj. John Dzienny, a Toledo native now serving with U.S. Army special forces in Iraq, wrote in an e-mail that he has seen only "compassion and resolve" by American forces.

"It is the hope of all of us over here to see these people one day free and safe, just as we enjoy at home. These things take time, however, and it can strain the heart to not have an instant solution. All an individual can do is the best he or she can," he said.

It is not a new debate.

The nonprofit group Doctors Without Borders complained three weeks after U.S. troops rolled into Baghdad that the U.S.-led coalition hierarchy had failed to restart Iraq's health-care system.

The group's international council president, Dr. Martin Rostrup, not only blamed U.S. forces for failing to stop the looting at many hospitals, but for not setting up an administrative health system to replace Saddam's—which he said was required under the Geneva Convention.

"They are definitely responsible to see that basic services are put in place very rapidly so as to avoid suffering of people. And this has not taken place. After three weeks, the hospitals are in disarray and I find that unacceptable," he told reporters then, according to an Internet transcript of a May 3 news conference.

It's unclear now how much that's changed. The group's spokesman said yesterday that he could not provide an immediate assessment of Iraq's current health-care system.

And the human rights group Amnesty International has yet to pass judgment on whether the U.S.-led coalition is doing enough.

"The legal standard is a hard one to measure," group spokesman Alistair Hodgett said. "But I think you can't read an account like that account [by Sergeant Borell] and not feel like the U.S. should be doing more."

A U.S. military spokesman said Iraqis have a better health-care system now than before. Navy Lt. Cmdr. Matthew Klee, speaking on behalf of the U.S. Central Command, said yesterday that the military is doing the best it can to help as many civilians as possible in a country roughly the size of California.

"We are providing health care to Iraqis, but we don't have the infrastructure to support the entire Iraqi civilian population," said Commander Klee, who is based in Tampa.

He said he was unable to immediately provide the military's detailed rules for when its field hospitals must accept Iraqi civilians, but he said at the very least military hospitals treat any civilians with life-threatening injuries. The rest are referred to local, civilian-run hospitals.

He also said he was unable to immediately conform Sergeant Borell's account of the burned children not getting medical attention. But he said that, regardless, the military would not punish the sergeant for speaking out—a key worry of Congressman Kaptur.

"As long as he's speaking of his own personal opinions, he's more than welcome to do that," Commander Klee said. "He just can't speak for the military. He can express his views. But when it comes to policy and official statements, that's really our bailiwick."

Contacted vie e-mail at their base 30 miles northwest of Baghdad, other soldiers in the 323rd also were unable to confirm the sergeant's account of the incident. But 1st Sgt. Robert Orwig confirmed that the unit's Balad base treats only civilians injured by an American or who have an injury that could involve a loss of life, limb, or an eye.

Still, the 323rd soldiers routinely call the base hospital anyway when an injured Iraqi approaches, and let the hospital staff formally refuse to treat the injured.

"It is hard for our soldiers to have to turn the children away, but that is the guidance we have and have to go by," he said.

"This wasn't the first incident that children were sent away," he added. "[It] probably won't be the last."

Miss Kaptur, however, hopes it is the last.

She said she will seek out Defense Secretary Donald Rumsfeld as well as House leaders from both parties when she returns to Washington tomorrow. She said the military should be able to set up more field hospitals to treat wounded Iraqis until the Iraqi civilian hospitals can do the job.

If the U.S. military can't do it, Miss Kaptur said, other international groups or even American citizens should.

"I know the American people. We could fill a cargo plane out here at Toldeo Express and equip the first field hospital ourselves," she said.

As for Sergeant Borell, he wrote in an e-mail to The Blade yesterday that the Iraqi family hadn't returned yet to the base to seek help for their children.

"I imagine one refusal is enough for them," he said.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 16, 2003.

Hon. DONALD H. RUMSFELD,
Secretary, Department of Defense,
The Pentagon, Washington, DC.

DEAR SECRETARY RUMSFELD: Based on these articles, I am requesting a personal meeting with you. I wish to propose an expedited schedule by the U.S. to establish temporary field hospitals in Iraq, perhaps in concert with our Arab allies, serving the wounded and suffering. With Baghdad's early fall, sufficient funds have been appropriated to accommodate these facilities.

In addition, UN health organizations, Doctors Without Borders, and Americans from all walks of life should be engaged in this moral imperative. Our forces, or those of coalition allies, can be used to secure the perimeters where such field health services would be offered.

As a representative from the Arab-American crescent that lies between Toledo, Ohio, Dearborn, Michigan, and Cleveland, Ohio, I know our region would rise to the occasion of equipping and staffing the first such hospital. Equally, America should match our commitment.

It is now our obligation. Thank you.

Sincerely,

MARCY KAPTUR,
U.S. Representative.

MEDICARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, we have had a busy agenda since we started back into session in January. I am like a lot of freshmen. I feel like we have spent a lot of time looking at reform issues. That is something that my constituents want to see, and it is certainly something where I look forward to placing a good bit of my energy as we look for waste, fraud and abuse in government and look for opportunities to reform the system and to lower the cost of doing business with the government.

We have reformed education. We have lowered taxes. We have provided our Nation's military servicemen and women with a pay increase. And Republicans are now working to ensure that America's seniors have access to affordable, quality health care that will help lessen the financial burden of prescription medications.

Any effort to provide a prescription drug benefit absolutely must include a Medicare reform plan that not only preserves the system for today's seniors and for future generations but also provides seniors with a Medicare that is more efficient and flexible. Medicare must include the market-based incentives that have fueled research and development of products that are keeping us healthier longer and improving the lives of millions of Americans. There are three issues that virtually all senior citizens agree on. These three critical components of the reform initiative are affordability, access and choice. These are three premises that we need to be sure to include in our plan.

On the first point, affordability, Medicare reform legislation must make health care more affordable for seniors. Currently seniors are paying more on doctor visits and prescription drugs than they are on any other expenses combined. This is really intolerable. I think when we look at the reform to the Medicare system and think about affordability, we need to be sure that whatever we do as we look at reforming Medicare must be affordable by the government so that we are not going to place a burden on our children and on future generations and create a system that just a few decades down the road cannot even be afforded.

No less important to our seniors is that we preserve their ability to have a choice. What I hear from my constituents is that they want the power to choose their physician and their hospital. For our rural communities, being able to choose a doctor means having a physician in their town. It does not mean having access to a physician that is 50, 100 or 200 miles away in some urban area. Too many of our seniors are forced to make frequent trips hours away from their homes in order to get routine primary medical care. More importantly, allowing seniors to choose their doctors is the right thing to do, and it is what we would all want to do for our families.

Most seniors also agree that access must be a reform priority. Once a Medicare enrollee chooses his or her doctor, they should be able to see that doctor on a regular basis, not to be shifted from one physician or one plan to another. Quality health care becomes less and less assured when a patient has to go from doctor to doctor or from clinic to clinic with consistency. We want to be sure that that access is readily available. We also want to be sure that access includes having access to new medications and to new technologies as research and development brings those forward. What I am hearing from a lot of the constituents in my district is that they would reject a one-size-fits-all universal-type plan. In Tennessee, we are familiar with what bad policy can do to health care. A few years back, Tennessee decided that state-managed health care was the way to go, and today the State is in a very difficult situation because of a health care system that is not providing access to many of the individuals that are enrolled in that system.

Some are going to come down to this floor and try to convince Americans that one giant health care system is what we should all support. I can tell you that my mother's health care needs are much different from my health care needs. My health care needs in Lawrence are different from those of many of my neighbors in Tennessee. What we can all agree on, though, is that a plan must be affordable, it must provide choices, and must be accessible. A one-size-fits-all plan has proven time and again not to reduce our health care needs, but to increase those costs.

EXCHANGE OF SPECIAL ORDER

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to replace the gentleman from Illinois (Mr. EMANUEL).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MEDICARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, my House Republican friends have managed to come up with a prescription drug bill that is even less generous and even more destructive to Medicare than last year's exercise. Under this year's bill, Medicare as we know it ends in 7 years. In 7 years, Medicare would be replaced by a voucher to cover part of the premium for health insurance. Let me repeat that. Under the Republican plan, Medicare would no longer provide guaranteed benefits in spite of their talk about more choice. It would instead give seniors a defined contribution voucher. So much for the Medicare entitlement. So much for guaranteed benefits for America's elderly. So much for the choices that matter. Choice of hospital, we have that today. Choice of physician, we have that today. Under the Republican plan, their voucher scheme would give seniors the choice, the choice, to enroll in whatever HMO happens to set up shop temporarily in their neighborhood. That is not the kind of choice seniors, who now can choose their doctor, who now can choose their hospital, it is not one-size-fits-all, it is seniors have full choice, it is not the kind of choice that seniors have today.

The Republican bill is a privatization bill. It is not a drug bill. It is an affront to seniors who depend on Medicare and to taxpayers whose money will be wasted paying off private insurance health plans, paying off HMOs in order to get them to participate in this Republican big insurance company, big drug company program.

Medicare vouchers are not a fiscally responsible alternative to Medicare. In fact, they will increase overall costs. The Republican plan reduces government spending by increasing out-of-pocket costs for seniors. Private premiums in this country are rising at about 15 percent compared to Medicare's about 4.1 percent increases. Administrative expenses for private insurance historically are 2½ times the administrative expenses of Medicare and Medicaid. So much for the argument that privatization is more efficient. Private insurance spending per enrollee has grown faster than Medicare in the last 30 years. If private drug plans can get better prices for drugs than Medicare, why is the drug industry lobbying for private plans? The only way privatizing Medicare can cut costs is by shifting those costs from the Federal Government onto the backs of seniors and their families.

Here are a couple of other hidden provisions in the House Republican drug bill. My colleagues increase Medicare costs for all seniors, not just those who enroll in drug coverage, by racheting up the Medicare part B premium. Seniors will continue to pay more and more and more under the Republican privatization give-it-to-the-insurance-companies health plan. They double-tax higher income seniors by income-relating Medicare coverage. They have dropped an even bigger doughnut hole in their coverage, cutting off benefits to seniors with higher drug costs. In other words, as their costs go up, the government no longer covers them. They cut reimbursement to hospitals which are already on shaky financial ground. I met with hospital administrators in Akron today and with physicians. They will tell you how it is going to be harder and harder for them to take care of their business providing the kind of health care to their patients at that hospital in Akron and other hospitals all over northeastern Ohio and all over this country.

The Republican plan leaves 40 percent of low-income seniors out of the bill's low-income assistance program. In summary, Mr. Speaker, the Republican prescription drug bill, the Republican plan is good for the drug companies. The Republican plan is good for the insurance companies; but the Republican plan is bad for seniors, it is bad for disabled Americans, it is bad for their families, it is bad for hospitals and other providers, and it is bad for the Nation as a whole.

□ 1945

TRIBUTE TO COLONEL TAD DAVIS

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentleman from North Carolina (Mr. HAYES) is recognized for 5 minutes.

Mr. HAYES. Mr. Speaker, today I rise to recognize the accomplishments of Colonel Addison D. "Tad" Davis, IV. Colonel Davis is currently the garrison commander at Fort Bragg in my district of North Carolina. After 3 years of exemplary service at Fort Bragg, he is coming up here to the Pentagon. I and the entire Fort Bragg community will surely miss his presence at the epicenter of the universe.

Colonel Davis's military accomplishments speak for themselves. He is a 1978 graduate of the United States Military Academy and earned an MPA from Harvard University. He was a 1989-1999 U.S. Army War College fellow at the Hoover Institution, Stanford University. Colonel Davis most recently served as the executive officer to the assistant chief of staff for Installation Management. His military schooling includes the infantry officer basic and advanced courses, U.S. Marine Corps Amphibious Warfare School, U.S. Army Command and General Staff College, the Armed Forces Staff College, and the NATO Peacekeeping Course.

During the past few years, Tad has overseen the deployment of thousands of troops, vehicles, and equipment in support of Operation Enduring Freedom and Iraqi Freedom. He has proven himself to be a model soldier, efficient administrator, and a dedicated officer. Colonel Davis has been an outstanding garrison commander, upholding Fort Bragg's legacy of being one of the Nation's finest military installations. As the "mayor" on post, soldiers and their families have a dedicated and devoted advocate giving 100 percent on their behalf. Whether it be issues relating to military construction, encroachment, domestic violence, saving the red-cockaded woodpecker, nurturing relations with the Fayetteville community, or force protection, to name a few, Colonel Davis has done an exemplary job of preparing for, reacting to, and handling the challenges presented to him.

I would like to speak of my friendship with and for Colonel Davis. It has been a privilege and honor to know and work with Tad and his lovely wife, Diane. They are much admired, respected, and appreciated friends. They have been involved both on and off post as integral members of the community. As Tad and Diane and their daughters, Amy and Sara, move up to the Washington, D.C. area, I want to thank them for their selfless service to Fort Bragg, the entire Nation, and wish them the absolute best in their future endeavors.

MEDICARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, tonight I rise as Chair of the Congressional Hispanic Caucus Health Task Force and want to call the attention to the imposed impact that the so-called Medicare reform will have not only on the Latino community but across the Nation as well. Minority Medicare beneficiaries including Latinos are among the fastest-growing portions of this population, and they currently represent about 16 percent of the total Medicare population; but by the year 2025, Latinos are expected to account for 18 percent of the elderly population.

Yet time after time we ignore the needs of the community by creating packages that help HMOs and the private insurance industry and not necessarily our seniors. Just look at the proposed Republican Medicare prescription drug plan. They want to strip Medicare's foundation by forcing seniors to change plans, change doctors, change pharmacies, and even change the drugs that they take every 12 months. Not only are the enrollment procedures extremely complex, now we are asking our Nation's elderly to make incredible changes that many will feel uncomfortable about making into a program that does not even make drugs affordable for our seniors; and nearly 60 percent of Latinos live with families with incomes below 200 percent of the poverty level and 87 percent of the uninsured, that means working poor families, Latinos coming and trying to receive some type of health care benefit. Yet how can we even realistically say that we are attempting to improve the lives of all American seniors when the Latino elderly population, which is the fastest growing, will be the most susceptible in this privatized plan?

There are more than 214,000 Latino Medicare beneficiaries right now residing in the State of California that I represent. Fifty-five percent of Latino seniors covered under California's Medicare program report having little or no information about Medicare, including access to a toll-free Medicare number; and I say that specifically because we need to improve access to different communities in their respective languages so that we can really access and have the benefit of having all seniors participate in these programs.

Who is going to care for these beneficiaries when the Republicans impose unaffordable premiums, require spending of $250 before they receive any help at all? In some cases in my district that would be disastrous. It would mean not being able to pay their rent or be able to buy additional medicine that they need because $250 is a large amount for people in my district. It even prohibits, get this, the HHS Secretary, Secretary Tommy Thompson, from negotiating better prices. Hello? I thought that is what his job was there for. He was supposed to watch out for our interests.

We cannot ignore the 25 percent of Latinos compared to 10 percent of non-Latino whites who do not have supplemental insurance along with traditional Medicare, and in my district Latino seniors continuously share with me their concerns about the monthly Medicare premiums and the costs of prescription drugs. We have to make the prescription drug benefit an advantage for all Americans regardless of where they come from and regardless of what language they speak, and we need to help our country's seniors and people with disabilities navigate through an affordable system made easily available and meaningful to them and protecting their benefits. We need to protect the choices that they currently have because that is what really matters at the end of the day. We need to provide physician choice, pharmacy availability, and prescription drug selection. Let us not strip the security from our seniors. Let us work toward a program that helps improve all the lives of our seniors.

100TH ANNIVERSARY OF THE FORD MOTOR COMPANY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. KENNEDY) is recognized for 5 minutes.

Mr. KENNEDY of Minnesota. Mr. Speaker, on this 16th day of June, 2003, as the Ford Motor Company celebrates its 100th anniversary, in the city of St. Cloud, Minnesota, which is in my congressional district, the world's oldest Ford dealership, Tenvoorde Ford, is celebrating its centennial as well.

Mr. Speaker, the story behind this century-old family-owned business is one that I think Members of the House should hear, and I rise today to share it with my colleagues and recognize such a remarkable achievement. In 1899, Stephen Tenvoorde and a friend brought the first automobile to St. Cloud, Minnesota. Back then they called them horseless carriages; and this machine, a Milwaukee Steamer, was the first anyone in central Minnesota had seen. So new was the horseless carriage, that Stephen had to bring it in the old oxen trail to get it from Minneapolis. From the buzz that resulted from the presence of this machine in St. Cloud, it was clear that the horseless carriage was something more than the latest technological leap forward. It was a change in our way of life.

The American love affair with the automobile, which thrives today, began that day at least for the people in central Minnesota who were there to see Stephen motoring around in his horseless carriage. There can be no doubt that Stephen Tenvoorde recognized the opportunity of this invention. A blacksmith and bicycle shop owner, this entrepreneur clearly knew that he was on the cusp of a fantastic new age. In fact, Mr. Speaker, 3 months before the first Model A would roll off the assembly line at Henry Ford's Detroit factory, Stephen Tenvoorde became a Ford franchisee. At that time he was the second person to sign a franchise agreement, but a month before the first dealer sold out and left the business. So today 100 years afterwards, Tenvoorde Ford is the oldest Ford dealership in the world.

The past 100 years have not always been easy for this family-run business. As the country has experienced bumps along the way, this family-run business has also run into challenges. Yet, Mr. Speaker, in the face of wars and the Great Depression, when people just were not buying cars, this business has overcome the challenges. Stephen Tenvoorde passed on the business to his son Cy in 1948 and Cy passed on the dealership to his three sons, Jack, Paul, and David, who run the business today. And as the fourth generation prepares to enter into the family business in its centennial year, we appropriately observe this remarkable achievement. It is businesses like this that drive our economy and create jobs.

It is also fitting to note on this great occasion the valuable economic lessons that could be learned from the successes of Ford Motor Company. When Henry Ford entered the car market, it was the standard practice to build cars that only the wealthy could afford, the more expensive, the better. How else could a company maximize their profits? But Henry Ford's genius lay in the fact that he knew a better way. Ford understood that his company could make more money by selling more cars at a lower price than they could by selling a handful of cars to the wealthy. So he lowered the price of the Model T every year, and his sales and profits went through the roof. He even got the price low enough that my grandfather, Charles Kennedy, was able to buy the first Model T in my hometown of Murdock, Minnesota, in the early 1900s, possibly from Tenvoorde Ford.

Ford also knew that the more money people had in their pockets, the more cars they could buy. So what did Ford do? He increased his employees' wages to $5 a day so that every one of his workers could afford to buy his products, and they did, expanding the market for Ford cars to people who could never before have afforded one. Lower prices to increase profits and giving people more money to buy more goods, that was revolutionary thinking 100 years ago. This new approach to economics made men like Henry Ford and Stephen Tenvoorde business visionaries far ahead of their time.

The success of their business has proven that their practice worked back then, and it still works today. One hundred years later, we can see this free market approach in action. Since May 28 when the President signed the Jobs and Growth Tax Act into law, the stock market has been surging. In fact, today alone the Dow was up over 200 points and closed at the highest level of the year. The NASDAQ and S&P 500 also hit their highest levels.

The lessons are simple: give people more of their own money to spend, and they will build a stronger country. Give companies some relief from the cumbersome burdens government taxes out of them, and they lower prices and sell more goods. That was what we did with the Jobs and Growth Tax Act, and the results have been spectacular. In a free market, economics work in action. One hundred years ago Henry Ford knew. Stephen Tenvoorde knew it. And today, Mr. Speaker, we are the fortunate ones who can reap the rewards and the benefits of their knowledge.

I want to commend Stephen Tenvoorde and the generations that have followed for their hard work and dedication to automobile excellence over the past 100 years.

STATUS REPORT ON CURRENT SPENDING LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2004 AND THE 5-YEAR PERIOD FY 2004 THROUGH FY 2008

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 2004 and for the five-year period of fiscal years 2004 through 2008. This report is necessary to facilitate the application of sections 302 and 311 of the Congressional Budget Act and section 501 of the conference report on the concurrent resolution on the budget for fiscal year 2004 (H. Con. Res. 95). This status report is current through June 13, 2003, and incorporates revisions to the budget resolution made on June 12, 2003, to reflect the enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27).

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

The first table compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set forth by H. Con. Res. 95. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for fiscal year 2004 through 2008, because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority and outlays for discretionary action by each authorizing committee with the "section 302(a)" allocations made under H. Con. Res. 95 for fiscal year 2004 and fiscal years 2004 through 2008. "Discretionary action" refers to legislation enacted after the adoption of the budget resolution. A separate allocation for the Medicare program, as established under section 401(a)(3) of the budget resolution, is shown for fiscal year 2004 and fiscal years 2004 through 2013. This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) discretionary action allocation of new budget authority of the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 2004 with the "section 302(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is needed to enforce section 302(f) of the Budget Act because the point of order under that section equally applies to measures that would breach the applicable section 302(b) suballocation.

The last table gives the current level for 2005 of accounts identified for advance appropriations under section 501 of H. Con. Res. 95. This list is needed to enforce section 501 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that are: (i) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 2004 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 95

[Reflecting action completed as of June 13, 2003—on-budget amounts, in millions of dollars]

	Fiscal year 2004	Fiscal years 2004–2008
Appropriate Level:		
Budget Authority	1,880,555	(¹)
Outlays	1,903,502	(¹)
Revenues	1,325,452	8,168,933
Current Level:		
Budget Authority	1,100,022	(¹)
Outlays	1,424,727	(¹)
Revenues	1,331,145	8,377,502
Current Level over (+)/under (−) Appropriate Level:		
Budget Authority	−780,533	(¹)
Outlays	−478,775	(¹)
Revenues	5,693	208,569

¹ Not applicable because annual appropriations Acts for fiscal years 2005 through 2008 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing new budget authority for FY 2004 in excess of $780,533,000,000 (if not already included in the current level estimate) would cause FY 2004 budget authority to exceed the appropriate level set by H. Con. Res. 95.

OUTLAYS

Enactment of measures providing new outlays for FY 2004 in excess of $478,775,000,000 (if not already included in the current level estimate) would cause FY 2004 outlays to exceed the appropriate level set by H. Con. Res. 95.

REVENUES

Enactment of measures that would result in revenue reduction for FY 2004 in excess of $5,693,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate level set by H. Con. Res. 95.

Enactment of measures resulting in revenue reduction for the period FY 2004 through 2008 in excess of $208,569,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate levels set by H. Con. Res. 95.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION REFLECTING ACTION COMPLETED AS OF JUNE 13, 2003

[Fiscal years, in millions of dollars]

House Committee	2004		2004–2008 total		2004–2013 total	Outlays
	BA	Outlays	BA	Outlays	BA	
Agriculture:						
Allocation	0	0	0	0	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	0	0	0	0	(¹)	(¹)
Armed Services:						
Allocation	70	34	70	70	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	−70	−34	−70	−70	(¹)	(¹)
Education and the Workforce:						
Allocation	39	47	201	245	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	−39	−47	−201	−245	(¹)	(¹)
Energy and Commerce:						
Allocation	−170	−170	439	439	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	170	170	−439	−439	(¹)	(¹)
Financial Services:						
Allocation	0	375	0	1,250	(¹)	(¹)
Current Level	−1	−1	−2	−2	(¹)	(¹)
Difference	−1	−376	−2	−1,252	(¹)	(¹)
Government Reform:						
Allocation	−1	0	−3	−1	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	1	0	3	1	(¹)	(¹)
House Administration:						
Allocation	0	0	0	0	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	0	0	0	0	(¹)	(¹)
International Relations:						
Allocation	0	0	0	0	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	0	0	0	0	(¹)	(¹)
Judiciary:						
Allocation	19	19	95	95	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	−19	−19	−95	−95	(¹)	(¹)
Resources:						
Allocation	24	24	522	342	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	−24	−24	−522	−342	(¹)	(¹)
Science:						
Allocation	0	0	0	0	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	0	0	0	0	(¹)	(¹)
Small Business:						
Allocation	0	0	0	0	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	0	0	0	0	(¹)	(¹)
Transportation and Infrastructure:						
Allocation	9,256	0	41,134	0	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	−9,256	0	−41,134	0	(¹)	(¹)
Veterans' Affairs:						
Allocation	0	0	0	0	(¹)	(¹)
Current Level	0	0	0	0	(¹)	(¹)
Difference	0	0	0	0	(¹)	(¹)

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION REFLECTING ACTION COMPLETED AS OF JUNE 13, 2003—Continued

[Fiscal years, in millions of dollars]

House Committee	2004		2004–2008 total		2004–2013 total	Outlays
	BA	Outlays	BA	Outlays	BA	
Ways and Means:						
Allocation	20,626	20,054	24,079	23,876	([1])	([1])
Current Level	18,042	18,042	22,856	22,856	([1])	([1])
Difference	−2,584	−2,012	−1,223	−1,020	([1])	([1])
Medicare:						
Allocation	0	0	n.a.	n.a.	0	0
Current Level	0	0	n.a	n.a.	0	0
Difference	0	0	n.a.	n.a.	0	0

[1] Not applicable.

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2004—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS SUBCOMMITTEE 302(b) SUBALLOCATIONS

[In millions of dollars]

Appropriations Subcommittee	302(b) suballocations have not been issued as of June 13, 2003		Current level reflecting action completed as of June 13, 2003		Current level minus suballocations	
	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development	([1])	([1])	14	5,036	([1])	([1])
Commerce, Justice, State	([1])	([1])	0	14,197	([1])	([1])
National Defense	([1])	([1])	17	137,684	([1])	([1])
District of Columbia	([1])	([1])	0	51	([1])	([1])
Energy & Water Development	([1])	([1])	0	9,198	([1])	([1])
Foreign Operations	([1])	([1])	0	13,804	([1])	([1])
Homeland Security	([1])	([1])	215	12,678	([1])	([1])
Interior	([1])	([1])	36	6,244	([1])	([1])
Labor, HHS & Education	([1])	([1])	21,378	91,973	([1])	([1])
Legislative Branch	([1])	([1])	0	671	([1])	([1])
Military Construction	([1])	([1])	0	7,680	([1])	([1])
Transportation-Treasury	([1])	([1])	31	41,247	([1])	([1])
VA-HUD-Independent Agencies	([1])	([1])	2,698	51,610	([1])	([1])
Grand Total	784,675	861,084	24,389	392,073	−760,286	−469,011

[1] Not applicable.

Statement of FY2005 advance appropriations under section 501 of H. Con. Res. 95 reflecting action completed as of June 13, 2003

[In millions of dollars]

	Budget authority
Appropriate Level	23,158
Current Level:	
Interior Subcommittee:	
Elk Hills	0
Labor, Health and Human Services, Education Subcommittee	
Employment and Training Administration	0
Education for the Disadvantaged	0
School Improvement	0
Children and Family Services (head start)	0
Special Education	0
Vocational and Adult Education	0
Treasury, General Government Subcommittee: Payment to Postal Service	0
Veterans, Housing and Urban Development Subcommittee: Section 8 Renewals	0
Total	0
Current Level over (+)/under (−) Appropriate Level	−23,158

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 16, 2003.

Hon. JIM NUSSLE,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2004 budget and is current through June 13, 2003. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004. The budget resolution figures incorporate revisions submitted by the Committee on the Budget to the House to reflect funding for the fiscal year 2003 supplemental appropriations act and the tax relief act of 2003. These revisions are authorized by sections 421 and 507 of H. Con. Res. 95, respectively.

Since my last letter, dated May 20, 2003, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues for 2004: the Unemployment Compensation Amendments of 2003 (Public Law 108-26), and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Public Law 108-27). The effects of these new laws are identified in the enclosed table.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

FISCAL YEAR 2004 HOUSE CURRENT LEVEL REPORT AS OF JUNE 13, 2003

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	0	0	1,466,370
Permanents and other spending legislation	1,088,932	1,061,259	0
Appropriation legislation	0	345,754	0
Offsetting receipts	−366,436	−366,436	0
Total, previously enacted	722,496	1,040,577	1,466,370
Enacted this session:			
Emergency Wartime Supplemental Appropriations Act of 2003 (P.L. 108-11)	251	27,349	0
American 5-Cent Coin Design Continuity Act of 2003 (P.L. 108–15)	−1	−1	0
Unemployment Compensation Amendments of 2003 (P.L. 108–26)	4,730	4,730	145
Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27)	13,312	13,312	−135,370
Total, enacted this session	18,256	45,390	−135,225
Entitlements and Mandatories: Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	359,270	338,760	0
Total Current Level [1]	1,100,022	1,424,727	1,331,145
Total Budget Resolution	1,880,555	1,903,502	1,325,452
Current Level Over Budget Resolution	0	0	5,693
Current Level Under Budget Resolution	−780,533	−478,775	0

FISCAL YEAR 2004 HOUSE CURRENT LEVEL REPORT AS OF JUNE 13, 2003—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Memorandum:			
Revenues, 2004–2008:			
House Current Level	0	0	8,377,502
House Budget Resolution	0	0	8,168,933
Current Level Over Budget Resolution	0	0	208,569

[1] For purposes of enforcing section 311 of the Congressional Budget Act in the House, the budget resolution does not include prior-year outlays of $508 million for Social Security administrative expenses. As a result, current level excludes these items.

Note.—P.L. = Public Law.
Source: Congressional Budget Office.

PROVIDING FOR AMERICA'S VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, as we are in the safety and security of this Chamber tonight, we should not forget that at this very moment there are young Americans who are in harm's way in Iraq. Many have been killed and others, seem like, are placed in danger and are being killed certainly on a weekly basis; and we should never forget that. This war is not over. Danger continues to exist. Some of these young people will be wounded, and they will come back to this country, and they will join the ranks of the others who have served this country. They will be America's newest veterans, many of them with terrible injuries.

□ 2000

That is why I rise tonight to talk about the veterans, and especially about veterans health care in this country.

I am increasingly concerned as I talk to veterans in my own district, and I am from the State of Ohio, where we have about 11 million citizens in the State, but well over 1 million of those are veterans. About 10 percent of all of the citizens in the State of Ohio are veterans who have served their country in the military.

The facts are that this administration and this government is not doing what it should do to keep its word to our veterans and to provide them with the kind of high quality health care that they have been promised and that they are entitled to receive.

I would like to once again remind this Chamber of a proposal that has come from the President to greatly increase the financial burden that our veterans must carry in order to get health care through the VA system. The President has asked that a new $250 annual enrollment fee be imposed upon many of our veterans, those who are within the Priority Group 7 and Priority Group 8 veterans; a $250 annual enrollment fee, just to be able to participate in the VA system.

The President has asked that the cost that a veteran must pay for a prescription drug be increased from $7 a prescription to $15 a prescription, after we increased it from $2 to $7 just about a year-and-a-half ago. So that is an additional financial burden that many of our veterans will be expected to pay.

Then the President has asked that the cost of a clinic visit be increased from $15 a visit to $20 a visit.

This represents a rather substantial financial burden, and these burdens are going to be placed on veterans, many of them who make as little as $22,000 a year.

In addition to these financial burdens, a decision was made recently by the Secretary of Veterans Affairs to create a new priority group of veterans which is called Priority Group 8. These are veterans who have need for medical care but their conditions are not directly related to their military service, and they can make as little as $22,000 a year in certain regions of the country because the standard for the income levels changes regarding where the person lives. If they live in one part of the country, the standard may be a little different than it is in a different part of the country. But in my part of the country, where there is high unemployment and poverty, a veteran can make as little as $22,000 a year and be considered higher income and be told, "You cannot participate in the VA health care service. You served our country and were discharged with an honorable discharge, but you make too much money, and you are in Priority Group 8, so you can no longer sign up for VA health care services."

I just think that is wrong. We spend a lot of money around here, and it is just wrong that we would charge our veterans more for drugs, charge them more for the health care they need and the health care that many of them cannot get anywhere else. Many veterans have lost their jobs, they have been downsized, their plants have closed, and they simply have nowhere else to go.

So I call this to the attention of this Chamber, Mr. Speaker. I think we should take action to make sure that our veterans are properly cared for.

REFORMING MEDICARE AND PROVIDING PRESCRIPTION DRUG COVERAGE

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under the Speaker's announced policy of January 7, 2003, the gentleman from Georgia (Mr. BURNS) is recognized for 60 minutes as the designee of the majority leader.

Mr. BURNS. Mr. Speaker, I rise tonight to begin the discussion of probably one of the most critical things we will consider during the 108th Congress. Tonight we are going to begin to talk about a need that America has had for a long time, and that is a prescription drug benefit for our seniors and the reform of Medicare.

I am delighted that the Speaker has allowed me to represent the leadership tonight, along with other members of the freshman class, as we begin to talk about the things that are important to America, and to begin the discussion, to begin the debate and to work toward a solution to all of our seniors.

Mr. Speaker, to begin that discussion, I would like to yield to the distinguished gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, Medicare was enacted in the 1960s to address a serious problem, and that problem, of course, was the lack of quality health care for our Nation's elderly.

In the past 40 years, Medicare has become actually one of the most popular Federal programs ever. But so much has changed in the days since Medicare was first enacted. In the 1960s, quality health care usually meant going to the doctor's office and receiving treatment for a particular ailment, and, in many cases, it meant hospitalization. But today, things are very much different. Advancement in the development and effectiveness of prescription drugs has made the trip to the doctor, and, more importantly, a trip to the hospital, unnecessary in many, many cases.

Prescription drugs are helping America's seniors to live longer lives, and healthier and happier lives as well. And yet, Medicare has not changed to cover those life-extending drugs, and too many seniors are being forced to make the impossible choice between their prescriptions and their other basic needs like food or rent. That, of course, is simply wrong. No senior should ever have to make the choice between bills and pills.

The high cost of prescription drugs are forcing seniors to find less expensive ways to get the drugs that they need. I represent a district that shares an international border with Canada. I was meeting actually just this morning with my counterpart in the Canadian

Parliament. We spoke about a number of issues, and we spoke about health care generally. But, more specifically, we spoke about a cottage industry that is springing up, prescription drug outlets on the Canadian side of the border.

For many reasons, prescription drugs are less expensive in Canada, and many American seniors are driving across the Blue Water Bridge, in my district, between the cities of Port Huron and Sarnia, to have their prescriptions filled in Canada.

What happens is they receive a script from an American doctor. Then they have it transmitted to a Canadian doctor, and it is rewritten in Canada and filled at one of its Canadian pharmacies that literally dot the border area there now. Again, it is just simply wrong for America's seniors, that they have to go to such lengths just to get the drugs that they need.

So it is time for Congress to act. We must address the requirements of our senior population, and we need to bring Medicare in line with the medical system of the 21st Century.

When I was campaigning for this office, I met with literally thousands of senior citizens and I asked them what they thought they needed in a prescription drug benefit. Through those conversations, I came up with what I consider to be four main goals, four fundamental caveats that need to be met with any new benefit:

Number one, the benefit absolutely needs to be voluntary, so that many seniors who already have an existing drug benefit are not forced into a government plan that might not provide equal assistance that they have currently.

Number two, there needs to be immediate assistance so that seniors are no longer forced to make the decision between their prescription drugs and other needs.

Number three, it needs to be permanent so that it cannot be taken away or used as a political weapon against them in some future Congress.

Number four, it must substantially reduce out-of-pocket costs so that seniors can enjoy their retirement years and health and without draining their life savings to pay for drugs.

I am very hopeful that the plans that are now being debated by the other body, in the Committee on Energy and Commerce and the Committee on Ways and Means, will meet each of these tests. One of the big concerns about the prescription drug benefit being debated is, of course, the cost of such a program. In these very tight budgetary times, or at any time, for that matter, we must keep a very close eye on the bottom line.

But I truly believe that this benefit in the long run could actually save taxpayers money. How is that so? Because if we work together to keep seniors healthy through therapeutic drugs, we will actually lower the instances of hospitalization, which costs much more than giving seniors prescription drugs. Of course, that is the old adage that an ounce of prevention is worth a pound of cure. I think it is very appropriate in this instance.

I also truly believe that you can judge a society by the way that society treats its seniors. Our seniors have given so much to our Nation. Their hard work, their sacrifice is what has made America into the greatest country the world has ever known. These are the people that have fought wars, to defeat fascism, to defeat communism, to spread freedom across the globe. They have worked to build industry, to build strong communities, to raise their families that continue the American dream.

Our senior citizens deserve no less than our very best efforts to finally solve the problem of a prescription drug benefit within Medicare, because that is exactly what they have given us throughout their lives. I look forward to working with my colleagues to, once and for all, get the job done.

Mr. BURNS. Mr. Speaker, we have heard from the distinguished colleague from Michigan as she shares with us the challenges that her constituents face.

I would like to now yield to the distinguished gentlewoman from Florida (Ms. HARRIS), to gain a perspective from that area.

Ms. HARRIS. Mr. Speaker, despite the large amount of attention that matters of national security have demanded, the House has remained steadfast in confronting the threats to security here at home. We passed decisive measures to revitalize our financial security and our economy. Moreover, we continue to confront the corporate greed that has threatened the life savings of millions of Americans. These dramatic efforts to restore America's economic security will mean little, however, until we address the moral obligation to our seniors. After all, they are the people who built America's prosperity in the first place.

The enactment of the Medicare program constituted a sacred pact with our seniors. It reflected our Nation's belief that the health concerns associated with advancing age should not raise the specter of grinding poverty. Nevertheless, while our society enjoys an unprecedented level of wealth and material comfort, our seniors still suffer sleepless nights worrying about how they will afford critical medical and life saving prescription drugs. Far too often, good politics has taken precedence over good policy. Meanwhile, men and women who spent their lives investing in this country have paid the price of political inaction.

Yet, thanks to the visionary leadership of the gentleman from Illinois (Speaker HASTERT), the gentleman from California (Chairman THOMAS) and the gentleman from Louisiana (Chairman TAUZIN), our seniors at least have reason to hope.

The Speaker has articulated four principles for improving Medicare and providing our seniors with a real prescription drug benefit.

First, we must lower the cost of prescription drugs now.

Second, all seniors must have prescription coverage.

Third, Medicare must have more choices and more savings.

Finally, Medicare must be strengthened for the future.

The bill that the gentleman from California (Chairman THOMAS) and the gentleman from Louisiana (Chairman TAUZIN) have proposed passes these four essential tests with flying colors. It recognizes our seniors deserve the right to choose their doctor, their health care plan and their prescription drug plan.

Most important, this bill completely covers the prescription drug costs of low income seniors, as well as the catastrophic medication needs of every senior. Further, it modernizes the Medicare system through the use of new technology, health, education and preventive care.

Mr. Speaker, I applaud our leadership for developing this outstanding legislation, and I look forward to a strong bipartisan effort to achieve its passage.

Mr. BURNS. Mr. Speaker, we enjoy in the freshman class two distinguished colleagues within the medical profession. Tonight I would like to yield to the distinguished gentleman from Texas (Mr. BURGESS), a medical physician who has treated thousands of patients and can speak authoritatively to this subject.

Mr. BURGESS. Mr. Speaker, I rise tonight to continue the dialogue about the important work that this House will undertake in regards to modernization of the Medicare program over these next 2 weeks.

For too long, seniors in this country have gone without a prescription drug benefit. We are at a point in time where the United States Congress is at the threshold of passing a comprehensive drug benefit for America's seniors. It is time, indeed, it is past time that we modernize the Medicare system. Medicare is a 38-year-old government program that has done little to adapt to the practice of medicine in the 21st Century.

There can be no doubt that Americans have benefited from the development of new and innovative medicines. New drugs can improve and extend lives. New drugs exist that can dramatically reduce cholesterol, fight cancer and alleviate debilitating arthritis.

For example, Mr. Speaker, there is a whole new class of medications that collectively are called selective estrogen receptor modulators. You perhaps know them by the other term as Aromatase inhibitors.

□ 2015

But, Mr. Speaker, these new class of medications are reducing breast cancer mortality, and they hold promise for actually one day preventing this disease.

Mr. Speaker, drugs that fight prostate cancer, diabetes, and other life-threatening diseases are not available as a basic part of Medicare, forcing beneficiaries to often make difficult choices related to their health. Medicare beneficiaries should have access to these drugs, just like so many of us have access to prescription medications through our own health plans.

Medicare was put in place to improve the health and well-being of America's seniors; and to that end it has functioned very well. But because the current program does not provide prescription drugs as part of its basic benefit, it is hard to say that Medicare, as is, continues to live up to that promise.

With nearly 40 million people enrolled in Medicare, it is important that we approach this issue with clarity and foresight. Many of my colleagues and, indeed, myself included, are concerned with the entitlement nature of this new program. If we are not careful, if this new entitlement is not implemented properly this, in fact, could threaten to imbalance future Federal budgets and displace other important priorities. However, the bill that has worked its way through the Committee on Commerce and the Committee on Ways and Means, the bill that they are working on this week, meets the needs of seniors today and into the future, and attempts to balance future Federal spending commitments.

But we must also be aware of other ways that we can hold down the price of prescription drugs and, further, the taxpayer resources that will be devoted to Medicare and a Medicare prescription drug benefit. The United States, through our trade representative, must actively work with foreign countries to dismantle their drug price control regimes and embrace free market principles. No longer should our uninsured and our elderly bear the cost of pharmaceutical research and development for France, Germany, Canada, Japan, and a multitude of other countries. By bringing the purchasing power of the Federal Government to bear, we should be able to positively impact the price of pharmaceuticals sold in this country through free market principles. However, if we do not get serious with other countries that put our most vulnerable citizens at risk, we will have been negligent in our obligation to protect the American people from the policies of foreign governments that can be described as predatory at best.

The Congress stands at the threshold of improving the lives of America's seniors. As we enter into this debate, we must remain vigilant to make sure that the program that we establish in the next weeks and months is accountable not only to the seniors that it serves today, but for those who foot the bill, but, most importantly, to the young people, to the citizens who will come after us in the generations to come.

Mr. Speaker, I thank my colleagues for their indulgence this evening. I feel obligated to bring up one other point. I heard a news report today that the drug Lipitor, a cholesterol-lowering medication, a study involved with type 2 diabetes, its effect was so promising in reducing the incidence of heart attacks and strokes that the study was in fact opened up and no longer were people given the placebo medication, but the actual drug was offered to all of the individuals enrolled in that study. It is that type of power, Mr. Speaker, that we need to make sure that we put in the hands of all of America's citizens.

I thank the gentleman from Georgia for putting this together this evening. I think this is an extremely important part of the debate that is going to go on over the next several weeks, and I look forward to participating at several levels.

Mr. BURNS. Mr. Speaker, I thank my colleague from Texas for his input and, like him, I look forward to the discussions and debates over the next several weeks as we work through this challenging process.

I have a colleague I would like to recognize now. I know the distinguished gentleman from Georgia, a physician, someone who again has treated thousands of patients in Georgia and understands the prescription medication field, understands Medicare, and can speak directly to the challenges we face. I yield to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as a physician Member of this 108th Congress, I just want to say that I practiced medicine, an OB-GYN practice, for over 28 years; and, of course, most of my patients were fairly young, in the child-bearing age range, and I did not really see a lot of Medicare patients. However, if I were back in that practice today and doing just the gynecology part of that specialty, my practice would be predominantly Medicare patients like my precious 85-year-old mom who has been on Medicare now for 20 years.

This program, as we all know, came to us in 1965. I was a freshman medical student in 1965. I really did not understand the system too well. But I knew that back then, prior to Medicare, physicians gave away a lot of their services. They made a lot of house calls. They took a bushel of corn sometimes in lieu of any other financial payment for their services; and they were glad to do that, especially for the neediest of our citizens, many of them seniors. In 1965, Medicare, in a way, was good for these doctors. They were able to get paid for some of this care that they were rendering and at least maybe break even.

Over the past 25, 30, 35 years, of course, medicine has changed very much now. And it is extremely difficult, especially for our primary care physicians, our family practice specialists, our general internists, our physicians who are treating cancer, our medical oncologists who see a lot of the seniors. They are not able to continue to provide this care. It is costing too much. The reimbursements are not there. And so many of our physicians, these primary care doctors that are so essential to our precious senior citizens, no longer can they afford to take Medicare patients. So as we go forward and talk about a prescription benefit for our seniors, we need to keep in mind that there have to be providers there, there have to be primary care physicians there to write these prescriptions.

So that is why I say that in this 108th Congress, of which I am proud, of course, to be a Member, a freshman Member, this President; this administration; this leadership; this Speaker of the House, the gentleman from Illinois (Mr. HASTERT); this majority leader, the gentleman from Texas (Mr. DELAY); this majority Republican Party, and, yes, hopefully the minority party and their leadership, we are ready. We need to address this issue, not only of providing a prescription benefit, especially for the neediest of our seniors, but also of reforming and revitalizing Medicare and bringing it from 1965 to the 21st century. We are dealing now really with what is the equivalent of an Edsel. It is time to get a Thunderbird on the market in regard to health care.

Let me just tell my colleagues, Mr. Speaker, and to all of the seniors who are out there, hopefully, listening to this great C-SPAN program tonight, let me tell my colleagues what is wrong with Medicare as it exists today. Not only did we not have any prescription benefit, no prescription benefit whatsoever in 1965, also there was no emphasis on preventive health care. One cannot go to the doctor today under traditional Medicare and have a routine screening physical examination done. One cannot go under Medicare and have a routine cholesterol screening, lipid profile to determine if you are on the verge and at risk of having a serious heart attack or a stroke. If you get that service, you pay for it out of your pocket. And, of course, many of our seniors can ill afford to do that.

And the other thing, and maybe most significant in regard to Medicare, is there is absolutely no catastrophic coverage. These seniors, maybe they can, many of them, afford to pay $2,000, $3,000, possibly $5,000 a year in out-of-pocket expenses for a prescription benefit. But once they get to the point of needing four or five or six medications, very expensive medications, I might add, just to sustain the quality of life and to relieve them from suffering, they can no longer afford that. And pretty soon, yes, they do reach the point where they have to choose between paying the rent, buying the groceries, paying the utilities, or getting their prescription drugs filled.

So this is the situation that we find ourselves in today. It is imperative that we do something for our seniors. This issue has been with us for several years, long before I became a Member of this Congress. But I am proud to stand here today as part of this majority, realizing that they understand the big picture. The gentleman from California (Mr. THOMAS), the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Florida (Mr. BILIRAKIS), and the gentlewoman from Connecticut (Mrs. JOHNSON), they understand what needs to be done and they realize that this is not just one leg of a stool, but that there are three legs to this stool; and it includes not only a prescription drug benefit for our seniors, but of course it includes a reform of this outdated, antiquated, 1965-era health care system that looks nothing like what my colleagues and I and other Members of Congress have available to us under our Federal health insurance benefit plan.

We do not have to worry about being put in the poor house once we get into a situation of serious illness. We have prescription coverage after a copay. So this is the same thing that we want to offer to our seniors. I am proud of the commitment that we have this year, this year, today, hopefully within the next several weeks, that we will have a bill on President Bush's desk that he can sign to give this very, very important relief to our seniors and to reform of the Medicare system.

Mr. Speaker, I appreciate this opportunity to present this information tonight and to talk especially, especially to our senior citizens, our moms and dads, our grandparents and, indeed, us in the very near future. It is critical. We need to do it now, and we are going to get the job done.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FRANKS of Arizona). The Chair would remind Members to direct their remarks to the Chair and not to the television audience.

Mr. BURNS. Mr. Speaker, since we do have two fine representatives of the medical profession with us tonight, I would like to have an opportunity to engage in a bit of a dialogue as we discuss the critical issue of prescription drug benefits and Medicare reform.

First of all, I would like to get the input on access. How important is it for our seniors to choose their physicians? And that is, I believe, a key point in the legislation that we are considering now. I yield to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, I thank the gentleman; in fact, I thank both of the gentlemen from Georgia for allowing me to speak on this. I will just have to say to the gentleman from Georgia, while I was listening to his comments, and they certainly were apropos, I think one of the most amazing things I heard was that the gentleman was a freshman medical student in 1965. I had no idea that there was someone who is that old who is serving in Congress.

Mr. GINGREY. Mr. Speaker, if the gentleman will yield, my wife told me not to dare admit that, but I did it anyway.

Mr. BURGESS. Well, I appreciate the gentleman bringing that up. My father was a surgeon and was practicing at the time; and I remember very well, as a very young child, watching the evolution of the genesis of Medicare.

But the gentleman from Georgia (Mr. BURNS) brings up a very good point and it is the point of access, and the gentleman from Georgia (Mr. GINGREY) touched on it a couple of times in his remarks, and that is that we certainly have suffered over the last 3 or 4 years with the way Medicare reimbursements have impacted physicians and physician practices; and the net result has been the loss of physicians to the Medicare system, and the net result of that has been loss of access for our patients.

Just like the gentle doctor from Georgia, my practice too was obstetrics and gynecology; but even within an obstetrics and gynecology practice, one would have ample opportunities for interacting with the Medicare population. I have written more than my share of prescriptions for drugs that will prevent osteoporosis, for example, a debilitating disease that unfortunately affects primarily women, with a 25 percent rate of fracture of the hip. Of course, as the gentleman knows, there is a 25 percent mortality rate within the first year after sustaining that hip fracture. So we have means at our disposal for significantly improving the lives of seniors if we will only preserve the ability to have doctors there to see them and then, of course, the ability of the patients to afford the prescriptions that the doctors then write. I yield back to the gentleman from Georgia.

Mr. GINGREY. Well, I thank the gentleman from Texas. Some of the things I think that we need to point out is that, as I mentioned in my remarks earlier, in 1965, when this plan was devised, there was not a great emphasis on drug therapy. It seemed back then that the main emphasis on health care was the opportunity, of course, to see a physician, to see a health care provider; and many people did not do that because of lack of access, and there just was not that great emphasis on preventive health care certainly.

□ 2030

Then a lot of things were cured, quite honestly, by the surgical approach, and as we know today, surgery is extremely important, and our surgeons and our subspecialty surgeons do a great job, but thank goodness a lot of people today, and I think the gentleman from Texas (Mr. BURGESS) would agree with me, we would love to keep people out of the hospital.

We would love to be able to prevent very expensive surgery, and I can certainly give a personal testimony to that, having recently undergone open heart surgery. Maybe if 15 years ago I had been taking that drug to lower the cholesterol and improve that so-called lipip profile, or if I had been taking a little bit of a blood thinner or something to lower my blood pressure a little bit, I would not have had to undergo that very, very expensive somewhat dangerous and definitely painful surgical procedure.

That is why today it is so important, it is so important that our seniors at least have an opportunity not just to go to the emergency room to treat that episode of health emergency care or to be admitted to the hospital after a motor vehicle accident or those who need to after an extended period of stay go to a nursing home, they need prescription medication to keep them out of the hospital.

In the final analysis, we know the CBO, the committee on Medicare and Medicaid service and their actuarial services, we know that this prescription benefit, Mr. Speaker, will save money in the long run.

Mr. BURGESS. Mr. Speaker, if the gentleman would yield again for a moment, the gentleman from Georgia is exactly right, and I recognize we have other Members who want to speak to this, so I will be brief.

In 1965, the major health care expenditures that a senior might face would be the expense of a surgery or, if they got pneumonia and were hospitalized for 7 to 10 days, however long the drug therapy would run, and Medicare was put in place to protect the family from those very serious expenditures. Of course, the fact remains that nowadays, most of us are not going to die of our acute illnesses. We are going to live with chronic conditions and hopefully live with them for a long time, and that requires the interplay of prescription drugs.

One other thing I feel honor bound to mention is the issue of medical liability reform which we took up in this House 2 months ago, and I thought did a masterful job of getting a good bill out of this House, and off and on its way. I would implore members of the other body to look seriously at taking up this important legislation before much more time goes by because, as my colleagues know and as I know, the cost of defensive medicine really drives up the medical expenditures, not just for Medicare, but for private insurers as well, and we can no longer afford that type of very expensive defensive medicine in this country.

Again, I thank both the gentlemen from Georgia.

Mr. GINGREY. Mr. Speaker, if the gentleman will yield, just as a follow-up to what the gentleman from Texas (Mr. BURGESS) was saying about this other issue, and as everybody knows, we dealt with the HEALTH Act of 2003 earlier in this 108th Congress, H.R. 5, the Medical Malpractice Tort Reform Accountability Act, and of course, we hope that the other body will soon pass that and we will have that legislation before our President. He is so much supportive of this. Let me tell my colleagues the reason why he is so supportive.

The savings from bringing a level playing field, we are not in any way wanting to take away the right of anybody to have a redress of their grievances if they have been harmed by their medical care that they received at the practice, either from the physician or from the facility is below the standard of care. Absolutely, they should have their day in court, but just trying to level that playing field, and the estimation, Mr. Speaker, is that there would be $14 billion in savings to the Federal Government on what we pay reimbursement for Medicare and Medicaid and military and veterans benefits because, as the gentleman from Texas (Mr. BURGESS) pointed out, the number of unnecessary and duplicate tests that are ordered and procedures that are done, the doctors know they are not necessary, but they are forced into a position because of this risk, this tremendous risk of the next case putting them out of practice or causing that hospital, that rural hospital, to have to close its doors. That is the reason defensive medicine is being practiced, and it is costing us $14 billion. That is 5 percent of our estimated cost of this prescription benefit for our needy seniors.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FRANKS of Arizona). The Chair would remind Members to refrain from improper references to the Senate.

Mr. BURNS. Mr. Speaker, I thank the distinguished gentleman from Georgia (Mr. GINGREY) and the gentleman from Texas (Mr. BURGESS) for their remarks.

I think it is important that we all recognize that the health care profession and the prescription drug industry have a lot at stake as we deal with this challenging issue, but I would like to remind the Chair that what we are dealing with here are some fundamental principles, that of affordability so that our seniors can have an affordable health care prescription drug plan and our seniors will be protected. It will be widely available to all of our seniors.

I think it is very important that we understand it is voluntary. I have heard critics of this plan say that we are going to force the senior into one plan or another. That is not true. The senior can choose from remaining in the current Medicare system or perhaps adopting a different approach, but certainly to give them the option of looking at some prescription drug coverage.

So this is a voluntary plan. This is a plan that deals with choice so they can choose a physician, choose a health care provider, and then effectively manage their own health care needs, and as my colleagues have also pointed out, that it must be sustainable so we can make sure that this plan is viable not only in 2004, but in 2014 and 2024 and 2048 and beyond.

I think these are key things that we have to remember as we continue this discussion and continue this dialogue and debate and mold the future of medical care for our seniors.

I would like to now yield to the distinguished gentleman from New Hampshire (Mr. BRADLEY).

Mr. BRADLEY. Mr. Speaker, I thank the gentleman very much for yielding to me.

Mr. Speaker, today I rise to discuss one of the most important topics that faces all senior citizens in our country, a Medicare prescription drug benefit. It is something that is long overdue, and we have the opportunity within a month or two months to do a good job of providing drug care for our senior citizens which they so desperately need.

Mr. Speaker, I have in my hand a letter from a constituent in Chester, New Hampshire, a constituent who knows all too well just how important this legislation is. She writes to me that while she is not of retirement age today, she has a friend who is not able to retire because her drug costs are simply too high, but of course, she needs these drugs because they are essential to her health.

Mr. Speaker, this is not an isolated story. This is a story that is being told at kitchen tables and in living rooms all across our country. It is a story that is overwhelming for millions and millions of Americans who have fallen victim to the overwhelming costs of high drugs today because they are so essential to our health.

The facts do not lie. Prescription drugs costs have risen at a staggering rate. According to a study by Families U.S.A., which is a nonpartisan organization, the average senior citizen spent $1,200 on prescription drugs in the year 2000, but by the year 2010, that same senior citizen will spend $2,800. A Kaiser Family Foundation study found that between 1998 and 2000, the average prescription price increased more than three times the rate of inflation, and since 1995, the annual percentage increases in spending for prescriptions has been more than double the cost increases for hospitalization and doctors' care.

While many Americans have felt the effects of these sharp rises in costs, it is America's senior citizens who are forced to pay the greatest price. Seniors and other Medicare beneficiaries account for 43 percent of this Nation's total drug spending, even though they represent 14 percent of our Nation's population. In total, over 80 percent, 80 percent of America's retirees use a prescription drug every day. With costs increasing at such an alarming rate, more and more seniors are forced to choose between putting medicine in their cabinets and food on their tables. That is an unacceptable choice, and we have the chance to remedy the situation very quickly.

How will this legislation work? First of all, seniors will pay a $35 monthly premium and a $250 annual deductible, and then whether they use traditional Medicare fee-for-services or a private plan, after these initial costs, 80 percent of the next $2,000 of their drug costs will be covered. For many seniors, this means an immediate cost savings.

In addition to this initial benefit, there is a catastrophic benefit. Over $3,700 of costs for senior citizens will be fully compensated. Seniors will get 100 percent of this coverage, and this is incredibly important for those seniors who have very high bills.

At the other end of the spectrum, for 5 percent of senior citizens who have high incomes greater than $60,000 to begin with, the drug benefit is income sensitive on a sliding scale. What this provision does, Mr. Speaker, is ensure that those people with the greatest need and who have limited means are treated fairly and treated first, but those with the greater ability to pay for their drugs do so. It makes the program more cost effective not only for the seniors but for all taxpayers.

Finally, and just as importantly as everything else, this bill provides senior citizens with options. At least two prescription drug plans will be available to all seniors. They will have the ability to fill their prescriptions at the pharmacy that they choose, and in addition, regional preferred provider organizations will compete for beneficiaries, bringing market forces to bear, improving care and coordination and better choices. This, in turn, will also lower costs for seniors and for taxpayers.

In conclusion, Mr. Speaker, I strongly urge that my colleagues support this important legislation so that improved health care for senior citizens does not rely on financial sacrifices. The advancement of medical research and new drugs has better engaged treatment of many diseases that reduce hospitalization, reduce surgery and reduce nursing home care. Senior citizens are better able to live more productive and fulfilling lives, and because of these advancements, it will be made possible by a drug benefit and this important legislation if we act now.

Mr. GINGREY. Mr. Speaker, I just wanted to ask the gentleman from New Hampshire to go over once again because it is so important. His comments were so important in regard to our senior citizens fully understanding what is in this proposed legislation in regard to the neediest, and if the gentleman does not mind kind of repeating himself for emphasis in regard to those needy seniors and what they would have to pay, and what is the cap, if you will, above which they would not have to pay anything for those additional drugs?

Mr. BRADLEY. Mr. Speaker, the catastrophic coverage, the gentleman is absolutely correct. The cap starts at $3,700, and above that, on the sliding scale, senior citizens would have all drugs paid for based on income sensitivity.

On the other end of the scale, and to me what is very important, is that the Americans, the senior citizens who need this benefit the most will get the care first, and so for up to 135 percent of poverty, all drug costs are covered, and that is absolutely appropriate, that we give those senior citizens who have the greatest need for this drug benefit the care.

Mr. GINGREY. Mr. Speaker, if the gentleman will further yield, this is so important, and I am glad the gentleman from New Hampshire has brought this out because we hear sometimes from constituents proffering the argument that, well, why should we provide a prescription benefit for all seniors, many of whom already have a prescription drug benefit, either through their Medigap supplemental health insurance plan or possibly through their former employer?

□ 2045

And I think the statistic that I have heard quoted is it may be up to 65 percent of seniors that have some type of coverage, and I think the gentleman from New Hampshire agrees with me on that.

But explain to us why it is still necessary, even though 65 percent have some coverage, that there are certainly some gaps in their coverage. Would you not agree?

Mr. BRADLEY of New Hampshire. Well, Mr. Speaker, there certainly are gaps; and for those senior citizens that are at the low end of the spectrum, they often do not have any coverage whatsoever. And so this, unfortunately, and the gentleman, in his profession, knows this all too well, is forcing senior citizens into a terrible choice, paying their rent, their utilities, or having the prescriptions they need to have sound health. And that, in 2003, in the 21st century, is an unacceptable choice and something that we have the opportunity to remedy; and we should avail ourselves of the opportunity.

Mr. BURNS. Is it not correct that the proposals we are considering have not yet been cast in stone? They are still quite malleable; they are still under debate, and we are considering multiple options? And as a point of emphasis, I want to recognize that our neediest citizens, those who would be at or below poverty level, would have full benefit coverage. They would not have a need to pay any of the up-front costs. The premium would be waived, any of the co-pays would be waived as well as the $250 deductible.

So I believe what we are doing here is looking at the alternatives in this plan, debating it, discussing it, and making sure that what comes out is really in the best interest of America and of our seniors.

Mr. BRADLEY of New Hampshire. Well, certainly my understanding of the work the Committee on Energy and Commerce has done so far, as well as the Committee on Ways and Means, is to dedicate the drug benefit to the senior citizens that need it the most; and that certainly should be the principle that we try to enshrine in this legislation. Those that need it the most are the most deserving and where we should focus scarce resources on serving.

Mr. BURNS. I agree. I think the gentleman is 100 percent right. The proposals I have reviewed indeed focus this benefit on the neediest of America's seniors and ensures that, as the gentleman has suggested, they do not have to make a choice between paying the rent, buying the food, and then providing the prescription drugs that they need to have a high quality of life.

I thank the gentleman for his input, and I thank my good friend from Georgia for his point as far as making emphasis to ensure that America understands what we are talking about here.

Mr. BRADLEY of New Hampshire. I thank the gentleman, Mr. Speaker.

Mr. BURNS. Mr. Speaker, I thank the gentleman from New Hampshire (Mr. BRADLEY) for his input, and I now would like to recognize the gentleman from Utah (Mr. BISHOP) to give us a perspective from our western States.

Mr. BISHOP of Utah. Mr. Speaker, many years ago, when I was in high school, I got my first car. It was new and it was sleek and it was fun to drive, and more than anything I would like to have that car back today. There is only one problem with having that car back today. It is broken. It does not run. For it to do anything at all, it would require a major overhaul.

That car is the same age as our Nation's Medicare system. And nostalgia for the good old days, which is why I want to have that car back, nostalgia may have warped some of our memories of what Medicare did or did not do or what it promised or did not promise to do; but nonetheless, our Medicare system today has the same problem. It is broken. It does not run. It needs some kind of major overhaul.

Shortly after my election, Henry Kafton, who is a neighbor who used to live around the corner from me in Brigham City, talked to me about Medicare. And I asked him to put his thoughts down on paper. He wrote me a very simple two-page letter, and he delivered it to me the day after Christmas of last year. I still have that letter with me. In fact, I have it with me here this evening, because Henry suggested some good commonsense approaches to solving the problem with Medicare.

However, in the third sentence of his letter, he put a perspective on the debate when he wrote, "As much as we do not like to think of it, when you turn 65, in many ways you become a third class citizen." No American, Mr. Speaker, should ever have to feel less of a citizen because of their age. And, Mr. Speaker, I am happy to report the Republican leadership of this body will be presenting a bill to reform and modernize our Medicare which addresses many of the comments my good neighbor Henry talked about in his particular letter.

This bill may not be a panacea for our system, but we should also not be arrogant or critical enough to dismiss it out of hand, for it is attempting to adjust a program stuck in the 1960s mode of medical mismanagement for the past 40 years. I am encouraged that it will present a program that will have three important principles.

First, there will be a prescription drug policy which will apply to the neediest of our citizens as well as those, especially those, who have catastrophic pressing needs. Secondly, it would be based on the concept of choice and competition. The Medicare+Choice program will always be open for bid. And President Bush has been very consistent from the beginning in his emphasis that any kind of medical program we have in this country must be based on the concept of choice and competition. And, number three, it will be providing information to our seniors so that they can make informed choices.

I also have the opportunity of serving as a voluntary noncompensated board member of my local hospital. And though I am certainly not an expert in health care, my experience has taught me that all of those kinds of principles in developing a health care system has to be based on the idea of choice and information if it is going to be successful.

I also realize that we have a different delivery system than when Medicare was first established. We have changed how we care for people and where the emphasis is. Doctors and hospitals have made that change. Our Medicare system has not kept up with that change and therefore must be reformed in major, major ways.

Mr. Speaker, the Medicare plan that will be coming before this body will encapsulate those principles, and I am encouraged that it will include benefits for rural health care through the disproportionate share rates, and that physicians and hospitals as a goal will not endure reimbursement cuts.

Mr. Speaker, there are 185,603 senior citizens in my State anxiously awaiting this Congress to enact Medicaid reform and Medicare reform and prescription drug access, including my good friend Mr. Kafton. In the last line of his letter he wrote, "I realize there is probably not much that can be done about this due to politics." Well, I am confident that the leadership of this Congress will break the political logjam of the past and make that statement simply inaccurate.

This will be the first step, the first step of many, to reform a Medicare delivery system and a medical delivery system for the seniors of our Nation, and I look forward to proceeding in that particular direction.

Mr. BURNS. If the gentleman will yield.

Mr. BISHOP of Utah. Only if you make it easy on me.

Mr. BURNS. Mr. Speaker, I wanted to point out one thing and highlight a comment the gentleman made. Sometimes we get caught up in perfection, and what we need are good commonsense approaches to problems in America. I think some of the critics of these proposals as we debate them would suggest that they do not go far enough or they do not do everything they should do, and indeed we may agree; but yet we must make sure that what we produce is a viable, sustainable, commonsense approach to the problems that your good friend points out in his letter.

Mr. BISHOP of Utah. The gentleman from Georgia is absolutely correct. We did not get into this situation overnight. It took 40 years to find us in the predicament that we are in right now. We will not solve this problem overnight. This will be the first step of many. But I am positive if we base it on the good common principles of choice, of information, of competition, that indeed we will move forward in the near future to improving our system and, hopefully, moving to that panacea that we are all looking for.

Mr. BURNS. Mr. Speaker, I thank the gentleman from Utah for his input. I appreciate his comments as we begin the discussion in Medicare reform and in the area of prescription drug benefits.

Mr. Speaker, I would like to review the key points that we wanted to discuss tonight and then summarize what we have discussed on the House floor to make sure that the American people and that the Congress understand the challenges that we face.

First of all, Mr. Speaker, we need to make sure that we understand the principles of strengthening and improving Medicare. We have to guarantee that all citizens, all of our senior citizens, have an affordable prescription drug benefit plan under Medicare. This is an important part, that the seniors that we have now have an affordable prescription drug plan. This needs to be a voluntary plan.

Critics would say that we are going to force a senior to do one thing or another. That is not true. The senior can choose which Medicare prescription plan best fits their needs or they can continue in the current plan if they so choose.

It helps our seniors to immediately reduce their prescription drug cost. Right now many of our seniors have to go out and they have to buy drugs at the highest price, Mr. Speaker. And this gives us an opportunity to provide them a negotiated prescription drug price so that it will immediately lower their cost. It provides special assistance, Mr. Speaker, and additional assistance to our low-income seniors who need this benefit most to ensure their high quality of life.

So, Mr. Speaker, as we begin this debate, let us make sure we understand that the first thing we have to do is to guarantee that all of our senior citizens have an affordable prescription drug benefit plan under Medicare and that it is going to be voluntary, Mr. Speaker.

The second principle we want to deal with, Mr. Speaker, is the fact that we need to protect the senior citizen's right to choose the physician, to choose the medical provider, to choose the druggist, to choose the benefit package that best meets their needs. It is going to provide our seniors with a range of options so that they can best meet their medical requirements.

It is going to cap out-of-pocket costs. I think that is extremely important. We have a catastrophic failure of our drug system now where you can just be eaten alive and into bankruptcy because of the prescription drug cost to our seniors. This is going to cap out-of-pocket costs so that our seniors will be protected and their families will be protected so they will not risk bankruptcy in case of a serious illness.

Now, we are going to debate the amount. I have seen multiple proposals. The Senate has a proposal. There has been several plans here in the House. But I assure you there will with a catastrophic cap on our seniors' cost for prescription drugs. So that as we protect the senior's right to choose, we give every senior an opportunity to pick the plan that best meets their need.

Finally, Mr. Speaker, we have to strengthen Medicare. We need to strengthen Medicare for all of our seniors and for future generations. It is 2003; and as we work toward the resolution of this problem, we must ensure that it not only meets the needs of our current seniors but we also need to make sure that it will meet the needs of our future generations. We need to ensure the delivery of the needed health care services in both the rural environment and the urban environment.

Mr. Speaker, in the 12th district of Georgia, I have a large number of rural communities that have rural health care systems. I also have multiple urban centers of health excellence. But we have to make sure our rural communities have affordable health care, that they have a Medicare system that allows them to continue in business and service their communities. In order to do that, we will very well need to create some really significant structural improvements so that we can curb the runaway health care costs that have jeopardized Medicare's viability in the past. So we are working on those kinds of things.

I would like to emphasize the fact, as we begin and go through this debate, that there is going to be some give and take. There is going to be some discussion. There will be some things that are going to have to be worked out, but we are prepared to do that. The leadership here in this body, the Republicans, have offered a plan; and we will begin that discussion, that debate.

This evening we have had an opportunity here from a number of Members who have direct experience with health care. We have heard from the gentlewoman from Michigan (Mrs. MILLER); we have heard from the gentleman from Texas (Mr. BURGESS). We have heard from the gentleman from Georgia (Mr. GINGREY). And, Mr. Speaker, I would like to now yield to the gentleman from Georgia (Mr. GINGREY) for his comments on finalizing our discussion here this evening.

Mr. GINGREY. I thank the gentleman, my colleague from Georgia, Mr. Speaker. I really want to thank him for reserving this time tonight to give us this opportunity to present during this past hour what it is that we are all about.

I think my colleague did an excellent job of emphasizing something that is so important for all of us to keep in mind, which is that this is first of all an option that seniors have. And as the gentleman from Georgia was talking about, it would do very little good, in fact, it may do some harm to try to pass a stand-alone prescription benefit even for our neediest of seniors, even for our neediest of seniors, without bringing along with that in this Medicare modernization bill some significant changes.

The gentleman from Georgia talked about that and talked about the Medicare Advantage, which was the old Medicare+Choice, a new and enhanced Medicare+Choice, if you will. He talked about enhanced Medicare fee-for-service. These are the kinds of options that this President, this leadership, is bringing to the American public and bringing to our seniors.

□ 2100

But as the gentleman from Georgia emphasized, it is a choice. If a senior wants to stay in traditional Medicare, certainly they could do that, but they would be staying in a traditional health care delivery system which gave them no reimbursement for preventive health care and gave them no protection, as the gentleman from Georgia (Mr. BURNS) pointed out, from a catastrophic illness that could literally put them out of their home.

I wanted to ask the gentleman from Georgia to explain to us in the remaining few minutes in regard to the prescription benefit for those seniors who are scared to move into the Medicare Advantage or the enhanced Medicare, which I think would be a better service for them. But let us say they do want to stay in that traditional Medicare, it is an old shoe, it is comfortable, they are nervous about it initially, what benefit, what prescription drug benefit will they get? Is there a difference in the traditional Medicare and these enhanced plans?

Mr. BURNS. Mr. Speaker, certainly as we go through this debate, we will see options. But the gentleman is correct, seniors will have a choice. They can stay with the current Medicare plan, or choose to move forward. But I think we can agree, number one, there is going to be some form of a copay, some form of a limited amount of initial cost associated with this plan, but it is going to be nominal. We are looking at plans that may require a $250 or some small amount of initial cost share before they begin a part of this plan, and then moving on up to the core part of our plan to cover up to $2,000 of their health care costs. It is important to remember that the median cost to seniors today is about $1,285.

But I would like to close by pointing out that Medicare has not kept pace with medical care. Medical care has advanced tremendously, advanced over the last 40 years. Medicare has floundered. It has failed to keep pace with the needs of America's seniors. Talk is cheap and we have heard a lot of talk about Medicare reform and prescription drug plans over a number of years, but now it is time for action. It is time that we get the job done. The debate has begun. It is time that we make something happen here in Washington for our seniors. Let us put America's seniors first. Let us deliver on our promises. Let us implement a prescription drug benefit plan in a reformed Medicare package.

MEDICARE REFORM

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I was very pleased to listen to my Republican colleagues for most of the last hour when they spoke about the issue of Medicare prescription drugs, and I intend to discuss the same subject; but I cannot help but begin the debate on this issue this evening by pointing out how radical the proposal is that the Republican House leadership is putting forth with regard to Medicare. Contrary to most of what we listened to and what was said by my Republican colleagues, the effort by the House Republican leadership to present a Medicare proposal is one that will, in my opinion, would effectively kill Medicare the way we know it. For those who think they would be able to stay in traditional Medicare and they would get a drug benefit that is basically linked to the traditional Medicare program that they are in, nothing could be further from the truth.

The fact of the matter is what the Republican leadership is putting forth in the House is nothing like traditional Medicare, and would make it very difficult if not impossible for most seniors to stay in traditional Medicare. Certainly if they were looking for any kind of drug benefit that was meaningful, they would have to go outside of traditional Medicare in order to secure it. I just wanted to, if I could, just refute some of the statements that were made by some of the Members. I listened to the last three or so speakers, and I just wanted to contrast what they said to what I believe they are really doing with their Medicare proposal.

The gentleman from Utah (Mr. BISHOP) said that Medicare is broken. It does not run. Well, let me say, Mr. Speaker, the opposite is true. Medicare is the best-run government program that we have, and one of the reasons that I believe why the House Republicans, particularly the leadership, want to say that Medicare is broken and does not run is because they want to set the stage to say this is a lousy program and we have to change it dramatically, as I say, radically, in order to improve it or in order to keep it as a program that is somehow good for seniors.

If they start out by saying Medicare is broken and does not run, the consequence is that we have to fix it; and I would say just the opposite is true. Most seniors feel very strongly that Medicare is run well and they benefit greatly from it. The only thing they want is to add a prescription drug benefit. They do not want to change it. They do not believe it is broken. The gentleman from Georgia (Mr. BURNS) went on to say that when you get to be 65 and you are eligible for Medicare, you become something like a second or third-class citizen because of the nature of the kind of benefit that you get under Medicare.

Again, it is the same thing, to give the impression to the seniors that somehow Medicare is broken. What do they propose to do in order to fix it? They propose to privatize it. And when they say it is broken, they also talk about how it is running out of money, and the reason it is running out of money is because they have borrowed from the Medicare trust fund in order to pay for ongoing operations.

We all know that we have a debt that is $400 billion. They borrowed that from the Medicare trust fund. If they continue to borrow money from the Medicare trust fund, they make it so the money is not available and then they can come back and say that it needs to be fixed.

The gentleman from Georgia (Mr. BURNS) also said that we need choice and competition. Again, I would say that is a euphemism for privatization. If we look at what they are proposing to do with Medicare as well as the prescription drug benefit, they essentially want to get you out of the traditional Medicare by giving you a voucher, saying we will give you a certain amount of money and go out and try to buy a health care policy similar to Medicare with the money that we are going to give you. But if there is no plan that provides the type of health coverage that you want with that set amount of money, then would you have to pay more to stay in the traditional Medicare program.

Or if you want to get a prescription drug benefit, you would have to join an HMO or some kind of private plan in order to get the prescription drug benefit. It is amazing to me because I have listened to the President of the United States go out and talk about what he is trying to do with Medicare and how he would like to have a prescription drug program attached to Medicare. But if we look at what the House Republican leadership is doing, essentially they want to privatize Medicare. They want to get people out of traditional Medicare, and they will only give you a drug benefit if you opt to go out of traditional Medicare and join an HMO or some other kind of program that is not traditional Medicare.

Finally, the gentleman from Georgia (Mr. BURNS) mentioned three principles. He had here on the floor three charts. I wanted to debunk those three principles that he mentioned. First of all, for principle one, he said we have to guarantee that all seniors have an affordable prescription drug benefit under Medicare. He says one of the ways they are going to get that is to negotiate prices. Well, let me tell Members, they not only do not guarantee that all seniors have a prescription drug plan because you will not get it unless you join an HMO or somehow privatize, but they specifically say in their legislation which is going to be considered tomorrow in the Committee on Energy and Commerce, they specifically have a noninterference clause which prohibits the Medicare administration or the Secretary of Health and Human Services from negotiating prices. So this is not true, this principle that they are going to guarantee that seniors have an affordable drug plan. There is no way in the world that they allow the government to negotiate price and make the health plan affordable or make the prescription drug plan affordable.

The gentleman from Georgia said we will protect seniors with the right to choose a benefit package, and we will cap out-of-pocket costs. I would venture to say the opposite is true. They are essentially saying if you stay in traditional Medicare, you are going to have to pay more out-of-pocket costs if you want to stay in traditional Medicare.

Finally, principle three, the gentleman from Georgia said he wants to strengthen Medicare for future generations, make structural improvements to curb run-away costs. What they are getting to here is the cost. They think traditional Medicare costs too much. They want to borrow the money to spend on other programs and cut back on the costs by telling people we will give you a voucher, go out and buy your own private health insurance. If you want traditional Medicare, you have to pay extra.

This is nothing, Mr. Speaker, on the part of the Republican leadership, but what I would consider a sort of scam. In other words, you say that Medicare is broken, you say that it is costing too much money, you say it needs to be fixed, and so you come up with a privatization scheme, you come up with a voucher and tell people they have to get out of voucher if they want to get any kind of meaningful benefit, and you justify it by saying we have to do something to reform Medicare.

Last, the gentleman from Georgia (Mr. GINGREY) said people can stay in traditional Medicare if they want to and then he started talking about enhanced Medicare. Well, they may be able to stay in traditional Medicare if they want to, but it will cost a lot more out of pocket. I would venture to say that eventually traditional Medicare would wither on the vine. It would be too costly, and it would simply wither away. That is what the Republican leadership wants. They want to end Medicare. They are going to disguise this, but what this really is is a very radical way of trying to kill the way that we normally administer health care for seniors, and it is a very dangerous precedent that we have to look at in great deal.

Mr. Speaker, I am joined by the gentleman from Michigan (Mr. STUPAK) who has a long history of dealing with Medicare issues. We are very concerned what is happening this week in the Committee on Energy and Commerce with regard to Medicare, and I yield to the gentleman.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding. The gentleman and I did have an opportunity to listen to the last group speaking on the floor, and while they seemed very sincere, and I say this respectfully, they are freshmen Members, and they have been here for 6 months. The gentleman from New Jersey and I have been here for over 10 years, we sit on the Subcommittee on Health, and we have been through this debate a number of times.

When we look at it, much of the emphasis by the last group that spoke simply is not found in the bill that will be put forth before our committee starting at 1 p.m. tomorrow. It will be before the full committee starting at 1 p.m. Last year, we went 24 hours around the clock, actually it was 36 hours, we ended at 6:30 in the morning. The other group before us said the debate has begun. There will be no debate. When we start our markup tomorrow at 1, we will do our opening statements. Then we will start presenting amendments. We both have some amendments, other Democratic Members will have amendments. Some Republicans will have amendments. But I can tell Members standing here right now, of the Democratic amendments, none of them, or at least any meaningful Democratic amendment that is put forth will be accepted by the majority party. There will not be a debate. It will be their way or no way.

Mr. Speaker, let me be very clear. A few hundred feet from here the Senate is putting forth a bill that seems to have some bipartisan support, and many of us on the committee, Democrats and Republicans, have looked at it and we think there is an area which we can work with in the Senate bill.

The bill we start marking up tomorrow is not the Senate bill. It is not even close to the Senate bill. It does not reflect the Senate bill. The bill we see tomorrow that we will have in our committee and begin to markup will say this: It will privatize Medicare by 2010. It will force seniors into a voucher plan. In other words, seniors are going to get a voucher to purchase not only their prescription drugs, but also their Medicare.

□ 2115

If you cannot afford anything over and above that voucher, you are going to be left behind as they privatize a system that has served our seniors for so many years.

Thirdly, it will not cover every senior. This plan that is going to be put forth tomorrow, we looked at it tonight to get ready for it tomorrow, has a gap in it. Once you hit $2,000, you go off the coverage. You continue to pay your monthly premium, which is anticipated to be about $35, and you get no coverage for it, and you stay there until you incur up to $3,700 out of pocket, and then you kick back in. There is a gap. The gap is designed for most seniors who fall between the $2,000 and $3,000, that is their out-of-pocket expense for prescription drug coverage, so you are going to be paying a premium and getting no coverage? It does not make any sense. It is truly a gap policy. We have had this debate before. So look very closely and watch the markup in the Committee on Energy and Commerce.

The last group talked about, the last group of Members wanting to debate it, I am happy to come down here Wednesday evening, I am sure the gentleman from New Jersey would, too, and let us talk about it. The reason why I say Wednesday is because Tuesday we start the markup at 1 o'clock; we will still be going most of the day Wednesday. So why not come back here and have a real good, honest debate about this bill, because the bill described, and again I think with all sincerity to the other group that was here earlier, just is not the bill we are working on tomorrow.

The House Republican prescription drug plan is not the Senate bill. Many of us have looked at the Senate bill. There are some areas we can work with, and we look forward to doing that. So while we seem to have some negotiating going on a few hundred feet away by the other body in the Capitol here, we will not even get a simple amendment to be offered tomorrow by many of us, will be defeated on a party-line vote, there will not be any debate, there will not be any negotiations, there will not be any working together.

Why is this bill suddenly coming on our calendar? I think the House Republican leadership realized that the Senate was gaining a little momentum, they do have a bill that is starting to take on some bipartisan cooperation here and they are farther ahead than the House is on Medicare. So what do they do? They roll out the plan they had last year which barely passed this House and did not go anywhere because it really does not provide prescription drug coverage for all Americans. It is not affordable. Many of us will be left behind.

When you take a look at it, I come from northern Michigan, a very rural district. I have half the State of Michigan. I am a very rural district. This scheme put forward by the Republicans tomorrow starting in our Committee on Energy and Commerce simply will not work. This plan puts seniors in the same dilemma as we saw last year. They will be asked to give up traditional Medicare and be forced into an HMO with a private insurance plan backing it up.

An HMO is nothing more than a private insurance plan. They want to take traditional fee-for-service Medicare, force you in this HMO and they say, when you do this, you will have choice. You can stay in your traditional plan, pay a heck of a lot more, or you go into our HMO. I am from northern Michigan. I do not have the Federal employees health insurance program. I said when I ran for office, I would not take any kind of health care from the Federal Government until all Americans had it. So I do not accept even their prescription drug plan we have here.

I have a plan that I have had in place for a long time. Unfortunately, this year this plan is doing much like the Republican plan. It has decided to put me in an HMO, a PPO, preferred physician organization. I can stay in my traditional plan, or I can go into the PPO. Being from northern Michigan where we have a small population base spread out over many, many miles, there are not enough people there to go into an HMO, or a PPO. So while I have this insurance card that says I get this 80/20 coverage, the reality is that none of the doctors or the pharmacies in my area participate in this PPO. Therefore, I have to pay out of pocket what the PPO will not pay. Since I am not in their plan, they do not get the reduced rate for me. So instead of being 80/20, I am paying about 50/50. Every time myself or my family have to go to the doctor, we have to shell out 50 percent and the so-called insurance or private insurance company will pay the other 50 percent. My deduction has gone up, they cover less; and since I am in a rural area where they do not have PPOs or HMOs, I have to pay more.

Look what happens when you go to these HMOs or PPOs. They are nothing but insurance plans. What has happened to the cost of insurance in the last couple of years? It has gone up 25, 35 percent. If we allow them to put in this voucher system and give every senior in this country a voucher and say, you would have your choice, go buy the plan you want, you are buying private insurance. They are not going to be able to afford it. Seniors are on a fixed income. They cannot afford a 25, 35 percent increase. No matter where I go in my district, and I was in my district today talking to the credit union league, the Blue Ox Credit Union chapter out of Alpena, Michigan, and what were they telling me? The cost of the health insurance has gone sky high. Not only are they concerned about prescription drug coverage that they would like to see for their parents and grandparents, but just the simple cost of insurance has gone up 25, 35 percent.

The local credit unions cannot even afford to cover their employees anymore. So we are going to force seniors, take away traditional Medicare, put them into this insurance plan, if you will, give them a voucher; whatever your voucher pays for, that is what you get. If you want anything more than that, you are going to have to pay for it. How are they ever going to keep up with these costs of insurance that we see in a private plan? It does not make any sense to me. Medicare is sound. Ninety-seven percent of all seniors in this country are part of Medicare. It is one of the best-run programs. Less than 1 percent of every dollar, less than one penny is used for the administration of the program. Sure it costs a lot of money. Seniors are living longer. That is the success of the Medicare program. Should we have a prescription drug benefit plan? You bet. We Democrats will be in the markup fighting for it. We are going to take a look at that Senate plan, and hopefully we can make it part of it.

I have always advocated the Federal Supply Service. In this country, the biggest purchaser of prescription drugs is the Federal Government. We provide drugs for the Veterans Administration, we provide drugs for Medicaid, we provide drugs for Indian Health Services and government services. There is an agency within the Federal Government called Federal Supply Service, FSS. The Federal Supply Service sits down and negotiates with the drug companies. Since we are the biggest purchaser, the Federal Government is, we get the best possible price, and we negotiate it with the drug companies for no matter what the medication is. We negotiate that price.

In a survey done by the Committee on Government Reform in my district, I am sure they have done it in the district of the gentleman from New Jersey, found that if we could use the Federal Supply Service price, use the purchasing power of the Federal Government and have the seniors go buy their drugs at their local pharmacy, we could reduce the cost of those drugs by 40 to 50 percent. For instance, if I do not have any insurance, let us take Zocor, to lower your cholesterol. The last time we did this survey which was in 2000, it was just over $100 for a 30-day supply of Zocor. If I am under the Federal Supply Service, the FSS, it costs $42.

Why can we not use the purchasing power for those seniors who do not have some kind of prescription drug coverage or MediGap policy and pass that on to them? We do not need a part D of Medicare. We do not need a new program that costs billions of dollars. The infrastructure is already set up. Why can we not do that? That will be one of the amendments we will be offering in our markup on prescription drug coverage. And I am sure like last time, the Democrats will vote for it, all the Republicans will vote against it, and we will end up losing that argument. But here is just a simple idea without creating more Federal Government, bigger bureaucracy: take the purchasing power of the Federal Government and pass it on to our citizens. It makes sense to me. But instead, we are going to have this big scheme, they are going to call it part D of Medicare, they are going to give you a voucher and move you into a private insurance company. They are going to provide you with this policy that has a gap in it between those who have 2 to $3,000 worth of coverage, you are going to pay your monthly premium but you get no coverage, it is called a gap policy, and then they are going to privatize Medicare with this voucher and it is not the Senate plan.

I would have thought they would at least bring forth the Senate plan, attempts to privatize Medicare by relying upon health insurance companies to offer Medicare benefits in rural areas. We already know it has failed. Rural areas are smaller, less population, we are spread out. These areas just are not appealing to big private insurance companies when they can operate with higher profits in densely populated areas.

Plus, let us face it. The HMOs, the PPOs, these private companies, if they are not forced to take everybody, they will cherry pick. They only want the healthiest seniors in their plan. They do not want those who have chronic illnesses or disease, or maybe cancer or heart disease running in their family; they do not want them part of their plan. Why? Because it costs too much money. So these programs of Medicare+Choice and HMOs and all this really just do not exist in rural areas for that reason, because the private companies pulled out when they realized they could not make any more money. They cherry pick and only want the healthiest ones. In fact, I think in the last year, if my memory serves me correctly, 400,000 Americans have lost their insurance coverage under Medicare, Medicare+Choice in this country, because they pull out. As soon as they stop making money, they pull out and they leave you. If you look at the Republican proposal that will be before our committee tomorrow, there is no way you get back in. If your HMO or PPO or Medicare+Choice plan pulls out of your area, what remedy do you have to get back into the system?

There is not one. That is one of the problems with this bill.

So when we walk into the Committee on Energy and Commerce meeting starting at 1 o'clock tomorrow, you can be sure that we will be there to fight this amendment to protect Medicare so that it will be available to all seniors and all disabled Americans no matter where they live and no matter what their income is.

When you take a look at it, another part of this bill that bothers me tremendously is the Republican bill. Again we saw it last year. We debated it for 36 hours in committee. None of our amendments were made in order. But if you take a look at it, there is nothing there to reduce the price of prescription drugs. You give people a voucher, you have nothing to reduce the cost in increase of insurance, there is nothing there to reduce the price of your prescription drugs. The voucher might work for a year or two, but then the insurance is going to catch up to you and you are going to have to pay more for that voucher, and you are going to get less coverage for your pharmaceuticals.

The bill does not include any provision to hold down pharmaceutical prices that the big drug companies charge. There is not even a guarantee in the Republican bill as to what your monthly premium is going to be. In fact, I am glad the gentleman from New Jersey brought it up, there is also language in this bill that states, the Secretary of Health and Human Services will be forbidden from negotiating for better drug prices on behalf of the American people. What happened when we had the anthrax coming in here? Remember we had Cipro; we had companies who were willing to make Cipro for us. They wanted $3 a tablet. The Secretary of Health and Human Services did his job, went and negotiated; we have got Cipro now being produced to provide us all over the country. What did he do? He negotiated a price to about $1 a tablet, two-thirds of a savings they achieved just through simple negotiation, again going back to Federal Supply Service, used the purchasing power of the Federal Government to bring down the cost.

In this bill we will be marking up tomorrow, it is called the noninterference clause, which prevents the Secretary of Health and Human Services to negotiate on your behalf to lower your drug prices. When you get that voucher, who is going to stand and negotiate for you? The drug companies? The insurance companies? No, they have got a vested interest. So you would look to the Secretary of Health and Human Services, and you would think the Federal Government would be there, it is their plan, that they would be negotiating a price for you. They are forbidden from doing it.

There are many, many more interesting provisions in this Republican scheme that we will see over the next few days. This plan intends to, with all due respect, bribe private insurance into a scheme, that rural areas will be shunned under this plan, just as we have been in Medicare+Choice. This idea could result in rural seniors getting stuck with higher premiums compared to our counterparts or beneficiaries who live in the cities.

I will introduce an amendment just like I did last year, because we saw the same thing. My amendment last year ensures that seniors, no matter where they live, rural, urban, will not pay higher premiums than their counterparts in the cities. No matter where you live, my amendment will say, you will pay the same monthly premium, whether you live in New Jersey or Michigan, Detroit or Menominee, Michigan or Alpena, you are going to pay the same monthly premium. That will be an amendment we will bring. I can predict right now on a party-line vote, we will lose that amendment. So urban areas would pay less than the rural areas under the Republican scheme. If you are going to subsidize these companies, whether it is insurance companies or the pharmaceutical companies in the name of undercutting Medicare, it is reprehensible that you are going to stick it to the poor rural seniors who will have to pay more for a doomed experiment in privatization with Medicare, a system that has worked so well.

As I said earlier, the Republican plan has no set premium or cost sharing. In other words, insurance companies would design a prescription drug plan, deciding what to charge you and what drugs they want to cover. The Republican plan will in many cases deny coverage for medicines that a doctor may choose to prescribe for you and would really require seniors to change pharmacies or change coverage.

□ 2130

The Democratic plan that we will put forth, and there are going to be two or three of them, will guarantee prescription drug coverage under Medicare. It will guarantee fair drug prices. It will guarantee a premium of only $25 per month, $100 yearly deductible, and the maximum our beneficiaries would pay under the Democratic plan out of pocket is $2,000 per year. Some people say that we cannot do that, that is just too expensive. We just provided universal healthcare service for Iraq, in the Iraqi bailout bill, $79 billion we spent. In there was a provision to provide universal health service in Iraq. If we can provide universal health service and prescription drug coverage in Iraq, can we not do it here in this country? And will it cost us a few bucks? You bet, because we are a much better country, but I think it is something our seniors deserve and we will be there.

The Republican plan is not a real Medicare benefit. It is based upon a privatization model that has failed in my district and will fail throughout this country. We will continue to fight in the Committee on Energy and Commerce to ensure that every senior, regardless of where they live, will be able to obtain prescription drugs they require to live a healthy life and that this coverage will be provided through the Medicare program. No gimmicks, no so-called reform, which really means privatize it. It is going to be a straight-up proposal put forth by the Democrats. And I hope we can have a meaningful discussion in the committee, but having been here more than 10 years and having sat on this committee now for 9 years, the Health Subcommittee, when one party gets control, unfortunately any amendment put forth by the other party in good faith to even negotiate or bring forth a point is usually voted down on a party-line vote.

So once again, as I started tonight, and I appreciate the gentleman yielding to me, I would ask our Republican friends who spoke a little earlier, let us sit down Wednesday night here and let us have a debate on this, what plan really covers who, what, when, where and how. And I think that is only fair. By then we would have a day and a half debate in the Committee on Energy and Commerce. We can see the shape of the bill, and let us come back before the American people and debate the merits of the plan because there is no doubt in my mind, the plan that we will be seeing on this House floor is not the plan the Senate is negotiating in a bipartisan manner. It is a bill that we saw last year which is a voucher system, which privatizes Medicare, has a gap in coverage, and for those of us in the rural areas it certainly will be discriminatory towards us not only in coverage, but also in price.

So with that I yield back to the gentleman from New Jersey. I thank him for the opportunity to be here tonight, and if he has any questions, I will stay for a little while longer. But I also see the gentleman from Washington (Mr. MCDERMOTT) has joined us. I am sure he has a lot of insight on this, being a physician, or a psychiatrist, I should say.

Mr. PALLONE. Mr. Speaker, but still a physician. I want to thank the gentleman from Michigan (Mr. STUPAK), and just before I yield to the gentleman from Washington (Mr. MCDERMOTT) because I am very pleased that he is with us this evening, not only because he is a physician, but also because he is on the Committee on Ways and Means which is the other committee that will be dealing with the markup of the Medicare bill tomorrow, I just wanted to highlight a couple things that the gentleman from Michigan said, though, because I think they really make the point so well.

First of all, I suppose we should not give the impression that we as Democrats do not have an alternative to the Republican bill, and, in fact, we do.

Essentially what we have said is look, we have no problem with traditional Medicare. We think Medicare works. We think that the only thing that needs to be done is to add a prescription drug benefit. So we as a Democratic Caucus have been saying let us just continue on with the existing Medicare program and let us add a prescription drug benefit, and we have proposed adding a new part D to Medicare that provides a voluntary prescription drug benefit to all Medicare beneficiaries and does not require them to join an HMO or a PPO or do any privatization or use a voucher or anything. It is very much modeled on part B, which pays for their doctor bills right now. They would simply pay a premium of $25 a month. They would have a deductible of $100 a year. Beneficiaries or seniors pay 20 percent. Medicare pays 80 percent. And the most they would spend out of pocket for that 20 percent is up to $2,000 per year at which case everything beyond that is paid for. And most importantly, we have a provision in our bill that would require the Secretary of Health and Human Services to negotiate price reductions.

So I just want to put it on the table that we do not see a problem just adding a drug benefit for everyone to traditional Medicare and continuing with traditional Medicare, which has been a very good program.

As my colleague from Michigan mentioned, the Senate, the other body, on a bipartisan basis has come up with a proposal that, in my opinion, is not as good as the House Democrats' proposal that I just mentioned, but because it does not provide as generous a benefit, I think it only provides 50 percent coverage of their costs and there is a higher deductible and there is a point when they have to pay everything out of pocket, but at least the other body, the Senate, has not done anything to privatize Medicare with their proposal. They can still stay in traditional Medicare. They can still get their prescription drug benefit under traditional Medicare. They do not have to join an HMO. They do not have to join a PPO.

I mean, I obviously like what the House Democrats have proposed better than the Senate, but the main thing is that the other body does not privatize Medicare and does not require them to join an HMO or a PPO to get a benefit.

We are wondering to ourselves where is all this coming from? Where are the House Republicans coming from, as the gentleman said, in that essentially they have rejected the Senate bill and they want to do all these things to end traditional Medicare and force seniors out of it?

There are two theories, and I will just mention two. One is it is strictly ideologically driven. They are just so bent on getting rid of traditional Medicare because it is a Government program that they will not look at the practical side of the fact that it works. That is one theory. Maybe some of them are driven by that. The other theory that I have is that they are in the pockets of the drug companies. We know that the drug companies now are spending all kinds of money as they have in the past to lobby because they do not want any kind of price reduction. They do not want any kind of a real benefit because they are fearful that somehow they are going to make less money.

So I do not know what the reason is, but the one thing that I have to mention is this effort to avoid any mention of price in the House Republican bill. And as the gentleman said, they go so far that they have this noninterference clause, and one of the first things that I did today was to try find out if they continued this noninterference clause that they had in the previous Congress that would prohibit the Secretary of Health and Human Services from negotiating price. And here it is, gentlemen. I am just going to read it. It says that the administrator of the program shall not interfere in any way with negotiations between PDP sponsors and Medicare advantage organizations and other organizations and drug manufacturers, wholesalers, or other suppliers of covered outpatient drugs.

So they are going to allow the competition of the marketplace, but they are not going to allow the Secretary or the Medicare or Health and Human Services to negotiate any kind of price reductions. They are forbidden from doing it. And again, I say it is just because the House Republican leadership is just in the pockets of the drug companies.

This was in the New York Times June 1, and it said: "Lobbyists for the drug industry are stepping up spending to influence Congress, the States and even foreign governments as the debate intensifies over how to provide to prescription drug benefits to the elderly, industry executives say.

"Confidential budget documents from the leading pharmaceutical trade group show that it will spend millions of dollars lobbying Congress and State legislatures, fighting price controls" . . ." subsidizing "like-minded organizations' and paying economists to produce op-ed articles and monographs in response to critics.

"The industry is worried that price controls and other regulations will tie the drug markets' hands as State, Federal and foreign governments try to expand access to affordable drugs."

So I do not know if it is their right-wing radical ideology. I think it is probably because they are essentially being bought and sold by the drug companies.

But the bottom line is we are not going to see any price reductions here. And the issue of affordability, as the gentleman mentioned, is absurd when he talks about this huge gap. Between $2,000 and $3,700 a year, they are going to help them up to $2,000, but once they go over that up to $3,700, there is this huge doughnut hole, and we know that that is the biggest amount of money that seniors spend.

In other words, the biggest problem for seniors is not the catastrophic, which only hits a few people, or the $2,000 or under, which hits a lot, but most people can still afford to pay that. The biggest problem for the average middle class senior is this $2,000 and $3,700 a year. That is where they cannot pay. That is where they start to have to split the pills and go without whatever, and that is where the huge cost savings is that the Republicans are not providing coverage for that doughnut hole.

I have spoken too long, and I would like to recognize the gentleman from Washington (Mr. McDERMOTT) who has been such a leader on this issue. And I want to say one thing if I could to him. I know he has always been an advocate for universal health care, and I agree with him that that is the real answer here, but it is really sad to see that we have a government program that works, that at least does provide universal coverage for seniors and now the Republicans want to destroy even that rather than trying to build and provide more coverage for people who are not seniors. They are even trying to destroy the very universal coverage program we have, that at least seniors have. So I yield to the gentleman.

Mr. McDERMOTT. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for not only yielding to me, but also for coming out here and doing this.

I think that a lot of people in this country right now do not realize how important tomorrow really is. This is the first time when we have got both the House and Senate working on the same issue, and my belief is the President of the United States has told them bring me a bill or you are never going home, because he knows if they do not do something on this issue of drug prescription prices and access to prescriptions, they are going to wind up losing the next election on that issue alone. So they are going to do something. So it is very important for people to watch what is going on here.

What is fascinating about what we are hearing tonight, we have heard my colleagues from Michigan and New Jersey talk about what is going on over in the Committee on Energy and Commerce. There are about 45 people over there, sitting and making amendments and working away and putting together a pie; and then over in another part of the building, there are another

50 of us in the Committee on Ways and Means.

We are making our pie, and somehow those pies have got to be put together. We cannot pass them both. So where is the real pie going to be made? I mean that is the question that people ought to wonder. Is it going to be in the Committee on Rules? Is what is going on in these two committees just for show? And then ultimately the majority leader will bring out the bill and say here it is, rubber-stamp it and let us get out of here. I think this process, as we listen to this, we realize why this is such a difficult process.

One of the things that my distinguished colleague from New Jersey brings up and echoed by the gentleman from Michigan, this business about the Secretary of Health and Human Services, on behalf of us as Americans, us taxpayers, is absolutely by law prohibited from going in and doing any negotiation. Now, when the Government negotiates for the Veterans' Administration, it is all right; and when the Government negotiates for a lot of other places, but in this one area we are going to put a fence around the pharmaceutical industry and say we are not going to use the power of the Government.

Now, that is one part of the bill. Then we go down a little further where the Republicans are promising that there will be two choices in everybody's district. Well, that is nice, but we have already heard from the gentleman from Michigan. Everybody knows what happened with the HMOs. Everybody was promised there will be a lot of HMOs and they will go out there and they will be competing. And pretty soon there was one and then there was none, and most people do not even have an HMO anymore.

So this idea that there are going to be two competing plans out there is a really nice idea. The insurance industry said we do not want it because we have never done this and we do not want to get into this. So the Republicans figured out a way to make it appealing to them. They said, look, go out there and be one of these companies and we will take 90 percent of the risk and they can take the profit. But, remember, once we have cut that deal with them, our Secretary of Health and Human Services on the side of the Government cannot even go in and negotiate as a part of something he is accepting 90 percent of the risk on. I mean, boy, talk about buying a pig in a poke. I cannot imagine a more senseless kind of arrangement for them to be trying to deal with this problem of pharmaceuticals.

□ 2145

Now, I think the other thing that people have to really understand, and I think the gentleman has already alluded to it. I sat on the Medicare Commission several years ago. We were planning to do some revamping of Medicare. It became very clear very soon that the leadership of that committee was interested in only doing one thing, and that is getting rid of the traditional Medicare program and giving everybody a voucher.

Right now, seniors have a guaranteed set of benefits, things that they can count on, and what was going on in that Medicare Commission was how can we shift from these guaranteed benefits to a guaranteed contribution. Those are all fancy government words. What that means is they looked across and said, how much is being spent all across the country? Well, the average is $4,500, so we will give $4,500 to every senior citizen in this country and let them go out and individually find an insurance company that will take them.

The government is not going to stand up and fight for them. The government is not going to try to drive down the prices. It is on you, grandma. Here is your $4,500, there is the street and the door, and go start. Go look.

Now, anybody who looks at that says to themselves, this cannot possibly work, anybody who has a parent. My dad died a few years ago, 3 years ago, at 93, and my mother is now 93. The idea of handing my mother a voucher and saying, Ma, you have got to go out and find yourself an insurance company, is so crazy, it shows so little understanding of older people and what their needs are. They do not want more choice; they want certainty.

My mother every once in awhile will call me up, there be some mail come up, and she will say, "Jim, could you come over here and read this brochure and tell me if I should get into this or not? I don't know if it is a good idea or not." She cannot make those kind of decisions for herself. She is having a little trouble with her memory at 93.

She will say, "You know, I used to be able to remember some things a lot better than I do now."

You are going to send my mother out looking for this? Luckily, she has four kids in Seattle, so we will be there to help her. My mom will be taken care of. But there are a lot of older people in this country who are not fortunate enough to have somebody around to help them through this mystery that we are creating here for them.

Now, another funny thing about this, people have to really understand, in the Committee on Ways and Means, they have already written the bill. The bill is already printed. I heard about it because I said to one of the Republicans, "Hey, what is in the bill?" So he told me. He is giving me all of this stuff. I said, "Is it written down somewhere? Could I go look at it?"

He said, "It is upstairs in a locked room. If you go in there, you cannot take any paper or pencil or anything, and you can just read it, and that is all."

So I asked the chairman, "Could I get in there?"

He said "No."

I said, "Why not?"

He said, "Because you would go outside and tell the press right away."

Now, here is the major social program in this country. I have been here 15 years, 13 years on the Committee on Ways and Means, and I am not given access to look at it one day before it is going to happen tomorrow.

Mr. PALLONE. I know the gentleman was on this Medicare Commission, and the commission basically rejected by a vote this voucher proposal. I just wish we could just develop it a little more, because I think this is the one thing that people just do not understand, that they probably would not even believe what the gentleman just said.

If I went to my constituents and asked five of them, did you hear what the gentleman from Washington (Mr. MCDERMOTT) said, they would not believe that is what the House Republicans are proposing. But it is, in fact, what they are proposing in this bill.

I basically said to a couple of my Republican colleagues exactly what the gentleman said. This was their response. I said, see if we can develop it. They said well, it is not exactly like that. I said, "What happens if there is not anything? What happens if the senior goes out and tries to take this $4,500 voucher and tries to buy this private health insurance and it is not available?" They said, "Oh, it will be available, because we will make it profitable for them to go into this business."

So, on further reflection, I understood. I wanted to get the gentleman's comment on this. What they will do? Because there is no defined benefit. Right now if you get Medicare, you have to get certain benefits and certain things. They will simply reduce the benefits. So maybe somebody eventually will be out there who will take the $4,500 and give your mother the insurance, because they will not provide what Medicare now provides. They will just cut back on the level of benefits, what she gets, whatever. So eventually there will be some junk plan out there for her to purchase, because somebody who is looking to make a buck will come up with something.

But then my understanding is that, let us say that she can find some junk plan that does not provide any benefits that are meaningful or does not operate in a meaningful way. If she wants to stay in traditional Medicare, they are going to charge her more to do it. She will not be able to go back to the traditional Medicare because they will charge her the difference. They may charge her $500 or $1,000. She will be forced with the junk plan.

I want the gentleman to develop it a little. We do not really know.

Mr. McDERMOTT. The bill is going to come out of your committee, but the one in our committee. I understand there is a provision in it that sets this as a goal for 2010. They are going to put it in the bill now. They figure everybody is going to forget about it. It will not affect anybody, so nobody will jump up and down before the next election, because 99.9 percent of the people will not understand it is in there, because it does not affect them.

What they want is to get it in place and started out there, and every imaginable problem one can think of I think will happen, because how does my mother, or how do I know what I should say to my mother? Mother, you should buy this plan.

Let us say they are in Seattle and there are maybe three plans, so we have some choice. And I say this one is a little more expensive, this is less expensive, this is really expensive. How do I know which one to tell her she should take? Do I know what her health care needs are going to be over the next 5 years?

Mr. PALLONE. But, at the same time, even though this is not until 2010 for the voucher for Medicare in general, they are essentially doing the same thing with prescription drugs. If you want to get a prescription drug benefit, you would have to join one of these private plans, or whatever it is. Otherwise you do not get the benefit.

So, by luring people with the prescription drug benefit, that that is the only way they can get it, if they go out and buy this drug only policy or join an HMO, effectively they are doing the same thing before 2010.

Mr. McDERMOTT. They are using the drug benefit as a come-on. You see these ads from automobile sales, sales at Sears or something. There is always something that looks really good. It is a come-on. They are going to get people on the drug thing, because that is the thing people are hurting on most. But they have not looked at what it does to the other part of it, which takes away the benefits.

The home health care, that will be such a target to get rid of. Why have home health care? Either be in the hospital or go to a nursing home. Why should we be wasting our money? Can you just imagine how they would cut the benefits? You are in home health care and you have to take medication, and instead of having somebody come twice a day, if they might need to, you come every other day.

It is all those things that will be cut, little by little by little by little, and you and I will be stuck with our parents and their problems. Neither of my parents have cost me a dime.

Mr. PALLONE. Me neither.

Mr. McDERMOTT. We bought a hearing aid for my mother. It cost $800. My brothers and I and my sister each threw in $200 and bought her a hearing aid. That is the only thing we had to do. People do not understand what they are cutting away now.

Mr. PALLONE. I yield to the gentleman.

Mr. STUPAK. As you were saying, if the Secretary of Health and Human Services cannot negotiate, so we give your mother, who is 93 years old, this voucher, who negotiates for her? It is $4,500. There is no guarantee it will not go up. What happens if it does go up?

So how do these plans, who are not under the care of the government, keep your costs down? They will restrict the access to the pharmaceuticals, because that is the most rapidly rising part of health care. So instead of providing that benefit, they will provide you with a voucher to take care of all your health care needs and then for the prescription drugs, if you have some left over, but only if that plan will cover the prescription drug you need.

It is really crazy. Any drug that is not in the plan's formulary would not be covered. Beneficiaries would have to pay then 100 percent out-of-pocket of the costs of that drug because it is not in their plan, it is not in that voucher that they got. I think the gentleman from Washington makes a great point, how do we know what mine, yours or your parents' health care needs will be 3 or 4 years from now? Once you go into these plans, can you come back in to traditional Medicare? Probably, but at a cost you cannot afford.

So, the points brought up tonight are well taken, and I appreciate the gentleman coming and joining us from the Committee on Ways and Means. As you do your markup, we will be doing ours. And do not feel too bad. Those on the Democratic side, we have not seen the Republican proposal. We know we will see it tomorrow at 1 o'clock. Then we will make some statements about it, and then when the real markup begins, they will slip a substitute in there so we will be scrambling to make sure our amendments are corresponding to the bill, but we do not even have the courtesy to see it before we even begin this markup. Probably the greatest program we can put forth right now is prescription drugs. Our parents, we, everyone needs it. But yet here we are, the night before the beginning of the markup, whether it is the Committee on Ways and Means or the Committee on Energy and Commerce, and we cannot see the bill.

Mr. PALLONE. We are speculating upon what is in it.

Mr. STUPAK. We are basing it upon past years' experience.

Mr. McDERMOTT. It is like the story about the eight blind men describing an elephant. One is describing the leg, one is describing the trunk, and one is describing the ears. We really do not know what we are going to do tomorrow. They are going to try to come out here and run flim flam on people. "You are going to get a drug benefit." What it is worth, or is it worth anything, people will have no idea. It will just be a line in a campaign ad.

Mr. PALLONE. I think I have been longer than even you.

Mr. McDERMOTT. I think you and I came together.

Mr. PALLONE. Maybe. You remember before we came, the Congress had passed a catastrophic health care bill, and then, when we came, there was the clamor to repeal it and it was repealed. Essentially it reminds me of that, where the Republicans are saying we are going to give you a drug benefit, but when you look at the details, it is probably going to be a benefit that is not even worth the paper it is written on. For the next few years, everybody will think they are getting it. When it kicks in, they will realize it is not even worth having, and they will be outraged. That is what we faced when we came in 15 years ago, or whatever it is.

The other thing that is really bothering me, I listened to our Republican colleagues earlier and they talked about how Medicare is broke and it has to be fixed. The biggest problem with Medicare now is they are borrowing from the trust fund. If anything, they are going to make it go broke, because they keep borrowing it to pay for other costs. When my colleague from Washington mentioned the voucher, all I kept thinking was how this becomes budget driven.

In other words, say you give them $4,500 now. But next year, when they say we do not have the money for that, we cannot afford $4,500, so maybe you will continue to get the $4,500, but inflation will not keep up with it. Once you get into that voucher type system, you can regulate how much the government spends and just limit the amount of the voucher or the amount of the program so that essentially the whole Medicare program becomes budget driven, rather than what the real cost is. It is a way for them to calculate the cost and have it be budget driven. It is a very dangerous precedent.

Mr. STUPAK. The gentleman from Washington said when we get these bills tomorrow, we will start working on them, and we are not sure where we can go with them.

I think we can guarantee the American people a number of things we will not do. We will not provide a voucher system. At least the Democrats will fight to make sure there is no voucher system.

We will not privatize Medicare and shift you into an HMO or some other insurance company plan, Medicare-Plus, Medicare-Choice, whatever it is going to be.

We will make sure that any prescription drug plan, at least from our side of the aisle, will not have a gap in it, so those who have from $2,000 to $3,700 out-of-pocket cost will not be paying a premium and get nothing in return for it.

We know that the plan we will be seeing tomorrow, whether it is Ways and Means or Energy and Commerce, is not the bipartisan plan being put forth by the Senate. In fact, in Energy and Commerce we will probably put that plan forth in a bipartisan manner to try to get a plan that will truly work.

We Democrats will continue to fight to make sure and ensure that every senior, regardless of where they live, will be able to obtain prescription drugs that they require to live a healthy life, and this coverage will be provided through a Medicare program that cannot be taken away or you are priced out of it.

Mr. PALLONE. I wanted to say when the gentleman was talking about rural areas before, I want to thank the gentleman for joining us, when the gentleman from Michigan was talking about rural areas, because I know your district in the northern part of Michigan, I have actually been there, is very rural. But the bottom line is you take my State, because you even mentioned HMOs may exist in densely populated areas. Of course, New Jersey is the most densely populated State in the country.

□ 2200

But what the gentleman mentioned about HMOs dropping seniors has happened in my State, in my district dramatically over the last few years. We have had, I think, something like 80,000 seniors in New Jersey who were in HMOs and who joined in order to get a prescription drug benefit who have been dropped. So I understand what the gentleman is saying, that rural areas in particular have a problem because they may not even have an HMO or PPO; but even in as densely a populated State like New Jersey where we have them, they have dropped the seniors at will. It is almost a joke to suggest that somehow, no matter where one is in the country, that these HMOs are going to provide a meaningful drug benefit. We do not know that they will.

Mr. STUPAK. Well, we have sat through the budget battles, the gentleman and I, and through the committee now for about 10 years; and we have seen first to start out was Medicare Choice, Medicare+Choice, Medicare Access; they always have these nice names. They said, okay, so many seniors can go into it. Every year we have never hit the target yet for what we have provided as an experiment. Because what happens is that they come in, start to insure in an area, see the costs are going up a little too much, and then they pull out, and then the seniors have to scramble to try and get coverage, and it just has not worked at all.

Mr. Speaker, it is not going to work for prescription drugs; and let us face it, they are going to get a prescription drug plan and if they take their plan, they are going to give up traditional Medicare, get a privatization of it, a voucher with a gap for prescription drug coverage. It is not going to work. It is not the Senate plan. They are not even guaranteed a price, and no one is there to help them out. They are on their own. This choice sounds great; but what seniors want is the security that Medicare provides, not some choice that they cannot understand or be able to predict what is going to happen 3 or 4 years from now.

Mr. PALLONE. Mr. Speaker, I really want to thank the gentleman, because I think that what the gentleman pointed out is that we are not ideologically driven in the way that the Republicans are on the other side. We just want to do what is practical.

The bottom line is we know that this privatization does not work. Medicare started back in the 1960s because most seniors were not insured and they could not get coverage, so the notion that you are going to get a voucher and go out and buy health insurance privately, it did not work 30 years ago, and it is not going to work today any more than it did then.

The same is true with the HMOs. We have had the experience with the HMOs, and they have dropped the seniors. I think in here they even make permanent the medical savings accounts, another thing that they talked about a few years ago which has not worked out. I think there are only a few thousand of them around the country, yet they are talking about them again.

The bottom line is that we as Democrats want to keep traditional Medicare. We just want to add a prescription drug benefit, and we want to make it one that is affordable and that everybody can take advantage of. And to the extent that the Republican proposals here in the House do not measure up to that, we simply have to speak out and say that it does not measure up and we should not allow them to destroy traditional Medicare.

Mr. Speaker, I want to thank the gentleman again.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON of Indiana (at the request of Ms. PELOSI) for today on account of official business.

Mr. KIND (at the request of Ms. PELOSI) for today on account of a previous family commitment.

Ms. LOFGREN (at the request of Ms. PELOSI) for today and June 17 and until 5:00 p.m. June 18 on account of son's graduation.

Mr. MENENDEZ (at the request of Ms. PELOSI) for today on account of personal matters.

Mr. ORTIZ (at the request of Ms. PELOSI) for today on account of a weather delay.

Ms. WATERS (at the request of Ms. PELOSI) for today on account of a death in the family.

Mr. SMITH of Washington (at the request of Ms. PELOSI) for today and the balance of the week on account of personal reasons.

Mr. NADLER (at the request of Ms. PELOSI) for today on account of personal reasons.

Ms. GINNY BROWN-WAITE of Florida (at the request of Mr. DELAY) for today on account of testifying before the Florida State Senate.

Mr. TOOMEY (at the request of Mr. DELAY) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:

Ms. KAPTUR, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

The following Members (at the request of Mr. BURNS) to revise and extend their remarks and include extraneous material:

Mrs. BLACKBURN, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, June 23.

Mr. KENNEDY of Minnesota, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, June 18.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:

Mr. HAYES, for 5 minutes, today.

SENATE BILLS REFERRED

A bill and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1247. An act to increase the amount to be reserved during fiscal year 2003 for sustainability grants under section 29(l) of the Small Business Act; to the Committee on Small Business.

S. Con. Res. 48. Concurrent resolution supporting the goals and ideals of "National Epilepsy Awareness Month" and urging support for epilepsy research and service programs; to the Committee on Energy and Commerce.

ADJOURNMENT

Mr. PALLONE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, June 17, 2003, at 10:30 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2672. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Requirements for the USDA "Produced From" Grademark for Shell Eggs [Docket No. PY–02–007] (RIN: 0581–AC241) received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2673. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Dried Prunes Produced in California; Revising the Regulations Pertaining to a Voluntary Prune Plum Diversion Program [Docket No. FV02–993–3 FR] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2674. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2003–2004 Marketing Year [Docket No. FV–03–985–1 FR] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2675. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Raisins Produced From Grapes Grown in California; Reduction in Production Cap for 2003 Diversion Program [Docket No. FV03–989–3 FIR] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2676. A letter from the Administrator, Tobacco Programs, Department of Agriculture, transmitting the Department's final rule—Flue-Cured Tobacco Advisory Committee; Amendment to Regulations [Doc. No. TB–02–14] (RIN: 0581–AC11) received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2677. A letter from the Administrator, Cotton Program, Department of Agriculture, transmitting the Department's final rule—Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports, (2003 Amendments) [Docket No. CN–03–002] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2678. A letter from the Administrator, Cotton Programs, Department of Agriculture, transmitting the Department's final rule—Revision of User Fees for 2003 Crop Cotton Classification Services to Growers [CN–02–006] (RIN: 0581–AC17) received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2679. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Spearmint Oil Produced in the Far West; Increased Assessment Rate [Docket No. FV03–985–2 FIR] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2680. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Hazelnuts Grown in Oregon and Washington; Establishment of Final Free and Restricted Percentages for the 2002–2003 Marketing Year [Docket No. FV03–982–1 FIR] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2681. A letter from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule—Fees for Official Inspection and Official Weighing Services (RIN: 0580–AA81) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2682. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Appraiser Qualifications for Placement on FHA Single Family Appraiser Roster [Docket No. FR–4620–F–02] (RIN: 2502–AH59) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2683. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Change of Address; Technical Amendment—received May 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2684. A letter from the Attorney Advisor, NHTSA, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Child Restraint Anchorage Systems [Docket No. NHTSA–2003–14711] (RIN: 2127–AI49) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2685. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations (Blanco, Texas) [MB Docket No. 02–280, RM–10558) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2686. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations, and Section 73.622(b), Table of Allotments Digital Television Broadcast Stations (Hibbing, Minnesota) [MB Docket No. 01–116, RM–10069] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2687. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendments of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Belton, Texas) [MB Docket No. 02–271, RM–10441) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2688. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Great Falls, Montana) [MM Docket No. 00–246, RM–9859] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2689. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section .202(b), Table of Allotments, FM Broadcast Stations (Eldorado, TX) [MM Docket No. 01–273, RM–10284]; (Milan, NM) [MM Docket No. 02–43, RM–10384]; (Alpena, MI) [MB Docket No. 02–107, RM–10417]; (Channing, TX) [MB Docket No. 02-168, RM–10480]; (Escobares, TX) [MB Docket No. 02–169, RM–10481]; (Ozona, TX) [MB Docket No. 02–170, RM–10482]; (Rotan, TX)[MB Docket No. 0 2–172, RM–10484]; (Wellington, TX) [MB Docket No. 02–173, RM–10485]; (Memphis, TX) [MB Docket No. 02–175, RM–10487]; (Matador, TX) [MB Docket No. 02–176, RM–10488]; (Arthur, NE) [MB Docket No. 02–291, RM–10528]; (McLean, TX) [MB to the Committee on Energy and Commerce.

2690. A letter from the General Counsel, Federal Energy Regulatory Commission, transmitting the Department's final rule—Critical Energy Infrastructure Information [Docket Nos. RM02–4–000, PL02–1–000; Order No. 630] received March 24, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2691. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—General License for Import of Major Nuclear Reactor Components (RIN: 3150–AH21) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2692. A communication from the President of the United States, transmitting a report including matters relating to post-liberation Iraq as consistent with the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243); (H. Doc. No. 108–85); to the Committee on International Relations and ordered to be printed.

2693. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's determination that six countries are not cooperating fully with U.S. antiterrorism efforts: Cuba, Iran, Libya, North Korea, Sudan, and Syria; to the Committee on International Relations.

2694. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Testimony by Employees and the Production of Documents in Proceedings Where the United States is not a Party—received May 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2695. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Documentation of Nonimmigrants Under the Immigration and Nationality Act, As Amended—Additional International Organization (RIN: 1400–AB53) received May 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2696. A letter from the Assistant Secretary, Bureau of Indian Affairs, Department of the Interior, transmitting the Department's final rule—Distribution of Fiscal Year 2003 Indian Re servation Roads Funds (RIN: 1076–

AE34) received Jun 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2697. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; San Jacinto River, Houston, Texas [COTP Houston-Galveston-02-019] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2698. A letter from the Assistant Chief Counsel for Regulations, Department of Homeland Security, transmitting the Department's final rule—Temporary Suspension of the September 11th Security Fee and the Aviation Security Infrastructure Fee [Docket No. TSA-2001-11120 and TSA-2002-111334; Amendment Nos. 1540-2 and 1511-1] (RIN: 1652-AA29) received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2699. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Circleville, OH; Correction [Docket No. FAA-2002-14179; Airspace Docket No. 02-AGL-08] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2700. A letter from the Deputy General Counsel, Veterans Health Administration, Department of Veterans Affairs, transmitting the Department's final rule—Fisher Houses and Other Temporary Lodging (RIN: 2900-AL13) received February 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of June 12, 2003]

Mr. MANZULLO: Committee on Small Business. H.R. 923. A bill to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve; with an amendment (Rept. 108-153). Referred to the Committee of the Whole House on the State of the Union.

[Filed on June 16, 2003]

Mr. SESSIONS: Committee on Rules. House Resolution 276. Resolution waiving points of order against the conference report to accompany the bill (S. 342) to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes (Rept. 108-154). Referred to the House Calendar.

Mr. GOODLATTE: Committee on Agriculture. House Joint Resolution 49. Resolution recognizing the important service to the Nation provided by the Foreign Agricultural Service of the Department of Agriculture on the occasion of its 50th anniversary (Rept. 108-155, Pt. 1). Referred to the House Calendar.

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 660. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees; with an amendment (Rept. 108-156). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

[The following actions occurred on June 13, 2003]

Pursuant to clause 2 of rule XII the Committee on Armed Services discharged from further consideration. H.R. 1497 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Armed Services discharged from further consideration. H.R. 1835 referred to the Committee of the Whole House on the State of the Union.

[The following action occurred on June 16, 2003]

Pursuant to clause 2 of rule XII the Committee on the Judiciary discharged from further consideration of H.R. 1950.

Pursuant to clause 2 of rule XII the Committee on International Relations discharged from further consideration. House Joint Resolution 49 referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

[The following actions occurred on June 13, 2003]

H.R. 1562. Referral to the Committee on Ways and Means extended for a period ending not later than June 27, 2003.

H.R. 2122. Referral to the Committee on Homeland Security (Select) extended for a period ending not later than June 27, 2003.

[The following actions occurred on June 16, 2003]

H.R. 1950. Referral to the Committees on Armed Services and Energy and Commerce extended for a period ending not later than July 11, 2003.

H.J. Res. 49. Referral to the Committee on International Relations extended for a period ending not later than June 16, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. NUNES:

H.R. 2471. A bill to amend title XVIII of the Social Security Act to modify the requirement under the Emergency Medical Treatment and Labor Act (EMTALA) with respect to medical screening examinations; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOM DAVIS of Virginia (for himself and Ms. Norton):

H.R. 2472. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Government Reform, and in addition to the Committees on Rules, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS (for himself and Mr. Tauzin):

H.R. 2473. A bill to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, and for other purposes; which was referred jointly to the Committee on Energy and Commerce and Ways and Means.

By Mrs. EMERSON (for herself, Mr. McGovern, Ms. Kaptur, and Mr. Wolf):

H.R. 2474. A bill to require that funds made available for fiscal years 2003 and 2004 for the Bill Emerson and Mickey Leland Hunger Fellowships be administered through the Congressional Hunger Center; to the Committee on Agriculture, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself, Mr. Simmons, Mr. Brown of South Carolina, Mr. Baker, Mr. Miller of Florida, Mr. Boozman, Mr. Bradley of New Hampshire, Ms. Ginny Brown-Waite of Florida, Mr. Renzi, Mr. Murphy, Mr. Gibbons, Mr. Tom Davis of Virginia, Mr. Goss, Mr. LaHood, Mr. Hefley, Mr. Jones of North Carolina, Mr. Pickering, Mr. Pallone, Mr. Gillmor, Mr. Pearce, Mr. LoBiondo, Mrs. Jo Ann Davis of Virginia, Mr. Terry, Mrs. Kelly, Mr. Issa, Mrs. Capito, Mr. Vitter, Mr. Calvert, Mr. Jenkins, Mr. Gilchrest, Mr. Paul, Mr. King of New York, Mr. Houghton, Mr. Platts, Ms. Hart, Mr. Wilson of South Carolina, Mr. Whitfield, Mr. Hayes, and Mr. Saxton):

H.R. 2475. A bill to amend title 38, United States Code, to provide an enhanced funding process to ensure an adequate level of funding for veterans health care programs of the Department of Veterans Affairs, to establish standards of access to care for veterans seeking health care from the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ENGEL (for himself, Mr. Weldon of Florida, Mr. McNulty, Mr. Frost, Mr. Case, and Mr. Paul):

H.R. 2476. A bill to amend title XVIII of the Social Security Act to provide for coverage of home infusion drug therapies under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORD:

H.R. 2477. A bill to amend the Internal Revenue Code of 1986 to increase the exclusion equivalent of the unified credit allowed against the estate tax to $7,500,000 and to modify the estate tax rate schedule; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts:

H.R. 2478. A bill to reinstate the authority of the Federal Communications Commission and local franchising authorities to regulate the rates for cable television service; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself and Mr. Olver):

H.R. 2479. A bill to authorize the Secretary of the Interior to provide to the States of Connecticut and Massachusetts technical and financial assistance for management of the Connecticut River in those States; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEACH:

H.R. 2480. A bill to amend the Internal Revenue Code of 1986 to reduce estate and gift tax rates to 30 percent, to increase the exclusion equivalent of the unified credit to $10,000,000, and to increase the annual gift tax exclusion to $50,000; to the Committee on Ways and Means.

By Mrs. LOWEY:

H.R. 2481. A bill to amend the Internal Revenue Code of 1986 to reduce estate tax rates by 20 percent, to increase the unified credit against estate and gift taxes to the equivalent of a $2,500,000 exclusion and to provide an inflation adjustment of such amount, and for other purposes; to the Committee on Ways and Means.

By Mrs. MALONEY (for herself and Mr. Leach):

H.R. 2482. A bill to call for the cancellation of loans made to Iraq by multilateral financial institutions; to the Committee on Financial Services.

By Mr. MATHESON:

H.R. 2483. A bill to amend the Virgin River Dinosaur Footprint Preserve Act to allow funds available under that Act to be used for preservation, exploration, and preparation of paleontological resources for display, educational outreach, and related construction; to the Committee on Resources.

By Mr. McINTYRE:

H.R. 2484. A bill to establish a program to provide assistance to institutions of higher education serving members of Indian tribes; to the Committee on Education and the Workforce.

By Mr. GEORGE MILLER of California (for himself, Mr. Kildee, Mr. Bishop of New York, Ms. Woolsey, Mr. Owens, Mr. Ryan of Ohio, Mr. Tierney, Mr. Davis of Illinois, Mr. Kind, Mr. Holt, Mr. Van Hollen, and Ms. McCollum):

H.R. 2485. A bill to limit the applicability of the annual updates to the allowance for State and other taxes in the tables used in the Federal Needs Analysis Methodology for the award year 2004-2005, published in the Federal Register on May 30, 2003; to the Committee on Education and the Workforce.

By Mr. VISCLOSKY:

H.R. 2486. A bill to provide for the geographic reclassification of a county for purposes of equitable hospital payment rates under the Medicare Program; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.J. Res. 60. A joint resolution proposing an amendment to the Constitution of the United States to authorize the line item veto; to the Committee on the Judiciary.

By Mr. COX (for himself, Mr. DeLay, Ms. Pelosi, Mr. Blunt, Mr. Lantos, Mr. Goodlatte, Mr. Faleomavaega, Mr. Vitter, Mr. Wicker, Mr. Wilson of South Carolina, Mr. Burgess, Mr. King of Iowa, Mr. Kennedy of Minnesota, Mr. Markey, Mr. Frank of Massachusetts, Mr. Barton of Texas, Mr. Stearns, Ms. Ros-Lehtinen, Mr. Royce, Mr. Smith of Michigan, Ms. Harris, Mr. Weller, Mr. Burton of Indiana, Mr. Shadegg, Mr. Lincoln Diaz-Balart of Florida, Mr. Mario Diaz-Balart of Florida, and Mr. Sessions):

H. Res. 277. A resolution expressing support for freedom in Hong Kong; to the Committee on International Relations.

By Mr. ENGEL (for himself, Mr. Bilirakis, Mr. Lantos, Mr. King of New York, Mr. Brown of Ohio, Mr. Markey, Mr. Waxman, Mrs. Capps, Mr. Greenwood, Mr. Cox, Mr. Gutknecht, Mr. Towns, Ms. Slaughter, Mrs. Maloney, and Mr. Terry):

H. Res. 278. A resolution recognizing the contributions Lou Gehrig and his legacy have made in the fight against Amyotrophic Lateral Sclerosis; to the Committee on Energy and Commerce.

By Mr. SMITH of Texas (for himself, Mr. Bonilla, Mr. Rodriguez, and Mr. Gonzalez):

H. Res. 279. A resolution congratulating the San Antonio Spurs for winning the 2003 NBA Championship; to the Committee on Government Reform.

By Mr. SWEENEY:

H. Res. 280. A resolution congratulating Roger Clemens of the New York Yankees for pitching 300 major league wins; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII,

97. The SPEAKER presented a memorial of the Legislature of the State of Maine, relative to H.P. 1191 Joint Resolution memorializing the Congress of the United States to recognize the valuable role AmeriCorps plays in Maine communities; to the Committee on Education and the Workforce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. MARKEY introduced a bill (H.R. 2487) for the relief of Esther Karinge; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. Kingston and Mr. Stearns.

H.R. 58: Mr. Scott of Georgia, Mr. Wicker, Mr. Rehberg, and Mr. Moran of Kansas.

H.R. 141: Mr. Ballance and Ms. Pelosi.

H.R. 218: Mr. Baca.

H.R. 303: Ms. Pelosi, Mr. Emanuel, Mr. Capuano, Mr. Schiff, Mrs. Napolitano, and Mr. Meeks of New York.

H.R. 371: Mr. Markey and Mr. McGovern.

H.R. 466: Mr. Smith of Texas.

H.R. 527: Mr. Wilson of South Carolina.

H.R. 577: Mr. Moore.

H.R. 660: Mr. Mica, Mr. Neugebauer, Mr. Ney, and Mr. Gutknecht.

H.R. 713: Mr. Spratt.

H.R. 715: Mr. Porter.

H.R. 721: Mr. Cummings, Ms. Woolsey, Mr. Boozman, and Mr. Filner.

H.R. 734: Mr. Kildee, Ms. Norton, Mr. Pascrell, Mr. Owens, Ms. Woolsey, Ms. Lee, Ms. Carson of Indiana, Ms. Kaptur, Mr. Pallone, Mr. Wexler, Mr. Serrano, Mr. Payne, Mr. Holt, and Mr. Menendez.

H.R. 779: Mr. Nadler.

H.R. 785: Mr. Pombo, Ms. Jackson-Lee of Texas, and Mr. Pallone.

H.R. 819: Mr. Cardoza.

H.R. 828: Mr. Payne.

H.R. 847: Mr. Lynch.

H.R. 852: Mr. Markey, Mr. Brown of Ohio, Mrs. Maloney, Ms. Velázquez, Mr. Rangel, Mr. Bell, Ms. Schakowsky, Mr. Hinchey, and Mr. Owens.

H.R. 872: Mr. Ehlers.

H.R. 876: Mr. Brady of Texas.

H.R. 879: Mr. Whitfield and Mr. Blumenauer.

H.R. 898: Mrs. Capps and Mr. Stupak.

H.R. 919: Mrs. Miller of Michigan and Mr. Kline.

H.R. 931: Mr. Pickering.

H.R. 934: Mr. Payne.

H.R. 941: Mr. Matsui, Ms. McCollum, and Mr. Meehan.

H.R. 976: Mr. Lantos.

H.R. 980: Mr. Honda.

H.R. 997: Mr. Isakson, Mr. Hall, Mrs. Capito, Mr. Oxley, Mr. Hyde, and Mr. Coble.

H.R. 1008: Mr. Bartlett of Maryland.

H.R. 1038: Mr. Blumenauer.

H.R. 1078: Mr. Jones of North Carolina, Mr. Scott of Georgia, and Ms. Loretta Sanchez of California.

H.R. 1080: Mr. Bartlett of Maryland and Mr. Andrews.

H.R. 1087: Mr. Calvert.

H.R. 1103: Ms. Millender-McDonald.

H.R. 1117: Mr. Feeney.

H.R. 1125: Mr. Bishop of New York, Mr. Engel, Mr. Turner of Texas, Mr. Boswell, Mr. Keller, Mr. McIntyre, and Mr. Hostettler.

H.R. 1157: Mr. Clyburn and Mr. Case.

H.R. 1167: Mr. Buyer, Mr. Vitter, and Ms. Corrine Brown of Florida.

H.R. 1179: Mr. Baird and Mr. Otter.

H.R. 1268: Mr. Lipinski.

H.R. 1294: Mr. Schiff and Mr. Andrews.

H.R. 1305: Mr. Shuster.

H.R. 1372: Ms. Loretta Sanchez of California and Mr. Gephardt.

H.R. 1385: Mr. Abercrombie, Mr. Emanuel, and Mr. Conyers.

H.R. 1442: Mr. McDermott and Mr. Michaud.

H.R. 1565: Mr. Doyle.

H.R. 1580: Mr. Frost.

H.R. 1582: Mr. Lampson, Mr. Hayworth, and Mr. Oxley.

H.R. 1613: Mr. Ney, Mr. Owens, Ms. Schakowsky, and Mr. Fattah.

H.R. 1657: Mr. Bell and Ms. Linda T. Sánchez of California.

H.R. 1662: Mrs. Musgrave.

H.R. 1688: Mr. DeFazio, Mr. Israel, Mr. Tierney, Mr. McGovern, Mr. Pascrell, Mr. George Miller of California, Ms. Norton, Mr. Crowley, and Mr. Delahunt.

H.R. 1693: Mr. Sensenbrenner.

H.R. 1710: Mr. Nussle, Mr. Gerlach, Mr. Kanjorski, Mr. Hall, and Ms. McCollum.

H.R. 1723: Mr. George Miller of California.

H.R. 1766: Mr. English, Mr. Wicker, Mr. Ramstad, Ms. Hart, Mrs. Jo Ann Davis of Virginia, and Mr. Hobson.

H.R. 1769: Mr. Watt, Mr. Sherman, and Mr. Emanuel.

H.R. 1784: Mr. Vitter, Ms. Kilpatrick, Mr. Emanuel, Mr. Wu, and Mr. Boucher.

H.R. 1787: Mr. Burr.

H.R. 1828: Ms. Linda T. Sánchez of California, Ms. Corrine Brown of Florida, Mr. Reyes, Mr. Meek of Florida, Mr. Rogers of Michigan, Mr. Bilirakis, and Mrs. Northrup.

H.R. 1902: Mr. Strickland and Mr. Bradley of New Hampshire.

H.R. 1945: Ms. ESHOO, Mr. MCGOVERN, Mr. MCDERMOTT, Mr. GEORGE MILLER of California, and Mrs. CAPPS.

H.R. 1999: Mr. EMANUEL, Mr. CARDOZA, Mr. POMEROY, Mr. EDWARDS, Ms. SOLIS, and Ms. PELOSI.

H.R. 2022: Mr. HOEFFEL.

H.R. 2028: Mr. NUSSLE.

H.R. 2034: Mr. CALVERT.

H.R. 2038: Mr. ABERCROMBIE and Ms. MCCOLLUM.

H.R. 2057: Mr. REHBERG.

H.R. 2071: Ms. LEE, Mr. KIND, Mr. NADLER, Mr. EVANS, and Ms. SCHAKOWSKY.

H.R. 2125: Mr. DOYLE.

H.R. 2172: Mr. GREEN of Wisconsin.

H.R. 2176: Mr. PETRI.

H.R. 2183: Mr. PAYNE, Ms. JACKSON-LEE of Texas, and Mr. BURNS.

H.R. 2198: Mr. SKELTON.

H.R. 2205: Mr. EMANUEL, Mr. SKELTON, Ms. MCCOLLUM, and Mr. SPRATT.

H.R. 2207: Ms. DELAURO.

H.R. 2221: Mr. CONYERS and Mr. GIBBONS.

H.R. 2233: Mr. KUCINICH and Mr. FILNER.

H.R. 2249: Mr. TOWNS.

H.R. 2250: Ms. JACKSON-LEE of Texas and Mr. DEFAZIO.

H.R. 2256: Mr. DOYLE, Mrs. MCCARTHY of New York, and Mr. OBERSTAR.

H.R. 2262: Mr. HASTINGS of Florida.

H.R. 2318: Mr. WHITFIELD.

H.R. 2328: Mr. MENENDEZ, Mr. RAHALL, Ms. BERKLEY, Ms. CORRINE BROWN of Florida, and Mr. HONDA.

H.R. 2330: Mr. FILNER.

H.R. 2351: Mr. RAMSTAD, Mr. HALL, Mr. KING of Iowa, and Mr. JONES of North Carolina.

H.R. 2361: Mr. BRADLEY of New Hampshire.

H.R. 2363: Mr. KUCINICH, Ms. CARSON of Indiana, Ms. LEE, Ms. SCHAKOWSKY, Ms. LINDA T. SÁNCHEZ of California, Mr. ENGEL, Mr. EMANUEL, and Mr. DAVIS of Tennessee.

H.R. 2377: Ms. MCCOLLUM, Mr. MCNULTY, Mr. STARK, Mr. PAYNE, and Mr. SCHIFF.

H.R. 2379: Mr. GILLMOR and Mr. MCINNIS.

H.R. 2404: Mrs. JONES of Ohio.

H.R. 2426: Mr. LANTOS, Mr. MCDERMOTT, and Ms. LORETTA SANCHEZ of California.

H.R. 2427: Mr. SIMPSON, Mr. KING of Iowa, Mr. HINCHEY, and Mr. ALLEN.

H.R. 2428: Mrs. JONES of Ohio.

H.R. 2429: Mr. HOLT and Mrs. JONES of Ohio.

H.R. 2432: Mr. ISTOOK.

H.R. 2462: Mr. OBERSTAR, Mr. UDALL of New Mexico, Ms. WOOLSEY, Mr. MORAN of Virginia, Ms. CORRINE BROWN of Florida, Mrs. DAVIS of California, Ms. MCCOLLUM, Mr. HONDA, Mr. LEACH, and Mr. PAYNE.

H. Con. Res. 4: Mrs. JO ANN DAVIS of Virginia.

H. Con. Res. 6: Mr. ETHERIDGE, Mr. SMITH of New Jersey, and Mr. KENNEDY of Rhode Island.

H. Con. Res. 98: Mr. CLAY.

H. Con. Res. 99: Ms. CORRINE BROWN of Florida.

H. Con. Res. 126: Mr. NEY, Mr. NEUGEBAUER, Mr. TERRY, and Mr. AKIN.

H. Con. Res. 175: Mr. KUCINICH and Mr. VAN HOLLEN.

H. Con. Res. 176: Mr. UPTON.

H. Con. Res. 209: Mr. BOOZMAN.

H. Con. Res. 213: Mr. KUCINICH, Mr. TIERNEY, Ms. LINDA T. SÁNCHEZ of California, and Mr. BECERRA.

H. Con. Res. 220: Ms. NORTON.

H. Res. 21: Mr. JACKSON of Illinois, Mr. THOMPSON of California, Mrs. CHRISTENSEN, and Mrs. MCCARTHY of New York.

H. Res. 103: Mr. SCHIFF.

H. Res. 136: Mr. LAHOOD, Mr. LARSEN of Washington, Mr. SESSIONS, and Mr. HENSARLING.

H. Res. 259: Mr. AKIN.

H. Res. 260: Mr. MCGOVERN, Mr. ABERCROMBIE, and Mr. WEXLER.

H. Res. 261: Mr. BLUMENAUER, Mr. FROST, Mr. SANDERS, and Mr. CUMMINGS.

H. Res. 267: Mr. KIND and Mr. HASTINGS of Washington.

H. Res. 273: Mr. SHERMAN, Ms. SLAUGHTER, and Mr. RYAN of Ohio.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1528

OFFERED BY: MR. THOMAS

AMENDMENT NO. 1: Page 35, line 18, strike "2007" and insert "2005".

Page 39, strike line 14 and all that follows through line 11 on page 40 (all of section 309 of the bill) and insert the following new section:

SEC. 309. HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

(a) CONSUMER OPTIONS.—

(1) IN GENERAL.—Paragraph (2) of section 35(e) is amended by adding at the end the following new subparagraphs:

"(C) WAIVER BY ELIGIBLE INDIVIDUALS.—With respect to any month, clauses (i) and (ii) of subparagraph (A) shall not apply with respect to any eligible individual and such individual's qualifying family members if such individual—

"(i) does not reside in a State which the Secretary has identified by regulation, guidance, or otherwise as a State in which any coverage which—

"(I) is described in any of subparagraphs (C) through (H) of paragraph (1), and

"(II) meets the requirements of subparagraphs (A) and (B) of this paragraph,

is available to eligible individuals (and their qualifying family members) residing in the State, and

"(ii) elects to waive the application of clauses (i) and (ii) of subparagraph (A) of this paragraph.

"(D) ELECTION.—Any election made under subparagraph (C)(ii) shall be effective for the month for which such election is made and for all subsequent months.

"(E) TERMINATION.—Subparagraphs (C) and (D) shall not apply to any month beginning after December 31, 2004.".

(2) NO IMPACT ON STATE CONSUMER PROTECTIONS.—Nothing in the amendment made by paragraph (1) supercedes or otherwise affects the application of State law relating to consumer insurance protections (including State law implementing the requirements of part B of title XXVII of the Public Health Service Act).

(b) STATE-BASED CONTINUATION COVERAGE NOT SUBJECT TO REQUIREMENTS.—Subparagraphs (A) and (B)(i) of section 35(e)(2) are each amended by striking "subparagraphs (B) through (H)" and inserting "subparagraphs (C) through (H)".

(c) EFFECTIVE DATE.—

(1) CONSUMER OPTIONS.—The amendment made by subsection (a) shall apply to months beginning after the date of the enactment of this Act.

(2) STATE-BASED CONTINUATION COVERAGE.—The amendments made by subsection (b) shall take effect as if included in section 201(a) of the Trade Act of 2002.

Page 45, after line 3, insert the following new section (and amend the table of contents accordingly):

SEC. 311. EXTENSION OF JOINT REVIEW OF STRATEGIC PLANS AND BUDGET FOR THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Paragraph (2) of section 8021(f) (relating to joint reviews) is amended by striking "2004" and inserting "2009".

(b) REPORT.—Subparagraph (C) of section 8022(3) (regarding reports) is amended—

(1) by striking "2004" and inserting "2009", and

(2) by striking "with respect to—" and all that follows and inserting "with respect to the matters addressed in the joint review referred to in section 8021(f)(2).".

EXTENSIONS OF REMARKS

HONORING THE PUBLIC SERVICE OF JANE GARCIA

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Ms. LEE. Mr. Speaker, I rise on this day to pay tribute to an extraordinary community leader, Ms. Jane Garcia. I take great pride in honoring Jane for her twenty-five years of tenacious advocacy on behalf of the poor, and for her dedication to organizing and empowering the immigrant community in its struggle for greater access to health care.

The monumental integrity and deep compassion that has come to characterize Jane's legacy of service to her community are deeply rooted in the lessons she learned while growing up in the Chicano Movement. Jane's lifelong commitment to insuring that every woman, man and child has access to culturally and linguistically appropriate healthcare, and her belief that healthcare is a fundamental right not an economic privilege were inspired by the civil rights activism of Cesar Chavez, Dr. Martin Luther King Jr., and Dolores Huerta.

Recognizing the importance of organizing and empowering the immigrant community in its efforts to secure the promises of equality and justice made by our nation's founders, Jane has tirelessly worked to improve the quality of life for the most vulnerable members of her community. Among her many public policy victories, Jane courageously and fiercely led the successful battle to preserve prenatal healthcare for low-income immigrants during former Governor Wilson's draconian era of budget cutbacks.

Inspiring and empowering those whose lives she touches, Jane rises to positions of leadership where she effectively challenges the status quo, contributes to policy reform, and advocates for equality and justice for all. She has provided skillful and passionate guidance to a plethora of community service organizations in California, doing so most visibly through her twenty-five years with La Clinica de La Raza—Fruitvale Health Project.

Under her skillful tutelage and direction, what began as a grassroots health clinic more than thirty-eight years ago has become the premiere Latino community health center in the nation. During her tenure as Chief Executive Officer of La Clinica, the organization's budget has grown from $3 mullion in 1983 to over $28 million today. The combination of Jane Garcia's focused administrative style and limitless compassion has allowed La Clinica to greatly expand the services available to its patients. La Clinica now provides high-quality healthcare services to over 17,000 families annually, making it a critical and irreplaceable component of the healthcare safety net in Alameda County. Soon, La Clinica will be assuming the dental facility at Children's Hospital in Oakland, making La Clinica one of the largest dental providers in Northern California. It is the largest employer in East Oakland and was recently listed as the sixth largest non-profit employer in the East Bay by the East Bay Business Times.

Jane's relentless efforts, her ongoing dedication, and her long-term vision made La Clinica's impressive growth possible. Thus, it is fitting that we honor Jane's twenty-five years of unyielding commitment to public service in the same year that we will be celebrating the grand opening of the historic Fruitvale Transit Village, which will be anchored by La Clinica's newest and largest facility. Jane is truly the personification of Cesar Chavez' famous motto: "!Si Se Puede!".

Mr. Speaker, I am honored to recognize my good and long-time friend, Jane Garcia, and I take pride in joining the people of California's 9th Congressional District in celebrating and honoring her twenty-five years of service to our community.

ANNUAL ESSAY CONTEST WINNERS, ILLINOIS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. HYDE. Mr. Speaker, every year in my district, I ask students in grades 8th and 12th to participate in an essay contest. This year's contest focused on the issue of energy and national security. Specifically, this year's essay question was as follows: "How important is energy to our economy and our national security?"

I am pleased that so many students chose to enter this essay contest. Unfortunately, however, there can only be one winner in each group: 8th grade and 12th grade. This year's 8th grade winner was Dina LaSala, who attends St. Charles Borromeo School in Bensenville, Illinois. The 12th grade winner was Jane Urban, who attends Glenbard West High School in Glen Ellyn, Illinois.

This is Miss LaSala's essay, entitled "How Important Is Energy to Our Economy and Our National Security?":

> In aftermath of September 11th terrorist attacks, Americans are asking our government to strengthen national security. The immediate focus must be to secure our homeland from future attacks, but we also must take steps to safeguard the long-term health of our economy, the livelihood of America's workers and our environment.
>
> Earlier this year, President Bush sent Congress his National Energy Plan, a blueprint for ensuring America's future against the perils of an unstable world. The plan includes 105 recommendations on improving energy efficiency and conservation, protecting the environment, diversifying our energy supplies through development of renewable resources, and reducing our reliance on foreign energy. A bipartisan majority in the United States House of Representatives passed this plan in August. It is imperative the Senate does likewise.
>
> A key component of the president's plan is the development of energy resources on federal lands, including the coastal plain of the Arctic National Wildlife Refuge (ANWR.) ANWR is considered the nation's largest potential new oil field and was specially designated by Congress for further study of its oil and gas potential in 1980.
>
> At a time when our country is experiencing an economic downturn, development of this area would give a major boost to our economy and American workers, directly or indirectly creating as many as 735,000 new jobs across the country, including 135,000 construction jobs.
>
> It would also give American greater energy independence at a time when more than half of our nation's oil comes from foreign sources, a figure that is rising and could exceed 65 percent imports by the year 2020. The United States needs oil imports, but the current crisis underscores the importance of having our own healthy domestic supply. A conservative estimate is that ANWR would yield 7.7 billion barrels of oil, an amount roughly equal to 20 years of imports from Saddam Hussein's Iraq. The higher end estimates equal 50–year's worth. ANWR could easily provide more than 20 percent of our domestic oil production.
>
> This is especially important considering United States' energy production is not keeping up with our growing consumption, creating a rapidly increasing gap between domestic supply and demand. Over the next 20 years, even with increased conservation programs, United States' domestic oil production is calculated to decline by 1.5 million barrels per day, while demand will increase by 6 million barrels per day.
>
> Earlier this year, we saw the effect energy shortages can have on our economy and quality of life. Californians experienced rolling blackouts. Gas prices rose to new highs last spring and summer. At a time like this, we must not turn our back on an important domestic source of energy.
>
> We can develop a small portion of ANWR while guarding the environment. The administration is urging that the ANWR legislation impose the toughest environmental standards ever applied to oil production. For example, it would limit the surface disruption caused by drilling to only 2,000 acres of the 1.5 million set aside for oil exploration within the 19.6 total acres contained in ANWR.
>
> The men and women who work in the oil fields will be specially trained to protect the environment. This will ensure a well-qualified work force will take every precaution necessary to preserve the environment integrity of the Arctic Coastal Plain. In addition, oil-field technology has advanced significantly in the 30 years since oil development began on Alaska's Prudhoe Bay. We have the capacity to extract oil while still protecting the Arctic ecosystem by increasing the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

length of directional drills and allowing for smaller and more compact production pads.

With American ingenuity and innovative technologies, we can protect the environment and provide energy security. We have the opportunity to take action before we face a devastating crisis. We must embrace a long-term energy plan that allows for protection of our environment, more efficient use of energy and increased development of domestic energy sources. Our long-term national security depends on it.

This is Miss Urban's essay, entitled "Liquid Gold Lacks Luster in the New Economy":

Oil has often been referred to as "liquid gold," but this commodity can also be an extremely volatile and obstreperous substance plaguing the United States. America's continued dependence on foreign oil is a serious threat to the success of its economy as well as to the security of the nation, especially as the war on terrorism is waged on Iraq and the flow of this "liquid gold" is disrupted. Not only must Americans understand this serious energy problem, but also new and viable solutions must be crafted in order to prevent the United States' dependence on foreign oil from becoming an oil slick into disaster.

The economic implications of dependence on foreign oil are staggering, especially when the U.S. has not been able to disentangle itself from oil providers, such as the member nations of OPEC, who directly oppose the American way of life. Unless the United States is able to wean itself from a constant flow of OPEC oil, the economy will continue to struggle well after the war against Iraq is over. Some of the fluctuations in the oil market come, surprisingly, not from foreign pricing, but from internal governmental regulations. In September of 2000, President Clinton released thirty million barrels of oil from the government oil reserves in order to alleviate high prices. While this action was a temporary fix for rising prices, when President George W. Bush replenished the thirty million barrels, oil prices rose significantly, more than the release in 2000 lowered them. Thus, governmental regulation of oil has not proved helpful, but rather this kind of intervention only further aggravates problems in the United States as it endures rising oil prices. Overall, the issue of economic repercussions for U.S. dependence on foreign oil is long lasting and serious for the future of the U.S. economy.

National security is greatly compromised as the U.S. continues to depend on foreign oil supplies. Nothing proves this point more than the risks involved with a war in Iraq and the possible loss of oil reserves for the United States' consumption. According to a House Committee on International Relations hearing on oil diplomacy of June 20, 2002, Spencer Abraham, the Secretary of Energy, stated that the U.S. holds only 2 percent of the world's oil reserves while the Middle East has nearly two-thirds of the World's oil reserves. These discouraging numbers leave the United States in a very delicate international relationship with oil-rich nations, complicating America's ability to insure its national security while facing a continuing threat from terrorism.

Both for the economy and in regard to national security, new sources for oil need to be discovered to eliminate the degree of dependence the United States has on foreign oil. To that end, some possibilities for new directions in energy supply include using cleaner more efficient fuels, utilizing renewable fuel sources, opening new geographic regions for oil, expanding duel refining, building nuclear power plants, and developing new technology in the transportation industry. Cleaner, more efficient fuels not only allow for greater environmental protection, but they also provide for better miles per gallon, a standard that has already been raised to alleviate energy crises in Europe and will help Americans drive farther using less oil. Renewable energy resources include air, water, and solar sources, all of which are both environmentally friendly and readily available. While some of these alternatives have initially high costs, their long-term benefits might far outweigh the initial expense. New geographic regions for oil include much of Central America, Mexico, Venezuela, Canada, Russia, Africa and the Caspian Basin. These areas of the world do not pose as great a threat, both politically and economically, as the OPEC nations. An expansion of fuel refining would allow the United States to process and use more fuel than in the past and the United States could use more of the oil it already has, but has not yet processed. Nuclear power plants are a potential source for more energy, as long as they are made safer and provide for safe disposal of their waste. The transportation industry should be given greater funding and freedom to explore the development of hydrogen cell fuel sources as well as electric powered hybrid cars and solar powered cars. These types of development further alleviate the strain on the nation's resources. Finally, the nation as a whole needs to be come more mindful about energy consumption and greater efforts and campaigns could be launched to help people car pool, take public transportation, or walk whenever possible. To that end, public transportation systems need to be expanded and improved so as to accommodate these new changes in energy use. When all of these efforts are combined, American's reliance on the Middle East for oil can be greatly reduced while American oil prices are held at reasonable levels.

The impact of these solutions will positively affect both the economy and national security of the United States. Efforts on the part of the government and the energy industry, as well as individual Americans, will bring greater energy independence in the United States. Though oil is "liquid gold," it lacks luster as long as the United States' economy and national security are compromised by America's dependence on foreign energy sources. A significant reduction of such dependence will be achieved as the United States "brings home the gold" through a variety of production methods.

HONORING GEORGE TCHOBANOGLOUS, PH.D., P.E.

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize George Tchobanoglous, Ph.D., P.E. for being selected as the recipient of the Athalie Richardson Irvine Clark Prize for excellence in water-science research. The National Water Research Institute, will honor him at an award ceremony and lecture to be held Thursday, July 17th in Orange County, California.

The prize is one of only a dozen water prizes awarded worldwide. It has been recognized as one of the most prestigious awards in the world by the International Congress of Distinguished Awards. George is the tenth recipient of this award.

Dr. Tchobanoglous is a Professor Emeritus of Civil and Environmental Engineering at the University of California, Davis. Through his research, publications, public service, and international activities he has made significant contributions to the practice of environmental engineering. He is recognized for having advanced the use of new technologies in four key areas: construction of wetlands for wastewater treatment, the application of alternative filtration technologies, ultraviolet disinfection for wastewater reuse applications, and decentralized wastewater management. George is also the author or coauthor of over 350 publications, including 12 textbooks that are used at numerous colleges and universities in the United States. The textbook, Wastewater Engineering: Treatment, Disposal, Reuse, is one of the most widely read textbooks in the environmental engineering field by both students and practicing engineers.

Mr. Speaker, I rise today to recognize Dr. George Tchobanoglous for his excellence in the field of water-science research. I invite my colleagues to join me in wishing Dr. Tchobanoglous many years of continued success.

HONORING ZENA TEMKIN AS SHE CELEBRATES HER 80TH BIRTHDAY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join the many family, friends, and community members who have gathered to honor one of Connecticut's true living treasures, and my dear friend, Zena Tempkin, as she celebrates her 80th birthday. Born in England, Zena moved to the United States at a young age. Growing up in Detroit and attending college in Atlanta, Zena and her husband, Is, made Connecticut their home following World War II.

For as long as many of us can remember, Zena has been a driving force in Connecticut's political arena. A woman ahead of her time, Zena served as a State Representative in Connecticut's General Assembly from 1959 to 1962. She served as a delegate in two national conventions and has served as a political advisor to some of Connecticut's most influential elected officials including former Senator Abraham Ribicoff and former Governor Ella T. Grasso. Her unwavering energy and dedication has made her a true friend to many of those in Connecticut who have run and served in public office. I consider myself fortunate to have benefited from her wisdom and counsel, both when I worked for Senator CHRISTOPHER DODD and later in my own run for elected office. Her friendship has been invaluable and she has, and continues to be, an inspiration and role model for me.

Even more than her contributions in the political arena, Zena has long been an active member of her community. Our communities would not be the same without volunteers whose efforts and compassion are dedicated to improving the lives of others. Throughout her life she has dedicated countless hours to a variety of service organizations and has helped to shape our community. When you consider that she is also the mother of three, was an active member of her family business, and, at one time, a small business owner herself—Zena truly sets a standard for public service that we should all strive to achieve.

Connecticut has been fortunate to have someone like Zena working so hard on our behalf. She has left an indelible mark on our community and a legacy that is sure to inspire generations to come. I am honored to rise today to join her husband, Is; her children, Bruce, Alan, and Nan; and all of those who have gathered today to extend my very best wishes to Zena Temkin on her 80th birthday. Congratulations and warmest wishes for many more years of health and happiness.

HONORING ARNELL HINKELL

SPEECH OF

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Ms. LEE. Mr. Speaker, I rise today to honor a great community leader and activist, Ms. Arnell Hinkell. Arnell Hinkell, who is tackling the obesity epidemic among teens by supporting efforts in communities throughout California to encourage healthy lifestyles, has earned the nation's highest honor for community health leadership.

Hinkell is among the outstanding individuals from across the country selected this year to receive a Robert Wood Johnson Community Health Leadership Program (CHLP) award.

Hinkell, executive director of the California Adolescent Nutrition and Fitness Program in Berkeley, CA, founded CANFit in 1993 with funds from the settlement of a lawsuit charging a breakfast cereal manufacturer with deceptive advertising. Her mission is to prevent obesity and chronic disease by helping people adopt healthy habits while young.

Drawing on her experience as a nutritionist, chef and organic farmer, Hinkell created a program that promotes healthy eating and activity to 10- to-14-year-olds from low-income, minority families—groups that historically have poor diets and suffer disproportionately from health problems such as heart disease and diabetes.

CANFit has provided grants to more than 60 youth organizations, scholarships to 90 low-income students studying in health fields, and fitness and nutrition training workshops to more than 500 people across California.

What makes CANFit unique is that its work goes far beyond the dissemination of information, said Hinkell's nominator.

Projects CANFit has supported include a Cambodian recipe book, nutrition and fitness curriculum for Korean-language schools, a fast food survival guidebook, an American Indian surf camp, and a hip hop video promoting healthy eating and physical activity.

From the beginning, Hinkell has emphasized community ownership of CANFit projects and insisted that youth be involved in planning and evaluating each one. She has grown CANFit from a small endowment that many thought would not survive into one of the most innovative and uncompromising nutrition education and community capacity-building programs in the country, said her nominator.

Hinkell is working with the Washington, DC-based policy group Forum for Youth Investment to make youth nutrition and fitness part of the national youth development agenda. She also coordinated development of a national model, adopted by the U.S. Department of Agriculture and the Centers for Disease Control and Prevention, for improving nutrition and physical activity for the adolescent poor.

Community by community, these leaders are showing us the face of America's new safety net, said Catherine Dunham, director of the Boston-based Robert Wood Johnson Community Health Leadership Program. While larger, better endowed institutions must restrict or close services under the weight of severe budget cuts, these leaders' programs—that provide health services where the need is great—remain strong because they are woven from and into the very fabric of the community.

The program awards $1.2 million each year to individuals who have overcome significant challenges to expand access to health care and social services to underserved members of their communities. Hinkell and this year's other winners will be honored at a June 10 event in Washington, DC She will receive $105,000 to enhance her program and $15,000 as a personal award.

Hinkell was chosen from among 274 candidates for this year's honor. Since 1992, the program has given 110 awards to community leaders in 43 states, Puerto Rico and the District of Columbia. This year's award winners represent urban and rural areas of California, Kansas, Maryland, Massachusetts, New Mexico, Texas and Virginia. They were nominated by community leaders, health professionals, government officials and others inspired by their work in providing essential health services to their communities.

The Community Health Leadership Program is a program of the Princeton, N.J.-based Robert Wood Johnson Foundation, the largest private philanthropic organization dedicated to improving health and health care for Americans.

COMMENDATION OF THE VILLAGE OF ADDISON, ILLINOIS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. HYDE. Mr. Speaker, on March 27, my district office in Addison, Ill., was completely destroyed by a fire. Only a few cherished career mementos survived, and even then, they were severely damaged by heat, smoke and water. Thankfully, no one was injured by the early morning fire.

After assessing our loss, my district staff's thoughts immediately turned to the citizens of my district. How could we continue to serve them locally without a roof over our heads or even something as simple as pen and paper?

That's when the Village of Addison and particularly, Mayor Larry Hartwig, immediately stepped forward to offer their assistance free of charge. The Village opened the doors of its Village Hall, offering my staff a temporary place to call home. Office space was immediately made available, allowing us to resume district operations within a day. Had we had to search for other office space, the delay in resuming operations would have been much longer. The Village also graciously offered my staff everything it needed to continue serving my constituents. From desks and chairs, to phone lines, copiers and fax machines, we had it all.

Therefore, Mr. Speaker, I rise today to commend the Village of Addison for unselfishly offering aid and comfort to my district staff in our hour of need. Paraphrasing the great movie, "It's a Wonderful Life," I can only say that I am indeed the richest man in town with friends like these in Addison, Illinois.

HONORING THOMAS C. BARILE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to posthumously recognize Thomas C. Barile for his years of service to his country and community. Tom recently passed away on Thursday, June 3rd.

Tom was known for his visionary work in education. He worked as an educator with the Madera Unified School District (MUSD) for 32 years. He served as a 6th grade teacher, resource teacher, vice-principal, and principal. Barile is credited with starting the MUSD science fair; writing, developing and implementing a standards based curriculum; and bringing technology to the classrooms.

Tom served in the U.S. Air Force for five years as a Staff Sergeant with an Honorable Discharge. He was a volunteer on the Fresno County Sheriff's Department Search and Rescue Team where he served as commander of the Snowmobile Team and was a member of the Mountaineering Team. Tom was very active with the U.S. Forest Service and he was responsible for developing 250 groomed snowmobile trails. He also helped to build nine bridges, design trails, organize work crews, and have equipment donated to the Sierra National Forest. He was named chairman of the Sierra Nevada Access, Multiple-Use & Stewardship Coalition.

He is survived by his wife Maureen Barile; his sons Paul and David; and his three grandsons.

Mr. Speaker, I rise today to recognize Thomas C. Barile for his extraordinary service and years of dedication. I invite my colleagues to join me in posthumously honoring Tom Barile for his commitment to the students of Madera and for his work with the U.S. Forest Service.

HONORING CHIEF MELVIN H. WEARING ON THE OCCASION OF HIS RETIREMENT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Ms. DELAURO. Mr. Speaker, I am honored to rise today to join residents of New Haven who have gathered today to celebrate the long and distinguished career of Chief Melvin H. Wearing who is retiring after thirty-five years of dedicated service to the New Haven Police Department. As an advocate, a community leader, and a friend, Mel Wearing has dedicated his career to the betterment of this region.

Chief Wearing joined the Department as a patrolman in 1968, and through hard work and perseverance he worked his way up through the ranks. As a Sergeant, he was the commanding officer of the Narcotics Enforcement Unit and while a Lieutenant served as the Chief of Detectives for the Investigative Services Unit. He would go on to become the first African-American to serve as the Assistant Chief of Police and, in 1997, was sworn in as New Haven's first African-American Chief of Police. Throughout his career, Chief Wearing has demonstrated a unique commitment to the Department, the City, and the families of New Haven—a dedication which is reflected in the myriad of honors, commendations, and awards which have been presented to him throughout his tenure.

Chief Wearing was a leader in working with children traumatized by violence. He was a founding member of the Yale Child Study Center's Child Development/Community Policing Program (CDCP), and he spent countless hours teaching others how to deal with children and families who were exposed to violent crime. Chief Wearing's involvement with this project helped it to become a national and international model for community based policing.

Under Chief Wearing's leadership, the Department has been recognized locally, nationally and internationally. The New England Community-Police Partnership, the Federal Bureau of Investigation, and the International Association of Chiefs of Police are just a few of the agencies and organizations that have honored Chief Wearing and the Department for their work here in New Haven. He was twice asked to address audiences at the White House on children exposed to violent crime, he was the featured speaker at the 1999 National Summit on Children Exposed to Violence, and he co-authored the important book "The Police-Mental Health Partnership: A Community-Based Response to Urban Violence." Chief Wearing is clearly one of the most respected law enforcement officials in the country. New Haven has certainly been fortunate to have him call our city home for so many years.

For all of his good work and many invaluable contributions to our community, I am proud to rise today to join his wife, Tina; his children, Tracy, Melvin, Jackie, and Sharon; his grandchildren Marcus and Maurice; and many others to extend my heart-felt congratulations to Chief Melvin H. Wearing as he celebrates his retirement. His is a legacy that will inspire many generations to come. And I hope he accepts my very best wishes to him and his family for many more years of health and happiness.

HONORING JUDY CELESTE HACK MARRON

HON. BARBARA LEE

OF CALIFORNIA

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Ms. LEE. Mr. Speaker, I rise today to honor a wonderful woman, Ms. Judy Marron. The beloved wife of Owen Marron, Judy passed on May 12, 2003 after a hard-fought battle against cancer.

A third generation Sacramentan, Judy was born February 8, 1940. She completed high school and two years of college in Sacramento before beginning her career with the State of California. In 1980, while parenting and working for the Department of Transportation, Judy returned to school to earn her bachelors degree. She received a B.A. in Business Administration in 1985.

Judy married Owen Marron in 1974 and from 1975 to 1978 she devoted her energies to raising their four youngest children. In 1978, Judy returned to employment as a clerk with the California Department of Transportation, rising through the ranks to become executive secretary to the director of the department.

In 1984, she served as a national recruiter of engineers for the Department of Transportation. In 1987, Judy moved to the California Department of Health, where she held various positions before retiring as building manager for the department headquarters in Berkeley.

Mrs. Marron worked tirelessly to integrate women into the building trades and increased the access of disabled individuals to employment at the Berkeley facility. Following retirement she was retained as a consultant for various special projects, including the new health facility under development in Richmond.

She was an ardent advocate for the rights of working people, women and disabled individuals, and contributed much to the labor movement. She assisted husband Owen as executive secretary-treasurer of the Central Labor Council of Alameda County by coordinating records and minutes of meetings, assisting with the logistics of marches and rallies, and electoral activities such as phone banks and precinct walks, Labor Day picnics, the 1995 visit of President Bill Clinton, and Unionist of the Year events, until Owen's retirement in 1999. She is survived by devoted husband Owen; children Denise Cheely, Mike Proaps, Barney, Dorie, Rick, and Mike Marron, grandchildren Billy, Kayla, Austin, Cody, Isabella, Corinna, Josh and Shelly, brothers William Hack and Jim Hack, and loving pets Chester and Fraidy.

Finally, as we honor Mrs. Marron today, I want to thank her for being an exemplary role model, administrator, and hero. I take great pride in joining Judy's family, friends and colleagues to recognize and salute the accomplishments and contributions of Judy Celeste Hack Marron.

AMISTAD AMERICA

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mrs. JONES of Ohio. Mr. Speaker, I rise today to honor Amistad America and the Freedom Schooner Amistad as it makes its first voyage to Cleveland, Ohio. The schooner, under the leadership of Captain William Pinkney, is a wooden re-creation of the 19th century Spanish cargo ship, La Amistad. It serves as a maritime ambassador for racial reconciliation and human rights education and fosters cooperation and unity among people of diverse backgrounds. Since its launch, the Amistad has touched the lives of thousands of people.

The Freedom Schooner Amistad was conceived, built and launched to celebrate the legacy of The Amistad Incident of 1839. Fifty-three Africans, who were illegally kidnapped from West Africa and sold into the trans-Atlantic slave trade, staged a revolt against injustice and embarked on a quest for freedom. Their human-rights struggle culminated in a case in which former President John Quincy Adams successfully argued before the United States Supreme Court on behalf of the captives. In 1841, the 35 surviving Africans returned to Africa.

I was privileged to attend the opening of the Amistad in Connecticut in 2000. Due to illness, Rev. Allison Phillips, pastor emeritus of Mt. Zion Congregational Church, was not able to attend the event. This year, Rev. Phillips has the pleasure of welcoming the schooner to the city of Cleveland.

In 2003, the Amistad makes its first Great Lakes Tour after touring ports along the East Coast and Gulf of Mexico. The docking of the schooner in Cleveland presents a rare opportunity for the public to gain new perspectives on racial justice and freedom. The schooner will offer a wonderful historic and educational experience for the residents of Cleveland and of Northeast Ohio. I would especially like to thank Key Bank and the United Church of Christ for their diligent work in bringing the Freedom Schooner Amistad to Cleveland.

IN HONOR OF DR. BILL K. TILLEY

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to honor Dr. Bill K. Tilley, who has served the people of Merced for fourteen years as superintendent of the Merced Union High School District. Under his leadership, the Merced Union High School District has developed into a place where people share a vision that all students have a right to the highest quality and most rigorous education possible.

Dr. Tilley was born during the summer of 1939 in a small coal-mining town in West Virginia, and moved to Washington State in 1953. He attended Western Washington State University where he earned his Bachelor's of Arts in Education and subsequently his Master's Degree in School Psychology and Education in 1967. Dr. Tilley then moved to Iowa City where he completed his Ph.D. in Educational Psychology and School Administration and spent the most of the next twenty years working as a school administrator in Minnesota, Wisconsin, Illinois, and Washington.

In 1989, Dr. Tilley moved to Merced and joined the Merced Union High School District as superintendent. Under his leadership, the District has forged the first high school partnerships with the University of California at Merced, the District's college preparatory and Advanced Placement course offerings have more than tripled, disabled students are incorporated into the daily life of the school and enjoy a rich, meaningful educational experience alongside their peers, and the District has achieved one of the lowest dropout rates in the state. Dr. Tilley has worked to ensure that the District has acquired and developed a top quality faculty, a faculty that is knowledgeable of the state standards and is fully committed to assuring that all students meet those standards.

Perhaps Dr. Tilley's most notable accomplishment is that he was able to secure the last fully funded state high school in California for the people of Merced and then a few years later engineered a successful bond campaign that built another. Dr. Tilley's lasting devotion to the students of Merced has left a lasting impression on the community, two state of the art high schools. In addition, Dr. Tilley's sound leadership has left the school district fiscally sound in a time when school districts across the state are struggling to survive.

Through all of these accomplishments, Dr. Tilley sends a clear message that our children count, that poverty is not a barrier to the American dream, and that our children have a right to the very best education.

As Dr. Tilley's family and friends joined him to celebrate his retirement as superintendent of the Merced Union High School District, we as residents of Merced County will never forget the lasting impression he has made on the education of our youth. I ask all of my colleagues to join me and recognize my friend, Dr. Bill K. Tilley for his service to the United States as an educator, builder, and citizen.

HONORING REVEREND SAMUEL JOEL ESPINOZA TREVINO UPON HIS RETIREMENT

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. TOM DAVIS of Virgina. Mr. Speaker, I would like to take this opportunity to pay tribute to Reverend Samuel Joel Espinoza Trevino upon his retirement from St. Stephens Church after over forty years of dedicated service to the Christian community.

Reverend Samuel Joel Espinoza Trevino was born in Monterrey, Mexico to a family of deeply religious convictions. His father, Reverend Edelmiro J. Espinoza served both the Monterrey pastorate in the Mexican Methodist Church and later the Holy Trinity Church of downtown Mexico City. His father was also responsible for establishing the Instituto Evangelistico de Mexico as a school for pastors of all denominations devoted to serving both the church and the Christian community.

Reverend Espinoza studied ministry at Vennard College in Iowa where he learned English and familiarized himself with American culture. Upon completing his ministry, the Reverend returned to Mexico City as a teacher and an administrator of his father's "Instituto." Additionally, he worked with a Christian literature ministry at the Cruzada Mexicana en Cada Hogar, while he also traveled Mexico preaching and teaching in churches for special campaigns and courses.

In 1969, Reverend Espinoza and his wife moved to Harrisonburg, Virginia where the Reverend completed his Master's degree of Divinity from Eastern Mennonite Seminary while he simultaneously served as an assistant pastor at Waynesboro U.M. and Otterbein U.M.

By 1993, Reverend Espinoza and his wife had come to St. Stephens Church, which he has continued to serve over the years. Rev. Espinoza's tenure here has been characterized by a number of reforms and progressive programs that have served to revolutionize the religious agenda at St. Stephens. The Reverend is responsible for the inception of a Children's Church program. Furthermore, he has started a Disciple Bible Study and expanded the St. Stephens' Sunday School programs. Finally, he both envisioned and completed the construction of a new Sanctuary, which includes facilities devoted to fellowship and educational activities.

Mr. Speaker, in closing, I wish the very best to Reverend Espinoza as he is recognized for his years of service to the Christian community. During his many years of service, he certainly has earned the respect and gratitude of hundreds of parishioners, and I call upon all of my colleagues to join me in applauding his career of good works.

IN RECOGNITION OF THE EIGHTIETH ANNIVERSARY OF JOHN H. HARLAND COMPANY

HON. DENISE L. MAJETTE

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Ms. MAJETTE. Mr. Speaker, I rise today to congratulate John H. Harland Company, a leader in financial and industrial services, on its eightieth anniversary.

Established in 1923 in Atlanta, Georgia, John H. Harland Company is a leading provider of products and services to their chosen segments of the financial and educational markets. Harland has a long history of adapting to changes in the industry and, in doing so, has helped to create numerous opportunities for itself and its employees nationwide.

As a leading check printer, Harland was instrumental in the development of Magnetic Ink Character Recognition (MICR) technology in the 1950s. In the 1960s, Harland introduced the first scenic check, now a staple of the banking world. Today, Harland is one of the fastest-growing software companies in the financial industry. More than 85 percent of all schools in the United States use at least one educational product through Harland's Scantron subsidiary. And of the 5,000 John H. Harland Company employees, more than 20 percent are employed in Georgia alone, continuing the positive financial impact to the state that founder John H. Harland himself began.

Mr. Speaker, I ask my colleagues to join me in applauding John H. Harland Company and its 5,000 employees for 80 years of growth and innovation, contribution and achievement.

RELATING TO CONSIDERATION OF SENATE AMENDMENTS TO H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

SPEECH OF

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Ms. SCHAKOWSKY. Mr. Speaker, I rise in opposition to this rule which would adopt a Motion to Go to Conference on H.R. 1308, The All-American Tax Relief Act of 2003. Here we go again. President Bush and the House Republican leadership are once again showing their contempt for working families that are struggling to make ends meet in our sluggish economy. This rule is a shameful effort to deny assistance to the 6.5 million families and their 12 million children who earn between $10,500 to $26,000 a year. Nearly 674,000 children and 378,000 families, or one in four children back in my home state of Illinois, would have qualified for this aid Nationwide, one million of these kids are the children of veterans or active members of the armed forces. Is this how the Republican leaderships and the Bush Administration wish to repay the brave men and women who have put their lives on the line to serve their country? We should defeat this rule and immediately adopt the Senate-passed legislation which would provide immediate aid to these hard working families.

Just a few weeks ago, President Bush and Republican leaders passed another job killing tax bill that provided even more tax cuts for millionaires. Behind closed doors, Vice President Cheney and Republican leaders in Congress deliberately left millions of children behind to pay for tax cuts for millionaires and tax dodging corporations. This was not an accident or an oversight. A House Ways and Means Committee spokesperson confessed, "Adjustments had to be made." Of course, no adjustments had to be made to the nearly $604,000 tax break received by Vice President CHENEY or the $332,000 given to Treasury Secretary John Snow. In fact, the total tax savings for President Bush, Vice President CHENEY, and the Cabinet could be up to $3.2 million. The Bush Administration showed their true colors. This callous decision outraged the

American public. People all around the country demanded fairness.

The United States Senate was shamed into passing a Democratic proposal to provide those low-income families with their well-deserved child tax credit that was removed in a secret deal by Vice President Cheney. Instead of doing the right thing and passing the Senate bill, the House Republican leadership is trying to pass another budget busting $82 billion tax bill that will increase our growing national debt. When President Bush took office we had a $5.6 trillion ten-year surplus. We now have a $2 trillion deficit over the same period of time. According to CBO, the President's tax cut not the war on terrorism accounts for the growth in deficit.

This bill is a gimmick. It is a delay tactic. The Republican leadership knows that this price tag is unacceptable to many in the Senate. No wonder the House Republican leadership is not even allowing members of the people's house an opportunity to offer any amendments today. If they allowed amendments we might pass child care tax credit for the 12 million children of the working class who have been sacrificed to make room for the Bush class. This begs the question, why do President Bush, Vice-President CHENEY, and House Republicans have so much contempt for working families?

The House Republican Leadership opposes the Senate bill because the lower income hard working families do not deserve a tax cut, they say, because they do not pay taxes. That is a lie and an insult to the millions who are teacher aids, home heath care workers, and child care providers. They pay sales tax, they pay excise taxes, they pay taxes on gasoline, and they pay a payroll tax, they pay taxes for which there is never a cut, never a special break. These are also the same families that struggle to pay their rent and provide for their children. We should help these families immediately.

Put the interests of working families before the needs of the Bush class. Vote instead for hard working families. Defeat this rule.

CONGRATULATING THE JACKSONVILLE PROVIDENCE STALLIONS ON CLASS A STATE BASEBALL CHAMPIONSHIP

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. CRENSHAW. Mr. Speaker, I rise today to laud the accomplishments of a group of young men from my congressional district that attend Providence School in Jacksonville, Florida.

Mr. Speaker, in just the sixth year of this school's existence, their baseball team has won the Class A state baseball championship. This is no small feat in the state of Florida, for ours is a state known for great baseball and baseball greats such as Fred McGriff, Alex Rodriquez, and Chipper Jones. This year the state of Florida had 50 men on Major League Baseball spring training rosters.

This group of fourteen young men and five coaches compiled a 26–2 record on the way to their state championship, and along the way won the American Plumbing Classic in Jacksonville, the district, and regional championships. For some on this team, these winning ways are nothing new as Providence was District champion and Regional runner-up in 2001 and made the State Final Four in 2002.

Mr. Speaker, while the crowning moment of this team's season came at the end of a 7–2 win over Orangewood Christian at Tampa's Legend's Field, it was more than just 28 games that went into this championship. For most of these young men, this championship started at age 5 or 6 and has continued through many spring and summer league games since. This championship came with the help and sacrifices of family, friends and multiple coaches, many of whom are volunteers. This victory came at the expense of free time, other school functions, and even some blood, sweat, and a few tears.

It takes a lot to be a champion and this team, their families, friends, and coaches have all shown they know what it takes.

I wish continued success to all fourteen of these young men who make up the Providence School's baseball team: Kellyn Townsend, Joshua Maxwell, Kyle Wilson, Austin Heilig, Travis Martin, Jordan Bowser, Tim Aldridge, Connor Hodges, Steven Turner, Hunter Robinson, Ryan Kramer, Blake Gerber, Tim Brown, and Robert Hardee. I also wish continued success to Head Coach Billy Bell and his four assistants: Mark Aldridge, Greg Larrick, Jim Martin, and Mac Mackiewitz.

THANKING MR. MICHAEL ELLIOTT FOR HIS SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. NEY. Mr. Speaker, on the occasion of his retirement on July 7th, we rise to thank Mr. Michael Elliott for his outstanding service to the U.S. House of Representatives over the past 16 years.

Over the years, Mike has provided outstanding customer support to Members, Committees, Leadership and Support Officers of the House. He began his career with the House on March 25, 1987 and served this great institution in numerous capacities, most notably with House Information Resources (HIR) under the office of the Chief Administrative Officer.

In 1987, he was hired as a User Support Specialist to provide technical support; specifically hardware troubleshooting and repairs for PCs, printers, monitors and system units in all House offices. In this position, Mike became a certified Apple Macintosh technician and served as Team Leader for all Macintosh support. He remained in that position until 1995. Since 1995 he has worked as a Technical Support Representative servicing Member offices. Mike is highly skilled and very proficient in providing office automation and technical services to House offices. His professionalism and work ethic is a true demonstration of excellence and dedication to providing passionate customer service. His technical skills and breadth of knowledge of House office operations enabled Mike to provide and advise others in providing effective resolutions.

I know all of you join me in extending our thanks and appreciation to this invaluable member of the House family. We wish the very best to Mike and his wife Susan as they pursue the next phase of life.

RECOGNIZING VOLUNTEER AND JEFFERSON AWARD RECIPIENT LEANNA RICHARD ALFRED

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. JOHN. Mr. Speaker, many people serve the needs of their community, not searching for public recognition. Their reward is the knowledge that those in need have been helped. Mrs. Leanna Richard Alfred of Lafayette, Louisiana is one such individual.

Friends and colleagues have described her as a terrific role model with a warm smile and a loving personality—a motherly figure, always prepared to lend a helping hand to those in need.

Mrs. Alfred is being honored this week in Washington, DC with the distinguished Jefferson Award. Given by the American Institute for Public Service, this national award is granted to "ordinary people who do extraordinary things without expectation of recognition or award."

Through a partnership with local media sponsor KLFY–TV in Lafayette, Louisiana, Mrs. Alfred's efforts were brought to the Institute's attention. This award is not the first for Mrs. Alfred, but it is a very special honor. In 1972, Jacqueline Kennedy Onassis, Senator Robert Taft, Jr. and Sam Beard founded the American Institute for Public Service to establish a Nobel Prize for public and community service.

Mrs. Alfred's work is directed toward children in our community. She sponsors several annual events—fashion shows, a Christmas Ball, and basketball tournaments—to offer African-American children in the area avenues to showcase their unique talents. Her events often provide scholarships for area youngsters to advance their education, as well as trophies and certificates of achievement. Her motto is "Making a Difference," and that is just what she does on a daily basis.

I congratulate Mrs. Leanna Richard Alfred for her dedication to making our community an area in which young people can strive, succeed, and know that they are cherished.

CONGRATULATING EMMETT LEDBETTER FOR EARNING THE DISTINGUISHED FLYING CROSS

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. TANNER. Mr. Speaker, I rise today to recognize and honor an American patriot, Emmett Ledbetter of Jackson, Tennessee. Mr.

Ledbetter recently received the Distinguished Flying Cross Award for his bravery and heroism while serving our nation as a top turret gunner and flight engineer during World War II.

As a member of the 455th Bomb Group and the 743rd Bomb Squadron, Mr. Ledbetter flew the greater part of his 50 combat missions in the months leading up to the historic D-Day landing on the beaches of Normandy. Based out of an airfield near Cerignola, Italy, the 455th Bomb Group completed missions throughout Romania and Austria against the German occupiers.

No stranger to military decorations, Mr. Ledbetter received the Presidential Unit Citation twice for missions in Austria as well as the EAME Theater Ribbon and the Air Medal honoring his military prowess throughout the War.

On one such occasion, for which he has now earned the Distinguished Flying Cross, a bomb was found to be caught in the rear of the airplane on a return trip from a mission in Vienna. Facing a serious threat to the safety of the airplane, Mr. Ledbetter and another crewmember, in a moment of bravery, put on oxygen masks and entered the bomb bay, walking across a narrow catwalk at an altitude of 20,000 feet. Once inside, they forced the explosive off the rack, saving the airplane and its crew.

Following this mission, Mr. Ledbetter was recommended to receive the Distinguished Flying Cross, but because of clerical procedures, his award was delayed. Now, almost 60 years after this heroic accomplishment, Mr. Ledbetter has received the recognition he deserves, having finally been awarded the Distinguished Flying Cross on February 13, 2003.

Mr. Speaker, at this difficult time in our nation's history, I know you and our colleagues join me in thinking about and praying for our troops. I hope you will also join me in honoring a man who fought for this country in a different war to guarantee the safeties and freedoms we all cherish so much. We salute Emmett Ledbetter for his honorable career serving our nation and congratulate him on the long-deserved Distinguished Flying Cross Award.

PERSONAL EXPLANATION

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. OBERSTAR. Mr. Speaker, on Wednesday, June 4, I attended an important announcement at the U.S. Department of Labor concerning the funding of a vital initiative to assist dislocated workers and retirees in Minnesota pay for their health care expenses.

As a result, I was unable to cast my vote on the rule (H. Res. 257) for the Partial Birth Abortion Ban legislation. Had I been present, I would have voted "aye" on rollcall vote 236 because I strongly supported the need for the House to consider this important pro-life legislation.

IN HONOR OF THE RETIREMENT OF DR. BARBARA BENSON OF THE DELAWARE HISTORICAL SOCIETY

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. CASTLE. Mr. Speaker, I rise today to recognize the achievements of Dr. Barbara Benson upon her retirement as the executive director of the Delaware Historical Society. Dr. Benson has served as the organization's executive director for thirteen years and as staff librarian for ten years prior. She has left the history of Delaware on display for many future generations to cherish and explore our rich heritage.

Dr. Benson is a recognized scholar in her field who set high performance standards for every task she undertook at the Delaware Historical Society. During Dr. Benson's tenure, the Delaware Historical Society grew in both its collections and membership. Furthermore, Dr. Benson led the organization's purchase of the old Woolworth 5 & 10 next to the town hall, which now proudly serves as the Delaware History Museum.

Dr. Benson has challenged Delawareans to think, learn and grow. Delawareans have been called upon to connect Delaware's history with their own lives and relate their own experiences with the future of Delaware's history.

Mr. Speaker, I commend Dr. Benson for challenging the residents of Delaware and for sharing her knowledge with us. The legacy Dr. Benson has left us through her work at the Delaware Historical Society is not one that will soon be forgotten.

HONORING IRVING I. STONE

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mrs. JONES of Ohio. Mr. Speaker, I rise today to honor Irving I. Stone, founder of American Greetings Corporation, whose generosity to his community and abroad is constantly remembered. Mr. Stone's involvement with the company started when he was a young boy. His father sold postcards from a horse and buggy. Immediately after graduating high school, he became a salesman. He made the largest sale of the company at age 19 to the management of Cleveland's Euclid Beach Park.

In the 1930's, Stone convinced his father that the company should design and print its own cards. In order to implement this, he started the American Greetings Creative Department, one of the largest art studios in the country. Irving Stone continued to bring innovative ideas to the company and retailers, making the greeting card industry what it is today.

More important than his accomplishments with his company was his commitment to his community by participating with many civic organizations: Chairman of the Board, Hebrew Academy of Cleveland; Member of the Board of Directors, Young Israel of Cleveland; Board Member, Cleveland Institute of Art and Bar Ilan University; Regional Board Member, Liberty Mutual Insurance; Founding Trustee for Life, Cleveland Jewish News.

It is because of his commitment to the community and desire to see it move forward in the future that the Young Israel of Greater Cleveland will honor Mr. Stone by dedicating the Synagogue to him on June 22, 2003. Irving I. Stone was an outstanding man who will always be remembered for his outstanding good deeds to his community and beyond.

HONORING RIPLEY, OHIO, THE PARKER SOCIETY, AND ANN HAGEDORN FOR KEEPING THE HEROIC STORIES OF THE UNDERGROUND RAILROAD ALIVE

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. PORTMAN. Mr. Speaker, I rise today to recognize and honor the Village of Ripley, the Parker Society and author Ann Hagedorn, for working so tirelessly to commemorate the lives and stories of people who risked life and property for the cause of freedom: the conductors on the Underground Railroad. The Village of Ripley and Ann Hagedorn were honored during the Salute to Trailblazers Underground Railroad event on Capitol Hill in March.

The Village of Ripley is in Brown County, Ohio, which I represent. It is home to two former conductors on the Underground Railroad, Presbyterian minister Reverend John Rankin, and freed slave, John Parker. Both the Rankin house and Parker house have been restored and help tell the story of how hundreds of slaves escaped via the Underground Railroad. Today in Ripley, the Parker Historical Society is comprised of many dedicated people, committed to preservation of the homes, artifacts, and stories of the brave people who believed so strongly in freedom for all.

The mission of the National Underground Railroad Freedom Center, located in Cincinnati, Ohio, is to educate the public about the struggle to abolish slavery and secure freedom for all people. For many years, the Parker Society has worked tirelessly to restore the John Parker House, collecting artifacts, and recounting the life and history of John Rankin, John Parker, and the heroes of the Underground Railroad. Ann Hagedorn's recent book, Beyond The River, recounts in gripping detail the history of bravery and determined resolve of ordinary people who accomplished extraordinary deeds. The Brown County Commissioners had extraordinary vision and were particularly supportive of the Parker Society's restoration efforts.

All of us in Southwest Ohio join in congratulating the Village of Ripley, the Parker Society, Ann Hagedorn, and the Brown County Commissioners for their vision in keeping the heroic stories of the Underground Railroad alive.

RECOGNIZING THE COMMUNITY LEADERSHIP OF GROVER AND BETTY POTEET

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. TANNER. Mr. Speaker, I rise today to recognize the accomplishments of two outstanding leaders and dear friends, Grover and Betty Poteet. The service they have provided over the years resonates throughout our community.

Both natives of Spring Hill, Mr. and Mrs. Poteet now live in Trenton, Tennessee. They have three children, Melinda Poteet Goode, Doug Poteet, and Melia Poteet Anderson. They are also the proud grandparents of Garner Goode and Crockett Goode. Together, Grover and Betty earned the 1999–2000 Citizens of the Year Award, presented by the Trenton Elks Lodge.

Grover graduated from Spring Hill High School in 1955 and served in the United States Army from 1955–1957. Grover has contributed so much to his community, including his service as a member of the Gibson County Court from 1974–1994. Grover also showed his compassion for people by serving as a member of the National Guard Equal Opportunity Race Relations Council. He is currently chair of the Gibson County Lake/Water Board Authority and was recently honored with the Trenton Elks Dedicated Service Award for 2002–2003.

Betty graduated from Spring Hill High School in 1957 and began working at the Milan Army Ammunition Plant, a career that lasted 45 years. Betty also served for 15 years as the parade director for the Trenton Teapot Parade, one of the biggest local festivals in Tennessee. Her tireless community work earned her the Tennessee National Guard's Hard Worker of the Year Award for 1994–1995.

The Poteets have always been very active leaders in Tennessee, through heavy involvement in the Democratic Party at the local and state level. Their love for our democratic process helps make West Tennessee a great place to live.

Time and time again, Grover and Betty Poteet have proven their love for our neighbors in Trenton and Gibson County. Their dedication has always been and will continue to be appreciated. Mr. Speaker, please join me in honoring the accomplishments and dedication of two fine leaders and my friends, Grover and Betty Poteet.

TRIBUTE TO THE BRONX COUNCIL ON THE ARTS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. SERRANO. Mr. Speaker, it is with great joy that I rise today to pay tribute to the Bronx Council on the Arts, which is currently celebrating its 40th anniversary. Recognized nationally as a leading arts service organization, providing cultural services and arts programs, BCA serves a multicultural constituency in excess of 1.2 million residents.

The Bronx Council on the Arts was founded in 1962 with the mission of encouraging and increasing the public's awareness and participation in the arts, and to nurture the development of artists, arts and cultural organizations. Indeed, throughout its 40 years of service BCA has accomplished its stated mission.

In April of 2000, The Bronx Council on the Arts received the Governor's Arts Award for its contributions to the burgeoning artistic panorama of the Bronx. They joined the ranks of Peter Martins of the New York City Ballet, filmmakers Ismail Merchant and James Ivory, photographer Cindy Sherman and many other celebrated artists and art institutions.

The Bronx Council on the Arts serves more than 250 arts and community organizations and 5,000 artists. Through its various grant programs and services, BCA has given over $1 million to individual artists and arts organizations in order to support literary, media, performing and visual arts projects. In addition, BCA coordinates arts and education services in public schools throughout the Bronx.

Mr. Speaker, the Bronx Council on the Arts is truly a Miracle in the Bronx. Bill Aguado, the Executive Director, put it best when he stated: "This isn't supposed to be happening in the Bronx or anywhere else for that matter. Poverty, crime, drugs—those are expected, but to pick up a paint brush, raise a voice in song, fill a page with words or lift a foot to dance and say, 'I am a Bronx artist,' seemed absurd. Things have changed a lot."

For the rich contributions this organization has made not only to the Bronx but also to the world of art, I ask my colleagues to join me in celebrating the Bronx Council on the Arts' 40th birthday.

H.R. 2475—THE VETERANS HEALTH CARE FULL FUNDING ACT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. SMITH of New Jersey. Mr. Speaker, today, along with Representative ROB SIMMONS of Connecticut, Chairman of the Veterans' Affairs Subcommittee on Health, and three dozen other cosponsors, I am introducing H.R. 2475, the Veterans Health Care Full Funding Act, legislation to ensure full funding for the Department of Veterans Affairs' health care system.–

This bill would fulfill the central recommendation of the President's Task Force To Improve Delivery of Health Care for Our Nation's Veterans, which reported an alarming mismatch between demand for services and available resources that threatened the quality of VA health care. The Task Force recommended that the veterans' health care funding process should be overhauled in order to achieve full funding.

As early as 1993, national veterans organizations were calling for guaranteed funding for VA health care. Last year I introduced H.R. 5250, legislation to achieve that goal by funding VA health care through a permanently fixed formula, one possible approach recommended by the President's Task Force.

The legislation we are introducing today takes the other major approach identified by the Task Force, establishing an independent board of experts on health care economics, with an independent budget and staff, to determine the annual funding levels necessary for veterans' medical care and to be included in the Administration's budget.

Under our legislation, a three-member Funding Review Board would be appointed by the Secretary of Veterans Affairs for staggered 15-year terms. The Board would have full access to VA's economic, actuarial and other data relevant to determining health care funding, as well as the Office of Management and Budget's (OMB) economic and forecasting analysis, but would be independent of both.

The Board would produce an annual budget request and a budget forecast for funding necessary to provide full health care benefits in a timely and cost-efficient fashion to all enrolled veterans in Priority Groups 1-7, primarily those injured or disabled while serving their nation, or with low income levels. The amount calculated by the Board for the next fiscal year would become the President's budget request submitted to Congress. From that point forward, the congressional budget and appropriations process would remain unchanged.

To ensure that veterans are receiving timely care, the legislation would require VA to provide care in a timely manner; if VA is unable to furnish care to veterans who need it within reasonable timeframes, it would be obligated to contract for that care with private sector health care providers.

In order to promote fiscal discipline within VA health care, the Board would be required to identify areas where VA program efficiencies and savings can be achieved, as well as be required to consider recommendations from OMB.

Mr. Speaker, for at least the past five years, veterans' usage of VA health care services has surpassed every Administration estimate—Republican and Democrat. The continuing rise in demand for VA health care services has been driven by many factors, including VA's establishment of over 650 new and more convenient VA community-based outpatient clinics for primary care, improved safety and quality of care, and the availability of VA prescription drug benefits. VA has become an increasingly important supplier of prescription drugs to veterans, particularly senior veterans who lack a drug benefit from the Medicare program.

Further evidence of the urgent funding needs of VA health care comes from a report issued last year measuring the amount of time veterans are waiting for medical services. According to VA's report, there were nearly 300,000 veterans waiting for initial medical appointments, half of whom were waiting 6 months or more; and the other half having no appointment at all. While the VA has indicated progress is being made to reduce this waiting list, the Secretary's decision to halt enrollment of Priority 8 veterans for the remainder of this year is another clear indicator that VA is not properly equipped to handle the current demand for medical services because it lacks the funding to do so.

The President's Task Force (PTF) was established in May, 2001 to improve collaboration and resource sharing between the Departments of Defense and Veterans Affairs health care systems. Within months of the start of its deliberations, the Task Force discovered that a mismatch between demand for VA health care services and available resources prevented VA and DOD from achieving the full advantages of sharing and threatened the quality of VA health care. The PTF recommended in its report that the current budget and appropriations process be reformed. Let me quote from the report:

> The Federal Government should provide full funding to ensure that enrolled veterans in Priority Groups 1 through 7 (new) are provided the current comprehensive benefit in accordance with VA's established access standards. Full funding should occur through modifications to the current budget and appropriations process, by using a mandatory funding mechanism, or by some other changes in the process that achieve the desired goal.

The PTF identified two possible approaches to addressing current problems with the funding process: make veterans health care funding a mandatory budgetary item, or create an independent Board of experts, actuaries, or other outside officials to dispassionately review needs and determine funding levels. Both approaches would have the same goal: to achieve full funding to meet demand in a timely manner.

Mr. Speaker, the Veterans Health Care Full Funding Act would accomplish this goal by establishing a funding process similar to one already used by the Department of Defense. Our legislation is modeled on a provision in the 2001 Floyd Spence Defense Authorization Act, Public Law 106–398, popularly known as "TRICARE for Life." Under this legislation, an outside panel of experts and actuaries was established to determine future funding levels to meet health care needs of military retirees and their families in the TRICARE program. Our legislation is modeled on this successful program.

In addition, our legislation would codify standards for veterans' access to health care. Without a requirement that VA meet reasonable access standards, veterans could continue to be denied access to care regardless of any funding. I would like to recognize and thank my colleague on the Veterans' Affairs Committee, Representative GINNY BROWN-WAITE, who has introduced separate legislation, H.R. 2357, to achieve this very goal. The standards established in the Brown-Waite bill are incorporated in the legislation we are introducing today.

The VA budget for fiscal year 2003 contained a record $2.6 billion increase in the funding of medical care for our Nation's veterans and this year, based upon our Committee's recommendations, the House approved another record veterans budget, increasing overall veterans spending by $6.2 billion, including about a $3 billion increase for medical care. But even with these historic increases, VA may not be able to meet demand for medical services.

Mr. Speaker, with the introduction of the Veterans Health Care Full Funding Act, H.R. 2475, we hope to move beyond debate and discussion and finally get on the fast track to legislative action. It's time to fix the funding system for veterans' health care. I urge all my colleagues to carefully review and consider supporting the Veterans Health Care Full Funding Act, H.R. 2475, to provide dependable, stable and sustained funding to meet the health care needs of veterans of our armed forces. They deserve no less from a grateful nation.

IN RECOGNITION OF THE 50TH ANNIVERSARY OF THE MEMORIAL BAPTIST CHURCH OF WILLITS, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Memorial Baptist Church of Willits as this congregation celebrates the 50th anniversary of its founding.

W.F. Harrison, a Baptist layman who worked in a Leggett sawmill, identified the need for a Baptist Church in Willits. Ralph Rummings, a seminary student studying for foreign missionary work, was persuaded to start the mission and work at the sawmill for $25 a week. So, a few logging families formed the hub of the church, which has since grown to a congregation of 150 people.

Memorial Baptist Church became an official congregation on June 21, 1953. The church's first minister was Pastor Russell R. Morris, a seminary student who later became a missionary to Lebanon, Jordan and Israel. The first church services were held at the Leake Recreation Hall. Land was purchased in 1954 and the church building was completed in 1956.

Over the course of the past 50 years, the church has played an important spiritual role in Willits and has enriched the lives of many people. Although the congregation has endured philosophical differences over the years, it has remained united in its ministry, serving the needs of the congregation and the community.

Memorial Baptist has provided humanitarian assistance to people through local, national and international programs and activities. Currently, the church is an active participant in the Brown Bag Lunch Program of Willits, the Willits Community Services & Food Bank and the Community Benevolence Fund. The Women's Mission/Ministries group supports overseas projects, assists women in becoming self-supporting and provides funds to teach English to new immigrants.

Mr. Speaker, we honor this church for its many contributions to our community. For fifty years the church has been a shining example of patriotism and valor, a place where all are welcome. It is appropriate at this time that we recognize Memorial Baptist Church on the occasion of its 50th anniversary.

TRIBUTE TO OJAY HANSEN WORRELL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I stand before this body of Congress and this nation today to pay tribute to the life and passing of Ojay Hansen Worrell, an outstanding citizen from my district. Ojay was an active member of the Glenwood Springs community and he will be remembered as a respected businessman, an honored veteran, and a dedicated family man. Ojay passed away recently at the age of 79, leaving a legacy of leadership for his community to follow.

Ojay was born in Oklahoma City but moved to Glenwood Springs, Colorado when he was only four years old. He graduated from Garfield County High School and later married his high school sweetheart Marcella. Ojay joined the Navy and served our country during World War II, returning home to receive his bachelor's degree in Business Administration from the University of Colorado. Ojay found success in the business field, owning and operating Holland Auto Parts for over 30 years.

Ojay eventually began work in public service, serving on the Glenwood Springs City Council, as well as serving two years as the city's mayor. He was also involved in the Veterans of Foreign Wars, the Elks Lodge, and the Kiwanis Club. When not working in the community, Ojay enjoyed fishing, hunting, and area athletics.

Mr. Speaker, I am honored to pay tribute to Ojay Worrell before this Congress and this nation. His hard work, enthusiasm, and leadership in the community will be sorely missed. My thoughts and prayers go out to Ojay's family and friends as they mourn his loss.

TRIBUTE TO FRANK MODICA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I stand before this body of Congress and this nation to pay tribute to Frank Modica, an outstanding citizen from my district. Frank was an active member of the Trinidad community and he will be remembered as a respected businessman, an honored veteran, and a dedicated family man. Frank passed away recently at the age of 79, leaving a legacy of leadership in the Trinidad community.

Frank was a lifelong resident of Trinidad, graduating from Trinidad High School in 1938. Two years later, he married his wife Jane, a union that would last for the next 62 years. Several years later, Frank answered his country's call to duty, serving in the Army during World War II. Upon his return to the states, Frank worked with a number of companies, eventually owning Modica Trucking, The East Side Inn, and Modica Brothers Red-E-Mix.

Frank was also active in the Catholic Church, the Veterans of Foreign Wars, and the Trinidad Planning Commission. When he was not busy within the community, he enjoyed hunting, fishing, bowling and gardening.

Mr. Speaker, I am honored to pay tribute to Frank Modica before this body of Congress and this nation. His hard work, enthusiastic attitude, and leadership will be missed. My thoughts and prayers go out to Frank's family and friends.

TRIBUTE TO IRVING JAQUEZ

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress and this nation today to pay tribute to Irving Jaquez, the long-time warden of the Trinidad Correctional Facility in Trinidad, Colorado. Irving will soon be retiring as warden of the prison, where his leadership will be truly missed. I want to honor his many contributions here today.

Irving worked his way up through the ranks of the Colorado Department of Corrections, starting as a correctional guard. From there, he served as a correctional sergeant, lieutenant, case manager, admissions officer, housing supervisor, deputy warden, and warden. During his time at the prison, Irving was responsible for a mass transfer of prisoners, as 326 inmates had to be moved into the new maximum-security prison in Canon City. Like all of his work, the transfer was carefully planned and went off without a hitch.

Irving saw the prison system go through numerous changes through his many years of service. Irving worked hard to eliminate the potential for escapes from his facility. Recently, however, he has focused on the problem of contraband in prisons. As always, Irving works hard to protect the safety of his guards and protect the safety of the prisoners as well.

Mr. Speaker, I am proud of Irving's contributions to the Colorado Department of Corrections. His detailed and efficient management style has led to a well-run, well-organized prison, providing the utmost safety for prisoners and Trinidad citizens alike. Thank you, Irving, for your hard work and dedication.

RECOGNIZING THE ACCOMPLISHMENTS OF GARY CAMPBELL

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. UPTON. Mr. Speaker, I rise today to recognize the accomplishments of Gary Campbell, who is retiring after 34 years of service to education in Southwest Michigan. Earning his degree through Western Michigan University, the largest institution of higher education in Michigan's Sixth District, Gary has shown his commitment to the education of countless children over a four-decade span. Gary began his career at Edwardsburg Public Schools where he taught high school courses for three years. His keen intellect and strong work ethic soon propelled him to school administration. He has served as Superintendent of Lakeshore Public Schools for over 10 years. Behind the scenes, Gary has been extremely active within the communities of Southwest Michigan, becoming involved with such organizations as the Lakeshore Rotary Club, Lakeshore Chamber of Commerce, Council for World Class Communities, Community Partnership for Lifelong Learning, and the Lakeshore Excellence Foundation. Constantly working to contribute to his community, Gary has truly earned my admiration and the respect of the entire South West Michigan Community. Congratulations, Gary! We wish you continued success! Go Lancers!

HONORING AMERICA'S FATHERS FOR THEIR DEDICATION TO THEIR WIVES AND CHILDREN

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. PITTS. Mr. Speaker, I rise today to pay tribute to America's fathers.

Mr. Speaker, we often hear negative comments about fathers and fatherhood. We hear a lot about "deadbeat dads" and absent fathers.

It's easy to forget that there are millions of American fathers who love their wives and their children. They get up every morning and go to work to support their families. They go to baseball games and ballet performances and school plays. They help their kids with their homework, chaperone proms and mow the lawn. They treat their wives with respect and model healthy relationships. They make sacrifices and invest in the next generation.

Current research shows that these daily acts of responsibility and faithfulness have a major impact on child well-being. We also know that marriage is the foundation of responsible fatherhood, and that fathers who are married to the mothers of their children are more likely to be involved in their children's lives.

According to the National Fatherhood Initiative:

The best predictor of father presence is marital status. Compared to children born within marriage, children born to cohabiting parents are three times as likely to experience father absence, and children born to unmarried, non-cohabiting parents are four times as likely to live in a father-absent home.

In a longitudinal study of 2,500 children of divorce, twenty years after the divorce less than one-third of boys and one-quarter of girls reported having close relationships with their fathers. In contrast, seventy percent of youths from the comparison group of intact families reported feeling close to their fathers.

But, we don't need statistics to tell us that committed, involved father's are essential to the preservation of the family.

Yesterday, thousands of families in my district celebrated Father's Day. Amid all the distractions of our society, many stopped, for just a minute, to honor "Dad."

It seems that politics and social change and the faddish nature of our culture have not been able to erase the enduring value of fatherhood and the imprint that father's have in my district and across this great nation.

TRIBUTE TO TIMOTHY TYMKOVICH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress and this nation today to pay tribute to Timothy Tymkovich, who will soon become the next federal appellate judge for the Tenth Judicial Circuit. A Colorado native, Timothy has spent his career practicing law and serving the people of Colorado. I am proud to stand today and congratulate Timothy on his appointment.

Timothy began his distinguished law career at the University of Colorado School of Law, where he became the managing editor of the University's Law Review. Upon graduation in 1982, Timothy worked for Chief Justice William H. Erickson of the Colorado Supreme Court. He was appointed as Colorado's Solicitor General in 1991, working with both Republicans and Democrats effectively. He left that post in 1996, returning to practice law in the private sector. In addition to his time in the courtroom, Timothy has served on the Governor's Columbine Review Commission and currently chairs the Colorado Board of Ethics.

Mr. Speaker, Timothy Tymkovich is an outstanding member of the Colorado community who certainly deserves the praise of this body of Congress and this nation. The commitment he has given to Colorado and to the practice of law clearly shows his dedication to justice. Timothy will be a fantastic judge in the Tenth Circuit and it is my pleasure to congratulate him here today.

TRIBUTE TO SARAH SHANK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress today to pay tribute to a courageous and benevolent young woman from my district. Sarah Shank of Durango, Colorado was diagnosed with a rare form of cancer three years ago at the age of eleven. When the disease went into remission the following year, Sarah decided she wanted to dedicate her time and efforts to help other affected children and their families combat cancer.

With the help of her family, Sarah founded "Country Kids With Cancer," an organization that provides emotional support to kids battling cancer and financial help to their families. People who live in rural areas, such as Sarah's family, often have to travel long distances to get treatment. "Country Kids With

Cancer" works with Children's Hospital in Denver to identify and help such families with travel related expenses, which can be very expensive and are rarely covered by insurance.

Even though Sarah still deals with health-related problems stemming from cancer, she works hard to raise funds by speaking to neighbors at the local mall, hosting chili cook-offs, and organizing a charity golf tournament. Her efforts have directly helped nine families so far, and she is working to help more.

Mr. Speaker, I am truly honored to recognize Sarah Shank here today. That she would work so hard on behalf of others—after all she has been through—speaks volumes about her character. Sarah embodies the spirit of sharing and service that helped build this great nation, and I commend her for her leadership, thank her for her community service, and wish her all the best in her future endeavors.

TRIBUTE TO MIKE McGUIRE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress and this nation to pay tribute to Mike McGuire, a Colorado State Patrolman who will be retiring after eight years of distinguished service. Mike served in Durango, Colorado as a Community Resource Officer, where he worked with area schools to promote automobile safety.

Mike joined the State Patrol in 1995, and was quickly promoted to Community Resource Officer. It was there that Mike worked with organizations such as the Colorado Department of Transportation and Mothers Against Drunk Driving, teaching the virtues of seat belt use and driver safety. He works as an instructor in the "Alive at 25" program, which gives ticketed drivers the option of a lesser fine if they attend a safety class. Mike was also instrumental in the formation of the Victim Impact Panel for Drunk Drivers, a panel that consists of family and friends of people who have been killed by a drunk driver.

Mr. Speaker, Mike McGuire is the type of person whose dedication and commitment to improving safety has made a difference in the lives of many young Coloradans. The Durango community has greatly benefited from Mike's hard work and perseverance, and I thank him for his efforts. Good luck, Mike, in all of your future endeavors.

INTRODUCTION OF THE IRAQI FREEDOM FROM DEBT ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mrs. MALONEY. Mr. Speaker, today with my colleague Representative JIM LEACH, I am introducing the Iraqi Freedom from Debt Act. This legislation consists of 'findings' and two major initiatives. It requires the U.S. to negotiate in the IMF, World Bank and other appropriate multilateral development institutions for relief of the debts owed by Iraq to these institutions. Secondly, it includes a sense of Congress that the President should urge France and Russia and all other public and private creditors to relieve the debts owed to them by Iraq.

I will speak in more detail on the merits of the bill later this week. I urge my colleagues to support this worthy legislation.

INTRODUCTION OF THE ENSURING COLLEGE ACCESS FOR ALL AMERICANS ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. GEORGE MILLER of California. Mr. Speaker, I am pleased to submit, with my colleagues Representatives KILDEE, OBEY, OWENS, BISHOP, WOOLSEY, RYAN of Ohio, TIERNEY, DANNY DAVIS, KIND, HOLT, VAN HOLLEN and McCOLLUM, the Ensuring College Access for all Americans Act.–

Higher education is essential to ensure America's economic prosperity, national security, health and the success of individuals. Yet, as college enrollments swell, states slash higher education budgets and tuition continues to skyrocket, millions of American students and families continue to struggle to pay for a college education.

Despite these pressures, late last month the Bush administration decided to revise methods to determine student financial need, which will force a significant number of students and families to pay a higher price for a college education. As the June 13th New York Times article, "Change in Aid Formula Shifts More Costs to Students", documents, these revisions to the Federal needs analysis methodology for the 2004–2005 award year will result in substantially higher college costs for a large number of American students.

These updates, which were completed by the Department of Education without review or approval by the Congress, effectively will eliminate Pell grant eligibility for needy students or will reduce Pell grant awards or the amount of subsidized loans these students can receive. These changes will force students to mortgage their future by going further into debt to attend college.

At a time when the costs of attending college are growing higher every month, as states and private institutions raise tuition and other costs, I question the timing of these revisions.

The Department of Education's revisions to the allowance for State and other taxes are based on three-year-old data. At the time these numbers were compiled, our country had yet to enter the downward economic spiral that we find ourselves in today. Students are going to be denied critically needed financial aid because of the poor performance of the economy. Unfortunately, the failure of the Bush Administration to ensure economic viability has now come to rest on the backs of needy college bound students.

The Ensuring College Access for all Americans Act will reverse the Administration's revision and make certain that students are not denied critical financial aid. I strongly urge my colleagues to join me in honoring this tradition by supporting the Ensuring College Access for all Americans Act. It is an important step to making certain that all Americans can access a college education.

TRIBUTE TO DR. DONALD F. WHALEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress and this nation to pay tribute to an outstanding citizen from my district. Donald Whalen of Durango, Colorado has touched countless lives. He has served as a coach, friend, and mentor to the students of Fort Lewis College. The respect for Donald in the Durango area cannot be overstated, and it is for this reason that Fort Lewis College has dedicated their gymnasium to him.

Donald has committed his life to Fort Lewis, serving in numerous leadership positions within the school. He has worked as a physical education teacher, head coach of the men's golf and basketball teams, director of athletics, and interim school president. While performing these duties, Donald has always made time for his students. He provides them with friendship, advice, counseling, and has an attentive ear. One student even refers to Donald as "Mr. Everything."

Mr. Speaker, Donald Whalen is an outstanding member of his community, a man who certainly deserves recognition before this body of Congress and this nation. The hard work and dedication that Donald has given to Fort Lewis has positively impacted the lives of many students. It is clear that Donald has influenced America's youth, and I hope that his message of kindness, generosity, and resiliency will spread. Thank you, Donald, for your dedication to the community.

TRIBUTE TO LOUISE FICCO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Louise Ficco and thank her for her many contributions to Ouray, Colorado. Louise has spent over 30 years helping the less fortunate in the Ouray County Public Health Office and, as she plans her retirement, I am honored to speak of her contributions here today.

Louise began her service in Ouray in the early 1970's, helping the County Nurse with bookkeeping, and eventually expanded her duties to include home services and immunizations. Louise then began work in the "Women, Infants, and Children" division of the office, providing care for young mothers and their children. Her coworkers describe Louise as a "people person," doing everything necessary to make her patients comfortable. The Health Department was so worried about losing Louise that they have asked her to remain on as a consultant for the next four months.

Mr. Speaker, Louise Ficco has spent her life giving back to others. Public service is truly a noble calling which Louise has wholeheartedly embraced. Thank you, Louise, for your hard work and dedication to Ouray. I wish you all the best in your future endeavors.

TRIBUTE TO THERESA McKINNEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. McINNIS. Mr. Speaker, I stand before you today to recognize the almost four decades that Theresa McKinney of Rocky Ford, Colorado has contributed to the children of my state. For the last twelve years, Theresa has been kitchen manager at Rocky Ford High School, rising early in the morning to begin her many hours of cooking as she oversees the nutrition of Rocky Ford's children. Theresa will soon be retiring from her service at Rocky Ford, and I am proud to speak of her accomplishments here today.

Theresa has seen many kids come and go in her years at Rocky Ford and I know she will miss the spirit and laughter that the children have brought into her life. Her dedication to the school system has provided the children with an exemplary model of hard work. Theresa always arrived early and worked hard until her job was done.

Mr. Speaker, it is an honor to recognize the contributions Theresa has made to the well being of Colorado's children. Her hard work and dedication to Rocky Ford High School is certainly deserving of recognition before this body. Theresa, I wish you well in all of your future endeavors.

TRIBUTE TO RAY CANDELARIA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress and this nation today to pay tribute to a man who was willing to sacrifice in the service of our country. Ray Candelaria of Cortez, Colorado served this nation in World War II, going on to dedicate his time and effort toward the betterment of the Cortez community.

In order to serve his nation during a time of need, Ray left high school early to enlist in the Armed Forces. Ray joined up shortly after the attack on Pearl Harbor, serving in the Army for two years. He was injured and returned home, where he became active in numerous veterans' causes. Ray served as Commander of the Ute Mountain Post of the American Legion, Chairman of the Ute Mountain Rodeo Parade, and currently commands the Disabled American Veterans Post. His hard work and dedication to veteran's affairs have truly made Ray a leader in the Cortez community.

On May 22, 2003, Ray walked across the stage at Montezuma-Cortez High School and received his diploma after 60 years of service. He was one of several veterans who took advantage of a new Colorado law that enables those who fought in World War II to receive full high school diplomas.

Mr. Speaker, it is an honor to recognize Ray Candelaria and commend him for his service to our country. He and the other heroes of "the greatest generation" defeated totalitarianism and fascism, ensuring the freedom of all Americans. Ray left the simple pleasures of life in Colorado for the serious work of defending this great nation and it gives me immense pleasure to honor Ray and offer my congratulations on his graduation. Our country will always be grateful for his service.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 17, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 18

9 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the nomination of Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development.

SR–328A

9:30 a.m.

Governmental Affairs

To hold hearings to examine the nominations of Fern Flanagan Saddler, Judith Nan Macaluso, Joseph Michael Francis Ryan III, and Jerry Stewart Byrd, all of the District of Columbia, each to be an Associate Judge of the Superior Court of the District of Columbia.

SD–342

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the New Basel Capital Accord, a proposal issued by the Basel Committee on Banking Supervision to make final modifications for a new capital adequacy framework.

SD–538

Health, Education, Labor, and Pensions

Employment, Safety, and Training Subcommittee

To hold hearings to examine proposed legislation authorizing funds for the Workforce Investment Act.

SD–430

Indian Affairs

To hold oversight hearings to examine Native American sacred places.

SR–485

2 p.m.

Banking, Housing, and Urban Affairs

Business meeting to consider S. 498, to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation, and the proposed Check Truncation Act of 2003.

SD–538

2:30 p.m.

Judiciary

Antitrust, Competition Policy and Consumer Rights Subcommittee

To hold hearings to examine the NewsCorp/DirecTV deal, focusing on global distribution.

SD–226

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings to examine the development of democracy in Burma, to be immediately followed by full committee hearings to examine the nominations of Robert W. Fitts, of New Hampshire, to be Ambassador to Papua New Guinea, Solomon Islands, and Vanuatu, and Greta N. Morris, of California, to be Ambassador to the Marshall Islands.

SD–419

4 p.m.

Foreign Relations

To hold hearings to examine the nominations of John E. Herbst, of Virginia, to be Ambassador to Ukraine, Tracey Ann Jacobson, of the District of Columbia, to be Ambassador to Turkmenistan, and George A. Krol, of New Jersey, to be Ambassador to the Republic of Belarus.

S–116, Capitol

JUNE 19

9:30 a.m.

Commerce, Science, and Transportation

Business meeting to consider S. 865, to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users, S. 1234, to reauthorize the Federal Trade Commission, S. 1244, to authorize appropriations for the Federal Maritime Commission for fiscal years 2004 and 2005, S. 247, to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, S. 1106, to establish National Standards for Fishing Quota Systems, S. 861, to authorize the acquisition of interests in undeveloped coastal areas in order to better ensure their protection from development, S. 1152, to reauthorize the United States Fire Administration, S. 189, to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, S. 877, to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet, S. 1046, to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations, and the nomination of Annette Sandberg, of Washington, to be Administrator of the Federal Motor Carrier Safety Administration, Department of Transportation,and other pending calendar business.

SR–253

Judiciary

Business meeting to consider pending calendar business.

SH–216

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the growing problem of identity theft and its relationship to the Fair Credit Report Act.

SD–538

Governmental Affairs

To hold hearings to conduct an initial review of the ULLICO matter, focusing on self-dealing and breach of duty.

SD–342

10:15 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine teacher union scandals, focusing on closing the gaps in union member protections.

SD–430

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold oversight hearings to examine grazing programs of the Bureau of Land Management and the Forest Service, focusing on grazing permit renewal, BLM's potential changes to grazing regulations, range monitoring, drought, and other grazing issues.

SD–366

Intelligence

To hold closed hearings to examine certain intelligence matters.

SH–219

JUNE 24

9:30 a.m.

Governmental Affairs

To hold hearings to examine the cost of federal health programs by curing diabetes.

SD–342

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine bus rapid transit and other bus service innovations.

SD–538

Energy and Natural Resources

To hold hearings to examine changes over time in the relationship between the Department of Energy and its predecessors and contractors operating DOE laboratories and sites to determine if these changes have affected the ability of scientists and engineers to respond to national missions.

SD–366

Governmental Affairs

To hold hearings to examine controlling the cost of Federal Health Programs by curing diabetes, focusing on a case study.

SH–216

Indian Affairs

Business meeting to consider pending calendar business.

SR–485

2:30 p.m.

Armed Services

Personnel Subcommittee

Health, Education, Labor, and Pensions

Children and Families Subcommittee

To hold joint hearings to examine support for military families.

SD–106

JUNE 25

10 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

Judiciary

To hold oversight hearings to examine the Inspector General's Report on the 9/11 detainees.

SD–226

JUNE 26

9:30 a.m.

Commerce, Science, and Transportation

Business meeting to consider S. 1218, to provide for Presidential support and coordination of interagency ocean science programs and development and coordination of a comprehensive and integrated United States research and monitoring program, proposed legislation authorizing funds for National Highway Traffic Safety Administration, proposed legislation authorizing funds for the Federal Motor Carrier Safety Administration, and proposed legislation authorizing funds for recreational boating safety programs.

SR–253

Governmental Affairs

To hold hearings to examine the need for Federal real property reform, focusing on deteriorating buildings and wasted opportunities.

SD–342

Governmental Affairs

To hold hearings to examine federal real property reform.

SD–342

2 p.m.

Foreign Relations

To hold hearings to examine the Department of State's Office of Children's Issues, focusing on responding to international parental abduction.

SD–106

JULY 9

10 a.m.

Indian Affairs

To hold oversight hearings to examine the Indian Gaming Regulatory Act.

SD–106

JULY 16

10 a.m.

Indian Affairs

To hold hearings to examine S. 556, to amend the Indian Health Care Improvement Act to revise and extend that Act.

SR–485

JULY 23

10 a.m.

Indian Affairs

To hold hearings to examine S. 556, to amend the Indian Health Care Improvement Act to revise and extend that Act.

SR–485

Judiciary

To hold oversight hearings to examine certain pending matters.

SD–226

JULY 30

10 a.m.

Indian Affairs

To hold hearings to examine S. 578, to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security.

SR–485

POSTPONEMENTS

JUNE 24

10 a.m.

Health, Education, Labor, and Pensions

Substance Abuse and Mental Health Services Subcommittee

To hold hearings to examine proposed legislation authorizing funds for the Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

SD–430

SENATE—*Tuesday, June 17, 2003*

The Senate met at 9:30 a.m. and was called to order by the Honorable LISA MURKOWSKI, a Senator from the State of Alaska.

The PRESIDING OFFICER. The Chaplain will lead the Senate in prayer.

Today's prayer will be offered by our guest Chaplain, Father Dennis Kleinmann of St. Mary's Catholic Church, Alexandria, VA.

PRAYER

Almighty God, blessed are You Lord of mercy. You exemplify all virtue, including patience, purity, kindness, and humility. We thank You for the many graces You have bestowed upon us and our country: the freedoms we enjoy, the liberty to assemble as we do here today, and the right to enact laws which govern this Nation of ours. You allow us to be witnesses of justice and truth. You fill our hearts with love. You enrich us with courage and enable us to work for the good of all.

Through our Founding Fathers, these United States of America have been established as the protector of these rights and freedoms. You continue to bless us with men and women willing to serve these goals and this Nation tirelessly. God of truth, as this Senate meets yet again today may Your light of wisdom guide them and direct their deliberations that they may together always work peacefully and charitably. May they seek to promote national happiness. And as they discharge their duties this day may honesty and integrity rule their thoughts, words, and deeds.

We pray that these Your sons and daughters entrusted by Your authority with our welfare may act with knowledge and understanding. We ask that the peace only You can truly give be ours both now and forever. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LISA MURKOWSKI, a Senator from the State of Alaska, led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS.)

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 17, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LISA MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Ms. MURKOWSKI thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Madam President, today the Senate will be in a period of morning business until 10 a.m. At 10 o'clock, the Senate will resume consideration of S. 1, the prescription drug benefits bill.

Yesterday afternoon, a number of Senators came to the floor to begin this historic debate. I hope many Members will participate and will continue to make, over the course of today, their opening statements on this important piece of legislation.

I ask unanimous consent that the bill be open for debate only until the hour of 2:15 today, and further, that the time until 2:15 be equally divided between the two managers or their designees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Today, the Senate will be in recess from 12:30 until 2:15 for the weekly party lunches. Rollcall votes are possible during today's session, and we will notify all Members as these votes are scheduled over the course of the day.

Madam President, we will be turning our attention to Medicare shortly, and we will be focused on this significant, important piece of legislation for the next several days. Indeed, we will stay on this bill until we vote on its passage. As I looked over the progress from last week, I saw a lot of encouraging examples of consensus building and working together on both sides of the aisle, of progress and of achievement in a bipartisan cooperative way. We made huge progress in the debate on energy and, indeed, were able to pull together a finite number of amendments.

Over the course of the weekend and this week, the managers of that bill will be looking at those amendments to see how we can, in a very orderly way, come back and address energy and bring it to completion. We also, last week, completed our action on a number of important issues, one of which was the FAA reauthorization. We were able to do that in one day. I thank the chairman and the ranking member for their cooperation in moving this important and much-needed bill to completion.

We also passed the Burmese Freedom and Democracy Act last week. In particular, I want to thank the distinguished majority whip, the Senator from Kentucky, Mr. MCCONNELL, for bringing that bill both to our attention and shepherding it through the floor.

Last week, we also passed the Women Business Centers Preservation Act, sponsored by Senator OLYMPIA SNOWE, and we were able to complete a number of executive nominations. We have a whole range of other nominations pending, and we will work to clear these nominations on the Executive Calendar and to schedule rollcall votes as necessary.

As we enter the Medicare debate and the amendment process, I am very hopeful it will follow the same pattern we showed last week in working together. We will see robust debate. The end product is something for which I think we will have strong bipartisan support. I think the amendment process will reflect a lot of the differing approaches on both sides of the aisle within each of the caucuses as we go forward with the shared goal of strengthening Medicare, improving Medicare and, at the same time, providing America's seniors with the benefit that we have been denied in the past because traditional Medicare simply hasn't kept up to the times, and that is prescription drug coverage.

I look forward to 2 weeks from now when we will, on this floor, hopefully—I optimistically say this—pass a bill that America's seniors and future retirees will be able to look at and say, yes, that is health care security and that does include the benefits that are so important to health care delivery today, namely, prescription drugs.

We have talked a lot about modernization of the Medicare Program over the last 45 years. We had a bipartisan commission that generated a plan that was bipartisan, which Senator BREAUX and I put together based on the findings of the Medicare Commission. The Senate Finance Committee, over the last several years, has had 30 hearings, with 7 devoted just to this issue of prescription drug coverage. Earlier

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

in the month, we held an additional committee meeting to focus specifically on the framework that has been put forth by the managers of the bill, Senator GRASSLEY and Senator BAUCUS.

That hearing constituted the third committee hearing on Medicare this year. Indeed, last Thursday night, the Finance Committee voted to send this historic legislation to the floor of the Senate with a bipartisan vote of 16 to 5. I thank Chairman GRASSLEY and Senator BAUCUS for getting us to that pivotal point. This Grassley-Baucus agreement provides a strong base, a strong framework upon which we can achieve that mutually shared goal of strengthening and improving Medicare with a meaningful prescription drug benefit added. There are so many others who should be recognized who participated in the debate, but it is almost futile to do it because so many have participated in this body and in the House of Representatives, indeed, with the administration and the bold leadership of President Bush. I think because of all of this activity and the foundation that we have of working on this for years and years, we do have an opportunity—and indeed I argue that it is an obligation—to bring this debate to a point in which we take action and actually pass a framework to give this appropriate strengthening of Medicare.

Yesterday, Members did have the opportunity to deliver opening statements. As I mentioned, they will continue through this morning and likely into the early afternoon. Later today, if appropriate, we can go to amendments and tomorrow have a very active day on amendments.

Again, I hope we will be able to turn to final passage of this bill before we adjourn for the Independence Day recess.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will begin a period for morning business until the hour of 10 a.m., with the time equally divided between the two leaders or their designees.

The minority leader.

PRESCRIPTION DRUG BENEFIT

Mr. DASCHLE. Madam President, I commend the distinguished majority leader for his statement and for the effort he has made to bring the debate on prescription drugs to the floor over the course of the next 2 weeks.

I share his hope and his goal that by the end of this period, we can have achieved what I think all Senators want—a good, vigorous debate about what is the best approach to take with regard to a prescription drug benefit under Medicare—and complete that debate prior to the July 4 recess. I have indicated to him personally that it would be my intention to work with him to accommodate that goal. I do hope we can move to the amendment phase of the debate sooner rather than later, preferably this afternoon.

I also commend Senators GRASSLEY and BAUCUS for their effort in the Finance Committee. The vote of 16 to 5 was an indication of their success in accommodating the concerns and the ideas of many of our colleagues. They have worked on this for a long period of time and I think deserve our commendation for the effort they have made on a bipartisan basis. During the committee process, I indicated it would be my hope that I could work as vigorously as they did in achieving the bipartisan tone that was accomplished during the markup last week.

I must say, I do not share the enthusiasm for the legislation that some of my colleagues do, and I wish to talk about that this morning. We may have a different perspective on how close this may be, but I also recognize that we have made the perfect the enemy of the good at times, and I do not want to do that in this case.

I hope we can make a good down payment. I hope we can achieve a start. I have been concerned about how shaky a start this may be, but it is a start. If we are going to commit $400 billion over the next 10 years to provide meaningful drug benefits, I hope we can do so maximizing the use of those resources, providing the most efficient utilization, and a mechanism, an infrastructure, for prescription drugs that will accommodate many of the goals and hopes we have for at long last modernizing Medicare in a way we know must be done.

I hope we do not overpromise. It is so easy to make proclamations about how good this accomplishment is, and I think we may create false expectations, high expectations, for this legislation that just will not be realized once the full impact of the bill is felt in the countryside.

Some have said, for example, that this is just like FEHBP, the Federal Employees Health Benefits Plan, for Senators. It is not. There is about a $1,000-a-year difference in the value of benefits between what Senators get and what seniors are going to get.

To do what Senators get, we are told by economic analysts, it would take about $800 billion over a 10-year period, not $400 billion. So this is not FEHBP. This is something substantially below FEHBP.

We also must acknowledge that a senior who has $5,000 of drug costs will get a benefit of about $1,700; $3,300 will still come out of pocket out of that $5,000. So people need to be aware this is not FEHBP; that this is not going to address all of the concerns and needs that seniors have with regard to their drug costs.

Having said that, I believe we put down a marker, we set a foundation, and we should work with the administration and with especially the Department of Health and Human Services to address some of these concerns, and over time I believe we can make this an even better bill. Whether it is in the next 2 weeks, the next 2 months, 2 years, or 2 decades, we are going to make this a better bill, a better program.

There are a number of concerns I have with regard to how we can make it better that I hope we can address through amendments. The first amendment Democrats will offer is simply to give seniors more choice; to say to them: You can pick a private sector plan if you wish, but we also think you ought to be able to pick a plan that is strictly a Medicare plan; that you can simply extend your current Medicare benefits for doctors and hospitals to prescription drugs as well, and that should be an option for you as you make your decision with regard to what choices may be right for you. That will be one of our key amendments. As I said, it will be our first amendment.

I am concerned as well about the volatility of premiums. There are those who suggest there will not be much variation, and yet in testimony we were given just last week during the markup, the experts told us they could not guarantee there would not be great volatility.

We are concerned about the past example of Medicare+Choice, the premium for such plans can cost $16 in Florida and cost $99 today in Connecticut. That variation is what we are afraid could be part of this plan unless we do something about it.

Seniors are going to have four cost issues about which to be concerned. The first is the premium. The second is the initial cap on benefits and the stop-loss; that is, at what point do they lose all coverage and at what point do they get catastrophic coverage—and I will get to that in a minute, the gap when they pay all of the costs. They will also have co-payments and the deductible. All four of those variables could change dramatically. The deductible is currently $250, thereabouts, in the bill, but it could go up. The co-payments are 50-50, but it could go up. The stop loss is around $3,700 out-of-pocket. That could change. And you have, of course, the premium itself which is estimated to be $35, but there is no guarantee.

There is no defined benefit. One plan could have a lot more benefit than another. And seniors in their late eighties or early nineties are, I think, going to find it very confusing with all these variables with regard to their costs and also extremely different options and variables when they get to their benefits. So there is no defined benefit.

As I say, there is still a large issue with regard to the benefit falloff, the initial benefit cap for the package overall. It has been described as a donut hole, a coverage gap, but the benefit cap, the benefit stop that kicks in at about $4,500 in drug spending, will mean that seniors between $4,500 and at least $5,800 are going to have to pay all of the premium costs and get no benefit whatsoever during that period of time. So we are going to have to deal with that as well, it seems to me, and that is a function of cost.

We also have another issue about which we are concerned. We are told by CBO that 37 percent of beneficiaries—this is CBO—37 percent of beneficiaries with retiree prescription drug coverage will lose it under this bill; 37 percent, one out of three retirees, one out of three at least. I guess you could not say necessarily it is one out of three employees; it could be more than that.

Thirty-seven percent of beneficiaries with retiree coverage today will lose that prescription drug coverage when this bill kicks in. There is only one way to stop that from happening: To incent employers, to try to discourage them in as many ways not to drop that coverage, and we are going to try to do that.

The way we write the language on how retirees can be dropped, the way we incent employers by providing them with benefits to keep that coverage—we are going to try to do that as well. To provide 100 percent of the incentive it is going to take for companies not to drop their employees would cost more money. This bill currently has some. So we are going to see if we can get closer to that full amount to ensure that we do not find any more companies than absolutely necessary or possible that will drop their employee benefits.

So we have a number of significant concerns about the way this is written, about the benefits, about the uncertainty, about the costs, about whether or not Medicare can play more of an upfront role.

We have one other issue, the volatility of the benefit itself. South Dakota is a good example of a concern that many of us have. In South Dakota we do not have any Medicare+Choice. Companies do not want to serve the rural areas. So we are concerned about what it is going to take to bring companies into South Dakota to compete for the benefit plan to be provided in our region. If we cannot find anybody, under the bill, Medicare kicks in for 1 year. Once Medicare has kicked in, at the end of 1 year's time, these private companies can come back in and the Medicare plan that seniors had counted on for that year no longer would exist and there would be competition again for the private sector plans competing if they wish to serve that particular area.

So there is this constant change. If there is anything seniors do not like, it is change and this uncertainty that comes with change.

Not only that, we learned last week another disconcerting aspect of this. A decision would be made sometime in September on whether plans would exist for the coming year. If it can be determined by September that the plans cannot be put into effect for that coming year in a given region, then what happens is Health and Human Services establishes a Medicare plan, but they have to contract with a private company to provide that Medicare plan for the following year beginning in October.

So what happens under the bill between October and January is this: They find out first that no two plans can compete, so the Medicare plan is supposed to kick in. They contract for the Medicare plan, decide what the premium, the benefits, the stop loss, and the deductible are going to be. They somehow notify all the seniors in the region. They begin to try to implement the plan between October and December and make all of these decisions with regard to plans, benefits, notification, implementation, and administration. Technically it is supposed to kick in on January 1.

Now, if my colleagues have seen Government work that fast in any other area than perhaps a military intervention somewhere, I would like to see where it is. I am very concerned—frankly, extremely concerned—about whether or not that is even humanly possible.

Keep in mind, this is not going to be a one-time experience. We are going to repeat this every single year perhaps. We are going to make a decision in every region whether or not these plans can compete. Whether it is Alaska or South Dakota, my guess is they will not find them. They will then say, okay, we are going to have 3 months to fully implement a Medicare fallback even though we do not know who the contractor for that Medicare fallback will be on October 1.

So I have to say, as we walk through a lot of these concerns, my colleagues will understand why many of us worry about setting these high expectations and then find out how seniors will deal with them and address them in a way that does not cause confusion, fear, anxiety, frustration that is so unnecessary if we would just do this right.

Mr. DURBIN. Will the Democrat leader yield for a question?

Mr. DASCHLE. I am happy to yield.

Mr. DURBIN. I ask the Democratic leader, as a member of the Senate Finance Committee which is deliberating on this 653-page bill, if he would acknowledge or at least respond to the following: I believe the positive aspect of this is that for those who started out this debate saying we are going to eliminate Medicare, that Medicare is going to be replaced with a private plan, private insurance, that argument is out the window. Medicare recipients will be able to continue their basic Medicare coverage for hospitals and doctors. It will not be an either/or situation. I think that is positive.

We have finally reached a point where we have an honest debate over prescription drugs, and I think for those of us on this side of the aisle who have been pushing for it for so long, those are two very positive aspects of this debate. I ask the Democratic leader if he would agree with that.

Mr. DASCHLE. I would certainly agree with that, and before the Senator came on the floor I commended those responsible for making this a better bill and bringing us to this point. I think that while perhaps it is a shaky start, it is a very important start and we can deal with all of these other issues. Those are two issues we have dealt with, and I am grateful for the fact that we have made progress.

Mr. DURBIN. I want to ask the Democratic leader three specific questions about this bill that I think go to the heart of the challenge we face.

It is my intention to vote for this bill but also vote for amendments which I think will improve it. First, the cost of prescription drugs goes up 10 to 20 percent a year, and as these costs rise, seniors are paying more out of pocket. In 653 pages of legislation, how much is dedicated to controlling the costs of drugs, keeping them affordable, not just for seniors but for all American families?

Mr. DASCHLE. In response to the Senator from Illinois, some of the bill's proponents would say that is what they hope to achieve through competition, but we have not seen that work. Medicare+Choice was supposed to be competition, and it has not worked.

What we need to do is to have real competition with a Medicare benefit plan that will kick in, that will allow us to compare what could be done in the private sector with what could be done in the public sector. We have seen real cost containment in the Veterans' Administration. We have seen it in the Defense Department. To a certain extent, we have seen it in other governmental agencies, such as the Indian Health Service. We have not seen it yet with Medicare+Choice. That is No. 1.

No. 2, we will be offering an amendment offered at least by Senators GREGG, SCHUMER, and others on access to generic drugs which will give people an option to buy the generic version of a given drug, and that will help. Senator DORGAN will offer an amendment for reimportation of drugs sold cheaper in other countries to allow greater cost containment. Those three things could go a long way to addressing the issue of costs more effectively, and that is what this amendment process is going to be all about.

Mr. DURBIN. The second question is: When seniors have to figure out whether or not they want to get involved in this program, they have to make a calculation: Is it worth it to pay a premium each month and face a deductible at the end of the year? Will I be ahead or behind? As I understand it, we have heard a lot about a $35 monthly premium, but that is not mandated in this bill. There is no requirement that it be $35 a month. It could be considerably more. The $250 deductible that is in here I guess could be changed as well. So for the seniors who are trying to decide whether this makes sense based on their personal budgets—and that is what it comes down to—have we not created kind of a moving target as to what this is going to cost each senior across America?

Mr. DASCHLE. Well, there is not only one, there are four moving targets. The first moving target, as the Senator suggests, is the premium. It is suggested it be $35 a month, but there is no guarantee. It could be $100. It could be $20. No one knows. They will not know until they are able to determine just what it is going to take to bring a benefit to a given region. That is only the first.

The suggested deductible is $275. There is no guarantee. Nobody knows whether it is going to be $500 or $100. There is no guarantee on the copay. It is supposed to be 50/50. It could be 70/30. There is no guarantee on the so-called initial cap on benefits, or the benefit loss at some point, whenever that kicks in. It could be $4,500. It could be different. That is the benefit cap beyond which one has to pay all of the costs of a prescription drug.

So there are those four variables. As the Senator suggests, more clarity and certainty in this legislation would go a long way to eliminating a lot of the anxiety seniors have about this.

Mr. DURBIN. The last question I will ask the Democratic leader—and I see others are in the Chamber—it is my understanding that when Medicare was created under President Johnson, from the date of the passage of the legislation until Medicare went into effect was less than a year. It is also my understanding that this prescription drug protection, whatever it offers, is not going into effect until 2006—is my understanding correct—after the next election? Is that correct?

Mr. DASCHLE. Unfortunately, the Senator is correct. Some suggest it takes that long to set up the infrastructure, but as he also noted, Medicare took 11 months. When we established Medicare, 11 months later it was up and running. If an entire health care system can be developed with a payment regime for doctors as well as hospitals—and I might add there were two different payment regimes, Part A and Part B—in 11 months, I do not understand why it would have to take 3 years for us to do this. But that is what is incorporated in the bill.

Mr. DURBIN. I say to the Democratic leader, those are the three areas that jump forward as you look at this bill, the uncertainty in terms of cost, the complete lack of cost controls and reduction in prices for prescription drugs for American families, and the fact this is being delayed until after the next election strikes me that those who are proposing this are afraid once seniors actually see these uncertainties they may decide this is not as good a bargain as they had hoped.

Although this is a step forward, the alternatives we will offer on the floor are going to create more certainty, more price competition, and a better approach for seniors.

I thank the Democratic leader.

Mr. NELSON of Florida. Would the Democratic leader yield for a question?

Mr. DASCHLE. I am happy to yield.

Mr. NELSON of Florida. Recognizing that several States, including the State of the distinguished Democratic whip, Nevada, have implemented prescription drug plans of which they were not able to get any insurance company to step forward to offer prescription drugs under that plan because the insurance companies could not make any money, are we likely to see this revolving door the distinguished Senator from South Dakota has talked about, that two companies are supposed to compete and offer prescription drugs to the senior citizens but they do not step forward, and they go back to the backstop, which is the Medicare plan, and then there is the thought they will step forward again but they don't, and then they backstop back to the Medicare prescription drug plan? Does that suggest not only uncertainty but chaos?

Mr. DASCHLE. The Senator from Florida has put his finger on one of the big concerns many Members have, the volatility, as he called it, the revolving door.

What private insurance companies have stated in the past, insuring drug coverage for seniors is almost like insuring for a hair cut. A hair cut is inevitable. So is the utilization of prescription drugs for seniors. Because we cannot make the actuarial analysis work, there is no choice: either not to go in or to be significantly subsidized to make a profit, to make this work. That is why for so long we have not seen Medicare+Choice work very well. It has not been adequately subsidized and ultimately people have just not found it in their interest to sign up.

What we have seen is that the Medicare system has worked, has served this segment of our population very effectively, and we are simply trying to ensure that there is some stability. If seniors want to stay with Medicare, let them do so, rather than this revolving door, rather than being the guinea pigs in the private sector to find a way to devise a formula, where some private insurance companies could offer benefits that may or may not work over a period of years.

This process of selection and deselection and analysis and ultimately implementation in a matter of 3 months every year could pose some serious problems for seniors in Florida or South Dakota.

Mr. NELSON of Florida. Therefore, we could clear up that uncertainty, stop that revolving door, if, in fact, we gave seniors the automatic choice they could get their prescription drugs through Medicare, but if they had a better option, a more favorable menu of prescription drugs in the private sector, they could opt for that?

Mr. DASCHLE. That is exactly what we would be suggesting with the first amendment the caucus will propose. The distinguished Senator has characterized it exactly right. Why not give seniors a little more choice? But with that choice, perhaps a little more certainty that regardless of what may happen in the private sector they will always have the Medicare plan available as a choice. That is all we are asking. If Medicare cannot compete effectively, no one will use it and everyone will go to the private sector. If it can compete, if it can provide a comparable benefit, why not have it, instead of going through this backup business every year.

That will be a key priority amendment for us when we have the debate.

Mr. NELSON of Florida. I would like to ask one more question of the distinguished Democratic leader. At the end of the day, if we are not able to improve the bill with some of these amendments that have been discussed, it is either yea or nay. If we know that this kind of chaos and uncertainty is coming down the road when the legislation kicks in in 2006, is the theory of the Senator from South Dakota that half a loaf is better than no loaf at all?

Mr. DASCHLE. I have come to the conclusion, that this may not even be half a loaf but it is a start. As a start, it affords an opportunity to come back in 2 months, 2 years, within the next two decades, and gives us a chance to build. It has the elements of a foundation upon which we can improve a system of prescription drug health care delivery to seniors for the first time in our lifetime, for the first time in the lifetime of Medicare. That to me is a valuable asset to put in the bank so that I am prepared to accept the many deficiencies in this bill in an effort to get something started.

I don't expect I will enjoy unanimous support for that point of view within our caucus, perhaps within the Senate. But it seems to me we have to start somewhere. If we fall victim to making the perfect the enemy of the good, then I believe we will have lost yet another year and there will be no help for seniors under any circumstances. I don't find that acceptable.

Mr. NELSON of Florida. I thank the Senator from South Dakota.

Mr. DASCHLE. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ENSIGN). Morning business is closed.

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003—Resumed

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will proceed with consideration of S. 1, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1) to amend title XVIII of the Social Security Act to make improvements in the Medicare Program, to provide prescription drug coverage under the Medicare Program, and for other purposes.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I rise today to praise the exceptional commitment of Chairman GRASSLEY as chairman of the Senate Finance Committee, ranking member, Senator BAUCUS, to meld both political and policy differences and produce a bill that can garner support of 16 members of the Finance Committee, 16 Members of the Senate Finance Committee who represented every facet of the political spectrum.

That they were able to execute this extraordinary achievement and produce this bill, especially less than a year after the committee process was bypassed altogether, is a testament not only to their skill but also to their passion for this issue.

They have built upon the leadership that has been provided by the President, who challenged the Congress to enact a Medicare prescription drug benefit, offered principles, and more recently issued the charge to the Congress to have a bill on his desk in July. The Senate majority leader has been steadfast in his commitment not only that a markup should be held in the Finance Committee but also to ensuring we had a timetable to make the process work and to have this legislation on the President's desk in July. Thanks to his determination and also to the determination, commitment, and longstanding contributions made by my colleagues, Senator HATCH, Senator BREAUX, and Senator JEFFORDS, along with Chairman GRASSLEY and Senator BAUCUS, with whom I have worked over the past few years, seniors will be able to celebrate a second independence day this summer: Independence from the crushing cost of prescription drugs.

As one who teamed with Senator WYDEN almost 6 years ago to forge this first bipartisan prescription drug coverage bill in the Senate, I know it has been a rather lengthy road that has led to this day, but it has been a much longer and more arduous journey for America's seniors who cannot afford to wait any longer for Washington to act. So I am pleased we now stand on the brink of passing legislation that will provide every senior with the security of a comprehensive prescription drug benefit under the Medicare Program. That means we have the opportunity to pass this benefit this month and to have it on the President's desk in July.

We have certainly come a long way since I started in this process with my colleague, Senator WYDEN, almost 6 years ago, when we fired some of the opening shots in this legislative battle. We progressed from the $28 billion former President Clinton proposed for a prescription drug proposal to the $40 billion program that we established—Senator WYDEN and I, in the Budget Committee as members of that committee, for a $40 billion reserve fund over 5 years—to finally enacting a reserve fund several years later, again, a reserve fund for more than $300 billion. Ultimately, we had the proposal last fall for $370 billion, and then the bipartisan bill that included that amount of money, and then, of course, the $400 billion that was proposed by the President this year.

I remind my colleagues that is almost $200 billion more than the President originally initiated for a proposal just last year. So we have come a long way in this process over a 6-year period, from $28 billion to $40 billion to $300 billion to $370 billion to $400 billion right now.

There are those who argue they have not been included in the process that has brought us to the floor of the Senate this week, but I can say we have had extensive hearings in the Senate Finance Committee. I remind my colleagues, since 1999 the Finance Committee has held 30 Medicare hearings with 8 focused specifically on the creation of a prescription drug benefit. Last year, we spent 2 weeks on the Senate floor considering 5 different initiatives. During the Finance Committee's consideration of this bill last week, the chairman allowed an extensive discussion of the issues and more than 136 amendments were filed.

The bottom line is the policies in this consensus bill certainly were not achieved in a vacuum. They are the combination of 5 years of vetting and bipartisan bridge building. They are the direct descendants of last year's tripartisan bill that we spent 2 years developing, meeting every week. That was, again, Chairman GRASSLEY, Senator BAUCUS, Senator BREAUX, Senator HATCH, Senator JEFFORDS, and myself, and this ultimately resulted in an evolutionary process of numerous iterations of various legislative initiatives and provisions. It has been a healthy competition of ideas that has been forged into this piece of legislation today, recognizing it is virtually impossible in a 51–49 Senate to design the largest domestic program, in nominal terms, ever created and to pass the most significant enhancement of the Medicare Program in its 38-year history with a "my way or the highway" approach.

Concessions must be made. Thankfully, they have been made in arriving at this policy equilibrium that acknowledges, not only what is politically possible but, most critically, what is workable and meaningful and effective for America's seniors. The President made concessions, Republicans made concessions, Democrats made concessions, and then there were concessions made across the ideological spectrum in each of our respective parties. But, in the final analysis we also have acknowledged that if we want to pass a prescription drug benefit, then we have to achieve a consensus to ensure that seniors get this benefit this year and now.

As a result, we maintained that there were certain principles that had to be adhered to in the development of this legislation. Certainly it maintained the four principles we established when we designed the original tripartisan plan.

First of all, the benefit must be universal—that is the No. 1 priority for seniors, ensuring that any new benefit is available in every region of the country regardless of whether you live in an urban area or a rural area—and that you could receive this benefit at the lowest monthly cost possible; that the benefit be targeted, with lower income seniors receiving the most assistance, with limited cost sharing and reduced or eliminated premiums; that the benefit be comprehensive, providing coverage for every therapeutic drug class and category from the generics to the most advanced innovative therapies, while at the same time providing seniors with a choice in plans; and that the benefit produce real savings.

In this bill, an individual with an annual income of $15,000 per year, and drug expenditures of $7,000 per year, would save $6,000, an 80-percent savings. A couple with an annual combined income of $30,000 and combined drug expenses of $5,000 would save $1,385, a 28-percent saving.

All of these principles are essentially the ones that we developed in the tripartisan plan and even before that, when, with my colleague Senator

WYDEN, in the legislation we introduced back in 1998, after months of intensive research and outreach and negotiations, we became more convinced than ever, working across the political aisle and also understanding the policy dynamics and what undergirds the Medicare Program, we had to create a universal benefit under the Medicare Program with a subsidy to help lower income families pay for those premiums.

Moreover, because we believe individuals should have the same ability Members of Congress and Federal employees enjoy to choose the coverage that best suits their needs, seniors would be able to select their coverage from a variety of offerings by private insurers.

Then, as today, there are those who felt that any meaningful, reliable benefit should be a Government-run program. But we also learned from the debate last fall, when we considered various proposals across the political spectrum. We considered a Government-run prescription drug benefit program and we got various estimates from CBO that at the minimum it would cost from $600 billion to more than $1 trillion by certain estimates. That is a problem because, when we have a performance-based program that doesn't have any risk involved in delivering that program, the costs go up.

We also saw with that approach that the program would be sunsetted after 7 years, to mask the true costs, so that seniors wouldn't have the true benefit of that program after 7 years because we could not contain the costs with a Government-run program. Obviously, it would affect the future liabilities and the solvency of the Medicare Program, which we know is going to be a serious problem down the road when we have more seniors retire.

So, finally, we decided that an approach of that kind ultimately would have significant restrictions. Last year's bill, when it embraced a Government-run program, not only did it sunset, but it also statutorily limited the number of drugs a senior could purchase within a therapeutic class to just two.

So that is why we diverged from that road of going down the path of a Government-run program, so they can make sure seniors have options, and also so they can have the availability regardless of where they live in America. Our bill today puts no limit on drug coverage because seniors shouldn't be limited in their options for treatment, just as they also shouldn't be limited in their options for coverage. The fact is, the one-size-fits-all approach doesn't work when it comes to writing prescriptions. And it certainly won't work when it comes to prescription drug coverage either.

The question is how to provide seniors with choice without undermining the integrity of the basic tenets of the Medicare Program. That was the major issue that confronted us in developing the tripartisan plan and certainly the proposal that is before us today. I believe the answer is to allow seniors to utilize the traditional and the familiar fee-for-service delivery method.

Over the years, people have come to feel comfortable with this approach and with this model. There are those who have already been a part of this program, and those who will be retiring and may want to join a fee-for-service but at the same time be allowed access to other plans that are developed by private insurers which may be better able to tailor the differences to suit the varied needs of seniors today. This necessitated a give-and-take in this legislation.

Specifically, some have criticized this plan for not having a defined benefit. But a defined benefit means all benefits will look alike, which brings us back to the one-size-fits-all approach. Rather, under this legislation, plans have the flexibility to offer the standard benefit as prescribed in the statute or to offer a benefit that is actuarially equivalent to the standard option.

The guideline insures that all plans will have the same $275 deductible, $3,700 in true out-of-pocket costs for stop-loss coverage, and the total value. But it allows plans to vary cost sharing requirements between the deductible and stop-loss to create options that are the most appealing to the beneficiaries in that particular region.

In other words, with this legislation, the value of the benefits must be the same—not necessarily the benefits themselves. Again, it comes back to choice. Seniors will be able to choose. They can do so secure in the knowledge that those plans offered by private insurers include benchmark standards.

This bill's requirements ensure that the overall quality of those standards is protected and preserved in the kind of coverage that will be delivered under this proposal.

In order to satisfy the concerns of those who say that offering numerous private plans may be disrupting or confusing to seniors, the bill instructs the administrator for the Center for Medicare Choice to enter into 2-year contracts so seniors will not have to change plans every year if they are happy and content with the services they are receiving. This also should act as an enticement or inducement to private plans to participate because it provides them with the stability as well.

Moreover, the new program builds off of strict consumer protection from current law under the Medicare+Choice Program that requires the administrator to approve marketing material and provide educational materials to help beneficiaries compare and contrast benefit options.

Remember, the model we are using is the Federal Employees Health Benefits Program that serves Members of Congress as well as Federal employees. In fact, the average age of a Federal employee enrollee is 61. Choice works for them. Yet we cannot lose sight of the fact that over 80 percent of current fees voice strong support for the program and may not want to change. They may not want to test the unproven.

That is why we believed it was critical that this bill provide an equal drug benefit no matter which option a senior may select because more than 80 percent of seniors are now with the current Medicare fee-for-service program. Because those new retirees in this next decade may be more accustomed to what would be delivered under a preferred provider network, we wanted to offer options and choices among the plans that seniors could select without undermining the integrity of the existing Medicare Program.

I know some of my colleagues would have preferred to offer a differential benefit when it came to the prescription drug coverage. Depending on which program you enrolled in, they wanted a better benefit under the private plan as an incentive to participating in the privately created model, known as PPO.

Again, we have no certainty as to how these plans will work. We obviously have a track record for the traditional fee-for-service program. We know how that program works. But we don't know how the privately delivered program will work in the final analysis. That is something we will learn about as time proceeds.

CMS predicted, for example, that 43 percent of seniors would participate in private plans. But the Congressional Budget Office estimated that only 2 percent would participate in the private programs.

What happens in the event private prescription drug benefit delivery plans don't flourish in a particular region as projected? We don't have the traditional fee-for-service program to fall back on. What then happens? We can't afford to go back to the days before the Medicare Program was created and instituted in 1965 because those were the days of patchwork coverage that varied widely, if it existed at all for seniors. Again, it depended on where you lived or if you had any kind of medical access or if you had health insurance, which in many cases seniors didn't. That is why we established the Medicare Program back in 1965—so that we created evenness, fairness, and accessibility for all seniors—a platform of a level of care for seniors in this country regardless of where you lived in America, regardless of your income. That is why we felt and strongly believed that we needed to extend fairness to everyone. That was the spirit of the Medicare Program in the first place.

Providing a differential or an equal prescription drug benefit is just one of the many sound compromises in this legislation, but at the same time it is consistent with embracing the universal principles of the Medicare Program.

I know some have said we have already created a private delivery health option that is doomed to fail; and, that it would hinder the private market so that plans will never possibly participate in this program.

In fact, we have worked very closely with insurance actuaries and firms that we hope to attract so that we understand how they make business decisions as well as how they deliver care under those plans and with whom they negotiated to develop those networks and those plans. With that knowledge, we have incorporated a number of mechanisms in this legislation before us today. Those mechanisms include risk corridors, reinsurance and premium stabilization accounts which are intended to build a stable, productive model that we believe will attract and keep companies in the programs. That is very important.

We think these are the types of approaches and methodologies and procedures that will attract private insurers to participate in the programs on a regional basis.

Furthermore, we are instituting new cost-sharing options such as combining the deductibles for Part A and Part B services—a copayment system that better resembles the private sector today.

For example, under the Medicare Program, there are many copayments for preventive health care services. We happen to think that is in the wrong direction, that is the wrong emphasis. There are no copayments under this model for preventive screening. That is very critical. It is important to allow seniors to have access to those types of protective mechanisms that helps prevent more serious illnesses down the road.

It also provides a catastrophic cap for medical services which currently is not included in the Medicare Program.

Again, there are many upgrades and updated approaches to the private delivery model that do not exist in the traditional fee-for-service program.

Again, people will have choices in making decisions as to whether this better works for them or whether they prefer the kinds of support and insurance included in the Medicare Program under the fee-for-service as we know it today.

Again, we are establishing a structure that better resembles options delivered in the private market in this newly created private plan to offer more choices to seniors and to determine which structure is more attractive for their needs.

Again, in offering this option, I believe—and many of us believe—that it was also important not to undermine the fee-for-service programs by instituting unproven choices. We do not know whether these privately created systems will work in every part of the country.

We do not know who they will negotiate with in that region for providers so that seniors have access to a range of providers and specialists across the board which, obviously, is what the traditional fee-for-service program provides. So there is no way to guarantee that private companies will deliver services in all parts of the country.

This concern is especially acute for those of us who represent rural States such as Maine, where no Medicare+Choice programs operate. We understand there have been many problems for many reasons as to why the Medicare+Choice Program does not work very well in many regions of the country. It works well in some but not in many parts of the country.

So we learned from those lessons, and we developed a fallback proposal in this initiative that provides security to current Medicare beneficiaries or future beneficiaries that no matter where they live, we ensure that in regions where private plans choose not to participate the Government will contract with companies, like pharmacy benefit managers, to deliver the benefit.

Some have criticized this option, saying it will remove incentives for plans to participate in risk-bearing models. This bridge is necessary to address Members' and beneficiaries' legitimate fears that they could be left out of the coverage. That is important because I think it is essential we have a guaranteed, seamless Government fallback. But the fallback we have designed in this legislation is one of last resort; it is not the one of first resort. It will not be triggered unless two private plans will not enter the market, and we limit the contract to 1 year because we must first do everything we can to see that private delivery systems have a chance to flourish in this program.

To further entice private plans to enter the market, the administrator is allowed to reduce the risk that a plan bears to almost nothing. Again, the goal is to attract private plans into the market, to work with them to manage their risk, and to make it an attractive market to serve while, at the same time, offering seniors everywhere a guaranteed access to care that will exist under a private delivery system because access to care should not be segmented or guaranteed based on ZIP Code.

In that light, another concern the committee took action to correct last week was the threat of large variations in the premium across regions. One of the basic tenets of the Medicare Program, undeniably, is to provide health care benefits to seniors and to persons with disabilities for the same price. Whether you are a senior living in Arizona or Portland, ME, you will pay for the same part B premium.

We need to recognize how disparities in prescription drug benefits could lead to variations and instability for seniors enrolled in the private plans. Just consider the case of Medicare+Choice. This was an issue that was raised last week during the course of the debate on the markup in the Senate Finance Committee. The premiums in some regions of Florida, for example, in Medicare+Choice, are $16 a month while in Connecticut they may pay $99 a month.

Just from a basic standpoint of fairness, do we really want to create such a system for seniors with their drug coverage? So we need to level the playing field. Obviously, I don't want seniors in Maine to wonder why they are paying a different price for their premium than their neighbors across the border in New Hampshire. How can we find out if private plans are superior to fee-for-service if there are wild fluctuations and disparities between plans and the traditional benefits? So that is why we have to determine, as we proceed with this program, how best to address that issue.

Some have said we should stipulate the premium in this legislation in the statute and limit the level of variation. But according to CBO, that would result in higher costs and less efficiently run programs because plans would no longer have the incentive and the flexibility to craft benefit options that are the most appealing to seniors. As we have seen with other Government programs—whether it is job training and placement services—when Congress spells out the requirements, plans typically provide the minimum necessary and never aspire to a higher goal.

The committee unanimously adopted an amendment Senator LINCOLN and I offered that provides the Secretary of Health and Human Services the authority to adjust governmental payments to minimize any variation that may result in premiums across the regions due to variations for the standard coverage option under the new Medicare stand-alone prescription drug benefit. We also direct the General Accounting Office to study this issue once the program is operational to determine if wide variations actually materialize. I am confident these two actions will provide Congress with the information necessary to make informed decisions and will allow the Secretary to take corrective actions when necessary.

I think this is an important issue. Obviously, this is a very new program. We are testing new theories, new operations that basically reflect the state of health care today with the technologies, with the methods, with the providers, with the type of specialties that exist because we want to be able to give seniors access to a variety of choices across the spectrum, including their access to prescription drug coverage and how it can best be delivered to seniors.

So we want to test the innovation, the creativity, and the marketplace as well. That is why it is so important to allow the flexibility to be incorporated in this legislation, but, at the same time, if it does not work in the way we hope or intend, we have given the Secretary the ability to make adjustments on those premiums because it is absolutely important that he has the authority to do so. That is why we included this in the legislation.

We will also study the issue to determine what other actions in the future must be taken to ensure those kinds of wide variations and fluctuations do not occur.

Finally, I want to turn to the last part of my discussion, which is the issue of the low-income subsidies, which I think is a remarkable aspect of this legislation.

We have improved on the tripartisan plan. We learned a lot in our efforts, in our initiatives, over the last 2 years in terms of what is essential to establish a strong, low-income subsidy for our seniors under the Medicare program.

First of all, we raised the eligibility criteria to 160 percent of poverty—which is $14,368 for an individual and $19,360 for a couple—from 150 percent of poverty which we included in the tripartisan bill last year, and we used the eligibility criteria under the existing Medicare low-income assistance programs to create a seamless and simple process to target the most help with premiums, deductibles, and copayments to those nearly 9 million seniors with incomes below $12,123. The nearly 6 million seniors who receive health care coverage from both the Medicare and the Medicaid program—those known as dual eligibles—will continue to receive their drug coverage from the Medicare program. The States will receive additional assistance but this is intended to allow continuity of care and reduce confusion among the poorest and the most vulnerable.

My home State of Maine stands as an example of the impact this bill will have on the 40 million individual Medicare beneficiaries. For example, in 2003, there are 19,000 seniors and disabled individuals in Maine who receive health care benefits from both the Medicare and the Medicaid programs, the so-called dual eligibles. An additional 17,700 seniors qualify for the Qualified Medicare Benefit Program which serves people with incomes below 100 percent of poverty, and they will receive the greatest level of subsidy under the new Medicare prescription drug program. And 6,100 seniors are eligible for another program that serves people with incomes below 135 percent of the poverty level.

In total, over 90,000 of the estimated 215,000 Medicare beneficiaries living in Maine will qualify for one of the low-income subsidy programs. That is almost half of Maine's senior and disabled population. Each will receive substantial assistance each year.

Moreover, unlike the tripartisan legislation, this bill will provide assistance without an asset test to the remaining 8.5 million seniors with incomes under 160 percent of poverty regardless of their level of assets. Taken together, that is nearly half of all Medicare beneficiaries or 43 percent of the population. That is an important issue. That is a departure from the tripartisan plan last year because we did have another type of asset test that prevented 40 percent of low-income seniors from receiving coverage. It was a concern to all of us including that asset test, but we were trying to include a program under the $370 billion window that we had for financing this program. This year we used a more consistent methodology and programs that are already familiar to seniors across the country. It is fairer. We have basically eliminated the asset test for those individuals and couples under 160 percent of poverty level.

We learned from discussions over the last 2 years that a great deal of concern existed that we were excluding a large number of people with very low income who, because of their assets totaling more than $4,000 for an individual or $6,000 for a couple, would not be eligible for the subsidy. We removed that asset test and, therefore, now we have 17.5 million seniors who will be eligible for low-income assistance. At the same time we ensure those under 160 percent of poverty will never be subject to a gap in coverage where they would be responsible for 100 percent of the cost. All of us would have preferred to eliminate that gap in coverage. But CBO again stated it would cost, by their estimates, somewhere in the area of $200 billion in order to accomplish that goal. So we have to look at what is before us as a starting point, a very strong starting point.

We have to consider that nearly 88 percent of all seniors, 35 million people of the Medicare beneficiaries, that is 35 million of the 41 million Medicare beneficiaries, will spend under the $4,500 threshold of this so-called gap in coverage. That is before counting the supplemental coverage many have that may well keep even more seniors below that gap in coverage. Moreover, it may also be likely, as with the Federal Employees Benefit Program, that this bill will tailor the benefits and offer options that don't include a gap. We are not preventing private insurers or plans from including that gap. We provide them with an actuarial equivalent benefit, the same value for everyone. They could come up with a variety of plans, including eliminating that gap in coverage. But for the 12 percent of beneficiaries who have drug costs in excess of $4,500, and more specifically the 7 percent that spend more than $3,700 per year in out-of-pocket costs, they will qualify for the program's catastrophic coverage where the Government pays 90 percent of the cost.

This proposal counts toward the stop-loss coverage contributions made by the individual, a family member, Medicaid program, or the State pharmacy assistance programs which will further direct help to the lowest income seniors, those under 135 percent of poverty and those who have minimal assets.

Finally, I know many across the political aisle are concerned about including employer contributions toward the computation of the $4,500 cap. They point to the concern that some seniors will lose their employer health care coverage because this bill doesn't count employer contributions toward that catastrophic cap and that according to the Congressional Budget Office—again we had to use those determinations in order to design the type of program we could include in this legislation within the $400 billion—33 percent of seniors had employer-sponsored coverage in 2002. They estimate that approximately 37 percent of this 33 percent population will lose their coverage by 2013. That is approximately 4 million Medicare beneficiaries.

Obviously, this is troubling. But it is important to note that the Congressional Budget Office could not really estimate how much of this loss would be attributable to passage of this legislation. That is because employers are already dropping health care coverage for their former employees at an alarming rate. As we have seen from so many of the estimates that have been submitted to the committee, from 1999 to 2001, 7 percent of employers dropped retiree coverage. And from what we can determine, that trend is worsening, not improving.

Given the limited amount of money available, I believe the most prudent path may be to make adjustments to encourage companies not to drop their coverage but not at the expense of seniors. Obviously the priority is to make sure we get the very best benefit possible for everyone in the Medicare program and to do it, to the extent that we can, within the $400 billion program.

I must tell you as it stands, this legislation does include a number of provisions that are intended to help employers and encourage them to maintain retiree health care coverage.

Employers can participate in this program in a number of cost-effective ways. An employer can wrap their benefit package around the Medicare benefit which means that Medicare pays first, leaving the employer responsible only for the remaining cost. An employer can also directly pay their retiree's premium under traditional Medicare instead of offering a separate plan. And finally, under the new Medicare advantage option, they can bid to be their own plan and deliver the services to their retirees, which allows them to share the costs of the care with the Government.

Finally, the Medicare Advantage Program provides the flexibility to allow employers to pay for enhancements added to the Medicare standard benefit. I supported these provisions because I believe they are fair and appropriate. But this issue remains a vexing challenge. What is the correct balance where we are not discouraging employers from offering coverage for their retirees yet not penalizing seniors who don't have the benefit of employer-sponsored coverage? That really is the problem. Any changes we make to offer incentives and encourage companies to continue their retiree coverage places seniors who don't have this type of coverage at a financial disadvantage. Obviously, that is not consistent with the tenets of the Medicare Program.

I want to continue to work with the chairman, who has indicated his interest, to explore various ways to address the issue, along with Senator BAUCUS, because it is an issue we want to explore further so that we do not add to the costs of the program because employers dropped retiree coverage.

In the final analysis, there will always be those who will question if this is the best policy. Others will be concerned about the prudence of committing the Government to such large future expenditures. I, for one, am confident we have struck the correct balance. The average senior will realize $1,200 in annual savings, and the lowest income will see even more assistance. I realize this proposal will not help every senior in the same manner. But that is also because seniors have wide variations in drug costs.

What I do know is that the lowest incomes and those with the highest drug costs will realize substantial savings. During a time of growing deficits, this proposal is the best policy to meet the needs of this population as represented by the Congressional Budget Office estimates. This is an important issue because, again, it is getting back to the fairness and balance in the legislation and who will participate.

The Congressional Budget Office estimates that over three-fourths of Medicare-eligible beneficiaries will enroll. That is an important projection for the future well-being of the Medicare Program because you are going to have a blend in the participation that can also provide the very best benefit to those who want to enroll in the program. But you can have a blend in the regions that are developed under the new Medicare Advantage option between urban and rural of those who are healthy and those who are sicker. I think those types of blends will be a marked departure from the Medicare+Choice program.

We create much larger regions. There will be approximately 10 regions in the country. It is estimated by the director of the CMS that we could possibly have from six to eight plans participating in each region in the country, giving a breadth of choices to those who participate in the program. Overall, we should have high participation in the drug benefit program.

So this bill undoubtedly will be one of the most significant pieces of legislation that we can pass this decade, and beyond. We can make history today if we set aside our partisan differences. The time is right, the policies are right, and a prescription drug benefit is certainly the right thing to do for America's seniors. Passing this legislation will be a tangible verification of society's commitment to providing for those who have walked the path before us.

We can win this, Mr. President. We have tried before and failed. But I think the time has come for us to do what is right for America's seniors. Let us help them, help the Medicare Program to travel this last mile, and bring the Medicare Program into the 21st century.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I thank the Senator from Maine for her very fine statement. More important, a thank-you to her is warranted because of the long hours of work she has put into this subject of Medicare and prescription drugs. The strengthening and improvement of Medicare and a prescription drug program has been something the Senator from Maine has worked on for a long time. So I not only compliment her on her statement today, but I thank her for the work she has done in putting together the product that is before us. Even more so than the product that is before us, I acknowledge the work she was part of during the years 2001 and 2002 as part of the tripartisan group of Senators, including Senators BREAUX, JEFFORDS, HATCH, Senator SNOWE, and this Senator from Iowa, because it was the months of work during the spring of 2001 through the summer of 2001, and then picking up again in the spring of 2002, until we brought a bill to the floor 1 year ago now to discuss. The success of that work then laid the foundation for what we can do right now. That involved hours and hours of work for individual Members of the Senate, and more work yet for the staffs of each of those Members. So I thank her for putting in the time in 2001 and 2002, which did not yield a successful product at that point but very much made it possible for us early in the year 2003 to be before the Senate. Again, I thank the Senator from Maine for that foundational work.

I think the next speaker will be the Senator from Louisiana, Senator BREAUX. While the Senator from Maine and I might be able to say we were part of the foundation of the bill that is before us, Senator BREAUX was in the trenches digging the footing for that foundation years before we got involved, because he was a member of what was called the Commission on Medicare, later called the Breaux Commission. Because of his work—even before our work on the tripartisan bill—I acknowledge the extra effort the Senator from Louisiana has brought to this point. So I thank him and, for a second time, I thank the Senator from Maine.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, let me first express my appreciation for the very kind remarks of the chairman of the Senate Finance Committee. I think it is only appropriate to acknowledge that had it not been for his perseverance and determination, we would not be here today. He set a very tough timeline on the Senate for considering this bill. He took it through the appropriate hearing channels in the Senate Finance Committee to bring it to this point. We had extensive staff briefings and discussions among Republican staff and Democratic staff. We had a markup that many people said was really very pleasant. We had differences of opinion, but everybody had an opportunity to be heard. I credit creating that atmosphere to the leadership of the Senator from Iowa. We have had situations during the year—the tax bill is one of them—where we did not follow that process. As a result, perhaps the product was not as good as it should have been.

In this case, I think the Senate Finance Committee, in particular, rose to the challenge, and under the leadership of both Senator GRASSLEY and our colleague MAX BAUCUS on our side, we were able to create a cohesive group of men and women who were dedicated to producing a product in a bipartisan fashion. That is exactly what happened with a 16–5 vote on a Medicare reform and prescription drug bill, which would not have been possible had it not been for his strong leadership.

To the Senator from Maine, I offer my congratulations for her involvement, dedication, and her willingness to step outside the traditional boundaries and take some chances politically, as well as substantively, in order to help produce a product which, in the end, ultimately will be something of which we can all be very proud.

I think all of us realize the time has come that it is necessary for us to step out of the traditional boundaries that may put us at risk with some constituents we all represent in order to produce a better product for those very constituents who may say don't go there; but for those who had the courage to go there, we now have a product of which we can justifiably be proud. The Senator from Maine has been a major player in all of these efforts. We appreciate that very much.

Mr. President, let me take some time, from my perspective, to try to present where we are with regard to the Medicare reform and prescription drug bill. It was in 1965—38 years ago now—that the Congress of the United States did something that had never been done. The Congress and President Lyndon Johnson at that time made a fundamental decision that older Americans were going to receive health care benefits, and that the Federal Government had an obligation to help provide those benefits. As a result of that commitment, the 1965 Medicare Act was adopted.

Ever since then, for 38 years, seniors knew when they reached the age of 65, they would have access to a Government-run health care program. That health care program was principally designed to do what medical science said was necessary back in 1965. It provided hospital insurance coverage for seniors who went to the hospital, and it provided doctor coverage for seniors who had to see a doctor.

In 1965, those were the two fundamental ways in which people received health care in the United States. You went to see your doctor and, if you were sick enough, the doctor put you in the hospital. So for the very first time we said to senior citizens, 65 or older, when you reach that age, you are going to be part of a Government-run insurance program on your behalf.

For a long period of time it was a state of the art, as far as health care was concerned, with regard to our Nation's seniors. It has really worked. It has sort of been the envy of many parts of the world because many countries did not have the quality health care we had for our Nation's seniors. That, as I say, was back in 1965, and today is today.

While health care has changed dramatically, while science has improved incredibly so, the program that was designed in 1965 is still pretty much the same program that seniors look to in order to receive their health care.

It has been a good program, but it is not nearly as good as it should be nor nearly as good as we can make it. That is why we are here today: To create a better program, to build on what was the best in 1965, to create the best in the year 2003.

Medical science has advanced dramatically. The health care delivery system that brings about that health care for our seniors has not advanced very much at all. It is still what I call frozen in the 1960s.

Some have argued: All you have to do is put more money into the program and it will work fine. I suggest just putting more money into a 1965 model program is like putting more gasoline in a 1965 model automobile. It is going to still run like an old car no matter how much gas you put into it.

No matter how much money we put into the Medicare Program that was built in 1965, it is still going to run and operate as a 1965 model. Today, in this body, and this period of time before the Fourth of July, hopefully we will have an opportunity to do something that is as important as what was done in 1965 when the Congress made that fundamental decision to provide health care for seniors.

With what we have before us, we can create a 21st century program which takes the best in science and the best in medical care and puts it into a quality delivery system.

It is interesting to note when I talk about why the current system is deficient, one of the most important issues I bring to mind is the fact that the Medicare Program today only covers about 47 percent of an average senior citizen's health care costs they experience every year. That means 53 percent is covered by the Federal Government, but it also means 47 percent is not covered.

Where do seniors go for the 47 percent of their health needs that are not covered in this 1965 model program? If they are poor enough, they also get Medicaid, or if they look for help from their children or their grandchildren, that makes up part of the difference. Or if they are fortunate enough to have enough funds, they can buy extra insurance, called the Medigap Insurance Program, to cover the 47 percent of their health care costs Medicare does not cover.

No one I can think of in the private sector—certainly including Members of Congress—has a health insurance program that does not cover 47 percent of their health expenses. No one would want to go out and buy a health insurance program that did not cover on average 47 percent of their needs. It would be a terrible buy. You want something that covers as much as possible, and Medicare does not do that.

People are forced to buy the extra insurance or become so poor that they qualify for the Medicaid Program or have their children or grandchildren or perhaps just their friends help them with their Medicare costs that the program does not pick up.

In addition, one of the most important fundamental advances in health care is the advent of the prescription drug program that has saved lives and allowed people to live better lives. The correct and proper use of pharmaceuticals today can keep people out of hospitals or it can make their hospital stay shorter. It can treat diseases that are prevalent today and make our lives better and our families more comfortable. Yet pharmaceuticals are not even covered by Medicare unless you happen to be in the hospital and physicians give you the pharmaceuticals in the hospital. Once you leave the hospital, the Medicare Program does not cover the pharmaceuticals.

It is a perverse incentive to stay in the hospital longer so you get your drugs paid for, when really you ought to use drugs to get out of the hospital sooner or to not have to go there at all.

The Medicare Program is full of deficiencies. It does not cover eyeglasses. It does not cover pharmaceuticals. It does not cover many of the preventive health care measures we should cover. In addition, the Medicare Program does not do something that today is one of the most important functions we can do in health care, and that is preventive medicine.

We talk about how high health costs are in this country today, and one of the principal reasons is because people generally do not go to the doctor until they are sick. In reality, they ought to be going to the doctor when they are well to find out what they should be doing in terms of preventive care to make sure that whatever they are prone to have later in life is pushed back as far as possible or perhaps even eliminated. Preventive care can do that, but the Medicare Program does little, if any, preventive care, and it should not be like that.

In fact, private health care systems work very hard to create preventive health care measures to keep the cost of health care down, to get people to live healthier lives now so their health care costs later are less or perhaps even eliminated. Medicare does not do that.

The one thing Medicare does not do very well is to bring about innovation. We have to have an act of Congress to do many functions that the private sector can do automatically. The Medicare Program requires an act of Congress, as I have cited many times before, to try to bring about new innovative ways of delivering medicine.

We actually had people come to our office and say: We need an act of Congress because we now have a medicine that can be orally administered instead of intravenously injected, but Medicare does not pay for it unless it is intravenously injected. So we need an act of Congress to allow Medicare to pay for something that can be orally administered in the form of a tablet. That is not how medicine should work in the 21st century.

We have before us a medical program for our Nation's seniors that was state of the art in 1965. It has been a wonderful program. It has been a program that has saved lives and a program that has made people's lives much better, but it is a program that is frozen in the 1960s.

We have today the opportunity to create a modern 21st century health care delivery program that looks out over the country and decides what is the best way of delivering health care: how can we make it work better. That is the proposal before us.

When I had the great privilege of chairing the Medicare Commission in 1998, we had numerous witnesses give us their suggestions. We had the time to listen to the theory about what we ought to do with the Medicare Program. To a large extent, the groups that came before the commission fell into two different groups. The first group said: The Federal Government should do everything in this area, the Federal Government should run the program from top to bottom, and the private sector should not be involved at all because we cannot trust the private sector, which has a profit motive as their main goal, to be involved in delivering health care to our Nation's seniors. That camp, therefore, said the Federal Government should do everything.

On the other hand, a second group of folks who came before the committee took the position: The Federal Government should not do anything in delivering health care. We should turn the entire program over to the private sector, and the private sector ought to run the program, deliver the health care benefits, because they can bring about competition, they can bring about innovation, and the Federal Government cannot do that. So the Federal Government should not be involved at all.

We had a fundamental difference between the two camps that said the Federal Government should do everything and those who said the Federal Government should do nothing at all. The beauty of what we have today is that we attempt to combine the best of what the Federal Government can do with the best of what the private sector can do into a single delivery system and present that to our Nation's seniors as a vast improvement.

For me, it was never an either/or choice. It was never let the Federal Government do everything or require them to do nothing at all, but, rather, to bring the two sides together. I think by doing what we did is why today we see so much bipartisan support for this concept.

There were many of my Republican colleagues who had a preference for letting the private sector do it all and many of my Democratic colleagues said, no, the Federal Government should do it. But when we have combined the best of what both can do, we have created a system whereby I think we will have bipartisan support with a very large number of Members being able to vote for this on final passage. That in itself is a great victory.

Many people thought it would never be possible. Had we taken the position of one or the other, it probably would have been a very divided vote. On the other hand, by combining the best of what both sides could do, we have, in fact, created a better system, both from a fundamental standpoint of good government, and we have also created a political proposition with which both sides can feel comfortable.

What we have attempted to do—and I tried to take hundreds of pages of legislative language and put it all on one chart which in itself is a pretty difficult job—but what we have done, as my chart indicates, is to say that the beneficiary, of course, being our older Americans eligible for Medicare, starting in January, because we cannot get this thing started overnight, every Medicare beneficiary will be able to get some help and assistance on their prescription drugs under the current program; every beneficiary will start with a basic discount card available to all Medicare beneficiaries where they will be able to take that medical beneficiary card that is a product of the Federal Medicare Program to their drugstore, or to wherever they happen to purchase their pharmaceutical drugs, and get a basic discount which is estimated to be somewhere around 20 or 25 percent on the drugs that they have to pay for that have been prescribed to them by their medical doctor. That would be available to all Medicare beneficiaries starting in January.

Also, starting in January there will be a special assistance to low-income beneficiaries who would receive approximately a $600 subsidy in addition to the discount card. So we are saying all beneficiaries would get the discount card. They could go to the drugstore, get their pharmaceuticals filled, but if they are a low-income beneficiary they would also receive an additional subsidy of approximately $600.

It is really interesting to note, when we talk about drugs for seniors—and the fact is that most seniors on average have approximately a little over $2,000 a year in prescription drug costs. It is projected to go up to a little over $3,000 by the year 2006 when the big program kicks in. That is what the average senior has to pay for drugs. Many of them currently are low-income seniors and Medicaid pays for all of those drugs, or many of them have bought Medigap insurance which covers those drugs. Many of them, like my father, have a drug plan from a former employer, so they cover their drugs.

A substantial number of seniors right now have some coverage for prescription drugs, but it is not under the Medicare Program. It is by buying extra private insurance, it is by being fortunate enough to have a plan from their former employer that pays for their drugs, or many of them receive it from the Medicaid Program if they are a low-income beneficiary. That is certainly not good enough. Medicare should cover it.

So immediately starting in 2004 through 2006, under our plan, every Medicare beneficiary would get the basic discount card, plus low-income beneficiaries would get extra assistance.

Beginning in the year 2006—and I know my distinguished Democratic leader was talking about that is a long time, and 24 months is a long period of time, but we have to do it right. We have to set this new program up on a national basis. Beginning in the year 2006, every Medicare recipient would be able to stay right where they are today if they like their current Medicare Program.

I have given some of the good things it has done, and I have also tried to point out where it is deficient. There are a lot of deficiencies. If a senior is happy with the traditional Medicare Program, they can stay right in the traditional fee-for-service program that we call the Medicare Program. They can stay in this program as long as they would like it. And, yes, for the first time beginning in that year 2006, they would also be able to stay in the traditional Medicare Program and get prescription drugs because we would establish a stand-alone drug program for everybody who stays in traditional Medicare.

That stand-alone drug program would not be a Government-run and Government-micromanaged plan. For the first time, it would use a private delivery system for seniors to be able to receive pharmaceuticals they would receive as a Medicare beneficiary. Just like I get my pharmaceuticals covered under my Government health plan, seniors would have a private delivery system. This is not turning the seniors over to the mercy of the private sector. This is still a Government-regulated program in the sense that the Medicare officials and HHS would be responsible for making sure this stand-alone drug program for seniors is run properly; that the companies that are offering the plans have the financial ability to offer those drugs.

They would utilize what we call pharmacy benefit managers to construct programs. Insurance companies would come in and offer the seniors a pharmaceutical stand-alone drug plan. The companies would utilize the pharmacy benefit managers to try to get the best possible deal they could get from the pharmaceutical manufacturers. They could utilize formularies; they could utilize a blend where it is possible to choose between brand name and generic drugs. They would be able to get the best possible financial deal that they could offer to the seniors in a drug program.

Like I said, it would combine the best of what Government can do, which would be to make sure it is being run properly, with the best the private sector could do, which is bring about competition and tough negotiation with the pharmaceutical companies and manufacturers in order to present to the senior the best possible product. The Federal Government would still be involved in overseeing it but not micromanaging it.

For the first time they will also have another option they do not have now. Beginning in 2006, every senior could stay in traditional Medicare just like it is, but at their choice they would also have an opportunity to go into a new program called Medicare Advantage. Medicare Advantage would, in fact, be a combination Federal/private sector program which would deliver to every Medicare recipient who wants to join an integrated health plan, which would provide them hospital coverage, doctor coverage, and prescription drug coverage. They would also utilize the private sector delivery system for all of those areas, not just the drugs that they would get under traditional Medicare.

To a great extent, their plan would be based on what we have as Federal employees under the Federal Employees Health Benefits Plan, where the Federal Government, through the Office of Personnel Management, sets up a benefit plan for all of us in that plan and the Federal Government would set the standards as to what has to be met, what has to be provided, and then private insurance companies would come in and offer that coverage like they do for all of us as Federal employees.

Every year we would get a book, and the book shows us what is available, and we have to pick and choose. We pick the plan that is best for ourselves and our families. That is, in essence, what we are talking about in the new Medicare Advantage. Preferred provider organizations such as those in the Federal system would come in and offer different plans and different options to our Nation's seniors.

We want to have some standards but we also want to have enough variations so people have a choice to pick the plan best for them.

Our drug plan has a $275 deductible, a 50 percent copayment, and an approximately $35 premium. I happen to believe some variation is important in order for people to have a choice. Some plans may offer a higher deductible or should be able to offer that. We are working ultimately on trying to make sure there is some flexibility yet also some definitiveness about what, in fact, it is going to cost. That is important. We have achieved that appropriate and proper balance.

Beginning in 2006, seniors will have choices of staying in traditional Medicare if they want. No one will force them into picking anything else. Younger seniors, people not quite 65, moving into the new program will be used to utilizing the new delivery system and will be comfortable with it. AARP, which represents the largest number of senior citizens in this country, has taken polls of their members and has found men and women between 55 and 65 years of age prefer these options and choices and feel comfortable with preferred provider organizations which more and more citizens in this country are in.

Preferred providers are just that: a selection of preferred doctors and hospitals that can deliver these services. If you want to go outside of that system, you can go outside of that system, but it may cost you a little bit more.

By creating these preferred provider organizations you can negotiate financial deals with them that help reduce costs and help reduce prices. There are a lot of people in the country that want us to reduce prices, reduce costs, but don't want us to do anything to bring about lower costs and better prices. They say they want cheaper drugs but do not want restrictions on how much and what type and where they can get them. We cannot do both. The same with doctors and hospitals.

If you try to reduce prices, you have to get doctors and hospitals to negotiate the best price. By doing that, you may restrict to some degree where you might go to get those medical services. You can always go outside the system, but you may have to pay more for that choice outside the preferred provider system.

I want to address the point some made: we have tried this experiment with health maintenance organizations, HMOs, and they have not worked. One of the reasons they have not worked is the way Congress constructed them and the way we reimbursed them has not been very good at all, causing a lot to move out. Some HMOs are doing well in some areas and some HMOs have gone bust in other counties.

What we are talking about is not doing this new system on a county-by-county basis. That was one of the big problems why HMOs did not work. What this bill does is create 10 geographic regions in the country. The preferred providers will come in and offer their services in a region. By creating a region, you create not just a rural area—whether it is Wyoming, Montana, or North or South Dakota, where a lot of our colleagues have expressed concern this would not work—we have created geographic regions in the country that will combine more urban areas with more rural areas so you get a better blend, a better mix. They will be required to provide those services in the entire geographic region, which gives people who provide these services a better opportunity to try and make sure it will work. In rural counties, they all pulled out because there were not enough people to make it work. We have created 10 geographic regions around the country to make it much more likely this new system will, in fact, work and work very well.

There will be a lot more debate and a lot more amendments. Our colleagues in the other body are also moving forward with this type of legislation today and for the next couple of weeks. I am ultimately comfortable that we will, in fact, be able to pass a program in this Congress and hopefully complete it before the 4th of July recess that will create a new Medicare Program for our Nation's seniors which will provide prescription drugs but also will provide a better delivery system, one that is balanced, one that combines the best of what government can do with the best of what the private sector can do. We have accomplished that.

Can this be improved? Of course. There is nothing we do that cannot be improved. We are restricted to some degree by the fact we do not have as much money as I think is truly needed and necessary in order to create a program that is one that is even better than the one I have described. The facts are, we have $400 billion in the budget. If we had $500 or $600 billion or even $800 billion we could create a program that is much better than the one we have created. But there will be time to improve. We will have the opportunity to make this an even better program in the future. Obviously, we have to take the first step. This is truly the first step in 38 years that we have had the opportunity to take, which will bring to our Nation's seniors a better program we can always work to improve as time guess on.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. I ask unanimous consent the time during this quorum call be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I am happy we are here today on what I think is the first day of maybe 2 weeks of work in the Senate to pass a bill many Members thought would pass last summer but got tied up in some election year political maneuvering in the Senate and did not happen.

We have an opportunity this year—because this bill has broad bipartisan support based on the vote of 15–6 out of our committee, such a vote gives an opportunity to bring this issue to fruition—to present a bill to the President of the United States yet this summer.

Last Thursday, the Finance Committee did report out a breakthrough bill that would make prescription drug coverage a reality for 40 million Medicare beneficiaries. The committee approval was of a sweeping package of new comprehensive prescription drug benefits and other program improvements that makes very good sense but also keeps good our commitment to our seniors.

Since 1965, seniors have had drug insurance without prescription drugs. We have had health insurance without prescription drugs. By passing our bill last Thursday, the Finance Committee made history and came one step closer to changing the fact that prescription drugs were never a part of the Medicare Program unless they were administered in a hospital situation.

How did we get to the point we are today, where it looks as if we have broad bipartisan support for this legislation? This important breakthrough came because of the tireless work of our committee members, both Democrat and Republican, that has been going on over the last 5 years, going back to the time when Senator BREAUX, who just spoke and deserves a lot of credit for bringing us this far—and also Senator FRIST—led the way on prescription drugs before any of us were paying much attention or even listening. Then Senators SNOWE, HATCH, and JEFFORDS carried the torch for 2 years, working with Senator BREAUX and this Senator from Iowa on what we called then the tripartisan bill. It is tripartisan instead of bipartisan because Senator JEFFORDS officially, even though he sits with the Democrats, considers himself not a member of that party but an independent Member of the Senate.

The tripartisan effort, of which I was a part, was something on which I was proud to work but, more importantly, not just as an end in itself but, in hindsight, now I can say it set the stage, the foundation work, for where we are today on a bill that is even better than the tripartisan bill.

How do you get this far? The breakthrough came because of the President's unyielding commitment to getting something done for seniors once and for all. It takes more than just the Senate, it takes more than just the Senate and the House, it takes the President—all three—to bring legislation to what we call law.

This budget that the President put forth put real money on the table for prescription drugs—$400 billion over 10 years. So the Finance Committee wasted no time in taking advantage of that $400 billion that was in the budget for a specific proposal of prescription drugs and reporting out this good bill. I am glad about that; otherwise, we would not be here—without this budget leeway.

The bill we passed out of committee last Thursday night is a balanced, bipartisan product that flowed from good faith, from fair dealing, and from a commitment to consensus across party lines. So it is my hope that this same spirit will prevail on the floor of the Senate during the debate on this bill. I have no reason to believe it will not. I believe the debate in our committee, by both Republicans and Democrats, was just the type of debate you ought to have but do not often see in committees, particularly on very sweeping legislation, which is what this bill happens to be.

I intend to do everything I can to ensure a safe and successful passing of this legislation. To do that, I intend to work hard to keep the climate on the Senate floor as reasonable and most certainly bipartisan as it was in our Finance Committee through the course of last Thursday.

Of course, legislation of this size and scope does not make everybody happy. You cannot expect that it would. This bill cannot and will not be all things to all people. I expect to hear from many Senators about provisions, whether they be large provisions or smaller, less significant provisions in the bill, with which Members might not be happy. Of course, in the process of legislating, I welcome those who want to tell me about those with which they are happy as well. Sometimes we tend more toward the negative than the positive. I think there is a lot about this legislation—most of this legislation—that is very positive.

I pledge to work with all Senators in the days ahead to address concerns people have in the underlying bill. But I will keep my eyes on that larger prize, the promise we have expressed in so many elections, both Republican and Democrat, to modernize and strengthen Medicare, to move Medicare into the practice of medicine of the 21st century. One of the major steps in that move to improve Medicare is providing a prescription drug benefit.

If we were writing a Medicare bill for the first time and we were doing that in the year 2003, it would not be like 1965 when prescription drugs were only 1 percent of the cost of medicine. Today it is a much larger part of the cost of medicine and is part of keeping people out of hospitals. Obviously, we would write prescription drugs in that 2003 brandnew Medicare bill if we were writing a brand-new bill.

I am keeping my eye on that larger prize. That prize is passage of a comprehensive prescription drug benefit that will give immediate assistance, starting next January, 2004, and continuing as a permanent part of Medicare, to every citizen in America. If I were to generalize about a prescription drug benefit: First, it is voluntary. People don't have to buy into it if they don't want. It is very comprehensive and it is universal.

The bill before us puts that prize in our path. The Prescription Drug and Medicare Improvement Act brings Medicare, then, into the 21st century. The bill provides affordable prescription drug coverage on a voluntary basis to every senior in America. The coverage is stable. It is predictable. It is secure. Most important, the value of the coverage does not vary based on where you live and whether you have decided to join a private health plan. For Iowans and others in rural America who have too often been left behind by most Medicare private health plans, this is an important accomplishment that I insisted be in our bill when delivered to the Senate floor.

Overall, we rely on the best of the private sector to deliver drug coverage, supported by the best of the public sector to secure consumer protections and important patient rights. This combination of public and private resources is what stabilizes the benefit and helps keep the costs down.

Keeping costs down is essential because what I hear from the seniors in Iowa is not about a specific program, it is: Why are prescription drug costs so high? To them, so unreasonable. Keeping drug costs down is essential, not just for seniors but for the program as a whole.

Across this bill we have targeted our resources very carefully, giving additional help to our lowest income seniors. Consistent with a policy of targeted policymaking, we have worked hard to keep existing sources of prescription drug coverage viable. Our goal, ever since we started on the tripartisan proposal 2 years ago, was not to replace private dollars with public dollars. This bill accomplishes that by keeping Medicare State pharmacy assistance programs and retiree health benefits strong. Surely any change of this magnitude will have some ripple effect on other sources of coverage.

Regarding company-based benefits, our bill gives employers more flexibility than ever to participate fully in the new drug benefit.

We all know about the pressures employers face in maintaining health care coverage under mounting cost pressures. Decisions about scaling back coverage or even a company dropping it altogether are bound to be made regardless of whether we pass this bill. In the days ahead, we will work to encourage employer participation in the new drug benefit. But I am confident the balanced policy before us is a good place to start.

I would like to speak about our fee-for-service improvements in this bill designated as S. 1.

There is a very important aspect of this bill. It is called the Medicare Improvement Act for a reason. Beyond just prescription drugs, our bill is a milestone accomplishment for improving traditional Medicare, especially Medicare being delivered to rural America.

Included in our bill is the best rural improvement and Medicare equity package that the Senate has ever seen. I insisted on including it in the committee mark because the most important Medicare reforms involved fixing outdated and bureaucratic formulas that penalize rural States. This package passed the Senate 86 to 12 last month on the jobs and growth package. But it was tabled in conference between the House and the Senate.

I hope that vote is very strongly regarded today by the Senate so that we don't even have to deal with this discussion on the floor of the Senate as we did then on the tax bill.

Because this rural health package, or Medicare equity package—whatever you want to call it—was dropped in conference, the President wrote a letter shortly thereafter endorsing these same provisions. I am pleased to include them here today with his support.

At this point, I ask unanimous consent to have printed in the RECORD the President's letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> THE WHITE HOUSE,
> *Washington, May 22, 2003.*
>
> Senator CHARLES GRASSLEY,
> *Committee on Finance,*
> *U.S. Senate, Washington, DC.*
>
> DEAR CHAIRMAN GRASSLEY: I want to congratulate you on Senate passage of the jobs and growth bill, and also on the passage of your amendment to that bill which increased federal assistance to rural providers through the Medicare program.
>
> When we met in the Oval Office in early April, we discussed our concerns that rural Medicare providers need additional help, and we committed to addressing their problems. We agreed on the need to address issues faced by rural hospitals, skilled nursing facilities, home health agencies, and physicians.
>
> You demonstrated your commitment by passing your amendment last week with tremendous bipartisan support, and by pushing hard for it in the conference negotiations on the jobs and growth bill.
>
> I will support the increased Medicare funding for rural providers contained in your amendment as a part of a bill that implements our shared goal for Medicare reform.
>
> Sincerely,
>
> GEORGE W. BUSH.

Mr. GRASSLEY. Mr. President, I thought I would read at least the last paragraph by President George Bush.

> I will support the increased Medicare funding for rural providers contained in your amendment—

Meaning the Grassley amendment—

> as a part of a bill that implements our shared goal for Medicare reform.

What the President is talking about in this letter is just exactly what we have before the Senate—the same amendment included in this prescription drug bill on rural equity that passed the Senate 86 to 12 a month ago.

We have the prescription drug bill and the Medicare reform bill before us. These two are married up at a point that the President's letter refers to.

I want people to know that including this is something I discussed with the President on at least two occasions before his May 22 letter to me. One time in early December when the President asked me to come to the White House to discuss early on the process for moving this legislation along, I had an opportunity to remind him at that particular point about the speech he gave in August 2002 in Davenport, IA, during a political event at which he appeared for Congressman NUSSLE of Iowa. The President rightly complimented Congressman NUSSLE for leading efforts in the other body to help rural equity. I reminded the President that the short reference he gave in his otherwise long speech was used by Congressman NUSSLE in his TV ads in eastern Iowa during last fall's election. I wanted the President to be reminded that all Iowa heard him—not just a few Republicans at the NUSSLE campaign event in August—but all Iowans heard him throughout the fall campaign with parts of his speech being reproduced on this campaign ad.

I also had an opportunity early in April to talk to the President when the President once again visited with me about provisions of the prescription drug bill. He makes reference to that in the second paragraph of the letter. He said:

> When we met in the Oval Office in early April, we discussed our concerns that rural Medicare providers needed additional help, and we committed to addressing their problems. We agreed on the need to address issues faced by rural hospitals, skilled nursing facilities, home health agencies, and physicians.

The President is well aware of his communicating this directly to the people of Iowa even before I had my discussions with the President on these issues. I am glad the President is committed to fulfilling his statement to the people of Iowa that he made last summer.

This rural health care safety net is otherwise coming apart. That is why this rural equity issue is so important. The bill before the Senate begins to mend it. The hospitals and home health agencies in rural America lose money on every Medicare patient they see. Rural physicians are penalized by bureaucratic formulas that reduce payments below those of their urban counterparts for the very same service. Our bill takes historic steps toward correcting geographic disparities that penalize rural health care providers. I will summarize some of these.

On hospitals, we eliminate the disparity between large urban hospitals and small urban hospitals, as well as rural hospitals, by equalizing the inpatient-based payment. The hospitals in my State and other rural areas are paid 1.06 percent less on every discharge. That is a $14 million loss every year just for my State. It is time to make this change permanent.

We also revised the labor share of the wage index in the inpatient hospitals. The wage index calculation kills our hospitals in rural areas. They have to compete with larger hospitals in bigger cities for the same small pool of nurses and physicians. But because of the inequities in the wage index, they aren't able to offer the kinds of salaries and benefits that attract health care workers in cities.

Our bill begins adjusting the labor-related share downward to correct these inequities. We strengthen and improve the Critical Access Hospital Program which has been so successful in keeping open the doors of some of our most remote hospitals.

I think in my State of Iowa, almost a third of our hospitals have changed to what we call "critical access hospitals."

Also, in this bill, we create a low-volume adjustment for those critical access hospitals and for other rural hospitals that aren't able to qualify for the Critical Access Hospital Program.

These hospital corrections are not partisan rhetoric. They are supported by the nonpartisan Medicare Payment Advisory Commission, by the Center for Medicare Systems Administrator—and he did that in a recent letter to the House Ways and Means Committee—and also by 31 bipartisan members of the Senate Rural Health Caucus.

For doctors, our bill removes a penalty which Medicare imposes on those who choose to practice in rural States. Medicare adjusts payments to doctors downward based on just where they live. We believe the value of the physician service is the same regardless of where that doctor may live. Medicare doesn't recognize that. Our bill begins to change that.

Our bill also provides assistance to other rural health care providers such as ambulance services, and home health agencies which millions of seniors in rural areas rely on every day.

Providers in rural States such as Iowa practice some of the lowest cost, highest quality medicine in the country. This is widely understood by researchers, academics, and citizens of those States, but it surely isn't recognized by Medicare. Medicare, instead, rewards providers in high-cost, inefficient States with bigger payments that have the perverse effect of incentivizing overutilization of services and, in the end, giving poor quality.

These policies are paid for, not by taking resources away from the prescription drug package or by taking money away from those high-cost States but by other modifications to the Medicare Program that makes just plain, good policy sense.

These rural health care provisions are a fair and balanced approach to improving equity in rural America. My colleagues on the Finance Committee—a lot of them from these same rural States—recognize that. And I think on this vote we had a month ago I can say that the full Senate recognizes that.

I would speak last about the Medicare Advantage or the preferred provider organization parts of our legislation. Because beyond prescription drugs, and beyond the issue of rural health care, our bill goes to great lengths to make better benefits and more choices available for our seniors. In fact, one of the things that has been a focal point of this legislation over the 2 or more years we have adopted it has been to give seniors the right to choose.

Mr. President, I see that you are rapping the gavel. Can you tell me what that is all about?

The PRESIDING OFFICER. The Senator's time has expired. The time until 12:30 is equally divided.

Mr. GRASSLEY. Could I ask, since there are not other people here, maybe for 3 more minutes?

Mr. BREAUX. Mr. President, I would respond, Senator DORGAN wants 15 minutes, and then that is it.

Mr. GRASSLEY. I will put the rest of my statement in the RECORD.

Mr. BREAUX. It may work out. How much time do we have, I ask the Chair?

The PRESIDING OFFICER. Thirty-seven and a half minutes.

Mr. BREAUX. That is fine. Go ahead.

Mr. GRASSLEY. Well, the Senator from North Dakota is here.

Mr. BREAUX. I say to the Senator from North Dakota, the Senator wants to complete his statement.

Mr. GRASSLEY. Two more minutes?

Mr. BREAUX. Two more minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we want to give seniors the right to choose in as many areas as we can. That is why I use the word "voluntary." And that is why I use the phrase "the right to choose what they might consider better Medicare programs than traditional."

Our bill specifically authorizes provider organizations to participate in Medicare. The idea is these kinds of lightly managed care plans more closely resemble the kinds of plans that we choose for the Federal Government and which close to 50 percent of working Americans have today but only 13 percent of the people in Medicare have that today.

Preferred provider organizations have the advantage of offering the same benefit of traditional Medicare, including prescription drugs, but on an integrated, coordinated basis. This bill creates new opportunities for chronic disease management and access to innovative new therapies.

PPOs might not be right for everyone. We are going to let seniors make that choice. Our bill sets up a playing field for preferred provider organizations to compete for beneficiaries. We believe PPOs can be competitive and offer stronger, more enhanced benefits.

In the days ahead, I will be working with colleagues on both sides of the aisle to ensure that we set up the right system, one that is truly competitive and viable for these preferred provider organizations. No senior has to choose this new program. Our prevailing policy has been, and always will be, one that lets seniors keep what they have if they like it with no changes. All the seniors, regardless of whether they choose a PPO or not, can still get prescription drugs.

We have 2 long weeks ahead of us. My commitment is to stay here until the lights go out to ensure that we pass a balanced bipartisan bill.

I thank my colleagues on the Senate Finance Committee for their fine work to get us this far.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I yield 15 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, before Senator GRASSLEY leaves the floor, I want to tell him that one piece of this legislation that I think is particularly important are the provisions dealing with Medicare reimbursement for rural hospitals and other rural health care providers. I know he talked about how this Senate has dealt with this concern before, and we have. In fact, we had a very strong vote on it. But at this point, significant legislation has not been signed into law.

The fact is, his constituents in Iowa and mine in North Dakota pay the same payroll tax out of our paychecks as everybody else in the country, except we do not get the same reimbursement for much of what our providers do. And the result is, some very important health care facilities in smaller rural States, in smaller communities, are struggling and having an awfully difficult time making it because the provider reimbursement system is not fair.

I want to compliment my colleague from Iowa and others who have worked on this. I have been pleased to work on it some, but his leadership is very important in this area. That is one piece of this legislation to which I think we need to pay some attention. I will be pleased when the President signs a bill that includes these provisions, and so will many of our rural health care providers who have waited a long while for it.

Having said that, let me make a couple of comments about the broader piece of legislation and why we are here.

I think Medicare has been an excellent program for this country. Prior to the creation of the Medicare program, over one-half of the senior citizens in America had no health insurance coverage. They reached their retirement years—having worked all their lives, in most cases—and discovered that when they were in their sixties, seventies, and eighties there was not a traffic jam of insurance agents or insurance companies wanting to see if they could fully cover their health insurance needs once they have reached 70 and 80 years of age.

What they discovered was that at that age the cost of a health insurance policy was almost prohibitive. The result, back in the early 1960s, is that over half of the senior citizens in our country had no health insurance coverage at all. So the Congress passed a Medicare program, which has been a remarkably successful program.

The Medicare program has meant that now 99 percent of America's senior citizens are covered under Medicare. They do not have to live with the fear of not having some basic health care coverage when they reach retirement age. When they reach their declining income years, Medicare is there.

It has been there, and will be there. It has been a remarkably successful program.

Some say: But there have been financing problems with Medicare. Yes, that is true, and they are all borne of success. By that I mean people are living longer and better lives. As a result of that, there have been some financing issues and some financing difficulties with Medicare. We would not have any financing issues at all if we just went back to the old life expectancy, but people are living longer, better, more productive lives. The result is that we continue to talk about how we finance Medicare.

An example of that: My brother was telling me about a friend of his a while back who, at age 89, bought a new car. She, at 89 years old, bought a new car. He said she financed it with a 5-year loan. I guess that is optimism. But what a wonderful thing, an 89-year-old person buying a new car and getting a 5-year loan.

There was a story in the North Dakota papers some long while ago about a man who was 99 years old and still farming. They had a picture of this old 99-year-old codger. He was getting on his tractor. And the article talked about his son. His son was in the Army during the Second World War, and he came back and decided he would work with his dad until his dad retired. The son was about 74 years old, and his dad was 99 years old, and still farming. It did not work out the way the son thought. The story was about this 99-year-old still driving a tractor.

I have often mentioned my uncle who is in his early eighties. I believe he is 81 or 82 years old now. He discovered in his early seventies that he was a runner. He ran faster than most people his age. He started entering the Senior Olympics. My uncle runs the 400 and the 800 meter. He now has 43 gold medals. He has been running in California and Arizona and Minnesota. My aunt thinks he is about half goofy for an 80-year-old.

What a wonderful thing: An 89-year-old buying a car; a 99-year-old still farming; an 81-year-old running in the 400 and the 800 races in the Senior Olympics. People are living longer. That is a good thing.

However, Medicare, as it was developed in the 1960s, is basically for acute care or hospital care. If you get sick, you go to a hospital, and they help you. The medical model has changed dramatically since then and so must Medicare. That is what brings us to the Senate floor. We recognize that the prescription drugs now available that keep people out of the hospital, that allow them to control some of their health conditions and continue to lead productive lives, were not available in the early 1960s when Medicare was developed.

We come to the floor with a proposal that says: Over 30 years has elapsed since the writing of the Medicare program. It is now time to put a prescription drug benefit in the program.

Let me describe what that means in my State. We have 103,000 people who are on Medicare in the State of North Dakota. North Dakota is a relatively small State in terms of its population. It is large geographically, 10 times the size of Massachusetts in land mass, but it has only 645,000 people. We have 103,000 on Medicare. The people who are on the Medicare program paid payroll taxes all of their working lives, beginning back in the mid 1960s, and that money is what provides the capability of their being able to access the Medicare program.

Senior citizens, although they are 12 percent of America's population, consume one-third of all the prescription drugs in this country. It is probably pretty obvious to anyone who has been around senior citizens that they often take multiple prescription drugs. It is not unusual to talk to a senior citizen who takes 5 and in some cases 10, 12, or more different prescription drugs every day. The fact is, many of them simply cannot afford to pay for these drugs. Many of them do not have prescription drug coverage through any kind of insurance plan. Because of that need, because so many of them can't afford their medicines, we propose giving Medicare beneficiaries a prescription drug benefit.

A woman came up to me at the end of a town meeting in northern North Dakota one day. She was perhaps in her late 70s or early 80s. She grabbed me by the elbow and said: Mr. Senator, I want to talk to you a moment. My doctor tells me that I must take a range of prescription drugs to control diabetes and heart trouble. The problem is, I can't afford to take them and can't afford to buy them. Can you help me?

As she began talking about it, her eyes welled up with tears. This woman, perhaps 80 years old, was stranded. The doctor said: You have serious health problems, diabetes, heart trouble, and more. Here is what you have to take. These prescription drugs will control your health issues.

She said: I don't have the money.

A widow, living on a small Social Security payment, she does not have the capability of going in to a pharmacy and paying the very high cost for prescription drugs.

Let me say there are some things that have happened we should mention. I know the pharmaceutical industry sometimes takes a look at me and thinks I am always on the floor trying to put downward pressure on prescription drug prices. That is true. It is because I believe so strongly that we need to make sure that miracle drugs can provide miracles for those who need them. Miracle drugs cannot provide miracles for those who cannot afford them.

I want to say this about the industry. First, a number of pharmaceutical industry companies have stepped up to the plate since we last debated this subject. They offer programs to provide some free medicine to low-income patients and medicine discount cards for Medicare beneficiaries who don't have drug coverage. In 2002, we are told, the American pharmaceutical companies provided free medicine to 5.5 million patients. There are several programs of this type. Pfizer, Eli Lilly, and many others have these programs.

We ought to recognize that is a good thing. We ought to say to them: Good job. Frankly, that is a positive step. But these programs are no substitute for offering a prescription drug benefit to all Medicare beneficiaries. The pharmaceutical companies, although I have significant disagreements with them about pricing issues, ought to be commended for stepping forward and providing some approaches to help those very low-income seniors who have no recourse, no other alternatives. They have helped 5.5 million patients in the United States. But that is not a substitute for offering this legislation to put a prescription drug benefit in the Medicare program.

We are going to offer some amendments to the bill before us. I will offer an amendment or two. Some of my colleagues will offer amendments in the coming week and a half with the expectation that by the end of next week the Senate will finish its work on this bill. We will have passed legislation that for the first time since the early 1960s, when Medicare was created, will substantially improve the capability of Medicare to maintain the good health of senior citizens by adding a prescription drug benefit.

There are some weaknesses in the legislation that came out of the Finance Committee. My hope is we can address them and improve them. The legislation that came out of committee has a coverage gap that is pretty difficult. We need to fix that. There are periods where, even though beneficiaries will be paying premiums, their purchases of prescription drugs will not be covered. Those periods are, of course, first with the deductible. For the first $275 in drug expenses there would be no coverage. And then in addition, when seniors reach $4,500 in drug spending, their prescription drug coverage stops. Then catastrophic coverage will kick in when their drug spending reaches $5,800. During that $1,300 stretch between $4,500 and $5,800 in expenses, there will be no coverage at all. So senior citizens will be paying premiums during those months but have no coverage for the prescription drugs they are purchasing. That coverage gap needs to be fixed.

The legislation has no defined benefit or premium. We need to fix that if we can. We don't know what kind of charges would be set by the insurance companies, what the actual premium would be, exactly how would they define the benefits, and would they change or differ from region to region. I am particularly concerned that rural Medicare beneficiaries, those in smaller States, will be charged higher premiums than urban beneficiaries. We need to be very careful about that. I hope we can address some of it in amendments.

Reducing drug costs is another issue. Having just complimented the pharmaceutical industry, let me also say I believe we ought to pass the generic legislation that will tend to put some downward pressure on prescription drug expenditures. I also believe we ought to, as do some of my colleagues who have worked with me, have the global market system work for prescription drug consumers. The way the system could work, not just for Medicare but for all prescription drug consumers, is to allow those consumers to purchase the identical drug put in the same bottle made by the same manufacturing company from Canada, provided that you have a safe chain of custody. In Canada, the same medicines that are available in the United States are sold for a fraction of the price.

A pharmacist in Pembina, ND, is prohibited from going to Emerson, Canada 5 miles north and buying a prescription drug such as Tamoxifen for a fraction of the price. That pharmacist cannot now bring that Tamoxifen back and pass the savings along to a woman who has breast cancer in Pembina, ND.

I frankly think they should be allowed to do that. That is another way by which we can put downward pressure on prescription drug prices.

Well, those are some of the issues we are going to be dealing with this week.

Again, my fervent hope is at the end of this process we will, with a bipartisan piece of legislation, get the best of what all have to offer in this Chamber. We so often see legislation come to the floor of the Senate that has a pretty significant partisan split, and we often end up getting the worst of what can be provided rather than the best.

I hope in this legislation on the issue of prescription drugs and Medicare we all recognize a couple of points. One, it is long past time to do this. Were we to create the Medicare Program today, there is no question but that it would have a prescription drug benefit in it. Most of the lifesaving prescription drugs have become available since Medicare was originally written. That is No. 1. I think we are at that point where virtually everybody in this Chamber understands we ought to do this, and we ought to do it now.

The second and most important issue is we ought to do it right. There is a right way and a wrong way to do this.

First of all, the benefit ought to be reasonably simple, understandable, affordable, and provide significant benefits to the senior citizens of the country who need prescription drugs. That means simplifying this bill, trying to solve the coverage gap, and trying to put some downward pressure on prices.

I yield the floor.

Mr. BREAUX. Mr. President, I yield to the Senator from Vermont 10 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 10 minutes.

Mr. JEFFORDS. Mr. President, it is not hyperbole to start by saying that we are engaging in a truly historic Medicare debate—one that has the potential to rival the 1965 creation of the Medicare Program. Over the next 2 weeks, we will have the opportunity to consider and enact the most significant Medicare modernization in 37 years. We have the chance to do more for the health care and well-being of our Nation's elderly than has been accomplished through any recent Medicare legislation.

I commend Senator GRASSLEY and Senator BAUCUS for their work in bringing this measure to the Senate floor.

The Prescription Drug and Medicare Improvement Act is a landmark improvement to the Medicare Program and our colleagues deserve a great deal of credit for reaching this bipartisan agreement—I would say tripartisan.

This is a large and complex bill—measuring over 600 pages. It is not at all unusual for a proposal of that size to have issues remaining and I know there are some of our colleagues for whom these issues need to be debated and addressed. So we should not be Pollyanna about the outcome. Work remains to be done.

But I have been listening to our colleagues as they have come to the floor to discuss this bill and I am encouraged by the largely positive tone of their remarks. I am encouraged because this year I sense a cautious optimism among our colleagues that this Congress—this year—we will be successful.

As our colleagues know, I have been working on various efforts to modernize Medicare and to provide a prescription drug relief for our elders for many years. Most recently, I had the pleasure and honor to work with several of our colleagues on what came to be known as the tripartisan bill. I joined with Senator GRASSLEY, Senator BREAUX, Senator SNOWE, and Senator HATCH in a 2-year effort at drafting a compromise measure that we felt could gain a majority of votes in the Senate.

It was a true pleasure working with my friends in the tripartisan group and although we were not ultimately successful last year, I am convinced that much of our effort then has contributed to the bill we are debating now. So it is with a great deal of satisfaction that I am here to speak in favor of S. 1, the Grassley-Baucus, Prescription Drug and Medicare Improvement Act of 2003.

S. 1 provides for a comprehensive, universal and affordable prescription drug benefit under Medicare. It also pioneers new arrangements with private sector-based health plans that promise to integrate traditional medical care with innovations in the areas of disease prevention and chronic disease management.

The drug benefit, in particular though, meets four principles that have guided me throughout this effort. First, this program provides a universal benefit; it is available to all Medicare beneficiaries. While I believe it is critical to provide a benefit to the poor and those with catastrophic costs, all seniors, regardless of income, will benefit from this plan.

Second, this program is comprehensive. Beneficiaries will have access to the best medicines, and will not be limited to only the cheapest ones for the sake of saving money.

Third, this Medicare drug benefit is affordable—for both beneficiaries and the Government.

Finally, for a drug benefit to be truly successful it must be sustainable. It will do little good to repeat the catastrophic failure of years past by beginning a program that we cannot carry on.

This program, which combines seniors' contributions with a Government guarantee, will have the best chance of enduring into the future.

I believe this bill meets these four standards. It is universal, comprehensive, affordable, and sustainable.

Could it be improved? Probably. And that is why we will debate and possibly amend it this week. But this approach is a good compromise. It offers a respectable and responsible plan within the budget limitations we face. It is a good compromise. I support this bill and urge the Members here to support it as well.

In closing, I also thank several of our other colleagues who contributed so much to this effort. I think again, that the work of our tripartisan group from last year did much to pave the way to today's bill—so I thank my colleagues for letting me join with them in seeking a tripartisan solution.

Again, I thank Senators GRASSLEY, my friend of over 28 years. We have worked on this issue and many others in the past. I think this will be one of our proudest achievements.

Also, this bill would not have the balance that it does without the contributions of other members including Senators BAUCUS, DASCHLE, GRAHAM, and ROCKEFELLER of the Finance Committee and of Senator KENNEDY's efforts to bridge the divides where they existed.

As I close for today, I would like to mention that the measure we are debating this week contains many more significant provisions than just those related to prescription drugs. So I will look forward to returning to the Senate floor at a later time to discuss those provisions with our colleagues.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I yield the remaining time we have to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 12 minutes.

Ms. STABENOW. Mr. President, I thank my colleague from Louisiana, who I know has spent years focusing on the issue of health care and Medicare prescription drug coverage.

First, while I present an opposing view in terms of some of what is discussed here, I share the commitment and desire of all of us to do what is right in terms of the seniors and those with disabilities who are on Medicare who have waited for too long for us to come together and act as a body, along with the President.

I will start by commending my colleagues on both sides of the aisle who have been diligently working through a number of issues and a number of obstacles to come up with an approach they believe is the best approach or the most doable approach right now before the Congress. Certainly, Senator GRASSLEY, Senator BAUCUS, Senator BREAUX, Senator JEFFORDS, who just spoke, Senator SNOWE, and many others have been involved in these discussions.

As one who has spent a tremendous amount of time myself focusing on Medicare and the need for updating and strengthening Medicare to cover prescription drugs, I commend them for their desire and concern and hard work in coming to this point. I do not believe we are doing all we can do and should do as a country or as a Congress for our seniors under Medicare.

I do believe Medicare has been a great American success story since 1965. I agree that it needs to be modernized, and not just prescription drugs but I agree with the Secretary of Health and Human Services who focuses on prevention. I commend him for his efforts and agree with him that we need to modernize Medicare to focus more on prevention and other options that can streamline the system and make it more efficient.

I do not believe, however, that we save dollars or create a more efficient system by turning over prescription drug coverage to private insurance companies. At the appropriate point, I will be offering an amendment that will give true choice to seniors by allowing them to choose a private sector option but to also be able to remain in traditional Medicare and get the help they need if that is their choice. If we are truly talking about choice, I believe the choice should be with the senior.

This really is a question of whom we are designing the system for, whether we are designing it for the insurance companies, for the pharmaceutical companies, or for the people who are covered under this system. I am concerned that we can do a better job for our seniors if, in fact, we offer them a true range of choices.

I find it interesting at a time when I am back home in Michigan talking to the big three automakers or small businesses or others who are struggling with insurance premiums in the private sector, the premiums are skyrocketing. The average small business has seen its health insurance premiums double in the last 5 years. The automakers and other manufacturers in my State have seen their premiums go up 20 to 30 percent a year, forcing them to freeze pay increases for employees, asking them to pay a larger share of the cost, cutting salaries or, in some cases, people losing their jobs because their business cannot afford to maintain the skyrocketing premium increases in the private sector.

Given that fact, I find it ironic that we are suggesting we would save dollars by going to a private for-profit insurance model where, in fact, the premiums have been rising two or three times faster than those under Medicare; that when we look at the administrative cost difference, it is less under Medicare. When we look at the current choices we have between Medicare+Choice, which is Medicare HMOs, or traditional Medicare, we hear that studies have shown that to provide the same service through the HMO, on average, costs 13.2 percent more than if it were provided through traditional Medicare.

So I question, as we have precious few dollars to work with to be able to provide the services and the care for which our seniors are asking, the wisdom of moving to a model that is rising in cost faster than Medicare. I have not seen evidence where, in fact, it will provide the kind of competition to lower the prices, which we are all looking for from the private sector at this time. In fact, what I am hearing from the business community is they want us to partner more with them, the public sector and the private sector. Because we now have our global economy and businesses competing around the world and because we are the only employer-based health insurance system among the industrialized countries, they find themselves at a competitive disadvantage and are asking to partner with the private sector to both contain costs and be able to help them compete and continue to be able to provide insurance coverage.

So in light of all of these discussions that are going on, we look at Medicare, which is the one piece of a health system that Congress in its wisdom back in 1965, along with the President, said we are going to make sure is available, universal, once one is 65 or if they are disabled, regardless of where they live; if they are in the Upper Peninsula of Michigan, Detroit, or in Benton Harbor, they know they will be able to have insurance coverage, be able to choose their own doctor, be able to get the care they need. They know what it costs. They can count on it. That is the miracle. That is the reason so many seniors overwhelmingly choose traditional Medicare rather than other private sector options.

So we come to the difficult choice now of how to provide prescription drug coverage, and there is a difference of view certainly about whether we should strengthen traditional Medicare or provide incentives, encouragement, a carrot stick—whatever one wishes to call it—for those to go into managed care. I commend my colleagues for attempting to find that balance in the middle. I believe the balance really is not struck unless we make sure that traditional Medicare is part of that choice.

I also am very concerned that we hear constantly that, in fact, we have a situation where we can only afford to go a part of the way. It is my understanding, when all is said and done, we are talking about providing most seniors—certainly middle-income seniors—with 20 or 25 percent to help with their drug bill over time. I do commend the structure for low-income seniors, but overall we know we are not providing a comprehensive prescription drug benefit with the dollars involved. It is half of what it would take to provide the same coverage we have as Senators through Blue Cross and Blue Shield under the Federal employee health system. So we certainly are not providing what we, other Federal employees, receive for a comprehensive benefit.

I have often heard, well, we cannot afford to do that. I feel it necessary to indicate for the record one more time why it is we are talking about a system that is not comprehensive, will end for several months of the year for seniors, will not provide them what they need, and is complicated and convoluted, I believe, and that is because of another set of policies that were debated in this Congress not long ago, coupled with what happened in 2001, and that is the question of making a determination, a value judgment, that it is a bigger priority to provide tax cuts for the wealthiest, the privileged few of our country, rather than helping the many of our seniors and the disabled to be able to put money in their pockets through prescription drug coverage.

It is astounding to look at what that decision has done. We are told that the 2001 tax cuts made permanent and the other proposals passed over the next 75 years will, in fact, cost $14.2 trillion, where the projected Medicare and Social Security deficit combined—not just Medicare but Medicare and Social Security deficit—is $10 trillion.

This has been a conscious choice to make a decision to spend dollars in one way to help a few people in our country rather than to keep the commitment of Social Security and Medicare that we have had for many decades in our country. The fact that we are talking about an inadequate benefit that ends, that leaves coverage gaps of 3 or 4 months a year for our seniors, the fact that we are talking about an approach that does not do what they have asked us to do, is because of decisions made to take revenue and instead of investing it in health care for older Americans, instead of investing it in strengthening Social Security for the next generation, the decision was made to eliminate that revenue.

By the way, that decision has resulted this year in the highest single-year deficit in the history of our country. Unfortunately, a hole has been dug. I fear it will continue to be dug deeper and deeper with the decisions that will be made.

It is not too late to decide in this debate we will do it right—real choice, a real benefit—that we make decisions that are best for the majority of the people we represent. They are counting on us to do this right.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Utah.

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003—Continued

Mr. BENNETT. Mr. President, I ask unanimous consent that for the duration of today's session, S. 1 be available for debate only, with the time until 6 o'clock today equally divided as under the previous order.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is clear from this unanimous consent request that we are waiting for CBO scoring on the Medicare bill. That, it is my understanding, will not be in until very late tonight. So as I understand this unanimous consent request, if we extend the time past 6 tonight, it still will be for debate only on this matter; is that right?

Mr. BENNETT. I say to the Senator, my understanding is the same as his, but I am not in any position to make a commitment.

Mr. REID. I would advise Members I don't think they can expect at 6 o'clock to start offering amendments. I don't think the bill will be ready at that time. So if we do go past 6 o'clock, I am confident it will be for debate only.

But I agree to the request at this time, that until 6 o'clock today the time be equally divided as requested by the Senator from Utah.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, if I could, through the Chair, ask the Senator from Utah if the Senator from Utah is going to speak on the bill at this time?

Mr. BENNETT. That is correct.

Mr. REID. I ask unanimous consent that following his statement the ranking member of the Budget Committee, Senator CONRAD, be recognized to speak on this legislation now before the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Utah.

Mr. BENNETT. Mr. President, we are debating the substance of the bill that came from the Finance Committee with respect to a prescription drug benefit for Medicare. We all recognize that providing a prescription drug benefit for Medicare is long overdue, something that has been needed badly for a long period of time. I am heartened by the bipartisan nature of the vote that came out of the Finance Committee.

I am reminded of an occasion when I first came to the Senate and we began debating health care. I fell in step with the then-chairman of the Finance Committee, Senator Moynihan from New York. Senator Moynihan is one whom I met when I was first serving in the Nixon administration and he was serving as the domestic counselor to President Nixon. I felt close to him from then on.

As we walked through the door into the Chamber, I said to him: Pat, do you think we are finally going to get some health care reform this year?

And he said: Yes, I do. In the Nixon administration the President wanted it and the Democrats in the Congress said no. Later on—I believe he referred to the Carter administration—the President wanted it and Republicans in the Congress said no.

He said: This time, the President wants it and the Congress wants it and I think we are going to get it done.

He turned out not to have been right in that instance, perhaps one of the few times in his life when his reading of the political tea leaves was incorrect because we fell into wrangling. It was on some issues that were worth wrangling over. I do not want to suggest they were not, but that prevented us from focusing on the core question of whether our health care circumstance in this country needed to be improved.

Fortunately, we have now focused on the overall question of should we or should we not have a prescription drug benefit for Medicare. At least coming out of the committee, we have a strong bipartisan consensus that we should. The reason we should is very clear, if you look at the way we practice medicine.

Medicare was adopted in the 1960s, and it was patterned after the best Blue Cross-Blue Shield fee-for-service indemnity plan written in the 1960s. Now it seems that plan has been frozen in time for 40 years. Unfortunately, it has not had the regulatory flexibility necessary to deal with the changes in the way medicine is practiced. It has required Congress to step in and make those changes. As Congress has done so, Congress has demonstrated that it is slow and it can be bogged down in political challenges that prevent changes being made.

By contrast, if you go to FEHBP, the Federal Employees Health Benefit Plan, under which we and other Federal employees are covered, you find a degree of regulatory flexibility that allows the people who administer the plan the capacity to move and change quickly as the medical situation changes. Congress is not required to debate these changes and, therefore, hang them up on political considerations. That is one of the reasons why the FEHBP has been more effective in providing health care services to those who are parties to it. Clearly, we in Congress need to finally catch up to the reality that the Medicare system is outmoded and structured upon a program that desperately needs to be updated.

Back in the 1960s, the primary concern people had with their health care was the cost of going to the hospital. You went to the hospital for almost every major circumstance. Now we find through research funded by Government, through research funded by the drug companies, and products that have emerged from that research, that many of the sicknesses you used to go to the hospital for and stayed for 3 or 4 days can be taken care of by taking a pill. Yet Medicare says if you go to the hospital and run up a bill of however many tens of thousands of dollars to stay that many days, we will pay for it. But if you take the pill that makes the hospital visit unnecessary, we will not. That clearly doesn't make sense. There is the need for the benefit of prescription drugs, and the Medicare system needs to catch up to that circumstance.

The bill that emerged from the Finance Committee encourages competition between plans. It provides us a first glimpse of breaking the lockstep mentality Medicare has had since the 1960s. It gives us an opportunity to experiment with some competition injected into the system. One of the interesting aspects coming out of this debate is the difference in expectations on the part of those who are supporting it. There are those on the left who are supporting this, saying this is just the beginning, and if we get this established, we can see a massive increase of governmental programs to bring prescription drugs to seniors. There are those on the right who are supporting it who are saying this has the degree of competition in it that will bring market forces into Medicare in such a way that we will see a massive increase in the amount of competition and the amount of market influence on holding down costs.

For both sides, this is a great leap of faith. Neither one knows whether the other is right. Neither one knows exactly what will happen. I suppose 5 years from now when the Congress gathers we can look back and say, Yes, we were right injecting a sense of competition into the bill. It has produced tremendous benefits, brought costs down, and made things more efficient. Or we might see people look at us saying, Yes, we were right passing the bill.

It did bring about a major new expansion of Federal support for prescription drugs. We will have to wait and see.

But the necessity of getting a drug benefit for Medicare is driving the leap of faith on both sides. It is bringing us together in a way we haven't seen in this debate in the past.

Obviously, I am one who believes competition creates market efficiencies, and that the experiment will work in the direction of getting more competition and more efficiency rather than in the direction of getting more government involved. It is a leap of faith for me.

I share the concern of what can happen to the cost. We know Federal programs never cost what they are projected to cost. They always cost substantially more, particularly entitlement programs. For me and others who hold that view to embrace this bill and say we are willing to take this leap of faith is indeed, I think, a fairly significant step.

But I come back to the point I made at the beginning. We cannot continue to sustain a Medicare Program that does not recognize the role prescription drugs now play in the way medicine is practiced. Even though it is a huge risk to move in the direction this bill represents, it is not as great a risk as allowing the status quo to remain and proceed any further. Medicare needs to be brought up to date. This is by no means the amount of bringing up to date I would support or that I have called for here on the floor. But it is a final recognition of the fact that Medicare is outdated, that changes need to be made, and for that reason I will take the step.

I commend members of the Finance Committee on both sides of the aisle for the careful and thoughtful way they have approached this challenge. I commend them for crafting a bill that, as I say, holds out some hope for everybody in the spectrum. But I hope they will continue to address this question with as open a mind as possible and with the firm understanding that however sacred the word Medicare is in our political lexicon, the details of the program should not be sacred but should be brought up to date at every possible opportunity to conform with the reality of the world in which we live.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise to discuss the prescription drug bill and the Medicare reform package that is before us now. As a member of the Finance Committee, I was involved in the markup of this legislation.

Let me begin by commending the chairman, Senator GRASSLEY, and the ranking member, Senator BAUCUS, our former chairman, for the way in which they brought our committee together. That was not easy to do. It is an extraordinarily complex undertaking to have an expansion of Medicare of this magnitude and to do it in a way that will achieve real results.

I thank the chairman and the ranking member for the way they brought us together, and for the tone they set in the committee. We were in markup from 9 in the morning until 9 o'clock at night—12 hours of togetherness that actually went very well.

I think we all know why we are here. When Medicare was first drafted, the world was a very different place in terms of providing health care. As Senator Moynihan used to explain, at the time Medicare was drafted, the Merck Manual that contains all prescription drugs was a very thin volume. Now when we look at the Merck Manual, it is a very weighty tome. There is a dramatic change in the pattern and practice of medicine. Perhaps no better example is what happens with stomach illness. Twenty years ago, there was not much one could do for somebody who suffered from ulcers other than to have surgery. But now with prescription drugs that address the underlying causes, stomach surgery has been reduced by two-thirds. Yet, in Medicare there is no coverage for those prescription drugs. You can't have a modern Medicare without a prescription drug component.

The problem is millions of Americans don't have any coverage. If we look at an outline of where we are, we see that 38 percent of those who are Medicare eligible have no drug coverage. Ten percent get their coverage through Medicaid, 15 percent through a Medicare HMO, 28 percent employer-sponsored coverage, 7 percent Medigap, and others, 2 percent. But nearly 40 percent have no coverage.

That creates some very tough situations. And we can see there are real differences between where somebody lives, how old they are, and their income level, as to whether they are in that nearly 40 percent of Americans who have no coverage. We see for those over the age of 85, 45 percent have no coverage. For those who live in rural areas—and I represent a rural area, the State of North Dakota—50 percent have no coverage. Forty-four percent of those who have between $10,000 and $20,000 of income have no coverage.

What we see is the situation is going to become more challenging and more difficult as out-of-pocket expenses for prescription drug expenditures jump dramatically. In 2000, those out-of-pocket expenditures averaged $644. By this year, it was up to $999—a 50-percent increase in just 3 years. And in the next 3 years, we anticipate another very large increase to $1,454 a year in prescription drug costs.

The implications of that are outlined on this chart. This shows a study in eight States. It shows the percentage of seniors who reported forgoing needed medicines, and that is listed by chronic condition and prescription drug coverage.

What it shows by the red bar is those without coverage, and it shows the percentage of seniors who did not fill prescriptions one or more times due to cost. For congestive heart failure, 25 percent of the people did not fill their prescriptions because they could not afford it; 31 percent of those who suffered from diabetes did not fill their prescriptions because they could not afford it; and 28 percent of those with hypertension did not fill their prescriptions because they could not afford it.

If we go to the next element of the chart, the percentage of seniors who skipped doses in order to make it last longer: For congestive heart failure, 33 percent of those without coverage skipped doses; 30 percent of those with diabetes skipped doses because they could not afford it; and 31 percent of those with hypertension skipped doses because they could not afford it. Obviously, that reduces the quality of care and ultimately increases the cost. Why? Because those people are more likely to be hospitalized. And it is when a senior is hospitalized that the cost really escalates.

I think it is in all our interest—both in terms of the quality of health care but also in terms of the cost of health care—that we get this right and we make the changes necessary to provide a prescription drug benefit in Medicare.

Here, outlined on this chart, are the specific provisions of this legislation. These are estimates of the basic plan which will take effect in 2006. This excludes the low-income subsidies. We will talk about that in a moment. The premium will average about $35 a month; at least that is the projection at this point. The deductibles will be $275 a year. From $276 to $4,500 of prescription drug costs a year, 50 percent will be paid by Medicare, 50 percent by the senior citizen. Between $4,501 and $5,812 of prescription drug costs a year, there will be no assistance from Medicare. That is the so-called coverage gap, what some refer to as the "doughnut." This is an area in which there is no assistance, no coverage. The reason for that is not enough money. For $5,813 and above in prescription drug costs, Medicare will provide 90 percent assistance, the senior citizen 10 percent.

I think that is one of the most important parts of this bill. I would support this bill if there were no other provision than just this one. To provide 90 percent assistance to those who have catastrophic drug costs is going to make a meaningful difference.

I was just with one of my staff members in North Dakota. Her mother had a rare form of cancer. At one point her drug costs were running $20,000 a month—$20,000 a month. Thankfully, she was insured. As we see, nearly 40 percent of seniors in the country are not. How many families could withstand a drug cost of $20,000 a month? For this particular family, their drug cost now has been reduced. She is past the acute phase, thankfully. Their drug costs are still running $2,500 a month. That is $30,000 a year.

This provision will help people like that. It will keep people from bankruptcy. It will avoid people having to not have treatment. It will prevent crises in many families across the country.

That is not the only part that I think merits support.

As shown on this chart, these are the low-income provisions. I want to direct people's attention to this line. For those who are below 160 percent of poverty, they will get more assistance. So, for example, in that zero to $4,500 range of prescription drug costs, Medicare will pick up 90 percent of the cost for those low-income people. They will have to provide 10 percent of the cost. This, to me, is another strong reason to support this legislation.

A third key element of this bill that I think merits support—certainly for those who have rural areas—is the beginning of the leveling of the playing field between the rural areas and the more urban areas of the country.

Just to give an example, in my home State, Mercy Hospital in Devils Lake, ND, gets exactly one-half as much in Medicare reimbursement to treat a heart ailment or to treat diabetes as Mercy Hospital in New York City—exactly one-half as much. Now, I would be the first to acknowledge there is somewhat of a difference in cost, but it isn't a 100-percent difference. When we go to buy technology for that hospital in Devils Lake, ND, we do not get a discount. When we try to recruit a doctor, he does not say to us: Well, you are a rural area, so I will take half as much money. That is not the way it works.

So this incredible divergence, this disparity that exists in current law, needs to be addressed, and this bill will begin to address it. It does not close the gap, it does not eliminate the problem, but it does make meaningful progress. It permanently and fully closes the gap between urban and rural standardized payment levels. But unlike the legislation I introduced, it does not take effect until 2005. The legislation I introduced, along with 30 of my colleagues, would have taken effect in 2004.

It also adopts all of the other provisions of the bill that I introduced along with Senator THOMAS of Wyoming. It equalizes Medicare disproportionate share payments. Those are the ones that are used to cover the costs of treating the uninsured. It establishes a low-volume adjustment payment for small rural hospitals. It improves the wage index calculation which accounts for a hospital's labor costs. It ensures that rural hospitals are reimbursed fairly for outpatient services.

It provides a whole series of improvements to critical access hospitals, including improved payments for ambulance services, increased flexibility in the bed limit, excluding critical access hospitals from the wage index calculation for other hospitals, which will improve payments to other larger facilities, has new incentives to ensure 24-hour access to emergency on-call providers, and has new measures to assure the critical access hospitals will receive timely Medicare reimbursement. It also authorizes a capital infrastructure loan program which will provide $5 million in loans for crumbling rural facilities.

In addition, it provides a series of other provisions which a number of us have cosponsored and put before the body, including extending a 10-percent add-on payment for rural home health agencies, many of which are under pressure to close; a new 5-percent increase for rural ground ambulance services; a new 5-percent add-on for clinic and ER visits in rural hospitals; and a new automatic 10-percent bonus payment for physicians serving in rural areas.

It has measures to address the geographic inequities in physician reimbursement, and an extension of improved payment for lab services in sole community hospitals.

This does not close the gap between rural institutions and more urban institutions, but it does make meaningful progress in leveling the playing field, and that is critically important to rural hospitals.

Let me say, in my own State we have 44 hospitals.

At least eight of them are in danger of closing because of this enormous gap in Medicare reimbursement. Over 50 percent of their patients are Medicare eligible. If things don't change, these institutions are going to have to close.

Those are positive aspects of the bill. Let me speak for a moment about what is in the bill that could and should be improved. The first that comes to my mind is the instability in the legislation. Seniors want certainty. They want to know what they are getting. But under this plan, seniors could be bounced back and forth between different plans depending on how many private drug-only plans enter an area. That is the first problem. If a senior is in a fallback plan and two private plans enter the area, they must leave the plan they are in; they have no choice in the matter. The second problem is that every time they switch between drug-only and fallback plans, their benefits could change.

Let me illustrate that for my colleagues. Seniors, when forced to move between plans—and in 4 years, a senior could be forced into four different plans—every time, their premiums could change. The only thing that wouldn't change is the stop loss amount, or at least couldn't change. The deductibles could change. The coinsurance level could change. The coverage gap could change. The covered drugs could change. And the access to a local pharmacy at no extra charge could change. That is the kind of instability about which I am talking.

Let me illustrate with this chart. I hope my colleagues are listening, or at least for those who are busy with other duties, perhaps their staffs are listening. It is very important to understand what could happen to a senior. In 2005, if there is only one private plan offered in their area, they could enroll either in that plan or in the fallback plan. Let's say this particular senior takes the fallback plan and enrolls in that for 2006. But then the next year, another private plan comes into the area. Then the senior would be compelled to drop out of the fallback plan even if they liked it and go into one of the private plans.

Say they take private plan A for 2007. Then private plan A finds it is not effective for them financially to be in the plan, and they drop out. The next year, our senior citizen could be whipsawed into a third plan in 3 years. They could be over in private plan B. Then perhaps private plan B decides they can't afford to provide this coverage. They drop out, and our senior citizen, in the fourth year, is in their fourth plan. As I say, with different formularies—that is, different drugs—available to them, with different rules with respect to going to the local pharmacy to get their drugs, with different copays, with different premiums, with different deductibles, all of these changing—if that isn't chaos, I don't know what is. This is an area we must address on the floor with amendments in order to remove some of this uncertainty for seniors moving ahead.

For those of us who represent rural areas, the fact that only 2 percent of rural counties had two or more Medicare+Choice plans in August 2001 ought to tell us that our people are the most likely to be caught up in this whipsaw effect. Our people in rural areas are the most likely not to have two private drug-only plans available to them, or PPO plans or HMO plans. The reality is, they are not there now. In my State, there is virtually no coverage from those kinds of entities, almost none. Those who are suggesting that people are going to rush to this kind of business when the people who run the companies tell us very directly they are not going to—we ought to pay attention to that. We ought to listen to that. We ought to respond to it. I don't think it is going to do any of us any good to create a circumstance in which a senior we represent gets whipsawed back and forth between plans, changing premiums, changing deductibles, changing coinsurance, changing what drugs are covered and what are not.

There is one thing I have learned in dealing with seniors, especially those who are ill: They need simplicity. They need an assurance of what is covered, what isn't covered, and how it works. We should not be subjecting them to a changed plan every single year. That is not a plan that meets the needs of seniors.

I urge my colleagues to pay close attention to the debate when we begin to offer amendments to try to provide some greater certainty and stability to the plan.

I also am concerned about disappointed expectations. As I travel my State, when there is a discussion of prescription drug coverage, I find most people think that means they are going to get something similar to what Federal employees receive, or they think they are going to get something similar to what people in the military receive, or they think they are going to get something similar to what big companies provide. That is not this plan. Let's understand what this plan is and what it is not.

To provide the same coverage that we provide Federal employees would not cost the $400 billion in this plan. It would cost $800 billion. It would cost $800 billion in comparison to the $400 billion in this plan to provide the prescription drug benefit we provide Federal employees.

To provide the same level of benefit to our Nation's seniors that we provide our members in the military would cost $1.2 trillion, three times as much as available in this plan.

It is critically important that we not overpromise, that we not mislead people as to what they are getting and not getting. The fact is, there are some who I have heard say this is a 70 percent subsidy. I don't know where they get that number. That is exactly the kind of language and rhetoric that is going to lead to some very disappointed people. There is no 70 percent subsidy here. There may be for people who have extraordinarily high drug costs. I already indicated they get 90 percent of their bill paid for, over $5,800 in drug costs a year, but that is a very small percentage of the people.

It is true that very low income people get a higher percentage paid for by Medicare. But overall, we should understand, of the $1.6 trillion of drug costs for our Nation's seniors, this legislation is going to cover 23 percent of that, not 70 percent, as I have heard stated during the debate. Twenty-three percent will be paid for by Medicare.

If you look at this $400 billion legislation, $360 billion of the cost is for prescription drug payments—$360 billion. The total drug cost of our Nation's seniors is $1.6 trillion; $360 billion of $1.6 trillion is 23 percent, it is not 70 percent. So let's not be misleading people about how extensive this benefit is.

That is not to say it is not a good bill because we are limited to $400 billion. This is about as good a bill as you can write for $400 billion. But I hope we don't mislead anyone as to what it really provides.

One of the things we also need to think carefully about as we consider floor amendments is that 37 percent of retirees with employer drug coverage will lose it under the Finance Committee plan.

Why? Because the Congressional Budget Office says when employers look at this plan, some substantial number of them will drop their old coverage—the coverage they are providing. That will affect 37 percent of retirees who currently have employer drug coverage.

I think we need to take additional steps to provide incentives to those employers to keep on providing the drug coverage they provide. That is in our economic and financial interests, and it is in the interests of seniors to maintain stability in plans that they know and like.

Mr. President, I hope this information is useful to our colleagues. As I say, as a member of the Finance Committee and as ranking member of the Budget Committee, I support this legislation. I voted for it. I think it merits the support of our colleagues. I hope it can pass with resounding support here in the Chamber. I hope it will ultimately become law. We ought to do this with our eyes wide open. We ought to understand exactly what it provides and what its weaknesses are. We ought to communicate that clearly to the American people. We ought not to overpromise or misrepresent. Disappointed expectations can swamp this boat.

I am hopeful these remarks made clear what is provided and what is not and those places where we have an opportunity to improve this legislation. I think it is in all of our interests to commit our best efforts to do that over the coming days. I yield the floor.

I suggest the absence of a quorum and ask unanimous consent that the time of the quorum call be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUNNING. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. BUNNING. Mr. President, I rise in support of S. 1, the Prescription Drug and Medicare Improvement Act of 2003. Last week, the Finance Committee took a historical step by passing the Medicare bill out of the committee by a strong bipartisan vote of 16 to 5, thanks to the great leadership of Senators GRASSLEY and BAUCUS.

This is one of the most important bills we will consider this Congress. As a new member of the Finance Committee, I was proud to support it. It is a commonsense bill that strengthens and improves the Medicare Program by guaranteeing a prescription drug benefit for America's seniors. I hope the bipartisanship momentum that was created within the Finance Committee will continue during the Senate floor debate.

Talk is cheap. Congress has been talking about passing a drug bill for years. Now we have a golden opportunity and we must seize it. Our seniors have waited too long. It would be irresponsible to leave them hanging any longer. Under the budget that we passed, we have set aside $400 billion for a Medicare prescription drug benefit. This is a real commitment by Congress to the 40 million Americans who have relied on Medicare, many of them literally all their lives.

It has been almost four decades since Medicare was created, and it is long past time for Congress to strengthen it and to help bring it into the 21st century.

In 1965, when Medicare became law, prescription drug coverage was not included in the benefit package. Back then, it did not make any sense. Prescription drugs played a much smaller role in medical care. But because of technology and advances in health care, and much research that has been done since then, these drugs now do so much more in helping to ensure the good health of America's seniors. These medicines help seniors live longer. They help them live more active and fulfilling lives.

Medicine has changed in a way no one could have predicted back in 1965. However, Congress has failed so far to strengthen Medicare and to recognize these advances and to account for the changes in health care. We now have a chance to make up for that lost ground.

If we are going to maintain a decent Medicare Program for seniors and fulfill our promises to them, we owe it to them to do the best we can to make sure Medicare fully recognizes their needs and the advances in modern medicine.

We have all heard of the amazing advances in prescription drugs, but for many seniors these new lifesaving drugs are unaffordable. Under the bill before us today, many more of these drugs will be within reach of all seniors. This is a good bill for them, and it is a good bill for America.

Part of this legislation deserves special mention. First, the bill gives seniors a new option when it comes to getting their health care. Now under

Medicare, most seniors are enrolled in traditional fee-for-service plans. That is understandable. It is what they know and it is what they are comfortable with. About 12 percent of seniors are currently enrolled in Medicare+Choice plans. These are managed care plans like HMOs.

Under this legislation, seniors will have another new option: Preferred Provider Organizations, or PPOs, for their health care. Outside of Medicare, many Americans have found PPOs to be a solid alternative instead of fee for service or HMOs that some patients find to be too restrictive. Wisely, the bill includes incentives to make sure that PPOs will cover both rural and urban areas, and all seniors in these areas will be eligible to enroll.

Coming from a small, rural State such as Kentucky this is especially important to me. In many rural parts of my State, seniors do not have a choice because the economics just do not work. But the chairman of the Finance Committee wisely crafted this bill to provide incentives to ensure that seniors in rural America have choices, too. If it is good for Iowa, I think it is going to be good for Kentucky.

This bill does not require seniors to move into a PPO or an HMO for a better drug benefit. This idea has been part of other plans on Capitol Hill, and I disagree with it. Instead, under this bill seniors can receive an equal drug benefit under traditional Medicare. We give seniors the choice. It is voluntary. I know many seniors, especially our older or maybe our oldest seniors, will not want to switch out of traditional fee for service. They should not be forced to do this.

My mother-in-law is very happy with what she has, and I am sure she will not change no matter what. That is fine. After promising her she would always get the care she is now receiving, it would be wrong for us to pull the rug out from under her or anybody like her.

In order to be fair to all, this legislation says the drug benefits will be equal in both traditional Medicare and managed care plans, so seniors will not be penalized for staying with traditional Medicare Programs they know and are comfortable with.

Another positive about the bill's benefits is the fact that seniors will have more of a choice to find a drug plan that best suits their needs. This is very similar to what Federal employees do when they choose their health care plans. For example, the benefit structure for plans can differ slightly and the formularies for the plans will likely be a little different one from another. It is this flexibility and choice for seniors which really helps make this bill a winner.

I am also pleased the legislation provides a strong benefit to seniors who have the hardest time affording drug coverage, those who have incomes below 160 percent of the poverty level.

All along I have argued that rich people such as Warren Buffett and Bill Gates do not need our help. We need to first focus on helping seniors who need it most and can afford it least. I am very pleased this bill does just that.

At 160 percent of poverty, an individual's annual income is $14,368 for a single person, and for a couple annual income is $19,392. Many seniors in this category and certainly those who live on less struggle every day to pay for their medicines. Some have to actually choose between food and medicine. Some skip taking doses of their medicine. These are choices that no one in the year 2003 should have to make.

For the 3 million seniors who make even less, the bill provides them with an even more generous benefit. These are our seniors for whom Congress has the largest responsibility. This bill certainly does right by them.

Finally, I am pleased the legislation provides immediate help right now to many low-income seniors. In the year 2004 they will receive $600 a year so they can better afford their prescriptions. This is an immediate benefit for those who need help the most and will help bridge the gap until 2006 when this new drug program is fully up and running.

Congress has a golden opportunity to pass a good prescription drug bill. We absolutely cannot let it slip through our fingers. Too many seniors struggle daily to pay for their prescriptions. In the past, Presidents and Congresses have promised too much, too many times, for older Americans. It is standup time. It is time to deliver. It is time to get the job done. Our seniors deserve it. America deserves it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. Mr. President, I rise today in support of the Prescription Drug and Medicare Improvement Act of 2003.

I am so pleased to be on the Senate floor today for this historic event. Within the next 2 weeks, for the first time in our Nation's history, the Senate is going to pass a real prescription drug benefit for all seniors.

This historic time does not come a moment too soon. For years, seniors all over the country have been making hard choices—choices between filling a prescription and buying food; choices between losing their homes or buying the drugs they need to stay alive and healthy.

The prospect of providing senior citizens with access to life saving prescription drugs under Medicare for the first time is truly exciting. It is truly a historic achievement of the 108th Congress.

When I talk to senior citizens around Oregon, access to prescription drugs is the issue by far that resonates most clearly among them.

The Senate special Committee on Aging held a field hearing in Oregon last August. I was privileged to chair that hearing. We were tasked the issue of adding prescription drugs to the Medicare program. The room was packed with seniors from all around the State.

When I asked them to tell me how much they spent each month on drugs, their answers were astounding. They were astronomical.

And of course, there were the seniors who were paying for their drugs. Others made the decision not to fill prescriptions or to skip doses, cut their pills in half or try cheaper remedies.

One of our star witnesses was 76-year-old Roy Dancer, a retired educator from Beaverton, OR. He testified that many of his friends in his small retirement community have out-of-pocket expenses for prescription drugs that well exceed $5,000 per year, including one resident with no insurance whose drug costs exceeded $8,500 per year.

Mr. Dancer was an active member of his community. One of the ways he maintained his health was by taking eight prescription drugs daily. His wife, Betty, was also being kept healthy and active by using multiple medications daily for her high blood pressure, diabetes, and arthritis.

Mr. Dancer told the committee that he had once gone to Mexico to purchase prescription drugs to save money.

That is just one small snapshot of a relatively healthy couple in a relatively affluent retirement community with relatively healthy residents.

At that field hearing, the committee also heard from an Oregon geriatrician who described the irreplaceable benefits of modern prescription drugs, and the importance of patient compliance with a prescribed drug regimen to achieving the full potential benefits of contemporary medical care.

This Aging Committee field hearing was held just 2 weeks after the Senate's failed attempt to pass a prescription drug benefit last year. And let me tell you, this failure weighed heavily on me during that hearing.

We are talking about basic access to life saving medicines—many of them developed in this country—and in many cases these folks just could not afford to buy them.

It was a truly humbling experience to listen to the stories of these good people and know that we had not helped them.

I want to be able to go back to the seniors in Oregon this year and tell them what the U.S. Senate has finally done for them.

This year, I joined the Finance Committee, and we have had many, many meetings to discuss how to design a drug benefit this year that we can actually pass and get to the President's desk. And with this bill, I think we have accomplished that.

Every Senator comes to the floor with their views of what is the perfect. The question again becomes, Will our individual views of the perfect thwart the good? Truly, this bill represents a lot of good, and it certainly is a very good start.

When this bill is signed into law, no senior will again ever have to lose their home when they lose their health.

This bill provides substantial assistance to low income seniors, while making improvements to the Medicare program, all in a way that will ensure the financial viability of the Medicare program in the long term.

This bill doesn't give anyone a free ride. Every senior is asked to contribute something for this sweeping new benefit. However, low-income seniors, in particular, are protected from high drug costs under this legislation.

While everyone will pay something for their prescriptions, payments for low-income seniors are tied to their ability to pay. Very low-income seniors will pay very little for their prescriptions, while moderately low-income seniors will pay a little more.

Higher income seniors will pay a small premium to have access to a plan with moderate cost sharing, and, importantly, protection against catastrophic drug expenses. The peace of mine from this coverage alone is, for me, one of the most important provisions in this bill.

In addition to making prescription drug coverage available and affordable to all seniors, this bill updates the Medicare program to include new choices for seniors.

Making preferred provider organizations, available to seniors has enormous potential to improve care coordination and provision of preventive services for seniors.

Let me tell you why this is important.

Medicare beneficiaries with multiple chronic conditions are by far the most expensive group of seniors to care for. Their care is also the most complex, creating quality of life challenges for many seniors, their multiple health care providers, and their families.

Beneficiaries with 5 or more chronic conditions represent 20 percent of the Medicare population but account for 66 percent of the cost. These seniors to go the doctor four times as often, and fill five times more prescriptions than healthier seniors.

I believe there is an enormous potential to improve care for this rapidly growing group of seniors while keeping costs down for Medicare by coordinating their health care better.

Preferred provider organizations can help do that. And while no senior in America will have to move into a PPO, they will now have the option to do so. In my mind, that is a substantial improvement to Medicare.

For the first time in a long while, this bill also addresses one of the biggest problems in Medicare—the inequity between rural and urban America. I would like to thank Chairman GRASSLEY again for his personal commitment to this issue and for his tireless efforts on behalf of rural States such as Oregon.

In addition to correcting some of the Medicare reimbursement issues that have disadvantaged people and health care providers who live and work in rural areas, this bill contains numerous protections to ensure that rural Americans have access to the same health care choices as urban Americans and at the same cost.

These improvements were critical to win my support for this bill, and they represent just a few of the improvements in this bill over last year's bill as it was debated.

Several months ago, the Senate Budget Committee calculated that a comprehensive, responsible drug benefit that the country could also afford would cost around $400 billion. Subsequently, the Budget Committee set aside $400 billion for the addition of a prescription drug benefit in Medicare and improvements to the program.

This bill strengthens Medicare in a substantial way. It uses the $400 billion set aside for this purpose without running the program into the ground in the long term.

I know I am not alone in striving to update Medicare in such a way that the program will be there for our children who will want to participate in it.

Americans across the country are asking for our help. They cannot afford to wait another year while we search for the perfect solution. This bill represents years of careful research, debate, and compromise, and it is going to strengthen and improve Medicare for generations to come.

I look forward to working with every one of my colleagues over the next few weeks to improve this bill and to get it to the President's desk before the end of summer.

Mr. President, I thank you for the time.

Mr. President, I ask unanimous consent that the time spent in quorum calls during today's session be charged equally to both sides.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. SMITH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. KENNEDY. I understand there is a division in the time. How much time do we have on our side?

The PRESIDING OFFICER. Sixty-five minutes.

Mr. KENNEDY. I yield myself such time as I might consume.

The history of America is that of a people always fighting for an ever more perfect union, a nation of genuine fairness and opportunity for all, and that meets the basic needs of all Americans.

We fought to create public schools, so all children can receive an education to help them succeed, and to equip them to participate fully in our society.

We have battled for civil rights, so that no one is denied opportunity because of race, gender, religion, national origin, or disability.

We fought for a fair minimum wage, so that those who work 40 hours a week, 52 weeks a year, should never live in poverty.

We created Social Security and Medicare, so that those who work their entire lives, and contribute so much to the nation, will be cared for in their golden years.

But ours is always an unfinished republic. With each generation, and in each era, we continue to perfect our democracy and to fight for progress.

And today, one of the great challenges of our time is at long last to right an injustice that has harmed millions of our fellow Americans, the fact that Medicare today does not provide a prescription drug benefit.

Many of us in the Senate have battled for such a benefit for almost a quarter of a century. In fact, Senator Strom Thurmond and I introduced the first legislation to create a prescription drug benefit in 1977. And in more recent times, Democrats have led the charge. In 1999, Senator ROCKEFELLER and I introduced key legislation to provide prescription drug coverage in Medicare. In 2002, Democrats led the way once again in offering the Graham-Miller-Kennedy Medicare prescription drug bill.

For too many years, the prospects of enacting a Medicare prescription drug benefit were jeopardized by the insistence of many Republicans and the Bush administration to destroy Medicare by forcing seniors to leave their family doctors and join HMOs and PPOs. In fact, President Bush proposed to use a prescription drug benefit as bait, telling seniors that if they wanted prescription drug coverage, they had to leave Medicare to get it. While purporting to give seniors choices within Medicare, his plan in fact gave seniors only one option, to leave the Medicare they love to get the prescription drugs they need. The only winner in this misguided policy would be the insurance industry, which stood to gain $2.5 trillion dollars from the privatization of Medicare.

Democrats and senior citizens locked arms to fight this proposal. We stood up for Medicare and its promise to provide the health care needs of seniors citizens in retirement. Senior citizens across America said it's wrong to coerce them into leaving their family doctors and joining HMOs and PPOs to get the drug benefits they need and deserve.

In recent days, the voices of America's 35 million senior citizens were finally heard. Last week, a bipartisan group of Senators rejected the President's backwards priorities, and President Bush retreated from his insistence on privatizing Medicare. Instead of holding the needs of seniors hostage to an ideological agenda, Republicans' willingness to put aside ideology and work with Democrats to create a prescription drug benefit now paves the way for the largest expansion of Medicare in its 37-year history. After many years of battling for a Medicare prescription drug benefit, we now face the very real prospect that Congress can pass, and the President will sign, a bill that provides the prescription drug benefit within conventional Medicare.

In fact, if you think Medicare should be privatized, then you should oppose this bill.

This promising moment comes at a time of crisis for millions of our senior citizens. Too many elderly citizens choose between food on the table and the medicine they need. Too many elderly Americans are taking only half the drugs their doctor prescribes, or none at all, because they cannot afford them. Today, the average senior citizen has an income of around $15,000, and prescription drug bills of $2,300. That is the average, and many senior citizens incur drug costs in the thousands of dollars each year.

Senior citizens are faced with a deadly double whammy. Prescription drug costs are out of control, and private insurance coverage is drying up. Last year, prescription drug costs soared by a whopping 14 percent. They have shot up at double-digit rates in each of the last 5 years. Whether we are talking about employee retirement plans, Medigap coverage, or Medicare HMOs, prescription drug coverage is skyrocketing in cost, and becoming more and more out of reach for the elderly.

This chart reflects the rise in costs as compared to what our seniors are receiving in their Social Security COLA increase, going from 1998 where there was a 10 percent increase in the cost of prescription drugs but seniors were getting only 2.1 percent. In 1999, it was 19.7 percent and the increase in the cost of living was at 1.3 percent. Then we go throughout 2000, 2001, 2002, and today in 2003 it is expected to go up to 13 percent with seniors receiving a very modest 1.4 percent.

When we are talking about what is happening to the quality of life of our seniors, we are talking about these absolutely vital, indispensable medications, prescription drugs, which they need and which are costly. The fact is, so many of our seniors are on fixed incomes that with very modest increases in the cost of living they are constantly being squeezed, and this is putting the kind of pressure on them and on their lives and on their families which has caused such extraordinary pain, suffering, and anguish among the seniors; and not only among the seniors but among their families as well.

The costs are one of the dramatic aspects of the whole prescription drug issue, and we are going to make a downpayment hopefully with the acceptance of the legislation that came out of our committee. The initial McCain-Schumer legislation which now is supported unanimously from our committee will help to move generic drugs on to the market more quickly and be available to our seniors under this program.

It used to be that the only seniors with reliable, adequate, affordable coverage were the very poor on Medicaid, but even that benefit is eroding. Today, because of the State fiscal crisis created by the recession and the let-them-eat-cake attitude of the Republican party, even the poorest of the poor can no longer count on protection. States are now facing the largest budget deficits in half a century, an estimated $26 billion this year, and $70 billion next year.

This chart is a pretty good reflection of the situation of our seniors on the issue of affordable, reliable and quality drug coverage. Thirteen million have absolutely no coverage; 10 million have employer-sponsored coverage; 5 million are under Medicare; 2 million are under Medigap; 3 million are under Medicaid and a small amount on other public coverage.

It used to be said of this group, it was the one group listed here that had dependable, reliable, certain drug coverage for those under Medicaid, but that is no longer true. We are seeing the numbers covered under Medicaid going down every year. With the States now facing very sizable deficits, they are cutting back on the Medicaid and the coverage.

The result is States are cutting back on the prescription drug coverage for those least able to pay. Thirty-nine States expect to cut their Medicaid drug benefit this year. In my home State of Massachusetts, 80,000 senior citizens were about to lose their prescription drug coverage under the same senior Advantage Program on July 1. Emergency action by the State legislature solved the problem but only after making substantial reductions in the coverage.

Ten million of the elderly enjoy high-quality, affordable retirement coverage through a former employer, but retiree coverage is plummeting, too. In just 8 years, from 1994 to 2002, the number of firms offering retiree coverage fell by a massive 40 percent. The employer-sponsored column on this chart shows 10 million employer sponsored retirees.

We have 13 million with no coverage, 10 million with the employer sponsored, and we saw a gradual reduction for the poorest of our seniors. So let's see what is happening now. The firms offering retiree health benefits have dropped 40 percent from 1994 to 2002. In 1994, 40 percent of the firms offered retiree health benefits. Go back to 1988; it was about 85 percent; in 1994, it was 40 percent; in 2002, it was just over 20 to 22 percent. So we are seeing that availability constantly squeezed.

Medicare HMOs are also drastically cutting back. Since 1999, more than 2.5 million Medicare beneficiaries have been dropped by their Medicare HMOs. Of the HMOs that remain in the program, more than 70 percent limit drug coverage to a meager $500 a year or less and half only pay for generic drugs.

I have another chart showing groups of seniors. We talked about the employer sponsored seniors and the pressure they are under; we talk of the pressure under the Medicaid. Let's look at those 5 million under the Medicaid HMO and see what has happened to them: 2.4 million have been dropped, and of the remaining, take a look at what has happened. The Medicare HMOs are reducing the level of drug coverage. Sure, some provide it, but 86 percent limited the coverage to less than $1,000 in 2003; 70 percent imposed caps of less than $500. So although they are providing, if the average expenditure of a senior is $2,300 and HMOs are limiting it to less than $3,500, it is an empty promise.

We have those with no coverage. We have those in the employer retirement programs who are seeing reductions; we have the HMOs seeing reduced coverage. We have seen in the Medicaid where there has been reduced coverage as well. We also see that Medigap plans that offer drug coverage are priced out of reach for most seniors, and the coverage offered by these plans is severely limited.

Thirteen million beneficiaries, as I mentioned, have no prescription drug coverage at all. Only half of all senior citizens have coverage throughout the year. It is time to mend the broken promise of Medicare. It is time to provide every senior citizen in this great country of ours with solid, reliable, comprehensive prescription drug coverage.

As we enter this debate, our great challenge is fairness for all senior citizens who need Medicare's help to afford the prescription drugs they need. The resources within this Republican budget are limited. The Republican budget provides only enough funding to cover about a quarter of the needs of America's senior citizens over the next decade. They are going to be spending $1.8 trillion. This is $400 million. They are spending $1.8 trillion, and this is $400 million, 22 percent. There will be large gaps.

It is very important to remember this is a downpayment. Those who are supporting this program are strongly committed to building on this program. It is a downpayment. We are going to come back again and again and again to make sure we are going to meet the challenges provided by this bill and out there across this country we recognize what our seniors are facing. We must ensure that the resources are available to be used equitably.

As I mentioned, this bill is a downpayment on our commitment as Democrats to provide for the needs of our senior citizens. We will do everything we can to increase the resources available to provide an ample prescription drug benefit. If we do not succeed today, we will battle the Republican budget tomorrow, next month, next year, carry this issue into the next election, if necessary, until we have in place a White House and Congress that support Medicare and give the prescription drug benefit the resources it deserves. However, we must get started.

This bill does much that is good. It provides a low-income benefit that assures 40 percent of all seniors that they can get help with drug expenses with minimum premiums and copays. It saves the average senior with average drug costs approximately $600 a year—not as much as we should be providing but a good downpayment toward a contract with the seniors.

This next chart is for a senior with an average income of $15,000. They average $2,300 in prescription drugs. This is how the program works. For $420 in premium, they will pay $1,298 in cost sharing, and they get a benefit of $604, not as much as we would like to have, but nonetheless that $604 for an average income senior citizen is an important resource and assistance to them.

The next chart shows the same senior citizen with $15,000 of income. Say they have $10,000—we have taken the average income and the average amount of expenditure for prescription drugs, and now we have the average income of $15,000—this senior has $10,000 for prescription drugs. That is a lot of money, but there are certain pills, for example, dealing with treatment of cancer, that are $68 each. These expenditures can be run up relatively easily, and they are run up by many of our seniors. This is $10,000; they would pay in $4,500 and they would receive $5,462 in savings under this bill. This is a not insignificant amount of savings.

The next chart shows families with lower incomes. We are going from $9,000 to $12,000, to $13,000. This reflects the current monthly drug costs, so we are talking $2,300 a year at $190 a month for the average. This is the way this bill treats them. The monthly costs for a senior with a $9,000 income would be $5, and they would save $185. If there was a $12,000 income, and they still had to pay the $190, which again is the average, their monthly cost would be $10, and they would save $180. If the income was $13,500 and they spent the $190, their monthly cost would be $23, and they would save $168.

So the help, the assistance for the 40 percent of our seniors at the lower end of the income is very substantial, as it should be. We have seen where, even for the average income for the senior, it still provides about $600. For those with an average income for seniors, with higher amounts of prescription drug expenses, it provides a very important and substantial relief for them.

In addition to this—this is one of the most appealing aspects of this program—this bill offers immediate relief for seniors. We are talking about next January. Five million low-income seniors will receive a $600 prescription drug credit card on January 1, 2004. The most they will pay for it is $25. But for those of limited income, they will get that free, and they will have the first $600 prior to the time the program goes into effect, which will be in 2006. This will be available to them in January 2004. All seniors can receive savings through the drug discount card. This is enormously important. If a senior doesn't use the whole $600, they can carry that over for another year.

Help is on the way, immediately, for 5 million seniors starting in January of next year. That, I believe, is enormously important and positive news for many seniors.

While this bill does much that is good, it still has serious gaps and omissions. It will still leave many elderly suffering from severe financial strains as they try to purchase the prescription drugs they need. It doesn't provide the retiree health plans with the fair treatment they deserve to assure they can continue to meet the needs of retired workers. It could be improved by changes to ensure the coverage provided every senior citizen will be as stable and reliable as possible. During the course of this debate, Democrats and Republicans in the Senate will try to address these needs. If we are unsuccessful, we will continue to fight over the years ahead to fill in the gaps in this program.

At bottom, the issue of providing adequate prescription coverage for seniors is a question of priorities. For the administration and for too many Republicans in Congress, tax cuts for billionaires are more important than health care for senior citizens. But Senator GRASSLEY, and I see him on the floor here today, and Senator BAUCUS and the other members of the Finance Committee deserve enormous credit for the excellent job they have done, designing a benefit within a $400 billion straitjacket imposed by the budget resolution.

I also pay tribute to the majority leader, Senator FRIST, for his strong leadership, assisting the Finance Committee, contributing to the shaping of this program which I think is commendable. It needs work but it is a very important, significant, and positive start.

Because this program covers only about a quarter of the elderly's drug expenditures, it still leaves too many elderly—those with incomes below 160 percent of poverty—with unaffordable costs. Forty percent, those with incomes below 160 percent of poverty, will have comprehensive, affordable coverage through this program or through Medicaid. This is a tremendous achievement. But others, particularly the middle class with moderate incomes and high drug expenses, still face high drug costs. The benefits under this bill—a $275 deductible, 50 percent cost-sharing, an out-of-pocket limit of $3,700 with continued copayment obligations after the limit is reached, are far less generous than those enjoyed by most younger Americans, even though the elderly's need for prescription drugs is much greater.

We have talked about what they call the doughnut hole, where there is very comprehensive coverage for those at the lower end and very substantial help for those at the higher end, and less help and assistance for those in the middle. That will be one of the issues which we will have a chance to address here on the floor, to try to see if we can't provide some additional help to those who will not be benefitted as extensively as those other two groups. That will be in the form of amendments that will be introduced and hopefully supported.

Also, I mentioned the serious issues that work because of the interaction of this program in terms of retiree benefits that can potentially threaten retirees, and is an issue that must and should be addressed. I am hopeful it will be before final passage.

A final area where this bill could benefit from improvements is in the rules and regulations established for the private insurance plans that are the vehicle for delivering prescription drug benefits to senior citizens and the disabled, and for the fallback plans that will deliver the benefit when there are not two insurance plans meeting Government standards in each region of the country. The sponsors of this bill have done much to assure that individuals who enroll in private plans will pay a reasonable premium, and that there will always be coverage available in every area of the country. But more can be done and should be done to assure that premiums are reliable and affordable everywhere and that senior citizens do not have to change plans frequently because of instability in the market.

Many Democrats were concerned that last year's Republican bill could prove unworkable because private insurance plans might not be willing to provide the drug benefit. The concern was especially strong in rural areas, where HMOs and PPOs have been unwilling or unable to provide services. Under the compromise plan, there will be a government drug plan available in any place where there are not at least two private drug plans meeting Medicare standards available. To increase stability of choices for senior citizens, private drug plans must remain available in any region they choose to enter for at least 2 years. Thus, the bill guarantees that every senior citizen, no matter where they live, will be able to receive the benefits provided in the bill.

The Republican bill last year relied solely on competition to keep drug plan premiums reasonable for senor citizens, leaving senior citizens vulnerable to exorbitant charges and profiteering if competition was ineffective. This year's bill establishes tight regulatory criteria to assure that plan premiums are fair. It uses the same rules that govern the Federal Employee Health Benefits program.

Specifically, the bill states that a plan cannot be approved to participate in the drug program unless its premiums are "reasonably and equitably reflect the cost of benefits" provided under the plan. In the FEHBP program this requirement has been interpreted to allow health plans a maximum markup of one percent over costs.

Democrats have been concerned that private drug-only plans might deny beneficiaries access to off-formulary drugs in order to reduce costs and maximize profits. Last year's Republican bill contained no independent appeal rights and did not require that beneficiaries receive off-formulary drugs at the preferred drug rate even if an internal appeal were successful. The compromise program requires the plans to cover at least two drugs in each therapeutic class, establishes a strong independent appeal process, and provides that off-formulary drugs can be obtained at the preferred drug rate if an appeal is successful.

This week the Senate has an opportunity to make the bill better. But we must also guard against it becoming worse. This bill provides fair treatment and the opportunity for new choices for senior citizens who want to stay in Medicare as well as for those who might consider a private insurance alternative.

The President's plan, by contrast, sought to stack the deck against Medicare—and against senor citizens. Instead of the trustee of the Medicare program, his plan would have made the Government little more than a shill for HMOs and the insurance industry. Seniors would have been poorer, their medical options would have been constrained, their ability to choose their own doctors would have been compromised, and all so that wealthy HMOs and insurance companies can become even wealthier.

If all senior citizens can be forced out of Medicare and into HMO and private insurance, the revenues of the insurance industry will increase by more than $2.5 trillion over the next decade. Same on the insurance industry for supporting this plan, and shame on the administration for putting the interests of wealthy and powerful political supporters above the interests of the senior citizens who have built this great country.

The bill before the Senate says no to this outrageous scheme. But I anticipate that amendments will be offered during the course of this debate to tilt the scales once again against senior citizens and for private insurers. It is unlikely that any Member of the Senate will publicly demand, as the President did, that senior citizens give up their choice of doctors in order to get prescription drugs. But there are more subtle ways of unraveling Medicare. Amendments may be offered to uncap Federal payments to private insurers, so that they have an open tap to the Federal treasury, even if their services cost more than those same services provided by Medicare. We need help for senior citizens, not corporate welfare for insurance companies that seek to undermine Medicare.

There are other ideas that could destroy our bipartisan compromise. The President says that he has embraced the bipartisan Senate compromise. But some are considering implementing a vast experiment on senior citizens all over this country. This experiment—called "premium support"—is yet another attempt to force senior citizens into HMOs and other private insurance plans. It is more subtle but just as unacceptable as the President's original proposal. It could dramatically raise Medicare premiums and victimize the oldest and sickest of the Medicare population. It is a poison pill that could kill the prospects for reform and destroy all the progress that has been made in the Senate.

I am also gravely concerned by other proposals that would establish, for the first time, a means test for Medicare benefits.

One of the reasons that Medicare is such a popular and successful program is that all individuals, rich and poor alike, contribute, and all benefit. Senior citizens want Medicare, not welfare. And tying catastrophic benefits to a person's income is the camel's nose under the tent that could lead to the dismantling of Medicare and its replacement with welfare.

As this debate progresses, there will be a vast array of facts and figures discussed in this chamber. Many of the issues will be discussed in language that will seem technical and arcane to the average American. All of us must strive to remember why this debate is important and what it is really about.

The typical Medicare enrollee is a seventy-five year old widow, living alone. Her total income is just $11,300 a year. She has at least one chronic condition and suffers from arthritis. In her younger years, she and her husband worked hard. They raised a family. They stood by this country through economic hard times, the Second World War, the Korean War, and the Cold War. They sacrificed to protect and build a better country—not just for their children but for all of us. Now it is time for us to fulfill our promise to her. It is time to assure her the affordable health care she deserves. It is time to pass a prescription drug benefit under Medicare.

I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The bill, S. 1.

Mr. DODD. I thank the Presiding Officer.

Mr. President, yesterday we began what can truly be expected to be an historic effort to transform the Medicare Program in this country, an effort, if it is successful in these coming days, that would provide for the most sweeping changes to that program since its inception in 1965.

We began debate this week on the need for coverage of prescription medicines under the Federal Medicare Program. While it is a debate that is sure to be spirited in the coming days, it is my hope the debate will, in the end, result in a significant move forward that will strengthen the Medicare Program for its 41 million beneficiaries and for the millions of future beneficiaries who will depend on this critically important program for their health and their well-being.

Over the past month, I have had the opportunity to convene a series of forums on senior health care in my home State of Connecticut in an attempt to frame the scope of this debate. At these forums, I heard from many constituents on many matters regarding their health care, but the present lack of coverage for prescription drugs under the Medicare Program was far and away—without even a close second—the most important question that was raised to me by literally dozens and dozens of seniors in my State.

I would guess in similar forums being held in other States around the country by our colleagues they have encountered virtually the same reaction as did I with my seniors in Connecticut: When are we going to get a prescription drug benefit? When are we going to get it under Medicare? And will it be meaningful enough to make a difference in our lives? Over and over and over again, in all parts of my State, this was the call that I received from my constituents.

At these forums, I heard from seniors who literally could not afford to fill prescriptions called for by their doctors. I heard from elderly Medicare beneficiaries forced to choose between purchasing groceries or filling their drug prescriptions. I heard from seniors who were forced to skip dosages of their medicines in an attempt to stretch their limited supplies of needed medicines. And I heard from Medicare beneficiaries requiring more than 10 prescribed medicines a day unable to afford to fill even half of those needed prescriptions.

Clearly, what I heard from hundreds of Connecticut's more than 500,000 Medicare beneficiaries—in a State, I might add, that has 3½ million people—is their grave concern over the present lack of a prescription drug benefit under the Medicare Program.

Our goal over the next 2 weeks is very clear: to ensure that all Medicare beneficiaries have access to their needed prescribed medicines. To achieve anything less in this debate would be an abdication of our responsibility to ensure that Federal programs correspond with the times in which we live.

The simple fact is that pharmaceuticals have and will continue to better the lives of millions of Americans. When the Medicare Program was first enacted in 1965, few could even begin to imagine the great strides we have realized in health care as a result of the development and widespread dissemination of pharmaceutical medicines. However, the present lack of a prescription drug benefit under the Medicare Program fails to reflect these great gains that have been made, leaving more than half of all Medicare beneficiaries without any coverage for their needed medicines. This is unacceptable, and it must be remedied.

For this reason, I am heartened that it appears that today, for the very first time—for the very first time since we began discussion of this subject matter—we are on the cusp of passing in the Senate comprehensive Medicare reforms that will, at long last, add a prescription drug benefit to the Medicare Program.

I am particularly pleased the measure reported by the Senate Finance Committee last week, and that is before us this afternoon, represents a very significant departure from previous plans supported by the administration that would have required Medicare beneficiaries to leave the traditional fee-for-service Medicare Program in order to receive coverage for their prescribed medicines. Such a move would have been unconscionable, as 89 percent of all Medicare beneficiaries today are in the traditional program.

To force those beneficiaries to have to leave their present system of coverage, and most likely the doctor they have come to know and trust, would not only create great disruption, but it would also, for the first time since the program's inception, create a tiered benefit system under Medicare that would more greatly reward those who choose to join a private preferred provider organization or health maintenance organization over those who wanted to stay in the traditional Medicare Program.

That is what the administration was originally advocating. That is what many, unfortunately, in the other body, the House of Representatives, are still pursuing and still advocating. So I hope, as a result of the change we have seen in the last week, this breakthrough will make a huge difference in the lives of Medicare beneficiaries who want to retain the ability to stay under the traditional Medicare Program if they so choose.

And so while I am pleased the bill before us soundly rejects a tiered benefit system—and I commend the distinguished Senator from Iowa, the chairman of the committee, and the distinguished Senator from Montana, for rejecting the idea of a tiered benefit system, I am deeply concerned that the plan presently taking shape, as I mentioned, in the other body, the House, appears to rely on such a flawed plan. And until we have resolved the matters between these two bodies, this fundamental difference will still be out there and need to be addressed.

President Bush, just last week, visited my home State of Connecticut and called on Congress to pass a prescription drug benefit before July 4th. For my part, I call on the President not to sign any Medicare reform measure that would force seniors to join private plans in order to receive a more generous prescription drug benefit. Such a measure would signal an end to the Medicare Program as we know it and should be rejected out of hand. In fact, I would hope the President would say, categorically, that while he wants Congress to pass a bill before July 4th—he must say, with equal strength, that he will not sign a bill that denies people under traditional Medicare the opportunity to have an adequate prescription drug benefit or forces them to have to make a choice between staying in traditional Medicare and getting no prescription drug benefit or going to a private plan where they can get that prescription drug benefit but having to give up traditional Medicare as the price. The President needs to state that he will reject any proposal on his desk that incorporates that idea.

The bill before us, S. 1, the Prescription Drug and Medicare Improvement Act of 2003, represents a strong step forward on this issue. However, no bill is perfect, and S. 1 clearly leaves much room for improvement. In the coming weeks, I plan to work with my colleagues to specifically address concerns over the present bill's lack of adequate provisions to ensure that those companies presently providing their retirees prescription drug coverage receive adequate Federal support for their laudable efforts. Any measure that we enact should be crafted so as to support, not supplant, the valuable efforts of employers already providing prescription drug coverage for their retirees.

Additionally, I remain concerned that the gap in coverage in the present bill—the so-called donut hole—will leave many Medicare beneficiaries facing high prescription drug costs with no assistance at the very time when it may be needed most. These may be the people who are the most sick, under the most dire medical circumstances. And if they were to reach that threshold of approximately $4,500 in prescription drug costs, they will have to maintain paying the premiums without receiving any benefit until they reach the upper limit of the gap, approximately $5,800 in drug costs. This gap in coverage could provide a huge hardship on literally hundreds of thousands of Medicare beneficiaries. I hope we are going to be able to close the so-called donut hole, especially for those in the lower income category who can least afford any gap in their coverage.

I am also concerned that S. 1 fails to adequately protect Medicare beneficiaries from the very understandable confusion and uncertainty that may surround these beneficiaries just as they begin to navigate the intricacies of a brand new program. Specifically, I am worried that, if enacted, the underlying bill would require Medicare beneficiaries choosing a prescription drug plan to stay with that plan for a minimum of 1 year. With the enactment of such broad and sweeping changes to Medicare as S. 1 would provide, I am fearful that many Medicare beneficiaries will face great uncertainty trying to find the best plan to meet their particular medical needs.

I believe we can greatly relieve this uncertainty by allowing those initially choosing prescription drug plans for the first time the opportunity to move from one plan to another as they determine what each plan will specifically offer and which plan best fits their own needs. We ought to give our senior citizens that opportunity. All Medicare beneficiaries are not the same merely because they have reached the same age. They are under very different circumstances with very different medical needs. We ought to show them the dignity and respect they deserve as an older generation to give them the ability to choose the plan that serves their needs best and not force them to have to make decisions that may do them great harm.

In the coming weeks I will offer several amendments to the legislation that will address these very specific issues and possibly other ones as well.

On July 30, 1965, President Lyndon Baines Johnson traveled to the Truman Library in Independence, MO, to sign the Medicare Program into law. In attendance on that day was the former President of the United States, Harry S. Truman, 81 years of age at the time. On that day, President Johnson remarked:

> No longer will older Americans be denied the healing miracle of modern medicine. No longer will illness crush and destroy the savings that they so carefully put away over a lifetime so that they might enjoy dignity in their latter years.

Almost 38 years later, we face a similar struggle of ensuring seniors access to modern medicine, this time in the form of prescribed medicines.

So it is with a great sense of hope that I join the debate this afternoon. Medicare's nearly 41 million beneficiaries clearly need assistance in affording their needed medicines. Our effort over the next 2 weeks will greatly determine to what extent we assist in that effort.

Clearly, a great opportunity is presently before us. I look forward to working with all of my colleagues on both sides of the aisle, Republicans and Democrats, to ensure that we seize this opportunity. It may not come again. While the bill before us may be less than perfect and the resources we are limited to may not be as adequate as we would like, we have an opportunity over the next couple of weeks to take the legislation presented to us by the Finance Committee, to work on that legislation and hopefully improve it in several of the areas I have mentioned.

What greater gift could we give, 38 years after Medicare's creation, to retirees and future generations of retirees than to grant them access to this wave of new medicines and prescription drugs, that cannot only extend life but can substantially improve the quality of life for people, which will give them the opportunity to enjoy years of retirement with their children and grandchildren and friends. Surely these wonderful miracle drugs ought not to become the exclusive domain of only those who can afford to buy them.

Mr. President, I do not want to have to face constituents in my State ever again who will report that they had to make a choice between putting food in their mouths or medicines that they need; that they had to choose between the medicines they need because they can't afford all of them that the doctors have prescribed, or that they reject altogether the medicines that they have been prescribed because they can't afford them. We can't do everything for everyone, but it seems to me providing a meaningful prescription drug benefit that will really serve the underprivileged in our society, particularly those age 65 and above, is something this Congress ought not to fail to do in its responsibilities.

I look forward to the debate. I look forward, more than anything else, to voting for a package in the end that will do that which most of us would like to see accomplished and seeing to it that the elderly will receive the full promise given to them back in 1965 that a Medicare Program is going to be there for them, and this time we are going to include in the program coverage for needed prescribed medicines.

I commend those who have moved so diligently and worked so hard to bring us to this very optimistic moment. I am hopeful in the coming days we can complete the job by adding some improvements here and presenting a bill to the American public which they will applaud if we correctly do our job.

I suggest the absence of a quorum and ask unanimous consent that time thereunder be equally divided.

The PRESIDING OFFICER (Mrs. DOLE). That has been provided.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. LINCOLN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILD CARE TAX CREDIT

Mrs. LINCOLN. Madam President, I am rising today to encourage my colleagues. I have gotten an understanding that the Republican leadership will be meeting in the morning to talk about the conference with the House on the opportunity we have to provide 12 million children in this country some help through the tax relief package that was passed in the Senate.

I also thank my Senate colleagues for, in a resounding way, reaching out to this country and to those 12 million children, as well as their working families, and saying we do believe it is important that the tax relief package we provide be balanced both in its fiscal responsibility and in its ability to reach out to all working families in this Nation and give them the relief so that they, too, will have the opportunity to be able to participate in stimulating the economy of the country. After all, that is what we are really looking for, stimulating the economy and making sure we are strengthening our Nation. I think there is no better place to go than to the working American families.

So I encourage my colleagues today, as I come to the floor not to ask immediately but to request of the leadership, to really thoughtfully put together what it is we need to do in order to expedite moving to conference on this issue. I also plead with the President that his efforts and opportunities will certainly weigh in with the Members of the House, encouraging them to move forward. They have already voted in the House in a motion to instruct the conferees to the Senate position. This is something we can do, and do it quickly and in a very fiscally responsible manner by paying for it. But we can do something now that is going to help working families in the next several months.

It is critical, as we move forward with the previous tax package passed, to provide relief to all Americans across this great land by July 1, and that we, too, recognize not only those precious 12 million children who are out there, but the working families they are a part of, recognizing that these families are preparing in the late summer to get their children ready to go back to school. They certainly could use those resources in multitudes of ways—bringing their families together, preparing their children for the school year. We desperately want to make sure that happens.

I encourage our Republican leadership to come together to visit on moving forward in the conference, recognizing that we have a tremendous responsibility not only to the economy of this Nation, particularly in strengthening our country, but, more importantly, to the future of the country.

When you look at those who will be the future leaders of the workforce, the individuals who will be there to continue the great legacy of this land—the children of our country—we must give those working families the opportunity to take advantage of the same kind of tax relief that other families are going to be getting; they, too, have to take that opportunity to reinvest in this great country and, more importantly, in their families and their children.

So I encourage my colleagues, as well as the leadership on the other side, to make sure that in the morning they will meet in a wholehearted fashion looking for the opportunity we have before us to be fair and balanced for the multitudes of children and working families across this country.

I, too, encourage the President to weigh in on this issue. He has a tremendous opportunity to make a difference, and I hope he will choose to do so.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Madam President, I am very concerned because what I see coming at us right now is a very fast train. And that train is a giant giveaway entitlement program. We might be in a position to do something about now, but if we wait, we will not be able to do anything about it.

Medicare already accounts for roughly 12 percent of the Federal spending and will only grow as more and more baby boomers retire. When Medicare was proposed in 1965—and I am one of the few people around old enough to remember that—I can recall the estimate of Medicare Part A that would cost $2.9 billion in 1970. This was 1965. The actual expenditures in 1970 were $5.3 billion, roughly twice what they were estimating back in 1965. The estimate for 1980 was $5.5 billion. This is Medicare now. The actual expenditures that year totaled $25.6 billion. That is five times the estimated amount.

The predicted expenditures for 1990 were $9.1 billion, but the actual expenses totaled $67 billion, nearly seven times the estimated amount. Currently, 76 percent of the Medicare beneficiaries already have some form of drug coverage.

We have talked about the fact that something that is not broken does not need to be fixed. When we start looking at establishing an entitlement program today and go by the Medicare model, this is something that none of our kids and grandkids are going to be able to afford.

So if we keep in mind that 67 percent of the Medicare beneficiaries already have some form of drug coverage—much of it is better than the proposal on the table now—many of these individuals could lose this coverage if a prescription drug benefit is added to Medicare.

CBO estimates that 37 percent of the beneficiaries with employer-based prescription drug coverage would lose that coverage. This accounts for 11 percent of the total Medicare population.

Many pharmaceutical companies already offer programs that give low-income seniors their prescription drugs for free or for reduced prices. If this bill is passed in this form, the companies may eliminate these programs, forcing more people into the Medicare rolls.

One might say, well, we can legislate this and not allow them to do that. That solution is not going to work. That would be an attempt to micromanage the private sector, and that would not work. I do not think there is any Member of this Senate who, if they owned a company that was giving away free programs, then the Government came along and offered something, that they would continue that practice. That is exactly what would happen.

The need to get this legislation to the floor and passed by the end of June, along with the need for bipartisan support, has led to a series of compromises that have resulted in a hodgepodge of a bill. There are elements of this bill that are not only bad policy but will have a detrimental effect on the system as a whole; for instance, the extension of instant Medicaid benefits to illegal aliens, placing an additional burden on Medicaid; loss of employer-based benefits, thus expanding an already large entitlement program.

According to an editorial in the Wall Street Journal yesterday, Monday, seniors already own 60 percent of all the wealth of the country and their worth is only increasing. We cannot continue to finance entitlement programs on the backs of current American workers, which is what this bill does.

The bill is not means tested. We are giving multimillionaires, even billionaires, the same benefit offered to seniors on fixed incomes. In other words, the Bill Gateses and Warren Buffetts would get the same benefit as a retired schoolteacher.

There is a need for Medicare reform to ensure the solvency and stability of the program. However, the current version of this bill does not meet those needs.

I look forward to working with my colleagues to improve this legislation through amendments designed to encourage employers to retain the drug coverage they currently offer, to allow seniors to take advantage of private plans and better options, and to keep the costs low.

I will read a little bit of the editorial I read on the plane coming back to Washington. It says:

> The bill that passed the Senate Finance Committee last week would cover just 50 percent of the drug expenses between $276 and $4,500 annually, then zero up to $5,800, and 90 percent thereafter. That's nowhere near as good as many seniors currently have with employer-sponsored coverage. Most employers will drop or scale back that coverage once they realize that the feds are willing to pick up part of their tab.

That is human nature. That is what we are talking about.

> The Congressional Budget Office estimates that 37 percent of those with employer coverage could lose it.

I ask unanimous consent that the entire article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. We want something to happen. We know there are some plans out there that have been offered that take into consideration that we do not want one Government program that is going to end up being an entitlement program. If it ends up the way it is today, I am going to serve notice right now that after every effort we can make to pass amendments, if they do not work and we end up with what we have today, I am going to be opposing this plan, and hopefully there will be several others who will do the same thing.

EXHIBIT 1

MEDICARE DRUG FOLLY

Runaway trains are hard to stop, but someone has to try and derail the bipartisan folly now moving ahead under the guise of Medicare "reform." Permit us to put a few facts on the table, in the (probably fanciful) hope that somebody in the White House still cares more about the long-run policy than the short-term politics.

Let's start with the amusing irony that the supporters of this giant new prescription drug benefit are many of the same folks who were only recently moaning that a $350 billion tax cut would break the budget. That tax cut will at least help the economy grow. But the new Medicare entitlement is nothing more than a wealth transfer (from younger workers to retirees) estimated to cost $400 billion over 10 years, and everyone knows even that is understated.

The real pig in the Medicare python doesn't hit until the Baby Boomers retire. Social Security and Medicare Trustee Tom Saving told us last week that the "present value" of the Senate plan—the value of the entire future obligation in today's dollars—is something like two-thirds the size of the current $3.8 trillion in debt held by the public.

Bill Clinton's Medicare administrator, Nancy-Ann DeParle, correctly calls it the "biggest expansion of government health benefits since the Great Society." She's delighted to see it, but for the rest of us it is a recipe for tax increases as far as the eye can see.

And these estimates are before Democrats "improve" the benefit, as they are already agitating to do. That's because the dirty secret of this bipartisan lovefest is that the proposed drug benefit isn't all that great. The bill that passed the Senate Finance Committee last week would cover just 50% of drug expenses between $276 and $4,500 annually, then zero up to $5,800, and 90% thereafter.

That's nowhere near as good as many seniors currently have with employer-sponsored coverage. Most employers will drop or scale back that coverage once they realize that the feds are willing to pick up part of their tab. The Congressional Budget Office estimates that 37% of those with employer coverage could lose it.

A Goldman Sachs analyst last week called this bill the "automaker enrichment act," saying companies like Ford and GM would see a 15% reduction in their annual drug spending and a huge decrease in unfunded liabilities. So unborn taxpayers will soon have to pick up the tab for sweetheart labor deals negotiated by carmakers and their unions a generation or two ago.

Understood in these terms, a universal drug benefit is neither necessary nor morally justifiable. Some 76% of seniors already have some prescription drug coverage, as the nearby chart shows. The average Medicare beneficiary spends an affordable $999 a year out of pocket on prescription drugs, and less than 5% have out of pocket expenses over $4,000.

Seniors already own 60% of all the wealth in this country, and are getting richer. A report in Health Affairs estimates that by 2030 about half will have incomes of $40,000 and about 60% will have assets of $200,000 or more. We're all for a prosperous old age, but it is hardly a step toward social justice for comfortable retirees to be further subsidized by working taxpayers with mortgages and kids. The problem of genuinely poor seniors can be handled with a drug discount card or a means-tested subsidy.

We understand, of course, that these facts are unlikely to interfere with the political calculus driving this giant step toward Canadian health care. The Democrats want to expand the welfare state, while Republicans have convinced themselves that they'll get credit with seniors and be able to take health care off the table for 2004.

The Republicans are fooling themselves in the long run, and perhaps even about next year. Republicans can never win an entitlement bidding war. They will spend the rest of their public lives sounding like Scrooge for not expanding benefits, or raising taxes on their own voters to pay for the subsidies, or imposing price controls on drug makers that will stifle innovation. This is how parties of the right became me-too socialists in Europe.

The sheepish support for this from the likes of otherwise conservative Senators Rick Santorum and Mitch McConnell gives the game away. They're playing loyal spinners, but their heart doesn't seem to be in it. They're going along for the ride with a Republican White House that seems to have forgotten that it has an obligation to more than its own re-election.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Madam President, I would like to take this opportunity to discuss a particular interest of mine: how the "Prescription Drug and Medicare Improvement Act of 2003" will protect beneficiaries in rural areas.

As we worked to develop S. 1, members of the committee were especially attuned to the concerns expressed by some that private entities will be unwilling—or perhaps unable—to provide services to Medicare beneficiaries living in rural communities. That is why we included a number of safeguards to make certain that rural elderly and disabled patients have access to the Medicare improvements made in S. 1.

I cannot overstate how particularly important this is for my home state of Utah, since most of the 29 counties and 82,144 square miles in Utah are rural.

According to the 2000 Census, Utah's population density was only 27.2 persons per square mile, roughly one-third of the national average of 79.6 persons per square mile.

So I am very interested in seeing to it that Medicare beneficiaries in rural areas—whether they are in Utah or for that matter in the State of New York, I want to make sure these beneficiaries get a fair shake.

There is no question that the Medicare beneficiaries who live in these rural communities—towns and small cities like Moab, St. George, Green River, Blanding, Beaver and Vernal—deserve access to the same services that are available to Medicare beneficiaries living in Salt Lake City, or for that matter, New York City.

I cannot criticize colleagues who are concerned that the new private sector-oriented delivery mechanisms we have designed in S. 1 may not be available to beneficiaries in rural areas. That being said, I want to provide assurances to my colleagues that the Committee worked hard to design a plan that would protect the elderly and disabled who reside in rural areas.

Indeed, it is not surprising that criticisms have been expressed that there could be gaps in coverage in rural areas given the experience with Medicare+Choice and Medicare HMOs.

These Medicare+Choice plans were established with the intent of providing Medicare beneficiaries throughout the country with access to both traditional Medicare and Medicare+Choice plans.

Unfortunately, it has not worked out that way. For a variety of reasons, the companies responsible for these plans found that they could not offer services in all areas.

Not surprisingly, many of the communities that were left without access to these HMOs are in rural areas.

I am particularly sensitive to this, because Utah is one of those States in which the Medicare+Choice plan operated for one year and then chose to discontinue.

This was a great disappointment to all—beneficiaries, the provider, and the Government alike.

So I, among all others, find it completely understandable that there may be a question about whether the plans will be available in rural communities.

I have a simple answer to that question. The new private drug plans created in S. 1 are completely different from the Medicare+Choice model.

We have learned from our experience with Medicare+Choice and we have worked to ensure we do not repeat past mistakes.

Let me take this opportunity to explain how the program will work.

Our legislation establishes a new Center for Medicare Choices within the Department of Health and Human Services. This new Center will be headed by an administrator who will oversee both the new drug plan and the new Medicare Advantage program.

To operate the prescription drug plan, the new administrator will create at least 10 regions throughout the country. These regions must be at least the size of a State.

If beneficiaries remain in the traditional Medicare program, they may receive pharmaceutical assistance through a new stand-alone program certified by the Government to provide coverage in that region. S. 1 requires that at least two stand-alone drug plans would be offered to Medicare beneficiaries in each region.

Now some may ask, "How does that ensure rural Medicare beneficiaries will have access to prescription drugs distributed by private companies? How is this different from the Medicare+Choice HMOs?"

The answer is this.

The Medicare+Choice program is organized by counties. In other words, Medicare+Choice plans can choose to offer coverage in one county, but not in another.

These plans may "cherry pick," or choose to operate in the more lucrative areas, ignoring the less profitable ones. For example, they can offer coverage in suburban counties where the cost of doing business might be lower or in counties where, for one reason or another, Medicare beneficiaries are healthier.

Under the new program, plans offering stand-alone prescription drug coverage will not be able to cherry pick in this way, because they must operate in all areas of a much larger region.

If a plan wants to offer coverage in Salt Lake City, it will be required to offer coverage in St. George, Moab, Beaver, Vernal, and Green River. In order to provide coverage in Salt Lake City, a plan will be required to offer coverage in every county and every community and to every Medicare beneficiary in Utah. That is true of other states and their rural problems as well. I am naturally talking about my own home State of Utah but it applies throughout the country.

We envision these regions, in many cases, encompassing more than one state, and combining rural areas and urban areas.

Medicare+Choice does not work this way. And so, we have designed the plans envisioned under S. 1 based on the lessons learned with Medicare+Choice.

Another criticism some in this body have voiced relates to the concern that prescription drugs might be available in a predominantly rural region, but with higher premiums for Medicare beneficiaries living in rural areas.

Once again, the concept of regions addresses this issue. Plans will be required to charge the same premium for an option throughout the region.

Let me add, however, that this does not ensure premiums will be identical between regions.

This important issue was raised during the Finance Committee's consideration of this legislation by my friend and colleague, Senator OLYMPIA SNOWE.

In order to address this very valid concern, our legislation gives the Secretary of Health and Human Services the discretion to make adjustments in geographic regions so there will not be a large discrepancy in Medicare prescription drug premiums across the country.

Other may wonder why we establish regions at all. Why not have a single premium throughout the country and private entities would bid to provide prescription drugs nationwide?

One reason we did choose this approach is that only a few private entities are currently able to provide nationwide coverage. Limiting competition to those few companies would neither ensure beneficiaries the best prescription drug prices nor a significant choice among coverage options.

The approach we have chosen is one that ensures beneficiaries will have access to prescription drug coverage. It provides for competition, and minimizes regional differences in beneficiary premium costs.

But some may still wonder whether private plans will choose to enter predominantly rural States or regions?

My Finance Committee colleagues and I have worked hard to ensure that plans have the appropriate incentives to participate in all 50 states.

Even so, no one can guarantee with complete certainty that private prescription drug plans will choose to operate in all of the States all of the time.

For this reason, we worked very hard to make certain there is a safety net, a "fallback" plan that would provide seniors with the coverage they need in the event only one or even no private sector plans enter a region.

If only one plan, or even if no plans, are willing to offer stand-alone prescription drug coverage within a region, the government will enter into an annual contract with an entity to provide a prescription drug fallback plan.

This fallback plan would be given a one year contract to offer the standard drug plan to all Medicare Part D beneficiaries in the region. The fallback plan will be an insurance policy provided by the federal government to ensure that Medicare beneficiaries in rural communities have prescription drug coverage available in the event that private plans are slow to begin providing service in their area.

Some in this body argue that if the fallback option is so attractive we should make it available all the time to anyone who wants it. Indeed, these colleagues argue that this so-called "permanent fallback" should be offered to beneficiaries in addition to the private stand-alone drug plans that would be offered to those Medicare beneficiaries remaining in traditional Medicare.

While this may sound attractive at first, it is not.

Making the fallback plan a permanent option will undermine the very structure upon which we have built S. 1.

Not only would it drastically increase costs—thus pushing the bill over the $400 billion 10-year limit—it would also be a disincentive for private plans to enter the market.

I will oppose any amendment that will make the fallback plan permanent.

First and foremost, including a permanent fallback plan creates an uneven playing field.

The government fallback is a non-risk bearing entity which means that it will operate in regions without any risk for gains or losses. The government pays the fallback plan for the administrative costs associated with delivering the drug benefit.

If we make the fallback plan permanent, we are basically requiring privately delivered drug plans, which are at least partially responsible for bearing the risk of delivering this benefit, to enter this same market and compete with these government fallback plans.

I think this is not only unfair, but it also sets up our drug plan for failure. There isn't a private health plan out there that will enter such a lopsided market where we give their competitors such a large financial advantage.

In addition, including a permanent fallback plan will add billions of dollars to the cost of this bill because we will be relying, at least partially, on an inefficient, more costly government-style delivery system to provide beneficiaries with drug coverage.

When the Senate was debating the Medicare prescription drug issue last year, this was one of the biggest criticisms against the drug benefit plan offered by our colleague from Florida, Senator GRAHAM.

The Graham drug benefit plan created a one-size-fits-all drug benefit delivered by the federal government. This is not what Medicare beneficiaries want. Beneficiaries want choice in drug coverage. They do not want to be forced into government-run plans and offered a one-size fits all benefit.

The intent of S. 1 is to introduce a new model to deliver care to Medicare beneficiaries.

We are harnessing the efficiencies and quality of a private-delivery system in order to offer Medicare beneficiaries a meaningful drug benefit. This drug benefit will include multiple choices, but it only works when all options are expected to participate under the same rules.

In S. 1, we included the government fallback as a safety net to ensure that every senior or disabled beneficiary has access to prescription drug coverage, but it is a fallback of last resort. And that is because even the Congressional Budget Office estimates that it is a more costly, less efficient model to deliver care.

I urge my colleagues to remember these points when the Senate considers an amendment that would make the fallback plan a permanent option under the stand-alone drug plans.

Let me make one thing perfectly clear. The stand-along benefit offered under Medicare Part D will not be the only way in which Medicare beneficiaries in rural areas can obtain prescription drug coverage.

In addition, the Medicare Advantage plans—including the current HMOs and new preferred provider organizations, called PPOs—will offer beneficiaries comprehensive, integrated coverage, including coverage for hospital services, outpatient care, and prescription drugs.

Private sector entities will bid to become one of three PPO plans in a region.

And, HMOs can continue to contract to provide all Medicare services—including drugs—for a county.

My Finance Committee colleagues and I have worked very hard to provide appropriate incentives to encourage the preferred provider organizations to participate in every region and in every State, whether they are predominantly rural or urban. However, if for some reason, PPOs decide not to bid in a specific region, the beneficiaries in these regions still will have the option to obtain prescription drug coverage through traditional Medicare and the new Medicare Part D plans that I described earlier.

The bill that we approved in committee provides options for Medicare beneficiaries in urban and rural areas to obtain prescription drugs through traditional Medicare and the new Part D prescription drug program, or through the new Medicare Advantage program with its comprehensive health care coverage plans.

Furthermore, the "Prescription Drug and Medicare Improvement Act of 2003" ensures all Medicare beneficiaries that prescription drug coverage will be available even if private entities are unable to provide the coverage in their region.

This legislation is preferable to previous bills we have considered, because it provides Medicare beneficiaries with more choices and more comprehensive coverage. It provides private entities with more incentives to cover rural communities, and it assures Medicare beneficiaries who live in those rural communities that they will have access to prescription drug coverage.

Just think of what we are doing here. We have a drug benefit that will begin January 1, 2006, and it is a voluntary program.

We will issue a prescription drug card which will be offered to beneficiaries from January 1, 2004, through at least January 1, 2006, 6 months after the prescription drug benefit plan is implemented. The prescription drug plan will be implemented on January 1, 2004.

The drug benefit with the Medicare Part D is a Medicare Program. At least two stand-alone drug plans must be offered in each region. All Medicare beneficiaries will be able to participate. Those who remain in traditional Medicare will have a drug benefit equal to those who go into the new Medicare Advantage Program, formerly known as Medicare+Choice. Beneficiaries will be offered either standard drug coverage or drug coverage that is an actuarial equivalent to the standard drug plan. Either drug plan will be available to those remaining in traditional Medicare or those who begin the Medicare Advantage Program, this new program.

The national average of monthly premiums for the drug benefit will be $35 per month in 2006. All drug plans will have mandatory deductibles and beneficiary out-of-pocket cost-sharing limits.

Every beneficiary will have a choice between three prescription drug plans. The Medicare Advantage Program will offer either a PPO option or an HMO option. A stand-alone drug benefit will be offered to beneficiaries remaining in traditional Medicare. A maximum of three Medicare Advantage PPO plans will be offered per region. They will compete for the opportunity and the privilege of serving the people in that particular region. Health and Human Services will certify all of these drug plans before they are offered to Medicare beneficiaries. In any event, they will be offered to all Medicare beneficiaries, seniors and disabled.

I was a member of the tripartisan group last year that put forth the tripartisan plan. Had we not done that, we wouldn't be as far along today as we are. I have to say I was proud to be a member of that tripartisan plan, along with Senators GRASSLEY, SNOWE, BREAUX, and JEFFORDS. There were five of us. We took on that assignment, and we came up with a lot of ideas that have been improved upon in this bill. This was a very important bill.

There is no easy solution in these areas. In spite of the desire of some to have simple private sector solutions, those are not in the cards with the votes we have in the Senate today or in the near future, I have to say as well.

This bill is as close as we can go towards having two completely different but nevertheless useful options: traditional Medicare for those who do not want to leave, but this new Medicare Advantage for those who really want to try something different where they may have advantageous benefits over time.

We believe the competition fostered by this bill is going to be good competition, that it should help to keep costs down. But, most importantly, we believe all seniors should have a right to prescription drug benefits, and this plan will give it to them.

We will have lots of crying and moaning and groaning about different ideas around here, some of which I might like just as much as what we have in here, but we could not get them done. So we have come together in the art of the doable to get a bill that literally gives both sides of these options a chance to be able to excel and do better for our senior citizens. That is important. That is real important. This bill is important. It is the first time in history we have done this. Frankly, a $400 billion bill over 10 years is a very important bill that will do an awful lot of good for our seniors and for those who really are hard up in our society and for those who have to do without food or split their pills or do any number of things in order to be able to get the medications they need.

I am proud of this bill. Each one of us probably could, if we were dictators, come up with what we think might even be a better bill. But, fortunately, that isn't the way this representative republic works. We have to work within the framework of the Congress. Sometimes that is a messy, mixed up, sometimes very inefficient method of legislating, but, in the end, this country has survived because we have the greatest form of government in the history of the world. And this process, as sloppy as it might be from time to time is bringing about a bill that will do an awful lot of good for an awful lot of seniors in our society at a time when they need it the most.

I just hope we can reduce the number of amendments and get this bill passed as soon as we can, get together with the House in a conference, and, of course, come up with a final package that, hopefully, will even be improved that will take us throughout this next century in a way that will protect our seniors and those who have suffered for want of pharmaceutical prescription drugs.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. McCAIN pertaining to the submission of S. Res. 173 are printed in today's RECORD under "Statements on Submitted Resolutions.")

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCAIN. Mr. President, I note the presence of the Senator from Kentucky. I ask unanimous consent to engage him in a 2- or 3-minute dialog.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF AUNG SAN SUU KYI

Mr. McCAIN. Mr. President, I am pleased to note that, thanks to the efforts of millions of people all over the world, ASEAN, in a radical departure from their previous practice, has called for the release of Aung San Suu Kyi. I thank the Senator for his sponsorship of the legislation that I think may have had some beneficial effect. We obviously don't know all the factors that went into it, except to note also that people all over the world have been aroused on behalf of this great and truly good person. I thank the Senator from Kentucky for his efforts on her behalf.

Mr. McCONNELL. I thank the Senator from Arizona. I think he is the only person I know who has actually been in the presence of Suu Kyi. I am sure the Senator shares my view that the mere act of letting her out is a long way from where the two of us hope they will end up.

What the junta needs to do is a lot more than simply end the house arrest, but give her and her duly elected party an opportunity to assume the power that they won 13 years ago in an honest election. So it is a step in the right direction. I am sure my friend from Arizona agrees that we have a long way to go.

Mr. McCAIN. I thank the Senator.

Mr. McCONNELL. Mr. President, I was just going to wrap up. I see my friend from Alaska here. How long does the Senator expect to speak?

Mr. STEVENS. I really could not say.

Mr. McCONNELL. May I do the wrap-up and then allow the Senator from Alaska to make his comments? The wrap-up is rather short, I believe.

Mr. STEVENS. May I inquire, did the Senator from Kentucky just cosponsor that amendment?

Mr. McCONNELL. No. Mr. President, I did not cosponsor the amendment. We were just talking about Burma. Senator McCAIN and I were talking about Burma. The expression on the face of the Senator from Alaska was one of alarm. I want to reassure him that I certainly did not cosponsor the resolution.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LET'S NOT FORGET CAMBODIA

Mr. McCONNELL. Mr. President, Secretary of State Colin Powell is in Phnom Penh, Cambodia, for an annual ASEAN meeting. There are many issues he needs to pursue with ASEAN members, including, most urgently, support for the struggle for freedom in Burma.

Also pressing is the fate of democracy in Cambodia. Secretary Powell must be clear to all Cambodian democrats that the United States stands firmly and publicly with them in our common cause of democracy and the rule of law. Secretary Powell should make it a point to meet with the democrats during his short stay in Phnom Penh.

It is in America's national interest, and that of Cambodia, that new leadership—firmly committed to transparency, accountability and justice—is elected in upcoming parliamentary elections next month.

The ruling Cambodian People's Party, CPP, and its earlier manifestations have had an opportunity—nearly a quarter of a century—to develop that country. Their records is unimpressive, at best. Crimes are committed with impunity, corruption is endemic and extends to the highest office, and lawlessness provides a breeding ground for terrorism and other criminal activities.

Under CPP Prime Minister Hun Sen's leadership, opposition rallies have been attacked by grenade-throwing terrorists, a coalition government disintegrated in a coup d'etat, and government-paid gangsters, the Pagoda Boys, caused $50 million worth of damage in anti-Thai riots that were fueled by Hun Sen's reckless nationalistic comments.

Secretary Powell should temper his comments praising the Cambodian Government for cracking down on terrorism. The reason terrorists are on Cambodian soil is because of the very lawlessness perpetuated by the CPP. Hun Sen has swatted a few flies recently, but is directly responsible for leaving the screen door wide open. A more serious response to terrorism in the region is freedom and the rule of law for the Cambodian people.

While in Phnom Penh, Secretary Powell must push for free and fair elections in July. Opposition parties must not be denied access to media or the ability to conduct rallies, demonstrations, and other forms of free expression. Secretary Powell must make clear to Hun Sen that a single, additional political killing is one too many, and that the election will be judged by international standards—which, contrary to the Prime Minister's thinking, is not reserved only for sports competition.

Let me close by saying that it has come to my attention that the ASEAN meeting is taking place at the Intercontinental Hotel, which is owned by Theng Bunma—a suspected Cambodian drug king pin and self-described financier of the 1997 coup. This epitomizes all that is wrong in Cambodia today.

Mr. President, I ask that a letter from Cambodian opposition leader Sam Rainsy to Secretary Powell calling for Suu Kyi's immediate release be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KINGDOM OF CAMBODIA,
June 13, 2002.

COLIN L. POWELL,
Secretary of State,
U.S. Department of State, Washington, DC.
c/o HE Mr. CHARLES RAY,
U.S. Ambassador,
U.S. Embassy, Phnom-Penh, Cambodia.

DEAR SECRETARY POWELL: I would like to take this opportunity to express my appreciation for your statement calling for the immediate release of Aung San Suu Kyi and increased pressure on Burma's military junta. The struggle led by Suu Kyi is an inspiration to all those who live in fear under repressive regimes, and to those who fight everyday for freedom and democracy. I proudly join you in the call for the release of Aung San Suu Kyi and hope that you will use the opportunity of your visit to Cambodia for the ASEAN Regional Forum to press for an end to the suffering of the Burmese people.

The fate of Aung Sun Suu Kyi and Burma's democracy is indelibly linked to the future success of the ASEAN region. The transition from communism and military dictatorship to democracy would bring untold political, economic and cultural benefits to one of the most diverse and potentially dynamic regions in the world. In this context your statement that those who oppress democracy must not be allowed to prevail has particular resonance.

In Cambodia, we are struggling to end endemic poverty, reduce appalling illiteracy rates and to provide basic nutritional needs to our children. This struggle is made all the more difficult by a government more committed to consolidating its own power than to the welfare of its people. While offering a facade of progress and stability to donors and the international community, the government has used fear and violence to support a lucrative patronage system, exploit our natural resources and suppress opposition voices. It was just today that the latest victim, a garment worker protesting low wages and poor factory conditions, was shot and killed by government riot police as they cracked down on a peaceful demonstration.

Unlike in Burma, the Cambodian people will have the opportunity to go to the polls in July to change their leadership. They must be allowed to do so in an environment free from fear and intimidation. But already we have seen that the current government is willing to use the tools of fear and violence to suppress the Cambodian people's desire for freedom and democracy. This year's electoral process is already flawed by biased elections commission, restrictions on voter registration, restrictive media access and ongoing intimidation of opposition activists. The potential for democracy in Cambodia is being thwarted by this government and it must realize that, "its actions will not be allowed to stand."

As you prepare to participate in the ASEAN Regional Forum in Phnom Penh next week, I trust that you will continue to provide a strong and leading voice for the release of Aung San Suu Kyi. At the same time, I ask that you use the same strong voice to advocate for credible elections in Cambodia—elections that reflect the true will of the Cambodian people.

Sincerely,

SAM RAINSY,
Leader of Parliamentary Opposition,
Kingdom of Cambodia.

UNITED SERVICES ORGANIZATION

Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to the United Services Organization for two vivid recent examples of the legendary support and assistance that it provides for the families of members of our Armed Forces when their loved ones are serving away from home.

The USO is rightly renowned for the joy, the comfort, and the happiness it has brought to our troops and their families over the years. It is truly an American treasure, as it has shown once again in its extraordinary support for two Massachusetts families during the recent war in Iraq.

Under the leadership of executive director Alice Harkins, the USO of New England came to the aid of Sergeant Vanessa Turner who became critically ill in Iraq while serving in Operation Enduring Freedom. Upon the onset of her illness, SGT Turner was flown back to Germany and to the community she left. Sergeant Turner's 15-year-old daughter Brittany was left in Germany while her mother was deployed to Iraq. Brittany remained strong, finishing the school year while visiting her mother in the hospital in Landstuhl, Germany. SGT Turner's family in Roxbury, MA, was desperate to fly to her bedside and to comfort Brittany. The USO of New England came to the rescue, arranging for SGT Turner's mother, sister, and brother to fly to Landstuhl, Germany. According to Alice Harkins, this was "an easy request. Their children are our responsibility; if the service members know that the community is taking care of their children, then they can relax."

In the second case, the Armours family in Athol, MA, was devastated to learn that Specialist Jamvis Armours had been critically wounded in Iraq and had been flown to the Washington Hospital Center in Washington, DC. Problems arose in getting SP Armours' wife and children to the hospital. Again, the USO came to the rescue. They assisted the family financially and emotionally, and Alice Harkins actually drove from Boston toward Athol to see them and to ensure that they had all they needed for the trip. Going the extra mile is what makes the USO so widely admired throughout our country and by all the members of our Armed Forces wherever they serve.

I commend the USO of New England in all it does so well, and for demonstrating in these two cases that its helping hand is always there when its help is needed most.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, since its inception, the United Service Organization what we all know as the USO has worked to bring a piece of home to the members of our armed forces wherever they may find themselves. From Bob

Hope's legendary tours to the latest cyber-canteens that allow service members to stay in contact with family and friends via email, the USO works tirelessly to provide simple pleasures to those who venture into harm's way.

As the population of the armed forces has changed, so too have the services offered by the USO. Today, this great organization provides childcare services for kids whose parents are deployed, travel assistance for the family of wounded service members, prepaid phone cards, the ever-popular celebrity tours, and countless other services for our troops and their families.

Recently, my staff and the staff of Senator KENNEDY had very close contact with the personnel and services of the USO through its New England offices in Boston. Several weeks ago, our staff was contacted by the family of an American soldier who had become gravely ill in Iraq. She had been evacuated to the American hospital at Landstuhl, Germany, where doctors determined she was near death. She was so ill that her doctors ordered her medically retired, making her daughter eligible for retirement benefits. But that reclassification also meant that the Army could no longer pay for her family's travel to Germany to be at her bedside. That decision, made for all the right reasons, had the unintentional and regrettable consequence of bringing only more grief to a family already grappling with the prospect of losing their loved one.

And that is when USO-New England and its director, Alice Harkins, got involved. When the situation was explained to her, Alice replied simply, "We're going to do this. This is why we exist." And, as promised, the USO-New England found the money and paid for the soldier's family to travel to Germany.

Alice Harkins and her capable staff at USO-New England represent the best of us. Through their vigorous efforts, their determination, and their simple desire to help those who serve in our military, they inspire us all. They are people who recognize what's right, and who show their love of country and their love for those who serve with deeds as well as words.

The USO receives no financial support from the U.S. Government. Its success is due to the countless volunteers who contribute time and energy for the men and women of the Armed Forces in times of war and peace and the generosity of sponsors who make its operation possible.

I know I express the sentiment of the Senate and current and former members of the Armed Forces when I say thank you, USO, for your efforts to bring a slice of home to those on the frontlines and for remembering their families while they are away. We should all aspire to make such a contribution. Fortunately, the people of the USO, people like Alice Harkins, do. And we can all be grateful.•

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Germantown, MD. A 16-year-old Arab-American girl was physically attacked by a group of unknown young adults on the Campus of Montgomery College on September 14, 2001. This was the first of three hate crimes targeting the student and her family. On September 21, her family was out driving when unknown assailants threw a firecracker in front of their car. On September 28, vandals smashed the rear window of the family's minivan while it was parked in front of their home.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

RALLY AGAINST HATE

Mrs. FEINSTEIN. Mr. President, I wish to acknowledge the efforts of my colleagues and many others participating in the Rally Against Hate on Capitol Hill today.

The rally has been organized by Senators EDWARD KENNEDY and GORDON SMITH, along with the Human Rights Campaign and its coalition partners, to show support and build momentum for passage of Federal hate crimes legislation, "The Local Law Enforcement Enhancement Act."

Also participating in the rally today is a very brave and amazing constituent of mine, Trev Broudy. Trev is a handsome 34-year old actor from West Hollywood, CA, and he is also the victim of a hate crime motivated by his sexual orientation.

On September 1, 2003, Trev was hugging and saying goodbye to his friend, Teddy Ulett, on the street in West Hollywood when two men jumped out of a car without warning and began swinging at Trev's head with a baseball bat and an iron pipe.

After the attack, Trev was rushed to Cedars-Sinai Medical Center where doctors cleaned away pieces of skull from the back of his head and pieced together other parts of skull that had been crushed. He was then placed in an induced coma for over a week to guard against swelling of his brain.

Today, Trev looks and sounds fine, although he will never fully recover from the attack. He has said, "People assume because I look all right and I'm healthy and I'm walking and I'm talking, I'm all better, but I'm not."

When Trev finally left the hospital—10 weeks after the attack—he thought his injuries would eventually heal and he would soon return to work. However, Trev belatedly learned that a major part of his brain had to be removed, leaving him with only half the vision in both of his eyes.

Once having a good career as a voice-over artist, Trev now struggles with the results of his injuries every day and finds it difficult to read even the simplest sentence. He has returned home to his old apartment, but he will never be able to return to his old life.

Yet Trev is an inspiration and a hero to his family and friends back home, and particularly to other gay men and lesbians who see this heinous crime as a personal attack on their community.

Los Angeles' gay and lesbian community even came together and protested the county district attorney's decision not to file hate crime charges against the men suspected of beating Trev. Although the West Hollywood sheriff's station, which investigated the case, initially filed State hate crime charges, the district attorney's office chose not to file hate crimes enhancements in the case.

And, unfortunately, the limitations of current Federal hate crimes law prevent it from helping Trev because it does not extend basic civil rights protections to every American—only to a few and under certain circumstances.

Congress should expand the ability of the Federal Government to investigate hate crimes, and it should expand the ability to prosecute anyone who would target victims because of hate.

We can, and must, do more to prevent these types of hateful threats and acts of violence, and passing The Local Law Enforcement Enhancement Act would do just that.

The Local Law Enforcement Enhancement Act would: expand current Federal protections against hate crimes based on race, religion, and national origin; amend the criminal code to cover hate crimes based on gender, sexual orientation, and disability; authorize grants for State and local programs designed to combat and prevent hate crimes; and enable the Federal Government to assist State and local law enforcement in investigating and prosecuting hate crimes.

Enacting the Local Law Enforcement Enhancement Act is long overdue. It is necessary for the safety and well-being of millions of Americans. Until it is enacted, many hate crime victims and their families may not receive the justice they deserve.

Efforts to enact this legislation have received strong bipartisan support in the past, and the Local Law Enforcement Enhancement Act now has 48 cosponsors in the Senate. We just have not been able to get it to the President's desk for consideration.

Today, I ask all of my colleagues to rally against hate by working to ensure that this legislation is not simply supported but actually passed and signed into law. Let us send a message to all Americans that we will no longer turn a blind eye to hate crimes in this country.

ADDITIONAL STATEMENTS

TRIBUTE TO GREG BUCKNER

• Mr. BUNNING. Mr. President, I honor and pay tribute to one of Kentucky's finer athletes. Greg Buckner, a Hopkinsville native, was inducted into the Kentucky All-Star Hall of Fame for his distinguished accomplishments as a basketball player throughout his high school, college, and professional careers.

As a member of the University Heights Academy basketball team from 1991-1994, Greg led the Blazers to numerous victories including their first State basketball title in 1992 and a game winning record of 30–6 his senior year. At the completion of Greg's high school career, he participated in the Kentucky-Indiana High School All-Star Game. Greg distinguished himself in this contest relieving the Kentucky team of a 54–39 halftime deficit during the first of two games. Unfortunately, Kentucky lost that first game but would redeem itself later during the second game held in Indianapolis. Greg not only relieved Kentucky of a 16 point halftime deficit but made a jump shot with 6.5 seconds remaining to win the game, 75–73.

The experience of the Kentucky-Indiana High School All-Star game would benefit Greg Buckner for many years to come. Greg embraced the high demands inherent of the all-star game demonstrating the mental and physical abilities necessary, to achieve success at the college and professional levels of basketball. It was no surprise that Greg's leadership benefitted Clemson during his college career culminating with a trip to the Elite Eight during the 1998 NCAA Tournament. Upon being drafted by the Dallas Mavericks, Greg established himself as a strong defensive player and valuable rebounder. He is now a member of the Philadelphia 76ers.

I am proud of Greg Buckner for his dedication and achievements on and off the court. His example of devotion, teamwork and leadership should be emulated by athletes throughout Kentucky and across America. I thank the Senate for allowing me to recognize Greg and voice his praises.•

IN RECOGNITION OF THE 88th ANNIVERSARY OF THE ASBESTOS WORKERS LOCAL NO. 42

• Mr. CARPER. Mr. President, I rise today to commemorate the 88th anniversary of the Asbestos Workers Local No. 42. The International Association of Heat and Frost Insulators and Asbestos Workers and Local 42 have fought for better working conditions, health protection, employee rights, and to garner better wages for their members. They should be recognized for the work that they do.

The International Association of Heat and Frost Insulators and Asbestos Workers Union dates back to the late 1800s and the emergence of steam power. The expanded use of steam power during this era had a profound effect on the industrial sector leading to better heated and more efficient factories and plants, improved working conditions, and the creation of thousands of new manufacturing jobs.

The widespread use of steam power also created an entirely new industry—the insulation industry. Skilled insulation mechanics were needed to insulate steam boilers in an effort to conserve the precious energy being piped to residential and industrial facilities. The insulation mechanics who provided this craftsmanship worked almost totally without organized representation. By the end of the 19th century, a few localized associations attempted to look after the interests of their members in specific cities.

The first attempt to form a national bond between insulators associations came in 1900, when the Salamander Association of New York sent out an appeal to related crafts in other cities to form a "National Organization of Pipe and Boiler Covers." The initial appeal did spark interest, and 2 years later a much more decisive action was taken by the officers and members of the Pipe Cover's Union, of St. Louis, MO.

The St. Louis group sent out an announcement that it had affiliated with the National Building Trades Council of America, and invited other pipe coverer unions and related trades to join with them in the pursuit of better working conditions, pay that was commensurate with their skills, and the strength that comes from unity. The first appeal of unity was sent to targeted cities where other asbestos workers already were enjoying the benefits of union affiliation such as New York, Chicago, Cleveland, and Detroit. In all, seven local unions from around the Nation responded favorably, and the hard work of laying the foundation for an international union was begun.

With the St. Louis union leading the way, the interested locals met for their first convention on July 7, 1903, in the city of St. Louis. The results of that inaugural convention were impressive; a constitution was drafted and approved; bylaws were adopted; the first president was elected, Thomas Kennedy from Chicago; and a formal name was adopted, the National Association of Heat, Frost and General Insulators and Asbestos Workers of America. On September 22, 1903, the American Federation of Labor issued an official charter designating the Asbestos Workers as a national union.

The goals of the new International Union were spelled out in the charter: "The object of the International Association of Heat and Frost Insulators and Asbestos Workers shall be to assist its membership in securing employment, to defend their rights, and advance their interests as working men; and by education and cooperation raise them to that position in society to which they are justly entitled." Since that time, leaders of the International Union took this objective to grow this small group of local unions to over 120 local unions and a membership in excess of 20,000.

On July 16, 1915, General President Joseph Mullaney organized and delivered Local Charter No. 42 to the Wilmington, DE, Asbestos Workers. Temporary officers were elected and on July 26, 1915, forty permanent officers were elected. Mr. R.E. Mahan was elected as president and N.K. Whaler was elected as secretary. Meetings were held at the Irish-American Hall on French Street every Monday. Local No. 42 began with just thirty members in 1915, with wages averaging $0.32 per hour.

After World War II, the International Union's growth and prosperity was tempered by frightening new evidence that confirmed long-held suspicions by the International Union's leadership. Workers who were exposed to asbestos died in disproportionate numbers from cancer. Since this evidence was proven, the union has fought for passage of new safety and health laws to help protect its members as well as the public. The Environmental Protection Agency has banned the use of asbestos in the insulation industry in the United States. It has also been banned from use in many other products as well. The International Union continues to provide its members with education and training with the latest state-of-the-art work practices in the handling of any and all materials used in the industry.

Since 1915, Local No. 42 has grown to include some 130 active members and approximately 100 retired members. Today, the president, Jeff Smith, helps lead the way in protecting asbestos workers' rights as well as their health.

Through its long and proud history, the Asbestos Workers International Union and Local No. 42 have never shied away from adversity or allowed negative factors to impede the achievement of those admirable goals set out in the international charter of 1910. Through the determination and commitment of their leaders and members, the International Union and Local #42 continues to strive for employment opportunities, equality in the work place, continuing education, and the safety and well being of the membership.•

MASTER SERGEANT ANTHONY PRYOR

• Mr. BUNNING. Mr. President, I honor and pay tribute to one of our Nation's most courageous and admirable heroes. MSG Anthony Pryor, stationed at Fort Campbell, KY, was awarded the Silver Star for his role in a deadly battle in Afghanistan last year. The Silver Star is the third highest military honor, given for valor and gallantry in combat. The inimitable leadership and bravery of MSG Pryor deserves commendation of the highest regard.

On January 25, 2002, MSG Pryor and four other soldiers of the 5th Special Forces Group were deployed north of Kandahar for a night mission. While al-Qaida and Taliban fighters slept, they were assigned to take over an old schoolhouse building serving as an enemy compound. The mission turned deadly when the enemies awoke and began to shoot, compelling MSG Pryor and his team to return fire.

During the battle MSG Pryor was hit in the shoulder and fell to the ground, losing his night vision goggles. In the hand-to-hand combat that ensued in the dark, MSG Pryor managed to kill his attacker. A total of 21 Taliban and al-Qaida soldiers were killed, and one was detained. Most importantly, none of the Special Forces soldiers were killed.

In a ceremony delayed for over a year because of his deployment to Iraq, MSG Pryor exhibited unparalleled humility. Throughout the battle his concern was primarily for the welfare of his fellow soldiers, and this sentiment is echoed in MSG Pryor's insistence that the Silver Star award be a reflection of the deeds of the entire company.

MSG Anthony Pryor is a paragon of honor, bravery, and valor. His remarkable service to this country should be admired by all Americans. He is a tribute to the U.S. Army and Fort Campbell. I thank the Senate for allowing me to recognize MSG Pryor and extol his praises.•

MESSAGES FROM THE HOUSE

At 11:20 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 703. An act to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the "Carl T. Curtis National Park Service Midwest Regional Headquarters Building".

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2254. An act to designate the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the "Bruce Woodbury Post Office Building".

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 220. Concurrent resolution commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams, for their lives and accomplishments.

The message also announced that pursuant to 44 U.S.C. 2702, the Minority Leader appoints the following individual to the Advisory Committee on the Records of Congress for a term of 2 years: Mr. Joseph Cooper of Baltimore, Maryland.

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2312. An act to amend the communications Satellite of 1962 to provide for the orderly dilution of the ownership interest in Inmarsat by former signatories to the Inmarsat Operating Agreement.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The following enrolled bills and joint resolution, previously signed by the Speaker of the House, were signed on today, June 17, 2003, by the President pro tempore (Mr. STEVENS).

H.R. 1625. An act to designate the facility of the United States Postal Service located at 1114 Main Avenue in Clifton, New Jersey, as the "Robert P. Hammer Post Office Building".

S. 763. An act to designate the Federal building and United States courthouse located at 46 Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse".

S.J. Res. 8. A joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

MEASURE REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2254. An act to designate the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the "Bruce Woodbury Post Office Building"; to the Committee on Governmental Affairs.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 17, 2003, she had presented to the President of the United States the following enrolled bill and joint resolution:

S. 763. An act to designate the Federal building and United States courthouse located at 46 Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse".

S.J. Res. 8. A joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevent of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-2749. A communication from the Assistant Secretary, Division of Corporate Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports (2126-AI66) (3235-AI79)" received on June 5, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-2750. A communication from the Chairman, Federal Reserve Board, transmitting, pursuant to law, the report relative to the observed trends in the cost and availability of retail banking services, received on June 4, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-2751. A communication from the Acting General Counsel, Office of the General Counsel, FEMA, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determination 68 FR 22618 (Doc FEMA-P-7622)"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2752. A communication from the Acting General Counsel, Office of the General Counsel, FEMA, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations 68 FR 22616 (DOC. FEMA-D-7537)"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2753. A communication from the Acting General Counsel, Office of the General Counsel, FEMA, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations 68 FR 22620 (44 CFR 67)"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2754. A communication from the Acting General Counsel, Office of the General Counsel, FEMA, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations 68 FR 22622 (44 CFR 67)"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2755. A communication from the Acting General Counsel, Office of the General Counsel, FEMA, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility 68 FR 23408 (44 CFR 64—Doc. FEMA-7807"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2756. A communication from the Assistant General Counsel, Regulations, Office of Housing, Department of Housing and Urban

Development, transmitting, pursuant to law, the report of a rule entitled "Appraiser Qualification for Placement on FHA Single Family Appraiser Roster (2502–AH59) (FR–4620–F–02)"; to the Committee on Banking, Housing, and Urban Affairs.

EC–2757. A communication from the Deputy Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR part 594—Global Terrorism Sanctions Regulations" received on June 3, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2758. A communication from the Director, Office of Congressional and Legislative Affairs, transmitting, pursuant to law, the report of a draft bill entitled "Resolve Certain Trust Fund Accounting Discrepancies within the Individual Indian Money Investment Pool, and for other purposes" received on June 3, 2003; to the Committee on Indian Affairs.

EC–2759. A communication from the Assistant Secretary, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "29 CFR 1980, Procedures for Handling of Discrimination Complaints under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (1218–AC10)" received on June 9, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2760. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Change of Address; Technical Amendment" received on June 9, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2761. A communication from the Board Members, Railroad Retirement Board, transmitting, pursuant to law, the 2003 annual report on the financial status of the railroad unemployment insurance system, received on June 11, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2762. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imidacloprid; Pesticide Tolerance (FRL 7310–8)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2763. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Glyphosate; Pesticide Tolerance (FRL 7308–8)"; to the Committee-on Agriculture, Nutrition, and Forestry.

EC–2764. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bacillius Pumilus Strain QST2808; Temporary Exemption From the Requirement of a Tolerance (FRL 7301–1)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2765. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Hot Water Dip Treatment for Mangoes (02–026–5)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2766. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Movement and Important of Fruits and Vegetables (00–059–2)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2767. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Phytosanitary Certificates for Imported Articles of Pelagonium spp. and Solanum spp.o Prevent Introduction of Potato Brown Rot (03–019–1)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2768. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Exotic Newcastle Disease; Removal of Areas from Quarantine (02–117–6)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2769. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Exotic Newcastle Disease; Additions to Quarantines Area (02–117–7)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2770. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Ports Designed for Exportation of Livestock; Portland, OR (02–127–1)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2771. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Asian Longhorn Beetle; Quarantined Areas and Regulated Articles (03–018–1)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2772. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "2002 Farm Bill—Conservation Reserve Program—Long Term Policy (0560–AG74)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2773. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Bienergy Program (0560–AG84)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2774. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–94, "Inspector General Qualifications Amendment Act of 2003"; to the Committee on Governmental Affairs.

EC–2775. A communication from the Secretary of Energy, transmitting pursuant to law, the report of the Office of Inspector General for the period of October 1, 2002 to March 31, 2003; to the Committee on Governmental Affairs.

EC–2776. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report concerning the Federal Student Loan Repayment Program for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC–2777. A communication from the District of Columbia Auditor, transmitting, a report concerning 4800 Addison Road; to the Committee on Governmental Affairs.

EC–2778. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the report of the Office of the Inspector General, and the Chairman's Semiannual Report for the period of October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2779. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "NARA Facilities; Phone Numbers" (RIN3095–AB20) received on June 4, 2003; to the Committee on Governmental Affairs.

EC–2780. A communication from the Director, Office of Personnel Management, transmitting, a draft of proposed legislation entitled "Federal Employees Pay for Performance Act of 2003"; to the Committee on Governmental Affairs.

EC–2781. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the Department's Performance and Accountability Report for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC–2782. A communication from the Inspector General, Railroad Retirement Board, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the period of October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2783. A communication from the Chair, Railroad Retirement Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period of October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2784. A communication from the Paralegal, Federal Transit Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Bus Testing" (RIN2132–AA30) received on June 9, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2785. A communication from the Paralegal, Federal Transit Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Buy America Requirements: Amendment to Certification Procedures" (RIN2132–AA62) received on June 9, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2786. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning the International Labour Conference; to the Committee on Foreign Relations.

EC–2787. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, the report of retirements, received on June 8, 2003; to the Committee on Armed Services.

EC–2788. A communication from the Deputy Chief of Naval Operations, Manpower and Personnel, Department of Defense, transmitting, pursuant to law, conversion to contractor performance by 68 Department of Defense Civilian Employees; to the Committee on Armed Services.

EC–2789. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the Department's Fleet Alternate Fuel Vehicle Program Report for Fiscal Year 2002; to the Committee on Energy and Natural Resources.

EC–2790. A communication from the Assistant Secretary of the Interior, Bureau of

Land Management, Office of Hearings and Appeals, transmitting, pursuant to law, the report of a rule entitled "Special Rules Applicable of Public Land Hearings and Appeals; Grazing Administration-Exclusive of Alaska, Administrative Remedies; Grazing Administration-Effect of Wildfire Management Decisions; Administration of Forest Management Decisions" received on June 5, 2003; to the Committee on Energy and Natural Resources.

EC-2791. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Emergency Reconstruction of Interstate Natural Gas Facilities Under the Natural Gas Act" (Doc. No. RM03-4-000, AD02-14-000) received on June 5, 2003; to the Committee on Energy and Natural Resources.

EC-2792. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Documentation of Nonimmigrants Under the Immigration and Nationality Act, As Amended-Additional International Organization" (RIN1400-AB53) received on June 9, 2003; to the Committee on the Judiciary.

EC-2793. A communication from the Chief of the Regulations Branch, Bureau of Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Customs Broker License Examination Dates" (RIN1515-AD28) received on June 3, 2003; to the Committee on the Judiciary.

EC-2794. A communication from the Director, Office of Science and Technology Policy, Executive Office of the President, transmitting, pursuant to law, a report concerning visas; to the Committee on the Judiciary.

EC-2795. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation entitled "Department of Justice Appropriations Authorization Act, Fiscal Years 2004 and 2005"; to the Committee on Governmental Affairs.

EC-2796. A communication from the Administrator, Transportation Security Administration, Department of Transportation, transmitting, pursuant to law, a report on less than lethal weapons; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LOTT, from the Committee on Rules and Administration:

Special Report entitled "Authorizing Expenditures by Committees of the Senate, with respect to S. Res. 66" (Rept. No. 108-73).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Ms. COLLINS for the Committee on Governmental Affairs.

*Terrence A. Duffy, of Illinois, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2003.

*Terrence A. Duffy, of Illinois, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2007.

*Michael J. Garcia, of New York, to be an Assistant Secretary of Homeland Security.

*C. Stewart Verdery, Jr., of Virginia, to be an Assistant Secretary of Homeland Security.

*Susanne T. Marshall, of Virginia, to be Chairman of the Merit Systems Protection Board.

*Neil McPhie, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2009.

*Albert Casey, of Texas, to be a Governor of the United States Postal Service for a term expiring December 8, 2009.

*James C. Miller III, of Virginia, to be a Governor of the United States Postal Service for the term expiring December 8, 2010.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LEAHY (for himself, Mr. INOUYE, and Mr. BINGAMAN):

S. 1271. A bill to enhance the criminal penalties for illegal trafficking of archeological resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CORZINE (for himself, Mr. BAYH, Mrs. CLINTON, and Mr. KENNEDY):

S. 1272. A bill to amend the Occupational Safety and Health Act of 1970 to modify the provisions relating to citations and penalties; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mr. JEFFORDS, Mr. EDWARDS, Mr. REED, Mrs. CLINTON, Mrs. MURRAY, Mr. BINGAMAN, Mr. DODD, and Mr. HARKIN):

S. 1273. A bill to provide for a study to ensure that students are not adversely affected by changes to the needs analysis tables, and to require the Secretary of Education to consult with the Advisory Committee on Student Financial Assistance regarding such changes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. BAYH, Ms. MIKULSKI, and Mr. ROCKEFELLER):

S. 1274. A bill to reauthorize and reform the national service laws; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (by request):

S. 1275. A bill to establish a comprehensive federal program to provide benefits to U.S. victims of international terrorism, and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL (for himself and Mrs. DOLE):

S. Res. 172. A resolution honoring the life of media reporting giant David Brinkley, and expressing the deepest condolences of the Senate to his family on his death; considered and agreed to.

By Mr. MCCAIN (for himself, Mr. KYL, Mr. SESSIONS, and Mr. FEINGOLD):

S. Res. 173. A resolution to amend Rule XVI of the Standing Rules of the Senate with respect to new or general legislation and unauthorized appropriations in general appropriations bills and amendments thereto, and new or general legislation, unauthorized appropriations, new matter, or nongermane matter in conference reports on appropriations Acts, and unauthorized appropriations in amendments between the Houses relating to such Acts, and for other purposes; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 1

At the request of Mr. GRASSLEY, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1, a bill to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes.

S. 22

At the request of Mr. DASCHLE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 22, a bill to enhance domestic security, and for other purposes.

S. 98

At the request of Mr. ALLARD, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 98, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States, to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 493

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 493, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 610

At the request of Mr. VOINOVICH, the name of the Senator from Alaska (Mr.

STEVENS) was added as a cosponsor of S. 610, a bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

S. 617

At the request of Mr. LIEBERMAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 617, a bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes.

S. 678

At the request of Mr. AKAKA, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 780

At the request of Mr. LOTT, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 780, a bill to award a congressional gold medal to Chief Phillip Martin of the Mississippi Band of Choctaw Indians.

S. 888

At the request of Mr. GREGG, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 888, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 894

At the request of Mr. WARNER, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 896

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 896, a bill to establish a public education and awareness program relating to emergency contraception.

S. 939

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 976

At the request of Mr. WARNER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 982

At the request of Mr. SANTORUM, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 982

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 982, supra.

S. 1001

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1001, a bill to make the protection of women and children who are affected by a complex humanitarian emergency a priority of the United States Government, and for other purposes.

S. 1091

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 1091, a bill to provide funding for student loan repayment for public attorneys.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1110

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1110, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance for communities, and for other purposes.

S. 1121

At the request of Mr. BAUCUS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1121, a bill to extend certain trade benefits to countries of the greater Middle East.

S. 1166

At the request of Ms. COLLINS, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1166, a bill to establish a Department of Defense national security personnel system and for other purposes.

S. 1186

At the request of Mr. EDWARDS, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1186, a bill to provide for a reduction in the backlog of claims for benefits pending with the Department of Veterans Affairs.

S. 1200

At the request of Ms. CANTWELL, the names of the Senator from California (Mrs. BOXER), the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1200, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 1222

At the request of Mr. NELSON of Nebraska, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1222, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services, in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system.

S. 1226

At the request of Mrs. CLINTON, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1226, a bill to coordinate efforts in collecting and analyzing data on the incidence and prevalence of developmental disabilities, and for other purposes.

S. 1248

At the request of Mr. GREGG, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Iowa (Mr. HARKIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1248, a bill to reauthorize the Individuals with Disabilities Education Act, and for other purposes.

S. CON. RES. 55

At the request of Ms. SNOWE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Con. Res. 55, a concurrent resolution expressing the sense of the Congress regarding the policy of the United States at the 55th Annual Meeting of the International Whaling Commission.

S. RES. 119

At the request of Ms. COLLINS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 119, a resolution expressing the sense of the Senate that there should be parity among the countries that are parties to the North American

Free Trade Agreement with respect to the personal exemption allowance for merchandise purchased abroad by returning residents, and for other purposes.

S. RES. 153

At the request of Mrs. MURRAY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

S. RES. 164

At the request of Mr. ENSIGN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. INOUYE, and Mr. BINGAMAN):

S. 1271. A bill to enhance the criminal penalties for illegal trafficking of archaeological resources, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. LEAHY. Mr. President, I rise today to introduce the Enhanced Protection of Our Cultural Heritage Act. This legislation was reported last year by the Energy Committee, and I hope that this year it will become law. The bill would increase the maximum penalties for violations of three existing statutes that protect the cultural and archaeological history of the American people, particularly Native Americans. The United States Sentencing Commission asked Congress last year to make these statutory changes, which would complement the Commission's strengthening of Federal sentencing guidelines to ensure more stringent penalties for criminals who steal from our public lands. Senator INOUYE joins me as a cosponsor.

This bill will increase the maximum penalties for the Archaeological Resources Protection Act, ARPA, 16 USC §470ee, the Native American Graves Protection and Repatriation Act, NAGPRA, 18 USC §1170, and for 18 USC §1163, which prohibits theft from Indian Tribal Organizations. All three statutes currently impose a 5-year maximum sentence, and each includes a lower maximum for a first offense of the statute and/or a violation of the statute involving property of less than a specified value. This bill would create a 10-year maximum sentence for each statute. In response to comments from the administration last year, the bill retains misdemeanor offenses for relatively minor offenses.

The increased maximum sentences would be consistent with similar Federal statutes. For example, the 1994 law proscribing museum theft carries a 10-year maximum sentence, as do the general statutes punishing theft and the destruction of Government property. Moreover, increasing the maximum sentences will give judges and the Sentencing Commission greater discretion to impose punishments appropriate to the amount of destruction a defendant has done.

Making these changes will also enable the Sentencing Commission's 2002 sentencing guidelines to be fully implemented. The Commission has increased sentencing guidelines for cultural heritage crimes, but the statutory maximum penalties contained in current law will prevent judges from issuing sentences in the upper range of the new guidelines. The 2002 guidelines had the enthusiastic support of the Justice and Interior Departments, the Society for American Archeology, the National Trust for Historic Preservation, numerous Native American nations, and many others. Congress should take the steps necessary to see the guidelines take full effect.

Two of the three laws this bill amends protect Native American lands and property. The third, ARPA, protects both public and Indian lands, and provides significant protection to my State of Vermont. For example, ARPA can be used to prosecute those who would steal artifacts from the wrecked military vessels at the bottom of Lake Champlain that date to the Revolutionary War and the War of 1812. U.S. Attorneys can also use ARPA to prosecute criminals who take items that are at least 100 years old from a protected site on Vermont state property without a permit, and then transport those goods into another state. In addition, ARPA protects artifacts found on the approximately 5 percent of Vermont land that is Federal property, land that includes many "ghost towns" that have long been abandoned but are an important part of our history.

Those who would pillage the rich cultural heritage of this nation and its people are committing serious crimes. These artifacts are the legacy of all Americans and should not be degraded as garage sale commodities or as fodder for private enrichment.

I would like to thank a number of people for their help and advice about this legislation. Charlie Tetzlaff, as well as the rest of the staff at the Sentencing Commission, helped us understand the importance of this issue, and made protecting our cultural heritage a priority when he served as United States Attorney for Vermont. Art Cohn, the director of the Lake Champlain Maritime Museum, and Giovanna Peebles, Vermont's State Archeologist, were very helpful in explaining how our laws protect the cultural heritage of Vermont and the rest of the nation, and I am grateful for their support for this bill.

Passage of this legislation would demonstrate Congress' commitment to preserving our Nation's history and our cultural heritage. I urge my colleagues to support this common-sense initiative.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhanced Protection of Our Cultural Heritage Act of 2003".

SEC. 2. ENHANCED PENALTIES FOR CULTURAL HERITAGE CRIMES.

(a) ENHANCED PENALTY FOR EMBEZZLEMENT AND THEFT FROM INDIAN TRIBAL ORGANIZATIONS.—Section 1163 of title 18, United States Code, is amended by striking "five years" and inserting "10 years".

(b) ENHANCED PENALTY FOR ILLEGAL TRAFFICKING IN NATIVE AMERICAN HUMAN REMAINS AND CULTURAL ITEMS.—Section 1170 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "or imprisoned not more than 12 months, or both, and in the case of second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years" and inserting "imprisoned not more than 10 years"; and

(2) in subsection (b), by striking "imprisoned not more than one year" and all that follows through the end of the subsection and inserting "imprisoned not more than 10 years, or both; but if the sum of the commercial and archaeological value of the cultural items involved and the cost of restoration and repair of such items does not exceed $500, such person shall be fined in accordance with this title, imprisoned not more than 1 year, or both.".

(c) ENHANCED PENALTY FOR ARCHAEOLOGICAL RESOURCES.—Section 6(d) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ee(d)) is amended by striking "not more than $10,000" and all that follows through the end of the subsection and inserting "in accordance with title 18, United States Code, imprisoned not more than 10 years, or both; but if the sum of the commercial and archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources does not exceed $500, such person shall be fined in accordance with title 18, United States Code, imprisoned not more than 1 year, or both.".

By Mr. CORZINE (for himself, Mr. BAYH, Mrs. CLINTON, and Mr. KENNEDY):

S. 1272. A bill to amend the Occupational Safety and Health Act of 1970 to modify the provisions relating to citations and penalties; to the Committee on Health, Education, Labor and Pensions.

Mr. CORZINE. Mr. President, I rise to introduce the "Wrongful Death Accountability Act," legislation that would, among other things, increase the maximum criminal penalty for those who willfully violate workplace safety laws and cause the death of an employee.

Unbelievably, under existing law, that crime is a misdemeanor, and carries a maximum prison sentence of just 6 months. This legislation would increase the penalty for this most egregious workplace crime to 10 years—making it a felony. The bill also would increase the penalty associated with lying to an OSHA inspector from 6 months to 1 year, and would increase the penalty for illegally giving advance warning of an upcoming inspection from 6 months to 2 years.

In recent months, this Congress has focused on a shocking succession of corporate scandals: Enron, Tyco, WorldCom, to name a few. These revelations of corporate abuse raised the ire and indignation of the American people. But corporate abuses can sometimes go further than squandering employee pension funds and costing shareholder value. Sometimes, corporate abuses can cost lives.

My legislation is based on the simple premise that going to work should not carry a death sentence. Annually, more than 6,000 Americans are killed on the job, and some 50,000 more die from work-related illnesses. Many of those deaths—deaths that leave wives without husbands, brothers without sisters, and children without parents—are completely preventable.

Earlier this year, the New York Times published an eye-opening, multipart series that documented the failure of the Federal government to prosecute violators of workplace safety laws. The articles were deeply disturbing to anyone concerned about the health and well being of workers in America, detailing one company's pattern of recklessly disregarding basic safety rules. The authors linked at least nine employee deaths in five states—New York, New Jersey, Ohio, Alabama, and Texas—over a 7-year period with the failure of a single company, McWane Foundry, to follow established workplace safety regulations. Three of those deaths were judged to have been caused by deliberate and willful violations of federal safety rules.

As a result of that article and a subsequent criminal investigation, McWane has begun to clean up its act. But no one should be deluded. McWane is not the only company with a record of putting employees at risk. Others—although still the clear minority—continue to flout workplace safety rules and jeopardize the health and well being of workers.

The administration recognized that there was a problem and recently announced its "enhanced enforcement policy," a small step in the right direction. But more needs to be done, and I have requested the support of Secretary Henshaw, Administrator of OSHA, for my legislation.

While many factors contribute to the unsafe working environment that exists at certain jobsites, one easily remedied factor is an ineffective regime of criminal penalties. The criminal statutes associated with OSHA have been on the books since the 1970s, but—over time—the deterrence value of these important workplace safety laws has eroded substantially. With the maximum jail sentence a paltry 6 months, Federal prosecutors have only a minimal incentive to spend time and resources prosecuting renegade employers. According to a recent analysis, since the Occupational Safety and Health Act was enacted, only 11 employers who caused the death of a worker on the job were incarcerated.

The logic behind this legislation is simple. The bill will increase the incentive for prosecutors to hold renegade employers accountable for endangering the lives of their workers and, thereby, help ensure that OSHA criminal penalties cannot be safely ignored. This will provide the OSHA criminal statute with sufficient teeth to deter the small percentage of bad actors who knowingly and willfully place their employees at risk.

I urge my colleagues to support this important piece of legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wrongful Death Accountability Act."

SEC. 2. OSHA CRIMINAL PENALTIES.

Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended—

(1) in subsection (e)—

(A) by striking "fine of not more than $10,000" and inserting "fine in accordance with section 3571 of title 18, United States Code,";

(B) by striking "six months" and inserting "10 years";

(B) by striking "fine of not more than $20,000" and inserting "fine in accordance with section 3571 of title 18, United States Code,";

(C) by striking "one year" and inserting "20 years"; and

(E) by inserting "under this subsection or subsection (i)" after "first conviction of such person";

(2) in subsection (f), by striking "fine of not more than $1,000 or by imprisonment for not more than six months," and inserting "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 2 years,"; and

(3) in subsection (g), by striking "fine of not more than $10,000, or by imprisonment for not more than six months," and inserting "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 1 year,".

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mr. JEFFORDS, Mr. EDWARDS, Mr. REED, Mrs. CLINTON, Mrs. MURRAY, Mr. BINGAMAN, Mr. DODD, and Mr. HARKIN):

S. 1273. A bill to provide for a study to ensure that students are not adversely affected by changes to the needs analysis tables, and to require the Secretary of Education to consult with the Advisory Committee on Student Financial Assistance regarding such changes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues, Senator DASCHLE, Senator JEFFORDS, Senator EDWARDS, Senator REED, Senator CLINTON, Senator MURRAY, Senator BINGAMAN and Senator DODD, to introduce legislation to amend the Higher Education Act to require a feasibility and impact study on the recent changes in the state and local tax tables that are the basis for determining need-based aid for college students.

The bill will direct GAO to complete a study in consultation with the Advisory Committee on Student Financial Assistance within 90 days, well in advance of the 04–05 academic year when these changes would take effect. The advisory committee is a non-partisan board appointed by the President, which oversees college financial aid. Any future changes in the tables would have to be considered in consultation with the Advisory Committee.

When decisions are made that affect the cost of college, it is important for Congress to understand the factors that influenced that decision and the practical impact of those decisions on students. In light of the slumping economy, State budget crises, and rising college costs, the Department's proposed changes come at a very difficult time for students and their families. Raising the cost of tuition by a few hundred dollars may well mean that qualified students can no longer afford college. It is our responsibility to see that any such changes are made for sound reasons.

I also urge the Department of Education to work with Congress in the future in making these decisions, so that all of us in the House and Senate will have a reasonable opportunity to consider such changes before they are made.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY AND CONSULTATION.

(a) STUDY.—In order to ensure that students are not adversely affected by the proposed changes to the tables used in the Federal Needs Analysis Methodology to determine a student's expected family contribution for the award year 2004-2005 under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.), the Comptroller General, in consultation with the Advisory Committee on Student Financial Assistance, shall conduct a study of such proposed changes that shall include an examination of the impact of such changes on students. A report of the findings of the study shall be transmitted to the Secretary of Education and the appropriate committees of Congress not later than 90 days after the date of enactment of this Act.

(b) CONSULTATION.—Section 478 of the Higher Education Act of 1965 (20 U.S.C. 1087rr) is amended by adding at the end the following:

"(i) CONSULTATION REQUIRED.—Prior to publishing any notice or promulgating any regulation with respect to updated tables under this section, the Secretary shall consult with the Advisory Committee on Student Financial Assistance regarding such updated tables.".

By Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. BAYH, Ms. MIKULSKI, and Mr. ROCKEFELLER):

S. 1274. A bill to reauthorize and reform the national laws; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in introducing legislation to reauthorize the Corporation for National Service. In 1993 the bipartisan National Service Act created a new program to give citizens of all ages the opportunity to serve their communities. Our goal now is to work with the administration to promote and expand service through the State commissions and the extensive system of national organizations that recruit, train and place volunteers and mentors. The legislation we are introducing, the Call to Service Act, will reauthorize the Corporation for National Service and keep these programs on track to achieve this goal.

Over 250,000 Americans have given a year of service in communities across the country, tutoring young people, connecting people to health care, and building stronger communities. Through the AmeriCorps model, we can give more young people the support they need to dedicate a year of their lives to service. These are active citizens, and our country will benefit immensely from the lessons we learn in serving others.

Community service knows no age limits. Thousands of older Americans volunteer to tutor young people or support others in living independently, or serve in local agencies. Senior citizens are a valuable resource in every community, and service gives them an effective way to continue to be involved in the communities they helped to build. The Foster Grandparent, Senior Companion, and RSVP programs, enable seniors to contribute every day to their communities.

The Learn and Serve programs enable young men and women to learn early in their lives that serving others is important, and that service is a basic responsibility of citizenship. Children learn the value of community service, and build habits of service that last a lifetime. Service learning programs for elementary and secondary students provide hands-on experiences to supplement traditional school curriculums. The evidence is irrefutable. Service learning works. When students help others in their communities, they do better academically in school too.

In terms of cost effectiveness, the Federal Learn and Serve America program is an excellent investment. In the 2001–2002 school year more than 800,000 students across the country from grades K through 12 had the opportunity to serve their community, raise their academic achievement, and develop social skills. In Massachusetts, over 86,000 students of all ages currently participate in Learn and Serve programs.

Our bill strengthens our commitment to service by increasing the number of volunteers in AmeriCorps, lowering the age for senior service from 60 to 55 and increasing the authorization for Learn and Serve. In addition, our bill creates a new service opportunity for high school students. After completing 300 hours of service to their community, high school students will earn a $1,000 award to use on college. This increases the critical service to communities, builds the habit of serving in young people and sets them on track to continue their education.

I hope that my colleagues will support this legislation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Call to Service Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO NATIONAL AND COMMUNITY SERVICE ACT OF 1990

Sec. 1001. References.

Subtitle A—General Provisions

Sec. 1101. Purposes of Act.
Sec. 1102. Definitions.

Subtitle B—Service-Learning

Sec. 1201. School-based allotments.
Sec. 1202. Higher education provisions.
Sec. 1203. Community-based programs, training, and other initiatives.
Sec. 1204. Service-learning clearinghouse.

Subtitle C—National Service Trust Program

Sec. 1301. Prohibition on grants to Federal agencies; limits on Corporation costs.
Sec. 1302. E-Corps and technical amendments to types of programs.
Sec. 1303. Types of positions.
Sec. 1304. Training and technical assistance.
Sec. 1305. Assistance to State Commissions; challenge grants.
Sec. 1306. Allocation of assistance to States and other eligible entities.
Sec. 1307. Additional authority.
Sec. 1308. State selection of programs.
Sec. 1309. Consideration of applications.
Sec. 1310. Description of participants.
Sec. 1311. Reference to Federal agency.
Sec. 1312. Terms of service.
Sec. 1313. Adjustments to living allowance.

Subtitle D—National Service Trust and Provision of National Service Educational Awards

Sec. 1401. Availability of funds in the National Service Trust.
Sec. 1402. Individuals eligible to receive a national service educational award from the Trust.
Sec. 1403. Determination of the amount of national service educational awards.
Sec. 1404. Disbursement of national service educational awards.
Sec. 1405. Additional uses of national service trust amounts.

Subtitle E—National Civilian Community Corps

Sec. 1501. Purpose.
Sec. 1502. National Civilian Community Corps.
Sec. 1503. Program components.
Sec. 1504. Eligible participants.
Sec. 1505. Summer national service program.
Sec. 1506. Team leaders.
Sec. 1507. Consultation with State Commissions.
Sec. 1508. Permanent cadre.
Sec. 1509. Contract and grant authority.
Sec. 1510. Other departments.
Sec. 1511. Repeal of authority for advisory board and funding limitation.
Sec. 1512. Definitions.
Sec. 1513. Terminology.

Subtitle F—Administrative Provisions

Sec. 1601. Family and medical leave.
Sec. 1602. Additional prohibitions on use of funds.
Sec. 1603. Notice, hearing, and grievance procedures.
Sec. 1604. Resolution of displacement complaints.
Sec. 1605. State Commissions on National and Community Service.
Sec. 1606. Evaluation and accountability.
Sec. 1607. Technical amendment.
Sec. 1608. Additional administrative provisions.

Subtitle G—Corporation for National and Community Service

Sec. 1701. Terms of office.
Sec. 1702. Board of Directors authorities and duties.
Sec. 1703. Peer reviewers.
Sec. 1704. Officers.
Sec. 1705. Nonvoting members; personal services contracts.
Sec. 1706. Donated services.

Subtitle H—Investment for Quality and Innovation

Sec. 1801. Technical amendments to subtitle H.

Sec. 1802. Clearinghouses.
Sec. 1803. Repeal of special demonstration project.

Subtitle I—Additional Authorities

Sec. 1901. America's Promise: The Alliance for Youth.

Subtitle J—Points of Light Foundation

Sec. 1911. Purposes.
Sec. 1912. Board of Directors.
Sec. 1913. Grants to the Foundation.

Subtitle K—Authorization of Appropriations

Sec. 1921. Authorization.

TITLE II—AMENDMENTS TO THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973

Sec. 2001. References.

Subtitle A—National Volunteer Antipoverty Programs

Sec. 2101. Purpose.
Sec. 2102. Purpose of the VISTA program.
Sec. 2103. Applications.
Sec. 2104. Terms and periods of service.
Sec. 2105. Sections repealed.
Sec. 2106. Redesignation.
Sec. 2107. University Year for VISTA Program.
Sec. 2108. Conforming amendment.

Subtitle B—National Senior Service Corps

Sec. 2201. Change in name.
Sec. 2202. Purpose.
Sec. 2203. Grants and contracts for volunteer service projects.
Sec. 2204. Foster Grandparent Program grants.
Sec. 2205. Senior Companion Program grants.
Sec. 2206. Technical amendments.
Sec. 2207. Programs of national significance.
Sec. 2208. Additional provisions.

Subtitle C—Administration and Coordination

Sec. 2301. Nondisplacement.
Sec. 2302. Definitions.
Sec. 2303. Protection against improper use.
Sec. 2304. Income verification.
Sec. 2305. Sections repealed.
Sec. 2306. Redesignations.

Subtitle D—Authorization of Appropriations

Sec. 2401. Authorization of appropriations for VISTA and other purposes.
Sec. 2402. Authorization of appropriations for National Senior Service Corps.
Sec. 2403. Administration and coordination.
Sec. 2404. Redesignations.

TITLE III—AMENDMENTS TO OTHER LAWS

Sec. 3001. Inspector General Act of 1978.

TITLE IV—TECHNICAL AMENDMENTS TO TABLES OF CONTENTS

Sec. 4001. Table of contents for the National and Community Service Act of 1990.
Sec. 4002. Table of contents for the Domestic Volunteer Service Act of 1973.

TITLE V—EFFECTIVE DATE AND SENSE OF CONGRESS

Sec. 5001. Effective date.
Sec. 5002. Service assignments and agreements.
Sec. 5003. Sense of Congress.
Sec. 5004. Recruitment and application materials in languages other than English.

TITLE I—AMENDMENTS TO NATIONAL AND COMMUNITY SERVICE ACT OF 1990

SEC. 1001. REFERENCES.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a provision, the reference shall be considered to be made to a provision of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

Subtitle A—General Provisions

SEC. 1101. PURPOSES OF ACT.

Section 2(b) (42 U.S.C. 12501(b)) is amended—

(1) in paragraph (7), by striking "citizens; and" and inserting "citizens;";

(2) in paragraph (8), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(9) expand and strengthen service-learning programs to improve the education of children and youth and to maximize the benefits of national and community service;

"(10) support efforts to assist the nonprofit sector in becoming more effective in meeting the unmet human, educational, environmental, and public safety needs of the United States; and

"(11) assist in coordinating and strengthening Federal and other citizen service opportunities, including opportunities for participation in homeland security preparedness and response, including training for limited duration national service.".

SEC. 1102. DEFINITIONS.

Section 101 (42 U.S.C. 12511) is amended—

(1) in paragraph (13), by striking "section 101(a) of the Higher Education Act of 1965" and inserting "sections 101(a) and 102(a)(1) of the Higher Education Act of 1965";

(2) in paragraph (19), by striking "section 198, 198C, or 198D" and inserting "section 198 or 198C"; and

(3) in paragraph (21)(B)—

(A) by striking "section 602(a)(1)" and inserting "section 602(3)"; and

(B) by striking "20 U.S.C. 1401(a)(1)" and inserting "20 U.S.C. 1401(3)".

Subtitle B—Service-Learning

SEC. 1201. SCHOOL-BASED ALLOTMENTS.

Part I of subtitle B of title I (42 U.S.C. 12521 et seq.) is amended to read as follows:

"PART I—PROGRAMS FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS

"Subpart A—Programs for Students

"SEC. 111. ASSISTANCE TO STATES AND INDIAN TRIBES.

"(a) Allotments to States, Territories, and Indian Tribes.—The Corporation, after consultation with the Secretary of Education, may make allotments to State educational agencies (including such educational agencies of States described in section 112(a)) and Indian tribes to pay for the Federal share of—

"(1) planning and building the capacity within the State or tribe to implement service-learning programs that are based principally in elementary schools and secondary schools, including—

"(A) providing high-quality training for teachers, supervisors, personnel from community-based agencies (particularly with regard to the utilization of participants), and trainers, to be conducted by qualified individuals or organizations that have experience with service-learning;

"(B) developing service-learning curricula, consistent with State or local student academic achievement standards, to be integrated into academic programs, including an age-appropriate learning component that provides participants an opportunity to analyze and apply their service experiences;

"(C) forming local partnerships described in paragraph (2) or (4)(E) to develop school-based service-learning programs in accordance with this subpart;

"(D) devising appropriate methods for research and evaluation of the educational value of service-learning and the effect of service-learning activities on communities; and

"(E) establishing effective outreach and dissemination of information to ensure the broadest possible involvement of community-based agencies with demonstrated effectiveness in working with school-age youth in their communities;

"(2) implementing, operating, or expanding school-based service-learning programs, which may include paying for the cost of the recruitment, professional development, training, supervision, placement, salaries, and benefits of service-learning coordinators, through distribution by State educational agencies and Indian tribes of Federal funds made available under this subpart to projects operated by local partnerships among—

"(A) local educational agencies; and

"(B) 1 or more community partners that—

"(i) shall include a public or private nonprofit organization that—

"(I) has a demonstrated expertise in the provision of services to meet unmet human, educational, environmental, or public safety needs; and

"(II) will make projects available for participants, who shall be students;

"(ii) may include an Indian tribe; and

"(iii) may include a private for-profit business or private elementary school or secondary school;

"(3) planning of school-based service-learning programs, through distribution by State educational agencies and Indian tribes of Federal funds made available under this subpart to local educational agencies, which planning may include paying for the cost of—

"(A) the salaries and benefits of service-learning coordinators; or

"(B) the recruitment, professional development, training, supervision, and placement of service-learning coordinators (who may be participants in a program under subtitle C or eligible to receive a national service educational award under subtitle D),

who will identify the community partners described in paragraph (2)(B) and assist in the design and implementation of a program described in paragraph (2); or

"(4) implementing, operating, or expanding school-based service-learning programs to utilize service-learning to improve the education of students, through distribution by State educational agencies and Indian tribes of Federal funds made available under this subpart to—

"(A) local educational agencies;

"(B) public or private nonprofit organizations;

"(C) other educational agencies;

"(D) Indian tribes; or

"(E) partnerships of local educational agencies and entities described in subparagraphs (B), (C), and (D).

"(b) Duties of Service-Learning Coordinator.—A service-learning coordinator referred to in paragraph (2) or (3) of subsection (a) shall provide services to a recipient of financial assistance under this subpart that may include—

"(1) providing technical assistance and information to, and facilitating the training of, teachers who want to use service-learning in their classrooms;

"(2) assisting local partnerships described in subsection (a) in the planning, development, and execution of service-learning projects; and

“(3) carrying out such other duties as the recipient of financial assistance under this subpart may determine to be appropriate.

“(c) RELATED EXPENSES.—A recipient of financial assistance under this subpart may, in carrying out the activities described in subsection (a), use such assistance to pay for the Federal share of reasonable costs related to the supervision of participants, program administration, transportation, insurance, and evaluations, and of other reasonable expenses related to the activities.

“SEC. 112. ALLOTMENTS.

“(a) INDIAN TRIBES AND TERRITORIES.—Of the funds appropriated to carry out this subpart for any fiscal year, the Corporation shall reserve an amount of not more than 3 percent for payments to Indian tribes, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

“(b) ALLOTMENTS TO STATES.—After reserving an amount under subsection (a), the Corporation shall use the remainder of the funds appropriated for any fiscal year to carry out this subpart as follows:

“(1) ALLOTMENTS.—

“(A) SCHOOL-AGE YOUTH.—The Corporation shall allot to each State an amount that bears the same ratio to 50 percent of such remainder as the number of school-age youth in the State bears to the total number of school-age youth of all States.

“(B) ALLOCATION UNDER ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Corporation shall allot to each State an amount that bears the same ratio to 50 percent of such remainder as the allocation to the State for the previous fiscal year under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) bears to the total of such allocations to all States.

“(2) DEFINITION.—Notwithstanding section 101(26), in this subsection, the term ‘State’ means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“(c) REALLOTMENT.—If the Corporation determines that the allotment of a State or Indian tribe under this section will not be required for a fiscal year because the State or Indian tribe did not submit an application for the allotment under section 113 that meets the requirements of such section and such other requirements as the Chief Executive Officer may determine to be appropriate, the Corporation shall make such allotment available for reallotment in accordance with subsections (a) and (b) to such other States and Indian tribes, with approved applications submitted under section 113, as the Corporation may determine to be appropriate.

“SEC. 113. APPLICATIONS.

“To be eligible to receive an allotment under this subpart, a State or Indian tribe shall submit an application to the Corporation at such time, in such manner, and containing such information as the Chief Executive Officer may reasonably require, including—

“(1) a proposal for a 3-year plan promoting service-learning through the programs described in section 111, which shall contain such information as the Chief Executive Officer may reasonably require, including how the applicant will integrate service opportunities into the academic program of the participants;

“(2) information, in applicable cases, about the applicant’s efforts to—

“(A) include in the programs opportunities for students, enrolled in schools or other programs providing elementary or secondary education under State law, to participate in service-learning programs and ensure that such service-learning programs include opportunities for such students to serve together;

“(B) involve participants in the design and operation of the programs;

“(C) promote service-learning in areas of greatest need, including low-income areas; and

“(D) ensure that students of different ages, races, sexes, ethnic groups, disabilities, and economic backgrounds have opportunities to serve together; and

“(3) assurances that the applicant will comply with the nonduplication and nondisplacement requirements of section 177 and the grievance procedure requirements of section 176(f).

“SEC. 114. CONSIDERATION OF APPLICATIONS.

“In considering applications under this subpart, the Corporation shall use criteria that include those approved by the Chief Executive Officer, after consideration of criteria recommended by the Board of Directors.

“SEC. 115. FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.

“(a) FEDERAL SHARE.—

“(1) IN GENERAL.—The Federal share of the cost of carrying out a program for which an allotment is made under this subpart may not exceed 50 percent of the total cost of carrying out the program.

“(2) NON-FEDERAL CONTRIBUTION.—In providing for the remaining share of the cost of carrying out such a program, each recipient of an allotment under this subpart—

“(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

“(B) may provide for such share through State sources or local sources.

“(b) WAIVER.—The Chief Executive Officer may waive the requirements of subsection (a) in whole or in part with respect to any such program for any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

“SEC. 116. LIMITATIONS ON USES OF FUNDS.

“(a) LIMITATION.—Not more than 5 percent of the amount of assistance provided to a State or Indian tribe that is the original recipient of an allotment under subsection (a), (b), or (c) of section 112 for a fiscal year may be used to pay for administrative costs incurred by—

“(1) the original recipient; or

“(2) the entity carrying out the service-learning programs supported with the assistance.

“(b) RULES ON USE.—The Chief Executive Officer may by rule prescribe the manner and extent to which—

“(1) such assistance may be used to cover administrative costs; and

“(2) that portion of the assistance available to cover administrative costs shall be distributed between—

“(A) the original recipient; and

“(B) the entity carrying out the service-learning programs supported with the assistance.

“Subpart B—Community Corps Demonstration Program

“SEC. 118. DEMONSTRATION PROGRAM.

“(a) IN GENERAL.—The Corporation, after consultation with the Secretary of Education, shall establish and carry out a Community Corps Demonstration Program.

“(b) GRANT PROGRAM AUTHORIZED.—In carrying out the program, the Corporation shall make grants on a competitive basis to eligible entities, for planning, implementing, operating, or expanding school-based service-learning programs, operated in partnership with nonprofit organizations or educational agencies, that—

“(1) require all students, as a condition of secondary school graduation, to complete a substantial service experience; and

“(2) provide high-quality opportunities to meet such requirement through—

“(A) 1 or more mandatory service-learning courses in an academic curriculum;

“(B) service-learning programs that—

“(i) require students to perform service after school, on weekends, or during summer vacations; and

“(ii) utilize appropriately trained adults to identify service opportunities for students within the community involved, to disseminate information about such opportunities, and to ensure that students have substantial structured opportunities for reflection on their service experiences;

“(C) service-learning programs that enroll students in teams or corps after school, on weekends, or during summer vacations; or

“(D) other types of service-learning programs approved by the Corporation.

“(c) APPLICATIONS.—To be eligible to receive a grant under this section, an entity shall prepare, submit to the Corporation, and obtain approval of, an application at such time and in such manner as the Corporation may reasonably require. Such application shall include a 5-year strategic plan for developing high-quality opportunities of the type specified in subsection (b).

“(d) ELIGIBLE ENTITY.—To be eligible to receive a grant under this section, an entity shall be—

“(1) a State, acting through the State educational agency;

“(2) an Indian tribe;

“(3) a local educational agency; or

“(4) a nonprofit organization meeting such requirements as the Corporation may specify, acting in partnership with 1 or more States, Indian tribes, or local educational agencies.

“(e) PRIORITIES.—In awarding grants under this section, the Secretary shall give priority to applicants with programs that—

“(1) meet unmet human, educational, environmental, or public safety needs;

“(2) foster an ethic of civic responsibility, personal character development, and leadership skills;

“(3) serve jurisdictions or portions of jurisdictions having a high percentage of low-income families; or

“(4) meet such other criteria as the Corporation may by regulation specify.

“(f) REPORT.—Not later than 2 years after the date of enactment of the Call to Service Act, the Corporation shall submit a report to Congress regarding the degree to which programs carried out under this section have succeeded in meeting the goals specified in paragraphs (1) and (2) of subsection (e).

“(g) FUNDING.—From funds appropriated to carry out this part for fiscal years 2003 through 2007, the Corporation shall reserve not less than $12,000,000 for each fiscal year to carry out this section.”.

SEC. 1202. HIGHER EDUCATION PROVISIONS.

Section 119 (42 U.S.C. 12561) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.—

“(1) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of the cost described in subsection (b) may not exceed 50 percent.

"(B) NON-FEDERAL CONTRIBUTION.—In providing for the remaining share of the cost, each recipient of a grant or contract under this part—

"(i) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(ii) may provide for such share through State sources or local sources.

"(2) WAIVER.—The Chief Executive Officer may waive the requirements of paragraph (1) in whole or in part with respect to any such program for any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level."; and

(2) by striking subsections (e) through (g) and inserting the following:

"(e) FEDERAL WORK-STUDY.—To be eligible for assistance under this part, an institution of higher education shall demonstrate that the institution meets the minimum requirements under section 443(b)(2)(B) of the Higher Education Act of 1965 (42 U.S.C. 2753(b)(2)(B)) relating to the participation in community service activities of students participating in work-study programs, or has received a waiver of those requirements from the Secretary of Education.

"(f) PRIORITY.—In making grants and entering into contracts under subsection (b), the Corporation—

"(1) shall give priority to an applicant that submits an application containing a proposal that—

"(A) demonstrates the commitment of the institution of higher education involved, other than by demonstrating the commitment of the students, to supporting the community service projects carried out through the program;

"(B) specifies the manner in which the institution will promote faculty, administration, and staff participation in the community service projects;

"(C) specifies the manner in which the institution will provide service to the community through organized programs, including, where appropriate, clinical programs for students in professional schools;

"(D) describes any partnership that will participate in the community service projects, such as a partnership comprised of—

"(i) the institution;

"(ii)(I) a community-based agency;

"(II) a local government agency; or

"(III) a nonprofit entity that serves or involves school-age youth or older adults; and

"(iii) a student organization;

"(E) demonstrates community involvement in the development of the proposal;

"(F) describes research designed to identify best practices and other methods to improve service-learning;

"(G) specifies that the institution will use the assistance made available through such a grant or contract to strengthen the service infrastructure in institutions of higher education; or

"(H) with respect to a project involving delivery of services, specifies a project that involves leadership development of school-age youth;

"(2) shall give priority to an institution or partnership that can demonstrate a commitment to community service through measures such as—

"(A) carrying out ongoing community service projects involving students or faculty;

"(B) exceeding the requirements of section 443(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 2753(b)(2)(B)) relating to the percentage of certain work-study funds used for community service; or

"(C) carrying out integrated service-learning programs or training teachers and community leaders in service-learning; and

"(3) shall, to the extent practicable, give special consideration to applicants who are historically Black colleges or universities, Hispanic-serving institutions, and tribally controlled colleges or universities.

"(g) DEFINITIONS.—In this part:

"(1) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

"(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically Black college or university' means a part B institution, as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

"(3) STUDENT.—Notwithstanding section 101, the term 'student' means an individual who is enrolled in an institution of higher education on a full- or part-time basis.

"(4) TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY.—The term 'tribally controlled college or university' has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).".

SEC. 1203. COMMUNITY-BASED PROGRAMS, TRAINING, AND OTHER INITIATIVES.

Subtitle B of title I (42 U.S.C. 12521 et seq.) is amended by adding at the end the following:

"PART III—COMMUNITY-BASED PROGRAMS, TRAINING, AND OTHER INITIATIVES

"SEC. 120. COMMUNITY-BASED PROGRAMS, TRAINING, AND OTHER INITIATIVES.

"(a) IN GENERAL.—From the funds appropriated to carry out this part for a fiscal year, the Corporation may make grants to, or enter into contracts or cooperative agreements with, eligible entities.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive assistance under this part, an entity shall be—

"(1) a public or private nonprofit organization, a State educational agency, a State Commission, or an institution of higher education; or

"(2) a consortium of entities described in paragraph (1).

"(c) AUTHORIZED ACTIVITIES.—An entity that receives assistance under this part may use the assistance to—

"(1) conduct community-based programs that provide for meaningful human, educational, environmental, or public safety service by school-age youth;

"(2) provide training or technical assistance to support service-learning;

"(3) involve students in emergency preparedness and homeland security activities;

"(4) promote the recognition of students who perform outstanding community service and schools that have implemented outstanding service-learning programs; and

"(5) carry out demonstration programs, research, and evaluation related to service-learning.

"(d) LIMITATION ON FEDERAL SHARE OF COMMUNITY-BASED ACTIVITY COSTS.—

"(1) FEDERAL SHARE.—

"(A) IN GENERAL.—Except as provided in paragraph (3), the Federal share of the cost of carrying out an activity for which a grant is made, or a contract or cooperative agreement is entered into, under this part may not exceed 50 percent of the total cost of carrying out the program.

"(B) NON-FEDERAL CONTRIBUTION.—In providing for the remaining share of the cost of carrying out such an activity, each recipient of assistance under this part—

"(i) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(ii) may provide for such share through State sources or local sources.

"(2) WAIVER.—The Chief Executive Officer may waive the requirements of paragraph (1) in whole or in part with respect to any such program for any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

"(3) EXEMPTION.—The requirements of paragraph (1) shall not apply to an entity that receives a grant or enters into a contract or cooperative agreement to provide training or technical assistance, promote recognition, or carry out demonstration programs, research, or evaluation under this part.".

SEC. 1204. SERVICE-LEARNING CLEARINGHOUSE.

Subtitle B of title I (42 U.S.C. 12521 et seq.), as amended by section 1203, is further amended by adding at the end the following:

"PART IV—CLEARINGHOUSE

"SEC. 120A. SERVICE-LEARNING CLEARINGHOUSE.

"(a) IN GENERAL.—The Corporation shall provide financial assistance, from funds appropriated under section 501(a)(2) to carry out subtitle H, to organizations described in subsection (b) to establish a clearinghouse, which shall carry out activities, either directly or by arrangement with another such organization, with respect to information about service-learning.

"(b) PUBLIC OR PRIVATE NONPROFIT ORGANIZATIONS.—Public or private nonprofit organizations that have extensive experience with service-learning, including use of adult volunteers to foster service-learning, shall be eligible to receive assistance under subsection (a).

"(c) FUNCTION OF CLEARINGHOUSE.—An organization that receives assistance under subsection (a) may—

"(1) assist entities carrying out State or local service-learning programs with needs assessments and planning;

"(2) conduct research and evaluations concerning service-learning;

"(3)(A) provide leadership development and training to State and local service-learning program administrators, supervisors, service sponsors, and participants; and

"(B) provide training to persons who can provide the leadership development and training described in subparagraph (A);

"(4) facilitate communication among entities carrying out service-learning programs and participants in such programs;

"(5) provide information, curriculum materials, and technical assistance relating to planning and operation of service-learning programs, to States and local entities eligible to receive financial assistance under this title;

"(6) provide information regarding methods to make service-learning programs accessible to individuals with disabilities;

"(7)(A) gather and disseminate information on successful service-learning programs, components of such successful programs, innovative youth skills curricula related to service-learning, and service-learning projects; and

"(B) coordinate the activities of the clearinghouse established in accordance with subsection (a) with appropriate entities to avoid duplication of effort;

"(8) make recommendations to State and local entities on quality controls to improve the quality of service-learning programs;

"(9) assist organizations in recruiting, screening, and placing service-learning coordinators; and

"(10) carry out such other activities as the Chief Executive Officer determines to be appropriate.".

Subtitle C—National Service Trust Program

SEC. 1301. PROHIBITION ON GRANTS TO FEDERAL AGENCIES; LIMITS ON CORPORATION COSTS.

Section 121 (42 U.S.C. 12571) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by inserting "RESTRICTIONS ON" before "AGREEMENTS WITH FEDERAL AGENCIES";

(B) in paragraph (1)—

(i) in the first sentence, by striking "by the agency." and inserting "by the agency, including programs of the Public Lands Corps and Urban Youth Corps as described in section 122(a)(2)."; and

(ii) by striking the second sentence;

(C) by striking paragraph (2) and inserting the following:

"(2) PROHIBITION ON GRANTS.—The Corporation may not provide a grant under this section to a Federal agency."; and

(D) in paragraph (3)—

(i) by striking "receiving assistance under this subsection" and inserting "operating a national service program under such a contract or agreement"; and

(ii) by striking "using such assistance" and inserting "under the contract or agreement";

(2) in subsection (c), in the matter preceding paragraph (1), by striking "assistance under subsections (a) and (b)" and inserting "assistance under subsection (a)"; and

(3) in subsection (d)—

(A) in paragraph (1), by striking "or (b)"; and

(B) in paragraph (2)(A), by striking "or (b)".

SEC. 1302. E-CORPS AND TECHNICAL AMENDMENTS TO TYPES OF PROGRAMS.

Section 122 (42 U.S.C. 12572) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "and each Federal agency receiving assistance under section 121(b)";

(B) in paragraph (9), by striking "between the ages of 16 and 24 years of age" and inserting "age 16 through 25";

(C) by redesignating paragraph (15) as paragraph (19); and

(D) by inserting after paragraph (14) the following:

"(15) An E-Corps program that involves participants who provide service in a community by developing and assisting in carrying out technology programs.

"(16) A program that engages citizens in public safety, public health, homeland security, and disaster relief and preparedness activities.

"(17) A program (including an initiative or a partnership program) that seeks to expand the number of young people with mentors, either through provision of direct mentoring services or through activities that build the capacity of mentoring organizations to serve more young people.

"(18) A community service program that—

"(A) enables secondary school students to carry out service activities in their communities during the summer or throughout the year;

"(B) may be a residential program;

"(C) is administered by a political subdivision of a State, a secondary school, an institution of higher education, a community-based agency, or a faith-based organization; and

"(D) is carried out in a low-income rural or urban area.";

(2) in subsection (c)(1)—

(A) in subparagraph (A)—

(i) by striking "after reviewing the strategic plan approved under section 192A(g)(1)" and inserting "after reviewing the strategic plan approved under section 192A(g)(2)"; and

(ii) by striking "subsection (b) or (d) of"; and

(B) in subparagraph (B), by striking "section 129(a)(1)" and inserting "section 129(f)"; and

(3) by adding at the end the following:

"(d) HIGH SCHOOL DEGREE REQUIRED FOR TUTORS.—The Corporation shall require that recipients of assistance under this subtitle or subtitle A of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) to operate tutoring programs involving elementary school or secondary school students shall certify that each individual serving in an approved national service position as a tutor in such a program has obtained a high school diploma or its recognized equivalent, or is enrolled in a program leading to obtaining a high school diploma.

"(e) LITERACY PROGRAMS.—

"(1) PROGRAMS.—Literacy programs that receive assistance under this subtitle or subtitle A of title I of the Domestic Volunteer Service Act of 1973 shall be based on scientifically based reading research and provide instruction based on the essential components of reading instruction as defined in section 1208 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6368).

"(2) TRAINING REQUIRED FOR READING TUTORS.—The Corporation shall require that recipients of assistance under this subtitle or subtitle A of title I of the Domestic Volunteer Service Act of 1973 to operate tutoring in reading programs shall provide training to participants serving in approved national service positions as tutors in such programs that incorporates the recommendations of the National Reading Panel.

"(f) CITIZENSHIP TRAINING.—The Corporation shall establish requirements, after consultation with State Commissions, for recipients of assistance under this subtitle or subtitle A of title I of the Domestic Volunteer Service Act of 1973 that—

"(1) relate to the promotion of citizenship and civic engagement among individuals serving in approved national service positions; and

"(2) are consistent with the principles on which citizenship programs administered by the Immigration and Naturalization Service are based.

"(g) OATH.—Any oath given under this subtitle shall be consistent with the principles of the Federal oath of office as provided in section 3331 of title 5, United States Code.

"(h) CONSULTATION.—The Corporation shall consult with the Secretary of Homeland Security to determine ways of promoting homeland security, including providing disaster relief and preparedness activities, and promoting public health and public safety, through national service programs carried out under this subtitle.".

SEC. 1303. TYPES OF POSITIONS.

Section 123 (42 U.S.C. 12573) is amended—

(1) in paragraph (1), by striking "subsection (a) or (b) of section 121" and inserting "section 121(a)";

(2) in paragraph (2)(A), by striking "an institution of higher education, or a Federal agency" and inserting "or an institution of higher education"; and

(3) in paragraph (5), by inserting "National" before "Civilian Community Corps".

SEC. 1304. TRAINING AND TECHNICAL ASSISTANCE.

Section 125 (42 U.S.C. 12575) is amended by adding at the end the following:

"(c) UNDERSERVED AREAS AND POPULATIONS.—In complying with the requirements of this section, the Corporation shall ensure that the training and technical assistance needs of programs that focus on and provide service opportunities for underserved rural and urban areas and populations are addressed.".

SEC. 1305. ASSISTANCE TO STATE COMMISSIONS; CHALLENGE GRANTS.

Section 126 (42 U.S.C. 12576) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "between $125,000 and $750,000" and inserting "not less than $200,000 and not more than $1,000,000"; and

(B) by striking paragraph (2) and inserting the following:

"(2) MATCHING REQUIREMENT.—In making a grant to a State under this subsection, the Corporation shall require the State to provide matching funds in the following amounts:

"(A) FIRST $100,000.—For the first $100,000 of the grant amount provided by the Corporation, the State shall not be required to provide matching funds.

"(B) AMOUNTS GREATER THAN $100,000.—If the grant amount provided by the Corporation is more than $100,000, for the portion of the grant amount that is more than $100,000 and not more than $200,000, the State shall provide $1 from non-Federal sources for every $2 provided by the Corporation through the grant.

"(C) AMOUNTS GREATER THAN $200,000.—If the grant amount provided by the Corporation is more than $200,000, for the portion of the grant amount that is more than $200,000, the State shall provide $1 from non-Federal sources for every $1 provided by the Corporation through the grant.

"(D) WAIVER OR ALTERATION OF REQUIREMENTS.—The Corporation may waive or alter the matching fund requirements described in subparagraphs (B) and (C) for a State if the State is under serious budget constraints."; and

(2) in subsection (c)—

(A) in paragraph (1), by striking "to national service programs that receive assistance under section 121" and inserting "to recipients of assistance for programs supported under section 121 that expand service and volunteering by increasing and strengthening the capacity of community-based agencies (including increasing and strengthening that capacity through the use of regional organizations that facilitate the involvement of small community groups) or by promoting high-quality teaching programs serving low-income students"; and

(B) by striking paragraph (3) and inserting the following:

"(3) AMOUNT OF ASSISTANCE.—

"(A) MATCHING FUNDS.—For a challenge grant made under this subsection, a recipient described in paragraph (1) shall provide (in addition to any amounts required to be provided by the recipient to satisfy other matching funds requirements under this subtitle)—

"(i) for an initial 3-year grant period, not less than $1 in cash from private sources for every $1 of Federal funds provided under the grant; and

"(ii) for a subsequent grant period, not less than $2 in cash from private sources for every $1 of Federal funds provided under the grant.

"(B) APPLICATION.—The Corporation may permit the use of local or State funds as matching funds under subparagraph (A) if the Corporation determines that such use would be equitable due to a lack of available funds from private sources at the local level.

"(C) LIMIT ON AMOUNT.—The Corporation shall establish a ceiling on the amount of assistance that may be provided to a recipient for a challenge grant made under this subsection.".

SEC. 1306. ALLOCATION OF ASSISTANCE TO STATES AND OTHER ELIGIBLE ENTITIES.

Section 129 (42 U.S.C. 12581) is amended to read as follows:

"SEC. 129. PROVISION OF ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

"(a) AMERICORPS POSITIONS.—The Corporation, after consultation with members of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate shall increase, by 25,000 each year, the number of approved national service positions, with priority given to increasing the number of such positions for individuals performing full-time national service. Of the approved national service positions provided for a fiscal year, not more than 30 percent may be positions for which the participants are eligible to receive national service educational awards and no other benefits for service in the positions.

"(b) ONE PERCENT FOR ALLOTMENTS FOR CERTAIN TERRITORIES.—

"(1) IN GENERAL.—Of the funds allocated by the Corporation for provision of assistance under section 121(a) for a fiscal year, the Corporation shall reserve 1 percent for grants to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. The Corporation may make such a grant from an allotment made under paragraph (2).

"(2) ALLOTMENTS.—The Corporation shall allot to each territory described in paragraph (1) for a fiscal year an amount that bears the same ratio to 1 percent of the allocated funds for that fiscal year as the population of the territory bears to the total population of such territories.

"(c) NOT LESS THAN ONE PERCENT FOR COMPETITIVE GRANTS FOR INDIAN TRIBES.—Of the funds allocated by the Corporation for provision of assistance under section 121(a) for a fiscal year, the Corporation shall reserve not less than 1 percent for grants to Indian tribes, awarded by the Corporation on a competitive basis in accordance with their respective needs.

"(d) NOT LESS THAN 20 PERCENT FOR NATIONAL GRANTS.—Of the funds allocated by the Corporation for provision of assistance under section 121(a) for a fiscal year, the Corporation shall reserve not less than 20 percent for grants to nonprofit organizations to operate a program in 2 or more States.

"(e) NOT MORE THAN 33 PERCENT FOR STATE COMPETITIVE GRANTS.—Of the funds allocated by the Corporation for provision of assistance under section 121(a) for a fiscal year, the Corporation shall reserve not more than 33 percent for grants to States, awarded by the Corporation on a competitive basis for innovative activities.

"(f) 45 PERCENT FOR ALLOTMENTS FOR CERTAIN STATES.—

"(1) GRANTS.—Using the funds allocated by the Corporation for provision of assistance under section 121(a) for a fiscal year, the Corporation shall make a grant, from an allotment made under paragraph (2), to each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(2) ALLOTMENTS.—The Corporation shall allot to each such State for a fiscal year an amount that bears the same ratio to 45 percent of the allocated funds for that fiscal year as the population of the State bears to the total population of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, subject to paragraph (3).

"(3) MINIMUM AMOUNT.—Notwithstanding paragraph (2), the minimum grant made available to each eligible State under paragraph (1) for each fiscal year shall be not less than $500,000.

"(g) ADJUSTMENTS.—

"(1) RESERVATION OF FUNDS.—Notwithstanding subsections (e) and (f), the Corporation shall ensure that the Corporation reserves an aggregate amount of funds for allotments to States under subsection (f) for a fiscal year that is not less than the total amount of funds provided to all States described in subsection (f) for allotments under this subtitle for fiscal year 2002.

"(2) FORMULA GRANTS.—In order to meet the requirements of paragraph (1) during a fiscal year for which the aggregate amount of funds for allotments to States under subsection (f) is less than the total amount of funds provided to all States described in subsection (f) for allotments under this subtitle for fiscal year 2002, the Corporation shall reduce the amount available for State competitive grants under subsection (e).

"(h) EFFECT OF FAILURE TO APPLY.—If a State (including a territory described in subsection (b)) fails to apply for, or fails to give notice to the Corporation of its intent to apply for an allotment under subsection (b) or (f), the Corporation may use the amount that would have been allotted under subsection (b) or (f) to the State to—

"(1) make grants (including providing approved national service positions in connection with such grants) under section 121 to other eligible entities that propose to carry out national service programs in the State; and

"(2) make grants under section 121(a) from allotments made in accordance with subsections (b) and (f)(2) to other States with approved applications submitted under section 130.

"(i) APPLICATION REQUIRED.—The Corporation may provide assistance and approved national service positions to a recipient under section 121 only pursuant to an application submitted by a State or other applicant under section 130.

"(j) APPROVAL OF POSITIONS SUBJECT TO AVAILABLE FUNDS.—The Corporation may not approve positions as approved national service positions under this subtitle for a fiscal year in excess of the number of such positions for which the Corporation has sufficient available funds in the National Service Trust for that fiscal year, taking into consideration funding needs for national service educational awards under subtitle D based on completed service. If appropriations are insufficient to provide the maximum allowable number of national service educational awards under subtitle D for all eligible participants, the Corporation is authorized to make necessary and reasonable adjustments to program rules.

"(k) SPONSORSHIP OF APPROVED NATIONAL SERVICE POSITIONS.—

"(1) SPONSORSHIP AUTHORIZED.—The Corporation may enter into an agreement with a person or entity who offers to sponsor national service positions and be responsible for supplying the funds necessary to provide national service educational awards for the positions. The distribution of those approved national service positions shall be made pursuant to the agreement, and the creation of those positions shall not be taken into consideration in determining the number of approved national service positions to be available for distribution under section 121.

"(2) DEPOSIT OF CONTRIBUTION.—Funds provided pursuant to an agreement under paragraph (1) shall be deposited in the National Service Trust established in section 145 until such time as the funds are needed.

"(l) RESERVATION OF FUNDS FOR SPECIAL ASSISTANCE.—From amounts appropriated for a fiscal year pursuant to section 501(a)(2) and subject to the limitations in such section, the Corporation may reserve such amount as the Corporation considers to be appropriate for the purpose of making assistance available under sections 125 and 126.

"(m) RESERVATION OF FUNDS TO INCREASE THE PARTICIPATION OF INDIVIDUALS WITH DISABILITIES.—From amounts appropriated for a fiscal year pursuant to section 501(a)(2) and subject to the limitations in section 501(a)(2)(B), the Corporation shall reserve a portion that is not less than 1 percent of such amounts (except that the portion reserved may not exceed $10,000,000), for the purpose of making grants under section 121(a) to public or private nonprofit organizations to increase the participation of individuals with disabilities in national service and for demonstration activities in furtherance of this purpose.".

SEC. 1307. ADDITIONAL AUTHORITY.

Part II of subtitle C of title I (42 U.S.C. 12581 et seq.) is amended by inserting after section 129 the following:

"SEC. 129A. EDUCATION AWARDS PROGRAM.

"(a) IN GENERAL.—From amounts appropriated for a fiscal year pursuant to section 501(a)(2) and consistent with the restriction in subsection (b), the Corporation may provide operational assistance to programs that receive approved national service positions but do not otherwise receive funds under section 121(a).

"(b) LIMIT ON CORPORATION GRANT FUNDS.—Operational assistance provided under this section may not exceed $400 per individual enrolled in an approved national service position.

"(c) INAPPLICABLE PROVISIONS.—The following provisions shall not apply to programs that receive operational assistance under this section:

"(1) The limitation on administrative costs under section 121(d).

"(2) The matching funds requirements under sections 121(e) and 140.

"(3) The living allowance and other benefits under sections 131(e) and section 140 (other than individualized support services for disabled members under section 140(f)).".

SEC. 1308. STATE SELECTION OF PROGRAMS.

Section 130 (42 U.S.C. 12582) is amended—

(1) in subsection (a), by striking "the national service programs to be carried out using the assistance" and all that follows through "or Federal agency" and inserting "national service programs under this subtitle, an applicant";

(2) in subsection (b)(11), by striking "receive" and inserting "be eligible to receive";

(3) in subsection (c)(1), by striking "jobs or";

(4) in subparagraphs (A) and (B) of subsection (d)(1), by striking "subsection (a) or (b) of section 121" and inserting "section 121(a) (other than operational assistance described in section 129A)";

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2);

(6) in subsection (f)—

(A) in paragraph (1), by striking "a program applicant" and inserting "an applicant";

(B) in paragraph (2)—

(i) in the paragraph heading, by striking "PROGRAM APPLICANT" and inserting "APPLICANT"; and

(ii) in the matter preceding subparagraph (A), by striking "program applicant" and inserting "applicant"; and

(C) by striking "institution of higher education, or Federal agency" and inserting "or institution of higher education" each place it appears; and

(7) in subsection (g), by striking the period and inserting "or is already receiving financial assistance from the Corporation.".

SEC. 1309. CONSIDERATION OF APPLICATIONS.

Section 133 (42 U.S.C. 12585) is amended—

(1) in subsection (b)(2)(B), by striking "jobs or";

(2) in subsection (c)—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following:

"(8) If applicable, as determined by the Corporation, the extent to which the program generates the involvement of volunteers.";

(3) in subsection (d)—

(A) in paragraph (1), by striking "to be conducted in those urban and rural areas in a State with the highest rates of poverty" and inserting "in urban and rural areas with the highest rates of poverty";

(B) in paragraph (2)—

(i) in the first sentence, by striking "section 129(d)(2)" and inserting "section 129(d)";

(ii) by striking subparagraphs (A) and (G);

(iii) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively;

(iv) in subparagraph (D) (as redesignated by clause (iii)), by adding "and" at the end; and

(v) in subparagraph (E) (as redesignated by clause (iii)), by striking "; and" and inserting a period; and

(C) in paragraph (3), by striking "section 129(d)(2)" and inserting "section 129(d)";

(D) by striking paragraph (4);

(4) in subsection (e), in the matter preceding paragraph (1), by striking "subsections (a) and (d)(1) of section 129" and inserting "subsections (b), (c), (e), and (f) of section 129"; and

(5) in subsection (f)—

(A) in paragraph (1), by striking "section 129(a)(1)" and inserting "section 129(f)"; and

(B) in paragraph (3), by striking "section 129(a)" and inserting "section 129(f)".

SEC. 1310. DESCRIPTION OF PARTICIPANTS.

Section 137 (42 U.S.C. 12591) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3);

(B) in paragraph (4), by inserting "or will serve in an approved national service position with a program described in section 122(a)(18)" before the semicolon; and

(C) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively;

(2) in subsection (b)—

(A) in paragraph (1), by striking "paragraph (4)" and inserting "paragraph (3)"; and

(B) in paragraph (2), by striking "between the ages of 16 and 25" and inserting "a 16-year-old out-of-school youth or an individual between the ages of 17 and 25"; and

(3) by striking subsection (c) and inserting the following:

"(c) SELF-CERTIFICATION AND WAIVER.—The Corporation may—

"(1) consider an individual to have satisfied the requirement of subsection (a)(4) if the individual informs the Corporation that such requirement has been satisfied; or

"(2) waive the requirement of subsection (a)(4) with respect to an individual if the program in which the individual seeks to become a participant conducts an independent evaluation demonstrating that the individual is incapable of obtaining a high school diploma or its recognized equivalent.".

SEC. 1311. REFERENCE TO FEDERAL AGENCY.

Section 138(a) (42 U.S.C. 12592(a)) is amended by striking "Federal agency,".

SEC. 1312. TERMS OF SERVICE.

Section 139 (42 U.S.C. 12593) is amended—

(1) in subsection (a), by striking "full- or part-time";

(2) in subsection (b)—

(A) in paragraph (1), by striking "not less than 9 months and";

(B) in paragraph (2), by striking "during a period of—" and all that follows and inserting "during a period of not more than 2 years."; and

(C) by adding at the end the following:

"(4) SECONDARY SCHOOL COMMUNITY SERVICE.—Notwithstanding paragraphs (1) through (3), an individual performing service in an approved national service position in a program described in section 122(a)(18) shall agree to participate in the program for not less than 300 hours during a period of not more than 1 year.";

(3) in subsection (c)—

(A) in paragraph (1)(A), by striking "as demonstrated by the participant" and inserting "as determined by the recipient or program, if the participant has otherwise performed satisfactorily and has completed at least 15 percent of the original term of service";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "provide to the participant that portion of the national service educational award" and inserting "certify the participant's eligibility for that portion of the national service educational award"; and

(ii) in subparagraph (B)—

(I) by striking "to allow return to the program with which the individual was serving in order to"; and

(II) by striking "obtain" and inserting "become eligible for"; and

(C) in paragraph (3), by striking "not receive" and inserting "not be eligible to receive".

SEC. 1313. ADJUSTMENTS TO LIVING ALLOWANCE.

Section 140 (42 U.S.C. 12594) is amended—

(1) in subsection (a), by adding at the end the following:

"(7) OTHER FEDERAL FUNDS.—

"(A) RECIPIENT REPORT.—A recipient of assistance under section 121 that is subject to the limitation on the Federal share of the annual living allowance in paragraph (2) shall report to the Corporation the amount and source of any Federal funds other than those provided by the Corporation used to pay the annual living allowance under paragraph (1).

"(B) CORPORATION REPORT.—The Corporation shall report to Congress on an annual basis information regarding each recipient that uses Federal funds other than those provided by the Corporation to pay the annual living allowance under paragraph (1), including the amounts and sources of the other Federal funds."; and

(2) by striking subsection (h) and inserting the following:

"(h) STIPENDS FOR SECONDARY SCHOOL COMMUNITY SERVICE PROGRAM.—A recipient of assistance under section 121 to carry out a program described in section 122(a)(18) may provide a stipend, transportation services, and educational support services to each participant in the program, in lieu of benefits described in subsections (a), (d), and (e).".

Subtitle D—National Service Trust and Provision of National Service Educational Awards

SEC. 1401. AVAILABILITY OF FUNDS IN THE NATIONAL SERVICE TRUST.

Section 145 (42 U.S.C. 12601) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "and";

(ii) in subparagraph (B), by adding "and" at the end; and

(iii) by adding at the end the following:

"(C) service-based scholarships for secondary school students, as described in section 149A;"; and

(B) in paragraph (2), by striking "pursuant to section 196(a)(2)" and inserting "pursuant to section 196(a)(2), if the terms of such donations direct that the amounts be deposited in the National Service Trust";

(2) in subsection (c), by striking "for payments of national service educational awards in accordance with section 148." and inserting "to pay for—

"(1) national service educational awards in accordance with section 148;

"(2) interest in accordance with section 148(e); and

"(3) the Federal share of service-based scholarships to secondary school students in accordance with section 149A."; and

(3) in subsection (d)—

(A) in paragraph (3)(B), by striking "and";

(B) in paragraph (4)—

(i) by striking "awards to" and inserting "awards for"; and

(ii) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(5) identify the number of students who have received service-based scholarships to secondary school students in accordance with section 149A, and specify the amount of Federal and matching funds expended on an annual basis on the service-based scholarships.".

SEC. 1402. INDIVIDUALS ELIGIBLE TO RECEIVE A NATIONAL SERVICE EDUCATIONAL AWARD FROM THE TRUST.

Section 146 (42 U.S.C. 12602) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "receive" and inserting "be eligible to receive"; and

(ii) by striking "if the individual" and inserting "if the organization responsible for the individual's supervision for a national service program certifies that the individual";

(B) by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) met the applicable eligibility requirements for the approved national service position in which the individual served;

"(2)(A) successfully completed the required term of service described in subsection (b) in the approved national service position; or

"(B)(i) satisfactorily performed prior to being granted a release for compelling personal circumstances under section 139(c); and

"(ii) completed at least 15 percent of the original required term of service described in subsection (b); and"; and

(C) by redesignating paragraph (4) as paragraph (3);

(2) in subsection (b), by striking "full- or part-time";

(3) by striking subsection (c) and inserting the following:

"(c) Limitation on Receipt of Educational Awards.—An individual may be eligible to receive, through national service educational awards made under this subtitle, a total amount that is not more than the aggregate value of 2 national service educational awards made for full-time service.";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) by inserting "(or a family member of the individual designated in accordance with subsection (g))" after "under this section"; and

(ii) by striking the period and inserting "(or, in the case of an individual who served in a program described in section 122(a)(18), the end of the 5-year period beginning on that date)."; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A)—

(I) by inserting "(or a family member of the individual designated in accordance with subsection (g))" after "an individual"; or

(II) by striking "that the individual—" and inserting "that—";

(ii) in subparagraph (A)—

(I) by inserting "the individual (or family member)" after "(A)"; and

(II) by inserting "(or 5-year period)" before the semicolon; and

(iii) in subparagraph (C), by inserting "the individual" after "(B)"; and

(5) by adding at the end the following:

"(g) Transfers.—

"(1) Definition.—In this subsection, the term 'family member', used with respect to an individual, means a spouse, son, daughter, or grandchild of the individual.

"(2) Ability to transfer.—An individual who is eligible to receive a national service educational award in accordance with this section may designate a family member of the individual to use the award in accordance with section 148. The designated person may submit an application under section 148 for disbursement of the award. On verifying the eligibility of the individual under this section, and determining that the designated person is a family member of the individual and is otherwise eligible to receive the award under this section, the Corporation shall disburse the award on behalf of the designated person in accordance with section 148.".

SEC. 1403. DETERMINATION OF THE AMOUNT OF NATIONAL SERVICE EDUCATIONAL AWARDS.

Section 147(a) is amended—

(1) in subsections (a) and (b), by striking "shall receive" and inserting "shall be eligible to receive";

(2) in subsection (a), by striking ", for each of not more than 2 of such terms of service" and all that follows and inserting "of $5,250.";

(3) in subsection (c)—

(A) by striking "full-time or part-time"; and

(B) by striking "provide the individual with" and inserting "provide for the individual"; and

(4) by adding at the end the following:

"(d) Amount for Secondary School Community Service.—Notwithstanding subsections (a), (b), and (c), an individual described in section 146(a) who successfully completes a required term of service described in section 139(b)(4) in an approved national service position in a program described in section 122(a)(18) shall receive a national service educational award having a value, for each of not more than 4 of such terms of service, equal to $1000.".

SEC. 1404. DISBURSEMENT OF NATIONAL SERVICE EDUCATIONAL AWARDS.

Section 148 (42 U.S.C. 12604) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking "and";

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:

"(4) to pay expenses incurred in enrolling in an educational institution or training establishment that meets the requirements of chapter 36 of title 38, United States Code; and";

(2) in subsection (b)—

(A) in paragraph (2), by striking "has earned" and inserting "is eligible to receive"; and

(B) in paragraph (7)—

(i) in subparagraph (A), by striking ", other than a loan to a parent of a student pursuant to section 428B of such Act (20 U.S.C. 1078–2); and" and inserting a semicolon;

(ii) in subparagraph (B), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(C) any loan (other than a loan described in subparagraph (A) or (B)) determined by an institution of higher education to be necessary to cover a student's educational expenses and made, insured, or guaranteed—

"(i) by an eligible lender, as defined in section 435 of the Higher Education Act of 1965 (20 U.S.C. 1085);

"(ii) under the direct student loan program under part D of title IV of such Act (20 U.S.C. 1087a et seq.); or

"(iii) by a State agency.";

(3) in subsection (e), by striking "subsection (b)(6)" and inserting "subsection (b)(7)";

(4) in subsection (f), by striking "Director" and inserting "Chief Executive Officer"; and

(5) by adding at the end the following:

"(h) Rule.—References in this section to an individual (other than the third and fourth such references in subsection (e)) shall be considered to include references to a family member of the individual designated under section 146(g).".

SEC. 1405. ADDITIONAL USES OF NATIONAL SERVICE TRUST AMOUNTS.

Subtitle D of title I (42 U.S.C. 12601 et seq.) is amended by adding at the end the following:

"SEC. 149. USE BY PARTICIPANTS WITH DISABILITIES.

"Notwithstanding any other provision of this subtitle, the Corporation may disburse from the National Service Trust some or all of a national service educational award directly to an individual (or a family member of the individual designated in accordance with section 146(g)) who provides a certification that—

"(1) the individual (or family member) is—

"(A) entitled to disability insurance benefits under section 223 of the Social Security Act (42 U.S.C. 423);

"(B) entitled to monthly insurance benefits under section 202 of the Social Security Act (42 U.S.C. 402) based on such individual's (or family member's) disability (as defined in section 223(d) of such Act (42 U.S.C. 423(d)); or

"(C) eligible for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) on the basis of blindness (as described in section 1614(a)(2) of such Act (42 U.S.C. 1382c(a)(2)) or disability (as described in section 1614(a)(3) of such Act (42 U.S.C. 1382c(a)(3)); and

"(2) the individual (or family member) will use the disbursed funds to pay for education, training, or work-related activities designed to make the individual (or family member) self-supporting.

"SEC. 149A. SERVICE-BASED SCHOLARSHIPS TO SECONDARY SCHOOL STUDENTS.

"(a) Program Authorized.—The Corporation may use amounts in the National Service Trust to support a service-based scholarship program to recognize secondary school juniors and seniors who are engaged in outstanding community service and scholarship.

"(b) Approved Use of Scholarships.—In supporting the program, the Corporation may use the amounts to pay for not more than 50 percent of the costs of a scholarship that also receives local funding, to help cover an individual's postsecondary education or job training costs.

"(c) Corporation Share.—The Corporation's share of an individual's scholarship under the program may not exceed $500.

Subtitle E—National Civilian Community Corps

SEC. 1501. PURPOSE.

Section 151 (42 U.S.C. 12611) is amended to read as follows:

"SEC. 151. PURPOSE.

"It is the purpose of this subtitle to authorize the operation of, and support for, residential service programs that combine the best practices of civilian service with the best aspects of military service, including leadership and team building, to meet national and community needs, particularly concerns related to national security. The needs to be met under such programs include needs related to natural and other disasters, which shall be addressed through activities coordinated with the Federal Emergency Management Agency and other public and private organizations.".

SEC. 1502. NATIONAL CIVILIAN COMMUNITY CORPS.

Subtitle E of title I (42 U.S.C. 12611 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

"Subtitle E—National Civilian Community Corps";

(2) by striking "Civilian Community Corps" each place it appears and inserting "National Civilian Community Corps";

(3) by striking "**CIVILIAN COMMUNITY CORPS**" each place it appears and inserting "**NATIONAL CIVILIAN COMMUNITY CORPS**"; and

(4) in section 155(b) (42 U.S.C. 12615(b)), by striking "Civilian Community Corps" and inserting "National Civilian Community Corps".

SEC. 1503. PROGRAM COMPONENTS.

Section 152 (42 U.S.C. 12612) is amended—

(1) in the section heading, by striking "**DEMONSTRATION**";

(2) in subsections (a) and (b), by striking "Demonstration"; and

(3) in subsection (c), in the subsection heading, by striking "Programs" and inserting "Components".

SEC. 1504. ELIGIBLE PARTICIPANTS.

Section 153 (42 U.S.C. 12613) is amended—

(1) in subsection (a), by striking "Demonstration";

(2) in subsection (b), by striking "if the person" and all that follows and inserting "if the person will be at least age 18 by December 31 of the calendar year in which the individual enrolls in the program.";

(3) in subsection (c), in the subsection heading, by striking "BACKROUNDS" and inserting "BACKGROUNDS"; and

(4) by striking subsection (e).

SEC. 1505. SUMMER NATIONAL SERVICE PROGRAM.

Section 154(a) (42 U.S.C. 12614(a)) is amended by striking "Demonstration".

SEC. 1506. TEAM LEADERS.

Section 155 (42 U.S.C. 12615) is amended—

(1) in subsection (a), by striking "Demonstration"; and

(2) in subsection (b), by adding at the end the following:

"(4) TEAM LEADERS.—The Director may select from Corps members individuals with prior supervisory or service experience, to be team leaders within units in the National Civilian Community Corps and to perform service that includes leading and supervising teams of Corps members. Team leaders shall—

"(A) be members of the National Civilian Community Corps; and

"(B) be provided the rights and benefits applicable to Corps members, except that the amount of the living allowance provided to a team leader under section 158(b) shall be not more than 10 percent greater than the amount established under section 158(b).".

SEC. 1507. CONSULTATION WITH STATE COMMISSIONS.

Section 157 (42 U.S.C. 12617) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(B), by inserting "community-based agencies and" before "representatives of local communities"; and

(B) in paragraph (2), by inserting "State commissions," before "and persons involved in other youth service programs."; and

(2) in subsection (c), by adding at the end the following:

"(3) DISASTER ASSISTANCE.—In selecting the projects, the Director shall place appropriate emphasis on projects in support of disaster relief efforts.".

SEC. 1508. PERMANENT CADRE.

Section 159(a) (42 U.S.C. 12619(a)) is amended by striking "Demonstration".

SEC. 1509. CONTRACT AND GRANT AUTHORITY.

Section 161(a) (42 U.S.C. 12621(a)) is amended by striking "perform any program function under this subtitle" and inserting "carry out the National Civilian Community Corps program".

SEC. 1510. OTHER DEPARTMENTS.

Section 162(a)(2)(A) (42 U.S.C. 12622(a)(2)(A)) is amended—

(1) by striking "to be recommended for appointment" and inserting "from which individuals may be selected for appointment by the Director"; and

(2) by striking "members and former members of the Armed Forces referred to in section 151(3) who are commissioned officers, noncommissioned officers, former commissioned officers, or former noncommissioned officers." and inserting "individuals who are—

"(i)(I) members and former members of the Armed Forces who are entitled or, except for not having attained the minimum age required under section 12731(a) of title 10, United States Code, would be entitled to retired or retainer pay payable out of the Department of Defense Military Retirement Fund under section 1463 of such title or to retired pay referred to in subsection (a)(2) of such section 1463 that is payable by the Secretary of Homeland Security;

"(II) former members of the Armed Forces who were discharged from the Armed Forces or released from active duty during a period of a reduction in size of the Armed Forces;

"(III) former members of the Armed Forces who were discharged, and members of the Armed Forces who have been transferred, from the Selected Reserve of the Ready Reserve during a period of a reduction in size of the Armed Forces; or

"(IV) other members of the Armed Forces not on active duty and not actively participating in a reserve component of the Armed Forces; and

"(ii) commissioned officers, noncommissioned officers, former commissioned officers, or former noncommissioned officers of the Armed Forces.".

SEC. 1511. REPEAL OF AUTHORITY FOR ADVISORY BOARD AND FUNDING LIMITATION.

Sections 163 and 165 (42 U.S.C. 12623 and 12625) are repealed.

SEC. 1512. DEFINITIONS.

Section 166 (42 U.S.C. 12626) is amended—

(1) by striking paragraphs (3) and (9);

(2) by redesignating paragraphs (2), and (4) through (8), as paragraphs (4) through (9) respectively;

(3) by inserting after paragraph (1) the following:

"(2) CAMPUS.—The term 'campus' means the facility or central location established as the operational headquarters and boarding place for particular Corps units.

"(3) CAMPUS DIRECTOR.—The term 'campus director', with respect to a campus, means the head of the campus under section 155(d)."; and

(4) in paragraphs (4), (5), and (8) (as redesignated by paragraph (2)), by striking "Demonstration" each place it appears.

SEC. 1513. TERMINOLOGY.

Subtitle E of title I (42 U.S.C. 12611 et seq.) is amended—

(1)(A) in section 155 (42 U.S.C. 12615)—

(i) in subsection (d)(2), in the paragraph heading, by striking "CAMP SUPERINTENDENT" and inserting "CAMPUS DIRECTOR"; and

(ii) in subsection (f)—

(I) in paragraph (2)(A), by striking "superintendent's" and inserting "director's"; and

(II) in paragraph (3), by striking "camp superintendent" and inserting "campus director";

(B) in section 157(c)(2) (42 U.S.C. 12617(c)(2)), by striking "camp superintendents" and inserting "campus directors"; and

(C) except as provided in subparagraphs (A) and (B), by striking "superintendent" each place it appears and inserting "campus director"; and

(2)(A) by striking "Corps camp" each place it appears and inserting "campus";

(B) by striking "camp" each place it appears and inserting "campus";

(C) by striking "camps" each place it appears and inserting "campuses"; and

(D) in section 155 (42 U.S.C. 12615)—

(i) in subsections (d) and (e), in the subsection headings, by striking "CAMPS" and inserting "CAMPUSES"; and

(ii) in subsection (d)—

(I) in paragraph (1), in the paragraph heading, by striking "CAMPS" and inserting "CAMPUSES"; and

(II) in paragraph (3), in the paragraph heading, by striking "CAMP" and inserting "CAMPUS".

Subtitle F—Administrative Provisions

SEC. 1601. FAMILY AND MEDICAL LEAVE.

Section 171 (42 U.S.C. 12631) is amended—

(1) in subsection (a)(1), by striking "with respect to a project" and inserting "with respect to a project authorized under subtitle C, or part A of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.)";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(3) by inserting after subsection (a) the following:

"(b) SERVICE SPONSORS.—Participants or volunteers in a project authorized under subtitle C, or title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5000 et seq.), shall not be considered to be employees for purposes of determining whether a service sponsor is an employer under subsection (a)(2).".

SEC. 1602. ADDITIONAL PROHIBITIONS ON USE OF FUNDS.

Section 174 (42 U.S.C. 12634) is amended by adding at the end the following:

"(d) SEX EDUCATION PROGRAMS.—No assistance made available under the national service laws shall be used—

"(1) to develop or distribute materials or operate programs or courses of instruction, directed at youth, that are designed to promote or encourage sexual activity;

"(2) to distribute or aid in the distribution by any organization of obscene materials to minors on school grounds;

"(3) to provide in schools—

"(A) sex education, unless such education is age appropriate and includes discussion of the health benefits of abstinence; and

"(B) HIV-prevention instruction, unless such instruction is age appropriate, includes discussion of the health benefits of abstinence, and includes discussion of the health risks of the human papillomavirus, consistent with the provisions of section 317P(c) of the Public Health Service Act (42 U.S.C. 247b-17(c)); or

"(4) to operate a program of contraceptive distribution in schools.".

SEC. 1603. NOTICE, HEARING, AND GRIEVANCE PROCEDURES.

Section 176 (42 U.S.C. 12636) is amended—

(1) by striking "this title" each place it appears and inserting "the national service laws";

(2) in subsection (a)(2)(A), by striking "30 days" and inserting "1 or more periods of 30 days, but not more than a total of 90 days"; and

(3) in subsection (f)—

(A) in paragraph (1), by striking "A State or local applicant" and inserting "An entity"; and

(B) in paragraph (6)—

(i) in subparagraph (C), by striking "and";

(ii) by redesignating subparagraph (D) as subparagraph (E); and

(iii) by inserting after subparagraph (C) the following:

"(D) for a grievance filed by an individual applicant or participant—

"(i) the applicant's selection or the participant's reinstatement, as the case may be; and

"(ii) other changes in the terms and conditions of the service involved; and".

SEC. 1604. RESOLUTION OF DISPLACEMENT COMPLAINTS.

Section 177 (42 U.S.C. 12637) is amended—

(1) in subsections (a) and (b), by striking "under this title" each place it appears and inserting "under the national service laws"; and

(2) by striking subsection (e) and inserting the following:

"(e) STANDARDS OF CONDUCT.—

"(1) IN GENERAL.—Programs that receive assistance under the national service laws shall establish and stringently enforce standards of conduct at the program sites to promote proper moral and disciplinary conditions, and shall consult with the parents or legal guardians of children in developing and operating programs that include children as participants and serve children.

"(2) PARENTAL PERMISSION.—A program that receives assistance under the national service laws shall, consistent with State law, before transporting a minor child, provide the reason for the transportation to, and obtain written permission from, the child's parents.".

SEC. 1605. STATE COMMISSIONS ON NATIONAL AND COMMUNITY SERVICE.

Section 178 (42 U.S.C. 12638) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by adding at the end the following:

"(J) A representative of the volunteer sector."; and

(B) in paragraph (3), by striking ", unless the State permits the representative to serve as a voting member of the State Commission or alternative administrative entity";

(2) in subsection (d)(6)(B), by striking "section 193A(b)(11)" and inserting "section 193A(b)(10)";

(3) by striking subsection (e)(1) and inserting the following:

"(1) Preparation of a national service plan that—

"(A)(i) is developed through an open and public process (such as through regional forums, hearings, and other means) that provides for maximum participation and input from nonprofit organizations and public agencies; and

"(ii) uses service and volunteerism as strategies to meet critical community needs, including service through programs funded under the national service laws;

"(B) covers a 3-year period, the beginning of which may be set by the State;

"(C) is subject to approval by the Chief Executive Officer;

"(D) includes measurable goals and outcomes, including performance measures established under section 186;

"(E) ensures outreach to community and religious organizations, including such organizations that serve underrepresented populations;

"(F) provides for the effective coordination of funding applications submitted by the State, and others within the State, under the national service laws; and

"(G) identifies potential changes in practices and policies that would improve the coordination and effectiveness of Federal, State, and local resources for service and volunteerism within the State.";

(4) by redesignating subsections (f) through (j) as subsections (g) through (k), respectively; and

(5) by inserting after subsection (e) the following:

"(f) RELIEF FROM ADMINISTRATIVE REQUIREMENTS.—Upon approval of a State national service plan prepared under subsection (e)(1), the Chief Executive Officer may waive, or specify alternatives to, administrative requirements (other than requirements of statutory provisions) otherwise applicable to grants made to States under the national service laws, including those requirements identified by a State as impeding the coordination and effectiveness of Federal, State, and local resources for service and volunteerism within the State.".

SEC. 1606. EVALUATION AND ACCOUNTABILITY.

Section 179 (42 U.S.C. 12639) is amended—

(1) in subsection (a), by striking "to determine—" and all that follows and inserting "to determine the effectiveness of programs that received assistance under the national service laws in achieving stated goals and the costs associated with each of the programs, and for research and evaluation regarding the role of service and civic engagement as a means of fostering healthy civic organizations.";

(2) in subsection (g)—

(A) in paragraph (3), by striking "National Senior Volunteer Corps" and inserting "National Senior Service Corps"; and

(B) in paragraph (9), by striking "to public service" and all that follows and inserting "to engage in service that benefits the community."; and

(3) by adding at the end the following:

"(j) RESERVED PROGRAM FUNDS FOR ACCOUNTABILITY.—In addition to amounts appropriated under section 501 and made available to carry out this section, the Corporation may reserve up to 1 percent of total program funds appropriated for a fiscal year under the national service laws to support program accountability activities.".

SEC. 1607. TECHNICAL AMENDMENT.

Section 181 (42 U.S.C. 12641) is amended by striking "Section 414" and inserting "Section 422".

SEC. 1608. ADDITIONAL ADMINISTRATIVE PROVISIONS.

Subtitle F of title I (42 U.S.C. 12631 et seq.) is amended by adding at the end the following:

"SEC. 185. CONSOLIDATED APPLICATION AND REPORTING REQUIREMENTS.

"To promote efficiency and eliminate duplicative requirements, the Corporation, after consultation with State Commissions and the Director of the National Senior Service Corps may consolidate or modify application procedures and reporting requirements for programs and activities funded under the national service laws.

"SEC. 186. ACCOUNTABILITY FOR RESULTS.

"(a) MEASURES.—

"(1) ESTABLISHMENT OF MEASURES.—The Corporation shall establish, after consultation with recipients of assistance under the national service laws, performance measures for each recipient (or subrecipient).

"(2) CONTENT.—The performance measures described in paragraph (1)—

"(A) shall include, for each program carried out with such assistance—

"(i) the number of participants enrolled and completing terms of service;

"(ii) specific performance indicators showing the outcome of the service activity, such as—

"(I) the number of children tutored;

"(II) an indicator of academic gains, related to the degree of beneficiary participation in services provided through the service activity;

"(III) the number of housing units renovated;

"(IV) the number of vaccines administered;

"(V) the number of individuals assisted through disaster preparedness or response activities; or

"(VI) other quantitative and qualitative measures as determined to be appropriate by the recipient or subrecipient, as appropriate, for the program; and

"(iii) a measure of community support;

"(B) may include, for each program—

"(i) an indicator of change in attitude by beneficiaries of the program;

"(ii) the number of volunteers recruited; and

"(iii) the numbers of participants who failed to complete their terms of service; and

"(C) shall include an established level of performance for each measure described in subparagraph (A) or (B).

"(3) SOURCE.—The Corporation may determine whether a recipient (or subrecipient) has achieved the performance measures described in paragraph (1) on the basis of self-reported data from the recipient (or subrecipient) and independent data collected by the Corporation.

"(b) PLAN FOR FAILURE TO ACHIEVE PERFORMANCE MEASURES.—

"(1) PROGRAMS IN EXISTENCE FOR 3 YEARS OR LONGER.—A recipient (or subrecipient) of assistance described in subsection (a)(1), for a program carried out under subtitle C that—

"(A) has been in existence for not less than 3 years; and

"(B) fails to achieve the performance measures described in subsection (a) during fiscal year 2004 or a subsequent fiscal year,

shall submit a corrective plan to the Corporation that addresses the performance measures that the program failed to achieve, with detailed information on how the recipient (or subrecipient) will ensure that the program will achieve the measures.

"(2) PROGRAMS IN EXISTENCE FOR LESS THAN 3 YEARS.—A recipient (or subrecipient) of assistance described in subsection (a)(1), for a program carried out under subtitle C that—

"(A) has been in existence for less than 3 years; and

"(B) fails to achieve the performance measures described in subsection (a) during—

"(i) the later of fiscal year 2004 or the first fiscal year in which the program is in existence; or

"(ii) a subsequent fiscal year,

shall receive technical assistance from the Corporation to address targeted performance problems relating to the performance measures that the program failed to achieve, and shall provide quarterly reports on the program's progress in achieving the performance measures described in subsection (a) to the appropriate State and the Corporation.

"(c) MEASURES FOR FAILURE TO ACHIEVE PERFORMANCE MEASURES.—

"(1) PROGRAMS IN EXISTENCE FOR 3 YEARS OR LONGER.—If, after a period for correction approved by the Corporation, a recipient (or subrecipient) described in subsection (b)(1) of assistance described in subsection (a)(1) fails to achieve the performance measures for a program, the Corporation shall—

"(A) reduce the annual amount of the assistance for the program to the underperforming recipient (or subrecipient) by not less than 25 percent; or

"(B) terminate assistance for the program to the underperforming recipient (or subrecipient), consistent with subsections (a), (b), (c), and (f) of section 176.

"(2) PROGRAMS IN EXISTENCE FOR LESS THAN 3 YEARS.—If, after 2 years, a recipient (or subrecipient) described in subsection (b)(2) fails to show progress in achieving the performance measures described in subsection (a) for a program, the Corporation shall make the reduction described in subparagraph (A), or the termination described in subparagraph (B), of paragraph (1).

"(d) REPORTS TO CONGRESS.—The Corporation shall submit a report to Congress not later than 2 years after the date of enactment of this section, and annually thereafter, containing information, for the year covered by the report, on the number of—

"(1) recipients and subrecipients implementing corrective plans under this section;

"(2) recipients and subrecipients for which the Corporation terminates assistance for a program under this section; and

"(3) recipients and subrecipients achieving (including exceeding) performance measures under this section.

"SEC. 187. SUSTAINABILITY.

"(a) GOALS.—To ensure that recipients of assistance under the national service laws are carrying out sustainable projects, the Corporation, the Corporation, after collaboration with State Commissions and the Director of the National Senior Service Corps and after consultation with recipients of assistance under the national service laws, may set sustainability goals by establishing policies and procedures to—

"(1) build the capacity of the projects receiving the assistance to meet community needs;

"(2) provide technical assistance to assist the recipients in acquiring non-Federal funds for the projects; and

"(3) implement measures to ascertain whether the projects are generating sufficient community support.

"(b) ENFORCEMENT.—If a recipient described in subsection (a) does not meet the sustainability goals for a project, the Corporation may suspend or terminate assistance for the project to the recipient, consistent with subsections (a), (b), (c), and (f) of section 176.

"SEC. 188. CAPACITY BUILDING.

"Participants in programs supported under the national service laws, including individuals serving in approved national service positions, may engage in activities, including recruiting and managing volunteers, that increase the capacity of organizations that receive assistance under the national service laws to address unmet human, educational, environmental, or public safety needs.

"SEC. 188A. EXPENSES OF ATTENDING MEETINGS.

"Notwithstanding section 1345 of title 31, United States Code, funds authorized under the national service laws shall be available for expenses of attendance of meetings that are concerned with the functions or activities for which the funds are appropriated or that will contribute to improved conduct, supervision, or management of those functions or activities.

"SEC. 188B. GRANT PERIODS.

"Unless otherwise specifically provided, the Corporation has authority to make a grant, or enter into a contract or cooperative agreement, under the national service laws for a period of 3 years.

"SEC. 188C. LIMITATION ON PROGRAM GRANT COSTS.

"(a) LIMITATION ON GRANT AMOUNTS.—Except as otherwise provided by this section, the amount of funds approved by the Corporation for a grant to operate a nonresidential program authorized under the national service laws supporting individuals serving in approved national service positions may not exceed $16,000 per full-time equivalent position.

"(b) COSTS SUBJECT TO LIMITATION.—The limitation in subsection (a) applies to the Corporation's share of participant support costs, staff costs, and other costs borne by the recipient or a subrecipient of the funds to operate a program.

"(c) COSTS NOT SUBJECT TO LIMITATION.—The limitation in subsection (a) shall not apply to expenses that are not covered by the grant award.

"(d) ADJUSTMENTS FOR INFLATION.—The amount specified in subsection (a) shall be increased each year after 2004 for inflation as measured by the Consumer Price Index for All Urban Consumers published by the Secretary of Labor.

"(e) WAIVER AUTHORITY AND REPORTING REQUIREMENT.—

"(1) WAIVER.—The Chief Executive Officer may waive the requirements of subsections (a) through (d), if necessary to meet the compelling needs of a particular program, such as—

"(A) exceptional training needs for a program serving disadvantaged youth;

"(B) increased costs relating to the participation of individuals with disabilities; and

"(C) start-up costs associated with a first-time recipient of funds for a program described in subsection (a).

"(2) REPORTS.—The Chief Executive Officer shall submit reports to Congress annually on all waivers granted under this section, with explanations of the compelling needs justifying such waivers.

"SEC. 188D. NOTICE REQUIREMENT.

"(a) NOTICE.—The Corporation shall ensure that the following notice is included in all application materials, announcements of grants, contracts, and other agreements, and other materials containing information regarding application for assistance provided under the national service laws: 'The Civil Rights Act of 1964 (42 U.S.C. 2000 et seq.) prohibits employers with 15 or more employees from engaging in employment practices that discriminate against an individual on the basis of religion. Under section 702(a) of the Civil Rights Act of 1964, this prohibition generally does not apply to a religious corporation, association, educational institution, or society. However, as a requirement of receiving funding under the national service laws, any such religious entity shall not discriminate on the basis of religion against a new employee who is paid with funds received under the national service laws, pursuant to section 175(c) of the National and Community Service Act of 1990 (42 U.S.C. 12635(c)) and section 417(c) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5057(c)).'.

"(b) CONFIRMATION.—Before providing assistance to a private entity referred to in the notice specified in subsection (a), the Corporation shall ensure that the entity provides written confirmation, separate from any other document required by law or regulation, acknowledging that the entity has read and understands that notice.

"(c) CONSTRUCTION.—Subsections (a) and (b) shall not be construed to amend, or supersede or otherwise affect rights, protections, or duties under, any law, other than this Act.

"SEC. 188E. AUDITS AND REPORTS.

"The Corporation shall comply with applicable audit and reporting requirements as provided in chapters 5 and 91 of title 31, United States Code (relating to the Office of Management and Budget and government corporations). The Corporation shall report to the Congress any failure to comply with the requirements relating to such audits.

"SEC. 188F. CONSTRUCTION.

"An individual participating in service in a program described in section 122(a)(18) shall not be considered to be an employee engaged in employment for purposes of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).".

Subtitle G—Corporation for National and Community Service

SEC. 1701. TERMS OF OFFICE.

Section 192 (42 U.S.C. 12651a) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) TERMS.—Subject to subsection (e), each appointed member of the Board shall serve for a term of 5 years."; and

(2) by adding at the end the following:

"(e) SERVICE UNTIL APPOINTMENT OF SUCCESSOR.—An appointed member of the Board whose term has expired may continue to serve until the earlier of—

"(1) the date on which a successor has taken office; or

"(2) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.".

SEC. 1702. BOARD OF DIRECTORS AUTHORITIES AND DUTIES.

Section 192A(g) (42 U.S.C. 12651b(g)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (1) as paragraph (2);

(3) by inserting before paragraph (2) (as redesignated by paragraph (2)) the following:

"(1) have responsibility for setting overall policy for the Corporation;";

(4) in paragraph (5)(B), by striking "the annual strategic plan referred to in paragraph (1), the proposals referred to in paragraphs (2) and (3)" and inserting "the annual strategic plan referred to in paragraph (2), the proposal referred to in paragraph (3)";

(5) in paragraph (9), by inserting "and" after "Corporation;";

(6) in paragraph (10), by striking "; and" and inserting a period; and

(7) by striking paragraph (11).

SEC. 1703. PEER REVIEWERS.

Section 193A (42 U.S.C. 12651d) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(B), by striking "after receiving and reviewing an approved proposal under section 192A(g)(2),";

(B) in paragraph (8)(B)—

(i) in clause (i), by striking "section 192A(g)(1)" and inserting "section 192A(g)(2)"; and

(ii) in clause (ii), by striking "proposals approved by the Board under paragraph (2) or (3) of section 192A(g)" and inserting "proposal approved by the Board under section 192A(g)(3)"; and

(C) in paragraph (9)(C), by striking the semicolon and inserting "; and";

(D) by striking paragraph (10); and

(E) by redesignating paragraph (11) as paragraph (10);

(2) in subsection (c)—

(A) in paragraph (9), by striking "and" at the end;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) by inserting after paragraph (9) the following:

"(10) obtain the opinions of peer reviewers in evaluating applications to the Corporation for assistance under this title; and";

(3) by striking subsection (f); and

(4) by redesignating subsection (g) as subsection (f).

SEC. 1704. OFFICERS.

Section 194(d) (42 U.S.C. 12651e(d)) is amended, in the subsection heading, by striking "NATIONAL SENIOR VOLUNTEER CORPS" and inserting "NATIONAL SENIOR SERVICE CORPS".

SEC. 1705. NONVOTING MEMBERS; PERSONAL SERVICES CONTRACTS.

Section 195 (42 U.S.C. 12651f) is amended—

(1) in subsection (c)(3)—

(A) in the paragraph heading, by striking "MEMBER" and inserting "NON-VOTING MEMBER"; and

(B) by inserting "non-voting" before "member"; and

(2) by adding at the end the following:

"(g) Personal Services Contracts.—The Corporation may enter into personal services contracts to carry out research, evaluation, and public awareness projects related to the national service laws.".

SEC. 1706. DONATED SERVICES.

Section 196(a) (42 U.S.C. 12651g(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

"(A) Organizations and individuals.—Notwithstanding section 1342 of title 31, United States Code, the Corporation may solicit and accept the voluntary services of organizations and individuals (other than participants) to assist the Corporation in carrying out the duties of the Corporation under the national service laws, and may provide to members of such organizations and such individuals the travel expenses described in section 192A(d).";

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by striking "Such a volunteer" and inserting "A person who is a member of an organization, or is an individual, covered by subparagraph (A)";

(ii) in clause (i), by striking "a volunteer under this subtitle" and inserting "such a person";

(iii) in clause (ii), by striking "volunteers under this subtitle" and inserting "such persons"; and

(iv) in clause (iii), by striking "such a volunteer" and inserting "such a person"; and

(C) in subparagraph (C)(i), by striking "Such a volunteer" and inserting "Such a person"; and

(2) by striking paragraph (3).

Subtitle H—Investment for Quality and Innovation

SEC. 1801. TECHNICAL AMENDMENTS TO SUBTITLE H.

Section 198 (42 U.S.C. 12653) is amended—

(1) in subsection (a), by striking "subsection (r)" and inserting "subsection (q)";

(2) in subsection (e)—

(A) in the subsection heading, by striking "Improve Ability To Apply for Assistance" and inserting "Training and Technical Assistance"; and

(B) by striking "and other entities" and all that follows and inserting "and other entities, including those in underserved rural and urban areas, to enable them to apply for funding under one of the national service laws, to conduct high-quality programs, to evaluate such programs, to support efforts to improve the management of nonprofit organizations and community groups, and for other purposes.";

(3) in subsection (i)—

(A) by striking "conduct a campaign to"; and

(B) by striking "to promote" and inserting "may promote";

(4) by striking subsection (q) and redesignating subsections (r) and (s) as subsections (q) and (r), respectively;

(5) in subsection (q) (as redesignated by paragraph (4)), in the subsection heading, by striking "Assistance for Head Start" and inserting "Agreements Concerning Foster Grandparent Programs"; and

(6) by adding at the end the following:

"(s) Volunteer Service Technology Programs.—The Corporation may make available not more than $5,000,000 per year to make grants to Internet volunteer recruiting entities, to pay for the Federal share of the cost of programs to assist the entities to locate, promote, and match volunteers with local service and volunteer organizations. The Federal share of the cost shall be 75 percent. The non-Federal share of the cost shall be provided from State or local sources.".

SEC. 1802. CLEARINGHOUSES.

Section 198A(a) (42 U.S.C. 12653a(a)) is amended by striking "section 118" and inserting "section 120A".

SEC. 1803. REPEAL OF SPECIAL DEMONSTRATION PROJECT.

Section 198D (42 U.S.C. 12653d) is repealed.

Subtitle I—Additional Authorities

SEC. 1901. AMERICA'S PROMISE: THE ALLIANCE FOR YOUTH.

Title I (42 U.S.C. 12511) is amended by adding at the end the following:

"Subtitle J—America's Promise: The Alliance for Youth

"SEC. 199N. AUTHORITY TO PROVIDE ASSISTANCE.

"(a) In General.—Subject to the availability of appropriations, the Corporation may make a grant to America's Promise: The Alliance for Youth (referred to in this section as the "alliance") to support its activities relating to mobilizing communities to ensure that young people become productive, responsible adults.

"(b) Use of Funds.—The alliance may use the funds made available through the grant to pay for costs attributable to the development or operation of programs, consistent with the terms of the grant.

"(c) Chief Executive Officer as Ex Officio Member of Board of Directors.—The Chief Executive Officer may serve as an ex officio, nonvoting member of the Board of Directors of the alliance.".

Subtitle J—Points of Light Foundation

SEC. 1911. PURPOSES.

Section 302 (42 U.S.C. 12661) is amended to read as follows:

"SEC. 302. PURPOSES.

"The purposes of this title are—

"(1) to encourage every individual and every institution in the Nation to help solve critical social problems by volunteering time, energies, and services through community and volunteer service projects and initiatives;

"(2) to identify successful and promising community and volunteer service projects and initiatives, and to disseminate information, training, and technical assistance concerning such projects and initiatives to other communities in order to promote and sustain the adoption of the projects and initiatives nationwide;

"(3) to discover and encourage new leaders and develop individuals and institutions that serve as strong examples of a commitment to serving others, and to convince all people in the United States that a successful life includes serving others;

"(4) to encourage and facilitate the development of new volunteer centers in designated communities; and

"(5) to strengthen the aggregate infrastructure of our Nation's volunteer centers in order to maximize recruitment, management, and retention.".

SEC. 1912. BOARD OF DIRECTORS.

Section 303 (42 U.S.C. 12662) is amended—

(1) in subsection (a), by striking "Corporation" and inserting "Corporation for National and Community Service (referred to in this title as the 'Corporation')";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

"(b) Chief Executive Officer as Ex Officio Member of Board of Directors.—The Chief Executive Officer of the Corporation may serve as an ex officio nonvoting member of the Foundation's Board of Directors.".

SEC. 1913. GRANTS TO THE FOUNDATION.

Section 304 (42 U.S.C. 12663) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking "a department or agency in the executive branch" and all that follows through "the President—" and inserting "the Corporation—"; and

(2) by adding after subsection (b) the following:

"(c) Endowment.—

"(1) In general.—Notwithstanding any other provision of law, from the funds made available each fiscal year under sections 303 and 501(b), the Foundation may use not more than 25 percent to establish or support an endowment fund, the corpus of which shall remain intact and the interest income from which shall be used to support activities described in this title. The Foundation may invest the corpus and income only in federally insured bank savings accounts or comparable interest-bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other market instruments and securities, but not in real estate.

"(2) End of operations.—The Chief Executive Officer shall obtain from the Foundation complete and accurate records of Federal funds deposited in an endowment fund established or supported in accordance with paragraph (1). The corpus of such an endowment fund shall revert to the Treasury if the Chief Executive Officer determines that—

"(A) the Foundation has ceased operations; or

"(B) the Foundation is no longer capable of carrying out the activities described in section 302.

"(d) Grants To Support Community-Based Volunteer Centers.—From funds made available under sections 303 and 501(b), the Foundation may make grants to—

"(1) community-based organizations for the purpose of facilitating the development of volunteer centers; and

"(2) community-based volunteer centers to support their ability to recruit, manage, and retain volunteers.".

Subtitle K—Authorization of Appropriations

SEC. 1921. AUTHORIZATION.

Section 501 (42 U.S.C. 12681) is amended to read as follows:

"SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

"(a) Title I.—

"(1) Subtitle B.—

"(A) In general.—There are authorized to be appropriated to provide financial assistance under subtitle B of title I, $55,000,000 for fiscal year 2004, $58,000,000 for fiscal year 2005, $61,000,000 for fiscal year 2006, $65,000,000 for fiscal year 2007, and such sums as may be necessary for fiscal year 2008.

"(B) Programs.—Of the amount appropriated under subparagraph (A) for a fiscal year—

"(i) not more than 50 percent shall be available to provide financial assistance under part I of subtitle B of title I;

"(ii) not more than 25 percent shall be available to provide financial assistance under part II of such subtitle; and

"(iii) not less than 25 percent shall be available to provide financial assistance under part III of such subtitle.

"(2) Subtitles C, D, and H.—

"(A) In general.—There are authorized to be appropriated to provide financial assistance under subtitles C and H of title I, to administer the National Service Trust and provide national service educational awards and service-based scholarships for secondary school students under subtitle D of title I, and to carry out such audits and evaluations as the Chief Executive Officer or the Inspector General of the Corporation may determine to be necessary, $415,000,000 for fiscal year 2004, and such sums as may be necessary for fiscal years 2005 through 2008.

"(B) PROGRAMS.—Of the amount appropriated under subparagraph (A) for a fiscal year, not more than 15 percent shall be made available to provide financial assistance under section 125, under subsections (b) and (c) of section 126, and under subtitle H of title I.

"(C) SUBTITLE C.—Of the amount appropriated under subparagraph (A) for fiscal year 2004, not more than $315,000,000 shall be made available to provide financial assistance under section 121.

"(3) SUBTITLE E.—There are authorized to be appropriated to operate the Civilian Community Corps and provide financial assistance under subtitle E of title I, $30,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

"(4) SUBTITLE J.—There are authorized to be appropriated to provide financial assistance under subtitle J of title I $7,500,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

"(5) ADMINISTRATION.—

"(A) IN GENERAL.—There are authorized to be appropriated for the administration of this Act, including the provision of financial assistance under section 126(a), $34,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

"(B) CORPORATION.—Of the amounts appropriated under subparagraph (A) for a fiscal year—

"(i) not more than 60 percent shall be made available to the Corporation for the administration of this Act; and

"(ii) the remainder shall be available to provide financial assistance under section 126(a).

"(b) TITLE III.—There are authorized to be appropriated to carry out title III $10,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

"(c) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated under this section shall remain available until expended.".

TITLE II—AMENDMENTS TO THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SEC. 2001. REFERENCES.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a provision, the reference shall be considered to be made to a provision of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

Subtitle A—National Volunteer Antipoverty Programs

SEC. 2101. PURPOSE.

The second sentence of section 2(b) (42 U.S.C. 4950(b)) is amended by striking "local agencies" and inserting "local agencies, expand relationships with, and support for, the efforts of civic, community, and educational organizations,".

SEC. 2102. PURPOSE OF THE VISTA PROGRAM.

Section 101 (42 U.S.C. 4951) is amended—

(1) in the second sentence, by striking "afflicted with" and inserting "affected by"; and

(2) in the third sentence, by striking "local level" and all that follows and inserting "local level, to support efforts by local agencies and community organizations to achieve long-term sustainability of projects initiated or expanded under the VISTA program, and to strengthen local agencies and community organizations to carry out the purpose of this part, consistent with the provisions of section 187 of the National and Community Service Act of 1990.".

SEC. 2103. APPLICATIONS.

Section 103 (42 U.S.C. 4953) is amended—

(1) in subsection (a)(2)—

(A) by striking "handicapped" and inserting "disabled"; and

(B) by striking "handicaps" and inserting "disabilities";

(2) in subsection (b)(1), by striking "recruitment and placement procedures" and inserting "recruitment and placement procedures that involve sponsoring organizations and";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "personnel described in subsection (b)(2)(C)" and inserting "personnel described in subsection (b)(2)(C) and sponsoring organizations"; and

(ii) in subparagraph (F), by striking "National and Community Service Trust Act of 1993" and inserting "National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.)"; and

(B) in paragraph (3), by striking "this subsection with those" and inserting "this subsection, and related recruitment and public awareness activities carried out under the national service laws, with the recruitment and public awareness activities";

(4) in subsection (g), by striking "and has been submitted to the Governor" and all that follows and inserting a period; and

(5) by adding at the end the following:

"(i) The Director may enter into agreements under which public and private nonprofit organizations with sufficient financial capacity and size pay for all or a portion of the costs of supporting the service of volunteers under this title, consistent with the provisions of section 187 of the National and Community Service Act of 1990.".

SEC. 2104. TERMS AND PERIODS OF SERVICE.

Section 104 (42 U.S.C. 4954) is amended—

(1) by striking subsection (a) and inserting the following:

"(a)(1) Except as provided in paragraphs (2) through (4), volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and poverty-related problems. To the maximum extent practicable, that requirement for a full-time personal commitment shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during the periods of service, except for authorized periods of leave.

"(2) The Director may exempt volunteers serving under this part for fiscal year 2003 or 2004 from the requirements of paragraph (1), but the requirements shall apply to—

"(A) not less than 75 percent of such volunteers for fiscal year 2003; and

"(B) not less than 50 percent of such volunteers for fiscal year 2004.

"(3) Not later than September 30, 2004, the Comptroller General of the United States shall submit a report to Congress on whether the exemptions permitted under paragraph (2) have had a material and adverse effect on the ability of the VISTA program to combat poverty and poverty-related problems, such as an increased attrition rate among volunteers, and difficulty in recruiting volunteers, to serve under this part.

"(4)(A) Except as provided in subparagraph (B), the Director may exempt volunteers serving under this part for fiscal year 2005 or a subsequent fiscal year from the requirements of paragraph (1), but the requirements shall apply to not less than 25 percent of such volunteers for fiscal year 2005.

"(B) Subparagraph (A) shall not apply if the Comptroller General of the United States determines, in the report described in paragraph (3), that the exemptions permitted under paragraph (2) have had a material and adverse effect on the ability of the VISTA program to combat poverty and poverty-related problems.";

(2) in subsection (b)(2), by striking "if the Director determines" and all that follows and inserting "if they are enrolled for periods of at least 1,700 hours for service to which the requirements of subsection (a)(1) do not apply."; and

(3) in subsection (d)—

(A) in the first sentence, by striking "with the terms and conditions of their service." and inserting "with the terms and conditions of their service or any adverse action, including termination, proposed by the sponsoring organization involved. The procedure shall provide for an appeal to the Director of any proposed termination from service."; and

(B) in the last sentence, by striking "and the terms and conditions of their service".

SEC. 2105. SECTIONS REPEALED.

Sections 109 and 124 (42 U.S.C. 4959 and 4995) are repealed.

SEC. 2106. REDESIGNATION.

Part A of title I (42 U.S.C. 4951 et seq.) is amended by redesignating section 110 as section 109.

SEC. 2107. UNIVERSITY YEAR FOR VISTA PROGRAM.

Section 111(b) (42 U.S.C. 4971(b)) is amended in the third sentence by striking "agencies, institutions, and situations" and inserting "agencies and institutions, including civic, community, and educational organizations,".

SEC. 2108. CONFORMING AMENDMENT.

Section 121 is amended in the second sentence by striking "agencies, institutions, and situations" and inserting "agencies and institutions, including civic, community, and educational organizations,".

Subtitle B—National Senior Service Corps

SEC. 2201. CHANGE IN NAME.

Title II (42 U.S.C. 5000 et seq.) is amended in the title heading by striking "NATIONAL SENIOR VOLUNTEER CORPS" and inserting "NATIONAL SENIOR SERVICE CORPS".

SEC. 2202. PURPOSE.

Section 200 (42 U.S.C. 5000) is amended to read as follows:

"SEC. 200. STATEMENT OF PURPOSE.

"It is the purpose of this title to provide—

"(1) opportunities for senior service to meet unmet local, State, and national needs in the areas of education, public safety, health and human needs, and the environment;

"(2) for the National Senior Service Corps, comprised of the Retired and Senior Volunteer Program, the Foster Grandparent Program, and the Senior Companion Program, and demonstration and other programs to empower older individuals to contribute to their communities through service, enhance the lives of those who serve and those whom they serve, and provide communities with valuable services;

"(3) opportunities for people 55 years of age or older, through the Retired and Senior Volunteer Program, to share their experiences, abilities, and skills for the betterment of their communities and themselves;

"(4) opportunities for people 55 years of age or older, through the Foster Grandparent Program, to have a positive impact on the lives of children in need;

"(5) opportunities for people 55 years of age or older, through the Senior Companion Program, to provide critical support services and companionship to adults at risk of institutionalization and who are struggling to maintain a dignified independent life; and

"(6) for research, training, demonstration, and other program activities to increase and improve opportunities for seniors to meet unmet needs, including those related to emergency preparedness, public safety, public health, and disaster relief, in their communities.".

SEC. 2203. GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS.

Section 201 (42 U.S.C. 5001) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "avail themselves of opportunities for volunteer service in their community" and inserting "share their experiences, abilities, and skills for the betterment of their communities and themselves"; and

(B) in paragraph (2), by striking ", and individuals 60 years of age or older will be given priority for enrollment,";

(2) by striking subsection (c); and

(3) by redesignating subsection (d) as subsection (c).

SEC. 2204. FOSTER GRANDPARENT PROGRAM GRANTS.

Section 211 (42 U.S.C. 5011) is amended—

(1) in subsection (a), by striking "low-income persons aged sixty or over" and inserting "low-income and other persons aged 55 or over";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "shall have the exclusive authority to determine, pursuant to the provisions of paragraph (2) of this subsection—" and inserting "may determine—";

(ii) in subparagraph (A), by striking "and";

(iii) in subparagraph (B), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(C) whether it is in the best interests of a child receiving, and of a particular foster grandparent providing, services in such a project, to continue such relationship after the child reaches the age of 21, if such child was receiving such services prior to attaining the age of 21.";

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2);

(D) in paragraph (2) (as redesignated by subparagraph (C) of this section), by striking "paragraphs (1) and (2)" and inserting "paragraph (1)"; and

(E) by adding at the end the following:

"(3) If an assignment of a foster grandparent is suspended or discontinued, the replacement of that foster grandparent shall be determined through the mutual agreement of all parties involved in the provision of services to the child.";

(3) in subsection (d)—

(A) in the first sentence, by striking "low-income persons serving as volunteers under this part, such allowances, stipends, and other support" and inserting "low-income persons and persons eligible under subsection (h) serving as volunteers under this part, such stipends or allowances"; and

(B) by striking the second sentence and all that follows and inserting the following: "Any stipend or allowance provided under this part shall not exceed 75 percent of the minimum wage under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), with the Federal share not to exceed $2.65 per hour, except that the Director shall adjust the Federal share once prior to December 31, 2008, to account for inflation.";

(4) in subsection (e)(1), by striking "125" and inserting "200";

(5) by striking subsection (f) and inserting the following:

"(f)(1) Subject to the restrictions in paragraph (3), individuals who are not low-income persons may serve as volunteers under this part. The regulations issued by the Director to carry out this part (other than regulations relating to stipends or allowances to individuals authorized by subsections (d) and (h)) shall apply to all volunteers under this part, without regard to whether such volunteers are eligible to receive a stipend or allowance under subsection (d) or (h).

"(2) Except as provided under paragraph (1), each recipient of a grant or contract to carry out a project under this part shall give equal treatment to all volunteers who participate in such project, without regard to whether such volunteers are eligible to receive a stipend or allowance under subsection (d) or (h).

"(3) An individual who is not a low-income person may not become a volunteer under this part if allowing that individual to become a volunteer under this part would prevent a low-income person from becoming a volunteer under this part or would displace a low-income person from being a volunteer under this part."; and

(6) by adding at the end the following:

"(g) The Director may also provide a stipend or allowance in an amount not to exceed 10 percent more than the amount established under subsection (d) to leaders who, on the basis of past experience as volunteers, special skills, and demonstrated leadership abilities, may coordinate activities, including training, and otherwise support the service of volunteers under this part.

"(h) The Director may provide payments under subsection (d) for up to 15 percent of volunteers serving in a project under this part for a fiscal year who do not meet the definition of 'low-income' under subsection (e), upon certification by the recipient of a grant or contract that it is unable to effectively recruit and place low-income volunteers in the number of placements approved for the project.".

SEC. 2205. SENIOR COMPANION PROGRAM GRANTS.

Section 213 (42 U.S.C. 5013) is amended—

(1) in subsection (a), by striking "low-income persons aged 60 or over" and inserting "low-income and other persons aged 55 or over";

(2) in subsection (b), by striking "Subsections (d), (e), and (f)" and inserting "Subsections (d) through (h)"; and

(3) by striking subsection (c)(2)(B) and inserting the following:

"(B) Senior companion volunteer trainers and leaders may receive a stipend or allowance consistent with subsections (d), (g), and (h) of section 211, as approved by the Director.".

SEC. 2206. TECHNICAL AMENDMENTS.

(a) National Senior Service Corps.—

(1) Section 221.—Section 221 (42 U.S.C. 5021) is amended in the heading by striking "VOLUNTEER" and inserting "SERVICE".

(2) Section 224.—Section 224 (42 U.S.C. 5024) is amended—

(A) in the heading by striking "VOLUNTEER" and inserting "SERVICE"; and

(B) by striking "Volunteer" and inserting "Service".

(b) Change in Age Eligibility.—Section 223 (42 U.S.C. 5023) is amended by striking "sixty years and older" and inserting "55 years and older".

SEC. 2207. PROGRAMS OF NATIONAL SIGNIFICANCE.

Section 225(b) (42 U.S.C. 5025(b)) is amended by adding at the end the following:

"(19) Programs that strengthen community efforts in support of homeland security.".

SEC. 2208. ADDITIONAL PROVISIONS.

Part D of title II (42 U.S.C. 5021 et seq.) is amended by adding at the end the following:

"SEC. 228. PARTICIPATION AND INCOME LEVEL.

"(a) Restriction on Participation.—

"(1) In general.—Except as provided in subsection (b), participation in programs and activities under this title shall be open to a senior whose income level does not exceed 200 percent of the poverty line for a single individual.

"(2) Deduction for medical expenses.—For purposes of determining the income level of a senior under paragraph (1), such income level shall be reduced by an amount that is equal to 50 percent of the amount of such senior's medical expenses during the year preceding the year during which the eligibility determination is made.

"(b) Waiver.—The Corporation may waive the requirement of subsection (a) with respect to not to exceed 15 percent of the participants in programs and activities under this title for each fiscal year.

"SEC. 229. CONTINUITY OF SERVICE.

"To ensure the continued service of individuals in communities served by the Retired and Senior Volunteer Program, Foster Grandparent Program, and Senior Companion Program prior to the date of enactment of this section, in making grants under this title the Corporation shall take actions it considers necessary to maintain service assignments for such seniors and to ensure continuity of service for communities.

"SEC. 229A. TRAINING AND RESEARCH.

"From funds appropriated each fiscal year to carry out this title, the Corporation may reserve not more than $15,000,000 to support research and training designed to improve the effectiveness of programs supported under this title.".

Subtitle C—Administration and Coordination

SEC. 2301. NONDISPLACEMENT.

Section 404(a) is amended by striking "displacement of employed workers" and inserting "displacement of employed workers or volunteers (other than participants under the national service laws)".

SEC. 2302. DEFINITIONS.

Section 421 (42 U.S.C. 5061) is amended—

(1) in paragraph (11), by striking "417" and inserting "410";

(2) in paragraph (13), by striking "National Senior Volunteer Corps" and inserting "National Senior Service Corps"; and

(3) in paragraph (14)—

(A) by striking "National Senior Volunteer Corps" and inserting "National Senior Service Corps"; and

(B) by striking "parts A, B, C, and E of".

SEC. 2303. PROTECTION AGAINST IMPROPER USE.

Section 425 (42 U.S.C. 5065) is amended by striking "National Senior Volunteer Corps" and inserting "National Senior Service Corps".

SEC. 2304. INCOME VERIFICATION.

Title IV (42 U.S.C. 5043 et seq.) is amended by adding at the end the following:

“SEC. 426. INCOME VERIFICATION.

“Each organization that receives assistance under this Act may verify the income eligibility of volunteers based on a confidential declaration of income and with no requirements for verification.”.

SEC. 2305. SECTIONS REPEALED.

Sections 412 and 416 (42 U.S.C. 5052 and 5056) are repealed.

SEC. 2306. REDESIGNATIONS.

Title IV (42 U.S.C. 5043 et seq.) is amended by redesignating sections 403, 404, 406, 408, 409, 410, 411, 414, 415, 417, 418, 419, 421, 422, 423, 424, 425, and 426 as sections 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, and 418, respectively.

Subtitle D—Authorization of Appropriations

SEC. 2401. AUTHORIZATION OF APPROPRIATIONS FOR VISTA AND OTHER PURPOSES.

Section 501 (42 U.S.C. 5081) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “, excluding section 109” and all that follows and inserting “$90,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.”;

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively; and

(C) in paragraph (2) (as redesignated by subparagraph (B) of this section), by striking “, excluding section 125” and all that follows and inserting “$5,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.”; and

(2) by striking subsection (e).

SEC. 2402. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL SENIOR SERVICE CORPS.

Section 502 (42 U.S.C. 5082) is amended to read as follows:

“SEC. 502. NATIONAL SENIOR SERVICE CORPS.

“(a) RETIRED AND SENIOR VOLUNTEER PROGRAM.—There are authorized to be appropriated to carry out part A of title II $58,884,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

“(b) FOSTER GRANDPARENT PROGRAM.—There are authorized to be appropriated to carry out part B of title II $110,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

“(c) SENIOR COMPANION PROGRAM.—There are authorized to be appropriated to carry out part C of title II $46,563,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

“(d) DEMONSTRATION PROGRAMS.—There are authorized to be appropriated to carry out part E of title II $400,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.”.

SEC. 2403. ADMINISTRATION AND COORDINATION.

Section 504 (42 U.S.C. 5084) is amended to read as follows:

“SEC. 504. ADMINISTRATION AND COORDINATION.

“There are authorized to be appropriated for the administration of this Act $33,568,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.”.

SEC. 2404. REDESIGNATIONS.

Title V (42 U.S.C. 5081 et seq.) is amended by redesignating sections 504 and 505 as sections 503 and 504, respectively.

TITLE III—AMENDMENTS TO OTHER LAWS

SEC. 3001. INSPECTOR GENERAL ACT OF 1978.

Section 8F(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “National and Community Service Trust Act of 1993” and inserting “National and Community Service Act of 1990”.

TITLE IV—TECHNICAL AMENDMENTS TO TABLES OF CONTENTS

SEC. 4001. TABLE OF CONTENTS FOR THE NATIONAL AND COMMUNITY SERVICE ACT OF 1990.

Section 1(b) of the National and Community Service Act of 1990 (42 U.S.C. 12501 note) is amended to read as follows:

“(b) TABLE OF CONTENTS.—The table of contents is as follows:

“Sec. 1. Short title and table of contents.
“Sec. 2. Findings and purpose.

“TITLE I—NATIONAL AND COMMUNITY SERVICE STATE GRANT PROGRAM

“Subtitle A—General Provisions

“Sec. 101. Definitions.

“Subtitle B—School-Based and Community-Based Service-Learning Programs

“PART I—PROGRAMS FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS

“SUBPART A—PROGRAMS FOR STUDENTS

“Sec. 111. Assistance to States and Indian tribes.
“Sec. 112. Allotments.
“Sec. 113. Applications.
“Sec. 114. Consideration of applications.
“Sec. 115. Federal, State, and local contributions.
“Sec. 116. Limitations on uses of funds.

“SUBPART B—COMMUNITY CORPS DEMONSTRATION PROGRAM

“Sec. 118. Demonstration program.

“PART II—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE

“Sec. 119. Higher education innovative programs for community service.

“PART III—COMMUNITY-BASED PROGRAMS, TRAINING, AND OTHER INITIATIVES

“Sec. 120. Community-based programs, training, and other initiatives.

“PART IV—CLEARINGHOUSE

“Sec. 120A. Service-learning clearinghouse.

“Subtitle C—National Service Trust Program

“PART I—INVESTMENT IN NATIONAL SERVICE

“Sec. 121. Authority to provide assistance and approved national service positions.
“Sec. 122. Types of national service programs eligible for program assistance.
“Sec. 123. Types of national service positions eligible for approval for national service educational awards.
“Sec. 124. Types of program assistance.
“Sec. 125. Training and technical assistance.
“Sec. 126. Other special assistance.

“PART II—APPLICATION AND APPROVAL PROCESS

“Sec. 129. Provision of assistance and approved national service positions.
“Sec. 129A. Education awards program.
“Sec. 130. Application for assistance and approved national service positions.
“Sec. 131. National service program assistance requirements.
“Sec. 132. Ineligible service categories.
“Sec. 133. Consideration of applications.

“PART III—NATIONAL SERVICE PARTICIPANTS

“Sec. 137. Description of participants.
“Sec. 138. Selection of national service participants.
“Sec. 139. Terms of service.
“Sec. 140. Living allowances for national service participants.
“Sec. 141. National service educational awards.

“Subtitle D—National Service Trust and Provision of National Service Educational Awards

“Sec. 145. Establishment of the National Service Trust.
“Sec. 146. Individuals eligible to receive a national service educational award from the Trust.
“Sec. 147. Determination of the amount of the national service educational award.
“Sec. 148. Disbursement of national service educational awards.
“Sec. 149. Use by participants with disabilities.
“Sec. 149A. Service-based scholarships to secondary school students.

“Subtitle E—National Civilian Community Corps

“Sec. 151. Purpose.
“Sec. 152. Establishment of National Civilian Community Corps program.
“Sec. 153. National service program.
“Sec. 154. Summer national service program.
“Sec. 155. National Civilian Community Corps.
“Sec. 156. Training.
“Sec. 157. Service projects.
“Sec. 158. Authorized benefits for Corps members.
“Sec. 159. Administrative provisions.
“Sec. 160. Status of Corps members and Corps personnel under Federal law.
“Sec. 161. Contract and grant authority.
“Sec. 162. Responsibilities of other departments.
“Sec. 164. Annual evaluation.
“Sec. 166. Definitions.

“Subtitle F—Administrative Provisions

“Sec. 171. Family and medical leave.
“Sec. 172. Reports.
“Sec. 173. Supplementation.
“Sec. 174. Prohibition on use of funds.
“Sec. 175. Nondiscrimination.
“Sec. 176. Notice, hearing, and grievance procedures.
“Sec. 177. Nonduplication and nondisplacement.
“Sec. 178. State Commissions on National and Community Service.
“Sec. 179. Evaluation.
“Sec. 180. Engagement of participants.
“Sec. 181. Contingent extension.
“Sec. 182. Partnerships with schools.
“Sec. 183. Rights of access, examination, and copying.
“Sec. 184. Drug-free workplace requirements.
“Sec. 185. Consolidated application and reporting requirements.
“Sec. 186. Accountability for results.
“Sec. 187. Sustainability.
“Sec. 188. Capacity building.
“Sec. 188A. Expenses of attending meetings.
“Sec. 188B. Grant periods.
“Sec. 188C. Limitation on program grant costs.
“Sec. 188D. Notice requirement.
“Sec. 188E. Audits and reports.

“Subtitle G—Corporation for National and Community Service

“Sec. 191. Corporation for National and Community Service.
“Sec. 192. Board of Directors.
“Sec. 192A. Authorities and duties of the Board of Directors.

"Sec. 193. Chief Executive Officer.
"Sec. 193A. Authorities and duties of the Chief Executive Officer.
"Sec. 194. Officers.
"Sec. 195. Employees, consultants, and other personnel.
"Sec. 196. Administration.
"Sec. 196A. Corporation State offices.

"Subtitle H—Investment for Quality and Innovation

"Sec. 198. Additional Corporation activities to support national service.
"Sec. 198A. Clearinghouses.
"Sec. 198B. Presidential awards for service.
"Sec. 198C. Military installation conversion demonstration programs.

"Subtitle I—American Conservation and Youth Service Corps

"Sec. 199. Short title.
"Sec. 199A. General authority.
"Sec. 199B. Limitation on purchase of capital equipment.
"Sec. 199C. State application.
"Sec. 199D. Focus of programs.
"Sec. 199E. Related programs.
"Sec. 199F. Public lands or Indian lands.
"Sec. 199G. Training and education services.
"Sec. 199H. Preference for certain projects.
"Sec. 199I. Age and citizenship criteria for enrollment.
"Sec. 199J. Use of volunteers.
"Sec. 199K. Living allowance.
"Sec. 199L. Joint programs.
"Sec. 199M. Federal and State employee status.

"Subtitle J—America's Promise: The Alliance for Youth

"Sec. 199N. Authority to provide assistance.

"TITLE II—MODIFICATIONS OF EXISTING PROGRAMS

"Subtitle A—Publication

"Sec. 201. Information for students.
"Sec. 202. Exit counseling for borrowers.
"Sec. 203. Department information on deferments and cancellations.
"Sec. 204. Data on deferments and cancellations.

"Subtitle B—Youthbuild Projects

"Sec. 211. Youthbuild projects.

"Subtitle C—Amendments to Student Literacy Corps

"Sec. 221. Amendments to Student Literacy Corps.

"TITLE III—POINTS OF LIGHT FOUNDATION

"Sec. 301. Short title.
"Sec. 302. Purposes.
"Sec. 303. Authority.
"Sec. 304. Grants to the Foundation.
"Sec. 305. Eligibility of the Foundation for grants.

"TITLE IV—PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS

"Sec. 401. Projects.

"TITLE V—AUTHORIZATION OF APPROPRIATIONS

"Sec. 501. Authorization of appropriations.

"TITLE VI—MISCELLANEOUS PROVISIONS

"Sec. 601. Amtrak waste disposal.
"Sec. 602. Exchange program with countries in transition from totalitarianism to democracy.".

SEC. 4002. TABLE OF CONTENTS FOR THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973.

Section 1(b) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 note) is amended to read as follows:

"(b) TABLE OF CONTENTS.—The table of contents is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Volunteerism policy.

"TITLE I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAM

"PART A—VOLUNTEERS IN SERVICE TO AMERICA

"Sec. 101. Statement of purpose.
"Sec. 102. Authority to operate VISTA program.
"Sec. 103. Selection and assignment of volunteers.
"Sec. 104. Terms and periods of service.
"Sec. 105. Support service.
"Sec. 106. Participation of beneficiaries.
"Sec. 107. Participation of younger and older persons.
"Sec. 108. Limitation.
"Sec. 109. Applications for assistance.

"PART B—UNIVERSITY YEAR FOR VISTA

"Sec. 111. Statement of purpose.
"Sec. 112. Authority to operate University Year for VISTA program.
"Sec. 113. Special conditions.

"PART C—SPECIAL VOLUNTEER PROGRAMS

"Sec. 121. Statement of purpose.
"Sec. 122. Authority to establish and operate special volunteer and demonstration programs.
"Sec. 123. Technical and financial assistance.

"TITLE II—NATIONAL SENIOR SERVICE CORPS

"Sec. 200. Statement of purposes.

"PART A—RETIRED AND SENIOR VOLUNTEER PROGRAM

"Sec. 201. Grants and contracts for volunteer service projects.

"PART B—FOSTER GRANDPARENT PROGRAM

"Sec. 211. Grants and contracts for volunteer service projects.

"PART C—SENIOR COMPANION PROGRAM

"Sec. 213. Grants and contracts for volunteer service projects.

"PART D—GENERAL PROVISIONS

"Sec. 221. Promotion of National Senior Service Corps.
"Sec. 222. Payments.
"Sec. 223. Minority group participation.
"Sec. 224. Use of locally generated contributions in National Senior Service Corps.
"Sec. 225. Programs of national significance.
"Sec. 226. Adjustments to Federal financial assistance.
"Sec. 227. Multiyear grants or contracts.
"Sec. 228. Participation and income level.
"Sec. 229. Continuity of service.
"Sec. 229A. Training and research.

"PART E—DEMONSTRATION PROGRAMS

"Sec. 231. Authority of Director.
"Sec. 232. Prohibition.

"TITLE IV—ADMINISTRATION AND COORDINATION

"Sec. 401. Political activities.
"Sec. 402. Special limitations.
"Sec. 403. Labor standards.
"Sec. 404. Joint funding.
"Sec. 405. Prohibition of Federal control.
"Sec. 406. Coordination with other programs.
"Sec. 407. Prohibition.
"Sec. 408. Distribution of benefits between rural and urban areas.
"Sec. 409. Application of Federal law.
"Sec. 410. Nondiscrimination provisions.
"Sec. 411. Eligibility for other benefits.
"Sec. 412. Legal expenses.
"Sec. 413. Definitions.
"Sec. 414. Audit.
"Sec. 415. Reduction of paperwork.
"Sec. 416. Review of project renewals.
"Sec. 417. Protection against improper use.
"Sec. 418. Income verification.

"TITLE V—AUTHORIZATION OF APPROPRIATIONS

"Sec. 501. National volunteer antipoverty programs.
"Sec. 502. National Senior Service Corps.
"Sec. 503. Administration and coordination.
"Sec. 504. Availability of appropriations.

"TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

"Sec. 601. Supersedence of Reorganization Plan Number 1 of July 1, 1971.
"Sec. 602. Creditable service for civil service retirement.
"Sec. 603. Repeal of title VIII of the Economic Opportunity Act.
"Sec. 604. Repeal of title VI of the Older Americans Act.".

TITLE V—EFFECTIVE DATE AND SENSE OF CONGRESS

SEC. 5001. EFFECTIVE DATE.

Unless specifically provided otherwise, the amendments made by this Act shall take effect on the date of enactment of this Act.

SEC. 5002. SERVICE ASSIGNMENTS AND AGREEMENTS.

(a) SERVICE ASSIGNMENTS.—Changes pursuant to this Act in the terms and conditions of terms of service and other service assignments under the national service laws (including the amount of the education award) shall apply only to individuals who enroll or otherwise begin service assignments not earlier than the date that is 90 days after the date of enactment of this Act, except when agreed upon by all interested parties.

(b) AGREEMENTS.—Changes pursuant to this Act in the terms and conditions of grants, contracts, or other agreements under the national service laws shall apply only to such agreements entered into not earlier than the date that is 90 days after the date of enactment of this Act, except when agreed upon by all the parties to such agreements.

SEC. 5003. SENSE OF CONGRESS.

It is the sense of Congress that the Corporation should, in all of its communications, distinguish individuals receiving stipends or allowances from volunteers by—

(1) referring to participants in AmeriCorps under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) as "members";

(2) referring to participants in the Foster Grandparent Program as "Foster Grandparents"; and

(3) referring to participants in the Senior Companion Program as "Companions".

SEC. 5004. RECRUITMENT AND APPLICATION MATERIALS IN LANGUAGES OTHER THAN ENGLISH.

It is the sense of Congress that the programs established or authorized by this Act, and those which receive funding under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) or the Domestic and Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.) are encouraged to provide recruitment and application materials in languages other than English, if applicable, in order to serve communities of limited English proficiency, and that such programs may use such funding to provide and distribute such materials.

Mr. McCAIN. Mr. President, I am grateful to join my colleagues, Senators EVAN BAYH, TED KENNEDY, and

BARBARA MIKULSKI in reintroducing the Call to Service Act of 2003. This important legislation significantly expands opportunities for citizens to serve their country as community volunteers and in homeland security functions.

This legislation expands legislation that I introduced with senator BAYH in 2001. A key component of the original McCain/Bayh proposal became law last year. To meet the changing personnel needs of today's military, the Defense Department will now have a new, shorter-term enlistment option. Individuals who volunteer to serve under this new program serve on active duty for 15 months after their initial military training and can complete the remainder of their obligation by choosing service on active duty, in the Selected Reserve or in the Individual Ready Reserve, which can be fulfilled by in a civilian national service program such as the Peace Corps or AmeriCorps). In return for service, the legislation provides loan up to $18,000, an educational allowance under the Montgomery GI Bill. I am encouraged by the excitement expressed by the Pentagon in meetings about the implementation of the program.

Two months after our legislation was introduced, President Bush made service programs a centerpiece of his 2002 State of the Union address. Unfortunately, since the speech, there has not been much followthrough on the part of this Administration.

From the time President Bush was the Governor of Texas, through his experience as President, he has proudly pointed out the successes of this program. Yet the Fiscal Year 2003 Omnibus Appropriations bill he sent to the Congress forced cuts in the program. Combined with a 50,000 cap placed on the number of AmeriCorps volunteers, AmeriCorps now faces a crisis.

My office has been inundated by phone calls from nervous AmeriCorps volunteers in recent days. They are all expressing the same fear that they will not have the opportunity to continue their service to our communities. Idealistic young men and women in this country got excited when they heard the President promise increased opportunities to serve. It is now time for the Congress and the President to expand opportunities to serve.

There is no shortage of causes that volunteers are eager to fix. We have failing schools, desperate for good teachers. Children in our poorest communities are growing up in need of mentors. Millions of elderly Americans desperately want to stay in their homes and out of nursing facilities, but cannot do so without help with the small tasks of daily life. More and more of our communities are being devastated by natural disasters. Many of the AmeriCorps volunteers work for chronically understaffed organizations such as Boys and Girls Clubs, Habitat for Humanity and the Red Cross. I have to ask why would anyone think we should do anything except increase AmeriCorps to provide opportunities for as many people as possible to serve?

Not only does the community as a whole suffer when AmeriCorps is cut, but those who are eager to serve are affected as well. Currently, over 490 individuals serve in Arizona. Many of Arizona's AmeriCorps volunteers take advantage of the educational opportunities that go along with their service. To date, over 2,100 Arizona residents have taken advantage of the $4,725 to help pay for college or pay back student loans. The fewer the number of slots available for AmeriCorps volunteers, the fewer the number of men and women who will be able to take advantage of this important opportunity.

I am grateful Senators BOND and MIKULSKI are working to ensure that the OMB ruling on the use of the education trust fund is used. This will ensure that the cut in the number of volunteers is less than originally feared. However make no mistake, there will be far fewer volunteers in 2003.

Our legislation seeks to increase the opportunity to serve in AmeriCorps. The Call to Service Act increases the number of people who volunteer for AmeriCorps by 25,000 per year until 175,000 people are serving in AmeriCorps each year for a five year period. This is a 125,000 increase in volunteers over the current 50,000 volunteers. Many of these new positions will be dedicated to homeland security. This legislation links AmeriCorps to Homeland Defense by directing the Corporation for National Service to work with the Department of Homeland Security to determine ways of promoting national security through service programs.

This legislation also expands eligibility for willing and able seniors to volunteer in a variety of capacities through Senior Corps, including senior companion programs, tutoring, providing long-term care, and serving as foster grandparents.

During my failed Presidential campaign in 2000, I had the opportunity to meet with students all across the country. I was deeply moved by the strong desire these young men and women expressed to serve their country. While I encourage military service to those I meet, I recognize this type of service is not for all. Our legislation increases the opportunities for these citizens.

The response to the terrorist attacks of 9/11 brought out the best in the citizens of the United States. Americans reached out to their friends, neighbors and those in their communities. Many examples of serving causes greater than their self interest abound. This dedication to volunteer service is still alive today. We cannot continue to wait to provide expanded opportunities for national service. Congress should no longer delay in taking action on legislation to provide opportunities for Americans to serve.

Mr. BAYH. Mr. President, I am privileged to reintroduce the "Call to Service Act" with my colleagues, Senator JOHN MCCAIN, Senator TED KENNEDY and Senator BARBARA MIKULSKI—all great leaders on national service. I am proud to join with them today to offer this significant expansion of national service opportunities for all Americans—young and old, affluent, people of more modest means, all united in their devotion to serving America.

In November 2001, Senator MCCAIN and I introduced the "Call to Service Act" in an attempt to harness the spirit and overwhelming patriotism of our citizens after September 11. We wanted to give concrete opportunities to the countless Americans who were asking what they could do to give back to their country.

Weeks after we introduced our bill, we were encouraged when the President made his own more modest service proposals a rhetorical centerpiece of his 2002 State of the Union address. In that speech, President Bush promised a significant expansion of the AmeriCorps program. He said, "We want to be a nation that serves goals larger than self. We've been offered a unique opportunity, and we must not let this moment pass."

Unfortunately, the President is in danger of letting the moment pass. And now, almost a year and a half later, the promises of that speech sound hollow. The administration's efforts to expand service have been disappointingly lackluster. National Service expansion was held hostage in the last Congress by members of the President's own party on the far right, while he stood idly by.

In fact, Americans now have fewer opportunities to serve than before. In my State of Indiana, we are facing a 92 percent cut in AmeriCorps positions. Last year, there were nearly 400 full-time equivalent positions available to serve in Indiana. This year, there will only be fewer than 40 positions. This will have a dramatic impact on the AmeriCorps programs throughout Indiana and on Hoosiers throughout the State. It is a very real possibility that Indiana will only have one AmeriCorps program this year. Children are not going to be tutored and mentored, homes are not going to be built, neighborhoods are not going to be cleaned up, and communities are going to be left behind. Indiana is not unique. States across the country are facing similar reductions in programs and services.

I am grateful to Senators MIKULSKI and BOND for their efforts to ensure that the OMB method of accounting is used to determine the number of AmeriCorps positions available this year. With this change, there will still be large reductions in AmeriCorps, but the damage will not be quite as severe.

As AmeriCorps faces its greatest challenge since it was created, it is important to restate our commitment to this program. Our legislation will expand AmeriCorps by 25,000 additional members each year for a total of 175,000 members in five years. It will continue to utilize volunteers to support homeland security functions to help meet our Nation's new security challenges in a smart, cost-efficient manner. Our legislation includes strong accountability measures to ensure that the funds and the volunteers will be devoting themselves to activities and programs that really make a difference, really work. It expands opportunities for our seniors to serve, so that as the baby boom generation retires they can give back to their country.

We stand here today to offer this consensus approach because we know we have arrived at a critical juncture in the cause of expanding national service. We are at risk of missing the moment if we don't act.

Frankly, what is called for here is leadership. We are attempting to provide that today by offering this consensus approach, Republicans and Democrats, leader of the committee, those of us who are not on the committee.

But the President must get engaged. He's said all the right things, now it is important that he do the right thing. If we're going to get a significant commitment to national service it is going to take more than lip service, and I hope that he will step forward and provide the kind of leadership that is necessary before this opportunity slips away from us.

The moment has not yet passed us. Americans are eager to serve. We are eager to enact this legislation, put an end to this sad chapter for national service, and build toward a Nation where the great energies and good intentions of our citizens are put to productive use.

By Mr. LUGAR (by request):

S. 1275. A bill to establish a comprehensive federal program to provide benefits to U.S. victims of international terrorism, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, by request, I introduce for appropriate reference a bill to establish a comprehensive Federal program to provide benefits to U.S. victims of international terrorism.

This proposed legislation has been requested by the Department of State, and I am introducing it in order that there may be a specific bill to which members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as to make any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD together with a letter addressed to me from the Assistant Secretary of State for Legislative Affairs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. SHORT TITLE.

This Act may be cited as the "Benefits for Victims of International Terrorism Act of 2003".

SEC. 102. ESTABLISHMENT OF PROGRAM.

There is established the Benefits for Victims of International Terrorism Program ("Program") under which monetary awards shall be made in accordance with this Act to eligible individuals who are physically injured, killed, or held hostage as a result of an act of international terrorism.

SEC. 103. DEFINITIONS.

In this Act, the following definitions apply:

(a) ACT OF INTERNATIONAL TERRORISM.—The term "act of international terrorism" means an activity that constitutes terrorism within the definition provided in Section 2(15) of the Homeland Security Act of 2002 and that was committed by foreign nationals for foreign governments (or the agents thereof) and directed, in whole or in part, at the United States or at an individual because of the individual's status as a national of the United States.

(b) CLAIMANT.—The term "claimant" means an individual filing a claim for benefits under this Act. In the case of an individual who died as the direct result of the act of international terrorism, any individual who is eligible to recover under section 107(a) may be a claimant. In the case of an individual who suffered physical injury or was held hostage as the direct result of an act of international terrorism, the claimant shall be the individual who suffered the physical injury or was held hostage, except that a parent or legal guardian may file a claim on behalf of an individual who is less than 18 years of age, incompetent or incapacitated.

(c) CHILD.—The term "child" shall have the meaning given to it by 42 U.S.C. 3796b(2).

(d) DEPARTMENT.—The term "Department" means the Department of State.

(e) NATIONAL OF THE UNITED STATES.—The term "national of the United States" has the meaning given in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(f) PHYSICAL INJURY.—The term "physical injury" means an injury to the body, from a source external to the body, that directly results in partial or total physical disability, incapacity, or disfigurement.

(g) UNITED STATES.—The term "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Mariana Islands, the territories and possession of the United States, the territorial sea of the United States, and the airspace above them.

SEC. 104. ADMINISTRATION.

(a) THRESHOLD DETERMINATION.—

(1) Upon the occurrence of a terrorist incident, the Secretary of State, in consultation with the Attorney General and the Secretaries of Defense, Homeland Security and the Treasury, shall promptly determine in writing whether an act of international terrorism as defined in section 103(a) of this Act has taken place. Any such determination shall be published in the Federal Register.

(2) The Secretary of State's determination under this section shall be final and conclusive, and it shall not be subject to review in any judicial, administrative or other proceedings.

(b) ADJUDICATION AND PAYMENT.—When a threshold determination set forth in subsection (a) is made, the Department shall have jurisdiction to receive, examine, adjudicate, and render final decisions, and pay awards with respect to claims filed under section 105 in accordance with the provisions of this Act.

SEC. 105. FILING OF CLAIMS.

(a) IN GENERAL.—Claims for benefits under the Program shall be filed with the Department on the form developed under subsection (b).

(b) CLAIM FORM.—

(1) The Department shall develop a form that claimants shall use when submitting claims under subsection (a).

(2) The claim form at a minimum shall request—

(A) in the case of a claim filed for a death benefit with respect to a decedent, information demonstrating the decedent's death as a direct result of the act of international terrorism and information demonstrating that the claimant is eligible to recover under the Act;

(B) in the case of a claim not involving a death, information demonstrating the physical harm that the claimant suffered as a direct result of the act of international terrorism or information demonstrating the period the claimant was held hostage as a direct result of the act of international terrorism; and

(C) in the case of a claim filed by a parent or legal guardian, information demonstrating the claimant's status a parent or legal guardian.

(3) The claim form shall state clearly and conspicuously the information contained in section 112(c) of this Act.

SEC. 106. ELIGIBILITY.

(a) IN GENERAL.—The Department shall review each claim filed under this Program and determine whether the claimant is an eligible individual under subsection (b) of this section or has filed a claim on account of the death of an eligible individual under subsection (b).

(b) ELIGIBLE INDIVIDUALS.—An eligible individual is a victim who, as of the date on which the act of international terrorism occurred,

(1) was a national of the United States; and

(2)(A) died as the direct result of the act of international terrorism,

(B) suffered physical injury as the direct result of the act of international terrorism, or

(C) was held hostage as a direct result of an act of international terrorism and not solely for ransom.

(c) EXCLUSION FOR PARTICIPANTS OR CONSPIRATORS IN ACTS OF TERRORISM.—A participant or conspirator in any act of international terrorism, or a representative of such individual, shall not be an eligible individual.

(d) EXCLUSION FOR MILITARY PERSONNEL.—This Program does not apply to any claim arising out of injury, death, or period as a hostage sustained by a member of the U.S. Armed Forces while serving on active duty.

(e) September 11th Victim Compensation Fund.—Notwithstanding any other provision in this Act, no individual who is or was eligible to recover under the September 11th Victim Compensation Fund of 2001 shall be eligible to recover under this Act.

SEC. 107. NATURE OF AWARDS.

(a) Death Benefits.—In any case in which the Department determines, under regulations issued pursuant to this Act, that an eligible individual has died as the direct and proximate result of an act of international terrorism, the Department shall award a benefit to the survivor or survivors in the same manner and the same amount as death benefits are paid pursuant to the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.).

(b) Injury or Hostage Benefit.—In the event the claimant was physically injured or held hostage as a direct result of an act of international terrorism, the Department shall award a benefit to the claimant in an amount determined by the Department up to, but not to exceed, the amount provided for under the preceding subsection. The Secretary of State may issue regulations regarding the amount of benefits to be provided under this subsection for categories of injuries or for durations of time as a hostage.

(c) No Fault Program.—Awards shall be made without regard to the negligence or any other theory of liability of the claimant or of the individual on whose behalf the claimant is filing a claim.

(d) Reversion of Amounts to the Funds.—If no person is entitled to receive the amount awarded under the above subsections, the amount shall revert to the Fund.

SEC. 108. LIMITATIONS ON CLAIMS.

(a) Prohibition on Double Recovery.—No benefit is payable under this Act with respect to a victim having been injured or held hostage if a benefit is payable under this Act with respect to the death of such victim. In the event that a payment is made under this Act on account of death or period as a hostage and a death benefit subsequently becomes payable for the death of the same victim, such death benefit shall be reduced by amounts previously awarded.

(b) Time Limitation for Filing.—No claim may be filed on the basis of an act of international terrorism after the date that is 2 years after the date of publication in the Federal Register of the relevant determination under section 104(a) of this Act.

SEC. 109. INTERNATIONAL TERRORISM BEFORE EFFECTIVE DATE.

(a) International Terrorism Before Effective Date.—Benefits may be awarded under this Act, subject to the provisions of subsection (b) of this section, to eligible individuals for acts of international terrorism that took place before the effective date of this Act and which occurred on or after November 1, 1979.

(b) Determination.—The Secretary of State, in consultation with the Attorney General and the Secretaries of Defense, Homeland Security and the Treasury, shall issue, promptly upon the request of a claimant potentially covered under subsection (a), a determination whether an incident that occurred on or after November 1, 1979, and before the date of enactment of this Act was an act of international terrorism. Such requests will be considered only if made within one year after the date of enactment of this Act. Any such determination shall be published in the Federal Register.

SEC. 110. AUTHORIZATION.

(a) Authorization.—There is established for the purpose of providing benefits under this Act a Victims of International Terrorism Benefits Fund ("Fund"). In addition to amounts otherwise authorized to be appropriated for the Department of State, there are authorized to be appropriated to the Department of State for deposit into the Fund such sums as may be necessary to pay awards under this Act and to administer this Program.

(1) Amounts in the Fund shall be available until expended.

(2) Contributions.—The Secretary of State is authorized to accept such amounts as may be contributed by individuals, business concerns, foreign governments, or other entities for the payment of awards certified under this Act and such amounts may be deposited directly into the Fund.

(3) Unexpended balances of expired appropriations available to the Department of State may be transferred directly into the Fund for the payment of awards under this Act and, to the extent and in such amounts as provided in appropriations acts, for the costs to administer this Program.

SEC. 111. SUBROGATION.

The United States shall be subrogated, to the extent of the payments, to any recovery in litigation or settlement of litigation related to an injury, death, or period of a hostage for which payment was made under the Program. Any amounts recovered under this subsection shall be deposited into the Fund established by section 110(a).

SEC. 112. ADMINISTRATIVE PROVISIONS.

(a) Rule and Procedures.—The Secretary of State may issue such rules and procedures as may be necessary to carry out this Act, including rules with respect to choice of law principles, admitting agents or other persons to representation before the Department of claimants under this Act, and the nature and maximum amount of fees that such agent or other person may charge for such representation.

(b) Acts Committed to Officer's Discretion.—Any action taken or omitted by an officer of the United States under this Act is committed to the discretion of such officer.

(c) Civil Actions Against Foreign States.—

(1) A person who by a civil action has obtained and received full satisfaction of a judgment against a foreign state or government or its agencies or instrumentalities, or against the United States or its agencies or instrumentalities, for death, injury, or period as a hostage due to an act of international terrorism shall not receive an award under this Act based on the same act of international terrorism.

(2) A person who has accepted benefits pursuant to an award under this Act relating to an act of international terrorism shall not thereafter commence or maintain in a court of the United States a civil action based on the same act of international terrorism against a foreign state or government or its agencies or instrumentalities or against the United States or its agencies or instrumentalities.

SEC. 113. NO JUDICIAL REVIEW.

Decisions made under this Act shall not be subject to review in any judicial, administrative or other proceeding.

SEC. 114. CONFORMING AMENDMENTS.

(a) Section 201 of the Terrorism Risk Insurance Act of 2002 (Public Law 107-297) is amended by adding the following as new subsection (e):

"(e) Subsection (a) shall not apply to any judgment obtained pursuant to a complaint filed after [the date of submission of the Benefits for Victims of International Terrorism Act of 2003]."

(b) Section 1610(f) of Title 28, United States Code (28 U.S.C. 1610(f)), is amended by adding the following at the end as new subparagraph (4):

"(4) Subsection (f) shall not apply to any judgment obtained pursuant to a complaint filed after [the date of submission of the Benefits for Victims of International Terrorism Act of 2003]."

U.S. Department of State,
Washington, DC, June 5, 2003.

Hon. Richard G. Lugar,
Chairman, Committee on Foreign Relations, U.S. Senate.

Dear Mr. Chairman: We are transmitting for your consideration a draft bill to establish a program to provide benefits for United States victims of international terrorism.

The proposed legislation is based on the following three principles:

The program should provide the same benefits to those with low incomes as those with greater means;

Victims should receive compensation as quickly as possible; and

The amount of compensation should be on par with that provided to families of public safety officers killed in the line of duty (currently $262,000).

Thus, the government program should not be designed as the primary means of compensating victims and victims' families for their losses, but rather should complement life insurance, savings, and other private financial measures.

In contrast to a mechanism that uses blocked assets and rewards those that can secure judgements before such assets are exhausted, a fund based on the above principles would provide compensation for all victims fairly and equitably. It also preserves the President's prerogatives in the area of foreign affairs.

The proposed fund would be administered within the Department of State. The legislation includes authorization for appropriations necessary to compensate victims. In addition to these costs, a benefits adjudication unit will be established within the Department soon after enactment.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this proposal to Congress.

We urge your support for passage of this legislation, which provides compensation for U.S. victims of international terrorism in a fair and rational way.

Sincerely,

Paul V. Kelly,
Assistant Secretary,
Legislative Affairs.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 172—HONORING THE LIFE OF MEDIA REPORTING GIANT DAVID BRINKLEY, AND EXPRESSING THE DEEPEST CONDOLENCES OF THE SENATE TO HIS FAMILY ON HIS DEATH

Mr. McCONNELL (for himself and Mrs. Dole) submitted the following resolution; which was considered and agreed to:

S. Res. 172

Whereas the Senate has learned with sadness of the death of David Brinkley;

Whereas David Brinkley, born in Wilmington, NC, greatly distinguished himself as a newspaper reporter, radio correspondent, and television correspondent;

Whereas David Brinkley attended the University of North Carolina and served in the North Carolina National Guard;

Whereas David Brinkley's first job in Washington was covering the White House in 1943 for NBC as a radio reporter;

Whereas David Brinkley co-anchored "The Huntley-Brinkley Report," along with Chet Huntley, which was widely popular during the 1960's;

Whereas David Brinkley hosted "This Week with David Brinkley" for fifteen years and it was the number one Sunday program when he retired in 1996;

Whereas David Brinkley covered eleven presidents, four wars, 22 political conventions, a moon landing and three assassinations;

Whereas David Brinkley wrote three books, won ten Emmy awards, six Peabody Awards, and in 1992, the Presidential Medal of Freedom, the nation's highest civilian honor;

Whereas David Brinkley is considered by many to be the premier broadcast journalist of his time;

Whereas David Brinkley was well known for his wry sense of humor, fundamental decency, gentlemanly charm, and his one-of-a-kind writing style will forever be remembered by his friends, colleagues, and the countless members of the television audience he touched week to week over his more than fifty year career: Now, therefore, be it

Resolved, That the Senate—

(1) pay tribute to the outstanding career of David Brinkley

(2) expresses its deepest condolences to his family; and

(3) directs the Secretary of the Senate to direct an enrolled copy of this resolution to the family of David Brinkley.

SENATE RESOLUTION 173—TO AMEND RULE XVI OF THE STANDING RULES OF THE SENATE WITH RESPECT TO NEW OR GENERAL LEGISLATION AND UNAUTHORIZED APPROPRIATIONS IN GENERAL APPROPRIATIONS BILLS AND AMENDMENTS THERETO, AND NEW OR GENERAL LEGISLATION, UNAUTHORIZED APPROPRIATIONS, NEW MATTER, OR NONGERMANE MATTER IN CONFERENCE REPORTS ON APPROPRIATIONS ACTS, AND UNAUTHORIZED APPROPRIATIONS IN AMENDMENTS BETWEEN THE HOUSES RELATING TO SUCH ACTS, AND FOR OTHER PURPOSES

Mr. McCAIN (for himself, Mr. KYL, Mr. SESSIONS, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. Res. 173

Be it Resolved, That paragraph 1 of Rule XVI of the Standing Rules of the Senate is amended to read as follows:

"1. (a) On a point of order made by any Senator:

"(1) No new or general legislation nor any unauthorized appropriation may be included in any general appropriation bill.

"(2) No amendment may be received to any general appropriation bill the effect of which will be to add an unauthorized appropriation to the bill.

"(3) No new or general legislation nor any unauthorized appropriation, new matter, or nongermane matter may be included in any conference report on a general appropriation bill.

"(4) No unauthorized appropriation may be included in any amendment between the Houses, or any amendment thereto, in relation to a general appropriation bill.

"(b)(1) If a point of order under subparagraph (a)(1) against a Senate bill is sustained, then—

"(A) the new or general legislation or unauthorized appropriation shall be struck from the bill; and

"(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the bill shall be made and the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) shall be reduced accordingly.

"(2) If a point of order under subparagraph (a)(1) against an Act of the House of Representatives is sustained, then an amendment to the House bill is deemed to have been adopted that—

"(A) strikes the new or general legislation or unauthorized appropriation from the bill; and

"(B) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the bill and reduces the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) accordingly.

"(c) If the point of order against an amendment under subparagraph (a)(2) is sustained, then the amendment shall be out of order and may not be considered.

"(d) If the point of order against a conference report under subparagraph (a)(3) is sustained, then—

"(1) the new or general legislation, unauthorized appropriation, new matter, or nongermane matter in such conference report shall be deemed to have been struck;

"(2) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck shall be deemed to have been made and the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) shall be deemed to be reduced accordingly;

"(3) when all other points of order under this paragraph have been disposed of—

"(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck (together with any modification of total amounts appropriated and reduction in the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) deemed to have been made);

"(B) the question shall be debatable; and

"(C) no further amendment shall be in order; and

"(4) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

"(e)(1) If a point of order under subparagraph (a)(4) against a Senate amendment is sustained, then—

"(A) the unauthorized appropriation shall be struck from the amendment;

"(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the amendment shall be made and the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) shall be reduced accordingly; and

"(C) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the amendment as so modified.

"(2) If a point of order under subparagraph (a)(4) against a House amendment is sustained, then—

"(A) an amendment to the House amendment is deemed to have been adopted that—

"(i) strikes the new or general legislation or unauthorized appropriation from the House amendment; and

"(ii) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the House amendment and reduces the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) accordingly; and

"(B) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the question of whether to concur with further amendment.

"(f) The disposition of a point of order made under any other paragraph of this Rule, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subparagraph (a) with respect to the same matter.

"(g) A point of order under subparagraph (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

"(h) Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a general appropriation bill, a conference report on a general appropriation bill, or an amendment between the Houses on a general appropriation bill violate subparagraph (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this paragraph. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subparagraph (g), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

"(i) Notwithstanding any provision of the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.), no point of order provided for under that Act shall lie against the striking of any matter, the modification of total amounts to reflect the deletion of matter struck, or the reduction of an allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) to reflect the deletion of matter struck (or to the bill, amendment, or conference report as affected by such striking, modification, or reduction) pursuant to a point of order under this paragraph.

"(j) For purposes of this paragraph:

"(1)(A) The term ‘unauthorized appropriation’ means an appropriation—

"(i) not specifically authorized by law or Treaty stipulation (unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

"(ii) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

"(B) An appropriation is not specifically authorized if it is restricted or directed to, or authorized to be obligated or expended for the benefit of, an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that—

"(i) discriminates against other persons, programs, projects, entities, or jurisdictions similarly situated that would be eligible, but for the restriction, direction, or authorization, for the amount appropriated; or

"(ii) is so restricted, directed, or authorized that it applies only to a single identifiable person, program, project, entity, or jurisdiction,

unless the identifiable person, program, project, entity, or jurisdiction to which the restriction, direction, or authorization applies is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law) that specifically provides for the restriction, direction, or authorization of appropriation for such person, program, project, entity, or jurisdiction.

"(2) The term ‘new or general legislation’ has the meaning given that term when it is used in paragraph 2 of this Rule.

"(3) The terms ‘new matter’ and ‘nongermane matter’ have the same meaning as when those terms are used in Rule XXVIII.".

SEC. 2. STATEMENT REGARDING EFFECT OF REPORT LANGUAGE.

Paragraph 7 of Rule XVI of the Standing Rules of the Senate is amended by adding at the end "It shall not be in order to proceed to the consideration of a general appropriation bill if the report on that bill contains matter that requires or permits the obligation or expenditure of any amount appropriated in that bill for the benefit of an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that—

"(A) discriminates against other persons, programs, projects, entities, or jurisdictions similarly situated that would be eligible, but for the requirement or permission, for the amount appropriated; or

"(B) it applies only to a single identifiable person, program, project, entity, or jurisdiction,

unless the identifiable person, program, project, entity, or jurisdiction is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law).".

SEC. 3. STATEMENT REGARDING EFFECT OF JOINT EXPLANATORY STATEMENT LANGUAGE.

Rule XXVIII of the Standing Rules of the Senate is amended—

(1) by striking "The" in paragraph 1 and inserting "Except as provided in paragraph 7, the"; and

(2) by adding at the end the following:

"7. It shall not be in order to proceed to the consideration of a conference report on a general appropriations bill if the joint explanatory statement contains matter that requires or permits the obligation or expenditure of any amount appropriated in that bill for the benefit of an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that—

"(A) discriminates against other persons, programs, projects, entities, or jurisdictions similarly situated that would be eligible, but for the restriction or direction, for the amount appropriated; or

"(B) is so restricted or directed that it applies only to a single identifiable person, program, project, entity, or jurisdiction,

unless the identifiable person, program, project, entity, or jurisdiction to which the restriction or direction applies is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law).".

SEC. 4. READING OF CONFERENCE REPORT AND JOINT EXPLANATORY STATEMENT.

(a) Vitiating the Standing Order of the Senate Regarding the Reading of Conference Reports.—The Standing Order of the Senate regarding the reading of conference reports established by the second sentence of section 903 of Division A of Appendix D—H.R. 5666 of the Consolidated Appropriations Act, 2001 (114 Stat. 2763A-198) is vitiated.

(b) Reading of Joint Explanatory Statement.—There is established, as a Standing Order of the Senate, that the presentation of a conference report includes the presentation of the joint explanatory statement of the conferees required by paragraph 4 of Rule XXVIII of the Standing Rules of the Senate, and that a demand for the reading of the joint explanatory statement be subject to the same rules, precedents, and procedures as apply to a demand for the reading of the conference report.

Mr. McCAIN. Mr. President, the resolution I am submitting today is a resolution to amend the Standing Rules of the Senate to give every Member the ability to raise points of order in objection to unauthorized appropriations or locality-specific earmarks that would circumvent the authorizing or competitive award process. I am pleased to be joined in this effort by my colleagues, Senators KYL, SESSIONS, and FEINGOLD.

Specifically, the resolution would establish a new procedure, modeled in part after the Byrd Rule, which would allow a point of order to be raised against any new or general legislation or unauthorized appropriations, including earmarks, in any general appropriations bills or amendments to general appropriations bills. It also would allow a point of order to be raised against any new or general legislation or unauthorized appropriations, new matter, or nongermane matter in any appropriations conference reports, and against unauthorized appropriations in amendments between the Houses.

Unless a point of order is waived by the affirmative vote of 60 votes, the unauthorized provision would be extracted from the measure, and the overall cost of the bill would be reduced by the corresponding amount. Furthermore, if a point of order is sustained against a provision in a conference report, that provision also would be stricken. The legislative process would continue, however, and the legislation would revert to a nonamendable Senate amendment, which would be the conference agreement without the objectionable material, and the measure could then be sent back to the House.

The proposed rules change also includes two exemptions to points of order that currently apply to amendments to appropriations bills under rule XVI: appropriations that had been included in the President's budget request or would be authorized by a bill already passed by the Senate during that session of Congress. Such appropriations would not be subject to points of order under the proposed rules change.

Finally, as my colleagues know, the reports accompanying appropriations bills and the statements of managers that accompany conference reports are chock full of unauthorized appropriations and site-specific earmarks, typically far exceeding those in the bill language. There has been a growing tendency over the years for these reports to be viewed by Federal agencies as statutory directives. The fact is, of course, the Appropriations Committee reports and statements of managers are advisory only. Unless a device for curtailing such earmarking in report language is also implemented, the new rule could be rendered almost meaningless. Therefore, under our proposal, it would not be in order to consider an appropriations bill or conference report if the accompanying documents include unauthorized or earmarked items.

The proposal would not be self-enforcing but, rather, it would allow any Member to raise a point of order in an effort to extract objectionable unauthorized provisions. Our goal is to reform the current system by empowering all Members with a tool to rid appropriations bills of unauthorized funds, porkbarrel projects, and legislative policy riders.

For many years, I have worked to call attention to the wasteful practice of congressional earmarking whereby parochial interests are placed above national interests. Unfortunately, congressional earmarks have continued to rise year after year. In fact, according to information compiled from the CRS, the Congressional Research Service, the total number of earmarks has grown from 4,126 in fiscal year 1994, to 10,540 in fiscal year 2002. That is an increase of over 150 percent. And for the year 2003, the increase in number, from our preliminary estimates, is somewhere around 1,300 earmarks.

Our current economic situation and our vital national security concerns require that now, more than ever, we prioritize our Federal spending.

By the way, the earmarked funds have gone up a commensurate amount from $26.8 billion in fiscal year 1994, to $44.6 billion earmarked in 2002. I think what this chart shows is as important as the earmarks, given the fact that we are now up close to $50 billion in earmarked funds in our appropriations bills.

And this chart does not include the number of fundamental policy changes that are made in the appropriations process because they cannot get through the authorizing process, which is the proper process. And they, many times—as in a case that I will mention in a few minutes—often cost hundreds of millions of dollars to the taxpayers. Language included in the Department of Defense appropriations bill for fiscal year 1998 is a classic example. There were no funds earmarked in that bill that would show up here. It did show up as one policy change.

What it did do, in the Defense appropriations bill, is it granted a legal monopoly for American Classic Voyages to operate as the only U.S.-flagged operator among the Hawaiian Islands. After receiving the monopoly, American Classic Voyages secured a $1.1 billion loan guarantee from the U.S. Maritime Administration's title XI loan guarantee program for the construction of two passenger vessels known as Project America.

Project America's subsequent failure 4 years later resulted in the U.S. Maritime Administration paying out $187.3 million of the taxpayers' money to cover the project's loan default and recovering only $2 million from the sale.

I am not alone in the opinion that the earmarking process has reached the breaking point. Consider the administration's recently submitted proposal to reauthorize the multiyear highway transit and safety programs which will expire in September 30, 2003. Interestingly, that proposal, entitled the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, SAFETEA, proposes to largely eliminate discretionary programs that currently exist under the Department's authority.

Why is that? One would think the Secretary of Transportation would be advocating the growth of discretionary programs so that he can award Federal grants for projects based on a meritorious selection process.

But over the years, such discretion has been assumed by the appropriators during the annual transportation appropriations process and all but nullified any role on the part of the Secretary and his ability to award discretionary grants.

Transportation Secretary Mineta, in testimony before the Senate Commerce Committee, stated:

> SAFETEA eliminates most discretionary highway grant programs and makes these funds available under the core formula highway grants programs. States and localities have tremendous flexibility and certainty of funding under the core programs. Unfortunately, Congressional earmarking has frustrated the intent of most of these discretionary programs, making it harder for States and localities to think strategically about their own transportation problems.

To further illustrate the enormity of the earmarking situation, my colleagues need only consider the transportation earmarking that has occurred during the past 5 years. According to the Department of Transportation inspector general, Congress appropriated $18 billion in discretionary funding for highway transit and aviation discretionary programs during fiscal years 1998 through 2002. Of that amount, $11 billion or 60 percent was earmarked by Congress.

Let me just offer a few specific examples of recent earmarks: From the war supplemental appropriations conference report, $110 million for modernization of the Agriculture Research Service, and Animal and Plant Health Inspection Service Facilities near Ames, IA. That was from a war supplemental appropriations conference report, specifically for the war in Iraq and homeland security. From the 2003 omnibus appropriations conference report, $1 million for a bear DNA sampling study in Montana; $280,000 for asparagus technology and production in Washington; $220,000 to research future foods in Illinois; $10 million for a seafood marketing program in Alaska; $250,000 for research on the interaction of grapefruit juice and drugs; $50,000 to combat feral hogs in Missouri; $2 million for the Biomass Gasification Research Facility in Birmingham, AL; $500,000 for the gasification of switchgrass in Iowa; $1 million for the National Agriculture-Based Industrial Lubricants Center in Iowa; and $202,500 to continue rehabilitation of the former Alaska Pulp Company mill site in Sitka, AK.

I usually make a lot of fun and jokes about these things, but it is getting out of hand. It is really getting out of hand. When we are looking at a $400 billion deficit this year, can we afford $1 million for a bear DNA sampling study in Montana?

The conference report also included an agricultural policy change to make catfish producers eligible for payments under the livestock compensation program even though hog, poultry, or horse producers are not eligible.

Further, the conference agreement contained provisions which allow a subsidiary of the Malaysian-owned Norwegian Cruise Lines the exclusive right to operate several large foreign-built cruise vessels in the domestic cruise trade. This provides an unfair competitive advantage to a foreign company at the expense of all other cruise ship operators and creates a de facto monopoly for NCL in the Hawaiian cruise trade.

From the fiscal year 2002 transportation appropriations conference report, nearly $1 billion in highway program funding authorized to be distributed to the States by formula at the discretion of the Secretary was instead, for the first time, redirected and earmarked for projects such as $1.5 million for the Big South Fork Scenic Railroad enhancement project in Kentucky; $2 million for a public exhibition on "America's Transportation Stories" in Michigan; and $3 million for the Odyssey Maritime Project, a museum, in Washington. That was out of highway funds.

The National Corridor Planning & Development & Corridor Border Infrastructure Program was authorized at $140 million. But the appropriators provided an additional $333.6 million over the authorized level for a total of $492.2 million in funding. The conferees then earmarked 100 percent of the funding for 123 projects in 38 States. Earmarks included, surprisingly, $54 million for three projects in West Virginia; $43 million for 18 projects in Kentucky; $34.5 million for seven projects in Mississippi; $34 million for five projects in Washington; and $27 million for six projects in Alabama. Twelve States received zero funding under any program: Arizona, Colorado, Delaware, Hawaii, Nebraska, Nevada, North Dakota, Rhode Island, South Carolina, Utah, Vermont, and Wyoming.

I could go on citing examples of arbitrary earmarks. I will refrain for now. But something has to be done to put a halt to the alarming increase in earmarking.

I went over the rules changes and what they meant, but I would just like to give a most recent example. An issue that has arisen which is of great concern to many Americans is the issue of media concentration. We have had several hearings in the Commerce Committee. We had the FCC Commissioners up before the committee after they made a ruling. It has probably aroused more interest than any other issue ever before the Federal Communications Commission, certainly in recent memory.

Seven hundred fifty thousand Americans contacted the FCC on this issue of media concentration. The issue is difficult. It is complex. We have had many hearings on it. Over time, I have become convinced that this issue is a serious one. I believe there are serious problems with radio concentration. I am not sure what the answer is and exactly how we go about addressing the issue of both vertical and horizontal concentration, cross-ownership of newspapers, and television stations and cable stations and radio stations. But the committee will continue to explore it.

Last week, three of my colleagues from the Senate held a press conference: My dear friend Senator HOLLINGS, ranking member of the Commerce Committee, former chairman; Senator STEVENS of Alaska, second ranking member of the committee; and Senator LOTT, a very distinguished member of the committee. At the time, they said they were introducing legislation to freeze the ownership at 35 percent which would then counteract and repeal the rule raising media concentration levels to 45 percent by FCC.

The only reason I mention this is immediately in answer to the first question, they said: If we don't get it through the committee, we can always put it on an appropriations bill. That was the comment made.

Mr. President, that is not the right way to do business on a major fundamental policy change, to tack it on as one line, as was described by Senator HOLLINGS, that we can always just zero out the funding. That is not the way we should be doing business.

This issue should be decided by all 100 Senators on the floor of the Senate. I am not saying the sponsors of the legislation are wrong. But this has to do with billions of dollars in acquisitions, or nonacquisitions, with fundamental changes within the media. The answer was, well, we will put it on an appropriations bill if we cannot get it through committee. The committee will be marking it up on Thursday. I don't know if it will get to the floor. That is up to the majority leader but, more importantly up to my colleagues who may put holds on it.

These are serious issues that impact greatly the United States of America, and they are being decided on appropriations bills, stuck in without even so much as a hearing many times. I will be on the floor many times on this issue because it is a long way from us being able to remove this power from the Appropriations Committee and put it back into the authorizing committees where it belongs.

Finally, some of the proudest and most intense and enjoyable moments of my political career have been as chairman of the Commerce Committee. I believe the Commerce Committee is well suited to address these issues. I believe the Commerce Committee is well suited to authorize major programs and address major policy challenges that confront the Nation, whether it is commerce, science, transportation, information technology, telecommunications, aviation, or all of the other issues. I don't think they should be decided by the Appropriations Committee, as far as policy is concerned. As far as the amounts of money are concerned, that is their job. I pretend to have no ambitions on that issue.

We have to get this out-of-control—and I mean totally out-of-control—situation under control. The situation has been dramatically exacerbated by the fact that we are now looking, in sheer whole numbers, at the highest deficits in the history of this country. As far as a percent of GNP, they are not the highest, but we are talking about at least $400 billion this year.

We are about to—I am happy to say—pass a Medicare prescription drug program that will cost about $400 billion or more over a 10-year period. We are looking at Social Security and Medicare. We cannot afford this high cost anymore. I believe the chairman of the Rules Committee will be holding a hearing on this issue. I don't believe it would get through the Rules Committee, but I am very grateful to Senator LOTT that he would allow a hearing on this issue. But I do not intend to give up on it. We will be discussing it and debating it for a long time.

My constituents—and every American—do not expect us to act in this fashion, which in many cases is totally irresponsible.

I yield the floor.

Mr. KYL. Mr. President, the Congressional Budget Act, Rule 21 of the House of Representatives, and Rule 16 of the Senate are all designed to establish a balance between authorizing legislation and appropriations bills that would allow Congress to consider authorizing legislation in a timely and thoughtful manner, and prevent the year-ending appropriations process from degenerating into a venue for policymaking and provincialism.

Yet, according to CBO, over the past several years, the total amount of unauthorized appropriations has ranged between about $90 billion and $120 billion annually, and since 1998, the number of earmarks has risen by 150 percent to 10,540, which cost $44.6 billion in 2002 alone. This trend has made a mockery of our institutional arrangement and beckons us to take action to fix the system.

The bill introduced today is not perfect, but it recognizes the deficiencies in current procedure and represents an earnest and thoughtful attempt to correct them. It would improve Rule 16 to close the loophole that currently insulates Senate appropriations committee-reported bills containing unauthorized appropriations and legislative language from points of order, while preserving the Senate's "defense of germaneness" to amend legislative language in House-passed appropriations bills.

It would also preserve balance between the Houses by allowing any Senator to raise a point of order against unauthorized appropriations included in a House-passed appropriations bill, conference report, or amendment between Houses. Finally, the bill attempts to regulate the practice of using committee or conference report language to earmark funds.

We have a problem; I think that much is clear. If other Members of this chamber do not agree with specific provisions of this bill, I ask that they offer constructive suggestions as to how best to breathe life back into Rule 16 and the institutional balance between authorization and appropriations. In the midst of the War on Terrorism and projected budget deficits, it would be an abrogation of our role as elected officials to allow the status quo to persist.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, June 18, 2003, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on Native American Sacred Places.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, June 17, 2003, at 10:00 a.m., to hear testimony on the "Implementation of U.S. Bilateral Free Trade Agreements with Singapore and Chile."

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 17, 2003, at 9:30 a.m., to hold a hearing on "Treaties Related to Aviation and the Environment."

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, June 17, 2003, at 10:00 a.m., to hold a business meeting to consider pending Committee business.

Agenda

Legislation: S. 481, the Kurtz Bill; S. 589, Homeland Security Workforce Act; S. 610, NASA Workforce Flexibility Act of 2003; S. 678, Postmasters Equity Act of 2003; S. 908, United States Consensus Council; S. 910, Non-Homeland Security Mission Performance Act of 2003; S. 926, Federal Employee Student Loan Assistance Act; S. 1166, National Security Personnel System Act; and S. 1245, Homeland Security Grant Enhancement Act.

Post Office Naming Bills: S. 508, a bill to designate the facility of the United States Postal Service located at 1830 South Lake Drive in Lexington, South Carolina, as the "Floyd Spence Post Office Building"; S. 708, a bill to redesignate the facility of the United States Postal Service located at 7401 West 100th Place in Bridgeview, Illinois, as the "Michael J. Healy Post Office Building"; S. 867, a bill to designate the facility of the United States Postal Service located at 710 Wicks Lane in Billings, Montana, as the "Ronald Reagan Post Office Building"; S. 1145, a bill to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the "Patsy Takemoto Mink Post Office Building"; S. 1207, a bill to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the "Walt Disney Post Office Building"; H.R. 825, an act to redesignate the facility of the United States Postal Service located at 7401 West 100th Place in Bridgeview, Illinois, as the "Michael J. Healy Post Office Building"; H.R. 917, an act to designate the facility of the United States Postal Service located at 1830 South Lake Drive in Lexington, South Carolina, as the "Floyd Spence Post Office Building"; H.R. 925, an act to designate the facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, as the "Cesar Chavez Post Office"; H.R. 981, an act to designate the facility of the United States Postal Service located at 141 Erie Street in Linesville, Pennsylvania, as the "James R. Merry Post Office"; H.R. 985, an act to designate the facility of the United States Postal Service located at 111 West Washington Street in Bowling Green, Ohio, as the "Delbert L. Latta Post Office Building"; H.R. 1055, an act to designate the facility of the United States Postal Service located at 1901 West Evans Street in Florence, South Carolina, as the "Dr. Roswell N. Beck Post Office Building"; H.R. 1368, an act to designate the facility of the United States Postal Service located at 7554 Pacific Avenue in Stockton, California, as the "Norman D. Shumway Post Office Building"; H.R. 1465, an act to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the "General Charles Gabriel Post Office"; H.R. 1596, an act to designate the facility of the United States Postal Service located at 2318 Woodson Road in St. Louis, Missouri, as the "Timothy Michael Gaffney Post Office Building"; H.R. 1609, an act to redesignate the facility of the United States Postal Service located at 201 West Boston Street in Brookfield, Missouri, as the "Admiral Donald Davis Post Office Building"; H.R. 1740, an act to designate the facility of the United States Postal Service located at 1502 East Kiest Boulevard in Dallas, Texas, as the "Dr. Caesar A.W. Clark, Sr. Post Office Building"; and H.R. 2030, an act to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the "Patsy Takemoto Mink Post Office Building."

Nominations: Michael J. Garcia to be Assistant Secretary for Immigration and Customs Enforcement, Department of Homeland Security; C. Steward Verdery, Jr. to be an Assistant Secretary of Homeland Security; Susanne Marshall to be Chairman of the Merit Systems Protection Board; Neil McPhie to be a Member of the Merit Systems Protection Board; Terrence A. Duffy to be a Member of the Federal Retirement Thrift Investment Board; Peter Eide to be General Counsel for the Federal Labor Relations Authority; Albert Casey to be a Governor for the United States Postal Service; and James C. Miller, III to be a Governor for the United States Postal Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "The FTC Study on Barriers to Entry in the Pharmaceutical Marketplace," on Tuesday, June 17, 2003, at 10:00 a.m., in the Dirksen Senate Office Building Room 226.

Witness List

Panel 1: The Honorable Timothy J. Muris, Esq., Chairman, Federal Trade Commission, Washington, DC; Mr. Dan Troy, Esq., Chief Counsel for Food and Drugs, Food and Drug Administration, Rockville, MD; Mr. Sheldon T. Bradshaw, Esq., Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, DC.

Panel 2: The Honorable Howard M. Metzenbaum, Esq.; Former U.S. Senator, [D–OH], Chairman, Consumer Federation of America, Washington, DC; Ms. Kathleen Jaeger, Esq., President and CEO, Generic Pharmaceutical Association, Washington, DC; Mr. Bruce Kuhlik, Esq., General Counsel, Pharmaceutical Research and Manufacturers of America, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "The Dark Side of a Bright Idea: Could Personal and National Security Risks Compromise the Potential of Peer-to-Peer Fine-Sharing Networks?" on Tuesday, June 17, 2003, at 2:00 p.m., in the Dirksen Senate Office Building Room 226.

Tentative Witness List

Panel I: The Honorable Dianne Feinstein, U.S. Senator, [D–CA]; The Honorable Tom M. Davis, III, U.S. Representative, [D–VA, 11th District], Chairman, House Committee on Government Reform.

Panel II: Nathaniel S. Good, Graduate Student, School of Information Science, University of California at Berkeley, Berkeley, CA; Aaron Krekelberg, Lead Web Developer, University of Minnesota, Minneapolis, MN; Randy Saaf, MediaDefender, Inc., Los Angeles, CA; Alan Morris, Executive Vice President, Sharman Networks, Ltd., London, England; Chris Murray, Esq., Legislative Counsel, Consumers Union, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, June 17, 2003, at 9:30 a.m., to conduct a hearing on Senate Resolution 151, requiring public disclosure of notices of objections, holds, to proceedings to motions or measures in the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, June 17, 2003, for a hearing to consider the nominations of Mr. Alan G. Lance, Sr., and Mr. Lawrence B. Hagel, to be Judges, U.S. Court of Appeals for Veterans' Claims. The hearing will take place in room 418 of the Russell Senate Office Building at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 17, 2003, at 2:30 p.m. to hold an open confirmation hearing on Frank Libutti to be Under Secretary for Information Analysis and Infrastructure Protection, Department of Homeland Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. BENNETT. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on June 17, 2003, from 10 a.m.-12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AFFAIRS AND PRODUCT LIABILITY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs and Product Liability be authorized to meet on Tuesday, June 17, 2003, from 2:30 pm on Reauthorization of the Consumer Product Safety Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet on Tuesday, June 17 at 9:30 am to conduct a hearing to receive testimony on S. 525, the National Aquatic Invasive Species Act at 2003, a bill to reauthorize the nonindigenous Aquatic Nuisance Prevention and Control Act. The hearing will take place in SD 406, Hearing Room.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BREAUX. Mr. President, at this time, I ask unanimous consent that the following fellows and interns on the Finance Committee be granted floor privileges for the duration of the debate on the Prescription Drug Medicare Improvement Act of 2003: Patrick Straub, Nadija Porobic, Kathy Laubach, Autumn Engellant, Constantine Tujios.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to allow floor privileges for Daniel Crimmins, a Robert Woods Johnson health policy fellow in my office during deliberations on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. I ask unanimous consent that the privilege of the floor be granted to Erica Buehrens, a fellow in Senator JOHN EDWARDS' office, during the pendency of S. 1, the Medicare prescription drug benefit bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING THE LIFE OF MEDIA REPORTING GIANT DAVID BRINKLEY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 172, which was submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 172) honoring the life of media reporting giant David Brinkley, and expressing the deepest condolences of the Senate to his family on his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I spend many of my Sunday mornings having coffee with Tony Snow, Tim Russert and Bob Schieffer. The Sunday morning talk shows are a chance for me—and I'm sure every Senator in this Chamber—to listen and participate in some of the best and most lively debates in America. While today's hosts are some of the best in the business, their foundation was built by a legend.

"This Week with David Brinkley" was that foundation. His show was the first Sunday talk show I remember watching. David had a passion for politics and it showed on the air. He set a pattern for all the other hosts to follow. Last Wednesday, when David passed away at the age of 82, America lost a friend.

David's interest in journalism and politics started at a very early age. He was born in Wilmington, NC, on July 10 1920. David's first job in journalism was at the Wilmington Morning Star, where he wrote for the newspaper while still in high school. Following graduation, he attended the University of North Carolina and served in the North Carolina National Guard. In 1943, after his discharge from the service, David moved to Washington, DC, and landed a job with NBC as a radio reporter covering President Franklin D. Roosevelt at the White House.

In 1956, David got his big break. He became a co-anchor with Chet Huntley during the Democratic and Republican political convention. I remember tuning in to David every night; in fact, I was probably the only 14-year-old in America that watched the conventions from gavel to gavel.

David did such an outstanding job during the conventions that NBC decided to promote him to the nightly news. "The Huntley-Brinkley Report" premiered on October 29, 1956. This was NBC's nightly newscast, and it was the show that made David Brinkley a household name. Millions of Americans tuned in to the program nightly to get their news. Their show was so popular that, in the 1960s, David and Chet both had higher name recognition than the Beatles and John Wayne.

What most Americans remember about the show was the way they signed off each night: "Goodnight, Chet . . . Goodnight, David." It became one of the country's first catchphrases.

David permanently said "goodnight" to "The Huntley-Brinkley Report" in 1970. He stayed at NBC for another 11 years, continuing to report, anchor and host a magazine show.

In 1981, ABC arrived on the scene. The network offered him a Sunday morning talk show. "This Week with David Brinkley" was the first of its kind—an hour rather than 30 minutes, and it became a huge ratings hit.

During his long and outstanding career, David covered 11 presidents, 4 wars, 22 political conventions, a moon landing, and 3 assassinations. He wrote 3 books, won 10 Emmy awards, 6 Peabody awards, and in 1992, the Presidential Medal of Freedom—the Nation's highest civilian honor.

David was just as well known for his wry sense of humor, fundamental decency and gentlemanly charm as he was for his one-of-a-kind writing style. I am told that he wrote all of his own scripts, which is rare, especially in today's world of the 24-hour news channels. In 1987, he said: "it's the way I've written all my life, since I was 6 years old and working part-time at a local newspaper. I write the way I talk. Occasionally, rarely, because something happened while I was already on the air and I couldn't write it myself, somebody's written something and brought it to me. And I cannot read it. Can not!. . . And it's not that the writing is so terrible. It's just that . . . I can't read anything that isn't mine."

My prayers and deepest condolences go out to David's family and friends for their loss. Mr. President, I close by asking my colleagues to join me in paying tribute to David Brinkley's life and his contribution to journalism and politics. There will never be another one like him. He will be missed.

"Goodnight, David."

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 172) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 172

Whereas the Senate has learned with sadness of the death of David Brinkley;

Whereas David Brinkley, born in Wilmington, NC, greatly distinguished himself as a newspaper reporter, radio correspondent, and television correspondent;

Whereas David Brinkley attended the University of North Carolina and served in the North Carolina National Guard;

Whereas David Brinkley's first job in Washington was covering the White House in 1943 for NBC as a radio reporter;

Whereas David Brinkley co-anchored "The Huntley-Brinkley Report," along with Chet Huntley, which was widely popular during the 1960's;

Whereas David Brinkley hosted "This Week with David Brinkley" for fifteen years and it was the number one Sunday program when he retired in 1996;

Whereas David Brinkley covered eleven presidents, four wars, 22 political conventions, a moon landing and three assassinations;

Whereas David Brinkley wrote three books, won ten Emmy awards, six Peabody Awards, and in 1992, the Presidential Medal of Freedom, the nation's highest civilian honor;

Whereas David Brinkley is considered by many to be the premier broadcast journalist of his time;

Whereas David Brinkley was well known for his wry sense of humor, fundamental decency, gentlemanly charm, and his one-of-a-kind writing style will forever be remembered by his friends, colleagues, and the countless members of the television audience he touched week to week over his more than fifty year career: Now, therefore, be it

Resolved, That the Senate—

(1) pay tribute to the outstanding career of David Brinkley;

(2) expresses its deepest condolences to his family; and

(3) directs the Secretary of the Senate to direct an enrolled copy of this resolution to the family of David Brinkley.

ORDERS FOR TOMORROW

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., June 18. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10 a.m. with the time equally divided between the two leaders, or their designees, provided that at 10 a.m. the Senate resume consideration of S. 1, the prescription drug benefits bill.

Mr. REID. Mr. President, reserving the right to object, does the Senator from Kentucky have information that the scoring will be completed sometime during the night?

Mr. McCONNELL. I am told that we believe it will be ready by the time we resume consideration of the bill in the morning.

Mr. REID. I think the debate today has been very constructive. I hope that in the next 10 days or so it is the same. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I say to the Democratic whip, as he knows, the intent of the majority leader is to finish this bill by the July 4 recess. We hope to make great progress and, obviously, we will need to do that in the next 10 days.

PROGRAM

Mr. McCONNELL. Mr. President, for the information of all Senators, tomorrow morning, following morning business, the Senate will resume consideration of S. 1, the prescription drug benefits bill. We have had a good debate on the issue so far yesterday and today, and a number of Members have come to the floor to speak on the merits of the bill.

Tomorrow, we expect to begin the amending process. Senators who wish to offer amendments are encouraged to contact the chairman or the ranking member of the Finance Committee so they may schedule time for consideration of their amendments.

I also advise our colleagues that rollcall votes are anticipated throughout tomorrow's session. Senators will be notified on when the first vote is scheduled.

In addition, I alert all Senators that votes are expected each day this week. As I indicated a few moments ago, we intend to complete this vital measure before we have the Fourth of July recess.

ORDER FOR ADJOURNMENT

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of the senior Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I shall be short under the circumstances because I assume we will have another occasion to speak on the McCain amendment.

Parliamentary inquiry. I am informed it is the pending amendment.

The PRESIDING OFFICER. It is a resolution that was submitted and referred to committee.

Mr. STEVENS. It was referred to committee.

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. I was improperly informed, but I would like to speak for a minute or two on that matter.

The PRESIDING OFFICER. That is in order. The Senate is in morning business.

AMENDMENT TO RULE XVI OF THE STANDING RULES OF THE SENATE

Mr. STEVENS. Mr. President, everyone should understand the scope of the proposed resolution of the Senator from Arizona. I have before me some books. The books with white covers are requests I received as chairman of the Appropriations Committee on one bill last January, when we talked about the defense portion of what we call the omnibus bill.

The Chair will recall we had 11 bills that had to be put together. This is the portion pertaining just to the foreign assistance subcommittee dealing with matters of foreign assistance. Every one of those pages is a letter from a Member of the Senate asking our committee to change a portion of the appropriations bill for the specific subcommittee received from the administration. The President sends us a budget, and the budget is broken into 13 separate bills. These represent the requests received from Senators to change just 2 of those 11 bills.

Senator McCAIN's proposal would, in effect, say if any one of these requests were granted, it would be subject to a point of order and it would take 60 votes to allow that amendment to stay in the bill.

In other words, a Senator could make a motion after the Senate or the committee had agreed to one of these requests, and that motion would be to take it out. It would take 60 votes to sustain it. I think the Constitution assures a majority can pass any amendment. This is a procedure that is unheard of in terms of parliamentary procedure and one I want the Senate to know if it possibly comes up on the floor. I think we shall demonstrate what a good old-fashioned filibuster is all about. I thank the Chair.

AUTOMATIC DEFIBRILLATION IN ADAM'S MEMORY ACT

Mr. STEVENS. Mr. President, I ask unanimous consent, notwithstanding the previous order, that the HELP Committee be discharged from further consideration of H.R. 389 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 389) to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools.

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 389) was read the third time and passed.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. STEVENS. Mr. President, I renew the request of the distinguished assistant leader.

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. tomorrow.

There being no objection, the Senate, at 6:34 p.m., adjourned until Wednesday, June 18, 2003, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, June 17, 2003*

The House met at 10:30 a.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 519. An act to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes.

H.R. 788. An act to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 733. An act to authorize the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon City, Oregon, and to administer the site as a unit of the National Park System, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 246. An act to provide that certain Bureau of Land Management land shall be held in trust for the Pueblo of Santa Clara and the Pueblo of San Ildefonso in the State of New Mexico.

S. 500. An act to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era.

S. 520. An act to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho.

S. 625. An act to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Oregon, and for other purposes.

S. 635. An act to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes.

S. 1015. An act to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

ROADLESS RULE ROLLBACK

Mr. BLUMENAUER. Mr. Speaker, people who care about the environment were heartened 2 weeks ago when the administration declared that it would uphold the Roadless Area Conservation Rule. But alas, the other shoe dropped.

Last week, the administration proposed exempting Alaska's national forests from the roadless rule, reopening them to logging and roadbuilding. Even more troubling, the administration will also turn over significant authority over our Federal forests to the States, allowing governors to provide for exemptions.

Allowing States to exempt themselves from our national environmental laws is not a healthy precedent. States have a mixed record when it comes to environmental stewardship. They are too often overwhelmed by understandable local interest from snowmobiles to timber to water. We need a strong presence. These are, after all, our national forests.

Rather than the administration's vigorous enforcement of environmental laws, this is another example of a settlement to further erode, rather than strengthen and uphold. There are about 50 pending timber sales in roadless areas in Alaska currently protected under the roadless rule that are ready to go forward when the Tongass exemption is finalized.

Despite the assurances that 95 percent of the Alaska's forests will be protected, the remaining 5 percent allows hundreds of thousands of acres which are among the most valuable for both the timber companies and the environment. This roadless conservation rule was developed during the last 3 years of the Clinton administration. It was finalized after the most extensive public outreach process in history. Six hundred public hearings and more than 1.6 million official comments overwhelmingly in support of this initiative.

The rule protects 58½ million acres of pristine national forests in 39 States. In my State alone, in Oregon, 2 million acres would have been protected.

The independent editorial boards around the country have zeroed in. In The New York Times, it pointed out that this is part of a continued assault on environmental protections. From day one, the Bush administration has sought to unravel the intricate tapestry of rules and regulations that have shielded the national forests from excessive logging and other commercial activities.

In the last 6 months alone, the administration has finalized or proposed new rules that would short-circuit environmental reviews, restrict public participation in land-use decisions, and weaken safeguards for endangered species.

The administration's latest target is the roadless rule. The San Francisco Chronicle pointed out the administration's pattern of disingenuousness. The Bush administration's doublespeak about the environment reached a new level of shamelessness this week when it announced it was retaining the roadless rule and then an announcement that it would prohibit logging on 95 percent of Alaska's national forest. Let none be fooled. What the Bush administration did was carve out huge exceptions and loopholes through a thoroughly vetted and well-balanced, popularly-supported plan to protect the ever shrinking swath of untrampled national forests.

In the Boston Globe last week, National forests are called that because they belong to the Nation as a whole, not the governors, and certainly not to the administration in Washington, who has put a former timber lobbyist in charge of them.

The Minneapolis Star Tribune, the administration's version of the roadless rule for the National forests to be published later this month, is portrayed by its authors as a fine tuning of what was arguably the Clinton administration's most important wilderness initiative. Right. It strains credibility for Clinton's successors having relentlessly assailed the rule, to claim that they are now prepared to accept it with minor modifications. Indeed, there is nothing minor about the modifications the Interior Department outlined. Fine tuning with such changes is akin to edging a lawn with a chain saw. Edging a lawn with a chain saw. Not fine tuning.

Mr. Speaker, the American people and their forests deserve better.

REAL RESULTS FOR WORKING FAMILIES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Texas

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(Mr. DELAY) is recognized during morning hour debates for 1 minute.

Mr. DELAY. Mr. Speaker, the American people are responding to the Republican party's economic agenda and we are responding to their needs. Our majority were elected in part to get the economy moving again, and the early evidence suggests we are delivering results for working families.

On March 11, when the Committee on Ways and Means held its first hearing on the President's Job and Growth Package, the Standard and Poor's 500 Index stood at just above 800. Yesterday it closed above 1,000, a 25 percent increase in the stock market in just 3 months.

The long suffering NASDAQ Composite Index has risen almost 10 percent just since the President signed the Jobs and Growth Package a few weeks ago. All totalled, $1.9 trillion in equity value has been created by the American people in fewer than 100 days. That is college savings, pension funds and individual retirement accounts. That kind of wealth creation leads to more investment, which leads to job creation and, ultimately, leads to economic growths. It may be too soon to call this a bull market, Mr. Speaker, but it is starting to move.

And in the face of this positive response from the American people, we are going to keep moving our agenda of job creation, growth and economic opportunity to help our citizens fulfill America's promise.

Last week we extended the life of the $1,000 child tax credit, extending its benefits to millions of working and middle class families. We took millions off the Federal tax rolls all together, and got rid of the child tax credit's marriage penalty.

Our commitment to a family-friendly Tax Code will not stop there, because this week the House will consider legislation to make the 2001 repeal of the death tax permanent. After all, if we have the right to pass on a family business or farm to our spouse and children, why should our children and grandchildren not have that same right? Of course they have should, because economic security does not come with an expiration date.

Mr. Speaker, the Republican agenda for economic growth and opportunity will create new jobs and improve current jobs. That is what the American people expect and it is exactly what we are delivering.

ALASKAN EXEMPTION FROM ROADLESS AREAS CONSERVATION RULE

The SPEAKER pro tempore (Mr. BURGESS). Pursuant to the order of the House of January 7, 2003, the gentleman from New York (Mr. CROWLEY) is recognized during morning hour debates for 5 minutes.

Mr. CROWLEY. Mr. Speaker, earlier this week the Bush administration revised the Roadless Area Conservation Rule and exempted millions of acres of forests throughout our country. Included in these revisions are areas I recently had the pleasure of visiting, including the Tongass and the Chugach National Forests in Alaska, which are now set to be turned into the horror of the "10-Year Tongass Timber Project" which I believe is truly a disaster.

As a firsthand witness, I have experienced the beauty and the natural wonders of these two forests in Alaska. The Tongass and Chugach Forests boast the world's most intact rain forests with centuries-old trees providing critical habitat for wolves, grizzly bears, wild salmon, bald eagles, and other wildlife that have disappeared from many other parts of our country.

In 2001, the roadless rule was drafted and implemented to balance the interests of environmental and local labor groups so that a small number of timber projects already in progress at that time could be completed. Furthermore, at the time the maintenance and reconstruction of existing roads was strictly limited to cases of public safety and habitat improvement for wildlife, which meant common sense environmental regulations were put in place to ensure the health and safety of the residences of these areas where they were tended to as well as the economic well-being of those individuals.

Those common sense regulations did not shut down Alaska. They protected the lands and the people from mining and timber interests that looked to pillage and use the lands for their and not America's own needs. However, until now, large scale timber projects, the cutting sale and removal of timber from the Tongass Forest has been prohibited.

This Roadless Area Conservation Rule was created with the tremendous outpouring of public support, demonstrated in over 600 public hearings that were held around the Nation and with more than 1.6 million comments on this rule alone, more than any other rule in the history of our Nation.

Today, in 2003, without public support or comment, the President has revised the roadless rule with an unbalanced approach that favors the logging and timber interests over America's interests and swings the door wide open for commercial logging, roadbuilding, and development on 58.5 million acres of unroaded national forests nationwide, one quarter of which are located in the Tongass and Chugach National Forests.

This is being done without any public comment, but, again, when has the will of the majority of the American people mattered to this administration?

By lifting the roadless rule in these areas, the Bush administration will destroy the Tongass and Chugach, the Nation's two largest National forests totalling 22 million acres and deprive generations of young Americans from their national inheritance of the world's last remaining old-growth temperate rainforest.

Essentially, these two forests are the Amazon of North America. They are the last vestiges of pristine wildness. They are treasures that require vigilant protection by all Americans. They are the best of what we have in Alaska. And yet, the Forest Service has already scheduled approximately 50 timber projects in the roadless areas of the Tongass National Forest and is set to sell Tongass timber as soon as these revisions are finalized.

To make the situation worse, according to the GAO, these timber sales have been subsidized with hundreds of millions of taxpayer dollars. I believe that maintaining the roadless rule will protect not only these forests in Alaska, but also Federal lands and forests in every State in our union.

As a New Yorker, I fear that the slippery slope will soon lead to logging and road construction in the forests of New York State, including the wooded areas surrounding the Finger Lakes region.

By opening the road to timber and logging, the President is sending a message that every protected wildness and forest in America is vulnerable to attack by profit-hungry interest groups. From Alaska to New York, this effort must be blocked.

Environmental policy has a lasting effect on succeeding generations. The risk of causing irreparable damage is high. These policies must be developed with the goal of balancing the interests of labor, industry, and the environment, not with the goal of increasing timber sales.

It is amazing that the greatest conservation President in the history of our country was a Republican, President Theodore Roosevelt, while we are now seeing the greatest anti-environmental President in another Republican, George Bush.

Mr. Speaker, the former poet laureate of Colorado and singer/songwriter John Denver said, "To the mountains I confess there; to the rivers I will be strong; to the forests, I find peace there; to the wild country I belong."

NO ACCOUNTING FOR WASTE, FRAUD, AND ABUSE IN GOVERNMENT

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, as we begin our debate in our committees on reforming Medicare, one of the issues that will be highlighted is the waste, fraud and abuse that has plagued this program for decades. But this Federally-mandated managed program is not the only source of wasteful spending in waste, fraud and abuse. Frankly, the entire government endures this rampant problem also.

In March of this year, GAO submitted its report on the United States government's consolidated financial statement for fiscal year 2001 and 2002. Not surprisingly, GAO could not express its opinion on these statements due to "material weaknesses in internal control and in accounting and reporting."

It is the accounting and reporting that particularly appalls me. In the past 2 years, we have seen what happens with poor accounting and reporting in the corporate world, but it appears that the accounting irregularities continue to run rampant in the Federal Government as well. These irregularities and lack of internal controls result in "hampering the Federal Government's ability to accurately report assets, liabilities and costs."

In addition, such problems prevent accurate reporting of the cost and performance of certain Federal programs. That is, we cannot even determine what our government owns, what it accurately spends each year. GAO goes so far as to state that as a result of these material deficiencies, that the amounts reported in the consolidate financial statements "may not be reliable."

So if a person wanted to see what the consolidated financial statements of a particular agency that reported, they might as well take a scientific wild guess, because the agency charged with examining the accounting statements of the Federal Government cannot even express an opinion because recordkeeping and controls are so shoddy. Yet, we ask the private sector to keep accurate records, and if they do not, they are held accountable.

Mr. Speaker, we cannot even accurately state how much waste, fraud and abuse occurs in this Federal Government. Conservative estimates range at 20 billion plus. The government penalizes private companies for poor accounting, but when a Federal agency cannot account for billions that it has spent, what do we do? We give them an increased appropriations for the following year. We should not do this without strict accounting of these Federal agencies.

The President issued his Management Agenda designed to emphasize that clean financial records are key to a "well managed organization." I applaud the President's efforts in this area as it is a daunting task to reform such a bureaucratic beast. The government requires its citizens every year to pay an ever-increasing burden in Federal taxes and users fees for expanding Federal programs. The least we could do is to accurately report how the money is spent.

We must do this in Congress, put in place accounting procedures so we can determine what the government owns, what it spends; and then and only then can we determine where the waste, fraud and abuse is and save, ultimately, the hard-earned money of the taxpayers.

AMERICA IS WAITING FOR AN ANSWER

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Washington (Mr. McDERMOTT) is recognized during morning hour debates for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to enter into the record a letter by the gentleman from California (Mr. WAXMAN) to Condoleezza Rice, the Security Advisor to the President, because it contains some questions I think are important.

The other night I was on Crossfire, and Robert Novak asked me whether I thought it would be a good thing or a bad thing if weapons of mass destruction were found in Iraq. The show moved on before I could answer, but it was an interesting question. I think what he was getting at is whether I would feel better if I knew the President were right all along and that there were huge stockpiles of anthrax and nerve gas and missiles armed with bioweapons ready to be launched 45 minutes and a latterday Manhattan Project hidden under a stadium somewhere.

He was really asking if I would feel better knowing that I had not been misled or if I were rather nothing were found so I could gloat over having been right when I said in September that I thought indeed the President would mislead the American people on the way to Iraq.

Of course, the answer is that I hope that no weapons are there to be found. I hope we are never in danger and that we were not in danger and that our troops were never in danger, and that Saddam Hussein, despite his aspirations, was not on his way of becoming the Saladin of the 21st century. Who would not prefer a world with fewer weapons in the hands of dictators? And if there were weapons, all Americans want them found and destroyed.

The President himself seems to have retreated from the claim that the U.S. was in imminent danger from the Iraqi weapons of mass destruction. Now he is speaking of existence of a weapons program, not of armed missiles and gallons of nerve gas.

Mr. Speaker, 11 young Americans have died in Iraq in the past 15 days. Fifty have died since the President declared the war over. A total of 180 Americans and 45 coalition troops have died. What does it mean that 180 young Americans have died in Iraq? Did they die to bring democracy to someone else's country or to stop Saddam Hussein's terrible human rights abuses?

Mr. Speaker, I am glad that Hussein is gone, and I believe that nearly all Iraqis are glad that he's gone. But I do not think that the young Americans who died in Iraq signed up to fight against tyranny in general. They signed up to protect this country and our country, their own country.

In light of this where do we go? If this were still the Clinton administration, there would be a highly publicized investigation coming out of every committee in this House, including Small Business and Agriculture. There would be calls for special prosecutors, for resignation, for impeachment.

President Bush puts great store in personal responsibility, and I believe the time is long past for the President to take responsibility and level with the American people. Did the President believe that Iraq was so likely to pose a danger in the future that it was okay to play fast and loose with the Congress, the U.N. and the American people to get approval to go to war?

Was the President misled by bad intelligence? Was he misled by advisors who had prejudged the facts, or was there solid, credible intelligence that just unaccountably turned up to be accurate? We need to know.

If the President's information was bad, we need to know what steps are being taken to dismiss those who provided and vouched for it. If the President decided that future dangers were so great that misleading us about the present danger was warranted, we need him to take responsibility for that decision. We need the President to explain to us and to the world why 180 young Americans are dead and why U.S. credibility is eroding all over the world. I am waiting to hear from the President, the Congress is waiting, and 180 American families are waiting to hear.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, June 10, 2003.

Hon. CONDOLEEZA RICE,
Assistant to the President for National Security Affairs, the White House, Washington, DC.

DEAR DR. RICE: Since March 17, 2003, I have been trying without success to get a direct answer to one simple question: Why did President Bush cite forged evidence about Iraq's nuclear capabilities in his State of the Union address?

Although you addressed this issue on Sunday on both Meet the Press and This Week with George Stephanopoulos, your comments did nothing to clarify this issue. In fact, your responses contradicted other known facts and raised a host of new questions.

During your interviews, you said the Bush Administration, welcomes inquiries into this matter. Yesterday, the Washington Post also reported that Director of Central Intelligence George Tenet has agreed to provide "full documentation" of the intelligence information "in regards to Secretary Powell's comments, the president's comments and anybody else's comments." Consistent with these sentiments, I am writing to seek further information about this important matter.

The forged documents in question describe efforts by Iraq to obtain uranium from an African country, Niger. During your interviews over the weekend, you asserted that no doubts or suspicions about these efforts or the underlying documents were communicated to senior officials in the Bush Administration before the President's State of the Union address. For example, when you were asked about this issue on Meet the Press, you made the following statement:

"We did not know at the time—no one knew at the time, in our circles—maybe someone knew down in the bowels of the agency, but no one in our circles knew that there were doubts and suspicions that this might be a forgery. Of course, it was information that was mistaken."

Similarly, when you appeared on This Week, you repeated this statement, claiming that you made multiple inquiries of the intelligence agencies regarding the allegation that Iraq sought to obtain uranium from an African country. You stated:

"George, somebody, somebody down may have known. But I will tell you that when this issue was raised with the intelligence community . . . the intelligence community did not know at that time, or at levels that got to us, that this, that there were serious questions about this report."

Your claims, however, are directly contradicted by other evidence. Contrary to your assertion, senior Administration officials had serious doubts about the forged evidence well before the President's State of the Union address. For example, Greg Thielmann, Director of the Office of Strategic, Proliferation, and Military Issues in the State Department, told Newsweek last week that the State Department's Bureau of Intelligence and Research (INR) had concluded the documents were "garbage." As you surely know, INR is part of what you call "the intelligence community." It is headed by an Assistant Secretary of State, Carl Ford; it reports directly to the Secretary of State; and it was a full participant in the debate over Iraq's nuclear capabilities. According to Newsweek,

"What I saw that, it really blew me away," Thielmann told Newsweek. Thielmann knew about the source of the allegation. The CIA had come up with some documents purporting to show Saddam had attempted to buy up to 500 tons of uranium oxide from the African country of Niger. INR had concluded that the purchases were implausible—and made that point clear to Powell's office. As Thielmann read that the president had relied on these documents to report to the nation, he thought, "Not that stupid piece of garbage. My thought was, how did that get into the speech?"

Moreover, New York Times columnist Nicholas D. Kristof has reported that the Vice President's office was aware of the fraudulent nature of the evidence as early as February 2002—nearly a year before the President gave his State of the Union address. In his column, Mr. Kristof reported:

"I'm told by a person involved in the Niger caper that more than a year ago the vice president's office asked for an investigation of the uranium deal, so a former U.S. ambassador to Africa was dispatched to Niger. In February 2002, according to someone present at the meetings, that envoy reported to the C.I.A. and State Department that the information was unequivocally wrong and that the documents had been forged. The envoy reported, for example, that a Niger minister whose signature was on one of the documents had in fact been out of office for more than a decade. . . . The envoy's debunking of the forgery was passed around the administration and seemed to be accepted—except that President Bush and the State Department kept citing it anyway. "It's disingenuous for the State Department people to say they were bamboozled because they knew about this for a year," one insider said."

When you were asked about Mr. Kristof's account, you did not deny his reporting. Instead, you conceded that "the Vice President's office may have asked for that report."

It is also clear that CIA officials doubted the evidence. The Washington Post reported on March 22 that CIA officials "communicated significant doubts to the administration about the evidence." The Los Angeles Times reported on March 15 that "the CIA first heard allegations that Iraq was seeking uranium from Niger in late 2001," when "the existence of the documents was reported to [the CIA] second- or third-hand." The Los Angeles Times quoted a CIA official as saying: "We included that in some of our reporting, although it was all caveated because we had concerns about the accuracy of that information."

With all respect, this is not a situation like the pre-9/11 evidence that al-Qaeda was planning to hijack planes and crash them into buildings. When you were asked about this on May 17, 2002, you said:

"As you might imagine . . . a lot of things are prepared within agencies. They're distributed internally, they're worked internally. It's unusual that anything like that would get to the president. He doesn't recall seeing anything. I don't recall seeing anything of this kind."

That answer may be given more deference when the evidence in question is known only by a field agent in an FBI bureau in Phoenix, Arizona, whose suspicions are not adequately understood by officials in Washington. But it is simply not credible here. Contrary to your public statements, senior officials in the intelligence community in Washington knew the forged evidence was unreliable before the President used the evidence in the State of the Union address.

In addition to denying that senior officials were aware that the President was citing forged evidence, you also claimed (1) "there were also other sources that said that there were, the Iraqis were seeking yellowcake—uranium oxide—from Africa" and (2) "there were other attempts to get yellowcake from Africa."

This answer does not explain the President's statement in the State of the Union address. In his State of the Union address, the President referred specifically to the evidence from the British. He stated: "The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa." Presumably, the President would use the best available evidence in his State of the Union address to Congress and the nation. It would make no sense for him to cite forged evidence obtained from the British if, in fact, the United States had other reliable evidence that he could have cited.

Moreover, contrary to your assertion, there does not appear to be any other specific and credible evidence that Iraq sought to obtain uranium from an African country. The Administration has not provided any such evidence to me or my staff despite our repeated requests. To the contrary, the State Department wrote me that the "other source" of this claim was another Western European ally. But as the State Department acknowledged in its letter, "the second Western European government had based its assessment on the evidence already available to the U.S. that was subsequently discredited."

The International Atomic Energy Agency (IAEA) also found no other evidence indicating that Iraq sought to obtain uranium from Niger. The evidence in U.S. possession that Iraq had sought to obtain uranium from Niger was transmitted to the IAEA. After reviewing all the evidence provided by the United States, the IAEA reported: "We have to date found no evidence or plausible indication of the revival of a nuclear weapons programme in Iraq." Ultimately, the IAEA concluded: "These specific allegations are unfounded."

As the discussion above indicates, your answers on the Sunday talk shows conflict with other reports and raise many new issues. To help address these issues, I request answers to the following questions:

1. On Meet the Press, you said that "maybe someone knew down in the bowels of the agency" that the evidence cited by the President about Iraq's attempts to obtain uranium from Africa was suspect. Please identify the individual or individuals in the Administration who, prior to the President's State of the Union address, had expressed doubts about the validity of the evidence or the credibility of the claim.

2. Please identify any individuals in the Administration who, prior to the President's State of the Union address, were briefed or otherwise made aware that an individual or individuals in the Administration had expressed doubts about the validity of the evidence or the credibility of the claim.

3. On This Week, you said there was other evidence besides the forged evidence that Iraq was trying to obtain uranium from Africa. Please provide this other evidence.

4. When you were asked about reports that Vice President Cheney sent a former ambassador to Niger to investigate the evidence, you stated "the Vice President's office may have asked for that report." In light of this comment, please address: (a) Whether Vice President Cheney or his office requested an investigation into claims that Iraq may have attempted to obtain nuclear material from Africa, and when any such request was made; (b) Whether a current or former U.S. ambassador to Africa, or any other current or former government official or agent, traveled to Niger or otherwise investigated claims that Iraq may have attempted to obtain nuclear material from Niger; and (c) What conclusions or findings, if any, were reported to the Vice President, his office, or other U.S. officials as a result of the investigation, and when any such conclusions or findings were reported.

On Sunday, you stated that "there is now a lot of revisionism that says, there was disagreement on this data point, or disagreement on that data point." I disagree strongly with this characterization. I am not raising questions about the validity of an isolated "data point," and the issue is not whether the war in Iraq was justified or not.

What I want to know is the answer to a simple question: Why did the President use forged evidence in the State of the Union address? This is a question that bears directly on the credibility of the United States, and it should be answered in a prompt and forthright manner, with full disclosure of all the relevant facts.

Thank you for your assistance in this matter.

Sincerely,

HENRY A. WAXMAN,
Ranking Minority Member.

MEDICARE REFORM

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentlewoman from West Virginia (Mrs. CAPITO) is recognized during morning hour debates for 5 minutes.

Mrs. CAPITO. Mr. Speaker, both houses of Congress are continuing the difficult task of drafting comprehensive Medicare reform legislation this week.

I urge my colleagues on both sides of the aisle to keep moving forward in the spirit of compromise on this extremely important issue.

Mr. Speaker, as time passes, the expectations of our constituencies continue to grow. We cannot return to our respective districts on the Fourth of July without some news of progress in the halls of Congress on a prescription drug plan for our seniors through Medicare.

Our colleagues in the other body have set the goal of reaching an agreement by the next recess, and I strongly urge my colleagues in this body to work on a bipartisan basis in order to reach a compromise.

Mr. Speaker, this is not a partisan issue and we can not allow it to fail because of partisan differences.

Mr. Speaker, I yield to the gentleman from Arkansas (Mr. BOOZMAN).

Mr. BOOZMAN. Mr. Speaker, I rise today to honor the Lincoln Echo Newspaper for 10 years of service to Fort Smith, Arkansas.

Last week, the Lincoln Echo celebrated its 10-year anniversary. It began with the mission of unifying Fort Smith's African-American community. When the paper was sold in 2001, its mission statement changed to reflect the changes in Fort Smith. Their new aim became to unify Fort Smith's diverse communities.

Their work has been noticed not only in Fort Smith but around the country, reaching over 25,000 readers in 29 different States. This paper has preached the importance of unity in our neighborhoods and continuously relays a positive message to all of its readers.

Mr. Speaker, I want to commend Napoleon Black, Allen Black, Jr., Cecil Greene, Jr., and everyone involved in the Echo's success. I look forward to many more years of success for the Lincoln Echo.

Mrs. CAPITO. Mr. Speaker, I yield to the gentleman from Virginia (Mr. SCHROCK).

Mr. SCHROCK. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, the capital markets do not much care for indecision. When a company or industry is in regulatory flux, the industry is basically forced to be at a standstill. That is what is happening today with the telecommunications industry.

The Federal Communications Commission voted on February 20, 2003 to make changes to the way it regulates telecommunications carriers. Many of the changes were very significant, but the FCC is dragging its feet. These decisions will drive the short and long term future of the telecom industry. The industry, however, is stymied because the FCC, while having voted on the issue, has yet to issue the rules. This is quite unusual as texts of orders are issued usually within weeks or even days of the date that the item is voted on.

.Here we are, almost 4 months later, and we still have no rules issued. It takes less time for a pig from time of conception to time of birth than it has taken the FCC to give birth to the written words embodying the agreements voted on in February.

The FCC needs to stop this nonsensical delay and issue its orders so the industry can get back to the business of building infrastructure and serving the telecommunications users of this Nation.

SAVE OUR FORESTS

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Oregon (Mr. DEFAZIO) is recognized during morning hour debates for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, the Bush administration is about to open up our national forests to a new phase of road building. Now, in preparation for commenting on this, I had my staff check because the last time I had checked with the Forest Service, they had an 8 billion, not million, $8 billion backlog on maintenance on Federal forest roads. Hundreds of thousands of miles of road, crisscrossing the United States, the West, and yet they have an $8 billion backlog.

Now, the Forest Service said yesterday said, no, no, no, the Congressman is wrong. It is not 8 billion. We just recalculated it. And I thought, well, this will be good news. It is $10.5 billion. The Forest Service has a $10.5 billion backlog on Forest Service roads. Of the 382,000 miles of roads, only 21 percent meet their maintenance standards; 50 percent are declared unsafe for driving; and 50,000 miles of roads are missing from the data. They are unclassified. They might be there. They might not. They might be passable; they might not. They have not had a chance to go out and look lately. Yet they are proposing under the Bush administration to begin a new phase of road building. Well, how is that?

Well, we heard a couple of weeks ago they will uphold the Clinton Roadless Rule. And I had some folks in Oregon say to me, We cannot believe that the Bush administration will uphold the Clinton roadless rule. And I said, Well, there were an incredible number of comments on that rule, over 2.2 million, over 600 public meetings. It was hard fought, well constructed, well thought out, and it was very popular among most folks in the western United States. And yet, I said, it does seem unusual.

Well, it turns out, no, they are not really going to uphold the roadless rule. They will immediately put in place exceptions for the Chugach and the Tongass Forests in Alaska, 300,000 acres. Except 300,000 acres of timber harvest with roads in the Tongass Forest will affect well over a million acres of land with fragmentation and eroding and other problems, perhaps even more. And, of course, there is the expense that comes with that. And then in the Lower 48 they will have a national policy, sort of, except they will develop an exception process where Governors can ask for exceptions on Federal lands for the roadless rule.

What kind of national policy is this?

At the same time they are staring in the face of an over $10 billion backlog, which they have no intention of dealing with because, of course, there is no money to deal with thinning or fire protection or even fighting forest fires, and particularly low on the totem pole is road construction. Every year the road maintenance unanimous money is stolen and used to fight fires, and they do not put the money back, and they never get around to it; and the backlog has grown by $2 billion since this President has been in office.

The roads are unsafe. They are crumbling. They are causing all sorts of problems with erosion into pristine streams. They need culvert work. They will erode worse without the culvert work. And yet this administration wants to go on another road-building binge to fragment up the little bit of remaining roadless area in the United States. Just like Gale Norton recently said that all of the wilderness areas under study by the BLM would no longer be studied for wilderness value. The Forest Service, under the direction of this administration, wants to make certain they put in enough roads before this President leaves office, to fragment that up so those areas can never again be considered for roadless or wildness designation.

This is wrong-headed policy at the wrong time. This administration should do what it said it was going to do, uphold the roadless rule in all of the States, and then it should begin to deal with the very real needs of the Forest Service, to deal with its maintenance backlog. Some of these roads need dramatic amounts of work in the short term. I have some in my district that have been promised for several years that roads, washed out in flood 5 years ago would be rebuilt; and yet the money, as I say, each summer has been taken away and spent on fighting forest fires because there is not enough money in the budget to fight forest fires because, of course, the administration has no money because they have given it away in tax cuts to all the rich people. So this is a pretty strange way to run a country and make a policy on Federal lands that are so precious to the heritage and to the environmental future of our Nation.

ROADLESS AREA CONSERVATION ACT OF 2003

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized during morning hour debates for 5 minutes.

Mr. INSLEE. Mr. Speaker, as I fly across America, which I do every Monday and Friday from Seattle to Dulles Airport, every time I fly I realize what a beautiful country we have, truly the most beautiful one both for our democracy and in our beautiful lands. And those lands now are still at risk because the current administration, as the gentleman from Oregon (Mr. DEFAZIO) so well laid out, threatens to violate the roadless area rule and violate the very clear desires of Americans to protect the last remaining pristine areas in our national forests.

Now, we have an opportunity to stop this administration from gutting the roadless area rule. And I hope that my colleagues will join the gentleman from New York (Mr. BOEHLERT) and myself in co-sponsoring the Roadless Area Conservation Act of 2003.

This bill will simply incorporate the existing rule that protects the last remaining one-third of our national forests that truly are the crown jewels of our national forest system. And it will protect by preventing future road building, road building that has already covered 360,000 miles of roads in our national forests already, most of which are built for timber harvest, much of which is no longer usable. At least 60,000 of those miles of road are no longer usable by anyone, even though they were used and built with taxpayer money. That is enough road to go around the world 16 times already in our national forests.

Now, in response to that, Americans came out in droves over the last 3 years at over 600 public meetings held by the Federal Government to ask Americans what they wanted to do with their national forests. At those over-600 meetings of 2 million Americans, both in person and by e-mail letter, responded with the very clear and dramatic message, preserve these last remaining virgin pristine areas. Over 96 percent of Americans who addressed this issue had a single message for the President of the United States: keep the clear-cutting and the bulldozers out of these remaining forests. And we got some good news rhetorically from the administration because rhetorically the administration said that they are going to keep the roadless area rule. But, it is one of those big "buts" that you hear so much of in life; they were going to slash and burn by exempting Alaska. And they were going to slash and burn by exempting other States, as long as in some process, it remains uncertain, the Governor of that State wanted to exempt that particular State.

In fact, some of the biggest tracts, in fact, the biggest tracts, the most biologically intact tracts of land in the world for temperate forests are in the Tongass and Chugach National Forests which are right now protected by the roadless area rule, which if the President has his way will no longer be protected. These are the most biologically productive rain forests in the world that the administration wants to now open up to clear-cutting and road building, to strip away the protection that over 2 million Americans spoke so loudly to keep, and that is just wrong. It is wrong because Americans do not want it, and it is wrong because it violates the whole spirit of the roadless area rule.

You cannot say you are going to uphold the roadless area rule and then strip out the largest forests in the United States from its protection. It is kind of like the President saying, We will have the No Child Left Behind Act, but we will exempt the children in Alaska because they are some kind of lesser Americans, and then we will also exempt the States where Governors say we do not want to have this protection of No Child Left Behind.

We believe that all American forests, including Alaska, including all 50 States, are entitled to the roadless area rule.

Now, in my State of Washington, we are kind of proud of our forests too. We have three very beautiful roadless area rules that we want to see statutorily protected, protected by a law passed by Congress so that no President of either party in the future can cave in to special interests to allow clear-cutting in these forests. These are in the Colville National Forest, they are in the Dark Divide area in the Gifford Pinchot National Forest, and my personal favorite, the Olympic National Forest close to where I live in Kitsap County, Washington.

In that forest there are two trees at the end of a trail in this roadless area, two beautiful Douglas firs. They are about maybe 8 feet in diameter. Incredible trees. We call them Theodore and Franklin after the Roosevelts who were so responsible for protecting these areas that are now subject to the roadless area rule.

Our message from Washington State is, Theodore and Franklin deserve protection, and their cousins in Alaska deserve protection, and every tree in these protected roadless areas deserve protection. I hope my colleagues will join me in co-sponsoring this bill and send a message to the administration, we want the roadless area, not just pieces.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 11 o'clock and 10 minutes a.m.), the House stood in recess until noon today.

☐ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at noon.

PRAYER

Dr. David Halpern, Rabbi, Flatbush Park Jewish Center, Brooklyn, New York, offered the following prayer:

Our Father, Sovereign of the world, we stand in the House of freely elected representatives of all the American people. These men and women, dedicated and strong, have accepted the awesome burden of promulgating the laws by which our free society lives and shall live. They wear this mantel of leadership in profoundly perilous times.

The threat to human security wears many faces: Tyranny, terror, religious oppression, racial tension, disease, hunger and despair. We seek the solution to these problems. We search diligently for the road to peace, for the path to harmonious living, for the means to achieve human dignity for us all created in Thine image.

May we always remember that to safeguard our own freedom, we must speak out against oppression, and, where warranted, even take up arms against it. To enjoy the blessings of our own wealth, we must also provide for the underprivileged and the needy. To be truly strong requires more than strength of arms, it requires strength of spirit.

Almost six decades have passed since the age of the Nazi death camps, the places where 6 million Jewish men, women and children had their lives cruelly and brutally ended, their only sin that they were born Jewish. The world has watched helplessly as in the last decade hundreds of thousands of different nationalities and ethnic groups have been slaughtered. We pray that the destruction of man by his fellow because of religious beliefs or racial origins will be known no more; that people of different religious paths may learn to live side-by-side in peace and in harmony.

We ask Thy blessing upon these members of our Congress, the spiritual heirs of those who were so instrumental in bestowing upon the seed of

Israel the restoration of their homeland. We pray that our President will succeed in his determined mission of building peace with security and of shining the bright light of freedom upon that benighted part of the world.

Grant that our President and Vice President and all our elected leaders will be blessed with clear vision to see and understand the future, and the courage and heart to make it a blessed and beautiful reality.

We pray in the words of Isaiah: May the spirit of the Lord rest upon us, the spirit of wisdom and understanding, the spirit of counsel and strength, the spirit of knowledge and fear of the Lord. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. KLINE. Madam Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KLINE. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California (Mr. LANTOS) come forward and lead the House in the Pledge of Allegiance.

Mr. LANTOS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING DR. DAVID HALPERN, RABBI, FLATBUSH PARK JEWISH CENTER, BROOKLYN, NEW YORK

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Madam Speaker, I am pleased to welcome to the Chamber Rabbi David Halpern, who offered our opening prayer. I thank him for his thoughtful invocation.

Madam Speaker, Rabbi Halpern's accomplishments in his community of Flatbush, Brooklyn, have touched many lives across the Nation, and his work merits national recognition.

He leads the Flatbush Park Jewish Center. He is the Principal of the religious school there, which he helped found in 1952. He sought to create a place where religiously observant and religiously curious alike can feel comfortable; to advance the goal of Jewish learning; and to support Jewish causes around our country and around the globe. He also served as a Chaplain in the 71st Infantry of the 42nd Division of the National Guard for 10 years, and he sits on the New York board of Rabbis.

Madam Speaker, the esteem in which the Flatbush Park Jewish Center is held indicates that Rabbi Halpern's efforts have been an unqualified success. In recognition of his sense of compassion and leadership, he was chosen to speak on behalf of the community of Flatbush in the wake of the 9/11 tragedy.

Madam Speaker, I am delighted that he was able to share some of his wisdom and grace with us today. We admire his commitment to his faith and to his community.

MODERNIZING MEDICARE

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Madam Speaker, I rise today to address the House in support of the Medicare Modernization and Prescription Drug Act, which will be marked up in the Committee on Ways and Means and the Committee on Energy and Commerce this morning.

Modernizing Medicare with a prescription drug benefit puts a down payment on a healthy future for Americans. The House has an historic opportunity to bring up to date our health care system for millions of seniors.

The bill that will soon be before this House reflects the compassionate conservatism of my party. It is compassionate because it is providing much needed prescription drug coverage to Americans on a fixed income. It is conservative because prescription drugs often provide the ounce of prevention that beats the pound of cure. It is conservative because this legislation will serve the people today without breaking the bank tomorrow. It makes no financial sense to cover astronomically expensive surgery and not cover drugs that could have prevented that surgery.

We have promised a benefit to our seniors for years. This year, this year, Madam Speaker, it is time to deliver.

WELCOMING DR. DAVID HALPERN, RABBI, FLATBUSH PARK JEWISH CENTER, BROOKLYN, NEW YORK

(Mr. WEINER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEINER. Madam Speaker, it is not usual that a relatively young man like myself can say that I have known someone well for nearly 20 years, but it is in that spirit that I welcome Rabbi David Halpern here this morning and thank him for his thoughtful words.

Brooklyn is full of distinguished spiritual leaders, and Rabbi Halpern stands out as a giant among them. Rabbi Halpern is a past President of the Rabbinical Board of Flatbush, where he served as Chairman of the Board's Membership Committee for 13 years. He is also a prominent member of other Rabbinical organizations and the Rabbinical Council of the United States.

He is widely respected and recognized for his intellect and wisdom, but, if there is one thing that distinguishes Rabbi Halpern, it is dedication not only to his faith, but in particular to his congregants and his community. More than 50 years ago, Rabbi Halpern became the first Rabbi of the Flatbush Park Jewish Center. And more than 50 years later, Rabbi Halpern is still there, and the community is stronger than ever.

Under his leadership, Flatbush Park has grown from a gathering of only 65 families in a rented store into a Modern Orthodox congregation of more than 500 family members. Today, there are thousands of people in Brooklyn and beyond whose spiritual lives were shaped by Rabbi Halpern.

As hard as I try to express what Rabbi Halpern means to this community, the ultimate testament is how many people joined him on his journey to Washington today. Dozens from his community, as well as distinguished Rabbis, are here in his honor, and it is my particular pleasure to welcome Rabbi Halpern's wife Sheila, his son Neil, his daughters Risa and Beth, his son-in-law Dennis and his granddaughter Lauren who are in Washington on this most important occasion.

In closing, on behalf of the United States House of Representatives and our grateful community, I would like to thank Rabbi Halpern for his eloquent words this morning and for his service to our whole country.

HONORING JACKSON TOBISKA, 2003 PRESIDENTIAL SCHOLAR

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mr. LORETTA SANCHEZ of California. Madam Speaker, I rise today to honor Jackson Tobiska, a senior at Orange County's High School of the Arts, for being selected as a 2003 Presidential Scholar.

Jackson is one of 137 winners of this very prestigious award, selected nationally by a 32 member commission. It is comprised of leaders in education, medicine, law, social services and government, and they select the scholars. The scholars are selected based on their academic skills, on their community service, and, of course on their leadership skills.

In a time when there are budget cuts that are cutting across our education system and when our schools, especially in my home State, are suffering, it is refreshing to see that both students and teachers are dedicated to academic excellence.

I am very proud of Jackson for his hard work and for being selected as a Presidential Scholar for 2003. He reminds us that with determination and with dedication, anything is possible.

INVESTIGATING REASONS FOR GOING TO WAR

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Madam Speaker, the Committee on International Relations is at this very moment reviewing a resolution of inquiry submitted by me and cosponsored by 36 Members of the House of Representatives asking for the administration to provide whatever evidence to this Congress that caused them to send this country on a path towards war against Iraq.

The American people have a right to know why their sons and daughters were sent to war. They have a right to know whether or not this administration provided the American public with information that was false.

We need to know on what basis did the American people learn from this administration that there was an imminent threat, and, in fact, was there an imminent threat coming from Iraq, did Iraq have weapons of mass destruction that posed an imminent threat.

It is up to the Committee on International Relations of the House to provide the American people with an opportunity to get that information from this administration. This Congress exists to provide a balance to administrative power, and it is time that this Congress stood up to its responsibility. The people have a right to know, was there an imminent threat and where are the weapons of mass destruction.

☐ 1215

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Any record vote on postponed questions will be taken later today.

COMMENDING THE UNIVERSITY OF MINNESOTA DULUTH BULLDOGS FOR WINNING THE NCAA 2003 NATIONAL COLLEGIATE WOMEN'S ICE HOCKEY CHAMPIONSHIP

Mr. KLINE. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 171) commending the University of Minnesota Duluth Bulldogs for winning the NCAA 2003 National Collegiate Women's Ice Hockey Championship.

The Clerk read as follows:

H. RES. 171

Whereas on Sunday, March 23, 2003, the two-time defending NCAA National Collegiate Women's Ice Hockey champion, the University of Minnesota Duluth Bulldogs, won the National Championship for the third straight year;

Whereas Minnesota Duluth defeated Harvard University in double overtime of the championship game by the score of 4–3, having defeated Dartmouth College 5–2 in the semifinal;

Whereas sophomore Nora Tallus scored the game-winning goal in the second overtime, assisted by Erika Holst and Joanne Eustace;

Whereas during the 2002–2003 season, the Bulldogs won an impressive 31 games, while losing only 3 and tying 2;

Whereas forwards Jenny Potter, Hanne Sikio, and Caroline Ouellette were selected to the 2003 All-Tournament team and Caroline Ouellette was named the tournament's Most Outstanding Player;

Whereas the Bulldogs are the only team in the country to earn a berth in the women's national championship tournament in each year of its existence;

Whereas junior forward Jenny Potter was one of three finalists for the Patty Kazmaier Memorial Award, given annually to the most outstanding player in women's collegiate varsity ice hockey and was named to the Jofa Women's University Division Ice Hockey All-American First Team;

Whereas senior forward Maria Rooth, for the fourth time, was one of ten finalists for the Patty Kazmaier Memorial Award, and was named to the Jofa Women's University Division Ice Hockey All-American Second Team;

Whereas Minnesota Duluth Head Coach Shannon Miller, after winning the National Championship in three consecutive years, has been named a finalist for the American Hockey Coaches Association 2002–2003 University Division Women's Ice Hockey Coach of the Year Award; and

Whereas all of the team's players showed tremendous dedication throughout the season toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the University of Minnesota Duluth women's hockey team for winning the NCAA 2003 National Collegiate Women's Ice Hockey Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff and invites them to the United States Capitol Building to be honored;

(3) requests that the President recognize the achievements of the University of Minnesota Duluth women's hockey team and invite them to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to the University of Minnesota Duluth for appropriate display and to transmit an enrolled copy of this resolution to each coach and member of the NCAA 2003 National Collegiate Women's Ice Hockey Championship team.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. KLINE) and the gentlewoman from Minnesota (Ms. MCCOLLUM) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KLINE).

GENERAL LEAVE

Mr. KLINE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 171.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. KLINE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 171; and I would like to thank my colleague, the gentleman from Minnesota (Mr. OBERSTAR), for bringing this resolution forward.

Madam Speaker, this resolution recognizes the achievement of the University of Minnesota Duluth women's hockey team, the Bulldogs, for their NCAA National Collegiate championship. This victory marks the third consecutive national championship for the Bulldogs.

The national champion Bulldogs deserve recognition for their double overtime victory against a talented Harvard University team. In addition to the inspiring team victory, four individuals distinguished themselves from the field: three young women from the University of Minnesota of Duluth were named to the All-Tournament team, and Coach Shannon Miller was named the 2003 AHCA Women's Division Coach of the Year. The distinction earned by these individuals and the remarkable repeat victories of the team reflect the dedication of each player, the leadership of Coach Shannon Miller, and the support of family, friends, and fans.

I extend my congratulations to each of the hard-working players on the successful Bulldog team, to Coach Miller, and to the University of Minnesota Duluth. I am happy to join my colleagues in honoring the accomplishment of this team and wish them continued success. I ask my colleagues to support this resolution.

Madam Speaker, I reserve the balance of my time.

Ms. McCOLLUM. Madam Speaker, I yield myself such time as I may consume.

I am pleased to support House Resolution 171, commending the University of Minnesota Duluth women's hockey team for winning the NCAA 2003 National Collegiate Women's Ice Hockey Championship.

I also too want to congratulate Bulldog Coach Shannon Miller for being named the 2003 American Hockey Coach's Association Women's University Division Coach of the Year. We are all proud of the extraordinary accomplishment of these women.

The March 23 triumph of the UMD Bulldogs over Harvard has been referred to as the greatest game in the history of college women's hockey, played before a record-breaking crowd of over 5,000, double overtime, 4 to 3, in order to defeat the Harvard team. This gave the Bulldogs their third consecutive national championship. In only the fourth season of their existence, the Bulldogs have brought the sport of women's hockey to a new and exciting level.

The success that this team has achieved over the past few years has helped to fuel a women's hockey explosion in Minnesota and across the country. Twenty-nine colleges now sponsor Division I teams, and the NCAA is considering expanding its field in 2005. In Minnesota, the number of high school women's hockey teams has rocketed from 24 in 1995 to 128 today. Nationwide, the number of girls and women playing ice hockey has increased more than four-fold in this last decade, with more than 39,000 registered females playing hockey today.

The success of the Bulldogs and the ever-growing opportunities for women in sports remind us of the importance of title IX, the landmark legislation that banned sex discrimination in schools. It passed over 30 years ago. Title IX has kicked open the door for women and girls in athletics and education, and since the passage of title IX, girls and women have gone from hoping for a team to hoping to make the team.

Unfortunately, there are still some who would like to turn back the clock and see this law weakened. But as women continue to make strides towards equal opportunity, title IX must remain strong. We must uphold the progress we have made and continue to expand the opportunities for our daughters, granddaughters, and nieces for the next generation and beyond. Every girl and young woman must be given a chance to one day become a national champion.

Once again, I congratulate the UMD Lady Bulldogs on their remarkable achievements.

Madam Speaker, I reserve the balance of my time.

Mr. KLINE. Madam Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Madam Speaker, I thank my friend, the gentleman from Minnesota (Mr. KLINE), for yielding me this time to speak about the University of Minnesota Duluth's women's hockey team. I do not know if people realize how important hockey is to us in Minnesota. It is a great sport. The people of particularly northern Minnesota have a proud tradition of hockey from the youth on up, and this is an example of how they are continuing that tradition.

Madam Speaker, this is the third consecutive championship, as we have spoken about several times. But how often does that happen? And that speaks to the great program that they have up there. It has already been talked about, the dramatic win, defeating Harvard 4 to 3 in double overtime. Any opportunity a team from Minnesota has to beat Harvard is a great opportunity, and it shows the competitiveness there is across the country.

The three Bulldog players named to the All-Tournament team and Coach Shannon Miller being named the AHCA Coach of the Year also merits additional pride. The coach has the highest winning percentage among the NCAA women's coaches.

While the Bulldogs shine on the ice, I think it is important to point out that they also shine in the classroom. Seven of the players from the championship team were named to the WCHA All-Academic team, so we continue to value education as well in Minnesota.

Madam Speaker, this team embodies the spirit of student athletes and our great ambassadors for the importance of sports and education for the State of Minnesota. I am honored to join them today in congratulating them on continuing the proud tradition of Minnesota hockey.

Ms. McCOLLUM. Madam Speaker, I yield myself such time as I may consume.

Once again, congratulations to the University of Minnesota Duluth Lady Bulldogs. I know the gentleman from Minnesota (Mr. SABO), the gentleman from Minnesota (Mr. PETERSON), and, of course, the gentleman from Minnesota (Mr. OBERSTAR), who represents the University of Duluth here in Washington, D.C., could not be more proud.

I have to say this was truly exciting to get to do this, Madam Speaker, because when I was a young girl trying to learn how to ice skate, hockey was not available for us; and it certainly was not available to participate on a team and even think about winning a championship. So congratulations, Lady Bulldogs.

Mr. KLINE. Madam Speaker, I yield myself such time as I may consume, just to associate myself with the remarks of my colleague, the gentlewoman from Minnesota (Ms. McCOLLUM), in saying that the women in Minnesota have confirmed what we always knew, that Minnesota is the ice hockey headquarters of the world, and we are proud to associate ourselves with them and congratulate the team.

Ms. McCOLLUM. Madam Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Madam Speaker, I thank the gentlewoman from yielding me this time.

Madam Speaker, the University of Minnesota—Duluth women's hockey team achieved something truly extraordinary in the history of collegiate athletics in winning the NCAA hockey championship for the third year consecutively. It is a great tribute to the skill and stamina and determination of the women who have devoted themselves to this team and to each other and displayed an extraordinary kind of cooperative spirit that is characteristic of college athletics. It is notable that the report in the Duluth News Tribune on the championship game was written by a female reporter, and I will include the report on the game, the championship game, for the RECORD at this time.

[From the Duluth (MN) News Tribune, Mar. 24, 2003]

BULLDOG WOMEN CLAIM THIRD TITLE

(By Christa Lawler)

The forgotten game puck was tucked in the back of the net while the Minnesota Duluth women's hockey team celebrated its third consecutive NCAA Frozen Four title.

While streamers and confetti dropped from the rafters of the Duluth Entertainment Convention Center, University of Minnesota Duluth goalie Shannon Kasparek crawled to the back of the goal to retrieve the pesky puck that, for one overtime and more than four minutes, refused to settle anywhere.

UMD beat Harvard 4–3 Sunday night when Bulldog sophomore forward Nora Tallus, wide open, took a few strides and sent the puck low past the Crimson's goalie Jessica Ruddock, who had skated out to meet her. The game lasted 84 minutes—the longest in the history of the women's NCAA-sanctioned event.

There were 5,167 fans at the game, largely pro-Bulldogs. There were quite a few Harvard supporters and some who said they just wanted to see a great game.

"It couldn't have been better for women's hockey," UMD fourth-year coach Shannon Miller said. "I talked to (Harvard coach) Katey Stone before the game. I gave her a little hug and said 'Let's put on a show. Raise the bar for women's hockey.'"

The Bulldogs won the tournament in Durham, N.H., last year with a 3–2 win over Brown. The previous year, they beat St. Lawrence 4–2 in Minneapolis. No other team in the country has ever owned the NCAA women's Frozen Four title.

Tallus, a slight, Finnish player, was mobbed by her teammates, who created a mound of maroon on the ice on top of her. It was Tallus' eight goal of the season, and followed her game-high four penalties earlier in the game.

[From the Duluth News Tribune, Mar. 24, 2003]

Bulldogs Prevail in Double-overtime Over Harvard, Win Third Straight NCAA Title

(By Christa Lawler)

Nora Tallus repayed her debt to her teammates in full.

The Minnesota Duluth sophomore forward had all the time in the world when she skated off the boards in the second overtime of Sunday's national championship game. She took a few strides and sent the puck low, past Harvard goalie Jessica Ruddock and off the inside of the pipe, giving the Bulldogs their third consecutive NCAA Frozen Four title with a 4–3 victory.

Perhaps the greatest game in the history of women's college hockey came on the Bulldogs' home ice at the DECC in front of 5,167 fans—the largest attendance in three years of the NCAA-sanctioned event.

The game hung tied at 3–3 through one 20-minute overtime period. The ice was resurfaced and Tallus fired the game-winner at 4:19 of the second overtime to bring an end to the longest game in the history of the women's Frozen Four.

Tallus, a small and seemingly shy player, earned four penalties—including two roughing calls—before she became the hero of the game. While Harvard did not capitalize on any of her two-minute hiatuses to the box, playing shorthanded was a dangerous proposition against the Crimson's 32.2 power-play percentage, the best in the nation.

Still, Tallus was not on her coach's bad side.

"She is a . . . angel," UMD fourth-year coach Shannon Miller said. "You could never get mad at her. After she took three penalties, I leaned down, gave her a hug and I said, 'You now owe us a goal, you understand that?'"

Tallus must have understood. The goal was just her eighth of the season.

"Yeah, I owed that for the team," Tallus said "Big Time."

Even Harvard coach Katey Stone had kudos for the goal that closed the game.

"It was an absolutely perfect shot," she said.

Hanne Sikio scored two goals for the Bulldogs and Caroline Ouellette also scored. Senior goalie Patricia Sautter had 41 saves. Harvard's Jennifer Botterill, Lauren McCauliffe and Nicole Corriero scored consecutive second-period goals, and goalie Jessica Ruddock had 37 saves.

Ouellette, a sophomore forward, opened the game with a goal at 5:17 of the first peirod. Jenny Potter tipped the puck to the Canadian National Team player, who was coming in quickly on the other side of the ice. Ouellette nicked a piece of the puck, redirecting to score just seconds after Harvard had returned to equal strength.

Sikio gave the Bulldogs a 2-0 advantage at 12:30 when she broke away, wound up slowly and laid the puck in the back of the net.

Harvard responded with two goals in 23 seconds in the first minute of the second period.

Botterill skated in on Sautter's right side and scored at 21 seconds. McAuliffe backhanded the puck at 44 seconds to tie the game 2–2.

Corriero gave the Crimson a brief lead when she kicked the puck off her skates and to her stick, scoring at 14:46 of the second period.

Sikio tied the game from her knees, sliding the puck between Ruddock's leg and the right post at 17:84.

Harvard star defense man, junior Angela Ruggiero, received an interference penalty at 15:05 of the third period. She vocally contested the call, and a 10-minute misconduct was added. The USA National Team player spent the rest of the period, and much of the first overtime, in the penalty box.

She darted out of the box and onto the ice quickly when her sentence was filled and gestured to the crowd that she was fired up.

Neither team scored in the third period. Just 30 seconds into the second overtime, Botterill and freshman forward Julie Chu closed in on Sautter. The UMD goalie grabbed the puck and Chu tried to shake it from her grasp. It broke free and slid to the back of the net, but after the whistle. Referees reviewed the play and did not allow the goal.

Tallus closed the game minutes later, after hearing a prediction from UMD junior forward Tricia Guest.

"Before the overtime, I said, 'My money is on you,'" Guest said she told Tallus. Guest might be clairvoyant, based on her own success. She scored the game-winner last year, when the Bulldogs beat Brown 3–2 in the championship game. "I just had a feeling. It's never been like the superstar person" who scores winning goals in title games for UMD.

After the game, Guest went up to Tallus, one of her closest friends on the team, and said, "It's an amazing feeling, isn't it?"

[From the Duluth News Tribune, Mar. 24, 2003]

An Amazing Journey Ends With an Amazing Game

(By Mark Emmert)

Four years ago, Erika Holst, Maria Rooth and Hanne Sikio were just looking for somewhere to play hockey.

Each received a phone call from Shannon Miller, wondering if they'd be interested in attending the University of Minnesota Duluth, which was beginning a varsity program.

The trio of Scandinavians knew nothing about Duluth or U.S. college hockey, but they knew enough about Miller, the former coach of the Canadian Olympic team, to take a gamble.

On Sunday night at the DECC, their glorious careers culminated with a victory in the greatest college women's hockey game ever played. The double-overtime 4–3 defeat of Harvard, played before a raucous and appreciative NCAA Women's Frozen Four-record crowd of 5,167, gave UMD its third consecutive national championship.

Holst and Rooth, from Sweden, and Sikio, from Finland, have been the backbone of the dynasty. After the most grueling game of their career, each said their four years in Duluth have been magical, but none were quite ready to accept that they're over.

"It really hit me when we played Bemidji and we had senior night," Holst said of her final regular-season game at the DECC on Feb. 23. "Then I tried to park it. When I do decide to think about it, it's going to be a toughy."

Miller had instructed her initial senior class—which also includes Jenny Hempel, Joanne Eustace, Navada Russell and Michelle McAteer—not to think about the impending end of their careers. The subject was too emotional, she said, and would only distract from the team's preparations to defend its title.

On Sunday, Miller said, "They're an incredible group, as people and as talented players. You can't replace these people."

The Scandinavian players each said they felt an immediate bond to Duluth and its people, easing their worries about missing their families back home.

"I fit in right away," said Rooth, UMD's career scoring leader with 231 points. "Everyone here seems to care for us."

"I really liked the lake," Sikio said of her first glimpse of her new hometown. "Minnesota is a lot like Finland. But the language was hard to understand. People here, they speak pretty fast and we were like, 'Slow down.'"

Sikio had two goals Sunday in perhaps her finest game as a Bulldog. Like her classmates, she hopes to continue playing hockey somewhere, perhaps in Canada, but she does intend to come back to UMD in the fall to finish earning her international studies degree.

"I was really surprised by how many Scandinavians are here, and the people are so nice," said Holst, whose only frustration in Duluth was not being able to find Swedish meatballs as good as the ones she was used to. "They just don't taste the same over here," she lamented.

Rooth's parents were at the DECC on Sunday to witness their daughter's final game. So was Holst's father.

"He was really happy and proud," Holst said of her postgame embrace with her father. "He doesn't usually show his emotions too much."

"They were more nervous than anyone else," Rooth said of her parents, who were wearing Swedish national jerseys with her name and number on them.

Holst, Rooth and Sikio's final collegiate game may become the one that people point to years from now as the impetus for a burst in popularity for women's hockey, much as the 1958 NFL title game, in which the Baltimore Colts registered a dramatic overtime victory over the New York Giants, put pro football on a new plane in this country.

Harvard coach Katey Stone, gracious in defeat, hinted as much, calling Sunday's game, broadcast nationally on cable TV, "one of the greatest sporting events I've been a part of."

"It was a tremendous tribute to how hard these student-athletes work and what a great product they can provide for the fans," she said.

It certainly was.

And, even if UMD's Nordic trio aren't around to benefit from a higher profile for women's hockey in America, Sunday's game certainly validates their blind decision of four years ago, when they hopped on a plane and helped make sports history at a small university in a small city they'd never heard of but were bound to become embraced by.

Madam Speaker, I would also like to point out, while we are discussing these great achievements on the ice, that the University of Minnesota, Duluth women's and men's theater troupe has five times in the last 17 years won national honors at the Kennedy Center American College Theatre Festival for performances at the collegiate level. Under the masterful leadership of Chancellor Kathryn Martin, we have a very well-rounded academic program at the University of Minnesota Duluth which includes academics, the arts, as well as athletics.

Madam Speaker, it is appropriate that we take this time here today to salute the women of the University of Minnesota, Duluth NCAA championship hockey team and all of those who participate in collegiate athletics.

Ms. McCOLLUM. Madam Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Madam Speaker, I rise in support of this resolution.

Madam Speaker, I rise today to congratulate the University of Minnesota Duluth Bulldogs, the NCAA 2003 National Collegiate Women's Ice Hockey Champions. I thank the Gentleman from Minnesota, Mr. OBERSTAR, for allowing the House this opportunity to congratulate and recognize the Bulldogs on winning their third straight championship. During the championship game against Harvard University, the Bulldogs showed tremendous strength and ability, going into double overtime, finally winning with a score of 4–3. This season, they won an impressive 31 games, while only losing 3 and tying 2. And as we prepare to celebrate the upcoming thirty-first anniversary of Title IX, this team serves to be a prime example that Title IX is working. And since it is working, to weaken or water down Title IX in any way would be detrimental to the future of events like these and to teams like the Bulldogs.

I happen to be one who believes that there ought to be absolute equality in all endeavors in all walks of life. I am amazed, as a matter of fact, sometimes when I recall even the Preamble to our Constitution, when we say, "We hold these truths to be self-evident, that all men are created equal,"; and at the same time, we left out women. Some people would suggest that when they said "men" they meant women as well, but I am not always sure of that.

As a matter of fact, we can look at what the experiences have been. Even though we have Title IX, only 42 percent of college athletes are female and female athletes receive $133 million fewer scholarship dollars per year than their male counterparts. This proves that, if anything, Title IX needs to be strengthened as we still face inequities in athletics today.

We have to keep Title IX alive; we have to make sure that it is strong; and we have to keep working so that there is in fact equality across the board without regard to race, gender, ethnicity, or any other form of origin.

America is a great Nation. We have made lots of progress and we have come a long way, but we still have much further to go. I do not believe we will ever get where we need to be unless we reinforce all of those processes that we have used to get us where we are. Keeping Title IX will continue the successes that we have seen with teams like the Bulldogs and with other athletic teams in the future.

Ms. McCOLLUM. Madam Speaker, I am pleased to support H. Res. 171, commending the University of Minnesota Duluth women's hockey team for winning the NCAA 2003 National Collegiate Women's Ice Hockey Championship. I also want to congratulate Bulldogs Coach Shannon Miller on being named the 2003 American Hockey Coaches Association Women's University Division Coach of the Year. We are all proud of the extraordinary accomplishments of these women.

The March 23 triumph of the UMD Bulldogs over Harvard has been referred to as the greatest game in the history of college women's hockey. Played before a record-breaking crowd of over 5,000, the double-overtime 4 to 3 defeat of Harvard gave the Bulldogs their third consecutive national championship. In only the fourth season of their existence, the Bulldogs have brought the sport of women's hockey to a new and exciting level.

The success that this team has achieved over the past few years has helped to fuel a women's hockey explosion in Minnesota and across the country. Twenty-nine colleges now sponsor Division I teams, and the NCAA is considering expanding its field in 2005. In Minnesota, the number of high school women's hockey teams has rocketed from 24 in 1995 to 128 today. Nationwide, the number of girls and women playing ice hockey has increased more than four-fold in the last decade, with more than 39,000 registered females playing today.

The success of the Bulldogs and the ever-growing opportunities for women in sports remind us of the importance of Title IX—the landmark legislation that banned sex discrimination in schools. Over the past 30 years, Title IX has kicked open the door for women and girls in athletics and education. Since the passage of Title IX, girls have gone from hoping for a team to hoping to make the team.

Unfortunately, there are some who would like to turn back the clock and see this law weakened. But as women continue to make strides toward equal opportunity, Title IX must remain strong. We must uphold the progress that we have made and continue to expand opportunities for our daughters, granddaughters and generations beyond. Every girl must be given the chance to one day become a national champion.

Once again, I congratulate the UMB Bulldogs on their achievements.

Ms. McCOLLUM. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KLINE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. KLINE) that the House suspend the rules and agree to the resolution, H. Res. 171.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. KLINE. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ACCOUNTANT, COMPLIANCE, AND ENFORCEMENT STAFFING ACT OF 2003

Mr. BAKER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 658) to provide for the protection of investors, increase confidence in the capital markets system, and fully implement the Sarbanes-Oxley Act of 2003 by streamlining the hiring process for certain employment positions in the Securities and Exchange Commission, as amended.

The Clerk read as follows:

H.R. 658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Accountant, Compliance, and Enforcement Staffing Act of 2003".

SEC. 2. APPOINTMENT OF ACCOUNTANTS, ECONOMISTS, AND EXAMINERS BY THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—Subchapter I of chapter 31 of title 5, United States Code, is amended by adding at the end the following:

"§ 3114. Appointment of accountants, economists, and examiners by the Securities and Exchange Commission

"(a) APPLICABILITY.—This section applies with respect to any position of accountant, economist, and securities compliance examiner at the Commission that is in the competitive service.

"(b) APPOINTMENT AUTHORITY.—

"(1) IN GENERAL.—The Commission may appoint candidates to any position described in subsection (a)—

"(A) in accordance with the statutes, rules, and regulations governing appointments in the excepted service; and

"(B) notwithstanding any statutes, rules, and regulations governing appointments in the competitive service.

"(2) RULE OF CONSTRUCTION.—The appointment of a candidate to a position under authority of this subsection shall not be considered to cause such position to be converted from the competitive service to the excepted service.

"(c) REPORTS.—No later than 90 days after the end of fiscal year 2003 (for fiscal year 2003) and 90 days after the end of fiscal year 2005 (for fiscal years 2004 and 2005), the Commission shall submit a report with respect to its exercise of the authority granted by subsection (b) during such fiscal years to the Committee on Government Reform and the Committee on Financial Services of the House of Representatives and the Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate. Such reports shall describe the changes in the hiring process authorized by such subsection, including relevant information related to—

"(1) the quality of candidates;

"(2) the procedures used by the Commission to select candidates through the streamlined hiring process;

"(3) the numbers, types, and grades of employees hired under the authority;

"(4) any benefits or shortcomings associated with the use of the authority;

"(5) the effect of the exercise of the authority on the hiring of veterans and other demographic groups; and

"(6) the way in which managers were trained in the administration of the streamlined hiring system.

"(d) COMMISSION DEFINED.—For purposes of this section, the term 'Commission' means the Securities and Exchange Commission.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 5, United States Code, is amended by inserting after the item relating to section 3113 the following:

"3114. Appointment of accountants, economists, and examiners by the Securities and Exchange Commission.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. BAKER) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BAKER).

GENERAL LEAVE

Mr. BAKER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BAKER. Madam Speaker, I yield myself such time as I may consume.

It is not long ago that the revolutions of corporate misgovernance became apparent to not only those within the corporate world, but to investors around the country. The resulting consequences led many hard-working families who had planned on retirements to reconsider those plans, as the value of the 401(k)s and pensions and savings plans eroded, literally overnight.

In addition to those concerns, it was revealed to the American people that there were corporate executives who had abused their privileges as the leader of an important national corporation and taken resources inappropriately, illegally, and used them for their own personal gain.

In light of these revelations, the SEC came to this Congress and first asked for additional funding to enhance their regulatory and enforcement capabilities, and this Congress responded. Unfortunately, because of the rules in which the Securities and Exchange Commission is constrained, the ability to utilize that $300 million was greatly inhibited.

□ 1230

In fact, there is a provision within the securities and exchange civil service law which provides for expedited hiring of legal counsel. This particular provision is very narrow in scope but has been utilized successfully over the years to enable the SEC to acquire those legal services as it deems necessary. This provision is known as the excepted service. It is the purpose of this resolution to expand the scope of the excepted service to enable the SEC to further respond to identified problems in the area of accountancy, examination and economics.

If passed, this resolution would enable the Commission to move in an expedited manner to hire the needed accountants, examiners and economists in order to fulfill the mission described for them by this Congress. It solves these problems in a proficient and expedited manner and is important that the SEC have these authorities as stipulated to restore confidence to the investing public.

This is achieved without, I am aware, any opposition to the manner in which the bill is currently constructed. In fact, the union that represents the affected class of employees has now endorsed the legislation in its current form. I am not aware of any pending objection. I am aware of broad-based support, bipartisan support, and the legislation was reported out of committee without objection.

Madam Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume.

I am glad to join in urging support for this bill. I want to recognize the good work done by the gentleman from Pennsylvania (Mr. KANJORSKI) who is the ranking Democrat on this subcommittee, who could not be here with us today, but he spent a lot of time on it, and we have a very useful compromise.

Essentially, we had this situation where we all agreed there was a need to expand the Securities and Exchange Commission. We responded more slowly than it would have liked, but we responded by increasing the budget to the Securities and Exchange Commission.

Essentially, what happened is the legislation passed last year to improve the regulation of the corporate sector authorized increased spending for the SEC. The Congress was slow in living up to that promise, but finally, by early this year, we did it, but then the question was having voted on the additional money, in their case overwhelmingly for staff, how quickly could we hire people because under the normal rules the Federal Government is not expeditious in hiring people, and that is reasonable. There is often not an emergency, and we want to make sure we do it right.

In this case, we wanted to see that hiring was done more quickly. There was an original proposal that came that would have allowed people to be hired very quickly and, once hired, to remain in a somewhat separate status from other employees.

I want to acknowledge the very responsive attitude of the union that represents employees at the SEC, the National Treasury Employees Union. I met and talked with them, as did the gentleman from Pennsylvania whom I have mentioned, and we found them to be, not surprisingly, as they usually are, in a very cooperative mood, and they understood that there were two important issues. One was to enhance the ability of the SEC to hire people quickly so we could put the regulatory structure in place, but also to make sure that employees hired had the protections that any employee is entitled to have against political abuse, against arbitrary mistreatment, et cetera.

So what this legislation embodies is a very sensible compromise. The SEC will be given under this bill the ability to hire quickly. It will be able to hire without some of the normal rules that would slow them down, but once the people are hired, they will then have all the rights and all of the protections that any other employee would have had. It meets the need and sometimes what we do in government is kind of overdo or underdo.

The need here was to hire quickly. There was not the need, we felt, to totally revamp the employee procedures of the SEC. This bill is carefully tailored to do exactly what was needed and no more. It allows the SEC to hire quickly, to take full advantage of the additional funds. My understanding is that over 500 people will be hired under this, accountants and economists and others, but once they are hired, they will not be different than the other employees. We will not have this problem of two classes of employees, some with this set of rights, some with that set of rights. They will be fully integrated into the SEC's workforce.

It is a workforce which does very good work, which has been overstressed because we gave them a lot more to do and did not immediately give them the resources. This is a case where taking the appropriation bill, together with this bill, we will have given the SEC, whose new chairman, I must say Mr. Donaldson seems to be performing admirably, and I think we are all encouraged that he has done so well, and I think that contributes to the enthusiasm with which we support this legislation. There is a great deal of confidence that he will use this authority in a very appropriate way.

What we have done now is to structure things so the SEC will be able to take full advantage of the appropriation. They will be able to hire the people and the investing public and the American economy will get the protection they deserve.

Madam Speaker, I reserve the balance of my time.

Mr. BAKER. Madam Speaker, I yield myself such time as I may consume, for the purpose of just complimenting the gentleman on his statement and expressing my appreciation to him for the courtesies extended during the formulation of this legislation.

At the outset, there were modest differences. I think we were able to reach compromise, and I think not only for the SEC function but for taxpayers, shareholders as well, and I appreciate the courtesies extended.

Madam Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Madam Speaker, I rise in strong support of H.R. 658, the Accountant, Compliance and Enforcement Staffing Act of 2003. This legislation will help streamline the hiring process at the SEC, and it will allow the Commission to employ additional, much-needed securities industry accountants, compliance examiners and economists in an expedited manner. Believe me, they need it.

As we work to improve investor confidence, I think it is very important that we work to strengthen the SEC and send a clear message to the American people that we are not going to tolerate corporate misconduct.

Last year, Congress increased the funding for the SEC by more than $270 million. It was a 62 percent increase. We did that because we want to help America understand that we are not going to tolerate corporate misconduct. This monumental increase will help the SEC to enhance their overall operations which are crucial to implementing and enforcing new corporate governance requirements under the Sarbanes-Oxley bill, but the Commission is still severely hamstrung by current hiring practices. Now the need for this legislation is more urgent than ever.

With the hiring of accountant positions lagging far behind other professionals in the SEC, it is imperative that Congress give the Commission direct hiring authority for these critical positions. What we must do is enable the agency to fill them in a timely manner, the quicker the better, and that is what this legislation does.

I commend the gentleman from Louisiana (Mr. BAKER) for introducing this important legislation and the gentleman from Ohio (Mr. OXLEY) for moving it through the committee and working with the House leadership to get it on the floor. They have continued to work tirelessly on these issue and they are to be commended.

Mr. Speaker, I urge my colleagues to support this legislation and help the SEC protect America's investors and restore integrity in the market.

Mr. FRANK of Massachusetts. Madam Speaker, I reserve the balance of my time.

Mr. BAKER. Madam Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today in support of H.R. 658, the Accountant, Compliance and Enforcement Staffing Act of 2003. This very critical legislation will allow the Securities and Exchange Commission to hire much-needed accountants, compliance examiners and economists outside of the bureaucratic and burdensome civil service hiring guidelines.

In fiscal year 2003, we increased the Securities and Exchange Commission's budget by 63 percent, largely to allow for an additional 800 professional staff members. On top of that, last year's supplemental appropriation bill provided $25 million to the SEC for the purpose of hiring 125 new accountants, examiners and economists. This increased funding was provided because the SEC desperately needs these professionals to enforce the Sarbanes-Oxley corporate accountability reforms, corporate accountability standards that were established by this body and standards that are very vital importance for investor protection. Yet, because of the bureaucratic civil service hiring guidelines, these positions have not yet been filled.

H.R. 658 does not set new precedent. Indeed, all FBI employees, as well as health care professionals at the Department of Defense, are exempt from civil service hiring standards. This is good, common sense legislation that will significantly help the Securities and Exchange Commission protect investors.

I commend the gentleman from Louisiana (Mr. BAKER) for crafting this important and very timely bipartisan bill, and I urge my colleagues to join me in support.

Mrs. KELLY. Madam Speaker, I ask unanimous consent that I be permitted to control the remainder of the time for consideration of H.R. 658.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. OXLEY. Madam Speaker, this no-cost, commonsense legislation will help the Securities and Exchange Commission carry out its critical mission of protecting investors and promoting capital formation and economic growth.

With the passage of last year's corporate accountability legislation and a substantial budgetary increase, this year the understaffed SEC must hire over 800 new professionals—accountants, securities compliance examiners, and economists—in order to fulfill its regulatory obligations.

In a troubling development, the Commission has had an extraordinarily difficult time hiring these accountants and other professionals responsible for monitoring compliance with the securities laws. Under current bureaucratic rules, it takes the Commission up to 6 months to hire a single accountant, examiner, or economist. Attorneys are classified as "excepted service" employees and thus fall outside these burdensome hiring requirements.

Quite simply, this legislation will make it easier for the SEC to hire these professionals in an expeditious manner. That is good news for investors, and will help restore public confidence in the markets. It is strongly supported by both the union and management at the Commission.

I want to commend Chairman BAKER for crafting an excellent bipartisan bill and urge all my colleagues to join me in support. I yield back.

Madam Speaker, I also want to thank the gentleman from Virginia (Mr. DAVIS), the chairman of the Committee on Government Reform, for his cooperation and assistance in moving this important measure forward. I am placing in the RECORD an exchange of correspondence regarding our committees' jurisdiction on this matter.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, June 16, 2003.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, House of Representatives, Washington, DC.

DEAR MR. OXLEY: Thank you for working with me in developing H.R. 658, "Accountant, Compliance, and Enforcement Staffing Act of 2003." As you know, the Committee on Government Reform reported the bill, H.R. 1836, the Civil Service and National Security Personnel Improvement Act. Included in that Act was Title III, Subtitle A, Securities and Exchange Commission. It is my understanding that you intend to move H.R. 658 to the floor through the suspension process with an amendment that will be substantially the same as Title III, Subtitle A of H.R. 1836, as reported.

In the interests of moving this important legislation forward, I am supporting your request to move H.R. 658 through the suspension process with an amendment in the jurisdiction of the Committee on Government Reform. The Committee does hold an interest in preserving its future jurisdiction with respect to issues raised in the amendment, and its jurisdictional prerogatives should the provisions of this bill or any Senate amendments thereto be considered in a conference with the Senate. Therefore, I respectfully request your support for the appointment of an appropriate number of Members from our respective Committees should such a conference arise.

Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during floor consideration. Thank you for your assistance and cooperation in this matter.

Sincerely,

TOM DAVIS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, June 16, 2003.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN DAVIS: Thank you for your recent letter regarding your Committee's jurisdictional interest in H.R. 658, the Accountant, Compliance, and Enforcement Staffing Act of 2003. I appreciate all of your efforts to ensure that the Securities and Exchange Commission has the resources it needs to effectively carry out its responsibilities under the Sarbanes-Oxley Act.

Your understanding regarding the amendment to H.R. 658 to be considered under suspension of the rules is correct, and the text of the amendment will be substantially similar to title III, subtitle A of H.R. 1836, as reported.

I acknowledge your committee's jurisdictional interest in this legislation and appreciate your cooperation in allowing speedy consideration of the bill and amendment. I agree that your decision to forego further action on the bill will not prejudice the Committee on the Government Reform with respect to its jurisdictional prerogatives on this or similar legislation. I will support your request for an appropriate number of conferees should there be a House-Senate conference on this or similar legislation.

Finally, I will include a copy of your letter and this response in the Congressional Record when the legislation is considered by the House.

Thank you again for your assistance.

Sincerely,

MICHAEL G. OXLEY,
Chairman.

Mr. KANJORSKI. Madam Speaker, I rise to support H.R. 658, the Accountant, Compliance and Enforcement Staffing Act of 2003. Investor protection is one of my top priorities for my work on the House Financial Services Committee, and H.R. 658 will improve investor protection by allowing the Securities and Exchange Commission to accelerate the hiring process for hundreds of accountants, economists, and compliance examiners. As a result, I support this bill.

During the last year, Democrats led the efforts in Congress to significantly augment the resources available to the Securities and Exchange Commission, including increasing its annual budget by more than $270 million. We increased this funding to help the Commission to effectively implement the Sarbanes-Oxley Act, which we enacted in 2002 in response to a series of large-scale corporate scandals at companies like Enron, WorldCom, Tyco, Global Crossing, Adelphia, and Rite Aid.

The increased appropriations provided to the Commission have permitted the hiring of hundreds of new professionals to police the securities industry. The SEC estimates that the additional resources provided by the fiscal 2003 budget will result in the hiring of 200 lawyers, 250 accountants, 300 examiners, 10 economists, and some other specialists. This increase in the Commission's labor force comes on top of the additional 125 professionals that we allowed the agency to hire as a result of the fiscal 2002 supplemental appropriation law.

Unfortunately, as it has worked in implement the Sarbanes-Oxley Act and restore investor confidence in our capital markets, the Commission has encountered some difficulties in identifying and expeditiously hiring the best workers for many of these new positions. H.R. 658 seeks to address this problem by streamlining the hiring process at the Commission for a number of specialized professions. The Commission, like all other government agencies, already has similar authority for recruiting and hiring attorneys.

The legislative language contained in this bill resulted from negotiations between the Commission's management and the National Treasury Employees Union's leaders. As a result, this legislation will accelerate the hiring of mission-critical workers at the Commission, it will protect the rights of these employees, and it will advance investor protection. I support each of these worthwhile goals, and congratulate the Commission and the National Treasury Employees Union for their good work. Their joint efforts help to demonstrate the effectiveness of labor-management cooperation in the federal workplace.

I am also pleased that the legislation we are considering today, unlike the introduced bill, will require the Commission to conduct two studies about the implementation of this special hiring authority. The inclusion of this study provision, which I requested, will provide the Congress with information on the use of the authority, including its impact on the hiring of veterans, minorities, and other demographic groups, that will be needed to evaluate the effects of this change in the law. It is my expectation that the Commission will use the expansion of its professional ranks as an opportunity to aggressively seek qualified veterans and minorities to serve at the Commission.

Although I support this bill, I differ with my colleagues on the other side of the aisle on one remaining issue: the length of time that the Commission should have this special hiring power. As currently drafted, H.R 658 would provide the SEC with the permanent authority to bypass civil service rules in order to accelerate the hiring process for accountants, economists, and compliance examiners. I believe that this special authority, requested by the Commission in a time of urgency, should sunset so that the Congress can evaluate the effectiveness of the program at an appropriate time. Because H.R 658 will make extraordinary changes in the normal hiring process and because this power has the potential to be abused, the prudent course of action would have been for the Congress to sunset the law on a date certain and determine at that time whether to continue it. In short, the Congress should jealously guard the special powers that it grants government agencies.

Accordingly, during the consideration of H.R 658 by the Financial Services Committee and the Government Reform Committee, I sought to make a good bill even better by offering an amendment to sunset the expedited hiring authority at the end of fiscal 2008. This amendment would have provided the Commission with sufficient time to meet its short-term staffing needs and preserved the ability of Congress to reevaluate this special power on a date certain. Although we did not include a sunset in this bill, H.R 658 is still pragmatic and desirable legislation.

In closing, Madam Speaker, H.R 658 will streamline the hiring process for hundreds of new professionals at the Commission, it will safeguard the civil service rights of these workers, and it will enhance investor protection. Notwithstanding my one reservation concerning a sunset, which I hope my colleagues in the Senate will fix during their consideration of this bill, I support H.R 658 and urge its adoption by the full House.

Mr. FRANK of Massachusetts. Madam Speaker, if the gentlewoman has no further requests for time, I congratulate the gentlewoman on being given the right to control nothing, and I yield back the balance of my time.

Mrs. KELLY. Madam Speaker, we have no further requests for time, and we yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 658, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. KELLY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SENSE OF CONGRESS THAT CONGRESS SHOULD PARTICIPATE IN AND SUPPORT ACTIVITIES TO PROVIDE DECENT HOMES FOR THE PEOPLE OF THE UNITED STATES

Mr. GARY G. MILLER of California. Madam Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 43) expressing the sense of Congress that Congress should participate in and support activities to provide decent homes for the people of the United States.

The Clerk read as follows:

S. CON. RES. 43

Whereas the United States promotes and encourages the creation and revitalization of sustainable and strong neighborhoods in partnership with States, cities, and local communities;

Whereas the United States promotes and encourages the creation and revitalization of sustainable and strong neighborhoods in partnership with States, cities, and local communities and in conjunction with the independent and collective actions of private citizens and organizations;

Whereas establishing a housing infrastructure strengthens neighborhoods and local economies and nurtures the families who reside in them;

Whereas an integral element of a strong community is a sufficient supply of affordable housing;

Whereas affordable housing may be provided in traditional and nontraditional forms, including apartment buildings, transitional and temporary homes, condominiums, cooperatives, and single family homes;

Whereas for many families a home is not merely shelter, but also provides an opportunity for growth, prosperity, and security;

Whereas homeownership is a cornerstone of the national economy because it spurs the production and sale of goods and services, generates new jobs, encourages savings and investment, promotes economic and civic responsibility, and enhances the financial security of all people in the United States;

Whereas although the United States is the first nation in the world to make owning a home a reality for a vast majority of its families, ⅓ of the families in the United States are not homeowners;

Whereas a disproportionate percentage of families in the United States that are not homeowners are low-income families;

Whereas 74.2 percent of Caucasian Americans own their own homes, only 47.1 percent of African Americans, 47.2 percent of Hispanic Americans, and 55.8 percent of Asian Americans and other races are homeowners;

Whereas the community building activities of neighborhood-based nonprofit organizations empower individuals to improve their lives and make communities safer and healthier for families;

Whereas one of the best known nonprofit housing organizations is Habitat for Humanity, which builds simple but adequate housing for less fortunate families and symbolizes the self-help approach to homeownership;

Whereas Habitat for Humanity is organized in all 50 States with 1,655 local affiliates and its own section 501(c)(3) Federal tax-exempt status and locally elected completely voluntary board of directors;

Whereas Habitat for Humanity has built nearly 150,000 houses worldwide and endeavors to complete another 50,000 homes by the year 2005;

Whereas Habitat for Humanity provides opportunities for people from every segment of society to volunteer to help make the American dream a reality for families who otherwise would not own a home; and

Whereas the month of June has been designated as "National Homeownership Month": Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) everyone in the United States should have a decent home in which to live;

(2) Members of the Senate and the House of Representatives should demonstrate the importance of volunteerism;

(3) during the years of the 108th and 109th sessions of Congress, Members of the Senate and the House of Representatives, Habitat for Humanity, and contributing organizations, should sponsor and construct 2 homes in the Washington, D.C., metro area each as part of the "Congress Building America" program;

(4) each Congress Building America house should be constructed primarily by Members of the Senate and the House of Representatives, their families and staffs, and the staffs of sponsoring organizations working with local volunteers involving and symbolizing the partnership of the public, private, and nonprofit sectors of society;

(5) each Congress Building America house should be constructed with the participation of the family that will own the home;

(6) in the future, Members of the Senate and the House of Representatives, their families, and their staff should participate in similar house building activities in their own States as part of National Homeownership Month; and

(7) these occasions should be used to emphasize and focus on the importance of providing decent homes for all of the people in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GARY G. MILLER) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. GARY G. MILLER).

GENERAL LEAVE

Mr. GARY G. MILLER of California. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GARY G. MILLER of California. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution expressing support for Congress Building America and for increased affordable home ownership opportunities.

This country is home to people of many different origins, but everyone seems to have the same dream, to own their own home. This dream means many things: Independence, financial security, geographic stability, the ability to accumulate personal wealth, a place to raise a family, or simply a place to go after a long day's work and find peace.

As a homebuilder for over 30 years, I enjoyed watching many people achieve this dream. One could always see the excitement and anticipation in the face of a home buyer. The Congress Building America program will offer every Member of Congress this opportunity to experience how the dream of homeownership builds hope in their communities and across the Nation.

I feel very strongly about this issue, because homeownership is the key to personal wealth in our country. When someone buys a home, they purchase an asset which will grow over time.

I started the Building a Better America Caucus, BABAC, when I arrived in Congress 4½ years ago, because I thought it was important to provide a forum for us to start addressing issues that impact homeownership. One of the objectives of BABAC is to help cultivate an environment where more Americans turn the dream of homeownership into reality.

When I first started my business, I had an old van that used more oil than gas and a cardboard box which held every tool I owned. I started small. Over 30 years, my business grew, but with each passing year, I saw the impact of government on the housing industry. With each year came government laws and regulations making it harder to build homes. The red tape kept increasing costs. In business, these costs are passed on to consumers. Homes kept getting more expensive.

It is very important that Congress start talking about how the government is impacting home prices. In some parts of the country, my district in southern California is one of them, the heavy burden of Federal, State and local mandates is creating a generation of people who cannot afford to live in the communities where they work and grew up. I call these people the new homeless.

Exactly who are these new homeless? In my district, it might be a couple. The husband is a firefighter and the wife is a teacher. They have a good job and they make a good living, but the combined income does not enable them to purchase a median priced home in southern California which costs over $300,000 today. This is a national problem, and Congress must work expeditiously to address it.

I encourage all my colleagues to become active members of BABAC so we can do something about the housing affordable crisis in this country.

BABAC provides Members a forum where we can discuss ways Congress can increase homeownership in America. The Congress Building America program provides Members the opportunity to personally help make homeownership a reality for a family in their district.

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The Congress Building America program will give every Member of Congress a chance to express their commitment to affordable homeownership by picking up a hammer and nails and building alongside Habitat for Humanity families to make the American Dream of homeownership a reality.

The goal of this resolution is to encourage Members of Congress to participate in Congress Building America events with Habitat homeowner families and local Habitat affiliates in their districts or States during the 108th and 109th Congress. This new initiative is a partnership program between Habitat for Humanity International, the United States Congress, the Department of Housing and Urban Development, and national corporate sponsors.

I urge each Member to support this resolution and to personally join with the Habitat for Humanity affiliates in their districts to help low-income families realize the American Dream of homeownership.

Madam Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this resolution is really record-setting. I have not in all my years here seen so much wind up and so little pitch. This goes on quite eloquently and quite accurately about the importance of homeownership, and it talks about the need for affordable housing. It says, "Whereas an integral element of a strong community is a sufficient supply of affordable housing." It says, on the next page, "Whereas affordable housing may be provided in traditional and nontraditional forms." It talks a very good game about the importance of housing, and particularly affordable housing; and it delivers virtually nothing.

I have been lamenting for some time the opposition of my Republican colleagues to a housing production program in this country. In many parts of this country you will not get affordable housing, as we define that, that is housing for lower-income working people, middle-income people in some areas, unless there is some element of subsidy. We are not talking about the Federal Government simply building the housing. We are talking about a whole range of cooperative programs, many of them private-public cooperations. But it is clearly the case that unless the Federal Government contributes something, you will not get affordable housing.

Now, my Republican colleagues have been strongly against most production programs, but I see now they have come up with one. It is in this resolution, which I am going to vote for, because I am all in favor of good wishes. I think we should all, at all times, be in favor of things that we should be in favor of. And this resolution is clearly in favor of a lot of things that we should be in favor of. It just does not do anything about them. Does not make them worse. And it does have a production program.

I call Members' attention to page 3, paragraph 3. It says, "During the years of the 108th and 109th sessions of Congress, Members of the Senate and the House should sponsor and construct two homes in the Washington, D.C. metropolitan area."

Now, the legislative draftsmanship is perhaps not perfect. I will read that as being two homes each. I assume this does not mean that we should all of us build two homes. And I hope not, because there are people here that I would not want to be near them when they had a hammer or a saw or a drill. So I would not want to have to be in a joint effort to build some of these homes.

So we are talking about two homes each for 4 years. Now, there are 535 Members of Congress. Two homes apiece would be 1,070 homes a year for 4 years. So we now have the affordable housing program of the Republican Party for production: 4,280 homes over the next 4 years in the metropolitan Washington area, D.C. and Fairfax County, although they probably would not get that many, Alexandria, Arlington, parts of Montgomery and maybe more in Prince George's.

Now, 4,280 houses is better than nothing, although I have to say I am willing to do my part; and I have to say this, we are not often sufficiently modest around here, and each of us is supposed to build two houses, but, Madam Speaker, I would not want to live in a house I built. There are some things I think I am good at, some things I am not so good at. The notion of all of us building houses is an interesting one.

Actually, this is motivated both by a desire to do affordable housing, but it also carries out the Republican approach to unions. Because their entire production program would be built by overwhelmingly nonunion labor. There are a couple of Members here who are members of unions, although it is rarely the building trades. My colleague from Boston, the gentleman from Massachusetts, was an iron worker; but he can only do so much. And I do not know how many of the houses would be made out of iron or structural steel or whatever anyway.

So here they have a housing production program, 4,280 houses for the entirety of America, built almost exclusively by nonunion labor, without a penny of Federal Government contribution. Unless we built them during work hours. I suppose if we built them during working hours, when we were getting paid, it would be some Federal contribution. I assume the position is that we do not.

Now, I guess I am a little ambivalent about the notion of unleashing every Member of the House and the Senate to build two houses. I know you cannot comment on Senators, I understand that, Madam Speaker; but I think you can comment on past Senators, and I guess I can say that I am pleased Strom Thurmond will no longer be covered by this. It is a lucky thing we did not pass this last year, because Strom Thurmond would have been charged with building two houses somewhere, and I would want to live in those even less than the ones I would build.

But the problem is not so much with what it says, but with what it does not say. We have not for some time had a program in this country to have Federal resources go for housing production. And in the absence of a housing production program, families will have a hard time getting affordable housing. We have some programs that help. We have the programs that help build housing for the elderly and for the disabled. We have the low-income tax credit, which does a good job; but it is limited. We have the section 8 voucher program which works well in a lot of areas, but the section 8 program does not contribute to production, particularly when we have rulings now that say you can only use a voucher 1 year at a time. No one can build a house on a year-by-year commitment.

So I am all in favor of the goals of this resolution. I just wish it did something other than asking this workforce to go out and build a couple of houses a year to carry it out. We have a terrible crisis in this country with regard to affordable housing. And let me just say, Madam Speaker, that one of the arguments we have when some of us talk about the need for the Federal Government to participate in doing things that are important for the quality of our lives, we are told we should not worry about it, the private economy will take care of it.

The private economy does a great deal. The private economy supplies many of our needs, and a private sector is something we should all work for. But there are some things it will not do. And with the very prosperity of the 1990s, which was so important in helping people achieve so many goals, for many people it made the housing situation worse. Because prosperity is obviously not uniformly distributed. Under the policies now in power, it is even less uniformly distributed than ever, as a conscious choice. But even at its best, prosperity will be uneven.

And many people in this country, in the greater Boston area, in the area around San Francisco, in Chicago, in many of our great metropolitan areas people whose incomes were somewhat fixed, many of them public employees, teachers, firefighters, police officers, and social workers, and public works people, people on relatively fixed incomes found themselves worse off in the housing market because prosperity drove up the value of many properties, and some people benefited enormously, and some were left behind.

We are told, well, a rising tide will lift all boats. But if you are too poor to afford a boat, the rising tide will go over your head and drown you. And that happened to many people. The very prosperity of the 1990s that were so welcome nationally exacerbated the housing crisis.

That does not mean the government building all the housing is the answer. It does mean that a sensible, well-funded production program, where the government contributes along with the private sector an element of subsidy so that new housing can be built in many parts of the country, is the only way this resolution will be more than just empty rhetoric.

So at this point we only have this resolution. But we will later in the year have a chance to address this, I hope. I hope the committee which brought this out, the Committee on Financial Services, which has jurisdiction over housing, will be allowed by the leadership of this House to formulate a sensible production program and bring it forward. And if we do, we may be able to rescue this resolution from the charge of being just empty rhetoric.

Madam Speaker, I reserve the balance of my time.

Mr. GARY G. MILLER of California. Madam Speaker, I yield 4 minutes to the gentleman from New York (Mr. WALSH), the author of this resolution.

Mr. WALSH. Madam Speaker, I thank the gentleman from California for yielding me this time, and I thank the House for considering Senate Concurrent Resolution 43.

Just to depart briefly from my prepared comments, I listened to the gentleman from Massachusetts rail against this legislation. It is just absolute proof that no good deed goes unpunished. This is a good idea. This is an idea that is very successful. It is an idea that gives individuals the opportunity to volunteer to help their neighbors to build a home. I suspect even if he may be a ham-handed carpenter that with a good foreman on the job he could learn how to pound nails.

But the point really is this is not about mass-production housing. It is about creating homeownership. Earlier this week, I had the privilege of joining a handful of my neighbors at the home of Nyoka Williams, a participant in the Syracuse Neighborhood Initiative. The Syracuse Neighborhood Initiative is a city-wide effort to expand homeownership opportunities and improve quality of life in Syracuse, my hometown.

We gathered to celebrate the success of the Mini-Grant program, which provides city families with grants and loans to improve their owner-occupied homes. At the ceremony, Ms. Williams reflected on her own hard-fought struggle to purchase a home. This program creates homeowners.

Now, not everybody in this country can afford to own a home, but we ought to be doing everything we can to make that possible, and this program goes a long way.

With Syracuse Neighborhood Initiative's assistance and her hard work, her previously vacant home is now a showcase on the block. And after years of renting substandard apartments, she is thrilled to be able to take care of her aging mother and entertain her multiple grandchildren in her very own home. Ms. Williams told me that homeownership has not only provided her with a quality place to live and to spend time with her family, but has given her a renewed sense of pride in herself and a new level of confidence that she can meet any challenge.

And I can tell you that Ms. Williams wears that sense of pride and accomplishment in a big beautiful smile whenever she talks about her good fortune and her very own home.

Madam Speaker, for many years now, Habitat for Humanity has been working to offer the same level of accomplishment and that sense of pride to thousands of families the world over. By making homeownership affordable and accessible, Habitat has coordinated the construction of thousands of new homes across the United States, relying upon a great deal of donated goods and utilizing a volunteer labor force.

Now, those volunteers can be labor union members or nonlabor union members. The good news is it does not matter. If they are willing to donate their time and hammer, or carry some lumber, or lay some concrete, God bless them. Nobody is going to tell them they cannot do it.

This program has made 50,000 Americans homeowners. I am proud to be a veteran of previous Habitat builds back home in Syracuse, in my home town and here in Washington, where I worked with Members of the House and Senate on two different houses in the Washington, D.C. area. Some of us were more handy than others, but the good news is we worked together. Even in Belfast, Northern Ireland, people of both communities came together, and the Habitat house build provided a vehicle to bring people together. And it does that here too.

It is our hope that every Member of Congress will build a house, all 535 of us, in their districts, through this program. Habitat for Humanity provides affordable quality homes for those currently struggling to achieve the dream of homeownership. There are millions of Americans who could become homeowners if we helped them through this program and the many other programs provided through the housing agency, through HUD. They support renewed investment efforts in America's cities, and they allow for a better quality of life for all involved.

I urge my colleagues to support S. Con. Res. 43 and encourage their active involvement in the Congress Building America program in the 108th and 109th sessions of Congress. Prideful smiles like Ms. Williams' demonstrate just how rewarding homeownership efforts like Habitat for Humanity really are.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself 30 seconds.

I notice on page 4 it says each Congress Building America house should be constructed primarily by Members of the Senate and House, their families and staff. Now, presumably, if we do this, it is voluntarily. But if we pass a bill like this and our staffs do it, it might not be voluntary. We might need an interpretation from you, Madam Speaker, under the bill you have been sponsoring. If our staffs show up to build housing and they have to work overtime, would we pay them overtime or would they get comp time?

So I think we will have to have further interpretation when our staffs report for home building, which some of them probably did not sign up for.

Madam Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS), a very active leader in the fight for affordable housing in our committee.

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Mr. SANDERS. Madam Speaker, I thank the gentleman for yielding me this time and applaud the gentleman for all of the work he has done on affordable housing for this country.

Today we are considering legislation which encourages Members of Congress "to participate in and support activities to provide decent homes for the people of the United States."

I have no problem with this legislation. It would be very nice if Members of Congress worked together to build a few hundred units of affordable housing. The problem is that in the United States of America today, we have a housing crisis, and we do not need a few hundred units of new housing, we need hundreds of thousands of units of new housing. It is not acceptable for people to say it is so nice, we are volunteering our efforts.

Madam Speaker, we have children sleeping out in the street all over America. We have working families working 40 hours a week living in their cars, and Members of Congress building a few hundred housing units might make for good press releases and photos in newspapers, but it does nothing to address the housing crisis in this country.

While the affordable housing crisis in this country deepens, President Bush's proposed housing budget is 63 percent less than it was in 1976 during the last year of the Ford administration. While more than 3 million Americans will experience homelessness this year, including 1.3 million children, President Bush proposes to eliminate a $574 million a year program to revitalize public housing and recently refused to fully fund public housing operating expenses. While 4.9 million American families pay more than 50 percent of their limited incomes on housing, President Bush has proposed to block grant the Federal section 8 rental assistance program which would raise rents and jeopardize rental assistance for tens of thousands of families.

While President Bush says he supports expanding homeownership, the reality is that his initiatives have not produced a single home buyer in 2.5 years, and since the President took office, housing foreclosures have increased by 39 percent and home loan delinquencies have increased by 26 percent.

Last year the Bush administration cared so much about affordable housing that they worked to defeat legislation that I introduced to provide the tools necessary to construct, rehabilitate and preserve at least 1.5 million affordable housing rental units over the last decade through a national affordable housing trust fund.

Madam Speaker, we are not going to give up. Just a few months ago, I reduced the National Affordable Housing Trust Fund, a proposal that would not only provide real solutions to the affordable housing crisis, but would also lead to the creation of some 1.8 million new jobs and nearly $50 billion in wages. This legislation currently has 200 tripartisan cosponsors, including 11 Republicans.

This bill currently has 200 tri-partisan cosponsors, including 11 Republicans, and has been endorsed by over 4,000 groups representing labor unions, business leaders, religious organizations, environmental groups, bankers and affordable housing advocates.

At a time when 4.9 million American families are paying more than 50 percent of their limited incomes on housing and at least 800,000 people, including 200,000 children, are homeless on any given night, the federal government has a responsibility to correct this crisis.

If the Republican leadership and the Bush administration truly wanted to "participate in and support activities to provide decent homes for the people of the United States" they would join me in supporting a National Affordable Housing Trust Fund and get this bill signed into law as soon as possible.

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While President Bush says he supports expanding homeownership, the reality is that his initiatives have not produced a single home buyer in 2.5 years, and since the President took office, housing foreclosures have increased by 39 percent and home loan delinquencies have increased by 26 percent.

Last year the Bush administration cared so much about affordable housing that they worked to defeat legislation that I introduced to provide the tools necessary to construct, rehabilitate and preserve at least 1.5 million affordable housing rental units over the last decade through a national affordable housing trust fund.

Madam Speaker, we are not going to give up. Just a few months ago, I reduced the National Affordable Housing Trust Fund, a proposal that would not only provide real solutions to the affordable housing crisis, but would also lead to the creation of some 1.8 million new jobs and nearly $50 billion in wages. This legislation currently has 200 tripartisan cosponsors, including 11 Republicans.

This bill currently has 200 tri-partisan cosponsors, including 11 Republicans, and has been endorsed by over 4,000 groups representing labor unions, business leaders, religious organizations, environmental groups, bankers and affordable housing advocates.

At a time when 4.9 million American families are paying more than 50 percent of their limited incomes on housing and at least 800,000 people, including 200,000 children, are homeless on any given night, the federal government has a responsibility to correct this crisis.

If the Republican leadership and the Bush administration truly wanted to "participate in and support activities to provide decent homes for the people of the United States" they would join me in supporting a National Affordable Housing Trust Fund and get this bill signed into law as soon as possible.

Mr. GARY G. MILLER of California. Madam Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Madam Speaker, I want to associate myself with the comments that the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Vermont (Mr. SANDERS) have made. While I stand in strong support of this resolution, and it is a great resolution, great ideas about what need to be done, but in reality, we need to get serious about the business of doing it.

The Congressional Black Caucus has a program called WOW. With Ownership Wealth, and in my congressional district, we have been going around promoting the purchase of homes by African Americans. We find that many people, once they reach the point where homeownership is in their mind, there is not the availability of homes that they can purchase. When we start talking about incomes of $25,000 and $30,000, people cannot purchase a $250,000 home. There must be affordable homes built.

Just recently a study was done that the gentlewoman from Illinois (Mrs. BIGGERT) is associated with the organization, pointed out there are 850,000 individuals in the Chicago metropolitan area who live at or near the level of poverty. If these individuals are going to be able to purchase a home, not only must there be mortgage money available, but there also has to be the affordability of a house that they can buy.

Madam Speaker, I support this resolution, strongly suggest that we find ways to implement the concepts of it and make real the idea that people can live in their house by the side of the road, and the only way we will do it is have affordable housing that they are able to purchase.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WATERS) who is the ranking member of the Subcommittee on Housing and Community Opportunity of the Committee on Financial Services, and a great leader in this field.

Ms. WATERS. Mr. Speaker, I rise in respect for and in support of this resolution. Habitat for Humanity is a wonderful organization, with 1,655 affiliates in all 50 States. Habitat for Humanity has built nearly 150,000 houses worldwide, and it has an ambitious goal of building another 50,000 homes by 2005. So I certainly support their efforts, and I am pleased the House and Senate staff and Members will join Habitat for Humanity in building a couple of homes right here in Washington, D.C.

Yet, even as I congratulate Habitat for Humanity for all of its work, I believe that all of us need to take a broader look at the issues of affordable housing and housing policy generally. We are falling very short of where we need to be in order to make the goal of affordable housing a goal that is obtainable for all Americans. Much more work needs to be done.

The unfortunate reality is that the Bush administration's homeownership record is one of feel-good rhetoric and photo opportunities, not one of substance. When it comes to creating affordable housing and helping to revitalize sustainable community development, the Bush administration is simply missing in action. Only 47.1 percent of African American and Latino communities respectively are homeowners. Where is the administration's plan to improve percentages to those of other populations?

We need to put a stop to predatory lending to vulnerable consumers. Where is the administration's plan to eliminate predatory lending to consumers who are new to the homeownership process? As Members know, predatory lending is the making of unethical and abusive mortgage loans that include excessive fees, inflated rates and such practices as making loans that the borrower cannot repay. The predatory lending industry has grown significantly over the past 10 years.

The Federal Government has a responsibility to protect homeowners who are subject to predatory practices. Predatory lending affects borrowers of all races and income levels, but such lenders often target elderly homeowners and people of color. For example, borrowers 65 and older are 3 times more likely to hold subprime mortgages than borrowers 35 years of age. Simply put, when it comes to housing, there is much more we need to be doing than just commending Habitat for Humanity for building some housing. For example, we need to adopt legislation that ensures that consumers will pay no penalties when prepaying all or part of a mortgage credit loan balance. We should be working to ensure that there is no financing of credit, life, disability or unemployment insurance on a single premium basis. We also need to protect anyone from knowingly engaging in the practice of flipping a mortgage loan or extension of credit.

We also need policies and practices that will nullify any mortgage or loan contract that does not contain all the written terms of the contract or has blank spaces for such terms to be filled in after the contract is signed.

Mr. Speaker, increasing the supply of affordable housing, protecting consumers from predatory lending and predatory mortgage servicing. This is the housing agenda we need to be pursuing. I urge the Bush administration to join us in this effort.

I commend Habitat for Humanity for its tremendous work and urge all my Colleagues to support this Resolution.

Mr. GARY G. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. WATT).

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I thank the gentlemen for yielding me this time to give me an opportunity to express myself on this resolution.

We obviously are all supportive of the resolution dealing with Habitat for Humanity and encouraging our colleagues to participate in the effort here in the District of Columbia. We are supportive of anything that does decent and affordable housing for people in this country.

Mr. Speaker, it is for that reason that we are so perplexed by the President's decision not to go forward with the Hope VI project by zeroing out Hope VI and saying that Hope VI has apparently served its purpose in this country.

I just came from a meeting with a group of students, one of whom was Ms. Audrey Evans who is a student at North Carolina A&T State University, and without knowing I was coming here, she said I want to commend you on the Hope VI program. She said she was raised in public housing, and our commitment to Hope VI helped to change her life because putting public housing in communities and allowing her to be exposed to people around her who are interested in succeeding educationally and economically and personally is something that has meant so much to her.

Throughout America, we have heard these stories about how successful Hope VI has been. On a bipartisan basis in our committee, just like both of these gentlemen have yielded me time, we are perplexed as to why such a successful program, which coincidentally was a Republican program instituted by Secretary Kemp when he was Secretary of Housing and Urban Development, how could we terminate such a program as this?

We are supportive of this resolution, but we also want this administration to be committed to housing in general in this country.

Mr. GARY G. MILLER of California. Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank the gentleman for yielding me this time.

As I read this resolution, I really did think I was reading the fundamental arguments for the establishment of a national affordable housing trust fund which has been sponsored by over 200 members of this body. So I would like to read just a couple of whereas clauses which explain why I think this resolution sounds like the provisions of the National Housing Trust Fund.

Whereas establishing a housing infrastructure strengthens neighborhoods and local economies and nurtures the families who reside in them; whereas homeownership is a cornerstone of the national economy because it spurs the production and sale of goods and services, generates new jobs, encourages savings and investment, promotes economic and civic responsibility and enhances the financial security of all people in the United States.

That is some of what this resolution says. I fully support and appreciate the efforts of Habitat for Humanity and really agree that they should be applauded and supported. However, this resolution is just another vehicle for Republicans to talk about their nonexistent housing agenda. This Congress must allow us to debate and vote on significant housing legislation.

My frustration with my Republican colleagues for failing to bring significant housing legislation to the floor and for ignoring the dismal housing and economic outlook in this country is really only compounded by the Republican attempts to clock weak homeowner initiatives by pretending to support the American dream of homeownership.

While the nationwide homeownership rate is approaching 70 percent, the African American and Latino homeownership rates pale in comparison, to about 46 percent; and in the administration's Homeownership Downpayment Assistance Program, they would not even support foreclosure assistance to help these homeowners keep their homes and protect taxpayer investment.

Of the 3.9 million low-income households to be considered working poor, over two-thirds pay 30 percent or more of their income for housing costs, with one-quarter paying over half their incomes. In 39 States, 40 percent or more of renters cannot afford fair market for a 2-bedroom unit, and that is why creating more affordable housing and homeownership should be our focus.

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Consistently since the Bush administration has drafted budgets, they seem to negate the promise of homeownership, community investment, and fair, quality housing. This administration continues to cut the HUD budget and fight successful programs such as HOPE VI, section 8, the public housing drug elimination program and the creation of a national affordable housing production program.

I will vote for this resolution; I support it, but I encourage the other side to bring some real housing bills to the floor very soon.

Mr. GARY G. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

I enjoyed the one comment: "This resolution is here so Republicans can just talk about affordable housing." The gentleman from Massachusetts and I, we do agree on one major issue: There is a huge shortage of affordable housing in this country. I believe we both have a passion in common to try to resolve this problem. Earlier this year, I brought a bill up before our committee on brownfields. Brownfields are contaminated sites within inner cities where the infrastructure is in place and the need for affordable housing is there. The gentleman from Massachusetts has worked hand in hand with me to bring this to the floor, but because of a lack of agreement on his side of the aisle, none to his blame, we are unable to do that because one Member wants to define brownfields using an EPA definition. The gentleman from Massachusetts and I realize that if you do that you eliminate petroleum sites which are 50 percent of the half million sites in this country. So he and I have worked to resolve something and others are giving lip service to this issue.

There has been much talk about subsidies. We deal with section 8 housing and the need for section 8 housing. We come to an agreement that there is a need for that. But in Los Angeles County, we had the housing authority here, I asked them the question of what is your occupancy rate in California, in L.A. County? They said, we are 97 percent occupied. That means 3 percent of the units that are not occupied are under renovation. Basically, they are 100 percent full. They have no available section 8 housing for people to go to. We can increase section 8 vouchers causing more money to chase no product, and all it does is increase the cost of the product.

But there have been things that have been said here today. We need subsidies which we do provide some. The President has come up with a great idea. He said, let us allow people to take section 8 vouchers, up to 12, and apply them as a down payment to buy a home. That is a great idea. I hope the appropriators this year will fund that program. What we are saying is people who have been locked into section 8 housing can now take the money they would have received in 12 months and put it as a down payment to buy a home, so 10 years, 15 or 20 years from now their payment is the same as it is today, not rising as it does in rental housing. We need to create homeownership rather than just create renters in this country.

There has been a comment made about we need a housing production program. We have that in this program. It is called the Building Industry Association. But government does everything it can to stop builders from providing affordable homes in this country. We have so many mandates on builders. I remember 30 years ago when I entered the industry, you could go out within a matter of 2 months and make application on a tract map to build a tract of homes, whether it be five, 10 or 15; and in 60 days you had entitlements, yes or no. They had to do it because on day 59 you were approved by law. I talk to builders today that have been 3, 4, 5, 8, 10 years processing subdivisions trying to provide affordable housing for the people of this country and they cannot get through the process.

I spend more time helping builders with Fish and Wildlife and Army Corps of Engineers issues. One thing I wish the other side of the aisle would agree to do and that is reform the Endangered Species Act. In Colton, California, there is one project that has 3,000 homes on 3,000 acres. They are only wanting to develop about 300-and-something of those acres, but they happen to have a rat on that property. It is called the San Bernardino kangaroo rat. It is becoming extinct. People who love rats want to set aside habitat for these rats, but they always want to set the habitat aside on privately owned property. That means somebody who owns a piece of land, all of a sudden the government determines that they own habitat that this rat should live on. The problem with the San Bernardino kangaroo rat is it only lives in washes, which means every time it rains during the winter, the little critters drown and the reason they are becoming extinct is the little critters are too stupid to get out of the wash that they are drowning in and go somewhere else. So no matter what we do, those little critters year after year after year are going to continue to be less in population than they are today because they are too stupid to move out of a wash.

There is another great one in California called the Delhi sand-loving fly. I remember years ago when our parents ran this country, we used to swat flies and poison rats. Now we set aside habitat for them on privately owned property. Something is wrong with this country. I think it is incumbent upon us to change it. It is nice to give lip service about affordable housing, and I believe many of my colleagues who spoke today are genuine about a passion; but this resolution allows Members of Congress to actually do something besides give lip service, lean over and pound some nails, finish some concrete, hang some dry wall, put some roofing material on, put some plumbing in, run finish on electrical, paint, hang doors, run casing and base.

We can actually do something besides talk about it. Yes, it is a small gesture; but if you look at the problems we have caused because of the stupid laws and regulations we have placed on the building industry today, anything we do, even if it is small, will help. If we are really talking about helping people get into affordable housing, let us do something genuine about it. More government is not going to solve anything. Yes, more government has created a problem and some believe that government money now should resolve that problem and that is wrong.

If we would just step back at the Federal, State and local level and say, how do we reduce the regulations placed upon the building industry so a person can go out and reasonably buy a piece of property and in a given span of time can build homes instead of 3, 4, 5, 10 years of process. When you take 3 years to get an entitlement, it is costing somebody a lot of money to buy the property and hold it and pay all these consultants to work on the property.

In California, we require builders to go through title 24. That is energy efficiency, which means a home must be airtight, no air infiltration. They even limit it in most fireplaces you can put in that are man-made because they do not want air infiltration in a home. When you have water and no air infiltration, what do you get? Mold. One of the problems we are facing in this country is that insurance companies do not want to write policies because of mold. If we did not have the policies we have today dealing with energy efficiency, perhaps we would not have some of the mold problems we have in this country.

When we talk about affordable housing, let us talk about it in reality. If you are going to have section 8 housing that is available, you have got to have an affordable move-up marketplace, and it is not there today. People in section 8 housing receiving government assistance cannot afford to move out of that house because there is not an affordable unit for them to move into. So if we really want to help people be able to get out of section 8 housing, to actually attain the rights that we believe they should have of homeownership and the luxury that goes along with that, with building assets and everything else, if we really want to do that, then let us look at the structure we have created. Let us pass a law that says any regulation at the State level or the city level that has any negative impact on the cost of housing must have a cost-benefit analysis and you must be able to determine that it is really beneficial to do that, not just something that makes people hug each other and feel good and pat each other on the back. Let us change the way we do business in this country.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. GARY G. MILLER of California. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I just want to make sure I understand. The gentleman is proposing that we pass a Federal statute that would say that no local zoning regulation could go into effect?

Mr. GARY G. MILLER of California. I take back my time. What I said is a cost-benefit analysis. If you can do something and determine that there is a benefit in the regulations you are placing on affordable housing, that is fine. But for us to sit here and say, oh, we need to have more government programs and more government funding and yet we do not get to the core problem of affordability, you have to get to the core problem of affordability. There is no difference from us saying, let us, the Federal Government, fund housing but you have got to have everybody in agreement we are even going to put it there.

The problem you have with section 8 housing, and the gentleman from Massachusetts knows this to be a fact himself, is you go to many communities and you say you are going to build low-income housing and the whole community is in an uproar because they do not want it in their community because they start saying, you are going to have gang violence, you are going to have problems, you are going to have transients. They do not want it in their communities.

I am not saying that it is bad; I am saying that is just a fact. It is this NIMBY, not in my backyard attitude. That is a problem we face in this country, unless you will change the laws to where a builder has a reasonable time to process a subdivision. Yes, let us look at the environmental impact that might be placed on the community of a project; let us look at the environment, if there are any species that are going to be harmed there. But let us do it in a reasonable span of time, not 3, 5, 10 years. I told the gentleman from Massachusetts of a project I owned for 12 years that I finally ended up selling to the city because nobody wanted it built, yet there was not a bit of flora or fauna that was in any way impacted, nor was there a species out there that was on the endangered species list. Let us look at the problem and let us work together to see that we are not overturning local rights, but let us work with the local communities.

Mr. FRANK of Massachusetts. If the gentleman will yield further, I think the gentleman, however, is being inconsistent. I have been critical of the use of local zoning in many cases to block housing proposals, but I do want to be clear. These are local and State laws. The Endangered Species Act is Federal. But most of what the gentleman talked about are local and State laws, and I am asking the gentleman, is he proposing that at the Federal level we pass statutes that regulate and restrict and limit what form local zoning can take, saying that it has to have a cost-benefit analysis, et cetera? I might be interested in joining that, if that is what the gentleman is advocating.

Mr. GARY G. MILLER of California. Reclaiming my time, if we look prior to 1948, the tax revenues in this country generally went to cities. It started to change after 1948. The State started taking more and the Federal Government started taking more. About 1972, it got so bad that locals were being deprived of so much money they could no longer afford to put the streets and the sewers and the storm drains in necessary to build homes. Why? Because the Federal Government and the State government got greedy and started taking the money from the people who need it, the cities. What we have done is create a situation where now the tax dollars are not put in the infrastructure; the builder puts in the infrastructure. Plus he pays for all the local mitigation and impacts that the community might face in some fashion, even if it is a signal 5 miles down the road that might be impacted in some fashion because this tract of 80 people living in it might impact that intersection.

But we have got to look at what government has done. Government has changed to such a degree that we have taken the money, become greedy; and now we do not want to address the problems we can address.

Mr. NEY. Mr. Speaker, I rise in support of S. Con. Res. 43, which expresses the sense of Congress that this legislature should participate in and support activities to provide decent homes for the people of the United States.

The goal of this resolution is to encourage members of Congress to participate in Congress Building America build events with Habitat homeowner families and local Habitat affiliates in their districts or states during the 108th and 109th Congress, and I urge each member's support of this resolution and to personally join with the Habitat for Humanity affiliates in their districts to help low-income families realize the American dream of homeownership.

I urge my colleagues to endorse this resolution that will not only express the sense of Congress in support of increased affordable homeownership opportunities, but will result in the building of hundreds of new homes for low-income and minority families across the country.

The fact that June is National Homeownership Month makes the scheduling of this concurrent resolution especially appropriate. For the vast majority of families, homeownership serves as an engine of social mobility and the path to prosperity. We are blessed to live in a country where every citizen—regardless of race, creed, color, or place of birth—has the opportunity to own a home of their own. And, new homeowners can create wealth for their families for generations to come, while also helping transform neighborhoods and communities.

The home has long held a place of mythic stature in the hearts and minds of Americans, as many of this country's forebears considered homeownership a key component of a democratic society. Homeownership creates stakeholders within a community and inspires civic responsibility. It offers children a stable living environment that influences their personal development in many positive ways—including improving their performance in school. Studies by housing experts show a clear link between an increase in homeownership and a decrease in crime rates.

In the Subcommittee on Housing and Community Opportunity this year, I plan to continue working hard to explore new ways to put people on the path to homeownership, so they can realize its many benefits. The Financial Services Committee already marked-up three housing bills last month by voice vote: H.R. 23, The Tornado Shelters Act, H.R. 1614, the HOPE VI Program Reauthorization and Small Community Main Street Rejuvenation and Housing Action of 2003, and H.R. 1276, The American Dream Downpayment Act.

The American Dream Downpayment Act, introduced by KATHERINE HARRIS of Florida, is a vital initiative in the creation of new homeowners. This bill would provide $200 million in grants to help homebuyers with the downpayment and closing costs. This has the potential of assisting 40,000 families annually achieve the dream of homeownership and would make available subsidy assistance, averaging $5,000, to help low-income, first-time home buying families.

In addition to moving these important pieces of legislation, the Subcommittee is in the midst of holding a series of hearings examining the current operation and administration of the Section 8 Housing Choice voucher program, which provides rental assistance to more than 1.8 million families. While the concept of the program remains sound, the program has often been criticized for its inefficiency. More than a billion dollars are recaptured from the program every year, despite long waiting lists for vouchers in many communities. The rising cost of the Section 8 program and some of the administrative concerns have caused many in congress and the Administration to conclude that the program is in need of reform. In the coming months, I look forward to hearing the different perspectives from our many distinguished witnesses as we continue to discuss ways to improve America's communities and strengthen housing opportunities for all citizens.

Congress Building America will enable Members of Congress to express their commitment to affordable homeownership by picking up hammers and nails and building alongside Habitat for Humanity families to make the American dream of homeownership a reality. This initiative is a hands-on approach to making affordable homeownership a reality, one family at a time, one community at a time.

Mr. OXLEY. Mr. Speaker, I rise in support of S. Con. Res. 43, which expresses the sense that Congress should participate in and support activities to provide decent homes for the people of the United States. I urge my colleagues to not only join me in supporting this resolution, but to also join the thousands of Americans who volunteer their time to provide for those less fortunate.

This resolution calls upon Congress to support activities to provide decent homes for Americans and recognizes an organization that has been working towards improving housing conditions for over 27 years now. Of course, I'm talking about Habitat for Humanity, an organization that has built nearly 150,000 affordable houses for families worldwide and is planning to complete another 50,000 homes by 2005. In fact, Habitat for Humanity just dedicated two homes in my district in Mansfield, Ohio on Father's Day and more houses are being dedicated all over Ohio on an ongoing basis. Several local businesses and charitable organizations also help support the building of these homes. This kind of effort provides a great example of what we can accomplish when communities come together to assist their residents.

The resolution outlines a plan for a new initiative called Congress Building America, which calls upon the Members of Congress to demonstrate the importance of volunteer work by working with Habitat for Humanity and other contributing organizations to construct homes across the nation. This simple, but adequate, housing for less fortunate families, symbolizes the self-help approach to homeownership. Under this model, homeowners contribute sweat equity toward their new home, building it alongside trained volunteers. The new homeowner then has the opportunity to buy the home with a no interest mortgage. The average cost of these homes is $53,000 with a monthly payment of around $266. In most cases, the payment is even lower than what they were paying for substandard rental units.

Beyond the obvious benefit to the new homeowner, Habitat's work to provide safe, decent and affordable shelter for thousands of needy families adds to the national economy because it spurs the production and sale of goods and services, generates new jobs, encourages savings and investment, promotes economic and civic responsibility, and enhances the financial security of all Americans.

One of the greatest attributes of organizations such as Habitat is that the benefits of service go both ways. Not only are families in need of housing receiving benefits, but volunteers often find their service extremely rewarding as well. It is great to see so many young people serving their fellow citizens by volunteering to help those less fortunate. Over 10,000 students have signed up to help Habitat for Humanity build houses through their Collegiate Challenge program breaking down barriers to homeownership and breaking down the stereotype of a typical college kid on spring break at the same time.

Clearly, there is still much work to be done. We are focusing our efforts to increase the availability of affordable housing in communities across the country. Today we are here to reaffirm that commitment and recognize all the hard work that has already been done. I would therefore like to take this opportunity during National Homeownership Month to thank those organizations, such as Habitat for Humanity, that work to help families achieve the dream of homeownership.

I would also like to commend the Housing Subcommittee, chaired by Representative BOB NEY, today for its hard work to break down the barriers to homeownership faced by too many Americans. By the end of this week the subcommittee will have held 11 hearings as part of its effort to pursue an aggressive legislative agenda. At the top of that list is the American Dream Downpayment Act which will provide $200 million in grant funds assisting approximately 40,000 low-income families with down payment and closing costs on their first homes.

I encourage my colleagues to join me in participating in the Congress Building America program and look forward to the many continued efforts which will build communities across the nation and help thousands of American families buy homes.

Mr. BISHOP of Georgia. Mr. Speaker, I urge my colleagues to vote for the passage of Senate Concurrent Resolution 43, the resolution that expresses the Congress's support for the Habitat For Humanity and the good work this great organization does for American families throughout the Nation.

I am proud to say that this wonderful institution was born in Americus, GA, within the district that I am so privileged to represent. Since its inception, this model of compassion and commitment to humanity has spawned similar groups, and has changed the way many Americans view the problem of homelessness and derelict housing. At this very moment somewhere in America, a home is being built by the Habitat For Humanity. The number of volunteers now exceeds 200,000 and is growing. More than 100,000 homes have been built and renovated, and more are being completed across the country at a rate of 1,000 per month. But we can do even more.

This resolution encourages Members of Congress to participate in "Congress Building America" events with local Habitat For Humanity affiliates in their home districts that will continue and increase the homebuilding effort all across America.

Mr. Speaker, Habitat For Humanity works. What seemed like a dream to those who had the vision in Americus so many years ago, is now becoming a reality. Decent housing for every American—thanks to Habitat For Humanity, this is an idea whose time has come.

The SPEAKER pro tempore (Mr. ISAKSON). The time of the gentleman from California (Mr. GARY G. MILLER) has expired.

The question is on the motion offered by the gentleman from California (Mr. GARY G. MILLER) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 43.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GARY G. MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 342, KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 276 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 276

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 342) to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this resolution is a standard rule for consideration of conference reports and waives all points of order against consideration of the conference report.

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Mr. Speaker, the process of reauthorizing the Child Abuse Prevention and Treatment Act and the Family Violence Prevention Treatment Act completes a promise made to the American people that was begun in the 107th Congress. Unfortunately, the last Congress adjourned before consensus was reached between the two bodies on this very important issue. By taking up the conference report on the reintroduced legislation today, Congress is demonstrating an ongoing commitment to ensuring that programs to prevent child abuse, neglect, and family violence can continue to work and to protect American families.

The underlying conference report that we are debating maintains important Federal resources for identifying and addressing issues of domestic violence. It supports efforts to ensure that the current programs designed to address these issues are operating effectively and efficiently, and that they promote the prevention of child abuse before these heinous acts can occur.

The conference report retains language promoting partnerships between child protective services and private and community-based organizations, including education and mental health systems, to provide child abuse and neglect prevention and treatment services. It improves the training, recruitment, and retention of individuals who are capable of providing services to children and families. It also increases the availability of casework supervisors for oversight and consultation, while simultaneously improving public education on the role of the child protective services system and appropriate reporting of suspected incidents of child abuse and neglect, to reduce the number of false or malicious allegations.

This conference report requires States to have provisions and procedures for administering criminal background checks to prospective foster and adoptive parents, and other adult relatives and nonrelatives residing in the household, and helps to improve the training opportunities and requirements of child protective services personnel to ensure their active collaboration with families, and their knowledge of legal duties with these individuals to protect children's individual rights.

Mr. Speaker, this legislation also requires States to implement policies and procedures to address the needs of infants born and identification as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, including the requirement that healthcare providers involved in the delivery or care of such infants notify child protective services of the occurrence of such conditions in infants. It then requires the development and planning of safe care for such infants.

Lastly, the conference report retains language that expands priority services to infants and young children who are born with a life-threatening condition or with other very special medical needs, to ensure that these special needs are met and that these special children have a chance in life.

If there is one issue upon which every single Member of this institution can agree, regardless of his or her political belief, it should be the need to prevent child abuse and domestic abuse. These atrocities and often silent crimes do lasting damage to the lives of individuals and the moral fabric of our society. There exists a responsibility incumbent upon each of us to enact laws that protect the most vulnerable in our society, and this conference report will go a very long way to accomplish that exactly that noble and moral goal.

I am pleased to note that the House version of this legislation, H.R. 14, easily passed through its committee of jurisdiction, the Committee on Education and the Workforce, earlier this year and then through the House by voice vote. Today's conference report should continue to enjoy widespread and overwhelming bipartisan support as it has already enjoyed tremendous support throughout the child abuse and family violence prevention advocacy communities.

I would ask each of my colleagues on both sides of the aisle to demonstrate their commitment to American families, to American communities, and to America's future by supporting this conference report. In particular today, I would like to thank the gentleman from Michigan (Mr. HOEKSTRA), the House sponsor of this legislation; and the gentleman from Ohio (Mr. BOEHNER), chairman of the Committee on Education and the Workforce, for their hard work in producing this conference report. I would also like to take this moment to commend the conferees from both bodies that have labored to produce this fine product.

Mr. Speaker, I urge my colleagues to join me in supporting this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Texas (Mr. SESSIONS), my friend, for yielding me this time.

Mr. Speaker, I rise today in support of this rule and the underlying conference report for the Keeping Children and Families Safe Act. My colleagues know that the rules for conference reports in the House are typically closed, and today's rule is reflective of the longstanding tradition in the House to bring conference reports to the floor in a similar fashion.

Mr. Speaker, every time a child is abused or neglected, the whole human race suffers. With that sobering thought in mind, I support the Keeping Children and Families Safe Act. I support this conference report, because most States are facing severe budget deficits, and this is the only Federal legislation that targets child abuse and neglect. I support this conference report because States are dependent on Federal money to meet the increasing demand for community child abuse prevention programs. But realize this legislation does not begin to solve the overwhelming financial problems that the States are currently experiencing. In fact, critics of this bill including the director of the National Child Abuse Coalition say that there is a $2.5 billion spending gap between the amount currently allocated towards prevention and protection and the amount required to handle this problem effectively.

The statistics on child abuse and neglect in this country are heart-wrenching. The Department of Health and Human Services estimated that in 2001, 903,000 children in this country were victims of abuse or neglect. This figure represents an 11 percent increase from the previous year, and many child advocates say the stress of a bad economy and unemployment could be two reasons for the increase.

This bill includes funding for training and preventative programs for social workers and families and encourages partnerships between State child protective services and community organizations. It also requires foster parents and adoptive parents to undergo criminal background checks and mandates that States expand child abuse services to children born with drug-related problems.

Child abuse and neglect is everyone's problem and it affects us both morally and financially. The cost of training and preventative programs will be offset later when children who might have been burdens on society grow into upstanding citizens. From a financial perspective, the costs of child abuse and neglect to our society as a whole are staggering. Studies have documented the link between abuse and neglect in childhood with medical, emotional, psychological and behavioral disorders in adulthood. Those who are abused as children are more likely to suffer from depression, alcoholism, and drug abuse.

The abused are also more likely to become juvenile delinquents and are 29 percent more likely to become criminals. Using that estimate, 36,000 of the children who were victims of abuse or neglect in 2001 can or may become criminals.

I certainly hope that the work we are doing in this conference report will help curb this number and help those who need it. However, if we are going to come to the floor today and talk about child abuse and neglect, we will be remiss to not talk about the child neglect that occurred last week in this very Chamber when Republicans in this body refused to extend the child tax credit to more than 12 million children living in low-income families without attaching a significant cost to the bill that would have provided for those 12 million children.

Frankly, it baffles me how the rhetoric of Republicans in this body rarely meet the reality of their policies. The All-American Tax Relief Act, which passed this House last week was filled with tax cuts that benefit the more well off in our society more than six times as much as they do the needy. The bill was another tax cut to the wealthy that further drives our country into debt and deficit spending, and it lacked even the slightest bit of fiscal responsibility. In truth, the child tax credit failed to provide relief to more than 12 million children who are growing up in low-income families. In truth, families making between $10,500 and $26,625 were excluded from this tax relief, including 1 million children of U.S. Armed Forces personnel. Perhaps when Republicans talk about all Americans, they are really talking about all Americans in the upper tax brackets.

Mr. Speaker, Health and Human Services Secretary Tommy Thompson noted, "A Nation as compassionate as ours should ensure that no child is a victim of abuse or neglect. The number of children that are being abused and neglected in this country is an unacceptable daily tragedy." Indeed, Secretary Thompson is correct.

But while this body helps communities fight child abuse and neglect throughout the country, we ought to first fight it right here in the House of Representatives. That we do not, Mr. Speaker, is an unacceptable daily tragedy.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker I yield myself such time as I may consume.

Mr. Speaker, the issue we have before us, this rule, this conference report that we are working on, really does talk about ways in which we can go and improve the lives of millions of children, where we can help families. Families, many times single parents, who are under the stress and strain of attempting to go to work, raise their family, meet their obligations in the community, to their schools, need some help, and I think that that is exactly what this bill does. It does it in a way that community-based organizations can become involved in the life and the opportunity to make not only their neighborhoods and their schools and their communities is safer and better, but they did it in a way that is a partnership.

This administration, this President, supports this. This administration, our President, when President Bush was the Governor of Texas, worked extensively in Texas across Texas in poor communities to try to make the lives better of children to provide them an opportunity to grow up and not only be in safe neighborhoods, but also have safety in their schools. So I think that the underlying legislation in this conference report is fabulous. It does a lot of things to make sure that as a Member of Congress, that all of us as Members of Congress, that we can become engaged in things that we not only can hold our head up high about but we can mentor with our President to make sure that people see this Congress as a caring group of men and women who not only want to ensure the success of people who many of whom we will never know their names but the children who live their lives and are prepared for the future.

I think that in the scheme of things this is a question that comes about not just to Members of Congress but as a demand on this country. The demand on our country is do America's greatest days lie in our future? Are we doing those things throughout the 40 some weeks that we are here in Washington, D.C. away from our families, are we handling the business of the people to make sure that we make life better? And I think that answer is yes. Today the underlying legislation is yet another example of this Congress working together with this President to make sure that America's greatest days lie in our future because we are active, engaged, and involved with our communities and with people back home.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Before I yield to the gentlewoman from California, I would like to respond to my good friend and colleague by indicating that the President's remarks were to pass the Senate bill, and what we did last week was force a conference which is going to delay the tax cuts for the 12 million persons about whom I spoke earlier.

□ 1345

That is a reality, and, to my way of thinking, that is, in some respects, uncaring. It certainly is not compassionate. Everybody that is wealthy, including those of us here in Congress, will get our tax benefits, but many of the persons about whom I speak, including some in the military, will not receive a dime this year by virtue of the actions that we took last week.

Mr. Speaker, I am privileged to yield 5 minutes to my friend, the gentlewoman from California (Ms. WOOLSEY), who has been a leader in the fight for protecting children.

Ms. WOOLSEY. Mr. Speaker, today as we stand here and discuss the conference report on the Keeping Our Children and Families Safe Act, I find it ironic that this week the Republican leadership can find it in their hearts to provide much-needed funding to prevent child abuse, which is decent and necessary, but last week they could not provide critical funding for low-income children without voting for additional tax breaks for the rich. These are the very children from low-income families who are statistically likely to suffer from child abuse, perhaps because of frustration piled on families struggling to make ends meet. This week, the Republicans care about children; last week, they did not. What kind of message is this?

The Republican's child tax credit bill, which the House debated last week, was a squandered opportunity to invest in all of our children and their families. We missed the chance to pass a child tax credit bill which would immediately grant our Nation's hardworking families their fair share of the tax credit.

The families I am talking about are those with dedicated workers that work long hours at low pay, who pay taxes and earn less than $26,000 a year. It is unfortunate that Republicans believe these children and families do not contribute enough to deserve a break, a break now, like higher income families will get.

Republican actions last week left me no doubt that Republican priorities are dead wrong. Last week the House Republicans should have followed the other body and brought a child tax credit bill before us that would help children now, without burdening them with a tax debt later in life. But, according to the majority leader, "If we are going to do it, we should get something in exchange. If we give people a tax break that don't pay taxes, it is welfare."

Well, Mr. Speaker, these families do pay taxes. They are not seeking welfare. They are seeking the same acknowledgment for their hard work as the rich received in the Republican tax package. They deserve tax relief at the same time as other American families. Instead, this supposed party of "compassionate conservatism" has exploited the child tax credit issue to pass even more tax cuts for their wealthy friends. Instead of bringing up the other body's child tax credit bill costing $3.5 billion with offsets to fully pay for it, they passed a bill costing over $80 billion not paid for.

Mr. Speaker, this is at a time when America's Federal deficit will exceed $400 billion, which, by the way, will be paid for by our children, their children, and their children, and on down the line.

Mr. Speaker, our priority must be putting money in the hands of working Americans while keeping our fiscal house in order. That way we can create jobs and build a strong economy. We are helping our children today by protecting them from child abuse, but being poor is abuse of another kind.

Mr. Speaker, children are 25 percent of the population of this Nation, but they are 100 percent of our Nation's future.

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD), from the Committee on Energy and Commerce.

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I do think it is unfortunate that when we are here to debate a bill on child abuse prevention, that we get into a debate about a legitimate difference of opinion as to tax policy. I think that that is unfortunate.

But, be that as it may, I also would say ironically I think it is unfortunate to hear the minority party constantly talking about their hatred of deficits, when every single subcommittee markup of any kind I have been in for the last several months, it is the other party trying to spend more money, more money, more money, and us trying to hold the line.

Let us talk about the rule before us. I rise in support of the rule, which I think is a fair rule, but I also rise in strong support of the bill.

I would like to talk about a particular provision that I worked very hard to get in in the Committee on Education and Workforce, and which I think will do a tremendous amount to actually prevent child abuse, which is what we want to do.

What it does is it says that we look at the causes, the root causes, of child abuse. When you look for the root causes of child abuse to try to prevent it, you find this constant association between abusers of children and abusers of substance. We find it over and over again. Parents who are caught in abusive cycles with drugs and alcohol bring their problems to bear on their children, with often very devastating results in terms of physical brutality against children, sexual abuse of children and psychological abuse of children.

What we noticed, and I bring to bear on this experience my own time spent as a child protective service worker in my home of Bucks County, what we find is that children are born in hospitals every day in this country, and it as clear as can be they are born to mothers who are addicted. These are women who come to the hospitals and bear children who either suffer from fetal alcohol syndrome or they suffer from the systemic presence of a drug or actually have what is called neonatal abstinence syndrome. The child is in withdrawal from the drug. It is a pretty good indicator that this child may be returning to a home where it is not safe.

We have wrestled as a society with how do you protect these children. We do not want to necessarily deem the mothers as having abused the child by virtue of their abuse of the substance. We want to provide intervention, but how do you do that?

What this underlying conference committee report says is that when children appear in a hospital and are delivered and have these symptoms of substance abuse apparent, that the mandated reporters, the health care providers, must notify the child protective service agency, and that child protective service agency then must come in and make sure that there is a safe plan of care for the child.

It does not say that it finds abuse necessarily, it does not say that it finds dependency, it just says we need to intervene, we need to talk with the parents of this child and find out how they intend to overcome their own personal issues so that they can be prepared to nurture this vulnerable child.

I think this provision will go a tremendous way to provide intervention for young children before they are ever subject to abuse, and help not only that child, but help the mother certainly and the father involved as well.

Mr. Speaker, I want to commend and thank the staffs of the committees that worked with us in the House and Senate, and the Committee on Rules for providing a rule under which this conference report can be considered.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield, I will just respond to my friend from Pennsylvania, who is an extremely thoughtful Member of this body, when he cites the fact that Democrats want to spend. Let me isolate that on the child tax credit: Democrats did want to spend the $3.5 billion that the United States Senate wanted to spend, and each nickel of it was offset. Toward that end, I would urge that that kind of spending redounds to all of our benefit.

Mr. Speaker, I am privileged to yield 3 minutes to my good friend, the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman for yielding me time.

Mr. Speaker, as we discuss keeping children and families safe, I cannot help but be reminded of a popular song that Marvin Gaye used to sing, and the words went sort of like this. He says, "Who will save the children? Who is willing to try? Who will save a world that is destined to die? Save the babies."

The reality is, Mr. Speaker, that when we talk about protecting families and saving children and refuse to provide a meager tax credit for those at the bottom of the barrel, for those who can barely survive, who can barely make it, it seems to me we are being contradictory.

It is abusive in my mind when we refuse to fully fund education so that every child can have a meaningful head start, to get a grip and a handle on life. It is abusive when we leave children out of being protected so that they can have the kind of health care that they need. And it is certainly abusive that we have 2.7 million people who have lost their jobs in the last 2 years and cannot find a way to really make it. And while I agree that programs and activities are always good and meaningful and beneficial, policies are even better.

I would hope that as we try and find these ways to protect our children, that which would protect their families by giving them a meaningful opportunity to earn a living, to have a job, to have the monies that are needed so that they are not frustrated and resort to behavior that causes them, in many instances, to abuse children.

So, Mr. Speaker, I would have to ask, who will save the world? Who is willing to try? Who will save a world that is destined to die? Let us save the children.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, hearing the gentleman from Illinois and the gentleman from Pennsylvania speak about children, about the things that we encounter and learn from time about tragedies that occur in people's lives with women who have problems along life, either drugs or alcohol, and also at the same time at which they are birthing babies and carry life within them, and the impact that it has on those children, not just at birth but throughout their life, it is a stunning problem in America.

But to hear the gentleman from Illinois and the gentleman from Pennsylvania speak about the great parts about this bill, about how this Congress can reach out, how we as a government can keep working with local communities to bring out the best, not only in their interaction with these mothers that are at risk, but also child abuse victims, it is all important.

I am hopeful we can also learn a lot from the things we have learned over the last few years about people who perpetrate crimes upon children, the identification of those kinds of people, so that communities can do a better job spotting these people and protecting their children. That is what this bill is about. That is the good part of what this bill is about.

I appreciate both these gentleman for coming and telling their stories, not only about why they support this bill, but why this rule is fair and important for us to pass and this conference report. Let us get it to the President and let the President continue to do the things for the American people that he did for the people of Texas when he was Governor.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when it comes to taking care of children, I just wonder, and pardon me for asking, what $1.1 trillion in the original tax cut during the President's administration and the $350 billion that we passed recently, in addition to the tack-on to the child tax credit, they ran it up to $82 billion, I wonder what those funds could possibly have done for the children of America? I, for one, would have preferred to spend it on them, rather than on rich people.

Mr. Speaker, I am pleased to yield to 2½ minutes to my friend, the gentlewoman from Connecticut (Ms. DeLauro), a continuing fighter and champion for children.

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Ms. DeLAURO. Mr. Speaker, this legislation would authorize $312 million for several programs that seek to prevent child abuse, expand adoption opportunities, assist abandoned infants, and prevent family violence; good goals, good values, good measures. Child abuse is an important issue. It has many, many manifestations. It is attributable to many causes, including, and let me just mention, there is a pending issue in this body, a piece of unfinished business that pertains to our Nation's children; and, if you will, our delaying on this issue directly abuses American children.

What we need to do is to restore the child tax credit to the 6.5 million families this Republican leadership continues to leave behind. That is child abuse. The families of 12 million children generally earn minimum wage. They are tax-paying families. They deserve tax relief like every other family. They have bills to pay, mouths to feed, children to care for, just like every other family. And with the economy stuck in a rut, they cannot go to bed at night knowing whether their job will even be there for them the week after next.

These families pay taxes. They make between $10,500 and $26,600 a year. They pay taxes, payroll taxes, sales taxes, excise taxes, property taxes. And they pay a greater share of their income in taxes than Enron did; and for the last 5 years, I say to my colleagues, Enron paid zero taxes. There are lots of individuals who are getting the benefit of $93,000 worth of tax cuts every year, those who are the 184,000 millionaires in this country. I will bet some of them have not paid all of the taxes that they were supposed to have been paying all of these years.

That is why what this House needs to do is to take up the other body's child tax credit legislation, legislation that was denied a simple up or down vote in the House of Representatives.

Let me be clear. The majority has said that these 6.5 million families are not their priority. What they tried to do last week is, in essence, they passed a bill here which would kill the opportunity for the $3.5 billion to address this issue and it would be taken care of. I would just quote the Committee on Ways and Means chairman. He says he is going to be heavily focused on a different issue and that they would be surprised if a conference between the House and Senate could begin this week. They are going to kill this piece of legislation because they do not really care about the 6.5 million families or the 12 million children.

Mr. Speaker, let us do the right thing. Let us address this issue. Let us end this kind of child abuse.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Marietta, Georgia (Mr. Gingrey), one of our bright young Republican Members.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Texas (Mr. Sessions) for yielding me this time.

Mr. Speaker, I have to admit, of course, as a freshman legislator, I am here to speak in favor of the rule for the conference agreement to S. 342, the Keeping Children and Families Safe Act of 2003, and to speak in favor of the overall piece of legislation. But I stand here and I am listening to the other side and all of the discussion I hear is about a tax bill, and it just makes me wonder if the speakers from the other side plan to vote against this bill, if they are opposed to keeping children and families safe for the foreseeable future.

I am, as most of my colleagues know, a physician Member, Mr. Speaker, of this body; and, in particular, I am an OB-GYN doctor. As such, over the past 28 years, I have delivered over 5,000 precious children. Unfortunately, I wish I could say they were all born healthy and well and in the best of circumstances, but unfortunately, some were not. I think that my passion for this type of legislation, for protecting children and making sure that every child has an opportunity to be well born and in a healthy environment and going into a healthy family situation, that is what this legislation is all about.

We can talk about the child tax credit and tax issues ad infinitum, but we have already had that debate. What we are talking about here today on the floor of the House is this conference committee report and the reauthorization of the Child Abuse Prevention and Treatment Act, the Adoption Opportunities Program, the Abandoned Infants Assistance Act, the Family Violence Prevention and Services Act. That is what this debate is about. I would hope and trust that the Members of the other side will support unanimously this legislation, because we desperately need to protect those of our society, the most precious and vulnerable members of our society; and that is what this great piece of bipartisan legislation is all about.

I am very proud to serve on the Committee on Education and the Workforce and to serve under my subcommittee chairman, the gentleman from Michigan (Mr. Hoekstra), who brings this bill to us, this reauthorization. It was an honor, it was an honor indeed for this freshman Member of Congress to be appointed to the conference committee on this bill. In fact, the gentleman from Michigan (Mr. Hoekstra) said to me, he had been here 10 years before having an opportunity to be appointed to a conference committee.

So it is indeed a privilege. I think it shows a lot of respect for me as a physician Member and someone who is often in that delivery room seeing these children who may be very possibly born in a situation where the mom has been on substance abuse or drugs during the pregnancy and we, many times, are highly suspicious of that situation because of the condition of the child, the irritability of the child during the physical examination. These children have a certain physical appearance which is very suggestive in some instances of alcohol or substance abuse. And to just simply go from that delivery room to the next one or the next one, or go from there to a surgical procedure, and then back to the medical office where you might see an additional 30 patients a day would be unconscionable.

So this bill calls for, among other things, reporting these instances. I cannot tell my colleagues how supportive I am of this legislation, and I am proud of the leadership for bringing it to us.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2½ minutes to the gentleman from Illinois (Mr. Emanuel), my good friend who has been a continuing champion for children in this body and in his previous life before coming here.

Mr. EMANUEL. Mr. Speaker, I would like to thank the gentleman from Florida (Mr. HASTINGS), my friend, for yielding me this time.

The underlying bill here I think reflects not only bipartisanship, but our common set of values. It is the right approach to how to protect our children.

As the brother of a sister who is adopted, I applaud the efforts that are reflected here and the attempt here. But that bipartisanship, also those common set of values that we come together on, is in sharp contrast to what was done on the child tax credit.

Mr. Speaker, the other day The New York Times reported that in Iraq right now, 200,000 Iraqis are getting $20 a day who do not show up for work. Mr. Speaker, 200,000 Iraqis, $20 a day who do not show up for work. I come from Chicago. We know something about no-show jobs. We think they are a good thing, periodically. But that stands in stark contrast to the 200,000 active duty troop members who are over there putting their lives on the line who will not get the full child tax credit. Now, where in our common values do we respect the people of Iraq, give them 20 bucks a day who do not show up for work, and yet, to our troops who are over there in Afghanistan and Iraq, whose families are only getting $450 per child tax credit, but not the full $1,000. Where in our common set of values do we say that is the right thing to do?

Over the weekend the AP ran a story that Halliburton's bid for the oil drilling and oil work that they are doing in Iraq originally for $77 million is now running double. It was a no-bid contract and Halliburton, in the year of 2001, did not pay any Federal income taxes and, in fact, got an $85 million rebate. Last week when we were debating the child tax credit, some people described welfare as the full refundable credit; and I have a description of welfare, it is known as corporate welfare, that was done in Halliburton's case.

We here in Congress earn $12,800 a month. That is equivalent to what some of these families earn in a full year who are worthy of this child tax credit.

So I applaud the efforts that were done here to reflect our values and to take care of our children. I applaud the work done here on this bill; but I want to remind our colleagues, this bill's success comes from not only our bipartisanship but working on a common set of values. We need now to come together, come together, work on the conference, Democrats and Republicans, produce a bill, because as July approaches, some families will get this tax cut and other families, 12 million children, 6.5 million families who work full-time, sometimes more than 40 hours a week, will not be getting that tax credit.

Now, originally this bill was passed to get a tax cut to get the economy moving. It was in there in the Senate when they went to conference, but when the Vice President showed up, somehow it got dropped. We all have an obligation from the White House to the Senate to the Congress, Democrats and Republicans, to work together to give these middle-class families a tax cut.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the close of this matter, I will urge that Members pay attention to a request on the previous question, and I will urge Members to vote "no" on the previous question. If the previous question is defeated, I will offer an amendment to the rule, and my amendment will provide that as soon as the House passes the conference report, it will take from the Speaker's table and immediately consider the Senate-passed version of H.R. 1307, the Armed Forces Tax Fairness Act. My amendment will also add to H.R. 1307 the text of H.R. 1308, as passed by the Senate, which restores the refundable child tax credit that was removed from the Republican tax bill passed last month.

This will allow the House to combine these two Senate-passed bills and immediately send them back to the Senate and then, hopefully, on to the President's desk for his signature. If this happens, we can begin helping America's lower- and modest-income families right away, and we can give tax relief to those members of the military who are bravely fighting for this Nation as we speak.

Is it not about time we started giving tax breaks to those Americans who really need it? And is it not about time we put an end to legislation that has no chance of becoming law?

Last week, the President said he would sign H.R. 1308, as it was passed by the Senate, and restore the refundable tax credit to those families making between $10,000 and $26,000. H.R. 1308, as amended by the Senate, will provide immediate tax relief to America's hard-working, but struggling, families by extending the child tax credit to 6.5 million low-income working families and nearly 12 million additional children. This measure will provide help to the families of 8 million children whose parents serve in the military or are veterans. It will also help families of soldiers in combat in Iraq and Afghanistan by extending the child tax credit to many of them.

Mr. Speaker, H.R. 1307 will also help our brave men and women serving in the military. It will help with travel costs for those called up for the National Guard and Reserves, and it will provide benefits for the families of the Columbia astronauts.

Vote "no" on the previous question so we can combine and then consider these two important tax relief bills as they passed in the Senate and rush them back to the Senate. Let us not let tax relief for these two important and deserving segments of our society wither on the vine.

Mr. Speaker, I urge a "no" vote on the previous question so we can consider tax relief that can actually become law and really help those most in need of tax relief.

I want to emphasize that a "no" vote will not prevent the House from considering the conference report for this very important legislation, the Keeping Children and Families Safe Act. It will allow us to consider the Senate-passed versions of the refundable child tax credit and the Armed Forces Tax Fairness Act, in addition to this important conference.

□ 1415

However, a yes vote will stop us from voting on this package of true tax relief for lower income Americans.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. GILCHREST). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, I ask Members to vote no on the previous question, and I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the gentleman from Florida for his support of this conference report, S. 342, Keeping Children and Families Safe Act of 2003.

Mr. Speaker, we have had a good debate today. We have talked about the children of this country. We have talked about our communities. We have talked about our schools. We have talked about the desire that we have as this United States Congress, this administration, President George W. Bush and the kind and gracious leadership of this House, including our Speaker, the gentleman from Illinois (Mr. HASTERT), and our majority leader, the gentleman from Texas (Mr. DELAY), to time after time take time out of their schedule not only to talk about children, children that are the future of this country and will make a difference, but also that these three gentleman, as leaders of our country, take time to make sure that this administration and the laws of this country are there to protect children, the most vulnerable part of our society.

Mr. Speaker, I am proud of what this will do. This conference report will go to help people. It will strengthen our communities. It will strengthen community-based organizations who work in a way that we need them to become efficient and be efficient and to offer these services.

I am proud of what we are doing. I am proud of what this Congress is doing, and Mr. Speaker, I urge my colleagues to join me in supporting this rule and the underlying legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H. Res. 276 the Rule governing debate on S. 342, the “Keeping Children and Families Safe Act of 2003.” This rule waives all points of order against the Conference Report and its consideration.

Just last week, this Chamber vigorously debated the Child Tax Credit bill. The Republican members of the House of Representatives refused to adopt the Senate-passed tax bill that would have provided relief to 12 million children of hard-working American families. My Democratic colleagues offered a substitute to aid America's children but it was voted down. We have still not passed a Child Tax Credit for America's low-income children.

Now, we prepare to debate the Keeping Children and Families Safe Act of 2003. Another bill that is beneficial to America's children by taking strong steps to prevent child abuse. This bill governs dissemination of information about abused children, expands valuable research programs, authorizes grant programs, and many other valuable programs.

The Keeping Children and Families Safe Act was an opportunity to redress the failures of this body in our failure to pass the Child Tax Credit bill last week. By passing this rule, we continue to neglect and jeopardize the welfare of America's children and families, by not immediately passing the Senate Child Tax Credit bill so the President can immediately sign the bill.

Mr. Speaker, I oppose the Rule governing debate on the Keeping Children and Families Safe Act. I find it ironic that the title of the bill is the Keeping Children and Families Safe Act, and yet will have not passed real Child Tax Credit. This rule jeopardizes America's children, bill for America's most vulnerable children.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES 276

RULE ON CONFERENCE FOR KEEPING CHILDREN & FAMILIES SAFE ACT

At the end of the resolution insert the following new section:

“SEC. 2. Immediately after disposition of the conference report, the House shall be considered to have taken from the Speaker's table the bill (H.R. 1307) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes, with the Senate amendment thereto, and a motion that the House concur in the Senate amendment with an amendment consisting of the text of the Senate amendment to the text of H.R. 1308 shall be considered as pending without intervention of any point of order. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.”

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 and 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by a 5-minute vote on adopting H. Res. 276, if ordered; suspending the rules and adopting H. Res. 171; and suspending the rules and passing H.R. 658 with an amendment.

The vote was taken by electronic device, and there were—yeas 226, nays 200, not voting 8, as follows:

[Roll No. 279]

YEAS—226

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—200

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Berman
Carson (IN)
Cubin
Gephardt
Lofgren
Millender-McDonald
Nethercutt
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILCHREST) (during the vote). There are 2 minutes remaining in this vote.

☐ 1439

Ms. SOLIS and Mr. RUSH changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 and 9 of rule XX, the remainder of votes in this series will be conducted as 5-minute votes.

COMMENDING THE UNIVERSITY OF MINNESOTA DULUTH BULLDOGS FOR WINNING THE NCAA 2003 NATIONAL COLLEGIATE WOMEN'S ICE HOCKEY CHAMPIONSHIP

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 171.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. KLINE) that the House suspend the rules and agree to the resolution, H. Res. 171, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 11, as follows:

[Roll No. 280]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Berman
Carson (IN)
Cubin
Gephardt
Lofgren
Lowey
Millender-McDonald
Nethercutt
Peterson (PA)
Smith (WA)
Taylor (NC)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

☐ 1446

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PETERSON of Pennsylvania. Mr. Speaker, on rollcall No. 280 had I been present, I would have voted "yea."

ACCOUNTANT, COMPLIANCE, AND ENFORCEMENT STAFFING ACT OF 2003

The SPEAKER pro tempore (Mr. GILCHREST). The pending business is the question of suspending the rules and passing the bill, H.R. 658, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 658, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 11, as follows:

[Roll No. 281]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono

Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Ballenger
Berman
Carson (IN)
Cubin
Flake
Gephardt
Lofgren
Millender-McDonald
Nethercutt
Smith (WA)
Walsh

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1454

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY CHAIRMAN OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE REGARDING AVAILABILITY OF CERTAIN CLASSIFIED DOCUMENTS

Mr. GOSS. Mr. Speaker, I wish to announce to all Members of the House that the Permanent Select Committee on Intelligence on Thursday, June 12, 2003, pursuant to its Rules of Procedure, by majority vote, authorized access to any Member of the House who wishes to review certain documents provided to the Permanent Select Committee on Intelligence by the Director of Central Intelligence in response to the letter from the chairman and ranking member to the director dated May 22, 2003.

Specifically, the documents at issue relate to the available intelligence concerning Iraq's weapons of mass destruction program and Iraq's ties to terrorist groups prior to the commencement of hostilities in Iraq.

These documents are available for review by Members only at the offices of the Permanent Select Committee on Intelligence in Room H-405 of the Capitol. The committee office will be open during regular business hours for the convenience of any Member who wishes to review this material.

Members wishing to review these documents must contact the committee's Director of Security, Mr. Bill McFarland, in advance to arrange a time and date for that viewing. This will assure the availability of committee staff to assist Members in their review of these classified materials and manage the flow of activity in an orderly way.

It should be understood by Members that none of the classified material reviewed by Members is authorized to be disclosed publicly.

It is important that Members also keep in mind the requirements of House rule XXIII, clause 13. That rule permits only those Members of the House who have signed the oath set out in clause 13 of House rule XXIII to have access to classified information.

I would advise Members wishing to review these documents that they should bring with them a copy of the rule XXIII oath executed by them when they come to the committee office to review that material. If a Member has not yet signed the rule XXIII oath, but wishes to review the documentation provided by the DCI, the committee staff can administer the oath and see to it that the executed form is sent to the Clerk's office.

Additionally, the committee's rules require that before Members are given access to any classified material in the committee's possession, that Members must execute a nondisclosure agreement indicating that they have been granted access to particularly described classified material; they are familiar with both the rules of the House and the committee rules with respect to the classified nature of information contained in the documents they are given for review; and they understand fully the limitations placed on them with respect to disclosure of that information.

The committee requires that this nondisclosure agreement be signed by any Member seeking to review the documents each time the Member seeks to gain access to the documents.

Those are the conditions with which the committee agreed to make this material available to any Member. If there are any questions, please call the committee and we will be glad to elaborate.

ANNOUNCEMENT BY CHAIRMAN OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE REGARDING AVAILABILITY OF CLASSIFIED ANNEX AND SCHEDULE OF AUTHORIZATIONS

Mr. GOSS. Mr. Speaker, I wish to announce to all Members of the House that the Permanent Select Committee on Intelligence ordered the bill, H.R. 2417, the Intelligence Authorization Act for Fiscal Year 2004, reported favorably to the House with an amendment. The committee's report will be filed later today, Tuesday, June 17, under the unanimous consent just agreed to.

Mr. Speaker, I would also like to announce that the Classified Schedule of Authorizations and the Classified Annex that accompanies H.R. 2417 will be available for review by Members at the offices of the Permanent Select Committee on Intelligence in Room H–405 of the Capitol beginning any time after the bill is filed. The committee office will open during regular business hours for the convenience of any Member who wishes to review this material prior to its consideration by the House. I anticipate that H.R. 2417 will be considered on the floor of the House next week.

I would recommend that Members wishing to review the Classified Annex contact the committee's Director of Security to arrange a time and date for that viewing. This will assure the availability of committee staff to assist Members who desire that assistance during their review of these classified materials.

I urge Members to take some time to review these classified documents before the bill is brought to the floor, in order to better understand the recommendations of the Permanent Select Committee on Intelligence. Much of this material cannot be discussed on the floor.

The Classified Annex to the committee's report contains the committee's recommendations on the intelligence budget for fiscal year 2004 and related classified information that cannot be disclosed publicly.

□ 1500

It is important that Members keep in mind the requirements of rule XXIII, clause 13 of the House. That rule only permits access to classified information by those Members of the House who have signed the oath set out in clause 13 of House rule XXIII.

I would advise Members wishing to review the classified annex and its classified schedule of authorizations that they must bring with them a copy of the rule XXIII oath signed by them when they come to the committee office to review that material.

If a Member has not yet signed that oath, but wishes to review the classified annex and schedule of authorizations, the committee staff can administer the oath as a service for that Member and see to it that the executed form is sent to the Clerk's office. We would be happy to do that. Additionally, the committee's rules require that Members execute a nondisclosure agreement indicating that they have been granted access to the classified annex and classified schedule of authorizations, and that they are familiar with both the rules of the House and the committee with respect to the classified nature of information contained in the classified annex and the limitations on the disclosure of that information.

I am sorry for all the bureaucratese, but we take very seriously our responsibility to keep this matter properly provided for and safeguarded.

CONFERENCE REPORT ON S. 342, KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003

Mr. HOEKSTRA. Mr. Speaker, pursuant to House Resolution 276, I call up the conference report on the Senate bill (S. 342) to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. FLAKE). Pursuant to rule XXII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 12, 2003 at page H5307.)

The SPEAKER pro tempore. The gentleman from Michigan (Mr. HOEKSTRA) and the gentleman from Illinois (Mr. DAVIS) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that we are here today to discuss the conference agreement to S. 342, the Keeping Children and Families Safe Act of 2003, which reauthorizes and improves the Child Abuse Prevention and Treatment Act, CAPTA; the adoption opportunities program; the Abandoned Infants Act; and the Family Violence Prevention and Services Act.

We began this process of reauthorizing CAPTA and FVPSA in the last Congress. The conference report before us today shows our ongoing bipartisan effort and our commitment to ensuring that programs aimed at the prevention of child abuse and neglect and family violence continue.

The conference report before us continues to emphasize the prevention of child abuse and neglect before it occurs. It promotes partnerships between child protective services and private and community-based organizations, including education and health systems, to ensure that services and linkages are more effectively provided. It retains important language from the House bill to appropriately address a growing concern over parents being falsely accused of child abuse and neglect and the aggressiveness of social workers in their child abuse investigations.

It retains language to increase public education opportunities that strengthen the public's understanding of the child protection system while teaching the appropriate manner for reporting suspected incidents of child maltreatment. It also retains language to foster cooperation between parents and child protective service workers by requiring caseworkers to inform parents of the allegations made against them, and improves the training opportunities for child protective services personnel regarding the extent and limits of their legal authority in order to protect the legal rights of parents and legal guardians. These are important additions to our Nation's child abuse laws that should not be overlooked.

This conference report retains the House language requiring States to implement policies and procedures to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, including the requirement that health care providers involved in the delivery or care of these infants notify child protective services of the occurrence of such condition and develop a plan of safe care for such infants.

In addition, this conference report maintains language expanding adoption opportunities and services for infants and young children who are disabled or born with life-threatening conditions, requires the Secretary of Health and Human Services to conduct a study on the annual number of infants and young children abandoned each year, and extends the authorization for the Family Violence Prevention and Services Act.

Finally, Mr. Speaker, I want to thank all the conferees, both the House and the Senate, for their hard work and efforts in finalizing this conference report. I especially want to thank the gentleman from Ohio (Mr. BOEHNER) for his continued support throughout this process and the gentleman from Pennsylvania (Mr. GREENWOOD) for his diligence in ensuring that infants born addicted to drugs receive necessary services. I appreciate the assistance of the ranking member of the full committee, the gentleman from California (Mr. GEORGE MILLER); and the ranking member of the subcommittee, the gentleman from Texas (Mr. HINOJOSA), in ensuring that we have reached this point here today. I, of course, also want to thank the chairman of the Senate HELP Committee, Senator GREGG; the ranking member, Senator KENNEDY; and Senator DODD for their efforts in finalizing this bill.

Most importantly, I also want to thank the staff. This conference report would not be before us today if it were not for the diligence and dedication of the staff who have spent many hours working through the differences in the two bills to ensure that we reached this final agreement.

Mr. Speaker, again, I am very pleased with this conference report. I urge my colleagues to join me in support of this bicameral, bipartisan effort to improve the prevention and treatment of child abuse and family violence.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume. I rise today in support of Senate bill 342, the Keeping Children and Families Safe Act to amend the Child Abuse Prevention and Treatment Act.

First of all, I want to commend Chairman BOEHNER and Ranking Member MILLER for their movement of this legislation to the floor. Obviously I am pleased with my participation as a member of the conference committee. I also commend the gentleman from Michigan (Mr. HOEKSTRA), the gentleman from Pennsylvania (Mr. GREENWOOD), and the gentleman from Texas (Mr. HINOJOSA) for their participation. Also I would like to thank the House committee Democratic staff, Ruth Friedman, Ricardo Martinez, and Maggie McDow and the Republican committee staff, Pam Davidson, Krisann Pearce, Kate Houston, Rebecca Hunt, and Judy Boyer for all of their hard work and collaboration with the Senate staff in shaping this legislation to better serve some of our neediest and most helpless citizens.

In the year 2000, about 879,000 children were victims of abuse and neglect in this country. Of this number, approximately 1,200 children died of abuse or neglect, and 44 percent of those children were under the age of 1. It is indeed a disturbing thought that an adult would want to hurt an innocent, helpless child. Yet it occurs and it occurs daily in this country. The United States Congress has in the recent past taken to the floor to bring awareness to the problem and the need to deal with child abuse in this country. This resolution allows us to not only acknowledge this tragic problem but also to provide some assistance to the children and the families that are victims of abuse.

I am very proud of the many good provisions of this legislation. One is the increase of funds from $33 million to $80 million for community-based groups that run programs to strengthen and support families in efforts to reduce the level of child abuse that exists and that exists among families. There are also other new funds and emphasis to better meet the needs of abused children, such as providing funds to meet the needs of children who witness domestic violence and have policies in place to address the needs of infants who are born and identified as having been physically affected by prenatal exposure to illegal drugs or to HIV or who are HIV-infected.

However, this bill would only be doing half its job if we did not also look at individuals who assist the victims of abuse. There will be grants made available to improve child protection services, particularly cross-training to enable child protection service workers to better recognize the signs of domestic violence and substance abuse in addition to child abuse. It also calls on States to provide better training and to strengthen efforts toward child abuse prevention programs.

As our economy worsens and the number of unemployed, especially long-term unemployment, rises, we need to recall the correlation between the state of the economy and violence. With high unemployment and a weak economy, more adults will become frustrated and depressed, both of which often lead to child abuse. You mix together an unemployed individual who feels depressed, frustrated and stressed, who becomes overwhelmed, and it is unfortunate that more of them will take out their rage or their emotion on whoever is closest or whatever is closest to them. At times, sadly, this may be released on a spouse or a child.

Just as the bill would be incomplete if it did not acknowledge improvements for child protection systems, we would be incomplete in our focus on improving the status of at-risk children if we did not acknowledge the state of the economy and the need of a tax credit for our neediest families. One may not see the correlation, but it is there. If we are going to stand here today and send the message that we sincerely care about the well-being of the less fortunate victims in our Nation, we cannot then in the next breath send the message to the once-abused mother or father that they are not worth the child tax credit, or to the children who witness domestic violence or violent crimes around their home on a regular and ongoing basis that they are not worth a concrete, comprehensive program like Head Start.

Mr. Speaker, as I have said, I am proud of this bill, Keeping Families and Children Safe Act; but I also do not believe that we are doing a complete job, that we are doing enough to help the neediest and the most helpless, and sometimes youngest, victims in our Nation to be safe and secure.

And so I commend the gentleman from Michigan; I commend all of those who have worked and helped shape this legislation. I support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HOEKSTRA. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. BURNS), a member of the subcommittee.

Mr. BURNS. Mr. Speaker, I rise today to express my support for the conference report on S. 342, the Keeping Children and Families Safe Act of 2003. As a member of the conference committee, I am proud that it reauthorizes several programs that are critical to families in our country.

The bill focuses resources on preventing child abuse, improving opportunities for adoption of foster children, and protecting families from violence. It does so by providing necessary funds to identify and address issues of child abuse and neglect and working to stop family violence before it occurs. These issues know no party or boundary.

This bipartisan legislation recognizes that we must address the problems in a comprehensive way. It shows that we can bring public and private resources to bear in this fight by promoting partnerships between child protective services and community-based organizations. The conference report also gives priority to the training, recruitment, and retention of those who provide services for the victims of violence and abuse. We must not lose the benefits of the experience of these individuals.

Our families and children form the basis of our society and the future of our country. By providing a national clearinghouse of effective child abuse prevention programs and training resources for law enforcement and social service personnel, we can help State and local programs operate more effectively. This bill demonstrates our national commitment to the welfare of those most vulnerable of our citizens. We have an opportunity to help break the cycle of domestic violence and abuse and give a better future to children who would have had no future at all. I would urge all of my colleagues to vote for the conference report and pass this legislation today.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 6 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), who is indeed an advocate for children, not only an advocate for children but who is indeed an advocate for whatever is good and wholesome for the United States of America.

□ 1515

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the very distinguished gentleman from Illinois (Mr. DAVIS) for yielding me this time.

I have very much appreciated his leadership on the issues dealing with children in America. We have spent some time in Texas listening to many of our social worker, skilled social workers from around the Nation giving us instructions on the importance of providing social services to the needs of our children.

To the gentleman from Ohio (Mr. BOEHNER), the full committee chairman; and to the gentleman from California (Mr. GEORGE MILLER); and to the gentleman from Michigan (Mr. HOEKSTRA) for his leadership on this issue, I too rise in support of S. 342, Keeping Children and Families Safe Act of 2003, and will share a number of comments on the importance of this legislation that deals with enhancing the resources and the instructions and guidelines for protecting the Nation's children against abuse and neglect.

It is not my purpose to fault one State over another. Certainly all of us come from jurisdictions that can stand improvement, and this legislation will help us do so. But in the last few weeks and months, we note the tragedies that occurred in the State of New Jersey and Florida, in particular in Florida the missing little girl still yet to be found who was taken away from her grandmother by someone who alleged to be within the children's protective services, and similar stories in the State of New Jersey shows that our system is broken and needs to be fixed. Frankly, this legislation ensures that hopefully that we can focus on that broken aspect.

There is currently a $2.5 billion spending gap between what this country spends on child abuse and prevention and what is needed, and as a Nation we cannot rest. We cannot sit idly by with the knowledge that millions of children are not being properly cared for. Child abuse and neglect victims may experience one or more kinds of maltreatment including neglect, physical abuse, sexual abuse, psychological or other maltreatment. Neglect is the most common form of child maltreatment; and in recent years, close to 63 percent of child abuse victims suffer neglect including medical neglect.

Of the millions of children who reported abuse and neglect, 24 percent suffered physical abuse, 12 percent suffered sexual abuse, 6 percent suffered emotional maltreatment, and 3 percent suffered from medical neglect. Sadly, almost 40 percent of the children are under the age of six. Unfortunately, in my home State of Texas, 47,400 children were confirmed victims of abuse or neglect. There are over 6 million children in Texas. This legislation will hopefully focus with resources, instruction, and of course aiding and insisting on better services in our States to make sure that we confront this problem head on.

Just a few years ago I joined with the children's protective services in Harris County to tackle the problem of abandoned children, to engage in a billboard campaign along with other outreach campaigns to insist that there are other ways to avoid abandoning a baby and leaving a child unattended and to be able to work with the children's protective services and foster parent care to ensure that our children are never abandoned along a roadside or in a garbage dump. We are still working on that problem, Mr. Speaker; and we have a long way to go.

I would say that the gentleman from Illinois (Mr. DAVIS) is absolutely correct. While we are protecting our children against abuse, whether it is sexual abuse and neglect, whether it is by way of medical treatment or nutrition, we also need to look at programs that are headed our way to this floor; and certainly this morning in a hearing sponsored by the Congressional Black Caucus it is very clear that the Head Start program is not broken and should not be fixed. Absolutely, legislation that is making its way to this floor should not include a block grant provision that takes moneys away from this vital Head Start program, 38 years old, that provides nurturing and caring attitudes toward our children, a nurturing and supportive atmosphere for our parents, immunization and nutrition, giving some of these children two meals a day that they would have never have gotten. This effort to block grant this program even if it is only in eight States, Mr. Speaker, is misdirected and loses the point of what Head Start has done for 38 years. Clearly, we can work to improve our program; but we should not abolish it, and we have people in Congress today, Head Start professionals and parents, who are advocating do not abolish Head Start; and I hope that our colleagues will listen to them.

I would say also, Mr. Speaker, that we have another job yet undone, and that is to provide a tax credit for low-income children. Yes, this legislation is extremely important. But today, June 17, 2003, America's low-income children still do not have a tax credit. What we can do, Mr. Speaker, is immediately pass the Senate bill and send it to the President's desk and send the Senate bill to our low-income families. In my State of Texas, 2.129 million children are missing the impact of a low-income tax credit because we have stalled this legislation in the House. In addition, 12 million to 19 million children could be helped by the Senate bill along with the children of our military families, some of whom have their loved ones on the front lines of Iraq.

Mr. Speaker, this body should be a problem-solver. As the gentleman from Illinois (Mr. DAVIS) has said, we have a lot of work that we have accomplished, but much work to be done. Let us not abolish Head Start with this misdirected legislation headed to the floor. Let us pass this legislation enthusiastically to protect our children, but yet let us not leave 19 million children out in the cold without an effective child tax credit for low-income families. Let us pass that legislation as we pass S. 342, and let us work to secure and protect Head Start funding to the Head Start programs and not abolish it by block granting those funds to the State.

I thank the distinguished gentleman for yielding me this time, and I ask my colleagues to enthusiastically support S. 342.

Mr. Speaker, I rise in support of this rule and the underlying Conference Report on S. 342, the Keeping Children and Families Safe Act of 2003. I join my colleagues and reiterate how important it is to protect our children from abuse and neglect.

Many states are dependent on Federal money to meet the increasing demand for child abuse prevention programs. This legislation is important because it is the only Federal legislation that directly addresses the prevention of child abuse. Currently, there is a $2.5 billion spending gap between what this country spends on child abuse prevention and what is needed. As a nation we cannot rest, we can not sit idly by with the knowledge that millions of children are not being properly cared for.

Child abuse and neglect victims may experience one or more kinds of maltreatment including neglect, physical abuse, sexual abuse, psychological or other maltreatment. Neglect is the most common form of child maltreatment and in recent years close to 63 percent of child abuse victims suffered neglect (including medical neglect). Of the millions of children who are reported abused or neglected, 24 percent suffered physical abuse, 12 percent suffered sexual abuse, 6 percent suffered emotional maltreatment and three percent suffered from medical neglect. Sadly, almost 40 percent of the children were under the age of 6.

I am particularly concerned with that 12 percent of cases involving sexual abuse. Child sexual abuse includes actual physical abuse such as touching a child's genital area or molestation, and it also includes sexual assault, self-exposure (flashing), voyeurism, and exposing children to pornography.

Unfortunately, in my home state of Texas 47,400 children are confirmed victims of abuse or neglect. I want to put that number into perspective, Mr. Speaker. There are over six million children in Texas. Over one million Texas children live in poverty. Many of the children and families I am talking about would not have been eligible for the Republican's child tax credit. Studies have shown that poverty is one of the many societal elements that can increase the occurrence of child abuse. I am glad to say that this underlying bill will lead to services for all families, including those whose incomes are low.

It is beyond reprehensible that anyone would treat children in this way. Furthermore, it would be despicable for this Congress not to do everything possible to help prevent such abuse.

Between 1993 and 1999, the incidence of child abuse and neglect declined on the national level. However, after 1999 the incidence of child abuse rose. We must turn that tide back around. We must not be discouraged by the size of the problem we must seek to work together, in a bipartisan way. Because the matter of protecting our children is not political or partisan it is simply the most important thing that this body can do.

There is more that we can do. In fact, there is more that we must do. The underlying bill is a step in the right direction therefore I support the rule on the Conference Report for S. 342.

Mr. HOEKSTRA. Mr. Speaker, I yield 3 minutes to the gentleman from Nevada (Mr. PORTER), vice chairman of the subcommittee.

Mr. PORTER. Mr. Speaker, I rise today in support of the conference agreement to S. 342, the Keeping Children and Families Safe Act of 2003. Mr. Speaker, this legislation builds upon changes made during the last reauthorization of the Child Abuse Prevention and Treatment Act and the Family Violence Prevention and Services Act, directing its efforts towards the prevention of child abuse and neglect and family violence in collaboration with child protective services. It would ensure that States have the necessary flexibility and resources for identifying and addressing the issues of child maltreatment and family violence before they occur and works to protect and treat abused and neglected children and victims of family violence.

According to the United States Department of Health and Human Services, in 2001 there were an estimated 903,000 victims of abuse or neglect nationally. Almost three-fifths of all victims suffered from neglect, and the most victimized children were in the zero to three age group. In Clark County, Nevada, while there was an increase in the number of child abuse and neglect reports, up in 2001 to 8,316, in 2000 there was a drop to 7,932. There was a decrease in the substantiated child abuse reports as a percentage of the total reports in 2001, having continually declined from 1997. And with the improvements we have established throughout the intense conference negotiations on the Keeping Children and Families Safe Act of 2003, I hope to see a further decline in child abuse and family violence across this country.

It is important that children and families can lead safe and healthy lives. Treatment and preventative measures are essential to stopping this abuse. I urge my colleagues to support this conference report.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I noticed that the chairman of the Committee on Education and the Workforce has come to the floor, and again I want to reiterate my commendations to him for the outstanding leadership that he has provided in bringing this legislation before us and to the floor of the House.

I have always been told that the greatness of a society can be determined by how well it looks after its old, how well it looks after its young, and what it does for those who have difficulty in looking out for themselves. And when we think about abused and neglected children, we are thinking about individuals who have difficulty looking out for themselves.

For the last 10 or more years each Christmas Eve, I and a group of my friends visit what we call halfway houses for neglected and abused children; and to see little children in the basements of apartment buildings, in the basements of churches or in many instances just places that the keepers of these facilities have found and to see them there with little hope, with no real encouragement, and not even knowing what the season is about, and to see the glee and the joy that they have just when they are given an apple or an orange or some fruit or a toy that someone else may have just given away, that speaks to what this legislation will mean. If we can prevent families from taking out their frustration on children, if we can find children who have left home, who themselves are confused, if we can bring hope to the hopeless and help to those who are helpless, then that is really what America should be about; and that is one of the things that this legislation helps to do. So once again, I commend all of those who have been instrumental in bringing it to this point.

Mr. Speaker, I reserve the balance of my time.

Mr. HOEKSTRA. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Illinois (Mr. DAVIS) for the kind words and the tone of discussion and the debate today. It is not a debate. We have worked very positively in a bipartisan way to bring this legislation not only through the House but through a conference committee, and one of the instrumental leaders in making sure that that is a tone that we have on the committee and the tone for this piece of legislation is the chairman of the full committee.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Chairman BOEHNER) and express our appreciation and thanks for having the opportunity to move this bill.

Mr. BOEHNER. Mr. Speaker, I thank my colleague for yielding me this time.

I thank both him and the gentleman from Illinois (Mr. DAVIS) and many others for their efforts in bringing us here, and I rise today in support of the conference report to S. 342, the Keeping Children and Families Safe Act of 2003. This conference report reauthorizes the Child Abuse Prevention and Treatment Act and the Family Violence Prevention and Services Act and related programs and acts. The conference report represents, I think, our efforts and commitment to once again ensure that programs aimed at the prevention of child abuse and neglect are strengthened and continue to serve vulnerable children.

When this process began, we wanted to ensure that the final bill reflected our strong belief that every child in America deserves the security of being part of a safe, permanent, and caring family. And I am pleased to say that the conference report that we have before us does just that. It aims to improve program implementation, making enhancements to current law to ensure that States have the necessary resources and flexibility to properly address the prevention of child abuse and neglect. This conference report retains language to ensure that children are protected from abuse and neglect through best practice prevention and treatment services. And, importantly, it continues to reflect our belief that we can help achieve this goal by maintaining resources for adoption opportunities, identifying and addressing the needs of abandoned infants, and ensuring that resources continue to be available to promote family violence prevention activities. This conference report also retains language to address the problem of child abandonment and abuse with effective solutions that make a real difference in the lives of children.

In addition, this conference report continues to appropriately address issues regarding child protective services across the United States by enhancing training for personnel, requiring more effective partnerships between child protective services and private and community-based organizations, and improving public education on the children protection system. This conference report enjoys a strong bipartisan support and is widely supported throughout the child abuse prevention and family violence prevention communities. I want to thank all the conferees from both the House and the Senate for their efforts in getting us to this point.

I especially want to thank the Select Education Subcommittee chairman (Chairman HOEKSTRA) for his leadership and dedication to the completion of this conference report; the gentleman from Pennsylvania (Mr. GREENWOOD); the gentleman from Texas (Mr. HINOJOSA); the gentleman from Illinois (Mr. DAVIS); and the gentleman from California (Mr. GEORGE MILLER), my friend and the ranking member of our committee.

□ 1530

I wish to thank Senator GREGG, the Chairman of the Senate Health Committee, Senator KENNEDY, the ranking member, and Senator DODD for their assistance in finalizing and helping us bring this legislation forward today.

I also want to thank the staff for their hard work and their dedication, especially Krisann Pearce, Pam Davidson, Kate Houston, Holli Traud, Alexa Marrero, and Jo-Marie St. Martin of my committee staff; Ruth Friedman with the gentleman from California (Mr. GEORGE MILLER), Ricardo Martinez with the gentleman from Texas (Mr. HINOJOSA), Rebecca Hunt with the staff of the gentleman from Michigan (Mr. HOEKSTRA), Judy Borger and Matt Haggerty with the gentleman from Pennsylvania (Mr. GREENWOOD), and the counsel from the minority side, Mort Zuckerman, whom I see in the Chamber. They have all worked in an especially close way to help bring us here today.

So I want to urge my colleagues to support the conference report to S. 342, and thank them for all of their hard work.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am going to note it is a pleasure to see as many children in the Chamber as there are to see this bipartisan legislation being approved. I would reiterate that there is nothing more important that America could do than to demonstrate how important children are and prepare for the future leaders of our Nation to emerge, to have the kind of services that they need, the kind of programs.

We cannot afford to lose a single one. So every time we can go out and bring in a child who may have been lost, may have been neglected or may have been abused we are actually doing the best work that we could do. I would urge support of this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. HOEKSTRA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to just reiterate my support to the comments of the gentleman from Illinois (Mr. DAVIS). It is absolutely true that society will be measured by how we take care of those who are least able to take care of themselves. This bill is a step in the right direction. I hope that we can continue working on these issues and other issues to make sure that we do not leave a single child behind, either at this stage in life through the education process or later on as they enter into higher education.

Those are all the kinds of issues that we will either consider at the subcommittee or the full committee level, and hopefully we can continue to maintain this bipartisan support on these very, very critical issues, recognizing that we each come from different communities with different perspectives, different backgrounds and different needs, and that by bringing those perspectives to the committee, by bringing those perspectives to the House, we will reach the appropriate kind of legislation that will have the most impact and most beneficial impact across America.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. HINOJOSA. Mr. Speaker, I commend the committee leadership in both Chambers for bringing forth this agreement, which represents a bipartisan, bicameral effort to protect children.

As with the Amber Alert legislation, and the Runaway, Homeless and Missing Children Protection Act that passed the House earlier this year, this legislation shows that we are unified in our desire to protect young people who are in danger. I am proud to be a part of this effort.

I won't repeat all the technical aspects of the bill, but this effort will focus on the prevention and treatment of child abuse by authorizing grants to States to help with the functions of the child protection system. It also provides authority for research and demonstration projects, enhances investigations and prosecutions of maltreatment, and provides grants for local community-based programs.

I am pleased that we were able to include in the final agreement demonstration programs to assist children who witness domestic violence as well as an Internet enhancement of the domestic violence hotline.

There is no more important task before this Congress than to protect the most vulnerable of our Nation's children.

I only hope that our commitment to children will extend beyond rhetoric to the resources needed to fully fund these and other programs for children. Unfortunately, help for poor, disadvantaged children has taken a backseat to tax breaks for the wealthy. We are sending a clear message to our young people, not only will we leave you behind, we will also leave you the bill.

I firmly urge all my colleagues to support the final conference agreement. When the time comes, I also urge you to support the resources necessary to protect, defend, and educate our children.

Mr. HOEKSTRA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FLAKE). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOEKSTRA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 34 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1645

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. QUINN) at 4 o'clock and 45 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, and the Chair's prior announcement, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

Conference report to accompany S. 342, by the yeas and nays;

Motion to suspend the rules and adopt S. Con. Res. 43, by the yeas and nays;

Speaker's approval of the Journal, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

CONFERENCE REPORT ON S. 342, KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the Senate bill, S. 342, on which the yeas and nays are ordered.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the conference report.

The vote was taken by electronic device, and there were—yeas 421, nays 3, not voting 10, as follows:

[Roll No. 282]

YEAS—421

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)

Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Flake
Hostettler
Paul

NOT VOTING—10

Carson (IN)
Cubin
Diaz-Balart, L.
Diaz-Balart, M.
Gephardt
Lofgren
Millender-McDonald
Ros-Lehtinen
Smith (WA)
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1707

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS THAT CONGRESS SHOULD PARTICIPATE IN AND SUPPORT ACTIVITIES TO PROVIDE DECENT HOMES FOR THE PEOPLE OF THE UNITED STATES

The SPEAKER pro tempore (Mr. QUINN). The pending business is the question of suspending the rules and concurring in the Senate concurrent resolution, S. Con. Res. 43.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GARY G. MILLER) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 43, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 1, not voting 12, as follows:

[Roll No. 283]

YEAS—421

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns

Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Nadler

NOT VOTING—12

Bachus
Carson (IN)
Cubin
Diaz-Balart, L.
Diaz-Balart, M.
Fattah
Gephardt
Hunter
Lofgren
Millender-McDonald
Ros-Lehtinen
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FLAKE) (during the vote). Members are reminded there are 2 minutes within which to record their vote.

□ 1715

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BACHUS. Mr. Speaker, on rollcall No. 283 I was unavoidably detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Ms. MILLENDER-McDONALD. Mr. Speaker, on rollcall No. 279, I would have voted "no"; Nos. 280, 281, 282, 283, I would have voted "yea." I was detained at the airport unable to get here for hours due to inclimate weather and traffic jam and congestion.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the pending business is the question on agreeing to the Speaker's approval of the Journal of the last day's proceedings.

Pursuant to clause 1, rule I, the Journal stands approved.

PERMISSION FOR PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO FILE REPORT ON H.R. 2417, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the Permanent Select Committee on Intelligence have until midnight, June 17, 2003, to file its report on the bill H.R. 2417, the Intelligence Authorization Act for Fiscal Year 2004.

I understand the other side of the aisle is in agreement with this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

TRIBUTE TO JOHN DINAN

(Mr. McCOTTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOTTER. Mr. Speaker, on June 12, a friend to all my community, Mr. John Dinan, passed away following a courageous fight with cancer, but his unique achievements as a developer will long stand as a testimony to his vision and innovation.

After graduating from the University of Detroit High School in 1944, John went off to serve in the Navy during World War II, and returned to earn a degree in civil engineering.

John began his career in public service, becoming Farmington City Manager, where he garnered experience and recognition by leading the city's successful downtown redevelopment project, despite difficult fiscal conditions. Upon leaving his post, John formed his own development firm, committed to an architectural style, incorporating and complementing the community's natural aesthetics.

During his rise and tenure at the pinnacle of his profession, John always gave back to the neighbors in the communities he developed.

Thus, on behalf of us all, I extend my deepest condolences to his wife Jean, and his entire family, for their loss.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1472

Mr. NUNES. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1472.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TIME TO GO TO CONFERENCE ON CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. PELOSI) is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, today is Day Five of the House Republican leadership's campaign to kill the extension of the child tax credit.

The issue is very simple: The Senate has passed the child tax credit, the President says he will sign it, twelve million children in America need it, but the House Republicans want to kill it. The chairman of the Committee on Ways and Means says there is not enough time to meet in conference with the Senate. That reveals his true intent. He does not want this bill to become law.

A conference with the Senate could take just 5 minutes. The House Republicans could simply stop their delaying tactics and accept the Senate bill in the House-Senate conference. The conference report would be quickly approved by each House and sent to the President, who, as I mentioned, has said he will sign it.

But let us be clear, the House Republicans do not want this bill to become law. In the 12 days since the Senate passed its bill by a 94 to 2 vote on June 5, a strong bipartisan vote, 94 to 2, the Republican majority in the House has voted six times not to accept the Senate bill. Instead, the Republicans voted to send a bloated $82 billion bill to conference, which they know the Senate will not accept. It is not paid for, it is reckless, it is irresponsible.

The Republican leadership in the House simply does not want to expand the child tax credit, which corrects the unfair omission of nearly 12 million children, including 250,000 children of our active duty military personnel.

Mr. Speaker, we are here because our constituents have entrusted us with serious responsibilities. We have the responsibility to our veterans and our military to make sure we honor their sacrifices and be true to the resolutions that we make honoring them here in this House almost on a daily basis. That is appropriate, to honor them, to respect their patriotism, their courage, and to recognize the sacrifice they are willing to make for our country. How then can we say to them that their children are not worthy of this extension of the tax credit?

We also have a responsibility to our parents and grandparents to improve and strengthen the Medicare program they know and trust, and we have a responsibility to future generations to leave them with a country that is even better and stronger and more secure than the one we inherited from our parents.

Providing the tax credit to working and military families is not something that we do not have time for. If children are a priority for us, then we make them a priority, and that means we have time for them. It is not something that we can cavalierly shrug off with phrases like "It ain't gonna happen," to quote my colleagues. It is not something that "we should only consider if we get something for it," to quote my colleagues.

This is a central question of fairness and of responsibility to the children and 6.5 million families who are waiting, still waiting, for us to fulfill a promise we made to them.

□ 1730

We are saying to those children, wait until next year, or the check is not in the mail. Whatever it is, it is bad news if you are a family working full-time, but do not make over $26,000 a year; and it is bad news for our children of the military.

These working and military families pay taxes, just like everyone else, and are struggling to make ends meet in today's stagnant economy. On behalf of the families of 12 million children now waiting for this tax relief, we must correct this callous omission as quickly as possible.

The Senate tax credit bill is fiscally responsible, it is paid for, and it costs $10 billion compared to the $82 billion in the House bill. The Senate bill is supported by Democrats and rank-and-file Republicans in the House, and it would immediately provide the tax credit to millions of working and military families let out of the final tax cut bill approved last month. We can pass the bipartisan legislation and send it to the President today.

It is interesting that after the vote on the tax credit last week, where the Republicans' reckless and callous policy prevailed, that on the motion to instruct which followed, 12 Republicans joined the Democrats in a motion to instruct the conferees to take up the Senate bill. We did that because we know we can invest in our children or we can indebt them. That is the choice that the Republicans have put before us.

Mr. Speaker, President Kennedy said, "Children are our greatest resource and our best hope for the future." I urge my Republican colleagues to do the right thing and accept the Senate bill and, in doing so, support the value we place on our children. We cannot say that some children are our greatest resource and our best hope for the future, but not if your parents make the minimum wage or if they are risking their lives on active duty in the military. We recognize our children as our messengers to a future many of us, most of us, will never see. We want them to take forward a message of respect for children, all children in our country. We want to show them that they really are our greatest resource and our best hope for the future.

There is no excuse, Mr. Speaker, for the Republican majority not to go immediately to conference and send this bill back to the House for approval and to the President's desk before the end of the month so that every child in America can take advantage of the tax credit whose parents qualify.

THE STRAIGHT STORY ON THE HIGH COST OF PHARMACEUTICALS

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, for some time now, a number of us have been coming to the floor of the House to talk about the high cost of prescription drugs here in the United States. We pay more for prescription drugs than any country on the face of the Earth, and many of our senior citizens and others have been going right across the border into Canada and buying pharmaceutical products for half or one-tenth the cost that they are here in the United States.

Now, the Food and Drug Administration and the pharmaceutical companies are doing everything they can to stop Americans from buying pharmaceutical products from Canada by saying that there is a safety issue. The fact of the matter is, we checked, the gentleman from Minnesota (Mr. GUTKNECHT) and myself and others; and we have found no cases, none, where Canadian pharmaceutical products that were made here in the United States and reimported back into this country have caused anybody any harm. Absolutely zero.

Now, in my congressional district, the PhRMA companies have been mailing literature to senior citizens saying that there is a safety issue if you buy pharmaceutical products from Canada because they may be contaminated or counterfeit or something else. We have found no cases like that. But they are mailing them into my district trying to scare people trying to influence them to influence me to change my position. Americans should pay no more for pharmaceutical products than they do in other parts of the world; and yet we pay more, by far, than any country: France, Germany, Spain, Canada, anyplace.

Now, today I was watching television and there is a man I respect a great deal, Neal Cavuto; he has a great television show, and he is a very fair newsman. He had a gentleman on his program that said that there was a real problem with safety of these pharmaceutical products coming in from Canada, and the gentleman who was on was so vociferous and so adamant about this that I feel that he must have been paid by the pharmaceutical companies; and if he is not, he should be. Because he is trying to scare Americans into believing they should not buy these pharmaceutical products from Canada.

We have over a million people a year that buy their products from there because they cost so much less, and the attempt is being made to stop that by the Food and Drug Administration saying they are not safe when there is no evidence of that, and by the pharmaceutical companies who are saying they are following the edicts of the Food and Drug Administration.

Now, we are coming up with a prescription drug benefit before too long, and unless we get a handle on these prices and make sure that the American people are paying prices similar to the rest of the world, the taxpayer is going to be picking up the difference between what they pay in Canada and what they pay here in the United States. The senior citizens want the prescription drug benefit, and we want to give it to them; but we do not want the taxpayers of this country saddled with extremely high prices for the products they can buy right across the border for less money.

So it is extremely important, in my opinion, that we get this message out to the American people. And the pharmaceutical companies have $150 million they are dumping into an ad campaign to try to convince people that these products are not safe when that is just not the case.

So I would just like to say if Mr. Cavuto happens to be watching tonight or any other television commentator, please be fair. Be sure to have the gentleman from Minnesota (Mr. GUTKNECHT) or myself or somebody else who has been studying this issue for some time on the program as well to rebut those who are paid for by the pharmaceutical companies to make sure the American people are getting the story straight; not biased, but straight.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members to address their remarks to the Chair.

A HATE-HATE RELATIONSHIP WITH MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the Republicans have just never really liked Medicare. Medicare was enacted in 1965, despite the overwhelming opposition of Republicans in Congress. Only 13, fewer than 10 percent, only 13 of the 140 Republicans in the House in those days backed Medicare. Bob Dole voted "no." Gerald Ford voted "no." The soon-to-be minority leader, John Rhodes, voted "no"; Strom Thurmond voted "no." Donald Rumsfeld, a Member of Congress then, all leaders in their party, in the Republican Party, voted against the creation of Medicare. They were unapologetic at the time. Most of them are unapologetic about their opposition and their willingness to undercut Medicare today.

Senator Bob Dole, 20 years later as a candidate for President representing the Republican Party, told a conservative group called the American Conservative Union, he said, "I was there, fighting the fight, one of only 12 voting against Medicare." Actually, I do not know where he came up with 12, there were many more than that, but one of a few, he said, voting against Medicare. The Reagan administration some years later led the first substantive swings at Medicare. With the help of congressional allies, he succeeded in cutting Medicare payments to doctors and raising seniors' Medicare out-of-pocket expenses. But it was not until Republicans took over the House in 1994 the Republican leadership had a realistic chance at obtaining their long-held goal of killing Medicare. House Speaker Newt Gingrich, almost immediately after being sworn in in January, led a failed bid to cut Medicare by $270 billion to pay for a tax cut for the wealthiest people in the country. Sound familiar? Cut Medicare, free up the dollars, so you can give a tax cut to the richest 5 percent, richest 6 percent of people in this country.

Among the Gingrich Medicare plans, a key supporter was then Governor of Texas, George W. Bush. That same year, Gingrich offered a candid overview of the Republicans' Medicare strategy and said this: "Now, we didn't get rid of it in round one because we just don't think that is politically smart. We don't think that is the right way to go through a transition. But because of what we are doing," he said, "we believe it is going to wither on the vine."

The privatization extremists' next gambit was launched toward the end of the Gingrich era, hidden within the innocent-sounding Medicare+Choice program. The Mediscare privatizers told us that HMOs were so efficient compared to government-run Medicare they could provide both basic and enhanced benefits like prescription drugs for less than traditional Medicare spent on basic benefits alone. HMOs initially received a windfall on the taxpayers' dime, because they only wanted to insure the healthiest people, that did not cost much; and that is how they selectively enrolled those healthiest seniors. When that windfall was erased by providing the cost of extra benefits, HMOs came back to Congress asking for more money and abandoned their original efficiency rhetoric and brazenly charged that Medicare had "shortchanged" them.

Did we cut our losses? Did Congress cut our losses and end the Medicare+Choice program? No. For the Medicare privatization crowd in Congress, a private failure was still better than a public success, so Congress again diverted scarce taxpayer dollars from the traditional Medicare program, taking money from the 85 percent of the people who are in traditional fee-for-service, old-time, regular, it-works Medicare and shored up the failed insurance scheme HMO+Choice system.

Now, with the same George W. Bush in the White House who championed the Gingrich Medicare cuts in the mid-1990s to pay for tax cuts for the rich when he was Governor, the time is right, President Bush seems to think, for Republicans to now launch a full-scale attack to privatize Medicare. The Committee on Energy and Commerce and the Committee on Ways and Means are considering radical bills this week, voucher bills, Medicare privatization bills that will end Medicare as we know it, end the Medicare that has been with us for almost 40 years, almost 4 decades, and will end it by the year 2010.

The fact of the matter is the Republican bill will replace Medicare's dependable, affordable and universal coverage with a voucher program. Millions of seniors, already burned by Medicare+Choice abandonments, so many seniors have seen their Medicare HMOs go out of business, leave the State, leave the counties as they have in Lorain and Summit and Medina counties in my district, those same seniors are going to be asked to one more time put their faith in Medicare+Choice, in Medicare HMOs. Benefits and premiums would vary from county to county, ending the equity embodied by Medicare for a generation, and the Republican bill would cover only a small fraction of the Medicare costs.

The only question is whether the majority of Americans who recognize a success when they see one will let Republicans get away with putting the final stake in Medicare's heart.

AMERICANS PAY TOO MUCH FOR PRESCRIPTION DRUGS UNDER UNFAIR SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, let me first of all say that the gentleman from Ohio who just spoke, he and I strongly disagree. I happen to believe that it is time to modernize Medicare, it is time to give seniors more choices, and we will come to different conclusions on that particular issue. But there is an issue that we do agree on, and that is that Americans pay far too much for the same pharmaceuticals.

Last week, on Thursday, I was privileged to welcome to the Capitol and to one of my news conferences a true American hero. Her name is Kate Stahl. Kate Stahl wears a little pin that says "Kate Stahl: Old woman." She is 84 years old and she is proud of the fact; in fact, she describes herself as a drug runner. I would encourage Members to get a copy of the June 9 edition of the U.S. News and World Report, and they will see a picture of Kate Stahl in that edition. And in there it says, and she is quoted as saying, "I hope they put me in jail." Because what she does every day, working with the senior Federation in the State of Minnesota, is she helps seniors get access to world-class drugs at world-market prices. As a result, our own Federal Government treats her as if she is a common criminal. But she is prepared to go to jail to make a point, and that is that Americans should not have to pay the world's highest prices for prescription drugs.

We also welcomed to Washington last Thursday Dr. Wenner from Vermont. She is working with pharmacists in Canada so that her patients from her clinics can save, and these are her numbers, have been saving 62 percent on the same prescription drugs by working with pharmacies in Canada.

Now, the FDA acknowledged at a hearing that we had last week that any of the evidence about safety is only anecdotal. As a matter of fact, by their own numbers, they cannot come up with a single case where an American patient has suffered serious injury as a result of taking a legal prescription drug from a pharmacy from a different country. We also know that more people have become seriously ill and some have actually died from eating imported fruits and vegetables. We know that, for example, in one year, just a few years ago, over 1,100 Americans became seriously ill by eating raspberries that had been imported from Guatemala.

Now, when we talk about safety, I think the real question is, who are we protecting from whom? Who is really being protected by our FDA? More and more of us are coming to the conclusion that the only people really being protected are the big executives of the large pharmaceutical companies. We ask ourselves, why are Americans, the world's best customers, paying the world's highest prices? And the answer is, because we are a captive market and because our own FDA literally puts a border around our country and will not allow Americans to have access to those drugs.

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As I mentioned, we import thousands of tons of food every day from all over the world. Last year, for example, we imported 318,000 tons of plantains. People say, well, somebody might get into these Fed Ex packages and get inside the tamper proof packages and somehow substitute counterfeit drugs, but again, the evidence of that is anecdotal at best, and if we stop and think just for a moment that if terrorists really wanted to get at the broad base of the American consumers, would they really resort to trying to break into UPS offices, Fed Ex offices to get into those packages and somehow tamper with those pharmaceuticals? I think common sense tells us that that simply is not going to happen.

We as Americans should be willing to pay our fair share for all of the costs of the research and development for the miracle drugs that are coming out of the pharmaceutical companies that help save lives. We ought to be willing to pay our fair share, but we have to be willing to say that it is time for us to say, yes, we will subsidize sub-Saharan Africa, but we are going to stop subsidizing the starving Swiss.

I am a Republican. I believe that the word "profit" is actually a good word. There is nothing wrong with the word "profit," but there is something wrong with the word "profiteer," and I am delighted that we have people like Kate Stahl who will stand on the shoulders of the sons of liberty who threw tea in Boston Harbor because they saw something clearly was unfair, and they were not going to take it anymore. She represents literally millions of seniors and consumers here in the U.S. who are saying enough is enough, we are not going to take it anymore.

A WEAKER DOLLAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I would like to make some comments on the weakening dollar. A weak dollar that is too weak has certain dangers but a weak dollar sounds worse than it is. The dollar is strong when the dollar purchases more foreign currency than it had previously, but as there are many other currencies, it is quite possible for the dollar to be getting stronger against some currencies and weaker against others.

For example, looking at the Canadian dollar, the Japanese yen and the European euro over the last 2½ years, it is clear that the dollar has weakened against two of these currencies and strengthened against the other. At the beginning of 2001, the U.S. dollar bought 1.05 euros, 1.49 Canadians dollars and 14.75 Japanese yen. On June 11 of this year, the U.S. dollar bought. 849 euros, down 19 percent; 1.35 Canadian dollars, down 10.4 percent; and 117.68 Japanese yen, up about 2.5 percent.

I present these facts on the dollar simply to say that in some cases, depending on the other foreign countries, the dollar goes up in value and sometimes it goes down.

The dollar becomes strong when the demand for the dollar increases relative to the supply of dollars, a supply-and-demand situation. There are several ways for this to happen. For example, and it looks like it has happened, if Japan wished to make its exports cheaper, its Central Bank could buy U.S. dollars, strengthening the dollar against the yen, or if the Federal Reserve increases the U.S. money supply, there will be more dollars relative to other currencies, and the value of the dollar is going to decline. Also, the lowering of interest rates by the Feds tends to push down the value of the dollar.

What happens when all of this occurs, because the question is whether a strong dollar is good or bad for the U.S. economy?

In reality, it is that a strong dollar is good for some Americans and bad for others. I think it is important that we learn about what is happening to the value of the dollar because it affects our lives. Suppose that one is an auto maker in Michigan. Their company sells cars in the U.S. and exports to Europe and Japan. Japanese companies and European companies also sell cars to the U.S. and Japan and Europe. If the U.S. dollar weakens against the yen and the euro, then the U.S. cars will be less expensive for Japanese and European consumers, and the Japanese and European cars will be more expensive for U.S. customers. This will result in more profit and higher employment in the U.S. auto industry.

In other words, as the dollar weakens, it is easier to export our products because in relative terms, to other countries' currencies, those products become less expensive.

On the other hand, if one buys foreign made products, the weaker dollar means that they have to pay more or suppose that they work for a company that uses German and Japanese steel to produce, let us say, washing machines. A weaker dollar will make foreign steel more costly, thus making their company's product more expensive, and this is going to result in fewer jobs and probably less employment.

In the last 2 years, we have seen an increase in the U.S. money supply, a lowering of U.S. interest rates in a U.S. economy that is now outperforming the European Canadian Japanese economies. However, inflation is a risk with an increasing money supply, and foreign investors have less interest in leaving their money in U.S. stocks, and all of these things are consistent with a weaker dollar.

So we are not totally on safe ground as it becomes easier to export.

Economists have long been divided over how much the money supply could be increased which would influence the strength of the U.S. dollar.

In conclusion, in practice, the dollar is likely to gain strength against some currencies and lose strength against others. The effect on the U.S. economy will depend on which countries we are importing from and which countries we are exporting to and a myriad of other factors, including the strength of the foreign economies relative to ours. The current weaker U.S. dollar means that consumers will tend to pay a little more, but it will be good for producers and, therefore, better for job growth than otherwise.

The danger is in concerning our balance of trade. If we are importing so much more than we export, that means other countries will have extra dollars to spend, and they are going to continue to use those dollars to buy our equities.

INVESTMENT IN OUR NATION'S INFRASTRUCTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, our transportation system is second to none, but let us not sit on our hands. We still have room to improve.

Thanks to the leadership of President Eisenhower, and thanks to his experience under the vision of General John Pershing, we have the interstate highway system. Just as this Nation made a choice a half century ago, we need to make a choice again today. We need to make a decision. We must decide if we want to continue the legacy of President Eisenhower, General Pershing and other leaders who came before us. We must decide to make a major commitment to fund our Nation's infrastructure needs.

As I have said before, I will say it again tonight, we have study after study. We have pages and pages of numbers. We have the proof. The issue is no different now than it was 50 years ago under President Eisenhower. Our transportation needs continue to grow, and we need to find a way to adequately fund those needs.

The needs are many, but the answer is simple. We need to invest more in our transportation system. Here, however, in today's economy, the problems and needs are not only just with our transportation system.

In today's economy, where corporate profits inch up, we still have a 6 percent unemployment rate. The other numbers are even grimmer: 9 million unemployed Americans; 5 million underemployed Americans; and 2 million Americans have been out of a job for 6 months; 4.4 million Americans have just completely given up even looking for a job, and they have left the workforce altogether.

In today's economy, we simply have to think about more than just TRB studies, government lingo, conditions and performance reports and bureaucratic infighting, things that probably do not matter a great deal to many Americans. What we must do is to start thinking about the sluggish economy. We have to start thinking about and talking about how the loss of jobs and the 6 percent unemployment rate creates real problems and real economic hardships in the lives of millions of Americans, American workers who just are not working because they cannot find good jobs. There are not good jobs out there.

Even better yet, let us start doing something about it because we are in a position to do just that. The concept of the expansionary fiscal policy is nothing new. It has worked before and it will work again. It is the basic economics of pump-priming the economy.

According to the U.S. Department of Transportation, each $1 billion invested in infrastructure creates 47,500 jobs and 6.1 billion in related economic activity. With a 6 percent overall unemployment rate and an 8.3 unemployment rate for construction workers, there is no better economic stimulus package than the $375 billion public works bill, plain and simple.

It is a jobs bill that will put jobs back in the American economy and put American workers back to work.

KILL THE DEATH TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, I rise today as a cosponsor of H.R. 8, the permanent repeal of the estate tax, more honestly described as the death tax.

Mr. Speaker, I believe as most Americans do that it is unacceptable for a grieving family who has recently lost a loved one to get a visit from the undertaker and the IRS agent on the same day. It is simply unconscionable and it ought to be illegal.

The death tax is really a tax on the American dream. Americans work hard their whole lives, they save, they invest. They build farms and shops and factories, hoping to pass along their dream to their families once they are gone, but after years of paying payroll taxes and income taxes and sales taxes and property taxes, many businesses do not make it, and those that do, the government can step in and take over half of what someone worked their whole life to build.

Mr. Speaker, I grew up working on a farm. I represent a large portion of rural Texas, and rural Texas is a great place to live, but it can on occasion be a challenge to be a good place to earn a living. I know firsthand that farmers and ranchers and small business owners have to work extremely hard to provide for their families.

A while back ago, I heard from a constituent, a rancher in Leon County. He told me how he had worked hard for over 30 years to build a cattle ranch. He almost lost it once or twice through draught and low beef prices, but he persevered, and with his family by his side, he made it into a great success. His greatest dream was to leave this ranch to his son and his daughter who had worked alongside of him, but with sadness in his voice, he told me by the time the government takes its share, there is just not enough to go around.

Many of my colleagues like to talk about tax fairness, but Mr. Speaker, is it fair to take this man's ranch away from him? Is it fair that Americans are being taxed twice on the same income? Is it fair that after a family member is gone that his loved ones are presented with a tax bill? Is it fair that the Federal Government can automatically inherit 55 percent of the family farm, business or nest egg? Aside from the fact that the death tax is inherently unfair, what about its impact on our economy?

Mr. Speaker, while small businesses create two out of every three new jobs in our Nation, death taxes can kill those small businesses and the jobs that they represent. In fact, death taxes are the leading cause of dissolution for small businesses in America.

According to the Center for the Study of Taxation, 70 percent of businesses never make it past the first generation because of death taxes. Eighty-seven percent do not make it beyond the third generation.

How do death taxes kill American jobs? With the death of a small business owner, many employees often lose their jobs when the relatives of the deceased are forced to liquidate the business just to pay the taxes.

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One-third of small businesses are sold or liquidated to pay death taxes, and half of those businesses are forced to eliminate 30 or more jobs. Furthermore, small and mid-sized manufacturers spend $52,000, on average, just for death tax planning. Now, $52,000, that is a good paycheck that could be going home to somebody back in the fifth district of Texas.

On the other hand, Mr. Speaker, repealing the death tax can create 200,000 extra jobs a year helping more Americans get back to work, giving them a paycheck instead of an unemployments check, and giving yet another boost to our recovering economy. According to the National Federation of Independent Businesses, nearly 60 percent of business owners say they would add jobs in the near future if the death taxes were eliminated.

And what does our society get for the death tax? Nothing. According to the Joint Economic Committee, the cost of compliance with the death tax to the economy is roughly equivalent to the tax shield. All of those family businesses liquidated, all of those jobs lost, all of those family farms sold and all of those nest eggs cut in half. For what?

Mr. Speaker, I have heard those on the other side of the aisle use the same old tired class warfare rhetoric again and again in dealing with the death tax issue. The politics of envy. But when something is wrong, Mr. Speaker, it is simply wrong; and it does not matter if the death tax only affected one person in America. Taxing anyone twice for the same work, for the same income, for the same savings is unconscionable; and it ought to be illegal.

Mr. Speaker, I urge all my colleagues to support the permanent repeal of the death tax. It is time to end the death tax so we can resurrect the American Dream.

FREE SARAH SAGA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, the Bible tells us that pure religion is this: "To look after widows and orphans in their distress." And I rise tonight, preparing to catch up with my wife and our three small children for dinner, feeling compelled in my heart to stand up on behalf of a young American woman and her two small children who at this very hour are holed up in the U.S. consulate in Jeddah in Saudi Arabia.

I rise to tell the story of Sarah Saga and her two little girls, this American woman, and to demand State Department action. As a member of the Committee on International Relations, I am obviously fascinated to see the House of Saud and the Government of Saudi Arabia engaging in a public relations campaign here in America. In markets across the country, our television screens are being flooded with a message that Saudi Arabia is a "modern nation"; that America and Saudi Arabia have "shared values."

Prince Bandar Bin Sultan, the Saudi Arabian Ambassador to the United States, is part of a public relations offensive to change the image of the Saudi Government. But I would offer today, as is documented in today's editorial page of the Wall Street Journal, we do not need words, Mr. Speaker; we need actions by the House of Saud.

Sarah Saga's story began long ago. She found herself trapped in Saudi Arabia at the age of 6 when her Saudi father defied a U.S. custody agreement by simply refusing to return her to America after she visited her father in 1985. There she has languished ever since. Yet she never gave up on America or her American mom. This 6-year-old, now grown into a 23-year-old mother of two, used a computer to track her long-lost mother via the Internet and to tell her of her hopes for escape. She has made her way to the U.S. consulate in Jeddah, and there she languishes. Absent aggressive State Department actions and negotiations, there she will languish still.

Sadly, hers is just another story of another American woman who is trapped in Saudi Arabia, told that she is able to leave so long as she leaves her children behind. That is outrageous and utterly unacceptable. Prince Bandar told the Wall Street Journal back in September that it was "absolutely not true" that any American women were held against their will in Saudi Arabia. But the story of Sarah Saga tells otherwise.

So I rise tonight not to speak to the House of Saud, but rather to speak to the State Department of the United States of America and to the Bush administration and to Secretary of State Powell. As we negotiate a road map for peace in the Middle East, let us speak plainly to our allies in Saudi Arabia about the minimal expectations we have about American citizens and their progeny in their midst.

Sarah Saga and her two small children must be permitted to leave Saudi Arabia and make that long, at last, homecoming, delayed 17 years, to be in the home of her birth, the United States of America.

DESTRUCTION OF MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the good news is that seniors are living longer. President Lyndon Baines Johnson, a Texan, signed the 1965 legislation entitled Medicare, which opened the doors of life to seniors of America, the same senior citizens who prior to World War II were dying at very early ages; the same young men and women of the Greatest Generation who went into World War II and came home with no real hope that they would live their lives past 50. This 1965 legislation gave hope to that generation and many generations thereafter.

So I rise today, Mr. Speaker, somewhat troubled and certainly frightened by the proposition that this House and the Republican leadership would move to privatize a system that has worked. As we debated this today on the floor of the House, it is well known that the Committee on Ways and Means received 400 pages at 1 o'clock and began to mark up a proposed Medicare prescription drug benefit legislative initiative.

For the years that I have been in Congress, year after year and term after term, I have met with my senior citizens in the 18th Congressional District, throughout, that district, and promised them and agreed with them that they deserved a guaranteed Medicare prescription drug benefit from the United States Congress. I am sad to say that we have come now to a time where there may be a vigorous debate on this issue and our seniors will still be left out in the cold.

The doughnut, Mr. Speaker, is growing larger and larger. This emerging gap in the proposal that is now being marked up by the Committee on Ways and Means and the Committee on Energy and Commerce does not answer the question of saving the lives of seniors or giving to them that long-held hope to have a guaranteed Medicare prescription drug benefit. In fact, it is a handout, not a hand up.

If we look at this proposal of the majority of this House, it is a glaring and outstanding and shameful proposal where there is an enormous gap between the monies that these seniors will receive. If they spend up to $2,000, that is fine, Mr. Speaker. But after $2,000, they are left holding the bag, spending upwards of $5,000 on their prescription drug benefits, with no hope and no help. The promises we have made about a guaranteed Medicare prescription drug benefit, I think, have gone up in fumes and fire.

Let me share with you, Mr. Speaker, what our good friends are proposing. Prescription drugs are the stalking hawk for the Republicans' boldest attempt to privatize Medicare yet. The Republican plan converts the Medicare program to a premium support or voucher system where the government only pays a percentage of the cost of the premium. Can you imagine, Mr. Speaker, we have survived 38 years, 2 more years until the 40th anniversary of Medicare. It is not expected to go insolvent for another 3 or 4 decades, and yet we are beginning to privatize this system where seniors will not have the helping hand that they need.

Hard-working seniors have invested into this economy, paid taxes, Mr. Speaker, and provided the underpinnings of our economy. Many seniors will have to pay more if they want to stay in the same Medicare they have today. Rising fee-for-service premiums will drive all but the sickest to the private plans, resulting in programs becoming unaffordable for all but the wealthy. It ends our Medicare entitlement, the plan begun under President Johnson in 1965. Under this program, beneficiaries no longer will be entitled to the benefits as they are today.

I emphasize that this privatizing of Medicare does not provide a guaranteed Medicare prescription drug benefit, which we all know is needed in this Nation; with no guarantee of what seniors will get; and the private insurance plans, not seniors' doctors, determining what drugs they can get.

I am very pleased to have heard my bipartisan colleagues on the floor of the House today mention how expensive and devastating it is to pay for prescription drugs. I want to work with my pharmaceuticals. I believe they could work with us on a guaranteed Medicare prescription drug benefit. But in the instance of this private insurance plan, it will be those pharmaceutical benefit officers that will be able to tell you what you can afford and what you cannot, no guarantee of how much seniors will have to pay.

Private insurance plans set their own premiums. The $35 premium is not a guarantee, just a suggestion. And you know what, it will go up and up and up. In this instance, as the song says, the stairway to heaven, it certainly will not be. It will certainly be a downward trend to devastation and higher costs for our seniors, with a wide variance in costs to seniors across the country. Private insurance plans also determine seniors' deductibles and cost-sharing.

Mr. Speaker, just a few years ago I sat in rooms filled with seniors who were crying because they had closed the six HMOs treating seniors in Harris County. No room at the inn. No HMOs to provide for my seniors. Why did they leave? They left, Mr. Speaker, because it was not profitable.

Mr. Speaker, as I close, let me simply say the Medicare gap in the Republican Medicare prescription drug proposal is outrageous. You are going to burden our senior citizens with this gaping hole of $3,000 and upwards with that plan.

Medicare is alive and well, 38 years, just 2 more years before its 40th birthday. Let us pass a real Medicare guarantee drug benefit for our seniors and give to them the tribute that they deserve.

Mr. Speaker, we Democrats have been fighting for years for a Medicare prescription drug program that is (1) affordable; (2) available to all seniors and Medicare beneficiaries with disabilities; (3) offers meaningful benefits; and (4) is available in the Medicare program—the tried and true program that seniors trust.

And now it seems that we have the political momentum to make a good prescription drug benefit a reality. The President says he wants it. Both parties, both sides of Capitol—everyone has declared their commitment to getting affordable prescription drugs to our nation. So why is it that the only Medicare prescription drug "plan" the Republicans have to offer is a terrible bill full of holes, and gifts to the HMOs, and protections for pharmaceuticals companies. Every time we get a chance to take a closer look at the Republican drug scheme, it becomes more obvious that it is just another piece of the Republican machine that is trying to dismantle Medicare and turn our federal commitment to our nation's seniors, over to HMOs and the private insurance industry.

The Republican plan would be run by HMOs, not Medicare. HMOs would design the new prescription drug plans, decide what to charge, and even decide which drugs seniors would get. Plus, HMOs would only have to promise to stay in the program for one year. That means that seniors might have to change plans, change doctors, change pharmacies, and even change the drugs they take every twelve months. Medicare expert Marilyn Moon told the Senate Finance Committee on Friday that "There will be a lot of confused and angry consumers in line at their local pharmacies in the fall," if the Republican approach is not changed. She's right.

The Republican plan provides poor benefits, and has a giant GAP in coverage. Under the House Republican plan, many seniors would be required to pay high premiums even when they don't receive benefits. Reportedly, under the House GOP plan, Medicare beneficiaries have a high $250 deductible. After they reach that deductible, they would then be required to pay a portion of their first $2,000 in drugs costs—that is a fairly normal system. But, after a senior's costs hit $2,000 for a year—that is when it becomes obvious just how bad this plan is. Once a senior's drug costs hit $2,000, the Republican plan cuts them off. Even though they must continue to pay premiums, they get no assistance in paying their drug costs at all until their costs reach $5,100. Let me say that again. It seems so crazy, it is almost unbelievable. The sickest of our seniors, the ones on the most medications—once their costs reach the $2,000 mark—they fall into the Republican gap. They are left to pay the next $3,000 out of their own pockets, while continuing to pay premiums. Almost half of seniors would be affected by this gap in coverage. They will be outraged, and our offices will be hearing about it.

I have attended hundreds of health care briefings, and have read everything I can get my hands on, on the subject of improving Medicare and getting good health insurance to the American people. And I have never heard anyone say that a hallmark of a smart health insurance program is to have a giant gap in coverage for those who need help the most. Why would our Republican colleagues put in this ditch in the road to health for seniors? Because they wasted all of our nation's hard earned money, on massive tax breaks for the rich, and an unnecessary war.

So now they have placed an arbitrary budget cap on vital programs, pushed by President Bush, in order to compensate for the irresponsible Republican tax cut they jammed through this Congress and last Congress. The way they are dealing with the mess that they have made is by throwing bad policy after bad policy. To remain within their own arbitrary budget cap, they are pitching a bill that will provide a confusing, insubstantial benefit to the majority of seniors.

If the Republicans wanted to save money, they could have put in a provision that I and many Democrats have pushed for—and that is to allow the Secretary of the HHS to negotiate with the pharmaceutical industry to get fairer prices for the American people. I believe that the American pharmaceuticals industry is the best in the world. They make good products that benefit the world. But Americans are now paying double the cost for drugs than their counterparts in other rich nations such as Germany, Canada, Great Britain, or Japan. I am glad our companies are making money. But as we enact a prescription drug benefit under Medicare, access to drugs will rise—and drug company profits will rise as well. It is only fair that the Secretary should have the power to negotiate a good price for American consumers, to make sure we get the best returns possible on our federal investment.

Not only did the Republicans not put in a provision to allow such negotiations, they went out of their way to forbid the Secretary from trying to get better prices for Americans. Why, because they value the profits of their corporate sponsors at Pharma, more than they do the well-being of our nation's seniors.

Similarly, the Republican plan's design wastes billions in kickbacks for HMOs—instead of using that money to bring down the premiums and out-of-pockets costs that seniors and the disabled are forced to pay.

The Republican plan is not available to everyone on Medicare. First, the House Republican plan reportedly will introduce "means-testing" for Medicare benefits—by which seniors with higher incomes would have to pay considerably more out-of-pocket before they reached the catastrophic limit. Medicare is supposed to be for all seniors, it is not welfare, just for the poor. It should be protected as such. What's more, under the Senate Republican approach, low-income seniors and Americans with disabilities would receive nothing at all—the 17 percent of Medicare beneficiaries who are also eligible for Medicaid are simply left out. This misguided policy endangers coverage for millions of seniors whose fluctuating incomes change their Medicaid eligibility from year to year.

The Republican plan rolls the dice, gambling seniors' health. By relying on insurance companies to offer coverage instead of guaranteeing benefits in Medicare, the Republican approach runs the risk that no company will offer benefits to seniors in rural communities, where millions of Americans have already been abandoned by HMOs in search of bigger profits elsewhere. There are 9.2 million Medicare beneficiaries in rural areas nationwide. Eighty percent of these seniors have no access to any Medicare HMO. Only 13 percent of them have access to a Medicare HMO that offers a drug benefit. The bill we are getting glimpses of takes failed policy and expands it to critical areas.

The Republican plan is a risky scheme only an HMO could love. The Bush Administration's Medicare Administrator has called traditional Medicare "dumb" and "a disaster," highlighting Republicans' disdain for a program that Democrats have been fighting for since 1965. While Democrats have worked to modernize Medicare with prescription drugs, preventive care and other new benefits, Republicans are insisting on a riskier course even the Wall Street Journal calls a business and social "experiment."

The Republican plan destroys Employer Retiree coverage. The Congressional Budget Office has concluded that about one third of private employers will drop their retiree drug coverage under a proposal like the one being contemplated. In order to lower its costs, the House Republican plan stipulates that any dollar an employer pays for an employee's drug costs would not count towards the employee's $3,700 out-of-pocket catastrophic cap. This would therefore disadvantage seniors with employer retiree coverage because it would be almost impossible for them to ever reach the $3,700 catastrophic cap, over which Medicare would pay 100 percent of their drug costs. The practical effect of this is that employers will stop offering retiree coverage. That is a step in the wrong direction.

We can do better. The House Democrats' legislation, that I am a proud cosponsor of, is designed to help seniors and people with disabilities, not HMOs and the pharmaceuticals industry. Under the Democratic proposal, the new Medicare prescription drug program would be affordable for seniors and Americans with disabilities and available to all no matter where they lived. It offers a meaningful benefit with a guaranteed low premium and would be available as a new "Medicare Part D" within the traditional Medicare program that seniors know and trust.

I am committed to getting seniors the prescription medications that their doctors deem they need. I want to work with our Colleagues on the other side of the aisle, and the Administration to make that happen. But unless I see a plan without a gap—with a consistent benefit—with some smart cost-controls—and some protections for Medicare, an excellent program for Americans, I cannot support this Republican drug scheme.

Let's do better.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8, DEATH TAX REPEAL PERMANENCY ACT OF 2003

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–157) on the resolution (H. Res. 281) providing for consideration of the bill (H.R. 8) to make the repeal of the estate tax permanent, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1528, TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2003

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–158) on the resolution (H. Res. 282) providing for consideration of the bill (H.R. 1528) to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service, which was referred to the House Calendar and ordered to be printed.

HONORING BOB SCHROEDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. BRADLEY) is recognized for 5 minutes.

Mr. BRADLEY of New Hampshire. Mr. Speaker, I rise today to pay tribute to a friend, Bob Schroeder, who has been named Town of Hooksett's Citizen of the Year. Bob was instrumental in the restoration and revitalization of a truly historic local, State, and national landmark.

Robie's Country Store, in Hooksett, has a lengthy history of acting as the town's gathering spot, a place to argue politics, play checkers, buy groceries and homemade baked goods. Robie's was also a required stop for local politicians and Presidential candidates visiting the first-in-the-Nation primary State for over 30 years.

The store closed in 1997, after the store's owners, Lloyd and Dorothy Robie, retired. After 5 years of dormancy, and a lack of funds and dedicated owners, Robie's Country Store reopened, continuing its 30-year political tradition and its 110-year presence in the town.

Bob Schroeder saw an imperative need to preserve this cultural and political landmark and formed the Robie's Country Store Historic Preservation Association to spearhead the renovation effort. The association has worked diligently to bring the store to life again; and on May 24, 2003, Robie's Country Store reopened to an eager and proud community.

□ 1815

Bob and the Preservation Association were careful to maintain Robie's historical accuracy by keeping the 97-year old building's flooring, ceiling and picture wall of political memorabilia. Always humble, Bob refuses to take credit for the grand reopening of the store, instead pointing the spotlight on the efforts of the entire community. Under Bob's leadership, people of all ages worked together to restore Robie's through fundraising and renovation efforts. The community's hard work will undoubtedly ensure that the rich heritage and traditions of the store will remain intact for future generations to enjoy.

Bob's tireless commitment to preserving this landmark and energizing the whole community to get involved is a wonderful example of his perseverance and dedication to improving the community and State in which he lives. I can think of no better person than Bob Schroeder to receive the Hooksett Citizen of the Year Award, and I am honored to represent him and all other concerned and conscientious citizens from Hooksett and the First Congressional District of New Hampshire.

TRIBUTE TO THE TOWN OF LILLINGTON

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentleman from North Carolina (Mr. ETHERIDGE) is recognized for 5 minutes.

Mr. ETHERIDGE. Mr. Speaker, I rise today to celebrate the 100th anniversary of the founding of my hometown, Lillington, North Carolina, the seat of Harnett County. For 100 years, Lillington has been home to many enterprising, patriotic and public-spirited citizens. Today as the town prepares to mark this occasion, I want to recognize the history, success and integrity of this remarkable community. When we talk of famous places, we often talk about buildings and landmarks, like the Capitol here in Washington, D.C., or the Empire State Building in New York.

While Lillington does not have any skyscrapers, it does have people of great character. It is that character which has made Lillington one of America's great communities. Named for General Alexander Lillington, a hero of the American Revolutionary War who is known for his heroic efforts at the battle of Moore's Creek Bridge in 1776, Lillington is one of those special places that welcomes with open arms strangers and family alike. Its citizens sincerely care about the well-being of their neighbors, as evidenced by their dedication to numerous civic organizations, schools, and churches in the area.

On July 4 and 5, and throughout this year, Lillington will celebrate its honored past and the centennial of its formal incorporation. The Greater Lillington Centennial Celebration will be marked by numerous events, including the dedication of roadside historic markers honoring General Lillington and Cornelius Harnett, for whom Harnett County is named; a lecture series honoring notable people who have lived and worked in the community; the installation and dedication of a town clock in front of town hall; the publishing of a history of the community entitled Lillington—A Sketchbook; and many other celebrations and reunions.

After my discharge from the Army in 1968, I moved to Lillington and immediately discovered what a unique place it is. In Lillington, Faye and I have raised our three children, Bryan, Catherine and David. It is truly a great place to live, work and raise a family.

Mr. Speaker, Lillington and other towns like it are the backbone of America. They may be hard to find on a map, but it is easy to understand their importance to this great Nation. It is in these tight-knit communities that our Nation's values are shaped and future hopes reside. As Lillington moves into its second century, it has a bright future ahead of it, and I know that if we are willing to dream big and work hard, Lillington's next 100 years will be even more prosperous and purposeful than its first. I ask my colleagues to join Faye and me today in celebrating Lillington's 100th anniversary.

CONSERVATIVE MYTHS ABOUT THE ESTATE TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PASCRELL) is recognized for 5 minutes.

Mr. PASCRELL. Mr. Speaker, I heard two gentlemen this evening, one from Minnesota, the other from Texas, say some things and I need to respond even though it is also part of what I am going to be saying this evening.

One gentleman said the folks on this side of the aisle are concerned about class warfare. Now if we were in session, I would ask his words to be taken down because that has happened one too many times. That is serious business. That is political warfare here. We are all Americans, and we have a right to our opinions.

The other gentleman, the gentleman from Minnesota, talked about unfairness, that we on this side are unfair. Let me tell Members what is unfair. That is the subject about which I speak tonight.

The recent CBO study found that between 1979 and 1997, the after-tax incomes of the top 1 percent of the families rose 157 percent. The wealthiest 5 percent went up 81 percent compared with only a 10 percent gain of the people in the middle of the income distribution.

Mr. Speaker, during that period of time, incomes in the bottom fifth of the population actually fell. That is what is unfair. I want to examine tonight the five myths, I call them lies, that the Republicans have put forth on the estate tax.

The first myth: Many Americans will benefit from the repeal of the estate tax. It is in all of their literature. Well, let me see what the case is. Because the estate tax only falls on estates worth over a million, it only affects the richest of the 1.4 percent of American families. Two-thirds of the estate tax revenues comes from the wealthiest 0.2 percent. When the higher exemptions are fully implemented so a two-parent family could transfer $7 million to their children without any estate tax, only 0.05 percent would be subject to the estate tax.

So in myth number 1, a study by the Center on Budget and Policy Priorities found that after all repeal of the estate tax, and that is where the other side is headed, the largest 4,500 estates, therefore the wealthiest 0.003 percent of all the taxpayers will receive as much relief from the repeal as 142 million Americans.

Myth number 2: The estate tax is forcing family farmers to lose their farms. We could not find one farmer who was losing their farm, and then they try to quote from the American Farm Bureau Federation, and they could not find one farmer who lost their farm either. And as far as I am concerned, the American Farm Bureau Federation is just like the National Association of Manufacturers, they talk, do no good, and we continue to export jobs overseas. They are both worthless. Tell a lie enough times, and folks might believe it. The small farmers are not represented by the American Farm Bureau Federation.

Myth number 3: The estate tax stifles creativity and innovation by punishing the successful. Listen to what Andrew Carnegie said about that myth, that each generation should "have to start anew with equal opportunities. Their struggles to achieve would, generation after generation, bring the best and the brightest to the top."

Warren Buffett was quoted from this floor just a week ago, there is no free lunch.

Myth number 4: Taking 55 percent of someone's life earnings is unfair. That is a myth. Conservatives, particularly on the other side, do not let facts get in the way of political ideology. The effective tax rate, which is the percentage of an estate, which is actually taxed, does not even come close to 55 percent, Mr. Speaker, and they know it.

In 1999, the effective tax rate on all estates was only 24 percent, less than half of the 55 percent reported. The 24 percent effective rate leaves heirs 76 percent of the value of the estates.

Mr. Speaker, do not let Americans think you are going to help them on this estate tax when we are talking about a tiny percent of the population. The other side of the aisle is trying to create that myth.

Finally, Mr. Speaker, the estate tax is double taxation. Do you want a list of those poor people in the middle class that we double tax on issues? There are a lot of ways that we tax besides the income tax. This is a myth and they have quoted from folks that do not even support the position. This vote that we will take on Thursday is one that everybody should look at the facts, not how things are perceived, not at how things look; look at who is being helped and look at the redistribution of wealth in this country, and we will see who is guilty of class warfare.

Without the estate tax; these assets would never be taxed. But that is exactly the point. Conservatives who argue that it is unfair to tax them twice are really trying to get out of having them taxed at all. Repeal of the estate tax means that huge amounts of capital gains would be passed on to children without ever having been taxed.

The fact that the estate tax also falls on a part of an estate made up of previously taxed income is not problematic because it is no different than how any other income is treated. Under our tax system, the same dollar is taxed multiple times as it moves through the economy from employer to employee to a gas station and then on to the next employee, ad infinitum. It is unfair and inconsistent to single out the estate tax for exemption from this system.

EXCHANGE OF SPECIAL ORDER TIME

Ms. KAPTUR. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Ohio (Mr. STRICKLAND).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

WAR IN IRAQ AND ASSOCIATED TRAGEDIES NOT OVER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, if the American people needed evidence that the war in Iraq and its associated tragedies are not over, it arrived in a front page picture Saturday that was carried across our country. In my hometown paper, the Toledo Blade, but also the Chicago Tribune, the Boston Globe, the Washington Post, and the New York Times.

This is the photo, First Class Sergeant Bryan Pacholski comforting David Borell, career Army guard, both from Toledo, at a military base in Balad, Iraq. The Associated Press photograph caught an emotional moment, a Toledo career soldier being consoled in his grief by a buddy after military doctors allegedly refused to treat three Iraqi children with painfully serious burns from some sort of explosive device. The soldier, Sergeant David Borell, of our 323rd Military Police Company, later wrote home an e-mail with his personal thoughts on the incident, specifically that the children had been unjustifiably denied medical treatment.

The Blade printed the story and a request on my part of our Secretary of Defense for a full investigation and a meeting with him in order to discuss how to prevent this type of situation in the future. Such an investigation is warranted because the incident, if true, flies in the face of numerous stories from the war zone telling of humanitarian acts by U.S. troops under hostile circumstances. We know our troops want to do the right thing.

Mr. Speaker, is it really U.S. policy to refuse treatment of Iraqi civilians with serious but nonlife-threatening injuries? Who made that decision? Who were the doctors involved, and why did they handle the situation as they did? Were the kids callously refused care, or was the sergeant simply overcome by witnessing their great pain? These are some of the questions that deserve straightforward answers.

The Blade, in its editorial, goes on to write, "Given frequent news reports about the destruction of Iraq's hospitals and emergency services, of which we are all aware, and the 10-year embargo preceding the war that caused all of their hospitals to lack medical equipment and supplies, it is difficult to give much credence to a spokesman for the U.S. Central Command who contended that Iraq now has a better health care system than before the U.S. occupation. It is entirely believable that in the words of the same spokesman, U.S. forces in Iraq 'are providing health care to Iraqis, but we do not have the infrastructure to support the entire Iraqi civilian population.' "

□ 1830

So whose fault is that? And what do we do? What do we do to build friends, more friends than enemies inside Iraq?

Most Americans probably would say that defenseless children should be taken care of in any circumstance. They, after all, did not cause the war. There are plenty of adults around to blame for that. Secretary of Defense Rumsfeld has agreed that we will begin with a meeting with Under Secretary of Defense Chu, who is in charge of personnel and deployments. Hopefully, that first meeting will begin tomorrow. My proposal will be the same, that we move some of the funds we have already appropriated because we thought the war would last longer with the siege of Baghdad, divert some of those funds to move some of our temporary field hospitals in different places in Iraq, and to put medical supplies there to treat this type of injury that Sergeant Borell saw, children who are burned, people who are bleeding, civilians who we want to be our friends.

We now hold the ground in Iraq. The question is, in the future, will we win the hearts and minds of the people? There is no greater way to do that than one by one ministering to their tragic health needs. That time is long overdue. And so I welcome the opportunity to discuss this with Under Secretary Chu, with Secretary of Defense Rumsfeld, and to make sure that no other soldier in service to this country will have to experience what Sergeant Borell experienced with no alternative given to him.

There were no kits, no medical kits that were available to the platoon other than their own small emergency kits, because they are military police. There were not hospitals in the area where these people could be referred that had decent medical supplies and backup. And so he was forced as an American to turn the family away. How do you think America is perceived by those civilians? I think they are beginning to wonder, at least that family, will America really make a difference? Yes, America really can make a difference, just give us a chance. I would welcome the opportunity as one Member of Congress to mobilize my community to provide the supplies for that first field hospital right near where Sergeant Borell and Sergeant Pacholski are serving. These are part of our flesh and blood from our community. We want to give them all the support we can. I know the Secretary of Defense will find a way to help us.

PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Illinois (Mr. EMANUEL) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. EMANUEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my Special Order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. EMANUEL. Mr. Speaker, currently both the House and the Senate are in intense deliberations to forge a compromise on a prescription drug benefit for Medicare and Medicare recipients. I am glad to see that both Republicans and Democrats after all this time are working together to try to correct this critical deficiency in the Medicare program.

When Medicare started in the early 60s, about 10 percent of the health care costs for a senior was dedicated to out-of-pocket drug costs. Today that is around 60 percent of their health care costs, or health care dollar. And so if we are going to have a health care plan for seniors and if Medicare is going to live up to its obligations that it was originally designed to do, Medicare must have a prescription drug plan.

We all know that one of the most contentious issues in the prescription drug debate is the question of how much of the cost of drugs should be paid by government and how much should be passed on to seniors. But the crux of this problem is that both the U.S. Government and American seniors are paying too much for prescription drugs. Providing a prescription drug benefit through Medicare is unfortunately only the tip of the iceberg in addressing a widespread prescription drug access issue facing our Nation.

Much more central to the inability of many seniors and other Americans to afford the prescription drugs they need is the fact that prescription drug prices are 30 to 300 percent higher than those in other industrialized nations. The truth is one of the big problems we have here in the country is that we do not have a free market as it relates to prescription drugs and drug costs. I really believe that one of the central points of this debate is that we need a free market.

The three things I am going to discuss today are, A, the issue that American consumers, be they elderly or others, are denied access to prescription drugs from all over the world and they are a captive market, unable to buy drugs, be they in Canada, Mexico, Germany, France, where the same drugs are much cheaper than they are here in the United States. If our consumers were allowed to have access to those drugs, there would be competition and prices would drop. But because the free market is prohibited from exercising its magic, drug costs are artificially raised.

The second point I want to discuss is the American taxpayer through two different venues provides direct and indirect assistance to the drug companies to develop the drugs. Drug companies reap all the profits, and the American taxpayers do not get any of the benefits back as an investor. If we were an investor, and I come from the private sector, private sector investors when they invest in a drug, they usually look for what is called a 30 percent IR, investment return on equity. Yet the taxpayer who provides through taxes both direct assistance to the FDA as well as through the tax write-off that pharmaceutical companies get, they do not reap any of the benefits from these drugs being developed. Yet we develop these drugs, taxpayers spend billions and billions of dollars helping develop these drugs, yet the only benefit they get besides taking the drug is they pay the highest premium price out there.

I believe the right way to get the prices under control is for the investor, known as the American taxpayer, to reap the benefits of their investment dollars. And, third, deal with the area of generics and generic markets. If we allowed generics to get to market quicker, it would also create that type of competition. I think one of the problems we have here is that the American elderly, the American taxpayer and consumer have an artificial market that is in three areas, generics, taxes and access to the same drugs in other markets around the world. Because we are a captive market, we pay artificially high prices; and the American seniors specifically are the profit margin or, as I like to call them, the guinea pig profit margin for the pharmaceutical companies. I want the free market to work. The pharmaceutical companies are treating this market as a captive market. If we had a free market, we would have reduced prices.

Medicare drug benefits being considered by Congress are very expensive. Many seniors, especially those who do not have secondary insurance, will continue to have significant out-of-pocket drug costs even with the passage of a Medicare drug benefit. In addition, the high cost of drugs remains a crisis for 42 million uninsured and countless underinsured who must pay all or most of their drug costs out of pocket. Addressing the cost of prescription drugs will both make a Medicare drug benefit less expensive for the government and greatly increase the value of what is provided for our elderly. It will also make it much more likely that millions of uninsured and underinsured in this country can afford lifesaving, life-preserving prescription drugs, what their compatriots in Germany, France, England and other industrialized nations get. Prescription drug companies are a business, and they need to earn profits in order to stay in business. But as they have the right and purpose like other businesses to earn a profit, they also have a responsibility to be a good corporate citizen and abide by the same standards as other businesses.

As I said, I have worked in the private sector. I know that any private company when investing in research and development and in another company usually looks for a 30 percent return on their equity. The United States Government invests in pharmaceutical research by providing significant tax benefits for research and development expenses and American citizens subsidize the research as drug companies recoup their margins in America because of price controls in other countries. The American Government and the American people are getting no return on their investment. The pharmaceutical companies are reaping the financial benefits of the U.S. investments in their R&D without any responsibility to pass these benefits on to the government and American taxpayers.

American consumers are bearing the burden of price controls in other countries. When 50 tablets of Synthroid cost $4 in Munich and $21.95 in the United States, the most vulnerable Americans suffer. Also it is one of the great reasons that we have inflation running at close to triple or quadruple here in health care in the United States as opposed to the market as a whole. We are using individuals as the profit guinea pigs for pharmaceutical companies.

The legislation introduced by my good friend and colleague, the gentleman from Minnesota (Mr. GUTKNECHT), last week takes important steps to address the shocking disparities in prescription drug prices between the U.S. and other industrialized nations. It puts essential safety precautions in place to ensure that by opening our markets, we do not expose Americans to the dangers of counterfeit drugs. When defending the high cost of prescription drugs in this country, people will often say that the U.S. has the best health care system in the world. People come here from overseas to get a better product. But we clearly have nothing close to the best prescription drug delivery system, as many individuals are now shopping overseas for their prescription drugs. If we are going to defend our status as the best place to get health care in the world, we need to make the pillar of many people's health care, prescription drugs, accessible and affordable.

I yield to my good friend, the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. I would like to thank the gentleman from Illinois for taking a leadership role on this important issue. This is a huge issue. Members need to know that the estimate that the Congressional Budget Office is currently using is that seniors alone over the next 10 years will spend $1.8 trillion on prescription drugs. As the gentleman alluded to, I have been doing research. I should not say I have been doing research; there have been groups who have been sending me research for the last 4 or 5 years in terms of these great disparities between what

Americans pay for name-brand prescription drugs versus the rest of the world. We have heard a lot about Canada; we have heard a lot about Mexico. But what has intrigued me the most is the differences between what we pay in the United States and what they pay in the European Union.

What I have here is a chart of about 12 or 13 of the largest-selling prescription drugs. This chart is old and the numbers have changed, but the percentages remain the same. This information is confirmed by research that I have done, that others have done, several groups have done this; but let me just run through a few of these examples. Augmentin, sold in the United States for an average of $55.50. You can buy it in Europe for $8.75. I have examples of these drugs. We actually went to Germany and bought some of these drugs. This is Augmentin. This is Cipro. Cipro is made by the German company Bayer. They also make aspirin. As you can see, it is a very effective antibiotic and especially in the days when we had anthrax here in the Federal buildings, we bought an awful lot of Cipro. In the United States it sells for an average of $87.99. In Europe you could buy that same package of drugs for $40.75 American. Claritin, $89. It is $18 there. Coumadin, this is a drug that my father takes. He is 85 years old. It is a blood thinner, a very effective drug. Coumadin in the United States at that time was selling for about $64.88. In Europe you can buy it for $15.80.

And the list goes on, but let me give an example, and the gentleman from Illinois, I think, made a great point about the amount that American taxpayers spend to develop these drugs. This is a drug that really chaps my hide. This is a drug, Tamoxifen. In many respects, this is a miracle drug. It is probably the most effective drug against women's breast cancer that has ever been invented. This drug we bought at the Munich airport pharmacy for $59.05. We checked here in the United States. This same package of 100 tablets of Tamoxifen in the United States sells for $360; $60 in Germany, $360 here.

As I say, the evidence is overwhelming that most of the research, and I have a report if any of the Members would like a copy, this is a Senate report done in May of 2000, and in the Senate report, if I could just read into the RECORD, the National Cancer Institute, part of the NIH, has sponsored 140 clinical trials of Tamoxifen. It also participated in preclinical trials consisting of both in vitro, laboratory and live-subject tests. In other words, here in a Senate report we have confirmed that the taxpayers paid for much of the testing that was done on this drug.

He also referred to the drug Taxol. There was a story just a couple of weeks ago in The Washington Post. Let me just quote some of these numbers about what the taxpayers paid to develop this drug and what the pharmaceutical company got out of it.

Bristol-Myers-Squibb earned $9 billion from Taxol, which has been used to treat over a million cancer patients; but the National Institutes of Health received only $35 million in royalties. You go down the article a little bit further and it says, the GAO, the investigative arm of Congress, said that the NIH spent $484 million on research on Taxol through the year 2002. So the taxpayers invested $484 million, took it most of the way through the research pipeline, and we got $35 million back.

□ 1845

Mr. EMANUEL. Let me ask the gentleman a question. Can you repeat again for those who are watching, as you note, this is a miracle drug and all the investment the U.S. taxpayers did, repeat again so everybody knows the difference between the price overseas versus the United States for those two drugs.

Mr. GUTKNECHT. Unfortunately, on Taxol I do not have that comparison. I do not think it is on my list, but the comparison is essentially the same. It is about three times more, or at least it was when it came off patent in the United States; it was more than three times more in the United States than they paid in Europe, and the American taxpayers paid for most of the R&D costs. By the GAO's own estimate, the taxpayers spent at least $484 million developing the drug, and I yield to my friend.

Mr. EMANUEL. Mr. Speaker, I ask my good friend, I did not mean to interrupt him. Did he want to keep going?

Mr. GUTKNECHT. No. I have plenty of information, but the interesting thing about these charts and these comparisons, if people doubt what they paid for these drugs, we have the receipts. So we can literally go through and say, yes, this is what we paid for Tamoxifen, $59.05 in Germany, and we did not have a special discount card. We are not German citizens; so we were not going in for socialized medicine. These are drugs that we just bought off the shelf or from the pharmacist at the Munich airport. So it is not as if they are being subsidized by the German Government. The truth is they are being subsidized by us, and what I have always said is that Americans should be prepared and we are prepared and willing. I think most Americans are willing to subsidize the research for these miracle drugs. In fact, I think we are willing to subsidize people in developing countries like Sub-Saharan Africa, but we should not have to subsidize the starving Swiss.

And finally, let me just make one last point, and I will yield back. I am with the gentleman. I happen to be a Republican. The gentleman is a Democrat, but we are both capitalists. We both understand that there is nothing wrong with the word "profit," but there is something wrong with the word "profiteer," and there is growing evidence now that the big pharmaceutical companies are actually spending more on marketing and advertising than they are on basic research.

Mr. EMANUEL. Mr. Speaker, I thank the gentleman. What I would like to do is I am going to turn to the gentleman from Illinois (Mr. DAVIS), our good friend and my colleague from Illinois, in a second. I would like to repeat just one point on this. If you take this market on either cancer or AIDS drugs, just those segments or families of drugs, there is not a single cancer drug today or AIDS drug on the market that was not directly developed with assistance from the United States Government, NIH; and it was not directly developed with the tax dollars from the taxpayer; and yet the only benefit of those drugs, obviously besides using them and saving lives, the American consumer, be they the elderly or just families and children, they pay, as the gentleman noted, three times more than do people in Germany, France, and other major industrialized countries; and yet we were the ones who developed it.

We were the ones who gave the tax dollars to develop this. We also not only gave it from the NIH direct funding, using tax dollars to fund it, but on the back end these companies write off their R&D. So we have to make up that loss in the tax revenue pool so they can develop these drugs; and as I think the gentleman noted in his statistics, we then get a minuscule amount of return. Actually, in the private sector money like that is called dumb money. That is how they refer to it. It is foolish money. It is called dumb money. It is people who put up dumb money, do not look for the 30 to 20 percent IR on equity, and that is what has been going on for years here in this country, and we are paying premium prices; and in these companies they figure that in Germany they are going to pay X, in Canada they are going to pay Y for the same drug, England is going to pay, and they have got to make up their margin. Whom are they making up the margin with? Our neighbors, our friends, our family members; and we funded this research, and we developed these drugs.

My view is I would love for the free market to come to the pharmaceutical industry. It just has not. It is a protected industry by the United States Government, from the Tax Code to importation to the development of generics.

Mr. GUTKNECHT. Mr. Speaker, if the gentleman would yield.

Mr. EMANUEL. Yes.

Mr. GUTKNECHT. I think he used the word earlier and I think it is the critical word. He said that we are a captive market, and if we look around the world, whether it is beef and Japan or blue jeans in the former Soviet Union, anytime there is a captive market, what will happen is they will create an artificial price barrier which will guarantee that the consumers will pay outrageously higher prices, and that is what has happened here in the United States. The German pharmacist has the right to go anywhere within the European Union and buy this Tamoxifen where he can get it the cheapest for his consumers. That is part of the reason that Tamoxifen is $60 in Germany and $360 here in the United States. In fact, the companies are protected by our own FDA from any real competitive pressures which would help to keep prices down. And I do not say shame on the pharmaceutical industry; I say shame on us. They are only exploiting a market opportunity which our government has given them.

Let me just share with the gentleman and other Members from a book called "The Big Fix" because I think it helps tell the whole story by Katharine Greider, and she quotes a study that was done in 1998 by the Boston Globe, and they looked at the 35 highest-selling prescription drugs in the United States; and they claim, the Boston Globe, and then is repeated in the book "The Big Fix," that 32 of the 35 largest-selling drugs in the United States a few years ago were actually brought through the research and development chain by the taxpayers through the NIH, the NSF, the Defense Department, or other Federal agencies, principally the NIH. So it is not shame on them, but it is shame on us. We do not get a rate of return. We get nothing except for millions of our consumers the highest prices in the world, and it is time for us to change that.

Mr. EMANUEL. I thank the gentleman. If he could yield, I would like to now ask the gentleman from Illinois (Mr. DAVIS), my good friend, who has joined us here to also speak about his district in Chicago that borders mine, but also about this issue as it relates to the pharmaceutical industry and prescription drugs and what is going on.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman from Chicago (Mr. EMANUEL), my neighbor and friend, for organizing this Special Order and certainly for giving me an opportunity to participate. Our districts abut each other; and as a matter of fact, I guess before now some of what is my district was his district. Maybe some of what was his district is my district. So we have many similarities and certainly represent some of the same people and some of the same thoughts. It is no secret that I am a supporter of the notion of reimportation of prescription drugs. As a matter of fact, I am a proud cosponsor of H.R. 847 introduced by the gentleman from Vermont (Mr. SANDERS), my good friend.

Some people might ask me why do I support the concept of reimportation of prescription drugs, and I generally say to them it is no real big deal if they understand as I do, but I do it for a lot of reasons. One, the increasing use of prescription drugs has revolutionized health care. As a result, spending on prescription drugs has increased at a rate of 12 to 13 percent a year for the past decade and will continue to increase in cost at that rate for the foreseeable future. Prescription drugs are the fastest-growing portion of State health care budgets, and many States are facing serious budget crises relative to being able to come up with enough money to actually operate. Yet millions of seniors, perhaps tens of millions, are skipping doses of their prescribed medication or splitting pills or facing a choice between food on the table or taking their prescription drugs. I know this because of the statistics. I know it because of the recent studies. I know this because every weekend when I go home, I hear about this dilemma from one or more seniors in my district.

Meanwhile, the pharmaceutical industry remains the most profitable sector of the U.S. economy with profit-to-revenue ratios of over 18 percent. I heard the gentlemen discussing profits and being capitalists and living in a capitalistic environment; and like them, I do not have a problem with profits, but I do have a problem with overcharging our seniors. So when I learn that Glucophage for diabetics is 74 percent cheaper in Canada than in the United States, I have a problem with that. When I learn that Tamoxifen for treatment of breast cancer is 80 percent cheaper in Canada than in the United States, I have a problem with that. Time does not permit, but I could easily go on and on with the list of prescription drugs available outside the U.S. at a fraction of the cost to my constituents, and when I learn that almost 80 percent of the ingredients of prescription drugs are imported, that redoubles the problem I have with the cost of prescription drugs in the United States. And when I learn that these prescription drugs are developed with millions upon millions of dollars of Federal tax money, I have a serious problem with the cost of prescription drugs in the United States.

I know that reimportation is not the sole or even most important element in providing affordable prescription drugs for our people. I for one will not rest until we have real and effective prescription drug coverage preferably as part of a system of universal health care. But absent a comprehensive solution, there is no excuse in denying Americans the same access to prescription drugs enjoyed by our Canadian neighbors.

Mr. Speaker, the prescription drug industry is sick, and that sickness is endangering the health of all America. Reimportation would be a good first dose of castor oil to bring the industry back to a more regular and healthy state. So I want to thank my colleague and neighbor from Chicago again for organizing this complex discussion on the issue of prescription drugs and how we can get the costs down, and I yield back to him and thank him so much for the opportunity to participate.

Mr. EMANUEL. Mr. Speaker, I thank the gentleman. He brought up the breast cancer; was that correct?

Mr. DAVIS of Illinois. Yes.

Mr. EMANUEL. I think it illustrates again what our good friend from Minnesota said and has brought forth examples is that, in fact, there is not a drug today, and we can also expand this to medical choice, but no drug today that is not being developed and has not been developed that is around the country that any way you look around the world in the major industrialized countries where we have trading companies, and the gentleman noted wheat, meat, steel, cars, computers, all types of products where there is "free trade," and yet here in this specific area, we are paying top price, high-premium dollar. I think again, whether it is diabetes, breast cancer, there are other drugs that are on the market that affect other types of illnesses, and I think the gentleman highlights a very important point, especially given his district and my district that abut each other, how this creates inflation, and besides the uninsured, the cost of pharmaceutical drugs is the single largest cause for health care inflation in the health care industry which has been running at 20 to 30 percent of inflation.

So he brings up, I think, a very good point, and I think it is relevant to the discussion we are having today. What I am most impressed with is the bipartisanship we have here in discussing this. And I think the truth is, and I would love to hear both their thoughts on this, that while we are doing a drug prescription benefit and we are talking about it in the Senate and we are going to be taking it up here in the House, without some type of ability to have competition in that process, we are really going to be offering a benefit at top dollar, and I think, as American taxpayers are going to be paying for the prescription drug benefit that we are going to add to Medicare, we should give them a sense of competition in the market so that we can find that drug cheaper in Canada, we can find that drug cheaper in Mexico or Germany, France, or England. We want to bring that so we can squeeze the most coverage out of our prescription drug plan for Medicare.

Mr. DAVIS of Illinois. Absolutely. And one does not have to be on Medicare or Medicaid to feel the bite.

Mr. EMANUEL. Right. I thank the gentleman. I yield to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I would like to compliment the gentleman from Illinois, my neighboring colleague from Chicago, because I know not only is he leading on this issue, but he is leading on creating a proposal that fits within our budget. And there is a very important point here, that we are going to make a promise to America's seniors and they are going to count on that promise. So that promise has to be sustainable and affordable. By crafting a proposal which fits within the budget resolution, my colleague from the other side of the aisle is crafting a serious proposal and is joining in the debate in a particularly productive way, and I want to compliment him on that.

Mr. EMANUEL. I appreciate that. I yield again to the gentleman from Minnesota if he had some additional comments because I have some other things, but I would like him to go ahead.

Mr. GUTKNECHT. Mr. Speaker, let me just talk about a couple of things, and I think as we talk about this new benefit, and I think we all recognize there are far too many seniors that are not getting the prescription drugs that they need, there was a study done several years ago by the Kaiser Foundation, and they found in their survey that 29 percent of seniors responded that they have had prescriptions which they did not have filled because they could not afford them, 29 percent.

Mr. EMANUEL. So that is about one third.

Mr. GUTKNECHT. About one third. And I say shame on us because we have the power to do something about that.

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I spoke several weeks ago to the Community Pharmacists, and I just had received this report from the Kaiser Foundation. I asked them as I looked out over this audience of roughly 300 pharmacists from all over the United States, "Has this ever happened to you, where seniors come into the pharmacy, they hand you a prescription and you tell them how much it is going to be, and they drop their head and they say, 'well, I will be back tomorrow,' and they never come back?"

Shame on us. Shame on us. We need to do something about that.

But as has been mentioned by several of my colleagues, if we go about this in the wrong way, we may not do enough to really help those seniors who really need the help. But, worse than that, we may bankrupt our children, and there is something wrong with that.

Let me also mention that we are moving ahead with this, and we have heard some of the sponsors of the various bills say, oh, but we will have these groups, and get very significant discounts and really good deals on prescription drugs.

Well, this is a study recently done by one of the cardinals of the Committee on Appropriations, and they literally went through and found out how much the Federal Employees Benefit Program is paying for some of these drugs. It is rather eye-opening.

There are some areas where they are actually getting good discounts and are competitive with the prices they get in Europe. But let me give you some examples. The Blue Cross-Blue Shield plan, for example, on Coumadin mentioned earlier, even with their discount, the combination of what the Blue Cross-Blue Shield plan cost is, and you add in the beneficiary cost, the total cost for Coumadin under the Blue Cross Blue Shield plan for a Federal employee is $73.74. Now, Coumadin can be bought for $15.80 in Europe. So $73, that is the Federal plan. You read down the list of all kinds of other drugs. It is very similar.

Zocor, the total cost for Zocor under the Federal plan, Zocor is one area where it actually is cheaper, but not much cheaper. With their deep discount, the total cost is $17.48. That same drug in Europe would be $28.

But as you go through the list, what you find is in virtually every category, even with these "deep discounts" that the Federal employees' plan is able to get, it still is significantly more than the average consumer gets them for in Europe.

One final point, if I could, the argument that many people make against reimportation is safety. But what about safety?

Mr. EMANUEL. That is a very important point.

Mr. GUTKNECHT. We import every day thousands of tons of food. It surprises me how many tons. In fact, the number I remember is we import roughly 318,000 tons of plantains every year, and every time we eat a plantain that comes in from a foreign country, we take a certain amount of risk, because that could contain some foodborne pathogen.

We keep very good records on how many people get ill from eating imported foods. Let me give a couple of examples. In 1996, 1,466 Americans became seriously ill eating raspberries from Guatemala, 1,466. The next year they did a little better. Only 1,012 Americans became seriously ill from eating raspberries from Guatemala.

The point I am really trying to make here is we take a certain amount of risk. I believe that the risk, particularly with the new technologies, and I am holding in my hand a tamper-proof, counterfeit-proof package for pharmaceuticals.

Here is one that is currently in use by the company Astrozenica. This is the first version of the tamper-proof, counterfeit-proof packaging. So this whole issue of safety relatively speaking, even today, it is very, very safe.

But with the new technology that is going to be coming on line, I am holding in my hands, and you cannot see this, but a little vial, and inside this vial there are 150 microcomputer chips. They are so small you can barely see them with the naked eye. But this literally is the next version of the UPC code.

Within 2 years they will be embedding these chips into packaging, so that we absolutely can know that this package of drugs was produced at the Bayer plant in Munich, Germany, on September 8 of this year, and was shipped to so and so.

So the whole idea that we cannot do this safely, it seems to me, is a specious and almost goofy argument. So I do not think we should even engage in it. It can be done, it is being done. It is far more safe to import drugs than it is raspberries from Guatemala.

Mr. EMANUEL. The only reason I had a smile cross my face is when you said the word "embedding," I said who knew the Pentagon was going to be so far ahead of the pharmaceutical industry, and now they are going to copy from them.

But the truth is, we all were exposed in the '80s and '90s to the notion of the $500 hammer, where the Pentagon was off buying $500 hammers, when if you just went down to the hardware store you could go down there.

The fact is, your chart up there shows exactly the similarity that is happening now to the American taxpayer and consumers, where you could buy these same drugs overseas in different markets for far cheaper than we are buying them here, and it is the equivalent.

And why is that? Just like the $500 hammer, the fix is in. So if you go down the specific area, and I do not blame the pharmaceutical industry, they are playing the game just like they are supposed to play it, and they are rigging the game and system just like they are supposed to, for maximum profit.

But take it, whether it is in the generic drug laws or in our patent laws, they are keeping generic drugs off the market, therefore driving up the cost of name brand drugs, making it more expensive for all of us. If generic drugs were on the market and the system was not being fixed, you would have real competition.

What has happened is, the Wall Street Journal did a story the other day, as generics have started to come to market quicker and there has been a quicker process set in place by the FDA to approve generics, we have allowed that patent not to be gamed for an additional 30 months, we have, in fact, seen prices drop.

They have, in relation to the importation issue, pharmaceutical industries in that area have gamed the system very well, prohibiting us from buying the same type of drugs in either Germany, Canada, France, England, Italy, Israel, wherever, they have gamed the system. We are not prohibited from buying computers, cars, food items, other types of items. We are prohibited in this space.

What is the impact? Those same drugs, cheaper over there; more expensive here at home. Yet they are the same drugs we paid for the development.

Then through the Tax Code, the IRS, where we do an R&D tax write-off, where they are allowed and subsidized by the taxpayers for the research and development, yet they get a direct subsidy from the NIH.

I highlighted the area through the NIH of cancer drugs and AIDS drugs. Not a single drug in either one of those families has been developed without direct assistance by the government, yet, again, in that area we are paying prime dollar versus our brethren in the other industrialized nations.

So I actually take my hat off to the pharmaceutical industry, because they have worked the system to their benefit. Now, my hope is, if you go back in history and look at this in fact, when Medicare and Medicaid was first developed and voted on, it received overwhelming bipartisan support. Now, these are early preliminary stories in fact.

We are seeing right now that in the Senate, as they debate the prescription drug benefit for Medicare, we are seeing the early stages of bipartisanship, and we can discuss, argue, amend about the right approach. My hope is that when we have a chance here in the House, that that same bipartisanship would be approached with regard to the prescription drug bill, but that bill would include something on generics.

Over there they have a bill. Here, the gentleman from Ohio (Mr. BROWN) has a bipartisan bill dealing with generic reform, dealing with the update of the patent laws as it relates to what the gentleman from California (Mr. WAXMAN) developed and passed in 1984 and Senator HATCH. I would hope that we would update our laws in the generic area. I would hope we could update our laws as they relate to importation.

And we have a bipartisan bill, the gentleman and I have. We have a generic bipartisan bill here. So we would keep that spirit and that tradition as it relates to Medicare, as it relates to prescription drugs, that, through and through, that bill would be bipartisan. I would hope, obviously, it can relate to some of the funding issues and recoup some of the investment our taxpayers have made through the direct funding through the NIH or IRS piece of the Code where we pay and subsidize pharmaceutical companies to do what is in their business plan, develop drugs.

I yield additional time to my good colleague from Minnesota.

Mr. GUTKNECHT. I appreciate the gentleman mentioning the bipartisan nature of this, because we did a special order last week, and we had Democrats and Republicans. We had some of the most conservative Republicans, and what I think most of us would agree are some of the most liberal Democrats, agreeing on this issue, and that is Americans should not have to pay the world's highest prices when we are the world's best customers and when we spend more for the development of those drugs.

I am also the vice chairman of the Committee on Science. Just to share with my fellow colleagues how much we spend on research, and we should be proud of this, this year in this budget we will spend almost $29 billion on various kinds of basic research. In fact, we represent as Americans less than 6 percent of the world's population; we represent more than half of all of the basic research done in the world. I am proud of that. But we should not have to pay for these drugs a second and a third time when we helped develop them.

We are not asking for special breaks. All we are asking for is fairness. Reimportation or importation is not a perfect answer, but we do know that markets are more powerful than armies, and ultimately markets, whether it is the market for grain or the market for diamonds, has a tendency to level prices all over the world.

Let me just mention one other thing, and I mentioned this in a 5-minute special order I did earlier. This is the June 9 issue of U.S. News and World Report. In it there is a true American patriot. Her name is Kate Stahl. She is 84-years-old and she describes herself as a drug runner.

The tragedy is that the American government treats her as a common criminal because she helps her fellow seniors through the Senior Federation of Minnesota acquire drugs from other countries at affordable prices. In the article she says, and this is why I think she is a patriot, "I would like nothing better than to be thrown in jail." That is a patriot. She is willing to do that for her fellow seniors so that they can get affordable prices on drugs.

Mr. EMANUEL. First of all, I thank the gentleman for organizing this and thank you for introducing your legislation. I think this is the right approach.

I think, again, whether it is the area of generics coming to market and updating our patent laws, whether it is the tariffs or limitations we put on importation or access to these drugs, the same drugs we see on the shelves in our pharmacies, that the American consumer has access to them, each of these, at least on the generic and reimportation, are bipartisan issues.

I think that this is the right approach, not only because it is bipartisan and it reflects our values and reflects a common set of values that we can come around, but, most important, is that in dealing with the issue of a prescription drug, the truth is, all these drug plans have some limitations. People will not be covered. So the question is, how do you squeeze the most out of that dollar? It may be $400 billion over 10 years. The final product may be $450 billion.

The question, though, we have to ask ourselves is, can we get more out of that? Can we get more people covered? Can more people get a plan, so their deductible is not as high as it is? And the only way to do that is to make sure that a prescription drug plan as it relates to Medicare, as it relates to the cost of prescription drugs in the dime stores and drugstores and pharmacies across the country, can we reduce the prices? We can do that if we would bring the free market approach to the pharmaceutical industry.

So I applaud this. I am very pleased to be a bipartisan supporter and original cosponsor of the gentleman's legislation. I am on the generic drug legislation.

I think that approach comes together, not just because we are Democrats and Republicans, we come together on a common set of values. We approach this from the basis we may need more money for a prescription drug benefit plan, but we are going to make sure this $450 billion over 10 years, we get the biggest bang for the buck, and that this game that has been going on, and they have been gaming the system, is going to come to an end.

We are not going to allow this to happen. We are not going to allow you to have frivolous lawsuits that keep patents on another 30 months. I want frivolous lawsuits to end. We are going to have them end. It is specifically how pharmaceuticals have been treating generic drugs and preventing them from coming to market.

We are not going to allow the pharmaceutical companies to keep up the game and not allow us to import the same drugs that overseas are at close to 30 percent to 300 percent cheaper than we pay here. And if you did that, you would be on your first step of controlling health care inflation that has been running at close to 20 to 25 percent, which is just suffocating our small and large businesses, who are seeing their insurance policies just go right through the roof.

The second item, obviously, and we may have a different approach to this, but the second item would be to insure the uninsured in this country. If you did that, and I also note when it relates to the working uninsured in this country, the only issue in which the Chamber of Commerce and the AFL-CIO agree on on health care, and they are both running campaigns, is we have got to insure the working uninsured.

□ 1915

They are showing up in emergency rooms, they are driving up the cost of insurance policies, and the hospitals pass that on to insurance policies, insurance policies pass it on to businesses, and businesses now pass it on to employees. And those two factors, controlling the cost of drugs and insuring the uninsured, would literally be taking the steam out of the pipe as it relates to health care inflation. If we do that, we will see immediately the health care tax alleviation for our middle-class and working-class families all across the country.

I applaud the bipartisanship and look forward to working with the gentleman on this. Hopefully, we will get an opportunity to offer an amendment to the prescription drug bill when it is down here on the floor, because it is going to be essential in making sure that whatever dollars we spend of the taxpayers, that we stretch those dollars to the greatest possibility. I think the American people, if they knew that we had the opportunity to offer an amendment bringing free market principles, competition to this debate, to make sure that they got a return on their dollar of investment, to make sure that the pharmaceutical companies could not prevent other choices from coming to market, be they from overseas or in the generic area, they would applaud our work, Democrats and Republicans and Independents alike; people north, south, east and west would applaud us, because we would be coming around a common set of values that we all can agree on. So there will be places that we disagree, but on these there is bipartisanship. So that would be my hope. I think we will be successful if we can come together in this area, work together, make sure the principles of the free market and our values are reflected in what we pass.

So again, I want to applaud the gentleman for introducing this, bringing this to my attention, although I have talked to many people about it but, most importantly, being open to working together across party lines so we can represent the people we came here to, not only vote on their behalf, but to give voice to their values.

Mr. GUTKNECHT. Mr. Speaker, just one last comment, and I thank the gentleman for this Special Order tonight. As we mentioned earlier, this is not a matter of right versus left, this is right versus wrong. It is simply wrong to make American consumers pay the world's highest prices for drugs which largely the American taxpayers helped develop in the first place.

The gentleman mentioned one other thing, and I think it is a very serious concern. Some people are saying, well, through these plans in Medicare, we will squeeze down the prices, but if we do not do something to bring market forces to bear on the overall cost of prescription drugs, what may well happen is the price for these prescription drugs will go up even more for those 41 million Americans that are currently uninsured. They are the ones who have to pay cash, they are the ones whose kids get sick with tonsillitis or ear infections or conjunctivitis, and they need those prescriptions as well.

So this is not just about helping to keep down the price of prescription drugs for seniors; it is for all consumers and particularly for those uninsured or partially insured Americans who pay the world's highest prices. Hopefully, on a bipartisan basis, we will ultimately begin to get at those issues, whether it is the whole issue of importation of prescription drugs or bringing the generics to market faster so that Americans have those drugs at affordable prices.

But again, this is not a partisan issue as far as I am concerned. I look forward to working with the gentleman and other Members on the other side of the aisle because ultimately we owe it to every American to make certain that we get fair prices for the drugs that they desperately need.

Mr. Speaker, I thank the gentleman from Illinois (Mr. EMANUEL) for this Special Order.

THE ILL EFFECTS OF ASBESTOS LAWSUITS ON OUR ECONOMY

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under the Speaker's announced policy of January 7, 2003, the gentleman from Illinois (Mr. KIRK) is recognized for 60 minutes as the designee of the majority leader.

Mr. KIRK. Mr. Speaker, across our country, the state of our economy is the number one issue on people's minds. America's economy is reeling from a 3-year-old recession and the shock of September 11 and war jitters from Iraq. This Congress has acted to restore our homeland and national security. We have passed corporate reforms to stop the dot-com abuses that sparked our recession. Our Armed Forces have won a great battle in Iraq. But now, the latest news from our markets is somewhat encouraging. We bottomed out in the Dow Jones industrials at under 7,500, and we are now back over 9,000. But still, the economy is sluggish. Why? Are there other issues weighing against new savings and investments?

There are. There is one key issue that is casting a very dark cloud on America's economy, on our employment and, especially, our retirement savings. What is that issue? Lawsuits. Lawsuits. But not just any lawsuit. These are asbestos lawsuits.

Tonight, over 900 stocks that form the heart of our retirement IRAs are depressed because of asbestos litigation. We have already bankrupted manufacturers of asbestos long ago. People poisoned by these companies collect only 5 cents on the dollar from the empty shelf of what once were large employers.

In 1983, only 300 companies faced asbestos lawsuits from about 20,000 plaintiffs. Despite asbestos largely leaving our economy, we now see 750,000 plaintiffs suing over 8,000 employers. Sixty major employers have already closed their doors, and a third of those employers gave pink slips to their workers in just the last 2 years. With 8,000 plaintiffs crowding into our courts, no one gets justice. People who are truly sick die waiting for their day in court and the health care that they need. Others who file a case wait in line, hoping to win the asbestos lottery for them and their personal injury lawyers.

Our system of bankrupting employers and depressing the IRA savings of America could make some sense if those who are sick are compensated, but the data shows different. From 1980 to 2002, employers and insurers paid $70 billion in claims. Plaintiffs received only $28 billion out of the $70 billion paid. So where did the other $42 billion go? As the chart next to me shows, it went to personal injury lawyers and court costs. Not a penny of those funds went for hospital costs or to pay surviving relatives. Sixty percent of funds under the current system go to lawyers and court costs.

Clearly, American justice can do better. We say, "Justice delayed is justice denied." But justice is delayed here. We say, "We built a system to make the injured whole," but the injured are not made whole here. Supreme Court Justices have decried our wayward system of asbestos justice. Justice Ruth Bader Ginsberg called on Congress to act. Justice David Souter said the system was an "elephantine mass" which defies customary judicial administration, and calls for national legislation.

What happens if we do nothing? What happens if we leave well enough alone? According to the National Economic Research Associates and the Rand Institute, asbestos litigation costs 60,000 Americans their livelihoods. Without reform, Rand estimates 423,000 Americans will lose their jobs because of the expanding cloud of asbestos litigation. Never in the history of our economy have so many lost their incomes to so few who received so little for the benefit.

Asbestos litigation reform may be the most important remaining economic reform legislation for this Congress to pass. Reform means saving half a million American jobs. Reform means lifting the value of millions of IRAs. Reform means paying victims and their families with the lion's share of awards, not personal injury lawyers.

And reform is needed now. Congress has several proposals before it.

Earlier this year, I introduced H.R. 1114, the Asbestos Compensation Act of 2003, with 40 cosponsors, the largest number of asbestos reform cosponsors for any legislation in this Congress. My colleague, the gentleman from Utah (Mr. CANNON), introduced H.R. 1285, the Asbestos Compensation Fair Act. Our Democratic colleague, the gentleman from California (Mr. DOOLEY), introduced H.R. 1737. And in the Senate, Senator NICKLES introduced S. 413. All eyes in Washington on this issue have now focused on Senator HATCH's bill, S. 1125, the Fairness in Asbestos Injury Resolution Act, or FAIR Act. It is scheduled for a markup in the Senate in 48 hours.

This is the most important economic legislation for this Congress. And what do all of these bills do? They are based around core principles of American justice. One: that we seek to compensate the injured; two, that we bring about a rapid resolution of disputes; three, that decisions become final; and, four, that we administer justice uniformly. Our current system fails to meet any of these time-honored values.

The legislation Congress is considering would remove the myriad of cases from various courts in States to a new Federal court or office that would develop an expertise and uniform administration of 8,000 lawsuits. Why do this? Let me give some examples.

Robert York received an asbestos award from his State court. He was asymptomatic with lung scarring, and he got $1,200. He had to pay $600 of it to his lawyer. Bill Sullivan was exposed to asbestos, with no symptoms, still got $350,000. Keith Ronnfeldt was exposed to asbestos and he got just $2,500, but, of course, had to pay $1,200 to his lawyer. Mrs. Keith Ronnfeldt was exposed, but she got just $750 and, of course, had to pay $375 to her lawyer. Ron Huber got asbestos-related illness and received an award of $14,000, but it is still pending appeal, and Ronald has not been paid. Meanwhile, James Curry, with asbestosis, won an award of $25 million; but once again, under appeal, he has not been paid.

This is not justice. Victims are left to die, and plaintiffs with no symptoms are litigants in a system that only the lawyers win.

We stand for a different principle. The major themes of reforms are to form a new Federal office or court to swiftly and surely compensate victims. But who pays?

Under our reforms, current defendants, employers, and insurers pay, with some leeway for other defendants to be added. Without reform, Rand estimates, plaintiffs, uninsured and insured alike, will be awarded $200 billion, bankrupting dozens of employers and throwing 400,000 Americans out of work.

But remember, most award money goes to lawyers and court costs, not to plaintiffs. That means without reforms, $200 billion will be awarded, but only $80 billion will go to victims and uninsured plaintiffs.

We argue for a better system. Rather than have only $80 billion paid to victims, we, for example, under Senator HATCH's reforms, would pay over $100 billion, 20 percent more, to the victims. Who loses? Under our reforms, only the lawyers would lose, but the victims would win; and so would the American economy.

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So would the American economy.

Without so many asbestos lawsuits filed by thousands on the chance of victory, we would remove a cloud of litigation from our economy's future. We would also follow another key principle, those injured should be the ones compensated best and first.

Under the current system, plaintiffs with the fastest lawyer, suing the richest defendant, wins. The sickest plaintiff, suing a poor or bankrupt defendant, loses. That is wrong. Our reforms care for the sickest most, regardless of financial capacity of the defendant.

Mr. Speaker, the Chicago Tribune identified these issues clearly in a masthead editorial printed yesterday. They correctly pointed out that the proposed privately funded $100 billion trust fund will be more than adequate to meet the needs of victims who currently only look like they will get $80 billion under the current misguided system.

Mr. Speaker, if one's 401(k) looks like mine, it is really probably just a 201(k). This issue depresses the market and, therefore, the retirement savings for millions of Americans. I ask everyone to contact their representative or Senator and urge them, for the sake of their retirement savings, to pass asbestos liability reform. If we are to return to $10,000 on the Dow or even better, this reform must pass.

In the next 48 hours, the Senate is scheduled to act and the House must soon follow. There is no economic issue more important, and therefore, this must move to the top of the to-do list for the United States Congress.

WOMEN'S ISSUES

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentleman from North Carolina (Mr. BALLANCE) is recognized for 5 minutes.

Mr. BALLANCE. Mr. Speaker, we have had wonderful debate in these halls, both this evening and during the week, on issues of great significance to the people of this country. I am here today to speak to the determination and grace of women in transcending the hurdles they face on a daily basis as they lead others along the paths they have carved out for future generations.

While it is true, Mr. Speaker, that we stand here tonight highlighting the many obstacles faced by women on a daily basis, I would like to take these next few minutes to focus on the strength and dedication exemplified by so many women in my rural district in eastern North Carolina, the First Congressional District.

The First District transcends hurdles and lead others along the paths they carved out, these women, for our future generation. The women of eastern North Carolina are many things. They are mothers and wives and sisters and daughters. They are doctors and lawyers, teachers, cooks, business owners and preachers. Most of all, these women are leaders.

Tonight, I am proud to share with my colleagues stories of women who lead with distinction every day in areas of education, the political arena, housing, and economic development among others.

I can think of no better example to begin with regarding the success for women in leadership than my predecessor in these halls, the honorable Eva Clayton, the first woman to be elected from North Carolina and one of only three to ever join the North Carolina congressional delegation.

For 10 years, the First Congressional District made history with the gentlewoman from North Carolina (Mrs. Clayton) at the helm, leading the way on so many issues, among them minority farming, agriculture, housing, education and community and economic development, and her passion, hunger.

Congresswoman Clayton carved out a path upon which I am proud to follow.

Women in eastern North Carolina are leading the way in areas of housing, but while the ownership rates are increasing, women still lag considerably behind the general population in homeownership.

One woman in Wilson, North Carolina, is helping entire communities realize the dream of homeownership. Her name is Fannie Corbett. She served for more than 31 years with the Wilson Community Improvement Association, being a founding member in 1968. Ms. Corbett and her colleagues have spent the last 3 decades moving from improving existing housing to initiating the building of more than 200 houses for families in the Wilson community, including playgrounds, arts, crafts, computer classes, Bible studies and exercise programs.

Women around the country are building quality, affordable housing as they try to help their neighbors, friends and themselves improve their lives. For 31 years, Ms. Corbett, who will retire at the end of this month, led the way.

Helping ensure the children of North Carolina receive quality education they deserve is Dr. Shirley Carraway, from Kinston, North Carolina. A lifelong education professional, Dr. Carraway served for many years in the Pitt County school system, one of the largest systems in my district.

As assistant school superintendent for Pitt County, Dr. Carraway's dedication to educating the young minds of our district saw her recently voted as head school superintendent for another North Carolina county.

On a national level, women lag behind men in earning doctoral professional degrees and are underrepresented in math and science. Dr. Carraway is leading the way to break down these barriers and open the doors of education for all children.

North Carolina ranks number 31 in the Nation for women in managerial and professional occupations and 32 in women-owned businesses.

HISTORY OF WOMEN'S RIGHTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 60 minutes.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

Ms. NORTON. Mr. Speaker, if the gentleman will remain at the lectern, I am pleased to yield to the gentleman.

Mr. BALLANCE. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, all of these women share one great quality, whether they are helping educate our youth, building houses for our families, creating jobs for our workers, or representing the people in the public arena. They all lead. These women are but a few women leaders from the congressional district that I represent.

I want to close by saying that there are so many other women that I could call on and mention in my remarks, but I know my time is short.

I do want to mention Joyce Dickens, president and CEO of the Rocky Mountain Edgecombe Community Development Commission and Andrea Harris, of Vance County, president of the Institute for Minority Economic Development. These and so many other women are blazing trails all over North Carolina and showing that women are great leaders, not only in North Carolina, but more particularly, in the First Congressional District.

Ms. NORTON. Mr. Speaker, I thank the gentleman for his remarks, and I know that the women of his district very much appreciate the kind of attention he is paying to their accomplishments, in particular, and I know that his predecessor would have taken great joy in his remarks. Nobody could be more deserving of his remarks than Eva Clayton, and I thank him for taking the time to come to this floor during this special order when we are, in fact, looking closely at women's issues and women's rights.

First, in recognition of a former trailblazer and Representative Martha Griffiths. Martha Griffiths served in this House at a time when very few women darkened the doors of the House of Representatives, and she died April 22 at 91. Issues that we take for granted today were put on the map by Martha Griffiths so that as we celebrate her life and think of her passing, it seemed to me altogether fitting that we remember that much that women are grateful for today began with and owe to the extraordinary work of Representative Martha Griffiths of the State of Michigan, for it was Martha Griffiths who led the fight to add sex to Title VII of the 1964 Civil Rights Act, and of course, for me, that one gets to be personal since it became my great honor during the Carter years to chair the Equal Employment Opportunity Commission.

The notion that in the beginning sex was not even included as a form of discrimination can perhaps give us some appreciation for what it meant to have one good woman in the House of Representatives, along with a few others, and many men who supported her.

Of course, the 1964 Civil Rights Act that Martha Griffiths championed had a great deal more than Title VII in it. We remember Title VII because it is Title VII that bars discrimination in employment, and that has brought so many women equality in search for work and in the workplace, but the Civil Rights Act of 1964 barred discrimination based on sex also in public education, and I will have something to say about that in a moment because it relates to Title IX in public accommodations, in federally-assisted programs, and every day and every minute, women benefit from all of these sections of the Civil Rights Act of 1964 which is remembered principally because it was African Americans marching in the streets to finally get enforcement of the 14th amendment that led the way to the 1964 Civil Rights Act, but race was not the only status protected in the 1964 Act.

Religion, national origin also have been, in our country, subjects of great discrimination, and they also are protected in the 1964 Civil Rights Act. I say protected but it is important to understand that everybody's protected. We cannot discriminate against a white man because he is a white man, and we cannot discriminate against a black woman because she is a black woman. These particular groups had, in fact, borne the brunt of discrimination but the Civil Rights Act of 1964 protects each and every American.

☐ 1945

We owe the work that got us there to Martha Griffiths.

Martha Griffiths also championed the Equal Pay Act and was one of the principal leaders that gave us the great Equal Pay Act that simply means if a man and a woman are sitting in the same workplace, you cannot pay one less than the other because of their gender. But perhaps Martha Griffiths is remembered most for having single-handedly revived the Equal Rights Amendment, which was only three States short of becoming an amendment to the Constitution of the United States.

A word on who this great woman was. She was the daughter of a mailman, born in Michigan, attended its public schools, and went to the University of Michigan Law School and graduated in 1940. You can imagine a woman graduating from law school in 1940. The very fact that she went to law school says something about her determination and her character, because we are talking about a time when women in law school were as scarce as hens teeth. Undaunted, she practiced law with a very famous governor, G. Mennen Williams, "Soapy" Williams, a Governor of Michigan, along with her husband.

She served in the Michigan House of Representatives from 1948 to 1952. She was elected as a judge. And she served 10 terms right here in the House of Representatives. She was the first woman ever to serve on the Committee on Ways and Means. She left the House to become Lieutenant Governor of the State of Michigan.

Here is a woman whose distinguished career just by virtue of the titles she has held would win her places in the history books, but Martha Griffiths was not looking for a place there because of titles.

I do want to tell the story of the addition of sex to title 7 of the 1964 Civil Rights Act. Representative Smith, Congressman from the Deep South, introduced it with such levity that he brought the House down. In introducing the notion of adding sex to the 1964 Civil Rights Act, he said he had received a letter from a woman who complained that the 1960 census had reported, now here I am quoting him, "2,661,000 extra females and asking that he introduce legislation to remedy the shortage of men for women to marry."

Well, I mean, apparently, this House lit up so that they had to call for order, the laughter reverberated such throughout the House. And what did Mr. Smith say? And I quote him again:

"I read the letter just to illustrate that women have some real grievances."

That is the atmosphere in which Representative Martha Griffiths had to somehow rally herself to respond. She rose in this House and pointed out that the laughter of the men of the House, or at least some of them, at the introduction of the amendment only underscored women's second class citizenship. A woman who thought well on her feet. Every woman in the House, except one, supported the amendment.

And, by the way, that was in defiance of the party discipline. The Democrats at that time did not favor, not until final passage, the addition of sex because women were protected by protective legislation in factories so they could take some time out to sit down and to have rest periods, to have breaks, for example, that men did not have. And they did not want to give that up, most of them under union contracts that had been won. But, hey, you cannot want equality and then want breaks. And, ultimately, the breaks went and the equality has come more and more ever since.

The passage in the House of title 7 of the 1964 Civil Rights Act came after the passage of the Equal Pay Act. I must say that the early 1960s were a very good time for women, and it was Congresswoman Griffiths who led the fight in this House for passage of the Equal Pay Act.

We are now at the 40th anniversary of the Equal Pay Act; and it seems to me we ought to celebrate how far we have come, since you could with impunity sit in the same factory, in the same office, in the same law firm and have nothing to say if a man was paid more than you, as a woman, was paid. However, the gentlewoman from Connecticut (Ms. DELAURO) and a number of other women and men in the House have introduced a very modest bill that would update the Equal Pay Act. It is called the Paycheck Fairness Act, and I hope every Member will go on the Paycheck Fairness Act, particularly during this 40th year of the passage of the act.

There are some updates that need to happen. For example, sex, but not national origin or race, are included in the Equal Pay Act. Fortunately, title 7 does allow a person to pursue unequal pay under title 7, if not the Equal Pay Act. A person can be punished by firing for telling what her salary is. That kind of sanction needs to be barred.

These are quite modest additions, and I would hope that this year the House would regard them as such and would pass the Paycheck Fairness Act. I had a more extensive bill, called the Fair Pay Act, Senator TOM HARKIN has introduced it in the Senate, that would update title 7 of the 1964 Civil Rights Act so that jobs with the same skill, effort and responsibility, but not comparable, could be the subject of a title 7 claim if one could show that men and women were paid differently.

Now, the reason for this is perfectly apparent. If you are a probation officer and your wife is a social worker, guess who gets paid more? The probation officer. The point here is that we ought to look to see not whether it is the same job, but whether the content, the basic content of those jobs is equal; and that is what my bill would do. It would bring the Equal Pay Act into the 21st century.

The pay problems of most women today really do not come from sitting next to somebody who is a male who earns more than you do. It comes from sex segregation in jobs that women do. Two-thirds of white women and three-quarters of black women work in just three areas: clerical, sales, and factory jobs. And many of those jobs are molded to gender rather than to the job to be performed. My bill would say you have to look at the job to see if it is comparable to the job of a male. And if it is, in skill, effort, and responsibility, then it has to be paid comparably.

Without this kind of change, we are seeing the great so-called women's professions abandoned: teaching, nursing. Where are they going? They have gone where the pay is. And the pay is not in those jobs, because very often a teacher or nurse will find a man who has nowhere near the same skills making more money. So what happens then, of course, is people leave the profession. And we are in very deep trouble when those professions are abandoned. We had to pass a special bill last year to try to encourage more women to go into nursing.

Look at what has happened to the teaching profession. Even people who go into teaching often leave the profession. The same happens to nursing. Why do men not come into teaching and nursing? Because, of course, the pay is not what they expect. The way to do this is to look closely at these jobs to make sure that inequality is not occurring or say good-bye to men or women who will enter these jobs.

By the way, what I am talking about is not as radical at it may seem. Twenty States have adjusted wages for women, raising the pay for teachers, nurses, clerical workers, librarians, and other female-dominated jobs that paid less simply by doing their own studies of the skill, effort and responsibility. If State governments can do this, I cannot be talking about something that is far out. What is far out is imagining an America where social work, teaching, and nursing are systematically abandoned. And that is what is happening today almost entirely because of pay.

The pay problem is structural. It is chronic. Look at what women have done. Women were told, look, go to school, get as much education as men, and that will take care of it. Well, girls are nothing but good little girls, and I will be darned if they did not go out and do just that. Women now earn 55 percent of college degrees. Men get something like 45 percent. They achieve 65 percent of the 3.5 GPAs.

Now, I do not relish this kind of inequality. I think the reason, very frankly, are the boys are out playing sports and girls are hitting the books. I do not like that a lot, but it certainly has not shown up in the paycheck. Doing so well in school, getting all of this advanced training simply has not paid off. That is why you hear women talking about equal pay. It still has not been achieved even under the Equal Pay Act.

An example in the private sector that was recently brought to my attention is one of a brand name famous retail outlet in our country, Wal-Mart, where women there make an average of $1.16 per hour less than men.

We still need equal pay. We need to update the Equal Pay Act. We need to face the fact that when you have had this kind of inequality for the millennia, since human time, it takes enforcement of the law and it takes updating of the law.

This has become one of the great issues of the American family. The interesting thing about polling, is if you poll Americans, what are your top issues, equal pay keeps coming up near the top. You say how come if we are polling men and women, equal pay keeps landing up there in the stratosphere? I think I know why. In two-parent homes, almost always now, even in families that have very young children, both people go out to work. The male member of the household and the female member of the household are not unlikely to have been together in college, for example, or in high school. Suppose they went to the same junior college and graduated, both having done reasonably well. They hit the workplace and he instantly made more money than she does. And she is a drag on the family income. How come? They both went to college; they did well, yet she does not earn anywhere near as much money as he does.

That is why it has become a family issue. That is why equal pay keeps registering when we give the American people a list of 10 issues and ask them to write the ones that mean something to them. Equal pay keeps hitting much higher, very high often within the first three of that family's sight. We better listen to them.

In this Special Order, where we are focusing on women, I do not want to leave the impression that women are looking only to so-called women's issues. I have just said that equal pay has become a major family issue in our country, as both parents go out to work, as the number of female heads of households grows astronomically. I want to look for a moment at the tax cut and what it does for women or does not do for women.

□ 2000

I think we need to lay this out as people decide what does this do for us. We hear about things like the tax cut in such gross terms that even if you are a tax lawyer, it is difficult to figure out what it means. For women, reduction of taxes on dividends, we are told that will help seniors because they are investments, reduce the dividends, greater return for them. Let me see, less than one-quarter of older Americans live in a family that receives any dividend income. Now, who knows what that dividend income is. But less than a quarter receive any dividend income.

That is of all older Americans. Only one-fifth of older women live in a family that receives any dividend income, and that is 20 percent. If we are looking at women of color who receive stock dividends, we are looking at 6 percent of black and Hispanic elderly living in families that receive dividend income. So much for women and the tax cut.

When we look at where at least some of the funds in the tax cut might have gone to benefit women, we probably should start with the uninsured, because uninsured women are far more likely to postpone everything. They postpone the care they need today, they skip all of the services like mammograms, they only go to doctors when they have advanced disease. Latina and African American women are 2 to 3 times more likely to be uninsured than white women, but if we had used the tax cut package, we could have insured 33 million of uninsured Americans with incomes below 300 percent of the Federal poverty level. Most of those people are women, often women with children.

If we look at the tax cut in terms of Social Security, and that is often the way the tax cut is positioned, think about women. It is women who have not been in the workforce who go in late so they do not have the pensions and the savings and the investments. They rely more on Social Security, far more than men do. Over 80 percent of unmarried elderly African American and Hispanic women get half their income from Social Security. So if you took the 75-year cost of the tax cut, we could erase the entire 75 year shortfall in Social Security three times over and secure Social Security for the baby boom generation and future generations. We are going to be judged where our values were, and I always thought they were with Social Security, and I do not believe that is true anymore, at least with many in this House.

Another important issue with women has been domestic violence. I remember how we fought in this House and achieved a very important bipartisan consensus on domestic violence. We have a million and a half women assaulted by some partner each year. They have to go to shelters. They need residential shelters, services for their children, but we are able to handle only 1 of 5 women who needs somebody to take them in from an abusive partner. With just $6 billion or 15 percent of the tax cut, we would have had shelter and transitional services for these women and their children. I do not know how Members can continue to talk about women and children and then wipe away all of the funds that they need to do what it is that we are talking about.

The Congressional Black Caucus today just had a very informative internal hearing on Head Start. I was very pleased to participate in that hearing because of the witnesses that came forward, one of them from a center in the District of Columbia where children emerge, and it is a bilingual center, the Beaumont Center, where children emerge literally bilingual. I asked the question and was assured that these children speaking only Spanish or Vietnamese or some other language emerge at kindergarten able to speak English, and that is what concerns me most, because that is when the brain is most pliable and people can earn language most easily. At that age, a child can learn more than one language, so these children do emerge bilingual. Head Start, I cannot say enough about it, but we are very concerned that it will be block granted and disposed of, because we know what happens to block grants: States steal from the block grants, often for people far better off than the block granted people. For the amount of tax cut, we could get to where everyone wants to get in providing Head Start for every eligible child.

Women continue to be the major guardians of our children, so when, in fact, we make the kinds of decisions we have been making on Head Start, we are taking money right out of the hands of children and not just their mothers.

I want to move on to title 9. Sometimes we forget since we talk about title 9 often in terms of sports, sometimes we forget title 9 covers all of education, and what it has wrought in approaching education equality is nothing short of historic.

In the year that the bill was signed, that was 1972, women earned only 7 percent of all law degrees. By that time I was out of law school. I graduated in 1964, and women were still earning only 7 percent. That is called tokenism. That is not representation in the profession. I have to tell if somebody went to law school and took the bar, it is not a profession that one would expect women not to enter.

That was in 1972, 7 percent. Fast forward to 1997, no longer 7 percent, 44 percent, approaching half. Before I came to Congress, I was a full-time tenured professor of law at Georgetown University Law Center. I joke, although it is not entirely a joke, that I continue to teach one course there a year. The House does allow a Member to teach but not to do virtually anything else outside of the House. I joke that I continue to teach because one thing I want to do is keep my tenure because it was harder to get tenure than it was to get elected, and there is a lot of truth in that.

But the fact is that I look at my classes, and I teach one course every year, and I am astounded. Not only are the classes often evenly divided, sometimes there are more women than men. In my wildest imagination, that is not what I foresaw for my profession, not when I was in law school.

Let us look at medical school. There were always a greater proportion of women in medical school, not a lot, because if we look at 1977, and that is 5 years after title 9, only 9 percent of all medical degrees were awarded to women. By 1997, 41 percent of the people graduating from medical school were women. This is the pattern in higher education for women. Looking at Ph.D.s, 1997, a quarter of the Ph.D.s went to women. Today 41 percent of Ph.D.s go to women.

Where we hear about title 9 most today, where we do not see this kind of progress, although we see considerable progress, is in athletics; and that has become somehow controversial. There are 32,000 women athletes playing intercollegiately in 1972, and 150,000 today. I would have never thought about intercollegiate athletics, not only because I am unathletic, but because it was not a girl thing to do. It is very important that athletics are open to women, not only for its own sake, but also because of what it means for how women can view where they can go in the world in other pursuits as well.

There were virtually no athletic scholarships for women in 1972, and today there are 10,000 scholarships for women athletes. There has been a lot of progress there. One would think that where there was this kind of progress, we would leave it alone. There is a lot of stuff to study in this House and in this country, but the fact is we just finished a very controversial, polarizing study, commission on title 9. I could think of a thousand commissions to set up where we see negative progress. The last thing I would spend any time on is title 9; but why, because some wrestlers said they were losing out to women who were in fact given title 9 funds.

Give us a break. Thanks to women who protested this commission's work, not a lot has happened, but the commission's bias was astounding. Normally these commissions give the appearance of being open. There was one hearing, and not all sides were heard. There was no indication of continued discrimination against women in sports, no talk about how, for example, men's football and basketball really eat up the money from wrestling. It is somehow the fact that a few more women are playing intercollegiate ball that takes from the men.

Mr. Speaker, I want Members to know what happened on June 13. A district court threw out a lawsuit by a coalition of wrestlers who argued that title 9 requires quotas of female athletes that have resulted in discrimination against men.

□ 2015

The judge said nonsense. He said that the wrestlers failed to show that title IX caused their teams to be dropped. Let us look for the causal effect here. If they do not have a wrestling team now, what is the reason? And this judge found, hey, you cannot even show that if title IX had not been there at all, they would not have dropped the wrestling team. Why in the world do we not ask schools, is it really necessary to pump such large amounts of money into basketball and football? I will grant you that there is reason to put a lot of money there, but if you have got some wealth to share, do not take it from the wrestlers who then blame it on the women. Take a little bit from basketball and football. I do not think either of those sports, given the rah-rah spirit they have and the alumni they draw, are going to suffer from it.

The commission was certainly a very bad idea. There was a minority report by two commissioners who refused to sign the commission's report because of its detrimental possible effects on women. Then Secretary Paige said, fine, we have a unanimous report now. I mean, wait a minute. This is America. We do not do things that way. We acknowledge that there are differences, the majority rules; but we do not say, okay, we have a unanimous report and those people who did not sign simply are not counted at all.

Scandalously, some of the recommendations here hark back to the old days of discrimination. For example, the notion of the use of an interest survey to determine the level of interest women and men have in various sports. What? That builds discrimination on top of discrimination. The reason that girls like me did not have an interest in sports is we were literally taught that a smart girl did not do sports. Now of course that you do not have an interest in sports is why you should not have sports. That is like in the days before title VII saying, let us ask the clients in this law firm whether they would in fact continue to do business with us if we had a black lawyer as a partner. That is exactly what that is like. Or a retail outlet saying, let us not hire this Hispanic person because we do not think people would like to be served by a Hispanic person in this store. I thought we called that discrimination. We do not ask people whether or not they should be given equal treatment in the provision of athletics based on whether they are interested or not. We say, look, if you are not interested, you do not have to do it; but we are not to condition your ability to participate in athletics on a survey as to how many of your gender are interested. That simply compounds the discrimination we are trying to escape. Profit from our own exclusion.

Since title VII, the opportunities for both men and women have increased, but the number of opportunities for women athletes, and, remember, there are more women than men in college, the number of opportunities for women athletes has yet to reach what it was for men before 1972. We need a commission all right. We need a commission to help us get to equal opportunity in athletics quicker than we have done. We need to pat ourselves on the back for how far we have gone and then move further.

I want to say a word about choice. When President Clinton was in the White House, I remember press conferences where women came forward to make the American people understand the notion of late-term abortions. Women came forward and spoke, gave testimony, some of the most moving testimony I have heard, about how their lives or their fertility had been saved by a late-term abortion.

We are going to have next week, or I am certain before recess we will have another spectacle. President Bush is going to invite anti-choice zealots into the White House to sign a bill taking away a woman's right to end a pregnancy not in the last weeks of pregnancy, but from 13 weeks on. That is how that bill reads. That is how a, almost exactly worded bill or worded in almost the same way was read by the Supreme Court. I am hoping that the Supreme Court will save us. Based on my own reading of the prior opinions of the Court, I believe they will; but it is a human tragedy that we have not been able to reach a compromise and that we now have a bill that would disallow the ending of pregnancies in the very last month or so.

The third trimester is already covered by Roe v. Wade, but because the procedure described in the bill is also used in the second trimester, I am certain it is unconstitutional, although nobody can presage what the Court will do. But I do know this, that no one is thinking about the health exception that Roe v. Wade has in it. That is the kind of response to women's reproductive needs we are seeing in this administration. Tragically, we see that we are trying to carry these notions abroad where they are not wanted and where people have their own set of values. Why in the world were we at a U.N. population conference objecting to the very phrase "reproductive rights"? What? Wanting it stricken. Why did we object to the words "reproductive health services"? Representatives of the administration, of the State Department among U.S. delegates? Do reproductive rights necessarily mean abortion? Not the last time I heard. It is a very broad phrase. But the whole notion of trying to rewrite not only the English language here but rewrite the language for the world does seem to me to go beyond our writ and our right.

There are some women in here who are trying to restore the funds that we have now cut off from the United Nations population fund, funds that, of course, were meant only for birth control and contraception; and we have ourselves indicated that those funds will not be available to organizations which do not forswear using other funds for abortion. What this will result in in maternal deaths and the deaths of children will be on us.

Finally, let me say a word about poor women. We passed a TANF bill here. It has not been passed in the Senate yet. I can only hope that it will be thoroughly revised. Every State and the District of Columbia allows some of the time that a woman on TANF, some of the time for work to be spent in some form of postsecondary education. This is seen as an allowable work-related activity. In this House, however, no State would be allowed this flexibility so that a woman, for example, could work part-time and go to college part-time. Why not? Do you want women to get off of TANF and be on minimum-wage jobs for the rest of their natural lives? We want to make sure she is going to school, that she is pursuing a degree or some form of higher education. But why is that not exactly what we should be encouraging? It is almost impossible for poor women under the TANF bill we passed to have enough time available beyond weekly work-related requirements to do anything else, because we have increased the work-hour requirements to 40 per week and then limited what counts as work. What we were trying to do, I thought, was to make people less poor, not simply get them off TANF.

The final straw here was what we did just last week, in essentially killing the child care credit for poor women, poor families. Those are families that earn between $10,000 and $26,000 a year, including military families. By adding on the cost of child care for so many higher-income families, essentially we stabbed the bill in the back, knowing full well that the Senate required that the poor families be paid for and that if you add families of over $200,000, for example, I would love to see it, I would love to have universal child care, we do not have it, but knowing that if you added them, that would kill the bill, that is what this House did.

By the way, the House did not try to hide it. I will not call the House dishonest on this one. Member after Member was clear, said it to the press, said it on the floor, these people do not pay Federal income taxes; therefore, they should get no tax relief. The last time I heard, they were paying a greater share of their income in payroll taxes than most of us pay in income taxes. For the life of me, I do not understand why a child care credit, because that is all this is, it is a child care credit, it is for the child, would not be precisely what we want these families to have.

I give my friend TOM DELAY, and he is a friend, he and I wrote a bill together for family court in the District of Columbia, TOM never does hide where he stands. He said, "It ain't going to happen. There are a lot of things more important than that." That is a quote. You know what, he was right. It is not going to happen. The child tax credit is probably dead, killed in this House after the Senate tried to revive it.

Mr. Speaker, what I have tried to do in memory of Representative Martha Griffiths was simply to call the roll on some of the women's rights issues of special currency today. See, that is where Martha Griffiths would be. She would not be talking about the great feats of yesterday. She would be moving on. I wanted us to remember where these rights came from and that they came in a House where there were but a shallow number of women and a few good men, enough to pass the bill, indeed, without whom no bill could have been passed, who were determined that equality would apply to their wives, to their daughters, to their aunts, and to their mothers.

□ 2030

It is important that we know where this came from because it did not come from a House where, what do we have today, 63 women and a lot of men, Democrat and Republican, who respect and vote for women's rights and vote on women's issues as one might expect any civilized, advanced Nation to do. We have got a lot of that today. But in order to place the true value on where we have come in 40 years, it did seem to me one way to do this was to recognize the life of Representative Martha Griffiths, who had to stay on this floor and remind people that their laughter at the addition or the proposal to add sex to title VII of the 1964 Civil Rights Act simply underlined the second class status of women when women are not first class citizens yet, but nobody can doubt that they are on their way to being exactly that.

There are some ways in which we do not have consensus. I have named some of them. I have named more of them on which we do. There is one in which I hope we will gather consensus soon. H. Con. Res. 130, the Equal Access in Membership Resolution is pending in the House, and its operative words say, and I cite this because this ought to be an easy one, and yet it is one that is not done, it says no Member of Congress, justice or judge of the United States or political appointee in the executive branch of the Government, should belong to a club that discriminates on the bases that have been named, and my colleagues know what they are, gender, race, et cetera. Come on, everybody. It even respects the right of free association because it does not say no Member must belong. It says no Member should belong. Can we not get at least that passed in the House?

And, remember, we are talking about a Member of Congress, a justice or a judge of the United States or political appointee of the United States of America, that if on is one of those, one is to forego belonging to a club that does not allow Jews and blacks and women in, Hispanics in. Is that too much to ask this late in the day? Hey, look, one can. All this resolution says is the House says one should not. It is because one gives the appearance of not being a fair person.

I hope that we will pass this resolution, this one we might have expected to pass during the height of the civil rights movement. We are all officials. It seems to me we want to give the appearance of fairness, and one way to do it is in the way we live our lives.

I hope that if I have done nothing else, I have pointed out not only our progress but our problems that we have both and that together we have come a very long way, and together we can get the rest of the way.

Mr. LEVIN. Mr. Speaker, I ask my colleagues to join my salute to a remarkable woman and former Member of the U.S. House of Representatives, Martha W. Griffiths.

As a pioneering political activist woman, her life was a string of firsts. In 1953 she was appointed as the first female Detroit Recorder's Court judge; the following year, she was the first Democratic woman elected to Congress from Michigan; she was the first woman to serve on the Ways and Means Committee; she was the first woman lieutenant governor of Michigan.

Martha Griffiths passed away at the age of 91, just this past April and remains a legend in Michigan and National politics. She's been called a "legendary feminist" and "one of the most effective women's rights lawmakers of her time." Her reputation was well-earned. She was effective because she was as tough as any of her formidable opponents and she had a sharp intellect. At home she campaigned block-by-block, taking a small group of women to visit other women at home during the day to discuss political issues. She was just as methodical, strategic and persistent in Washington. Her work was richly rewarded with the inclusion of gender discrimination in the Civil Rights Act of 1964 and by the passage of the Equal Rights Amendment in 1972. These efforts were watersheds in the progress of women's rights in America. From them, a multitude of Supreme Court decisions and Federal Laws have flowed in support of women.

Martha's progressive politics encompassed much more than women's rights, however. She was concerned about the welfare of all Americans. In the 1970's, she recognized the need for reforming our health system to provide universal health coverage and became an original co-sponsor of the landmark Kennedy-Griffiths Bill; she worked on regulating pension funds, closing tax loopholes and conducted a massive study of welfare, resulting in major overhauls to the system.

Martha Griffiths was, at once, ahead of her time and just right for her time. Her contributions to the evolution of human rights and dignity in this nation will be always remembered.

Mr. STUPAK. Mr. Speaker and Congresswoman NORTON, thank you for the opportunity to support women's issues and to acknowledge the contributions of former Michigan Congresswoman Martha Griffiths to the cause of equal rights for women.

As the U.S. Representative from Michigan's 1st District, I am particularly proud of the example set by this dynamic, fiery woman, who was elected to the U.S. House in 1954 and served here for twenty years, including a term as the first woman on the House Ways and Means Committee.

Before her service in the U.S. House, Martha Griffiths served from 1949 to 1952 in the Michigan House, followed by two years as the first woman Detroit Recorder's Court judge.

Martha Griffiths was still in Congress when I began my career in public service as a police officer in Escanaba, Michigan in 1972. By the time she re-entered public life as Michigan's first elected female Lieutenant Governor in 1982, I was serving as a Michigan State Trooper.

In all that time, and later when I was elected to the Michigan State House of Representatives, I had Martha Griffith's example to follow.

While she was one of America's greatest women leaders, she was also at the top of the list of consummate politicians and public servants of either gender.

In her work reinvigorating the fight to pass the Equal Rights amendment and in adding language banning sex discrimination in the 1964 Civil Rights Act, Martha Griffiths set the stage for later generations of women in politics.

My own wife Laurie, who is the elected mayor of our hometown of Menominee, is one of the thousands of women who benefited from Martha Griffiths' trailblazing work in politics and public life.

Martha Griffiths added influential roles in business to her resume after she retired from the U.S. House, serving on five major corporate boards, including two—Chrysler Corporation and Consumers Power Company—which had up to that time been all male.

A Detroit Free Press editorial on the occasion of Martha's death April 24 of this year summed it up beautifully.

The Free Press said, "Her very presence wielded power, especially when accompanied by her famously sharp tongue. Of course, her unabashed willingness to go toe-to-toe with the good old boys drew some detractors. An old man once wrote to Griffiths telling her to leave the political stage. 'All you've ever done is succeed in making women more insolent,' he wrote."

What this aging gentleman referred to as insolence we now applaud as assertiveness in such political leaders as Representative NANCY PELOSI, Michigan Governor Jennifer Granholm and the many women in state and local elected office like my partner in life Laurie. The thousands upon thousands of women who have climbed higher in business, community service and government in recent decades are also beneficiaries of Martha's efforts.

I do not have daughters.

But should I be lucky enough to have a daughter-in-law or granddaughters, I will be more than proud if they emulate even some of the self confidence, intelligence, perseverance and fierce effort that Martha Griffiths brought to all her causes.

We can best honor her legacy by continuing to work for equal pay and equal opportunity in the work force, continued support for widows and heads of households in Social Security and pension benefits, labor rights and a refusal to accept sex discrimination in any form.

I am happy to pledge my efforts to those goals.

Thank you for the opportunity to participate in this celebration of women's issues and Martha Griffiths' contributions to those causes.

Mr. CONYERS. Mr. Speaker, I rise today to commemorate the extraordinary life of former Congresswoman, and my dear friend, Martha Griffiths. Martha was the matriarch of Michigan politics and one of the nation's greatest advocates for women's rights.

She grew up as the daughter of a rural mail carrier in Pierce City, Missouri, where she excelled in the art of debate. Her intelligence and strong spirit carried her all the way from Missouri to the steps of the University of Michigan Law School where she and her husband became the first couple to graduate together in 1940. After graduating from the University of Michigan Law School, she and her husband founded the law firm Griffiths & Griffiths in 1946.

With a top notch law school education and the creation of a successful law firm under her belt, Martha decided to run for a seat in the Michigan State House, and like everything else she did, she succeeded. Martha Griffiths was one of two women who held a seat in the Michigan House from 1949–1952.

In 1954, Martha Griffiths was the first woman elected to serve the great state of Michigan in Congress, where she held the seat for 20 years. While in Congress, she became the first woman to sit on the powerful Ways and Means Committee, she served on the Joint Economic Committee and she was Chairwoman of the House Subcommittee on Fiscal Policy.

During her tenure in Congress, Martha built her career fighting for equal rights for women. She fought to ensure the protections for women in the Civil Rights Act of 1964, which outlaws discrimination in voting, public education, employment, public accommodations, and federally assisted programs. In 1970, she stalked the halls of Congress to obtain 218 signatures needed to file a discharge petition to demand that the Equal Rights Amendment (ERA), which had languished in a House committee for 47 years, be heard by the full Congress. Congress overwhelmingly approved the ERA in 1972. Unfortunately, it was ratified by only 35 states, three short of the number needed to add it to the U.S. Constitution.

She continued spearheading women's rights as Michigan's first female lieutenant governor in 1982. She also served on five corporate boards, two that had been all male and she was the only woman to serve in all three branches of government in Michigan.

In addition to her great accomplishments for women's rights, Martha was also the driving force in helping me obtain my seat on the prestigious House Judiciary Committee. Being an advocate for civil rights herself, she saw the great importance of having an African American on the very Committee that handles many important issues, including civil rights. As a freshman in the House, having Martha Griffiths as a mentor and a friend was invaluable.

Without the leadership, strength and courage of Martha Griffiths, women would not be where they are today and neither would I. Mr. Speaker, I would like to give special thanks to Congresswoman ELEANOR HOLMES NORTON for bringing this tribute to the floor. A tribute to a woman of such stature is long overdue.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON of Indiana (at the request of Ms. PELOSI) for today and the balance of the week on account of personal matters in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. PELOSI, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Mr. PASCRELL, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mrs. JONES of Ohio, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. PENCE) to revise and extend their remarks and include extraneous material:)

Mr. HENSARLING, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, June 19.

Mr. KING of Iowa, for 5 minutes, June 18.

Mr. SMITH of Michigan, for 5 minutes, June 18 and 19.

Mr. PENCE, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, June 24.

Mr. JONES of North Carolina, for 5 minutes, June 19.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. BRADLEY of New Hampshire, for 5 minutes, today.

Mr. BALLANCE, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 246. An act to provide that certain Bureau of Land Management land shall be held in trust for the Pueblo of Santa Clara and the Pueblo of San Ildefonso in the State of New Mexico; to the Committee on Resources;

S. 500. An act to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era; to the Committee on Resources;

S. 520. An act to authorize the secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; to the Committee on Resources;

S. 625. An act to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Oregon, and for other purposes; to the Committee on Resources; and

S. 635. An act to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes; to the Committee on Resources.

ADJOURNMENT

Ms. NORTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 34 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 18, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2701. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable, Department of Agriculture, transmitting the Department's final rule — Raisins Produced From Grapes Grown in California; Modifications to the Raisin Diversion Program [Docket No. FV03-989-1 FIR] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2702. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rock Rapids, IA [Docket No. FAA-2003-14843; Airspace Docket

No. 03-ACE-28] received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2703. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Crete, NE [Docket No. FAA-2003-14927; Airspace Docket No. 03-ACE-33] received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2704. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Saginaw, MI [Docket No. FAA-2002-14180; Airspace Docket No. 02-AGL-17] received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2705. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Berrien Springs, MI [Docket No. FAA-2002-14047; Airspace Docket No. 02-AGL-20] received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2706. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Greenfield, IA [Docket No. FAA-2003-14596; Airspace Docket No. 03-ACE-19] received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A), to the Committee on Transportation and Infrastructure.

2707. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; St. Louis, Mo [Docket No. FAA-2003-14657; Airspace Docket No. 03-ACE-26] received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2708. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Marshall town, IA [Docket No. FAA-2003-14601; Airspace Docket No. 03-ACE-24] received June 9, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2709. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. 2001-NM-173-AD; Amendment 39-13129; AD 2003-08-16] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2710. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. 2001-NM-386-AD; Amendment 39-13113; AD 2003-08-02] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2711. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 2000-NM-343-AD; Amendment 39-13108; AD 2003-07-12] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2712. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Model 1900D Airplanes [Docket No. 2002-CE-26-AD; Amendment 39-13141; AD 2003-09-12] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2713. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric CF34-8C1 Turbofan Engines [Docket No. 2002-NE-23-AD; Amendment 39-13143; AD 2003-09-14] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2714. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The New Piper Aircraft, Inc. Models PA-23, PA-23-160, PA-23-235, PA-23-250, and PA-E23-250 Airplanes [Docket No. 2002-CE-44-AD; Amendment 39-13142; AD 2003-09-13] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2715. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Beech Models C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B Airplanes[Docket No. 93-CE-37-AD; Amendment 39-13147; AD 94-20-04 R2] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2716. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines [Docket No. 2003-NE-15-AD; Amendment 39-13146; AD 2003-10-02] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2717. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model 717-200 Airplanes [Docket No. 2001-NM-245-AD; Amendment 39-13153; AD 2003-10-08] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2718. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model 717-200 Airplanes [Docket No. 2001-NM-309-AD; Amendment 39-13155; AD 2003-10-10] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2719. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Model Beech 400A and 400T Series Airplanes [Docket No. 2001-NM-335-AD; Amendment 39-13158; AD 2003-10-13] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2720. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MORAVAN a.s. Model Z-242L Airplanes [Docket No. 2003-CE-24-AD; Amendment 39-13171; AD 2003-11-12] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2721. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes [Docket No. 2002-NM-10-AD; Amendment 39-13156; AD 2003-10-11] (RIN: 2120-AA64) received June 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2722. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200, -200CB, and -200PF Series Airplanes [Docket No. 2001-NM-329-AD; Amendment 39-13109; AD 2003-07-13] (RIN: 2120-AA64) received June 9, 2003; to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REYNOLDS: Committee on Rules. House Resolution 281. Resolution providing for consideration of the bill (H.R. 8) to make the repeal of the estate tax permanent (Rept. 108–157). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 282. Resolution providing for consideration of the bill (H.R. 1528) to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service (Rept. 108–158). Referred to the House Calendar.

Mr. HYDE: Committee on International Relations. H.R. 2330. A bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; with an amendment (Rept. 108–159 Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 2330. Referral to the Committees on Ways and Means, Financial Services, and the Judiciary extended for a period ending not later than July 7, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ACEVEDO-VILÁ (for himself, Mr. Duncan, Mrs. Christensen, Mr. Udall of Colorado, Mr. Gonzalez, Mr. Towns, Mr. Grijalva, and Ms. Bordallo):

H.R. 2488. A bill to provide for the protection of the tropical forests of the Karst Region of the Commonwealth of Puerto Rico and the aquifers and watersheds of this region that constitute a principal water source for much of Puerto Rico, and for other purposes; to the Committee on Resources.

By Mr. BAIRD:

H.R. 2489. A bill to provide for the distribution of judgment funds to the Cowlitz Indian Tribe; to the Committee on Resources.

By Mr. EMANUEL (for himself, Mr. Blunt, Mr. King of New York, Mr. Hoyer, Mr. Reynolds, Mr. Rangel, Mr. Shimkus, Ms. DeLauro, Mr. Walsh, Mr. Frost, Mr. Beauprez, Mr. Stark, Mrs. Miller of Michigan, Mr. George Miller of California, Mr. Cole, Mr. Waxman, Ms. Harris, Mr. John, Mr. Renzi, Mr. Kildee, Mr. Kirk, Mr. Evans, Ms. Ginny Brown-Waite of Florida, Mr. Faleomavaega, Mr. McHugh, Mr. Crowley, Mr. Ackerman, Mr. Hinojosa, Mr. Grijalva, Mr. Israel, Mr. Cramer, Mrs. McCarthy of New York, Mr. Bishop of New York, Mr. Ross, Mr. Davis of Alabama, Mr. Weiner, Ms. Watson, Mr. Carson of Oklahoma, Mr. Acevedo-Vilá, Ms. Jackson-Lee of Texas, Mrs. Maloney, Mr. McNulty, Mr. Nadler, Mr. Owens, Mr. Bell, Ms. Linda T. Sánchez of California, and Mr. Schiff):

H.R. 2490. A bill to promote elder justice, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. EMERSON (for herself, Mr. Brown of Ohio, Mr. Wamp, Mr. Waxman, Mrs. Bono, Mr. Edwards, Mr. Gutknecht, Mr. Emanuel, Mrs. Northup, Mr. Pallone, Mr. Bradley of New Hampshire, Mrs. Lowey, Mr. Bereuter, Mr. Serrano, Mr. Kingston, Mr. Wexler, Mr. Janklow, Ms. Roybal-Allard, Mr. Osborne, Mr. Langevin, Mr. Calvert, Mr. Cooper, Mr. Markey, Mr. Allen, and Mr. Burton of Indiana):

H.R. 2491. A bill entitled the "Greater Access to Affordable Pharmaceuticals Act"; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAMPSON:

H.R. 2492. A bill to ensure that recreation benefits are accorded the same weight as hurricane and storm damage reduction benefits and environmental restoration benefits; to the Committee on Transportation and Infrastructure.

By Ms. NORTON:

H.R. 2493. A bill to assist local governments in conducting gun buyback programs; to the Committee on the Judiciary.

By Mr. RANGEL (for himself, Mr. Flake, Mr. Delahunt, Mr. Houghton, Mr. Pomeroy, and Mr. Matsui):

H.R. 2494. A bill to improve and promote compliance with international intellectual property obligations relating to the Republic of Cuba, and for other purposes; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REYES:

H.R. 2495. A bill to amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to decrease the requisite blood quantum required for membership in the Ysleta del Sur Pueblo tribe; to the Committee on Resources.

By Mr. REYES:

H.R. 2496. A bill to authorize a national museum, including a research center and related visitor facilities, in the city of El Paso, Texas, to commemorate migration at the United States southern border; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDERS (for himself, Mr. Brown of Ohio, Mr. Olver, Mrs. Napolitano, Mr. Serrano, Ms. Lee, Ms. Corrine Brown of Florida, Mr. Murtha, Mr. Holden, Mr. Pallone, Mr. Paul, Mr. Lantos, Mr. Filner, Mr. Frost, Ms. Baldwin, Mr. Frank of Massachusetts, Mr. Conyers, Mr. Hinchey, Mr. Tierney, Mr. Abercrombie, Mr. Wynn, Ms. Slaughter, Mr. Nadler, Ms. Norton, Mr. Costello, Mr. Owens, Mr. Crowley, Mr. Kleczka, Mr. Kucinich, Mr. Case, Mr. DeFazio, Ms. Woolsey, and Mr. Davis of Illinois):

H.R. 2497. A bill to permit commercial importation of prescription drugs from Canada, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SANDERS (for himself, Mr. Kucinich, Ms. Lee, Mr. Hinchey, Mr. Frank of Massachusetts, Mr. DeFazio, Mr. Payne, Mr. Serrano, Mr. Weiner, Mr. Olver, Mr. Filner, Mr. Conyers, Mr. Nadler, Ms. Corrine Brown of Florida, Ms. Watson, Ms. Baldwin, Ms. Woolsey, and Mr. Davis of Illinois):

H.R. 2498. A bill to amend title XVIII of the Social Security Act to provide a prescription benefit program for all Medicare beneficiaries; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHUSTER (for himself, Mr. Hayes, Mr. Boswell, Mr. Lampson, Mr. Ehlers, Mr. Otter, Mr. Duncan, Mr. Moran of Kansas, Mr. Graves, and Mr. Boozman):

H.R. 2499. A bill to provide economic relief to general aviation small business concerns that have suffered substantial economic injury as a result of the terrorist attacks perpetrated against the United States on September 11, 2001; to the Committee on Small Business.

By Mr. STUPAK:

H.R. 2500. A bill to enable the Great Lakes Fishery Commission to investigate effects of migratory birds on sustained productivity of stocks of fish of common concern in the Great Lakes; to the Committee on Resources.

By Mr. CONYERS (for himself and Ms. Kilpatrick):

H. Con. Res. 221. Concurrent resolution extending condolences to the family, friends, and loved ones of the late Mr. Eugene Gilmer; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

98. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 172 memorializing the President and Congress of the United States to enact legislation requiring the retroactive award of the Combat Medical Badge to all Vietnam personnel serving in the 91 MOS who were assigned to helicopter ambulances; to the Committee on Armed Services.

99. Also, a memorial of the Senate of the State of Kansas, relative to Senate Resolution No. 1871 memorializing the United States Congress to fund the F/A-22 Raptor Program; to the Committee on Armed Services.

100. Also, a memorial of the House of Delegates of the Commonwealth of Virginia, relative to House Resolution No. 40 memorializing the United States Congress that the Virginia House of Delegates urge the President of the United States to continue to take all actions necessary to protect all 50 states and their people, our allies, and our armed forces abroad from the threat of missile attack; to the Committee on Armed Services.

101. Also, a memorial of the Senate of the State of Georgia, relative to Senate Resolution 276 memorializing the United States Congress to take such steps as are necesssary to assure that the Federal Energy Regulatory Commission not adopt its proposed rules for Standard Market Design for electricity markets; to the Committee on Energy and Commerce.

102. Also, a memorial of the Senate of the Commonwealth of Massachusetts, relative to a Resolution memorializing the Congress of the United States to enact legislation eliminating inequities created by the so-called superfund law, which pertains to the clean up of sites contaminated by hazardous waste; to the Committee on Energy and Commerce.

103. Also, a memorial of the General Assembly of the State of Vermont, relative to Joint House Resolution 15 memorializing the Congress of the United States to urge the federal government to thoroughly review and work to mitigate the economic impact of the recent rise in natural gas and gasoline prices; to the Committee on Energy and Commerce.

104. Also, a memorial of the Legislature of the State of New Mexico, relative to Senate Joint Memorial 70 memorializing the United States Congress to endorse the Western States Education Initiative to seek just compensation from the federal government on federally owned land and that it urge the federal government to provide an expedited land exchange process for land not in contention for wilderness designation; to the Committee on Resources.

105. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Memorial No. 101 memorializing the United States Congress that the Idaho Legislature supports and endorses the "Action Plan for Public Lands and Education"; to the Committee on Resources.

106. Also, a memorial of the House of Delegates of the Commonwealth of Virginia, relative to House Resolution No. 38 memorializing the Congress of the United States to adopt legislation in support of funding for nitrogen reduction technology; to the Committee on Transportation and Infrastructure.

107. Also, a memorial of the Legislature of the State of New Hampshire, relative to House Concurrent Resolution No. 8 memorializing the United States Congress to urge the improvement of the prescription drug program provided to veterans; to the Committee on Veterans' Affairs.

108. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Memorial No. 102 memorializing the United States Congress to work to pass and vote for the immediate and permanent repeal of the death tax; to the Committee on Ways and Means.

109. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Memorial No. 103 memorializing the United States Congress to vote to repeal the individual and corporate Alternative Minimum Tax; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 141: Mr. Larsen of Washington.

H.R. 189: Ms. Lee and Mr. McDermott.

H.R. 227: Ms. Jackson-Lee of Texas and Mr. Lantos.

H.R. 300: Mr. Toomey and Mr. Gary G. Miller of California.

H.R. 303: Mr. Wu, Mr. Gerlach, Ms. Kilpatrick, and Mr. Deal of Georgia.

H.R. 375: Mr. Tauzin

H.R. 401: Ms. Linda T. Sánchez of California.

H.R. 463: Mr. Cantor.

H.R. 528: Mr. Calvert, Mr. Nunes, Mr. Terry, Mr. Brown of Ohio, Mrs. Tauscher, Mr. Israel, and Ms. Norton.

H.R. 548: Mr. Scott of Georgia.

H.R. 594: Mr. Conyers, Mrs. Jones of Ohio, Mr. Houghton, Mr. Clyburn, and Mr. Moore.

H.R. 685: Mr. McNulty.

H.R. 687: Mr. Rogers of Alabama, Mr. Toomey, and Mr. Gibbons.

H.R. 713: Mr. Boehlert.

H.R. 716: Mr. Mollohan.

H.R. 813: Mr. Van Hollen.

H.R. 886: Mrs. Davis of California.

H.R. 898: Mr. Dingell, Mr. Frank of Massachusetts, Mr. Kanjorski, Ms. Woolsey, and Mr. Engel.

H.R. 935: Mr. Larson of Connecticut.

H.R. 941: Mr. Deutsch.

H.R. 953: Mr. McIntyre.

H.R. 979: Mr. Hastings of Florida.

H.R. 1005: Mr. Rahall.

H.R. 1043: Ms. Linda T. Sánchez of California and Mr. Faleomavaega.

H.R. 1057: Mr. Bradley of New Hampshire.

H.R. 1068: Mr. Evans, Mrs. McCarthy of New York, Mr. Ross, and Ms. Velázquez.

H.R. 1093: Mr. Grijalva and Mr. Towns.

H.R. 1112: Mr. Price of North Carolina.

H.R. 1155: Mr. Matheson, Mr. Cooper, Mr. Fletcher, Mr. Clay, Mr. Rodriguez, Ms. Berkley, Mr. LaHood, Mr. Price of North Carolina, Ms. McCollum, Mrs. Kelly, and Mr. Kucinich.

H.R. 1157: Mr. Weldon of Pennsylvania and Mr. Visclosky.

H.R. 1165: Ms. Solis.

H.R. 1167: Mr. Wolf and Mr. Brown of South Carolina.

H.R. 1177: Mr. Brown of South Carolina, Mr. Gilchrest, Mr. Conyers, Mr. Cooper, and Mr. Lucas of Kentucky.

H.R. 1179: Mrs. Capito.

H.R. 1243: Mrs. Jo Ann Davis of Virginia and Ms. Jackson-Lee of Texas.

H.R. 1283: Mr. Davis of Illinois and Mr. Owens.

H.R. 1288: Mr. Garrett of New Jersey, Ms. Harman, Mrs. Kelly, Mr. Tom Davis of Virginia, and Ms. Hooley of Oregon.

H.R. 1296: Mr. Frost and Mr. Lantos.

H.R. 1311: Mr. Goodlatte and Mr. Alexander.

H.R. 1316: Ms. Loretta Sanchez of California and Mr. Van Hollen.

H.R. 1321: Mr. Bell.

H.R. 1336: Mr. Porter, Mr. Lewis of Kentucky, and Mr. Green of Texas.

H.R. 1409: Mr. Cannon.

H.R. 1428: Mr. Price of North Carolina and Mrs. Jo Ann Davis of Virginia.

H.R. 1429: Ms. McCarthy of Missouri.

H.R. 1448: Mr. Weiner.

H.R. 1470: Ms. Roybal-Allard and Mrs. Napolitano.

H.R. 1472: Mr. Holt, Mr. Houghton, and Mr. Clyburn.

H.R. 1499: Mr. Pallone, Ms. Jackson-Lee of Texas, and Mr. Payne.

H.R. 1511: Mr. Neugebauer, Mr. Herger, Mr. Radanovich, Mr. Ross, Mr. Stenholm, Mr. Pascrell, Mr. Israel, Mr. Deutsch, Mr. Hill, Mr. Jefferson, Mr. Kennedy of Rhode Island, Mrs. Lowery, Mr. Markey, and Mr. Wexler.

H.R. 1532: Mr. Stark, Mr. Kucinich, Mr. Schiff, Mr. Holt, Mr. Houghton, and Mr. Van Hollen.

H.R. 1552: Mr. Wolf, Mr. Davis of Tennessee, Ms. Eshoo, Mr. Fletcher, Mr. Michaud, and Mrs. Christensen.

H.R. 1671: Mr. LaHood.

H.R. 1675: Mr. Janklow.

H.R. 1705: Mr. Evans.

H.R. 1725: Mr. Weldon of Pennsylvania, Mr. Wicker, Mr. Issa, Mr. Herger, and Mr. Hall.

H.R. 1746: Ms. Ros-Lehtinen.

H.R. 1749: Mr. Whitfield and Mr. Mollohan.

H.R. 1767: Mr. Hall.

H.R. 1778: Mr. Hoekstra.

H.R. 1793: Mr. Putnam and Mr. Tiahrt.

H.R. 1824: Mrs. Tauscher, Mr. Hall, Mrs. Wilson of New Mexico, Ms. Schakowsky, Mr. Pallone, Mr. Andrews, Mr. LoBiondo, and Mr. Wamp.

H.R. 1828: Mr. Rogers of Alabama and Mr. Gingrey.

H.R. 1871: Ms. Jackson-Lee of Texas, Mr. Brown of Ohio, Mr. Lantos, and Mr. Frost.

H.R. 1886: Mr. Jenkins, Mr. Weiner, and Mr. Van Hollen.

H.R. 1914: Mr. Platts, Mrs. Miller of Michigan, Mr. Gutknecht, Mr. Hinchey, Ms. Jackson-Lee of Texas, and Mr. Jones of Ohio.

H.R. 1915: Mr. Lipinski and Mr. Paul.

H.R. 1916: Mr. McNulty, Mr. Simmons, Mr. Van Hollen, and Mr. Emanuel.

H.R. 1926: Mr. Burgess.

H.R. 1943: Mr. Ney.

H.R. 1981: Ms. Lofgren.

H.R. 2011: Mrs. Christensen, Ms. Watson, Mr. Crowley, Mr. McDermott, Mr. Kucinich, Mr. Moore, Mr. Larsen of Washington, Ms. Norton, and Mr. Cummings.

H.R. 2022: Mr. Olver.

H.R. 2028: Mr. Bishop of Georgia.

H.R. 2032: Mr. Tiahrt, Ms. DeGette, Mr. Emanuel, and Mr. Van Hollen.

H.R. 2046: Mr. Van Hollen.

H.R. 2057: Mr. Terry.

H.R. 2063: Mr. Grijalva.

H.R. 2093: Mr. Allen.

H.R. 2118: Mr. King of New York.

H.R. 2120: Mr. Dreier.

H.R. 2166: Mr. Gutierrez and Mr. Rush.

H.R. 2172: Mr. Michaud and Mr. Lipinski.

H.R. 2176: Mr. Smith of New Jersey.

H.R. 2181: Mr. Chocola.

H.R. 2191: Mr. Van Hollen.

H.R. 2193: Mr. McNulty and Mr. Ballance.

H.R. 2198: Mr. Wu and Mr. Davis of Tennessee.

H.R. 2202: Ms. Harris.

H.R. 2232: Mr. Thornberry, Mr. Leach, Mr. Lucas of Kentucky, Mr. Hayworth, and Mr. Ross.

H.R. 2239: Mr. Wexler, Mr. Baird, Ms. Woolsey, Mr. Hinchey, Ms. Lee, Ms. Kaptur, Mr. Van Hollen, and Mr. Conyers.

H.R. 2241: Mr. Doyle.

H.R. 2242: Mr. Lantos and Mr. Honda.

H.R. 2246: Mr. Doyle, Mr. Platts, Mr. Osborne, and Mr. Olver.

H.R. 2249: Mr. Oxley.

H.R. 2260: Mr. Lewis of Kentucky, Mr. Neal of Massachusetts, Mr. Deutsch, Mr. Davis of Illinois, and Mr. Camp.

H.R. 2262: Mr. Van Hollen.

H.R. 2295: Mr. Green of Texas, Ms. Lee, and Mr. Rangel.

H.R. 2299: Mr. Wexler and Ms. Jackson-Lee of Texas.

H.R. 2301: Mr. Towns.

H.R. 2307: Mr. Ney, Mr. Strickland, and Mr. Green of Texas.

H.R. 2318: Mr. Acevedo-Vilá.

H.R. 2325: Mr. Wu and Ms. Berkley.

H.R. 2330: Mr. Van Hollen.

H.R. 2347: Mr. Cole.

H.R. 2351: Mr. Peterson of Minnesota and Mr. Deutsch.

H.R. 2357: Mr. Paul, Mr. Pearce, Mr. Bradley of New Hampshire, Mr. Wilson of South Carolina, and Mr. Gillmor.

H.R. 2377: Ms. Corrine Brown of Florida.

H.R. 2403: Mr. Blumenauer, Mr. Wexler, and Mr. Holt.

H.R. 2409: Mr. Barton of Texas, Mr. Engel, and Ms. McCarthy of Missouri.

H.R. 2433: Mr. Evans and Mr. Filner.

H.R. 2458: Mr. Frost.

H.R. 2459: Mr. Pomeroy.

H.R. 2462: Mr. Platts, Mr. Hoeffel, Mr. Frank of Massachusetts, and Mr. Etheridge.

H.R. 2476: Mr. Ross.

H.R. 2485: Mr. Andrews.

H.J. Res. 50: Mr. Chocola, Mr. Souder, and Mr. Ballenger.

H.J. Res. 58: Mrs. Jo Ann Davis of Virginia.

H. Con. Res. 6: Mr. Ross.

H. Con. Res. 37: Mr. Calvert, Mr. Simmons, and Mrs. Jones of Ohio.

H. Con. Res. 78: Ms. McCarthy of Missouri.

H. Con. Res. 87: Mrs. Maloney and Mr. Sherman.

H. Con. Res. 88: Mr. Wicker, Mr. Istook, and Mr. Pomeroy.

H. Con. Res. 98: Mr. Walden of Oregon and Mr. Smith of Michigan.

H. Con. Res. 119: Mrs. McCarthy of New York.

H. Con. Res. 164: Mr. Blumenauer.

H. Con. Res. 178: Mr. Porter.

H. Con. Res. 208: Mr. Conyers, Mr. McNulty, and Mr. Payne.

H. Res. 141: Mr. McGovern.

H. Res. 144: Mr. Lantos, Mr. Rangel, Mr. McNulty, Mr. Frost, Mr. Brown of Ohio, Ms. Jackson-Lee of Texas, Ms. McCarthy of Missouri, and Mr. Langevin.

H. Res. 234: Mr. Doyle, Mr. George Miller of California, Mr. Ryan of Ohio, and Mr. Moore.

H. Res. 237: Mr. Clyburn.

H. Res. 240: Mr. Ross, Mr. Stenholm, Mr. Rodriguez, Mr. Waxman, Mr. Bell, Mr. Olver, Mr. Dooley of California, and Mr. Frost.

H. Res. 262: Mr. Wilson of South Carolina, Mr. Wolf, Mr. Conyers, Mr. Snyder, and Mr. Payne.

H. Res. 277: Mr. Smith of New Jersey and Mr. Rohrabacher.

H. Res. 278: Mr. Frost, Mr. McCotter, Mr. Walsh, and Mr. Nadler.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1472: Mr. NUNES.

PETITIONS, ETC.

Under clause 3 of rule XII,

17. The SPEAKER presented a petition of the City Council of Jacksonville, Florida, relative to Resolution 2003-501-A memorializing the Congress of the United States to unanimously co-sponsor and pass Senate Bill 766 and House Bill 197 to locate a national cemetery for veterans in Jacksonville; which was referred to the Committee on Veterans' Affairs.

EXTENSIONS OF REMARKS

HONORING MR. JOHN H. BETJEMANN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I congratulate one of the most selfless and caring citizens of the First Congressional District of Indiana, Mr. John H. Betjemann. John has spent the past 23 years dedicating his life to promoting healthcare development and community service to all of Northwest Indiana. His career as President and CEO of the Methodist Hospitals in Gary, Merrillville, and surrounding communities has allowed him the opportunity to touch the lives of numerous people. In honor of his gracious service to his community, there will be a celebration of his accomplishments on June 26, 2003 at St. Timothy's Church in Gary, Indiana.

John Betjemann has accomplished many visionary goals throughout his career. He has focused his work on Neuroscience and Oncology medical services for diagnostics and treatment of cancer, brain tumors, and many other diseases. He has also provided Northwest Indiana with the Midlake Campus, which helps in the development services for children and new paramedic training for employees. He has also assured the identification of youth who are at risk of sudden cardiac trauma by providing high school athletic screening programs at no charge. Also in 1999, John established the Smoke-Free Hospital Policy to help promote better healthcare environments for the patients, employees, and visitors of Methodist Hospitals.

Along with the countless service organizations and programs that John has initiated, he has also been involved in many community organizations and projects. He has been a powerful member of the Horace Mann Ambridge Neighborhood Improvement Organization, which rehabilitates homes in the Northlake Campus area for low income, disabled families, and provides resources for repair and maintenance to these homes. He has also been a strong leader of the Adopt-A-Park Project, which along with IVY Tech, Gary Parks Department, and Lake County Job Training, helps to enhance Gary City parks by installing modern play equipment.

Along with his many other accomplishments, John has also received numerous community service and leadership awards. In 1988, John was given the Community Service Award by the Tolle-Mann Business Association. In 1995, he was the recipient of the Crystal Globe Award, which was given by the Asian American Medical Society. The Wellness Council also acknowledged him in 2000 for implementing the Health Institute.

Mr. Speaker, John has given his time and efforts selflessly to his employees and patients throughout his years of service. He has taught every member of his staff the true meaning of service to all members of the Northwest Indiana community. I respectfully ask that you and my other distinguished colleagues join me in congratulating Mr. John Betjemann for his outstanding contributions to Indiana's First Congressional District. I am proud to commend him for his lifetime of service and dedication.

* * *

SUPPORT NATIONAL PROFESSIONAL SOCIAL WORK MONTH

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. RODRIGUEZ. Mr. Speaker, as a social worker, I rise to highlight the beneficial work performed every day by social workers across this country. Social work is a unique profession, which combines a diverse skill set to serve individuals, families, groups, communities, organizations, as well as society-at-large.

Social workers help people address a wide variety of concerns, from homelessness, substance dependence and abuse, and mental illnesses to community development, employee assistance programs, emergency preparedness, and disaster relief. They work directly with individuals, couples, families, and groups to identify and overcome these and other challenges. Many social workers also aid communities, organizations, and systems in the improvement of services and the administration of social and health programs. As a result, social workers may be found in a variety of settings, among them, private practice, health and mental health, education, community, public welfare, agency administration, and policy and planning.

Social workers hold almost 500,000 jobs, with one in three found in State, county, or municipal government agencies, primarily in departments of health and human services, mental health, social services, child welfare, housing, education, and corrections. In the private sector, social workers provide services in hospitals, nursing homes, home health agencies, and other health centers or clinics. An increasing number have successfully sought elected offices in local, State, and Federal Government, to further contribute to the welfare of our country and our society. I would like to commend our colleagues, Representatives BARBARA LEE, SUSAN DAVIS, and ED TOWNS, who are exemplary professional social workers, and are among the almost two hundred publicly elected social workers serving their communities.

The Bureau of Labor Statistics reports that employment of social workers is expected to increase faster than the average for all occupations through 2010. The elderly population is increasing rapidly, creating greater demand for health and social services, resulting in particularly rapid job growth among gerontology social workers. Social workers also will be needed to help the large baby-boom "sandwich" generation deal with the resulting pressures, depression and mental health concerns stemming from mid-life, career, or other personal and professional difficulties. In addition, continuing concern about crime, juvenile delinquency, and services for the mentally ill, the mentally retarded, the physically disabled, AIDS patients, and individuals and families in crisis, will spur demand for social workers.

Hospitals, long-term care facilities, and home healthcare services will continue to depend on social workers to coordinate and provide aftercare services for their clients. The popularity of assisted-living communities among the expanding senior population requires the expertise of social work gerontology specialists. Social workers with substance abuse and addiction skills offer those seeking treatment a better chance at successful reintegration into society. Employment of school social workers is expected to grow in order to address rising student enrollments. Outcomes-based treatment provided by social workers facilitates the cost effectiveness goals of managed care organizations, enabling those in private practice to be heavily utilized and increase access to services. The increase in employee assistance programs (EAP) has also fueled the demand for private practitioners, many of whom are contracted with small and large corporations, local, State, and Federal agencies. With the September 11 attacks and its aftermath, EAP social workers have helped survivors to deal with the uncertainty and trauma of terrorism and war, and continue to support employees and their families.

Earlier this year, I reintroduced H.R. 844, the National Center for Social Work Research Act. This act would establish a center within the National Institutes of Health to coordinate ongoing social work research, develop new methods to help social workers provide effective services to the public, and promote the use of social work research to improve public policy.

Social work research, through the coordinated efforts of the National Center, will undeniably advance both the delivery and quality of health care and social services in this country. Fiscal responsibility and accountability demand that the best practices are determined through, and grounded in, empirically-based research. Consumers, practitioners, and policymakers must demand service effectiveness and cost efficiency, facilitated by the establishment of a National Center for Social Work Research. Social workers, as front-line professionals, compile information that seeks to understand the dynamics that lead to social issues, provide empirical support for best

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

practice approaches to improve service delivery, and translate them into public policy decisions. With the limited resources available, policy makers must depend on these problem solvers to address many complex social issues such as poverty, welfare dependence, and drug abuse.

The social work profession is truly multifaceted. As dedicated advocates for the rights of children, minorities, the disabled, crime victims, workers, patients, women and many others, social workers continue to lead efforts that enhance human, and thereby societal, well-being. They shape programs and policies that strengthen individual lives and improve the society in which we all live.

HONORING CORNELL SCOTT FOR HIS LIFETIME OF CONTRIBUTIONS TO THE COMMUNITY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join the many family, friends, and community leaders who have gathered to pay tribute to one of New Haven's most respected community leaders and one of my dear friends, Cornell Scott. His lifetime of dedication and compassion has made a real difference in the lives of thousands.

Chief Executive Officer of the Hill Health Center in New Haven, Scotty has been the driving force behind its success for the last thirty-four years. His tireless efforts have literally changed the face of healthcare in this community and across the nation. I have had the privilege of working with Scotty over the years and I am in awe of his endless energy. He is an inspiration to so many and I consider myself fortunate to call him my friend.

Established in 1968, the Hill Health Center is a private, non-profit community health center—the first of its kind in the State of Connecticut—which provides some of our most vulnerable citizens with the medical, dental, and behavioral health services. Too often, those children, families, and individuals most in need do not have access to critical healthcare programs and services. Now operating in eighteen locations throughout Greater New Haven, Hill Health Center has become an irreplaceable asset to our community. Scotty's leadership, vision, and enduring tenacity has been the backbone of the Hill Health Center—and for that we owe him a debt of gratitude.

In addition to his professional career, Scotty has also played an integral role in many local service organizations—helping to shape our community and improve the quality of life for all New Haven residents. The Community Foundation of Greater New Haven, the New Haven Housing Authority, the Connecticut Association for Human Services are just a few of the area agencies which have benefitted from his time and energies.

I am proud to stand today to join the many who have gathered today to pay tribute to my good friend, Cornell Scott, for his lifetime of invaluable contributions. He has left an indelible mark on this community and a legacy that will not soon be forgotten.

RECOGNIZING PATUXENT HIGH SCHOOL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. HOYER. Mr. Speaker, I rise today to recognize Patuxent High School in Calvert County, Maryland for its ranking among the Nation's top 700 most demanding public schools as reported by Newsweek. I would like to commend Patuxent High School on incorporating a curriculum that challenges and advances the abilities of all students who attend this public school.

The Challenge Index rated each school by analyzing the number of advanced placement or International Baccalaureate tests taken by students in the high school and the number graduating from that school in a given year. Those schools that received a rating of 1.0, which meant that the number of students graduating was less than the number of tests given, were considered above average and included in the index. Based on this ratings scale, Patuxent High School achieved the ranking of 697th of schools across the Nation who met this 1.0 rating.

The Advanced Placement (AP) and International Baccalaureate (IB), a European based program, are courses students can take which have a challenging curriculum and prepare the students for their endeavors at the collegiate level. In addition, these exams allow the individual students to earn college credits depending on what score they receive on the exam.

In 2003 the Patuxent High School student body numbered 1775 students with a senior class of 371. It offers fifteen AP courses as well as numerous honors courses that challenge their students. This year twenty-seven percent of the graduating class will attend a four-year college or university with forty percent attending a two-year college. In 2001, Patuxent High School was honored for receiving the top average SAT scores in Calvert County.

Principal Robert F. Dredger along with the four Vice Principals: Nancy Highsmith, Steve King, Christian Hodge, and Robert Lawrence, have established an environment that motivates and challenges each and every student. Without the hard work of the administration, staff, and students this honor could not have been obtained.

Mr. Speaker, Patuxent High School has demonstrated an outstanding commitment to its entire student body by offering numerous courses that provoke the minds of each and every student. I would like to congratulate Patuxent High School on achieving such an honor and wish the faculty, staff, and students continued success in the future.

A SPECIAL TRIBUTE TO SPANGLER DUM DUM POPS® ON OCCASION OF THE 50TH ANNIVERSARY CELEBRATION

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay special tribute to an outstanding Ohio corporation, Spangler Candy Company, and the 50th anniversary celebration of the Spangler Dum Dum Pop. Considered the largest selling penny pop in the Midwest, the Dum Dum Pop came to Bryan, Ohio in the spring of 1953, when Spangler purchased the machinery, equipment and trade name from the Akron Candy Company of Bellevue, Ohio. By 1956, the Dum Dum Pop was a nationally acclaimed candy.

Mr. Speaker, on June 4, 1953, Bryan celebrated the acquisition of the Dum Dum Pop with a declared "Dum Dum Day." On this special occasion, thousands of free lollipops were distributed to children and families gathered on the front lawn of the Spangler plant.

In August 1957, Spangler announced its "largest production day ever" of 1,545,750 Dum Dum Pops. In 1959, Spangler introduced a new program, encouraging children to save their Dum Dum wrappers and send them in with money for prizes. Today, the "save wraps" continues to function in a modified version.

By 1979, Spangler was producing 2.8 million Dum Dum Pops on a daily basis. By 1989, Dum Dums were the third largest selling lollipop in the country.

During the summer of 2001, a warehouse in Archbold, Ohio burned to the ground, costing Spangler more than 110,000 cases of Dum Dum Pops ready for shipment. In the months following the devastating fire, Spangler employees worked long hours to replace the loss, producing approximately 10 million Dum Dum Pops a day. After the Archbold fire, Spangler workers proved their dedication to the industry of Dum Dum Pops in their efforts to compensate for the lost products. Demonstrating pride and civic duty, factory workers and distributors proved their allegiance to Spangler and Dum Dum Pop consumers.

Today, Spangler generates about 8 million Dum Dum Pops each day, distributing cases of lollipops world-wide. Available in a variety of packaging sizes, ranging from 7 ounces to bulk cases of more than 2,000-count, consumers can purchase Dum Dums in food, drug, and mass market retail stores, as well as on the Spangler Candy Co. website.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Spangler Candy Co. In producing Dum Dum Pops®, the Spangler Candy Co. has provided jobs and a positive work environment not only for the Bryan community, but for members of communities nationwide. We wish Spangler Candy Co. all the best as we acknowledge one of our State's finest companies and all of their accomplishments.

HONORING MR. WALLACE E. EVANS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. VISCLOSKY. Mr. Speaker, it is with great pride and honor that I congratulate Mr. Wallace E. Evans on his contribution to the residents of Northwest Indiana. Wallace will be retiring on July 1, 2003 as Local 881 United Food and Commercial Workers (UFCW) International Union's Executive Vice President. There will be a celebration dedicated to honoring his achievements on Friday, June 27 in Oak Brook, Illinois.

After 13 years of working as a Frozen Foods manager at Burger Supermarkets in Munster, Indiana, he was hired on full-time as the Organizer and Business Representative for Local 1460 of the Retail Clerks Union of Lake County. In 1980, Wallace became the President of Local 1460, and the first contract he negotiated as President increased the membership wage by $2.10 over the three-year contract. During his tenure, he dedicated himself to improving the working and financial conditions of the membership. After his time served as President, he became the Secretary-Treasurer of Local 1550 of UFCW, from 1986–1989.

After the merger of Local 1550 and Local 881 of UFCW in 1989, Wallace served as a Collective Bargaining Negotiator until he was named Director of Collective Bargaining in 1994. In 1996, he was named Executive Vice President and Director of Collective Bargaining.

Not only has Wallace had many positive accomplishments in his career with the union, he has also actively contributed to his community through many service organizations. He has served as the Union Trustee for the UFCW Union and Employers Calumet Region Insurance Fund since 1974, as well as holding the office of Democratic Precinct Committeeman in Highland, Indiana. He has also been a community leader through his role as Vice President of the Northwest Indiana Federation of Labor AFL–CIO (Retail Wholesale Sector). Although Wallace has dedicated his life to his career and his community, he has never neglected to provide support and love for his family. Wallace and his wife, Sheila, have been married for 36 years, and have two sons, Steven and Jason.

Mr. Speaker, Wallace Evans has been an active force in his union, as well as a positive leader for the Northwest Indiana community. I respectfully ask that you and my other distinguished colleagues join me in congratulating him on his well-deserved retirement. His service to his career and devotion to Indiana's First Congressional District deserves the highest commendation, and I am proud to represent him in Congress.

IN HONOR OF EXCELLENCE IN TEACHING, LINDA MILLER—TEACHER

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. RODRIGUEZ. Mr. Speaker, I rise to pay tribute to Linda Miller, an inspirational and loving teacher in San Antonio, TX at Theodore Roosevelt High School. Today Linda Miller, who dedicates her life to the success and education of her students, is honored with Time Warner Cable's National Teachers Awards Division Crystal Apple Award.

Each year Time Warner Cable honors 20 classroom projects, and the teachers who develop them, with the Crystal Apple Award. This award recognizes outstanding teachers who create learning experiences using cable technology. Ms. Miller's project embraced Japanese animation's historical and cultural heritage as well as technology's impact on its popularity.

Linda Miller has a record of achievement reflecting her passion for teaching. She has received the Teacher of the Year award presented to her by the American legion, as well as being identified as an Outstanding Teacher by the Rotary Club. Linda Miller's immense dedication to her students speaks for itself as Roosevelt High School presented her with the Humanitarian award for identifying students with special needs and pairing them with the mainstream students, in a buddy system. According to one fellow teacher, she surprised many of her colleagues who did not even realize that special needs students even attended.

Time Warner Cable seeks ways to support the educators and institutions that help shape our Nation. By enabling the power of cable television's 21st century technology and high-quality programming to unite teachers, students and parents, both in the classroom and for the benefit of the community, Time Warner strives to enhance the level of education in the classroom. It is, however, remarkable teachers such as Linda Miller. who make this possible.

Mr. Speaker, it is my distinguished pleasure to honor Linda Miller because I recognize that it is the perseverance and dedication of teachers like her that will lead our youth to a brighter future.

HONORING LIEUTENANT GEOFFREY CHENEY FERRIS AS HE IS REMEMBERED FOR HIS OUTSTANDING MILITARY SERVICE

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Ms. DELAURO. Mr. Speaker, today at the Headquarters of the 1st Battalion, 33rd Field Artillery of the United States Army in Bamberg, Germany many have gathered to pay tribute to a true hero and a New Haven, Connecticut native, Lieutenant Geoffrey Cheney Ferris. Today, the actions of Lieutenant Ferris will be memorialized with the dedication of the Headquarters in his honor. I am proud to stand today to join the members of the 33rd Field Artillery Regiment in paying tribute to Lieutenant Ferris, who made the ultimate sacrifice in defending our nation during World War II.

On the morning of May 6, 1943, Lieutenant Ferris, an artillery observer, reported to Company E, 26th Infantry during an assault of a strongly held enemy position in Dj El Deba, Tunisia. As an artillery observer, Lieutenant Ferris' duties included securing observation posts from which artillery strikes on the enemy could be called. In the breaking light of the morning, Lieutenant Ferris. determined it impossible for a suitable observation post to be secured in the area occupied by Company E, and—as described by his commanding officer and others—with extreme disregard for his own safety advanced alone in front of Company E to establish an observation post. Determined and unyielding, Lieutenant Ferris advanced over an area of several hundred yards beyond the closest of infantrymen and was just short of an excellent observation post when he was mortally wounded by enemy fire.

Lieutenant Ferris' heroic attempt to advance his fellow soldiers was recognized by our nation with the award of the Distinguished Service Cross—the second highest award for valor and heroism in action which can be bestowed. Today, his former company, the "Golden Lions" of the 1st Battalion, 33rd Field Artillery again pay tribute to Lieutenant Ferris' memory and selfless sacrifice with the dedication of their headquarters in his honor.

It is my honor and privilege to rise today to join the 33rd Field Artillery, Governor John Rowland of Connecticut, and all of those who have gathered to recognize Lieutenant Geoffrey Cheney Ferris—one of Connecticut's sons—for his unparalleled courage and distinguished service in the United States Army. I am proud to present this statement and a flag which has been flown over the United States Capitol to be displayed at the Battalion Headquarters. Lieutenant Ferris is a true American hero whose story and legacy of heroism is sure to inspire generations to come.

THOMAS STONE HIGH SCHOOL, A TOP AMERICAN HIGH SCHOOL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. HOYER. Mr. Speaker, I rise today to recognize Thomas Stone High School in Charles County Maryland, for its ranking among the nation's top 700 most demanding public schools as reported in Newsweek. I would like to commend Thomas Stone High School on incorporating a curriculum that challenges and advances the abilities of all students who attend this public school.

The 2003 Challenge Index rated each school by analyzing the number of advanced placement or International Baccalaureate tests taken by students in the high school and the number of graduating seniors from that school in a given year. Those schools who received a rating of 1.0, which meant that the number of students graduating was less than the number of tests given, were considered above average and included in the index. Based on this ratings scale, Thomas Stone High School achieved the ranking of 364th in schools across the nation who met this 1.0 rating.

The Advanced Placement (AP) and International Baccalaureate (IB), a European based program, are courses students can take which have a more challenging curriculum and prepare the students for their endeavors at the collegiate level. In addition to this, these exams also allow the individual students to earn college credit depending on the score they receive on the exam.

Thomas Stone High School includes 1916 students with 392 of those graduating this year. Out of those 392 students graduating, the school expects 72 percent to attend a college or university. To aid students in continuing their education the school estimates that nearly 4.2 million dollars has been spent on scholarships. Students are allowed to participate in nineteen Advanced Placement courses, as well as scholar's courses and the JROTC. Thomas Stone High School has a student who sits on the State Board of Education as well as the County Board of Education. The school has Board Certified teachers and the Principal, Mr. Heath Morrison, was named the Maryland Association of Student Council's Principal of the Year. It is easy to see how such remarkable students can thrive at Thomas Stone High School.

The faculty and staff, along with the students, are responsible for this honor. Principal Heath Morrison as well as the five Vice Principals: Janice Johnson, Ellen Linton, Curry Werkheiser, Wendell Martin, and Frazier Nelson all helped to encourage the students to strive for and achieve their goals.

Mr. Speaker, Thomas Stone High School has demonstrated an outstanding commitment to its entire student body by offering numerous courses that provoke the minds of each and every student. I would like to congratulate Thomas Stone High School on achieving such an honor and wish the faculty, staff, and students continued success in the future.

IN SPECIAL RECOGNITION OF ALISA L. FELLHAUER ON HER APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding young woman from Ohio's Fifth Congressional District. I am happy to announce that Alisa L. Fellhauer of Port Clinton, OH, has been offered an appointment to attend the United States Air Force Academy.

Mr. Speaker, Alisa's offer of appointment poises her to attend the United States Air Force Academy with the incoming cadet class of 2007. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Alisa brings a special mix of leadership, service, and dedication to the incoming class of Air Force Academy cadets. While attending Port Clinton High School, Port Clinton, OH, Alisa has attained a grade point average of 3.88, which places her thirteenth in her class of one hundred sixty one students. During her time at Port Clinton High School, Alisa has received several commendations for her superior scholastic efforts. During her first year, she received the Kiwanis Scholar Athlete Award. Her second year was marked by her being again awarded the Kiwanis Scholar Athlete Award as well as being inducted into the National Honor Society. Alisa went on in her senior year to maintain her role in the National Honor Society as well being selected for participation in a highly selective biology program.

Outside the classroom, Alisa has distinguished herself as an excellent student-athlete and dedicated citizen of Port Clinton. On the fields of friendly strife, Alisa has participated in Varsity Cross County, Varsity Basketball, and Varsity Softball. She is a three time Cross Country letter recipient and served as the Team Captain her senior year. In addition to her athletic accomplishments, Alisa is an active member in her community participating in Key Club, Future Professionals in Medicine, National Honor Society, Relay for Life, and the Buckeye Girl's State.

Mr. Speaker, I would ask my colleagues to stand and join me in paying special tribute to Alisa L. Fellhauer. Our service academies offer the finest education and military training available anywhere in the world. I am sure that Alisa will do very well during her career at Air Force and I wish her the very best in all of her future endeavors.

HONORING MR. JOHN WINGATE GRIFFIN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. VISCLOSKY. Mr. Speaker, it is with great pride that I congratulate Mr. John Wingate Griffin on his retirement from the Federal Government after 32 years of dedicated service to this great country. His career exemplifies selfless public service at its best and is a model for existing and future Federal employees. He retired at the end of May 2003.

A fifth generation native Californian, Mr. Griffin was born on December 2, 1946. After graduating from high school in Ojai, California, he later continued his studies at Ventura College earning an Associate Degree in economics. He received his bachelor's degree of International Relations and Economics in June 1973 from California State University.

Mr. Griffin served his country honorably in the military for over 3 years with the United States Army. He continued his Federal career for an additional 28 plus years as an economist with the United States Army Corps of Engineers in Sacramento and San Francisco, California. When he retired from the Corps, he was serving as Chief of Civil Works Program Development for the South Pacific Division where he had been employed since September 1986. In addition to leading a staff of economists and program analysts, Mr. Griffin presided over the largest Corps' Civil Works General Investigations program covering all or part of ten of the Nation's largest States and was a special advisor to the Division Commander. He provided regional oversight to four district program development activities located in Sacramento, San Francisco and Los Angeles, California and Albuquerque, New Mexico. His knowledge of the General Investigations program, coupled with his analytical capabilities, placed him in a class by himself as a program expert. He maintained a personable attitude that contributed to overcoming numerous challenges and made even the most difficult tasks doable. As he is fond of saying, "one can disagree without being disagreeable." His advice was always on the mark.

Mr. Griffin will retire to his hometown of Auburn, California where he and his beloved wife, Daniela, had been active in their community for well over 30 years. Individually or together, they touched the lives of many in the community by serving on the planning commission, teaching in the public schools, contributing to fine dining experiences in Auburn through operation of their elegant restaurant, enjoying ballroom dancing, or helping others with expert mechanical advice on automobiles. They were the perfect couple and we express our deepest sorrow at Mr. Griffin's loss of Daniela earlier this year. We wish him a healthy, happy, and well-deserved retirement.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in congratulating Mr. John Wingate Griffin on his retirement as he concludes a successful Federal career. We thank him again for a job well done, and for his many contributions to the Corps, the Army, and the Nation.

IN MEMORIAM OF MALDEF FOUNDER PETE TIJERINA

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. RODRIGUEZ. Mr. Speaker, 35 years ago Pete Tijerina, a bold and idealistic lawyer from, Laredo, Texas, started down a path that eventually led millions of Hispanics in this country towards access to educational and democratic opportunities and recognition in the eyes of the law. Today, it is with great sadness and a profound sense of gratitude that I rise to recognize the life of Pete Tijerina, who died on May 14, 2003. His legacy is our future.

As a graduate of St. Mary's Law School in San Antonio, Texas, Mr. Tijerina dedicated his career to fighting discrimination. His first efforts came as the State Civil Rights Chairman for San Antonio's LULAC Council, an organization he joined in 1946. While with the organization, he sought political solutions at the local level through interaction with school boards, city councils, and police departments.

Hungry for change, Mr Tijerina grew frustrated with the pace and progress of his efforts. He continued, however, to work diligently through the channels available to him until he could take no more.

In 1966, Mr. Tijerina took a bold step. At the time, he was representing an injured woman who lost half of her leg in an accident in Jourdanton, Texas. Mr. Tijerina prepared his client and his case for trial. As trial drew near, it became clear that the court would not empanel a single Hispanic juror. He brought the matter to the attention of the local judge and was promised a more diverse jury pool.

When the trial reconvened at the end of that summer, the court produced two Hispanic jurors: one had been dead for 10 years and the other spoke no Spanish.

This experience led Mr. Tijerina on a crusade to end juror discrimination and secure the equal protection of the law for the Hispanic community. Armed with determination and faith in the American judicial system, Mr. Tijerina placed his own financial well being on the line and attempted to secure funds to protect the rights of Hispanics in the Southwestern United States.

After sending a young colleague to an NAACP convention to learn more about current legal tactics used to combat discrimination, Mr. Tijerina decided that what the Hispanic community needed was its own lawyers fighting its own cases. Because the community varied so much, nationwide, he believed that recruiting young Hispanics, who understood the unique challenges present in their neighborhoods, into the legal profession was crucial to ending discrimination once and for all. Mr. Tijerina worked closely with the NAACP to develop a strategy and find financial support.

His efforts produced the seeds of what would become the Mexican American Legal Defense and Educational Fund (MALDEF), the first national Hispanic legal advocacy program, which Mr. Tijerina founded in 1968. Over the past 35 years, MALDEF has grown and to this day leads us on the path towards legal equality for Hispanics in areas like education, employment, and political access.

Mr. Speaker, it is because of pioneers like Mr. Tijerina and his vision for a brighter future for all Hispanics that many of us have had the opportunity we enjoy. He helped clear the way for generations of Hispanics, so that they would not feel the burden of oppression or fear to speak out against injustice. He sought change through our judicial system, using our courts as agents of justice.

It is with our heads bowed and grief in our hearts that we say thank you to this pioneer. We can only hope to continue along the path he began.

PERSONAL EXPLANATION

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. HINOJOSA. Mr. Speaker, I regret that I was unavoidably detained. Had I been present, I would have voted "yes" on rollcall Nos. 276, 277, and 278.

FLIGHT 100—CENTURY OF AVIATION REAUTHORIZATION ACT OF 2003

SPEECH OF

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 2003

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

Mr. PITTS. Mr. Chairman, it is important that in determining the EAS eligibility for a small airport the Secretary define a consistent standard for identifying the commonly used route.

It is my hope that the Secretary would use the most reliable mapping capability to determine this route, such as the Rand McNally mapping system.

Further, to ensure that small airports receive a fair shake in the EAS eligibility process, my amendment requires that the Secretary consult with the Governor of the State or the Governor's designee.

In appointing a designee if the Governor so chooses, the Governor should consider designating a metropolitan planning organization (MPO) to submit a plan for the most commonly used route. An MPO knows the routes that people take from one point to another in a particular region.

My amendment was drafted to ensure that, while the Secretary of Transportation has discretion, the local community should not be shut out of the process.

COMMEMORATING 80 YEARS OF AVIATION SERVICE AT SHEPHERD AIRFIELD

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mrs. CAPITO. Mr. Speaker, I rise today to commemorate 80 years of aviation service at Shepherd Airfield in Martinsburg, WV by the Berkeley County Airport Authority and the Experimental Aircraft Association, Chapter 1071.

On June 17, 1923, Captain St. Clair Streett, accompanied by flight mechanic Sergeant Roy Hooe, landed their U.S. Army D.H. 4 at Shepherd Field in Martinsburg, WV. This event was the result of many years of dedicated effort by aviation enthusiasts in Berkeley County to bring Shepherd Field into the mainstream of modern aviation. This historic landing 80 years ago today spurred many important developments at Shepherd Field, including the establishment of the 167th Air National Guard Unit and the Eastern West Virginia Regional Airport. With a major expansion planned for the 167th and the construction of a new commercial terminal at the Regional Airport, the airport in Berkeley County will continue its role in protecting our national security while also improving economic opportunity for all of West Virginia.

In honor of 80 years of aviation service at Shepherd Airfield, I ask my friends in West Virginia and my colleagues here in Congress to join me in recognizing June 17, 2003 as a day to celebrate the history of aviation in the eastern panhandle of West Virginia. Thank you.

PERSONAL EXPLANATION

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. COBLE. Mr. Speaker, on Monday, June 16, 2003, I missed rollcall votes 276–278. Had I been present on this date, I would have voted "aye" on all rollcall Nos. 276, 277, 278. On this date, my flight coming back to Washington, DC, was canceled due to inclement weather and I was not able to get back to town in time for these votes.

HONORING THE VIETNAM VETERANS GATHERING

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mrs. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor the Vietnam Veterans Gathering. They have developed rich friendships and camaraderie between themselves that years and distance cannot weaken.

On Saturday, June 14, I was honored to attend the 6th Annual Vietnam Veterans Gathering at South Levy Recreation Park. This park has a rich history. After fighting in the jungles of Vietnam, veterans gathered at this scenic location to share their stories, to heal old wounds, and to enjoy the company of others who knew what it meant to be a soldier.

As part of this commemorative event, The Moving Wall, a tribute to the more than 58,000 Americans that gave their lives during the war, was on display.

Mr. Speaker, I commend the Vietnam Veterans Gathering for the great service they have given to our Nation. I recognize the sacrifices that they have made. These men are truly great Americans, and I am proud to call them my constituents.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. GALLEGLY. Mr. Speaker, on June 12, 2003, I was unable to vote on the Motion to Instruct Conferees on the Tax Relief, Simplification, and Equity Act (H.R. 1308). Had I been present, I would have voted "nay" (rollcall 275).

RECOGNIZING THE ACHIEVEMENTS OF STANTON COLLEGE PREPARATORY SCHOOL IN JACKSONVILLE, FL

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. CRENSHAW. Mr. Speaker, I would like to take this opportunity to recognize the school administrators, teachers, and students at Stanton College Preparatory School in Jacksonville, FL, for their outstanding achievement in providing, guiding, and demonstrating a quality education.

Stanton College Preparatory School was recently highlighted by Newsweek magazine (The Best 100 High Schools in America, May 26, 2003), as the second best school in the nation, as measured by the Challenge Index. This index takes the number of Advanced Placement or International Baccalaureate tests taken by all of the students at a school in 2002 and divides them by the number of graduating seniors.

The editors of Newsweek said they used participation in the Advanced Placement or International Baccalaureate tests as benchmarks because "these tests are more likely to stretch young minds—which should be the fundamental purpose of education."

Stanton College Preparatory School is clearly providing the curricula, support, and leadership in learning that is so very important to our young people.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in applauding Stanton College Preparatory School and all of those schools that strive to prepare their students for higher education and thusly, a higher quality of life. Moreover, I would like to commend the school administrators, superintendents, teachers, and all of the students who have committed themselves to a quality education. As John F. Kennedy once stated, leadership and learning are indispensable to each other.

It is my privilege to recognize Stanton College Preparatory School for its outstanding achievements.

TRIBUTE TO RUTH GALANTER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. BERMAN. Mr. Speaker, I rise to pay tribute to my dear friend, Ruth Galanter, on the occasion of her retirement from the Los Angeles City Council. Ruth is an amazing, passionate and intelligent person who has accomplished so much in her political career without ever compromising her impeccable integrity or diminishing her idealism. I have had the pleasure of working with her since the 1970's when she was a prominent environmental activist and later as a member of the California Coastal Commission. I not only respect her professionally, but I value her friendship and advice.

Elected in 1987 to the Los Angeles Sixth City Council District, Ruth has spent the last 15 years shaping and improving the city of Los Angeles. Ruth was President Pro Tem for 4 years and became president of the council in 2001. She is admired and well-respected by her friends, colleagues and associates. In addition to her legendary success in solving constituent problems and her well-known legislative prowess, Ruth has made a name for herself protecting the environment. She spearheaded the city's recycling program, authored the city's major water conservation programs and led the effort to fluoridate the city's water supply. She also directed the city's conservation efforts to ensure an adequate safe water supply for the next century.

Early in her tenure, Ruth created a network of Community Planning Advisory Committees which assisted her in significant land use decisions throughout the city. Also, as chair of the Council's Committee on Commerce, Energy and Natural Resources, she worked to negotiate the challenges posed by electricity deregulation and the current energy crisis facing the State. And, as the city council's expert on aviation and airport issues, Ruth's futurist vision has improved the quality of life for all who live in southern California. She knows that the decisions made today regarding airport capacity and other transportation services directly impact our quality of life today and in the future.

Born in New York City, Ruth received a bachelor of arts degree from the University of Michigan and a Masters Degree in Urban Planning from Yale. Los Angeles has been blessed to have her at the helm, and I am proud to call her my friend.

Mr. Speaker, I invite my colleagues to join me in thanking Ruth Galanter for all she has done and wishing her continued success in all her future endeavors.

INTRODUCTION OF PUERTO RICO KARST CONSERVATION ACT OF 2003

HON. ANÍBAL ACEVEDO-VILÁ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. ACEVEDO-VILÁ. Mr. Speaker, today, I introduced the Puerto Rico Karst Conservation Act of 2003. This bipartisan legislation is a common sense legislative approach that will protect a vital ecosystem in Puerto Rico, the Karst Region. The region is comprised of a unique geological and hydrological system of limestone caves, sinkholes and underground rivers, collectively known as karst, and is widely valued to the livelihood of Puerto Rico.

The Karst Region of Puerto Rico, located along the North and Northwest coasts of the Island, has many outstanding features. This region is home to the largest remaining tropical rainforests in Puerto Rico, and has a greater density of tree species than anywhere else on the Island. These forests provide habitat to a wide array of plants and animals, too many of which are endangered or threatened. In fact, the Karst Region has been identified as a secondary habitat for the restoration of the Puerto Rican parrot, a bird that is among the ten most endangered birds in the world, and the existence of which has plummeted to only 24 birds in the wild.

In addition to the extraordinary flora and fauna of the Karst Region, the water and watersheds are the most unique feature of the Karst Region. While rivers and streams are widespread throughout Puerto Rico, the vast majority of the water in the Karst Region flows underground. Where this water flows out of the ground, from springs and along the coast, it provides fresh water to nearly one-quarter of the Puerto Rico population. In addition, specific manufacturing and industrial sectors, such as the pharmaceutical industry, rely on the Karst Region's supply of clean water for their business. Without a doubt, the Karst Region sustains a large percentage of wildlife, human life, and the economy of Puerto Rico.

Yet Puerto Rico has among the highest population densities of any jurisdiction in the United States. Large, undeveloped tracts of land are becoming increasingly less common on the Island. However, the Karst Region has remained rural in nature, and has not been beset by the development and growth of the rest of Puerto Rico. The hills and unique geology of the Karst Region have forestalled similar population growth. Unfortunately, threats to the Karst Region are growing. Continued population growth will create increasing pressure on the conservation of this important region. Development of roads, resorts and other infrastructure in the region would fragment wildlife habitat, reduce water quality, and would reduce the preserved nature of the Karst Region for the rest of time.

But the Puerto Rico Karst Conservation Act will help conserve the lands and waters of the Karst Region, and stave off the threats of development. This bill, I believe, is an ideal piece of preservation policy. It places the responsibility of conservation and management not with any single entity, but requires that lands in the Karst Region be acquired and managed in a cooperative fashion.

Using funds collected in a fund established on the books of the U.S. Treasury, the Karst Fund, the U.S. Department of Agriculture will distribute grants to the Commonwealth of Puerto Rico, conservation organizations and others for the purpose of acquiring and managing lands for conservation in the Karst Region. Acquired lands, purchased only from willing sellers, may only be managed for conservation, and the bill includes provisions that will protect those lands from development. Resources in the Karst Fund are derived from the existing programs of the Land and Water Conservation Fund and the Forest Legacy Program, from receipts generated from the Caribbean National Forest and GSA sale of property in Puerto Rico, from donations, direct appropriations, and from interest derived in the Fund. While the U.S. Forest Service is authorized to acquire lands, authority that in fact exists in current law, the agency focus will be on technical assistance and management guidance rather than actual land acquisition.

It is my belief that this bill is the most appropriate manner of approaching the conservation needs of the Karst. The Federal Government can bring important resources and experience to the table, yet the land will be primarily acquired and managed by local entities, who are best able to relate to, understand, and advocate for the conservation of the lands of the Karst Region.

I am proud and honored by the support that this bill has gained from my colleagues. Congressman JIMMY DUNCAN of Tennessee has joined me, along with six of my distinguished Democratic colleagues, to introduce this bill in the House, and I greatly appreciate their support. In addition, Senator TOM HARKIN and Senator RICHARD LUGAR, recognizing the vital importance of protecting the Karst Region, have introduced companion legislation in Senate. Their support is essential to the eventual success of this bill, and I appreciate their leadership on this issue.

Protecting the Karst Region of Puerto Rico is a large and important task. However, this legislation that I have introduced today will enable resources to be brought to the protection and conservation of the lands and water of the Karst Region. As many regions in the United States are now suffering due to a lack of water resources, affording this protection to the Karst Region will help ensure water quality and availability into the future. The cooperative nature of this conservation effort will, in my mind, enable it to succeed, and through this unique partnership, the magnificent and unique Karst Region will be preserved for this, and future generations of Puerto Rico.

COMMENDING MEDGAR WILEY EVERS AND MYRLIE EVERS-WILLIAMS FOR THEIR LIVES AND ACCOMPLISHMENTS

SPEECH OF

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mrs. JONES of Ohio. Mr. Speaker, I rise today to honor Medgar Wiley Evers and Myrlie Evers-Williams. These two great Americans fought tirelessly for equality and justice. It is because of efforts such as theirs that I can stand before you today as the first African-American woman to serve in Congress from the State of Ohio.

They knew the importance of voting and worked to mobilize African-Americans so that they would have the opportunity to exercise this right that so many had fought for. They organized civil rights rallies and boycotts of local businesses and schools to advocate for the underserved and under represented in this country.

Though murdered in 1963, Medgar Evers' legacy lives on through his children and his widow, Myrlie Evers-Williams, who went on to establish the Women's Political Caucus and become the first woman chair of the NAACP Board of Directors.

It is because of these reasons that I am so honored to stand here today in support of this resolution commending Medger Wiley Evers & Myrlie Evers-Williams. It is on their shoulders that I stand.

PERSONAL EXPLANATION

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. BRADY of Texas. Mr. Speaker, I regret that I missed rollcall vote Nos. 276, 277 and 278 on the evening of June 16, 2003. I was traveling in between my District (TX–08) and Washington. My flight was delayed almost 2 hours, causing me to miss the aforementioned votes.

Had I been present, I would have voted "yes" on all three bills: H.R. 2254, to designate the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the "Bruce Woodbury Post Office Building", H. Con. Res. 220, commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams, for their lives and accomplishments, and S. 703, to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the "Carl T. Curtis National Park Service Midwest Regional Headquarters Building".

PERSONAL EXPLANATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. MENENDEZ. Mr. Speaker, I regret that a family matter yesterday forced me to miss rollcall votes 276, 277, and 278. Had I been present, I would have voted "yea" on rollcall votes 276–278.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. ORTIZ. Mr. Speaker, due to unforeseen weather conditions, my flight back to Washington, DC, was unavoidably delayed and I was therefore not able to make it in time for rollcall votes. Had I been present I would have voted: No: 276—"yes"; No. 277—"yes"; and No. 278—"yes."

TRIBUTE TO JEANETTE "JAY" BLACKSHAW

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. SCHIFF. I rise today to honor a truly outstanding member of the 29th Congressional District, Mrs. Jeanette "Jay" Blackshaw. For 22 years, Mrs. Blackshaw has dedicated herself to serving the people of the City of Pasadena.

Originally from Chicago, IL, Jay moved to Pasadena, CA in 1968. She and her husband, Bill Blackshaw, have seven children, Julie, Mary Grace, John, Gina, Annie, Peter, Amy, and nine grandchildren.

In 1981, Jay began her service to the City of Pasadena as the District 4 Field Representative for Pasadena Mayor Jess Houston. After Mayor Houston's term ended, she continued as field representative for his successor, Mayor Bill Paparian. Jay currently works for City Councilmember Steve Haderlein. During Jay's tenure with the City of Pasadena, she has assisted in the construction of bike paths throughout Pasadena, the renovation of the Pasadena Senior Center, and the construction of Pasadena's U.S. Marine Reserve Center.

Jay's passion for community volunteerism, especially on behalf of children and education, is evident in the many organizations she has been involved in over the years. As a young mother, she was active in Pasadena's public schools, participating in several Parent Teacher Associations, including serving as PTA Council President. Currently, Jay is a board member of the Pasadena Educational Foundation and Pasadena City College's Community Board.

Some of the other organizations Mrs. Blackshaw participates in are the Pasadena Sister Cities Committee, the Sierra Madre Villa Neighborhood Association, the Young Women's Christian Association (YWCA), and the Huntington Hospital Community Board. Mrs. Blackshaw is also active in her church, All Saints Episcopal Church, as well as in various political organizations. In 1995, she was honored as a YWCA Woman of Excellence for her steadfast commitment to eradicating racism and improving the lives of the women and children of Pasadena.

Jay will be retiring from her position as Field Representative to Councilmember Haderlein in June of 2003. Although she will be greatly missed by her colleagues at the City of Pasadena, she will continue to be active in the community.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Jeanette "Jay" Blackshaw. The entire community joins me in thanking Jay Blackshaw for her continued efforts to make the 29th Congressional District a better place in which to live.

TRIBUTE TO AL DAVIS

SPEECH OF

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. McDERMOTT. Mr. Speaker, this body lost someone very important when we lost Al Davis. We lost a man who helped fix the course of the House Ways and Means Democrats. We lost a man of ideas and a man of data, a combination that is too uncommon. Al was a man of endless information, which the Committee Democrats used to tack and jibe through the political storms that erupt so often in the Ways and Means Committee.

Al Davis passed away after 56 years of life. I didn't know him well outside of his briefings, his memos, and his witty analysis but I don't think that anyone had to be particularly close to Al to know how much he cared for those who have the least among us. I now know that he loved to go sailing.

Members of Congress are often generalists. Our knowledge is usually a mile wide but only an inch deep. I frequently could not fathom the amount of memory and facts that Al retained. When it came to taxes and our economy, Al Davis increased the depth of my understanding about the issues and how changing public policies would affect working class Americans.

Things move fast in the House and in the Committee on Ways and Means. Members often find themselves confronted with complex and multifarious issues, which can be quite challenging. Al was just the type of person that our committee needed. He liked to linger down in his "engine room" to make certain that the ship and its crew had all it required. Al was a harbor in a tempest. I could go to Al, and he could, within a few sentences, quickly and easily break down a complex issue for me.

Some say that statistics lie and liars use statistics. Al would say that it doesn't have to be that way. Whether it came from the Bush Administration, or elsewhere, Al was not a fan of distorting data for political gain.

Recently during President Bush's campaign to sell another tax cut, the President said that his plan would on average cut everyone's yearly taxes by $1,083. As soon as President Bush said that, Al quickly rattled off a memo to me correcting the misleading data that was being used by the President. In the memo, Al said that when Bush refers to the "average" tax cut in his proposal, it "is like saying that every farmer in the nineteenth century got the average of a mule, if a few farmers were given a team of draft horses and most farmers got a small dog, instead."

I will miss Al Davis. I will miss his talent, his wisdom, and his humor. But I think that most of all, I will miss the trust that Al invested in Ways and Means Democrats. Al trusted that we would use our best effort to honestly employ the information he gave us to improve the well-being of the average American. We'll sail on without Al. But I feel that, at least for a while, our ship is heading into the wind, and against the tide, because we are without our navigator.

HONORING THE SACRIFICE OF JORDAN FERRELL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. McINNIS. Mr. Speaker, as the battle for freedom rages across the globe, the United States has stepped forward to defend the world against tyranny and aggression. This includes sending forth brave men and women to protect the sovereignty that we hold dear. One of these brave souls has been wounded in battle, and his courageous actions and determination deserve the admiration of this body of Congress and of this nation.

Jordan Ferrell, a 19-year-old soldier from Moffat County, Colorado was wounded in the service of his country during Operation Iraqi Freedom. As a member of the Army's 82nd Airborne, Jordan was wounded by shrapnel when a grenade exploded on the roof of his Jeep. After being injured, Jordan wanted nothing more than to return to active duty, so he began the long road to recovery. I am proud to say that through hard work and determination, Jordan has resumed active duty, and is once again protecting the freedoms we enjoy.

Upon completion of his military service, Jordan wants to pursue a career in computers. His mother hopes he might consider creative writing. Regardless of the profession he chooses, if Jordan displays the same determination and drive, I know he will achieve much success in his life.

Mr. Speaker, I cannot fully express my deep sense of gratitude for the sacrifice and heroism of this soldier and his family. Jordan has served his country well, and it is soldiers like him who make the United States military the best in the world. Jordan has done all Americans proud and I know he has the respect, admiration, and gratitude of all of my colleagues here today. Thank you, Jordan, for your honorable and admirable service to this nation.

TRIBUTE TO JULIANA BELLINGER OF GRAND RAPIDS, MI, EXCEPTIONAL TEACHER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. SMITH of Michigan. Mr. Speaker, education is the key for our Nation's future prosperity and security. The formidable responsibility of molding and inspiring young minds to the avenues of hope, opportunity and achievement rests partly in the hands of our teachers. Today I would like to recognize a teacher from Grand Rapids, Michigan.

Mrs. Juliana Bellinger teaches Theatre Arts and Literature at Forest Hills Northern and Central High Schools. She is credited for building ensembles and unity within classrooms and within casts. She is one of the most loved teachers on staff as evidenced by senior classes choosing her as their main speaker at Baccalaureate. Student enrollment in her classes increased every year in every school where she taught, further evidence of her skill and knowledge of her subjects.

Her commitment to professionalism is well-known by students and faculty alike. She is described as loving, committed, dynamic, exceptional, inspiring, insightful, and extraordinary. One colleague writes, "To watch her present and teach is truly a wonderful experience." In over twenty years of teaching she has directed numerous plays, coached young actors, and educated others on new technologies for the drama classroom. As a well-respected educator she has been invited to teach teachers at seminars and conferences on techniques and skills to increase student interest and performance in literature.

Mrs. Bellinger's excellence in teaching both challenges and inspires students to move beyond the teenage tendency toward surface study and encourage deeper thought and connections to the real world. No profession is more important in its influence and daily interaction with the future leaders of our community and our country, and Juliana Bellinger's impact on her students is certainly deserving of recognition.

On behalf of the Congress of the United States of America, I am proud to extend our highest praise to Mrs. Juliana Bellinger as a master teacher. We thank her for her continuing dedication to teaching and her willingness and ability to challenge and inspire students.

RELATING TO CONSIDERATION OF SENATE AMENDMENTS TO H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

SPEECH OF

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. UDALL of New Mexico. Mr. Speaker, I cannot say that I'm surprised by the actions of the Majority today. I cannot say that I'm surprised that instead of voting on the Senate-passed Child Tax Credit legislation, we're voting on something else. I cannot say that I'm surprised that once again, the GOP leadership is cynically manipulating the process to ensure that we pass even more tax cuts that will drive up the federal deficit and continue to expand our national debt. Once again, they're playing politics when what we need is tax relief for working families.

Let's review what we're talking about here. First, the President tried to convince us that the tax bill would help every working American. Sadly, though, the House Leadership gutted one of the few provisions that helped those most in need—the refundable Child Tax Credit—from the previous tax package at the last minute. Yes, in a bill that was supposed to be an effort to stimulate the economy, we didn't do anything for those taxpayers most likely to spend the money. Amazingly, workers who earn between $10,500 and $26,625 were left behind in a backroom deal. I cannot think of anyone who is more likely to spend that money than these working families struggling to make ends meet. What this sneaky deal means to New Mexico is that nearly 90,000 families and 157,000 children aren't going to benefit under current law. The Republican plan also left behind many in our military who would have benefited from this break.

Once the secret was out, though, the outcry from across the country was clear. Nearly everyone realized how bad a deal this really was, and nearly everyone knew a quick fix was needed. However, it seems like the House Leadership are the only ones in the country who don't get it. The Senate voted nearly unanimously to pass a simple clean bill to give this benefit to the most needy. And, most importantly, the Senate bill won't increase the national debt by one penny. It's totally paid for. Even President Bush realizes how unfair this situation is, and has called on the House to pass a clean bill and let him sign it.

Not surprisingly, though, the House Leadership insists on passing a bill that cannot make it through the other chamber. The saddest part of this entire charade is that this bill—just like all the tax cuts this House has passed—will actually hurt American children much more than it helps them. In the long run, this $82 billion tax-cut plan will further saddle our children and grandchildren with even more debt. So, we're giving them a small check now, but it pales in comparison to the huge bill they're going to see later in life. It's not only unfair; it's irresponsible.

I urge my colleagues to vote against this bill. I urge my colleagues to demand that we vote on the Senate-passed bill immediately. We shouldn't delay another minute. It's too important to play these cynical political games.

RECOGNITION OF STEPHEN PIFER

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize Stephen Pifer of Edwardsville, Illinois for winning the Triple Crown in Illinois high school long distance track.

Last November, Stephen won the Class AA cross-country championship for the State of Illinois. Then, at the 109th annual Illinois High School Association Track and Field State Finals held in May, Stephen won the Class AA 1,600-meter and 3,200-meter runs to secure the Triple Crown. Winds gusting up to 30 miles per hour made stable running tricky for all competitors at the State Finals, but Stephen's determination and spirit kept him head and shoulders above the rest of the field at Eastern Illinois University's O'Brien Stadium that night.

Just five other runners in State history have won the Triple Crown. Stephen joins names like Craig Virgin, David Merrick, Tom Graves, John Jacobsen, and Donald Sage; each Illinois track stars in their own right. Stephen's uncle and Edwardsville assistant coach Tim Flamer praised his nephew saying, "It's admirable for Stephen to come through time and time again. He's now among the legends of State track. He carved that out today." Three-time Olympian and two-time World Cross Country champion Craig Virgin calls Stephen the best runner to come out of Illinois since him, and not many disagree.

The mayor of Edwardsville has given Stephen the key to the city, but that will definitely not be the last of the awards he receives. Stephen has represented Southern Illinois well in his years at Edwardsville High School, but his time there is over, as he graduated last May. He plans to move on to the University of Colorado, where he will undoubtedly continue performing well in competition. Stephen's future looks incredibly bright, and I wish him the best in all he does.

COMMENDING MEDGAR WILEY EVERS AND MYRLIE EVERS-WILLIAMS FOR THEIR LIVES AND ACCOMPLISHMENTS

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. CUMMINGS. Mr. Speaker, today I rise to applaud Congressman BENNIE G. THOMPSON (D–MS) for introducing H. Con. Res. 220, a resolution to honor Medgar Evers and his wife Myrlie Evers-Williams for their accomplishments in fighting for equality in civil rights for African-Americans.

While many history books rightfully acknowledge the Rev. Martin Luther King, Jr., Malcolm X and Rosa Parks as central leaders of the Civil Rights Movement, Evers was also an initial pioneer in the fight for racial justice.

Born July 2, 1925 near Decatur, Mississippi, Evers received a Bachelor of Arts degree from Alcorn Agricultural and Mechanical College. In response to the 1954 landmark Supreme Court case, Brown, which declared segregation in educational institutions unconstitutional, Evers applied for admission to the formerly segregated University of Mississippi Law School. Despite the ruling, and despite being qualified, he was denied admission. Upon this denial, Evers began working for the National Association for the Advancement of Colored People (NAACP) as the Mississippi Field Secretary in order to effect change. This position included registering people to vote in Mississippi, organizing students at nearby colleges, coordinating and leading protest marches, and challenging bus segregation. Despite his professional successes with the NAACP, Evers was never able to pursue an advanced degree before his death.

Like many other civil rights activists of the time, brutality was often brought upon Evers. In fact, he was arrested, beaten, and jailed for his unswerving efforts to combat prejudice and discrimination. Tragically, on June 12, 1963, Evers was violently shot and killed in front of his home. Since his death, his widow, Myrlie Evers-Williams continues to speak out against discrimination and injustice. In 1995, Myrlie Evers-Williams was elected as the first woman chair of the NAACP.

So, Mr. Speaker, it is only fitting that we gather to remember Medgar Evers for his contribution as a remarkable civil rights leader and for making the ultimate sacrifice in fighting for civil rights—his life.

This resolution speaks volumes about the state of civil rights in this nation forty years after Evers' assassination. I support this resolution wholeheartedly and urge all of my colleagues to support H. Con. Res. 220.

HONORING WESLEY UHLAND

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. MCINNIS. Mr. Speaker, I stand before this body of Congress today to honor a man who has been wounded on the field of battle while in the service of his nation. Wesley Uhland, a 26-year-old Army Specialist, is a mechanic who received a bullet to the abdomen after an ambush by Iraqi soldiers. However, doctors have assured Wesley and his family that he will make a full recovery. As he recuperates, I would like to recognize his admirable service before this Congress and this Nation today.

Wesley graduated from Canon City High School in 1994 and joined the Army in 2000. He was stationed out of Fort Carson and was deployed in Operation Iraqi freedom on April 11, 2003. As a mechanic, Wesley is responsible for the care and maintenance of tanks, Humvees, and Bradley Fighting Vehicles. During the ambush in which he was shot, four of Wesley's companions were also wounded, though all were lucky enough to survive the incident. Wesley is recuperating in an Iraqi hospital and is to be transferred to Germany before traveling home to Colorado.

Mr. Speaker, I cannot fully express the gratitude and respect I feel for Wesley Uhland. Each generation must renew its commitment to defend our liberties. Today in Iraq, a new generation of young Americans is fighting bravely for the freedom of others. I know that those who seek the true meaning of duty, honor, and sacrifice will find it in dedicated servants like Wesley Uhland. This Congress and all Americans should feel proud that we have soldiers like Wesley Uhland defending our great Nation. Thank you, Wesley, for putting your life on the line to honorably serve our country.

TRIBUTE TO CHRIS IAVELLI OF BATTLE CREEK, MICHIGAN, EXCEPTIONAL TEACHER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. SMITH. Mr. Speaker, education is the key for our Nation's future prosperity and security. The formidable responsibility of molding and inspiring young minds to the avenues of hope, opportunity and achievement rests partly in the hands of our teachers. Today I would like to recognize a teacher from Battle Creek, Michigan that most influenced and motivated exceptional students in academics and leadership that were winners of the LeGrand Smith scholarship.

Miss Chris Iavelli teaches English at Harper Creek High School in Battle Creek, Michigan. She is credited for instilling in students an enthusiasm for the subject and for life itself. In one student's own words, "Miss Iavelli has taught me to seek the deeper meaning in all things and has encouraged me to always follow my dreams." The respect and gratitude of her students speaks well of Miss Iavelli's ability to challenge young minds to stretch the mental muscles and strive to achieve the best that is in them.

Chris Iavelli's excellence in teaching challenges and inspires students to move beyond the teenage tendency toward surface study and encourage deeper thought and connections to the real world. No profession is more important in its influence and daily interaction with the future leaders of our community and our country, and Chris Iavelli's impact on her students is certainly deserving of recognition.

On behalf of the Congress of the United States of America, I am proud to extend our highest praise to Miss Chris Iavelli as a master teacher. We thank her for her continuing dedication to teaching and her willingness and ability to challenge and inspire students for leadership and success.

CLASS ACTION FAIRNESS ACT OF 2003

SPEECH OF

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

The House in Committee of the Whole House on the State of the Union had under consideration the bill, (H.R. 1115) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

Mr. UDALL of New Mexico. Mr. Chairman, I rise today in strong opposition to H.R. 1115, the Class Action Fairness Act of 2003. This bill is the third piece of legislation in a succession of tort reform vehicles offered by the majority this Congress. In offering H.R. 1115 today, the majority again seeks to manipulate our judicial system for the benefit of corporate America.

The Administration also strongly supports this bill. Yet, while both the Administration and the majority espouse the virtues of federalism and states' rights, this bill would severely limit, if not automatically remove, state court jurisdiction in the majority of class action cases. The anticipated result of this reduction caused Supreme Court Chief Justice William Rehnquist, long-time a devout Federalist, and the Judicial Conference of the United States, to openly denounce this bill because it would increase the caseload of the already overcrowded federal courts. And, because federal courts must expedite criminal matters over civil matters, this bill would make a plaintiff's remedy more costly due to the increased amount of time their case is kept pending on the Federal docket.

Furthermore, besides giving jurisdiction over most class action lawsuits to federal district courts, this bill would also be applied retroactively so that pending cases would be subjected to its provisions. This would effectively include cases pending against Enron Corp., Worldcom Inc., and Tyco International Ltd. At a time of heightened concern over corporate wrongdoing, now is not the time for Congress to make it more difficult for injured consumers to bring class-action lawsuits.

Considering the above, this legislation further illuminates the majority's willingness to erode an individual's protections from corporate wrongdoing through the manipulation of our judiciary systems. As a result, I oppose passage of this bill and urge my colleagues to do so as well.

A SALUTE TO THE BONSALL FAMILY REUNION

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. WELDON of Pennsylvania. Mr. Speaker, family reunions are an important part of our personal histories. On June 21 and 22, 2003, the Bonsall Family Reunion will be held at Stagecoach Farm in Cheyney, Pennsylvania in the 7th Congressional District of Pennsylvania. This will be the 320th anniversary of Richard, Mary and Obadiah Bonsall sailing out of Liverpool, England to America, arriving on the *Duke of Yorke* in the spring of 1683. I am proud to salute the Bonsall family on this important occasion.

Their story begins when Richard Bonsall and his wife, Mary (nee Wood) and their five young daughters ages 1 to 6 boarded a sailing vessel in Liverpool and endured a six to ten week voyage across the Atlantic Ocean with great hardships and danger. They arrived in Chester, Pennsylvania in the spring of 1683. Richard had received a Land Grant from William Penn in the area east of Chester Creek in what is now part of Lansdowne and part of Darby, Pennsylvania. Mary's parents had arrived in 1682 and had landed next to Richard's family. Richard built a dam on Chester Creek and established a Grain and Saw Mill. Richard and Mary added three sons and another daughter to the family. Richard and their other Quaker neighbors established the Darby Friends Meeting in 1699. Their children produced sixty-one (61) grandchildren and so started a very large family, many of whom served in every war that the United States was involved in from the Revolution to the recent conflict in Iraq.

Reuben Fayette Bonsall, a seventh generation descendant of Richard was born and raised just outside of Media, Pennsylvania in what is now Elwyn and had a large family of fourteen (14) children. In 1934 the descendants of Reuben held their first Reunion in honor of their parents. The tradition has continued each year since 1934 and is now held at Peggy Bonsall's home called Stagecoach Farm on Tanguy Road in Cheyney, Pennsylvania on the Sunday following Father's Day. In 1983 a worldwide reunion was held at Rose Tree Park and it was attended by nearly 1,000 descendants and family. There were genealogy displays, skits depicting some outstanding Bonsall's, Amos (explorer, soldier), Joseph (librarian, third library in America), Philip (last U.S. Ambassador to Cuba), bus tours to the ancestral homes (many are still being occupied), games for all ages and a dinner at Springton School.

After the reunion a committee was formed to establish a plan to keep the family aware of their heritage and contributions to America. It was decided to continue the regional yearly reunion and plan a U.S.A. reunion every ten years. The first ten year reunion was held in 1993, celebrating 310 years since Richard came to America and now we are celebrating the second ten-year Reunion on June 21 and 22, 2003 at Stagecoach Farm, 87 Tanguy Road, Cheyney, Pennsylvania. The program will include entertainment, games, genealogy displays, speakers, singers and depictions of famous Americans, William Penn, Ben Franklin and George Washington, all of whom knew Bonsall in early America.

The Bonsall's are planning for 300 descendants and family to attend this 320th anniversary of Richard and Mary (Wood) Bonsall arriving in America. These committed descendants represent nearly every state in our country. I am pleased that a very large population of Bonsall's still live, work and play in Delaware County, Pennsylvania. There are over 35 streets named after various Bonsalls in the Delaware Valley. There are three states that have towns named Bonsall or Bonsal.

Mr. Speaker, family reunions offer a special time for families to come together for celebration and renewal of the ties that bind them. Although the Bonsall Family has endured trials and tribulations over the years, the family has maintained their love, devotion, and commitment to one another. I am certain that this year's reunion will be a very special and joyous occasion.

Mr. Speaker, I ask my colleagues to join with me in extending best wishes to the entire Bonsall Family for a successful and heartwarming family reunion.

TRIBUTE TO MARY ROSE CLARK WALKER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I stand before this body of Congress to pay tribute to an outstanding woman from my district. Mary Clark Walker passed away recently at the amazing age of 108. Mary was one of a small number who had witnessed the dawn of two centuries, and the astounding advancement of technology in the United States over that time. Mary was lucky enough to see the beginning of the airplane, the television, and the modern automobile.

At a very young age, Mary moved from California to Ouray, Colorado where her original house on Oak Street still stands today. Mary gained a reputation as a hard worker. At a very young age, Mary began working to provide her family with extra spending money. She would often travel by train to Montrose, Colorado, where she would work a week at a time for the Ashenfelter Ranch. Mary sometimes stayed at the ranch for up to a month before she would return home to her family. It was this kind of work ethic that garnered Mary the respect of her town, which congratulated her by throwing a special 100th birthday party in her honor. Mary was also blessed with two sons, Jack and Lester, who claim her secret for a long and healthy life was nothing more than clean living and hard work.

Mr. Speaker, it is people like Mary that constitute the heart of our great nation as well as the spirit of the West and I am honored to recognize her life before this body of Congress and this nation. While we are all saddened by the loss of such a great woman, we can take some solace in knowing that she lived a long and happy life. My thoughts and prayers go out to Mary's friends and family during their time of mourning.

TRIBUTE TO RICHARD D. FAUBLE, SUPERINTENDENT OF TECUMSEH PUBLIC SCHOOLS

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. SMITH of Michigan. Mr. Speaker, I rise today to honor Richard Fauble of Tecumseh, Michigan for his distinguished service to the community, most recently as the Superintendent of Tecumseh Public Schools.

As the Superintendent of the second largest district in Lenawee County, Richard Fauble oversaw the building of a new high school and extensive renovations to the middle school and four elementary schools. Both projects were successfully completed under budget.

Mr. Fauble distinguished himself both personally and professionally through his commitment to education. He earned his B.A. Degree from Central Michigan University and his Masters Degree in educational administration from the University of Michigan. He has also completed extensive coursework throughout the country.

Richard Fauble has made the most of his extensive education and training, serving in a variety of teaching and administrative positions. In the last 30 years, he has taught high school social studies, served as principals and superintendents in Wyoming, Wisconsin, Florida and Michigan. In each post, he offered his experience and expertise to improving the learning environment for students.

Education is the key for our Nation's future prosperity and security. The formidable responsibility of molding and inspiring young minds to the avenues of hope, opportunity and achievement rests in good part with our schools. Richard Fauble's impact on the future leaders of our community and our country is certainly deserving of recognition.

On behalf of the Congress of the United States of America, I am proud to honor Mr. Richard Fauble for his commitment and dedication to improving education. We thank him for his contributions to helping our young people become good citizens, and fit for the technology-based world of tomorrow.

TRIBUTE TO ROBERT A. WILLIAMS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a great community activist and humanitarian. Mr. Robert Williams, the exceptional leader of the Sports Foundation Inc. in the Bronx, has given 34 years of service to the youth of his community.

Mr. Williams helped found the Sports Foundation with the mission of promoting the development of youth through participation in community programs that involve sports, counseling, mentoring and education. The motto: "Building Social Responsibility through Sports" drives SFI to function as a model youth development organization, utilizing and providing prevention strategies and positive alternatives to substance use and anti-social behavior.

In addition to his work with the Sports Foundation in the Bronx, Mr. Williams has served as Director of the Youth Development Program which began the first publicly elected youth council in the country. He has served as Director of the College Opportunity and Educational Development program in Harlem and was the first Black Assistant Varsity Basketball Coach at New York University. He is also the author of The Student Athlete Handbook, which was published in 1993.

Mr. Speaker, Mr. Williams has dedicated the majority of his adult life to serving his community. For four years he served as special assistant to the Bronx Borough President where he was responsible for all educational matters, including community school districts, institutions of higher education, libraries and cultural institutions.

Those who take the time to improve the lives of youth are special people. I am proud to say that our nation is a better place because of people like Mr. Robert Williams.

I thank Mr. Williams for 34 years of service to the youth of our community and I ask my colleagues to join me in recognizing him as a model American.

TRIBUTE TO DON GEORGE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. McINNIS. Mr. Speaker, I have the pleasure to stand before this body to pay tribute to a great individual who, even at a very young age, understood the price of freedom. His story is one of honor, selflessness, and sacrifice, and I am honored to tell it to this Congress today.

In 1946, while just 15 years old, Don George had an exciting future ahead of him. Although just a high school freshman, he was already a starter on his high school basketball team. His country was finally at peace, having just defeated the Germans in Europe and the Japanese in Asia to close out World War II. Although he was too young to fight in the war, Don was old enough to understand how much his countrymen had sacrificed to help keep America free. So, he went off in the service of his country, pretending to be older than he was in order to meet the military's age requirements.

After his return from the service, Don came home and married the love of his life, Helen, to whom he has been married for 53 years. Don forged a career in the oil refinery business before retiring to pursue the things he and Helen love, such as country line dancing, bowling, and playing cards. Don is blessed with three children, six grandchildren, and six great-grandchildren.

Don sacrificed his diploma in order to serve his nation. However, a new law in Colorado enables veterans to receive their high school diplomas, and now Don, who is 72-years-old, will walk across the stage with his graduating class, the class of 2003 at Fruita Monument High School in Colorado.

Mr. Speaker, I am proud to recognize the achievement of Don's upcoming commencement. The drive and dedication that Don has displayed in pursuing this diploma is extremely impressive, and his determination, along with his sacrifice to his country, is an outstanding example for America's youth. Don is truly a dedicated patriot and citizen, and I am honored to recognize his accomplishments.

TRIBUTE TO THE BARABOO PUBLIC LIBRARY

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Ms. BALDWIN. Mr. Speaker, I rise today to extend congratulations to the Baraboo Public Library in Baraboo, Wisconsin for 100 years of service to the community. Constructed in 1903, this library has been an integral part of democratic society in Baraboo.

A public library serves as the cornerstone of democracy. A library fosters intellectual freedom and makes available to all citizens an extensive information network. In a local setting, citizens have access to global resources of information. The educational importance of a public library is immensely important in improving the community by providing access to higher learning. A library is a requirement for a cultivated democratic society.

A public library allows citizens to perform their civic duties placed upon them in our noble democratic Nation. It not only provides free worldwide access to information, but also is a place where residents can obtain information about their community, and where internet access, tax forms and voter registration forms are provided. The role of the public library is essential in supporting a democratic state. The Baraboo Public Library has gone beyond its civic duty in providing these services for the public.

Baraboo Public Library's vast success in the past 100 years has led it to develop a distinguished reputation within its community. It is evident that the library's dedication towards free information and democracy will allow the city of Baraboo to continue to foster higher education and diversity in society. I join

Baraboo residents in celebrating the 100th anniversary of the Baraboo Public Library.

PERSONAL EXPLANATION

HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. RYUN of Kansas. Mr. Speaker, unfortunately, I missed the votes in the House of Representatives on June 16, 2003. Had I been in attendance I would have made the following votes:

H.R. 2254, the Bruce Woodbury Post Office Building Designation Act. Had I been in attendance, I would have voted "yea."

H. Con. Res. 220, commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams, for their lives and accomplishments. Had I been in attendance, I would have voted "yea."

S. 703, the Carl T. Curtis National Park Service Midwest Regional Headquarters Building Designation Act. Had I been in attendance, I would have voted "yea."

TRIBUTE TO KRISTOPHER ENTZ

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I honor the life and memory of an outstanding young man from my district. Kristopher Entz, a 17-year-old student from Center, Colorado passed away recently. As his family and friends mourn their loss, I would like to pay tribute to the memory of Kristopher before this body of Congress and this nation.

Kristopher was a well-rounded, perpetually happy, all-American teenager, liked and admired by all. His sense of humor and penchant for pranks made him one of the most popular students at Sangre de Cristo High School. He was an outstanding student, as evidenced by his membership in the National Honor Society and his participation in Knowledge Bowl, an extra-curricular academic competition. Kristopher excelled in athletics as well, and was a terrific football player who also liked snowboarding, golf, and lifting weights.

Kristopher is survived by his parents Mike and Rhonda, his older sister Brynna, and a loving extended family, and my thoughts and prayers are with them during this difficult time. Kristopher's good-natured spirit will live on in the many lives he has touched in the San Luis Valley. His love, laughter, and dedication to his family, friends, school, and community will be greatly missed.

CONGRATULATING PAUL SABLAN DUENAS ON HIS GRADUATION FROM THE UNITED STATES NAVAL ACADEMY CLASS OF 2003

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Ms. BORDALLO. Mr. Speaker, I rise today to commend Ensign Paul Sablan Duenas on his graduation from the United States Naval Academy with a Bachelor of Science degree in Political Science on May 23, 2003 and for his commissioning as Ensign in the United States Navy. Paul now joins his brother John, who also graduated from the Naval Academy, as a Naval Officer.

As a young man growing up on Guam, Paul demonstrated tremendous success as a student and leader at every academic level. He attended Cathedral Grade School in Hagatna, Guam and St. Francis School in Yona, Guam before enrolling at Father Duenas Memorial School, where he completed his secondary education. During high school career, Paul excelled in academics and was inducted into the National Honor Society. Outside of the classroom, he further developed his leadership talents by serving as Cadet Commanding Officer for the Father Duenas Naval Junior Reserve Officer Training Corp (NJROTC) during his senior year. Upon graduating from Father Duenas Memorial School in 1999, Paul accepted an appointment to the U.S. Naval Academy.

Today I join friends and family of Ensign Paul Sablan Duenas in congratulating him on his graduation from the United States Naval Academy. He has received orders to report on-board the new USS *Mason* (DDG–87) in Norfolk, Virginia as a Surface Warfare Officer (SWO). I am confident that Paul will be an outstanding officer in the United States Navy, and I commend him for his distinguished academic career and his self-less dedication and commitment to the service of our Nation.

CELEBRATING THE BIRTH OF MARTIN TAYLOR WHITMER III

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. WILSON of South Carolina. Mr. Speaker, I want to send my personal congratulations to Julie Thurmond Whitmer and Martin Whitmer on the birth of their first son, Martin Taylor Whitmer III. This is a very special young boy, as he is the first grandson of 100-year old Senator Strom Thurmond, South Carolina's living legend.

According to The State's Lee Bandy, "Martin Taylor Whitmer III was born at 1:59 p.m. Monday (June 16, 2003), at Sibley Hospital in Washington, D.C. He weighed 9 pounds, 5 ounces and was 20.5 inches long . . . Young Taylor already has a nickname—Tate."

I am so happy for the Whitmer family, grandmother Nancy Thurmond and Senator Thurmond, who's life has been full of milestones. There is no doubt that his grandson will inherit his strength, courage and patriotism.

CARL T. CURTIS NATIONAL PARK SERVICE MIDWEST REGIONAL HEADQUARTERS BUILDING

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise to add my voice in support of S. 703, the Carl T. Curtis National Park Service Midwest Regional Headquarters Building Designation Act.

Carl Curtis served in Congress longer than any other Nebraskan—16 years in the House followed by 24 years in the Senate. In those 40 years, he built a strong legacy of legislative accomplishments. One of his greatest was the creation of the Pick-Sloan Plan for the Missouri basin, which was the blueprint for flood control and irrigation along the Missouri River. In addition, he came to be widely regarded as an authority on tax policy. He also transformed the Senate Republican Conference, making it the research body it is today, providing relevant information on national issues for the members of his caucus.

Politically, he was a force to be reckoned with. Having defeated two incumbent governors, one former governor, one governor-to-be, and two former House members, Carl Curtis is known by many as ending or sidetracking many a political career. But for me, Mr. Speaker, it is just the opposite. I credit Mr. Curtis with having given life to my political career by virtue of the fact that he sponsored me as a Senate page. I served 4 years as a page, and have since gone on to serve in a number of political positions—in the Nixon Administration, Fairfax County Supervisor, and of course my current role as the Representative for the 11th District of Virginia. Along the way, though, we all remember the person who gave us our first break. For me, that person was Senator Carl Curtis.

Senator Curtis passed away on January 24, 2000. I still owe him a debt of gratitude, and appreciate this opportunity to express my continuing appreciation.

TRIBUTE TO SAM SUPLIZIO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. MCINNIS. Mr. Speaker, it is my pleasure to stand before this body of Congress to honor a man known as Colorado's "Mr. Baseball." Sam Suplizio of Grand Junction, Colorado has spent his life playing, coaching, and promoting the game. As he retires from his position as Director and Chairman of the National Junior College World Series, I would like to pay tribute to this outstanding leader.

Fifty years ago, Sam was one of the top amateur baseball players in the nation. Following a brilliant collegiate career in which he became the University of New Mexico's first All-American baseball player, the New York Yankees signed Sam and quickly labeled him as their top prospect. As a minor leaguer in 1955, Sam hit more home runs than Roger Maris, and the next year the Yankees called him up to the big leagues. Unfortunately, only three days after joining the team, Sam suffered a career-ending injury while sliding into second base.

Despite the setback, Sam rebounded to become a professional scout, coach, and manager with the California Angels and Milwaukee Brewers. He coached superstars Paul Molitor, Robin Yount, and Bo Jackson, participated in selecting members of the U.S. Olympic Baseball Team, and earned a World Series Ring in 1982 with the Brewers.

While his association with professional baseball lasted 50 years, Sam always took the time to give back to the community. In addition to four decades of leadership with the Junior College World Series, thousands of little leaguers, high school, and college players in Colorado benefited from the free clinics Sam frequently conducted. As co-chairman of the Colorado Baseball Commission, Sam led the effort to bring the Rockies to Colorado and was instrumental in the building of Coors Field. He was so effective in that role that Colorado's Governor appointed him to help build a new stadium for the Denver Broncos as well.

Mr. Speaker, athletics teach our young people important life lessons about dedication, sacrifice, and teamwork, and I am proud to pay tribute to a man who has spent five decades imparting these values to our youth. Sam is a true public servant who has done so much for the game of baseball and the state of Colorado, and I am proud to honor him before this body of Congress today.

TRIBUTE TO DR. JOAN HINDE STEWART

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a woman who is an exceptional scholar, a renowned literary commentator and a distinguished leader at the University of South Carolina. Dr. Joan Hinde Stewart, Dean of the College of Liberal Arts at the USC, is leaving in July to accept a position as the 19th president and first-ever female president of Hamilton College in Clinton, New York, and I ask you to join me in commending her for a job well done.

Dr. Stewart's accomplishments during her tenure at USC have been astonishing. She has led the university's largest and most academically diverse college, and served as a member of the Provost's Strategic Directives and Initiatives Committee that financially restructured the university last year. Dr. Stewart's leadership helped the college boast the highest increase this year in funds attained through research grants at a time when the university is shifting its focus toward technological and biomedical research.

Dr. Stewart's merit not only benefits the university at-large but also touches individual students. As a professor of French, she is known for her extensive historical perspectives on French literature and for bringing her latest analysis of some long neglected writers into her classroom.

Before coming to USC, Dr. Stewart headed the Department of Foreign Languages and Literatures for 12 years at North Carolina State University. She has lectured on French literature and culture at numerous universities, including Oxford, Columbia, and Yale, which is where she earned her Ph.D.

Mr. Speaker, Dr. Stewart is an extraordinary example of leadership in higher education. She has excelled in academia and administration at the University of South Carolina, and her unique talents will be missed. I ask you and my colleagues to join me in applauding Dr. Joan Stewart's contributions to USC and wishing her the best of luck in her new position at Hamilton College.

TRIBUTE IN HONOR OF WOMEN'S RIGHTS PIONEER, REP. MARTHA GRIFFITHS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, tonight we honor former Congresswoman Martha Griffiths. I appreciate this opportunity to share with my colleagues my admiration for one of Michigan's and this nation's most distinguished leaders.

Martha Griffiths is the woman most responsible for the inclusion of women in the Civil Rights Act of 1964. The Act was a landmark piece of legislation that outlawed discrimination on the basis of sex, race, ethnicity, or religion in the election process, employment, public accommodations, or in Federally-assisted programs. It opened the doors of opportunity to women throughout the United States and spurred women across the world to fight for similar laws in their home countries.

She was the first woman appointed to the Detroit Recorder's Court, the first woman sent to Congress from her district, the first woman seated on the House Ways and Means Committee in 1954 and the first woman chosen to serve as Michigan's Lieutenant Governor. As the first woman and the first African-American to ever represent the Dallas, TX area in Congress, I have learned a great deal from her empathetic approach to public policy and political leadership. She never forgot that the bills we considered and the policies we crafted affected real people with real families. She always considered how a bill might affect our community's most disadvantaged families.

Martha's greatest legislative victory came when she engineered the inclusion of a ban on sex discrimination in the landmark 1964 civil rights legislation, which paved the way for a number of laws and Supreme Court rulings on issues ranging from equal pay to freedom from sexual harassment.

She displayed considerable political savvy in 1970 when she employed a little-known parliamentary tactic to blast the ERA out of the House Judiciary Committee, where it had been stalled for 47 years.

As a legislator, I admire Martha Griffiths. She earned the respect of her colleagues for both her intelligence and independence; they have described her as "tough as alligator skin" with "a steel-trap mind."

Mr. Speaker, Representative Martha Griffiths has been a clear, strong and consistent voice for women and women's issues. I am proud to stand here in honor of Martha Griffiths and her legacy.

TRIBUTE TO EDDIE VALENTINELLI

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I rise before this body of Congress today to pay tribute to the life and passing of Eddie Valentinelli of Grand Junction, Colorado. Eddie's passion for life was reflected in the time and effort that he devoted to the Junior College World Series (JUCO). As his family and friends mourn his loss, I would like to commend Eddie for his enthusiasm for the game and pay tribute to the impact that he had on his community.

Eddie attended every JUCO World Series game from the time the series began in 1958. He arrived at the ballpark at 5 a.m. every Saturday to help the grounds crew, loving to socialize with the players and coaches throughout the day. Fans have noted that the series would not be the same without Eddie's presence in his usual seat. Eddie's dedication to JUCO has extended beyond his own lifetime, as he had made the JUCO World Series Organization a major benefactor in his will. While the financial benefit from his contribution was welcomed, the sentimental value of the gesture is what individuals associated with JUCO will always remember.

Mr. Speaker, I am proud to stand before this body of Congress today to pay tribute to Eddie's dedication and commitment to his fellow Coloradans. Individuals like Eddie provide the strength of spirit and character that make this nation great. While he will be dearly missed, Eddie's spirit will live on through the lives of those whom he has touched. I extend my deepest sympathies to Eddie's family and friends during this difficult time.

HONORING MISS LUCILE BLUFORD UPON HER DEATH, PUBLISHER AND EDITOR OF THE CALL NEWSPAPER

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Ms. McCARTHY of Missouri. Mr. Speaker, it is with great pride and respect that I rise today to honor Miss Lucile Bluford, editor and publisher of The Call newspaper in Kansas City, Missouri. Miss Bluford passed away Friday, June 13. She had been an employee of The Call for 71 years and editor/publisher since 1955. She would have been 92 years young this July 1.

Miss Bluford, as she was known by everyone, was a trail blazer and pioneer for civil rights and equality for African-Americans. She fought both personally and professionally to end segregation and advance opportunities for our community. Through her fight to access graduate journalism school for herself and other minorities and her leadership in the civil rights and journalism communities, Miss Bluford left an enduring mark in her advocacy for equality.

Miss Bluford graduated from the University of Kansas School of Journalism in 1932 and joined The Call shortly thereafter as a reporter. In 1938, she filed a mandamus suit against the University of Missouri Graduate School of Journalism for being denied admittance because of her color. Miss Bluford wrote and fought for racial and social justice ever since. She reported about the plight of those unfortunate enough to help themselves, the poor and disenfranchised. Miss Bluford had an effect on making our community and nation better aware of the inequalities existing.

Miss Bluford had the ear of those who were wealthy and those who were not, and conversed with the common citizen or those of stature. I met with Lucile many times and I always treasured her company and conversation. I invariably would leave with a much more valuable insight on the issues of the day as well as the rich history she lived—especially her struggles in the civil rights movement.

Miss Bluford's leadership and accomplishments have been recognized on numerous occasions, including receiving the Medal for Distinguished Service in Journalism from the University of Missouri. Last fall she was honored by the Greater Kansas City Chamber of Commerce as "Kansas Citian of the Year for 2002." Awards she received throughout her career include the Distinguished Service Award from the national NAACP, an Honorary Doctorate degree from Lincoln University in Jefferson City, Missouri, the Southern Christian Leadership Conference (SCLC) Martin Luther King Award, University of Missouri Distinguished Service Medal of Honor, and the Recognition Award for Unsurpassed and Dedicated Service to the Community by the Northwest Missouri Division of the African Methodist and Episcopal Church.

One of the honors she cherished most was the University of Kansas establishment of the Lucile H. Bluford Scholarship Fund for students interested in studying journalism. This lasting legacy to Miss Bluford will provide future generations with the opportunity to fulfill their dream of journalism.

Miss Bluford has been recognized for her service to our community and nation. She had served as a juror Pulitzer Prize for Journalism, was a member of the National Board of Directors of the National Association for the Advancement of Colored People (NAACP), and had been selected to make a trip to Israel in 1972 with a group of American newspaper editors. Miss Bluford served on the Governor's Committee for "Jobs for Missourians," was a board member and Secretary of the Missouri Commission of Human Rights from 1957 to 1969, and served on the Governor's Task Force on the role of Private Higher Education in Missouri. She served on local boards of United Way, NAACP, Kansas City Council on Crime Prevention, Kansas City Cancer Society, Kansas City Area Hospital Association, Model Cities Day Care Corporation, Legal Aid and Defender Society, and the University of Missouri at Kansas City Cockefair Chair Board of Directors.

As publisher and editor of The Call newspaper, she elevated the awareness of the African-American community in relation to its role in the broader majority society. Miss Bluford was a dedicated journalist from her humble beginnings as a reporter to the position of publisher and editor—she never forgot her roots. I fondly remember how she would dutifully take notes on her reporter's pad with her ever present red pen. As a role model and a journalist, I remember Miss Bluford for her fairness and unassuming manner. She was never one to seek out the spotlight or glory. She spoke her mind to the powerful and stood by her beliefs without hesitation.

Miss Bluford has been an inspiration to me. Her dedication and commitment to public service served as an example to all of us who work to make our community better. Mr. Speaker, please join me in honoring her for her service to our community and the nation.

Miss Bluford can never be replaced, but her ideals and principals will remain as a fundamental foundation for our community. My thoughts and prayers go out to her family members, co-workers, and friends. All of our lives are richer for having known Miss Lucile H. Bluford.

INTRODUCTION OF THE NATIONWIDE GUN BUYBACK ACT OF 2003

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 17, 2003

Ms. NORTON. Mr. Speaker, today I am encouraged to introduce the Nationwide Gun Buyback Act of 2003, NGBA, by the actions of the District of Columbia residents on Father's Day last Sunday. Citizens who had lost relatives and representatives of 20 advocacy and victim-support groups gathered at Freedom Plaza, a stone's throw from the White House, to declare their own moratorium on murder for the Father's Day weekend.

Not only did their moratorium have important symbolic value; in fact there was only one murder last weekend. Of primary importance was the fact that the moratorium was symbolic and entirely citizen initiated. Residents themselves must take responsibility for crime and not regard criminal activity as a matter for the police alone. I am pleased that the D.C. Council and the Mayor responded with a resolution supporting the moratorium, but the event got its importance from its origin with residents. The moratorium was initiated by Kenneth E. Burnes whose son was murdered in his U Street store and became one of 233 residents killed in 2001. This year's homicide rate is 9 percent ahead of last year's rate. Almost all of the killings here and elsewhere are committed by handguns.

The bill, however, does not conflict with Member's positions on the controversial issue of gun control. The bill would simply allow people who desire to get guns out of their homes to do so without incurring criminal penalties for possession. Families, and especially mothers, have feared guns in their homes, but often do not know how to get rid of them. In most jurisdictions, a grandmother petrified that there is a gun in the house for example, or her grandson, who may possess the illegal weapons cannot turn it in without subjecting herself or her grandson to prosecution. This is reason enough for gun buyback efforts.

Like tax amnesty, gun amnesty puts a premium on the ultimate goal. When the goal is taxes, the government puts a premium on getting the amount owned. When the goal is guns, the premium is on getting deadly weapons off the streets and out of people's homes. This bill is entirely voluntary and does not compel anyone to give up a handgun, even one that is illegally held.

This bill would provide Federal funds to local jurisdictions to engage in gun buyback programs like the successful programs conducted by the District of Columbia a few years ago. Under the bill, funds would be distributed through the Department of Housing and Urban Development, HUD. After evaluation of proposals, added weight would be given to jurisdictions with the greatest incidence of gun violence. The NGBA would require that a jurisdiction certify that it is capable of destroying the guns within 30 days, that it can conduct the program safely, and that an amnesty appropriate for the jurisdiction will be offered. Not only individuals, but groups such as gangs could take advantage of the buyback provisions to encourage street gangs to disarm themselves.

This bill is necessary because, despite the extraordinary demonstrated success of the gun buyback program in the District, local jurisdictions have no readily available funds for similar programs. The District was forced to find money on an ad hoc basis and ran out of funds despite residents who still desired to turn in guns. Initially, the District conducted a pilot program using funds from HUD. Confronted with long lines of residents, the Police Department then took the program citywide, using drug asset forfeiture funds. Even so, after using $290,000, the city ran out of funds, but not of guns, that could have been collected. The guns were a "good buy" but hard-pressed jurisdictions, especially big cities, should not have to rob Peter to pay Paul when it comes to public safety. The Federal Government can play a unique and noncontroversial role in reducing gun violence by providing the small amount authorized by my bill, $50 million, to encourage buyback efforts where a local jurisdiction believes they can be helpful.

The Nation's Capital has successfully demonstrated a faster and easier way to put guns under the control of law enforcement where criminals cannot use them and children and adults cannot misuse them. Gun buyback efforts are not new, but the recent, dramatic impact of the District's program has special bipartisan and natural appeal today because the program is voluntary and requires no change in local or Federal gun laws. A gun buyback bill is certainly no substitute for gun safety legislation, but my bill is based on demonstrated and successful experience in a number of cities that have achieved voluntary compliance by citizens with local laws.

The extraordinary success of the buyback programs in the District and around the country has shown that these programs should now be readily available to jurisdictions that desire to use them. In a market economy, efforts to buy back guns have special appeal. We may disagree on the various approaches as to gun violence, but Democrats and Republicans alike can agree to this sensible approach.

I urge my colleagues to support this vital legislation.

TRIBUTE TO FLORENCE FRIGETTO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. McINNIS. Mr. Speaker, I stand before this body of Congress today to recognize the twenty-two years of service that Florence Frigetto has dedicated to the children of Montrose, Colorado. Florence is retiring after having served as the Director of Food Service for the Montrose County School District for the last thirteen years. As we mark her retirement, I would like to commend Florence for the devotion that she has shown to her students over the years.

Florence became the district's food service administrator after making meals from scratch for the local schools for nearly a decade. Florence's co-workers estimate that she has served or supervised nearly thirteen million meals over her career. In her time as a food service administrator, she has focused on maintaining the quality of the food along with its nutritious value. Florence, a respected baker, ensures that all the bread eaten by her students is freshly baked in the school's kitchen.

Mr. Speaker, it is an honor to recognize the contributions Florence Frigetto has made to the health and well being of Colorado's children. Florence will certainly be missed by the children under her care, as well as by her coworkers who have come to know and admire her remarkable dedication. Florence, I wish you all the best in your retirement and thank you for your many years of exemplary service.

RECOGNIZING THE ACCOMPLISHMENTS OF JUSTIN SEAMAN OF CLAYSVILLE, PENNSYLVANIA

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. MURPHY. Mr. Speaker, I rise today to acknowledge an exceptional young man from Claysville, Pennsylvania, in my district. Mr. Justin Seaman has recently distinguished himself and has earned several honors as a talented and successful film producer and writer. Justin owns and manages his own film company, Nevermore Production, which has produced two movies that earned tremendous accolades for their powerful themes and serious messages. And while others have won awards for such accomplishments, what is unique about Justin, however, is the fact that he is still in high school. In fact, his projects have struck a chord with his friends and fellow teens, so much so that Justin has enlisted the support of many fellow students at McGuffey High School in producing his work. Films, like one Justin produced about the catastrophic consequences of drinking and driving are changing lives for the better. Using art, Justin is making a real difference in our community.

Mr. Speaker, I am very pleased to take this opportunity to recognize the example one great young man is setting for teens across Southwestern Pennsylvania. Too often when we in Congress talk about teens, we focus on the negative influences affecting them today: drug addiction, alcohol abuse, teen pregnancies, and on and on. But young men like Justin Seaman are standing up for a generation. They are determined to set the right example and to do it with style. We ought to stop and recognize the positive influences of these young leaders more often in America. Our country is a far better place for being home to such inspiring and responsible young adults as Justin.

Justin's accomplishments have been recognized on a National level. Just last week he was invited to the John F. Kennedy Center for Performing Arts along with hundreds of his peers from across the nation for special recognition. His recognitions include the Robert Morris College TVT Award of Excellence, the Critics Award for Excellence in acting, four national honors at the Scholastic Inc. Art & Writing competition, one gold award for a personal essay, "A Guarantee in Life" and last, but not least, a silver award as well as the American Visions award for his mixed media entry in Scholastic Inc.'s national competition. Justin's list of honors and awards confirms his dedication to furthering excellence in the arts and has rightfully earned him recognition as a leader in the competitive performing arts arena. Justin desires to direct films one day in hopes of reaching the caliber of renowned director, Wes Craven. This coming senior year, Justin has already lined up five films to produce. I have no doubt that Justin's ambition, drive and devotion to the arts will prove fruitful as he continues to pursue his dream of making films. I wish him the best of luck and all the success that his efforts award him and I thank him for being a true role model for teens everywhere across our country.

TRIBUTE TO HOWARD CULP

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 2003

Mr. McINNIS. Mr. Speaker, it is with great joy that I recognize an individual today who has spent his life in the service of our youth. Howard Culp has spent 33 years as an educator in Colorado's Four Corner's region. As Howard begins his retirement, I would like to thank him for his contributions to the community before this body of Congress and this nation.

Howard is one of those special people in our society who chooses his profession based not on the amount of money he can make but rather the difference he can make in the lives of his students. As a fifth and sixth grade teacher for eight years and the principal at Mancos Elementary and Kemper Elementary Schools in Southwest Colorado for a combined 25 years, Howard has positively impacted the lives of thousands of young people.

The commitment Howard has exhibited throughout his 33 years of service in Colorado's schools is truly inspirational. It is clear, based on the impact Howard has had on his students, that his presence will be truly missed.

Mr. Speaker, our society owes a debt to the Howard Culps of this nation who sacrifice so much to give our youth the tools they need to succeed in life. I am truly honored to recognize Howard here today and to wish him all the best in his retirement.

HOUSE OF REPRESENTATIVES—*Wednesday, June 18, 2003*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. OSE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 18, 2003.

I hereby appoint the Honorable DOUG OSE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Timothy Smith, Chaplain, Sun Health Hospice, Sun City, Arizona, offered the following prayer:

Our Loving Father, we pause now before taking up the duties of this day. We pause to turn our thoughts to You. We acknowledge that in our own strength and wisdom, we are not sufficient for the challenges of the hour.

We unite now to bring to You the Members of this House for Your blessing. May each one today feel the strength and power of Your grace. Amid the many voices crying out to be heard and the agonizing problems to be faced, may they listen for Your still, small voice.

Grace each Member with Your spirit, that their hope be renewed and their vision revived. And bless their families and loved ones, each one, guarding and keeping them in the safety of Your hand.

May Your will for this Nation be done through these, Your servants, placed here by the people. We need Your help today, Father, and we do humbly seek it. In Your holy name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SNYDER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYNDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) come forward and lead the House in the Pledge of Allegiance.

Mr. LINCOLN DIAZ-BALART of Florida led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING THE REVEREND TIMOTHY SMITH, CHAPLAIN, SUN HEALTH HOSPICE, SUN CITY, ARIZONA

(Mr. FRANKS of Arizona asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Arizona. Mr. Speaker, our Founding Father, John Adams, told us, "Our Constitution was made for moral and religious people and that it is wholly inadequate to the government of any other."

Mr. Speaker, we are very privileged today to have among us a man, Reverend Timothy Smith. Reverend Smith reminds all of us of our spiritual heritage in this country, and we are greatly bettered because of his presence with us today.

This gentleman has been offering spiritual counsel and leadership to Arizona residents for more than 30 years; and from children to senior citizens, thousands of Arizonians have benefited tremendously from the selfless ministry of this man.

He has served as chaplain for the Arizona Department of Juvenile Corrections and has pastored congregations in Sun City and Glendale and is currently offering a very touching and much-needed type of compassion on a daily basis as chaplain of Sun Health Hospice in Sun City.

Mr. Speaker, we are indeed blessed to have this man with us because he somehow helps us know in our mortality that there is a high and lofty One that inhabits eternity that watches over all of us, and we are the better for his presence here; and I thank him for his commitment to God, his commitment to his country and his commitment to his fellow man.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side.

FREEDOM WILL COME TO CUBA

(Mr. LINCOLN DIAZ-BALART of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, today I bring to the floor of the U.S. House of Representatives the case of Cuban political prisoner Jorge Luis Garcia Perez, known as Antunez.

This young man has been in Castro's gulag since 1990, since his high school days, for failing to keep silent. An extraordinary leader of unlimited courage, Jorge Luis Garcia Perez was sentenced to 18 years in prison for so-called "verbal enemy propaganda."

Antunez, Mr. Speaker, is the face of the real Cuba.

Those who visit Cuba to have a good time, to take advantage of the regime-encouraged child prostitution, or simply to dine with the tyrant, may avoid seeing Antunez these days. But, sooner or later, Antunez will be free, Cuba will be free, and those who collaborated with his jailers and torturers will have to face him and many others like him.

COVERUP ON IRAQ DAMAGING LEGITIMACY OF GOVERNMENT

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, protection of the truth and the constitutional role of Congress as a coequal branch should not be a partisan matter. Yet yesterday Republicans on the House Committee on International Relations participated in the cover-up of the Bush administration's false claims which sent America to war against Iraq.

The resolution of inquiry, backed by 40 Members of the House, sought to protect Congress's role in asking the

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

administration where is the proof that Iraq has weapons of mass destruction: where was proof of an imminent threat.

Unfortunately, as panic sets in over the realization that this administration misled the American people in the cause of war, Republicans are refusing to hold public hearings, refusing serious oversight, open oversight. Republicans just will not make Republicans accountable. That is the problem with one-party rule.

Our democracy is in danger if we do not make this administration accountable. They sent this country into war based on lies and in doing so have damaged the legitimacy of their own government. Where are the weapons of mass destruction? Where was the imminent threat? Why did America go to war?

AMERICA, A LIBERATING NATION

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Popular representation, Mr. Speaker, in our constitutional Republic is a wonderful thing. It has led some to say that the preceding speaker in the well would make a good President. It has led others to say that the preceding speaker in the well would make a good President of France.

The fact remains, Mr. Speaker, that the United States of America rose up against a tyrant, not only because of weapons of mass destruction, but because the tyrant himself was a weapon of mass destruction. Take a look at the mass graves, the children buried with their dolls, the millions of people who were sacrificed by the regime of Saddam Hussein. And yet there are those, earnest in their intent, to tell us somehow that this Nation is evil, to go to sloganeering: "No blood for oil." The fact remains, historically it was that tyrant who invaded Kuwait for oil, it was that tyrant who went to war with Iran for oil.

The fact is, the United States of America is a liberating Nation, not a conquering Nation. We stand here unashamedly rejoicing in that fact.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

REPEAL OF DEATH TAX TO LIVING AMERICANS

(Mr. SNYDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SNYDER. Mr. Speaker, today this House will continue its discussion of the repeal of the estate tax, the so-called "death tax." But, in fact, this bill is a continuation of policies that will hurt living Americans.

Let me give one example. From this month's magazine back home, "Aging Arkansas," referring to the last tax cut passed by this House: "Tax cut bleeds seniors. Yet Republican leaders come forward once again to shrink, wither and dry up government."

And what is government? It is what this article talks about, programs that older Americans have taken for granted.

Today in Arkansas, a few of the wealthiest Americans will benefit from this repeal of the estate tax, but tens of thousands of other Arkansan seniors will be hurt.

REPEAL OF ESTATE TAX NECESSARY NOW

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, my constituent Mary Ann wrote me about the effect of the estate tax on her family's farm. Her mother's family owned that farm for five generations. Mary Ann promised her mother it would stay in the family for generations to come. After her parents passed away, Mary Ann was faced with the high cost of the estate tax on the valuable family land she had inherited. Sadly, the family had to part with the farm in part due to the death tax.

Examples such as this have become far too common in my district and across this great Nation. The estate tax has devastated numerous family farms and businesses. It discourages entrepreneurship, thrift, and diligence.

We should not penalize an individual's efforts to make life better for their children. I am opposed to the government taxing anyone's property simply because the owner has died. The time has come to permanently repeal the estate tax.

I urge my colleagues on both sides of the aisle to join me in ending the death tax once and for all.

TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to talk about the Taxpayer Protection and IRS Accountability Act.

I was pleased to see the inclusion of language that abates interest on erroneous tax refunds. This is language nearly identical to my Erroneous Tax Refund Fairness Act.

I had to deal with this very issue a few years ago when I tried to return an erroneous refund. Actually the IRS put into my bank account $66,000 more than I was supposed to get back, so my husband called and said we want to return this $66,000. They would not take it. My CPA called and said we would like to return the $66,000. They would not take it. I called them and said I need to return the $66,000. They would not take it.

Four months later, they finally took it back. Two weeks later they sent us another check for $66,000. A short time after that, after we finally got the $66,000 back to the IRS, I was billed by the IRS for the interest on the money, even though I had not earned any. So I applaud this bill for including this language.

FIGHTING FOR DEMOCRACY IN IRAN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, in the past week, in scenes reminiscent of Eastern Europe in the last days of the Soviet domination, students in Tehran took to the streets in protest against Iran's brutal, repressive government. They were a vivid reminder that a lot of Iranians want more freedom in how they live their lives.

But it was not just students demonstrating. On Sunday, several hundred intellectuals, including several clerics, issued a statement supporting the right of Iranians to criticize the government. These patriots do not want to be told what to think, what to wear, what to read, what to watch, how to behave; and they are frustrated at the slow pace of change.

The demonstrations are evidence enough that freedom-loving people in Iran are growing in numbers and boldness.

Instead of complaining about what we have not found in the Middle East countries, let us appreciate what we have found, people longing for the same freedoms that we enjoy.

REPEAL THE DEATH TAX

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I cannot think of a more unfair and immoral tax than the death tax.

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It is fundamentally wrong to tax a person their entire life and then, upon death, have the IRS take up to 60 percent of what they have saved. This is a cruel tax that punishes people for working hard and saving enough to pass something on to their children.

This tax has hit the Palmetto State very hard, as in South Carolina, 1,518 death tax returns were filed in 2001. As a former probate attorney, I have seen firsthand where those who inherit family businesses or farms are forced to lay off workers, cut salaries, liquidate assets, or even take out loans to keep the doors open.

Thanks to President Bush's leadership, we have passed legislation that would end the death tax, but only temporarily. I urge my colleagues to support the bill of the gentlewoman from Washington (Ms. DUNN), H.R. 8, the Death Tax Repeal Permanency Act of 2003. We must make this repeal permanent and end this unfair tax.

In conclusion, God bless our troops.

SUPPORT H.R. 660, THE SMALL BUSINESS HEALTH FAIRNESS ACT

(Mr. CANTOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANTOR. Mr. Speaker, this week, the House has a chance to help out over 20 million uninsured workers that are employed by small businesses across our Nation. H.R. 660, the Small Business Health Fairness Act, will allow small employers to band together to access more affordable, more efficient health insurance for their companies.

This bill will help small business owners like Kevin Maxwell from my district in Midlothian, Virginia. Earlier this year, Mr. Maxwell wrote to me about the escalating health care costs for his employees. He is a partner in a small petroleum parts sales company, employing about 13 people. Mr. Maxwell told me that the health insurance costs will increase from $1,100 to $1,400 per month, per family. Two or three years of these types of increases will very quickly force Mr. Maxwell to stop offering health care to his employees.

As a small businessman, Kevin pays more because he does not have the insurance purchasing power that large companies have.

According to the National Federation of Independent Businesses, small businesses pay 17 percent more for health benefits than large companies. That price disparity forces small companies to make tough choices about the benefits they offer.

Mr. Speaker, I applaud people like Kevin Maxwell. It has not been easy, but help is on the way.

PRIVATIZING MEDICARE IS A BAD IDEA

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, last night the House began the process of privatizing Medicare. The Committee on Ways and Means put out a bill, and it has a provision in it that says, by the year 2010, we are going to take away the guaranteed benefit that people have under Medicare, and we are going to give them a defined contribution.

Now, that is a voucher under any other name. They call it premium support. They will try and confuse people. It is wrapped inside the drug bill so people will say, well, we want the prescription drug benefit. If you take it the way the Republicans are giving it to you in the House of Representatives, you have to accept that they are privatizing Medicare.

Now, that is a concept that people simply do not understand what that means. Give $5,000 to every one of the 40 million old people in this country and send them out looking for a loving insurance company to take care of them. It is a bad idea. People should wake up and see what is happening in the next week.

This rubber stamp Congress is going to put that bill out of here so that they can go home over the 4th of July and say, we gave you prescription drugs. They are going to give you privatized Medicare with it.

MEDICARE REFORM IMPROVES QUALITY OF LIFE FOR SENIORS

(Ms. HART asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HART. Mr. Speaker, I rise in support of a Medicare reform that will actually help our seniors.

The Republican House, along with the Senate, have worked on plans that will help provide prescription drug coverage to seniors. I have spent the last year in my district in western Pennsylvania in different forums with groups telling me what they need.

What we know in Pennsylvania is that prescription drug assistance is necessary. We have been giving it to low-income seniors for years. However, middle income seniors, those who one would think are fairly well off, are finding it very difficult to pay for these prescription drugs.

What I learned in those forums is we need to help them. Our plan does this. It makes sure that catastrophic expenses for prescription drugs are going to be covered for these senior citizens.

We also improve Medicare, making sure that it provides proper access to home health care, so that families can stay together in their later years.

Mr. Speaker, our goal is to make sure that the quality of life for our seniors is better, that they can have access to prescription drugs which they can pay for. That is our goal. That is what we are going to give in our plan.

SOME WILL NOT TAKE YES FOR AN ANSWER

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I was amazed to hear the gentleman from Ohio (Mr. KUCINICH) speak in this Chamber just a few short moments ago and use the word "cover-up" to describe the action that we took in the House Committee on International Relations yesterday. The truth is that some Democrats just will not take yes for an answer.

The gentleman from Ohio (Mr. KUCINICH) offered a resolution asking for the White House to turn over all information relative to the weapons of mass destruction for inspection by the Congress. The White House, at the urging of the House Select Committee on Intelligence, is doing just that. All documentation on the WMD program of Iraq will be available to every Member of Congress at the House Select Committee on Intelligence.

We rejected the Kucinich resolution because it was moot, as the ranking Democrat member of the Committee on International Relations says.

It is not a cover-up, Mr. Speaker. Some Democrats just will not take yes for an answer.

WEAPONS OF MASS DESTRUCTION

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, lately there has been a stir, a desperate grasp for press attention, to form an inquiry into the Bush administration's knowledge of weapons of mass destruction.

Mr. Speaker, for 7 years following the Gulf War, Saddam claimed that he did not possess weapons of mass destruction, and for all 7 years, he was lying. Iraqis told inspectors they had no mustard agent and then they expressed profound shock when quantities of mustard gas were found. Iraq told inspectors they never had weaponized VX nerve agent and then feigned surprise when inspectors found weaponized VX nerve agent. We learned that Saddam Hussein had constructed elaborate concealment mechanisms. The Iraqi regime spent a decade working to ensure that prohibited weapons production was kept quiet. When the inspectors were kicked out of Iraq in 1998, the regime had failed to account for vast quantities of its weapons of mass destruction stockpiles.

So here is a question for the dissenters: Why would a regime without weapons of mass destruction manufacture the mobile laboratories that our troops and the U.N. inspectors found to make such weapons? And why would the numerous defectors, many with recent, first-hand knowledge of Iraq's WMD programs, have detailed elaborate production and concealment efforts? Were they all lying?

Mr. Speaker, Iraq is the size of California and the dirt is deep. There are many places for these weapons to have been hidden. I urge the press and the American people to be patient and let our troops do their jobs. There are still soldiers at risk fighting off violence. We know that these weapons existed and we know that the Iraqi government has never accounted for their destruction. That is what we do know.

BAKE SALES AND BUDGET CUTS—THE IMPACT OF NO CHILD LEFT BEHIND

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to explain the effects on our States of the administration's cut of the No Child Left Behind Act. The $20 billion in education cuts could not come at a worse time as States scramble to close budget gaps and schools struggle to comply with the rigorous new law.

Across America, desperate measures are being taken. In Alabama, schools are being forced to raise class sizes. In Florida, two-thirds of the pre-kindergarten programs are being terminated. In Idaho, parents must raise money for teacher salaries through bake sales and auctions. In Illinois, they have laid off thousands of teachers and staff to increase class sizes and, in some schools, to nearly 40 students. Detroit plans to close 16 schools this month. In South Carolina, 2,000 teachers have been let go, and class sizes are up to 35 students.

This is just a sample of the consequences of the failure of the Federal Government to make good on its promises.

That is why I intend to introduce H.R. 2366, the Fully Fund the No Child Left Behind Act. Before we ask our schools to hold bake sales and our States to live with budget cuts, we should live up to our own budget cuts.

Mr. Speaker, Congress should honor its commitment to our students.

MEDICARE REFORM MEANS MODERNIZING HEALTH CARE FOR OUR SENIORS

(Mr. RYAN of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN of Wisconsin. Mr. Speaker, last night we marked up the Medicare bill in the Committee on Ways and Means, and we are hoping to pass a comprehensive Medicare bill by the 4th of July recess. Just a few minutes ago, we heard a sample of some of the rhetoric we are going to hear from the other side, the distortion, the demagoguery.

There are three things we are trying to accomplish with Medicare reform which we accomplish in this bill: make Medicare fair for seniors across all of America in all States like my State of Wisconsin; modernize Medicare so that it is once again a comprehensive health care plan with prescription drug coverage; and number 3, and perhaps the most important part, recognize the fact that in 13 years, Medicare is going bankrupt and we need to pass reforms to make Medicare solvent for the baby boom generation.

What we are doing is protecting all of the rights seniors have in Medicare today, but expanding their choices of coverage so they have the same choices, like every Member of Congress has here in their own health plan and every other Federal employee.

We have to modernize Medicare. We have to make it fair for all of our constituents in all of our States, and we have to save this vital program for the baby boom generation, and that is what we are accomplishing.

PROVIDING FOR CONSIDERATION OF H.R. 1528, TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2003

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 282 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 282

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 1528) to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Ways and Means now printed in the bill, modified by the amendment printed in part A of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. All points of order against the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the further amendment printed in part B of the report of the Committee on Rules, if offered by Representative Rangel of New York or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. OSE). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 282 is a modified, closed rule waiving all points of order against the consideration of H.R. 1528, the Taxpayer Protection and IRS Accountability Act of 2003. The rule provides one hour of debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule also provides that the amendment in the nature of a substitute recommended by the Committee on Ways and Means, as modified by the amendment printed in Part A of the Committee on Rules report accompanying this resolution, shall be considered as adopted. The rule waives all points of order against the bill, as amended.

The rule further provides for consideration of the amendment printed in Part B of the report, if offered by the gentleman from New York (Mr. RANGEL) or his designee, which shall be considered as read and shall be separately debatable for one hour, equally divided and controlled by a proponent and an opponent.

Finally, the rule waives all points of order against the amendment printed in Part B of the report and provides one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 1528, as authored by my friend and colleague, the gentleman from Ohio (Mr. PORTMAN), would amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the IRS. The bill would improve the efficiency of tax administration and increase the confidentiality of tax returns and related information.

In addition, H.R. 1528 reforms the penalty and interest provisions of the Internal Revenue Code and provides new safeguards against unfair IRS collection procedures.

Specifically, the bill grants a first-time penalty waiver to individual taxpayers in cases where minor negligence results in a liability that is disproportionate and unreasonable.

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The bill allows taxpayers to enter into installment agreements for less than the full amount of their tax liability.

The bill also allows electronic filers until April 30 to file their individual tax returns and allows taxpayers to consult with the Taxpayer Advocate Service on a confidential basis.

Finally, the bill increases the authorization for low income taxpayer clinics from $6 million to $9 million in 2004 and from $12 million for 2005 and $15 million for subsequent years.

The Congressional Budget Office and Joint Committee on Taxation estimate that H.R. 1528 would decrease governmental receipts by $308 million over the 2003–2013 time period, and CBO estimates that the bill would increase direct spending by $171 million over the 2004–2013 time period.

CBO has determined that H.R. 1528 contains no private sector or intergovernmental mandates as defined by the Unfunded Mandate Reform Act and would impose no costs on State, local, or tribal governments.

Mr. Speaker, the gentleman from Ohio (Mr. PORTMAN) and his colleagues on the Committee on Ways and Means are to be commended for their efforts to increase fairness in accountability in our tax collection system. Accordingly, I urge my colleagues to support both this rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Washington for yielding me the customary 30 minutes.

Mr. Speaker, priorities, what are our priorities? H.R. 1528 is a popular, noncontroversial measure that would likely pass under suspension of the rules. So why have we made such a bill more problematic and more difficult to pass? A controversial provision unrelated to restraints on the IRS or protections for American taxpayers was grafted onto this consensus legislation for the second time. If our priority is to enact additional protections for the Federal taxpayer, why was a provision waiving consumer protections for the health insurance tax credit, for workers who have been displaced by trade, implanted into this unrelated bill?

The problem that we now face as we consider H. Res. 282 is that the taxpayer protection bill eliminates the federally mandated requirements of affordability and nondiscrimination for state-based insurance policies for the American workers whose jobs were moved overseas. This controversial and problematic add on allows the insurers to pick and choose the displaced workers that they wish to cover, insuring the young and healthy and refusing to cover the older workers and those with preexisting conditions. Such a provision would undo the promises Congress last year made to the displaced workers and to their families. Is our priority the health of working families, or is it increasing the bottom line for certain health plans?

Fortunately, the rule does make in order the substitute amendment offered by the gentleman from New York (Mr. RANGEL), my fellow New Yorker, the ranking member of the Committee on Ways and Means, which better reflects what our priorities should be. This amendment removes the waivers that would allow insurance plans to discriminate and includes the child tax credit that seems to have been abandoned in the bureaucratic forest.

The Nation was outraged to learn that in the recent tax-cutting package almost 12 million children were denied the benefit of the increased child tax credit. A way to correct this is simple and straightforward. The other body overwhelmingly by a vote of 94 to 2 passed a clean, simple, bipartisan bill to extend the child tax credit to the 7 million low-income working families. However, our priorities went in the wrong direction.

Instead of quickly passing the other body's bill so the President could sign it and these low-income working families could receive immediate tax credits, which they badly need, the Chamber chose to consider and pass another round of tax cuts totaling $82 billion without any offsets, following on the heels of the $350 billion worth of tax cuts. This indicated that the priority is to use the child tax credit legislation as another opportunity to add more and more tax cuts for those at the highest levels of wealth.

The Rangel substitute includes the language in the clean bill passed by the other body and contains language to extend the child tax credits to the 200,000 or so families of the military personnel who serve in Iraq, Afghanistan or other combat zones and nonetheless are ineligible under the House-passed tax free-for-all. Let me repeat that, Mr. Speaker: 200,000 families of military personnel who are on active duty were denied the protections or the benefits from this bill.

I urge my colleagues to vote against this rule so that the provisions permitting the discrimination can be excised from an otherwise noncontroversial bill that would undoubtedly pass unanimously. Should H. Res. 282 pass, I strongly urge my colleagues to support the Rangel substitute amendment for these children and families who deserve swift and deliberate action without political add-ons and political chicanery.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I advise my friend from New York that I have no requests for time, and I am prepared to yield back if she is prepared to yield back.

Ms. SLAUGHTER. Mr. Speaker, I have no requests for time, and I yield back my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 8, DEATH TAX REPEAL PERMANENCY ACT OF 2003

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 281 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 281

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 8) to make the repeal of the estate tax permanent. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Pomeroy of North Dakota or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. OSE). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman, and my colleague and neighbor, from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 281 is a modified closed rule providing for the consideration of H.R. 8, the Death Tax Repeal Permanency Act of 2003, legislation to make the repeal of the estate tax permanent. The rule makes in order 1 hour of debate, a minority substitute, and one motion to recommit, with or without instructions.

Mr. Speaker, the issue before us today is certainly not a new one. In the 106th session, Congress voted several times in a bipartisan fashion to eliminate the death tax. In the 107th session, Congress voted on three separate occasions to eliminate the death tax; but with the death tax relief set to expire in 2011, we might give Dr. Kevorkian a new career as a tax and estate planner.

Today, we have the opportunity to bury the death tax once and for all.

By way of history, this tax was initially imposed to prevent the very wealthy from passing on their wealth from one generation to the next. At the time, this well-intentioned tax eased concerns about the growing concentration of money and power among a small number of wealthy families. Later, it was used to fund national emergencies, and it became necessary to maintain these high tax rates in high wartime levels during the 1930s and the 1940s, but they remained relatively unchanged until the Tax Reform Act of 1976.

Ironically, the death tax served little of the purpose for which it was intended. Rather than prevent the concentrated accumulation of vast wealth, the death tax punished savings and thrift and hard work among American families. Small businesses and farmers have been unfairly penalized for their blood, sweat and tears, paying taxes on already-taxed assets.

Instead of investing money on productive measures such as creating new jobs or purchasing new equipment, businesses and farms are forced to divert their earnings to tax accountants and lawyers just to prepare their estates.

The victims of the death tax are typically hardworking Americans of medium-sized estates, farmers and small business owners. Their enterprises create jobs and growth and opportunities for our communities, but every year those families were literally forced to sell the family farm or business just to pay off their death taxes.

Equally disturbing is the fact that the death tax actually raises relatively little revenue for the Federal Government. Some studies have found that it may cost the government and taxpayers more in administrative and compliance fees than it actually raises in revenue.

Of course, farmers and ranchers are not the only ones facing an unfair and unnecessary burden in the death tax. One study conducted by the Public Policy Institute of New York State found that in a 5-year period family-owned and -operated businesses on an average spent $125,000 per company on tax planning alone. These costs are incurred prior to any actual payment of Federal estate taxes. They reported that an estimated 14 jobs per business were lost as a result of Federal estate tax planning. For just the 365 businesses surveyed, the total number of jobs already lost due to the Federal estate tax is 5,100. That was just in upstate New York.

My rural and suburban district in New York is laden with small businesses and farms that are owned by hardworking families who pay their taxes, create jobs, and contribute not only to the quality of life in their community but to the Nation's rich heritage. Is it so much to ask that they be able to pass on their industry and hard work, their small business or their farm to their children? Why should Uncle Sam become the Grim Reaper?

The fact is they paid their taxes in life on every acre sown, on every product sold, and on every dollar earned. They should not be taxed in death, too.

Mr. Speaker, death tax relief was a good idea in the 107th Congress, and it is a good idea now. We should not provide this kind of relief for only a few years. We should provide it permanently. This kind of permanent tax relief for farmers, ranchers, and small business owners that will keep the family business growing and growing is just the kind of relief that is beginning to get this economy moving.

Wall Street has shown modest gains not only since Congress passed its tax cut plan but even since we began working on the tax cut itself. As one media report said, "Economic advisers credit the tax cuts and positive first quarter earnings for the gains."

Tax cuts work. They work in helping hardworking families keep more of what they earn. They work in allowing people to have greater control over decisions to save and invest, and they work in creating jobs and creating greater economic opportunity for American families. We are on the right course. Let us keep moving forward.

Mr. Speaker, I urge my colleagues to bury this unfair tax once and for all. Vote "yes" on the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague and neighbor from New York for yielding me the customary 30 minutes.

Mr. Speaker, at the outset let me say that those of us who oppose this bill love the family farms and small businesses no less than anyone else in the Congress. The fact of the matter is that this tax is paid now by such a small percentage of people, less than 2 percent in the United States, that we believe almost every family farm and every small business is covered already by not having to pay estate tax, and indeed, the 2 percent who pay it, including the Warren Buffetts and the Bill Gateses and his father, all claim that this is a very bad direction for us to go in. They do not want to build large kingdoms of their own wealth. They are asking that we keep this because it has always been the American policy for taxation that it is based upon the ability to pay.

We would be wise, I think, to remember our American history. Republican President Teddy Roosevelt, a hero of mine, who led the charge to create an inheritance tax, believed that the wealthy had a special obligation to the government. He said: "The man of great wealth owes a peculiar obligation to the State because he derives special advantages from the mere existence of government."

□ 1045

It would also be wise to remember the virtues of responsibility and accountability, especially now that the deficit has gone from the $5.6 trillion surplus to a $400 billion deficit in a little more than 2 years. The underlying legislation before us today would drain $80 billion more a year from the already empty Federal Treasury. In other words, the money would have to be borrowed.

Now, what does this say to the American people when we prioritize the checkbooks of the wealthiest 2 percent of Americans before paying for the health care for our veterans and fully funding education? I know that the President pledged to repeal estate tax during his campaign, and I am sure that he knows some people in the top 2 percent who will benefit from the complete and permanent elimination of the inheritance tax.

In fact, he probably mingled with a few of them just last night during the event that kicked off the largest political fund-raising drive in our history. But I meet those whose Social Security benefits are threatened by the drain on the resources of the government, some of the 9 million unemployed and 12 million children that are still without the help of the child tax credit. Teddy Roosevelt admonished, and this is so important because it is so wise, "The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

I hope that in the short time allocated for discussion of this legislation that we do not frighten the family farmers and small business owners. As I said, all of them, unless they are among the wealthiest 2 percent in the United States, are covered already by not paying this tax. They have worked hard to keep their farms from falling into bankruptcy, and far too many family farms are going under already. They fight hard to keep their small businesses going, and we support them in every way that we can, especially during this continued economic decline. They are not subject to the estate tax as it currently exists. I cannot stress that enough.

Indeed, one of my colleagues on the Committee on Rules last night talked about an event in his home State where the convention hall was full and the President said he wanted to make permanent the repeal of the estate tax and got a humongous response to that. My colleague on the Committee on Rules said that he was sure that not more than 40 people in that room, if that many, would have benefitted from that repeal.

Special estate tax rules for family farms value their farm land at less than other land, at between 45 percent and 75 percent of its fair market value, and already allows farm couples to exempt up to $2.6 million from taxes. Family businesses pay less than 1 percent of all estate taxes. Family business couples can also exempt up to $2.6 million from taxes. The Pomeroy substitute provides even more protections for them. It excludes from the inheritance tax any estate owned by a couple worth $6 million.

Almost a decade ago, the gentleman from California, the distinguished Chair of the Committee on Rules, said on the floor that "all," and in parentheses the minority members at that time, "are asking for fair treatment on both sides of the aisle here." And I agree with my colleague. I want fairness on both sides of the aisle. I would also like fairness and a little old-fashioned common sense.

Under H. Res. 281, only one amendment has been made in order, a substitute amendment offered by my friend from, the gentleman from North Dakota (Mr. POMEROY). However, instead of choosing his substitute amendment that paid for itself, in other words, took money from probably from the tax cut from the very wealthy and paid for what he is recommending here, where we would have no further drain on the Treasury because it would not have added a single penny to the Federal deficit, but instead of making that amendment in order, the Committee on Rules made a second amendment in order which only partially offsets the cost of the elimination of taxes on estates larger than $3 million.

Even though H.R. 8 falls short, and fails to offset any of the $80 billion annual losses it creates and adds to our increasing deficit, it is very important to note, Mr. Speaker, that one of the differences between H.R. 8 and the Pomeroy substitute amendment is .35 percent. That's all. H.R. 8 would permanently remove the estate tax on any estate, even those as large as $3 billion or $4 billion or $5 billion or larger, and cost the Federal Government more than $800 billion over 10 years. The Pomeroy amendment would exempt every estate in America, except for the wealthiest of the wealthy. Only one-third of 1 percent of estates would be so large that they surpassed the generous exclusion in the Pomeroy substitute.

This bill does a great deal for a very few. It really does, again, add to the deficit. And the most important thing about it are that the people who benefit from it the most are the people who most loudly say not to do this: that we do not need it. We would much prefer a stronger economy in America.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my friends from the left always bring up class warfare every time we have a tax cut discussion in this body. I just would point to two aspects of my colleague and friend's remarks.

First, Henry Aaron and Alicia Munnell, who are two prominent liberal economists, concluded in their study of the estate tax the following: In short, the estate and gift taxes of the United States have failed to achieve their intended purposes. They raise little revenue, they impose large excess burdens, and they are unfair.

Alan Binder, a former member of the Federal Reserve Board, appointed by former President Bill Clinton, found that only about 2 percent of inequity was attributable to the unequal distribution of inherited wealth.

Joseph Stiglitz, who served as Chairman of President Clinton's Council of Economic Advisers, found that the estate tax may ultimately increase income equality.

Those are the same type of things that Republicans or conservatives or economists who are right of center have said. So there seems to be concurrence on that.

I would also say that it is sometimes difficult being a member of the majority to resolve some of the issues of inside baseball upstairs in the Committee on Rules. Sometimes we are attacked because we have open rules, sometimes we are attacked because we have closed rules, modified rules, or whatever happens. In this instance, we just cannot seem to win.

The unfortunate aspect of this is that we have today for our colleagues to consider, in the rule that we now have before us, a substitute offered by the Democrats. If the gentleman from North Dakota (Mr. POMEROY) does not want this substitute, he should withdraw it. He introduced it, he asked the Committee on Rules to consider it, the Committee on Rules did just that.

We also have a recommit, as we have in each and every single rule that we put out on behalf of consideration of legislation since the majority took its control in 1995.

Mr. McGOVERN. Mr. Speaker, will the gentleman yield?

Mr. REYNOLDS. I yield to the gentleman from Massachusetts, though it is unfortunate, as a member of the Committee on Rules, the gentleman cannot get time from his side.

Mr. McGOVERN. Mr. Speaker, I thank the gentleman for yielding. I just want to assure the gentleman that on our side of the aisle, we will not complain if we get open rules, and we certainly would not be complaining as much if the majority allowed the substitute that the gentleman from North Dakota (Mr. POMEROY) wanted to offer, with the offsets, so this Estate Tax Bill would be paid for.

Mr. REYNOLDS. Reclaiming my time, Mr. Speaker, the gentleman from North Dakota (Mr. POMEROY) came before the Committee on Rules and he introduced his legislation. There is no time I am aware of, in talking to the staff, that the gentleman from North Dakota, from the time he brought the legislation for our consideration until today, that he has asked to withdraw the substitute.

So we are moving forward on the Pomeroy substitute. After that is considered, we will move forward with the motion to recommit and then we will, hopefully, go to final passage.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. McGOVERN).

Mr. McGOVERN. Mr. Speaker, a few weeks ago, President Bush signed a huge tax cut into law giving billions and billions of dollars in tax cuts to the very, very wealthy. Of course, in the dead of night, the Republicans stripped out the child tax credit to help low- and middle-income American families. But those families do not go to the fund-raisers at the Hilton, so the leadership does not care about them.

The other body acted quickly and responsibly to fix the child tax problem. The leadership of this House, however, dragged their feet and then acted irresponsibly. Finally, last week, after a drumbeat of public pressure, we saw a child tax credit bill, sort of. What we actually saw was a sham, a distraction, a way to kill the issue with one hand while sending out a press release with the other.

Since the House bill is vastly different and vastly more expensive than the Senate bill, the differences have to be worked out in a conference committee. Conferees have been appointed, but has the conference committee met? No.

Now, it is clear that the leadership of the Committee on Ways and Means is not too busy, since they had time to bring up this week's installment of Tax Cut Bonanza, a bill to eliminate the sunset on the estate tax. Mr. Speaker, the current sunset does not even expire until the year 2010, 7 years from now. Now, the Senate-passed child tax credit can help working families today, but, clearly, the Republicans would rather help the very wealthy 7 years early.

This bill would burden our children and our grandchildren with $150 billion in debt over the next 10 years and hundreds of billions of dollars more after that. So why are we considering this bill today? The answer is simple: Last night, at the Washington Hilton, all the fat cats had a fund-raiser for the President's reelection campaign. For $2,000, the people who will benefit from this Estate Tax Bill got a hamburger and a handshake from the Republican Party.

Now, last night in the Committee on Rules, the gentleman from North Dakota (Mr. POMEROY) offered a substitute that would permanently exclude estates worth up to $3 million per person or $6 million for a married couple, and would exempt 99.65 percent of estates from estate tax liability. He offered a substitute that would have been paid for. But last night, keeping with the tradition, the Committee on Rules basically disallowed his right to offer that substitute. And, also keeping with the tradition of shutting out the voices of average working families in this House, they did not allow him to offer his substitute that had the offsets.

So I guess the problem with the approach of the gentleman from North Dakota is that the people who were raising all the money last night are worth more than $6 million. They want more. And they are the people that this leadership in the House cares most about. For those people, it is Christmas in June. But the soldier serving our country over in Iraq, who makes $16,000 a year, gets nothing, because he cannot afford to pay $2,000 for a hamburger at the Hilton.

Mr. Speaker, I urge my colleagues to defeat the previous question vote for the responsible Pomeroy substitute.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

As President Reagan would say, Mr. Speaker, there you go again. Class warfare. I do not know about my colleagues, but I go home every weekend, and I see farmers, and I see small businesses that have worked their hearts out. They have worked hard their whole life on their family farm or in their Main Street business. They are not rich, but they have an estate. They want to pass it to whoever they want. In most instances, that is their children. But to pay the estate tax, they have to sell the family farm. And that just is not right, because they paid taxes on every single portion of the products, goods, and services and then they have to do it again at death tax time.

They are not rich, although this would certainly help them, but as I cited in earlier debate, liberal economists and conservative economists all agree the tax does not really do the job. But think about this: The actuaries and life underwriters and everybody else are saying, if you want to die, you want to do it between now and 2010, because God forbid if it is January 1, 2011. This thing does not work anymore.

It is a reasonable thing to tell America and to show America and perform for America with permanent death tax relief. This tax relief is reasonable. I understand my colleagues on the left do not believe in tax cuts. I accept that. But I also want to remind my colleagues and friends, as the gentleman from Massachusetts (Mr. MCGOVERN) has indicated, in the Committee on Rules every single amendment had a rollcall vote yesterday. They were all heard, they were all debated, and they all had a vote.

We have, in this modified closed rule, included the Pomeroy substitute, and we have included a motion to recommit. We will then have final passage of whatever comes as the result of our colleagues in the conference on the other side.

Mr. Speaker, I reserve the balance of my time.

□ 1100

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DeLAURO. Mr. Speaker, this is not about family farms. In 2001, only 2 percent of the 2.3 million deaths involved any estate or gift tax liability at all. Of those deaths, about one-tenth of 1 percent incurred any liability at all involving family farm assets. How many is that? What does it translate into? Just 46 family farms incurred any estate tax liability at all.

This bill helps 46 family farms, yet will cost $160 billion. So let us not be fooled. This bill is only about protecting those wealthy few, and the cost of this legislation comes directly out of vital services, job training, education, health care for working families. Even in the most robust economy, eliminating the estate tax would be totally irresponsible, a giveaway to the richest Americans; but at a time when we are experiencing $400 billion in record deficits, 9 million Americans are unemployed, eliminating the estate tax is not only irresponsible, it is immoral.

This bill is an insult to the 6.5 million families left out of the child tax legislation, 200,000 military families, less than a week after the majority cynically maneuvered to kill legislation passed overwhelmingly by the ordinary body which would have corrected this injustice; and the House majority brings up yet another bill to cut taxes for only the wealthiest Americans.

And if Members think it is only the Democrats that are saying that the Republicans are cynical in what they did last week, let me quote a senior Senate Republican aide. He said that he expected the tax credits for those working families would die in a deadlocked conference, and he said further that it appeared that was the intention of the House Republicans. And today the Republican whip has said our leadership is committed to the bill we sent to the conference. The majority of our Members are not going to accept anything else. They wanted to destroy the opportunity for working people to be able to get a child tax credit. That is what they did last week.

At a time when there are hard-working, tax-paying minimum-wage-earning families, families of 12 million children, they have not yet received a penny of tax relief. The House's consideration of this bill is irresponsible.

This is a debate about priorities. It is about values. I call on my colleagues to turn aside this misguided, reckless bill. I call on President Bush to use his moral leadership, help deliver the child tax credit to those 6.5 million families, those 12 million children. The President should urge his Republican leadership to pass a responsible child credit bill that reflects the principles of this great Nation. Give those 6.5 million low-income families the tax relief they need. They pay taxes, property taxes, sales taxes, excise taxes, payroll taxes, 8 percent of their income. Give them the tax relief that they need. That is what we should be debating today. Those families have earned it.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, apparently as I cited in my remarks before, some of that has not been heard as we get some of the facts out. The left does not want to cut taxes. I accept that. I understand that. We are going to have a debate; and this House has repeatedly cut taxes, including the estate tax in the 106th Congress, the 107th Congress, and now in the 108th Congress. But Henry Aaron and Alicia Munnell, who are two prominent liberal economists, concluded in their study of the estate tax, the estate and gift taxes in the United States have failed to achieve their intended purposes. They raise little revenue, they impose large excess burdens, and they are unfair.

Alan Binder, a former member of the Federal Reserve Board appointed by President Clinton, found that 2 percent of the equity was attributable to the unequal distribution of inherited wealth.

And Joseph Stiglitz, who served on President Clinton's Council of Economic Advisors, found the estate tax may ultimately increase income inequality. The reason I have cited that a second time in this debate is we can keep coming forward and say how bad it is. The liberal economists, just as we have seen from right-of-center economists, have concurred that this is not a functional tax.

Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, first of all I would like to say that this is a typical rule on a tax bill, and it gives the minority an opportunity to put all of their eggs in one basket and to vote on a substitute; and that is fair.

But let me speak to the underlying issue, the bill. I was with President Bush some months ago at Harrison High School in Cobb County, Georgia. He spoke for about 30 minutes in a gymnasium that was filled to the rafters. And at one brief time he said we must make permanent the repeal of the death tax, and the place exploded in spontaneous applause and cheering. I turned to the person I was sitting next to, and I said there are not 40 people in this auditorium who are going to benefit from that. They are cheering it because they think it is a moral issue. People should be able to pass on what they earn and keep.

Mr. Speaker, why are we so angry at success in this body? What do rich people do with their money? They give it away, and they do not give it away for tax reasons. Some of the great fortunes that were given away, the Fricks, the Carnegies, the Mellons, were given away before we had a Tax Code. They were given away because they wanted to, and we think they have a right to decide where their money goes. Bill Gates gives it in Africa for health reasons; Ted Turner gave $1 billion to the United Nations. Let them make that choice, rather than take it away from them and make the choice for them.

I have said this before on this floor, and I want to say it again. Some years ago and maybe today, if you want to start a business in some great cities, you are visited by a pretty scruffy guy who says we are going to let you stay in business, but we want 30 percent of your profits. And if you sell the business, we are going to take 20 percent of what you make off it; but even the Mafia does not show up at the widow's doorstep asking for their share of what is left over. Our government does. It is immoral, and it ought to end.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. MCGOVERN) to ask a question.

Mr. MCGOVERN. Mr. Speaker, I have a question for either of my colleagues on the Committee on Rules. The gentleman's party controls the House and the Senate and the White House. My question is when are we going to have a child tax credit? When are we going to provide relief to that soldier in Iraq who is earning $16,000 a year? We are talking about helping millionaires today, and my question is since the other side of the aisle controls everything, when are they going to bring this child tax credit to the floor?

Mr. REYNOLDS. Mr. Speaker, will the gentleman yield?

Mr. MCGOVERN. I yield to the gentleman from New York.

Mr. REYNOLDS. Mr. Speaker, I certainly hope that the Senate will quickly respond to the legislation we passed last week, in a prompt response to the decision that they wanted to look at the child tax credit.

Mr. MCGOVERN. Mr. Speaker, some of the gentleman's colleagues in the other body have said quite clearly that they are not going to deal with the bill sent over there because it was not paid for. I guess since we have Republicans that control the House and the Senate, I would like to think that they would get along with each other and resolve some of these issues; and the issue of the child tax credit is something that would help low-income and moderate-income families right now. They need help now, and it seems to me while we are talking about this estate tax relief bill today, which takes place 7 years from now, why can we not help the people hurting right now.

Mr. REYNOLDS. If the gentleman would continue to yield, I am a little confused. Last week the gentleman voted against the child tax credit.

Mr. MCGOVERN. Mr. Speaker, reclaiming my time, no, I voted against the child tax credit that was not paid for.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I rise in support of the rule that we are discussing that would allow us to consider legislation to permanently repeal the death tax.

Mr. Speaker, I am one of those that truly believes the death tax is a triple tax. First, Americans pay a tax when they earn this income. Then they buy an asset and spend it, and they pay the tax then. Then when an American dies, they have to pay the tax again.

This tax is a tax that affects all Americans, especially our small business owners. In fact, 70 percent of small businesses never make it past that first generation because of this tax. It is something that prohibits people from being able to pass that business on to the next generation.

In addition, it discourages savings. It discourages investment, and it is costing our economy hundreds of thousands of jobs.

Mr. Speaker, the Americans get it; 89 percent of the people want us to permanently eliminate the death tax. Small business owners get it. Seniors get it. The farmers in my district in Tennessee, they get it. They want us to do away with death taxes. I hope my colleagues on the other side of the aisle will also get it and vote in favor of this rule and in favor of H.R. 8 to rid our country of an unjust tax that penalizes all Americans.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I think it is important to note that we are dealing with an issue today that, as has been pointed out, that is really not in the realm of debate or action for the next 7 years when in fact what I think bears importance is to recount what has happened here in the last several weeks about a tax credit for working families, people who pay payroll taxes, sales taxes, property taxes and excise taxes, people who make between $10,500 and $26,625, again working people, who were told that they were part of a tax package, a $350 billion tax package.

Oddly enough, their portion of the $350 billion tax package, $3.5 billion, was stolen out of the bill that the President signed 10 days ago, 2 weeks ago in the dead of night, and the promise that was made to these individuals was just pulled back in order that we meet the demand of those people, 184,000 millionaires in this country, who are going to get $93,000 a year in a tax cut; but we could not scale back 1 percent of that $350 billion to adjust for these working families.

So the Senate in a bipartisan way, the other body in a bipartisan way, because they said that this was just plain wrong, came to the conclusion on a vote of 94 to 2 that we could address this wrongdoing and put $3.5 billion into a bill and address this injustice. And they paid for it.

The President, I might add, or his spokesperson, said we ought to do what the Senate, the other body, did. It came to the House of Representatives where the majority leader of the House said we have more important things to do. What is more important? What is more important to do, give $93,000 in a tax cut to the wealthiest people in this country? Or allow corporations to go overseas and not pay taxes at all? Is that more important than the hard-working American families who pay taxes, 8 percent of their income in taxes, and they should be shortchanged on a $400 tax credit for their children?

There is a basic and fundamental values issue here about who we care about and what we care about in this Nation. We had an opportunity and what the Republican leadership did, the other side of the aisle did last week, was to in fact come forward with an $82 billion package to pay for a $3.5 billion issue, and they did it for one reason; and I will quote the Senate Republican aide again.

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A senior Senate Republican aide said he expected the tax credits to die in a deadlocked conference which he said appeared to be the intention of the House Republicans. It was and is the intention of the House Republicans to end this tax credit for these hard-working folks. What people may not know is that everybody else in that tax bill is going to get their tax relief on July 1. Not the families included here. Military families are not going to get it. They are going to have to apply for next year. Two hundred thousand military families fighting a war, fighting a war on our behalf, they are not going to get it. This is an outrage. This should not happen. But over and over and over again, and today what we are talking about is a tax cut, repealing, permanently, the estate tax which I pointed out earlier, 46 families, some of the wealthiest families in the country. And we cannot take care of these families.

I called on the President and the President said he wanted to see this fixed. The President needs to talk to the Republican House leadership, take them in hand and say, let's do what's right. Take the moral leadership, the moral leadership where the President stood up and he fought for the dividend tax cut, again to benefit the wealthiest people in this country. I believe he should take on the moral leadership to fight for these hardworking families.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume. I enjoyed that oratory. I would almost think that she voted for the child tax credit last week, but the sad fact is that she did not because she voted the other way. She voted no. We sent a bill over to the other body. I have listened to the presumptions of the other body, of what will happen over there. I have talked to a few Senators. They give me the hope that they are so desirous of voting on this that they are looking forward to a conference and they are looking forward to getting it on the floor.

The fact is we are talking about permanent estate tax repeal now. That is what is coming on the floor as we pass this rule, if the body does pass it, and I believe that they will and I believe that we will get bipartisan, Democrat-Republican, support for a permanent estate tax, death tax, however, you want to look at the reality, repeal. As we are listening to the debate shift over to the child tax credit, it is fine to lecture what that is and how it all happened.

The fact is last week I voted for a child tax credit and other tax cuts and sent it to the other body. And the fact is the last two orators on the Democratic side did not vote for it.

So as we move forward today back on the death tax to make a permanent death tax repeal, Members get to vote up or down on the rule and then they get to vote on a substitute and then they get to vote on a recommit and then final passage. I look forward to today, because I believe that we will get bipartisan support to pass the permanent repeal of the death tax.

Ms. DELAURO. Mr. Speaker, will the gentleman yield?

Mr. REYNOLDS. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Speaker, I would just say to the gentleman, he says I voted against that bill last week. I will tell him my view and he can dispute this with me. It was a very good feel-good vote on the Republican side of the aisle, and that may be where his vote was because, according to Republican Senate people, Senator GRASSLEY today—I am sorry, a member of the other body—a Senator from the other body said he does not have time for a conference. The majority whip in this body said no time for a conference. The gentleman felt good about voting for that bill because he knew that the Senate was not going to do it and, therefore, they were going to kill the child tax credit. He can say it over and over again. I would not vote for a bill that was instrumental in killing the child tax credit nor was it paid for. The bill that I voted for was being paid for.

Mr. REYNOLDS. I guess she did not have a question.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATHAM). All Members are reminded against making inappropriate references to the Senate.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I thank the gentlewoman from New York for yielding the time, and I certainly want to associate myself with her remarks and the remarks of the gentlewoman from Connecticut. I think it is important to kind of set the facts straight here because the gentleman from New York, for whom I have a great deal of respect, I think has said some things that I believe are a little bit misleading. One is those of us on our side of the aisle here, we voted for the child tax credit six times. They voted against it six times. We voted for it six times. The difference with what we voted for and what they ended up voting for is we ended up voting for a child tax credit that was fully paid for, with offsets, because we are a little concerned quite frankly with the way Republicans are on this tax cut/spending spree right now because it is adding to our deficit and adding to our debt. This year as a result of their policies, CBO tells us that the deficit this year is $400 billion, the biggest single year deficit ever recorded in our history. That is what we are worried about over here. So we feel very strongly that as we support these tax cut measures to help working families, that they be paid for, that the offsets be specified.

The other body came forward with a bill to help deal with the child tax credit that was going to cost $10 billion, which was fully paid for, with offsets. The majority in the House could not get together with their counterparts in the other body, even though they are of the same party, but the leadership in this House, I think, is so out of touch and so radical when it comes to how they spend the taxpayers' money in this country that they could not even come up with a bill that even approached anything near what the other body did.

But what the House leadership did is they came up with a bill that would cost $82 billion, that was not paid for. In other words, it was all borrowed money, money being borrowed from our children and our grandchildren and our great-grandchildren. They all talk about cutting taxes, but they, in essence, are raising taxes on our kids, something called a debt tax. We are paying an ever increasing amount on the interest on the debt that is being accumulated in this country, in large part because of their fiscally irresponsible policies.

So do not tell us that we voted against a child tax credit. We voted for it six times. We voted for one that would provide immediate relief to these families that we have been talking about for these last several weeks, including our military families, men and women serving in Iraq right now making a base pay of $16,000 a year. They deserve help right now. They work hard, they are defending our country, they deserve this child tax credit. We tried to bring to this floor just like the majority did in the other body brought to the Senate floor a responsible child tax credit bill that was fully paid for. They said no.

We voted for one that was paid for six times and then they came up with a sham, a public relations ploy, knowing that it will get lost in conference committee or that there would never be a conference committee and these low- and medium-income families would get nothing. And here we are today debating an estate tax relief bill that takes effect 7 years from now. We are talking about lifting the sunset 7 years from now. There are more important and pressing problems for a lot of working families, people who will never get to the point where they are going to have to deal with whether or not they are going to pay estate tax or not.

I would just respectfully suggest to the gentleman that his facts are a little bit wrong with regard to what we on this side of the aisle have tried to do and have been championing.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I probably need to put the gentleman from California (Mr. THOMAS) and the gentlewoman from Washington (Ms. DUNN) on notice that when we move into the bill on the underlying legislation, we will be talking more on the child tax credit than the permanent death tax. I am just encouraged to see in the 107th Congress, three votes that occurred on the death tax. I saw from 41 to 58 Democratic votes along with Republicans and it reassures me that we are on the path of a bipartisan tax cut to end the death tax once and for all that is in this country.

We need to see a couple of things. Individuals and families and partnerships or family corporations own 99 percent of all U.S. farms and ranches. Think about that. Individuals, family partnerships or family corporations own 99 percent of all U.S. farms and ranches. I do not want us to ever forget that every acre, every piece of equipment, every business has already been taxed in life, so why should they be taxed in death.

Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, today what we are talking about is ending the death tax. I believe it is morally wrong that we tax people on their death. They should not have to visit the IRS and the undertaker on the same day. I know a story of a couple, a man and a woman, who had two children who owned a small business. They passed away, unfortunately, and left that business to their children. Their children thought they would get this business, maybe get a little money. But instead to pay the death tax, they had to actually borrow money to sell that business. The Republican Party does not want to tax dead people. The Democrat Party does. That is the difference here today.

Mr. Speaker, I rise today in support of H.R. 8, the Death Tax Repeal Permanency Act of 2003. This bill permanently repeals the death tax and allows families to pass on businesses and farms to their families without the enormous, intrusive and burdensome taxes they are often forced to incur. The IRS imposes rates of up to 60 percent of the value of a family business or farm when the owner passes away. To pay the tax man, many families are forced to liquidate assets and sell their businesses and farms though some have been in the family for generations.

The death tax is un-American, Mr. Speaker. Ask any small business owner. They know all too well that 70 percent of family businesses do not survive to the second generation, and 87 percent do not make it to the third. They will tell you that repealing the death tax would create jobs and grow our economy. It is good for small business owners, it is good for our economy and it is good for America.

Join me in voting for H.R. 8, the repeal of this burdensome tax on family-owned farms and businesses. It is morally wrong.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 5 seconds. Saying that it will preserve family farms from taxation does not make it true. They are preserved already from taxation.

Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, on the commentary for my not having voted for a child tax credit, let me just say we have voted six times on this issue. Democrats have voted for, Republicans voted against, including a motion to instruct on which Republicans voted for taking the bill that the other body passed and bringing it back here. My interest in this effort is not today, it is not yesterday, it is not in the last week.

On March 12, I introduced the child tax credit in the Committee on the Budget and it was voted there for the first time. All of the members on the Democratic side voted yes. All of the members on the Republican side voted no against the child tax credit. This legislation we deal with today goes into effect in 7 years. We have an opportunity to right a wrong, to right an injustice, to pass a child tax credit, to take the bill, to go to conference and address this issue and allow these hard-working people to get their benefit on July 1 as every other American who is going to get the benefit of this tax credit will. It is wrong to do otherwise.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I welcome so many from the left to join me in cutting taxes. I look forward to that vote when it comes out of conference committee and maybe she can join us with that.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I want to remind my colleague from New York that the gentleman from Texas (Mr. STENHOLM) would really hate to be put in that category of a lefty.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I am going to urge that my colleagues vote against this rule. On the one hand, they do allow a Democrat substitute that I am pleased to offer, one that would provide very meaningful estate tax relief. In fact, it would completely take care of any estate tax problem of 99.65 percent of the people of this country. It is far more relief than offered under the majority proposal in each of the next 5 years.

So these family farms and these small businesses we are going to be hearing so much about, the alligator tears we are going to be seeing cried on the majority side, we help them and we help them now. On the other hand, the majority approach is very different. Nobody gets nothing until the wealthiest three-tenths of 1 percent get everything that they need. That is why we have the inferior plan on their side compared to the more generous benefit of ours.

There is another very big difference. Theirs would drive the deficit higher to the tune of $160 plus billion dollars over 10 years. Why I want to vote against this rule is that we had a proposal in the amendment that I proposed to the Committee on Rules that would have completely paid for the relief we provide. There would have been zero impact on the deficit. Yet to my surprise, the substitute allowed in order only provides for the tax relief portion and does not provide the means by which we avoid any impact on the deficit whatsoever. We wanted to close the Enron-like tax shelters.

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We also had some customs fees, and yet they have shielded this, stripped it out of the rule; and so what we are allowed on the floor will have a deficit impact. I vote against the rule.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I have got to tell the Members, I have only been here since 1999, but it never ceases to amaze me to see something new. Yesterday my colleague from North Dakota was before the Committee on Rules advocating this substitute that is contained in this rule and another one, and he was granted one that he actually spoke for; and today he wants to bring down the rule.

Mr. POMEROY. Mr. Speaker, will the gentleman yield?

Mr. REYNOLDS. I yield to the gentleman from North Dakota.

Mr. POMEROY. Mr. Speaker, to my friend from New York, we had within the substitute proposed to the Committee on Rules, on which the gentleman served so well, a pay-for so we were not going to impact the deficit. You took out the pay-for provisions of what we submitted to the committee. You make us impact the deficit, although it is only a fraction to which the majority proposal impacts the deficit. We know you do not care about the deficits. In fact, there has been a $9 trillion reversal in the financial fortunes of this country within the last 2 years. We think enough is enough. We do not want to drive the deficit deeper and deeper, and that is why I so wish you would have allowed for the pay-for portion proposed to the Committee on Rules to be considered.

I thank the gentleman for yielding.

Mr. REYNOLDS. Mr. Speaker, did the gentleman come before the Committee on Rules and advocate the substitute which is contained in the rule today? I think he did, did he not? Did he come and advocate two different amendments before the Committee on Rules, this one being made that was made as substitute inside the rule? Did he or did he not come yesterday before the Committee on Rules and submit testimony before us asking for consideration of this substitute?

Mr. POMEROY. I believe the gentleman was out of the room at the time I testified, but I would refer him to the transcript.

Mr. REYNOLDS. I am happy to bring the record down and bring it here.

Mr. POMEROY. Does the gentleman want me to answer his question or does he not?

Mr. REYNOLDS. The gentleman and I both know that he was before the committee and asked for this amendment to be considered by the Committee on Rules and now he wants to bring it down. Is that true or not, sir?

Mr. POMEROY. It is not true.

Mr. REYNOLDS. Is the gentleman saying he was not in the Committee on

Rules or that he did not request this substitute in his presentation before the Committee on Rules when he spoke on two specific amendments, this being one?

Mr. POMEROY. Mr. Speaker, is the gentleman going to yield to me to answer his question?

Mr. REYNOLDS. I will yield to the gentleman from South Dakota.

Mr. POMEROY. Then I will proceed to answer. If the gentleman will check the transcript of my remarks before the Committee on Rules, I asked that the proposal I offered be considered that paid for the provision for the very meaningful estate tax relief we extend by closing the Enron-type tax loopholes.

I know you probably do not want that considered on the floor of the House. So what you have made in order does not allow us to incorporate the pay-fors. I think that is unfortunate. My specific request to the chairman of the Committee on Rules was to allow the pay-fors.

Mr. REYNOLDS. Mr. Speaker, I reclaim my time.

Mr. Speaker, I must say that in the Committee on Rules, we try to work with our side of the aisle to advise a Member if they do not want their amendment made in order, they should not offer it in the Committee on Rules. Maybe that does not happen to Members on the other side of the aisle; but on our side, if someone comes up there and asks for consideration of an amendment, they ought to be prepared that it might be granted.

I just want to go back and make sure we do not miss anything on the death tax inhibiting economic growth because I have listened to my colleagues on both sides of the aisle talk about creating jobs. The threat of a resurrected death tax will force American families to make inefficient investment decisions and to waste resources in an effort to comply with the death tax. Studies show that repealing the death tax would create as many as 200,000 extra jobs each year across America. Jobs are lost when businesses are liquidated to pay death taxes and to make decisions not to expand because of anticipated death tax liabilities.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be calling for a "no" vote on the previous question. And if it is defeated, I will offer an amendment to the rule. The amendment will make in order the portion of the gentleman from North Dakota's (Mr. POMEROY) request that made his amendment budget neutral and was paid for. The amendment was offered, but was rejected on a party-line vote. At least that part was taken out.

The Pomeroy substitute will provide substantial tax relief from estate taxes. In fact, it grants more generous relief to most estates than the Republican bill and grants it immediately. The Pomeroy substitute completely exempts all but the largest estates from taxation and significantly simplifies tax planning for estates of all sizes. It also exempts virtually all family farms and small businesses from estate taxes. Furthermore, the Pomeroy substitute will not add one single penny to the deficit. Unlike the Republican bill, it will be completely paid for.

Republicans in the House have continued for weeks to block any and every bill that provides tax relief to the people who need it most in this Nation. Even on the issue of estate tax, they favor the rich over the middle- and lower-income working Americans. They continue to take care of their wealthy friends again today with yet another deficit-busting bill. Let us take this opportunity to make in order a substitute that will immediately eliminate estate taxes for all estates of less than $6 million. That is 99.65 percent of all estates, 99.65; and it will also do that without costing any additional dollars to the deficit.

Let me make very clear that a "no" vote on the previous question will not stop consideration of the Death Tax Repeal Permanency Act of 2003, but a "no" vote will allow the House to vote on the Pomeroy substitute which is fully paid for. However, a "yes" vote on the previous question will prevent us from voting on a fiscally responsible and revenue-neutral tax bill. I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I guess I believe, looking up at the press gallery, that there is probably a view that it is a fair rule. It is a modified closed rule that provides a substitute, then a recommit; and then we move on to final passage. So there is not much controversy on the rule. And we are in a situation as we move forward on a debate that I believe once we get through the process, which is the rule vote, we are going to see in final passage, just looking at the 107th Congress, somewhere between 41 Democratic colleagues and 58 Democratic colleagues who voted for death tax in the past Congress that will join us today in a bipartisan message of passing this legislation out of the House and having it go to the other body.

Mr. Speaker, Benjamin Franklin once noted in this world nothing can be said to be certain except death and taxes. But while death may be certain, taxes are immortal. That is because our current tax system plays a cruel joke on farmers and small business owners. Simply put, the death tax stifles growth, discourages savings, stymies job creation, drains resources, and ruins family businesses. It is time we permanently repeal this unfair tax and allow the American Dream to be passed on to our children and future generations.

The material previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION FOR H. RES. 281—RULE ON H.R. 8: THE DEATH TAX REPEAL PERMANENCY ACT OF 2003

Strike all after the resolving clause and insert in lieu thereof the following:

That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 8) to make the repeal of the estate tax permanent. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the amendment specified in section 2 of this resolution if offered by Representative Pomeroy of North Dakota or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with our without instructions.

SEC. 2. The amendment referred to in the first section of this resolution is as follows:

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 28

OFFERED BY MR. POMEROY

Strike all after the enacting clause and insert the following:

SECTION 1. AMENDMENT OF 1986 CODE.

(a) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TABLE OF CONTENTS.—

Sec. 1. Amendment of 1986 code.

TITLE I—RESTORATION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS

Sec. 101. Restoration of estate tax; repeal of carryover basis.
Sec. 102. Modifications to estate tax.
Sec. 103. Valuation rules for certain transfers of nonbusiness assets; limitation on minority discounts.

TITLE II—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

Sec. 201. Clarification of economic substance doctrine.
Sec. 202. Penalty for failing to disclose reportable transaction.
Sec. 203. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 204. Penalty for understatements attributable to transactions lacking economic substance, etc.

Sec. 205. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 206. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 207. Disclosure of reportable transactions.
Sec. 208. Modifications to penalty for failure to register tax shelters.
Sec. 209. Modification of penalty for failure to maintain lists of investors.
Sec. 210. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 211. Understatement of taxpayer's liability by income tax return preparer.
Sec. 212. Penalty on failure to report interests in foreign financial accounts.
Sec. 213. Frivolous tax submissions.
Sec. 214. Regulation of individuals practicing before the department of treasury.
Sec. 215. Penalty on promoters of tax shelters.
Sec. 216. Statute of limitations for taxable years for which listed transactions not reported.
Sec. 217. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.

TITLE III—OTHER PROVISIONS

Sec. 301. Limitation on transfer or importation of built-in losses.
Sec. 302. Disallowance of certain partnership loss transfers.
Sec. 303. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 304. Repeal of special rules for FASITs.
Sec. 305. Expanded disallowance of deduction for interest on convertible debt.
Sec. 306. Expanded authority to disallow tax benefits under section 269.
Sec. 307. Modifications of certain rules relating to controlled foreign corporations.
Sec. 308. Basis for determining loss always reduced by nontaxed portion of dividends.
Sec. 309. Affirmation of consolidated return regulation authority.
Sec. 310. Extension of customs user fees.

TITLE I—RESTORATION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS

SEC. 101. RESTORATION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) In General.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(b) Sunset Not To Apply.—

(1) Subsection (a) of section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking "this Act" and all that follows and inserting "this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.".

(2) Subsection (b) of such section 901 is amended by striking ", estates, gifts, and transfers".

(c) Conforming Amendments.—Subsections (d) and (e) of section 511 of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subsections, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsections, and amendments, had never been enacted.

SEC. 102. MODIFICATIONS TO ESTATE TAX.

(a) Increase in Exclusion Equivalent of Unified Credit to $3,000,000.—Subsection (c) of section 2010 (relating to applicable credit amount) is amended by striking all that follows "the applicable exclusion amount" and inserting ". For purposes of the preceding sentence, the applicable exclusion amount is $3,000,000.".

(b) Maximum Estate Tax Rate To Remain at 49 Percent; Restoration of Phaseout of Graduated Rates and Unified Credit.—

(1) Paragraph (1) of section 2001(c) is amended by striking the last 2 items in the table and inserting the following new item:

"Over $2,000,000 .... $780,800, plus 49% of the excess over $2,000,000.".

(2) Paragraph (2) of section 2001(c) is amended to read as follows:

"(2) Phaseout of graduated rates and unified credit.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative tax is to be computed) as exceeds $10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) and $199,200."

(c) Effective Date.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2003.

SEC. 103. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.

(a) In General.—Section 2031 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) Valuation Rules for Certain Transfers of Nonbusiness Assets.—For purposes of this chapter and chapter 12—

"(1) In general.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

"(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

"(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

"(2) Nonbusiness assets.—For purposes of this subsection—

"(A) In general.—The term 'nonbusiness asset' means any asset which is not used in the active conduct of 1 or more trades or businesses.

"(B) Exception for certain passive assets.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

"(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

"(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

"(C) Exception for working capital.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

"(3) Passive asset.—For purposes of this subsection, the term 'passive asset' means any—

"(A) cash or cash equivalents,

"(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

"(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

"(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

"(E) annuity,

"(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

"(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

"(H) commodity,

"(I) collectible (within the meaning of section 401(m)), or

"(J) any other asset specified in regulations prescribed by the Secretary.

"(4) Look-thru rules.—

"(A) In general.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

"(B) 10-percent interest.—The term '10-percent interest' means—

"(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

"(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

"(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

"(5) Coordination with subsection (b).—Subsection (b) shall apply after the application of this subsection.

"(e) Limitation on Minority Discounts.—For purposes of this chapter and chapter 12, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), no discount shall be allowed by reason of the fact that the transferee does not have control of such entity if the transferee and members of the family (as defined in section 2032A(e)(2)) of the transferee have control of such entity."

(b) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

TITLE II—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

SEC. 201. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) In General.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Clarification of Economic Substance Doctrine; Etc.—

"(1) General rules.—

"(A) In general.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

"(B) Definition of economic substance.—For purposes of subparagraph (A)—

"(i) In general.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there are any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

"(ii) Special rule where taxpayer relies on profit potential.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) Treatment of fees and foreign taxes.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) Special rules for transactions with tax-indifferent parties.—

"(A) Special rules for financing transactions.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) Artificial income shifting and basis adjustments.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) Definitions and special rules.—For purposes of this subsection—

"(A) Economic substance doctrine.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) Tax-indifferent party.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) Substantial nontax purpose.—In applying subclause (II) of paragraph (1)(B)(i), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(D) Exception for personal transactions of individuals.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(E) Treatment of lessors.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) Other common law doctrines not affected.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection."

(b) Effective Date.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 202. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) Imposition of Penalty.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) Listed transaction.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) Increase in penalty for large entities and high net worth individuals.—

"(A) In general.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) Large entity.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) High net worth individual.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) Definitions.—For purposes of this section—

"(1) Reportable transaction.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) Listed transaction.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) Authority To Rescind Penalty.—

"(1) In general.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) No appeal.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) Records.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) Report.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) Penalty Reported to SEC.—In the case of a person—

“(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

“(2) which—

“(A) is required to pay a penalty under this section with respect to a listed transaction,

“(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

“(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

“(f) Coordination With Other Penalties.—The penalty imposed by this section is in addition to any penalty imposed under this title.”.

(b) Conforming Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

“Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.”.

(c) Effective Date.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 203. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

“(a) Imposition of Penalty.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

“(b) Reportable Transaction Understatement.—For purposes of this section—

“(1) In general.—The term ‘reportable transaction understatement’ means the sum of—

“(A) the product of—

“(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

“(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

“(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

“(2) Items to which section applies.—This section shall apply to any item which is attributable to—

“(A) any listed transaction, and

“(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

“(c) Higher Penalty for Nondisclosed Listed and Other Avoidance Transactions.—

“(1) In general.—Subsection (a) shall be applied by substituting ‘30 percent’ for ‘20 percent’ with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

“(2) Rules applicable to compromise of penalty.—

“(A) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

“(B) Applicable rules.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

“(d) Definitions of Reportable and Listed Transactions.—For purposes of this section, the terms ‘reportable transaction’ and ‘listed transaction’ have the respective meanings given to such terms by section 6707A(c).

“(e) Special Rules.—

“(1) Coordination with penalties, etc., on other understatements.—In the case of an understatement (as defined in section 6662(d)(2))—

“(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

“(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

“(2) Coordination with other penalties.—

“(A) Application of fraud penalty.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

“(B) No double penalty.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

“(3) Special rule for amended returns.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

“(4) Noneconomic substance transaction understatement.—For purposes of this subsection, the term ‘noneconomic substance transaction understatement’ has the meaning given such term by section 6662B(c).

“(5) Cross reference.—

“For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).”

(b) Determination of Other Understatements.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

“The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.”

(c) Reasonable Cause Exception.—

(1) In general.—Section 6664 is amended by adding at the end the following new subsection:

“(d) Reasonable Cause Exception for Reportable Transaction Understatements.—

“(1) In general.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

“(2) Special rules.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

“(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

“(B) there is or was substantial authority for such treatment, and

“(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

“(3) Rules relating to reasonable belief.—For purposes of paragraph (2)(C)—

“(A) In general.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

“(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

“(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

“(B) Certain opinions may not be relied upon.—

“(i) In general.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

“(I) the tax advisor is described in clause (ii), or

“(II) the opinion is described in clause (iii).

“(ii) Disqualified tax advisors.—A tax advisor is described in this clause if the tax advisor—

“(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

“(II) is compensated directly or indirectly by a material advisor with respect to the transaction, "(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

"(iii) Disqualified opinions.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe."

(2) Conforming amendment.—The heading for subsection (c) of section 6664 is amended by inserting "for Underpayments" after "Exception".

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) Tax shelter.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax."

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS."

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions."

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 204. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) Noneconomic substance transaction.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed tax benefit or the transaction was not respected under section 7701(m)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) Rules Applicable to Compromise of Penalty.—

"(1) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) Applicable rules.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) Coordination With Other Penalties.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) Cross References.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e)."

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc."

(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 205. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000."

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 206. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section Not To Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C))."

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 207. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section."

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions."

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction."

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows;

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees."

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS."

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 208. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

"(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 209. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 210. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708."

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS."

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions."

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 211. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "UNREALISTIC" in the heading and inserting "IMPROPER".

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 212. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) Foreign financial agency transaction violation.—

"(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) Amount of penalty.—

"(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) Amount.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation."

(b) Effective Date.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 213. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law."

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) Frivolous Requests for Hearing, etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A)."

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) Treatment of Frivolous Requests for Hearings Upon Filing of Notice of Lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) Treatment of Frivolous Applications for Offers-in-Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

"(e) Frivolous Submissions, etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions."

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 214. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) Censure; Imposition of Penalty.—

(1) In general.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure."

(2) Effective date.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) Tax Shelter Opinions, etc.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion."

SEC. 215. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) Penalty on Promoting Abusive Tax Shelters.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 216. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

"(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 217. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c))."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

TITLE III—OTHER PROVISIONS

SEC. 301. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) LIMITATIONS ON BUILT-IN LOSSES.—

"(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this paragraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction."

"(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

"(A) IN GENERAL.—If—

"(i) property is transferred in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of the property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer."

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 302. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS TRANSFERS.

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following:

"(C) if any property so contributed has a built-in loss—

"(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

"(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value immediately after the contribution."

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period "or unless the partnership has a substantial built-in loss immediately after such transfer".

(2) ADJUSTMENT.—Subsection (b) of section 743 is amended by inserting "or with respect to which there is a substantial built-in loss immediately after such transfer" after "section 754 is in effect".

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 is amended by adding at the end the following new subsection:

"(d) SUBSTANTIAL BUILT-IN LOSS.—

"(1) IN GENERAL.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds by more than $250,000 the basis of such partner's interest in the partnership.

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of paragraph (1) and section 734(d), including regulations aggregating related partnerships and disregarding property acquired by the partnership in an attempt to avoid such purposes."

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 is amended to read as follows:

"SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS."

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

"Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss."

(c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS REDUCTION.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period "or unless there is a substantial basis reduction".

(2) ADJUSTMENT.—Subsection (b) of section 734 is amended by inserting "or unless there is a substantial basis reduction" after "section 754 is in effect".

(3) SUBSTANTIAL BASIS REDUCTION.—Section 734 is amended by adding at the end the following new subsection:

"(d) SUBSTANTIAL BASIS REDUCTION.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds $250,000.

"(2) REGULATIONS.—

"For regulations to carry out this subsection, see section 743(d)(2)."

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 734 is amended to read as follows:

"SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION."

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

"Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to distributions after the date of the enactment of this Act.

SEC. 303. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

"(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 304. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding "and" at the end of clause (ix), by striking ", and" at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 305. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) is amended by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 306. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) IN GENERAL.—If—

"(1)(A) any person acquires stock in a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 307. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period."

(b) DETERMINATION OF PRO RATA SHARE OF SUBPART F INCOME.—Subsection (a) of section 951 (relating to amounts included in gross income of United States shareholders) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR DETERMINING PRO RATA SHARE OF SUBPART F INCOME.—The pro rata share under paragraph (2) shall be determined by disregarding—

"(A) any rights lacking substantial economic effect, and

"(B) stock owned by a shareholder who is a tax-indifferent party (as defined in section 7701(m)(3)) if the amount which would (but for this paragraph) be allocated to such shareholder does not reflect such shareholder's economic share of the earnings and profits of the corporation."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years on a controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

SEC. 308. BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.

(a) IN GENERAL.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.—The basis of stock in a corporation (for purposes of determining loss) shall be reduced by the nontaxed portion of any dividend received with respect to such stock if this section does not otherwise apply to such dividend."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dividends received after the date of the enactment of this Act.

SEC. 309. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 310. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking 'September 30, 2003' and inserting 'September 30, 2013'.

Amend the title so as to read: ''A bill to amend the Internal Revenue Code of 1986 to restore the estate tax, to limit its applicability to estates of over $3,000,000, to curb abusive tax shelters, and for other purposes.''

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clauses 8 and 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution and then on the question of the Speaker's approval of the Journal, if ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 200, not voting 7, as follows:

[Roll No. 284]

YEAS—227

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—200

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOT VOTING—7

Brady (TX)
Carson (IN)
Conyers
Gephardt
Lofgren
Smith (WA)
Weiner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATHAM) (during the vote). Members are reminded there are 2 minutes remaining on this vote.

☐ 1201

Messrs. PASCRELL, OBEY, BELL, and Ms. BERKLEY changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 230, noes 199, not voting 5, as follows:

[Roll No. 285]

AYES—230

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher

Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—199

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Carson (IN)
Gephardt
Lofgren
Smith (WA)
Weiner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded there are 2 minutes remaining on this vote.

□ 1208

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 365, noes 59, answered "present" 1, not voting 9, as follows:

[Roll No. 286]

AYES—365

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Cox
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder

Solis
Souder
Spratt
Stearns
Sullivan
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt

Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Upton
Van Hollen
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watson

Watt
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—59

Aderholt
Baird
Baldwin
Berry
Brady (PA)
Brown (OH)
Capuano
Clay
Conyers
Costello
Crane
DeFazio
English
Evans
Filner
Ford
Fossella
Gillmor
Gutierrez
Gutknecht

Hastings (FL)
Hefley
Holt
Hulshof
Jefferson
Kennedy (MN)
Kennedy (RI)
Kucinich
Larsen (WA)
LoBiondo
Matheson
McDermott
McGovern
McNulty
Miller, George
Moore
Oberstar
Olver
Peterson (MN)
Ramstad

Sabo
Schakowsky
Shadegg
Slaughter
Stark
Stenholm
Strickland
Sweeney
Tauscher
Thompson (CA)
Thompson (MS)
Towns
Udall (CO)
Udall (NM)
Visclosky
Waters
Weller
Wicker
Wu

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—9

Carson (IN)
Doggett
Gephardt

Hinchey
Lofgren
Peterson (PA)

Smith (WA)
Stupak
Weiner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded there are 2 minutes remaining on this vote.

☐ 1215

So the Journal was approved.

The result of the vote was announced as above recorded.

☐ 1215

DEATH TAX REPEAL PERMANENCY ACT OF 2003

Ms. DUNN. Mr. Speaker, pursuant to House Resolution 281, I call up the bill (H.R. 8) to make the repeal of the estate tax permanent, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 281, the bill is considered read for amendment.

The text of H.R. 8 is as follows:

H.R. 8

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Death Tax Repeal Permanency Act of 2003".

SEC. 2. ESTATE TAX REPEAL MADE PERMANENT.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment printed in House Report 108–157, if offered by the gentleman from North Dakota (Mr. POMEROY) or his designee, which shall be considered read and shall be debatable for 1 hour, equally divided and controlled by a proponent and an opponent.

The gentlewoman from Washington (Ms. DUNN) and the gentleman from California (Mr. STARK) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 8, the Death Tax Repeal Permanency Act of 2003.

The bill before us has been cosponsored by over 200 Members of the House from both sides of the aisle. This approach is simple. It makes elimination of the death tax permanent. Although the bill is only one short sentence, it will have a powerful impact on the millions of people we represent.

Two years ago, Congress voted to phase out and repeal the death tax. Due to the Byrd rule, however, the tax will come back in full force January 1, 2011, imposing a maximum tax of 55 percent on estates. In the last Congress, a majority of the House voted on three occasions to remove this sunset in the law and make repeal permanent. We are here today to complete this unfinished business.

I have no doubt we will hear a great deal of rhetoric from those who want to keep the death tax alive. Repeal only helps the wealthy, they will say. It will reduce charitable giving; it will increase the deficit; it will jeopardize Social Security. Time and again these arguments have been raised. The simple truth is none of them holds water.

Does repeal of the death tax help only the wealthy? The Joint Economic Committee in 1998 underscored how repeal of the death tax will help minority-owned businesses. Both the National Black Chamber of Commerce and the United States Hispanic Chamber of Commerce support repeal of the death tax.

Robert Johnson, the founder of Black Entertainment Television, said in 2001 that "elimination of the estate tax will help close the wealth gap in this Nation between African American families and white families."

Supporters of the estate tax say that it does not really affect rural communities or farmers. Mr. Speaker, I represent rural communities and timber landowners. Earlier this year experts at the United States Forest Service published findings on just how devastatingly the tax affected rural communities.

Over a 10-year period, 36 percent of forest estates owed the Federal estate tax. In 40 percent of the cases where a Federal estate tax was due, timber or land had to be sold to pay part or all of that tax. The amount of forest land harvested to pay the Federal estate tax was approximately 2.6 million acres every year. Forest land sold was nearly 1.3 million acres per year; and roughly 29 percent of the land sold was developed, or it was turned into subdivisions or converted to other uses.

Supporters of the tax say just lift the exemption amount, but that does not solve the problem. As inflation erodes the value of the exemption level, it will just mean more acres will be sold or harvested or developed. This is not the answer.

They say repeal of the estate tax will reduce charitable giving. In "The CPA Journal" of August 2001, Arthur Schmidt said, "Philanthropy will likely increase as a result of the repeal of the estate tax, both at death because of the greater net resources available, or during the lifetime of the taxpayer as a result of the remaining tax efficiency of the charitable income tax deduction. In either case, the net present value of philanthropy will likely increase."

Does the estate tax really promote charitable giving? IRS statistics show that in four out of five cases of taxable estates no bequest is made. No bequest is made in four out of five cases.

Would estate tax repeal jeopardize Social Security benefits? Federal receipts as a result of the death tax represent less than 1.5 percent of all total revenues. None of that money goes to Social Security for the trust funds, and eliminating the tax will in no way affect Social Security benefits, not one bit.

The death tax does not prevent accumulation of wealth. It does not promote charitable giving. It does not lead to increased economic growth. It is not a tax on sin. It is a tax on virtuous activities like savings and investment, activities we should be encouraging.

It increases the cost of capital for small businesses. It affects rural communities. It imposes financial burdens on minority businessmen and -women. In sum, the case for the death tax has been made, and it has been over and over again in this House thoroughly rejected.

Woodrow Wilson signed the death tax into law in 1916, and the time has come to get rid of it once and for all. I urge my colleagues to join me in supporting H.R. 8 and opposing the substitute amendment and providing small businessmen and -women, family farmers and minorities with the capital they will need to expand, to create jobs and grow the economy.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself 6 minutes.

I rise today to oppose this repeal of the estate tax. In the very same week that the Republicans are willing, as they did last night, to shortchange seniors on a Medicare prescription drug benefit, they are willing to go out and spend $60 billion a year on a tax cut for the richest 1 percent. Kind of a new form of shock and awe, along with the same kind of truth that they use in weapons of mass destruction.

This bill before us cost $163 billion. It occurs only in the last 3 years of the 10-year budget window, and it is on top of the $1.3 trillion tax cuts signed into law in 2001 and the recent $350 billion, or trillion bucks when we strip away all the accounting gimmicks.

The gentlewoman from Washington misspoke. Only 642 or 1.4 percent of taxable estates had farm assets making up half or more of the gross estate in the last reported statistics; 776 or 1.6 percent of taxable estates had business or partnership assets comprising half or more of their gross estate. One percent of small businesses and farms, one percent, of those estates would have been forced to liquidate any assets at all to pay the current level of estate tax.

So here they are responding, as the Republicans will, to the Mars family who spent $1 million lobbying already to get this through and the Connell Company and the Koch Industries, Incorporated, Hallmark Cards. So they have got a few very, very rich people who would like to get away without paying their fair share of what it keeps to make America great.

I suspect that what is really troubling the Republicans is they are worried about the efficacy and ability of their children to succeed. That is understandable. If one is raised and coddled by rich parents and never has to work, they probably need some protection. Most of the money that they are sucking out of our Federal revenues is money that we are taking out of programs like Head Start, Leave No Child Behind, Medicare, health insurance for children, things that will make healthy and strong families.

Warren Buffett, who earned some money on his own, something that my Republicans do not seem to understand, most of the people opposing this bill worked at the public trough all their lives, never had a job in free enterprise or else they inherited their money. So if they listen to somebody like Warren Buffett who said we come closer to a true meritocracy than anywhere else around the world, we have mobility so people with talents can be put to the best use. Without the estate tax, we in effect will have an aristocracy of wealth which means we pass down the ability to command the resources of the Nation based on heredity rather than merit. I suppose that is something the Republicans need to keep themselves in office.

He likened the tax repeal to choosing the 2020 Olympic team by picking the eldest son of gold medal winners in the 2000 Olympics. We would regard that as absolute folly in athletic competition. Yet my colleagues on the other side of the aisle, having been seduced by, I guess, they had 1,200 folks last night raise 3 or $4 million for the President, but they are worried about every one of them, but not about the 40 million seniors who they denied decent Medicare prescription drug benefits last night because they felt they did not have the money.

The reason they do not have the money is they are giving it away to less than 10,000 people a year. So as they help 10,000 people, who I might add, make that the kids who are going to inherit this, that is, 40,000 a year, so they are going to give away $60 billion to 40,000 rich kids every year, and they are going to deny 40 million senior citizens the health care they deserve in their old age; and some of my colleagues may snicker about that, but those are mostly you do not have anything left to leave and so I say that it is the same old same old: Republicans pandering to the rich to entrench themselves here and people whose children cannot make it on their own trying to figure out how to support them in an era where they should be learning to make it on their own if they had the right kind of education, which again the Republicans are denying us.

So it is very clear, it is the same old message over and over. Billions of dollars to a few very rich people, turn your back on those who need the help they should be getting from society.

Mr. Speaker, I reserve the balance of my time.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

I want to remind the gentleman from California, whose State is in very financial straits, that in the year 2002 his State and estates in that State sent to the Federal Government $4,201,408. Actually that is $4,201,408,000 to the Federal Government, which I am sure his State could have made use of.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON), a great Member of the Committee on Ways and Means and very much in touch with his constituents on repealing the death tax.

□ 1230

Mr. SAM JOHNSON of Texas. Mr. Speaker, I thank the gentlewoman from Washington (Ms. DUNN) for yielding me this time.

I think sometimes the Members on the other side forget that this is a Nation built on free enterprise. Free enterprise means you start with nothing and you make something out of it. And guess what? It's great that you can turn it over to your kids when you die.

A great bill this is for America. I strongly support the bill to permanently repeal the death tax. Members of this House have overwhelmingly voted to repeal these destructive taxes that can wipe out a lifetime of work. For many businesses, small businesses especially, death taxes loom over their very future existence. These taxes have driven far too many business decisions for far too long. Whether it is purchasing extra life insurance that benefits only the tax man or structuring the form of a company ownership so that a small business is not wiped out on the death of a key employee, the death tax has been in the driver's seat of too many small business decisions.

Two years ago, we voted to repeal this tax and let the small business owners get on with making their businesses successful instead of planning for their own demise. But like the arcade game "Whack a Mole," this tax keeps popping up and rearing its ugly head. Many of our Democrat colleagues are arguing for something less than full repeal of the death tax. Class warfare does not work on this issue.

Americans strive to be successful and then share the fruits of their labor with their children. Americans support full repeal of the death tax. They do not want a toll booth on the road to after life. Mr. Speaker, just as you cannot be a little bit dead, this tax cannot be a little bit repealed. Imposing taxes on the value of a lifetime of work is just wrong and we must end this tax permanently.

Mr. STARK. Mr. Speaker, I am happy to yield 4 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means, who, with his brother, understands that hard work and education can lead to a successful career without inheriting a lot of money.

Mr. LEVIN. Well, so let us look at the facts, Mr. Speaker. The latest year for which we have exact data shows this: Of all of the taxable estates, only 1 percent would be considered family farms, not the millions that the gentlewoman from Washington (Ms. DUNN) mentioned, but hundreds. That amounts to about 400 people in the entire United States.

As to family-owned businesses in that year for which we have exact data, of the 2.3 million deaths, only 776 decedents had taxable estates. So when you add up the small businesses and family farms, 1.6 of all the estates paid the estate tax.

So what is going on here? We are talking about, at the most, thousands. A few thousand. The Pomeroy substitute would increase the exclusion and, as a result, 99.65 percent of all estates would not be subject to an estate tax. So that means two-fifths of 1 percent would be subject to the estate tax.

So why, in view of that, take away $162 billion the last 3 years of this 10-year cycle and $800 billion out of Federal revenues the next 10 years? Eight hundred billion dollars. Well, the main reason is cited today in an article by David Broder based on an article, an op-ed, a week before by Grover Norquist, where he said the Republicans can't do this all at once. They are now doing it step by step. This is David Broder's analysis, and it is so correct: "The consequence of this is a massive rollback in Federal revenue," "and what he (Grover Norquist) regards as a desirable shrinkage of Federal services and benefits. In short, the goal is a system of government wiped clean, on both the revenue and spending side, of almost a century's accumulation of social programs designed to provide a safety net beneath the private economy."

That is what is at stake here. There is class warfare against everybody except, in this case, one-quarter of 1 percent of the population. And when you take into account all the other tax cuts, it is a class warfare against all but the very, very wealthy.

Last night we tried to add to the Medicare benefit $400 billion to $500 billion and the Republicans said no. They traded $400 billion to $500 billion in Medicare benefits that we wanted to add that would make it real for the seniors of this country, for a tax cut for a few hundred, maybe a few thousand people. Not millions. Not hundreds of thousands. Not even tens of thousands. But a few hundred, or several hundreds of people. That is the Republican value system. That is their option.

So I wish they would not bring up this smoke screen of family farms and small businesses. What they are trying to do is to end this effort to provide a safety net and a step up, a hand up. Not a hand out, but a hand up the ladder for people in the middle-income and low-income groups of America.

That is where my Republican colleagues stand. Let us today show where we stand and vote for the Pomeroy amendment and against this unfortunate and not at all defensible repeal.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

I think the gentleman has created not just a near miss, but a big, big miss when we speaks about family farms. Families own 99 percent of the Nation's farms and ranches, and they are capital intensive businesses. Their assets are not liquid, and so for that reason they are very much at risk at having to pay very large estate taxes. Nearly 20 percent of farmers have paid Federal estate taxes in the previous 5 years. Seventy-seven percent of farmers report that they spent money each year on estate planning.

Not only are we hitting the family farms and the people who are employed by them, but we are also wasting dollars that go into this economy not for the purpose of stimulating this economy, but to pay for life insurance policies, estate planning, and everything else that is there when there is unpredictability and they need to provide for the future of their business and the business that employs so many people throughout the United States.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. HAYWORTH), a very strong member of the Committee on Ways and Means who has been close to his folks at home on this issue and who has done a great job for us on codifying the issue in the State of Arizona.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Washington State for yielding me this time and for the recognition.

It is interesting to hear the rhetoric so far and the lectures that come from the left and the far left on this matter. They seek to find logic in their illogic. On one hand they tell us that this only affects a very few people. Glaringly omitted from their diatribe against accomplishment is the fact that those very few people, when we take this tax in totality and look at it, account for a little more than 1 percent of total revenues to the Federal Government in any given year.

So understand that the impact here would not tear asunder the safety net as merchants of fear would have us believe. Quite the contrary. Indeed, rather than resorting to the politics of fear, why not embrace the initiatives of opportunity. Stop and think about the small businesses across America that are family owned, the people they employ. Indeed, we know in rural communities that rural areas are affected disproportionately by this.

And though my friend talks about a small percentage of family farms, I think it is safe to say that those family farms impact other businesses, such as farm machinery businesses in their town, grocery stores in their town, and other opportunities for economic advancement. There is a multiplier effect.

Indeed, as we take a look at this, the real life experiences of two Arizonans come to mind: One, a lady living down in Tucson who stopped me and said, you know, my dad had a job, and it was not that of a high-falutin tycoon. He was a milkman in Southern California. After his days in World War II he came home. She said her mom passed away, and her dad made some wise investments. He was thrifty. Then her dad found out he had a terminal illness. He had not spent years in estate planning. He was just the kind of guy for whom thrift and initiative was a byword, and his estate had accumulated to over $6 million. And now, as he had passed away from this terminal illness, this lady and her siblings were confronted with giving over half of her father's estate to the government.

Or take the example of the 1994 Democratic nominee for Governor in the State of Arizona, Eddie Basha, a proponent of eliminating the death tax. Why? Because he is in the grocery business. The grocery business is capital intensive. He wants to pass the business on to his children. Small wonder that my friend Eddie has left the Democratic party and now is a registered Independent.

But, friends, whether you are a Republican, Democrat, Independent, Libertarian, or Vegetarian, you understand this: There should be no taxation without respiration. The fact is, those who work hard and save and pass their businesses down, whether in the minority community, the Hispanic community, the African American community, those respective of Chambers of Commerce embrace this idea. Because by getting the wealth down intergenerationally, we can, in fact, encourage jobs and investments. Vote "yes" on this measure. Put the death tax to death.

Mr. STARK. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I guess we are all in touch with our constituents. Mine was quoted today. Bill Gates, Sr. lives in my district, and he said the principal issue is the growing budget deficit. You cannot run a $400 billion deficit year after year and go around repealing taxes at the same time.

Now, I learned in Sunday school, and it may surprise some of you, but I went to Sunday school, and I learned that you cannot take anything with you when you die. But it is not fair to heap $800 billion of additional debt on your kids as you go out of sight.

This argument we are having here today is an old one in this society. We made the decision between John Adams and Thomas Jefferson that we were not going to have primogeniture in this country; that you could not pass everything on to your eldest son and that was it. We said everybody ought to start with an even shot, men and women. We have come a long way using that. But now we are saying that somebody who inherited from his father or his mother, millions and millions and millions of dollars, should get it just because he was born lucky.

Now, I have read the Bible and I have looked around and I do not find that anywhere, that if you are born lucky, as they say, some guys were born on third base and they think they hit a triple, but this is not something where you have a God-given right to that. You have a God-given right in this country to have an equal shot.

As for the farmers, I listened to my colleague from Washington go on and on and on about the farmers. I have a letter here from the National Farmers Union dated 16 June. "I write on behalf of 300,000 farmers with the National Farmers Union. There is no evidence that the estate tax has forced the liquidation of any farms, and existing estate tax provisions already exempt 98 percent of all farms and ranches." By increasing the level of the estate tax, as we will get an opportunity with the Pomeroy substitute, to $4 million per individual, 99.5 percent of America's agricultural producers would be exempt from any State liability.

Now, if the farmers are who we are arguing about here, 300,000 of them just spoke, and they say this is baloney. In fact, the letter goes on to say that, "we need that money for crop supports and conservation and all the other things that government provides." So they understand that having a government that can provide services is important.

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Mr. Speaker, if we give away all of the money, we are going to come back here next year and say we cannot do conservation, we cannot do crop subsidies, we cannot do anything because we do not have the money. These farmers are not stupid. They understand. I think we ought to vote for the Pomeroy amendment.

Ms. DUNN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO), the chairman of the Committee on Small Business.

Mr. MANZULLO. Mr. Speaker, the death tax falls most heavily on small businesses because they are asset rich but cash poor. This bill allows small businesses to be passed from one generation to the next without having to sell assets to pay the punitive tax. This bill is not about Bill Gates. It is not about Warren Buffett. If they have problems with repealing the death tax, let them write a check to the government.

This bill is about the Beuth family of Winnebago, Illinois, and the Hall family of Ogle County, Illinois, who live in my congressional district. Richard and Judy Beuth of Seward almost lost the family farm several years ago when Richard's father died and the IRS hit them with a $185,000 death tax bill. Factual, not philosophical, factual. Not Warren Buffett, not Bill Gates, but Richard and Judy Beuth of Seward, Illinois. Gary Hall and his four sisters of Lindenwood had to sell equipment, had to sell part of their land, and take out huge loans to pay a $2.7 million death tax bill they received shortly after their father died in 1996. Real live people, real live farmers, my constituents, forced to go out of business because of the capital-intensive farming operations that they have to make their living.

This tax is immoral. It has devastated too many family farms and mom and pop businesses. These families worked hard all their lives to put food on the dinner tables, and this is about giving that family farm, that family business on to succeeding generations. Of all of the small businesses in this country, fewer than 30 percent are passed on to succeeding generations and fewer than 13 percent make it to the third generation. I urge that this bill to repeal the death tax be made permanent.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would inquire of the gentleman from Illinois (Mr. MANZULLO) if he would be willing to engage with me for a moment. The two constituents mentioned, would they not have been covered under the Pomeroy amendment?

Mr. MANZULLO. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Illinois.

Mr. MANZULLO. No, because the estates would have been more than that.

Mr. STARK. The estate on which they paid $185,000 in tax, how much was the farm worth?

Mr. MANZULLO. It was probably worth more than the $3 million.

Mr. STARK. Reclaiming my time, so it would be covered by the Pomeroy amendment. I just suggest that many of these horror stories of people who are quite fortunate would be covered under the Pomeroy amendment.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. KLECZKA).

Mr. KLECZKA. Mr. Speaker, the previous gentleman who spoke indicated that the estate tax is immoral. Do Members know what is more immoral? Giving this tax relief to the wealthiest individuals in this country and passing it on through national debt to our children and our grandchildren.

The action we take today, which will cost over $800 billion in the next 10 years after fully effective, will be put on the national debt of the country to be paid back by our kids and grandkids. Boy, are we generous. Mr. Speaker, the only good thing about today's bill to repeal the estate tax for the billionaires of this country is that it is dead in the Senate, so all of the talk and debate today and the vote we will have later is for naught because the Senate is going to kill it. That is the good news. But let us see what we have done in this House and Congress over the last couple of years.

Last week we provided a tax cut of some $82 billion. The country is broke. We have a $400 billion deficit this year. The kids are going to pay that because that is part of the debt now. A month before that we passed another tax bill. This one totaled $350 billion, of which the wealthiest Americans would get about $92,000. The average taxpayer in my district would get about $400. We had no money for that one either. The real problem with that bill is once we total it up, that costs $1 trillion but that is a secret, so do not say anything. Quiet.

Now 2001 we passed another tax bill. How much did that one cost? That one cost $1.3 trillion. Again, the surplus is gone. The country is broke. We have a deficit. What the heck are we doing around here? When is this idiocy going to stop?

Today the estate tax has an exemption of $2 million. It covers everyone in my district. Well, we are going to have an option later today which would raise that to $7 million and that would take care of 99 percent of all small businesses and farmers in this country. But that is not good enough. That is not good enough for the Republicans because that is not who they are trying to help. The people they are trying to help are the Hallmark Card people and the Mars candy bar people, who over the last couple of years have spent millions of dollars hiring lobbyists in D.C. and giving campaign contributions, and today they want their due.

Mr. Speaker, I include for the RECORD a Washington Post article of this morning by Jonathan Weisman entitled, "Estate Tax Compromise Sought." What we are doing today is sheer nonsense.

Let me say to my Republican colleagues, we have already voted on this proposition three times; and under the campaign finance law if we vote for an item three times and it does not pass, you are still entitled to the campaign contribution, okay. So Members are still going to get the money from Hallmark and the campaign contributions from the Mars candy bar people; but for God's sake, save the taxpayers of this country.

[From the Washington Post, June 18, 2003]

ESTATE TAX COMPROMISE SOUGHT

HOUSE SET TO PASS REPEAL, BUT SUPPORTERS KNOW SENATE VOTES AREN'T THERE

(By Jonathan Weisman)

When a coalition of wealthy families, small-business groups and farm interests won temporary repeal of the estate tax two years ago, they immediately resumed their campaign for permanent repeal. Now, even as the House is expected to vote today for just that, some in the alliance have second thoughts.

It's not that they have backed off their vehement opposition to the tax on large inheritances. Rather, as the Federal budget deficit grows and their patriarchs and matriarchs age, they are losing faith that permanent repeal will ever happen and are considering compromises that were unthinkable two years ago.

The House is expected to vote today to permanently repeal the estate tax after 2010, when it is set to expire after being in effect for only one year. But no one expects the Senate to pass the bill, leading some proponents to believe that the vote and the distant temporary repeal date are more political gamesmanship than a serious legislative attack on the tax.

So some of the affluent families who have bankrolled the repeal movement are exploring estate tax changes short of repeal that could be implemented sooner.

"There is some real concern that 2010 is not soon enough," said a lobbyist working on the issue, referring to the deficit and the uncomfortable fact that some affluent benefactors may not live until 2010. Grover Connell of privately held Connell Co., for example, is 85. The matriarchs and patriarch of the Hallmark greeting-card fortune are in their seventies.

For more than a decade, the coalition has rejected overtures for compromise and declared it will accept nothing short of "death tax" repeal.

The simplicity of their demand, the strength of the small-business coalition and the money of the families financing the effort combined to turn an obscure tax affecting very few Americans into a powerful rallying point, especially for Republicans.

The movement culminated in 2001 with the 10-year, $1.35 trillion tax cut, which repeals the estate tax in 2010. But the tax is to return in 2011 when the entire tax cut expires.

For the past two years, the repeal coalition has tried, and failed, to gather the 60 Senate votes needed to make the repeal permanent. One lobbyist working on the estate tax said the appeal of the issue may have "plateaued."

And just as the surging Federal budget deficit is beginning to shake up the Bush administration's plans for more tax cuts, it is starting to change the politics of estate tax repeal. Repeal supporters worry that the growing deficit will make it more difficult to eliminate the tax, particularly by 2010, when the vanguard of the baby boom will retire.

The Treasury Department said repeal of the estate tax in 2011 through 2013 would cost the government $115 billion in revenue. In 2014 through 2023, repeal would cost about $820 billion, according to the Center on Budget and Policy Priorities.

"The principal issue is the growing federal budget deficit," said William Gates Sr., father of the Microsoft Corp. founder, who opposes repeal of the estate tax. "You can't run a $400 billion deficit year after year and go around repealing taxes at the same time."

Even if Bush is reelected in 2004, a new president, who could be far less friendly to repeal, will be elected in 2008. And the broad appeal of the anti-estate-tax movement that caught fire in the 1990s may be dissipating simply because people are not feeling so rich anymore, one lobbyist said.

Even at the height of the stock market boom, the estate tax affected very few families because estates worth up to a certain amount are exempt. That amount is currently $1 million for a single person or as much as $2 million for a couple. In 2000, the most recent year for which statistics are available, more than 2.4 million adults died in the United States, but only about 52,000 left taxable estates.

The strength of the repeal movement always came from people's fear that their estates would be hit with a huge tax bill. If that fear dissipates in a sluggish economy, so will the movement, lobbyists said.

"I think [some of the coalition members] are coming around to 'Let's get a commonsense solution that can work now instead of just talking about this for eons,'" said Sen. Blanche Lincoln (D-Ark.), a past repeal supporter who is floating a less expensive alternative.

With all those factors in mind, some of the biggest names in the estate tax coalition are looking to compromise. The candy-making Mars family of McLean gave more than $1 million to lobbying powerhouse Patton Boggs LLP last year, in part to explore "estate and gift tax reform," according to lobbying disclosure forms.

Koch Industries Inc., a family-run energy, ranching and finance conglomerate, paid Hogan & Hartson LLP $40,000 last year, while spending $500,000 on in-house lobbying on the estate tax. The Connell Co. hired Washington Council Ernst & Young for $120,000 to lobby for "estate and income tax relief," while Hallmark Cards Inc. spent $60,000 to hire Capitol Tax Partners LLP.

Stephen Moore, a conservative tax-cutting activist with the Club for Growth, and Mark A. Bloomfield, president of the business-backed American Council for Capital Formation, proposed taxing estates at the current capital gains rate of 15 percent. Taxable estates are subject to a 49 percent tax.

"There are Republicans who want this debate to last forever, keep the [campaign] money flowing in, keep the Democrats off guard," Moore said. "Mark Bloomfield and I have been on crusade to get this done, to break the logjam."

If that proposal cannot be passed, another lobbyist suggested taxing inheritances at income tax rates, which are at most 35 percent. A stream of lobbyists has passed through Lincoln's office to discuss her proposal to immediately repeal the estate tax for family-owned businesses and farms.

The public faces of the repeal movement remain resolute. "We are 100 percent united behind permanent repeal in 2010," said Patricia Soldano, a Southern California financial planner who, in 1992, helped launch the repeal movement with funding from the Mars family and the Gallo wine heirs, among others.

Dena Battle, the National Federation of Independent Business's lobbyist on the issue, conceded that the budget deficit "certainly changes the dynamics of the debate."

"But," she said, "you're talking about something that takes place 10 years from now. There's no way we can know what the economy is going to look like then. That's not an excuse to vote against this."

There is little doubt that the House will vote today to repeal the tax, but lobbyists said they will look closely at the tally. If past repeal supporters—especially Democrats—vote against it this time, the fledgling movement toward compromise will pick up steam quickly, a lobbyist for one of the rich families predicted.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ADERHOLT). The Chair must remind Members to avoid improper references to the Senate. Remarks in debate may not characterize, nor urge, nor predict actions of the Senate.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just remind the gentleman from Wisconsin that we did vote three times on this legislation last year in different forms; and, in fact, the legislation passed each of the times by a bipartisan majority. It also passed in the other body by a bipartisan majority. But, unfortunately, because of their strange rule system, it required a 60-vote margin to pass in that body.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. PUTNAM), a very prominent member of our sophomore class.

Mr. PUTNAM. Mr. Speaker, I thank the gentlewoman for her leadership on this issue.

I am from a farm family in a rapidly growing part of the State of Florida. I have seen what the death tax does to destroy families and destroy pieces of property that have been in the same family's hands for generations, that have cared for that land and have been steward of that land, and the environmental benefits that come from that. When the death of the grandfather or the great grandfather or the father comes along, it is busted up into half-acre ranchettes, and the environmental and agricultural benefits are lost. The food security issues are lost forever. We cannot unpave a parking lot, we cannot bring those families back together again, you cannot put agriculture back into practice. It is lost forever because of a quirk in our tax law which is purely redistribution of wealth.

Now the Johnny-come-lately deficit hawks on the other side would have us believe that we cannot afford to do this in this particular economic environment. But they did not believe we should do it when we were projecting trillion-dollar surpluses either. The bottom line is that they do not support the repeal of this immoral tax. They continue to support the redistribution of wealth, the penalty on ambition, the penalty on thrift, the penalty on holding those family operations together again. Despite their best planning efforts, 70 percent of small and family-owned businesses do not survive the second generation and 87 percent do not survive the third.

Mr. Speaker, 90 percent of those failed owners say the death tax was a contributing factor to the loss of that business. It is time for the death tax to die. It is an immoral tax. It sends the wrong philosophical message to the next generation of Americans who are looking for incentives to work hard and create wealth and jobs and build businesses and farms. I urge support of H.R. 8.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, anecdotes are indispensable when the facts speak to the contrary, and perhaps we have to remind Members what the facts are once again. These are not our figures, these are not made-up figures, these are figures provided by the Federal Government, the Bush administration.

In 1999, roughly 2.3 million Americans died. Of those 2.3 million Americans who died, less than 1.3 percent, some 33,000 Americans, paid estate taxes. That is the 1.3 wealthiest Americans in our country who paid estate taxes. So 98.7 percent of the rest of Americans who passed away in 1999 paid zero estate taxes. So when we talk about repealing the estate tax, eliminating the estate tax, we are giving a tax break not for Americans but the 1.3 percent richest Americans in this country.

It is easy with anecdotes to hide behind family farms and family businesses which constitute less than 1 percent of the estates that are paying estate taxes. And it is real easy to hide behind the fact that in legislation like this we are back-loading the costs. We are phasing in the repeal so slowly, so gradually that when we start to add up the real cost of the repeal of the estate tax to the wealthiest 1.3 percent of Americans, when we fully phase it in when it is gone completely, it totals about $80 billion a year starting in 2014 when this takes full effect. $80 billion a year in revenues will be lost to the Federal Treasury, more than $800 billion over the decade from 2014 to 2023.

Now, perhaps it would not be so bad to give the wealthiest 1 percent of Americans a tax cut that 99 percent of Americans would not get at a cost of $800 billion over the next 10 years from 2014 to 2023 if not for the fact that today every Member knows that we have a budget deficit for the year of over $400 billion, the largest deficit this country has ever faced in any year; and we are told that it is probably going to rise to half a trillion dollars, $500 billion next year. And that is after 2 years ago when the President took office and he said we are going to have for the next 10 years surpluses totaling over $5.6 trillion.

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We have seen a reversal from surpluses of $5.6 trillion to now projections of a $3.6 trillion debt over the next 10 years. How can we talk about giving $800 billion to the 1.3 percent wealthiest Americans? We spend more in tax cuts than we spend in all our educational programs, that the Federal Government spends, on all our schools combined.

Let us defeat this. Vote for the Pomeroy substitute.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

I want to remind the gentleman from California that his State, in the year 2002, sent $4,201,408,000 to the Federal Government. And you can about double that for the cost of complying with the death tax. That is what comes out of the economy. And so his figure of $80 billion, just take that and double it and that is what has been taken out of the economy.

Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE), a wonderful contributing sophomore Member.

Mr. OSBORNE. Mr. Speaker, I rise in support of H.R. 2143. Mr. Speaker, I do come from a rural area. We have 52,000 farmers and ranchers in Nebraska. I heard some figures that were unbelievable to me, that maybe only 400 farmers in this country would benefit from the repeal of the death tax. I would say out of 52,000 farmers in Nebraska, that we would look at probably somewhere between 15 and 20,000 that would benefit tremendously and will probably not be able to pass their farm on without some repeal of the death tax.

Let me give Members an example. A small ranch in Nebraska is 12,000 acres. That will support about 300 cows and that will support one family. That probably started out at $25 an acre, it is now worth $300 an acre, so it was maybe worth $100,000 when the farmer started out roughly 30 years ago. So it has increased in value. If they have two children and the last surviving parent dies in 2010, that ranch, which is worth $5 million today, would go on to those two children and they would pay no tax. But in 2011, their tax bill would be $2 million. They cannot pay that tax. They have to sell the ranch. That is an actual example of an average to small-sized ranch in Nebraska.

The Coble family in Mullen, Nebraska, had that happen to them. And who bought the ranch? Ted Turner bought the ranch. Ted Turner owns several hundred thousand acres in Nebraska today, most of which has been bought because people could not afford to keep the ranch because of the inheritance tax. And so that drives hundreds if not thousands of young people off the land. They cannot afford to ranch or farm. Of course, the same thing is true with small businesses. The only way to preserve family ownership is through insurance. And so maybe only 1 percent of inheritance taxes is the issue, but lots of people have to pay insurance in order to hang on.

I urge the support of this bill.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, we ought to tell to all of America as well as those people assembled in this room, what are we going to benefit from this legislation? They have attempted, the other side, from the very beginning of this debate, to say that they are for something and we are against. The Democratic amendment this afternoon covers most of the people, 99.3 percent of everybody on both amendments. You are talking about the exclusiveness of that very, very small percentage of people.

Who are those people? Those are the people that are multimillionaires. Those are people who do not need us. The gentlewoman from Washington has suggested that this is what this State could send back, this is what that State could send back. Does she know they would put a $100 billion hole in the Federal budget? What are they going to cut? Where is that money going to come from? It is wonderful to say we are going to send all of these inheritance taxes back to the people. How are they going to fill that hole? They must tell the American people where they are going to come up with that money so that they can get this money back in their pockets.

Ms. DUNN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. COX), the chairman of the Policy Committee, a cosponsor of this bill, and a longtime supporter and leader on this bill.

Mr. COX. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I will just make a few observations about the death tax. First, notwithstanding much of what is in the air here, it does not raise any material amount of money for the Federal Government. Nominally, about 1 percent. But, in fact, when we take into account the 65 cents on the dollar in compliance costs and the nearly $10 billion a year that is sucked out of the economy paid to lawyers and accountants and life insurance experts for compliance, it is a wash. Some estimates say it actually costs more than it raises. Second, it is not an income tax. You do not have to have any income to pay it, even though it is part of the Income Tax Code, 88 pages of it. Instead, it is a property tax and is meant to be confiscatory. These are confiscatory rates, well over half, and the purpose is to break up large concentrations of wealth. But the tax does not do that, either. In fact, it concentrates wealth because family farms, ranches and small businesses that are liquidated to pay the tax man are absorbed by larger conglomerates. We have seen farmland turned into condos all over America for this reason. The rich do not pay it. They hire expensive lawyers and accountants to design trusts and foundations to avoid the tax so that only small business, family farms and people without cash who have to liquidate assets to pay the tax man pay it.

Lastly, if you work in a small business, this is all about you, because the biggest burden of this tax is borne by those who are laid off. The tax rate on you, the guy who sweeps up the floor after your small business contracts when the founder dies, is 100 percent. When you lose your job, that is the toughest tax that you can pay. That is why making this death tax repeal permanent is so important for everyone in this country.

It is time for the death tax to die, and today we are going to drive a stake through its heart.

Mr. STARK. Mr. Speaker, I am delighted to yield 1 minute to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I want to begin by commending my colleague from California. I think he raised a number of good points, which is why I strongly have supported reform of the estate tax. We need to do it to support small farms and small business. The question is, how do we go about it? My belief is that the majority party proposal here will benefit the extremely wealthy but will not necessarily help the small businesses and farmers who would benefit more, quite frankly, from the Pomeroy substitute. We need to remember, and it is caveat emptor here, that the Republican bill does not allow for a step-up in basis and there will be many people who think this is a great thing when it passes today, but who will suffer.

Secondly, the gentlewoman from Washington has repeatedly reminded us how much money has left various States. I would remind her with great courtesy that $500 million a year leaves her own State because Washington State, like six others, is not allowed to deduct the sales tax. She has focused on a tax reform that will benefit 2 percent of the population or less, neglecting a reform that will benefit 47 percent of the population. $500 million leaves Washington State every single year. We should reform that first and establish justice through that mechanism.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

I remind the gentlewoman from Washington State that his State in the year 2001 sent back $578 million to Washington, D.C., with about an equal amount for compliance with that law. Also as a representative of a forested district, 36 percent of forest estates owe the Federal estate tax. 29 percent of the land was sold or developed or converted to subdivisions, and 1.3 million acres per year of forestland in this Nation were sold. The amount harvested to pay the estate tax was about 2.6 million acres every single year. I respect his point of view on this particular bill, but I think that there are many people who will be affected if he does not vote for this bill.

Mr. BAIRD. Mr. Speaker, will the gentlewoman yield?

Ms. DUNN. I yield to the gentleman from Washington.

Mr. BAIRD. Mr. Speaker, the gentlewoman raises a perfectly legitimate point about the family foresters. The bulk of the family foresters in my district would be perfectly well covered under the $6 million exemption. I have met with them. I meet with their association. They would be covered under the Pomeroy exemption. What they would not be covered under is any relief from sales tax which is unjust. And the gentlewoman ought to join me in that effort and fix that.

Ms. DUNN. As the gentleman knows, retaking my time, I have already cosponsored that measure and supported it in the committee. We have worked very hard on that and will continue to do so. It affects a number of States. It is important to get rid of it.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. HARRIS), a very active member of the freshman class.

Ms. HARRIS. Mr. Speaker, I rise in support of H.R. 8, which will finally free America's hardworking farmers, small business owners and their families from the specter of the death tax. Benjamin Franklin said, "In this world nothing is certain but death and taxes." This observation notwithstanding, I doubt that even the imaginative Mr. Franklin foresaw the taxation of death itself.

Americans are taxed when they earn money. They are taxed once again when they spend what is left. And at last, not even the cold head of death can stay the grasping hands of the tax collector. By pursuing taxpayers beyond the grave, government visits devastating consequences upon their grieving relatives, forcing some to sell the family business or the family farm just to pay the taxes. The National Federation of Independent Businesses has estimated that the death tax will compel one-third of small business owners today to sell some or all of their business. Moreover, according to the Family Business Estate Tax Coalition, simply planning for the death tax costs small businesses an average of $125,000 over 5 years. Worse yet, mainstream economists of all political stripes have concluded that the death tax stifles the creation of jobs and opportunity.

Economist Allen Sinai, a consultant for presidential administrations of both parties, has concluded that the permanent repeal of the death tax could create 160,000 new jobs and an increase in GDP of over $10 billion.

Mr. Speaker, the opponents of H.R. 8 cannot provide any economic justification for the continued existence of this useless relic. It may even cost more in compliance and to collect this onerous tax than it generates in revenue while it punishes thrift, deters investment and diverts capital to unproductive activities such as tax avoidance.

Mr. STARK. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished minority whip.

Mr. HOYER. Beware, working men and women of America. The Republicans from Washington are in town and they are here to help you. Beware.

Mr. Speaker, our Republican friends may think they are burying the estate tax today but they actually are burying our children under a mountain of debt. They see a problem. We Democrats see a problem. We solve a problem without burying our children under a mountain of debt. The GOP bill would create a fiscal Frankenstein that would haunt this Nation for decades to come. The Joint Committee on Taxation estimates this bill will cost $162 billion. The young people of America are going to pick up that bill. The Center for Budget and Policy Priorities projects that its costs will explode to more than $800 billion in the decade after that. So if you are about 15, watch out.

Our Nation will run a record budget deficit of more than $400 billion this year. At the same time the Republican majority has acceded to the largest increase in the debt limit in American history, $950 billion-plus in 1 year, which was what the deficit was in its entirety in 1980.

So what does the GOP propose today? Legislation that would drive us even deeper into debt. For whom? For three-tenths of 1 percent of the decedents in America. 99.7 percent of the decedents in America who owe estate tax would be exempted under our option without blowing a hole in the deficit. The fact is repealing the estate tax would only benefit the wealthiest three-tenths of 1 percent of the estates in America. Think of that. For three-tenths we are going to blow a continuing hole in the deficit.

Let us remember, it was Republican President Theodore Roosevelt who called for an inheritance tax in 1906 saying, and I want to quote this Republican President.

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"There is every reason why . . . the national government should impose a graduated inheritance tax." Teddy Roosevelt himself, a man of great means, explained: "The prime object should be to put a constantly increasing burden on the inheritance of those swollen fortunes which it is certainly of no benefit to this country to perpetuate." Warren Buffett, one of the wealthiest people in the world, agrees totally with that. The bill has nothing to do with tax fairness or stimulating the economy. It has everything to do with paying homage to the GOP's reckless tax cut theology and misplaced priorities.

Today, the GOP genuflects at the tax cut alter, but the rest of us ought to be the ones saying a prayer. I urge my colleagues to vote for the Democratic alternative. We talk about personal responsibility. Be personally responsible today.

Ms. DUNN. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. HOUGHTON), a great member of our committee.

Mr. HOUGHTON. Mr. Speaker, in reply to my friend on the Democratic side, I am a Republican and I am aware and I am old, but I do not quite remember Teddy Roosevelt.

What I would like to do is just to talk a little bit about this whole issue of eliminating the death tax. I do not know where this is going. I do not know whether it has got momentum, but I assume it has.

It sounds appealing. One pays taxes all their life and then why when one should be honored in more does the IRS swoop in and take another bite of out of their estate? But if we look at the great estate taxes from a different angle, I have a sense of what this country is all about, that democracies are not where one gets a free ride and stands on another's shoulders forever.

I have two specific worries. One, the corrosive effect this tax would have on a subsequent generation who no longer has to work or earn. That has all been taken care of, and I have seen this effect on other countries where there is an establishment of a landed gentry, a privileged entitled class, and that is not good, and that is not what has made the United States what it is today.

The second issue I have is the first question one asks in planning an estate—what flexibility do I have? What should I protect so the bulk of what I have earned will not be siphoned off by the Government? It is at this great point that the great philanthropic gifts are considered. So, believe me, absent a death tax, the question would not even be raised. So I can see nothing bad from this bill. The assets we have, the ability we have, the motivation to give less, anyway, I do not think it is a great bill, and I hope people vote against it.

Assets we have—the ability, the motivation, to give to those less fortunate than we. This is not a good bill. It should be defeated.

Increase the exclusion dramatically. Protect the family farm or business. But do not wipe out and make permanent the repeal of the estate taxes.

Mr. STARK. Mr. Speaker, I reserve the balance of my time until just before the gentlewoman closes.

Ms. DUNN. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. HENSARLING), freshman member of our class who has been one of the most active on the repeal of the death taxes.

Mr. HENSARLING. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I believe, as do most Americans, that it is simply unconscionable that anybody would have to visit the undertaker and the IRS agent on the same day. It is unconscionable; it ought to be illegal.

The death tax is nothing more than a tax on the American dream. Americans work hard all their lives to build farms and small businesses in hopes that maybe one day they can pass them along to their families, but after payroll taxes and income taxes and sales taxes and property taxes, all of which the left is so fond, many family businesses do not make it, and those that do, the Government can step in and take over half of what someone worked their entire life to build.

A while back I heard from a rancher in my district who spent 30 years building a cattle ranch, almost lost it once or twice to drought. His hope was to leave that ranch to his family. It was his greatest dream, but with sadness in his voice, he told me when the Government takes their share, there is just not enough to go around.

People on the other side of the aisle want to talk about fairness. Where is the fairness in taking this ranch away? Where is the fairness in taxing Americans twice on the same income? Where is the fairness in having Uncle Sam have an inheritance of 55 percent of a family farm, business, or nest egg?

Mr. Speaker, it is time to reject the politics of class warfare and envy and support the permanent repeal of the death tax. And by ending the death tax, we can help resurrect the American dream.

Mr. STARK. Mr. Speaker, I yield myself the balance of my time.

There are two issues with this bill. One is fairness. And the other is lost opportunity. Let me give the Members a hypothetical. Let us take a young man, young woman, who started out after school and never worked anyplace but for the Government, and suddenly early in their youth in their career as a Government worker, they are going to inherit $40 million. They never had a job outside of public service in their lives. And they might pay $20 million in tax, be left with $20 million, to which they contributed nothing but it is nice to get.

The question of fairness is why should my children, who went to school and worked hard to become lawyers and teachers and contribute to society, why should they have to pay the $20 million for this kid who is going to inherit the $40 million? That is not fair. They are not asking for a handout. They are probably grumping at their father for fighting against this bill, but they are content. They have got a leg up. They got to go to school, and now they are making their own way. And if, when I pass away, they have to pay some tax, they are going to be proud to do it, and they are proud of me for suggesting that they pay their fair share instead of asking me to give them a free ride. That is the fairness issue.

The lost opportunity is this: For those of us who are wealthy enough to pay the tax, my good friend from New York I think senses this. This bill is going to cost 60 billion bucks a year. We just got a release from the Institute of Medicine that shows that with the 41 million uninsured in this country, for about $69 billion a year we could provide them with health services. Do my colleagues know what? That would save us another $130 billion a year that we are paying in lost costs by having them go to hospitals without insurance. What is more important? To give a few thousand rich kids an exemption from paying their fair share and denying 40 million people health care in this country? That is the issue. Yes, it is divisive. Yes, we are talking about separating the rich and the poor. But I think those of us who are fortunate enough to be successful in this country ought to give something back and ought to help those who are less fortunate, and I just think it is crummy, it is anti-Christian, it is cheap, it is obscene to sit and say we have got ours, we are going to give tax breaks to our wealthiest contributors and to hell with the people who do not have health insurance. That is what the Republicans are saying with this bill, and I urge them late in life to come to do what is fair, to help 40 million Americans get health insurance rather than 4,000 get a tax break that will do none of us any good.

Mr. Speaker, I yield back the balance of my time.

Ms. DUNN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FOLEY), who has been with us from the beginning, who is a strong advocate and a member of the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, let me commend the gentlewoman from Washington (Ms. DUNN) for her excellent work on this important bill.

It is a little disingenuous to use the deficit as a reason not to pass this bill. When we inherited this Congress in 1994, they had racked up $5.7 trillion worth of debt. So let us not start blaming the national debt on this bill or the Republicans. Now they are holding up the Gates family as a paragon of virtue on this issue; yet 2 years ago the Clinton Administration was pursuing the same Gates family for monopolistic practices. Now they use Warren Buffett. Now Warren Buffett, of all people, has billions of dollars. He can step up to the voluntary tax payment window if he so chooses.

The people we are talking about today have paid excise taxes, property taxes, capital gains taxes, income taxes. It is being described here as they are getting an unfair or free ride. These are the hard-working Americans. We learned in our youth to strive to struggle and make something of our life and maybe we could pass on those virtues and values to the next generation.

The rich know how to shelter their income. They are very good at creating trust and remainderman trust. In fact, one of the premier families in America, the Kennedy family, has 40 or 60 or 80 trusts that were established to pass the money into different hands to avoid, I am sure, the estate tax liability. These are families that have properly prepared, but it has been expensive. It has been time consuming, and it is complicated.

We can have a debate and pick sides. The Democrats are obviously offering a $7 million package in a minute; so I do not know the difference between a $7 million estate or a $10 million estate, but somehow they reconciled that $7 million may not be rich. They keep claiming today in this debate they are for the little guy. If they are little and have worked hard and have earned some money, there is a penalty box for them under their plan. They take away what they have earned. They give it and redistribute it to someone else.

This is about fairness. This is about family farms. This is about a lot of people. But to sit here and speculate somehow we are going to implode or explode the deficit is simply wrong.

Mr. FARR. Mr. Speaker, I have long been a strong advocate that tax policy ought to be consistent with good land use policy. Inheritance tax is neither. California has seen the break-up of agricultural real estate holdings, and the dissolution of small businesses to pay inheritance taxes. Although repeal of the tax at this time is not good fiscal policy, we have no choice with this up or down vote but to support good land policy. Agricultural land should not be subdivided merely for tax purposes.

It has been argued that the repeal of the estate tax will only benefit a few Americans. This is certainly not the case for Californians. The estate tax affects the lives of many of my constituents, whether they are families trying to hold onto their farms, small businesses working to keep their doors open, or children protecting the legacy of their parents.

Having said this, I regret that the repeal of the estate tax comes at a time when the Republican-led Congress is driving this country further and further into debt. Republicans in Washington have turned a $5.6 trillion surplus, left by the Clinton administration, into a $3.6 trillion deficit, a total loss of $9 trillion for Americans and their families.

I also regret that the Republican-dominated House does not allow Democrats to offer sensible, bi-partisan alternatives. I, like other Democratic Californians, support an alternative where family farms and businesses would be subject to capital gains tax if they decided to sell their farm or business. I am confident that we could have agreed on a sensible compromise, such as this one, if the Republican leadership had allowed members a full and open debate.

In the final analysis, however, repealing the estate tax will help family farms stay in the family. It will help California maintain a policy of sensible growth and curb the sprawl that comes with subdivision of property. It will help small businesses stay afloat and survive the passing of generations. Nevertheless, we should all keep in mind that if we are concerned for future generations, we should be very wary about increasing the public debt. We need to act in a fiscally responsible way if we want to leave a prosperous future for our children.

Mr. WELDON of Florida. Mr. Speaker, I rise in strong support of H.R. 8, the Death Tax Repeal Permanency Act of 2003. I am a proud cosponsor of this bill. I am pleased that the House approved my bill last year to accomplish this very same goal. Unfortunately, we were unable to garner the votes in the Senate to enact this into law.

The Death Tax Needs to Die. Along with the marriage penalty, the death tax is perhaps the most disgraceful tax levied by the Federal Government and it should be repealed. The death tax is double taxation. Small business owners and family farmers pay taxes throughout their lifetime, then at the time of death they are assessed another tax on the value of the property on which they have already paid taxes.

Critics claim that we can't afford to eliminate the death tax. They are wrong. We can't afford not to permanently repeal the death tax. Family businesses spend nearly $14.2 billion a year on estate planning and insurance costs largely to avoid the death tax. Studies indicate the cost of compliance with the death tax equals the amount of death taxes received. Thus, the "real" cost of the death tax to business is double the tax burden.

During the debate last year on my bill to permanently repeal the death tax, I asked a constituent of mine. Danny Sexton of Kissimmee, FL and owner of Kissimmee Florist, to come to Washington and share his "death tax" experience.

Mr. Sexton, who comes from a family of florists, inherited his uncle's flower shop and was faced with paying almost $160,000 in estate taxes. This forced him to have to liquidate all of the assets, lay off staff, but salaries, and take out a loan just to pay the death tax. He also had to establish a line of credit just to keep the operation running.

Danny Sexton is the face of the death tax. The death tax isn't a tax for the rich, it is a tax that hurts family owned businesses—family owned businesses that are the back-bone of this great Nation. The folks that worked in Danny's florist were not rich, but they lost their jobs because of the death tax.

According to the National Federation of Independent Business more than 70 percent of family businesses do not survive the second generation and 87 percent of family businesses do not make it to the third generation. Sixty percent of small business owners report that they would create new jobs over the coming year if death taxes were eliminated.

For the sake of future generations, Congress must take responsibility, do the right thing, and permanently repeal the estate tax. I urge my colleagues to vote for H.R. 8, the Death Tax Repeal Permanency Act of 2003.

Mr. UDALL of Colorado. Mr. Speaker, I support reform of the estate tax—that is why I voted for the substitute. But I do not support repeal of the estate tax—and so I cannot vote for this bill as it stands. For me, this is not a partisan issue. Instead, it is an issue of reasonableness, fairness, and fiscal responsibility.

In 2001, I did not vote for the bill that included changes in the estate tax. However, there were parts of that bill that I think should be made permanent, including the elimination of the "marriage penalty" and the provisions related to the adoption credit and the exclusion from tax of restitution to Holocaust survivors. And, as I said, I support reform of the estate tax. I definitely think we should act to make it easier for people to pass their estates—including lands and businesses—on to future generations. This is important for the whole country, of course, but it is particularly important for Coloradans who want to help keep ranch lands in open, undeveloped condition by reducing the pressure to sell them to pay estate taxes.

Since I have been in Congress, I have been working toward that goal. I am convinced that it is something that can be achieved—but it should be done in a reasonable, fiscally responsible way in a way that deserves broad bipartisan support. That means it should be done in a better way than by enacting this bill, and the substitute would have done that. That alternative would have provided real, effective relief without the excesses of the Republican bill. It would have raised the estate tax's special exclusion to $3 million for each and every person's estate—meaning to $6 million for a couple—and would have done so immediately. So, under that alternative, a married couple—including but not limited to the owners of a ranch or small business—with an estate worth up to $6 million could pass it on intact with no estate tax whatsoever. And since, under the alternative that permanent change would take effect on January 1st of next year—not in 2011, like the bill before us—it clearly would be much more helpful to everyone who might be affected by the estate tax. At the same time, the alternative was much more fiscally responsible. It would not run the same risks of weakening our ability to do what is needed to maintain and strengthen Social Security and Medicare, provide a prescription drug benefit for seniors, invest in our schools and communities, and pay down the public debt.

The 2001 tax cut bill included complete repeal of the estate tax for only one year, 2010, but contained language that sunsets all of the tax cuts, including changes in the estate tax after 2001. This bill would exempt repeal of the estate tax from the general sunset provisions. Between now and 2013 it would reduce the Federal revenue available to meet necessary expenses by $162 billion. I think this is simply irresponsible as we face the decade between 2013 and 2022—the time when the baby boomers will be retiring.

Also, we all know, the budget outlook has changed dramatically since 2001. Trillions of dollars of budget surpluses that were projected have disappeared—because of the combination of the recession, the costs of fighting terrorism and paying for homeland defense, and the enactment of tax legislation. And now the proposal is to make the budgetary outlook even more difficult, making it that much harder to meet our national commitments—all in order to provide a tax break for less than 0.4 percent of all estates. I do not think this is responsible, and I cannot support it.

And, as if that were not bad enough, this bill does nothing to correct one of the worst aspects of the estate-tax provisions in the 2001 bill—the hidden tax increase on estates whose value has increased by more than $1.3 million, beginning in 2010, due to the capital gains tax. Currently, once an asset, such as a farm or business, has gone through an estate, whether any estate tax is paid or not, the value to the heirs is "stepped up" for future capital gains tax calculations. However, last year's bill—now enacted into law—provides for replacing this with a "carryover basis" system in which the original value is the basis when heirs dispose of inherited assets. That means they will have to comply with new record-keeping requirements, and most small business will end up paying more in taxes. That cries out for reform, but this bill does not provide it.

Mr. Speaker, I am very disappointed with the evident determination of the Republican leadership to insist on bringing this bill forward. Just as they have done in the past, they have rejected any attempt to shape a bill that could be supported by all Members. Since I was first elected, I have sought to work with our colleagues on both sides of the aisle on this issue to achieve realistic and responsible reform of the estate tax. But this bill does not meet that test, and I cannot support it.

Mr. LANGEVIN. Mr. Speaker, I rise in support of the Pomeroy substitute to H.R. 8, the Estate Tax Repeal Permanency Act, and in opposition to the underlying bill. As the son of a small business owner, I know firsthand the tax burden placed on entrepreneurs and working families, and I support efforts to responsibly protect small business owners.

The Pomeroy substitute provides needed relief by eliminating estate taxes for assets totaling $3 million per individual or $6 million per married couple. Increasing the exemption to this level means that 99.65 percent of all estates will not pay a single penny of the estate tax beginning in 2004. The substitute provides relief sooner than the Republican bill, which does not take full effect until 2011 and has an exemption of only $1.5 million for 2004. Small businesses and farm owners should not be penalized for their success, nor should they need to worry about their ability to pass the family business on to future generations, and the substitute addresses these concerns.

H.R. 8 goes far beyond providing fair tax relief to small businesses and family farms that are in greatest need of assistance. Besides benefiting just a few thousand American families per year, H.R. 8 would also have a devastating impact on charities, foundations, universities and other philanthropic organizations because the estate tax provides a powerful tax incentive to donate money to these groups. The Department of Treasury estimates a decrease of up to 12 percent per year in charitable giving, or more than $1 billion annually, should full repeal occur.

The Republicans' call for repealing the estate tax comes at a time when our Government is already in fiscal crisis. The 2001 estate tax provision will reduce revenues by more than $192 billion over ten years, and over the second decade, the costs will be a whopping $820 billion. With a $400 billion deficit for fiscal year 2003, now is not the time to add $1 trillion in debt to the tab that future generations must pay. These added costs also come as Congress prepares to pass a prescription drug program and baby boomers near retirement. We must work to meet our obligation to our Nation's seniors rather than cutting taxes for the wealthiest families in America.

Based on Internal Revenue Service data for 2002, out of approximately 10,000 deaths in my home State, only 426 Rhode Island decedents filed estate tax returns. This number would be much lower with the $3 million exemption under the Pomeroy substitute. Under our Democratic alternative, those eligible middle-income families, small business owners and family farmers truly in need would receive estate tax relief.

I urge my colleagues to join me in supporting permanent reform of the estate tax, but not irresponsibly repealing it. Our small business owners are in need of relief, and we must provide it without leaving future generations to pay the bill.

Mr. BEREUTER. Mr. Speaker, as stated on the record many times, this Member continues his strong opposition to the permanent, total elimination of the estate tax on the super-rich. The reasons for this Member's opposition to this perfectly terrible idea have been publicly explained on numerous occasions, including past statements in the CONGRESSIONAL RECORD.

It must also be noted, however, that this Member is strongly in favor of substantially raising the estate tax exemption level and reducing the rate of taxation on all levels of taxable estates, and that today he has re-introduced legislation to this effect. This same bill, H.R. 42 was introduced in the previous 107th Congress by this Member—the only change in the bill introduced today is that the highest individual income tax is now 35 percent.

This Member believes that the only way to ensure that his Nebraska and all American small business, farm and ranch families and individuals benefit from estate tax reform is to dramatically and immediately increase the Federal inheritance tax exemption level, such as provided in this Member's newly re-introduced measure.

This Member's bill would provide immediate, essential Federal estate tax relief by immediately increasing the Federal estate tax exclusion to $10 million effective upon enactment. With some estate planning, a married couple could double the value of this exclusion to $20 million. As a comparison, for tax year 2002, the estate tax exclusion was only $675,000. In addition, this Member's re-introduced bill would adjust this $10 million exclusion for inflation thereafter. The legislation also would decrease the highest Federal estate tax rate from 55 percent to the "highest individual income tax rate" that corresponds to that specific tax year—the highest individual income tax rate will be going down to 35 percent in stages.

Finally, this Member's re-introduced bill would continue to apply the stepped-up capital gains basis to the estate, which is provided in current law. In fact, this Member has said on many occasions that he would be willing to raise the estate tax exclusion level to $15 million.

Since this Member believes that his bill or similar legislation is the only responsible way to provide true estate tax reduction for our Nation's small business, farm and ranch families, this Member must use this opportunity to reiterate the following reasons for his opposition to the total elimination of the Federal estate tax.

First, to totally eliminate the estate tax on billionaires and mega-millionaires would be very much contrary to the national interest. It is not in America's interest that absolutely huge estates should be passed from generations to generations—getting ever larger. The establishment of a permanent privileged class, re-enforced every generation, is too much like the situation in many European countries from which immigrants fled from hopelessness from the total domination of a small feudal class.

Second, the elimination of the estate tax also would have a very negative impact upon the continuance of very large charitable contributions for colleges and universities and other worthy institutions in our country.

Finally, and fortunately, this Member believes that actually the Federal estate tax will never be eliminated in the year 2010. Reason will ultimately prevail and this effort to totally eliminate the estate tax on the super-rich will be seen as the very counterproductive step that it would be.

At this point, this Member notes that under the previously enacted estate tax legislation (e.g., the Economic Growth and Tax Relief Reconciliation Act), beginning in 2011, the "stepped-up basis" is eliminated, with two exceptions, such that the value of inherited assets would be "carried-over" from the deceased. Therefore, as noted previously by this Member, the Economic Growth and Tax Relief Reconciliation Act could result in unfortunate tax consequences for some heirs as the heirs would have to pay capital gains taxes on any increase in the value of the property from the time the asset was acquired by the deceased until it was sold by the heirs—resulting in a higher capital gain and larger tax liability for the heirs than under the current "stepped-up" basis law.

In closing, Mr. Speaker, while this Member is strongly supportive of legislation to substantially raise the estate tax exemption level and to reduce the rate of taxation on all levels of taxable estates, and as such today re-introduced his legislation to this effect, this Member cannot in good conscience support the permanent total elimination of the inheritance tax on the super-rich.

Mr. KNOLLENBERG. Mr. Speaker, today we have a key vote in front of this House on one of the most unfair and unjustifiable taxes in our Nation today.

Today we can permanently repeal the estate tax otherwise known as the death tax, to save millions of hard-working Americans from the ordeal of losing a family business at the same time as a family member. Unfortunately this is a prospect that is all too real for many small businesses.

Americans for Tax Reform says that 70 percent of small businesses do not survive the second generation as a result of the death tax. With our current economic uncertainty, we need to make it easier for our small businesses to survive, not harder. We can take a big step toward that end here today by passing a permanent repeal of the death tax.

I urge the House to vote this most unfair and unreasonable of taxes out of existence permanently.

Ms. MAJETTE. Mr. Speaker, as I have said many times in the past: I support tax relief, and I support repeal of the estate and gift tax. But, I also support tax relief that is fair and responsible. House Resolution 8, the Estate Tax Repeal Permanency Act is neither at this time.

That's why I today I voted for the Pomeroy substitute, which would exclude estates worth $3 million—$6 million per couple—from the estate tax beginning in 2004. This provides relief sooner than under current law, and sooner than under H.R. 8. The Pomeroy substitute would repeal permanently the estate tax for 99.65 percent of all taxable estates.

The Democratic alternative is effective and would provide immediate relief. Small and family businesses, which are the backbone of our economy, would be protected.

Most important, it is the fiscally responsible thing to do.

This vote comes against the backdrop of huge surpluses that have turned into record-breaking deficits. This year alone, our Nation will incur a record budget deficit of more than $400 billion. This Congress, the House has already passed over $425 billion in tax cuts, including the Republican tax cuts, the increased child tax credit action of last week, and the cuts provided for in the Energy bill from earlier in the spring.

It has been estimated that the Republican estate tax repeal bill would cost $162 billion through 2013, and the Center for Budget and Policy Priorities projects that its costs would explode to more than $800 billion in the decade after that. Add this bill to the $425 billion in tax cuts already passed and it will take the total to at least $1.387 trillion of revenues lost over the next 20 years. That's $1.387 trillion in debt reduction that could have been achieved.

The revenue decrease from the estate tax repeal would come just when baby-boomers are beginning to retire and will bring increased demands on Social Security and Medicare programs, not to mention the cost of the war in Iraq and our continued involvement overseas.

I am in favor of reducing the tax burden in ways that will stimulate the economy and put money into the hands of those who need it most, but not at the expense of the long term health of this Nation, and not in a way that will burden our children and grandchildren for the rest of their lives.

Our economy is still sputtering. We cannot continue to cut revenues when it does nothing to stimulate the economy. We are already making severe cuts in much needed services, and not expanding programs that are proven investments in our future and our children's future.

As an example of the flawed priorities of this Congress, this week in committee the Republicans voted not to spend $12 billion to fully fund Head Start, yet a few short weeks ago they voted to give relief to people who do not need it in the form of huge tax cuts. Adding to our national deficit again today will continue to make it more difficult for the Federal Government to address other pressing social needs, including education, health care, and home land security.

Long-term success in this country depends on high-quality education, stable and high-paying jobs and access to quality health care, and we must invest in these things to secure our children's future.

What we need today is a renewed commitment to fiscal responsibility. What we need today is a new direction and an emphasis on the future, not on the past.

I support repealing the estate tax, and have voted to do so today in a responsible manner, by supporting the Pomeroy substitute.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H.R. 8, the "Death Tax Repeal Permanency Act of 2003," and in support of the substitute amendment proposed by my colleague from North Dakota, the Honorable Mr. POMEROY.

I support granting relief to the many Americans in our farming community and small business community through the repeal of the death tax. Presently, only 2 percent of the estates of persons who die each year are taxed, and this number will fall in coming years as the exemption level for the estate tax rises. Of the estates that are subject to the estate tax, very few include family-owned businesses or farms. For example, in 1998, family-owned businesses or farms comprised the majority of the taxable estates in just 1,418 of the approximately 2.3 million people who died that year—or 6 out of every 10,000 people who died. Taken together, all farms and family businesses account for less than 3 percent of the assets in taxable estates valued at less than $5 million.

Family farms and businesses are already recipients of special treatment under existing law. For instances, estates that contain family farms and businesses may use special valuation significantly reduce or eliminate estate tax liability. In addition, when the enterprise accounts for at least one-third of an estate, tax payment can be deferred for up to 14 years. Furthermore, relief for family farms and businesses can be provided without repealing the estate tax.

If, hypothetically, the estate tax were extended at its 2009 level with a $3.5 million exemption and an upper echelon of 45 percent only 10,000 estates nationwide would be subject to taxation in the year 2010. That amounts to less than one half of one percent of the projected 2.6 million deaths for that year. For every 1,000 deaths, 995 people would be completely exempt from estate taxes. The remaining five individuals would pay significantly less in tax because of higher exemption and lower rate.

The United States Treasury Department analyzed the estate tax and found that raising the estate tax exemption level for family-owned farms and businesses to $4 million for individuals and $8 million for married couples, as proposed in 2000, would have exempted practically all of the family-owned farms and reduced the already small number of family businesses subject to the tax by nearly three-quarters.

The estate tax is also beneficial for charitable giving efforts. The very existence of the estate tax creates a powerful incentive for charitable giving. A recent study found that if the estate tax were eliminated charitable giving would have been reduced by approximately $10 billion in 2001. This amount is equal to the total grants currently made by the largest 100 foundations in the United States.

The estate tax increases the amount of charitable contributions among the largest estates by making these contributions tax deductible and thus act to reduce estate taxes. In 2001, for example, the latest year for which these IRS data are available, estates contributed $16.2 billion to charities. Taxable estates of more than $20 million gave $6.8 billion of this total, averaging $23 million in donations per estate.

Giving the trying economic times America is facing, this Chamber cannot afford to pass another financially imprudent bill. Beneficial programs like Head Start are being altered and Leave No Child Behind is being restricted. Medicare is under attack. The war in Iraq cost Americans billions of dollars, and the deficit is ballooning out of control. The repeal of the estate tax is a step in the wrong direction.

Mr. Speaker, the death tax should be repealed. I support the Pomeroy substitute that features offsets that close the corporate tax loophole to pay for the estate tax repeal proposal.

The SPEAKER pro tempore (Mr. PUTNAM). All time for debate on the bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. POMEROY

Mr. POMEROY. Mr. Speaker, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. POMEROY:

Strike all after the enacting clause and insert the following:

SECTION 1. RESTORATION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(b) SUNSET NOT TO APPLY.—

(1) Subsection (a) of section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking "this Act" and all that follows and inserting "this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.".

(2) Subsection (b) of such section 901 is amended by striking ", estates, gifts, and transfers".

(c) CONFORMING AMENDMENTS.—Subsections (d) and (e) of section 511 of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subsections, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsections, and amendments, had never been enacted.

SEC. 2. MODIFICATIONS TO ESTATE TAX.

(a) INCREASE IN EXCLUSION EQUIVALENT OF UNIFIED CREDIT TO $3,000,000.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to applicable credit amount) is amended by striking all that follows "the applicable exclusion amount" and inserting ". For purposes of the preceding sentence, the applicable exclusion amount is $3,000,000.".

(b) MAXIMUM ESTATE TAX RATE TO REMAIN AT 49 PERCENT; RESTORATION OF PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—

(1) Paragraph (1) of section 2001(c) of such Code is amended by striking the last 2 items in the table and inserting the following new item:

"Over $2,000,000 .... $780,800, plus 49% of the excess over $2,000,000.".

(2) Paragraph (2) of section 2001(c) of such Code is amended to read as follows:

"(2) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative tax is to be computed) as exceeds $10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) and $199,200."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2003.

SEC. 3. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.

(a) IN GENERAL.—Section 2031 of the Internal Revenue Code of 1986 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

"(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

"(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

"(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

"(2) NONBUSINESS ASSETS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'nonbusiness asset' means any asset which is not used in the active conduct of 1 or more trades or businesses.

"(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

"(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

"(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

"(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

"(3) PASSIVE ASSET.—For purposes of this subsection, the term 'passive asset' means any—

"(A) cash or cash equivalents,

"(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

"(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

"(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

"(E) annuity,

"(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

"(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

"(H) commodity,

"(I) collectible (within the meaning of section 401(m)), or

"(J) any other asset specified in regulations prescribed by the Secretary.

"(4) LOOK-THRU RULES.—

"(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

"(B) 10-PERCENT INTEREST.—The term '10-percent interest' means—

"(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

"(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

"(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

"(5) COORDINATION WITH SUBSECTION (b).—Subsection (b) shall apply after the application of this subsection.

"(e) LIMITATION ON MINORITY DISCOUNTS.—For purposes of this chapter and chapter 12, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), no discount shall be allowed by reason of the fact that the transferee does not have control of such entity if the transferee and members of the family (as defined in section 2032A(e)(2)) of the transferee have control of such entity."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

Amend the title so as to read: "A bill to amend the Internal Revenue Code of 1986 to restore the estate tax, to limit its applicability to estates of over $3,000,000, and for other purposes."

The SPEAKER pro tempore. Pursuant to House Resolution 281, the gentleman from North Dakota (Mr. POMEROY) and the gentlewoman from Washington (Ms. DUNN) each will control 30 minutes.

The Chair recognizes the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we begin consideration of the substitute, I would like us to focus on something pretty central to the fundamentals of legislating. We ought to do as a Congress that which we can do. The substitute I bring forward will take effect during the tenure of this Congress. It is effective January 1, 2004. The majority proposal before us does nothing during the sitting of this Congress, nothing during the sitting of the next Congress, the Congress after that, the Congress after that, the Congress after that, or the Congress after that. Nothing until January 1, 2011.

We have heard so much from the other side. We have heard so much about how they care about all the problems, how mean of us to oppose their addressing the problems. And yet now when it comes to the substitute, this is where the rubber meets the road because we want to do something now and something meaningful and they do nothing. Nothing about their bill.

□ 1330

Not one whit of their bill applies during the sitting of this Congress or until the year 2011.

Again, I referenced earlier the heart-wrenching examples we have heard from the majority about family farmers. Let us talk for a minute about family farmers. I know something about family farmers. In representing the State of North Dakota, I probably represent more production acreage than any other Members of this House. The family farmers who have estate tax problems, and I am happy to tell my colleagues most of them do not, but of those that do, let us get after it. Let us get them relief and get them relief now.

The substitute I have advanced would give family farm couples $6 million in exclusion from estate tax. Any farmer in operation up to $6 million, no estate taxes. One hundred percent repeal, effective January 1. That is very meaningful relief and it is going to go right to the heart of the farm families that they are talking about.

Now, what do they offer by way of an alternative, this Congress, for dealing with these farm families? Absolutely nothing. In 2004, under their proposal, family farm estates over $3 million will be subject to estate tax; over $3 million. Family farm estates per couple in our situation: $6 million. We provide double the relief immediately. And so really, what they are offering these people is a total sham, because under their proposal, nobody gets anything until the very wealthiest, a tiny number of estates in this country, are taken care of.

Mr. Speaker, where I come from, a bird in the hand is worth two in the bush, and that is especially true when we consider prospects that this year 2011 will actually offer the kind of relief that they proclaim so loudly. Five Congresses from now are going to be looking at a very different budget situation, because the cost of their proposal absolutely explodes in the very decade baby boomers retire.

Consider the chart here. Mr. Speaker, $162 billion of revenue loss in the first 10 years. It ramps up slowly, and then really clobbers you: A $500 million loss in '04; a $31 billion loss in the year 2011; $57 billion loss in 2012; $63 billion loss in 2013. You catch my drift. This thing explodes in its consequence in the budget. Mr. Speaker, $840 billion worth of revenue loss in the next decade, just as baby boomers retire and want their Medicare and want their Social Security.

Now, what do my colleagues think is likely? We are going to say, no, baby boomers, we have this estate tax we repealed some time ago, and we are going to stick with it. I do not think so. I think the prospects are overwhelming that this distant repeal will never arrive.

Finally, I think that it just makes it very, very clear what this is all about. To look at the relief we offer in each of the next 5 years being vastly superior to theirs, because they do not want, in any way, to lose some of the momentum behind total repeal. So they will leave family farmers in the lurch through the year 2011; they will leave the small businesses they talk about in the lurch in the year 2011. Again, look at this: estates $6 million and under; no tax under our proposal in 2004; $3 million and under taxed under their proposal. In 2005, the same situation. Again, we are superior in 2006, 2007 and 2008.

Now, if this Congress has before it the opportunity to give over each of the next 5 years meaningful relief to people that need it, why in the world do we not do it? That is exactly what this substitute is all about.

There is one final feature that I would discuss briefly; it is a feature that I was surprised to hear my friend, the gentlewoman from Washington, tout before the Committee on Rules yesterday, and that is, this notion of who is going to have capital gains tax on inherited property? Because under our proposal, when you inherit the property, the only capital gains tax on the appreciated value of that property you are going to have is between the time you inherited it and the time you sell it. Under their proposal, you are going to face capital gains taxes from the time it was purchased originally, whoever purchased it that ultimately bequeathed it to you in the inheritance.

And so in the family farm context, you have an awful lot of farmland coming into families in the 1930s, in the 1940s at just nominal value, which now has significant value. And when the heir goes to sell it, you are going to have capital gains on all capital appreciation over $1.3 million. We are going to have an awful lot of the family farmers that they are touting so much on this debate that right now do not have estate tax problems, and surely would not have estate tax problems under our bill, that are going to find themselves with walloping capital gains taxes, because they take this stepped up in basis and throw it out for carry-over so that they can help the wealthiest tiny few in this country.

Mr. Speaker, we have a proposal in my substitute to take care of 99.65 percent of the estates in this country. My gosh, that is pretty darn close to perfect, 99.7. But they do not want that relief to move forward, because it is the three-tenths of 1 percent of their wealthiest benefactors that they are most worried about. Well, I say let us deal with this straight up, take what we can get now, provide meaningful relief effective in 2004, pass the Pomeroy substitute, and get this on the road toward exactly what we need: estate tax relief now for America's families.

Mr. Speaker, I ask unanimous consent to have my friend and colleague, the gentleman from Maryland (Mr. CARDIN), assist in the management of the time.

The SPEAKER pro tempore (Mr. PUTNAM). Is there objection to the request of the gentleman from North Dakota?

There was no objection.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am strongly opposed to this amendment, and I want my colleagues to look at it very closely and be very clear about what this amendment would do. It establishes a permanent death tax. It is a huge tax increase on small business and family farms.

This amendment would increase taxes on farmers, on timber growers, on small businessmen and small business women, and it would not only take money from their pockets and send it to Washington, D.C.; it would practically force them to take more money from their pockets to pay lawyers, insurance salesmen, and estate planners. And why? So they will not have to send their money to Washington, D.C. to comply with this permanent death tax.

There are people who think this is a good thing. I do not understand it; I do not question their intent, I simply acknowledge that that is the case.

We have already debated the issue surrounding the death tax, but let us look closely at the impact of this amendment, because I think it puts on display the philosophy of those who want to keep the death tax.

Under current law, the tax rate for estates is due to fall in 2004, in 2005, 2006, and 2007. For 2 years, the rate would remain at 45 percent and then be totally repealed in 2010. This amendment eviscerates that tax relief.

Some estates may benefit under this amendment. If you are unlucky enough that your business is not doing well and you fall below the $3 million threshold that is in this amendment, you benefit. But what this amendment tells you is this: do not be successful. Do not save your money. Do not invest your money. Do not grow your business.

Instead, it encourages you to spend it now, sit back, consume that estate, because the government is going to take half of that estate anyway, and everybody knows how wisely the government spends our money. Because the more successful you are and the harder and the more you work, the more expensive it will be for you to hand that business on to your children.

Does the amendment promote charitable giving? No, it does not. Does it redistribute the money it raises to those who are less wealthy? No, it does not. Does it equalize income among different layers of society? No, it does not do that. Does it help pay Social Security benefits? No.

Opponents of death tax repeal make all of those charges, but when they bring forth their own proposal, we can see it for what it really is: a tax increase, pure and simple. A way to put money in the pockets of the Federal Government. And because the exemption level is not indexed, there will be free money to the Treasury. Inflation grows, but the exemption stays just the same. As the economy improves, as businesses grow, as people invest and work hard, they will be penalized, because someone in Washington, D.C. said you can only be so successful, an arbitrary limit, and then you pay.

That is what this amendment is about and that is why it ought to be voted down.

Mr. Speaker, we hear time and again the arguments of those who want to keep the death tax. We hear about equality, about Social Security, about charitable giving, about enormous concentrations of wealth. But when it comes right down to it, it is about money.

Mr. Speaker, this approach is the wrong approach. This policy has outlived its day. This philosophy is not what made our Nation great, and I urge a "no" vote on this substitute.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, it is my pleasure to yield 2 minutes to the distinguished democratic whip, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I say to my friend from Washington State, what we hear over here is enmity, enmity towards the commonweal. I do not mean towards government, I mean towards us coming together as a people to invest in America, to invest in our children, to leave no child behind, to make sure our environment is clean, to make sure that we have the resources to invest in national defense.

Now, those of you who go to work every day and work for a living and get a salary check and have deductions from that salary check, to help your government have a national defense, have the programs for education and health care and NIH research to make our society better, hear me now. Those of you who work every day, let me tell you what the objective of this provision is.

First, we are going to exempt three-tenths of a percent; not exempt 99.7 which the Pomeroy bill does, and it speaks to those small farmers and those small business people who have grown America, who we want to exempt. We are for that. But what it does not do is add gargantuan amounts to the debt and then, let me tell my colleagues what this does. I have $100 million that I inherited from my dad, hooray for me. I will never, ever pay taxes again under the Republican program.

Never, unless it happens to be a sales tax or an excise tax. I will not pay income tax, because this is inherited dollars, and I will have it invested in corporate or savings accounts, and the Republicans want to exempt both dividends from taxation and interest on savings from taxation. So I will never pay taxes again. And, by the way, they also want to exempt capital gains.

Now, if you get most of your income from capital gains, or you get most of your income from dividends, or you get most of your income from interest, you may be for this. But if, however, you are like the overwhelming majority of Americans who get up every day, play by the rules, work hard, and get a salary check, this undermines you, your children, and your families.

Vote for the Pomeroy substitute.

Ms. DUNN. Mr. Speaker, I yield 3½ minutes to the gentleman from Missouri (Mr. HULSHOF), a very valuable member of the Committee on Ways and Means, a gentleman who knows what he is talking about because he has been through it personally.

Mr. HULSHOF. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I have been listening to the discussion and the debate and the rhetoric, and I have been a bit disappointed by some of the arguments that have been made; not surprised by the arguments, but nonetheless disappointed. There have been some of my colleagues on the other side who have talked about hypotheticals. Let me allow my colleagues a little glimpse into a very personal story.

On November 22 of last year, my father collapsed and died at our family's home in Southeast Missouri. He was 68. On his first trip to Washington, D.C., he sat right up there in the gallery to watch his son take the first oath of office. He died without an estate plan. In fact, I wish my colleagues could have met my dad, because if they had shaken his hand, they would have immediately noticed the callouses from 4 decades of working our family's farm down in the district of the gentlewoman from Missouri (Mrs. EMERSON).

One of the necessities, of course, of having that painful experience is that my mom and I, as the surviving members of the family, had to conduct an inventory. And I do not mind telling my colleagues, a 493-acre farm, a number of irrigation systems, farm equipment, grain trucks, the modest home where I grew up, modest savings and, thankfully, because of Congress's actions a number of years ago, my mom was not required to pay the tax. Yet, she has vowed to put together an estate plan in order to pass on the legacy that my father built.

□ 1345

So she has been forced to spend thousands of dollars to accountants, to lawyers to create these legal contortions that are required by the very existence of the estate tax. Can anybody give me a compelling reason why she should have to spend her limited resources in order to preserve my father's legacy? Can anyone?

As long as the estate tax laws remain on the books, surviving family members across this country will have to shell out hard-earned dollars to ensure that the long reach of the death tax does not force them to sell off assets in the family business.

The gentleman from North Dakota is my friend. I applaud his intent. One of the charts that he mentioned, at the bottom, it says only 400 farms would actually be subject to the estate tax. I think that is what it says on the bottom of it, and I will let my colleagues look at the exhibit; and yet what the chart does not say is that every farm or every family business has to file an estate tax form and a return, perhaps a simple exercise, but in every instance where a family business has been accumulating assets, a return has to be filed, which means again hours of meetings with accountants and lawyers and, again, a cost of compliance.

So it is not just the number of estates that would be subject to the tax. It is this huge cost that as long as the estate tax, the inheritance tax remains on the laws of our books there will be this cost of compliance to all family businesses across the country.

Simply, the death of a family member should never be a taxable event.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Let me say to my friend we all, of course, offer our deepest condolences as we did to his family. I am afraid, though, that the bill without the Pomeroy substitute is going to offer no help whatsoever for a decade to people who may find themselves in this same position.

One of the principal advantages of the substitute is that not only does it provide immediate help starting in 2004, exempting those estates $3 million, $6 million on a couple, and by the way, those gross estates would not have to file forms. They do not even have to file an information form if their gross value is below $3 million. So I think we would provide immediate help to a significant number, to the overwhelming majority of people who would find themselves in the same position that my colleague's family found itself in.

But there is a second reason that I think family farms, which go through a similar situation, would benefit much more from the substitute than the underlying bill, and this is predictability. I dare say that if the bill that the Republicans are bringing forward were to pass, very few individuals who had estates of 3, 4, 5, 6, $7 million would change their estate plan based upon the predictability of Congress to keep this policy in effect for the next decade, so that the relief would eventually come.

Predictability is very important in estate planning. The Pomeroy substitute gives us that predictability, a policy that will stand, a policy that exempts 99.6 percent of the estates in our country today. Those individuals would be able to make estate changes in order to deal with the new realities of a law that makes sense.

There is a third reason in addition to the fact that we provide immediate relief and it is predictable. The third reason we have heard over and over again, and it is an important reason, and this is affordability, what we can afford as a Nation.

Next week we are going to be debating whether we can afford a prescription drug plan for our seniors. We make choices. We set priorities by what we think is important. The Joint Economic Committee on Taxation, not this Member but our objective professionals, tell us that this bill will lose, when fully implemented in the next decade, $850 billion. Our prescription drug plan that will be on the floor next week is $400 billion. Those of us who say can we not find a little bit more money for the millions of seniors who do not have health insurance, can we not throw a few more dollars in that program, we are told we do not have the money.

Yet we have the money for relief that affects only a few thousand estates in this country, and that is all it is. It is not the wholesale farm. It is the farms of a very few. In fact, they are wealthy farms that are going to be affected, estates of a very few, very wealthy people in this Nation that are impacted by maintaining an estate tax for the very, very wealthy individuals. And as my friend, the gentleman from Maryland (Mr. HOYER), pointed out, the reason why the underlying bill will never become law and if it becomes law it will never be sustained is that Americans would not tolerate multibillionaires passing their estates tax free and their income not being taxed. It will not be sustained.

Vote for the underlying substitute. It will affect policy today. It will take care of the problems we have heard before.

Mr. Speaker, I reserve the balance of my time.

Ms. DUNN. Mr. Speaker, I yield 12 minutes to the gentleman from Georgia (Mr. BURNS) for the purposes of control, a gentleman who has been very involved in the development of our legislation and very much a supporter of it as he has come to Congress as a freshman Member. He will present differing points of views from people who come from all over the country who are members of the freshman class.

The SPEAKER pro tempore (Mr. PUTNAM). Is there objection to the request of the gentlewoman from Washington?

There was no objection.

Mr. BURNS. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentlewoman from Washington for yielding me the time; and Mr. Speaker, I rise today in support of H.R. 8, as introduced by the gentlewoman from Washington (Ms. DUNN) and in opposition to the Pomeroy substitute amendment.

In 2001, Congress repealed the death tax temporarily. It is scheduled to resurface and haunt farmers and small business owners again in 2011. My constituents in the 12th district of Georgia are not rich; but they own farms, they own small businesses, where family ownership still means a great deal.

H.R. 8 helps to ensure their survival. The underlying bill that I am proud to cosponsor is good for small businesses. It is good for family ownership. It is good for family farms.

The amendment crafted by the opponents of H.R. 8 would gut the bill and would reinstitute the double taxation of a person's earnings over a lifetime. This is a veiled attempt to increase the taxation burden on our small businesses and family farms. Do not be deceived.

The death tax stifles economic growth. It is counterproductive to the American Dream, and it is an unfair and immoral tax on our small and minority business owners.

The substitute amendment reinstates the death tax and ensures its hindrance on the family businesses and the farmers. We must vote "no" on the substitute.

H.R. 8 does just the opposite. It kills the death tax permanently. I encourage my colleagues to vote against the substitute amendment and to vote for the underlying bill that ensures the viability of our small businesses and our family farms.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, it is now my pleasure to yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I thank the gentleman for yielding me the time.

I was moved by my colleague's story who remembers his father here when he got sworn in. Just 5 months ago, my father sat up there and watched me get sworn in, and he came to this country in 1959. So whatever happens in his life and my life, I will always have that time that he was able to see, having coming to this country, his son get sworn in.

Now that I am a father of three children, I am reminded of what Mark Twain once said: "At 12 I concluded my father was a fool. By 16 I was shocked what he could learn in only 4 years." I say that because I am going to provide for my children the same values that my father taught me and my mother. They are going to get love, education and a good kick out the front door so they can earn their way around this world the way I have.

The truth is, what we should be doing instead of helping wealthy people protect their wealth, we should help people build wealth. I had an amendment that is not allowed today on the floor that would support the Pomeroy substitute and give us estate tax relief where it should be provided for our farm and small business owners, but also provide a deduction for college tuition education for all families who are trying to send their children to college: $4,000 they are allowed to deduct for college education; families, up to $100,000. That deduction ends in 2005.

College costs have gone up by 20, 30 percent over the last couple of years. It is continuing to go up. Yet in 2005 that deduction for a middle-class family to send their kids to college is eliminated. It ends. That is about creating wealth. That is about our common shared values. So we can have an estate tax and help create wealth by making sure everybody gets access to that ticket to the middle-class dream, a college education.

That deduction is eliminated in 2005. I offered an amendment to extend it to 2013 so we can have estate tax reform and college education. What we should do is be in the position of not having an either/or policy, a tax reform on the estate tax and provide middle-class families the opportunity to give their children a college education, not go broke doing it, and make sure that the American Dream stays alive for generations to come.

Mr. BURNS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Georgia (Mr. BURNS) for yielding me the time.

Mr. Speaker, as I listen to this debate, of course I stand here fully in favor of H.R. 8 and against the Pomeroy amendment because it is really not about who has received and who has not this double taxation, this so-called death tax.

The other side says that there is a $3 million exemption under the Pomeroy substitute, that 99.6 percent of estates would be exempted from the death tax. I personally do not need that $3 million exemption or even the $600,000 exemption. I would probably be fine with a $300,000 exemption; but the point is, it is a double taxation and it is wrong. It is wrong to tax anybody twice on the same income.

These people, no matter what their net worth, they have paid taxes. They have paid at the highest marginal tax rate; and it is totally wrong, as the gentleman from Missouri (Mr. HULSHOF) said, to have to worry about paying taxes after death.

Mr. CARDIN. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, in the Oregon legislature some years ago, I actually led, as Chair of a tax committee, a reform of the estate tax. I thought I understood some of the principles; but after listening to the rhetoric regarding this issue, looking at the facts since I have been a Member of Congress, I thought maybe I would go back and check to see if there was something I was missing.

I invited a number of tax professionals in my community, CPAs, tax attorneys, financial planners, to come down and talk to me about how the effect of this proposal actually works. It was fascinating, giving these people a grant of immunity, and I urge any of my colleagues to do the same with tax professionals in their community.

They said, number one, under existing law anybody who could not shield at least $5 million of an estate was really guilty of malpractice.

Number two, they said it was not the estate tax that broke up small business. It was idiot sons, and they said in their experience when they watch great inherited wealth after three generations, it looks like it becomes a genetic defect. It was fascinating what they told me, people who in the main were Republicans who work in this every day.

They pointed out that huge wealth, which would be tax free under the Republican proposal today, huge wealth often was not even taxed once. One does not become a billionaire based on their W-2s.

□ 1400

It is capital appreciation. And the clever approach of eliminating the inheritance tax, eliminating dividends from taxation means that you will be able to manipulate it, while people with great means will not be paying any tax at all if they do not want to.

If my colleagues truly wanted to help protect the family farm and small business, they would join together with the vast bipartisan consensus in this Chamber to index the inheritance tax to be able to deal with the Pomeroy amendment, which actually would help the mother of the gentleman from Missouri (Mr. HULSHOF), not the proposal that he is going to vote for.

Mr. Speaker, I strongly urge that we approve the Pomeroy amendment.

Mr. BURNS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. Mr. Speaker, I thank the gentleman from Georgia for yielding me this time.

I am not surprised that some tax planners oppose this act, because what this does is to simplify the Tax Code. What the substitute amendment does is to make a 40,000-plus page Tax Code longer and more complicated. It is understandable that a few tax planners do not like this.

But there is something inherently unfair about taxing people when they die. My motto is: No taxation without respiration. When a person quits breathing, we ought to leave them alone. And the notion we are going to make a complicated Tax Code even more complicated with this ceiling under the Pomeroy amendment, this creates a ceiling on growth and prosperity and success. This is a ceiling on the future.

The bottom line is that we have more people in America engaged in the preparation and collection of taxes than we do in the growing of food and agriculture. That is wrong. We need actually to have fewer tax planners and estate planners. We need to let family farmers, we need to let small businesses, automobile dealers and other businesses in our communities plan for their future without the need of expensive lawyers and tax planners.

Again, my colleagues, let us abolish the death tax. No taxation without respiration.

Mr. CARDIN. Mr. Speaker, could I inquire as to the amount of time that remains on both sides?

The SPEAKER pro tempore (Mr. PUTNAM). The gentleman from Maryland (Mr. CARDIN) has 13 minutes remaining, the gentlewoman from Washington (Ms. DUNN) has 11 minutes remaining, and the gentleman from Georgia (Mr. BURNS) has 8½ minutes remaining.

Mr. CARDIN. Mr. Speaker, I ask unanimous consent that the rightful sponsor of the substitute, the gentleman from North Dakota (Mr. POMEROY), be allowed to control the remaining time on this side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BURNS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I thank the gentleman from Georgia for yielding me this time.

Mr. Speaker, I stand in support of H.R. 8 and totally opposed to the substitute. It is time we kill the death tax once and for all and forever. This is critical. Across the street from my church is a 400-acre farm. The second generation of farmers are farming that farm. But because of the growth in our county, the value of that farm, which these people intend to farm, is now over $2.50 a square foot because of development growth. Those people will be killed by this tax. We have got to eliminate it so that those people, their children, can continue to farm.

I ran into a good friend of mine in New Mexico. After years in college, I just assumed he would be continuing to ranch in Clayton, New Mexico. But, no, he is not in the ranching business. Why? Because the inheritance tax wiped out a ranch that they fought for and died for in Northern New Mexico. And now he is not there anymore. We have to protect those people and kill this tax.

Mr. POMEROY. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, the Pomeroy amendment would exclude 99.65 percent of all estates from estate tax. So what is going on here? Why would the Republicans want to abolish the estate tax on this two-fifths of 1 percent? And, by the way, almost none of the 99.65 have to file a return. I think the answer is pretty clear: It is not only that my Republican colleagues are trying to protect the very, very, very wealthiest. That they are doing. And maybe that is their instinct. But what is really happening is my colleagues are taking $50 billion a year out of the Treasury of the United States. That is the difference between the Pomeroy bill and the total repeal.

That $50 billion a year would make up about one-third of the shortfall of Social Security. It would also provide other programs, like education, that are not only a safety net but are a rung up the ladder for middle- and lower-income families, and, yes, a lot of higher-income families. So that is what the Republicans are trying to do. They say it is only 1 percent of the totals revenues of this country. But they chipping away, chip by chip, block by block at the revenue in-flow into the Treasury of the U.S. and starving the programs that are needed for the vast majority.

What the Republicans are doing is to help a teeny tiny minority, a small number, hundreds, only hundreds of farmers and small business. The rest do not pay any estate tax. What the Republicans are trying to do is to help that small, small minority, and they are hurting 99 percent of the American people.

Vote for Pomeroy and vote against the basic bill.

Mr. BURNS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Minnesota (Mr. KLINE).

Mr. KLINE. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in strong support of H.R. 8, a measure that frees men and women from being penalized for their hard work and their success. The Death Repeal Permanency Act of 2003 would eliminate the death tax, eliminate it, and that is the key, once and for all.

Mr. Speaker, Congress has already voted to get rid of the tax. We should never ever let it come back. The estate tax discourages the very values we prize most highly in our Nation. It is a tax on hard work and savings, on sacrifice, and on success.

In Minnesota, the family farm is an important part of our commerce, an important part of our industry. It is part of the fabric of Minnesota. The family farm epitomizes the values that we hold most dear. We should never ever let this tax creep back in and put those farms in jeopardy.

We cannot allow this unjust penalty to harm any of our family farmers, whether they are a small farm, like my wife's family farm, or a big farm. The estate tax is immoral. The death of an individual's father, mother, father-in-law or mother-in-law should not be a taxable event. Not now, not ever.

Let us support H.R. 8 and not the Pomeroy substitute.

Mr. POMEROY. Mr. Speaker, I yield 1 minute to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Let us be clear what this is about. This is not about saving the family farm. This is not about protecting small business. This is about over a 10-year period giving $160 billion in tax relief to the richest 2 percent of the population. Ninety-eight percent of the people get nothing.

What these folks are trying to do by running up huge deficits and a huge national debt is to end up cutting back disastrously on Medicare, Medicaid, education, and veterans' protection. No money to ease the waiting lines at VA hospitals all over America, but $180 billion for the richest 2 percent of the population.

This is an insult to the middle class and to the working families of this country. It should be defeated.

Mr. BURNS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of H.R. 8 and opposed to the amendment.

The bottom line, although we hear a lot of discussion, the bottom line is anybody who spends their whole life building a business or growing a farm should never have to sell that business or that farm to pay death taxes. The American dream is based on the principles of hard work and the celebration of self-reliance and individual responsibility.

People can reap the rewards of their own success, and they should be encouraged to share that success with others. The death tax and this amendment violates every single one of those principles of the American Dream. Mr. Speaker, it is not only the heirs that are punished by this unfair tax, it is the employees of those companies and those farms, and it is the customers, and it is most of all the communities that those farms and those businesses operate in.

Mr. Speaker, it is past time for Congress to repeal the death tax permanently, and I encourage all of my colleagues to support H.R. 8 and vote against this amendment.

Mr. BURNS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. GERLACH).

Mr. GERLACH. Mr. Speaker, I thank the gentleman for yielding me this time. I appreciate the opportunity to speak on this matter. I rise today to oppose the substitute amendment and to support the underlying bill. The initial repeal of the death tax was designed to benefit an important sector in our economy: Family-owned and small businesses.

Many of these businesses hold nonliquid assets and, thus, upon the passing of an elder, many families finds they must liquidate a portion or all of their family business in order to pay the obligations imposed upon them by the estate tax. Often these businesses are generations old, and when they liquidate not only does the family suffer but the economy and the community suffers as well.

Small businesses are among the strongest participants in our economy, yet their continued viability is the most vulnerable to unfair and excessive taxes, such as the death tax, which may tax up to 55 percent of a business' full value. Permanently repealing the death tax will not only provide much-needed tax relief to personal estates passed to individuals, but will also insulate this business sector so vital to our fledgling economic recovery.

Additionally, if we do not address this issue by a permanent repeal of the estate tax, it will automatically be reinstated in 2011. Individuals and small businesses would again face the looming specter of the return of the death tax. I urge opposition to the substitute amendment and for support of the underlying bill.

Mr. BURNS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in strong support of H.R. 8, against the substitute amendment, and in favor of the repeal of the death tax.

Hardworking men and women toil every day to provide for their families and make their children's lives better. That is the American dream. Today that dream is being threatened by the death tax. Upon death, heirs are often forced to sell the family farm or small business to pay the Federal estate tax because a large share of their wealth is held in assets such as lands, buildings, plant and equipment. That is not right, that is not fair, and that is not the American way.

It is not fair because that property has already been taxed once, and in some cases twice. Two weeks ago, we passed the President's economic stimulus plan, which puts tax dollars back in the hands of people who make our economy go. We cannot continue to punish those who work hard, take risks, and are successful. We need their success. We need their success for the economy to recover. We need their success to create jobs.

The next step towards getting our economy moving is to repeal the unfair and unjust death tax. It is for that reason I am a strong supporter of permanently abolishing the death tax.

Mr. BURNS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Alabama (Mr. BONNER).

Mr. BONNER. Mr. Speaker, I rise in strong support of H.R. 8 and in opposition to this substitute. I firmly believe that this is every bit as important a piece of legislation as the President's tax cut was just a few weeks ago, and I am very proud to be a cosponsor.

The death tax is fundamentally un-American. We should all aspire to be successful. And if we are fortunate enough to accumulate a little wealth, we should be able to leave that to our children, to our grandchildren, to our universities, our churches, our synagogues, or whomever we choose, not whom the government chooses. This unfair and punitive tax is killing America's small businessmen and women and our family farmers.

Congress understood this in 2001 and acted to gradually repeal the estate tax. But the repeal will sunset in 2010. It simply makes no sense whatsoever to expect taxpayers to time their deaths so as to qualify for more favorable tax treatment. The House recognized this problem, and we have twice voted to make this repeal permanent.

My district in Alabama is largely rural, with small landowners. Estate planning is extremely difficult and expensive. This is just wrong to make these people not only be doubly taxed but triple taxed. I again urge my colleagues to oppose the substitute and support the underlying bill.

□ 1415

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it curious that the preceding speakers each making their eloquent speeches on behalf of their family farm constituents, their small business constituents, will oppose the amendment that I have offered that will bring them meaningful relief right now, January 1, 2004.

Mr. Speaker, let me just go through the comparison. If a couple's estate is worth $6 million or less on January 1, 2004, no estate tax under our proposal. Under their proposal, these farms and small businesses with valuations in excess of over $3 million, they are going to have tax under their proposal in 2004, 2005, 2006, 2007, and 2008. There is more relief under our proposal than their proposal.

If they want to protect these estates, they should pass the substitute today; and next year if they want to go ahead and try to pass the repeal, they can go ahead and try. There is no harm in that, take what you can get now and come back and take some more later. That is how we function in this Congress a lot. But they have done something quite different. They say nobody gets any relief until 2011 because at that time the wealthiest three-tenths of 1 percent get to participate fully in the relief as well.

If that is what this is about, let us talk about the three-tenths of 1 percent. But do not put this on family farms or small businesses; or as an earlier speaker said, this estate tax repeal is really about the guy pushing the broom. I do not know too many guys pushing brooms that have estate tax problems. It goes to show really the overblown rhetoric on the other side of the aisle unmatched by any reasonable effort to help now address the estate tax problems they speak so compellingly about.

Mr. Speaker, I yield 3 minutes to the gentleman from Seattle, Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I think the gentleman from North Dakota, who comes from a big farming district, has a great amendment here.

Mr. Speaker, I will include for the RECORD a letter from the National Farmers Union dated June 16, 2003. The letter says there is no evidence that the estate tax has forced the liquidation of any farms, and existing estate tax provisions already exempt 98 percent of all farmers and ranchers. This is a letter on behalf of 300,000 farmers and ranchers. By increasing the level of estate exemption to $4 million per individual, which is what the Pomeroy amendment does, 99.5 percent of American agricultural producers would be exempted from any estate tax liability. It goes on to say the 20-year Federal cost of Federal estate tax repeal is estimated to be nearly $1 trillion. For farmers and ranchers, such a loss in Federal revenues will reduce our ability to fund a wide range of commodity, conservation, rural development, research and trade programs important to family farms.

Why are we doing this? Well, we are in the rubber-stamp Congress. We have an amendment out here that makes sense, but the Republicans will not consider it because "I approve of everything George Bush does," and they are out here to rubber stamp another amendment.

In spite of the fact that last night we created a bill in the Committee on Ways and Means to deal with pharmaceutical benefits, we said to people, we are going to cover you from zero up to $2,000 and then there is going to be this big gap up to $4,900 people do not get a thing. They have to keep paying their premium, but they are not going to get anything out of it. From $2,000 to $4,900 in your bill is not a tax benefit that covers the pharmaceutical needs of people.

Now we could fix that simply with the money we have here today that we are passing out the back door, not to farmers; this is not a farmer issue. This is a bunch of very, very rich people hiding behind farmers. They are sort of sneaking behind the combine waiting until this bill gets through, and then they are going to stand up and take all their money. This is not for farmers. The farmers say that.

So who is it for? It is the President of the United States who had a fund-raiser last night, and he said give me $2,000 a plate, sit down; and I am going to rubber-stamp another bill.

Mr. Speaker, we have rubber-stamped one bill after another. A Member on the other side of the aisle said this is equally important with the other tax bill we did. Hey, there is $900 billion still laying in the Committee on Ways and Means. It is going to be brought out here, and we will rubber-stamp it. How big is the debt? Nobody cares. Our kids can pay for that, except for the kids of rich people; they do not pay taxes.

NATIONAL FARMERS UNION,
June 16, 2003.

House of Representatives,
Washington, DC.

DEAR MEMBER OF CONGRESS: I write on behalf of the 300,000 farmer and rancher members of the National Farmers Union to urge you to vote against H.R. 8, legislation that would repeal the federal estate tax when it comes to the floor of the U.S. House of Representatives.

Repeal proponents have characterized this issue as critical to the future sustainability of America's family farms and ranches because it is a primary cause of farm liquidations. This argument is without merit. There is no evidence that the estate tax has forced the liquidation of any farms, and existing estate tax provisions already exempt 98 percent of all farms and ranches. By increasing the level of the estate tax exemption to $4 million per individual, 99.5 percent of America's agricultural producers would be exempt from any estate tax liability.

We believe estate tax laws should be reformed, not repealed. An immediate increase in the level of the exemption utilized to calculate estate tax liability, and simplification of the rules and procedures governing the filing and payment of estate taxes, represents a more rational and beneficial approach for farmers, ranchers and small business owners than full repeal.

The tax reform approach will minimize the loss of revenue for both the federal and state governments that will result from full repeal at a time when budget deficits and declining public revenues are severely stressing our capacity to maintain and expand priority programs important to the American people. The twenty-year federal cost of full estate tax repeal is estimated to be nearly $1 trillion. For farmers and ranchers, such a loss in federal revenues will reduce our ability to fund a wide range of commodity, conservation, rural development, research and trade programs important to the farm economy. These programs are much more critical to retaining a family farm oriented production agriculture system than the limited savings resulting from estate tax repeal that will only accrue to the nation's wealthiest individuals.

Estate tax reform will provide much needed certainty to those engaged in planning for the future while ensuring that individuals are not subjecting their heirs to a capital gains tax liability resulting from the potential loss of the stepped-up basis provisions contained in current law. If this occurs, the result will amount to a substantial tax increase for those of more modest means and smaller accumulations of wealth.

We look forward to working with you to develop and adopt an estate tax reform proposal that is both fair and fiscally responsible. Thank you for your consideration of these issues and for your vote against repeal of the federal estate tax.

Sincerely,

DAVID J. FREDERICKSON,
President.

Mr. BURNS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Mr. Speaker, I would like to add one other thing to this discussion, that is, many a small business owner has a lot of money tied up in assets, but very little in cash by comparisons. They will spend perhaps hundreds of thousands a year paying for insurance, lawyers' fees and accountants to make sure that upon their death, the insurance picks up the tab.

This money that they spend each year could be spent on employees' wages and benefits and expanding their businesses. Some of the smaller farmers do not have the money to pay for this. I just want to make sure that we keep that in perspective, that there is a lot of money that is spent every year by small businesses that otherwise could be going to help employees. Insurance is what pays it anyway, and that is not the way we should be thinking about it. They should be thinking about ways to keep the money in their business now and after their death so they can continue to have people employed.

Mr. BURNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to summarize what we have heard from the new Members of Congress. The death tax as we know it is wrong. It is immoral. It is something that we must repeal permanently. My colleagues on the other side of the aisle would like to suggest that the substitute is the better approach, but it establishes a permanent death tax. The farmers and ranchers and the small business people of America are opposed to any death tax. I would remind Members that the American Farm Bureau is supportive of the repeal of the death tax permanently, as are numerous other organizations that recognize how onerous this burden is to America.

I would like to add my support to the underlying bill, H.R. 8. Let us kill the death tax today. Let us make it permanent. Let us ensure the future of our children and grandchildren.

Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentlewoman from Washington (Ms. DUNN) and that she may control that time.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Georgia?

There was no objection.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to make a couple of points in response to things I heard during the debate, and I appreciate the participation of the freshmen Members of Congress. Their viewpoint is very energetic and fresh. It is very valuable to hear what they have to say.

There has been mention in the past of the National Farmers Union, and I want to assure people listening to this debate that the American Farm Bureau, which has 5 million members, supports permanent repeal of the death tax, as do the Agricultural Retailers Association, the Alabama Farmers Federation, the American Society of Farm Managers, the Rural Appraisers, the American Soybean Association, the American Nursery and Landscape Association, the Farm Credit Bureau. I could go on and on. There is a list of 25 organizations here that support the permanent repeal of the death tax.

Why is that? The reason is they want predictability. One of the previous speakers talked about unpredictability because the act will not go into effect until 2010, 7 years from now. These farmers support permanent repeal because they do not want to have to bet on the fact that their farm will be within $3 million, which is the limit in the Pomeroy amendment. We hear talk about $6 million, and that is for two members of a family. They do not want to put those dollars into providing for estate planning and purchasing life insurance policies so liquidity will be there when the time comes that they are taken from this vale of tears and their children have to pay for the inheritance of their estate. They want to use those dollars and put that capital into their businesses and farms and into their equipment and land and into the employment of many, many people who will lose their jobs once farms close down.

Mr. Speaker, we have another speaker who would like to speak about the death tax. He is a long-time Member and very active in this debate through the years.

Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I am pleased to cosponsor H.R. 8, and I commend the gentlewoman from Washington (Ms. DUNN) for the diligent work that she has performed regarding this issue.

I was proud to support the Economic Growth and Tax Relief Reconciliation Act of 2001, which included a permanent repeal of the death tax. Unfortunately, due to arcane rules of the other body, this much-needed relief for working Americans is scheduled to sunset at the conclusion of 2010. Since then my colleagues, many of my colleagues, and I have voted twice to make this repeal permanent. I am hopeful that this Congress, both the House and the other body, will finally agree to permanently repeal the death tax and send it to the President for his signature.

Unless we pass H.R. 8, it is my belief that some of my constituents in the Sixth Congressional District of North Carolina will once again be subject to the death tax in 2011. Further, the sunsetting of this tax makes it difficult for business owners to make strategic planning and investment decisions which could have a major impact on the future of their business and loved ones.

Finally, I do not believe we should punish American families who have worked diligently to provide for themselves and their families and want to pass along the fruits of this success to their children and grandchildren. The death tax is a threat to the American Dream as we know it. It is my belief that this tax is the most onerous in the code. Conceptually and in practice, it reduces personal incentive to remain industrious, a disincentive to save, to invest.

Eliminating the death tax, coupled with the recent Jobs and Growth Relief and Reconciliation Act, will greatly assist in restoring consumer confidence, spurring capital investment, and creating new jobs which are critical components of economic viability and growth, particularly in the small business community. I urge passage of H.R. 8.

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

I want to speak for a moment on the question of where rural America is on my amendment. I believe if we ask the farmers of this country today, and I represent a whole lot of farmers in North Dakota, if they would take a proposition where they get $6 million per farm couple estate tax relief, no estate tax if their farm is $6 million or under, or no relief at all until 2011 under the majority proposal, leaving them with exposure over $3 million under their proposal as opposed to $6 million with our proposal, I would be interested in a show of hands on that one.

I have a strong feeling that most would support relief now. In addition to that, we are not used to the notion of capital gains on inherited estates, but I heard the gentlewoman from Washington (Ms. DUNN) talk about the new capital gains feature that is part of their proposal and that it is going to be a good thing because it means you are going to have to keep farming or running that small business because if you sell it, you are going to have capital gains exposure. I do not think that it is a good thing that we suddenly impose capital gains exposure on inherited assets. That is why the stepped-up basis feature of our bill is so important.

□ 1430

Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California (Ms. PELOSI), our leader. I am so proud of her and so proud she joins the debate on my amendment.

Ms. PELOSI. Mr. Speaker, I thank the distinguished gentleman for yielding me this time and I thank him for his very great leadership in shaping and bringing this alternative to the floor. It simply makes sense. It recognizes that family farmers, small businesses, hardworking Americans would like some relief from estate taxes so they can pass on the fruit of their labor to the next generation. What his substitute will do will cover 99.6 percent of all estates in America. It is reasonable. He would like to have paid for it, but we were told that it was against the rules of the House to pay for it by closing corporate tax shelters. It is against the rules of the House to eliminate corporate tax shelters. But his proposal as he presented it was fiscally sound and paid for, reasonable, and covered the estates of 99.6 percent of America's estates. I thank and congratulate the gentleman from North Dakota for his leadership.

Mr. Speaker, every one of us in this body, and we know this and are reminded of it on a daily basis, takes an oath to protect and defend the Constitution of the United States every time we are sworn in to a new term. In the Preamble to the Constitution, it says our first responsibilities are to provide for the common defense, to promote the general welfare and to provide the blessings of liberty for ourselves and our posterity. Let us look at that in light of what is happening on the floor today. The Republicans are bringing a continuation of their reckless tax-cutting binge that they are on to undermine the fiscal soundness of our country. They do it on a weekly basis, without any sense of what it does to plunge our children into indebtedness rather than investing in our future, and here they are again today.

Provide for the common defense. Those men and women in uniform who provide for the common defense deserve for us to make a future worthy of their potential sacrifice. That future must be one that is better for everyone in America. Those who have provided for our common defense, some of whom of an earlier generation, have been called the greatest generation. Yet a tax cut of this nature that is on the floor today will benefit fewer than 10,000 estates in our country and for that cost we could give 100 percent of Americans a prescription drug benefit. Those members of the greatest generation would benefit from that. Instead, we have again another piece to the reckless binge that the Republicans are on. Pretty soon the country will tilt from the imbalance of all of this recklessness.

And provide the blessings of liberty for our and our posterity. Every child in America is an heir to that legacy, is part of that posterity. Instead of investing in their future, and in fact, what we could have done earlier this week and we could do any minute here, to give them an expansion of a tax credit, instead we are plunging them into debt again rather than investing in their future. We have to see this goodie that is on the floor today, not only for itself, but what it is part of and how dangerous that is to our posterity and to our children's future, if that is the way you want to describe that.

The Republicans' intentions are clear. They want to unravel the social compact that we have with the American people. The role of government, to educate the public, to invest in our infrastructure, to protect the American people, to reward our senior citizens who have built our country. Instead, and they speak of it with great arrogance now, they are proud of the shrinking of government that they have that is part of their design, and critical to it is to reduce the tax base; to reduce the tax base. Some of these people that have talked about previous tax cuts will be paying, those who have unearned income, whose income is dividend income, will not pay any taxes on the dividend and now they will not pay any taxes on the estate. I am talking about all of those people above a $6 million for a couple, $3 million for an individual estate.

One of the values that the American people hold dear is the value of fairness. We are a country of fairness. How could it be fair to say we are going to give the wealthiest 10,000 families in America a bonanza instead of giving every senior citizen in America a prescription drug benefit? How could it be a sense of fairness to say to the children of the wealthiest families in America, we're concerned about your posterity, you are heirs and heiresses, but ignore the fact that every child in America, as I said before, is an heir and heiress to the great legacy that is our great country, a country of opportunity, opportunity that will be diminished by these tax cuts, opportunity that is diminished by the cutting back and investments in our children's health and their education and the economic security of their families by creating jobs instead of indebting us into the future with an impact of the deficits on long-term interest rates to be a drag on investment in our economy to create jobs.

We have to look at all of this as one. In the same week, within a matter of days that we have deprived the children of minimum-wage earners of the expansion of the tax credit, which they could have in a matter of weeks if the Republicans in the House would act responsibly, in the same week that we, over and over, again honor our men and women in uniform, which they deserve, we bring dishonor to them by saying their children, 250,000 of them, are not worthy of the expansion of the tax credit. At the same time, as we do all of this, we are not building a future worthy of the sacrifice of our men and women in uniform. We are not honoring our oath of office to provide the blessings of liberty for ourselves and our posterity, our children, to promote the general welfare. Where is that in the vision of this bill except that it is another part of the reckless binge that the Republicans are on, a fiscal unsoundness that has been a failure for the first 2½ years, losing 3.1 million jobs, and now they want to heap more on to it.

That is why I am so pleased that the gentleman from North Dakota took the lead on this. His standing on issues relating to America's family farmers is impeccable. He has been their champion in issues relating to economic security, education, rural education, rural health, rural housing, rural transportation in every possible way. He brings great credibility to this debate for his concern for the people that he represents with such dignity. And he gives this body an opportunity to immediately give tax relief to estates of $3 million for an individual or $6 million for a couple instead of squandering our children's future for the top 10,000 or fewer estates in our country at the expense of so much else.

The trade-offs are appalling. We have a responsibility in this body. We are elected for a reason. We are not here just to give tax cuts that do not create jobs, that do not grow the economy and are not fair and plunge us into debt. I urge my colleagues to honor your oaths of office. I urge you to do the responsible thing. I urge you to vote "yes" on the Pomeroy substitute.

Ms. DUNN. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, let me just say that as a farmer, the value of farmland has increased dramatically. That means an average 500-acre farm in many of the Midwest areas is now worth more than the $3 million allowed in this substitute. That means that a farm family has to sell off part of the farm to pay off the death tax debt to the Federal Government. $3 million is too low and means losing the farm for many farmers.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

I think Members have a good idea of what we are going through here today. We have been through this issue before. Each time I am very happy to say that the House of Representatives has stood up to get rid of the death tax repeal permanently. Three times in the last Congress the House voted to repeal the death tax. We are here today only for one reason and that is that the rules of the other body have stymied this tax relief for small business people and for family farms.

Some of my colleagues would say we should throw in the towel. They say the Senate will never pass this legislation, so why not compromise? Why even take up the permanent repeal piece of legislation? That is the statement made by the Pomeroy substitute. We faced similar arguments not very long ago when we considered an economic growth package, but the House did not throw in the towel and the legislation that is now law reflects to a very deep degree the policy decisions that were written right here on the floor of this House of Representatives. Thanks to the tenacity and the leadership of the chairman of the Committee on Ways and Means, the will of the House prevailed. Frankly, I am very optimistic that we will ultimately prevail on permanently repealing the death tax.

I hope Members will not be swayed by the rhetoric and the hyperbole on the other side because we have heard lots of it today. On this issue, the opposition rhetoric and reality have very little in common. Why should Members vote against this amendment? Let me tell you why. Number one, it will be a retreat from the tax relief this body voted 2 years ago. In fact, it would reinstate a permanent death tax. Number two, we need to permanently repeal the death tax so that small businesses and family farmers can plan their future and invest in their businesses. We do not need to make them spend the fruits of their labor on estate lawyers and accountants and insurance policies. Number three, this is a direct vote against the President's proposal to repeal this tax permanently and that is based on 80 percent of the American people who think that the death tax is an unfair tax.

We need to inject greater fairness into the Tax Code. Do not be swayed by the arguments of those who say this is about a tax break for the wealthy. This is a relief from a burden that takes money from middle-income people who run their small businesses and their family farms. The wealthy people can afford to hire lawyers and accountants to avoid the burden of the estate tax. This is not about charitable giving and it is not about the wealthy. It is about people who are trying to raise money for the Federal Treasury and using an abhorrently unfair, misguided tax to do that. When people argue in favor of keeping the death tax, I am reminded of a story about Samuel Johnson, the English literary critic. An acquaintance of Johnson's had been unhappily married for a long time, and when the man's wife died he almost immediately remarried. Dr. Johnson said, "That's an example of the triumph of hope over experience." That is what this is about, Mr. Speaker. It is about people who are wedded to misguided hope over experience.

Mr. Speaker, I think we have had enough experience with the death tax, nearly 90 years worth since 1916, and that is why we should reject this amendment. I urge my colleagues to vote "no."

Mr. Speaker, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from North Dakota is recognized for 2½ minutes.

Mr. POMEROY. Mr. Speaker, I am very pleased that our leader was able to participate in the debate, and am pleased to have the participation of the Speaker of the House in closing for the majority, because I think the issue is of that importance.

The esteemed Speaker of the House, a gentleman I admire greatly, representing the State of Illinois, I reckon is going to tell us something about how we have to do this for family farmers and the small businesses of this country. I think that it is time that family farmers and small businesses have estate tax relief and that is why I have put forward this amendment which brings them estate tax relief effective January 1 of 2004. Again, let us put the rhetoric aside and just look at the facts.

□ 1445

In 2004, these families that they have been talking about, 3 million and over, estate tax liability attaches. A couple, in our side, 6 million liability of taxes. Meaningful relief now, 2004, 2005, 2006, 2007, 2008. We provide meaningful relief in each of those years beyond what the majority proposes.

I also expect that the Speaker of the House is going to talk a little bit about how we need to do this to get the economy moving again. Let us consider that one because something that takes effect in 2004 is much more related to getting the economy moving again than something that has no effect whatsoever until the year 2011. Consider this date, 2011, which, again, is the first time the majority proposal has any effect. That is five Congresses from now and into the third Presidential term from now. There is nothing we can do to bind action at that time, nothing in the world. We might kid ourselves about it, but what this Congress can do is attend to that in the here and now. That is why I believe it is time we move estate tax relief forward, do it in a meaningful way, do it in a way to provide couples 6 million and under complete freedom from ever having to worry about estate tax again, and if we attach at that number, we will address completely the estate tax concerns of 99.65 percent of the people in this country.

I do not know the definition of universal, but that is getting mighty darn close; and it beats by a mile, in my opinion, leaving people with the estate tax exposure they have until the year 2011.

Here is the danger that we will never get to 2011. This is the cost of the proposal the first 10 years; this is the cost in the next 10 years. I believe there is significant risk 2011 will never be allowed to occur under the majority bill. Let us get relief now. Please vote for my amendment.

Ms. DUNN. Mr. Speaker, I yield the remainder of my time to the gentleman from Illinois (Mr. HASTERT), the Speaker of the House.

Mr. HASTERT. Mr. Speaker, I thank the gentlewoman from the State of Washington for yielding me this time. I thank her for her leadership on this issue.

We have been talking about this for a long, long time. I am somewhat amused in hearing some of the rhetoric here on the floor this afternoon. I hear words like "reckless" and "abominable" and big words; but when we talk about this. I do not hear the word "fairness" very often. We got into a long discussion about other tax bills. And child tax credits, that we should vote for them. We did vote for them. Not only did we extend them just a little bit just like our other friends on the other side of the aisle wanted to extend them, to the year 2005, but we extended them clear out to the year 2010. On top of that we said that those folks who may be a fireman or may be a teacher and earn over $110,000 a year maybe ought to get some of this tax break as well, and we have added that on. So that issue is off the table. That is not an argument that we talk about this afternoon.

And when we talk about other tax bills out there, our veterans and other issues, we had that in that bill as well, so veterans can get a tax break and families that lose their loved ones can get a tax break. But we have passed it. Let us just get it done.

What we are talking about here is fairness to families. We have talked over and over again about small businesses, the family farm, the orchard, the little ranch, some folks who have pulled together all their resources for a little business, a small manufacturing, might have been a real estate firm. But I grew up in one of those small businesses. My family owned a retail store. We were a farm service business; and in the 1950's the stockyards moved away from Chicago, and we lost that business. The feeders moved away. But families learn how to start over again. So we went from the feed business to the food business, started a restaurant business. But I will tell the Members all my life and my family's in those businesses, we did not take vacations. The kids stayed and worked in that business. We did not know what a paycheck was until we were 18 or 19 years old. We were paid $5 at a time, put a little gas in the car, go buy lunch, and that was how we got paid.

Families sacrifice to make small businesses work. Families sacrifice to make small farms better. They pay taxes all the time. People say this is a big tax break for people who made these businesses, but they paid the income taxes. They pay them every year. They pay real estate taxes. They pay sales taxes. They have been taxed to death; but yet they have made that sacrifice to make that business work, and now we are simply saying that as the years of those people who found those businesses are ending, they ought to have the comfort and relief to pass that business on to the next generation, to their children and to their grandchildren. And this is not just for rich people. This is for everybody who shares in the American Dream.

The largest beginning group of people who start small businesses in my district are Hispanics. They are minorities. Do the Members not think they ought to have the same break for themselves and their children if they want to pass it on to the next generation? Sure, they should. So why are we denying it?

We need to pass this piece of legislation so that we can keep this American heritage of families working, of families creating wealth, of families owning businesses because when they sell their business, who buys it? Some foreign company maybe, maybe a Fortune 500. That family loses that grasp in being able to carry that business forward.

This is a plain and simple bill. We have had it on the floor under the leadership of the gentlewoman from Washington three times before. It is time that we pass it. It is time that we make it law. It is time that the other body understands what we are trying to do and to come along and make it law with us. The American people deserve this legislation. Let us move forward and pass it today.

Mr. NEAL of Massachusetts. Mr. Speaker, I rise in opposition to yet another budget-busting bill. The Republican estate tax repeal that we are considering today will cost $1 trillion over the next two decades, and will kick into high gear just at the time the baby boomers retire.

The Democratic substitute, however, provides immediate and greater estate tax relief to more families this decade than the Republican bill. And, the Democratic substitute would have no effect on the Federal budget, had the Republican leadership not refused the revenue offsets in the substitute.

Our Republican colleagues say this substitute doesn't do enough, but the substitute would provide that 99.65 percent of decedents would not have to pay estate taxes. Who is in this less-than-one-percent group that the Republican majority is so intent on protecting?

Well, the Washington Post today reports about some of these wealthy patrons in the shadows: "So some of the affluent families who have bankrolled the repeal movement," including the heirs of the Hallmark greeting card company and the candy-making Mars family, "are exploring estate tax changes short of repeal that could be implemented sooner." In fact, the Post reports, the heirs of Hallmark spent $60,000 while the Mars' heirs spent $1 million on professional Washington lobbyists to push their views on estate tax relief. That may be money well spent, considering the reckless drive to repeal in the face of exploding deficits.

But, as one of the lobbyists in Washington argues to the Post, don't let exploding deficits dissuade you. It is not certain to happen, she argues, so feel free voting for $1 trillion in estate tax relief to that half-of-one-percent group. While the heirs are ready to cut a deal, the lobbyists hold strong.

Mr. Speaker, I urge my colleagues to vote down this irresponsible Republican bill.

Mr. KIND. Mr. Speaker, I rise today in strong support for making estate tax relief permanent so that family-owned farms and businesses can be passed down from generation to generation. The estate tax should be updated and modernized to reflect both the economic growth so many Americans have experienced in recent years, and the hard work of millions of entrepreneurs and those just trying to make a living. These businesses should not be punished for being successful or for simply having their owners pass away.

The United States is the land of opportunity, encouraging free enterprise and rewarding entrepreneurs. The estate tax should be modified to protect family-owned small businesses and family farms from the threat of having to be sold just to pay the tax.

But, Mr. Speaker, H.R. 8 would fully repeal the estate tax for all Americans at a time when the administration is running record deficits that threaten the futures of our children's children. As we all know, the estate tax applies to fewer than 2 percent of all estates, about 50,000 a year. This bill would initially cost the Nation's treasury $161 billion over 11 years, and $840 billion over the following 10 years.

Mr. Speaker, the majority's policies have turned a projected $5.3 trillion surplus into an estimated $3 trillion deficit over 10 years. This year alone, our budget deficit will reach a record $400 billion and will likely exceed $500 billion next year. However, even with these record deficits, we are debating yet another tax cut on top of the fiscally irresponsible $350 billion tax cut package this House recently passed.

With the majority's policies leading our Nation toward a fiscal train wreck, we should not be talking about totally repealing the death tax and instead talk about doing something about the debt tax, which falls upon all Americans. The growing amount of taxes needed to pay interest on the national debt will double under the Republican budget, costing the average family of four $8,453 in 2013. That is $8,000 a year that the average family will have to pay in taxes that will not go to provide better schools, national defense, or other government services. With the staggering budget shortfalls facing our country, Mr. Speaker, complete repeal of the estate tax is simply not an option I can support.

Therefore, I am supporting the substitute being offered by my good friend Mr. POMEROY. His legislation will immediately help the small businesses and family farms by increasing the estate tax exemption to $3 million for individuals and $6 million for couples. This meaningful, commonsense bill will exempt 99.65 percent of all estates from the estate tax.

Mr. Speaker, it is our responsibility to avoid towering deficits and reduce the debt future generations will inherit. We must give them the capability and flexibility to meet whatever problems or needs they face. I cannot, in good faith, support legislation that will put our country further into deficit spending with a tax cut that will hurt future generations for the unforeseeable future.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate on the amendment in the nature of a substitute has expired.

Pursuant to House Resolution 281, the previous question is ordered on the bill and on the amendment in the nature of a substitute offered by the gentleman from North Dakota (Mr. POMEROY).

The question is on the amendment in the nature of a substitute offered by the gentleman from North Dakota (Mr. POMEROY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. POMEROY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 188, nays 239, not voting 8, as follows:

[Roll No. 287]

YEAS—188

Ackerman
Alexander
Allen
Baca
Baird
Baldwin
Ballance
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Case
Castle
Clay
Clyburn
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—239

Abercrombie
Aderholt
Akin
Andrews
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Carson (IN)
Conyers
Gephardt
Hulshof
Lofgren
Nadler
Smith (WA)
Taylor (MS)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are reminded there are 2 minutes remaining on this vote.

☐ 1514

Messrs. TERRY, RANGEL, and HALL changed their vote from "yea" to "nay."

Mr. HILL, Mr. STARK, Mrs. CAPPS and Ms. SOLIS changed their vote from "nay" to "yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. HULSHOF. Mr. Speaker, on rollcall No. 287 I was inadvertently detained. Had I been present, I would have voted "nay."

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. DUNN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 264, noes 163, not voting 8, as follows:

[Roll No. 288]

AYES—264

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)

Barton (TX)
Bass
Beauprez
Bell
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chocola
Clay
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Farr
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hooley (OR)
Hostettler
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCarthy (NY)
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McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
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Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
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Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
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Rehberg
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Ryan (OH)
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Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
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Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
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Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

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Baca
Baird
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Becerra
Bereuter
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Bishop (NY)
Blumenauer
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Case
Clyburn
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
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Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holden
Holt
Honda
Houghton
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lowey
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Majette
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Mollohan
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Payne
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Price (NC)
Rangel
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Roybal-Allard
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
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Serrano
Sherman
Slaughter
Snyder
Solis
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Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—8

Carson (IN)
Conyers
Gephardt
Lofgren
Nadler
Radanovich
Smith (WA)
Tiberi

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). Members are advised 2 minutes are remaining in this vote.

□ 1531

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. TIBERI. Mr. Speaker, on rollcall 288, The Death Tax Repeal Permanency Act, I was detained in the U.S. Capitol and unable to cast my vote. Had I been able, I would have voted "aye" on H.R. 8, The Death Tax Repeal Permanency Act.

Mr. RADANOVICH. Mr. Speaker, I missed the vote on passage of H.R. 8, but would like to state that I would have voted "aye" on final passage.

MAKING IN ORDER DURING CONSIDERATION OF H.R. 1528, TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2003, POSTPONEMENT OF FURTHER CONSIDERATION UNTIL A TIME DESIGNATED BY THE SPEAKER

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 1528 pursuant to House Resolution 282, notwithstanding the ordering of the previous question, it may be in order at any time for the Chair to postpone further consideration of the bill until a later time to be designated by the Speaker.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Missouri?

There was no objection.

EXPLANATION OF PURPOSE OF POSTPONEMENT OF FURTHER CONSIDERATION OF H.R. 1528, TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2003

(Mr. BLUNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUNT. Mr. Speaker, the purpose of this request to postpone votes or further consideration of the bill until a later time to be designated by the Speaker is just simply to allow the Members, and families that are in town and intend to go with them, to go to the picnic at the White House this evening. By moving these votes until tomorrow, we allow that to happen, and I hope that allows the family members who are here and intending to go to this event with Members to have as much of the evening as they anticipated having.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 660, SMALL BUSINESS HEALTH FAIRNESS ACT OF 2003

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 108–160) on the resolution (H. Res. 283) providing for consideration of the bill (H.R. 660) to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees, which was referred to the House Calendar and ordered to be printed.

TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2003

Mr. MCCRERY. Mr. Speaker, pursuant to House Resolution 282, I call up the bill (H.R. 1528) to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 282, the bill is considered read for amendment.

The text of H.R. 1528 is as follows:

H.R. 1528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) Short Title.—This Act may be cited as the “Taxpayer Protection and IRS Accountability Act of 2003”.

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) Table of Contents.—

Sec. 1. Short title; etc.

TITLE I—PENALTY AND INTEREST REFORMS

Sec. 101. Failure to pay estimated tax penalty converted to interest charge on accumulated unpaid balance.
Sec. 102. Exclusion from gross income for interest on overpayments of income tax by individuals.
Sec. 103. Abatement of interest.
Sec. 104. Deposits made to suspend running of interest on potential underpayments.
Sec. 105. Expansion of interest netting for individuals.
Sec. 106. Waiver of certain penalties for first-time unintentional minor errors.
Sec. 107. Frivolous tax submissions.
Sec. 108. Clarification of application of Federal tax deposit penalty.

TITLE II—FAIRNESS OF COLLECTION PROCEDURES

Sec. 201. Partial payment of tax liability in installment agreements.
Sec. 202. Extension of time for return of property.
Sec. 203. Individuals held harmless on wrongful levy, etc., on individual retirement plan.
Sec. 204. Seven-day threshold on tolling of statute of limitations during tax review.
Sec. 205. Study of liens and levies.

TITLE III—TAX ADMINISTRATION REFORMS

Sec. 301. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.
Sec. 302. Confirmation of authority of tax court to apply doctrine of equitable recoupment.
Sec. 303. Jurisdiction of tax court over collection due process cases.
Sec. 304. Office of Chief Counsel review of offers in compromise.
Sec. 305. 15-day delay in due date for electronically filed individual income tax returns.
Sec. 306. Access of National Taxpayer Advocate to independent legal counsel.
Sec. 307. Payment of motor fuel excise tax refunds by direct deposit.
Sec. 308. Family business tax simplification.
Sec. 309. Health insurance costs of eligible individuals.
Sec. 310. Suspension of tax-exempt status of terrorist organizations.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

Sec. 401. Collection activities with respect to joint return disclosable to either spouse based on oral request.
Sec. 402. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
Sec. 403. Disclosure in judicial or administrative tax proceedings of return and return information of persons who are not party to such proceedings.
Sec. 404. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.
Sec. 405. Compliance by contractors with confidentiality safeguards.
Sec. 406. Higher standards for requests for and consents to disclosure.
Sec. 407. Notice to taxpayer concerning administrative determination of browsing; annual report.
Sec. 408. Expanded disclosure in emergency circumstances.
Sec. 409. Disclosure of taxpayer identity for tax refund purposes.
Sec. 410. Disclosure to State officials of proposed actions related to section 501(c)(3) organizations.
Sec. 411. Confidentiality of taxpayer communications with the Office of the Taxpayer Advocate.

TITLE V—MISCELLANEOUS

Sec. 501. Clarification of definition of church tax inquiry.
Sec. 502. Expansion of declaratory judgment remedy to tax-exempt organizations.
Sec. 503. Employee misconduct report to include summary of complaints by category.
Sec. 504. Annual report on awards of costs and certain fees in administrative and court proceedings.
Sec. 505. Annual report on abatement of penalties.
Sec. 506. Better means of communicating with taxpayers.
Sec. 507. Explanation of statute of limitations and consequences of failure to file.
Sec. 508. Amendment to treasury auction reforms.
Sec. 509. Enrolled agents.
Sec. 510. Financial management service fees.
Sec. 511. Extension of Internal Revenue Service user fees.

TITLE VI—LOW-INCOME TAXPAYER CLINICS

Sec. 601. Low-income taxpayer clinics.

TITLE VII—FEDERAL-STATE UNEMPLOYMENT ASSISTANCE AGREEMENTS.

Sec. 701. Applicability of certain Federal-State agreements relating to unemployment assistance.

TITLE I—PENALTY AND INTEREST REFORMS

SEC. 101. FAILURE TO PAY ESTIMATED TAX PENALTY CONVERTED TO INTEREST CHARGE ON ACCUMULATED UNPAID BALANCE.

(a) Penalty Moved to Interest Chapter of Code.—The Internal Revenue Code of 1986 is amended by redesignating section 6654 as section 6641 and by moving section 6641 (as so redesignated) from part I of subchapter A of chapter 68 to the end of subchapter E of chapter 67 (as added by subsection (e)(1) of this section).

(b) Penalty Converted to Interest Charge.—The heading and subsections (a) and (b) of section 6641 (as so redesignated) are amended to read as follows:

“SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

“(a) In General.—Interest shall be paid on any underpayment of estimated tax by an individual for a taxable year for each day of such underpayment. The amount of such interest for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

“(b) Amount of Underpayment; Interest Rate.—For purposes of subsection (a)—

“(1) Amount.—The amount of the underpayment on any day shall be the excess of—

“(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

“(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

“(2) Determination of interest rate.—

“(A) In general.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

“(B) Installment underpayment period.—For purposes of subparagraph (A), the term ‘installment underpayment period’ means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

“(C) Daily rate.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

“(3) Termination of estimated tax interest.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.”.

(c) Increase in Safe Harbor Where Tax Is Small.—

(1) In general.—Clause (i) of section 6641(d)(1)(B) (as so redesignated) is amended to read as follows:

“(i) the lesser of—

“(I) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

“(II) the tax shown on the return for the taxable year (or, if no return is filed, the tax for such year) reduced (but not below zero) by $1,600, or”.

(2) Conforming amendment.—Subsection (e) of section 6641 (as so redesignated) is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(d) Conforming Amendments.—

(1) Paragraphs (1) and (2) of subsection (e) (as redesignated by subsection (c)(2)) and subsection (h) of section 6641 (as so designated) are each amended by striking “addition to tax” each place it occurs and inserting “interest”.

(2) Section 167(g)(5)(D) is amended by striking "6654" and inserting "6641".

(3) Section 460(b)(1) is amended by striking "6654" and inserting "6641".

(4) Section 3510(b) is amended—

(A) by striking "section 6654" in paragraph (1) and inserting "section 6641";

(B) by amending paragraph (2)(B) to read as follows:

"(B) no interest would be required to be paid (but for this section) under 6641 for such taxable year by reason of the $1,600 amount specified in section 6641(d)(1)(B)(i)(II).";

(C) by striking "section 6654(d)(2)" in paragraph (3) and inserting "section 6641(d)(2)"; and

(D) by striking paragraph (4).

(5) Section 6201(b)(1) is amended by striking "6654" and inserting "6641".

(6) Section 6601(h) is amended by striking "6654" and inserting "6641".

(7) Section 6621(b)(2)(B) is amended by striking "addition to tax under section 6654" and inserting "interest required to be paid under section 6641".

(8) Section 6622(b) is amended—

(A) by striking "Penalty for" in the heading; and

(B) by striking "addition to tax under section 6654 or 6655" and inserting "interest required to be paid under section 6641 or addition to tax under section 6655".

(9) Section 6658(a) is amended—

(A) by striking "6654, or 6655" and inserting "or 6655, and no interest shall be required to be paid under section 6641,"; and

(B) by inserting "or paying interest" after "the tax" in paragraph (2)(B)(ii).

(10) Section 6665(b) is amended—

(A) in the matter preceding paragraph (1) by striking ", 6654,"; and

(B) in paragraph (2) by striking "6654 or".

(11) Section 7203 is amended by striking "section 6654 or 6655" and inserting "section 6655 or interest required to be paid under section 6641".

(e) Clerical Amendments.—

(1) Chapter 67 is amended by inserting after subchapter D the following:

"Subchapter E—Interest on Failure by Individual To Pay Estimated Income Tax

"Sec. 6641. Interest on failure by individual to pay estimated income tax.".

(2) The table of subchapters for chapter 67 is amended by adding at the end the following new items:

"Subchapter D. Notice requirements.

"Subchapter E. Interest on failure by individual to pay estimated income tax.".

(3) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6654.

(f) Effective Date.—The amendments made by this section shall apply to installment payments for taxable years beginning after December 31, 2003.

SEC. 102. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

(a) In General.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 139 the following new section:

"SEC. 139A. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

"(a) In General.—In the case of an individual, gross income shall not include interest paid under section 6611 on any overpayment of tax imposed by this subtitle.

"(b) Exception.—Subsection (a) shall not apply in the case of a failure to claim items resulting in the overpayment on the original return if the Secretary determines that the principal purpose of such failure is to take advantage of subsection (a).

"(c) Special Rule for Determining Modified Adjusted Gross Income.—For purposes of this title, interest not included in gross income under subsection (a) shall not be treated as interest which is exempt from tax for purposes of sections 32(i)(2)(B) and 6012(d) or any computation in which interest exempt from tax under this title is added to adjusted gross income.".

(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

"Sec. 139A. Exclusion from gross income for interest on overpayments of income tax by individuals.".

(c) Effective Date.—The amendments made by this section shall apply to interest received in calendar years beginning after the date of the enactment of this Act.

SEC. 103. ABATEMENT OF INTEREST.

(a) Abatement of Interest With Respect to Erroneous Refund Check Without Regard to Size of Refund.—Paragraph (2) of section 6404(e) is amended by striking "unless—" and all that follows and inserting "unless the taxpayer (or a related party) has in any way caused such erroneous refund.".

(b) Abatement of Interest to Extent Interest is Attributable to Taxpayer Reliance on Written Statements of the IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking "Penalty or Addition" and inserting "Interest, Penalty, or Addition"; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".

(c) Effective Date.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 104. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) In General.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) Authority To Make Deposits Other Than as Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) Payment of Interest.—

"(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) Disputable tax.—

"(A) In general.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) Safe harbor based on 30-day letter.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) Other definitions.—For purposes of paragraph (2)—

"(A) Disputable item.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-day letter.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) Rate of interest.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) Use of Deposits.—

"(1) Payment of tax.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) Returns of deposits.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) Coordination with deposits made under revenue procedure 84 0958.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84 0958, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 105. EXPANSION OF INTEREST NETTING FOR INDIVIDUALS.

(a) In General.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply in the case of an individual.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to interest accrued after December 31, 2003.

SEC. 106. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME UNINTENTIONAL MINOR ERRORS.

(a) IN GENERAL.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

“(i) TREATMENT OF FIRST-TIME UNINTENTIONAL MINOR ERRORS.—

“(1) IN GENERAL.—In the case of a return of tax imposed by subtitle A filed by an individual, the Secretary may waive an addition to tax under subsection (a) if—

“(A) the individual has a history of compliance with the requirements of this title,

“(B) it is shown that the failure is due to an unintentional minor error,

“(C) the penalty would be grossly disproportionate to the action or expense that would have been needed to avoid the error, and imposing the penalty would be against equity and good conscience,

“(D) waiving the penalty would promote compliance with the requirements of this title and effective tax administration, and

“(E) the taxpayer took all reasonable steps to remedy the error promptly after discovering it.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

“(A) the Secretary has waived any addition to tax under this subsection with respect to any prior failure by such individual,

“(B) the failure is a mathematical or clerical error (as defined in section 6213(g)(2)), or

“(C) the failure is the lack of a required signature.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2004.

SEC. 107. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

“(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

“(1) such person files what purports to be a return of a tax imposed by this title but which—

“(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

“(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

“(2) the conduct referred to in paragraph (1)—

“(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

“(B) reflects a desire to delay or impede the administration of Federal tax laws.

“(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

“(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

“(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

“(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term ‘specified frivolous submission’ means a specified submission if any portion of such submission is based on a position which the Secretary has identified as frivolous under subsection (c).

“(B) SPECIFIED SUBMISSION.—The term ‘specified submission’ means—

“(i) a request for a hearing under—

“(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

“(II) section 6330 (relating to notice and opportunity for hearing before levy), and

“(ii) an application under—

“(I) section 7811 (relating to taxpayer assistance orders),

“(II) section 6159 (relating to agreements for payment of tax liability in installments), or

“(III) section 7122 (relating to compromises).

“(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

“(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

“(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

“(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.”.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

“Sec. 6702. Frivolous tax submissions.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 108. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

TITLE II—FAIRNESS OF COLLECTION PROCEDURES

SEC. 201. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking “satisfy liability for payment of” and inserting “make payment on”, and

(B) by inserting “full or partial” after “facilitate”.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting “full” before “payment”.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

“(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 202. EXTENSION OF TIME FOR RETURN OF PROPERTY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 (relating to return of property) is amended by striking “9 months” and inserting “2 years”.

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking “9 months” and inserting “2 years”, and

(2) in paragraph (2) by striking “9-month” and inserting “2-year”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 203. INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC., ON INDIVIDUAL RETIREMENT PLAN.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

“(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC., ON INDIVIDUAL RETIREMENT PLAN.—

“(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies, an amount equal to the sum of—

“(A) the amount of money returned by the Secretary on account of such levy, and

“(B) interest paid under subsection (c) on such amount of money,

may be deposited into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

“(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

“(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

“(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

“(C) such deposit shall not be taken into account under section 408(d)(3)(B).

“(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

“(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.".

(b) Effective Date.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2003.

SEC. 204. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING TAX REVIEW.

(a) In General.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after "application," the following: "but only if the date of such decision is at least 7 days after the date of the taxpayer's application".

(b) Effective Date.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 205. STUDY OF LIENS AND LEVIES.

The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the practices of the Internal Revenue Service concerning liens and levies. The study shall examine—

(1) the declining use of liens and levies by the Internal Revenue Service, and

(2) the practicality of recording liens and levying against property in cases in which the cost of such actions exceeds the amount to be realized from such property.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TAX ADMINISTRATION REFORMS

SEC. 301. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

(a) In General.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

"SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.

"(a) Disciplinary Actions.—

"(1) In general.—Subject to subsection (c), the Commissioner shall take an action in accordance with the guidelines established under paragraph (2) against any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties or where a nexus to the employee's position exists.

"(2) Guidelines.—The Commissioner shall issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for committing any act or omission described under subsection (b).

"(b) Acts or Omissions.—The acts or omissions described under this subsection are—

"(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

"(2) willfully providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

"(3) with respect to a taxpayer or taxpayer representative, the willful violation of—

"(A) any right under the Constitution of the United States;

"(B) any civil right established under—

"(i) title VI or VII of the Civil Rights Act of 1964;

"(ii) title IX of the Education Amendments of 1972;

"(iii) the Age Discrimination in Employment Act of 1967;

"(iv) the Age Discrimination Act of 1975;

"(v) section 501 or 504 of the Rehabilitation Act of 1973; or

"(vi) title I of the Americans with Disabilities Act of 1990; or

"(C) the Internal Revenue Service policy on unauthorized inspection of returns or return information;

"(4) willfully falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

"(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery;

"(6) willful violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative;

"(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry;

"(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect;

"(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect; and

"(10) threatening to audit a taxpayer, or to take other action under this title, for the purpose of extracting personal gain or benefit.

"(c) Determinations of Commissioner.—

"(1) In general.—The Commissioner may take a personnel action other than a disciplinary action provided for in the guidelines under subsection (a)(2) for an act or omission described under subsection (b).

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his sole discretion, may establish a procedure to determine if an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

"(3) No appeal.—Notwithstanding any other provision of law, any determination of the Commissioner under this subsection may not be reviewed in any administrative or judicial proceeding. A finding that an act or omission described under subsection (b) occurred may be reviewed.

"(d) Definition.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

"(e) Annual Report.—The Commissioner shall submit to Congress annually a report on disciplinary actions under this section.".

(b) Clerical Amendment.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

"Sec. 7804A. Disciplinary actions for misconduct.".

(c) Repeal of Superseded Section.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105 09206: 112 Stat. 720) is repealed.

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 302. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) Confirmation of Authority of Tax Court To Apply Doctrine of Equitable Recoupment.—Subsection (b) of section 6214 (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

(b) Effective Date.—The amendments made by this section shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 303. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) In General.—Section 6330(d)(1) (relating to judicial review of determination) is amended to read as follows:

"(1) Judicial review of determination.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to judicial appeals filed after the date of the enactment of this Act.

SEC. 304. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

(a) In General.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) Conforming Amendments.—Section 7122(b) is amended by striking the second and third sentences.

(c) Effective Date.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 305. 15-DAY DELAY IN DUE DATE FOR ELECTRONICALLY FILED INDIVIDUAL INCOME TAX RETURNS.

(a) In General.—Section 6072 (relating to time for filing income tax returns) is amended by adding at the end the following new subsection:

"(f) Electronically Filed Returns of Individuals.—

"(1) In general.—Returns of an individual under section 6012 or 6013 (other than an individual to whom subsection (c) applies) which are filed electronically—

"(A) in the case of returns filed on the basis of a calendar year, shall be filed on or before the 30th day of April following the close of the calendar year, and

"(B) in the case of returns filed on the basis of a fiscal year, shall be filed on or before the last day of the 4th month following the close of the fiscal year.

"(2) Electronic filing.—Paragraph (1) shall not apply to any return unless—

"(A) such return is accepted by the Secretary, and

"(B) the balance due (if any) shown on such return is paid electronically in a manner prescribed by the Secretary.

"(3) Special rules.—

"(A) Estimated tax.—If—

"(i) paragraph (1) applies to an individual for any taxable year, and

"(ii) there is an overpayment of tax shown on the return for such year which the individual allows against the individual's obligation under section 6641.

then, with respect to the amount so allowed, any reference in section 6641 to the April 15 following such taxable year shall be treated as a reference to April 30.

"(B) References to due date.—Paragraph (1) shall apply solely for purposes of determining the due date for the individual's obligation to file and pay tax and, except as otherwise provided by the Secretary, shall be treated as an extension of the due date for any other purpose under this title.".

(b) Effective Date.—The amendment made by this section shall apply to returns filed with respect to taxable years beginning after December 31, 2002.

SEC. 306. ACCESS OF NATIONAL TAXPAYER ADVOCATE TO INDEPENDENT LEGAL COUNSEL.

Clause (i) of section 7803(c)(2)(D) (relating to personnel actions) is amended by striking "and" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", and", and by adding at the end the following new subclause:

"(III) appoint a counsel in the Office of the Taxpayer Advocate to report solely to the National Taxpayer Advocate.".

SEC. 307. PAYMENT OF MOTOR FUEL EXCISE TAX REFUNDS BY DIRECT DEPOSIT.

(a) In General.—Subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end the following new section:

"1A3337. Payment of motor fuel excise tax refunds by direct deposit

"The Secretary of the Treasury shall make payments under sections 6420, 6421, and 6427 of the Internal Revenue Code of 1986 by electronic funds transfer (as defined in section 3332(j)(1)) if the person who is entitled to the payment—

"(1) elects to receive the payment by electronic funds transfer; and

"(2) satisfies the requirements of section 3332(g) with respect to such payment at such time and in such manner as the Secretary may require.".

(b) Clerical Amendment.—The table of sections for subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end the following new item:

"3337. Payment of motor fuel excise tax refunds by direct deposit.".

SEC. 308. FAMILY BUSINESS TAX SIMPLIFICATION.

(a) In General.—Section 761 (defining terms for purposes of partnerships) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Qualified Joint Venture.—

"(1) In general.—In the case of a qualified joint venture conducted by a husband and wife who file a joint return for the taxable year, for purposes of this title—

"(A) such joint venture shall not be treated as a partnership,

"(B) all items of income, gain, loss, deduction, and credit shall be divided between the spouses in accordance with their respective interests in the venture, and

"(C) each spouse shall take into account such spouse's respective share of such items as if they were attributable to a trade or business conducted by such spouse as a sole proprietor.

"(2) Qualified joint venture.—For purposes of paragraph (1), the term 'qualified joint venture' means any joint venture involving the conduct of a trade or business if—

"(A) the only members of such joint venture are a husband and wife,

"(B) both spouses materially participate (within the meaning of section 469(h) without regard to paragraph (5) thereof) in such trade or business, and

"(C) both spouses elect the application of this subsection.".

(b) Net Earnings From Self-Employment.—

(1) Subsection (a) of section 1402 (defining net earnings from self-employment) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by inserting after paragraph (15) the following new paragraph:

"(16) notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) in determining net earnings from self-employment of such spouse.".

(2) Subsection (a) of section 211 of the Social Security Act (defining net earnings from self-employment) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by inserting after paragraph (15) the following new paragraph:

"(16) Notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) of the Internal Revenue Code of 1986 in determining net earnings from self-employment of such spouse.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 309. HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

(a) Consumer Options.—Paragraph (2) of section 35(e) is amended by inserting at the end the following new subparagraph:

"(C) Waiver by eligible individuals.—With respect to any month which ends before January 1, 2006, this paragraph shall not apply with respect to any eligible individual and such individual's qualifying family members if such eligible individual elects to waive the application of this paragraph with respect to such month.".

(b) Effective Date.—The amendment made by this section shall apply to months beginning after the date of the enactment of this Act.

SEC. 310. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) In General.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Suspension of Tax-Exempt Status of Terrorist Organizations.—

"(1) In general.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

"(2) Terrorist organizations.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

"(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

"(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

"(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

"(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

"(ii) such Executive order refers to this subsection.

"(3) Period of suspension.—With respect to any organization described in paragraph (2), the period of suspension—

"(A) begins on the later of—

"(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

"(ii) the date of the enactment of this subsection, and

"(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

"(4) Denial of deduction.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

"(5) Denial of administrative or judicial challenge of suspension or denial of deduction.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

"(6) Erroneous designation.—

"(A) In general.—If—

"(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

"(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

"(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

"(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

"(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

SEC. 401. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking "in writing" the first place it appears.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 402. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

(1) by striking "Returns" and inserting the following:

"(A) IN GENERAL.—Returns", and

(2) by adding at the end the following new subparagraph:

"(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return of such representative on a basis other than by reason of such relationship.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date which is 180 days after the date of the enactment of this Act.

SEC. 403. DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS WHO ARE NOT PARTY TO SUCH PROCEEDINGS.

(a) IN GENERAL.—Paragraph (4) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new subparagraph:

"(B) DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS NOT PARTY TO SUCH PROCEEDINGS.—

"(i) NOTICE.—Return or return information of any person who is not a party to a judicial or administrative proceeding described in this paragraph shall not be disclosed under clause (ii) or (iii) of subparagraph (A) until after the Secretary makes a reasonable effort to give notice to such person and an opportunity for such person to request the deletion of matter from such return or return information, including any of the items referred to in paragraphs (1) through (7) of section 6110(c). Such notice shall include a statement of the issue or issues the resolution of which is the reason such return or return information is sought. In the case of S corporations, partnerships, estates, and trusts, such notice shall be made at the entity level.

"(ii) DISCLOSURE LIMITED TO PERTINENT PORTION.—The only portion of a return or return information described in clause (i) which may be disclosed under subparagraph (A) is that portion of such return or return information that directly relates to the resolution of an issue in such proceeding.

"(iii) EXCEPTIONS.—Clause (i) shall not apply—

"(I) to any civil action under section 7407, 7408, or 7409,

"(II) to any ex parte proceeding for obtaining a search warrant, order for entry on premises or safe deposit boxes, or similar ex parte proceeding,

"(III) to disclosure of third party return information by indictment or criminal information, or

"(IV) if the Attorney General or the Attorney General's delegate determines that the application of such clause would seriously impair a criminal tax investigation or proceeding.".

(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 6103(h) is amended by—

(1) by striking "PROCEEDINGS.—A return" and inserting "PROCEEDINGS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a return";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(3) in the matter following clause (iv) (as so redesignated), by striking "subparagraph (A), (B), or (C)" and inserting "clause (i), (ii), or (iii)" and by moving such matter 2 ems to the right.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting "(other than the taxpayer's address and TIN)" after "Return information".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 405. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

"(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

"(B) agrees to conduct an annual, on-site review (mid-point review in the case of contracts of less than 1 year in duration) of each such contractor or other agent to determine compliance with such requirements,

"(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

"(D) certifies to the Secretary for the most recent annual period that each such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract of the contractor or other agent with the agency, and the duration of such contract.".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting "or paragraph (9)" after "subparagraph (A)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2003.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2004.

SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by adding at the end the following new paragraphs:

"(2) REQUIREMENTS FOR VALID REQUESTS AND CONSENTS.—A request for or consent to disclosure under paragraph (1) shall only be valid for purposes of this section, sections 7213, 7213A, and 7431 if—

"(A) at the time of execution, such request or consent designates a recipient of such disclosure and is dated, and

"(B) at the time such request or consent is submitted to the Secretary, the submitter of such request or consent certifies, under penalty of perjury, that such request or consent complied with subparagraph (A).

"(3) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—Any person shall, as a condition for receiving return or return information under paragraph (1)—

"(A) ensure that such return and return information is kept confidential,

"(B) use such return and return information only for the purpose for which it was requested, and

"(C) not disclose such return and return information except to accomplish the purpose for which it was requested, unless a separate consent from the taxpayer is obtained.

"(4) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for requests and consents which shall—

"(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

"(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

"(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.".

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Treasury Inspector General for Tax Administration considers necessary or appropriate to better achieve the purposes of this section.

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(c) is amended by striking "TAXPAYER.—The Secretary" and inserting "TAXPAYER.—

"(1) IN GENERAL.—The Secretary".

(2) Section 7213(a)(1) is amended by striking "section 6103(n)" and inserting "subsections (c) and (n) of section 6103".

(3) Section 7213A(a)(1)(B) is amended by striking "subsection (l)(18) or (n) of section 6103" and inserting "subsection (c), (l)(18), or (n) of section 6103".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

SEC. 407. NOTICE TO TAXPAYER CONCERNING ADMINISTRATIVE DETERMINATION OF BROWSING; ANNUAL REPORT.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: "The Secretary shall also notify such taxpayer if the Treasury Inspector General for Tax Administration substantiates that such taxpayer's return or return information was inspected or disclosed in violation of any of the provisions specified in paragraph (1), (2), or (3).".

(b) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by section 405, is further amended by adding at the end the following new paragraph:

"(10) REPORT ON UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

"(A) administrative investigations,

"(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

"(C) criminal prosecutions.".

(c) EFFECTIVE DATE.—

(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

(2) REPORTS.—The amendment made by subsection (b) shall apply to calendar years ending after the date of the enactment of this Act.

SEC. 408. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—Section 6103(i)(3)(B) (relating to danger of death or physical injury) is amended by striking "or State" and inserting ", State, or local".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) IN GENERAL.—Paragraph (1) of section 6103(m) (relating to disclosure of taxpayer identity information) is amended by striking "and other media" and by inserting ", other media, and through any other means of mass communication,".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c)(3) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) DISCLOSURE OF PROPOSED ACTIONS.—

"(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names, addresses, and taxpayer identification numbers of organizations that have applied for recognition as organizations described in section 501(c)(3).

"(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

"(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of State or Federal issues relating to the tax-exempt status of such organization.

"(3) USE IN ADMINISTRATIVE AND JUDICIAL CIVIL PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in administrative and judicial civil proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(4) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (3), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

"(i) the State attorney general, or

"(ii) any other State official charged with overseeing organizations of the type described in section 501(c)(3).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting ", or any appropriate State officer (as defined in section 6104(c))," before "or any other person",

(B) in subparagraph (F)(i), by inserting "or any appropriate State officer (as defined in section 6104(c))," before "or any other person", and

(C) in the matter following subparagraph (F), by inserting ", an appropriate State officer (as defined in section 6104(c))," after "including an agency" each place it appears.

(3) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(4) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(5) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 411. CONFIDENTIALITY OF TAXPAYER COMMUNICATIONS WITH THE OFFICE OF THE TAXPAYER ADVOCATE.

(a) IN GENERAL.—Subsection (c) of section 7803 is amended by adding at the end the following new paragraph:

"(5) CONFIDENTIALITY OF TAXPAYER INFORMATION.—

"(A) IN GENERAL.—To the extent authorized by the National Taxpayer Advocate or pursuant to guidance issued under subparagraph (B), any officer or employee of the Office of the Taxpayer Advocate may withhold from the Internal Revenue Service and the Department of Justice any information provided by, or regarding contact with, any taxpayer.

"(B) ISSUANCE OF GUIDANCE.—In consultation with the Chief Counsel for the Internal Revenue Service and subject to the approval of the Commissioner of Internal Revenue, the National Taxpayer Advocate may issue guidance regarding the circumstances (including with respect to litigation) under which, and the persons to whom, employees of the Office of the Taxpayer Advocate shall not disclose information obtained from a taxpayer. To the extent to which any provision of the Internal Revenue Manual would require greater disclosure by employees of the Office of the Taxpayer Advocate than the disclosure required under such guidance, such provision shall not apply.

"(C) EMPLOYEE PROTECTION.—Section 7214(a)(8) shall not apply to any failure to report knowledge or information if—

"(i) such failure to report is authorized under subparagraph (A), and

"(ii) such knowledge or information is not of fraud committed by a person against the United States under any revenue law.".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 7803(c)(4) is amended by inserting "and" at the end of clause (ii), by striking "; and" at the end of clause (iii) and inserting a period, and by striking clause (iv).

TITLE V—MISCELLANEOUS

SEC. 501. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.".

SEC. 502. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in subsection (c) (other than paragraph (3)) or (d) of section 501 which is exempt from tax under section 501(a), or".

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after the date of the enactment of this Act.

SEC. 503. EMPLOYEE MISCONDUCT REPORT TO INCLUDE SUMMARY OF COMPLAINTS BY CATEGORY.

(a) IN GENERAL.—Clause (ii) of section 7803(d)(2)(A) is amended by inserting before the semicolon at the end the following: ", including a summary (by category) of the 10 most common complaints made and the number of such common complaints".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reporting periods ending after the date of the enactment of this Act.

SEC. 504. ANNUAL REPORT ON AWARDS OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

Not later than 3 months after the close of each Federal fiscal year after fiscal year 2003, the Treasury Inspector General for Tax Administration shall submit a report to Congress which specifies for such year—

(1) the number of payments made by the United States pursuant to section 7430 of the Internal Revenue Code of 1986 (relating to awarding of costs and certain fees);

(2) the amount of each such payment;

(3) an analysis of any administrative issue giving rise to such payments; and

(4) changes (if any) which will be implemented as a result of such analysis and other changes (if any) recommended by the Treasury Inspector General for Tax Administration as a result of such analysis.

SEC. 505. ANNUAL REPORT ON ABATEMENT OF PENALTIES.

Not later than 6 months after the close of each Federal fiscal year after fiscal year 2003, the Treasury Inspector General for Tax Administration shall submit a report to Congress on abatements of penalties under the Internal Revenue Code of 1986 during such year, including information on the reasons and criteria for such abatements.

SEC. 506. BETTER MEANS OF COMMUNICATING WITH TAXPAYERS.

Not later than 18 months after the date of the enactment of this Act; the Treasury Inspector General for Tax Administration shall submit a report to Congress evaluating whether technological advances, such as e-mail and facsimile transmission, permit the use of alternative means for the Internal Revenue Service to communicate with taxpayers.

SEC. 507. EXPLANATION OF STATUTE OF LIMITATIONS AND CONSEQUENCES OF FAILURE TO FILE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and any instructions booklet accompanying a general income tax return form for taxable years beginning after 2002 (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of—

(1) the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds; and

(2) the consequences under such section 6511 of the failure to file a return of tax.

SEC. 508. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon "(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to meetings held after the date of the enactment of this Act.

SEC. 509. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7528. ENROLLED AGENTS.

"(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

"(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7528. Enrolled agents.".

(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

SEC. 510. FINANCIAL MANAGEMENT SERVICE FEES.

Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

SEC. 511. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by section 509, is further amended by adding at the end the following new section:

"SEC. 7529. INTERNAL REVENUE SERVICE USER FEES.

"(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

"(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

"(2) other similar requests.

"(b) PROGRAM CRITERIA.—

"(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

"(A) shall vary according to categories (or subcategories) established by the Secretary,

"(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

"(C) shall be payable in advance.

"(2) EXEMPTIONS, ETC.—

"(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

"(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

"(i) made after the later of—

"(I) the fifth plan year the pension benefit plan is in existence, or

"(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or "(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

"(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

"(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

"(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

"(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

"(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	Average Fee
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

"(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7529. Internal Revenue Service user fees.".

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

TITLE VI—LOW-INCOME TAXPAYER CLINICS

SEC. 601. LOW-INCOME TAXPAYER CLINICS.

(a) LIMITATION ON AMOUNT OF GRANTS.—Paragraph (1) of section 7526(c) (relating to special rules and limitations) is amended by striking "$6,000,000 per year" and inserting "$9,000,000 for 2004, $12,000,000 for 2005, and $15,000,000 for each year thereafter".

(b) PROMOTION OF CLINICS.—Section 7526(c) is amended by adding at the end the following new paragraph:

"(6) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

(c) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—Section 7526(c), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

"(7) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the general overhead expenses of any institution sponsoring a qualified low-income taxpayer clinic.".

(d) ELIGIBLE CLINICS.—

(1) IN GENERAL.—Paragraph (2) of section 7526(b) is amended to read as follows:

"(2) ELIGIBLE CLINIC.—The term 'eligible clinic' means—

"(A) any clinical program at an accredited law, business, or accounting school in which students represent low-income taxpayers in controversies arising under this title; and

"(B) any organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 7526(b)(1) is amended by striking "means a clinic" and inserting "means an eligible clinic".

TITLE VII—FEDERAL-STATE UNEMPLOYMENT ASSISTANCE AGREEMENTS

SEC. 701. APPLICABILITY OF CERTAIN FEDERAL-STATE AGREEMENTS RELATING TO UNEMPLOYMENT ASSISTANCE.

Effective as of May 25, 2003, section 208 of Public Law 107 09147 is amended—

(1) in subsection (a)(2), by inserting "on or" after "ending"; and

(2) in subsection (b), by striking "May 31" each place it appears and inserting "June 1".

The SPEAKER pro tempore. Pursuant to House Resolution 282, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part A of House Report 108-158, is adopted.

The text of H.R. 1528, as amended, as modified, is as follows:

H.R. 1528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Protection and IRS Accountability Act of 2003".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

TITLE I—PENALTY AND INTEREST REFORMS

Sec. 101. Failure to pay estimated tax penalty converted to interest charge on accumulated unpaid balance.
Sec. 102. Exclusion from gross income for interest on overpayments of income tax by individuals.
Sec. 103. Abatement of interest.
Sec. 104. Deposits made to suspend running of interest on potential underpayments.
Sec. 105. Expansion of interest netting for individuals.
Sec. 106. Waiver of certain penalties for first-time unintentional minor errors.
Sec. 107. Frivolous tax submissions.
Sec. 108. Clarification of application of Federal tax deposit penalty.

TITLE II—FAIRNESS OF COLLECTION PROCEDURES

Sec. 201. Partial payment of tax liability in installment agreements.
Sec. 202. Extension of time for return of property.
Sec. 203. Individuals held harmless on wrongful levy, etc., on individual retirement plan.
Sec. 204. Seven-day threshold on tolling of statute of limitations during tax review.
Sec. 205. Study of liens and levies.

TITLE III—TAX ADMINISTRATION REFORMS

Sec. 301. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.
Sec. 302. Confirmation of authority of tax court to apply doctrine of equitable recoupment.
Sec. 303. Jurisdiction of tax court over collection due process cases.
Sec. 304. Office of Chief Counsel review of offers in compromise.
Sec. 305. 15-day delay in due date for electronically filed individual income tax returns.
Sec. 306. Access of National Taxpayer Advocate to independent legal counsel.
Sec. 307. Payment of motor fuel excise tax refunds by direct deposit.
Sec. 308. Family business tax simplification.
Sec. 309. Health insurance costs of eligible individuals.
Sec. 310. Suspension of tax-exempt status of terrorist organizations.
Sec. 311. Extension of joint review of strategic plans and budget for the Interal Revenue Service.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

Sec. 401. Collection activities with respect to joint return disclosable to either spouse based on oral request.
Sec. 402. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
Sec. 403. Disclosure in judicial or administrative tax proceedings of return and return information of persons who are not party to such proceedings.
Sec. 404. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.
Sec. 405. Compliance by contractors with confidentiality safeguards.
Sec. 406. Higher standards for requests for and consents to disclosure.
Sec. 407. Notice to taxpayer concerning administrative determination of browsing; annual report.
Sec. 408. Expanded disclosure in emergency circumstances.
Sec. 409. Disclosure of taxpayer identity for tax refund purposes.
Sec. 410. Disclosure to State officials of proposed actions related to section 501(c)(3) organizations.
Sec. 411. Confidentiality of taxpayer communications with the Office of the Taxpayer Advocate.

TITLE V—MISCELLANEOUS

Sec. 501. Clarification of definition of church tax inquiry.
Sec. 502. Expansion of declaratory judgment remedy to tax-exempt organizations.
Sec. 503. Employee misconduct report to include summary of complaints by category.
Sec. 504. Annual report on awards of costs and certain fees in administrative and court proceedings.

Sec. 505. Annual report on abatement of penalties.
Sec. 506. Better means of communicating with taxpayers.
Sec. 507. Explanation of statute of limitations and consequences of failure to file.
Sec. 508. Amendment to treasury auction reforms.
Sec. 509. Enrolled agents.
Sec. 510. Financial management service fees.
Sec. 511. Extension of Internal Revenue Service user fees.

TITLE VI—LOW-INCOME TAXPAYER CLINICS

Sec. 601. Low-income taxpayer clinics.

TITLE VII—FEDERAL-STATE UNEMPLOYMENT ASSISTANCE AGREEMENTS.

Sec. 701. Applicability of certain Federal-State agreements relating to unemployment assistance.

TITLE I—PENALTY AND INTEREST REFORMS

SEC. 101. FAILURE TO PAY ESTIMATED TAX PENALTY CONVERTED TO INTEREST CHARGE ON ACCUMULATED UNPAID BALANCE.

(a) Penalty Moved to Interest Chapter of Code.—The Internal Revenue Code of 1986 is amended by redesignating section 6654 as section 6641 and by moving section 6641 (as so redesignated) from part I of subchapter A of chapter 68 to the end of subchapter E of chapter 67 (as added by subsection (e)(1) of this section).

(b) Penalty Converted to Interest Charge.—The heading and subsections (a) and (b) of section 6641 (as so redesignated) are amended to read as follows:

"SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

"(a) In General.—Interest shall be paid on any underpayment of estimated tax by an individual for a taxable year for each day of such underpayment. The amount of such interest for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

"(b) Amount of Underpayment; Interest Rate.—For purposes of subsection (a)—

"(1) Amount.—The amount of the underpayment on any day shall be the excess of—

"(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

"(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

"(2) Determination of interest rate.—

"(A) In general.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

"(B) Installment underpayment period.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

"(C) Daily rate.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

"(3) Termination of estimated tax interest.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.".

(c) Increase in Safe Harbor Where Tax is Small.—

(1) In general.—Clause (i) of section 6641(d)(1)(B) (as so redesignated) is amended to read as follows:

"(i) the lesser of—

"(I) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

"(II) the tax shown on the return for the taxable year (or, if no return is filed, the tax for such year) reduced (but not below zero) by $1,600, or".

(2) Conforming amendment.—Subsection (e) of section 6641 (as so redesignated) is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(d) Conforming Amendments.—

(1) Paragraphs (1) and (2) of subsection (e) (as redesignated by subsection (c)(2)) and subsection (h) of section 6641 (as so designated) are each amended by striking "addition to tax" each place it occurs and inserting "interest".

(2) Section 167(g)(5)(D) is amended by striking "6654" and inserting "6641".

(3) Section 460(b)(1) is amended by striking "6654" and inserting "6641".

(4) Section 3510(b) is amended—

(A) by striking "section 6654" in paragraph (1) and inserting "section 6641";

(B) by amending paragraph (2)(B) to read as follows:

"(B) no interest would be required to be paid (but for this section) under 6641 for such taxable year by reason of the $1,600 amount specified in section 6641(d)(1)(B)(i)(II).";

(C) by striking "section 6654(d)(2)" in paragraph (3) and inserting "section 6641(d)(2)"; and

(D) by striking paragraph (4).

(5) Section 6201(b)(1) is amended by striking "6654" and inserting "6641".

(6) Section 6601(h) is amended by striking "6654" and inserting "6641".

(7) Section 6621(b)(2)(B) is amended by striking "addition to tax under section 6654" and inserting "interest required to be paid under section 6641".

(8) Section 6622(b) is amended—

(A) by striking "Penalty for" in the heading; and

(B) by striking "addition to tax under section 6654 or 6655" and inserting "interest required to be paid under section 6641 or addition to tax under section 6655".

(9) Section 6658(a) is amended—

(A) by striking "6654, or 6655" and inserting "or 6655, and no interest shall be required to be paid under section 6641,"; and

(B) by inserting "or paying interest" after "the tax" in paragraph (2)(B)(ii).

(10) Section 6665(b) is amended—

(A) in the matter preceding paragraph (1) by striking ", 6654,"; and

(B) in paragraph (2) by striking "6654 or".

(11) Section 7203 is amended by striking "section 6654 or 6655" and inserting "section 6655 or interest required to be paid under section 6641".

(e) Clerical Amendments.—

(1) Chapter 67 is amended by inserting after subchapter D the following:

"Subchapter E—Interest on Failure by Individual To Pay Estimated Income Tax

"Sec. 6641. Interest on failure by individual to pay estimated income tax.".

(2) The table of subchapters for chapter 67 is amended by adding at the end the following new items:

"Subchapter D. Notice requirements.
"Subchapter E. Interest on failure by individual to pay estimated income tax.".

(3) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6654.

(f) Effective Date.—The amendments made by this section shall apply to installment payments for taxable years beginning after December 31, 2003.

SEC. 102. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

(a) In General.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 139 the following new section:

"SEC. 139A. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

"(a) In General.—In the case of an individual, gross income shall not include interest paid under section 6611 on any overpayment of tax imposed by this subtitle.

"(b) Exception.—Subsection (a) shall not apply in the case of a failure to claim items resulting in the overpayment on the original return if the Secretary determines that the principal purpose of such failure is to take advantage of subsection (a).

"(c) Special Rule for Determining Modified Adjusted Gross Income.—For purposes of this title, interest not included in gross income under subsection (a) shall not be treated as interest which is exempt from tax for purposes of sections 32(i)(2)(B) and 6012(d) or any computation in which interest exempt from tax under this title is added to adjusted gross income.".

(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

"Sec. 139A. Exclusion from gross income for interest on overpayments of income tax by individuals.".

(c) Effective Date.—The amendments made by this section shall apply to interest received in calendar years beginning after the date of the enactment of this Act.

SEC. 103. ABATEMENT OF INTEREST.

(a) Abatement of Interest With Respect to Erroneous Refund Check Without Regard to Size of Refund.—Paragraph (2) of section 6404(e) is amended by striking "unless—" and all that follows and inserting "unless the taxpayer (or a related party) has in any way caused such erroneous refund.".

(b) Abatement of Interest to Extent Interest Is Attributable to Taxpayer Reliance on Written Statements of the IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking "Penalty or Addition" and inserting "Interest, Penalty, or Addition"; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".

(c) Effective Date.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 104. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) In General.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) Authority To Make Deposits Other Than As Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) Payment of Interest.—

"(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) Disputable tax.—

"(A) In general.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) Safe harbor based on 30-day letter.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) Other definitions.—For purposes of paragraph (2)—

"(A) Disputable item.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-day letter.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) Rate of interest.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) Use of Deposits.—

"(1) Payment of tax.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) Returns of deposits.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) Coordination with deposits made under revenue procedure 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 105. EXPANSION OF INTEREST NETTING FOR INDIVIDUALS.

(a) In General.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply in the case of an individual.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to interest accrued after December 31, 2003.

SEC. 106. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME UNINTENTIONAL MINOR ERRORS.

(a) In General.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(i) Treatment of First-Time Unintentional Minor Errors.—

"(1) In general.—In the case of a return of tax imposed by subtitle A filed by an individual, the Secretary may waive an addition to tax under subsection (a) if—

"(A) the individual has a history of compliance with the requirements of this title,

"(B) it is shown that the failure is due to an unintentional minor error,

"(C) the penalty would be grossly disproportionate to the action or expense that would have been needed to avoid the error, and imposing the penalty would be against equity and good conscience,

"(D) waiving the penalty would promote compliance with the requirements of this title and effective tax administration, and

"(E) the taxpayer took all reasonable steps to remedy the error promptly after discovering it.

"(2) Exceptions.—Paragraph (1) shall not apply if—

"(A) the Secretary has waived any addition to tax under this subsection with respect to any prior failure by such individual,

"(B) the failure is a mathematical or clerical error (as defined in section 6213(g)(2)), or

"(C) the failure is the lack of a required signature.".

(b) Effective Date.—The amendment made by this section shall take effect on January 1, 2004.

SEC. 107. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission is based on a position which the Secretary has identified as frivolous under subsection (c).

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 7811 (relating to taxpayer assistance orders),

"(II) section 6159 (relating to agreements for payment of tax liability in installments), or

"(III) section 7122 (relating to compromises).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(c) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 108. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

TITLE II—FAIRNESS OF COLLECTION PROCEDURES

SEC. 201. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) In General.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) Requirement To Review Partial Payment Agreements Every Two Years.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

"(d) Secretary Required To Review Installment Agreements for Partial Collection Every Two Years.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 202. EXTENSION OF TIME FOR RETURN OF PROPERTY.

(a) Extension of Time for Return of Property Subject to Levy.—Subsection (b) of section 6343 (relating to return of property) is amended by striking ''9 months'' and inserting ''2 years''.

(b) Period of Limitation on Suits.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking ''9 months'' and inserting ''2 years'', and

(2) in paragraph (2) by striking ''9-month'' and inserting ''2-year''.

(c) Effective Date.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 203. INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC., ON INDIVIDUAL RETIREMENT PLAN.

(a) In General.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

''(f) Individuals Held Harmless on Wrongful Levy, Etc. on Individual Retirement Plan.—

''(1) In general.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies, an amount equal to the sum of—

''(A) the amount of money returned by the Secretary on account of such levy, and

''(B) interest paid under subsection (c) on such amount of money,

may be deposited into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

''(2) Treatment as rollover.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

''(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

''(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

''(C) such deposit shall not be.taken into account under section 408(d)(3)(B).

''(3) Refund, etc., of income tax on levy.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

''(4) Interest.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.''.

(b) Effective Date.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2003.

SEC. 204. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING TAX REVIEW.

(a) In General.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after ''application,'' the following: ''but only if the date of such decision is at least 7 days after the date of the taxpayer's application,''.

(b) Effective Date.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 205. STUDY OF LIENS AND LEVIES.

The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the practices of the Internal Revenue Service concerning liens and levies. The study shall examine—

(1) the declining use of liens and levies by the Internal Revenue Service, and

(2) the practicality of recording liens and levying against property in cases in which the cost of such actions exceeds the amount to be realized from such property.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TAX ADMINISTRATION REFORMS

SEC. 301. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

(a) In General.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

''SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.

''(a) Disciplinary Actions.—

''(1) In general.—Subject to subsection (c), the Commissioner shall take an action in accordance with the guidelines established under paragraph (2) against any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties or where a nexus to the employee's position exists.

''(2) Guidelines.—The Commissioner shall issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for committing any act or omission described under subsection (b).

''(b) Acts or Omissions.—The acts or omissions described under this subsection are—

''(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

''(2) willfully providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

''(3) with respect to a taxpayer or taxpayer representative, the willful violation of—

''(A) any right under the Constitution of the United States;

''(B) any civil right established under—

''(i) title VI or VII of the Civil Rights Act of 1964;

''(ii) title IX of the Education Amendments of 1972;

''(iii) the Age Discrimination in Employment Act of 1967;

''(iv) the Age Discrimination Act of 1975;

''(v) section 501 or 504 of the Rehabilitation Act of 1973; or

''(vi) title I of the Americans with Disabilities Act of 1990; or

''(C) the Internal Revenue Service policy on unauthorized inspection of returns or return information;

''(4) willfully falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

''(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery;

''(6) willful violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative;

''(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry;

''(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect;

''(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect; and

''(10) threatening to audit a taxpayer, or to take other action under this title, for the purpose of extracting personal gain or benefit.

''(c) Determinations of Commissioner.—

''(1) In general.—The Commissioner may take a personnel action other than a disciplinary action provided for in the guidelines under subsection (a)(2) for an act or omission described under subsection (b).

''(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his sole discretion, may establish a procedure to determine if an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

''(3) No appeal.—Notwithstanding any other provision of law, any determination of the Commissioner under this subsection may not be reviewed in any administrative or judicial proceeding. A finding that an act or omission described under subsection (b) occurred may be reviewed.

''(d) Definition.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

''(e) Annual Report.—The Commissioner shall submit to Congress annually a report on disciplinary actions under this section.''.

(b) Clerical Amendment.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

''Sec. 7804A. Disciplinary actions for misconduct.''.

(c) Repeal of Superseded Section.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 302. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Subsection (b) of section 6214 (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 303. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Section 6330(d)(1) (relating to judicial review of determination) is amended to read as follows:

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to judicial appeals filed after the date of the enactment of this Act.

SEC. 304. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 305. 15-DAY DELAY IN DUE DATE FOR ELECTRONICALLY FILED INDIVIDUAL INCOME TAX RETURNS.

(a) IN GENERAL.—Section 6072 (relating to time for filing income tax returns) is amended by adding at the end the following new subsection:

"(f) ELECTRONICALLY FILED RETURNS OF INDIVIDUALS.—

"(1) IN GENERAL.—Returns of an individual under section 6012 or 6013 (other than an individual to whom subsection (c) applies) which are filed electronically—

"(A) in the case of returns filed on the basis of a calendar year, shall be filed on or before the 30th day of April following the close of the calendar year, and

"(B) in the case of returns filed on the basis of a fiscal year, shall be filed on or before the last day of the 4th month following the close of the fiscal year.

"(2) ELECTRONIC FILING.—Paragraph (1) shall not apply to any return unless—

"(A) such return is accepted by the Secretary, and

"(B) the balance due (if any) shown on such return is paid electronically in a manner prescribed by the Secretary.

"(3) SPECIAL RULES.—

"(A) ESTIMATED TAX.—If—

"(i) paragraph (1) applies to an individual for any taxable year, and

"(ii) there is an overpayment of tax shown on the return for such year which the individual allows against the individual's obligation under section 6641,

then, with respect to the amount so allowed, any reference in section 6641 to the April 15 following such taxable year shall be treated as a reference to April 30.

"(B) REFERENCES TO DUE DATE.—Paragraph (1) shall apply solely for purposes of determining the due date for the individual's obligation to file and pay tax and, except as otherwise provided by the Secretary, shall be treated as an extension of the due date for any other purpose under this title.

"(4) TERMINATION.—This subsection shall not apply to any return filed with respect to a taxable year which begins after December 31, 2005.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed with respect to taxable years beginning after December 31, 2002.

SEC. 306. ACCESS OF NATIONAL TAXPAYER ADVOCATE TO INDEPENDENT LEGAL COUNSEL.

Clause (i) of section 7803(c)(2)(D) (relating to personnel actions) is amended by striking "and" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", and", and by adding at the end the following new subclause:

"(III) appoint a counsel in the Office of the Taxpayer Advocate to report solely to the National Taxpayer Advocate.".

SEC. 307. PAYMENT OF MOTOR FUEL EXCISE TAX REFUNDS BY DIRECT DEPOSIT.

(a) IN GENERAL.—Subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end the following new section:

"§3337. Payment of motor fuel excise tax refunds by direct deposit

"The Secretary of the Treasury shall make payments under sections 6420, 6421, and 6427 of the Internal Revenue Code of 1986 by electronic funds transfer (as defined in section 3332(j)(1)) if the person who is entitled to the payment—

"(1) elects to receive the payment by electronic funds transfer; and

"(2) satisfies the requirements of section 3332(g) with respect to such payment at such time and in such manner as the Secretary may require.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end the following new item:

"3337. Payment of motor fuel excise tax refunds by direct deposit.".

SEC. 308. FAMILY BUSINESS TAX SIMPLIFICATION.

(a) IN GENERAL.—Section 761 (defining terms for purposes of partnerships) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED JOINT VENTURE.—

"(1) IN GENERAL.—In the case of a qualified joint venture conducted by a husband and wife who file a joint return for the taxable year, for purposes of this title—

"(A) such joint venture shall not be treated as a partnership,

"(B) all items of income, gain, loss, deduction, and credit shall be divided between the spouses in accordance with their respective interests in the venture, and

"(C) each spouse shall take into account such spouse's respective share of such items as if they were attributable to a trade or business conducted by such spouse as a sole proprietor.

"(2) QUALIFIED JOINT VENTURE.—For purposes of paragraph (1), the term 'qualified joint venture' means any joint venture involving the conduct of a trade or business if—

"(A) the only members of such joint venture are a husband and wife,

"(B) both spouses materially participate (within the meaning of section 469(h) without regard to paragraph (5) thereof) in such trade or business, and

"(C) both spouses elect the application of this subsection.".

(b) NET EARNINGS FROM SELF-EMPLOYMENT.—

(1) Subsection (a) of section 1402 (defining net earnings from self-employment) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by inserting after paragraph (15) the following new paragraph:

"(16) notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) in determining net earnings from self-employment of such spouse.".

(2) Subsection (a) of section 211 of the Social Security Act (defining net earnings from self-employment) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by inserting after paragraph (15) the following new paragraph:

"(16) Notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) of the Internal Revenue Code of 1986 in determining net earnings from self-employment of such spouse.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 309. HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

(a) CONSUMER OPTIONS.—

(1) IN GENERAL.—Paragraph (2) of section 35(e) is amended by adding at the end the following new subparagraphs:

"(C) WAIVER BY ELIGIBLE INDIVIDUALS.—With respect to any month, clauses (i) and (ii) of subparagraph (A) shall not apply with respect to any eligible individual and such individual's qualifying family members if such individual—

"(i) does not reside in a State which the Secretary has identified by regulation, guidance, or otherwise as a State in which any coverage which—

"(I) is described in any of subparagraphs (C) through (H) of paragraph (1), and

"(II) meets the requirements of subparagraphs (A) and (B) of this paragraph,

is available to eligible individuals (and their qualifying family members) residing in the State, and

"(ii) elects to waive the application of clauses (i) and (ii) of subparagraph (A) of this paragraph.

"(D) ELECTION.—Any election made under subparagraph (C)(ii) shall be effective for the month for which such election is made and for all subsequent months.

"(E) TERMINATION.—Subparagraphs (C) and (D) shall not apply to any month beginning after December 31, 2004.".

(2) NO IMPACT ON STATE CONSUMER PROTECTIONS.—Nothing in the amendment made by paragraph (1) supercedes or otherwise affects the application of State law relating to consumer insurance protections (including State law implementing the requirements of part B of title XXVII of the Public Health Service Act).

(b) STATE-BASED CONTINUATION COVERAGE NOT SUBJECT TO REQUIREMENTS.—Subparagraphs (A) and (B)(i) of section 35(e)(2) are each amended by striking "subparagraphs (B) through (H)" and inserting "subparagraphs (C) through (H)".

(c) EFFECTIVE DATE.—

(1) CONSUMER OPTIONS.—The amendment made by subsection (a) shall apply to months

beginning after the date of the enactment of this Act.

(2) STATE-BASED CONTINUATION COVERAGE.—The amendments made by subsection (b) shall take effect as if included in section 201(a) of the Trade Act of 2002.

SEC. 310. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

"(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

"(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

"(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

"(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

"(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

"(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

"(ii) such Executive order refers to this subsection.

"(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

"(A) begins on the later of—

"(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

"(ii) the date of the enactment of this subsection, and

"(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

"(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

"(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

"(6) ERRONEOUS DESIGNATION.—

"(A) IN GENERAL.—If—

"(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

"(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

"(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

"(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

"(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 311. EXTENSION OF JOINT REVIEW OF STRATEGIC PLANS AND BUDGET FOR THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Paragraph (2) of section 8021(f) (relating to joint reviews) is amended by striking "2004" and inserting "2009".

(b) REPORT.—Subparagraph (C) of section 8022(3) (regarding reports) is amended—

(1) by striking "2004" and inserting "2009", and

(2) by striking "with respect to—" and all that follows and inserting "with respect to the matters addressed in the joint review referred to in section 8021(f)(2).".

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

SEC. 401. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking "in writing" the first place it appears.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 402. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

(1) by striking "Returns" and inserting the following:

"(A) IN GENERAL.—Returns", and

(2) by adding at the end the following new subparagraph:

"(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return of such representative on a basis other than by reason of such relationship.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date which is 180 days after the date of the enactment of this Act.

SEC. 403. DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS WHO ARE NOT PARTY TO SUCH PROCEEDINGS.

(a) IN GENERAL.—Paragraph (4) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new subparagraph:

"(B) DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS NOT PARTY TO SUCH PROCEEDINGS.—

"(i) NOTICE.—Return or return information of any person who is not a party to a judicial or administrative proceeding described in this paragraph shall not be disclosed under clause (ii) or (iii) of subparagraph (A) until after the Secretary makes a reasonable effort to give notice to such person and an opportunity for such person to request the deletion of matter from such return or return information, including any of the items referred to in paragraphs (1) through (7) of section 6110(c). Such notice shall include a statement of the issue or issues the resolution of which is the reason such return or return information is sought. In the case of S corporations, partnerships, estates, and trusts, such notice shall be made at the entity level.

"(ii) DISCLOSURE LIMITED TO PERTINENT PORTION.—The only portion of a return or return information described in clause (i) which may be disclosed under subparagraph (A) is that portion of such return or return information that directly relates to the resolution of an issue in such proceeding.

"(iii) EXCEPTIONS.—Clause (i) shall not apply—

"(I) to any civil action under section 7407, 7408, or 7409,

"(II) to any ex parte proceeding for obtaining a search warrant, order for entry on premises or safe deposit boxes, or similar ex parte proceeding,

"(III) to disclosure of third party return information by indictment or criminal information, or

"(IV) if the Attorney General or the Attorney General's delegate determines that the application of such clause would seriously impair a criminal tax investigation or proceeding.".

(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 6103(h) is amended by—

(1) by striking "PROCEEDINGS.—A return" and inserting "PROCEEDINGS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a return";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively, and by moving such clauses 2 ems to the right; and

(3) in the matter following clause (iv) (as so redesignated), by striking "subparagraph (A), (B), or (C)" and inserting "clause (i), (ii), or (iii)" and by moving such matter 2 ems to the right.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting "(other than the taxpayer's address and TIN)" after "Return information".

(b) Effective Date.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 405. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) In General.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

"(9) Disclosure to contractors and other agents.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

"(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

"(B) agrees to conduct an annual, on-site review (mid-point review in the case of contracts of less than 1 year in duration) of each such contractor or other agent to determine compliance with such requirements,

"(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

"(D) certifies to the Secretary for the most recent annual period that each such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract of the contractor or other agent with the agency, and the duration of such contract.".

(b) Conforming Amendment.—Subparagraph (B) of section 6103(p)(8) is amended by inserting "or paragraph (9)" after "subparagraph (A)".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to disclosures made after December 31, 2003.

(2) Certifications.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2004.

SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) In General.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by adding at the end the following new paragraphs:

"(2) Requirements for valid requests and consents.—A request for or consent to disclosure under paragraph (1) shall only be valid for purposes of this section, sections 7213, 7213A, and 7431 if—

"(A) at the time of execution, such request or consent designates a recipient of such disclosure and is dated, and

"(B) at the time such request or consent is submitted to the Secretary, the submitter of such request or consent certifies, under penalty of perjury, that such request or consent complied with subparagraph (A).

"(3) Restrictions on persons obtaining information.—Any person shall, as a condition for receiving return or return information under paragraph (1)—

"(A) ensure that such return and return information is kept confidential,

"(B) use such return and return information only for the purpose for which it was requested, and

"(C) not disclose such return and return information except to accomplish the purpose for which it was requested, unless a separate consent from the taxpayer is obtained.

"(4) Requirements for form prescribed by Secretary.—For purposes of this subsection, the Secretary shall prescribe a form for requests and consents which shall—

"(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

"(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

"(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.".

(b) Report.—Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Treasury Inspector General for Tax Administration considers necessary or appropriate to better achieve the purposes of this section.

(c) Conforming Amendments.—

(1) Section 6103(c) is amended by striking "Taxpayer.—The Secretary" and inserting "Taxpayer.—

"(1) In general.—The Secretary".

(2) Section 7213(a)(1) is amended by striking "section 6103(n)" and inserting "subsections (c) and (n) of section 6103".

(3) Section 7213A(a)(1)(B) is amended by striking "subsection (l)(18) or (n) of section 6103" and inserting "subsection (c), (l)(18), or (n) of section 6103".

(d) Effective Date.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

SEC. 407. NOTICE TO TAXPAYER CONCERNING ADMINISTRATIVE DETERMINATION OF BROWSING; ANNUAL REPORT.

(a) Notice to Taxpayer.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: "The Secretary shall also notify such taxpayer if the Treasury Inspector General for Tax Administration substantiates that such taxpayer's return or return information was inspected or disclosed in violation of any of the provisions specified in paragraph (1), (2), or (3).".

(b) Reports.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by section 405, is further amended by adding at the end the following new paragraph:

"(10) Report on unauthorized disclosure and inspection.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

"(A) administrative investigations,

"(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

"(C) criminal prosecutions.".

(c) Effective Date.—

(1) Notice.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

(2) Reports.—The amendment made by subsection (b) shall apply to calendar years ending after the date of the enactment of this Act.

SEC. 408. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) In General.—Section 6103(i)(3)(B) (relating to danger of death or physical injury) is amended by striking "or State" and inserting ", State, or local".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) In General.—Paragraph (1) of section 6103(m) (relating to disclosure of taxpayer identity information) is amended by striking "and other media" and by inserting ", other media, and through any other means of mass communication,".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c)(3) ORGANIZATIONS.

(a) In General.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) Disclosure of proposed actions.—

"(A) Specific notifications.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names, addresses, and taxpayer identification numbers of organizations that have applied for recognition as organizations described in section 501(c)(3).

"(B) Additional disclosures.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) Procedures for disclosure.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

"(D) Disclosures other than by request.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of State or Federal issues relating to the tax-exempt status of such organization.

"(3) Use in administrative and judicial civil proceedings.—Returns and return information disclosed pursuant to this subsection may be disclosed in administrative and judicial civil proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(4) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (3), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

"(i) the State attorney general, or

"(ii) any other State official charged with overseeing organizations of the type described in section 501(c)(3).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting ", or any appropriate State officer (as defined in section 6104(c))," before "or any other person",

(B) in subparagraph (F)(i), by inserting "or any appropriate State officer (as defined in section 6104(c))," before "or any other person", and

(C) in the matter following subparagraph (F), by inserting ", an appropriate State officer (as defined in section 6104(c))," after "including an agency" each place it appears.

(3) Paragraph (2) of section 7213(a) is amended by striking "6103." and inserting "6103 or under section 6104(c).".

(4) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(5) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 411. CONFIDENTIALITY OF TAXPAYER COMMUNICATIONS WITH THE OFFICE OF THE TAXPAYER ADVOCATE.

(a) IN GENERAL.—Subsection (c) of section 7803 is amended by adding at the end the following new paragraph:

"(5) CONFIDENTIALITY OF TAXPAYER INFORMATION.—

"(A) IN GENERAL.—To the extent authorized by the National Taxpayer Advocate or pursuant to guidance issued under subparagraph (B), any officer or employee of the Office of the Taxpayer Advocate may withhold from the Internal Revenue Service and the Department of Justice any information provided by, or regarding contact with, any taxpayer.

"(B) ISSUANCE OF GUIDANCE.—In consultation with the Chief Counsel for the Internal Revenue Service and subject to the approval of the Commissioner of Internal Revenue, the National Taxpayer Advocate may issue guidance regarding the circumstances (including with respect to litigation) under which, and the persons to whom, employees of the Office of the Taxpayer Advocate shall not disclose information obtained from a taxpayer. To the extent to which any provision of the Internal Revenue Manual would require greater disclosure by employees of the Office of the Taxpayer Advocate than the disclosure required under such guidance, such provision shall not apply.

"(C) EMPLOYEE PROTECTION.—Section 7214(a)(8) shall not apply to any failure to report knowledge or information if—

"(i) such failure to report is authorized under subparagraph (A), and

"(ii) such knowledge or information is not of fraud committed by a person against the United States under any revenue law.".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 7803(c)(4) is amended by inserting "and" at the end of clause (ii), by striking "; and" at the end of clause (iii) and inserting a period, and by striking clause (iv).

TITLE V—MISCELLANEOUS

SEC. 501. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.".

SEC. 502. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in subsection (c) (other than paragraph (3)) or (d) of section 501 which is exempt from tax under section 501(a), or".

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after the date of the enactment of this Act.

SEC. 503. EMPLOYEE MISCONDUCT REPORT TO INCLUDE SUMMARY OF COMPLAINTS BY CATEGORY.

(a) IN GENERAL.—Clause (ii) of section 7803(d)(2)(A) is amended by inserting before the semicolon at the end the following: ", including a summary (by category) of the 10 most common complaints made and the number of such common complaints".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reporting periods ending after the date of the enactment of this Act.

SEC. 504. ANNUAL REPORT ON AWARDS OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

Not later than 3 months after the close of each Federal fiscal year after fiscal year 2003, the Treasury Inspector General for Tax Administration shall submit a report to Congress which specifies for such year—

(1) the number of payments made by the United States pursuant to section 7430 of the Internal Revenue Code of 1986 (relating to awarding of costs and certain fees);

(2) the amount of each such payment;

(3) an analysis of any administrative issue giving rise to such payments; and

(4) changes (if any) which will be implemented as a result of such analysis and other changes (if any) recommended by the Treasury Inspector General for Tax Administration as a result of such analysis.

SEC. 505. ANNUAL REPORT ON ABATEMENT OF PENALTIES.

Not later than 6 months after the close of each Federal fiscal year after fiscal year 2003, the Treasury Inspector General for Tax Administration shall submit a report to Congress on abatements of penalties under the Internal Revenue Code of 1986 during such year, including information on the reasons and criteria for such abatements.

SEC. 506. BETTER MEANS OF COMMUNICATING WITH TAXPAYERS.

Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to Congress evaluating whether technological advances, such as e-mail and facsimile transmission, permit the use of alternative means for the Internal Revenue Service to communicate with taxpayers.

SEC. 507. EXPLANATION OF STATUTE OF LIMITATIONS AND CONSEQUENCES OF FAILURE TO FILE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and any instructions booklet accompanying a general income tax return form for taxable years beginning after 2002 (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of—

(1) the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds; and

(2) the consequences under such section 6511 of the failure to file a return of tax.

SEC. 508. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon "(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to meetings held after the date of the enactment of this Act.

SEC. 509. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7528. ENROLLED AGENTS.

"(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

"(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7528. Enrolled agents.".

(c) Prior Regulations.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

SEC. 510. FINANCIAL MANAGEMENT SERVICE FEES.

Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

SEC. 511. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) In General.—Chapter 77 (relating to miscellaneous provisions), as amended by section 509, is further amended by adding at the end the following new section:

"SEC. 7529. INTERNAL REVENUE SERVICE USER FEES.

"(a) General Rule.—The Secretary shall establish a program requiring the payment of user fees for—

"(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

"(2) other similar requests.

"(b) Program Criteria.—

"(1) In general.—The fees charged under the program required by subsection (a)—

"(A) shall vary according to categories (or subcategories) established by the Secretary,

"(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

"(C) shall be payable in advance.

"(2) Exemptions, etc.—

"(A) In general.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

"(B) Exemption for certain requests regarding pension plans.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

"(i) made after the later of—

"(I) the fifth plan year the pension benefit plan is in existence, or

"(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

"(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

"(C) Definitions and special rules.—For purposes of subparagraph (B)—

"(i) Pension benefit plan.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

"(ii) Eligible employer.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

"(iii) Determination of average fees charged.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

"(3) Average fee requirement.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	***Average Fee***
Employee plan ruling and opinion	*$250*
Exempt organization ruling	*$350*
Employee plan determination	*$300*
Exempt organization determination	*$275*
Chief counsel ruling	*$200.*

"(c) Termination.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.".

(b) Conforming Amendments.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7529. Internal Revenue Service user fees.".

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) Limitations.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) Effective Date.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

TITLE VI—LOW-INCOME TAXPAYER CLINICS

SEC. 601. LOW-INCOME TAXPAYER CLINICS.

(a) Limitation on Amount of Grants.—Paragraph (1) of section 7526(c) (relating to special rules and limitations) is amended by striking "$6,000,000 per year" and inserting "$9,000,000 for 2004, $12,000,000 for 2005, and $15,000,000 for each year thereafter".

(b) Promotion of Clinics.—Section 7526(c) is amended by adding at the end the following new paragraph:

"(6) Promotion of clinics.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

(c) Use of Grants for Overhead Expenses Prohibited.—Section 7526(c), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

"(7) Use of grants for overhead expenses prohibited.—No grant made under this section may be used for the general overhead expenses of any institution sponsoring a qualified low-income taxpayer clinic.".

(d) Eligible Clinics.—

(1) In general.—Paragraph (2) of section 7526(b) is amended to read as follows:

"(2) Eligible clinic.—The term 'eligible clinic' means—

"(A) any clinical program at an accredited law, business, or accounting school in which students represent low-income taxpayers in controversies arising under this title; and

"(B) any organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.".

(2) Conforming Amendment.—Subparagraph (A) of section 7526(b)(1) is amended by striking "means a clinic" and inserting "means an eligible clinic".

TITLE VII—FEDERAL-STATE UNEMPLOYMENT ASSISTANCE AGREEMENTS

SEC. 701. APPLICABILITY OF CERTAIN FEDERAL-STATE AGREEMENTS RELATING TO UNEMPLOYMENT ASSISTANCE.

Effective as of May 25, 2003, section 208 of Public Law 107–147 is amended—

(1) in subsection (a)(2), by inserting "on or" after "ending"; and

(2) in subsection (b), by striking "May 31" each place it appears and inserting "June 1".

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the further amendment printed in part B of the report, if offered by the gentleman from New York (Mr. RANGEL) or his designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Louisiana (Mr. MCCRERY) and the gentleman from North Dakota (Mr. POMEROY) each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Taxpayer Protection and IRS Accountability Act. The title of this bill is a good summary for the fundamental principles contained in it. We are increasing protections for taxpayers from unfair actions by the IRS while at the same time we are making reforms in the IRS that will make the administration of our tax laws more accountable.

Let me mention just a few of the ways we increase protections for taxpayers. The bill increases the confidentiality of taxpayer communications when they seek the assistance of the Taxpayer Advocate. The bill restricts the IRS from auditing the tax returns of taxpayer representatives simply based on their having prepared the returns of other taxpayers.

And let me mention some of the ways we improve tax administration of the IRS.

The bill allows the IRS to enter into installment agreements; to let a taxpayer pay an unpaid amount over 2 or 3 years without imposing the requirement that they pay the full amount. The IRS already has the authority to settle tax debts for less than the full amount. But when it comes to installment payments, the law requires the agreement to cover 100 percent of the debt. So in some cases, instead of the taxpayer paying $9,000 of a $10,000 debt, let us say, giving the IRS $500 every month, the IRS gets nothing.

The bill improves the so-called ten deadly sins actions for which IRS employees can be fired, by removing some of the employee versus employee cases that have bogged down the system, but adding another standard, that of unauthorized browsing of taxpayer records to the list of offenses.

Let me conclude by stressing that the health care tax credit provisions in this bill are sound, prudent and necessary. They do not overturn or weaken the State plans already in effect in eight States, nor do they have any impact on State consumer protections. The waiver only applies to the preexisting condition and guarantee issues. And the waiver will only be in place until the end of 2004.

We want workers who have suffered a loss of their job and their health insurance to be able to receive the tax credit for health insurance. If we pass this bill, an estimated 12,000 workers will be able to obtain health insurance. Those workers, without this bill, would not be able to get health insurance.

I support the bill, and I urge the House to support this bill.

Mr. Speaker, I would like to say that the gentleman from Maryland (Mr. CARDIN) has been instrumental in putting together the provisions of this bill, along with my colleague on the Committee on Ways and Means, the gentleman from Ohio (Mr. PORTMAN). So I want to thank both of those gentlemen for the good work they have done on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I yield such to time as he may consume to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank the gentleman for yielding me this time, and I want to acknowledge the work that both the gentleman from New York (Mr. HOUGHTON) and the gentleman from North Dakota (Mr. POMEROY) have done to develop a process in which we could look at the Taxpayer Bill of Rights with our staffs in order to make reasonable changes to protect taxpayers and their relationship with the Internal Revenue Service.

The gentleman from Ohio (Mr. PORTMAN) has been one of the leaders in the Congress of the United States on this issue, and I have worked with him on some of these matters, but the gentleman from North Dakota and the gentleman from New York, in their subcommittee of oversight, have really taken on, I think, the right process to review each of these provisions and to bring forward a group of noncontroversial changes in the Taxpayer Bill of Rights that are important to protect our constituents in their dealing with the Internal Revenue Service.

So, Mr. Speaker, I start by saying there is a lot of good provisions. Most of the provisions in the underlying bill are important provisions that we need to act on and that have gone through the vetting process, which I think is appropriate for these types of changes. My concern is the amendment that was added that was not part of the Taxpayer Bill of Rights. I think we will have a chance later in this debate to correct that through an amendment or substitute that will be offered by the gentleman from New York (Mr. RANGEL) that will incorporate all the good provisions of the underlying bill, but eliminate the provision that affects TAA.

Let me talk for moment, if I might, about that one provision that I hope we will find a way to get out of the underlying legislation so that we can move forward with the Taxpayer Bill of Rights. That provision is a very controversial provision and a provision that I think does irreparable harm to a large number of our constituents who currently or may be without health insurance.

We provided in the trade adjustment assistance provision where we could deal with workers who have lost their health benefits and their jobs as a result of foreign trade. That could be a clear example of what has happened to the steel industry in my community, where so many Bethlehem Steel workers lost their health benefits as a result of the financial woes caused by illegally dumped steel here in the United States.

My concern with the TAA amendment that has been incorporated in the Taxpayer Bill of Rights is that it removes an important protection for these workers or retirees in getting health insurance that will cover them. In my own State of Maryland, we have taken advantage of the TAA law and the use of the Federal credit by establishing a State pool for these workers and retirees so they can get health benefits. By removing the protection that is in the law, we will be encouraging States to take away protections on preexisting conditions in underwriting.

Mr. Speaker, I think it should be the policy of this body to cover all these workers and retirees. We should not be distinguishing between those who, in their most desperate need, have preexisting conditions. The bill is working as passed by the Congress. It is working in Maryland, it is working around the Nation. There is no need now to remove the protections that were included in the TAA legislation.

So, Mr. Speaker, I will be urging my colleagues to support the substitute that will preserve the important provisions on the Taxpayer Bill of Rights but will remove this poison pill that could hurt many workers and retirees in communities' around the Nation.

Mr. MCCRERY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. HOUGHTON), the chairman of the Subcommittee on Oversight of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank also the gentleman from North Dakota.

The theme of this bill, and I, of course, support it, is to improve the IRS. Before I give a few quick examples, I do want to say that I have stood up here at least three times, and my script is getting musty because I have used the same words year after year. I hope that somehow we are going to be able to pass this legislation this year.

But, basically, some of the examples are this. We allow the IRS to waive unfair penalties for honest taxpayers who make mistakes. We allow that. For example, a taxpayer who mails his return on April 15 with a check for $5,000, with a balance due, and he mistakenly puts the wrong stamp on it, he is in trouble. And the IRS cannot waive any penalties to people who make an honest mistake. I know of this personally because of a friend in my area who did this; owed lots and lots of money. There was no maneuverability on it.

Another example is when the IRS erroneously assesses or levies a taxpayer's assets. There is a limited time during which the service can provide relief to the taxpayer. And this is, of course, especially unfair if the IRS ends up levying the taxpayer's retirement account.

So let us say the IRS, just to take this a little more, misapplies a tax payment and consequently levies on a taxpayer's IRA account taking away $25,000. The IRS then later realizes its mistake, but it is unable to restore the IRA balance. That is a problem we have here. Very, very inflexible rules. So the result under current laws does not make any sense at all.

Now, this bill requires the IRS to extend the time limit for taxpayers to contest levies and requires the IRS to provide relief to taxpayers whose retirement accounts are affected.

Lastly, and the gentleman from Louisiana, my good friend, also referred to the ten deadly sins that try to strike a balance between making sure that IRS employees are not engaging in improper behavior on the one hand and not placing a straitjacket on IRS employees and the commission on the other hand. These changes are strongly supported by former Commissioner Rossotti, who did an extraordinary job in reorganizing and putting more life into the IRS, and have the support of the National Treasury Employees Union.

So I guess the only thing I can say to sum up, Mr. Speaker, is that this is a good bill. I am honored to be able to join these gentlemen in urging my colleagues to support this legislation.

□ 1545

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say in response to the gentleman from New York, what a privilege I feel it is to serve as a ranking member on the subcommittee chaired by the gentleman from New York (Mr. HOUGHTON). He is an example of the leading effort in the Congress to forge bipartisan consensus and address in commonsense ways problems affecting the American people. That is precisely what the bill before us did, the bill that the gentleman from New York (Mr. HOUGHTON) and I agreed to cosponsor until the week before it was to come to the Committee on Ways and Means, at which time we learned of an extraordinarily offensive provision added into the bill. This provision significantly changes and undermines essential consumer protections that exist for displaced workers as a result of trade agreements that are looking for health insurance.

Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. McDERMOTT) to elaborate on this feature of the bill and other points relative to the issue before us.

Mr. McDERMOTT. Mr. Speaker, the underlying bill here today is not in dispute. We had the same bill last year, and they could not get it through because they used it like they are using it this year. They used it sort of like a bun for a hotdog. Everybody wanted the bun, but they keeping sticking a poison pill into the hot dog. They did it last year with section 527, long forgotten. This year with great fanfare they passed the fast track bill. A lot of Members on this side of the aisle voted for the fast track bill. They said if we put in some protections for the workers, and Members said, oh, yes, that is right, we should give protections for the workers so that if because of trade they lose their job and they lose their health care benefits, we should provide some health care benefits for them.

The bill was barely dry from the President signing it, and they started trying to take that out. The workers have got to think there is nobody in this place who is honest with them. The first time it happened, the gentleman on the other side went to the Committee on Armed Services and stuck it into one of their bills; and he got caught, and it got dropped out in the conference committee. So it has been brought back and put in here.

Members know this bill will pass. The taxpayers deserve some relief and protection. So a bill like that is going to pass 435–0, so Members can stick in just about anything and figure it will slide by and nobody will notice it. What they have done to these workers, and I have 11,000 in my State, and there are a few thousand in every State, they are going to go out thinking I have a 65 percent tax credit on my health care benefits and all I have to do is find a place to do this.

Our State does not have a program yet, but they are working on it in the State legislature because they never put in the bill that the States have to establish programs. What is underlying here is a basic philosophic disagreement. The gentleman from Louisiana (Mr. McCRERY) and I have been around on this a lot of times. It is the question of do people have an individual responsibility to take care of themselves, or should we take care of them collectively by developing a State program in this particular instance.

Many States have put together plans, in spite of the fact that Congress gave them no direction. We put it in the bill, and it silently went out into the ether. Some States woke up and found it. New York and New Jersey and a few other States were paying attention, but about 30 States have not found it yet. They have not put together a program, or their legislatures are not capable. I do not know why they have not done it. But here we come with an amendment which says you States which have not done it, you cannot have the consumer protections. If your State legislature says all individual programs have to have a guaranteed issue and they have to have no preexisting condition exclusions, then you can buy a policy.

Mr. Speaker, a guy is 55 years old, he gets laid off in this trade adjustment and, he has got a little problem with his heart or kidneys or lungs. Now he has a preexisting condition, and he has a voucher in his hand and he goes to the insurance company, and they take his history. Oh, you have a kidney problem. Sorry, you have a preexisting condition. We cannot. Now many States have passed a law and said you cannot deny him. At that point he is out of luck. He has this promise of health care, and he cannot get at it.

Somehow the Republicans think that we ought to take away those protections from workers. Now wait until they try to put a trade bill through here again and tell people that we are going to protect the workers. This is where we find out what they really mean about protecting the workers. They better know they are going to have to go out in the individual market and get their health care. If it is too expensive, tough. The other side says we gave them a 65 percent tax credit. But of course in order to get it, you have to be able to pay for the insurance. No provision is made for that.

Mr. Speaker, this is a sham that was put in that fast track bill, and they have been trying to get rid of it ever since because they do not want the principle to be established that States can put together a program to take care of individuals in a group and buy group insurance. That is what is at issue here. This is not fair, and it is wrong and Members ought to vote the bill down.

Mr. McCRERY. Mr. Speaker, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I yield 3 minutes to the gentleman from Maine (Mr. MICHAUD).

Mr. MICHAUD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in opposition to the TAA health care tax credit rollback provision included in the Taxpayer Protection and IRS Accountability Act. Make no mistake, I support taxpayer protection and IRS accountability. But something is wrong, rotten in Congress today. Why would the House leadership try to slip in such a harmful provision in a noncontroversial bill?

It is clearly a sneaky attempt to destroy workers' protections and help leverage big insurance companies' profits. There is no doubt this unpopular provision would never survive unless it was tucked into a popular bill such as this. This measure would strip away the protections for dislocated workers and allow insurers to cherry pick healthy workers and exclude those who are older or in poor health, those who need the coverage the most.

Many dislocated workers in Maine are currently enrolled in this program. Our State has been among the first approved program in the Nation. These hard-working men and women have lost their jobs; they deserve some type of health care protection. I would ask the gentleman from New York (Mr. HOUGHTON) to reconsider this provision. There are some areas in the State of Maine where unemployment is over 32 percent. There are other areas abutting that high-labor market area with double digit employment numbers because we are getting killed by imports because of our trade agreements. Granted, this is a 65 percent tax credit. However, when you are on unemployment, you have mortgage payments to make, automobile payments and health care payments. To come up with the employees' share, it is difficult. I hope Members oppose this bill until the TAA health care tax credit rollback provision is excluded.

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman's outstanding work on behalf of the displaced workers in the State of Maine and throughout the country.

Let me try to put in perspective what this is all about. Let me note back in my days as the State insurance commissioner of North Dakota, I spent a lot of time working on issues, fundamental consumer protections for people buying health insurance. We believe it is critical when we have workers displaced because of trade agreements, they ought to have some assistance with the expenses they incur while looking for other careers and other ways to earn their livelihood.

As a result, we got trade adjustment assistance in that last bill, and it provided for very meaningful assistance, support in purchasing the premium as well as very strong consumer protections in the purchase of that coverage.

These protections include guaranteed issues; if you are sick or have some medical condition, it does not matter. You have the right to get that coverage, no preexisting condition exclusion. What that means is, say you want to get coverage but I have some disability maybe that occurred at work. They cannot exclude all medical conditions arising from that disability; they have to cover that, too. And then premiums have to be equitable with other premiums; benefits have to be comparable with other benefits.

What the majority bill would do is allow a period where some of the most important consumer protections do not have to be offered, those providing for guaranteed issue, absolute right to get the coverage, those protecting against having something excluded; those are also eliminated in this provision.

We have been upset by this provision; and when I say "we," I speak about a swath in the caucus that voted for the fast track trade authority and did so in part because of the protections of trade adjustment assistance.

Mr. Speaker, I include for the RECORD a Dear Colleague written by the gentlewoman from California (Mrs. TAUSCHER) and signed by 15 Democrats who voted for the trade bill, all referencing the fact that this trade adjustment protection for displaced workers was an important part of them coming to agree that we ought to pass this trade bill.

PRO-TRADE HOUSE DEMOCRATS FIGHT TO KEEP WORKER ASSISTANCE IN TRADE BILL

Today, 15 House Democrats who voted for the Trade Promotion Authority bill last year sent a strong letter to Ways and Means Chairman Bill Thomas expressing their concern about his efforts to rewrite guarantees for healthcare benefits for displaced workers that were agreed to as part of the comprehensive trade bill passed last year.

The effort to keep Trade Adjustment Assistance as part of future trade agreements is being led by Reps. Ellen Tauscher (D-Calif.), Adam Smith (D-Wash.) and Cal Dooley (D-Calif.).

JUNE 11, 2003.

Hon. WILLIAM M. THOMAS,
Chairman, Committee on Ways and Means.

DEAR CHAIRMAN THOMAS: As pro-trade Democrats who supported passage of Trade Promotional Authority and the Trade Act of 2002, we write to voice our concerns with your efforts to rewrite the Trade Adjustment Assistance provision of this new law.

Inclusion of a strong and robust TAA provision was paramount to our support of TPA and the Trade Act of 2002. The commitments made during last year's debate are important to us and those we represent.

Specifically, we are very concerned that your efforts to rewrite the healthcare provisions in TAA by adding language to a non-trade related bill (Section 309; HR 1528, the Taxpayer Protection and IRS Responsibility Act) vitiates your commitments made during debate on TPA. More importantly, this undermines Congress' commitment of providing healthcare tax credits to displaced workers, regardless of their age or health status.

Under the guise of "consumer choice," your provision would eliminate key consumer protections designed to give states the flexibility to develop pools and negotiate with private insurance companies while still meeting the law's consumer protection requirements. States are in the process of developing these plans and have not indicated to Congress problems with meeting the TAA requirements. And since Congress has yet to consider a single FTA since its passage, it seems counterproductive to change TAA at this time.

The rules of TPA define Congress' role and responsibilities during negotiations on individual bilateral trade agreements. As proponents of trade, we take our oversight roles seriously. We are equally serious in our commitment to the TAA provisions of the law we worked hard to pass that provide a safety net to those Americans displaced by new trade agreements.

We are hopeful you will reconsider rewriting the healthcare provisions of TAA and remove this provision from HR 1528. We are concerned that altering such a provision in unrelated legislation may undermine the bipartisan consensus necessary for the passage of future FTAs.

Sincerely,

Ellen O. Tauscher, Adam Smith, Cal Dooley, Susan Davis, Jim Davis, William Jefferson, Rick Larsen, Dennis Moore, Bob Etheridge, Harold Ford, Jr., Jane Harman, Norman Dicks, Ken Lucus, Jim Matheson, Jim Moran.

Mr. POMEROY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from North Dakota (Mr. POMEROY) for his excellent work on this question and for bringing us together around this particular legislation which deals with fixing technical problems dealing with taxpayers' needs that all of us can join in. I thank the gentleman from Ohio (Mr. PORTMAN) and the chairman of the subcommittee on this particular legislation, and I would like to say, if I could, that this is a bill that I would run to the floor to support.

And the reason is because when I first came to Congress, the issue of advocacy for taxpayers was an enormous issue. In fact, we had a very serious problem in Houston, Texas, of insensitivity to taxpayers who were trying to do the right thing. So the very fact that this legislation, H.R. 1528, has 50 bipartisan and relatively noncontroversial taxpayer-rights provisions is one that I would want to support. In fact, title I of the proposed act increases the threshold in which a taxpayer would not incur penalties for underpayment. Because, in fact, my colleagues, those taxpayers are trying to pay their taxes. This is a good provision. This says if you underpay, it gives you a break to try to get in there and fix the problem.

I would like to be supportive of those kinds of very effective tax provisions. There is something else in here that I very much appreciate. The bill eliminates the $50,000 threshold for adjustment of interest on erroneous refunds.

☐ 1600

Some of us know of situations where those who tried to pay their taxes got an erroneous refund, and I believe the gentlewoman from California (Ms. LORETTA SANCHEZ) had an issue on this and worked very hard on this issue. We now protect those innocent individuals who get a refund through no fault of their own and they get penalized.

But lo and behold, I have voted for several bills dealing with enhancing trade, the African Growth and Opportunity Act, the Caribbean Basin Initiative, here we come with what we call a trade adjustment assistance health credit, and we do not know where this came from to my colleagues on the other side of the aisle, why they would put a poison pill that clearly takes away the protection. The elimination of the TAA health care program that would be imminent upon the enactment of this bill as drafted will negate consumer protections for eligible laid-off workers and certain pensioners who seek health care coverage. States that have not made health care coverage available to laid-off workers and pensioners by August 2003 would be able to ignore the TAA consumer protections, which ensure that all applicants could get coverage.

Mr. Speaker, let me just say this. We have got a crisis in our States. We have got people being laid off, we have got 177,000 children being taken off of the CHIPs program in the State of Texas. We have got the child tax credit languishing in this body. Someone says that we cannot move that forward. People are hurting. How can we put this bill forward that has all these good provisions, clearing up the taxpayer rights, if you will, providing further help in advocating for taxpayer rights? Remember when I said taxpayer rights, that means we are helping those who pay taxes as well as those who helped build this country, and here we are penalizing them for those who may be laid off through no fault of their own.

I would ask that we correct that poison pill, take it out, and let us support a bipartisan H.R. 1528. Mr. Speaker, I oppose the bill as it presently stands.

Mr. Speaker, I rise in opposition to H.R. 1528, the House Resolution amending the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service (IRS). The bill's proposed changes purport to give taxpayers many improved rights and options in a bipartisan fashion. However, in operation, the bill will change the previously enacted "Trade Adjustment Assistance (TAA) health care credit" law much to the surprise of my fellow colleagues who understood it to be safely in place. I rather support the Substitute Amendment offered by Mr. RANGEL that will allow us to revamp our effort to include the relevant provisions of the Senate-passed child tax credit expansion bill.

The Resolution offers fifty bipartisan and relatively non-controversial taxpayer rights provisions that deal with rules on interest payments, penalties, installment payments, levies, first-time errors, offers in compromise, and other areas that welcome reform. Title I of the proposed Act, among other things, increases the threshold in which a taxpayer would not incur penalties for underpayment, that is, create a "safe harbor" for taxpayers. It also expands the period in which underpayment interest is applied to cover the entire underpayment period. Interest paid on overpayments of income tax would be excluded from gross income in this program. Furthermore, the bill eliminates the $50,000 threshold for abatement of interest on erroneous refunds. Title II appears to offer taxpayers latitude by allowing the Commissioner of the IRS to enter into installment agreements with taxpayers who cannot remit payment on their obligations when due. The proposed extension from nine months to two years of the time for repayment of erroneous tax payments also appears very beneficial to taxpayers. Moreover, Title III amends the Code to give the Commissioner's rulings more finality, expands the legal purview of the Tax Court, consolidates the decision as to the proper forum for collection due process hearings, which would appear to make the hearing process more efficient. This Title also proposes to extend the filing deadline for electronic taxpayers, protect the Office of the National Taxpayer Advocate; facilitate the payment process for motor fuel excise tax refunds; improve the tax status of husband and wife joint ventures filing joint returns; and penalizes designated terrorist organizations, among other things. Titles IV, V, VI, and VII deal with Confidentiality and Disclosure, Miscellaneous provisions, Low-Income Taxpayer Clinics, and Federal-State Unemployment Assistance Agreements.

While the above proposed provisions promise, at the surface, to help all taxpayers in a forthright fashion, it contains a very troubling "poison pill" provision that would eliminate workers' ability to obtain health coverage under the current Trade Adjustment Assistance (TAA) health care program. Furthermore, despite the myriad list of benefits to taxpayers that this bill will offer, it fails to give any relief to those working-class income taxpayers who have been marginalized by the extensive tax cuts of this Administration.

The elimination of the TAA health care program that would be imminent upon the enactment of this bill as drafted will negate consumer protections for eligible laid-off workers and certain pensioners who seek health care coverage. States that have not made health coverage available to laid-off workers and pensioners by August 2003 would be able to ignore the TAA consumer protections which assure that (1) all applicants would get coverage under State plans and (2) preclude plans from excluding coverage for pre-existing health conditions. It is a tremendous concern to me that we are proposing to abrogate existing worker protections when no dysfunction has been identified that would warrant such a change.

Unlike the thousands of Houstonians laid off or terminated by American General, Compaq Computer Corp., Continental Airlines, Texaco and others this year, Enron's workers must contend with the company's bankruptcy filing and the threat it has posed to their remaining benefits. Although federal laws and limited insurance protect pension plans, a similar safety net does not exist for health care benefits. If an employer drops any coverage or consolidates plans for current employees, then the former workers have no rights to the old benefits and can only get what the employer offers. Furthermore, if an employer decides to stop offering health insurance altogether, the current employees and the COBRA participants will all lose their coverage. There is simply no legal obligation for employers to provide or continue health insurance. In addition, our employees are amenable to the threat of health care insurance cuts by employers who file under the bankruptcy code as this represents an attractive expense to cut. Corporations that attempt to reorganize under Chapter 11 tend to do so as a last resort because such actions undermine their abilities to retain key workers. Those with no hope of recovering from their financial troubles liquidate their assets under Chapter 7, terminate their health plans and other liabilities and cease to exist, leaving the employee with no options. For example, Bethlehem Steel Corp. and Wheeling-Pittsburgh Steel Corp., both of which are in Chapter 11 proceedings, have asked Congress and the Bush administration to pay their health-care contractual obligations to approximately 600,000 retirees of the two companies—estimated as high as $13 billion—so they can merge with U.S. Steel. They proposed the payment of the debt through a general appropriation or a tax on steel sold in the United States.

Mr. RANGEL's Substitute Amendment does not include anti-consumer changes to the TAA health credit law as does the drafted language of this bill. We have a duty to protect those who are most vulnerable to harmful tax treatment, and this Amendment would allow us to provide a safety net. Critical to my initiatives and the initiatives of many of my colleagues, the Amendment includes the provisions of the Senate-passed child tax credit expansion bill and Senate-passed military tax relief bill. H.R. 1528 has more than adequate breadth to include these items. The Amendment also adds provisions that will serve to prevent abusive tax shelters and assist low and middle-income taxpayers in complying with the tax laws such as an Earned Income Tax Credit (EITC) simplification, a balanced IRS audit program, enhanced low-income taxpayer clinics, a prohibition on EITC pre-certifications, and limits on excessive tax refund anticipation loan interest rates. Along with the many above-mentioned bipartisan and non-controversial taxpayer provisions, this Substitute Amendment will make H.R. 1528 work for more taxpayers and for our children as well as to allow us to, at minimum, show some appreciation for the men and women who serve our Country.

I oppose H.R. 1528 for the foregoing reasons and support the Substitute Amendment offered by Mr. RANGEL. I would ask that my colleagues also vote in this fashion.

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

I am going to close debate on my side of the aisle, and I would do so with the following comments. My friend and Ways and Means colleague, the gentleman from Louisiana, raises on the question of health coverage for displaced workers the important issue of whether or not coverage is actually available for these workers or might there be because of these preexisting conditions circumstances where no coverage is available and by insisting on these protections we are actually depriving these workers of the availability to get health coverage.

I am pleased to respond to that concern by saying that negotiations at the State level are coming along very successfully, and so far 13 States have been successful at getting insurance companies to enter into an agreement to provide the coverage to these displaced workers under the consumer protections in the bill. Thirteen States. What concerns us about raising this issue at this time is that we think it sends a very bad signal from Congress to the States and the insurance companies in negotiations with them, that they might not have to comply with these consumer protections.

As an old insurance commissioner, I know darn well you give an insurance company the chance of not offering coverage to everybody, but, rather, cherry-picking, picking only the ones they want to cover as opposed to the mandate that they cover everybody, well, they are going to want to cherry-pick. Of course they are going to want to do that. If you give insurance companies the opportunity to say, well, we'll cover you except for the disability that you have or the preexisting health condition that you have, of course insurance companies are going to want to restrict their coverage from those medical features that are so troublesome to the displaced workers. We think that passing this bill with this provision in it is going to bring negotiations at the State level potentially to a standstill because the insurance companies are going to hold out for a sweeter deal, and what a sweet deal it would be.

We are going to have a situation where the insurance companies, under the majority proposal, would be able to exclude who they want to. Of the individuals they underwrite, they will be able to exclude the medical conditions that they want to and they are still going to get the Federal Government paying 65 percent of the premium. Let us face it, it is not often you put forward Federal tax dollars to pay private insurance premiums. We have chosen to do so at this time because these are workers that lost their jobs because of trade agreements entered by this country. That is certified by the Department of Labor.

We think under those circumstances, having lost their job through no fault of their own, because of trade agreements entered and ratified here in Congress, that those workers need some help while they get their lives back on track, get a new livelihood in place, and that help certainly includes health insurance coverage to protect them and their families. We are even going to help pay for it. Under these circumstances, let us not let the insurance companies run roughshod by excluding who they want, by excluding the medical conditions that they want. We have got to hold for the whole package, give these workers the absolute right to get the coverage they need and the absolute right to get coverage for all of their medical conditions, not just those the insurance company is going to want to pick.

Work is coming along well at the State level. Again, 13 States concluding these agreements, others still in negotiation now. Now is not the time to take the pressure off. Now is not the time to give the insurance companies a pass. Now is not the time to walk away from the health care needs of our displaced workers. Hold the consumer protections, reject the majority bill, we will take this taxpayer protection right, remove the poison pill, bring it back here, as it should have been in the first place, and get on with reforming the Tax Code in the responsible ways but not in the ways that, because of the poison pill, hurt our displaced workers.

Mr. Speaker, I yield back the balance of my time.

Mr. McCRERY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the last point that the gentleman from North Dakota made about if this provision were to pass, then it could reduce the pressure on the States to enter into agreements which would create qualified plans under the trade bill we passed last year is a legitimate point. It is the only legitimate point he or his colleagues on the Democratic side have made today, but that is a legitimate point. We concede that. That is why we listened to the gentleman from North Dakota and his complaints earlier while the committee was considering this and we reduced the window within which unemployed workers could take advantage of this waiver.

Under the provision, as it now stands in this bill, they would only have until the end of calendar year 2004 to waive their rights under the trade bill and take advantage of the tax credit to purchase insurance for themselves and their family. So I concede that that is a legitimate point. We do not want the States to stop their efforts to create plans that would qualify for the credit under the Trade Act. We do not think the States will. In fact, of the speakers that were offered by the other side of the aisle today, Maryland, the first speaker, the State of Maryland, already has a qualified plan in place, so this provision in the bill today will not affect unemployed workers in Maryland at all; North Dakota has a provision in place, so it will not affect unemployed workers in North Dakota. Texas is very close to having a provision ready, we are told. The only State that is behind in this process is the State of Washington.

So we know that basically two-thirds of the States already either have a plan in place or are negotiating to get plans in place. The Treasury Department thinks, after researching this, that only about 20 States or so would not have plans in place by this August. So this provision in this bill would not affect all of those States that have plans in place by this August, probably not until September or October because this bill will not make it through the process before this fall.

But let us think about those States which for whatever reason, their legislatures do not meet this year, their insurance commissioner is not as adept as the gentleman from North Dakota was in getting these things done, for whatever reason, what about the unemployed workers in those States who want to use their credit to get insurance for their families and they do not have access to COBRA? They are left out in the cold.

I would say to my good friends on the other side, do you not care about these people and their families? Do you not want them to use the generous tax credit that we provided to get health insurance for their families? If you do not pass the provision that is in this bill, they cannot get insurance and utilize the credit to get it. Period. You will leave them with nothing. You will leave them bare. They will not have insurance. That is the fact. That is what we are trying to correct. We are trying to make sure that all those unemployed workers who want to use the credit to cover their families can do so. And so we have said to the States that have not yet complied with the requirements of the Trade Act, we are going to give you one more year to do that.

And in the meantime, any of your unemployed workers who want to use the tax credit can avail themselves of that by waiving the requirements of the Trade Act. It is not compulsory, it is voluntary, we are not going to twist anybody's arm to make them waive the requirements of the Trade Act. We are going to tell them if you want to waive that, you may. And if that enables you to use the tax credit to cover yourselves and your families, by golly, that is a good thing. And CBO estimates that 12,000 workers and their families will take advantage of this provision and will get coverage and who, if this bill does not pass, would not be able to get coverage.

I think, Mr. Speaker, what we have heard today from the other side is a lot of obfuscation. The truth is they never wanted the health tax credit to be used for anything other than COBRA. That is the truth. It was we Republicans who insisted that we think about unemployed workers who did not happen to come from a big company or from a company with employment coverage that would qualify under COBRA. We said, what about the people who work for small businesses? What about the people who did not have any coverage, they had to get individual coverage? Should we not have some compassion for those unemployed workers as well, not just unionized workers? We battled and fought and scraped and finally won, got a compromise so that those workers could get some advantage from the tax credit.

But the Democrats said, okay, we'll agree to the compromise, but we're going to have to have a provision that goes even further than the Republican-passed legislation, the Health Insurance Portability and Accountability Act, HIPAA.

That was a Republican bill. Up until that time, there were no guarantees for workers changing jobs. Health insurance was not portable at all. Everybody was going to be subject to those conditions that the gentleman from North Dakota talked about, preexisting conditions, no guaranteed issue, until Republicans passed the bill in 1996, I believe, called HIPAA, which said that if you had 18 months prior coverage in the health insurance system, then you do not have to worry about getting covered again. Insurance companies offering health insurance must guarantee you issue of that plan. And you are not subject to any preexisting conditions clauses in those insurance plans.

We did that. We passed that. We are the ones who put those guarantees in law. And so last year, we agreed for this small set of workers who lost their jobs because of trade actions or were covered under the Pension Benefit Guaranty Corporation that in that small set of workers, we would reduce that 18-month requirement to 3 months, so that if they only had 3 months prior coverage, they would not have to go through all the underwriting and so forth that workers used to have to go through before HIPAA. And we agreed to that. But now we find that we have large numbers of workers who are not able to avail themselves of the credit because States have not yet put into place plans that comply with that 3-month prior coverage requirement.

So in the meantime, while those States are getting those plans up and running, we say, let those individuals who want to waive that requirement, they may have had 18 months prior coverage and, therefore, they would still have those guarantees that the gentleman from North Dakota spoke about, why not let them voluntarily waive their requirements under the

Trade Act, get the insurance for themselves and their families and then when all the States have these policies in place, the 3-month requirement will be there in those plans. I simply do not understand why the other side would object so strenuously to letting 12,000 families get health insurance who otherwise would not be able to get it if this provision does not pass.

I urge the House to have compassion for these workers as well as workers with COBRA coverage and pass this bill today.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LATOURETTE). All time for debate on the bill has expired.

Pursuant to the order of the House of today, further proceedings on this bill will be postponed until tomorrow.

□ 1615

GENERAL LEAVE

Mr. MCCRERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 8.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. LATOURETTE). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE SHAMBLES OF THE LEGISLATIVE AGENDA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think it is important to recap what we have done today and what we are doing in this House. There are certain protocols that prohibit us from saying things like wake up, America, listen to the debates of this House, and to the concerns of this Nation. This is the holiday time, the time that schools are getting out, families are coming together for vacations. So this is a good time for the smoke and mirrors legislation of this body, dominated by those who have no simple or at least appreciation for the enormous task that we have in putting this Nation back together again.

Let me simply recount, Mr. Speaker, the journey that we are taking. We realize that 21 days this Nation was at war, and that we were able to come under budget for a war that many disagreed with but not with the valiant work of our young people. Unfortunately, as we projected about the needs of this Nation and a war with Iraq, we failed to take into consideration the aftermath, the tragedy of 51 young men and valiant heroes that have lost their lives since the ending of this war, the cost of maintaining 160,000-plus soldiers on the front lines, the $1 billion a month that we are spending in Afghanistan in the war against terrorism, the large number of dollars that are necessary and not yet expended with respect to homeland security.

As a member of the Select Committee on Homeland Security, I realize that many of our local governments are asking and pleading for dollars for their first responders.

In the backdrop of that, we have a growing deficit and an increasing unemployment. College graduates are coming out with wonderful diplomas and great smiles of admiration by their family, and yet they can find no work.

This body of course is now trying to grapple with the issue of a guaranteed Medicare prescription drug benefit for the seniors that we promised them for now 8 years, and what are we giving to them? A mere $400 billion. It sounds like a big number, but we are going to leave the seniors holding the bag by, in actuality, having a gap. That means rather than getting a guaranteed prescription drug benefit in Medicare, we are going to tell seniors to go out and be fishers of men, fishers of HMOs, fishers of low-cost drugs. This is what we are going to give them. They have to go out and shop for HMOs that will give them a drug benefit, and then if they spend up to $2,000, forget about it.

They have got to pay for it the rest of it until they hit $5,000. Some seniors will fall through the cracks, and maybe some will lose their lives because of their inability to get the prescription drugs. We can spend a whole bunch of money on doing things that are really not necessary, $1 trillion tax cut to the likes of Warren Buffett, who said that he is paying less taxes than his receptionist, one of the richest men in the world. We gave a big tax cut with a big deficit, and now we cannot give our seniors a protection that we have been pleading for for 8 years.

We now have come to the floor of the House and the eloquent statesmen who were making these points about the taxpayer bill that we just passed, or that we will vote on, and I wish all of us could have voted on it in a bipartisan way, the eloquence of saying we are giving a tax credit, but what they are doing is they are eliminating the opportunity for some laid-off workers to get health care by the State by passing this bill. So they are undermining the very needs of those who are in most need, working men and women.

Right now we have been trying to pass a child tax credit for those making between $11,000 and $26,000. Those are our young men and women in the United States military. They make $1,000 a month. Their families are back home. We are trying to give them a tax credit. What is happening? Republican friends want to give an $82 billion tax giveaway, stalling the bill so we cannot get the bill to the President's desk. The President said he would sign the Senate bill, the same bill we want to pass. Within hours, that bill could be signed right now at the picnic that they are getting ready to have. That bill could be signed, and we would be providing a tax cut to the young men and women, families that are overseas, military men and women making $1,000 a month.

Mr. Speaker, I have got to say that we have got to fix the shambles of the legislative agenda, begin to stand up and speak for the American people who are in need, and it is time for the American people to wake up and understand what is occurring on the floor of the House.

PRESIDENTIAL INQUIRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, the House has adjourned its regular business for today, and they have gone off to the White House for a picnic; so I do not suppose very many of them will be in their office listening to this, but I think they should at least consider the fact that today's newspapers and the BBC news, the ABC news, the Economist, all come together in saying the war is not over, boys. Three more dead in Baghdad in violence. There was a drive-by shooting at a petrol station. It sounds a little like some of our cities. And we are there bringing them democracy. I guess that is what democracy means to our President. I do not know. It is hard to know. But when I was reading these articles, I thought of one that I read recently. This is dated March 21, not so long ago. "A United Nations survey of civilian damage caused by the allied bombardment of Iraq calls the results near apocalyptic. The survey, which was made public today, recommends an immediate end to the embargo on imports of food and other essential supplies to prevent imminent catastrophe."

This article went on further to say that the U.S. position is that by "making life uncomfortable for the Iraqi people, it," meaning sanctions, "will eventually encourage them to remove President Saddam Hussein from power." This is what the situation was. This is from 1991. We intended to get rid of Saddam Hussein from 1991 on, at least. And for the President and his advisers to come around here saying it just happened since 9/11 and all that kind of stuff is absolutely nonsense.

At the time that one of the Air Force planners said big picture, we want people to know, get rid of this guy and we will be more than happy to assist in the rebuilding. We are not going to tolerate Saddam Hussein and his regime. Fix that and we will fix their electricity. That is what the United States was saying in 1991. This is the country that wants to bring democracy to Iraq. And it goes on.

I mean, it is really wonderful. One planner said, people say you did not recognize that it was going to have an effect on water or sewage? Well, what were we trying to do? Help out the Iraqi people? No. What we were doing with the attacks on infrastructure was to accelerate the effect of sanctions. We bombed the sewer pumping stations. We bombed the water pumping stations. We bombed the television. We bombed the telephone. We bombed the electrical. We bombed everything because we were going to inflict pain on the Iraqi people.

Now if we roll fast forward to today, people in the White House, and I do not know how they could have been thinking about it, Mr. Speaker, that these people were going to be just waiting, so excited to have the Americans come in and bring them democracy.

What kind of fools could plan and state publicly what they were doing and then expect people to be grateful that they were bombed, that their hospitals had no electricity for the refrigeration to save the children and the blood and all the things that go on in a hospital that require electricity? We did it deliberately. And the President says, well, we had to wage this war because they had these weapons of mass destruction that were an imminent threat to us. We had destroyed their electrical system. We destroyed all kinds of things. We had reduced the value of their money.

I mean, I carry a 250 Dinar note in my wallet just to remind me of what this country can do. This is a 250 Dinar note. These are printed in Iraq. This was worth $875 in 1991; today, 12 cents. Do the Members think we did not crush their economy? Of course we did. And it was all because we wanted to bring them democracy, because we were going to free the world from weapons of mass destruction.

Mr. Speaker, I think we ought to have an inquiry in this House, conducted in public, as to what the President knew, when he knew it. How could he come to the well of the House and give us information that was known to be forgery about nuclear material?

It is time, Mr. President, when the picnic is over, you had better come up here and tell us the truth.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members to address their remarks to the Chair.

FILNER-McHUGH LAW ENFORCEMENT OFFICERS EQUITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today to introduce legislation with the gentleman from the State of New York (Mr. McHUGH). The purpose of our bill, called The Law Enforcement Officers Equity Act, H.R. 2442, is simply stated: Give law enforcement status to law enforcement officers.

Many Federal officials, for example, the Border Patrol, are classified as law enforcement officers because that is a classification that comes with certain salary and retirement benefits. But many other officers, officer who are trained to carry weapons, who wear body armor, who face the same daily risk as law enforcement officers are not so classified. These officers, for example, inspectors who work for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement under the Department of Homeland Security, Veterans Affairs police officers, U.S. Mint police officers, Internal Revenue Service officers, and police officers in about two dozen other agencies, are not eligible for early retirement and other benefits designed to maintain a young and vigorous law enforcement workforce that we need to combat those who pose life-threatening risks to our society.

The tragic irony, Mr. Speaker, is that the only time these officers are classified as law enforcement officers is when they are killed in the line of duty. Then their names are inscribed on the wall of the National Law Enforcement Officers Memorial right here in Washington.

□ 1630

Let me say that again. It is only when they are killed that they are called law enforcement officers, and that is a tragic irony.

My district encompasses the entire California-Mexico border and is home to two of the busiest world border crossings in the entire world, so I am very familiar with the work of border inspectors. They wear bulletproof vests, they carry firearms, and, unfortunately, have to use them. Most importantly, these inspectors are subject to the same risks as other officers with whom they serve side by side and who do have the benefits of law enforcement status.

Our Law Enforcement Officers Equity Act will make important strides toward ensuring the safety of our country as these officers protect our borders, our ports of entry, our military and veterans installations and other sensitive government buildings. The bill ensures the strong and vigorous workforce necessary for our country to have the finest level of protection. Our country deserves no less, and these valiant officers who protect us deserve no less.

Any cost created by this act is offset by savings in training costs and increased revenue collection. A 20-year retirements bill for these employees will reduce turnover, increase yield, decrease recruitment, and development costs and enhance the retention of a well-trained and experienced workforce.

Mr. Speaker, the simple fact is that these officers have dangerous jobs and deserve to be recognized as law enforcement officers, just like others with whom they serve, side by side, and who share the same level of risk. I encourage my colleagues to join the gentleman from New York (Mr. McHUGH) and me in cosponsoring H.R. 2442, the Law Enforcement Officers Equity Act.

ILLEGAL ALIENS TAKING AMERICAN JOBS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes as the designee of the majority leader.

Mr. TANCREDO. Mr. Speaker, a great deal of discussion has been undertaken on this floor for the purpose of addressing the issue of unemployment and for talking about the needs of workers in the United States.

We continually look at pieces of legislation that are designed to improve the economic conditions within the country, to establish an environment in which people will be able and businesses would be able to create more jobs, to provide more jobs for Americans; and I certainly support the effort.

I certainly believe with all my heart that that is what we should be doing, and I believe in the stimulus package that we passed here. I wish it had been bigger. I think that that is the right direction for the country.

But it is also interesting to me to listen to the various interpretations of the problems that we have that are in fact causing people to be laid off or people who are and have been laid off to be unable to find jobs. Some of that is undoubtedly as a result of a sluggish economy, and I say I hope it will be helped by the passage of the legislation that we put through here and went over to the Senate and was signed by the President. I hope for that.

But there is another aspect of this jobs issue that I think needs our attention, no matter how unpleasant it is to talk about it. No matter how much we want to shy away from it, no matter what the political implications of discussing it might be, I think it is important to talk about the fact that in this country today we have somewhere around 13 million, some people say as high as 20 million, people who are living here illegally, employed here illegally.

We all probably know of folks that we think may be working here illegally. We see them on the street corner, we see them working in various positions and jobs, and there is this feeling that I wonder if those folks are here legally. They probably cannot speak the language, and you just wonder whether or not they are.

We all have seen that kind of thing, and we think it is anecdotal, we think it is unique to a particular area, a particular place, just to this restaurant or that particular construction site. But, of course, it is not unique to any locale in this country. It is a phenomenon that we have to address and have to understand, that these people are here.

For the most part I am sure they are well intentioned. They came, as we always say, for the same reason that my grandparents came, and for the same reason people came to this country from its inception, and that is to better their lives. No one is suggesting that all of those people who are here are here for nefarious purposes. That is, of course, untrue. But it is also true that they are taking jobs that Americans could take.

Now I hear the opposite often. I have been in various places where the mantra chanted is something like this: "We have to have illegal immigration into the country because it helps us, it helps the economy, and we have people doing jobs that no one else would do, no American would do."

Well, there is another part of that statement that could be said, but is seldom said, and that is they are doing jobs that maybe no American would do for the price that someone is willing to pay. That may be true. But I suggest to you that it is not an economic benefit to the United States.

In the long run, it does not even help the people who are in the lowest economic category, who are low-income earners, who are low-skilled people. It does not help them to have millions of people coming into the country, themselves with very few skills, taking those jobs that may be available, and, of course, therefore depressing the wage rate for everybody who works in that particular area.

Now, there is also the issue, of course, as to whether or not it is productive for the country because it adds to the economy and they pay taxes and we, therefore, are benefited by having so many illegal aliens in the country.

I would suggest that if you think that is true, if anybody believes that to be true, they should look at the research that has been done recently.

Certainly Virginia Abernathy comes to mind. She is a professor at Vanderbilt University and has done a lot of work on this issue, trying to determine whether or not in fact the country does benefit from having millions of people coming across this border illegally, taking jobs that other Americans could take. And she sums it up in a statement that I would paraphrase in this way. She says that it is indeed true that there are profits to be made by the importation of millions of low-skilled, low-wage workers into the country, but the profits are for a few. They are for the employer. But the costs that we incur for providing the infrastructure necessary to support those folks in terms of schooling, health care, housing, all of those costs are far greater, far greater, than we gain from the taxes paid by the people working in those particular jobs.

For the most part, again, it is low-skilled, low-wage jobs. Therefore, of course, they do not pay very much in income tax, if anything. They do not pay very much even in sales tax. They buy relatively little in comparison again to the costs of the infrastructure; and, therefore, it becomes essentially a burden to the taxpayers of this country to support.

The infrastructure is very costly. We are watching hospitals go out of business. We are watching costs increase dramatically for those people who are able to pay in order to take care of all those who cannot pay that come to the hospital for service, come into the health care system at any point for service.

There is a Federal law that says to hospitals they must treat anyone in emergency care, regardless of their status in the country; and that is a humane action on our part. It would be acceptable, it would be understandable, it would be defensible to have policies like that if in fact the Federal Government cared one bit about trying to defend its own borders, if in fact the Federal Government actually attempted to restrict entry into this country to those people who have permission to come, to those people who apply through a consular office or embassy, get a visa, come into the country, obtain a green card eventually.

There is a legal process to come into the country; and if we would simply restrict entrance into the country to those people, then you could understand why we could say to hospitals, you must in fact treat them. Then you could understand why the Federal Government tells all schools in the United States, every State, that they must educate the children of people who are here illegally. It is a humane thing to do.

But under the circumstances, when we choose not to defend our own borders, when we choose to essentially ignore any sort of immigration policy enforcement, then it is the height of arrogance to tell States they must take on this task.

Billions of dollars are being spent by States all over the Nation trying to pay for health care, education, housing and all of the other infrastructure costs that they incur as a result of our open borders policy. And that is what we have; and that is exactly what we should call it. It is an open borders policy.

Again, I know we do not like to think it, do not want to say it, do not want to suggest it, because there are a lot of people out there, that maybe John Q. Citizen cringes at that and says what do you mean, open borders policy, man? I am trying to keep my job, and I do not want to necessarily have to compete against someone coming across the border willing to work for a lot less than I am making.

Maybe that is heartless and cruel for them to think. We may want to tell these people that they should just simply accept the fact that they have to give up their job, or work for a lot less, be what we call underemployed, because, after all, there are millions of people seeking to come into this country who are also poor and looking for a better life. So there is this dilemma then, how do we treat it?

Well, Mr. Speaker, the whole world, the Third World, is waiting to come in. There are literally billions of people who would like to improve their status in life, and I would like their lives to be improved. No one wants to see people living in poverty. No one wants to see small children dying from diseases that could be cured. No one wants to see that.

I also know that we cannot, there are not enough resources in this country, to simply open the boarders and say everyone can come. What we have to do is try our best to create economic conditions in countries that are today laboring under such problems so that people will not be forced to leave and seek a life in another country. That is an acceptable and understandable way to do it. It is not understandable or acceptable to ignore the problem, to say that John Q. Citizen, who is losing his job, that he is just simply being hard and xenophobic.

I do not think he is being xenophobic when his job is taken away, or her job. I think he is doing exactly, or she is doing exactly, what any of us would do under the circumstances. We would ask our government, why is this happening? Why are you allowing so many people to come into the country at a time when we have so few jobs available, when the unemployment rate has now reached historic highs?

I cannot answer the question, Mr. Speaker. There is no way that I can tell someone in a rational sense what our policy is and why we are in fact still accepting the concept of open borders. I do not know. If someone can explain it, please let me know, because I have a lot of letters to write to people who constantly write me and tell me of their plight and how they lost their job, and they have lost it to people who have just come across the border illegally; and they are asking what I am going to do about that. I have to explain to them, you know, there really does not seem to be any support in this body or in this government for implementing the kind of measures necessary to protect them.

We are actually taking in a million-and-a-half people approximately a year legally, and probably about that many illegally. This is historic. The United States of America, if we just settled on the legal side of that, is still the most open-hearted country in the world.

□ 1645

It accepts more illegal immigration than any other country in the world; more legal immigration, and certainly more illegal immigration, than any other country in the world, and this is to our detriment.

This is not a beneficial thing. It is not helping our economy. That is an old saw. It is not true. It is helping a few people. It is helping a few corporations. That is true. But it is not helping the man and the woman who have been here all of their lives, or who have become citizens of this country through a legal process and who are unemployed today because of our policy of open borders.

There are several programs that the Federal Government runs, visa programs, that are designed to bring more people in, to do jobs that again we are told cannot be done by Americans, by American citizens. Would my colleagues believe that we are told that there are millions of jobs going begging in the high-tech industry?

Who would believe that, Mr. Speaker? I ask my colleagues, who knows of a job available in the high-tech industry that is going begging? Because again, if my colleagues know about jobs that are available, let me know. I have a lot of people in my district who are unemployed and have been unemployed for over a year, and they ended up being a victim of that bubble that burst in the high-tech industry, and they are looking for jobs, and they would love to get reemployed into that industry. But most of them are doing something else now entirely, if they are working at all.

My friend and neighbor, it has been almost 2 years for him. He is doing some data entry for us and he is driving a limousine at night. And that is what is happening all over, of course, because people are trying to keep a roof over their heads and food on the table. And they would love to get a job back in that industry. But, Mr. Speaker, we are encouraging people to come from other countries to the United States for the purpose of taking jobs in the high-tech industry. These are called H–1b visa recipients.

Now, these are folks who are not coming over here to take a job that "no one else would take," although we are told that, and that is supposed to be the scheme; that is supposed to be the idea behind H–1b and something else called L–1 visa programs, but it is not true. It is not true. These people are taking jobs, they are displacing American workers, by the hundreds of thousands. There are literally millions of folks in this country today holding these kinds of visas.

Now, we asked the INS, how many are here? No one knows how many people in this country have even come here through the H–1b visa program. The new Bureau of Citizenship and Immigration Service does not know. The Department of Labor does not know. No one in government anywhere can give me an accurate number, and the reason they cannot is because they do not keep those numbers. All they know is how many they hand out, about 195,000 a year we have handed out for several years now, and that is just the H–1b, and these folks do not go home when they lose their job, although they are supposed to. They stay.

So I am saying that it is now approaching a million people, if not more, that are here under an H–1b program that are taking jobs in "that high-tech industry that no other American would take." Does anybody really buy that?

What we know is that they are being given these visas because they will work for less. It is a cheap labor program.

Now, let us just say it. If that is the program we want to run, let us tell Americans that is the program. Let us not even hide it under visa titles like H–1b and things nobody has the slightest idea what H–1b means or L–1 visas. I will tell my colleagues what it means, anybody who is listening: it is a cheap labor program. People want to pay less for labor. They know there are people outside the country who are willing to work for less, so let us get them in here.

The Organization for the Rights of American Workers, the acronym TORAW, states that in the year 2000, there were 355,000 H–1b visas issued, just in the year 2000. The cap for H–1b visas in that year was 115,000. That means that 240,000 received H–1b visas through loopholes and extensions. In 2001, 384,191 H–1b visas were issued. The cap was 107,500. That means that 276,691 people received H–1b visas through loopholes and extensions. Thus, the total amount of people who came here using H–1b visas in 2000 and 2001 totaled 739,796.

This is a program they told us would be short-lived, that it only was going to be there in order to take up the slack because we had this booming economy, we had so many jobs going begging. Has anybody heard that lately, something about a booming economy, something about jobs going begging? But 739,000 people were brought in here on H–1b visas in 2000 and 2001.

There is plenty of evidence that major American companies like Bank of America, Texas Instruments, Intel, General Electric, and Microsoft are actively recruiting today H–1b visa holders instead of American high-tech workers. Does anybody believe there are people who are not capable of these jobs; that Americans, the highest skilled, the greatest educational system in the world, touted constantly for our ability to produce the best engineers; the best people in this high-tech environment, that we are not capable, Americans cannot do the job, we have to go to India or someplace else to get the folks over here to take those jobs from us.

The San Francisco Business Times reported in November of 2002 that the Bank of America was eliminating 900 jobs by year end in its information technology operation. To add insult to injury, some of the laid-off workers were reportedly required to train their Indian counterparts in order to receive their severance packages. This is a common practice throughout the country.

According to a survey by the Denver Business Journal, 66.5 percent of American high-tech workers who responded said they took salary reductions in 2002, and more than 71.5 percent of them expect pay cuts in 2003. According to the Institute of Electrical and Electronics Engineers, or IEEE, a company can replace an American engineer who gets paid $70,000 annually with a Hungarian who would earn $25,690 in Hungary or a Russian who gets paid $14,000 for that job in Russia. This puts companies in the position to orchestrate and control salaries. The overall effect is to decrease the salaries of all high-tech positions.

Now, we say, well, is that not appropriate? Should they not do that? Well, again, that is a policy decision that this government needs to make and needs to tell the American citizens what we are doing. Again, all I am asking is for truth in advertising. These are not special visa programs; these are not designed just to bring people in here who are in great need because the jobs are jobs our people will not do. These are cheap labor, cheap labor policies. That is what they are, and that is what we should call them.

Now, these people are succeeding, these companies, according to the Alumni Consulting Group, because in the last 3 years, the average high-tech professional salary has dropped radically, in some cases, up to 50 percent. An online search today of the three most popular high-tech job search sites, hotjobs.com, monster.com, and dice.com, showed that they were full of jobs being offered to H–1b holders.

Now there is a new problem that is emerging, the L–1 visa. The L–1 visa program allows intracompany transfers of foreign nationals who are company executives or managers or employees with specialized knowledge of the company's products or services. It was never intended to allow companies to replace American professional employees with lower-wage foreign nationals, but guess what? That is, of course, exactly what is happening, and on a massive scale.

NBC news reported on May 8 of this year that white collar computer consultants are losing out to cheaper foreign competition. These companies are outsourcing much of their technology and customer service work to foreign companies with the goal of reducing costs and increasing profits. I would suspect that these foreign companies are using L–1 visas to bring their manpower here to the United States.

As I said before, the L–1 visa program was intended to permit multinational companies to transfer foreign nationals who were company executives and managers or employees with specialized knowledge in the company's products and operations. Instead, it is being used to allow U.S. companies with offshore subsidiaries to bring in lower-wage IT workers. These companies are circumventing the congressionally-mandated safeguards and rules imposed under the H–1b program. And our government knows it. This is not news to anybody inside the Department of Labor or inside the administration. They just do not care.

In 2001, 328,480 L–1 visas were issued, which is an increase of 11 percent. Thus, the total amount of people who came here under L–1 visas in 2000 and 2001 was 623,138.

Business Week reported on March 10 of this year that L–1 visas were being used instead of H–1b visas by India's top two IT consulting firms. Half of Tata Consultancy Services' American-based workforce are here on L–1 visas, some 5,000 foreign IT professionals. Infosys has 3,000 IT professionals here on L–1 visas, 3,000.

Now, remember, these are supposed to be people with specialized skills, so specialized, and they are overseas, they are in the company headquarters in Bombay, but there is something so special about their ability that they have to bring them over here to work in their subsidiary. That is an L–1 visa. But of course, it is not that. It is anybody and everybody who they can get into the country, get over here to replace Americans who are now driving limousines at night.

Siemens in Florida contracted to have 20 of its American IT professionals replaced by foreign nationals brought in by Tata Consultancy Services. Tata used L–1 visas to import Indians at one-third of the salary of Americans laid off.

A member of my staff is a trained IT professional. Before he started working for me, he was a victim of the very problem I was talking about. When he asked his former company why he and the rest of his IT team had been laid off, they stated they were moving their project to India. They are doing this because the average Indian software engineer makes 88 percent less than the U.S. software engineer.

Companies are not the only ones guilty of this transgression. The State of New Mexico paid a firm in India $6 million to develop an online unemployment claim system. The State of New Jersey called a call center in India to handle calls from their welfare recipients. In New Jersey, calls go to India. The State of Pennsylvania Department of Corrections utilized an offshore company to develop its mission critical systems.

All of this shifting of jobs offshore has significantly slowed the recovery of our own economy, and it is something that we should tell our people about. This is something we should be truthful about. And these are all high-tech jobs I have been talking about recently. But remember, go back to the original discussion here about the people coming in here with low-skill, low-wage backgrounds and how much we need them.

Mr. Speaker, I remember distinctly, this may be now 6 or 8 months ago, but I remember an article that I read in the Rocky Mountain Newspaper in Denver, and there was an article, it was not an ad, it was an article about a job that had been posted by a restaurant by the name of, it was called Luna Restaurant. I know it, I have been there many times; a great Mexican restaurant in north Denver.

□ 1700

The reason why the posting of a job became a story rather than just an ad in the paper is because it was a job for a $3-an-hour waiter; and that one job posting, that one ad produced 600 applicants the first day. That is why it turned into a story, a news story, 600 applicants for a $3-an-hour job.

Mr. Speaker, it is possible, I suppose, that every one of the 600 applicants that day were illegal aliens, but I do not think so. Maybe a large number were, but I think a lot of the people who applied for that job were American citizens who needed the work.

So this old canard about they only come into the jobs no American will take is just that, it is a falsehood. We employ these falsehoods in order to maintain open borders. Both parties support the concept. The Democrats support it because it adds to their potential pool of voters for the Democratic Party. The Republicans support it because it supports cheap labor.

I will tell my colleagues, Mr. Speaker, if that is the policy that our government is undertaking, then it is simply the policy we should tell our constituents about. We should explain it to them. When my colleagues get a letter like this, handwritten, three pages long, talking about what happened to them, how they were displaced by foreign workers, we should write back and say it is the policy of this government to displace you, to move you into a lower economic income category because we believe in cheap labor and we believe that the politics of open borders helps our party, in this case the Democrats, as I say. The Republicans, it is the cheap labor side of things.

That is what we tell people. That is what we should do. That is how we should respond because that is the truth of the matter; and I hope that when we have people bring bills to the floor designed to do something about jobs, which we hear over and over again, do something about jobs, I just hope that they will think about one thing they could do. There is something that we could do tomorrow to improve the quality of life for millions and millions of American citizens. There is something that we could do tomorrow that could actually add maybe 10 million jobs for American citizens, and that is to enforce our immigration laws. Stop people from coming in here illegally, deport the people who are here illegally today, and we would automatically create 10 million jobs for American citizens.

So I want that discussed every single time there is a "jobs" bill brought in front of this Congress, because there is an easy way to do it. There is a moral way to do it. It is immoral for us to, in fact, displace American workers with cheap labor from outside our country. It is immoral for us to tell Americans that we do not have an open borders policy because we do, and there are ramifications to it, deep, serious ramifications to open borders.

If that is what the country wants, if 50 percent plus one of this body and the other body and the President of the United States signs it, that is what we will get; but that is what we are going to get. Even that does not happen that way. We are going to get it in a de facto way. We are going to get it without ever bringing it to the attention of the American public. We are all just going to look around one day and say, gosh, what happened to our economy? What happened to the country with the highest standard of living in the world? What happened to my job? At that point, it is, of course, too late.

Mr. Speaker, I hope that we will be more truthful in the discussion of this issue, and I hope that for all of our constituents' sake that we will begin to uphold our law, begin to defend our borders and begin to, in fact, enforce immigration law.

A TRIBUTE TO THE ASSOCIATED UNDERGROUND CONTRACTORS OF MICHIGAN

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I rise today to praise a community working together to accomplish an important goal. In an unprecedented effort, the members of the AUC, Michigan's heavy construction association, came together to renovate a unique historic site that we have in the State of Michigan, the Henry Ford. The Henry Ford museum and historical site includes Greenfield Village, the Henry Ford Museum and IMAX theater and the Benson Ford Research Center.

In 1929, Henry Ford started a living museum about American life. He wanted to collect and preserve objects that were used in everyday life. From the cider mill to the newly acquired electric car, over 83 historic structures on 90 acres celebrate the innovation and imagination of inventors whose ideas have changed our everyday life.

Mr. Speaker, last fall, in anticipation of the 100th anniversary of the Ford Motor Company, Henry Ford began a much-needed renovation. It faced all the problems of a modern town such as power outages, sewer failures, storm water flooding, decaying roads and treacherous sidewalks, as well as the equally challenging task of preserving a historic landmark.

Members of the AUC, Michigan's heavy construction association, donated their time, effort, equipment, materials, and innovative methods to solve these problems. More than 20 normally competitive contractors united to preserve 25,000 trees, replace nearly 35 miles of underground systems, and rebuild almost 11 miles of roads and sidewalks. They replaced sanitary sewers, water mains, storm sewers, irrigation piping, natural gas piping, and rewired electric and communication lines. Their expertise is estimated to have reduced the cost of renovation by nearly $10 million and completed it in less than a year. This was done by working together, management and labor, volunteers and professionals; and I just want today, Mr. Speaker, to commend the efforts of this community in their effort to save and revitalize Henry Ford.

Henry Ford himself once said, "Coming together is a beginning, staying together is progress, and working together is success." We had a success. The members of the AUC and many others came together, stayed together, and worked together to successfully honor the legacy of a great man and preserve part of history for our children. For that, the members of AUC and all those who helped in this fine effort are to be commended.

HONORING MAUDELLE SHIREK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, I am very pleased to introduce this resolution to honor the vice mayor of the city of Berkeley, a great leader for human and civil rights, for peace and disarmament, council member Vice Mayor Maudelle Shirek.

Today is Vice Mayor Maudelle Shirek's 92nd birthday, 92nd; and in honor of her tremendous legacy, I am extremely proud to introduce the Maudelle Shirek Post Office resolution. While fighting for social justice is no rarity in Berkeley, Maudelle's name always stands above the rest because of her uncompromising fidelity to her ideals and compassion for people.

As one of my political heroes, Maudelle continues to fight for equality and social justice for all. She is truly a role model for women, especially for young African American women.

She not only inspired me to get involved in politics but also my predecessor, the honorable Ronald V. Dellums. Her commitments to investing in people have won the solid support for many years of voters in her district. She is recognized throughout the world as a distinguished leader.

One of my most memorable Maudelle stories was when she was arrested with about 109 others in an anti-apartheid protest at the University of California at Berkeley. Many of the protestors were many years younger, including myself. She knew very well the awesome power of standing for what is right, regardless of the consequences.

A granddaughter of slaves, Maudelle left rural Arkansas which, of course, was her home; and she came to California in the middle of World War II. Before long, she was campaigning for fair housing and for many, many civil rights issues for African Americans and others who had been left out and disenfranchised. She became a union organizer and an office manager of the Co-Op Credit Union. She has helped many, many families in terms of their financial stability in the 9th Congressional District, especially in the city of Berkeley. She has demonstrated throughout her life the need for coalition politics for the betterment of humankind.

Vice Mayor Shirek's community commitment really knows no limits. She helped found two Berkeley senior centers, one of which she really still actively oversees; and at 92 years of age, she still delivers meals to shut-in seniors or, if it is a Tuesday, she does all of the shopping for lunches at the New Light Senior Center, which she founded 28 years ago. She taught many, including myself, the value of eating nutritious foods in order to live a healthy life.

Vice Mayor Maudelle Shirek continues to speak for the voiceless and to defend our basic civil rights and civil liberties. Please join me in honoring Ms. Maudelle Shirek, our Vice Mayor of the city of Berkeley, who is a fierce and inspirational woman who tirelessly continues to fight to make this world fair and just, a world of peace for our children's future.

The Maudelle Shirek Post Office will be a testament to the enormous contributions of this great woman.

IN MEMORY OF FORMER NEVADA CONGRESSMAN DAVID GILMER TOWELL

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I rise today to honor the life of, and announce the death of, former Nevada Congressman David Gilmer Towell, who lost his fight with cancer this past week.

Congressman Towell dedicated his life to both national and local politics from a very early age. In 1966, he founded the Douglas County Young Republicans; and within 4 years, he became the chairman of the Douglas County Republican Central Committee; and in 1972, was elected as Nevada's only Member of the House of Representatives.

In Congress, he would serve the people of Nevada with great distinction. He believed that government should be held accountable for a balanced budget and responsible to spending, those ideals which all of us in this House continue to echo and support 25 years later.

I extend my sympathies to his family and friends as we join together in mourning the loss of this valuable member of our community. His leadership of Nevada and of our country will serve as his legacy, and he will be remembered for years to come.

HEAD START AND PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes as the designee of the minority leader.

Mr. CUMMINGS. Mr. Speaker, it is certainly my pleasure this evening to come here to the floor of the House to address on behalf of the Congressional Black Caucus two issues that are of paramount concern. Both of them go to the very essence of life and both of them address two populations within these United States who are so often quite vulnerable.

Those issues go to addressing our Head Start program, which is one of the most effective programs in the world with regard to lifting up our children so that they can be all that God meant for them to be; and the other one goes to our seniors, with regard to their need for prescription drugs.

□ 1715

Mr. Speaker, it seems to me that these generations, the generations that count on us the most, are being neglected, overlooked and underprotected by this Nation's policymakers. My Republican colleagues seemed to be running trains in opposite directions on the same track this week; and, as a result, the programs that benefit children and the services needed by seniors are inevitably headed on a collision course that benefits no one.

First, the House Committee on Education and the Workforce is considering the School Readiness Act of 2003. The supposed intention of this bill is to better prepare Head Start graduates to begin kindergarten, as well as to set high standards for preschool readiness, teacher qualifications and comprehensive services. I say the supposed intention, Mr. Speaker, because this bill is, in truth, a thinly veiled attempt to dismantle one of the best tools used by the Federal Government to combat the negative effects of poverty on child learning.

It seems evident to me that my Republican colleagues do not believe that the government's role is to provide social services or provide a safety net for the American people. So my colleagues on the other side of the aisle have begun to attack these social programs that lend a hand up to many in hopes of greatly enriching the few with tax cuts we simply cannot afford.

My Republican colleagues are masking the true intentions of this bill, Mr. Speaker, and their deceit must be exposed. But this is no surprise, because it has been done before, again and again. The tax cut that passed this House not too long ago, with its sunset provisions, is a good example of Republican attempts to mask the true purpose of legislation.

The administration, Mr. Speaker, is claiming that Head Start children do not perform as well as other children once they get to kindergarten. Just the other day, I was at the Union Baptist Church Head Start Center in Baltimore, which is approximately 3 minutes from my home. I went there, Mr. Speaker, to watch little children graduate from Head Start, to hear many of them read on a second and third grade level, yet still we have those on the other side of the aisle who say that Head Start simply does not work. I would say to them that they need to go to the Union Baptist Church in Baltimore, only a 50-minute drive from D.C., and they will see young, beautiful children born into poverty but enriched by caring parents, caring teachers, and administrators at their Head Start center, and they are going to be all that God meant for them to be.

But, Mr. Speaker, the comparison of Head Start students with students who are not from poverty situations is a false comparison. Studies have shown that those students who participate in Head Start versus those that are similarly situated but do not participate in Head Start are far better off having been exposed to the Head Start program. But I should be clear: Head Start is not intended to be a solution. It is intended to be a head start.

We cannot solve all the problems of society that these kids are exposed to in the Head Start program. I have often seen where children will come to school and because they have not had the advantage of having been in Head Start, a lot of times those students from poor areas are already behind. Then what happens is they will go into a school and the kindergarten teachers tell us that they have to spend a phenomenal amount of time making sure that the other children, the children who are behind, are able to catch up to the other children. So, therefore, all the children are held up.

Mr. Speaker, instead of skewing survey results that benefit certain political ideologies, what we should be focusing on is improving what we know works. What we should focus on is strengthening and expanding this vital program for our youth and not seek to undermine and eventually eliminate it as we know it.

Mr. Speaker, I now want to discuss Medicare and the proposed prescription drug plan. Mr. Speaker, one's retirement years are often referred to as the golden years. But, today, the high cost of living and our slowing economy are making these golden years very difficult ones to enjoy. For that reason, I urge the House to pass a Medicare prescription drug plan that will alleviate the burdens retired seniors face when they are on a fixed budget.

The median household income of 65 and over is a mere $23,118. In my home State of Maryland, 70,000 seniors currently live on incomes that fall below the Federal poverty line of $12,120, yet most of us know that one of the biggest obstacles to enjoying their golden years is the cost of prescription drugs. Eighty percent of American seniors take a prescription drug every day. Of this, approximately 5 million seniors must pay for prescription drugs that cost more than $4,500 a year, while almost 3 million must pay more than $5,800 for their medicines. If we do the math, this comes out to paying anywhere from $375 to $483 per month, on top of the challenges I just mentioned.

Mr. Speaker, beyond the numbers are the real stories of real people. When I visit senior citizens throughout my district, the one thing they ask is for us to be honest with them and to pass a meaningful and workable prescription drug plan; and they say, "Please do it now, Congressman. We can't wait 5 years, because in 5 years we will be dead without our prescriptions." One lady told me she must go from pharmacy to pharmacy just to find free samples of the medicine she needs to survive. Another lady told me that she must cut her pills in half in order to save on the cost. And it is not unusual for me to hear stories about how seniors have gone without groceries, electricity, or other necessities just so they can pay for their prescription drugs. These are people that I hope my colleagues will think of as they vote on a Medicare prescription drug plan in the next few weeks.

I believe these stories I just shared are not unique to Baltimore. Every Member of this House probably has individuals such as the ones I described in his or her district. Yesterday, the Committee on Ways and Means passed H.R. 2473, the Prescription Drug and Medicare Modernization Act of 2003. That sounds awfully good in name, but it actually undermines the very nature of the health care program that serves more than 40 million elderly and disabled Americans. Although there is a prescription drug coverage provision in this bill, seniors still have to struggle to pay for their medicines.

Although the plan would cover 80 percent of drugs that cost between $251 and $2,000, this leaves out millions of people I mentioned earlier whose average cost of drugs is $4,500. This is because the bill passed by the Committee on Ways and Means would provide zero coverage for drugs that cost between $2,000 and $4,900. This is a huge gap where no assistance or coverage is available. I therefore urge my colleagues to, instead, adopt a Medicare prescription drug program that is affordable, available to all seniors and disabled Medicare beneficiaries, offers meaningful benefits, and is available within the traditional Medicare program.

We have introduced such a plan, H.R. 1199, the Medicare Prescription Drug Benefit Discount Act of 2003. I applaud my good friend and distinguished colleague from New York Congressman (Mr. RANGEL) for sponsoring this bill. I am also a cosponsor, along with most of the members of the Congressional Black Caucus.

Another concern I have about the Republican sponsored H.R. 2473 is that it relies heavily on privatization in order to manage cost. The problem with the GOP plan, Mr. Speaker, is that it would force seniors to use private insurance companies for drug coverage rather than relying on Medicare, which by the way seniors have paid for all their lives. They have worked day after day, year after year, given their blood, sweat and tears to support a program which now seems, if the Republicans' efforts are successful, to abandon them.

Although supporters of the GOP plan claim that competition would help control cost, the truth is that privatization would open a Pandora's box, because private insurance companies and managed care plans would design the new prescription drug plans. The private companies would also decide what to charge and then decide which drugs seniors would get. And private insurance plans would only have to promise to stay in the program for 1 year. This would result in seniors being compelled to change plans, change doctors, and even change the drugs they take every 12 months.

Skeptics who are listening to me right now, Mr. Speaker, may be thinking that this is only speculation. But in April, I spoke with a group of seniors at the Vantage House Continuing Care Retirement Community in Columbia, Maryland, who testified that privatization would be detrimental to the health care needs of our seniors. For example, under a similar program called Medicare-Plus Choice, that was mandated by the Balanced Budget Act of 1997, many seniors have experienced obstacles in receiving quality health care. Medicare-Plus Choice is a Medicare program administered by an HMO. The program was introduced to provide Medicare beneficiaries with access to greater benefits than the traditional Medicare program and, at the same time, to reduce Medicare spending. However, the Alliance of Retired Americans has reported that this goal has failed. For example, over 2.2 million beneficiaries have been involuntarily kicked out of the program since 1999, 327,000 of whom had no other Medicare-Plus Choice program available to them. Nearly 200,000 more beneficiaries are expected to be dropped by their Medicare-Plus Choice plan in 2003.

One of the main reasons for the policy cancellation is because providers, such as doctors and hospitals, are increasingly unwilling to accept HMO payments they consider inadequate to cover the cost of care. This is exactly what will happen if the Republican plan is adopted. If we really and truly want to make sure that seniors enjoy their golden years, then this particular bill take us in the wrong direction.

Finally, Mr. Speaker, I urge my colleagues to not overlook our concerns. This is not about politics, it is about people, my constituents, who have worked hard all their lives, who have built this country and made it one of the best countries in the world, and now they simply ask that they be treated fairly.

I also want to take a moment to thank our leader on the Democratic side, the gentlewoman from California (Ms. PELOSI). She has been at the forefront of both of these issues, addressing the issue of prescription drugs and addressing the issue of Head Start. Her sensitivity, her constant efforts to bring these issues before the American people is greatly appreciated by our caucus and I am sure greatly appreciated by all Americans.

Mr. Speaker, it gives me great honor and great privilege to yield to my colleague, the gentlewoman from California (Ms. WATSON).

☐ 1730

Ms. WATSON. Mr. Speaker, I rise today to address my concerns about H.R. 2210, the School Readiness Act. The major changes and new requirements under title II and title I will damage the integrity and efficacy of the program. This overhaul reverses the precedence in achievement that was created by the No Child Left Behind Act. NCLB seeks to close the achievement gap through stronger standards and stronger Federal oversight. H.R. 2210 attempts to reach the same solution by eliminating standards and oversight.

Title I serves to weaken the performance standards of the current Head Start program. States will be able to lower teacher standards. H.R. 2210 decreases the percentage of funds reserved for training and technical assistance from no less than 2 percent to 1 to 2 percent. The bill requires minimal parental involvement. Head Start will become disassociated with the Department of Health and Human Services.

A process of contracting out monitoring programs strikes the requirement that HHS oversee Head Start. The block grant encourages States to refer families to outside services for assistance that was once under the jurisdiction of HHS. This nullifies the 13 areas of Head Start performance standards that maintain the program's high level of quality. Under this legislation, the Secretary approves applications from States that meet the loose eligibility criteria by default. In essence there is no oversight or evaluation of the quality of the State plan.

Mr. Speaker, since its inception under the guise of HHS, Head Start was designed to help the whole child. Current service offered through HHS cannot be carried out as effectively with minimum input by the Department.

Above all, States will be forced to reduce the overall number of Head Start children served. States have already been forced to cut early childhood education programs outside of Head Start due to the budget crunch. The block grant allows States to use Head Start funds to supplement other Federal programs. Governors may be able to use this money to cover budget deficits in their States. In California, that receives over $800 million for Head Start, at the same time there is a $38 billion budget deficit. With the block grant proposal, my State has the option to use $800 million to close this budgetary gap.

Changing the funding formula to block grants, under title II, creates a daunting scenario for the Head Start program. The four eligibility requirements under title II do not address quality or expertise. The legislation requires the bare minimum of States: an existing prekindergarten system, standards for school readiness, allocating no less than 50 percent of funds to grantees and their interagency coordination. All 50 States meet these requirements, but too few provide the quality level of services.

At present only three States provide all the services needed to get at-risk children ready to learn. These States provide the same set of eight comprehensive services required of Head Start through state-run prekindergarten programs.

Mr. Speaker, 30 States have such programs; yet only three are able to meet the standards that they created in order to prepare our children for success in school.

Now we want to give all 50 States this responsibility, knowing full well that these States have not proven that they are able to do so. This will be a great disservice to our Nation's youth. We must make better investments in our children and our future instead of stuffing the pockets of millionaires. An investment in our children equals an investment in our Nation's strength, in our Nation's security, and in the future.

The economic plans and the focus of the administration must be balanced between future consequences and immediate gain. We must also continue to keep the facts at the front of the debate so that the administration and Congress can make policy decisions based on the facts rather than on misguided interpretations and subjective judgments.

Since 1965, Head Start has been one of the most successful anti-poverty programs. According to a recent report of the President's Management Council, Head Start received the highest consumer satisfaction rating of any government agency or private business.

The program has helped millions of children prepare for school, become productive students and improve the quality of their lives. The current program narrows the readiness gap between Head Start children and their more affluent peers. Almost 70 percent of children enrolled in Head Start programs are from minority groups. One-third of these students are African

Americans. Over 34,000 migrant and seasonal workers' children are served annually.

Improving Head Start can be done without this major overhaul. As in the past, improvement can be done under the existing structure.

Mr. Speaker, in 1998 Head Start supporters sought to ensure that at least 50 percent of all Head Start teachers acquire an associate of arts degree or better by the year 2003. The program has met this goal. The HeadsUp! Reading Network was established to train Head Start and other early childhood teachers across the Nation. These are improvements that we hope to establish through the No Child Left Behind Act. We have not yet met these goals, but Head Start has met its goals internally.

Mr. Speaker, I encourage my colleagues to maintain Head Start as it is. It is the duty of Congress to protect the current and the future security of our Nation. We must continue to help the children of migrant workers, at-risk youth, and their parents. By supporting Head Start in its current form, we will be doing just that.

Mr. CUMMINGS. Mr. Speaker, the gentlewoman from California (Ms. WATSON) talked about block granting and how so many States have deficits, and I understand that California has a large deficit; is that correct?

Ms. WATSON. We have a $38.5 billion deficit.

Mr. CUMMINGS. I think just about every State has a deficit, and I think one of the things that we have been most concerned about is if this money then goes to the States, this Head Start money goes to the States, we are afraid what might happen to that money on its way to our children.

Ms. WATSON. Certainly one would be tempted to fill in the gap. Because of our shortfall in funds and because of the oncoming tax cut, we will have fewer revenues and we will find programs like health competing against educational programs, and I do not know how they can be separated, and other social programs that are the safety net. You have to be compelled in some way when you have some money coming in to close the gap here and close the gap there. They are not going to be closed because they are too deep, but to address the needs with these funds intended for the Head Start program.

Mr. CUMMINGS. One of the things that came out during the Congressional Black Caucus hearing yesterday was a parent from Baltimore, a woman name Portia Deshields, and she said the Head Start program had opened her eyes to so much. First of all, she was a Head Start child, and she placed her child in Head Start. The child just developed by leaps and bounds, had some problems, but Head Start was able to refer them to an appropriate therapist, was able to bring about this type of psychological counseling that the child needed, and then the child was able to graduate from Head Start.

But the thing that was so interesting about what she said was by seeing what Head Start had done for her child and by being involved in Head Start, and as I understand it Head Start, the way the legislation is now, that is the present law, parents must be involved. It is a very, very important thing. She sat on the council for her Head Start organization; and the next thing she said she was so moved by what was going on with her child in Head Start and was so moved by the way she could affect her own Head Start program, she decided to go back to school, and in a few years she will be graduating from college. So her child was lifted up. And she and her family were lifted up.

Ms. WATSON. Head Start is needed now more so than ever. With the new TANF requirements, you as a welfare recipient have to go back to work when the child is 6 months old. That means you are not in the home from zero to 5 to help nurture that child and teach them because you are working, and you are working a full day. So we need Head Start now so children can be ready to learn when they go to kindergarten, simple things like tying one's shoe, buttoning one's jacket, being able to share and work with others, those things that were done in the home that will no longer be able to be done in the home because one parent has to go to work, and these are single-parent families so they do not have the time to train their child.

Head Start was created during the War on Poverty during the 1960s. It was the best thing we did to close the safety net. Why would we take a program which has had such successful outcomes, and these can be measured, and start whittling it away? I do not understand the thinking. It will cost us less in the long run to have a Head Start program and not a block grant in every State.

Mr. CUMMINGS. Research has shown that for every dollar we spend for Head Start, we save 4 to $7 later on. Of course we are talking about we help children avoid teenage pregnancy, juvenile delinquency, dropping out of school, which later on cost society quite a bit; but just as significant or more, the child has then missed out on his or her dream to be all that God meant for them to be. That is such a sad thing when they are denied the opportunity of getting to where they could be.

Ms. WATSON. The research clearly shows if you invest in the early years, there will be more of a guarantee of success in the later years.

Mr. CUMMINGS. Mr. Speaker, I appreciate the gentlewoman's clarification on those issues.

Mr. Speaker, I yield to the gentlewoman from California (Ms. LEE), someone who has been at the forefront of people issues. When children come on the Earth, we already know that they have gifts; and the question is what will we do as adults to help them develop those gifts. She has certainly been at the forefront of the Head Start program to make sure we maintain Head Start and make it better, as well as a Member who has worked very hard on this issue of prescription drugs.

Ms. LEE. Mr. Speaker, I thank the gentleman from Maryland (Mr. CUMMINGS), chairman of the Congressional Black Caucus, for the gentleman's leadership and for once again holding this Special Order to attempt to wake up America.

□ 1745

Tonight, of course, under the gentleman's leadership, we are once again talking about children and our senior citizens. Once again we are talking about the Bush administration's dismantling, total dismantling, of social programs. The Bush administration has really waged war on children and our senior citizens. They continue to dismantle, privatize, and create unfunded mandates that truly compound our State budget crisis and leave our children and our senior citizens behind. I have yet to see the compassionate conservatism which was promised over 2 years ago. Actually on my report card, the Bush administration gets first an F for attempting to block grant the section 8 program, which helps kids live in mixed income areas and have the chance to go to mixed and integrated schools, and for eliminating the drug elimination program which provides violence prevention efforts in public housing to increase their safety at home.

The Bush administration gets another F for attempting to block grant Medicare and Medicaid to the States and removing the responsibility of the Federal Government to provide health insurance to millions of children and to families by trying to give this to the States which are really suffering from fiscal shortfalls and extreme budget crises.

They also get an F for failing to include the 12 million children, 12 million, mind you, in their tax cut proposal. They also, based on my report card, get an F for attempting to privatize not only Social Security but the current Republican prescription drug benefit which will leave millions of seniors without coverage. They want to give really the insurance companies and the pharmaceutical companies another way to make more profits. In fact, according to Consumers Union, more seniors would pay more for medicines than they now do under their proposal. That is why they get an F for their prescription drug benefit plan.

They also get an F on the economy, because the Bush administration and this Congress has not provided a secure economy where families can provide for their children because they have jobs and a sense of stability and economic security, not because they have an alleged tax cut. They also get another F for their current Head Start attempts and for continuing to dismantle Head Start really, and that is what they are doing by block granting it and by reducing the effectiveness of Congress, State governments, and our communities.

Tonight, many of us are talking specifically about Head Start and why we cannot stand by and allow our Republican colleagues and the administration to move forward with their plan to test kids, mind you, at age 4, I believe, literacy testing. How cynical. Age 4. Their plan would require care givers as well as teachers to have college degrees instead of concern and sincere interest in their students and would reduce, instead of expand, the success of the current Head Start program. That is why they get an F on my report card for block granting Head Start.

Over the last 4 decades, Head Start nationwide has reached an unbelievable number of students. Since 1965, over 20 million children across the country have participated in Head Start. Last year alone, Head Start and Early Head Start programs worked with more than 900,000 children; that is 900,000 in over 2,500 local programs. In my own hometown of Oakland, California, 1,600 children are part of our area Head Start program. But we are still not reaching enough kids. On any particular day, 300 to 400 young people are on a waiting list for the Oakland Head Start centers. In fact, all 30 centers have children on a waiting list, meaning that all areas are being affected; 300 to 400 children are far too many to have to begin school already behind. In fact, one child on a waiting list is one too many who do not have access to early participation. Just a couple of months ago, over 300 to 400 families, children, men and women, came to a rally and participated. In no uncertain terms they said very clearly to me, do not tamper with Head Start. If it ain't broke, do not fix it. Leave it alone. Let us put more money in Head Start. Do not subject us to the whims of the State budget crisis.

We cannot stand by and allow this administration and this Republican Congress to dismantle good programs like Head Start. We cannot allow them to succeed in the ongoing elimination, and that is what is going on. It is the systematic elimination of proven programs that benefit and lift up all people in our country. We cannot allow the President and the Republican Congress to dilute what has been one of our most successful programs over the last 4 decades. We must stop this assault on Head Start, we must stop this assault on our children, we must stop this assault on our senior citizens, we must stop this assault in terms of the bogus prescription drug benefit program that the Republicans are pushing, we must stop the assault on section 8, we must stop the assault on Social Security and in terms of our overall domestic economic agenda.

Mr. Speaker, I encourage my colleagues, all of us, to join with our Chair of the Congressional Black Caucus to once again this evening try in another instance to wake up America in terms of what type of dismal, very backwards policies that this Republican Congress and this administration are shoving down the American people's throats.

Mr. CUMMINGS. Mr. Speaker, the Congressional Black Caucus and the Congressional Hispanic Caucus work very closely on a number of issues. It so happens that we work on the two that we are addressing tonight. There is no greater leader that I have come to know than the head of the Hispanic Caucus, the gentleman from Texas (Mr. RODRIGUEZ). Our caucuses have worked hard on many issues. We may not have been able to stop everything, but we certainly were able to throw up a few roadblocks. The fact is that he comes tonight, and I am so glad that our caucuses could join together tonight to address this House.

I yield to my friend, the gentleman from Texas, the Chair of the Hispanic Caucus.

Mr. RODRIGUEZ. I want to thank the gentleman from Maryland for yielding. His leadership has also been noticed throughout the country. I want to personally thank him. I want to also specifically thank him for reaching out to the Hispanic community across this country and reaching out to the Hispanic Caucus. To me it has been a pleasure working with him. I know we have a great 2 more years to go, and I look forward to continuing to work with him.

I want to also congratulate him on the efforts that he just conducted and we had the pleasure this week of attending a hearing on Head Start. I want to thank him for inviting me there. We had some beautiful panels that went before the Congressional Black Caucus to talk about the needs of Head Start and to talk about the research regarding Head Start and how to best reach our young people. I want to personally thank the gentleman for the leadership. I want to thank him for that energy that he shows in reaching out. I know that we probably have had for the first time in a long time both Hispanic and African Americans, more press conferences together than anyone else, and we are going to continue to do that. I know that there are a lot of issues that confront the African American community, as well as the Hispanic community, and everyone, the entire community in the country, that we are going to continue to work on. I want to thank the gentleman for his leadership.

Tonight we are here, and I am glad that I have an opportunity to be here to talk about the importance of Head Start. The adequate care in the development of our children is perhaps the greatest hope of America. For those who lack the resources, for those who face the social barriers, the educational barriers, the linguistic barriers, the cultural barriers in the pursuit of this necessary goal, we offer them a program that has worked and that is Head Start, a program that has been there for approximately 35 years, since 1965, a program that has shown that it can reach out to our youngsters and meet the needs.

As chairman of the Congressional Hispanic Caucus and also as a parent, and I speak as a father, recognizing the importance of Head Start, recognizing the importance of starting early with some of these youngsters. I just compare myself to my daughter also, where my daughter has had some opportunities to get access to a lot of books. When I was growing up, I did not have those opportunities, and I know that Head Start provides that initial effort that allows those youngsters to be able to compete.

Head Start is a highly successful program. Since its founding in 1965, the Head Start program has provided comprehensive child development and family support services to more than 18 million low-income preschool children and their families. I stress "their families." Given the broad objectives of the programs, it is difficult to compare its success against other programs with more narrow objectives. For over 3 decades, Head Start has been there for our kids. Head Start is the first and foremost federally funded comprehensive child and family development program designed to meet the needs of low-income families with preschool children. This is why it must stay in the Department of Health and Human Services. It reaches out and works with young people.

Head Start currently is only serving 40 percent of the children that are eligible due to the lack of funding, and only 3 percent of the eligible infants and toddlers. So there is still a lot that we can do. Children born into families of poverty start at a marked disadvantage to their peers in the middle-income and wealthy families. Studies suggest that they do not have that richness of books in their home, proper nutrition or access to continued health care. And so Head Start was created to address this facet of issues, improving the richness of early learning experiences for not only young children but also for their parents as well.

In fact, Head Start focuses on families in fighting poverty in a comprehensive manner that has led the program to its success at getting children ready for school, improving their literacy and improving their skills and giving their parents the skills needed to become the child's first teacher, their best teacher, their parents. Administering the program through the Department of Health and Human Services ensures greater collaboration and the integrity of all the components essential to a child's and family's development. Providing comprehensive education, health and family community resources contribute to children's readiness, especially for low-income children and families. Transferring the program to the Department of Education would undermine the comprehensive program with no guarantees that these essential programmatic components would be preserved. So it is important that this program continues to remain in the Department of Health and Human Services. I know the administration has made every effort to try to change that.

In addition, the President in his 2004 budget proposal introduced initiatives that wage a war on the poorest children of our country, Head Start. The administration purports that moving Head Start to the Department of Education would be the best thing to do. In reality, this program has been working well under the Department of Health and Human Services. We cannot see how this can be improved when it has already been doing a good job. I can only conclude that the President fails to recognize the true value of Head Start. We must ensure that Head Start continues to provide our children with comprehensive services. If the administration continues to want to move Head Start to the Department of Education, if they want to continue to push to put it into a block grant, one can only conclude that this administration and that this President does not support Head Start and is not willing to allow it and fund it at the level where it should be and allow it to continue to make progress.

Besides trying to dismantle the Head Start program, the President also announced in his 2004 budget an increase of only $148 million for Head Start. This small increase would not cover the inflation cost that is needed in order to make things happen and in order to continue to meet the needs of more than 60 percent of youngsters that qualify under this program that are not receiving services. And so this increase is not sufficient.

Further, the President's budget proposal of 2004 includes a legislative proposal to introduce an option available to the States to participate in an alternative financing system. Under his proposal, States would receive their Head Start funds under a flexible grant. States are grappling with their own budgets at the present time. In fact, we started this program through the Federal Government because States were unwilling to be responsive.

□ 1800

States such as Texas, for example, fund only kindergarten at half day. The local community has to fund the rest of it. So we can imagine what they would do with the resources. They would not go to Head Start. They would go somewhere else.

At the same time, the State funding for Early Childhood is at a dismal situation. After this last session, it even got worse, so that we are really concerned that the President's effort at trying to dismantle and attack Head Start is a way of trying to get the resources away from these kids that drastically need them to provide to the States. We are concerned that those resources will be used for other purposes.

I also want to take this opportunity to talk about an important aspect of Head Start that we very seldom talk about, and that is, I would like to take a moment on the seasonal and migrant Head Start programs. Many young migrants and seasonal children in the United States are taken into the fields because the parents have no other place to leave them while they are at work.

Now we are seeing these young people in the Carolinas and other States where we did not see them before, where some of these programs are still not in effect, and I have seen recent pictures taken where young people are right there, young kids of 2 and 3 and 4 years old, next to their parents while they work in the fields. Sometimes young children take care of their younger siblings in camps and fields while their parents work hard in the fields. Migrant and seasonal farm workers in various sectors of our Nation in the agricultural industry, from harvesting, to sorting, to processing, to everything in between; it is hard work, and it takes special skills.

But these families earn about $10,000 a year. These are the ones that pick the products and pick the food that we eat. These are the ones that we take for granted when we sit down to eat each night and not recognize that there are people out there doing this kind of work.

Migrant and seasonal Head Start programs serve nearly 32,000 migrant children and nearly 2,500 seasonal children annually. Seasonal and migrant Head Start programs operate in 39 States in every region of the country. These programs offer positive nutritional child care for children ages birth to school entry age. Thirty-five percent of the migrant and seasonal Head Start enrollment is comprised of infants and toddlers. Getting migrant and seasonal children out of unsafe environments is a starting point for migrant and seasonal Head Start programs.

But they do more than that. Migrant and seasonal Head Start programs answer basic needs of migrant and seasonal children, and it is important that these programs remain within the Department of Health and Human Services. Migrant and seasonal Head Start is very different from the other programs because it is the nature of farm labor. Children need full-day services often from 6:00 a.m. to 6:00 p.m. These programs have been there. We need additional resources for this area.

One of the things that I would question is that if they are transferred over to States, the fact that they exist in 39 States, the fact that they also have to have the flexibility to be able to work with these young people that come in on a seasonal basis that might be there temporarily, our schools are not geared to be able to address that need. The programs that are out there have been meeting that need for over 35 years, and they need more resources, but they have been there for those kids.

They know how to reach out to those kids, and this is one of the main reasons why this program has to remain with the Department of Health and Human Services, and it has to remain with those local communities instead of being put into a State grant.

So tonight I want to take this opportunity to thank the gentleman from Maryland (Mr. CUMMINGS) and thank the Congressional Black Caucus, in their efforts and just to continue to reaffirm that this President and this administration, when he ran for President, he promised to work in the area of education. He promised to deliver a program that would respond to the needs, and he indicated that education was one of his first priorities. But in return, his Leave No Child Behind has $9 billion of his own bill that he has not funded, and he has left us behind. When it comes to Head Start, the promise that he has is to put it into a block grant and basically destroy the program that hits us at the most vulnerable of this country.

So his promises have been empty words that have not been met. So I want to once again thank the gentleman for allowing me to be here tonight, and I want to also express my sincerest appreciation for the hard work that he does and the entire Congressional Black Caucus, and I look forward to working with him.

Mr. CUMMINGS. Mr. Speaker, we look forward to it too, and we really do thank the gentleman from Texas.

Mr. Speaker, I want to talk just for a moment about this whole issue of Head Start, and I would like to engage the gentlewoman from California (Ms. LEE) in a colloquy just very briefly.

One of the things we have in my district is a high school called Veneble High School, and this is for special education children, and one of the things that I have noticed is when I go to their graduations, so many of these children have speech defects. So many of them have problems walking. And the interesting thing that I noticed is that when I talked to the principal at one of the graduations, I said how did this happen? And she said if they had had the proper services when they were little, it would have made a world of difference. In other words, if they had had a speech therapist, maybe if a child were given braces to wear on his leg, by the time he got to be 4 or 5, he would have been able to walk properly. So these children then grow up with problems that could have been corrected earlier, and I think one of the advantages of the Head Start program is that it is comprehensive and they look at all aspects of the child's life and try to address them at that early age.

Has that been the gentlewoman's experience?

Ms. LEE. Mr. Speaker, the gentleman from Maryland hit it. That is exactly why moving Head Start from the Department of Health and Human Services into the Department of Education is not the right move because currently, our young people who are in Head Start, our children, receive comprehensive services. Their families receive the support. They receive not only a quality early childhood education, but they also receive those basic kinds of support services that they need to move on to lead a quality healthy life. Children from low socioeconomic backgrounds do not have the resources for healthcare. We know how much healthcare is costing now. Their parents do not have insurance coverage. They do not have access to dental clinics.

So Head Start provides for immunizations and all of those kinds of healthcare needs in a total package for young people who, by no fault of their own, just do not have any money to receive those types of basic services, and that is why moving it to the Department of Education is wrong and we have got to defeat this proposal.

Mr. CUMMINGS. I thank the gentlewoman.

Mr. Speaker, I am very pleased to yield to the distinguished gentleman from the great State of Illinois (Mr. DAVIS) who has also been at the forefront of the fight for Head Start and for prescription drugs for our seniors.

Mr. DAVIS of Illinois. Mr. Speaker, I want to commend the gentleman from Maryland (Mr. CUMMINGS) and the gentlewoman from California (Ms. LEE) and the gentleman from Texas (Mr. RODRIGUEZ) for the leadership that they have shown and displayed.

I just left the markup in the Committee on Education and the Workforce where we have been babbling, I guess one could say, all day long. We have been debating Head Start. And there are certain principles that we have tried to maintain, and one is that the program must be kept comprehensive. It must remain comprehensive and not be streamlined and categorized so that young people will get the full benefit of the most effective program that we have had coming out of the civil rights movement, coming out of the war on poverty. No other program has been as successful as this one.

We also have to make sure that the block granting does not creep in, and we have obviously crept up, and they are down to talking about eight States now that would be demonstration projects, but we have got to watch that because those eight States will still represent one-third of all the children in Head Start.

So if we are talking about eight States with large populations, with large populations of Head Start children, then that becomes a significant number. We are still opposed to the block granting all the way.

We know that we need additional funding, especially as we now have a mandate that 50 percent of the teachers ought to have a college degree by 2008. But how does one get a college degree if one is a Head Start teacher making $12,000, $15,000, $10,000, $11,000, $14,000 a year without some help. So we are proposing stipends and scholarships, things that are going to help those individuals.

And I was pleased to note that I did get an amendment accepted a few minutes ago that will call for the creation of a fatherhood initiative, and I noticed that the gentleman from Texas (Mr. RODRIGUEZ) mentioned that, as a father, we find that many fathers are absent from the lives of their children and that one of the things that we can do in Head Start is stimulate the growth and development of that.

So I just, again, want to commend all of my colleagues here, the gentleman from Maryland (Mr. CUMMINGS) as he leads the Congressional Black Caucus, the gentlewoman from California (Ms. LEE), and it was good to see the gentleman from Texas (Mr. RODRIGUEZ), chairman of the Congressional Hispanic Caucus, and I know that the gentleman from Alabama (Mr. DAVIS) is here, and the gentleman from New Jersey (Mr. PAYNE) who has been doing an outstanding job in the Committee on Education and the Workforce, we have been there together all day. So I thank the chairman so much.

Mr. CUMMINGS. Mr. Speaker, I thank the gentleman.

Let me just say this, Mr. Speaker. The Congressional Black Caucus is very concerned about this issue along with the Congressional Hispanic Caucus, and sometimes I think what happens is so often people will hear the words Congressional Black Caucus or hear the words Congressional Hispanic Caucus and think that we are only addressing issues that affect African American and Hispanic people. That is simply not true. The issues that we address go to the very center of people's lives, and I can think of nothing greater that allows a person to be all that they can be than health issues, making sure they have prescriptions that they need and making sure that our children have the education that they need so that they can get to their destiny.

I have often said that our children are the living messages we send to a future we will never see, and the question is what kind of message do we send if we deny a child who was born into poverty? That child did not ask to be born into poverty, but he is born into poverty or she, and so that child has a struggle from the very, very beginning. And I think that if we can help a child at 3 years old and give that child a proper foundation so that they could then go forward in life and have what I call consistent appointments with success, then that child grows up, and that child possibly could be the person who finds a cure to pancreatic cancer or could become the President of the United States.

But when they are denied that opportunity at an early age, then so often they go off the road as a straight and narrow path, and the next thing we know, we see them as I see them in my district, so many of them dropping out of school, so many of young ladies having babies as teenagers, and we see the problems that they are confronted with. And Head Start is a program, Mr. Speaker, that has effectively addressed those problems, and again with regard to the prescription drugs, we have to stand up for our seniors.

GENERAL LEAVE

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on my special order.

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Is there objection to the request of the gentleman from Maryland?

There was no objection.

□ 1815

PRESERVING HEAD START

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentleman from Alabama (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Alabama. Mr. Speaker, to a number of people around the country it is approximately 15 minutes after 6 in the East, about a quarter after 5 in my neck of the woods in central Alabama; and a lot of people are coming home right now from working on the assembly lines, a lot of people are coming from working in the nursing homes and the places where hard work is done in this country, and a lot of them picked up their children from Head Start.

A lot of them are coming home now, and they are watching this debate, and they are asking a very basic question: Why is this House even assessing the question of Head Start? Why is this House even talking about dismantling Head Start, when in their own lives they see this program has been so enormously successful?

There is an old maxim that if something is not broke, you do not fix it; and the perspective of a large number of people I represent in Birmingham, Alabama, and Selma and Tuscaloosa and in all of the rural counties in my State is that this has been a part of the War on Poverty that has endured. This program, which was launched in the 1960s, has endured, it has survived, and it has notably commanded bipartisan support.

As I talk to friends of mine on the other side of the aisle, particularly friends of mine who have served in State legislatures, a good many of them away from this floor will express that this is a program that has been successful.

So many people wonder why, as we talk about reform, as we talk about changing the educational system in this country, why we are targeting this particular program; and I will make three basic points to follow up on what my very able colleagues from Maryland and California said earlier.

The first one is that this program has been an enormously effective holistic program. It has been a program that has helped not simply make children more literate, but has frankly helped to make children better young men and women, better equipped to participate in school, better equipped to live in their communities.

It is not simply a reading program, it is not simply a literacy program, and to try to limit it or to cabinet it to just those areas deprives the program of some of its potential.

Another very basic point, as we talk about block granting this program even for just eight states, we know the reality of block grants has been that as the programs devolved to the States, the States are often unconstrained in how they spend the money. They are often unconstrained in their vision of how the money should be spent.

I know in my State of Alabama we are facing enormous budget consequences now, and in the States most of us represent our States are fiscally struggling. They are not asking for more programs to be put on their plate from an administrative or financing standpoint. If anything, they want more help from Washington, D.C., not more requirement that they administer particular programs that are being transferred from Washington.

A third point: we often talk about representing the interests of people whose voices are not heard in our society. It is crystal clear to me that among the most unrepresented people that we have are the children who are living in poverty and the children who are living in families that are standing at the edge of economic security.

Just one week ago, this House failed to pass a child tax credit, a manageable child tax credit bill that would have helped a lot of those families. It would be a shame if next week or in the weeks to come that we decided that we were going to attack those families in just one more little way, by changing this program that has benefited so many of them.

In conclusion, Mr. Speaker, when this issue comes on the floor, when we begin to talk as a body about Head Start, I hope that we understand it has been a success, and I hope we understand that so many families in districts like mine around this country look to this program; and we ought to be finding a way to preserve it, we ought to be finding a way to help connect with these children, because if we lose them, as the gentleman from Maryland (Mr. CUMMINGS) said so well a few minutes ago, we are losing a potential talent base that we have not discovered. We are losing people that have the chance to do an enormous amount in their lives.

We need to be nurturing them, helping them; and this program has been an example of what government can do at its best. There are some of us in this body, Mr. Speaker, who still believe that government has a high and noble purpose. Not that it is the only answer, but that it can do something to touch and connect with the lives of people who have been left behind.

THE IMPORTANCE OF HEAD START

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PAYNE) is recognized for 5 minutes.

Mr. PAYNE. Mr. Speaker, as we continue to discuss the importance of Head Start, the Head Start program to our communities, I want to draw attention to a resolution that I offered, H. Res. 238, expressing support for the Head Start program, which has had such a positive impact on the lives of millions of children nationwide.

This resolution not only recognizes the contributions of Head Start; it also supports maintaining its current designation at the Department of Health and Human Services.

Earlier this week, I participated in a hearing convened by our chairman, the gentleman from Maryland (Mr. CUMMINGS) of the Congressional Black Caucus, where we had an opportunity to hear from those who are directly involved in administering the program, including Maxim Thorne, executive director of the New Jersey Head Start Association. He expressed his concern about the effort to block grant the program, which he said would have a devastating impact on New Jersey's Head Start children.

The majority backed off of the block grant to all of the programs, but selected eight States, one of which is New Jersey. The eight States carry about one-third of the children, as was indicated by the gentleman from Illinois (Mr. DAVIS).

Most of the States selected are States that have financial problems, as we have in New Jersey. In New Jersey, we are already grappling with the Abbott decision, which was a decision where our Supreme Court of New Jersey said that every child in New Jersey is entitled to a thorough and efficient education.

The State administration is before the courts asking for relief from that decision, saying that the budget is tight, they have constraints, they cannot fully fund this court order; and they are asking to be allowed to delay and defer programs under the Abbott decision.

What will happen when the Head Start money comes? It will be very tempting to see if perhaps this money can go further and be used in trying to comply with the Abbott decision. I think it is wrong, and I definitely oppose it, as do all of the members of the Democratic Party on the Committee on Education and the Workforce.

Also echoed by our executive director of the Head Start program was the provision which would allow for open discrimination of Head Start workers based on religion. This goes against everything our Nation stands for.

Mr. Speaker, Head Start has a proud and successful history. In 1964, President Lyndon Johnson gave his State of the Union Address before Congress and our Nation with an announcement to declare war on poverty. In his declaration, he believed, for the first time in history, poverty could be eradicated, and offered his proposal, the Economic Opportunity Act of 1964.

Despite opposition that believed poverty was on the decline from the heights of the Great Depression, President Johnson was undaunted. He declared the act does not merely expand old programs or improve what is already being done, it takes a new course. It strikes at the causes, not just the consequences of poverty. It can be a milestone in our 180-year search for a better life for our people.

After the bill was signed into law, an Office of Economic Opportunity was created to fulfill its mission. At the same time, a pediatrician by the name of Dr. Robert Cooke was asked by the head of this new office to lead a steering committee to come up with specialists to find out what should be done.

The Cooke memorandum outlined what we know as the Head Start program. Launched as an 8-week summer program, Head Start was designed to help break the cycle of poverty by providing preschool children of low-income families with a comprehensive program to help meet their emotional, social, health, nutritional, and psychological needs.

Since its inception, Head Start has served over 20 million children. Today it is a full-day, full-year program providing pre-school children of low-income, working families with a comprehensive program to meet their emotional, social, health, nutrition, and parental support needs.

Head Start's focus on the whole child extends to recognizing the importance of the family, not the institution. Throughout its history, Head Start has included parents in both their child's education and membership in the Head Start Policy Council, which serves as a vital link between the community and the public and private agencies. Parental involvement is a critical and integral part of the program. Economically deprived families are no longer seen as passive recipients of service, but rather as active, respected participants and decision-makers.

So, as I conclude, with the average child care cost in my State of New Jersey over $5,000 a child, thousands of children across the State and others would not have had access to an exceptional program that has them ready to learn by the time they enter kindergarten if Head Start was not there to serve them. Terms such as "State options" and "coordination" will mean shortchanging and ending a 38-year program which has proven to be successful to millions of children.

We need to move toward full funding of Head Start. We need to support and preserve the Head Start program. I look forward to working with my colleagues to accomplish this goal.

EXPANDING MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RUSH) is recognized for 5 minutes.

Mr. RUSH. Mr. Speaker, today in the Committee on Energy and Commerce we are marking up the most critical expansion of Medicare since its inception 37 years ago.

As you might have expected, Mr. Speaker, in my opinion, the bill is not perfect. It needs work. There are two amendments that I will introduce to strengthen the Medicare Prescription Drug and Modernization Act of 2003.

My first amendment will ensure that diseases that disproportionately affect the African American community will be highlighted in the disease management component of the bill. The diseases that need to be highlighted include prostate and colon cancer, hypertension, and obesity.

The current language in the chairman's mark does not include enough diseases that should be highlighted in the preventive care management portion of the bill. There is disease management capacity in the bill, and it requires preventive care in Medicare. So, in my opinion, Medicare must address the diseases that proportionately affect minority populations.

We have to address a population who has been told that their life expectancy is 15 years lower than that of their white counterparts. African American men have a 34 percent greater chance of being diagnosed with prostate cancer and a 123 percent greater chance of dying from prostate cancer than white men.

African Americans' overall cancer rate is 33 percent higher than for whites overall. The incidence of this disease among African American men is among the highest in the world. From 1973 to 1992, the rates of death from prostate cancer among African American men increased by 41 percent. Blacks are more likely to get cancer and to die from this dreaded disease than other racial or ethnic groups.

It should not be difficult to understand my insistence at this opportune time in the Committee on Energy and Commerce that we address this particular matter. It is my hope that seniors will become educated about what they can do to lower their risk for cancer.

Medicare should serve as an educational vehicle. Seniors will learn how to eliminate stress, how to eat properly, and how to incorporate exercise in their lives. They must learn how they can lower their own risk and improve health care through their own behavior.

My amendment also addresses preventive care for hypertension. Hypertension, Mr. Speaker, is a leading cause of stroke. I am sure that we all know people, loved ones, who live dramatically different lives following a massive stroke. I am sure that we know people who have lost their lives prematurely following a massive stroke.

Whether the stroke impedes speech, or it requires that an amputation must take place, or just general paralysis is the prognosis, we must do what we can to curb the indicators for stroke.

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Preventative care and hypertension is so critical to minorities in the Medicare population. In 2001, 2,500 African Americans died from stroke, the third leading cause of death for all racial and ethnic groups. African Americans were 40 percent more likely to die of strokes than whites in 2001, when differences in age distribution were taken into account.

Mr. Speaker, the prevalence of high blood pressure in African Americans is among the highest in the world. That is why my amendment is so critical to ensure the longevity of African American lives.

The final component of my amendment addresses the overarching impediment to good health, and that is obesity. Obesity is a trigger for both hypertension and cancer. We would be remiss not to address cancer and hypertension and neglect to draw the connection to a healthy diet and exercise. Therefore, we must examine the how and the why obesity is a trend in minority communities and among many minority populations.

I can answer the how and the why partially from my own experience. As I drive around my own communities in my own district, I see a scarcity, Mr. Speaker, of places that have grocery stores that have fresh fruits and vegetables. In my community, in my district, there is an abundance of fast food restaurants, and the proliferation of these establishments and the lack of healthy food choices spell disaster for a healthy population and for healthy relationships with food and exercise.

The bottom line, Mr. Speaker, is a serious Medicare program must provide a comprehensive preventative care program. This care must be multi-layered. It must address all diseases and, in the case of my amendment, must address diseases that are disproportionately killing people of color.

My amendment would ensure that diseases that disproportionately affect the African American community will be highlighted in the disease management component of the Medicare modernization bill.

APPOINTMENT OF MEMBERS TO THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Pursuant to 22 U.S.C. 3003, the Chair announces the Speaker's appointment of the following Members of the House to the Commission on Security and Cooperation in Europe:

Mr. SMITH of New Jersey, acting chairman;
Mr. WOLF of Virginia;
Mr. PITTS of Pennsylvania;
Mr. ADERHOLT of Alabama;
Mrs. NORTHUP of Kentucky;
Mr. CARDIN of Maryland;
Ms. SLAUGHTER of New York;
and Mr. HASTINGS of Florida.

CORRECTION TO THE CONGRESSIONAL RECORD OF MONDAY, JUNE 16, 2003, AT PAGE H5407

By Mr. THOMAS (for himself and Mr. TAUZIN). H.R. 2473. A bill to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, and for other purposes; which was referred jointly to the Committee on Energy and Commerce and Ways and Means, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Ms. LOFGREN, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

(The following Members (at the request of Mr. MCCRERY) to revise and extend their remarks and include extraneous material:)

Mrs. BIGGERT, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, June 25.

Mr. BURGESS, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Alabama, for 5 minutes, today.

Mr. PAYNE, for 5 minutes, today.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on June 17, 2003 he presented to the President of the United States, for his approval, the following bill.

H.R. 1625. To designate the facility of the United States Postal Service located at 1114 Main Avenue in Clifton, New Jersey, as the "Robert P. Hammer Post Office Building".

ADJOURNMENT

Mr. RUSH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 33 minutes p.m.), the House adjourned until tomorrow, Thursday, June 19, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2723. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Department's final rule — Methoprene, Watermelon Mosaic Virus-2 Coat Protein, and Zucchini Yellow Mosaic Virus Coat Protein; Final Tolerance Actions [OPP-2003-0159; FRL-7309-5] received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2724. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Glyphosate; Pesticide Tolerance [OPP-2003-0155; FRL-7308-8] received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2725. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Imidacloprid; Pesticide Tolerances [OPP-2003-0103; FRL-7310-8] received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2726. A letter from the Deputy Secretary, Department of Defense, transmitting the semiannual report of the Inspector General and classified annex for the period October 1, 2002 — March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Armed Services.

2727. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clarifications to Existing National Emissions Standards for Hazardous Air Pollutants Delegations' Provisions [FRL-7508-8] (RIN: 2060-AJ26) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2728. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Connecticut, Massachusetts and Rhode Island; Nitrogen oxide Budget and Allowance Trading Program [R1-7218d; A-1-FRL-7513-2] received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2729. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Louisiana, New Mexico, Oklahoma and Bernalillo County, New Mexico; Negative Declarations [FRL- 7511-4] received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2730. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bacillus Pumilus Strain QST2808; Temporary Exemption From the Requirement of a Tolerance [OPP-2003-0113; FRL-7301-1] received June 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2731. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Burkholderia Cepacia Complex; Significant New Use Rule [OPPT-2002-0041; FRL-7200-3] (RIN: 2070-AD43) received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2732. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Preliminary Assessment Information Reporting; Addition of Certain Chemicals [OPPT-2002-0061; FRL-7306-7] received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2733. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Utah: Final Authorization of State Hazardous Waste Management Program Revision [FRL- 7511-1] received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2734. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Peach Bottom Atomic Power Station, Susquehanna River, York County, Pennsylvania [COTP PHILADEPHIA 03-006] (RIN: 1625-AA00) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2735. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Three Mile Island Generating Station, Susquehanna River, Dauphin County, Pennsylvania [COTP PHILADELPHIA 03-007] (RIN: 1625-AA00) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2736. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Suisun Bay, Concord, California [COTP San Francisco Bay 03-010] (RIN: 1625-AA00) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2737. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; The Grand Opening Miami One, Miami, FL [COTP Miami 03-073] (RIN: 1625-AA00) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2738. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks Display on the Willamette River, Milwaukie, OR [CGD 13-03-016] (RIN: 1625-AA00) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2739. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; City of Stuart 4th of July Fireworks Display [COTP Miami 03-083] (RIN: 1625-AA00) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2740. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Coral Reef Club 4th of July Fireworks Display, Miami, FL [COTP Miami 03-075] (RIN: 1625-AA00) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2741. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Rivera Beach 4th of July Fireworks Display [COTP Miami 03-082] (RIN: 1625-AA00) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2742. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Town of Lantana July 4th Fireworks Display [COTP Miami 03-081] (RIN: 1625-AA00) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2743. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Fireworks Display on Siuslaw River, Florence, OR and on Willamette River, Portland, OR [CGD 13-03-017] (RIN: 1625-AA00) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2744. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Salem and Hope Creek Generation Stations, Delaware River, Salem County, New Jersey [COTP PHILADELPHIA 03-003] (RIN: 1625-AA00) received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2745. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Limerick Generating Station, Schuylkill River, Montgomery County, Pennsylvania [COTP PHILADELPHIA 03-004] (RIN: 1625-AA00), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2746. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Availability of "Allocation of Fiscal Year 2003 Youth and the Environment Training and Employment Program Funds" [FRL-7508-9] received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2747. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Partial Withdrawal of Direct Final Rule; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category [FRL-7510-6] (RIN: 2040-AD85) received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 283. Resolution providing for consideration of the bill (H.R. 660) to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees (Rept. 108-160). Referred to the House Calendar.

Mr. POMBO: Committee on Resources. House Concurrent Resolution 21. Resolution commemorating the Bicentennial of the Louisiana Purchase (Rept. 108-161). Referred to the House Calendar.

Mr. MANZULLO: Committee on Small Business. H.R. 1772. A bill to improve small business advocacy, and for other purposes; with amendments (Rept. 108-162). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Permanent Select Committee on Intelligence. H.R. 2417. A bill to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; with an amendment (Rept. 108-163). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. McINTYRE:

H.R. 2501. A bill to clarify the boundaries of Coastal Barrier Resources System Cape Fear Unit NC-07P; to the Committee on Resources.

By Mr. BEREUTER:

H.R. 2502. A bill to amend the Internal Revenue Code of 1986 to reduce estate and gift tax rates, and for other purposes; to the Committee on Ways and Means.

By Mr. COLLINS (for himself, Mr. Lewis of Georgia, Ms. Jackson-Lee of Texas, Mr. Rogers of Kentucky, Ms. Lee, Mr. Conyers, Mr. English, and Mr. Foley):

H.R. 2503. A bill to amend the Internal Revenue Code of 1986 to provide that tax attributes shall not be reduced in connection with a discharge of indebtedness in a title 11 case of a company having asbestos-related claims against it; to the Committee on Ways and Means.

By Mr. DAVIS of Illinois:

H.R. 2504. A bill to amend the Higher Education Act of 1965 to improve the opportunity for Federal student loan borrowers to consolidate their loans at reasonable interest rates; to the Committee on Education and the Workforce.

By Ms. DeLAURO:

H.R. 2505. A bill to amend the Higher Education Act of 1965 to permit refinancing of student consolidation loans, increase Pell Grant maximum awards, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ENGEL (for himself, Mrs. Kelly, Mr. Olver, Mr. Kirk, Mr. McGovern, and Mr. Towns):

H.R. 2506. A bill to provide for the establishment of the Kosovar-American Enterprise Fund to promote small business and microcredit lending and housing construction and reconstruction for Kosova; to the Committee on International Relations.

By Ms. HOOLEY of Oregon:

H.R. 2507. A bill to amend the Public Health Service Act to provide for a public response to the public health crisis of pain, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. INSLEE (for himself, Mr. Smith of Washington, Mr. Dicks, Mr. McDermott, and Mr. Larsen of Washington):

H.R. 2508. A bill to prohibit the Department of Energy from disposing low-level radioactive waste in certain landfills; to the Committee on Energy and Commerce.

By Mr. SAM JOHNSON of Texas:

H.R. 2509. A bill to amend the Internal Revenue Code of 1986 to provide for capital gains treatment for certain termination payments received by former insurance salesmen; to the Committee on Ways and Means.

By Ms. LEE:

H.R. 2510. A bill to designate the facility of the United States Postal Service located at 2000 Allston Way in Berkeley, California, as the "Maudelle Shirek Post Office Building"; to the Committee on Government Reform.

By Mr. MICHAUD:

H.R. 2511. A bill to amend title 10, United States Code, to direct the Secretary of Defense to provide veterans who have a 100 percent service-connected disability with space-available travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces; to the Committee on Armed Services.

By Mr. SWEENEY:

H.R. 2512. A bill to establish a realistic, threat-based allocation of grant funds for first responders; to the Committee on the Judiciary.

By Mr. THOMPSON of California (for himself, Mrs. Tauscher, Mr. Sandlin, Ms. Woolsey, Mr. Israel, Mr. Boswell, Mr. Berry, Mr. Case, Mr. Matsui, Mr. Bishop of Georgia, Mr. Farr, and Mrs. Capps):

H.R. 2513. A bill to amend the Internal Revenue Code of 1986 to provide for the immediate and permanent repeal of the estate tax on family-owned businesses and farms, and for other purposes; to the Committee on Ways and Means.

By Mr. WEXLER (for himself, Mr. Stark, Mr. Waxman, Mr. Brown of Ohio, Mr. Frank of Massachusetts, Mr. Nadler, Mr. Conyers, and Mr. Grijalva):

H.R. 2514. A bill to freeze and repeal portions of the tax cut enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001 and to apply savings therefrom to a comprehensive Medicare outpatient prescription drug benefit; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. WILSON of New Mexico (for herself, Mr. Green of Texas, Mr. Pickering, Mr. Dingell, Mrs. Cubin, Mr. Conyers, Mr. Shadegg, Mr. Markey, Mr. Pitts, Mr. Boucher, Mr. Walden of Oregon, Ms. Eshoo, Mr. Terry, Mr. Stupak, Mr. Pence, Ms. McCarthy of Missouri, Mr. Frelinghuysen, Mr. Strickland, Mr. McInnis, Mrs. Capps, Ms. Schakowsky, Mr. Rodriguez, Mr. Baca, Mr. Frank of Massachusetts, Mr. Cramer, Mr. Skelton, and Mr. Langevin):

H.R. 2515. A bill to prevent unsolicited commercial electronic mail; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROHRABACHER (for himself and Mr. LoBiondo):

H. Con. Res. 222. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued in honor of the United States merchant marine; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

110. The SPEAKER presented a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 176 memorializing the United States Congress to discontinue closures of U.S. military bases in the State of Hawaii; to the Committee on Armed Services.

111. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 124 memorializing the United States Congress to discontinue closures of U.S. military bases in the State of Hawaii; to the Committee on Armed Services.

112. Also, a memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to House Resolution No. 115 memorializing the Congress of the United States to commend President Bush's leadership in his effort to protect the United States against Saddam Hussein; and to express support and appreciation for the armed forces engaged in the operation; to the Committee on Armed Services.

113. Also, a memorial of the House of Representatives of the State of Kansas, relative to House Resolution No. 6027 memorializing the United States Congress to fund the F/A-22 Raptor Program; to the Committee on Armed Services.

114. Also, a memorial of the General Assembly of the State of Rhode Island, relative to House Resolution 2003-H 5201 memorializing the Congress of the United States to block the implementation of rules signed by the United States Environmental Protection Agency on December 31, 2002, which would weaken the New Source Review provision of the Clean Air Act; to the Committee on Energy and Commerce.

115. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Resolution No. 30 memorializing the United States Congress that the Speaker educate and sensitize members of Congress on the circumstances of the internment of civilians during World War II; to the Committee on the Judiciary.

116. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 69 memorializing the United States Congress to support the passage of S. 68 to improve benefits for certain Filipino veterans of World War II; to the Committee on Veterans' Affairs.

117. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 70 memorializing the United States Congress to support the passage of H.R. 664, to improve benefits for Filipino veterans of World War II and the surviving spouses of those veterans; to the Committee on Veterans' Affairs.

118. Also, a memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to House Resolution No. 106 memorializing the Congress of the United States to impose a tariff on the importation of milk protein concentrates; to the Committee on Ways and Means.

119. Also, a memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to House Resolution No. 38 memorializing the Congress of the United States to continue to grant pension moneys and Individual Retirement Accounts favorable tax treatment and to repeal the provisions of the 2001 tax relief legislation which impede such favorable treatment; to the Committee on Ways and Means.

120. Also, a memorial of the Legislature of the State of Texas, relative to Senate Concurrent Resolution No. 6 memorializing the United States Congress to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds not apply to bonds for water and wastewater facilities; to the Committee on Ways and Means.

121. Also, a memorial of the Legislature of the State of Alaska, relative to Legislative Resolve No. 8 memorializing the United States Congress to support for President George W. Bush as this nation is engaged in combat; jointly to the Committees on Armed Services and International Relations.

122. Also, a memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to a Resolution memorializing the United States Congress that the Massachusetts House of Representatives supports the efforts of the President, as Commander in Chief, in the conflict against Iraq; jointly to the Committees on International Relations and Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. LEACH, Mr. HOSTETTLER, Mr. TURNER of Ohio, Mr. CRENSHAW, Mr. REGULA, Ms. HOOLEY of Oregon, and Mr. CULBERSON.

H.R. 33: Mr. EVANS.

H.R. 49: Mr. GILLMOR and Mrs. BLACKBURN.

H.R. 58: Mr. GEORGE MILLER of California, Mrs. DAVIS of California, and Mr. GREEN of Texas.

H.R. 236: Mr. MARKEY, Mr. BISHOP of New York, Mr. LAMPSON, Mr. CRAMER, and Mr. DEFAZIO.

H.R. 245: Mr. BALLANCE.

H.R. 260: Ms. LINDA T. SÁNCHEZ of California, and Mr. VAN HOLLEN.

H.R. 290: Mr. KING of New York, Mr. FILNER, Mr. WALSH, and Mr. REYES.

H.R. 296: Mr. WOLF and Mr. TERRY.

H.R. 303: Mrs. BONO and Mr. SHUSTER.

H.R. 339: Mr. CALVERT and Mr. DOOLITTLE.

H.R. 371: Ms. ESHOO.

H.R. 434: Mr. HALL.

H.R. 490: Mr. LEVIN.

H.R. 721: Ms. ESHOO.

H.R. 761: Mr. RYAN of Ohio.

H.R. 785: Mr. GUTIERREZ, Ms. ESHOO, and Mr. SANDERS.

H.R. 814: Mr. WELDON of Pennsylvania, Mr. DOYLE, Mr. PRICE of North Carolina, Mr. WATT, and Mrs. WILSON of New Mexico.

H.R. 833: Mrs. MYRICK.

H.R. 850: Mr. BOOZMAN.

H.R. 854: Ms. KAPTUR.

H.R. 872: Mr. GRAVES.

H.R. 879: Mr. BEAUPREZ, Mr. WAMP and Mr. LUCAS of Kentucky.

H.R. 906: Mr. KENNEDY of Minnesota, Mr. CALVERT, Mr. EHLERS, Mr. REHBERG, Mr. LoBIONDO, Mr. SIMMONS, Mr. BOEHLERT, and Mr. JOHNSON of Illinois.

H.R. 919: Mr. LaHOOD and Mr. GILCHREST.

H.R. 941: Mr. PETERSON of Minnesota.

H.R. 953: Mr. LaHOOD.

H.R. 992: Mr. AKIN and Mrs. MYRICK.

H.R. 993: Mr. AKIN and Mrs. MYRICK.

H.R. 994: Mr. AKIN and Mrs. MYRICK.

H.R. 1002: Mr. SANDERS.

H.R. 1005: Mr. JANKLOW.

H.R. 1063: Mr. BRADY of Texas, Ms. CARSON of Indiana, and Mr. WILSON of South Carolina.

H.R. 1078: Mr. SOUDER and Mr. RUSH.

H.R. 1093: Mr. RANGEL.

H.R. 1097: Ms. LORETTA SANCHEZ of California, Mr. FROST, and Ms. NORTON.

H.R. 1157: Mr. MICHAUD.

H.R. 1196: Mr. EMANUEL and Mr. MICHAUD.

H.R. 1268: Mr. PAYNE and Mr. SANDERS.

H.R. 1315: Mr. WU, Mr. DUNCAN, and Mr. SULLIVAN.

H.R. 1354: Mr. PLATTS.

H.R. 1385: Ms. McCARTHY of Missouri, Mr. PITTS, Mr. BACHUS, and Mr. ROTHMAN.

H.R. 1409: Mr. RENZI.

H.R. 1477: Mr. EVANS and Mr. BARTLETT of Maryland.

H.R. 1499: Mr. FRANK of Massachusetts.

H.R. 1508: Mrs. MALONEY, Mr. BELL, Mr. FRANK of Massachusetts, Mr. RUSH, Ms. SOLIS, Mr. RYAN of Ohio, Mr. STARK, and Mr. LYNCH.

H.R. 1517: Mr. MANZULLO.

H.R. 1530: Mr. LATHAM and Mr. LEACH.

H.R. 1567: Mr. BRADY of Texas.

H.R. 1639: Mr. HINCHEY and Mr. GEORGE MILLER of California.

H.R. 1652: Mr. VAN HOLLEN.

H.R. 1653: Mr. WHITFIELD, Mr. MORAN of Kansas, Mr. GIBBONS, and Mr. BROWN of South Carolina.

H.R. 1676: Ms. LINDA T. SÁNCHEZ of California.

H.R. 1708: Mr. BURNS.

H.R. 1747: Mr. GUTIERREZ.

H.R. 1749: Mr. MORAN of Virginia.

H.R. 1754: Mr. FOLEY.

H.R. 1769: Mr. MILLER of Florida, Mr. COSTELLO, Mr. HOLDEN, and Ms. KILPATRICK.

H.R. 1784: Mr. COOPER and Mr. PICKERING.

H.R. 1813: Ms. ROYBAL-ALLARD, Mr. CUNNINGHAM, and Mr. FILNER.

H.R. 1819: Mr. CASE, Ms. CORRINE BROWN of Florida, and Mr. TERRY.

H.R. 1914: Mr. KING of Iowa, Mrs. MYRICK, Mr. SIMMONS, and Mr. BARTLETT of Maryland.

H.R. 1951: Mr. EMANUEL and Mr. PETERSON of Minnesota.

H.R. 2011: Ms. ROYBAL-ALLARD, MR. SHIMKUS, Mr. WAXMAN, Mr. VISCLOSKY, Mr. McNULTY, and Mr. PETERSON of Minnesota.

H.R. 2022: Mr. LEACH, Mr. GRIJALVA, and Mr. PLATTS.

H.R. 2096: Mr. HOEFFEL, Mr. RAMSTAD, Mr. SOUDER, Mr. SENSENBRENNER, Mr. PAUL, Mr. FILNER, Mr. WEXLER, Mr. FRANK of Massachusetts, Mr. JONES of North Carolina, and Mr. WALSH.

H.R. 2134: Ms. KAPTUR.

H.R. 2154: Mr. DEAL of Georgia.

H.R. 2193: Mr. FRANK of Massachusetts and Mrs. TAUSCHER.

H.R. 2224: Mr. WOLF and Mr. CALVERT.

H.R. 2242: Mr. BLUMENAUER.

H.R. 2260: Mr. LANTOS, Mrs. BIGGERT, Mr. CROWLEY, Mr. BLUMENAUER, Mr. SIMMONS, Mr. PASTOR, Mr. CANNON, and Mr. NADLER.

H.R. 2318: Mr. GEORGE MILLER of California.

H.R. 2351: Mr. NETHERCUTT and Mr. CANNON.

H.R. 2418: Ms. NORTON.

H.R. 2440: Mr. CALVERT and Mr. VAN HOLLEN.

H.R. 2462: Mr. STARK, Mr. RANGEL, Mrs. JONES of Ohio, Mr. CONYERS, AND MR. TIERNEY.

H.R. 2464: Mr. FERGUSON, Mr. McNULTY, Mr. FROST, and Mr. SHERMAN.

H.R. 2475: Ms. LEE.

H.R. 2478: Mr. OLVER.

H.R. 2494: Mr. RAMSTAD.

H.J. Res. 59: Mr. DELAHUNT and Mr. SHAYS.

H. Con. Res. 99: Mr. SANDERS.

H. Con. Res. 202: Mr. GILCHRIST, Mrs. CAPPS, Mr. GREEN of Texas, Mrs. TAUSCHER, Mr. Blumenauer, Mr. Nadler, Mr. Pallone, Mr. Lantos, Mr. Van Hollen, Mr. Michaud, Mr. Thompson of California, Ms. Eshoo, Mr. Delahunt, Mr. Kind, Mr. Markey, Mr. Cardoza, and Mr. Case.

H. Con. Res. 211: Mr. Gillmor, Mr. Akin, Mr. Ballenger, Mr. Bell, Mr. McCotter, Mr. Rahall, Mr. Engel, Mr. Lantos, Mr. Wolf, Mr. Wexler, Mr. Flake, Mr. Souder, and Mr. Kirk.

H. Res. 141: Mr. Grijalva.

H. Res. 198: Mr. McCotter, Mr. McHugh, Mr. Chocola, and Mr. Cantor.

H. Res. 254: Mr. Terry.

H. Res. 259: Mr. Frank of Massachusetts.

H. Res. 267: Mr. Rehberg and Mr. Boozman.

H. Res. 278: Mr. Rodriquez.

SENATE—*Wednesday, June 18, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today, once again, we are pleased to have as our guest Chaplain the Reverend Charles V. Antonicelli, St. Joseph's Roman Catholic Church in Washington, DC.

PRAYER

The guest Chaplain offered the following prayer:

Heavenly Father, we praise Your name today. With the Psalmist we proclaim, "Praise the Lord, my soul. I will praise the Lord all my life; I will sing praise to my God while I live."

We thank You for the gift of life and for the talents and abilities You have given us. Help us, Lord, to put them to good use so that Your glory might shine through us.

Bless the men and women of this Senate as they seek to do Your will this day, bless their staff members who do so much work behind the scenes, and bless the pages who serve in this Chamber. Help them all to know the importance of their work here and let them know Your goodness to them.

We ask this in Your holy name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will be in a period for morning business until 10 a.m. At 10 a.m., the Senate will resume consideration of S. 1, the prescription drug benefits bill. Chairman GRASSLEY will be in the Chamber at that time and will be prepared to offer the necessary changes to the legislation. It is then hoped we will begin an orderly consideration of amendments.

I know there are a number of Members on both sides of the aisle considering offering amendments. I encourage Senators to work with the chairman and ranking member, the managers of the bill, to schedule consideration of those amendments. As amendments are offered, we will begin scheduling votes in order to make progress on this bill over the course of this week.

As I had laid out previously, we will finish the legislation prior to the July 4 recess. I look forward to substantive debate as we go forward in addressing this bill.

We will have rollcall votes throughout today's session. For the information of all Senators so they can plan for the next week and a half, we will have votes on Friday and next Monday on this bill. We have had two good days of substantive opening statements where Members have been allowed to discuss their views on this important program of Medicare, how we can best strengthen it, how we can best improve it, and at the same time add a substantial prescription drug benefit in a way that can be sustained over the next 10, 15, 20 years, where we know there is going to be this unprecedented demographic shift of doubling of the number of seniors over the next 30 years.

So I am very pleased with the bipartisan progress we have made to date. I am pleased that we will be able to go with amendments early in the course of today and look forward to addressing a number of those amendments over the course of the day.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Nevada is recognized.

Mr. REID. As we all knew yesterday, the problem with not having amendments was that CBO had not completed scoring on the Medicare bill. It is my understanding there is scoring on the bill and Senators GRASSLEY and BAUCUS will offer either some technical changes or maybe a substitute to comply with mistakes made by staff during the very busy weekend they had.

Is that the understanding of the leader?

Mr. FRIST. Mr. President, that is generally my understanding. Again, for our colleagues, in order for the process to start and to allow us to really begin the amendment process, we have to have what is called a scoring from CBO. We were in touch with them at 8:30 and 9 this morning. It is my understanding we will have that scoring, but before I can say anything further with absolute certainty, we will know something in the next 30 minutes or so. Once we get that scoring that is both in the aggregate but also line by line—and we did not have a line by line at 7 this morning, and people are working around the clock on it, but once we have that line by line, we will be able to go directly to the managers' package and then also directly to the amendments. I am very hopeful that at 10 this morning that process will start.

Mr. REID. Mr. President, I say to the leader, now that we have had people make a lot of opening statements, we are waiting to offer amendments. Senator STABENOW is going to offer our first amendment, following whatever the managers decide to do with their opening amendments.

So we are anxious to go to work, and hopefully we can do that as soon as possible. However, as we all know, it cannot be done until the scoring is complete. Otherwise, a point of order would be available against any amendment. So we look forward to getting into this as quickly as we can.

Mr. FRIST. Again, all of this demonstrates that everybody is working as hard as they can to address this situation in a reasonable, step-by-step fashion. So I am very pleased with where we are today. Both sides are very anxious to begin the amendment process, which is very good because all too often people push their amendments off until the last minute and we have many amendments flowing. In this particular case, we have encouraged people to come forward and let the managers know what amendments they plan to offer and then talk about the amendments so they can adequately plan. Indeed, that is underway.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will begin a period for morning business until the hour of 10 a.m., with the time equally divided between the two leaders or their designees.

The Senator from the great State of New Hampshire.

ORDER OF PROCEDURE

Mr. GREGG. I ask unanimous consent that at 10, I be recognized to speak on the prescription drug/Medicare reform bill for up to half an hour.

The PRESIDING OFFICER. Is there objection?

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. FRIST. Mr. President, reserving the right to object.

Mr. REID. Mr. President, I was listening to someone else speak. What did my friend from New Hampshire say?

Mr. GREGG. I am seeking the right of recognition at 10 to speak on the Medicare bill for half an hour.

The PRESIDING OFFICER. Is there objection?

Mr. REID. My only question would be, and I say to my friend, I do know that we have Senator BOND and Senator MIKULSKI who asked to be recognized as in morning business, and if we do not go on the—well, I really do not see any problem with having debate on that.

Mr. GREGG. How long does Senator MIKULSKI wish to speak?

Mr. REID. She is in the Chamber. I did not see her behind me.

How long does the Senator wish to speak?

Ms. MIKULSKI. Speaking to the Senator through the Chair, my remarks are about 5 or 7 minutes. I might add, there is a crisis in national service with volunteers. Senator BOND and I have a legislative solution. That is why we wanted to speak in morning business.

The corporation is blaming Congress when they, my colleagues would be interested to know, oversubscribed by 20,000 volunteers. So Senator BOND wanted to share our fix with the people. I could do this in about 5 or 6 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Reserving the right to object, I do not see any problem at all having the Senator from New Hampshire begin his statement when the hour of 10 arrives. It is indicated that the two Senators will complete their statements prior to that time. I ask that following his statement, a Democrat, if one wishes to speak, be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Reserving the right to object, my understanding is it would be for debate only until the managers come back to the Chamber. May we have a general understanding that this is for debate only until the managers come?

Mr. REID. I understood from the Senator from New Hampshire that that was part of his request, that it would be for debate only.

Mr. GREGG. That was not a part of the request, but if the leader wishes, I will make that part of the request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Hampshire? If not, it is so ordered.

Who seeks time? The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I wish to speak as in morning business.

The PRESIDING OFFICER. The Senator has that right.

Ms. MIKULSKI. I thank the Chair.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Ms. MIKULSKI. Mr. President, what a mess we have at the Corporation for National and Community Service. The Congress has funded 50,000 AmeriCorps volunteers, as we have year after year. But, guess what. The corporation has enrolled 70,000 volunteers. It seems the corporation cannot count. As a result, there will be fewer volunteers this year.

Fortunately, because of a bipartisan collegial relationship on the VA/HUD subcommittee, Senator BOND and I are going to fix this problem for the volunteers and for the communities they serve. We are introducing something called the Strengthen AmeriCorps Program Act, and, frankly, it gives AmeriCorps the fix it needs to straighten out the mess they created.

This bill is simple and straightforward. It gives the AmeriCorps Program the flexibility within the current funding for 2003 so there can be 50,000 AmeriCorps volunteers this year.

I have been reading in press reports, but most of all I have been getting calls from constituents and other Senators who support AmeriCorps. What are they concerned about? They are concerned that it appears there will be cuts by as much as 15,000 volunteers. I am concerned about that, too, and the effects on our communities and the young people who serve them while earning a scholarship for college.

I believe the public has a right to know what happened. So I want to explain to advocates and my colleagues what is happening and why the corporation has cut AmeriCorps. Congress has not cut AmeriCorps. It is because there is a persistent pattern of mismanagement at AmeriCorps. The corporation has over-enrolled 20,000 volunteers. When you make a mistake of 20,000 it is not a mistake, it is mismanagement. Two thousand would have been a mistake; 20,000 is mismanagement. The corporation has violated the law, mismanaged taxpayers' dollars, and created uncertainty for our volunteers and our communities.

In April, at the VA/HUD subcommittee, I called on the National Service CEO, Dr. Leslie Lenkowsky, to fix the problem. He promised he would do that by June 1. But, guess what. He called on May 30 and said he just could not do it. Then out came the shrinking of the number of volunteers, and out came the blaming on Congress. Instead of fixing the problem, he blamed Congress. I wish the corporation was as good at accounting as it is blaming. They had 10 weeks to get their act together and they did not do it.

I was very stern with Dr. Lenkowsky and the Board of Directors at the hearing. I must say I thank the Board Chairman, Mr. Stephen Goldsmith, for responding constructively to the criticism of myself and other Members of the Congress. They took it to heart. They are beginning to reform national service. They are doing due diligence. They are putting more time into the oversight than, frankly, Dr. Lenkowsky.

Dr. Lenkowsky is the Chief Executive. He has failed to respond to the situation, failed to respond to the subcommittee request, failed volunteers, failed communities, and in the schools I went to when you get that many "Fs" you just flunk out.

Today, I am asking Dr. Lenkowsky to resign. I am really sorry we have gotten to this point, but we cannot continue this. I think if we are going to have a national service program, we need to have a national service program that serves the Nation and follows the directives of the Congress.

We have worked on a bipartisan basis in this subcommittee year after year after year. We saved this program. It is usually zeroed out in the House. It is a gimmick to get us to rescue it. And now, once again, thanks to the leadership and constructive relationship with Senator BOND, we are going to strengthen AmeriCorps. Without our cooperation and leadership at VA/HUD, AmeriCorps wouldn't even be here. So we need to pass the Strengthen AmeriCorps Program quickly. It is an accounting fix that is certified and approved by OMB and GAO.

I support our President's call to national service. I want to work with President Bush in a bipartisan way to take national service into a new century. That is why I have worked with Senator MCCAIN, Senator BAYH, and others to do that. Most of all, I want to work with my colleague Senator BOND, once again, as we always have, to sustain national service. Now we have legislation to clean up the mess that the corporation had. But the only way I think the corporation is going to get any momentum is if its current executive either steps aside or steps down.

I hope Congress moves this bill in a matter of days. The Nation needs it because the volunteers need it and the communities need the volunteers.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, it is a real pleasure today to rise to join my colleague and good friend, the Senator from Maryland, in introducing legislation that will strengthen the Corporation for National Community Service, the AmeriCorps Program.

I assure my colleagues the Strengthen AmeriCorps Act of 2003 is a bipartisan bill introduced with Senator MIKULSKI as ranking member, and the chair of the Appropriations Committee and members of the authorizing committee. The Senator from Maryland

and I believe the bill will not only address some of the corporation's accounting problems but, more importantly, it will protect and expand volunteer service opportunities across the Nation.

Many of my colleagues—I wouldn't be surprised if all of our colleagues—have heard from their constituents and the media in recent weeks about the potential cuts to the AmeriCorps Program. This bill addresses, to the best extent we can, those concerns—some have longstanding concerns about the management and financial problems of the corporation—by creating a budgeting mechanism that ensures the corporation has the funds needed to pay educational awards.

Under this bill, the corporation would be able to enroll about 50,000 AmeriCorps members without the need for additional funds. Looking at the allocation that is available for the VA/HUD subcommittee, additional funds are not a very great prospect at this time, I regret to say. We have to deal with what OMB has given us and the allocations we received from our distinguished and all-knowing senior colleagues on the Appropriations Committee.

It is truly unfortunate—my colleague has already referred to it—that there has been a plague of significant and longstanding management problems, neglected for many years, in the corporation. One notable result of this neglect has been the inappropriate and illegal practice of enrolling more AmeriCorps members than the corporation had budgeted. One would think a group of dedicated public servants running the AmeriCorps Program could count. They have not.

Last year, the corporation overenrolled the AmeriCorps Program by more than 20,000 people. They have done it year after year, the year before and the year before that and the year before that. They came to the VA/HUD and Independent Agencies Appropriations Committee to bail them out. We were able to provide $43 million more than requested in the 2003 appropriations bill to meet the needs of these members and more. But because of continued poor budgeting practices, the VA/HUD subcommittee also approved another $64 million in deficiency appropriations in the 2003 supplemental appropriations to cover additional shortfalls.

When the overenrollment problem first surfaced, we asked the GAO and the corporation's inspector general to review the accounting practices of the corporation and its internal controls to determine the causes of this problem. Further, we asked the GAO's Comptroller General to review the corporation's underlying statute to determine whether the corporation's practice complied with the law, and other fiscal laws such as the Anti-Deficiency Act.

Both the General Accounting Office and the IG found the corporation did not comply with the law by incorrectly recording its funding obligation. GAO identified several factors that led to the corporation's incorrect accounting practice. The factors included inappropriate obligation practices, little or no communication among key corporation executives, too much flexibility given to grantees regarding enrollments, and unreliable data on the number of AmeriCorps participants.

That is the official word. My unofficial word is they can't count.

GAO also found that the corporation was not following the law in recording its legal liabilities.

This bill responds to the problems identified by the auditors and allows the corporation to maximize the number of AmeriCorps enrollees that can participate in the program.

In short, the bill allows the corporation to fund AmeriCorps grants based on the estimate of the number of members who will likely complete and use their education award to ensure that the AmeriCorps Program is accountable to taxpayers and the volunteers.

It is our expectation the corporation will use conservative assumptions in developing its funding formula. This is especially important since the corporation has repeatedly failed to meet funding obligations resulting in action by Congress to provide additional funding, including deficiency appropriations.

I serve notice here and now: Don't come back to us if you screw it up again. You are not going to get bailed out.

Further, because of poor data, the bill requires the central reserve fund to give the corporation an extra cushion in case the actual usage rate exceeds the assumption used in the formulary.

We believe we should pass this legislation as quickly as possible. It provides for clarification of the corporation in determining grant award allocations to its grantees in the States. Without this legislation, uncertainty and disagreement will delay and limit the enrollment of AmeriCorps volunteers.

Considering the demand and need for the program, we cannot afford to wait. We designed this legislation with significant input from the administration. This is one of the President's top priorities. It has, I can assure you, their undivided attention.

We think it is a reasonable and fair approach to the issue. It mitigates harm to the AmeriCorps Program in a manner that will ensure accountability and fiscal integrity.

Keeping in mind the problems identified by the auditors which led to the enrollee freeze last November, we designed this legislation to ensure that we do not repeat those past mistakes. The enrollee freeze was unfortunate. It was an avoidable mistake, if the corporation had properly managed and monitored its programs.

We need to put these enrollment issues behind us. This program has had a difficult and star-crossed history. It is unfortunate. And we are here in June revisiting the implementation of the program to ensure both accountability and credibility. We need to ensure the State and local programs are meeting both the program requirements and the community needs.

I will tell my colleagues the corporation has hired a very strong CFO in getting a handle on these problems. And they do have the full attention of not only the administration through OMB but GAO and the IG.

I urge my colleagues to support this legislation.

I ask unanimous consent that the bill I wish to introduce on behalf of myself, the Senator from Maryland, and Senators SPECTER, COLLINS, ALEXANDER, SANTORUM, and KENNEDY be held at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Mr. President, reserving the right to object, as the Senator knows, by holding the bill at the desk, it will not be referred to the committee of jurisdiction which I happen to chair, and which the Senator from Missouri is a member, as is the Senator from Maryland, and whose abilities I greatly respect. Obviously, I always have reservations about not having a bill referred to the proper committee of jurisdiction and have it step outside the proper process in the Senate, which is the bill should go to the committee of jurisdiction.

But I believe the Senators from Missouri and Maryland are addressing a critical problem, and one for which, as appropriators, they have a unique responsibility. This issue has to be resolved. I hope in resolving it we can also address issues such as the Corporation of National Service, which is a very strong organization, and which because of the mismanagement of these funds may be cut out of the funding process.

But I am not going to make the objection which logically a chairman should make to this type of request of holding it at the desk because I do think the Senators from Maryland and Missouri are doing very excellent work here, and it needs to be passed quickly. Therefore, I am willing to forego the committee of jurisdiction to get this bill through.

I congratulate Senators for bringing the matter to the attention of the Senate.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

Mr. BOND. Mr. President, I express my deep appreciation to the chairman of the committee. We have shared this with the staff. But it was done on a very tight time schedule. I apologize to him for not being able to talk with him directly about it. I assure him it is a brief bill. If he has any questions, we will be happy to work with him.

I hope we can bring it up as quickly as possible because of the compelling nature of resolving this problem. If we can get it passed quickly, I will be happy to make a note of the particular organization in which he is interested and ensure that our friends at the Corporation for National Service know about the high priority the chairman of the authorizing committee places on this organization.

Ms. MIKULSKI. Mr. President, I, too, want to express my appreciation to the chairman of the HELP Committee, Senator GREGG. I think it is gracious of him to let us keep the bill at the desk knowing the urgency of the need to test it.

I think the point he raises about the need for regular oversight on national service is well taken. I look forward to participating in that hearing. I thank him for his courtesy and for his sensitivity to the urgency of the situation and his commitments regarding volunteers.

Mr. GREGG. Mr. President, if the Senator will yield, I will simply say I am always courteous to appropriators.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I understand there was a unanimous consent request that the Senator from New Hampshire be recognized. Is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. GREGG. Mr. President, if the Senator will yield, how much time does the Senator need? I would be happy to yield on my time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I express my appreciation to the Senator from New Hampshire.

* * *

PRESCRIPTION DRUG BENEFITS

Mr. DURBIN. Mr. President, we are in the midst of debating a historic measure on the floor of the Senate; that is, the prescription drug bill. This is an issue which Americans understand. Seniors on fixed incomes understand how difficult it is to fill those prescription drugs to stay healthy.

For 8 or 10 years, we have been struggling to find some way to give them a helping hand to pay for their prescription drugs. There have been a lot of different proposals. Some people said the way to do it is to eliminate Medicare altogether. Others have said the best thing to do is put it, as appropriate, in Medicare.

What we have coming before us from the Senate Finance Committee by Senators GRASSLEY and BAUCUS is an effort to create a prescription drug benefit for seniors. To my mind, it falls short of what we need.

Isn't it interesting that in the course of this debate about this new bill there is one group which we have not heard from? Why is it the pharmaceutical companies and drug companies haven't said a word about the new prescription drug bill? I think the answer is obvious. Because this new prescription drug bill offered by Senators GRASSLEY and BAUCUS has no effort in it—none whatsoever, as far as I am concerned—to keep drug prices under control.

If you ask any family in America, or any senior, they will tell you the cost of prescription drugs has increased 10 to 20 percent a year. If you are a drug company, and the Federal Government says it is going to help your customers pay for the drugs, but they don't have to control your prices at all, you don't have to keep them under control, then, frankly, that is the best outcome you could hope for. You can continue to increase prices and know the Federal Government is going to pick up a portion of the tab.

Of course, if you are a customer buying prescription drugs, it is going to be an elusive target. Even though the Federal Government is offering you some help in paying for prescription drugs, if you do not do anything to contain the cost of prescription drugs, then ultimately it is going to go far beyond the family resources.

I stepped back and asked, Is there a better way to approach this? One that achieves the result, which is to help seniors pay for prescription drugs, and does it in a sensible way? I sat down and said: Take the $400 billion we allocated for this program and put into it some price competition. For example, in the Veterans' Administration we have established a formulary where they have said for 2,300 drugs, we will save 40 percent to 60 percent of the cost. If the drug company wants to do business with the Veterans' Administration, they have to bring down the prices. Let us apply the same principle to our use of the Medicare recipients and their drug prices.

I brought into question having this kind of formulary to reduce the cost. Then I brought in a proposal by Senators SCHUMER and GREGG that says let us encourage more generic drugs which are cheaper and just as effective. And then I added an element, which the Senator from Michigan, who is on the floor, has been pushing for and will offer as an amendment.

Why wouldn't we let the Medicare Program itself offer a prescription drug benefit? We know they have no profit margin. We know their cost of administration is lower than any drug company. So put those three things together, take the $400 billion, and what can you achieve?

Let me tell you what you can achieve. You can guarantee—guarantee; which this bill does not do—a $35 monthly premium for the seniors who volunteer to sign up for the program. You can eliminate the $275 deductible, which is part of the bill that is on the floor. And instead of a 50/50 split on the cost of prescription drugs, you can move to a 70-percent Government pay, 30 percent being paid by the seniors, and you can give full coverage. You do not have the gaps in coverage that are part of the existing bill on the floor.

How do you achieve this? Because, frankly, you keep the costs under control. You have generic drugs as part of it. You have Medicare as part of the competition. And what period of time would the $400 billion cover? We are waiting for an official CBO number, but we believe it would be a 5-year period. Then, at the end of 5 years, you can reauthorize the program, decide whether it has worked or whether it has not worked.

I think this approach, which we call Medisave, is much more preferable to the Grassley-Baucus bill because it does say to seniors: We are going to give you a better helping hand, 70 percent being paid by the Federal Government, no deductible, and a guaranteed $35 monthly premium. And the way we will achieve it is by reducing the cost of the drugs, as we do in the Veterans' Administration today. I think that is a sensible way to approach it.

To take the Grassley-Baucus approach is to open up the possibility that the drug costs will just continue to skyrocket 10 and 20 percent a year. And in that situation, the seniors will not be able to keep up with them.

The Senator from New Hampshire was kind enough to yield to me until 10:10. I see my friend, the Senator from Michigan, has come to the floor. If the Senator from New Hampshire would not mind, I will yield the remaining time I have until 10:10 to my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I thank my friend from Illinois. I commend the Senator for his substitute. What the Senator is talking about is exactly what the seniors of America are asking us to do to make sure they have a comprehensive prescription drug benefit under Medicare which they know will be there, which is stable, dependable, where you can choose your own doctor no matter where you live in the country; that whether you live in the upper peninsula of Michigan or Chicago, IL, you will have an opportunity to receive the health care you need and deserve under Medicare.

By simply expanding that to include prescription drugs, and then coupling that with the ability to keep prices down, I believe this is the best possible approach to come before the Senate—in fact, the U.S. Congress. I am hopeful that colleagues, when this comes to the floor, will rally around this plan.

What Senator DURBIN has done is put together a plan designed for seniors, not designed for pharmaceutical companies or insurance companies, which is, unfortunately, why this process has become so complicated. For example, people look at me with bewilderment when I am explaining that for the private sector plans in their region, if there are two or more, they would have to take one. But if there isn't, they could have a backup, but then they would have to drop it and go back to an insurance plan. When I explain that plan, they scratch their heads and say: Why are you doing that?

Well, unfortunately, we have a plan put forward—and I have to say it is a valiant effort by many people to try to come to some consensus, and I appreciate that—but the reality is, it is designed much more to benefit the pharmaceutical companies in particular than it is our seniors.

Why is our approach not supported by the pharmaceutical industry? For one simple reason: If we have all 40 million seniors and people with disabilities in one insurance plan, they can negotiate a big group discount, which is what they should be able to do. They should be able to come together, as one insurance plan, and negotiate a group discount. As Senator DURBIN indicated, when you do that, you are not paying retail. In fact, the Federal Government does that on behalf of our veterans through the VA, and we are able to get about a 40-percent discount, which is a terrific deal for the veterans of this country. I am proud we do that, but why shouldn't that same opportunity be available for every senior, for every person with a disability under Medicare?

So I just wanted to rise to congratulate the Senator's vision on putting forward the right plan that makes sure that, in fact, our seniors know they can count on a $35 premium. They would also not have to have a deductible. Seventy percent, as I understand, of their prescription drug costs would be paid for. There would be no gap in coverage for the last few months of the year. Or if you found yourself getting to a point where you reached the end of your coverage, and then, unfortunately, your doctor indicates you have an even more serious illness to deal with, you would not be left wondering what to do to pay for that treatment and medication.

This plan does what our seniors in this country are asking for. I believe it does what we should be doing for them. It is what they need, and it is what they deserve. It is what they have been waiting for.

I commend the Senator from Illinois for putting forward this option of which I encourage all of our colleagues to come together to embrace, standing together to achieve a bipartisan victory that is in the best interest of our American seniors.

TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. SMITH. Mr. President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 1308; that the Senate disagree to the House amendments to the Senate amendments, agree to the request for a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

Mr. REID. Reserving the right to object, I believe this is on the Lincoln child tax credit legislation; is that true?

Mr. SMITH. I believe that is true.

Mr. REID. I am glad this is happening. I hope the message to the Republican leaders, at least from us, is that it will be a real conference and that they will work toward resolving this most important issue. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the Senate amendments to the bill (H.R. 1308) entitled "An Act to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House.

For consideration of the House amendments to the Senate amendments to the House bill, and modifications committed to conference: Mr. Thomas, Mr. DeLay, and Mr. Rangel.

The Presiding Officer (Mr. ALEXANDER) appointed Mr. GRASSLEY, Mr. NICKLES, Mr. LOTT, Mr. BAUCUS, and Mrs. LINCOLN conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from the great State of Nevada.

Mr. REID. Mr. President, the Senator from New Hampshire has been more than generous with his patience. I would ask, however, unanimous consent that the time until 11 o'clock be for debate only on this matter. I have spoken to the majority, and they are in agreement with that. So I ask the time until 11 o'clock be for debate only on the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Has the bill been reported this morning?

The PRESIDING OFFICER. The Chair will now make that statement.

Mr. REID. Mr. President, my consent deals with the Medicare bill.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003—Resumed

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will proceed to the consideration of S. 1, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1) to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise to talk about an issue which we, as the Senate, are going to address for the next 2 weeks, which is the question of how to put in place a drug benefit and to reform the Medicare system so that it is more viable.

This is, obviously, the most significant piece of legislation in the area of spending on which any of us in this Congress will vote. In fact, in my years in Congress, this is the most significant piece of spending legislation I have ever seen because it represents the most dramatic expansion, the greatest expansion of an entitlement in our history; therefore, it needs to be done right. In my opinion, there are issues which need to be addressed and which we need to discuss in order to accomplish that.

To understand the issue and to put it in context, you have to go back to the beginning of the problem. And the beginning of the problem, I hate to say it, was when I was born—1946, 1947 through 1955. It was that postwar period, where America was full of itself, and our people were returning from the war, and we repopulated our country with the largest baby boom in the history of our country. That baby boom meant an explosion of people in our country, people who have contributed, I hope—people think immensely—over those years and decades since that time. But in each decade, the postwar baby boom generation has moved forward, it has changed fundamentally, not only the demographics of the country but also the reaction of the country to various issues.

For example, in the 1950s, we had to build literally hundreds of elementary schools in order to accommodate this generation. In the 1960s, there was, of course, the great upheaval of social consciousness, which was driven primarily by the coming of age of the baby boom generation and their concerns about civil rights, about the war in Vietnam, about the rights of women.

So as this generation has moved through the tube of its time, there has been a bubble which has significantly changed all around them. Now that generation is headed for retirement and, as a result, our retirement systems which were put in place with a very appropriate social purpose of making sure that senior citizens were properly cared for, which arose out of the period of the Depression in the 1930s, where so many people suffered—I was not alive then, but history tells us and the people who experienced it tell us that this was a period of immense trauma—we as a culture decided we were wealthy enough and strong enough to make sure that never happened again to our seniors. So we put in place the Social Security system and the Medicare system as an effort to try to make sure seniors could live their final days of their retirement in dignity, financially and in health care.

These systems have been extraordinarily good systems for our Nation. But now as this generation heads into retirement, these systems are going to come under immense pressure. The whole concept of both of these systems was that there would be a pyramid where you would have a large number of people working and a smaller number of people retired, like a pyramid. So that the large number of people working could be paying into the retirement system and benefiting those people in retirement. So the pyramid would work as long as there was a larger working population than retired population.

The practical effect of the baby boom generation, the demographic effect, is that when we hit the retirement system, we go from a pyramid to basically a rectangle where essentially you will have about as many people working as retired.

For example, in 1950 there were 12.5 people working for every 1 person retired. This year, there is something like 3.3, 3.5 people working for every 1 person retired. By the time we hit 2030, there are going to be 2 people working for every 1 person retired. The number of people retired today is 40 million. The number of people who will be retired in the year 2030 will be 70 million, a 75 percent increase. So the system, which was structured to be a pyramid and has worked very well as a pyramid, simply won't work effectively as a rectangle. You can't have about as many people working, paying retirement benefits, as you have people taking those benefits because the practical effect of that is you would have to dramatically increase the taxes on working Americans in order to support nonworking retired Americans to a point where working Americans' lifestyles would be significantly reduced.

The debate today has to be put in the context of two fundamental issues: One, how do we benefit senior citizens with a reasonable drug program that is going to give them adequate drug care, adequate prescription drug opportunities; but, two—and we can't forget this issue in addressing the question—how do we make sure that in doing that, we don't set up a situation where the next generation of young people—these folks who are working as our pages, people who are in high school today, people who are in college today, people in their twenties today—don't end up with a tax burden that is so large that we significantly reduce the quality of their life because we have decided this year to give seniors a benefit which we cannot afford 5 or 10 years from now because there will be so many seniors who are retiring.

We have to keep in mind, as we go through this reform effort and the addition of a prescription drug benefit to Medicare, those two groups—seniors and young people who will have to pay the taxes, our children and grandchildren, in order to support that program.

This brings us to the question of what type of program should we have which can accomplish that. To begin with, we have to put in place a Medicare Program which is cost sensitive, which has in place marketplace forces which allow us to maintain a reasonable cost so that we don't have a growth rate in Medicare that is so great that it simply overwhelms the ability of working Americans to pay the taxes to support it.

We know, for example, we already have a $13.3 trillion unfunded liability in Medicare. We know, for example, that under the present Medicare system, the costs of Medicare are exceeding the income of Medicare by about 71 percent and that by 2026 the Medicare system will be insolvent under the present structure, insolvent because it has this huge unfunded liability as a result of the huge demographic group, the postwar baby boom generation, entering the system.

These are facts that cannot be changed. The people are alive, the baby boom generation exists, and we will retire. We will, therefore, be on the Medicare system and on the Social Security system.

We have to find some way to address the Medicare system in a manner which will allow us to make it affordable as we move into the outyears. This means putting some cost sensitivity into its structure. If we are going to add a new benefit to Medicare, we have to be sensitive that it does not at the same time create a massive new unfunded liability.

If, for example, we simply put on to the Medicare system a $330 billion new drug benefit, which was the proposal last year from someone—that was the number; today it is $400 billion—that $330 billion drug benefit over 10 years translates into a $4.6 trillion add-on in unfunded liability in the system, which just means you have to raise taxes by that much on working Americans, on our children and their children, in order to pay for it. So we have to be thoughtful about how we do this. As a parent and hopefully a future grandparent, I don't want to reduce the lifestyle of my children and their children and their ability to participate in the American dream simply to support me when I am retired.

What does this bill do? This bill has two fundamental problems, both of which go to the issue. First, it adds a $400 billion drug benefit, but it does it in a way that essentially says: We are going to take a lot of people who are already paying for their benefit, middle-income Americans, Americans who have worked and have obtained a retirement benefit, which includes a drug benefit, and we are going to move them from the private sector on to the public sector. We are essentially going to nationalize the drug delivery system for everybody who is over 65, whether they want it or not. That policy has some fundamental flaws.

What do we need as a drug benefit? What we need is to make sure that people who cannot afford to buy drugs today, people who are making the difficult decision between purchasing a meal or maintaining their residence and buying the drugs they need to be healthy, those folks who have to make that type of choice, that they have support, that they have a drug assistance program that helps them buy pharmaceuticals and assists them in a way that allows them to live a decent lifestyle without having to make terrible choices between the basics of life, such as food and housing versus their medical care.

We do need a drug benefit that does that, that takes care of the low-income individual who is not covered today by a drug benefit. And we need a drug benefit that says you don't have to spend your life savings in order to pay for your drugs. You don't have to wipe yourself out financially in order to be able to care for yourself physically as a result of your needs to purchase pharmaceuticals. So we need catastrophic coverage, where over a certain level you basically have an insurance program that comes in and pays your costs. But this bill doesn't do that.

What this bill does, as I mentioned, is it says to everyone that you shall have drug coverage, and it takes literally 40 percent of the seniors, as a conservative estimate, who presently have some sort of private coverage program and moves them onto the public coverage system. As a practical matter, in doing that, it spends a lot of money but, more importantly, it creates a lot of outyear liability because it essentially says the Federal Government shall have a nationalized drug system for everybody over 65 which will be paid for by earning Americans who are in their twenties and thirties and trying to raise families. Whether or not they are wealthy, they are going to have this sort of drug benefit. That really doesn't make a whole lot of sense, in my opinion.

It would make much more sense if the drug benefit in the bill said something to the effect of, if you are a low-income individual and you don't qualify for a State program, which already gives you a drug benefit—which is Medicaid, basically—and your income is, say, under 200 percent of poverty—I'll just pick that as a number because I think that is a reasonable number—then you shall receive assistance in purchasing your prescription drugs. There are about 4 million to 5 million people in that category. There are 40 million seniors. In the category between those covered by Medicaid and those at 200 percent of poverty, there are approximately 4 million to 5 million people. The cost of doing that part of the drug benefit to make sure you had a reasonable drug benefit—and essentially those low-income seniors have the support they need to pay for their drugs—can be $135 billion to $185 billion, depending how you score it. But it would not be $400 billion.

So you could set up a reasonable program targeted at low-income seniors to make sure they had fair and reasonable coverage, with the support of the Government. Other seniors who are over that income level should have the protection of a catastrophic program. But they should not have the protection of a public program because they already have it.

It has been estimated that 75 percent of the seniors in the country today already have some form of drug coverage. Why should the Federal Government come in and replace that? Why should the Federal Government come in and say to General Motors, which negotiated a contract with its employees that when they retire they would get a health care package that gave them drug coverage—why should you, a person working at a restaurant in Claremont, NH, in your twenties, trying to raise two kids and send them to school—why should your Medicare and health insurance tax be taken to pay for a drug benefit for somebody who retired from General Motors, who already has a benefit under the terms of the agreement they negotiated with General Motors? All you are essentially doing is saying, if you do that, that some poor guy or woman who is working hard to make ends meet in Claremont, NH, in a restaurant is going to bear the burden of what General Motors should be bearing for its retirees. You are replacing the obligation of General Motors with the obligation of some poor guy or woman in their twenties or thirties who is trying to raise a family and is working in a restaurant, and they have two kids going to school. They have to buy a Chevrolet, which is a pretty expensive experience. They should not have to pay for the health care of the person who made that Chevrolet. But that is what this bill essentially does.

The bill basically frees up, within 5 years—not immediately because there are contracts in place—certainly by the time the baby boom generation retires, which is 2008, it basically frees up corporate America from any obligation to bear any cost relative to retirement in the area of drugs. Now, there may be some unions that will negotiate a strong contract with their corporations and they will force them to come and do some sort of wraparound. But the core of the drug benefit will always be from here on out, once this bill is passed, that the public sector will bear the burden of all the costs for drugs for all Americans, no matter how wealthy they are, no matter what their income is, whether they had a union contract, agreement, or a Medigap policy that covers the drug costs.

The practical effect of that is going to be that when the baby boom generation—my generation—hits retirement beginning in 2008, we are going to escalate the cost of this benefit radically—radically. So $400 billion is a conservative number for 10 years and, over the life of this program, $4.6 trillion is an incredibly conservative number. This benefit, which is a very legitimate benefit and a very appropriate benefit, should be targeted at people who need it, people who cannot afford it, people who are having to make the tough choices in their life between the food they eat, the housing they have, and the drugs they pay for. Those folks deserve Government support. But Bill Gates, when he retires, does not deserve Government support in the area of purchasing his drugs. Under this bill, he would get it.

So that is the first and most fundamental flaw in this bill. It essentially nationalizes and moves from the private sector literally millions of people who are presently capable of having, and who are in, programs that take care of their drug benefit. It does an aggressive job, I admit, on the low-income person and that should be kept in place. There are a variety of ways to do that. But we should not nationalize the system for everyone.

The second flaw in this bill, the most fundamental flaw, is the issue of how you control the overall cost of Medicare. This is at the essence of the future financial soundness of this country. Today, Medicare consumes about 14 percent of the GDP, if you include retirement benefits, Social Security, Medicare, and Medicaid. If you applied the projections to Medicare, which are in place, the fact that we have a $13 trillion unfunded liability, and if you apply the unfunded liability projections to Social Security and Medicaid, then you will end up by 2030 having those three—Social Security, Medicare and Medicaid—absorbing 14 percent of the GDP. They do not do that today, obviously. Today, the Federal Government absorbs about 19 percent of the gross domestic product. So you could see that if you project the cost of Medicare and Social Security out to 2030 and you have it using up 14 percent of the gross national product, and today we do all Government spending, all the Government responsibilities, including education, national defense, and all the different issues of core Government needs we manage with 19 percent of the gross national product, we can see that by the time we get to the year 2030, there is not going to be anything left that the Federal Government is going to be able to do other than take care of the retirement accounts. We are not going to be able to do national defense, education, roads, parks—all the important functions to have a strong Government and a good society. They are not going to be affordable unless we are willing to radically increase the taxes on the working Americans of this country who will be our children and our grandchildren.

That is why I say reforming Medicare—and Social Security, for that matter, which I have already worked on extensively—is one of the most fundamental issues we face as a country, getting those costs under control in the outyears.

Does this bill do that? This bill attempts to create a market force in the area of Medicare by setting up something called PPOs, preferred provider groups. The practical effect, though, is there are very few likely scenarios under which the PPOs will be viable, under which private market forces will come into play. We will still have, basically, a price-controlled situation, a single-payer situation.

We cannot reform Medicare unless we bring into Medicare market forces. We cannot control the price and delivery of health care unless we start to put in place some sensitivity to the quality of care that is being delivered in the context of how it is being delivered, when it should be delivered, and the amount that should be delivered. We cannot do that in a single-payer system. We cannot do that in a price-controlled system. We can only do that if we have market forces that are competing and, thus, bringing to the table the essence of competition, which is competing on the basis of price and quality.

This bill in name attempts to do that through the PPO process. It is projected, however, by CBO, the Congressional Budget Office—there are so many initials thrown around; we confuse people—that only 2 percent of the Medicare recipients will take advantage of this market-oriented approach.

The White House and the Office of Management and Budget projects it at a much higher level. They say 45 percent will take advantage of this program, and that is because they are optimistic, and it is because it is their plan. I think the Congressional Budget Office has taken a much fairer and objective look at this. They have said: What in this plan creates an atmosphere which would cause somebody to leave Medicare and move over to a private provider? There is virtually nothing in this plan that would cause somebody to do that. There is no market force which is allowed to be brought into play to accomplish that because of the way the pricing mechanism is set up under this bill.

The practical effect is that the market has been taken out of—at least in a real sense, not in an illusory sense; it is there as a stated purpose—but as a practical likely effect, it has been taken out of the game. So we are going to move forward into the next generation with the same program that we presently have with a drug benefit on top of it, which drug benefit essentially will cover everyone, no matter what their income levels are, no matter what their benefit structures are. They already exist.

Instead of improving the system, what we are going to end up with is the same old Medicare system, a 1950s car with a brand new paint job on it in the form of the drug benefit but without anything in it that is going to fundamentally improve it as it moves into the next generation and the need to control costs in the next generation.

The practical effect of it will be that the $13.3 trillion unfunded liability that already exists in Medicare will have $4.6 trillion of new unfunded liability put on top of that for the purpose of the drug benefit, which are all massive numbers, but they come down to this: For a child born today—John Jones or Mary Smith—when that child takes his or her first breath, that child gets with that breath a debt of $44,000 to pay for Medicare. That debt is going to have added to it $15,000 after this bill passes to pay for the new Medicare benefit.

Yes, this bill does take care of our seniors and our baby boom generation group who are becoming seniors in a very generous way. One-half of the equation is addressed—seniors. That is always politically very attractive. It polls very well. It gets you through the next election. It makes you a hero with groups of people who are concerned about seniors' rights. But the other half of the equation is our children and our children's children. It leaves them with an extraordinary bill and with no opportunity to affect it.

The great tragedy is this drug benefit gave us, the Congress and the executive branch, the first and best opportunity to substantively reform Medicare using the drug benefit basically as the carrot that brings along the reforms. We could have used this benefit in an extraordinarily constructive way to assure that my generation, the baby boom generation, is not an undue burden on our children and our grandchildren or on that fellow or woman working in a restaurant in Claremont.

Instead, what we have done with this bill is added a drug benefit which will make my generation very happy and seniors who are receiving it today very happy, which will leave in place a Medicare system that has a $13 trillion projected unfunded liability and which will leave with our kids a debt which is both unfair, inappropriate, and, ironically, unnecessary were we approaching this with better policy.

I suppose, in understated terms, I have reservations about this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding, under the order now in effect, that a Democrat will be recognized; is that right?

The PRESIDING OFFICER. That is correct.

Mr. REID. Senator KENNEDY is here and ready to speak. Under the previous order, a Democrat is to be recognized to speak now. The Senator has until 11 o'clock if he wants to use that time. At 11 o'clock, the two managers of the bill will be recognized to offer a substitute.

Mr. KENNEDY. We now will be recognized?

Mr. REID. For debate only on the bill.

Mr. CRAIG. Mr. President, will the minority whip yield?

Mr. REID. I will be happy to.

Mr. CRAIG. Will it be possible for me to gain some time following the Senator from Massachusetts?

Mr. REID. Through the Chair, I ask the Senator from Massachusetts, how long does the Senator wish to speak? I say to the Senator from Massachusetts, Senator GREGG spoke for 30 minutes. Under the order, we have the time.

Mr. KENNEDY. We have 9 minutes?

Mr. REID. Senator KENNEDY has until the top of the hour.

Mr. KENNEDY. I want to accommodate my friend. Do I understand the Senator from Michigan intends to offer an amendment this morning?

Mr. REID. Mr. President, the intention, although there is no order in effect, is that at 11 o'clock, the two managers of the bill will be recognized and, at that time, they will offer their substitute. At that time, it will be open to amendment. It has been talked about for the last 2 days that Senator STABENOW will be recognized to offer an amendment.

Mr. KENNEDY. We have, therefore, about 20 minutes between now and 11 o'clock. I will be glad to divide that time.

Mr. CRAIG. I will require more time than that. The Senator, obviously, has the floor, as under the UC, which is fine. I am looking for a window of about 15 or 20 minutes maximum.

Mr. REID. Mr. President, I do not know if the two managers of the bill would be willing to start at 11:15 rather than 11. They are in the cloakroom. While Senator KENNEDY speaks, I will walk back and ask them.

Mr. CRAIG. That would be appreciated.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from Idaho as well. As I indicated, I was willing to share the time we had up to 11. As soon as a Member is prepared to offer an amendment, I will yield the floor because I do think we have had a good opportunity to make general comments and opening statements over the period of these last 2 days, and I think the business of the Senate should require that we begin to address some of the areas which need addressing.

I understood my friend and colleague from Michigan will be in the Chamber shortly, and as soon as she is and it is agreeable with the managers, I will yield the floor.

To review very quickly, this is a momentous time. We give credit to the chairman and ranking member of the Finance Committee in moving this process forward in a way which I think can be a building foundation for addressing the critical issue which is on the minds of so many of our seniors, and that is a good, effective, reliable, affordable prescription drug program.

As has been mentioned previously, when we passed the Medicare Program in 1965, it provided for the hospitalization and physician fees, but it did not provide for prescription drugs. Only about 3 percent of all of the private sector insurance programs had a prescription drug program. What we have seen since that time is the extraordinary explosion of prescription drugs which are so necessary to enhance and improve the quality of life for so many of our seniors. They are as indispensable to our seniors as hospitalization and physician fees.

In 1965, we made a commitment and a pledge to our seniors that is really the basis of a program that was developed in the late 1950s. It was an issue that divided the two political parties in the 1960 campaign. President Kennedy felt strongly about developing a Medicare system for our seniors. We had failed to provide national health insurance for all Americans, a goal I am still committed to. It was Harry Truman's goal.

We are always reminded that we in the Senate, Republicans and Democrats, effectively have national health insurance. There is not a single Member of this body who does not take the Federal employees program, rejects that, and takes their own homegrown program. They all take the Federal employees program, which is heavily underwritten by the Federal Government. I do not know of a single program that exists in this country that has the taxpayer underwriting what we in the Congress and the Senate have, including a prescription drug program.

So I am always interested in those who complain about our efforts to try and pass a good, effective prescription drug program when we have it ourselves. We have looked out after ourselves and we have been so slow in looking out after the needs of our fellow elderly citizens.

I arrived to the Chamber too late to hear my good friend—and he is my good friend—from New Hampshire talk about the indebtedness this bill will provide in terms of the children of this country. This is a $400 billion bill and it is going to mean several thousand dollars of indebtedness to the children who are being born today. Well, that pales in significance when we think that under the Republican administration of the last 2½ years we have passed a $2.3 billion tax reduction that is going to mean billions and hundreds of billions of dollars of indebtedness for our children.

This program at least is going to make a difference in terms of the quality of life for seniors who have built this country and sacrificed for their children and fought in the wars and fought to make sure we were going to have economic recovery. It is an investment in them rather than just to the wealthiest individuals. I welcome the opportunity to debate, if we are going to have the chance to do it, which is of greater value to the Nation, which is of greater value to our fellow human beings, these extraordinary tax cuts or the downpayment on the prescription drug program.

The principal reason we have been unable to bring this matter up and develop a bipartisan approach is because of ideology, which has been a part of the Republican commitment over the years, and that is to privatize Social Security and privatize Medicare. They have been opposed to Medicare, opposed to Social Security, from the time immemorial when these programs were passed. We heard the word "socialism" talked about all during the debates on the Medicare Program. Every other word was "socialized medicine." We do not hear any of those words anymore. We hear words, as we heard from Newt Gingrich, "we want to see Medicare wither on the vine." But they are opposed to it.

So this issue has been divisive because those of us who have been strongly committed to Medicare refuse to see that it is effectively dismantled by offering a prescription program that would be used to either bribe or coerce seniors out of the Medicare system into a private sector system and then to let the Medicare system wither on the vine. Our elderly people, our seniors, those who have contributed to this country, know their doctor, they know their neighborhood, they know their hospital, and they do not want to be forced out of Medicare into an uncertain system. Many of us in this body are going to resist that and fight that with every fiber in our body.

We have seen an alteration and change, and that is what has been developed in the Senate Finance Committee legislation, which will permit those who are under Medicare to be assured that no matter what part of the country they live in they are going to be able to have access to the prescription drug program that is outlined in this legislation.

For those who want to go into the HMOs, there will be at least the opportunity for those in the private sector who want to risk providing the benefit package that is in here, and want to take the chance, to be able to compete. That is the compromise that has certainly not satisfied everyone—I certainly would not have drafted the bill as it is drafted today—but nonetheless it is the compromise that came out of that committee and which I think Senator GRASSLEY and Senator BAUCUS deserve credit for.

They have established a foundation in which this prescription drug program can be enhanced, strengthened, and built upon, both during the debate over the next 6 days but also in the future years. As long as I am in the Senate and honored to represent the people of Massachusetts, I make the commitment and pledge that I am going to do everything I possibly can to make sure this is the kind of program which is worthy of our senior citizens in the future, but we will have a downpayment in this program with this legislation.

In the past, we reviewed very briefly the need for this program and the costs for this program. I think at the time that we are actually into the amendments, we do not have to go back and speak about the enormous costs our elderly are paying, how their CPI, their adjustment, is not enough to make up for these escalating costs; the fact that these prescription drugs are absolutely indispensable to the lives and well-being of millions of our citizens. We know that is the truth. We know we have an uncertain condition out there in terms of the seniors having access to the drugs. Many of them do not have it. Others are in retirement programs. An increasing number of the retirement programs are dropping individuals. Millions of others have them in Medicaid and that is being cut back in a number of our States, and they are being left out and left behind.

Millions are in HMOs, and almost half of those numbers have been dropped by the HMOs and other conditions have been put on in terms of restricting the amounts that will be expended by the HMOs in the prescription drug program which is disadvantaging these individuals to an enormous degree. Medigap is not picking up the process. The fact remains, our seniors are enormously vulnerable today. Never have they been more vulnerable.

This is against another background that I will just mention very briefly. We have seen in the Congress, in the Senate, over the period of this last 5 years the doubling of the NIH budget. Why was that done? The reason it was done is the recognition that we have had, Republicans and Democrats alike, of the enormous opportunities for breakthroughs, in prescription drugs primarily, and in new technologies to deal with the challenges in health care, mixing technologies and mixing prescription drugs to make further advances—which is certainly the goal of Dr. Sahni at the NIH.

These are very bold and challenging new initiatives in which they are involved. We have seen the mapping of the human genome, with all that means, in the predictability of how genes are going to function and so averting dangers that presents to patients in the future, anticipating that and developing medical technologies that can address that so we can prevent individuals from developing, in this instance I am talking about, several different types of cancers. The list goes on.

We have the most extraordinary opportunity now for breakthroughs in prescription drugs. Now that we have doubled the NIH budget, we have to ask ourselves what is the sense of making these breakthroughs and spending billions and billions of dollars if we are not going to get them out of the laboratory and into the homes of those who need them?

This bill is that downpayment that ensures the drugs get out of the laboratory and to those who need them. That is why it is so important we take action. We are seeing such progress. I see in my own State of Massachusetts—we have more biotech companies in our State than all of Western Europe. I am always amazed at the continued dreams in these research labs in terms of potential breakthroughs and the progress that is being made. It is beyond the possible imagination of so many of us, to think someday we might really conquer cancer, we might really conquer Alzheimer's, we might really conquer diabetes or other diseases. There are dreamers who believe it will be done, and in the none-too-distant future.

We want to put in place a process, a procedure, a delivery system which is affordable, dependable, reliable, so those breakthroughs can get out and get to them. That is what this bill does.

I will just review this because these issues were raised. One of the features, which is not a major feature but which I find has not been mentioned in most of the news reports, is that in January of next year 5 million seniors will receive a card—some might have to pay $25 for it but no more than $25—that will guarantee them $600 worth of prescription drugs. If they do not use all $600, if they use just $400, they can carry that over to next year. That is a real downpayment of this legislation. Five million people are going to receive that. Although the Medicare program will take 3 years to get implemented, this prescription drug card will soon provide needed relief to millions of seniors. That is an indicator to at least 5 million of our seniors, that help is coming, help is on its way.

Let me give three quick examples of an average senior citizen with an income of $15,000. That is the average senior citizen, if they have drug costs at the national average of $2,300. This is the group this legislation perhaps helps the least. We take great care of the 40 percent of the senior citizens with lowest incomes and we take care of those with catastrophic expenses. This is the group we hope to provide additional assistance. This individual would pay a $420 premium, and they would pay $1,298 for cost sharing, and they would receive $604. That may not sound like much, but that is $604 they do not get today.

Let's take the instance of an individual who has the same income, average income, and has a great deal of medical expenses; $15,000 income and they have $10,000 in expenses. They will end up paying the $4,500 but they get $5,400 in savings under this legislation. That is still a good deal—I'd like it to be better, but at least they will gain significantly from this legislation if they have those kinds of bills.

Let's take the same individual. By and large this is 40 percent of all the senior citizens—not half but not far from it. Let's look at a person just above the poverty line with $9,000 in income and the same $2,300 in drug expenses each year. That works out to about $190 per month.

Under this legislation, at $9,000 income, you would pay $5. That would mean a monthly savings of $185.

If your income is $12,000 and you pay out the $190 per month in expenses today, under this legislation you would pay $10 and would save $180 per month.

If your income is $13,500 and you have $190 in monthly costs, under this legislation you would pay $23 and save $168. That is a major relief for those families who are facing these extraordinary challenges across this country.

I see the ranking members of the Finance Committee now on the floor. Let me wind up.

Mr. President, listen to this: 83 percent of all Medicare beneficiaries are going to receive more out of this legislation than they will pay in. Today, in part B of the Medicare only about 50 percent of seniors get out more than they pay in. Under this legislation it would be 83 percent.

For those who go through what they call the doughnut hole, that is the period of time when they are not getting the full assistance I would like to see, it is important to recognize that two-thirds of those who go into the doughnut hole go out the other end into the catastrophic and get extra help. Only about 8 percent actually remain in that doughnut hole.

We are going to have the opportunity here to try to make some further adjustments to strengthen and improve this legislation.

Finally, let me say in watching what happened over in the House of Representatives, their legislation fails to have the kind of backup this legislation has in the delivery of the Medicare benefit, which is unacceptable. They have what they call a premium support program which effectively would undermine the Medicare system, which is completely unacceptable. The means testing is in there, which would require individuals to submit their tax forms to agencies of the Federal Government and insurance companies. I think that would be very offensive.

There are many different aspects of that legislation that are enormously troubling. But that is not this bill. That is not this bill.

So, again, I commend Senator GRASSLEY and Senator BAUCUS and our Republican leader, Senator FRIST, for all they have done working this through. I look forward to the opportunity to address these amendments.

I see the hour of 11 has arrived.

Mr. REID. Mr. President, even though there may not be a unanimous consent request that has been ordered, I ask that the two managers be recognized now; that following whatever they decide to do the Senator from Idaho be recognized to speak for up to 15 minutes; and following the statement of the Senator from Idaho that Senator STABENOW be recognized to offer an amendment. We talked about her amendment for a couple of days.

I ask all this in the form of a unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I am going to offer a modification in just a minute. We are going to wait for our staff to come and present the exact language which we will use in the unanimous consent request.

Before we do that, I have not had the opportunity to express my appreciation to the entire Senate for Senator BAUCUS's cooperation in bringing the bill here, and for everything we have done in order to bring a bipartisan bill here which was voted out of a committee on a 16-5 vote.

In other speeches, I have talked about people who have been working on this issue, such as Senator BREAUX with the Breaux Commission. I have talked about the tripartisan people who worked over the last 2 years to bring a bill before the Senate last year, all of which set the stage for some of the subject matter we have before us. Senator BAUCUS and I hope we will have a continuation of the bipartisanship that has been expressed so far in that vote.

But I haven't had a chance to tell the Senate of my appreciation to Senator BAUCUS in working both at the staff level and his staff—meaning the Finance Committee staff on the Democratic side, and the Finance Committee staff on the Republican side—doing a lot of nitty-gritty work to bring things together with a consensus that can be arrived at at the staff level, but, more importantly, a lot of the things Senator BAUCUS and I had to work out.

When it was all said and done, it was a very pleasant experience. I don't say that because of the relationship Senator BAUCUS and I have, but it is because of a continuation of the tradition of the Senate Finance Committee to do most of its business—albeit not all of its business—in a bipartisan way.

We would not have an issue before us like this—and a lot of other issues that have come out of the Senate Finance Committee—without that sort of cooperation.

I think this deserves a little more special attention of bipartisanship and Senator BAUCUS's cooperation. This is the first major expansion of Medicare in 35 years. This is something that candidates of both political parties have talked about the necessity of doing—providing prescription drugs for seniors.

There is something which is very much of an issue to Montana and to Iowa and to a lot of other States we call rural States. There is an inequity issue within Medicare reimbursement.

Working very closely with Senator BAUCUS last year to establish a Baucus-Grassley bill on Medicare rural equity, then moving this year to adopt the one earlier on a tax bill and duplicating that effort in this prescription drug bill was all done in a bipartisan way. You can only say it so many times, but I don't think you can say it enough either, because people think the Senate is always a highly partisan body. Sometimes we are too highly partisan. Sometimes it is OK to be partisan, I believe, in our system of government. But really nothing gets done in the Senate if there isn't some bipartisan cooperation. Obviously, I take this opportunity to thank Senator BAUCUS for that cooperation.

We still have not had that agreement presented to us yet. I am going to ask

Senator BAUCUS if we should let Senator CRAIG go ahead and speak for his 15 minutes before we lay down our amendment.

Mr. BAUCUS. Mr. President, first I very much appreciate the kind words by the chairman of the committee. It is wonderful working with the Senator from Iowa. He is a good man.

With respect to the point made by the chairman, I agree. I think it makes sense at this time, since we are still trying to get papers ready, for the Senator from Idaho to proceed.

Mr. GRASSLEY. Mr. President, we will let the Senator from Idaho finish before we proceed with our unanimous consent.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I want to thank the Chairman of the Finance Committee and the ranking member for the work they have done on the Finance Committee on S. 1, the Medicare legislation.

The legislation before us today is a praiseworthy document, in that it is a step forward toward the fundamental goals of providing prescription drug relief for America's seniors and strengthening the Medicare program. This is certainly not to suggest that this legislation is without flaws, but it does begin the process of improving Medicare for our children and our grandchildren down the road and in what we hope will be the right direction.

To paraphrase the words of a rather historic person, Benjamin Franklin, "Is the sun rising, or is the sun setting" on the promise of creating a federally funded but also privately competitive Medicare system that can succeed, both in holding down costs and in providing adequate coverage?

Only the future will tell whether what we have before us is the case of a sun rising on a new day in health care or simply a dramatic shift and a sun setting.

What I think is happening here today is the beginning of a very important debate for the remainder of this week and next week. I hope that passage of this legislation will prove to be a major step forward.

As chairman of the Special Committee on Aging, I have convened a variety of hearings over the last several months to carefully examine the difficulties of all of the issues that are going to be talked about here this week, including the long-term demographic pressures facing Medicare, the value of integrating competitive alternatives into the program, and the promise of making care coordination part of a strengthened and improved Medicare prescription drug coverage.

All of these are important. But there is no question that prescription drug coverage is the political engine that drives this debate, but it is just one of several grave challenges we face as we take up this important legislation.

There is no question that drug coverage for America's seniors is long overdue, especially for those in the greatest of need. Except for Medicare, virtually every health care insurance plan in America today covers prescription drugs. Medicare today is trapped in a 1960s model of health care delivery, and lags decades behind what the private sector has to offer.

This bill would address this problem. Beginning immediately, America's seniors would receive a drug discount card enabling them to purchase drugs at a significant discount. More importantly, in 2006 seniors would be able to enroll in federally subsidized Medicare drug coverage for a premium of about $35 a month—coverage that would be of greater per-dollar value than that currently offered through Medicare supplemental, Medigap, or wraparound plans.

I am especially pleased that this legislation devotes the greatest share of its drug assistance to seniors of low and modest income—most especially seniors below 160 percent of poverty. These seniors—those with annual incomes below about $13,500 for an individual, and about $18,200 for a couple—would receive special assistance of about 80 to 90 percent for their drug costs, depending on income.

The truth is, the proportion of seniors who truly cannot afford prescription drugs is relatively small—perhaps 25 percent. It is on these seniors in the greatest of need that our help should be focused.

Mr. President, even more important than drug coverage is the urgent need to begin putting Medicare on a more modern and secure footing as the 77-million-strong baby boomer generation moves even closer to retirement age. According to the Medicare Trustees, Medicare costs, even without any drug benefit, will more than triple over the next 75 years, placing a tremendous burden on future generations.

Despite this looming challenge, Medicare today remains clogged by rigid bureaucracy and complex regulations—regulations that are already beginning to drive doctors and other health care providers out of this program, leaving our seniors, in many instances, without access to the health care they need.

Medicare, as we know it today, is micromanaged to the tiniest of details for medical payments and procedures, including the pricing and regulation of more than 7,000 medical procedures and over 500 hospital procedures. Why are we so intent on micromanaging the system? Medicare regulations now total more than 110,000 pages of rules and regulations.

Perhaps it is not surprising, then, that doctors and hospitals report having to spend half an hour to an hour in paperwork for every hour spent in patient care. In other words, there is often more intensity on doing the paperwork right than there is on good health care procedures for the patient and all because of a Federal system that is so heavily micromanaged. And of course, the risks to providers are high if they fail to perform the required regulatory tasks in the most minute of ways.

Even more distressing, the heavily bureaucratic Medicare Program has ultimately failed to keep up with the kinds of medical and health care coverage innovations most of the rest of us take for granted. For example, the current Medicare Program only covers a handful of preventive screenings and tests and in most cases will not even pay for a standard physical.

Medicare also lags far behind the private sector in its use of care coordination and disease management systems under which a patient's care is coordinated and optimized, promoting better health outcomes and fewer days of hospitalization.

For certain chronic conditions, such as diabetes and congestive heart failure, as many as 83 to 97 percent of America's health care plans now offer such care coordination. Medicare, meanwhile, has only barely begun to experiment with demonstration projects in this area and some prominent experts, such as former CBO Director Dan Crippen, doubt that care management can ever work effectively in Medicare as we know it today.

The bill before us seeks to bring Medicare into the 21st century, not just by providing prescription drug coverage, but also by offering seniors the choice to enroll in federally supervised but privately operated health care plans the same kind of choices and coverage currently enjoyed by millions of other Americans under age 65. Ideally, these plans could include preferred provider organizations, fee-for-service plans, HMOs, and even medical savings accounts.

The current Medicare system forces seniors to hunt for and purchase supplemental plans for many of the things that Medicare does not cover. By contrast, the new Medicare Advantage plans would give seniors one-stop shopping for comprehensive and integrated coverage including prescription drugs, preventive care, care coordination, and protection against high catastrophic medical bills, benefits which are largely unheard of in the traditional Medicare plan of today.

Importantly, these new choices would be entirely voluntary. Seniors who want to keep their current coverage and stay in traditional Medicare would be free to do so. Also, the new prescription drug program would be offered in both the traditional program and in the new Medicare Advantage plans. No senior would see any reduction in Medicare benefits under this bill. No benefits would be taken away—none.

I am also extremely pleased this bill includes a significant and necessary package of improvements in rural health care and reimbursement. Among other changes, this legislation would improve certain categories of rural payment and would make needed rule changes to assist critical access hospitals and other rural providers.

For far too long, doctors and hospitals in Idaho and other rural States have suffered under payment classifications and reimbursement levels that put them at a significant disadvantage and that make the already difficult job of providing health care in rural America even more daunting.

The underlying framework of this bill is a sound one, and it follows the basic principles laid out by President Bush earlier this year—namely, to strengthen traditional Medicare and keep it as an alternative for those seniors who want it, but also to provide a new foundation for the future, one built on choices, competition, and innovation.

This said, however, I am gravely troubled by certain aspects of this bill's current design—particularly the fact that we have not incorporated in it enough competitive alternatives.

First, I believe it is a mistake to offer exactly equivalent drug benefits in the older, more traditional program and in the new Medicare Advantage plans—and thereby not create a strong competitive advantage for the Medicare Advantage programs. This is an important issue in causing seniors to make selections toward the marketplace and toward a variety of alternatives—rather than to be fearfully hunkered down, if you will, in the old program. If we truly believe, as I do, that structured competition, rather than a perpetuation of top-down bureaucratic health care, is the better future for Medicare, our legislation should reflect this commitment.

Second, this bill unwisely imposes a ceiling, or benchmark, on the amount the Federal Government will pay the new Medicare Advantage plans. What we want is a variety of robust competitive alternatives in the marketplace, and capping or creating a ceiling may threaten that goal.

Third, the legislation creates an unnecessarily heavy-handed and restrictive bidding system for the Medicare Advantage Program. Under this program, HHS would choose only three winning plans for each of ten national regions. Far preferable would be a system like the Federal Health Benefits Program, under which any plan meeting basic federal standards would be permitted to compete. It should be the marketplace, not HHS bureaucrats, who decide which plans succeed or fail.

Fourth, I am concerned by this legislation's overall high level of complexity and prescriptiveness—prescriptiveness that threatens to add appreciably to the 110,000 pages of regulation already in place. Shame on us if we do that. This bill, which I suspect weighs a few pounds, has hundreds and hundreds of pages. I hope that, for every page of legislation we do not also see 25 or 30 pages of ensuing regulation. If that is the case, we will have created the opposite of what we should intend—namely walking away from the bureaucracy and into the marketplace, into the opportunity of choice, and into a much freer environment—one that providers want to join, and one that provides optimum health care for the senior of today.

Over the course of the next week and a half, hopefully, amendments will take us toward simplicity instead of toward the kind of micromanagement we have seen in the past. History should not repeat itself here, and I think all of us should be concerned that it might. This is because we have the great tendency to err on the side of the bureaucracy and the side of regulation, when, in fact, the marketplace—as shown by the hearings I have held—can, in fact, be the greater arbiter of health care when effective competition is provided.

These concerns are by no means exhaustive. Like many of my colleagues, I am also concerned about the complexity and stability of the proposed system for providing drug coverage in the traditional Medicare program, and I worry about the possibility that some employers may react to the new Federal drug coverage by cutting back or dropping benefits they currently provide to their retirees.

Finally, I want to caution my colleagues, in no uncertain terms, that neither this bill nor any of the alternative Democratic proposals offers a magic bullet for Medicare's future. The financial and demographic outlook for Medicare is sobering in the extreme, and nothing can change the fact that hard choices lie ahead, regardless of what we do this year. This legislation could improve our prospects, but it is, at best, only a first step.

Majority Leader FRIST, Senator GRASSLEY, and others on the Finance Committee deserve tremendous credit for bringing us to where we are today, as does President Bush for making prescription drugs and Medicare reform a top priority this year.

The coming weeks will be critical ones. I hope we can succeed in producing a bill worthy of this historic opportunity.

Mr. President, I again thank the chairman and the ranking member. I also thank Senator FRIST, our leader, for insisting that this issue get to the floor for the kind of debate I trust we will have—and for working with the House toward putting on our President's desk something that we have long promised America's seniors: That those who are truly needy will have access to prescription drugs and all seniors will have access to a modernized Medicare Program.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT, AS MODIFIED

Mr. GRASSLEY. Mr. President, with the authority of the majority of the Finance Committee, I now modify my committee substitute and the modification is at the desk.

The PRESIDING OFFICER. The amendment is so modified.

The committee amendment, as modified, is as follows:

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES TO BIPA AND SECRETARY; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Prescription Drug and Medicare Improvement Act of 2003".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) BIPA; SECRETARY.—In this Act:

(1) BIPA.—The term "BIPA" means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106-554.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references to BIPA and Secretary; table of contents.

TITLE I—MEDICARE PRESCRIPTION DRUG BENEFIT

Subtitle A—Medicare Voluntary Prescription Drug Delivery Program

Sec. 101. Medicare voluntary prescription drug delivery program.

"PART D—VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

"Sec. 1860D. Definitions: treatment of references to provisions in MedicareAdvantage program.

"Subpart 1—Establishment of Voluntary Prescription Drug Delivery Program

"Sec. 1860D-1. Establishment of voluntary prescription drug delivery program.
"Sec. 1860D-2. Enrollment under program.
"Sec. 1860D-3. Election of a Medicare Prescription Drug plan.
"Sec. 1860D-4. Providing information to beneficiaries.

"Sec. 1860D–5. Beneficiary protections.
"Sec. 1860D–6. Prescription drug benefits.
"Sec. 1860D–7. Requirements for entities offering Medicare Prescription Drug plans; establishment of standards.

"Subpart 2—Prescription Drug Delivery System

"Sec. 1860D–10. Establishment of service areas.
"Sec. 1860D–11. Publication of risk adjusters.
"Sec. 1860D–12. Submission of bids for proposed Medicare Prescription Drug plans.
"Sec. 1860D–13. Approval of proposed Medicare Prescription Drug plans.
"Sec. 1860D–14. Computation of monthly standard prescription drug coverage premiums.
"Sec. 1860D–15. Computation of monthly national average premium.
"Sec. 1860D–16. Payments to eligible entities.
"Sec. 1860D–17. Computation of monthly beneficiary obligation.
"Sec. 1860D–18. Collection of monthly beneficiary obligation.
"Sec. 1860D–19. Premium and cost-sharing subsidies for low-income individuals.
"Sec. 1860D–20. Reinsurance payments for expenses incurred in providing prescription drug coverage above the annual out-of-pocket threshold.
"Sec. 1860D–21. Direct subsidy for sponsor of a qualified retiree prescription drug plan for plan enrollees eligible for, but not enrolled in, this part.

"Subpart 3—Miscellaneous Provisions

"Sec. 1860D–25. Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund.
"Sec. 1860D–26. Other related provisions.
Sec. 102. Study and report on permitting part B only individuals to enroll in medicare voluntary prescription drug delivery program.
Sec. 103. Rules relating to medigap policies that provide prescription drug coverage.
Sec. 104. Medicaid and other amendments related to low-income beneficiaries.
Sec. 105. Expansion of membership and duties of Medicare Payment Advisory Commission (MedPAC).
Sec. 106. Study regarding variations in spending and drug utilization.

Subtitle B—Medicare Prescription Drug Discount Card and Transitional Assistance for Low-Income Beneficiaries

Sec. 111. Medicare prescription drug discount card and transitional assistance for low-income beneficiaries.

Subtitle C—Standards for Electronic Prescribing

Sec. 121. Standards for electronic prescribing.

Subtitle D—Other Provisions

Sec. 131. Additional requirements for annual financial report and oversight on medicare program.
Sec. 132. Trustees' report on medicare's unfunded obligations.

TITLE II—MEDICAREADVANTAGE

Subtitle A—MedicareAdvantage Competition

Sec. 201. Eligibility, election, and enrollment.
Sec. 202. Benefits and beneficiary protections.
Sec. 203. Payments to MedicareAdvantage organizations.
Sec. 204. Submission of bids; premiums.
Sec. 205. Special rules for prescription drug benefits.
Sec. 206. Facilitating employer participation.
Sec. 207. Administration by the Center for Medicare Choices.
Sec. 208. Conforming amendments.
Sec. 209. Effective date.

Subtitle B—Preferred Provider Organizations

Sec. 211. Establishment of MedicareAdvantage preferred provider program option.

Subtitle C—Other Managed Care Reforms

Sec. 221. Extension of reasonable cost contracts.
Sec. 222. Specialized Medicare+Choice plans for special needs beneficiaries.
Sec. 223. Payment by PACE providers for medicare and medicaid services furnished by noncontract providers.
Sec. 224. Institute of Medicine evaluation and report on health care performance measures.
Sec. 225. Expanding the work of medicare quality improvement organizations to include parts C and D.

TITLE III—CENTER FOR MEDICARE CHOICES

Sec. 301. Establishment of the Center for Medicare Choices.
Sec. 302. Miscellaneous administrative provisions.

TITLE IV—MEDICARE FEE-FOR-SERVICE IMPROVEMENTS

Subtitle A—Provisions Relating to Part A

Sec. 401. Equalizing urban and rural standardized payment amounts under the medicare inpatient hospital prospective payment system.
Sec. 402. Adjustment to the medicare inpatient hospital PPS wage index to revise the labor-related share of such index.
Sec. 403. Medicare inpatient hospital payment adjustment for low-volume hospitals.
Sec. 404. Fairness in the medicare disproportionate share hospital (DSH) adjustment for rural hospitals.
Sec. 405. Critical access hospital (CAH) improvements.
Sec. 406. Authorizing use of arrangements to provide core hospice services in certain circumstances.
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TITLE I—MEDICARE PRESCRIPTION DRUG BENEFIT

Subtitle A—Medicare Voluntary Prescription Drug Delivery Program

SEC. 101. MEDICARE VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM.

(a) ESTABLISHMENT.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part E and by inserting after part C the following new part:

"PART D—VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

"DEFINITIONS; TREATMENT OF REFERENCES TO PROVISIONS IN MEDICAREADVANTAGE PROGRAM

"SEC. 1860D. (a) DEFINITIONS.—In this part:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Center for Medicare Choices as established under section 1808.

"(2) COVERED DRUG.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), the term 'covered drug' means—

"(i) a drug that may be dispensed only upon a prescription and that is described in clause (i) or (ii) of subparagraph (A) of section 1927(k)(2); or

"(ii) a biological product described in clauses (i) through (iii) of subparagraph (B) of such section; or

"(iii) insulin described in subparagraph (C) of such section;

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered drug for a medically accepted indication (as defined in section 1927(k)(6)).

"(B) EXCLUSIONS.—

"(i) IN GENERAL.—The term 'covered drug' does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

"(ii) AVOIDANCE OF DUPLICATE COVERAGE.—A drug prescribed for an individual that would otherwise be a covered drug under this part shall not be so considered if payment for such drug is available under part A or B, but shall be so considered if such payment is not available under part A or B or because benefits under such parts have been exhausted.

"(C) APPLICATION OF FORMULARY RESTRICTIONS.—A drug prescribed for an individual that would otherwise be a covered drug under this part shall not be so considered under a plan if the plan excludes the drug under a formulary and such exclusion is not successfully resolved under subsection (d) or (e)(2) of section 1860D–5.

"(D) APPLICATION OF GENERAL EXCLUSION PROVISIONS.—A Medicare Prescription Drug plan or a MedicareAdvantage plan may exclude from qualified prescription drug coverage any covered drug—

"(i) for which payment would not be made if section 1862(a) applied to part D; or

"(ii) which are not prescribed in accordance with the plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860D–5(e).

"(3) ELIGIBLE BENEFICIARY.—The term 'eligible beneficiary' means an individual who is entitled to, or enrolled for, benefits under part A and enrolled under part B (other than a dual eligible individual, as defined in section 1860D–19(a)(4)(E)).

"(4) ELIGIBLE ENTITY.—The term 'eligible entity' means any risk-bearing entity that the Administrator determines to be appropriate to provide eligible beneficiaries with the benefits under a Medicare Prescription Drug plan, including—

"(A) a pharmaceutical benefit management company;

"(B) a wholesale or retail pharmacist delivery system;

"(C) an insurer (including an insurer that offers medicare supplemental policies under section 1882);

"(D) any other risk-bearing entity; or

"(E) any combination of the entities described in subparagraphs (A) through (D).

"(5) INITIAL COVERAGE LIMIT.—The term 'initial coverage limit' means the limit as established under section 1860D–6(c)(3), or, in the case of coverage that is not standard prescription drug coverage, the comparable limit (if any) established under the coverage.

"(6) MEDICAREADVANTAGE ORGANIZATION; MEDICAREADVANTAGE PLAN.—The terms 'MedicareAdvantage organization' and 'MedicareAdvantage plan' have the meanings given such terms in subsections (a)(1) and (b)(1), respectively, of section 1859 (relating to definitions relating to MedicareAdvantage organizations).

"(7) MEDICARE PRESCRIPTION DRUG PLAN.—The term 'Medicare Prescription Drug plan' means prescription drug coverage that is offered under a policy, contract, or plan—

"(A) that has been approved under section 1860D–13; and

"(B) by an eligible entity pursuant to, and in accordance with, a contract between the Administrator and the entity under section 1860D–7(b).

"(8) PRESCRIPTION DRUG ACCOUNT.—The term 'Prescription Drug Account' means the Prescription Drug Account (as established under section 1860D–25) in the Federal Supplementary Medical Insurance Trust Fund under section 1841.

"(9) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The term 'qualified prescription drug coverage' means the coverage described in section 1860D–6(a)(1).

“(10) Standard prescription drug coverage.—The term ‘standard prescription drug coverage’ means the coverage described in section 1860D–6(c).

“(b) Application of MedicareAdvantage Provisions Under This Part.—For purposes of applying provisions of part C under this part with respect to a Medicare Prescription Drug plan and an eligible entity, unless otherwise provided in this part such provisions shall be applied as if—

“(1) any reference to a MedicareAdvantage plan included a reference to a Medicare Prescription Drug plan;

“(2) any reference to a provider-sponsored organization included a reference to an eligible entity;

“(3) any reference to a contract under section 1857 included a reference to a contract under section 1860D–7(b); and

“(4) any reference to part C included a reference to this part.

“Subpart 1—Establishment of Voluntary Prescription Drug Delivery Program

“ESTABLISHMENT OF VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

“Sec. 1860D–1. (a) Provision of Benefit.—

“(1) In general.—The Administrator shall provide for and administer a voluntary prescription drug delivery program under which each eligible beneficiary enrolled under this part shall be provided with access to qualified prescription drug coverage as follows:

“(A) MedicareAdvantage enrollees receive coverage through MedicareAdvantage plan.—

“(i) In general.—Except as provided in clause (ii), an eligible beneficiary who is enrolled under this part and enrolled in a MedicareAdvantage plan offered by a MedicareAdvantage organization shall receive coverage of benefits under this part through such plan.

“(ii) Exception for enrollees in MedicareAdvantage MSA plans.—An eligible beneficiary who is enrolled under this part and enrolled in an MSA plan under part C shall receive coverage of benefits under this part through enrollment in a Medicare Prescription Drug plan that is offered in the geographic area in which the beneficiary resides. For purposes of this part, the term ‘MSA plan’ has the meaning given such term in section 1859(b)(3).

“(iii) Exception for enrollees in MedicareAdvantage private fee-for-service plans.—An eligible beneficiary who is enrolled under this part and enrolled in a private fee-for-service plan under part C shall—

“(I) receive benefits under this part through such plan if the plan provides qualified prescription drug coverage; and

“(II) if the plan does not provide qualified prescription drug coverage, receive coverage of benefits under this part through enrollment in a Medicare Prescription Drug plan that is offered in the geographic area in which the beneficiary resides. For purposes of this part, the term ‘private fee-for-service plan’ has the meaning given such term in section 1859(b)(2).

“(B) Fee-for-service enrollees receive coverage through a Medicare prescription drug plan.—An eligible beneficiary who is enrolled under this part but is not enrolled in a MedicareAdvantage plan (except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage) shall receive coverage of benefits under this part through enrollment in a Medicare Prescription Drug plan that is offered in the geographic area in which the beneficiary resides.

“(2) Voluntary nature of program.—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program under this part.

“(3) Scope of benefits.—Pursuant to section 1860D–6(b)(3)(C), the program established under this part shall provide for coverage of all therapeutic categories and classes of covered drugs (although not necessarily for all drugs within such categories and classes).

“(4) Program to begin in 2006.—The Administrator shall establish the program under this part in a manner so that benefits are first provided beginning on January 1, 2006.

“(b) Access to Alternative Prescription Drug Coverage.—In the case of an eligible beneficiary who has creditable prescription drug coverage (as defined in section 1860D–2(b)(1)(F)), such beneficiary—

“(1) may continue to receive such coverage and not enroll under this part; and

“(2) pursuant to section 1860D–2(b)(1)(C), is permitted to subsequently enroll under this part without any penalty and obtain access to qualified prescription drug coverage in the manner described in subsection (a) if the beneficiary involuntarily loses such coverage.

“(c) Financing.—The costs of providing benefits under this part shall be payable from the Prescription Drug Account.

“ENROLLMENT UNDER PROGRAM

“Sec. 1860D–2. (a) Establishment of Enrollment Process.—

“(1) Process similar to part B enrollment.—The Administrator shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a MedicareAdvantage plan offered by a MedicareAdvantage organization) may make an election to enroll under this part. Such process shall be similar to the process for enrollment in part B under section 1837, including the deeming provisions of such section.

“(2) Condition of enrollment.—An eligible beneficiary must be enrolled under this part in order to be eligible to receive access to qualified prescription drug coverage.

“(b) Special Enrollment Procedures.—

“(1) Late enrollment penalty.—

“(A) Increase in monthly beneficiary obligation.—Subject to the succeeding provisions of this paragraph, in the case of an eligible beneficiary whose coverage period under this part began pursuant to an enrollment after the beneficiary’s initial enrollment period under part B (determined pursuant to section 1837(d)) and not pursuant to the open enrollment period described in paragraph (2), the Administrator shall establish procedures for increasing the amount of the monthly beneficiary obligation under section 1860D–17 applicable to such beneficiary by an amount that the Administrator determines is actuarially sound for each full 12-month period (in the same continuous period of eligibility) in which the eligible beneficiary could have been enrolled under this part but was not so enrolled.

“(B) Periods taken into account.—For purposes of calculating any 12-month period under subparagraph (A), there shall be taken into account—

“(i) the months which elapsed between the close of the eligible beneficiary’s initial enrollment period and the close of the enrollment period in which the beneficiary enrolled; and

“(ii) in the case of an eligible beneficiary who reenrolls under this part, the months which elapsed between the date of termination of a previous coverage period and the close of the enrollment period in which the beneficiary reenrolled.

“(C) Periods not taken into account.—

“(i) In general.—For purposes of calculating any 12-month period under subparagraph (A), subject to clause (ii), there shall not be taken into account months for which the eligible beneficiary can demonstrate that the beneficiary had creditable prescription drug coverage (as defined in subparagraph (F)).

“(ii) Beneficiary must involuntarily lose coverage.—Clause (i) shall only apply with respect to coverage—

“(I) in the case of coverage described in clause (ii) of subparagraph (F), if the plan terminates, ceases to provide, or reduces the value of the prescription drug coverage under such plan to below the actuarial value of standard prescription drug coverage (as determined under section 1860D–6(f));

“(II) in the case of coverage described in clause (i), (iii), or (iv) of subparagraph (F), if the beneficiary is involuntarily disenrolled or becomes ineligible for such coverage; or

“(III) in the case of a beneficiary with coverage described in clause (v) of subparagraph (F), if the issuer of the policy terminates coverage under the policy.

“(D) Periods treated separately.—Any increase in an eligible beneficiary’s monthly beneficiary obligation under subparagraph (A) with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which the beneficiary may have.

“(E) Continuous period of eligibility.—

“(i) In general.—Subject to clause (ii), for purposes of this paragraph, an eligible beneficiary’s ‘continuous period of eligibility’ is the period that begins with the first day on which the beneficiary is eligible to enroll under section 1836 and ends with the beneficiary’s death.

“(ii) Separate period.—Any period during all of which an eligible beneficiary satisfied paragraph (1) of section 1836 and which terminated in or before the month preceding the month in which the beneficiary attained age 65 shall be a separate ‘continuous period of eligibility’ with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this paragraph).

“(F) Creditable prescription drug coverage defined.—Subject to subparagraph (G), for purposes of this part, the term ‘creditable prescription drug coverage’ means any of the following:

“(i) Drug-only coverage under Medicaid.—Coverage of covered outpatient drugs (as defined in section 1927) under title XIX or a waiver under 1115 that is provided to an individual who is not a dual eligible individual (as defined in section 1860D–19(a)(4)(E)).

“(ii) Prescription drug coverage under a group health plan.—Any outpatient prescription drug coverage under a group health plan, including a health benefits plan under chapter 89 of title 5, United States Code (commonly known as the Federal employees health benefits program), and a qualified retiree prescription drug plan (as defined in section 1860D–20(e)(4)).

“(iii) State pharmaceutical assistance program.—Coverage of prescription drugs under a State pharmaceutical assistance program.

“(iv) Veterans’ coverage of prescription drugs.—Coverage of prescription drugs for veterans, and survivors and dependents of veterans, under chapter 17 of title 38, United States Code.

“(v) Prescription drug coverage under medigap policies.—Coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs (whether or not such coverage conforms to the standards for packages of benefits under section 1882(p)(1)).

"(G) Requirement for creditable coverage.—Coverage described in clauses (i) through (v) of subparagraph (F) shall not be considered to be creditable coverage under this part unless the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard prescription drug coverage (as determined under section 1860D–6(f)).

"(H) Disclosure.—

"(i) In general.—Each entity that offers coverage of the type described in clause (ii) (iii), (iv), or (v) of subparagraph (F) shall provide for disclosure, consistent with standards established by the Administrator, of whether the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard prescription drug coverage (as determined under section 1860D–6(f)).

"(ii) Waiver of limitations.—An individual may apply to the Administrator to waive the application of subparagraph (G) if the individual establishes that the individual was not adequately informed that the coverage the beneficiary was enrolled in did not provide the level of benefits required in order for the coverage to be considered creditable coverage under subparagraph (F).

"(2) Initial election periods.—

"(A) Open enrollment period for current beneficiaries in which late enrollment procedures do not apply.—In the case of an individual who is an eligible beneficiary as of November 1, 2005, there shall be an open enrollment period of 6 months beginning on that date under which such beneficiary may enroll under this part without the application of the late enrollment procedures established under paragraph (1)(A).

"(B) Individual covered in future.—In the case of an individual who becomes an eligible beneficiary after such date, there shall be an initial election period which is the same as the initial enrollment period under section 1837(d).

"(3) Special enrollment period for beneficiaries who involuntarily lose creditable prescription drug coverage.—

"(A) Establishment.—The Administrator shall establish a special open enrollment period (as described in subparagraph (B)) for an eligible beneficiary that loses creditable prescription drug coverage.

"(B) Special open enrollment period.—The special open enrollment period described in this subparagraph is the 63-day period that begins on—

"(i) in the case of a beneficiary with coverage described in clause (ii) of paragraph (1)(F), the later of the date on which the plan terminates, ceases to provide, or substantially reduces (as defined by the Administrator) the value of the prescription drug coverage under such plan or the date the beneficiary is provided with notice of such termination or reduction;

"(ii) in the case of a beneficiary with coverage described in clause (i), (iii), or (iv) of paragraph (1)(F), the later of the date on which the beneficiary is involuntarily disenrolled or becomes ineligible for such coverage or the date the beneficiary is provided with notice of such loss of eligibility; or

"(iii) in the case of a beneficiary with coverage described in clause (v) of paragraph (1)(F), the latter of the date on which the issuer of the policy terminates coverage under the policy or the date the beneficiary is provided with notice of such termination.

"(c) Period of Coverage.—

"(1) In general.—Except as provided in paragraph (2) and subject to paragraph (3), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided in section 1838, as if that section applied to the program under this part.

"(2) Open and special enrollment.—

"(A) Open enrollment.—An eligible beneficiary who enrolls under the program under this part pursuant to subsection (b)(2) shall be entitled to the benefits under this part beginning on January 1, 2006.

"(B) Special enrollment.—Subject to paragraph (3), an eligible beneficiary who enrolls under the program under this part pursuant to subsection (b)(3) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

"(3) Limitation.—Coverage under this part shall not begin prior to January 1, 2006.

"(d) Termination.—

"(1) In general.—The causes of termination specified in section 1838 shall apply to this part in the same manner as such causes apply to part B.

"(2) Coverage terminated by termination of coverage under part A or B.—

"(A) In general.—In addition to the causes of termination specified in paragraph (1), the Administrator shall terminate an individual's coverage under this part if the individual is no longer enrolled in both parts A and B.

"(B) Effective date.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if earlier) under part B.

"(3) Procedures regarding termination of a beneficiary under a plan.—The Administrator shall establish procedures for determining the status of an eligible beneficiary's enrollment under this part if the beneficiary's enrollment in a Medicare Prescription Drug plan offered by an eligible entity under this part is terminated by the entity for cause (pursuant to procedures established by the Administrator under section 1860D–3(a)(1)).

"ELECTION OF A MEDICARE PRESCRIPTION DRUG PLAN

"Sec. 1860D–3. (a) In General.—

"(1) Process.—

"(A) Election.—

"(i) In general.—The Administrator shall establish a process through which an eligible beneficiary who is enrolled under this part but not enrolled in a MedicareAdvantage plan (except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage) offered by a MedicareAdvantage organization—

"(I) shall make an election to enroll in any Medicare Prescription Drug plan that is offered by an eligible entity and that serves the geographic area in which the beneficiary resides; and

"(II) may make an annual election to change the election under this clause.

"(ii) Clarification regarding enrollment.—The process established under clause (i) shall include, in the case of an eligible beneficiary who is enrolled under this part but who has failed to make an election of a Medicare Prescription Drug plan in an area, for the enrollment in any Medicare Prescription Drug plan that has been designated by the Administrator in the area. The Administrator shall establish a process for designating a plan or plans in order to carry out the preceding sentence.

"(B) Requirements for process.—In establishing the process under subparagraph (A), the Administrator shall—

"(i) use rules similar to the rules for enrollment, disenrollment, and termination of enrollment with a MedicareAdvantage plan under section 1851, including—

"(I) the establishment of special election periods under subsection (e)(4) of such section; and

"(II) the application of the guaranteed issue and renewal provisions of section 1851(g) (other than clause (i) and the second sentence of clause (ii) of paragraph (3)(C), relating to default enrollment); and

"(ii) coordinate enrollments, disenrollments, and terminations of enrollment under part C with enrollments, disenrollments, and terminations of enrollment under this part.

"(2) First enrollment period for plan enrollment.—The process developed under paragraph (1) shall ensure that eligible beneficiaries who enroll under this part during the open enrollment period under section 1860D–2(b)(2) are permitted to elect an eligible entity prior to January 1, 2006, in order to ensure that coverage under this part is effective as of such date.

"(b) Enrollment in a MedicareAdvantage Plan.—

"(1) In general.—An eligible beneficiary who is enrolled under this part and enrolled in a MedicareAdvantage plan (except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage) offered by a MedicareAdvantage organization shall receive access to such coverage under this part through such plan.

"(2) Rules.—Enrollment in a MedicareAdvantage plan is subject to the rules for enrollment in such plan under section 1851.

"(c) Information to Entities To Facilitate Enrollment.—Notwithstanding any other provision of law, the Administrator may provide to each eligible entity with a contract under this part such information about eligible beneficiaries as the Administrator determines to be necessary to facilitate efficient enrollment by such beneficiaries with such entities. The Administrator may provide such information only so long as and to the extent necessary to carry out such objective.

"PROVIDING INFORMATION TO BENEFICIARIES

"Sec. 1860D–4. (a) Activities.—

"(1) In general.—The Administrator shall conduct activities that are designed to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding the coverage provided under this part.

"(2) Special rule for first enrollment under the program.—The activities described in paragraph (1) shall ensure that eligible beneficiaries are provided with such information at least 30 days prior to the first enrollment period described in section 1860D–3(a)(2).

"(b) Requirements.—

"(1) In general.—The activities described in subsection (a) shall—

"(A) be similar to the activities performed by the Administrator under section 1851(d);

"(B) be coordinated with the activities performed by—

"(i) the Administrator under such section; and "(ii) the Secretary under section 1804; and

"(C) provide for the dissemination of information comparing the plans offered by eligible entities under this part that are available to eligible beneficiaries residing in an area.

"(2) COMPARATIVE INFORMATION.—The comparative information described in paragraph (1)(C) shall include a comparison of the following:

"(A) BENEFITS.—The benefits provided under the plan and the formularies and grievance and appeals processes under the plan.

"(B) MONTHLY BENEFICIARY OBLIGATION.—The monthly beneficiary obligation under the plan.

"(C) QUALITY AND PERFORMANCE.—The quality and performance of the eligible entity offering the plan.

"(D) BENEFICIARY COST-SHARING.—The cost-sharing required of eligible beneficiaries under the plan.

"(E) CONSUMER SATISFACTION SURVEYS.—The results of consumer satisfaction surveys regarding the plan and the eligible entity offering such plan (conducted pursuant to section 1860D-5(h).

"(F) ADDITIONAL INFORMATION.—Such additional information as the Administrator may prescribe.

"BENEFICIARY PROTECTIONS

"SEC. 1860D-5. (a) DISSEMINATION OF INFORMATION.—

"(1) GENERAL INFORMATION.—An eligible entity offering a Medicare Prescription Drug plan shall disclose, in a clear, accurate, and standardized form to each enrollee at the time of enrollment, and at least annually thereafter, the information described in section 1852(c)(1) relating to such plan. Such information includes the following:

"(A) Access to covered drugs, including access through pharmacy networks.

"(B) How any formulary used by the entity functions.

"(C) Copayments, coinsurance, and deductible requirements.

"(D) Grievance and appeals processes.

The information described in the preceding sentence shall also be made available on request to prospective enrollees during open enrollment periods.

"(2) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of an individual eligible to enroll in a Medicare Prescription Drug plan, the eligible entity offering such plan shall provide information similar (as determined by the Administrator) to the information described in subparagraphs (A), (B), and (C) of section 1852(c)(2) to such individual.

"(3) RESPONSE TO BENEFICIARY QUESTIONS.—An eligible entity offering a Medicare Prescription Drug plan shall have a mechanism for providing on a timely basis specific information to enrollees upon request, including information on the coverage of specific drugs and changes in its formulary.

"(4) CLAIMS INFORMATION.—An eligible entity offering a Medicare Prescription Drug plan must furnish to enrolled individuals in a form easily understandable to such individuals—

"(A) an explanation of benefits (in accordance with section 1806(a) or in a comparable manner); and

"(B) when prescription drug benefits are provided under this part, a notice of the benefits in relation to the initial coverage limit and annual out-of-pocket limit for the current year (except that such notice need not be provided more often than monthly).

"(5) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The provisions of section 1851(h) shall apply to marketing material and application forms under this part in the same manner as such provisions apply to marketing material and application forms under part C.

"(b) ACCESS TO COVERED DRUGS.—

"(1) ACCESS TO NEGOTIATED PRICES FOR PRESCRIPTION DRUGS.—An eligible entity offering a Medicare Prescription Drug plan shall have in place procedures to ensure that beneficiaries are not charged more than the negotiated price of a covered drug. Such procedures shall include the issuance of a card (or other technology) that may be used by an enrolled beneficiary for the purchase of prescription drugs for which coverage is not otherwise provided under the Medicare Prescription Drug plan.

"(2) ASSURING PHARMACY ACCESS.—

"(A) IN GENERAL.—An eligible entity offering a Medicare Prescription Drug plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Administrator and including adequate emergency access) for enrolled beneficiaries, in accordance with standards established by the Administrator under section 1860D-7(g) that ensure such convenient access. Such standards shall take into account reasonable distances to pharmacy services in both urban and rural areas.

"(B) USE OF POINT-OF-SERVICE SYSTEM.—An eligible entity offering a Medicare Prescription Drug plan shall establish an optional point-of-service method of operation under which—

"(i) the plan provides access to any or all pharmacies that are not participating pharmacies in its network; and

"(ii) the plan may charge beneficiaries through adjustments in copayments any additional costs associated with the point-of-service option.

The additional copayments so charged shall not count toward the application of section 1860D-6(c).

"(3) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If an eligible entity offering a Medicare Prescription Drug plan uses a formulary, the following requirements must be met:

"(A) PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—

"(i) IN GENERAL.—The eligible entity must establish a pharmacy and therapeutic committee that develops and reviews the formulary.

"(ii) COMPOSITION.—A pharmacy and therapeutic committee shall include at least 1 academic expert, at least 1 practicing physician, and at least 1 practicing pharmacist, all of whom have expertise in the care of elderly or disabled persons, and a majority of the members of such committee shall consist of individuals who are a practicing physician or a practicing pharmacist (or both).

"(B) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and on such other information as the committee determines to be appropriate.

"(C) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES AND CLASSES.—

"(i) IN GENERAL.—The formulary must include drugs within each therapeutic category and class of covered drugs (as defined by the Administrator), although not necessarily for all drugs within such categories and classes.

"(ii) REQUIREMENT.—In defining therapeutic categories and classes of covered drugs pursuant to clause (i), the Administrator shall use—

"(I) the compendia referred to section 1927(g)(1)(B)(i); and

"(II) other recognized sources of drug classifications and categorizations determined appropriate by the Administrator.

"(D) PROVIDER EDUCATION.—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

"(E) NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries, physicians, and pharmacists.

"(F) APPEALS AND EXCEPTIONS TO APPLICATION.—The eligible entity must have, as part of the appeals process under subsection (e), a process for timely appeals for denials of coverage based on such application of the formulary.

"(c) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

"(1) IN GENERAL.—An eligible entity shall have in place the following with respect to covered drugs:

"(A) A cost-effective drug utilization management program, including incentives to reduce costs when appropriate.

"(B) Quality assurance measures to reduce medical errors and adverse drug interactions and to improve medication use, which—

"(i) shall include a medication therapy management program described in paragraph (2); and

"(ii) may include beneficiary education programs, counseling, medication refill reminders, and special packaging.

"(C) A program to control fraud, abuse, and waste.

Nothing in this section shall be construed as impairing an eligible entity from applying cost management tools (including differential payments) under all methods of operation.

"(2) MEDICATION THERAPY MANAGEMENT PROGRAM.—

"(A) IN GENERAL.—A medication therapy management program described in this paragraph is a program of drug therapy management and medication administration that is designed to assure, with respect to beneficiaries with chronic diseases (such as diabetes, asthma, hypertension, hyperlipidemia, and congestive heart failure) or multiple prescriptions, that covered drugs under the Medicare Prescription Drug plan are appropriately used to optimize therapeutic outcomes through improved medication use and to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

"(B) ELEMENTS.—Such program may include—

"(i) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means;

"(ii) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means; and

"(iii) detection of patterns of overuse and underuse of prescription drugs.

"(C) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed and practicing pharmacists and physicians.

"(D) Considerations in pharmacy fees.—The eligible entity offering a Medicare Prescription Drug plan shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

"(3) Public disclosure of pharmaceutical prices for equivalent drugs.—The eligible entity offering a Medicare Prescription Drug plan shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered drug shall inform the beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest cost generic drug covered under the plan that is therapeutically equivalent and bioequivalent.

"(d) Grievance Mechanism, Coverage Determinations, and Reconsiderations.—

"(1) In general.—An eligible entity shall provide meaningful procedures for hearing and resolving grievances between the eligible entity (including any entity or individual through which the eligible entity provides covered benefits) and enrollees with Medicare Prescription Drug plans of the eligible entity under this part in accordance with section 1852(f).

"(2) Application of coverage determination and reconsideration provisions.—The requirements of paragraphs (1) through (3) of section 1852(g) shall apply to an eligible entity with respect to covered benefits under the Medicare Prescription Drug plan it offers under this part in the same manner as such requirements apply to a MedicareAdvantage organization with respect to benefits it offers under a MedicareAdvantage plan under part C.

"(3) Request for review of tiered formulary determinations.—In the case of a Medicare Prescription Drug plan offered by an eligible entity that provides for tiered cost-sharing for drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, an individual who is enrolled in the plan may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

"(e) Appeals.—

"(1) In general.—Subject to paragraph (2), the requirements of paragraphs (4) and (5) of section 1852(g) shall apply to an eligible entity with respect to drugs not included on any formulary in a manner that is similar (as determined by the Administrator) to the manner that such requirements apply to a MedicareAdvantage organization with respect to benefits it offers under a MedicareAdvantage plan under part C.

"(2) Formulary determinations.—An individual who is enrolled in a Medicare Prescription Drug plan offered by an eligible entity may appeal to obtain coverage for a covered drug that is not on a formulary of the entity under the terms applicable for a formulary drug if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

"(f) Privacy, Confidentiality, and Accuracy of Enrollee Records.—Insofar as an eligible entity maintains individually identifiable medical records or other health information regarding eligible beneficiaries enrolled in the Medicare Prescription Drug plan offered by the entity, the entity shall have in place procedures to—

"(1) safeguard the privacy of any individually identifiable beneficiary information in a manner consistent with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996;

"(2) maintain such records and information in a manner that is accurate and timely;

"(3) ensure timely access by such beneficiaries to such records and information; and

"(4) otherwise comply with applicable laws relating to patient privacy and confidentiality.

"(g) Uniform Monthly Plan Premium.—An eligible entity shall ensure that the monthly plan premium for a Medicare Prescription Drug plan charged under this part is the same for all eligible beneficiaries enrolled in the plan.

"(h) Consumer Satisfaction Surveys.—An eligible entity shall conduct consumer satisfaction surveys with respect to the plan and the entity. The Administrator shall establish uniform requirements for such surveys.

"PRESCRIPTION DRUG BENEFITS

"Sec. 1860D–6. (a) Requirements.—

"(1) In general.—For purposes of this part and part C, the term 'qualified prescription drug coverage' means either of the following:

"(A) Standard prescription drug coverage with access to negotiated prices.—Standard prescription drug coverage (as defined in subsection (c)) and access to negotiated prices under subsection (e).

"(B) Actuarially equivalent prescription drug coverage with access to negotiated prices.—Coverage of covered drugs which meets the alternative coverage requirements of subsection (d) and access to negotiated prices under subsection (e), but only if it is approved by the Administrator as provided under subsection (d).

"(2) Permitting additional prescription drug coverage.—

"(A) In general.—Subject to subparagraph (B) and section 1860D–13(c)(2), nothing in this part shall be construed as preventing qualified prescription drug coverage from including coverage of covered drugs that exceeds the coverage required under paragraph (1).

"(B) Requirement.—An eligible entity may not offer a Medicare Prescription Drug plan that provides additional benefits pursuant to subparagraph (A) in an area unless the eligible entity offering such plan also offers a Medicare Prescription Drug plan in the area that only provides the coverage of prescription drugs that is required under paragraph (1).

"(3) Cost control mechanisms.—In providing qualified prescription drug coverage, the entity offering the Medicare Prescription Drug plan or the MedicareAdvantage plan may use a variety of cost control mechanisms, including the use of formularies, tiered copayments, selective contracting with providers of prescription drugs, and mail order pharmacies.

"(b) Application of Secondary Payor Provisions.—The provisions of section 1852(a)(4) shall apply under this part in the same manner as they apply under part C.

"(c) Standard Prescription Drug Coverage.—For purposes of this part and part C, the term 'standard prescription drug coverage' means coverage of covered drugs that meets the following requirements:

"(1) Deductible.—

"(A) In general.—The coverage has an annual deductible—

"(i) for 2006, that is equal to $275; or

"(ii) for a subsequent year, that is equal to the amount specified under this paragraph for the previous year increased by the percentage specified in paragraph (5) for the year involved.

"(B) Rounding.—Any amount determined under subparagraph (A)(ii) that is not a multiple of $1 shall be rounded to the nearest multiple of $1.

"(2) Limits on cost-sharing.—The coverage has cost-sharing (for costs above the annual deductible specified in paragraph (1) and up to the initial coverage limit under paragraph (3)) that is equal to 50 percent or that is actuarially consistent (using processes established under subsection (f)) with an average expected payment of 50 percent of such costs.

"(3) Initial coverage limit.—

"(A) In general.—Subject to paragraph (4), the coverage has an initial coverage limit on the maximum costs that may be recognized for payment purposes (including the annual deductible)—

"(i) for 2006, that is equal to $4,500; or

"(ii) for a subsequent year, that is equal to the amount specified in this paragraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

"(B) Rounding.—Any amount determined under subparagraph (A)(ii) that is not a multiple of $1 shall be rounded to the nearest multiple of $1.

"(4) Limitation on out-of-pocket expenditures by beneficiary.—

"(A) In general.—The coverage provides benefits with cost-sharing that is equal to 10 percent after the individual has incurred costs (as described in subparagraph (C)) for covered drugs in a year equal to the annual out-of-pocket limit specified in subparagraph (B).

"(B) Annual out-of-pocket limit.—

"(i) In general.—For purposes of this part, the 'annual out-of-pocket limit' specified in this subparagraph—

"(I) for 2006, is equal to $3,700; or

"(II) for a subsequent year, is equal to the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

"(ii) Rounding.—Any amount determined under clause (i)(II) that is not a multiple of $1 shall be rounded to the nearest multiple of $1.

"(C) Application.—In applying subparagraph (A)—

"(i) incurred costs shall only include costs incurred, with respect to covered drugs, for the annual deductible (described in paragraph (1)), cost-sharing (described in paragraph (2)), and amounts for which benefits are not provided because of the application of the initial coverage limit described in paragraph (3) (including costs incurred for covered drugs described in section 1860D(a)(2)(C)); and

"(ii) such costs shall be treated as incurred only if they are paid by the individual (or by another individual, such as a family member, on behalf of the individual), under section 1860D–19, under title XIX, or under a State pharmaceutical assistance program and the individual (or other individual) is not reimbursed through insurance or otherwise, a group health plan, or other third-party payment arrangement for such costs.

"(D) INFORMATION REGARDING THIRD-PARTY REIMBURSEMENT.—In order to ensure compliance with the requirements of subparagraph (C)(ii), the Administrator is authorized to establish procedures, in coordination with the Secretary of Treasury and the Secretary of Labor, for determining whether costs for individuals are being reimbursed through insurance or otherwise, a group health plan, or other third-party payment arrangement, and for alerting the entities in which such individuals are enrolled about such reimbursement arrangements. An entity with a contract under this part may also periodically ask individuals enrolled in a plan offered by the entity whether the individuals have or expect to receive such third-party reimbursement. A material misrepresentation of the information described in the preceding sentence by an individual (as defined in standards set by the Administrator and determined through a process established by the Administrator) shall constitute grounds for termination of enrollment under section 1860D–2(d).

"(5) ANNUAL PERCENTAGE INCREASE.—For purposes of this part, the annual percentage increase specified in this paragraph for a year is equal to the annual percentage increase in average per capita aggregate expenditures for covered drugs in the United States for beneficiaries under this title, as determined by the Administrator for the 12-month period ending in July of the previous year.

"(d) ALTERNATIVE COVERAGE REQUIREMENTS.—A Medicare Prescription Drug plan or MedicareAdvantage plan may provide a different prescription drug benefit design from the standard prescription drug coverage described in subsection (c) so long as the Administrator determines (based on an actuarial analysis by the Administrator) that the following requirements are met and the plan applies for, and receives, the approval of the Administrator for such benefit design:

"(1) ASSURING AT LEAST ACTUARIALLY EQUIVALENT PRESCRIPTION DRUG COVERAGE.—

"(A) ASSURING EQUIVALENT VALUE OF TOTAL COVERAGE.—The actuarial value of the total coverage (as determined under subsection (f)) is at least equal to the actuarial value (as so determined) of standard prescription drug coverage.

"(B) ASSURING EQUIVALENT UNSUBSIDIZED VALUE OF COVERAGE.—The unsubsidized value of the coverage is at least equal to the unsubsidized value of standard prescription drug coverage. For purposes of this subparagraph, the unsubsidized value of coverage is the amount by which the actuarial value of the coverage (as determined under subsection (f)) exceeds the actuarial value of the amounts associated with the application of section 1860D–17(c) and reinsurance payments under section 1860D–20 with respect to such coverage.

"(C) ASSURING STANDARD PAYMENT FOR COSTS AT INITIAL COVERAGE LIMIT.—The coverage is designed, based upon an actuarially representative pattern of utilization (as determined under subsection (f)), to provide for the payment, with respect to costs incurred that are equal to the initial coverage limit under subsection (c)(3), of an amount equal to at least the product of—

"(i) such initial coverage limit minus the deductible under subsection (c)(1); and

"(ii) the percentage specified in subsection (c)(2).

Benefits other than qualified prescription drug coverage shall not be taken into account for purposes of this paragraph.

"(2) DEDUCTIBLE AND LIMITATION ON OUT-OF-POCKET EXPENDITURES BY BENEFICIARIES MAY NOT VARY.—The coverage may not vary the deductible under subsection (c)(1) for the year or the limitation on out-of-pocket expenditures by beneficiaries described in subsection (c)(4) for the year.

"(e) ACCESS TO NEGOTIATED PRICES.—

"(1) ACCESS.—

"(A) IN GENERAL.—Under qualified prescription drug coverage offered by an eligible entity or a MedicareAdvantage organization, the entity or organization shall provide beneficiaries with access to negotiated prices used for payment for covered drugs, regardless of the fact that no benefits may be payable under the coverage with respect to such drugs because of the application of the deductible, any cost-sharing, or an initial coverage limit (described in subsection (c)(3)). For purposes of this part, the term 'negotiated prices' includes all discounts, direct or indirect subsidies, rebates, or other price concessions or direct or indirect remunerations.

"(B) MEDICAID RELATED PROVISIONS.—Insofar as a State elects to provide medical assistance under title XIX for a drug based on the prices negotiated under a Medicare Prescription Drug plan under this part, the requirements of section 1927 shall not apply to such drugs. The prices negotiated under a Medicare Prescription Drug plan with respect to covered drugs, under a MedicareAdvantage plan with respect to such drugs, or under a qualified retiree prescription drug plan (as defined in section 1860D–20(e)(4)) with respect to such drugs, on behalf of eligible beneficiaries, shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

"(2) CARDS OR OTHER TECHNOLOGY.—

"(A) IN GENERAL.—In providing the access under paragraph (1), the eligible entity or MedicareAdvantage organization shall issue a card or use other technology pursuant to section 1860D–5(b)(1).

"(B) NATIONAL STANDARDS.—

"(i) DEVELOPMENT.—The Administrator shall provide for the development of national standards relating to a standardized format for the card or other technology required under subparagraph (A). Such standards shall be compatible with parts C and D of title XI and may be based on standards developed by an appropriate standard setting organization.

"(ii) CONSULTATION.—In developing the standards under clause (i), the Administrator shall consult with the National Council for Prescription Drug Programs and other standard-setting organizations determined appropriate by the Administrator.

"(iii) IMPLEMENTATION.—The Administrator shall implement the standards developed under clause (i) by January 1, 2008.

"(f) ACTUARIAL VALUATION; DETERMINATION OF ANNUAL PERCENTAGE INCREASES.—

"(1) PROCESSES.—For purposes of this section, the Administrator shall establish processes and methods—

"(A) for determining the actuarial valuation of prescription drug coverage, including—

"(i) an actuarial valuation of standard prescription drug coverage and of the reinsurance payments under section 1860D–20;

"(ii) the use of generally accepted actuarial principles and methodologies; and

"(iii) applying the same methodology for determinations of alternative coverage under subsection (d) as is used with respect to determinations of standard prescription drug coverage under subsection (c); and

"(B) for determining annual percentage increases described in subsection (c)(5).

Such processes shall take into account any effect that providing actuarially equivalent prescription drug coverage rather than standard prescription drug coverage has on drug utilization.

"(2) USE OF OUTSIDE ACTUARIES.—Under the processes under paragraph (1)(A), eligible entities and MedicareAdvantage organizations may use actuarial opinions certified by independent, qualified actuaries to establish actuarial values, but the Administrator shall determine whether such actuarial values meet the requirements under subsection (c)(1).

"REQUIREMENTS FOR ENTITIES OFFERING MEDICARE PRESCRIPTION DRUG PLANS; ESTABLISHMENT OF STANDARDS

"SEC. 1860D–7. (a) GENERAL REQUIREMENTS.—An eligible entity offering a Medicare Prescription Drug plan shall meet the following requirements:

"(1) LICENSURE.—Subject to subsection (c), the entity is organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a Medicare Prescription Drug plan.

"(2) ASSUMPTION OF FINANCIAL RISK.—

"(A) IN GENERAL.—Subject to subparagraph (B) and subsections (d)(2) and (e) of section 1860D–13, to the extent that the entity is at risk pursuant to such section 1860D–16, the entity assumes financial risk on a prospective basis for the benefits that it offers under a Medicare Prescription Drug plan and that is not covered under section 1860D–20.

"(B) REINSURANCE PERMITTED.—To the extent that the entity is at risk pursuant to section 1860D–16, the entity may obtain insurance or make other arrangements for the cost of coverage provided to any enrolled member under this part.

"(3) SOLVENCY FOR UNLICENSED ENTITIES.—In the case of an eligible entity that is not described in paragraph (1) and for which a waiver has been approved under subsection (c), such entity shall meet solvency standards established by the Administrator under subsection (d).

"(b) CONTRACT REQUIREMENTS.—The Administrator shall not permit an eligible beneficiary to elect a Medicare Prescription Drug plan offered by an eligible entity under this part, and the entity shall not be eligible for payments under section 1860D–16 or 1860D–20, unless the Administrator has entered into a contract under this subsection with the entity with respect to the offering of such plan. Such a contract with an entity may cover more than 1 Medicare Prescription Drug plan. Such contract shall provide that the entity agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(c) WAIVER OF CERTAIN REQUIREMENTS IN ORDER TO ENSURE BENEFICIARY CHOICE.—

"(1) IN GENERAL.—In the case of an eligible entity that seeks to offer a Medicare Prescription Drug plan in a State, the Administrator shall waive the requirement of subsection (a)(1) that the entity be licensed in that State if the Administrator determines, based on the application and other evidence presented to the Administrator, that any of the grounds for approval of the application described in paragraph (2) have been met.

"(2) GROUNDS FOR APPROVAL.—The grounds for approval under this paragraph are the grounds for approval described in subparagraphs (B), (C), and (D) of section 1855(a)(2), and also include the application by a State of any grounds other than those required under Federal law.

"(3) APPLICATION OF WAIVER PROCEDURES.—With respect to an application for a waiver (or a waiver granted) under this subsection, the provisions of subparagraphs (E), (F), and (G) of section 1855(a)(2) shall apply.

"(4) REFERENCES TO CERTAIN PROVISIONS.—For purposes of this subsection, in applying the provisions of section 1855(a)(2) under this subsection to Medicare Prescription Drug plans and eligible entities—

"(A) any reference to a waiver application under section 1855 shall be treated as a reference to a waiver application under paragraph (1); and

"(B) any reference to solvency standards were treated as a reference to solvency standards established under subsection (d).

"(d) SOLVENCY STANDARDS FOR NON-LICENSED ENTITIES.—

"(1) ESTABLISHMENT AND PUBLICATION.—The Administrator, in consultation with the National Association of Insurance Commissioners, shall establish and publish, by not later than January 1, 2005, financial solvency and capital adequacy standards for entities described in paragraph (2).

"(2) COMPLIANCE WITH STANDARDS.—An eligible entity that is not licensed by a State under subsection (a)(1) and for which a waiver application has been approved under subsection (c) shall meet solvency and capital adequacy standards established under paragraph (1). The Administrator shall establish certification procedures for such eligible entities with respect to such solvency standards in the manner described in section 1855(c)(2).

"(e) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an entity is licensed in accordance with subsection (a)(1) or has a waiver application approved under subsection (c) does not deem the eligible entity to meet other requirements imposed under this part for an eligible entity.

"(f) INCORPORATION OF CERTAIN MEDICAREADVANTAGE CONTRACT REQUIREMENTS.—The following provisions of section 1857 shall apply, subject to subsection (c)(4), to contracts under this section in the same manner as they apply to contracts under section 1857(a):

"(1) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—Section 1857(d).

"(2) INTERMEDIATE SANCTIONS.—Section 1857(g), except that in applying such section—

"(A) the reference in section 1857(g)(1)(B) to section 1854 is deemed a reference to this part; and

"(B) the reference in section 1857(g)(1)(F) to section 1852(k)(2)(A)(ii) shall not be applied.

"(3) PROCEDURES FOR TERMINATION.—Section 1857(h).

"(g) OTHER STANDARDS.—The Administrator shall establish by regulation other standards (not described in subsection (d)) for eligible entities and Medicare Prescription Drug plans consistent with, and to carry out, this part. The Administrator shall publish such regulations by January 1, 2005.

"(h) PERIODIC REVIEW AND REVISION OF STANDARDS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall periodically review the standards established under this section and, based on such review, may revise such standards if the Administrator determines such revision to be appropriate.

"(2) PROHIBITION OF MIDYEAR IMPLEMENTATION OF SIGNIFICANT NEW REGULATORY REQUIREMENTS.—The Administrator may not implement, other than at the beginning of a calendar year, regulations under this section that impose new, significant regulatory requirements on an eligible entity or a Medicare Prescription Drug plan.

"(h) RELATION TO STATE LAWS.—

"(1) IN GENERAL.—The standards established under this part shall supersede any State law or regulation (including standards described in paragraph (2)) with respect to Medicare Prescription Drug plans which are offered by eligible entities under this part—

"(A) to the extent such law or regulation is inconsistent with such standards; and

"(B) in the same manner as such laws and regulations are superseded under section 1856(b)(3).

"(2) STANDARDS SPECIFICALLY SUPERSEDED.—State standards relating to the following are superseded under this section:

"(A) Benefit requirements, including requirements relating to cost-sharing and the structure of formularies.

"(B) Premiums.

"(C) Requirements relating to inclusion or treatment of providers.

"(D) Coverage determinations (including related appeals and grievance processes).

"(E) Requirements relating to marketing materials and summaries and schedules of benefits regarding a Medicare Prescription Drug plan.

"(3) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to—

"(A) monthly beneficiary obligations paid to the Administrator for Medicare Prescription Drug plans under this part; or

"(B) any payments made by the Administrator under this part to an eligible entity offering such a plan.

"Subpart 2—Prescription Drug Delivery System

"ESTABLISHMENT OF SERVICE AREAS

"SEC. 1860D–10. (a) ESTABLISHMENT.—

"(1) INITIAL ESTABLISHMENT.—Not later than April 15, 2005, the Administrator shall establish and publish the service areas in which Medicare Prescription Drug plans may offer benefits under this part.

"(2) PERIODIC REVIEW AND REVISION OF SERVICE AREAS.—The Administrator shall periodically review the service areas applicable under this section and, based on such review, may revise such service areas if the Administrator determines such revision to be appropriate.

"(b) REQUIREMENTS FOR ESTABLISHMENT OF SERVICE AREAS.—

"(1) IN GENERAL.—The Administrator shall establish the service areas under subsection (a) in a manner that—

"(A) maximizes the availability of Medicare Prescription Drug plans to eligible beneficiaries; and

"(B) minimizes the ability of eligible entities offering such plans to favorably select eligible beneficiaries.

"(2) ADDITIONAL REQUIREMENTS.—The Administrator shall establish the service areas under subsection (a) consistent with the following requirements:

"(A) There shall be at least 10 service areas.

"(B) Each service area must include at least 1 State.

"(C) The Administrator may not divide States so that portions of the State are in different service areas.

"(D) To the extent possible, the Administrator shall include multistate metropolitan statistical areas in a single service area. The Administrator may divide metropolitan statistical areas where it is necessary to establish service areas of such size and geography as to maximize the participation of Medicare Prescription Drug plans.

"(3) MAY CONFORM TO MEDICAREADVANTAGE PREFERRED PROVIDER REGIONS.—The Administrator may conform the service areas established under this section to the preferred provider regions established under section 1858(a)(3).

"PUBLICATION OF RISK ADJUSTERS

"SEC. 1860D–11. (a) PUBLICATION.—Not later than April 15 of each year (beginning in 2005), the Administrator shall publish the risk adjusters established under subsection (b) to be used in computing—

"(1) the amount of payment to Medicare Prescription Drug plans in the subsequent year under section 1860D–16(a), insofar as it is attributable to standard prescription drug coverage (or actuarially equivalent prescription drug coverage); and

"(2) the amount of payment to MedicareAdvantage plans in the subsequent year under section 1858A(c), insofar as it is attributable to standard prescription drug coverage (or actuarially equivalent prescription drug coverage).

"(b) ESTABLISHMENT OF RISK ADJUSTERS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall establish an appropriate methodology for adjusting the amount of payment to plans referred to in subsection (a) to take into account variation in costs based on the differences in actuarial risk of different enrollees being served. Any such risk adjustment shall be designed in a manner as to not result in a change in the aggregate payments described in paragraphs (1) and (2) of subsection (a).

"(2) CONSIDERATIONS.—In establishing the methodology under paragraph (1), the Administrator may take into account the similar methodologies used under section 1853(a)(3) to adjust payments to MedicareAdvantage organizations.

"(3) DATA COLLECTION.—In order to carry out this subsection, the Administrator shall require—

"(A) eligible entities to submit data regarding drug claims that can be linked at the beneficiary level to part A and part B data and such other information as the Administrator determines necessary; and

"(B) MedicareAdvantage organizations (except MSA plans or a private fee-for-service plan that does not provide qualified prescription drug coverage) to submit data regarding drug claims that can be linked to other data that such organizations are required to submit to the Administrator and such other information as the Administrator determines necessary.

"SUBMISSION OF BIDS FOR PROPOSED MEDICARE PRESCRIPTION DRUG PLANS

"SEC. 1860D–12. (a) SUBMISSION.—

"(1) IN GENERAL.—Each eligible entity that intends to offer a Medicare Prescription Drug plan in an area in a year (beginning with 2006) shall submit to the Administrator, at such time in the previous year and in such manner as the Administrator may specify, such information as the Administrator may require, including the information described in subsection (b).

"(2) ANNUAL SUBMISSION.—An eligible entity shall submit the information required under paragraph (1) with respect to a Medicare Prescription Drug plan that the entity intends to offer on an annual basis.

"(b) INFORMATION DESCRIBED.—The information described in this subsection includes information on each of the following:

``(1) The benefits under the plan (as required under section 1860D–6).

``(2) The actuarial value of the qualified prescription drug coverage.

``(3) The amount of the monthly plan premium under the plan, including an actuarial certification of—

``(A) the actuarial basis for such monthly plan premium;

``(B) the portion of such monthly plan premium attributable to standard prescription drug coverage or actuarially equivalent prescription drug coverage and, if applicable, to benefits that are in addition to such coverage; and

``(C) the reduction in such monthly plan premium resulting from the payments provided under section 1860D–20.

``(4) The service area for the plan.

``(5) Whether the entity plans to use any funds in the plan stabilization reserve fund in the Prescription Drug Account that are available to the entity to stabilize or reduce the monthly plan premium submitted under paragraph (3), and if so, the amount in such reserve fund that is to be used.

``(6) Such other information as the Administrator may require to carry out this part.

``(c) OPTIONS REGARDING SERVICE AREAS.—

``(1) IN GENERAL.—The service area of a Medicare Prescription Drug plan shall be either—

``(A) the entire area of 1 of the service areas established by the Administrator under section 1860D–10; or

``(B) the entire area covered by the medicare program.

``(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed as prohibiting an eligible entity from submitting separate bids in multiple service areas as long as each bid is for a single service area.

``APPROVAL OF PROPOSED MEDICARE PRESCRIPTION DRUG PLANS

``SEC. 1860D–13. (a) APPROVAL.—

``(1) IN GENERAL.—The Administrator shall review the information filed under section 1860D–12 and shall approve or disapprove the Medicare Prescription Drug plan.

``(2) REQUIREMENTS FOR APPROVAL.—The Administrator may not approve a Medicare Prescription Drug plan unless the following requirements are met:

``(A) COMPLIANCE WITH REQUIREMENTS.—The plan and the entity offering the plan comply with the requirements under this part.

``(B) APPLICATION OF FEHBP STANDARD.—(i) The portion of the monthly plan premium submitted under section 1860D–12(b) that is attributable to standard prescription drug coverage reasonably and equitably reflects the actuarial value of the standard prescription drug coverage less the actuarial value of the reinsurance payments under section 1860D–20 and the amount of any funds in the plan stabilization reserve fund in the Prescription Drug Account used to stabilize or reduce the monthly plan premium.

``(ii) If the plan provides additional prescription drug coverage pursuant to section 1860D–6(a)(2), the monthly plan premium reasonably and equitably reflects the actuarial value of the coverage provided less the actuarial value of the reinsurance payments under section 1860D–20 and the amount of any funds in the plan stabilization reserve fund in the Prescription Drug Account used to stabilize or reduce the monthly plan premium.

``(b) NEGOTIATION.—In exercising the authority under subsection (a), the Administrator shall have the authority to—

``(1) negotiate the terms and conditions of the proposed monthly plan premiums submitted and other terms and conditions of a proposed plan; and

``(2) disapprove, or limit enrollment in, a proposed plan based on—

``(A) the costs to beneficiaries under the plan;

``(B) the quality of the coverage and benefits under the plan;

``(C) the adequacy of the network under the plan; or

``(D) other factors determined appropriate by the Administrator.

``(c) SPECIAL RULES FOR APPROVAL.—The Administrator may approve a Medicare Prescription Drug plan submitted under section 1860D–12 only if the benefits under such plan—

``(1) include the required benefits under section 1860D–6(a)(1); and

``(2) are not designed in such a manner that the Administrator finds is likely to result in favorable selection of eligible beneficiaries.

``(d) ACCESS TO COMPETITIVE COVERAGE.—

``(1) NUMBER OF CONTRACTS.—The Administrator, consistent with the requirements of this part and the goal of containing costs under this title, shall, with respect to a year, approve at least 2 contracts to offer a Medicare Prescription Drug plan in each service area (established under section 1860D–10) for the year.

``(2) AUTHORITY TO REDUCE RISK TO ENSURE ACCESS.—

``(A) IN GENERAL.—Subject to subparagraph (B), if the Administrator determines, with respect to an area, that the access required under paragraph (1) is not going to be provided in the area during the subsequent year, the Administrator shall—

``(i) adjust the percents specified in paragraphs (2) and (4) of section 1860D–16(b) in an area in a year; or

``(ii) increase the percent specified in section 1860D–20(c)(1) in an area in a year.

The administrator shall exercise the authority under the preceding sentence only so long as (and to the extent) necessary to assure the access guaranteed under paragraph (1).

``(B) REQUIREMENTS FOR USE OF AUTHORITY.—In exercising authority under subparagraph (A), the Administrator—

``(i) shall not provide for the full underwriting of financial risk for any eligible entity;

``(ii) shall not provide for any underwriting of financial risk for a public eligible entity with respect to the offering of a nationwide Medicare Prescription Drug plan; and

``(iii) shall seek to maximize the assumption of financial risk by eligible entities to ensure fair competition among Medicare Prescription Drug plans.

``(C) REQUIREMENT TO ACCEPT 2 FULL-RISK QUALIFIED BIDS BEFORE EXERCISING AUTHORITY.—The Administrator may not exercise the authority under subparagraph (A) with respect to an area and year if 2 or more qualified bids are submitted by eligible entities to offer a Medicare Prescription Drug plan in the area for the year under paragraph (1) before the application of subparagraph (A).

``(D) REPORTS.—The Administrator, in each annual report to Congress under section 1808(c)(1)(D), shall include information on the exercise of authority under subparagraph (A). The Administrator also shall include such recommendations as may be appropriate to limit the exercise of such authority.

``(e) GUARANTEED ACCESS.—

``(1) ACCESS.—In order to assure access to qualified prescription drug coverage in an area, the Administrator shall take the following steps:

``(A) DETERMINATION.—Not later than September 1 of each year (beginning in 2005) and for each area (established under section 1860D–10), the Administrator shall make a determination as to whether the access required under subsection (d)(1) is going to be provided in the area during the subsequent year. Such determination shall be made after the Administrator has exercised the authority under subsection (d)(2).

``(B) CONTRACT WITH AN ENTITY TO PROVIDE COVERAGE IN AN AREA.—Subject to paragraph (3), if the Administrator makes a determination under subparagraph (A) that the access required under subsection (d)(1) is not going to be provided in an area during the subsequent year, the Administrator shall enter into a contract with an entity to provide eligible beneficiaries enrolled under this part (and not, except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage enrolled in a MedicareAdvantage plan) and residing in the area with standard prescription drug coverage (including access to negotiated prices for such beneficiaries pursuant to section 1860D–6(e)) during the subsequent year. An entity may be awarded a contract for more than 1 of the areas for which the Administrator is required to enter into a contract under this paragraph but the Administrator may enter into only 1 such contract in each such area. An entity with a contract under this part shall meet the requirements described in section 1860D–5 and such other requirements determined appropriate by the Administrator.

``(C) REQUIREMENT TO ACCEPT 2 REDUCED-RISK QUALIFIED BIDS BEFORE ENTERING INTO CONTRACT.—The Administrator may not enter into a contract under subparagraph (B) with respect to an area and year if 2 or more qualified bids are submitted by eligible entities to offer a Medicare Prescription Drug plan in the area for the year after the Administrator has exercised the authority under subsection (d)(2) in the area for the year.

``(D) ENTITY REQUIRED TO MEET BENEFICIARY PROTECTION AND OTHER REQUIREMENTS.—An entity with a contract under subparagraph (B) shall meet the requirements described in section 1860D–5 and such other requirements determined appropriate by the Administrator.

``(E) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into a contract under subparagraph (B).

``(2) MONTHLY BENEFICIARY OBLIGATION FOR ENROLLMENT.—

``(A) IN GENERAL.—In the case of an eligible beneficiary receiving access to qualified prescription drug coverage through enrollment with an entity with a contract under paragraph (1)(B), the monthly beneficiary obligation of such beneficiary for such enrollment shall be an amount equal to the applicable percent (as determined under section 1860D–17(c)) of the monthly national average premium (as computed under section 1860D–15) for the area for the year, as adjusted using the geographic adjuster under subparagraph (B).

``(B) ESTABLISHMENT OF GEOGRAPHIC ADJUSTER.—The Administrator shall establish an appropriate methodology for adjusting the monthly beneficiary obligation (as computed under subparagraph (A)) for the year in an area to take into account differences in drug prices among areas. In establishing such methodology, the Administrator may take into account differences in drug utilization between eligible beneficiaries in an area and eligible beneficiaries in other areas and the results of the ongoing study required under section 106 of the Prescription Drug and Medicare Improvement Act of 2003. Any such adjustment shall be applied in a manner so as to not result in a change in the aggregate payments made under this part that would have been made if the Administrator had not applied such adjustment.

"(3) PAYMENTS UNDER THE CONTRACT.—

"(A) IN GENERAL.—A contract entered into under paragraph (1)(B) shall provide for—

"(i) payment for the negotiated costs of covered drugs provided to eligible beneficiaries enrolled with the entity; and

"(ii) payment of prescription management fees that are tied to performance requirements established by the Administrator for the management, administration, and delivery of the benefits under the contract.

"(B) PERFORMANCE REQUIREMENTS.—The performance requirements established by the Administrator pursuant to subparagraph (A)(ii) shall include the following:

"(i) The entity contains costs to the Prescription Drug Account and to eligible beneficiaries enrolled under this part and with the entity.

"(ii) The entity provides such beneficiaries with quality clinical care.

"(iii) The entity provides such beneficiaries with quality services.

"(C) ENTITY ONLY AT RISK TO THE EXTENT OF THE FEES TIED TO PERFORMANCE REQUIREMENTS.—An entity with a contract under paragraph (1)(B) shall only be at risk for the provision of benefits under the contract to the extent that the management fees paid to the entity are tied to performance requirements under subparagraph (A)(ii).

"(4) ELIGIBLE ENTITY THAT SUBMITTED A BID FOR THE AREA NOT ELIGIBLE TO BE AWARDED THE CONTRACT.—An eligible entity that submitted a bid to offer a Medicare Prescription Drug plan for an area for a year under section 1860D–12, including a bid submitted after the Administrator has exercised the authority under subsection (d)(2), may not be awarded a contract under paragraph (1)(B) for that area and year. The previous sentence shall apply to an entity that was awarded a contract under paragraph (1)(B) for the area in the previous year and submitted such a bid under section 1860D–12 for the year.

"(5) TERM OF CONTRACT.—A contract entered into under paragraph (1)(B) shall be for a 1-year period. Such contract may provide for renewal at the discretion of the Administrator if the Administrator is required to enter into a contract under such paragraph with respect to the area covered by such contract for the subsequent year.

"(6) ENTITY NOT PERMITTED TO MARKET OR BRAND THE CONTRACT.—An entity with a contract under paragraph (1)(B) may not engage in any marketing or branding of such contract.

"(7) RULES FOR AREAS WHERE ONLY 1 COMPETITIVELY BID PLAN WAS APPROVED.—In the case of an area where (before the application of this subsection) only 1 Medicare Prescription Drug plan was approved for a year—

"(A) the plan may (at the option of the plan) be offered in the area for the year (under rules applicable to such plans under this part and not under this subsection);

"(B) eligible beneficiaries described in paragraph (1)(B) may receive access to qualified prescription drug coverage through enrollment in the plan or with an entity with a contract under paragraph (1)(B); and

"(C) for purposes of applying section 1860D–3(a)(1)(A)(ii), such plan shall be the plan designated in the area under such section.

"(f) TWO-YEAR CONTRACTS.—Except for a contract entered into under subsection (e)(1)(B), a contract approved under this part (including a contract under) shall be for a 2-year period.

"COMPUTATION OF MONTHLY STANDARD PRESCRIPTION DRUG COVERAGE PREMIUMS

"SEC. 1860D–14. (a) IN GENERAL.—For each year (beginning with 2006), the Administrator shall compute a monthly standard prescription drug coverage premium for each Medicare Prescription Drug plan approved under section 1860D–13 and for each MedicareAdvantage plan.

"(b) REQUIREMENTS.—The monthly standard prescription drug coverage premium for a plan for a year shall be equal to—

"(1) in the case of a plan offered by an eligible entity or MedicareAdvantage organization that provides standard prescription drug coverage or an actuarially equivalent prescription drug coverage and does not provide additional prescription drug coverage pursuant to section 1869D–6(a)(2), the monthly plan premium approved for the plan under section 1860D–13 for the year; and

"(2) in the case of a plan offered by an eligible entity or MedicareAdvantage organization that provides additional prescription drug coverage pursuant to section 1860D–6(a)(2)—

"(A) an amount that reflects only the actuarial value of the standard prescription drug coverage offered under the plan; or

"(B) if determined appropriate by the Administrator, the monthly plan premium approved under section 1860D–13 for the year for the Medicare Prescription Drug plan (or, if applicable, the MedicareAdvantage plan) that, as required under section 1860D–6(a)(2)(B) for a Medicare Prescription Drug plans and a MedicareAdvantage plan—

"(i) is offered by such entity or organization in the same area as the plan; and

"(ii) does not provide additional prescription drug coverage pursuant to such section.

"COMPUTATION OF MONTHLY NATIONAL AVERAGE PREMIUM

"SEC. 1860D–15. (a) COMPUTATION.—

"(1) IN GENERAL.—For each year (beginning with 2006) the Administrator shall compute a monthly national average premium equal to the average of the monthly standard prescription drug coverage premium for each Medicare Prescription Drug plan and each MedicareAdvantage plan (as computed under section 1860D–14). Such premium may be adjusted pursuant to any methodology determined under subsection (b), as determined appropriate by the Administrator.

"(2) WEIGHTED AVERAGE.—The monthly national average premium computed under paragraph (1) shall be a weighted average, with the weight for each plan being equal to the average number of beneficiaries enrolled under such plan in the previous year.

"(b) GEOGRAPHIC ADJUSTMENT.—The Administrator shall establish an appropriate methodology for adjusting the monthly national average premium (as computed under subsection (a)) for the year in an area to take into account differences in prices for covered drugs among different areas. In establishing such methodology, the Administrator may take into account differences in drug utilization between eligible beneficiaries in that area and other eligible beneficiaries and the results of the ongoing study required under section 106 of the Prescription Drug and Medicare Improvement Act of 2003. Any such adjustment shall be applied in a manner as to not result in a change in aggregate payments made under this part than would have been made if the Administrator had not applied such adjustment.

"(c) SPECIAL RULE FOR 2006.—For purposes of applying this section for 2006, the Administrator shall establish procedures for determining the weighted average under subsection (a)(2) for 2005.

"PAYMENTS TO ELIGIBLE ENTITIES

"SEC. 1860D–16. (a) PAYMENT OF MONTHLY PLAN PREMIUMS.—For each year (beginning with 2006), the Administrator shall pay to each entity offering a Medicare Prescription Drug plan in which an eligible beneficiary is enrolled an amount equal to the full amount of the monthly plan premium approved for the plan under section 1860D–13 on behalf of each eligible beneficiary enrolled in such plan for the year, as adjusted using the risk adjusters that apply to the standard prescription drug coverage published under section 1860D–11.

"(b) PORTION OF TOTAL PAYMENTS OF MONTHLY PLAN PREMIUMS SUBJECT TO RISK.—

"(1) NOTIFICATION OF SPENDING UNDER THE PLAN.—

"(A) IN GENERAL.—For each year (beginning in 2007), the eligible entity offering a Medicare Prescription Drug plan shall notify the Administrator of the following:

"(i) TOTAL ACTUAL COSTS.—The total amount of costs that the entity incurred in providing standard prescription drug coverage (or prescription drug coverage that is actuarially equivalent pursuant to section 1860D–6(a)(1)(B)) for all enrollees under the plan in the previous year.

"(ii) ACTUAL COSTS FOR SPECIFIC DRUGS.—With respect to the total amount under clause (i) for the year, a breakdown of—

"(I) each covered drug that constitutes a portion of such amount;

"(II) the negotiated price for the eligible entity for each such drug;

"(III) the number of prescriptions; and

"(IV) the average beneficiary coinsurance rate for a each covered drug that constitutes a portion of such amount.

"(B) CERTAIN EXPENSES NOT INCLUDED.—The amounts under clauses (i) and (ii)(II) of subparagraph (A) may not include—

"(i) administrative expenses incurred in providing the coverage described in subparagraph (A)(i);

"(ii) amounts expended on providing additional prescription drug coverage pursuant to section 1860D–6(a)(2); or

"(iii) amounts expended for which the entity is subsequently provided with reinsurance payments under section 1860D–20.

"(2) ADJUSTMENT OF PAYMENT.—

"(A) NO ADJUSTMENT IF ALLOWABLE COSTS WITHIN RISK CORRIDOR.—If the allowable costs (specified in paragraph (3)) for the plan for the year are not more than the first threshold upper limit of the risk corridor (specified in paragraph (4)(A)(iii)) and are not less than the first threshold lower limit of the risk corridor (specified in paragraph (4)(A)(i)) for the plan for the year, then no additional payments shall be made by the Administrator and no payments shall be made by (or collected from) the eligible entity offering the plan.

"(B) INCREASE IN PAYMENT IF ALLOWABLE COSTS ABOVE UPPER LIMIT OF RISK CORRIDOR.—

"(i) IN GENERAL.—If the allowable costs for the plan for the year are more than the first threshold upper limit of the risk corridor for the plan for the year, then the Administrator shall increase the total of the monthly payments made to the entity offering the plan for the year under subsection (a) by an amount equal to the sum of—

"(I) the applicable percent (as defined in subparagraph (D)) of such allowable costs which are more than such first threshold upper limit of the risk corridor and not more than the second threshold upper limit of the risk corridor for the plan for the year (as specified under paragraph (4)(A)(iv)); and

"(II) 90 percent of such allowable costs which are more than such second threshold upper limit of the risk corridor.

"(ii) SPECIAL TRANSITIONAL CORRIDOR FOR 2006 AND 2007.—If the Administrator determines with respect to 2006 or 2007 that at least 60 percent of Medicare Prescription Drug plans and MedicareAdvantage Plans (excluding MSA plans or private fee-for-service plans that do not provide qualified prescription drug coverage) have allowable costs for the plan for the year that are more than the first threshold upper limit of the risk corridor for the plan for the year and that such plans represent at least 60 percent of eligible beneficiaries enrolled under this part, clause (i)(I) shall be applied by substituting '90 percent' for 'applicable percent'.

"(C) PLAN PAYMENT IF ALLOWABLE COSTS BELOW LOWER LIMIT OF RISK CORRIDOR.—If the allowable costs for the plan for the year are less than the first threshold lower limit of the risk corridor for the plan for the year, then the entity offering the plan shall a make a payment to the Administrator of an amount (or the Administrator shall otherwise recover from the plan an amount) equal to—

"(i) the applicable percent (as so defined) of such allowable costs which are less than such first threshold lower limit of the risk corridor and not less than the second threshold lower limit of the risk corridor for the plan for the year (as specified under paragraph (4)(A)(ii)); and

"(ii) 90 percent of such allowable costs which are less than such second threshold lower limit of the risk corridor.

"(D) APPLICABLE PERCENT DEFINED.—For purposes of this paragraph, the term 'applicable percent' means—

"(i) for 2006 and 2007, 75 percent; and

"(ii) for 2008 and subsequent years, 50 percent.

"(3) ESTABLISHMENT OF ALLOWABLE COSTS.—

"(A) IN GENERAL.—For each year, the Administrator shall establish the allowable costs for each Medicare Prescription Drug plan for the year. The allowable costs for a plan for a year shall be equal to the amount described in paragraph (1)(A)(i) for the plan for the year, adjusted under subparagraph (B)(ii).

"(B) REPRICING OF COSTS.—

"(i) CALCULATION OF AVERAGE PLAN COST.—Utilizing the information obtained under paragraph (1)(A)(ii) and section 1860D-20(b)(1)(B), for each year (beginning with 2006), the Administrator shall establish an average negotiated price with respect to all Medicare Prescription Drug plans for each covered drug.

"(ii) ADJUSTMENT IF ACTUAL COSTS EXCEED AVERAGE COSTS.—With respect to a Medicare Prescription Drug plan for a year, the Administrator shall reduce the amount described in paragraph (1)(A)(i) for the plan for the year to the extent such amount is based on costs of specific covered drugs furnished under the plan in the year (as specified under paragraph (1)(A)(ii)) for which the negotiated prices are greater than the average negotiated price for the covered drug for the year (as determined under clause (i)).

"(4) ESTABLISHMENT OF RISK CORRIDORS.—

"(A) IN GENERAL.—For each year (beginning with 2006), the Administrator shall establish a risk corridor for each Medicare Prescription Drug plan. The risk corridor for a plan for a year shall be equal to a range as follows:

"(i) FIRST THRESHOLD LOWER LIMIT.—The first threshold lower limit of such corridor shall be equal to—

"(I) the target amount described in subparagraph (B) for the plan; minus

"(II) an amount equal to the first threshold risk percentage for the plan (as determined under subparagraph (C)(i)) of such target amount.

"(ii) SECOND THRESHOLD LOWER LIMIT.—The second threshold lower limit of such corridor shall be equal to—

"(I) the target amount described in subparagraph (B) for the plan; minus

"(II) an amount equal to the second threshold risk percentage for the plan (as determined under subparagraph (C)(ii)) of such target amount.

"(iii) FIRST THRESHOLD UPPER LIMIT.—The first threshold upper limit of such corridor shall be equal to the sum of—

"(I) such target amount; and

"(II) the amount described in clause (i)(II).

"(iv) SECOND THRESHOLD UPPER LIMIT.—The second threshold upper limit of such corridor shall be equal to the sum of—

"(I) such target amount; and

"(II) the amount described in clause (ii)(II).

"(B) TARGET AMOUNT DESCRIBED.—The target amount described in this paragraph is, with respect to a Medicare Prescription Drug plan offered by an eligible entity in a year—

"(i) in the case of a plan offered by an eligible entity that provides standard prescription drug coverage or actuarially equivalent prescription drug coverage and does not provide additional prescription drug coverage pursuant to section 1860D–6(a)(2), an amount equal to the total of the monthly plan premiums paid to such entity for such plan for the year pursuant to subsection (a), reduced by the percentage specified in subparagraph (D); and

"(ii) in the case of a plan offered by an eligible entity that provides additional prescription drug coverage pursuant to section 1860D–6(a)(2), an amount equal to the total of the monthly plan premiums paid to such entity for such plan for the year pursuant to subsection (a) that are related to standard prescription drug coverage (determined using the rules under section 1860D–14(b)), reduced by the percentage specified in subparagraph (D).

"(C) FIRST AND SECOND THRESHOLD RISK PERCENTAGE DEFINED.—

"(i) FIRST THRESHOLD RISK PERCENTAGE.—Subject to clause (iii), for purposes of this section, the first threshold risk percentage is—

"(I) for 2006 and 2007, and 2.5 percent;

"(II) for 2008 through 2011, 5 percent; and

"(III) for 2012 and subsequent years, a percentage established by the Administrator, but in no case less than 5 percent.

"(ii) SECOND THRESHOLD RISK PERCENTAGE.—Subject to clause (iii), for purposes of this section, the second threshold risk percentage is—

"(I) for 2006 and 2007, 5.0 percent;

"(II) for 2008 through 2011, 10 percent

"(III) for 2012 and subsequent years, a percentage established by the Administrator that is greater than the percent established for the year under clause (i)(III), but in no case less than 10 percent.

"(iii) REDUCTION OF RISK PERCENTAGE TO ENSURE 2 PLANS IN AN AREA.—Pursuant to paragraph (2) of section 1860D–13(d), the Administrator may reduce the applicable first or second threshold risk percentage in an area in a year in order to ensure the access to plans required under paragraph (1) of such section.

"(D) TARGET AMOUNT NOT TO INCLUDE ADMINISTRATIVE EXPENSES NEGOTIATED BETWEEN THE ADMINISTRATOR AND THE ENTITY OFFERING THE PLAN.—For each year (beginning in 2006), the Administrator and the entity offering a Medicare Prescription Drug plan shall negotiate, as part of the negotiation process described in section 1860D–13(b) during the previous year, the percentage of the payments to the entity under subsection (a) with respect to the plan that are attributable and reasonably incurred for administrative expenses for providing standard prescription drug coverage or actuarially equivalent prescription drug coverage in the year.

"(5) PLANS AT RISK FOR ENTIRE AMOUNT OF ADDITIONAL PRESCRIPTION DRUG COVERAGE.—An eligible entity that offers a Medicare Prescription Drug plan that provides additional prescription drug coverage pursuant to section 1860D–6(a)(2) shall be at full financial risk for the provision of such additional coverage.

"(6) NO EFFECT ON ELIGIBLE BENEFICIARIES.—No change in payments made by reason of this subsection shall affect the beneficiary obligation under section 1860D–17 for the year in which such change in payments is made.

"(7) DISCLOSURE OF INFORMATION.—

"(A) IN GENERAL.—Each contract under this part shall provide that—

"(i) the entity offering a Medicare Prescription Drug plan shall provide the Administrator with such information as the Administrator determines is necessary to carry out this section; and

"(ii) the Administrator shall have the right to inspect and audit any books and records of the eligible entity that pertain to the information regarding costs provided to the Administrator under paragraph (1).

"(B) RESTRICTION ON USE OF INFORMATION.—Information disclosed or obtained pursuant to the provisions of this section may be used by officers and employees of the Department of Health and Human Services only for the purposes of, and to the extent necessary in, carrying out this section.

"(c) STABILIZATION RESERVE FUND.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is established, within the Prescription Drug Account, a stabilization reserve fund in which the Administrator shall deposit amounts on behalf of eligible entities in accordance with paragraph (2) and such amounts shall be made available by the Secretary for the use of eligible entities in contract year 2008 and subsequent contract years in accordance with paragraph (3).

"(B) REVERSION OF UNUSED AMOUNTS.—Any amount in the stabilization reserve fund established under subparagraph (A) that is not expended by an eligible entity in accordance with paragraph (3) or that was deposited for the use of an eligible entity that no longer has a contract under this part shall revert for the use of the Prescription Drug Account.

"(2) DEPOSIT OF AMOUNTS FOR 5 YEARS.—

"(A) IN GENERAL.—If the target amount for a Medicare Prescription Drug plan for 2006, 2007, 2008, 2009, or 2010 (as determined under subsection (b)(4)(B)) exceeds the applicable costs for the plan for the year by more than 3 percent, then—

"(i) the entity offering the plan shall make a payment to the Administrator of an amount (or the Administrator shall otherwise recover from the plan an amount) equal to the portion of such excess that is in excess of 3 percent of the target amount; and

"(ii) the Administrator shall deposit an amount equal to the amount collected or otherwise recovered under clause (i) in the stabilization reserve fund on behalf of the eligible entity offering such plan.

"(B) APPLICABLE COSTS.—For purposes of subparagraph (A), the term 'applicable costs' means, with respect to a Medicare Prescription Drug plan and year, an amount equal the sum of—

"(i) the allowable costs for the plan and year (as determined under subsection (b)(3)(A); and

"(ii) the total amount by which monthly payments to the plan were reduced (or otherwise recovered from the plan) for the year under subsection (b)(2)(C).

"(3) USE OF RESERVE FUND TO STABILIZE OR REDUCE MONTHLY PLAN PREMIUMS.—

"(A) IN GENERAL.—For any contract year beginning after 2007, an eligible entity offering a Medicare Prescription Drug plan may use funds in the stabilization reserve fund in the Prescription Drug Account that were deposited in such fund on behalf of the entity to stabilize or reduce monthly plan premiums submitted under section 1860D–12(b)(3).

"(B) PROCEDURES.—The Administrator shall establish procedures for—

"(i) reducing monthly plan premiums submitted under section 1860D–12(b)(3) pursuant to subparagraph (A); and

"(ii) making payments from the plan stabilization reserve fund in the Prescription Drug Account to eligible entities that inform the Secretary under section 1860D–12(b)(5) of the entity's intent to use funds in such reserve fund to reduce such premiums.

"(d) PORTION OF PAYMENTS OF MONTHLY PLAN PREMIUMS ATTRIBUTABLE TO ADMINISTRATIVE EXPENSES TIED TO PERFORMANCE REQUIREMENTS.—

"(1) IN GENERAL.—The Administrator shall establish procedures to adjust the portion of the payments made to an entity under subsection (a) that are attributable to administrative expenses (as determined pursuant to subsection (b)(4)(D)) to ensure that the entity meets the performance requirements described in clauses (ii) and (iii) of section 1860D–13(e)(4)(B).

"(2) NO EFFECT ON ELIGIBLE BENEFICIARIES.—No change in payments made by reason of this subsection shall affect the beneficiary obligation under section 1860D–17 for the year in which such change in payments is made.

"(e) PAYMENT TERMS.—

"(1) ADMINISTRATOR PAYMENTS.—Payments to an entity offering a Medicare Prescription Drug plan under this section shall be made in a manner determined by the Administrator and based upon the manner in which payments are made under section 1853(a) (relating to payments to MedicareAdvantage organizations).

"(2) PLAN PAYMENTS.—The Administrator shall establish a process for collecting (or other otherwise recovering) amounts that an entity offering a Medicare Prescription Drug plan is required to make to the Administrator under this section.

"(f) PAYMENTS TO MEDICAREADVANTAGE PLANS.—For provisions related to payments to MedicareAdvantage organizations offering MedicareAdvantage plans for qualified prescription drug coverage made available under the plan, see section 1858A(c).

"(g) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

"COMPUTATION OF MONTHLY BENEFICIARY OBLIGATION

"SEC. 1860D–17. (a) BENEFICIARIES ENROLLED IN A MEDICARE PRESCRIPTION DRUG PLAN.—In the case of an eligible beneficiary enrolled under this part and in a Medicare Prescription Drug plan, the monthly beneficiary obligation for enrollment in such plan in a year shall be determined as follows:

"(1) MONTHLY PLAN PREMIUM EQUALS MONTHLY NATIONAL AVERAGE PREMIUM.—If the amount of the monthly plan premium approved by the Administrator under section 1860D–13 for a Medicare Prescription Drug plan for the year is equal to the monthly national average premium (as computed under section 1860D–15) for the area for the year, the monthly beneficiary obligation of the eligible beneficiary in that year shall be an amount equal to the applicable percent (as determined in subsection (c)) of the amount of such monthly national average premium.

"(2) MONTHLY PLAN PREMIUM LESS THAN MONTHLY NATIONAL AVERAGE PREMIUM.—If the amount of the monthly plan premium approved by the Administrator under section 1860D–13 for the Medicare Prescription Drug plan for the year is less than the monthly national average premium (as computed under section 1860D–15) for the area for the year, the monthly beneficiary obligation of the eligible beneficiary in that year shall be an amount equal to—

"(A) the applicable percent of the amount of such monthly national average premium; minus

"(B) the amount by which such monthly national average premium exceeds the amount of the monthly plan premium approved by the Administrator for the plan.

"(3) MONTHLY PLAN PREMIUM EXCEEDS MONTHLY NATIONAL AVERAGE PREMIUM.—If the amount of the monthly plan premium approved by the Administrator under section 1860D–13 for a Medicare Prescription Drug plan for the year exceeds the monthly national average premium (as computed under section 1860D–15) for the area for the year, the monthly beneficiary obligation of the eligible beneficiary in that year shall be an amount equal to the sum of—

"(A) the applicable percent of the amount of such monthly national average premium; plus

"(B) the amount by which the monthly plan premium approved by the Administrator for the plan exceeds the amount of such monthly national average premium.

"(b) BENEFICIARIES ENROLLED IN A MEDICAREADVANTAGE PLAN.—In the case of an eligible beneficiary that is enrolled in a MedicareAdvantage plan (except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage), the Medicare monthly beneficiary obligation for qualified prescription drug coverage shall be determined pursuant to section 1858A(d).

"(c) APPLICABLE PERCENT.—For purposes of this section, except as provided in section 1860D–19 (relating to premium subsidies for low-income individuals), the applicable percent for any year is the percentage equal to a fraction—

"(1) the numerator of which is 30 percent; and

"(2) the denominator of which is 100 percent minus a percentage equal to—

"(A) the total reinsurance payments which the Administrator estimates will be made under section 1860D–20 to qualifying entities described in subsection (e)(3) of such section during the year; divided by

"(B) the sum of—

"(i) the amount estimated under subparagraph (A) for the year; and

"(ii) the total payments which the Administrator estimates will be made under sections 1860D–16 and 1858A(c) during the year that relate to standard prescription drug coverage (or actuarially equivalent prescription drug coverage).

"COLLECTION OF MONTHLY BENEFICIARY OBLIGATION

"SEC. 1860D–18. (a) COLLECTION OF AMOUNT IN SAME MANNER AS PART B PREMIUM.—

"(1) IN GENERAL.—Subject to paragraph (2), the amount of the monthly beneficiary obligation (determined under section 1860D–17) applicable to an eligible beneficiary under this part (after application of any increase under section 1860D–2(b)(1)(A)) shall be collected and credited to the Prescription Drug Account in the same manner as the monthly premium determined under section 1839 is collected and credited to the Federal Supplementary Medical Insurance Trust Fund under section 1840.

"(2) PROCEDURES FOR SPONSOR TO PAY OBLIGATION ON BEHALF OF RETIREE.—The Administrator shall establish procedures under which an eligible beneficiary enrolled in a Medicare Prescription Drug plan may elect to have the sponsor (as defined in paragraph (5) of section 1860D–20(e)) of employment-based retiree health coverage (as defined in paragraph (4)(B) of such section) in which the beneficiary is enrolled pay the amount of the monthly beneficiary obligation applicable to the beneficiary under this part directly to the Administrator.

"(b) INFORMATION NECESSARY FOR COLLECTION.—In order to carry out subsection (a), the Administrator shall transmit to the Commissioner of Social Security—

"(1) by the beginning of each year, the name, social security account number, monthly beneficiary obligation owed by each individual enrolled in a Medicare Prescription Drug plan for each month during the year, and other information determined appropriate by the Administrator; and

"(2) periodically throughout the year, information to update the information previously transmitted under this paragraph for the year.

"(c) COLLECTION FOR BENEFICIARIES ENROLLED IN A MEDICAREADVANTAGE PLAN.—For provisions related to the collection of the monthly beneficiary obligation for qualified prescription drug coverage under a MedicareAdvantage plan, see section 1858A(e).

"PREMIUM AND COST-SHARING SUBSIDIES FOR LOW-INCOME INDIVIDUALS

"SEC. 1860D–19. (a) AMOUNT OF SUBSIDIES.—

"(1) FULL PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR QUALIFIED MEDICARE BENEFICIARIES.—In the case of a qualified medicare beneficiary (as defined in paragraph (4)(A))—

"(A) section 1860D–17 shall be applied—

"(i) in subsection (c), by substituting '0 percent' for the applicable percent that would otherwise apply under such subsection; and

"(ii) in subsection (a)(3)(B), by substituting 'the amount of the monthly plan premium for the Medicare Prescription Drug plan with the lowest monthly plan premium in the area that the beneficiary resides' for 'the amount of such monthly national average premium', but only if there is no Medicare Prescription Drug plan offered in the area in which the individual resides that has a monthly plan premium for the year that is equal to or less than the monthly national average premium (as computed under section 1860D–15) for the area for the year;

"(B) the annual deductible applicable under section 1860D–6(c)(1) in a year shall be reduced to $0;

"(C) section 1860D–6(c)(2) shall be applied by substituting '2.5 percent' for '50 percent' each place it appears;

"(D) such individual shall be responsible for cost-sharing for the cost of any covered drug provided in the year (after the individual has reached the initial coverage limit described in section 1860D–6(c)(3) and before the individual has reached the annual out-of-pocket limit under section 1860D–6(c)(4)(A)), that is equal to 5.0 percent; and

"(E) section 1860D–6(c)(4)(A) shall be applied by substituting '2.5 percent' for '10 percent'.

In no case may the application of subparagraph (A) result in a monthly beneficiary obligation that is below 0.

"(2) FULL PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR SPECIFIED LOW INCOME MEDICARE BENEFICIARIES AND QUALIFYING INDIVIDUALS.—In the case of a specified low income medicare beneficiary (as defined in paragraph (4)(B)) or a qualifying individual (as defined in paragraph (4)(C))—

"(A) section 1860D–17 shall be applied—

"(i) in subsection (c), by substituting '0 percent' for the applicable percent that would otherwise apply under such subsection; and

"(ii) in subsection (a)(3)(B), by substituting 'the amount of the monthly plan premium for the Medicare Prescription Drug plan with the lowest monthly plan premium in the area that the beneficiary resides' for 'the amount of such monthly national average premium', but only if there is no Medicare Prescription Drug plan offered in the area in which the individual resides that has a monthly plan premium for the year that is equal to or less than the monthly national average premium (as computed under section 1860D–15) for the area for the year;

"(B) the annual deductible applicable under section 1860D–6(c)(1) in a year shall be reduced to $0;

"(C) section 1860D–6(c)(2) shall be applied by substituting '5.0 percent' for '50 percent' each place it appears;

"(D) such individual shall be responsible for cost-sharing for the cost of any covered drug provided in the year (after the individual has reached the initial coverage limit described in section 1860D–6(c)(3) and before the individual has reached the annual out-of-pocket limit under section 1860D–6(c)(4)(A)), that is equal to 10.0 percent; and

"(E) section 1860D–6(c)(4)(A) shall be applied by substituting '2.5 percent' for '10 percent'.

In no case may the application of subparagraph (A) result in a monthly beneficiary obligation that is below 0.

"(3) SLIDING SCALE PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR SUBSIDY-ELIGIBLE INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a subsidy-eligible individual (as defined in paragraph (4)(D))—

"(i) section 1860D–17 shall be applied—

"(I) in subsection (c), by substituting 'subsidy percent' for the applicable percentage that would otherwise apply under such subsection; and

"(II) in subparagraphs (A) and (B) of subsection (a)(3), by substituting 'the amount of the monthly plan premium for the Medicare Prescription Drug plan with the lowest monthly plan premium in the area that the beneficiary resides' for 'the amount of such monthly national average premium', but only if there is no Medicare Prescription Drug plan offered in the area in which the individual resides that has a monthly plan premium for the year that is equal to or less than the monthly national average premium (as computed under section 1860D–15) for the area for the year; and

"(ii) the annual deductible applicable under section 1860D–6(c)(1)—

"(I) for 2006, shall be reduced to $50; and

"(II) for a subsequent year, shall be reduced to the amount specified under this clause for the previous year increased by the percentage specified in section 1860D–6(c)(5) for the year involved;

"(iii) section 1860D–6(c)(2) shall be applied by substituting '10.0 percent' for '50 percent' each place it appears;

"(iv) such individual shall be responsible for cost-sharing for the cost of any covered drug provided in the year (after the individual has reached the initial coverage limit described in section 1860D–6(c)(3) and before the individual has reached the annual out-of-pocket limit under section 1860D–6(c)(4)(A)), that is equal to 20.0 percent; and

"(v) such individual shall be responsible for the cost-sharing described in section 1860D–6(c)(4)(A).

In no case may the application of clause (i) result in a monthly beneficiary obligation that is below 0.

"(B) SUBSIDY PERCENT DEFINED.—For purposes of subparagraph (A)(i), the term 'subsidy percent' means, with respect to a State, a percent determined on a linear sliding scale ranging from—

"(i) 0 percent with respect to a subsidy-eligible individual residing in the State whose income does not exceed 135 percent of the poverty line; to

"(ii) the highest percentage that would otherwise apply under section 1860D–17 in the service area in which the subsidy-eligible individual resides, in the case of a subsidy-eligible individual residing in the State whose income equals 160 percent of the poverty line.

"(4) DEFINITIONS.—In this part:

"(A) QUALIFIED MEDICARE BENEFICIARY.—Subject to subparagraph (H), the term 'qualified medicare beneficiary' means an individual who—

"(i) is enrolled under this part, including an individual who is enrolled under a MedicareAdvantage plan;

"(ii) is described in section 1905(p)(1); and

"(iii) is not—

"(I) a specified low-income medicare beneficiary;

"(II) a qualifying individual; or

"(III) a dual eligible individual.

"(B) SPECIFIED LOW INCOME MEDICARE BENEFICIARY.—Subject to subparagraph (H), the term 'specified low income medicare beneficiary' means an individual who—

"(i) is enrolled under this part, including an individual who is enrolled under a MedicareAdvantage plan;

"(ii) is described in section 1902(a)(10)(E)(iii); and

"(iii) is not—

"(I) a qualified medicare beneficiary;

"(II) a qualifying individual; or

"(III) a dual eligible individual.

"(C) QUALIFYING INDIVIDUAL.—Subject to subparagraph (H), the term 'qualifying individual' means an individual who—

"(i) is enrolled under this part, including an individual who is enrolled under a MedicareAdvantage plan;

"(ii) is described in section 1902(a)(10)(E)(iv) (without regard to any termination of the application of such section under title XIX); and

"(iii) is not—

"(I) a qualified medicare beneficiary;

"(II) a specified low-income medicare beneficiary; or

"(III) a dual eligible individual.

"(D) SUBSIDY-ELIGIBLE INDIVIDUAL.—Subject to subparagraph (H), the term 'subsidy-eligible individual' means an individual—

"(i) who is enrolled under this part, including an individual who is enrolled under a MedicareAdvantage plan;

"(ii) whose income is less than 160 percent of the poverty line; and

"(iii) who is not—

"(I) a qualified medicare beneficiary;

"(II) a specified low-income medicare beneficiary;

"(III) a qualifying individual; or

"(IV) a dual eligible individual.

"(E) DUAL ELIGIBLE INDIVIDUAL.—

"(i) IN GENERAL.—The term 'dual eligible individual' means an individual who is—

"(I) enrolled under title XIX or under a waiver under section 1115 of the requirements of such title for medical assistance that is not less than the medical assistance provided to an individual described in section 1902(a)(10)(A)(i) and includes covered outpatient drugs (as such term is defined for purposes of section 1927); and

"(II) entitled to benefits under part A and enrolled under part B.

"(ii) INCLUSION OF MEDICALLY NEEDY.—Such term includes an individual described in section 1902(a)(10)(C).

"(F) POVERTY LINE.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(G) ELIGIBILITY DETERMINATIONS.—Beginning on November 1, 2005, the determination of whether an individual residing in a State is an individual described in subparagraph (A), (B), (C), (D), or (E) and, for purposes of paragraph (3), the amount of an individual's income, shall be determined under the State medicaid plan for the State under section 1935(a). In the case of a State that does not operate such a medicaid plan (either under title XIX or under a statewide waiver granted under section 1115), such determination shall be made under arrangements made by the Administrator.

"(H) NONAPPLICATION TO DUAL ELIGIBLE INDIVIDUALS AND TERRITORIAL RESIDENTS.—In the case of an individual who is a dual eligible individual or an individual who is not a resident of the 50 States or the District of Columbia—

"(i) the subsidies provided under this section shall not apply; and

"(ii) such individuals may be provided with medical assistance for covered outpatient drugs (as such term is defined for purposes of section 1927) in accordance with section 1935 under the State medicaid program under title XIX.

"(b) RULES IN APPLYING COST-SHARING SUBSIDIES.—Nothing in this section shall be construed as preventing an eligible entity offering a Medicare Prescription Drug plan or a MedicareAdvantage organization offering a MedicareAdvantage plan from waiving or reducing the amount of the deductible or other cost-sharing otherwise applicable pursuant to section 1860D–6(a)(2).

"(c) ADMINISTRATION OF SUBSIDY PROGRAM.—The Administrator shall establish a process whereby, in the case of an individual eligible for a cost-sharing subsidy under subsection (a) who is enrolled in a Medicare Prescription Drug plan or a MedicareAdvantage plan—

"(1) the Administrator provides for a notification of the eligible entity or MedicareAdvantage organization involved that the individual is eligible for a cost-sharing subsidy and the amount of the subsidy under such subsection;

"(2) the entity or organization involved reduces the cost-sharing otherwise imposed by the amount of the applicable subsidy and submits to the Administrator information on the amount of such reduction; and

"(3) the Administrator periodically and on a timely basis reimburses the entity or organization for the amount of such reductions.

The reimbursement under paragraph (3) may be computed on a capitated basis, taking into account the actuarial value of the subsidies and with appropriate adjustments to reflect differences in the risks actually involved.

"(d) RELATION TO MEDICAID PROGRAM.—For provisions providing for eligibility determinations and additional Federal payments for expenditures related to providing prescription drug coverage for dual eligible individuals and territorial residents under the medicaid program, see section 1935.

"REINSURANCE PAYMENTS FOR EXPENSES INCURRED IN PROVIDING PRESCRIPTION DRUG COVERAGE ABOVE THE ANNUAL OUT-OF-POCKET THRESHOLD

"SEC. 1860D–20. (a) REINSURANCE PAYMENTS.—

"(1) IN GENERAL.—Subject to section 1860D–21(b), the Administrator shall provide in accordance with this section for payment to a qualifying entity of the reinsurance payment amount (as specified in subsection (c)(1)) for costs incurred by the entity in providing prescription drug coverage for a qualifying covered individual after the individual has reached the annual out-of-pocket threshold specified in section 1860D–6(c)(4)(B) for the year.

"(2) BUDGET AUTHORITY.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Administrator to provide for the payment of amounts provided under this section.

"(b) NOTIFICATION OF SPENDING UNDER THE PLAN FOR COSTS INCURRED IN PROVIDING PRESCRIPTION DRUG COVERAGE ABOVE THE ANNUAL OUT-OF-POCKET THRESHOLD.—

"(1) IN GENERAL.—Each qualifying entity shall notify the Administrator of the following with respect to a qualifying covered individual for a coverage year:

"(A) TOTAL ACTUAL COSTS.—The total amount (if any) of costs that the qualifying entity incurred in providing prescription drug coverage for the individual in the year after the individual had reached the annual out-of-pocket threshold specified in section 1860D–6(c)(4)(B) for the year.

"(B) ACTUAL COSTS FOR SPECIFIC DRUGS.—With respect to the total amount under subparagraph (A) for the year, a breakdown of—

"(i) each covered drug that constitutes a portion of such amount;

"(ii) the negotiated price for the qualifying entity for each such drug;

"(iii) the number of prescriptions; and

"(iv) the average beneficiary coinsurance rate for a each covered drug that constitutes a portion of such amount.

"(2) CERTAIN EXPENSES NOT INCLUDED.—The amounts under subparagraphs (A) and (B)(ii) of paragraph (1) may not include—

"(A) administrative expenses incurred in providing the coverage described in paragraph (1)(A); or

"(B) amounts expended on providing additional prescription drug coverage pursuant to section 1860D–6(a)(2).

"(3) RESTRICTION ON USE OF INFORMATION.—The restriction specified in section 1860D–16(b)(7)(B) shall apply to information disclosed or obtained pursuant to the provisions of this section.

"(c) REINSURANCE PAYMENT AMOUNT.—

"(1) IN GENERAL.—The reinsurance payment amount under this subsection for a qualifying covered individual for a coverage year is an amount equal to 80 percent of the allowable costs (as specified in paragraph (2)) incurred by the qualifying entity with respect to the individual and year.

"(2) ALLOWABLE COSTS.—

"(A) IN GENERAL.—In the case of a qualifying entity that has incurred costs described in subsection (b)(1)(A) with respect to a qualifying covered individual for a coverage year, the Administrator shall establish the allowable costs for the individual and year. Such allowable costs shall be equal to the amount described in such subsection for the individual and year, adjusted under subparagraph (B).

"(B) REPRICING OF COSTS IF ACTUAL COSTS EXCEED AVERAGE COSTS.—The Administrator shall reduce the amount described in subsection (b)(1)(A) with respect to a qualifying covered individual for a coverage year to the extent such amount is based on costs of specific covered drugs furnished under the plan in the year (as specified under subsection (b)(1)(B)) that are greater than the average cost for the covered drug for the year (as determined under section 1860D–16(b)(3)(A)).

"(d) PAYMENT METHODS.—

"(1) IN GENERAL.—Payments under this section shall be based on such a method as the Administrator determines. The Administrator may establish a payment method by which interim payments of amounts under this section are made during a year based on the Administrator's best estimate of amounts that will be payable after obtaining all of the information.

"(2) SOURCE OF PAYMENTS.—Payments under this section shall be made from the Prescription Drug Account.

"(e) DEFINITIONS.—In this section:

"(1) COVERAGE YEAR.—The term 'coverage year' means a calendar year in which covered drugs are dispensed if a claim for payment is made under the plan for such drugs, regardless of when the claim is paid.

"(2) QUALIFYING COVERED INDIVIDUAL.—The term 'qualifying covered individual' means an individual who—

"(A) is enrolled in this part and in a Medicare Prescription Drug plan;

"(B) is enrolled in this part and in a MedicareAdvantage plan (except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage); or

"(C) is eligible for, but not enrolled in, the program under this part, and is covered under a qualified retiree prescription drug plan.

"(3) QUALIFYING ENTITY.—The term 'qualifying entity' means any of the following that has entered into an agreement with the Administrator to provide the Administrator with such information as may be required to carry out this section:

"(A) An eligible entity offering a Medicare Prescription Drug plan under this part.

"(B) A MedicareAdvantage organization offering a MedicareAdvantage plan under part C (except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage).

"(C) The sponsor of a qualified retiree prescription drug plan.

"(4) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—

"(A) IN GENERAL.—The term 'qualified retiree prescription drug plan' means employment-based retiree health coverage if, with respect to a qualifying covered individual who is covered under the plan, the following requirements are met:

"(i) ASSURANCE.—The sponsor of the plan shall annually attest, and provide such assurances as the Administrator may require, that the coverage meets or exceeds the requirements for qualified prescription drug coverage.

"(ii) DISCLOSURE OF INFORMATION.—The sponsor complies with the requirements described in clauses (i) and (ii) of section 1860D–16(b)(7)(A).

"(B) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term 'employment-based retiree health coverage' means health insurance or other coverage, whether provided by voluntary insurance coverage or pursuant to statutory or contractual obligation, of health care costs for retired individuals (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

"(5) SPONSOR.—The term 'sponsor' means a plan sponsor, as defined in section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

"DIRECT SUBSIDY FOR SPONSOR OF A QUALIFIED RETIREE PRESCRIPTION DRUG PLAN FOR PLAN ENROLLEES ELIGIBLE FOR, BUT NOT ENROLLED IN, THIS PART

"SEC. 1860D–21. (a) DIRECT SUBSIDY.—

"(1) IN GENERAL.—The Administrator shall provide for the payment to a sponsor of a qualified retiree prescription drug plan (as defined in section 1860D–20(e)(4)) for each qualifying covered individual (described in subparagraph (C) of section 1860D–20(e)(2)) enrolled in the plan for each month for which such individual is so enrolled.

"(2) AMOUNT OF PAYMENT.—

"(A) IN GENERAL.—The amount of the payment under paragraph (1) shall be an amount equal to the direct subsidy percent determined for the year of the monthly national average premium for the area for the year (determined under section 1860D–15), as adjusted using the risk adjusters that apply to the standard prescription drug coverage published under section 1860D–11.

"(B) DIRECT SUBSIDY PERCENT.—For purposes of subparagraph (A), the term 'direct subsidy percent' means the percentage equal to—

"(i) 100 percent; minus

"(ii) the applicable percent for the year (as determined under section 1860D–17(c).

"(b) PAYMENT METHODS.—

"(1) IN GENERAL.—Payments under this section shall be based on such a method as the Administrator determines. The Administrator may establish a payment method by which interim payments of amounts under this section are made during a year based on the Administrator's best estimate of amounts that will be payable after obtaining all of the information.

"(2) SOURCE OF PAYMENTS.—Payments under this section shall be made from the Prescription Drug Account.

"Subpart 3—Miscellaneous Provisions

"PRESCRIPTION DRUG ACCOUNT IN THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

"SEC. 1860D–25. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is created within the Federal Supplementary Medical Insurance Trust Fund established by section 1841 an account to be known as the 'Prescription Drug Account' (in this section referred to as the 'Account').

"(2) FUNDS.—The Account shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, the Account as provided in this part.

"(3) SEPARATE FROM REST OF TRUST FUND.—Funds provided under this part to the Account shall be kept separate from all other funds within the Federal Supplementary Medical Insurance Trust Fund.

"(b) PAYMENTS FROM ACCOUNT.—

"(1) IN GENERAL.—The Managing Trustee shall pay from time to time from the Account such amounts as the Secretary certifies are necessary to make payments to operate the program under this part, including—

"(A) payments to eligible entities under section 1860D–16;

"(B) payments under 1860D–19 for low-income subsidy payments for cost-sharing;

"(C) reinsurance payments under section 1860D–20;

"(D) payments to sponsors of qualified retiree prescription drug plans under section 1860D–21;

"(E) payments to MedicareAdvantage organizations for the provision of qualified prescription drug coverage under section 1858A(c); and

"(F) payments with respect to administrative expenses under this part in accordance with section 201(g).

"(2) TREATMENT IN RELATION TO PART B PREMIUM.—Amounts payable from the Account shall not be taken into account in computing actuarial rates or premium amounts under section 1839.

"(c) APPROPRIATIONS TO COVER BENEFITS AND ADMINISTRATIVE COSTS.—There are appropriated to the Account in a fiscal year, out of any moneys in the Treasury not otherwise appropriated, an amount equal to the payments and transfers made from the Account in the year.

"OTHER RELATED PROVISIONS

"SEC. 1860D–26. (a) RESTRICTION ON ENROLLMENT IN A MEDICARE PRESCRIPTION DRUG PLAN OFFERED BY A SPONSOR OF EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—

"(1) IN GENERAL.—In the case of a Medicare Prescription Drug plan offered by an eligible entity that is a sponsor (as defined in paragraph (5) of section 1860D–20(e)) of employment-based retiree health coverage (as defined in paragraph (4)(B) of such section), notwithstanding any other provision of this part and in accordance with regulations of the Administrator, the entity offering the plan may restrict the enrollment of eligible beneficiaries enrolled under this part to eligible beneficiaries who are enrolled in such coverage.

"(2) LIMITATION.—The sponsor of the employment-based retiree health coverage described in paragraph (1) may not offer enrollment in the Medicare Prescription Drug plan described in such paragraph based on the health status of eligible beneficiaries enrolled for such coverage.

"(b) COORDINATION WITH STATE PHARMACEUTICAL ASSISTANCE PROGRAMS.—

"(1) IN GENERAL.—An eligible entity offering a Medicare Prescription Drug plan, or a MedicareAdvantage organization offering a MedicareAdvantage plan (other than an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage), may enter into an agreement with a State pharmaceutical assistance program described in paragraph (2) to coordinate the coverage provided under the plan with the assistance provided under the State pharmaceutical assistance program.

"(2) STATE PHARMACEUTICAL ASSISTANCE PROGRAM DESCRIBED.—For purposes of paragraph (1), a State pharmaceutical assistance program described in this paragraph is a program that has been established pursuant to a waiver under section 1115 or otherwise.

"(c) REGULATIONS TO CARRY OUT THIS PART.—

"(1) AUTHORITY FOR INTERIM FINAL REGULATIONS.—The Secretary may promulgate initial regulations implementing this part in interim final form without prior opportunity for public comment.

"(2) FINAL REGULATIONS.—A final regulation reflecting public comments must be published within 1 year of the interim final regulation promulgated under paragraph (1).".

(b) CONFORMING AMENDMENTS TO FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—Section 1841 (42 U.S.C. 1395t) is amended—

(1) in the last sentence of subsection (a)—

(A) by striking "and" before "such amounts"; and

(B) by inserting before the period the following: ", and such amounts as may be deposited in, or appropriated to, the Prescription Drug Account established by section 1860D–25";

(2) in subsection (g), by inserting after "by this part," the following: "the payments provided for under part D (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),";

(3) in subsection (h), by inserting after "1840(d)" the following: "and sections 1860D–18 and 1858A(e) (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund)"; and

(4) in subsection (i), by inserting after "section 1840(b)(1)" the following: ", sections 1860D–18 and 1858A(e) (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),".

(c) CONFORMING REFERENCES TO PREVIOUS PART D.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part F of such title (as in effect after such date).

(d) SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this Act.

SEC. 102. STUDY AND REPORT ON PERMITTING PART B ONLY INDIVIDUALS TO ENROLL IN MEDICARE VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM.

(a) STUDY.—The Administrator of the Center for Medicare Choices (as established under section 1808 of the Social Security Act, as added by section 301(a)) shall conduct a study on the need for rules relating to permitting individuals who are enrolled under part B of title XVIII of the Social Security Act but are not entitled to benefits under part A of such title to buy into the medicare voluntary prescription drug delivery program under part D of such title (as so added).

(b) REPORT.—Not later than January 1, 2005, the Administrator of the Center for Medicare Choices shall submit a report to Congress on the study conducted under subsection (a), together with any recommendations for legislation that the Administrator determines to be appropriate as a result of such study.

SEC. 103. RULES RELATING TO MEDIGAP POLICIES THAT PROVIDE PRESCRIPTION DRUG COVERAGE.

(a) RULES RELATING TO MEDIGAP POLICIES THAT PROVIDE PRESCRIPTION DRUG COVERAGE.—Section 1882 (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

"(v) RULES RELATING TO MEDIGAP POLICIES THAT PROVIDE PRESCRIPTION DRUG COVERAGE.—

"(1) PROHIBITION ON SALE, ISSUANCE, AND RENEWAL OF POLICIES THAT PROVIDE PRESCRIPTION DRUG COVERAGE TO PART D ENROLLEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, on or after January 1, 2006, no medicare supplemental policy that provides coverage of expenses for prescription drugs may be sold, issued, or renewed under this section to an individual who is enrolled under part D.

"(B) PENALTIES.—The penalties described in subsection (d)(3)(A)(ii) shall apply with respect to a violation of subparagraph (A).

"(2) ISSUANCE OF SUBSTITUTE POLICIES IF THE POLICYHOLDER OBTAINS PRESCRIPTION DRUG COVERAGE UNDER PART D.—

"(A) IN GENERAL.—The issuer of a medicare supplemental policy—

"(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as 'A', 'B', 'C', 'D', 'E', 'F' (including the benefit package classified as 'F' with a high deductible feature, as described in subsection (p)(11)), or 'G' (under the standards established under subsection (p)(2)) and that is offered and is available for issuance to new enrollees by such issuer;

"(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

"(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy during the open enrollment period established under section 1860D–2(b)(2) and who submits evidence that they meet the requirements under subparagraph (B) along with the application for such medicare supplemental policy.

"(B) INDIVIDUAL DESCRIBED.—An individual described in this subparagraph is an individual who—

"(i) enrolls in the medicare prescription drug delivery program under part D; and

"(ii) at the time of such enrollment was enrolled and terminates enrollment in a medicare supplemental policy which has a benefit package classified as 'H', 'I', or 'J' (including the benefit package classified as 'J' with a high deductible feature, as described in section 1882(p)(11)) under the standards referred to in subparagraph (A)(i) or terminates enrollment in a policy to which such standards do not apply but which provides benefits for prescription drugs.

"(C) ENFORCEMENT.—The provisions of subparagraph (A) shall be enforced as though they were included in subsection (s).

"(3) NOTICE REQUIRED TO BE PROVIDED TO CURRENT POLICYHOLDERS WITH PRESCRIPTION drug coverage.—No medicare supplemental policy of an issuer shall be deemed to meet the standards in subsection (c) unless the issuer provides written notice during the 60-day period immediately preceding the period established for the open enrollment period established under section 1860D–2(b)(2), to each individual who is a policyholder or certificate holder of a medicare supplemental policy issued by that issuer that provides some coverage of expenses for prescription drugs (at the most recent available address of that individual) of—

"(A) the ability to enroll in a new medicare supplemental policy pursuant to paragraph (2); and

"(B) the fact that, so long as such individual retains coverage under such policy, the individual shall be ineligible for coverage of prescription drugs under part D.".

(b) Rule of Construction.—

(1) In general.—Nothing in this Act shall be construed to require an issuer of a medicare supplemental policy under section 1882 of the Social Security Act (42 U.S.C. 1395rr) to participate as an eligible entity under part D of such Act, as added by section 101, as a condition for issuing such policy.

(2) Prohibition on state requirement.—A State may not require an issuer of a medicare supplemental policy under section 1882 of the Social Security Act (42 U.S.C. 1395rr) to participate as an eligible entity under part D of such Act, as added by section 101, as a condition for issuing such policy.

SEC. 104. MEDICAID AND OTHER AMENDMENTS RELATED TO LOW-INCOME BENEFICIARIES.

(a) Determinations of Eligibility for Low-Income Subsidies.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (64);

(2) by striking the period at the end of paragraph (65) and inserting "; and"; and

(3) by inserting after paragraph (65) the following new paragraph:

"(66) provide for making eligibility determinations under section 1935(a).".

(b) New Section.—

(1) In general.—Title XIX (42 U.S.C. 1396 et seq.) is amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following new section:

"SPECIAL PROVISIONS RELATING TO MEDICARE PRESCRIPTION DRUG BENEFIT

"Sec. 1935. (a) Requirement for Making Eligibility Determinations for Low-Income Subsidies.—As a condition of its State plan under this title under section 1902(a)(66) and receipt of any Federal financial assistance under section 1903(a), a State shall satisfy the following:

"(1) Determination of eligibility for transitional prescription drug assistance card program for eligible low-income beneficiaries.—For purposes of section 1807A, submit to the Secretary an eligibility plan under which the State—

"(A) establishes eligibility standards consistent with the provisions of that section;

"(B) establishes procedures for providing presumptive eligibility for eligible low-income beneficiaries (as defined in section 1807A(i)(2)) under that section in a manner that is similar to the manner in which presumptive eligibility is provided to children and pregnant women under this title;

"(C) makes determinations of eligibility and income for purposes of identifying eligible low-income beneficiaries (as so defined) under that section; and

"(D) communicates to the Secretary determinations of eligibility or discontinuation of eligibility under that section for purposes of notifying prescription drug card sponsors under that section of the identity of eligible medicare low-income beneficiaries.

"(2) Determination of eligibility for premium and cost-sharing subsidies under part D of title XVIII for low-income individuals.—Beginning November 1, 2005, for purposes of section 1860D–19—

"(A) make determinations of eligibility for premium and cost-sharing subsidies under and in accordance with such section;

"(B) establish procedures for providing presumptive eligibility for individuals eligible for subsidies under that section in a manner that is similar to the manner in which presumptive eligibility is provided to children and pregnant women under this title;

"(C) inform the Administrator of the Center for Medicare Choices of such determinations in cases in which such eligibility is established; and

"(D) otherwise provide such Administrator with such information as may be required to carry out part D of title XVIII (including section 1860D–19).

"(3) Agreement to establish information and enrollment sites at social security field offices.—Enter into an agreement with the Commissioner of Social Security to use all Social Security field offices located in the State as information and enrollment sites for making the eligibility determinations required under paragraphs (1) and (2).

"(b) Federal Subsidy of Administrative Costs.—

"(1) Enhanced match for eligibility determinations.—Subject to paragraphs (2) and (4), with respect to calendar quarters beginning on or after January 1, 2004, the amounts expended by a State in carrying out subsection (a) are expenditures reimbursable under section 1903(a)(7) except that, in applying such section with respect to such expenditures incurred for—

"(A) such calendar quarters occurring in fiscal year 2004 or 2005, '75 percent' shall be substituted for '50 per centum';

"(B) calendar quarters occurring in fiscal year 2006, '70 percent' shall be substituted for '50 per centum';

"(C) calendar quarters occurring in fiscal year 2007, '65 percent' shall be substituted for '50 per centum'; and

"(D) calendar quarters occurring in fiscal year 2008 or any fiscal year thereafter, '60 percent' shall be substituted for '50 per centum'.

"(2) 100 percent match for eligibility determinations for subsidy-eligible individuals.—In the case of amounts expended by a State on or after November 1, 2005, to determine whether an individual is a subsidy-eligible individual for purposes of section 1860D–19, such expenditures shall be reimbursed under section 1903(a)(7) by substituting '100 percent' for '50 per centum'.

"(3) Enhanced match for updates or improvements to eligibility determination systems.—With respect to calendar quarters occurring in fiscal year 2004, 2005, or 2006, the Secretary, in addition to amounts otherwise paid under section 1903(a), shall pay to each State which has a plan approved under this title, for each such quarter an amount equal to 90 percent of so much of the sums expended during such quarter as are attributable to the design, development, acquisition, or installation of improved eligibility determination systems (including hardware and software for such systems) in order to carry out the requirements of subsection (a) and section 1807A(h)(1). No payment shall be made to a State under the preceding sentence unless the State's improved eligibility determination system—

"(A) satisfies such standards for improvement as the Secretary may establish; and

"(B) complies, and is compatible, with the standards established under part C of title XI and any regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

"(4) Coordination.—The State shall provide the Secretary with such information as may be necessary to properly allocate expenditures described in paragraph (1), (2), or (3) that may otherwise be made for similar eligibility determinations or expenditures.

"(c) Federal Payment of Medicare Part B Premium for States Providing Prescription Drug Coverage for Dual Eligible Individuals.—

"(1) In general.—Subject to paragraph (4), in the case of a State that provides medical assistance for covered drugs (as such term is defined in section 1860D(a)(2)) to dual eligible individuals under this title that satisfies the minimum standards described in paragraph (2), the Secretary shall be responsible in accordance with section 1841(f)(2) for paying 100 percent of the medicare cost-sharing described in section 1905(p)(3)(A)(ii) (relating to premiums under section 1839) for individuals—

"(A) who are dual eligible individuals or qualified medicare beneficiaries; and

"(B) whose family income is at least 74 percent, but not more than 100 percent, of the poverty line (as defined in section 2110(c)(5)) applicable to a family of the size involved.

"(2) Minimum standards described.—For purposes of paragraph (1), the minimum standards described in this paragraph are the following:

"(A) In providing medical assistance for dual eligible individuals for such covered drugs, the State satisfies the requirements of this title (including limitations on cost-sharing imposed under section 1916) applicable to the provision of medical assistance for prescribed drugs to dual eligible individuals.

"(B) In providing medical assistance for dual eligible individuals for such covered drugs, the State provides such individuals with beneficiary protections that the Secretary determines are equivalent to the beneficiary protections applicable under section 1860D–5 to eligible entities offering a Medicare Prescription Drug plan under part D of title XVIII.

"(C) In providing medical assistance for dual eligible individuals for such covered drugs, the State does not impose a limitation on the number of prescriptions an individual may have filled.

"(3) Nonapplication.—Section 1927(d)(2)(E) shall not apply to a State for purposes of providing medical assistance for covered drugs (as such term is defined in section 1860D(a)(2)) to dual eligible individuals that satisfies the minimum standards described in paragraph (2).

"(4) Limitation.—Paragraph (1) shall not apply to any State before January 1, 2006.

"(d) Federal Payment of Medicare Part A Cost-Sharing for Certain States.—

"(1) In general.—Subject to paragraph (2), in the case of a State that, as of the date of enactment of the Prescription Drug and Medicare Improvement Act of 2003, provides medical assistance for individuals described in section 1902(a)(10)(A)(ii)(X), the Secretary shall be responsible in accordance with section 1817(g)(2), for paying 100 percent of the medicare cost-sharing described in subparagraphs (B) and (C) of section 1905(p)(3) (relating to coinsurance and deductibles established under title XVIII) for the individuals provided medical assistance under section 1902(a)(10)(A)(ii)(X), but only—

"(A) with respect to such medicare cost-sharing that is incurred under part A of title XVIII; and

"(B) for so long as the State elects to provide medical assistance under section 1902(a)(10)(A)(ii)(X).

"(2) LIMITATION.—Paragraph (1) shall not apply to any State before January 1, 2006.

"(e) TREATMENT OF TERRITORIES.—

"(1) IN GENERAL.—In the case of a State, other than the 50 States and the District of Columbia—

"(A) the previous provisions of this section shall not apply to residents of such State; and

"(B) if the State establishes a plan described in paragraph (2), the amount otherwise determined under section 1108(f) (as increased under section 1108(g)) for the State shall be further increased by the amount specified in paragraph (3).

"(2) PLAN.—The plan described in this paragraph is a plan that—

"(A) provides medical assistance with respect to the provision of covered drugs (as defined in section 1860D(a)(2)) to individuals described in subparagraph (A), (B), (C), or (D) of section 1860D-19(a)(3); and

"(B) ensures that additional amounts received by the State that are attributable to the operation of this subsection are used only for such assistance.

"(3) INCREASED AMOUNT.—

"(A) IN GENERAL.—The amount specified in this paragraph for a State for a fiscal year is equal to the product of—

"(i) the aggregate amount specified in subparagraph (B); and

"(ii) the amount specified in section 1108(g)(1) for that State, divided by the sum of the amounts specified in such section for all such States.

"(B) AGGREGATE AMOUNT.—The aggregate amount specified in this subparagraph for—

"(i) the last 3 quarters of fiscal year 2006, is equal to $22,500,000;

"(ii) fiscal year 2007, is equal to $30,000,000; and

"(iii) any subsequent fiscal year, is equal to the aggregate amount specified in this subparagraph for the previous fiscal year increased by the annual percentage increase specified in section 1860D-6(c)(5) for the calendar year beginning in such fiscal year.

"(4) NONAPPLICATION.—Section 1927(d)(2)(E) shall not apply to a State described in paragraph (1) for purposes of providing medical assistance described in paragraph (2)(A).

"(5) REPORT.—The Secretary shall submit to Congress a report on the application of this subsection and may include in the report such recommendations as the Secretary deems appropriate.

"(f) DEFINITIONS.—For purposes of this section, the terms 'qualified medicare beneficiary', 'subsidy-eligible individual', and 'dual eligible individual' have the meanings given such terms in subparagraphs (A), (D), and (E), respectively, of section 1860D-19(a)(4).".

(2) CONFORMING AMENDMENT.—Section 1108(f) (42 U.S.C. 1308(f)) is amended by inserting "and section 1935(e)(1)(B)" after "Subject to subsection (g)".

(3) TRANSFER OF FEDERALLY ASSUMED PORTIONS OF MEDICARE COST-SHARING.—

(A) TRANSFER OF ASSUMPTION OF PART B PREMIUM FOR STATES PROVIDING PRESCRIPTION DRUG COVERAGE FOR DUAL ELIGIBLE INDIVIDUALS TO THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—Section 1841(f) (42 U.S.C. 1395t(f)) is amended—

(i) by inserting "(1)" after "(f)"; and

(ii) by adding at the end the following new paragraph:

"(2) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Treasury amounts which the Secretary of Health and Human Services shall have certified are equivalent to the amounts determined under section 1935(c)(1) with respect to all States for a fiscal year.".

(B) TRANSFER OF ASSUMPTION OF PART A COST-SHARING FOR CERTAIN STATES.—Section 1817(g) (42 U.S.C. 1395i(g)) is amended—

(i) by inserting "(1)" after "(g)"; and

(ii) by adding at the end the following new paragraph:

"(2) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Treasury amounts which the Secretary of Health and Human Services shall have certified are equivalent to the amounts determined under section 1935(d)(1) with respect to certain States for a fiscal year.".

(4) AMENDMENT TO BEST PRICE.—Section 1927(c)(1)(C)(i) (42 U.S.C. 1396r-8(c)(1)(C)(i)), as amended by section 111(b), is amended—

(A) by striking "and" at the end of subclause (IV);

(B) by striking the period at the end of subclause (V) and inserting "; and"; and

(C) by adding at the end the following new subclause:

"(VI) any prices charged which are negotiated under a Medicare Prescription Drug plan under part D of title XVIII with respect to covered drugs, under a MedicareAdvantage plan under part C of such title with respect to such drugs, or under a qualified retiree prescription drug plan (as defined in section 1860D-20(f)(1)) with respect to such drugs, on behalf of eligible beneficiaries (as defined in section 1860D(a)(3).".

(c) EXTENSION OF MEDICARE COST-SHARING FOR PART B PREMIUM FOR QUALIFYING INDIVIDUALS THROUGH 2008.—

(1) IN GENERAL.—Section 1902(a)(10)(E)(iv) (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended to read as follows:

"(iv) subject to sections 1933 and 1905(p)(4), for making medical assistance available (but only for premiums payable with respect to months during the period beginning with January 1998, and ending with December 2008) for medicare cost-sharing described in section 1905(p)(3)(A)(ii) for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) and is at least 120 percent, but less than 135 percent, of the official poverty line (referred to in such section) for a family of the size involved and who are not otherwise eligible for medical assistance under the State plan;".

(2) TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(c) (42 U.S.C. 1396u-3(c)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (D), by striking "and" at the end;

(ii) in subparagraph (E)—

(I) by striking "fiscal year 2002" and inserting "each of fiscal years 2002 through 2008"; and

(II) by striking the period and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(F) the first quarter of fiscal year 2009, $100,000,000."; and

(B) in paragraph (2)(A), by striking "the sum of" and all that follows through "1902(a)(10)(E)(iv)(II) in the State; to" and inserting "twice the total number of individuals described in section 1902(a)(10)(E)(iv) in the State; to".

(d) OUTREACH BY THE COMMISSIONER OF SOCIAL SECURITY.—Section 1144 (42 U.S.C. 1320b-14) is amended—

(1) in the section heading, by inserting "AND SUBSIDIES FOR LOW-INCOME INDIVIDUALS UNDER TITLE XVIII" after "COST-SHARING";

(2) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting "for the transitional prescription drug assistance card program under section 1807A, or for premium and cost-sharing subsidies under section 1860D-19" before the semicolon; and

(ii) in subparagraph (B), by inserting ", program, and subsidies" after "medical assistance"; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by inserting ", the transitional prescription drug assistance card program under section 1807A, or premium and cost-sharing subsidies under section 1860D-19" after "assistance"; and

(ii) in subparagraph (A), by striking "such eligibility" and inserting "eligibility for medicare cost-sharing under the medicaid program"; and

(3) in subsection (b)—

(A) in paragraph (1)(A), by inserting ", for the transitional prescription drug assistance card program under section 1807A, or for premium and cost-sharing subsidies for low-income individuals under section 1860D-19" after "1933"; and

(B) in paragraph (2), by inserting ", program, and subsidies" after "medical assistance".

(e) REPORT REGARDING VOLUNTARY ENROLLMENT OF DUAL ELIGIBLE INDIVIDUALS IN PART D.—Not later than January 1, 2005, the Secretary shall submit a report to Congress that contains such recommendations for legislation as the Secretary determines are necessary in order to establish a voluntary option for dual eligible individuals (as defined in 1860D-19(a)(4)(E) of the Social Security Act (as added by section 101)) to enroll under part D of title XVIII of such Act for prescription drug coverage.

SEC. 105. EXPANSION OF MEMBERSHIP AND DUTIES OF MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXPANSION OF MEMBERSHIP.—

(1) IN GENERAL.—Section 1805(c) (42 U.S.C. 1395b-6(c)) is amended—

(A) in paragraph (1), by striking "17" and inserting "19"; and

(B) in paragraph (2)(B), by inserting "experts in the area of pharmacology and prescription drug benefit programs," after "other health professionals,".

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b-6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under paragraph (1)(A) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2005.

(b) EXPANSION OF DUTIES.—Section 1805(b)(2) (42 U.S.C. 1395b–6(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM.—Specifically, the Commission shall review, with respect to the voluntary prescription drug delivery program under part D, competition among eligible entities offering Medicare Prescription Drug plans and beneficiary access to such plans and covered drugs, particularly in rural areas.".

SEC. 106. STUDY REGARDING VARIATIONS IN SPENDING AND DRUG UTILIZATION.

(a) STUDY.—The Secretary shall study on an ongoing basis variations in spending and drug utilization under part D of title XVIII of the Social Security Act for covered drugs to determine the impact of such variations on premiums imposed by eligible entities offering Medicare Prescription Drug plans under that part. In conducting such study, the Secretary shall examine the impact of geographic adjustments of the monthly national average premium under section 1860D–15 of such Act on—

(1) maximization of competition under part D of title XVIII of such Act; and

(2) the ability of eligible entities offering Medicare Prescription Drug plans to contain costs for covered drugs.

(b) REPORT.—Beginning with 2007, the Secretary shall submit annual reports to Congress on the study required under subsection (a).

Subtitle B—Medicare Prescription Drug Discount Card and Transitional Assistance for Low-Income Beneficiaries

SEC. 111. MEDICARE PRESCRIPTION DRUG DISCOUNT CARD AND TRANSITIONAL ASSISTANCE FOR LOW-INCOME BENEFICIARIES.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1806 the following new sections:

"MEDICARE PRESCRIPTION DRUG DISCOUNT CARD ENDORSEMENT PROGRAM

"SEC. 1807. (a) ESTABLISHMENT.—There is established a medicare prescription drug discount card endorsement program under which the Secretary shall—

"(1) endorse prescription drug discount card programs offered by prescription drug card sponsors that meet the requirements of this section; and

"(2) make available to eligible beneficiaries information regarding such endorsed programs.

"(b) ELIGIBILITY, ELECTION OF PROGRAM, AND ENROLLMENT FEES.—

"(1) ELIGIBILITY AND ELECTION OF PROGRAM.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish procedures—

"(i) for identifying eligible beneficiaries; and

"(ii) under which such beneficiaries may make an election to enroll in any prescription drug discount card program endorsed under this section and disenroll from such a program.

"(B) LIMITATION.—An eligible beneficiary may not be enrolled in more than 1 prescription drug discount card program at any time.

"(2) ENROLLMENT FEES.—

"(A) IN GENERAL.—A prescription drug card sponsor may charge an annual enrollment fee to each eligible beneficiary enrolled in a prescription drug discount card program offered by such sponsor.

"(B) AMOUNT.—No enrollment fee charged under subparagraph (A) may exceed $25.

"(C) UNIFORM ENROLLMENT FEE.—A prescription drug card sponsor shall ensure that the enrollment fee for a prescription drug discount card program endorsed under this section is the same for all eligible medicare beneficiaries enrolled in the program.

"(D) COLLECTION.—Any enrollment fee shall be collected by the prescription drug card sponsor.

"(c) PROVIDING INFORMATION TO ELIGIBLE BENEFICIARIES.—

"(1) PROMOTION OF INFORMED CHOICE.—

"(A) BY THE SECRETARY.—In order to promote informed choice among endorsed prescription drug discount card programs, the Secretary shall provide for the dissemination of information which compares the costs and benefits of such programs. Such dissemination shall be coordinated with the dissemination of educational information on other medicare options.

"(B) BY PRESCRIPTION DRUG CARD SPONSORS.—Each prescription drug card sponsor shall make available to each eligible beneficiary (through the Internet and otherwise) information—

"(i) that the Secretary identifies as being necessary to promote informed choice among endorsed prescription drug discount card programs by eligible beneficiaries, including information on enrollment fees, negotiated prices for prescription drugs charged to beneficiaries, and services relating to prescription drugs offered under the program;

"(ii) on how any formulary used by such sponsor functions.

"(2) USE OF MEDICARE TOLL-FREE NUMBER.—The Secretary shall provide through the 1-800-MEDICARE toll free telephone number for the receipt and response to inquiries and complaints concerning the medicare prescription drug discount card endorsement program established under this section and prescription drug discount card programs endorsed under such program.

"(d) BENEFICIARY PROTECTIONS.—

"(1) IN GENERAL.—Each prescription drug discount card program endorsed under this section shall meet such requirements as the Secretary identifies to protect and promote the interest of eligible beneficiaries, including requirements that—

"(A) relate to appeals by eligible beneficiaries and marketing practices; and

"(B) ensure that beneficiaries are not charged more than the lower of the negotiated retail price or the usual and customary price.

"(2) ENSURING PHARMACY ACCESS.—Each prescription drug card sponsor offering a prescription drug discount card program endorsed under this section shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Secretary and including adequate emergency access) for enrolled beneficiaries. Such standards shall take into account reasonable distances to pharmacy services in both urban and rural areas.

"(3) QUALITY ASSURANCE.—Each prescription drug card sponsor offering a prescription drug discount card program endorsed under this section shall have in place adequate procedures for assuring that quality service is provided to eligible beneficiaries enrolled in a prescription drug discount card program offered by such sponsor.

"(4) CONFIDENTIALITY OF ENROLLEE RECORDS.—Insofar as a prescription drug card sponsor maintains individually identifiable medical records or other health information regarding eligible beneficiaries enrolled in a prescription drug discount card program endorsed under this section, the prescription drug card sponsor shall have in place procedures to safeguard the privacy of any individually identifiable beneficiary information in a manner that the Secretary determines is consistent with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

"(5) NO OTHER FEES.—A prescription drug card sponsor may not charge any fee to an eligible beneficiary under a prescription drug discount card program endorsed under this section other than an enrollment fee charged under subsection (b)(2)(A).

"(6) PRICES.—

"(A) AVOIDANCE OF HIGH PRICED DRUGS.—A prescription drug card sponsor may not recommend switching an eligible beneficiary to a drug with a higher negotiated price absent a recommendation by a licensed health professional that there is a clinical indication with respect to the patient for such a switch.

"(B) PRICE STABILITY.—Negotiated prices charged for prescription drugs covered under a prescription drug discount card program endorsed under this section may not change more frequently than once every 60 days.

"(e) PRESCRIPTION DRUG BENEFITS.—

"(1) IN GENERAL.—Each prescription drug card sponsor may only provide benefits that relate to prescription drugs (as defined in subsection (i)(2)) under a prescription drug discount card program endorsed under this section.

"(2) SAVINGS TO ELIGIBLE BENEFICIARIES.—

"(A) IN GENERAL.—Subject to subparagraph (D), each prescription drug card sponsor shall provide eligible beneficiaries who enroll in a prescription drug discount card program offered by such sponsor that is endorsed under this section with access to negotiated prices used by the sponsor with respect to prescription drugs dispensed to eligible beneficiaries.

"(B) INAPPLICABILITY OF MEDICAID BEST PRICE RULES.—The requirements of section 1927 relating to manufacturer best price shall not apply to the negotiated prices for prescription drugs made available under a prescription drug discount card program endorsed under this section.

"(C) GUARANTEED ACCESS TO NEGOTIATED PRICES.—The Secretary, in consultation with the Inspector General of the Department of Health and Human Services, shall establish procedures to ensure that eligible beneficiaries have access to the negotiated prices for prescription drugs provided under subparagraph (A).

"(D) APPLICATION OF FORMULARY RESTRICTIONS.—A drug prescribed for an eligible beneficiary that would otherwise be a covered drug under this section shall not be so considered under a prescription drug discount card program if the program excludes the drug under a formulary.

"(3) BENEFICIARY SERVICES.—Each prescription drug discount card program endorsed under this section shall provide pharmaceutical support services, such as education, counseling, and services to prevent adverse drug interactions.

"(4) DISCOUNT CARDS.—Each prescription drug card sponsor shall issue a card to eligible beneficiaries enrolled in a prescription drug discount card program offered by such sponsor that the beneficiary may use to obtain benefits under the program.

"(f) SUBMISSION OF APPLICATIONS FOR ENDORSEMENT AND APPROVAL.—

“(1) SUBMISSION OF APPLICATIONS FOR ENDORSEMENT.—Each prescription drug card sponsor that seeks endorsement of a prescription drug discount card program under this section shall submit to the Secretary, at such time and in such manner as the Secretary may specify, such information as the Secretary may require.

“(2) APPROVAL.—The Secretary shall review the information submitted under paragraph (1) and shall determine whether to endorse the prescription drug discount card program to which such information relates. The Secretary may not approve a program unless the program and prescription drug card sponsor offering the program comply with the requirements under this section.

“(g) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If a prescription drug card sponsor offering a prescription drug discount card program uses a formulary, the following requirements must be met:

“(1) PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—

“(A) IN GENERAL.—The eligible entity must establish a pharmacy and therapeutic committee that develops and reviews the formulary.

“(B) COMPOSITION.—A pharmacy and therapeutic committee shall include at least 1 academic expert, at least 1 practicing physician, and at least 1 practicing pharmacist, all of whom have expertise in the care of elderly or disabled persons, and a majority of the members of such committee shall consist of individuals who are a practicing physician or a practicing pharmacist (or both).

“(2) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and such other information as the committee determines to be appropriate.

“(3) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES AND CLASSES.—

“(A) IN GENERAL.—The formulary must include drugs within each therapeutic category and class of covered outpatient drugs (as defined by the Secretary), although not necessarily for all drugs within such categories and classes.

“(B) REQUIREMENT.—In defining therapeutic categories and classes of covered outpatient drugs pursuant to subparagraph (A), the Secretary shall use the compendia referred to section 1927(g)(1)(B)(i) or other recognized sources for categorizing drug therapeutic categories and classes.

“(4) PROVIDER EDUCATION.—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

“(5) NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries and pharmacies.

“(h) FRAUD AND ABUSE PREVENTION.—

“(1) IN GENERAL.—The Secretary shall provide appropriate oversight to ensure compliance of endorsed programs with the requirements of this section, including verification of the negotiated prices and services provided.

“(2) DISQUALIFICATION FOR ABUSIVE PRACTICES.—The Secretary may implement intermediate sanctions and may revoke the endorsement of a program that the Secretary determines no longer meets the requirements of this section or that has engaged in false or misleading marketing practices.

“(3) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—The Secretary may impose a civil money penalty in an amount not to exceed $10,000 for any violation of this section. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

“(4) REPORTING TO SECRETARY.—Each prescription drug card sponsor offering a prescription drug discount card program endorsed under this section shall report information relating to program performance, use of prescription drugs by eligible beneficiaries enrolled in the program, financial information of the sponsor, and such other information as the Secretary may specify. The Secretary may not disclose any proprietary data reported under this paragraph.

“(5) DRUG UTILIZATION REVIEW.—The Secretary may use claims data from parts A and B for purposes of conducting a drug utilization review program.

“(i) DEFINITIONS.—In this section:

“(1) ELIGIBLE BENEFICIARY.—

“(A) IN GENERAL.—The term ‘eligible beneficiary’ means an individual who—

“(i) is entitled to, or enrolled for, benefits under part A and enrolled under part B; and

“(ii) is not a dual eligible individual (as defined in subparagraph (B)).

“(B) DUAL ELIGIBLE INDIVIDUAL.—

“(i) IN GENERAL.—The term ‘dual eligible individual’ means an individual who is—

“(I) enrolled under title XIX or under a waiver under section 1115 of the requirements of such title for medical assistance that is not less than the medical assistance provided to an individual described in section 1902(a)(10)(A)(i) and includes covered outpatient drugs (as such term is defined for purposes of section 1927); and

“(II) entitled to benefits under part A and enrolled under part B.

“(ii) INCLUSION OF MEDICALLY NEEDY.—Such term includes an individual described in section 1902(a)(10)(C).

“(2) PRESCRIPTION DRUG.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘prescription drug’ means—

“(i) a drug that may be dispensed only upon a prescription and that is described in clause (i) or (ii) of subparagraph (A) of section 1927(k)(2); or

“(ii) a biological product or insulin described in subparagraph (B) or (C) of such section,

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered outpatient drug for a medically accepted indication (as defined in section 1927(k)(6)).

“(B) EXCLUSIONS.—The term ‘prescription drug’ does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

“(3) NEGOTIATED PRICE.—The term ‘negotiated price’ includes all discounts, direct or indirect subsidies, rebates, price concessions, and direct or indirect remunerations.

“(4) PRESCRIPTION DRUG CARD SPONSOR.—The term ‘prescription drug card sponsor’ means any entity with demonstrated experience and expertise in operating a prescription drug discount card program, an insurance program that provides coverage for prescription drugs, or a similar program that the Secretary determines to be appropriate to provide eligible beneficiaries with the benefits under a prescription drug discount card program endorsed by the Secretary under this section, including—

“(A) a pharmaceutical benefit management company;

“(B) a wholesale or retail pharmacist delivery system;

“(C) an insurer (including an insurer that offers medicare supplemental policies under section 1882);

“(D) any other entity; or

“(E) any combination of the entities described in subparagraphs (A) through (D).

“TRANSITIONAL PRESCRIPTION DRUG ASSISTANCE CARD PROGRAM FOR ELIGIBLE LOW-INCOME BENEFICIARIES

“SEC. 1807A. (a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established a program under which the Secretary shall award contracts to prescription drug card sponsors offering a prescription drug discount card that has been endorsed by the Secretary under section 1807 under which such sponsors shall offer a prescription drug assistance card program to eligible low-income beneficiaries in accordance with the requirements of this section.

“(2) APPLICATION OF DISCOUNT CARD PROVISIONS.—Except as otherwise provided in this section, the provisions of section 1807 shall apply to the program established under this section.

“(b) ELIGIBILITY, ELECTION OF PROGRAM, AND ENROLLMENT FEES.—

“(1) ELIGIBILITY AND ELECTION OF PROGRAM.—

“(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, the enrollment procedures established under section 1807(b)(1)(A)(ii) shall apply for purposes of this section.

“(B) ENROLLMENT OF ANY ELIGIBLE LOW-INCOME BENEFICIARY.—Each prescription drug card sponsor offering a prescription drug assistance card program under this section shall permit any eligible low-income beneficiary to enroll in such program if it serves the geographic area in which the beneficiary resides.

“(C) SIMULTANEOUS ENROLLMENT IN PRESCRIPTION DRUG DISCOUNT CARD PROGRAM.—An eligible low-income beneficiary who enrolls in a prescription drug assistance card program offered by a prescription drug card sponsor under this section shall be simultaneously enrolled in a prescription drug discount card program offered by such sponsor.

“(2) WAIVER OF ENROLLMENT FEES.—

“(A) IN GENERAL.—A prescription drug card sponsor may not charge an enrollment fee to any eligible low-income beneficiary enrolled in a prescription drug discount card program offered by such sponsor.

“(B) PAYMENT BY SECRETARY.—Under a contract awarded under subsection (f)(2), the Secretary shall pay to each prescription drug card sponsor an amount equal to any enrollment fee charged under section 1807(b)(2)(A) on behalf of each eligible low-income beneficiary enrolled in a prescription drug discount card program under paragraph (1)(C) offered by such sponsor.

“(c) ADDITIONAL BENEFICIARY PROTECTIONS.—

“(1) PROVIDING INFORMATION TO ELIGIBLE LOW-INCOME BENEFICIARIES.—In addition to the information provided to eligible beneficiaries under section 1807(c), the prescription drug card sponsor shall—

"(A) periodically notify each eligible low-income beneficiary enrolled in a prescription drug assistance card program offered by such sponsor of the amount of coverage for prescription drugs remaining under subsection (d)(2)(A); and

"(B) notify each eligible low-income beneficiary enrolled in a prescription drug assistance card program offered by such sponsor of the grievance and appeals processes under the program.

"(2) CONVENIENT ACCESS IN LONG-TERM CARE FACILITIES.—For purposes of determining whether convenient access has been provided under section 1807(d)(2) with respect to eligible low-income beneficiaries enrolled in a prescription drug assistance card program, the Secretary may only make a determination that such access has been provided if an appropriate arrangement is in place for eligible low-income beneficiaries who are in a long-term care facility (as defined by the Secretary) to receive prescription drug benefits under the program.

"(3) COORDINATION OF BENEFITS.—

"(A) IN GENERAL.—The Secretary shall establish procedures under which eligible low-income beneficiaries who are enrolled for coverage described in subparagraph (B) and enrolled in a prescription drug assistance card program have access to the prescription drug benefits available under such program.

"(B) COVERAGE DESCRIBED.—Coverage described in this subparagraph is as follows:

"(i) Coverage of prescription drugs under a State pharmaceutical assistance program.

"(ii) Enrollment in a Medicare+Choice plan under part C.

"(4) GRIEVANCE MECHANISM.—Each prescription drug card sponsor with a contract under this section shall provide in accordance with section 1852(f) meaningful procedures for hearing and resolving grievances between the prescription drug card sponsor (including any entity or individual through which the prescription drug card sponsor provides covered benefits) and enrollees in a prescription drug assistance card program offered by such sponsor.

"(5) APPLICATION OF COVERAGE DETERMINATION AND RECONSIDERATION PROVISIONS.—

"(A) IN GENERAL.—The requirements of paragraphs (1) through (3) of section 1852(g) shall apply with respect to covered benefits under a prescription drug assistance card program under this section in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

"(B) REQUEST FOR REVIEW OF TIERED FORMULARY DETERMINATIONS.—In the case of a prescription drug assistance card program offered by a prescription drug card sponsor that provides for tiered pricing for drugs included within a formulary and provides lower prices for preferred drugs included within the formulary, an eligible low-income beneficiary who is enrolled in the program may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the eligible low-income beneficiary or has adverse effects for the eligible low-income beneficiary.

"(C) FORMULARY DETERMINATIONS.—An eligible low-income beneficiary who is enrolled in a prescription drug assistance card program offered by a prescription drug card sponsor may appeal to obtain coverage for a covered drug that is not on a formulary of the entity if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the eligible low-income beneficiary or has adverse effects for the eligible low-income beneficiary.

"(6) APPEALS.—

"(A) IN GENERAL.—Subject to subparagraph (B), a prescription drug card sponsor shall meet the requirements of paragraphs (4) and (5) of section 1852(g) with respect to drugs not included on any formulary in a similar manner (as determined by the Secretary) as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

"(B) FORMULARY DETERMINATIONS.—An eligible low-income beneficiary who is enrolled in a prescription drug assistance card program offered by a prescription drug card sponsor may appeal to obtain coverage for a covered drug that is not on a formulary of the entity if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the eligible low-income beneficiary or has adverse effects for the eligible low-income beneficiary.

"(C) APPEALS AND EXCEPTIONS TO APPLICATION.—The prescription drug card sponsor must have, as part of the appeals process under this paragraph, a process for timely appeals for denials of coverage based on the application of the formulary.

"(d) PRESCRIPTION DRUG BENEFITS.—

"(1) IN GENERAL.—Subject to paragraph (5), all the benefits available under a prescription drug discount card program offered by a prescription drug card sponsor and endorsed under section 1807 shall be available to eligible low-income beneficiaries enrolled in a prescription drug assistance card program offered by such sponsor.

"(2) ASSISTANCE FOR ELIGIBLE LOW-INCOME BENEFICIARIES.—

"(A) $600 ANNUAL ASSISTANCE.—Subject to subparagraphs (B) and (C) and paragraph (5), each prescription drug card sponsor with a contract under this section shall provide coverage for the first $600 of expenses for prescription drugs incurred during each calendar year by an eligible low-income beneficiary enrolled in a prescription drug assistance card program offered by such sponsor.

"(B) COINSURANCE.—

"(i) IN GENERAL.—The prescription drug card sponsor shall determine an amount of coinsurance to collect from each eligible low-income beneficiary enrolled in a prescription drug assistance card program offered by such sponsor for which coverage is available under subparagraph (A).

"(ii) AMOUNT.—The amount of coinsurance collected under clause (i) shall be at least 10 percent of the negotiated price of each prescription drug dispensed to an eligible low-income beneficiary.

"(iii) CONSTRUCTION.—Amounts collected under clause (i) shall not be counted against the total amount of coverage available under subparagraph (A).

"(C) REDUCTION FOR LATE ENROLLMENT.—For each month during a calendar quarter in which an eligible low-income beneficiary is not enrolled in a prescription drug assistance card program offered by a prescription drug card sponsor with a contract under this section, the amount of assistance available under subparagraph (A) shall be reduced by $50.

"(D) CREDITING OF UNUSED BENEFITS TOWARD FUTURE YEARS.—The dollar amount of coverage described in subparagraph (A) shall be increased by any amount of coverage described in such subparagraph that was not used during the previous calendar year.

"(E) WAIVER TO ENSURE PROVISION OF BENEFIT.—The Secretary may waive such requirements of this section and section 1807 as may be necessary to ensure that each eligible low-income beneficiary has access to the assistance described in subparagraph (A).

"(3) ADDITIONAL DISCOUNTS.—A prescription drug card sponsor with a contract under this section shall provide each eligible low-income beneficiary enrolled in a prescription drug assistance program offered by the sponsor with access to negotiated prices that reflect a minimum average discount of at least 20 percent of the average wholesale price for prescription drugs covered under that program.

"(4) ASSISTANCE CARDS.—Each prescription drug card sponsor shall permit eligible low-income beneficiaries enrolled in a prescription drug assistance card program offered by such sponsor to use the discount card issued under section 1807(e)(4) to obtain benefits under the program.

"(5) APPLICATION OF FORMULARY RESTRICTIONS.—A drug prescribed for an eligible low-income beneficiary that would otherwise be a covered drug under this section shall not be so considered under a prescription drug assistance card program if the program excludes the drug under a formulary and such exclusion is not successfully resolved under paragraph (4), (5), or (6) of subsection (c).

"(e) REQUIREMENTS FOR PRESCRIPTION DRUG CARD SPONSORS THAT OFFER PRESCRIPTION DRUG ASSISTANCE CARD PROGRAMS.—

"(1) IN GENERAL.—Each prescription drug card sponsor shall—

"(A) process claims made by eligible low-income beneficiaries;

"(B) negotiate with brand name and generic prescription drug manufacturers and others for low prices on prescription drugs;

"(C) track individual beneficiary expenditures in a format and periodicity specified by the Secretary; and

"(D) perform such other functions as the Secretary may assign.

"(2) DATA EXCHANGES.—Each prescription drug card sponsor shall receive data exchanges in a format specified by the Secretary and shall maintain real-time beneficiary files.

"(3) PUBLIC DISCLOSURE OF PHARMACEUTICAL PRICES FOR EQUIVALENT DRUGS.—The prescription drug card sponsor offering the prescription drug assistance card program shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered drug shall inform the eligible low-income beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest priced generic drug covered under the plan that is therapeutically equivalent and bioequivalent and available at such pharmacy or other dispenser.

"(f) SUBMISSION OF BIDS AND AWARDING OF CONTRACTS.—

"(1) SUBMISSION OF BIDS.—Each prescription drug card sponsor that seeks to offer a prescription drug assistance card program under this section shall submit to the Secretary, at such time and in such manner as the Secretary may specify, such information as the Secretary may require.

"(2) AWARDING OF CONTRACTS.—The Secretary shall review the information submitted under paragraph (1) and shall determine whether to award a contract to the prescription drug card sponsor offering the program to which such information relates. The

Secretary may not approve a program unless the program and prescription drug card sponsor offering the program comply with the requirements under this section.

``(3) NUMBER OF CONTRACTS.—There shall be no limit on the number of prescription drug card sponsors that may be awarded contracts under paragraph (2).

``(4) CONTRACT PROVISIONS.—

``(A) DURATION.—A contract awarded under paragraph (2) shall be for the lifetime of the program under this section.

``(B) WITHDRAWAL.—A prescription drug card sponsor that desires to terminate the contract awarded under paragraph (2) may terminate such contract without penalty if such sponsor gives notice—

``(i) to the Secretary 90 days prior to the termination of such contract; and

``(ii) to each eligible low-income beneficiary that is enrolled in a prescription drug assistance card program offered by such sponsor 60 days prior to such termination.

``(C) SERVICE AREA.—The service area under the contract shall be the same as the area served by the prescription drug card sponsor under section 1807.

``(5) SIMULTANEOUS APPROVAL OF DISCOUNT CARD AND ASSISTANCE PROGRAMS.—A prescription drug card sponsor may submit an application for endorsement under section 1807 as part of the bid submitted under paragraph (1) and the Secretary may approve such application at the same time as the Secretary awards a contract under this section.

``(g) PAYMENTS TO PRESCRIPTION DRUG CARD SPONSORS.—

``(1) IN GENERAL.—The Secretary shall pay to each prescription drug card sponsor offering a prescription drug 'assistance card program in which an eligible low-income beneficiary is enrolled an amount equal to the amount agreed to by the Secretary and the sponsor in the contract awarded under subsection (f)(2).

``(2) PAYMENT FROM PART B TRUST FUND.—The costs of providing benefits under this section shall be payable from the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

``(h) ELIGIBILITY DETERMINATIONS MADE BY STATES; PRESUMPTIVE ELIGIBILITY.—States shall perform the functions described in section 1935(a)(1).

``(i) APPROPRIATIONS.—There are appropriated from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 such sums as may be necessary to carry out the program under this section.

``(j) DEFINITIONS.—In this section:

``(1) ELIGIBLE BENEFICIARY; NEGOTIATED PRICE; PRESCRIPTION DRUG.—The terms `eligible beneficiary', `negotiated price', and `prescription drug' have the meanings given those terms in section 1807(i).

``(2) ELIGIBLE LOW-INCOME BENEFICIARY.—The term `eligible low-income beneficiary' means an individual who—

``(A) is an eligible beneficiary (as defined in section 1807(i)); and

``(B) is described in clause (iii) or (iv) of section 1902(a)(10)(E) or in section 1905(p)(1).

``(3) PRESCRIPTION DRUG CARD SPONSOR.—The term `prescription drug card sponsor' has the meaning given that term in section 1807(i), except that such sponsor shall also be an entity that the Secretary determines is—

``(A) is appropriate to provide eligible low-income beneficiaries with the benefits under a prescription drug assistance card program under this section;

``(B) is able to manage the monetary assistance made available under subsection (d)(2);

``(C) agrees to submit to audits by the Secretary; and

``(D) provides such other assurances as the Secretary may require.

``(4) STATE.—The term `State' has the meaning given such term for purposes of title XIX.''.

(b) EXCLUSION OF PRICES FROM DETERMINATION OF BEST PRICE.—Section 1927(c)(1)(C)(i) (42 U.S.C. 1396r-8(c)(1)(C)(i)) is amended—

(1) by striking ``and'' at the end of subclause (III);

(2) by striking the period at the end of subclause (IV) and inserting ``; and''; and

(3) by adding at the end the following new subclause:

``(V) any negotiated prices charged under the medicare prescription drug discount card endorsement program under section 1807 or under the transitional prescription drug assistance card program for eligible low-income beneficiaries under section 1807A.''.

(c) EXCLUSION OF PRESCRIPTION DRUG ASSISTANCE CARD COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(g) of the Social Security Act (42 U.S.C. 1395r(g)) is amended—

(1) by striking ``attributable to the application of section'' and inserting ``attributable to—

``(1) the application of section'';

(2) by striking the period and inserting ``; and''; and

(3) by adding at the end the following new paragraph:

``(2) the prescription drug assistance card program under section 1807A.''.

(d) REGULATIONS.—

(1) AUTHORITY FOR INTERIM FINAL REGULATIONS.—The Secretary may promulgate initial regulations implementing sections 1807 and 1807A of the Social Security Act (as added by this section) in interim final form without prior opportunity for public comment.

(2) FINAL REGULATIONS.—A final regulation reflecting public comments must be published within 1 year of the interim final regulation promulgated under paragraph (1).

(3) EXEMPTION FROM THE PAPERWORK REDUCTION ACT.—The promulgation of the regulations under this subsection and the administration the programs established by sections 1807 and 1807A of the Social Security Act (as added by this section) shall be made without regard to chapter 35 of title 44, United States Code (commonly known as the ``Paperwork Reduction Act'').

(e) IMPLEMENTATION; TRANSITION.—

(1) IMPLEMENTATION.—The Secretary shall implement the amendments made by this section in a manner that discounts are available to eligible beneficiaries under section 1807 of the Social Security Act and assistance is available to eligible low-income beneficiaries under section 1807A of such Act not later than January 1, 2004.

(2) TRANSITION.—The Secretary shall provide for an appropriate transition and discontinuation of the programs under section 1807 and 1807A of the Social Security Act. Such transition and discontinuation shall ensure that such programs continue to operate until the date on which the first enrollment period under part D ends.

Subtitle C—Standards for Electronic Prescribing

SEC. 121. STANDARDS FOR ELECTRONIC PRESCRIBING.

Title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new part:

``PART D—ELECTRONIC PRESCRIBING

``STANDARDS FOR ELECTRONIC PRESCRIBING

``SEC. 1180. (a) STANDARDS.—

``(1) DEVELOPMENT AND ADOPTION.—

``(A) IN GENERAL.—The Secretary shall develop or adopt standards for transactions and data elements for such transactions (in this section referred to as `standards') to enable the electronic transmission of medication history, eligibility, benefit, and other prescription information.

``(B) CONSULTATION.—In developing and adopting the standards under subparagraph (A), the Secretary shall consult with representatives of physicians, hospitals, pharmacists, standard setting organizations, pharmacy benefit managers, beneficiary information exchange networks, technology experts, and representatives of the Departments of Veterans Affairs and Defense and other interested parties.'

``(2) OBJECTIVE.—Any standards developed or adopted under this part shall be consistent with the objectives of improving—

``(A) patient safety; and

``(B) the quality of care provided to patients.

``(3) REQUIREMENTS.—Any standards developed or adopted under this part shall comply with the following:

``(A) ELECTRONIC TRANSMITTAL OF PRESCRIPTIONS.—

``(i) IN GENERAL.—Except as provided in clause (ii), the standards require that prescriptions be written and transmitted electronically.

``(ii) EXCEPTIONS.—The standards shall not require a prescription to be written and transmitted electronically—

``(I) in emergency cases and other exceptional circumstances recognized by the Administrator; or

``(II) if the patient requests that the prescription not be transmitted electronically.

If a patient makes a request under subclause (II), no additional charges may be imposed on the patient for making such request.

``(B) PATIENT-SPECIFIC MEDICATION HISTORY, ELIGIBILITY, BENEFIT, AND OTHER PRESCRIPTION INFORMATION.—

``(i) IN GENERAL.—The standards shall accommodate electronic transmittal of patient-specific medication history, eligibility, benefit, and other prescription information among prescribing and dispensing professionals at the point of care.

``(ii) REQUIRED INFORMATION.—The information described in clause (i) shall include the following:

``(I) Information (to the extent available and feasible) on the drugs being prescribed for that patient and other information relating to the medication history of the patient that may be relevant to the appropriate prescription for that patient.

``(II) Cost-effective alternatives (if any) to the drug prescribed.

``(III) Information on eligibility and benefits, including the drugs included in the applicable formulary and any requirements for prior authorization.

``(IV) Information on potential interactions with drugs listed on the medication history, graded by severity of the potential interaction.

``(V) Other information to improve the quality of patient care and to reduce medical errors.

``(C) UNDUE BURDEN.—The standards shall be designed so that, to the extent practicable, the standards do not impose an undue administrative burden on the practice of medicine, pharmacy, or other health professions.

``(D) COMPATIBILITY WITH ADMINISTRATIVE SIMPLIFICATION AND PRIVACY LAWS.—The standards shall be—

"(i) consistent with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996: and

"(ii) compatible with the standards adopted under part C.

"(4) TRANSFER OF INFORMATION.—The Secretary shall develop and adopt standards for transferring among prescribing and insurance entities and other necessary entities appropriate standard data elements needed for the electronic exchange of medication history, eligibility, benefit, and other prescription drug information and other health information determined appropriate in compliance with the standards adopted or modified under this part.

"(b) TIMETABLE FOR ADOPTION OF STANDARDS.—

"(1) IN GENERAL.—The Secretary shall adopt the standards under this part by January 1, 2006.

"(2) ADDITIONS AND MODIFICATIONS TO STANDARDS.—The Secretary shall, in consultation with appropriate representatives of interested parties, review the standards developed or adopted under this part and adopt modifications to the standards (including additions to the standards), as determined appropriate. Any addition or modification to such standards shall be completed in a manner which minimizes the disruption and cost of compliance.

"(c) COMPLIANCE WITH STANDARDS.—

"(1) REQUIREMENT FOR ALL INDIVIDUALS AND ENTITIES THAT TRANSMIT OR RECEIVE PRESCRIPTIONS ELECTRONICALLY.—

"(A) IN GENERAL.—Individuals or entities that transmit or receive electronic medication history, eligibility, benefit and prescription information, shall comply with the standards adopted or modified under this part.

"(B) RELATION TO STATE LAWS.—The standards adopted or modified under this part shall supersede any State law or regulations pertaining to the electronic transmission of medication history, eligibility, benefit and prescription information.

"(2) TIMETABLE FOR COMPLIANCE.—

"(A) INITIAL COMPLIANCE.—

"(i) IN GENERAL.—Not later than 24 months after the date on which an initial standard is adopted under this part, each individual or entity to whom the standard applies shall comply with the standard.

"(ii) SPECIAL RULE FOR SMALL HEALTH PLANS.—In the case of a small health plan, as defined by the Secretary for purposes of section 1175(b)(1)(B), clause (i) shall be applied by substituting '36 months' for '24 months'.

"(d) CONSULTATION WITH ATTORNEY GENERAL.—The Secretary shall consult with the Attorney General before developing, adopting, or modifying a standard under this part to ensure that the standard accommodates secure electronic transmission of prescriptions for controlled substances in a manner that minimizes the possibility of violations under the Comprehensive Drug Abuse Prevention and Control Act of 1970 and related Federal laws.

"GRANTS TO HEALTH CARE PROVIDERS TO IMPLEMENT ELECTRONIC PRESCRIPTION PROGRAMS

"SEC. 1180A. (a) IN GENERAL.—The Secretary is authorized to make grants to health care providers for the purpose of assisting such entities to implement electronic prescription programs that comply with the standards adopted or modified under this part.

"(b) APPLICATION.—No grant may be made under this section except pursuant to a grant application that is submitted in a time, manner, and form approved by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2006, 2007, and 2008, such sums as may be necessary to carry out this section.".

Subtitle D—Other Provisions

SEC. 131. ADDITIONAL REQUIREMENTS FOR ANNUAL FINANCIAL REPORT AND OVERSIGHT ON MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(l) COMBINED REPORT ON OPERATION AND STATUS OF THE TRUST FUND AND THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND (INCLUDING THE PRESCRIPTION DRUG ACCOUNT).—In addition to the duty of the Board of Trustees to report to Congress under subsection (b), on the date the Board submits the report required under subsection (b)(2), the Board shall submit to Congress a report on the operation and status of the Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 (including the Prescription Drug Account within such Trust Fund), in this subsection referred to as the 'Trust Funds'. Such report shall include the following information:

"(1) OVERALL SPENDING FROM THE GENERAL FUND OF THE TREASURY.—A statement of total amounts obligated during the preceding fiscal year from the General Revenues of the Treasury to the Trust Funds, separately stated in terms of the total amount and in terms of the percentage such amount bears to all other amounts obligated from such General Revenues during such fiscal year, for each of the following amounts:

"(A) MEDICARE BENEFITS.—The amount expended for payment of benefits covered under this title.

"(B) ADMINISTRATIVE AND OTHER EXPENSES.—The amount expended for payments not related to the benefits described in subparagraph (A).

"(2) HISTORICAL OVERVIEW OF SPENDING.—From the date of the inception of the program of insurance under this title through the fiscal year involved, a statement of the total amounts referred to in paragraph (1), separately stated for the amounts described in subparagraphs (A) and (B) of such paragraph.

"(3) 10-YEAR AND 50-YEAR PROJECTIONS.—An estimate of total amounts referred to in paragraph (1), separately stated for the amounts described in subparagraphs (A) and (B) of such paragraph, required to be obligated for payment for benefits covered under this title for each of the 10 fiscal years succeeding the fiscal year involved and for the 50-year period beginning with the succeeding fiscal year.

"(4) RELATION TO OTHER MEASURES OF GROWTH.—A comparison of the rate of growth of the total amounts referred to in paragraph (1), separately stated for the amounts described in subparagraphs (A) and (B) of such paragraph, to the rate of growth for the same period in—

"(A) the gross domestic product;

"(B) health insurance costs in the private sector;

"(C) employment-based health insurance costs in the public and private sectors; and

"(D) other areas as determined appropriate by the Board of Trustees.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal years beginning on or after the date of enactment of this Act.

(c) CONGRESSIONAL HEARINGS.—It is the sense of Congress that the committees of jurisdiction of Congress shall hold hearings on the reports submitted under section 1817(l) of the Social Security Act (as added by subsection (a)).

SEC. 132. TRUSTEES' REPORT ON MEDICARE'S UNFUNDED OBLIGATIONS.

(a) REPORT.—The report submitted under sections 1817(b)(2) and 1841(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2) and 1395t(b)(2)) during 2004 shall include an analysis of the total amount of the unfunded obligations of the Medicare program under title XVIII of the Social Security Act.

(b) MATTERS ANALYZED.—The analysis described in subsection (A) shall compare the long-term obligations of the Medicare program to the dedicated funding sources for that program (other than general revenue transfers), including the combined obligations of the Federal Hospital Insurance Trust Fund established under section 1817 of such Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t).

TITLE II—MEDICAREADVANTAGE

Subtitle A—MedicareAdvantage Competition

SEC. 201. ELIGIBILITY, ELECTION, AND ENROLLMENT.

Section 1851 (42 U.S.C. 1395w-21) is amended to read as follows:

"ELIGIBILITY, ELECTION, AND ENROLLMENT

"SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICAREADVANTAGE PLANS.—

"(1) IN GENERAL.—Subject to the provisions of this section, each MedicareAdvantage eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—

"(A) through—

"(i) the original Medicare fee-for-service program under parts A and B; and

"(ii) the voluntary prescription drug delivery program under part D; or

"(B) through enrollment in a MedicareAdvantage plan under this part.

"(2) TYPES OF MEDICAREADVANTAGE PLANS THAT MAY BE AVAILABLE.—A MedicareAdvantage plan may be any of the following types of plans of health insurance:

"(A) COORDINATED CARE PLANS.—Coordinated care plans which provide health care services, including health maintenance organization plans (with or without point of service options) and plans offered by provider-sponsored organizations (as defined in section 1855(d)).

"(B) COMBINATION OF MSA PLAN AND CONTRIBUTIONS TO MEDICAREADVANTAGE MSA.—An MSA plan, as defined in section 1859(b)(3), and a contribution into a MedicareAdvantage medical savings account (MSA).

"(C) PRIVATE FEE-FOR-SERVICE PLANS.—A MedicareAdvantage private fee-for-service plan, as defined in section 1859(b)(2).

"(3) MEDICAREADVANTAGE ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—Subject to subparagraph (B), in this title, the term 'MedicareAdvantage eligible individual' means an individual who is entitled to (or enrolled for) benefits under part A, enrolled under part B, and enrolled under part D.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that—

"(i) an individual who develops end-stage renal disease while enrolled in a

Medicare+Choice or a MedicareAdvantage plan may continue to be enrolled in that plan; and

"(ii) in the case of such an individual who is enrolled in a Medicare+Choice plan or a MedicareAdvantage plan under clause (i) (or subsequently under this clause), if the enrollment is discontinued under circumstances described in section 1851(e)(4)(A), then the individual will be treated as a 'MedicareAdvantage eligible individual' for purposes of electing to continue enrollment in another MedicareAdvantage plan.

"(b) Special Rules.—

"(1) Residence requirement.—

"(A) In general.—Except as the Secretary may otherwise provide and except as provided in subparagraph (C), an individual is eligible to elect a MedicareAdvantage plan offered by a MedicareAdvantage organization only if the plan serves the geographic area in which the individual resides.

"(B) Continuation of enrollment permitted.—Pursuant to rules specified by the Secretary, the Secretary shall provide that a plan may offer to all individuals residing in a geographic area the option to continue enrollment in the plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides that individuals exercising this option have, as part of the basic benefits described in section 1852(a)(1)(A), reasonable access within that geographic area to the full range of basic benefits, subject to reasonable cost-sharing liability in obtaining such benefits.

"(C) Continuation of enrollment permitted where service changed.—Notwithstanding subparagraph (A) and in addition to subparagraph (B), if a MedicareAdvantage organization eliminates from its service area a MedicareAdvantage payment area that was previously within its service area, the organization may elect to offer individuals residing in all or portions of the affected area who would otherwise be ineligible to continue enrollment the option to continue enrollment in a MedicareAdvantage plan it offers so long as—

"(i) the enrollee agrees to receive the full range of basic benefits (excluding emergency and urgently needed care) exclusively at facilities designated by the organization within the plan service area; and

"(ii) there is no other MedicareAdvantage plan offered in the area in which the enrollee resides at the time of the organization's election.

"(2) Special rule for certain individuals covered under FEHBP or eligible for veterans or military health benefits.—

"(A) FEHBP.—An individual who is enrolled in a health benefit plan under chapter 89 of title 5, United States Code, is not eligible to enroll in an MSA plan until such time as the Director of the Office of Management and Budget certifies to the Secretary that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

"(B) VA and DOD.—The Secretary may apply rules similar to the rules described in subparagraph (A) in the case of individuals who are eligible for health care benefits under chapter 55 of title 10, United States Code, or under chapter 17 of title 38 of such Code.

"(3) Limitation on eligibility of qualified medicare beneficiaries and other medicaid beneficiaries to enroll in an MSA plan.—An individual who is a qualified medicare beneficiary (as defined in section 1905(p)(1)), a qualified disabled and working individual (described in section 1905(s)), an individual described in section 1902(a)(10)(E)(iii), or otherwise entitled to medicare cost-sharing under a State plan under title XIX is not eligible to enroll in an MSA plan.

"(4) Coverage under MSA plans on a demonstration basis.—

"(A) In general.—An individual is not eligible to enroll in an MSA plan under this part—

"(i) on or after January 1, 2004, unless the enrollment is the continuation of such an enrollment in effect as of such date; or

"(ii) as of any date if the number of such individuals so enrolled as of such date has reached 390,000.

Under rules established by the Secretary, an individual is not eligible to enroll (or continue enrollment) in an MSA plan for a year unless the individual provides assurances satisfactory to the Secretary that the individual will reside in the United States for at least 183 days during the year.

"(B) Evaluation.—The Secretary shall regularly evaluate the impact of permitting enrollment in MSA plans under this part on selection (including adverse selection), use of preventive care, access to care, and the financial status of the Trust Funds under this title.

"(C) Reports.—The Secretary shall submit to Congress periodic reports on the numbers of individuals enrolled in such plans and on the evaluation being conducted under subparagraph (B).

"(c) Process for Exercising Choice.—

"(1) In general.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) Coordination through MedicareAdvantage organizations.—

"(A) Enrollment.—Such process shall permit an individual who wishes to elect a MedicareAdvantage plan offered by a MedicareAdvantage organization to make such election through the filing of an appropriate election form with the organization.

"(B) Disenrollment.—Such process shall permit an individual who has elected a MedicareAdvantage plan offered by a MedicareAdvantage organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(3) Default.—

"(A) Initial election.—

"(i) In general.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the original medicare fee-for-service program option.

"(ii) Seamless continuation of coverage.—The Secretary may establish procedures under which an individual who is enrolled in a Medicare+Choice plan or another health plan (other than a MedicareAdvantage plan) offered by a MedicareAdvantage organization at the time of the initial election period and who fails to elect to receive coverage other than through the organization is deemed to have elected the MedicareAdvantage plan offered by the organization (or, if the organization offers more than 1 such plan, such plan or plans as the Secretary identifies under such procedures).

"(B) Continuing periods.—An individual who has made (or is deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section; or

"(ii) the MedicareAdvantage plan with respect to which such election is in effect is discontinued or, subject to subsection (b)(1)(B), no longer serves the area in which the individual resides.

"(d) Providing Information To Promote Informed Choice.—

"(1) In general.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.

"(2) Provision of notice.—

"(A) Open season notification.—At least 15 days before the beginning of each annual, coordinated election period (as defined in subsection (e)(3)(B)), the Secretary shall mail to each MedicareAdvantage eligible individual residing in an area the following:

"(i) General information.—The general information described in paragraph (3).

"(ii) List of plans and comparison of plan options.—A list identifying the MedicareAdvantage plans that are (or will be) available to residents of the area and information described in paragraph (4) concerning such plans. Such information shall be presented in a comparative form.

"(iii) Additional information.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordinated, to the extent practicable, with the mailing of any annual notice under section 1804.

"(B) Notification to newly eligible MedicareAdvantage eligible individuals.—To the extent practicable, the Secretary shall, not later than 30 days before the beginning of the initial MedicareAdvantage enrollment period for an individual described in subsection (e)(1), mail to the individual the information described in subparagraph (A).

"(C) Form.—The information disseminated under this paragraph shall be written and formatted using language that is easily understandable by medicare beneficiaries.

"(D) Periodic updating.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of MedicareAdvantage plans, the benefits under such plans, and the MedicareAdvantage monthly basic beneficiary premium, MedicareAdvantage monthly beneficiary premium for enhanced medical benefits, and MedicareAdvantage monthly beneficiary obligation for qualified prescription drug coverage for such plans.

"(3) General information.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:

"(A) Benefits under the original medicare fee-for-service program option.—A general description of the benefits covered under parts A and B of the original medicare fee-for-service program, including—

"(i) covered items and services;

"(ii) beneficiary cost-sharing, such as deductibles, coinsurance, and copayment amounts; and

"(iii) any beneficiary liability for balance billing.

"(B) CATASTROPHIC COVERAGE AND COMBINED DEDUCTIBLE.—A description of the catastrophic coverage and unified deductible applicable under the plan.

"(C) OUTPATIENT PRESCRIPTION DRUG COVERAGE BENEFITS.—The information required under section 1860D-4 with respect to coverage for prescription drugs under the plan.

"(D) ELECTION PROCEDURES.—Information and instructions on how to exercise election options under this section.

"(E) RIGHTS.—A general description of procedural rights (including grievance and appeals procedures) of beneficiaries under the original medicare fee-for-service program (including such rights under part D) and the MedicareAdvantage program and the right to be protected against discrimination based on health status-related factors under section 1852(b).

"(F) INFORMATION ON MEDIGAP AND MEDICARE SELECT.—A general description of the benefits, enrollment rights, and other requirements applicable to medicare supplemental policies under section 1882 and provisions relating to medicare select policies described in section 1882(t).

"(G) POTENTIAL FOR CONTRACT TERMINATION.—The fact that a MedicareAdvantage organization may terminate its contract, refuse to renew its contract, or reduce the service area included in its contract, under this part, and the effect of such a termination, nonrenewal, or service area reduction may have on individuals enrolled with the MedicareAdvantage plan under this part.

"(4) INFORMATION COMPARING PLAN OPTIONS.—Information under this paragraph, with respect to a MedicareAdvantage plan for a year, shall include the following:

"(A) BENEFITS.—The benefits covered under the plan, including the following:

"(i) Covered items and services beyond those provided under the original medicare fee-for-service program option.

"(ii) Beneficiary cost-sharing for any items and services described in clause (i) and paragraph (3)(A)(i), including information on the unified deductible under section 1852(a)(1)(C).

"(iii) The maximum limitations on out-of-pocket expenses under section 1852(a)(1)(C).

"(iv) In the case of an MSA plan, differences in cost-sharing, premiums, and balance billing under such a plan compared to under other MedicareAdvantage plans.

"(v) In the case of a MedicareAdvantage private fee-for-service plan, differences in cost-sharing, premiums, and balance billing under such a plan compared to under other MedicareAdvantage plans.

"(vi) The extent to which an enrollee may obtain benefits through out-of-network health care providers.

"(vii) The extent to which an enrollee may select among in-network providers and the types of providers participating in the plan's network.

"(viii) The organization's coverage of emergency and urgently needed care.

"(ix) The comparative information described in section 1860D-4(b)(2) relating to prescription drug coverage under the plan.

"(B) PREMIUMS.—

"(i) IN GENERAL.—The MedicareAdvantage monthly basic beneficiary premium and MedicareAdvantage monthly beneficiary premium for enhanced medical benefits, if any, for the plan or, in the case of an MSA plan, the MedicareAdvantage monthly MSA premium.

"(ii) REDUCTIONS.—The reduction in part B premiums, if any.

"(iii) NATURE OF THE PREMIUM FOR ENHANCED MEDICAL BENEFITS.—Whether the MedicareAdvantage monthly premium for enhanced benefits is optional or mandatory.

"(C) SERVICE AREA.—The service area of the plan.

"(D) QUALITY AND PERFORMANCE.—Plan quality and performance indicators for the benefits under the plan (and how such indicators compare to quality and performance indicators under the original medicare fee-for-service program under parts A and B and under the voluntary prescription drug delivery program under part D in the area involved), including—

"(i) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area);

"(ii) information on medicare enrollee satisfaction;

"(iii) information on health outcomes; and

"(iv) the recent record regarding compliance of the plan with requirements of this part (as determined by the Secretary).

"(5) MAINTAINING A TOLL-FREE NUMBER AND INTERNET SITE.—The Secretary shall maintain a toll-free number for inquiries regarding MedicareAdvantage options and the operation of this part in all areas in which MedicareAdvantage plans are offered and an Internet site through which individuals may electronically obtain information on such options and MedicareAdvantage plans.

"(6) USE OF NON-FEDERAL ENTITIES.—The Secretary may enter into contracts with non-Federal entities to carry out activities under this subsection.

"(7) PROVISION OF INFORMATION.—A MedicareAdvantage organization shall provide the Secretary with such information on the organization and each MedicareAdvantage plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION IF MEDICAREADVANTAGE PLANS AVAILABLE TO INDIVIDUAL.—If, at the time an individual first becomes eligible to elect to receive benefits under part B or D (whichever is later), there is 1 or more MedicareAdvantage plans offered in the area in which the individual resides, the individual shall make the election under this section during a period specified by the Secretary such that if the individual elects a MedicareAdvantage plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.

"(2) OPEN ENROLLMENT AND DISENROLLMENT OPPORTUNITIES.—Subject to paragraph (5), the following rules shall apply:

"(A) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT THROUGH 2005.—At any time during the period beginning January 1, 1998, and ending on December 31, 2005, a Medicare+Choice eligible individual may change the election under subsection (a)(1).

"(B) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 6 MONTHS DURING 2006.—

"(i) IN GENERAL.—Subject to clause (ii) and subparagraph (D), at any time during the first 6 months of 2006, or, if the individual first becomes a MedicareAdvantage eligible individual during 2006, during the first 6 months during 2006 in which the individual is a MedicareAdvantage eligible individual, a MedicareAdvantage eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF 1 CHANGE.—An individual may exercise the right under clause (i) only once. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under the first sentence of paragraph (4).

"(C) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 3 MONTHS IN SUBSEQUENT YEARS.—

"(i) IN GENERAL.—Subject to clause (ii) and subparagraph (D), at any time during the first 3 months of 2007 and each subsequent year, or, if the individual first becomes a MedicareAdvantage eligible individual during 2007 or any subsequent year, during the first 3 months of such year in which the individual is a MedicareAdvantage eligible individual, a MedicareAdvantage eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF 1 CHANGE DURING OPEN ENROLLMENT PERIOD EACH YEAR.—An individual may exercise the right under clause (i) only once during the applicable 3-month period described in such clause in each year. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under paragraph (4).

"(D) CONTINUOUS OPEN ENROLLMENT FOR INSTITUTIONALIZED INDIVIDUALS.—At any time during 2006 or any subsequent year, in the case of a MedicareAdvantage eligible individual who is institutionalized (as defined by the Secretary), the individual may elect under subsection (a)(1)—

"(i) to enroll in a MedicareAdvantage plan; or

"(ii) to change the MedicareAdvantage plan in which the individual is enrolled.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during an annual, coordinated election period.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a year before 2003 and after 2006, the month of November before such year and with respect to 2003, 2004, 2005, and 2006, the period beginning on November 15 and ending on December 31 of the year before such year.

"(C) MEDICAREADVANTAGE HEALTH INFORMATION FAIRS.—During the fall season of each year (beginning with 2006), in conjunction with the annual coordinated election period defined in subparagraph (B), the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform MedicareAdvantage eligible individuals about MedicareAdvantage plans and the election process provided under this section.

"(D) SPECIAL INFORMATION CAMPAIGN IN 2005.—During the period beginning on November 15, 2005, and ending on December 31, 2005, the Secretary shall provide for an educational and publicity campaign to inform MedicareAdvantage eligible individuals about the availability of MedicareAdvantage plans, and eligible organizations with risk-sharing contracts under section 1876, offered in different areas and the election process provided under this section.

"(4) SPECIAL ELECTION PERIODS.—Effective on and after January 1, 2006, an individual may discontinue an election of a MedicareAdvantage plan offered by a

MedicareAdvantage organization other than during an annual, coordinated election period and make a new election under this section if—

“(A)(i) the certification of the organization or plan under this part has been terminated, or the organization or plan has notified the individual of an impending termination of such certification; or

“(ii) the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides, or has notified the individual of an impending termination or discontinuation of such plan;

“(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of the individual's enrollment on the basis described in clause (i) or (ii) of subsection (g)(3)(B));

“(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

“(i) the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual (including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards); or

“(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's provisions in marketing the plan to the individual; or

“(D) the individual meets such other exceptional conditions as the Secretary may provide.

Effective on and after January 1, 2006, an individual who, upon first becoming eligible for benefits under part A at age 65, enrolls in a MedicareAdvantage plan under this part, the individual may discontinue the election of such plan, and elect coverage under the original fee-for-service plan, at any time during the 12-month period beginning on the effective date of such enrollment.

“(5) Special rules for MSA plans.—Notwithstanding the preceding provisions of this subsection, an individual—

“(A) may elect an MSA plan only during—

“(i) an initial open enrollment period described in paragraph (1);

“(ii) an annual, coordinated election period described in paragraph (3)(B); or

“(iii) the month of November 1998;

“(B) subject to subparagraph (C), may not discontinue an election of an MSA plan except during the periods described in clause (ii) or (iii) of subparagraph (A) and under the first sentence of paragraph (4); and

“(C) who elects an MSA plan during an annual, coordinated election period, and who never previously had elected such a plan, may revoke such election, in a manner determined by the Secretary, by not later than December 15 following the date of the election.

“(6) Open enrollment periods.—Subject to paragraph (5), a MedicareAdvantage organization—

“(A) shall accept elections or changes to elections during the initial enrollment periods described in paragraph (1), during the period beginning on November 15, 2005, and ending on December 31, 2005, and during the annual, coordinated election period under paragraph (3) for each subsequent year, and during special election periods described in the first sentence of paragraph (4); and

“(B) may accept other changes to elections at such other times as the organization provides.

“(f) Effectiveness of Elections and Changes of Elections.—

“(1) During initial coverage election period.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to (or enrolled for) benefits under part A, enrolled under part B, and enrolled under part D, except as the Secretary may provide (consistent with sections 1838 and 1860D–2)) in order to prevent retroactive coverage.

“(2) During continuous open enrollment periods.—An election or change of coverage made under subsection (e)(2) shall take effect with the first day of the first calendar month following the date on which the election or change is made.

“(3) Annual, coordinated election period.—An election or change of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

“(4) Other periods.—An election or change of coverage made during any other period under subsection (e)(4) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

“(g) Guaranteed Issue and Renewal.—

“(1) In general.—Except as provided in this subsection, a MedicareAdvantage organization shall provide that at any time during which elections are accepted under this section with respect to a MedicareAdvantage plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

“(2) Priority.—If the Secretary determines that a MedicareAdvantage organization, in relation to a MedicareAdvantage plan it offers, has a capacity limit and the number of MedicareAdvantage eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—

“(A) first to such individuals as have elected the plan at the time of the determination; and

“(B) then to other such individuals in such a manner that does not discriminate, on a basis described in section 1852(b), among the individuals (who seek to elect the plan).

The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.

“(3) Limitation on termination of election.—

“(A) In general.—Subject to subparagraph (B), a MedicareAdvantage organization may not for any reason terminate the election of any individual under this section for a MedicareAdvantage plan it offers.

“(B) Basis for termination of election.—A MedicareAdvantage organization may terminate an individual's election under this section with respect to a MedicareAdvantage plan it offers if—

“(i) any MedicareAdvantage monthly basic beneficiary premium, MedicareAdvantage monthly beneficiary obligation for qualified prescription drug coverage, or MedicareAdvantage monthly beneficiary premium for required or optional enhanced medical benefits required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of such premiums);

“(ii) the individual has engaged in disruptive behavior (as specified in such standards); or

“(iii) the plan is terminated with respect to all individuals under this part in the area in which the individual resides.

“(C) Consequence of termination.—

“(i) Terminations for cause.—Any individual whose election is terminated under clause (i) or (ii) of subparagraph (B) is deemed to have elected to receive benefits under the original medicare fee-for-service program option.

“(ii) Termination based on plan termination or service area reduction.—Any individual whose election is terminated under subparagraph (B)(iii) shall have a special election period under subsection (e)(4)(A) in which to change coverage to coverage under another MedicareAdvantage plan. Such an individual who fails to make an election during such period is deemed to have chosen to change coverage to the original medicare fee-for-service program option.

“(D) Organization obligation with respect to election forms.—Pursuant to a contract under section 1857858., each MedicareAdvantage organization receiving an election form under subsection (c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

“(h) Approval of Marketing Material and Application Forms.—

“(1) Submission.—No marketing material or application form may be distributed by a MedicareAdvantage organization to (or for the use of) MedicareAdvantage eligible individuals unless—

“(A) at least 45 days (or 10 days in the case described in paragraph (5)) before the date of distribution the organization has submitted the material or form to the Secretary for review; and

“(B) the Secretary has not disapproved the distribution of such material or form.

“(2) Review.—The standards established under section 1856 shall include guidelines for the review of any material or form submitted and under such guidelines the Secretary shall disapprove (or later require the correction of) such material or form if the material or form is materially inaccurate or misleading or otherwise makes a material misrepresentation.

“(3) Deemed approval (1-stop shopping).—In the case of material or form that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing material or form under paragraph (1)(B) with respect to a MedicareAdvantage plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization except with regard to that portion of such material or form that is specific only to an area involved.

“(4) Prohibition of certain marketing practices.—Each MedicareAdvantage organization shall conform to fair marketing standards, in relation to MedicareAdvantage plans offered under this part, included in the standards established under section 1856. Such standards—

"(A) shall not permit a MedicareAdvantage organization to provide for cash or other monetary rebates as an inducement for enrollment or otherwise (other than as an additional benefit described in section 1854(g)(1)(C)(i)); and

"(B) may include a prohibition against a MedicareAdvantage organization (or agent of such an organization) completing any portion of any election form used to carry out elections under this section on behalf of any individual.

"(5) Special treatment of marketing material following model marketing language.—In the case of marketing material of an organization that uses, without modification, proposed model language specified by the Secretary, the period specified in paragraph (1)(A) shall be reduced from 45 days to 10 days.

"(i) Effect of Election of MedicareAdvantage Plan Option.—

"(1) Payments to organizations.—Subject to sections 1852(a)(5), 1853(h), 1853(i), 1886(d)(11), and 1886(h)(3)(D), payments under a contract with a MedicareAdvantage organization under section 1853(a) with respect to an individual electing a MedicareAdvantage plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A, B, and D for items and services furnished to the individual.

"(2) Only organization entitled to payment.—Subject to sections 1853(f), 1853(h), 1853(i), 1857(f)(2), 1886(d)(11), and 1886(h)(3)(D), only the MedicareAdvantage organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.".

SEC. 202. BENEFITS AND BENEFICIARY PROTECTIONS.

Section 1852 (42 U.S.C. 1395w–22) is amended to read as follows:

"BENEFITS AND BENEFICIARY PROTECTIONS

"Sec. 1852. (a) Basic Benefits.—

"(1) In general.—Except as provided in section 1859(b)(3) for MSA plans, each MedicareAdvantage plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(A) those items and services (other than hospice care) for which benefits are available under parts A and B to individuals residing in the area served by the plan;

"(B) except as provided in paragraph (2)(D), qualified prescription drug coverage under part D to individuals residing in the area served by the plan;

"(C) a maximum limitation on out-of-pocket expenses and a unified deductible; and

"(D) additional benefits required under section 1854(d)(1).

"(2) Satisfaction of requirement.—

"(A) In general.—A MedicareAdvantage plan (other than an MSA plan) offered by a MedicareAdvantage organization satisfies paragraph (1)(A), with respect to benefits for items and services furnished other than through a provider or other person that has a contract with the organization offering the plan, if the plan provides payment in an amount so that—

"(i) the sum of such payment amount and any cost-sharing provided for under the plan; is equal to at least

"(ii) the total dollar amount of payment for such items and services as would otherwise be authorized under parts A and B (including any balance billing permitted under such parts).

"(B) Reference to related provisions.—For provisions relating to—

"(i) limitations on balance billing against MedicareAdvantage organizations for non-contract providers, see sections 1852(k) and 1866(a)(1)(O); and

"(ii) limiting actuarial value of enrollee liability for covered benefits, see section 1854(f).

"(C) Election of uniform coverage policy.—In the case of a MedicareAdvantage organization that offers a MedicareAdvantage plan in an area in which more than 1 local coverage policy is applied with respect to different parts of the area, the organization may elect to have the local coverage policy for the part of the area that is most beneficial to MedicareAdvantage enrollees (as identified by the Secretary) apply with respect to all MedicareAdvantage enrollees enrolled in the plan.

"(D) Special rule for private fee-for-service plans.—

"(i) In general.—A private fee-for-service plan may elect not to provide qualified prescription drug coverage under part D to individuals residing in the area served by the plan.

"(ii) Availability of drug coverage for enrollees.—If a beneficiary enrolls in a plan making the election described in clause (i), the beneficiary may enroll for drug coverage under part D with an eligible entity under such part.

"(3) Enhanced medical benefits.—

"(A) Benefits included subject to secretary's approval.—Each MedicareAdvantage organization may provide to individuals enrolled under this part, other than under an MSA plan (without affording those individuals an option to decline the coverage), enhanced medical benefits that the Secretary may approve. The Secretary shall approve any such enhanced medical benefits unless the Secretary determines that including such enhanced medical benefits would substantially discourage enrollment by MedicareAdvantage eligible individuals with the organization.

"(B) At enrollees' option.—A MedicareAdvantage organization may not provide, under an MSA plan, enhanced medical benefits that cover the deductible described in section 1859(b)(2)(B). In applying the previous sentence, health benefits described in section 1882(u)(2)(B) shall not be treated as covering such deductible.

"(C) Application to MedicareAdvantage private fee-for-service plans.—Nothing in this paragraph shall be construed as preventing a MedicareAdvantage private fee-for-service plan from offering enhanced medical benefits that include payment for some or all of the balance billing amounts permitted consistent with section 1852(k) and coverage of additional services that the plan finds to be medically necessary.

"(D) Rule for approval of medical and prescription drug benefits.—Notwithstanding the preceding provisions of this paragraph, the Secretary may not approve any enhanced medical benefit that provides for the coverage of any prescription drug (other than that relating to prescription drugs covered under the original medicare fee-for-service program option).

"(4) Organization as secondary payer.—Notwithstanding any other provision of law, a MedicareAdvantage organization may (in the case of the provision of items and services to an individual under a MedicareAdvantage plan under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under a law, plan, or policy described in such section—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services; or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(5) National coverage determinations and legislative changes in benefits.—If there is a national coverage determination or legislative change in benefits required to be provided under this part made in the period beginning on the date of an announcement under section 1853(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a MedicareAdvantage organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the benchmark amount announced under section 1853(b)(1)(A) at the beginning of such period, then, unless otherwise required by law—

"(A) such determination or legislative change in benefits shall not apply to contracts under this part until the first contract year that begins after the end of such period; and

"(B) if such coverage determination or legislative change provides for coverage of additional benefits or coverage under additional circumstances, section 1851(i)(1) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period.

The projection under the previous sentence shall be based on an analysis by the Secretary of the actuarial costs associated with the coverage determination or legislative change in benefits.

"(6) Authority to prohibit risk selection.—The Secretary shall have the authority to disapprove any MedicareAdvantage plan that the Secretary determines is designed to attract a population that is healthier than the average population residing in the service area of the plan.

"(7) Unified deductible defined.—In this part, the term 'unified deductible' means an annual deductible amount that is applied in lieu of the inpatient hospital deductible under section 1813(b)(1) and the deductible under section 1833(b). Nothing in this part shall be construed as preventing a MedicareAdvantage organization from requiring coinsurance or a copayment for inpatient hospital services after the unified deductible is satisfied, subject to the limitation on enrollee liability under section 1854(f).

"(b) Antidiscrimination.—

"(1) Beneficiaries.—

"(A) In general.—A MedicareAdvantage organization may not deny, limit, or condition the coverage or provision of benefits under this part, for individuals permitted to be enrolled with the organization under this part, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

"(B) Construction.—Except as provided under section 1851(a)(3)(B), subparagraph (A) shall not be construed as requiring a MedicareAdvantage organization to enroll individuals who are determined to have end-stage renal disease.

``(2) Providers.—A MedicareAdvantage organization shall not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification. This paragraph shall not be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

``(c) Disclosure Requirements.—

``(1) Detailed description of plan provisions.—A MedicareAdvantage organization shall disclose, in clear, accurate, and standardized form to each enrollee with a MedicareAdvantage plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:

``(A) Service area.—The plan's service area.

``(B) Benefits.—Benefits offered under the plan, including information described section 1852(a)(1) (relating to benefits under the original Medicare fee-for-service program option, the maximum limitation in out-of-pocket expenses and the unified deductible, and qualified prescription drug coverage under part D, respectively) and exclusions from coverage and, if it is an MSA plan, a comparison of benefits under such a plan with benefits under other MedicareAdvantage plans.

``(C) Access.—The number, mix, and distribution of plan providers, out-of-network coverage (if any) provided by the plan, and any point-of-service option (including the MedicareAdvantage monthly beneficiary premium for enhanced medical benefits for such option).

``(D) Out-of-area coverage.—Out-of-area coverage provided by the plan.

``(E) Emergency coverage.—Coverage of emergency services, including—

``(i) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

``(ii) the process and procedures of the plan for obtaining emergency services; and

``(iii) the locations of—

``(I) emergency departments; and

``(II) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

``(F) Enhanced medical benefits.—Enhanced medical benefits available from the organization offering the plan, including—

``(i) whether the enhanced medical benefits are optional;

``(ii) the enhanced medical benefits covered; and

``(iii) the MedicareAdvantage monthly beneficiary premium for enhanced medical benefits.

``(G) Prior authorization rules.—Rules regarding prior authorization or other review requirements that could result in nonpayment.

``(H) Plan grievance and appeals procedures.—All plan appeal or grievance rights and procedures.

``(I) Quality assurance program.—A description of the organization's quality assurance program under subsection (e).

``(2) Disclosure upon request.—Upon request of a MedicareAdvantage eligible individual, a MedicareAdvantage organization must provide the following information to such individual:

``(A) The general coverage information and general comparative plan information made available under clauses (i) and (ii) of section 1851(d)(2)(A).

``(B) Information on procedures used by the organization to control utilization of services and expenditures.

``(C) Information on the number of grievances, reconsiderations, and appeals and on the disposition in the aggregate of such matters.

``(D) An overall summary description as to the method of compensation of participating physicians.

``(E) The information described in subparagraphs (A) through (C) in relation to the qualified prescription drug coverage provided by the organization.

``(d) Access to Services.—

``(1) In general.—A MedicareAdvantage organization offering a MedicareAdvantage plan may select the providers from whom the benefits under the plan are provided so long as—

``(A) the organization makes such benefits available and accessible to each individual electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

``(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

``(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

``(i) the services were not emergency services (as defined in paragraph (3)), but—

``(I) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition; and

``(II) it was not reasonable given the circumstances to obtain the services through the organization;

``(ii) the services were renal dialysis services and were provided other than through the organization because the individual was temporarily out of the plan's service area; or

``(iii) the services are maintenance care or post-stabilization care covered under the guidelines established under paragraph (2);

``(D) the organization provides access to appropriate providers, including credentialed specialists, for medically necessary treatment and services; and

``(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

``(2) Guidelines respecting coordination of post-stabilization care.—A MedicareAdvantage plan shall comply with such guidelines as the Secretary may prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable under section 1867.

``(3) Definition of emergency services.—In this subsection—

``(A) In general.—The term `emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

``(i) are furnished by a provider that is qualified to furnish such services under this title; and

``(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

``(B) Emergency medical condition based on prudent layperson.—The term `emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

``(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

``(ii) serious impairment to bodily functions; or

``(iii) serious dysfunction of any bodily organ or part.

``(4) Assuring access to services in MedicareAdvantage private fee-for-service plans.—In addition to any other requirements under this part, in the case of a MedicareAdvantage private fee-for-service plan, the organization offering the plan must demonstrate to the Secretary that the organization has sufficient number and range of health care professionals and providers willing to provide services under the terms of the plan. The Secretary shall find that an organization has met such requirement with respect to any category of health care professional or provider if, with respect to that category of provider—

``(A) the plan has established payment rates for covered services furnished by that category of provider that are not less than the payment rates provided for under part A, B, or D for such services; or

``(B) the plan has contracts or agreements with a sufficient number and range of providers within such category to provide covered services under the terms of the plan,

or a combination of both. The previous sentence shall not be construed as restricting the persons from whom enrollees under such a plan may obtain covered benefits.

``(e) Quality Assurance Program.—

``(1) In general.—Each MedicareAdvantage organization must have arrangements, consistent with any regulation, for an ongoing quality assurance program for health care services it provides to individuals enrolled with MedicareAdvantage plans of the organization.

``(2) Elements of program.—

``(A) In general.—The quality assurance program of an organization with respect to a MedicareAdvantage plan (other than a MedicareAdvantage private fee-for-service plan or a nonnetwork MSA plan) it offers shall—

``(i) stress health outcomes and provide for the collection, analysis, and reporting of data (in accordance with a quality measurement system that the Secretary recognizes) that will permit measurement of outcomes and other indices of the quality of MedicareAdvantage plans and organizations;

``(ii) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;

``(iii) provide access to disease management and chronic care services;

``(iv) provide access to preventive benefits and information for enrollees on such benefits;

``(v) evaluate the continuity and coordination of care that enrollees receive;

``(vi) be evaluated on an ongoing basis as to its effectiveness;

``(vii) include measures of consumer satisfaction;

“(viii) provide the Secretary with such access to information collected as may be appropriate to monitor and ensure the quality of care provided under this part;

“(ix) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

“(x) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

“(xi) have mechanisms to detect both underutilization and overutilization of services;

“(xii) after identifying areas for improvement, establish or alter practice parameters;

“(xiii) take action to improve quality and assesses the effectiveness of such action through systematic followup; and

“(xiv) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate).

Such program shall include a separate focus (with respect to all the elements described in this subparagraph) on racial and ethnic minorities.

“(B) Elements of program for organizations offering MedicareAdvantage private fee-for-service plans, and nonnetwork MSA plans.—The quality assurance program of an organization with respect to a MedicareAdvantage private fee-for-service plan or a nonnetwork MSA plan it offers shall—

“(i) meet the requirements of clauses (i) through (viii) of subparagraph (A);

“(ii) insofar as it provides for the establishment of written protocols for utilization review, base such protocols on current standards of medical practice; and

“(iii) have mechanisms to evaluate utilization of services and inform providers and enrollees of the results of such evaluation.

Such program shall include a separate focus (with respect to all the elements described in this subparagraph) on racial and ethnic minorities.

“(C) Definition of nonnetwork MSA plan.—In this subsection, the term ‘nonnetwork MSA plan’ means an MSA plan offered by a MedicareAdvantage organization that does not provide benefits required to be provided by this part, in whole or in part, through a defined set of providers under contract, or under another arrangement, with the organization.

“(3) External review.—

“(A) In general.—Each MedicareAdvantage organization shall, for each MedicareAdvantage plan. it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary to perform functions of the type described in paragraphs (4)(B) and (14) of section 1154(a) with respect to services furnished by MedicareAdvantage plans for which payment is made under this title. The previous sentence shall not apply to a MedicareAdvantage private fee-for-service plan or a nonnetwork MSA plan that does not employ utilization review.

“(B) Nonduplication of accreditation.—Except in the case of the review of quality complaints, and consistent with subparagraph (C), the Secretary shall ensure that the external review activities conducted under subparagraph (A) are not duplicative of review activities conducted as part of the accreditation process.

“(C) Waiver authority.—The Secretary may waive the requirement described in subparagraph (A) in the case of an organization if the Secretary determines that the organization has consistently maintained an excellent record of quality assurance and compliance with other requirements under this part.

“(4) Treatment of accreditation.—

“(A) In general.—The Secretary shall provide that a MedicareAdvantage organization is deemed to meet all the requirements described in any specific clause of subparagraph (B) if the organization is accredited (and periodically reaccredited) by a private accrediting organization under a process that the Secretary has determined assures that the accrediting organization applies and enforces standards that meet or exceed the standards established under section 1856 to carry out the requirements in such clause.

“(B) Requirements described.—The provisions described in this subparagraph are the following:

“(i) Paragraphs (1) and (2) of this subsection (relating to quality assurance programs).

“(ii) Subsection (b) (relating to antidiscrimination).

“(iii) Subsection (d) (relating to access to services).

“(iv) Subsection (h) (relating to confidentiality and accuracy of enrollee records).

“(v) Subsection (i) (relating to information on advance directives).

“(vi) Subsection (j) (relating to provider participation rules).

“(C) Timely action on applications.—The Secretary shall determine, within 210 days after the date the Secretary receives an application by a private accrediting organization and using the criteria specified in section 1865(b)(2), whether the process of the private accrediting organization meets the requirements with respect to any specific clause in subparagraph (B) with respect to which the application is made. The Secretary may not deny such an application on the basis that it seeks to meet the requirements with respect to only one, or more than one, such specific clause.

“(D) Construction.—Nothing in this paragraph shall be construed as limiting the authority of the Secretary under section 1857, including the authority to terminate contracts with MedicareAdvantage organizations under subsection (c)(2) of such section.

“(5) Report to congress.—

“(A) In general.—The Secretary shall submit to Congress a biennial report regarding how quality assurance programs conducted under this subsection focus on racial and ethnic minorities.

“(B) Contents of report.—Each such report shall include the following:

“(i) A description of the means by which such programs focus on such racial and ethnic minorities.

“(ii) An evaluation of the impact of such programs on eliminating health disparities and on improving health outcomes, continuity and coordination of care, management of chronic conditions, and consumer satisfaction.

“(iii) Recommendations on ways to reduce clinical outcome disparities among racial and ethnic minorities.

“(f) Grievance Mechanism.—Each MedicareAdvantage organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees with MedicareAdvantage plans of the organization under this part.

“(g) Coverage Determinations, Reconsiderations, and Appeals.—

“(1) Determinations by organization.—

“(A) In general.—A MedicareAdvantage organization shall have a procedure for making determinations regarding whether an individual enrolled with the plan of the organization under this part is entitled to receive a health service under this section and the amount (if any) that the individual is required to pay with respect to such service. Subject to paragraph (3), such procedures shall provide for such determination to be made on a timely basis.

“(B) Explanation of determination.—Such a determination that denies coverage, in whole or in part, shall be in writing and shall include a statement in understandable language of the reasons for the denial and a description of the reconsideration and appeals processes.

“(2) Reconsiderations.—

“(A) In general.—The organization shall provide for reconsideration of a determination described in paragraph (1)(B) upon request by the enrollee involved. The reconsideration shall be within a time period specified by the Secretary, but shall be made, subject to paragraph (3), not later than 60 days after the date of the receipt of the request for reconsideration.

“(B) Physician decision on certain reconsiderations.—A reconsideration relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician with appropriate expertise in the field of medicine which necessitates treatment who is other than a physician involved in the initial determination.

“(3) Expedited determinations and reconsiderations.—

“(A) Receipt of requests.—

“(i) Enrollee requests.—An enrollee in a MedicareAdvantage plan may request, either in writing or orally, an expedited determination under paragraph (1) or an expedited reconsideration under paragraph (2) by the MedicareAdvantage organization.

“(ii) Physician requests.—A physician, regardless whether the physician is affiliated with the organization or not, may request, either in writing or orally, such an expedited determination or reconsideration.

“(B) Organization procedures.—

“(i) In general.—The MedicareAdvantage organization shall maintain procedures for expediting organization determinations and reconsiderations when, upon request of an enrollee, the organization determines that the application of the normal timeframe for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

“(ii) Expedition required for physician requests.—In the case of a request for an expedited determination or reconsideration made under subparagraph (A)(ii), the organization shall expedite the determination or reconsideration if the request indicates that the application of the normal timeframe for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

“(iii) Timely response.—In cases described in clauses (i) and (ii), the organization shall notify the enrollee (and the physician involved, as appropriate) of the determination or reconsideration under time limitations established by the Secretary, but not later than 72 hours of the time of receipt of the request for the determination or reconsideration (or receipt of the information necessary to make the determination or reconsideration), or such longer period as the Secretary may permit in specified cases.

“(4) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve in a timely manner reconsiderations that affirm denial of coverage, in whole or in part. The provisions of section 1869(c)(5) shall apply to independent outside entities under contract with the Secretary under this paragraph.

“(5) APPEALS.—An enrollee with a MedicareAdvantage plan of a MedicareAdvantage organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying subsections (b) and (g) of section 205 as provided in this paragraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

“(h) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Insofar as a MedicareAdvantage organization maintains medical records or other health information regarding enrollees under this part, the MedicareAdvantage organization shall establish procedures—

“(1) to safeguard the privacy of any individually identifiable enrollee information;

“(2) to maintain such records and information in a manner that is accurate and timely; and

“(3) to assure timely access of enrollees to such records and information.

“(i) INFORMATION ON ADVANCE DIRECTIVES.—Each MedicareAdvantage organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

“(j) RULES REGARDING PROVIDER PARTICIPATION.—

“(1) PROCEDURES.—Insofar as a MedicareAdvantage organization offers benefits under a MedicareAdvantage plan through agreements with physicians, the organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under such a plan. Such procedures shall include—

“(A) providing notice of the rules regarding participation;

“(B) providing written notice of participation decisions that are adverse to physicians; and

“(C) providing a process within the organization for appealing such adverse decisions, including the presentation of information and views of the physician regarding such decision.

“(2) CONSULTATION IN MEDICAL POLICIES.—A MedicareAdvantage organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

“(3) PROHIBITING INTERFERENCE WITH PROVIDER ADVICE TO ENROLLEES.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a MedicareAdvantage organization (in relation to an individual enrolled under a MedicareAdvantage plan offered by the organization under this part) shall not prohibit or otherwise restrict a covered health care professional (as defined in subparagraph (D)) from advising such an individual who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan, if the professional is acting within the lawful scope of practice.

“(B) CONSCIENCE PROTECTION.—Subparagraph (A) shall not be construed as requiring a MedicareAdvantage plan to provide, reimburse for, or provide coverage of a counseling or referral service if the MedicareAdvantage organization offering the plan—

“(i) objects to the provision of such service on moral or religious grounds; and

“(ii) in the manner and through the written instrumentalities such MedicareAdvantage organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization or plan adopts a change in policy regarding such a counseling or referral service.

“(C) CONSTRUCTION.—Nothing in subparagraph (B) shall be construed to affect disclosure requirements under State law or under the Employee Retirement Income Security Act of 1974.

“(D) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this paragraph, the term ‘health care professional’ means a physician (as defined in section 1861(r)) or other health care professional if coverage for the professional's services is provided under the MedicareAdvantage plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, licensed pharmacist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

“(4) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

“(A) IN GENERAL.—No MedicareAdvantage organization may operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

“(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

“(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

“(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or group; and

“(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

“(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

“(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term ‘physician incentive plan’ means any compensation arrangement between a MedicareAdvantage organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

“(5) LIMITATION ON PROVIDER INDEMNIFICATION.—A MedicareAdvantage organization may not provide (directly or indirectly) for a health care professional, provider of services, or other entity providing health care services (or group of such professionals, providers, or entities) to indemnify the organization against any liability resulting from a civil action brought for any damage caused to an enrollee with a MedicareAdvantage plan of the organization under this part by the organization's denial of medically necessary care.

“(6) SPECIAL RULES FOR MEDICAREADVANTAGE PRIVATE FEE-FOR-SERVICE PLANS.—For purposes of applying this part (including subsection (k)(1)) and section 1866(a)(1)(O), a hospital (or other provider of services), a physician or other health care professional, or other entity furnishing health care services is treated as having an agreement or contract in effect with a MedicareAdvantage organization (with respect to an individual enrolled in a MedicareAdvantage private fee-for-service plan it offers), if—

“(A) the provider, professional, or other entity furnishes services that are covered under the plan to such an enrollee; and

“(B) before providing such services, the provider, professional, or other entity —

“(i) has been informed of the individual's enrollment under the plan; and

“(ii) either—

“(I) has been informed of the terms and conditions of payment for such services under the plan; or

“(II) is given a reasonable opportunity to obtain information concerning such terms and conditions,

in a manner reasonably designed to effect informed agreement by a provider.

The previous sentence shall only apply in the absence of an explicit agreement between such a provider, professional, or other entity and the MedicareAdvantage organization.

“(k) TREATMENT OF SERVICES FURNISHED BY CERTAIN PROVIDERS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this part with a MedicareAdvantage organization described in section 1851(a)(2)(A) shall accept as payment in full for covered services under this title that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a MedicareAdvantage organization under this part) also applies with respect to an individual so enrolled.

"(2) Application to MedicareAdvantage private fee-for-service plans.—

"(A) Balance billing limits under MedicareAdvantage private fee-for-service plans in case of contract providers.—

"(i) In general.—In the case of an individual enrolled in a MedicareAdvantage private fee-for-service plan under this part, a physician, provider of services, or other entity that has a contract (including through the operation of subsection (j)(6)) establishing a payment rate for services furnished to the enrollee shall accept as payment in full for covered services under this title that are furnished to such an individual an amount not to exceed (including any deductibles, coinsurance, copayments, or balance billing otherwise permitted under the plan) an amount equal to 115 percent of such payment rate.

"(ii) Procedures to enforce limits.—The MedicareAdvantage organization that offers such a plan shall establish procedures, similar to the procedures described in section 1848(g)(1)(A), in order to carry out clause (i).

"(iii) Assuring enforcement.—If the MedicareAdvantage organization fails to establish and enforce procedures required under clause (ii), the organization is subject to intermediate sanctions under section 1857(g).

"(B) Enrollee liability for noncontract providers.—For provisions—

"(i) establishing a minimum payment rate in the case of noncontract providers under a MedicareAdvantage private fee-for-service plan, see section 1852(a)(2); or

"(ii) limiting enrollee liability in the case of covered services furnished by such providers, see paragraph (1) and section 1866(a)(1)(O).

"(C) Information on beneficiary liability.—

"(i) In general.—Each MedicareAdvantage organization that offers a MedicareAdvantage private fee-for-service plan shall provide that enrollees under the plan who are furnished services for which payment is sought under the plan are provided an appropriate explanation of benefits (consistent with that provided under parts A, B, and D, and, if applicable, under medicare supplemental policies) that includes a clear statement of the amount of the enrollee's liability (including any liability for balance billing consistent with this subsection) with respect to payments for such services.

"(ii) Advance notice before receipt of inpatient hospital services and certain other services.—In addition, such organization shall, in its terms and conditions of payments to hospitals for inpatient hospital services and for other services identified by the Secretary for which the amount of the balance billing under subparagraph (A) could be substantial, require the hospital to provide to the enrollee, before furnishing such services and if the hospital imposes balance billing under subparagraph (A)—

"(I) notice of the fact that balance billing is permitted under such subparagraph for such services; and

"(II) a good faith estimate of the likely amount of such balance billing (if any), with respect to such services, based upon the presenting condition of the enrollee.

"(l) Return to Home Skilled Nursing Facilities for Covered Post-Hospital Extended Care Services.—

"(1) Ensuring return to home SNF.—

"(A) In general.—In providing coverage of post-hospital extended care services, a MedicareAdvantage plan shall provide for such coverage through a home skilled nursing facility if the following conditions are met:

"(i) Enrollee election.—The enrollee elects to receive such coverage through such facility.

"(ii) SNF agreement.—The facility has a contract with the MedicareAdvantage organization for the provision of such services, or the facility agrees to accept substantially similar payment under the same terms and conditions that apply to similarly situated skilled nursing facilities that are under contract with the MedicareAdvantage organization for the provision of such services and through which the enrollee would otherwise receive such services.

"(B) Manner of payment to home SNF.—The organization shall provide payment to the home skilled nursing facility consistent with the contract or the agreement described in subparagraph (A)(ii), as the case may be.

"(2) No less favorable coverage.—The coverage provided under paragraph (1) (including scope of services, cost-sharing, and other criteria of coverage) shall be no less favorable to the enrollee than the coverage that would be provided to the enrollee with respect to a skilled nursing facility the post-hospital extended care services of which are otherwise covered under the MedicareAdvantage plan.

"(3) Rule of construction.—Nothing in this subsection shall be construed to do the following:

"(A) To require coverage through a skilled nursing facility that is not otherwise qualified to provide benefits under part A for medicare beneficiaries not enrolled in a MedicareAdvantage plan.

"(B) To prevent a skilled nursing facility from refusing to accept, or imposing conditions upon the acceptance of, an enrollee for the receipt of post-hospital extended care services.

"(4) Definitions.—In this subsection:

"(A) Home skilled nursing facility.—The term 'home skilled nursing facility' means, with respect to an enrollee who is entitled to receive post-hospital extended care services under a MedicareAdvantage plan, any of the following skilled nursing facilities:

"(i) SNF residence at time of admission.—The skilled nursing facility in which the enrollee resided at the time of admission to the hospital preceding the receipt of such post-hospital extended care services.

"(ii) SNF in continuing care retirement community.—A skilled nursing facility that is providing such services through a continuing care retirement community (as defined in subparagraph (B)) which provided residence to the enrollee at the time of such admission.

"(iii) SNF residence of spouse at time of discharge.—The skilled nursing facility in which the spouse of the enrollee is residing at the time of discharge from such hospital.

"(B) Continuing care retirement community.—The term 'continuing care retirement community' means, with respect to an enrollee in a MedicareAdvantage plan, an arrangement under which housing and health-related services are provided (or arranged) through an organization for the enrollee under an agreement that is effective for the life of the enrollee or for a specified period.".

SEC. 203. PAYMENTS TO MEDICAREADVANTAGE ORGANIZATIONS.

Section 1853 (42 U.S.C. 1395w–23) is amended to read as follows:

"PAYMENTS TO MEDICAREADVANTAGE ORGANIZATIONS

"Sec. 1853. (a) Payments to Organizations.—

"(1) Monthly payments.—

"(A) In general.—Under a contract under section 1857 and subject to subsections (f), (h), and (j) and section 1859(e)(4), the Secretary shall make, to each MedicareAdvantage organization, with respect to coverage of an individual for a month under this part in a MedicareAdvantage payment area, separate monthly payments with respect to—

"(i) benefits under the original medicare fee-for-service program under parts A and B in accordance with subsection (d); and

"(ii) benefits under the voluntary prescription drug program under part D in accordance with section 1858A and the other provisions of this part.

"(B) Special rule for end-stage renal disease.—The Secretary shall establish separate rates of payment to a MedicareAdvantage organization with respect to classes of individuals determined to have end-stage renal disease and enrolled in a MedicareAdvantage plan of the organization. Such rates of payment shall be actuarially equivalent to rates paid to other enrollees in the MedicareAdvantage payment area (or such other area as specified by the Secretary). In accordance with regulations, the Secretary shall provide for the application of the seventh sentence of section 1881(b)(7) to payments under this section covering the provision of renal dialysis treatment in the same manner as such sentence applies to composite rate payments described in such sentence. In establishing such rates, the Secretary shall provide for appropriate adjustments to increase each rate to reflect the demonstration rate (including the risk adjustment methodology associated with such rate) of the social health maintenance organization end-stage renal disease capitation demonstrations (established by section 2355 of the Deficit Reduction Act of 1984, as amended by section 13567(b) of the Omnibus Budget Reconciliation Act of 1993), and shall compute such rates by taking into account such factors as renal treatment modality, age, and the underlying cause of the end-stage renal disease.

"(2) Adjustment to reflect number of enrollees.—

"(A) In general.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) Special rule for certain enrollees.—

"(i) In general.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a MedicareAdvantage organization under a plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1852(c) at the time the individual enrolled with the organization.

"(C) EQUALIZATION OF FEDERAL CONTRIBUTION.—In applying subparagraph (A), the Secretary shall ensure that the payment to the MedicareAdvantage organization for each individual enrolled with the organization shall equal the MedicareAdvantage benchmark amount for the payment area in which that individual resides (as determined under paragraph (4)), as adjusted—

"(i) by multiplying the benchmark amount for that payment area by the ratio of—

"(I) the payment amount determined under subsection (d)(4); to

"(II) the weighted service area benchmark amount determined under subsection (d)(2); and

"(ii) using such risk adjustment factor as specified by the Secretary under subsection (b)(1)(B).

"(3) COMPREHENSIVE RISK ADJUSTMENT METHODOLOGY.—

"(A) APPLICATION OF METHODOLOGY.—The Secretary shall apply the comprehensive risk adjustment methodology described in subparagraph (B) to 100 percent of the amount of payments to plans under subsection (d)(4)(B).

"(B) COMPREHENSIVE RISK ADJUSTMENT METHODOLOGY DESCRIBED.—The comprehensive risk adjustment methodology described in this subparagraph is the risk adjustment methodology that would apply with respect to MedicareAdvantage plans offered by MedicareAdvantage organizations in 2005, except that if such methodology does not apply to groups of beneficiaries who are aged or disabled and groups of beneficiaries who have end-stage renal disease, the Secretary shall revise such methodology to apply to such groups.

"(C) UNIFORM APPLICATION TO ALL TYPES OF PLANS.—Subject to section 1859(e)(4), the comprehensive risk adjustment methodology established under this paragraph shall be applied uniformly without regard to the type of plan.

"(D) DATA COLLECTION.—In order to carry out this paragraph, the Secretary shall require MedicareAdvantage organizations to submit such data and other information as the Secretary deems necessary.

"(E) IMPROVEMENT OF PAYMENT ACCURACY.—Notwithstanding any other provision of this paragraph, the Secretary may revise the comprehensive risk adjustment methodology described in subparagraph (B) from time to time to improve payment accuracy.

"(4) ANNUAL CALCULATION OF BENCHMARK AMOUNTS.—For each year, the Secretary shall calculate a benchmark amount for each MedicareAdvantage payment area for each month for such year with respect to coverage of the benefits available under the original medicare fee-for-service program option equal to the greater of the following amounts (adjusted as appropriate for the application of the risk adjustment methodology under paragraph (3)):

"(A) MINIMUM AMOUNT.—$1/12$ of the annual Medicare+Choice capitation rate determined under subsection (c)(1)(B) for the payment area for the year.

"(B) LOCAL FEE-FOR-SERVICE RATE.—The local fee-for-service rate for such area for the year (as calculated under paragraph (5)).

"(5) ANNUAL CALCULATION OF LOCAL FEE-FOR-SERVICE RATES.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'local fee-for-service rate' means the amount of payment for a month in a MedicareAdvantage payment area for benefits under this title and associated claims processing costs for an individual who has elected to receive benefits under the original medicare fee-for-service program option and not enrolled in a MedicareAdvantage plan under this part. The Secretary shall annually calculate such amount in a manner similar to the manner in which the Secretary calculated the adjusted average per capita cost under section 1876.

"(B) REMOVAL OF MEDICAL EDUCATION COSTS FROM CALCULATION OF LOCAL FEE-FOR-SERVICE RATE.—

"(i) IN GENERAL.—In calculating the local fee-for-service rate under subparagraph (A) for a year, the amount of payment described in such subparagraph shall be adjusted to exclude from such payment the payment adjustments described in clause (ii).

"(ii) PAYMENT ADJUSTMENTS DESCRIBED.—

"(I) IN GENERAL.—Subject to subclause (II), the payment adjustments described in this subparagraph are payment adjustments which the Secretary estimates are payable during the year—

"(aa) for the indirect costs of medical education under section 1886(d)(5)(B); and

"(bb) for direct graduate medical education costs under section 1886(h).

"(II) TREATMENT OF PAYMENTS COVERED UNDER STATE HOSPITAL REIMBURSEMENT SYSTEM.—To the extent that the Secretary estimates that the amount of the local fee-for-service rates reflects payments to hospitals reimbursed under section 1814(b)(3), the Secretary shall estimate a payment adjustment that is comparable to the payment adjustment that would have been made under clause (i) if the hospitals had not been reimbursed under such section.

"(b) ANNUAL ANNOUNCEMENT OF PAYMENT FACTORS.—

"(1) ANNUAL ANNOUNCEMENT.—Beginning in 2005, at the same time as the Secretary publishes the risk adjusters under section 1860D–11, the Secretary shall annually announce (in a manner intended to provide notice to interested parties) the following payment factors:

"(A) The benchmark amount for each MedicareAdvantage payment area (as calculated under subsection (a)(4)) for the year.

"(B) The factors to be used for adjusting payments under the comprehensive risk adjustment methodology described in subsection (a)(3)(B) with respect to each MedicareAdvantage payment area for the year.

"(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (1) for a year, the Secretary shall—

"(A) provide for notice to MedicareAdvantage organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement; and

"(B) provide such organizations with an opportunity to comment on such proposed changes.

"(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1), the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that MedicareAdvantage organizations can compute each payment factor described in paragraph (1).

"(c) CALCULATION OF ANNUAL MEDICARE+CHOICE CAPITATION RATES.—

"(1) IN GENERAL.—For purposes of making payments under this part for years before 2006 and for purposes of calculating the annual Medicare+Choice capitation rates under paragraph (7) beginning with such year, subject to paragraph (6)(C), each annual Medicare+Choice capitation rate, for a Medicare+Choice payment area before 2006 or a MedicareAdvantage payment area beginning with such year for a contract year consisting of a calendar year, is equal to the largest of the amounts specified in the following subparagraph (A), (B), or (C):

"(A) BLENDED CAPITATION RATE.—The sum of—

"(i) the area-specific percentage (as specified under paragraph (2) for the year) of the annual area-specific Medicare+Choice capitation rate for the MedicareAdvantage payment area, as determined under paragraph (3) for the year; and

"(ii) the national percentage (as specified under paragraph (2) for the year) of the input-price-adjusted annual national Medicare+Choice capitation rate, as determined under paragraph (4) for the year,

multiplied by the budget neutrality adjustment factor determined under paragraph (5).

"(B) MINIMUM AMOUNT.—12 multiplied by the following amount:

"(i) For 1998, $367 (but not to exceed, in the case of an area outside the 50 States and the District of Columbia, 150 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area).

"(ii) For 1999 and 2000, the minimum amount determined under clause (i) or this clause, respectively, for the preceding year, increased by the national per capita Medicare+Choice growth percentage described in paragraph (6)(A) applicable to 1999 or 2000, respectively.

"(iii)(I) Subject to subclause (II), for 2001, for any area in a Metropolitan Statistical Area with a population of more than 250,000, $525, and for any other area $475.

"(II) In the case of an area outside the 50 States and the District of Columbia, the amount specified in this clause shall not exceed 120 percent of the amount determined under clause (ii) for such area for 2000.

"(iv) For 2002 through 2013, the minimum amount specified in this clause (or clause (iii)) for the preceding year increased by the national per capita Medicare+Choice growth percentage, described in paragraph (6)(A) for that succeeding year.

"(v) For 2014 and each succeeding year, the minimum amount specified in this clause (or clause (iv)) for the preceding year increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.

"(C) MINIMUM PERCENTAGE INCREASE.—

"(i) For 1998, 102 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the Medicare+Choice payment area.

"(ii) For 1999 and 2000, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

"(iii) For 2001, 103 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2000.

"(iv) For 2002 and each succeeding year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

"(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—

"(A) for 1998, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent;

"(B) for 1999, the 'area-specific percentage' is 82 percent and the 'national percentage' is 18 percent;

"(C) for 2000, the 'area-specific percentage' is 74 percent and the 'national percentage' is 26 percent;

"(D) for 2001, the 'area-specific percentage' is 66 percent and the 'national percentage' is 34 percent;

"(E) for 2002, the 'area-specific percentage' is 58 percent and the 'national percentage' is 42 percent; and

"(F) for a year after 2002, the 'area-specific percentage' is 50 percent and the 'national percentage' is 50 percent.

"(3) ANNUAL AREA-SPECIFIC MEDICARE+CHOICE CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), subject to subparagraph (B), the annual area-specific Medicare+Choice capitation rate for a Medicare+Choice payment area—

"(i) for 1998 is, subject to subparagraph (D), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area, increased by the national per capita Medicare+Choice growth percentage for 1998 (described in paragraph (6)(A)); or

"(ii) for a subsequent year is the annual area-specific Medicare+Choice capitation rate for the previous year determined under this paragraph for the area, increased by the national per capita Medicare+Choice growth percentage for such subsequent year.

"(B) REMOVAL OF MEDICAL EDUCATION FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—

"(i) IN GENERAL.—In determining the area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 1998), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to exclude from the rate the applicable percent (specified in clause (ii)) of the payment adjustments described in subparagraph (C).

"(ii) APPLICABLE PERCENT.—For purposes of clause (i), the applicable percent for—

"(I) 1998 is 20 percent;

"(II) 1999 is 40 percent;

"(III) 2000 is 60 percent;

"(IV) 2001 is 80 percent; and

"(V) a succeeding year is 100 percent.

"(C) PAYMENT ADJUSTMENT.—

"(i) IN GENERAL.—Subject to clause (ii), the payment adjustments described in this subparagraph are payment adjustments which the Secretary estimates were payable during 1997—

"(I) for the indirect costs of medical education under section 1886(d)(5)(B); and

"(II) for direct graduate medical education costs under section 1886(h).

"(ii) TREATMENT OF PAYMENTS COVERED UNDER STATE HOSPITAL REIMBURSEMENT SYSTEM.—To the extent that the Secretary estimates that an annual per capita rate of payment for 1997 described in clause (i) reflects payments to hospitals reimbursed under section 1814(b)(3), the Secretary shall estimate a payment adjustment that is comparable to the payment adjustment that would have been made under clause (i) if the hospitals had not been reimbursed under such section.

"(D) TREATMENT OF AREAS WITH HIGHLY VARIABLE PAYMENT RATES.—In the case of a Medicare+Choice payment area for which the annual per capita rate of payment determined under section 1876(a)(1)(C) for 1997 varies by more than 20 percent from such rate for 1996, for purposes of this subsection the Secretary may substitute for such rate for 1997 a rate that is more representative of the costs of the enrollees in the area.

"(4) INPUT-PRICE-ADJUSTED ANNUAL NATIONAL MEDICARE+CHOICE CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the input-price-adjusted annual national Medicare+Choice capitation rate for a Medicare+Choice payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type of service) of—

"(i) the national standardized annual Medicare+Choice capitation rate (determined under subparagraph (B)) for the year;

"(ii) the proportion of such rate for the year which is attributable to such type of services; and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary may, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED ANNUAL MEDICARE+CHOICE CAPITATION RATE.—In subparagraph (A)(i), the 'national standardized annual Medicare+Choice capitation rate' for a year is equal to—

"(i) the sum (for all Medicare+Choice payment areas) of the product of—

"(I) the annual area-specific Medicare+Choice capitation rate for that year for the area under paragraph (3); and

"(II) the average number of medicare beneficiaries residing in that area in the year, multiplied by the average of the risk factor weights used to adjust payments under subsection (a)(1)(A) for such beneficiaries in such area; divided by

"(ii) the sum of the products described in clause (i)(II) for all areas for that year.

"(5) PAYMENT ADJUSTMENT BUDGET NEUTRALITY FACTOR.—For purposes of paragraph (1)(A), for each year, the Secretary shall determine a budget neutrality adjustment factor so that the aggregate of the payments under this part (other than those attributable to subsections (a)(3)(C)(iii) and (i)) shall equal the aggregate payments that would have been made under this part if payment were based entirely on area-specific capitation rates.

"(6) NATIONAL PER CAPITA MEDICARE+CHOICE GROWTH PERCENTAGE DEFINED.—

"(A) IN GENERAL.—In this part, the 'national per capita Medicare+Choice growth percentage' for a year is the percentage determined by the Secretary, by March 1st before the beginning of the year involved, to reflect the Secretary's estimate of the projected per capita rate of growth in expenditures under this title for an individual entitled to (or enrolled for) benefits under part A and enrolled under part B, reduced by the number of percentage points specified in subparagraph (B) for the year. Separate determinations may be made for aged enrollees, disabled enrollees, and enrollees with end-stage renal disease.

"(B) ADJUSTMENT.—The number of percentage points specified in this subparagraph is—

"(i) for 1998, 0.8 percentage points;

"(ii) for 1999, 0.5 percentage points;

"(iii) for 2000, 0.5 percentage points;

"(iv) for 2001, 0.5 percentage points;

"(v) for 2002, 0.3 percentage points; and

"(vi) for a year after 2002, 0 percentage points.

"(C) ADJUSTMENT FOR OVER OR UNDER PROJECTION OF NATIONAL PER CAPITA MEDICARE+CHOICE GROWTH PERCENTAGE.—Beginning with rates calculated for 1999, before computing rates for a year as described in paragraph (1), the Secretary shall adjust all area-specific and national Medicare+Choice capitation rates (and beginning in 2000, the minimum amount) for the previous year for the differences between the projections of the national per capita Medicare+Choice growth percentage for that year and previous years and the current estimate of such percentage for such years.

"(7) TRANSITION TO MEDICAREADVANTAGE COMPETITION.—

"(A) IN GENERAL.—For each year (beginning with 2006) payments to MedicareAdvantage plans shall not be computed under this subsection, but instead shall be based on the payment amount determined under subsection (d).

"(B) CONTINUED CALCULATION OF CAPITATION RATES.—For each year (beginning with 2006) the Secretary shall calculate and publish the annual Medicare+Choice capitation rates under this subsection and shall use the annual Medicare+Choice capitation rate determined under subsection (c)(1) for purposes of determining the benchmark amount under subsection (a)(4).

"(d) SECRETARY'S DETERMINATION OF PAYMENT AMOUNT.—

"(1) REVIEW OF PLAN BIDS.—The Secretary shall review each plan bid submitted under section 1854(a) for the coverage of benefits under the original medicare fee-for-service program option to ensure that such bids are consistent with the requirements under this part and are based on the assumptions described in section 1854(a)(2)(A)(iii).

"(2) DETERMINATION OF WEIGHTED SERVICE AREA BENCHMARK AMOUNTS.—The Secretary shall calculate a weighted service area benchmark amount for the benefits under the original medicare fee-for-service program option for each plan equal to the weighted average of the benchmark amounts for benefits under such original medicare fee-for-service program option for the payment areas included in the service area of the plan using the assumptions described in section 1854(a)(2)(A)(iii).

"(3) COMPARISON TO BENCHMARK.—The Secretary shall determine the difference between each plan bid (as adjusted under paragraph (1)) and the weighted service area benchmark amount (as determined under paragraph (2)) for purposes of determining—

"(A) the payment amount under paragraph (4); and

"(B) the additional benefits required and MedicareAdvantage monthly basic beneficiary premiums.

"(4) DETERMINATION OF PAYMENT AMOUNT FOR ORIGINAL MEDICARE FEE-FOR-SERVICE BENEFITS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the payment amount for MedicareAdvantage plans for the benefits under the original medicare fee-for-service program option as follows:

"(i) BIDS THAT EQUAL OR EXCEED THE BENCHMARK.—In the case of a plan bid that equals or exceeds the weighted service area benchmark amount, the amount of each monthly payment to a MedicareAdvantage organization with respect to each individual enrolled in a plan shall be the weighted service area benchmark amount.

‘‘(ii) BIDS BELOW THE BENCHMARK.—In the case of a plan bid that is less than the weighted service area benchmark amount, the amount of each monthly payment to a MedicareAdvantage organization with respect to each individual enrolled in a plan shall be the weighted service area benchmark amount reduced by the amount of any premium reduction elected by the plan under section 1854(d)(1)(A)(i).

‘‘(B) APPLICATION OF COMPREHENSIVE RISK ADJUSTMENT METHODOLOGY.—The Secretary shall adjust the amounts determined under subparagraph (A) using the comprehensive risk adjustment methodology applicable under subsection (a)(3).

‘‘(6) ADJUSTMENT FOR NATIONAL COVERAGE DETERMINATIONS AND LEGISLATIVE CHANGES IN BENEFITS.—If the Secretary makes a determination with respect to coverage under this title or there is a change in benefits required to be provided under this part that the Secretary projects will result in a significant increase in the costs to MedicareAdvantage organizations of providing benefits under contracts under this part (for periods after any period described in section 1852(a)(5)), the Secretary shall appropriately adjust the benchmark amounts or payment amounts (as determined by the Secretary). Such projection and adjustment shall be based on an analysis by the Secretary of the actuarial costs associated with the new benefits.

‘‘(7) BENEFITS UNDER THE ORIGINAL MEDICARE FEE-FOR-SERVICE ,PROGRAM OPTION DEFINED.—For purposes of this part, the term ‘benefits under the original medicare fee-for-service program option’ means those items and services (other than hospice care) for which benefits are available under parts A and B to individuals entitled to, or enrolled for, benefits under part A and enrolled under part B, with cost-sharing for those services as required under parts A and B or an actuarially equivalent level of cost-sharing as determined in this part.

‘‘(e) MEDICAREADVANTAGE PAYMENT AREA DEFINED.—

‘‘(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term ‘MedicareAdvantage payment area’ means a county, or equivalent area specified by the Secretary.

‘‘(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the MedicareAdvantage payment area shall be a State or such other payment area as the Secretary specifies.

‘‘(3) GEOGRAPHIC ADJUSTMENT.—

‘‘(A) IN GENERAL.—Upon written request of the chief executive officer of a State for a contract year (beginning after 2005) made by not later than February 1 of the previous year, the Secretary shall make a geographic adjustment to a MedicareAdvantage payment area in the State otherwise determined under paragraph (1)—

‘‘(i) to a single statewide MedicareAdvantage payment area;

‘‘(ii) to the metropolitan based system described in subparagraph (C); or

‘‘(iii) to consolidating into a single MedicareAdvantage payment area noncontiguous counties (or equivalent areas described in paragraph (1)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

‘‘(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall initially (and annually thereafter) adjust the payment rates otherwise established under this section for MedicareAdvantage payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for MedicareAdvantage payment areas in the State in the absence of the adjustment under this paragraph.

‘‘(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

‘‘(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single MedicareAdvantage payment area; and

‘‘(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single MedicareAdvantage payment area.

‘‘(D) AREAS.—In subparagraph (C), the terms ‘metropolitan statistical area’, ‘consolidated metropolitan statistical area’, and ‘primary metropolitan statistical area’ mean any area designated as such by the Secretary of Commerce.

‘‘(f) SPECIAL RULES FOR INDIVIDUALS ELECTING MSA PLANS.—

‘‘(1) IN GENERAL.—If the amount of the MedicareAdvantage monthly MSA premium (as defined in section 1854(b)(2)(D)) for an MSA plan for a year is less than 1/12 of the annual Medicare+Choice capitation rate applied under this section for the area and year involved, the Secretary shall deposit an amount equal to 100 percent of such difference in a MedicareAdvantage MSA established (and, if applicable, designated) by the individual under paragraph (2).

‘‘(2) ESTABLISHMENT AND DESIGNATION OF MEDICAREADVANTAGE MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under an MSA plan, no payment shall be made under paragraph (1) on behalf of an individual for a month unless the individual—

‘‘(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a MedicareAdvantage MSA (as defined in section 138(b)(2) of the Internal Revenue Code of 1986); and

‘‘(B) if the individual has established more than 1 such MedicareAdvantage MSA, has designated 1 of such accounts as the individual’s MedicareAdvantage MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

‘‘(3) LUMP-SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing an MSA plan effective beginning with a month in a year, the amount of the contribution to the MedicareAdvantage MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

‘‘(g) PAYMENTS FROM TRUST FUNDS.—Except as provided in section 1858A(c) (relating to payments for qualified prescription drug coverage), the payment to a MedicareAdvantage organization under this section for individuals enrolled under this part with the organization and payments to a MedicareAdvantage MSA under subsection (e)(1) shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title. Monthly payments otherwise payable under this section for October 2000 shall be paid on the first business day of such month. Monthly payments otherwise payable under this section for October 2001 shall be paid on the last business day of September 2001. Monthly payments otherwise payable under this section for October 2006 shall be paid on the first business day of October 2006.

‘‘(h) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual’s—

‘‘(1) election under this part of a MedicareAdvantage plan offered by a MedicareAdvantage organization—

‘‘(A) payment for such services until the date of the individual’s discharge shall be made under this title through the MedicareAdvantage plan or the original medicare fee-for-service program option (as the case may be) elected before the election with such organization,

‘‘(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual’s discharge; and

‘‘(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

‘‘(2) termination of election with respect to a MedicareAdvantage organization under this part—

‘‘(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual’s discharge;

‘‘(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding MedicareAdvantage organization; and

‘‘(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

‘‘(i) SPECIAL RULE FOR HOSPICE CARE.—

‘‘(1) INFORMATION.—A contract under this part shall require the MedicareAdvantage organization to inform each individual enrolled under this part with a MedicareAdvantage plan offered by the organization about the availability of hospice care if—

‘‘(A) a hospice program participating under this title is located within the organization’s service area; or

‘‘(B) it is common practice to refer patients to hospice programs outside such service area.

‘‘(2) PAYMENT.—If an individual who is enrolled with a MedicareAdvantage organization under this part makes an election under section 1812(d)(1) to receive hospice care from a particular hospice program—

‘‘(A) payment for the hospice care furnished to the individual shall be made to the hospice program elected by the individual by the Secretary;

"(B) payment for other services for which the individual is eligible notwithstanding the individual's election of hospice care under section 1812(d)(1), including services not related to the individual's terminal illness, shall be made by the Secretary to the MedicareAdvantage organization or the provider or supplier of the service instead of payments calculated under subsection (a); and

"(C) the Secretary shall continue to make monthly payments to the MedicareAdvantage organization in an amount equal to the value of the additional benefits required under section 1854(f)(1)(A).".

SEC. 204. SUBMISSION OF BIDS; PREMIUMS.

Section 1854 (42 U.S.C. 1395w–24) is amended to read as follows:

"SUBMISSION OF BIDS; PREMIUMS

"SEC. 1854. (a) SUBMISSION OF BIDS BY MEDICAREADVANTAGE ORGANIZATIONS.—

"(1) IN GENERAL.—Not later than the second Monday in September and except as provided in paragraph (3), each MedicareAdvantage organization shall submit to the Secretary, in such form and manner as the Secretary may specify, for each MedicareAdvantage plan that the organization intends to offer in a service area in the following year—

"(A) notice of such intent and information on the service area of the plan;

"(B) the plan type for each plan;

"(C) if the MedicareAdvantage plan is a coordinated care plan (as described in section 1851(a)(2)(A)) or a private fee-for-service plan (as described in section 1851(a)(2)(C)), the information described in paragraph (2) with respect to each payment area;

"(D) the enrollment capacity (if any) in relation to the plan and each payment area;

"(E) the expected mix, by health status, of enrolled individuals; and

"(F) such other information as the Secretary may specify.

"(2) INFORMATION REQUIRED FOR COORDINATED CARE PLANS AND PRIVATE FEE-FOR-SERVICE PLANS.—For a MedicareAdvantage plan that is a coordinated care plan (as described in section 1851(a)(2)(A)) or a private fee-for-service plan (as described in section 1851(a)(2)(C)), the information described in this paragraph is as follows:

"(A) INFORMATION REQUIRED WITH RESPECT TO BENEFITS UNDER THE ORIGINAL MEDICARE FEE-FOR-SERVICE PROGRAM OPTION.—Information relating to the coverage of benefits under the original medicare fee-for-service program option as follows:

"(i) The plan bid, which shall consist of a dollar amount that represents the total amount that the plan is willing to accept (not taking into account the application of the comprehensive risk adjustment methodology under section 1853(a)(3)) for providing coverage of the benefits under the original medicare fee-for-service program option to an individual enrolled in the plan that resides in the service area of the plan for a month.

"(ii) For the enhanced medical benefits package offered—

"(I) the adjusted community rate (as defined in subsection (g)(3)) of the package;

"(II) the portion of the actuarial value of such benefits package (if any) that will be applied toward satisfying the requirement for additional benefits under subsection (g);

"(III) the MedicareAdvantage monthly beneficiary premium for enhanced medical benefits (as defined in subsection (b)(2)(C));

"(IV) a description of any cost-sharing;

"(V) a description of whether the amount of the unified deductible has been lowered or the maximum limitations on out-of-pocket expenses have been decreased (relative to the levels used in calculating the plan bid);

"(VI) such other information as the Secretary considers necessary.

"(iii) The assumptions that the MedicareAdvantage organization used in preparing the plan bid with respect to numbers, in each payment area, of enrolled individuals and the mix, by health status, of such individuals.

"(B) INFORMATION REQUIRED WITH RESPECT TO PART D.—The information required to be submitted by an eligible entity under section 1860D–12, including the monthly premiums for standard coverage and any other qualified prescription drug coverage available to individuals enrolled under part D.

"(C) DETERMINING PLAN COSTS INCLUDED IN PLAN BID.—For purposes of submitting its plan bid under subparagraph (A)(i) a MedicareAdvantage plan offered by a MedicareAdvantage organization satisfies subparagraphs (A) and (C) of section 1852(a)(1) if the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled in such plan under this part with respect to benefits under the original medicare fee-for-service program option on which that bid is based (ignoring any reduction in cost-sharing offered by such plan as enhanced medical benefits under paragraph (2)(A)(ii) or required under clause (ii) or (iii) of subsection (g)(1)(C)) equals the amount specified in subsection (f)(1)(B).

"(3) REQUIREMENTS FOR MSA PLANS.—For an MSA plan described in section 1851(a)(2)(B), the information described in this paragraph is the information that such a plan would have been required to submit under this part if the Prescription Drug and Medicare Improvements Act of 2003 had not been enacted.

"(4) REVIEW.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall review the adjusted community rates (as defined in section 1854(g)(3)), the amounts of the MedicareAdvantage monthly basic premium and the MedicareAdvantage monthly beneficiary premium for enhanced medical benefits filed under this subsection and shall approve or disapprove such rates and amounts so submitted. The Secretary shall review the actuarial assumptions and data used by the MedicareAdvantage organization with respect to such rates and amounts so submitted to determine the appropriateness of such assumptions and data.

"(B) MSA EXCEPTION.—The Secretary shall not review, approve, or disapprove the amounts submitted under paragraph (3).

"(C) CLARIFICATION OF AUTHORITY REGARDING DISAPPROVAL OF UNREASONABLE BENEFICIARY COST-SHARING.—Under the authority under subparagraph (A), the Secretary may disapprove the bid if the Secretary determines that the deductibles, coinsurance, or copayments applicable under the plan discourage access to covered services or are likely to result in favorable selection of MedicareAdvantage eligible individuals.

"(5) APPLICATION OF FEHBP STANDARD; PROHIBITION ON PRICE GOUGING.—Each bid amount submitted under paragraph (1) for a MedicareAdvantage plan must reasonably and equitably reflect the cost of benefits provided under that plan.

"(b) MONTHLY PREMIUMS CHARGED.—

"(1) IN GENERAL.—

"(A) COORDINATED CARE AND PRIVATE FEE-FOR-SERVICE PLANS.—The monthly amount of the premium charged to an individual enrolled in a MedicareAdvantage plan (other than an MSA plan) offered by a MedicareAdvantage organization shall be equal to the sum of the following:

"(i) The MedicareAdvantage monthly basic beneficiary premium (if any).

"(ii) The MedicareAdvantage monthly beneficiary premium for enhanced medical benefits (if any).

"(iii) The MedicareAdvantage monthly obligation for qualified prescription drug coverage (if any).

"(B) MSA PLANS.—The rules under this section that would have applied with respect to an MSA plan if the Prescription Drug and Medicare Improvements Act of 2003 had not been enacted shall continue to apply to MSA plans after the date of enactment of such Act.

"(2) PREMIUM TERMINOLOGY.—For purposes of this part:

"(A) MEDICAREADVANTAGE MONTHLY BASIC BENEFICIARY PREMIUM.—The term 'MedicareAdvantage monthly basic beneficiary premium' means, with respect to a MedicareAdvantage plan, the amount required to be charged under subsection (d)(2) for the plan.

"(B) MEDICAREADVANTAGE MONTHLY BENEFICIARY OBLIGATION FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.—The term 'MedicareAdvantage monthly beneficiary obligation for qualified prescription drug coverage' means, with respect to a MedicareAdvantage plan, the amount determined under section 1858A(d).

"(C) MEDICAREADVANTAGE MONTHLY BENEFICIARY PREMIUM FOR ENHANCED MEDICAL BENEFITS.—The term 'MedicareAdvantage monthly beneficiary premium for enhanced medical benefits' means, with respect to a MedicareAdvantage plan, the amount required to be charged under subsection (f)(2) for the plan, or, in the case of an MSA plan, the amount filed under subsection (a)(3).

"(D) MEDICAREADVANTAGE MONTHLY MSA PREMIUM.—The term 'MedicareAdvantage monthly MSA premium' means, with respect to a MedicareAdvantage plan, the amount of such premium filed under subsection (a)(3) for the plan.

"(c) UNIFORM PREMIUM.—The MedicareAdvantage monthly basic beneficiary premium, the MedicareAdvantage monthly beneficiary obligation for qualified prescription drug coverage, the MedicareAdvantage monthly beneficiary premium for enhanced medical benefits, and the MedicareAdvantage monthly MSA premium charged under subsection (b) of a MedicareAdvantage organization under this part may not vary among individuals enrolled in the plan.

"(d) DETERMINATION OF PREMIUM REDUCTIONS, REDUCED COST-SHARING, ADDITIONAL BENEFITS, AND BENEFICIARY PREMIUMS.—

"(1) BIDS BELOW THE BENCHMARK.—If the Secretary determines under section 1853(d)(3) that the weighted service area benchmark amount exceeds the plan bid, the Secretary shall require the plan to provide additional benefits in accordance with subsection (g).

"(2) BIDS ABOVE THE BENCHMARK.—If the Secretary determines under section 1853(d)(3) that the plan bid exceeds the weighted service area benchmark amount (determined under section 1853(d)(2)), the amount of such excess shall be the MedicareAdvantage monthly basic beneficiary premium (as defined in section 1854(b)(2)(A)).

"(e) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each MedicareAdvantage organization shall permit the payment of any

MedicareAdvantage monthly basic premium, the MedicareAdvantage monthly beneficiary obligation for qualified prescription drug coverage, and the MedicareAdvantage monthly beneficiary premium for enhanced medical benefits on a monthly basis, may terminate election of individuals for a MedicareAdvantage plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i), and may not provide for cash or other monetary rebates as an inducement for enrollment or otherwise (other than as an additional benefit described in subsection (g)(1)(C)(i)).

“(f) Limitation on Enrollee Liability.—

“(1) For benefits under the original medicare fee-for-service program option.—The sum of—

“(A) the MedicareAdvantage monthly basic beneficiary premium (multiplied by 12) and the actuarial value of the deductibles, coinsurance, and copayments (determined on the same basis as used in determining the plan's bid under paragraph (2)(C)) applicable on average to individuals enrolled under this part with a MedicareAdvantage plan described in subparagraph (A) or (C) of section 1851(a)(2) of an organization with respect to required benefits described in section 1852(a)(1)(A); must equal

“(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals who have elected to receive benefits under the original medicare fee-for-service program option if such individuals were not members of a MedicareAdvantage organization for the year (adjusted as determined appropriate by the Secretary to account for geographic differences and for plan cost and utilization differences).

“(2) For enhanced medical benefits.—If the MedicareAdvantage organization provides to its members enrolled under this part in a MedicareAdvantage plan described in subparagraph (A) or (C) of section 1851(a)(2) with respect to enhanced medical benefits relating to benefits under the original medicare fee-for-service program option, the sum of the MedicareAdvantage monthly beneficiary premium for enhanced medical benefits (multiplied by 12) charged and the actuarial value of its deductibles, coinsurance, and copayments charged with respect to such benefits for a year must equal the adjusted community rate (as defined in subsection (g)(3)) for such benefits for the year minus the actuarial value of any additional benefits pursuant to clause (ii), (iii), or (iv) of subsection (g)(2)(C) that the plan specified under subsection (a)(2)(i)(II).

“(3) Determination on other basis.—If the Secretary determines that adequate data are not available to determine the actuarial value under paragraph (1)(A) or (2), the Secretary may determine such amount with respect to all individuals in the same geographic area, the State, or in the United States, eligible to enroll in the MedicareAdvantage plan involved under this part or on the basis of other appropriate data.

“(4) Special rule for private fee-for-service plans.—With respect to a MedicareAdvantage private fee-for-service plan (other than a plan that is an MSA plan), in no event may—

“(A) the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled under this part with such a plan of an organization with respect to required benefits described in subparagraphs (A), (C), and (D) of section 1852(a)(1); exceed

“(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals entitled to (or enrolled for) benefits under part A and enrolled under part B if they were not members of a MedicareAdvantage organization for the year.

“(g) Requirement for Additional Benefits.—

“(1) Requirement.—

“(A) In general.—Each MedicareAdvantage organization (in relation to a MedicareAdvantage plan, other than an MSA plan, it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits described in subparagraph (C) as the organization may specify in a value which the Secretary determines is at least equal to the adjusted excess amount (as defined in subparagraph (D)).

“(B) Excess amount.—For purposes of this paragraph, the term ‘excess amount’ means, for an organization for a plan, is 100 percent of the amount (if any) by which the weighted service area benchmark amount (determined under section 1853(d)(2)) exceeds the plan bid (as adjusted under section 1853(d)(1)).

“(C) Additional benefits described.—The additional benefits described in this subparagraph are as follows:

“(i) Subject to subparagraph (F), a monthly part B premium reduction for individuals enrolled in the plan.

“(ii) Lowering the amount of the unified deductible and decreasing the maximum limitations on out-of-pocket expenses for individuals enrolled in the plan.

“(iii) A reduction in the actuarial value of plan cost-sharing for plan enrollees.

“(iv) Subject to subparagraph (E), such additional benefits as the organization may specify.

“(v) Contributing to the stabilization fund under paragraph (2).

“(vi) Any combination of the reductions and benefits described in clauses (i) through (v).

“(D) Adjusted excess amount.—For purposes of this paragraph, the term ‘adjusted excess amount’ means, for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (2).

“(E) Rule for approval of medical and prescription drug benefits.—An organization may not specify any additional benefit that provides for the coverage of any prescription drug (other than that relating to prescription drugs covered under the original medicare fee-for-service program option).

“(F) Premium reductions.—

“(i) In general.—Subject to clause (ii), as part of providing any additional benefits required under subparagraph (A), a MedicareAdvantage organization may elect a reduction in its payments under section 1853(a)(1)(A)(i) with respect to a MedicareAdvantage plan and the Secretary shall apply such reduction to reduce the premium under section 1839 of each enrollee in such plan as provided in section 1840(i).

“(ii) Amount of reduction.—The amount of the reduction under clause (i) with respect to any enrollee in a MedicareAdvantage plan—

“(I) may not exceed 125 percent of the premium described under section 1839(a)(3); and

“(II) shall apply uniformly to each enrollee of the MedicareAdvantage plan to which such reduction applies.

“(G) Uniform application.—This paragraph shall be applied uniformly for all enrollees for a plan.

“(H) Construction.—Nothing in this subsection shall be construed as preventing a MedicareAdvantage organization from providing enhanced medical benefits (described in section 1852(a)(3)) that are in addition to the health care benefits otherwise required to be provided under this paragraph and from imposing a premium for such enhanced medical benefits.

“(2) Stabilization fund.—A MedicareAdvantage organization may provide that a part of the value of an excess amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the MedicareAdvantage plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such Trust Funds.

“(3) Adjusted community rate.—For purposes of this subsection, subject to paragraph (4), the term ‘adjusted community rate’ for a service or services means, at the election of a MedicareAdvantage organization, either—

“(A) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a MedicareAdvantage plan under this part if the rate of payment were determined under a ‘community rating system’ (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)); or

“(B) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the plan (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other MedicareAdvantage coverage, or MedicareAdvantage eligible individuals in the area, in the State, or in the United States, eligible to elect MedicareAdvantage coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

“(4) Determination based on insufficient data.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience to determine the average amount of payments to be made under this part at the beginning of a contract period or to determine (in the case of a newly operated provider-sponsored organization or other new organization) the adjusted community rate for the organization, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part and may determine such a rate using data in the general commercial marketplace.

"(h) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to payments to MedicareAdvantage organizations under section 1853.

"(i) PERMITTING USE OF SEGMENTS OF SERVICE AREAS.—The Secretary shall permit a MedicareAdvantage organization to elect to apply the provisions of this section uniformly to separate segments of a service area (rather than uniformly to an entire service area) as long as such segments are composed of 1 or more MedicareAdvantage payment areas.".

(b) STUDY AND REPORT ON CLARIFICATION OF AUTHORITY REGARDING DISAPPROVAL OF UNREASONABLE BENEFICIARY COST-SHARING.—

(1) STUDY.—The Secretary, in consultation with beneficiaries, consumer groups, employers, and Medicare+Choice organizations, shall conduct a study to determine the extent to which the cost-sharing structures under Medicare+Choice plans under part C of title XVIII of the Social Security Act discourage access to covered services or discriminate based on the health status of Medicare+Choice eligible individuals (as defined in section 1851(a)(3) of the Social Security Act (42 U.S.C. 1395w–21(a)(3))).

(2) REPORT.—Not later than December 31, 2004, the Secretary shall submit a report to Congress on the study conducted under paragraph (1) together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

SEC. 205. SPECIAL RULES FOR PRESCRIPTION DRUG BENEFITS.

Part C of title XVIII (42 U.S.C. 1395w–21 et seq.) is amended by inserting after section 1857 the following new section:

"SPECIAL RULES FOR PRESCRIPTION DRUG BENEFITS

"SEC. 1858A. (a) AVAILABILITY.—

"(1) PLANS REQUIRED TO PROVIDE QUALIFIED PRESCRIPTION DRUG COVERAGE TO ENROLLEES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on and after January 1, 2006, a MedicareAdvantage organization offering a MedicareAdvantage plan (except for an MSA plan) shall make available qualified prescription drug coverage that meets the requirements for such coverage under this part and part D to each enrollee of the plan.

"(B) PRIVATE FEE-FOR-SERVICE PLANS MAY, BUT ARE NOT REQUIRED TO, PROVIDE QUALIFIED PRESCRIPTION DRUG COVERAGE.—Pursuant to section 1852(a)(2)(D), a private fee-for-service plan may elect not to provide qualified prescription drug coverage under part D to individuals residing in the area served by the plan.

"(2) REFERENCE TO PROVISION PERMITTING ADDITIONAL PRESCRIPTION DRUG COVERAGE.—For the provisions of part D, made applicable to this part pursuant to paragraph (1), that permit a plan to make available qualified prescription drug coverage that includes coverage of covered drugs that exceeds the coverage required under paragraph (1) of section 1860D–6 in an area, but only if the MedicareAdvantage organization offering the plan also offers a MedicareAdvantage plan in the area that only provides the coverage that is required under such paragraph (1), see paragraph (2) of such section.

"(3) RULE FOR APPROVAL OF MEDICAL AND PRESCRIPTION DRUG BENEFITS.—Pursuant to sections 1854(g)(1)(F) and 1852(a)(3)(D), a MedicareAdvantage organization offering a MedicareAdvantage plan that provides qualified prescription drug coverage may not make available coverage of any prescription drugs (other than that relating to prescription drugs covered under the original medicare fee-for-service program option) to an enrollee as an additional benefit or as an enhanced medical benefit.

"(b) COMPLIANCE WITH ADDITIONAL BENEFICIARY PROTECTIONS.—With respect to the offering of qualified prescription drug coverage by a MedicareAdvantage organization under a MedicareAdvantage plan, the organization and plan shall meet the requirements of section 1860D–5, including requirements relating to information dissemination and grievance and appeals, and such other requirements under part D that the Secretary determines appropriate in the same manner as such requirements apply to an eligible entity and a Medicare Prescription Drug plan under part D. The Secretary shall waive such requirements to the extent the Secretary determines that such requirements duplicate requirements otherwise applicable to the organization or the plan under this part.

"(c) PAYMENTS FOR PRESCRIPTION DRUGS.—

"(1) PAYMENT OF FULL AMOUNT OF PREMIUM TO ORGANIZATIONS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.—

"(A) IN GENERAL.—For each year (beginning with 2006), the Secretary shall pay to each MedicareAdvantage organization offering a MedicareAdvantage plan that provides qualified prescription drug coverage, an amount equal to the full amount of the monthly premium submitted under section 1854(a)(2)(B) for the year, as adjusted using the risk adjusters that apply to the standard prescription drug coverage published under section 1860D–11.

"(B) APPLICATION OF PART D RISK CORRIDOR, STABILIZATION RESERVE FUND, AND ADMINISTRATIVE EXPENSES PROVISIONS.—The provisions of subsections (b), (c), and (d) of section 1860D–16 shall apply to a MedicareAdvantage organization offering a MedicareAdvantage plan that provides qualified prescription drug coverage and payments made to such organization under subparagraph (A) in the same manner as such provisions apply to an eligible entity offering a Medicare Prescription Drug plan and payments made to such entity under subsection (a) of section 1860D–16.

"(2) PAYMENT FROM PRESCRIPTION DRUG ACCOUNT.—Payment made to MedicareAdvantage organizations under this subsection shall be made from the Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund under section 1841.

"(d) COMPUTATION OF MEDICAREADVANTAGE MONTHLY BENEFICIARY OBLIGATION FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.—In the case of a MedicareAdvantage eligible individual receiving qualified prescription drug coverage under a MedicareAdvantage plan during a year after 2005, the MedicareAdvantage monthly beneficiary obligation for qualified prescription drug coverage of such individual in the year shall be determined in the same manner as the monthly beneficiary obligation is determined under section 1860D–17 for eligible beneficiaries enrolled in a Medicare Prescription Drug plan, except that, for purposes of this subparagraph, any reference to the monthly plan premium approved by the Secretary under section 1860D–13 shall be treated as a reference to the monthly premium for qualified prescription drug coverage submitted by the MedicareAdvantage organization offering the plan under section 1854(a)(2)(A) and approved by the Secretary.

"(e) COLLECTION OF MEDICAREADVANTAGE MONTHLY BENEFICIARY OBLIGATION FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.—The provisions of section 1860D–18, including subsection (b) of such section, shall apply to the amount of the MedicareAdvantage monthly beneficiary obligation for qualified prescription drug coverage (as determined under subsection (d)) required to be paid by a MedicareAdvantage eligible individual enrolled in a MedicareAdvantage plan in the same manner as such provisions apply to the amount of the monthly beneficiary obligation required to be paid by an eligible beneficiary enrolled in a Medicare Prescription Drug plan under part D.

"(f) AVAILABILITY OF PREMIUM SUBSIDY AND COST-SHARING REDUCTIONS FOR LOW-INCOME ENROLLEES AND REINSURANCE PAYMENTS.—For provisions—

"(1) providing premium subsidies and cost-sharing reductions for low-income individuals receiving qualified prescription drug coverage through a MedicareAdvantage plan, see section 1860D–19; and

"(2) providing a MedicareAdvantage organization with reinsurance payments for certain expenses incurred in providing qualified prescription drug coverage through a MedicareAdvantage plan, see section 1860D–20.".

(b) TREATMENT OF REDUCTION FOR PURPOSES OF DETERMINING GOVERNMENT CONTRIBUTION UNDER PART B.—Section 1844(c) (42 U.S.C. 1395w) is amended by striking "section 1854(f)(1)(E)" and inserting "section 1854(d)(1)(A)(i)".

SEC. 206. FACILITATING EMPLOYER PARTICIPATION.

Section 1858(h) (as added by section 211) is amended by inserting "(including subsection (i) of such section)" after "section 1857".

SEC. 207. ADMINISTRATION BY THE CENTER FOR MEDICARE CHOICES.

On and after January 1, 2006, the MedicareAdvantage program under part C of title XVIII of the Social Security Act shall be administered by the Center for Medicare Choices established under section 1808 such title (as added by section 301), and each reference to the Secretary made in such part shall be deemed to be a reference to the Administrator of the Center for Medicare Choices.

SEC. 208. CONFORMING AMENDMENTS.

(a) ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICAREADVANTAGE ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS.—Section 1855 (42 U.S.C. 1395w–25) is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting "subparagraphs (A), (B), and (D) of" before "section 1852(A)(1)"; and

(2) by striking "Medicare+Choice" and inserting "MedicareAdvantage" each place it appears.

(b) ESTABLISHMENT OF PSO STANDARDS.—Section 1856 (42 U.S.C. 1395w–26) is amended by striking "Medicare+Choice" and inserting "MedicareAdvantage" each place it appears.

(c) CONTRACTS WITH MEDICAREADVANTAGE ORGANIZATIONS.—Section 1857 (42 U.S.C. 1395w–27) is amended—

(1) in subsection (g)(1)—

(A) in subparagraph (B), by striking "amount of the Medicare+Choice monthly basic and supplemental beneficiary premiums" and inserting "amounts of the MedicareAdvantage monthly basic premium and MedicareAdvantage monthly beneficiary premium for enhanced medical benefits";

(B) in subparagraph (F), by striking "or" after the semicolon at the end;

(C) in subparagraph (G), by adding "or" after the semicolon at the end; and

(D) by inserting after subparagraph (G) the following new subparagraph:

"(H)(i) charges any individual an amount in excess of the MedicareAdvantage monthly beneficiary obligation for qualified prescription drug coverage under section 1858A(d);

"(ii) provides coverage for prescription drugs that is not qualified prescription drug coverage;

"(iii) offers prescription drug coverage, but does not make standard prescription drug coverage available; or

"(iv) provides coverage for prescription drugs (other than that relating to prescription drugs covered under the original Medicare fee-for-service program option described in section 1851(a)(1)(A)(i)) as an enhanced medical benefit under section 1852(a)(3)(D) or as an additional benefit under section 1854(g)(1)(F)."; and

(2) by striking "Medicare+Choice" and inserting "MedicareAdvantage" each place it appears.

(d) Definitions; Miscellaneous Provisions.—Section 1859 (42 U.S.C. 1395w–28) is amended—

(1) by striking subsection (c) and inserting the following new subsection:

"(c) Other References to Other Terms.—

"(1) Enhanced medical benefits.—The term 'enhanced medical benefits' is defined in section 1852(a)(3)(E).

"(2) MedicareAdvantage eligible individual.—The term 'MedicareAdvantage eligible individual' is defined in section 1851(a)(3).

"(3) MedicareAdvantage payment area.—The term 'MedicareAdvantage payment area' is defined in section 1853(d).

"(4) National per capita Medicare+Choice growth percentage.—The 'national per capita Medicare+Choice growth percentage' is defined in section 1853(c)(6).

"(5) MedicareAdvantage monthly basic beneficiary premium; MedicareAdvantage monthly beneficiary obligation for qualified prescription drug coverage; MedicareAdvantage monthly beneficiary premium for enhanced medical benefits.—The terms 'MedicareAdvantage monthly basic beneficiary premium', 'MedicareAdvantage monthly beneficiary obligation for qualified prescription drug coverage', and 'MedicareAdvantage monthly beneficiary premium for enhanced medical benefits' are defined in section 1854(b)(2).

"(6) Qualified prescription drug coverage.—The term 'qualified prescription drug coverage' has the meaning given such term in section 1860D(9).

"(7) Standard prescription drug coverage.—The term 'standard prescription drug coverage' has the meaning given such term in section 1860D(10)."; and

(2) by striking "Medicare+Choice" and inserting "MedicareAdvantage" each place it appears.

(e) Conforming Amendments Effective Before 2006.—

(1) Extension of MSAs.—Section 1851(b)(4) (42 U.S.C. 1395w–21(b)(4)) is amended by striking "January 1, 2003" and inserting "January 1, 2004".

(2) Continuous open enrollment and disenrollment through 2005.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended—

(A) in paragraph (2)(A), by striking "through 2004" and "December 31, 2004" and inserting "through 2005" and "December 31, 2005", respectively;

(B) in the heading of paragraph (2)(B), by striking "during 2005" and inserting "during 2006";

(C) in paragraphs (2)(B)(i) and (2)(C)(i), by striking "2005" and inserting "2006" each place it appears;

(D) in paragraph (2)(D), by striking "2004" and inserting "2005"; and

(E) in paragraph (4), by striking "2005" and inserting "2006" each place it appears.

(3) Effective date.—The amendments made by this subsection shall take effect on the date of enactment of this Act.

(e) Other Conforming Amendments.—

(1) Conforming medicare cross-references.—

(A) Section 1839(a)(2) (42 U.S.C. 1395r(a)(2)) is amended by striking "section 1854(f)(1)(E)" and inserting "section 1854(g)(1)(C)(i)".

(B) Section 1840(i) (42 U.S.C. 1395s(i)) is amended by striking "section 1854(f)(1)(E)" and inserting "section 1854(g)(1)(C)(i)".

(C) Section 1844(c) (42 U.S.C. 1395w(c)) is amended by striking "section 1854(f)(1)(E)" and inserting "section 1854(g)(1)(C)(i)".

(D) Section 1876(k)(3)(A) (42 U.S.C. 1395mm(k)(3)(A)) is amended by inserting "(as in effect immediately before the enactment of the Prescription Drug and Medicare Improvements Act of 2003)" after section 1853(a).

(F) Section 1876(k)(4) (42 U.S.C. 1395mm(k)(4)(A)) is amended—

(i) in subparagraph (A), by striking "section 1853(a)(3)(B)" and inserting "section 1853(a)(3)(D)"; and

(ii) in subparagraph (B), by striking "section 1854(g)" and inserting "section 1854(h)".

(G) Section 1876(k)(4)(C) (42 U.S.C. 1395mm(k)(4)(C)) in amended by inserting "(as in effect immediately before the enactment of the Prescription Drug and Medicare Improvements Act of 2003)" after "section 1851(e)(6)".

(H) Section 1894(d) (42 U.S.C. 1395eee(d)) is amended by adding at the end the following new paragraph:

"(3) Application of provisions.—For purposes of paragraphs (1) and (2), the references to section 1853 and subsection (a)(2) of such section in such paragraphs shall be deemed to be references to those provisions as in effect immediately before the enactment of the Prescription Drug and Medicare Improvements Act of 2003.".

(2) Conforming medicare terminology.—Title XVIII (42 U.S.C. 1395 et seq.), except for part C of such title (42 U.S.C. 1395w–21 et seq.), and title XIX (42 U.S.C. 1396 et seq.) are each amended by striking "Medicare+Choice" and inserting "MedicareAdvantage" each place it appears.

SEC. 209. EFFECTIVE DATE.

(a) In General.—Except as provided in section 208(d)(3) and subsection (b), the amendments made by this title shall apply with respect to plan years beginning on and after January 1, 2006.

(b) MedicareAdvantage MSA Plans.—Notwithstanding any provision of this title, the Secretary shall apply the payment and other rules that apply with respect to an MSA plan described in section 1851(a)(2)(B) of the Social Security Act (42 U.S.C. 1395w–21(a)(2)(B)) as if this title had not been enacted.

Subtitle B—Preferred Provider Organizations

SEC. 211. ESTABLISHMENT OF MEDICARE ADVANTAGE PREFERRED PROVIDER PROGRAM OPTION.

(a) Establishment of Preferred Provider Program Option.—Section 1851(a)(2) is amended by adding at the end the following new subparagraph:

"(D) Preferred provider organization plans.—A MedicareAdvantage preferred provider organization plan under the program established under section 1858.".

(b) Program Specifications.—Part C of title XVIII (42 U.S.C. 1395w–21 et seq.) is amended by inserting after section 1857 the following new section:

"PREFERRED PROVIDER ORGANIZATIONS

"Sec. 1858. (a) Establishment of Program.—

"(1) In general.—Beginning on January 1, 2006, there is established a preferred provider program under which preferred provider organization plans offered by preferred provider organizations are offered to MedicareAdvantage eligible individuals in preferred provider regions.

"(2) Definitions.—

"(A) Preferred provider organization.—The term 'preferred provider organization' means an entity with a contract under section 1857 that meets the requirements of this section applicable with respect to preferred provider organizations.

"(B) Preferred provider organization plan.—The term 'preferred provider organization plan' means a MedicareAdvantage plan that—

"(i) has a network of providers that have agreed to a contractually specified reimbursement for covered benefits with the organization offering the plan;

"(ii) provides for reimbursement for all covered benefits regardless of whether such benefits are provided within such network of providers; and

"(iii) is offered by a preferred provider organization.

"(C) Preferred provider region.—The term 'preferred provider region' means—

"(i) a region established under paragraph (3); and

"(ii) a region that consists of the entire United States.

"(3) Preferred provider regions.—For purposes of this part the Secretary shall establish preferred provider regions as follows:

"(A) There shall be at least 10 regions.

"(B) Each region must include at least 1 State.

"(C) The Secretary may not divide States so that portions of the State are in different regions.

"(D) To the extent possible, the Secretary shall include multistate metropolitan statistical areas in a single region. The Secretary may divide metropolitan statistical areas where it is necessary to establish regions of such size and geography as to maximize the participation of preferred provider organization plans.

"(E) The Secretary may conform the preferred provider regions to the service areas established under section 1860D–10.

"(b) Eligibility, Election, and Enrollment; Benefits and Beneficiary Protections.—

"(1) In general.—Except as provided in the succeeding provisions of this subsection, the provisions of sections 1851 and 1852 that apply with respect to coordinated care plans shall apply to preferred provider organization plans offered by a preferred provider organization.

"(2) Service area.—The service area of a preferred provider organization plan shall be a preferred provider region.

"(3) Availability.—Each preferred provider organization plan must be offered to each MedicareAdvantage eligible individual who resides in the service area of the plan.

"(4) Authority to prohibit risk selection.—The provisions of section 1852(a)(6) shall apply to preferred provider organization plans.

"(5) Assuring access to services in preferred provider organization plans.—

"(A) In general.—In addition to any other requirements under this section, in the case of a preferred provider organization plan, the organization offering the plan must demonstrate to the Secretary that the organization has sufficient number and range of health care professionals and providers willing to provide services under the terms of the plan.

“(B) DETERMINATION OF SUFFICIENT ACCESS.—The Secretary shall find that an organization has met the requirement under subparagraph (A) with respect to any category of health care professional or provider if, with respect to that category of provider the plan has contracts or agreements with a sufficient number and range of providers within such category to provide covered services under the terms of the plan.

“(C) CONSTRUCTION.—Subparagraph (B) shall not be construed as restricting the persons from whom enrollees under such a plan may obtain covered benefits.

“(c) PAYMENTS TO PREFERRED PROVIDER ORGANIZATIONS.—

“(1) PAYMENTS TO ORGANIZATIONS.—

“(A) MONTHLY PAYMENTS.—

“(i) IN GENERAL.—Under a contract under section 1857 and subject to paragraph (5), subsection (e), and section 1859(e)(4), the Secretary shall make, to each preferred provider organization, with respect to coverage of an individual for a month under this part in a preferred provider region, separate monthly payments with respect to—

“(I) benefits under the original medicare fee-for-service program under parts A and B in accordance with paragraph (4); and

“(II) benefits under the voluntary prescription drug program under part D in accordance with section 1858A and the other provisions of this part.

“(ii) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish separate rates of payment applicable with respect to classes of individuals determined to have end-stage renal disease and enrolled in a preferred provider organization plan under this clause that are similar to the separate rates of payment described in section 1853(a)(1)(B).

“(B) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—The Secretary may retroactively adjust the amount of payment under this paragraph in a manner that is similar to the manner in which payment amounts may be retroactively adjusted under section 1853(a)(2).

“(C) COMPREHENSIVE RISK ADJUSTMENT METHODOLOGY.—The Secretary shall apply the comprehensive risk adjustment methodology described in section 1853(a)(3)(B) to 100 percent of the amount of payments to plans under paragraph (4)(D)(ii).

“(D) ADJUSTMENT FOR SPENDING VARIATIONS WITHIN A REGION.—The Secretary shall establish a methodology for adjusting the amount of payments to plans under paragraph (4)(D)(ii) that achieves the same objective as the adjustment described in paragraph 1853(a)(2)(C).

“(2) ANNUAL CALCULATION OF BENCHMARK AMOUNTS FOR PREFERRED PROVIDER REGIONS.—For each year (beginning in 2006), the Secretary shall calculate a benchmark amount for each preferred provider region for each month for such year with respect to coverage of the benefits available under the original Medicare fee-for-service program option equal to the average of each benchmark amount calculated under section 1853(a)(4) for each MedicareAdvantage payment area for the year within such region, weighted by the number of MedicareAdvantage eligible individuals residing in each such payment area for the year.

“(3) ANNUAL ANNOUNCEMENT OF PAYMENT FACTORS.—

“(A) ANNUAL ANNOUNCEMENT.—Beginning in 2005, at the same time as the Secretary publishes the risk adjusters under section 1860D–11, the Secretary shall annually announce (in a manner intended to provide notice to interested parties) the following payment factors:

“(i) The benchmark amount for each preferred provider region (as calculated under paragraph (2)(A)) for the year.

“(ii) The factors to be used for adjusting payments described under—

“(I) the comprehensive risk adjustment methodology described in paragraph (1)(C) with respect to each preferred provider region for the year; and

“(II) the methodology used for adjustment for geographic variations within such region established under paragraph (1)(D).

“(B) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under subparagraph (A) for a year, the Secretary shall—

“(i) provide for notice to preferred provider organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement; and

“(ii) provide such organizations with an opportunity to comment on such proposed changes.

“(C) EXPLANATION OF ASSUMPTIONS.—In each announcement made under subparagraph (A), the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that preferred provider organizations can compute each payment factor described in such subparagraph.

“(4) SECRETARY'S DETERMINATION OF PAYMENT AMOUNT FOR BENEFITS UNDER THE ORIGINAL MEDICARE FEE-FOR-SERVICE PROGRAM.—The Secretary shall determine the payment amount for plans as follows:

“(A) REVIEW OF PLAN BIDS.—The Secretary shall review each plan bid submitted under subsection (d)(1) for the coverage of benefits under the original Medicare fee-for-service program option to ensure that such bids are consistent with the requirements under this part and are based on the assumptions described in section 1854(a)(2)(A)(iii) that the plan used with respect to numbers of enrolled individuals.

“(B) DETERMINATION OF PREFERRED PROVIDER REGIONAL BENCHMARK AMOUNTS.—The Secretary shall calculate a preferred provider regional benchmark amount for that plan for the benefits under the original medicare fee-for-service program option for each plan equal to the regional benchmark adjusted by using the assumptions described in section 1854(a)(2)(A)(iii) that the plan used with respect to numbers of enrolled individuals.

“(C) COMPARISON TO BENCHMARK.—The Secretary shall determine the difference between each plan bid (as adjusted under subparagraph (A)) and the preferred provider regional benchmark amount (as determined under subparagraph (B)) for purposes of determining—

“(i) the payment amount under subparagraph (D); and

“(ii) the additional benefits required and MedicareAdvantage monthly basic beneficiary premiums.

“(D) DETERMINATION OF PAYMENT AMOUNT.—

“(i) IN GENERAL.—Subject to clause (ii), the Secretary shall determine the payment amount to a preferred provider organization for a preferred provider organization plan as follows:

“(I) BIDS THAT EQUAL OR EXCEED THE BENCHMARK.—In the case of a plan bid that equals or exceeds the preferred provider regional benchmark amount, the amount of each monthly payment to the organization with respect to each individual enrolled in a plan shall be the preferred provider regional benchmark amount.

“(II) BIDS BELOW THE BENCHMARK.—In the case of a plan bid that is less than the preferred provider regional benchmark amount, the amount of each monthly payment to the organization with respect to each individual enrolled in a plan shall be the preferred provider regional benchmark amount reduced by the amount of any premium reduction elected by the plan under section 1854(d)(1)(A)(i).

“(ii) APPLICATION OF ADJUSTMENT METHODOLOGIES.—The Secretary shall adjust the amounts determined under subparagraph (A) using the factors described in paragraph (3)(A)(ii).

“(E) FACTORS USED IN ADJUSTING BIDS AND BENCHMARKS FOR PREFERRED PROVIDER ORGANIZATIONS AND IN DETERMINING ENROLLEE PREMIUMS.—Subject to subparagraph (F), in addition to the factors used to adjust payments to plans described in section 1853(d)(6), the Secretary shall use the adjustment for geographic variation within the region established under paragraph (1)(D).

“(F) ADJUSTMENT FOR NATIONAL COVERAGE DETERMINATIONS AND LEGISLATIVE CHANGES IN BENEFITS.—The Secretary shall provide for adjustments for national coverage determinations and legislative changes in benefits applicable with respect to preferred provider organizations in the same manner as the Secretary provides for adjustments under section 1853(d)(7).

“(5) PAYMENTS FROM TRUST FUND.—The payment to a preferred provider organization under this section shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in a manner similar to the manner described in section 1853(g).

“(6) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—Rules similar to the rules applicable under section 1853(h) shall apply with respect preferred provider organizations.

“(7) SPECIAL RULE FOR HOSPICE CARE.—Rules similar to the rules applicable under section 1853(i) shall apply with respect to preferred provider organizations.

“(d) SUBMISSION OF BIDS BY PPOS; PREMIUMS.—

“(1) SUBMISSION OF BIDS BY PREFERRED PROVIDER ORGANIZATIONS.—

“(A) IN GENERAL.—For the requirements on submissions by MedicareAdvantage preferred provider organization plans, see section 1854(a)(1).

“(B) UNIFORM PREMIUMS.—Each bid amount submitted under subparagraph (A) for a preferred provider organization plan in a preferred provider region may not vary among MedicareAdvantage eligible individuals residing in such preferred provider region.

“(C) APPLICATION OF FEHBP STANDARD; PROHIBITION ON PRICE GOUGING.—Each bid amount submitted under subparagraph (A) for a preferred provider organization plan must reasonably and equitably reflect the cost of benefits provided under that plan.

“(D) REVIEW.—The Secretary shall review the adjusted community rates (as defined in section 1854(g)(3)), the amounts of the MedicareAdvantage monthly basic premium and the MedicareAdvantage monthly beneficiary premium for enhanced medical benefits filed under this paragraph and shall approve or disapprove such rates and amounts so submitted. The Secretary shall review the actuarial assumptions and data used by the preferred provider organization with respect to such rates and amounts so submitted to determine the appropriateness of such assumptions and data.

“(E) AUTHORITY TO LIMIT NUMBER OF PLANS IN A REGION.—If there are bids for more than 3 preferred provider organization plans in a preferred provider region, the Secretary shall accept only the 3 lowest-cost credible bids for that region that meet or exceed the quality and minimum standards applicable under this section.

“(2) MONTHLY PREMIUMS CHARGED.—The amount of the monthly premium charged to an individual enrolled in a preferred provider organization plan offered by a preferred provider organization shall be equal to the sum of the following:

“(A) The MedicareAdvantage monthly basic beneficiary premium, as defined in section 1854(b)(2)(A) (if any).

“(B) The MedicareAdvantage monthly beneficiary premium for enhanced medical benefits, as defined in section 1854(b)(2)(C) (if any).

“(C) The MedicareAdvantage monthly obligation for qualified prescription drug coverage, as defined in section 1854(b)(2)(B) (if any).

“(3) DETERMINATION OF PREMIUM REDUCTIONS, REDUCED COST-SHARING, ADDITIONAL BENEFITS, AND BENEFICIARY PREMIUMS.—The rules for determining premium reductions, reduced cost-sharing, additional benefits, and beneficiary premiums under section 1854(d) shall apply with respect to preferred provider organizations.

“(4) PROHIBITION OF SEGMENTING PREFERRED PROVIDER REGIONS.—The Secretary may not permit a preferred provider organization to elect to apply the provisions of this section uniformly to separate segments of a preferred provider region (rather than uniformly to an entire preferred provider region).

“(e) PORTION OF TOTAL PAYMENTS TO AN ORGANIZATION SUBJECT TO RISK FOR 2 YEARS.—

“(1) NOTIFICATION OF SPENDING UNDER THE PLAN.—

“(A) IN GENERAL.—For 2007 and 2008, the preferred provider organization offering a preferred provider organization plan shall notify the Secretary of the total amount of costs that the organization incurred in providing benefits covered under parts A and B of the original medicare fee-for-service program for all enrollees under the plan in the previous year.

“(B) CERTAIN EXPENSES NOT INCLUDED.—The total amount of costs specified in subparagraph (A) may not include—

“(i) subject to subparagraph (C), administrative expenses incurred in providing the benefits described in such subparagraph; or

“(ii) amounts expended on providing enhanced medical benefits under section 1852(a)(3)(D).

“(C) ESTABLISHMENT OF ALLOWABLE ADMINISTRATIVE EXPENSES.—For purposes of applying subparagraph (B)(i), the administrative expenses incurred in providing benefits described in subparagraph (A) under a preferred provider organization plan may not exceed an amount determined appropriate by the Administrator.

“(2) ADJUSTMENT OF PAYMENT.—

“(A) NO ADJUSTMENT IF COSTS WITHIN RISK CORRIDOR.—If the total amount of costs specified in paragraph (1)(A) for the plan for the year are not more than the first threshold upper limit of the risk corridor (specified in paragraph (3)(A)(iii)) and are not less than the first threshold lower limit of the risk corridor (specified in paragraph (3)(A)(i)) for the plan for the year, then no additional payments shall be made by the Secretary and no reduced payments shall be made to the preferred provider organization offering the plan.

“(B) INCREASE IN PAYMENT IF COSTS ABOVE UPPER LIMIT OF RISK CORRIDOR.—

“(i) IN GENERAL.—If the total amount of costs specified in paragraph (1)(A) for the plan for the year are more than the first threshold upper limit of the risk corridor for the plan for the year, then the Secretary shall increase the total of the monthly payments made to the preferred provider organization offering the plan for the year under subsection (c)(1)(A) by an amount equal to the sum of—

“(I) 50 percent of the amount of such total costs which are more than such first threshold upper limit of the risk corridor and not more than the second threshold upper limit of the risk corridor for the plan for the year (as specified under paragraph (3)(A)(iv)); and

“(II) 90 percent of the amount of such total costs which are more than such second threshold upper limit of the risk corridor.

“(C) REDUCTION IN PAYMENT IF COSTS BELOW LOWER LIMIT OF RISK CORRIDOR.—If the total amount of costs specified in paragraph (1)(A) for the plan for the year are less than the first threshold lower limit of the risk corridor for the plan for the year, then the Secretary shall reduce the total of the monthly payments made to the preferred provider organization offering the plan for the year under subsection (c)(1)(A) by an amount (or otherwise recover from the plan an amount) equal to—

“(i) 50 percent of the amount of such total costs which are less than such first threshold lower limit of the risk corridor and not less than the second threshold lower limit of the risk corridor for the plan for the year (as specified under paragraph (3)(A)(ii)); and

“(ii) 90 percent of the amount of such total costs which are less than such second threshold lower limit of the risk corridor.

“(3) ESTABLISHMENT OF RISK CORRIDORS.—

“(A) IN GENERAL.—For 2006 and 2007, the Secretary shall establish a risk corridor for each preferred provider organization plan. The risk corridor for a plan for a year shall be equal to a range as follows:

“(i) FIRST THRESHOLD LOWER LIMIT.—The first threshold lower limit of such corridor shall be equal to—

“(I) the target amount described in subparagraph (B) for the plan; minus

“(II) an amount equal to 5 percent of such target amount.

“(ii) SECOND THRESHOLD LOWER LIMIT.—The second threshold lower limit of such corridor shall be equal to—

“(I) the target amount described in subparagraph (B) for the plan; minus

“(II) an amount equal to 10 percent of such target amount.

“(iii) FIRST THRESHOLD UPPER LIMIT.—The first threshold upper limit of such corridor shall be equal to the sum of—

“(I) such target amount; and

“(II) the amount described in clause (i)(II).

“(iv) SECOND THRESHOLD UPPER LIMIT.—The second threshold upper limit of such corridor shall be equal to the sum of—

“(I) such target amount; and

“(II) the amount described in clause (ii)(II).

“(B) TARGET AMOUNT DESCRIBED.—The target amount described in this paragraph is, with respect to a preferred provider organization plan offered by a preferred provider organization in a year, an amount equal to the sum of—

“(i) the total monthly payments made to the organization for enrollees in the plan for the year under subsection (c)(1)(A); and

“(ii) the total MedicareAdvantage basic beneficiary premiums collected for such enrollees for the year under subsection (d)(2)(A).

“(4) PLANS AT RISK FOR ENTIRE AMOUNT OF ENHANCED MEDICAL BENEFITS.—A preferred provider organization that offers a preferred provider organization plan that provides enhanced medical benefits under section 1852(a)(3)(D) shall be at full financial risk for the provision of such benefits.

“(5) NO EFFECT ON ELIGIBLE BENEFICIARIES.—No change in payments made by reason of this subsection shall affect the amount of the MedicareAdvantage basic beneficiary premium that a beneficiary is otherwise required to pay under the plan for the year under subsection (d)(2)(A).

“(6) DISCLOSURE OF INFORMATION.—The provisions of section 1860D–16(b)(7), including subparagraph (B) of such section, shall apply to a preferred provider organization and a preferred provider organization plan in the same manner as such provisions apply to an eligible entity and a Medicare Prescription Drug plan under part D.

“(f) ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR PREFERRED PROVIDER ORGANIZATIONS.—A preferred provider organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State within the preferred provider region in which it offers a preferred provider organization plan.

“(g) INAPPLICABILITY OF PROVIDER-SPONSORED ORGANIZATION SOLVENCY STANDARDS.—The requirements of section 1856 shall not apply with respect to preferred provider organizations.

“(h) CONTRACTS WITH PREFERRED PROVIDER ORGANIZATIONS.—The provisions of section 1857 shall apply to a preferred provider organization plan offered by a preferred provider organization under this section.”.

(c) PREFERRED PROVIDER TERMINOLOGY DEFINED.—Section 1859(a) is amended by adding at the end the following new paragraph:

“(3) PREFERRED PROVIDER ORGANIZATION; PREFERRED PROVIDER ORGANIZATION PLAN; PREFERRED PROVIDER REGION.—The terms ‘preferred provider organization’, ‘preferred provider organization plan’, and ‘preferred provider region’ have the meaning given such terms in section 1858(a)(2).”.

Subtitle C—Other Managed Care Reforms

SEC. 221. EXTENSION OF REASONABLE COST CONTRACTS.

(a) FIVE-YEAR EXTENSION.—Section 1876(h)(5)(C) (42 U.S.C. 1395mm(h)(5)(C)) is amended by striking “2004” and inserting “2009”.

(b) APPLICATION OF CERTAIN MEDICARE+CHOICE REQUIREMENTS TO COST CONTRACTS EXTENDED OR RENEWED AFTER 2003.—Section 1876(h) (42 U.S.C. 1395mm(h)(5)), as amended by subsection (a), is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

“(5) Any reasonable cost reimbursement contract with an eligible organization under this subsection that is extended or renewed on or after the date of enactment of the Prescription Drug and Medicare Improvements Act of 2003 for plan years beginning on or after January 1, 2004, shall provide that the following provisions of the Medicare+Choice program under part C (and, on and after January 1, 2006, the provisions of the MedicareAdvantage program under such part) shall apply to such organization and such contract in a substantially similar manner as such provisions apply to Medicare+Choice organizations and Medicare+Choice plans (or, on and after January 1, 2006, MedicareAdvantage organizations and MedicareAdvantage plans, respectively) under such part:

"(A) Paragraph (1) of section 1852(e) (relating to the requirement of having an ongoing quality assurance program) and paragraph (2)(B) of such section (relating to the required elements for such a program).

"(B) Section 1852(j)(4) (relating to limitations on physician incentive plans).

"(C) Section 1854(c) (relating to the requirement of uniform premiums among individuals enrolled in the plan).

"(D) Section 1854(g), or, on and after January 1, 2006, section 1854(h) (relating to restrictions on imposition of premium taxes with respect to payments to organizations).

"(E) Section 1856(b) (regarding compliance with the standards established by regulation pursuant to such section, including the provisions of paragraph (3) of such section relating to relation to State laws).

"(F) Section 1852(a)(3)(A) (regarding the authority of organizations to include supplemental health care benefits and, on and after January 1, 2006, enhanced medical benefits under the plan subject to the approval of the Secretary).

"(G) The provisions of part C relating to timelines for benefit filings, contract renewal, and beneficiary notification.

"(H) Section 1854(e), or, on and after January 1, 2006, section 1854(f) (relating to proposed cost-sharing under the contract being subject to review by the Secretary).".

(c) PERMITTING DEDICATED GROUP PRACTICE HEALTH MAINTENANCE ORGANIZATIONS TO PARTICIPATE IN THE MEDICARE COST CONTRACT PROGRAM.—Section 1876(h)(6) of the Social Security Act (42 U.S.C. 1395mm(h)(6)), as redesignated and amended by subsections (a) and (b), is amended—

(1) in subparagraph (A), by striking "After the date of the enactment" and inserting "Except as provided in subparagraph (C), after the date of the enactment";

(2) in subparagraph (B), by striking "subparagraph (C)" and inserting "subparagraph (D)";

(3) by redesignating subparagraph (C) as subparagraph (D); and

(4) by inserting after subparagraph (B), the following new subparagraph:

"(C) Subject to paragraph (5) and subparagraph (D), the Secretary shall approve an application to enter into a reasonable cost contract under this section if—

"(i) the application is submitted to the Secretary by a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act) that, as of January 1, 2004, and except as provided in section 1301(b)(3)(B) of such Act, provides at least 85 percent of the services of a physician which are provided as basic health services through a medical group (or groups), as defined in section 1302(4) of such Act; and

"(ii) the Secretary determines that the organization meets the requirements applicable to such organizations and contracts under this section.".

SEC. 222. SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.

(a) TREATMENT AS COORDINATED CARE PLAN.—Section 1851(a)(2)(A) (42 U.S.C. 1395w–21(a)(2)(A)) is amended by adding at the end the following new sentence: "Specialized Medicare+Choice plans for special needs beneficiaries (as defined in section 1859(b)(4)) may be any type of coordinated care plan.".

(b) SPECIALIZED MEDICARE+CHOICE PLAN FOR SPECIAL NEEDS BENEFICIARIES DEFINED.—Section 1859(b) (42 U.S.C. 1395w–28(b)) is amended by adding at the end the following new paragraph:

"(4) SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—

"(A) IN GENERAL.—The term 'specialized Medicare+Choice plan for special needs beneficiaries' means a Medicare+Choice plan that exclusively serves special needs beneficiaries (as defined in subparagraph (B)).

"(B) SPECIAL NEEDS BENEFICIARY.—The term 'special needs beneficiary' means a Medicare+Choice eligible individual who—

"(i) is institutionalized (as defined by the Secretary);

"(ii) is entitled to medical assistance under a State plan under title XIX; or

"(iii) meets such requirements as the Secretary may determine would benefit from enrollment in such a specialized Medicare+Choice plan described in subparagraph (A) for individuals with severe or disabling chronic conditions.".

(c) RESTRICTION ON ENROLLMENT PERMITTED.—Section 1859 (42 U.S.C. 1395w–28) is amended by adding at the end the following new subsection:

"(f) RESTRICTION ON ENROLLMENT FOR SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—In the case of a specialized Medicare+Choice plan (as defined in subsection (b)(4)), notwithstanding any other provision of this part and in accordance with regulations of the Secretary and for periods before January 1, 2008, the plan may restrict the enrollment of individuals under the plan to individuals who are within 1 or more classes of special needs beneficiaries.".

(d) REPORT TO CONGRESS.—Not later than December 31, 2006, the Secretary shall submit to Congress a report that assesses the impact of specialized Medicare+Choice plans for special needs beneficiaries on the cost and quality of services provided to enrollees. Such report shall include an assessment of the costs and savings to the medicare program as a result of amendments made by subsections (a), (b), and (c).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall take effect on the date of enactment of this Act.

(2) DEADLINE FOR ISSUANCE OF REQUIREMENTS FOR SPECIAL NEEDS BENEFICIARIES; TRANSITION.—No later than 1 year after the date of enactment of this Act, the Secretary shall issue final regulations to establish requirements for special needs beneficiaries under section 1859(b)(4)(B)(iii) of the Social Security Act, as added by subsection (b).

SEC. 223. PAYMENT BY PACE PROVIDERS FOR MEDICARE AND MEDICAID SERVICES FURNISHED BY NONCONTRACT PROVIDERS.

(a) MEDICARE SERVICES.—

(1) MEDICARE SERVICES FURNISHED BY PROVIDERS OF SERVICES.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(A) by striking "part C or" and inserting "part C, with a PACE provider under section 1894 or 1934, or";

(B) by striking "(i)";

(C) by striking "and (ii)"; and

(D) by striking "members of the organization" and inserting "members of the organization or PACE program eligible individuals enrolled with the PACE provider,".

(2) MEDICARE SERVICES FURNISHED BY PHYSICIANS AND OTHER ENTITIES.—Section 1894(b) (42 U.S.C. 1395eee(b)) is amended by adding at the end the following new paragraphs:

"(3) TREATMENT OF MEDICARE SERVICES FURNISHED BY NONCONTRACT PHYSICIANS AND OTHER ENTITIES.—

"(A) APPLICATION OF MEDICARE+CHOICE REQUIREMENT WITH RESPECT TO MEDICARE SERVICES FURNISHED BY NONCONTRACT PHYSICIANS AND OTHER ENTITIES.—Section 1852(k)(1) (relating to limitations on balance billing against Medicare+Choice organizations for noncontract physicians and other entities with respect to services covered under this title) shall apply to PACE providers, PACE program eligible individuals enrolled with such PACE providers, and physicians and other entities that do not have a contract establishing payment amounts for services furnished to such an individual in the same manner as such section applies to Medicare+Choice organizations, individuals enrolled with such organizations, and physicians and other entities referred to in such section.

"(B) REFERENCE TO RELATED PROVISION FOR NONCONTRACT PROVIDERS OF SERVICES.—For the provision relating to limitations on balance billing against PACE providers for services covered under this title furnished by noncontract providers of services, see section 1866(a)(1)(O).

"(4) REFERENCE TO RELATED PROVISION FOR SERVICES COVERED UNDER TITLE XIX BUT NOT UNDER THIS TITLE.—For provisions relating to limitations on payments to providers participating under the State plan under title XIX that do not have a contract with a PACE provider establishing payment amounts for services covered under such plan (but not under this title) when such services are furnished to enrollees of that PACE provider, see section 1902(a)(66).".

(b) MEDICAID SERVICES.—

(1) REQUIREMENT UNDER STATE PLAN.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (64), by striking "and" at the end;

(B) in paragraph (65), by striking the period at the end and inserting "; and"; and

(C) by inserting after paragraph (65) the following new paragraph:

"(66) provide, with respect to services covered under the State plan (but not under title XVIII) that are furnished to a PACE program eligible individual enrolled with a PACE provider by a provider participating under the State plan that does not have a contract with the PACE provider that establishes payment amounts for such services, that such participating provider may not require the PACE provider to pay the participating provider an amount greater than the amount that would otherwise be payable for the service to the participating provider under the State plan for the State where the PACE provider is located (in accordance with regulations issued by the Secretary).".

(2) REFERENCE IN MEDICAID STATUTE.—Section 1934(b) (42 U.S.C. 1396u–4(b)) is amended by adding at the end the following new paragraphs:

"(3) TREATMENT OF MEDICARE SERVICES FURNISHED BY NONCONTRACT PHYSICIANS AND OTHER ENTITIES.—

"(A) APPLICATION OF MEDICARE+CHOICE REQUIREMENT WITH RESPECT TO MEDICARE SERVICES FURNISHED BY NONCONTRACT PHYSICIANS and other entities.—Section 1852(k)(1) (relating to limitations on balance billing against Medicare+Choice organizations for noncontract physicians and other entities with respect to services covered under title XVIII) shall apply to PACE providers, PACE program eligible individuals enrolled with such PACE providers, and physicians and other entities that do not have a contract establishing payment amounts for services furnished to such an individual in the same manner as such section applies to Medicare+Choice organizations, individuals enrolled with such organizations, and physicians and other entities referred to in such section.

“(B) Reference to related provision for noncontract providers of services.—For the provision relating to limitations on balance billing against PACE providers for services covered under title XVIII furnished by noncontract providers of services, see section 1866(a)(1)(O).

“(4) Reference to related provision for services covered under this title but not under title XVIII.—For provisions relating to limitations on payments to providers participating under the State plan under this title that do not have a contract with a PACE provider establishing payment amounts for services covered under such plan (but not under title XVIII) when such services are furnished to enrollees of that PACE provider, see section 1902(a)(66).”.

(c) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 2004.

SEC. 224. INSTITUTE OF MEDICINE EVALUATION AND REPORT ON HEALTH CARE PERFORMANCE MEASURES.

(a) Evaluation.—

(1) In general.—Not later than the date that is 2 months after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into an arrangement under which the Institute of Medicine of the National Academy of Sciences (in this section referred to as the “Institute”) shall conduct an evaluation of leading health care performance measures and options to implement policies that align performance with payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) Specific matters evaluated.—In conducting the evaluation under paragraph (1), the Institute shall—

(A) catalogue, review, and evaluate the validity of leading health care performance measures;

(B) catalogue and evaluate the success and utility of alternative performance incentive programs in public or private sector settings; and

(C) identify and prioritize options to implement policies that align performance with payment under the medicare program that indicate—

(i) the performance measurement set to be used and how that measurement set will be updated;

(ii) the payment policy that will reward performance; and

(iii) the key implementation issues (such as data and information technology requirements) that must be addressed.

(3) Scope of health care performance measures.—The health care performance measures described in paragraph (2)(A) shall encompass a variety of perspectives, including physicians, hospitals, health plans, purchasers, and consumers.

(4) Consultation with MedPAC.—In evaluating the matters described in paragraph (2)(C), the Institute shall consult with the Medicare Payment Advisory Commission established under section 1805 of the Social Security Act (42 U.S.C. 1395b-6).

(b) Report.—Not later than the date that is 18 months after the date of enactment of this Act, the Institute shall submit to the Secretary of Health and Human Services, the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate a report on the evaluation conducted under subsection (a)(1) describing the findings of such evaluation and recommendations for an overall strategy and approach for aligning payment with performance in the original medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act, the Medicare+Choice program under part C of such title, and any other programs under such title XVIII.

(c) Authorization of Appropriations.—There are authorized to be appropriated $1,000,000 for purposes of conducting the evaluation and preparing the report required by this section.

SEC. 225. EXPANDING THE WORK OF MEDICARE QUALITY IMPROVEMENT ORGANIZATIONS TO INCLUDE PARTS C AND D.

(a) Application to Medicare Managed Care and Prescription Drug Coverage.—Section 1154(a)(1) (42 U.S.C. 1320c-3(a)(1)) is amended by inserting “, Medicare+Choice organizations and MedicareAdvantage organizations under part C, and prescription drug card sponsors and eligible entities under part D” after “under section 1876”.

(b) Prescription Drug Therapy Quality Improvement.—Section 1154(a) (42 U.S.C. 1320c-3(a)) is amended by adding at the end the following new paragraph:

“(17) The organization shall execute its responsibilities under subparagraphs (A) and (B) of paragraph (1) by offering to providers, practitioners, prescription drug card sponsors and eligible entities under part D, and Medicare+Choice and MedicareAdvantage plans under part C quality improvement assistance pertaining to prescription drug therapy. For purposes of this part and title XVIII, the functions described in this paragraph shall be treated as a review function.”.

(c) Effective Date.—The amendments made by this section shall apply on and after January 1, 2004.

TITLE III—CENTER FOR MEDICARE CHOICES

SEC. 301. ESTABLISHMENT OF THE CENTER FOR MEDICARE CHOICES.

(a) In General.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 111, is amended by inserting after 1806 the following new section:

“ESTABLISHMENT OF THE CENTER FOR MEDICARE CHOICES

“Sec. 1808. (a) Establishment.—By not later than March 1, 2004, the Secretary shall establish within the Department of Health and Human Services the Center for Medicare Choices, which shall be separate from the Centers for Medicare & Medicaid Services.

“(b) Administrator and Deputy Administrator.—

“(1) Administrator.—

“(A) In general.—The Center for Medicare Choices shall be headed by an Administrator (in this section referred to as the ‘Administrator’) who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall report directly to the Secretary.

“(B) Compensation.—The Administrator shall be paid at the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(C) Term of office.—The Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of an Administrator's term of office, that Administrator may continue in office until the entry upon office of such a successor. An Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

“(D) General authority.—The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Center for Medicare Choices, and shall have authority and control over all personnel and activities thereof.

“(E) Rulemaking authority.—The Administrator may prescribe such rules and regulations as the Administrator determines necessary or appropriate to carry out the functions of the Center for Medicare Choices. The regulations prescribed by the Administrator shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

“(F) Authority to establish organizational units.—The Administrator may establish, alter, consolidate, or discontinue such organizational units or components within the Center for Medicare Choices as the Administrator considers necessary or appropriate, except that this subparagraph shall not apply with respect to any unit, component, or provision provided for by this section.

“(G) Authority to delegate.—The Administrator may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Center for Medicare Choices as the Administrator may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

“(2) Deputy administrator.—

“(A) In general.—There shall be a Deputy Administrator of the Center for Medicare Choices who shall be appointed by the Administrator.

“(B) Compensation.—The Deputy Administrator shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(C) Term of office.—The Deputy Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of a Deputy Administrator's term of office, such Deputy Administrator may continue in office until the entry upon office of such a successor. A Deputy Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

“(D) Duties.—The Deputy Administrator shall perform such duties and exercise such powers as the Administrator shall from time to time assign or delegate. The Deputy Administrator shall be the Acting Administrator of the Center for Medicare Choices during the absence or disability of the Administrator and, unless the President designates another officer of the Government as Acting Administrator, in the event of a vacancy in the office of the Administrator.

“(3) Secretarial coordination of program administration.—The Secretary shall ensure appropriate coordination between the

Administrator and the Administrator of the Centers for Medicare & Medicaid Services in carrying out the programs under this title.

"(c) DUTIES; ADMINISTRATIVE PROVISIONS.—

"(1) DUTIES.—

"(A) GENERAL DUTIES.—The Administrator shall carry out parts C and D, including—

"(i) negotiating, entering into, and enforcing, contracts with plans for the offering of MedicareAdvantage plans under part C, including the offering of qualified prescription drug coverage under such plans; and

"(ii) negotiating, entering into, and enforcing, contracts with eligible entities for the offering of Medicare Prescription Drug plans under part D.

"(B) OTHER DUTIES.—The Administrator shall carry out any duty provided for under part C or D, including duties relating to—

"(i) reasonable cost contracts with eligible organizations under section 1876(h); and

"(ii) demonstration projects carried out in part or in whole under such parts, including the demonstration project carried out through a MedicareAdvantage (formerly Medicare+Choice) project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of an interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

"(C) NONINTERFERENCE.—In order to promote competition under parts C and D, the Administrator, in carrying out the duties required under this section, may not, to the extent possible, interfere in any way with negotiations between eligible entities, MedicareAdvantage organizations, hospitals, physicians, other entities or individuals furnishing items and services under this title (including contractors for such items and services), and drug manufacturers, wholesalers, or other suppliers of covered drugs

"(D) ANNUAL REPORTS.—Not later than March 31 of each year, the Administrator shall submit to Congress and the President a report on the administration of the voluntary prescription drug delivery program under this part during the previous fiscal year.

"(2) MANAGEMENT STAFF.—

"(A) IN GENERAL.—The Administrator, with the approval of the Secretary, may employ, such management staff as determined appropriate. Any such manager shall be required to have demonstrated, by their education and experience (either in the public or private sector), superior expertise in the following areas:

"(i) The review, negotiation, and administration of health care contracts.

"(ii) The design of health care benefit plans.

"(iii) Actuarial sciences.

"(iv) Compliance with health plan contracts.

"(v) Consumer education and decision making.

"(B) COMPENSATION.—

"(i) IN GENERAL.—Subject to clause (ii), the Administrator shall establish the rate of pay for an individual employed under subparagraph (A).

"(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.

"(3) REDELEGATION OF CERTAIN FUNCTIONS OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES.—

"(A) IN GENERAL.—The Secretary, the Administrator of the Center for Medicare Choices, and the Administrator of the Centers for Medicare & Medicaid Services shall establish an appropriate transition of responsibility in order to redelegate the administration of part C from the Secretary and the Administrator of the Centers for Medicare & Medicaid Services to the Administrator of the Center for Medicare Choices as is appropriate to carry out the purposes of this section.

"(B) TRANSFER OF DATA AND INFORMATION.—The Secretary shall ensure that the Administrator of the Centers for Medicare & Medicaid Services transfers to the Administrator such information and data in the possession of the Administrator of the Centers for Medicare & Medicaid Services as the Administrator requires to carry out the duties described in paragraph (1).

"(C) CONSTRUCTION.—Insofar as a responsibility of the Secretary or the Administrator of the Centers for Medicare & Medicaid Services is redelegated to the Administrator under this section, any reference to the Secretary or the Administrator of the Centers for Medicare & Medicaid Services in this title or title XI with respect to such responsibility is deemed to be a reference to the Administrator.

"(d) OFFICE OF BENEFICIARY ASSISTANCE.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Center for Medicare Choices an Office of Beneficiary Assistance to carry out functions relating to medicare beneficiaries under this title, including making determinations of eligibility of individuals for benefits under this title, providing for enrollment of medicare beneficiaries under this title, and the functions described in paragraph (2). The Office shall be a separate operating division within the Center for Medicare Choices.

"(2) DISSEMINATION OF INFORMATION ON BENEFITS AND APPEALS RIGHTS.—

"(A) DISSEMINATION OF BENEFITS INFORMATION.—The Office of Beneficiary Assistance shall disseminate to medicare beneficiaries, by mail, by posting on the Internet site of the Center for Medicare Choices, and through the toll-free telephone number provided for under section 1804(b), information with respect to the following:

"(i) Benefits, and limitations on payment (including cost-sharing, stop-loss provisions, and formulary restrictions) under parts C and D.

"(ii) Benefits, and limitations on payment under parts A, and B, including information on medicare supplemental policies under section 1882.

"(iii) Other areas determined to be appropriate by the Administrator.

Such information shall be presented in a manner so that medicare beneficiaries may compare benefits under parts A, B, and D, and medicare supplemental policies with benefits under MedicareAdvantage plans under part C.

"(B) DISSEMINATION OF APPEALS RIGHTS INFORMATION.—The Office of Beneficiary Assistance shall disseminate to medicare beneficiaries in the manner provided under subparagraph (A) a description of procedural rights (including grievance and appeals procedures) of beneficiaries under the original medicare fee-for-service program under parts A and B, the MedicareAdvantage program under part C, and the voluntary prescription drug delivery program under part D.

"(3) MEDICARE OMBUDSMAN.—

"(A) IN GENERAL.—Within the Office of Beneficiary Assistance, there shall be a Medicare Ombudsman, appointed by the Secretary from among individuals with expertise and experience in the fields of health care and advocacy, to carry out the duties described in subparagraph (B).

"(B) DUTIES.—The Medicare Ombudsman shall—

"(i) receive complaints, grievances, and requests for information submitted by a medicare beneficiary, with respect to any aspect of the medicare program;

"(ii) provide assistance with respect to complaints, grievances, and requests referred to in clause (i), including—

"(I) assistance in collecting relevant information for such beneficiaries, to seek an appeal of a decision or determination made by a fiscal intermediary, carrier, MedicareAdvantage organization, an eligible entity under part D, or the Secretary; and

"(II) assistance to such beneficiaries with any problems arising from disenrollment from a MedicareAdvantage plan under part C or a prescription drug plan under part D; and

"(iii) submit annual reports to Congress, the Secretary, and the Medicare Competitive Policy Advisory Board describing the activities of the Office, and including such recommendations for improvement in the administration of this title as the Ombudsman determines appropriate.

"(C) COORDINATION WITH STATE OMBUDSMAN PROGRAMS AND CONSUMER ORGANIZATIONS.—The Medicare Ombudsman shall, to the extent appropriate, coordinate with State medical Ombudsman programs, and with State- and community-based consumer organizations, to—

"(i) provide information about the medicare program; and

"(ii) conduct outreach to educate medicare beneficiaries with respect to manners in which problems under the medicare program may be resolved or avoided.

"(e) MEDICARE COMPETITIVE POLICY ADVISORY BOARD.—

"(1) ESTABLISHMENT.—There is established within the Center for Medicare Choices the Medicare Competitive Policy Advisory Board (in this section referred to as the 'Board'). The Board shall advise, consult with, and make recommendations to the Administrator with respect to the administration of parts C and D, including the review of payment policies under such parts.

"(2) REPORTS.—

"(A) IN GENERAL.—With respect to matters of the administration of parts C and D, the Board shall submit to Congress and to the Administrator such reports as the Board determines appropriate. Each such report may contain such recommendations as the Board determines appropriate for legislative or administrative changes to improve the administration of such parts, including the stability and solvency of the programs under such parts and the topics described in subparagraph (B). Each such report shall be published in the Federal Register.

"(B) TOPICS DESCRIBED.—Reports required under subparagraph (A) may include the following topics:

"(i) FOSTERING COMPETITION.—Recommendations or proposals to increase competition under parts C and D for services furnished to medicare beneficiaries.

"(ii) EDUCATION AND ENROLLMENT.—Recommendations for the improvement of efforts to provide medicare beneficiaries information and education on the program under this title, and specifically parts C and D, and the program for enrollment under the title.

"(iii) QUALITY.—Recommendations on ways to improve the quality of benefits provided under plans under parts C and D.

"(iv) DISEASE MANAGEMENT PROGRAMS.—Recommendations on the incorporation of disease management programs under parts C and D.

"(v) Rural access.—Recommendations to improve competition and access to plans under parts C and D in rural areas.

"(C) Maintaining independence of board.—The Board shall directly submit to Congress reports required under subparagraph (A). No officer or agency of the United States may require the Board to submit to any officer or agency of the United States for approval, comments, or review, prior to the submission to Congress of such reports.

"(3) Duty of administrator.—With respect to any report submitted by the Board under paragraph (2)(A), not later than 90 days after the report is submitted, the Administrator shall submit to Congress and the President an analysis of recommendations made by the Board in such report. Each such analysis shall be published in the Federal Register.

"(4) Membership.—

"(A) Appointment.—Subject to the succeeding provisions of this paragraph, the Board shall consist of 7 members to be appointed as follows:

"(i) Three members shall be appointed by the President.

"(ii) Two members shall be appointed by the Speaker of the House of Representatives, with the advice of the chairman and the ranking minority member of the Committees on Ways and Means and on Energy and Commerce of the House of Representatives.

"(iii) Two members shall be appointed by the President pro tempore of the Senate with the advice of the chairman and the ranking minority member of the Committee on Finance of the Senate.

"(B) Qualifications.—The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education and experience in health care benefits management, exceptionally qualified to perform the duties of members of the Board.

"(C) Prohibition on inclusion of federal employees.—No officer or employee of the United States may serve as a member of the Board.

"(5) Compensation.—Members of the Board shall receive, for each day (including travel time) they are engaged in the performance of the functions of the Board, compensation at rates not to exceed the daily equivalent to the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(6) Terms of office.—

"(A) In general.—The term of office of members of the Board shall be 3 years.

"(B) Terms of initial appointees.—As designated by the President at the time of appointment, of the members first appointed—

"(i) one shall be appointed for a term of 1 year;

"(ii) three shall be appointed for terms of 2 years; and

"(iii) three shall be appointed for terms of 3 years.

"(C) Reappointments.—Any person appointed as a member of the Board may not serve for more than 8 years.

"(D) Vacancy.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

"(7) Chair.—The Chair of the Board shall be elected by the members. The term of office of the Chair shall be 3 years.

"(8) Meetings.—The Board shall meet at the call of the Chair, but in no event less than 3 times during each fiscal year.

"(9) Director and staff.—

"(A) Appointment of director.—The Board shall have a Director who shall be appointed by the Chair.

"(B) In general.—With the approval of the Board, the Director may appoint such additional personnel as the Director considers appropriate.

"(C) Assistance from the administrator.—The Administrator shall make available to the Board such information and other assistance as it may require to carry out its functions.

"(10) Contract authority.—The Board may contract with and compensate government and private agencies or persons to carry out its duties under this subsection, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"(f) Funding.—There is authorized to be appropriated, in appropriate part from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund (including the Prescription Drug Account), such sums as are necessary to carry out this section.".

(b) Use of Central, Toll-Free Number (1-800-MEDICARE).—Section 1804(b) (42 U.S.C. 1395b-2(b)) is amended by adding at the end the following: "By not later than 1 year after the date of the enactment of the Prescription Drug and Medicare Improvement Act of 2003, the Secretary shall provide, through the toll-free number 1-800-MEDICARE, for a means by which individuals seeking information about, or assistance with, such programs who phone such toll-free number are transferred (without charge) to appropriate entities for the provision of such information or assistance. Such toll-free number shall be the toll-free number listed for general information and assistance in the annual notice under subsection (a) instead of the listing of numbers of individual contractors.".

SEC. 302. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) Administrator as Member and Co-Secretary of the Board of Trustees of the Medicare Trust Funds.—The fifth sentence of sections 1817(b) and 1841(b) (42 U.S.C. 1395i(b), 1395t(b)) are each amended by striking "shall serve as the Secretary" and inserting "and the Administrator of the Center for Medicare Choices shall serve as the Co-Secretaries".

(b) Increase in Grade to Executive Level III for the Administrator of the Centers for Medicare & Medicaid Services.—

(1) In general.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Administrator of the Centers for Medicare & Medicaid Services.".

(2) Conforming amendment.—Section 5315 of such title is amended by striking "Administrator of the Health Care Financing Administration.".

(3) Effective date.—The amendments made by this subsection take effect on March 1, 2004.

TITLE IV—MEDICARE FEE-FOR-SERVICE IMPROVEMENTS

Subtitle A—Provisions Relating to Part A

SEC. 401. EQUALIZING URBAN AND RURAL STANDARDIZED PAYMENT AMOUNTS UNDER THE MEDICARE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM.

(a) In General.—Section 1886(d)(3)(A)(iv) (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking "(iv) For discharges" and inserting "(iv)(I) Subject to the succeeding provisions of this clause, for discharges"; and

(2) by adding at the end the following new subclauses:

"(II) For discharges occurring during the last 3 quarters of fiscal year 2004, the operating standardized amount for hospitals located other than in a large urban area shall be increased by ½ of the difference between the operating standardized amount determined under subclause (I) for hospitals located in large urban areas for such fiscal year and such amount determined (without regard to this subclause) for other hospitals for such fiscal year.

"(III) For discharges occurring in a fiscal year beginning with fiscal year 2005, the Secretary shall compute an operating standardized amount for hospitals located in any area within the United States and within each region equal to the operating standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2006, applicable for all hospitals in the previous fiscal year) increased by the applicable percentage increase under subsection (b)(3)(B)(i) for the fiscal year involved.".

(b) Conforming Amendments.—

(1) Computing DRG-specific rates.—Section 1886(d)(3)(D) (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(A) in the heading, by striking "IN DIFFERENT AREAS";

(B) in the matter preceding clause (i), by striking "each of which is";

(C) in clause (i)—

(i) in the matter preceding subclause (I), by inserting "for fiscal years before fiscal year 2005," before "for hospitals"; and

(ii) in subclause (II), by striking "and" after the semicolon at the end;

(D) in clause (ii)—

(i) in the matter preceding subclause (I), by inserting "for fiscal years before fiscal year 2005," before "for hospitals"; and

(ii) in subclause (II), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following new clause:

"(iii) for a fiscal year beginning after fiscal year 2004, for hospitals located in all areas, to the product of—

"(I) the applicable operating standardized amount (computed under subparagraph (A)), reduced under subparagraph (B), and adjusted or reduced under subparagraph (C) for the fiscal year; and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.".

(2) Technical conforming sunset.—Section 1886(d)(3) (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter preceding subparagraph (A), by inserting ", for fiscal years before fiscal year 1997," before "a regional adjusted DRG prospective payment rate"; and

(B) in subparagraph (D), in the matter preceding clause (i), by inserting ", for fiscal years before fiscal year 1997," before "a regional DRG prospective payment rate for each region.".

SEC. 402. ADJUSTMENT TO THE MEDICARE INPATIENT HOSPITAL PPS WAGE INDEX TO REVISE THE LABOR-RELATED SHARE OF SUCH INDEX.

(a) In General.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(1) by striking "WAGE LEVELS.—The Secretary" and inserting "WAGE LEVELS.—

"(i) In general.—Except as provided in clause (ii), the Secretary"; and

(2) by adding at the end the following new clause:

"(ii) Alternative proportion to be adjusted beginning in fiscal year 2005.—

"(I) In general.—Except as provided in subclause (II), for discharges occurring on or after October 1, 2004, the Secretary shall substitute '62 percent' for the proportion described in the first sentence of clause (i).

"(II) Hold harmless for certain hospitals.—If the application of subclause (I) would result in lower payments to a hospital than would otherwise be made, then this subparagraph shall be applied as if this clause had not been enacted.".

(b) Waiving Budget Neutrality.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)), as amended by subsection (a), is amended by adding at the end of clause (i) the following new sentence: "The Secretary shall apply the previous sentence for any period as if the amendments made by section 402(a) of the Prescription Drug and Medicare Improvement Act of 2003 had not been enacted.".

SEC. 403. MEDICARE INPATIENT HOSPITAL PAYMENT ADJUSTMENT FOR LOW-VOLUME HOSPITALS.

Section 1886(d) (42 U.S.C. 1395ww(d)) is amended by adding at the end the following new paragraph:

"(12) Payment adjustment for low-volume hospitals.—

"(A) Payment adjustment.—

"(i) In general.—Notwithstanding any other provision of this section, for each cost reporting period (beginning with the cost reporting period that begins in fiscal year 2005), the Secretary shall provide for an additional payment amount to each low-volume hospital (as defined in clause (iii)) for discharges occurring during that cost reporting period which is equal to the applicable percentage increase (determined under clause (ii)) in the amount paid to such hospital under this section for such discharges.

"(ii) Applicable percentage increase.—The Secretary shall determine a percentage increase applicable under this paragraph that ensures that—

"(I) no percentage increase in payments under this paragraph exceeds 25 percent of the amount of payment that would (but for this paragraph) otherwise be made to a low-volume hospital under this section for each discharge;

"(II) low-volume hospitals that have the lowest number of discharges during a cost reporting period receive the highest percentage increases in payments due to the application of this paragraph; and

"(III) the percentage increase in payments to any low-volume hospital due to the application of this paragraph is reduced as the number of discharges per cost reporting period increases.

"(iii) Low-volume hospital defined.—For purposes of this paragraph, the term 'low-volume hospital' means, for a cost reporting period, a subsection (d) hospital (as defined in paragraph (1)(B)) other than a critical access hospital (as defined in section 1861(mm)(1)) that—

"(I) the Secretary determines had an average of less than 2,000 discharges (determined with respect to all patients and not just individuals receiving benefits under this title) during the 3 most recent cost reporting periods for which data are available that precede the cost reporting period to which this paragraph applies; and

"(II) is located at least 15 miles from a like hospital (or is deemed by the Secretary to be so located by reason of such factors as the Secretary determines appropriate, including the time required for an individual to travel to the nearest alternative source of appropriate inpatient care (after taking into account the location of such alternative source of inpatient care and any weather or travel conditions that may affect such travel time).

"(B) Prohibiting certain reductions.—Notwithstanding subsection (e), the Secretary shall not reduce the payment amounts under this section to offset the increase in payments resulting from the application of subparagraph (A).".

SEC. 404. FAIRNESS IN THE MEDICARE DISPROPORTIONATE SHARE HOSPITAL (DSH) ADJUSTMENT FOR RURAL HOSPITALS.

(a) Equalizing DSH Payment Amounts.—

(1) In general.—Section 1886(d)(5)(F)(vii) (42 U.S.C. 1395ww(d)(5)(F)(vii)) is amended by inserting ", and, after October 1, 2004, for any other hospital described in clause (iv)," after "clause (iv)(I)" in the matter preceding subclause (I).

(2) Conforming amendments.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in clause (iv)—

(i) in subclause (II)—

(I) by inserting "and before October 1, 2004," after "April 1, 2001,"; and

(II) by inserting "or, for discharges occurring on or after October 1, 2004, is equal to the percent determined in accordance with the applicable formula described in clause (vii)" after "clause (xiii)";

(ii) in subclause (III)—

(I) by inserting "and before October 1, 2004," after "April 1, 2001,"; and

(II) by inserting "or, for discharges occurring on or after October 1, 2004, is equal to the percent determined in accordance with the applicable formula described in clause (vii)" after "clause (xii)";

(iii) in subclause (IV)—

(I) by inserting "and before October 1, 2004," after "April 1, 2001,"; and

(II) by inserting "or, for discharges occurring on or after October 1, 2004, is equal to the percent determined in accordance with the applicable formula described in clause (vii)" after "clause (x) or (xi)";

(iv) in subclause (V)—

(I) by inserting "and before October 1, 2004," after "April 1, 2001,"; and

(II) by inserting "or, for discharges occurring on or after October 1, 2004, is equal to the percent determined in accordance with the applicable formula described in clause (vii)" after "clause (xi)"; and

(v) in subclause (VI)—

(I) by inserting "and before October 1, 2004," after "April 1, 2001,"; and

(II) by inserting "or, for discharges occurring on or after October 1, 2004, is equal to the percent determined in accordance with the applicable formula described in clause (vii)" after "clause (x)";

(B) in clause (viii), by striking "The formula" and inserting "For discharges occurring before October 1, 2004, the formula"; and

(C) in each of clauses (x), (xi), (xii), and (xiii), by striking "For purposes" and inserting "With respect to discharges occurring before October 1, 2004, for purposes".

(b) Effective Date.—The amendments made by this section shall apply to discharges occurring on or after October 1, 2004.

SEC. 405. CRITICAL ACCESS HOSPITAL (CAH) IMPROVEMENTS.

(a) Permitting CAHs To Allocate Swing Beds and Acute Care Inpatient Beds Subject to a Total Limit of 25 Beds.—

(1) In general.—Section 1820(c)(2)(B)(iii) (42 U.S.C. 1395i-4(c)(2)(B)(iii)) is amended to read as follows:

"(iii) provides not more than a total of 25 extended care service beds (pursuant to an agreement under subsection (f)) and acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period that does not exceed, as determined on an annual, average basis, 96 hours per patient;".

(2) Conforming amendment.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is amended by striking "and the number of beds used at any time for acute care inpatient services does not exceed 15 beds".

(3) Effective date.—The amendments made by this subsection shall with respect to designations made on or after October 1, 2004.

(b) Elimination of the Isolation Test for Cost-Based CAH Ambulance Services.—

(1) Elimination.—

(A) In general.—Section 1834(l)(8) (42 U.S.C. 1395m(l)(8)), as added by section 205(a) of BIPA (114 Stat. 2763A-482), is amended by striking the comma at the end of subparagraph (B) and all that follows and inserting a period.

(B) Effective date.—The amendment made by subparagraph (A) shall apply to services furnished on or after January 1, 2005.

(2) Technical correction.—Section 1834(l) (42 U.S.C. 1395m(l)) is amended by redesignating paragraph (8), as added by section 221(a) of BIPA (114 Stat. 2763A-486), as paragraph (9).

(c) Coverage of Costs for Certain Emergency Room On-Call Providers.—

(1) In general.—Section 1834(g)(5) (42 U.S.C. 1395m(g)(5)) is amended—

(A) in the heading—

(i) by inserting "CERTAIN" before "EMERGENCY"; and

(ii) by striking "PHYSICIANS" and inserting "PROVIDERS";

(B) by striking "emergency room physicians who are on-call (as defined by the Secretary)" and inserting "physicians, physician assistants, nurse practitioners, and clinical nurse specialists who are on-call (as defined by the Secretary) to provide emergency services"; and

(C) by striking "physicians' services" and inserting "services covered under this title".

(2) Effective date.—The amendments made by paragraph (1) shall apply to costs incurred for services provided on or after January 1, 2005.

(d) Authorization of Periodic Interim Payment (PIP).—

(1) In general.—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(A) in subparagraph (C), by striking "and" after the semicolon at the end;

(B) in subparagraph (D), by adding "and" after the semicolon at the end; and

(C) by inserting after subparagraph (D) the following new subparagraph:

"(E) inpatient critical access hospital services;".

(2) Effective date.—The amendments made by paragraph (1) shall apply to payments for inpatient critical access facility services furnished on or after January 1, 2005.

(e) Exclusion of New CAHs From PPS Hospital Wage Index Calculation.—Section 1886(d)(3)(E)(i) (42 U.S.C. 1395ww(d)(3)(E)(i)), as amended by section 402, is amended by inserting after the first sentence the following new sentence: "In calculating the hospital wage levels under the preceding sentence applicable with respect to cost reporting periods beginning on or after January 1, 2004, the Secretary shall exclude the wage levels of any facility that became a critical access hospital prior to the cost reporting period for which such hospital wage levels are calculated.".

(f) Provisions Related to Certain Rural Grants.—

(1) Small rural hospital improvement program.—Section 1820(g) (42 U.S.C. 1395i-4(g)) is amended—

(A) by redesignating paragraph (3)(F) as paragraph (5) and redesignating and indenting appropriately; and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) Small rural hospital improvement program.—

"(A) Grants to hospitals.—The Secretary may award grants to hospitals that have submitted applications in accordance with subparagraph (B) to assist eligible small rural hospitals (as defined in paragraph (3)(B)) in meeting the costs of reducing medical errors, increasing patient safety, protecting patient privacy, and improving hospital quality and performance.

"(B) Application.—A hospital seeking a grant under this paragraph shall submit an application to the Secretary on or before such date and in such form and manner as the Secretary specifies.

"(C) Amount of grant.—A grant to a hospital under this paragraph may not exceed $50,000.

"(D) Use of funds.—A hospital receiving a grant under this paragraph may use the funds for the purchase of computer software and hardware, the education and training of hospital staff, and obtaining technical assistance.".

(2) Authorization for appropriations.—Section 1820(j) (42 U.S.C. 1395i-4(j)) is amended to read as follows:

"(j) Authorization of Appropriations.—

"(1) HI trust fund.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under—

"(A) subsection (g), $25,000,000 in each of the fiscal years 1998 through 2002; and

"(B) paragraphs (1) and (2) of subsection (g), $40,000,000 in each of the fiscal years 2004 through 2008.

"(2) General revenues.—There are authorized to be appropriated from amounts in the Treasury not otherwise appropriated for making grants to all States under subsection (g)(4), $25,000,000 in each of the fiscal years 2004 through 2008.".

(3) Requirement that states awarded grants consult with the state hospital association and rural hospitals on the most appropriate ways to use such grants.—

(A) In general.—Section 1820(g) (42 U.S.C. 1395i-4(g)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(6) Required consultation for states awarded grants.—A State awarded a grant under paragraph (1) or (2) shall consult with the hospital association of such State and rural hospitals located in such State on the most appropriate ways to use the funds under such grant.".

(B) Effective date and application.—The amendment made by subparagraph (A) shall take effect on the date of enactment of this Act and shall apply to grants awarded on or after such date and to grants awarded prior to such date to the extent that funds under such grants have not been obligated as of such date.

SEC. 406. AUTHORIZING USE OF ARRANGEMENTS TO PROVIDE CORE HOSPICE SERVICES IN CERTAIN CIRCUMSTANCES.

(a) In General.—Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended by adding at the end the following:

"(D) In extraordinary, exigent, or other non-routine circumstances, such as unanticipated periods of high patient loads, staffing shortages due to illness or other events, or temporary travel of a patient outside a hospice program's service area, a hospice program may enter into arrangements with another hospice program for the provision by that other program of services described in paragraph (2)(A)(ii)(I). The provisions of paragraph (2)(A)(ii)(II) shall apply with respect to the services provided under such arrangements.

"(E) A hospice program may provide services described in paragraph (1)(A) other than directly by the program if the services are highly specialized services of a registered professional nurse and are provided non-routinely and so infrequently so that the provision of such services directly would be impracticable and prohibitively expensive.".

(b) Conforming Payment Provision.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

"(4) In the case of hospice care provided by a hospice program under arrangements under section 1861(dd)(5)(D) made by another hospice program, the hospice program that made the arrangements shall bill and be paid for the hospice care.".

(c) Effective Date.—The amendments made by this section shall apply to hospice care provided on or after October 1, 2004.

SEC. 407. SERVICES PROVIDED TO HOSPICE PATIENTS BY NURSE PRACTITIONERS, CLINICAL NURSE SPECIALISTS, AND PHYSICIAN ASSISTANTS.

(a) In general.—Section 1812(d)(2)(A) (42 U.S.C. 1395d(d)(2)(A) in the matter following clause (i)(II), is amended—

(1) by inserting "or services described in section 1861(s)(2)(K)" after "except that clause (i) shall not apply to physicians' services"; and

(2) by inserting ", or by a physician assistant, nurse practitioner, or clinical nurse specialist whom is not an employee of the hospice program, and who the individual identifies as the health care provider having the most significant role in the determination and delivery of medical care to the individual at the time the individual makes an election to receive hospice care," after the "(if not an employee of the hospice program)".

(b) Effective Date.—The amendments made by subsection (a) shall apply to hospice care furnished on or after October 1, 2004.

SEC. 408. AUTHORITY TO INCLUDE COSTS OF TRAINING OF PSYCHOLOGISTS IN PAYMENTS TO HOSPITALS UNDER MEDICARE.

Effective for cost reporting periods beginning on or after October 1, 2004, for purposes of payments to hospitals under the medicare program under title XVIII of the Social Security Act for costs of approved educational activities (as defined in section 413.85 of title 42 of the Code of Federal Regulations), such approved educational activities shall include professional educational training programs, recognized by the Secretary, for psychologists.

SEC. 409. REVISION OF FEDERAL RATE FOR HOSPITALS IN PUERTO RICO.

Section 1886(d)(9) (42 U.S.C. 1395ww(d)(9)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking "for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)" and inserting "the applicable Puerto Rico percentage (specified in subparagraph (E))"; and

(B) in clause (ii), by striking "for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 25 percent)" and inserting "the applicable Federal percentage (specified in subparagraph (E))"; and

(2) by adding at the end the following new subparagraph:

"(E) For purposes of subparagraph (A), for discharges occurring—

"(i) between October 1, 1987, and September 30, 1997, the applicable Puerto Rico percentage is 75 percent and the applicable Federal percentage is 25 percent;

"(ii) on or after October 1, 1997, and before October 1, 2004, the applicable Puerto Rico percentage is 50 percent and the applicable Federal percentage is 50 percent;

"(iii) on or after October 1, 2004, and before October 1, 2009, the applicable Puerto Rico percentage is 0 percent and the applicable Federal percentage is 100 percent; and

"(iv) on or after October 1, 2009, the applicable Puerto Rico percentage is 50 percent and the applicable Federal percentage is 50 percent.".

SEC. 410. AUTHORITY REGARDING GERIATRIC FELLOWSHIPS.

The Secretary shall have the authority to clarify that geriatric training programs are eligible for 2 years of fellowship support for purposes of making payments for direct graduate medical education under subsection (h) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) and indirect medical education under subsection (d)(5)(B) of such section on or after October 1, 2004.

SEC. 411. CLARIFICATION OF CONGRESSIONAL INTENT REGARDING THE COUNTING OF RESIDENTS IN A NONPROVIDER SETTING AND A TECHNICAL AMENDMENT REGARDING THE 3-YEAR ROLLING AVERAGE AND THE IME RATIO.

(a) Clarification of Requirements for Counting Residents Training in Nonprovider Setting.—

(1) D-GME.—Section 1886(h)(4)(E) (42 U.S.C. 1395ww(h)(4)(E)) is amended by adding at the end the following new sentence: For purposes of the preceding sentence time shall only be counted from the effective date of a written agreement between the hospital and the entity owning or operating a nonprovider setting. The effective date of such written agreement shall be determined in accordance with generally accepted accounting principles. All, or substantially all, of the costs for the training program in that setting shall be defined as the residents' stipends and benefits and other costs, if any, as determined by the parties.".

(2) IME.—Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by adding at the end the following new sentence: For purposes of the preceding sentence time shall only be counted from the effective date of a written agreement between the hospital and the entity owning or operating a nonprovider

setting. The effective date of such written agreement shall be determined in accordance with generally accepted accounting principles. All, or substantially all, of the costs for the training program in that setting shall be defined as the residents' stipends and benefits and other costs, if any, as determined by the parties.".

(b) LIMITING ONE-YEAR LAG IN THE INDIRECT MEDICAL EDUCATION (IME) RATIO AND THREE-YEAR ROLLING AVERAGE IN RESIDENT COUNT FOR IME AND FOR DIRECT GRADUATE MEDICAL EDUCATION (D-GME) TO MEDICAL RESIDENCY PROGRAMS.—

(1) IME RATIO AND IME ROLLING AVERAGE.—Section 1886(d)(5)(B)(vi) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(vi)) is amended by adding at the end the following new sentence: "For cost reporting periods beginning during fiscal years beginning on or after October 1, 2004, subclauses (I) and (II) shall be applied only with respect to a hospital's approved medical residency training programs in the fields of allopathic and osteopathic medicine.".

(2) D-GME ROLLING AVERAGE.—Section 1886(h)(4)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(G)) is amended by adding at the end the following new clause:

"(iv) APPLICATION FOR FISCAL YEAR 2004 AND SUBSEQUENT YEARS.—For cost reporting periods beginning during fiscal years beginning on or after October 1, 2004, clauses (i) through (iii) shall be applied only with respect to a hospital's approved medical residency training program in the fields of allopathic and osteopathic medicine.".

SEC. 412. LIMITATION ON CHARGES FOR INPATIENT HOSPITAL CONTRACT HEALTH SERVICES PROVIDED TO INDIANS BY MEDICARE PARTICIPATING HOSPITALS.

(a) IN GENERAL.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (R), by striking "and" at the end;

(2) in subparagraph (S), by striking the period and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(T) in the case of hospitals which furnish inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care—

"(i) under the contract health services program funded by the Indian Health Service and operated by the Indian Health Service, an Indian tribe, or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), with respect to items and services that are covered under such program and furnished to an individual eligible for such items and services under such program; and

"(ii) under a program funded by the Indian Health Service and operated by an urban Indian organization with respect to the purchase of items and services for an eligible urban Indian (as those terms are defined in such section 4),

in accordance with regulations promulgated by the Secretary regarding admission practices, payment methodology, and rates of payment (including the acceptance of no more than such payment rate as payment in full for such items and services).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as of a date specified by the Secretary of Health and Human Services (but in no case later than 6 months after the date of enactment of this Act) to medicare participation agreements in effect (or entered into) on or after such date.

SEC. 413. GAO STUDY AND REPORT ON APPROPRIATENESS OF PAYMENTS UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES.

(a) STUDY.—The Comptroller General of the United States, using the most current data available, shall conduct a study to determine—

(1) the appropriate level and distribution of payments in relation to costs under the prospective payment system under section 1886 of the Social Security Act (42 U.S.C. 1395ww) for inpatient hospital services furnished by subsection (d) hospitals (as defined in subsection (d)(1)(B) of such section); and

(2) whether there is a need to adjust such payments under such system to reflect legitimate differences in costs across different geographic areas, kinds of hospitals, and types of cases.

(b) REPORT.—Not later than 24 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a) together with such recommendations for legislative and administrative action as the Comptroller General determines appropriate.

Subtitle B—Provisions Relating to Part B

SEC. 421. ESTABLISHMENT OF FLOOR ON GEOGRAPHIC ADJUSTMENTS OF PAYMENTS FOR PHYSICIANS' SERVICES.

Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended—

(1) in subparagraph (A), by striking "subparagraphs (B) and (C)" and inserting "subparagraphs (B), (C), (E), and (F)"; and

(2) by adding at the end the following new subparagraphs:

"(E) FLOOR FOR WORK GEOGRAPHIC INDICES.—

"(i) IN GENERAL.—For purposes of payment for services furnished on or after January 1, 2004, and before January 1, 2008, after calculating the work geographic indices in subparagraph (A)(iii), the Secretary shall increase the work geographic index to the work floor index for any locality for which such geographic index is less than the work floor index.

"(ii) WORK FLOOR INDEX.—For purposes of clause (i), the term 'applicable floor index' means—

"(I) 0.980 with respect to services furnished during 2004; and

"(II) 1.000 for services furnished during 2005, 2006, and 2007.

"(F) FLOOR FOR PRACTICE EXPENSE AND MALPRACTICE GEOGRAPHIC INDICES.—For purposes of payment for services furnished on or after January 1, 2005, and before January 1, 2008, after calculating the practice expense and malpractice indices in clauses (i) and (ii) of subparagraph (A) and in subparagraph (B), the Secretary shall increase any such index to 1.00 for any locality for which such index is less than 1.00.

SEC. 422. MEDICARE INCENTIVE PAYMENT PROGRAM IMPROVEMENTS.

(a) PROCEDURES FOR SECRETARY, AND NOT PHYSICIANS, TO DETERMINE WHEN BONUS PAYMENTS UNDER MEDICARE INCENTIVE PAYMENT PROGRAM SHOULD BE MADE.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended—

(1) by inserting "(1)" after "(m)"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary shall establish procedures under which the Secretary, and not the physician furnishing the service, is responsible for determining when a payment is required to be made under paragraph (1).".

(b) EDUCATIONAL PROGRAM REGARDING THE MEDICARE INCENTIVE PAYMENT PROGRAM.—The Secretary shall establish and implement an ongoing educational program to provide education to physicians under the medicare program on the medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395l(m)).

(c) ONGOING GAO STUDY AND ANNUAL REPORT ON THE MEDICARE INCENTIVE PAYMENT PROGRAM.—

(1) ONGOING STUDY.—The Comptroller General of the United States shall conduct an ongoing study on the medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395l(m)). Such study shall focus on whether such program increases the access of medicare beneficiaries who reside in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A))) as a health professional shortage area to physicians' services under the medicare program.

(2) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1), together with recommendations as the Comptroller General considers appropriate.

SEC. 423. INCREASE IN RENAL DIALYSIS COMPOSITE RATE.

Notwithstanding any other provision of law, with respect to payment under part B of title XVIII of the Social Security Act for renal dialysis services furnished in 2005 and 2006, the composite rate for such services shall be increased by 1.6 percent under section 1881(b)(12) of such Act (42 U.S.C. 1395rr(b)(7)), as added by section 433(b)(5).

SEC. 424. EXTENSION OF HOLD HARMLESS PROVISIONS FOR SMALL RURAL HOSPITALS AND TREATMENT OF CERTAIN SOLE COMMUNITY HOSPITALS TO LIMIT DECLINE IN PAYMENT UNDER THE OPD PPS.

(a) SMALL RURAL HOSPITALS.—Section 1833(t)(7)(D)(i) (42 U.S.C. 1395l(t)(7)(D)(i)) is amended by inserting "and during 2006" after "2004,".

(b) SOLE COMMUNITY HOSPITALS.—Section 1833(t)(7)(D) (42 U.S.C. 1395l(t)(7)(D)) is amended by adding at the end the following:

"(iii) TEMPORARY TREATMENT FOR SOLE COMMUNITY HOSPITALS .—In the case of a sole community hospital (as defined in section 1886(d)(5)(D)(iii)) located in a rural area, for covered OPD services furnished in 2006, for which the PPS amount is less than the pre-BBA amount, the amount of payment under this subsection shall be increased by the amount of such difference.".

SEC. 425. INCREASE IN PAYMENTS FOR CERTAIN SERVICES FURNISHED BY SMALL RURAL AND SOLE COMMUNITY HOSPITALS UNDER MEDICARE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) INCREASE.—

(1) IN GENERAL.—In the case of an applicable covered OPD service (as defined in paragraph (2)) that is furnished by a hospital described in clause (i) or (iii) of paragraph (7)(D) of section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)), as amended by section 424, on or after January 1, 2005, and before January 1, 2008, the Secretary shall increase the medicare OPD fee schedule amount (as determined under paragraph (4)(A) of such section) that is applicable for such service in that year (determined without regard to any increase under this section in a previous year) by 5 percent.

(2) APPLICABLE COVERED OPD SERVICES DEFINED.—For purposes of this section, the

term "applicable covered OPD service" means a covered clinic or emergency room visit that is classified within the groups of covered OPD services (as defined in paragraph (1)(B) of section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t))) established under paragraph (2)(B) of such section.

(b) No Effect on Copayment Amount.—The Secretary shall compute the copayment amount for applicable covered OPD services under section 1833(t)(8)(A) of the Social Security Act (42 U.S.C. 1395*l*(t)(8)(A)) as if this section had not been enacted.

(c) No Effect on Increase Under Hold Harmless or Outlier Provisions.—The Secretary shall apply the temporary hold harmless provision under clause (i) and (iii) of paragraph (7)(D) of section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t)) and the outlier provision under paragraph (5) of such section as if this section had not been enacted.

(d) Waiving Budget Neutrality and No Revision or Adjustments.—The Secretary shall not make any revision or adjustment under subparagraph (A), (B), or (C) of section 1833(t)(9) of the Social Security Act (42 U.S.C. 1395*l*(t)(9)) because of the application of subsection (a)(1).

(e) No Effect on Payments After Increase Period Ends.—The Secretary shall not take into account any payment increase provided under subsection (a)(1) in determining payments for covered OPD services (as defined in paragraph (1)(B) of section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t))) under such section that are furnished after January 1, 2008.

(f) Technical Amendment.—Section 1833(t)(2)(B) (42 U.S.C. 1395*l*(t)(2)(B)) is amended by inserting "(and periodically revise such groups pursuant to paragraph (9)(A))" after "establish groups".

SEC. 426. INCREASE FOR GROUND AMBULANCE SERVICES FURNISHED IN A RURAL AREA.

Section 1834(l) (42 U.S.C. 1395m(l)), as amended by section 405(b)(2), is amended by adding at the end the following new paragraph:

"(10) Temporary Increase for Ground Ambulance Services Furnished in a Rural Area.—

"(A) In general.—Notwithstanding any other provision of this subsection, in the case of ground ambulance services furnished on or after January 1, 2005, and before January 1, 2008, for which the transportation originates in a rural area described in paragraph (9) or in a rural census tract described in such paragraph, the fee schedule established under this section, with respect to both the payment rate for service and the payment rate for mileage, shall provide that such rates otherwise established, after application of any increase under such paragraph, shall be increased by 5 percent.

"(B) Application of increased payments after 2007.—The increased payments under subparagraph (A) shall not be taken into account in calculating payments for services furnished on or after the period specified in such subparagraph.".

SEC. 427. ENSURING APPROPRIATE COVERAGE OF AIR AMBULANCE SERVICES UNDER AMBULANCE FEE SCHEDULE.

(a) Coverage.—Section 1834(l) (42 U.S.C. 1395m(l)), as amended by section 426, is amended by adding at the end the following new paragraph:

"(11) Ensuring appropriate coverage of air ambulance services.—

"(A) In general.—The regulations described in section 1861(s)(7) shall ensure that air ambulance services (as defined in subparagraph (C)) are reimbursed under this subsection at the air ambulance rate if the air ambulance service—

"(i) is medically necessary based on the health condition of the individual being transported at or immediately prior to the time of the transport; and

"(ii) complies with equipment and crew requirements established by the Secretary.

"(B) Medically necessary.—An air ambulance service shall be considered to be medically necessary for purposes of subparagraph (A)(i) if such service is requested—

"(i) by a physician or a hospital in accordance with the physician's or hospital's responsibilities under section 1867 (commonly known as the Emergency Medical Treatment and Active Labor Act);

"(ii) as a result of a protocol established by a State or regional emergency medical service (EMS) agency;

"(iii) by a physician, nurse practitioner, physician assistant, registered nurse, or emergency medical responder who reasonably determines or certifies that the patient's condition is such that the time needed to transport the individual by land or the lack of an appropriate ground ambulance, significantly increases the medical risks for the individual; or

"(iv) by a Federal or State agency to relocate patients following a natural disaster, an act of war, or a terrorist attack.

"(C) Air ambulance services defined.—For purposes of this paragraph, the term 'air ambulance service' means fixed wing and rotary wing air ambulance services.".

(b) Conforming Amendment.—Section 1861(s)(7) (42 U.S.C. 1395x(s)(7)) is amended by inserting ", subject to section 1834(l)(11)," after "but".

(c) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 2005.

SEC. 428. TREATMENT OF CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED BY A SOLE COMMUNITY HOSPITAL.

Notwithstanding subsections (a), (b), and (h) of section 1833 of the Social Security Act (42 U.S.C. 1395*l*) and section 1834(d)(1) of such Act (42 U.S.C. 1395m(d)(1)), in the case of a clinical diagnostic laboratory test covered under part B of title XVIII of such Act that is furnished in 2005 or 2006 by a sole community hospital (as defined in section 1886(d)(5)(D)(iii) of such Act (42 U.S.C. 1395ww(d)(5)(D)(iii))) as part of services furnished to patients of the hospital, the following rules shall apply:

(1) Payment based on reasonable costs.—The amount of payment for such test shall be 100 percent of the reasonable costs of the hospital in furnishing such test.

(2) No beneficiary cost-sharing.—Notwithstanding section 432, no coinsurance, deductible, copayment, or other cost-sharing otherwise applicable under such part B shall apply with respect to such test.

SEC. 429. IMPROVEMENT IN RURAL HEALTH CLINIC REIMBURSEMENT.

Section 1833(f) (42 U.S.C. 1395*l*(f)) is amended—

(1) in paragraph (1), by striking ", and" at the end and inserting a semicolon;

(2) in paragraph (2)—

(A) by striking "in a subsequent year" and inserting "in 1989 through 2004"; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(3) in 2005, at $80 per visit; and

"(4) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the MEI (as so defined) applicable to primary care services (as so defined) furnished as of the first day of that year.".

SEC. 430. ELIMINATION OF CONSOLIDATED BILLING FOR CERTAIN SERVICES UNDER THE MEDICARE PPS FOR SKILLED NURSING FACILITY SERVICES.

(a) Certain Rural Health Clinic and Federally Qualified Health Center Services.—Section 1888(e) (42 U.S.C. 1395yy(e)) is amended—

(1) in paragraph (2)(A)(i)(II), by striking "clauses (ii) and (iii)" and inserting "clauses (ii), (iii), and (iv)"; and

(2) by adding at the end of paragraph (2)(A) the following new clause:

"(iv) Exclusion of certain rural health clinic and federally qualified health center services.—Services described in this clause are—

"(I) rural health clinic services (as defined in paragraph (1) of section 1861(aa)); and

"(II) Federally qualified health center services (as defined in paragraph (3) of such section);

that would be described in clause (ii) if such services were furnished by a physician or practitioner not affiliated with a rural health clinic or a Federally qualified health center.".

(b) Certain Services Furnished by an Entity Jointly Owned by Hospitals and Critical Access Hospitals.—For purposes of applying section 411.15(p)-(3)(iii) of title 42 of the Code of Federal Regulations, the Secretary shall treat an entity that is 100 percent owned as a joint venture by 2 Medicare-participating hospitals or critical access hospitals as a Medicare-participating hospital or a critical access hospital.

(c) Technical Amendments.—Sections 1842(b)(6)(E) and 1866(a)(1)(H)(ii) (42 U.S.C. 1395u(b)(6)(E); 1395cc(a)(1)(H)(ii)) are each amended by striking "section 1888(e)(2)(A)(ii)" and inserting "clauses (ii), (iii), and (iv) of section 1888(e)(2)(A)".

(d) Effective Date.—The amendments made by this section and the provision of subsection (b) shall apply to services furnished on or after January 1, 2005.

SEC. 431. FREEZE IN PAYMENTS FOR CERTAIN ITEMS OF DURABLE MEDICAL EQUIPMENT AND CERTAIN ORTHOTICS; ESTABLISHMENT OF QUALITY STANDARDS AND ACCREDITATION REQUIREMENTS FOR DME PROVIDERS.

(a) Freeze for DME.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F)—

(A) by striking "a subsequent year" and inserting "2003"; and

(B) by striking "the previous year." and inserting "2002;"; and

(3) by adding at the end the following new subparagraphs:

"(G) for each of the years 2004 through 2010—

"(i) in the case of class III medical devices described in section 513(a)(1)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(c)(1)(C)), the percentage increase described in subparagraph (B) for the year involved; and

"(ii) in the case of covered items not described in clause (i), 0 percentage points; and

"(H) for a subsequent year, the percentage increase described in subparagraph (B) for the year involved.".

(b) Freeze for Off-the-Shelf Orthotics.—Section 1834(h)(4)(A) of the Social Security Act (42 U.S.C. 1395m(h)(4)(A)) is amended—

(1) in clause (vii), by striking "and" at the end;

(2) in clause (viii), by striking "a subsequent year" and inserting "2003"; and

(3) by adding at the end the following new clauses:

"(ix) for each of the years 2004 through 2010—

"(I) in the case of orthotics that have not been custom-fabricated, 0 percent; and

"(II) in the case of prosthetics, prosthetic devices, and custom-fabricated orthotics, the percentage increase described in clause (viii) for the year involved; and

"(x) for 2011 and each subsequent year, the percentage increase described in clause (viii) for the year involved;".

(c) Establishment of Quality Standards and Accreditation Requirements for Durable Medical Equipment Providers.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended—

(1) by redesignating paragraph (17), as added by section 4551(c)(1) of the Balanced Budget Act of 1997 (111 Stat. 458), as paragraph (19); and

(2) by adding at the end the following new paragraph:

"(20) Identification of quality standards.—

"(A) In general.—Subject to subparagraph (C), the Secretary shall establish and implement quality standards for providers of durable medical equipment throughout the United States that are developed by recognized independent accreditation organizations (as designated under subparagraph (B)(i)) and with which such providers shall be required to comply in order to—

"(i) participate in the program under this title;

"(ii) furnish any item or service described in subparagraph (D) for which payment is made under this part; and

"(iii) receive or retain a provider or supplier number used to submit claims for reimbursement for any item or service described in subparagraph (D) for which payment may be made under this title.

"(B) Designation of independent accreditation organizations.—

"(i) In general.—Not later that the date that is 6 months after the date of enactment of the Prescription Drug and Medicare Improvement Act of 2003, the Secretary shall designate independent accreditation organizations for purposes of subparagraph (A).

"(ii) Consultation.—In determining which independent accreditation organizations to designate under clause (i), the Secretary shall consult with an expert outside advisory panel composed of an appropriate selection of representatives of physicians, practitioners, suppliers, and manufacturers to review (and advise the Secretary concerning) selection of accrediting organizations and the quality standards of such organizations.

"(C) Quality standards.—The quality standards described in subparagraph (A) may not be less stringent than the quality standards that would otherwise apply if this paragraph did not apply and shall include consumer services standards.

"(D) Items and services described.—The items and services described in this subparagraph are covered items (as defined in paragraph (13)) for which payment may otherwise be made under this subsection, other than items used in infusion, and inhalation drugs used in conjunction with durable medical equipment.

"(E) Phased-in implementation.—The application of the quality standards described in subparagraph (A) shall be phased-in over a period that does not exceed 3 years.".

SEC. 432. APPLICATION OF COINSURANCE AND DEDUCTIBLE FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) Coinsurance.—

(1) In general.—Section 1833(a) (42 U.S.C. 1395*l*(a)) is amended—

(A) in paragraph (1)(D)(i), by striking "(or 100 percent, in the case of such tests for which payment is made on an assignment-related basis)"; and

(B) in paragraph (2)(D)(i), by striking "(or 100 percent, in the case of such tests for which payment is made on an assignment-related basis or to a provider having an agreement under section 1866)".

(2) Conforming amendment.—The third sentence of section 1866(a)(2)(A) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A) is amended by striking "and with respect to clinical diagnostic laboratory tests for which payment is made under part B".

(b) Deductible.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395*l*(b)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(c) Effective Date.—The amendments made by this section shall apply to tests furnished on or after January 1, 2004.

SEC. 433. BASING MEDICARE PAYMENTS FOR COVERED OUTPATIENT DRUGS ON MARKET PRICES.

(a) Medicare Market Based Payment Amount.—Section 1842(o) (42 U.S.C. 1395u(o)) is amended—

(1) in paragraph (1), by striking "equal to 95 percent of the average wholesale price." and inserting "equal to—

"(A) in the case of a drug or biological furnished prior to January 1, 2004, 95 percent of the average wholesale price; and

"(B) in the case of a drug or biological furnished on or after January 1, 2004, the payment amount specified in—

"(i) in the case of such a drug or biological that is first available for payment under this part on or before April 1, 2003, paragraph (4); and

"(ii) in the case of such a drug or biological that is first available for payment under this part after such date, paragraph (5)."; and

(2) by adding at the end the following new paragraphs:

"(4)(A) Subject to subparagraph (C), the payment amount specified in this paragraph for a year for a drug or biological is an amount equal to the lesser of—

"(i) the average wholesale price for the drug or biological; or

"(ii) the amount determined under subparagraph (B)

"(B)(i) Subject to clause (ii), the amount determined under this subparagraph is an amount equal to—

"(I) in the case of a drug or biological furnished in 2004, 85 percent of the average wholesale price for the drug or biological (determined as of April 1, 2003); and

"(II) in the case of a drug or biological furnished in 2005 or a subsequent year, the amount determined under this subparagraph for the previous year increased by the percentage increase in the consumer price index for medical care for the 12-month period ending with June of the previous year.

"(ii) In the case of a vaccine described in subparagraph (A) or (B) of section 1861(s)(10), the amount determined under this subparagraph is an amount equal to the average wholesale price for the drug or biological.

"(C)(i) The Secretary shall establish a process under which the Secretary determines, for such drugs or biologicals as the Secretary determines appropriate, whether the widely available market price to physicians or suppliers for the drug or biological furnished in a year is different from the payment amount established under subparagraph (B) for the year. Such determination shall be based on the information described in clause (ii) as the Secretary determines appropriate.

"(ii) The information described in this clause is the following information:

"(I) Any report on drug or biological market prices by the Inspector General of the Department of Health and Human Services or the Comptroller General of the United States that is made available after December 31, 1999.

"(II) A review of drug or biological market prices by the Secretary, which may include information on such market prices from insurers, private health plans, manufacturers, wholesalers, distributors, physician supply houses, specialty pharmacies, group purchasing arrangements, physicians, suppliers, or any other source the Secretary determines appropriate.

"(III) Data and information submitted by the manufacturer of the drug or biological or by another entity.

"(IV) Other data and information as determined appropriate by the Secretary.

"(iii) If the Secretary makes a determination under clause (i) with respect to the widely available market price for a drug or biological for a year, the following provisions shall apply:

"(I) Subject to clause (iv), the amount determined under this subparagraph shall be substituted for the amount determined under subparagraph (B) for purposes of applying subparagraph (A)(ii)(I) for the year and all subsequent years.

"(II) The Secretary may make subsequent determinations under clause (i) with respect to the widely available market price for the drug or biological.

"(III) If the Secretary does not make a subsequent determination under clause (i) with respect to the widely available market price for the drug or biological for a year, the amount determined under this subparagraph shall be an amount equal to the amount determined under this subparagraph for the previous year increased by the percentage increase described in subparagraph (B)(i)(II) for the year involved.

"(iv) If the first determination made under clause (i) with respect to the widely available market price for a drug or biological would result in a payment amount in a year that is more than 15 percent less than the amount determined under subparagraph (B) for the drug or biological for the previous year (or, for 2004, the payment amount determined under paragraph (1)(A), determined as of April 1, 2003), the Secretary shall provide for a transition to the amount determined under clause (i) so that the payment amount is reduced in annual increments equal to 15 percent of the payment amount in such previous year until the payment amount is equal to the amount determined under clause (i), as increased each year by the percentage increase described in subparagraph (B)(i)(II) for the year. The preceding sentence shall not apply to a drug or biological where a generic version of the drug or biological first enters the market on or after January 1, 2004 (even if the generic version of the drug or biological is not marketed under the chemical name of such drug or biological).

"(5) In the case of a drug or biological that is first available for payment under this part after April 1, 2003, the following rules shall apply:

"(A) As a condition of obtaining a code to report such new drug or biological and to receive payment under this part, a manufacturer shall provide the Secretary (in a time, manner, and form approved by the Secretary) with data and information on prices at which the manufacturer estimates physicians and suppliers will be able to routinely obtain the drug or biological in the market during the first year that the drug or biological is available for payment under this part and such additional information that the manufacturer determines appropriate.

"(B) During the year that the drug or biological is first available for payment under this part, the manufacturer of the drug or biological shall provide the Secretary (in a time, manner, and form approved by the Secretary) with updated information on the actual market prices paid by such physicians or suppliers for the drug or biological in the year.

"(C) The amount specified in this paragraph for a drug or biological for the year described in subparagraph (B) is equal to an amount determined by the Secretary based on the information provided under subparagraph (A) and other information that the Secretary determines appropriate.

"(D) The amount specified in this paragraph for a drug or biological for the year after the year described in subparagraph (B) is equal to an amount determined by the Secretary based on the information provided under subparagraph (B) and other information that the Secretary determines appropriate.

"(E) The amount specified in this paragraph for a drug or biological for the year beginning after the year described in subparagraph (D) and each subsequent year is equal to the lesser of—

"(i) the average wholesale price for the drug or biological; or

"(ii) the amount determined—

"(I) by the Secretary under paragraph (4)(C)(i) with respect to the widely available market price for the drug or biological for the year, if such paragraph was applied by substituting 'the payment determined under paragraph (5)(E)(ii)(II) for the year' for 'established under subparagraph (B) for the year'; and

"(II) if no determination described in subclause (I) is made for the drug or biological for the year, under this subparagraph with respect to the drug or biological for the previous year increased by the percentage increase described in paragraph (4)(B)(i)(II) for the year involved.".

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR ADMINISTRATION OF DRUGS AND BIOLOGICALS.—

(1) ADJUSTMENT IN PHYSICIAN PRACTICE EXPENSE RELATIVE VALUE UNITS.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended—

(A) in subparagraph (B)—

(i) in clause (ii)(II), by striking "The adjustments" and inserting "Subject to clause (iv), the adjustments"; and

(ii) by adding at the end the following new clause:

"(iv) EXEMPTION FROM BUDGET NEUTRALITY IN 2004.—Any additional expenditures under this part that are attributable to subparagraph (H) shall not be taken into account in applying clause (ii)(II) for 2004."; and

(B) by adding at the end the following new subparagraph:

"(H) ADJUSTMENTS IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR DRUG ADMINISTRATION SERVICES FOR 2004.—In establishing the physician fee schedule under subsection (b) with respect to payments for services furnished in 2004, the Secretary shall, in determining practice expense relative value units under this subsection, utilize a survey submitted to the Secretary as of January 1, 2003, by a physician specialty organization pursuant to section 212 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 if the survey—

"(i) covers practice expenses for oncology administration services; and

"(ii) meets criteria established by the Secretary for acceptance of such surveys.".

(2) PAYMENT FOR MULTIPLE CHEMOTHERAPY AGENTS FURNISHED ON A SINGLE DAY THROUGH THE PUSH TECHNIQUE.—

(A) REVIEW OF POLICY.—The Secretary shall review the policy, as in effect on the date of enactment of this Act, with respect to payment under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for the administration of more than 1 anticancer chemotherapeutic agent to an individual on a single day through the push technique.

(B) MODIFICATION OF POLICY.—After conducting the review under subparagraph (A), the Secretary shall modify such payment policy if the Secretary determines such modification to be appropriate.

(C) EXEMPTION FROM BUDGET NEUTRALITY UNDER PHYSICIAN FEE SCHEDULE.—If the Secretary modifies such payment policy pursuant to subparagraph (B), any increased expenditures under title XVIII of the Social Security Act resulting from such modification shall be treated as additional expenditures attributable to subparagraph (H) of section 1848(c)(2) of the Social Security Act (42 U.S.C. 1395w–4(c)(2)), as added by paragraph (1)(B), for purposes of applying the exemption to budget neutrality under subparagraph (B)(iv) of such section, as added by paragraph (1)(A).

(3) TREATMENT OF OTHER SERVICES CURRENTLY IN THE NONPHYSICIAN WORK POOL.—The Secretary shall make adjustments to the nonphysician work pool methodology (as such term is used in the final rule promulgated by the Secretary in the Federal Register on December 31, 2002 (67 Fed. Reg. 251)), for the determination of practice expense relative value units under the physician fee schedule under section 1848(c)(2)(C)(ii) of the Social Security Act (42 U.S.C. 1395w–4(c)(2)(C)(ii)), so that the practice expense relative value units for services determined under such methodology are not disproportionately reduced relative to the practice expense relative value units of services not determined under such methodology, as a result of the amendments to such Act made by paragraph (1).

(4) ADMINISTRATION OF BLOOD CLOTTING FACTORS.—Section 1842(o) (42 U.S.C. 1395u(o)), as amended by subsection (a)(2), is amended by adding at the end the following new paragraph:

"(6)(A) Subject to subparagraph (B), in the case of clotting factors furnished on or after January 1, 2004, the Secretary shall, after reviewing the January 2003 report to Congress by the Comptroller General of the United States entitled 'Payment for Blood Clotting Factor Exceeds Providers Acquisition Cost' (GAO–03–184), provide for a separate payment for the administration of such blood clotting factors in an amount that the Secretary determines to be appropriate.

"(B) In determining the separate payment amount under subparagraph (A) for blood clotting factors furnished in 2004, the Secretary shall ensure that the total amount of payments under this part (as estimated by the Secretary) for such factors under paragraphs (4) and (5) and such separate payments for such factors does not exceed the total amount of payments that would have been made for such factors under this part (as estimated by the Secretary) if the amendments made by section 433 of the Prescription Drug and Medicare Improvement Act of 2003 had not been enacted.

"(C) The separate payment amount under this subparagraph for blood clotting factors furnished in 2005 or a subsequent year shall be equal tc the separate payment amount determined under this paragraph for the previous year increased by the percentage increase described in paragraph (4)(B)(i)(II) for the year involved.".

(5) INCREASE IN COMPOSITE RATE FOR END STAGE RENAL DISEASE FACILITIES.—Section 1881(b) (42 U.S.C. 1395rr(b) is amended—

(A) in paragraph (7), by adding at the end the following new sentence: "In the case of dialysis services furnished in 2004 or a subsequent year, the composite rate for such services shall be determined under paragraph (12)."; and

(B) by adding at the end the following new paragraph:

"(12)(A) In the case of dialysis services furnished during 2004, the composite rate for such services shall be the composite rate that would otherwise apply under paragraph (7) for the year increased by an amount to ensure (as estimated by the Secretary) that—

"(i) the sum of the total amount of—

"(I) the composite rate payments for such services for the year, as increased under this paragraph; and

"(II) the payments for drugs and biologicals (other than erythropoetin) furnished in connection with the furnishing of renal dialysis services and separately billed by renal dialysis facilities under paragraphs (4) and (5) of section 1842(o) for the year; is equal to

"(ii) the sum of the total amount of the composite rate payments under paragraph (7) for the year and the payments for the separately billed drugs and biologicals described in clause (i)(II) that would have been made if the amendments made by section 433 of the Prescription Drug and Medicare Improvement Act of 2003 had not been enacted.

"(B) Subject to subparagraph (E), in the case of dialysis services furnished in 2005, the composite rate for such services shall be an amount equal to the composite rate established under subparagraph (A), increased by 0.05 percent and further increased pursuant to section 423 of the Prescription Drug and Medicare Improvement Act of 2003.

"(C) Subject to subparagraph (E), in the case of dialysis services furnished in 2006, the composite rate for such services shall be an amount equal to the composite rate established under subparagraph (B), increased by 0.05 percent.

"(D) Subject to subparagraph (E), in the case of dialysis services furnished in 2007 or a subsequent year, the composite rate for such services shall be an amount equal to the composite rate established under this paragraph for the previous year (determined as if such section 423 had not been enacted), increased by 0.05 percent.

"(E) If the Secretary implements a reduction in the payment amount under paragraph (4)(C) or (5) for a drug or biological described in subparagraph (A)(i)(II) for a year after 2004, the Secretary shall, as estimated by the Secretary—

"(i) increase the composite rate for dialysis services furnished in such year in the same manner that the composite rate for such services for 2004 was increased under subparagraph (A); and

"(ii) increase the percentage increase under subparagraph (C) or (D) (as applicable) for years after the year described in clause (i) to ensure that such increased percentage would result in expenditures equal to the sum of the total composite rate payments for such services for such years and the total payments for drugs and biologicals described in subparagraph (A)(i)(II) is equal to the sum of the total amount of the composite rate payments under this paragraph for such years and the payments for the drugs and biologicals described in subparagraph (A)(i)(II) that would have been made if the reduction in payment amount described in subparagraph had not been made.

"(F) There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of determinations of payment amounts, methods, or adjustments under this paragraph.".

(6) HOME INFUSION DRUGS.—Section 1842(o) (42 U.S.C. 1395u(o)), as amended by subsection (a)(2) and paragraph (4), is amended by adding at the end the following new paragraph:

"(7)(A) Subject to subparagraph (B), in the case of infusion drugs and biologicals furnished through an item of durable medical equipment covered under section 1861(n) on or after January 1, 2004, the Secretary may make separate payments for furnishing such drugs and biologicals in an amount determined by the Secretary if the Secretary determines such separate payment to be appropriate.

"(B) In determining the amount of any separate payment under subparagraph (A) for a year, the Secretary shall ensure that the total amount of payments under this part for such infusion drugs and biologicals for the year and such separate payments for the year does not exceed the total amount of payments that would have been made under this part for the year for such infusion drugs and biologicals if section 433 of the Prescription Drug and Medicare Improvement Act of 2003 had not been enacted.".

(7) INHALATION DRUGS.—Section 1842(o) (42 U.S.C. 1395u(o)), as amended by subsection (a)(2) and paragraphs (4) and (6), is amended by adding at the end the following new paragraph:

"(8)(A) Subject to subparagraph (B), in the case of inhalation drugs and biologicals furnished through durable medical equipment covered under section 1861(n) on or after January 1, 2004, the Secretary may increase payments for such equipment under section 1834(a) and may make separate payments for furnishing such drugs and biologicals if the Secretary determines such increased or separate payments are necessary to appropriately furnish such equipment and drugs and biologicals to beneficiaries.

"(B) The total amount of any increased payments and separate payments under subparagraph (A) for a year may not exceed an amount equal to 10 percent of the amount (as estimated by the Secretary) by which—

"(i) the total amount of payments that would have been made for such drugs and biologicals for the year if section 433 of the Prescription Drug and Medicare Improvement Act of 2003 had not been enacted; exceeds

"(ii) the total amount of payments for such drugs and biologicals under paragraphs (4) and (5).".

(8) PHARMACY DISPENSING FEE FOR CERTAIN DRUGS AND BIOLOGICALS.—Section 1842(o)(2) (42 U.S.C. 1395u(o)(2)) is amended to read as follows:

"(2) If payment for a drug or biological is made to a licensed pharmacy approved to dispense drugs or biologicals under this part, the Secretary—

"(A) in the case of an immunosuppressive drug described in subparagraph (J) of section 1861(s)(2) and an oral drug described in subparagraph (Q) or (T) of such section, shall pay a dispensing fee determined appropriate by the Secretary (less the applicable deductible and coinsurance amounts) to the pharmacy; and

"(B) in the case of a drug or biological not described in subparagraph (A), may pay a dispensing fee determined appropriate by the Secretary (less the applicable deductible and coinsurance amounts) to the pharmacy.".

(9) PAYMENT FOR CHEMOTHERAPY DRUGS PURCHASED BUT NOT ADMINISTERED BY PHYSICIANS.—Section 1842(o) (42 U.S.C. 1395u(o)), as amended by subsection (a)(2) and paragraphs (4), (6) and (7), is amended by adding at the end the following new paragraph:

"(9)(A) Subject to subparagraph (B), the Secretary may increase (in an amount determined appropriate) the amount of payments to physicians for anticancer chemotherapeutic drugs or biologicals that would otherwise be made under this part in order to compensate such physicians for anticancer chemotherapeutic drugs or biologicals that are purchased by physicians with a reasonable intent to administer to an individual enrolled under this part but which cannot be administered to such individual despite the reasonable efforts of the physician.

"(B) The total amount of increased payments made under subparagraph (A) in a year (as estimated by the Secretary) may not exceed an amount equal to 1 percent of the total amount of payments made under paragraphs (4) and (5) for such anticancer chemotherapeutic drugs or biologicals furnished by physicians in such year (as estimated by the Secretary).".

(c) LINKAGE OF REVISED DRUG PAYMENTS AND INCREASES FOR DRUG ADMINISTRATION.—The Secretary shall not implement the revisions in payment amounts for a category of drug or biological as a result of the amendments made by subsection (a) unless the Secretary concurrently implements the adjustments to payment amounts for administration of such category of drug or biological for which the Secretary is required to make an adjustment, as specified in the amendments made by, and provisions of, subsection (b).

(d) PROHIBITION OF ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) DRUGS.—Section 1842(o) (42 U.S.C. 1395u(o)), as amended by subsection (a)(2) and paragraphs (4), (6), (7), and (9) of subsection (b), is amended by adding at the end the following new paragraph:

"(10) There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of determinations of payment amounts, methods, or adjustments under paragraph (2) or paragraphs (4) through (9).".

(2) PHYSICIAN FEE SCHEDULE.—Section 1848(i)(1) (42 U.S.C. 1395w-4(i)(1)) is amended—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E), by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(F) adjustments in practice expense relative value units under subsection (c)(2)(H).".

(3) MULTIPLE CHEMOTHERAPY AGENTS AND OTHER SERVICES CURRENTLY ON THE NON-PHYSICIAN WORK POOL.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of determinations of payment amounts, methods, or adjustments under paragraphs (2) and (3) of subsection (b).

(e) STUDIES AND REPORTS.—

(1) GAO STUDY AND REPORT ON BENEFICIARY ACCESS TO DRUGS AND BIOLOGICALS.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study that examines the impact the provisions of, and the amendments made by, this section have on access by medicare beneficiaries to drugs and biologicals covered under the medicare program.

(B) REPORT.—Not later than January 1, 2006, the Comptroller General shall submit a report to Congress on the study conducted under subparagraph (A) together with such recommendations as the Comptroller General determines to be appropriate.

(2) STUDY AND REPORT BY THE HHS INSPECTOR GENERAL ON MARKET PRICES OF DRUGS AND BIOLOGICALS.—

(A) STUDY.—The Inspector General of the Department of Health and Human Services shall conduct 1 or more studies that—

(i) examine the market prices that drugs and biologicals covered under the medicare program are widely available to physicians and suppliers; and

(ii) compare such widely available market prices to the payment amount for such drugs and biologicals under section 1842(o) of the Social Security Act (42 U.S.C. 1395u(o).

(B) REQUIREMENT.—In conducting the study under subparagraph (A), the Inspector General shall focus on those drugs and biologicals that represent the largest portions of expenditures under the medicare program for drugs and biologicals.

(C) REPORT.—The Inspector General shall prepare a report on any study conducted under subparagraph (A).

SEC. 434. INDEXING PART B DEDUCTIBLE TO INFLATION.

The first sentence of section 1833(b) (42 U.S.C. 1395*l*(b)) is amended by striking "and $100 for 1991 and subsequent years" and inserting the following: ", $100 for 1991 through 2005, $125 for 2006, and for 2007 and thereafter, the amount in effect for the previous year, increase by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year, rounded to the nearest dollar".

SEC. 435. REVISIONS TO REASSIGNMENT PROVISIONS.

(a) IN GENERAL.—Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended to read as follows: "(ii) where the service was provided under a contractual arrangement between such physician or other person and an entity (as defined by the Secretary), to the entity if under such arrangement such entity submits the bill for such service and such arrangement meets such program integrity and other safeguards as the Secretary may determine to be appropriate,".

(b) CONFORMING AMENDMENT.—The second sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended by striking "except to an employer or facility as described in clause (A)" and inserting "except to an employer or entity as described in subparagraph (A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made on or after the date of enactment of this Act.

SEC. 436. EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.

Section 542(c) of BIPA (114 Stat. 2763A-551) is amended by inserting ", and for services furnished during 2005" before the period at the end.

SEC. 437. ADEQUATE REIMBURSEMENT FOR OUTPATIENT PHARMACY THERAPY UNDER THE HOSPITAL OUTPATIENT PPS.

(a) Special Rules for Drugs and Biologicals.—Section 1833(t) (42 U.S.C. 1395(t)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) Special rules for certain drugs and biologicals.—

"(A) Before 2007.—

"(i) In general.—Notwithstanding paragraph (6), but subject to clause (ii), with respect to a separately payable drug or biological described in subparagraph (D) furnished on or after January 1, 2005, and before January 1, 2007, hospitals shall be reimbursed as follows:

"(I) Drugs and biologicals furnished as part of a current OPD service.—The amount of payment for a drug or biological described in subparagraph (D) provided as a part of a service that was a covered OPD service on May 1, 2003, shall be the applicable percentage (as defined in subparagraph (C)) of the average wholesale price for the drug or biological that would have been determined under section 1842(o) on such date.

"(II) Drugs and biologicals furnished as part of other OPD services.—The amount of payment for a drug or biological described in subparagraph (D) provided as part of any other covered OPD service shall be the applicable percentage (as defined in subparagraph (C)) of the average wholesale price that would have been determined under section 1842(o) on May 1, 2003, if payment for such a drug or biological could have been made under this part on that date.

"(ii) Update for 2006.—For 2006, the amounts determined under clauses (i) and (ii) shall be the amount established for 2005 increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.

"(B) After 2007.—

"(i) Ongoing study and reports on adequate reimbursements.—

"(I) Study.—The Secretary shall contract with an eligible organization (as defined in subclause (IV)) to conduct a study to determine the hospital acquisition and handling costs for each individual drug or biological described in subparagraph (D).

"(II) Study requirements.—The study conducted under subclause (I) shall—

"(aa) be accurate to within 3 percent of true mean hospital acquisition and handling costs for each drug and biological at the 95 percent confidence level;

"(bb) begin not later than January 1, 2005; and

"(cc) be updated annually for changes in hospital costs and the addition of newly marketed products.

"(III) Reports.—Not later than January 1 of each year (beginning with 2006), the Secretary shall submit to Congress a report on the study conducted under clause (i) together with recommendations for such legislative or administrative action as the Secretary determines to be appropriate.

"(IV) Eligible organization defined.—In this clause, the term 'eligible organization' means a private, nonprofit organization within the meaning of section 501(c) of the Internal Revenue Code.

"(ii) Establishment of payment methodology.—Notwithstanding paragraph (6), the Secretary, in establishing a payment methodology on or after the date of enactment of the Prescription Drug and Medicare Improvement Act of 2003, shall take into consideration the findings of the study conducted under clause (i)(I) in determining payment amounts for each drug and biological provided as part of a covered OPD service furnished on or after January 1, 2007.

"(C) Applicable percentage defined.—In this paragraph, the term 'applicable percentage' means—

"(i) with respect to a biological product (approved under a biologics license application under section 351 of the Public Health Service Act), a single source drug (as defined in section 1927(k)(7)(A)(iv)), or an orphan product designated under section 526 of the Food, Drug, and Cosmetic Act to which the prospective payment system established under this subsection did not apply under the final rule for 2003 payments under such system, 94 percent;

"(ii) with respect to an innovator multiple source drug (as defined in section 1927(k)(7)(A)(ii)), 91 percent; and

"(iii) with respect to a noninnovator multiple source drug (as defined in as defined in section 1927(k)(7)(A)(iii)), 71 percent.

"(D) Drugs and biologicals described.—A drug or biological described in this paragraph is any drug or biological—

"(i) for which the amount of payment was determined under paragraph (6) prior to January 1, 2005;

"(ii) which is assigned to a drug specific ambulatory payment classification on or after the date of enactment of the Prescription Drug and Medicare Improvement Act of 2003; and

"(iii) that would have been reimbursed under paragraph (6) but for the application of this paragraph.".

(b) Exceptions to Budget Neutrality Requirement.—Section 1833(t)(9)(B) (42 U.S.C. 1395l(t)(9)(B)) is amended by adding at the end the following: "In determining the budget neutrality adjustment required by the preceding sentence for fiscal years 2005 and 2006, the Secretary shall not take into account any expenditures that would not have been made but for the application of paragraph (13).".

SEC. 438. LIMITATION OF APPLICATION OF FUNCTIONAL EQUIVALENCE STANDARD.

Section 1833(t)(6) (42 U.S.C. 1395l(t)(6)) is amended by adding at the end the following new subparagraph:

"(F) Limitation of application of functional equivalence standard.—

"(i) In general.—The Secretary may not publish regulations that apply a functional equivalence standard to a drug or biological under this paragraph.

"(ii) Application.—Paragraph (1) shall apply to the application of a functional equivalence standard to a drug or biological on or after the date of enactment of the Prescription Drug and Medicare Improvement Act of 2003 unless—

"(I) such application was being made to such drug or biological prior to such date of enactment; and

"(II) the Secretary applies such standard to such drug or biological only for the purpose of determining eligibility of such drug or biological for additional payments under this paragraph and not for the purpose of any other payments under this title.

"(iii) Rule of construction.—Nothing in this subparagraph shall be construed to effect the Secretary's authority to deem a particular drug to be identical to another drug if the 2 products are pharmaceutically equivalent and bioequvalent, as determined by the Commissioner of Food and Drugs.

SEC. 439. MEDICARE COVERAGE OF ROUTINE COSTS ASSOCIATED WITH CERTAIN CLINICAL TRIALS.

(a) In General.—With respect to the coverage of routine costs of care for beneficiaries participating in a qualifying clinical trial, as set forth on the date of the enactment of this Act in National Coverage Determination 30-1 of the Medicare Coverage Issues Manual, the Secretary shall deem clinical trials conducted in accordance with an investigational device exemption approved under section 520(g) of the Federal Food, Drug, and Cosmetic Act (42 U.S.C. 360j(g)) to be automatically qualified for such coverage.

(b) Rule of Construction.—Nothing in this section shall be construed as authorizing or requiring the Secretary to modify the regulations set forth on the date of the enactment of this Act at subpart B of part 405 of title 42, Code of Federal Regulations, or subpart A of part 411 of such title, relating to coverage of, and payment for, a medical device that is the subject of an investigational device exemption by the Food and Drug Administration (except as may be necessary to implement subsection (a)).

(c) Effective Date.—This section shall apply to clinical trials begun on or after January 1, 2005.

SEC. 440. WAIVER OF PART B LATE ENROLLMENT PENALTY FOR CERTAIN MILITARY RETIREES; SPECIAL ENROLLMENT PERIOD.

(a) Waiver of Penalty.—

(1) In general.—Section 1839(b) (42 U.S.C. 1395r(b)) is amended by adding at the end the following new sentence: "No increase in the premium shall be effected for a month in the case of an individual who is 65 years of age or older, who enrolls under this part during 2002, 2003, 2004, or 2005 and who demonstrates to the Secretary before December 31, 2005, that the individual is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code). The Secretary shall consult with the Secretary of Defense in identifying individuals described in the previous sentence.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to premiums for months beginning with January 2005. The Secretary shall establish a method for providing rebates of premium penalties paid for months on or after January 2005 for which a penalty does not apply under such amendment but for which a penalty was previously collected.

(b) Medicare Part B Special Enrollment Period.—

(1) In general.—In the case of any individual who, as of the date of enactment of this Act, is 65 years of age or older, is eligible to enroll but is not enrolled under part B of title XVIII of the Social Security Act, and is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), the Secretary shall provide for a special enrollment period during which the individual may enroll under such part. Such period shall begin 1 year after the date of the enactment of this Act and shall end on December 31, 2005.

(2) Coverage period.—In the case of an individual who enrolls during the special enrollment period provided under paragraph

(1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

SEC. 441. DEMONSTRATION OF COVERAGE OF CHIROPRACTIC SERVICES UNDER MEDICARE.

(a) DEFINITIONS.—In this section:

(1) CHIROPRACTIC SERVICES.—The term "chiropractic services" has the meaning given that term by the Secretary for purposes of the demonstration projects, but shall include, at a minimum—

(A) care for neuromusculoskeletal conditions typical among eligible beneficiaries; and

(B) diagnostic and other services that a chiropractor is legally authorized to perform by the State or jurisdiction in which such treatment is provided.

(2) DEMONSTRATION PROJECT.—The term "demonstration project" means a demonstration project established by the Secretary under subsection (b)(1).

(3) ELIGIBLE BENEFICIARY.—The term "eligible beneficiary" means an individual who is enrolled under part B of the medicare program.

(4) MEDICARE PROGRAM.—The term "medicare program" means the health benefits program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(b) DEMONSTRATION OF COVERAGE OF CHIROPRACTIC SERVICES UNDER MEDICARE.—

(1) ESTABLISHMENT.—The Secretary shall establish demonstration projects in accordance with the provisions of this section for the purpose of evaluating the feasibility and advisability of covering chiropractic services under the medicare program (in addition to the coverage provided for services consisting of treatment by means of manual manipulation of the spine to correct a subluxation described in section 1861(r)(5) of the Social Security Act (42 U.S.C. 1395x(r)(5))).

(2) NO PHYSICIAN APPROVAL REQUIRED.—In establishing the demonstration projects, the Secretary shall ensure that an eligible beneficiary who participates in a demonstration project, including an eligible beneficiary who is enrolled for coverage under a Medicare+Choice plan (or, on and after January 1, 2006, under a MedicareAdvantage plan), is not required to receive approval from a physician or other health care provider in order to receive a chiropractic service under a demonstration project.

(3) CONSULTATION.—In establishing the demonstration projects, the Secretary shall consult with chiropractors, organizations representing chiropractors, eligible beneficiaries, and organizations representing eligible beneficiaries.

(4) PARTICIPATION.—Any eligible beneficiary may participate in the demonstration projects on a voluntary basis.

(c) CONDUCT OF DEMONSTRATION PROJECTS.—

(1) DEMONSTRATION SITES.—

(A) SELECTION OF DEMONSTRATION SITES.—The Secretary shall conduct demonstration projects at 6 demonstration sites.

(B) GEOGRAPHIC DIVERSITY.—Of the sites described in subparagraph (A)—

(i) 3 shall be in rural areas; and

(ii) 3 shall be in urban areas.

(C) SITES LOCATED IN HPSAS.—At least 1 site described in clause (i) of subparagraph (B) and at least 1 site described in clause (ii) of such subparagraph shall be located in an area that is designated under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)) as a health professional shortage area.

(2) IMPLEMENTATION; DURATION.—

(A) IMPLEMENTATION.—The Secretary shall not implement the demonstration projects before October 1, 2004.

(B) DURATION.—The Secretary shall complete the demonstration projects by the date that is 3 years after the date on which the first demonstration project is implemented.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of the demonstration projects—

(A) to determine whether eligible beneficiaries who use chiropractic services use a lesser overall amount of items and services for which payment is made under the medicare program than eligible beneficiaries who do not use such services;

(B) to determine the cost of providing payment for chiropractic services under the medicare program;

(C) to determine the satisfaction of eligible beneficiaries participating in the demonstration projects and the quality of care received by such beneficiaries; and

(D) to evaluate such other matters as the Secretary determines is appropriate.

(2) REPORT.—Not later than the date that is 1 year after the date on which the demonstration projects conclude, the Secretary shall submit to Congress a report on the evaluation conducted under paragraph (1) together with such recommendations for legislation or administrative action as the Secretary determines is appropriate.

(e) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of the medicare program to the extent and for the period the Secretary finds necessary to conduct the demonstration projects.

(f) FUNDING.—

(1) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and paragraph (2), the Secretary shall provide for the transfer from the Federal Supplementary Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t) of such funds as are necessary for the costs of carrying out the demonstration projects under this section.

(B) LIMITATION.—In conducting the demonstration projects under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under the medicare program do not exceed the amount which the Secretary would have paid under the medicare program if the demonstration projects under this section were not implemented.

(2) EVALUATION AND REPORT.—There are authorized to be appropriated such sums as are necessary for the purpose of developing and submitting the report to Congress under subsection (d).

SEC. 442. MEDICARE HEALTH CARE QUALITY DEMONSTRATION PROGRAMS.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1866B the following new section:

"HEALTH CARE QUALITY DEMONSTRATION PROGRAM

"SEC. 1866C. (a) DEFINITIONS.—In this section:

"(1) BENEFICIARY.—The term 'beneficiary' means a beneficiary who is enrolled in the original medicare fee-for-service program under parts A and B or a beneficiary in a staff model or dedicated group model health maintenance organization under the Medicare+Choice program (or, on and after January 1, 2006, under the MedicareAdvantage program) under part C.

"(2) HEALTH CARE GROUP.—

"(A) IN GENERAL.—The term 'health care group' means—

"(i) a group of physicians that is organized at least in part for the purpose of providing physician's services under this title;

"(ii) an integrated health care delivery system that delivers care through coordinated hospitals, clinics, home health agencies, ambulatory surgery centers, skilled nursing facilities, rehabilitation facilities and clinics, and employed, independent, or contracted physicians; or

"(iii) an organization representing regional coalitions of groups or systems described in clause (i) or (ii).

"(B) INCLUSION.—As the Secretary determines appropriate, a health care group may include a hospital or any other individual or entity furnishing items or services for which payment may be made under this title that is affiliated with the health care group under an arrangement structured so that such hospital, individual, or entity participates in a demonstration project under this section.

"(3) PHYSICIAN.—Except as otherwise provided for by the Secretary, the term 'physician' means any individual who furnishes services that may be paid for as physicians' services under this title.

"(b) DEMONSTRATION PROJECTS.—The Secretary shall establish a 5-year demonstration program under which the Secretary shall approve demonstration projects that examine health delivery factors that encourage the delivery of improved quality in patient care, including—

"(1) the provision of incentives to improve the safety of care provided to beneficiaries;

"(2) the appropriate use of best practice guidelines by providers and services by beneficiaries;

"(3) reduced scientific uncertainty in the delivery of care through the examination of variations in the utilization and allocation of services, and outcomes measurement and research;

"(4) encourage shared decision making between providers and patients;

"(5) the provision of incentives for improving the quality and safety of care and achieving the efficient allocation of resources;

"(6) the appropriate use of culturally and ethnically sensitive health care delivery; and

"(7) the financial effects on the health care marketplace of altering the incentives for care delivery and changing the allocation of resources.

"(c) ADMINISTRATION BY CONTRACT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary may administer the demonstration program established under this section in a manner that is similar to the manner in which the demonstration program established under section 1866A is administered in accordance with section 1866B.

"(2) ALTERNATIVE PAYMENT SYSTEMS.—A health care group that receives assistance under this section may, with respect to the demonstration project to be carried out with such assistance, include proposals for the use of alternative payment systems for items and services provided to beneficiaries by the group that are designed to—

"(A) encourage the delivery of high quality care while accomplishing the objectives described in subsection (b); and

"(B) streamline documentation and reporting requirements otherwise required under this title.

"(3) BENEFITS.—A health care group that receives assistance under this section may, with respect to the demonstration project to be carried out with such assistance, include modifications to the package of benefits available under the traditional fee-for-service program under parts A and B or the package of benefits available through a staff model or a dedicated group model health maintenance organization under part C. The criteria employed under the demonstration program under this section to evaluate outcomes and determine best practice guidelines and incentives shall not be used as a basis for the denial of medicare benefits under the demonstration program to patients against their wishes (or if the patient is incompetent, against the wishes of the patient's surrogate) on the basis of the patient's age or expected length of life or of the patient's present or predicted disability, degree of medical dependency, or quality of life.

“(d) Eligibility Criteria.—To be eligible to receive assistance under this section, an entity shall—

“(1) be a health care group;

“(2) meet quality standards established by the Secretary, including—

“(A) the implementation of continuous quality improvement mechanisms that are aimed at integrating community-based support services, primary care, and referral care;

“(B) the implementation of activities to increase the delivery of effective care to beneficiaries;

“(C) encouraging patient participation in preference-based decisions;

“(D) the implementation of activities to encourage the coordination and integration of medical service delivery; and

“(E) the implementation of activities to measure and document the financial impact on the health care marketplace of altering the incentives of health care delivery and changing the allocation of resources; and

“(3) meet such other requirements as the Secretary may establish.

“(e) Waiver Authority.—The Secretary may waive such requirements of titles XI and XVIII as may be necessary to carry out the purposes of the demonstration program established under this section.

“(f) Budget Neutrality.—With respect to the 5-year period of the demonstration program under subsection (b), the aggregate expenditures under this title for such period shall not exceed the aggregate expenditures that would have been expended under this title if the program established under this section had not been implemented.

“(g) Notice Requirements.—In the case of an individual that receives health care items or services under a demonstration program carried out under this section, the Secretary shall ensure that such individual is notified of any waivers of coverage or payment rules that are applicable to such individual under this title as a result of the participation of the individual in such program.

“(h) Participation and Support by Federal Agencies.—In carrying out the demonstration program under this section, the Secretary may direct—

“(1) the Director of the National Institutes of Health to expand the efforts of the Institutes to evaluate current medical technologies and improve the foundation for evidence-based practice;

“(2) the Administrator of the Agency for Healthcare Research and Quality to, where possible and appropriate, use the program under this section as a laboratory for the study of quality improvement strategies and to evaluate, monitor, and disseminate information relevant to such program; and

“(3) the Administrator of the Centers for Medicare & Medicaid Services and the Administrator of the Center for Medicare Choices to support linkages of relevant medicare data to registry information from participating health care groups for the beneficiary populations served by the participating groups, for analysis supporting the purposes of the demonstration program, consistent with the applicable provisions of the Health Insurance Portability and Accountability Act of 1996.

“(i) Implementation.—The Secretary shall not implement the demonstration program before October 1, 2004.”.

SEC. 443. MEDICARE COMPLEX CLINICAL CARE MANAGEMENT PAYMENT DEMONSTRATION.

(a) Establishment.—

(1) In general.—The Secretary shall establish a demonstration program to make the medicare program more responsive to needs of eligible beneficiaries by promoting continuity of care, helping stabilize medical conditions, preventing or minimizing acute exacerbations of chronic conditions, and reducing adverse health outcomes, such as adverse drug interactions related to polypharmacy.

(2) Sites.—The Secretary shall designate 6 sites at which to conduct the demonstration program under this section, of which at least 3 shall be in an urban area and at least 1 shall be in a rural area. One of the sites shall be located in the State of Arkansas.

(3) Duration.—The Secretary shall conduct the demonstration program under this section for a 3-year period.

(4) Implementation.—The Secretary shall not implement the demonstration program before October 1, 2004.

(b) Participants.—Any eligible beneficiary who resides in an area designated by the Secretary as a demonstration site under subsection (a)(2) may participate in the demonstration program under this section if such beneficiary identifies a principal care physician who agrees to manage the complex clinical care of the eligible beneficiary under the demonstration program.

(c) Principal Care Physician Responsibilities.—The Secretary shall enter into an agreement with each principal care physician who agrees to manage the complex clinical care of an eligible beneficiary under subsection (b) under which the principal care physician shall—

(1) serve as the primary contact of the eligible beneficiary in accessing items and services for which payment may be made under the medicare program;

(2) maintain medical information related to care provided by other health care providers who provide health care items and services to the eligible beneficiary, including clinical reports, medication and treatments prescribed by other physicians, hospital and hospital outpatient services, skilled nursing home care, home health care, and medical equipment services;

(3) monitor and advocate for the continuity of care of the eligible beneficiary and the use of evidence-based guidelines;

(4) promote self-care and family caregiver involvement where appropriate;

(5) have appropriate staffing arrangements to conduct patient self-management and other care coordination activities as specified by the Secretary;

(6) refer the eligible beneficiary to community services organizations and coordinate the services of such organizations with the care provided by health care providers; and

(7) meet such other complex care management requirements as the Secretary may specify.

(d) Complex Clinical Care Management Fee.—

(1) Payment.—Under an agreement entered into under subsection (c), the Secretary shall pay to each principal care physician, on behalf of each eligible beneficiary under the care of that physician, the complex clinical care management fee developed by the Secretary under paragraph (2).

(2) Development of fee.—The Secretary shall develop a complex care management fee under this paragraph that is paid on a monthly basis and which shall be payment in full for all the functions performed by the principal care physician under the demonstration program, including any functions performed by other qualified practitioners acting on behalf of the physician, appropriate staff under the supervision of the physician, and any other person under a contract with the physician, including any person who conducts patient self-management and caregiver education under subsection (c)(4).

(e) Funding.—

(1) In general.—The Secretary shall provide for the transfer from the Federal Supplementary Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t) of such funds as are necessary for the costs of carrying out the demonstration program under this section.

(2) Budget neutrality.—In conducting the demonstration program under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary would have paid if the demonstration program under this section was not implemented.

(f) Waiver Authority.—The Secretary may waive such requirements of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq.; 1395 et seq.) as may be necessary for the purpose of carrying out the demonstration program under this section.

(g) Report.—Not later than 6 months after the completion of the demonstration program under this section, the Secretary shall submit to Congress a report on such program, together with recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(h) Definitions.—In this section:

(1) Activity of daily living.—The term “activity of daily living” means eating, toileting, transferring, bathing, dressing, and continence.

(2) Chronic condition.—The term “chronic condition” means a biological, physical, or mental condition that is likely to last a year or more, for which there is no known cure, for which there is a need for ongoing medical care, and which may affect an individual's ability to carry out activities of daily living or instrumental activities of daily living, or both.

(3) Eligible beneficiary.—The term “eligible beneficiary” means any individual who—

(A) is enrolled for benefits under part B of the medicare program;

(B) has at least 4 complex medical conditions (one of which may be cognitive impairment); and

(C) has—

(i) an inability to self-manage their care; or

(ii) a functional limitation defined as an impairment in 1 or more activity of daily living or instrumental activity of daily living.

(4) Instrumental activity of daily living.—The term “instrumental activity of

daily living" means meal preparation, shopping, housekeeping, laundry, money management, telephone use, and transportation use.

(5) MEDICARE PROGRAM.—The term "medicare program" means the health care program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(6) PRINCIPAL CARE PHYSICIAN.—The term "principal care physician" means the physician with primary responsibility for overall coordination of the care of an eligible beneficiary (as specified in a written plan of care) who may be a primary care physician or a specialist.

SEC. 444. MEDICARE FEE-FOR-SERVICE CARE COORDINATION DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a demonstration program to contract with qualified care management organizations to provide health risk assessment and care management services to eligible beneficiaries who receive care under the original medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act to eligible beneficiaries.

(2) SITES.—The Secretary shall designate 6 sites at which to conduct the demonstration program under this section. In selecting sites under this paragraph, the Secretary shall give preference to sites located in rural areas.

(3) DURATION.—The Secretary shall conduct the demonstration program under this section for a 5-year period.

(4) IMPLEMENTATION.—The Secretary shall not implement the demonstration program before October 1, 2004.

(b) PARTICIPANTS.—Any eligible beneficiary who resides in an area designated by the Secretary as a demonstration site under subsection (a)(2) may participate in the demonstration program under this section if such beneficiary identifies a care management organization who agrees to furnish care management services to the eligible beneficiary under the demonstration program.

(c) CONTRACTS WITH CMOS.—

(1) IN GENERAL.—The Secretary shall enter into a contract with care management organizations to provide care management services to eligible beneficiaries residing in the area served by the care management organization.

(2) CANCELLATION.—The Secretary may cancel a contract entered into under paragraph (1) if the care management organization does not meet negotiated savings or quality outcomes targets for the year.

(3) NUMBER OF CMOS.—The Secretary may contract with more than 1 care management organization in a geogfaphic area.

(d) PAYMENT TO CMOS.—

(1) PAYMENT.—Under an contract entered into under subsection (c), the Secretary shall pay care management organizations a fee for which the care management organization is partially at risk based on bids submitted by care management organizations.

(2) PORTION OF PAYMENT AT RISK.—The Secretary shall establish a benchmark for quality and cost against which the results of the care management organization are to be measured. The Secretary may not pay a care management organization the portion of the fee described in paragraph (1) that is at risk unless the Secretary determines that the care management organization has met the agreed upon savings and outcomes targets for the year.

(e) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), in such proportion as the Secretary determines to be appropriate, of such funds as are necessary for the costs of carrying out the demonstration program under this section.

(2) BUDGET NEUTRALITY.—In conducting the demonstration program under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary would have paid if the demonstration program under this section was not implemented.

(f) WAIVER AUTHORITY.—

(1) IN GENERAL.—The Secretary may waive such requirements of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq.; 1395 et seq.) as may be necessary for the purpose of carrying out the demonstration program under this section.

(2) WAIVER OF MEDIGAP PREEMPTIONS.—The Secretary shall waive any provision of section 1882 of the Social Security Act that would prevent an insurance carrier described in subsection (h)(3)(D) from participating in the demonstration program under this section.

(g) REPORT.—Not later than 6 months after the completion of the demonstration program under this section, the Secretary shall submit to Congress a report on such program, together with recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(h) DEFINITIONS.—In this section:

(1) CARE MANAGEMENT SERVICES.—The term "care management services" means services that are furnished to an eligible beneficiary (as defined in paragraph (2)) by a care management organization (as defined in paragraph (3)) in accordance with guidelines established by the Secretary that are consistent with guidelines established by the American Geriatrics Society.

(2) ELIGIBLE BENEFICIARY.—The term "eligible beneficiary" means an individual who is—

(A) entitled to (or enrolled for) benefits under part A and enrolled for benefits under part B of the Social Security Act (42 U.S.C. 1395c et seq.; 1395j et seq.);

(B) not enrolled with a Medicare+Choice plan or a MedicareAdvantage plan under part C; and

(C) at high-risk (as defined by the Secretary, but including eligible beneficiaries with multiple sclerosis or another disabling chronic condition, eligible beneficiaries residing in a nursing home or at risk for nursing home placement, or eligible beneficiaries eligible for assistance under a State plan under title XIX).

(3) CARE MANAGEMENT ORGANIZATION.—The term "care management organization" means an organization that meets such qualifications as the Secretary may specify and includes any of the following:

(A) A physician group practice, hospital, home health agency, or hospice program.

(B) A disease management organization.

(C) A Medicare+Choice or MedicareAdvantage organization.

(D) Insurance carriers offering medicare supplemental policies under section 1882 of the Social Security Act (42 U.S.C. 1395ss).

(E) Such other entity as the Secretary determines to be appropriate.

SEC. 445. GAO STUDY OF GEOGRAPHIC DIFFERENCES IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of differences in payment amounts under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for physicians' services in different geographic areas. Such study shall include—

(1) an assessment of the validity of the geographic adjustment factors used for each component of the fee schedule;

(2) an evaluation of the measures used for such adjustment, including the frequency of revisions;

(3) an evaluation of the methods used to determine professional liability insurance costs used in computing the malpractice component, including a review of increases in professional liability insurance premiums and variation in such increases by State and physician specialty and methods used to update the geographic cost of practice index and relative weights for the malpractice component;

(4) an evaluation of whether there is a sound economic basis for the implementation of the adjustment under subparagraphs (E) and (F) of section 1848(e)(1) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)), as added by section 421, in those areas in which the adjustment applies;

(5) an evaluation of the effect of such adjustment on physician location and retention in areas affected by such adjustment, taking into account—

(A) differences in recruitment costs and retention rates for physicians, including specialists, between large urban areas and other areas; and

(B) the mobility of physicians, including specialists, over the last decade; and

(6) an evaluation of appropriateness of extending such adjustment or making such adjustment permanent.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a). The report shall include recommendations regarding the use of more current data in computing geographic cost of practice indices as well as the use of data directly representative of physicians' costs (rather than proxy measures of such costs).

Subtitle C—Provisions Relating to Parts A and B

SEC. 451. INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—In the case of home health services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D))) on or after October 1, 2004, and before October 1, 2006, the Secretary shall increase the payment amount otherwise made under section 1895 of such Act (42 U.S.C. 1395fff) for such services by 5 percent.

(b) WAIVING BUDGET NEUTRALITY.—The Secretary shall not reduce the standard prospective payment amount (or amounts) under section 1895 of the Social Security Act (42 U.S.C. 1395fff) applicable to home health services furnished during a period to offset the increase in payments resulting from the application of subsection (a).

(c) NO EFFECT ON SUBSEQUENT PERIODS.—The payment increase provided under subsection (a) for a period under such subsection—

(1) shall not apply to episodes and visits ending after such period; and

(2) shall not be taken into account in calculating the payment amounts applicable for episodes and visits occurring after such period.

SEC. 452. LIMITATION ON REDUCTION IN AREA WAGE ADJUSTMENT FACTORS UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR HOME HEALTH SERVICES.

Section 1895(b)(4)(C) (42 U.S.C. 1395fff(b)(4)(C)) is amended—

(1) by striking "FACTORS.—The Secretary" and inserting "FACTORS.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary"; and

(2) by adding at the end the following new clause:

"(ii) LIMITATION ON REDUCTION IN FISCAL YEAR 2005 AND 2006.—For fiscal years 2005 and 2006, the area wage adjustment factor applicable to home health services furnished in an area in the fiscal year may not be more that 3 percent less than the area wage adjustment factor applicable to home health services for the area for the previous year.".

SEC. 453. CLARIFICATIONS TO CERTAIN EXCEPTIONS TO MEDICARE LIMITS ON PHYSICIAN REFERRALS.

(a) LIMITS ON PHYSICIAN REFERRALS.—

(1) OWNERSHIP AND INVESTMENT INTERESTS IN WHOLE HOSPITALS.—

(A) IN GENERAL.—Section 1877(d)(3) (42 U.S.C. 1395nn(d)(3)) is amended—

(i) by striking "and" at the end of subparagraph (A); and

(ii) by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following:

"(B) the hospital is not a specialty hospital (as defined in subsection (h)(7)); and".

(B) DEFINITION.—Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by adding at the end the following:

"(7) SPECIALTY HOSPITAL.—

"(A) IN GENERAL.—For purposes of this section, except as provided in subparagraph (B), the term 'specialty hospital' means a hospital that is primarily or exclusively engaged in the care and treatment of one of the following:

"(i) patients with a cardiac condition;

"(ii) patients with an orthopedic condition;

"(iii) patients receiving a surgical procedure; or

"(iv) any other specialized category of patients or cases that the Secretary designates as inconsistent with the purpose of permitting physician ownership and investment interests in a hospital under this section.

"(B) EXCEPTION.—For purposes of this section, the term 'specialty hospital' does not include any hospital—

"(i) determined by the Secretary—

"(I) to be in operation before June 12, 2003; or

"(II) under development as of such date;

"(ii) for which the number of beds and the number of physician investors at any time on or after such date is no greater than the number of such beds or investors as of such date; and

"(iii) that meets such other requirements as the Secretary may specify.".

(2) OWNERSHIP AND INVESTMENT INTERESTS IN A RURAL PROVIDER.—Section 1877(d)(2) (42 U.S.C. 1395nn(d)(2)) is amended to read as follows:

"(2) RURAL PROVIDERS.—In the case of designated health services furnished in a rural area (as defined in section 1886(d)(2)(D)) by an entity, if—

"(A) substantially all of the designated health services furnished by the entity are furnished to individuals residing in such a rural area;

"(B) the entity is not a specialty hospital (as defined in subsection (h)(7)); and

"(C) the Secretary determines, with respect to such entity, that such services would not be available in such area but for the ownership or investment interest.".

(b) EFFECTIVE DATE.—Subject to paragraph (2), the amendments made by this section shall apply to referrals made for designated health services on or after January 1, 2004.

(c) APPLICATION OF EXCEPTION FOR HOSPITALS UNDER DEVELOPMENT.—For purposes of section 1877(h)(7)(B)(i)(II) of the Social Security Act, as added by subsection (a)(1)(B), in determining whether a hospital is under development as of June 12, 2003, the Secretary shall consider—

(1) whether architectural plans have been completed, funding has been received, zoning requirements have been met, and necessary approvals from appropriate State agencies have been received; and

(2) any other evidence the Secretary determines would indicate whether a hospital is under development as of such date.

SEC. 454. DEMONSTRATION PROGRAM FOR SUBSTITUTE ADULT DAY SERVICES.

(a) ESTABLISHMENT.—The Secretary shall establish a demonstration program (in this section referred to as the "demonstration program") under which the Secretary provides eligible medicare beneficiaries with coverage under the medicare program of substitute adult day services furnished by an adult day services facility.

(b) PAYMENT RATE FOR SUBSTITUTE ADULT DAY SERVICES.—

(1) PAYMENT RATE.—For purposes of making payments to an adult day services facility for substitute adult day services under the demonstration program, the following rules shall apply:

(A) ESTIMATION OF PAYMENT AMOUNT.—The Secretary shall estimate the amount that would otherwise be payable to a home health agency under section 1895 of the Social Security Act (42 U.S.C. 1395fff) for all home health services described in subsection (i)(4)(B)(i) under the plan of care.

(B) AMOUNT OF PAYMENT.—Subject to paragraph (3)(B), the total amount payable for substitute adult day services under the plan of care is equal to 95 percent of the amount estimated to be payable under subparagraph (A).

(2) LIMITATION ON BALANCE BILLING.—Under the demonstration program, an adult day services facility shall accept as payment in full for substitute adult day services (including those services described in clauses (ii) through (iv) of subsection (i)(4)(B)) furnished by the facility to an eligible medicare beneficiary the amount of payment provided under the demonstration program for home health services consisting of substitute adult services.

(3) ADJUSTMENT IN CASE OF OVERUTILIZATION OF SUBSTITUTE ADULT DAY SERVICES TO ENSURE BUDGET NEUTRALITY.—The Secretary shall monitor the expenditures under the demonstration program and under title XVIII of the Social Security Act for home health services. If the Secretary estimates that the total expenditures under the demonstration program and under such title XVIII for home health services for a period determined by the Secretary exceed expenditures that would have been made under such title XVIII for home health services for such period if the demonstration program had not been conducted, the Secretary shall adjust the rate of payment to adult day services facilities under paragraph (1)(B) in order to eliminate such excess.

(c) DEMONSTRATION PROGRAM SITES.—The demonstration program shall be conducted in not more than 3 sites selected by the Secretary.

(d) DURATION; IMPLEMENTATION.—

(1) DURATION.—The Secretary shall conduct the demonstration program for a period of 3 years.

(2) IMPLEMENTATION.—The Secretary may not implement the demonstration program before October 1, 2004.

(e) VOLUNTARY PARTICIPATION.—Participation of eligible medicare beneficiaries in the demonstration program shall be voluntary.

(f) WAIVER AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may waive such requirements of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq.; 1395 et seq.) as may be necessary for the purposes of carrying out the demonstration program.

(2) MAY NOT WAIVE ELIGIBILITY REQUIREMENTS FOR HOME HEALTH SERVICES.—The Secretary may not waive the beneficiary eligibility requirements for home health services under title XVIII of the Social Security Act.

(g) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of the clinical and cost effectiveness of the demonstration program.

(2) REPORT.—Not later than 30 months after the commencement of the demonstration program, the Secretary shall submit to Congress a report on the evaluation conducted under paragraph (1) and shall include in the report the following:

(A) An analysis of the patient outcomes and costs of furnishing care to the eligible medicare beneficiaries participating in the demonstration program as compared to such outcomes and costs to such beneficiaries receiving only home health services under title XVIII of the Social Security Act for the same health conditions.

(B) Such recommendations regarding the extension, expansion, or termination of the program as the Secretary determines appropriate.

(i) DEFINITIONS.—In this section:

(1) ADULT DAY SERVICES FACILITY.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the term "adult day services facility" means a public agency or private organization, or a subdivision of such an agency or organization, that—

(i) is engaged in providing skilled nursing services and other therapeutic services directly or under arrangement with a home health agency;

(ii) provides the items and services described in paragraph (4)(B); and

(iii) meets the requirements of paragraphs (2) through (8) of subsection (o).

(B) INCLUSION.—Notwithstanding subparagraph (A), the term "adult day services facility" shall include a home health agency in which the items and services described in clauses (ii) through (iv) of paragraph (4)(B) are provided—

(i) by an adult day services program that is licensed or certified by a State, or accredited, to furnish such items and services in the State; and

(ii) under arrangements with that program made by such agency.

(C) WAIVER OF SURETY BOND.—The Secretary may waive the requirement of a surety bond under section 1861(o)(7) of the Social Security Act (42 U.S.C. 1395x(o)(7)) in the case of an agency or organization that provides a comparable surety bond under State law.

(2) ELIGIBLE MEDICARE BENEFICIARY.—The term "eligible medicare beneficiary" means

an individual eligible for home health services under title XVIII of the Social Security Act.

(3) HOME HEALTH AGENCY.—The term "home health agency" has the meaning given such term in section 1861(o) of the Social Security Act (42 U.S.C. 1395x(o)).

(4) SUBSTITUTE ADULT DAY SERVICES.—

(A) IN GENERAL.—The term "substitute adult day services" means the items and services described in subparagraph (B) that are furnished to an individual by an adult day services facility as a part of a plan under section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)) that substitutes such services for some or all of the items and services described in subparagraph (B)(i) furnished by a home health agency under the plan, as determined by the physician establishing the plan.

(B) ITEMS AND SERVICES DESCRIBED.—The items and services described in this subparagraph are the following items and services:

(i) Items and services described in paragraphs (1) through (7) of such section 1861(m).

(ii) Meals.

(iii) A program of supervised activities designed to promote physical and mental health and furnished to the individual by the adult day services facility in a group setting for a period of not fewer than 4 and not greater than 12 hours per day.

(iv) A medication management program (as defined in subparagraph (C)).

(C) MEDICATION MANAGEMENT PROGRAM.—For purposes of subparagraph (B)(iv), the term "medication management program" means a program of services, including medicine screening and patient and health care provider education programs, that provides services to minimize—

(i) unnecessary or inappropriate use of prescription drugs; and

(ii) adverse events due to unintended prescription drug-to-drug interactions.

TITLE V—MEDICARE APPEALS, REGULATORY, AND CONTRACTING IMPROVEMENTS

Subtitle A—Regulatory Reform

SEC. 501. RULES FOR THE PUBLICATION OF A FINAL REGULATION BASED ON THE PREVIOUS PUBLICATION OF AN INTERIM FINAL REGULATION.

(a) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)) is amended by adding at the end the following new paragraph:

"(3)(A) With respect to the publication of a final regulation based on the previous publication of an interim final regulation—

"(i) subject to subparagraph (B), the Secretary shall publish the final regulation within the 12-month period that begins on the date of publication of the interim final regulation;

"(ii) if a final regulation is not published by the deadline established under this paragraph, the interim final regulation shall not continue in effect unless the Secretary publishes a notice described in subparagraph (B) by such deadline; and

"(iii) the final regulation shall include responses to comments submitted in response to the interim final regulation.

"(B) If the Secretary determines before the deadline otherwise established in this paragraph that there is good cause, specified in a notice published before such deadline, for delaying the deadline otherwise applicable under this paragraph, the deadline otherwise established under this paragraph shall be extended for such period (not to exceed 12 months) as the Secretary specifies in such notice.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to interim final regulations published on or after such date.

(c) STATUS OF PENDING INTERIM FINAL REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall publish a notice in the Federal Register that provides the status of each interim final regulation that was published on or before the date of enactment of this Act and for which no final regulation has been published. Such notice shall include the date by which the Secretary plans to publish the final regulation that is based on the interim final regulation.

SEC. 502. COMPLIANCE WITH CHANGES IN REGULATIONS AND POLICIES.

(a) NO RETROACTIVE APPLICATION OF SUBSTANTIVE CHANGES.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

"(d)(1)(A) A substantive change in regulations, manual instructions, interpretative rules, statements of policy, or guidelines of general applicability under this title shall not be applied (by extrapolation or otherwise) retroactively to items and services furnished before the effective date of the change, unless the Secretary determines that—

"(i) such retroactive application is necessary to comply with statutory requirements; or

"(ii) failure to apply the change retroactively would be contrary to the public interest.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to substantive changes issued on or after the date of enactment of this Act.

(b) TIMELINE FOR COMPLIANCE WITH SUBSTANTIVE CHANGES AFTER NOTICE.—

(1) IN GENERAL.—Section 1871(d)(1), as added by subsection (a), is amended by adding at the end the following:

"(B) A compliance action may be made against a provider of services, physician, practitioner, or other supplier with respect to noncompliance with such a substantive change only for items and services furnished on or after the effective date of the change.

"(C)(i) Except as provided in clause (ii), a substantive change may not take effect before the date that is the end of the 30-day period that begins on the date that the Secretary has issued or published, as the case may be, the substantive change.

"(ii) The Secretary may provide for a substantive change to take effect on a date that precedes the end of the 30-day period under clause (i) if the Secretary finds that waiver of such 30-day period is necessary to comply with statutory requirements or that the application of such 30-day period is contrary to the public interest. If the Secretary provides for an earlier effective date pursuant to this clause, the Secretary shall include in the issuance or publication of the substantive change a finding described in the first sentence, and a brief statement of the reasons for such finding.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to compliance actions undertaken on or after the date of enactment of this Act.

SEC. 503. REPORT ON LEGAL AND REGULATORY INCONSISTENCIES.

Section 1871 (42 U.S.C. 1395hh), as amended by section 502(a)(1), is amended by adding at the end the following new subsection:

"(e)(1) Not later than 2 years after the date of enactment of this subsection, and every 3 years thereafter, the Secretary shall submit to Congress a report with respect to the administration of this title and areas of inconsistency or conflict among the various provisions under law and regulation.

"(2) In preparing a report under paragraph (1), the Secretary shall collect—

"(A) information from beneficiaries, providers of services, physicians, practitioners, and other suppliers with respect to such areas of inconsistency and conflict; and

"(B) information from medicare contractors that tracks the nature of all communications and correspondence.

"(3) A report under paragraph (1) shall include a description of efforts by the Secretary to reduce such inconsistency or conflicts, and recommendations for legislation or administrative action that the Secretary determines appropriate to further reduce such inconsistency or conflicts.".

Subtitle B—Appeals Process Reform

SEC. 511. SUBMISSION OF PLAN FOR TRANSFER OF RESPONSIBILITY FOR MEDICARE APPEALS.

(a) SUBMISSION OF TRANSITION PLAN.—

(1) IN GENERAL.—Not later than April 1, 2004, the Commissioner of Social Security and the Secretary shall develop and transmit to Congress and the Comptroller General of the United States a plan under which the functions of administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions in title XI of such Act) are transferred from the responsibility of the Commissioner and the Social Security Administration to the Secretary and the Department of Health and Human Services.

(2) CONTENTS.—The plan shall include information on the following:

(A) WORKLOAD.—The number of such administrative law judges and support staff required now and in the future to hear and decide such cases in a timely manner, taking into account the current and anticipated claims volume, appeals, number of beneficiaries, and statutory changes.

(B) COST PROJECTIONS AND FINANCING.—Funding levels required for fiscal year 2005 and subsequent fiscal years to carry out the functions transferred under the plan and how such transfer should be financed.

(C) TRANSITION TIMETABLE.—A timetable for the transition.

(D) REGULATIONS.—The establishment of specific regulations to govern the appeals process.

(E) CASE TRACKING.—The development of a unified case tracking system that will facilitate the maintenance and transfer of case specific data across both the fee-for-service and managed care components of the medicare program.

(F) FEASIBILITY OF PRECEDENTIAL AUTHORITY.—The feasibility of developing a process to give decisions of the Departmental Appeals Board in the Department of Health and Human Services addressing broad legal issues binding, precedential authority.

(G) ACCESS TO ADMINISTRATIVE LAW JUDGES.—The feasibility of—

(i) filing appeals with administrative law judges electronically; and

(ii) conducting hearings using tele- or video-conference technologies.

(H) INDEPENDENCE OF ADMINISTRATIVE LAW JUDGES.—The steps that should be taken to ensure the independence of administrative law judges, including ensuring that such judges are in an office that is functionally and operationally separate from the Centers for Medicare & Medicaid Services and the Center for Medicare Choices.

(I) GEOGRAPHIC DISTRIBUTION.—The steps that should be taken to provide for an appropriate geographic distribution of administrative law judges throughout the United States to ensure timely access to such judges.

(J) HIRING.—The steps that should be taken to hire administrative law judges (and support staff).

(K) PERFORMANCE STANDARDS.—The establishment of performance standards for administrative law judges with respect to timelines for decisions in cases under title XVIII of the Social Security Act.

(L) SHARED RESOURCES.—The feasibility of the Secretary entering into such arrangements with the Commissioner of Social Security as may be appropriate with respect to transferred functions under the plan to share office space, support staff, and other resources, with appropriate reimbursement.

(M) TRAINING.—The training that should be provided to administrative law judges with respect to laws and regulations under title XVIII of the Social Security Act.

(3) ADDITIONAL INFORMATION.—The plan may also include recommendations for further congressional action, including modifications to the requirements and deadlines established under section 1869 of the Social Security Act (as amended by sections 521 and 522 of BIPA (114 Stat. 2763A–534) and this Act).

(b) GAO EVALUATION.—The Comptroller General of the United States shall—

(1) evaluate the plan submitted under subsection (a); and

(2) not later than 6 months after such submission, submit to Congress, the Commissioner of Social Security, and the Secretary a report on such evaluation.

(c) SUBMISSION OF GAO REPORT REQUIRED BEFORE PLAN IMPLEMENTATION.—The Commissioner of Social Security and the Secretary may not implement the plan developed under subsection (a) before the date that is 6 months after the date the report required under subsection (b)(2) is submitted to the Commissioner and the Secretary.

SEC. 512. EXPEDITED ACCESS TO JUDICIAL REVIEW.

(a) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)) is amended—

(1) in paragraph (1)(A), by inserting ", subject to paragraph (2)," before "to judicial review of the Secretary's final decision"; and

(2) by adding at the end the following new paragraph:

"(2) EXPEDITED ACCESS TO JUDICIAL REVIEW.—

"(A) IN GENERAL.—The Secretary shall establish a process under which a provider of services or supplier that furnishes an item or service or a beneficiary who has filed an appeal under paragraph (1) (other than an appeal filed under paragraph (1)(F)(i)) may obtain access to judicial review when a review entity (described in subparagraph (D)), on its own motion or at the request of the appellant, determines that the Departmental Appeals Board does not have the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to a question of law or regulation for a specific matter in dispute in a case of an appeal.

"(B) PROMPT DETERMINATIONS.—If, after or coincident with appropriately filing a request for an administrative hearing, the appellant requests a determination by the appropriate review entity that the Departmental Appeals Board does not have the authority to decide the question of law or regulations relevant to the matters in controversy and that there is no material issue of fact in dispute, and if such request is accompanied by the documents and materials as the appropriate review entity shall require for purposes of making such determination, such review entity shall make a determination on the request in writing within 60 days after the date such review entity receives the request and such accompanying documents and materials. Such a determination by such review entity shall be considered a final decision and not subject to review by the Secretary.

"(C) ACCESS TO JUDICIAL REVIEW.—

"(i) IN GENERAL.—If the appropriate review entity—

"(I) determines that there are no material issues of fact in dispute and that the only issues to be adjudicated are ones of law or regulation that the Departmental Appeals Board does not have authority to decide; or

"(II) fails to make such determination within the period provided under subparagraph (B);

then the appellant may bring a civil action as described in this subparagraph.

"(ii) DEADLINE FOR FILING.—Such action shall be filed, in the case described in—

"(I) clause (i)(I), within 60 days of the date of the determination described in such clause; or

"(II) clause (i)(II), within 60 days of the end of the period provided under subparagraph (B) for the determination.

"(iii) VENUE.—Such action shall be brought in the district court of the United States for the judicial district in which the appellant is located (or, in the case of an action brought jointly by more than 1 applicant, the judicial district in which the greatest number of applicants are located) or in the District Court for the District of Columbia.

"(iv) INTEREST ON ANY AMOUNTS IN CONTROVERSY.—Where a provider of services or supplier is granted judicial review pursuant to this paragraph, the amount in controversy (if any) shall be subject to annual interest beginning on the first day of the first month beginning after the 60-day period as determined pursuant to clause (ii) and equal to the rate of interest on obligations issued for purchase by the Federal Supplementary Medical Insurance Trust Fund for the month in which the civil action authorized under this paragraph is commenced, to be awarded by the reviewing court in favor of the prevailing party. No interest awarded pursuant to the preceding sentence shall be deemed income or cost for the purposes of determining reimbursement due providers of services, physicians, practitioners, and other suppliers under this Act.

"(D) REVIEW ENTITY DEFINED.—For purposes of this subsection, a 'review entity' is a panel of no more than 3 members from the Departmental Appeals Board, selected for the purpose of making determinations under this paragraph.".

(b) APPLICATION TO PROVIDER AGREEMENT DETERMINATIONS.—Section 1866(h)(1) (42 U.S.C. 1395cc(h)(1)) is amended—

(1) by inserting "(A)" after "(h)(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) An institution or agency described in subparagraph (A) that has filed for a hearing under subparagraph (A) shall have expedited access to judicial review under this subparagraph in the same manner as providers of services, suppliers, and beneficiaries may obtain expedited access to judicial review under the process established under section 1869(b)(2). Nothing in this subparagraph shall be construed to affect the application of any remedy imposed under section 1819 during the pendency of an appeal under this subparagraph.".

(c) GAO STUDY AND REPORT ON ACCESS TO JUDICIAL REVIEW.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the access of medicare beneficiaries and health care providers to judicial review of actions of the Secretary and the Department of Health and Human Services with respect to items and services under title XVIII of the Social Security Act subsequent to February 29, 2000, the date of the decision of Shalala, Secretary of Health and Human Services, et al. v. Illinois Council on Long Term Care, Inc. (529 U.S. 1 (2000)).

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) together with such recommendations as the Comptroller General determines to be appropriate.

(d) CONFORMING AMENDMENT.—Section 1869(b)(1)(F)(ii) (42 U.S.C. 1395ff(b)(1)(F)(ii)) is amended to read as follows:

"(ii) REFERENCE TO EXPEDITED ACCESS TO JUDICIAL REVIEW.—For the provision relating to expedited access to judicial review, see paragraph (2).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to appeals filed on or after October 1, 2004.

SEC. 513. EXPEDITED REVIEW OF CERTAIN PROVIDER AGREEMENT DETERMINATIONS.

(a) TERMINATION AND CERTAIN OTHER IMMEDIATE REMEDIES.—

(1) IN GENERAL.—The Secretary shall develop and implement a process to expedite proceedings under sections 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)) in which—

(A) the remedy of termination of participation has been imposed;

(B) a sanction described in clause (i) or (iii) of section 1819(h)(2)(B) of such Act (42 U.S.C. 1395i–3(h)(2)(B)) has been imposed, but only if such sanction has been imposed on an immediate basis; or

(C) the Secretary has required a skilled nursing facility to suspend operations of a nurse aide training program.

(2) PRIORITY FOR CASES OF TERMINATION.—Under the process described in paragraph (1), priority shall be provided in cases of termination described in subparagraph (A) of such paragraph.

(b) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to reduce by 50 percent the average time for administrative determinations on appeals under section 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such sums for fiscal year 2004 and each subsequent fiscal year as may be necessary to increase the number of administrative law judges (and their staffs) at the Departmental Appeals Board of the Department of Health and Human Services and to educate such judges and staff on long-term care issues.

SEC. 514. REVISIONS TO MEDICARE APPEALS PROCESS.

(a) TIMEFRAMES FOR THE COMPLETION OF THE RECORD.—Section 1869(b) (42 U.S.C. 1395ff(b)), as amended by section 512(a)(2), is amended by adding at the end the following new paragraph:

"(3) TIMELY COMPLETION OF THE RECORD.—

"(A) DEADLINE.—Subject to subparagraph (B), the deadline to complete the record in a hearing before an administrative law judge or a review by the Departmental Appeals Board is 90 days after the date the request for the review or hearing is filed.

"(B) EXTENSIONS FOR GOOD CAUSE.—The person filing a request under subparagraph (A) may request an extension of such deadline for good cause. The administrative law judge, in the case of a hearing, and the Departmental Appeals Board, in the case of a review, may extend such deadline based upon a finding of good cause to a date specified by the judge or Board, as the case may be.

"(C) DELAY IN DECISION DEADLINES UNTIL COMPLETION OF RECORD.—Notwithstanding any other provision of this section, the deadlines otherwise established under subsection (d) for the making of determinations in hearings or review under this section are 90 days after the date on which the record is complete.

"(D) COMPLETE RECORD DESCRIBED.—For purposes of this paragraph, a record is complete when the administrative law judge, in the case of a hearing, or the Departmental Appeals Board, in the case of a review, has received—

"(i) written or testimonial evidence, or both, submitted by the person filing the request,

"(ii) written or oral argument, or both,

"(iii) the decision of, and the record for, the prior level of appeal, and

"(iv) such other evidence as such judge or Board, as the case may be, determines is required to make a determination on the request.".

(b) USE OF PATIENTS' MEDICAL RECORDS.—Section 1869(c)(3)(B)(i) (42 U.S.C. 1395ff(c)(3)(B)(i)) is amended by inserting "(including the medical records of the individual involved)" after "clinical experience".

(c) NOTICE REQUIREMENTS FOR MEDICARE APPEALS.—

(1) INITIAL DETERMINATIONS AND REDETERMINATIONS.—Section 1869(a) (42 U.S.C. 1395ff(a)) is amended by adding at the end the following new paragraph:

"(4) REQUIREMENTS OF NOTICE OF DETERMINATIONS AND REDETERMINATIONS.—A written notice of a determination on an initial determination or on a redetermination, insofar as such determination or redetermination results in a denial of a claim for benefits, shall be provided in printed form and written in a manner to be understood by the beneficiary and shall include—

"(A) the reasons for the determination, including, as appropriate—

"(i) upon request in the case of an initial determination, the provision of the policy, manual, or regulation that resulted in the denial; and

"(ii) in the case of a redetermination, a summary of the clinical or scientific evidence used in making the determination (as appropriate);

"(B) the procedures for obtaining additional information concerning the determination or redetermination; and

"(C) notification of the right to seek a redetermination or otherwise appeal the determination and instructions on how to initiate such a redetermination or appeal under this section.".

(2) RECONSIDERATIONS.—Section 1869(c)(3)(E) (42 U.S.C. 1395ff(c)(3)(E)) is amended to read as follows:

"(E) EXPLANATION OF DECISION.—Any decision with respect to a reconsideration of a qualified independent contractor shall be in writing in a manner to be understood by the beneficiary and shall include—

"(i) to the extent appropriate, a detailed explanation of the decision as well as a discussion of the pertinent facts and applicable regulations applied in making such decision;

"(ii) a notification of the right to appeal such determination and instructions on how to initiate such appeal under this section; and

"(iii) in the case of a determination of whether an item or service is reasonable and necessary for the diagnosis or treatment of illness or injury (under section 1862(a)(1)(A)) an explanation of the medical or scientific rationale for the decision.".

(3) APPEALS.—Section 1869(d) (42 U.S.C. 1395ff(d)) is amended—

(A) in the heading, by inserting "; NOTICE" after "SECRETARY"; and

(B) by adding at the end the following new paragraph:

"(4) NOTICE.—Notice of the decision of an administrative law judge shall be in writing in a manner to be understood by the beneficiary and shall include—

"(A) the specific reasons for the determination (including, to the extent appropriate, a summary of the clinical or scientific evidence used in making the determination);

"(B) the procedures for obtaining additional information concerning the decision; and

"(C) notification of the right to appeal the decision and instructions on how to initiate such an appeal under this section.".

(4) PREPARATION OF RECORD FOR APPEAL.—Section 1869(c)(3)(J) (42 U.S.C. 1395ff(c)(3)(J)) is amended by striking "such information as is required for an appeal" and inserting "the record for the appeal".

(d) QUALIFIED INDEPENDENT CONTRACTORS.—

(1) ELIGIBILITY REQUIREMENTS OF QUALIFIED INDEPENDENT CONTRACTORS.—Section 1869(c) (42 U.S.C. 1395ff(c)) is amended—

(A) in paragraph (2)—

(i) by inserting "(except in the case of a utilization and quality control peer review organization, as defined in section 1152)" after "means an entity or organization that"; and

(ii) by striking the period at the end and inserting the following: "and meets the following requirements:

"(A) GENERAL REQUIREMENTS.—

"(i) The entity or organization has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise (including knowledge of the program under this title) and sufficient staffing to carry out duties of a qualified independent contractor under this section on a timely basis.

"(ii) The entity or organization has provided assurances that it will conduct activities consistent with the applicable requirements of this section, including that it will not conduct any activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

"(iii) The entity or organization meets such other requirements as the Secretary provides by regulation.

"(B) INDEPENDENCE REQUIREMENTS.—

"(i) IN GENERAL.—Subject to clause (ii), an entity or organization meets the independence requirements of this subparagraph with respect to any case if the entity—

"(I) is not a related party (as defined in subsection (g)(5));

"(II) does not have a material familial, financial, or professional relationship with such a party in relation to such case; and

"(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

"(ii) EXCEPTION FOR COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified independent contractor of compensation from the Secretary for the conduct of activities under this section if the compensation is provided consistent with clause (iii).

"(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by the Secretary to a qualified independent contractor in connection with reviews under this section shall not be contingent on any decision rendered by the contractor or by any reviewing professional."; and

(B) in paragraph (3)(A), by striking ", and shall have sufficient training and expertise in medical science and legal matters to make reconsiderations under this subsection".

(2) ELIGIBILITY REQUIREMENTS FOR REVIEWERS.—Section 1869 (42 U.S.C. 1395ff) is amended—

(A) by amending subsection (c)(3)(D) to read as follows:

"(D) QUALIFICATIONS OF REVIEWERS.—The requirements of subsection (g) shall be met (relating to qualifications of reviewing professionals)."; and

(B) by adding at the end the following new subsection:

"(g) QUALIFICATIONS OF REVIEWERS.—

"(1) IN GENERAL.—In reviewing determinations under this section, a qualified independent contractor shall assure that—

"(A) each individual conducting a review shall meet the qualifications of paragraph (2);

"(B) compensation provided by the contractor to each such reviewer is consistent with paragraph (3); and

"(C) in the case of a review by a panel described in subsection (c)(3)(B) composed of physicians or other health care professionals (each in this subsection referred to as a 'reviewing professional'), each reviewing professional meets the qualifications described in paragraph (4).

"(2) INDEPENDENCE.—

"(A) IN GENERAL.—Subject to subparagraph (B), each individual conducting a review in a case shall—

"(i) not be a related party (as defined in paragraph (5));

"(ii) not have a material familial, financial, or professional relationship with such a party in the case under review; and

"(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

"(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

"(i) prohibit an individual, solely on the basis of affiliation with a fiscal intermediary, carrier, or other contractor, from serving as a reviewing professional if—

"(I) a nonaffiliated individual is not reasonably available;

"(II) the affiliated individual is not involved in the provision of items or services in the case under review;

"(III) the fact of such an affiliation is disclosed to the Secretary and the beneficiary (or authorized representative) and neither party objects; and

"(IV) the affiliated individual is not an employee of the intermediary, carrier, or contractor and does not provide services exclusively or primarily to or on behalf of such intermediary, carrier, or contractor;

"(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as a reviewer merely on the basis of such affiliation if the affiliation is disclosed to the Secretary and the beneficiary (or authorized representative), and neither party objects; or

“(iii) prohibit receipt of compensation by a reviewing professional from a contractor if the compensation is provided consistent with paragraph (3).

“(3) Limitations on reviewer compensation.—Compensation provided by a qualified independent contractor to a reviewer in connection with a review under this section shall not be contingent on the decision rendered by the reviewer.

“(4) Licensure and expertise.—Each reviewing professional shall be a physician (allopathic or osteopathic) or health care professional who—

“(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

“(B) has medical expertise in the field of practice that is appropriate for the items or services at issue.

“(5) Related party defined.—For purposes of this section, the term ‘related party’ means, with respect to a case under this title involving an individual beneficiary, any of the following:

“(A) The Secretary, the medicare administrative contractor involved, or any fiduciary, officer, director, or employee of the Department of Health and Human Services, or of such contractor.

“(B) The individual (or authorized representative).

“(C) The health care professional that provides the items or services involved in the case.

“(D) The institution at which the items or services (or treatment) involved in the case are provided.

“(E) The manufacturer of any drug or other item that is included in the items or services involved in the case.

“(F) Any other party determined under any regulations to have a substantial interest in the case involved.”.

(3) Number of qualified independent contractors.—Section 1869(c)(4) (42 U.S.C. 1395ff(c)(4)) is amended by striking “12” and inserting “4”.

(e) Implementation of Certain BIPA Reforms.—

(1) Delay in certain BIPA reforms.—Section 521(d) of BIPA (114 Stat. 2763A–543) is amended to read as follows:

“(d) Effective Date.—

“(1) In general.—Except as specified in paragraph (2), the amendments made by this section shall apply with respect to initial determinations made on or after December 1, 2004.

“(2) Expedited proceedings and reconsideration requirements.—For the following provisions, the amendments made by subsection (a) shall apply with respect to initial determinations made on or after October 1, 2003:

“(A) Subsection (b)(1)(F)(i) of section 1869 of the Social Security Act.

“(B) Subsection (c)(3)(C)(iii) of such section.

“(C) Subsection (c)(3)(C)(iv) of such section to the extent that it applies to expedited reconsiderations under subsection (c)(3)(C)(iii) of such section.

“(3) Transitional use of peer review organizations to conduct expedited reconsiderations until QICs are operational.—Expedited reconsiderations of initial determinations under section 1869(c)(3)(C)(iii) of the Social Security Act shall be made by peer review organizations until qualified independent contractors are available for such expedited reconsiderations.”.

(2) Conforming amendments.—Section 521(c) of BIPA (114 Stat. 2763A–543) and section 1869(c)(3)(C)(iii)(III) of the Social Security Act (42 U.S.C. 1395ff(c)(3)(C)(iii)(III)), as added by section 521 of BIPA, are repealed.

(f) Effective Date.—The amendments made by this section shall be effective as if included in the enactment of the respective provisions of subtitle C of title V of BIPA, 114 Stat. 2763A–534.

(g) Transition.—In applying section 1869(g) of the Social Security Act (as added by subsection (d)(2)), any reference to a medicare administrative contractor shall be deemed to include a reference to a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and a carrier under section 1842 of such Act (42 U.S.C. 1395u).

SEC. 515. HEARING RIGHTS RELATED TO DECISIONS BY THE SECRETARY TO DENY OR NOT RENEW A MEDICARE ENROLLMENT AGREEMENT; CONSULTATION BEFORE CHANGING PROVIDER ENROLLMENT FORMS.

(a) Hearing Rights.—

(1) In general.—Section 1866 (42 U.S.C. 1395cc) is amended by adding at the end the following new subsection:

“(j) Hearing Rights in Cases of Denial or Nonrenewal.—The Secretary shall establish by regulation procedures under which—

“(1) there are deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment); and

“(2) providers of services, physicians, practitioners, and suppliers whose application to enroll (or, if applicable, to renew enrollment) are denied are provided a mechanism to appeal such denial and a deadline for consideration of such appeals.”.

(2) Effective date.—The Secretary shall provide for the establishment of the procedures under the amendment made by paragraph (1) within 18 months after the date of enactment of this Act.

(b) Consultation Before Changing Provider Enrollment Forms.—Section 1871 (42 U.S.C. 1395hh), as amended by sections 502 and 503, is amended by adding at the end the following new subsection:

“(f) The Secretary shall consult with providers of services, physicians, practitioners, and suppliers before making changes in the provider enrollment forms required of such providers, physicians, practitioners, and suppliers to be eligible to submit claims for which payment may be made under this title.”.

SEC. 516. APPEALS BY PROVIDERS WHEN THERE IS NO OTHER PARTY AVAILABLE.

(a) In General.—Section 1870 (42 U.S.C. 1395gg) is amended by adding at the end the following new subsection:

“(h) Notwithstanding subsection (f) or any other provision of law, the Secretary shall permit a provider of services, physician, practitioner, or other supplier to appeal any determination of the Secretary under this title relating to services rendered under this title to an individual who subsequently dies if there is no other party available to appeal such determination.”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to items and services furnished on or after such date.

SEC. 517. PROVIDER ACCESS TO REVIEW OF LOCAL COVERAGE DETERMINATIONS.

(a) Provider Access To Review of Local Coverage Determinations.—Section 1869(f)(5) (42 U.S.C. 1395ff(f)(5)) is amended to read as follows:

“(5) Aggrieved party defined.—In this section, the term ‘aggrieved party’ means—

“(A) with respect to a national coverage determination, an individual entitled to benefits under part A, or enrolled under part B, or both, who is in need of the items or services that are the subject of the coverage determination; and

“(B) with respect to a local coverage determination—

“(i) an individual who is entitled to benefits under part A, or enrolled under part B, or both, who is adversely affected by such a determination; or

“(ii) a provider of services, physician, practitioner, or supplier that is adversely affected by such a determination.”.

(b) Clarification of Local Coverage Determination Definition.—Section 1869(f)(2)(B) (42 U.S.C. 1395ff(f)(2)(B)) is amended by inserting “, including, where appropriate, the specific requirements and clinical indications relating to the medical necessity of an item or service” before the period at the end.

(c) Request for Local Coverage Determinations by Providers.—Section 1869 (42 U.S.C. 1395ff), as amended by section 514(d)(2)(B), is amended by adding at the end the following new subsection:

“(h) Request for Local Coverage Determinations by Providers.—

“(1) Establishment of process.—The Secretary shall establish a process under which a provider of services, physician, practitioner, or supplier who certifies that they meet the requirements established in paragraph (3) may request a local coverage determination in accordance with the succeeding provisions of this subsection.

“(2) Provider local coverage determination request defined.—In this subsection, the term ‘provider local coverage determination request’ means a request, filed with the Secretary, at such time and in such form and manner as the Secretary may specify, that the Secretary, pursuant to paragraph (4)(A), require a fiscal intermediary, carrier, or program safeguard contractor to make or revise a local coverage determination under this section with respect to an item or service.

“(3) Request requirements.—Under the process established under paragraph (1), by not later than 30 days after the date on which a provider local coverage determination request is filed under paragraph (1), the Secretary shall determine whether such request establishes that—

“(A) there have been at least 5 reversals of redeterminations made by a fiscal intermediary or carrier after a hearing before an administrative law judge on claims submitted by the provider in at least 2 different cases before an administrative law judge;

“(B) each reversal described in subparagraph (A) involves substantially similar material facts;

“(C) each reversal described in subparagraph (A) involves the same medical necessity issue; and

“(D) at least 50 percent of the total number of claims submitted by such provider within the past year involving the substantially similar material facts described in subparagraph (B) and the same medical necessity issue described in subparagraph (C) have been denied and have been reversed by an administrative law judge.

“(4) Approval or rejection of request.—

“(A) Approval of request.—If the Secretary determines that subparagraphs (A) through (D) of paragraph (3) have been satisfied, the Secretary shall require the fiscal intermediary, carrier, or program safeguard contractor identified in the provider local coverage determination request, to make or revise a local coverage determination with respect to the item or service that is the subject of the request not later than the date that is 210 days after the date on which the Secretary makes the determination. Such fiscal intermediary, carrier, or program safeguard contractor shall retain the discretion to determine whether or not, and/or the circumstances under which, to cover the item or service for which a local coverage determination is requested. Nothing in this subsection shall be construed to require a fiscal intermediary, carrier or program safeguard contractor to develop a local coverage determination that is inconsistent with any national coverage determination, or any coverage provision in this title or in regulation, manual, or interpretive guidance of the Secretary.

“(B) REJECTION OF REQUEST.—If the Secretary determines that subparagraphs (A) through (D) of paragraph (3) have not been satisfied, the Secretary shall reject the provider local coverage determination request and shall notify the provider of services, physician, practitioner, or supplier that filed the request of the reason for such rejection and no further proceedings in relation to such request shall be conducted.”.

(d) STUDY AND REPORT ON THE USE OF CONTRACTORS TO MONITOR MEDICARE APPEALS.—

(1) STUDY.—The Secretary shall conduct a study on the feasibility and advisability of requiring fiscal intermediaries and carriers to monitor and track—

(A) the subject matter and status of claims denied by the fiscal intermediary or carrier (as applicable) that are appealed under section 1869 of the Social Security Act (42 U.S.C. 1395ff), as added by section 522 of BIPA (114 Stat. 2763A–543) and amended by this Act; and

(B) any final determination made with respect to such claims.

(2) REPORT.—Not later than the date that is 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1) together with such recommendations for legislation and administrative action as the Commission determines appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the amendments made by subsections (a), (b), and (c).

(f) EFFECTIVE DATES.—

(1) PROVIDER ACCESS TO REVIEW OF LOCAL COVERAGE DETERMINATIONS.—The amendments made by subsections (a) and (b) shall apply to—

(A) any review of any local coverage determination filed on or after October 1, 2003;

(B) any request to make such a determination made on or after such date; or

(C) any local coverage determination made on or after such date.

(2) PROVIDER LOCAL COVERAGE DETERMINATION REQUESTS.—The amendment made by subsection (c) shall apply with respect to provider local coverage determination requests (as defined in section 1869(h)(2) of the Social Security Act, as added by subsection (c)) filed on or after the date of enactment of this Act.

Subtitle C—Contracting Reform

SEC. 521. INCREASED FLEXIBILITY IN MEDICARE ADMINISTRATION.

(a) CONSOLIDATION AND FLEXIBILITY IN MEDICARE ADMINISTRATION.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1874 the following new section:

“CONTRACTS WITH MEDICARE ADMINISTRATIVE CONTRACTORS

“SEC. 1874A. (a) AUTHORITY.—

“(1) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary may enter into contracts with any eligible entity to serve as a medicare administrative contractor with respect to the performance of any or all of the functions described in paragraph (4) or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other entities).

“(2) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract with respect to the performance of a particular function described in paragraph (4) only if—

“(A) the entity has demonstrated capability to carry out such function;

“(B) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

“(C) the entity has sufficient assets to financially support the performance of such function; and

“(D) the entity meets such other requirements as the Secretary may impose.

“(3) MEDICARE ADMINISTRATIVE CONTRACTOR DEFINED.—For purposes of this title and title XI—

“(A) IN GENERAL.—The term ‘medicare administrative contractor’ means an agency, organization, or other person with a contract under this section.

“(B) APPROPRIATE MEDICARE ADMINISTRATIVE CONTRACTOR.—With respect to the performance of a particular function in relation to an individual entitled to benefits under part A or enrolled under part B, or both, a specific provider of services, physician, practitioner, facility, or supplier (or class of such providers of services, physicians, practitioners, facilities, or suppliers), the ‘appropriate’ medicare administrative contractor is the medicare administrative contractor that has a contract under this section with respect to the performance of that function in relation to that individual, provider of services, physician, practitioner, facility, or supplier or class of provider of services, physician, practitioner, facility, or supplier.

“(4) FUNCTIONS DESCRIBED.—The functions referred to in paragraphs (1) and (2) are payment functions (including the function of developing local coverage determinations, as defined in section 1869(f)(2)(B)), provider services functions, and beneficiary services functions as follows:

“(A) DETERMINATION OF PAYMENT AMOUNTS.—Determining (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this title to be made to providers of services, physicians, practitioners, facilities, suppliers, and individuals.

“(B) MAKING PAYMENTS.—Making payments described in subparagraph (A) (including receipt, disbursement, and accounting for funds in making such payments).

“(C) BENEFICIARY EDUCATION AND ASSISTANCE.—Serving as a center for, and communicating to individuals entitled to benefits under part A or enrolled under part B, or both, with respect to education and outreach for those individuals, and assistance with specific issues, concerns, or problems of those individuals.

“(D) PROVIDER CONSULTATIVE SERVICES.—Providing consultative services to institutions, agencies, and other persons to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to qualify as providers of services, physicians, practitioners, facilities, or suppliers.

“(E) COMMUNICATION WITH PROVIDERS.—Serving as a center for, and communicating to providers of services, physicians, practitioners, facilities, and suppliers, any information or instructions furnished to the medicare administrative contractor by the Secretary, and serving as a channel of communication from such providers, physicians, practitioners, facilities, and suppliers to the Secretary.

“(F) PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.—Performing the functions described in subsections (e) and (f), relating to education, training, and technical assistance to providers of services, physicians, practitioners, facilities, and suppliers.

“(G) ADDITIONAL FUNCTIONS.—Performing such other functions, including (subject to paragraph (5)) functions under the Medicare Integrity Program under section 1893, as are necessary to carry out the purposes of this title.

“(5) RELATIONSHIP TO MIP CONTRACTS.—

“(A) NONDUPLICATION OF ACTIVITIES.—In entering into contracts under this section, the Secretary shall assure that activities of medicare administrative contractors do not duplicate activities carried out under contracts entered into under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).

“(B) CONSTRUCTION.—An entity shall not be treated as a medicare administrative contractor merely by reason of having entered into a contract with the Secretary under section 1893.

“(6) APPLICATION OF FEDERAL ACQUISITION REGULATION.—Except to the extent inconsistent with a specific requirement of this title, the Federal Acquisition Regulation applies to contracts under this title.

“(b) CONTRACTING REQUIREMENTS.—

“(1) USE OF COMPETITIVE PROCEDURES.—

“(A) IN GENERAL.—Except as provided in laws with general applicability to Federal acquisition and procurement, the Federal Acquisition Regulation, or in subparagraph (B), the Secretary shall use competitive procedures when entering into contracts with medicare administrative contractors under this section.

“(B) RENEWAL OF CONTRACTS.—The Secretary may renew a contract with a medicare administrative contractor under this section from term to term without regard to section 5 of title 41, United States Code, or any other provision of law requiring competition, if the medicare administrative contractor has met or exceeded the performance requirements applicable with respect to the contract and contractor, except that the Secretary shall provide for the application of competitive procedures under such a contract not less frequently than once every 6 years.

“(C) TRANSFER OF FUNCTIONS.—The Secretary may transfer functions among medicare administrative contractors without regard to any provision of law requiring competition. The Secretary shall ensure that performance quality is considered in such transfers. The Secretary shall provide notice (whether in the Federal Register or otherwise) of any such transfer (including a description of the functions so transferred and contact information for the contractors involved) to providers of services, physicians, practitioners, facilities, and suppliers affected by the transfer.

"(D) INCENTIVES FOR QUALITY.—The Secretary may provide incentives for medicare administrative contractors to provide quality service and to promote efficiency.

"(2) COMPLIANCE WITH REQUIREMENTS.—No contract under this section shall be entered into with any medicare administrative contractor unless the Secretary finds that such medicare administrative contractor will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent.

"(3) PERFORMANCE REQUIREMENTS.—

"(A) DEVELOPMENT OF SPECIFIC PERFORMANCE REQUIREMENTS.—The Secretary shall develop contract performance requirements to carry out the specific requirements applicable under this title to a function described in subsection (a)(4) and shall develop standards for measuring the extent to which a contractor has met such requirements. In developing such performance requirements and standards for measurement, the Secretary shall consult with providers of services, organizations representative of beneficiaries under this title, and organizations and agencies performing functions necessary to carry out the purposes of this section with respect to such performance requirements. The Secretary shall make such performance requirements and measurement standards available to the public.

"(B) CONSIDERATIONS.—The Secretary shall include, as 1 of the standards, provider and beneficiary satisfaction levels.

"(C) INCLUSION IN CONTRACTS.—All contractor performance requirements shall be set forth in the contract between the Secretary and the appropriate medicare administrative contractor. Such performance requirements—

"(i) shall reflect the performance requirements published under subparagraph (A), but may include additional performance requirements;

"(ii) shall be used for evaluating contractor performance under the contract; and

"(iii) shall be consistent with the written statement of work provided under the contract.

"(4) INFORMATION REQUIREMENTS.—The Secretary shall not enter into a contract with a medicare administrative contractor under this section unless the contractor agrees—

"(A) to furnish to the Secretary such timely information and reports as the Secretary may find necessary in performing his functions under this title; and

"(B) to maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (A) and otherwise to carry out the purposes of this title.

"(5) SURETY BOND.—A contract with a medicare administrative contractor under this section may require the medicare administrative contractor, and any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

"(6) RETAINING DIVERSITY OF LOCAL COVERAGE DETERMINATIONS.—A contract with a medicare administrative contractor under this section to perform the function of developing local coverage determinations (as defined in section 1869(f)(2)(B)) shall provide that the contractor shall—

"(A) designate at least 1 different individual to serve as medical director for each State for which such contract performs such function;

"(B) utilize such medical director in the performance of such function: and

"(C) appoint a contractor advisory committee with respect to each such State to provide a formal mechanism for physicians in the State to be informed of, and participate in, the development of a local coverage determination in an advisory capacity.

"(c) TERMS AND CONDITIONS.—

"(1) IN GENERAL.—Subject to subsection (a)(6), a contract with any medicare administrative contractor under this section may contain such terms and conditions as the Secretary finds necessary or appropriate and may provide for advances of funds to the medicare administrative contractor for the making of payments by it under subsection (a)(4)(B).

"(2) PROHIBITION ON MANDATES FOR CERTAIN DATA COLLECTION.—The Secretary may not require, as a condition of entering into, or renewing, a contract under this section, that the medicare administrative contractor match data obtained other than in its activities under this title with data used in the administration of this title for purposes of identifying situations in which the provisions of section 1862(b) may apply.

"(d) LIMITATION ON LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS AND CERTAIN OFFICERS.—

"(1) CERTIFYING OFFICER.—No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of the reckless disregard of the individual's obligations or the intent by that individual to defraud the United States, be liable with respect to any payments certified by the individual under this section.

"(2) DISBURSING OFFICER.—No disbursing officer shall, in the absence of the reckless disregard of the officer's obligations or the intent by that officer to defraud the United States, be liable with respect to any payment by such officer under this section if it was based upon an authorization (which meets the applicable requirements for such internal controls established by the Comptroller General) of a certifying officer designated as provided in paragraph (1) of this subsection.

"(3) LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTOR.—No medicare administrative contractor shall be liable to the United States for a payment by a certifying or disbursing officer unless, in connection with such a payment, the medicare administrative contractor acted with reckless disregard of its obligations under its medicare administrative contract or with intent to defraud the United States.

"(4) RELATIONSHIP TO FALSE CLAIMS ACT.—Nothing in this subsection shall be construed to limit liability for conduct that would constitute a violation of sections 3729 through 3731 of title 31, United States Code (commonly known as the "False Claims Act").

"(5) INDEMNIFICATION BY SECRETARY.—

"(A) IN GENERAL.—Notwithstanding any other provision of law and subject to the succeeding provisions of this paragraph, in the case of a medicare administrative contractor (or a person who is a director, officer, or employee of such a contractor or who is engaged by the contractor to participate directly in the claims administration process) who is made a party to any judicial or administrative proceeding arising from, or relating directly to, the claims administration process under this title, the Secretary may, to the extent specified in the contract with the contractor, indemnify the contractor (and such persons).

"(B) CONDITIONS.—The Secretary may not provide indemnification under subparagraph (A) insofar as the liability for such costs arises directly from conduct that is determined by the Secretary to be criminal in nature, fraudulent, or grossly negligent.

"(C) SCOPE OF INDEMNIFICATION.—Indemnification by the Secretary under subparagraph (A) may include payment of judgments, settlements (subject to subparagraph (D)), awards, and costs (including reasonable legal expenses).

"(D) WRITTEN APPROVAL FOR SETTLEMENTS.—A contractor or other person described in subparagraph (A) may not propose to negotiate a settlement or compromise of a proceeding described in such subparagraph without the prior written approval of the Secretary to negotiate a settlement. Any indemnification under subparagraph (A) with respect to amounts paid under a settlement are conditioned upon the Secretary's prior written approval of the final settlement.

"(E) CONSTRUCTION.—Nothing in this paragraph shall be construed—

"(i) to change any common law immunity that may be available to a medicare administrative contractor or person described in subparagraph (A); or

"(ii) to permit the payment of costs not otherwise allowable, reasonable, or allocable under the Federal Acquisition Regulations.".

(2) CONSIDERATION OF INCORPORATION OF CURRENT LAW STANDARDS.—In developing contract performance requirements under section 1874A(b) of the Social Security Act (as added by paragraph (1)) the Secretary shall consider inclusion of the performance standards described in sections 1816(f)(2) of such Act (relating to timely processing of reconsiderations and applications for exemptions) and section 1842(b)(2)(B) of such Act (relating to timely review of determinations and fair hearing requests), as such sections were in effect before the date of enactment of this Act.

(b) CONFORMING AMENDMENTS TO SECTION 1816 (RELATING TO FISCAL INTERMEDIARIES).—Section 1816 (42 U.S.C. 1395h) is amended as follows:

(1) The heading is amended to read as follows:

"PROVISIONS RELATING TO THE
ADMINISTRATION OF PART A".

(2) Subsection (a) is amended to read as follows:

"(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.".

(3) Subsection (b) is repealed.

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in each of paragraphs (2)(A) and (3)(A), by striking "agreement under this section" and inserting "contract under section 1874A that provides for making payments under this part".

(5) Subsections (d) through (i) are repealed.

(6) Subsections (j) and (k) are each amended—

(A) by striking "An agreement with an agency or organization under this section" and inserting "A contract with a medicare administrative contractor under section 1874A with respect to the administration of this part"; and

(B) by striking "such agency or organization" and inserting "such medicare administrative contractor" each place it appears.

(7) Subsection (l) is repealed.

(c) Conforming Amendments to Section 1842 (Relating to Carriers).—Section 1842 (42 U.S.C. 1395u) is amended as follows:

(1) The heading is amended to read as follows:

"PROVISIONS RELATING TO THE
ADMINISTRATION OF PART B".

(2) Subsection (a) is amended to read as follows:

"(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.".

(3) Subsection (b) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking subparagraphs (A) and (B);

(ii) in subparagraph (C), by striking "carriers" and inserting "medicare administrative contractors"; and

(iii) by striking subparagraphs (D) and (E);

(C) in paragraph (3)—

(i) in the matter before subparagraph (A), by striking "Each such contract shall provide that the carrier" and inserting "The Secretary";

(ii) by striking "will" the first place it appears in each of subparagraphs (A), (B), (F), (G), (H), and (L) and inserting "shall";

(iii) in subparagraph (B), in the matter before clause (i), by striking "to the policyholders and subscribers of the carrier" and inserting "to the policyholders and subscribers of the medicare administrative contractor";

(iv) by striking subparagraphs (C), (D), and (E);

(v) in subparagraph (H)—

(I) by striking "if it makes determinations or payments with respect to physicians' services,"; and

(II) by striking "carrier" and inserting "medicare administrative contractor";

(vi) by striking subparagraph (I);

(vii) in subparagraph (L), by striking the semicolon and inserting a period;

(viii) in the first sentence, after subparagraph (L), by striking "and shall contain" and all that follows through the period; and

(ix) in the seventh sentence, by inserting "medicare administrative contractor," after "carrier,";

(D) by striking paragraph (5);

(E) in paragraph (6)(D)(iv), by striking "carrier" and inserting "medicare administrative contractor"; and

(F) in paragraph (7), by striking "the carrier" and inserting "the Secretary" each place it appears.

(4) Subsection (c) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2), by striking "contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B)," and inserting "contract under section 1874A that provides for making payments under this part";

(C) in paragraph (3)(A), by striking "subsection (a)(1)(B)" and inserting "section 1874A(a)(3)(B)";

(D) in paragraph (4), by striking "carrier" and inserting "medicare administrative contractor";

(E) in paragraph (5), by striking "contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier" and "carrier responses" and inserting "contract under section 1874A that provides for making payments under this part shall require the medicare administrative contractor" and "contractor responses", respectively; and

(F) by striking paragraph (6).

(5) Subsections (d), (e), and (f) are repealed.

(6) Subsection (g) is amended by striking "carrier or carriers" and inserting "medicare administrative contractor or contractors".

(7) Subsection (h) is amended—

(A) in paragraph (2)—

(i) by striking "Each carrier having an agreement with the Secretary under subsection (a)" and inserting "The Secretary"; and

(ii) by striking "Each such carrier" and inserting "The Secretary";

(B) in paragraph (3)(A)—

(i) by striking "a carrier having an agreement with the Secretary under subsection (a)" and inserting "medicare administrative contractor having a contract under section 1874A that provides for making payments under this part"; and

(ii) by striking "such carrier" and inserting "such contractor";

(C) in paragraph (3)(B)—

(i) by striking "a carrier" and inserting "a medicare administrative contractor" each place it appears; and

(ii) by striking "the carrier" and inserting "the contractor" each place it appears; and

(D) in paragraphs (5)(A) and (5)(B)(iii), by striking "carriers" and inserting "medicare administrative contractors" each place it appears.

(8) Subsection (l) is amended—

(A) in paragraph (1)(A)(iii), by striking "carrier" and inserting "medicare administrative contractor"; and

(B) in paragraph (2), by striking "carrier" and inserting "medicare administrative contractor".

(9) Subsection (p)(3)(A) is amended by striking "carrier" and inserting "medicare administrative contractor".

(10) Subsection (q)(1)(A) is amended by striking "carrier".

(d) Effective Date; Transition Rule.—

(1) Effective date.—

(A) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2005, and the Secretary is authorized to take such steps before such date as may be necessary to implement such amendments on a timely basis.

(B) Construction for current contracts.—Such amendments shall not apply to contracts in effect before the date specified under subparagraph (A) that continue to retain the terms and conditions in effect on such date (except as otherwise provided under this title, other than under this section) until such date as the contract is let out for competitive bidding under such amendments.

(C) Deadline for competitive bidding.—The Secretary shall provide for the letting by competitive bidding of all contracts for functions of medicare administrative contractors for annual contract periods that begin on or after October 1, 2011.

(2) General transition rules.—

(A) Authority to continue to enter into new agreements and contracts and waiver of provider nomination provisions during transition.—Prior to the date specified in paragraph (1)(A), the Secretary may, consistent with subparagraph (B), continue to enter into agreements under section 1816 and contracts under section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u). The Secretary may enter into new agreements under section 1816 during the time period without regard to any of the provider nomination provisions of such section.

(B) Appropriate transition.—The Secretary shall take such steps as are necessary to provide for an appropriate transition from agreements under section 1816 and contracts under section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u) to contracts under section 1874A, as added by subsection (a)(1).

(3) Authorizing continuation of MIP activities under current contracts and agreements and under transition contracts.—The provisions contained in the exception in section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395ddd(d)(2)) shall continue to apply notwithstanding the amendments made by this section, and any reference in such provisions to an agreement or contract shall be deemed to include agreements and contracts entered into pursuant to paragraph (2)(A).

(e) References.—On and after the effective date provided under subsection (d)(1), any reference to a fiscal intermediary or carrier under title XI or XVIII of the Social Security Act (or any regulation, manual instruction, interpretative rule, statement of policy, or guideline issued to carry out such titles) shall be deemed a reference to an appropriate medicare administrative contractor (as provided under section 1874A of the Social Security Act).

(f) Secretarial Submission of Legislative Proposal.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this section.

(g) Reports on Implementation.—

(1) Proposal for implementation.—At least 1 year before the date specified in subsection (d)(1)(A), the Secretary shall submit a report to Congress and the Comptroller General of the United States that describes a plan for an appropriate transition. The Comptroller General shall conduct an evaluation of such plan and shall submit to Congress, not later than 6 months after the date the report is received, a report on such evaluation and shall include in such report such recommendations as the Comptroller General deems appropriate.

(2) Status of implementation.—The Secretary shall submit a report to Congress not later than October 1, 2008, that describes the status of implementation of such amendments and that includes a description of the following:

(A) The number of contracts that have been competitively bid as of such date.

(B) The distribution of functions among contracts and contractors.

(C) A timeline for complete transition to full competition.

(D) A detailed description of how the Secretary has modified oversight and management of medicare contractors to adapt to full competition.

Subtitle D—Education and Outreach Improvements

SEC. 531. PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.

(a) Coordination of Education Funding.—

(1) In general.—The Social Security Act is amended by inserting after section 1888 the following new section:

"PROVIDER EDUCATION AND TECHNICAL
ASSISTANCE

"Sec. 1889. (a) Coordination of Education Funding.—The Secretary shall coordinate the educational activities provided through medicare contractors (as defined in subsection (e), including under section 1893) in order to maximize the effectiveness of Federal education efforts for providers of services, physicians, practitioners, and suppliers.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act.

(3) REPORT.—Not later than October 1, 2004, the Secretary shall submit to Congress a report that includes a description and evaluation of the steps taken to coordinate the funding of provider education under section 1889(a) of the Social Security Act, as added by paragraph (1).

(b) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE.—

(1) IN GENERAL.—Section 1874A, as added by section 521(a)(1), is amended by adding at the end the following new subsection:

"(e) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE IN PROVIDER EDUCATION AND OUTREACH.—

"(1) METHODOLOGY TO MEASURE CONTRACTOR ERROR RATES.—In order to give medicare contractors (as defined in paragraph (3)) an incentive to implement effective education and outreach programs for providers of services, physicians, practitioners, and suppliers, the Secretary shall develop and implement by October 1, 2004, a methodology to measure the specific claims payment error rates of such contractors in the processing or reviewing of medicare claims.

"(2) GAO REVIEW OF METHODOLOGY.—The Comptroller General of the United States shall review, and make recommendations to the Secretary, regarding the adequacy of such methodology.

"(3) MEDICARE CONTRACTOR DEFINED.—For purposes of this subsection, the term 'medicare contractor' includes a medicare administrative contractor, a fiscal intermediary with a contract under section 1816, and a carrier with a contract under section 1842.".

(2) REPORT.—The Secretary shall submit to Congress a report that describes how the Secretary intends to use the methodology developed under section 1874A(e)(1) of the Social Security Act, as added by paragraph (1), in assessing medicare contractor performance in implementing effective education and outreach programs, including whether to use such methodology as a basis for performance bonuses.

(c) IMPROVED PROVIDER EDUCATION AND TRAINING.—

(1) INCREASED FUNDING FOR ENHANCED EDUCATION AND TRAINING THROUGH MEDICARE INTEGRITY PROGRAM.—Section 1817(k)(4) (42 U.S.C. 1395i(k)(4)) is amended—

(A) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)";

(B) in subparagraph (B), by striking "The amount appropriated" and inserting "Subject to subparagraph (C), the amount appropriated"; and

(C) by adding at the end the following new subparagraph:

"(C) ENHANCED PROVIDER EDUCATION AND TRAINING.—

"(i) IN GENERAL.—In addition to the amount appropriated under subparagraph (B), the amount appropriated under subparagraph (A) for a fiscal year (beginning with fiscal year 2004) is increased by $35,000,000.

"(ii) USE.—The funds made available under this subparagraph shall be used only to increase the conduct by medicare contractors of education and training of providers of services, physicians, practitioners, and suppliers regarding billing, coding, and other appropriate items and may also be used to improve the accuracy, consistency, and timeliness of contractor responses to written and phone inquiries from providers of services, physicians, practitioners, and suppliers.".

(2) TAILORING EDUCATION AND TRAINING FOR SMALL PROVIDERS OR SUPPLIERS.—

(A) IN GENERAL.—Section 1889, as added by subsection (a), is amended by adding at the end the following new subsection:

"(b) TAILORING EDUCATION AND TRAINING ACTIVITIES FOR SMALL PROVIDERS OR SUPPLIERS.—

"(1) IN GENERAL.—Insofar as a medicare contractor conducts education and training activities, it shall take into consideration the special needs of small providers of services or suppliers (as defined in paragraph (2)). Such education and training activities for small providers of services and suppliers may include the provision of technical assistance (such as review of billing systems and internal controls to determine program compliance and to suggest more efficient and effective means of achieving such compliance).

"(2) SMALL PROVIDER OF SERVICES OR SUPPLIER.—In this subsection, the term 'small provider of services or supplier' means—

"(A) an institutional provider of services with fewer than 25 full-time-equivalent employees; or

"(B) a physician, practitioner, or supplier with fewer than 10 full-time-equivalent employees.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on January 1, 2004.

(d) ADDITIONAL PROVIDER EDUCATION PROVISIONS.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsection (c)(2), is amended by adding at the end the following new subsections:

"(c) ENCOURAGEMENT OF PARTICIPATION IN EDUCATION PROGRAM ACTIVITIES.—A medicare contractor may not use a record of attendance at (or failure to attend) educational activities or other information gathered during an educational program conducted under this section or otherwise by the Secretary to select or track providers of services, physicians, practitioners, or suppliers for the purpose of conducting any type of audit or prepayment review.

"(d) CONSTRUCTION.—Nothing in this section or section 1893(g) shall be construed as providing for disclosure by a medicare contractor—

"(1) of the screens used for identifying claims that will be subject to medical review; or

"(2) of information that would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

"(e) DEFINITIONS.—For purposes of this section and section 1817(k)(4)(C), the term 'medicare contractor' includes the following:

"(1) A medicare administrative contractor with a contract under section 1874A, a fiscal intermediary with a contract under section 1816, and a carrier with a contract under section 1842.

"(2) An eligible entity with a contract under section 1893.

Such term does not include, with respect to activities of a specific provider of services, physician, practitioner, or supplier an entity that has no authority under this title or title XI with respect to such activities and such provider of services, physician, practitioner, or supplier.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act.

SEC. 532. ACCESS TO AND PROMPT RESPONSES FROM MEDICARE CONTRACTORS.

(a) IN GENERAL.—Section 1874A, as added by section 521(a)(1) and as amended by section 531(b)(1), is amended by adding at the end the following new subsection:

"(f) COMMUNICATING WITH BENEFICIARIES AND PROVIDERS.—

"(1) COMMUNICATION PROCESS.—The Secretary shall develop a process for medicare contractors to communicate with beneficiaries and with providers of services, physicians, practitioners, and suppliers under this title.

"(2) RESPONSE TO WRITTEN INQUIRIES.—Each medicare contractor (as defined in paragraph (5)) shall provide general written responses (which may be through electronic transmission) in a clear, concise, and accurate manner to inquiries by beneficiaries, providers of services, physicians, practitioners, and suppliers concerning the programs under this title within 45 business days of the date of receipt of such inquiries.

"(3) RESPONSE TO TOLL-FREE LINES.—The Secretary shall ensure that medicare contractors provide a toll-free telephone number at which beneficiaries, providers, physicians, practitioners, and suppliers may obtain information regarding billing, coding, claims, coverage, and other appropriate information under this title.

"(4) MONITORING OF CONTRACTOR RESPONSES.—

"(A) IN GENERAL.—Each medicare contractor shall, consistent with standards developed by the Secretary under subparagraph (B)—

"(i) maintain a system for identifying who provides the information referred to in paragraphs (2) and (3); and

"(ii) monitor the accuracy, consistency, and timeliness of the information so provided.

"(B) DEVELOPMENT OF STANDARDS.—

"(i) IN GENERAL.—The Secretary shall establish (and publish in the Federal Register) standards regarding the accuracy, consistency, and timeliness of the information provided in response to inquiries under this subsection. Such standards shall be consistent with the performance requirements established under subsection (b)(3).

"(ii) EVALUATION.—In conducting evaluations of individual medicare contractors, the Secretary shall consider the results of the monitoring conducted under subparagraph (A) taking into account as performance requirements the standards established under clause (i). The Secretary shall, in consultation with organizations representing providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, establish standards relating to the accuracy, consistency, and timeliness of the information so provided.

"(C) DIRECT MONITORING.—Nothing in this paragraph shall be construed as preventing the Secretary from directly monitoring the accuracy, consistency, and timeliness of the information so provided.

"(5) MEDICARE CONTRACTOR DEFINED.—For purposes of this subsection, the term 'medicare contractor' has the meaning given such term in subsection (e)(3).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2004.

SEC. 533. RELIANCE ON GUIDANCE.

(a) IN GENERAL.—Section 1871(d), as added by section 502(a), is amended by adding at the end the following new paragraph:

"(2) If—

"(A) a provider of services, physician, practitioner, or other supplier follows written guidance provided—

"(i) by the Secretary; or

"(ii) by a medicare contractor (as defined in section 1889(e) and whether in the form of a written response to a written inquiry under section 1874A(f)(1) or otherwise) acting within the scope of the contractor's contract authority,

in response to a written inquiry with respect to the furnishing of items or services or the submission of a claim for benefits for such items or services;

"(B) the Secretary determines that—

"(i) the provider of services, physician, practitioner, or supplier has accurately presented the circumstances relating to such items, services, and claim to the Secretary or the contractor in the written guidance; and

"(ii) there is no indication of fraud or abuse committed by the provider of services, physician, practitioner, or supplier against the program under this title; and

"(C) the guidance was in error;

the provider of services, physician, practitioner, or supplier shall not be subject to any penalty or interest under this title (or the provisions of title XI insofar as they relate to this title) relating to the provision of such items or service or such claim if the provider of services, physician, practitioner, or supplier reasonably relied on such guidance. In applying this paragraph with respect to guidance in the form of general responses to frequently asked questions, the Secretary retains authority to determine the extent to which such general responses apply to the particular circumstances of individual claims.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to penalties imposed on or after the date of enactment of this Act.

SEC. 534. MEDICARE PROVIDER OMBUDSMAN.

(a) Medicare Provider Ombudsman.—Section 1868 (42 U.S.C. 1395ee) is amended—

(1) by adding at the end of the heading the following: "; MEDICARE PROVIDER OMBUDSMAN";

(2) by inserting "Practicing Physicians Advisory Council.—(1)" after "(a)";

(3) in paragraph (1), as so redesignated under paragraph (2), by striking "in this section" and inserting "in this subsection";

(4) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively; and

(5) by adding at the end the following new subsection:

"(b) Medicare Provider Ombudsman.—

"(1) In general.—By not later than 1 year after the date of enactment of the Prescription Drug and Medicare Improvement Act of 2003, the Secretary shall appoint a Medicare Provider Ombudsman.

"(2) Duties.—The Medicare Provider Ombudsman shall—

"(A) provide assistance, on a confidential basis, to entities and individuals providing items and services, including covered drugs under part D, under this title with respect to complaints, grievances, and requests for information concerning the programs under this title (including provisions of title XI insofar as they relate to this title and are not administered by the Office of the Inspector General of the Department of Health and Human Services) and in the resolution of unclear or conflicting guidance given by the Secretary and medicare contractors to such providers of services and suppliers regarding such programs and provisions and requirements under this title and such provisions; and

"(B) submit recommendations to the Secretary for improvement in the administration of this title and such provisions, including—

"(i) recommendations to respond to recurring patterns of confusion in this title and such provisions (including recommendations regarding suspending imposition of sanctions where there is widespread confusion in program administration), and

"(ii) recommendations to provide for an appropriate and consistent response (including not providing for audits) in cases of self-identified overpayments by providers of services and suppliers.

"(3) Staff.—The Secretary shall provide the Medicare Provider Ombudsman with appropriate staff.".

(b) Funding.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (including the Prescription Drug Account)) to carry out the provisions of subsection (b) of section 1868 of the Social Security Act (42 U.S.C. 1395ee) (relating to the Medicare Provider Ombudsman), as added by subsection (a)(5), such sums as are necessary for fiscal year 2004 and each succeeding fiscal year.

SEC. 535. BENEFICIARY OUTREACH DEMONSTRATION PROGRAMS.

(a) Demonstration on the Provision of Advice and Assistance to Medicare Beneficiaries at Local Offices of the Social Security Administration.—

(1) Establishment.—The Secretary shall establish a demonstration program (in this subsection referred to as the "demonstration program") under which medicare specialists employed by the Department of Health and Human Services provide advice and assistance to medicare beneficiaries at the location of existing local offices of the Social Security Administration.

(2) Locations.—

(A) In general.—The demonstration program shall be conducted in at least 6 offices or areas. Subject to subparagraph (B), in selecting such offices and areas, the Secretary shall provide preference for offices with a high volume of visits by medicare beneficiaries.

(B) Assistance for rural beneficiaries.—The Secretary shall provide for the selection of at least 2 rural areas to participate in the demonstration program. In conducting the demonstration program in such rural areas, the Secretary shall provide for medicare specialists to travel among local offices in a rural area on a scheduled basis.

(3) Duration.—The demonstration program shall be conducted over a 3-year period.

(4) Evaluation and report.—

(A) Evaluation.—The Secretary shall provide for an evaluation of the demonstration program. Such evaluation shall include an analysis of—

(i) utilization of, and beneficiary satisfaction with, the assistance provided under the program; and

(ii) the cost-effectiveness of providing beneficiary assistance through out-stationing medicare specialists at local social security offices.

(B) Report.—The Secretary shall submit to Congress a report on such evaluation and shall include in such report recommendations regarding the feasibility of permanently out-stationing Medicare specialists at local social security offices.

(b) Demonstration on Providing Prior Determinations.—

(1) Establishment.—By not later than 1 year after the date of enactment of this Act, the Secretary shall establish a demonstration project to test the administrative feasibility of providing a process for medicare beneficiaries and entities and individuals furnishing such beneficiaries with items and services under title XVIII of the Social Security Act program to make a request for, and receive, a determination (after an advance beneficiary notice is issued with respect to the item or service involved but before such item or service is furnished to the beneficiary) as to whether the item or service is covered under such title consistent with the applicable requirements of section 1862(a)(1)(A) of such Act (42 U.S.C. 1395y(a)(1)(A)) (relating to medical necessity).

(2) Evaluation and report.—

(A) Evaluation.—The Secretary shall provide for an evaluation of the demonstration program conducted under paragraph (1).

(B) Report.—By not later than January 1, 2006, the Secretary shall submit to Congress a report on such evaluation together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

Subtitle E—Review, Recovery, and Enforcement Reform

SEC. 541. PREPAYMENT REVIEW.

(a) In General.—Section 1874A, as added by section 521(a)(1) and as amended by sections 531(b)(1) and 532(a), is amended by adding at the end the following new subsection:

"(g) Conduct of Prepayment Review.—

"(1) Standardization of random prepayment review.—A medicare administrative contractor shall conduct random prepayment review only in accordance with a standard protocol for random prepayment audits developed by the Secretary.

"(2) Limitations on initiation of nonrandom prepayment review.—A medicare administrative contractor may not initiate nonrandom prepayment review of a provider of services, physician, practitioner, or supplier based on the initial identification by that provider of services, physician, practitioner, or supplier of an improper billing practice unless there is a likelihood of sustained or high level of payment error (as defined by the Secretary).

"(3) Termination of nonrandom prepayment review.—The Secretary shall establish protocols or standards relating to the termination, including termination dates, of nonrandom prepayment review. Such regulations may vary such a termination date based upon the differences in the circumstances triggering prepayment review.

"(4) Construction.—Nothing in this subsection shall be construed as preventing the denial of payments for claims actually reviewed under a random prepayment review. In the case of a provider of services, physician, practitioner, or supplier with respect to which amounts were previously overpaid, nothing in this subsection shall be construed as limiting the ability of a medicare administrative contractor to request the periodic production of records or supporting documentation for a limited sample of submitted claims to ensure that the previous practice is not continuing.

"(5) Random prepayment review defined.—For purposes of this subsection, the term 'random prepayment review' means a demand for the production of records or documentation absent cause with respect to a claim.".

(b) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendment made by subsection (a) shall take effect on the date of enactment of this Act.

(2) Deadline for promulgation of certain regulations.—The Secretary shall first issue regulations under section 1874A(g) of the Social Security Act, as added by subsection (a), by not later than 1 year after the date of enactment of this Act.

(3) Application of standard protocols for random prepayment review.—Section 1874A(g)(1) of the Social Security Act, as added by subsection (a), shall apply to random prepayment reviews conducted on or after such date (not later than 1 year after the date of enactment of this Act) as the Secretary shall specify. The Secretary shall develop and publish the standard protocol under such section by not later than 1 year after the date of enactment of this Act.

SEC. 542. RECOVERY OF OVERPAYMENTS.

(a) In General.—Section 1874A, as added by section 521(a)(1) and as amended by sections 531(b)(1), 532(a), and 541(a), is amended by adding at the end the following new subsection:

“(h) Recovery of Overpayments.—

“(1) Use of repayment plans.—

“(A) In general.—If the repayment, within the period otherwise permitted by a provider of services, physician, practitioner, or other supplier, of an overpayment under this title meets the standards developed under subparagraph (B), subject to subparagraph (C), and the provider, physician, practitioner, or supplier requests the Secretary to enter into a repayment plan with respect to such overpayment, the Secretary shall enter into a plan with the provider, physician, practitioner, or supplier for the offset or repayment (at the election of the provider, physician, practitioner, or supplier) of such overpayment over a period of at least 1 year, but not longer than 3 years. Interest shall accrue on the balance through the period of repayment. The repayment plan shall meet terms and conditions determined to be appropriate by the Secretary.

“(B) Development of standards.—The Secretary shall develop standards for the recovery of overpayments. Such standards shall—

“(i) include a requirement that the Secretary take into account (and weigh in favor of the use of a repayment plan) the reliance (as described in section 1871(d)(2)) by a provider of services, physician, practitioner, and supplier on guidance when determining whether a repayment plan should be offered; and

“(ii) provide for consideration of the financial hardship imposed on a provider of services, physician, practitioner, or supplier in considering such a repayment plan.

In developing standards with regard to financial hardship with respect to a provider of services, physician, practitioner, or supplier, the Secretary shall take into account the amount of the proposed recovery as a proportion of payments made to that provider, physician, practitioner, or supplier.

“(C) Exceptions.—Subparagraph (A) shall not apply if—

“(i) the Secretary has reason to suspect that the provider of services, physician, practitioner, or supplier may file for bankruptcy or otherwise cease to do business or discontinue participation in the program under this title; or

“(ii) there is an indication of fraud or abuse committed against the program.

“(D) Immediate collection if violation of repayment plan.—If a provider of services, physician, practitioner, or supplier fails to make a payment in accordance with a repayment plan under this paragraph, the Secretary may immediately seek to offset or otherwise recover the total balance outstanding (including applicable interest) under the repayment plan.

“(E) Relation to no fault provision.—Nothing in this paragraph shall be construed as affecting the application of section 1870(c) (relating to no adjustment in the cases of certain overpayments).

“(2) Limitation on recoupment.—

“(A) No recoupment until reconsideration exercised.—In the case of a provider of services, physician, practitioner, or supplier that is determined to have received an overpayment under this title and that seeks a reconsideration of such determination by a qualified independent contractor under section 1869(c), the Secretary may not take any action (or authorize any other person, including any Medicare contractor, as defined in subparagraph (C)) to recoup the overpayment until the date the decision on the reconsideration has been rendered.

“(B) Payment of interest.—

“(i) Return of recouped amount with interest in case of reversal.—Insofar as such determination on appeal against the provider of services, physician, practitioner, or supplier is later reversed, the Secretary shall provide for repayment of the amount recouped plus interest for the period in which the amount was recouped.

“(ii) Interest in case of affirmation.—Insofar as the determination on such appeal is against the provider of services, physician, practitioner, or supplier, interest on the overpayment shall accrue on and after the date of the original notice of overpayment.

“(iii) Rate of interest.—The rate of interest under this subparagraph shall be the rate otherwise applicable under this title in the case of overpayments.

“(C) Medicare contractor defined.—For purposes of this subsection, the term ‘medicare contractor’ has the meaning given such term in section 1889(e).

“(3) Payment audits.—

“(A) Written notice for post-payment audits.—Subject to subparagraph (C), if a medicare contractor decides to conduct a post-payment audit of a provider of services, physician, practitioner, or supplier under this title, the contractor shall provide the provider of services, physician, practitioner, or supplier with written notice (which may be in electronic form) of the intent to conduct such an audit.

“(B) Explanation of findings for all audits.—Subject to subparagraph (C), if a medicare contractor audits a provider of services, physician, practitioner, or supplier under this title, the contractor shall—

“(i) give the provider of services, physician, practitioner, or supplier a full review and explanation of the findings of the audit in a manner that is understandable to the provider of services, physician, practitioner, or supplier and permits the development of an appropriate corrective action plan;

“(ii) inform the provider of services, physician, practitioner, or supplier of the appeal rights under this title as well as consent settlement options (which are at the discretion of the Secretary); and

“(iii) give the provider of services, physician, practitioner, or supplier an opportunity to provide additional information to the contractor.

“(C) Exception.—Subparagraphs (A) and (B) shall not apply if the provision of notice or findings would compromise pending law enforcement activities, whether civil or criminal, or reveal findings of law enforcement-related audits.

“(4) Notice of over-utilization of codes.—The Secretary shall establish, in consultation with organizations representing the classes of providers of services, physicians, practitioners, and suppliers, a process under which the Secretary provides for notice to classes of providers of services, physicians, practitioners, and suppliers served by a Medicare contractor in cases in which the contractor has identified that particular billing codes may be overutilized by that class of providers of services, physicians, practitioners, or suppliers under the programs under this title (or provisions of title XI insofar as they relate to such programs).

“(5) Standard methodology for probe sampling.—The Secretary shall establish a standard methodology for Medicare administrative contractors to use in selecting a sample of claims for review in the case of an abnormal billing pattern.

“(6) Consent settlement reforms.—

“(A) In general.—The Secretary may use a consent settlement (as defined in subparagraph (D)) to settle a projected overpayment.

“(B) Opportunity to submit additional information before consent settlement offer.—Before offering a provider of services, physician, practitioner, or supplier a consent settlement, the Secretary shall—

“(i) communicate to the provider of services, physician, practitioner, or supplier in a nonthreatening manner that, based on a review of the medical records requested by the Secretary, a preliminary evaluation of those records indicates that there would be an overpayment; and

“(ii) provide for a 45-day period during which the provider of services, physician, practitioner, or supplier may furnish additional information concerning the medical records for the claims that had been reviewed.

“(C) Consent settlement offer.—The Secretary shall review any additional information furnished by the provider of services, physician, practitioner, or supplier under subparagraph (B)(ii). Taking into consideration such information, the Secretary shall determine if there still appears to be an overpayment. If so, the Secretary—

“(i) shall provide notice of such determination to the provider of services, physician, practitioner, or supplier, including an explanation of the reason for such determination; and

“(ii) in order to resolve the overpayment, may offer the provider of services, physician, practitioner, or supplier—

“(I) the opportunity for a statistically valid random sample; or

“(II) a consent settlement.

The opportunity provided under clause (ii)(I) does not waive any appeal rights with respect to the alleged overpayment involved.

“(D) Consent settlement defined.—For purposes of this paragraph, the term ‘consent settlement’ means an agreement between the Secretary and a provider of services, physician, practitioner, or supplier whereby both parties agree to settle a projected overpayment based on less than a statistically valid sample of claims and the provider of services, physician, practitioner, or supplier agrees not to appeal the claims involved.”.

(b) Effective Dates and Deadlines.—

(1) Not later than 1 year after the date of enactment of this Act, the Secretary shall first—

(A) develop standards for the recovery of overpayments under section 1874A(h)(1)(B) of the Social Security Act, as added by subsection (a);

(B) establish the process for notice of overutilization of billing codes under section 1874A(h)(4) of the Social Security Act, as added by subsection (a); and

(C) establish a standard methodology for selection of sample claims for abnormal billing patterns under section 1874A(h)(5) of the Social Security Act, as added by subsection (a).

(2) Section 1874A(h)(2) of the Social Security Act, as added by subsection (a), shall apply to actions taken after the date that is 1 year after the date of enactment of this Act.

(3) Section 1874A(h)(3) of the Social Security Act, as added by subsection (a), shall apply to audits initiated after the date of enactment of this Act.

(4) Section 1874A(h)(6) of the Social Security Act, as added by subsection (a), shall apply to consent settlements entered into after the date of enactment of this Act.

SEC. 543. PROCESS FOR CORRECTION OF MINOR ERRORS AND OMISSIONS ON CLAIMS WITHOUT PURSUING APPEALS PROCESS.

(a) In General.—The Secretary shall develop, in consultation with appropriate Medicare contractors (as defined in section 1889(e) of the Social Security Act, as added by section 531(d)(1)) and representatives of providers of services, physicians, practitioners, facilities, and suppliers, a process whereby, in the case of minor errors or omissions (as defined by the Secretary) that are detected in the submission of claims under the programs under title XVIII of such Act, a provider of services, physician, practitioner, facility, or supplier is given an opportunity to correct such an error or omission without the need to initiate an appeal. Such process shall include the ability to resubmit corrected claims.

(b) Deadline.—Not later than 1 year after the date of enactment of this Act, the Secretary shall first develop the process under subsection (a).

SEC. 544. AUTHORITY TO WAIVE A PROGRAM EXCLUSION.

The first sentence of section 1128(c)(3)(B) (42 U.S.C. 1320a-7(c)(3)(B)) is amended to read as follows: "Subject to subparagraph (G), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than 5 years, except that, upon the request of an administrator of a Federal health care program (as defined in section 1128B(f)) who determines that the exclusion would impose a hardship on beneficiaries of that program, the Secretary may, after consulting with the Inspector General of the Department of Health and Human Services, waive the exclusion under subsection (a)(1), (a)(3), or (a)(4) with respect to that program in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community.".

TITLE VI—OTHER PROVISIONS

SEC. 601. INCREASE IN MEDICAID DSH ALLOTMENTS FOR FISCAL YEARS 2004 AND 2005.

(a) In General.—Section 1923(f)(4) (42 U.S.C. 1396r-4(f)(4)) is amended—

(1) in the paragraph heading, by striking "FISCAL YEARS 2001 AND 2002" and inserting "CERTAIN FISCAL YEARS";

(2) in subparagraph (A)—

(A) in clause (i)—

(i) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(ii) by striking "and" at the end;

(B) in clause (ii), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(iii) for fiscal year 2004, shall be the DSH allotment determined under paragraph (3) for that fiscal year increased by the amount equal to the product of 0.50 and the difference between—

"(I) the amount that the DSH allotment would be if the DSH allotment for the State determined under clause (ii) were increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average) for each of fiscal years 2002 and 2003; and

"(II) the DSH allotment determined under paragraph (3) for the State for fiscal year 2004; and

"(iv) for fiscal year 2005, shall be the DSH allotment determined under paragraph (3) for that fiscal year increased by the amount equal to the product of 0.50 and the difference between—

"(I) the amount that the DSH allotment would be if the DSH allotment for the State determined under clause (ii) were increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average) for each of fiscal years 2002, 2003, and 2004; and

"(II) the DSH allotment determined under paragraph (3) for the State for fiscal year 2005."; and

(3) in subparagraph (C)—

(A) in the subparagraph heading, by striking "AFTER FISCAL YEAR 2002" and inserting "FOR OTHER FISCAL YEARS"; and

(B) by striking "2003 or" and inserting "2003, fiscal year 2006, or".

(b) DSH Allotment for the District of Columbia.—Section 1923(f)(4) (42 U.S.C. 1396r-4(f)(4)), as amended by paragraph (1), is amended—

(1) in subparagraph (A), by inserting "and except as provided in subparagraph (C)" after "paragraph (2)";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) DSH ALLOTMENT FOR THE DISTRICT OF COLUMBIA.—

"(i) In general.—Notwithstanding subparagraph (A), the DSH allotment for the District of Columbia for fiscal year 2004, shall be determined by substituting '49' for '32' in the item in the table contained in paragraph (2) with respect to the DSH allotment for FY 00 (fiscal year 2000) for the District of Columbia, and then increasing such allotment, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average) for each of fiscal years 2000, 2001, 2002, and 2003.

"(ii) No application to allotments after fiscal year 2004.—The DSH allotment for the District of Columbia for fiscal year 2003, fiscal year 2005, or any succeeding fiscal year shall be determined under paragraph (3) without regard to the DSH allotment determined under clause (i).".

(c) Conforming Amendment.—Section 1923(f)(3) of such Act (42 U.S.C. 1396r-4(f)(3)) is amended by inserting ", paragraph (4)," after "subparagraph (B)".

SEC. 602. INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE UNDER THE MEDICAID PROGRAM FOR FISCAL YEARS 2004 AND 2005.

(a) In General.—Section 1923(f)(5) (42 U.S.C. 1396r-4(f)(5)) is amended—

(1) by striking "In the case of" and inserting the following:

"(A) In general.—In the case of"; and

(2) by adding at the end the following:

"(B) Increase in floor for fiscal years 2004 and 2005.—

"(i) Fiscal year 2004.—In the case of a State in which the total expenditures under the State plan (including Federal and State shares) for disproportionate share hospital adjustments under this section for fiscal year 2000, as reported to the Administrator of the Centers for Medicare & Medicaid Services as of August 31, 2003, is greater than 0 but less than 3 percent of the State's total amount of expenditures under the State plan for medical assistance during the fiscal year, the DSH allotment for fiscal year 2004 shall be increased to 3 percent of the State's total amount of expenditures under such plan for such assistance during such fiscal year.

"(ii) Fiscal year 2005.—In the case of a State in which the total expenditures under the State plan (including Federal and State shares) for disproportionate share hospital adjustments under this section for fiscal year 2001, as reported to the Administrator of the Centers for Medicare & Medicaid Services as of August 31, 2004, is greater than 0 but less than 3 percent of the State's total amount of expenditures under the State plan for medical assistance during the fiscal year, the DSH allotment for fiscal year 2005 shall be the DSH allotment determined for the State for fiscal year 2004 (under clause (i) or paragraph (4) (as applicable)), increased by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average) for fiscal year 2004.

"(iii) No application to allotments after fiscal year 2005.—The DSH allotment for any State for fiscal year 2006 or any succeeding fiscal year shall be determined under this subsection without regard to the DSH allotments determined under this subparagraph.".

(b) Allotment Adjustment.—

(1) In general.—Section 1923(f) of the Social Security Act (42 U.S.C. 1396r-4(f)) is amended—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

"(6) Allotment adjustment.—Only with respect to fiscal year 2004 or 2005, if a statewide waiver under section 1115 that was implemented on January 1, 1994, is revoked or terminated before the end of either such fiscal year, the Secretary shall—

"(A) permit the State whose waiver was revoked or terminated to submit an amendment to its State plan that would describe the methodology to be used by the State (after the effective date of such revocation or termination) to identify and make payments to disproportionate share hospitals, including children's hospitals and institutions for mental diseases or other mental health facilities (other than State-owned institutions or facilities), on the basis of the proportion of patients served by such hospitals that are low-income patients with special needs; and

"(B) provide for purposes of this subsection for computation of an appropriate DSH allotment for the State for fiscal year 2004 or 2005 (or both) that provides for the maximum amount (permitted consistent with paragraph (3)(B)(ii)) that does not result in greater expenditures under this title than would have been made if such waiver had not been revoked or terminated.".

(2) Treatment of institutions for mental diseases.—Section 1923(h)(1) of the Social

Security Act (42 U.S.C. 1396r-4(h)(1)) is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting "(subject to paragraph (3))" after "the lesser of the following"; and

(B) by adding at the end the following new paragraph:

"(3) SPECIAL RULE.—The limitation of paragraph (1) shall not apply in the case of a State to which subsection (f)(6) applies.".

SEC. 603. INCREASED REPORTING REQUIREMENTS TO ENSURE THE APPROPRIATENESS OF PAYMENT ADJUSTMENTS TO DISPROPORTIONATE SHARE HOSPITALS UNDER THE MEDICAID PROGRAM.

Section 1923 (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(j) ANNUAL REPORTS REGARDING PAYMENT ADJUSTMENTS.—With respect to fiscal year 2004 and each fiscal year thereafter, the Secretary shall require a State, as a condition of receiving a payment under section 1903(a)(1) with respect to a payment adjustment made under this section, to submit an annual report that—

"(1) identifies each disproportionate share hospital that received a payment adjustment under this section for the preceding fiscal year and the amount of the payment adjustment made to such hospital for the preceding fiscal year; and

"(2) includes such other information as the Secretary determines necessary to ensure the appropriateness of the payment adjustments made under this section for the preceding fiscal year.".

SEC. 604. CLARIFICATION OF INCLUSION OF INPATIENT DRUG PRICES CHARGED TO CERTAIN PUBLIC HOSPITALS IN THE BEST PRICE EXEMPTIONS FOR THE MEDICAID DRUG REBATE PROGRAM.

(a) IN GENERAL.—Section 1927(c)(1)(C)(i)(I) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(C)(i)(I)) is amended by inserting before the semicolon the following: "(including inpatient prices charged to hospitals described in section 340B(a)(4)(L) of the Public Health Service Act)".

(b) ANTI-DIVERSION PROTECTION.—Section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(C)) is amended by adding at the end the following:

"(iii) APPLICATION OF AUDITING AND RECORDKEEPING REQUIREMENTS.—With respect to a covered entity described in section 340B(a)(4)(L) of the Public Health Service Act, any drug purchased for inpatient use shall be subject to the auditing and recordkeeping requirements described in section 340B(a)(5)(C) of the Public Health Service Act.".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2003.

SEC. 605. ASSISTANCE WITH COVERAGE OF LEGAL IMMIGRANTS UNDER THE MEDICAID PROGRAM AND SCHIP.

(a) MEDICAID PROGRAM.—Section 1903(v) (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (4)"; and

(2) by adding at the end the following new paragraph:

"(4)(A) With respect to any or all of fiscal years 2005 through 2007, a State may elect (in a plan amendment under this title) to provide medical assistance under this title (including under a waiver authorized by the Secretary) for aliens who are lawfully residing in the United States (including battered aliens described in section 431(c) of such Act) and who are otherwise eligible for such assistance, within either or both of the following eligibility categories:

"(i) PREGNANT WOMEN.—Women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy).

"(ii) CHILDREN.—Children (as defined under such plan), including optional targeted low-income children described in section 1905(u)(2)(B).

"(B)(i) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no debt shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost.

"(ii) The provisions of sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not apply to a State that makes an election under subparagraph (A).".

(b) SCHIP.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)) is amended by redesignating subparagraphs (C) and (D) as subparagraph (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) Section 1903(v)(4) (relating to optional coverage of categories of permanent resident alien children), but only if the State has elected to apply such section to the category of children under title XIX and only with respect to any or all of fiscal years 2005 through 2007.".

SEC. 606. ESTABLISHMENT OF CONSUMER OMBUDSMAN ACCOUNT.

(a) IN GENERAL.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(i) CONSUMER OMBUDSMAN ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Consumer Ombudsman Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO ACCOUNT FOR HEALTH INSURANCE INFORMATION, COUNSELING, AND ASSISTANCE GRANTS.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year beginning with fiscal year 2005, the amount described in subparagraph (B) for such fiscal year for the purpose of making grants under section 4360 of the Omnibus Budget Reconciliation Act of 1990.

"(B) AMOUNT DESCRIBED.—For purposes of subparagraph (A), the amount described in this subparagraph for a fiscal year is the amount equal to the product of—

"(i) $1; and

"(ii) the total number of individuals receiving benefits under this title for the calendar year ending on December 31 of the preceding fiscal year.".

(b) CONFORMING AMENDMENT.—Section 4360(g) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b-4(g)) is amended to read as follows:

"(g) FUNDING.—The Secretary shall use amounts appropriated to the Consumer Ombudsman Account in accordance with section 1817(i) of the Social Security Act for a fiscal year for making grants under this section for that fiscal year.".

SEC. 607. GAO STUDY REGARDING IMPACT OF ASSETS TEST FOR LOW-INCOME BENEFICIARIES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to determine the extent to which drug utilization and access to covered drugs for an individual described in subsection (b) differs from the drug utilization and access to covered drugs of an individual who qualifies for the transitional assistance prescription drug card program under section 1807A of the Social Security Act (as added by section 111) or for the premiums and cost-sharing subsidies applicable to a qualified medicare beneficiary, a specified low-income medicare beneficiary, or a qualifying individual under section 1860D-19 of the Social Security Act (as added by section 101).

(b) INDIVIDUAL DESCRIBED.—An individual is described in this subsection if the individual does not qualify for the transitional assistance prescription drug card program under section 1807A of the Social Security Act or for the premiums and cost-sharing subsidies applicable to a qualified medicare beneficiary, a specified low-income medicare beneficiary, or a qualifying individual under section 1860D-19 of the Social Security Act solely as a result of the application of an assets test to the individual.

(c) REPORT.—Not later than September 30, 2007, the Comptroller General shall submit a report to Congress on the study conducted under subsection (a) that includes such recommendations for legislation as the Comptroller General determines are appropriate.

(d) DEFINITIONS.—In this section:

(1) COVERED DRUGS.—The term "covered drugs" has the meaning given that term in section 1860D(a)(D) of the Social Security Act.

(2) QUALIFIED MEDICARE BENEFICIARY; SPECIFIED LOW-INCOME MEDICARE BENEFICIARY; QUALIFYING INDIVIDUAL.—The terms "qualified medicare beneficiary", "specified low-income medicare beneficiary" and "qualifying individual" have the meaning given those terms under section 1860D-19 of the Social Security Act.

SEC. 608. HEALTH CARE INFRASTRUCTURE IMPROVEMENT.

At the end of the Social Security Act, add the following new title:

"TITLE XXII—HEALTH CARE INFRASTRUCTURE IMPROVEMENT

"SEC. 2201. DEFINITIONS.

"In this title, the following definitions apply:

"(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

"(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental study and review, permitting, architectural engineering and design work, and other preconstruction activities;

"(B) construction, reconstruction, rehabilitation, replacement, and acquisition of facilities and real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment;

"(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction;

"(D) major medical equipment determined to be appropriate by the Secretary; and

"(E) refinancing projects or activities that are otherwise eligible for financial assistance under subparagraphs (A) through (D).

"(2) FEDERAL CREDIT INSTRUMENT.—The term 'Federal credit instrument' means a secured loan, loan guarantee, or line of credit authorized to be made available under this title with respect to a project.

"(3) INVESTMENT-GRADE RATING.—The term 'investment-grade rating' means a rating category of BBB minus, Baa3, or higher assigned by a rating agency to project obligations offered into the capital markets.

"(4) LENDER.—The term 'lender' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

"(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

"(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

"(5) LINE OF CREDIT.—The term 'line of credit' means an agreement entered into by the Secretary with an obligor under section 2204 to provide a direct loan at a future date upon the occurrence of certain events.

"(6) LOAN GUARANTEE.—The term 'loan guarantee' means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

"(7) LOCAL SERVICER.—The term 'local servicer' means a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

"(8) OBLIGOR.—The term 'obligor' means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

"(9) PROJECT.—The term 'project' means any project that is designed to improve the health care infrastructure, including the construction, renovation, or other capital improvement of any hospital, medical research facility, or other medical facility or the purchase of any equipment to be used in a hospital, research facility, or other medical research facility.

"(10) PROJECT OBLIGATION.—The term 'project obligation' means any note, bond, debenture, lease, installment sale agreement, or other debt obligation issued or entered into by an obligor in connection with the financing of a project, other than a Federal credit instrument.

"(11) RATING AGENCY.—The term 'rating agency' means a bond rating agency identified by the Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization.

"(12) SECURED LOAN.—The term 'secured loan' means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 2203.

"(13) STATE.—The term 'State' has the meaning given the term in section 101 of title 23, United States Code.

"(14) SUBSIDY AMOUNT.—The term 'subsidy amount' means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

"(15) SUBSTANTIAL COMPLETION.—The term 'substantial completion' means the opening of a project to patients or for research purposes.

"SEC. 2202. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

"(a) ELIGIBILITY.—To be eligible to receive financial assistance under this title, a project shall meet the following criteria:

"(1) APPLICATION.—A State, a local servicer identified under section 2205(a), or the entity undertaking a project shall submit a project application to the Secretary.

"(2) ELIGIBLE PROJECT COSTS.—To be eligible for assistance under this title, a project shall have total eligible project costs that are reasonably anticipated to equal or exceed $40,000,000.

"(3) SOURCES OF REPAYMENTS.—Project financing shall be repayable, in whole or in part, from reliable revenue sources as described in the application submitted under paragraph (1).

"(4) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored or sponsored by an entity that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

"(b) SELECTION AMONG ELIGIBLE PROJECTS.—

"(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

"(2) SELECTION CRITERIA.—

"(A) IN GENERAL.—The selection criteria shall include the following:

"(i) The extent to which the project is nationally or regionally significant, in terms of expanding or improving the health care infrastructure of the United States or the region or in terms of the medical benefit that the project will have.

"(ii) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, credit enhancement requirements, or debt services coverages, to ensure repayment.

"(iii) The extent to which assistance under this title would foster innovative public-private partnerships and attract private debt or equity investment.

"(iv) The likelihood that assistance under this title would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

"(v) The extent to which the project uses or results in new technologies.

"(vi) The amount of budget authority required to fund the Federal credit instrument made available under this title.

"(vii) The extent to which the project helps maintain or protect the environment.

"(B) SPECIFIC REQUIREMENTS.—The selection criteria shall require that a project applicant—

"(i) be engaged in research in the causes, prevention, and treatment of cancer;

"(ii) be designated as a cancer center for the National Cancer Institute or be designated by the State as the official cancer institute of the State; and

"(iii) be located in a State that, on the date of enactment of this title, has a population of less than 3,000,000 individuals.

"(C) RATING LETTER.—For purposes of subparagraph (A)(ii), the Secretary shall require each project applicant to provide a rating letter from at least 1 rating agency indicating that the project's senior obligations have the potential to achieve an investment-grade rating with or without credit enhancement.

"SEC. 2203. SECURED LOANS.

"(a) IN GENERAL.—

"(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

"(A) to finance eligible project costs;

"(B) to refinance interim construction financing of eligible project costs; or

"(C) to refinance existing debt or prior project obligations;

of any project selected under section 2202.

"(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

"(3) RISK ASSESSMENT.—Before entering into an agreement for a secured loan under this subsection, the Secretary, in consultation with each rating agency providing a rating letter under section 2202(b)(2)(B), shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account such letter.

"(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a secured loan under this section shall be contingent on the project's senior obligations receiving an investment-grade rating, except that—

"(A) the Secretary may fund an amount of the secured loan not to exceed the capital reserve subsidy amount determined under paragraph (3) prior to the obligations receiving an investment-grade rating; and

"(B) the Secretary may fund the remaining portion of the secured loan only after the obligations have received an investment-grade rating by at least 1 rating agency.

"(b) TERMS AND LIMITATIONS.—

"(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 100 percent of the reasonably anticipated eligible project costs.

"(3) PAYMENT.—The secured loan—

"(A) shall—

"(i) be payable, in whole or in part, from reliable revenue sources; and

"(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

"(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

"(4) INTEREST RATE.—The interest rate on the secured loan shall be not less than the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

"(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 30 years after the date of substantial completion of the project.

"(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

"(7) Fees.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

"(c) Repayment.—

"(1) Schedule.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

"(2) Commencement.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

"(3) Sources of repayment funds.—The sources of funds for scheduled loan repayments under this section shall include any revenue generated by the project.

"(4) Deferred payments.—

"(A) Authorization.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

"(B) Interest.—Any payment deferred under subparagraph (A) shall—

"(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

"(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

"(C) Criteria.—

"(i) In general.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

"(ii) Repayment standards.—The criteria established under clause (i) shall include standards for reasonable assurance of repayment.

"(5) Prepayment.—

"(A) Use of excess revenues.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, reimbursement agreement, credit agreement, loan agreement, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

"(B) Use of proceeds of refinancing.—The secured loan may be prepaid at any time without penalty, regardless of whether such repayment is from the proceeds of refinancing from non-Federal funding sources.

"(6) Forgiveness of indebtedness.—The Secretary may forgive a loan secured under this title under terms and conditions that are analogous to the loan forgiveness provision for student loans under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.), except that the Secretary shall condition such forgiveness on the establishment by the project of—

"(A) an outreach program for cancer prevention, early diagnosis, and treatment that provides services to a substantial majority of the residents of a State or region, including residents of rural areas;

"(B) an outreach program for cancer prevention, early diagnosis, and treatment that provides services to multiple Indian tribes; and

"(C)(i) unique research resources (such as population databases); or

"(ii) an affiliation with an entity that has unique research resources.

"(d) Sale of Secured Loans.—

"(1) In general.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

"(2) Consent of obligor.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

"(e) Loan Guarantees.—

"(1) In general.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

"(2) Terms.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

"SEC. 2204. LINES OF CREDIT.

"(a) In General.—

"(1) Agreements.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 2202.

"(2) Use of proceeds.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

"(3) Risk assessment.—Before entering into an agreement for a secured loan under this subsection, the Secretary, in consultation with each rating agency providing a rating letter under section 2202(b)(2)(B), shall determine an appropriate subsidy amount for each secured loan, taking into account such letter.

"(4) Investment-grade rating requirement.—The funding of a line of credit under this section shall be contingent on the project's senior obligations receiving an investment-grade rating from at least 1 rating agency.

"(b) Terms and Limitations.—

"(1) In general.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(2) Maximum amounts.—

"(A) Total amount.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

"(B) 1-year draws.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

"(3) Draws.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay the costs specified in subsection (a)(2).

"(4) Interest rate.—The interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

"(5) Security.—The line of credit—

"(A) shall—

"(i) be payable, in whole or in part, from reliable revenue sources; and

"(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

"(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

"(6) Period of availability.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

"(7) Rights of third-party creditors.—

"(A) Against federal government.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

"(B) Assignment.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

"(8) Nonsubordination.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

"(9) Fees.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

"(10) Relationship to other credit instruments.—A project that receives a line of credit under this section also shall not receive a secured loan or loan guarantee under section 2203 of an amount that, combined with the amount of the line of credit, exceeds 100 percent of eligible project costs.

"(c) Repayment.—

"(1) Terms and conditions.—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

"(2) Timing.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and be fully repaid, with interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

"(3) Sources of repayment funds.—The sources of funds for scheduled loan repayments under this section shall include reliable revenue sources.

"SEC. 2205. PROJECT SERVICING.

"(a) Requirement.—The State in which a project that receives financial assistance under this title is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this title.

"(b) Agency; Fees.—If a State identifies a local servicer under subsection (a), the local servicer—

"(1) shall act as the agent for the Secretary; and

"(2) may receive a servicing fee, subject to approval by the Secretary.

"(c) Liability.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

“(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of project finance to assist in the underwriting and servicing of Federal credit instruments.

“SEC. 2206. STATE AND LOCAL PERMITS.

“The provision of financial assistance under this title with respect to a project shall not—

“(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

“(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

“(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

“SEC. 2207. REGULATIONS.

“The Secretary may issue such regulations as the Secretary determines appropriate to carry out this title.

“SEC. 2208. FUNDING.

“(a) FUNDING.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this title, $49,000,000 to remain available during the period beginning on July 1, 2004 and ending on September 30, 2008.

“(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this title, not more than $2,000,000 for each of fiscal years 2004 through 2008.

“(b) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this title shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

“(c) AVAILABILITY.—Amounts appropriated under this section shall be available for obligation on July 1, 2004.

“SEC. 2209. REPORT TO CONGRESS.

“Not later than 4 years after the date of enactment of this title, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this title, including a recommendation as to whether the objectives of this title are best served—

“(1) by continuing the program under the authority of the Secretary;

“(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

“(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this title without Federal participation.”.

SEC. 609. CAPITAL INFRASTRUCTURE REVOLVING LOAN PROGRAM.

(a) IN GENERAL.—Part A of title XVI of the Public Health Service Act (42 U.S.C. 300q et seq.) is amended by adding at the end the following new section:

“CAPITAL INFRASTRUCTURE REVOLVING LOAN PROGRAM

“SEC. 1603. (a) AUTHORITY TO MAKE AND GUARANTEE LOANS.—

“(1) AUTHORITY TO MAKE LOANS.—The Secretary may make loans from the fund established under section 1602(d) to any rural entity for projects for capital improvements, including—

“(A) the acquisition of land necessary for the capital improvements;

“(B) the renovation or modernization of any building;

“(C) the acquisition or repair of fixed or major movable equipment; and

“(D) such other project expenses as the Secretary determines appropriate.

“(2) AUTHORITY TO GUARANTEE LOANS.—

“(A) IN GENERAL.—The Secretary may guarantee the payment of principal and interest for loans made to rural entities for projects for any capital improvement described in paragraph (1) to any non-Federal lender.

“(B) INTEREST SUBSIDIES.—In the case of a guarantee of any loan made to a rural entity under subparagraph (A), the Secretary may pay to the holder of such loan, for and on behalf of the project for which the loan was made, amounts sufficient to reduce (by not more than 3 percent) the net effective interest rate otherwise payable on such loan.

“(b) AMOUNT OF LOAN.—The principal amount of a loan directly made or guaranteed under subsection (a) for a project for capital improvement may not exceed $5,000,000.

“(c) FUNDING LIMITATIONS.—

“(1) GOVERNMENT CREDIT SUBSIDY EXPOSURE.—The total of the Government credit subsidy exposure under the Credit Reform Act of 1990 scoring protocol with respect to the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, under subsection (a) may not exceed $50,000,000 per year.

“(2) TOTAL AMOUNTS.—Subject to paragraph (1), the total of the principal amount of all loans directly made or guaranteed under subsection (a) may not exceed $250,000,000 per year.

“(d) CAPITAL ASSESSMENT AND PLANNING GRANTS.—

“(1) NONREPAYABLE GRANTS.—Subject to paragraph (2), the Secretary may make a grant to a rural entity, in an amount not to exceed $50,000, for purposes of capital assessment and business planning.

“(2) LIMITATION.—The cumulative total of grants awarded under this subsection may not exceed $2,500,000 per year.

“(e) TERMINATION OF AUTHORITY.—The Secretary may not directly make or guarantee any loan under subsection (a) or make a grant under subsection (d) after September 30, 2008.”.

(b) RURAL ENTITY DEFINED.—Section 1624 of the Public Health Service Act (42 U.S.C. 300s–3) is amended by adding at the end the following new paragraph:

“(14)(A) The term ‘rural entity’ includes—

“(i) a rural health clinic, as defined in section 1861(aa)(2) of the Social Security Act;

“(ii) any medical facility with at least 1 bed, but with less than 50 beds, that is located in—

“(I) a county that is not part of a metropolitan statistical area; or

“(II) a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification, originally published in the Federal Register on February 27, 1992 (57 Fed. Reg. 6725));

“(iii) a hospital that is classified as a rural, regional, or national referral center under section 1886(d)(5)(C) of the Social Security Act; and

“(iv) a hospital that is a sole community hospital (as defined in section 1886(d)(5)(D)(iii) of the Social Security Act).

“(B) For purposes of subparagraph (A), the fact that a clinic, facility, or hospital has been geographically reclassified under the medicare program under title XVIII of the Social Security Act shall not preclude a hospital from being considered a rural entity under clause (i) or (ii) of subparagraph (A).”.

(c) CONFORMING AMENDMENTS.—Section 1602 of the Public Health Service Act (42 U.S.C. 300q–2) is amended—

(1) in subsection (b)(2)(D), by inserting “or 1603(a)(2)(B)” after “1601(a)(2)(B)”; and

(2) in subsection (d)—

(A) in paragraph (1)(C), by striking “section 1601(a)(2)(B)” and inserting “sections 1601(a)(2)(B) and 1603(a)(2)(B)”; and

(B) in paragraph (2)(A), by inserting “or 1603(a)(2)(B)” after “1601(a)(2)(B)”.

SEC. 610. FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, $250,000,000 for each of fiscal years 2005 through 2008, for the purpose of making allotments under this section to States described in paragraph (1) or (2) of subsection (b). Funds appropriated under the preceding sentence shall remain available until expended.

(b) STATE ALLOTMENTS.—

(1) BASED ON PERCENTAGE OF UNDOCUMENTED ALIENS.—

(A) IN GENERAL.—Out of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall use $167,000,000 of such amount to make allotments for such fiscal year in accordance with subparagraph (B).

(B) FORMULA.—The amount of the allotment for each State for a fiscal year shall be equal to the product of—

(i) the total amount available for allotments under this paragraph for the fiscal year; and

(ii) the percentage of undocumented aliens residing in the State with respect to the total number of such aliens residing in all States, as determined by the Statistics Division of the Immigration and Naturalization Service, as of January 2003, based on the 2000 decennial census.

(2) BASED ON NUMBER OF UNDOCUMENTED ALIEN APPREHENSION STATES.—

(A) IN GENERAL.—Out of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall use $83,000,000 of such amount to make allotments for such fiscal year for each of the 6 States with the highest number of undocumented alien apprehensions for such fiscal year.

(B) DETERMINATION OF ALLOTMENTS.—The amount of the allotment for each State described in subparagraph (A) for a fiscal year shall bear the same ratio to the total amount available for allotments under this paragraph for the fiscal year as the ratio of the number of undocumented alien apprehensions in the State in that fiscal year bears to the total of such numbers for all such States for such fiscal year.

(C) DATA.—For purposes of this paragraph, the highest number of undocumented alien apprehensions for a fiscal year shall be based on the 4 most recent quarterly apprehension rates for undocumented aliens in such States, as reported by the Immigration and Naturalization Service.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State that is described in both of paragraphs (1) and (2) from receiving an allotment under both paragraphs for a fiscal year.

(c) USE OF FUNDS.—

(1) AUTHORITY TO MAKE PAYMENTS.—From the allotments made for a State under subsection (b) for a fiscal year, the Secretary shall pay directly to local governments, hospitals, or other providers located in the

State (including providers of services received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization) that provide uncompensated emergency health services furnished to undocumented aliens during that fiscal year, and to the State, such amounts (subject to the total amount available from such allotments) as the local governments, hospitals, providers, or State demonstrate were incurred for the provision of such services during that fiscal year.

(2) LIMITATION ON STATE USE OF FUNDS.—Funds paid to a State from allotments made under subsection (b) for a fiscal year may only be used for making payments to local governments, hospitals, or other providers for costs incurred in providing emergency health services to undocumented aliens or for State costs incurred with respect to the provision of emergency health services to such aliens.

(3) INCLUSION OF COSTS INCURRED WITH RESPECT TO CERTAIN ALIENS.—Uncompensated emergency health services furnished to aliens who have been allowed to enter the United States for the sole purpose of receiving emergency health services may be included in the determination of costs incurred by a State, local government, hospital, or other provider with respect to the provision of such services.

(d) APPLICATIONS; ADVANCE PAYMENTS.—

(1) DEADLINE FOR ESTABLISHMENT OF APPLICATION PROCESS.—

(A) IN GENERAL.—Not later than September 1, 2004, the Secretary shall establish a process under which States, local governments, hospitals, or other providers located in the State may apply for payments from allotments made under subsection (b) for a fiscal year for uncompensated emergency health services furnished to undocumented aliens during that fiscal year.

(B) INCLUSION OF MEASURES TO COMBAT FRAUD.—The Secretary shall include in the process established under subparagraph (A) measures to ensure that fraudulent payments are not made from the allotments determined under subsection (b).

(2) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The process established under paragraph (1) shall allow for making payments under this section for each quarter of a fiscal year on the basis of advance estimates of expenditures submitted by applicants for such payments and such other investigation as the Secretary may find necessary, and for making reductions or increases in the payments as necessary to adjust for any overpayment or underpayment for prior quarters of such fiscal year.

(e) DEFINITIONS.—In this section:

(1) HOSPITAL.—The term "hospital" has the meaning given such term in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)).

(2) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms "Indian tribe" and "tribal organization" have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

(3) PROVIDER.—The term "provider" includes a physician, any other health care professional licensed under State law, and any other entity that furnishes emergency health services, including ambulance services.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(5) STATE.—The term "State" means the 50 States and the District of Columbia.

SEC. 611. INCREASE IN APPROPRIATION TO THE HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.

Section 1817(k)(3)(A) (42 U.S.C. 1395i(k)(3)(A)) is amended—

(1) in clause (i)—

(A) in subclause (II), by striking "and" at the end; and

(B) by striking subclause (III), and inserting the following new subclauses:

"(III) for fiscal year 2004, the limit for fiscal year 2003 increased by $10,000,000;

"(IV) for fiscal year 2005, the limit for fiscal year 2003 increased by $15,000,000;

"(V) for fiscal year 2006, the limit for fiscal year 2003 increased by $25,000,000; and

"(VI) for each fiscal year after fiscal year 2006, the limit for fiscal year 2003."; and

(2) in clause (ii)—

(A) in subclause (VI), by striking "and" at the end;

(B) in subclause (VII)—

(i) by striking "each fiscal year after fiscal year 2002" and inserting "fiscal year 2003"; and

(ii) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(VIII) for fiscal year 2004, $170,000,000;

"(IX) for fiscal year 2005, $175,000,000;

"(X) for fiscal year 2006, $185,000,000; and

"(XI) for each fiscal year after fiscal year 2006, not less than $150,000,000 and not more than $160,000,000.".

SEC. 612. INCREASE IN CIVIL PENALTIES UNDER THE FALSE CLAIMS ACT.

(a) IN GENERAL.—Section 3729(a) of title 31, United States Code, is amended—

(1) by striking "$5,000" and inserting "$7,500"; and

(2) by striking "$10,000" and inserting "$15,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to violations occurring on or after January 1, 2004.

SEC. 613. INCREASE IN CIVIL MONETARY PENALTIES UNDER THE SOCIAL SECURITY ACT.

(a) IN GENERAL.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), in the matter following paragraph (7), is amended—

(1) by striking "$10,000" each place it appears and inserting "$12,500";

(2) by striking "$15,000" and inserting "$18,750"; and

(3) striking "$50,000" and inserting "$62,500".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to violations occurring on or after January 1, 2004.

SEC. 614. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "September 30, 2013".

Mr. GRASSLEY. Mr. President, the technical corrections in this modification obviously have been agreed to by Senator BAUCUS or I would not have offered it, and they are not controversial. The corrected items in this modification are technical in nature. It merely perfects policies in the Finance Committee's reported mark that were drafted incorrectly in S. 1. The corrected items also reflect drafting changes that, while small, were important from CBO's perspective in getting us a complete score. All of these technical changes are incorporated now into this modified version of S. 1.

The new version also includes an official line-by-line score from the Congressional Budget Office. I am looking forward to getting on to amendments at this point. I repeat what I said yesterday: My hope is the spirit of comity and consensus building that existed in the Finance Committee last week will be and can be, and I am surely going to work for it to be, replicated here on the Senate floor. The Finance Committee members reached across party lines to arrive at that consensus. For some it was very difficult. But the final vote showed a lot of give and take because that vote out of committee was 16 to 5. I hope that same spirit will prevail here today and in the coming days this week and next week that we are on the bill.

There was another part of the consent I did not ask. I now ask unanimous consent the amendment be agreed to—our professional staff has some disagreement whether or not I should be making that motion at this point, so I will not.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Michigan is now going to offer her amendment. We are willing to enter into a time agreement on the amendment. There are a number of meetings at the White House, I am told, that prevent our arriving at a definite time for the amendment today. I have spoken to the staff on both sides, and maybe at 3:15 we could have a vote. Members should keep that in mind, that we may be able to do that.

There is nothing definite at this stage. I want the record to reflect we are not trying to stall movement of this bill. We have this amendment, this important amendment. We are ready to vote on it earlier than 3:15. But because of the White House calling Senators down, we will be unable to do that.

Mr. GRASSLEY. Mr. President, in addition to what the Senator expressed, it is a desire on our part that we would have some votes yet today and that we would like to move along very quickly. I think the spirit he has set is one that is shared on our side, even to the point of being specific statements from our leadership, the extent to which they would hope to have some votes today.

I yield the floor.

Mr. REID. It was suggested earlier today that we would rotate back and forth on amendments. That is fine. I think we have more amendments than you have, but if that is the case, we are happy to alternate back and forth.

Mr. GRASSLEY. Mr. President, if I may further add to what the Senator said, for our part, we would like to have a very general rule that we would alternate back and forth, but it is also our belief on this side that we would give great deference to the other side to offer amendments, two Democratic or three Democratic amendments in order so we could be very flexible on that. We did want to reserve and provide some predictability to the order on the floor because there might be some Members on the Republican side who would like to offer an amendment, and they want some certainty when that would be done.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 931

Ms. STABENOW. Mr. President, I send an amendment to the desk on behalf of myself, Senators BOXER, BOB GRAHAM, ROCKEFELLER, HARKIN, CANTWELL, KERRY, BINGAMAN, JACK REED, CLINTON, and MIKULSKI. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW], for herself, Mrs. BOXER, Mr. GRAHAM of Florida, Mr. ROCKEFELLER, Mr. HARKIN, Ms. CANTWELL, Mr. KERRY, Mr. BINGAMAN, Mr. REED, Mrs. CLINTON, and Ms. MIKULSKI, proposes an amendment numbered 931.

Ms. STABENOW. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require that the Medicare plan, to be known as the Medicare Guaranteed Option, be available to all eligible beneficiaries in every year)

Beginning on page 74, strike line 10 and all that follows through page 84, line 3, and insert the following:

"(e) MEDICARE GUARANTEED OPTION.—

"(1) ACCESS.—

"(A) IN GENERAL.—The Administrator shall enter into a contract with an entity in each area (established under section 1860D–10) to provide eligible beneficiaries enrolled under this part (and not, except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage, enrolled in a MedicareAdvantage plan) and residing in the area with standard prescription drug coverage (including access to negotiated prices for such beneficiaries pursuant to section 1860D–6(e)). An entity may be awarded a contract for more than 1 area but the Administrator may enter into only 1 such contract in each such area.

"(B) ENTITY REQUIRED TO MEET BENEFICIARY PROTECTION AND OTHER REQUIREMENTS.—An entity with a contract under subparagraph (A) shall meet the requirements described in section 1860D–5 and such other requirements determined appropriate by the Administrator.

"(C) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into a contract under subparagraph (A).

"(D) SAME TIMEFRAME AS MEDICARE PRESCRIPTION DRUG PLANS.—The Administrator shall apply similar timeframes for the submission of bids and entering into to contracts under this subsection as the Administrator applies to Medicare Prescription Drug plans.

"(2) MONTHLY BENEFICIARY OBLIGATION FOR ENROLLMENT.—In the case of an eligible beneficiary receiving access to qualified prescription drug coverage through enrollment with an entity with a contract under paragraph (1)(A), the monthly beneficiary obligation of such beneficiary for such enrollment shall be an amount equal to the applicable percent (as determined under section 1860D–17(c) before any adjustment under paragraph (2) of such section) of the monthly national average premium (as computed under section 1860D–15 before any adjustment under subsection (b) of such section) for the year.

"(3) PAYMENTS UNDER THE CONTRACT.—

"(A) IN GENERAL.—A contract entered into under paragraph (1)(A) shall provide for—

"(i) payment for the negotiated costs of covered drugs provided to eligible beneficiaries enrolled with the entity; and

"(ii) payment of prescription management fees that are tied to performance requirements established by the Administrator for the management, administration, and delivery of the benefits under the contract.

"(B) PERFORMANCE REQUIREMENTS.—The performance requirements established by the Administrator pursuant to subparagraph (A)(ii) shall include the following:

"(i) The entity contains costs to the Prescription Drug Account and to eligible beneficiaries enrolled under this part and with the entity.

"(ii) The entity provides such beneficiaries with quality clinical care.

"(iii) The entity provides such beneficiaries with quality services.

"(C) ENTITY ONLY AT RISK TO THE EXTENT OF THE FEES TIED TO PERFORMANCE REQUIREMENTS.—An entity with a contract under paragraph (1)(A) shall only be at risk for the provision of benefits under the contract to the extent that the management fees paid to the entity are tied to performance requirements under subparagraph (A)(ii).

"(4) TERM OF CONTRACT.—A contract entered into under paragraph (1)(A) shall be for a period of at least 2 years but not more than 5 years.

"(5) NO EFFECT ON ACCESS REQUIREMENTS.—The contract entered into under subparagraph (1)(A) shall be in addition to the plans required under subsection (d)(1).

"(6) AUTHORITY TO PREVENT INCREASED COSTS.—If the Administrator determines that Federal payments made with respect to eligible beneficiaries enrolled in a contract under paragraph (1)(A) exceed on average the Federal payments made with respect to eligible beneficiaries enrolled in a Medicare Prescription Drug plan or a MedicareAdvantage plan (with respect to qualified prescription drug coverage), the Administrator may adjust the requirements or payments under such a contract to eliminate such excess.

Ms. STABENOW. Mr. President, first of all, before explaining the amendment, I commend my colleagues for their leadership on the Finance Committee. They have been working very diligently—the chairman, Senator GRASSLEY, and the ranking member, Senator BAUCUS, and members on both sides of the aisle. I commend them for bringing forward one of the most critical issues affecting American people, American families, American seniors today. While we may disagree on specifics and on what is the best approach, I very much commend them for giving us the opportunity to debate this critical issue and for the hard work that has gone on, on both sides.

My amendment is a simple one. It would provide another choice of prescription drug plans for seniors on Medicare. In fact, it would provide the choice the majority of seniors want to make on Medicare.

The underlying bill allows seniors to choose a prescription drug plan, but only if the plan is one offered by a private insurance company. My amendment simply allows seniors to get their prescription drugs through the Medicare Program. It is creating one more option. The legislation before us tries to expand health care choices for people on Medicare. Regrettably, it does not provide the full range of choices for seniors.

Without my amendment, we are not in fact providing the full range of choices, including the one for which the seniors are asking. My amendment will allow seniors the choice to get their prescriptions filled within traditional Medicare, to choose a private prescription drug plan, or enroll in a PPO or an HMO. This range of choice will foster competition among the different plans and allow our seniors to make the best possible choice for themselves. This amendment puts all of the plans on the same footing and does not favor one over the other.

I think it is also important to note that the private plans described in the bill don't exist today. In fact, Robert Reischauer was quoted recently in the New York Times saying, "Private drug-only plans don't exist in nature." They don't currently exist in nature. So we are designing a system around plans that do not currently exist.

Medicare does exist. A Medicare plan is one that we know we can put together and that seniors can count on, at the same time giving the opportunity for new plans to be created, as well as the structures of HMOs and PPOs.

I also think this plan could actually save the Federal Government dollars, and certainly the record would reflect that. There is ample objective evidence that providing health care through the Medicare Program is more efficient than through the private sector. This is one area where the evidence is clear, based on various points of information. Let me just share some with you.

On May 5, 2003, the New York Times reported on findings by MedPAC, our own nonpartisan advisory plan. MedPAC discovered that private health plan fees are about 15 percent higher than Medicare. The Center for Studying Health Systems Change has also made similar findings. So we know that if we go to private plans, on average, services will be about 15 percent higher—more costly for fees for services. Surgeries, they found, were about 26 percent more. Radiology was about 19 percent more. Hospital and nursing home visits and consultations were 9 percent more. On average, we know it doesn't in fact cost less to provide services to private plans. Independent, nonpartisan organizations have found that it in fact costs more.

Also, using private plans would likely cost additional dollars. In the year 2000, our own General Accounting Office estimated that payments to Medicare+Choice plans—and those are the Medicare HMOs that were set up in 1997—exceeded the costs that would have been incurred for treating patients directly through traditional Medicare by an annual average of 13.2 percent.

So, again, we have a situation where our own nonpartisan, objective General Accounting Office said that providing services through Medicare HMOs actually cost, on average, 13.2 percent more than the same service offered under traditional Medicare, where seniors get to select their own doctors and have the dependability of knowing that Medicare will be there.

Thirdly, private plans are not necessarily more efficient than Medicare. The inspector general of the Department of Health and Human Services found that HMOs that contract with Medicare, on average, spent 15 percent of their revenue on administrative costs rather than on health care. In fact, we know those numbers can be even higher in other private sector plans. Dollars have been put aside in this plan to cover higher administrative costs. Some managed care systems spend as much as 32 percent of their revenue. That means that for every precious dollar we have that we want to help seniors pay for their medicine, about one-third of that could go to administration.

By contrast, the Medicare plan spends only 2 percent of its budget on administrative overhead. On average, a private HMO—and we realize more plans are being developed under this proposal than just HMOs, but if we look at what we have to go on in terms of the differences, it is 2 percent administrative costs under Medicare and an average of 15 percent for HMOs. And we know that in some areas, in fact, it is even higher administrative costs for other private insurance plans.

Furthermore, the enrollment experience with private plans in Medicare has certainly not been stellar. In the past 5 years, 2.5 million seniors have been dropped by their Medicare HMO. As I have indicated before, one of those in fact was my own mother in Lansing, MI, who had a very positive experience under a Medicare HMO. But the decision was made, for financial reasons, to no longer cover Medicare recipients. She lost her plan and her doctor, and she was left to figure out how else she would be receiving care under Medicare.

In 2002, three plans in Michigan dropped out of Medicare+Choice altogether, while two dropped significant numbers of enrollees. More than 31,000 seniors in Michigan have been dropped just since 2002. What does that mean in real terms for people? It means that they went into a system, they had a doctor, they were within a certain kind of health care system; then the private managed care plan decided to pull out, and they were then left to go find another plan, actually another doctor, and another way of providing health care.

Only 8 of 83 counties in Michigan now have private Medicare HMO plans, and all of them are concentrated in one area, southeastern Michigan, around metro Detroit, which means that those in the Upper Peninsula of our State don't have that choice. I expect it would be very difficult for them to find a private sector plan, even into the future, in northern Michigan, the Upper Peninsula, or the west side of the State. Right now, the only option is obviously around metro Detroit. None of the remaining Medicare HMOs in Michigan is accepting new enrollees.

One Michigan provider even chose to pay a $25,000 fine to get out of Medicare+Choice and stop serving seniors immediately rather than go through the official withdrawal process. That requires more than 3 months of notice of intent to withdraw. By pulling out immediately, this plan left our seniors in the lurch with very little transition time to explore other ways in order to be able to get their health coverage.

Because of the poor records of the Medicare+Choice plan, almost 9 out of 10 seniors—basically 89 percent—have decided to stay in traditional Medicare. I believe they ought to have the choice to do that. That is what my amendment is all about. It is saying to those right now who have had a choice of a private managed care plan or traditional Medicare since 1997, who have chosen to stay with traditional Medicare, to choose their own doctor, to know that regardless of where they live they will have the dependability, the stability of Medicare, it will be there for those individuals who have chosen overwhelmingly to stay in traditional Medicare—89 percent.

Any one of us would love that kind of a percentage when people are choosing in an election. Eighty-nine percent of the seniors today have said they want traditional Medicare. Yet this choice they have made is not available to them if there are two or more private sector plans available in their region. Essentially, unfortunately, what the current plan says is you have made your choice; we do not like your choice; pick again. My amendment would guarantee seniors would be able to have that choice.

I know some colleagues strongly believe that moving seniors into the private sector is the best way to provide them prescription drug coverage. While I respectfully disagree with this premise, I think it is a good idea to provide private sector options for those who desire them.

Back to my own family, I think my mother should have that choice, and she should be able to go into Medicare+Choice or another managed care plan if she so desires. I absolutely agree with that if it works for them.

The question is whether the Federal Government should force seniors into a plan, whether it is a private insurance plan or traditional Medicare. Should we be deciding what our seniors should have for their prescription drug coverage? Should we make that choice or should they make the choice? That is why my amendment is so important. It will allow seniors to choose the appropriate plan for them, not the Federal Government.

I have heard a lot of arguments that we should provide seniors with the same options that Members of Congress and Federal employees have in the Federal Employees Health Benefits Plan. Under that plan, we have several options ranging from fee for service to PPOs to HMOs. If we like one of those options—and we choose that option, by the way—the Federal Government does not come in and say, If you work for the Senate, you cannot have option A, you can only get B, C, D, and only A under certain circumstances. We say here is the range of options; you select the one that works for you. If we like the one we selected, we can stay in that plan as long as we want. As long as we are covered by the Federal employees health plan, we can choose that plan. We are never forced to switch plans.

Mr. President, can you imagine if we were living under the plan we are asking seniors to live under; if every employee had to switch back and forth, potentially, depending on what was offered in the private sector, rather than remaining with the plan they desired? We have never been forced to switch plans ourselves. It should be the same for our seniors. If we do not have to switch plans year to year, then seniors should not have to switch either.

My guess is most of us like the plans we are in and probably want to stay with them. Certainly, if we do not, we have the opportunity to change. But the last thing we want to do is switch health plans every year or every other year and try to leaf through hundreds of pages of brochures to evaluate the benefits of a new plan. I, for one, find it is difficult to find the time to do that. I cannot imagine anyone would want the chore of going through every year or every other year all of the paperwork to figure out what is best for them, particularly if they like the plan they are in.

Many seniors want stability. They seek a good, solid, guaranteed health plan where they can see their own doctors. There are some seniors who prefer to experiment with private plans, and they should be given that option. But all seniors should have all options, and that is what my amendment would do. It would make sure the choice is in the hands of our seniors.

Again, this approach is within the framework of the bill. It is within the $400 billion that has been carved out within the budget resolution. It is within the framework of the benefits structure that has been designed by the committee. This amendment does not change anything other than to say every senior should have the option, as 89 percent of them have chosen to do, to not only have their own doctor under Medicare, but to have a prescription drug plan under Medicare regardless of where they live, and a plan they can count on and depend on.

Again, I commend my colleagues who have been working diligently on this issue. I know it has been a challenge for everyone. I believe this amendment does exactly what the seniors of America want and allows all of us to enthusiastically embrace this proposal as being the right proposal.

I hope my colleagues will support my amendment to offer one more choice to seniors. It builds on the structure of this bipartisan plan and provides more choices.

I know many of us believe this bill can be improved. Outside objective critics have even used stronger language about the way this is restricted in the bill. For example, former CBO Director Robert Reischauer said:

> The benefit is rather skimpy and has a bizarre structure. It is an insurance structure that exists nowhere in the private sector or in nature.

Through this amendment we will have a structure that makes sense, that is dependable, that is explainable, that is simple and straightforward, that provides all range of options to seniors so they can decide what it is they wish to do in terms of prescription drug coverage.

Mr. President, I have a letter from the National Committee to Preserve Social Security and Medicare. I will read a portion of it:

> On behalf of the millions of members and supporters of the National Committee to Preserve Social Security and Medicare, I am writing in support of your "Medicare Guaranteed Option" amendment to S. 1. Since the current Senate prescription drug bill, S. 1, wants to offer seniors choices, your amendment would offer seniors real choices because they would have the choice of what they really want, which is a defined benefit under Medicare.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

June 17, 2003.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATOR STABENOW: On behalf of the millions of members and supporters of the National Committee to Preserve Social Security and Medicare (NCPSSM), I am writing in support of your "Medicare Guaranteed Option" amendment to S. 1. Since the current Senate prescription drug bill, S. 1, wants to offer seniors choices, your amendment would offer seniors real choices because they would have the choice of what they really want, which is defined benefit under Medicare.

We understand that your amendment would allow traditional Medicare to be an option that stands side-by-side next to the other two or more private plans that are required to be in that region. Instead of the current requirement that Medicare stand as a fall back, only if there are no private plans in the area, it would allow Medicare to be a third choice for seniors who prefer to get their benefits through traditional Medicare. We agree that seniors should have the right to select the option in which they are most comfortable, and for many, that choice might be to stay with traditional Medicare versus one of private plans that are located within their region.

We applaud your efforts and dedication on behalf of America's seniors, and appreciate your continued leadership on this issue. We look forward to continuing to work with you.

Sincerely,

BARBARA B. KENNELLY,
President.

Ms. STABENOW. I thank the Chair. Mr. President, again, I urge my colleagues to join in this amendment. I am hopeful we can join together enthusiastically in embracing a system that has worked since 1965 for our seniors. I hope also we can join together to improve it, not only prescription drug coverage, but ways to minimize paperwork and focus more on prevention, as the Secretary of HHS has suggested.

There are many opportunities for us to improve within the structure of Medicare a plan that is focused more on prevention, to eliminate the paperwork, and to do it together and still provide our seniors with the choice for which they are asking.

In conclusion, I ask unanimous consent to add Senator LEVIN, Senator KOHL, and Senator DODD as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I congratulate the Senator from Michigan. She has worked very hard and, I might add, effectively in helping make this a better bill.

Everyone in this body wants legislation passed that gives good, solid prescription drug benefits to seniors.

The debate is somewhat over delivery; that is, how we set the plan up, who provides the benefits and so on. The bottom line is the same for all of us. We want good, solid prescription drug benefits for seniors.

The Senator from Michigan is probably as well-versed in this subject and more of an advocate for seniors than any other Member of this body, or at least as much as any other Member of this body. I thank her very much for what she has done.

The issue basically is that we have roughly $400 billion to spend over 10 years, and the question is how we best assure that seniors get those benefits. Now, $400 billion over 10 years may sound like a lot of money to some folks but when it is cranked out in terms of deductibles, copays, premiums and benefits, it is really a modest benefit for seniors. It is not a lot of money.

Some other programs give much more generous prescription drug benefits than is called for under this legislation. For example, under TRICARE, that is the military plan, military retirees receive substantially more benefits than are called for under this bill. The same is true for the VA. If the U.S. Government, under this legislation, were to provide the same benefits for seniors generally that the military does under TRICARE, this bill would not be $400 billion, it would be upwards of $800 billion to a trillion dollars, which gives one a sense of the difference.

The VA's benefits are greater. The Federal Employees Health Benefits Plan, FEHBP, provides drug benefits that are greater than called for under this bill.

I mention that so the expectations are not raised too high that this legislation is going to be the be-all and end-all, that it is going to help seniors with all their drug expenditures. It will not, but it is a first step. It is a major advancement in helping seniors get their prescription drug benefits.

There will be many bills later on in the next several years as we address ways to improve our health care delivery system generally, on how we can help improve prescription drug benefits to seniors more specifically, but we are operating under a bit of a constraint and the constraint is $400 billion. That is what we in the Congress agreed to, $400 billion on the Senate side for prescription drug benefits for seniors.

Under that constraint, we have to work very hard to try to achieve some balance. One goal is stability, another is efficiency. What do I mean?

Under stability, we clearly want this program to be as stable as possible so seniors know what they are getting for the premiums they will be paying. This is a voluntary program. Seniors are not required to sign up. What we want is a stable program. We do not want a program that is changing a lot. That is unsettling to seniors.

We also want to achieve efficiencies. By that I mean lower some costs. The Medicare Program is growing exponentially. We all know that not too many years from now, when the baby boomers start to retire, we are going to face some significant challenges on how we address Medicare payments generally, which certainly will include some prescription drug benefits. We want to try to cut costs, and the idea that a balance is struck between stability and efficiency is essentially one where both private plans and the U.S. Government participate.

I strongly wish we were able to have more dollars to spend so we would have more stability and have a program that more closely resembles the military's TRICARE plan or the Federal Employees Health Benefits Plan or the Veterans' Administration plan, and even some private plans, but we do not. We are taking this steadily, a step at a time.

The Senator from Michigan has a good idea. Her idea is that in the interest of stability, as opposed to efficiency, that any senior would have the right to participate for life in the Government-sponsored plan as opposed to the private sector. We in the Finance Committee have labored mightily to try to find the right balance, and the right balance is not easy to find, I must say. We have Senators from one side of the spectrum and Senators from the other side of the spectrum bending my ear and bending the ear of the chairman. Quite often, our ears are bent so much we wonder if there is any rubber left in them. We have been talked to.

I have been talked to very much by the wonderful Senator from Michigan about her amendment. If I had my druthers, it would be something I would prefer, but we are a bit constrained. I do not know that I can support the amendment for that reason because we are trying to keep a balance.

I do want to highly commend the Senator for the great effort she has undertaken. She has clearly helped advance the ball in many ways. She will continue to advance the ball, there is no doubt in my mind. She is a great Senator for the people of the State of Michigan.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Iowa.

Mr. GRASSLEY. Madam President, I rise in opposition to the amendment. I have had a chance to hear what the Senator from Montana has said about the amendment. I associate myself with his remarks. I also heard what he said about the Senator from Michigan being a fair player and offering alternatives, and I share his compliments of her and how she approaches these issues.

This is a place where we have some honest disagreements. We are going to debate those honest disagreements, and I hope the Senator from Michigan comes out on the short end of this debate when we have a rollcall vote.

Before I make some specific statements in opposition to her amendment, I will state that the chart she has before her right now is an accurate chart, but I would like to comment on it from the standpoint of not being maybe a complete picture. I think the percentages are very accurate but we also need to remember that Medicare+Choice is not offered in all parts of the United States. For instance, in my State of Iowa, there is only 1 county out of 99—and that is Pottawattamie County, Council Bluffs county seat across from Omaha—where there are about 4,000 people out of about 350,000 seniors who belong to a Medicare+Choice plan, and I find that they like it very well. They can join in that county because they are associated with Omaha across the river in Nebraska.

Also in several major cities in California, Arizona, Texas, Florida, and New York there are several, maybe even some rural areas in those States, where they get a very high percentage. Now, how much higher than 11 percent, I do not know, but I remember back in the mid-to-late 1990s that I was able to say—whether I can still say it today, I do not know—that 40 percent of the seniors in some large cities did, in fact, choose Medicare+Choice plans. Whatever higher percentage it is in those cities, we have to realize that people are in these Medicare+Choice plans voluntarily.

I also have come in contact with many Iowans who winter in other States where they have Medicare+Choice, and they do not seem to understand why we cannot have Medicare+Choice in Iowa, and I wonder that myself. I took action in 1997 to very dramatically increase the payment to Medicare+Choices so they would come to the State of Iowa, but they still have not come.

We have increased it from $300 per month per beneficiary up to a national floor now of $490, and they still don't come, even considering the fact that fee for service in Iowa is closer to the $300 per month per beneficiary. So I don't know why we can get almost 50 percent more and at least 70 percent more Medicare+Choice, yet the plans don't come to Iowa.

What I am saying to the Senator from Michigan is it is not fair to say Medicare fee for service is so well liked by seniors, as her chart would imply, that we ought to completely forget about anything but fee for service. In a lot of places people like it. A high percentage of seniors are in it. They are in it voluntarily. They can come in one year and get out the next if they want to go to the fee for service. In my State of Iowa, citizens are irritated because in Arizona they see people getting benefits through Medicare+Choice that we do not get in fee for service within the State of Iowa.

There is nothing wrong with your chart except I think it ought to be magnified to some extent so that there are a lot of people with Medicare+Choice who like it. More would choose it if it was more widely available. That is one of the advantages of our PPO section of the bill before the Senate: to give more people that opportunity. That does not necessarily mean HMO. It can be preferred provider organization or it could even be a fee for service.

Let me get back to the specifics of the amendment. The purpose of the amendment is to make the Government-run fallback plan available in every area all the time, even when the bill before us has very strict standards for the presence of private plans, and that these be met, and when they are met or provided for, no fallback is needed.

In essence, this amendment would destroy our bill's competitive incentives and replace them with a Government-controlled regime for dispensing drugs in this country. The amendment before us would also create an unlevel playing field between the Government-run plans and private plans. As a result, it would discourage the initial entry of private plans, dooming the effort to provide the drug benefit through competing private plans. This would place the drug benefit right back in the very command-and-control mentality of Government-run health care plans we ought to try to move away from. It would reinstitute Government micromanagement, and it would bring about price controls.

It would ultimately put the Government into the full-time business of setting drug prices and determining what drugs are covered and which are not.

This is the opposite result of what the underlying bill is seeking to achieve with a competitive private-sector-run prescription health plan. The Government-run approach saves less than competing private plans. Private plans competing to enroll beneficiaries would achieve greater savings because at-risk plans would work harder to negotiate lower prices and work harder to offer more affordable premiums.

This fact is brought out by CBO this year, but it reaffirms everything we knew about every plan in the Senate discussed last July, including the tripartisan plan that set out the tripartisan plan savings and costing less as opposed to the Government-run plans that were offered on the other side of the aisle last summer when we debated this same issue.

CBO has indicated that a structure based on competing at-risk private plans has a higher cost management factor than Government-run plans which cannot respond quickly to market changes. The Congressional Budget Office recognizes that private plans will do a better job of managing drug costs and keeping pace with market changes.

Don't we want the seniors to have a right to choose? And they do have the right to choose. That is what this approach is all about: not forcing something down the throats of seniors. But don't we all think we ought to have programs that respond to the market because that gives our seniors an opportunity to select products and services that are the result of the dynamics of our marketplace?

You know how long it takes Congress to make a decision. You know how long it takes a bureaucracy to make a decision. It does not serve seniors as adequately as we should be serving seniors. In fact, we know already the Government does a very poor job of reimbursing for prescription drugs because of the years of overpayment for the drugs already covered under Part B of Medicare.

Medicare has been overpaying for Part B drugs for years because of its inability to keep up with the marketplace. Taxpayers are paying more because CMS is about 2 or 3 years behind in pricing new therapies, such as new approaches in the area of prosthetics.

In fact, the bill before us includes reforms to Part B drug payments to end the overpayments Medicare is already making. But it has taken years for General Accounting Office reports and investigations by the Inspector General for Congress to act to fix this problem.

Overpayment for drugs in Part B has cost taxpayers billions of dollars and our underlying bill seeks to correct that problem. But we should learn the lessons of history and recognize that if the Government is wasting billions in overpayments for the drugs covered under Part B today, how much would be wasted by the Government if such a system were used for all prescription drugs dispensed to the seniors.

In answering that question, don't believe the assumption in my question, believe what CBO has already said about it. The Congressional Budget Office has the expertise of pricing these things and accounting for the costs. The potential waste, then, the overpayments for drugs and increased costs to the taxpayers has become astonishingly high.

Setting up a Government-run plan that undermines or eliminates private-sector competition will take choices and savings away from seniors. By pushing private plans out of the market, I believe, regardless of how well-intended the amendment by the Senator from Michigan is, it would reduce the broad array of choices that would otherwise be available to beneficiaries under the bill before the Senate. This would deny seniors the opportunity to enroll in the plan that best fits their needs by forcing these seniors into the typical one-size-fits-all model.

This would effectively deny seniors a private plan operation, which would deny them the enhanced savings achieved by the private plans. This would effectively undermine a major principle of this legislation: the right of seniors to choose. Seniors ought to have that right. They may not want to exercise that right, but we should not assume, when there are 40-some-million seniors in America, that one program is right for all of them. We give alternatives. The right to choose is very important. The right to choose in Medicare is one of the major ways we modernize and strengthen Medicare. Medicare has become a part of the social fabric of America, like Social Security. We do not want to, in any way, affect this integral part of the social fabric of America except to give American seniors more right to choose.

The amendment before the Senate by the Senator from Michigan takes away some right to choose or destroys the dynamics of the choices we are giving to seniors.

I urge my colleagues to defeat this amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I will respond to my colleague, the chairman of the Finance Committee. First, I thank the Senator for his kind words and my esteemed ranking member from Montana, as well, for his kind words. We have different views, different perspectives on how best to provide seniors with prescription drug help, but we all share a common desire to do that and, within the confines we are operating under, to create a way to do that.

First, the Senator from Iowa, the chairman of the committee, is correct: A portion of the individuals who are in traditional Medicare are there because there are not plans available in their area. In Michigan, as I indicated in explaining the amendment, only 2 percent of the people right now in Medicare in Michigan have access to Medicare+Choice. So it is definitely true.

It is my understanding, though, that CBO has said under the new plan only 1 or 2 percent of the folks would go into managed care under this bill. If that is correct, we would not see much of a choice even if it were available.

However, the larger point is whether or not the market has worked as it relates to health care for seniors. In 1965, when Medicare was created, it came about because at that time half the seniors in the country could not find health care insurance or could not afford it. The market was not working for older Americans at that time.

I argue, also, the fact that there are no managed care plans in Iowa, northern Michigan, or other parts of the country. Again, it is a question of whether or not the market works in those circumstances. The reason Medicare came into being is because there were not health care plans in rural America, there were not health care plans available to those who needed them. We decided in one of the best decisions that has been made by the Congress—I was not there at that time—one of the wisest things that was done at that time was to say our value, as Americans, is that older Americans, the disabled in our country, should not have to struggle to find health care. We believe health care should be available to them whether they live in a rural community, whether they live in a city or a suburb, anywhere in the United States. Our priority as Americans is to create a system that, regardless of where you live, health care would be available and affordable for older Americans and disabled.

Many say today we should be going in the exact opposite direction of expanding what we are doing to make sure everyone has the opportunity for the same health care that seniors and the disabled have in our country; that children and families, working hard every day, that individuals working two and three part-time jobs who cannot find health insurance, ought to have the ability to buy into a system of health care coverage.

There is a great need to make sure that health care is available and affordable. Medicare has done that.

I agree there are improvements to be made, such as more focus on prevention. We can certainly streamline the paperwork and bring it into the 21st century as far as technology and other options, to make the system better. From my perspective, here is a plan, unfortunately, that moves away from that stability, the dependability and affordability of Medicare.

I see my esteemed colleague from Iowa, Senator HARKIN, and I know he wants to speak. Members feel strongly about this issue. What we are doing with this amendment is the ultimate choice. It is the real choice. It is the choice the majority of seniors have already made, and it is the choice they want. Under the underlying bill, the only way they could get to the place to choose what they want is if private insurance plans were not available in their area. The plan goes through all kinds of changes to try and make that available, even if it costs more.

Ask any small business, any large business in this country today, how fast their private insurance premiums are going up. We have seen small business premiums double in 5 years. We have seen Medicare going up about 5 percent. We see private sector going up 15, 20, 25, 30 percent a year. This says rather than having a plan that goes up 5 percent a year, we are going to design this so it goes up 15 or 20 percent a year.

That does not make sense. In all honesty, the only group this makes sense for are the pharmaceutical companies who do not want folks in one place to be able to bargain and negotiate lower prices, which is what Medicare would be able to do—negotiate lower prices.

For all who want to get this right for our seniors, I urge my colleagues to join in creating real choice for our seniors. Give them the opportunity for the choice they want. If, in fact, someone chooses to go into managed care, an HMO, PPO, or other kinds of private plans, they should have that choice, as well. This amendment allows them to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, as the cosponsor of the Stabenow amendment, I add my strong support for the amendment offered by my distinguished colleague from Michigan.

Senator STABENOW has it right. She understands what is happening. Senator STABENOW has time and time again come to the floor to point out we need to give seniors more choices rather than fewer choices. That is what we are doing with this amendment.

The bill we are considering in the Senate this week, S. 1, has a number of flaws despite its good intentions. Its prescription drug benefit for seniors is far from comprehensive. There is a significant coverage gap. Premiums are not fixed. Many of the copays are too high. The bill does not contain the actual costs of prescription drugs. Although the generics amendment, which I assume will be added to the bill, which will certainly help in that regard, the bill does not go into effect until 2006; interestingly enough, just to get us by the 2004 election.

I have a number of concerns. I plan to speak about all of these as we proceed on this bill this week. One of the most significant flaws in this bill is addressed by this amendment offered by Senator STABENOW; that is, this bill requires seniors obtain the prescription drug benefit through private insurance unless there are not two such private insurance plans in their area. In other words, a prescription drug benefit through Medicare is only available as a so-called fallback.

In other words, if you are a senior in, let us say, a rural State where there are no private HMOs—speaking about my State of Iowa, we don't have one Medicare-based HMO in the State of Iowa. Let us say you are in an area and you have two private plans. You don't have a choice other than those two. That is all you have. You have those two. If you are in a State where there are not two plans, then you can get Medicare. Let us talk about this. It is only a fallback position. If the two plans aren't there, then you can get it through Medicare.

What Senator STABENOW's amendment says is that we want a prescription drug benefit through Medicare that would be available to all seniors at all times so they can have a real choice. Under this amendment, this is how it would change the bill.

You are in an area and you have two private plans. You could also have Medicare. Now you have one of three choices. Under the bill here, you have one of two choices. We are expanding the choices. We are saying you can go with private plan A, private plan B, or Medicare. You have the choice. If private plans are so desirable and they are so good, then let them compete against a Medicare benefit. Let us see which one a senior chooses.

I found the arguments propounded by my friend and colleague from my own State of Iowa Orwellian at best. The chairman of the committee was talking about choices. We want to give seniors choices. If a senior has one of two choices, or one of three choices, which one gives the senior more choices? The chairman of the committee said the first one that offers two plans gives them more choices. That is Orwellian. It is Orwellian-speak that somehow two choices are more than three choices. Go figure.

To me, this is the key issue that needs to be fixed in this bill. I am glad it is the first amendment because it is vital. I think it represents the fundamental difference between many on our side and many on the Republican side on this bill.

I want to be very clear. I am not against a free market. I am not against the private sector or private health insurance plans. But the reality is that the private sector by its very nature leaves certain groups of people behind, especially in the health care area.

Let us be honest about it. People with disabilities are not a profitable group. You have a disability. Try getting insurance. Try it. There is no money to be made there. People with mental illnesses are not a profitable group. We have been trying for some time to get mental health parity. We still don't have it because the private sector understands they can't make money.

Guess what other group is not profitable? Senior citizens are not profitable. They use more health care as they get older. So they are not profitable.

If you look back in history, that is why we established Medicare in the first place in the 1960s—to care for those people who were left behind by the private sector.

I remember as though it were yesterday when my father was in his later years and had health care problems. In the 1950s my father was then in his early seventies. He had been quite disabled from working for over 20 years in coal mines. He had "miners lung," as they called it then. Later they called it "black lung." He had had some accidents. He was now in his late sixties. He was in his early seventies in the 1950s. His health was in bad shape. He was on Social Security. That is all he had. He had no life savings. He had no dividends. He owned no stock. My father only went to the 8th grade. He worked most of his life in the coal mines. After that, he worked as a handyman. All he owned was a small house on 1 acre of land. That is all he had. Thank God he worked enough to pay into Social Security to get a Social Security benefit. But he had no health care insurance. He had no outside sources of income. He had some young kids, me being one of them. We had no outside source of income at all. My father's income in the 1950s on an annual basis was probably around about—I would be surprised if it was over $2,000 or maybe $2,500 a year at the most. He couldn't get health insurance.

There was no one who would sell my father health insurance, even if we could have afforded it. Later on, when a couple of his kids got out of college and we looked around to try to see if we could get some, no one would cover him. He was now in his midseventies and had black lung disease. He had a few other problems. Try to find an insurance program. There were health insurance programs at that time. There were a lot of health insurance programs that covered a lot of workers at that time through their employment but they were not about to cover my father. That would not have been profitable.

I remember when Medicare came in. My father got his Medicare card. Now he could go to the doctor and go to the hospital.

There are those of us who lived through this and saw our parents denied health care coverage because they couldn't afford a private health care plan because the private health care plans left them behind. We look at this bill and say: Wait a minute. You are saying you are going to have these two private plans out there but you are not going to have a Medicare choice?

We experimented with private health care and HMOs. Guess what happened. Seniors all over the country were dumped by plans. They had a plan. They signed up. As soon as the plan saw they weren't making money, they said: We are out of town. So seniors were dumped. We didn't have a law that said you had to cover them. They just walked away from it.

That is what is going to happen with this bill, too. Obviously, they can do it on an annual basis. That is another point of this bill that is going to get highlighted. A plan could be in effect and they find out after a year they are not making enough money. Bang, they walk away. Then maybe another plan will come in. Oh, well. Maybe a senior can sign up for that. What is the coverage, or the copay, or what is the deductible? It may be different.

For years, Republicans have not so subtly wanted to privatize Medicare. There were public comments such as then-Speaker Newt Gingrich who said about Medicare that he wanted to "let it wither on the vine."

I think when you read those statements and the statements by the third ranking Republican in the Senate who said that the basic Medicare benefit basically needs to be done away with, you get an insight into the long-term goal of those on that side.

What they state is their support for including the private sector here to take advantage of the efficiency by the experience and the virtues of private competition. All well and good. I am all for competition and efficiency. But what happens is that this bill now before us relies on the participation of private plans to deliver this drug benefit to our seniors. But you have to set the rhetoric aside.

The current structure of this bill before us invests unwisely in private health plans to provide the drug benefit for seniors, and it restricts their choice. It restricts it. As I said, the Senator from Iowa, the chairman of the committee, spoke about giving seniors choices. That is exactly what the Stabenow amendment does. If they do not want to be in Medicare, they can go out and get a private plan. But under the bill before us, if they do not want to be in a private plan and want to stay in Medicare, they cannot do it.

Now, again, for some reason I am having trouble understanding this argument made by the chairman of the committee that somehow having two choices gives you more choices than having three choices. Someone has to really explain this to me because that is what the Stabenow amendment does. It gives you three choices: Medicare, plan A, plan B. The bill before us gives you two choices: plan A or plan B.

Now, again, this is especially bad for seniors in rural States where private plans have shown no interest in participating in the Medicare program. Now, again, the scheme in this bill of having the private plans only—if there was some history to back this up, and the chairman of the committee talked about history. Well, OK, let's look at the history. We know from history the administrative costs in Medicare are much lower than in private health plans—2 to 3 percent a year compared to 15 percent in the private health care plans. We know that. That is fact. That is data.

We also know that over the past 30 years Medicare spending has grown at a slower rate than private health care spending: about 9.6 percent for Medicare, over 11 percent for private health care plans. We know that. It is factual. Yet ignoring this history, in the plan before us, this administration and the Republican leadership in the Senate insist on relying almost solely on private plans to provide this drug benefit to our seniors.

As I said, the bill before us might be reasonable if we had some past history to back up the fact that the private health care plans were the most efficient. They want to talk about efficiency. The facts show that administrative costs are about one-fifth—one-fifth—as much in Medicare as in private plans, 2 to 3 percent compared to 15 percent. So efficiency? Obviously, Medicare is more efficient.

And the cost, well, as I said, over the last 30 years Medicare has grown at a slower rate than private health plan spending. So which costs more, Medicare or private health care plans? Well, we have the facts. We have the data. This cannot be ignored.

The only way you can ignore this data and these facts is if your ideology trumps experience. If you have an ideology that says we are going to set up a system that will ensure that Medicare sometime in the future fails, I guess you could ignore facts, you could ignore the history. And that is really what this is all about, folks.

The result of all this private plan investment means there is less money available to actually help seniors get the drugs they need. It is estimated that the underlying bill will actually pay private insurance companies over $25 billion just to participate. Boy, talk about a sweetheart deal.

OK, let me get it straight now. We want only two private plans out there in a region for seniors. The bill will not let Medicare compete. That is what the Stabenow amendment does for us, it allows Medicare to compete. The bill will not. So you have two private plans out there. Because why? "They are more efficient. They have more experience," et cetera, et cetera. "They will have competition, and the competition will keep the price down." Then why are we giving them $25 billion in subsidies to get them into the program? You would think they would be knocking the doors of the Senate down rushing to get in on this.

Let me proffer a question. What if we took out the subsidies to the private insurance plans? How many would come into this program? Zero. No, we are going to give them $25 billion. What if we took that $25 billion and we put it into a prescription drug benefit? Well, we could cut down what? We could cut down the deductible, maybe. We could cut down the copays. We could close the coverage gap—all of which would help our seniors. No, no, no. We are going to take $25 billion and we are going to help the private insurance companies. We are going to coax them. I have a different word. We are going to bribe them. We are going to bribe them with $25 billion of money to come in here.

Talk about efficiency. Boy, isn't the private sector grand. Isn't competition wonderful when the Government comes in with your taxpayers' dollars and gives them $25 billion so they can offer some kind of a prescription drug plan.

I mentioned just a minute ago about how in the past private plans have come into existence. Seniors join them, and then the plans close down, leaving the seniors holding the bag. That is the history. That is the data. That is what has happened. Because of the structure of this plan, seniors could be forced to switch plans and drugs on a yearly basis—yearly—as private plans may join and then pull out of the markets.

So you have these two plans out there. Your grandparents, your parents, join plan B because it looks good for them, and it turns out maybe the first year it is OK for them, but the plan they joined finds they are not making enough money. Guess what. At the end of the year they walk away.

Now, what do your grandma and grandpa do then? Well, they can go to maybe plan A, or maybe another plan will come in, have a different copay, different deductible, different this, different that. And I will tell you, if you think your health plan today is confusing—and it is. I look at my health care plan every year when the open season comes around and I try to make heads or tails of it. I was trained as a lawyer. I may not be a very good one, but I was trained as a lawyer, and reading these things is confusing, even for someone trained. Put these plans out there for the average senior citizen to read every year of who gives what, what is the benefit—total confusion.

Then what happens? Well, people get confused. They get upset with the program. Seniors talk among themselves at their various groups and clubs, and they find out that Mrs. Jones over here, while she has an income of $14,640 a year—guess what—her deductible and her copays are up here, they are high. Mrs. Smith, her friend and neighbor, who comes to the same club, her income is $14,639—$1 less—and she gets all hers free. Think about that. Think about what this is going to mean to the elderly out there when they see: Wait a minute, my neighbor, my friend, they get a few dollars more a year than I do. They pay. I get a few dollars less. I don't have to pay anything.

What is that going to lead to? Not only to confusion, it is going to lead to anger, and it is going to lead ultimately to seniors saying that this whole system has to be changed. And that is the end result of what the Republicans want to do with this bill; that is, to strike a dagger to the heart of Medicare. Now they can't go after the heart right now, so you cut a few veins. You take a leg here and a leg there and an arm here and an arm there, and pretty soon Medicare is done for.

That is why this amendment by Senator STABENOW is so important. It follows a simple and reasonable philosophy that says seniors who want to stay in traditional Medicare ought to have that choice. We are not forcing them. Senator STABENOW is not forcing any senior to stay in any plan. She is simply providing them the choice.

Again, as the chairman of the committee said earlier, as the President has said, they extoll the virtues of giving seniors more choices. I say yes, let's give them more choices. This amendment does that by doing two things. It gives seniors the option of staying in traditional Medicare for all of their health care needs including prescription drugs. They have that choice. They don't have to if they don't want to. And as Senator STABENOW has shown time and time again, 11 percent of the seniors have said no, they don't want to stay in Medicare. Fine, if they want to go somewhere else, that is their privilege. Her amendment would not change that whatsoever.

But the second thing the Stabenow amendment does is it guarantees our seniors, especially those who live in rural areas where private plans are less likely to participate, a reliable and consistent option that will never leave them without coverage.

Throughout this debate, we have heard and will continue to hear our friends on the other side, the Republicans, talk about how great private plans are, how they will control costs through competition. I just cited some statistics that show that historically this has not been true. The Stabenow amendment will make sure that every senior in every State has access to a consistent benefit and the option of staying in the Medicare Program.

I would think—maybe I am naive; I hope not—that if the chairman of the committee and the Republicans really wanted to give choices to seniors, they would welcome this amendment. If you listen to our friends on the Republican side and trust them, you will believe the private plans will provide a better benefit at a better price to seniors. If that is the case, what are they afraid of?

If the Republicans truly believe the private plans will provide a better benefit at a better price to seniors, why are they so afraid of letting seniors have Medicare as an option then? Because obviously they would pick the private plan because it would be better than Medicare. So what are they afraid of? Why would they not want this amendment? Because, all rhetoric aside, the Republicans want to constrict choice. They want to force seniors into private health care plans—force them—and only if there are not two plans available, then you get this fallback into Medicare. If it is good enough as a fallback, why not let it compete upfront?

I may have an amendment on this later in the week, but if these private plans are going to be so good and they are so good at competition and efficiency and so good at keeping prices down, why do we have to give them $25 billion in subsidies? Let them go out there on their own. That is the private market. I don't think they need the subsidies if they are truly going to provide this kind of a benefit. Again, I am not arguing it now. I am saying that may come along later.

The Stabenow amendment provides seniors with three choices. The bill provides them with two choices. So this amendment offers them more choices than the underlying bill does. If what the Republicans want are more choices, this is it. They should support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, on behalf of the leadership, I ask unanimous consent that following my remarks, Senator GRAHAM of Florida be recognized to speak for up to 10 minutes on the Stabenow amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

TENTH CIRCUIT COURT OF APPEALS DECISION

Mr. DOMENICI. Madam President, I thank Senator GRAHAM for allowing me to speak on a matter of utmost importance to my State. That accounts for the consent that he would follow me. He was supposed to speak next.

I come to the floor to discuss a situation of grave concern in my State of New Mexico. On June 12, the Tenth Circuit Court of Appeals issued an opinion that puts the fate of a small endangered fish called the silvery minnow ahead of the interests of the people of New Mexico. This ruling has far-reaching implications for all Americans. It essentially favors fish over people.

This ruling requires that the Bureau of Reclamation reassess its contractual obligations to provide water to the cities of Albuquerque, Santa Fe, and others—even water resulting from interbasin transfers. The two judges issuing the majority opinion conclude that under the Endangered Species Act, the water needs of the silvery minnow come before the water needs of the people of my State.

This far-reaching opinion essentially says that the Endangered Species Act can be used to artificially create a drought. That is precisely what is going to happen if the Bureau of Reclamation deprives cities, farms, and Indian reservations in my State of the water they desperately need. The ruling says the Endangered Species Act can preempt anything and everything, essentially.

This opinion creates a new Federal right for endangered species. It effectively invalidates preexisting contracts and orders the importation of water from another basin in violation of New Mexico law that allows only for municipal use. In essence, it says even that water must be used for the fish. The water resulting from the interbasin transfer was never part of the ecosystem or the stream basin. It was brought in for other purposes. Under the court's theory, no city, county, State, or agricultural community can reasonably expect a permanent water supply.

This is not what Congress intended when we passed the Endangered Species Act. This is not what I intended when I voted for the law. The concurring opinion of Judge Porfilio says that the Endangered Species Act can undermine any contract with the Federal Government for the supply of water resources if bureaucrats determine that an endangered fish or threatened species needs the water. As we saw with Klamath Falls 2 years ago, bureaucrats are often wrong in these affairs. But no matter, according to the court, what Federal bureaucrats mandate in the name of ESA must be so, regardless of the devastating consequences.

Did any of us who voted for the Endangered Species Act believe we were amending all Federal laws and contracts at the time of its passage? I certainly did not. Has anyone who has contracted with the Federal Government for a timber lease, mineral lease, for water, or for use of Federal facilities included a clause that says such contract will not be amended by action under the ESA? Because, according to this ruling, if one didn't, the contract won't stand if a bureaucrat somehow or somewhere decides that a fly, a fish, or rodent needs that resource.

This decision cannot be allowed to stand. It threatens all Federal contracts. It undermines the financial integrity of the United States of America and all of those with whom she contracts.

This opinion will be devastating for western water users at a time of growing crisis in the West. Currently, after years of drought, agriculture, States, cities, and counties are struggling to meet their water needs now and in the future. There simply isn't enough water to go around. Members of Congress have been deeply involved in trying to resolve this growing crisis. Now comes the Tenth Circuit Court of Appeals with its announcement that the ESA preempts 75 years of existing water law, all existing contracts, and the needs of the burgeoning western population. This ruling hobbles us in our efforts to address the western water crisis.

Judge Kelly, in his dissent, rightly characterizes the ESA as a Frankenstein. Despite good intentions, this law has become a monster.

Congress never meant for this to happen. Yet, for years, we have stood by as our own law has wreaked havoc—oftentimes needlessly—in the cooperative relationship of man and nature.

I believe there is a better way. I believe we can amend this law to better protect struggling species, while still respecting the authority of this Government, States, localities, and Indian tribes. I believe we can amend this law to better protect struggling species, while still allowing people access to the resources we need to survive.

Critics have rightly pointed out that since the passage of the ESA, the number of threatened and endangered species has increased exponentially. There are now more than 1,100 species on that list. Only a handful have recovered since the passage of the ESA. Most of them, like the bald eagle, recovered because we banned the use of DDT. I have not seen evidence of any species that recovered because of abrogated water rights, which is the principal issue discussed by this Senator regarding this opinion.

As this law is now written and interpreted by the courts, we are failing our struggling species. We are also failing our citizens who look to us, State, and local leaders, for access to the resources they need to live.

This ruling says we cannot even guarantee them the very water they need for survival, sanitation, and food. In fact, it says we cannot do that by importing water into a river basin in which the fish lived before the importation. This decision says that even imported water for local use can and must be allocated for these fish. Government cannot function under such prescribed chaos.

Madam President, we must amend this law. I don't know when it will happen, but I will ask this Senate to address this law and the far-reaching implications of this decision. I will have that ready soon so that the first bill that goes through here can carry it along to fruition.

Certainty is the bedrock of western water law. That certainty is critical for our people and our country and our economy and, yes, our environment, including the endangered species. Certainty is a must for endangered species also. The court, however, chose to abandon collaborative efforts and the 2003 biological opinion and directly threaten every interstate compact in America, established adjudication, and the intent of Congress.

These rights are all out the window by virtue of this 2-to-1 opinion. A request for a rehearing en banc will be made to the Tenth Circuit and, obviously, the State of New Mexico must take it to the Supreme Court, if necessary. But I am going to look to the Senate—at least for New Mexico and what I have described here today—for a way to fix it by statutory prescription. I will be looking for the help of Senators within the next month or two on one of the bills that moves its way through here.

I yield the floor.

AMENDMENT NO. 931

Mr. BAUCUS. Madam President, if I am not mistaken, the pending amendment is the one offered by the Senator from Michigan. I see the Senator from Florida, Senator GRAHAM, who would like to address the Senate.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM of Florida. Madam President, I rise in strong support of the amendment offered by the Senator from Michigan. We are about to undertake a massive social experiment. We are about to do it with the 39 million older Americans, including some of the most vulnerable and frail of our fellow citizens. Why do I say this is a massive social experiment? Because there is no example in America of a freestanding drug-only insurance policy as the means to gain access to prescription drugs.

There are some very fundamental reasons why we don't do that in the Federal Employees Health Benefit Program, and why even the pharmaceutical industry doesn't do it in distributing drugs to its employees. There are two basic reasons why this is a first-of-a-kind social experiment. One is this is not an insurable risk. The example that has been frequently used is the one of fire insurance. If you are going to purchase fire insurance, you buy it on the whole house, from the bedroom to the living room, to the garage, to the kitchen. If you were to go to your insurance company and say I don't want to insure the whole house, I only want to insure the kitchen, the answer would be we won't sell you such a policy because the kitchen is the most vulnerable part of the house to actually have a fire.

This is a similar proposition. Prescription drugs are the fastest growing part of the health care budget. Insurance companies don't want to sell a prescription-drug-only freestanding policy. That is seen in the structure of this bill. Essentially, although the statement is made that we are going to get better prices because of competition and the willingness of insurance agencies to assume the risk, the Federal Government is assuming virtually all the risk under this plan. Therefore, all of the expectations and representations that we are going to have competition through that lower cost is a mirage.

The second reason is the fact that within health care, there are tradeoffs. As an example, just a few years ago the standard way of dealing with ulcers was surgery. Today there is almost no ulcer surgery; the standard treatment is through prescription drugs.

What is the relevance of that? If you are only providing prescription drugs, if you had a freestanding prescription drug only policy, all you would have is the additional cost of prescription drugs. If you are insuring the whole body, you get the savings of avoiding surgery while you get the additional cost of providing the prescription drugs.

Those are just two of the reasons there is no other example of what we are about to impose on 39 million old, many very sick, many very frail, Americans as a social experiment. If we were going to do this, I think what we ought to do is say we are going to change the Federal health insurance policy starting now and let us all be the experiment to find out whether such a freestanding prescription drug policy will work.

We represent a much more diverse population—Federal employees. Many of us are younger, healthier than the Medicare population. We would be a more appropriate guinea pig for this experimentation than to focus this on the oldest and, in many cases, the most vulnerable of our people.

A second concern I have about this approach is that it denies choice. Under the structure of this bill, once the elderly have made two choices, then they will not have any choice at all as it relates to prescription drugs.

The first choice they make is the choice that they are making today and have made for many years in the past: Will I get my total health care coverage through traditional Medicare, the fee-for-service plan, or will I get it through some form of a managed care plan?

The jury has come in and rendered its verdict on that issue. Over 85 percent of America's elderly have decided they want to get their health care through the traditional fee for service. The basic reason they want fee for service is that is the true access to choice. Under fee for service, they can decide what doctor, what hospital they wish to use. Under the various managed care plans, they frequently are restricted in their choice, and they have to use a gatekeeper in order to get to what choices are available.

We have had a big debate in this Chamber, a debate I anticipate we will return to, and that is over the standards of managed care. That debate was sparked because so many people have had a negative experience with managed care, where services were denied or where they did not have access to the physician they wanted for their particular needs.

This whole debate about whether there should be some Federal standards for HMOs is because of the actual real-life human experience of many Americans, including older Americans, as to how these managed care systems work.

After the Americans have made the judgment as to which plan they wish to be in, then they will make a second judgment, and that is, under this prescription drug plan, do they want to take advantage of it? It is yes or no as to whether they will participate in the prescription drug plan.

Once they have decided, yes, I wish to participate, then they lose their choices. If they are in the traditional care plan and if there are not two or more standalone prescription drug plans, then they will be forced to get their prescription drugs through the social experiment with a freestanding prescription drug plan. If there is only one plan where they live, they will be denied access to that single plan and they will have to get their drugs through traditional Medicare. I think that is a denial of the fundamental option and choice which has been a key part of the success of Medicare.

I also think denial of choice could well be the torpedo which will sink prescription drugs. We learned a lesson about 15 years ago when we passed something called catastrophic care which the Congress thought would be received by the elderly with roses and flowers and applause. In fact, it ended up being received by the chairman of the House Ways and Means Committee having his car turned upside down, there was so much objection to that plan.

I think we had better keep our cars in the garage after we pass this because we may experience the same thing, and this issue will be one of the reasons, in my judgment, that there will be less elderly participation in the prescription drugs and an increased likelihood that there will be a sufficient revolt that we will be forced, as were our predecessors, to repeal what we thought was going to be a very popular plan.

This prescription drug architecture only works if a very high percentage of the elderly sign up to participate. If the only ones who sign up are those who are already sick and using high levels of prescription drugs, this plan will crater as being actuarially unsustainable. If it is to attract enough of the elderly who are not sick and do not have high drug bills, who will see this as a true insurance policy—that is, that they are purchasing this plan not just based on their current prescription drug costs but because they believe they may someday become ill, sicker than they are today, and get into this category of high cost—we must be able to attract that group of the elderly in order to make this plan sustainable.

I think one of the reasons the relatively healthy elderly will resist joining this is precisely this issue of the denial of choice. If I am an elderly person and I live in a rural area of Florida where only one prescription drug plan is available, why shouldn't I be able to elect that one prescription drug plan or traditional Medicare? If, on the other hand, I am in an urban area where there are 20 freestanding plans, although I think this is a highly unlikely prospect, why shouldn't I be allowed to elect one of the prescription drug plans or traditional Medicare?

Why? What is the rationale of us denying the elderly that important choice when there is no evidence that the standalone plans are going to actually save money? This bill itself is the best evidence of its unlikelihood of doing so since the Federal Government is picking up most of the risk that the standalone plans will, of their necessity, entail and while we are denying choice to the elderly as to which of the various options they want to utilize.

I cannot conceive of why we are saying to America's elderly that they will be denied the choice how they want to get their prescription drugs, particularly when they have spoken so overwhelmingly of their desire to stay in traditional fee-for-service Medicare for the rest of their benefits.

So for those who favor the approach we are taking, they ought to be the strongest voices for the Stabenow amendment because it is one of the key steps in assuring that this plan will be positively received by Medicare beneficiaries and will actually work once it is in place.

I urge all of my colleagues, those who favor the basic principles of this plan and those who have reservations, to vote for this amendment because it is fundamental to achieving the results that are being sought, a broadly participated in prescription drug plan which is sufficiently attractive, including attractive through choice, for America's older citizens.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Nevada.

Mr. REID. Parliamentary inquiry. Is there any consent now in effect dealing with who speaks next on this amendment?

The PRESIDING OFFICER. There is none.

Mr. REID. The two managers asked if Senator REED from Rhode Island could speak for up to 5 minutes—is that right?

Mr. REED. Ten.

Mr. REID. Ten minutes. The Senator from Georgia only has 5 minutes to speak generally on the bill. So I am wondering if the Senator from Rhode Island would allow him to speak for 5 minutes?

Mr. REED. I would be happy to.

Mr. REID. Is that right?

Mr. CHAMBLISS. That is correct.

Mr. REID. I ask unanimous consent that the Senator from Georgia be recognized for 5 minutes to speak on the bill generally and following that the Senator from Rhode Island be recognized for 10 minutes to speak on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I thank the Senator from Nevada and my friend Senator REED for being gracious enough to let me speak on this bill.

All of us who have served in this body over the past several years, whether it is during our campaigns, going back home for town halls, or visiting home over the weekends, have talked about the need for a prescription drug benefit within Medicare. We all agree on that. I am very pleased that this week, as well as all of next week, we will be debating this issue regarding the inclusion of a prescription drug benefit within Medicare and the overall improvement of Medicare.

I am also very pleased that the particular bill that came out of the committee has certain options available for seniors in it. The one thing we tend to do from a legislative perspective is to put mandates and dictates on people, particularly when dealing with health care. This particular bill does not do that. There are significant options in this bill that Medicare beneficiaries are going to have with respect to a prescription drug benefit. I think having these options in place is going to put competition in place within Medicare and allow the marketplace to work.

There are senior citizens today that we all refer to, and now I would like to concentrate on. I am talking about those low-income senior citizens who have high drug costs that need to be taken care of. While I remain positive that we are developing a bill—and there are a lot of positive things within this bill—I am very concerned that we are reaching beyond what most of us in this body have talked about over the last several years with respect to a prescription drug benefit. We are going way above and beyond providing that benefit just for those low-income, high-monthly-drug-cost individuals who so desperately need this benefit.

The reason I am so concerned is that from a fiscally responsible standpoint, it is incumbent on us, as Members of this body and as members of the House, that we do not overreach and put a burden on the young people in this country. I don't want them coming back to us one day and saying, "What in the world did you folks do to us in 2003 by imposing such a heavy financial burden on Medicare? Because of this prescription drug benefit, Medicare cannot remain solvent without increasing payments going into Medicare."

I have strong concerns that we are overreaching with this bill. That is why I am so pleased the Senator from Nebraska, the Presiding Officer today, and the Senator from Nevada, Senator ENSIGN, who have studied this issue and have developed a substitute which may be offered as an amendment. I look forward to having a healthy debate working with their language in addition to the base bill coming out of committee. It is my sincere hope that we can find the right answers, and at the same time, continue to serve and provide a benefit to those people who so desperately need it.

There is another issue that I want to make sure we are very deliberate about and that we cover, and that is the issue regarding the ability of our pharmacists, particularly in rural areas, to participate in this program. We cannot afford to have a one-size-fits-all benefit that allows individuals to go straight to the manufacturing source for their benefits under this plan. These pharmacists, particularly in rural areas, deal with individual patients and customers on a daily basis. They provide a service that not only benefits the patient and the customer but benefits Medicare. Pharmacists give advice and counsel regarding the drugs that have been prescribed for them, and I think without question will save millions of dollars in future years in this program within Medicare.

Lastly, I could not stand up and talk about a prescription drug benefit without recognizing that our drug companies over the years—and I happened to be sitting in the chair yesterday when Senator DORGAN was talking about this, and Senator DORGAN is exactly right—have stepped up to serve seniors by providing significant amounts of drugs to low-income individuals who simply could not afford to buy those drugs. These companies offer monetary discounts on large quantities of drugs to seniors involved in their plans. One of those companies, Pfizer, that happened to be in my office today reiterated exactly what they have done. This is a very positive thing we should all remember when we are talking about our drug companies.

As we move forward with this bill for the next 2 weeks, I remain very cautious about where we are going to be at the end of the day. We do have to make sure that we have a healthy debate in light of the fact that we do have to provide a prescription drug benefit. We know a bill is going to pass, but we certainly need to send the right bill into conference with the House, so that when it comes out of conference it benefits those folks who need it most, those low-income individuals with enormous monthly drug bills. We should be able to look these young pages in the eye and say we did not saddle them with a burden that will be unaffordable years from now.

So I thank the Senator from Nevada for letting me interrupt and the Senator from Rhode Island for letting me come in and give my speech now. I look forward to the debate over the next 10 days as we conclude this at the end of next week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 931

Mr. REED. Mr. President, I rise in strong support of the Stabenow amendment. I believe the Senator from Michigan has done exactly what is right, proper, and wise to do, which is to provide for a permanent fallback prescription drug benefit for our seniors in the context of this new Part D drug program. Indeed, out of the 650-plus page of this bill, the proposal by the Senator from Michigan is the one that most closely resembles what is familiar to seniors with regard to the current Medicare Program. It is an important issue.

According to the Congressional Budget Office, roughly 32 percent of Medicare beneficiaries enrolled in the proposed new Part D program would receive their drug coverage through the fallback plan, at least during the initial implementation of the program, so a significant number of seniors we already know will participate in these fallback plans.

The reason is because under the existing language of the bill, if two private companies are not prepared to offer pharmaceutical benefits in a particular region, Medicare must have a fallback program for seniors. That makes entirely good sense. The problem is, if and when there are two companies, this fallback provision evaporates. It goes away. What this will lead to is instability and a circumscribed choice for seniors.

We can just imagine a senior who enters the fallback program may spend 1, 2, 3, or 4 years there, is happy with the program, satisfied with the benefits, and suddenly they are told, no, this program is going away because there are now two competitors in the marketplace. It does not make sense. It circumscribes choice and it creates instability and uncertainty in a program that should be full of stability, certainty, and choice. I hope we can adopt this amendment to ensure that the Medicare fallback program is a permanent part of the Part D program.

Let me suggest something else. When we think of the dynamics of this proposed program, two pharmaceutical beneficiary management companies come into a particular region knowing full well if one decides to go, then Medicare would have to reconstitute this fallback program—expensive—probably on short notice. That is tremendous leverage for other PBMs in the market to go back to the Medicare program and say, wait a second, we are leaving unless you provide additional incentives, additional compensation, additional risk sharing.

That is a leverage point that I think will be exploited by businesses. It is a fair point to exploit. They can vote with their feet. They can leave the region. That is tremendous power to put in the hands of any one plan—it is not the two; anyone could decide to go—and suddenly you have to constitute the standby.

If there is a permanent fallback program, that leverage does not exist. Automatically, the senior would choose or not choose to get their benefits from the fallback program. That is another important aspect.

We also understand these managed care programs and pharmaceutical benefit managers operate, obviously, to make a profit. They are prepared and capable of leaving on short notice if, in fact, they believe they are not realizing a profit.

We have seen this in my home State of Rhode Island, a state with a significant penetration of Medicare managed care. Thirty percent of beneficiaries in Medicare in my State are enrolled in a managed care plan. There used to be several managed care plans, but most have left the market, leaving essentially one insurance company providing these managed care benefits. When the other plans departed, we saw increases in costs to seniors and less generous terms offered by the surviving companies. Why? Simple. Competition slacked off; they did not have to be as aggressive competing for seniors. That likelihood could happen in this case.

Again, that is a strong argument for the Stabenow amendment, to have at least one plan that will be there, with permanent, defined benefits that are not likely to change as other competitors drop out of the market. That is another selling point, a strong selling point, for the Stabenow plan.

I believe this amendment is very important. It will go a long way to assuring seniors they are not part of some arbitrary experiment in the marketplace, that there will be at least one plan that is always there, that the benefits are well defined, and that plan will be an important aspect of making sure there is market discipline as well as consumer choice for seniors.

Some people might say: We cannot do this because we have a cap of $400 billion over 10 years that limits us. That is an arbitrary limit, obviously. In fact, it seems to me it is a limit that is not justified, given the generous tax cuts we have already provided to so many wealthy Americans as opposed to those likely recipients of this package. This arbitrary cap should not limit us from creating a program that we hope will not only endure for a long time but will be efficient, effective, and attractive to seniors.

I believe if we pass the Stabenow amendment, we are going to make this program much more attractive to seniors, give them confidence they have at least one choice through the standby plan, that will not leave the marketplace, that will not change benefits as competitive forces change, that will be something they can count on. As well as receiving pharmaceutical benefits, I think seniors are asking for something else, and that is confidence that their benefits will endure and not be ephemeral.

As a result, I urge my colleagues to support the Stabenow amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I appreciate my colleagues coming to the floor in support of my amendment. I take a moment to reiterate what we are doing in this amendment.

We are indicating in this amendment we want to make sure every senior has the choice of traditional Medicare for prescription drugs as well as a choice of HMOs or PPOs or other private sector plans. We are talking about seniors wanting to have choice or the desire to give seniors choice.

The majority of seniors, as a matter of fact, like traditional Medicare. It is very clear. They either have chosen traditional Medicare or do not have any private options, and 89 percent of our seniors fall in that category. The majority have chosen Medicare or may live in a rural area where they do not have the choice of a private plan but they are in Medicare and they have their coverage, they can choose their doctor, they can live anywhere within their State or anywhere in the country and know the cost will be the same. It is dependable; it is available it them.

That is what we are trying to do, guarantee seniors will be able to continue to have that choice along with new options for those who live in an area where there is a managed care plan and they choose to go into an HMO or PPO, that would be absolutely available to them. If they choose another private insurance plan, assuming there are those available to them, fine, that is certainly an option that we all agree should be available to our seniors.

The question is whether we will shut off the choice the majority of seniors have already selected, the one they say they want. With all of the talk about choices, what I hear from folks is not: Please give me more insurance plans to wade through or to figure out how to get health care; please give me more insurance bureaucracy to wade through each day. Seniors say: Update Medicare and cover prescription drugs.

It is simple. They want their traditional Medicare, choose their own doctor, choose their own pharmacy, to be able to make their own choices and to have them available regardless of where they are in the country, but they want to make sure they have prescription drugs as well.

We know if health care in 1965 were like it is now, prescription drugs would have automatically been covered. We know that. We also know in 1965, as I indicated earlier, Medicare came into being essentially because of a failure in the private market. That is not a criticism; it is a reality that covering older Americans certainly is more costly as we use more health care. As we get up in age, we find we use more health care, we use more prescription drugs. There are fewer carriers wanting to cover. Certainly, way back in 1965, that was the case when half the seniors in the country could not find a private insurance plan or could not afford a private insurance plan available.

Medicare came into being in order to make sure that health care was available for older Americans and for the disabled in our country. It was a value statement about who we are and what we think is important. It was an important value statement just as Social Security coming into being was a value statement about the fact we wanted to make sure there was a basic amount of money for everyone to know there is a certain amount of financial support available to them as they get older, as they retire. It is a value statement. Medicare and Social Security have both been great American success stories.

We are now at a point where medicine has changed, the delivery system, the way we provide care. Most of us go to the doctor's office and walk out with at least one prescription. We have the opportunity to take medicine to keep us well, to manage our high blood pressure, cholesterol, or other issues that allow us to remain healthy and remain out of the hospital. These are all very positive. We also have the opportunity to avoid heart surgery by taking a pill or have other options by taking medications that cause us not to have to go into inpatient care in the hospital.

A lot of good has happened. We are now at a point where it makes sense to update Medicare. The question is how to do that. We really have two different views on how to do that.

One that I share says we should take a system that has worked and we should make sure it is fully funded so our physicians and hospitals and home health care and nursing homes have what they need to provide services. That is another critical issue—the resources being pulled out of Medicare and the underfunding of Medicare which has caused problems. We should provide full funding, and we should make sure it is modernized to cover preventive efforts and that we cover prescription drugs as a part of an integrated, modern health care system under Medicare. We should use more technology so there is less paperwork and more streamlining, which I know is of great concern to health care providers. We can do all that within the framework of Medicare, which has worked so well. Why is that important? Because it is dependable, reliable, affordable, and it is a value statement about who we are as Americans. That is one view.

Another view is we should move back to the model before Medicare came into existence, and that is more of a reliance on private health insurance plans. We hear from many insurance carriers that they are not interested in prescription-only policies. They are not interested. It is different. Insurance usually means you provide insurance to a large number of people assuming only some of them will get sick or some will have automobile crashes or some will have their homes burn down—not everybody.

In the area of prescription drugs for seniors, from an insurance model it is very different. In fact, when you cover people, you can be assured almost all of them, if not all of them, will in fact need your insurance. They will need your coverage. So it is a very different kind of model than traditional insurance, where only some people use the insurance but everybody is paying into a system and spreading the risk.

That is one of the difficulties we have had, trying to fit this model of private insurance into the fact that we are talking about private insurance for health care, prescription drug care, where everyone who is buying the product will be using it. There are a number of questions about how to fit that model in and make it work.

Then there are questions about why. Why do we do that? Why do we propose something that is complicated, that on the one hand provides choice, which is good, from the private sector, but on the other hand is convoluted and complicated for those who want to stay in traditional Medicare and not make them make that choice. That is one of the questions. Why is this happening?

From the pharmaceuticals' standpoint, they are very much opposed to seniors being under one plan, 40 million people in one place, to be able to negotiate large discounts in price. As a result of that, they certainly have lobbied very heavily for a plan that divides seniors into a lot of different places so they have less leverage to be able to lower prices and negotiate discounts. That is also a concern of mine.

We know also that under traditional Medicare, we actually save money. We hear all the talk about market forces and lowering prices. In reality, facts show the opposite. In fact, commonsense I think shows the opposite when we look at what is happening in the private sector today. The average small business has seen its insurance premiums double in the last 5 years. Certainly in Michigan, major high-tech manufacturing in the State has seen 15 or 20 percent or more increases in the cost of private health insurance every year. Yet under Medicare we see the costs going up about 5 percent a year.

We look at this and say: Wait a minute, we are talking about a plan that costs more, not less. How does that make sense?

We also know, when we look at administrative costs, we are told by those who have analyzed it that administrative costs for Medicare to administer the program are about 2 percent. In the private HMOs in place right now under Medicare, their costs are 15 percent for administration. We are told that in the private sector they actually go higher, that in some private plans it has been as high as 31 percent for administrative costs.

We look at that and say, How does this make sense? We don't want 15 percent going into administration when it can be 2 percent so more of those precious dollars that we have can then go into buying medicine. That would seem to make sense.

There are a number of different reasons I believe it makes sense to make sure the real choice seniors want to have, which is traditional Medicare, is one of the choices available to them. I personally believe it will save dollars. It will allow the money we have to be used more for purchasing medicine and for health care rather than for administration or other kinds of costs.

Medicare is a nonprofit system by design. I know there are differences in philosophy about a for-profit system under health care versus a nonprofit system. But the majority of hospitals in this country are nonprofit. The Medicare system itself is set up so that every dollar possible goes into care. I believe that is a model we should continue. I believe it is a model, although it can always be improved—and I would be the first to say we can improve and streamline the Medicare system—fundamentally it has worked for people. It has been there. It has been a system that has held down costs. It has been dependable and reliable for every single person who is an older American, or for a disabled person in our country. I wish we would embrace it rather than talk about dismantling it.

I ask colleagues to come today, as we vote on this amendment, and join together to provide real choice for our seniors, the choice they are asking for as well as every other choice. Let's make sure every choice they might want to have they could have, including traditional Medicare.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. SMITH. Mr. President, I rise to respond to the Senator from Michigan. I think she makes a number of points that are worth our consideration. I think this can be done through the Government route. But the grand experiment here is predicated on a belief that the marketplace can actually work.

If we were to adopt the Stabenow amendment, it would clearly undermine the private sector from forming plans and offering prices which have the potential of very real savings for our seniors and providing us with some very real reforms which seniors are counting on; that is, that we provide this benefit without undermining the financial integrity of Medicare.

We need to make up our minds. We can either go the Government route or we can go the market route. The Government route can work but it comes at a cost that is, frankly, hard to calculate.

Even as we speak, right now on Part B Medicare, the Government is looking at gross overpayments already on prescription drugs and is having to make reimbursements because of that.

Imagine all of the inefficiencies that would be infused into the system if we relied upon the Federal Government to manage every prescription drug for every senior in this country. If they are overpaying on one and wasting money at the same time, I hate to think of the bill the Federal Government would have to foot if we did this for every senior on the basis that the Senator is describing.

Moreover, the Congressional Budget Office has just announced an initial estimate of what the Stabenow amendment would cost, which is an additional $50 billion over 10 years. Without a doubt, with the budget that provides $400 billion over 10 years, this would exceed that by $50 billion. I am sure at some point a manager of the bill will make a budget point of order. It has come at a significant additional cost of $50 billion.

Again, I return to the point that we can either let the marketplace work or we can let the Government do it. But if you have a permanent Government backup as opposed to a fallback provision until the marketplace develops, you will retard, if not destroy, the marketplace from ever developing. It is that simple.

The predicate of the compromise between Republicans and Democrats that has been a result of the prescription drug benefit coming to our seniors is that we are going to have a fallback. But we are going to give the marketplace a chance. We are going to see which one works. As for me and my money, I am placing my bet on the marketplace, if we provide an economic structure for it to develop. If it develops, it will give real hope and a real renewed life to Medicare, and it will give our seniors the benefit they need of a prescription drug immediately. I think that is the better vote. I think it is the better way.

I think we know how Government works. When it is necessary for a Government bureaucrat to be between you and your medicine cabinet, I shutter, frankly, at the inefficiencies that can come from that; whereas, if you allow the marketplace to work—as with PPOs which the Presiding Officer and I have as Federal employees—frankly, they can take a holistic approach to your health by including prescription drugs. It gives us a very real chance to give our seniors a program that includes prescription drugs, which includes holistic health care, and which doesn't rely on a Government formulary and Government price setting to determine what drugs you can have and what they are going to cost.

I urge my colleagues to vote no on the Stabenow amendment because it undermines entirely the bipartisan agreement that has been arrived at in the Finance Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, my friend from Oregon was speaking about medicine cabinets. On the question of whether you want a for-profit insurance company or a bureaucrat between you and your medicine cabinet, or whether you want Medicare, which we have known and relied upon since 1965, I appreciate that there is a different view and philosophy. I think there is a fundamental difference in ideology that is working here.

It is interesting. I had a chance to go back to the debates when Medicare was first developed. The same kind of differences occurred at that time and the same debate about whether or not we should provide care under one plan under Medicare that is stable and reliable or use the private market private insurance company. The very same kind of debate was going on then that is going on now.

I believe the right choice in 1965 was Medicare. I believe it continues to be one of the choices that makes sense to offer to seniors.

I wish to respond to the Congressional Budget Office estimate. It is disappointing to me to find that they have chosen to score it at $50 billion above the $400 billion. We have worked with them. In fact, we made it clear that the intent of this amendment was not to add $1 to the budget resolution. It is to use the $400 billion and within that to have a carve-out or choice of Medicare. In fact, so as to guarantee that, we included at the end of the bill an authority to prevent increased costs. If the administrator—in this case we are talking about HHS—determines that Federal payments made with respect to eligible beneficiaries enrolled in a contract under this section exceed on average the Federal payments made with respect to eligible beneficiaries enrolled in a Medicare prescription drug plan or MedicareAdvantage, the administrator may adjust the requirement or payment under such a contract to eliminate such excess.

The reason we have included that is to guarantee that it is within the $400 billion parameter. If, in fact, the Congressional Budget Office has not looked at that, it is unfortunate. I would disagree with their analysis.

I indicate again that this is not about changing the budget resolution or the amount of dollars. It is about creating the best choice or one more choice. It may not be the best for an individual. They may decide that going through a PPO or an HMO or some other part of the alphabet might be a better choice for them. The question is whether people will have a full range of choices including the choice that the overwhelming number of seniors have told us they want.

The intent of this amendment is in fact not to add anything to the cost of this particular bill.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I have heard the Senator from Michigan describe her amendment. I have to say I would be concerned about a Government-run prescription drug benefit because of what it would do to our free enterprise system and our capability to have competition which I think is very important. I think the underlying bill provides the competitiveness that will be so important for a balanced system, and it is also one that will give seniors the best prices and the best choices.

I would like to make a statement in general about the bill we have before us. I have to say that we have been talking about reform of Medicare for years—maybe for the 10 years I have been here. But today we are now talking about a real bill and maybe a real chance to reform this very important program.

I think it is clear that any time there is reform we must include a prescription drug component. We must have a choice which is similar to that in the private sector, and we must admit that Medicare has not kept pace with the rapid changes in our health care system.

As our research community pushes the envelope and develops lifesaving medicines and procedures, our Nation's health care system must take that innovation into account or it will not be the greatest health care system in the world.

Pharmaceuticals have revolutionized medical care. Increasingly, ailments are treated with medication as opposed to invasive surgeries. It is imperative that those who rely on Medicare have access to affordable prescription drugs. When Medicare won't pay for medicine to treat diabetes but will pay for the amputation of a limb caused by complications of diabetes, I think we can admit that we have a problem.

A prescription drug benefit alone is not the answer. True reform must provide our Nation's seniors the freedom to choose physicians and benefits based on their individual needs. If a beneficiary is satisfied with existing coverage, the beneficiary should have the option to stay put. But if she chooses to enroll in a private insurance PPO or HMO, she should be allowed that choice. This choice is incorporated in the underlying bill.

Also, I have an amendment, cosponsored by Senators KENNEDY, DURBIN, SPECTER, and TALENT, to restore cuts in Medicare reimbursement to teaching hospitals. Texas hospitals are facing the loss of $26 million in 2003 due to Medicare reimbursement cuts. Nationwide, teaching hospitals will lose $794 million this year and $4.2 billion over the next 5 years. Every State will be similarly affected.

Teaching hospitals are experiencing a terrible financial crisis. My amendment restores the fiscal year 2002 level of reimbursement for indirect medical education—they are called IME payments—to teaching hospitals. This allowance has been cut incrementally since the Balanced Budget Act of 1997 from 7.7 percent to 5.5 percent in fiscal year 2003.

Teaching hospitals have higher costs due to their critical role in educating tomorrow's physicians. They run more tests, they have newer technology, and they require more staff because they are training our future health professionals. The additional payment is vital to continuing this training. A disproportionate percentage of the most seriously ill and injured patients recover and convalesce in teaching hospitals. These hospitals have 78 percent of all trauma centers and 92 percent of all burn beds.

Although only 21 percent of all hospitals are teaching hospitals, they deliver over two-thirds of charity care. They conduct groundbreaking research. The University of Texas Medical Branch in Galveston—as one example in my State—will lose $1.9 million in these payments this year if the amendment is not adopted. UTMB leads research on anthrax, smallpox, and plague. We cannot afford to have teaching hospitals cut back on research that benefits every individual.

In the budget we passed earlier this year, $400 billion was set aside for Medicare reform. It is our responsibility to use that $400 billion wisely and to bring this incredible program into the 21st century so that America's seniors will have the medical coverage they need and deserve.

I think the bill before us needs work. We all agree that it is not a perfect bill and we want to make it better. We want to make sure it does two basic things: that it increases the quality of health care for our seniors, and, secondly, that it does so at a reasonable price for our future generations. We do not want another huge commitment that is going to turn into an entitlement that is unbearable in the future. But when Medicare will cover the cost of a hospital stay for 5 days for the amputation of a limb but it will not allow you to pay for the medicine that will keep you from having to amputate that limb, something is wrong in the system, and we must fix it. This time we can do it.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been listening to this debate and listening to the distinguished Senator from Michigan. If you love the Federal Government and the Federal Government's control over all of our lives, boy, this is the program for you, because it certainly would fly in the face of everything we have been trying to do to create a program where you have some options, some choices, and where people can make their own decisions as to what type of health care they want, seniors in particular.

So I rise in opposition to the Stabenow amendment. The way I understand the amendment, it would require a permanent fallback to be offered to beneficiaries in addition to the private stand-alone drug plans. Making the fallback plan a permanent option will completely undermine the very structure upon which this bill is built.

First and foremost, including a permanent fallback plan creates an uneven playing field. Frankly, we hope the Government fallback plan is never needed. The only reason it is in this bill is to take care of those situations where there are no bidding competitors to provide the health care. We believe there would be bidding competitors, and there is no real reason to have a fallback other than in those rural areas or tough areas where it is uneconomical for business to compete for the business, where you are going to need a no-risk, Government sponsored and subsidized, and completely controlled fallback plan.

So first and foremost, including a permanent fallback plan creates an uneven playing field. The Government fallback is a non-risk-bearing entity. The fallback plan will operate in regions without any risk for gains or losses. The Government pays for the fallback plan's administrative costs associated with delivering the drug benefit. If we make the fallback plan permanent, as the distinguished Senator from Michigan would do, we are basically requiring privately delivered drug plans, which are at least partially responsible for bearing the risk of delivering this benefit, to enter this same market and compete with these Government fallback plans.

This would not only be unfair, but it also sets up our drug plan for failure. There isn't a private health plan out there that will enter such a lopsided market where we give their competitors such a large financial advantage. Simply put, this amendment would discourage the initial entry of private plans, dooming the effort to provide beneficiaries the drug benefit through competing private plans with all of the cost savings and benefits that would come from competition.

In addition, including a permanent fallback plan would add billions of dollars to the cost of this bill. CBO estimates that the cost of this fallback plan would be at least $50 billion over 10 years. So, literally, by including a permanent fallback plan that will cost $50 billion-plus over 10 years to the cost of this bill, we would be relying, at least partially, on an inefficient, more costly, Government-controlled, Government-style delivery system to provide beneficiaries with drug coverage.

When the Senate was debating the Medicare prescription drug issue last year, this was one of the biggest criticisms against the Graham drug benefit. The Graham drug benefit plan created a one-size-fits-all drug benefit delivered by the Federal Government. This is not what Medicare beneficiaries want.

Beneficiaries want choice in drug coverage. They do not want to be forced into a Government-run plan and offered a one-size-fits-all benefit. The Stabenow amendment would place the drug benefit right back in the hands of Government-run health care, Government micromanagement, and, worst of all, price controls. Government bureaucrats would ultimately put the Government in charge of setting drug prices. We simply do not want Government bureaucrats in charge of setting drug prices. We want the private market to make these decisions, not the Federal Government.

My colleague from Florida was just reminiscing about the 1988 catastrophic law. I was here. I argued against it. We all saw the people jumping up and down on Danny Rostenkowski's car when they realized they had to pay for their drug expenses. Well, you can imagine what is going to happen if we have Government take over this program.

If this amendment passes, we will be creating another Medicare catastrophe. In fact, we already know the Federal Government does not do the best job of reimbursing for prescription drugs due to years of overpayments for the drugs already covered under Part B of Medicare.

Medicare has been overpaying for Part B drugs for years because of its inability to keep up with the marketplace. The intent of S. 1 is to introduce a new model to deliver care to Medicare beneficiaries. We want to offer Medicare beneficiaries a meaningful drug benefit. This drug benefit will include multiple choices but it only works when all options are expected to participate under the same rules. You don't set it up so that all the options that have a chance of working fail because you have a government-run, government-subsidized, government-controlled, government-bureaucratized program, which is exactly what the Stabenow amendment would establish.

Those who are extremely liberal will love that program, because it just means Government controls every aspect of our lives in health care. In S. 1, we included the Government fallback as a safety net to ensure that every senior has access to pharmaceutical drug coverage. But it is a fallback of last resort. We hope we will never have to have a fallback plan for any region or any area. But it is a last resort, if we need it. That is because even the Congressional Budget Office concludes that the permanent fallback plan is a more costly, less efficient model to deliver pharmaceutical benefits.

Again, let me remind everybody that the CBO says the Stabenow amendment will cost at least $50 billion over the next 10 years. Knowing the Government as I do, I say at least $50 billion. It will probably be a lot more than that. It will take all the incentives to keep costs down out of the program, as we take away risk, which is what the competing companies have to meet. They have to meet risk factors.

In conclusion, the Stabenow amendment would deny Medicare beneficiaries the opportunity to enroll in the plan that best fits their needs. They would be denied that opportunity. The Stabenow plan would force all our seniors into a government-run, government-controlled, government-bureaucratized drug benefit. It would basically undermine every possible competitive aspect that might possibly hold costs in line and bring them down.

This amendment by the distinguished Senator from Michigan would effectively deny beneficiaries a private plan option, thus denying beneficiaries a choice in drug coverage, one of the fundamental principles of this bill—choice, the right to pick the coverage you want. That is what our prescription drug program would give beneficiaries.

There are those who believe that socialism is the answer to everything. Let government do it. Government can do it more efficiently. If you believe that, you haven't watched the last 50 years. I urge my colleagues to defeat this amendment because it will take away important drug coverage choices for Medicare beneficiaries. It will lead us into a situation where Government is going to control everything, and, as a result, Medicare beneficiaries will be left with no choices in drug coverage. I don't want to go back to those days when they were jumping up and down on Danny Rostenkowski's car because the senior citizens realized they had to pay for it. I want to give Medicare beneficiaries choices and make sure there is some competition in the marketplace so that the choices will be good ones. I don't want to go to just a one-size-fits-all government program which literally will not work except at a tremendously costly expense to U.S. taxpayers.

For these reasons, I urge my colleagues to oppose the Stabenow amendment.

I yield the floor.

Ms. MIKULSKI. Mr. President, I want a medicare prescription drug plan that benefits seniors—not a plan that benefits insurance companies. That is why I am a cosponsor of the Stabenow amendment.

This amendment gives seniors a choice: to get their prescription drugs through traditional Medicare or through a private insurance company.

Why is this important? Because it lets seniors choose the program that fits their needs. Seniors trust Medicare. It has provided a safety net for seniors for almost 40 years. Medicare hasn't let them down.

We can't say the same about insurance companies. We have been down that road in Maryland with Medicare+Choice. The insurance companies came in. They enticed seniors with promises of better care and prescription drugs. They took the money from our seniors and left town leaving over 100,000 Maryland seniors without coverage.

Seniors in my State were gouged and abandoned. So I don't trust insurance companies to be there for seniors. I trust seniors to make their own decision to decide which prescription drug plan is best for them.

Seniors trust Medicare. When given an opportunity, I think seniors will choose Medicare. In the mid-1990s, when Medicare HMOs offered prescription drug benefits. Only about 15 percent of beneficiaries signed up.

Yet year after year, Senate Democrats have fought off efforts to privatize Medicare—to force seniors to leave their family doctors and join HMOs and other private plans. We heard Newt Gingrich talk about making Medicare "wither on the vine." Then this year, the President's prescription drug proposal would have forced seniors to leave the Medicare they trust to get the drugs they need.

I believe honor thy mother and father is not just a good commandment to live by. It is good public policy to govern by. That is why I feel so strongly about Medicare.

Medicare is not the problem. It is the solution. That is why Congress must now provide a prescription drug benefit for seniors—to benefit seniors—not to benefit insurance companies. We must do it now—to help seniors, to help families, to help American business and to help our economy.

I urge my colleagues to join me in supporting the Stabenow amendment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, I ask unanimous consent that the vote in relationship to the pending amendment No. 931 occur at 3:15 today with no amendments in order to the amendment prior to the vote and 5 minutes for debate equally divided prior to the vote.

I further ask unanimous consent that at 2:15 today the amendment be set aside and Senator ENZI then be recognized to offer an amendment.

Mr. REID. Reserving the right to object, the senior Senator from Illinois is on the floor. I am wondering how long the Senator wishes to speak on the Stabenow amendment. If the Senator from Oregon would allow the Senator from Illinois to speak until 2:15 on the Stabenow amendment.

Mr. SMITH. I have no objection.

Mr. REID. I would ask for a modification: that we be recognized for 10 minutes; following that, Senator ENZI be recognized after the ,Stabenow amendment is set aside.

The PRESIDING OFFICER (Mr. ALEXANDER). Is there objection to the modified request?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. Pursuant to the unanimous consent request, it is my understanding I am recognized for 10 minutes.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Mr. President, at about 3:15 we will have a chance to vote on an amendment. It is an important amendment to the prescription drug plan, an amendment offered by my colleague and friend Senator STABENOW of Michigan, who has been our leader in the Democratic caucus on the prescription drug issue. There is no one who has put more time in it. Senator STABENOW is going to give the Senate a very basic choice to make.

Under the Grassley-Baucus bill, a senior citizen, once this goes in effect after the Presidential election, will take a look at the area they live in and if they can find two private providers for prescription drugs, they have to choose between the two of them. If they can't find two that will provide that protection, that service, then there will be a Medicare plan known as a fallback plan which the senior can turn to, but it is not a plan that will be administered by Medicare. It is a plan that will be administered by a private provider under Medicare. So no matter where you turn as a senior under this plan, you are always going to find a private provider, a private insurance company.

The Republicans, many who support the bill, argue that is real competition. Senator STABENOW takes it to another level and says, if you want real competition, one of the options that should always be available to the senior is to go to a prescription drug plan administered by Medicare itself.

Why would you want a Federal agency to administer this plan? I will give you two reasons. First, there is no profit motive. Medicare is basically going to be involved in this to try to provide the service, and we know that the services they provide are at a lower administrative cost than any private insurance company. No. 2—and this is where the rubber meets the road—Medicare can say to the drug companies, we want you to be part of the Medicare alternative; therefore, tell us what you will do to contain the cost of your prescription drugs. So they have bargaining power on behalf of seniors to reduce the overall cost of drugs that are offered to seniors, a win/win situation.

Does it work? Go to the Veterans' Administration hospitals. Look what they have accomplished. They said to the drug companies, you want to sell drugs to veterans, great. But tell us the best price you will give us, and the best price offered at veterans' hospitals to the men and women in uniform is 40 to 50 percent below what seniors are paying over the counter for their prescription drugs across America today. So if you go to the Stabenow alternative, a Medicare-administered plan, no profit motive, low administrative cost and a formulary, a group of drugs that has been discounted for seniors, it is an absolute win situation for seniors and for the Government and for the cost of the program.

Those who are arguing for competition on the other side say, just let these private providers get at it. Boy, they will really show you how they can bring prices down. They live in fear that if Medicare is involved in it, Medicare will show them how prices can really come down. That is what this is all about.

I hear these arguments on the floor from people who I respect saying the Stabenow amendment is going to limit choices. The heck it will. The Stabenow amendment gives to seniors the real choice, the Medicare choice, the choice that they want.

I would like to ask the Senator from Michigan if she will respond to a question. She has a chart that shows the interests of senior citizens on this issue. If this is any indication, how would the senior citizens vote on the Stabenow amendment?

Ms. STABENOW. First, I thank my colleague for his eloquence. It is true that 89 percent of the seniors in this country are in traditional Medicare. Only 11 percent are currently in managed HMO plans. Since 1997, seniors have been given a choice between what has been called Medicare+Choice and traditional Medicare. Overwhelmingly, they have stayed in Medicare.

Mr. DURBIN. Does the Senator's amendment limit the choices for seniors—

Ms. STABENOW. Absolutely not.

Mr. DURBIN.—when you compare it to the underlying bill?

Ms. STABENOW. Absolutely not. What we are doing is saying, instead of two private insurance plans, we add a third, so instead of two choices, you have at least three.

Mr. DURBIN. Again, let me ask, through the Chair, if I might, is it not true that if Medicare then can offer this plan on behalf of tens of millions of seniors, Medicare can go to the drug companies and say: All right, you want to sell us Celebrex or Zoloft or whatever; what is the best price you will offer Medicare?

Isn't that more of an assurance that the prices seniors will pay under that alternative will be lower?

Ms. STABENOW. Absolutely. The Senator from Illinois has hit what I think is the most critical point, and the reason there is such opposition, certainly from the pharmaceutical industry, to what we are trying to do through Medicare. They don't want the majority of seniors in one insurance plan together in Medicare where they can force a group discount. They would like to divide seniors up in lots of different insurance plans and not give them the leverage to bring prices down.

Mr. DURBIN. Also, I ask, under the underlying Grassley-Baucus bill, what force is there for cost containment? What kinds of elements are in that bill that will help bring down the cost of prescription drugs for America's families and America's seniors if we don't put Medicare into the process bargaining on their behalf?

Ms. STABENOW. I don't see anything in here that brings it down. In fact, what we are doing in the underlying bill is adding the profit. We are putting for-profit business into this process, so you are actually adding to the cost of this system. I don't see anything in here that will bring prices down. I think that is why the pharmaceutical industry is very supportive of this plan because, unfortunately, the average retail price of an advertised brand is going up three times the rate of inflation. This does nothing to address that and bring the prices down.

Mr. DURBIN. I thank the Senator.

While I still have a minute or two, I will just say this. Time and again, our friends on the Republican side of the aisle say we should contract out Government services, privatize them, to save the taxpayers money. They say, if you will just get it away from the Government bureaucracy and put it into the private sector, we will show you how to really provide a service at a low cost. Sadly, many times that doesn't happen. The costs go up, the quality is not good, and we are stuck with private-side contractors when we contract out.

Now we have an interesting turn of events. We hear from the Republicans and conservative side that we don't want a Government agency to be able to compete with the private sector. We don't think that is going to be fair. There is no real choice there.

There is a choice. I think the choice is obvious. If Medicare—speaking for the vast majority of senior citizens—can bargain for lower prescription drug prices, the winners will be not only the seniors who will pay less but the taxpayers who will pay less. The $400 billion in this bill will go a lot further if we can have lower cost prescription drugs.

I say to my friends on the Republican side of the aisle, don't be afraid of competition, and don't be afraid if one of the competitors is Medicare. The seniors who you represent have already voted on this issue by a 9-to-1 margin. They prefer traditional Medicare. We should not be afraid of it.

The Stabenow amendment is a step in the right direction. It says if we are going to have a prescription drug plan that Americans can afford and that the taxpayers can afford to pay for, yes, we need to have cost containment. This bill has little or none. The Stabenow amendment brings in real competition and, unless that competition is there, let me tell you what we have done: we have said we will subsidize prescription drug costs no matter how high they go. Mark my words, as history has proven, they will continue to increase to a point where it bankrupts the current bill before us.

The Stabenow amendment is, I think, not only a stand for common sense but a guarantee that competition will really be there to protect seniors.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time. I am not sure what the allocation of time is right now.

I commend the distinguished Senator from Michigan and the Senator from Illinois for their work on this particular amendment. I think I can say for most, if not all, of our caucus members, this is the most important amendment as it relates to this bill, in large measure because it goes to the essence of what it is we believe we need to do.

What we have said from the very beginning is let's build on what we have achieved in the Medicare system now for the last 38 years. Obviously, we know there are ways in which the program needs to be updated and reformed. I think there is common agreement among Republicans and Democrats that if we are to reform Medicare, the single most important priority is to ensure that we recognize that health care delivery has changed dramatically in the last 40 years.

Health care delivery now is largely outpatient. Far more people get their health care in an outpatient setting than they do inpatient. With that recognition, we made a decision in the 1960s that was wrong. We said we would reimburse drug costs in a hospital but we would not reimburse drug costs outside of a hospital or doctor's office. Well, had we decided back then that we would reimburse drug costs regardless, we would not be here today. So we made a decision based on, I am sure, a lot of different factors—cost was probably important—that we wish now we could have reversed a long time ago. But that, in essence, is what we are talking about with reform. It is a recognition that health care delivery itself has changed.

The real question is, What will be the mechanism by which seniors acquire these prescription drugs? There are those who have suggested that seniors ought to have choice. I have heard the distinguished Senator from Michigan say so eloquently that if you are in favor of choice, you will be in favor of this amendment because that is basically what we are proposing—choice. We are saying to seniors, if you think you can find a better plan out there somewhere, offered within your region, take it. This is a voluntary program. We are not mandating that you do anything. But if you think Medicare has provided a good service and if you think, in order to be consistent with the spirit and the concept of Medicare to begin with, that it ought to be offered through the Medicare system, you ought to have a right to choose that as well.

Why in Heaven's name would we deny a senior the right to stay within Medicare when they get their doctor and hospital benefits through Medicare? They ought to get prescription drugs through Medicare. So that is, in essence, what the Senator from Michigan is suggesting with her amendment. Let's allow choice; let's allow consistency.

But I think it goes beyond the choice of the senior citizens. The reason it ought to be our choice occurred again last night to me as I listened to some of the debate in the House Committee. The question was asked last night: Can you tell us what the administrative costs will be for the private sector systems providing this new prescription drug benefit? On record last night during that debate the answer was given: 25 percent.

The administrative costs for the private sector plans is anticipated to be 25 percent. That means out of the $400 billion we are committing to the drug program under this legislation, $100 billion could go to paperwork.

We have asked what is the administrative cost of the Medicare system, and we are told by CBO and others that the administrative cost today for Medicare is between 3 and 4 percent. So we could save upwards of 20 percent if we had an opportunity for seniors to use the Medicare system. That is another reason that choice would make sense to us—to keep administrative costs down.

We only have to look to the Veterans Administration to see how effectively they have controlled costs, not only administratively but on drug acquisition costs. The drug acquisition cost through the Veterans Administration is dramatically lower, ranging anywhere from 15 to 30 percent below what is done in the private sector through private insurance companies. We could save in Medicare as well.

From a cost containment point of view, an administrative point of view, and a choice point of view, this amendment ought to pass. I think it is key to sending the right signal not only to our seniors about what kind of services we want to provide, about what kind of consistency, what kind of choice we want to offer, but it ought to be a message to the taxpayer. We are going to do it through the most efficient, most administratively simple concept to which we can subscribe. Extending Medicare, providing drug benefits through Medicare, is the way to do it.

Again, I commend the distinguished Senator from Michigan for her efforts and for her amendment. I hope it will enjoy broad bipartisan support. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming is recognized.

AMENDMENT NO. 932

Mr. ENZI. Mr. President, I send an amendment to the desk, and I ask unanimous consent that the pending amendment be set aside until 5 minutes before the vote.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI], for himself and Mr. REED, proposes an amendment numbered 932.

Mr. ENZI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve disclosure requirements and to increase beneficiary choices)

On page 57, between lines 21 and 22, insert the following:

"(3) DISCLOSURE.—The eligible entity offering a Medicare Prescription Drug plan and the MedicareAdvantage organization offering a MedicareAdvantage plan shall disclose to the Administrator (in a manner specified by the Administrator) the extent to which discounts, direct or indirect subsidies, rebates, or other price concessions or direct or indirect remunerations made available to the entity or organization by a manufacturer are passed through to enrollees through pharmacies and other dispensers or otherwise. The provisions of section 1927(b)(3)(D) shall apply to information disclosed to the Administrator under this paragraph in the same manner as such provisions apply to information disclosed under such section.

"(4) AUDITS AND REPORTS.—To protect against fraud and abuse and to ensure proper disclosures and accounting under this part, in addition to any protections against fraud and abuse provided under section 1860D-7(f)(1), the Administrator may periodically audit the financial statements and records of an eligible entity offering a Medicare Prescription Drug plan and a MedicareAdvantage organization offering a MedicareAdvantage plan.

On page 37, between lines 20 and 21, insert the following:

"(C) LEVEL PLAYING FIELD.—An eligible entity offering a Medicare Prescription Drug plan shall permit enrollees to receive benefits (which may include a 90-day supply of drugs or biologicals) through a community pharmacy, rather than through mail order, with any differential in cost paid by such enrollees.

"(D) PARTICIPATING PHARMACIES NOT REQUIRED TO ACCEPT INSURANCE RISK.—An eligible entity offering a Medicare Prescription Drug plan may not require participating pharmacies to accept insurance risk as a condition of participation.

Mr. ENZI. Mr. President, I rise today to offer an amendment that will contribute to fair prices for consumers and fair treatment for pharmacies under the new Medicare prescription drug benefit. I am pleased that my distinguished colleague from Rhode Island, Senator REED, is joining me in offering this amendment. He serves with me on the Health, Education, Labor, and Pensions Committee and has been a stalwart in helping with some of the small pharmacist issues. That is what a large area this bill seeks to take care of.

It is an issue across the entire country. It is not just an issue in Wyoming or the West. We all have local pharmacists. Local pharmacists provide a tremendous service to the people for whom they are providers. One of those local services is to explain how the drugs are used, what their proper use is. They have an excellent knowledge of the drugs a person is taking and recognize conflicts and iron those out with the doctor. They work with the doctor to come up with some generic drugs, in some cases, to save costs. Largely, they are left out of any of the pricing mechanisms. They do all of this on a very low margin.

This bill does not take care of that part of local pharmacists, but it allows them to still be in the market. This bill ensures fair prices for consumers.

The amendment we are proposing would ensure that we hold Medicare drug plans accountable for passing on to consumers a fair portion of the rebates, the discounts, and the other incentives that the plan may receive from drug manufacturers and other sources.

Specifically, the amendment would require Medicare prescription drug plans and Medicare Advantage organizations to disclose to the Federal Government the extent to which they pass those rebates and discounts on to Medicare beneficiaries.

The amendment would also clarify that the Federal Government may audit their financial statements and records to ensure compliance and deter fraud and abuse in this area.

To ensure fair treatment for pharmacies, the amendment we are offering would prohibit Medicare drug plans from implementing restrictions that would steer consumers to the mail order pharmacies. It would require the Medicare drug plans to allow local community pharmacists to fill long-term prescriptions—not just 30-day prescriptions, but 90-day prescriptions—and offer other services they are equipped and licensed to provide. It protects the rights of seniors to choose their trusted local pharmacist over a mail order house.

Our amendment would also prohibit Medicare prescription drug plans and Medicare Advantage organizations from requiring pharmacies to accept insurance risk as a condition of participation in a plan. Pharmacists and pharmacies dispense medications and provide services; they are not insurance companies.

This provision will ease the minds of the pharmacists who are concerned that Medicare drug plans might force them to share the risk. This has come to light, I am sure, to all of us in town meetings we have held, town meetings where pharmacists have shown up, town meetings where the pharmacists either have their national publication or publications from their colleges that point out some of the difficulties they are having operating in the local market, the local market where they have the actual contact with the consumer, the local market where they are the ones providing the advice, the care, and sometimes the protection of the patient. We want to make absolutely sure we do not leave them out of the mix.

This is a part of the solution that has been suggested in those college publications and those national pharmacist publications. These are local professionals who provide a local service. They do an outstanding job of helping out their customers. They understand who the customer is because they see them face to face; they are not just a voice over the telephone taking an order.

They will play an important role in any drug benefit that is passed, whether it is through a profitable situation for them—and we hope they can stay in business so we have the help of this local pharmacist—or whether it is forced on them in a nonprofitable way. They have been doing that.

It would be nice if we watched out for the small businesses in the towns across America. Small businesses are the heart of America. They are the ones that provide the community help and community services. They are the ones that participate in all kinds of community events.

We have to be careful this bill does not take them out of the loop and put them out of business so that kind of service disappears from the face of America. It is part of America. The drug stores have been the heart of downtown for years and now the heart of the health care system. They are often the main source of health care service and advice, particularly in the rural and frontier areas. In the bigger cities, there may be more contact with people who can provide information. Some of that comes through the HMOs, and some of it comes through the prescription drug managers who are often tied in with those HMOs. But they are not the ones who really do the contact with the customer, particularly in the rural and frontier areas.

I sponsored a bill to remedy our pharmacist shortage, and I am hoping that bill will come to the floor. It is a bill that helps with the forgiveness of the loans it takes to get through the process of becoming a pharmacist. We have to make sure these people are available and continue to be available in smalltown America and in the big cities. We also have to make sure there are faculty to teach these people properly to interact with the customers.

Half of the money would go to providing loan forgiveness for pharmacists who become faculty and half to forgiveness for people who actually become pharmacists in underserved areas, and underserved areas are sometimes urban areas as well. This bill does not address this. That is another bill we need to fill in the pharmacist piece. It unanimously came through the Health, Education, Labor, and Pensions Committee, and it recognizes the need for local pharmacists and that local interface we are all used to having. Seniors and pharmacists are both concerned with how the interaction will happen. Seniors do trust their hometown pharmacist.

Senator REED and I believe this amendment will go a long way toward answering the concerns of seniors and pharmacists about how this new Medicare drug benefit will impact the trusted relationship that pharmacists and their senior patients share.

I encourage all of my colleagues to take a closer look at this amendment and help me get it adopted. As I mentioned, it has bipartisan support. If we had a little more time, I am sure we would have had a lot more cosponsors. We recognize this is an appropriate place for this amendment to appear and an appropriate service to provide under the prescription drug benefit of Medicare.

So I encourage my colleagues to vote for it. I thank them for their consideration.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Oregon.

Mr. SMITH. I thank my colleague for his amendment. I think the Enzi-Reed amendment will clearly improve beneficiaries' access to long-term prescriptions at their local pharmacies, as well as to increased disclosure requirements for participating plans. Community pharmacists play an integral and active role in health care delivery by providing programs that help patients manage their disease, prevent dangerous drug interactions and educate and counsel on the proper use of their medications. Any prescription drug program will rely heavily on community pharmacists.

Under S. 1, the underlying bill, entities eligible to offer a Medicare prescription drug plan would be required to ensure that beneficiaries have convenient access to community pharmacies in both rural and urban areas. Additionally, no eligible plan would be allowed to offer prescription drug coverage solely through mail order pharmacies.

The Enzi amendment builds on the provisions already included in S. 1 and would ensure that beneficiaries who enroll in prescription drug plans and Medicare Advantage plans that offer mail order benefits would also have the option to fill long-term prescriptions in community pharmacies. This amendment also would provide beneficiaries flexibility, convenience, and increased corporate reporting requirements for Medicare prescription drug plans. This should promote, not stifle, competition and improve choice.

So let's be clear. There are efficiencies inherent in mail order pharmacies and beneficiaries would continue to benefit financially by purchasing drugs through the mail, but this amendment would provide them with yet another choice, another option, as well.

It is certainly my intention to vote for the Enzi-Reed amendment. I am not in a position to say that the chairman is saying that yet, but I suspect he will.

I understand Senator ENZI will speak for a few more minutes.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I thank the Senator from Oregon for his comments. He has very concisely laid it out, has a tremendous understanding of this amendment and the need for it, and made a fair assumption that it could cost slightly more by going through the local pharmacist. But one of the things we want to do is make sure that local pharmacist is an option.

If beneficiaries getting the prescription drugs order it through the local pharmacy and the cost comes to more than it would be through a mail order firm, then the person receiving the prescription drugs does have to make up that difference in cost.

These four provisions in the amendment will make a tremendous difference to both consumers and to pharmacists. The aim is twofold. It is to have fair prices for consumers and then fair treatment for the local pharmacies. As was mentioned, the two provisions that require fair prices would require the Medicare prescription drug plans and Medicare Advantage organizations to disclose, to the extent that they pass Medicare beneficiaries, any rebates or discounts that they negotiate from drug manufacturers. In other words, if they get a break, the consumer is supposed to get a break. It permits the Government to audit the plans and the organizations' financial statements and records—and it is primarily the records that are important—to ensure compliance to make sure there is not fraud and abuse and to make sure, again, that those reductions get passed through to the consumer. So we want fair prices for consumers.

The consumers and pharmacies do support the first two provisions aimed at ensuring this transparency and accountability on the part of pharmacy benefit managers, PBMs, the companies that will probably win contracts or bids to manage the new drug benefit.

Pharmacies argue that the pharmacy benefit managers, the PBMs, are squeezing their margins while consumers argue that the PBMs have financial incentives to steer patients to the drugs that make the most profits for the PBMs, even when they may not be the most appropriate drugs for the patients. So that is another reason that not only the fair price but the transparency has to be there.

What are these PBMs, pharmacy benefit managers? PBMs administer prescription drug benefits through contracts with employers, managed health care organizations, and insurance carriers. Today, the top 20 firms manage more than 90 percent of retail prescription drug purchases, and three firms, AdvancePCS, Express Scripts, and Merck-Medco Managed Care, dominate the market.

Large self-insured employers turned to PBMs during the 1990s to administer the popular drug benefit, to manage the costs and utilization trends to ensure appropriate use of drugs and improved quality care. However, the employer frustration over rising costs and questions about appropriateness of drug use are stimulating interest in PBM contractual relationships, especially financial arrangements with drug manufacturers, and the bearing those relationships have on the PBM performance.

PBMs once earned the bulk of their revenue by holding down drug costs for health plans. They now earn a large portion of their revenue from drug companies that pay them undisclosed rebates and other financial incentives for promoting certain medications. For nearly 4 years, the U.S. attorney's office in Philadelphia has been looking into how PBMs negotiate discounts, rebates, and payments from pharmaceutical manufacturers and how the resulting revenues are shared with PBM clients.

So what does the amendment do to answer the concerns? The amendment would give the Government the ability to ensure that the Medicare drug plans administered by PBMs are passing through the fair share of their rebates and discounts on to consumers. It would also clarify the Government's authority to audit the drug plans to confirm the accuracy of the disclosure of the rebates and discounts.

The main thrust of it is to make sure the local pharmacist has a fair shot for the service they provide. I hope everybody remembers when they go to a pharmacist the time he spends explaining how often they take the drugs and what they cannot take before or after, and what they can have with them. They also have an understanding of the other medications that people are taking so that if there is a possibility that there will be an interaction between two medications, they can solve that problem.

Of course, the only way that happens is if a person is working with one pharmacist. If people are calling a whole bunch of different pharmacists, because of privacy laws they do not have access to the interaction of the other drugs that a person is taking.

So that local pharmacist provides a tremendous service, and it is only fair that we include those professionals in the ability to compete in this market, and people can continue to place their trust in the local person that they can see face to face and from whom they can pick up their prescriptions. It is a relatively short amendment, but again it is one that has very strong bipartisan support and one that will fulfill a need. So far as we know, there is very little opposition. So I look forward to having my colleagues support it.

Again, I thank the Senator from Oregon for his comments and this opportunity to present the amendment.

I yield the floor.

Mr. SMITH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REED. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Madam President, I rise in support of the Enzi-Reed pharmacy access amendment.

I compliment my colleague and friend, Senator ENZI from Wyoming. We have worked on several issues with respect to the pharmacy benefits. It has been a pleasure and it has been productive, not only for ourselves but for the professional pharmacy community. Pharmacists are the third largest health care profession in the country in terms of numbers of practitioners, and they are becoming increasingly more central to our health care system.

This amendment is designed to accomplish two very important objectives with respect to the proposed Medicare pharmacy benefit for seniors. First, its aim is to assure transparency and accountability in the collection and dissemination of negotiated savings by Medicare prescription drug benefit plans and Medicare Advantage plans. Second, it is designed to guarantee Medicare beneficiaries access to community pharmacies when filling prescriptions of 90 days or longer. Without the Enzi-Reed amendment, these protections, these safeguards, these essential elements would not be present in the bill we are considering today.

This language is very similar to proposed language included in the counterpart legislation being deliberated in the other body. If we are to rely upon private companies to negotiate and administer a benefit on behalf of the Federal Government as well as on behalf of tens of millions of elderly and disabled beneficiaries, we need to be sure these entities operate with the best interests of these parties in mind and not simply and exclusively their bottom line. Through this amendment, plans will be required to disclose to the Government the extent to which they pass on to Medicare beneficiaries rebates, discounts, and any other savings negotiated from the drug manufacturers.

We all recognize one of the essential elements of this legislation is the notion that private pharmacy benefit management companies will negotiate with pharmacies and manufacturers to get the best possible price. We hope that best possible price is passed on almost entirely to the beneficiaries and to the payers, which include the Federal Government. It would be ironic, indeed, if we establish a system in which the intermediaries gained huge profits, while the Government and beneficiaries continue to pay substantial sums for the pharmaceutical benefits.

By requiring disclosure of negotiated savings by drug plan administrators, we guarantee a greater degree of transparency and make sure beneficiaries are getting the best possible savings on their prescription drugs. The essence of the Enzi-Reed amendment is let the markets operate, but make sure everyone has complete information about who is reaping the benefits of these negotiated transactions between purchasers and suppliers of these pharmaceuticals.

Since beneficiaries are expected to pay anywhere between 50 percent and 100 percent of the cost of drugs—those individuals in the gap would be paying 100 percent of the cost of drugs—we have to make sure they are getting the best possible deal. This amendment will go a long way towards ensuring that actually happens.

If the PBMs do not pass these benefits and negotiated savings along to the public and the Federal Government, then we all should know. This amendment will ensure that level of accountability.

Second, the Enzi-Reed amendment allows beneficiaries to receive 90-day prescriptions and other related benefits through community pharmacies. Senator ENZI represents the great State of Wyoming in which a pharmacy—I am sure in some of the smaller communities—might be the only source of pharmaceutical supplies and medical advice and many other things. Pharmacies are an important part of the fabric of a community. To deny seniors the right to get their pharmaceutical supplies from these pharmacies would not only be wrong but inefficient. If that is where they would like to get their prescriptions, they would be assured they can get the benefit through the local pharmacy under this amendment.

Rhode Island is a little different from Wyoming, but pharmacies in Rhode Island have the same role in the lives of seniors, particularly in terms of getting their benefits and other important health care services. This amendment would allow beneficiaries to obtain 90-day supplies through the community pharmacist, wherever they are.

This does not exclude mail order, but it simply makes sure it is not the only option that seniors have; that they can continue to rely upon the local pharmacy for their benefits.

I should say something else. Not only is the local pharmacy a source of pharmaceuticals, it is usually an excellent source of advice and assistance by trained pharmacists. Increasingly, these pharmacists are taking on a very important role in advising seniors, within the limits of their practice, as to the appropriate use of pharmaceuticals and are also a source of advice on many other health care issues. So I hope my colleagues would agree that we should encourage the use of local pharmacies. This amendment will help do that.

I again commend Senator ENZI for his work and leadership on this issue. We share a common belief that professional pharmacy is a critical part of our health care system. If we allow pharmacists to operate, we will get the benefit of their expertise, and it will redound to the health needs of our seniors and to the financial responsibilities that we face in enacting this legislation.

I urge all my colleagues to support this amendment.

I yield the floor.

Mr. ENZI. Madam President, I thank the Senator from Rhode Island, Mr. REED, for his efforts on this bill and the efforts on all the other ones we worked on together over the years. We came to the Senate at the same time and served on the Health, Education, Pensions and Labor Committee since that time. I think we have been able to reach some reasonable solutions before, and we will have yet another one here. I appreciate his comments and his work.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, there are 5 minutes evenly divided before the vote on the Stabenow amendment.

Who yields time?

The Senator from Michigan.

Ms. STABENOW. Madam President, I appreciate those who are cosponsoring my amendment and have joined with me. I ask unanimous consent that Senator LIEBERMAN's name be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. This amendment is very simple and very straightforward. What we are saying is, seniors ought to have every possible choice for their prescription drugs, and one of those choices should be under traditional Medicare.

Today, 89 percent of seniors and those with disabilities in our country are under the traditional Medicare insurance plan; only 11 percent are not. We want to make sure, in this amendment, those seniors who are under traditional Medicare—choosing their own doctor, having the confidence to know that regardless of where they live they will have the same premium, the same cost, the same benefit, the dependability of Medicare—that they, in fact, will be able to choose traditional Medicare.

Under every cost estimate we have looked at, in terms of administrative costs, the growth in programs, other kinds of costs, Medicare has always come out less expensive than the private plans that have been compared to it. So, in fact, this does not cost more money, it costs less.

In our proposal, we stay within the $400 billion parameters by allowing the Secretary of HHS to actually modify the plan to stay within the $400 billion in the budget resolution. This is no additional cost. This is a question of choice and making sure seniors who, overwhelmingly, choose to stay in traditional Medicare have the opportunity to do so. I ask my colleagues to join with us in creating true choice for our seniors.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Madam President, it is my understanding that CBO has evaluated the information just provided them by the Senator from Michigan, and they are standing by their opinion that her amendment will cost an additional $50 billion over 10 years. So while the Stabenow amendment does violate the budget, which allocates $400 billion, it is my understanding the leadership on this side does not want to raise a point of order and would like to take this vote just straight up on its merits.

The provisions of this bill offer Senators a choice between a new way or the old way. I ask my colleagues: Do you want to go the way of Government price control in which you put a bureaucrat between you and your medicine cabinet regardless of Medicare's terrible experience in evaluating market prices on prescription drugs? If you believe this is the way Medicare's future is best provided, then you should vote for the Stabenow amendment.

If you want to try a new way, if you want to see if the marketplace actually works to provide more choices, more cost control, and even better quality and innovation, then you should vote with the bipartisan agreement that has the support of, I believe, a majority of Senators.

This bill presents a choice between the past and the future, between Government, central planning, price controls, and a marketplace that can evolve. But that marketplace will not evolve if Government comes in and says, on a permanent basis: we are going to be the other choice. I can promise you capital will not follow, and there will be no marketplace developed.

I think seniors of this country are due a prescription drugs package that can pass and that the President will sign. The President is not going to sign a Medicare and Prescription Drugs bill that comprises the Stabenow amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, prior to 1965, seniors had to go to private insurance companies to get their health care. Half could not find or afford private health care. That is why we created Medicare.

Now we are looking at the opportunity to keep that choice for seniors, plus the opportunity to expand. If they want to be in an HMO, if they want to be in a PPO, they can find insurance in their community. That is terrific. That is their choice. But those who have chosen Medicare deserve the right to pick that choice.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oregon.

Mr. SMITH. Madam President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. SMITH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 931.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN), are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. KENNEDY) is absent attending a funeral.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 58, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—37

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Johnson
Kohl
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—58

Alexander
Allard
Allen
Baucus
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Jeffords
Kyl
Landrieu
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—5

Edwards
Inouye
Kennedy
Kerry
Lieberman

The amendment (No. 931) was rejected.

Mr. SMITH. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, we are now on the Enzi amendment. I ask unanimous consent that the Enzi amendment be temporarily set aside so that at 4:20 the Senate can proceed to an amendment offered by the Senator from New Mexico, Mr. BINGAMAN.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. I also ask that there be 30 minutes on that amendment equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I withdraw the second request. So the only request pending, which I think the Chair has ruled on favorably, is that we go to the Bingaman amendment at 4:20.

The PRESIDING OFFICER. That is correct.

Mr. BAUCUS. I thank the Chair.

Mr. President, pending 4:20, when the Senator from New Mexico will offer his amendment, I rise to speak about the rural provisions in the Medicare bill.

This bill has a lot of provisions to help rural America. I am very proud of these provisions. I also wish to compliment the chairman of the committee, Senator GRASSLEY. Over the last year, he and I have jointly co-authored legislation to address the imbalance in Medicare payments that exists between rural and urban areas of our country. For many rural areas of our country, providing health care services is very challenging given Medicare's current payment rates.

In rural America, Medicare often dominates. That is, most hospitals, doctors and other health care providers receive the lion's share of their reimbursements from Medicare. I know that in many communities in Montana, particularly the smallest communities, Medicare accounts for over more than 50 percent of hospitals' total reimbursements. This share is also as high in some larger towns, but certainly more the case in smaller towns.

Rural hospitals are often the major employer in their communities. It is what makes the small town tick. If it were not for the rural hospital, the population in those towns would deteriorate. I have seen that happen in a good number of communities in Montana, where the hospital—fewer than 20 beds in many cases—is the major employer in the town.

Once Medicare payments start to decline significantly, as is the case in many areas, that smalltown hospital has to close up, or converts to what is called a critical access facility and is no longer the full service hospital it was. So it is very important that rural America be adequately reimbursed under Medicare.

In addition to Medicare reimbursements, I believe we have also provided assistance to rural areas with respect to our proposed drug benefit. I believe that the drug benefit outlined in this bill will work for rural America. For example, if private drug-only plans do not materialize, our bill provides for a hard and fast fallback, a Government guarantee for rural seniors. This guarantee is important because many rural States have had an unfortunate experience with Medicare+Choice, the program that currently allows private health plans to participate in Medicare. But because there are so few people in rural America, HMOs and other Medicare+Choice plans, have found it too difficult to operate and have withdrawn.

I do not have the figures with me off the top of my head, but there are thousands of people in rural areas who once had access to a Medicare+Choice plan but no longer have that opportunity because the areas are just so sparsely populated for health plans to work. That is a real concern with respect to the prescription drug benefit we are providing in this bill; namely, will private drug plans, in addition to the preferred provider organizations, want to offer prescription drug benefits in rural America or not? It is a big question, and it is an unanswered question.

We hope they do want to come in and participate. We hope private plans that currently do not now exist will, under the provisions of this bill, when it goes into effect in a few years, want to provide prescription drug benefits for seniors. We hope that many plans want to come in and compete with each other to help reduce costs.

There is no great assurance that these private plans will reduce costs. If one looks at the HMOs, they currently are paid at a higher rate than what Medicare pays for beneficaries in the fee-for-service program. Some can make a strong argument that these private plans are going to cost more. The theory is that competition will allow them to bring down costs and provide the same benefits for seniors. So it is an unanswered question. People just do not know the degree to which these private plans are going to work. Therein lies the question: What about those parts of America where private plans do not participate? What about those seniors? How can we assure that they are going to get prescription drug benefits? The bill before us tries to address that.

The bill addresses this question by providing for a guaranteed fallback plan. In those parts of the country where there are not two or more competing private drug plans, government-backed fallback plan is guaranteed. Seniors will be able to get the prescription drug benefits under pharmacy benefit manager (PMB), or similar organization that is not required to bear insurance risk. It will only be required to bear performance risk for the administrative costs of providing the benefit. The fallback plan will not bear insurance risk as required of the private drug plans.

The purpose of the fallback plan is to make sure that rural America—in fact, any part of America where there are not two private plans—is served fairly by this prescription drug program.

As I mentioned, the bill includes many provisions to address the current imbalance in Medicare reimbursements between urban and rural America. One provision would correct differences in the standardized amount rate for inpatient hospitals. The standardized amount is higher for urban hospitals than for rural hospitals. The provision says that Medicare should pay the same across the board. Clearly, there will be other adjustments that affect different circumstances and different parts of the country, but the standardized amount would be the same rate for both urban and rural hospitals. That is extremely important to many hospitals in rural areas.

Last year's appropriations bill equalized the standardized amount for a 6-month period. This bill makes that permanent. It is a change that the Medicare Payment Advisory Commission, or MedPAC, has recommended that Congress make. This bill this and other MedPAC recommendations to heart by saying, You are the experts, you know better what is going on than anyone else.

This bill contains a couple of other important MedPAC recommendations. For example, it raises the Medicare disproportionate share threshold for rural hospitals. The Medicare DSH program says if you are a hospital and have a disproportionate number of people under Medicare who are low income, you should receive extra assistance under Medicare. Our bill raises that threshold for rural hospitals a little higher.

The bill also adjusts payments for hospitals with very low patient volume. We know volume is a big component of whether a hospital is able to make ends meet.

The bill extends the rural home health add-on payment at a level of 5 percent. Home health care is extremely important in rural America.

This bill includes other provisions that not necessarily rural specific. For example, the legislation increases payments to dialysis providers, including those in urban areas, for a 2-year period.

The bill provides desperately needed assistance to urban hospitals that provide a disproportionate share of services to low income individuals. These hospitals are struggling with growing pressures of more uninsured and low income patients. It is not fair for those hospitals that have to bear these costs. They have to provide charity care. In fact, in many respects under the law they are required to. This gives them a bit of a break with these burdens and their nursing shortages

The bill provides much-needed regulatory relief for both rural and urban hospitals. We have heard from doctors and hospitals that say the carriers and fiscal intermediaries are too heavy-handed; they assume physicians and providers are guilty when they question reimbursement, instead of assuming we are innocent. The regulatory relief measures in this bill address this concern. These provisions are significant and go a long way to assure providers spend less time on paperwork burdens and more time with their patients.

Some may say that this bill does not go far enough to relieve these burdens. A lot of doctors and hospitals administrators will say: Gee, why all this Medicare paperwork? We want to spend time with our patients. Nevertheless, the regulatory provisions of this bill will reduce paperwork and unnecessary regulation.

I realize there are a number of provider provisions—with respect to doctors and hospitals and other providers—that are not addressed in this bill. These provisions include payments under the Medicare physician fee schedule, which will be cut in 2004 through 2007 unless further congressional action despite an additional $54 billion in the bill we passed earlier this year. We recognize the need to address these impending cuts in the future. Physician's fees are projected to drop significantly. We cannot address that in this bill. We do not have the money. That is a problem we will have to face in 2004. I alert Senators, that will be expensive. We will have to deal with it.

There are also Senators who want to address what is called IME, or indirect medical education. This is the special payment adjustor under Medicare for teaching hospitals. It is now currently reduced to its lowest level ever. That is, teaching hospitals are receiving less to help train physicians across the country. That is a concern many have. We are going to try to deal with that as best we can as this bill progresses.

Nursing home payments are not addressed. Many Senators have talked about addressing some of the problems facing nursing homes. They, too, experienced a sharp reduction in payments over in 2003. This list of payment provisions is not limited. There are several other provider provisions about which many Senators have raised concerns.

Our ability to deal with these additional issues is limited. Why? Because this is a $400 billion Medicare package. The fact remains, this is a package of relatively sparse drug benefits. Yes, $400 billion sounds like a lot of money, and it is. But $400 billion extended over 10 years, means that we have to carefully consider what the amounts should be for the deductible, copayments, and the premiums. The numbers are OK, but they are not great.

I don't want to oversell this bill or over promise. This legislation is a step in the right direction. This is a good first chapter. It is a start in providing prescription drug benefits for seniors. We only have $400 billion so we have not been able to address these other provisions. We would like to. We would like to find a way to deal with them. But at this time, the dollars are simply not there.

I might add, we will do what we can in future days, weeks, and months to try to address these concerns.

I know the chairman of the committee, Senator GRASSLEY, wants to work with our colleagues to address these provisions and also provide a fair deal for rural, as well as urban, folks in America. We want to address future geographic inequities with respect to the drug benefit. The fact is, rural States are very concerned if we enact this prescription drug benefit, are going to come out on the short end of the stick. More federal money will end up going to go to urban seniors. That will cause a great problem.

At the same time, seniors in urban areas are afraid the money will go to the rural areas, that the urban cities will end up on short end of the stick. The fact is, we do not know how it will work. We just don't know. Senator SNOWE offered an amendment in the Finance Committee for a study to address possible geographic inequities in drug spending across the country. She later amended it, made it a little stronger, to say that HHS will have the discretion to address any geographic inequities. There may be an amendment on the floor to require the HHS Secretary to address the inequities.

It is a point about which we are all very sensitive. We are trying to find a way to make this geographic adjustment process work. Geographic adjustment for drug spending has never been tried before. It is uncharted territory. We just don't know. It probably makes sense the Secretary have discretion.

That is a short summary of some of the rural provisions in the bill. I see the Senator from Texas is on the Senate floor. Does the Senator from Texas wish to speak at this point?

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I appreciate the Senator from Montana giving me a chance to say just a few words.

May I inquire, my understanding was Senator BINGAMAN was going to be coming at 4:20 under a previous agreement to speak, but there also was a possibility I might be allowed to continue a while longer, perhaps 20 minutes.

The PRESIDING OFFICER. Is there objection to the modification of the agreement?

Mr. BINGAMAN. Mr. President, I have no objection to the request of the Senator from Texas who asked if he could be allowed to speak for 15 or 20 minutes before we begin my amendment. If that is not a problem for the manager of the bill, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. I express my appreciation to the managers of the bill and Senator BINGAMAN for his courtesy.

This is obviously a critical issue that confronts the Senate, one this body has talked about for a long time. It appears we are on the precipice of actually delivering what many of us have campaigned on, on both sides of the aisle, in previous elections.

Medicare has been a successful program for the last 30 years, and it has served our seniors well. But it faces major challenges. Obviously, we are all interested in strengthening Medicare so it will continue to be a program that will serve our children and grandchildren as it has our parents and grandparents. Medicare was created in 1965 and reflects the state of health care in that year. While the world has changed and medicine has changed, Medicare has not changed. It is time to improve and strengthen Medicare so it can serve the needs of Americans of this generation and the next, and can also be within our fiscal constraints.

Medicare is stuck in 1965, and so are its beneficiaries. Medicare's promise falls far short when its recipients suffer from outdated and inadequate benefits, limited protection against rising medical costs, or a stodgy Government plan that cannot deliver responsive medical services or ensure high-quality health care.

While health insurance has followed the demands of the free market, Medicare still lacks catastrophic protection or full coverage of many preventive benefits in a comprehensive outpatient prescription drug benefit.

One of the critical improvements included in this bill is immediate assistance, in the form of prescription drug coverage, for those seniors who cannot currently obtain it or who do so only at great economic hardship and great personal hardship. I have supported the principle of a prescription drug benefit from day 1 for the seniors who need it. I am proud to reiterate my support here today.

Having said that, I have significant concerns about the legislation that is before this body—some aspects of it, significant aspects of it. While a prescription drug benefit and expanded treatment choices will help America's seniors, this bill falls substantially short of President Bush's framework for reform. If we endorse this legislation without real and meaningful reform, we rush to satisfy political interests rather than take the time to form sound policy, and we do a great disservice to the Medicare beneficiaries who depend on this coverage, to our constituencies, and to the future generations who will have the financial burden to pay for it. Ultimately, if we do not take care, we could do more harm than good.

According to estimates of the Congressional Budget Office, this plan will have unintended ramifications for Americans. It will force nearly 40 percent of retired Americans who currently have prescription drug benefits under private plans onto taxpayer-paid plans that would be provided under this bill. The CBO, the Congressional Budget Office, predicts that only 2 percent of seniors will actually choose the only vehicle for reform provided for under this bill, that of the preferred provider organizations, the PPOs, while the rest will remain in Medicare basically as it currently exists with a prescription drug benefit added, hardly what we could call true reform.

We should not fool ourselves. What we are actually providing seniors under Medicare, and through this bill, is actually very different from what Members of Congress receive. Under the Federal Employees Health Benefits Plan, all of us in this body, along with 10 million Federal employees, can enroll in a number of flexible preferred provider organizations. The plans we can choose as Federal employees do not have restrictive price caps, and they provide for more choice. As a result, those of us who work for the Federal Government can obtain better coverage and treatment than the vast majority of our constituents. This disparity, I believe, should not be tolerated under this plan, especially one that charges under the banner of reform.

Price controls are a recipe for long-term disaster. The best determiner of price in a product is the free market, not government bureaucrats sitting in darkened cubicles wearing green eyeshades. My other concern is that this purports to be a universal entitlement, based on nothing like what we have talked about in many of our campaigns, which is actually need. It will provide a prescription drug benefit to millionaires, including Members of this body who just do not need it. I question the morality of any proposal that would take the hard-earned money out of the pockets of truck drivers, schoolteachers, police officers, small business men and women and single moms, to subsidize a prescription drug benefit for people who are well to do.

When it comes to health care, I believe the proper role of government is to protect the freedom of all people to act as they see fit to maintain and improve their health care. Today, millions of Americans suffer from chronic diseases that are for the most part preventable. Our Nation spends about $1.4 trillion a year on health care—more than any other country in the world—and chronic diseases account for roughly 75 percent of those health care costs. Preventing disease before it happens is better, more humane, and less expensive than curing disease after it manifests itself, and prevention can lead to a far better quality of life. If Medicare is to adapt to the demands of a new populace, it must become a system refocused on the importance of preventive care.

I strongly believe that real positive change in our Medicare system must begin with the foundation of individual responsibility and the choices that can only be provided by the free market—not by a government mandate.

We must not offer up a short-term legislative answer that plays politics with people's health and the needs of future beneficiaries. We should not tinker only around the edges and call it reform.

As we work over this week and next to produce a solution to this challenge that lies before us, we cannot allow ourselves to believe our striving will fail, and we must not convince ourselves we have already succeeded.

In conclusion, let me say it is my most ardent hope that this bill, which I know was produced by great effort of the staff and on a bipartisan basis by the Senate Finance Committee, can be improved and that the improvement will allow us to make sure the benefit is targeted to those seniors who actually need the help and not millionaires, thereby having the wealth transferred out of the pockets of hard-working Americans to pay for a prescription drug benefit for millionaires and others who are well to do.

Second, let us make sure we don't crowd out private dollars that are currently paying for prescription drug benefits for many retired persons which they have negotiated under the terms of their retirement or pension plan. Right now up to 40 percent of those dollars will be chased off and the Federal Government—in other words, the taxpayer—will step forward and fill that gap. That is something we should not allow.

Third, if this is truly going to be reform, it has to be something more than business as usual.

What concerns me quite a bit is on the one hand the OMB estimates that some 40 percent of seniors will opt for the true vehicle for reform—the PPOs, the preferred provider organizations—but, on the other hand, another agency of the Federal Government, the Congressional Budget Office, says No, it won't be 43 percent. It won't be 40 percent. It will be 2 percent.

In other words, if the Congressional Budget Office is right, we will not have accomplished what the President has asked us to do and what many in this institution believe is so important: that is, true reform.

It is my hope and prayer we will be able to make the necessary adjustments to this very good start. But there are some very grave concerns that I and others have about the bill as it currently exists.

In a tight budget, I hope we do not vote for what is by most conservative estimates a $400 billion new entitlement on top of $2.2 trillion the Federal Government commits to nondiscretionary entitlement spending each year, unless we make sure it is absolutely necessary and targeted to those who need it most, and that it does not supplant other private insurance and other measures designed to provide prescription drug coverage for our seniors.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 933

Mr. BINGAMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 933.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To eliminate the application of an asset test for purposes of eligibility for premium and cost-sharing subsidies for low-income beneficiaries)

On page 120, between lines 16 and 17, insert the following:

"(I) ELIMINATION OF APPLICATION OF ASSET TEST.—With respect to eligibility determinations for premium and cost-sharing subsidies under this section made on or after October 1, 2008, such determinations shall be made without regard to subparagraph (C) of section 1905(p)(1) (to the extent a State, as of such date, has not already eliminated the application of such subparagraph).

Mr. BINGAMAN. Mr. President, this is a very straightforward, simple amendment that deals with a problem that is buried in this legislation and which really needs to be dealt with. That is the so-called assets test. My amendment would eliminate the assets test beginning in the year 2009.

The first obvious question everyone should be asking is, What is the assets test? The assets test is as follows: The bill provides a more generous set of benefits for low-income individuals and low-income couples. That is as we intend.

I think all Members of the Senate recognize that those who have the least in the way of income really need the most help in paying for their prescription drugs, particularly when you are dealing with seniors who are not, in most cases, out in the workplace able to increase their income. We believe the proper, the humane, and the compassionate thing is to provide this greater level of subsidy for low-income individuals.

In particular, we look at those individuals with incomes up to 160 percent of poverty. That is the figure we have in this legislation. That translates into, I believe, what we are talking about. A couple with an income of perhaps $17,000 or $18,000 a year would qualify, and if they had any more income than that they would not qualify for this higher level of subsidy.

The bill also provides that if a low-income individual has as much as $4,000 in assets, that individual is not entitled to that subsidy in the same way others would be.

For example, if you have a 70 or 75-year-old widow who is receiving $5,000 a year in income or $6,000 a year or $8,000 in income and that widow also has $1,000 in U.S. savings bonds, and a car that has a blue book value of $3,100, then that widow is not entitled to the full benefit unless and until she goes out and either sells the savings bonds or sells the car or somehow or other impoverishes herself to be able to demonstrate she does not have assets worth $4,000.

This is a test that was put in the law many years ago. It is one that adds great complexity to the law. In fact, a major effect of this assets test is to discourage a great many low-income individuals from even applying for the increased benefit that is provided for in this legislation because the requirements for reporting, filling out forms, getting blue book values on your automobile—these are complicated requirements that discourage people from applying across the board.

I also point out that under this assets test, not only is it $4,000 for an individual—so if you have $4,000 worth of income, of assets, as a widow, you fail the assets test—but if you are married, it is then $6,000. A lot of the Members of this Senate and the Congress have given speeches about what a terrible thing the marriage penalty is. Here is another marriage penalty that is in the law we are dealing with today. This is a penalty which says, if you get married, your ability to hold on to assets and still get this full benefit is reduced. You cannot hold on to as many assets. You can only hold on to $6,000 as a couple whereas you could hold on to $4,000 as an individual.

In my view, the justification for this assets test has long since gone away. The reality is, if people are unable to work, as most seniors are, unable to increase their income, if they are low-income individuals, and if they have very substantial prescription drug costs, they need the assistance we are providing in this legislation—or trying to provide in this legislation—and we should not take that away from them by virtue of their having $4,000 worth of assets as an individual or $6,000 worth of assets as a couple.

Let me elaborate on this a little bit more. There are about 40 million seniors and people with disabilities who depend on Medicare who could benefit from this prescription drug coverage we are talking about in this bill, and this assistance is particularly critical for those low-income individuals. Here we are talking about 14 million beneficiaries who have incomes less than 160 percent of poverty. Many of those individuals are in the State the Presiding Officer represents. Many of those individuals are in my State of New Mexico.

The bill provides a significant benefit to those low-income seniors and individuals with disabilities, but it does so only if they do not fail the assets test. I do not know the exact figures, but the Congressional Budget Office estimate is that 21 percent of Medicare beneficiaries who would otherwise qualify for this low-income benefit in fact will be denied that full benefit because they fail the assets test.

In fact, for those below 100 percent of poverty, if they fail the assets test, their cost sharing is increased, under this bill, by 400 percent. For those between 100 and 135 percent of poverty, the assets test causes their cost sharing to increase by 200 percent.

I believe strongly that in the year 2009—which is what I have in my amendment—we should eliminate the assets test. I would propose we do it earlier, frankly, but I am informed that the Budget Committee has calculated the cost of the bill in such a way that there is no funding available for us to do anything such as eliminate the assets test before the year 2009. So I have crafted the amendment so that it would become effective in the year 2009.

In addition to protecting low-income beneficiaries below 135 percent of poverty from much higher costs, much higher copays due to this assets test, it should also be noted that the assets test significantly increases the paperwork burden on seniors and on individuals with disabilities.

While the underlying bill provides physicians and other health providers with regulatory relief—and that is one of the things we keep talking about when we try to describe the benefits in this bill—I fear the bill will significantly complicate the ability of Medicare beneficiaries to receive prescription drug coverage, particularly low-income individuals. They may need—I said this in the committee during our markup, and I believe it is not a totally facetious statement—they may need an accountant or a lawyer just to figure out the paperwork having to do with this assets test and how they can access these benefits.

We should not be putting people to the choice of selling their car or liquidating their U.S. savings bonds in order to get the benefits of this bill. There are a great many low-income individuals who have very high prescription drug costs. That is a very unfortunate fact but one we are trying to come to grips with here.

Under the bill, if they fail the assets test, their copay requirement is 10 percent up until they hit the so-called doughnut portion of the bill, which means essentially $4,000 of prescription drug expense in any given year; and then for the next $1,500 or $1,800 beyond that, they pay a 20-percent copay. If you have high prescription drug costs, a 20-percent copay is substantial. If you have high prescription drug costs, even a 10-percent copay can be substantial if your income is extremely low. And that is the group we are talking about here.

So, Mr. President, I hope my colleagues will support the amendment. It is done in a responsible way. It is not drafted in such a way that it would take effect immediately. It takes effect in the year 2009, when we are advised by the Budget Committee funds will be available to pay to eliminate this assets test. It clearly is the right thing to do. It is the humane thing to do if, in fact, we are serious about helping low-income seniors deal with this very substantial burden. We should adopt this amendment and eliminate the assets test as soon as we can afford to do so. And the Budget Committee tells me that is in fiscal year 2009.

So I hope very much colleagues will support the amendment.

Mr. SPECTER. Mr. President, I have sought recognition to express my support for increased funding for rural hospitals. Pennsylvania is a geographically and demographically diverse State, and the health care needs of the communities across the Commonwealth differ significantly. But there is one constant—access to appropriate health care is critical, and if we are not prudent in making wise health care policy decisions now, we may jeopardize our citizens' ability to get the right care, in the right setting, at the right time.

We must be aware of the pressures and challenges that constantly weaken the foundation of the health care system—the medical liability insurance crisis, inadequate State and Federal reimbursements, workforce shortages, growing uncompensated care costs, rising costs of technology and pharmaceuticals, bioterrorism planning and training, and a growing elderly population. As we look at restructuring a segment of the Medicare Program, we have the opportunity to strengthen that foundation. Improving our prescription drug benefits will not help the senior citizens of this country if health care providers cannot meet their needs.

We must also remember that our actions here in the Senate and by our colleagues in the House have implications not only for the quality and stability of our health care system but for our economic health as well. A recent study completed by the Penn State Cooperative Extension and the Pennsylvania Office of Rural Health shows that the State's hospitals are the largest component of the health services sector, generating more than $33.9 billion to the State's economy. This includes 260,000 full- and part-time jobs, a payroll exceeding $9.3 billion, and a ripple effect that provides another 179,400 jobs and $5.4 billion in additional employee compensation. In many counties, the hospital is the No. 1 employer. Furthermore, the State's research hospitals have been identified as an integral component of biotechnology clusters, serving as an engine of growth in the new economy.

Given all of these dynamics, we must support a legislative plan that adequately funds hospital and health systems. This plan must recognize that our rural communities face a unique set of challenges because they are often the only provider of health care in a vast geographic region and they have greater difficulty recruiting health care workers and physicians in today's health care climate. Such a plan should also include two major rural provisions dealing with the standardized rate amount and a change in the labor component to 62 percent. The standardized rate amount will allow rural hospitals to receive a Medicare standardized payment rate equal to the higher rate paid to urban areas. The adjustment of the labor component from 71 percent to 62 percent for rural hospitals will allow rural hospitals, which traditionally have low labor costs, to base a larger portion of their Medicare reimbursement on nonlabor provisions, thereby receiving a higher reimbursement from Medicare.

I urge my colleagues to join in making sound health care policy decisions to ensure we are strengthening the foundation of our health care delivery system in those areas in which it is most vulnerable.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I wish to take a few minutes to address the Prescription Drug and Medicare Improvement Act of 2003 in a very basic way, and that is to answer some of the questions I have received over the last several days since we have captured much of the attention both of the media as well as constituents around the country who realize we really are going to pass very significant, very important legislation that will affect their lives, that will affect the lives of seniors, individuals with disabilities, and that will affect the lives of future generations. And this will happen in the next 12 to 13 days.

It goes back to the question of, Do we really need to change? Are things really that different that they demand the sort of response we are putting forward where we talk about strengthening and improving the Medicare Program overall and at the same time providing prescription drug coverage for seniors and individuals with disabilities that is not being provided today, and do it in a way that can be sustained over time, recognizing that we will have a huge demographic shift of seniors over the next 30 years as a product of the baby boom following World War II. That fertility curve, that baby boom moving through the system begins to hit about 2007, 2008. That is when the curve moves through.

For the next 25 years after that, we will see this huge explosive growth in the number of seniors with fewer and fewer workers actually paying into the system.

We have now been on the bill Monday, Tuesday, and Wednesday, after having over 30 hearings on Medicare over the last several years and several hearings this year specifically on prescription drugs and Medicare modernization in the Finance Committee. We have done it in a very systematic way, in a bipartisan way that I think captures the very best of what this institution is all about, recognizing that we do not know all of the answers, we cannot cure all of the problems.

We have to be very careful not to overpromise because everybody wants as much health care resources as possible, so we cannot overpromise. As I say, we need to reform the system in a way that does not just respond to the needs of today but responds to the next year, 5 years from now and 10 years from now. Since we cannot do it perfectly now, we have to do it in a way so that the system is flexible and allows us to adapt appropriately.

Working on a bipartisan basis, the goal is to deliver a secure Medicare Program that is comprehensive and, at the same time, offers maximum choice with that increased flexibility and that much-needed prescription drug coverage which seniors do not have today through the Medicare Program.

I look forward to the continued debate over the next 10, 11 days on how we collectively determine how best to accomplish those goals. I am confident we will be able to cull the very best ideas from both sides of the aisle to pass a responsible and effective plan.

As I mentioned, I want to limit my comments today to about how medicine, science, and health care delivery has evolved and, indeed, how that evolution, which has been very rapid in terms of breakthroughs in science, which I have been privileged to watch and participate in as I was in the field of medicine for 20 years before coming to the Senate—it has been miraculous in so many ways. When I close my eyes, I see my patients with artificial hearts I had the privilege of implanting, and with the heart transplants I was blessed to do on a weekly basis or even more often. I was involved in not the whole period since 1965 when Medicare began, but shortly thereafter, I was in the active practice of clinical medicine over that period of time.

If we just look at the last 10 years, life expectancy has increased by around 2 to 3 years, and if we look at the last 40 years, going back to about 1960, life expectancy increased 10 years in that period of time since Medicare was begun.

Death rates from heart disease have been cut in about half over the period since Medicare began. Heart disease happens to be the field in which I specialized.

If we look at the field of cancer, whether it is prostate cancer, breast cancer, or colon cancer, because of new treatments, new medicines, and new diagnostic tools, we have seen markedly increased patient survival rates. At the same time, we have seen these great medical breakthroughs in the health care delivery system, the private health care delivery system—not Medicare—but the private health care delivery system has evolved and has responded.

The problem is that the underlying Medicare system itself has not evolved. In fact, there has been very little change in the Medicare system since 1965. So we have all these great medical advances and advances in health care delivery over time which has skyrocketed, with improved advances throughout, but we have a Medicare system that has changed very little. It is this gap, this difference between the great breakthroughs in medicine, science, and health care delivery and the pretty much nonchanging Medicare system. That gap is what we are attempting to fill, to respond to as we go forward.

Medicare was designed to respond to an acute illness. Let's say you are healthy and all of a sudden you have a heart attack and you have a good response to that heart attack in hospital treatment, and it worked pretty well as long as that was what health care delivery was.

Today, the situation has changed markedly. Preventive medicine today is exponentially more important than in 1965. Why? Because we understand how to prevent disease, how to maintain health. In 1965, we did not fully understand the nature of the science of preventive medicine. It simply was not developed in 1965 to the degree it is today. Yet we have a Medicare system which has—I came close to saying almost no preventive care is provided in Medicare today. That is a little bit of an overexaggeration because we have to legislate that, yes, Medicare does cover mammography. Almost every one of these procedures has to be legislated, and with so many advances coming through quickly, we cannot keep up.

There is very little preventive care in Medicare today. Yet we all know how important it is if we look at managing one's health today, maximizing one's health.

In the 1970s, health care responded to acute episodic illnesses. Today it is preventive health care, maintaining wellness, management of chronic disease on an outpatient basis, using medicines, but Medicare has not changed very much.

I will give a couple of examples. Again, the goal is health care security for seniors. If you see a senior, you want to be able to say: The Government is helping you with health care security, and health care security means we have to include prescription drugs.

I mentioned Medicare lacks good preventive coverage. It also lacks the wellness care in chronic disease management. For example, Medicare does not cover cholesterol screening. If we look at heart disease, cholesterol is important. Yet Medicare does not cover cholesterol screening.

Medicare does not cover an annual physical examination today. I do not know if it has to be every year or every 18 months, but the point is, systematic regular examinations, if you are going to pick up that cancer when it is small or that heart disease before it becomes a massive heart attack, you can do it through annual physical exams, but they are not covered under Medicare.

Medicare does not protect at the extreme end, what we call catastrophic. That means if you are sick enough, if you have a lot of out-of-pocket expenditures, Medicare has no limit to that. Today if you have a catastrophic illness, there is no upper limit. A lot of people do not realize that.

The one issue we talk a lot about, because it is probably most dramatic, is that Medicare does not at all cover outpatient prescription drugs.

Thus, we have gaps in coverage for seniors. We are promising them health care security which they deserve, and yet we have these huge gaps in coverage which have been created since 1965. It is our obligation, our responsibility to respond, and, thus, over the next 12 days we will be putting together a bipartisan plan—though we do not know all the answers—we will be putting together the very best of what we do know to respond to these needs.

Today, on average—and a lot of people do not understand, or they were not aware of this, so it is important for us to keep saying it—Medicare covers right at about half of what a senior's medical care expenses are. Most think it covers 80 or 90 percent. If one is not yet a senior, it is important for them to know what their Government is doing for them now is to cover only about half of the expenses. Again, most people are not aware of that.

The response to that is that seniors and individuals with disabilities try to fill those gaps on their own, sometimes successfully, and many times not. They try to do it through Medicaid. They try to do it through private supplemental insurance programs, only to find that they are hit with these skyrocketing premiums that are growing 10, 15, 20 percent a year at this point. Or they find that their employer on whom they were depending is scaling back on the benefits that they once had when they were working full time.

I say all of this because it is important for people to understand why we are aggressively moving ahead in the way we are to develop a strengthened and improved Medicare plan.

I mentioned the lack of prescription drugs. If we look at aging, our population over the age of 65, we know prescription drugs become even more important than they are under 65 years of age or under 50 years of age or under 45 years of age, and that is new. It is really within the last 30 years that these medicines have become so important. Thus, it is our obligation to strengthen and improve access to prescription drugs.

I have had the privilege to observe a lot of this as a physician, and I will give a couple of examples. Over the past 3 decades—remember, Medicare started in 1965—the death rate from hardening of the arteries, or atherosclerosis, the underlying pathology within the heart, has declined by 74 percent. Deaths from ischemic heart disease—ischemic is low blood flow where the heart is not getting enough oxygen and blood, and that is what causes a heart attack, hardening of the arteries, myocardial infarction, heart attack—death rates have fallen over the last 30 years by 60 percent.

People ask why. There are lots of reasons, but I would say one of the major reasons is medicines today, that we are treating high blood pressure earlier; we are treating congestive heart failure earlier before these deaths from ischemic and other heart disease occur. Medicines that were not around 30 years ago are the beta blockers. It actually makes the heart so it does not beat so hard. If it is not beating so hard, it does not consume as much energy and does not need as much oxygen. Therefore, low blood flow to the heart does okay. Other drugs called ACE, A-C-E, inhibitors, the medicines, in large part, have explained this increasing survival fall in mortality.

Over the last 30 years since Medicare began, death rates from emphysema, or lung disease—a type of lung disease called chronic obstructive pulmonary disease, emphysema, is one of those two types—have fallen by 60 percent in large part because of the use of anti-inflammatory medications—they decrease the inflammation in the lungs—and also a group of drugs call bronchodilators, which dilate those little bronchial air waves in the lung. The point is, it is these medicines that in large part explain this improved health and the improved treatment of emphysema.

I have a couple of books with which I wanted to illustrate my point. Nearly 400 lifesaving drugs have been produced in the last 10 years. Meanwhile, there are over 600 medicines under development right now by the Nation's pharmaceutical research companies to treat diabetes, heart disease, cancer, stroke, and peripheral vascular disease.

I mentioned these books. This is called the PDR, the Physicians' Desk Reference, for pharmaceutical specialities and biologicals for the physician's desk. Every physician in the country uses this on a regular basis because it allows them to look up individual medicines. It gives the descriptions, the side effects, and the contraindications. No matter how smart one is or how much time one spends with it, there is no way to remember all of these drugs or everything in the book, although some people may be able to.

The point is, this book was printed in 1965. This is the year Medicare was actually passed and then implemented. That was over 30 years ago. Again, this book has 1,060 pages in it. The type is pretty small. It is just medicine after medicine. When I see this, I am kind of glad I do not have to know all of that right now because there is so much in it.

This PDR is the 57th edition, and this one is from 2003. It is pretty interesting to me because this first book is when Medicare started, and this other book is where we are today. Today's book is a little bigger but it is a lot thicker, and instead of having 1,060 pages in it—these are not all lifesaving drugs but all drugs which have a real importance in terms of treating and quality of life—this book has 3,500 pages in it. I wish I could show this to the Chair, but the type in this new book is about half the size of the type in the old book. So the truth is, it is about 6,000 pages.

The point is, medicines make a difference. They made a difference in 1965. They really make a difference today. Seniors do not have access to these through our Medicare system in either case. Great advances, and our Medicare system has not changed. It does not recognize that as we go forward. That is why we are here. I want to make this case of why we are here and why this is so important today that the health care system, the delivery system, has markedly improved with great scientific advances, and Medicare is not capturing it today. Our seniors deserve for those to be captured.

Next month does mark the 38th anniversary of the launch of Medicare. On July 30, 1965, President Johnson traveled to Independence, MO, to sign the bill into law. President Truman, who had initiated the drive for health care security for seniors about 20 years earlier, was on hand to receive that first Medicare card. President Johnson, upon signing that historic legislation, told the assembled lawmakers in 1965:

> The benefits under the law are as varied and broad as the marvelous modern medicine itself. No longer will older Americans be denied the healing miracle of modern medicine. No longer will illness crush and destroy the savings that they have so carefully put away over a lifetime so that they might enjoy dignity in their later years. No longer will young families see their own incomes, and their own hopes, eaten away simply because they are carrying out their deep moral obligations to their parents . . .

Nearly 40 years later, we have an opportunity to realize this noble vision. Before the end of next week, the Senate will have the opportunity to pass legislation that does provide prescription drug coverage for our seniors, that does protect seniors and gives them health care security by giving them greater choices so that they can choose the health care coverage that best meets their individual needs.

I believe future generations will judge us by the choices we make over the next several days and at the end of next week, whether we chose to act responsibly, recognizing our obligations to strengthen and improve the system, or whether we chose just to talk about it, the same rhetoric, something that we should do. My position is clear: now is the time to act. I am delighted we are acting in a bipartisan way. Now is the time not just to tinker and play around the edges, but it is time to truly transform the system.

We have a responsibility to provide our seniors with a system that works, that indeed gives them health care security, and now is our opportunity to deliver it. It will require us to focus on the big picture. It will require us to focus on the future. It will require us to focus on our fellow citizens, whom we are so privileged to represent.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Utah.

Mr. HATCH. Madam President, I compliment the distinguished majority leader for his excellent set of remarks today. The comparison between the two PDR books is startling. Anyone who looks at it has to admit we have come a long way since 1965.

This bill was a great addition to the health care for our people. It could not have happened without the distinguished Senator from Tennessee, our leader, plus the distinguished Senator from Iowa, Senator GRASSLEY, and the distinguished leader from Montana, Senator BAUCUS. I appreciate having a doctor in the Senate. As a former medical liability defense lawyer, I have to say I have always respected Senator FRIST very greatly, but nothing comes close to how much I respect him as a physician, as somebody who cares for people and has given so much of his life to healing people.

I am very grateful to .have heard these remarks today.

Mr. FRIST. I thank the Senator.

AMENDMENT NO. 933

Mr. HATCH. Madam President, I will only take a few minutes, but I rise in opposition to the Bingaman amendment.

First, let me make one thing clear, and perfectly clear:

The assets test in S. 1 is the same assets test used for determining eligibility for the qualified Medicare beneficiaries, QMBs, specified low-income Medicare beneficiaries, SLMBs, and qualified individuals, QI–1s.

S. 1 provides a generous low-income subsidy for those who are below 160 percent of the Federal poverty level. Currently, in order for some individuals under 160 percent of poverty to receive limited Medicaid protections, they must meet both an income limit and an assets test.

In S. 1, we simply follow these same rules in order for low-income beneficiaries to receive assistance with their prescription drug coverage.

By including the Medicaid assets test for Medicare prescription drug subsidies, we are providing beneficiaries with seamless health coverage. We are not confusing beneficiaries and we are not adding additional administrative burdens to States.

Let me give you some background on the current assets test included in the Medicaid program.

Qualified Medicare beneficiaries are individuals below 100 percent of poverty. In 2006, the annual income limit is $9,670 for individuals and $13,051 for couples. QMBs are allowed to have assets below $4,000 for individuals and $6,000 for couples.

Specified low-income Medicare beneficiaries and QI–1s are those with incomes between 100 percent of poverty and 135 percent of poverty. In 2006, the annual income limit is $13,054 for individuals and $17,618 for couples. SLMBs and QI–1s are allowed to have assets below $4,000 for individuals and $6,000 for couples.

Beneficiaries between 136 percent and 159 percent of poverty will have annual income limits of $15,472 for individuals and $20,881 for couples in 2006. Beneficiaries between 136 and 159 percent of poverty would not be subjected to assets tests.

Current law establishes resource limits for low-income elderly or disabled individuals. Let met emphasize, this is not a newly added restriction on certain low-income Medicare beneficiaries. However, current law also provides States with the flexibility to choose to disregard all or part of these resources.

The Bingaman amendment, which eliminates the Medicaid assets test limits would add significantly to the number of eligible beneficiaries.

A study prepared for the Kaiser Family Foundation estimates that as many as 11 million individuals would be newly eligible for low-income assistance if the assets test were eliminated. I have no idea how much that will cost but it will be expensive.

In addition to increasing the Federal cost of the bill, this amendment would impose a significant, new, unfunded mandate on States, which must pay a share of Medicaid benefits by paying for the dual eligible beneficiary's liability for premiums, deductibles, and coinsurance.

Also, some States may experience an additional administrative or financial impact from potential program redesigns because, in some cases, States link eligibility for their state-only programs with the eligibility requirements for these special categories of the dually eligible.

S. 1 includes a provision to require the GAO to conduct a study and make recommendations to Congress by 2007 regarding the extent to which drug utilization and access to covered drugs differs between qualifying dual eligibles who receive subsidies and individuals who do not qualify solely because of the application of an assets test.

This amendment will not only cost money, it will cause confusion. I urge my colleagues to defeat the Bingaman amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, the underlying bill, the bill from the Senate Finance Committee to provide prescription drugs for the improvement and strengthening of Medicare, provides a very generous low-income subsidy for those who are below 160 percent of the Federal poverty level. For some of the seniors below 160 percent of the Federal poverty level, there is no asset test.

Currently, in order for some of the individuals below 160 percent of poverty to receive the most generous low-income subsidies, there is an asset test and there ought to be. The crafting of this bill provided everyone a conscientious effort and decision to make possible this legislation and to make it well balanced. There were extra dollars and the decision was made to fill in the coverage gap rather than eliminate the assets test. There is no limitless amount of funds for this prescription drug benefit.

We are in a position of zero sum gain. We have $400 billion under the budget to work with. This bill works to do the most for all Medicare beneficiaries. Seniors with incomes below 160 percent and who do not pass the established asset test still receive a very generous low-income subsidy. These beneficiaries will not have a gap in coverage.

This amendment by the Senator from New Mexico will add unknown costs to the current bill. It will change the structure of the bill and affect the current Medicaid Program by adding costs that are very substantial in the outyears. Therefore, when we vote tomorrow on the Bingaman amendment I hope we will have a strong vote against it. Not that I denigrate in any way the intentions of the Senator from New Mexico. I know him to be a very conscientious Senator, to do well, and to be very thoughtful in his approach. Obviously, on this point he has some disagreement with the product of our committee that was voted out 16 to 5 last Thursday.

But, here again, we have to do the most we can within the $400 billion that the Budget Committee has given us to work with for providing a prescription drug benefit to our seniors as part of improving and strengthening the Medicare Program overall. We could have put more money into the asset test as he indicates he wants to do now with this amendment. We chose, as I indicated before, to help more people with the same amount of money by filling in the gap or, as some people would say, the donut hole.

We believe we should put as much effort as we can into taking care of that problem because, to help the very same people Senator BINGAMAN wants to help, we have put a lot of resources into the effort of prescription drugs for seniors, for those below 160 percent of poverty.

So, once again, I urge the amendment be defeated when we vote on it tomorrow.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. GRASSLEY. The first unanimous consent request is that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COUNCIL ON FOREIGN RELATIONS INDEPENDENT TASK FORCE ON BURMA

Mr. McCONNELL. Madam President, the Council on Foreign Relations Independent Task Force on Burma today released a report entitled: "Burma: A Time for Change". I am pleased to have had an opportunity to serve as a member of the Task Force along with my colleagues, Senators LUGAR and FEINSTEIN, and Representative LANTOS.

The report describes the State Peace and Development Council's repressive rule in Burma, and makes a number of recommendations including: increased humanitarian assistance for the people of Burma through NGOS, and in consultation with the NLD and other groups representative of a multiethnic Burma; an import ban on goods produced in Burma, visa denials to leaders of the military regime and its political arms, and the freezing of assets abroad; U.S. leadership in urging the United Nations Security Council to adopt a resolution that demands the immediate release of Suu Kyi and all other political prisoners, and to hold an emergency session to impose other sanctions on Burma; U.S. leadership in working with our allies and Burma's regional neighbors to bolster support for the struggle for freedom and the rule of law in Burma; no certification for Burma on narcotics cooperation as it has "failed demonstrably" to curtail drug production, drug trafficking and money laundering; and increased assistance to refugees fleeing Burma in Thailand, India, Bangladesh, and China.

I thank the council for the timeliness of the task force, and all the members for their participation.

Madam President, I ask unanimous consent that a copy of the executive summary of the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BURMA: A TIME FOR CHANGE

EXECUTIVE SUMMARY

On May 30, 2003, the Burmese military regime orchestrated violent attacks by pro-government militia on Aung san Suu Kyi, the leader of the National League for Democracy (NLD) and her supporters as they traveled outside Mandalay. At least four of her bodyguards were killed as well as a significant number of others. She has been held in custody since then. Following the attacks, the regime arrested more than 100 democracy activists, imprisoned at least a dozen, shut down NLD offices across the country, and closed schools and universities. This is the bloodiest confrontation between Burma's military rulers and democracy supporters since 1988, when the government suppressed a popular uprising against the regime and thousands were killed.

Burma has been ruled for more than 40 years by a succession of military regimes that have systematically impoverished a country once known for its high literacy rate, excellent universities, and abundant natural resources. Today, Burma is one of the most tightly controlled dictatorships in the world, lacking any freedom of speech, assembly, or the press; denying any due process of law; and perpetuating human rights abuses, such as forced labor, military rape of civilians, political imprisonment, torture, trafficking in persons, and use of child soldiers. Burma is also facing what the United Nations Childrens Fund (UNICEF) has called a "silent emergency," a health crisis of epidemic proportions. HIV/AIDS is spreading rapidly, and malaria, tuberculosis, leprosy, maternal mortality, and malnutrition are pervasive. Government spending on health and education is miniscule.

Burma is a leading producer of opium and methamphetamine for the illegal drug trade, which is a major source of corruption within Burma. Four decades of military operations against insurgent ethnic nationalities as well as mass forced relocations have created one of the largest refugee populations in Asia. As many as two million people have fled Burma for political and economic reasons; inside Burma, hundred of thousands have been internally displaced. They lack access to food, health care, schools, and even clean water.

In August 1988, a popular uprising against the military regime was brutally suppressed and thousands were killed. In 1990, the regime held elections for a multi-party parliament in which the National League for Democracy (NLD), led by Aung San Suu Kyi who was then under house arrest, won 82 percent of the seats. However, the elections were ignored by the junta and the elected parliamentary representatives never took office. The regime imprisoned hundreds of pro-democracy supporters, including elected members of parliament. Thousands more fled the country.

After the 1988 uprising, the United States imposed graduated sanctions on Burma, initially terminating economic aid, withdrawing trade preferences, imposing an arms embargo, and blocking loans the grants from international financial institutions. In 1997, based on a presidential finding that the Burmese government had committed large-scale repression and violence against the democratic opposition, the United States banned any new American investments in Burma.

In 2000, the United Nations, mandated by UN General Assembly resolutions, sent Special Envoy Razali Ismail to Rangoon to promote substantive political dialogue on transition to democratic government between Burmese government and the democratic opposition. Since then, Ambassador Razali has visited Rangoon nine times with no apparent progress toward establishing this dialogue. He is returning to Rangoon in early June.

In order to strengthen international efforts to install democratic government and end repression in Burma, the Task Force recommends that the United States take specific initiatives in four key areas:

Humanitarian assistance to address Burma's health crisis

In view of Burma's massive public health crisis, the United States should increase humanitarian assistance to Burma, provided that funds are given to international nongovermental organizations (NGOs) for basic human needs through a process that requires transparency, accountability, and consultation with the NLD and other groups representatives of a multiethnic Burma.

Although the United States should not generally provide humanitarian assistance directly to the Burmese government, the United States could provide technical assistance to the Ministry of Health if the Burmese government agrees to meet the U.S. Centers for Disease Control (CDC) standard that HIV/AIDS testing be voluntary and confidential.

The United States should work together with other donor governments, UN agencies, and if possible, the Burmese government State Peace and Development Council (SPDC) to establish certain minimal standards of independence for international NGOs operating in Burma, including clear guidelines for administrative operations, reporting, and other regulations involving duty-free entry privileges, memoranda of understanding and residency permits.

Promoting democracy, human rights, and the rule of law

In view of the recent government-sponsored attacks on members of the democratic opposition, resulting in a number of deaths, and the Burmese government's detention of Aung San Suu Kyi, the United States should urge the United Nations Security Council to adopt a resolution that demands the immediate release of Aung San Suu Kyi and all political prisoners and condemns the Burmese government's egregious human rights abuses as well as its refusal to engage in substantive political dialogue with the democratic opposition. In addition, the United States should urge the Security Council to hold an emergency session on Burma to discuss imposing targeted sanctions, which could include denying visas to leaders of the military regime, the Union Solidarity Development Association (USDA) and their families, freezing their assets and imposing bans both on new investment in Burma and on importing goods produced in Burma.

Because the Burmese military government has failed to address human rights abuses, including the unconditional release of all political prisoners, and to move forward in talks with the NLD and other pro-democracy groups toward establishing a democratic government, the United States should increase well-targeted sanctions, including an import ban on goods produced in Burma, and encourage the United Nations and other countries to join with the United States in adopting similar sanctions.

The United States should redouble its efforts with the governments of China, Japan and the Association of Southeast Asian Nations (ASEAN) countries, particularly Thailand, Singapore and Malaysia, to press the

SPDC to work with the NLD and ethnic nationalities toward political transition in Burma. The United States, as a member of the SEAN Regional Forum, should urge ASEAN to consider seriously the cross-border effects of internal problems including illegal migration, health, trafficking, narcotics and other issues connected with the internal situation in Burma. The United States should also continue to coordinate closely with the European Union on policies toward Burma.

Until the SPDC makes substantial progress in improving human rights and engaging in substantive political dialogue with the democratic opposition, the United States should strongly discourage the government of Japan from forgiving outstanding debt from bilateral grants and loans except those that directly address basic human needs. Such aid should exclude infrastructure projects, such as dams and airport renovations, and also be limited to basic human needs. Moreover, the United States should encourage Japan to use its influence with ASEAN governments to urge them to become pro-active in support of democracy and human rights in Burma.

While maintaining its own sanctions on Burma, the United States, as one of the largest donors to the international financial institutions, should urge Asian investors to press the Burmese government to begin implementing the economic measures recommended by the World Bank, International Monetary Fund and the Asian Development Bank as one of the prerequisites for further investment. The United States should also urge China to use its influence to press the Burmese government to reform its economy and move towards democratic governance in order to promote stability in the region.

In order to develop capacity for future democratic governance and to rebuild technical competence in Burma, the United States should promote cultural, media and educational exchanges with the Burmese, provided that these opportunities are readily accessible to qualified candidates, including representatives of the political opposition. The selection process should include widespread publicity of exchange and fellowship opportunities, a joint selection committee comprised of Burmese civilian authorities (academics, intellectuals) and representatives of the U.S. Embassy in Rangoon who, after consulting broadly, make their selections based on the quality of candidates and their potential to contribute to Burma's future. In addition, the United States should provide increased funding for the American Center in Rangoon as well as for English language training and scholarship opportunities.

U.S. narcotics control policy toward Burma

The United States should not certify Burma at this time because it has "failed demonstrably" to curtail drug production, drug trafficking and money laundering. In addition, the United States should not provide any counter-narcotics assistance to the Burmese government. Increased counter-narcotics cooperation should depend, at minimum, on significant steps by the Burmese government to curb methamphetamine production, to arrest leading traffickers, and to stop channeling drug money into the illicit economy.

IV. Refugees, migrants and internally displaced persons

The United States should strongly urge the Thai government to halt deportations of Burmese and protect the security of Burmese living in Thailand, regardless of their status. In addition, the United States should coordinate U.S. policy towards Thailand with donors, such as the governments of Norway, Denmark, Japan, and Canada.

The United States should provide increased humanitarian assistance, including cross-border assistance, for displaced Burmese along both sides of the Thai-Burma border as well as on Burmese's borders with India, Bangladesh, and China, as well as inside Burma. Support should be provided for clean water, sanitation services, primary health care, reproductive health, and health education for refugees and undocumented migrants living in refugee-like circumstances. Support of education, especially for women and children, is also critical.

The United States should urge greater access by international NGOs and UN agencies to northern Rakhine State provide humanitarian assistance and monitor abuses committed against Muslim communities and returned refugees.

SAVING FREEDOM OF SPEECH

Mr. HOLLINGS. Madam President, we are in trouble. The Federal Communications Commission, by a three to two vote, is prepared to bring about monopolistic control of the news, monopolistic control of the media, monopolistic control of entertainment. Public interest rules for cross ownership and market control are being abolished and no one points this out more cogently than Mortimer B. Zuckerman, Editor in Chief, in the June 23, 2003 edition of the U.S. News and World Report. The Congress will be compelled to act if we are to save freedom of speech in this country. To understand the issues I ask unanimous consent that the article be printed in the RECORD. I also commend to my colleagues the Columbia Journalism Review—www.cjr.org—of who owns what, listing the holdings of the five behemoths Viacom, News Corporation, AOL-Time Warner, Walt Disney Company and General Electric too much under the present rulings.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From U.S. News & World Report, June 23, 2001]

A SURE-FIRE RECIPE FOR TROUBLE

(By Mortimer B. Zuckerman)

Three anonymous political appointees to the Federal Communications Commission have just delivered a body blow to American democracy. Large media companies are to be allowed to buy up more TV stations and newspapers, becoming more powerful and reaping a financial bonanza. Astonishingly, the FCC has done this without public review, without analyzing its consequences, and without the American people getting a dime in return for their public airwaves. Under the FCC deal, big media companies must make no commitment to provide better news, or even unbiased news. Ditto with local news coverage and children's programming. In fact, the new rules dramatically worsen opportunities for local news coverage, for diversity of views, and for competition. "The public be damned!" was a robber baron's slogan from the Gilded Age. Seems to be just what the FCC is saying.

Consider the enormity of the changes. The commissioners removed the ban on broadcasting and newspaper cross-ownership. They raised the national cap on audience reach by station-group owners to 45 percent. They allowed ownership of two stations in more markets, and even three in a handful of markets. There's more, but you get the idea.

Monopolies. These FCC rules allow new merger possibilities without any public-interest review. The details are complicated, but basically, thanks to the FCC, one company now can own UHF TV stations in 199 of the nation's 210 TV markets, which is pretty much the equivalent of owning stations in every TV market in every state except California. That means a single company could influence the elections for 98 U.S. senators, 382 members of the House of Representatives, 49 governors, 49 state legislatures, and countless local races. Employing another strategy now allowed by the FCC, that same company could own VHF stations in every TV market in 38 states, with the power to influence elections in 76 U.S. senate races, 182 House races, 38 gubernatorial races, and 38 state legislatures, along with countless local races. There are other scenarios. But again, you get the idea.

Easing the rules on cross-ownership means that in many local markets one company could own its leading daily newspaper—and, often, its only newspaper—its top-rated TV station, the local cable company, and, as a bonus, five to eight radio stations. Previously, no TV and newspaper mergers were allowed in the same market, except when a firm was failing. Now the merger of the dominant newspaper and TV station could create local news monopolies in 200 markets serving 98 percent of all Americans.

What's going on? Several years ago, the FCC allowed one company to own as many radio stations as it wanted. The unintended result is the monopolization of many local markets and three national companies owning half the stations in America, delivering a homogenized product that neglects local news coverage. Small to midsize firms know that major networks will gobble up affiliates, cut local programming costs, and program centrally from their own stations. Independents will be squeezed out. "For Sale" signs are already going up. More consolidation, more news sharing, and fewer journalists add up to an enhanced danger of media corporations abusing market power to slant coverage in ways that fit their political and financial interests—and suppressing coverage that doesn't. One defense of this outrage that big media companies offer is the diversity of the Web. Well, yes. But does anyone really think the Internet is anything like an organized political or media power, much less a counterweight to a claque of billion-dollar media behemoths?

The good news is that the nation, finally, is waking up. The FCC has received hundreds of thousands of protests. Congressmen, both Democrats and Republicans, are alarmed. So are groups as diverse as Common Cause, the National Rifle Association, and the Screen Actors Guild. One of our more thoughtful conservative columnists, William Safire of the New York Times, writes that "the concentration of power—political, corporate, media, cultural—should be anathema to conservatives." John Roberts in the Chicago Tribune deplores the "blatantly disingenuous, if not dishonest, explanations being given by FCC Chairman Michael Powell and his supporters for their actions."

No prizes for guessing who supports the commission: the major media conglomerates who have coincidentally spent more than $80 million on lobbying, plus over $25 million in political contributions, in the past three years and stand to gain enormously from this.

Regardless of their political ideology, we cannot risk nonelected media bosses having inappropriate local, regional, or national power. The FCC was created to ensure that the public interest is served by the media companies that use our airwaves. Everyone is entitled to a mistake sometime, but the FCC is abusing the privilege. Congress must act now and reverse the FCC's irresponsible new rules.

CHANGES TO H. CON. RES. 95 PURSUANT TO SECTION 401 MEDICARE RESERVE FUND ADJUSTMENT

Mr. NICKLES. Madam President, section 401 of H. Con. Res 95, the FY 2004 Budget Resolution, permits the Chairman of the Senate Budget Committee to make adjustments to the allocation of budget authority and outlays to the Senate Committee on Finance, provided certain conditions are met.

Pursuant to section 401, I ask unanimous consent that the following revisions to H. Con. Res. 95 be printed in the RECORD.

There being no objection, the following material was ordered to be printed in the RECORD, as follows:

	Dollars in millions
Current Allocation to Senate Finance Committee	
FY 2004 Budget Authority	769,846
FY 2004 Outlays	773,735
FY 2004–2008 Budget Authority	4,504,397
FY 2004–2008 Outlays	4,513,658
FY 2004–2013 Budget Authority	10,591,162
FY 2004–2013 Outlays	10,606,226
Adjustments	
FY 2004 Budget Authority	
FY 2004 Outlays	
FY 2004–2008 Budget Authority	113,540
FY 2004–2008 Outlays	113,570
FY 2004–2013 Budget Authority	400,000
FY 2004–2013 Outlays	400,000
Revised Allocation to Senate Finance Committee	
FY 2004 Budget Authority	769,846
FY 2004 Outlays	773,735
FY 2004–2008 Budget Authority	4,617,937
FY 2004–2008 Outlays	4,627,228
FY 2004–2013 Budget Authority	10,991,162
FY 2004–2013 Outlays	11,006,226

PROTECT ACT OF 2003 TECHNICAL AMENDMENT

Mr. HATCH. Madam President, I rise today to speak to an issue that we need to promptly address. As part of the Protect Act of 2003, we authorized a pilot program to study the feasibility of instituting a national background check for those who volunteer in children's activities. The National Center for Missing and Exploited Children will provide its expertise to assist volunteer organizations in evaluating the criminal records of volunteers to determine if the volunteers are fit to interact and provide care for children.

Currently, the Protect Act tasks the National Center with operating the cyber tip line in addition to its participation in the pilot program. The Protect Act presently immunizes the National Center for operating the cyber tip line as long as it does so consistent with the purpose of the tip line. However, no similar protection was provided with respect to the National Center's activities related to the pilot program. The bill I have offered will extend the immunity to the National Center for its participation in the pilot program.

I would urge my colleagues to vote in favor of this technical fix so that the worthy goals of the pilot program can commence.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in San Jose, CA. On October 12, 2001, a pregnant Yemini woman wearing a hijab and a long dress was beaten by a group of angry teenagers. After the attack, the woman needed to be hospitalized and remained in guarded condition until she delivered her baby.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

WRITING CONTEST ON IMMIGRATION

Mr. KENNEDY. Madam President, each year fifth graders across the United States compete in a writing contest on immigration sponsored by the American Immigrant Law Foundation and the American Immigration Layers Association. Thousands of students participated in this year's competition, responding to the question, "Why I'm Glad America is a Nation of Immigrants."

In 1958, President Kennedy, who was then completing his first term as a Senator, published a book with the title, "A Nation of Immigrants," and I had the privilege of serving as one of the judges for this year's contest. It was impressive to see how the students responded. Their essays illustrate the wealth of diverse cultures that immigrants share with our Nation. The students' writings radiate with pride for our diversity and our immigrant heritage. Many students told personal stories of their families and friends and their immigration to the United States.

The winner of this year's contest is Miranda Santucci of Pittsburgh. In her essay, "An American Patchwork Quilt," Miranda explores the value of her friends' cultures and how their diversity has enhanced her life. She compares the United States to a colorful patchwork quilt where "every fabric piece tells an immigrant's story about overcoming hardship, seeking opportunities, and reaching for dreams," and where "threads of different languages, customs, foods, cultures, religions and skills hold these pieces together." Miranda's eloquent essay reaches to the heart of what makes us all uniquely American.

Other students honored for their exceptional writing were Rachel Adams of Houston, Melissa Cheng of Atlanta, Jessica Du of Alameda, and Elias Reisman of Indianapolis. I congratulate these students on their outstanding achievement, and I know my brother would be proud of them too.

These award-winning essays will be of interest to all of us in the Senate, and I ask unanimous consent that they be printed in the RECORD.

The PRESIDING OFFICER. Without objection, so ordered.

There being no objection, the essays were printed in the RECORD, as follows:

[From the Winchester Thurston School, Pittsburgh, PA]

AN AMERICAN PATCHWORK QUILT

(By Miranda Santucci)

America reminds me of a beautiful patchwork quilt that covers our nation with a diversity of immigrants. Each quilt square is made up of different colors and textures with a unique design and pattern. Every fabric piece tells an immigrant's story about overcoming hardships, seeking opportunities, and reaching for dreams. Threads of different languages, customs, foods, cultures, religions, and skills hold all these pieces together. I'm glad America is a nation of immigrants because these individual patchwork pieces make the whole American quilt more beautiful.

The quilt covers my home, school, neighborhood, and city. It warms me when I celebrate the feast of fishes on Christmas Eve like my father's Italian ancestors did, when I play with my Greek friend Katarina Konstantinos after school, or when I share the basket blessing tradition at Easter with my neighbor, Peter Muszalski, in his church on Polish Hill. I see many colors in the fabric at my school when I look around at all the different skin tones. I feel how enormous the quilt is when I go through the Strip District and read the storefront signs like Sam-Bok, Stamboolis, Benkovitz, and Sunseri.

I cherish each piece of our country's quilt. All the immigrant patches are still unique, even though they are sewn together as one. They make our country rich, full and strong. America's patchwork quilt is a precious heirloom that should be handled with pride, and handed down through the generations of American history.

[From the Mayde Creek Elementary, Houston, TX]

AMERICA—MY NEW HOME

(By Rachel Adams)

America, America
lovely and bright,
so full of bluebonnets
and coyotes at night.

Free as a bird,
that soars in the sky,
oh, how I love the way
your flag waves far and wide.

Immigrant, immigrant,
traveling from afar,
warmly welcomed in America,
are those who are scarred.

That's what I am,
and I want to be free,
I want to have value,
and I want to be me.

I set out on a journey
and far will I roam
until I reach my new country,
a place I'll call home.

In this country of immigrants,
I want to have meaning
to have a life of peace
and freedom of being.

I travel to America
where opportunity awaits,
the land of the free
and the home of the brave.

[From the Montgomery Elementary School, Atlanta, GA]

WHY I AM GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Melissa Cheng)

The Dutch Butcher, the German Baker, The Chinese who created paper, to this great land gathers great skill, and we all contribute, so do I, and make America greater still.
From some lands people flee,
To America the place of democracy,
For where they originated they had no freedom or rights for they had a dictator who didn't treat them right.
I am glad I have hearts of hope, dreams of freedom to be and practice who and what I want to be. For freedom there is a price.
We all must stand together willing to fight.
We all must stand together and earn this right.
Without these cultures from near and far, today we wouldn't be who we are.
Pasta from Italy, bread from Germany, and piniatas that come from Mexico, are what makes America unique.
All these things put together strengthen our unity and create one big community.
America the land of opportunity is a place where everybody has an equal chance including me!!!
That is why I am glad America is a nation of immigrants.

[From the Amelia Earhart School, Alameda, CA]

I AM GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Jessica Du)

America is a nation of immigrants
As you can plainly see
Someone in your history
Made a change in your family tree.

Everyone must have a time
When they moved from place to place
To live a better life
And challenge it face to face

People come to America
For freedom and for rights
To speak freely and be educated
And explore new heights

My parents are from Vietnam
Dad escaped by boat
If someone was lucky, they'd make it to shore
If not, in the ocean they'd have to float

My parents changed my whole life
If they hadn't moved here
I would be in a different country
Living in a land of fear

My classmates are from here and there
We are all different races
We speak many languages
And smile with different faces

America is a nation of immigrants
We don't care what race you are
The poor and rich should know
You're welcome from near or far.

[From the International School of Indiana, Indianapolis, IN]

OPEN TO DIFFERENCES

(By Elias Reisman)

My grandma was from Russia
Her dad had a different belief.
The army came and seized him
Which caused her family grief.

She made it to the United States,
Fell in love with a Russian man,
War was looming, he signed up.
"Let's marry while we can."

They had three kids
All three were raised as Jews.
My dad met mom, a Christian girl
And they had two little new.

Our self portrait is not crystal clear.
When asked, what do we tell?
There is no single label
That tells our story well.

We go to an international school
There are kids of every kind.
Every race and faith and country
Makes it even a better time.

When we seek out those who differ,
Respect all points of view.
We are happier, wiser, stronger,
And our country's safer too.

We do not care
Whether yellow, black, or white,
Immigrant or native—
IT IS ALL RIGHT!

RECOGNIZING GENERAL ERIC SHINSEKI ON HIS RETIREMENT AS ARMY CHIEF OF STAFF

Mr. INOUYE. Madam President, on June 11, 2003, I had the honor and privilege of attending the retirement ceremony at Fort Myer, VA, for GEN Eric Shinseki, who served with distinction during his 4 years as Army Chief of Staff. A native of Hawaii who rose through the ranks while devoting 38 years of his life to defending our Nation, General Shinseki ended his career as the highest ranking Asian-American in the history of the United States military.

His farewell speech was a message of thanks, a reminder of the need for shared values, and an underscoring of the importance of inspired leadership and the dangers of arrogance.

I ask that General Shinseki's speech, as well as the remarks that Acting Secretary of the Army Les Brownlee made during General Shinseki's retirement ceremony, be printed in the RECORD.

There being no objection, the speech was printed in the RECORD, as follows:

SPEECH BY GENERAL ERIC K. SHINSEKI, 34TH CHIEF OF STAFF OF THE U.S. ARMY, AT HIS RETIREMENT CEREMONY, AT FORT MYER, VA, ON JUNE 11, 2003

Secretary Brownlee, thank you for the generosity of your remarks, and for hosting today's ceremony. You lead the Army through a difficult period; best wishes in the execution of your important duties.

Secretary and Mrs. Norm Mineta, Transportation, thank you for being here.

We have received tremendous support from the defense oversight committees: Senate Armed Services Committee—Senators Warner and Levin; Senate Appropriations Committee for defense—Senators Stevens and Inouye; House Armed Services Committee—Congressmen Hunter and Skelton; Congressman Bill Young, Chairman of the House Appropriations Committee; and Congressmen Lewis and Murtha, House Appropriations Committee for Defense. Thank you all and your dedicated staffs, Sid Ashworth, Valerie Baldwin, John Bonsall, Dan Cox, and former Staff Director Steve Cortese, for your support of the Army, its initiatives for the future, and its soldiers.

Let me also acknowledge the leadership of the Senate and House Army Caucuses: Senators Inhofe and Akaka, Congressmen McHugh and Edwards. We truly appreciate the tremendous support you provide for the Army's initiatives.

We are fortunate to have some members of Congress with us today: Senators Dan Inouye, Daniel Akaka, Jack Reed, and former Senator Max Cleland; Congressmen Jerry Lewis, Ike Skelton, Gene Taylor, Neil Abercrombie, Rodney Frelinghuysen, Sylvestre Reyes, Charles Taylor, Chet Edwards, Eni Faleomavaega. Patty and I are honored that you could join us. Thank you.

Sincere thanks to the members of Congress who paid kind tributes to my service in recent days: Congressmen Lewis, McHugh, Edwards, and Skelton. I deeply appreciate the graciousness of your remarks.

Senator Dan Inouye, special thanks to you, sir, for your friendship and mentoring. I am indebted to you for introducing me at my Senate confirmation hearing. Your words then and your support over the last four years have been humbling. Thank you for your patriotism and your leadership.

Deputy Secretary England—Homeland Security, Secretary and Mrs. Jim Roche—Air Force, General Al Haig, thank you for honoring us with your presence. General Barry McCaffrey and Jill, thank you for honoring us as well.

Secretary Togo West, 16th Secretary of the Army, Secretary Tom and Susan White, 18th Secretary of the Army, thanks for your unwavering support of soldiers and the Army, for your friendship, and for being here today. When they call the roll of principled, loyal, tough guys, you will be at the top of the list.

General Dick Myers, our Chairman, his wife, Mary Jo, and Lynne Pace, wife of our Vice Chairman, fellow members of the Joint Chiefs of Staff and your ladies: Vern and Connie Clark, CNO; John and Ellen Jumper, CSAF; Mike and Silke Hagee, Commandant, Marine Corps; Tom and Nancy Collins, Commandant, Coast Guard. To the Joint Chiefs, you have my respect and admiration for the experience you bring to deliberations, the responsibilities you bear for the nation, and the care you engender for people.

Former Army Chiefs of Staff, General and Mrs. Reimer, General and Mrs. Sullivan, General and Mrs. Vuono; members of our outstanding Army Secretariat, including Joe Reeder and Mike Walker; former undersecretaries of the Army; our Vice Chief of Staff, Jack Keane and his wife, Terry, who have worked tirelessly for four years on behalf of soldiers and the Army, thank you both for your dedication and support.

Counterpart Army Chiefs who have traveled long distances to be here today: General and Mrs. Gert Gudera, old friends from Germany since our service together in Bosnia; General Edward Pietrzyk, Poland; General and Mrs. Hillier, Canada; General Canelo-Franco, Paraguay; General Morozov, Russia; General Marekovic, Croatia. Patty and I are deeply honored by your presence.

Other fellow U.S. general and flag officers, serving and retired, active and reserve components, and your spouses, especially the retired four stars who are here today, thank you all for your support and your leadership. The Army is in good hands and it keeps rolling along. Let me particularly acknowledge the serving four-stars: Jim Ellis, Charlie Holland, Larry and Jean Ellis, Paul and Dede Kern, Leon and Judy Laporte, B.B. Bell, Tom and Toni Hill, Kevin and Carol Byrnes; and those recently retired from active duty, John and Ceil Abrams, Buck and Maryanne Kernan, Jay and Cherie Hendrix, Tom and Sandy Schwartz, John and Jan Coburn. Let me also acknowledge the important service and presence of the Joint and Army Staffs and the Army's general officers in command who provide strong, steady, and enduring leadership.

Sergeant Major of the Army Jack and Gloria Tilley, the Army could not have asked for two more enthusiastic proponents for soldiers and families. To you and the MACOM Sergeants Major who have gathered here today, thanks for your wise counsel and friendship. We are indebted to all of you for your leadership and your care and concern for soldiers.

Master Chief Petty Officer of the Navy and Mrs. Scott, former SMAs Hall, Kidd, and Bainbridge and your ladies, civilian aides to the Secretary of the Army.

My beloved family, some 70-strong, has journeyed great distances to be here. Grandma Shinseki, who turns 92 this year, has chosen not to travel, and my sister, Yvonne, has remained at home with her. But just about everyone else is here—my older brother, Paul, and his family, then Patty and our children—Lori, Ken, and their spouses who have made Patty and me grandparents five times over. Many others from Patty's and my wonderful family are gathered in strength—uncles, aunts, sisters, brothers, cousins, nephews and nieces—wonderful people who live simple lives in proud and vocal support of this Chief. God bless you all.

So many other dear friends and associates—too numerous to name but whose journeys have brought them miles, years, and memories to be here today. Kauai High School classmates, classmates from Hunterdon Central High School, where I spent a defining year of my life as an exchange student in New Jersey; the men and women of the distinguished West Point Class of 1965, representatives from industry and the nonprofits who have done so much for the Army and soldiers, especially Frances Hesselbein of the Leader to Leader Institute, members of our superb, professional media—Joe Galloway, Thom Shanker, Dick Cooper, Dave Moniz, Greg Jaffe, Ann Roosevelt, Joe Burlas, and others—who have helped to tell our soldiers' stories, the international representatives of the attache corps, our wonderful Army Arlington Ladies, who represent the Chief of Staff at each and every Army funeral in Arlington to honor our soldiers when they are laid to rest, thank you.

Youngsters from my front office and the Quarters 1 staffs, John Gingrich and members of my staff group; my XOs, Joe Riojas and Tom Bostick; and Lil Cowell, the steady hand in the office of the CSA for four Chiefs, who quietly retired last week; CW5 Dan Logan; SGM Bruce Cline and Team CSA; SFC John Turk and the Admin Section; Major Pedro Almeida, the last in a series of world-class aides; Linda Jacobs and the heroes of protocol, all kept the office of the Chief well-represented through sheer hard work and dedication, making my life and Patty's most rewarding. Thank you all.

Teri and Karen Maude and the Brian Birdwells, survivors of 11 September 2001, among the many hurt and scarred that day; spouses of the generals who ran the ground war in Iraqi Freedom; Carmen McKiernan, Kimberly Webster, Dee Thurman, and Bea Christianson, thank you for coming today and for your generosity, grace, and courage. Other distinguished guests, ladies and gentlemen.

My name is Shinseki, and I am a soldier—an American soldier, who was born in the midst of World War II, began his service in Vietnam 37 years ago, and retires today in the midst of war in Afghanistan and Iraq. The strategic environment remains dangerous and we, in the military, serve our nation by providing the very best capabilities to restore order in a troubled world. Soldiering is an honorable profession, and I am privileged to have served every day for the past 38 years as a soldier.

The Good Book tells us, to everything there is a season and a time to every purpose. Today is a time for thank yous, and our purpose is to say farewell. As we speak, more than 370,000 soldiers are deployed and forward stationed in 120 countries. Their missions range from combat to peacekeeping to rebuilding nations to humanitarian assistance to disaster relief—and a host of other missions in between. And as busy as they are, there have been no dropped balls—none, on any mission. They are trained, disciplined, focused, and well-led. The soldiers arrayed before us represent the magnificence of that Army. Their parade formation stretches not only from left to right across this field, but also backwards in history to a time before the republic was formed. Precision counts in this profession, and no one does it any better than the Old Guard and Pershing's Own. Please join me in thanking the soldiers on parade today and on duty here, behind the stars and around the world.

Thanks also to former bosses, mentors, friends, and fellow soldiers who trained me as a soldier, and grew me as a leader—some of them are here today. General Fred Franks, who more than anyone else has been coach and mentor in all the years I served as a general officer. Generals Butch Saint, Ed Burba, Rich Cardillo, Tom Tait, who fought to keep me on active duty after a service-disqualifying injury, Dick Davis, Colonel Greynolds, my hospital bunkmate Bill Hale, and Sergeant Ernie Kingcade, noncommissioned officer, who, while under way by ship to Vietnam, provided me the only officer basic course I would receive before going into battle—and I could not have had a better education. Ernie, it has been a long journey, and the example you set has been with me for 38 years. Thanks for that early model of what noncommissioned officers were supposed to be. I have never expected less, and it has made all the difference.

To the men of '65—strength and drive. Thirty-Eight years since we stepped off together as soldiers. You have been role models, friends, associates, and fellow soldiers for these many years. Your notes in the days following 11 September and during the height of Iraqi Freedom were of great comfort—wonderful reminders of all that we had been through together. Thanks for standing my last formation with me. It's been my distinct honor to have been associated with you and with what we've accomplished as a class. Your presence is most appreciated.

To Patty, my wife of 38 years, you taught me the meaning of selflessness, of elegance, of courage, and of a bright spirit undiminished by time or adversity. You have seen me at my worst and stuck with me—and you've seen me at my best and chuckled in disbelief. Throughout it all, your patience, your balance, your encouragement, and your love and support have sustained me. You stood beside my hospital bed for days. Helped me learn to walk a second time, enabled me to regain confidence and a sense of direction, helped me reestablish a professional career, moved our children and our household 31 times, and always, always provided great strength when it was needed most. You could have been and done anything you chose; yet you chose to be a soldier's wife. The profound grace of that decision has blessed me immeasurably. Thank you for 38 wonderful years in a profession I loved nearly as much as you.

Lastly, I want to thank the men who have served in this position, those who saw the Army through some dark days following Vietnam. It was a daunting and enormous task, but they, with others who are present today, did it. They gave us back an NCO Corps, and they gave us back an Army that fights: Generals Creighton Abrams, Fred Weyand, Bernie Rogers, Shy Meyer, John Wickham, Carl Vuono, Gordon Sullivan, and Denny Reimer.

These leaders rose to their enormous task because they understood the important distinction between command and effective leadership. They taught us that command is about authority, about an appointment to position—a set of orders granting title. Effective leadership is different. It must be learned and practiced in order for it to rise to the level of art. It has to do with values internalized and the willingness to sacrifice or subordinate all other concerns—advancement, personal well-being, safety—for others. So these men of iron invested tremendous time, energy, and intellect in leader development—to ensure that those who are privileged to be selected for command approach their duties with a sense of reverence, trust, and the willingness to sacrifice all, if necessary, for those they lead. You must love those you lead before you can be an effective leader. You can certainly command without that sense of commitment, but you cannot lead without it; and without leadership, command is a hollow experience—a vacuum often filled with mistrust and arrogance.

Our mentors understood that mistrust and arrogance are antithetical to inspired and inspiring leadership, breeding discontent, fostering malcontents; and confusing intent within the force. And so our mentors worked to reestablish that most important of virtues in our army—trust—the foundation upon which we have built our reputation as an army. We owe them all a tremendous debt of gratitude for the magnificent Army we have today, and the legacy of trust and honor they sustained.

This week, we celebrate the Army's 228th birthday—228 years. The Army's long history is, in so many ways, also the history of our nation, a history including 10 wars and all the years of restless peace in between. In those years, soldiers have been both servant and savior to the nation. Today, our nation is once again at war. The current war brings me full circle to where I began my journey as a soldier—the lessons I learned in Vietnam are always with me. They involve changes in the way many of my generation learned to train, to lead, to fight, and to always offer our best military judgment to our superiors. These were hard-learned lessons. Lessons about loyalty, about taking care of the people who sacrifice the most for the good of the nation, about uncompromising readiness that is achieved only through tough, realistic training, about the necessity for inspired and inspiring leadership, about the agility and versatility demanded by a dynamic, strategic environment, and most importantly that the Army must do two things well each and every day—train soldiers and grow them into leaders, leaders who can unequivocally and without hesitation answer the critical question asked of any war fighter. "Can you fight? Can you fight?"

That question and those lessons are enduring ones for the profession of arms. Four years ago, with these lessons in mind, with the results of our comprehensive Army transition assessment in hand, and with our eyes always on the dynamic strategic environment, we decided to undertake fundamental and comprehensive change. Those initiatives informed the Army vision, a vision that consists of three imperatives. People. Readiness. Transformation.

Secretary Brownlee, thank you for so well capturing the Army's progress toward achieving that vision, a result of hard work by so many people. I'll only reinforce that transformation has never been about just one thing—the future combat system or the objective force—and the Army vision has never been about one person. The Army vision and transformation are about comprehensive change at the very heart of our institution, of our culture: doctrine, organization, training, leader development, materiel, and soldiers. This is the message we have consistently reiterated to all who are listening.

In these last months, the performance of soldiers and Army families has spoken loudly, clearly, and eloquently—since 11 September, we have been enormously successful operationally. In Afghanistan, as members of a combined, joint team, soldiers banished the Taliban and Al Qaeda in weeks. In Iraq, they fought with speed and agility to As-Samawah, An-Najaf, Al-Hillah, Karbala, and Baghdad, unseating a dictator, freeing an oppressed people, defeating a persistent enemy in spite of the harsh, unforgiving environment. Our soldiers demonstrated unprecedented agility and flexibility: JSOTF West—special operators fighting with armor and conventional artillery, JSOTF North—the 173rd ABN BDE—1,000 paratroopers make a night jump and fight alongside TF 1-63 Armor—1st ID, and TF 2-14 INF and a field artillery battery from the 10th Mountain; the 82nd ABN DIV Task organized with 2nd ACR(-), TF 1-41 (MECH) from Fort Riley, and a brigade of the 101st Air Assault Division; the 101st(-) fighting with TF 2-70 Armor of the 1st AD. With the greatest of agility, versatility, and courage, they fought to victory, demonstrating once again that all our magnificent moments as an Army are delivered by our people. They won the fights, and they are now facing and overcoming tremendous challenges to ensure the Afghan and Iraqi people have the opportunity to rebuild their societies and create governments characterized by democracy, prosperity, peace, and hope rather than barbarity, instability, and pervasive fear. Just as impressively, soldiers have simultaneously allowed our nation to fulfill commitments in other important regions—the Sinai, the Balkans, the Philippines, and Korea to name but a few. And had the situation in Korea gone hot, we'd have been there, too. With deeds, not words, they have unequivocally answered the question, "Can you fight?" They do not flinch. They do not waiver. Our Army fights and wins.

Those successes are enabled by our great young leaders—noncommissioned officers, lieutenants and captains, battalion and brigade commanders—who understand both what a privilege it is to lead soldiers, and the tremendous responsibility that accompanies that privilege. They love their units and the soldiers who fill them—that is the essence of leadership.

Leadership is essential in any profession, but effective leadership is paramount in the profession of arms—for those who wear the uniform and those who do not. We, in the Army, have been blessed with tremendous civilian leadership, most notably in the service of Secretary Tom White, who we farewelled last month. We understand that leadership is not an exclusive function of uniformed service. So when some suggest that we, in the Army, don't understand the importance of civilian control of the military, well, that's just not helpful. And it isn't true. The Army has always understood the primacy of civilian control. We reinforce that principle to those with whom we train all around the world. So to muddy the waters when important issues are at stake, issues of life and death, is a disservice to all of those in and out of uniform who serve and lead so well.

Our Army's soldiers and leaders have earned our country's highest admiration and our citizens' broad support. But even as we congratulate our soldiers when we welcome them home from battle, we must beware of the tendency some may have to draw the wrong conclusions, the wrong lessons from recent operations, remembering all the while that no lesson is learned until it changes behavior. We must always maintain our focus on readiness. We must ensure that the Army has the capabilities to match the strategic environment in which we operate, a force sized correctly to meet the strategy set forth in the documents that guide us—our national security and national military strategies. Beware the 12-division strategy for a 10-division army. Our soldiers and families bear the risk and the hardship of carrying a mission load that exceeds what force capabilities we can sustain, so we must alleviate risk and hardship by our willingness to resource the mission requirement. And we must remember that decisive victory often has less to do with the plan than it does with years invested in the training of soldiers and the growing of leaders. Our nation has seen war too many times to believe that victory on the battlefield is due primarily to the brilliance of a plan—as opposed to leadership, tactical and technical proficiency, sheer grit and determination of the men and women who do the fighting and the bleeding.

Throughout my career, it has been an honor to serve with leaders who understand and are committed to uphold those obligations and duties to soldiers. Today, we find that kind of dedicated and caring leadership at every level in our Army. We are an institution that lives our values. Loyalty. Duty. Respect. Selfless service. Honor. Integrity. Personal courage. Army values—the bedrock on which our institution is built.

Those values are demonstrated outside our ranks as well as within, shared by Army families, as well as soldiers. In these last months, at the toughest times of greatest sadness and hardship, I have again and again been reminded that Army families and spouses are the most generous people I know.

As I was on the first day of my tenure four years ago, I am humbled to stand here on my last day as the 34th Chief of Staff of the United States Army. I thank the President for his confidence and trust in allowing me the opportunity to serve the nation, and this Army that has been my family for 38 years. To soldiers past and present with whom I have served, you have my deep and abiding respect and my profound thanks.

There is a magnificent Army out there—full of pride, discipline, spirit, values, commitment, and passion. General Creighton Abrams reminded us that "soldiering is an affair of the heart," and it's never been better to be a soldier. We are a magnificent Army, and the nation knows it, and honors our profession. Soldiers represent what's best about our Army and our nation. Noble by sacrifice, magnificent by performance, and respected by all, they make us better than we ever expected to be. And for 38 years now, soldiers have never allowed me to have a bad day.

My name is Shinseki, and I'm a soldier. God bless all of you and your families. God bless our soldiers and our magnificent Army, and God bless our great nation. Thank you, and goodbye.

Speech by the Honorable Les Brownlee, Acting Secretary of the Army, at the Retirement Ceremony for General Eric K. Shinseki at Fort Myer, VA, on June 11, 2003

Welcome everyone, and thanks for joining the Army family for this special retirement ceremony in which we are honoring a great American soldier, General Ric Shinseki, and his wife, Patty.

Secretary and Mrs. Mineta, Senator Inouye, Senator Akaka, Senator Reed, Senator Cleland, Congressman Skelton, Congressman Lewis, Congressman Faleomavaega, Congressman Gene Taylor, Congressman Abercrombie, Congressman Charles Taylor, Congressman Frelinghuysen, and Congressman Reyes.

Secretary Gordon England, General Alexander Haig, former Secretary of the Army Togo West, General and Mrs. Barry McCaffrey, Secretary of the Air Force and Mrs. Roche, Jim and Diane, former Secretary of the Army and Mrs. White, Tom and Susan.

The members of our Joint Chiefs of Staff, beginning with our Chairman, General Dick Meyers, and his wife, Mary Jo; the wife of our Vice Chairman, Mrs. Lynne Pace; Chief of Naval Operations, Admiral Vern Clark, and Mrs. Clark; Commandant of the Marine Corps, General Mike Hagee, and Mrs. Hagee; the Commandant of the Coast Guard, Admiral Thomas Collins, and Mrs. Collins; our distinguished former Chiefs of Staff, General Vuono, General Sullivan, and General

Reimer; the Vice Chief of Staff, General Jack Keane, and his wife Terry.

Our distinguished counterpart Chiefs of Staff from Canada, Germany, Croatia, Poland, and Russia. And our great Sergeant Major of the Army, the master of the one-armed pushup, Jack Tilley, and his wife, Gloria.

Senior Army leaders from the Secretariat and the Army Staff, our civilian aides to the Secretary of the Army, other distinguished general officers. Three generations of the Shinseki family. Soldiers, family members, and friends of the Army.

Welcome.

To Colonel Laufenberg and the Old Guard, and to Colonel Lamb and the Army Band, "Pershing's Own," you are tremendous representatives of all of our soldiers defending freedom around the globe.

Thank you for your professionalism, and your willingness to serve your country. Let's give them a round of applause.

It has been my distinct privilege to serve with and around Ric Shinseki for the last four decades—from the jungles of Vietnam, through the Cold War, on Capitol Hill, and more recently, in the halls of the Pentagon.

In all of those environments, he has epitomized the quiet professional. And, being the genuinely humble and modest man that he is, Ric Shinseki will never take personal credit for the enormous impact that he has had on our Army.

In organizing these comments for today, I thought back to remarks General Shinseki made in July 2000 at the Hall of Heroes induction ceremony for 22 Medal of Honor recipients of Asian and Pacific Island heritage. He said then:

"Whenever I attend a function of one of these units . . . I am always struck by this same kind of reticence, this unwillingness ever to bring attention upon oneself. In fact, it usually takes a friend to tell the story of another friend, which is why sometimes even family members of those veterans have never heard those stories. They are unaware of the fact that someone they've known only as a father or husband or uncle or a brother is, to many others, a hero of magnificent proportions."

Well, I think he has summed up how all of us feel about Ric Shinseki. He is that quiet warrior, reluctant to speak for himself, always deflecting the spotlight to those around him and, most importantly, to the soldiers he has served so well and so faithfully.

General Shinseki has always said that the Army vision cannot be linked to one man, that it must be embraced by the entire Army.

But on this day of his retirement after 38 years of faithful and honorable service, it is fitting that we recognize his personal contributions to our nation and our Army.

Ric Shinseki saw a need to transform the Army and he had the courage, perseverance and intelligence to make it happen.

When war came, as he knew and predicted it would, he ensured that our great soldiers could fight—and that they had what they needed to guarantee victory for our nation.

Simply stated, the Chief looked to the future, and conceived a vision for what our Army must be able to do to protect our nation in the 21st century.

He translated that vision into an ambitious, yet doable, plan of action—revolving around people, readiness, and transformation.

He went out and got the resources and implemented his plan with tremendous intellect, courage, and sheer force of will, irrevocably changing our Army for the better.

All of this took tremendous courage on the Chief's part, at a time when the word "transformation" was relatively unknown.

There are some leaders who might have been able to accomplish one or maybe two of the above, but I know of no one else who could have accomplished it all.

While his strategic leadership skills were essential to the Army's successes, equally important have been the Chief's strength of character and love of our soldiers.

Many of you already know the story of the formative years of General Ric Shinseki's life.

He was born during World War II, when many Americans of Japanese ancestry were interned and labeled "enemy aliens," even as their young men etched a legacy of heroism that remains unrivaled in the annals of our Army's history.

He grew up among these heroes, indeed was appointed to West Point by one of the 442nd Regimental Combat Team's Medal of Honor recipients, Senator Daniel Inouye, who we are honored to have with us here today.

After graduation from the academy in 1965, Ric served twice in Vietnam, both times seriously wounded. His second wound was so severe, and his recovery so difficult, that the doctors wanted to put him out of the military.

He could have easily accepted the honor and accolades justly due a wounded warrior forced from service before his time, but he did not.

His love of soldiers—soldiers who had carried him out of combat on their backs—twice—and his love of our Army—was so deep that he persevered.

The iron will and depth of character that the Chief developed through the long, painful months of recovery steeled an already proven warrior. His willingness to fight on behalf of the Army has had as much to do with our Army's accomplishments as his skills as a strategic leader.

As we all know, transformation has grabbed many headlines, but the Chief's contributions to the warfighting readiness of the entire Army set the conditions for the successes our soldiers have delivered in Afghanistan and Iraq and elsewhere around the globe.

As he said in 1999, he didn't know when or where it would occur, but he knew the Army would fight during his tenure as the Chief. This motivated his focus on preparing for that moment. Nothing escaped his scrutiny, from filling combat units to 100-percent ensuring we had sufficient spare tank engines. The victories in Kabul and Baghdad were accomplished by our soldiers, but those soldiers were supported by an institution that had been keenly focused by the Chief on preparing them for battle. And one thing is certain: No army in history was equal to the Army that this Chief of Staff prepared for battle in Iraq. No Army was ever better equipped, trained, or motivated. All of us are proud of that Army, and about what they accomplished, and continue to accomplish today.

But, Ric, you will always enjoy a special pride—because this was truly your Army—molded and sculpted as a reflection of your leadership and your character.

As an Army, we also owe an enormous debt of gratitude to Patty Shinseki, who epitomizes all that is good and wonderful about Army spouses. Her genuine concern for others, her energy, and her grace under fire are remarkable.

She has known the fear of a wife whose husband goes to combat and returns wounded—twice.

She has moved over 30 times in 38 years, raised a wonderful family in the process, and has served as the senior leadership's greatest ambassador to Army families and so many other constituencies.

Patty and Ric Shinseki are a remarkable team. When Ric set his sights on improving the well-being of our Army, Patty turned a laser-like focus on these issues. The result was: spouse orientation and leadership programs, Army Family Team Building, and the Army Spouse Employment Summit, to name but a few.

In an Army in which over half of our soldiers are married, these measures enable us to retain soldiers and their families despite the many sacrifices they make on behalf of the nation.

Patty, thank you so much for all you have done for our soldiers, their families, for our communities, and the Army. We will deeply miss you.

Once again, I'd like to paraphrase from General Shinseki's own words: "It has been said, 'Poor is the nation that has no heroes, but beggared is the nation that has and forgets them.' The man we honor today answered his nation's call to duty, and in doing so, honored his heritage and his country."

In short, he is a soldier.

Ric, thank you for a lifetime of service and sacrifice, for your vision, your courage, your steadfastness, and for all you have done for our soldiers who are the Army. We will be forever in your debt.

May God always bless you and Patty and your family, our magnificent soldiers, our Army and this great nation. Thank you.

ADDITIONAL STATEMENTS

FOSTER'S DAILY DEMOCRAT

• Mr. SUNUNU. Mr. President, I rise today on the 130th anniversary of the first printing of New Hampshire's Foster's Daily Democrat to highlight the outstanding contribution that this family-owned newspaper has made to residents of the Granite State.

On June 18, 1873, Joshua L. Foster printed the paper's premiere edition in Dover, NH, using the motto: "We shall devote these columns mainly to the material and vital interests of Dover and vicinity. Whatever may tend to benefit this people and enhance their prosperity, will receive our warm and enthusiastic support."

Since that day, the paper's pages have remained under direct ownership of the Foster family, whose members have diligently guided it to today's milestone in publishing history.

Today, under the direction of Robert and Therese Foster, the paper's motto holds true, its staff continuing to bring readers—more than 30,000 per day—the most accurate and detailed local news, sports, and commentary.

Such an effort takes teamwork, which has existed through more than a century of local news production. Readers have known they could turn to the columns of this paper for the information they wanted, whether it be a birth announcement, a wedding notice, a school board vote, the Little League team photo, or the school bus route.

And, always an organization to stay ahead of the curve, Foster's has moved its pages online, taking the time to provide some of the most up-to-date news and information available in New Hampshire.

I have no doubt that Foster's will continue to demonstrate the positive results of working hard every day toward a common goal. It is a New Hampshire tradition, and one that deserves our recognition today.●

TRIBUTE TO DR. RALPH NURNBERGER

● Mr. McCAIN. Madam President, I am honored today to pay tribute to a truly remarkable American, Dr. Ralph Nurnberger. As some of my colleagues may already know, Dr. Nurnberger was recently presented with the 2003 Excellence in Teaching Faculty Award from Georgetown University. I can think of no one more deserving of this award than Ralph Nurnberger. I have known Ralph for many years and I have long admired his dedication to Georgetown's students and his fellow faculty members. Anyone who has the privilege of knowing this fine man will agree that Georgetown University continues to be held in such high esteem because of professors like Ralph Nurnberger. He is a good friend and I extend my most sincere congratulations.

I ask unanimous consent that the text of the citation honoring Dr. Nurnberger be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCELLENCE IN TEACHING FACULTY AWARD, GEORGETOWN UNIVERSITY, MAY 17, 2003

In 1977, just three years after the Liberal Studies Program started and two years after receiving his Ph.D. in Diplomatic History at Georgetown University, Ralph Nurnberger began teaching in the Liberal Studies Degree Program. Over more than two decades he has taught courses in the Liberal Studies Program that focused on American foreign relations, the American national character and international relations, ideals and American foreign policy, Congressional relations and American foreign policy. Most recently he has been teaching a course on the aftermath of 9/11, considering the domestic and international aftermath for the United States.

Dr. Nurnberger's teaching has been accomplished with extensive experience in the field of domestic and international affairs and their interaction. His Capitol Hill experience included serving as foreign policy legislative assistant to Senator James Person (R-Kansas) and as a professional staff member of the Senate Foreign Relations Committee. He has been a senior Fellow and director of Congressional Relations for the Center for Strategic and International Studies (CSIS). He spent over eight years as a lobbyist for the American Israel Public Affairs Committee (AIPAC). In the wake of the Rabin-Arafat signing of the Oslo Accords he was appointed the Executive Director of an organization, "Builders for Peace," set up with the guidance of then Vice-President Al Gore to help the Arab-Israeli peace process. His current position is that of Counsel with Preston Gates Ellis and Rouvelas Meeds law and lobbying firm and he also heads a government relations firm, Nurnberger and Associates. While teaching and filling these positions he has published extensively in major newspapers and journals. His most recent book deals with lobbying in America; his others have dealt with foreign policy and the political process.

Student evaluations applaud the examples and insights he can offer from real life experiences which are tempered and refined by his intellectual understanding and historical perspective. Students are particularly impressed with Dr. Nurnberger's ability to decipher complicated and contentious issues and make them understandable. His courses are engaging and insightful. In addition, students value the skillful balance he offers on these subjects, which in turn leads to thoughtful conversation and debate in class. He has become an example for the students in how to conduct civil discourse regardless of the intensity of emotion generated by a subject or the individual's own principles and convictions.

Over the years Ralph Nurnberger has patiently and meticulously directed numerous student theses, often against great odds but with sincere concern and unforgiving academic precision. When extraordinary demands were made on his time and attention his steady, generous commitment to the student's project made successful completion possible.

Today, we honor Ralph Nurnberger for his academic excellence which he transmits to and requires from his students; for his intellectual integrity whatever the issue; for his generous guidance of students' research; for his loyalty and enthusiasm for teaching Liberal Studies students these many years; for his ability to make sense of a so often chaotic world and America's role in that world. We are pleased to present him with the Excellence in Teaching Faculty Award for the year 2003.●

FATHER WILLIAM SHERMAN

● Mr. DORGAN. Madam President, for almost a half century a Catholic priest in North Dakota has lived a remarkable double life. In one guise, Father Bill Sherman is a holy man, the kind of warm and perfect parish priest who would have once been played by Spencer Tracy. But in his other role, he is the talented scholar and painstakingly diligent chronicler who, like no other authority, commands the ethnic history of North Dakota.

Because Father Sherman is retiring this month from the religious vineyards, I want to take note of his remarkable alter ego—that of the State's most eminent ethnic historian.

He has been a key player over the last 20 years in producing four impressive volumes on the subject—"Plain Folks: North Dakota's Ethnic History," "Prairie Mosaic: An Ethnic Atlas of Rural North Dakota," "African Americans in North Dakota," and the most recent book, "Prairie Peddlers: Syrian-Lebanese in North Dakota," which is now coming off the presses. In addition, he was also one of the authors of "Scattered Steeples, The Fargo Diocese, A Written Celebration of Its Centennial."

His volumes on the State's ethnic heritage are extraordinary works—painstakingly researched, rich with thoughtful analysis, brightly written, and handsomely designed. They are works of careful scholarship of a high order and a real treasure for anyone intrigued with the marvelous ethnic diversity of America.

Born in Detroit in 1927, Father Sherman grew up in North Carolina and Oregon before his family moved to Lidgerwood, ND. After high school, he joined the Army, serving in the Philippines and Japan at the end of World War II. He graduated from St. John's University in Collegeville, MN, got a bachelor's degree from North Dakota State University and a master's degree from the University of North Dakota and became a priest in 1955.

He has served the parishes of the Cathedral of St. Mary in Fargo from 1955 to 1962, the Newman Center at the University of North Dakota from 1962 to 1964, St. Raphael's in Verona from 1964 to 1965, the Newman Center at NDSU from 1965 to 1975, St. Patrick's in Enderlin from 1975 to 1976 and finally the diocese's largest parish, the 5,000-member strong St. Michael's of Grand Forks for 27 years.

At UND, he taught religion and, at NDSU, where he is now professor emeritus, he taught sociology of religion and sociology of the Great Plains. He has received numerous awards, most recently an honorary doctorate of leadership degree from the University of Maryland.

In a profile of Father Sherman this month, the Grand Forks Herald said, "Sherman's style, of being a sometimes gruff, no-nonsense defender of old-fashioned, blue-collar Catholicism, while being genial good company to anyone, and wearing his academic accomplishments lightly, attracted many to the parish. It's difficult, if not impossible, to find a discouraging word said about Sherman, a fairly remarkable fact about any member of the clergy who stays in one spot a long time."

And a few days later, the editor of the newspaper called Father Sherman "a remarkable man—a priest first and foremost, a man of old-fashioned faith, but also a scholar, a witty conversationalist, a polished orator, an able administrator, a distinguished patriot, a community builder, a cool head in a crisis, a giver and an excellent friend to many thousands of people both within and outside his church."

Father Sherman is also a survivor. During the disastrous Red River flood of 1997, one of the worst to ever strike an American community, his parish was completed flooded and his church, school and rectory suffered heavy damage. Among the most painful losses was

Father Sherman's collection of North Dakota history, a singular treasury of volumes on the State's heritage. But the indomitable cleric is now busy rebuilding that library and at work writing several more books, one on the transfer of Eastern European architecture to the Great Plains at the time of settlement and a second on another remarkable North Dakota priest who served during World War II with the Polish resistance.

It is clear that retirement to Father Sherman means something different than it does to the rest of us. Not only will he still minister on a part-time basis to Roman Catholics, but he will continue to energetically research and write about intriguing aspects of North Dakota's ethic legacy.

Although he has already provided a valuable and outstanding body of work on ethnic heritage, North Dakotans are grateful for his continued interest in the field. He is a scholar of the first order, a priest of the classic and finest model, and an exemplary citizen indeed.●

HONORING DONOVAN RILEY CLARKSON

● Mr. BUNNING. Madam President, I have the privilege and honor of rising today to recognize Mr. Donovan Riley Clarkson of Paducah, KY. Donovan was recently recognized for his accomplishments in dance.

This 10-year-old gentleman copes daily with the effects of central auditory processing disorder. In a person who suffers from this disorder, information is not correctly processed from the ear to the brain. This makes daily activities, from hearing conversations to hand-eye coordination, difficult to complete. Nevertheless, Donovan has not allowed this disorder to interfere with his dreams and accomplishments.

Donovan performs with a dance troupe at the Beverly Rogers Dance Academy. His family enrolled him in dance four years ago after a medical professional suggested that the movement could help his condition. Everyday after school, Donovan practices the assigned dance routine. He must practice twice as hard as his teammates in order to execute these moves. This dedication paid off: he earned a spot on a local dance troupe. In fact, Donovan is the youngest member of this group. His big smile and smooth dance moves helped the group place first in many regional competitions and earn an almost perfect score, securing the troupe a spot in the national Odyssey Dance Competition held in Lakeside, FL.

Currently, Donovan attends the fourth grade at Reidland Elementary School in Paducah. His favorite subject is reading, which other individuals with his condition find difficult. In his free time, Donovan enjoys constructing toy models and Lego figures. However, spending time with his brother and sister is always on the top of his list.

What sets Donovan apart from other children is not his disorder or his remarkable dance skills, but his determination. He has overcome every single obstacle placed before him, making his life a testament to hard work. Please join me in congratulating Mr. Donovan Riley Clarkson and wishing him the best of luck.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 10:54 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 342) to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 43. Concurrent resolution expressing the sense of Congress that Congress should participate in and support activities to provide decent homes for the people of the United States.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 658. An act to provide for the protection of investors, increase confidence in the capital markets system, and fully implement the Sarbanes-Oxley Act of 2002 by streamlining the hiring process for certain employment positions in the Securities and Exchange Commission.

MEASURE REFERRED

The following concurrent resolution, previously received from the House of Representatives of concurrence, was referred as indicated:

H. Con. Res. 220. A concurrent resolution commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams, for their lives and accomplishments; to the Committee on the Judiciary.

MEASURE HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

S. 1276. A bill to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to, national service positions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2797. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Assessment of Biofuels as an Alternative to Conventional Fossil Fuels"; to the Committee on Environment and Public Works.

EC–2798. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Assessment of Emissions Data and State Permit Information Available for Burning Biofuels (e.g., Animal Fats and Reclaimed Greases and Oils)"; to the Committee on Environment and Public Works.

EC–2799. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Headquarters Review of Site-Specific Risk Assessment Decisions for Hazardous Waste Combustors"; to the Committee on Environment and Public Works.

EC–2800. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Methyl Ethyl Ketone: Proposed Rule to Removal from Regulation as a Toxic Air Pollutant; Fact Sheet"; to the Committee on Environment and Public Works.

EC–2801. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Use of the Site-Specific Risk Assessment Policy and Guidance for Hazardous Waste"; to the Committee on Environment and Public Works.

EC–2802. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the OMB Cost Estimate for Pay-As-You-Go Calculations for Public Law 108–18; to the Committee on the Budget.

EC–2803. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, a report on the U.S.-Singapore Free Trade Agreement—Potential Economywide and Selected Sectoral Effects; to the Committee on Finance.

EC–2804. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, a report on the U.S.-Chile Free Trade Agreement—Potential Economywide and Selected Sectoral Effects; to the Committee on Finance.

EC–2805. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program: Change in the Methodology for Determining Payment for Extraordinarily High-Cost Cases (Cost Outliers) under the Acute Care Hospital Inpatient and Long-Term Care Hospital Prospective Payment Systems" (RIN0938-AM41) received on June 9, 2003; to the Committee on Finance.

EC–2806. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Temporary Regulation Regarding Disclosures of Tax Information to Agriculture" (TD 9060) received on June 5, 2003; to the Committee on Finance.

EC–2807. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice" (Notice 2003-30) received on June 5, 2003; to the Committee on Finance.

EC–2808. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Bond Mediation Pilot Program" (Ann. 2003-36) received on June 5, 2003; to the Committee on Finance.

EC–2809. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "IRC 512(a)(3) and 45B—Unrelated Business Taxable Income and the IRC 45B Credit" (Rev. Rul. 2003-64) received on June 5, 2003; to the Committee on Finance.

EC–2810. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "LMSB Fast Track Settlement Procedure" (Rev. Proc. 2003-40) received on June 5, 2003; to the Committee on Finance.

EC–2811. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "SBSE Fast Track Mediation Procedure" (Rev. Proc. 2003-41) received on June 5, 2003; to the Committee on Finance.

EC–2812. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Salary Reduction of Retirement Benefits" (Rev. Rul. 2003-62) received on June 5, 2003; to the Committee on Finance.

EC–2813. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Determination of Interest Rate" (Rev. Rul. 2003-63) received on June 5, 2003; to the Committee on Finance.

EC–2814. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Automatic Extension of Time to File Certain Information Returns and Exempt Organization Returns" (RIN1545-BB55: TD9061) received on June 5, 2003; to the Committee on Finance.

EC–2815. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Frozen Plan Vesting" (Rev. Rul. 2003-65) received on June 5, 2003; to the Committee on Finance.

EC–2816. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Coordination of Sections 755 and 1060; Allocation of Basis Adjustments Among Partnership Assets and Application of the Residual Method to Certain Partnership Transactions" (RIN1545-AX18: TD9059) received on June 5, 2003; to the Committee on Finance.

EC–2817. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Update of Rev. Proc. 2002-47—Employee Plans Compliance Resolution System" (Rev. Proc. 2003-44) received on June 5, 2003; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works:

Report to accompany S. 163, a bill to reauthorize the United States Institute for Environmental Conflict Resolution, and for other purposes (Rept. No. 108–74).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 285. A bill to authorize the integration and consolidation of alcohol and substance abuse programs and services provided by Indian tribal governments, and for other purposes (Rept. No. 108–75).

By Mr. CAMPBELL, from the Committee on Indian Affairs, without amendment:

S. 558. A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes (Rept. No. 108–76).

By Mr. HATCH, from the Committee on the Judiciary, with amendments:

S. 1023. A bill to increase the annual salaries of justices and judges of the United States.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. COCHRAN for the Committee on Agriculture, Nutrition, and Forestry.

*Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development.

*Thomas C. Dorr, of Iowa, to be a Member of the Board of Directors of the Commodity Credit Corporation, vice Jill L. Long, resigned.

By Mr. WARNER for the Committee on Armed Services.

Army nomination of Lt. Gen. William S. Wallace.

Navy nomination of Adm. Edmund P. Giambastiani, Jr.

By Mr. ROBERTS for the Select Committee on Intelligence.

*Frank Libutti, of New York, to be Under Secretary for Information Analysis and Infrastructure Protection, Department of Homeland Security.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BOND (for himself, Ms. Mikulski, Mr. Specter, Ms. Collins, Mr. Alexander, Mr. Santorum, Mr. Kennedy, Ms. Snowe, Mr. Baucus, Mr. Sarbanes, Mr. Nelson of Nebraska, Mr. Breaux, Mrs. Clinton, and Mr. Bayh):

S. 1276. A bill to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to, national service positions; considered and passed.

By Mr. BIDEN (for himself, Mr. McConnell, Mr. Bunning, and Mr. Graham of South Carolina):

S. 1277. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement discipline, accountability, and due process laws; to the Committee on the Judiciary.

By Mr. WYDEN (for himself, Mr. Smith, Mr. Rockefeller, and Mr. Breaux):

S. 1278. A bill to amend the Public Health Service Act to provide for a public response to the public health crisis of pain, and for other puposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VOINOVICH (for himself, Mrs. Clinton, Mr. DeWine, and Mr. Schumer):

S. 1279. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself and Mr. Biden):

S. 1280. A bill to amend the Protect Act to clarify certain volunteer liability; to the Committee on the Judiciary.

By Mr. GRAHAM of Florida:

S. 1281. A bill to amend title 38, United States Code, to presume additional diseases of former prisoners of war to be service-connected for compensation purposes, to enhance the Dose Reconstruction Program of the Department of Defense, to enhance and fund certain other epidemiological studies, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GRAHAM of Florida (for himself, Mr. Nelson of Florida, and Mr. Sessions):

S. 1282. A bill to require the Secretary of Veterans Affairs to establish national cemeteries for geographically underserved populations of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GRAHAM of Florida:

S. 1283. A bill to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. CLINTON:

S. 1284. A bill to provide for the establishment of the Kosovar-American Enterprise Fund to promote small business and microcredit lending and housing construction and reconstruction for Kosova; to the Committee on Foreign Relations.

By Mr. CARPER:

S. 1285. A bill to reform the postal laws of the United States; to the Committee on Governmental Affairs.

By Mr. LEAHY (for himself, Mr. DASCHLE, Mr. KENNEDY, Mr. FEINGOLD, and Mr. BINGAMAN):

S. 1286. A bill to combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 1287. A bill to amend section 502(a)(5) of the Higher Education Act of 1965 regarding the definition of a Hispanic-serving institution; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAMBLISS (for himself and Mr. MILLER):

S. 1288. A bill to amend title XVIII of the Social Security Act to exclude brachytherapy devices from the prospective payment system for outpatient hospital services under the medicare program ; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATCH:

S. Res. 174. A resolution designating Thursday, November 20, 2003, as "Feed America Thursday"; to the Committee on the Judiciary.

By Mr. HATCH:

S. Res. 175. A resolution designating the month of October 2003, as "Family History Month"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 13

At the request of Mr. KYL, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 13, a bill to provide financial security to family farm and small business owners by ending the unfair practice of taxing someone at death.

S. 76

At the request of Mr. DASCHLE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 76, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 171

At the request of Mr. DAYTON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 171, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 189

At the request of Mr. WYDEN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 189, a bill to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes.

S. 249

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 249, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a deceased veteran after age 55 shall not result in termination of dependency and indemnity compensation otherwise payable to that surviving spouse.

S. 251

At the request of Mr. LOTT, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 251, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 300

At the request of Mr. KERRY, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Louisiana (Mr. BREAUX), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Minnesota (Mr. DAYTON) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 316

At the request of Mr. CORZINE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 316, a bill to amend part A of title IV of the Social Security Act to include efforts to address barriers to employment as a work activity under the temporary assistance to needy families program, and for other purposes.

S. 333

At the request of Mr. BREAUX, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 518

At the request of Ms. COLLINS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 557

At the request of Ms. COLLINS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 595

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 623

At the request of Mr. WARNER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 659

At the request of Mr. CRAIG, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 659, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

S. 678

At the request of Mr. AKAKA, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 877

At the request of Mr. BURNS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 877, a bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

S. 882

At the request of Mr. BAUCUS, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 882, a bill to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes.

S. 893

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 893, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 939,

At the request of Mr. HAGEL, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 979

At the request of Mr. ENSIGN, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 979, a bill to direct the Securities and Exchange Commission to require enhanced disclosures of employee stock options, to require a study on the economic impact of broad-based employee stock option plans, and for other purposes.

S. 982

At the request of Mr. SANTORUM, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 982, supra.

S. 983

At the request of Mr. CHAFEE, the names of the Senator from New Hampshire (Mr. SUNUNU), the Senator from Massachusetts (Mr. KERRY) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 985

At the request of Mr. DODD, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1046

At the request of Mr. HOLLINGS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1052

At the request of Mr. NELSON of Florida, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1052, a bill to ensure that recipients of unsolicited bulk commercial electronic mail can identify the sender of such electronic mail, and for other purposes.

S. 1091

At the request of Mr. DURBIN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1091, a bill to provide funding for student loan repayment for public attorneys.

S. 1115

At the request of Mrs. MURRAY, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 1115, a bill to amend the Toxic Substances Control Act to reduce the health risks posed by asbestos-containing products.

S. 1180

At the request of Mr. SANTORUM, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 1181

At the request of Mr. CORZINE, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1181, a bill to promote youth financial education.

S. 1201

At the request of Mr. GRAHAM of South Carolina, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 1201, a bill to promote healthy lifestyles and prevent unhealthy, risky behaviors among teenage youth.

S. 1233

At the request of Ms. MIKULSKI, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1233, a bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center.

S. 1237

At the request of Mr. BENNETT, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 1237, a bill to amend the Rehabilitation Act of 1973 to provide for more equitable allotment of funds to States for centers for independent living.

S. 1248

At the request of Mr. GREGG, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1248, a bill to reauthorize the Individuals with Disabilities Education Act, and for other purposes.

S. 1273

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1273, a bill to provide for a study to ensure that students are not adversely affected by changes to the needs analysis tables, and to require the Secretary of Education to consult with the Advisory Committee on Student Financial Assistance regarding such changes.

S. CON. RES. 27

At the request of Mr. BOND, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. Con. Res. 27, a concurrent resolution urging the President to request the United States International Trade Commission to take certain actions with respect to the temporary safeguards on imports of certain steel products, and for other purposes.

S. CON. RES. 45

At the request of Ms. LANDRIEU, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing appreciation to the Government of Kuwait for the medical assistance it provided to Ali Ismaeel Abbas and other children of Iraq and for the additional humanitarian aid provided by the Government and people of Kuwait, and for other purposes.

S. CON. RES. 52

At the request of Mr. HARKIN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Con. Res. 52, a concurrent resolution expressing the sense of Congress that the United States Government should support the human rights and dignity of all persons with disabilities by pledging support for the drafting and working toward the adoption of a thematic convention on the human rights and dignity of persons with disabilities by the United Nations General Assembly to augment the existing United Nations human rights system, and for other purposes.

S. RES. 151

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Res. 151, a resolution eliminating secret Senate holds.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself, Mr. MCCONNELL, Mr. BUNNING, and Mr. GRAHAM of South Carolina):

S. 1277. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement discipline, accountability, and due process laws; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise to introduce the Law Enforcement Discipline, Accountability, and Due Process Act of 2003, along with the Chairman of the Judiciary Subcommittee on Crime, Corrections and Victims' Rights Senator GRAHAM, Senator MCCONNELL and Senator BUNNING.

These are trying times for the men and women on our front lines providing domestic security, our Nation's law enforcement personnel. State and local fiscal problems are forcing many communities to cut their police budgets. Each change in the Nation's homeland security alert level results in increased overtime and other costs for local law enforcement. Just yesterday, the FBI reported that the number of murders and rapes was up across the country in 2002. And this Administration is determined to dramatically scale back Federal crime-fighting initiatives like the COPS program, a proven initiative that has been hailed as one of the keys to the crime-drop of the nineties.

At the same time, the men and women of law enforcement work in extremely dangerous environments. An average of 165 police officers are killed in the line of duty every year. And at times, internal police investigations and administrative hearings do not provide officers with basic protections. According to the National Association of Police Organizations, "[i]n roughly half of the states in this country, officers enjoy some legal protections against false accusations and abusive conduct, but hundreds of thousands of officers have very limited due process rights and confront limitations on their exercise of other rights, such as the right to engage in political activities." The Fraternal Order of Police notes that, "[i]n a startling number of jurisdictions throughout this country, law enforcement officers have no procedural or administrative protections whatsoever; in fact, they can be, and frequently are, summarily dismissed from their jobs without explanation. Officers who lose their careers due to administrative or political expediency almost always find it impossible to find new employment in public safety. An officer's reputation, once tarnished by accusation, is almost impossible to restore."

This legislation we introduce today seeks to provide officers with certain basic protections in those jurisdictions where such workplace protections are not currently provided. This bill allows law enforcement officials to engage in political activities. It provides standards and procedures to guide State and local law enforcement agencies during internal investigations, interrogations, and administrative disciplinary hearings of law enforcement officers, and it calls upon States to develop and enforce these disciplinary procedures. The bill would preempt State laws which confer fewer rights than those provided for in the legislation, but it would not preempt any State or local laws that confer rights or protections that are equal to or exceed the rights and protections afforded in the bill. My own State of Delaware has its own law enforcement officers' bill of rights, and as such Delaware would not be impacted by the provisions of this bill. I am pleased that the bill has earned the endorsement of the Fraternal Order of Police and of the National Association of Police Organizations.

Beyond benefiting those on the front lines of local law enforcement, this bill would enhance the ability of our citizens to hold their local police accountable if they do transgress while on the job. The legislation includes provisions that will ensure citizen complaints against police officers are investigated, and that citizens are informed of the outcome of these investigations. The bill balances the rights of police officers with the rights of citizens to raise valid concerns about the conduct of some of these officers. In addition, I have consulted with constitutional experts who have opined that the bill is consistent with Congress' powers under the Commerce Clause and that it does not run afoul of the Supreme Court's Tenth Amendment jurisprudence.

While I believe that the bill we introduce today takes the right approach, I want to note the International Association of Chiefs of Police's opposition to this measure. In April of this year I met with Richmond, California Chief of Police Joseph Samuels, the president of the IACP. Chief Samuels and I acknowledged that we disagreed on this bill, but I pledged to him that their concerns would be heard and taken into consideration as the bill we introduce today is debated in Congress. It is my view that without a meeting of the minds between police management and union officials on this issue, enactment of a meaningful law enforcement officers' bill of rights will be difficult. It is my hope that the newly-constituted Subcommittee on Crime, Corrections and Victims' Rights, on which I serve as ranking member, will hold a hearing on this measure. That subcommittee is the proper forum in which to debate the merits of our approach to guaranteeing basic procedural safeguards to the men and women of law enforcement.

I urge my colleagues to join Senators GRAHAM, MCCONNELL, BUNNING and me in providing all of the Nation's law enforcement officers with the basic rights they deserve.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the Bill was ordered to be printed in the RECORD, as follows:

S. 1277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2003".

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE AND POLICY.

(a) FINDINGS.—Congress finds that—

(1) the rights of law enforcement officers to engage in political activity or to refrain from engaging in political activity, except when on duty, or to run as candidates for public office, unless such service is found to be in conflict with their service as officers, are activities protected by the first amendment of the United States Constitution, as applied to the States through the 14th amendment of the United States Constitution, but these rights are often violated by the management of State and local law enforcement agencies;

(2) a significant lack of due process rights of law enforcement officers during internal investigations and disciplinary proceedings has resulted in a loss of confidence in these processes by many law enforcement officers, including those unfairly targeted for their labor organization activities or for their aggressive enforcement of the laws, demoralizing many rank and file officers in communities and States;

(3) unfair treatment of officers has potentially serious long-term consequences for law enforcement by potentially deterring or otherwise preventing officers from carrying out their duties and responsibilities effectively and fairly;

(4) the lack of labor-management cooperation in disciplinary matters and either the perception or the actuality that officers are not treated fairly detrimentally impacts the

recruitment of and retention of effective officers, as potential officers and experienced officers seek other careers which has serious implications and repercussions for officer morale, public safety, and labor-management relations and strife and can affect interstate and intrastate commerce, interfering with the normal flow of commerce;

(5) there are serious implications for the public safety of the citizens and residents of the United States which threatens the domestic tranquility of the United States because of a lack of statutory protections to ensure—

(i) the due process and political rights of law enforcement officers;

(ii) fair and thorough internal investigations and interrogations of and disciplinary proceedings against law enforcement officers; and

(iii) effective procedures for receipt, review, and investigation of complaints against officers, fair to both officers and complainants; and

(6) resolving these disputes and problems and preventing the disruption of vital police services is essential to the well-being of the United States and the domestic tranquility of the Nation.

(b) Declaration of Policy.—Congress declares that it is the purpose of this Act and the policy of the United States to—

(1) protect the due process and political rights of State and local law enforcement officers and ensure equality and fairness of treatment among such officers;

(2) provide continued police protection to the general public;

(3) provide for the general welfare and ensure domestic tranquility; and

(4) prevent any impediments to the free flow of commerce, under the rights guaranteed under the United States Constitution and Congress' authority thereunder.

SEC. 3. DISCIPLINE, ACCOUNTABILITY, AND DUE PROCESS OF OFFICERS.

(a) In General.—Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end the following:

"SEC. 820. DISCIPLINE, ACCOUNTABILITY, AND DUE PROCESS OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

"(a) Definitions.—In this section:

"(1) Disciplinary action.—The term 'disciplinary action' means any adverse personnel action, including suspension, reduction in pay, rank, or other employment benefit, dismissal, transfer, reassignment, unreasonable denial of secondary employment, or similar punitive action taken against a law enforcement officer.

"(2) Disciplinary hearing.—The term 'disciplinary hearing' means an administrative hearing initiated by a law enforcement agency against a law enforcement officer, based on an alleged violation of law, that, if proven, would subject the law enforcement officer to disciplinary action.

"(3) Emergency suspension.—The term 'emergency suspension' means the temporary action by a law enforcement agency of relieving a law enforcement officer from the active performance of law enforcement duties without a reduction in pay or benefits when the law enforcement agency, or an official within that agency, determines that there is probable cause, based upon the conduct of the law enforcement officer, to believe that the law enforcement officer poses an immediate threat to the safety of that officer or others or the property of others.

"(4) Investigation.—The term 'investigation'—

"(A) means an action taken to determine whether a law enforcement officer violated a law by a public agency or a person employed by a public agency, acting alone or in cooperation with or at the direction of another agency, or a division or unit within another agency, regardless of a denial by such an agency that any such action is not an investigation; and

"(B) includes—

"(i) asking questions of any other law enforcement officer or non-law enforcement officer;

"(ii) conducting observations;

"(iii) reviewing and evaluating reports, records, or other documents; and

"(iv) examining physical evidence.

"(5) Law enforcement officer.—The terms 'law enforcement officer' and 'officer' have the meaning given the term 'law enforcement officer' in section 1204, except the term does not include a law enforcement officer employed by the United States, or any department, agency, or instrumentality thereof.

"(6) Personnel record.—The term 'personnel record' means any document, whether in written or electronic form and irrespective of location, that has been or may be used in determining the qualifications of a law enforcement officer for employment, promotion, transfer, additional compensation, termination or any other disciplinary 'action.

"(7) Public agency and law enforcement agency.—The terms 'public agency' and 'law enforcement agency' each have the meaning given the term 'public agency' in section 1204, except the terms do not include the United States, or any department, agency, or instrumentality thereof.

"(8) Summary punishment.—The term 'summary punishment' means punishment imposed—

"(A) for a violation of law that does not result in any disciplinary action; or

"(B) for a violation of law that has been negotiated and agreed upon by the law enforcement agency and the law enforcement officer, based upon a written waiver by the officer of the rights of that officer under subsection (i) and any other applicable law or constitutional provision, after consultation with the counsel or representative of that officer.

"(b) Applicability.—

"(1) In general.—This section sets forth the due process rights, including procedures, that shall be afforded a law enforcement officer who is the subject of an investigation or disciplinary hearing.

"(2) Nonapplicability.—This section does not apply in the case of—

"(A) an investigation of specifically alleged conduct by a law enforcement officer that, if proven, would constitute a violation of a statute providing for criminal penalties; or

"(B) a nondisciplinary action taken in good faith on the basis of the employment related performance of a law enforcement officer.

"(c) Political Activity.—

"(1) Right to engage or not to engage in political activity.—Except when on duty or acting in an official capacity, a law enforcement officer shall not be prohibited from engaging in political activity or be denied the right to refrain from engaging in political activity.

"(2) Right to run for elective office.—A law enforcement officer shall not be—

"(A) prohibited from being a candidate for an elective office or from serving in such an elective office, solely because of the status of the officer as a law enforcement officer; or

"(B) required to resign or take an unpaid leave from employment with a law enforcement agency to be a candidate for an elective office or to serve in an elective office, unless such service is determined to be in conflict with or incompatible with service as a law enforcement officer.

"(3) Adverse personnel action.—An action by a public agency against a law enforcement officer, including requiring the officer to take unpaid leave from employment, in violation of this subsection shall be considered an adverse personnel action within the meaning of subsection (a)(1).

"(d) Effective Procedures for Receipt, Review, and Investigation of Complaints Against Law Enforcement Officers.—

"(1) Complaint process.—Not later than 1 year after the effective date of this section, each law enforcement agency shall adopt and comply with a written complaint procedure that—

"(A) authorizes persons from outside the law enforcement agency to submit written complaints about a law enforcement officer to—

"(i) the law enforcement agency employing the law enforcement officer; or

"(ii) any other law enforcement agency charged with investigating such complaints;

"(B) sets forth the procedures for the investigation and disposition of such complaints;

"(C) provides for public access to required forms and other information concerning the submission and disposition of written complaints; and

"(D) requires notification to the complainant in writing of the final disposition of the complaint and the reasons for such disposition.

"(2) Initiation of an investigation.—

"(A) In general.—Except as provided in subparagraph (B), an investigation based on a complaint from outside the law enforcement agency shall commence not later than 15 days after the receipt of the complaint by—

"(i) the law enforcement agency employing the law enforcement officer against whom the complaint has been made; or

"(ii) any other law enforcement agency charged with investigating such a complaint.

"(B) Exception.—Subparagraph (A) does not apply if—

"(i) the law enforcement agency determines from the face of the complaint that each allegation does not constitute a violation of law; or

"(ii) the complainant fails to comply substantially with the complaint procedure of the law enforcement agency established under this section.

"(3) Complainant or victim conflict of interest.—The complainant or victim of the alleged violation of law giving rise to an investigation under this subsection may not conduct or supervise the investigation or serve as an investigator.

"(e) Notice of Investigation.—

"(1) In general.—Any law enforcement officer who is the subject of an investigation shall be notified of the investigation 24 hours before the commencement of questioning or to otherwise being required to provide information to an investigating agency.

"(2) Contents of notice.—Notice given under paragraph (1) shall include—

"(A) the nature and scope of the investigation;

"(B) a description of any allegation contained in a written complaint;

"(C) a description of each violation of law alleged in the complaint for which suspicion exists that the officer may have engaged in conduct that may subject the officer to disciplinary action; and

"(D) the name, rank, and command of the officer or any other individual who will be conducting the investigation.

"(f) Rights of Law Enforcement Officers Prior to and During Questioning Incidental to an Investigation.—If a law enforcement officer is subjected to questioning incidental to an investigation that may result in disciplinary action against the officer, the following minimum safeguards shall apply:

"(1) Counsel and representation.—

"(A) In general.—Any law enforcement officer under investigation shall be entitled to effective counsel by an attorney or representation by any other person who the officer chooses, such as an employee representative, or both, immediately before and during the entire period of any questioning session, unless the officer consents in writing to being questioned outside the presence of counsel or representative.

"(B) Private consultation.—During the course of any questioning session, the officer shall be afforded the opportunity to consult privately with counsel or a representative, if such consultation does not repeatedly and unnecessarily disrupt the questioning period.

"(C) Unavailability of counsel.—If the counsel or representative of the law enforcement officer is not available within 24 hours of the time set for the commencement of any questioning of that officer, the investigating law enforcement agency shall grant a reasonable extension of time for the law enforcement officer to obtain counsel or representation.

"(2) Reasonable hours and time.—Any questioning of a law enforcement officer under investigation shall be conducted at a reasonable time when the officer is on duty, unless exigent circumstances compel more immediate questioning, or the officer agrees in writing to being questioned at a different time, subject to the requirements of subsections (e) and (f)(1).

"(3) Place of questioning.—Unless the officer consents in writing to being questioned elsewhere, any questioning of a law enforcement officer under investigation shall take place—

"(A) at the office of the individual conducting the investigation on behalf of the law enforcement agency employing the officer under investigation; or

"(B) the place at which the officer under investigation reports for duty.

"(4) Identification of questioner.—Before the commencement of any questioning, a law enforcement officer under investigation shall be informed of—

"(A) the name, rank, and command of the officer or other individual who will conduct the questioning; and

"(B) the relationship between the individual conducting the questioning and the law enforcement agency employing the officer under investigation.

"(5) Single questioner.—During any single period of questioning of a law enforcement officer under investigation, each question shall be asked by or through 1 individual.

"(6) Reasonable time period.—Any questioning of a law enforcement officer under investigation shall be for a reasonable period of time and shall allow reasonable periods for the rest and personal necessities of the officer and the counsel or representative of the officer, if such person is present.

"(7) No threats, false statements, or promises to be made.—

"(A) In general.—Except as provided in subparagraph (B), no threat against, false or misleading statement to, harassment of, or promise of reward to a law enforcement officer under investigation shall be made to induce the officer to answer any question, give any statement, or otherwise provide information.

"(B) Exception.—The law enforcement agency employing a law enforcement officer under investigation may require the officer to make a statement relating to the investigation by explicitly threatening disciplinary action, including termination, only if—

"(i) the officer has received a written grant of use and derivative use immunity or transactional immunity by a person authorized to grant such immunity; and

"(ii) the statement given by the law enforcement officer under such an immunity may not be used in any subsequent criminal proceeding against that officer.

"(8) Recording.—

"(A) In general.—All questioning of a law enforcement officer under an investigation shall be recorded in full, in writing or by electronic device, and a copy of the transcript shall be provided to the officer under investigation before any subsequent period of questioning or the filing of any charge against that officer.

"(B) Separate recording.—To ensure the accuracy of the recording, an officer may utilize a separate electronic recording device, and a copy of any such recording (or the transcript) shall be provided to the public agency conducting the questioning, if that agency so requests.

"(9) Use of honesty testing devices prohibited.—No law enforcement officer under investigation may be compelled to submit to the use of a lie detector, as defined in section 2 of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001).

"(g) Notice of Investigative Findings and Disciplinary Recommendation and Opportunity To Submit a Written Response.—

"(1) Notice.—Not later than 30 days after the conclusion of an investigation under this section, the person in charge of the investigation or the designee of that person shall notify the law enforcement officer who was the subject of the investigation, in writing, of the investigative findings and any recommendations for disciplinary action.

"(2) Opportunity to submit written response.—

"(A) In general.—Not later than 30 days after receipt of a notification under paragraph (1), and before the filing of any charge seeking the discipline of such officer or the commencement of any disciplinary proceeding under subsection (h), the law enforcement officer who was the subject of the investigation may submit a written response to the findings and recommendations included in the notification.

"(B) Contents of response.—The response submitted under subparagraph (A) may include references to additional documents, physical objects, witnesses, or any other information that the law enforcement officer believes may provide exculpatory evidence.

"(h) Disciplinary Hearing.—

"(1) Notice of opportunity for hearing.—Except in a case of summary punishment or emergency suspension (subject to subsection (k)), before the imposition of any disciplinary action the law enforcement agency shall notify the officer that the officer is entitled to a due process hearing by an independent and impartial hearing officer or board.

"(2) Requirement of determination of violation.—No disciplinary action may be taken against a law enforcement officer unless an independent and impartial hearing officer or board determines, after a hearing and in accordance with the requirements of this subsection, that the law enforcement officer committed a violation of law.

"(3) Time limit.—No disciplinary charge may be brought against a law enforcement officer unless—

"(A) the charge is filed not later than the earlier of—

"(i) 1 year after the date on which the law enforcement agency filing the charge had knowledge or reasonably should have had knowledge of an alleged violation of law; or

"(ii) 90 days after the commencement of an investigation; or

"(B) the requirements of this paragraph are waived in writing by the officer or the counsel or representative of the officer.

"(4) Notice of hearing.—Unless waived in writing by the officer or the counsel or representative of the officer, not later than 30 days after the filing of a disciplinary charge against a law enforcement officer, the law enforcement agency filing the charge shall provide written notification to the law enforcement officer who is the subject of the charge, of—

"(A) the date, time, and location of any disciplinary hearing, which shall be scheduled in cooperation with the law enforcement officer, or the counsel or representative of the officer, and which shall take place not earlier than 30 days and not later than 60 days after notification of the hearing is given to the law enforcement officer under investigation;

"(B) the name and mailing address of the independent and impartial hearing officer, or the names and mailing addresses of the independent and impartial hearing board members; and

"(C) the name, rank, command, and address of the law enforcement officer prosecuting the matter for the law enforcement agency, or the name, position, and mailing address of the person prosecuting the matter for a public agency, if the prosecutor is not a law enforcement officer.

"(5) Access to documentary evidence and investigative file.—Unless waived in writing by the law enforcement officer or the counsel or representative of that officer, not later than 15 days before a disciplinary hearing described in paragraph (4)(A), the law enforcement officer shall be provided with—

"(A) a copy of the complete file of the predisciplinary investigation; and

"(B) access to and, if so requested, copies of all documents, including transcripts, records, written statements, written reports, analyses, and electronically recorded information that—

"(i) contain exculpatory information;

"(ii) are intended to support any disciplinary action; or

"(iii) are to be introduced in the disciplinary hearing.

"(6) Examination of physical evidence.—Unless waived in writing by the law enforcement officer or the counsel or representative of that officer—

"(A) not later than 15 days before a disciplinary hearing, the prosecuting agency shall notify the law enforcement officer or the counsel or representative of that officer of all physical, non-documentary evidence; and

"(B) not later than 10 days before a disciplinary hearing, the prosecuting agency shall provide a reasonable date, time, place, and manner for the law enforcement officer or the counsel or representative of the law enforcement officer to examine the evidence described in subparagraph (A).

"(7) IDENTIFICATION OF WITNESSES.—Unless waived in writing by the law enforcement officer or the counsel or representative of the officer, not later than 15 days before a disciplinary hearing, the prosecuting agency shall notify the law enforcement officer or the counsel or representative of the officer, of the name and address of each witness for the law enforcement agency employing the law enforcement officer.

"(8) REPRESENTATION.—During a disciplinary hearing, the law enforcement officer who is the subject of the hearing shall be entitled to due process, including—

"(A) the right to be represented by counsel or a representative;

"(B) the right to confront and examine all witnesses against the officer; and

"(C) the right to call and examine witnesses on behalf of the officer.

"(9) HEARING BOARD AND PROCEDURE.—

"(A) IN GENERAL.—A State or local government agency, other than the law enforcement agency employing the officer who is subject of the disciplinary hearing, shall—

"(i) determine the composition of an independent and impartial disciplinary hearing board;

"(ii) appoint an independent and impartial hearing officer; and

"(iii) establish such procedures as may be necessary to comply with this section.

"(B) PEER REPRESENTATION ON DISCIPLINARY HEARING BOARD.—A disciplinary hearing board that includes employees of the law enforcement agency employing the law enforcement officer who is the subject of the hearing, shall include not less than 1 law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(10) SUMMONSES AND SUBPOENAS.—

"(A) IN GENERAL.—The disciplinary hearing board or independent hearing officer—

"(i) shall have the authority to issue summonses or subpoenas, on behalf of—

"(I) the law enforcement agency employing the officer who is the subject of the hearing; or

"(II) the law enforcement officer who is the subject of the hearing; and

"(ii) upon written request of either the agency or the officer, shall issue a summons or subpoena, as appropriate, to compel the appearance and testimony of a witness or the production of documentary evidence.

"(B) EFFECT OF FAILURE TO COMPLY WITH SUMMONS OR SUBPOENA.—With respect to any failure to comply with a summons or a subpoena issued under subparagraph (A)—

"(i) the disciplinary hearing officer or board shall petition a court of competent jurisdiction to issue an order compelling compliance; and

"(ii) subsequent failure to comply with such a court order issued pursuant to a petition under clause (i) shall—

"(I) be subject to contempt of a court proceedings according to the laws of the jurisdiction within which the disciplinary hearing is being conducted; and

"(II) result in the recess of the disciplinary hearing until the witness becomes available to testify and does testify or is held in contempt.

"(11) CLOSED HEARING.—A disciplinary hearing shall be closed to the public unless the law enforcement officer who is the subject of the hearing requests, in writing, that the hearing be open to specified individuals or to the general public.

"(12) RECORDING.—All aspects of a disciplinary hearing, including pre-hearing motions, shall be recorded by audio tape, video tape, or transcription.

"(13) SEQUESTRATION OF WITNESSES.—Either side in a disciplinary hearing may move for and be entitled to sequestration of witnesses.

"(14) TESTIMONY UNDER OATH.—The hearing officer or board shall administer an oath or affirmation to each witness, who shall testify subject to the laws of perjury of the State in which the disciplinary hearing is being conducted.

"(15) FINAL DECISION ON EACH CHARGE.—

"(A) IN GENERAL.—At the conclusion of the presentation of all the evidence and after oral or written argument, the hearing officer or board shall deliberate and render a written final decision on each charge.

"(B) FINAL DECISION ISOLATED TO CHARGE BROUGHT.—The hearing officer or board may not find that the law enforcement officer who is the subject of the hearing is liable for disciplinary action for any violation of law, as to which the officer was not charged.

"(16) BURDEN OF PERSUASION AND STANDARD OF PROOF.—The burden of persuasion or standard of proof of the prosecuting agency shall be—

"(A) by clear and convincing evidence as to each charge alleging false statement or representation, fraud, dishonesty, deceit, moral turpitude, or criminal behavior on the part of the law enforcement officer who is the subject of the charge; and

"(B) by a preponderance of the evidence as to all other charges.

"(17) FACTORS OF JUST CAUSE TO BE CONSIDERED BY THE HEARING OFFICER OR BOARD.—A law enforcement officer who is the subject of a disciplinary hearing shall not be found guilty of any charge or subjected to any disciplinary action unless the disciplinary hearing board or independent hearing officer finds that—

"(A) the officer who is the subject of the charge could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct set forth in the charge against the officer;

"(B) the rule, regulation, order, or procedure that the officer who is the subject of the charge allegedly violated is reasonable;

"(C) the charging party, before filing the charge, made a reasonable, fair, and objective effort to discover whether the officer did in fact violate the rule, regulation, order, or procedure as charged;

"(D) the charging party did not conduct the investigation arbitrarily or unfairly, or in a discriminatory manner, against the officer who is the subject of the charge, and the charge was brought in good faith; and

"(E) the proposed disciplinary action reasonably relates to the seriousness of the alleged violation and to the record of service of the officer who is the subject of the charge.

"(18) NO COMMISSION OF A VIOLATION.—If the officer who is the subject of the disciplinary hearing is found not to have committed the alleged violation—

"(A) the matter is concluded;

"(B) no disciplinary action may be taken against the officer;

"(C) the personnel file of that officer shall not contain any reference to the charge for which the officer was found not guilty; and

"(D) any pay and benefits lost or deferred during the pendency of the disposition of the charge shall be restored to the officer as though no charge had ever been filed against the officer, including salary or regular pay, vacation, holidays, longevity pay, education incentive pay, shift differential, uniform allowance, lost overtime, or other premium pay opportunities, and lost promotional opportunities.

"(19) COMMISSION OF A VIOLATION.—

"(A) IN GENERAL.—If the officer who is the subject of the charge is found to have committed the alleged violation, the hearing officer or board shall make a written recommendation of a penalty to the law enforcement agency employing the officer or any other governmental entity that has final disciplinary authority, as provided by applicable State or local law.

"(B) PENALTY.—The employing agency or other governmental entity may not impose a penalty greater than the penalty recommended by the hearing officer or board.

"(20) APPEAL.—Any officer who has been found to have committed an alleged violation may appeal from a final decision of a hearing officer or hearing board to a court of competent jurisdiction or to an independent neutral arbitrator to the extent available in any other administrative proceeding under applicable State or local law, or a collective bargaining agreement.

"(i) WAIVER OF RIGHTS.—

"(1) IN GENERAL.—An officer who is notified that the officer is under investigation or is the subject of a charge may, after such notification, waive any right or procedure guaranteed by this section.

"(2) WRITTEN WAIVER.—A written waiver under this subsection shall be—

"(A) in writing; and

"(B) signed by—

"(i) the officer, who shall have consulted with counsel or a representative before signing any such waiver; or

"(ii) the counsel or representative of the officer, if expressly authorized by subsection (h).

"(j) SUMMARY PUNISHMENT.—Nothing in this section shall preclude a public agency from imposing summary punishment.

"(k) EMERGENCY SUSPENSION.—Nothing in this section may be construed to preclude a law enforcement agency from imposing an emergency suspension on a law enforcement officer, except that any such suspension shall—

"(1) be followed by a hearing in accordance with the requirements of subsection (h); and

"(2) not deprive the affected officer of any pay or benefit.

"(l) RETALIATION FOR EXERCISING RIGHTS.—There shall be no imposition of, or threat of, disciplinary action or other penalty against a law enforcement officer for the exercise of any right provided to the officer under this section.

"(m) OTHER REMEDIES NOT IMPAIRED.—Nothing in this section may be construed to impair any other right or remedy that a law enforcement officer may have under any constitution, statute, ordinance, order, rule, regulation, procedure, written policy, collective bargaining agreement, or any other source.

"(n) DECLARATORY OR INJUNCTIVE RELIEF.—A law enforcement officer who is aggrieved by a violation of, or is otherwise denied any right afforded by, the Constitution of the United States, a State constitution, this section, or any administrative rule or regulation promulgated pursuant thereto, may file suit in any Federal or State court of competent jurisdiction for declaratory or injunctive relief to prohibit the law enforcement agency from violating or otherwise denying such right, and such court shall have jurisdiction, for cause shown, to restrain such a violation or denial.

"(o) PROTECTION OF LAW ENFORCEMENT OFFICER PERSONNEL FILES.—

"(1) RESTRICTIONS ON ADVERSE MATERIAL MAINTAINED IN OFFICERS' PERSONNEL RECORDS.—

"(A) IN GENERAL.—Unless the officer has had an opportunity to review and comment, in writing, on any adverse material included in a personnel record relating to the officer, no law enforcement agency or other governmental entity may—

"(i) include the adverse material in that personnel record; or

"(ii) possess or maintain control over the adverse material in any form as a personnel record within the law enforcement agency or elsewhere in the control of the employing governmental entity.

"(B) RESPONSIVE MATERIAL.—Any responsive material provided by an officer to adverse material included in a personnel record pertaining to the officer shall be—

"(i) attached to the adverse material; and

"(ii) released to any person or entity to whom the adverse material is released in accordance with law and at the same time as the adverse material is released.

"(2) RIGHT TO INSPECTION OF, AND RESTRICTIONS ON ACCESS TO INFORMATION IN, THE OFFICER'S OWN PERSONNEL RECORDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), a law enforcement officer shall have the right to inspect all of the personnel records of the officer not less than annually.

"(B) RESTRICTIONS.—A law enforcement officer shall not have access to information in the personnel records of the officer if the information—

"(i) relates to the investigation of alleged conduct that, if proven, would constitute or have constituted a definite violation of a statute providing for criminal penalties, but as to which no formal charge was brought;

"(ii) contains letters of reference for the officer;

"(iii) contains any portion of a test document other than the results;

"(iv) is of a personal nature about another officer, and if disclosure of that information in non-redacted form would constitute a clearly unwarranted intrusion into the privacy rights of that other officer; or

"(v) is relevant to any pending claim brought by or on behalf of the officer against the employing agency of that officer that may be discovered in any judicial or administrative proceeding between the officer and the employer of that officer.

"(p) STATES' RIGHTS.—

"(1) IN GENERAL.—Nothing in this section may be construed—

"(A) to preempt any State or local law, or any provision of a State or local law, in effect on the date of enactment of the State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2001, that confers a right or a protection that equals or exceeds the right or protection afforded by this section; or

"(B) to prohibit the enactment of any State or local law that confers a right or protection that equals or exceeds a right or protection afforded by this section.

"(2) STATE OR LOCAL LAWS PREEMPTED.—A State or local law, or any provision of a State or local law, that confers fewer rights or provides less protection for a law enforcement officer than any provision in this section shall be preempted by this section.

"(q) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this section may be construed to—

"(1) preempt any provision in a mutually agreed-upon collective bargaining agreement, in effect on the date of enactment of the State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2001, that provides for substantially the same or a greater right or protection afforded under this section; or

"(2) prohibit the negotiation of any additional right or protection for an officer who is subject to any collective bargaining agreement.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 819 the following:

"Sec. 820. Discipline, accountability, and due process of State and local law enforcement officers.".

SEC. 4. PROHIBITION OF FEDERAL CONTROL OVER STATE AND LOCAL CRIMINAL JUSTICE AGENCIES.

Nothing in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control of any police force or any criminal justice agency of any State or any political subdivision thereof.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to each State on the earlier of—

(1) 2 years after the date of enactment of this Act; or

(2) the conclusion of the second legislative session of the State that begins on or after the date of enactment of this Act.

By Mr. VOINOVICH (for himself, Mrs. CLINTON, Mr. DEWINE, and Mr. SCHUMER):

S. 1279. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area; to the Committee on Environmental and Public Works.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the text of the Disaster Area and Health and Environmental Monitoring Act of 2003 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disaster Area Health and Environmental Monitoring Act of 2003".

SEC. 2. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is amended by inserting after section 408 (42 U.S.C. 5174) the following:

"SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL.—The term 'individual' includes—

"(A) a worker or volunteer who responds to a disaster, including—

"(i) a police officer;

"(ii) a firefighter;

"(iii) an emergency medical technician;

"(iv) any participating member of an urban search and rescue team; and

"(v) any other relief or rescue worker or volunteer that the President determines to be appropriate;

"(B) a worker who responds to a disaster by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

"(C) a person whose place of residence is in a disaster area;

"(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area; and

"(E) any other person that the President determines to be appropriate.

"(2) PROGRAM.—The term 'program' means a program described in subsection (b) that is carried out for a disaster area.

"(3) SUBSTANCE OF CONCERN.—The term 'substance of concern' means any chemical or substance associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster.

"(b) PROGRAM.—

"(1) IN GENERAL.—If the President determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area under this Act, the President may carry out a program for the protection, assessment, monitoring, and study of the health and safety of individuals to ensure that—

"(A) the individuals are adequately informed about and protected against potential health impacts of the substance of concern and potential mental health impacts in a timely manner;

"(B) the individuals are monitored and studied over time, including through baseline and follow-up clinical health examinations, for—

"(i) any short- and long-term health impacts of any substance of concern; and

"(ii) any mental health impacts;

"(C) the individuals receive health care referrals as needed and appropriate; and

"(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

"(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

"(A) collecting and analyzing environmental exposure data;

"(B) developing and disseminating information and educational materials;

"(C) performing baseline and follow-up clinical health and mental health examinations and taking biological samples;

"(D) establishing and maintaining an exposure registry;

"(E) studying the long-term human health impacts of any exposures through epidemiological and other health studies; and

"(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

"(3) TIMING.—To the maximum extent practicable, a program under paragraph (1) shall be established, and activities under the program shall be commenced (including baseline health examinations), in a timely manner that will ensure the highest level of public health protection and effective monitoring.

"(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

"(A) IN GENERAL.—Participation in any registry or study that is part of a program under paragraph (1) shall be voluntary.

“(B) Protection of privacy.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

“(5) Cooperative agreements.—The President may carry out a program under paragraph (1) through a cooperative agreement with a medical institution, or a consortium of medical institutions, that is—

“(A) located near the disaster area, and near groups of individuals that worked or volunteered in response to the disaster in the disaster area, with respect to which the program is carried out; and

“(B) experienced in the area of environmental or occupational health, toxicology, and safety, including experience in—

“(i) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

“(ii) conducting long-term health monitoring and epidemiological studies;

“(iii) conducting long-term mental health studies; and

“(iv) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

“(6) Involvement.—

“(A) In general.—In establishing and maintaining a program under paragraph (1), the President shall ensure the involvement of interested and affected parties, as appropriate, including representatives of—

“(i) Federal, State, and local government agencies;

“(ii) labor organizations;

“(iii) local residents, businesses, and schools (including parents and teachers);

“(iv) health care providers; and

“(v) other organizations and persons.

“(B) Committees.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

“(c) Reports.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress a report on programs and studies carried out under the program.”.

SEC. 3. BLUE RIBBON PANEL ON DISASTER AREA HEALTH PROTECTION AND MONITORING.

(a) Establishment.—Not later than 60 days after the date of enactment of this section, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall jointly establish a Blue Ribbon Panel on Disaster Area Health Protection and Monitoring (referred to in this section as the “Panel”).

(b) Membership.—

(1) In general.—The Panel shall be composed of—

(A) 15 voting members, to be appointed by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency in accordance with paragraph (2); and

(B) officers or employees of the Department of Health and Human Services, the Department of Homeland Security, the Environmental Protection Agency, and other Federal agencies, as appropriate, to be appointed by the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Environmental Protection Agency as nonvoting, ex officio members of the Panel.

(2) Background and expertise.—The voting members of the Panel shall be individuals who—

(A) are not officers or employees of the Federal Government; and

(B) have expertise in—

(i) environmental health, safety, and medicine;

(ii) occupational health, safety, and medicine;

(iii) clinical medicine, including pediatrics;

(iv) toxicology;

(v) epidemiology;

(vi) mental health;

(vii) medical monitoring and surveillance;

(viii) environmental monitoring and surveillance;

(ix) environmental and industrial hygiene;

(x) emergency planning and preparedness;

(xi) public outreach and education;

(xii) State and local health departments;

(xiii) State and local environmental protection departments;

(xiv) functions of workers that respond to disasters, including first responders; and

(xv) public health and family services.

(c) Duties.—

(1) In general.—The Panel shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

(A) the implementation of programs under section 409 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by section 2); and

(B) the establishment of protocols for the monitoring of and response to releases of substances of concern (as defined in section 409(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by section 2)) in a disaster area for the purpose of protecting public health and safety, including—

(i) those substances of concern for which samples should be collected in the event of a disaster, including a terrorist attack;

(ii) chemical-specific methods of sample collection, including sampling methodologies and locations;

(iii) chemical-specific methods of sample analysis;

(iv) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or substances;

(v) procedures for providing monitoring results to—

(I) appropriate Federal, State, and local government agencies;

(II) appropriate response personnel; and

(III) the public;

(vi) responsibilities of Federal, State and local agencies for—

(I) collecting and analyzing samples;

(II) reporting results; and

(III) taking appropriate response actions; and

(vii) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

(C) other issues as specified by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency.

(2) Report.—Not later than 1 year after the date of establishment of the Panel, the Panel shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency a report of the findings and recommendations of the Panel under this section, including recommendations for such legislative and administrative actions as the Panel considers to be appropriate.

(d) Powers.—

(1) Hearings.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers necessary to carry out this section.

(2) Information from federal agencies.—

(A) In general.—The Panel may secure directly from any Federal department or agency such information as the Panel considers necessary to carry out this section.

(B) Furnishing of information.—On request of the Panel, the head of the department or agency shall furnish the information to the Panel.

(3) Postal services.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) Personnel.—

(1) Travel expenses.—The members of the Panel shall not receive compensation for the performance of services for the Panel, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(2) Voluntary and uncompensated services.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the Panel.

(3) Detail of government employees.—Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) Staff, information, and other assistance.—The Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall provide to the Panel such staff, information, and other assistance as may be necessary to carry out the duties of the Panel.

(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(g) Termination of Authority.—This section, the authority provided under this section, and the Panel shall terminate on the date that is 18 months after the date of enactment of this Act.

By Mr. GRAHAM of Florida:

S. 1281. A bill to amend title 38, United Stated Code, to presume additional diseases of former prisoners of war to be service-connected for compensation purposes, to enhance the Dose Reconstruction Program of the Department of Defense, to enhance and fund certain other epidemiological studies, and for other purposes; to the Committee on Veterans' Affairs.

Mr. GRAHAM of Florida. Madam President, today I introduce legislation that would take one more step toward finding answers for veterans who may have been exposed to radiation, Agent Orange, or other hazards during their military service.

The last century saw the nature of war change forever. When mustard gas drifted across the trenches of World War I, troops learned that dangers less tangible, but no less deadly, than bullets might fill the air. Since then, many veterans have questioned whether health effects of the environmental hazards that they faced on and off the battlefield might appear years or even decades later.

Congress, VA, the military, and scores of independent researchers have struggled to answer those questions. Many veterans still wait for scientific evidence to fill the gaps. However, research in some areas has linked specific exposures to a risk of later disease, and we must respond to those new findings and encourage further investigation.

Peer-reviewed studies published in recent years suggest that veterans held prisoner during World War II, the Korean War, and in Vietnam suffer from some chronic diseases at a higher rate than expected. Scientists now report that the toll taken by malnutrition, long periods of forced confinement, and untreated infections appears to pose a lifelong risk. Based on these findings, I have introduced legislation that would add heart disease, strokes, and chronic liver diseases to the list of diseases that can be presumptively connected to service for certain former prisoners of war. This would allow eligible veterans with these conditions to seek VA benefits without having to prove that their illnesses resulted from deprivations suffered during captivity.

Other veterans who were exposed to large doses of ionizing radiation in post-war Japan or during nuclear tests, and who suffer from illnesses thought to be caused by radiation, can currently claim eligibility for VA benefits. However, some veterans who believe they received high doses of radiation have been frustrated to find that their military records do not reflect the same assumptions. Congress mandated nearly 20 years ago that veterans who suffer from diseases that they suspect might be linked to radiation exposure during service could request a dose reconstruction, or a scientific estimate of past exposure levels, to remedy this.

Many veterans felt that this method fell short of expectations, and Congress responded in 1998 by requiring an independent review of the Dose Reconstruction Program conducted by the Department of Defense. A panel of experts convened by the National Academy of Sciences reported recently that this contractor-operated program suffered from a shockingly cavalier approach to quality assurance, resulting in data that failed to meet the standards assumed by VA and veterans. This is not acceptable. Provisions introduced here would require the Secretaries of VA and Defense to establish permanent independent oversight of the Dose Reconstruction Program, and to create an advisory board to improve the program as necessary.

Our understanding of the consequences of exposure to the herbicides and dioxin in Agent Orange remains far from complete. It has been almost 25 years since Congress required the Air Force to conduct an epidemiologic study of the veterans of Operation Ranch Hand, the unit responsible for aerial spraying of herbicides during the Vietnam War. The last scheduled round of physical examinations took place just last month, and the fate of the millions of medical records and specimens remains undecided. Experts agree that both samples and data should be preserved for further research, but do not share an opinion on the best way to do so. The bill that I have introduced would task the National Academy of Sciences to develop research recommendations for extending the Air Force Health Study, or for preserving the samples and making them accessible to independent researchers as requested by many veterans' organizations.

Finally, the legislation that I have introduced would ensure that the scientific body charged with tracking veterans' and military health can continue its mission. The Medical Follow-Up Agency, MFUA, a board of the Institute of Medicine—the health agency of the National Academy of Sciences—was created at the end of World War II at the urging of the Army Surgeon General. For many years, it received funding only sporadically. In 1988, the now-defunct Office of Technology Assessment reported that MFUA's critical contribution to understanding military health issues was limited by a lack of consistent funding, which caused high staff turnover, incohesiveness in the research portfolio, and failure to maintain records.

Congress responded with Public Law 102–585, which required that VA and the military each contribute $250,000 in annual core funding to MFUA for 10 years. MFUA's staff uses this funding to update, maintain, and improve long-term epidemiological studies of military and veterans populations. Congress, VA, the military, and independent scientists have relied on these studies to evaluate whether specific exposures might have long-term health effects that suggest a need for benefits, new treatments, or further research. The legislation that I have introduced would extend MFUA's core funding for 10 more years.

This legislation would demonstrate to those who serve their nation now that our commitment to them will not end with the wars that they fight. We must continue to seek remedies for the sometimes invisible wounds of the new battlefield, and ensure that those who have borne them receive the support that they need. I urge my colleagues in the Senate to join me in supporting this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Information and Benefits Enhancement Act of 2003".

SEC. 2. PRESUMPTION OF ADDITIONAL DISEASES OF FORMER PRISONERS OF WAR TO BE SERVICE-CONNECTED FOR COMPENSATION PURPOSES.

(a) PRESUMPTION.—Section 1112(b) of title 38, United States Code, is amended—

(1) in paragraph (14), by striking "or" at the end; and

(2) by inserting after paragraph (15) the following new paragraphs:

"(16) cardiovascular disease (heart disease),

"(17) cerebrovascular disease (stroke), or

"(18) chronic liver disease, including cirrhosis and primary liver carcinoma.".

(b) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) No benefit may be paid by reason of the amendments made by subsection (a) for any period before the date of the enactment of this Act.

SEC. 3. DOSE RECONSTRUCTION PROGRAM OF DEPARTMENT OF DEFENSE.

(b) REVIEW OF MISSION, PROCEDURES, AND ADMINISTRATION.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall jointly conduct a review of the mission, procedures, and administration of the Dose Reconstruction Program of the Department of Defense.

(2) In conducting the review under paragraph (1), the Secretaries shall—

(A) determine whether any additional actions are required to ensure that the quality assurance and quality control mechanisms of the Dose Reconstruction Program are adequate and sufficient for purposes of the program; and

(B) determine the actions that are required to ensure that the mechanisms of the Dose Reconstruction Program for communication and interaction with veterans are adequate and sufficient for purposes of the program, including mechanisms to permit veterans to review the assumptions utilized in their dose reconstructions.

(3) Not later than 90 days after the date of the enactment of this Act, the Secretaries shall jointly submit to Congress a report on the review under paragraph (1). The report shall set forth—

(A) the results of the review;

(B) a plan for any actions determined to be required under paragraph (2); and

(C) such other recommendations for the improvement of the mission, procedures, and administration of the Dose Reconstruction Program as the Secretaries jointly consider appropriate.

(b) On-Going Review and Oversight.—The Secretaries shall jointly take appropriate actions to ensure the on-going independent review and oversight of the Dose Reconstruction Program, including the establishment of the advisory board required by subsection (c).

(c) Advisory Board.—(1) In taking actions under subsection (b), the Secretaries shall jointly appoint an advisory board to provide review and oversight of the Dose Reconstruction Program.

(2) The advisory board under paragraph (1) shall be composed of the following:

(A) At least one expert in historical dose reconstruction of the type conducted under the Dose Reconstruction Program.

(B) At least one expert in radiation health matters.

(C) At least one expert in risk communications matters.

(D) A representative of the Department of Veterans Affairs.

(E) A representative of the Defense Threat Reduction Agency.

(F) At least three veterans, including at least one veteran who is a member of an atomic veterans group.

(3) The advisory board under paragraph (1) shall—

(A) conduct periodic, random audits of dose reconstructions and decisions on claims for radiogenic diseases under the Dose Reconstruction Program;

(B) assist the Department of Veterans Affairs and the Defense Threat Reduction Agency in communicating to veterans information on the mission, procedures, and evidentiary requirements of the Dose Reconstruction Program; and

(C) carry out such other activities with respect to the review and oversight of the Dose Reconstruction Program as the Secretaries shall jointly specify.

(4) The advisory board under paragraph (1) may make such recommendations on modifications in the mission or procedures of the Dose Reconstruction Program as the advisory board considers appropriate as a result of the audits conducted under paragraph (3)(A).

SEC. 4. STUDY ON DISPOSITION OF AIR FORCE HEALTH STUDY.

(a) In General.—The Secretary of Veterans Affairs shall, in accordance with this section, carry out a study to determine the appropriate disposition of the Air Force Health Study, an epidemiologic study of Air Force personnel who were responsible for conducting aerial spray missions of herbicides during the Vietnam era.

(b) Study Through National Academy of Sciences.—Not later than sixty days after the date of the enactment of this Act, the Secretary shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, to carry out the study required by subsection (a).

(c) Elements.—Under the study under subsection (a), the National Academy of Sciences, or other appropriate scientific organization, shall address the following:

(1) The scientific merit of retaining and maintaining the medical records, other study data, and laboratory specimens collected in the course of the Air Force Health Study after the currently-scheduled termination date of the study in 2006.

(2) Whether or not any obstacles exist to retaining and maintaining the medical records, other study data, and laboratory specimens referred to in paragraph (1), including privacy concerns.

(3) The advisability of providing independent oversight of the medical records, other study data, and laboratory specimens referred to in paragraph (1), and of any further study of such records, data, and specimens, and, if so, the mechanism for providing such oversight.

(4) The advisability of extending the Air Force Health Study, including the potential value and relevance of extending the study, the potential cost of extending the study, and the Federal or non-Federal entity best suited to continue the study if extended.

(5) The advisability of making the laboratory specimens of the Air Force Health Study available for independent research, including the potential value and relevance of such research, and the potential cost of such research.

(d) Report.—Not later than 60 days after entering into an agreement under subsection (b), the National Academy of Sciences, or other appropriate scientific organization, shall submit to the Secretary and Congress a report on the results of the study under subsection (a). The report shall include the results of the study, including the matters addressed under subsection (c), and such other recommendations as the Academy, or other appropriate scientific organization, considers appropriate as a result of the study.

SEC. 5. FUNDING OF MEDICAL FOLLOW-UP AGENCY OF INSTITUTE OF MEDICINE OF NATIONAL ACADEMY OF SCIENCES FOR EPIDEMIOLOGICAL RESEARCH ON MEMBERS OF THE ARMED FORCES AND VETERANS.

(a) Funding by Department of Veterans Affairs.—(1) The Secretary of Veterans Affairs shall make available to the National Academy of Sciences in each of fiscal years 2004 through 2013, $250,000 for the Medical Follow-Up Agency of the Institute of Medicine of the Academy for purposes of epidemiological research on members of the Armed Forces and veterans.

(2) The Secretary of Veterans Affairs shall make available amounts under paragraph (1) for a fiscal year from amounts available for the Department of Veterans Affairs for that fiscal year.

(b) Funding by Department of Defense.—(1) The Secretary of Defense shall make available to the National Academy of Sciences in each of fiscal years 2004 through 2013, $250,000 for the Medical Follow-Up Agency for purposes of epidemiological research on members of the Armed Forces and veterans.

(2) The Secretary of Defense shall make available amounts under paragraph (1) for a fiscal year from amounts available for the Department of Defense for that fiscal year.

(c) Use of Funds.—The Medical Follow-Up Agency shall use funds made available under subsections (a) and (b) for epidemiological research on members of the Armed Forces and veterans.

(d) Supplement Not Supplant.—Amounts made available to the Medical Follow-Up Agency under this section for a fiscal year for the purposes referred to in subsection (c) are in addition to any other amounts made available to the Agency for that fiscal year for those purposes.

By Mr. GRAHAM of Florida (for himself, Mr. NELSON of Florida, and Mr. SESSIONS):

S. 1282. A bill to require the Secretary of Veterans Affairs to establish national cemeteries for geographically underserved populations of veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. GRAHAM of Florida. Madam President, I rise today to introduce legislation that will ensure that America's veterans and their families have access to the funeral honors they have earned. The brave men and women who fought for our Nation are a population that is aging rapidly. In 2002, America lost 646,264 veterans. Projections show that this rate will continue to climb through the year 2008, when the annual death of the World War II and Korea-era veterans will peak at 700,000.

By the end of 2004, only 64 of the 124 veterans national cemeteries will be available for both casketed and cremated remains. As cemetery service capabilities decrease, veterans in areas near those cemeteries that are at capacity may lose access to burial options located within a reasonable distance of their homes. In order to ensure that burial options are provided for veterans and their family members, we must develop new cemeteries and expand existing cemeteries. This process must start as soon as possible because the construction of a new cemetery takes an average of 7 years.

That is why I offer this bill today, which would authorize the construction of ten new national cemeteries and ensure that the burial needs of veterans and their family members will be met in the future.

In anticipation of veterans' future needs, the Department of Veterans Affairs conducted a study that identifies veteran population centers not served by an open national or state veterans cemetery. The report, "Future Burial Needs," was initially released in May 2002 and has been recently revised using veteran population estimates from the 2000 census. My legislation would direct the Department of Veterans Affairs to establish ten new national veterans cemeteries in the top ten areas identified to be in the greatest need. These areas would include Sarasota, FL, Salem, OR, Birmingham, AL, St. Louis, MO, San Antonio, TX, Chesapeake, VA, Sumter, FL, Bakersfield, CA, Jacksonville, FL, and Philadelphia, PA.

We cannot afford to wait any longer if we are to fulfill this commitment to our Nation's veterans. Mr. President, I am proud to sponsor this important bill, and look forward to the support of my colleagues as we provide for our veterans who have given so much for our country. Thank you.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF NATIONAL CEMETERIES FOR GEOGRAPHICALLY UNDERSERVED POPULATIONS OF VETERANS.

(a) Identification of Underserved Burial Service Areas.—The Secretary of Veterans Affairs shall identify the 10 burial service areas in the United States that, as determined by the Secretary, are most in need of a new national cemetery in order to ensure that 90 percent of the veterans who reside in each such service area live within 75 miles of a national cemetery.

(b) Burial Service Area.—For purposes of this section, the term "burial service area" means a service area for burial in national cemeteries that is established by the Secretary utilizing the most current population data available to the Secretary as of the date of the enactment of this Act, which service area—

(1) has a radius of approximately 75 miles;

(2) contains a minimum population of veterans of approximately 170,000 veterans; and

(3) is not served as of the date of the enactment of this Act by a national cemetery or State cemetery for veterans.

(c) Establishment of National Cemeteries.—The Secretary shall establish, in accordance with chapter 24 of title 38, United States Code, a national cemetery in each burial service area identified under subsection (a) in order to serve the burial needs of veterans and their families.

(d) Advance Planning.—(1) The Secretary shall carry out in fiscal year 2004 such activities as the Secretary considers appropriate for advance planning for the establishment of national cemeteries under subsection (c).

(2) Amounts appropriated for fiscal year 2004 for the advance planning fund in the Construction, Major Projects account shall be available for activities under paragraph (1).

(e) Reports.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the establishment of national cemeteries under subsection (c). The report shall set forth the following:

(A) Each burial service area identified by the Secretary under subsection (a) to require the establishment of a national cemetery under subsection (c).

(B) A schedule for the establishment of each such national cemetery.

(C) An estimate of the costs of the establishment of each such national cemetery.

(D) The amount to be obligated under subsection (d) during fiscal year 2004 for advance planning required under that subsection.

(2) Not later than one year after the date of the report under paragraph (1), and annually thereafter until the completion of each national cemetery required by subsection (c), the Secretary shall submit to Congress an update of the report under that paragraph (as previously updated, if at all, under this paragraph).

By Mr. GRAHAM of Florida:

S. 1283. A bill to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. GRAHAM of Florida. Madam President, the Department of Veterans Affairs, VA, is in the midst of determining how best to serve the millions of veterans who turn to the VA health care system for their care. This process—known as CARES or Capital Asset Realignment for Enhanced Services—will likely bring significant change to the VA system. Recommendations stemming from this process could lead to billions of dollars in new facilities construction, on the one hand, and possible closure of facilities and thousands of beds, on the other. Despite the magnitude of these possible changes, Congress has virtually no formal role in the process.

I introduce legislation today that would allow for Congressional review of the CARES recommendations that the Secretary of VA will begin to implement at the end of this year.

The CARES initiative has been ongoing since the Fall of 2002, tasking VA facilities with developing recommendations based on a review of population data; the conduct of market analyses of veterans' health care needs; the identification of planning initiatives for each market area; and most important, the significant involvement of stakeholders, including myriad public meetings. These so-called planning initiatives are ultimately slated to be passed on to the Secretary, who will then make the final decisions.

While an independent review led by a national CARES Commission is already planned, in addition to public hearings—which I fully support—I must reiterate that Congress has little, if any, role in the CARES effort outside of construction authorization and appropriation activities. Yet, all states and most health care facilities will be affected by the results. The legislation I introduce today would give Congress a 60-day period to review the CARES recommendations submitted by the Secretary of Veterans Affairs. During that time, VA would be prohibited from moving forward with any bed or facility closures.

This oversight is absolutely essential—particularly in light of recent events. Just last month, all VA health care networks submitted their plans to VA headquarters. These plans were developed following substantial analysis and thorough stakeholder involvement. While abiding by the criteria and process set forth by VA, facilities made their recommendations to the Under Secretary for Health. In a surprise move and an apparent manipulation of the process, VA instructed the network directors to re-evaluate the plans they had already submitted for 20 different VA facilities. They were told to "evaluate a strategy to convert from a 24-hour operation to an 8 hour a day operation. This includes any inpatient care, including long term care."

One of these hospitals is in Lake City, in my home State of Florida. Network 8, which has responsibility for Lake City, had previously recommended that no long-term care beds be deactivated at this facility, yet they were told to go back to the drawing board to develop a strategy to close nursing home beds there.

Another facility tasked with re-examining their plan is Bedford, Massachusetts. In their network's plan, submitted to the Under Secretary, officials stated that they had in fact considered "alternatives to consolidate Long Term Care, LTC, including the Alzheimer's and SCI Units, and Psychiatry inpatient beds from the Bedford to Brockton facilities" yet, "as final projections are not available for LTC inpatient beds and earlier projections indicated a substantial increase in LTC beds, it was determined to utilize current capacities." Despite these assessments to the contrary, VA has asked that they instead plan to convert these facilities to outpatient operations only.

Yet one more example of this apparent manipulation involves another facility now slated for bed closures, the Leavenworth VA Medical Center in Kansas. The network plan concluded that "[r]ealignment of workload from Leavenworth to Kansas City would exceed current capacity. . . . Elimination of inpatient and outpatient primary care capabilities at Leavenworth would seriously undermine continuity of care for the remaining long-term care patients, reduce timely access to care, hinder its ability to provide ongoing support to the DoD facility located at Ft. Leavenworth . . . ." Again, analysis conducted at the regional level resulted in a recommendation that VA is now directing be reconsidered.

The VA facility in Knoxville, IA, is being targeted for significant changes as well. The current proposal is to move all of the beds from Knoxville to Des Moines. The Knoxville facility has more than 226 long-term care beds, 40 domiciliary beds, and 34 inpatient psychiatric beds. We need to take a look at this proposal and the many others that will affect veterans all across the country.

Other facilities asked to re-evaluate are: Batavia, Lyons, St. Albans, Montrose, Pittsburgh at Highland Drive, Augusta, Dublin, Lexington, Brecksville, Gulfport, Marlin/Waco, Vancouver, Livermore, and Hot Springs.

While VA intends to present a five-year capital plan to Congress, there is nothing that requires VA to inform Members about possible reductions, closures, and other decisions that would have a deleterious effect on VA health care services and our veterans. This is unacceptable. Congress' role should not be limited to merely funding the implementation of these decisions; rather, we should be involved in a process that could result in the significant loss of inpatient, long-term care, and domiciliary capacity at VA health care facilities nationwide. We can rectify this problem very easily, however, by enacting the legislation I propose today.

In an internal VA memo, Secretary Principi stated that "the CARES process may be one of the most important activities undertaken by VA this decade. The outcome of this process will construct the foundation for, and set the course of, our health care system for the first half of the 21st century." In light of the great impact of this initiative on VA health care services, as well as recent actions that threaten the integrity of the process, it is imperative that Congress be granted a mere 60 days to review VA's proposals. I urge my colleagues to join me in this effort to secure the future of health care for our nation's veterans.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADVANCE NOTIFICATION OF A DEPARTMENT OF VETERANS AFFAIRS CAPITAL ASSET REALIGNMENT INITIATIVE.

(a) Requirement for Advance Notification.—Before taking any action proposed under the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall submit to Congress a written notification of the intent to take such action.

(b) Limitation.—The Secretary of Veterans Affairs may not take any proposed action described in subsection (a) until the later of—

(1) the expiration of the 60-day period beginning on the date on which the Secretary submits to Congress the notification of the proposed action required under subsection (a); or

(2) the expiration of a period of 30 days of continuous session of Congress beginning on such date of notification or, if either House of Congress is not in session on such date, the first day after such date that both Houses of Congress are in session.

(c) Continuous Session of Congress.—For the purposes of subsection (b)—

(1) the continuity of session of Congress is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

By Mr. CARPER:

S. 1285. A bill to reform the postal laws of the United States; to the Committee on Governmental Affairs.

Mr. CARPER. Madam President, I rise today to introduce the Postal Accountability and Enhancement Act of 2003, legislation that makes the reforms necessary for the Postal Service to thrive in the 21st Century and to better serve the American people.

The Postal Service has, for the most part, operated in the same manner for more than thirty years. In the early 1970s, Senator Stevens and others led the effort in the Senate to create the Postal Service out of the failing Post Office Department. At the time, the Post Office Department received about 20 percent of its revenue from taxpayer subsidies. The service it provided was suffering and there was little money available to expand. By all accounts, the product of Senator Stevens' labors, the Postal Reorganization Act signed into law by President Nixon in 1971, has been a phenomenal success. The Postal Service today receives virtually no taxpayer support and the service its hundreds of thousands of employees provide to every American, every day is second to none. More than thirty years later, the Postal Service now delivers to 141 million addresses each day and is the anchor of a $900 billion mailing industry.

All that said, the Postal Service is clearly in need of modernization once again. When it started out in 1971, nobody had access to fax machines, cell phones and pagers and nobody imagined that we would ever enjoy conveniences like e-mail and electronic bill pay. After decades of success, electronic diversion of mail volume coupled with economic recession and terrorism have made for some rough going at the Postal Service in recent years. In 2001, as Postmaster General Potter assumed his position, the Postal Service was projecting its third consecutive year of deficits. They lost $199 million in fiscal year 2000 and $1.68 billion in fiscal year 2001. They were projecting losses of up to $4 billion in fiscal year 2002. Mail volume was falling, revenues were below projections and the Postal Service was estimating that it needed to spend $4 billion on security enhancements in order to prevent a repeat of the tragic anthrax attacks that took several lives. The Postal Service was also perilously close to its $15 billion debt ceiling and had been forced to raise rates three times in less than two years in order to pay for its operations, further eroding mail volume.

In recent months, however, the Postal Service's short-term financial outlook has improved. Under General Potter's strong leadership, Postal Service management cut a total of $2.9 billion in costs fiscal year 2002. They did this mostly by eliminating 23,000 positions, mostly through attrition. This included 800 management positions at postal headquarters in Washington and 2,000 administrative positions in regional offices. They also continued their drive to further automate their processing operations, most notably in the area of flats processing. They have continued their construction freeze and ended their self-imposed ban on post office closings, resulting in the closing of dozens of post offices across the country.

Most dramatically, the Postal Service learned in 2002 that an unfunded pension liability they once believed was as high as $32 billion was actually $5 billion. My friend from Maine, Ms. Collins, and I responded with legislation, the Postal Civil Service Retirement System Funding Reform Act, signed into law by President Bush last month, which cuts the amount the Postal Service must pay into the Civil Service Retirement System each year by nearly $3 billion. This will free up money for debt reduction and prevent the need for another rate increase until at least 2006.

Aggressive cost cutting and the lower pension payment, then, have put off the emergency that would have come if the Postal Service had reached their debt limit. Cost cutting can only go so far, however, and will not solve the Postal Service's long-term problems. It could actually hurt service. The Postal Service continues to add about 1.7 million new delivery points each year, creating the need for thousands of new routes and thousands of new letter carriers to work them. In addition, faster-growing parts of the country will need new or expanded postal facilities in the coming years. Even if the economy recovers soon and the Postal Service begins to see volume and revenues improve, we will still need to make the fundamental reforms necessary to make the Postal Service as successful in the 21st Century as it was in the 20th Century.

As more and more customers turn to electronic forms of communication, letter carriers are bringing fewer and fewer pieces of mail to each address they serve. The rate increases that will be needed to maintain the Postal Service's current infrastructure, finance retirement obligations to its current employees, pay for new letter carriers and build facilities in growing parts of the country will only further erode mail volume. The Postal Service has been trying to improve on its own. They are making progress, but there is only so much they can do on their own.

That is where my bill comes in. First, the Postal Accountability and Enhancement Act begins the process of developing a modern rate system for pricing Postal Service products. The new rate system, to be developed by a strengthened Postal Rate Commission, re-named the Postal Regulatory Commission, would allow retained earnings, provide the Postal Service more flexibility in setting prices and streamline today's burdensome ratemaking process. It would also allow rates to be increased on an expedited basis during crises like a sharp spike in fuel prices and require that the Regulatory Commission develop a "phased rate" schedule whereby rate increases would be phased in gradually over a period of time.

In addition, the new rate system authorized through my bill will allow the

Postal Service to negotiate service agreements with individual mailers. The Postal Rate Commission recently approved a service agreement the Postal Service negotiated with Capital One, but the process for considering the agreement took almost a year and the Postal Service's authority to enter into agreements is not clearly spelled out in law. The Postal Accountability and Enhancement Act allows the Postal Service to enter into agreements if the revenue generated from them covers all costs attributable to the Postal Service and results in a greater contribution to the Postal Service's institutional costs. No agreement would be permitted if it resulted in higher rates for any other mailer or prohibited any similarly situated mailer from negotiating a similar agreement.

Second, the Postal Accountability and Enhancement Act requires the Postal Regulatory Commission to set strong service standards for the Postal Service's Market Dominant products, a category made up mostly of those products, like First Class Mail, that are part of the postal monopoly. The Postal Service currently sets its own service standards, which allows them to pursue efforts like the elimination of Saturday delivery, a proposal floated two years ago. The new standards set by the Commission will aim to improve service and will be used by the Postal Service to establish performance goals and to rationalize their physical infrastructure. Once the standards are established, the Postal Service will recommend a list of facilities that can be closed or consolidated without hindering their ability to meet the standards. A new commission, called the Postal Network Modernization Commission, would then study the Postal Service's recommendations. The closings and consolidations recommended by this commission would be carried out, subject to approval by the President, unless Congress passed a resolution disapproving them.

Third, the Postal Accountability and Enhancement Act ensures that the Postal Service competes fairly. The bill prohibits the Postal Service from issuing anti-competitive regulations and makes the State Department, instead of the Postal Service, responsible for setting U.S. foreign policy on mailing issues. It also subjects the Postal Service to State zoning, planning and land use laws, requires them to pay an assumed Federal income tax on products like packages and Express Mail that private firms also offer and requires that these products as a whole pay their share of the Postal Service's institutional costs.

Fourth, the Postal Accountability and Enhancement Act improves Postal Service accountability, mostly by strengthening oversight. Qualifications for membership on the Regulatory Commission would be stronger than those for the Rate Commission so that Commissioners would have a background in finance or economics. Commissioners would also have the power to demand information from the Postal Service, including by subpoena, and have the power to punish them for violating rate and service regulations. In addition, the Commission will make an annual determination as to whether the Postal Service is in compliance with rate law and meeting service standards and will have the power to punish them for any transgressions.

Finally, and most importantly, the Postal Accountability and Enhancement Act preserves universal service and forces the Postal Service to concentrate solely on what they do best—processing and delivering the mail to all Americans. The bill for the first time limits the Postal Service to providing "postal services," meaning they would be prohibited from engaging in other lines of business, such as e-commerce, that draw time and resources away from letter and package delivery. It also explicitly preserves the requirement that the Postal Service "bind the Nation together through the mail" and serve all parts of the country, urban, suburban and rural, in a non-discriminatory fashion. Any service standards established by the Postal Regulatory Commission will continue to ensure delivery to every address, every day. In addition, the bill maintains the prohibition on closing post offices solely because they operate at a deficit, ensuring that rural and urban customers continue to enjoy full access to retail postal services.

One thing the Postal Accountability and Enhancement Act does not do, is blame postal employees for the Postal Service's problems. The bill preserves collective bargaining and does nothing that would harm postal employees' pay or benefits.

Another thing the Postal Accountability and Enhancement Act does not do is privatize or downsize the Postal Service. The bill preserves the Postal Service's monopoly along with its sole access to the mailbox. While it could result in the closing of some postal facilities, the process I have laid out in the bill is completely driven by the service standards established by the Postal Regulatory Commission. Nothing will be closed for the sake of being closed. Instead, the bill encourages the Postal Service to find ways to improve customer access to retail services through things like vending machines or post offices located in grocery stores or pharmacies.

As my colleagues are aware, President Bush last year announced the creation of the President's Commission on the United States Postal Service, which is expected to release a set of postal reform proposals this summer that I hope will offer some fair, balanced recommendations. It is also my hope, however, that the President's Commission look to the Postal Accountability and Enhancement Act as a touchstone as they complete their work. The bill is the product of nearly a decade's worth of work on postal reform in the House of Representatives led by Congressman JOHN MCHUGH from New York and is based in large part on legislation Congressman MCHUGH introduced towards the end of the 107th Congress. While I cannot claim that the McHugh bill had unanimous support, it did draw the support of most postal employees, much of the mailing industry and the Postal Service's Board of Governors.

When Treasury Department Under Secretary Peter Fisher addressed the President's Commission at its first meeting, he stated that everything was on the table and that the Commission's findings were not predetermined. I know there is some concern that the Commission will recommend privatization, and that this was the idea from the beginning. I will admit that I initially shared these feelings but, based on what I have heard about the Commission's deliberations, they appear on track to develop a reasonable set of recommendations. That said, I urge them to take careful consideration of the work Congress has done on postal reform in the past. Radical reforms undertaken at a number of foreign posts in recent years should teach us a lesson about going too far. When the British deregulated Royal Mail, service began to suffer dramatically. When the New Zealand Post Office was privatized, universal service was eliminated and customers in rural areas were forced to pay for delivery. When Argentina privatized its Postal Authority, the new private entity went bankrupt even before the country's economic crisis began. We cannot afford to gamble with similar reforms at the Postal Service.

I look forward to working with Chairman COLLINS, the Governmental Affairs Committee and all of my colleagues in passing comprehensive postal reform this year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Postal Accountability and Enhancement Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.
Sec. 102. Postal services.

TITLE II—MODERN RATE REGULATION
Sec. 201. Provisions relating to market-dominant products.
Sec. 202. Provisions relating to competitive products.
Sec. 203. Provisions relating to experimental and new products.
Sec. 204. Reporting requirements and related provisions.
Sec. 205. Complaints; appellate review and enforcement.
Sec. 206. Clerical amendment.
TITLE III—MODERN SERVICE STANDARDS
Sec. 301. Establishment of modern service standards.
Sec. 302. Postal service plan.
Sec. 303. Postal Network Modernization Commission.
Sec. 304. Closure and consolidation of facilities.
Sec. 305. Congressional consideration of commission report.
Sec. 306. Nonappealability to Postal Regulatory Commission.
TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION
Sec. 401. Postal Service Competitive Products Fund.
Sec. 402. Assumed Federal income tax on competitive products income.
Sec. 403. Unfair competition prohibited.
Sec. 404. Suits by and against the Postal Service.
Sec. 405. International postal arrangements.
Sec. 406. Change-of-address order involving a commercial mail receiving agency.
Sec. 407. Exception for competitive products.
TITLE V—GENERAL PROVISIONS
Sec. 501. Qualification requirements for Governors.
Sec. 502. Obligations.
Sec. 503. Private carriage of letters.
Sec. 504. Rulemaking authority.
Sec. 505. Noninterference with collective bargaining agreements, etc.
Sec. 506. Bonus authority.
TITLE VI—ENHANCED REGULATORY COMMISSION
Sec. 601. Reorganization and modification of certain provisions.
Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.
Sec. 603. Appropriations for the Postal Regulatory Commission.
Sec. 604. Redesignation of the Postal Rate Commission.
TITLE VII—INSPECTORS GENERAL
Sec. 701. Inspector General of the Postal Regulatory Commission.
Sec. 702. Inspector General of the United States Postal Service to be appointed by the President.
TITLE VIII—EVALUATIONS
Sec. 801. Definition.
Sec. 802. Assessments of ratemaking, classification, and other provisions.
Sec. 803. Study on equal application of laws to competitive products.
Sec. 804. Greater diversity in Postal Service executive and administrative schedule management positions.
Sec. 805. Contracts with women, minorities, and small businesses.
Sec. 806. Rates for periodicals.
Sec. 807. Assessment of certain rate deficiencies.
TITLE IX—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS
Sec. 901. Employment of postal police officers.
Sec. 902. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.
Sec. 903. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.
Sec. 904. Obsolete provisions.
Sec. 905. Expanded contracting authority.
Sec. 906. Investments.
Sec. 907. Repeal of section 5403.
Sec. 908. Technical and conforming amendments.

TITLE I—DEFINITIONS; POSTAL SERVICES

SEC. 101. DEFINITIONS.

Section 102 of title 39, United States Code, is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

"(5) 'postal service' refers to the physical delivery of letters, printed matter, or packages weighing up to 70 pounds, including physical acceptance, collection, sorting, transportation, or other services ancillary thereto;

"(6) 'product' means a postal service with a distinct cost or market characteristic for which a rate is applied;

"(7) 'rates', as used with respect to products, includes fees for postal services;

"(8) 'market-dominant product' or 'product in the market-dominant category of mail' means a product subject to subchapter I of chapter 36; and

"(9) 'competitive product' or 'product in the competitive category of mail' means a product subject to subchapter II of chapter 36; and

"(10) 'year', as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.".

SEC. 102. POSTAL SERVICES.

(a) IN GENERAL.—Section 404 of title 39, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:

"(c) Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services.".

(b) CONFORMING AMENDMENTS.—(1) Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking "404(a)(8)" and inserting "404(a)(7)".

(2) Section 2003(b)(1) of title 39, United States Code, is amended by striking "and nonpostal".

TITLE II—MODERN RATE REGULATION

SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621, 3622, and 3623 and inserting the following:

"§ 3621. Applicability; definitions

"(a) APPLICABILITY.—This subchapter shall apply with respect to—

"(1)(A) single piece first-class letters (both domestic and international);

"(B) single piece first-class cards (both domestic and international);

"(C) single piece parcels (both domestic and international); and

"(D) special services;

"(2) all first-class mail not included under paragraph (1);

"(3) periodicals;

"(4) standard mail (except for parcel post);

"(5) media mail;

"(6) library mail; and

"(7) bound printed matter,

subject to any changes the Postal Regulatory Commission may make under section 3642.

"(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

"§ 3622. Modern rate regulation

"(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 24 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

"(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives:

"(1) To reduce the administrative burden of the ratemaking process.

"(2) To create predictability and stability in rates.

"(3) To maximize incentives to reduce costs and increase efficiency.

"(4) To enhance mail security and deter terrorism by promoting secure, sender-identified mail.

"(5) To allow the Postal Service pricing flexibility, including the ability to use pricing to promote intelligent mail and encourage increased mail volume during nonpeak periods.

"(6) To assure adequate revenues, including retained earnings, to maintain financial stability and meet the service standards established under section 3691.

"(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

"(1) the establishment and maintenance of a fair and equitable schedule for rates and classification system;

"(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

"(3) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

"(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

"(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

"(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

"(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

"(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

"(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

"(10) the desirability of special classifications from the point of view of both the user and of the Postal Service;

"(11) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

"(12) the policies of this title as well as such other factors as the Commission deems appropriate.

"(d) ALLOWABLE PROVISIONS.—The system for regulating rates and classes for market-dominant products may include—

"(1) price caps, revenue targets, or other form of incentive regulation;

"(2) cost-of-service regulation; or

"(3) such other form of regulation as the Commission considers appropriate to achieve, consistent with subsection (c), the objectives of subsection (b).

"(e) REQUIREMENTS.—The system for regulating rates and classes for market-dominant products shall—

"(1) establish a schedule whereby rates, when necessary, would increase at regular intervals by predictable amounts; and

"(2) establish procedures whereby rates may be increased on an expedited basis when an unexpected decline in revenue or increase in costs threatens the ability of the Postal Service to maintain service at the standards established by the Postal Regulatory Commission under section 3691.

"(f) TRANSITION RULE.—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of the enactment of this section.

"§ 3623. Service agreements for market-dominant products

"(a) IN GENERAL.—

"(1) AUTHORITY.—The Postal Service may enter into service agreements with mailers that provide for the provision of postal services under terms and conditions that differ from those that would apply under the otherwise applicable market-dominant mail classification.

"(2) AGREEMENTS.—An agreement under this section may involve—

"(A) performance by the contracting mail user of mail preparation, processing, transportation, or other functions that reduce costs to the Postal Service;

"(B) performance by the Postal Service of additional mail preparation, processing, transportation, or other functions that increase costs to the Postal Service; or

"(C) other terms and conditions that meet the requirements of subsections (b) and (c).

"(b) REQUIREMENTS.—A service agreement under this section may only be entered into if the agreement will benefit the contracting mailer, the Postal Service, and mailers who are not parties to the agreement and if each of the following conditions is met:

"(1) The total revenue generated under the agreement—

"(A) will cover all costs attributable to the Postal Service; and

"(B) will result in a greater contribution to the institutional costs of the Postal Service than would have been granted had the agreement not been entered into.

"(2) Rates and fees for other mailers will not increase as a result of the agreement.

"(3) The agreement pertains exclusively to products in the market-dominant category of mail.

"(4) The agreement will not preclude or materially hinder similarly situated mail users from entering into agreements with the Postal Service on the same, or substantially the same, terms, and the Postal Service remains willing and able to enter into such.

"(c) LIMITATIONS.—A service agreement under this section shall—

"(1) be for a term of not to exceed 3 years; and

"(2) provide that such agreement shall be subject to the cancellation authority of the Commission under section 3662.

"(d) NOTICE REQUIREMENTS.—

"(1) IN GENERAL.—At least 30 days before a service agreement under this section is to take effect, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register the following:

"(A) With respect to each condition under subsection (b), information in sufficient detail to demonstrate the bases for the Postal Service's view that such condition would be met.

"(B) A description of the type of mail the agreement involves.

"(C) The mail preparation, processing, transportation, administration, or other additional functions, if any, the mail user is to perform under the agreement.

"(D) The services or benefits the Postal Service is to perform under the agreement.

"(E) The rates and fees payable by the mail user during the term of the agreement.

"(2) AGREEMENTS LESS THAN NATIONAL IN SCOPE.—In the case of a service agreement under this section that is less than national in scope, the information described under paragraph (1) shall also be published by the Postal Service in a manner designed to afford reasonable notice to persons within any geographic area to which such agreement (or any amendment thereto) pertains.

"(e) EQUAL TREATMENT REQUIRED.—If the Postal Service enters into a negotiated service agreement with a mailer under this section, the Postal Service shall make such agreement available to other mailers on the same terms and conditions.

"(f) COMPLAINTS.—Any person who believes that a service agreement under this section is not (or, in the case of a proposed agreement or a proposed amendment to a service agreement under this section, would not be) in conformance with the requirements of this section and regulations thereunder, or who aggrieved by a decision of the Postal Service not to enter into an agreement under this section, may file a complaint with the Postal Regulatory Commission in accordance with section 3662.

"(g) POSTAL REGULATORY COMMISSION ROLE.—

"(1) REGULATIONS.—The Postal Regulatory Commission may promulgate such regulations regarding service agreements as the Commission determines necessary to implement the requirements of this section.

"(2) REVIEW.—The Postal Regulatory Commission may review any agreement or proposed agreement under this section and may suspend, cancel, or prevent such agreement if the Commission finds that the agreement does not meet the requirements of this section or the regulations thereunder.

"(h) INTERPRETATION.—The determination of whether the revenue generated under the agreement meets the requirements of (b)(1)(B) shall be based on the actual contribution of the mail involved, not on the average contribution made by the mail classification most similar to the services performed under the agreement.

"(i) RATE DISCOUNTS.—In the administration of this section, the Postal Regulatory Commission shall not permit rate discounts for additional mail preparation, processing, transportation, or other functions that exceed the costs avoided by the Postal Service by virtue of the additional functions performed by the mailer. Such discounts are allowable only if the Commission has, after notice and opportunity for a public hearing and comment, determined that such discounts are reasonable and equitable and are necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States consistent with the service standards established under section 3691.".

(b) REPEALED SECTIONS.—Sections 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS".

SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

"SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

"§ 3631. Applicability; definitions and updates

"(a) APPLICABILITY.—This subchapter shall apply with respect to—

"(1) priority mail;

"(2) expedited mail;

"(3) mailgrams;

"(4) international mail; and

"(5) parcel post,

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

"(b) DEFINITION.—For purposes of this subchapter, the term 'costs attributable', as used with respect to a product, means the direct and indirect postal costs attributable to such product.

"(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

"(d) LIMITATION.—Notwithstanding any other provision of this section, nothing in this subchapter shall be considered to apply with respect to any product then currently in the market-dominant category of mail.

"§ 3632. Action of the Governors

"(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors, with the written concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

"(b) PROCEDURES.—

"(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

"(2) PUBLICATION.—The Governors shall cause each rate and class decision under this section and the record of the Governors' proceedings in connection with such decision to be published in the Federal Register by such date before the effective date of any new rates or classes as the Governors consider appropriate.

“(c) Transition Rule.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of the enactment of this section.

“§ 3633. Provisions applicable to rates for competitive products

“The Postal Regulatory Commission shall, within 180 days after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations—

“(1) to prohibit the subsidization of competitive products by market-dominant products;

“(2) to ensure that each competitive product covers its costs attributable; and

“(3) to ensure that all competitive products collectively cover their share of the institutional costs of the Postal Service.”.

SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

“§ 3641. Market tests of experimental products

“(a) Authority.—

“(1) In general.—The Postal Service may conduct market tests of experimental products in accordance with this section.

“(2) Provisions waived.—A product shall not, while it is being tested under this section, be subject to the requirements of sections 3622, 3633, or 3642, or regulations promulgated under those sections.

“(b) Conditions.—A product may not be tested under this section unless it satisfies each of the following:

“(1) Significantly different product.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

“(2) Market disruption.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

“(3) Correct categorization.—The Postal Service identifies the product, for the purpose of a test under this section, as either market dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively).

“(c) Notice.—

“(1) In general.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

“(A) setting out the basis for the Postal Service's determination that the market test is covered by this section; and

“(B) describing the nature and scope of the market test.

“(2) Safeguards.—For a competitive experimental product, the provisions of section 504(g) shall be available with respect to any information required to be filed under paragraph (1) to the same extent and in the same manner as in the case of any matter described in section 504(g)(1). Nothing in paragraph (1) shall be considered to permit or require the publication of any information as to which confidential treatment is accorded under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

“(d) Duration.—

“(1) In general.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

“(2) Extension authority.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

“(e) Dollar-Amount Limitation.—

“(1) In general.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $10,000,000 in any year, subject to paragraph (2) and subsection (g).

“(2) Exemption authority.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

“(A) the product is likely to benefit the public and meet an expected demand;

“(B) the product is likely to contribute to the financial stability of the Postal Service; and

“(C) the product is not likely to result in unfair or otherwise inappropriate competition.

“(f) Cancellation.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet one or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

“(g) Adjustment for Inflation.—For purposes of each year following the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

“(h) Definition of a Small Business Concern.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

“(i) Effective Date.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a).

“§ 3642. New products and transfers of products between the market-dominant and competitive categories of mail

“(a) In General.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

“(b) Criteria.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

“(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing business to other firms offering similar products. The competitive category of products shall consist of all other products.

“(2) Exclusion of products covered by postal monopoly.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term ‘product covered by the postal monopoly’ means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

“(3) Additional considerations.—In making any decision under this section, due regard shall be given to—

“(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

“(B) the views of those who use the product involved on the appropriateness of the proposed action; and

“(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

“(c) Transfers of Subclasses and Other Subordinate Units Allowable.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

“(d) Notification and Publication Requirements.—

“(1) Notification requirement.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission pursuant to section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

“(2) Publication requirement.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections

3621 and 3631) are superseded, and shall be published in the Federal Register.

"(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

"(1) under this subchapter; or

"(2) by or under any other provision of law.".

SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended by striking the heading for subchapter IV and inserting the following:

"SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW".

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

"§ 3651. Annual reports by the Commission

"(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691.

"(b) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

"§ 3652. Annual reports to the Commission

"(a) COSTS, REVENUES, RATES, AND SERVICE.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex thereto as the Commission may require under subsection (e))—

"(1) which shall analyze costs, revenues, rates, and quality of service in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

"(2) which shall, for each market-dominant product provided in such year, provide—

"(A) market information, including mail volumes; and

"(B) measures of the service afforded by the Postal Service in connection with such product, including—

"(i) the level of service (described in terms of speed of delivery and reliability) provided; and

"(ii) the degree of customer satisfaction with the service provided.

Before submitting a report under this subsection (including any annex thereto and the information required under subsection (b)), the Postal Service shall have the information contained in such report (and annex) audited by the Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

"(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.

"(1) IN GENERAL.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

"(A) The per-item cost avoided by the Postal Service by virtue of such discount.

"(B) The percentage of such per-item cost avoided that the per-item workshare discount represents.

"(C) The per-item contribution made to institutional costs.

"(2) WORKSHARE DISCOUNT DEFINED.—For purposes of this subsection, the term 'workshare discount' refers to presorting, barcoding, dropshipping, and other similar discounts, as further defined under regulations which the Postal Regulatory Commission shall prescribe.

"(c) SERVICE AGREEMENTS AND MARKET TESTS.—In carrying out subsections (a) and (b) with respect to service agreements (including service agreements entered into under section 3623) and experimental products offered through market tests under section 3641 in a year, the Postal Service—

"(1) may report summary data on the costs, revenues, and quality of service by service agreement and market test; and

"(2) shall report such data as the Postal Regulatory Commission requires.

"(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access, in accordance with such regulations as the Commission shall prescribe, to the working papers and any other supporting matter of the Postal Service and the Inspector General in connection with any information submitted under this section.

"(e) CONTENT AND FORM OF REPORTS.—

"(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating thereto) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

"(A) providing the public with adequate information to assess the lawfulness of rates charged;

"(B) avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service; and

"(C) protecting the confidentiality of commercially sensitive information.

"(2) REVISED REQUIREMENTS.—The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

"(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

"(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

"(C) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

"(f) CONFIDENTIAL INFORMATION.—

"(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or pursuant to subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

"(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

"(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

"(1) comprehensive statement under section 2401(e);

"(2) strategic plan under section 2802;

"(3) performance plan under section 2803; and

"(4) program performance reports under section 2804.

"§ 3653. Annual determination of compliance

"(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

"(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

"(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or

"(2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of noncompliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

"(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with section 3662.

"(d) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described in paragraphs (1) through (3) of subsection (b)) during the year to which such determination relates.".

SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

"§ 3662. Rate and service complaints

"(a) IN GENERAL.—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

"(b) PROMPT RESPONSE REQUIRED.—

"(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

"(A) begin proceedings on such complaint; or

"(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

"(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

"(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance. Such action may include ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, and requiring the Postal Service to make up for revenue shortfalls in competitive products.

"(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

"§ 3663. Appellate review

"A person adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

"§ 3664. Enforcement of orders

"The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.".

SEC. 206. CLERICAL AMENDMENT.

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

"CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

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"SUBCHAPTER VII—MODERN SERVICE STANDARDS

"3691. Establishment of modern service standards.".

TITLE III—MODERN SERVICE STANDARDS

SEC. 301. ESTABLISHMENT OF MODERN SERVICE STANDARDS.

Chapter 36 of title 39, United States Code, as amended by this Act, is further amended by adding at the end the following:

"SUBCHAPTER VII—MODERN SERVICE STANDARDS

"§ 3691. Establishment of modern service standards

"(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 24 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products consistent with sections 101 (a) and (b) and 403.

"(b) OBJECTIVES.—Such standards shall be designed to achieve the following objectives:

"(1) To increase the value of postal services to both senders and recipients.

"(2) To provide a benchmark for Postal Service performance goals.

"(3) To guarantee Postal Service customers delivery speed and frequency consistent with reasonable rates.

"(c) FACTORS.—In establishing or revising such standards, the Postal Regulatory Commission shall take into account—

"(1) any service standards previously established by the Postal Service;

"(2) the actual level of service Postal Service customers receive;

"(3) customer satisfaction with Postal Service performance;

"(4) mail volume and revenues projected for future years;

"(5) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

"(6) the current and projected future cost of serving Postal Service customers; and

"(7) the policies of this title as well as such other factors as the Commission determines appropriate.".

SEC. 302. POSTAL SERVICE PLAN.

(a) IN GENERAL.—Within 1 year after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

(b) CONTENT.—The plan under this section shall—

(1) establish performance goals;

(2) describe any changes to the Postal Service's processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals; and

(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals.

(c) RECOMMENDATIONS.—The Postal Service plan shall include a list of any processing and retail facilities that can be closed or consolidated without hindering the Postal Service's ability to meet established service standards. The recommendations shall be consistent with the provisions in section 101(b) of title 39, United States Code prohibiting the closing of post offices, including post offices in rural areas and small towns, solely because they are not self-sustaining or operate at a deficit.

(d) ALTERNATE RETAIL OPTIONS.—The Postal Service plan shall include, to the extent possible, plans to provide postal services by other means, including—

(1) vending machines;

(2) the Internet;

(3) Postal Service employees on delivery routes; and

(4) retail facilities in which overhead costs are shared with private businesses and other government agencies.

(e) REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.—The Postal Service plan shall include—

(1) a plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation or privatization of any of its functions or the closing and consolidation of any of its facilities; and

(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

(f) INSPECTOR GENERAL REPORT.—

(1) IN GENERAL.—Before submitting the plan under this section to Congress, the Postal Service shall submit the plan to the Inspector General of the United States Postal Service in a timely manner to carry out this subsection.

(2) REPORT.—The Inspector General shall prepare a report describing the extent to which the Postal Service plan—

(A) is consistent with the continuing obligations of the Postal Service under title 39, United States Code; and

(B) provides for the Postal Service to meet the service standards established under section 3691.

(3) Submission of report.—The Postal Service shall submit the report of the Inspector General under this subsection with the plan submitted to Congress under subsection (a).

(g) Recommended Facility Closings and Consolidations.—The list of recommended facility closings and consolidations, including the criteria used for selection, justifications for each recommendation, and any comments received from affected communities, shall be transmitted to the Postal Network Modernization Commission at the same time the Postal Service plan is transmitted to Congress.

(h) Continuing Responsibilities.—Nothing in this section shall affect the responsibilities of the Postal Service under section 404(b) of title 39, United States Code, with respect to any postal facility by reason of that facility being recommended for closing or consolidation under this section.

SEC. 303. POSTAL NETWORK MODERNIZATION COMMISSION.

(a) Establishment.—There is established an independent commission to be known as the "Postal Network Modernization Commission".

(b) Duties.—The Commission shall carry out the duties specified in this title.

(c) Appointment.—

(1) In general.—

(A) Composition.—The Commission shall be composed of 8 members appointed by the President, by and with the advice and consent of the Senate.

(B) Limitation on political party membership.—No more than 4 members of the Commission at any time shall be from the same political party.

(C) Employee representation.—One member of the Commission shall be chosen from among persons nominated for such office with the unanimous concurrence of all organizations representing postmasters and all employee organizations described under section 1004(b) of title 39, United States Code.

(D) Union Representation.—One member of the Commission shall be chosen from among persons nominated for such office with the unanimous concurrence of all labor organizations described in section 206(a)(1) of title 39, United States Code.

(2) Chairman.—At the time the President nominates individuals for appointment to the Commission, the President shall designate one such individual who shall serve as Chairman of the Commission.

(d) Meetings.—

(1) Open meetings.—Each meeting of the Commission shall be open to the public.

(2) Proceedings, information, and deliberations.—All of the proceedings, information, and deliberation of the Commission shall be open, upon request, to the following:

(A) Committee on governmental affairs.—The Chairman and the ranking minority party member of the Committee on Governmental Affairs of the Senate, or such other members of the Committee designated by such Chairman or ranking minority party member.

(B) Committee on government reform.—The Chairman and the ranking minority party member of the Committee on Government Reform of the House of Representatives, or such other members of the Committee designated by such Chairman or ranking minority party member.

(C) Committees on appropriations.—The Chairmen and ranking minority party members of the Subcommittees on Transportation, Treasury, and General Government of the Committees on Appropriations of the Senate and the House of Representatives, or such other members of the Subcommittees designated by such Chairmen or ranking minority party members.

(e) Vacancies.—A vacancy in the Commission shall be filled in the same manner as the original appointment.

(f) Pay and Travel Expenses.—

(1) In general.—

(A) Pay.—Each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) Pay for chairman.—The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) Travel expenses.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) Director of Staff.—

(1) Appointment.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who was not employed by the Postal Service during the 1-year period preceding the date of such appointment.

(2) Pay.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(h) Staff.—

(1) In general.—Subject to paragraphs (2) and (3), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(2) Conditions of appointments.—The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the highest annual rate of basic pay payable for a position classified at above GS-15 of the General Schedule.

(3) Details.—

(A) In general.—Not more than ⅓ of the personnel employed by or detailed to the Commission may be on detail from the Postal Service.

(B) Analysts.—Not more than ⅓ of the professional analysts of the Commission staff may be persons detailed from the Postal Service to the Commission.

(C) Limitations.—A person may not be detailed from the Postal Service to the Commission if that person participated personally and substantially in any matter within the Postal Service concerning the preparation of recommendations for closures or consolidations of postal facilities. No employee of the Postal Service may—

(i) prepare any report concerning the effectiveness, fitness, or efficiency of the performance on the staff of the Commission of any person detailed from the Postal Service to that staff;

(ii) review the preparation of such a report; or

(iii) approve or disapprove such a report.

(4) Detail upon request.—Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this part.

(5) Comptroller general assistance.—The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(6) Limitation on number of staff.—There may not be more than 15 persons on the staff at any one time.

(i) Other Authority.—

(1) Experts and consultants.—The Commission may procure by contract, to the extent funds are available, the temporary of intermittent services of experts or consultants under section 3109 of title 5, United States Code.

(2) Lease of space.—The Commission may lease space and acquire personal property to the extent funds are available.

(j) Funding.—There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this part. Such funds shall remain available until expended.

(k) Review of Postal Service Recommendations.—

(1) In general.—After receiving the recommendations from the Postal Service under section 302, the Commission shall conduct public hearings on the recommendations. All testimony before the Commission at a public hearing conducted under this paragraph shall be presented under oath. The hearings shall solicit views from Postal Service customers and employees and community leaders and government officials in the communities affected by the Postal Service's recommendations.

(2) Report.—

(A) Transmission.—The Commission shall, no later than 1 year following receipt of the Postal Service's recommendations under section 302, transmit to the President a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Postal Service, together with the Commission's recommendations for closures and consolidations.

(B) Changes in recommendations.—In making its recommendations, the Commission may make changes in any of the recommendations made by the Postal Service if the Commission determines that the Postal Service's recommended closings and consolidations would not allow them to meet the service standards established by the Postal Regulatory Commission under section 301.

(3) Explanation.—The Commission shall explain and justify in its report submitted to the President under paragraph (2) any recommendation made by the Commission that is different from the recommendations made by the Postal Service under section 302. The Commission shall transmit a copy of such report to the Committee on Governmental Affairs of the Senate, Committee on Government Reform of the House of Representatives and the Subcommittees on Transportation, Treasury, and General Government of the Committees on Appropriations of the Senate and the House of Representatives on the same date on which it transmits its recommendations to the President under paragraph (2).

(4) Provision of information.—After transmitting its recommendations, the Commission shall promptly provide, upon request, to any member of Congress information used by the Commission in making its recommendations.

(5) Comptroller general.—The Comptroller General of the United States shall—

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the recommendations made by the Postal Service under section 302; and

(B) not later than 30 days following receipt of the Postal Service's recommendations, transmit to Congress and the Commission a detailed analysis of the Postal Service's recommendations.

(l) Review by the President.—

(1) Report.—The President shall, no later than 14 days following receipt of the Commission's recommendations, transmit to the Commission and to Congress a report containing the President's approval or disapproval of the Commission's recommendations.

(2) Approval.—If the President approves all the recommendations, the President shall transmit a copy of such recommendations to Congress, together with a certification of such approval.

(3) Disapproval.—If the President disapproves the recommendations of the Commission, in whole or in part, the President shall transmit to the Commission and the Congress the reasons for that disapproval. The Commission shall than transmit to the President, within 30 days, a revised list of recommendations.

(4) Approval after revisions.—If the President approves all of the revised recommendations of the Commission transmitted to the President under paragraph (3), the President shall transmit a copy of such revised recommendations to Congress, together with a certification of such approval.

SEC. 304. CLOSURE AND CONSOLIDATION OF FACILITIES.

(a) In General.—Subject to subsection (b), the Postal Service shall—

(1) close all postal facilities recommended by the Commission in such report transmitted to the Congress by the President under section 303(1);

(2) consolidate all postal facilities recommended for consolidation by the Commission in such report;

(3) initiate all such closures and consolidations no later than 1 year after the date on which the President transmits a report to Congress under section 303(1) containing the recommendations for such closures or consolidations; and

(4) complete all such closures and consolidations no later than the end of the 2-year period beginning on the date on which the President transmits the report under section 303(1) containing the recommendations for such closures and consolidations.

(b) Congressional Disapproval.—

(1) In general.—The Postal Service may not carry out any closure or consolidation recommended by the Commission in a report transmitted from the President under section 303(1) if a joint resolution is enacted, in accordance with section 305, disapproving such recommendations of the Commission before the earlier of—

(A) the end of the 45-day period beginning on the date on which the President transmits such report; or

(B) the adjournment of the Congress sine die for the session during which such report is transmitted.

(2) Days of session.—For purposes of paragraph (1) and subsections (a) and (c) of section 305, the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of a period.

SEC. 305. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT.

(a) Terms of the Resolution.—For purposes of this title, the term "joint resolution" means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President transmits the report to the Congress under section 303(1), and—

(1) which does not have a preamble;

(2) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Postal Facility Closure and Consolidation Commission as submitted by the President on ———", the blank space being filled in with the appropriate date; and

(3) the title of which is as follows: "Joint resolution disapproving the recommendations of the Postal Facility Closure and Consolidation Commission.".

(b) Referral.—A resolution described in subsection (a) that is introduced in the House of Representatives shall be referred to the Committee on Government Reform of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be referred to the Committee on Governmental Affairs of the Senate.

(c) Discharge.—If the committee to which a resolution described in subsection (a) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under section 303(1), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) Consideration.—

(1) In general.—On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. A Member may make the motion only on the day after the calendar day on which the Member announces to the House concerned the Member's intention to make the motion, except that, in the case of the House of Representatives, the motion may be made without such prior announcement if the motion is made by direction of the committee to which the resolution was referred. All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) Vote on final passage.—Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Appeals.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) Consideration by Other House.—

(1) In general.—If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to a resolution described in subsection (a) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(2) Disposition of a resolution.—Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(f) Rules of the Senate and House.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 306. NONAPPEALIBILITY TO THE POSTAL REGULATORY COMMISSION.

The closing or consolidation of any post office or other postal facility under this title may not be appealed to the Postal Regulatory Commission under the provisions of title 39, United States Code, including section 404(b)(5) of that title.

TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) Provisions Relating to Postal Service Competitive Products Fund and Related Matters.—

(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

"§2011. Provisions relating to competitive products

"(a) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

"(1) costs attributable to competitive products; and

"(2) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

For purposes of this subsection, the term 'costs attributable' has the meaning given such term by section 3631.

"(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

"(1) revenues from competitive products;

"(2) amounts received from obligations issued by the Postal Service under subsection (e);

"(3) interest and dividends earned on investments of the Competitive Products Fund; and

"(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

"(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, it may invest such amounts as it considers appropriate in—

"(1) obligations of, or obligations guaranteed by, the Government of the United States; and

"(2) in accordance with regulations which the Secretary of the Treasury shall prescribe (by not later than 12 months after the date of enactment of the Postal Accountability and Enhancement Act), such other obligations or securities as it considers appropriate, with the exception of obligations of or securities in any business entity subject to Postal Service regulations other than those regulations applying to the mailing public generally.

"(d) The Postal Service may, in its sole discretion, provide that moneys of the Competitive Products Fund be deposited in a Federal Reserve bank or a depository for public funds.

"(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund, except that the Postal Service may pledge only assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)), and the revenues and receipts from such products, for the payment of the principal of or interest on such obligations, for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as the Postal Service determines necessary or desirable.

"(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

"(A) the establishment of reserve, sinking, and other funds;

"(B) application and use of revenues and receipts of the Competitive Products Fund;

"(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

"(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

"(3) Obligations issued by the Postal Service under this subsection—

"(A) may not be purchased by the Secretary of the Treasury;

"(B) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority;

"(C) shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state; and

"(D) notwithstanding the provisions of the Federal Financing Bank Act of 1973 or any other provision of law (except as specifically provided by reference to this subparagraph in a law enacted after this subparagraph takes effect), shall not be eligible for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

"(4)(A) This paragraph applies with respect to the period beginning on the date of the enactment of this paragraph and ending at the close of the 5-year period which begins on the date on which the Postal Service makes its submission under subsection (h)(1).

"(B) During the period described in subparagraph (A), nothing in subparagraph (A) or (D) of paragraph (3) or the last sentence of section 2006(b) shall, with respect to any obligations sought to be issued by the Postal Service under this subsection, be considered to affect such obligations' eligibility for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

"(C) The Federal Financing Bank may elect to purchase such obligations under such terms, including rates of interest, as the Bank and the Postal Service may agree, but at a rate of yield no less than the prevailing yield on outstanding marketable securities of comparable maturity issued by entities with the same credit rating as the rating then most recently obtained by the Postal Service under subparagraph (D), as determined by the Bank.

"(D) In order to be eligible to borrow under this paragraph, the Postal Service shall first obtain a credit rating from a nationally recognized credit rating organization. Such rating—

"(i) shall be determined taking into account only those assets and activities of the Postal Service which are described in section 3634(a)(2) (relating to the Postal Service's assumed taxable income from competitive products); and

"(ii) may, before final rules of the Postal Regulatory Commission under subsection (h) are issued (or deemed to have been issued), be based on the best information available from the Postal Service, including the audited statements required by section 2008(e).

"(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

"(g) A judgment against the Postal Service or the Government of the United States (or settlement of a claim) shall, to the extent that it arises out of activities of the Postal Service in the provision of competitive products, be paid out of the Competitive Products Fund.

"(h)(1) The Postal Service, in consultation with an independent, certified public accounting firm and such other advisors as it considers appropriate, shall develop recommendations regarding—

"(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of identifying the capital and operating costs incurred by the Postal Service in providing competitive products, and preventing the cross-subsidization of such products by market-dominant products; and

"(B) the substantive and procedural rules that should be followed in determining the Postal Service's assumed Federal income tax on competitive products income for any year (within the meaning of section 3634).

Such recommendations shall be submitted to the Postal Regulatory Commission no earlier than 6 months, and no later than 12 months, after the effective date of this section.

"(2)(A) Upon receiving the recommendations of the Postal Service under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

"(B) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

"(i) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

"(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

"(iii) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Postal Service makes its submission to the Commission under paragraph (1) (or by such later date as the Commission and the Postal Service may agree to). If final rules are not issued by the Commission by the deadline under the preceding sentence, the recommendations submitted by the Postal Service under paragraph (1) shall be treated as the final rules. The Commission is authorized to promulgate regulations revising such rules.

"(C) Reports described in subparagraph (B)(iii) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

"(i) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

"(ii) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

"(D) A copy of each report described in subparagraph (B)(iii) shall also be transmitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

"(i) The Postal Service shall render an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund, in which it shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of its then most recent report under this subsection shall be included with any other submission that it is required to make to the Postal Regulatory Commission under section 3652(g).".

(2) CLERICAL AMENDMENT.—The analysis for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

"2011. Provisions relating to competitive products.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

"(2) 'Competitive Products Fund' means the Postal Service Competitive Products Fund established by section 2011; and".

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking "Fund," and inserting "Fund and the balance in the Competitive Products Fund,".

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking "title." and inserting "title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).".

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking "There" and inserting "Except as otherwise provided in section 2011, there".

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (b), by adding at the end the following: "Nothing in this chapter shall be considered to permit or require the Secretary of the Treasury to purchase any obligations of the Postal Service other than those issued under section 2005."; and

(B) in subsection (c), by inserting "under section 2005" before "shall be obligations".

SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

"§ 3634. Assumed Federal income tax on competitive products income

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'assumed Federal income tax on competitive products income' means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year; and

"(2) the term 'assumed taxable income from competitive products', with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

"(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

"(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

"(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a)—

"(1) compute its assumed Federal income tax on competitive products income for such year; and

"(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

"(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.".

SEC. 403. UNFAIR COMPETITION PROHIBITED.

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

"§ 404a. Specific limitations

"(a) Except as specifically authorized by law, the Postal Service may not:

"(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

"(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

"(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any product or service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

"(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

"(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.".

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking "The" and inserting "Subject to the provisions of section 404a, the".

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking "Without" and inserting "Subject to the provisions of section 404a, but otherwise without".

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

"404a. Specific limitations.".

SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

"(A) shall be considered to be a 'person', as used in the provisions of law involved; and

"(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

"(2) This subsection applies with respect to—

"(A) the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946' (15 U.S.C. 1051 and following)); and

"(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

"(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

"(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

"(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

"(i) the antitrust laws (as defined in such subsection); and

"(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

"(2) No damages, interest on damages, costs or attorney's fees may be recovered under the antitrust laws (as so defined) from the Postal Service or any officer or employee thereof acting in an official capacity for any conduct with respect to a product in the market-dominant category of mail.

"(3) This subsection shall not apply with respect to conduct occurring before the date of the enactment of this subsection.

"(f) To the extent that the Postal Service engages in conduct with respect to the provision of competitive products, it shall be considered a person for the purposes of the Federal bankruptcy laws.

"(g)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes.

"(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

"(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

"(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

"(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

"(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

"(i) a copy of such schedule before construction of the building is begun; and

"(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

"(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

"(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

"(6) For purposes of this subsection, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

"(h)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

"(A) Subsection (d) or (e) of this section.

"(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

"(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

"(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

"(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

"(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

"(i) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).".

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking "Except as provided in section 3628 of this title," and inserting "Except as otherwise provided in this title,".

SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.

(a) IN GENERAL.—Section 407 of title 39, United States Code, is amended to read as follows:

"§ 407. International postal arrangements

"(a) It is the policy of the United States—

"(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

"(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

"(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and

"(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

"(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services, and shall have the power to conclude treaties, conventions and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

"(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

"(A) shall coordinate with other agencies as appropriate, and in particular, shall give full consideration to the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

"(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

"(C) shall maintain continuing liaison with the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate;

"(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

"(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

"(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

"(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit a decision on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

"(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with a decision of the Commission adopted under paragraph (1), except if, or to the extent, the Secretary determines, by written order, that considerations of foreign policy or national security require modification of the Commission's decision.

"(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services and other international delivery services as it deems appropriate, except that—

"(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be international law; and

"(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

"(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

“(2) For purposes of this subsection, the term ‘private company’ means a private company substantially owned or controlled by persons who are citizens of the United States.

“(3) In exercising the authority pursuant to subsection (b) to conclude new treaties, conventions and amendments related to international postal services and to renegotiate such treaties, conventions and amendments, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs in carrying out this paragraph.

“(4) The provisions of this subsection shall take effect 6 months after the date of the enactment of this subsection or such earlier date as the Customs Service may determine in writing.”.

(b) Effective Date.—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

SEC. 406. CHANGE-OF-ADDRESS ORDER INVOLVING A COMMERCIAL MAIL RECEIVING AGENCY.

(a) Redesignation.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by section 204(a)) is amended by striking the heading for subchapter V and inserting the following:

“SUBCHAPTER VI—GENERAL”.

(b) Change-of-Address Order Involving a Commercial Mail Receiving Agency.—Subchapter VI of chapter 36 of title 39, United States Code (as so redesignated by subsection (a)) is amended by adding at the end the following:

“§ 3686. Change-of-address order involving a commercial mail receiving agency

“(a) For the purpose of this section, the term ‘commercial mail receiving agency’ or ‘CMRA’ means a private business that acts as the mail receiving agent for specific clients.

“(b) Upon termination of an agency relationship between an addressee and a commercial mail receiving agency—

“(1) the addressee or, if authorized to do so, the CMRA may file a change-of-address order with the Postal Service with respect to such addressee;

“(2) a change-of-address order so filed shall, to the extent practicable, be given full force and effect; and

“(3) any mail for the addressee that is delivered to the CMRA after the filing of an appropriate order under this subsection shall be subject to subsection (c).

“(c) Mail described in subsection (b)(3) shall, if marked for forwarding and remailed by the CMRA, be forwarded by the Postal Service in the same manner as, and subject to the same terms and conditions (including limitations on the period of time for which a change-of-address order shall be given effect) as apply to, mail forwarded directly by the Postal Service to the addressee.”.

SEC. 407. EXCEPTION FOR COMPETITIVE PRODUCTS.

(a) In General.—Section 403(c) of title 39, United States Code, is amended by striking “user.” and inserting “user, except that this subsection shall not apply to competitive products.”.

(b) Effective Date.—The amendments made by this section shall apply with respect to services, classifications, rates, and fees, to the extent provided or applicable (as the case may be) on or after the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

TITLE V—GENERAL PROVISIONS

SEC. 501. QUALIFICATION REQUIREMENTS FOR GOVERNORS.

(a) In General.—Section 202(a) of title 39, United States Code, is amended by striking “(a)” and inserting “(a)(1)” and by striking the fourth sentence and inserting the following: “The Governors shall represent the public interest generally, and at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; for purposes of this sentence, an organization or corporation shall be considered to be of substantial size if it employs at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.”.

(b) Consultation Requirement.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

“(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.”.

(c) Restriction.—Section 202(b) of title 39, United States Code, is amended by striking “(b)” and inserting “(b)(1)”, and by adding at the end the following:

“(2)(A) Notwithstanding any other provision of this section, in the case of the office of the Governor the term of which is the first one scheduled to expire at least 4 months after the date of the enactment of this paragraph—

“(i) such office may not, in the case of any person commencing service after that expiration date, be filled by any person other than an individual chosen from among persons nominated for such office with the unanimous concurrence of all labor organizations described in section 206(a)(1); and

“(ii) instead of the term that would otherwise apply under the first sentence of paragraph (1), the term of any person so appointed to such office shall be 3 years.

“(B) Except as provided in subparagraph (A), an appointment under this paragraph shall be made in conformance with all provisions of this section that would otherwise apply.”.

(d) Applicability.—The amendment made by subsection (a) shall not affect the appointment or tenure of any person serving as a Governor of the Board of Governors of the United States Postal Service pursuant to an appointment made before the date of the enactment of this Act, or, except as provided in the amendment made by subsection (c), any nomination made before that date; however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of the enactment of this Act.

SEC. 502. OBLIGATIONS.

(a) Purposes for Which Obligations May Be Issued.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “title.” and inserting “title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.”.

(b) Increase Relating to Obligations Issued for Capital Improvements.—The third sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “$2,000,000,000” and inserting “$3,000,000,000”.

(c) Increase in Maximum Outstanding Obligations Allowable.—Paragraph (2) of section 2005(a) of title 39, United States Code, is amended—

(1) by striking “and” at the end of subparagraph (B); and

(2) by striking subparagraph (C) and inserting the following:

“(C) $15,000,000,000 for each of fiscal years 1992 through 2002; and

“(D) $25,000,000,000 for fiscal year 2003 and each fiscal year thereafter.”.

(d) Limitations on Obligations Outstanding.—

(1) In general.—Subsection (a) of section 2005 of title 39, United States Code, is amended by adding at the end the following:

“(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.”.

(2) Conforming amendment.—The second sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “any such obligations” and inserting “obligations issued by the Postal Service which may be”.

(e) Amounts Which May Be Pledged, Etc.—

(1) Obligations to which provisions apply.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking “such obligations,” and inserting “obligations issued by the Postal Service under this section,”.

(2) Assets, revenues, and receipts to which provisions apply.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking “(b)” and inserting “(b)(1)”, and by adding at the end the following:

“(2) Notwithstanding any other provision of this section—

“(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

"(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.".

SEC. 503. PRIVATE CARRIAGE OF LETTERS.

(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) A letter may also be carried out of the mails when—

"(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

"(2) the letter weighs at least 12½ ounces; or

"(3) such carriage is within the scope of services described by regulations of the United States Postal Service (as in effect on July 1, 2001) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

"(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.".

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

SEC. 504. RULEMAKING AUTHORITY.

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

"(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;".

SEC. 505. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS, ETC.

(a) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this Act or any amendment made by this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

(b) FREE MAILING PRIVILEGES CONTINUE UNCHANGED.—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

SEC. 506. BONUS AUTHORITY.

Title 39, United States Code, is amended by adding after section 3686 (as added by section 406(b)) the following:

"§ 3687. Bonus authority

"(a) IN GENERAL.—The Postal Service may establish one or more programs to provide bonuses or other rewards to officers and employees of the Postal Service to achieve the objectives of this chapter.

"(b) WAIVER OF LIMITATION ON COMPENSATION.—

"(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2).

"(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation referred to in paragraph (1)—

"(A) the Postal Service shall make an appropriate request to the Postal Regulatory Commission, in such form and manner as the Commission requires; and

"(B) the Postal Regulatory Commission shall approve any such request if it finds that the program is likely to achieve the objectives of this chapter.

"(3) REVOCATION AUTHORITY.—If the Postal Regulatory Commission finds that a program previously approved under paragraph (2) is not achieving the objectives of this chapter, the Commission may revoke or suspend the authority of the Postal Service to continue such program until such time as appropriate corrective measures have, in the judgment of the Commission, been taken.

"(c) REPORTING REQUIREMENT RELATING TO BONUSES OR OTHER REWARDS.—Included in its comprehensive statement under section 2401(e) for any period shall be—

"(1) the name of each person receiving a bonus or other reward during such period which would not have been allowable but for the provisions of subsection (a)(2);

"(2) the amount of the bonus or other reward; and

"(3) the amount by which the limitation referred to in subsection (a)(2) was exceeded as a result of such bonus or other reward.".

TITLE VI—ENHANCED REGULATORY COMMISSION

SEC. 601. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.

(a) TRANSFER AND REDESIGNATION.—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

"CHAPTER 5—POSTAL REGULATORY COMMISSION

"Sec.
"501. Establishment.
"502. Commissioners.
"503. Rules; regulations; procedures.
"504. Administration.

"§ 501. Establishment

"The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

"§ 502. Commissioners

"(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

"(b) No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

"(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

"(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

"(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

"(f) The Commissioners shall serve for terms of 6 years.";

(2) by striking, in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), the heading for such subchapter I and all that follows through section 3602; and

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)).

(b) APPLICABILITY.—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 604) pursuant to an appointment made before the date of the enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

(c) CLERICAL AMENDMENT.—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

"5. Postal Regulatory Commission .. 501"

SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.

Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding at the end the following:

"(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

"(A) issue subpoenas requiring the attendance and presentation of testimony by, or the production of documentary or other evidence in the possession of, any covered person; and

"(B) order the taking of depositions and responses to written interrogatories by a covered person.

The written concurrence of a majority of the Commissioners then holding office shall, with respect to each subpoena under subparagraph (A), be required in advance of its issuance.

"(3) In the case of contumacy or failure to obey a subpoena issued under this subsection, upon application by the Commission, the district court of the United States for the district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) For purposes of this subsection, the term 'covered person' means an officer, employee, agent, or contractor of the Postal Service.

"(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission pursuant to a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

"(2) No officer or employee of the Commission may, with respect to any information as to which the Commission has been notified under paragraph (1)—

"(A) use such information for purposes other than the purposes for which it is supplied; or

"(B) permit anyone who is not an officer or employee of the Commission to have access to any such information.

"(3) Paragraph (2) shall not prevent information from being furnished under any process of discovery established under this title in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for any information furnished under the preceding sentence.".

SEC. 603. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 601) is amended to read as follows:

"(d) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Postal Regulatory Commission. In requesting an appropriation under this subsection for a fiscal year, the Commission shall prepare and submit to the Congress under section 2009 a budget of the Commission's expenses, including expenses for facilities, supplies, compensation, and employee benefits.".

(b) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: "The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.".

(2) CONFORMING AMENDMENT.—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: "The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated pursuant to section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated pursuant to section 8G(f) of the Inspector General Act of 1978.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2002.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMISSION.

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503–504 (as so redesignated by section 601), 1001, 1002, by striking "Postal Rate Commission" each place it appears and inserting "Postal Regulatory Commission";

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking "Postal Rate Office" and inserting "Postal Regulatory Commission".

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

TITLE VII—INSPECTORS GENERAL

SEC. 701. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.

(a) IN GENERAL.—Paragraph (2) of section 8G(a) of the Inspector General Act of 1978 is amended by inserting "the Postal Regulatory Commission," after "the United States International Trade Commission,".

(b) ADMINISTRATION.—Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding after subsection (g) (as added by section 602) the following:

"(h)(1) Notwithstanding any other provision of this title or of the Inspector General Act of 1978, the authority to select, appoint, and employ officers and employees of the Office of Inspector General of the Postal Regulatory Commission, and to obtain any temporary or intermittent services of experts or consultants (or an organization of experts or consultants) for such Office, shall reside with the Inspector General of the Postal Regulatory Commission.

"(2) Except as provided in paragraph (1), any exercise of authority under this subsection shall, to the extent practicable, be in conformance with the applicable laws and regulations that govern selections, appointments and employment, and the obtaining of any such temporary or intermittent services, within the Postal Regulatory Commission.".

(c) DEADLINE.—No later than 180 days after the date of the enactment of this Act—

(1) the first Inspector General of the Postal Regulatory Commission shall be appointed; and

(2) the Office of Inspector General of the Postal Regulatory Commission shall be established.

SEC. 702. INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE TO BE APPOINTED BY THE PRESIDENT.

(a) DEFINITIONAL AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 is amended—

(1) in paragraph (1)—

(A) by striking "and" before "the chief executive officer of the Resolution Trust Corporation";

(B) by striking "and" before "the Chairperson of the Federal Deposit Insurance Corporation"; and

(C) by inserting "the Postmaster General;" after "Social Security Administration;"; and

(2) in paragraph (2)—

(A) by striking "or" before "the Veterans' Administration"; and

(B) by inserting "the United States Postal Service," after "Social Security Administration,".

(b) SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE.—The Inspector General Act of 1978 is amended—

(1) by redesignating sections 8G (as amended by section 701(a)), 8H, and 8I as sections 8H through 8J, respectively; and

(2) by inserting after section 8F the following:

"SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

"SEC. 8G. (a) Notwithstanding the last two sentences of section 3(a), the Inspector General of the United States Postal Service shall report to and be under the general supervision of the Postmaster General, but shall not report to, or be subject to supervision by, any other officer or employee of the United States Postal Service or its Board of Governors. No such officer or employee (including the Postmaster General) or member of such Board shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

"(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

"(c) Any report required to be transmitted by the Postmaster General to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the 7-day period specified under such section, to the Committee on

Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

"(d) Notwithstanding any provision of paragraph (7) or (8) of section 6(a), the Inspector General of the United States Postal Service may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the United States Postal Service.

"(e) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

"(f) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.

"(g) As used in this section, 'Board of Governors' and 'Board' each has the meaning given it by section 102 of title 39, United States Code.".

(c) AUDITS OF THE POSTAL SERVICE.—

(1) AUDITS.—Subsection (e) of section 2008 of title 39, United States Code, is amended to read as follows:

"(e)(1) At least once each year beginning with the fiscal year commencing after the date of the enactment of the Postal Accountability and Enhancement Act, the financial statements of the Postal Service (including those used in determining and establishing postal rates) shall be audited by the Inspector General or by an independent external auditor selected by the Inspector General.

"(2) Audits under this section shall be conducted in accordance with applicable generally accepted government auditing standards.

"(3) Upon completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the Postmaster General.".

(2) RESULTS OF INSPECTOR GENERAL'S AUDIT TO BE INCLUDED IN ANNUAL REPORT.—Section 2402 of title 39, United States Code, is amended by inserting after the first sentence the following: "Each report under this section shall include, for the most recent fiscal year for which a report under section 2008(e) is available (unless previously transmitted under the following sentence), a copy of such report.".

(3) COORDINATION PROVISIONS.—Section 2008(d) of title 39, United States Code, is amended—

(A) by striking "(d) Nothing" and inserting "(d)(1) Except as provided in paragraph (2), nothing"; and

(B) by adding at the end the following:

"(2) An audit or report under paragraph (1) may not be obtained without the prior written approval of the Inspector General.".

(4) SAVINGS PROVISION.—For purposes of any fiscal year preceding the first fiscal year commencing after the date of the enactment of this Act, the provisions of title 39, United States Code, shall be applied as if the amendments made by this subsection had never been enacted.

(d) REPORTS.—Section 3013 of title 39, United States Code, is amended by striking "Postmaster General" each place it appears and inserting "Chief Postal Inspector".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) RELATING TO THE INSPECTOR GENERAL ACT OF 1978.—(A) Subsection (a) of section 8H of the Inspector General Act of 1978 (as amended by section 701(a) and redesignated by subsection (b) of this section) is further amended—

(i) in paragraph (2) by striking "the Postal Regulatory Commission, and the United States Postal Service;" and inserting "and the Postal Regulatory Commission;" and

(ii) in paragraph (4) by striking "except that" and all that follows through "Code);" and inserting "except that, with respect to the National Science Foundation, such term means the National Science Board;".

(B)(i) Subsection (f) of section 8H of such Act (as so redesignated) is repealed.

(ii) Subsection (c) of section 8H of such Act (as so redesignated) is amended by striking "Except as provided under subsection (f) of this section, the" and inserting "The".

(C) Section 8J of such Act (as so redesignated) is amended—

(i) by striking all after "8D," and before "of this Act" and inserting "8E, 8F, 8G, or 8I"; and

(ii) by striking "8G(a)" and inserting "8H(a)".

(2) RELATING TO TITLE 39, UNITED STATES CODE.—(A) Subsection (e) of section 202 of title 39, United States Code, is repealed.

(B) Paragraph (4) of section 102 of such title 39 (as amended by section 101) is amended to read as follows:

"(4) 'Inspector General' means the Inspector General of the United States Postal Service, appointed under section 3(a) of the Inspector General Act of 1978;".

(C) The first sentence of section 1003(a) of such title 39 is amended by striking "chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law," and inserting "chapter 2 or 12 of this title, subsection (b) or (c) of section 1003 of this title, or any other provision of law,".

(D) Section 1003(b) of such title 39 is amended by striking "respective" and inserting "other".

(E) Section 1003(c) of such title 39 is amended by striking "included" and inserting "includes".

(3) RELATING TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Section 304C(b)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d(b)(1)) is amended by striking "8G" and inserting "8H".

(4) RELATING TO THE ENERGY POLICY ACT OF 1992.—Section 160(a) of the Energy Policy Act of 1992 (42 U.S.C. 8262f(a)) is amended (in the matter before paragraph (1)) by striking all that follows "(5 U.S.C. App.)" and before "shall—".

(f) EFFECTIVE DATE; ELIGIBILITY OF PRIOR INSPECTOR GENERAL.—

(1) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B) or subsection (c), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(B) SPECIAL RULES.—

(i) IN GENERAL.—If the position of Inspector General of the United States Postal Service is occupied on the date of enactment of this Act (other than by an individual serving due to a vacancy arising in that position before the expiration of his or her predecessor's term), then, for purposes of the period beginning on such date of enactment and ending on January 5, 2004, or, if earlier, the date on which such individual ceases to serve in that position, title 39, United States Code, and the Inspector General Act of 1978 shall be applied as if the amendments made by this section had not been enacted, except—

(I) for those made by subsections (c) and (d); and

(II) as provided in clause (ii).

(ii) AUTHORIZATION OF APPROPRIATIONS.—

(I) IN GENERAL.—Notwithstanding any other provision of this paragraph, subsection (f) of section 8G of the Inspector General Act of 1978 (as amended by this section) shall be effective for purposes of fiscal years beginning on or after October 1, 2002.

(II) SAVINGS PROVISION.—For purposes of the fiscal year ending on September 30, 2002, funding for the Office of Inspector General of the United States Postal Service shall be made available in the same manner as if this Act had never been enacted.

(2) ELIGIBILITY OF PRIOR INSPECTOR GENERAL.—Nothing in this Act shall prevent any individual who has served as Inspector General of the United States Postal Service at any time before the date of the enactment of this Act from being appointed to that position pursuant to the amendments made by this section.

TITLE VIII—EVALUATIONS

SEC. 801. DEFINITION.

For purposes of this title, the term "Board of Governors" has the meaning given such term by section 102 of title 39, United States Code.

SEC. 802. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 5 years, submit a report to the President and the Congress concerning—

(1) the operation of the amendments made by the Postal Accountability and Enhancement Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review such report and to submit written comments thereon. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

(c) SPECIFIC INFORMATION REQUIRED.—The Postal Regulatory Commission shall include, as part of at least its first report under subsection (a), the following:

(1) COST-COVERAGE REQUIREMENT RELATING TO COMPETITIVE PRODUCTS COLLECTIVELY.—With respect to section 3633 of title 39, United States Code (as amended by this Act)—

(A) a description of how such section has operated; and

(B) recommendations as to whether or not such section should remain in effect and, if so, any suggestions as to how it might be improved.

(2) COMPETITIVE PRODUCTS FUND.—With respect to the Postal Service Competitive Products Fund (under section 2011 of title 39, United States Code, as amended by section 401), in consultation with the Secretary of the Treasury—

(A) a description of how such Fund has operated;

(B) any suggestions as to how the operation of such Fund might be improved; and

(C) a description and assessment of alternative accounting or financing mechanisms that might be used to achieve the objectives of such Fund.

(3) ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS FUND.—With respect to section 3634 of title 39, United States Code (as amended by this Act), in consultation with the Secretary of the Treasury—

(A) a description of how such section has operated; and

(B) recommendations as to whether or not such section should remain in effect and, if so, any suggestions as to how it might be improved.

SEC. 803. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.

(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President and Congress, within 1 year after the date of the enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to products of the United States Postal Service in the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and similar products provided by private companies.

(b) RECOMMENDATIONS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal discrimination to an end.

(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

SEC. 804. GREATER DIVERSITY IN POSTAL SERVICE EXECUTIVE AND ADMINISTRATIVE SCHEDULE MANAGEMENT POSITIONS.

(a) STUDY.—The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and Congress a report concerning the extent to which women and minorities are represented in supervisory and management positions within the United States Postal Service. Any data included in the report shall be presented in the aggregate and by pay level.

(b) PERFORMANCE EVALUATIONS.—The United States Postal Service shall, as soon as practicable, take such measures as may be necessary to ensure that, for purposes of conducting performance appraisals of supervisory or managerial employees, appropriate consideration shall be given to meeting affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans designed to achieve greater diversity in the workforce.

SEC. 805. CONTRACTS WITH WOMEN, MINORITIES, AND SMALL BUSINESSES.

The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and the Congress a report concerning the number and value of contracts and subcontracts the Postal Service has entered into with women, minorities, and small businesses.

SEC. 806. RATES FOR PERIODICALS.

(a) IN GENERAL.—The United States Postal Service, acting jointly with the Postal Regulatory Commission and the General Accounting Office, shall study and submit to the President and Congress a report concerning—

(1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and

(2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate.

(b) RECOMMENDATIONS.—The report shall include recommendations for any administrative action or legislation that might be appropriate.

SEC. 807. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.

(a) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Office of Inspector General of the United States Postal Service shall study and submit to the President, the Congress, and the United States Postal Service, a report concerning the administration of section 3626(k) of title 39, United States Code.

(b) SPECIFIC REQUIREMENTS.—The study and report shall specifically address the adequacy and fairness of the process by which assessments under section 3626(k) of title 39, United States Code, are determined and appealable, including—

(1) whether the Postal Regulatory Commission or any other body outside the Postal Service should be assigned a role; and

(2) whether a statute of limitations should be established for the commencement of proceedings by the Postal Service thereunder.

TITLE IX—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

SEC. 901. EMPLOYMENT OF POSTAL POLICE OFFICERS.

Section 404 of title 39, United States Code, as amended by sections 102 and 908(f), is further amended by adding at the end the following:

"(f)(1) The Postal Service may employ guards for all buildings and areas owned or occupied by the Postal Service or under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act cited in paragraph (2), and, as to such property, the Postmaster General (or his designee) may take any action that the Administrator of General Services (or his designee) may take under section 2 or 3 of such Act, attaching thereto penalties under the authority and within the limits provided in section 4 of such Act.

"(2) The Act cited in this paragraph is the Act of June 1, 1948 (62 Stat. 281), commonly known as the 'Protection of Public Property Act'.".

SEC. 902. DATE OF POSTMARK TO BE TREATED AS DATE OF APPEAL IN CONNECTION WITH THE CLOSING OR CONSOLIDATION OF POST OFFICES.

(a) IN GENERAL.—Section 404(b) of title 39, United States Code, is amended by adding at the end the following:

"(6) For purposes of paragraph (5), any appeal received by the Commission shall—

"(A) if sent to the Commission through the mails, be considered to have been received on the date of the Postal Service postmark on the envelope or other cover in which such appeal is mailed; or

"(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to any determination to close or consolidate a post office which is first made available, in accordance with paragraph (3) of section 404(b) of title 39, United States Code, after the end of the 3-month period beginning on the date of the enactment of this Act.

SEC. 903. PROVISIONS RELATING TO BENEFITS UNDER CHAPTER 81 OF TITLE 5, UNITED STATES CODE, FOR OFFICERS AND EMPLOYEES OF THE FORMER POST OFFICE DEPARTMENT.

(a) IN GENERAL.—Section 8 of the Postal Reorganization Act (39 U.S.C. 1001 note) is amended by inserting "(a)" after "8." and by adding at the end the following:

"(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 2001.

SEC. 904. OBSOLETE PROVISIONS.

(a) REPEAL.—

(1) IN GENERAL.—Chapter 52 of title 39, United States Code, is repealed.

(2) CONFORMING AMENDMENTS.—(A) Section 5005(a) of title 39, United States Code, is amended—

(i) by striking paragraph (1), and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(ii) in paragraph (3) (as so designated by clause (i)) by striking "(as defined in section 5201(6) of this title)".

(B) Section 5005(b) of such title 39 is amended by striking "(a)(4)" each place it appears and inserting "(a)(3)".

(C) Section 5005(c) of such title 39 is amended by striking "by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or" and inserting "by contract under subsection (a)(3) of this section or".

(b) ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking "(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)" and inserting "(or such length of time as may be determined by the Postal Service to be advisable or appropriate)".

(2) Section 5402(c) of such title 39 is amended by striking "for a period of not more than 4 years".

(3) Section 5605 of such title 39 is amended by striking "for periods of not in excess of 4 years".

(c) CLERICAL AMENDMENT.—The analysis for part V of title 39, United States Code, is amended by repealing the item relating to chapter 52.

SEC. 905. EXPANDED CONTRACTING AUTHORITY.

(a) AMENDMENT TO TITLE 39, UNITED STATES CODE.—

(1) CONTRACTS WITH AIR CARRIERS.—Subsection (d) of section 5402 of title 39, United States Code, is amended to read as follows:

"(d)(1) The Postal Service may contract with any air carrier for the transportation of mail by aircraft in interstate air transportation, including the rates therefor, either through negotiations or competitive bidding.

"(2) Notwithstanding subsections (a) through (c), the Postal Service may contract with any air carrier or foreign air carrier for the transportation of mail by aircraft in foreign air transportation, including the rates therefor, either through negotiations or competitive bidding, except that—

"(A) any such contract may be awarded only to (i) an air carrier holding a certificate required by section 41101 of title 49 or an exemption therefrom issued by the Secretary of Transportation, (ii) a foreign air carrier holding a permit required by section 41301 of title 49 or an exemption therefrom issued by the Secretary of Transportation, or (iii) a combination of such air carriers or foreign air carriers (or both);

"(B) mail transported under any such contract shall not be subject to any duty-to-carry requirement imposed by any provision of subtitle VII of title 49 or by any certificate, permit, or corresponding exemption authority issued by the Secretary of Transportation under that subtitle;

"(C) every contract that the Postal Service awards to a foreign air carrier under this paragraph shall be subject to the continuing requirement that air carriers shall be afforded the same opportunity to carry the mail of the country to and from which the mail is transported and the flag country of the foreign air carrier, if different, as the Postal Service has afforded the foreign air carrier; and

"(D) the Postmaster General shall consult with the Secretary of Defense concerning actions that affect the carriage of military mail transported in foreign air transportation.

"(3) Paragraph (2) shall not be interpreted as suspending or otherwise diminishing the authority of the Secretary of Transportation under section 41310 of title 49.".

(2) DEFINITIONS.—Subsection (e) of section 5402 of title 39, United States Code, is amended to read as follows:

"(e) For purposes of this section, the terms 'air carrier', 'air transportation', 'foreign air carrier', 'foreign air transportation', 'interstate air transportation', and 'mail' shall have the meanings given such terms in section 40102 of title 49.".

(b) AMENDMENTS TO TITLE 49, UNITED STATES CODE.—

(1) AUTHORITY OF POSTAL SERVICE TO PROVIDE FOR INTERSTATE AIR TRANSPORTATION OF MAIL.—Section 41901(a) of title 49, United States Code, is amended to read as follows:

"(a) TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in air transportation under this chapter and under chapter 54 of title 39.".

(2) SCHEDULES FOR CERTAIN TRANSPORTATION OF MAIL.—Section 41902(b)(1) of title 49, United States Code, is amended by inserting before the semicolon at the end the following: "(other than foreign air transportation of mail)".

(3) PRICES FOR FOREIGN TRANSPORTATION OF MAIL.—Section 41907 of title 49, United States Code, is amended—

(A) by striking "(a) LIMITATIONS.—"; and

(B) by striking subsection (b).

(4) CONFORMING AMENDMENTS.—Sections 41107, 41901(b)(1), 41902(a), 41903(a), and 41903(b) of title 49, United States Code, are amended by striking "in foreign air transportation or".

SEC. 906. INVESTMENTS.

Subsection (c) of section 2003 of title 39, United States Code, is amended—

(1) by striking "(c) If" and inserting "(c)(1) Except as provided in paragraph (2), if"; and

(2) by adding at the end the following:

"(2)(A) Nothing in this section shall be considered to authorize any investment in any obligations or securities of a commercial entity.

"(B) For purposes of this paragraph, the term 'commercial entity' means any corporation, company, association, partnership, joint stock company, firm, society, or other similar entity, as further defined under regulations prescribed by the Postal Regulatory Commission.".

SEC. 907. REPEAL OF SECTION 5403.

(a) IN GENERAL.—Section 5403 of title 39, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The analysis for chapter 54 of title 39, United States Code, is amended by repealing the item relating to section 5403.

SEC. 908. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REDUCED RATES.—Section 3626 of title 39, United States Code, is amended—

(1) in subsection (a)—

(A) by striking all before paragraph (4) and inserting the following:

"(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with section 3622.

"(2) For the purpose of this subsection, the term 'regular-rate category' means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c)."; and

(B) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively;

(2) in subsection (g) by adding at the end the following:

"(3) For purposes of this section and former section 4358(a) through (c) of this title, those copies of an issue of a publication entered within the county in which it is published, but distributed outside such county on postal carrier routes originating in the county of publication, shall be treated as if they were distributed within the county of publication.

"(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.

"(B) The rates of postage applicable to mail under this paragraph shall be established in accordance with section 3622.

"(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.";

(3) in subsection (j)(1)(D)—

(A) by striking "and" at the end of subclause (I); and

(B) by adding after subclause (II) the following:

"(III) clause (i) shall not apply to space advertising in mail matter that otherwise qualifies for rates under former section 4452(b) or 4452(c) of this title, and satisfies the content requirements established by the Postal Service for periodical publications."; and

(4) by adding at the end the following:

"(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).".

(b) REIMBURSEMENT.—Section 3681 of title 39, United States Code, is amended by striking "section 3628" and inserting "sections 3662 through 3664".

(c) SIZE AND WEIGHT LIMITS.—Section 3682 of title 39, United States Code, is amended to read as follows:

"§ 3682. Size and weight limits

"The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.".

(d) REVENUE FOREGONE, ETC.—Title 39, United States Code, is amended—

(1) in section 503 (as so redesignated by section 601) by striking "this chapter." and inserting "this title."; and

(2) in section 2401(d) by inserting "(as last in effect before enactment of the Postal Accountability and Enhancement Act)" after "3626(a)" and after "3626(a)(3)(B)(ii)".

(e) APPROPRIATIONS AND REPORTING REQUIREMENTS.—

(1) APPROPRIATIONS.—Subsection (e) of section 2401 of title 39, United States Code, is amended—

(A) by striking "Committee on Post Office and Civil Service" each place it appears and inserting "Committee on Government Reform"; and

(B) by striking "Not later than March 15 of each year," and inserting "Each year,".

(2) REPORTING REQUIREMENTS.—Sections 2803(a) and 2804(a) of title 39, United States Code, are amended by striking "2401(g)" and inserting "2401(e)".

(f) AUTHORITY TO FIX RATES AND CLASSES GENERALLY; REQUIREMENT RELATING TO LETTERS SEALED AGAINST INSPECTION.—Section 404 of title 39, United States Code (as amended by section 102) is further amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting after subsection (a) the following:

"(b) Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

"(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.".

(g) LIMITATIONS.—Section 3684 of title 39, United States Code, is amended by striking all that follows "any provision" and inserting "of this title.".

(h) MISCELLANEOUS.—Title 39, United States Code, is amended—

(1) in section 410(b), by moving the left margin of paragraph (10) 2 ems to the left;

(2) in section 1005(d)(2)—

(A) by striking "subsection (g) of section 5532,"; and

(B) by striking "8344," and inserting "8344";

(3) in the analysis for part III, by striking the item relating to chapter 28 and inserting the following:

"28. Strategic Planning and Performance Management .... 2801";

(4) in subsections (h)(2) and (i)(2) of section 3001, by moving the left margin of subparagraph (C) of each 2 ems to the left;

(5) in section 3005(a)—

(A) in the matter before paragraph (1), by striking all that follows "nonmailable" and precedes "(h)," and inserting "under section 3001(d),"; and

(B) in the sentence following paragraph (3), by striking all that follows "nonmailable" and precedes "(h)," and inserting "under such section 3001(d),";

(6) in section 3210(a)(6)(C), by striking the matter after "if such mass mailing" and before "than 60 days" and inserting "is postmarked fewer";

(7) in section 3626(a), by moving the left margin of paragraphs (3), (5), and (6) (as so redesignated by subsection (a)(1)(B), and including each subparagraph thereunder (if any)) 2 ems to the left;

(8) by striking the heading for section 3627 and inserting the following:

"§ 3627. Adjusting free rates"

; and

(9) in section 5402(g)(1), by moving the left margin of subparagraph (D) (including each clause thereunder) 2 ems to the left.

By Mr. LEAHY (for himself, Mr. DASCHLE, Mr. KENNEDY, Mr. FEINGOLD, and Mr. BINGAMAN):

S. 1286. A bill to combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, today I am introducing the Seniors Safety Act of 2003, a bill to protect older Americans from crime. I am pleased to have Senators DASCHLE, KENNEDY, FEINGOLD, and BINGAMAN as cosponsors for this anti-crime bill.

The Seniors Safety Act is a comprehensive bill that addresses the most prevalent crimes perpetrated against seniors, including health care fraud, nursing home abuse, telemarketing fraud—and bribery, graft and fraud in pension and employee benefit plans. In addition, this legislation would help seniors obtain restitution if their pension plans are defrauded.

Older Americans are the most rapidly growing population group in our society, making them an even more attractive target for criminals. The Department of Health and Human Services has predicted that the number of older Americans will grow from 13 percent of the U.S. population in 2000 to 20 percent by 2030. In Vermont, seniors comprise about 12 percent of the population, a number that is expected to increase to 20 percent by 2025.

Crime against seniors has remained stubbornly resistant over the last decade. According to a 2000 Justice Department study, more than 90 percent of crimes committed against older Americans were property crimes, with theft the most common. As our Nation addressed our violent crime problem, we did not take a comprehensive approach to deterring the crimes that so affect the elderly, like telemarketing fraud, health care fraud, and pension fraud. The Seniors Safety Act provides such a comprehensive approach, and I urge the Senate to pass it.

The Seniors Safety Act instructs the U.S. Sentencing Commission to review current sentencing guidelines and, if appropriate, amend the guidelines to include the age of a crime victim as a criteria for determining whether a sentencing enhancement is proper. The bill also requires the Commission to review sentencing guidelines for health care benefit fraud, increases statutory penalties both for fraud resulting in serious injury or death and for bribery and graft in connection with employee benefit plans, and increases criminal and civil penalties for defrauding pension plans.

Telemarketing fraud is one crime that disproportionately harms Americans over age 50. The Seniors Safety Act seeks to fight the perpetrators of fraud—schemes that often succeed in swindling seniors of their life savings. Some of these schemes are directed from outside the United States, making criminal prosecution more difficult.

The Act would provide the Attorney General with a new and substantial tool to prevent telemarketing fraud the power to block or terminate service to telephone facilities that are being used to defraud innocent people. The Justice Department could use this authority to disrupt telemarketing fraud schemes directed from foreign sources by cutting off the swindlers' telephone service. Even if the criminals acquire a new telephone number, temporary interruptions will prevent some seniors from being victimized.

The bill also establishes a "Better Business Bureau"-style clearinghouse at the Federal Trade Commission to provide seniors, their families, and others who may be concerned about a telemarketer with information about prior law enforcement actions against the particular company. In addition, the FTC would refer seniors and other consumers who believe they have been swindled to the appropriate law enforcement authorities.

Criminal activity that undermines the safety and integrity of pension plans and health benefit programs threatens all Americans, but most especially those seniors who have relied on promised benefits in planning their retirements. Seniors who have worked faithfully and honestly for years should not reach their retirement years only to find that the funds they relied upon were stolen.

The Seniors Safety Act would add to the arsenal that federal prosecutors can draw upon to prevent and punish fraud against retirement plans. Specifically, the Act would create new criminal and civil penalties for defrauding pension plans or obtaining money or property from such plans by means of false or fraudulent pretenses. In addition, the Act would enhance penalties for bribery and graft in connection with employee benefit plans. The only people enjoying the benefits of pension plans should be the people who have worked hard to fund those plans, not crooks who get the money by fraud.

Health care spending consists of about 15 percent of the gross national product, or more than $1 trillion each year. Estimated losses due to fraud and abuse are astronomical. A December 1998 report by the National Institute of Justice, NIJ, states that these losses "may exceed 10 percent of annual health care spending, or $100 billion per year."

As more health care claims are processed electronically, more sophisticated computer-generated fraud schemes are surfacing. Some of these schemes generate thousands of false claims designed to pass through automated claims processing to payment, and result in the theft of millions of dollars from federal and private health care programs. Fraud against Medicare, Medicaid and private health plans increases the financial burden on taxpayers and beneficiaries alike. In addition, some forms of fraud may result in inadequate medical care, harming patients' health as well. Unfortunately, the NIJ reports that many health care fraud schemes "deliberately target vulnerable populations, such as the elderly or Alzheimer's patients, who are less willing or able to complain or alert law enforcement."

We saw a dramatic increase in criminal convictions for health care fraud cases during the 1990s. These cases included convictions for submitting false claims to Medicare, Medicaid, and private insurance plans; fraudulent billings by foreign doctors; and needless prescriptions for durable medical equipment by doctors in exchange for kickbacks from manufacturers.

We can and must do more. The Seniors Safety Act would allow the Attorney General to bring injunctive actions to stop false claims and illegal kickback schemes involving federal health care programs. The bill would also provide law enforcement authorities with additional investigatory tools to uncover, investigate, and prosecute health care offenses in both criminal and civil proceedings.

In addition, whistle-blowers who tip off law enforcement officers about health care fraud would be authorized under the Seniors Safety Act to seek court permission to review information obtained by the government to enhance their assistance in False Claims Act lawsuits. Such qui tam, or whistle-blower, suits have dramatically enhanced the government's ability to uncover health care fraud. The Act would allow whistle-blowers and their qui tam suits to become even more effective.

Finally, the Act would extend anti-fraud and anti-kickback safeguards to the Federal Employees Health Benefits program. These are all important steps that will help cut down on the enormous health care fraud losses.

As life expectancies continue to increase, long-term care planning specialists estimate that over 40 percent of those turning 65 eventually will need nursing home care, and that 20 percent of those seniors will spend five years or more in homes. Indeed, many of us already have experienced having our parents, family members or other loved ones spend time in a nursing home. We owe it to them and to ourselves to give the residents of nursing homes the best and safest care they can get.

The Justice Department has cited egregious examples of nursing homes that pocketed Medicare funds instead of providing residents with adequate care. In one case, five patients died as a result of the inadequate provision of nutrition, wound care and diabetes management by three Pennsylvania nursing homes. Yet another death occurred when a patient, who was unable to speak, was placed in a scalding tub of 138-degree water.

This Act provides additional peace of mind to nursing home residents and their families by providing federal law enforcement with the authority to investigate and prosecute operators of nursing homes for willfully engaging in patterns of health and safety violations in the care of nursing home residents. The Act also protects whistle-blowers from retaliation for reporting such violations.

This title of the Seniors Safety Act would authorize the Attorney General to use forfeited funds to pay restitution to victims of fraudulent activity, and authorize the courts to require the forfeiture of proceeds from retirement-related offenses. In addition, it would exempt false claims actions from being stayed in bankruptcy proceedings and ensure that debts due to the United States from false claims actions are not dischargeable in bankruptcy.

We all deserve to age with dignity and be free of the threat of abuse or fraud. No one can guarantee that this will happen, but the Senior Safety Act can be a powerful new tool to help crack down on those who prey upon older Americans. This effort is about all of us and our families.

These are problems that have persisted too long. It is past the time for the Senate to act. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Seniors Safety Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—COMBATING CRIMES AGAINST SENIORS

Sec. 101. Enhanced sentencing penalties based on age of victim.
Sec. 102. Study and report on health care fraud sentences.
Sec. 103. Increased penalties for fraud resulting in serious injury or death.
Sec. 104. Safeguarding pension plans from fraud and theft.
Sec. 105. Additional civil penalties for defrauding pension plans.
Sec. 106. Punishing bribery and graft in connection with employee benefit plans.

TITLE II—PREVENTING TELEMARKETING FRAUD

Sec. 201. Centralized complaint and consumer education service for victims of telemarketing fraud.
Sec. 202. Blocking of telemarketing scams.

TITLE III—PREVENTING HEALTH CARE FRAUD

Sec. 301. Injunctive authority relating to false claims and illegal kickback schemes involving Federal health care programs.
Sec. 302. Authorized investigative demand procedures.
Sec. 303. Extending antifraud safeguards to the Federal employee health benefits program.
Sec. 304. Grand jury disclosure.
Sec. 305. Increasing the effectiveness of civil investigative demands in false claims investigations.

TITLE IV—PROTECTING RESIDENTS OF NURSING HOMES

Sec. 401. Short title.
Sec. 402. Nursing home resident protection.

TITLE V—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

Sec. 501. Use of forfeited funds to pay restitution to crime victims and regulatory agencies.
Sec. 502. Victim restitution.
Sec. 503. Bankruptcy proceedings not used to shield illegal gains from false claims.
Sec. 504. Forfeiture for retirement offenses.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The number of older Americans is rapidly growing in the United States. According to the 2000 census, 21 percent of the United States population is 55 years of age or older.

(2) In 1997, 7 percent of victims of serious violent crime were 50 years of age or older.

(3) In 1997, 17.7 percent of murder victims were 55 years of age or older.

(4) According to the Department of Justice, persons 65 years of age and older experienced approximately 2,700,000 crimes a year between 1992 and 1997.

(5) Older victims of violent crime are almost twice as likely as younger victims to be raped, robbed, or assaulted at or in their own homes.

(6) Approximately half of all Americans who are 50 years of age or older are afraid to walk alone at night in their own neighborhoods.

(7) Seniors over 50 years of age reportedly account for 37 percent of the estimated $40,000,000,000 in losses each year due to telemarketing fraud.

(8) A 1996 American Association of Retired Persons survey of people 50 years of age and older showed that 57 percent were likely to receive calls from telemarketers at least once a week.

(9) In 1998, Congress enacted legislation to provide for increased penalties for telemarketing fraud that targets seniors.

(10) It has been estimated that—

(A) approximately 43 percent of persons turning 65 years of age can expect to spend some time in a long-term care facility; and

(B) approximately 20 percent can expect to spend 5 years or more in a such a facility.

(11) In 1997, approximately $82,800,000,000 was spent on nursing home care in the United States and over half of this amount was spent by the Medicaid and Medicare programs.

(12) Losses to fraud and abuse in health care reportedly cost the United States an estimated $100,000,000,000 in 1996.

(13) The Inspector General for the Department of Health and Human Services has estimated that about $12,600,000,000 in improper Medicare benefit payments, due to inadvertent mistake, fraud, and abuse were made during fiscal year 1998.

(14) Incidents of health care fraud and abuse remain common despite awareness of the problem.

(b) PURPOSES.—The purposes of this Act are to—

(1) combat nursing home fraud and abuse;

(2) enhance safeguards for pension plans and health care programs;

(3) develop strategies for preventing and punishing crimes that target or otherwise disproportionately affect seniors by collecting appropriate data—

(A) to measure the extent of crimes committed against seniors; and

(B) to determine the extent of domestic and elder abuse of seniors; and

(4) prevent and deter criminal activity, such as telemarketing fraud, that results in economic and physical harm against seniors, and ensure appropriate restitution.

SEC. 3. DEFINITIONS.

In this Act:

(1) CRIME.—The term "crime" means any criminal offense under Federal or State law.

(2) NURSING HOME.—The term "nursing home" means any institution or residential care facility defined as such for licensing purposes under State law, or if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary of Health and Human Services, pursuant to section 1908(e) of the Social Security Act (42 U.S.C. 1396g(e)).

(3) Senior.—The term "senior" means an individual who is more than 55 years of age.

TITLE I—COMBATING CRIMES AGAINST SENIORS

SEC. 101. ENHANCED SENTENCING PENALTIES BASED ON AGE OF VICTIM.

(a) Directive to the United States Sentencing Commission.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission (referred to in this section as the "Commission") shall review and, if appropriate, amend section 3A1.1(a) of the Federal sentencing guidelines to include the age of a crime victim as one of the criteria for determining whether the application of a sentencing enhancement is appropriate.

(b) Requirements.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious economic and physical harms associated with criminal activity targeted at seniors due to their particular vulnerability;

(2) consider providing increased penalties for persons convicted of offenses in which the victim was a senior in appropriate circumstances;

(3) consult with individuals or groups representing seniors, law enforcement agencies, victims organizations, and the Federal judiciary as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances' that may justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

(c) Report.—Not later than December 31, 2004, the Commission shall submit to Congress a report on issues relating to the age of crime victims, which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for offenses involving seniors.

SEC. 102. STUDY AND REPORT ON HEALTH CARE FRAUD SENTENCES.

(a) Directive to the United States Sentencing Commission.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission (referred to in this section as the "Commission") shall review and, if appropriate, amend the Federal sentencing guidelines and the policy statements of the Commission with respect to persons convicted of offenses involving fraud in connection with a health care benefit program (as defined in section 24(b) of title 18, United States Code).

(b) Requirements.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious harms associated with health care fraud and the need for aggressive and appropriate law enforcement action to prevent such fraud;

(2) consider providing increased penalties for persons convicted of health care fraud in appropriate circumstances;

(3) consult with individuals or groups representing victims of health care fraud, law enforcement agencies, the health care industry, and the Federal judiciary as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) Report.—Not later than December 31, 2004, the Commission shall submit to Congress a report on issues relating to offenses described in subsection (a), which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for those offenses.

SEC. 103. INCREASED PENALTIES FOR FRAUD RESULTING IN SERIOUS INJURY OR DEATH.

Sections 1341 and 1343 of title 18, United States Code, are each amended by inserting before the last sentence the following: "If the violation results in serious bodily injury (as defined in section 1365), such person shall be fined under this title, imprisoned not more than 20 years, or both, and if the violation results in death, such person shall be fined under this title, imprisoned for any term of years or life, or both.".

SEC. 104. SAFEGUARDING PENSION PLANS FROM FRAUD AND THEFT.

(a) In General.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1351. Fraud in relation to retirement arrangements

"(a) Definition.—

"(1) Retirement arrangement.—In this section, the term 'retirement arrangement' means—

"(A) any employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

"(B) any qualified retirement plan within the meaning of section 4974(c) of the Internal Revenue Code of 1986;

"(C) any medical savings account described in section 220 of the Internal Revenue Code of 1986; or

"(D) a fund established within the Thrift Savings Fund by the Federal Retirement Thrift Investment Board pursuant to subchapter III of chapter 84 of title 5.

"(2) Certain arrangements included.—The term 'retirement arrangement' shall include any arrangement that has been represented to be an arrangement described in any subparagraph of paragraph (1) (whether or not so described).

"(3) Exception for governmental plan.—Except as provided in paragraph (1)(D), the term 'retirement arrangement' shall not include any governmental plan (as defined in section 3(32) of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32))).

"(b) Prohibition and Penalties.—Whoever executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement;

shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) Enforcement.—

"(1) In general.—Subject to paragraph (2), the Attorney General may investigate any violation of, and otherwise enforce, this section.

"(2) Effect on other authority.—Nothing in this subsection may be construed to preclude the Secretary of Labor or the head of any other appropriate Federal agency from investigating a violation of this section in relation to a retirement arrangement subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or any other provision of Federal law.".

(b) Technical Amendment.—Section 24(a)(1) of title 18, United States Code, is amended by inserting "1351," after "1347,".

(c) Conforming Amendment.—The analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1351. Fraud in relation to retirement arrangements.".

SEC. 105. ADDITIONAL CIVIL PENALTIES FOR DEFRAUDING PENSION PLANS.

(a) In General.—

(1) Action by attorney general.—Except as provided in subsection (b)—

(A) the Attorney General may bring a civil action in the appropriate district court of the United States against any person who engages in conduct constituting an offense under section 1351 of title 18, United States Code, or conspiracy to violate such section 1351; and

(B) upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty in an amount equal to the greatest of—

(i) the amount of pecuniary gain to that person;

(ii) the amount of pecuniary loss sustained by the victim; or

(iii) not more than—

(I) $50,000 for each such violation in the case of an individual; or

(II) $100,000 for each such violation in the case of a person other than an individual.

(2) No effect on other remedies.—The imposition of a civil penalty under this subsection does not preclude any other statutory, common law, or administrative remedy available by law to the United States or any other person.

(b) Exception.—No civil penalty may be imposed pursuant to subsection (a) with respect to conduct involving a retirement arrangement that—

(1) is an employee pension benefit plan subject to title I of the Employee Retirement Income Security Act of 1974; and

(2) for which the civil penalties may be imposed under section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132).

(c) Determination of Penalty Amount.—In determining the amount of the penalty under subsection (a), the district court may consider the effect of the penalty on the violator or other person's ability to—

(1) restore all losses to the victims; or

(2) provide other relief ordered in another civil or criminal prosecution related to such conduct, including any penalty or tax imposed on the violator or other person pursuant to the Internal Revenue Code of 1986.

SEC. 106. PUNISHING BRIBERY AND GRAFT IN CONNECTION WITH EMPLOYEE BENEFIT PLANS.

(a) IN GENERAL.—Section 1954 of title 18, United States Code, is amended to read as follows:

"§ 1954. Bribery and graft in connection with employee benefit plans

"(a) DEFINITIONS.—In this section—

"(1) the term 'employee benefit plan' means any employee welfare benefit plan or employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

"(2) the terms 'employee organization', 'administrator', and 'employee benefit plan sponsor' mean any employee organization, administrator, or plan sponsor, as defined in title I of the Employment Retirement Income Security Act of 1974; and

"(3) the term 'applicable person' means—

"(A) an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan;

"(B) an officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan;

"(C) an officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan;

"(D) a person who, or an officer, counsel, agent, or employee of an organization that, provides benefit plan services to such plan; or

"(E) a person with actual or apparent influence or decisionmaking authority in regard to such plan.

"(b) BRIBERY AND GRAFT.—Whoever—

"(1) being an applicable person, receives or agrees to receive or solicits, any fee, kickback, commission, gift, loan, money, or thing of value, personally or for any other person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan;

"(2) directly or indirectly, gives or offers, or promises to give or offer, any fee, kickback, commission, gift, loan, money, or thing of value, to any applicable person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan; or

"(3) attempts to give, accept, or receive any thing of value with the intent to be corruptly influenced in violation of this section;

shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) EXCEPTIONS.—Nothing in this section may be construed to apply to any—

"(1) payment to, or acceptance by, any person of bona fide salary, compensation, or other payments made for goods or facilities actually furnished or for services actually performed in the regular course of his duties as an applicable person; or

"(2) payment to, or acceptance in good faith by, any employee benefit plan sponsor, or person acting on behalf of the sponsor, of anything of value relating to the decision or action of the sponsor to establish, terminate, or modify the governing instruments of an employee benefit plan in a manner that does not violate—

"(A) title I of the Employee Retirement Income Security Act of 1974;

"(B) any regulation or order promulgated under title I of the Employee Retirement Income Security Act of 1974; or

"(C) any other provision of law governing the plan.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 95 of title 18, United States Code, is amended by striking the item relating to section 1954 and inserting the following:

"1954. Bribery and graft in connection with employee benefit plans.".

TITLE II—PREVENTING TELEMARKETING FRAUD

SEC. 201. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF TELEMARKETING FRAUD.

(a) CENTRALIZED SERVICE.—

(1) REQUIREMENT.—The Federal Trade Commission shall, after consultation with the Attorney General, establish procedures to—

(A) log the receipt of complaints by individuals who claim that they have been the victim of fraud in connection with the conduct of telemarketing (as that term is defined in section 2325 of title 18, United States Code, as amended by section 202(a) of this Act);

(B) provide to individuals described in subparagraph (A), and to any other persons, if requested, information on telemarketing fraud, including—

(i) general information on telemarketing fraud, including descriptions of the most common telemarketing fraud schemes;

(ii) information on means of referring complaints on telemarketing fraud to appropriate law enforcement agencies, including the Director of the Federal Bureau of Investigation, the attorneys general of the States, and the national toll-free telephone number on telemarketing fraud established by the Attorney General; and

(iii) information, if available, on any record of civil or criminal law enforcement action for telemarketing fraud against a particular company for which a specific request has been made; and

(C) refer complaints described in subparagraph (A), as appropriate, to law enforcement authorities, including State consumer protection agencies or entities, for potential action.

(2) COMMENCEMENT.—The Federal Trade Commission shall commence carrying out the service not later than 1 year after the date of enactment of this Act.

(b) FRAUD CONVICTION DATA.—

(1) ENTRY OF INFORMATION ON CONVICTIONS INTO FTC DATABASE.—The Attorney General shall provide information on the corporations and companies that are the subject of civil or criminal law enforcement action for telemarketing fraud under Federal and State law to the Federal Trade Commission in such electronic format as will enable the Federal Trade Commission to automatically enter the information into a database maintained in accordance with subsection (a).

(2) INFORMATION.—The information described in paragraph (1) shall include a description of the type and method of the fraud scheme that prompted the law enforcement action against each such corporation or company.

(3) USE OF DATABASE.—The Attorney General shall make information in the database available to the Federal Trade Commission for purposes of providing information as part of the service under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 202. BLOCKING OF TELEMARKETING SCAMS.

(a) EXPANSION OF SCOPE OF TELEMARKETING FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES.—Section 2325(1) of title 18, United States Code, is amended by striking "telephone calls" and inserting "wire communications utilizing a telephone service".

(b) BLOCKING OR TERMINATION OF TELEPHONE SERVICE ASSOCIATED WITH TELEMARKETING FRAUD.—

(1) IN GENERAL.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following:

"§ 2328. Blocking or termination of telephone service

"(a) DEFINITIONS.—In this section:

"(1) REASONABLE NOTICE TO THE SUBSCRIBER.—

"(A) IN GENERAL.—The term 'reasonable notice to the subscriber', in the case of a subscriber of a common carrier, means any information necessary to provide notice to the subscriber that—

"(i) the wire communications facilities furnished by the common carrier may not be used for the purpose of transmitting, receiving, forwarding, or delivering a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud in connection with the conduct of telemarketing; and

"(ii) such use constitutes sufficient grounds for the immediate discontinuance or refusal of the leasing, furnishing, or maintaining of the facilities to or for the subscriber.

"(B) INCLUDED MATTER.—The term includes any tariff filed by the common carrier with the Federal Communications Commission that contains the information specified in subparagraph (A).

"(2) WIRE COMMUNICATION.—The term 'wire communication' has the same meaning given that term in section 2510(1).

"(3) WIRE COMMUNICATIONS FACILITY.—The term 'wire communications facility' means any facility (including instrumentalities, personnel, and services) used by a common carrier for purposes of the transmission, receipt, forwarding, or delivery of wire communications.

"(b) BLOCKING OR TERMINATING TELEPHONE SERVICE.—If a common carrier subject to the jurisdiction of the Federal Communications Commission is notified in writing by the Attorney General, acting within the jurisdiction of the Attorney General, that any wire communications facility furnished by that common carrier is being used or will be used by a subscriber for the purpose of transmitting or receiving a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, in connection with the conduct of telemarketing, the common carrier shall discontinue or refuse the leasing, furnishing, or maintaining of the facility to or for the subscriber after reasonable notice to the subscriber.

"(c) PROHIBITION ON DAMAGES.—No damages, penalty, or forfeiture, whether civil or criminal, shall be found or imposed against any common carrier for any act done by the common carrier in compliance with a notice received from the Attorney General under this section.

"(d) RELIEF.—

"(1) IN GENERAL.—Nothing in this section may be construed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court, that—

"(A) the leasing, furnishing, or maintaining of a facility should not be discontinued or refused under this section; or

"(B) the leasing, furnishing, or maintaining of a facility that has been so discontinued or refused should be restored.

"(2) SUPPORTING INFORMATION.—In any action brought under this subsection, the court may direct that the Attorney General present evidence in support of the notice made under subsection (b) to which such action relates.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding at the end the following:

"2328. Blocking or termination of telephone service.".

TITLE III—PREVENTING HEALTH CARE FRAUD

SEC. 301. INJUNCTIVE AUTHORITY RELATING TO FALSE CLAIMS AND ILLEGAL KICKBACK SCHEMES INVOLVING FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1345(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ", or" and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(D) committing or about to commit an offense under section 1128B of the Social Security Act (42 U.S.C. 1320a–7b);"; and

(2) in paragraph (2), by inserting "a violation of paragraph (1)(D)," before "a banking".

(b) CIVIL ACTIONS.—

(1) IN GENERAL.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by adding at the end the following:

"(g) CIVIL ACTIONS.—

"(1) IN GENERAL.—The Attorney General may bring an action in the appropriate district court of the United States to impose upon any person who carries out any activity in violation of this section with respect to a Federal health care program a civil penalty of not more than $50,000 for each such violation, or damages of 3 times the total remuneration offered, paid, solicited, or received, whichever is greater.

"(2) EXISTENCE OF VIOLATION.—A violation exists under paragraph (1) if 1 or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

"(3) PROCEDURES.—An action under paragraph (1) shall be governed by—

"(A) the procedures with regard to subpoenas, statutes of limitations, standards of proof, and collateral estoppel set forth in section 3731 of title 31, United States Code; and

"(B) the Federal Rules of Civil Procedure.

"(4) NO EFFECT ON OTHER REMEDIES.—Nothing in this section may be construed to affect the availability of any other criminal or civil remedy.

"(h) INJUNCTIVE RELIEF.—The Attorney General may commence a civil action in an appropriate district court of the United States to enjoin a violation of this section, as provided in section 1345 of title 18, United States Code.".

(2) CONFORMING AMENDMENT.—The heading of section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by inserting "AND CIVIL" after "CRIMINAL".

SEC. 302. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

Section 3486 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ", or any allegation of fraud or false claims (whether criminal or civil) in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)))," after "Federal health care offense" each place it appears; and

(2) by adding at the end the following:

"(f) PRIVACY PROTECTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any record (including any book, paper, document, electronic medium, or other object or tangible thing) produced pursuant to a subpoena issued under this section that contains personally identifiable health information may not be disclosed to any person, except pursuant to a court order under subsection (e)(1).

"(2) EXCEPTIONS.—A record described in paragraph (1) may be disclosed—

"(A) to an attorney for the Government for use in the performance of the official duty of the attorney (including presentation to a Federal grand jury);

"(B) to government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the Government to assist an attorney for the Government in the performance of the official duty of that attorney to enforce Federal criminal law;

"(C) as directed by a court preliminarily to, or in connection with, a judicial proceeding;

"(D) as permitted by a court at the request of a defendant in an administrative, civil, or criminal action brought by the United States, upon a showing that grounds may exist for a motion to exclude evidence obtained under this section; or

"(E) at the request of an attorney for the Government, upon a showing that such matters may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such law.

"(3) MANNER OF COURT ORDERED DISCLOSURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if a court orders the disclosure of any record described in paragraph (1), the disclosure—

"(i) shall be made in such manner, at such time, and under such conditions as the court may direct; and

"(ii) shall be undertaken in a manner that preserves the confidentiality and privacy of individuals who are the subject of the record.

"(B) EXCEPTION.—If disclosure is required by the nature of the proceedings, the attorney for the Government shall request that the presiding judicial or administrative officer enter an order limiting the disclosure of the record to the maximum extent practicable, including redacting the personally identifiable health information from publicly disclosed or filed pleadings or records.

"(4) DESTRUCTION OF RECORDS.—Any record described in paragraph (1), and all copies of that record, in whatever form (including electronic), shall be destroyed not later than 90 days after the date on which the record is produced, unless otherwise ordered by a court of competent jurisdiction, upon a showing of good cause.

"(5) EFFECT OF VIOLATION.—Any person who knowingly fails to comply with this subsection may be punished as in contempt of court.

"(g) PERSONALLY IDENTIFIABLE HEALTH INFORMATION DEFINED.—In this section, the term 'personally identifiable health information' means any information, including genetic information, demographic information, and tissue samples collected from an individual, whether oral or recorded in any form or medium, that—

"(1) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

"(2) either—

"(A) identifies an individual; or

"(B) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.".

SEC. 303. EXTENDING ANTIFRAUD SAFEGUARDS TO THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

Section 1128B(f)(1) of the Social Security Act (42 U.S.C. 1320a–7b(f)(1)) is amended by striking "(other than the health insurance program under chapter 89 of title 5, United States Code)".

SEC. 304. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) GRAND JURY DISCLOSURE.—Subject to section 3486(f), upon ex parte motion of an attorney for the Government showing that a disclosure in accordance with that subsection would be of assistance to enforce any provision of Federal law, a court may direct the disclosure of any matter occurring before a grand jury during an investigation of a Federal health care offense (as defined in section 24(a) of this title) to an attorney for the Government to use in any investigation or civil proceeding relating to fraud or false claims in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f))).".

SEC. 305. INCREASING THE EFFECTIVENESS OF CIVIL INVESTIGATIVE DEMANDS IN FALSE CLAIMS INVESTIGATIONS.

Section 3733 of title 31, United States Code, is amended—

(1) in subsection (a)(1), in the second sentence, by inserting ", except to the Deputy Attorney General or to an Assistant Attorney General" before the period at the end; and

(2) in subsection (i)(2)(C), by adding at the end the following: "Disclosure of information to a person who brings a civil action under section 3730, or the counsel of that person, shall be allowed only upon application to a United States district court showing that such disclosure would assist the Department of Justice in carrying out its statutory responsibilities.".

TITLE IV—PROTECTING RESIDENTS OF NURSING HOMES

SEC. 401. SHORT TITLE.

This title may be cited as the "Nursing Home Resident Protection Act of 2002".

SEC. 402. NURSING HOME RESIDENT PROTECTION.

(a) PROTECTION OF RESIDENTS IN NURSING HOMES AND OTHER RESIDENTIAL HEALTH CARE FACILITIES.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1352. Pattern of violations resulting in harm to residents of nursing homes and related facilities

"(a) DEFINITIONS.—In this section:

"(1) ENTITY.—The term 'entity' means—

"(A) any residential health care facility (including facilities that do not exclusively provide residential health care services);

"(B) any entity that manages a residential health care facility; or

"(C) any entity that owns, directly or indirectly, a controlling interest or a 50 percent or greater interest in 1 or more residential health care facilities including States, localities, and political subdivisions thereof.

"(2) FEDERAL HEALTH CARE PROGRAM.—The term 'Federal health care program' has the same meaning given that term in section 1128B(f) of the Social Security Act.

"(3) PATTERN OF VIOLATIONS.—The term 'pattern of violations' means multiple violations of a single Federal or State law, regulation, or rule or single violations of multiple Federal or State laws, regulations, or rules, that are widespread, systemic, repeated, similar in nature, or result from a policy or practice.

"(4) RESIDENTIAL HEALTH CARE FACILITY.—The term 'residential health care facility' means any facility (including any facility that does not exclusively provide residential health care services), including skilled and unskilled nursing facilities and mental health and mental retardation facilities, that—

"(A) receives Federal funds, directly from the Federal Government or indirectly from a third party on contract with or receiving a grant or other monies from the Federal Government, to provide health care; or

"(B) provides health care services in a residential setting and, in any calendar year in which a violation occurs, is the recipient of benefits or payments in excess of $10,000 from a Federal health care program.

"(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(b) PROHIBITION AND PENALTIES.—Whoever knowingly and willfully engages in a pattern of violations that affects the health, safety, or care of individuals residing in a residential health care facility or facilities, and that results in significant physical or mental harm to 1 or more of such residents, shall be punished as provided in section 1347, except that any organization shall be fined not more than $2,000,000 per residential health care facility.

"(c) CIVIL PROVISIONS.—

"(1) IN GENERAL.—The Attorney General may bring an action in a district court of the United States to impose on any individual or entity that engages in a pattern of violations that affects the health, safety, or care of individuals residing in a residential health care facility, and that results in physical or mental harm to 1 or more such residents—

"(A) a civil penalty; or

"(B) in the case of—

"(i) an individual (other than an owner, operator, officer, or manager of such a residential health care facility), not more than $10,000;

"(ii) an individual who is an owner, operator, officer, or manager of such a residential health care facility, not more than $100,000 for each separate facility involved in the pattern of violations under this section;

"(iii) a residential health care facility, not more than $1,000,000 for each pattern of violations; or

"(iv) an entity, not more than $1,000,000 for each separate residential health care facility involved in the pattern of violations owned or managed by that entity.

"(2) OTHER APPROPRIATE RELIEF.—If the Attorney General has reason to believe that an individual or entity is engaging in or is about to engage in a pattern of violations that would affect the health, safety, or care of individuals residing in a residential health care facility, and that results in or has the potential to result in physical or mental harm to 1 or more such residents, the Attorney General may petition an appropriate district court of the United States for appropriate equitable and declaratory relief to eliminate the pattern of violations.

"(3) PROCEDURES.—In any action under this subsection—

"(A) a subpoena requiring the attendance of a witness at a trial or hearing may be served at any place in the United States;

"(B) the action may not be brought more than 6 years after the date on which the violation occurred;

"(C) the United States shall be required to prove each charge by a preponderance of the evidence;

"(D) the civil investigative demand procedures set forth in the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.) and regulations promulgated pursuant to that Act shall apply to any investigation; and

"(E) the filing or resolution of a matter shall not preclude any other remedy that is available to the United States or any other person.

"(d) PROHIBITION AGAINST RETALIATION.—Any person who is the subject of retaliation, either directly or indirectly, for reporting a condition that may constitute grounds for relief under this section may bring an action in an appropriate district court of the United States for damages, attorneys' fees, and other relief.".

(b) AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.—Section 3486(a)(1) of title 18, United States Code, as amended by section 302 of this Act, is amended by inserting ", act or activity involving section 1352 of this title" after "Federal health care offense".

(c) CONFORMING AMENDMENT.—The analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1352. Pattern of violations resulting in harm to residents of nursing homes and related facilities.".

TITLE V—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

SEC. 501. USE OF FORFEITED FUNDS TO PAY RESTITUTION TO CRIME VICTIMS AND REGULATORY AGENCIES.

Section 981(e) of title 18, United States Code, is amended—

(1) in each of paragraphs (3), (4), and (5), by striking "in the case of property referred to in subsection (a)(1)(C)," and inserting "in the case of property forfeited in connection with an offense resulting in a pecuniary loss to a financial institution or regulatory agency,"; and

(2) in paragraph (7), by striking "In the case of property referred to in subsection (a)(1)(D)" and inserting "in the case of property forfeited in connection with an offense relating to the sale of assets acquired or held by any Federal financial institution or regulatory agency, or person appointed by such agency, as receiver, conservator, or liquidating agent for a financial institution".

SEC. 502. VICTIM RESTITUTION.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

"(r) VICTIM RESTITUTION.—

"(1) SATISFACTION OF ORDER OF RESTITUTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a defendant may not use property subject to forfeiture under this section to satisfy an order of restitution.

"(B) EXCEPTION.—If there are 1 or more identifiable victims entitled to restitution from a defendant, and the defendant has no assets other than the property subject to forfeiture with which to pay restitution to the victim or victims, the attorney for the Government may move to dismiss a forfeiture allegation against the defendant before entry of a judgment of forfeiture in order to allow the property to be used by the defendant to pay restitution in whatever manner the court determines to be appropriate if the court grants the motion. In granting a motion under this subparagraph, the court shall include a provision ensuring that costs associated with the identification, seizure, management, and disposition of the property are recovered by the United States.

"(2) RESTORATION OF FORFEITED PROPERTY.—

"(A) IN GENERAL.—If an order of forfeiture is entered pursuant to this section and the defendant has no assets other than the forfeited property to pay restitution to 1 or more identifiable victims who are entitled to restitution, the Government shall restore the forfeited property to the victims pursuant to subsection (i)(1) once the ancillary proceeding under subsection (n) has been completed and the costs of the forfeiture action have been deducted.

"(B) DISTRIBUTION OF PROPERTY.—On a motion of the attorney for the Government, the court may enter any order necessary to facilitate the distribution of any property restored under this paragraph.

"(3) VICTIM DEFINED.—In this subsection, the term 'victim'—

"(A) means a person other than a person with a legal right, title, or interest in the forfeited property sufficient to satisfy the standing requirements of subsection (n)(2) who may be entitled to restitution from the forfeited funds pursuant to section 9.8 of part 9 of title 28, Code of Federal Regulations (or any successor to that regulation); and

"(B) includes any person who is the victim of the offense giving rise to the forfeiture, or of any offense that was part of the same scheme, conspiracy, or pattern of criminal activity, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity.".

SEC. 503. BANKRUPTCY PROCEEDINGS NOT USED TO SHIELD ILLEGAL GAINS FROM FALSE CLAIMS.

(a) CERTAIN ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the commencement or continuation of an action under section 3729 of title 31, United States Code, does not operate as a stay under section 105(a) or 362(a)(1) of title 11, United States Code.

(2) CONFORMING AMENDMENT.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (17), by striking "or" at the end;

(B) in paragraph (18), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(19) the commencement or continuation of an action under section 3729 of title 31.".

(b) CERTAIN DEBTS NOT DISCHARGEABLE IN BANKRUPTCY.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) does not discharge a debtor from a debt owed for violating section 3729 of title 31.".

(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§ 111. False claims

"No transfer on account of a debt owed to the United States for violating section 3729 of title 31, or under a compromise order or other agreement resolving such a debt may be avoided under section 544, 545, 547, 548, 549, 553(b), or 742(a).".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. False claims.".

SEC. 504. FORFEITURE FOR RETIREMENT OFFENSES.

(a) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following:

"(9) CRIMINAL FORFEITURE.—

"(A) IN GENERAL.—The court, in imposing a sentence on a person convicted of a retirement offense, shall order the person to forfeit property, real or personal, that constitutes or that is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

"(B) RETIREMENT OFFENSE DEFINED.—In this paragraph, if a violation, conspiracy, or solicitation relates to a retirement arrangement (as defined in section 1351 of title 18, United States Code), the term 'retirement offense' means a violation of—

"(i) section 664, 1001, 1027, 1341, 1343, 1351, 1951, 1952, or 1954 of title 18, United States Code; or

"(ii) section 411, 501, or 511 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111, 1131, 1141).".

(b) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

"(I) Any property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of, criminal conspiracy to violate, or solicitation to commit a crime of violence involving, a retirement offense (as defined in section 982(a)(9)(B)).".

By Mr. DOMENICI:

S. 1287. A bill to amend section 502(a)(5) of the Higher Education Act of 1965 regarding the definition of a Hispanic-serving institution; to the Committee on Health, Education, Labor, and Pensions.

Mr. DOMENICI. Madam President, I rise today to introduce a bill that will amend Title V of the Higher Education Act. Specifically, this bill will eliminate the "50 percent" low-income assurance constraint currently required for Hispanic Serving Institutions to be eligible for grants under Title V of the Higher Education Act.

Title V of the Higher Education Act is the primary vehicle used to target urgently needed funds to Hispanic Serving Institutions so that they can strengthen and expand their institutional capacity. Grants under this section can be used by higher education institutions to improve academic quality, institutional management, and financial stability. These grants are essential to institutions that provide and increase the number of educational opportunities available to Hispanic students.

Under current guidelines, in order to qualify for a grant under Title V, an institution must have at least 25 percent full time, Hispanic undergraduate student enrollment, and not less than 50 percent of its Hispanic student population must be low income. Title V grants are awarded for 5 years, with a minimum two year wait out period after the termination of a grant period before eligibility to apply for another grant. During fiscal year 2002, 191 institutions were awarded grants.

Title V's current "50 percent" low-income assurance requirement is an unnecessary bureaucratic regulation that constrains Hispanic Serving Institutions abilities to implement programs designed to provide long range solutions to Hispanic higher education challenges. Currently, there are no government authorized means to collect student financial data, and, although some information can be extrapolated from student financial aid forms, it is not enough information to complete the Title V forms.

The bill I am introducing today will improve the HSI eligibility requirements by allowing applicants for Title V funding to satisfy the 50 percent low-income Hispanic student population criterion with appropriate evidence of student eligibility for Title IV, need-based, aid. The revised Title V section will retain the requirement that to be eligible for title V funds, an institution must have an enrollment of needy students. However, rather than conditioning grant qualification upon the cumbersome requirement that institutions prove 50 percent of their Hispanic students are low income, it will allow institutions to qualify for Title V money if 50 percent of the students are receiving need-based assistance under title IV or a substantial percentage of the students are receiving Pell Grants.

The Higher Education Act of 1965 was signed into law for the purpose of increasing access to higher education for all citizens of the United States and of strengthening the capacity of higher education institutions to better serve their communities. The reauthorization of the Higher Education Act during the 108th Congress presents a powerful opportunity for the nation to address the higher education needs of the nation's Hispanic-Serving Institutions, which serve the largest concentrations of Hispanic higher education students in the United States.

Hispanic Serving Institutions provide the quality education essential to full participation in today's society. Many students in my home state of New Mexico have benefited from the academic excellence that Hispanic Serving Institutions seek to provide. Title V grants are intended to provide assistance to these less advantaged, developing institutions. However, by convoluting the application process, Congress is preventing these institutions from applying for grants and obstructing their development.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF A HISPANIC-SERVING INSTITUTION.

Section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)) is amended—

(1) in subparagraph (A), by inserting "and" after the semicolon;

(2) in subparagraph (B), by striking "; and" and inserting a period; and

(3) by striking subparagraph (C).

By Mr. CHAMBLISS (for himself and Mr. MILLER):

S. 1288. A bill to amend title XVIII of the Social Security Act to exclude brachytherapy devices from the prospective payment system for outpatient hospital services under the medicare program; to the Committee on Finance.

Mr. CHAMBLISS. Madam President, I rise today to introduce legislation, along with my colleague Senator MILLER of Georgia, that would amend the Medicare portion of the Social Security Act to exclude brachytherapy devices from the prospective payment system for outpatient hospital services under the Medicare Program. Currently, the number of devices reimbursed by Medicare is one set number and non-specific to the prostate cancer patient.

Prostate cancer accounts for 43 percent of all cancers found in men—more than triple the rate of lung cancer. The American Cancer Society estimates that nearly 221,000 men in the United States will be diagnosed with prostate cancer in 2003 and approximately 27,000 of these men will die as a result. The American Cancer Society also estimates that about 5,700 men diagnosed will be from Georgia and nearly 700 of them may die. This legislation will help some of these men fight and survive this indiscriminate killer. Over 130,000 men and their sons nationwide have been treated with brachytherapy theraseeds to date.

Brachytherapy is an important form of radiation treatment for prostate cancer in which radioactive "seeds" are implanted into the patient. While there are several ways to treat prostate cancer, patients need the freedom to choose the treatment that best suits them and their situation. Tremendous variations exist that may effect the clinical requirements for cancer patients using brachytherapy theraseeds.

including variations in the types of radioactive isotopes, as well as the number and radioactive intensity of the seeds. The brachytherapy community indicates that these variations result in considerable differences in total brachytherapy costs among patients, varying from several hundred dollars to over $10,000 per patient. Prostate brachytherapy is different from many other clinical interventions because of the dramatic variability in the type, number and radioactivity of brachytherapy seeds needed to treat each patient. This variability is due to differences in the clinical presentation from patient to patient, including the type, staging, and size of a patient's cancer. This variability also results in a broad range of costs per patient. This legislation will allow a more fair reimbursement for physicians who are using brachytherapy to treat prostate cancer patients. This bill will also allow Medicare patients to receive another type of therapy when making decisions and dealing with the reality of being diagnosed with prostate cancer.

I encourage all of my colleagues to support this piece of legislation so that men suffering with prostate cancer will have more coverage under Medicare should they choose brachytherapy for their treatment.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 174—DESIGNATING THURSDAY, NOVEMBER 20, 2003, AS "FEED AMERICA THURSDAY"

Mr. HATCH submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 174

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which our Nation was founded;

Whereas 33,000,000 Americans, including 13,000,000 children, continue to live in households that do not have an adequate supply of food;

Whereas almost 3,000,000 of those children experience hunger; and

Whereas selfless sacrifice breeds a genuine spirit of Thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

Resolved, That the Senate

(1) designates Thursday, November 20, 2003, as "Feed America Thursday"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to sacrifice 2 meals on Thursday, November 20, 2003, and to donate the money that they would have spent on food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

SENATE RESOLUTION 175—DESIGNATING THE MONTH OF OCTOBER 2003, AS "FAMILY HISTORY MONTH"

Mr. HATCH submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 175

Whereas it is the family, striving for a future of opportunity and hope, that reflects our Nation's belief in community, stability, and love;

Whereas the family remains an institution of promise, reliance, and encouragement;

Whereas we look to the family as an unwavering symbol of constancy that will help us discover a future of prosperity, promise, and potential;

Whereas within our Nation's libraries and archives lie the treasured records that detail the history of our Nation, our States, our communities, and our citizens;

Whereas individuals from across our Nation and across the world have embarked on a genealogical journey by discovering who their ancestors were and how various forces shaped their past;

Whereas an ever-growing number in our Nation and in other nations are collecting, preserving, and sharing genealogies, personal documents, and memorabilia that detail the life and times of families around the world;

Whereas 54,000,000 individuals belong to a family where someone in the family has used the Internet to research their family history;

Whereas individuals from across our Nation and across the world continue to research their family heritage and its impact upon the history of our Nation and the world;

Whereas approximately 60 percent of Americans have expressed an interest in tracing their family history;

Whereas the study of family history gives individuals a sense of their heritage and a sense of responsibility in carrying out a legacy that their ancestors began;

Whereas as individuals learn about their ancestors who worked so hard and sacrificed so much, their commitment to honor their ancestors' memory by doing good is increased;

Whereas interest in our personal family history transcends all cultural and religious affiliations;

Whereas to encourage family history research, education, and the sharing of knowledge is to renew the commitment to the concept of home and family; and

Whereas the involvement of National, State, and local officials in promoting genealogy and in facilitating access to family history records in archives and libraries are important factors in the successful perception of nationwide camaraderie, support, and participation: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of October 2003, as "Family History Month"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 929. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table.

SA 930. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 931. Ms. STABENOW (for herself, Mrs. BOXER, Mr. GRAHAM, of Florida, Mr. ROCKEFELLER, Mr. HARKIN, Ms. CANTWELL, Mr. KERRY, Mr. BINGAMAN, Mr. REED, Mrs. CLINTON, Ms. MIKULSKI, Mr. LEVIN, Mr. KOHL, Mr. DODD, Mr. LIEBERMAN, Mr. REID, Mr. DAYTON, and Mr. JOHNSON) proposed an amendment to the bill S. 1, supra.

SA 932. Mr. ENZI (for himself, Mr. REED, and Mr. PRYOR) proposed an amendment to the bill S. 1, supra.

SA 933. Mr. BINGAMAN proposed an amendment to the bill S. 1, supra.

SA 934. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 935. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 929. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. . MEDICARE BENEFICIARY ACCESS TO REHABILITATION FACILITIES.

(a) DEFINITIONS OF REHABILITATION HOSPITAL; REHABILITATION UNIT.—Section 1886(j) (42 U.S.C. 1395ww(j)) is amended by adding at the end the following new subsection:

"(8) DEFINITIONS OF REHABILITATION HOSPITAL; REHABILITATION UNIT.—

"(A) IN GENERAL.—The Secretary shall by regulation define the terms 'rehabilitation hospital' and 'rehabilitation unit' in a manner fully consistent with all the rehabilitation impairment categories (except miscellaneous) used to classify patients into case-mix groups pursuant to paragraph (2).

"(B) PERIODIC UPDATE REQUIRED.—The Secretary shall update the regulations promulgated under subparagraph (A) periodically to ensure that such definitions remain fully consistent with the rehabilitation impairment categories used to classify patients into case-mix groups pursuant to paragraph (2).".

(b) PROHIBITION ON RETROACTIVE ENFORCEMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not seek to recoup any overpayment, take any enforcement action, or impose any sanction or penalty, with respect to a rehabilitation hospital, or a converted rehabilitation unit, (as such terms are defined for purposes of the medicare program under title XVIII of the Social Security Act) insofar as such overpayment, enforcement action, sanction or penalty, is for failure to satisfy the requirement of section 412.23(b)(2) of title 42, Code of Federal Regulations, that 75 percent of the patients of the rehabilitation hospital or converted rehabilitation unit are in 1 or more of 10 listed treatment categories (commonly referred to as the "75 Percent Rule").

SA 930. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IV, add the following:

SEC. . FREEZING INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT PERCENTAGE AT 6.5 PERCENT.

(a) In General.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (V), by inserting "and" at the end; and

(2) by striking subclauses (VI) and (VII) and inserting the following new subclause:

"(VI) on or after October 1, 2001, 'c' is equal to 1.6.".

(b) Conforming Amendment Relating to Determination of Standardized Amount.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking "1999 or" and inserting "1999,"; and

(2) by inserting ", or the Prescription Drug and Medicare Improvement Act of 2003" after "2000".

(c) Effective Date.—The amendments made by this section shall apply to discharges occurring on or after October 1, 2002.

SA 931. Ms. STABENOW (for herself, Mrs. Boxer, Mr. Graham of Florida, Mr. Rockefeller, Mr. Harkin, Ms. Cantwell, Mr. Kerry, Mr. Bingaman, Mr. Reed, Mrs. Clinton, Ms. Mikulski, Mr. Levin, Mr. Kohl, Mr. Dodd, Mr. Lieberman, Mr. Reid, Mr. Dayton, and Mr. Johnson) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

"(e) Medicare Guaranteed Option.—

"(1) Access.—

"(A) In general.—The Administrator shall enter into a contract with an entity in each area (established under section 1860D–10) to provide eligible beneficiaries enrolled under this part (and not, except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage, enrolled in a MedicareAdvantage plan) and residing in the area with standard prescription drug coverage (including access to negotiated prices for such beneficiaries pursuant to section 1860D–6(e)). An entity may be awarded a contract for more than 1 area but the Administrator may enter into only 1 such contract in each such area.

"(B) Entity required to meet beneficiary protection and other requirements.—An entity with a contract under subparagraph (A) shall meet the requirements described in section 1860D–5 and such other requirements determined appropriate by the Administrator.

"(C) Competitive procedures.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into a contract under subparagraph (A).

"(D) Same timeframe as medicare prescription drug plans.—The Administrator shall apply similar timeframes for the submission of bids and entering into to contracts under this subsection as the Administrator applies to Medicare Prescription Drug plans.

"(2) Monthly beneficiary obligation for enrollment.—In the case of an eligible beneficiary receiving access to qualified prescription drug coverage through enrollment with an entity with a contract under paragraph (1)(A), the monthly beneficiary obligation of such beneficiary for such enrollment shall be an amount equal to the applicable percent (as determined under section 1860D–17(c) before any adjustment under paragraph (2) of such section) of the monthly national average premium (as computed under section 1860D–15 before any adjustment under subsection (b) of such section) for the year.

"(3) Payments under the contract.—

"(A) In general.—A contract entered into under paragraph (1)(A) shall provide for—

"(i) payment for the negotiated costs of covered drugs provided to eligible beneficiaries enrolled with the entity; and

"(ii) payment of prescription management fees that are tied to performance requirements established by the Administrator for the management, administration, and delivery of the benefits under the contract.

"(B) Performance requirements.—The performance requirements established by the Administrator pursuant to subparagraph (A)(ii) shall include the following:

"(i) The entity contains costs to the Prescription Drug Account and to eligible beneficiaries enrolled under this part and with the entity.

"(ii) The entity provides such beneficiaries with quality clinical care.

"(iii) The entity provides such beneficiaries with quality services.

"(C) Entity only at risk to the extent of the fees tied to performance requirements.—An entity with a contract under paragraph (1)(A) shall only be at risk for the provision of benefits under the contract to the extent that the management fees paid to the entity are tied to performance requirements under subparagraph (A)(ii).

"(4) Term of contract.—A contract entered into under paragraph (1)(A) shall be for a period of at least 2 years but not more than 5 years.

"(5) No effect on access requirements.—The contract entered into under subparagraph (1)(A) shall be in addition to the plans required under subsection (d)(1).

"(6) Authority to prevent increased costs.—If the Administrator determines that Federal payments made with respect to eligible beneficiaries enrolled in a contract under paragraph (1)(A) exceed on average the Federal payments made with respect to eligible beneficiaries enrolled in a Medicare Prescription Drug plan or a MedicareAdvantage plan (with respect to qualified prescription drug coverage), the Administrator may adjust the requirements or payments under such a contract to eliminate such excess.

SA 932. Mr. ENZI (for himself, Mr. Reed, and Mr. Pryor) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; as follows:

On page 57, between lines 21 and 22, insert the following:

"(3) Disclosure.—The eligible entity offering a Medicare Prescription Drug plan and the MedicareAdvantage organization offering a MedicareAdvantage plan shall disclose to the Administrator (in a manner specified by the Administrator) the extent to which discounts, direct or indirect subsidies, rebates, or other price concessions or direct or indirect remunerations made available to the entity or organization by a manufacturer are passed through to enrollees through pharmacies and other dispensers or otherwise. The provisions of section 1927(b)(3)(D) shall apply to information disclosed to the Administrator under this paragraph in the same manner as such provisions apply to information disclosed under such section.

"(4) Audits and reports.—To protect against fraud and abuse and to ensure proper disclosures and accounting under this part, in addition to any protections against fraud and abuse provided under section 1860D–7(f)(1), the Administrator may periodically audit the financial statements and records of an eligible entity offering a Medicare Prescription Drug plan and a MedicareAdvantage organization offering a MedicareAdvantage plan.

On page 37, between lines 20 and 21, insert the following:

"(C) Level playing field.—An eligible entity offering a Medicare Prescription Drug plan shall permit enrollees to receive benefits (which may include a 90-day supply of drugs or biologicals) through a community pharmacy, rather than through mail order, with any differential in cost paid by such enrollees.

"(D) Participating pharmacies not required to accept insurance risk.—An eligible entity offering a Medicare Prescription Drug plan may not require participating pharmacies to accept insurance risk as a condition of participation.

SA 933. Mr. BINGAMAN proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; as follows:

On page 120, between lines 16 and 17, insert the following:

"(I) Elimination of application of asset test.—With respect to eligibility determinations for premium and cost-sharing subsidies under this section made on or after October 1, 2008, such determinations shall be made without regard to subparagraph (C) of section 1905(p)(1) (to the extent a State, as of such date, has not already eliminated the application of such subparagraph).

SA 934. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 7, insert "(including syringes, and necessary medical supplies associated with the administration of insulin, as defined by the Administrator)" before the semicolon.

On page 170, line 10, insert "(including syringes, and necessary medical supplies associated with the administration of insulin, as defined by the Secretary)" before the comma.

SA 935. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 410 and insert the following:

SEC. 410. EXCEPTION TO INITIAL RESIDENCY PERIOD FOR GERIATRIC RESIDENCY OR FELLOWSHIP PROGRAMS.

(a) CLARIFICATION OF CONGRESSIONAL INTENT.—Congress intended section 1886(h)(5)(F)(ii) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(F)(ii)), as added by section 9202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272), to provide an exception to the initial residency period for geriatric residency or fellowship programs such that, where a particular approved geriatric training program requires a resident to complete 2 years of training to initially become board eligible in the geriatric specialty, the 2 years spent in the geriatric training program are treated as part of the resident's initial residency period, but are not counted against any limitation on the initial residency period.

(b) INTERIM FINAL REGULATORY AUTHORITY AND EFFECTIVE DATE.—The Secretary shall promulgate interim final regulations consistent with the congressional intent expressed in this section after notice and pending opportunity for public comment to be effective for cost reporting periods beginning on or after October 1, 2003.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, June 18, 2003. The purpose of this meeting will be to discuss the nomination of Thomas Dorr to be Under Secretary of Agriculture for Rural Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 18, 2003, at 10:00 a.m., to conduct an oversight hearing on "Review of the New Basel Capital Accord."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 18, 2003, at 2:00 p.m., to conduct a markup of "The Check Truncation Act of 2003" and of "S. 498, the Rev. Joseph A. De Laine Congressional Gold Medal Bill."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 18, 2003, at 2:30 p.m. to hold a hearing on A Review of the Development of Democracy in Burma.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 18, 2003, at 4:00 p.m. to hold a Nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, June 18, 2003 at 9:30 a.m. in SD–342 to consider the nominations of Fern Flanagan Saddler to be an Associate Judge, Superior Court of the District of Columbia; Judith Nan Macaluso to be an Associate Judge, Superior Court of the District of Columbia (new position created by District of Columbia Family Court Act of 2002); J. Michael Ryan to be an Associate Judge, Superior Court of the District of Columbia (new position created by District of Columbia Family Court Act of 2002); and Jerry S. Byrd to be an Associate Judge, Superior Court of the District of Columbia (new position created by District of Columbia Family Court Act of 2002).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Employment, Safety, and Training be authorized to meet for a hearing on "Reauthorization of the Workforce Investment Act" during the session of the Senate on Wednesday, June 18, 2003 at 10:00 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 18, 2003, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a HEARING on Native American Sacred Places.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 18, 2003 at 2:30 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights be authorized to meet to conduct a hearing on "The NewsCorp/DirecTV Deal: The Marriage of Content and Global Distribution" on Wednesday, June 18, 2003, at 2:30 p.m. in Room 226 of the Dirksen Senate Office building.

Tentative Witness List

Panel I: Mr. Rupert Murdoch, Chairman and CEO, News Corporation; Mr. Eddy Hartenstein, Chairman and CEO, DirecTV; Mr. Gene Kimmelman, Director, Consumer Union, Washington, DC; Mr. Robert Miron, Chairman and CEO, Advance/Newhouse Communications; Mr. Scott Cleland, CEO, The Precursor Group, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Ms. STABENOW. Mr. President, I ask unanimous consent that Oliver Kim, a fellow in my office, be granted floor privileges during the consideration of S. 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. On the Executive Calendar, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's calendar: Calendar No. 228 and the two military promotions reported by the Armed Services Committee during today's session.

I further ask unanimous consent that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Richard James O'Connell, of Arkansas, to be United States Marshal for the Western District of Arkansas for the term of four years.

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. William S. Wallace, 1708

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Adm. Edmund P. Giambastiani, Jr., 8318

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

STRENGTHEN AMERICORPS PROGRAM ACT

Mr. GRASSLEY. Madam President, in regard to S. 1276, I ask unanimous consent that the Senate immediately proceed to this bill, which was introduced earlier today and is being held at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

> A bill (S. 1276) to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to, national service positions.

There being no objection, the Senate proceeded to consider the bill.

Mr. BOND. Madam President, I rise today to support legislation that will strengthen the Corporation for National and Community Service's AmeriCorps program. The Strengthen AmeriCorps Program Act of 2003 is a bipartisan bill that I introduce with my colleague and good friend, Senator BARBARA MIKULSKI, and a number of my other colleagues. As the ranking member and chair of the Corporation's appropriations committee and members of the authorizing committee, Senator MIKULSKI and I believe that this bill will not only address the Corporation's accounting problems, but more importantly, it will protect and expand volunteer service opportunities across our Nation.

Many of my colleagues have heard from their constituents and the media in recent weeks about the potential cuts to the AmeriCorps program. This bill addresses those concerns and the long-standing concerns about the management and financial problems of the Corporation by creating a budgeting mechanism that ensures the Corporation has the funds needed to pay educational awards. Under our bill, the Corporation would be able to enroll about 50,000 AmeriCorps members, without the need for additional funds.

As many of my colleagues know, the President has asked every American to volunteer in their communities and has made the AmeriCorps program a central vehicle in meeting volunteer needs. I support the President's call to service and if harnessed in the right fashion, the AmeriCorps program can play an important and effective role in improving the lives of many Americans and communities it serves.

The Corporation, unfortunately, has been plagued by significant and long-standing management problems that have been neglected for several years. One notable result of this neglect has been the inappropriate and illegal practice of enrolling more AmeriCorps members than the Corporation had budgeted. According to the Corporation's Inspector General, the number of approved AmeriCorps volunteer positions for program years 2000, 2001, and 2002, were approximately 59,000, 61,000, and 67,000, respectively, even though its budget estimates were based on enrollment levels that were around 50,000. Last year, the Corporation over-enrolled the AmeriCorps program by more than 20,000. Fortunately, the VA-HUD and Independent Agencies Appropriations Subcommittees were able to provide $43 million more than requested in the fiscal year 2003 appropriations bill to meet the needs of these members and more. Because of continued poor budgeting practices, the VA-HUD Subcommittee also approved another $64 million in a deficiency appropriation in the fiscal year 2003 supplemental appropriations to cover additional shortfalls.

When the over-enrollment problem first surfaced, I immediately asked the General Accounting Office and the Corporation's Inspector General to review the accounting practices of the Corporation and its internal controls to determine the causes of this problem. Further, I asked the GAO's Comptroller General to review the Corporation's underlying statute to determine whether the Corporation's practices complied with this law and other fiscal laws such as the Antideficiency Act.

Both the GAO and the IG found that the Corporation did not comply with the law by incorrectly recording its funding obligations. In a statement for the record for the VA-HUD and Independent Agencies Appropriations Subcommittee hearing on April 10, 2003, GAO identified several factors that led to the Corporation's incorrect accounting practice. The factors included inappropriate obligation practices, little or no communication among key Corporation executives, too much flexibility given to grantees regarding enrollments, and unreliable data on the number of AmeriCorps participants.

The GAO also found that the Corporation was not following the law in recording its legal liabilities. The GAO's finding is described in the Comptroller General's two legal opinions that were issued on April 9, 2003—B-300480, and June 6, 2003—B-300480.2. The first opinion concluded that the Corporation incurs a legal liability for the award of educational benefits of AmeriCorps participants when it enters into a grant agreement. At the time it enters a grant agreement, the Corporation approves a specified number of new participants in the AmeriCorps program. By this action:

> the Corporation incurs a legal duty that once fully matured, by action of the grantee and participants outside the Corporation's control, will require the Corporation to pay education benefits to qualified participants from the National Service Trust.

The Comptroller General opinion further states that as:

> the Corporation incurs an obligation for education benefits, it must record the obligation against the budget authority available in the Trust.

In other words, to ensure compliance with the law, the Corporation must record and track its obligations based on the value of the educational award multiplied by all approved positions.

We understand that recording obligations based on the approved level of AmeriCorps members in the program does not reflect the true performance of the program. We know from historical data that not all AmeriCorps volunteers successfully complete service. We also know that not all AmeriCorps members who successfully complete service use their educational award benefit. Accordingly, this bill recognizes the realities of the AmeriCorps program and allows the Corporation to maximize the number of AmeriCorps members that can participate in the program.

In short, the bill allows the Corporation to fund AmeriCorps grants based on estimates of the number of members who will likely complete and use their education award. Further, the bill requires an annual actuarial audit of the National Service Trust to ensure that the Federal Government is able to meet its liabilities. The bill also requires the chief executive officer to certify that the Corporation has properly recorded and tracked its obligations.

To ensure that the AmeriCorps program is accountable to the taxpayer and its volunteers, it is our expectation that the Corporation will use conservative assumptions in developing its funding formula. This especially is important since the Corporation has repeatedly failed to meet funding obligations resulting in actions by the Congress to provide additional funding, including a deficiency appropriation. While the program has been in place for about 10 years, there is little data on the performance of the program. Until there is reliable data, I strongly believe that the Corporation should assume a 100 percent enrollment rate for every volunteer slot approved in the grant agreements. I also believe that the Corporation should assume at least an 80 percent earnings rate for the program and at least an 80 percent education award usage rate. Further, because of poor data, the bill requires a central reserve fund to give the Corporation an extra cushion in case the actual usage rate exceeds the assumptions used in the formula.

It is my hope that we can pass this legislation as quickly as possible. This legislation provides clarification for the Corporation in determining grant award allocations to its grantees and the states. Without this legislation, uncertainty and disagreement will delay and limit the enrollment of AmeriCorps volunteers. Considering the demand and the need for this program, we cannot afford to wait.

We designed this legislation with input from the administration. I think it is a reasonable and fair approach to address this issue. It mitigates harm to AmeriCorps programs in a manner that will ensure accountability and fiscal integrity in the programs. Keeping in mind the problems identified by the auditors, which led to the enrollment freeze last November, we designed this legislation to ensure that we do not repeat those past mistakes. The enrollment freeze was an unfortunate but avoidable mistake if the Corporation had properly managed and monitored its programs.

Finally, we need to put these enrollment issues behind us. This program has had a difficult and star-crossed history, and it is unfortunate that we are here in June revisiting the implementation of the program to ensure both accountability and credibility. We need to ensure that the State and local programs are meeting both program requirements and community needs.

Before closing, I want to raise a technical issue regarding the enrollment cap of 50,000 AmeriCorps members. The Corporation enrolls members based on full-time equivalent or FTE levels since some AmeriCorps members serve part-time and others serve full-time. The cap should be based on FTE levels so that it is consistent with normal AmeriCorps business practices.

I urge my colleagues to support this legislation and pass it as quickly as possible. Senator MIKULSKI and I have tried to construct this bill in a thoughtful and fair manner to address the concerns about the program. This bill ensures that volunteers across this Nation and the taxpayers will have confidence in the AmeriCorps program.

Mr. KENNEDY. Madam President, it is a privilege to join my colleagues Senator MIKULSKI and Senator BOND on this legislation to head off the cuts in AmeriCorps announced this week that will be so devastating to so many Americorps programs in so many States.

Our bill directs the Corporation for National Service to calculate membership by a reasonable formula, and ensure that every person who commits to a year of service to their community in AmeriCorps will receive the education award.

The fiscal mismanagement at the Corporation is a serious continuing problem, but State and local programs should not have to pay for those mistakes by slashing their programs. Today, we take the first step in preserving service opportunities for this year and the future. We will continue to do all we can to increase the funds available, so that programs do not suffer because the Corporation over-enrolled 20,000 members last year. That over-enrollment is a clear signal that Americorps is reviving the spirit of volunteerism in our country and we should make these opportunities available for people of all ages to serve their communities. In this struggling economy, too many after-school and summer school programs are being cut back, and health clinics and food kitchens are serving more people than ever. AmeriCorps helps these programs help others.

I commend Senator MIKULSKI and Senator BOND for their impressive bipartisan leadership on this issue, and I urge the Senate to join us in maintaining these successful programs.

Mr. GRASSLEY. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1276) was read the third time and passed, as follows:

S. 1276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Strengthen AmeriCorps Program Act".

SEC. 2. PROCESS OF APPROVAL OF NATIONAL SERVICE POSITIONS.

(a) DEFINITIONS.—In this Act, the terms "approved national service position" and "Corporation" have the meanings given the terms in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511).

(b) TIMING AND RECORDING REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding subtitles C and D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq., 12601 et seq.), and any other provision of law, in approving a position as an approved national service position, the Corporation—

(A) shall approve the position at the time the Corporation—

(i) enters into an enforceable agreement with an individual participant to serve in a program carried out under subtitle E of title I of that Act (42 U.S.C. 12611 et seq.) or title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.); or

(ii) except as provided in clause (i), awards a grant to (or enters into a contract or cooperative agreement with) an entity to carry out a program for which such a position may be approved under section 123 of the National and Community Service Act of 1990 (42 U.S.C. 12573); and

(B) shall record as an obligation an estimate of the net present value of the national service educational award associated with the position, based on a formula that takes into consideration historical rates of enrollment in such a program, and of earning and using national service educational awards for such a program.

(2) FORMULA.—In determining the formula described in paragraph (1)(B), the Corporation shall consult with the Director of the Congressional Budget Office.

(3) CERTIFICATION REPORT.—The Chief Executive Officer of the Corporation shall annually prepare and submit to Congress a report that contains a certification that the Corporation is in compliance with the requirements of paragraph (1).

(4) APPROVAL.—The requirements of this subsection shall apply to each approved national service position that the Corporation approves—

(A) during fiscal year 2003 (before or after the date of enactment of this Act); and

(B) during any subsequent fiscal year.

(c) RESERVE ACCOUNT.—

(1) ESTABLISHMENT AND CONTENTS.—

(A) ESTABLISHMENT.—Notwithstanding subtitles C and D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq., 12601 et seq.), and any other provision of law, within the National Service Trust established under section 145 of the National and Community Service Act of 1990 (42 U.S.C. 12601), the Corporation shall establish a reserve account.

(B) CONTENTS.—To ensure the availability of adequate funds to support the awards of approved national service positions for each fiscal year, the Corporation shall place in the account—

(i) during fiscal year 2003, a portion of the funds that were appropriated for fiscal year 2003 or a previous fiscal year under section 501(a)(2) (42 U.S.C. 12681(a)(2)), were made available to carry out subtitle C or D of title I of that Act, and remain available; and

(ii) during fiscal year 2004 or a subsequent fiscal year, a portion of the funds that were appropriated for that fiscal year under section 501(a)(2) and were made available to carry out subtitle C or D of title I of that Act.

(2) OBLIGATION.—The Corporation shall not obligate the funds in the reserve account until the Corporation—

(A) determines that the funds will not be needed for the payment of national service educational awards associated with previously approved national service positions; or

(B) obligates the funds for the payment of such awards for such previously approved national service positions.

(d) AUDITS.—The accounts of the Corporation relating to the appropriated funds for approved national service positions, and the records demonstrating the manner in which the Corporation has recorded estimates described in subsection (b)(1)(B) as obligations, shall be audited annually by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States in accordance with generally accepted auditing standards. A report containing the results of each such independent audit shall be included in the annual report required by subsection (b)(3).

(e) AVAILABILITY OF AMOUNTS.—Except as provided in subsection (c), all amounts included in the National Service Trust under paragraphs (1), (2), and (3) of section 145(a) of the National and Community Service Act of 1990 (42 U.S.C. 12601(a)) shall be available for payments of national service educational awards under section 148 of that Act (42 U.S.C. 12604).

ORDERS FOR THURSDAY, JUNE 19, 2003

Mr. GRASSLEY. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, June 19. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time of the two leaders be reserved for their use later in the day, and the Senate resume at that point consideration of S. 1, the prescription drug benefits bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. For the information of all Senators, then, the Senate will resume consideration of the bill now before the Senate, S: 1, the prescription drug benefits bill. There are two amendments currently pending to the bill. One is the Enzi amendment relating to disclosure and the other is Senator BINGAMAN's amendment regarding asset tests. These amendments are being reviewed and it is the leader's hope we will be able to set votes in relation to these amendments sometime tomorrow.

As mentioned earlier, we have now begun the amendment process and I hope we will continue to make progress on the bill each day until we are done with it, and the chairman and ranking member will be working together to try to get Senators in a queue to offer amendments.

Rollcall votes will occur throughout the day during Thursday's session of the Senate.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRASSLEY. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 5:38 p.m., adjourned until Thursday, June 19, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 18, 2003:

THE JUDICIARY

ROGER W. TITUS, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, VICE MARVIN J. GARBIS, RETIRED.

FEDERAL HOUSING FINANCE BOARD

ALICIA R. CASTANEDA, OF THE DISTRICT OF COLUMBIA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2004, VICE J. TIMOTHY O'NEILL, TERM EXPIRED.

ALICIA R. CASTANEDA, OF THE DISTRICT OF COLUMBIA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2011. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING NAMED UNITED STATES AIR FORCE OFFICER FOR REAPPOINTMENT AS THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTIONS 601 AND 152:

To be general

GEN. RICHARD B. MYERS, 7092

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. ROBERT P. MEYER JR., 3099

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. JOHN P. ABIZAID, 6229

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. BRYAN D. BROWN, 2565

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DAN K. MCNEILL, 4203

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM G. BOYKIN, 5846

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. CLAUDE V. CHRISTIANSON, 1982

IN THE MARINE CORPS

THE FOLLOWING NAMED MARINE CORPS OFFICER FOR REAPPOINTMENT AS THE VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND 154:

To be general

GEN. PETER PACE, 7426

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT R. BLACKMAN JR., 0141

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

LINSLY G. M. BROWN, 4682
DAWN E. CUTLER, 8177
GREGORY P. GEISEN, 0539
RONALD L. HILL, 1200
JOSEPH S. NAVRATIL, 5962
DENISE M. SHOREY, 7249

CONFIRMATIONS

EXECUTIVE NOMINATION CONFIRMED BY THE SENATE JUNE 18, 2003:

DEPARTMENT OF JUSTICE

RICHARD JAMES O'CONNELL, OF ARKANSAS, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. WILLIAM S. WALLACE

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

ADM. EDMUND P. GIAMBASTIANI, JR.

EXTENSIONS OF REMARKS

TRIBUTE TO MARGO FENSTERMAKER OF JEROME, MICHIGAN, EXCEPTIONAL TEACHER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. SMITH of Michigan. Mr. Speaker, education is the key for our Nation's future prosperity and security. The formidable responsibility of molding and inspiring young minds to the avenues of hope, opportunity and achievement rests partly in the hands of our teachers. Today I would like to recognize a teacher from Jerome, MI, that most influenced and motivated exceptional students in academics and leadership that were winners of the LeGrand Smith scholarship.

Margo Fenstermaker teaches English at Hanover Horton High School in Horton, MI. She is credited for instilling in students an enthusiasm for the subject and for life itself. In one student's own words, "Mrs. Fenstermaker is an inspiring, encouraging and optimistic woman who instills a sense of respect for others." The respect and gratitude of her students speaks well of Mrs. Fenstermaker's ability to challenge young minds to stretch the mental muscles and strive to achieve the best that is in them.

Mrs. Fenstermaker's excellence in teaching challenges and inspires students to move beyond the teen-age tendency toward surface study and encourage deeper thought and connections to the real world. No profession is more important in its influence and daily interaction with the future leaders of our community and our country, and Margo Fentersmaker's impact on her students is certainly deserving of recognition.

On behalf of the Congress of the United States of America, I am proud to extend our highest praise to Mrs. Margo Fenstermaker as a master teacher. We thank her for her continuing dedication to teaching and her willingness and ability to challenge and inspire students for leadership and success.

PERSONAL EXPLANATION

HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. BELL. Mr. Speaker, on rollcall No. 276, I was unavoidably detained in the air. Had I been present, I would have voted "yea."

RECOGNIZING PHI MU ALPHA SINFONIA

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. BURGESS. Mr. Speaker, I rise today to recognize the Phi Mu Alpha Sinfonia Fraternity, one of the most distinguished music fraternities in the nation, as they gather in Washington for their triennial convention. Founded in 1898 at the New England Conservatory of Music in Boston, Massachusetts, there are currently 212 collegiate chapters, colonies, and alumni associations in the United States.

The President of Phi Mu Alpha Fraternity, Dr. Darhyl Ramsey, is a distinguished citizen of the twenty-sixth District of Texas, and I congratulate him on his leadership of this prominent and effective music organization. Dedicated to the development of musicians as well as to the music itself, Phi Mu Alpha Sinfonia Fraternity has significantly furthered the education and advancement of music in the United States of America.

Once again, I articulate my gratitude to Phi Mu Alpha Fraternity and to Dr. Ramsey for their dedication to the music of our nation.

DISCHARGE PETITION ON H.R. 303

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. FARR. Mr. Speaker, on June 17, I signed onto the discharge petition H.R. 303, and I rise today to express my continued support of the efforts to release this bill from committee. Concurrent receipt is an issue that warrants the attention of this House, the Senate and the President of the United States.

Currently, veterans who have served our country nobly and suffered a service-connected disability receive a retirement check reduced by the amount of their disability compensation. With that reduction, the disability compensation becomes negated as it simply fills the hole left by the federal government in the veterans' retirement checks. American men and women who served in our Armed Services need not be slighted anymore after putting their lives in harm's way for the survival of this great democracy. This discharge petition will draw out those that believe the codes of valor and honor outrank fiscal tightfistedness.

By releasing H.R. 303 from committee and allowing debate on the bill, we can begin to address the issue of concurrent receipt. The bill was introduced with bipartisan support, but the discharge petition lacks that same support. You and I both know, Mr. Speaker, that there are bills introduced everyday that are never intended to reach the House floor. This should not be one of those bills. This should not be one of those issues.

In these times when we ask so much of our military community, the women and men of our Armed Forces need our help. The rising costs of prescription drugs and VA enrollment fees and a struggling economy only hamper the efforts of our veterans trying to continue their lives in the nation they spent their careers defending. Disabled veterans have paid their price, and I would urge this body to not make them pay twice.

TRIBUTE TO JUDY LOWE

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. MORAN of Virginia. Mr. Speaker, I rise today to pay tribute to a leader and a friend in my district who has shown what one person can achieve through selfless dedication to her community. Judy Lowe, of Alexandria, Virginia, is an inspiration to all of us who wish to better the lives of the people around us.

This year, Judy was recognized by the Alexandria Commission on Women by honoring her with the Marguerite Payez Award. This lifetime achievement award is given to a woman who has devoted her life to benefit the City of Alexandria. I can not think of a person more deserving of this than Judy.

Judy Lowe has served as the "Mayor" of Del Ray, a working class and diverse section of the City of Alexandria where I have spent most of my adult life. She has worked tirelessly to improve the Del Ray area through her volunteer work. Her service on the civic association executive board for 10 years helped shape Del Ray into the vibrant neighborhood that we know today. Judy authored the community newsletter during her time bringing the news to her friends and neighbors in a way that pulled the community together.

"Art on the Avenue" is one of the most impressive and valuable events that the City of Alexandria hosts, and it would never have been possible without the assistance and dedication of Judy. This annual event helps showcase the diversity of the city through multicultural art and music. Judy has ensured that this event improves each year and she should be commended for her commitment to showcasing the arts of our area.

Judy's involvement in a range of civic activities in Alexandria has endeared her to countless individuals and organizations throughout the area. Her passion for her community has never faded and she has always been one of the first people to step up and volunteer for an activity or an event.

Most importantly, Judy Lowe is a true leader whose magnanimous spirit is infectious. The

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

words most often used to describe Judy are cheerful, dedicated, and role model. She is known not only for her dedication to Alexandria, but also her devotion to the Washington Redskins. She is the only person I know to wear black after every game the Redskins lose or to drive a maroon vehicle made to look like a Redskins helmet. She is passionate about everything in her life and we should all be fortunate to have a tenth of the energy she exerts.

Judy Lowe is the kind of person that makes our civil society function in a truly "all-American way". She spent her professional career in service to her country with the Department of Defense. She will continue to serve our society in every positive way for the rest of what I trust will be a very long life.

TRIBUTE TO MR. JOHN IRELAN OF PITTSFORD, MICHIGAN, EXCEPTIONAL TEACHER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. SMITH of Michigan. Mr. Speaker, education is the key for our Nation's future prosperity and security. The formidable responsibility of molding and inspiring young minds to the avenues of hope, opportunity and achievement rests partly in the hands of our teachers. Today I would like to recognize a teacher from Pittsford, Michigan that most influenced and motivated exceptional students in academics and leadership that were winners of the LeGrand Smith scholarship.

Mr. John Irelan teaches social studies at Pittsford High School in Pittsford, Michigan. He is credited for instilling in students an enthusiasm for the subject and for life itself. In one student's own words, "Mr. Irelan is not the type of teacher to sit in the lounge during his free time; he is in his room or the hallway to have contact with the students. As my psychology, sociology, economics and government teacher, he always relates course material to 'real-life' situations." The respect and gratitude of his students speaks well of Mr. Irelan's ability to challenge young minds to stretch the mental muscles and strive to achieve the best that is in them.

John Irelan's excellence in teaching challenges and inspires students to move beyond the teen-age tendency toward surface study and encourage deeper thought and connections to the real world. No profession is more important in its influence and daily interaction with the future leaders of our community and our country, and Mr. John Irelan's impact on his students is certainly deserving of recognition.

On behalf of the Congress of the United States of America, I am proud to extend our highest praise to Mr. John Irelan as a master teacher. We thank him for his continuing dedication to teaching and his willingness and ability to challenge and inspire students for leadership and success.

PERSONAL EXPLANATION

HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. BELL. Mr. Speaker, on rollcall No. 277, I was unavoidably detained in the air. Had I been present, I would have voted "yea."

HONORING MR. MIKE BROWN

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. BURGESS. Mr. Speaker, I rise today to recognize Mr. Mike Brown of Flower Mound, Texas for his peer-recognized honor of "Outstanding Young Bandmaster in Texas."

Mr. Brown has succeeded in music education for four notable years at Flower Mound High School, and previously for six years at Lewisville High School. He currently holds the illustrious position of Chairman of the Fine Arts Department at Flower Mound High School. With a promising career before him and his dedicated colleagues behind him, Mr. Brown will afford the students of Flower Mound High School a tremendous opportunity to learn from a truly distinguished talent.

Once again, I articulate my sincere congratulations to Mr. Brown for his dedication to music education and for his commitment to fostering the musical gifts of the youth of North Texas.

HAPPY 80TH BIRTHDAY, BERT MUHLY

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. FARR. Mr. Speaker, I rise today to honor the 80th birthday of the legendary Bert Muhly. Bert is the quintessential professorial type of guy: articulate, caring and wonderful in his style and manner. It is safe to say that Santa Cruz, California would not be the Santa Cruz it is without the Herculean efforts and goodwill of Bert.

His fingerprints are all around Santa Cruz. As a member of the Santa Cruz City Council, his activities have included the following: member of the State Democratic Central Committee; Co-chair of the California 16th Senatorial District Committee; and Santa Cruz County Chair. He has also contributed to presidential, gubernatorial and congressional campaigns, such as those of yours truly.

Bert and his family are well-fed people because they host more issue-oriented, potluck dinners than any other family I know. He always has a place for you at his table to talk about issues such as global warming, social injustice, globalization and corporate imperialism. I don't believe that anyone in Santa Cruz County has housed, clothed and fed more Democrats than Bert, and on his birthday, that total will only continue to rise.

Bert is the personification of the phrase "think globally, act locally." He believes firmly in the effectiveness of petitioning government when a citizen wants to register a complaint with local elected officials. He has made Santa Cruz a sanctuary for the establishment of sanctuaries and has filed more petitions to the local, State and Federal governments than is humanly imaginable. They probably had to build an extra wing onto the Library of Congress simply to accommodate his prodigious works. While a voluminous petitioner, Bert is also a fantastic and extensive speaker. When Bert was mayor of Santa Cruz, the clerk of the city council changed the meeting's "minutes" to "hours." A humble man, he always downplays the fact that he was mayor by saying that "half the people on Pacific Avenue Mall are former mayors."

But his efforts have never been confined to Santa Cruz, and he has accumulated a generous amount of frequent flyer miles traveling back and forth from Central and South America. Bert has not been elected governor of California yet, but he certainly is a viable candidate in Nicaragua, El Salvador and Colombia. He has devoted an enormous amount of time spreading his own and America's goodwill to the impoverished and less fortunate, and without a doubt, he has changed the lives of many.

An incredible wit and humor, Bert has been the smiles and strength behind the voice of the good fight in Santa Cruz for many years, and he has taken that fight to other countries. On behalf of this House, I wish Bert Muhly a happy birthday: a scholar, a father, a husband, a visionary, a friend and always young at heart.

HONORING COLONEL THOMAS ASHMAN

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. MORAN of Virginia. Mr. Speaker, I rise today to honor one of my constituents, Colonel Thomas Ashman in recognition of his thirty years of distinguished service to the United States.

After receiving a Bachelor of Science degree in Chemical Engineering from the University of Akron in Ohio, Thomas Ashman was commissioned into the United States Air Force through the Reserve Training Corps in 1973. He was first assigned to McChord Air Force Base in Washington as Chief, Base Fuels Management Branch. In 1976, his service took him to Korea, and in 1977 he transferred to Andrews Air Force Base where his responsibilities included support for the Presidential fleet.

Through his initiative, Col. Ashman developed the petroleum engineering program for the Air Force Institute of Technology in 1979. After receiving his Master of Science degree from the University of Texas, Austin in 1981, he was assigned to the Defense Fuels Supply Center in Cameron Station, Virginia. During his tenure, in what is now known as the Defense Energy Support Center, Col. Ashman served as the Quality Assurance Officer for crude oil purchases supporting the United States Strategic Petroleum Reserve, and then as Center Programs Officer, among other positions.

In 1984, Col. Ashman was sent to the United States Pacific Command and served as the Chief, Sub-Area Petroleum Office within Headquarters United States Forces Korea. Due to his expertise, in 1986 he was selected for the Office of the Secretary of Defense, Energy Directorate, Professional Enhancement Program. A year later, Col. Ashman served as Chief, Allied Supply and Energy Assessment for the United States Air Force Combat Operations Staff, then as Supply Management Staff Officer within the Directorate of Logistics, Headquarters United States Air Force, and finally, as Joint Staff Officer, Logistics Directorate, Joint Staff.

Col. Ashman served in several other capacities before beginning his duties at the Defense Logistics Agency in 1998, first as Chief, Customer Interface Support Group, and then as Deputy Executive Director for Acquisition, Technical, and Supply prior to assuming his final position, Acting Executive Director for Acquisition, Technical and Supply Directorate.

In recognition of his service in the Air Force and to his country, Col. Ashman earned the Defense Meritorious Service Medal, the Meritorious Service Medal, the Joint Service Commendation Medal, and the Air Force Commendation Medal. On June 30th, Col. Ashman will retire after thirty years of dedicated and exemplary service. On behalf of our nation, I thank Col. Thomas Ashman for all that he has accomplished, and wish him well in his future endeavors.

TRIBUTE TO MR. CARL NOVAK OF TECUMSEH, MI, EXCEPTIONAL TEACHER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. SMITH of Michigan. Mr. Speaker, education is the key for our Nation's future prosperity and security. The formidable responsibility of molding and inspiring young minds to the avenues of hope, opportunity and achievement rests partly in the hands of our teachers. Today I would like to recognize a teacher from Tecumseh, Michigan that most influenced and motivated exceptional students in academics and leadership that were winners of the LeGrand Smith scholarship.

Mr. Carl Novak teaches mathematics at Tecumseh High School. He is credited for instilling in students an enthusiasm for mathematics. In one student's own words, "Mr. Novak has continually challenged me to do my best throughout high school. His vast knowledge of mathematics, and his dedication to family and community displayed positive character and professionalism." The respect and gratitude of his students speaks well of Mr. Novak's ability to challenge young minds to stretch the mental muscles and strive to achieve the best that is in them.

Mr. Novak's excellence in teaching challenges and inspires students to move beyond the teenage tendency toward surface study and encourage deeper thought and connections to the real world. No profession is more important in its influence and daily interaction with the future leaders of our community and our country, and Carl Novak's impact on his students is certainly deserving of recognition.

On behalf of the Congress of the United States of America, I am proud to extend our highest praise to Mr. Carl Novak as a master teacher. We thank him for his continuing dedication to teaching and his willingness and ability to challenge and inspire students for leadership and success.

PERSONAL EXPLANATION

HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. BELL. Mr. Speaker, on rollcall No. 278, I was unavoidably detained in the air. Had I been present, I would have voted "yea."

RECOGNIZING MR. CHRISTOPHER HANSEN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. PALLONE. Mr. Speaker, I rise today to laud the accomplishments of one of my constituents, Mr. Christopher Hansen. Mr. Hansen, is a resident of Neptune City, New Jersey and is this year's recipient of the United States Small Business Administration's Home-based Business Advocate of the Year Award. Mr. Hansen is being presented with this honor for his outstanding advocacy work on behalf of New Jersey's 750,000 self-employed, home based, business owners.

This award is given to an individual who has experienced the rewards and difficulties of home-based businesses and has volunteered to improve the climate for home-based businesses. In my mind, there is no individual more deserving of this award than Mr. Hansen. Over the past few years, Mr. Hansen has volunteered an infinite amount of time and energy to improve the conditions for home-based businesses.

Christopher Hansen has proven himself to be one of the nation's leading supporters of home-based business. In 1995, Mr. Hansen founded the Home Based Business Council, a not-for-profit corporation of which he currently serves as President. He decided to start the organization because of an unfair law that was passed in 1992 that drove elected officials with home based businesses out of office by making a majority of those businesses illegal. Mr. Hansen saw a problem with this and decided to act. Mr. Hansen started to gather supporters together to discuss the suppression of home-based businesses. His actions soon attracted both local and national media attention.

The following year Mr. Hansen co-founded the New Jersey Partnership for Work at Home to educate elected and appointed leaders about the changing nature of the home-based business economy. As part of his voluntary leadership, Mr. Hansen authored a comprehensive paper on incorporating home-based businesses into the community. He has since written numerous articles that have appeared in national publications and those of the New Jersey Conference of Mayors and League of Municipalities.

Over the past few years, Mr. Hansen has tirelessly fought against the outmoded notion that home-based businesses harm communities. It is because of individuals like him that nearly 25 million families throughout the country are able to create income from self-employed work at home. Mr. Hansen continues to achieve immeasurable accomplishments in advancing home-based businesses and is a tremendous asset to the small business community. Mr. Speaker, for those reasons, I wish Mr. Hansen continued success and ask that my colleagues join me in honoring him.

TRIBUTE TO MR. CRAIG BOOHER OF JACKSON, MICHIGAN, EXCEPTIONAL TEACHER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. SMITH of Michigan. Mr. Speaker, education is the key for our Nation's future prosperity and security. The formidable responsibility of molding and inspiring young minds to the avenues of hope, opportunity and achievement rests partly in the hands of our teachers. Today I would like to recognize a teacher from Jackson, Michigan that most influenced and motivated exceptional students in academics and leadership that were winners of the LeGrand Smith scholarship.

Mr. Craig Booher teaches history at Napoleon High School in Napoleon, Michigan. He is credited for instilling in students an enthusiasm for the subject and for life itself. In one student's own words, "Mr. Booher is very passionate and knowledgeable about history. When he teaches, he is full of energy and it makes us eager to learn." The respect and gratitude of his students speaks well of Mr. Booher's ability to challenge young minds to stretch the mental muscles and strive to achieve the best that is in them.

Craig Booher's excellence in teaching challenges and inspires students to move beyond the teenage tendency toward surface study and encourage deeper thought and connections to the real world. No profession is more important in its influence and daily interaction with the future leaders of our community and our country, and Mr. Craig Booher's impact on his students is certainly deserving of recognition.

On behalf of the Congress of the United States of America, I am proud to extend our highest praise to Mr. Craig Booher as a master teacher. We thank him for his continuing dedication to teaching and his willingness and ability to challenge and inspire students for leadership and success.

TRIBUTE TO ALAN BRAY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. ANDREWS. Mr. Speaker, I rise to recognize Alan Bray.

Alan Bray is well known throughout Maine as a talented artist who is able to capture the beauty of Maine in his paintings. Alan's art has been enjoyed by so many who appreciate his amazing works. He has studied art around the world and earned his degree in Italy. He has had his artwork displayed at museums in New York City and reviewed in some of the finest publications. He has been to the great bay of San Francisco and to the shores of Florida, yet Alan always chooses to return to that place from which he came.

Perhaps Alan Bray's greatest works, however, lie not within his art but within his soul. You see, Alan comes from Sangerville, a small town in central Maine where the people do not always enjoy many of the everyday advantages as those of us who have the opportunity to live in more populous and prosperous areas. Closing mills, unemployment and lower wages place a strain on families and communities, but Alan Bray is a community's strength.

Alan has given his time and his talents to the local college, where he passes on his vast knowledge of art and artistic methods to students eager to absorb it, but who would otherwise be without the opportunity to learn from such life experiences. He has led the effort to revive the local Grange, once a meeting place for farmers in the surrounding communities to discuss means to deliver their crops to the cities and ensure their earning a fair wage for their long, hard hours of work. Today, the Sangerville Grange is a center of culture and draws musical talent, poets, speakers and others with so much to offer and to teach, much as the town of Collingswood in my district has the Scottish Rite. Like the Rite, the Grange has become widely known for drawing some of the finest talent and sharpest minds to deliver music, art and culture to the small community of good, decent people who so deserve the wonderful offerings a civilized society has to give. It is a result of the vision, character and hard work of Alan Bray.

Alan is now being recognized as a recipient of the Jefferson Award, a prestigious award that honors community service and cooperative spirit, and he is here in Washington today to humbly accept that award for his good works, his good deeds, but mainly, for the good his good deeds, but mainly for the good content of his character. Alan Bray embodies the spirit of returning to one's community a hundred fold that which you have gained from it, and of unpaid public service that is an essential part of the spirit of America. He is a ray of hope to some who are in need of hope; a beacon of light to others who struggle to find their way, and a modern visionary of what otherwise ordinary people can do to make extraordinary things come to be. Congratulations, Alan. Your community, your state, and indeed your nation, thank you.

RECOGNIZING THE ACHIEVEMENTS OF PAXON HIGH SCHOOL IN JACKSONVILLE, FLORIDA

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. CRENSHAW. Mr. Speaker, I would like to take this opportunity to recognize the school administrators, teachers, and students at Paxon High School in Jacksonville, Florida for their outstanding achievement in providing, guiding, and demonstrating a quality education.

Paxon High School was recently highlighted by Newsweek magazine (The Best 100 High Schools in America, May 26, 2003), as the third best school in the nation, as measured by the Challenge Index. This index takes the number of Advanced Placement or International Baccalaureate tests taken by all of the students at a school in 2002 and divides them by the number of graduating seniors.

The editors of Newsweek said they used participation in the Advanced Placement or International Baccalaureate tests as benchmarks because "these tests are more likely to stretch young minds—which should be the fundamental purpose of education."

Paxon High School is clearly providing the curricula, support, and leadership in learning that is so very important to our young people.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in applauding Paxon High School and all of those schools that strive to prepare their students for higher education and thusly, a higher quality of life. Moreover, I would like to commend the school administrators, superintendents, teachers, and all of the students who have committed themselves to a quality education. As John F. Kennedy once stated, leadership and learning are indispensable to each other.

It is my privilege to recognize Paxon High School for its outstanding achievements.

THE ASSOCIATION OF AMERICANS RESIDENT OVERSEAS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. TOWNS. Mr. Speaker, today I rise to recognize the contributions made by Association of Americans Resident Overseas (AARO) in defending and promoting the interests of overseas Americans before the U.S. Congress and Presidential administrations during its thirty-year history.

I want to specifically commend AARO for promoting improvements in American nationality laws which would have taken the citizenship of children of one American parent away from them, for seeking tax equity for Americans working abroad, for working to reconcile social security laws by international agreement for US citizens working abroad, and for securing voting rights for US citizens abroad in Federal elections.

On June 20, 2003, AARO will celebrate its Thirtieth Birthday.

Mr. Speaker, the leaders of AARO throughout the years have worked hard to represent and advocate for Americans living overseas. As such, this organization is worthy of receiving our recognition today.

TRIBUTE TO MR. ANDY BROWN OF HILLSDALE, MICHIGAN, EXCEPTIONAL TEACHER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. SMITH of Michigan. Mr. Speaker, education is the key for our Nation's future prosperity and security. The formidable responsibility of molding and inspiring young minds to the avenues of hope, opportunity and achievement rests partly in the hands of our teachers. Today I would like to recognize a teacher from Hillsdale, Michigan who most influenced and motivated exceptional students in academics and leadership who were winners of the LeGrand Smith scholarship.

Mr. Andy Brown teaches Advanced Reading, Writing and Research at Camden-Frontier High School in Camden, Michigan. He is credited for instilling in students an enthusiasm for the subject and for life itself. In one student's own words, "Mr. Brown has taught me the English language and how to convey my thoughts in an organized, precise way. He encouraged me to go after my dreams and accomplish my goals." The respect and gratitude of his students speaks well of Mr. Brown's ability to challenge young minds to stretch the mental muscles and strive to achieve the best that is in them.

Andy Brown's excellence in teaching challenges and inspires students to move beyond the teenage tendency toward surface study and encourage deeper thought and connections to the real world. No profession is more important in its influence and daily interaction with the future leaders of our community and our country, and Mr. Andy Brown's impact on his students is certainly deserving of recognition.

On behalf of the Congress of the United States of America, I am proud to extend our highest praise to Mr. Andy Brown as a master teacher. We thank him for his continuing dedication to teaching and his willingness and ability to challenge and inspire students for leadership and success.

HONORING KATHERINE DUNHAM ON THE OCCASION OF HER 94TH BIRTHDAY

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. COSTELLO. Mr. Speaker, I rise today to take this opportunity to pay tribute to Katherine Dunham on the occasion of her 94th birthday.

Born in Joliet, Illinois, on June 22, 1910, Katherine Dunham became interested in dance at an early age. While a student at the University of Chicago, she formed a dance group that performed in concert at the Chicago World's Fair in 1934 and with the Chicago Civic Opera in 1935–36.

With a bachelor's degree in anthropology, she soon undertook field studies in the Caribbean and in Brazil. By the time she received her M.A. from the University of Chicago, she had acquired a vast knowledge of the dances and rituals of the black peoples of tropical America. (She later took a Ph.D. in anthropology.)

In 1938, she joined the Federal Theatre Project in Chicago and composed a ballet, L'Ag'Ya, based on Caribbean dance. In 1940, she formed an all-black company, which began touring extensively by 1943. Tropics (choreographed 1937) and Le Jazz Hot (1938) were among the earliest of many works based on her research.

Katherine Dunham is noted for her innovative interpretations of primitive, ritualistic, and ethnic dances and her tracing the roots of black culture. Many of her students, trained in her studios in Chicago and New York City, have become prominent in the field of modern dance. She also choreographed for Broadway stage productions and opera—including Aida (1963) for the New York Metropolitan Opera. She also choreographed and starred in dance sequences in such films as Carnival of Rhythm (1942), Stormy Weather (1943), and Casbah (1947).

Dunham also conducted special projects for Chicago black high school students. She served as the artistic and technical director (1966–67) to the president of Senegal and artist-in-residence, and later professor, at Southern Illinois University, Edwardsville, and director of Southern Illinois' Performing Arts Training Centre and Dynamic Museum in East St. Louis, Ill.

Dunham's writings, sometimes published under the pseudonym Kaye Dunn, include Katherine Dunham's Journey to Accompong (1946), an account of her anthropological studies in Jamaica; A Touch of Innocence (1959), an autobiography; and Island Possessed (1969), as well as several articles for popular and scholarly journals.

Except for a brief appearance in 1965, Dunham has not performed regularly since 1962 and has concentrated on her choreography. One of her major works was the choreographing and directing of Scott Joplin's opera Treemonisha in 1972. When she dissolved her company in 1965 to become advisor to the cultural ministry of Senegal she returned to the United States in 1967.

She left the conventional dance world of New York that year to live and work in East St. Louis at an inner-city branch of the Southern Illinois University, running a school attached to the University and working with neighborhood and youth groups.

The living Dunham tradition has persisted. She is considered a woman far ahead of her time. She considers her technique "a way of life." The classes at her Manhattan school—attended by many artists, including Marlon Brando and Eartha Kitt, during the 1940s and the 1950s, were noted for their liberating influence.

Her master of body movement was considered "phenomenal." She was hailed for her smooth and fluent choreography and dominated a stage with what has been described as "an unmitigating radiant force providing beauty with a feminine touch full of variety and nuance." Otherwise known as the Dunham Technique, which is still practiced today.

Mr. Speaker, I ask my colleagues to join me in honoring Katherine Dunham on the occasion of her 94th birthday. Katherine's lifetime of experiences and her contribution to the world of dance is an invaluable resource to not only the people of East St. Louis but to the world.

RELATING TO CONSIDERATION OF SENATE AMENDMENTS TO H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

SPEECH OF

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 2003

Mr. KIND. Mr. Speaker, I rise today in reluctant opposition to the rule providing for consideration of H.R. 1308, the Relief for Working Families Tax Act. Today, we have the opportunity to help 6.5 million working families with 11.9 million children while maintaining fiscal responsibility. However, the Majority does not wish to do that. Rather, they would prefer to pass an $82 billion tax package without any provisions to offset the cost. The Senate overwhelmingly passed a $9.8 billion tax package that would immediately benefit our children and not increase the deficit; we must do the same.

The federal deficit has now exceeded $400 billion for 2003, a new record, and is approaching $500 billion for 2004. Yet, the Majority wants to borrow another $82 billion. In a time of exploding budget deficits as far as the eye can see, we cannot pass a plan that will further compromise our economy. It is imperative that we put money back in the hands of working Americans to create jobs and build a strong future. The bill before us today, however, only serves to further weaken our economy and burden our children.

The child tax credit legislation passed by the Senate on June 5th, 2003 extends relief to families making between $10,500 and $26,625, who were left out of the Majority's irresponsible tax package we recently considered. Just examine the facts: one in six families would gain from the child credit refund increase; in my home state of Wisconsin alone, 11 percent of families would benefit. In thirteen States, at least 20 percent of families would be helped. In addition, the legislation passed by the Senate would provide benefits for the children of the brave men and women of our Armed Services. However, the House Majority is offering a partisan obstruction impairing our ability to help these children, by adding $70 billion worth of additional tax cuts.

In conclusion, I urge my colleagues to oppose this rule and bring up the legislation the Senate passed so we can get it to the President's desk by this weekend. We must not let the Majority solve a $3.5 billion dilemma with an even greater $82 billion dilemma. It is evident that this plan creates more harm than good; it not only increases the budget deficit of today, but also increases the debt of the future. Thus, for a better today and a brighter tomorrow, I firmly oppose this bill and encourage my colleagues to oppose it with me.

A TRIBUTE TO AL DAVIS

SPEECH OF

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 2003

Mr. TANNER. Mr. Speaker, last month a trusted and respected employee of the Ways and Means Committee named Al Davis died of complications resulting from a tragic traffic accident and I want to offer my sincere condolences to his family and loved ones. Al was a kind, caring, and generous man who was dedicated to the public good—a rare commodity in this body today.

As many of my colleagues have said on many occasions, Al Davis was a tremendous asset to the Democratic Members of the Ways and Means Committee. Moreover, many of my colleagues who are not on the Ways and Means Committee benefited from his expertise—even if they didn't know it as his handiwork. This is because Al was the person behind the summaries and one-pagers that often helped members understand very complex tax and budget legislation. On numerous occasions I needed to consult with Al in order to produce documents that would help me understand arcane budget principles and make sense of Federal budget projections.

As members of the Committee knew, Al was a dedicated public servant who will not soon be forgotten. The Ways and Means Committee and this Congress as a whole will suffer without his presence. Al Davis will truly be missed by all of us.

TRIBUTE TO JODY OWENS OF BATTLE CREEK, MICHIGAN, EXCEPTIONAL TEACHER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. SMITH of Michigan. Mr. Speaker, education is the key for our Nation's future prosperity and security. The formidable responsibility of molding and inspiring young minds to the avenues of hope, opportunity and achievement rests partly in the hands of our teachers. Today I would like to recognize a teacher from Battle Creek, Michigan that most influenced and motivated exceptional students in academics and leadership that were winners of the LeGrand Smith scholarship.

Mrs. Jody Owens teaches English at Athens High School in Athens, Michigan. She is credited for instilling in students an enthusiasm for the subject and for life itself. In one student's own words, "Mrs. Owens works to bring out the best in everyone. She also has the kindest heart I have ever known." The respect and gratitude of her students speaks well of Mrs. Owen's ability to challenge young minds to stretch the mental muscles and strive to achieve the best that is in them.

Mrs. Owen's excellence in teaching challenges and inspires students to move beyond the teen-age tendency toward surface study and encourage deeper thought and connections to the real world. No profession is more important in its influence and daily interaction with the future leaders of our community and our country, and Jody Owen's impact on her students is certainly deserving of recognition.

On behalf of the Congress of the United States of America, I am proud to extend our highest praise to Mrs. Jody Owens as a master teacher. We thank her for her continuing dedication to teaching and her willingness and ability to challenge and inspire students for leadership and success.

A PROCLAMATION RECOGNIZING MARTHA MOORE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. NEY. Mr. Speaker, Whereas, Martha Moore has served as a State central committee member in the Republican Party since 1950; and

Whereas, Martha Moore is the longest serving state central committee member in Republican Party history; and

Whereas, Martha Moore has been a Republican National Committee member since 1968; and

Whereas, Martha Moore served as the vice chairwoman of Ohio's Republican Party; and

Whereas, Martha Moore was unanimously elected vice chairwoman emeritus by Ohio's Republican Party;

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Martha Moore for her commitment and selfless service to the Grand Old Party.

IN RECOGNITION OF JAMES MATLACK

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. FILNER. Mr. Speaker and colleagues, I would like to take this opportunity to recognize and congratulate James Matlack upon the occasion of his retirement as Director of the Washington, DC Office for the American Friends Service Committee (AFSC). He will be honored at a reception on Wednesday, June 25th.

James was born into a Quaker family in Moorestown, New Jersey and attended Quaker schools there and in Westtown, Pennsylvania, an early influence that led to his work at AFSC. He received his Bachelors Degree from Princeton University, his Masters Degree as a Fulbright Scholar at Oxford University in England, and his Ph.D. at Yale University where he was a Danforth Fellow and a Woodrow Wilson Scholar.

He held a number of academic positions before joining AFSC. I first met James when he was on the faculty at Cornell University in the late 1960s. At the University of Massachusetts in Amherst, he served as the Master/Director of the Southwest Residential College. Later, he joined the faculty at Hampshire College, also in Amherst, while he was working as Executive Assistant to the President and Secretary of the Board of Trustees.

Before joining the AFSC staff, James spent two terms on their National Board of Directors in the position of Vice Chairman of the Board. He was also Presiding Clerk of the Nationwide Peace Education Committee. In 1979, he was a member of the AFSC delegation to Vietnam and Cambodia, the first Western group to visit Phnom Penh after the fall of the Khmer Rouge. James has been a worldwide traveler on behalf of the work of AFSC, with trips to the Middle East six times, to Central America three times, and to Mexico.

In 1983, he became Director of the AFSC Washington office. In this position, he has worked on a wide range of AFSC domestic and international issues, involving government officials, diplomats, policy experts, the news media, and like-minded advocacy groups.

James also has served on the Board of Trustees of Sidwell Friends School in Washington, DC.

Upon his retirement, he is joined in celebrating his accomplishments by his wife, his three children, and five grandchildren. His dedication and commitment to the work of the American Friends Service Committee have been monumental, and he will be missed.

My sincere thanks and best wishes go to my friend, James Matlack. He has been a tireless advocate for peace, human rights, and civil liberties. He was one lobbyist that I and many of my colleagues heartily welcomed in our offices!

BRUCE WOODBURY POST OFFICE BUILDING

SPEECH OF

HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Ms. BERKLEY. Mr. Speaker, I rise today in support of H.R. 2254, a bill to name a Boulder City, Nevada Post Office for Mr. Bruce Woodbury in honor of Mr. Woodbury's public service to both his hometown of Boulder City and the entire Las Vegas Valley.

Bruce is a native of Las Vegas, growing up in the Valley and graduating from Las Vegas High School. He ventured away from Nevada to attend the University of Utah and Stanford School of Law, but returned to his home state to begin his family and career. He is a father and grandfather and has dedicated more than two decades of his career to public service.

Bruce has served as a member of the Clark County Commission since 1981. For the last 17 years, he has served on the Regional Transportation Commission of Southern Nevada during a time when Clark County continues to be among the fastest growing counties in the country. Bruce has been instrumental in planning for this tremendous growth, including advocating for the construction of the Las Vegas Beltway and working for two decades to secure funding for the monorail that will soon carry millions of passengers each year.

Bruce has dedicated himself to many community organizations, providing leadership for the Children's Museum, the Nevada Special Olympics, the Boulder City Chamber of Commerce, the Henderson Chamber of Commerce and the American Red Cross to name a few.

Bruce Woodbury's talents, vision, integrity, and energy have made a lasting, positive impact on the Las Vegas Valley and its residents. I am proud to call him a friend and I am equally delighted to support legislation to name the Bruce Woodbury Post Office in Boulder City, Nevada.

PERSONAL EXPLANATION

HON. MARIO DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, unfortunately, I was unavoidably detained in a meeting during rollcall votes 282 and 283. S. 342 and S. Con. Res. 43 are important pieces of legislation that I strongly support. Had I been present for the vote, I would have voted "yes" on rollcall vote 282 and rollcall vote 283.

RECOGNIZING THE 150TH ANNIVERSARY OF CASSIA MOUNT HEROB LODGE NO. 273

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. GERLACH. Mr. Speaker, I rise today to honor Cassia Mount Horeb Lodge #273 of Ardmore, Pennsylvania on their 150th anniversary. Cassia Lodge has the distinction of being the first permanent establishment of Freemasonry in what is now known as the "Main Line." Since their founding, the Masons of Lodge 273 have made invaluable contributions to their community and to Pennsylvania.

Faith, honor, integrity, responsibility for one's actions, the absolute right to intellectual and spiritual freedom and self-control are the Masons' core values and principles. After the first Grand Lodge was founded in England in 1717, Masonry's rich history was solidified in America by such patriots as Benjamin Franklin, George Washington, Paul Revere, and John Hancock. Many would argue that the Masons and Masonry played a significant role in the Revolutionary War and an even more important part in the Constitutional Convention. For 150 years, the Masons of Cassia Mount Horeb Lodge have worked to maintain this tradition and standard of excellence while producing many prestigious community and professional leaders of their own.

The members of Cassia Mount Horeb Lodge have been proven and active leaders in our community, providing a wide range of services to a wide range of people. They have hosted numerous Sunday school groups, one of which went on to found St. Mary's Church, which is now located just across the street from the Lodge. On another occasion, they opened their doors to the students of a neighboring school when their schoolhouse suffered severe damage from a fire. Acts of kindness and compassion like these have been commonplace in the history of Cassia Lodge and I am sure that they will continue to be an exemplary organization for years to come.

Mr. Speaker, the Masons of Cassia Mount Horeb Lodge have served as a model for all Masons for 150 years. Their commitment to God and country, emboldened by their brotherhood, has set a high standard for all Masonic lodges.

ACCOUNTANT, COMPLIANCE, AND ENFORCEMENT STAFFING ACT OF 2003

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. TOM DAVIS of Virginia. Madam Speaker, I rise in support of H.R. 658, the "Accountant, Compliance and Enforcement Staffing Act of 2003," which was introduced by Chairman Richard Baker of the Financial Services Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises in February of this year. The legislation would grant the Securities and Exchange Commission the flexibility to circumvent current federal hiring procedures in hiring accountants, economists and compliance examiners at the Commission.

The legislation being considered today is identical to the provision granting hiring flexibilities for the Securities and Exchange Commission that was considered and approved by the Government Reform Committee on May 7 as part of H.R. 1836, the Civil Service and National Security Personnel Improvement Act. The Government Reform Committee and the Financial Services Committee worked together with the Securities and Exchange Commission to craft this important legislation that should help to resolve some of the staffing shortages facing the Commission at a time when oversight of the financial markets is essential to restoring public confidence in the economy.

One of my goals as chairman of the committee with jurisdiction over federal civil service policy is to reform agency hiring processes government-wide. However, in considering some of the immediate challenges and staff shortages facing the Commission, I felt it was important to address their situation immediately, and then begin to focus on the rest of the federal government.

I urge my colleagues to support this legislation and I look forward to working with them in the future as we move toward comprehensive reform of federal hiring procedures.

REMEMBERING J. ROY MARTIN, JR.

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. WILSON of South Carolina. Mr. Speaker, I want to express my deepest sympathies for the family of J. Roy Martin who passed away May 30, 2003.

Roy was a true South Carolinian and will be greatly missed. He was also a great American, a man who served valiantly in World War II. Roy was a jumpmaster during the invasion of Normandy and fought in most major battle areas in Europe.

I believe the memory of Roy is best told by his son, Allen, who gave the following speech at his father's funeral:

First, my thanks to each of you for coming and being a part of my dad's life. And thanks for your comfort and support to my dad and my family during these last difficult months. The caretakers at Anderson Hospital and Hospice of the Upstate will have our lasting gratitude.

America has lost a brave and courageous patriot. My family has lost a constant and steadfast anchor. Many of you have lost a trusted and faithful friend.

Dad was an original member of 101st Airborne Division of the U.S. Army, better known as the Screaming Eagles. He volunteered for extended active duty and volunteered to be a paratrooper. Parachuting was in its infancy. Dad participated in the first divisional drops and the first night drops, all in preparation for the invasion of Normandy.

His division was shipped to Liverpool, England on a voyage that took 43 days, part of which was on the HMS Strathnauer where 5,800 men were packed on a ship equipped to hold 300.

The months preceding June 6, 1944 were spent in England preparing for the invasion. Dad and the 101st left England at 10:30 PM June 5th, the night before D-Day. Each man was required to take six boxes of food, a gas mask, ammunition, a folding stock, a 30 caliber carbine, knives, a main parachute, and a reserve parachute. Each man was so heavy he could not get in the plane without assistance and once in the plane could not stand up without assistance. It was my privilege a few years ago to help Dad write his memoirs for the New Orleans D-Day reunion and the following are some excerpts.

Dad writes, "After we were in the plane the motor was started and I, as a jumpmaster, was standing in the door. As we taxied up the taxi-way, I saw Gen. Eisenhower, with several of his staff, in an open touring car parked by the runway as we were moving out. It was very encouraging to see that he placed this much interest in our unit and our mission. I learned later that his air advisor, Marshal Lee Mallory, had advised him, that he should not use airborne troops in this operation, that they would suffer 85 percent casualties. It must have been a great burden on Gen. Eisenhower to see us take off and know that most of us would not come back.

Dad was the fifth of hundreds of planes to take off. He writes, "I was able to look and see that navigation lights of the many planes behind us. There were so many lights it looked like a mammoth Christmas tree.

Dad was always a navigator and as he stood in the door, his confidence was shaken because he could see that his plane was off course, as they came over the French Coast. The planes altitude lowered and they could see the Germans running their guns and begin firing with planes crashing, burning and exploding in the fights behind him.

He jumped knowing that he would not land in his designated zone. It seemed to him that almost as soon as his chute opened he was plunging through the tops of an apple orchard. He gathered his men and approached a French farmhouse. Dad had taken French in Boys High School eight years earlier. Much to his surprise he was able to recall enough French to convince the farmer to lead his men in the direction of their mission, which were the gun emplacements that dominated Utah Beach. They soon came upon several battalion and regimental officers who were more senior to Dad. Dad then went to the back of the line. After only another mile or so, the Germans opened fire with machine guns and the French farmer and most of his men were killed. Dad was able to crawl to a depression and meet the first of so many dead Americans that he saw in the war. One, a lieutenant and a recent graduate of West Point named Ebberly, had been shot through the head in almost the exact same position he had previously occupied. He made his way through dead bodies to a house on the side of the road completely filled with wounded and dead soldiers. He proceeded across the bridge and saw the ditches on both sides filled with dead soldiers. From this point, to the point where he reached the gun emplacements, he has no memory—not even the tremendous bombardments that preceded the beach landings. It was one of many lapses of memory that I can only conclude was his way of dealing with the horror.

The week after D-Day was another lapse in memory but Dad writes, ". . . D-Day was only the beginning. My battalion, my division and I participated in every single major battle in the European theater. We were in the airborne operation in Holland and in Bastogne during the time it was surrendered. And during it all I was never wounded and never missed a day of combat. I have always wondered why this happened since it was almost unique and virtually all of my friends were either killed or wounded . . ."

He continues, "We were in France for approximately six weeks. I wore the same clothes the entire time we were there." Upon return to England, I pulled off my clothes, ". . . and when I did so, the floor around me turned white by the skin I had shed into the clothes. And I took my pants and literally stood them up in the corner of the room."

Dad ends his memoirs with this, "After the initial days following D-Day, I never really expected to live through the war." ". . . there was no such thing as a safe job in a parachute unit." "The following September when we jumped in Holland, I was a Junior Captain in the battalion, three days later I was the only Captain left. And the entire battalion staff except the battalion commander had been killed or wounded. And the battalion commander was then the regimental commander because most of the regimental staff, including the regimental commander, had been killed or wounded. The only reasons that I am alive today are simply a matter of pure luck and the grace of God."

Throughout my life dad spoke very little about WWII. It is my conclusion that it was too horrific for him to recall. He was also a man who showed almost no emotion. Prior to the last few days, the only time I ever saw him cry, and then only briefly, was when my older brother Jim was killed. I believe that Dad left most of his emotions on the European continent and as a result of his experience there became an individual totally dedicated to the substantive. He did not tolerate small talk, he had little time for recreation, and he was totally involved in the serious not the sublime. He believed it was an honor and a duty to serve his country and that he owed his country, his country did not owe him.

He was amazingly devoted to his family, not only to Mom and to us, but also to his brothers, sisters, aunts, uncles, and cousins, which was a challenge in the enormous family to which he belonged. Where his father was one of eleven children and his mother was one of 21 children. And he made no distinctions between laws, stepchildren, and adoption. Once you entered his family, he was totally devoted to you and would never let you down.

Dad felt the greatest obligation of a parent was to raise independent children. He never rewarded us for good grades nor punished us for bad grades. He always told us that the grades we made affected us not him. He instilled in us a desire to strive for the best.

He believed in the worth of every individual. He taught us that we were no better or no worse than anyone else and that everyone was put on this earth for a purpose. He was very much a Baptist believing that one's faith walk was an individual journey, not a corporate journey. He instructed us from and early age that as much as he might wish he could get us to heaven, it was a decision for me to make and no one could make it for me. He was a stern disciplinarian. He definitely believed in the axiom, 'spare the rod, spoil the child,' except when it came to Louis.

He was a great believer in free markets and encouraged people to go into business for themselves. Just as his father before him had encouraged his siblings to form their own business, so too did Dad try to help his siblings in starting their own businesses. He, like our President, was a compassionate conservative.

He believed everyone should contribute to his or her community. He taught Sunday school for years, played in the Anderson Symphony Orchestra, was a life-long member of the Rotary Club, and served for many years in the Chamber of Commerce and the Anderson Memorial Hospital Board.

My father was blunt and plainly spoken. He had not time for small talk. He battled depression for years. But he was a great man. I never stopped learning from him and God should be prepared for some pointed questions from this guy.

I am sure Dad and the Lord are having some serious conversations. A few days ago one of the nurses commented on what a good job the Lord had done with him. He quickly corrected her by saying the Lord and me—don't give the Lord all the credit.

Dad was often difficult and he knew it. He gave Mom a plaque of appreciation on their 55th anniversary to honor her for putting up with him for 55 years. He was resentful for what his cancer had done to him. Many of you, in recent months, tried unsuccessfully to see him. Your attempts were appreciated even when unsuccessful.

We thank each one of you here for being a part of his incredible life. We hope you will find guidance in so many of the things he stood for and we hope you will go from this place loving your family and committed to making this world a better place for future generations.

THE PASSING OF EUGENE A. GILMER

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. CONYERS. Mr. Speaker, with great sorrow, I call to the attention of the House, the passing of one of Michigan's great educators, Eugene A. Gilmer. His family has lost a loving, devoted husband, and father; I have lost a dear friend and constant inspiration; Detroit has lost a giant.

Eugene Gilmer left us on June 13, 2003, at the age of 79. He had compiled an outstanding career as an educator and community activist. After serving with great distinction overseas in the Army during World War II, he graduated from Wayne State University. Determined to overcome racial bias in hiring educators, Eugene drove a bus until he won a teaching position. After that, there was no holding back his talent, his dedication and his spirited drive.

In addition to his commitment to educating Detroit's youth, Eugene was equally dedicated to the preservation and appreciation of African American history. While serving as principal at the Sampson Elementary and Fitzgerald Elementary Schools, he played a key role in the founding and funding of the Charles H. Wright Museum of African American History and then served on its Board of Directors. Over the years, the Wright Museum became one of the Nation's leading institutions preserving an appreciation of the tribulations, as well as the contributions of African Americans.

It is now commonplace for public officials to pledge allegiance to slogans like "quality education for all" and "no child left behind." Decades before these principles became popular sound bites, however, they were the cornerstones of Eugene's educational philosophy and his professional goals.

Eugene never lowered his standards of excellence, nor accepted excuses for students who failed to achieve their potential. At the same time, he knew better than most that education was the essential ladder of higher aspirations. He firmly held that ladder and showed generations of students how to climb it.

His wisdom, guidance and leadership enriched the lives not only of thousands of students, but also of countless Michigan teachers and educational administrators. While Eugene would not compromise the principles that informed his career, he applied them with compassion and gentleness, in equal measure.

ugene's total commitment to the improvement of education in Metropolitan Detroit flourished against the larger landscape of his social activism, and participation in the political process. He regarded both as the higher calling of a citizen and thought of neither as a nuisance or as simply an avenue for self-promotion. Detroit residents from all walks of life knew this about Eugene, and loved him for it.

Our thoughts are with his family: with Margaret Gilmer, his beloved wife of 56 years; his daughter, Crystal; his son, Eugene; his eight grandchildren, and his three great-grandchildren.

Eugene Gilmer contributed immeasurably to his fellow human beings. He will be sorely missed. I salute his memory.

PERSONAL EXPLANATION

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. NETHERCUTT. Mr. Speaker, on Tuesday, June 17, 2003, I missed three votes due to my son's high school graduation. Had I been present I would have voted YES on:

Roll Call Vote #279—H. Res. 276—Ordering the previous question on waiving points of order against the conference report to accompany S. 342 to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under the Act, and for other purposes.

Roll Call Vote #280—H. Res. 171—Commending the University of Minnesota Duluth Bulldogs for winning the NCAA 2003 National Collegiate Women's Ice Hockey Championship.

Roll Call Vote #281—H.R. 658—The Accountant, Compliance, and Enforcement Act.

TRIBUTE TO BRIGADIER GENERAL RANDY TIESZEN, USA

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. EVERETT. Mr. Speaker, it's my privilege to pay tribute today to an outstanding Army officer who is retiring this month. Brigadier General Randy Tieszen has served in various positions of responsibility throughout his 31 years of service in the United States military culminating as the Deputy Commanding General of the U.S. Army Aviation Center at Fort Rucker, Alabama, in my congressional district.

Upon his arrival at Fort Rucker on August 7, 2001, Brigadier General Tieszen immediately immersed himself in planning, developing and resourcing Flight School XXI, the keystone of Army Aviation transformation and divesture of legacy aircraft.

The Flight School XXI program will send more qualified aviators to the field units to form their war-time mission, enhancing the effectiveness of our nation's defense and the ability of the Army to act as the vanguard of freedom. His actions have ensured that Army Aviation is ready to meet any challenges laid before it.

Brigadier General Tieszen and his wife, Kathy, have been active and highly regarded members of the local community who are leaving a lasting legacy of civic involvement and a wide circle of friends who will miss them both.

I am pleased to count myself as one of Brigadier General Tieszen's friends and, on behalf of the Congress of the United States and the people of Alabama, wish him well in the next stage of life's journey.

IN TRIBUTE TO THE CITY OF MOUNT VERNON

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. ENGEL. Mr. Speaker, we celebrate the 150th anniversary of Mount Vernon, which officially started as a village in 1853 made up from five farms, but grew into perhaps the most densely populated city in the State of New York.

It started as a fulfillment of that most typical of American dreams: home ownership. John Stevens, a merchant tailor from New York City, formed the Industrial Home Association to become the Village of Mount Vernon. When the IHA membership reached 1,000 dues payers, 1,017 to be exact, they bought the land of five farms consisting of some 369 acres at about $205 dollars an acre.

Originally a part of the Town of Eastchester, the Village of Mount Vernon grew over the next four decades and in 1892 was chartered under the laws of the State of New York as an incorporated city.

It grew by welcoming Baptists, Methodists, Dutch Reformed, and Catholic groups, as well as any others willing to settle there and contribute to the community. It has become a thriving community growing and flourishing in the shadow of New York City.

John Stevens helped to initiate the dream that Mount Vernon has become and one that will continue to develop and prosper through the industry and vision of the people who inhabit this charming and wonderful city.

RECOGNITION OF WORLD REFUGEE DAY

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. GREEN of Wisconsin. Mr. Speaker, I stand today to recognize World Refugee Day, declared on June 20, 2000 and every year thereafter by a special UN General Assembly Resolution. Whereas it is unquestionable that the new democratically-elected government in Kenya is a positive step forward for Africa, I want to also affirm the generosity of Kenya toward refugees and asylum-seekers. Statistics show that approximately 20,000 new refugees and asylum-seekers fled to Kenya during 2002 from Sudan, Ethiopia, Eritrea, Somalia, Somaliland, the Democratic Republic of Congo, Uganda, Rwanda, Burundi and Djibouti. While we recognize that there are ongoing peace efforts in a number of these countries that will hopefully allow these refugees to repatriate in safety and dignity—the resolution of all the conflicts that have driven these refugees to flee may not be resolved in the near future, and Kenya may continue to be called upon to assist. We in the Congress acknowledge this generosity and sacrifice, and commend the Kenyan people for their efforts to help those in need.

CELEBRATING THE 100TH BIRTHDAY OF ELSIE BOYD

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mrs. BIGGERT. Mr. Speaker, in 1903, the first airplane took flight at Kitty Hawk in North Carolina. In that same year, the life of a constituent in my congressional district, Elsie Boyd, also took flight—and is still going strong a full 100 years later.

I proudly rise to join with the many people from my district who will help celebrate Elsie's 100th birthday on June 24.

Friends and family who know and love Elsie understand what keeps her going strong—and I do mean strong.

Elsie owns and lives in her own condominium.

She is active with the Methodist Church women and helps with neighborhood rummage sales.

She drives herself around town in a 1988 Chevy Nova and reads at least two hours each night—I hear she loves English history and any and every biography about Queen Victoria and Great Britain's royal families.

Simply put, Elsie is one of those people who lives life to the fullest, always views the glass as half full and turns the tables on the most difficult trials life has to offer.

According to her daughter Edie Boyd, "mom always looks at the positive side of life. That is why she is so successful and independent."

Mr. Speaker, one of the things that I find to be the most inspiring about her life is the path she took to achieve professional success. After her paternal grandmother pulled the plug on high school and declared that her help was needed around the house, Elsie decided to earn her diploma by taking night courses—no small task for a young woman in the early part of the 20th century.

Fluent in German, Elsie moved on to spend many years as a legal secretary, including some time spent abroad and working on the private legal affairs of Judge Henry Homer, who later became Governor of Illinois.

Next week, Elsie will celebrate 100 years of life with an immediate family that includes three daughters, six grandchildren and eleven great-grandchildren. Needless to say, the family cherishes each and every moment of time spent with her.

Orville and Wilbur Wright set the stage for 100 years of aviation breakthroughs. In her own way, Elsie spent much the same amount of time accomplishing great things and inspiring others by always concentrating on the sunny side of life. Congratulations Elsie—you are a wonderful example and a wonderful person.

PRAISING SOUTH CAROLINA BLACK HALL OF FAME INDUCTEES

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. WILSON of South Carolina. Mr. Speaker, this Friday I will have the distinct privilege of attending the 13th Annual South Carolina Black Hall of Fame induction ceremony in Columbia, SC. Ten South Carolinians will be inducted this year. Below is a list of the inductees:

The late Ethel Martin Bolden, a pioneer librarian; retired U.S. Army Col. John Theodore Bowden, Jr., a former professor of military science at South Carolina State University; Dr. Agnes Hildebrand Wilson Burgess, a distinguished Sumter educator; Dr. Alma Wallace Byrd, Benedict College professor and former state legislator; Charlie Mae Cromartie, former health care professional and businesswoman; Jim French, editor of The Charleston Chronicle; Lottie Gibson, a Greenville civil rights activist; the late Esau Jenkins, a John's Island civil right's activist; the late Rev. Dr. Westerberry Homer Neal, Sr., pastor of seven Midlands area churches; and Geraldine Pierce Zimmerman, 92-year-old Orangeburg community activist.

Ethel Bolden worked in Richland County public schools for 39 years and established the first black elementary school library at Waverly Elementary School. She also served at W.A. Perry Junior High School, and because of her competence and interpersonal skills, she successfully integrated the faculty at Dreher High School. She was a trustee of Richland County Public Library and worked tirelessly for construction of the modern library downtown, which opened in 1993. She passed away in October 2002.

Col. John Bowden began his military career in 1960 after completing the ROTC program at South Carolina State University. In 1983, he returned to the campus as commanding officer of the ROTC. Under his command, the unit became one of the best in the nation, supplying more commissioned officers to the U.S. Army than any other in the state or nation. He retired from the military in 1986 and since has worked in administrative positions at S.C. State, Voorhees College and Claflin University.

Dr. Agnes Burgess was the first black to be named Teacher of the Year in South Carolina and came out on top as a National Honor Roll Teacher in 1969. She taught French and journalism at Lincoln High School and served as advisor to the newspaper, which won 13 consecutive first-place ratings in the Scholastic Press Association competition. Also, she was the first black ever to be elected president of the South Carolina Education Association. In 1975, she joined the faculty at the University of South Carolina's College of Education and served as director of the Center for Community Education until her retirement in 1979.

Dr. Alma Byrd has served as a member of the Richland District #1 School Board and was a state legislator from 1991–1999. She was instrumental in placing the portraits of several noted black South Carolinians in the State House. She was a founding member of the James R. Clark Sickle Cell Anemia Foundation and long-time president of the Columbia section of the National Council of Negro Women.

Charlie Cromartie was head evening nurse at Columbia Hospital prior to becoming owner/manager of Cromartie Enterprises. Her community service include being an advocate of

Richland School District One board of Education, member of the League of Women Voters, poll manager of Ward 9, and past illustrious commandress of Cairo Temple No. 123. For more than 50 years, she has held leadership positions in Bishops Memorial A.M.E. Church.

Jim French established The Charleston Chronicle in 1971, six months after retiring as a U.S. Navy chief journalist with 26 years of service. He was a photo-journalist for the Navy's All Hands magazine. He was the first military reporter assigned to the Mekong Delta of Vietnam with the U.S. Army's 9th Infantry Division, and was station manager for radio and television stations on naval bases in Spain, Cuba and Puerto Rico. His weekly columns in The Chronicle challenge blacks to stand up and demand their rights as American citizens. He and his newspaper have received numerous awards from organizations in the Lowcountry.

Lottie Gibson has been a spokesperson for black and poor people in the Piedmont area for more than three decades. She is a member of Greenville County Council and was in the forefront May 17 when 5,000 supporters of the NAACP held a protest rally against the council for refusing to approve her proposal for an official paid holiday to honor Dr. Martin Luther King, Jr.

Esau Jenkins was a successful farmer and businesswoman who made an indelible mark as a crusader on behalf of poor black citizens of the Sea Islands from the 1940s until his death in 1972. His first project consisted of purchasing a bus to transport island children to public schools in Charleston. In 1948, he organized the Progressive Club to help educate adults who wanted to read the Bible, newspapers and the section of the state constitution required of those who wished to register to vote. In the 1950's, he worked with noted human rights activists Septima Pointstett Clark and Bernice Robinson to establish citizenship schools on John's Island, Wadmalaw Island and Edisto Island. And during the 1960s he continued to develop social, economic and political programs under the umbrella of the Citizens Committee of Charleston.

Rev. Dr. Westerberry Neal, a Hopkins native, was a pastor for nearly 60 years and public school teacher for 35 years. He was affectionately known as "Mr. Baptist of South Carolina." He was a trustee of Morris College in Sumter for 50 years and chairman for 35 years—the longest record of any chairman of an institution of higher learning in the state and nation. Additionally, he served on the board of directors of Victory Saving Bank for 28 years and was chairman for 15 years. Dr. Neal passed away on March 4, 2003 at the age of 94.

Geraldine Zimmerman helped her hometown become a better place by serving as a volunteer with many organizations, including the United Way, American Red Cross, Salvation Army, Orangeburg Literacy Association, the NAACP, and Church Women United. In the 1960's, she worked successfully to get recreational facilities for black youth. She also led a group of concerned citizens in the restoration of a 100-year-old cemetery that is now on the National Register of Historic Places. In recognition of her many achievements, the City of Orangeburg selected her as a Citizen of the Year and has erected a community center in her honor.

I ask all of my colleagues to join me in thanking these ten individuals for their dedicated service to their communities and for their prime examples of leadership to our youth.

HONORING ELISE COGORNO

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. ROTHMAN. Mr. Speaker, I rise today to pay tribute to Elise Cogorno, who after devoting 34 years of her life to teaching and inspiring public school students in New Jersey, is retiring this month. Whether in her role as one of the Nation's most esteemed Spanish teachers, or as an active leader in extracurricular activities for students, or as a volunteer in community programs, Elise Cogorno has been a remarkable and committed role model to thousands of children.

Born Elise Braunschweiger in 1946, her childhood was spent in Hillside, New Jersey. She and her family then moved to Morristown, New Jersey, where she attended high school. After receiving her education from Montclair State University, Elise Cogorno spent her entire 34 years of teaching in Teaneck, New Jersey—first in Thomas Jefferson Junior High School, and later at Teaneck High School. As an extraordinarily gifted teacher, Elise Cogorno motivated her students through creativity, humor, and enthusiasm. Her love for teaching generated a love for learning among her students.

I urge my colleagues to join me in saluting one of our Nation's finest teachers, Elise Cogorno, whose outstanding teaching abilities helped and inspired thousands of New Jersey students. Elise Cogorno's successful teaching career has proved invaluable for countless New Jersey students. She truly represents the best of New Jersey.

THE ASBESTOS CLAIMS TAX FAIRNESS ACT

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. COLLINS. Mr. Speaker, I rise to introduce the Asbestos Claims Tax Fairness Act. Asbestos liability issues have reached crisis stage. The costs of the current and potential lawsuits filed against these companies by claimants are staggering. More than 200,000 tort claims regarding exposure to asbestos are pending today, and more than 50,000 new claims are being filed each year.

Many former manufacturers of asbestos stopped using and distributing asbestos long before 1986. However, most of these companies or their corporate descendants, are bankrupt or nearing bankruptcy. As a result, asbestos liabilities are being shouldered alone by the dwindling number of former asbestos manufacturers and distributors that remain in business. This spiraling cycle into bankruptcy means asbestos victims are faced with the decreasing likelihood that they will be compensated for their injuries in the future.

In the 107th Congress, along with more than 125 of our colleagues, my colleague from Georgia and I introduced tax legislation that would help provide compensation to victims of asbestos and help companies beset by asbestos liabilities to continue as viable employers. That bill, H.R. 1412, was the continuation of efforts begun in the 106th Congress. Since the beginning of that effort, the plight for victims has worsened and the economic viability of those entities responsible for meeting those obligations has deteriorated significantly.

Today I again introduce a bill that will help to ensure that there are funds available to pay victims of asbestos exposure.

The legislation has two components. First, it would increase the amount of resources available to pay injured asbestos victims by exempting from federal tax settlement funds established to pay asbestos victims. Hundreds of thousands of individuals rely on these funds for compensation. Under current law, these funds are taxed at the top income tax rate of 35 percent.

Second, the legislation would ease tax-law limitations on asbestos defendants who are emerging from bankruptcy. More than 60 companies currently paying asbestos victims have been forced into bankruptcy. Our legislation would exempt these companies from certain tax-law rules that limit use of a bankrupt company's tax assets. This relief would be provided only in situations where the company's restructuring in bankruptcy results in the company continuing as a going concern.

Mr. Speaker, the legislation I am introducing today is not intended to solve all of the problems caused by the asbestos crisis. But these measures will help companies emerge as soon as possible from bankruptcy, minimizing the potential for job losses in the economy and reducing the risk of lost benefits to asbestos claimants. I urge my colleagues to join me in this effort.

IN MEMORY OF MICHAEL ROBERTS AND THOSE WHO PAID THE ULTIMATE SACRIFICE IN VIETNAM

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. PICKERING. Mr. Speaker, I come before the House to remember one of Mississippi's native sons who paid the ultimate sacrifice during the Vietnam War, and returns to us just this year for his proper interment at Arlington National Cemetery.

This week, the brothers and sisters of Michael L. Roberts, a U.S. Navy Petty Officer from Purvis, Mississippi, will travel to Washington, DC to lay their missing brother to rest. He and eight of his colleagues on a secret reconnaissance mission in 1968 crashed and died in the Laotian jungle. Their mission had been to drop sensors designed to detect enemy movements in our struggle with communist North Vietnam.

Their Navy OP–2E Neptune aircraft took off from Thailand on January 11, 1968, but never returned. Two weeks later an Air Force air crew photographed what appeared to be the crash site, but enemy activity in the area prevented a recovery operation. Between 1993 and 2002, six US-Laotian investigation teams interviewed villagers in the surrounding area, gathered aircraft debris and surveyed the purported crash site scattered on two ledges of Phou Louang Mountain in Khammouan Province.

Then during a 1996 visit, team members recovered identification cards for several crew members as well as human remains. Recovery missions in 2001 and 2002 yielded additional remains, as well as identification of other crew members.

Michael Roberts was a graduate of Purvis High School and Pearl River Junior College. Out of college, he enlisted in the Navy. He was twenty-four years old when his mission went missing.

In addition to Michael Roberts, his eight friends and companions were Navy Commander Delbert Olson of Casselton, North Dakota; Lieutenants Denis Anderson of Hope, Kansas, Arthur Buck of Sandusky, Ohio, and Philip Stevens of Twin Lake, Michigan; and Petty Officers Richard Mancini of Amsterdam, New York, Donald Thoresen and Kenneth Widon of Detroit, Michigan and Gale Siow of Huntington Park, California.

More than 1,900 Americans are still missing in action from the Vietnam War. While we mourn their losses, there is some joy that the families of these nine men can finally experience closure of this thirty-five-year-old wound.

For over two centuries, the Territory and State of Mississippi has paid the price of freedom with the blood of our sons and daughters. Whether their sacrifice still remains hidden in a foreign land, or they rest in a small country churchyard, or they are honored in our country's national cemetery, we will always remember them—we will always honor them—we will continue to fight for the dreams they gave their very lives to secure for us and future generations. Thank you, Mr. Speaker.

TRIBUTE TO LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Ms. CORRINE BROWN of Florida. Mr. Speaker, it is with great pride that I rise today to pay special tribute to the Lawyers' Committee for Civil Rights Under Law for their great work in promoting civil rights and equal justice.

The Lawyers' Committee for Civil Rights Under Law, a nonpartisan, nonprofit organization, was formed in 1963 at the request of President John F. Kennedy, to involve the private bar in providing legal services to address racial discrimination. The establishment of the Committee sought to fulfill the expectation of America's leaders that the private bar become an active force in the continuing struggles for equal opportunity and racial equality. The principal mission is to secure, through the rule of law, equal justice under law.

The Committee's major objective is to use the skills and resources of the bar to obtain equal opportunity for minorities by addressing factors that contribute to racial justice and economic opportunity. Given our nation's history of racial discrimination, segregation, and the de facto inequities that persist, the Lawyers' Committee's primary focus is to represent the interest of African Americans in particular, other racial and ethnic minorities, and other victims of discrimination, where doing so can help to secure justice for all racial and ethnic minorities.

The Lawyers' Committee implements its mission and objectives by marshaling the pro bono resources of the bar for litigation, public policy advocacy, and other forms of service by lawyers to the cause of civil rights.

For decades, the Committee has made a lasting impact on civil rights in America. The Lawyers' Committee has continually pressed forth its mission to mobilize the bar in upholding the principles of equal opportunity and racial equality as the standards by which the integrity of American democracy is judged.

This year the Lawyers' Committee celebrates its 40th Anniversary. In celebration, the Lawyers' Committee is convening a major symposium, The Quest for Equal Justice: Advancing a Dynamic Civil Rights Agenda for Our Times—July 18 to 19 at the International Trade Center in Washington, DC. Distinguished participants will examine the progress that has been achieved and the many outstanding challenges presented by the persistence of racial, ethnic, gender and other forms of discrimination. The symposium hopes to address critical civil rights issues in the opening decades of the twenty-first century.

Mr. Speaker, at a time when we face the imminent danger of once again losing much of what has been gained in the national journey to equal rights it is critical that the Lawyers' Committee be given proper commendation for their continued hard work and dedication to civil rights. So, I ask my colleagues to join me in paying special tribute to The Lawyers' Committee for Civil Rights Under Law. We wish them all the best as we acknowledge all of their accomplishments.

TRIBUTE TO BILL WERNER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. McINNIS. Mr. Speaker, I would like to take a moment to honor an outstanding American from my district. Bill Werner is a real estate broker from Alamosa, Colorado who loves his country and understands that the freedoms we enjoy in this country come with a price. Bill also knows that, just as great nations must lead during difficult times, so too must great citizens. I am pleased to recognize Bill before this body of Congress as a citizen of character.

Bill's son, Billy, helped keep America safe and free by serving as a paramedic with the 3rd Infantry in the Iraq conflict. This fact made it particularly difficult for Bill to watch war protestors march past his Main Street office. Rather than watch in silence, Bill decided to give the "silent majority" of Alamosans who support our troops a chance to be heard. Bill organized a parade that included a police honor guard, veterans groups and other citizens who wanted to take part. Our troops deserve to know that our country is behind them and that they will not be forgotten.

Bill followed the parade by collecting books and candy for U.S. troops in Iraq at his real estate office. He will distribute these goods to the Red Cross who will then dispense them to the troops. Bill hopes that the parade along with the gifts will show that Alamosa is a patriotic town, one where the citizens support the troops that protect their freedom.

Mr. Speaker, it would have been easier to not get involved, but Bill Werner had the courage and conviction to stand up for what he knew was right, and I applaud him for that. It is people like Bill who have helped make America great, and I am proud to tell his story before this body of Congress today. Thank you, Bill; your support and optimistic enthusiasm provide an example for us all.

TRIBUTE TO MARGARET YOUMANS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. McINNIS. Mr. Speaker, I would like to pay tribute today to the memory of a remarkable woman from my district. Margaret Youmans, who passed away recently at the age of 104, was the oldest resident of Gunnison County in Western Colorado, with a life spanning parts of three centuries.

Born in 1898, Margaret was the second of eight children born to Lake City businessman Charles Mendenhall and his wife Manetta. Margaret graduated from high school in 1918 and began a career as a teacher. Eight years later she was elected as a write-in candidate for Superintendent of the Hinsdale County Schools. Margaret also worked as a cook and for a newspaper, spending more than 60 years on a ranch, growing nearly everything her family ate.

Mr. Speaker, Margaret was a tough, self-reliant, and determined woman who attributed her long life to her love of family, good genetics, and plenty of good, hard work. Her "can-do" attitude exemplified the qualities that helped make this nation great, and I am honored to pay tribute to her memory here today.

TRIBUTE TO TOM PEIRCE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I rise before this body of Congress today to recognize the life and passing of Tom Peirce of Aspen, Colorado. Tom recently left us after a battle with cancer. As his family and friends mourn their loss, I think it is fitting to remember a few of Tom's contributions to the Aspen community.

Tom lived in Aspen nearly his entire life. After graduating from Aspen High School and Colorado State University, he formed a travel company that focused on natural history and cultural trips. Although he traveled extensively, Tom loved Aspen and gave back to the community. Six years ago, Tom joined the board of the Aspen Center for Environmental Studies, and, before his health failed, launched a bid for the Aspen City Council.

Mr. Speaker, I am proud to recognize the life and selfless dedication Tom Peirce demonstrated throughout his life. People like Tom who get involved in the community, create jobs, and work to improve our government, are the bedrock of this great nation. Tom is survived by his father Everett, sister Melanie, and brother Fred, and our thoughts are with them during this difficult time. Tom will be missed by his family, friends, and the many people in the Roaring Fork Valley who knew him.

TRIBUTE TO THE PEOPLE OF BAYAUD INDUSTRIES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to honor a group of people who create hope and opportunity for those who are challenged with disabilities. The people of Bayaud Industries have helped the mentally ill and disabled find meaningful work in my home state of Colorado since 1969.

By providing jobs for people with disabilities, the people of Bayaud reach out to a group with the highest unemployment rate in the country. Bayaud is funded under the government's JWOD program to identify jobs for some 300 people a year who might otherwise not be able to find work. They do this by partnering with public and private organizations, from Coors to the EPA, helping numerous Coloradans lead more meaningful and productive lives. In addition to this, the people of Bayaud help a number of their employees move on to private sector jobs every year.

Mr. Speaker, it is my privilege to pay tribute to the people of Bayaud Industries and their work under the JWOD program. By giving the disabled a hand up instead of a handout, they help numerous people realize the satisfaction that comes with meaningful employment. I commend their efforts to serve Colorado's disabled community.

TRIBUTE TO ELLA MOON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress today to pay tribute to Ella Moon of Fruita, Colorado. Ella Moon is the person behind Moon Farm, a remarkable place where thousands of kids have gone to play and learn for nearly four decades.

It all began in 1954 when Ella and Wallace Moon moved from Utah to an old hog farm in Western Colorado. Their children needed something to do during the summer so they built a tree house. The following summer, the kids built a small one-room schoolhouse. As the years rolled on, the ideas kept coming, and eventually the property included homes resembling those in Italy, Mexico, Japan, and the Middle East. A log cabin, Pyramid, and a Viking ship went up too.

Soon people the Moons had never met were stopping by to enjoy the buildings and have picnics on their lawn. The Moons embraced these visitors, offering pony rides and a petting zoo, which included a llama, peacocks and other animals. Visiting children learned Indian dances, performed in talent shows, and listened to Ella's riveting stories.

Mr. Speaker, it gives me great joy to recognize Ella Moon. Although Ella is now 85 years old, she still plays with the kids, tells them stories, and teaches them lessons they can use in real life. Ella has helped create a unique place where children can play, learn, and grow. I thank Ella for her many contributions to her community.

TRIBUTE TO ALICE DRAKE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. McINNIS. Mr. Speaker, it is with profound sadness that I rise before this body of Congress today to recognize the life and passing of Alice Drake of Pueblo, Colorado. Alice left us recently after a prolific life that spanned 107 years. Her sense of humor and determined approach defined her life and made a strong impact upon the Pueblo community.

A descendant of German parents, Alice was born in Phillips County, Kansas, where she developed a strong work ethic on her parent's 360-acre farm. Throughout her life, Alice used her strength to aid others—protecting her younger brother on the way home from school and assuming the household responsibilities when her mother sadly passed away. Alice was also notorious for her adventurous spirit, learning to bowl in her 80s, riding on a motorcycle for the first time in her 90s, and developing a reputation wherever she went for her renowned pool playing abilities.

Mr. Speaker, individuals like Alice provided the spirit and strength of character that made this nation great. While she will be dearly missed, Alice's spirit will live on through the lives of those whom she has touched. I extend my deepest sympathies to Alice's family and friends during this difficult time.

TRIBUTE TO JEFF BARTLESON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise before this body of Congress to pay tribute to Jeff Bartleson of Pueblo, Colorado, who has faithfully and unselfishly served the needs of Coloradans for many years. Jeff has contributed to the quality of life in Colorado in many significant ways and I am proud to highlight his accomplishments before this body of Congress.

Throughout his life, Jeff has exhibited the virtues of compassion, self-determination, self-sacrifice, and hard work that have made this country great. In his capacity as a foster parent, Jeff has helped several youth in the region through his work with the Young Life Association and the El Pueblo Boys and Girls Ranch. His service and dedication to the needs of his community have increased progressively over time. He has been instrumental in the foundation and development of the Interfaith Hospitality Network, one of Pueblo's newest self-help organizations, and he is currently serving as the second president of its board.

Mr. Speaker, I am deeply honored to pay tribute to Jeff Bartleson for the various ways in which he has brought strength and joy to the people of Colorado. Despite his achievements, Jeff has remained humble and continued with his selfless work. For this great work on behalf of the citizens of Colorado, I commend him before this body of Congress and this nation. Jeff, all the best to you now and in the future.

TRIBUTE TO TOM SHARP

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Tom Sharp, a helicopter pilot from Telluride, Colorado and thank him for the contributions he has made to local search and rescue efforts. Tom recently risked his life and his helicopter to save two avalanche victims trapped on a steep slope near Telluride Ski Area, and today I would like to honor his service before this body of Congress and this nation.

Tom has been a pilot with Helitrax, a heli-ski guide service, for over twelve years. When he was called to assist in the rescue of two skiers caught in an avalanche, he immediately responded along with two Helitrax guides, braving a dangerous landing near one of the injured skiers before picking up more rescuers and dropping off more medical supplies. Then Tom made a daring attempt to reach the other skier, flying close to dangerous jagged rock in spite of unpredictable afternoon winds. Though he was unsuccessful, Tom and his fellow rescuers dropped supplies to the stranded skier that allowed him to climb out of the couloir and communicate with rescuers.

Mr. Speaker, pilots with the expertise and skill of Tom Sharp are crucial to successful search and rescue operations, and it is a great privilege to honor Tom here today. His years of experience and his willingness to take risks are a tremendous asset to the citizens of Telluride and to all of Colorado.

TRIBUTE TO CHARLES LEINBERGER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. McINNIS. Mr. Speaker, it is with great sadness that I recognize the passing of Charles Leinberger of Pueblo, Colorado. Charlie, as he was known, served his country faithfully as a Marine in the Second World War, where he received the Purple Heart. He also served Pueblo for many years as an Ambassador for the Greater Pueblo Chamber of Commerce. I would like to take this time to pay tribute to the honorable contributions Charlie made in defense of our freedoms and his involvement in the Pueblo Community.

Only recently, Charlie was honored by the Chamber of Commerce for almost fifty years of work on behalf of that organization. His energy and skill in developing the Chamber of Commerce will be missed sorely by those he has left behind to continue his work. In addition to his labor on behalf of the Chamber, Charlie also volunteered with numerous community organizations in Pueblo, bringing his vitality and dedication to a number of worthy causes in his community. Charlie's life, his patriotism and his altruism will continue to inspire the Pueblo community for years to come.

Mr. Speaker, although it is with sorrow that I stand before you here recognizing the passing of Charles Leinberger, I take solace in the knowledge that his legacy and example will continue to make my state and this country a better place to live. Charles' life and deeds are examples to us all and it is fitting that I recognize them before this body of Congress and this nation. My prayers go out to Charlie's family and friends in this difficult time.

TRIBUTE TO THE ENSTROM FAMILY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress and this nation to pay tribute to the Enstrom family of Grand Junction, Colorado. The Enstroms own and operate Enstrom's Candies, one of the premier candy manufacturers in the United States. For many years, the Enstroms have worked hard to produce high quality candy, earning a reputation as a valuable member of Colorado's business community. Under the leadership of Chet Enstrom, the family has strived to serve not only their customers but the state of Colorado as well.

Chet Enstrom began his career at the age of 14, working in a Colorado Springs ice cream shop. It was there that Chet learned about making quality candy, a craft he would later perfect in the basement of his home. He gave a small amount of his now famous "almond toffee" to family and friends, who encouraged Chet to open what became Enstrom's Candies. The quality of the candy was evident to all of Enstrom's many customers, ensuring that the company has enjoyed many years of success.

Chet worked hard to keep the business in family hands and there have now been three generations of Enstroms involved in its operation. In 1965, Chet passed the company on to his son Emil and his daughter-in-law Mary. By 1979 Enstrom's Candies was producing over 65,000 pounds of candy every year.

The third generation of Enstroms operates the company today. The "Candy Kitchen" in Grand Junction is run by Chet's granddaughter Jamee and her husband Doug. Their Denver retail stores are operated by Chet's grandson Rick and his wife Linda. Together the Enstroms still focus on the family values of hard work and dedication that have made the company successful for so many years.

Mr. Speaker, Enstrom's Candies has provided Colorado with high quality confections and dedicated service for over 40 years. The Enstrom family has worked hard to keep the business in family hands, providing numerous jobs to the surrounding community. Enstrom's Candies is truly a Colorado icon and I congratulate them on 43 years of service.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 19, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 20

9:30 a.m.
Armed Services
To hold closed hearings to examine Iraqi reconstruction and humanitarian activities.
SR–222

JUNE 24

9:30 a.m.
Environment and Public Works
Fisheries, Wildlife, and Water Subcommittee
To hold hearings to examine implementation of the National Marine Fisheries Service's 2000 Biological Opinion for listed anadromous fish regarding operation of the Federal Columbia River Power System.
SD–406

Governmental Affairs
To hold hearings to examine the cost of federal health programs by curing diabetes.
SD–342

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine bus rapid transit and other bus service innovations.
SD–538

Energy and Natural Resources
To hold hearings to examine changes over time in the relationship between the Department of Energy and its predecessors and contractors operating DOE laboratories and sites to determine if these changes have affected the ability of scientists and engineers to respond to national missions.
SD–366

Governmental Affairs
To hold hearings to examine controlling the cost of Federal Health Programs by curing diabetes, focusing on a case study.
SH–216

Judiciary
To hold hearings to examine the nominations of Samuel Der-Yeghiayan, to be United States District Judge for the Northern District of Illinois, Allyson K. Duncan, of North Carolina, to be United States Circuit Judge for the Fourth Circuit, Louise W. Flanagan, to be United States District Judge for the Eastern District of North Carolina, Lonny R. Suko, to be United States District Judge for the Eastern District of Washington, Earl Leroy Yeakel III, to be United States District Judge for the Western District of Texas, and Karen P. Tandy, of Virginia, to be Administrator of Drug Enforcement, and Christopher A. Wray, of Georgia, to be an Assistant Attorney General, both of the Department of Justice.
SD–226

2:30 p.m.
Judiciary
Antitrust, Competition Policy and Consumer Rights Subcommittee
To hold hearings to examine how to preserve and protect media competition in the marketplace.
SD–226

Foreign Relations
European Affairs Subcommittee
To hold hearings to examine U.S. relations with respect to a changing Europe, focusing on differing views on technology issues.
SD–419

Armed Services
Personnel Subcommittee
Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold joint hearings to examine support for military families.
SD–106

Veterans' Affairs

To hold hearings on proposed legislation relating to VA-provided health care services, including S. 613, to authorize the Secretary of Veterans Affairs to construct, lease, or modify major medical facilities at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado, S. 615, to name the Department of Veterans Affairs outpatient clinic in Horsham, Pennsylvania, as the "Victor J. Saracini Department of Veterans Affairs Outpatient Clinic", S. 1144, to name the health care facility of the Department of Veterans Affairs located at 820 South Damen Avenue in Chicago, Illinois, as the "Jesse Brown Department of Veterans Affairs Medical Center", S. 1153, to amend title 38, United States Code, to permit Medicare-eligible veterans to receive an out- patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, S. 1156, to amend title 38, United States Code, to improve and enhance the provision of long-term health care for veterans by the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and S. 1213, to amend title 38, United States Code, to enhance the ability of the Department of Veterans Affairs to improve benefits for Filipino veterans of World War II and survivors of such veterans.

SR-418

JUNE 25

9:30 a.m.

Environment and Public Works

Fisheries, Wildlife, and Water Subcommittee

To hold oversight hearings to examine the consulting process required by Section 7 of the Endangered Species Act.

SD-406

Foreign Relations

To hold hearings to examine the implementation of African Growth and Opportunity Act (P.L. 106-200).

SD-419

Governmental Affairs

To hold hearings to examine the nomination of Joshua B. Bolten, of the District of Columbia, to be Director of the Office of Management and Budget.

SD-342

10 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD-366

Health, Education, Labor, and Pensions

Business meeting to consider S. 1248, to reauthorize the Individuals with Disabilities Education Act, and pending nominations.

SD-430

Judiciary

To hold oversight hearings to examine the Department of Justice Inspector General's Report on the 9/11 detainees.

SD-226

2 p.m.

Banking, Housing, and Urban Affairs

Economic Policy Subcommittee

To hold oversight hearings to examine certain measures to strengthen the economic situation in rural America.

SD-538

Judiciary

To hold hearings to examine the nominations of Allyson K. Duncan, of North Carolina, to be United States Circuit Judge for the Fourth Circuit, and Louise W. Flanagan, to be United States District Judge for the Eastern District of North Carolina.

SD-215

Foreign Relations

Near Eastern and South Asian Affairs Subcommittee

Judiciary

Constitution, Civil Rights and Property Rights Subcommittee

To hold joint hearings to examine constitutionalism, human rights, and the Rule of Law in Iraq.

SD-226

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold oversight hearings to examine grazing programs of the Bureau of Land Management and the Forest Service, focusing on grazing permit renewal, BLM's potential changes to grazing regulations, range monitoring, drought, and other grazing issues.

SD-366

JUNE 26

9 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape.

SR-328A

9:30 a.m.

Commerce, Science, and Transportation

Business meeting to consider S. 1218, to provide for Presidential support and coordination of interagency ocean science programs and development and coordination of a comprehensive and integrated United States research and monitoring program, proposed legislation authorizing funds for National Highway Traffic Safety Administration, proposed legislation authorizing funds for the Federal Motor Carrier Safety Administration, and proposed legislation authorizing funds for recreational boating safety programs.

SR-253

Governmental Affairs

To hold hearings to examine the need for Federal real property reform, focusing on deteriorating buildings and wasted opportunities.

SD-342

Governmental Affairs

To hold hearings to examine federal real property reform.

SD-342

10:30 a.m.

Indian Affairs

Business meeting to consider pending calendar business.

SR-485

2 p.m.

Foreign Relations

To hold hearings to examine the Department of State's Office of Children's Issues, focusing on responding to international parental abduction.

SD-106

JULY 9

10 a.m.

Indian Affairs

To hold oversight hearings to examine the Indian Gaming Regulatory Act.

SD-106

JULY 16

10 a.m.

Indian Affairs

To hold hearings to examine S. 556, to amend the Indian Health Care Improvement Act to revise and extend that Act.

SR-485

JULY 23

10 a.m.

Indian Affairs

To hold hearings to examine S. 556, to amend the Indian Health Care Improvement Act to revise and extend that Act.

SR-485

Judiciary

To hold oversight hearings to examine certain pending matters.

SD-226

JULY 30

10 a.m.

Indian Affairs

To hold hearings to examine S. 578, to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security.

SR-485

POSTPONEMENTS

JUNE 24

10 a.m.

Health, Education, Labor, and Pensions

Substance Abuse and Mental Health Services Subcommittee

To hold hearings to examine proposed legislation authorizing funds for the Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

SD-430

HOUSE OF REPRESENTATIVES—*Thursday, June 19, 2003*

The House met at 10 a.m.

The Reverend Bob Warren, Pastor, Arlington Heights Evangelical Free Church, Arlington Heights, Illinois, offered the following prayer:

Our gracious and loving Heavenly Father, we worship You and thank You that You have revealed Your heart to us through Your Son.

We come at the beginning of this legislative session today to ask that Your wisdom and guidance prevail. We confess that maybe too often we are self-seeking. Forgive us and help us to exercise the entrusted authority in a way that would be pleasing to You.

Even throughout the course of this day, remind us that every aspect of life is from Your hand, and in these challenging days, help us to see all the issues of life, faith and freedom through Your eyes. I pray that You would guide each of these elected representatives to lead our Nation in right paths.

We acknowledge our dependence upon You. Yours, O Lord, is the greatness and the power, and the splendor and the majesty, where everything in heaven and on earth is Yours.

Hear our prayers. May Your blessing be upon our Nation. In Your name, Jesus, we pray, Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from California (Ms. LOFGREN) come forward and lead the House in the Pledge of Allegiance.

Ms. LOFGREN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 389. An act to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1276. An act to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to, national service positions.

The message also announced that the Senate disagrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 1308) "An Act to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes," and requests a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. GRASSLEY, Mr. NICKLES, Mr. LOTT, Mr. BAUCUS and Mrs. LINCOLN to be the conferees on the part of the Senate.

WELCOMING THE REVEREND BOB WARREN, PASTOR, ARLINGTON HEIGHTS EVANGELICAL FREE CHURCH, ARLINGTON HEIGHTS, ILLINOIS

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, Reverend Robert Warren currently serves as the Pastor of Adults and Compassion Ministries at the Arlington Heights Evangelical Free Church in Arlington Heights, Illinois. The church has 2,200 Members.

Pastor Warren is remarkable for his service to his fellow man, his congregation and our community. Bob has been in the ministry for 30 years, helping to lead four churches, as well as teaching college.

At the Arlington Heights Evangelical Free Church, he has led the enhancement of the church's participation in suburban and international churches for the needy. In addition, he leads a team that mentors unemployed men and women and led the development of the church's lay care ministry.

Pastor Warren is deeply committed to his family, his wife, Nancy, and their two children, Noel and Rob. Next week they will celebrate their 32nd anniversary.

Arlington Heights is the largest town in my district, a place where common sense Midwestern values of family and faith and freedom reign supreme. Pastor Warren embodies those values and is one of our most cherished leaders, and we are honored that he took the time to lead the House in prayer today.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 5 one minutes on each side.

PASSING MEANINGFUL REFORM ON MEDICARE

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, the House is in the midst of debate that will improve Medicare for millions of seniors. We will provide a prescription drug benefit. We will construct a fairer, consumer-oriented and better managed system for seniors to receive health care.

Mr. Speaker, a prescription drug benefit is the next logical step in the construction of an improved Medicare system for our seniors. Not only will we incorporate a prescription drug benefit, but we will work to ensure the solvency of the Medicare system for future generations.

I call on my colleagues from both sides of the aisle to come together in the spirit of bipartisanship, work together to pass meaningful reform to Medicare now, and to provide a prescription drug benefit for our seniors.

AMERICORP MUST BE PRESERVED

(Ms. LOFGREN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LOFGREN. Mr. Speaker, the President, in the State of the Union in 2002 vowed to increase opportunities in AmeriCorp, and he went all over the United States saying that he would increase AmeriCorp by 50 percent, from about 50,000 members to 75,000.

However, this program is being destroyed. It has not been funded, the GAO has caused problems, we have not funded the scholarship program, and, in fact, the President's request for fiscal year 2004 actually asked for $40 million less in AmeriCorp grants than he requested in 2003.

In San Jose, California, AmeriCorp volunteers are helping young students with tutoring, recycling, doing volunteerism and really making our community better.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

So I am here today to say the President did not tell the truth to the American people in the State of the Union. He lied to the American people around the country when he promised to expand this program.

Please, Mr. President, let us come forward—

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMMONS). The gentlewoman is not in order. She must refrain from personal criticism of the President.

Ms. LOFGREN. I would hope the President would take steps to make sure that what he promised the American people actually comes true, instead of the sad state of deception that exists today.

SUPPORT HEALTH ACCESS AND FLEXIBILITY ACT

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, I rise today to talk about H.R. 2114, the Health Access and Flexibility Act.

This bill, Mr. Speaker, will increase access to consumer-based health coverage for all Americans, regardless of income. Under H.R. 2114, the availability of Medical Savings Accounts will be greatly expanded and it will create similar types of accounts for low-income Americans.

Since the mid-1990s, Medical Savings Accounts have allowed their owners to purchase health services tax free by building funds in interest earning accounts. Medical Savings Accounts promote savings and direct health care purchasing and are designed to simplify the doctor-patient relationship.

As a physician, I know firsthand the difficulty that some patients have working through their insurance companies and what services are covered by their policies. With Medical Savings Accounts, patients can focus their attention on their medical care and they can discuss their needs with their doctors frankly and honestly, and they can proceed with appropriate treatment when medical care is necessary.

Unfortunately, these innovative savings tools are severely restricted and there have been caps placed on the number of the Medical Savings Accounts established in any given year.

TEACHER RECRUITMENT AND RETENTION ACT OF 2003

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I am proud of President Bush for making positive change in our education system through the landmark No Child Left Behind legislation, which was championed by the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce in the House.

To promote this Act, we need to help disadvantaged school districts in our country, which are struggling hard to compete for high quality teachers in the basic skills. That is why I have introduced the Teacher Recruitment and Retention Act of 2003, which passed the Committee on Education and the Workforce last week.

This bill will attract highly qualified teachers to low income and rural areas by expanding the teacher loan forgiveness program from the current $5,000 to a maximum of $17,500 for teachers who commit to teaching math, science or special-ed in a disadvantaged district for 5 years. The goal is to ensure that America's children are prepared to succeed in a world based on science and technology.

Mr. Speaker, I ask my colleagues to join me in cosponsoring H.R. 438.

In conclusion, God bless our troops.

TRIBUTE TO BILL MAYS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is not often that we come to the floor to speak of a special person, and, when we do so, I hope that it is understood that whatever their contribution, they have had an impact on our lives.

I speak this morning about Bill Mays. Many of you would not be familiar with that name. Bill Mays was an employee of this House. In fact, he worked in the Rayburn Building, where many of us have our offices, and he served us in providing service through the elevator system.

Bill Mays was someone who we saw every day as we rushed to the floor of the House, a very generous and kind person, a very calm person, always with a smile on his face. Just a few months ago, he lost his wife after her long battle with cancer. We always heard of how they were working with each other to keep each other supported. And, just last week, not more than 3 months after her death, Bill Mays had a heart attack.

We want to pay tribute to Bill, because many times our good friends who work in this building go unnoticed. But we just want to simply say we appreciated you, Bill. Our sympathy to Annette, your daughter, and her family.

☐ 1015

As I close on that note in thanking him, I would just simply say, Mr. Speaker, it is also time to tell the American people the truth about the weapons of mass destruction. So I will be filing legislation for an independent commission and a special prosecutor to be able to know what truth was known, what truth was said, and whether we as policymakers, who are obligated to the American people to be truthful as we take our oath of office, that we are always with the truth, to be able to tell the truth.

CONSULAR CARDS THREATEN HOMELAND SECURITY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Texas. Mr. Speaker, today the Subcommittee on Immigration will hold a hearing on consular identification cards such as those issued by Mexican consulates to illegal immigrants in the United States.

A number of cities and dozens of banks now recognize these cards for identification purposes. In several States, in fact, they can be used to obtain a driver's license.

The cards are not reliable, not secure, and make it easier for illegal immigrants to stay in the U.S. A person's identity is not verified and false identities are easy to obtain. To anyone worried about homeland security, these cards should be seen as a red alert.

The Treasury Department recently approved these consular identification cards for bank use, yet no major bank in Mexico accepts them. So we have U.S. banks relying on Mexican identification cards that even Mexico will not recognize.

Perhaps the Treasury Department did not hear that the President is concerned about homeland security. Treasury officials may want to call the White House.

SUPPORT OUR MILITARY FAMILIES

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to voice concern over the undue hardship that President Bush is placing on our military families.

At a time when our Nation is asking a tremendous amount from our armed services, the administration has proceeded to deliver blow after blow to our men and women in uniform.

The Bush tax cut failed to extend a child tax credit to nearly 200,000 low-income military personnel. And then, of course, $200 million has been cut from programs providing assistance to public schools on military bases.

The Bush administration said they would Leave No Child Behind. Well, what is happening to the children of the brave troops who are in Iraq?

The latest tax cut also scraped $1.5 billion away from military housing.

Furthermore, it cuts $14.6 billion over 10 years from veterans benefits.

During the 2000 campaign, the President vowed to give our Armed Forces better pay, better treatment, and better training. Well, Mr. President, it is time to keep your promise.

PARLIAMENTARY INQUIRY

Mr. HAYES. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. SIMMONS). The gentleman will state it.

Mr. HAYES. Mr. Speaker, a few moments ago, the gentlewoman from California (Ms. LOFGREN) called the President of the United States a liar. My question is, is it too late to ask that her words be taken down? This is inappropriate by our rules.

The SPEAKER pro tempore. The Chair has already ruled on that matter. At the time the Chair ruled that the gentlewoman was out of order.

Mr. HAYES. Thank you, Mr. Speaker. It bothers me. I appreciate the ruling.

AMERICA'S SENIOR CITIZENS DESERVE PRESCRIPTION DRUG BENEFIT UNDER MEDICARE

(Mr. HAYES asked and was given permission to address the House for 1 minute.)

Mr. HAYES. Mr. Speaker, I rise today in support of legislation that is vitally important to our Nation's seniors: a prescription drug benefit for Medicare.

We know that treating diseases with prescription medications can help reduce the chance of costly hospital stays and expensive medical procedures. I urge my colleagues to work together to ensure a fair and responsible Medicare plan that lowers the cost of prescription drugs now so that senior citizens can better afford the medicines they need to live healthier lives and to improve their quality of life.

No American should be forced to choose between food, shelter, or prescription drugs. Last August, I toured the eighth district of North Carolina with a petition gathering signatures of seniors who agreed that we need that prescription drug benefit now. At each stop, seniors told me of their disappointment of promises that were made, but not kept. The time is long overdue for us to make good on this promise.

Medicare is a program that has been helping millions of older Americans meet their health care needs since that first day back in 1965. We can and should strengthen Medicare to make it even better for our seniors. One critical way we can make this program better is by adding a prescription drug benefit.

Our seniors deserve no less.

PROVIDING FOR CONSIDERATION OF H.R. 660, SMALL BUSINESS HEALTH FAIRNESS ACT OF 2003

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 283 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 283

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 660) to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Education and the Workforce now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except—

(1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce;

(2) the further amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Kind of Wisconsin or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and

(3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, House Resolution 283 is a rule that provides for the consideration of H.R. 660, the Small Business Health Fairness Act of 2003. The resolution makes in order a minority party substitute that provides ample opportunity to discuss this important legislation before us, while addressing certainly the concerns of our colleagues on the other side of the aisle.

The rule provides 1 hour of general debate, evenly divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce.

This is a bipartisan bill. In fact, the legislation has 162 cosponsors on a bipartisan basis, and many, many groups that are interested in this issue are supporting this legislation.

H.R. 660 was introduced by the gentleman from Kentucky (Mr. FLETCHER). It has the strong support of the Speaker, of the Committee on Small Business chairman, the gentleman from Illinois (Mr. MANZULLO), and the Subcommittee on Employer-Employee Relations chairman, the gentleman from Texas (Mr. SAM JOHNSON).

Association Health Plans, or AHPs, allow access to needed health insurance for many who do not have health insurance. The House, I believe, Mr. Speaker, must act now to pass this long overdue legislation.

Really, the Nation is at a crossroads. We currently have over 40 million Americans without health insurance, approximately 60 percent of whom work or depend on small employers who often cannot afford these very important and needed benefits. This bill will help small business, in turn, help working families.

Mr. Speaker, H.R. 660 will allow for small businesses across the country to band together through established and respected trade or professional organizations to lower health care costs. This same model already works for large companies. We believe that small businesses should also be allowed to benefit from it.

Estimates predict that anywhere from 350,000 to 8 million uninsured workers will receive health care benefits through these AHPs even at the lowest projection, and that means positive progress for many currently uninsured men and women.

Now, we may hear all sorts of arguments concerning, for example, state-by-state regulations. We have already, however, seen many large companies provide health insurance because they are allowed these procedures. These same benefits will now be obtainable through collective bargaining by the AHPs while, at the same time, reducing burdensome administration fees, precisely by having to comply with only one set of Federal regulations and not 50 individual sets of State regulations.

This bill also ensures that AHPs adhere to the important regulations in the Health Insurance Portability and Accountability Act of 1996, meaning that coverage cannot be denied based on health or claims experience.

I am very pleased that the Committee on Rules did a fine job in providing a full and fair process of debate through, among other things, permitting a Democrat substitute that addresses many of the points brought out through testimony in the Committee on Rules.

Mr. Speaker, H.R. 660 is a good bill and House Resolution 283 is a fair rule. It is very important to the over 40 million uninsured Americans and the vitality of small business in the United States. Through this legislation, the House of Representatives continues its work to relieve many of the existing burdens on American families.

I would like to thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from Texas (Mr. SAM JOHNSON) for their leadership on this issue, and I urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the idea behind the association health plans. Helping small businesses has been a priority of mine for a long while. At the same time, I strongly believe that we have a moral obligation to help every American get the health coverage they and their families need.

So I am glad that the Democrats on the Committee on Education and the Workforce, particularly the gentleman from Wisconsin (Mr. KIND) and the gentleman from new Jersey (Mr. ANDREWS), have written the Democratic substitute. It is a sensible and affordable plan to ensure health coverage for small businesses and their employees that is at least as good as Federal employees get. If you think small businesses deserve the same health coverage that Members of Congress get, then the Democratic plan is for you.

Unfortunately, Mr. Speaker, the Republican Party controls the House of Representatives. That gives them the power to block important priorities, and they have no problem using it.

For instance, they are still blocking tax relief for millions of military and working families. Six times Democrats have tried to give the child tax credit to these families because we believe that they deserve at least a fraction of the tax breaks that Republicans gave to millionaires last month. But six times, House Republicans have used their power to deny these families. Today, Mr. Speaker, the Republican leadership is using their power and this restrictive rule to undermine patient protections.

Now, perhaps Republicans will say that we should not be surprised. More than 90 percent of the rules in this Congress have been restricted, a shameful record of stifling democracy and blocking critical American priorities. But the rule on the floor today perfectly illustrates how the Republican majority has operated during this Congress.

In the Committee on Rules, Democrats offered 14 amendments on issues that are critical to the health of the people who might participate in these plans, but the Committee on Rules Republicans voted down all but one of them, the Democratic substitute.

Consider patients' rights, for example. Republicans have successfully blocked a national Patients' Bill of Rights for the past several years, and the base bill would undermine the patient protections that various States have passed, making it a kind of anti-Patients Bill of Rights.

So the gentleman from Massachusetts (Mr. TIERNEY) and the gentleman from Maryland (Mr. VAN HOLLEN) went to the Committee on Rules with an amendment to ensure that these new association health plans comply with State patient protections, like prohibitions on doctor gag rules and access to emergency rooms, OBGYNs, and specialists. But Republicans on the Committee on Rules defeated their amendment on a party-line vote.

Or take prostate cancer and breast cancer. The gentlewoman from New York (Mrs. MCCARTHY) tried to ensure that these new health plans cover screenings for these deadly diseases, but Republicans refused to allow the House to vote on her amendments.

The gentleman from Wisconsin (Mr. KIND) and the gentleman from Ohio (Mr. KUCINICH) each tried to protect Americans with autism.

The gentlewoman from Minnesota (Ms. MCCOLLUM) tried to ensure maternity and well-child benefits continue to be covered in States that require this coverage.

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And the gentleman from New Jersey (Mr. ANDREWS) tried to protect small businesses and their employees from discrimination based on race, gender or age. Each of these is an important issue when you are creating a new system that could affect the health of millions and millions of Americans. But Republicans refuse to allow the House to even vote on their amendments. As a result, Mr. Speaker, if the Republican-based bill passes the House, millions of Americans will lose out on important patient protections, and that is just one example of how Americans are harmed by what the Republican leadership does on the Committee on Rules.

Of course, none of these amendments would have been necessary in the Republican bill were they not so deficient, but it is. In fact, the Republican plan is opposed by more than 475 organizations representing State governors, insurance commissioners, attorneys general and State legislators, as well as physician groups, consumer organizations, Chambers of Commerce, farm bureaus and small business associations. The American Nurses Association, for example, wrote that it "would undermine the protections provided by State laws while doing little to provide coverage for the uninsured."

The nonpartisan Congressional Budget Office found that premiums would increase for 80 percent of small employers, while as many as 100,000 of the sickest people would lose coverage altogether.

In my home State of Texas, more than 1.5 million people would pay higher premiums if the Republican bill passes, according to an analysis of a report by the nonpartisan Congressional Budget Office.

Despite this, Mr. Speaker, the Republican leadership refused to allow votes on the Democratic amendments to fix their bill. That means that the Democratic alternative is the only way to protect patients and increase coverage for small business employees.

It sets up a Small Employer Health Benefits Plan that would work like health plans that now cover Federal employees. It covers all small businesses and their employees, offers affordable premiums, and ensures that people get coverage at least as good as what Members of Congress gets. And unlike the Republican bill, it preserves State patient protections.

To pass the Democratic alternative and provide affordable and comprehensive health coverage to small businesses, we need Republicans to stand up to their leadership and vote "yes" on the Democratic alternative. But before that, Republicans have yet another opportunity to stop blocking tax relief for millions of military and working families. To do that, all they have to do is stand up to the Republican leadership on the important parliamentary vote on the previous question. If we defeat the previous question, the Democrats can amend the rule to allow the House to vote on the child tax credit and the Armed Forces Fairness Act. The President could sign both of these bills tomorrow if only Republicans would finally stop standing in the way.

Mr. Speaker, I urge the Republicans to put the American people above their leadership today.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation that we are bringing to the floor today, what it does is that it gives small businesses the ability to come together and have the purchasing power and the leverage, if you will, that currently only large corporations have with the concept, with the goal of bringing down health care costs and offering products, offering health insurance, to those workers who work the overwhelming majority of workers in the United States who work for small businesses. That is what we are trying to do.

I heard my friend on the other side of the aisle say that they have other ideas. Well, we granted the Democrats the ability to bring forth to the floor today their substitute, and so let the debate begin. And if the membership believes that concerns are better addressed in their substitute, the membership may be swayed to support the substitute. We happen to believe our legislation is better. But that is why we will have this debate. So we granted the substitute. And we strongly believe that small businesses should have that ability to come together across State lines and acquire much more leverage and much more purchasing power when they are trying to provide health insurance for their workers. That is what we are trying to do today.

So we hear all sorts of things because we live in a wonderful democracy and everything can be brought out under the sun. But that is what we are trying to do. We are trying to lower health care costs. We are trying to provide health insurance to more people in this country by permitting small businesses to come together. That is what we are trying to do today. Democrats say they have a better idea. That is why we granted their substitute. We do not happen to believe they have a better idea, but we allowed the debate.

After hearing all sorts of confusing things, I wanted to, in case somebody is listening to the debate, get back to what we are actually trying to do, Mr. Speaker.

We think it is a fair rule. We think it is fair in this case to provide the opportunity to debate by making in order the minority party's substitute and we think we have a good product. A lot of Members have worked hard on this product. So we want to get to the debate and we would urge support for the rule by the membership.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Texas (Mr. FROST), the ranking member, for yielding me time.

My good friend from Florida, I believe, has in some way characterized the dilemma that we face continuously in this body. Where there are opportunities for us to come together around both a common good and a common cause, leave it to the majority to throw a stinker in the mix. This bill has a number of co-sponsors and I know why. Because all of us have small businesses and have heard from them repeatedly about a very important concept and that is to be allowed to join together to promote good health plans for their employees.

Any of us who have large numbers of constituents who are small business owners or have come to this floor at any time, we have remarked that small business is the backbone of America. And so the idea of associated health plans is a reasonable idea, Mr. Speaker. But what is unreasonable is the very fact that we could not have a common agreement around the idea that we do not want to banish the sickest of the group. We do not want to disenfranchise them from being able to join in these plans.

We do not want women in Maryland or women in Texas who, under their regulated plans, can get mammograms and then find that this plan is subject to the management of the Department of Labor without any regulations, that they would, if you will, disallow or give permission that you do not have to grant the mammogram provision or the prostate cancer testing provision in these plans. That is what we are arguing about.

That is why the Democratic substitute stands more worthy of our consideration. And that is why I am concerned about this legislation because I, frankly, believe it should be 435 to zero helping small businesses. But I have great difficulty with looking at this legislation. I was considering co-sponsoring it, inasmuch as it takes away the regulatory arm, and I do not know why we are here running away from regulations when we have regulated things to the positive.

We have helped to save lives with regulations in this country; but yet now we want to pass legislation that leaves small businesses, of all groups, the very nature of their size means that they need extra help, the Small Business Administration. So we want to take away the regulations and give them plans that may be, at best, unhelpful to their employees who will get sick and very sick, and then give them simply a plan that maybe 2 or 3 of their 10-person business could be able to be associated with.

Mr. Speaker, we can do better than this, and I would ask my colleagues to defeat the rule on the previous rule question so that we can get back to the drawing board of making this a better bill.

I would add something else, Mr. Speaker, that while we are doing this and fixing problems, can I get the attention of my colleagues on the other side and ask the question why we cannot pass the low income tax credit for children? It was passed by the Senate more than 2 weeks ago. It is a $10 million plan. It will help 19 million children, 2,129,000 in the State of Texas. I have that embossed in my brain, if you will, literally, in my brain and the reason is because I see these people all the time.

I do not know if any Members, that Fort Hood in Texas sent more troops to Iraq than we sent in World War II. Many of these young people are in Iraq as we speak. Many of those people are in Iraq as we speak and the way the tax laws, Mr. Speaker, are configurated now, because were they in combat pay, they would not be eligible for the low income tax credit, even though they fall within the salary range, which is $10,000 to $26,000, because those young men and women are making somewhere around $1,000 to $1,200 a month.

So my concern is that we have it languishing probably with a conference, and if any of us knows what a conference means, there is no way of telling how long that bickering would occur, when we could take the Senate bill sitting at the desk, the Speaker could lift that Senate bill. It could pass. That is the bill, $3.5 billion is what that bill would cost, and now we have an $82 billion white whale languishing in the shallow waters of a conference committee, never to be heard from again.

Mr. Speaker, let me close by saying that the Wall Street Journal says that the gentleman from Texas (Mr. DELAY) and others in the House deliberately made their child tax credit bill richer than the Senate version because they knew that the Senate conferees would walk away and pass nothing instead.

Mr. Speaker, let me just say, we have got to do a better job of fixing problems for Americans.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the underlying legislation that we are bringing to the floor today is very important, as I stated before. We believe in small business. We believe in the fact that the overwhelming majority of workers in this country work in small businesses, and we want to incentivate those small businesses in providing health care, health insurance to their workers.

I think it is important to reduce the over 40 million number of workers in this country who do not have insurance. We think we are going to do so in a significant way with this legislation.

With regards to some of the allegations my friend from Texas, the previous speaker, said with regard to the low income tax credit, we passed that last week and we really do not believe, her words were, "a white whale" we passed. We do not think it is a white whale to pass the legislation that we passed. We do not think it is a white whale to include, as we did, tax breaks for military families. We do not think it is a whale to include tax breaks, as we did, for victims of the Shuttle crash tragedy. We do not think it is a whale to extend, as we did last week, in precisely the low income tax credit legislation, the child tax credit until the year 2010. We do not believe that is a whale. We believe it is important legislation.

But back to the point of what we are doing this week, because that we did last week, despite the fact that our friends on the other side of the aisle voted against it, but it is a free country. What we are doing this week is bringing forth with this rule, that permits the Democratic substitute, legislation that will permit small businesses to come together and pool their resources and increase their leverage so that they can provide, so that they can provide to the millions of workers who work for small businesses and do not have health insurance, health insurance at better rates and with better terms. That is what we are doing.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. CROWLEY).

☐ 1045

Mr. CROWLEY. My colleagues, when debate is completed here on the rule, my colleagues on the other side of the aisle will order the previous question. And I would ask my colleagues on the Democratic side of the aisle to vote "no" on the previous question to allow the consideration of the Armed Forces Tax Fairness Act, which is currently pending before the Speaker's desk, and allow for the Senate language for the child tax credit to come before this House. It will allow us to have a vote on that legislation.

Mr. Speaker, I appreciate the fact that under this rule we will have the opportunity to have a substitute, and I do express my appreciation for that. I intend to vote for the substitute and against the majority bill before us. But if I could, I will use this opportunity to speak about what will then be offered later on again today in the IRS substitute, the Rangel substitute, that will once again have a substitute that will include the Senate language on the child tax credit so it will give our colleagues on the other side of the aisle an opportunity to vote up or down on the Senate language.

But I do not think that that substitute will pass at the end of the day. I am a realist. I do not think so because I believe my Republican friends on the other side of the aisle have, unfortunately, shamelessly, brought a sham child tax credit bill before the House this last week, a bill our President opposes, a bill that a Republican-controlled Senate opposes as well. They knew when the House voted on that bill that it would never, and I say never, be enacted. In fact, their own Republican Senate leaders have admitted that it will never be enacted, the House version.

Instead, the Republicans would rather play politics with this issue, politics with the lives of 6.5 million Americans and working families. Yes, they work. They are not on welfare, as some would have you wrongly believe. And they do have children. Believe it or not working people have families, and they do make babies, and they do have expenses to pay for. Playing politics is what is happening with the lives of 260,000 children, their families on active military duty in Iraq who lose this credit under the Republican sham bill.

This Republican scheme is so egregious that even Senator JOHN MCCAIN said he did not understand how the Republican leadership and President Bush left enlisted men and women out of this tax package.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMMONS). Members should avoid references to statements made in the Senate.

Mr. CROWLEY. Only in a positive way, Mr. Speaker. Only in a positive way did I make reference to the Senator.

They play politics with the 3.1 million Americans who have lost their jobs since President Bush became President, with even more job losses projected.

Again, it is shameful to be offering a tax cut to the rich while cutting benefits for working people, cutting benefits for our enlisted personnel and their families, cutting benefits for veterans, cutting benefits for seniors on Medicare, and allowing 3.1 million Americans who have lost their jobs, jobs that have dispersed since President Bush became President and the Republicans began their economic policies 3 short years ago.

Mr. President, you have the power, it is in your hands, to demand the Senate bill be brought before this House for a vote. You can bring the needed pressure to bear on our colleagues on the other side of the aisle for an up or down vote on the Senate bill, and you can have that bill on your desk this evening. Do not let us leave here today, do not let us finish the work of this House this week before demanding that the Senate bill be brought up in this House and passed so that you can sign it, Mr. President, this evening or sometime this week before we leave.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman is reminded to address the Chair and not the President.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

I think it is important to point out, because my dear friend who just spoke stated that the President of the United States opposed, that is what the gentleman said, the legislation that we here in the House passed last week to provide precisely the low-income child tax credit and, in addition to that, provide tax breaks for military families and for families of the shuttle crash tragedy and extending the child tax credit through the year 2010.

The President supports the legislation. In fact, I am handed here the statement officially put out by the administration in support of the legislation that the House passed. This official statement of administration policy is dated June 12. So I wanted to make that clear on the record.

We are very proud of what we did last week, and we hope and certainly would encourage those who are now resolving any differences that may exist with our friends in the other body that they get that legislation to the floor of both bodies as soon as possible. That is what we did last week.

What we are doing this week is we are providing incentives for small businesses to provide health insurance to the millions of Americans who work for small businesses in this country and do not have health insurance. We think there are few issues as important as that issue. That is why we want to bring that legislation to the floor as soon as possible, and that is why we have brought a fair rule to the floor to be able to do so, a rule that makes in order the Democratic substitute and makes in order, in addition to that, a Democratic motion to recommit.

So we have been doubly fair in this rule and are very proud of the underlying legislation, the work product of Members that have worked long and hard to reduce the number, those millions of Americans who do not have health insurance and who work for small businesses. We want small businesses to have the same leverage, to have the same opportunities to pool their resources, to come together and do so like large corporations can do so today. That is why we feel so strongly about this legislation and are in support of it, and that is why we have brought it forward under a fair rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 additional minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for yielding me this time and for his leadership and his kindness.

Mr. Speaker, I wish to respond to some of the comments that I believe my very, very good friend from Florida has raised, as I think it is important that we understand that that big, big white whale is languishing in shallow waters and that is a very difficult journey for that whale to make. And I do maintain that that whale is languishing.

First of all, I am disappointed that there is now a printed administration position, because it was very clear that we heard on the wings of the passage of the Senate bill, the other body, excuse me, Mr. Speaker, that there was great excitement and we wanted to pass the freestanding child tax credit bill, $3.5 billion, versus $82 billion that was going to help our military families immediately.

The reason why I say we are languishing is because, Mr. Speaker, we are. We have a tank of a bill put forward by the Republicans not moving at all, and we have low-income families making $10,000 to $26,000 literally suffering because we know that bill is not going to be passed any time soon. The Wall Street Journal today said, "Mr. DELAY and others in the House deliberately made their child tax bill richer than the Senate version because they knew the Senate conferees would walk away and pass nothing." Nothing. Instead, the whale is languishing.

And with respect to this small business health bill, there is not a soul here who does not advocate for small businesses. But how in the world can we strap them with a health plan that has no regulations and we are going to tell women, who either own small businesses and/or work for them, that there is no room at the inn as relates to mammograms, or men that there is no room at the inn as relates to prostate cancer testing? Devastating diseases.

Mr. Speaker, we do have a problem, and this rule should be defeated so we can get the child tax credit. My friends need to go back to the drawing board and bring us a small business bill that I would like to vote for that protects all of small business in America. I think that is what we need to do.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

First of all, I would tell my dear friend the legislation that we passed last week, number one, is not a whale; and, number two, it is not languishing. And I am informed, I know I am not supposed to mention the other body, but I would wonder how I could get this fact across without doing so, the conference has begun. The conference has begun this morning. Or they have agreed to go to conference. Today there has been the agreement to go to conference precisely on the legislation that is not a whale. And, thus, the whale that is not is not languishing.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. LINCOLN DIAZ-BALART of Florida. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. That is good news, that they have gone to conference. But how many of the conferees, and you know it takes a majority vote, are agreeing to the $82 billion package from here as opposed to the unanimous agreement on the $3.5 billion?

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, reclaiming my time, again I do not know the answer to that, but I would say the following:

I would say to my good friend that, number one, I cannot get into the brain of all the conferees. I think we have to allow them to meet so that there will be a meeting of the minds, number one. But we certainly do not think that it is a whale to increase the child tax credit of $1,000 per child through the year 2010. We do not think that is a whale. We do not think it is a whale to eliminate the marriage penalty in the child credit. We do not think it is a whale to accelerate the increase in the refundable child credit. We do not think it is a whale to provide tax relief and enhance tax fairness for members of the Armed Forces. We do not think it is a whale to suspend the tax exempt status of designated terrorist organizations or to provide tax relief for astronauts' families, those who died on the space mission. So we think it is very important what the House did last week.

Now, another statement was made before by one of our friends on the other side of the aisle that the President does not support the measure that the House passed last week. Oh, no, no, no. The President is fully in support of the measure that the House passed last week. So the legislation that we passed last week we are extremely proud of and the President supports it.

But we are also very proud of and we are also strongly in support of what we are trying to do this week, Mr. Speaker. Because we believe that it should not only be the large corporations that have the ability to use their great leverage of numbers to offer health insurance to their workers with the best possible terms. We think small business, which is the backbone of the American economy, and hires the majority, employs the majority of the workers in this country, that small business also should have the opportunity to pool their numbers to acquire leverage in negotiating terms with those insurance companies and bring down the rates and offer the best possible terms to the millions of workers precisely because they work for the backbone of the American economy, small business. That is what we are doing this week.

So, no, what we did last week is not a whale. What we did last week is something we are very proud of, and we have the support of the President of the United States. But what we are doing this week is also very important, Mr. Speaker, and that is why, with all due respect, I tell my friends on the other side of the aisle that we have brought this important piece of legislation to the floor today with a rule that is fair, a rule that provides the minority party a substitute, the opportunity to bring forth any concerns they may have in the form of a substitute; and, in addition, to be doubly fair, we grant our friends on the other side of the aisle the opportunity to present a motion to recommit with any further and additional concerns they may have.

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So we are very fair this morning, Mr. Speaker. We are very proud of the legislation that we are bringing to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Speaker, let us talk about this child tax credit. When we began with the child tax credit, we were thinking about families. We were talking about families. We said in this difficult economic time, it is important for us to hold families together, to help those struggling, families which have to educate their children, provide child care, be good parents, sometimes both parents are working.

It is important to keep families together and to honor the fact that families want to be together and bring children up in a good environment.

But the Republicans proved something when they got to the child tax credit. It was not about all families and keeping all families together and working with all families, there were some families they did not care much about, those were poor families. They did not care if you were a waitress and you had to provide child care for your child and you had financial constraints, and you had to get them to the soccer game. They did not care if you were a maid or a janitor. They did not care if you were making minimum wage trying to afford an apartment so your children had a roof over their heads. They did not care about you, they cut you out. In the dark of the night, they cut you out.

But can Members imagine that they did not care about our men and women overseas in Iraq? They did not care about them either. They did not care about our military families. They said it is great, they are doing a great job. They are so brave, but they did not care about the children, they did not care about those families because they caught cut those families out of the child tax credit also.

So let us say, for example, that I am the wife who is staying home with the two kids while my husband is in Iraq. I have no problems, I have no financial constraints. They are over there, the President declared a victory on that aircraft carrier, but my husband is still in Iraq. By the way, every day someone is killed out there. It could be my husband; but I do not have any problems. I do not have any anxieties. The Republicans did not care about those families. I do not have to get my kids to soccer or worry about their education. I do not have to worry about additional child care or taking them over to my mom or something to take care of because my husband is not here. He is serving his country. He is keeping our freedoms safe. But the Republicans did not care about that kind of family.

Okay, we would anticipate that they would not care about poor families; but could we anticipate that they would not care about military families? I am sitting there as a wife, and I have got no problems. But somebody who makes $80,000 a year, they got the child tax credit, not me. Not my children, not my husband. And then they said oh, they got caught. People figured it out. So they put it back in, but not all of them. There are still military families cut out because they make too little money. But in order to put some of the families back, they put in more tax cuts for people who make $100,000 a year and $150,000 a year and $3 million a year, but not someone who makes $10,000 a year or someone who makes $14,000. Those families do not count.

Those children are not important enough.

Mr. Speaker, they have no problems. They have no financial anxiety. Remember why we wanted this child tax credit, to ensure that families could come together and work together and be together. That is why we wanted the child tax credit.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, precisely because we are concerned about and care about the majority of the workers of this country who happen to work for small businesses, that we want to create the possibility that they will be able to have health insurance just like those who work for large corporations have health insurance, so precisely to mention some of the people who were mentioned by my friend, the previous speaker, yes, we think if someone is a janitor or a maid or work in a restaurant or drive a truck or deliver packages, you should also have health insurance, and your employer should be able to pool its resources to acquire the leverage and the purchasing power that large corporations have when they get into the room to negotiate terms and conditions with the insurance companies. That is what we are trying to do today.

I am very pleased that this debate has given us the opportunity to point out to our colleagues and to the American people what precisely the hardworking Members who have brought forth this work product, this legislation today, are allowing the Congress to do for the American people. And that is the majority of workers in this country who work for small businesses should also have the right to have health insurance, should also have the right to have their employer have the purchasing power and the leverage and negotiating terms and conditions for health insurance for the workers of America that the large companies have.

So that is the essence of what we are doing this week with regard to what we did last week, which was to provide the low-income child tax credit and to also provide an increase in the child credit through the year 2010 and eliminate the marriage penalty in the child credit and accelerate the increase in the refundable child credit, provide tax relief and enhanced tax fairness for members of the Armed Forces, suspend the tax-exempt status of terrorist organizations, provide tax relief for the families of astronauts who die on space missions. We think it is important to do that, and that is what we did last week.

They have agreed to go to conference today on that important piece of legislation, but let us not focus on one important piece of legislation to the detriment of another important piece of legislation, which is the one we are bringing forth today, and that is let us allow small business to have the leverage, have the purchasing power to face health insurance like large companies can. That is what we are doing today. We are proud of it, and we want to get to a debate under a fair rule which provides the Democrats a substitute and a motion to recommit. That is what we are doing today.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge Members to vote no on the previous question. If the previous question is defeated, I will offer an amendment to the rule. My amendment will provide that immediately after the House passes the Small Business Health Fairness Act, it will take from the Speaker's table the Senate passed version of H.R. 1307, the Armed Forces Tax Fairness Act.

Additionally, my amendment will add to H.R. 1307 the text of H.R. 1308 as passed by the Senate, which restores the refundable child tax credit that was removed from the Republican tax bill. This will allow the House to combine these two Senate passed bills and immediately send them back to the Senate and then hopefully on to the White House for the President's signature. If this happens, we can begin helping America's low and modest income working families right away and we can give tax relief to those brave members of the military who are in combat overseas.

As my colleagues know, this is the seventh time we have tried to bring the child tax credit to the floor for a clean up or down vote. The reason we have continued to persevere is because this is so important to America's families, particularly those making at or near the minimum wage, families who struggle every day to get by. They have no one else to fight their battle for them. They cannot afford to hire expensive lobbyists, and they cannot afford to be a Bush pioneer. We are here for them and we will keep fighting for their voices to be heard.

Vote no on the previous question so we can finally consider these two Senate passed tax plans, tax plans which will help those most in need of relief. I would like to stress that a no vote will not stop us from considering the Small Business Health Fairness Act. However, a yes vote will once again, for the seventh time, block the House from having an opportunity to vote to restore the child tax credit that was unceremoniously stripped from the Republican reward-the-rich tax bill that was passed last month. Again, vote no on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment and extraneous materials be printed in the Record immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. Quinn). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we say vote yes. We say vote yes to allowing small businesses to have the leverage and purchasing power that large businesses have, to increase significantly the number of American workers, the majority of whom work for small businesses, who can have health insurance. We think the issue is that important that we should vote yes. Vote yes on the previous question, vote yes on the rule, and let us get to the underlying legislation, legislation which is as important as the legislation we passed last week.

The material previously referred to by Mr. Frost is as follows:

Previous Question for H. Res. 283—Rule on H.R. 660: Small Business Health Fairness Act of 2003

At the end of the resolution insert the following new section:

"Sec. 2. Immediately after disposition of the bill(H.R. 660), the House shall be considered to have taken from the Speaker's table the bill (H.R. 1307) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes, with the Senate amendment thereto, and a motion that the House concur in the Senate amendment with an amendment consisting of the text of the Senate amendment to the text of H.R. 1308 shall be considered as pending without intervention of any point of order. The senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion."

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 224, nays 198, not voting 12, as follows:

[Roll No. 289]

YEAS—224

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—198

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOT VOTING—12

Bartlett (MD)
Carson (IN)
Conyers
Gephardt
Grijalva
Hastings (FL)
Johnson (IL)
Lewis (GA)
Miller (MI)
Smith (NJ)
Smith (WA)
Weiner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN) (during the vote). Members are advised that 2 minutes remain on this vote.

□ 1133

Messrs. ABERCROMBIE, POMEROY, and DAVIS of Tennessee changed their vote from "yea" to "nay."

Mr. MORAN of Kansas changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. JOHNSON of Illinois. Mr. Speaker, on rollcall No. 289 I was inadvertently detained. Had I been present, I would have voted "yea.".

The SPEAKER pro tempore (Mr. QUINN). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 224, noes 199, not voting 11, as follows:

[Roll No. 290]

AYES—224

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—199

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)

Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Bartlett (MD)
Carson (IN)
Conyers
Gephardt
Hastings (FL)
Hunter
Lewis (GA)
Miller (MI)
Smith (NJ)
Smith (WA)
Weiner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1140

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2003

The SPEAKER pro tempore. Pursuant to the order of the House of Wednesday, June 18, 2003, proceedings will now resume on the bill (H.R. 1528) to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service.

The Clerk read the title of the bill.

The SPEAKER pro tempore. When proceedings were postponed on that day, all time for debate on the bill had expired.

Mr. PORTMAN. Mr. Speaker, the legislation before the Committee contains important improvements in taxpayer rights and IRS accountability. This bill is very similar to legislation approved by the House twice in 2002.

Practically all the taxpayer provisions in the bill are based on recommendations by the Joint Committee on Taxation, the Treasury Department, the IRS, the National Taxpayer Advocate, and on hearings held by the Ways and Means Subcommittee on Oversight during the past several years.

The provisions also are consistent with, and in some cases are a refinement of, the IRS Restructuring and Reform Act of 1998 that enacted important taxpayer protections and reforms of the IRS.

Just to mention some of the provisions in the bill before us today:

1. It encourages greater use of the more efficient electronic filing by taxpayers.

2. It authorizes more support for Low Income Taxpayer Clinics to help provide legal assistance to more low-income citizens involved in disputes with the IRS.

3. It ensures that taxpayers receive the confidentiality they deserve, by reforming the punishment for code of conduct violations by IRS employees, and providing for dismissal of IRS staff who browse tax records without authorization.

4. It adjusts the so-called "ten deadly sins" in other ways to give the Commissioner more discretion.

5. It reforms penalty and interest provisions by raising the safe harbor for failure to pay estimated taxes and allowing taxpayers to enter into installment agreements for less than the full amount of their tax liability, and it includes many other pro-taxpayer provisions.

The bill has a small revenue impact. The Joint Committee on Taxation estimates that it will raise $607 million over 5 years and lose $352 million over 10 years.

Our colleagues, Oversight Subcommittee Chairman AMO HOUGHTON and ranking member EARL POMEROY played key roles in constructing this legislation and we appreciate their efforts.

One new provision allows individuals greater access to the healthcare tax credit previously adopted as part of the Trade Act. Individuals would be permitted to waive certain requirements in TAA and thus receive coverage under state based healthcare plans. This is a short transition measure, effective for less than two years, and will increase the availability of qualified health insurance for individuals who would otherwise not have access to such coverage.

Another new provision would extend the joint House-Senate review of the Internal Revenue Service.

Let me provide some details on this provision, as it was not considered in the Ways and Means Committee. This legislation would reauthorization for 5 additional years, the annual joint review of the strategic plans and budget of the IRS. Unlike other federal agencies, the IRS is subject to oversight by six committees of Congress and the Joint Committee on Taxation. The National Commission on Restructuring the IRS, that I co-chaired, recognized that the IRS would be better managed if the committees that share primary jurisdiction over the IRS budget and IRS administration coordinated their efforts. The Joint Review grew out of a recommendation by the National Commission.

While the Joint Review has met the objective of coordinating Congressional oversight of the IRS, the original legislation imposed a burden on the Joint Committee on Taxation to report on every aspect of the IRS's budget and strategic plans on an annual basis, even when the Joint Review hearing has focused on a more narrow set of issues. The reauthorizing language that is included in this legislation therefore allows the JCT to confine its annual report to the issues addressed at the annual Joint Review hearing. It is anticipated that the topics to be addressed at the Joint Review will be decided well in advance of the annual hearing by the JCT Chairman, in consultation with the staff of the JCT and the six participating committees.

I believe it is important to continue the joint review, and this provision will increase the focus on key areas of the IRS that need attention by the relevant committees of Congress.

In summary, Mr. Speaker, this is a good bill. I urge my colleagues to support this legislation that promotes common sense solutions to some of the most frustrating and time-consuming aspects of our tax system.

Mr. BACA. Mr. Speaker, I rise in opposition to H.R. 1528—the Taxpayer Protection and IRS Accountability Act. This bill contains an amendment that will hurt the thousands of workers entitled to the health benefits under the Trade Adjustment Assistance Act. These benefits were created so that workers who lost their jobs to overseas labor could have access to healthcare.

But instead making sure that American workers are protected or that our working families are protected, Republicans are cutting those few benefits workers have to help them during times of unemployment. Don't they care about the hardworking Americans? Why are Republicans passing tax cuts for the wealthy and cutting benefits that help those that need it most?

One of the most devastating effects of job loss is the loss of health care coverage. These health credits pay 65 percent of the cost of health care premiums for unemployed workers. The McCrery amendment allows workers to keep these health credits, but only if they surrender all consumer protections. This is wrong! Workers need consumer protections because the health credits are useless otherwise.

What about the middle-aged welder with a heart condition who will be deemed uninsurable because he has a "pre-existing" condition?

What about the engineer who will have to pay twice as much for his health insurance?

What about the foreman whose routine illness is no longer covered?

This is part of the Republican plan to leave American workers behind. American workers deserve better. They deserve to have jobs available here in America and they deserve access to healthcare.

Mr. Speaker, I urge my colleagues to please join me in opposing this bill unless the McCrery amendment is taken out.

Mr. MOORE. Mr. Speaker, I rise in opposition to H.R. 1528 and in support of the Democratic substitute.

I strongly support the underlying purpose of this bill—protecting taxpayers and increasing the fairness, efficiency and confidentiality of our tax system. I intended to vote in favor of this bill. Unfortunately, the majority party has attached an unrelated provision to this bill that will make it more difficult for thousands of working Americans to obtain health coverage.

Mr. Speaker, under the Trade Adjustment Assistance (TAA) program, workers who lose their jobs as a result of competition from foreign trade can receive a tax credit for 65 percent of health insurance premiums for the taxpayer and his or her family. The TAA program also contains consumer protections designed to ensure that everyone eligible for the tax credit can actually claim it, regardless of age or health status. Like many of my colleagues, I have supported free trade legislation in part because of the protections the TAA program provides for workers who are adversely affected by foreign trade.

Now the majority party is seeking to repeal TAA protections in the name of "consumer choice." In reality, the controversial consumer choice provisions of H.R. 1528 will allow individuals to waive TAA consumer protections, which will, in turn, give insurers the leverage necessary to "cherry pick" healthy workers while excluding those most in need of care. Only young and healthy workers are likely to take advantage of this provision. The end result will be that older workers and workers with health problems will be left without any options for affordable health coverage. Further, this provision will undermine efforts currently under way in many states to negotiate health coverage for thousands of TAA-eligible workers.

I am truly saddened that the majority party has inserted this extraneous provision in a good and otherwise non-controversial bill. The health care protections included in the TAA program were formulated through months of bipartisan negotiation and compromise. In a single partisan act, the majority party has reneged on its promises and placed the health coverage of thousands of our most vulnerable families in jeopardy.

Mr. Speaker, I support the underlying purpose of this bill. In addition to reforming the penalty and interest sections of the Internal Revenue Code, the bill also provides new safeguards against unfair IRS collection procedures and improves the efficiency of tax administration. More specifically, the bill will grant a first-time penalty waiver to individual taxpayers in cases where minor negligence results in liability that is disproportionate and unreasonable. This legislation will also enhance the efficiency of the tax system by allowing electronic filers until April 30th to file their individual income tax returns. Additionally, the legislation will protect taxpayer confidentiality by limiting IRS inspection of tax return preparers and allowing taxpayers to consult with the National Taxpayer Advocate on a confidential basis.

Mr. Speaker, I urge my colleagues to support the substitute which contains the taxpayer protections of the base bill while preserving TAA consumer protections for working Americans.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MC DERMOTT

Mr. McDERMOTT. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. Is the gentleman the designee of the gentleman from New York (Mr. RANGEL)?

Mr. McDERMOTT. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. McDERMOTT:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer and Fairness Protection Act of 2003".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.

TITLE I—ELIMINATION OF ABUSIVE TAX STRATEGIES

Sec. 101. Findings and purpose.

Subtitle A—Tax Shelters

PART I—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

Sec. 111. Clarification of economic substance doctrine.
Sec. 112. Penalty for failing to disclose reportable transaction.
Sec. 113. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 114. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 115. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 116. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 117. Disclosure of reportable transactions.
Sec. 118. Modifications to penalty for failure to register tax shelters.
Sec. 119. Modification of penalty for failure to maintain lists of investors.
Sec. 120. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 121. Understatement of taxpayer's liability by income tax return preparer.
Sec. 122. Penalty on failure to report interests in foreign financial accounts.
Sec. 123. Frivolous tax submissions.
Sec. 124. Regulation of individuals practicing before the Department of Treasury.
Sec. 125. Penalty on promoters of tax shelters.
Sec. 126. Statute of limitations for taxable years for which listed transactions not reported.
Sec. 127. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.

PART II—OTHER PROVISIONS

Sec. 131. Limitation on transfer or importation of built-in losses.
Sec. 132. Disallowance of certain partnership loss transfers.
Sec. 133. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 134. Repeal of special rules for FASITS.
Sec. 135. Expanded disallowance of deduction for interest on convertible debt.
Sec. 136. Expanded authority to disallow tax benefits under section 269.
Sec. 137. Modifications of certain rules relating to controlled foreign corporations.
Sec. 138. Basis for determining loss always reduced by nontaxed portion of dividends.
Sec. 139. Affirmation of consolidated return regulation authority.

Subtitle B—Prevention of corporate expatriation to avoid United States income tax

Sec. 151. Prevention of corporate expatriation to avoid United States income tax.

TITLE II—SIMPLIFICATION OF EARNED INCOME TAX CREDIT

Sec. 201. Simplification of earned income tax credit.
Sec. 202. Profiling of earned income tax credit beneficiaries.

TITLE III—TAXPAYER PROTECTIONS AND IRS ACCOUNTABILITY

Subtitle A—Penalty and Interest Reforms

Sec. 301. Failure to pay estimated tax penalty converted to interest charge on accumulated unpaid balance.
Sec. 302. Abatement of interest.
Sec. 303. Deposits made to suspend running of interest on potential underpayments.
Sec. 304. Expansion of interest netting for individuals.
Sec. 305. Waiver of certain penalties for first-time unintentional minor errors.
Sec. 306. Frivolous tax submissions.
Sec. 307. Clarification of application of Federal tax deposit penalty.

Subtitle B—Fairness of Collection Procedures

Sec. 311. Partial payment of tax liability in installment agreements.
Sec. 312. Extension of time for return of property.
Sec. 313. Individuals held harmless on wrongful levy, etc., on individual retirement plan.
Sec. 314. Seven-day threshold on tolling of statute of limitations during tax review.
Sec. 315. Study of liens and levies.

Subtitle C—Tax Administration Reforms

Sec. 331. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.
Sec. 332. Confirmation of authority of tax court to apply doctrine of equitable recoupment.

Sec. 333. Jurisdiction of Tax Court over collection due process cases.
Sec. 334. Office of Chief Counsel review of offers in compromise.
Sec. 335. Access of National Taxpayer Advocate to independent legal counsel.
Sec. 336. Payment of motor fuel excise tax refunds by direct deposit.
Sec. 337. Family business tax simplification.
Sec. 338. Suspension of tax-exempt status of terrorist organizations.
Sec. 339. Tax refund anticipation loans.
Sec. 340. Fairness in tax audit coverage.

Subtitle D—Confidentiality and Disclosure

Sec. 341. Collection activities with respect to joint return disclosable to either spouse based on oral request.
Sec. 342. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
Sec. 343. Disclosure in judicial or administrative tax proceedings of return and return information of persons who are not party to such proceedings.
Sec. 344. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.
Sec. 345. Compliance by contractors with confidentiality safeguards.
Sec. 346. Higher standards for requests for and consents to disclosure.
Sec. 347. Notice to taxpayer concerning administrative determination of browsing; annual report.
Sec. 348. Expanded disclosure in emergency circumstances.
Sec. 349. Disclosure of taxpayer identity for tax refund purposes.
Sec. 350. Disclosure to State officials of proposed actions related to section 501(c)(3) organizations.
Sec. 351. Confidentiality of taxpayer communications with the Office of the Taxpayer Advocate.

Subtitle E—Miscellaneous

Sec. 361. Clarification of definition of church tax inquiry.
Sec. 362. Expansion of declaratory judgment remedy to tax-exempt organizations.
Sec. 363. Employee misconduct report to include summary of complaints by category.
Sec. 364. Annual report on awards of costs and certain fees in administrative and court proceedings.
Sec. 365. Annual report on abatement of penalties.
Sec. 366. Better means of communicating with taxpayers.
Sec. 367. Explanation of statute of limitations and consequences of failure to file.
Sec. 368. Amendment to Treasury auction reforms.
Sec. 369. Enrolled agents.
Sec. 370. Financial management service fees.
Sec. 371. Extension of Internal Revenue Service user fees.

Subtitle F—Low-Income Taxpayer Clinics

Sec. 381. Low-income taxpayer clinics.
Sec. 382. Matching grants to low income return preparation clinics.

TITLE IV—CHILD TAX CREDIT

Sec. 401. Acceleration of increase in refundability of the child tax credit.
Sec. 402. Reduction in marriage penalty in child tax credit.
Sec. 403. Application of EGTRRA sunset to this section.

TITLE V—UNIFORM DEFINITION OF CHILD

Sec. 501. Uniform definition of child, etc.
Sec. 502. Modifications of definition of head of household.
Sec. 503. Modifications of dependent care credit.
Sec. 504. Modifications of child tax credit.
Sec. 505. Modifications of earned income credit.
Sec. 506. Modifications of deduction for personal exemption for dependents.
Sec. 507. Technical and conforming amendments.
Sec. 508. Effective date.

TITLE VI—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

Sec. 601. Exclusion of gain from sale of a principal residence by a member of the Uniformed Services or the Foreign Service.
Sec. 602. Exclusion from gross income of certain death gratuity payments.
Sec. 603. Exclusion for amounts received under Department of Defense homeowners assistance program.
Sec. 604. Expansion of combat zone filing rules to contingency operations.
Sec. 605. Modification of membership requirement for exemption from tax for certain veterans' organizations.
Sec. 606. Clarification of the treatment of certain dependent care assistance programs.
Sec. 607. Clarification relating to exception from additional tax on certain distributions from qualified tuition programs, etc. on account of attendance at military academy.
Sec. 608. Suspension of tax-exempt status of terrorist organizations.
Sec. 609. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.
Sec. 610. Tax relief and assistance for families of Space Shuttle Columbia heroes.

TITLE VII—OTHER PROVISIONS

Sec. 701. Revision of tax rules on expatriation.
Sec. 702. Extension of Customs user fees.

TITLE I—ELIMINATION OF ABUSIVE TAX STRATEGIES

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that:

(1) Many corporate tax shelter transactions are complicated ways of accomplishing nothing aside from claimed tax benefits, and the legal opinions justifying those transactions take an inappropriately narrow and restrictive view of well-developed court doctrines under which—

(A) the taxation of a transaction is determined in accordance with its substance and not merely its form,

(B) transactions which have no significant effect on the taxpayer's economic or beneficial interests except for tax benefits are treated as sham transactions and disregarded,

(C) transactions involving multiple steps are collapsed when those steps have no substantial economic meaning and are merely designed to create tax benefits,

(D) transactions with no business purpose are not given effect, and

(E) in the absence of a specific congressional authorization, it is presumed that Congress did not intend a transaction to result in a negative tax where the taxpayer's economic position or rate of return is better after tax than before tax.

(2) Permitting aggressive and abusive tax shelters not only results in large revenue losses but also undermines voluntary compliance with the Internal Revenue Code of 1986.

(b) PURPOSE.—The purpose of this title is to eliminate abusive tax shelters by denying tax attributes claimed to arise from transactions that do not meet a heightened economic substance requirement and by repealing the provision that permits legal opinions to be used to avoid penalties on tax underpayments resulting from transactions without significant economic substance or business purpose.

Subtitle A—Tax Shelters

Part I—Provisions Designed to Curtail Tax Shelters

SEC. 111. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there is any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) SUBSTANTIAL NONTAX PURPOSE.—In applying subclause (II) of paragraph (1)(B)(i), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(D) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(E) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 112. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title."

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 113. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) Reportable Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) Items to which section applies.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) Higher Penalty for Nondisclosed Listed and Other Avoidance Transactions.—

"(1) In general.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) Rules applicable to compromise of penalty.—

"(A) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) Applicable rules.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) Definitions of Reportable and Listed Transactions.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) Special Rules.—

"(1) Coordination with penalties, etc., on other understatements.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) Coordination with other penalties.—

"(A) Application of fraud penalty.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) No double penalty.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) Special rule for amended returns.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) Noneconomic substance transaction understatement.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) Cross reference.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e)."

(b) Determination of Other Understatements.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B."

(c) Reasonable Cause Exception.—

(1) In general.—Section 6664 is amended by adding at the end the following new subsection:

"(d) Reasonable Cause Exception for Reportable Transaction Understatements.—

"(1) In general.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) Special rules.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) Rules relating to reasonable belief.—For purposes of paragraph (2)(C)—

"(A) In general.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) Certain opinions may not be relied upon.—

"(i) In general.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) Disqualified tax advisors.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

"(iii) Disqualified opinions.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe."

(2) Conforming amendment.—The heading for subsection (c) of section 6664 is amended by inserting "for Underpayments" after "Exception".

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) Tax shelter.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax."

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS."

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 114. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed tax benefit or the transaction was not respected under section 7701(m)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e)."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 115. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000."

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 116. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 117. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section."

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions."

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction."

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees."

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS."

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions."

(c) Effective Date.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 118. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) In General.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) In General.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) Listed transactions.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) Rescission Authority.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

"(d) Reportable and Listed Transactions.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) Clerical Amendment.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 119. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) In General.—Subsection (a) of section 6708 is amended to read as follows:

"(a) Imposition of Penalty.—

"(1) In general.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) Reasonable cause exception.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause."

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 120. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) In General.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Authority To Seek Injunction.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) Adjudication and Decree.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) Specified Conduct.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708."

(b) Conforming Amendments.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS."

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions."

(c) Effective Date.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 121. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) Standards Conformed to Taxpayer Standards.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "Unrealistic" in the heading and inserting "Improper".

(b) Amount of Penalty.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 122. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) Foreign financial agency transaction violation.—

"(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) Amount of penalty.—

"(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) Amount.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation."

(b) Effective Date.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 123. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law."

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A)."

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 124. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion."

SEC. 125. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 126. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

"(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 127. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c))."

(b) Effective Date.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

Part II—Other Provisions

SEC. 131. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) In General.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) Limitations on Built-In Losses.—

"(1) Limitation on importation of built-in losses.—

"(A) In general.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) Property described.—For purposes of subparagraph (A), property is described in this paragraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) Importation of net built-in loss.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction."

"(2) Limitation on transfer of built-in losses in section 351 transactions.—

"(A) In general.—If—

"(i) property is transferred in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of the property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) Allocation of basis reduction.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) Exception for transfers within affiliated group.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer."

(b) Comparable Treatment Where Liquidation.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) In general.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation."

(c) Effective Date.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 132. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS TRANSFERS.

(a) Treatment of Contributed Property With Built-In Loss.—Paragraph (1) of section 704(c) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following:

"(C) if any property so contributed has a built-in loss—

"(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

"(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value immediately after the contribution."

(b) Adjustment to Basis of Partnership Property on Transfer of Partnership Interest if There Is Substantial Built-In Loss.—

(1) Adjustment required.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period "or unless the partnership has a substantial built-in loss immediately after such transfer".

(2) Adjustment.—Subsection (b) of section 743 is amended by inserting "or with respect to which there is a substantial built-in loss immediately after such transfer" after "section 754 is in effect".

(3) Substantial built-in loss.—Section 743 is amended by adding at the end the following new subsection:

"(d) Substantial Built-In Loss.—

"(1) In general.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds by more than $250,000 the basis of such partner's interest in the partnership.

"(2) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of paragraph (1) and section 734(d), including regulations aggregating related partnerships and disregarding property acquired by the partnership in an attempt to avoid such purposes."

(4) Clerical amendments.—

(A) The section heading for section 743 is amended to read as follows:

"SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS."

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

"Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss."

(c) Adjustment to Basis of Undistributed Partnership Property if There Is Substantial Basis Reduction.—

(1) Adjustment required.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period "or unless there is a substantial basis reduction".

(2) Adjustment.—Subsection (b) of section 734 is amended by inserting "or unless there is a substantial basis reduction" after "section 754 is in effect".

(3) Substantial basis reduction.—Section 734 is amended by adding at the end the following new subsection:

"(d) Substantial Basis Reduction.—

"(1) In general.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds $250,000.

"(2) Regulations.—

"For regulations to carry out this subsection, see section 743(d)(2)."

(4) Clerical amendments.—

(A) The section heading for section 734 is amended to read as follows:

"SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION."

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

"Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction."

(d) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to distributions after the date of the enactment of this Act.

SEC. 133. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

"(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 134. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding "and" at the end of clause (ix), by striking ", and" at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 135. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) is amended by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 136. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) IN GENERAL.—If—

"(1)(A) any person acquires stock in a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 137. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period."

(b) DETERMINATION OF PRO RATA SHARE OF SUBPART F INCOME.—Subsection (a) of section 951 (relating to amounts included in gross income of United States shareholders) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR DETERMINING PRO RATA SHARE OF SUBPART F INCOME.—The pro rata share under paragraph (2) shall be determined by disregarding—

"(A) any rights lacking substantial economic effect, and

"(B) stock owned by a shareholder who is a tax-indifferent party (as defined in section 7701(m)(3)) if the amount which would (but for this paragraph) be allocated to such shareholder does not reflect such shareholder's economic share of the earnings and profits of the corporation."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

SEC. 138. BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.

(a) IN GENERAL.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.—The basis of stock in a corporation (for purposes of determining loss) shall be reduced by the nontaxed portion of any dividend received with respect to such stock if this section does not otherwise apply to such dividend."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dividends received after the date of the enactment of this Act.

SEC. 139. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns."

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

Subtitle B—Prevention of Corporate Expatriation to Avoid United States Income Tax

SEC. 151. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) DOMESTIC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

"(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) Partnership transactions.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) Special rules.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) Other definitions.—For purposes of this subparagraph—

"(I) Nominally foreign corporation.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

"(III) Related foreign partnership.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename."

(b) Effective Dates.—

(1) In general.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) Special rule.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

TITLE II—SIMPLIFICATION OF EARNED INCOME TAX CREDIT

SEC. 201. SIMPLIFICATION OF EARNED INCOME TAX CREDIT.

(a) Repeal of Denial of Credit Where Investment Income.—Section 32 is amended by striking subsection (i).

(b) Earned Income To Include Only Amounts Includible in Gross Income.—Section 32(c)(2)(B) is amended by striking "and" at the end of clause (iv), by striking the period at the end of clause (v) and inserting ", and", and by adding at the end the following new clause:

"(vi) the requirement under subparagraph (A)(i) that an amount be includible in gross income shall not apply if such amount is exempt from tax under section 7873 or is derived directly from restricted and allotted land under the Act of February 8, 1887 (commonly known as the Indian General Allotment Act) (25 U.S.C. 331 et seq.) or from land held under Acts or treaties containing an exception provision similar to the Indian General Allotment Act."

(c) Modification of Joint Return Requirement.—Subsection (d) of section 32 is amended to read as follows:

"(d) Married Individuals.—

"(1) In general.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

"(2) Marital status.—For purposes of paragraph (1), an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(3) Certain married individuals living apart.—For purposes of paragraph (1), if—

"(A) an individual —

"(i) is married and files a separate return, and

"(ii) has a qualifying child who is a son, daughter, stepson, or stepdaughter of such individual, and

"(B) during the last 6 months of such taxable year, such individual and such individual's spouse do not have the same principal place of abode,

such individual shall not be considered as married."

(d) Expansion of Mathematical Error Authority.—Paragraph (2) of section 6213(g) is amended by striking "and" at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting ", and", and by inserting after subparagraph (L) the following new subparagraph:

"(M) the entry on the return claiming the credit under section 32 with respect to a child if, according to the Federal Case Registry of Child Support Orders established under section 453(h) of the Social Security Act, the taxpayer is a noncustodial parent of such child."

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 202. PROFILING OF EARNED INCOME TAX CREDIT BENEFICIARIES.

(a) Findings.—The Congress hereby finds that:

(1) Current law authorizes the Internal Revenue Service to impose additional earned income tax credit eligibility requirements, such as the current recertification program, only in cases in which a taxpayer has made prior improper claims of the earned income tax credit.

(2) The Internal Revenue Service is planning to implement an earned income tax credit precertification program that differs from what is authorized under current law in that it would apply to taxpayers who fall within broad categories even though they made no prior improper claims for the credit.

(3) There is no precedent in the Internal Revenue Code of 1986 for denying or delaying a tax refund that is apparently properly claimed on a tax return merely because the taxpayer meets a certain profile.

(4) The proposed earned income tax credit precertification program is an affront to our sense of fairness because compliant taxpayers are treated differently solely by reason of differing family structures or relationships and solely by reason of the fact that they are claiming a tax benefit designed to assist the working poor.

(5) No other family-related tax benefit, such as the dependency exemption or child tax credit, is subject to such a precertification requirement; and there is no such precertification requirement for abusive tax shelters purchased by corporations or for tax benefits claimed by higher income individuals.

(b) Proposed EITC Profiling Not Permitted.—The Internal Revenue Service shall not implement any system of precertification for the earned income tax credit that applies to taxpayers who have not made prior improper claims unless such a system is hereafter specifically authorized by law.

TITLE III—TAXPAYER PROTECTIONS AND IRS ACCOUNTABILITY

Subtitle A—Penalty and Interest Reforms

SEC. 301. FAILURE TO PAY ESTIMATED TAX PENALTY CONVERTED TO INTEREST CHARGE ON ACCUMULATED UNPAID BALANCE.

(a) Penalty Moved to Interest Chapter of Code.—The Internal Revenue Code of 1986 is amended by redesignating section 6654 as section 6641 and by moving section 6641 (as so redesignated) from part I of subchapter A of chapter 68 to the end of subchapter E of chapter 67 (as added by subsection (e)(1) of this section).

(b) Penalty Converted to Interest Charge.—The heading and subsections (a) and (b) of section 6641 (as so redesignated) are amended to read as follows:

"SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

"(a) In General.—Interest shall be paid on any underpayment of estimated tax by an individual for a taxable year for each day of such underpayment. The amount of such interest for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

"(b) Amount of Underpayment; Interest Rate.—For purposes of subsection (a)—

"(1) Amount.—The amount of the underpayment on any day shall be the excess of—

"(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

"(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

"(2) Determination of interest rate.—

"(A) In general.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

"(B) Installment underpayment period.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

"(C) Daily rate.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

"(3) Termination of estimated tax interest.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.".

(c) Increase in Safe Harbor Where Tax is Small.—

(1) In general.—Clause (i) of section 6641(d)(1)(B) (as so redesignated) is amended to read as follows:

"(i) the lesser of—

"(I) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

"(II) the tax shown on the return for the taxable year (or, if no return is filed, the tax for such year) reduced (but not below zero) by $1,600, or".

(2) Conforming amendment.—Subsection (e) of section 6641 (as so redesignated) is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(d) Conforming Amendments.—

(1) Paragraphs (1) and (2) of subsection (e) (as redesignated by subsection (c)(2)) and subsection (h) of section 6641 (as so designated) are each amended by striking "addition to tax" each place it occurs and inserting "interest".

(2) Section 167(g)(5)(D) is amended by striking "6654" and inserting "6641".

(3) Section 460(b)(1) is amended by striking "6654" and inserting "6641".

(4) Section 3510(b) is amended—

(A) by striking "section 6654" in paragraph (1) and inserting "section 6641";

(B) by amending paragraph (2)(B) to read as follows:

"(B) no interest would be required to be paid (but for this section) under 6641 for such taxable year by reason of the $1,600 amount specified in section 6641(d)(1)(B)(i)(II).";

(C) by striking "section 6654(d)(2)" in paragraph (3) and inserting "section 6641(d)(2)"; and

(D) by striking paragraph (4).

(5) Section 6201(b)(1) is amended by striking "6654" and inserting "6641".

(6) Section 6601(h) is amended by striking "6654" and inserting "6641".

(7) Section 6621(b)(2)(B) is amended by striking "addition to tax under section 6654" and inserting "interest required to be paid under section 6641".

(8) Section 6622(b) is amended—

(A) by striking "Penalty for" in the heading; and

(B) by striking "addition to tax under section 6654 or 6655" and inserting "interest required to be paid under section 6641 or addition to tax under section 6655".

(9) Section 6658(a) is amended—

(A) by striking "6654, or 6655" and inserting "or 6655, and no interest shall be required to be paid under section 6641,"; and

(B) by inserting "or paying interest" after "the tax" in paragraph (2)(B)(ii).

(10) Section 6665(b) is amended—

(A) in the matter preceding paragraph (1) by striking ", 6654,"; and

(B) in paragraph (2) by striking "6654 or".

(11) Section 7203 is amended by striking "section 6654 or 6655" and inserting "section 6655 or interest required to be paid under section 6641".

(e) Clerical Amendments.—

(1) Chapter 67 is amended by inserting after subchapter D the following:

"Subchapter E—Interest on Failure by Individual to Pay Estimated Income Tax

"Sec. 6641. Interest on failure by individual to pay estimated income tax.".

(2) The table of subchapters for chapter 67 is amended by adding at the end the following new items:

"Subchapter D. Notice requirements.
"Subchapter E. Interest on failure by individual to pay estimated income tax.".

(3) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6654.

(f) Effective Date.—The amendments made by this section shall apply to installment payments for taxable years beginning after December 31, 2003.

SEC. 302. ABATEMENT OF INTEREST.

(a) Abatement of Interest With Respect to Erroneous Refund Check Without Regard to Size of Refund.—Paragraph (2) of section 6404(e) is amended by striking "unless—" and all that follows and inserting "unless the taxpayer (or a related party) has in any way caused such erroneous refund.".

(b) Abatement of Interest to Extent Interest is Attributable to Taxpayer Reliance on Written Statements of the IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking "Penalty or Addition" and inserting "Interest, Penalty, or Addition"; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".

(c) Effective Date.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 303. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) In General.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) Authority To Make Deposits Other Than As Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) Payment of Interest.—

"(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) Disputable tax.—

"(A) In general.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) Safe harbor based on 30-day letter.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) Other definitions.—For purposes of paragraph (2)—

"(A) Disputable item.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-day letter.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) Rate of interest.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) Use of Deposits.—

"(1) Payment of tax.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(B) Returns of deposits.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) Coordination with deposits made under Revenue Procedure 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 304. EXPANSION OF INTEREST NETTING FOR INDIVIDUALS.

(a) In General.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply in the case of an individual.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to interest accrued after December 31, 2003.

SEC. 305. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME UNINTENTIONAL MINOR ERRORS.

(a) In General.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(i) Treatment of First-Time Unintentional Minor Errors.—

"(1) In general.—In the case of a return of tax imposed by subtitle A filed by an individual, the Secretary may waive an addition to tax under subsection (a) if—

"(A) the individual has a history of compliance with the requirements of this title,

"(B) it is shown that the failure is due to an unintentional minor error, "(C) the penalty would be grossly disproportionate to the action or expense that would have been needed to avoid the error, and imposing the penalty would be against equity and good conscience,

"(D) waiving the penalty would promote compliance with the requirements of this title and effective tax administration, and

"(E) the taxpayer took all reasonable steps to remedy the error promptly after discovering it.

"(2) Exceptions.—Paragraph (1) shall not apply if—

"(A) the Secretary has waived any addition to tax under this subsection with respect to any prior failure by such individual,

"(B) the failure is a mathematical or clerical error (as defined in section 6213(g)(2)), or

"(C) the failure is the lack of a required signature.".

(b) Effective Date.—The amendment made by this section shall take effect on January 1, 2004.

SEC. 306. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of Penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission is based on a position which the Secretary has identified as frivolous under subsection (c).

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 7811 (relating to taxpayer assistance orders),

"(II) section 6159 (relating to agreements for payment of tax liability in installments), or

"(III) section 7122 (relating to compromises).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(c) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 307. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

Subtitle B—Fairness of Collection Procedures

SEC. 311. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) In General.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) Requirement To Review Partial Payment Agreements Every Two Years.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

"(d) Secretary Required To Review Installment Agreements for Partial Collection Every Two Years.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 312. EXTENSION OF TIME FOR RETURN OF PROPERTY.

(a) Extension of Time for Return of Property Subject to Levy.—Subsection (b) of section 6343 (relating to return of property) is amended by striking "9 months" and inserting "2 years".

(b) Period of Limitation on Suits.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking "9 months" and inserting "2 years", and

(2) in paragraph (2) by striking "9-month" and inserting "2-year".

(c) Effective Date.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 313. INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC., ON INDIVIDUAL RETIREMENT PLAN.

(a) In General.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(f) Individuals Held Harmless on Wrongful Levy, etc. on Individual Retirement Plan.—

"(1) In general.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies, an amount equal to the sum of—

"(A) the amount of money returned by the Secretary on account of such levy, and

"(B) interest paid under subsection (c) on such amount of money,

may be deposited into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

"(2) Treatment as rollover.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

"(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

"(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

"(C) such deposit shall not be taken into account under section 408(d)(3)(B).

"(3) Refund, etc., of income tax on levy.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

"(4) Interest.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.".

(b) Effective Date.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2003.

SEC. 314. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING TAX REVIEW.

(a) In General.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after "application," the following: "but only if the date of such decision is at least 7 days after the date of the taxpayer's application".

(b) Effective Date.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 315. STUDY OF LIENS AND LEVIES.

The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the practices of the Internal Revenue Service concerning liens and levies. The study shall examine—

(1) the declining use of liens and levies by the Internal Revenue Service, and

(2) the practicality of recording liens and levying against property in cases in which the cost of such actions exceeds the amount to be realized from such property.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

Subtitle C—Tax Administration Reforms

SEC. 331. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

(a) In General.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

"SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.

"(a) Disciplinary Actions.—

"(1) In general.—Subject to subsection (c), the Commissioner shall take an action in accordance with the guidelines established under paragraph (2) against any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties or where a nexus to the employee's position exists.

"(2) Guidelines.—The Commissioner shall issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for committing any act or omission described under subsection (b).

"(b) Acts or Omissions.—The acts or omissions described under this subsection are—

"(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

"(2) willfully providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

"(3) with respect to a taxpayer or taxpayer representative, the willful violation of—

"(A) any right under the Constitution of the United States;

"(B) any civil right established under—

"(i) title VI or VII of the Civil Rights Act of 1964;

"(ii) title IX of the Education Amendments of 1972;

"(iii) the Age Discrimination in Employment Act of 1967;

"(iv) the Age Discrimination Act of 1975;

"(v) section 501 or 504 of the Rehabilitation Act of 1973; or

"(vi) title I of the Americans with Disabilities Act of 1990; or

"(C) the Internal Revenue Service policy on unauthorized inspection of returns or return information;

"(4) willfully falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

"(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery;

"(6) willful violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative;

"(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry;

"(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect;

"(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect; and

"(10) threatening to audit a taxpayer, or to take other action under this title, for the purpose of extracting personal gain or benefit.

"(c) Determinations of Commissioner.—

"(1) In general.—The Commissioner may take a personnel action other than a disciplinary action provided for in the guidelines under subsection (a)(2) for an act or omission described under subsection (b).

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his sole discretion, may establish a procedure to determine if an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

"(3) No appeal.—Notwithstanding any other provision of law, any determination of the Commissioner under this subsection may not be reviewed in any administrative or judicial proceeding. A finding that an act or omission described under subsection (b) occurred may be reviewed.

"(d) Definition.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

"(e) Annual Report.—The Commissioner shall submit to Congress annually a report on disciplinary actions under this section.".

(b) Clerical Amendment.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

"Sec. 7804A. Disciplinary actions for misconduct.".

(c) Repeal of Superseded Section.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 332. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) Confirmation of Authority of Tax Court To Apply Doctrine of Equitable Recoupment.—Subsection (b) of section 6214 (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

(b) Effective Date.—The amendments made by this section shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 333. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) In General.—Section 6330(d)(1) (relating to judicial review of determination) is amended to read as follows:

"(1) Judicial review of determination.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to judicial appeals filed after the date of the enactment of this Act.

SEC. 334. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

(a) In General.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) Conforming Amendments.—Section 7122(b) is amended by striking the second and third sentences.

(c) Effective Date.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 335. ACCESS OF NATIONAL TAXPAYER ADVOCATE TO INDEPENDENT LEGAL COUNSEL.

Clause (i) of section 7803(c)(2)(D) (relating to personnel actions) is amended by striking "and" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", and", and by adding at the end the following new subclause:

"(III) appoint a counsel in the Office of the Taxpayer Advocate to report solely to the National Taxpayer Advocate.".

SEC. 336. PAYMENT OF MOTOR FUEL EXCISE TAX REFUNDS BY DIRECT DEPOSIT.

(a) In General.—Subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 3337. Payment of motor fuel excise tax refunds by direct deposit

"The Secretary of the Treasury shall make payments under sections 6420, 6421, and 6427 of the Internal Revenue Code of 1986 by electronic funds transfer (as defined in section 3332(j)(1)) if the person who is entitled to the payment—

"(1) elects to receive the payment by electronic funds transfer; and

"(2) satisfies the requirements of section 3332(g) with respect to such payment at such time and in such manner as the Secretary may require.".

(b) Clerical Amendment.—The table of sections for subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end the following new item:

"3337. Payment of motor fuel excise tax refunds by direct deposit.".

SEC. 337. FAMILY BUSINESS TAX SIMPLIFICATION.

(a) In General.—Section 761 (defining terms for purposes of partnerships) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Qualified Joint Venture.—

"(1) In general.—In the case of a qualified joint venture conducted by a husband and wife who file a joint return for the taxable year, for purposes of this title—

"(A) such joint venture shall not be treated as a partnership,

"(B) all items of income, gain, loss, deduction, and credit shall be divided between the spouses in accordance with their respective interests in the venture, and

"(C) each spouse shall take into account such spouse's respective share of such items as if they were attributable to a trade or business conducted by such spouse as a sole proprietor.

"(2) Qualified joint venture.—For purposes of paragraph (1), the term 'qualified joint venture' means any joint venture involving the conduct of a trade or business if—

"(A) the only members of such joint venture are a husband and wife,

"(B) both spouses materially participate (within the meaning of section 469(h) without regard to paragraph (5) thereof) in such trade or business, and

"(C) both spouses elect the application of this subsection.".

(b) Net Earnings From Self-Employment.—

(1) Subsection (a) of section 1402 (defining net earnings from self-employment) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by inserting after paragraph (15) the following new paragraph:

"(16) notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) in determining net earnings from self-employment of such spouse.".

(2) Subsection (a) of section 211 of the Social Security Act (defining net earnings from self-employment) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by inserting after paragraph (15) the following new paragraph:

"(16) Notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) of the Internal Revenue Code of 1986 in determining net earnings from self-employment of such spouse.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 338. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) In General.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Suspension of Tax-Exempt Status of Terrorist Organizations.—

"(1) In general.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

"(2) Terrorist organizations.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

"(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

"(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

"(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

"(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

"(ii) such Executive order refers to this subsection.

"(3) Period of suspension.—With respect to any organization described in paragraph (2), the period of suspension—

"(A) begins on the later of—

"(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

"(ii) the date of the enactment of this subsection, and

"(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

"(4) Denial of deduction.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

"(5) Denial of administrative or judicial challenge of suspension or denial of deduction.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

"(6) Erroneous designation.—

"(A) In general.—If—

"(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

"(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

"(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

"(B) Waiver of limitations.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

"(7) Notice of suspensions.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.".

(b) Effective Date.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 339. TAX REFUND ANTICIPATION LOANS.

The Secretary of the Treasury may not provide any direct deposit indicator with respect to a taxpayer to any tax return preparer, financial institution, or other person that charges taxpayers interest rates (including fees) on refund anticipation loans in excess of the consumer loan usury rate limit of the State in which the taxpayer is domiciled.

SEC. 340. FAIRNESS IN TAX AUDIT COVERAGE.

(a) Mandatory Audits of High Risk Taxpayers.—The Secretary of the Treasury shall conduct audits of all taxpayers whom the Secretary determines are likely to have—

(1) an unpaid Federal income tax liability of more than $1,000,000, or

(2) to have unreported income or structured transactions which are considered by the Secretary to be high risk.

(b) Rate of Audits.—The Secretary of the Treasury shall conduct audits of high income taxpayers likely to owe taxes at a rate which is not less than the rate at which the Secretary conducts audits of low income taxpayers likely to owe taxes.

Subtitle D—Confidentiality and Disclosure

SEC. 341. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) In General.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking "in writing" the first place it appears.

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 342. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) In General.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

(1) by striking "Returns" and inserting the following:

"(A) In general.—Returns", and

(2) by adding at the end the following new subparagraph:

"(B) Taxpayer representatives.—Notwithstanding subparagraph (A), the return of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return of such representative on a basis other than by reason of such relationship.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date which is 180 days after the date of the enactment of this Act.

SEC. 343. DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS WHO ARE NOT PARTY TO SUCH PROCEEDINGS.

(a) IN GENERAL.—Paragraph (4) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new subparagraph:

“(B) DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS NOT PARTY TO SUCH PROCEEDINGS.—

“(i) NOTICE.—Return or return information of any person who is not a party to a judicial or administrative proceeding described in this paragraph shall not be disclosed under clause (ii) or (iii) of subparagraph (A) until after the Secretary makes a reasonable effort to give notice to such person and an opportunity for such person to request the deletion of matter from such return or return information, including any of the items referred to in paragraphs (1) through (7) of section 6110(c). Such notice shall include a statement of the issue or issues the resolution of which is the reason such return or return information is sought. In the case of S corporations, partnerships, estates, and trusts, such notice shall be made at the entity level.

“(ii) DISCLOSURE LIMITED TO PERTINENT PORTION.—The only portion of a return or return information described in clause (i) which may be disclosed under subparagraph (A) is that portion of such return or return information that directly relates to the resolution of an issue in such proceeding.

“(iii) EXCEPTIONS.—Clause (i) shall not apply—

“(I) to any civil action under section 7407, 7408, or 7409,

“(II) to any ex parte proceeding for obtaining a search warrant, order for entry on premises or safe deposit boxes, or similar ex parte proceeding,

“(III) to disclosure of third party return information by indictment or criminal information, or

“(IV) if the Attorney General or the Attorney General's delegate determines that the application of such clause would seriously impair a criminal tax investigation or proceeding.”.

(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 6103(h) is amended by—

(1) by striking “PROCEEDINGS.—A return” and inserting “PROCEEDINGS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a return”;

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(3) in the matter following clause (iv) (as so redesignated), by striking “subparagraph (A), (B), or (C)” and inserting “clause (i), (ii), or (iii)” and by moving such matter 2 ems to the right.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 344. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting “(other than the taxpayer's address and TIN)” after “Return information”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 345. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

“(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

“(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

“(B) agrees to conduct an annual, on-site review (mid-point review in the case of contracts of less than 1 year in duration) of each such contractor or other agent to determine compliance with such requirements,

“(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

“(D) certifies to the Secretary for the most recent annual period that each such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract of the contractor or other agent with the agency, and the duration of such contract.”.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting “or paragraph (9)” after “subparagraph (A)”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2003.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2004.

SEC. 346. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by adding at the end the following new paragraphs:

“(2) REQUIREMENTS FOR VALID REQUESTS AND CONSENTS.—A request for or consent to disclosure under paragraph (1) shall only be valid for purposes of this section, sections 7213, 7213A, and 7431 if—

“(A) at the time of execution, such request or consent designates a recipient of such disclosure and is dated, and

“(B) at the time such request or consent is submitted to the Secretary, the submitter of such request or consent certifies, under penalty of perjury, that such request or consent complied with subparagraph (A).

“(3) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—Any person shall, as a condition for receiving return or return information under paragraph (1)—

“(A) ensure that such return and return information is kept confidential,

“(B) use such return and return information only for the purpose for which it was requested, and

“(C) not disclose such return and return information except to accomplish the purpose for which it was requested, unless a separate consent from the taxpayer is obtained.

“(4) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for requests and consents which shall—

“(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

“(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

“(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.”.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Treasury Inspector General for Tax Administration considers necessary or appropriate to better achieve the purposes of this section.

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(c) is amended by striking “TAXPAYER.—The Secretary” and inserting “TAXPAYER.—

“(1) IN GENERAL.—The Secretary”.

(2) Section 7213(a)(1) is amended by striking “section 6103(n)” and inserting “subsections (c) and (n) of section 6103”.

(3) Section 7213A(a)(1)(B) is amended by striking “subsection (l)(18) or (n) of section 6103” and inserting “subsection (c), (l)(18), or (n) of section 6103”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

SEC. 347. NOTICE TO TAXPAYER CONCERNING ADMINISTRATIVE DETERMINATION OF BROWSING; ANNUAL REPORT.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: “The Secretary shall also notify such taxpayer if the Treasury Inspector General for Tax Administration substantiates that such taxpayer's return or return information was inspected or disclosed in violation of any of the provisions specified in paragraph (1), (2), or (3).”.

(b) Reports.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), is amended by adding at the end the following new paragraph:

"(10) Report on unauthorized disclosure and inspection.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

"(A) administrative investigations,

"(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

"(C) criminal prosecutions.".

(c) Effective Date.—

(1) Notice.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

(2) Reports.—The amendment made by subsection (b) shall apply to calendar years ending after the date of the enactment of this Act.

SEC. 348. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) In General.—Section 6103(i)(3)(B) (relating to danger of death or physical injury) is amended by striking "or State" and inserting ", State, or local".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 349. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) In General.—Paragraph (1) of section 6103(m) (relating to disclosure of taxpayer identity information) is amended by striking "and other media" and by inserting ", other media, and through any other means of mass communication,".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 350. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c)(3) ORGANIZATIONS.

(a) In General.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) Disclosure of proposed actions.—

"(A) Specific notifications.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names, addresses, and taxpayer identification numbers of organizations that have applied for recognition as organizations described in section 501(c)(3).

"(B) Additional disclosures.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) Procedures for disclosure.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

"(D) Disclosures other than by request.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of State or Federal issues relating to the tax-exempt status of such organization.

"(3) Use in administrative and judicial civil proceedings.—Returns and return information disclosed pursuant to this subsection may be disclosed in administrative and judicial civil proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(4) No disclosure if impairment.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (3), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(5) Definitions.—For purposes of this subsection—

"(A) Return and return information.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) Appropriate state officer.—The term 'appropriate State officer' means—

"(i) the State attorney general, or

"(ii) any other State official charged with overseeing organizations of the type described in section 501(c)(3).".

(b) Conforming Amendments.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting ", or any appropriate State officer (as defined in section 6104(c))," before "or any other person",

(B) in subparagraph (F)(i), by inserting "or any appropriate State officer (as defined in section 6104(c))," before "or any other person", and

(C) in the matter following subparagraph (F), by inserting ", an appropriate State officer (as defined in section 6104(c))," after "including an agency" each place it appears.

(3) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(4) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(5) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 351. CONFIDENTIALITY OF TAXPAYER COMMUNICATIONS WITH THE OFFICE OF THE TAXPAYER ADVOCATE.

(a) In General.—Subsection (c) of section 7803 is amended by adding at the end the following new paragraph:

"(5) Confidentiality of taxpayer information.—

"(A) In general.—To the extent authorized by the National Taxpayer Advocate or pursuant to guidance issued under subparagraph (B), any officer or employee of the Office of the Taxpayer Advocate may withhold from the Internal Revenue Service and the Department of Justice any information provided by, or regarding contact with, any taxpayer.

"(B) Issuance of guidance.—In consultation with the Chief Counsel for the Internal Revenue Service and subject to the approval of the Commissioner of Internal Revenue, the National Taxpayer Advocate may issue guidance regarding the circumstances (including with respect to litigation) under which, and the persons to whom, employees of the Office of the Taxpayer Advocate shall not disclose information obtained from a taxpayer. To the extent to which any provision of the Internal Revenue Manual would require greater disclosure by employees of the Office of the Taxpayer Advocate than the disclosure required under such guidance, such provision shall not apply.

"(C) Employee protection.—Section 7214(a)(8) shall not apply to any failure to report knowledge or information if—

"(i) such failure to report is authorized under subparagraph (A), and

"(ii) such knowledge or information is not of fraud committed by a person against the United States under any revenue law.".

(b) Conforming Amendment.—Subparagraph (A) of section 7803(c)(4) is amended by inserting "and" at the end of clause (ii), by striking "; and" at the end of clause (iii) and inserting a period, and by striking clause (iv).

Subtitle E—Miscellaneous

SEC. 361. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.".

SEC. 362. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) In General.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in subsection (c) (other than paragraph (3)) or (d) of section 501 which is exempt from tax under section 501(a), or".

(b) Court Jurisdiction.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after the date of the enactment of this Act.

SEC. 363. EMPLOYEE MISCONDUCT REPORT TO INCLUDE SUMMARY OF COMPLAINTS BY CATEGORY.

(a) IN GENERAL.—Clause (ii) of section 7803(d)(2)(A) is amended by inserting before the semicolon at the end the following: '', including a summary (by category) of the 10 most common complaints made and the number of such common complaints''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reporting periods ending after the date of the enactment of this Act.

SEC. 364. ANNUAL REPORT ON AWARDS OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

Not later than 3 months after the close of each Federal fiscal year after fiscal year 2003, the Treasury Inspector General for Tax Administration shall submit a report to Congress which specifies for such year—

(1) the number of payments made by the United States pursuant to section 7430 of the Internal Revenue Code of 1986 (relating to awarding of costs and certain fees);

(2) the amount of each such payment;

(3) an analysis of any administrative issue giving rise to such payments; and

(4) changes (if any) which will be implemented as a result of such analysis and other changes (if any) recommended by the Treasury Inspector General for Tax Administration as a result of such analysis.

SEC. 365. ANNUAL REPORT ON ABATEMENT OF PENALTIES.

Not later than 6 months after the close of each Federal fiscal year after fiscal year 2003, the Treasury Inspector General for Tax Administration shall submit a report to Congress on abatements of penalties under the Internal Revenue Code of 1986 during such year, including information on the reasons and criteria for such abatements.

SEC. 366. BETTER MEANS OF COMMUNICATING WITH TAXPAYERS.

Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to Congress evaluating whether technological advances, such as e-mail and facsimile transmission, permit the use of alternative means for the Internal Revenue Service to communicate with taxpayers.

SEC. 367. EXPLANATION OF STATUTE OF LIMITATIONS AND CONSEQUENCES OF FAILURE TO FILE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and any instructions booklet accompanying a general income tax return form for taxable years beginning after 2002 (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of—

(1) the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds; and

(2) the consequences under such section 6511 of the failure to file a return of tax.

SEC. 368. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon ''(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to meetings held after the date of the enactment of this Act.

SEC. 369. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7528. ENROLLED AGENTS.

''(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

''(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7528. Enrolled agents.''.

(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

SEC. 370. FINANCIAL MANAGEMENT SERVICE FEES.

Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

SEC. 371. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7529. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—

''(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

''(i) made after the later of—

''(I) the fifth plan year the pension benefit plan is in existence, or

''(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

''(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

''(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

''(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

''(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	Average Fee
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7529. Internal Revenue Service user fees.''.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) Effective Date.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

Subtitle F—Low-Income Taxpayer Clinics

SEC. 381. LOW-INCOME TAXPAYER CLINICS.

(a) Limitation on Amount of Grants.—Paragraph (1) of section 7526(c) (relating to special rules and limitations) is amended by striking "$6,000,000 per year" and inserting "$9,000,000 for 2004, $12,000,000 for 2005, and $15,000,000 for each year thereafter".

(b) Promotion of Clinics.—Section 7526(c) is amended by adding at the end the following new paragraph:

"(6) Promotion of clinics.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

(c) Use of Grants for Overhead Expenses Prohibited.—Section 7526(c), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

"(7) Use of grants for overhead expenses prohibited.—No grant made under this section may be used for the general overhead expenses of any institution sponsoring a qualified low-income taxpayer clinic.".

(d) Eligible Clinics.—

(1) In general.—Paragraph (2) of section 7526(b) is amended to read as follows:

"(2) Eligible clinic.—The term 'eligible clinic' means—

"(A) any clinical program at an accredited law, business, or accounting school in which students represent low-income taxpayers in controversies arising under this title; and

"(B) any organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.".

(2) Conforming amendment.—Subparagraph (A) of section 7526(b)(1) is amended by striking "means a clinic" and inserting "means an eligible clinic".

SEC. 382. MATCHING GRANTS TO LOW INCOME RETURN PREPARATION CLINICS.

(a) In General.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

"SEC. 7526A. LOW INCOME RETURN PREPARATION CLINICS.

"(a) In General.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

"(b) Definitions.—For purposes of this section—

"(1) Qualified return preparation clinic.—

"(A) In general.—The term 'qualified return preparation clinic' means an eligible clinic which—

"(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

"(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

"(B) Assistance to low-income taxpayers.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

"(2) Eligible clinic.—The term 'eligible clinic' includes—

"(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

"(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

"(c) Special Rules and Limitations.—

"(1) Aggregate limitation.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

"(2) Other applicable rules.—Rules similar to the rules under paragraphs (2) through (7) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.".

(b) Clerical Amendment.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

"Sec. 7526A. Low income return preparation clinics.".

(c) Effective Date.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

TITLE IV—CHILD TAX CREDIT

SEC. 401. ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.

(a) Acceleration of Refundability.—

(1) In general.—Section 24(d)(1)(B)(i) of the Internal Revenue Code of 1986 (relating to portion of credit refundable) is amended by striking "(10 percent in the case of taxable years beginning before January 1, 2005)".

(2) Advance payment.—Subsection (b) of section 6429 of such Code (relating to advance payment of portion of increased child credit for 2003) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) section 24(d)(1)(B)(i) applied without regard to the first parenthetical therein.".

(3) Earned income includes combat pay.—Section 24(d)(1) of such Code is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.".

(b) Effective Dates.—

(1) Subsections (a)(1) and (a)(3).—The amendments made by subsections (a)(1) and (a)(3) shall apply to taxable years beginning after December 31, 2002.

(2) Subsection (a)(2).—The amendments made by subsection (a)(2) shall take effect as if included in the amendments made by section 101(b) of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

SEC. 402. REDUCTION IN MARRIAGE PENALTY IN CHILD TAX CREDIT.

(a) In General.—Section 24(b)(2) of the Internal Revenue Code of 1986 (defining threshold amount) is amended—

(1) by inserting "($115,000 for taxable years beginning in 2008 or 2009, and $150,000 for taxable years beginning in 2010)" after "$110,000", and

(2) by striking "$55,000" in subparagraph (C) and inserting "½ of the amount in effect under subparagraph (A)".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 403. APPLICATION OF EGTRRA SUNSET TO THIS SECTION.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE V—UNIFORM DEFINITION OF CHILD

SEC. 501. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 of the Internal Revenue Code of 1986 is amended to read as follows:

"SEC. 152. DEPENDENT DEFINED.

"(a) In General.—For purposes of this subtitle, the term 'dependent' means—

"(1) a qualifying child, or

"(2) a qualifying relative.

"(b) Exceptions.—For purposes of this section—

"(1) Dependents ineligible.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

"(2) Married dependents.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) Citizens or nationals of other countries.—

"(A) In general.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

"(B) Exception for adopted child.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

"(i) for the taxable year of the taxpayer, the child's principal place of abode is the home of the taxpayer, and

"(ii) the taxpayer is a citizen or national of the United States.

"(c) Qualifying Child.—For purposes of this section—

"(1) In general.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(C) who meets the age requirements of paragraph (3), and

"(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

“(2) RELATIONSHIP TEST.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

“(A) a child of the taxpayer or a descendant of such a child, or

“(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

“(3) AGE REQUIREMENTS.—

“(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

“(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

“(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

“(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

“(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

“(i) a parent of the individual, or

“(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

“(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

“(i) the parent with whom the child resided for the longest period of time during the taxable year, or

“(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

“(d) QUALIFYING RELATIVE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualifying relative’ means, with respect to any taxpayer for any taxable year, an individual—

“(A) who bears a relationship to the taxpayer described in paragraph (2),

“(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

“(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

“(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

“(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

“(A) A child or a descendant of a child.

“(B) A brother, sister, stepbrother, or stepsister.

“(C) The father or mother, or an ancestor of either.

“(D) A stepfather or stepmother.

“(E) A son or daughter of a brother or sister of the taxpayer.

“(F) A brother or sister of the father or mother of the taxpayer.

“(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

“(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

“(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

“(A) no one person contributed over one-half of such support,

“(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

“(C) the taxpayer contributed over 10 percent of such support, and

“(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

“(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

“(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

“(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

“(ii) the income arises solely from activities at such workshop which are incident to such medical care.

“(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term ‘sheltered workshop’ means a school—

“(i) which provides special instruction or training designed to alleviate the disability of the individual, and

“(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

“(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of paragraph (1)(C), in the case of an individual who is—

“(A) a child of the taxpayer, and

“(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account in determining whether such individual received more than one-half of such individual's support from the taxpayer.

“(6) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

“(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent,

“(B) amounts expended for the support of a child or children shall be treated as received from the noncustodial parent (as defined in subsection (e)(3)(B)) to the extent that such parent provided amounts for such support, and

“(C) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

“(e) SPECIAL RULE FOR DIVORCED PARENTS.—

“(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

“(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

“(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

“(ii) who are separated under a written separation agreement, or

“(iii) who live apart at all times during the last 6 months of the calendar year, and

“(B) such child is in the custody of 1 or both of the child's parents for more than ½ of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

“(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

“(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

“(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

“(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, and

“(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

“(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

“(A) CUSTODIAL PARENT.—The term ‘custodial parent’ means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

“(B) NONCUSTODIAL PARENT.—The term ‘noncustodial parent’ means the parent who is not the custodial parent.

“(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

“(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

“(1) CHILD DEFINED.—

“(A) IN GENERAL.—The term ‘child’ means an individual who is—

“(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

“(ii) an eligible foster child of the taxpayer.

“(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child of such individual by blood.

“(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term ‘eligible foster child’ means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

‘‘(2) STUDENT DEFINED.—The term ‘student’ means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

‘‘(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

‘‘(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

‘‘(3) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.

‘‘(4) BROTHER AND SISTER.—The terms ‘brother’ and ‘sister’ include a brother or sister by the half blood.

‘‘(5) TREATMENT OF MISSING CHILDREN.—

‘‘(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

‘‘(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

‘‘(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping, shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the individual is kidnapped.

‘‘(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

‘‘(i) the deduction under section 151(c),

‘‘(ii) the credit under section 24 (relating to child tax credit),

‘‘(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

‘‘(iv) the earned income credit under section 32.

‘‘(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

‘‘(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

‘‘(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

‘‘(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

‘‘(6) CROSS REFERENCES.—

“For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).”.

SEC. 502. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

‘‘(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

‘‘(I) is married at the close of the taxpayer’s taxable year, and

‘‘(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)3), or both, or’’.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) of such Code are amended to read as follows:

‘‘(i) subparagraph (H) of section 152(d)(2), or

‘‘(ii) paragraph (3) of section 152(d).’’.

SEC. 503. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) of the Internal Revenue Code of 1986 is amended by striking ‘‘In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))’’ and inserting ‘‘In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual’’.

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) of the Internal Revenue Code of 1986 is amended to read as follows:

‘‘(1) QUALIFYING INDIVIDUAL.—The term ‘qualifying individual’ means—

‘‘(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

‘‘(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

‘‘(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.’’.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) of the Internal Revenue Code of 1986 is amended to read as follows:

‘‘(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.’’.

SEC. 504. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) of the Internal Revenue Code of 1986 is amended to read as follows:

‘‘(1) IN GENERAL.—The term ‘qualifying child’ means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.’’.

(b) CONFORMING AMENDMENT.—Section 24(c)(2) of the Internal Revenue Code of 1986 is amended by striking ‘‘the first sentence of section 152(b)(3)’’ and inserting ‘‘subparagraph (A) of section 152(b)(3)’’.

SEC. 505. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) of the Internal Revenue Code of 1986 is amended to read as follows:

‘‘(3) QUALIFYING CHILD.—

‘‘(A) IN GENERAL.—The term ‘qualifying child’ means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

‘‘(B) MARRIED INDIVIDUAL.—The term ‘qualifying child’ shall not include an individual who is married as of the close of the taxpayer’s taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

‘‘(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

‘‘(D) IDENTIFICATION REQUIREMENTS.—

‘‘(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

‘‘(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).’’.

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) of such Code is amended by striking ‘‘(3)(E)’’ and inserting ‘‘(3)(C)’’.

(3) Section 32(m) of such Code is amended by striking ‘‘subsections (c)(1)(F)’’ and inserting ‘‘subsections (c)(1)(E)’’.

SEC. 506. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 of the Internal Revenue Code of 1986 is amended to read as follows:

‘‘(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.’’.

SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) of such Code is amended by inserting ‘‘, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof’’ after ‘‘section 152’’.

(2) Section 21(e)(5) of the Internal Revenue Code of 1986 is amended—

(A) by striking ‘‘paragraph (2) or (4) of’’ in subparagraph (A), and

(B) by striking ‘‘within the meaning of section 152(e)(1)’’ and inserting ‘‘as defined in section 152(e)(3)(A)’’.

(3) Section 21(e)(6)(B) of such Code is amended by striking ‘‘section 151(c)(3)’’ and inserting ‘‘section 152(f)(1)’’.

(4) Section 25B(c)(2)(B) of such Code is amended by striking ‘‘151(c)(4)’’ and inserting ‘‘152(f)(2)’’.

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) of such Code are each amended by striking ‘‘paragraphs (1) through (8) of section 152(a)’’ both places it appears and inserting ‘‘subparagraphs (A) through (G) of section 152(d)(2)’’.

(B) Section 51(i)(1)(C) of such Code is amended by striking ‘‘152(a)(9)’’ and inserting ‘‘152(d)(2)(H)’’.

(6) Section 72(t)(2)(D)(i)(III) of such Code is amended by inserting ‘‘, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof’’ after ‘‘section 152’’.

(7) Section 72(t)(7)(A)(iii) of such Code is amended by striking ‘‘151(c)(3)’’ and inserting ‘‘152(f)(1)’’.

(8) Section 42(i)(3)(D)(ii)(I) of such Code is amended by inserting ‘‘, determined without

regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(9) Subsections (b) and (c)(1) of section 105 of such Code are amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(10) Section 120(d)(4) of such Code is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(11) Section 125(e)(1)(D) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(12) Section 129(c)(2) of such Code is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(13) The first sentence of section 132(h)(2)(B) of such Code is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(14) Section 153 of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) of such Code is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(16) Section 170(g)(3) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(17) Section 213(a) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(18) The second sentence of section 213(d)(11) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(19) Section 220(d)(2)(A) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(20) Section 221(d)(4) of such Code is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(21) Section 529(e)(2)(B) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(22) Section 2032A(c)(7)(D) of such Code is amended by striking "section 151(c)(4)" and inserting "section 152(f)(2)".

(23) Section 2057(d)(2)(B) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(24) Section 7701(a)(17) of such Code is amended by striking "152(b)(4), 682," and inserting "682".

(25) Section 7702B(f)(2)(C)(iii) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(26) Section 7703(b)(1) of such Code is amended—

(A) by striking "151(c)(3)" and inserting "152(f)(1)", and

(B) by striking "paragraph (2) or (4) of".

SEC. 508. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years beginning after December 31, 2003.

TITLE VI—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

SEC. 601. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.

(a) In General.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) Members of uniformed services and foreign service.—

"(A) In general.—At the election of an individual with respect to a property, the running of the 5-year period described in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.

"(B) Maximum period of suspension.—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

"(C) Qualified official extended duty.—For purposes of this paragraph—

"(i) In general.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

"(ii) Uniformed services.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

"(iii) Foreign service of the united states.—The term 'member of the Foreign Service of the United States' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

"(iv) Extended duty.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

"(D) Special rules relating to election.—

"(i) Election limited to 1 property at a time.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

"(ii) Revocation of election.—An election under subparagraph (A) may be revoked at any time.".

(b) Effective Date; Special Rule.—

(1) Effective date.—The amendments made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) Waiver of limitations.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 602. EXCLUSION FROM GROSS INCOME OF CERTAIN DEATH GRATUITY PAYMENTS.

(a) In General.—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

"(C) Exception for death gratuity adjustments made by law.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.".

(b) Conforming Amendment.—Subparagraph (A) of section 134(b)(3) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(c) Effective Date.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 603. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) In General.—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking "or" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", or", and by adding at the end the following new paragraph:

"(8) qualified military base realignment and closure fringe.".

(b) Qualified Military Base Realignment and Closure Fringe.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Qualified Military Base Realignment and Closure Fringe.—For purposes of this section—

"(1) In general.—The term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection) to offset the adverse effects on housing values as a result of a military base realignment or closure.

"(2) Limitation.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all of such payments related to such property exceeds the maximum amount described in clause (1) of subsection (c) of such section (as in effect on such date).".

(c) Effective Date.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 604. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) In General.—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting ", or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law" after "section 112",

(2) by inserting in the first sentence "or at any time during the period of such contingency operation" after "for purposes of such section",

(3) by inserting "or operation" after "such an area", and

(4) by inserting "or operation" after "such area".

(b) Conforming Amendments.—

(1) Section 7508(d) is amended by inserting "or contingency operation" after "area".

(2) The heading for section 7508 is amended by inserting ‘‘or contingency operation’’ after ‘‘combat zone’’.

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting ‘‘or contingency operation’’ after ‘‘combat zone’’.

(c) Effective Date.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 605. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) In General.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking ‘‘or widowers’’ and inserting ‘‘, widowers, ancestors, or lineal descendants’’.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 606. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) In General.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

‘‘(4) Clarification of certain benefits.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).’’.

(b) Conforming Amendments.—

(1) Section 134(b)(3)(A), as amended by section 602, is amended by inserting ‘‘and paragraph (4)’’ after ‘‘subparagraphs (B) and (C)’’.

(2) Section 3121(a)(18) is amended by striking ‘‘or 129’’ and inserting ‘‘, 129, or 134(b)(4)’’.

(3) Section 3306(b)(13) is amended by striking ‘‘or 129’’ and inserting ‘‘, 129, or 134(b)(4)’’.

(4) Section 3401(a)(18) is amended by striking ‘‘or 129’’ and inserting ‘‘, 129, or 134(b)(4)’’.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(d) No Inference.—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2003.

SEC. 607. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) In General.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking ‘‘or’’ at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

‘‘(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or’’.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 608. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) In General.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

‘‘(p) Suspension of Tax-Exempt Status of Terrorist Organizations.—

‘‘(1) In general.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

‘‘(2) Terrorist organizations.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

‘‘(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

‘‘(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

‘‘(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

‘‘(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

‘‘(ii) such Executive order refers to this subsection.

‘‘(3) Period of suspension.—With respect to any organization described in paragraph (2), the period of suspension—

‘‘(A) begins on the later of—

‘‘(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

‘‘(ii) the date of the enactment of this subsection, and

‘‘(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

‘‘(4) Denial of deduction.—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

‘‘(5) Denial of administrative or judicial challenge of suspension or denial of deduction.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

‘‘(6) Erroneous designation.—

‘‘(A) In general.—If—

‘‘(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

‘‘(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

‘‘(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

‘‘(B) Waiver of limitations.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

‘‘(7) Notice of Suspensions.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.’’.

(b) Effective Date.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 609. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) Deduction Allowed.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

‘‘(p) Treatment of Expenses of Members of Reserve Component of Armed Forces of the United States.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such service.’’.

(b) Deduction Allowed Whether or Not Taxpayer Elects To Itemize.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

‘‘(E) Certain expenses of members of reserve components of the armed forces of the united states.—The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 610. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF SPACE SHUTTLE COLUMBIA HEROES.

(a) INCOME TAX RELIEF.—

(1) IN GENERAL.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

“(5) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 5(b)(1) is amended by inserting “, astronauts,” after “forces”.

(B) Section 6013(f)(2)(B) is amended by inserting “, astronauts,” after “Forces”.

(3) CLERICAL AMENDMENTS.—

(A) The heading of section 692 is amended by inserting “, **ASTRONAUTS,**” after “**FORCES**”.

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting “, astronauts,” after “Forces”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) DEATH BENEFIT RELIEF.—

(1) IN GENERAL.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

“(4) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty.”.

(2) CLERICAL AMENDMENT.—The heading for subsection (i) of section 101 is amended by inserting “OR ASTRONAUTS” after “VICTIMS”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) ESTATE TAX RELIEF.—

(1) IN GENERAL.—Section 2201(b) (defining qualified decedent) is amended by striking “and” at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) any astronaut whose death occurs in the line of duty.”.

(2) CLERICAL AMENDMENTS.—

(A) The heading of section 2201 is amended by inserting “, **DEATHS OF ASTRONAUTS,**” after “**FORCES**”.

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting “, deaths of astronauts,” after “Forces”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

TITLE VII—OTHER PROVISIONS

SEC. 701. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

“(a) GENERAL RULES.—For purposes of this subtitle—

“(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

“(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

“(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

“(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

“(3) EXCLUSION FOR CERTAIN GAIN.—

“(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

“(B) COST-OF-LIVING ADJUSTMENT.—

“(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2003, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting ‘calendar year 2002’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

“(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

“(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

“(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

“(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

“(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

“(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

“(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

“(iii) complies with such other requirements as the Secretary may prescribe.

“(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

“(b) ELECTION TO DEFER TAX.—

“(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

“(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

“(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

“(4) SECURITY.—

“(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

“(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

“(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

“(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

“(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

“(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

“(7) INTEREST.—For purposes of section 6601—

“(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

“(B) section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(c) COVERED EXPATRIATE.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘covered expatriate’ means an expatriate.

“(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

“(A) the individual—

“(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and “(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

“(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

“(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

“(d) Exempt Property; Special Rules for Pension Plans.—

“(1) Exempt property.—This section shall not apply to the following:

“(A) United states real property interests.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

“(B) Specified property.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

“(2) Special rules for certain retirement plans.—

“(A) In general.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

“(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

“(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

“(B) Treatment of subsequent distributions.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

“(C) Treatment of subsequent distributions by plan.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

“(D) Applicable plans.—This paragraph shall apply to—

“(i) any qualified retirement plan (as defined in section 4974(c)),

“(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

“(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

“(e) Definitions.—For purposes of this section—

“(1) Expatriate.—The term ‘expatriate’ means—

“(A) any United States citizen who relinquishes citizenship, and

“(B) any long-term resident of the United States who—

“(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

“(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

“(2) Expatriation date.—The term ‘expatriation date’ means—

“(A) the date an individual relinquishes United States citizenship, or

“(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

“(3) Relinquishment of citizenship.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

“(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

“(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)-(4)),

“(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

“(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

“(4) Long-term resident.—The term ‘long-term resident’ has the meaning given to such term by section 877(e)(2).

“(f) Special Rules Applicable to Beneficiaries' Interests in Trust.—

“(1) In general.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

“(A) the individual shall not be treated as having sold such interest,

“(B) such interest shall be treated as a separate share in the trust, and

“(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

“(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

“(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

“(2) Special rules for interests in qualified trusts.—

“(A) In general.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

“(i) paragraph (1) and subsection (a) shall not apply, and

“(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

“(B) Amount of tax.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

“(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

“(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

“(C) Deferred tax account.—For purposes of subparagraph (B)(ii)—

“(i) Opening balance.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

“(ii) Increase for interest.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(iii) Decrease for taxes previously paid.—The balance in the tax deferred account shall be reduced—

“(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

“(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

“(D) Allocable expatriation gain.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

“(E) Tax deducted and withheld.—

“(i) In general.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

“(ii) Exception where failure to waive treaty rights.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

“(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

“(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

“(F) Disposition.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

“(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) Definitions and special rules.—For purposes of this paragraph—

"(i) Qualified trust.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) Vested interest.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) Nonvested interest.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) Adjustments.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) Coordination with retirement plan rules.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) Determination of beneficiaries' interest in trust.—

"(A) Determinations under paragraph (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) Other determinations.—For purposes of this section—

"(i) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) Taxpayer return position.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) Termination of Deferrals, etc.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) Imposition of Tentative Tax.—

"(1) In general.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) Due date.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) Treatment of tax.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) Deferral of tax.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) Special Liens for Deferred Tax Amounts.—

"(1) Imposition of lien.—

"(A) In general.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) Deferred amount.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) Period of lien.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) Certain rules apply.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) Inclusion in Income of Gifts and Bequests Received by United States Citizens and Residents From Expatriates.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) Gifts and Inheritances From Covered Expatriates.—

"(1) In general.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) Exceptions for transfers otherwise subject to estate or gift tax.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) Definition of Termination of United States Citizenship.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) Termination of united states citizenship.—

"(A) In general.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) Dual citizens.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) Ineligibility for Visa or Admission to United States.—

(1) In general.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) Former citizens not in compliance with expatriation revenue provisions.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) Availability of information.—

(A) In general.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(19) Disclosure to deny visa or admission to certain expatriates.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) Safeguards.—

(i) Technical amendments.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107-210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18)".

(ii) Conforming amendments.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking "or (18)" after "any other person described in subsection (l)(16)" each place it appears and inserting "(18), or (19)".

(3) Effective dates.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 5, 2003.".

(2) Section 2107 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.".

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

"(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.".

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting "or 877A" after "section 877".

(B) The second sentence of section 6039G(e) is amended by inserting "or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))" after "877(a))".

(C) Section 6039G(f) is amended by inserting "or 877A(e)(2)(B)" after "877(e)(1)".

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 5, 2003.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 5, 2003, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 702. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "March 31, 2010".

The SPEAKER pro tempore. Pursuant to House Resolution 282, the gentleman from Washington (Mr. MCDERMOTT) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amendment that is at the desk on H.R. 1528 is a fairly comprehensive amendment to the bill which we discussed yesterday. The first thing is that my amendment would delete the controversial provisions contained in the underlying bill which would eliminate consumer protections that this Congress provided less than 1 year ago when it enacted the Trade Promotion Act. I think that there are many Members who voted for the fast track bill with the belief that this was in it and now less than a year later we are back taking it out.

□ 1145

I think that is an important part of this amendment.

The second thing is this amendment would provide the recently increased family credit for 12 million children and 6 million families. We passed it out of here and it has gone to an uncertain future in a conference committee. I read there is some debate among the Members of the conference committee about who is going to chair it. We could put this issue to rest with this amendment today.

The third part of the amendment is to stop the delay of tax benefits for our military and relief to families of the astronauts killed in the Columbia disaster. I think that this is one of those issues where we all agree, it has been sitting there and somehow it does not get done, and I think it is time for us to move on.

Fourth, the amendment will prohibit the Internal Revenue Service from implementing a pre-certification program for Earned Income Tax Credit recipients. I think this is a needed and important change in the IRS. It is the only place that we have such a thing where we make people send in their money reports before they even get the benefit, rather than letting them make application for it and then figuring out if there is some question.

Fifth, my amendment would also contain provisions addressing the abusive corporate tax shelters which we have talked about in the past.

Finally, this adds taxpayer protections designed to assist low and middle-class taxpayers in complying with the tax law.

It is a fairly comprehensive amendment, but I think it is a good one, and it does a number of things which we ought to do when we are passing this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. PORTMAN. Mr. Speaker, I rise in opposition to the substitute.

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Ohio is recognized for 30 minutes.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in part to remind us as to where we are in this process. Yesterday we talked about the underlying legislation, which is a very good combination of taxpayer protections and health care protections for workers. I think it would be helpful to start by reviewing that, only because I think by adding this substitute, we would jeopardize so many of those good provisions.

Yesterday, we talked a little about the importance of moving quickly on those provisions. After all, these are the result of over 2 years of work by the Taxpayer Advocate, by the Internal Revenue Service, by the Treasury Department itself, and by the Committee on Ways and Means, based on oversight hearings, to basically strengthen and protect the rights of average, honest taxpayers.

Let me give you an example of some the things in the underlying legislation. It prohibits IRS employees from unauthorized browsing of tax returns. We do have a series of prohibitions in the Code. This is not one of them. It would now make browsing of your tax return or mine part of those prohibitions. This is very important, and, again, it is based on good testimony we have had from the IRS and some obvious problems that have resulted from unauthorized browsing.

It also simplifies tax filing in a number of ways. One I really like is it helps the mom-and-pop businesses of America. It says that now-married spouses would be allowed to file a sole proprietor return who are in business, which is a Schedule C, instead of a partnership return.

This is far simpler. It allows for spouses to account separately for their respective self-employment income from the business. It allows family businesses to take full advantage, therefore, of Social Security and Medicare, and, at the same time, greatly simplify tax filing.

Again, this comes out of hard work by people at the Joint Tax Committee, at the Treasury Department and elsewhere, to try to figure out ways to simplify our current system.

It also, very importantly, extends the filing deadline for E-filers to April 30. This one is not only added to, therefore making it more difficult to enact, but it is actually substituted, it is replaced, it is eliminated in the substitute.

Let me just talk about that for a second. It says if you are willing to be an E-filer, you have until April 30. Why is this so important? It is important because we need to add another incentive to encourage people to electronically file.

Electronic filing is in the interests of taxpayers, and it is in the interests of the IRS. This is something over the last 6 years as we have reviewed the IRS through a commission, and then through the legislative process, we had a total consensus on, that it is absolutely critical that we encourage electronic filing.

We have gone from 15 percent to about 41 percent, but the Congressionally set goal of 80 percent electronic filing is not going to make it unless we provide some new incentives. This is one well worth undertaking.

Why? Right now there is about a 22 percent error rate, Mr. Speaker, if you can believe it, when you file your tax return by paper. Twenty-two percent of the time there is an error. That is unacceptable to any of us. Eleven percent of that error, half of it, is caused by the IRS, largely transposing numbers, where they take a paper return and transpose the numbers from paper on to a computer.

That does not happen with electronic filing, obviously, because you are electronically filing straight into the computer.

Second, the other 11 percent, about half, is caused by the taxpayer.

Electronic filing, the error rate is far less than 1 percent. This obviously saves the IRS a lot of money and is very good for the tax system, because you are going to have fewer people who will be filing by paper and, therefore, fewer IRS employees are necessary and great efficiencies are put in place at less than half the cost to the IRS.

But, more important to me, is it helps the taxpayers dramatically. Think of the downstream costs when there is a error, when you get that letter from the IRS saying we have got an error in your return. You think you did it right, it turns out you did it right, but because of the error, you then get into sometimes a long, protracted back and forth with the IRS. Sometimes it becomes quite controversial and adds up with interest and penalties and so on.

So electronic filing has to be encouraged, and I am concerned that the substitute takes this out altogether. By the way, this program we just put in place for 3 years, so we try it as a pilot. Any other ideas we would welcome. At our bipartisan hearings, we had a lot of discussion about this, and we talked about a lot of ideas. This is one where we seemed to have reached a consensus.

The underlying bill also allows taxpayers who otherwise pay nothing to be able to settle their debts with the IRS over a period of time without being forced to pay the entire amount. Again, this comes from a careful vetting with the Joint Tax Committee and the IRS. It is a partial pay installment plan which will help us get through a lot of the existing controversies out there with the IRS. It is a common sense solution to some big collection problems that the IRS is now facing, so they can devote more of their resources toward enforcement and toward collection, and not so much resources in trying to resolve some of these very tough accounts.

It also allows the IRS to waive what are now unfair penalties for honest taxpayers who make innocent mistakes. For example, if a taxpayer mails his return in on April 15, as he or she should, with a check, and the check is for the right amount, the balance due, but he mistakenly puts on only $1.40 in postage rather than $1.50 in postage, instead of being assessed a failure to file penalty, which can add up to thousands of dollars, under this legislation the IRS could waive those penalties for taxpayers, those who have a good history of compliance. It is a common sense provision that will help taxpayers. Again, it is long overdue and is supported by the IRS.

We also importantly increase the funding for low income taxpayer clinics. This is something we started back in the reforms of 1998. They have worked.

These low income taxpayer clinics help with regard to individuals who have a controversy with the IRS. We increase the authorization in this legislation to $9 million for 2004, $12 million for 2005 and $15 million for 2006 and subsequent years.

We also provide for additional help here to help individuals for whom English is a second language to be able to deal better with the IRS. I like these taxpayer clinics, they are working well, and again, this is something that would be jeopardized in the underlying legislation by loading it up with much more controversial items that have not been vetted.

Finally, the gentleman from Washington mentioned the health care credit waiver. The problem with not having this in place is that 12,000 families are not going to be able to get health care, and that is based on the Joint Tax estimate.

All we are saying is we had provisions in place in the Trade Act to allow these people to access health care with a 65 percent refundable credit, but, unfortunately, probably up to 21 States, maybe not that many, but some States, up to 21 States, are not going to have provisions in place to allow them to access that, because we require there be State plans, we require there be certain provisions in these plans, and not all of these States have gone to those provisions yet.

We want simply an 18-month bridge to be sure these 12,000 families can get their health care. That seems to me to be a reasonable solution. In the Committee on Ways and Means, we had a lot of discussion about this. I think the Committee on Ways and Means majority and majority staff worked in a responsible way to try to address those concerns. We changed the legislation between the time it was reported out of committee and now in a few significant ways, including making it only 18 months, making it truly a bridge, including limiting the provisions to just two, guaranteed issue and preexisting conditions, and I think this is an improvement in the legislation.

We also said it would not apply to those States where they did have a compliant plan. So it really narrowed it and limited it in response to specific concerns raised by my colleagues on the other side of the aisle, and I think that should be taken into account as we look at this legislation today, because we did go to the extra mile to try to meet those concerns.

The bottom line for me, Mr. Speaker, is that this is great legislation, the underlying legislation. The substitute adds, as I count it, another 160 pages to this legislation, which is only 75 pages in the underlying bill, maybe more than that, because it cuts out some of the 75 pages. By adding all these new provisions, most of which have really not been vetted, we are really again jeopardizing the good legislation that is in here.

I am going to later talk about some of the provisions that are in the substitute that actually trouble me. It is not just new provisions that have not been vetted, but some are bad policy, in my view, particularly with regard to the earned income tax the gentleman talked about.

We now have a 30 percent error rate, we are told by GAO. It was 25 percent the last time I looked. Now they say it is 30 percent. Even 25 percent, that is wholly unacceptable. I think that is agreed to, I would hope, on both sides of the aisle. A 25, 30 percent error rate, we are talking about $10 billion a year is mispaid under the EITC. Now, if we had a 25 or 30 percent error rate, even a 10 percent error rate in a social welfare program, we would be up in arms, as would the States. It is outrageous. There is no program that has that kind of error rate. Yet we are putting up with a 25 percent or 30 percent, we are told 30 percent by GAO, error rate in the Earned Income Tax Credit, and at a minimum, I think the IRS should be given the flexibility to be able to work towards some kind of a system where you are certifying whether people actually qualify for the credit or not.

I would love to hear the ideas from the other side of the aisle as to what they would do about this. I think this is one where if continue to ignore it, continue to say no, we are going to tie the IRS's hands, even when they show flexibility as to how they are going to deal with it, what is going to happen? You are going to lose tremendous support for the EITC.

I can tell you my constituents back home, who are Federal income taxpayers who support the EITC through their Federal taxes they send to Washington, even if they think the EITC is generally a good idea, they are not going to think that if they believe that 30 percent of that money is being misspent.

Some of it is fraud, some of it is because it is too complicated. But at a minimum, we should give the IRS the tools to be able to go and reduce that error rate. Otherwise we have to figure out another way to support people who are working who want to be able offset their payroll taxes and other taxes, because some people who get the EITC have their entire income tax offset, their entire payroll tax offset, and they are still collecting EITC.

We need to be sure that program is working and working well if we are going to have it continue to be strongly supported by the folks who do pay income taxes, and others, who look at this and say this is unacceptable. So I would hope that that provision would not be included in a substitute.

Mr. Speaker, I will talk about more of the other provisions as we proceed with the debate.

Mr. Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, I want to talk about the health provision. It is unfortunate that the Republican majority insists on inserting this provision in this bill. The TAA provisions were carefully crafted. Many relied on them for their vote. And now the majority is taking a step away from them.

In the legislation there were protections for beneficiaries, four of them, if they could not get COBRA, a requirement that States develop these plans with these four protections.

Now, essentially what they are saying is that provision can be changed and individuals can buy insurance individually without those protections. This is going to undermine the negotiations that are continuing now for the completion of State plans. The younger, more healthy people will buy this insurance without the protections. It will reduce the incentive of insurance companies to work this out with States.

But then it was said yesterday that State legislatures do not meet every year, that some only meet every 2 years, so that is an inhibition on working this out. It does not take State legislative action to work out these plans. As has been true in a number of States, it can be done without action by the State legislature.

This a voluntary plan, and what is going to happen if this amendment is allowed, and I do not think it could pass the Senate, is that there will be selection by the younger and more healthy, leaving the insurance availability to older workers that will be too expensive, or there will be no availability whatsoever.

□ 1200

So this is a change that matters. This is another example of an erosion of a safety net that was worked out carefully between the two parties.

Now, look, the gentleman from North Dakota (Mr. POMEROY) said to people on your side, we will sit down and talk about finding a resolution to this, and a few of us suggested we would join. The answer was, well, we will only talk to the gentleman from North Dakota (Mr. POMEROY). We will not let your staff in any meeting. I know that directly. And then there was no discussion with the gentleman from North Dakota (Mr. POMEROY).

So essentially, what you did was to go into some room and make a decision that you were going to change a TAA provision for people who were laid off. This is trade adjustment assistance for people who are unemployed because of the impact of trade.

So if you really cared enough, you would sit down and work this out. Instead, you inserted it in a bill that has IRS provisions, and the gentleman from Ohio (Mr. PORTMAN) talks about how laudable they are. Well, they are laudable provisions, so why put an anchor around them, and why pull back from something that you yourselves negotiated with people on this side to provide health protection for people laid off through no fault of their own?

So this is enough of a flaw, in my judgment, for people to vote against this bill. This is turning your back on what you agreed to, without even being willing to sit down and try to work it out with the minority. This is turning your backs on thousands of people who need health coverage, and I urge that we take the steps to take this out of the bill and not wait for the Senate to do it. Support the substitute that has been offered by the gentleman from New York (Mr. RANGEL) and now being managed by the gentleman from Washington (Mr. McDERMOTT).

Mr. PORTMAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut (Mrs. JOHNSON), the Chair of the Subcommittee on Health.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank my colleague for yielding me this time.

This bill is not turning our back; it is facing reality. To pass the substitute would be turning your back on 12,000 people who live in States that do not yet have compliant programs and, therefore, will not be able to get the 65 percent subsidy of premiums that we offer now to people who are uninsured by reasons of trade competition.

This is a temporary waiver just to give States more time to get compliant plans in place. It only runs through December of 2004. That is only basically a little over a year from the time they were supposed to have their plans up and running. It does not supersede State law relating to consumer insurance protections. So anything a State thought was important for consumer protection and health plans is there. It is there for whatever plans are developed for these 12,000 people; it is there for everyone else in the State. We do not override State protections.

We are providing a temporary waiver so that for the very first time in our country, a certain group of people who are unemployed will have tremendous help in buying health insurance during that period of unemployment. It is disgraceful that we were not able to do this for all of the unemployed, but that will be the next step, and then all of the uninsured. But this is an extremely important initiative, because it sets up the structure through which we can deliver a two-thirds subsidy of premium to the uninsured in America.

There has long been, historically, bipartisan support for that kind of initiative to enable people who are uninsured or who do not make enough to pay for insurance or who are unemployed, to be able to have the personal security of health insurance, going way back to the debate stimulated by President Clinton's proposal. The bipartisan alternative that actually had a majority of the support in this House, our former colleague Roy Rowland and our former colleague and minority leader Bob Michel introduced a bipartisan initiative, and key to that was the delivery of these direct subsidies for the purchase of premiums.

Now, later on, once we get the system set up, we can think about whether some people need a higher subsidy than other people relative to income, but setting this system up is imperative. And in the 21 States that have not yet been able to set up a compliant program, if you are unemployed as a result of trade dislocation, you have a right to this; but you can only exercise it if you have COBRA, which most of the unemployed people in small businesses do not have by definition, or if your spouse works for a company that has family coverage.

Now, to say to the other unemployed people that have a right under Federal law that you cannot exercise that right because your State has not been able to work through the issues of developing a compliant program is simply wrong. So this waiver only allows a simpler process for those compliant plans to develop; it makes it simpler for a little over a year while they develop the more complex, but fully compliant program.

So talk about turning your back. All we are trying to do here is face reality so we will not turn our back on the 12,000 people to whom we granted deep premium assistance so they can buy insurance during a period of unemployment, so that they can realize that benefit under the law. And if we do not pass this amendment, then they will not have access to the very benefits that we gave them. That would be outrageous.

Our job is to assure that the needs of the people are met; and when there is a glitch, to develop a way around that glitch and, in this case, it is a temporary waiver so that ultimately everybody will have the access we guaranteed them, the subsidies we guaranteed them to compliant plans. It is a small adjustment. It is facing reality. If we do not face reality, we turn our backs on these 12,000 Americans, unemployed as a result of trade dislocation.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

The gentlewoman from Connecticut calls it a small adjustment. I would call it a gutting of the program. If you allow an insurance company to screen people out on the basis of preexisting conditions, which is what this amendment does, of course it will be simpler. They just look down your history. If you are over 50 years old, you will never get access to this. And the people who are losing their jobs here are not 20 years old. They are people who are in steel industries and other industries where the existence of a preexisting condition is very common.

So to say that the insurance company does not have to have that consumer protection, there is no guaranteed issue and they can use preexisting conditions is simply to give the insurance industry the ability to cherry pick the young and leave the others by the side of the road.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me this time.

The American people are hearing the phrase "mission accomplished" a lot these days. However, they are not hearing it much from this Republican Congress. Today we debate a bill which could have passed with more than 400 votes on taxpayer rights. And then we could have proclaimed, mission accomplished.

However, for some unknown reason, this bill now says the consumers need to waive basic protections in order to get health insurance. That means that these employees who have lost their health insurance and lost their jobs must now accept insurance, but only if they waive coverage for preexisting conditions. Worsening basic health protections, for this Congress, once again: mission accomplished.

There are many things in this underlying bill that I supported before this killer provision was added. One of my constituents has even been a victim of these nonsensical IRS problems. Her retirement account was wrongfully levied by the IRS, but now the IRS cannot return it. It defies logic, could and should be fixed today. However, now that this basic IRS bill has been hobbled by an anticonsumer provision, unfortunately, we cannot say "mission accomplished."

The substitute we are considering today would provide for all of these basic taxpayer rights without harming consumer health protections. Further, the substitute includes the Senate-passed child tax credit, which millions of lower-income families are counting on. The substitute also includes the Armed Forces Tax Fairness Act, yet another bill that this House leadership has been sitting on.

If we pass this substitute today, then we can leave and honestly tell the American people, "mission accomplished." Relief for working families: mission accomplished. We could tell those fighting soldiers and their families: mission accomplished.

Support the substitute and vote down the short-sighted Republican bill.

Mr. McDERMOTT. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time.

The original purpose behind H.R. 1528 was good. When we take a look at the title, the Taxpayer Protection and IRS Accountability Act of 2003 and we take a look at the provisions that relate to protections for our taxpayers and accountability for the IRS, it is good. In fact, it was bipartisan. There was full agreement on both sides of the aisle that these were measures that would help American taxpayers file their returns, do it right, and get back the money they deserve.

But what has happened to the bill, now that it is on the floor, is that it is no longer just a bill about taxpayer protections and IRS accountability. Somehow, in a bill that is supposed to relate to taxpayer protection and IRS accountability, there is a provision that has been put in here that has nothing to do with any of those things, and that is what Members on this side of the aisle keep talking about; a provision that deals with health care. Not just any kind of health care; it is health care for working Americans who have lost their jobs as a result of trade adjustments that have occurred that have made them lose their jobs, in other words, companies that have left America to go elsewhere to do their production and American workers who are now out of work. Out of work means likely out of health care. Out of health care is something that no American wants to be without.

So what we did a year ago was pass legislation that said, okay, for those folks under the Trade Adjustment Assistance Act, we are going to make some provisions to provide some help to those Americans who lost their jobs. It is also an addition for some people who are now retired on pensions.

The provision in this bill takes that out. It denies protections, consumer protections that we are providing to unemployed workers and pensioners. Why? Apparently, to make it easier for certain States. Why are you making it easier for certain States to exclude American workers who lost their jobs because American companies went abroad?

This is a bill that could pass with 435 votes if it dealt with the taxpayer protections and IRS accountability, period. But instead, here we go, a provision has been added, not through a voting committee, not through a voting of the full House of Representatives, but rather in the dark of night. All of those folks who are watching on C-SPAN today are saying, why do they not want to vote for this bill? It is about protecting us as taxpayers. Because the folks watching C-SPAN will never see the provision that was added to this bill that has nothing to do with taxpayer protection and that most folks on that side of the aisle will not talk about, because they only want to talk about the Taxpayer Protection Act, not about the fact that we are denying thousands of American workers who lost their jobs, through no fault of their own, and now they are going to be out of the health care that we told them a year ago that we could get them.

And why? Because some States are saying they cannot come up with a program to deal with it. Most of the States have done it or are well on their way for providing a program that is necessary for those folks to qualify. A few States are lagging behind, and what we are doing is because there are a few States that say they cannot do it, we are going to deny it to everyone. That is why the substitute should get the vote and the full support of all Members of the House.

□ 1215

Mr. McDERMOTT. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong support of the Rangel substitute. For nearly a month now, 6.5 million families, 12 million children have been shut out of a tax credit that they deserve. I am talking about how this majority secretly eliminated the child tax credits for families who earn between $10,500 and $26,625 from the tax bill that passed this House last month. People who work, people who pay taxes, sales tax, property tax, excise tax, payroll taxes, 8 percent of their income.

Instead of simply restoring that provision, the majority in the House of Representatives cynically passed an $82 billion bill for a $3.5 billion fix. Do you know why? It is because they know the legislation will never pass the other body.

To the Republican majority, these families are just another bargaining chip in their endless quest to cut taxes for the most privileged Americans. The majority's leader and the chairman of the Committee on Ways and Means have said that helping these families is not their priority, that they are not sure whether or not we will even begin the conversation between the House of Representatives and the other body to begin to work things out.

But there should be no greater priority of this House than helping the families of 6.5 million families, 12 million children. They are hard working. They are tax paying. They are waiting for the relief that was promised to them. They also include 200,000 military families, men and women who are fighting a war, losing their lives in Iraq. We are now losing almost a GI a day in the war in Iraq and yes, it is their families, their children will not see this tax credit that they were promised.

Quite simply, we must pass this substitute. It includes language from the other body's bill that would ensure that these 6.5 million families, 12 million children receive tax relief just like the 25 million other families who are going to benefit from the child tax credit. It also requires that the IRS halt work on an unfair action that they will deny the earned income tax credit that millions of families who have rightfully earned.

The Republican majority has no problem with wealthy individuals or companies who paid no taxes. Enron paid no taxes the last 4 out of 5 years. They have no problems with those companies that go overseas only for the purpose of not paying their financial obligations and their taxes to the U.S. government, and they have no problem with this. And yet those military families, those individuals who may lose their life, cannot get $400 in a tax credit, in fact, that they were promised.

What is wrong? This does not reflect the values of the United States of America. What underlies their thinking when they make these decisions? It is not what the great American tradition is all about.

I urge my colleagues to support the Rangel substitute. It protects tax-paying families who work hard. They play by the rules. They have earned this tax relief. Restoring it to them is the right thing to do. It is the fair thing to do.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find the gentlewoman's comments a little puzzling listening because on the one hand, my colleagues are arguing it was wrong to put the important health care credit into the IRS reforms which are so important and so widely viewed as popular and the appropriate thing to do, and then the gentlewoman is saying but let us add something else to this mix, another 160 pages of controversial, and for a large part of them, untested, proposals. None of these substitute proposals to my knowledge have been reported out of the Senate Finance Committee. They have not even dealt with inversions, for instance. We have legislation sitting over there in the energy bill for weeks and so the gentlewoman says, well, we need to add child credit to this to get it done.

If you want the child credit issue to be resolved, and our side of the aisle agrees it ought to be resolved. In fact, we came up with a good balanced proposal to provide relief who do not have any income tax liability, have no federal income tax liability, to increase an existing 10 percent refundable credit for the child care that is going to the same families now. We said it ought to be taken to 15 percent immediately rather than waiting until 2005, when it is going to happen anyway.

We said, if you are going to make that permanent, the 15 percent on the refundable side, again, for people who do not have Federal income tax liability, and many of whom do not have payroll tax liability, then at the least, we ought to be sure that those people who do have Federal income tax liability have their $1,000 credit which we have now provided them until 2005, to continue as well, at least until 2010.

The President wanted to continue it until 2013. We said, as a balance, let us go ahead with the child credit for the refundable part and let us go ahead with making sure that those who do pay income taxes also get some benefit after 2005 as we would be doing for those who do not have income tax liabilities.

We think that is a fair and balanced proposal. That has just been sent over to the Senate and it is being worked out between the House and the Senate. Conferees are being named. We are trying to work through this process to try to get to a solution to resolve the child credit issue. And yet the gentlewoman says, this will make more sense to get it resolved to add it to these extremely controversial, as we will talk about in a moment, and untested proposals that have not even been reported out of the Senate Finance Committee, much less subject to hearings, and none have been reported out of the Committee on Ways and Means. I do not know how that helps us get on to child credit.

Let me talk about some of the other provisions the gentlewoman talked about.

The next provision was the inversion provision. Well, as the gentleman from Massachusetts, who spoke about inversion knows, we also passed an inversion provision on this floor and we included it in legislation that is sitting in the Senate, which provides specifically for a 2-year moratorium on inversions. We think that is the right way to go. There is some bipartisan support for that. The gentleman, instead is saying, let us go ahead and load up this bill with something more controversial that provides for a retroactive provision undo inversions. So it would actually undo transactions which were entered into lawfully 30 or 40 years ago and you are now going back and penalizing.

We have dealt with the inversion issue. We have done it in a bipartisan way. It had some bipartisan support. And here we come up with this new idea again which would actually be retroactive on perfectly legal transactions. We do not think that is the right way to go. Instead, we think we ought to be having a moratorium in place and looking at the underlying causes as to why companies leave the United States. We are doing that very aggressively. Maybe too aggressively for some on both sides of the aisle. But in the fixed ETI bill, which deals with particularly the Europeans, but more generally our competitive position as Americans, it takes very aggressive action and it is going through the process of hearings now and will be before this Congress, I believe, in the next month, which says let us deal with the underlying causes. Why do companies leave? We do not want foreign corporations to come buy our companies.

I personally believe that would be the result of the inversion provision that is in this substitute. Rather, let us deal with these underlying causes. Let us make it better for companies to stay here, employ American workers, stay headquartered in this country.

Finally, there has been a lot of discussion about the refundable tax credit that is in the underlying bill and why that is not a good idea. Again, it deals with the very simple issue of 12,000 families cannot get health care unless we do this. We want to provide health care. Do a bridge program. We dealt with three concerns that were raised in the Committee on Ways and Means by the other side of the aisle. Those issues have been addressed. It is still not acceptable to some of my colleagues. I understand that.

But in terms of the legislation, the gentleman from Michigan earlier said that it allows people to go to the individual market and that is wrong. It does not. That is the point. It continues to require they go to the State options. That is what the Democrats in the Senate insisted on back in 2002. That is what we are sticking to. If that were not the case, if we were allowing people to go to the individual market, we would not have a problem here, would we?

The problem is that up to 21 States have not changed their State plans adequately to allow people who have been displaced because of trade to be able to access health care. So we are saying during a bridge while those States get up to speed and make their programs compliant, we ought to allow them to have access to health care. The State options, again, were not something that we particularly felt was the best policy, but it was something that was insisted upon. Now let us make it work. That is all we are saying.

Mr. Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Washington (Mr. McDERMOTT) has 14½ minutes remaining. The gentleman from Ohio (Mr. PORTMAN) has 9½ minutes remaining.

Mr. McDERMOTT. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I will make two quick points. One, I think my colleagues on the other side of the aisle and so described by Senate aides, Republican Senate aides and personnel who have said that, in fact, they passed this bill in the House because they knew it was never going to go anywhere in the Senate about addressing the child tax issue. That is 12 million children that were promised and 6.5 million families.

The second issue so that everyone understands, the fact of the matter is that we have not closed the loophole on those corporations that go overseas for the ostensible purpose for paying no taxes to the Federal government. They set up a shell corporation, and then they even have the audacity to come back and try to contract with the Federal Government on homeland security.

They do not pay their taxes. We do not let anyone else get away with that. Let us do something about the child tax credit.

Mr. McDERMOTT. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise also to express my strong support for the Rangel substitute and to thank the ranking member for his continual struggle for equitable and just tax laws.

Just tax laws are fiscally responsible and fairly allocated. Nowhere is this injustice of the Republican leadership better illustrated than in the shrewd treatment of the child tax credit. To ensure at all costs that the rich campaign donors will get the maximum tax credits, Republicans cut out 200,000 military families that they just sent to war, these men and women, that are serving abroad. They cut out working families. They cut out single working mothers. They cut out hard working people from all over the world who come to America to seek a better life and play by the rules and pay taxes.

I looked at my district in Los Angeles, San Gabriel Valley and East Los Angeles, and saw that one out of four families would get no tax relief. In fact, in my own district, I do not even have one single millionaire. So there you go. People pay in but they do not get anything out. And I saw that instead they would be saddled with the huge debts of tax. For years to come their children have to bear this. They would lose essential health care services.

And today in our Committee on Energy and Commerce, we are debating the demise, the demise of Medicare, services that are so vital and important to the health of our senior citizens. With less money for infrastructure and environmental protections and Social Security, that is what the Republicans want to talk about.

And I am happy that along with my Democratic colleagues, we cried out the last few weeks against this injustice and the country listened to us. In fact, the other body and the President responded by agreeing to restore the child tax credit. But these folks on the other side, they do not want to listen. They think that somehow nobody is paying attention. They use the child tax credit to try to make a $400 billion deficit even bigger. There you go. They take, they take, they take, but they do not give back.

I implore my colleagues to please, across the aisle, please support the Rangel substitute.

Mr. PORTMAN. Mr. Speaker, I yield 3½ minutes to the gentleman from Illinois (Mr. WELLER), my colleague on the Committee on Ways and Means.

Mr. WELLER. Mr. Speaker, let us take a few minutes here and actually focus on the legislation before us today because those who represent 21 States may want to pay very close attention to the legislative proposal that the Democratic side is offering as a substitute to that which is before us today. Because if you vote for the Democrat substitute, workers who have been dislocated, workers who have lost their jobs as a result of trade action or are eligible for trade adjustment assistance or are benefitting from the PBGC programs to help those who are dislocated, if you vote for the Democratic substitute, these dislocated workers in your State will be shortchanged because they will be denied help when it comes to obtaining health care coverage for themselves and their families.

Let me note these States, and I urge my colleagues to listen very carefully, because if you come from one of these 21 States and you vote for the Democrat substitute, it is workers in your own State who will be hurt by the Democrat substitute: The States of Alabama, Arizona, Delaware, Georgia, Hawaii, Idaho, Iowa, Kentucky, Mississippi, Missouri, Nevada, New Jersey, New Mexico, Oklahoma, Oregon, Rhode Island, South Dakota, Utah, Washington State, Wisconsin and Wyoming.

□ 1230

Again, my colleagues, if you represent one of these 21 States and you vote for the Democrat substitute, it is workers in your State who get hurt because the Democrat substitute takes away the help that we have in this legislation to help workers who are dislocated and desperately need health care coverage for themselves and their families.

Now, the Democrats have used a lot of rhetoric to distract all of us from the real intent of their legislation, which is to remove this help for these dislocated workers. Let me tell you why it is so important. In last year's trade act legislation, we provided a groundbreaking refundable 65 percent tax credit for health insurance purchased by those eligible Trade Adjustment Assistance and PBGC beneficiaries. The credit can be used to buy coverage through COBRA, one's spouse's coverage, or under very limited circumstances, the individual market. If these choices are not available, the insurance must be purchased through state-based options, including risk pools, State employee programs, and State contracts with private insurance that must guarantee issuance of insurance without preexisting condition limits.

What we have discovered is that States are not uniformly moving ahead to develop compliant programs. Twenty-nine States have made initiatives. I am proud to say my State of Illinois, in a bipartisan effort, has worked to protect their workers. That is why this legislation is so important today. Because, again, if you are from the 21 States where your legislature and your Governor have not put a program in place to help these workers, they are cut out; and their opportunity to get health care coverage is taken away if you support the Democrat substitute. That is what this is all about.

Vote "no" on the Democrat substitute to take away help for dislocated workers that need health care and vote "yes" on final passage to help these workers that need help.

Mr. McDERMOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, the gentleman from Illinois has repeated a claim that was made earlier by the gentlewoman from Connecticut, and it simply is wrong. Under the legislation that was passed here, the States are mandated to provide this coverage. Most of the States are providing it or are negotiating agreements with insurance carriers. There are only a small number of States with a much smaller number of employees who are constituents or residents who have not done this yet. They can provide this insurance, for example, by modifying their risk pools rules. It does not take legislation. It does not take an act by the Governor and by the State legislature. They can take this action.

Now, look, we offered to sit down with the majority and work this out.

For example, there could have been an alternative that if any State did not live up to the mandate, there could be insurance through the Federal plan. That was just one idea. But the majority refused to sit down with us to work this out. And what this is is backtracking. What this is is a foot in the door away from State plans, in addition to other plans that could be bought through COBRA and to allow individuals to buy individual insurance without the protections that are guaranteed in the legislation.

So what is going to happen is there will be cherrypicking and a lot of employees are going to be left with only more expensive insurance to buy. That is the basic principle here. The basic principle. There is a State mandate. The States are fully capable of carrying them out, and the majority is using the fact that a few States or some States have not yet acted to essentially create this vacuum. That is what the majority is utilizing to change the kind of insurance that is going to be purchased by a number of the more healthy people covered by TAA, leaving everybody else in a worse situation.

So, look, there is a State mandate here. The States can carry this out. And if you think not, and we offered to get a quick study of this, sit down with us and try to figure out an answer to a problem that I think does not really exist. You do not like these approaches that are based on State plans, on governmental plans. You prefer individual insurance where people can be cherrypicked by insurance companies. That is not the policy embedded in the TAA that was passed here. We should not turn our backs on what was passed here just a few months ago.

Mr. PORTMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. FOLEY), my colleague on the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time and for his leadership on this issue. I want to respond briefly relative to the mandate which is constantly mentioned throughout the debate. We do not mandate that the States adopt. In fact, the Treasury has been working with the States to try and find ways for compliance.

Obviously, in some States it requires legislative consent, and many of the legislators have returned home to their districts. Some are working with private providers, Blue Cross/Blue Shield and others, getting a waiver for them to make the changes to comply. So I think we have to make certain as we discuss this issue it does not sound like a forced issue on the States. We are working cooperatively with those States.

Mr. Speaker, the amendment of the gentleman from Washington would in fact delete the health care provisions contained in the bill before the House. These provisions are extremely important and reflect a goodfaith effort to make sure the previously adopted 65 percent tax credit for health insurance purchased by eligible TAA and PBGC beneficiaries is able to be used by all qualified individuals.

What will the effect of the Democratic amendment be? It will virtually deny tens of thousands of laid-off workers any chance of getting the 65 percent tax credit for payments they made for health care. It will mean in about 21 States, which was mentioned by my colleague, the gentleman from Illinois (Mr. WELLER), in 21 States there would be no qualified plan and, consequently, no tax credit for laid-off workers. So their amendment is, in our view, antiworker and antihealth care.

Let me restate the effect of removing from the bill the health care provision. The waiver provision will mean substantial numbers of additional policies will be in place for workers and their families while States continue, again let me underscore, States continue to work on developing compliant program options. Not mandates, develop compliant program options.

According to the Joint Committee on Taxation, an additional 12,000 individuals will exercise the waiver option in 2004 and utilize the tax credit to obtain health insurance for themselves and their families that would not be available under present law. A lot of families would be covered under this option.

The choice here is clear: if we do not provide TAA and PBGC beneficiaries with an option they control in States which do not offer compliant policy, these people will simply be unable to take advantage of health insurance tax credits. We intend in our bill to provide a benefit to these eligible individuals when we pass the trade act.

Let me inform my colleagues that we changed and improved the provisions that are now in the committee bill. First, the waiver will apply only to preexisting conditions and guaranteed-issue protections. It is narrowly tailored to remove obstacles to an individual's access to a qualified option. Second, the waiver will only apply in States that do not have a qualified option. Thus, the provision would benefit those who have no other opportunity to obtain health care coverage. And third, the waiver period is shorter. The waiver is a temporary provision designed to provide immediate access to health care tax credits. It is only available until December 31, 2004, which will allow States time to establish a qualified insurance plan.

Mr. MCDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Listening to the other side, Mr. Speaker, I do not quite know where to start. It is not very often that the public gets a clear view of the naked desire of the Republican Party to not do something while appearing to do it. These taxpayer provisions to protect taxpayers could have passed 12 months ago; but at that time, a year ago, they stuck in a poison pill amendment, and it died in the Senate.

Now, if they had only done it once, no one would have seen what was going on there. They passed the taxpayer bill, they put this amendment in, and they knew it would never come back; and that was the end of it. But they did not learn from that. They had the people fooled that they cared about taxpayers. But now they have come back a second time, and they do the same thing over again. They could have put a bill out here that everybody would have passed, that would have had 435 votes for it; but they had to put another poison pill in.

They know this is not going to get through the Senate because, first of all, it was part of the fast track bill and votes were obtained from people on both sides of the aisle around the belief that they were going to look after workers' rights in trade negotiations. One of the things that happens is people lose their health care benefits when they lose their job because of trade. So we took care of that. And now my Republican colleagues come in here, and what is really amazing is they believe in devolution; that everything should be put down to the States; and what they are basically saying is that we are rewarding the States that have not done anything.

Most States have acted under the bill and provided programs. They have followed all the rules. But we do have some laggards. Maybe my colleagues want to read that list again. Those laggards, those slothful ones, whatever they are, that do not care about their people, or whatever it is, they have not acted; and yet my colleagues are saying, okay, okay, we understand you really do care, so we are going to get rid of all the rules. What kind of incentive, what kind of message is that to send to the States? Hang back, do not do it, and we will change it to fit you; right?

Now, that is no message to send. And the real message here is, and I do not know anybody who wants to see this, this bill occurred because the Republicans would not allow them to use COBRA or Medicaid. When these negotiations were going on, we wanted to put these people into Medicaid, give them coverage there, or allow them to extend their COBRA. But my Republican colleagues said oh, no, no, no, no, we have a new plan. We believe that tax credits are the answer. So we will give them 65 percent of the premium tax credit, and they will be able to go out and buy. And lo and behold it did not work.

This is kind of the reverse of that movie called "Field of Dreams": If you build it, they will come. Well, the Republicans said if we build this tax credit around health insurance, they will come; and they have not come. So now they are saying, well, we are going to tweak it a little bit here and take away the consumer protections. And I think that is not fair. It makes it pretty hard to deal with the other side when one year they are saying they are going to do one thing, and in less than a year they are back here taking it out. What can we believe from them? Did my colleagues not think it was a good idea last time, so they just let it go through in order to get fast track, because they knew they could come back and repeal it? What was going on?

I think my Republican colleagues ought to ask themselves what kind of a message it sends from their side to us when they want us to work on a bipartisan basis. We do not work very often on a bipartisan basis; but when we do, on the fast track bill, the Republicans undercut it the next time they stand up. In my view, that is not the way this body should operate.

Now, what are some of the other things that are in here that we took out? We took out some things that the Republicans had in their taxpayer bill. We took out the ability to have tax-free interest on overpayments. If we look at the scoring of this bill, if we look at what the CBO said, they said they think a billion dollars is going to be paid in overpayments. Now, why would anybody overpay their taxes? Well, if this bill passes, they would get tax-free interest because the government has to pay interest on overpayments that are given back. It has always been taxable, but now it would not be. The CBO's estimate is that a billion dollars is going to be put into tax-free bonds, basically, in the IRS.

Now, my view is that is not necessary. And the other thing is, my colleagues talk about wanting to revise the Tax Code, yet they come out here with a bill that is going to complicate it some more. They are going to give some people 2 more weeks. For what?

□ 1245

For 2 years they are going to give people who file electronically two more weeks. I asked the staff, where did this come from? Who asked for this?

Mr. Speaker, no accountants that I know want two different dates. It turns out this is a provision that the last Treasury Secretary kind of thought was a great idea. Guys, he is gone. Let this idea go away. It is a bad idea. We do not need any more confusion in tax filing than we already have today.

Finally, this issue of children. I do not know why they continue to tar themselves with their own brush. They say they care about kids, and then they pass a bill through here that does not give the benefit to the poorest of the kids, not the poorest, the ones just above the poorest. Their folks make between $15,000 and $28,000, and they say to them, you do not get this money, this child tax credit. But they are willing to give it to people making $80,000, $90,000 all of the way up to $150,000. I do not know why Republicans would want to have that image.

I stand over here and think, why would they be doing this? All I can think of is they thought it was an engine that would be able to drag some things through Congress which they could not get any other way. It makes no sense at all. If they really cared about these kids, they would pass this bill and with this amendment on it, and it would go into law immediately.

I know the other side does not like the provision about companies that run away, but we are over there rebuilding Iraq, and some of the very companies that left the country and have established another office someplace else, the Cayman Islands or Bermuda or wherever, have the gall to come back here and bid on contracts to rebuild Iraq. They are willing to pay no taxes in this country, and then take American taxpayer money and make profit off it in Iraq. It is unbelievable that the other side of the aisle would set up a system like that unless they had friends in the oil industry or concrete-laying or dam-building or airport-rebuilding. All those issues are in this bill, and I say we should adopt this amendment if we want to protect the taxpayers. This amendment in the nature of a substitute would get through the Senate.

Mr. PORTMAN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think we have seen why this effort today is more politics than it is practical. We are now talking about Iraq. We have loaded this bill up with Iraq, and somehow that is going to get through the Senate. The reality is we have about 160 pages of new provisions here that have not been through the Committee on Ways and Means process, have not been reported out of the Senate Finance Committee; and they are, therefore, going to drag down all of the other good legislation in the underlying bill. We are talking about the substitute for good legislation.

The gentleman from Washington has talked about the child credit. Here is the reality. If we really want the child credit to get resolved, to be sure we were giving fair and balanced relief to families with kids, Members would not tack it onto this, raising every issue from inversions to Iraq. Members would instead want to make that a streamlined process, as we did here in the House recently where we said we ought to be able to provide people who do not have Federal income tax liability with a little help, more help than we are already giving them because all those families already get help, thanks to Republicans, because in 2001 we passed tax legislation that for the first time ever, unlike what the Democrats did for the previous 40-plus years when they controlled this place, we provided tax credits that were refundable to people who do not pay Federal income taxes.

The Democrats are saying now we ought to increase that refundability, which is scheduled to happen anyway in 2005, and instead what we ought to do, we ought not provide relief to people who do pay income taxes. That is absurd. We ought to do both. We are willing to increase it to 15 percent, but for the Democrats to say but if you pay income taxes, you do not get the $1,000 credit, that makes no sense at all. That is what they want to do.

Anyhow, that issue should not be on this bill because this bill has now become so complicated with this Democrat substitute that it would, if the Democrat substitute passed, not be able to make it through the Senate. The underlying legislation here is the result of years of work by people who are concerned about ordinary taxpayers and how to make our tax system work better. That is what it is. It is great legislation.

The provision the gentleman criticized earlier is from the bipartisan, bicameral joint tax committee. There are anti-abuse provisions in it. He misreads the provision or he thinks it is not good law because he thinks taxpayers ought to be saddled with more liability than they should be.

Let me talk about some of the great provisions that are in here that would not happen if this substitute goes through because we are not going to get this bill through if the substitute is part of it. We would not have an end to this first time penalty. Right now, even the most conscientious taxpayers who put a $1.40 stamp on their tax return envelope rather than $1.50, those people now end up having a penalty against them for minor errors, and we would not be able to fix that if the substitute goes through.

Second, there would be no relief on the estimated tax penalty. We would still have people who are charged interest and have to pay tax, additional interest and penalties just for how they quarterly file their taxes. There would be no simplified filing for family businesses. There would be no prohibition and increased penalties for unauthorized browsing. How could Members be against that? Do Members think the IRS employees ought to be able to browse?

And with regard to the so-called 10 deadly sins, we help the IRS and its employees to improve morale by reforming that and doing what the IRS commissioners strongly believe we ought to do, give them some flexibility.

Mr. Speaker, the bottom line is we ought not to take these good provisions down because of a health care credit. All it does is provide 12,000 families with the ability to access health care, that and the good IRS provisions ought to go. The substitute ought to be voted down. I urge my colleagues to vote no on the substitute and yes on the underlying bill.

The SPEAKER pro tempore (Mr. QUINN). All time for debate has expired.

Pursuant to House Resolution 282, the previous question is ordered on the bill and on the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MCDERMOTT).

The question is on the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MCDERMOTT).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MCDERMOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 196, nays 226, not voting 12, as follows:

[Roll No. 291]

YEAS—196

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Cooper
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—226

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Cannon
Carson (IN)
Conyers
Costello
Delahunt
Gephardt
Hastings (FL)
Kleczka
Miller (MI)
Smith (NJ)
Smith (WA)
Thompson (MS)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. EMERSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1312

Messrs. BLUNT, EVERETT, OTTER and Mrs. CUBIN changed their vote from "yea" to "nay."

Ms. KAPTUR, Mr. HONDA and Ms. JACKSON-LEE of Texas changed their vote from "nay" to "yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. VISCLOSKY

Mr. VISCLOSKY. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. VISCLOSKY. Madam Speaker, I am in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. VISCLOSKY moves to recommit the bill H.R. 1528 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendments:

Strike section 309 of the bill and insert the following new section (and amend the table of contents accordingly):

SEC. 309. HEALTH CARE TAX CREDIT ENHANCEMENT.

(a) DECREASE IN AGE ELIGIBILITY REQUIREMENT.—Subparagraph (A) of section 35(c)(4) (defining eligible PBGC pension recipient) is amended by striking "age 55" and inserting "age 50".

(b) REPEAL OF 3-MONTH REQUIREMENT OF EXISTING COVERAGE.—Clause (i) of section 35(e)(2)(B) (defining qualifying individual) is amended by striking "9801(c)" and inserting "9801(c) (prior to the employment separation necessary to attain the status of an eligible individual)".

(c) ELIGIBILITY OF SPOUSE OF CERTAIN INDIVIDUALS ENTITLED TO MEDICARE.—Subsection (b) of section 35 (defining eligible coverage month) is amended by adding at the end the following:

"(3) SPECIAL RULE FOR SPOUSE OF INDIVIDUAL ENTITLED TO MEDICARE.—Any month which would be an eligible coverage month with respect to a taxpayer (determined without regard to subsection (f)(2)(A)) shall be an eligible coverage month for any spouse of such taxpayer.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after September 30, 2003.

Mr. VISCLOSKY (during the reading). Madam Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana is recognized for 5 minutes in support of his motion.

□ 1315

Mr. VISCLOSKY. Madam Speaker, I thank my colleagues for their attention. H.R. 1528, from my perspective, and in its current form, does not adequately address the needs of tens of thousands of workers who have lost their health benefits. I believe that section 309 would, in fact, hurt retirees by rolling back consumer protections currently in place. I do think it is unacceptable to now constrict the number of individuals eligible for health care tax credits.

The motion to recommit is based on title I of H.R. 1999, which has 111 bipartisan co-sponsors; and I believe title I represents a positive proactive solution to the health care problems retirees and other workers who have lost their jobs face. The motion to recommit builds upon the progress we made in the Trade Promotion Authority in this area. It does not create a new health area tax credit. It does not create a new Federal program; but rather, it removes obstacles in the current program to include more individuals, individual U.S. citizens who need assistance. The motion lowers the eligibility age from the current age of 55 to 50. The motion to recommit also allows spouses to receive the tax credit if they would otherwise be eligible and the recipient is over 64 years of age and receiving Medicare. Currently spouses of eligible individuals can receive the health care tax credit only while the eligible individual is between the ages of 55 and 64.

And, finally, it allows the last 3 months of health care before TAA qualification or the PBGC takeover to count as a 3-month preexisting coverage requirement. Currently an eligible individual must pay full price for health care for 3 months before receiving the health care tax credit.

This measure will help retirees from a wide range of industry, including textiles, airline mechanics, and other manufacturing firms whose pensions, including 2,800 firms, have been taken over by the PBGC.

While many industry employees who have lost their jobs will be benefited, the industry I am most familiar with is the United States steel industry. Since 1998, 208,000 steelworkers have lost their health insurance; 51,000 of them are ineligible for Medicare. Many of these individuals are simply unable to afford health insurance at full cost, leaving them without modest health care coverage.

This is not free coverage. I just want to ensure that retirees that were hurt by unfair trade or other circumstances beyond their control economically get back just a little bit of what they used to have that was taken away from them.

I testified before the Committee on Rules 2 days ago on this measure wanting to offer an amendment, and one question asked of me is, is there a cost? And I would respond to that question by saying there is a cost. There is a cost in doing nothing. In yesterday's Post Tribune from Gary Indiana, there was a headline that said more than 10,000 Bethlehem and LTD retirees find themselves without health insurance.

Let me talk about one lucky individual, a gentleman who retired from Bethlehem Steel within the last year who had to make a decision about whether or not he would keep his health care from Bethlehem Steel or secure it through a public job that he had in Porter County, Indiana. Larry Sheets made the decision to take the insurance with a public entity in Porter County, Indiana. At the time, I thought he was wrong because of the health care provided by the company. After Mr. Sheets made his decision and after Bethlehem Steel had their health care canceled, he developed leukemia and within the last several weeks was released from Northwestern Hospital. He is alive today because he had health insurance. If he had decided the other way, to keep his health care from Bethlehem Steel, he would not have had any health care when he developed leukemia, and he would not be back from the hospital today. He would be dead.

There is a cost in doing nothing. We have a government to help people who through no fault of their own have developed a problem, and I would hope that we still retain in this Chamber and in this country a heart that is generous and willing to help our citizens when they need it.

Mr. McCRERY. Madam Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Louisiana (Mr. MCCRERY) is recognized for 5 minutes.

Mr. McCRERY. Madam Speaker, the motion before us would basically make a bad situation worse, much worse. For those unemployed workers who do not have access to COBRA benefits, they depend upon the States to confect with insurance companies or through a State employee plan or through a high-risk pool a plan of insurance that comports with the provisions of the trade bill we adopted in the last Congress. The problem for some unemployed workers now is that their States have not yet perfected those plans; so if they do not have COBRA availability, they have nothing on which they could use their 65 percent health insurance tax credit. Nothing. It is not available to them.

Right now we think by August about 30 States will have implemented a plan of insurance which will be available to unemployed workers that do not have COBRA. If this motion to recommit were to be adopted, made law, we would have zero States, not 30, zero States that would have insurance plans in place for those unemployed workers. Actually, we might have two. We might have two States. We are not sure. Maybe two out of 50 would have in place a plan that would be available for the tax credit for these unemployed workers.

So I would urge this House to not make a bad situation worse. I would urge the House to adopt the underlying bill with the provision in it that will give some hope to those unemployed workers who do not have COBRA, who did not work for a big company, to get some health insurance for them and their families.

Besides making a bad situation worse, the policy contained in the motion to recommit is simply bad policy. If we want to encourage employers to provide health insurance, there has got to be health insurance available. If we want the States to provide a plan of health insurance so that unemployed workers can take advantage of the tax credit, then we do not want to destroy the fundamentals of the insurance system which this motion to recommit would do. HIPAA, passed by Congress several years ago, addressed this issue of portability of health insurance and said in order to maintain a vibrant health insurance industry, we have got to provide for some prior coverage before a person can get insurance without being subject to guaranteed issue and preexisting conditions clauses in those contracts.

So the Congress said they have got to have 18 months' prior coverage, and they must not have lost that coverage more than 63 days ago. This motion to recommit would say never mind the 63 days, they could have had prior coverage 20 years ago. What that would mean is people would just wait to get insurance until they get sick. Obviously, that destroys the whole concept of insurance, and for that reason this would be terrible policy if we are interested in keeping a private health insurance system in this country.

So, Madam Speaker, I would urge a "no" vote on this motion to recommit, a "yes" vote on the underlying bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. VISCLOSKY. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of final passage.

The vote was taken by electronic device, and there were—ayes 199, noes 226, not voting 9, as follows:

[Roll No. 292]

AYES—199

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Cooper
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—226

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Carson (IN)
Conyers
Costello
Gephardt
Hastings (FL)
Kleczka
Miller (MI)
Smith (NJ)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. EMERSON) (during the vote). There are 2 minutes remaining to vote.

☐ 1346

Mr. RUPPERSBERGER changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PRICE of North Carolina. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 252, noes 170, not voting 12, as follows:

[Roll No. 293]

AYES—252

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood

Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—170

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Blumenauer
Boucher
Brady (PA)
Brown, Corrine
Capps
Capuano
Cardin
Clay
Clyburn
Cooper
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Goode
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—12

Brown (OH)
Burns
Carson (IN)
Conyers
Costello
Cox
Gephardt
Hastings (FL)
Kleczka
Miller (MI)
Smith (NJ)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. EMERSON) (during the vote). There are 2 minutes left on this vote.

☐ 1352

Mr. MORAN of Virginia changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PORTMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of H.R. 1528, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SMALL BUSINESS HEALTH FAIRNESS ACT OF 2003

Mr. BOEHNER. Madam Speaker, pursuant to House Resolution 283, I call up the bill (H.R. 660) to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 283, the bill is considered read for amendment.

The text of H.R. 660 is as follows:

H.R. 660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Health Fairness Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Rules governing association health plans.

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Definitions and rules of construction.

Sec. 3. Clarification of treatment of single employer arrangements.
Sec. 4. Clarification of treatment of certain collectively bargained arrangements.
Sec. 5. Enforcement provisions relating to association health plans.
Sec. 6. Cooperation between Federal and State authorities.
Sec. 7. Effective date and transitional and other rules.

SEC. 2. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"SEC. 801. ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

"(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

"(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

"(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—The applicable authority shall prescribe by regulation, through negotiated rulemaking, a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

"(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

“(c) Requirements Applicable to Certified Plans.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

“(d) Requirements for Continued Certification.—The applicable authority may provide by regulation, through negotiated rulemaking, for continued certification of association health plans under this part.

“(e) Class Certification for Fully Insured Plans.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

“(f) Certification of Self-Insured Association Health Plans.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

“(1) a plan which offered such coverage on the date of the enactment of the Small Business Health Fairness Act of 2003,

“(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

“(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services; transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations which the Secretary shall prescribe through negotiated rulemaking.

“SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

“(a) Sponsor.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

“(b) Board of Trustees.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

“(1) Fiscal control.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

“(2) Rules of operation and financial controls.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

“(3) Rules governing relationship to participating employers and to contractors.—

“(A) In general.—Except as provided in subparagraphs (B) and (C), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

“(B) Limitation.—

“(i) General rule.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

“(ii) Limited exception for providers of services solely on behalf of the sponsor.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

“(iii) Treatment of providers of medical care.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

“(C) Certain plans excluded.—Subparagraph (A) shall not apply to an association health plan which is in existence on the date of the enactment of the Small Business Health Fairness Act of 2003.

“(D) Sole authority.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

“(c) Treatment of Franchise Networks.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

“(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

“(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation, through negotiated rulemaking, define for purposes of this subsection the terms ‘franchiser’, ‘franchise network’, and ‘franchisee’.

“(d) Certain Collectively Bargained Plans.—

“(1) In general.—In the case of a group health plan described in paragraph (2)—

“(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met;

“(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met; and

“(C) the requirements of section 804 shall be deemed met.

“(2) Requirements.—A group health plan is described in this paragraph if—

“(A) the plan is a multiemployer plan; or

“(B) the plan is in existence on April 1, 2003, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii).

“(3) Construction.—A group health plan described in paragraph (2) shall only be treated as an association health plan under this part if the sponsor of the plan applies for, and obtains, certification of the plan as an association health plan under this part.

“SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

“(a) Covered Employers and Individuals.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

“(1) each participating employer must be—

“(A) a member of the sponsor,

“(B) the sponsor, or

“(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

“(2) all individuals commencing coverage under the plan after certification under this part must be—

“(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

“(B) the beneficiaries of individuals described in subparagraph (A).

“(b) Coverage of Previously Uninsured Employees.—In the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

“(1) the affiliated member was an affiliated member on the date of certification under this part; or

“(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

“(c) Individual Market Unaffected.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

“(d) Prohibition of Discrimination Against Employers and Employees Eligible To Participate.—The requirements of this subsection are met with respect to an association health plan if—

“(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

"(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

"(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

"(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

"(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

"(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

"(C) incorporates the requirements of section 806.

"(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

"(A) The contribution rates for any participating small employer do not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and do not vary on the basis of the type of business or industry in which such employer is engaged.

"(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

"(i) setting contribution rates based on the claims experience of the plan; or

"(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

"(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

"(4) MARKETING REQUIREMENTS.—

"(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

"(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

"(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation through negotiated rulemaking.

"(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

"SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

"(1) the benefits under the plan consist solely of health insurance coverage; or

"(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

"(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

"(i) a reserve sufficient for unearned contributions;

"(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

"(iii) a reserve sufficient for any other obligations of the plan; and

"(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

"(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

"(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation, through negotiated rulemaking, provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation, through negotiated rulemaking, provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

"(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

"(1) $500,000, or

"(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority through negotiated rulemaking, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

"(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation, through negotiated rulemaking, with respect to any such plan or any class of such plans.

"(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

"(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

"(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

"(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

"(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

“(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

“(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

“(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS/STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

“(3) ASSOCIATION HEALTH PLAN FUND.—

“(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the ‘Association Health Plan Fund’. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

“(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

“(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

“(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term ‘aggregate excess/stop loss insurance’ means, in connection with an association health plan, a contract—

“(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

“(B) which is guaranteed renewable; and

“(C) which allows for payment of premiums by any third party on behalf of the insured plan.

“(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term ‘specific excess/stop loss insurance’ means, in connection with an association health plan, a contract—

“(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

“(B) which is guaranteed renewable; and

“(C) which allows for payment of premiums by any third party on behalf of the insured plan.

“(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term ‘indemnification insurance’ means, in connection with an association health plan, a contract—

“(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

“(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation through negotiated rulemaking); and

“(3) which allows for payment of premiums by any third party on behalf of the insured plan.

“(i) RESERVES.—For purposes of this section, the term ‘reserves’ means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe through negotiated rulemaking.

“(j) SOLVENCY STANDARDS WORKING GROUP.—

“(1) IN GENERAL.—Within 90 days after the date of the enactment of the Small Business Health Fairness Act of 2003, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

“(2) MEMBERSHIP.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

“(A) a representative of the National Association of Insurance Commissioners;

“(B) a representative of the American Academy of Actuaries;

“(C) a representative of the State governments, or their interests;

“(D) a representative of existing self-insured arrangements, or their interests;

“(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

“(F) a representative of multiemployer plans that are group health plans, or their interests.

“SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

“(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

“(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority through negotiated rulemaking, at least the following information:

“(1) IDENTIFYING INFORMATION.—The names and addresses of—

“(A) the sponsor; and

“(B) the members of the board of trustees of the plan.

“(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

“(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

“(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

“(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

“(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

“(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe through negotiated rulemaking.

“(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

“(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

“(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

“(E) Other information.—Any other information as may be determined by the applicable authority, by regulation through negotiated rulemaking, as necessary to carry out the purposes of this part.

“(c) Filing Notice of Certification With States.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

“(d) Notice of Material Changes.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation through negotiated rulemaking. The applicable authority may require by regulation, through negotiated rulemaking, prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

“(e) Reporting Requirements for Certain Association Health Plans.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 503B by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 503C(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation through negotiated rulemaking such interim reports as it considers appropriate.

“(f) Engagement of Qualified Actuary.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

“(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

“(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

“SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

“Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

“(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

“(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

“(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation through negotiated rulemaking.

“SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

“(a) Actions To Avoid Depletion of Reserves.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation through negotiated rulemaking) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

“(b) Mandatory Termination.—In any case in which—

“(1) the applicable authority has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

“(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

“SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

“(a) Appointment of Secretary as Trustee for Insolvent Plans.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation through negotiated rulemaking, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

“(b) Powers as Trustee.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

“(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

“(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

“(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary through negotiated rulemaking, and applicable provisions of law;

“(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

“(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

“(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

“(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation through negotiated rulemaking or required by any order of the court;

“(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

“(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

“(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

“(c) Notice of Appointment.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

“(1) the sponsor and plan administrator;

“(2) each participant;

“(3) each participating employer; and

“(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

“(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

“(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

“(f) JURISDICTION OF COURT.—

“(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

“(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

“(g) PERSONNEL.—In accordance with regulations which shall be prescribed by the Secretary through negotiated rulemaking, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

“SEC. 811. STATE ASSESSMENT AUTHORITY.

“(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Health Fairness Act of 2003.

“(b) CONTRIBUTION TAX.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

“(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

“(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

“(3) such tax is otherwise nondiscriminatory; and

“(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

“SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

“(a) DEFINITIONS.—For purposes of this part—

“(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

“(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

“(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

“(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

“(5) APPLICABLE AUTHORITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable authority' means, in connection with an association health plan—

“(i) the State recognized pursuant to subsection (c) of section 506 as the State to which authority has been delegated in connection with such plan; or

“(ii) if there if no State referred to in clause (i), the Secretary.

“(B) EXCEPTIONS.—

“(i) JOINT AUTHORITIES.—Where such term appears in section 808(3), section 807(e) (in the first instance), section 809(a) (in the second instance), section 809(a) (in the fourth instance), and section 809(b)(1), such term means, in connection with an association health plan, the Secretary and the State referred to in subparagraph (A)(i) (if any) in connection with such plan.

“(ii) REGULATORY AUTHORITIES.—Where such term appears in section 802(a) (in the first instance), section 802(d), section 802(e), section 803(d), section 805(a)(5), section 806(a)(2), section 806(b), section 806(c), section 806(d), paragraphs (1)(A) and (2)(A) of section 806(g), section 806(h), section 806(i), section 806(j), section 807(a) (in the second instance), section 807(b), section 807(d), section 807(e) (in the second instance), section 808 (in the matter after paragraph (3)), and section 809(a) (in the third instance), such term means, in connection with an association health plan, the Secretary.

“(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

“(7) INDIVIDUAL MARKET.—

“(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

“(B) TREATMENT OF VERY SMALL GROUPS.—

“(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

“(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

“(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

“(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

“(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation through negotiated rulemaking.

“(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

“(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

“(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

“(C) in the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, a person eligible to be a member of the sponsor or one of its member associations.

“(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

“(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

“(b) RULES OF CONSTRUCTION.—

“(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

“(A) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

"(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (e)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

"(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

"(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

"(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

"(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

"(4) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 811, respectively.".

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking "and" at the end;

(B) in clause (ii), by inserting "and which does not provide medical care (within the meaning of section 733(a)(2))," after "arrangement,", and by striking "title." and inserting "title, and"; and

(C) by adding at the end the following new clause:

"(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.".

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking "Nothing" and inserting "(1) Except as provided in paragraph (2), nothing"; and

(B) by adding at the end the following new paragraph:

"(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Small Business Health Fairness Act of 2003 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.".

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of an association health plan under part 8.".

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: "An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.".

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2008, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Definitions and rules of construction.".

SEC. 3. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of any such other arrangement;" after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "control group";

(2) in clause (iii)—

(A) by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control"; and

(B) by striking "similar to" and inserting "consistent and coextensive with";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement;".

SEC. 4. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E);".

(b) Limitations.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

“(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

“(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

“(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

“(II) pay any type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations prescribed by the Secretary through negotiated rulemaking), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

“(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are neither—

“(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

“(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment),

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Small Business Health Fairness Act of 2003 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

“(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed by the Secretary through negotiated rulemaking that the plan or other arrangement meets the requirements of clauses (i) and (ii).

“(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

“(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

“(ii)(I) the plan or arrangement is a multiemployer plan; and

“(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

“(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

“(i) the plan or arrangement is in effect as of the date of the enactment of the Small Business Health Fairness Act of 2003; or

“(ii) the employee organization or other entity sponsoring the plan or arrangement—

“(I) has been in existence for at least 3 years; or

“(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.”.

(c) Conforming Amendments to Definitions of Participant and Beneficiary.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: “Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).”.

SEC. 5. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) Criminal Penalties for Certain Willful Misrepresentations.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting “(a)” after “Sec. 501.”; and

(2) by adding at the end the following new subsection:

“(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

“(1) being an association health plan which has been certified under part 8;

“(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

“(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met,

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.”.

(b) Cease Activities Orders.—Section 502 of such Act (29 U.S.C. 1132), as amended by sections 141 and 143, is further amended by adding at the end the following new subsection:

“(p) Association Health Plan Cease and Desist Orders.—

“(1) In general.—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

“(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

“(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

“(2) Exception.—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

“(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

“(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

“(3) Additional equitable relief.—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.”.

(c) Responsibility for Claims Procedure.—Section 503 of such Act (29 U.S.C. 1133), as amended by section 301(b), is amended by adding at the end the following new subsection:

“(c) Association Health Plans.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.”.

SEC. 6. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

“(c) Consultation With States With Respect to Association Health Plans.—

“(1) Agreements with states.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

“(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

“(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

“(2) Recognition of primary domicile state.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State with which consultation is required. In carrying out this paragraph, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.”.

SEC. 7. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) Effective Date.—The amendments made by sections 2, 5, and 6 shall take effect one year from the date of the enactment. The amendments made by sections 3 and 4 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this subtitle within one year from the date of the enactment. Such regulations shall be issued through negotiated rulemaking.

(b) EXCEPTION.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 2) does not apply in connection with an association health plan (certified under part 8 of subtitle B of title I of such Act) existing on the date of the enactment of this Act, if no benefits provided thereunder as of the date of the enactment of this Act consist of health insurance coverage (as defined in section 733(b)(1) of such Act).

(c) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a)(1) and 803(a)(1) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms "group health plan", "medical care", and "participating employer" shall have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "association health plan" shall be deemed a reference to an arrangement referred to in this subsection.

The SPEAKER pro tempore. The committee amendment in the nature of a substitute printed in the bill is adopted.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Health Fairness Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Rules governing association health plans.

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Definitions and rules of construction.
Sec. 3. Clarification of treatment of single employer arrangements.
Sec. 4. Enforcement provisions relating to association health plans.
Sec. 5. Cooperation between Federal and State authorities.
Sec. 6. Effective date and transitional and other rules.

SEC. 2. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"SEC. 801. ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

"(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

"(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

"(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—The applicable authority shall prescribe by regulation a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

"(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

"(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

"(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of association health plans under this part.

"(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

"(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

"(1) a plan which offered such coverage on the date of the enactment of the Small Business Health Fairness Act of 2003,

"(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

"(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations;

logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services; transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

"(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

"(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

"(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

"(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

"(A) BOARD MEMBERSHIP.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(ii) LIMITATION.—

"(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

"(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

"(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

"(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to an association health plan which is in existence on the date of the enactment of the Small Business Health Fairness Act of 2003.

"(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

"(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

"(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

"(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

"(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

"(1) each participating employer must be—

"(A) a member of the sponsor,

"(B) the sponsor, or

"(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

"(2) all individuals commencing coverage under the plan after certification under this part must be—

"(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

"(B) the beneficiaries of individuals described in subparagraph (A).

"(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

"(1) the affiliated member was an affiliated member on the date of certification under this part; or

"(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

"(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

"(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

"(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

"(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

"(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

"(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

"(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

"(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

"(C) incorporates the requirements of section 806.

"(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

"(A) The contribution rates for any participating small employer do not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and do not vary on the basis of the type of business or industry in which such employer is engaged.

"(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

"(i) setting contribution rates based on the claims experience of the plan; or

"(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

"(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

"(4) MARKETING REQUIREMENTS.—

"(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

"(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

"(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of *this part, which shall be prescribed by the applicable authority by regulation.*

"(b) Ability of Association Health Plans To Design Benefit Options.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of (1) any law to the extent that it is not preempted under section 731(a)(1) with respect to matters governed by section 711, 712, or 713, or (2) any law of the State with which filing and approval of a policy type offered by the plan was initially obtained to the extent that such law prohibits an exclusion of a specific disease from such coverage.

"SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) In General.—The requirements of this section are met with respect to an association health plan if—

"(1) the benefits under the plan consist solely of health insurance coverage; or

"(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

"(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

"(i) a reserve sufficient for unearned contributions;

"(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

"(iii) a reserve sufficient for any other obligations of the plan; and

"(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

"(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

"(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any person issuing to a plan insurance described in clause (i), (ii), or (iii) shall notify the Secretary of any failure of premium payment meriting cancellation of the policy prior to undertaking such a cancellation. Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

"(b) Minimum Surplus in Addition to Claims Reserves.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

"(1) $500,000, or

"(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority, considering the level of aggregate and specific excess/stop loss insurance provided with respect to such plan and other factors related to solvency risk, such as the plan's projected levels of participation or claims, the nature of the plan's liabilities, and the types of assets available to assure that such liabilities are met.

"(c) Additional Requirements.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves, excess/stop loss insurance, and indemnification insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation with respect to any such plan or any class of such plans.

"(d) Adjustments for Excess/Stop Loss Insurance.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

"(e) Alternative Means of Compliance.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

"(f) Measures To Ensure Continued Payment of Benefits by Certain Plans in Distress.—

"(1) Payments by certain plans to association health plan fund.—

"(A) In general.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

"(B) Penalties for failure to make payments.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

"(C) Continued duty of the secretary.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

"(2) Payments by secretary to continue excess/stop loss insurance coverage and indemnification insurance coverage for certain plans.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

"(3) Association health plan fund.—

"(A) In general.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

"(B) Investment.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

"(g) Excess/Stop Loss Insurance.—For purposes of this section—

"(1) Aggregate excess/stop loss insurance.—The term 'aggregate excess/stop loss insurance' means, in connection with an association health plan, a contract—

"(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

"(B) which is guaranteed renewable; and

"(C) which allows for payment of premiums by any third party on behalf of the insured plan.

"(2) Specific excess/stop loss insurance.—The term 'specific excess/stop loss insurance' means, in connection with an association health plan, a contract—

"(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

"(B) which is guaranteed renewable; and

"(C) which allows for payment of premiums by any third party on behalf of the insured plan.

"(h) Indemnification Insurance.—For purposes of this section, the term 'indemnification

insurance' means, in connection with an association health plan, a contract—

"(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

"(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation); and

"(3) which allows for payment of premiums by any third party on behalf of the insured plan.

"(i) RESERVES.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe by regulation.

"(j) SOLVENCY STANDARDS WORKING GROUP.—

"(1) IN GENERAL.—Within 90 days after the date of the enactment of the Small Business Health Fairness Act of 2003, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

"(2) MEMBERSHIP.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

"(A) a representative of the National Association of Insurance Commissioners;

"(B) a representative of the American Academy of Actuaries;

"(C) a representative of the State governments, or their interests;

"(D) a representative of existing self-insured arrangements, or their interests;

"(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

"(F) a representative of multiemployer plans that are group health plans, or their interests.

"SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

"(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

"(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

"(1) IDENTIFYING INFORMATION.—The names and addresses of—

"(A) the sponsor; and

"(B) the members of the board of trustees of the plan.

"(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

"(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

"(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

"(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

"(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

"(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe.

"(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

"(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

"(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

"(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation, as necessary to carry out the purposes of this part.

"(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

"(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

"(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation such interim reports as it considers appropriate.

"(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

"(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

"Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

"(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

"(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

"(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

"SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

"(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board

shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

"(b) MANDATORY TERMINATION.—In any case in which—

"(1) the applicable authority has been notified under subsection (a) (or by an issuer of excess/stop loss insurance or indemnity insurance pursuant to section 806(a)) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

"(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

"SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

"(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

"(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

"(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

"(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary, and applicable provisions of law;

"(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

"(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

"(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

"(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation or required by any order of the court;

"(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

"(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

"(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

"(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

"(1) the sponsor and plan administrator;

"(2) each participant;

"(3) each participating employer; and

"(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

"(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

"(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

"(f) JURISDICTION OF COURT.—

"(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

"(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

"(g) PERSONNEL.—In accordance with regulations which shall be prescribed by the Secretary, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

"SEC. 811. STATE ASSESSMENT AUTHORITY.

"(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Health Fairness Act of 2003.

"(b) CONTRIBUTION TAX.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

"(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

"(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

"(3) such tax is otherwise nondiscriminatory; and

"(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

"SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) DEFINITIONS.—For purposes of this part—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

"(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

"(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

"(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

"(5) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary, except that, in connection with any exercise of the Secretary's authority regarding which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

"(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

"(7) INDIVIDUAL MARKET.—

"(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"(B) TREATMENT OF VERY SMALL GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

"(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

"(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

"(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries.

"(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

"(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

"(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

"(C) in the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, a person eligible to be a member of the sponsor or one of its member associations.

"(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

"(b) RULES OF CONSTRUCTION.—

"(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

"(A) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

"(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

"(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

"(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

"(B) In any case in which health insurance coverage of any policy type is offered in a State under an association health plan certified under part 8 and the filing, with the applicable State authority (as defined in section 812(a)(9)), of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

"(3) Nothing in subsection (b)(6)(E) or the preceding provisions of this subsection shall be construed, with respect to health insurance issuers or health insurance coverage, to supersede or impair the law of any State—

"(A) providing solvency standards or similar standards regarding the adequacy of insurer capital, surplus, reserves, or contributions, or

"(B) relating to prompt payment of claims.

"(4) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

"(5) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 812, respectively.".

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking "and" at the end;

(B) in clause (ii), by inserting "and which does not provide medical care (within the meaning of section 733(a)(2))," after "arrangement,", and by striking "title." and inserting "title, and"; and

(C) by adding at the end the following new clause:

"(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.".

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking "Nothing" and inserting "(1) Except as provided in paragraph (2), nothing"; and

(B) by adding at the end the following new paragraph:

"(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Small Business Health Fairness Act of 2003 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.".

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of an association health plan under part 8.".

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: "An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.".

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2008, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Definitions and rules of construction.".

SEC. 3. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting after "control group," the following: "except that, in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), two or more trades or businesses, whether or not incorporated, shall be deemed a single employer for any plan year of such plan, or any fiscal year of such other arrangement, if such trades or businesses are within the same control group during such year or at any time during the preceding 1-year period,";

(2) in clause (iii), by striking "(iii) the determination" and inserting the following:

"(iii)(I) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), the determination of whether a trade or business is under 'common control' with another trade or business shall be determined under regulations of the Secretary applying principles consistent and coextensive with the principles applied in determining whether employees of two or more trades or businesses are treated as employed by a single employer under section 4001(b), except that, for purposes of this paragraph, an interest of greater than 25 percent may not be required as the minimum interest necessary for common control, or

"(II) in any other case, the determination";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,".

SEC. 4. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "SEC. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being an association health plan which has been certified under part 8;

"(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

"(3) being a plan or arrangement described in section 3(40)(A)(i),

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.".

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n) ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.—

"(1) IN GENERAL.—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

"(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

"(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

"(2) EXCEPTION.—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

"(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

"(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

"(3) ADDITIONAL EQUITABLE RELIEF.—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.".

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a) IN GENERAL.—" before "In accordance", and by adding at the end the following new subsection:

"(b) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.".

SEC. 5. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(d) CONSULTATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

"(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

"(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

"(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

"(2) RECOGNITION OF PRIMARY DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State to with which consultation is required. In carrying out this paragraph—

"(A) in the case of a plan which provides health insurance coverage (as defined in section 812(a)(3)), such State shall be the State with which filing and approval of a policy type offered by the plan was initially obtained, and

"(B) in any other case, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.".

SEC. 6. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect one year from the date of the enactment. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this Act within one year after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms "group health plan", "medical care", and "participating employer" shall have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "association health plan" shall be deemed a reference to an arrangement referred to in this subsection.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the further amendment printed in House Report 108–160, if offered, by the gentleman from Wisconsin (Mr. KIND) or his designee, which shall be considered read and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New Jersey (Mr. ANDREWS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the most pressing crisis that we face in health care today is the number of Americans who lack basic health insurance benefits. It is a problem that can be illustrated by just a few numbers, so let us just look at the facts.

Today, 41 million Americans are uninsured. This problem is not going to go away, and we have a responsibility to confront it. With health care costs continuing to rise sharply across the country, more and more employers and workers are sharing the burden of increased premiums. Employer-based health insurance premiums leaped an average of 15 percent in 2003, the largest increase in at least a decade, according to a study just released June 11 by the Center for Studying Health System Change. We know that for every 1 percent increase in coverage, additional price increase, 300,000 more people lose their health insurance, according to a 1999 study by the Lewin Group, a national health care and human services consulting firm.

The second number is 60. Sixty is the percentage of the 41 million uninsured Americans who either work for a small business or who are dependent upon someone who does. So let us remember, there are 60 percent of the uninsured where they or one of their dependents works every day for a company that likely does not offer health insurance. Many of these Americans work for small employers who cannot afford to purchase quality health insurance benefits for their workers. Notably, the 2002 Census Bureau statistics show that employer-sponsored health care coverage has declined because small businesses with less than 25 workers have been forced to drop coverage because of rising health care costs. These small employers are denied the ability to purchase quality health benefits that compare with the coverage that large, multi-State corporations and unions have been offering to their workers for decades.

The last number is $130 billion. Yes, $130 billion is the cost to the American economy every year of poor health and premature deaths amongst those 41 million Americans who lack basic health insurance coverage, according to a study released just this week by the Institute of Medicine. Madam Speaker, $130 billion a year of additional costs to our society and disproportionately aimed at the 41 million Americans that do not have any health insurance.

The implications of these numbers are tragic, not just for employers who cannot afford the high cost of health insurance, but the millions of uninsured families who are being denied access to quality care. Clearly, we need to focus on providing affordable health care to the uninsured as well as ensure that employers who provide health benefits to their employees are not forced to drop coverage because of rising premiums and high administrative costs.

The Small Business Health Fairness Act, which we have on the floor today, responds to this problem and can help reduce the high cost of health insurance for small businesses and uninsured working families. By creating association health plans, which would be strictly regulated by the Department of Labor, small businesses could pool their resources and increase their bargaining power with benefit providers, which will allow them to negotiate better rates and purchase quality health care at a lower cost.

President Bush addressed this point directly last year during his speech at the Women's Entrepreneurship Summit when he said, "Small businesses will be able to pool together and spread their risk across a large employee base."

□ 1400

It makes no sense in America to isolate small businesses as little health care islands unto themselves. We must have association health plans.

Well, the President is right, and we should help level this playing field so that small businesses can afford to offer the kind of quality coverage that large companies and unions do across America today.

Importantly, the bill gives AHPs the freedom from costly State mandates because small businesses deserve to be treated in the same fashion as corporations like GM and UPS, and unions who receive the same exemption so that they can offer high quality plans and benefits to their workers. Clearly, State health care mandates are useless to families who do not have the health care coverage in the first place. And if you do not have health care coverage, State mandates requiring health plans to offer specific benefits to those they cover do you and your family no good at all.

Let us be clear on the protections this bill provides workers, however, because it includes strong safeguards to protect workers. In fact, the solvency standards in the bill go far beyond what is required of any single employer plan or labor union plan under law. And despite the bipartisan nature of this bill, some misinformation has been spread about the bill that I would like to take a moment to correct.

The measure protects against cherry-picking because we make clear that the AHPs must comply with the 1996 Health Insurance Portability and Accountability Act, HIPAA, which prohibits group health plans from excluding or charging a higher rate to high-risk individuals with a high-claims experience.

Under our bill, sick or high-risk groups or individuals cannot be denied coverage. In addition, AHPs cannot charge higher rates for employers with sicker individuals within the plan, except to the extent already allowed by State law based on where the employer is located.

The bill also contains strict requirements under which only bona fide professional and trade associations can sponsor an association health plan, and therefore does not allow sham association plans set up by health insurance companies to go out and do what some did over the next decade or so. These organizations must be established for purposes other than providing health insurance and they have to be in existence for at least 3 years prior to the passage of this bill.

This campaign of disinformation belies not just the need for the bill, but the bipartisan support behind it. Not only is it strongly supported by the President of the United States, President Bush and Secretary Chao at the Department of Labor, but it has more than 160 bipartisan co-sponsors, including my colleague, the gentleman from Texas (Mr. SAM JOHNSON), the subcommittee chairman; the gentleman from Kentucky (Mr. FLETCHER), the former member of our committee, now on the Committee on Energy and Commerce; or the Democrat member, the gentleman from California (Mr. DOOLEY); and the Democrat member, the gentlewoman from New York (Ms. VELÁZQUEZ).

It is noteworthy and significant that Republicans and Democrats alike are joining together to deal with the crisis affecting more than 41 million uninsured Americans. Uninsured workers deserve the security of knowing that health care is not just a dream but a reality for them and for their families. This bill can help make that happen.

Madam Speaker, I reserve the balance of my time.

Mr. ANDREWS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong opposition to this bill.

The chairman of the committee is precisely right, that the problem of massive amounts of people not having health insurance is the central problem in health care. Most of the 41 million Americans who have no health care who are adults work for a living. And most of those adults who work for a living work for a small business, so there is an intuitive appeal to an argument that says let us help make it easier for small businesses to acquire health insurance.

In fact, the substitute that the gentleman from Wisconsin (Mr. KIND) and I will be offering later in this debate does that, and we would urge our colleagues to support that.

The reality, though, is that small businesses who do not provide health care for their employees do not do so because the gap between what they can afford to pay and what they must pay is huge. It is immense. Even the most optimistic proponents of this bill admit that the premium savings that could be generated by this bill will be slender indeed, usually in the single digits of percentage points, if that.

The reality is small businesses are not going to be able to afford to expand health care without significant public subsidies. That is a fact. The majority has drained well in excess of $2 trillion from the public Treasury with its insatiable appetite for tax cuts, and as a result, there is no money in the till. There is no money to provide those necessary subsidies. So this is the fig leaf. This is the shallow argument that says we can do something to help those small businesses.

Frankly, this bill belongs in the Orwellian hall of fame for misnomers of a piece of legislation. It is called the Small Business Health Care Fairness Act. With respect to small businesses, it provides nothing in subsidies for employers who cannot afford health insurance, not a dime. It provides for market reforms that offer an illusory and ultimately empty promise of lower premiums.

It is not a health care bill because what it does is supplant benefits that have been provided by State legislatures across this country by Republicans and Democrats, benefits that guarantee women breast cancer care, benefits that guarantee people with diabetes care for their illness, benefits that guarantee pregnant women and small children important care, benefits that protect consumers when they have been wronged by their HMO. Because this bill invalidates and wipes out those protections, the National Governors Association, Republicans and Democrats, oppose this bill. Because this bill invalidates those protections, the Attorneys General of a huge majority of the States oppose this bill. Because the bill eliminates protections for mammograms, for diabetes care, for well baby care, wipes them out, the insurance commissioners across this country oppose the bill.

It is not a health care bill. It is a political bill designed to paper over the fact that the majority already spent the money it needs to provide real relief.

Finally, it is called fairness. Where is the fairness in creating two sets of rules for those who attempt to buy health insurance for their employees? Because that is what this bill does. It sets up one set of rules where all the protections and regulations and safeguards that most people enjoy are wiped off the books for AHPs, and then another set of rules where the remaining insurance companies must compete on an unlevel playing field. Many of us who support the substitute believe in market competition, but we believe in market competition on a level playing field. That is not what this bill does.

One of the most respected health care analysis firms in this country, Madam Speaker, Certified Public Accountants and Associates, looked at this bill and that firm concluded that the chairman would have to change one of his charts because he started with a chart that says there are 41 million uninsured. If this bill is enacted, the chairman will have to change his chart and X out the 41 and put 42 uninsured, because that firm has concluded that the net effect of this bill will be to drive up the premiums for insurance companies who are not AHPs, drive them up so high that it will result in the loss of coverage for one million more Americans.

This bill is an illusion. It should be defeated. Later in this debate, the gentleman from Wisconsin (Mr. KIND) and I will be presenting a substitute which we believe truly addresses the real needs of small businesses and America's uninsured.

Madam Speaker, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, to my friend, the gentleman from New Jersey (Mr. ANDREWS), that is total misinformation. And I would agree that the gentleman is politicizing this bill. But he is doing it, not us.

This bill makes it illegal to cherrypick. This bill does not eliminate any form of insurance and the gentleman stated it did. It does not stop insurance companies from insuring whatever they want to insure. And as a matter of fact, they probably will.

Furthermore, one million more people became uninsured in the past year and it was primarily because of small businesses getting out of the insurance business because it is too expensive. And I think that there is one way in which we can ensure that people will be insured, more of them through small businesses. As a matter of fact, a private study has said about 8.5 million more will be insured.

Under our bill, sick or high risk groups or individuals cannot be denied coverage. Moreover, AHPs are severely limited in their ability to charge higher rates which my cohort said would happen. They can not charge higher rates for sicker people or groups within the plan. AHPs can only charge different rates to the extent allowed under the law of the State where the employer is based.

The bill contains strict requirements under which only bona fide professional and trade associations can sponsor an AHP, and these organizations must be established for purposes other than providing health insurance for at least 3 years.

Now, there is considerable comment about AHPs being exempt from State coverage. As we all know, labor unions and large corporations that self-insure are already exempt from State health care mandates, and they provide quality benefits because it is in the best interest of their employees. And I will charge you that small business would apply the same reasoning. It is really a moral fairness issue. If it is good enough for labor unions, good enough for Fortune 500 companies, it ought to be good enough for small business.

We must remember that our ultimate goal here is to bring quality coverage to the 41 million Americans who have no insurance. Further, AHPs will significantly expand access to health coverage to uninsured Americans by increasing small businesses' bargaining power with health care providers by giving employers freedom from costly State-mandated benefit packages.

According to a private study, as I said, AHPs should increase the number of insured Americans by up to 8.5 million people. Sadly, last year one in seven Americans went without health insurance. The increase in the number of uninsured comes solely from the declining market in the small business community. With health insurance costs continuing to rise, businesses face increases more than double the national average. Health insurance costs are still rising and many small employers are forced to drop health coverage. Some cannot even offer it in the first place.

The cost saving benefits of AHPs would help small employers of main street access coverage at a more affordable price. According to the Congressional Budget Office, AHPs would save small business owners and their employees as much as 25 percent of their health insurance costs. Just like buying a case of soda at a supermarket costs less per can than buying 24 individual cans at a vending machine, AHPs would allow groups like the National Restaurant Association to buy thousands of health insurance policies at a lower person policy cost and pass the savings along.

Let us face facts. Costs are rising. Businesses are dropping coverage, and more people are going uninsured. Congress must address the uninsured problem and move forward with increasing the insured through association health plans. It is the least this Congress can do to make certain that the American people will receive better health care at a more reasonable price.

Madam Speaker, I reserve the balance of my time.

Mr. ANDREWS. Madam Speaker, I yield myself 15 seconds.

Madam Speaker, I think it is important to point out for the record that the gentleman did admit that the benefit protections like mammogram screenings are, in fact, wiped out by the bill before us.

□ 1415

The bill before us will take away health coverage for more than 1 million people and add to the uninsured.

Madam Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. KIND), who has offered a plan that will actually decrease the number of uninsured, which we will talk about later.

Mr. KIND. Madam Speaker, I thank the gentleman from New Jersey for yielding me this time and also commend him for his leadership and the energy he has shown on this subject, as well as the ranking member, the gentleman from California (Mr. GEORGE MILLER).

Madam Speaker, there is a serious problem throughout America in regards to the rising cost of health insurance, double-digit premium increases. As I travel around my congressional district in western Wisconsin visiting businesses large and small alike, it is the number one topic on their lips, the difficulty of being able to provide health insurance coverage for their employees with the double-digit increases that they are facing today.

Part of the problem in western Wisconsin deals with the inadequacy of Medicare reimbursement rates, which then is cost-shifted on to the private plans; but also part of the problem is the number of uninsured and the cost shifting that occurs when they receive treatment. We saw the statistics a little earlier, 41 million uninsured. Those numbers are going up. Between 50 and 60 percent of the uninsured are employees working in small businesses. It is a crisis situation out there, and I have not met a small business owner yet that is happy with the fact when they cannot provide some basic health coverage for their employees. Unless we deal with it in an honest and, I think, straightforward plan, the numbers will only get worse.

There are some here today that think H.R. 660 is the answer to the crisis we are all experiencing in our own districts. I happen to disagree. I think there are some serious flaws with H.R. 660. I believe that, at best, the underlying legislation would do very little to address the plight of the uninsured. There is a recent CBO analysis that said that, at best, we might be able to extend additional coverage for half a million Americans, a far cry from the 41 million who are currently uninsured or the 25 million who are working right now in small businesses. At worst, there is a Mercer report that shows that because of the premium increases in other health plans, we could see another million Americans losing their health insurance coverage because of H.R. 660.

What also is a major problem is that it exempts State laws. These are community value judgments made in each of our States in regards to what health care practices should be covered for the citizens. Yet the legislation today is calling for a preemption of that State law, an eradication of the federalism that has existed in this country for a very long period of time. It is one of the reasons why we have so many people opposing the legislation, from the National Governors' Association, from the Democratic Governors' Association and Republican Governors' Association, the State Attorneys General Association, not to mention the Association of Insurance Plans, as well as the National Conference of State Legislatures.

Why would you, if you believe in the free market, as I think most of us do, and believe in price competition, try to set up an uneven system where you have two different sets of plans playing by two different sets of rules? It does not make sense. If you are going to force price competition in the free market system, you need to have everyone playing on a level playing field playing by the same set of rules, such as the State laws that exist right now, rather than exempting a whole category of people.

I think our substitute offers a better alternative, and I would encourage our colleagues to support that.

Mr. BOEHNER. Madam Speaker, I yield myself 15 seconds. What we want to do in this bill is to give small employers the same advantages in the marketplace that large companies and unions have today. And that is the real secret behind this. Why can they not go out as a group and design a plan that would meet their needs just like a big company can for their employees?

Madam Speaker, I yield 4 minutes to the gentleman from Kentucky (Mr. FLETCHER), the author of this bill and someone who has worked on it for many, many years.

Mr. FLETCHER. Madam Speaker, I thank the gentleman for yielding me this time and for his leadership and work on this very important piece of legislation.

Health care coverage is becoming more unaffordable for workers and small businesses all across America. In fact, the cost of providing health care now exceeds the cost of taxes. For that reason, I have introduced the Small Business Health Fairness Act to ensure that more workers can afford their health care, regardless of whether they work for a large international company or for just a small hardware store on Main Street. A farmer in Kentucky should have the same access to health benefits as someone who works for a large company like Ford Motor Company. That is where the fairness is.

Why should small business employees not be able to obtain the same economies of scale, bargaining power, benefit design and choices now available to those in large corporations and to those in labor unions? You will not hear our opponents attack those plans, I do not believe. Ninety-eight percent of large businesses offer health insurance to their employees. Less than half of small businesses offer this important benefit.

When we look at the fact that the morbidity rate of an uninsured hospitalized patient is more than twice that of an insured one, I think we can see that that is a resounding call to decrease the number of uninsured, which this bill will do. Experts estimate that up to 8½ million uninsured small business workers will be covered by AHP legislation. This plan will decrease the number of uninsured Americans, will reduce health care costs by up to 30 percent for small businesses, and provide new coverage options for self-employed, like farmers and small business workers across this Nation. It will not only give more health care coverage but allow small businesses to create more jobs.

Many have made false claims against this bill, and I would like to take a moment to set the record straight. In redrafting this bill, we have taken great lengths to ensure that these plans remain solvent. We have set up strict solvency provisions that include reserves, cash reserves, surplus reserves, stop-loss insurance, both specific and aggregate, indemnification for plan termination, insolvency funds, and a certification fee required for application.

Opponents of this legislation have also asserted AHP plans will engage in cherrypicking, taking only the young and healthy and leaving the sick to fend for themselves. These false accusers overlook or are unaware that all members of an association must be offered the plan coverage. Furthermore, plans must demonstrate that they have average or above-average risk to even be able to form an association health plan to begin with. That means an association could not be formed of young marathon runners just to provide a low-risk group.

Opponents of this legislation falsely charge that the Department of Labor is unable to handle such a program. Such statements, I believe, are baseless and contradict the facts. The DOL currently administers 2.5 million private job-based health plans. These programs serve 131 million workers. Sixty-seven million individuals now are in self-insured plans and are monitored exclusively under DOL oversight. DOL has the experience, the personnel, and the vision to monitor and enforce these plans. Besides, I know Secretary Elaine Chao. She is a friend of mine; she is a good Kentuckian. Believe me, she can effectively oversee these plans.

In conclusion, the President favors association health plans and strongly supports them. The Department of Labor is ready for AHPs; and small businesses, farmers, and the self-employed are ready for association health plans. Uninsured Americans have waited far too long, so I ask my colleagues to do the right thing for the uninsured Americans of small businesses, not only in Kentucky but across America. Support this bill.

Mr. ANDREWS. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the leader of our committee and one of the leading opponents of this plan that would take health care coverage away from 1 million people.

Mr. GEORGE MILLER of California. Madam Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue in our committee.

Once again, as with pension legislation, unemployment assistance, tax policy, and many other examples, the Republican majority of this House is bringing forward a bill that they claim is in the interest of working families. But once again this is head-fakes and sleight of hand. This bill hurts working people, places their already-meager health insurance coverage at risk, and serves only the interest of the business lobbyists.

I want to add that once again, as with those earlier bills, the Republican majority continues to deprive 206 Members of the House on the Democratic side and the tens of millions of people we represent from being able to conduct a serious debate on this issue. Once again, a contentious bill comes to the floor with no amendments allowed, just a substitute. So there is little time to debate the bill that will cost millions of Americans, including millions of children and women workers, their health coverage, with no ability to offer amendments to improve this bill. These tyrannical and corrupt rules under which we are operating under the Republican leadership in this House prevent us from having that debate and prevent the Republicans from taking votes on amendments we would like to offer.

Let us be clear: this is not a question of whether or not we have time to devote to debate. Week in and week out the Congress comes in on Tuesday or late Monday night and leaves on Thursday or early Friday morning. The Congress has time to adjourn for fundraisers, the Congress has time to adjourn for golf tournaments, the Congress has time to adjourn for the White House picnic; but apparently we do not have time to be able to offer amendments to legislation so that we can have an honest debate about the legislation before us or have opportunities to improve it or to offer an alternative view on how that should be carried out.

So what do we find out now? We do not have that opportunity here when we are risking 8 million people's health care coverage, according to the Congressional Budget Office. So we will pass today, with almost entirely Republican votes, a bill that deprives 47 percent of the people in this country a role in debating and improving this legislation.

The heart of this ill-conceived bill is a provision that overrides State laws requiring access to basic health care services. These State laws say to people that when they have a health insurance plan, that plan will mean something. It means that they will have access to mammograms, that means that they will have access to emergency services, that means that they will have maternity benefits and well-baby care and diabetes treatment, and it means there will be some mental health coverage and cancer screening. Because those are the things that the American families need in a health care plan.

Now, why are those the rules today in States across this country? Why did the States make this determination? Not to burden small businesses, not to burden health care plans, but because what people were being offered prior to that were essentially phantom plans. They were phantom plans that had little or no benefits to individuals, that did not meet the needs that families had. They had little or no benefits in terms of what women needed in their health care policies. That is the reason for these regulations, or these requirements, that health care insurance plans provide in their health care. That is the purpose of the plans. But that was not what was happening.

So now what we see is that this comes along, and it says we are going to override the judgment of these States, we are going to overrides the judgment of the legislators, the collective wisdom of the Governors and legislatures, the attorneys general, the insurance commissioners and others to make sure that people have adequate health insurance. And the consequences are that we are stripping much of this treatment away from the individuals in terms of preventive services for men, women and children.

We know that these services and treatments save money, we know they preserve health in the long run, and we know that these services were rarely provided voluntarily by employers in the past. That is precisely why so many States have moved to guarantee this coverage. The proponents of this legislation constantly want to say, well, this was good for labor unions and this was good for big industry. Yes, and in those instances the employees are organized and they negotiate on an equal level. That is not the situation with these plans. These people are given a health care plan which they can take or leave. And the purpose here is to reduce the cost of those plans.

The fact of the matter is CBO has reported that approximately 8.5 million workers would end up in AHPs, and over 95 percent would simply be dumped into those from existing health care plans. That means that 8 million workers would be stripped of their current legal right to critical treatments and preventive health care services. Eight million people would end up with less health care the next morning than they currently have under this provision.

I recognize that that means that new people will be given health insurance that do not have it, but we have to weigh the question of the people who will get this stripped-down policy as their health insurance to those people who have relatively decent policies who will lose their access to those policies. Because that is really what this is about. It is about cutting the cost to businesses, not about providing health insurance that families truly need.

That is why, again, these plans were protected in the States and were regulated in the States, and that is why so many of the Governors, both Republican and Democrat, oppose this legislation. That also means that these people are not going to have the kind of peace of mind that so many of them now have with respect to their insurance policies.

We also know that one of the reasons this bill is offered is that health insurance costs are increasing. They are increasing about 20, 25 percent for small employers. What that suggests is that, as people move into these plans, the individuals with higher risk will be left out. Those people who stayed in those kinds of insured pools, those costs will continue to go up; and it means that we will have uneven health insurance for people in this country.

□ 1430

Madam Speaker, this is a very bad bill. It is a bad bill. It really is about false advertising. It is suggesting that somehow this is going to extend to millions of people health insurance that will cover their families. That is not what it is going to do. It would if we were not overriding State law, but here the majority has decided that the collective wisdom of the States and the protection of residents and consumers in those States, that is going to be overridden and individuals be under no requirements to offer those components as part of this health insurance plan. I would hope that the House would reject this plan when it comes time to vote on the legislation.

GENERAL LEAVE

Mr. BOEHNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 660.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Madam Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Madam Speaker, our country is in a health care crisis. Today, in the world's largest remaining superpower, 41 million Americans live without health insurance. No place in this epidemic is more apparent than with our Nation's small businesses. They represent 60 percent of this country's uninsured.

Small business owners and their employees do not have health insurance, not because they do not want it or are trying to cut corners, but because they cannot afford it. Small companies see their insurance costs rising upwards of 25 percent each year. They are unfairly suffering this burden, and their employees are unfairly suffering without insurance.

Small businesses provide more than half of the Nation's gross domestic product, create 75 percent of all new jobs, and give two-thirds of Americans their first paychecks. Yet many small businesses are unable to provide the benefits they know the workers deserve.

Today, with the passage of this bipartisan Small Business Health Fairness Act of 2003, we take an important first step in helping millions of Americans afford what so many in this Chamber take for granted, health care.

During the debate on this legislation, Members are going to hear terms like cherrypicking, solvency, and MEWAs. If Members take one thing away from today's debate, it should be that H.R. 660 is simply about fairness, fairness for small business owners to offer health insurance to their employees just as large corporations and unions already do. If we trust large corporations and unions, we should trust small businesses in America.

If it is good enough for IBM, Lockheed-Martin and GM, it should be good enough for mainstream American businesses. H.R. 660 will give small business owners the ability to provide quality health care for themselves, their families, and, most importantly, their workers. I urge my colleagues to vote yes on H.R. 660.

Mr. ANDREWS. Madam Speaker, I yield 4 minutes to the gentleman from North Dakota (Mr. POMEROY) who, as a former insurance commissioner from North Dakota, has direct experience with AHPs running out of money and not paying their claims.

Mr. POMEROY. Madam Speaker, I appreciate the comments of my colleague about the crisis in small employer health care; but as we address this issue, I think we have to ascribe ourselves fully to the Hippocratic oath. First, do no harm.

The AHP proposal before us would do a great deal of harm. I would recommend to my colleagues, study this issue before you vote, it is very serious. If there is not enough time to get into the technical details, just look at who is against this bill. This bill could be called a wonderful, unifying force because it has brought together people who do not agree on anything, but they do agree this is bad policy for this country. The Republican Governors Association, the Democrat Governors Association, 41 State attorneys general of both political parties, the National Association of Insurance Commissioners, again representing regulators of both political parties have reached their conclusion based on several fundamental facts.

We have spent a lot of time in this Chamber debating the Patients' Bill of Rights worrying about protections. I guess we could call this the "Patient Bill of No Rights" because it literally exposes those who would be insured under these mechanisms to whatever might be written with no consumer protections and no State insurance department to go to for those protections.

There is a nice populist argument which has been used this afternoon that if big companies can do it, little companies ought to be able to do it, too. I represent North Dakota. That is the place of small employers. The difference in a fundamental one. IBM can self-insure. They do it themselves. They basically pay themselves. A small hardware store in an AHP would be joining an association, sending their premiums not to themselves but off to others, and that is why we need the check. We have tried this before. What happens is promoters come up with these schemes, the employer goes for the lowest premium, they ship their hard-earned dollars off to provide the coverage for their employees, and someone makes off with the money. It has time and time again.

The protections protect coverage, but they also protect to make sure the plan is solvent so they can pay the health claim when the insured needs it. We have seen this tried before under the guise of multiple employer trusts. They went bankrupt; there was a slew of scandals. We have seen it now under multiple employer welfare arrangements. There were scandals, busts, uncertain insurance framework for our consumers.

Madam Speaker, now they want to call them AHPs, but the result will be precisely the same.

If it were simply a benign issue of let the buyer beware, it would be one thing; but it is much worse than that because this makes the premiums go up for all who remain in existing insurance pools. Small employers insuring through insurance companies are not viewed just on their own little group, they are part of a pool. Well, as AHPs would take off smaller healthy groups, those left would be older, sicker groups. Premiums would go up, coverage would be diminished, or dropped altogether. It has been estimated that as many as a million people would lose their coverage.

Again, do not take my word for it, look at what the Congressional Budget Office has written on this, or consider the quotes by the Mercer Consulting Group in analyzing this proposal. Health insurance premiums would increase 23 percent for small employers that continue to purchase State-regulated coverage. This would result from AHPs' ability to attract healthier-than-average firms out of the small, regulated market. This makes the problem worse.

First, let us do no harm. We need to address small employers. The substitute to be presented has a better approach in that regard, but the underlying bill is a stinker, and let us beat it.

Mr. BOEHNER. Madam Speaker, I yield myself 30 seconds.

The foundation of our health insurance market in the United States is employer-provided coverage set up through ERISA, the Employee Retirement Income Security Act of 1974. It covers 150 million American lives. We are trying to allow small employers who belong to statewide associations, national associations, the opportunity to band together to create an insurance policy that will benefit not only the small business but, more importantly, their employees.

Madam Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Madam Speaker, I rise today in strong support of H.R.

660, the Small Business Health Fairness Act. Small business owners know that it is far too important to their employees to let this issue slide off the table. Employees want to have health coverage and the increasing cost is making it ever more difficult. It is important to note also in my State of Tennessee, small business is the largest employer.

This bill works to alleviate the problems by establishing the association health plans that would allow small businesses to band together under an umbrella of a bona fide trade association to act as a large purchaser of health insurance, having that ability to buy health care coverage as a large group for their employees. All employees benefit by having better coverage, increased options and lower deductibles.

Madam Speaker, last weekend I had the opportunity to address a national convention of women. It was a national convention of women who own their own businesses. Their number one concern, their top priority is passing this legislation, seeing it passed. That is, millions of women who own and work for women-owned businesses and they are very concerned about this. It is at the top of their list.

Madam Speaker, it is unfortunately that there are so many myths surrounding the debate of this bill. I join my colleagues in helping to dispel these myths, that it would allow cherrypicking. In reality, this legislation has explicit language prohibiting such. This legislation also contains solvency provisions to protect employees against the risk of health plans that default or go bankrupt. These health plans must certify through a qualified actuary that an AHP is financially sound on a quarterly basis.

Madam Speaker, I agree with thousands of female business owners that it is time to pass this legislation now.

Mr. ANDREWS. Madam Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. McCARTHY).

Mrs. McCARTHY of New York. Madam Speaker, I stand in strong opposition of H.R. 660. We are hearing all the time about do no harm, and I think Members need to remember, why do 48 States have good basic health care insurance? It is mainly because our advocates, breast cancer or diabetes, all of the diseases that we are trying to prevent, have made the States realize that the monies that we spend to make sure that people stay healthy certainly is cheaper in the long run. That is 48 States including New York, and what we are doing here, we are wiping that out. We are wiping that out.

As patients and advocates across this Nation quickly discovered that their basic health care needs were not being served by their insurance companies, that is why the States have forced the insurance companies to make sure that the treatments that we are asking for, like a mammogram, and how many lives have we saved over the years because we have made the insurance companies make sure they have it in their policies. The States made them do that.

What we are doing here is taking that away. They demanded that their States step in and protect them. Madam Speaker, as I said in 48 States, we have our attorneys general, we have our governors, Republicans and Democrats. What we are doing here is harm. All of us, there is not one Member in this Chamber that does not want to make sure that our small businesses are able to offer health care insurance. That is why the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from Wisconsin (Mr. KIND) are going to offer an amendment that will offer help to our small businesses.

There is not one penny in this bill that is going to help small businesses get health care. The Kind-Andrews amendment will. As a nurse and certainly with the constituents I have coming into my office yesterday, today, last week, every single week, all they are asking for is to make sure that their basic health care needs are met. What we are doing here is taking it away. I will say again, there is not one Member, Republican or Democrat, that does not want to help our small businesses. We would like to see health care be out there for everybody. I certainly would, but again, we keep hearing about budget constraints. Well, if we had not passed those large tax cuts, maybe we could do some good health care policy around here.

Madam Speaker, this bill will do harm to millions of people. It is always the devil is in the details, and on the top of this legislation it might look good, but in the end it is not. All 48 States, as I have said over and over again, have fought to make sure that our insurance companies give the services that our constituents need. That is why it was passed. That is why this bill should be defeated.

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Mr. BOEHNER. Madam Speaker, as I said earlier, this bill does have broad bipartisan support. I am happy to yield 2 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Madam Speaker, I rise in strong support of this piece of legislation. It is interesting, in the 10 years I have been down here, we have been able to talk about regulations, talk about cherrypicking, corporations have had insurance, big unions have had insurance, Members of Congress have had insurance; but small businesses have been crying out as they have not had insurance, and those that had it lost it because the price continues to go up.

Bottom line: we have not done anything to help small businesses and their employees have health insurance. It is time we do something.

Second, I hear a lot of talk about the great State regulations and the protections they offer and these mandated benefits and those mandated benefits. Let me tell you something. If you do not have health insurance in the first place, the mandated benefits and the regulations and the protections do not mean anything because they do not apply to you because you do not have health insurance. The fundamental bottom line is you have to have health insurance. At the end of the day that will be the question you have to ask yourself: Do you want some health insurance, or do you want to continue with no health insurance?

This plan works because it provides enhanced purchasing power for small businesses. They come together, and they have the leverage to put together an insurance plan to help those small businesses. They also can lower administrative costs so they get savings. Small businesses are very price sensitive. They will buy insurance even if they can get just a small amount of savings. So on balance it is a very good idea.

We hear a lot of talk about the vaunted cherrypicking. Again if you do not have health insurance, there is no cherrypicking because you are not there to be picked. But the important issue is there are regulations in this bill strictly regarding cherrypicking, prohibiting cherrypicking, so that is not really a problem.

Finally and most importantly, what people are saying is this is a bare bones policy and so you should not get it because it does not have all the protections that admittedly we would all like. I am submitting that it is better to have a basic policy that gets you into the doctor's office, because if you get into the doctor's office, your cancer, your heart attack, your diabetes and your blood pressure all can be picked up by your doctor. They say, it is a bare bones policy and no one's going to get it. Let me tell you, if it is that bare bones, if it is that bad, if it does not provide any benefits at all to the employee, they are not going to purchase it. They purchase it because it provides the basic insurance that they can use.

It is not everything we would like, but it is better than nothing; and at the end of the day, half a loaf is better than none.

Mr. ANDREWS. Madam Speaker, I yield myself 30 seconds. The gentleman is correct. At the end of the day, the question is whether one has health insurance or not. At the end of the day if this bill is enacted, 1 million more people will not have health insurance than do today because of the damage that this bill does. That is one of the reasons why State legislators across this country oppose this bill. Our next colleague is someone who served in the

Minnesota State legislature, who fought for laws that protect women against discrimination. She will point out that this law does not do that.

Madam Speaker, I am happy to yield 3 minutes to the gentlewoman from Minnesota (Ms. McCollum).

Ms. McCOLLUM. Madam Speaker, I rise today in strong opposition to the substandard health coverage that will be proposed in this bill. Americans deserve affordable, quality health care coverage for our children and for our families, not this substandard bill filled with gaps, holes and exceptions that leave women and children especially vulnerable. This bill leaves gaps for expecting mothers, leaves holes for children with diabetes, leaves exceptions for families requiring mental health care coverage. This legislation rewards bad medicine by preempting every State standard that guarantees quality health care, that protects women, children, and our families.

As a Minnesota State legislator, I fought hard for our State's health care requirements. People were not getting the care that they needed or deserved. Families living with diabetes came into my office and would tell me how their health plans would cover their insulin but would not cover the needles to deliver the insulin or the test strips to test their sugar levels. This basic health care is needed to keep people with diabetes healthy and enables them to manage and control their disease. We passed laws in Minnesota mandating basic coverage that health plans were not providing. They were not providing basic health coverage.

Today we are considering legislation that rolls back these basic health care protections. Minnesotans want comprehensive, affordable health care. Minnesota health care professionals in a hearing I held, nurses, pediatricians, psychologists and, yes, their patients, told me they strongly oppose these substandard association plans.

Let us ensure quality. Let us ensure affordable health care that protects women, protects children, protects our families and does not only protect them but protects those who we have heard over and over again, the million people who stand to lose health insurance should this bill be enacted.

Mr. BOEHNER. Madam Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. Dooley), one of my good friends and colleagues on the Committee on Agriculture.

Mr. DOOLEY of California. Madam Speaker, I rise in strong support of this legislation. One of the most difficult challenges facing those of us in Congress is how do we deal with the growing number of uninsured in our country, a number that is currently over 40 million. With the increases in health care costs that we are going to be seeing in the near future, that number is only going to continue to grow. This piece of legislation is an attempt to ensure that we can find ways in which small employers and farmers across the country can come together to develop a purchasing power that can allow them to negotiate better benefits at a less cost for the people they employ.

I represent a district in the central valley of California. It is 65 percent Latino. Many of those families are farm-worker families. They are low-wage workers. They are almost without exception without health insurance today. If they do have health insurance, it is through an association health plan that was offered by Western growers. They have coverage today that is benefiting them, and it is just basic coverage. This legislation is an attempt to ensure that more of those low-wage workers will have access to health care. It is unfortunate that it is not going to be a plan that has all the mandates that some of the States would require, but what I get so frustrated with is that we are willing to deny the ability of employers to come together to offer a basic level of health insurance to a lot of their low-wage workers and their families that right now are not having access to care. We can do better. This legislation is an attempt to do so.

I am struck by a lot of the opponents of this legislation that are saying that this is going to lead to cherrypicking. I will tell you today, there are not many insurance companies that are offering a plan through the State HIPCs or whatever else that are interested in coming out and trying to market a health insurance plan to a lot of the farmers and the farm workers whom they employ. This is an attempt to ensure that we can have an association of people who are committed to that industry and to those employers that will be able to come together to develop a basic health insurance product that will benefit the health of these low-wage workers. I urge my colleagues to support this legislation.

Mr. ANDREWS. Madam Speaker, one of the Members who is opposed to expanding the ranks of the uninsured by 1 million people and, therefore, opposes this bill is the gentleman from New York (Mr. Meeks) to whom I yield 3 minutes.

Mr. MEEKS of New York. Madam Speaker, when I first saw the headlines of the bill, I looked at the bill, it came across my desk, because everybody wants to do something about small business. I first said to my staff, let's get on this bill; it will help small business. But then after I read it a second time and a third time, the devil is always in the details. The devil is in the fine print. The devil is in what you read.

When I really read the bill, I found that this bill would actually be devastating; it is what we call short-term gain for long-term pain. When you look over the years, the pain that really will happen to people who we are trying to help in the long-term will be devastating. Then when I looked even a little bit closer and tried to watch it to see how it affected those low-wage earners that my colleague just talked about and minorities and women in particular, then I noticed another substantial devastating event, the fact that what this bill does because many of the people that we want to help, they happen to be minority and women and how they disproportionately will be affected by this bill.

In fact, when you look at it, certain diseases because of people who are of color, Latino and African American, you look at approximately 2.8 million or 13 percent of all African Americans and 2 million or 10.2 percent of all Latino Americans have diabetes. They would not be covered under this. They could be cherrypicked. African American men have a 20 percent higher incident rate and a 40 percent higher death rate from all forms of cancer combined than white men do. They will be affected by this bill disproportionately. African American women with breast cancer are 67 percent more likely to die from the disease than Caucasians. They will be disproportionately affected under this cherrypicking, what this bill will do to them.

Hispanics experience the highest invasive cervical cancer incidence rates of any group other than Vietnamese. They will be hurt and devastated by this. Hispanics account for nearly one-fifth of HIV/AIDS cases in the United States. African Americans account for approximately 35 percent of HIV/AIDS cases in the United States. They will not be covered. They will not be picked up by these folks.

Now, more than ever, minority populations and women depend on health care. H.R. 660 stands to make this needed health care harder for those populations to obtain in the long run, not in the short run. In fact, most States require insurance to cover cancer screenings, maternity, diabetes treatment, and other benefits that provide medical care for minorities and women. However, Federal AHP legislation would allow certain insurers to avoid complying with these State laws. This means a loss of crucial benefits for many families, that 1 million that we hear my other colleagues talking about.

While our Nation is faced with a new health care crisis, H.R. 660 is not the solution. It is absolutely not the solution. We must work to pass legislation that offers genuine relief to small employers while preserving the significant health care reforms undertaken by the States. I urge my colleagues to voice their opposition to H.R. 660, the so-called Small Business Health Fairness Act.

Mr. SAM JOHNSON of Texas. Madam Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING), a member of the committee.

Mr. KING of Iowa. Madam Speaker, I am amazed at how the race card can be played on every single trick and every single issue that comes up. To me, this is just simply dollars and cents.

I started a small business in 1975 with actually a negative net worth of $5,000, no capital and a dream. By the mid-80s when then Congressman Grandy came to my hometown and held a hearing on health care, 70 or 80 of us in the basement of the Lutheran church in Odebolt, Iowa, sitting in the front row because I do not hear that good, he said, how many of you provide health insurance for your employees? I raised my hand as did about 11 other people in that room. No, excuse me. I raised my hand when he said, how many of you are employers? I kept it up when he said, how many of you provide health insurance for your employees? I was the only one in that room that provided health insurance for my employees. I can tell you, I know why. It is because the cost is too high for a group plan. Because the rules and the laws discriminate against small business. This association health care plan is designed exactly to correct that.

I have been involved in association work all of my life. That is the only bargaining chip that small business has. A sole proprietor of a small business is in a position where they cannot fully deduct all of their own health care insurance unless, of course, they happen to be a corporation and they are paying themselves a wage. That was put in place at the end of World War II when we had wage and price controls, and it was put in place because large business had the leverage, unions had the leverage, but small business did not. That is what this bill corrects, this association health care bill. It corrects the inequity to some degree, and it is a small degree, that was created in World War II.

I as a small business owner simply just sold out to my oldest son, and now he is in that situation, that predicament, where he can utilize this. About 60 percent of the uninsured are employed or are the proprietors of small business. It is not because they do not care about their employees. It is because of the law; it is because of the structure of the regulations. It is essential that we pass this bill.

Madam Speaker, that is why I rise here today to stand in support of this bill for association health care plans. It is essential to small business which provides most of the new jobs and most of the new innovation in America.

Mr. ANDREWS. Madam Speaker, I yield myself 30 seconds. I want to again reemphasize that the objective analysis of this bill, contrary to what we have heard repeatedly today, is that it will increase the number of uninsured persons. It will do so because those who are not in AHPs who must still comply with the mandated benefits and other consumer protection laws will experience an escalation in premiums which will cause a reduction in coverage. We believe the record is clear, that the passage of this bill will increase the number of uninsured persons by 1 million people.

Madam Speaker, I reserve the balance of my time.

Mr. BOEHNER. Madam Speaker, I yield myself the balance of my time. We could look at the problem of the 41 million Americans through many different lenses, and we could talk about solutions. We believe that we are bringing a solution here where we are showing the glass half full.

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My colleagues on the other side want to look at this solution as a glass that is half empty. The fact is that 41 million Americans have no health insurance, and we in this Congress, over the last decade, have talked about it and talked about it and talked about it. As a matter of fact, we brought this bill to the floor on two occasions before today, and unfortunately the other body did not see fit to move the legislation. But we are not going to quit because if we do not help these 41 million Americans who have no health insurance, guess what, they are going to continue to get sicker. They are going to end up getting treatment later in their illness, and they are going to continue to pile up massive amounts of healthcare debt that by and large they do not pay for, those who purchase health insurance pay for in terms of higher fees.

We have heard all of the discussion about the fact that we do not mandate this coverage and mandate this coverage.

The reason that we have the crisis in many States is because they have mandated every coverage known to man be stipulated in each of the policies, whether they need the coverage or not. Large employer plans do not have mandates other than two small mandates that are in ERISA. Neither did the union plans. They cover virtually all of these diseases and all of these treatments because that is what their employees want. We know that bare-bones policies do not work because employers do not buy them and their employees do not want them. And if we look at the best plans in America, they happen to be large employer plans, union plans that cover broad healthcare coverage and those employees love those plans.

Why would we not allow small businesses to come together, and whether it is through the Ohio Chamber of Commerce or the National Restaurant Association or the Lumbermen's Association, or how about the Farm Bureau, why would we not allow them to allow their members to come together where they could offer them a package of healthcare plans? Maybe it is one or two, maybe it is four or five potential plans that their members would get to choose from.

Take the issue of farmers, I have got a lot of farmers in my district. They are independent contractors. Their ability to go out and buy health insurance on not on their own is about zero unless they wants to pay $1,000 to $2,000 a month. If they were allowed to come together with other farmers around Ohio, other farmers around the country, guess what? They would get much better coverage than they are getting today at far less cost, and why should we not give them the opportunity to do this?

So I say to my colleagues as we end the general debate today, this is a good bill. It has strong bipartisan support, and I urge my colleagues to support the underlying bill.

Ms. MAJETTE. Madam Speaker, today I voted against passage of H.R. 660, the legislation that would establish Association Health Plans (AHP's). Despite its intention to allow small businesses to band together in order to offer affordable health care benefits to their workers, this proposal will, in fact, make coverage more expensive for most small businesses and their employees. Though I support the intent of this legislation, some serious flaws became apparent during my consideration of the legislation in the Education and Workforce Committee, which prevented my support.

According to the Congressional Budget Office, 4 out of 5 of the small businesses that now have health coverage would face higher costs if H.R. 660 was enacted. A recent report by Mercer Risk, Finance & Insurance Consulting for National Small Business United underscored this fact, finding that H.R. 660 would make health coverage more, not less expensive for many small businesses. In Georgia there are 722,535 people that get insurance coverage through small businesses. If H.R. 600 passes, 578,028 of these individuals will pay higher premiums.

The problem with the legislation that will cause insurance costs to increase is a provision which preempts State laws regarding the degree to which insurance premiums can vary for different companies with a plan. Therefore, firms can be charged wildly different rates based on a variety of factors, including health status and age. This legislation would allow some nefarious companies to unfairly discriminate against consumers on the basis of age, gender or race. The ultimate effect, is that firms with sicker employees will not be able to afford coverage under an AHP. This means those firms and the firms currently in the traditional insurance market will end up paying higher premiums. Instead of offering a meaningful coverage alternative, AHP's would only help to those healthy enough to qualify for lower rates.

Furthermore, this legislation prevents a State's insurance commissioner from protecting consumers' rights when they have concerns about their association health plan. The bill does not specify who has the duty or the authority to help consumers if they have a problem with their AHP. Instead, the bill creates a complex web of authority, in which consumers might only have recourse through the U.S. Department of Labor, which does not have the manpower or expertise to provide that help.

When consumers have a serious problem with their health insurance coverage, they need to know they have somewhere they can go for real assistance. H.R. 660 just fails to guarantee that and could make it very difficult for consumers to get any assistance with their health insurance problems.

I offered amendments in the Education and the Workforce Committee to correct both of these key concerns and improve H.R. 660, but both were rejected. For this reason, and because of my overarching concern that the bill falls short in delivering real help for small businesses, I opposed final passage of H.R. 660. In doing so, I was supported by a diverse array of over 500 national, State and local organizations including small business, consumer, insurance, union, provider, and patient advocate groups, as well as Georgia's Attorney General and Insurance Commissioner, who have joined in opposition to H.R. 660. I will continue to be an advocate for the interests of small businesses, but am convinced that H.R. 660 does not address the problems they face.

I will continue to work with my colleagues to draft legislation that would give small businesses more options in offering health insurance without supplanting Georgia's consumer protection laws.

Mrs. JONES of Ohio. Madam Speaker, I rise today in opposition to H.R. 660. The bill will exempt those businesses that decide to form Association Health Plans from health insurance regulation of the various States. Thus, under the bill, these association health plans could operate in different States but would not be subject to the different health insurance regulations of those States. Instead, they would be subject to regulation by the Labor Department. This Bill would allow "Cherry Picking." As the premiums rise, the employers will have the chance to pick who will receive the health care, which means, the employers will pick the youngest, and the healthiest for the plan so that it would not cost them as much. As a result, thousands of the sickest workers would end up losing coverage altogether. AHP will offer a very minimum benefits package that does not include cancer screening, mental health benefits, or autism coverage. CBO reports show that there are 41 million uninsured Americans and only 550,000 currently uninsured Americans would gain coverage and this number is less than one percent of the country's Americans uninsured. As health care cost rises, the problem of the uninsured shall only get worse. Ooh I get it!. Hurt small employers and make coverage unaffordable for all but the healthiest groups. According to the Congressional Budget Office.

Two-thirds of the lower premiums realized through AHPs would come from risk selection, and most of the rest would come from eliminating benefits.

Insured individuals switching from their current plan to an AHP would outnumber the newly insured 14-to-1.

20 million individuals would face additional rate increases under AHPs, and 10,000 of the sickest individuals would lose coverage entirely.

The 80 percent of small business employees not participating in AHPs would almost uniformly see their premiums increase.

Madam Speaker, Associated Health Plans will hurt Small Businesses and increase the ranks of the uninsured.

Mr. UDALL of Colorado. Madam Speaker, I rise in opposition to H.R. 660, the Association Health Plan bill we are considering today.

While I sympathize with the challenges that many small businesses face in providing health insurance to their employees, I do not think that exempting AHPs from State oversight is the right solution. I agree with the National Governor's Association, the National Association of Insurance Commissioners, the National Association of Attorneys General, the Health Insurance Association of America, and many other groups that oppose Federally regulated AHPs. I am most concerned that AHPs would be regulated under Federal laws and would be exempted from State laws that govern premium increases, benefits, consumer protections, and financial standards. H.R. 660 would override Colorado's new AHP law even before we have time to see if it is working. Additionally, H.R. 660 does not provide any resources to the Department of Labor to carry out important oversight functions. I believe this leaves room for much of the same abuse and fraud that we experienced with Multiple Employer Welfare Associations in the 1980s.

Insurance is based on the principle of pooling healthy and sick groups together so that the cost is more evenly distributed. Under this bill, associations would be able to circumvent State pooling requirements and siphon off healthier groups. As a result, sicker people would be left in State regulated pools, and the cost of care for these individuals would be shifted to the rest of us through higher taxes and premiums. The non-partisan Congressional Budget Office estimates that 80 percent of small employers and their families would face rate increases under this legislation.

I continue to believe that refundable health care tax credits and investments in our public health system would go much further in making health care more affordable and reducing the number of uninsured in our Nation. That's why I am supporting the substitute offered by Rep. RON KIND, which would establish the Small Employer Health Benefits plan and provide Federal subsidies to small employers who have fewer than 100 employees and offer health insurance to them.

Madam Speaker, Americans are concerned that if they get sick, they won't have health insurance coverage, or they are worried they will lose their health care in this sluggish economy. I too am concerned about the rising cost of health care and the uninsured, but removing oversight over insurance and scaling back consumer protections, benefits and coverage is not the way to go. I will continue to work on meaningful health care reform that makes insurance more affordable and provides coverage to the uninsured.

Mr. STARK. Madam Speaker, I rise today to oppose H.R. 660, the "Small Business Health Fairness Act of 2003." This bill is badly misnamed. Rather than make the cost of health insurance for small businesses more fair, this bill would have the perverse effect of increasing the cost of health insurance for many people and increase the number of people without health insurance altogether.

This bill would allow these new entities, called Association Health Plans (AHPs), to bypass State regulation and offer bare-bones health insurance policies. Small businesses that don't choose to offer these inadequate policies would see their premiums increase by 23 percent on average. This premium hike would occur because AHPs, which would offer only skeletal coverage, would attract the healthiest individuals, leaving traditional health insurance plans with the sickest and most expensive patients. This shift would penalize businesses with sicker employees, and make health insurance for those who need it the most even more unaffordable.

Further, this legislation would swell the ranks of the uninsured by over one million more individuals. As traditional health insurance becomes increasingly expensive, more and more businesses would have no choice but to drop health insurance for their employees, leaving these individuals with little or no opportunity to purchase health coverage.

Contrary to what proponents of this bill claim, AHPs would not truly help small businesses purchase health insurance for their employees. Although proponents claim that AHPs would give small-employers bargaining power to purchase affordable health insurance, most States already have laws in place that allow for group purchasing arrangements. This bill would only harm existing laws while usurping the traditional role of States to regulate insurance.

In fact, this bill would override key State laws and regulations that protect millions of Americans. For example, many States regulate insurance premiums to prevent insurers from discriminating against the ill. But under this bill those laws wouldn't apply. AHPs would be allowed to offer extremely-low "teaser" rates, and then rapidly increase the premium if the enrollee becomes sick. Furthermore, nearly all States have enacted external review laws which guarantee patients an independent doctor review if a health plan denies them coverage for a particular service. Patients who join AHPs would lose this vitally important consumer protection.

This bill also exempts AHPs from State laws that require health insurance to cover particular benefits. These laws have helped to ensure that millions of Americans get access to the healthcare that they need—such as mammography screenings, maternity care, well-child care, and prompt payment rules. In my State, California, employees who join AHPs could well lose access to these services as well as certain emergency services, direct access to OB/GYNs, mental health parity, and other important benefits. Moreover, this law would allow health plans to "gag" doctors, the currently illegal practice of health insurers preventing doctors from discussing treatment options that the plan does not cover, even if some of those options are in the patient's best medical interest.

The problems go on. AHPs are likely to create new fraud and abuse problems in health care as well. These plans are very similar to Multiple Employer Welfare Plans (MEWAs) which Congress created in the 1970s. MEWAs were also exempt from State insurance regulation. The Department of Labor found that many of these plans were frauds and left their enrollees holding the bag for more than $123 million in unpaid health expenses. Congress had to come back and clean up the law to end this blatant abuse. We should learn from that mistake—not repeat it!

This bill is bad for patients, bad for small business, and bad for States. It is opposed by over 500 organizations—including both the Democratic and Republican Governors Associations, local Chambers of Commerce, small business associations, physician organizations, labor unions, and healthcare coalitions. H.R. 660 would increase premiums, increase the number of uninsured, lead to massive fraud, and remove key State protections. I urge my colleagues to reject this legislation.

Mr. CUMMINGS. Madam Speaker, I rise today to speak against the bill being considered today. With over 41 million Americans uninsured, Congress' chief objective should be to ensure that these people have access to quality health care coverage. However, today we consider legislation that actually would be an even greater detriment to the current health insurance coverage crisis, than doing nothing at all.

The Congressional Budget Office estimates that over 4 million individuals who currently have health coverage will be switched to lower benefit Association Health Plans (AHP) if this bill is passed. This means that these individuals could be forced into plans that would exclude benefits such as mammography screening, cervical cancer screening, check-ups for children, bone marrow transplants and diabetic supplies. These are critical needs, not options and this is an unfair result.

Another flaw with this bill is that it doesn't actually help small employers. The problem for most small employers is not their lack of desire to provide healthcare coverage, but often the lack of cash flow to afford monthly healthcare coverage. However, this bill does not assist small employers or their employees to afford rising monthly healthcare premiums. CBO found that the small businesses most likely to get more affordable coverage with lower premiums under AHPs would be those with the healthiest groups of employees. What this means is that least healthy, older employees and their employers would have higher premiums. This is just plain cherry-picking, which only puts the rest of non-AHP employees at risk of higher rates of coverage.

The CBO also estimates that AHPs would provide coverage for less than one percent (1 percent) of the 41 million uninsured Americans. As such, H.R. 660 fails to significantly expand health coverage for the uninsured and in fact, would reduce coverage for those who are currently insured by forcing them to switch to lower benefit AHP health plans. This will drive up the costs for other insured and will result in the loss of affordable health care coverage for at least 1,000,000 employees. This represents a net loss, not a net gain in helping the 41 million uninsured in this country.

Any bill that excludes significant health care benefits, especially for women, children and the elderly; that does not significantly expand health coverage for the uninsured; and that may allow minority communities and the elderly to be redlined and denied affordable health insurance, is "fig leaf" legislation which will do little to nothing to meet the needs of those small business employers it alleges to help.

Every American, despite his/her employer deserves to have first-class health coverage. This bill does not accomplish this goal—which explains why it is opposed by over 500 groups, including the AFL–CIO, AFSCME, the National Governors' Association, many State Attorneys General and many consumer organizations. I lend my voice to this opposition and urge my colleagues to vote against H.R. 660.

Mr. WELDON of Florida. Madam Speaker, one of the issues about which my constituents most frequently contact me is the high cost of health insurance and the need for affordable insurance coverage. We all know health insurance premiums are increasing significantly each year. As such, many small businesses are unable to afford health insurance for their employees. Furthermore, for those who can afford insurance for their employees, rising costs make U.S. products more expensive, harming U.S. competitiveness and costing American jobs.

Just last month I received a letter in my office written by a small business owner in Palm Bay, Florida. In it he wrote, "As an independent businessman, I can only afford the most basic of health insurance policies for myself, of which premiums have gone up over 100 percent in the past two years, I might add. I sacrifice greatly to insure myself. But it is getting to the point I may not be able to afford health insurance myself." I know he is not alone. We have all heard similar stories.

Small businesses are the backbone of our economy, but the financial viability of many small businesses is being hurt by the escalating costs of health insurance. This hurts job creation and economic growth. The U.S. Small Business Administration's Office of Advocacy found that administrative expenses for small health plans make up about 35 percent of total costs. This is not good for small business owners, their employees, or the American economy. Congress must address this problem, which is why I support H.R. 660, the Small Business Health Fairness Act.

By passing H.R. 660 Congress will be leveling the playing field between small businesses, the self-employed and large corporations. This allows organizations of individuals and businesses to enter into an Association Health Plan (AHP). Under an AHP, small businesses can pool their resources and purchase health care similar to the way large corporations do. They can get better bargaining power in terms of costs and benefits for their employees. It gives workers, who do not have health insurance today, the opportunity to obtain health insurance coverage.

Whether it is a small business, a trade association, a farm bureau, or a local community organization that is seeking to purchase more affordable health insurance, this legislation will help them.

It is generally accepted that there are 41 million people in America without health insurance at any given time. According to the Congressional Budget Office, a more accurate estimate of the number of people who were uninsured for all of an entire year is 21 million to 31 million. Regardless, almost 60 percent of those individuals are employed by a small business. As health care costs increase, fewer and fewer employers and working families will be able to afford coverage, and more Americans will be without adequate health insurance. Those who work for small businesses should have the same type of access to quality health insurance that their counterparts in large corporations already enjoy.

I urge Congress to pass H.R. 660. Congress must pass this bipartisan legislation to give much needed relief to American small businesses, farmers, and hard working families.

Mr. NORWOOD. Madam Speaker, it is my opinion that H.R. 660 will hurt the ability of small employers to access insurance coverage. Contrary to creating larger pools of small employers, H.R. 660 will fragment the small group insurance market into a myriad of smaller and smaller pools with healthy small firms separated from those firms with sick employees. The basic fabric of small employer insurance—that healthy and sick must be pooled together to create cross-subsidies—will be irreparably torn to the detriment of all small firms. Small firms will be returned to the unstable and erratic marketplace of the 1980's—before states imposed small group reform protections. Specifically, the dissenting Members of the Committee find that H.R. 660 will lead to:

(1) Higher Premiums for Most Small Firms and Rampant Discrimination

(II) Widespread AHP Failure and Millions of Dollars in Unpaid Claims

(III) More Uninsured—Particularly Among the Most Vulnerable

(IV) Consumers Stripped of Their State Protections

(V) No Administrative Cost Savings

(1) HIGHER PREMIUMS FOR MOST SMALL FIRMS AND RAMPANT DISCRIMINATION

H.R. 660 would allow insured Association Health Plans (AHPs) to avoid covering the oldest and sickest smallest employers by charging them unaffordable rates that would not be allowed if the AHP was subject to state law. As a result, the Congressional Budget Office (CBO) found that 80 percent of small employers would see their premiums increased as a result of the passage of H.R. 660. A June 2003 Mercer study predicts health insurance premiums will increase by 23 percent for small employers that continue to purchase state regulated insurance.

Under H.R. 660, insured AHPs could "forum-shop" for the state with the weakest rating rules (a handful of states lack any formal premium restrictions). Once the AHP's policy is approved in a weekly regulated state, the AHP may sell the coverage across the country without regard to the rating rules in the remaining 49 states.

For instance, New York is normally a community rating state that does not allow variation of rates between small employers because of differences in the health status of their employees. But an insured AHP could sell coverage in New York that charges much higher premiums to small employers with sick employees. This will allow the AHP to attract low-risk employers from the state regulated pool—a practice known as "cherry-picking". Employers with sick employees would remain in the state regulated pool because they would be effectively barred from the AHP through the quotation of exorbitant rates. The Small Business Administration 2003 study on Association Health Plans describes it as follows:

> "Thus AHPs located in states with the less stringent state laws could offer insurance to the lower cost groups that are now forced to subsidize higher cost groups in those states that require community rating or narrow rate "bands."

The American Academy of Actuaries warns against this exemption of AHPs from state rating rules:

> "The result would be that small employers whose employees are greater health risks are more likely to obtain coverage from the private health insurance market, where rates are limited, than through AHPs, who may not have the same limitations. State small group legislation sought to eliminate this sort of selection in the market by requiring health insurers to put all their small groups in one pool and to limit the premium charged to one employer relative to another. Introducing AHPs that are not required to adhere to the same rating rules brings selection back into the market. The consequence will be that the rates for the two pools will diverge, causing further instability in an already fragile marketplace."

The Committee had an opportunity to clarify this critical point during the Committee markup. Representative Majette (D–GA) offered an amendment that would have prohibited AHPs from varying the rates of small employers beyond the variance allowed under state law. The Committee rejected this amendment.

Indeed, it appears that proponents of AHP passage have long held evasion of state rating rules as a key objective. In "Insuring the Uninsured through Association Health Plans," the AHP proponent National Center for Policy Analysis argues against premium rating restrictions in the small group market because they "keep premiums artificially low for the sickest groups and artificially high for the healthiest." NCPA argues that "in a competitive market, every new person in a plan will tend to be charged a premium that reflects the expected costs of that person's health care at the time of entry into the plan. . . . However, in health insurance the tradition is to scorn new entrants for 'cherry picking.' Yet cherry picking is nothing more than trying to satisfy consumer needs better than a rival."

It is also important to recognize that H.R. 660 would allow discrimination against small firms with sick employees before and after enrollment with an AHP. In this cruel "bait and switch" game, a small firm believes it has secure health insurance coverage only to find it placed in jeopardy when an employee falls ill. The Small Business Administration 2003 study describes the post-enrollment discrimination process:

> The House legislation, however, would also permit some of the abuses of the insurance principle that led states to adopt the rate reform legislation in the early 1990's. Some states still permit insurers to use forms of durational tier rating based on claims experience or "reunderwriting", the practice of processing claims information in a manner similar to the initial underwriting process, typically using diagnosis-based or other risk adjustment to determine like future claims experience and appropriate rerating action. The association's insurer could offer very low rates as long as all of a group's members are in good health, but increase the premium to reflect the fully anticipated cost when one or more group members develop expensive health conditions. AHPs would be mainly regulated by DOL which does not have the resources and experience of state insurance departments.[7]

The ability of AHP's to forum shop for the most lenient state means that a small firm enrolled in an AHP who has an employee contract cancer, or another dread disease, could face an immediate—and unlimited—premium increase. The AHP would not necessarily have to wait until renewal to impose this premium increase and the premium increase could be of such a magnitude that the small firm would have no choice but to drop coverage. Although the firm could return to the state regulated market on a guaranteed issue basis, the premiums offered by regulated carriers would be very high because of the fact that AHPs had "cherry picked" the low-risk firms away from the state regulated pool. Ultimately, this dramatic adverse selection will drive carriers from the unsustainable state regulated small group market leaving high-risk small firms with no access to coverage within a short period following AHP passage.

With regard to self-funded AHPs, H.R. 660 allows them to differentiate the premiums of small firms based on health status to the extent state law allows. This is contrary to the Committee's stated objective of furthering the ability of AHPs to play the same role that large employers play under ERISA. Section 702(b) of ERISA—added by the Health Insurance Portability and Accountability Act—clearly prohibits large employers from charging similarly situated employees different premiums based on their health status:

> A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution which is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or to an individual enrolled under the plan as a dependent of the individual.

This means that two computer engineers working in Seattle for Microsoft can expect to pay the same premium for their employer group health plan—even though one is very sick with cancer and the other perfectly healthy. Under H.R. 660 however, a sick computer engineer's firm could be charged a much higher premium than a healthy computer engineer's firm even though both firms are members of the same Association—perhaps a Seattle Association dedicated to technology startups.

Clearly H.R. 660 is not furthering the ability of small employers to access the stability of large employer coverage; instead it is retracting the stabilizing protections small employers enjoy under current state law. Furthermore, limiting a self-funded AHP's ability to rate based upon health status to state law will not limit an AHP's ability to "cherry-pick" from the state regulated market. Ample opportunity for risk selection remains, including:

Rating based upon age and gender: H.R. 660 would exempt AHPs from state rules that limit the ability to increase a firm's premiums based on the age and gender of employees. Older individuals typically generate claims costs nearly seven times those of younger individuals. In fact, actuaries consider age as a very close proxy for health status. Young females typically generate significantly higher claims than those of their male counterparts. With the unlimited age/gender rating flexibility granted under H.R. 660, AHPs could offer very low rates to firms with low-cost younger workers, draining the state regulated pool of the types of firms needed to keep premiums stable for firms dominated by older individuals or women in their childbearing years.

Geographic "Redlining": H.R. 660 allows AHPs flexibility to determine their geographic service area. AHPs would be free to avoid geographic locations with high health care costs. They could choose to avoid certain parts of a city with populations with a high prevalence of expensive illnesses. For instance, Hispanic Americans have a disproportionately high rate of diabetes, and the African American community has been particularly hard hit by AIDS. AHPs could avoid selling coverage in minority neighborhoods—or charge a much higher premium to firms located in those areas—as a proxy for rating for health status. AHPs also could avoid geographic locations where significant portions of residents engage in high-risk occupations—they could avoid lumberjacking towns or farming communities. The League of United Latin American Citizens and the National Council of La Raza recognize these risks and have opposed H.R. 660.

Exclusion of Very Small Firms: So-called "baby groups"—firms with fewer than 5 employees—are actuarially very expensive to insure. Their claims expenses generally are much higher than those of firms with more employees. HIPAA requires insurers to accept these very small groups and states require insurers to pool these very small firms with the rest of the small group pool. H.R. 660 would allow AHPs to exclude very small firms from their membership altogether (e.g. establish a "mid-sized" business association) or accept the small firms as members but charge them much higher premiums than their larger counterparts.

The use of age, gender, geography and firm size in rating practices provide the flexibility necessary for self-funded AHPs to limit their covered lives to low-risk, low-cost firms. Opponents to this legislation recognize that the rampant cherry picking H.R. 660 will foster will hurt all small firms in the long run. That is why the American Academy of Actuaries and the National Association of Insurance Commissioners are joined in their opposition to H.R. 660 by the following business organizations:

National Small Business United
28 Chambers of Commerce
Four Farm Bureaus
10 Local Small Business Associations (e.g. New Hampshire High Tech Council)
17 Labor Organizations

(II) WIDESPREAD AHP FAILURE AND MILLIONS OF DOLLARS IN UNPAID CLAIMS

The General Accounting Office (GAO) reported that a previous 1974 preemption of state law for Multiple Employer Welfare Arrangements (note: all AHPs are MEWAs) left nearly 400,000 consumers with over $123 million in unpaid bills. H.R. 660 will force this sad history to repeat itself—but the unfortunate results will be magnified since the growth of the internet and other communications channels will allow unsound AHPs to attract vulnerable members at a much more rapid rate.

Former Chief Counsel for the Senate Permanent Subcommittee on Investigations and Inspector General for the Department of Defense Eleanor Hill warns:

> AHPs are fundamentally the same types of organizations as many MEWAs that have, in the past, been sponsored through associations. If exempted from state regulation, AHPs would pose the same kinds of unacceptable risks to consumers. . . . Nothing in this legislation would prevent the same proliferation of plan failures and consumers losses that occurred when these types of organizations were last clearly exempt from state regulation.[8]

Former FDIC and Resolution Trust Corporation Chairman Bill Seidman also has issued warnings regarding the exemption of AHPs from state oversight: "I am concerned that it places consumers at risk and could set the stage for a taxpayer bailout similar to the one necessitated by the savings and loan failures of the 1980s.

AHP failures will be driven by three fundamental weaknesses in H.R. 660:

1. DOL Lacks Resources and Expertise to Take Over State Regulation of Self-funded AHPs
2. Insured AHPs will Exist in a Regulatory Vacuum, with Neither the States or DOL Able to Regulate
3. Solvency Standards are Inadequate

DOL LACKS RESOURCES AND EXPERTISE TO TAKE OVER STATE REGULATION OF SELF-FUNDED AHPS

Transferring regulatory authority of self-funded AHPs to DOL will represent a monumental change in the scope of DOL's regulatory responsibilities. Although it is often quoted that DOL currently administers ERISA for current group health plans—DOL's role is very limited. They are not responsible for reviewing reserve levels or assuring that actuarially fair premiums are charged and they are not in constant monitoring mode as state insurance commissioners are. DOL has admitted that its enforcement efforts under ERISA are:

> . . . considerably different from and often more limited than the remedies generally available to the states under their insurance laws. In this regard, it is important to note that, in many instances, states may be able to take immediate action with respect to a MEWA upon determining that the MEWA has failed to comply with licensing, contribution or reserve requirements under State insurance laws whereas investigating and substantiating a fiduciary breach under ERISA may take considerably longer.

In fact, H.R. 660 does not even authorize the Secretary to immediately terminate a failing AHP's operations. Instead, it directs the Secretary to apply to the appropriate United States district court for appointment as trustee to administer the termination of the plan.

A 2002 General Accounting Office (GAO) report found that DOL's Office of Pension and Welfare Benefits Administration (PWBA) is understaffed for its current responsibilities. With regard to pension responsibilities, the report found that DOL faces an "overabundance of work" as well as "limited investigative resources" and "staff shortages." It found that a review to determine pension plan noncompliance with ERISA would "require PWBA's full investigative staff 90 years to fully and accurately complete.

Similarly in 1997, Assistant Secretary of Labor Olena Berg testified: "An infrastructure adequate to handle the new responsibilities [for Association Health Plans] replicating the functions of 50 state insurance commissioners, simply does not exist." Berg noted that the current staff would be able to review each health plan once every 300 years.

H.R. 660 includes no provisions that would address this problem. No additional resources or retraining dollars for DOL are included.

INSURED AHPS WILL EXIST IN A REGULATORY VACUUM, WITH NEITHER THE STATES NOR DOL ABLE TO REGULATE

H.R. 660 includes very broad preemption language that appears to authorize an insured AHPO to sell insurance coverage nationwide and disregard the laws of 49 states once its policy is approved in one state. Thus once an AHP has an approved filing in Michigan, it could sell insurance coverage to New Yorkers. But who would protect the interests of New York policyholders? The New York state insurance commissioner will not know which consumer protection laws are or are not included in Michigan statute. And even if the New York commissioner was an expert regarding Michigan law, it is unlikely he would be authorized to enforce such protections. The enforcement authority of insurance commissioners is generally limited to the enforcement of their state's laws—not the laws of other states. Conversely, it is unlikely the Michigan insurance commissioner is authorized to take action against an insurer for behavior against a resident of another state. His role is to protect the interests of his residents.

Thus, the insured AHP would exist in a regulatory vacuum. State insurance commissioners' hands would be tied by the Federal preemption provisions, and the Department of Labor's oversight authority is quite limited with regard to insured AHPs—the focus being on the initial certification of meeting the Board and other requirements to be considered a "bona fide" association. This regulatory vacuum will allow fraudulent and sham operations to flourish. Premium dollars will have disappeared into personal off-shore bank accounts before any action by regulators can be taken, leaving consumers uninsured and providers with large unpaid medical bills.

SOLVENCY STANDARDS ARE INADEQUATE

The National Association of Insurance commissioners, the American Academy of Actuaries and others have all criticized H.R. 660 for inadequate solvency standards. H.R. 660 allows AHPs to maintain as little as $500,000 in surplus and caps even the largest AHPs at a $2,000,000 requirement—an amount equivalent to just two premature million dollar babies in a neo-natal intensive care unit. This is contrary to typical state solvency regimes which use open-ended rules, recognizing that the larger an AHP grows the larger a capital base is necessary. The American Academy of Actuaries notes:

> The proposed rules governing the minimum surplus requirements for AHPs do not account for the growth of the AHP. Historically, there have been many examples of AHP-like organizations becoming insolvent. Following such events, most states enacted solvency standards. To maintain the benefit of these standards to consumers, the surplus standards should be similar to the minimum requirements for Heath Risk-Based Capital (RBC) developed by the National Association of Insurance Commissioners (NAIC). Also the bills at issue rely on affordable reinsurance vehicles that do not currently exist in today's marketplace.

Former Resolution Trust Chairman Bill Seidman warns that "The Savings and Loan experience teaches us that a lack of adequate solvency standards or investment guidelines can quickly lead to financial failures." The NAIC also criticizes H.R. 660 as including "woefully inadequate capital reserve requirements" and further cautions:

> The most troubling aspect of the NFIB plan is it lacks sufficient oversight to ensure that financial struggles do not result in failures. Under the NFIB legislation, the AHP would work with an actuary chosen by the company to set reserve levels with little or no government oversight to ensure the levels are sufficient or maintained. Also, that AHP is required to "self-report" any financial problems. As we have seen in recent months, relying on a company-picked accountant or actuary to alert the government of any problems can have dire consequences for the consumers who expect to have protection under their health plan.

The combination of a regulatory vacuum for insured AHPs, an understaffed and inexperienced DOL and inadequate solvency standards lay the seeds for a large crop of devastating AHP failures and frauds across the country that injures thousands of consumers. Organizations with vast experience in health care fraud—such as the National Association of Attorneys General—recognize that opposition to H.R. 660 is imperative because "State oversight and regulation is the best way to insure that plans remain solvent and that consumers are protected against fraud.

(III) MORE UNINSURED, PARTICULARLY AMONG THE MOST VULNERABLE

A June 2003 Mercer study performed for National Small Business United indicates that an additional one million individuals would lose coverage and become uninsured if H.R. 660 became law. A 1999 Urban Institute study predicted the uninsured would increase by 250,000 if AHPs were exempt from state law and the Congressional Budget Office (CBO) indicated that as many as 100,000 of the sickest individuals could lose coverage.

While these reports differ in magnitude, they all predict that AHPs will worsen the uninsured problem, not solve it as proponents contend.

(IV) CONSUMERS STRIPPED OF THEIR STATE PROTECTIONS

States have enacted a broad pantheon of state consumer protections in the last decade. A sampling of these protections include:

44 states ensure access to independent review;

48 states limit how much insurers can charge sicker groups;

50 states impose detailed requirements to assure fair marketing;

50 states require mammography screening coverage; and

47 states require diabetic supplies and education.

Self-funded AHPs would be exempt from state consumer protection laws under H.R. 660. Insured AHPs could forum shop for the state with the least consumer protection laws and only use those limited protections when selling in the remaining 49 states. The Committee accepted an amendment by Rep. Van Hollen (D-MD) that would apply state prompt payment laws to insured AHPs. This amendment did not apply any other state consumer protection laws to insured AHPs, nor did it apply state prompt payment laws to self-funded AHPs. With one stroke, passage of H.R. 660 would eliminate thousands of state consumer protections across the country.

(V) No Administrative Cost Savings

Numerous research reports have reviewed Association Health Plans and all found that lower premiums offered by AHPs would stem from "cherry-picking"—because the AHP limits its coverage to the healthiest small employers—and the avoidance of state mandated benefits. The 2003 Small Business Administration Study found:

> From an objective standpoint, AHPs are likely to lead to moderately lower insurance premiums from a combination of lower direct and indirect taxes, avoiding anti-selection and other cross subsidies, avoiding some mandated benefits and avoiding the cost to comply with multiple state regulations.

The Congressional Budget Office assumed no administrative savings from AHPs and predicted that nearly two-thirds of any cost savings from AHPs would result from attracting healthier members from the existing insurance pool, with virtually all of the remaining savings stemming from reduced benefits.

A June 2003 Mercer study estimates that AHPs would gain a pricing advantage through risk selection, not greater administrative efficiency. The modeling estimates that the average morbidity (a measure of whether a firm is "sick" or "healthy") of firms enrolling in AHPs would be 21 percent lower than the average morbidity of small employers in the market today.

These reports found no administrative savings for AHPs because AHPs would need to perform the same functions as insurers today—enrollment, billing, claims administration. Providing health insurance to small firms is resource intensive because the insurer is often providing the types of services that a large employer receives internally from a dedicated employee benefits department. Research report after research report indicates that AHPs cannot avoid those costly functions and that their prime avenue for costs savings is "cherry picking" and benefit reduction.

Conclusion

Exemptions from state law for Association Health Plans have been tried and failed before. Far from being a solution to the plight of the small employer, H.R. 660 would exacerbate the cost and stability problems in the small employer market. Consumers will find themselves uninsured just when they need coverage the most—when they fall ill. And providers will be left with millions in unpaid medical bills. Furthermore, H.R. 660 will undo the small group reforms woven together by states over the last decade to respond to the damage and pain that rampant cherry picking imposed on the small employer community in the late 80's.

Mr. McKEON. Madam Speaker, I rise today in strong support of H.R. 660, the Small Business Health Fairness Act, which will allow small businesses to join together to better provide their hard-working employees with health care coverage. This important legislation will solve a serious problem with the growing number of uninsured American workers.

In September 2002, the Census Bureau reported that as many as 60 percent of the 41 million uninsured Americans were employed in small businesses throughout the country. Over the last few years, small business employers have become unable to provide their workers with affordable health care as a result of the rapid and unjust rise in the cost of health insurance. A survey by Mercer Human Resource Consulting found that health insurance costs rose 14.7 percent in 2002.

As a former small business owner, I understand the plight felt by employers, who want to provide employees and their families with quality health care.

The Small Business Health Fairness Act will afford these smaller businesses the same rights that large corporations and unions have and enable their representative associations to form Association Health Plans (AHPs), which will offer health care nationwide to member businesses. AHPs will be crucial in closing the gap the small business community is facing with the increase of uninsured American workers.

The opponents of this bill will consistently tell wild tales about this legislation saying that AHPs will only offer health care to the healthiest. This assertion is wholly untrue, as the bill specifically prohibits AHPs from denying people on the basis of health status.

It is imperative that we act now by passing this legislation so that our nation's small business employees can immediately begin receiving health care for their families.

We can no longer allow these dedicated employees to live and work without health insurance.

Mr. KILDEE. Madam Speaker, today we are considering a bill that will nullify coverage requirements and patient protections that states across the nation have determined are appropriate and necessary for the health and wellbeing of their citizens.

Association health plans will be exempt from state laws that protect patients, including requirements for external independent review of denied claims and laws requiring coverage for, mammography screening, prostate screening, maternity benefits and coverage of diabetes supplies and education.

The American Diabetes Association states that, "if allowed to pass as written, this legislation will undermine state laws that ensure coverage of essential diabetes medication, equipment, supplies, and education by state-regulated health insurance policies. Over 475 organizations have voiced their opposition to AHP's, including state governors, insurance commissioners, attorneys general, state legislators, providers and physician groups, consumer and advocacy organizations, chambers of commerce, unions, farm bureaus, and small business associations.

H.R. 660 will not lead to health insurance cost decrease. According to the CBO, more than 800,000 workers in my state of Michigan will pay higher premiums under H.R. 660.

I urge my colleagues to vote for the substitute and oppose H.R. 660, a bill that hurt, not help, the small business community.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise in strong opposition to the Small Business Health Fairness Act of 2003, H.R. 660. This legislation would exempt Association Health Plans from state regulations and oversight.

As a former nurse, I have spent much of my public career working to ensure that the nation's health care system is affordable and provides the best services possible to all Americans.

Although I agree in principle with the Small Business Health Fairness Act (H.R. 660), legislation that attempts to reduce the high cost of health insurance for small businesses and the self-employed, after careful review I have developed.

One of the problems I have with H.R. 660 is that it would exempt associated Health Plans (AHPs) from state regulation and oversight. I am afraid that this could lead to soaring insurance premiums, discriminatory coverage and loss of crucial protections, such as guaranteed access to medical care and critical benefits. With over 41 million Americans uninsured, and almost 65 percent of them being Hispanic or African American, I am extremely concerned that this legislation coiuld lead to loss of critical health services for some of the neediest families.

Madam Speaker, while proponents claim that federal AHPs would make insurance more affordable, and analysis by the Congressional Budget Office (CBO) concluded that AHPs would save money primarily by "cherry picking" the healthy from the existing insurance pool. The CBO estimated that as a result of the risk pool fragmentation caused by AHPS, health premiums would rise for 20 million workers and dependents while only 4.6 million would experience premium reductions. The CBO also found that the other source of savings would be the result of the elimination of state mandated benefits. Examples of benefits likely to be dropped by AHPs include mental health services, breast and prostate cancer screenings, maternity coverage and prescription drugs.

I agree that all families should have access to a affordable health care coverage. But schemes that would exempt association health plans from state oversight would exacerbate existing problems by causing further segmentation of the risk pool and putting consumers at greater risk of plan insolvency and outright fraud. For these reasons I urge my colleagues to oppose H.R. 660

Mr. MARIO DIAZ-BALART. Madam Speaker, small businesses across the country face no greater challenge than access to affordable health care. Too often, small businesses are forced to sacrifice growth in order to provide health care to the employees. Many others are unable to meet the rising costs of health care and force their employees to go without altogether.

Over 60 percent of the uninsured in America are small business owners and employees. Not only are high costs an enormous burden on small businesses and a large danger for employees, but also an unfortunate disincentive for growth. Capital lost on high health care costs limit economic growth of countless small businesses throughout the nation.

No matter the size of business, all Americans deserve access to affordable health care. Small businesses should have the same access to health care as their counterparts in large corporations and unions. There is no rationale for punishing America's entrepreneurs by blocking the access to affordable health care.

As an original cosponsor of the Small Business Health Fairness Act (H.R. 660), I stand committed to ending this great injustice to America's small businesses. As the true foundation of America's economy, it is essential to ensure small businesses have every incentive to grow and succeed. Without affordable health care for employees, small businesses will continue to be burdened with unfair health care costs resulting in reduced growth.

Associated health plans will allow small business owners to join together in order to purchase health care for their families and employees. This will not only lower health care costs for small business owners, but will also provide greater choice.

I ask my colleagues to join me in supporting H.R. 660 and helping the 41 million uninsured Americans receive access to affordable health care.

Mr. BEREUTER. Madam Speaker, this Member wishes to add his strong support for the Small Business Health Fairness Act of 2003 (H.R. 660) which would allow small business owners to band together across state lines through associations to purchase health insurance for families and employees.

This Member would like to commend the distinguished gentleman from Ohio [Mr. BOEHNER], the Chairman of the House Committee on Education and the Workforce, and the distinguished gentleman from California [Mr. MILLER], the Ranking member of the House Committee on Education and the Workforce for bringing this important resolution to the House Floor today; this issue is very timely as this week is Small Business Week. This Member would also like to commend the distinguished gentleman from Kentucky [Mr. FLETCHER] for sponsoring H.R. 660.

Over the past several years, we have witnessed significant changes in our health care system. Congress, employers, and the American people are currently searching for ways to control the cost of health care. In doing so, it is important that we do not compromise access and quality. This Member believes that Congress must evaluate three key areas when considering heath care proposals: affordability so that people can purchase health care that best fits their needs; accountability, so patients are guaranteed the quality they were promised; and accessibility, so millions more Americans can receive high-quality health care coverage that best fits their personal and family needs.

Access to affordable health insurance is a major problem for many of the 26 million uninsured Americans who live in families supported by the self-employed or small business employees. Professional societies and trade associations have tried to fill that void by offering health insurance plans to their members. Unfortunately, the myriad of state regulations and mandatory coverage requirements make it very difficult, expensive, and often impossible to offer coverage in all 50 states. If health insurance is not affordable it's not accessible.

The Small Business Health Fairness Act is intended to enhance the purchasing power of small businesses so that they could purchase such insurance more cheaply, and thereby provide health insurance coverage to more people. The association health plans created by the measure would be exempt from health insurance regulations of the various states. Thus, under the bill, these association health plans could operate in different states but would not be subject to the different health insurance regulations of those states. Instead they would be subject to regulation by the Labor Department. Similar association health plan language has been included in patient protection bills that Congress has recently considered. This Member has always supported these proposals.

Madam Speaker, in closing, this Member urges his colleagues to support H.R. 660.

Mr. ANDREWS. Madam Speaker, for all the reasons we have stated, we oppose the bill.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate on the bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KIND

Mr. KIND. Madam Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. KIND:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Small Employer Health Benefits Program Act of 2003”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Establishment of Small Employer Health Benefits Program (SEHBP).

“PART 8—SMALL EMPLOYER HEALTH BENEFITS PROGRAM

“Sec. 801. Establishment of program.
“Sec. 802. Contracts with qualifying insurers.
“Sec. 803. Additional conditions.
“Sec. 804. Dissemination of information.
“Sec. 805. Subsidies.
“Sec. 806. Authorization of appropriations.

SEC. 2. ESTABLISHMENT OF SMALL EMPLOYER HEALTH BENEFITS PROGRAM (SEHBP).

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

“PART 8—SMALL EMPLOYER HEALTH BENEFITS PROGRAM (SEHBP)

“SEC. 801. ESTABLISHMENT OF PROGRAM.

“(a) IN GENERAL.—The Secretary shall establish, in accordance with this part, a program under which—

“(1) qualifying small employers (as defined in subsection (b)) are provided access to qualifying health insurance coverage (as defined in subsection (c)) for their employees, and

“(2) such employees may elect alternative forms of coverage offered by various health insurance issuers.

“(b) QUALIFYING SMALL EMPLOYER DEFINED; OTHER DEFINITIONS.—For purposes of this part:

“(1) QUALIFYING SMALL EMPLOYER.—

“(A) IN GENERAL.—The term ‘qualifying small employer’ means a small employer (as defined in paragraph (2)) that—

“(i) elects to offer health insurance coverage provided under this part to each employee who has been employed by that employer for 3 months or longer; and

“(ii) elects, with respect to an employee electing coverage under qualified health insurance coverage, to pay at least 50 percent of the total premium for qualifying health insurance coverage provided under this part.

“(B) ELECTIONS.—Elections under subparagraph (A) may be filed with the Secretary during the 180-day period beginning with the first enrollment period occurring under section 803 and during open enrollment periods occurring thereafter under such section. Such elections shall be filed in such form and manner as shall be prescribed by the Secretary.

“(C) PART-TIME EMPLOYMENT.—Under regulations of the Secretary, in the case of an employee serving in a position in which service is customarily less than 1,500 hours per year, the reference in subparagraph (A)(ii) to ‘50 percent’ shall be deemed a percentage reduced to a percentage that bears the same ratio to 50 percent as the number of hours of service per year customarily in such position bears to 1,500.

“(2) SMALL EMPLOYER.—The term ‘small employer’ means, with respect to a year, an employer who employed an average of fewer than 100 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the year.

“(3) SEHBP.—The term ‘SEHBP’ means the small employer health benefits program provided under this part.

“(c) QUALIFYING HEALTH INSURANCE COVERAGE.—For purposes of this part, the term ‘qualifying health insurance coverage’ means health insurance coverage that meets the following requirements:

“(1) The coverage is offered by a health insurance issuer.

“(2) The benefits under such coverage are equivalent to or greater than the lower level of benefits provided under the service benefit plan described in section 8903(1) of title 5, United States Code.

“(3) The coverage includes, with respect to an employee that elects coverage, coverage of the same dependents that would be covered if the coverage were offered under FEHBP.

“(4)(A) Subject to subparagraph (B), there is no underwriting, through a preexisting condition limitation, differential benefits, or different premium levels, or otherwise, with respect to such coverage for covered employees or their dependents.

“(B) The premiums charged for such coverage are community-rated for employees within any State and may vary only—

"(i) by individual or family enrollment, and

"(ii) to the extent permitted under the laws of such State relating to health insurance coverage offered in the small group market, on the basis of geography.

"(d) Other Terms.—

"(1) Health insurance coverage; health insurance issuer; health status-related factor.—The terms 'health insurance coverage', 'health insurance issuer', 'health status-related factor' have the meanings provided such terms in section 733.

"(2) Small group market.—The term 'small group market' has the meaning provided such term in section 2791(e)(5) of the Public Health Service Act (42 U.S.C. 300gg–91(e)(5)).

"(3) FEHBP.—The term 'FEHBP' means the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code.

"SEC. 802. CONTRACTS WITH QUALIFYING INSURERS.

"(a) In General.—The Secretary shall enter into contracts with health insurance issuers for the offering of qualifying health insurance coverage under this part in the States in such manner as to offer coverage to employees of employers that elect to offer coverage under this part. Nothing in this part shall be construed as requiring the Secretary to enter into arrangements with all such issuers seeking to offer qualifying health insurance coverage in a State.

"(b) Continued Regulation.—Nothing in this part shall be construed as preempting State laws applicable to health insurance issuers that offer coverage under this part in such State.

"(c) Coordination with State Insurance Commissioners.—The Secretary shall coordinate with the insurance commissioners for the various States in establishing a process for handling and resolving any complaints relating to health insurance coverage offered under this part, to the extent necessary to augment processes otherwise available under State law.

"SEC. 803. ADDITIONAL CONDITIONS.

"(a) Limitation on Enrollment Periods.—The Secretary may limit the periods of times during which employees may elect coverage offered under this part, but such election shall be consistent with the elections permitted for employees under FEHBP and shall provide for at least annual open enrollment periods and enrollment at the time of initial eligibility to enroll and upon appropriate changes in family circumstances.

"(b) Authorizing Use of States in Making Arrangements for Coverage.—In lieu of the coverage otherwise arranged by the Secretary under this part, the Secretary may enter an arrangement with a State under which a State arranges for the provision of qualifying health insurance coverage to qualifying small employers in such manner as the Secretary would otherwise arrange for such coverage.

"(c) Use of FEHBP Model.—The Secretary shall carry out the SEHBP using the model of the FEHBP to the extent practicable and consistent with the provisions of this part, and, in carrying out such model, the Secretary shall, to the maximum extent practicable, negotiate the most affordable and substantial coverage possible for small employers.

"SEC. 804. DISSEMINATION OF INFORMATION.

"The Secretary shall widely disseminate information about SEHBP through the media, the Internet, public service announcements, and other employer and employee directed communications.

"SEC. 805. SUBSIDIES.

"(a) Employer Subsidies.—

"(1) Enrollment discount.—

"(A) In general.—In the case of a qualifying small employer who is eligible under subparagraph (B), the portion of the total premium for coverage otherwise payable by such employer under this part shall be reduced by 5 percent. Such reduction shall not cause an increase in the portion of the total premium payable by employees.

"(B) Employers eligible for discounts.—A qualifying small employer is eligible under this subparagraph if such employer employed an average of fewer than 25 employees on business days during the preceding calendar year.

"(2) Employer premium subsidy.—

"(A) In general.—The Secretary shall provide to qualifying small employers who are eligible under subparagraph (C) and who elect to offer health insurance coverage under this part a subsidy for premiums paid by the employer for coverage of employees whose individual income (as determined by the Secretary) is at or below 200 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section) for an individual.

"(B) Subsidy scaled according to size of employer.—The subsidy provided under subparagraph (A) shall be designed so that the subsidy equals, for any calendar year—

"(i) 50 percent of the portion of the premium payable by the employer for the coverage, in the case of eligible qualifying small employers who employ an average of fewer than 11 employees on business days during the preceding calendar year;

"(ii) 35 percent of the portion of the premium payable by the employer for the coverage, in the case of eligible qualifying small employers who employ an average of more than 10 employees but fewer than 26 employees on business days during the preceding calendar year; and

"(iii) 25 percent of the portion of the premium payable by the employer for the coverage, in the case of eligible qualifying small employers who employ an average of more than 25 employees but fewer than 51 employees on business days during the preceding calendar year.

"(C) Employers eligible for premium subsidy.—A qualifying small employer is eligible under this subparagraph if such employer employed an average of fewer than 50 employees on business days during the preceding calendar year.

"(b) Employee Subsidies.—

"(1) In general.—The Secretary shall provide subsidies to employees whose family income (as determined by the Secretary) is at or below 200 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section) for a family of the size involved.

"(2) Amount of subsidy.—Such subsidies shall be in an amount equal to the excess of the portion of the total premium for coverage otherwise payable by the employee under this part for any period, over 5 percent of the family income (as determined under paragraph (1)(A)) of the employee for such period.

"(3) Coordination of subsidies.—Notwithstanding paragraph (1), under regulations of the Secretary, an employee may be entitled to subsidies under this subsection for any period only if such employee is not eligible for subsidies for such period under any Federal or State health insurance subsidy program (including a program under title V, XIX, or XXI of the Social Security Act). For purposes of this paragraph, an employee is 'eligible' for a subsidy under a program if such employee is entitled to such subsidy or would, upon filing application therefore, be entitled to such subsidy.

"(4) Authority to expand eligibility.—The Secretary may, to the extent of available funding, provide for expansion of the subsidy program under this subsection to employees whose family income (as defined by the Secretary) is at or below 300 percent of the poverty line (as determined under paragraph (1)).

"(c) Procedures.—The Secretary shall establish by regulation applications, methods, and procedures for carrying out this section, including measures to ascertain or confirm levels of income.

"SEC. 806. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated, for the period beginning with fiscal year 2004 and ending with fiscal year 2014, $50,000,000,000 to carry out this part, including the establishment of subsidies under section 805.".

(b) Report on Offering National Health Plans.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor shall report to Congress the Secretary's recommendations regarding the feasibility of offering national health plans under part 8 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as added by subsection (a).

(c) Clerical Amendment.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"Part 8—Small Employer Health Benefits Program (SEHBP)

"Sec. 801. Establishment of program.
"Sec. 802. Contracts with qualifying insurers.
"Sec. 803. Additional conditions.
"Sec. 804. Dissemination of information.
"Sec. 805. Subsidies.
"Sec. 806. Authorization of appropriations.".

Amend the title so as to read: "A Bill to provide for the establishment in the Department of Labor of a Small Employer Health Benefits Program.".

The SPEAKER pro tempore. Pursuant to House Resolution 283, the gentleman from Wisconsin (Mr. Kind) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. Kind).

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have had I think a very enlightening discussion so far today in regards to the real impact of these associated health plans, what they are potentially capable of doing and what the danger of them are. As the gentleman from New Jersey (Mr. Andrews) has been citing repeatedly, there is an objective study there indicating the potential impact if this legislation enacted of increasing the ranks of the uninsured throughout the country by an additional million people. That is heading in the wrong direction considering we have 41 million uninsured today, many of them, between 50 and 60 percent of that 41 million, working in small businesses throughout our Nation.

We have a serious issue that requires a serious response and a serious plan to provide some real relief for small business employers to their employees. These are people who wake up every morning. They go to work. They play by the rules. They are asking for basic health care coverage like their neighbors next to them.

Unfortunately, H.R. 660 pulls up a little bit short in a couple of respects. First of all, it creates a current two-tiered system exempting the health care plans from currently State-regulated requirements. These are decisions made by State legislatures reflecting community values in regards to what type of health care coverage is important for their citizens, for their communities, for the society at large. And what is being proposed now is exempting a whole category of health insurance plans from basic health coverage such as cancer screening, mammographies, prenatal care, maternity care, diabetes, autism coverage in some States, and for those whoever worked with autistic children understand the importance of treating autism is early recognition, early intervention, and a lot of times that will not occur unless there are health plans that provide such coverage, and if we do not intervene early in these children's lives, there are exponentially greater costs for society at large down the road.

We offer a substitute, which I believe addresses the challenge that we are facing as a Nation more honestly and more fairly. The Democratic alternative that I have worked on with the gentleman from New Jersey (Mr. ANDREWS) and others on the committee would provide direct assistance to small businesses and their employees, another shortcoming of H.R. 660. There is no incentive, there is no help financially to enable employers to provide this type of coverage for their employees. And everyone I know is familiar with the small business employer that is operating on the margin, oftentimes losing money rather than making money.

And if there is not some type of financial incentive that our substitute bill offers it is unlikely that they are going to be able to extend their health insurance coverage to their employees who currently do not have them.

What our substitute would do is it would direct the Department of Labor to establish a small employer health benefit plan similar to the Federal Employee Health Benefits Plan. Many of the Members of Congress here today are members of the Federal Employee Health Benefits Plan. I have not encountered too much criticism of the health plan that Members of Congress are receiving. I think small business owners and their employees should be given the same opportunity on an affordable basis. The program would contract with State license insurers to offer a minimum insurance package for all employees of businesses of fewer than 100 people. Small businesses would be eligible for a premium assistance under our plan as would employees earning below 200 percent of the poverty level.

This alternative has the potential of providing health insurance coverage to 33 million Americans who currently go without it today. The number stands in stark contrast to the estimated 550,000 that the Congressional Budget Office has calculated under H.R. 660.

Perhaps most importantly, our plan is paid for under the budget resolution that the majority party has passed earlier this year. It fits within the budget confines by providing these premium assistance to small business employers, and to those employees at 200 percent less of poverty, providing financial assistance and the financial means to actually access health plans and provide coverage for their employees. H.R. 660 does not provide any of those means.

What we may see under their budget resolution coming back at us shortly is some form of tax credit or some type of tax deduction, which is not going to help the numerous employees and small businesses operating at 200 percent or less poverty level, who are paying very little Federal income taxes in order to qualify for such credits, unless they are willing to extend that coverage to those employees. But wait a minute. We are right now engaged in a heated debate over a child tax credit on these very same principles; so it is doubtful that they are going to be able to provide that type of tax relief to employees who need it and cannot afford health plans generally.

I mean there is a reason why the National Governors Association, Republican and Democratic governors alike, are in opposition, why the State Attorney Generals Association is opposing, why the State legislatures throughout the country are opposing, why many consumer interest groups and health care providers are opposing H.R. 660, because they fear that the ultimate income will be expanding the ranks of the uninsured rather than reducing that number.

I think we all have the best intentions in the plans that we are advocating here today to try to reverse course on the 41 million, to try to provide small businesses with an opportunity of providing some health care coverage for their employees, but we believe there is a right and there is a wrong way of doing it. We believe that the Democratic substitute being offered which does not preempt State law, which does provide some financial assistance, premium assistance for small employers, which is paid for under the budget resolution is the way to go if we are truly interested in reducing the number of the uninsured in this country, and thereby affecting the premiums that other health plans have to pay.

Because if the uninsured get sick or get hurt, they still go in, they still access, they still get care, but those costs are then shifted on to those plans that pay for it. Our plan would reduce the number of uninsured and thereby save costs and help reduce the premium increases that so many of our employers, large and small, are experiencing today. And with that, I encourage my colleagues to support the substitute. Vote no on the H.R. 660.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I am opposed to the gentleman's amendment and claim the time in opposition.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Ohio is recognized for 15 minutes.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, instead of embracing this bipartisan bill like many of their colleagues, some House Democrats have, instead, offered a substitute that is really no alternative at all.

Their plan does nothing to address one of the real issues that is really at the heart of this debate, and that is cost. In fact, it takes us exactly in the wrong direction of where we are trying to going, raising costs for small businesses and imposing with new mandates on employers. Instead of relying on competition that AHPs would provide, thereby lowering costs, their alternative could drive small employers out of business altogether.

Moreover, the substitute comes with a $50 billion price tag establishing a complex new Federal program that includes health care subsidies for certain small businesses and some workers who work in small businesses. It would establish a national Government-subsidized health care plan that attempts to model itself after the Federal Employee Health Benefits Plan, but instead imposes a new mandate such as requiring small employers to pay 50 percent of their premiums for employees.

However, unlike the Federal Employee Health Benefits Plan that is exempt from costly State mandates and regulations, coverage offered under this substitute would subject this plan to the more than 1,500 State mandates that make up about 15 percent of the rising cost of health insurance. In addition, in order to qualify, the substitute imposes new mandates on employer plans. For example, the substitute mandates that employers provide health care coverage to every employee who has been employed for at least 3 months.

In addition, it mandates that employers pay 50 percent of the cost of health care premiums for employees and that they cover all dependents of their workers. Well meaning, but in the end, these mandates will prohibit employers from proceeding. Self-employed individuals, however, are not covered by the substitute and would receive no benefits.

So let us make clear this fact. Small businesses today have the highest health care premiums of any other group. Premiums increased this year by at least 15 percent, the highest increase in a decade. And premiums are even higher for small businesses that see increases of 40 to 50 percent a year as employers continue to get out of small group activities and States. In fact, the increase in the uninsured this year, now 41 million Americans, was made up entirely of small business workers who lost their health care coverage because their employers could not afford to continue to provide this benefit.

So in answer to this, the substitute proposes to raise the cost to those small employers by adding new coverage requirements and subjecting it to more than 1,500 State mandates. And then we are going to spend $50 billion worth of Federal taxpayers' money to subsidize this coverage.

In contrast, AHPs use the strengths of the employer-based system that cover about 150 million American lives today, and we rely on the private market. The benefits of competition, the economies of scales that are enjoyed by large unions and large companies all across the country to help lower costs and to provide better coverage for their workers.

AHPs allow small businesses to access the benefits of ERISA that are currently offered to large employers and unions. ERISA exempts large employers and unions from State mandates so that they are able to offer a quality benefit package from one coast to another or in just several adjoining States.

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This uniformity reduces the cost so that more of the health care dollar that they are spending can actually go to benefits for their employees, and the lowering of the administrative costs also allows these companies and unions to offer more benefits to their members.

Through ERISA, employers and unions are able to offer benefits that best fit the needs of their employees. Their small business counterparts deserve the same opportunity to craft benefit packages that are both high quality and affordable.

The substitute would offer employers a difficult Hobson's choice: Meet these conditions, which may strap a business to the point of going under; or face limited and costly alternatives to health care coverage; or they can just do what they do today, offer no health care coverage to their employees.

Instead of making it possible for small businesses to access more affordable coverage, their coverage options will actually be more expensive, and then we are going to finance it with higher taxes.

While AHP legislation would be implemented quickly, the Democrat substitute might take years to get up and running because we are going to require the Department of Labor to design this, then to figure out how they are going to sell it, and then figure out how they are going to parcel out the $50 billion. If the appropriation does not go through, then you have got a plan with no financing behind it at all.

So, let me make myself clear, if I have not already: I believe our Nation's employer-sponsored health care system is a huge American success story. Employers provide coverage for the vast majority of our Nation's population, and almost 150 million Americans have coverage through ERISA.

The Committee on Education and the Workforce and the Department of Labor through our oversight of ERISA have jurisdiction over employer-sponsored health care, and I support the employer-based system to address the problem of the uninsured.

However, the way that the substitute does that is not by building on our strengths to offer really good plans. The mandates in their bill will basically say to small employers, you either offer the best health care plan in the entire market that is possible to your employees, or you get no help at all.

I think the strengths of the current system are good, and I think building on those by allowing Association Healthcare Plans will, in fact, work.

This bill is being supported by our nation's small business associations. The NIFB, the National Retail Association, the National Association of Wholesale Distributors, the National Association of Homebuilders, the U.S. Chamber of Commerce and others strongly support this bill, and the same groups oppose the substitute that we have before us.

So I hope Members will join me in offering assistance to our Nation's small businesses by supporting the underlying bill, and I ask my colleagues to reject the substitute we have before us.

Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is modeled after the Federal employee health plan. I never heard so much complaining about the Federal employee health plan before, which Members of Congress participate in. It is the classic case of the double standard yet again.

There are no new mandates. We respect State law. We do not preempt state law. Furthermore, their own Congressional Budget Office estimates that the Associated Health Plans will lead to higher insurance costs for 80 percent of small business employers and employees. Their legislation will impose a higher cost burden on small businesses throughout the country.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Rhode Island (Mr. LANGEVIN), someone who is concerned about the increase of 1 million more uninsured under H.R. 660 and also understands the importance of State health insurance coverage.

Mr. LANGEVIN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in opposition to H.R. 660, the Small Business Health Fairness Act, and in support of the substitute.

As health care costs soar and small business owners struggle to offer health benefits, it is critical to increase incentives for them to cover their workers. However, it is equally important that the health plans available to these workers be high quality and not jeopardize the stability of the health insurance marketplace.

This legislation, as it is written, encourages the formation of federally certified Association Health Plans by exempting these plans from State laws that govern health insurance sold to small employers today.

For years, patients have been denied necessary care as a result of HMOs' exemption from State regulation. As long as I have been in Congress, we have struggled to pass a meaningful Patients' Bill of Rights to assert the rights of individuals to a more basic minimum of health care.

Creating more exemptions is contrary to our efforts to preserve and enhance the existing regulatory system. We must think creatively about how to make health insurance affordable for small business owners and employees without threatening the progress we have made in ensuring patients' protection.

In Rhode Island, we have experimented with the successful program called RIte Share, which has made it possible for workers eligible for the State's Medicaid program who have access to employer-sponsored insurance to participate in the employer's programs. This month, I will reintroduce the Making Health Care Available for Low Income Workers Act, which would support demonstration projects such as RIte Share.

As we look for innovative ways to provide health care to all, we must not sell small business owners and employees short. The National Small Business United opposes this legislation, as they recognize that it would ultimately have a detrimental impact on small employer premiums and would cause a significant number of small employers to drop coverage, thereby increasing the Nation's uninsured population and undermine the quality of available coverage.

To that end, I urge my colleagues to vote against H.R. 660 and for the substitute.

The SPEAKER pro tempore (Mr. SIMPSON). Does the gentleman from Texas (Mr. SAM JOHNSON) seek to control time for the opposition?

Mr. SAM JOHNSON of Texas. Yes, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the gentleman from Texas (Mr. SAM JOHNSON) will control the time in opposition.

There was no objection.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. BALLENGER), a member of the Committee on Education and Workforce and a long-time Member of Congress and a small businessman.

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, today we are going to hear a lot of discussion, important discussion, about over 40 million Americans who are uninsured. Very few people in Congress have actually had the experience of dealing with employees and their health insurance. Well, I have, with them and their dependents.

H.R. 660 will allow small business to pool their resources in Associated Health Plans, giving them healthcare purchasing power that they do not have today.

As one Member who is a small business owner, I know firsthand that ballooning costs are a major reason why so many Americans are uninsured. When the company I founded employed only 5 or 10 workers, I was at the mercy of the insurance companies. Small companies lack the bargaining power that is necessary to find the best deal, and the smaller the company, the worse it gets.

Like me, most employers care deeply about their employees and want to give them access to quality care. Unfortunately, skyrocketing costs have forced many of us to distribute health insurance costs to our employees, to drop health coverage or to close up shop altogether. And this is nothing short of a tragedy, not only for millions of uninsured or underinsured workers and their families, but also for employers who can no longer afford the high cost of health insurance.

Mr. Speaker, the problem is not going away. While AHPs may not cover every uninsured American, I know that it will help many Americans gain access to quality care.

Some Members of this Congress will only be satisfied with universal healthcare coverage. Let me just ask you, does small business want the U.S. Government as a partner? Well, not where I come from.

These Members argue that we are somehow misguided when we want to take a common sense approach toward any American access to quality healthcare insurance. Associated Health Plans will allow small businesses to pool their resources and increase their bargaining power with insurance companies. This will allow them to negotiate better rates and purchase quality healthcare at a lower cost. In essence, AHPs will put small business on equal footing with the large, self-insured companies and unions.

Mr. Speaker, it is good to talk about the plight of the uninsured, but let us do something to help them. Let us support AHPs.

Mr. KIND. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. WOOLSEY), a very knowledgeable member of the Committee on Education and the Workforce.

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for yielding me time, and I thank the gentleman from New Jersey (Mr. ANDREWS) for this substitute that we have here today.

Mr. Speaker, I rise in support of the Kind plan because it is actually kind to small businesses and it is kind to hardworking employees, and it makes affordable coverage accessible to the employees, the hard workers that need and deserve that coverage.

As a small business owner, I know firsthand how difficult it is to provide workers with first-class health coverage, but the reality is these hardworking families need access to quality healthcare, not just bare bones, expensive coverage. I would have appreciated the Kind plan for my employees, I can tell you that.

The Republican plan actually provides employers and employees with a false sense of security. It is a false security. They will assume they are paying for standard coverage, like the owner of the business has for his or her family. They will assume they are paying for mammograms, prenatal and postnatal coverage, coverage for illnesses like diabetes, and for prostate cancer, because these are generally State-mandated coverages. And when they find out differently after they have enrolled in one of these plans, it will be too late.

I support the Kind substitute, because it gives small businesses the option to enroll in a health plan that is similar to the Federal Employees Health Benefit Plan, giving workers a choice of plans. Why should the hardworking people of America, those employed by small businesses, have fewer options than Federal workers?

Mr. Speaker, the Kind substitute provides an affordable option to small businesses by granting subsidies. It gives them choices guaranteed to cover the most important medical procedures. This substitute provides working families, desperate for quality health coverage, the choices they need and want, and I urge my colleagues to support the Kind substitute.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a member of the committee.

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong opposition to the substitute to H.R. 660. The mandates contained in this substitute will drive up costs and defeat the very purpose of H.R. 660, which is to make healthcare insurance more affordable.

Talk to most business owners, small business owners, in my district, and they will say that the fastest growing cost to their businesses is rising health insurance premiums for their workers. Talk to other small business owners in my district, and they will say that they cannot afford to offer their workers healthcare coverage.

In fact, if you talk to any of the 41 million Americans who have no health insurance, 6 out of 10 of them will say they work for a small business. It is not that these small business employers, employees or owners do not want health insurance or do not realize its importance; they simply cannot afford it.

Health insurance is expensive, even if you work for a large company. Studies show health insurance costs rose by 14.7 percent in 2002, and others predict they will rise another 15 percent for 2003.

In large companies, health coverage costs are spread out over many employees, making coverage more affordable for each employee. However, when there are fewer employees, each must bear a higher share of the costs and the cost per worker for the employer is very high. Far too often, small businesses either cannot afford to offer insurance, or, if they offer it, it is too costly and their employees cannot afford it.

Let us give small businesses the same economies of scale that are enjoyed by large businesses. I urge my colleagues to vote against this substitute which would establish new mandates and turn the plan into a nationalized, government-subsidized health care plan.

I urge a yes vote for final passage of H.R. 660. Let us give more working Americans access to affordable, quality insurance coverage.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me quickly dispel a couple of myths. We have heard a couple of occasions new mandates are going to add costs to the employers.

First of all, there are no new mandates under the substitute. We merely respect State law. We do not require compliance. It is a voluntary program. If small business employers do not think it is a good financial deal for them, they do not have to join. There is nothing mandating their requirement.

We have also heard the word "taxes" being used, too. Let me reiterate, this is paid for in their own budget resolution. So there is no new taxes that we are talking about with respect to this substitute.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. ANDREWS), the coauthor of this alternative bill.

Mr. ANDREWS. Mr. Speaker, I would like to thank the gentleman from Wisconsin (Mr. KIND) for all the leadership he has shown on this, all the hard work he has done, and his usual, thoughtful approach to this problem.

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Understand the desirability of the substitute versus the underlying bill. It would be helpful to think of a person who runs a tool and die shop with a dozen employees, or a cafe with 15 or 20 employees. Under the majority's Republican underlying bill, the most optimistic people believe there would be about a 15 percent premium savings for that employer. I think that is unduly optimistic, but let us give them the benefit of the doubt.

In my State, it costs about $6,000 to provide a health care package for an individual, and about $12,000 for family coverage. That means for that individual plan, the price would drop from $6,000 down to about $5,100. For the owner of that tool and die shop or that cafe, even if that price drop would occur, it is not nearly enough to afford the premiums that would be involved.

The majority's bill provides zero to the owner of that tool and die shop or that cafe to help them buy those premiums.

The substitute goes to the majority's budget resolution, identifies, as the majority did, $50 billion over 5 years, without any increase in taxes or revenues, as the gentleman from Wisconsin (Mr. KIND) just said, and uses that $50 billion creatively and wisely to provide subsidies to what we estimate would be 5 million employers and 16 million employees.

The person running the tool and die shop or the cafe, even if you are right, and we think you are wrong, meaning the majority, even if that person enjoys a reduction in premiums from $6,000 down to $5,100, it is not enough to increase coverage.

The plain fact is this: people who are employing people at the bottom of the wage ladder in low-margin businesses are not going to be able to afford the price of health insurance unless there is a significant subsidy. That is a fact. It is a fact the majority would choose to ignore, because the majority has taken over $2 trillion from the public Treasury that could be used to address the problem of 41 million uninsured people and flushed that money away. This substitute is an appropriate way to close that gap.

I also again want to reiterate that we believe you do not have to make this false choice between people being covered, as our various States would have them covered, with mammogram protection, with diabetes care, with prenatal and well-baby care. You do not have to make the choice between providing those vital benefits and no coverage at all.

The Mercer study shows that the underlying bill from the majority will result in an increase of 1 million people to the ranks of the uninsured. Eight million people, the CBO now tells us, will move from regular protected plans into these new unprotected, at-risk AHPs. We will get the worst of both worlds: eight million people for whom there is no guaranteed coverage against breast cancer, against diabetes, against the other diseases and conditions people worry about, and an increase in the number of uninsured.

The plan that the gentleman from Wisconsin (Mr. KIND) has taken the lead on would do the opposite. It will address the real needs of the owner of that tool and die shop and the real needs of the owner of that cafe by providing him or her with a meaningful subsidy that would help purchase health insurance benefits for his or her employees. There is a 5 million person difference when it comes to employers, a 16 million person difference when it comes to employees, and all the difference in the world when it comes to the approach here.

The plan the gentleman from Wisconsin (Mr. KIND) has put forward will work. It will work within the contours of the majority's own budget resolution. It provides real help and real aid to those who need it, not the empty promise of the majority's bill.

I urge our colleagues on both sides of the aisle to support the Kind substitute.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, I thank my good colleague for yielding me this time.

We have heard about these studies today; and the gentleman knows that is the study, or at least has heard me say that the study done by Mercer is very similar to the study done by the Congressional Budget Office, and they are both flawed. They are very flawed. They do not take into account the fact that we have anti-cherrypicking language in the bill, and they assume in their studies that cherrypicking would be allowed.

Secondly, they assume that there would not be any difference in the administrative fees for running the plan. The fact is that we have studies that show that up to 8 million of the uninsured would have access to affordable, quality health insurance.

Let me also point out exactly what our bill does. The gentleman from New Jersey just said in the State of New Jersey, for a single person to buy a health insurance plan is about $6,000 and family coverage is about $12,000. The average cost for a large employer for the cost of their health insurance is about $3,300 for a single person and about $5,500 for a family.

Mr. ANDREWS. Mr. Speaker, would the gentleman yield?

Mr. BOEHNER. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, would the gentleman care to cite the source of that statistic?

Mr. BOEHNER. Mr. Speaker, I made some phone calls to find several plans that were both in the same area.

The fact is, that is exactly what this bill does. It allows small employers to band together to get themselves into a larger pool to design their own plan so that they can, in fact, offer better coverage at lower cost to their employees.

Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I shudder to think we may be making major policy based on a few phone calls here today.

Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for yielding me this time.

I understand there are variations in plan costs around the country. I would once again say, however, that the most enthusiastic proponents of the AHP plan do not talk about a reduction of the magnitude that the chairman of the full committee just talked about; they talk, at best case, about a 15 or 16 percent premium reduction.

If you live in a market that has a $6,000-per-person premium, which I do, that is nowhere near a $2,700 reduction which the chairman's phone calls have uncovered.

Mr. BOEHNER. Mr. Speaker, would the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, the 15 percent reduction is only the reduction in the administrative costs of running the plan. When you begin to look at what pooling and larger pools will do, it brings the costs down significantly.

Mr. ANDREWS. Mr. Speaker, reclaiming my time, what premium benefit then would the chairman claim would result from this bill?

I yield to the chairman to tell us what premium benefit he predicts would result from the underlying bill.

Mr. BOEHNER. Mr. Speaker, we believe that the average reduction for a small employer would be somewhere between 15 and 30 percent.

Mr. ANDREWS. Fifteen and 30 percent. That is a new number for us, Mr. Speaker.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. MANZULLO), the chairman of the Committee on Small Business.

Mr. MANZULLO. Mr. Speaker, as the chairman of the Committee on Small Business, our Nation's small businessmen and -women tell me over and over that accessible and affordable health care is their number one priority. I have heard from thousands of small employers in America who have been pleading for options to help them manage their surging health care costs. In fact, so many letters came in, we put them into a binder called "Health Care Horror Stories from America's Small Employers." The NFIB assisted us in putting this together for us.

The small business owners tell us regularly how they struggle to provide their workers with health insurance but, each year, they face double-digit increases. Small business owners tell me they do not know how much longer they can continue to provide health care for their employees. Mom and pop businesses tell me they want to provide health care for their employees, but they cannot because of the expense of the policy. My own brother who runs a family restaurant is drowning in the surging costs and the exorbitant costs of health care insurance. This is a family business. We know personally what it costs when you are little, when you have a very small pool. People like my brother Frank are horrified at the thought of not being able to have insurance.

As one of my small business constituents wrote, "I have always wanted to take care of my employees and provide them with competitive benefits and wages, but each year it gets more and more difficult. Our health insurance costs were raised 43 percent last year and 34 percent this year."

Another constituent: "Health care costs and insurance are draining us. Last year we had a 14 percent increase, and now the costs are going up 21 percent again. I have nowhere else to go."

So they go out of business because they cannot afford insurance.

Today we bring forward a great option, association health plans, to help control these outrageous costs. Of the 41 million Americans with no health insurance, 60 percent of these are small entrepreneurs, their families and their employees.

Why should the small businesses of this country not have the same right to band together as local labor unions do to purchase their insurance in large pools? That is all this is. It is just that simple. The more people you have in the pool, the cheaper the rates are for the insurance. It is a matter of equity. The little guys out there, the people that are struggling, why can they not have the same right, the same legal right to get together as labor unions? Why does there have to be a double standard, to allow labor unions to get together and do the smart thing, which they have been doing for 60 or 70 years, and using the union as the center post around which to buy their insurance, and allow associations as a center post around which to buy insurance for the small business people?

It is simply a matter of equity, it is a matter of fairness, and the biggest argument that we have here is this: the larger the pool, the lower the rate. There is not anybody here on the floor today or in this country that can dispute that fact. My brother is a pool of two, him and his wife, at the restaurant.

As the Chairman of the Small Business Committee, our nation's small business men and women tell me over and over that accessible and affordable health care is their number one priority.

I have heard from thousands of small employers in America who have been pleading for options to help them manage their surging health care costs.

Small business owners tell me regularly how they struggle to provide their workers health insurance, but each year they face double digit increases.

Small business owners tell me they don't know how much longer they can continue to provide health care for their employees because each year the premiums rise, their coverage decreases and out of pocket expenses soar.

"Mom and Pop" businesses tell me how they want to provide healthcare for their employees, but they cannot because of the expense for a policy that covers less then ten people.

My own brother, who runs the family restaurant, is staggering at the exorbitant cost of health care insurance.

They are horrified at the thought of leaving their workers high and dry without health insurance.

As one of my small business constituents wrote, "I've always wanted to take care of my employees and provide them with competitive benefits and wages, but each year it is getting more and more difficult. Our health insurance costs were raised 43 percent last year and 34 percent this year and there is nothing we can do about it."

Another constituent writes, "Health care costs and insurance are draining us. Last year, we had a 14 percent increase. Now, the costs are going up 21 percent again. I have nowhere to go."

They are hopeless. Our entrepreneurs, whose ingenuity and hard work ethic have driven the American economy, have run out of options to battle this crisis. They need our help.

And today, we bring forward a great option—Association Health Plans—to help them control these outrageous costs and continue offering vital health insurance to their employees and their families.

Of the 41 million Americans with no health insurance, 60 percent are small entrepreneurs, their families and their employees.

One of the reasons small businesses cannot afford health coverage for their employees is that they are unable to achieve the economies of scale and purchasing power of larger corporations and unions.

Small businesses suffer from unequal treatment—what they want most is a level playing field when it comes to health care.

Large corporations and labor unions use the purchasing power of thousands of employees to offer affordable health insurance to their workers.

Small business owners have to find their insurance on an individual basis, making it very difficult and expensive to find affordable health coverage.

The premiums that small businesses pay for health insurance are typically 20–30 percent higher than those of large companies or unions which can self-insure.

Additionally, the administrative costs incurred by small businesses are likewise higher than those of large businesses; 25–27 percent versus 5–11 percent for large businesses.

Association Health Plans can provide hope to those who lack health care by expanding the pool of people and bringing down costs by 15 to 30 percent.

For small businesses, that savings can mean the difference between providing health care or not.

That savings can be the difference between profitability or losing money.

In March, I held a Small Business Committee hearing on this very topic.

The Washington State Farm Bureau testified to the success they have enjoyed operating an AHP for the last 3½ years.

Traditionally, farmers have had great difficulty buying health insurance because their business is usually made up entirely of their family.

Of those who have taken advantage of the Washington State Farm Bureau's AHP, 25 percent did not have health insurance prior to enrolling.

Additionally, the Washington State Farm Bureau AHP has operated with a 99 percent retention rate.

The proof is irrefutable. AHPs work.

I urge all of my colleagues to support H.R. 660.

Mr. KIND. Mr. Speaker, would the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Speaker, with all due respect to the gentleman from Illinois, my good friend, that is why our substitute is much better. We have one comprehensive pool that small businesses can buy into if they choose, therefore leveraging their bargaining power.

Mr. MANZULLO. Mr. Speaker, reclaiming my time, that is a government-run pool with a government-run subsidy, and that will end up like every other government-run program: it will bankrupt the country, and the small businessperson will be at the end of it.

Try this. See if this works. This is so simple. If it works for the labor unions, why can it not work for Frank and Mary Ann Manzullo?

Mr. KIND. Mr. Speaker, would the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Speaker, one of the strengths of the labor union is they are there representing the workers. They leverage the number of workers there, and they are representing their interests, and they oftentimes reduce wages in order to get a better health care plan.

The SPEAKER pro tempore (Mr. SIMPSON). The time of the gentleman from Illinois (Mr. MANZULLO) has expired.

Mr. KIND. Mr. Speaker, I yield such time as she may consume for the purposes of a colloquy to the gentlewoman from Minnesota (Ms. MCCOLLUM), a former State legislator and a colleague on the Committee on Education and the Workforce.

Ms. MCCOLLUM. Mr. Speaker, I just want to make sure that I understand clearly the benefits of the Kind amendment in contrast to the underlying bill that we will be asked to vote on later.

One of the concerns I had in committee, as the gentleman knows, was that gender discrimination by the coverage that can be allowed under the existing bill that we are going to be voting on would have a direct impact on women's health care coverage, especially during their reproductive years.

So I would like to know, under the Kind plan, is cervical cancer screening covered if States cover it?

Mr. KIND. Mr. Speaker, would the gentlewoman yield?

Ms. MCCOLLUM. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Speaker, it would be, because we respect existing State law.

Ms. MCCOLLUM. Mr. Speaker, would contraceptive coverage be allowed for women under the Kind plan?

Mr. KIND. Again, it is not mandated unless the State offers that right now.

Ms. MCCOLLUM. If the State requires mammography screening, is that covered under the Kind amendment?

Mr. KIND. That would be covered.

Ms. MCCOLLUM. If a State requires maternity coverage so it is not the drive-through maternity coverage that we have heard about in past years, is that covered?

Mr. KIND. That would also be covered under our substitute.

Ms. MCCOLLUM. Is a minimum mastectomy stay also covered if States have that as part of their law?

Mr. KIND. That would be covered.

Ms. MCCOLLUM. Would a minimum maternity stay be covered?

Mr. KIND. That is right.

Ms. MCCOLLUM. So we have good reproductive health coverage for women while we are expecting. But also I found with many of the women I have spoken with, and their husbands too, they would like to make sure that women have access to gynecologists, sometimes as their primary care physicians, and many States allow this. Would the Kind amendment allow this to continue?

Mr. KIND. Yes, it would.

Ms. MCCOLLUM. And does the Kind amendment also allow for second automatic referrals if States allow for second opinions?

Mr. KIND. It would, indeed.

Ms. MCCOLLUM. Mr. Speaker, I thank the gentleman.

Mr. ANDREWS. Mr. Speaker, would the gentlewoman yield?

Ms. MCCOLLUM. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, and it is also true, is it not, like I said to my colleague from Minnesota, that in the underlying bill that the majority offered, that each one of those State protections that the gentlewoman just outlined would be invalidated?

Ms. MCCOLLUM. Mr. Speaker, reclaiming my time, that is totally correct. In fact, many of these I was directly involved in in the State of Minnesota, because we had families, women, mothers, husbands, brothers, aunts and uncles come and say that this was basic health care coverage that their mothers needed, that their grandmothers needed, that their nieces needed.

Mr. ANDREWS. Mr. Speaker, if the gentlewoman would further yield, what the gentlewoman is saying is that if the insurance industry chooses to keep these protections, it may; but if it chooses not to, the person who is covered under the plan does not get any of the coverage the gentlewoman just spoke of; is that correct?

Ms. MCCOLLUM. That is correct. And it is my understanding that insurance companies did not offer these coverages because they were, in their opinion, too expensive to cover, and that put gender discrimination at risk for women in their reproductive years.

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Mr. KIND. Mr. Speaker, will the gentlewoman yield?

Ms. MCCOLLUM. I yield to the gentleman from Wisconsin.

Mr. KIND. One other significant difference between our substitute and H.R. 660 is ours would have a uniform premium rate for all employees. Employees could not be discriminated against with higher premium rates because they happen to be sicker than their fellow employees in the workforce. Ours would establish a uniform insurance premium rate for them so there would not be that type of price discrimination against the sicker in our population.

Ms. MCCOLLUM. I thank the gentleman. I will be supporting the Kind amendment because if the gentleman from Wisconsin (Mr. KIND), and the gentleman from New Jersey (Mr. ANDREWS) and I all worked for the same employer, I would like to think that my basic health care coverage, including my reproductive health, would be covered.

The SPEAKER pro tempore (Mr. SIMPSON). Does the gentleman from Ohio (Mr. BOEHNER) wish to reclaim the time in opposition?

Mr. BOEHNER. I do, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the gentlemen from Ohio will control the time in opposition.

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. ISAKSON), a member of our committee.

Mr. ISAKSON. Mr. Speaker, I have not had any time to make any phone calls. I did not read the think tank studies. I did, however, for 22 years prior to coming to Congress, manage a company. When we left, we had 220 employees covered by an ERISA-qualified group medical insurance coverage. And their salaries was paid and my salary was paid by the proceeds of sales made by independent contractors of which 90 percent were women.

Under the independent contractor law and IRS requirements, we could not offer them group medical insurance and they had no ERISA protection. They were at the mercy of what was available.

Now, those 220 for whom we provided group medical insurance, I would have to resent the fact that the illusion was made that an employer who had that many women as a percentage of their workforce would not provide gynecological benefits and other reproductive benefits available to women. Of course you would.

Now what this bill does it does not preclude a mandated 48-hour stay any more than it precludes any other benefit. It offers the employer the option of offering it. It is true there is an exemption from the State requirement. It is untrue that it necessarily, on its face, takes that benefit away from a company.

Who in here would believe for a moment that an employer who wants to offer a benefit to his employees would take away the very benefit that is most important to those employees? Facts are stubborn things.

The fact of the matter is, 41 million Americans do not have health insurance. Now there are contributing reasons to that. But one of the main contributing reasons are those independent contractors, small business people, laborers, people who make the money that pay the taxes who have no accessibility to health insurance.

Now, I have lobbied on both sides about this and I care about this very deeply. I have a campaign staff right now and I am providing insurance to those few individuals I have employed because I know how important it is to have it, and I know how expensive it is to go out and get it on an individual basis, even though they are basically young. But understand this, this bill does not preclude a health care benefit for women that is mandated in State law from being offered.

It gives the choice for companies to put together a cafeteria-type of plan which may or may not include it, but do not sell those employers short that they would not offer a benefit that the very basis of their employees have to have.

Secondly, as I understand it, the cost of this is about $354 million in terms of CBO's estimate of H.R. 660 and $50 billion in terms of the substitute. I would say this, if we can make an investment that is $49,442,000,000 less expensive to offer insurance to 41 million Americans or a lot of them, we estimate 8 to 10, to provide benefits to give them health care that they do not have, then we should vote for the underlying bill. We should reject the substitute, and we should reject any false perception that this is taking away the integrity of a business in offering a qualified plan to their qualified employees.

Mr. BOEHNER. Mr. Speaker, will the gentleman yield?

Mr. ISAKSON. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, the gentleman referred to his ability to offer a package under ERISA to your 220 employees on the business you managed, but what about those 900 real estate agents that work as independent contractors for this company, who had to go out and fight on their own, day in and day out, to get a policy for themselves or for their family? And under this bill, if I am correct, the National Association of Realtors or the Georgia Realtor Association could offer a group plan to their real estate agents which would bring their costs down substantially.

Mr. ISAKSON. Mr. Speaker, the gentleman is absolutely correct, and if I may take the remainder of the time to tell the gentleman that in that exact scenario, since I could not offer those benefits because they were independent contractors, but because I cared very deeply about my independent contractors and the quality of life they had, I tried to scratch and find those.

What this bill does, it opens up an opportunity for employers who have independent contractors as their employees, to take the benefits of pooling and provide for those independent contractors the benefit that ERISA guarantees the opportunity to provide in terms of the employees that company has. This is an important step forward for 41 million Americans.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, we state that our substitute is fully paid for under the budget resolution, so we are not asking for new money. And with due respect to my friend from Georgia, we would hope a lot of employers would continue to offer the basic health care coverage that exists today. But the reason there were so many State battles throughout the country in State legislatures is because many of them were not. That is why these hard-fought battles need to be respected, and our substitute does.

Mr. Speaker, I yield 3 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in opposition to H.R. 660, and in support of the Democratic substitute. As a member of the Committee on Small Business, a physician and former small business owner, the issue of meeting the health care needs of the small business community is a priority for me and it is alarming that their employees represent 60 percent of our Nation's uninsured.

Whereas, I commend my colleagues on both sides of the aisle for their work in bringing legislation to the floor, I cannot support H.R. 660. The Congressional Budget Office estimates that AHPs could insure additional 330,000 Americans, but would drive up health care costs for the rest of the Nation to such an extent that 1 million presently insured Americans would be unable to afford coverage.

H.R. 660 would exempt AHPs from State insurance mandates regarding the coverage of such basic and life saving treatments as maternity care, emergency room visits, cancer screening and diabetes coverage, leaving it to individual plans to decide. More than 450 national and local organizations have joined in opposing Federal legislation that would allow associated health plans to operate without State oversight.

The American Diabetes Association has said it would be a disaster for people with diabetes. The American Nurses Association argued that by removing coverage for cost effective benefits such as well-child care, AHPs created by H.R. 660 could drive up the cost of health care. States have enacted safeguards to ensure that the health insurance plans offered to small employers and their families are fairly priced, cover a specific set of benefits, that they can not cherrypick.

Under the proposed legislation, small employers who have joint AHPs could lose these important safeguards. The Kind-Andrews Democrat substitute addresses these concerns. It would use the Federal Employee Health Benefits Program as a base benefit package without superseding State laws and regulations. Most importantly, the Kind-Andrews substitute offers incentives and subsidies to firms of fewer than 50 employees and provides premium subsidies for employees who are below 200 percent of poverty. The Kind-Andrews substitute would make a real difference in covering the uninsured while maintaining consumer, personal and professional rights.

This is a good approach and a far better bill that can really do a lot to cover more than half of the 41 million uninsured.

Mr. Speaker, I urge support for the Kind-Andrews substitute and urge a no vote on H.R. 660.

Mr. BOEHNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in opposition today to the substitute and in support of H.R. 660, the Small Business Health Fairness Act.

Of the more than 41 million Americans that are uninsured, almost 60 percent of those individuals are from families that are employed by small businesses that cannot afford to pay health benefits. We can no longer stand by as health insurance premiums for small businesses are increasing at double digit rates. Their choices of plans and benefits continue to decrease.

The passage of the Small Business Health Fairness Act would be an important step in providing access to affordable health insurance for millions of workers and their family, helping to stop the growing numbers of uninsured Americans. As a former small business owner for 13 years, I struggled with the skyrocketing costs of health care benefits. Employers, small business owners must decide whether to scale back or cut coverage altogether. By allowing businesses to join together in associated health plans, they will have the same opportunities that large businesses and unions have. Hard working Americans employed by small businesses deserve access to quality and affordable health care too.

Mr. Speaker, I would like to commend the gentleman from Ohio (Mr. BOEHNER), the gentleman from Illinois (Mr. MANZULLO) and the gentleman from Kentucky (Mr. FLETCHER) for their outstanding leadership, and as a small business owner, I urge my colleagues to support H.R. 660.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) has 8 minutes remaining. The gentleman from Wisconsin (Mr. KIND) has 5 minutes remaining.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BURGESS)

Mr. BURGESS. Mr. Speaker, today the United States is confronted with an increasing number of Americans who are without health insurance. The Census Bureau estimates that 41.2 million Americans are without insurance and the numbers continue to rise.

Remarkably, the policy makers here in Washington have all too often made attempts to remedy this situation with convoluted policies that have just exacerbated this very serious problem.

The bill before us today, H.R. 660, will make great strides in addressing this problem by not imposing a top-down Washington-type solution, but instead giving small businesses in Flower Mound, Texas and cities and towns, as in all of our districts, the ability to make responsible health care coverage decisions for their employees.

H.R. 660 will make American families without health insurance and help small businesses struggling with the high cost of insurance for their employees. As the owner of a medical practice in Lewisville, Texas, I understand how difficult it can be to provide health care insurance to your employees. Only 10 percent of businesses with 50 or fewer employees offer their employees health care coverage. This number is low because group coverage for small businesses is costly and heavily regulated.

H.R. 660 will give retailers, wholesalers, printers, medical practices, churches and other businesses the ability to purchase health insurance through associated health plans by freeing them from restrictive mandates and maximizing their ability to spread risks across a large number of employees. I believe this bill will decrease the number of uninsured in the United States, but I am afraid that the best our friends on the other side of the aisle can come up with in the form of this substitute is a continuation of the Washington, D.C. style solution that does not trust small business owners with decisions about what is best for their employees.

The substitute places more mandates on small business and does nothing to increase access to health insurance. By stacking requirement on top of requirement, it is clear that they do not trust Americans to make their own health decisions.

Mr. Speaker, the Democratic substitute is just another in a long line of unrealistic health care reform proposals that they simply cannot relinquish. I urge my colleagues to vote against the substitute and vote in favor of passage of H.R. 660.

Mr. BOEHNER. Mr. Speaker, I yield 1 minute to the gentleman from South Bend, Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, before coming to Congress, I was a small business owner. Now that I am a member of Congress, I am on the Committee on Small Business. And not a day goes by that I do not hear from a constituent at home or someone talking to the Committee on Small Business that is a small business owner about the horrors of trying to provide health care to their employees.

We in government cannot make people successful. We cannot make businesses successful. But what we can do is create an environment that gives people and businesses the opportunity for success. In creating an environment where small business owners can join together with common interest on a nationwide basis and go out and provide health care for their employees to meet their particular employees' needs, is exactly what we should be doing as Members of Congress.

□ 1600

I think that we have to pass this bill because the bottom line is that the people who have to live with the reality of providing health care for their employees will encounter lower costs and greater access to the health care coverage they wish to provide for their employees. So I urge my colleagues to vote in favor of H.R. 660 and against the substitute.

Mr. KIND. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MCCARTHY), a distinguished member of the Committee on Education and the Workforce.

Mrs. MCCARTHY of New York. Mr. Speaker, I thank my colleague from the Committee on Education and the Workforce for yielding me this time and for introducing this bill, because this substitute is actually the answer to what we are looking for, and it is also paid for.

Let me say what this amendment will do, the substitute. It provides small employees the same access to health benefits that Federal employees have. All small business employees and employers are offered coverage. It minimizes the adverse selection. "The Secretary shall establish an initial open enrollment period and thereafter an annual enrollment period." It uses state-licensed insurers without preempting State laws.

For some reason, I thought basically, especially on the other side of the aisle, that we never wanted to preempt State laws.

This amendment provides a minimum benefit package similar to Federal employees. All participating insurers must offer benefits equal to or greater than the options offered to Federal employees. It also provides for affordable small employer premiums with premium assistance.

This is the answer to help our small businesses. And again I will say, on the main bill, when we have Republican and Democratic Governors throughout this country saying this is not the answer, when we have State attorneys general saying this is not the answer, and that this substitute is the answer, then I believe this can help our small businesses. We all want to do that.

So I would say to my colleagues here on the right, and certainly the right side and the left side of the aisle, that this substitute is the answer to what our Governors would like, certainly our State attorneys general would like. It would help the people and not take away the minimum health care benefits that we have been fighting for for gosh knows how many years.

I will stress again and again that the only reason that we have decent basic health care coverage in our States, 48 of them, is because they realized that was the way to go.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Georgia (Mr. GINGREY), a member of our committee.

Mr. GINGREY. Mr. Speaker, I rise in strong support of the Small Business Health Fairness Act, H.R. 660, and against the amendment.

By anybody's estimate, 41 million uninsured Americans is entirely too many, and the Bureau of the Census has estimated that over 60 percent of those uninsured Americans are employed. They are not unemployed. They are just working for small businesses, small employers that cannot afford to go into that small market and purchase health insurance, which is rising at least 14 percent a year. The AHPs, with a minimum pool of 1,000 or more employees, spreads the risk, and it gives them the opportunity to get that same volume discount that the Fortune 500 companies and the large labor unions enjoy.

But maybe the most important savings and the reason that the premiums are lower is that they are not bound now by each and every of the 50 States with their multiple mandates. The other side wants to talk about how unfair it is that these plans could not include a routine screening mammogram or could not exclude the fact that some plans have so-called drive-through deliveries, and that patients might not be able to stay overnight when they had a radical mastectomy. Mr. Speaker, these plans that are being offered under ERISA protection have all of these provisions in them.

What we are talking about, and I know this as a physician member of the State legislature, and the demands to include one mandate after another, things like coverage or screening for chronic adult fatigue syndrome, or carpal tunnel syndrome, or a blood test for this or a blood test for that, pretty soon they will be requiring routine screening for fissle phosphate levels in everybody's blood. It just goes on and on and on, and it becomes absolutely ridiculous and prohibitively expensive.

So that is why we need this bill. That is why we need these AHPs. I think we will insure not 330,000 more people, but probably over 2 million.

Mr. KIND. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA), a distinguished member of the Committee on Education and the Workforce.

Mr. HINOJOSA. Mr. Speaker, I rise today in strong opposition to H.R. 660, the Small Business Health Fairness Act. Like many of my colleagues, I have heard from numerous industry groups, health plans, medical associations, and, most importantly, my constituents on whether or not AHPs are the best solution to address the growing number of uninsured in our Nation. I am particularly concerned about finding workable solutions for small business employers.

Like many of my colleagues, my district in south Texas is built on the foundation of small businesses. They employ a large percentage of the workforce in the Rio Grande Valley. Most employers are faced with difficult choices on how to offer loyal employees the benefit they deserve or risk losing them to larger companies in larger cities. The high cost of health insurance is extremely burdensome for these small firms, and that is why we are here today.

H.R. 660 is a well-intended bill. Many of the 41 million Americans without health insurance are employed by small businesses. If Congress can find a way to help these employers provide health insurance for their workforce, we will be well on our way to reducing the number of uninsured in this country. But in my view, AHPs are not the way to do it. AHPs will offer minimal coverage, sufficient only for the young and the healthy. Our workforce will have none of the protections that State benefit mandates offer. They will have no assurance against fraud or premium inflation and no assurance that Federal oversight by the Department of Labor will even be conducive to fair handling of disputes. AHPs create an entirely new health care crisis, with 8.5 million newly underinsured Americans.

As a member of a heavily Hispanic border district, I am particularly concerned about what this will mean for the diagnosis and the treatment of diabetes, a disease that strikes many of my Hispanic constituents.

Mr. Speaker, over 11 million Americans have diagnosed diabetes, while another 6 million have diabetes but don't know it.

Diabetes hits minority populations especially hard. Untreated, this disease leads to end-stage renal failure, blindness, amputations and over 200,000 deaths annually. However, it has been demonstrated that appropriate use of diabetes medications, equipment, supplies, and education can dramatically reduce the incidence and impact of complications associated with diabetes. President Bush surely knew this when he was Governor of Texas and signed into law the diabetes coverage mandated currently in effect in Texas.

My principal concern is that the AHP legislation before us today preempts the State benefit mandates in Texas and 45 other States, your home States, for coverage of diabetes supplies and education. The amendment that the gentleman from Michigan, Mr. KILDEE and I offered, unsuccessfully, in committee would have corrected this dangerous omission. We also tried, again without success, to have the amendment made in order during floor consideration.

By refusing to include a requirement that AHPs adhere to State coverage laws associated with diabetes, we will be leaving millions of people with diabetes to fend for themselves. It is not a matter of cost effectiveness; it is a matter of right and wrong.

Mr. Speaker, the Democratic substitute offers small business employers and their workers a fair alternative. It establishes a small employer health benefit plan with minimum coverage similar to the Blue Cross/Blue Shield standard plan.

I urge my colleagues to support the Kind-Andrews substitute, and if that substitute is defeated, to vote against H.R. 660.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Texas (Mr. SAM JOHNSON), the chairman of the Subcommittee on Employer-Employee Relations, the gentleman who shepherded this bill through our committee.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in opposition to this amendment. We have been hearing all day that it is going to create all this stuff, and it is not going to create anything. Our bill allows for anything to be covered, and it will all be covered.

This amendment creates an incredibly complex $50 billion government-run program. The program sets up brand-new health care subsidies, but only for certain small businesses and some workers. Unlike the Federal employee plan, the new program would be subject to thousands of State mandates. As we have heard time and again, those mandates make up at least 15 percent of the rising cost of health insurance.

Now, here is the real kicker. In order to qualify for the subsidy, employers are required to pay at least 50 percent of the cost for the care of their employees. The Democrat substitute will raise health care costs for small employers and then spend $50 billion to subsidize it.

AHPs are going to give everybody the ability to obtain insurance. Mr. Speaker, I urge rejection of this substitute.

Mr. KIND. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is a very important debate that we are having today. Just to correct one of the things just stated by the previous speaker, the Department of Labor, just like H.R. 660, would be in charge of administering the substitute plan that we have before us today. They would actually contract with state-licensed insurers to offer basic insurance plans.

The significant difference, though, is that we are asking everyone to play on a level playing field, to respect States' rights, and to not have Federal preemption. Because for those who believe in the free market system, which I think most of us do, it can only work if everyone is playing by the same rules instead of trying to establish a two-tier system. And that, I believe, is going to be the best hope we have, through price competition, of keeping a check on rising premium costs.

There has been a lot of citing of statistics throughout the afternoon, a lot from the Congressional Budget Office, and so I will provide for the RECORD a letter from the Congressional Budget Office stating their analysis of H.R. 660.

Mr. Speaker, I would encourage our colleagues,. in conclusion, to support the substitute, one that does provide an opportunity for more small employers to provide health care coverage to their employees, one that respects State law, one that provides some premium assistance so they can afford it. I encourage support of the substitute and a "no" vote on H.R. 660.

Mr. Speaker, the letter referred to above is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 18, 2003.

Hon. GEORGE MILLER,
Senior Democratic Member, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR CONGRESSMAN: This letter responds to your request of June 17, 2003, for additional information on CBO's estimate of the impact of H.R. 660 on enrollment in the health insurance markets for small employers and self-employed workers. We expect that the effects of the bill would be fully reflected in those markets by 2008, and all of the following numbers refer to that year.

Under current law, CBO estimates that approximately 30.1 million people will be enrolled in health insurance offered by plans in the state-regulated small group insurance market. Under the bill, CBO estimates that combined enrollment in state-regulated plans and association health plans (AHPs) would rise by about 550,000 people to a total of 30.7 million people. Of this, approximately 23.2 million people would retain coverage in the state-regulated market. About 7.5 million people would be enrolled in AHPs, including the additional 550,000 people who would not have been covered by any small-employer plan under current law, and 6.9 million people who would have been covered in the state-regulated market.

The same consideration apply to self-employed people. We estimate that approximately 4.7 million people will be enrolled in state-regulated coverage purchased by self-employed workers under current law. Under H.R. 660, CBO estimates that combined enrollment through state-regulated insurers and AHPs would rise by about 70,000 people to 4.8 million people. Of this, approximately 3.8 million people would retain state-regulated coverage. About 1.0 million people would obtain coverage through AHPs, including the additional 70,000 people who would not have been insured under current law, and 0.9 million people who would have been covered in the state-regulated market.

If you would like additional information on this estimate, the CBO staff contact is

Stuart Hagen, who can be reached at 225-2644.

Sincerely,
DOUGLAS HOLTZ-EAKIN,
Director.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have 41 million Americans who do not have health insurance. As I said before, Congress has been talking about this for a decade. And while the underlying bill will not solve the entire problem, it will help in addressing the needs of the uninsured.

As we heard before, some 60 percent either work for or have a dependent who works for a business, and so they have jobs. We are not talking about the poor here, because the poor get covered by Medicaid. We are talking about people who go to work every day, but they happen to work in an industry that maybe does not traditionally cover health insurance, or they work for a small employer who just cannot afford it because they are locked in a small State insurance pool.

We know what the cost of health insurance and these increases do. It creates more uninsured. In the Wall Street Journal today, CALPERS, the country's largest health plan, is set to increase premiums on an average of 17 percent for the next year, a 17 percent increase from the largest health care plan in the country. It is time that we step up and take action.

The underlying bill will in fact help small businesses create more coverage for more people. Small businesses. And who are small businesses? How about the dry cleaner down the street or the convenience store? How about the farmers in America today who have to go fend for themselves as an individual in the marketplace? They may be by themselves, maybe just family coverage. How about the real estate agents we talked about before, independent contractors, and others who may be self-employed that have to go fight to get insurance in very small risk pools in many States? If we allow them to come together with large State associations, national associations, and to group themselves, they can have real coverage for a much more reasonable cost.

This is the right thing to do today, to help those who pay high premiums; and it is also the right thing to do to help those who have no insurance at all. Those plans that are out there covered under ERISA are the Cadillac of plans in the country. Why not let small employers have the same advantage.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate on the amendment has expired.

Pursuant to House Resolution 283, the previous question is ordered on the bill and on the amendment offered by the gentleman from Wisconsin (Mr. KIND).

The question is on the amendment in the nature of a substitute offered by the gentleman from Wisconsin (Mr. KIND).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. KIND. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 183, nays 238, answered "present" 1, not voting 12, as follows:

[Roll No. 294]

YEAS—183

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardoza
Clay
Clyburn
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gordon
Green (TX)
Grijalva
Harman
Hill
Hinchey
Hinojosa

Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Oberstar

Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—238

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis

Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)

Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin

Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra

Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering

Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Stearns
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Baird

NOT VOTING—12

Carson (IN)
Conyers
Costello
Gephardt

Gingrey
Gutierrez
Hastings (FL)
Neal (MA)

Smith (NJ)
Smith (WA)
Souder
Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1632

Messrs. OSE, BLUNT, NEUGEBAUER and OXLEY changed their vote from "yea" to "nay."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. GINGREY. Mr. Speaker, on rollcall No. 294, the voting machine did not properly record my vote. I would have voted "nay."

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MRS. MCCARTHY OF NEW YORK

Mrs. McCARTHY of New York. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. McCARTHY of New York. Yes, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. McCARTHY of New York moves to recommit the bill H.R. 660 to the Committee on Education and the Workforce with instructions to report the same back to the House forthwith with the following amendment:

Page 14, insert after line 17 the following:

"(e) PROTECTION OF EXISTING GROUP HEALTH PLAN COVERAGE.—

"(1) IN GENERAL.—The requirements of this section are not met with respect to an association health plan if—

"(A) during the 1-year period preceding the date of the enactment of the Small Business Health Fairness Act of 2003, any participating employer of the plan maintained another group health plan providing a type of coverage described in paragraph (2), and

"(B) such association health plan does not provide such type of coverage.

"(2) TYPES OF COVERAGE.—A type of coverage is described in this paragraph if it consists of—

"(A) coverage for breast cancer screening and tests recommended by a physician,

"(B) coverage for the expenses of pregnancy and childbirth,

"(C) coverage for well child care, or

"(D) direct access to those obstetric or gynecological services which are provided by the plan.

"(3) PREDECESSORS AND CONTROLLED GROUPS.—For purposes of this subsection, a predecessor of an employer or any member of the employer's controlled group shall be treated as the employer. For purposes of this paragraph, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

Mrs. McCARTHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Mrs. McCARTHY) is recognized for 5 minutes in support of her motion.

Mrs. McCARTHY of New York. Mr. Speaker, I yield myself 2 minutes.

I rise in strong support for the motion to recommit. This motion will prohibit employers from joining association health plans if it allows for a reduction in coverage for breast cancer services. A vote against this motion and for the bill will allow employers that already cover basic mammograms to drop this coverage.

Mr. Speaker, a reduction in health insurance in any form is a reduction in health care. It is just that simple. States know that without guaranteeing basic health care, patients will not get the services they desperately need. They will only seek help under extreme circumstances, requiring more expensive medical treatment for their disease, putting their lives and the lives of their children at risk.

According to the American Cancer Society, over 211,000 new cases of breast cancer will be diagnosed in the United States this year alone. Two thousand of those cases will be in my State. Breast cancer is potentially fatal, but early detection through mammogram screenings is the key to proper treatment of this disease. Timely screening could prevent approximately 15 percent to 30 percent of all deaths from breast cancer among women over the age of 40. Currently, New York and 47 other States require insurance companies to cover mammogram screenings. However, under this bill, associated health plans would be exempt from having to provide this critical benefit in these 48 States. This motion would at least present a reduction of health care services to those who already have this important benefit.

As a nurse, I cannot believe this House, after hearing from cancer survivors for years about the need for treatments and screenings to beat this deadly disease, is now going to be rolling back these patient protections.

Today before you vote, truly realize a vote against this motion to recommit will harm millions of patients across this country.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from Minnesota (Ms. McCOLLUM).

Ms. McCOLLUM. Mr. Speaker, I am proud to join my colleagues today in offering a motion to recommit to protect the coverage that women and children currently have today. This motion simply states that associated health plans cannot stop coverage for well-child visits, maternity or other types of visits that are vital to women's and children's health care. Children deserve a healthy start in life. Coverage to promote healthy children is required in Minnesota and 30 other States. This coverage ensures that children have regular visits to pediatricians to get immunizations and preventive care. Why would we not want to protect our children?

This coverage is particularly important because getting a good start in life can prevent avoidable illnesses, identify serious disabilities, and reduce future health care costs. We have all seen the importance of childhood immunizations. For example, today polio has been eradicated because of the determination and commitment our country had to immunize children when they were young. Regular doctor visits for newborns is absolutely critical. Thirty-three children are born every day with severe hearing loss. If caught early enough through preventive doctor visits, this screening can make a difference. It can make a difference in their lives and a difference in the money spent on special education.

This motion ensures that families who currently have well-child visits and maternity coverage will not lose it tomorrow. We should be ensuring access to quality, comprehensive health care for our Nation's working families and not rolling back basic coverage. I urge my colleagues to support the motion to recommit.

Mrs. McCARTHY of New York. Mr. Speaker, I yield 30 seconds to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, few health services are as important to a woman as an annual mammogram. Early detection is necessary as a weapon in our fight against breast cancer. Breast cancer has already touched far too many families. I simply cannot accept the idea of even one woman in any of our districts forgoing her annual mammogram and then later being diagnosed with advanced breast cancer because her association health plan does not cover mammograms.

Support this motion to recommit. Help save the lives of our wives, mothers, daughters, and sisters. The women of this country are counting on your vote.

Mrs. McCARTHY of New York. Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey (Mr. ANDREWS).

The SPEAKER pro tempore. The gentleman from New Jersey is recognized for 1 minute.

Mr. ANDREWS. Mr. Speaker, if the underlying bill becomes law, 4 million American women who presently are guaranteed breast cancer care will only have it if the insurance companies they move to decide to let them have it. We can change that by voting "yes" on this motion to recommit. The question is simple: Do we want our mothers and our sisters and our daughters and our wives to rely upon the whims of the insurance industry or the power of our votes? If you want to guarantee that this care goes forward, the only way to do it is to vote "yes" on the motion of the gentlewoman from New York. I urge a "yes" vote.

Mr. BOEHNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Ohio is recognized for 5 minutes.

Mr. BOEHNER. Mr. Speaker, the underlying bill seeks to address the needs of 41 million Americans who have no health insurance. What the motion to recommit does is essentially mandate coverage on association health care plans. If you have no health insurance, a mandate will do you no good. What we seek to do with the underlying bill is to cover more people. Sixty percent of the people who are uninsured either work in a small business or have a relative that works in a small business. What we are trying to do here is level the playing field so that small businesses can buy health insurance for their employees just like large companies and unions can do today.

Under ERISA, there are but several small mandates. We do not mandate every coverage. But if you ask employees of large companies and you ask employees and members of large unions, they will tell you that they have the best health care plans in America. These large plans in our country have great benefits. They cover virtually all the illnesses and all the diseases that are there. But they are allowed to design one benefit issue for each of these mandates that covers all 50 States. It may not read the same in every particular State. What we are trying to do with the underlying bill is to give small businesses the same advantage in the marketplace that big businesses have today.

I would urge my colleagues at this hour, reject the motion to recommit and vote for the final passage of this bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mrs. McCARTHY of New York. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of final passage.

The vote was taken by electronic device, and there were—ayes 192, noes 230, not voting 12, as follows:

[Roll No. 295]

AYES—192

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Clay
Clyburn
Cooper
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—230

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Carson (IN)
Conyers
Costello
Cox
Gephardt
Hastings (FL)
Johnson, E. B.
Neal (MA)
Ney
Smith (NJ)
Smith (WA)
Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1700

Mr. DOOLEY of California changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. NEY. Mr. Speaker, on June 19, 2003, I was unable to be present for rollcall vote 295 on H.R. 660, the Small Business Health Fairness Act of 2003 due to important business in the Subcommittee on Housing and Community Opportunity, which I chair. Had I been present I would have voted "no" on rollcall vote No. 295.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ANDREWS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 262, noes 162, not voting 11, as follows:

[Roll No. 296]

AYES—262

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCarthy (MO)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOES—162

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Clay
Clyburn
Crowley
Cummings
Davis (CA)
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gordon
Green (TX)
Grijalva
Gutierrez
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
Jefferson
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—11

Carson (IN)
Conyers
Costello
Gephardt
Hastings (FL)
Johnson, E. B.
McNulty
Neal (MA)
Smith (NJ)
Smith (WA)
Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1707

Mr. RUSH changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, on rollcall No. 295, had I been present on the Motion to Recommit, I would vote "aye"; on the next rollcall, No. 296—final passage—I would vote "no".

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT MONDAY, JUNE 23, 2003, TO FILE PRIVILEGED REPORT ON DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2004

Mr. ROGERS of Kentucky. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight Monday, June 23, 2003, to file a privileged report making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXI, points of order are reserved.

STRENGTHEN AMERICORPS PROGRAM ACT

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1276) to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to national service positions, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Strengthen AmeriCorps Program Act".

SEC. 2. PROCESS OF APPROVAL OF NATIONAL SERVICE POSITIONS.

(a) DEFINITIONS.—In this Act, the terms "approved national service position" and "Corporation" have the meanings given the terms in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511).

(b) TIMING AND RECORDING REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding subtitles C and D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq., 12601 et seq.), and any other provision of law, in approving a position as an approved national service position, the Corporation—

(A) shall approve the position at the time the Corporation—

(i) enters into an enforceable agreement with an individual participant to serve in a program carried out under subtitle E of title I of that Act (42 U.S.C. 12611 et seq.) or title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.); or

(ii) except as provided in clause (i), awards a grant to (or enters into a contract or cooperative agreement with) an entity to carry out a program for which such a position may be approved under section 123 of the National and Community Service Act of 1990 (42 U.S.C. 12573); and

(B) shall record as an obligation an estimate of the net present value of the national service educational award associated with the position, based on a formula that takes into consideration historical rates of enrollment in such a program, and of earning and using national service educational awards for such a program.

(2) FORMULA.—In determining the formula described in paragraph (1)(B), the Corporation shall consult with the Director of the Congressional Budget Office.

(3) CERTIFICATION REPORT.—The Chief Executive Officer of the Corporation shall annually prepare and submit to Congress a report that contains a certification that the Corporation is in compliance with the requirements of paragraph (1).

(4) APPROVAL.—The requirements of this subsection shall apply to each approved national service position that the Corporation approves—

(A) during fiscal year 2003 (before or after the date of enactment of this Act); and

(B) during any subsequent fiscal year.

(c) RESERVE ACCOUNT.—

(1) ESTABLISHMENT AND CONTENTS.—

(A) ESTABLISHMENT.—Notwithstanding subtitles C and D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq., 12601 et seq.), and any other provision of law, within the National Service Trust established under section 145 of the National and Community Service Act of 1990 (42 U.S.C. 12601), the Corporation shall establish a reserve account.

(B) CONTENTS.—To ensure the availability of adequate funds to support the awards of approved national service positions for each fiscal year, the Corporation shall place in the account—

(i) during fiscal year 2003, a portion of the funds that were appropriated for fiscal year 2003 or a previous fiscal year under section 501(a)(2) (42 U.S.C. 12681(a)(2)), were made available to carry out subtitle C or D of title I of that Act, and remain available; and

(ii) during fiscal year 2004 or a subsequent fiscal year, a portion of the funds that were appropriated for that fiscal year under section 501(a)(2) and were made available to carry out subtitle C or D of title I of that Act.

(2) OBLIGATION.—The Corporation shall not obligate the funds in the reserve account until the Corporation—

(A) determines that the funds will not be needed for the payment of national service educational awards associated with previously approved national service positions; or

(B) obligates the funds for the payment of such awards for such previously approved national service positions.

(d) AUDITS.—The accounts of the Corporation relating to the appropriated funds for approved national service positions, and the records demonstrating the manner in which the Corporation has recorded estimates described in subsection (b)(1)(B) as obligations, shall be audited annually by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States in accordance with generally accepted auditing standards. A report containing the results of each such independent audit shall be included in the annual report required by subsection (b)(3).

(e) AVAILABILITY OF AMOUNTS.—Except as provided in subsection (c), all amounts included in the National Service Trust under paragraphs (1), (2), and (3) of section 145(a) of the National and Community Service Act of 1990 (42 U.S.C. 12601(a)) shall be available for payments of national service educational awards under section 148 of that Act (42 U.S.C. 12604).

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENT PROCESS FOR CONSIDERATION OF H.R. 2471, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of June 23 to grant a rule which could limit the amendment process for floor consideration of H.R. 2417, the Intelligence Authorization Act for Fiscal Year 2004. The Permanent Select Committee on Intelligence filed its report in the House yesterday, June 18, 2003.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in Room H-312 of the Capitol by 10 a.m. on Tuesday, June 24.

Members should draft their amendments to the text of the bill as reported by the Permanent Select Committee on Intelligence.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader the schedule for the House.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. Mr. Speaker, I will be glad to yield to the majority leader for the purposes of informing us of the proposed schedule for next week.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Maryland for yielding to me.

Mr. Speaker, the House will convene on Monday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices by the end of this week. Any votes called on these measures will be rolled until 6:30 p.m. Monday.

For Tuesday and the balance of the week, we will consider several additional measures under suspension of the rules. We will also consider the fiscal year 2004 Homeland Security appropriations bill; the Intelligence Authorization Act for Fiscal Year 2004; H.R. 1, the Medicare Prescription Drug and Modernization Act; and the Fiscal Year 2004 Military Construction Appropriations bill; and, finally, we may consider H.R. 2351, the Health Savings Account Availability Act.

I thank the gentleman for yielding, and I am happy to answer any questions he may have.

Mr. HOYER. I thank the gentleman for providing us with that information. The leader points out that the Medicare prescription drug bill will be on the floor.

First I would like to know, Mr. Leader, if you know which day of the week or days of the week can we expect to see the Medicare prescription drug bill on the floor?

Mr. DELAY. If the gentleman will yield, I would anticipate that the Medicare bill would probably come later in the week. I cannot give the gentleman a firm time, but I would anticipate either late Wednesday or certainly no later than Thursday.

Mr. HOYER. It would be the intention of the leader to have this bill finished prior to the end of next week?

Mr. DELAY. We anticipate to finish that bill. I know it is a big, complicated measure, but it would be our intention to finish that before we broke for the July 4th district work period.

Mr. HOYER. Reclaiming my time, Mr. Leader, obviously this will be one of the most important bills that we consider during this session of the Congress of the United States, and I would ask if it is the gentleman's intention and the leadership on your side's intention to provide a rule which will allow the minority to offer such amendments as it deems to be appropriate, to offer a substitute that it deems to be appropriate, and to provide sufficient time to debate those amendments?

I yield further to the gentleman from Texas.

Mr. DELAY. I appreciate the gentleman yielding further.

As the gentleman knows, this gentleman is very hesitant to speak for the Committee on Rules, but we do understand how important the Medicare Modernization Act is, how important it is to the seniors of this country, and we would give the minority every consideration to provide a substitute.

Mr. HOYER. Reclaiming my time, we appreciate the fact that the gentleman will be, I am not sure I heard you, you will be giving us a substitute or you will consider giving us a substitute. I am not sure I understood.

Mr. DELAY. If the gentleman will yield, it concerned me when the gentleman said "what the minority deems as a substitute." Obviously we need to look at all of these things individually and considerations need to be made.

For instance, one consideration is, is the substitute within the bounds of the Budget Act and the budget rules of this House? That may not be the qualifying issue, but that is one example of issues that we consider.

The bill marked up, at least, in the Committee on Ways and Means, I know the Committee on Energy and Commerce has not finished yet, but the bill marked up by the Committee on Ways and Means fits within the budget rules of the House.

So we have to look at everything on its own merits and make that decision, and the Committee on Rules will make that decision.

Mr. HOYER. Reclaiming my time, Mr. Leader, we understand that, but everybody on this floor, every Member, perhaps not the American public, but every Member knows that the majority, when it needs a waiver of the rules to present something on the floor that it wants to present, waives those rules.

□ 1715

So when I said something that the minority wants to offer, I meant that, very frankly, if the democratic process is going to operate openly and effectively so that there can be different alternatives considered, alternatives that we believe are appropriate, as well as, obviously, the majority can present the alternatives it deems to be appropriate. Clearly, if one fashions a bill so that the alternative we believe is appropriate is not consistent with those rules and will not give us a waiver, you effectively have precluded us from offering that substitute or those amendments. I mentioned the substitute, but I also would hope that there would be a willingness to make in order numerous amendments from the minority side of the House.

As I have pointed out, Mr. Leader, we represent approximately 140 million Americans on this side; you represent approximately 150 million Americans. That is pretty close. The Americans who sent us here obviously would want to see their alternatives considered by the full House. And if they are rejected, so be it. But I would urge the leader, particularly on a bill as important as this, as controversial as this, having such ramifications to 40 million Americans on Medicare, that you would be, you and the Speaker and the whip on your side, would urge the gentleman from California (Mr. DREIER) and the Committee on Rules to be as broad in their approval of alternatives as they could be.

I see the gentleman from California (Mr. DREIER) is on the floor. I carry around with me, as he knows, quotes. I do not know how many people carry around quotes of the gentleman from California, but I carry around quotes of the gentleman from California in my pocket. From time to time I bring them out. He made the point as a minority Member that a Member ought to be given the ability to offer alternatives; and if they lose, they lose. But in a democratic institution that prides itself on being the people's House, all of the people's representatives ought to be given an option to offer their alternatives.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding, and I appreciate the fact that my friend from Maryland has again raised this issue.

I will tell the gentleman that the Committee on Rules is anxiously looking forward to considering the measures that will emerge from both the Committee on Energy and Commerce and the Committee on Ways and Means as we deal with this extremely important issue. The American people have spoken very clearly. They want us to put into place, and the President very much wants to have, a package which will provide access to affordable, quality prescriptions for seniors. We want to do this in a way that will allow for a wide range of issues to be considered. And I know that based on the 8 hours that was expended by all of the members of the Committee on Ways and Means, through their markup, that many proposals were offered there, and I know that this process is an ongoing one. I will assure my friend that the Committee on Rules will deliberate, and we will make a determination as to exactly what it is that we will move forward with.

The distinguished majority leader just talked about the fact that we will hope that measures will fall within the guidelines of the $400 billion that was allocated in the budget over a 10-year period to deal with prescription drugs; and when the majority leader was talking about that, I know that what we are looking at will be something that will fall within the strictures that were put forth in the budget, and that is all that the majority leader was indicating. His hope is that if a substitute is submitted that it will fall within those guidelines.

The gentleman from Maryland is correct when he refers to the fact that the Committee on Rules does have the power to provide waivers. And waivers are often provided to the minority just as they are to the majority as well, for amendments, for substitutes. So I just want to assure my friend that we plan, as we take this up next week, to take this issue very seriously, as we do all others; and we will take whatever requests that the minority makes into consideration as we deliberate.

I thank the gentleman for yielding.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments. As we all know, the Committee on Rules is the least representative committee in terms of distribution of numbers, and that was true when we were in charge, so I understand that. It is not a criticism. That is the way the Committee on Rules is run. It is an agent, if you will, of the majority. It is how the majority runs the House.

We are not deluded on our side, anymore than you were when you were in the minority, deluded to the fact that you would be able to make an impact in committee. So very frankly, taking under consideration seriously our request is interesting and we are appreciative that you will take it under consideration.

But more basically than that, the gentleman has sole authority to do it. You can do it any way you want. We understand that. But our expectation is that on a bill of this magnitude and importance, that we will be allowed not only to offer a substitute, but amendments.

I will tell the gentleman that we understand the strictures of the Republican budget and, by the way, our budget, both of which have close numbers, we had $528 billion and I think you had $5 billion in terms of a number of items in your budget. But the fact is, we understand those strictures. And if those are the only strictures which we are confronted with, we will work within those restraints.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding.

I would simply say that it is true that the Committee on Rules has traditionally had this 9 to 4 ratio, and we continued another tradition that we learned when you were in the majority of maintaining that.

My point is very simply that we will take this issue very seriously. The Committee on Rules has yet to act. No decisions have been made. I think that it is important for us to underscore that. I know that there will be members of the minority who will come before the committee who will offer proposals, and we will look forward to hearing about those proposals, and then we will deliberate on it. I thank the gentleman for yielding.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his representation. Let me, reclaiming my time, make another observation:

In times past, the defense bill being, for instance, the authorization bill which we passed very quickly a few weeks ago, we had spent 6 days, 7 days on that piece of legislation. This legislation is going to have an extraordinary impact on millions of Americans, and we would hope that there would be sufficient time to debate the bill and, again, substitutes and amendments, so that we could fully air its ramifications to those millions of people, and to Medicare itself.

Obviously, there are different points of view on how to get to where we all want to get, or at least most of us want to get. I think there is a substantial difference on whether or not we want to see a program in a viable, ongoing, healthy Medicare, or whether or not Medicare is eliminated or shrunk very substantially and the private sector is in charge of whether or not to offer such benefits. That is a significant policy difference between us, I think; and it needs to be debated.

So not only would I urge that we be given the amendments and substitutes that we seek, but also the time to develop those amendments and positions on those amendments, as it is appropriate for the American public to understand the perspectives of the parties and of the individuals offering amendments.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding. Just one clarification. I do not know of any Member of this House who has offered a proposal that would eliminate Medicare. I do not believe that either committee will be moving a proposal that would eliminate Medicare.

Our goal is a very clear and simple one: it is to make the Medicare program as efficient as we possibly can to ensure that our seniors have the best quality health care and access to affordable prescription drugs. So I just wanted to make it clear that I do not know of any proposal to eliminate Medicare.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate that. I think we have made our point. I do hope that the chairman, although we may differ on intents, but in any event, I think the gentleman is absolutely correct, nobody has introduced something like that. Nobody has been so bold as to introduce a specific proposal, although many have been bold enough to discuss that objective and result, I say to my friend from California. Some have been that bold to discuss that result, if not introducing such a bill.

Mr. Speaker, I thank the chairman of the Committee on Rules.

On the appropriation bills, again, this is a concern that we have, because we have heard some discussions, Mr. Leader, about having restrained rules for appropriations. As the gentleman knows, more often than not, when we were in the majority, we brought many appropriation bills to the floor without a rule. As the gentleman knows, under the rules, appropriation bills do not need a rule.

Can the gentleman tell me what the majority contemplates for appropriation bills as they come to the floor and the rules that they may be coming to the floor under?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, as the gentleman knows and has stated, we do have a tradition of having open rules for consideration of appropriations measures. I do not know what discussions the gentleman is referring to. This side has had no discussions that I am aware of about what the rules would look like on appropriations. I would hope that we would continue the tradition of open rules on appropriations; but obviously, we do have to look at all of these bills on a case-by-case basis.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate the gentleman's assertion of what we have done in the past and that he hopes we can continue to do that.

The intelligence authorization, when does the gentleman believe that that would be coming up? I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I am advised that it is quite possible that the intelligence reauthorization bill would come on Tuesday or Wednesday.

Mr. HOYER. Mr. Speaker, I saw a grimace, and I thought I would give time for communication between the people who know what is going on like our staff here and the gentleman and myself.

Mr. DELAY. Mr. Speaker, if the gentleman will yield, the source of my intelligence says it is probably Wednesday.

Mr. HOYER. Okay. Fine.

The MSA bill. When does the gentleman expect that? We are trying to get sort of the flow of bills so we can be prepared. The Medicare bill we assume is going to come late Wednesday and Thursday, and then these other bills will come earlier. The MSA bill, when does the gentleman think that will come?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, the Health Savings Accountability Act we would hope to get to sometime next week, but this is a bill that is just being marked up, I think today; and we do have a very ambitious schedule for next week, and we just wanted to warn the Members that the Health Savings Accountability Act could very well be brought up, if we can find time next week to do so. But the other list of major pieces of legislation will take priority over that, and we hope to get to it; but I really cannot say what day we might get to it.

Mr. HOYER. I thank the leader.

Now, Mr. Leader, one of the things I was very concerned about in hearing the schedule, it has now been just short of 7 days that we passed the child tax credit legislation that many of us have expressed real concern about. We went to conference that same day, as the gentleman knows.

Can the gentleman tell me whether or not the conference is meeting? Can the gentleman tell me whether we expect to consider a conference report so that prior to July the 6.5 million families and the 12 million children that were left out when it came out of conference might be helped? Can the gentleman tell me whether or not there is either the conference proceeding or whether or not there is any expectation that we will take a conference report up on the floor next week prior to going home for the July 4th break? I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding; and as the gentleman knows, we are very excited about extending the $1,000 per child tax credit beyond 2005, to extend it to 2010. Rather than leaving out refundable tax credits, those that are getting refundable tax credits will continue to get them. They just will not get the full $1,000 unless we are able to pass this bill.

☐ 1730

And we are also very excited about the fact that the House put many tax provisions tax relief for our military and military families. And we are very excited about the fact that we gave some tax relief to those families that lost their loved ones in the shuttle accident. So we are very interested in getting this bill done as quickly as possible.

I am sure the gentleman knows that the other body just went to conference yesterday and, therefore, we are discussing how we can do this conference and, hopefully, do it before the Fourth of July district work period. However, the other body also is very much engaged in the debate over their Medicare bill, which ties up their finance committee and ties up those Members that would be serving on the conference committee. So we are trying to work that out, and we hope that we can call a conference and come to some sort of agreement on this bill and have it out before the Fourth of July.

Mr. HOYER. I thank the gentleman for that information. I also thank him for his excitement and because he is so excited about passing this, I want to tell him, and I say this very seriously on behalf of our leader, the gentlewoman from California (Ms. PELOSI) and myself, we are prepared to give you unanimous consent to take the Senate bill from the desk, put it on the floor and pass it by unanimous consent. We were excited about it, too. But much more than being excited about it, we think it is an essential act of fairness to assist some of the neediest working tax-paying families in America who were left on the cutting room floor when it came out of conference. And if you share, as I think you do, or at least you express that excitement and enthusiasm for accomplishing that objective, we may not be able to accomplish everything. But we can accomplish some things. And we ought not to have everything fail or some things fail because we could not do everything.

And I say very sincerely to the leader, on our side, we are prepared to give unanimous consent on Monday night, Tuesday, Wednesday, Thursday or Friday or Saturday or as long as we want to stay here next week for the purposes of passing that, so those families who were included but cut out in the conference would be included and would participate in the advantages under the tax bill that has already been signed by the President.

Mr. DELAY. I greatly appreciate the gentleman's generous offer, but I remind the gentleman that that Senate bill has nothing on it that would give tax relief to our fighting men and women and their families. And that particular provision passed this House and has been sitting over in the Senate for a very, very long time. It is a provision that had huge support in this House. And along with giving working families their $1,000 per child tax credit and extending it to 2004, rather than what the gentleman is suggesting, allowing it to go away in 2005, giving the working families that you have such concern for only 2 years of benefits, we think they ought to get the benefits permanently, but if we cannot get it permanently, we would like those benefits to be until 2010.

So if we just take up the Senate bill, they may enjoy it for 1 or 2 years, but then it goes away in 2005. We think they ought to be able to count on it until 2010, and we think military families ought to have the tax relief they deserve.

Mr. HOYER. I will tell you, Mr. Leader, very seriously that these 6½ million families, these 12 million children will, frankly, not understand that the perfect of what you just spoke was the enemy of the extraordinarily good, which is included in the Senate bill. And I will tell the gentleman further, during the Senate bill, unlike the bill that we passed in the House, the men and women in combat who fall within the income constraints which were covered in the Senate bill were not covered in the House bill. And while we certainly agree with you on helping all of the military who qualify, we certainly believe that the folks in combat whose combat pay is now counted against them for qualifications under this bill, would be helped by the Senate bill. So I think we could help the men and women in combat first.

And I will tell you also, Mr. Leader, we are prepared to offer unanimous consent for a companion know bill as we pass the Senate bill to fix the problem or address the problem of which you have spoken with reference to the military. But we ought not to, Mr. Leader, with all due sincerity, if we are excited, if we believe this is an important thing to do, if you wanted to make it permanent, you could have done so, of course, you did not make it permanent. You did it 5 more years than we did it. We were in the constraints of the Senate bill.

We would like to make it permanent as well. However, what we would not like to do is have July come and there be no relief for these families which is going to happen if the perfect, if the objective of doing everything defeats us in doing something.

Mr. DELAY. I just cannot let the gentleman get away by scaring working families in this country by saying they will get no relief. That is entirely untrue.

In the bill that we passed and signed by the President in 2001, it gave these working families refundable tax credits. It just did not, what we are discussing is accelerating 2 years up to this year and giving them an additional $400 from this, in addition to the $600 that they are already receiving. So to say that they get no relief, I think, is just untrue. And to say that the military families are not covered by the bill passed by this House is also untrue, because military families are covered by the bill passed by this House and is presently in conference.

Mr. HOYER. Well, the bill passed, I think we disagree on some of the information, Mr. Leader, that you have just said. I do not think you are accurate on some of that information, but be that as it may.

Mr. DELAY. If the gentleman will yield, I am not accurate that since 2001 working families have been receiving refundable tax credit?

Mr. HOYER. The gentleman is accurate on that. As you know, in the Senate bill, we increased from 10 to 15 percent the credit that would be available to them. That was dropped, as you know, in the conference.

Mr. DELAY. Were they not to receive that 15 percent starting in 2005?

Mr. HOYER. That is correct.

Mr. DELAY. And we were talking about accelerating the 15 percent to 2003?

Mr. HOYER. That is correct.

Mr. DELAY. Which is in the House bill sitting in conference right now.

Mr. HOYER. The House bill has not been taken up, Mr. Leader. It is very nice to say and, reclaiming my time, that it is in the House bill. It is permanent in the House bill. We do a lot of things in the House bill. On our side, we did not believe the House bill was going to be taken up, and we said that, which is why we said we ought to take up the Senate bill and pass it and do something, even though we were not doing everything, and we still maintain that position. And as I am reminded, and I would remind the leader, this House voted to instruct the conferees to take the Senate bill.

So we are simply giving unanimous consent to do what the House has already voted on that same day last Thursday to do, and that is, pass the Senate bill. That is what we instructed the conferees to do. So it is not as if we are asking for something that the House has not voted on to do and to accelerate the passage of this legislation so we can help these families.

Mr. DELAY. Will the gentleman yield? The gentleman is correct. The motion instructed the House to accept the Senate bill in a small margin in doing that. Unfortunately, the Senate does not agree with our motion to instruct. And as the gentleman knows, it is not binding anyway. The Senate decided to go to conference. They could have and they decided to work out the differences between the House and the Senate, and those conferees will be meeting hopefully next week and produce a bill that will give much needed relief to families in this country.

Mr. HOYER. Reclaiming my time, Mr. Leader, I hope we are not going to give people the impression that a body that passed a bill 94 to 2 would not agree to us passing their bill because, frankly, I do not think that is the case.

I understand what you are saying, and I understand that they have been told you are not going to take the Senate bill: and, therefore, they need to go to conference. So they are bowing to practicality. What I am saying is we ought to bow to needs and to practicality and pass the bill. And I am saying to you that we can give you and will give you unanimous consent to do exactly that so that these folks can get that which they will not get, and that is, the additional payment which was provided for in the conference but not reported out of the conference, and, therefore, we are going to leave 200,000 armed services personnel not advantaged as others were in the bill.

We are going to leave 6½ million families with 12 million children not advantaged, as was the intent of the Senate, and I think most of the House.

ADJOURNMENT TO MONDAY, JUNE 23, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at

12:30 p.m. on Monday next for morning hour debates.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON RESOURCES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Resources:

HOUSE OF REPRESENTATIVES,
June 19, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: I hereby resign from the Committee on Resources.

I appreciate the opportunity to serve you and Chairman POMBO.

Sincerely,

ADAM H. PUTNAM,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. TERRY. Mr. Speaker, I offer a resolution (H. Res. 284) and ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 284

Resolved, That the following Members be and are hereby elected to the following standing committees of the House of Representatives:

Committee on Agriculture: Mr. Neugebauer.

Committee on Resources: Mr. Neugebauer.

Committee on Science: Mr. Neugebauer.

Committee on Small Business: Mr. McCotter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

RECOGNIZING THE CONTRIBUTIONS LOU GEHRIG AND HIS LEGACY HAVE MADE IN THE FIGHT AGAINST ALS

Mr. TERRY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the resolution (H. Res. 278) recognizing the contributions Lou Gehrig and his legacy have made in the fight against Amyotrophic Lateral Sclerosis, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

Mr. ENGEL. Mr. Speaker, reserving the right to object, I do not intend to object, but I would like to speak from the well so I can stand here with a picture of Lou Gehrig of the New York Yankees.

Today is the 100th birthday of Lou Gehrig, and I am proud to rise today in favor of my resolution H. Res. 278 which celebrates Lou Gehrig's 100th birthday.

Lou Gehrig was born on June 19, 1903, 100 years ago today. He lived a storied life which ended tragically at the hands of a disease that still carries his name, Lou Gehrig's Disease, known as Amyotrophic Lateral Sclerosis or ALS. It is a devastating condition and a testament to Lou Gehrig's courage in the face of this horrible affliction.

In my own family, my grandmother, my father's mother, also died of the same disease and literally thousands upon thousands of Americans are suffering with this ALS disease.

Today there are celebrations in New York in honor of Lou Gehrig, most notably at Yankee Stadium in the Bronx, where I am from, this afternoon. The ALS Association is remembering Lou Gehrig; today is Lou Gehrig Day at Yankee Stadium, the Iron Horse, that was his nickname, and is raising greater awareness about the disease. The ALS Association is committed to greater awareness about those suffering with ALS and the sacrifices of their loved ones who require the intense care these patients require.

Approximately 30,000 individuals in the United States are afflicted with ALS with about 5,000 new cases appearing each year. ALS destroys the lives of its victims and their families, leaving patients unable to walk, eat or even talk.

□ 1745

The life expectancy of an individual with ALS is only 3 to 5 years from the time of diagnosis. I have had many sufferers of ALS come into my office very courageously to talk about this affliction.

There is no known cure or cause for ALS. Research has given birth to new aggressive treatments for the symptoms of ALS that can extend the lives of patients. Recent advances in ALS research have produced promising leads into neurodegenerative diseases, and it is imperative that this important work continues. Furthermore, the sequencing of the Human Genome holds great promise in the search for cures for many diseases, including ALS.

My resolution honors Lou Gehrig and the contributions his legacy has made in the fight against this terrible disease. It also recognizes the efforts of the ALS Association in raising awareness, pursuing research, and providing support for ALS patients and their families. ALS patients exhibit incredible courage in their fight against this disease, and this resolution commends them for that and affirms the support of Congress for continued research into better treatments and a cure for ALS.

Mr. Speaker, perhaps there was no greater act of courage than when Lou Gehrig gave his farewell speech before the Yankee faithful at Yankee Stadium who were not ready to let him go. I want to read that famous speech into the RECORD. We all know it, where he said he considered himself the luckiest man on the face of the earth. He said: "Fans, for the past two weeks you have been reading about the bad break I got. Yet today, I consider myself the luckiest man on the face of the earth. I have been in ballparks for 17 years and have never received anything but kindness and encouragement from you fans.

"Look at these grand men. Which of you wouldn't consider it the highlight of his career just to associate with them for even one day? Sure I'm lucky. Who wouldn't consider it an honor to have known Jacob Ruppert? Also, the builder of baseball's greatest empire, Ed Barrow? To have spent six years with that wonderful little fellow, Miller Huggins? Then to have spent the next nine years with that outstanding leader, that smart student of psychology, the best manager in baseball today, Joe McCarthy.

"Sure I'm lucky. When the New York Giants, a team you would give your right arm to beat, and vice versa, sends you gifts, that's something. When everybody down to the groundkeepers and those boys in white coats remember you with trophies, that's something. When you have a wonderful mother-in-law who takes sides with you in squabbles with her own daughter, that's something. When you have a father and a mother who work all their lives so you can have an education and build your body, it's a blessing. When you have a wife who has been a tower of strength and shown more courage than you dreamed existed, that's the finest I know. So I close in saying that I may have had a tough break, but I have an awful lot to live for."

Now, Mr. Speaker, I will close by saying that we must do all we can to find a cure for a disease that still ravages the lives of its victims. I am proud that our colleagues in the House of Representatives are honoring a true hero in Lou Gehrig and affirming its commitment to overcoming the scourge of ALS for Lou Gehrig and every person who has fought this terrible disease.

Mr. TERRY. Mr. Speaker, will the gentleman yield?

Mr. ENGEL. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Nebraska.

Mr. TERRY. Mr. Speaker, I thank my friend from the Bronx, and a Yankee fan, for yielding to me.

"Today, I am the luckiest man on the face of the earth." That one Yankee phrase immortalizes and is synonymous with courage, and that is why I am proud to stand with my friend from the Bronx and rise in support of his resolution, House Resolution 278. It is brought to the floor on June 19, 2003, the 100th birthday of Lou Gehrig, baseball's original "Iron Horse," and perhaps the greatest, or one of the greatest to ever play the game. As my friend from New York knows, I am a bit of a baseball fan myself, having named two of my children Noland and Ryan.

Now, more importantly, this resolution recognizes the contribution that Gehrig and his legacy have made in the fight against ALS, the disease that claimed Lou Gehrig's life at age 37, and the disease that is named after him.

So what is Lou Gehrig's disease? Quite simply, ALS is the slow but steady deterioration of nerve cells in the brain and in the spinal cord. When these motor neurons can no longer send impulses to the muscles, the muscles begin to waste away causing increased muscle weakness. As the disease reaches its advanced stages, its victims struggle to even breathe and swallow. There is no cure for ALS.

Every day, an average of 15 people are newly diagnosed with ALS. Approximately one out of 800 male deaths and 1 out of 1,200 female deaths in the United States are due to ALS. More people die every year of ALS than Huntington's Disease or multiple sclerosis.

One of the more frightening aspects of this disease is its unpredictability. It can arise in a family that has never had ALS throughout its generations. It is truly an equal opportunity disease, with no racial, ethnic, or socioeconomic boundaries. All of us are threatened by this disease.

This country has devoted substantial resources to finding a cure for ALS. Last year alone, the National Institutes of Health spent nearly $35 million on ALS research. However, while this is a significant amount of money, it pales in comparison to the amount we spend on other diseases.

Recent advances in genetics and technology have created new opportunities for the study and treatment of this terrible disease, but more can be done. This resolution recognizes that fact while providing the House of Representatives an opportunity to pay tribute to one of America's greatest heroes and human beings, Lou Gehrig.

Mr. ENGEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 278

Whereas Amyotrophic Lateral Sclerosis (hereinafter in this resolution referred to as "ALS") is a progressive neuromuscular disease characterized by a degeneration of nerve cells of the brain and spinal cord leading to the wasting of muscles, paralysis, and eventual death;

Whereas approximately 30,000 individuals in the United States are afflicted with ALS, with approximately 5,000 new cases each year;

Whereas the life expectancy of an individual with ALS is three to five years from the time of diagnosis;

Whereas there is no known cause or cure for ALS;

Whereas aggressive treatment of the symptoms of ALS can extend the lives of individuals with the disease;

Whereas recent advances in ALS research have produced promising leads related to shared disease processes that appear to operate in many neurodegenerative diseases;

Whereas, on June 19, 1903, New York Yankee baseball legend Henry Louis (Lou) Gehrig was born in New York City;

Whereas, on June 19, 2003, The ALS Association will help America celebrate what would have been Lou's 100th birthday, honoring his magnificent baseball career and his unwavering courage as he faced the deadly disease that would carry his name; and

Whereas The ALS Association Greater New York Chapter will celebrate Lou Gehrig's 100th birthday at Yankee Stadium on June 19, 2003, by honoring the life and legacy of Lou Gehrig through a pre-game home plate ceremony, and these activities will help bring greater awareness to the disease, Amyotrophic Lateral Sclerosis: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the celebration of Lou Gehrig's 100th birthday and commends the contributions he and his legacy have made in the search for better treatments and a cure for ALS;

(2) acknowledges the struggle of the thousands of individuals battling ALS everyday and their courage in facing this debilitating disease;

(3) supports cutting-edge research to find a cure for ALS; and

(4) applauds the efforts of all organizations, including The ALS Association, in their endeavors to raise awareness about the disease, support research initiatives, and assist those suffering with ALS and their families in the challenges of coping with this terrible affliction.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONGRATULATING THE SAN ANTONIO SPURS FOR WINNING THE 2003 NBA CHAMPIONSHIP

Mr. CARTER. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the resolution (H. Res. 279) congratulating the San Antonio Spurs for winning the 2003 NBA championship, and ask for immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. GONZALEZ. Mr. Speaker, reserving the right to object, I would be happy to yield to my colleague, the gentleman from San Antonio, Texas (Mr. SMITH), for an explanation of the resolution.

Mr. SMITH of Texas. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Speaker, I thank my colleague from San Antonio for yielding to me.

Mr. Speaker, first of all I would like to read the resolution congratulating the San Antonio spurs for winning the 2003 NBA Championship.

Whereas, on June 15, 2003, the San Antonio Spurs won the National Basketball Association's Championship best-of-seven series with an 88-77 victory over the New Jersey Nets;

Whereas the Spurs' victory over the Nets is their second NBA championship in 5 years;

Whereas this year's Spurs-Nets Finals is the first time two former American Basketball Association teams have played for the NBA Championship;

Whereas 7-foot center David Robinson joined the Spurs in 1987, and Tim Duncan joined the team in 1997;

Whereas last night's match-up was the final game of David Robinson's 14-year career, and his 13 points, 17 rebounds, and two blocked shots will be remembered as his best performance of the season;

Whereas Tim Duncan's triple-double, 21 points, 20 rebounds, and 10 assists, and his eight blocked shots will be remembered as one of the greatest individual efforts in finals history;

Whereas Tim Duncan won the regular season Most Valuable Player award for the second consecutive year, and he was named the Finals Most Valuable Player following the Spurs victory;

Whereas spurs head coach Gregg Popovich was recognized as the NBA Coach of the Year for the 2002-2003 season;

Resolved that the House of Representatives congratulates the San Antonio Spurs and Coach of the Year Gregg Popovich for an unforgettable season of basketball excellence and for winning the 2003 National Basketball Association Championship.

Mr. Speaker, this year's NBA champions, the San Antonio Spurs, showed America their determination and their character. They never gave in and they never gave up, and that is why they are champions today.

Owner Peter Holt, Coach Gregg Popovich, and the Spurs' players provided the City of San Antonio with an unforgettable season of basketball excellence that will be remembered for years. They deserve the thanks of our grateful city.

Mr. Speaker, I want to take this opportunity to say a few words about Spurs Center David Robinson. It is fitting that he close his storybook career as an NBA champion. Few players represent their teams and their cities with such class and dignity. We all agree that David Robinson achieved greatness on the basketball court, but what is less known to the general public is that David Robinson is a man who cares deeply about the City of San Antonio and the education of our children.

Through the David Robinson Foundation, he donated $9 million toward the construction and operation of the Carver Academy, a school on the east side of San Antonio that opened its doors in 2001. David Robinson serves as the school's chairman. This donation is believed to be the largest ever made by a professional athlete.

Named for George Washington Carver, the school serves elementary-aged students from a culturally diverse community. The core curriculum focuses on excellence in reading and language arts, social studies, math, science, technology, fine arts, athletics, and foreign languages including German, Japanese, and Spanish.

David's community involvement is extensive. At Spurs' home games he reserves special seats for underprivileged families. He has contributed to the homeless, children's charities, and hurricane victims. In 1991, he promised 94 fifth graders at San Antonio's Gates Elementary School a $2,000 college scholarship if they finished high school. Well, in 1998, 50 students graduated at the ceremony that was attended by Robinson himself.

In 1992, Robinson and his wife Valerie started their foundation, which supports programs that address the physical and spiritual needs of the family. He said their goal is "To build a foundation for future generations. We want to make these children the heroes of tomorrow by teaching them principles of integrity, discipline and faith."

Fittingly, David Robinson has been described as the Goliath of Giving. Every community in America needs a David Robinson. San Antonio has been blessed by his generosity, thoughtfulness and compassion.

Mr. Speaker, David Robinson's extraordinary ability will be missed on the basketball court, but it is off the court where his work continues to give others the opportunity to seek a better and brighter future.

Again, Mr. Speaker, I thank the gentleman from Texas (Mr. GONZALEZ), my colleague from San Antonio, for yielding to me.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I am happy to yield to the chairman for a few words regarding this particular resolution and the Spurs.

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding to me, and I rise today in support of House Resolution 279 introduced by the gentleman from my home State of Texas (Mr. SMITH).

This resolution congratulates the San Antonio Spurs, again the champions of the National Basketball Association. On Sunday night, the Spurs defeated the New Jersey Nets 88 to 77 in game six of the NBA Finals to win their second championship in the last 5 years. The city of San Antonio and the entire State of Texas is celebrating the Spurs great victory on the high stage of basketball.

Mr. Speaker, this San Antonio Spurs team is truly one for the ages. Beyond being their second title in recent years, this is a team full of superstars, both on and off the court. The Spurs feature the greatest player in the NBA today, two-time reigning Most Valuable Player of the league, Tim Duncan.

Duncan capped off his final performance on Sunday night with a near-quadruple-double. He scored 21 points, grabbed 20 rebounds, handed out 10 assists, and blocked eight shots during one of his most outstanding performances of the season.

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After the game on Sunday night, Duncan was deservedly awarded the finals' Most Valuable Player trophy. After being the number one pick in the NBA draft in 1997, Tim Duncan's first 6 years have been extraordinary, and I commend his efforts.

The accolades extend to the Spurs' outstanding head coach, Gregg Popovich, who earned this season's NBA Coach of the Year award. Coach Popovich won his second well-deserved NBA title on Sunday, and I congratulate him for this momentous accomplishment. I am concerned that Coach Popovich may be underappreciated across the country, but I can assure this House that the people of San Antonio and the fans of the Spurs know that Gregg Popovich is a great coach.

The Spurs also feature such outstanding standouts as Tony Parker, Stephen Jackson, Bruce Bowen, Manu Ginobili, veterans Kevin Willis and Steve Kerr, among many other players. But I want to particularly recognize another great Spurs player who has been one of the NBA's very best ambassadors over the last decade. David Robinson played his last game in the NBA on Sunday, finishing with 13 points and 17 rebounds. This very strong effort completed a 14-year career, over which Mr. Robinson averaged 21 points and nearly 11 rebounds per game.

Also a U.S. Naval officer and compassionate humanitarian, David Robinson was named one of the NBA's 50 Greatest Players in 1996, as well as the 1995 MVP, the 1992 Defensive Player of the Year, and the 1990 rookie of the year. I think it is important to note that David Robinson earned his final honor after serving a 2-year Naval Academy commitment, prior to which he was the first selection in the 1987 NBA draft. I congratulate David Robinson for winning this year's NBA championship, for going out on top, and for his remarkable career.

Mr. Speaker, I congratulate the San Antonio Spurs for winning the 2003 NBA championship. I urge passage of House Resolution 279, and I thank the gentleman from Texas for yielding me this time.

Mr. BONILLA. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. Further reserving the right to object, I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Speaker, what a privilege to stand in the United States Capitol to honor the World Champion San Antonio Spurs. In life, it is not just how you win, but it is how you play the game.

America has seen that the Spurs are a team of character. There are no ball hogs, no billboard tattoos, no nose rings or show boats. It is a team that works like a well-oiled machine. No longer can anyone in the NBA say that nice guys finish last.

David Robinson is not just a basketball icon; he is known internationally as a great community servant. It is appropriate that the NBA renamed its community service award after David.

Tim Duncan, the Tower of Power. Those blocked shots in the final game will always be remembered as part of an all-time great performance, and the list goes on and on.

Tony Parker's trademark clutch tear-drop shots and the interviews he would do with the French media speaking French gave a new twist to the finals.

Bruce Bowen's defense and the 3-point bonanza in a critical game against the Lakers is something we are still talking about.

Steve Jackson's three pointers, and Malik Rose's intensity and willingness to bang hard under the basket at crucial times in the game. Manu Ginobili's ability to defy gravity and make those clutch shots and steal the ball at critical times. He became Charles Barkley's favorite player, and Charles loved yelling his name out, Manu Ginobili, during the beginning of the game and afterwards.

Then there is Steve Kerr. Boy, did he give the Spurs a boost with those heart-stopping three-point shots in the fourth quarter just when we needed them. This is Steve Kerr's sixth championship ring, and we congratulate him.

The rest of the guys all played vital roles just when they were needed, Speedy Claxton, Danny Ferry, Steve Smith, and Kevin Willis. And Coach Gregg Popovich now has two NBA titles with the Spurs. A lot of political bigshots could, frankly, take a lesson from Popovich. He always believes in doing what is right, the media be damned.

Congratulations to the owners, Peter and Juliana Holt, two friends and wonderful people who are so deserving. They also set an example for patience and doing what is right for the Spurs, and they continue to serve the community every day of their lives.

From all of us in the congressional delegation of San Antonio, thank you for making us proud. And the best news is next year the Spurs are expected to be even better.

Mr. DAVIS of Illinois. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. Further reserving the right to object, I yield to the gentleman from Illinois.

Mr. DAVIS of Illinois. Mr. Speaker, I simply rise to say we are always delighted and pleased to see Steve Kerr display the skill and talent he learned in Chicago. But more importantly, I rise to congratulate the city of San Antonio for being one of the most beautiful cities in the country and also the great championship, the skill displayed by the Spurs as they won the 2003 NBA championship.

But, Mr. Speaker, I was really touched hearing of the great contributions of David Robinson, not just on the court but off the court in the community, in the neighborhood, his willingness to give of his resources and of himself, to display what it really means to be a great American. And so I rise to really congratulate him.

Oftentimes we hear that athletes are not willing to give back, that they get whatever it is that they get from being what they are and who they are and do not necessarily give back to the rest of the world.

Well, I think that David Robinson is the epitome of a gentleman, a great man; and I congratulate all of you for the fact that he is a Texan and part of the San Antonio Spurs.

Mr. GONZALEZ. Mr. Speaker, reclaiming my time, it is a great honor to join my colleagues. This is an occasion of bipartisan pride, and it is a wonderful occasion; but the Spurs did not get there, and it was not an easy road for them. I think Members know those playoffs were tough, and I would like to acknowledge the adversary and that is the New Jersey Nets, which put up a noble fight; but the better team did win for many, many reasons. It was not just athletic ability, though.

I think some of my colleagues have touched on what makes this team so special. It is about character, and when we talk about individuals like David Robinson, we understand what character is all about. It has been pointed out this is a Naval Academy graduate who put in his military obligation and finished that and then went on to his professional basketball career.

We also speak about Tim Duncan, and we have forgotten a very important chapter in Tim Duncan's life, and I think Members may have heard this story before, but these are role models. These are the kinds of models that we need to display and demonstrate to all of the youth in this country.

Tim Duncan had an opportunity to leave Wake Forest early. He did not have to get a degree, but his family instilled that kind of appreciation. His mother wanted him to graduate. As a result of a promise made to his mother, he remained at Wake Forest before he pursued his professional basketball career; and it has been an incredible time for not just Tim Duncan, but for all his fans.

This type of class, this type of character starts at the very top; and I have to say that you start with the owner, Mr. and Mrs. Holt. Next, look at the coach, Coach Popovich. Then look at the first string, but also at the bench; and this is a lesson to all of us. We cannot all be starters, but we can all make a contribution because this championship belongs to that entire team. Also the staff that supports the Spurs and the very special San Antonio fans second to none in the United States.

It was a class act, and one of skill and challenge. If you have character, I think you will always be a winner. In this instance they do have the ring. They are going to have the trophy, but I think they have something which is so much more important, and that is an accomplishment which is earned through character, skill, dedication, and commitment.

Mr. RODRIGUEZ. Mr. Speaker, as the mighty San Antonio Spurs entered the arena on game six of the NBA National Championship you could tell that it was going to be an amazing game. The crowd was on their feet chanting Go Spurs Go, non-stop, it was energizing. Every player from Tim Duncan to Kevin Willis had their game faces on. There was something in their look as if they knew what was going to happen, as if they had dreams of three point shots and death defying dunks the night before. They had hoop dreams.

The New Jersey Nets put up a great fight, but the Spurs' dominance of the fourth quarter seemed too much for even the Nets to overcome. After a 19 point scoring run, from a combination of aerial and ground attacks, the San Antonio Spurs defeated the Nets 88–77.

Similar to the likes of Jordan/Pippen, Bird/McHale, Magic/Jabbar, Tim Duncan and Dave "the Admiral" Robinson proved to be an unstoppable force. With Duncan's field goals and amazing drives along with Robinson's dominance on the paint they helped lead the Spurs to their second championship season.

The 2003 NBA Finals MVP was Tim Duncan; he gave an amazing performance, scoring 21 points and 20 rebounds, 10 assists and 8 blocked shots. Robinson scored 13 points and 17 rebounds in the final game of his amazing Spurs career.

This propelled the Spurs to their second championship win in less than 5 years.

It is my pleasure to congratulate the San Antonio Spurs on a great season and a great championship. This is not only a great day for San Antonio and San Antonians, but for all of Texas. Great job Spurs. Go Spurs go.

Mr. GONZALEZ. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 279

Whereas, on June 15, 2003, the San Antonio Spurs won the National Basketball Association's (NBA) Championship best-of-seven series with an 88–77 victory over the New Jersey Nets;

Whereas the Spurs' victory over the Nets is their second NBA championship in five years;

Whereas this year's Spurs-Nets Finals is the first time two former American Basketball Association teams have played for the NBA Championship;

Whereas seven foot center David Robinson joined the Spurs in 1987, and Tim Duncan joined the team in 1997;

Whereas last night's match-up was the final game of David Robinson's 14-year career, and his 13 points, 17 rebounds, and two blocked shots will be remembered as his best performance of the season;

Whereas Tim Duncan's triple-double, (21 points, 20 rebounds, and ten assists), and his eight blocked shots will be remembered as one of the greatest individual efforts in Finals' history;

Whereas Tim Duncan won the regular season Most Valuable Player award for the second consecutive year, and he was named the Finals Most Valuable Player following the Spurs victory;

Whereas Spurs head coach Gregg Popovich was awarded the Red Auerbach Trophy as the NBA Coach of the Year for the 2002–03 season; and

Whereas Gregg Popovich is the first Spurs coach in franchise history to win the Red Auerbach Trophy: Now, therefore, be it

Resolved, That the House of Representatives congratulates the San Antonio Spurs and Coach of the Year Gregg Popovich for an unforgettable season of basketball excellence and for winning the 2003 National Basketball Association Championship.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 279.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

TRIBUTE TO LARRY DOBY

(Mr. PASCRELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASCRELL. Mr. Speaker, I have some sad news this morning. A great American passed last evening. Larry Doby, 79 years of age, broke the color barrier in the American League and became a Hall of Famer, but he was a Hall of Famer in his life.

He said when inducted into the Hall of Fame in 1998, "Kids are our future, and we hope baseball has given them some idea of what it is to live together and how we can get along, whether you be black or white."

He was a great American. He lost his wife, Helyn, just 2 years ago. Larry lived a very productive life in my hometown of Paterson, New Jersey, and lived in Montclair, which is part of my district as well.

Mr. Speaker, if I can read from the resolution, a tribute to him back in 1997, which was entered into the CONGRESSIONAL RECORD, "Despite his great accomplishments, Larry Doby has remained modest and endearing and a true gentleman. Mr. Doby always gives thanks to God for giving him the talent to help integrate baseball and American society and to Mr. Veck for giving him the opportunity to use that talent and to his wife Helyn for holding together their family while he was away."

I ask that my colleagues join in a resolution which I will be introducing. We have lost a good American.

[From the Record, June 19, 2003]

LARRY DOBY, HALL OF FAMER, DIES

Hall of Famer Larry Doby, who grew up in Paterson and became the first black player in the American League, died Wednesday night after a long illness at his home in Montclair, his son, Larry Doby Jr. said. Doby was 79.

Doby was a seven-time All-Star in a 13-year career, almost all of it spent in the outfield for the Cleveland Indians. He helped lead the Indians to their last World Series title in 1948.

On July 5, 1947—just 11 weeks after Jackie Robinson broke baseball's color barrier—Doby joined the Indians.

Although he hit .283 with 253 home runs and 969 RBI in a big-league career that lasted through 1959, his locker room reception that first day was chilly. Some teammates would not even shake his hand.

"Very tough", Doby once recalled. "I'd never faced any circumstances like that. Teammates were lined up and some would greet you and some wouldn't. You could deal with it, but it was hard."

Doby ended his major league career in 1959 with the Detroit Tigers and Chicago White Sox. In 1978, he took over as manager of the White Sox, becoming only the second black to manage a major league team (following Frank Robinson).

Although Doby was voted into the Hall of Fame by the veterans committee in 1998, he always had commanded respect throughout the community.

He was a standout athlete at Eastside High School and starred with the Newark Eagles of the Negro Leagues for four seasons. Doby never forgot his roots and always gave his time to others. In the late 70's he was named director of community relations of the NBA's Nets and got involved in a number of inner-city youth programs.

Last year, then Paterson Mayor Marty Barnes unveiled a lifesize bronze statue of Doby at a rededication of Larry Doby Field at Eastside Park.

"You have done more for Paterson . . . than Paterson has done for you," Barnes said at the time. "What we are hoping is that we could try to catch up and give you all the accolade that you deserve."

Earlier this year, the Yogi Berra Museum announced it would be constructing a Larry Doby wing to house an exhibit of Negro League memorabilia.

"Larry Doby could do everything—hit, run, field and throw," Berra said.

Doby and his wife, Helyn, had five children. She died of cancer in 2001.

"Larry and I were very good friends," Indians' teammate Bob Feller said Wednesday.

"He was a great guy, a great center fielder and a great teammate. He helped us win the pennant in 1948 and three World Series. My thoughts go out to his family," he said.

Feller remembered some of the difficulties Doby faced when he entered the league.

"It was tough on him," Feller said. "Larry was very sensitive more so than [Jackie] Robinson or Satchel Paige or Luke Easter or some of the other players who came over from the Negro Leagues. He was completely different from Jackie as a player. He was aggressive, but not like Jackie was."

While Robinson's ascension to the majors was widely recognized, Doby received relatively scant attention.

In his first decade with the Indians, Doby was kept apart from his teammates—eating in separate restaurants, sleeping in separate hotels—even during spring training. From players and fans, he was the frequent target of racial taunts.

Despite provocation, Doby kept his temper, heeding Bill Veeck's advice when the Indians' owner bought Doby's contract from Newark.

Doby was a 22-year-old second baseman when the Indians signed him. Two seasons later, as the team's starting center fielder, he helped Cleveland win the World Series, hitting a home run in Game 4.

Doby played in six straight All-Star Games. In 1949, he, Robinson, Roy Campanella and Don Newcombe became baseball's first black All-Stars.

In 1943, Doby recorded another first—he became the first black to play in the American Basketball League, a forerunner of the NBA, as a member of the Paterson Panthers.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

DISASTROUS U.S. TRADE POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, well, congratulations are in order for the Bush administration. They have set yet another record, something to be proud or at least something that their political campaign contributors can be proud of, which is the trade policy of the United States which is a disaster for working Americans and the industrial infrastructure of this country, but immensely profitable for many multinational corporations based in the United States who are generous campaign contributors.

The trade deficit for the first 3 months of 2003 was a new record: $136.1 billion. If we keep that pace up, we will break last year's trade deficit of $435 billion, and reach a $550 billion trade deficit. That means we are losing $1.5 billion a day in U.S. wealth to overseas. $1 million per minute.

Mr. Speaker, 53,000 manufacturing jobs alone were lost in May of this year, hollowing out the manufacturing base of the United States of America, formally the greatest industrial Nation on Earth. There have been 251,000 lost this year and 34 consecutive months of decline in the manufacturing workforce. These are all record accomplishments of the Bush administration.

They told us if they weakened the dollar, this would all get better. Well, the dollar has plummeted, hurting the purchasing power of all Americans, yet the trade deficit is continuing to grow longer. How can that be? The economists scratch their heads. The theory says your currency goes down, your trade deficit goes. But if you do not manufacture things any more, if you do not export goods, which the United States does precious little of, then it does not matter what the value of the currency is because you are buying overseas.

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In fact, if your currency goes down, your trade deficit goes up, which is exactly what happened because you are buying all the manufactured goods overseas. Besides that, the Chinese have illegally under the WTO, which I am not a supporter of, but the U.S. is a signatory to, as is China, and the U.S. fought to get them in, has fixed their currency to the U.S. currency. So, no matter how low our dollar goes, we are still going to run record trade deficits with the Chinese who now are the largest holders of U.S. debt overseas.

We are not only enthralled to the Chinese for their manufacturing, they can basically threaten the United States if the United States ever decided to get tough with a lot of the bad things they do over there with the 300-plus billion dollars of our currency that they hold because of the growing trade deficit. This is a looming disaster for this country.

If we look at the record deficit we are setting domestically, again another record for the Bush administration, over a $500 billion deficit this year and the trade deficit, the United States of America is going to have to borrow over $1 trillion this year to finance a failed trade policy and a failed domestic financial policy. Borrow over $1 trillion. A lot of that money is going to come from overseas. It does not come for free, let me tell you that. A good deal of that money is going to come from what was supposed to be the Social Security lock box which has been busted open and spent and is being spent on current consumption, particularly to finance tax cuts for the wealthy.

For instance, yesterday's vote to permanently repeal any estate tax on estates over $6 million, four-tenths of 1 percent of estates in the United States of America, supposedly small family farms, small businesses and small tree and wood lot folks with over $6 million in assets. I tell you what, $6 million is plenty of an exemption for small businesses. But, no, the Bush administration had to go whole hog and go for an exemption of all estates. That will cost another $60 billion a year, which we will borrow from Social Security, from working wage-earning Americans and send to the wealthy. They will, of course, replace the Social Security benefits for those folks. Ha.

So what is the good we see in this? Unfortunately, very little. Record trade deficit, failing trade policy. What has the Bush administration proposed? Tax cuts, tax cuts, tax cuts domestically to help the deficit and then on the international front, well, our trade policy is working so well with a $550 billion looming trade deficit this year, with the loss of 53,000 manufacturing jobs in May, 250,000 lost so far this year, they want to set a new record so they want more of the same. More so-called free trade agreements. They have got two that are already on the way up here to Capitol Hill that they expect will go through like that.

The wheels are greased because these are important people and this is such a successful policy. It is working so well for whom? Not for American workers, not for our industrial infrastructure, but for a few wealthy benefactors who control those companies.

Hopefully we can bring about and restore common sense here and recognize the fact that you cannot run huge and growing deficits forever. Even Alan Greenspan has recognized that. He says this policy is not sustainable.

EXCHANGE OF SPECIAL ORDER

Mr. PENCE. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Indiana (Mr. BURTON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

GARFIELD'S 25TH ANNIVERSARY: "I'LL RISE, BUT I WON'T SHINE"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, as the Congressman who represents Muncie, Indiana, and Delaware County, home to the most famous cat in the world, I rise today for the awesome and important duty to pay a happy birthday wish to Garfield. Not President Garfield, but someone probably more famous in this day and age than that, a large, orange, slovenly, lazy cat, born in the mind of an Indiana native by the name of Jim Davis who, along with Garfield and literally dozens of artists and artisans, make their home near Muncie, Indiana, the world headquarters of Paws, Incorporated.

It was, in fact, today in 1978 that the Garfield strip debuted in 41 U.S. newspapers. Several months after its launch, the Chicago Sun-Times abruptly canceled the Cat. Over 1,300 angry readers, it is reported, immediately demanded that Garfield be reinstated. As they say, the rest is history. Today, 263 million readers across the globe read Garfield in 2,570 newspapers every day. Recently, Guinness World Records named this cat, Garfield, the most widely syndicated comic strip in the world. It all comes proudly from east central Indiana.

It is said that people relate to Garfield because Garfield, in many ways, is them. "He's a human in a cat suit," his creator Jim Davis likes to say. Garfield loves TV and he hates Mondays. He would rather pig out than work out. In fact, his passion for food and sleep is matched only by his aversion to diet and exercise, a cat after my own heart. He would like mornings better if they started later, coffee "strong enough to sit up and bark," and, he pledges regularly, "I'll rise but I won't shine."

Jim Davis, born in July of 1945 in Marion, Indiana, was raised on a small Black Angus cow farm. He graduated from Ball State University in Muncie, Indiana, where he majored in art and business and he is the founder and president of Paws, Incorporated, a full service licensing studio created and established in eastern Indiana. They have received numerous awards, including four Emmys and the National Cartoonist Society award, just to name a few.

So I rise today in the midst of serious debates and serious discussions to pay tribute to a very large, orange American tradition, here shown bursting out of his birthday cake on this, the 25th anniversary.

I will never forget, Mr. Speaker, as I close, Jim Davis and I first became acquainted 15 years ago. He told me of all the offers he had had through the years to move Garfield, which is internationally syndicated, maybe to Los Angeles or maybe to New York, more recognized as media centers than the cornfields of eastern Indiana, and Jim Davis said to me, "Mike, I always turn them down, because you have to have a sense of humor to live in Indiana." Let us hope Jim Davis and this big orange cat always live in Indiana. They are a source of pride, not only their creativity and their energy, but their philanthropy and their commitment to the quality of life for the families of our region.

We thank you, Jim. Congratulations to you and that big, fat, lazy cat.

MOURNING THE PASSING OF LARRY DOBY, FIRST BLACK PLAYER IN AMERICAN LEAGUE HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Mrs. JONES) is recognized for 5 minutes.

Mrs. JONES of Ohio. Mr. Speaker, Hall of Famer Larry Doby, the first black baseball player in American League history, died last night at the age of 78 in his home in Montclair, New Jersey. Larry Doby was one of the Cleveland Indians finest centerfielders, a slugger with speed. He was with the Indians in one of their most successful eras, from 1947 to 1955 during which they won two league pennants and a World Series, besides finishing second to the New York Yankees four times. He hit a decisive home run as the Indians won their last World Series in 1948. He led the league in home runs and runs batted in when the Indians romped to the American League pennant in 1954, winning 111 games, the fourth most in baseball history.

Larry survived and endured many racial insults after arriving in the majors only 3 months after the first black player, Jackie Robinson, of the old Brooklyn Dodgers. He never seemed to hold any grudges because of the torment. Doby is quoted as saying, "Life is too short for that. People who judge others based on the color of their skin have more problems than I do."

When he first stepped onto a major league field on July 3, 1947, amid a deluge of publicity, he was an uncertain, nervous 22-year-old. He knew that many fans and teammates resented his presence at Municipal Stadium. Doby batted only 32 times that first season and got five hits, a paltry .156 average. He stated, "It was one of the toughest things I ever had to go through. I had never sat on the bench before and now all I could do was sit and watch." He had come up as a second baseman with the Newark Eagles of the Negro League where he was hitting .420. But he was not going to displace Joe Gordon, the team's cleanup hitter who had been the league's most valuable player as a member of the Yankees in 1942.

Doby survived because of the support he received from his late wife Helyn; Indians owner Bill Veeck, who brought him to the majors; teammates Gordon and catcher Jim Hegan, and coach Bill McKechnie. They were the closest to him that first year. He also was friends with the late Arthur Grant, the father of one of my childhood friends, Laureen Grant Beach. On many occasions I had an opportunity to see him and enjoy time with his daughter Kristie.

As a baseball pioneer, Doby also received encouragement from black celebrities of the era. Heavyweight boxing champion Joe Louis, singers Lena Horne, Ella Fitzgerald and Dinah Washington and musicians Duke Ellington and Count Basie were among those who contacted him.

When centerfielder Thurman Tucker was injured in May, Indians manager Lou Boudreau moved Doby into his spot. He stayed there for 10 years, he recalled. "The Cleveland fans were great. They never booed me, even when I made a mistake."

Doby hit .301 with 14 homers as the Indians won the 1948 pennant. In the playoff game against Boston for the American League flag, he belted two doubles. His most famous homer came in the fourth game of the 1948 World Series at Municipal Stadium when he connected to give Steve Gromek a 2–1 victory and the Indians a three-games-to-one lead over the Boston Braves. After the game, Doby and Gromek were photographed hugging each other in jubilation. The picture is considered a civil rights milestone. It was the first widely publicized photo of two baseball players of different races embraced in victory.

Doby led the Indians in hitting in the series with an average of .318. Players soon accepted him because of his ability. Doby, 6–1 and 180 pounds, quickly established himself as a first-rate player. In 1950 when he hit three homers in a game, batted .326 and drove in 102 runs, the Sporting News chose him as the best centerfielder in baseball, ahead of Joe DiMaggio and Duke Snider. He topped the league in homers, 32, and runs batted in, 124, in the pennant year of 1954 when the Indians won 111 and lost 43 games for a winning percentage of .721, a league record that still stands.

The Indians traded him subsequently to Chicago on October 25, 1955. He then with the White Sox, had a rebound, he went to Baltimore in a six-player deal in 1958, and then in 1959 he was sent back to Cleveland to play.

Doby was chosen for seven All-Star teams in his career. His lifetime stats show a .283 batting average and 253 home runs.

Mr. Speaker, I would like to give credit to Bob Dolgan, the Plain Dealer reporter from whom I obtained a lot of this information. I hope that all my colleagues will join me in mourning the death of a baseball great, Larry Doby.

ORDER OF BUSINESS

Mr. BURGESS. Mr. Speaker, I ask unanimous consent to go out of order to give my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADDRESSING THE NATION'S HEALTH CARE PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, according to a poll taken just this month in June 2003 by the Winston Group, nearly 50 percent of Americans believe that the uninsured and the high cost of health insurance are one of the biggest problems facing our country today. With skyrocketing health costs and a recent Census Bureau figure showing that 41.2 million Americans lack health insurance coverage, this information does not come as a surprise.

There are, Mr. Speaker, some free market and tax incentive initiatives that could increase health care coverage for a significant segment of the population, making this health care more available and less expensive. I am confident that there is legislation that has been introduced, and indeed the House passed overwhelmingly just a few hours ago, H.R. 660, that will address some of the root causes of these serious problems.

There is a bill, Mr. Speaker, H.R. 1236, the Securing Access, Value, and Equality Health Care Act, that seeks to end the tax discrimination that makes it difficult for low-income families and individuals to purchase non-employer provided health insurance. H.R. 1236 does away with this discrimination by making prepayable, refundable tax credits available to all Americans for the purchase of health insurance regardless of their employer or their employment status.

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Under this bill, an individual could claim up to a $1,000 tax credit, $2,000 per married couple, and $500 per child to a maximum of $3,000 per family. By giving low-income individuals and families the purchasing power to meet their health insurance needs, the number of Americans without health insurance could be dramatically reduced.

Another bill, H.R. 2114, a bill that I introduced, a bill that enjoys bipartisan support, the Health Access and Flexibility Act, would increase access to medical savings accounts to all Americans and grant States the flexibility to provide Medicaid and Children's Health Insurance Program recipients health care coverage under a medical savings account model. The bill removes the cap on medical savings accounts and allows MSA holders to fully fund their accounts.

Additionally, the bill would give States the ability to create medical savings-like accounts for Medicaid or CHIP recipients, and we have called these Medical Freedom Accounts.

By providing Americans with incentives to hold down medical spending through an MSA and giving them more flexibility on how to spend their own money on medical costs, the cost of health care can be contained and individuals will be able to achieve a higher quality of health outcomes.

And, Mr. Speaker, just today just a few hours ago, H.R. 660 passed this House, the Small Business Health Fairness Act of 2003, which allowed the establishment of association health plans. This bill allows businesses to pool their employees with other businesses that are part of the bona fide trade or business association to purchase employer-based health insurance. This gives small businesses this option, and this will be a powerful tool that will drive down the cost of employer-based health insurance making health insurance more affordable for small businesses and coverage more available to employees. With the passage of this bill, Mr. Speaker, we are one step closer to providing much needed relief to the uninsured.

Mr. Speaker, unfortunately there is not a one-size-fits-all solution to address the increasing cost of health insurance and the decreasing access to health insurance; but, Mr. Speaker it is my hope that this House can continue to work to improve the health and well-being of all Americans by taking up these last two measures and provide a robust solution to our Nation's health care problems.

PRAISING AND CELEBRATING JUNETEENTH

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, before I begin my tribute, as a Texan, I would like to join with my good friend from San Antonio and around the State of Texas to be able to congratulate those fantastic San Antonio Spurs. As the Members well know, coming from Houston there is absolutely one basketball team that we all believe is number one, the Houston Rockets. But as Texans, we always rally around our friends and neighbors, and so I am delighted to congratulate the San Antonio Spurs. I am glad I did not make any wrong bets and to particularly appreciate David Robinson for his years of the kind of playing with integrity and character that we can all be proud of, the David Robinson School in San Antonio that he committed to with his own resources, the spirit that he generated for that team, the outstanding work of most valuable player, Tim Duncan, and as well the fact that Steve Kerr came from the wonderful State of Illinois, but we have got him now, came off the bench and propelled the San Antonio Spurs to where they are today. My hat is off and I look forward to working with him and the team as we work to make Texas and the Nation a better place.

Today, I believe, Mr. Speaker, is a very good day and I have the honor of commemorating this day. It is Juneteenth, and we look forward to Juneteenth becoming a national holiday of commemoration to the extent that all of America is aware of the importance of this celebration. It is, in fact, June 19, today, that we are able to stand to pay tribute but also to solemnly acknowledge the importance of this day. I am very proud to have been able to join many of my colleagues, including the gentleman from Illinois (Mr. DAVIS), the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), the gentleman from Missouri (Mr. CLAY), and the gentlewoman from Florida (Ms. CORRINE BROWN), and many others as we stood in the Mansfield Room in the United States Senate, the other body, paying tribute to this important day as well as being with Dr. Myers and others who believe that this is a historic time.

What is Juneteenth? Juneteenth is a statement of freedom. Juneteenth is the unshackling of a body of people. Juneteenth is the freeing of slaves in the State of Texas. Juneteenth is the renewing of one's character, integrity, spirit, and ability to achieve one's greatest opportunities. It was Juneteenth or June 19, 1865, some 2 long hard years after the Emancipation Proclamation, that the people of Texas, the slaves of Texas, I might say, were able to realize their freedom. Dating back to 1865, it was on June 19 that the Union soldiers led by the courageous Major General Gordon Granger landed in Galveston, Texas, with the news that the Civil War ended and that the slaves were now freed, the end slaves were freed. The Emancipation Proclamation became official, however, on January 1, 1863. Nevertheless, aside from that sad fact the people were already in a state of bondage, they did not get the word because there were not enough Union soldiers there to enforce.

So, Mr. Speaker, we heard these words when Major Granger landed on that Galveston shore and freed or removed the bondage from those who were seeking to empower themselves, and he said, "The people of Texas are informed that in accordance with a Proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of rights and rights of property between former masters and slaves and the connection heretofore existing between them becomes that between employer and free laborer." What important words for today, Mr. Speaker.

And I say that because the Tulia 12 has just been freed in the State of Texas, and I want to announce to this Congress that the Committee on the Judiciary, I hope, will be holding investigatory hearings on what happened to hold those individuals when there was no basis and a sense of a lack of fairness in the judicial system. We want to make sure that the Tulia 12 will be free for all America to know, and we expect to hold those hearings.

In addition, Mr. Speaker, we want to acknowledge that we are still fighting for that relationship of equality and so Juneteenth becomes more important because the Supreme Court will render its decision in the next week on the question of affirmative action, the right of equality and access to opportunity in this country, and I pray that Juneteenth will be commemorated in reality by a decision that upholds the University of Michigan's case.

Mr. Speaker, I close by acknowledging those in my home district tonight as I speak on the floor of the House celebrating Juneteenth, Representative Al Edwards for his great work on making this a holiday; Reverend Greg Patrick of South West Community Church helping to put on this great event celebrating Juneteenth; and Reverend C. Anderson Davis and Mrs. Bertha Davis, our historic and wonderful senior citizens who helped bring the celebration of the Emancipation Proclamation to Texas for all these many years. I thank them and may the celebration live on by the words "we shall overcome."

Mr. Speaker, I rise today to speak of the joyous celebration of Juneteenth. For those of you who ask, "What is Juneteenth," I will tell you. Dating back to 1865, it was on June 19 that the Union soldiers, led by the courageous Major General Gordon Granger, landed in Galveston, Texas with news that the Civil War had ended and that the enslaved were now free. The Emancipation Proclamation became official on January 1, 1863. Nevertheless, aside from the sad fact the people were already in a state of bondage, they had to wait two and a half years after President Lincoln's proclamation, to hear the news.

Mr. Speaker, it gives me great pleasure to speak about Juneteenth and I would like to share with you the letter that Major General Gordon Granger read to the emotion filled slaves. It reads as follows:

"The People of Texas are informed that in accordance with a Proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of rights and rights of property between former masters and slaves, and the connection heretofore existing between them becomes that between employer and free laborer."

Prior to June 19, 1865, the Emancipation Proclamation had little impact on Texans due to the minimal number of Union troops available to enforce the new Executive order. Thanks to the meritorious Major Granger and the arrival of his troops, there were forces strong enough to overcome the resistance and to free the slaves.

Many stories have been told about the actual reason for why it took so long for the news of the Emancipation to reach Galveston, but it is very difficult to say which one is true. The fact still remains that the news did not come to the enslaved Texans soon enough. The reactions to the profound news ranged from pure shock to immediate jubilation.

Upon hearing the news, many of the newly freed slaves went north and others went to neighboring states, such as Louisiana, Arkansas, and Oklahoma. For those freed men and women, recounting the memories and festivities of that great day in June of 1865 served as motivation as well as a release from the growing pressures encountered in their new territory. The celebration of June 19th was coined "Juneteenth" and it grew with more participation from descendants. The Juneteenth celebration was a time for reassuring one another, for praying and for gathering with family members. This still holds true today because African Americans continue to face many challenges that call for prayer and gathering together with one's family and community.

When the celebration of Juneteenth originated, a range of activities were offered to entertain the masses, many of which continue in tradition today. Rodeos, fishing, barbecuing and baseball are just a few of the typical Juneteenth activities that one may witness or participate in today. One of the more popular activities during Juneteenth celebrations is barbecuing, through which Juneteenth celebrants can share in the spirit and aromas that their ancestors would have experienced during these festivities. For this reason, the barbecue pit is often established as the center of attention at Juneteenth celebrations, and you can smell the sweet smells of barbecue in the air in Houston and in many other areas.

The history of Juneteenth celebrations has its ups and downs. The downs came in the early 1900s when classrooms did very little to teach about Juneteenth. However the Civil Rights movement of the 1960s did much to revive the celebrations due to widespread protests and marches for freedom. On January 1, 1980, Juneteenth became an official state holiday in Texas, largely through the efforts of Al Edwards, an African American state legislator. The passage of the bill was especially significant because it marked Juneteenth as the first emancipation celebration granted official state recognition. Texans had been among the last to hear of the Emancipation but we were the first to distinguish it as a state holiday.

Throughout the 1980s, 1990s, and into the new millennium, Juneteenth has continued to enjoy a growing and healthy interest from communities and organizations throughout the county. The future of Juneteenth looks bright as the number of cities and states come on board and form local committees and organizations to coordinate celebratory activities.

Today, Juneteenth celebrates African American freedom while encouraging self-development and respect for all cultures. I appreciate the opportunity to speak about this joyous celebration. I wish a very happy Juneteenth to all.

Further, Mr. Speaker I want to salute Rev. C. Anderson Davis and his wife Bertha Davis for their dedicated determined efforts and honoring and celebrating Juneteenth—and their support of the Houston National Emancipation Association.

COMMITMENT TO WORLD PEACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to express my commitment to world peace and to stress the importance of establishing dialogue and understanding among all people. It is in recognition of this need that on Tuesday, June 24, at 6:30 p.m. in the Rayburn Room B338–340, the American Leadership Initiative will hold a special awards ceremony to honor great Americans from all 50 States who have demonstrated a commitment to peace. Many of my colleagues will join me and the gentleman from Pennsylvania (Mr. WELDON), co-chair, in giving tribute to some of the outstanding Americans from our districts. Members of the clergy, legislators, educators, business and community leaders will be among those honored with the "Ambassadors for Peace Award-Excellence in Leadership." These committed citizens have been working to renew and strengthen our families and marriages, restore our communities, and rebuild our Nation and indeed our world. We are grateful to the founders of Ambassadors for Peace, the Reverend and Mrs. Sun Myung, for promoting the vision of world peace, and we commend them for their work.

These Ambassadors for Peace have become increasingly effective and relevant in their communities since the tragedy of 9–11. They have been working together to promote understanding among all faiths, particularly with Muslim, Jewish, and Christian leaders. With the realization that many of the tensions currently facing the world cannot be addressed without consideration of the religious implications involved, the Ambassadors for Peace have formed an American Interreligious Council. This council seeks to support and advise our Nation's leaders concerning the issues and challenges of seeking lasting peace. The American Interreligious Council is also part of the effort to create an international council of religious leaders. The members of this council will support the leaders of the United Nations as they work to resolve conflicts throughout the world. This body will provide a direct link between international leaders and the various religious peoples in their constituencies. This will help to ensure that peace agreements are embraced by the diverse communities these leaders represent.

Today, though crisis is at our doorstep, we must maintain an unwavering hope for peace. It has become clear that the establishment of a lasting peace throughout the world will only come to full fruition through the ongoing dialogue and cooperation of religious and political leaders. The Ambassadors for Peace are working tirelessly to bring about international cooperation and are to be commended for their leadership in this great effort. I again commend them for their efforts because they understand that peace is not necessarily found in covenants, treaties and charters, as was once echoed by President John F. Kennedy, but is indeed found in the hearts of men and women. And as they work throughout the Nation and throughout the world to spread the message of peace, we look forward to seeing them here on Tuesday, June 24, and share with them as they give awards to those who do the work in the field.

COMMEMORATING JUNETEENTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BELL) is recognized for 5 minutes.

Mr. BELL. Mr. Speaker, I rise to join with the gentlewoman from Texas (Ms. JACKSON-LEE), my fellow Houstonian and colleague, to commemorate Juneteenth, a very important day in the State of Texas; for on this day June 19 in 1865, General Gordon Granger rode into Galveston, Texas, and announced the freedom of the last American slaves, nearly 2½ years after Abraham Lincoln signed the Emancipation Proclamation.

Today, Juneteenth remains the oldest known celebration of slavery's demise. It commemorates freedom while emphasizing scholarship and achievement. Juneteenth honors the 400 years of suffering African Americans endured under slavery and celebrates the legacy of perseverance that has become the hallmark of the African American community's struggle for equality. Martin Luther King, Jr. once said, "Freedom is never free"; and A. Phillip Randolph, an African American labor leader, was fond of saying "freedom is never given. It is won."

We should all recognize the power and the ironic truth of those statements, and we should pause to remember the enormous price paid by all Americans in our country's quest to define what the word "freedom" truly means.

As a symbol of freedom and of enormous burdens overcome, Juneteenth should almost be as important to my fellow Americans as July 4.

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Because it was only after that day in 1865 on the heels of the most devastating conflict in our country's history in the aftermath of a civil war that pitted brother against brother, neighbor against neighbor, and threatened to tear the very fabric of our Union apart forever, it was only after that day in 1865 when General Granger rode into Galveston, Texas, and the last Americans were finally released from the chains of bondage that had held them for generations, it was only on that day that the America we all know and love today was finally born. It was not until June 19, 1865, that America truly became the land of the free and the home of the brave.

As a Texan, I am proud to say that my State is one of only two that observes June teenth as a State holiday. It is my sincere hope that in its future, we will all celebrate this important holiday together.

PUBLICATION OF THE RULES OF THE COMMITTEE ON SMALL BUSINESS, 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MANZULLO) is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, enclosed are Committee on Small Business Rules for the 108th Congress for submission to the CONGRESSIONAL RECORD in accordance with clause 2(a)(2) of rule XI.

RULES AND PROCEDURES OF THE COMMITTEE ON SMALL BUSINESS

U.S. HOUSE OF REPRESENTATIVES, 108TH CONGRESS

1. GENERAL PROVISIONS

The Rules of the House of Representatives, and in particular the committee rules enumerated in rule XI, are the rules of the Committee on Small Business to the extent applicable and by this reference are incorporated. Each subcommittee on the Committee on Small Business (hereinafter referred to as the "committee") is a part of the committee and is subject to the authority and direction of the committee, and to its rules to the extent applicable.

2. REFERRAL OF BILLS BY CHAIRMAN

Unless retained for consideration by the full committee, all legislation and other matters referred to the committee shall be referred by the Chairman to the subcommittee of appropriate jurisdiction within 2 weeks. Where the subject matter of the referral involves the jurisdiction of more than one subcommittee or does not fall within any previously assigned jurisdictions, the Chairman shall refer the matter, as he may deem advisable.

3. DATE OF MEETING

The regular meeting date of the committee shall be the second Thursday of every month when the House is in session. A regular meeting of the committee may be dispensed with if, in the judgment of the Chairman, there is no need for the meeting. Additional meetings may be called by the Chairman as he may deem necessary or at the request of a majority of the members of the committee in accordance with clause 2(c) of rule XI of the House.

At least 3 days notice of such an additional meeting shall be given unless the Chairman determines that there is good cause to call the meeting on less notice.

The determination of the business to be considered at each meeting shall be made by the Chairman subject to clause 2(c) of rule XI of the House.

A regularly scheduled meeting need not be held if there is no business to be considered or, upon at least 3 days notice, it may be set for a different date.

4. ANNOUNCEMENT OF HEARINGS

Unless the Chairman, with the concurrence of the ranking minority member, or the committee by majority vote, determines that there is good cause to begin a hearing at an earlier date, public announcement shall be made of the date, place and subject matter of any hearing to be conducted by the committee at least 1 week before the commencement of that hearing.

After announcement of a hearing, the committee shall make available as soon as practicable to all Members of the Committee a tentative witness list and to the extent practicable a memorandum explaining the subject matter of the hearing (including relevant legislative reports and other necessary material). In addition, the Chairman shall make available as soon as practicable to the Members of the Committee any official reports from departments and agencies on the subject matter as they are received.

MEETINGS AND HEARINGS OPEN TO THE PUBLIC

(A) Meetings

Each meeting of the committee or its subcommittees for the transaction of business, including the markup of legislation, shall be open to the public, including to radio, television and still photography coverage, except as provided by clause 4 of rule XI of the House, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House: *Provided, however*, that no person other than members of the committee, and such congressional staff and such executive branch representatives as they may authorize, shall be present in any business meeting or markup session which has been closed to the public.

(B) Hearings

Each hearing conducted by the committee or its subcommittees shall be open to the public, including radio, television and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of the hearing on that day shall be closed to the public because disclosure of testimony, evidence or other matters to be considered would endanger the national security, would compromise sensitive law enforcement information, or would violate any law or rule of the House; *Provided, however*, that the committee or subcommittee may be the same procedure vote to close one subsequent day of hearings. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony, (i) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, would compromise sensitive law enforcement information, or violate clause 2(k)(5) of rule XI of the House; or (ii) may vote to close the hearing, as provided in clause 2(k)(5) of rule XI of the House.

No member of the House may be excluded from non-participatory attendance at any hearing of the committee or any subcommittee, unless the House of Representatives shall by majority vote authorize the committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearing to members by the same procedures designated for closing hearings to the public.

6. WITNESSES

(A) Statement of Witnesses

Each witness who is to appear before the committee or subcommittee shall file with the committee at least two business days before the day of his or her appearance, 100 copies of his or her written statement of proposed testimony. At least one copy of the statement of each witness shall be furnished directly to the ranking minority member. In addition, all witnesses shall be required to submit with their testimony a résumé or other statement describing their education, employment, professional affiliations and other background information pertinent to their testimony unless waived by the Chairman.

Each witness shall also submit to the committee a copy of his or her final prepared statement in an electronic format no later than the day of the hearing unless waived by the Chairman.

The committee will provide public access to its printed materials, including the proposed testimony of witnesses, in electronic form.

(B) Interrogation of Witnesses

Whenever any hearing is conducted by the committee or any subcommittee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the Chairman by a majority of those minority members, to call one witness selected by the minority to testify with respect to that measure or matter. The witness requested by the minority shall furnish at least one copy of his or her statement and any supplementary materials directly to the Chairman within two business days before the day of his or her appearance unless waived by the Chairman.

Except when the committee adopts a motion pursuant to subdivisions (B) and (C) of clause 2(j)(2) of rule XI of the rules of the House, committee members may question witnesses only when they have been recognized by the Chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one member can be extended only with the unanimous consent of all members present. The Chairman, followed by the ranking minority member and all other members alternating between the majority and minority, shall initiate the questioning of witnesses in both the full and subcommittee hearings.

In recognizing members to question witnesses, the Chairman may take into consideration the ratio of majority and minority members present in such a manner as not to disadvantage the Members of either party. The Chairman, in consultation with the ranking minority member, may decrease the 5-minute time period in order to accommodate the needs of all the Members present and the schedule of the witnesses.

7. SUBPOENAS

A subpoena may be authorized and issued by the Chairman of the committee in the conduct of any investigation or series of investigations or activities to require the attendance and testimony of such witness and the production of such books, records, correspondence, memoranda, papers and documents, as he deems necessary. The ranking minority member shall be promptly notified of the issuance of such a subpoena.

Such a subpoena may be authorized and issued by the chairman of a subcommittee with the approval of a majority of the members of the subcommittee and the approval of the Chairman of the committee.

8. QUORUM

No measure or recommendation shall be reported unless a majority of the committee was actually present. For purposes of taking testimony or receiving evidence, two members shall constitute a quorum. For all other purposes, one-third of the members (or 12 Members) shall constitute a quorum.

9. AMENDMENTS DURING MARK-UP

Any amendment offered to any pending legislation before the committee must be made available in written form when requested by any member of the committee. If such amendment is not available in written form when requested, the Chairman shall allow an appropriate period for the provision thereof.

10. PROXIES

No vote by any member of the committee or any of its subcommittees with respect to any measure or matter may be cast by proxy.

11. POSTPONEMENT OF PROCEEDINGS

The Chairman in consultation with the Ranking Minority Member may postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chairman may resume proceedings on a postponed request at any time. In exercising postponement authority, the Chairman shall take all reasonable steps necessary to notify members on the resumption of proceedings on any postponed recorded vote. When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

12. NUMBER AND JURISDICTION OF SUBCOMMITTEES

There will be four subcommittees as follows:

Workforce, Empowerment and Government Programs (seven Republicans and six Democrats)

Regulatory Reform and Oversight (seven Republicans and six Democrats)

Rural Enterprises, Agriculture and Technology (six Republicans and five Democrats)

Tax, Finance and Exports (eight Republicans and seven Democrats)

During the 108th Congress, the Chairman and ranking minority members shall be ex officio members of all subcommittees, without vote, and the full committee shall have the authority to conduct oversight of all areas of the committee's jurisdiction.

In addition to conducting oversight in the area of their respective jurisdiction, each subcommittee shall have the following jurisdiction:

WORKFORCE, EMPOWERMENT AND GOVERNMENT PROGRAMS

Oversight and investigative authority over problems faced by small businesses in attracting and retaining a high quality workforce, including but not limited to wages and benefits such as health care.

Promotion of business growth and opportunities in economically depressed areas.

Oversight and investigative authority over regulations and other government policies that impact small businesses located in high risk communities.

Opportunities for minority, women, veteran and disabled-owned small businesses, including the SBA's 8(a) program.

General oversight of programs targeted toward urban relief.

Small Business Act, Small Business Investment Act, and related legislation.

Federal Government programs that are designed to assist small business generally.

Participation of small business in Federal procurement and Government contracts.

REGULATORY REFORM AND OVERSIGHT

Oversight and investigative authority over the regulatory and paperwork policies of all Federal departments and agencies.

Regulatory Flexibility Act.

Paperwork Reduction Act.

Competition policy generally.

Oversight and investigative authority generally, including novel issues of special concern to small business.

RURAL ENTERPRISES, AGRICULTURE AND TECHNOLOGY

Promotion of business growth and opportunities in rural areas.

Oversight and investigative authority over agricultural issues that impact small businesses.

General oversight of programs targeted toward farm relief.

Oversight and investigative authority for small business technology issues.

TAX, FINANCE AND EXPORTS

Tax policy and its impact on small business.

Access to capital and finance issues generally.

Export opportunities and oversight over Federal trade policy and promotion programs.

13. COMMITTEE STAFF

(A) Majority Staff

The employees of the committee, except those assigned to the minority as provided below, shall be appointed and assigned, and may be removed by the Chairman. The Chairman shall fix their remuneration, and they shall be under the general supervision and direction of the Chairman.

(B) Minority Staff

The employees of the committee assigned to the minority shall be appointed and assigned, and their remuneration determined, as the ranking minority member of the committee shall determine.

(C) Subcommittee Staff

The Chairman and ranking minority member of the full committee shall endeavor to ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the committee.

14. POWERS AND DUTIES OF SUBCOMMITTEES

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full committee on all matters referred to it. Subcommittee chairman shall set meeting and hearing dates after consultation with the Chairman of the full committee. Meetings and hearings of subcommittees shall not be scheduled to occur simultaneously with meetings or hearings of the full committee.

15. SUBCOMMITTEE REPORTS

(A) Investigative Hearings

The report of any subcommittee on a matter which was the topic of a study or investigation shall include a statement concerning the subject of the study or investigation, the findings and conclusions, and recommendations for corrective action, if any, together with such other material as the subcommittee deems appropriate.

Such proposed reports shall first be approved by a majority of the subcommittee members. After such approval has been secured, the proposed report shall be sent to each member of the full committee for his or her supplemental, minority, or additional views.

Any such views shall be in writing and signed by the member and filed with the clerk of the full committee within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of the transmittal of the proposed report to the members. Transmittal of the proposed report to members shall be by hand delivery to the members' offices.

After the expiration of such 5 calendar days, the report may be filed as a House report.

(B) End of Congress

Each subcommittee shall submit to the full committee, not later than November 15 of each even-numbered year, a report on the activities of the subcommittee during the Congress.

16. RECORDS

The committee shall keep a complete record of all actions, which shall include a record of the votes on any question on which a record vote is demanded. The result of each subcommittee record vote, together with a description of the matter voted upon, shall promptly be made available to the full committee. A record of such votes shall be made available for inspection by the public at reasonable times in the offices of the committee.

The committee shall keep a complete record of all committee and subcommittee activity which, in the case of any meeting or hearing transcript, shall include a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved.

The records of the committee at the National archives and Records Administration shall be made available in accordance with rule VII of the Rules of the House. The Chairman of the full committee shall notify the ranking minority member of the full committee of any decision, pursuant to clause 3(b)(3) or clause 4(b) of rule VII of the House, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination of the written request of any member of the committee.

17. ACCESS TO CLASSIFIED OR SENSITIVE INFORMATION

Access to classified or sensitive information supplied to the committee and attendance at closed sessions of the committee or its subcommittees shall be limited to members and necessary committee staff and stenographic reporters who have appropriate security clearance when the Chairman determines that such access or attendance is essential to the functioning of the committee.

The procedures to be followed in granting access to those hearings, records, data, charts, and files of the committee which involve classified information or information deemed to be sensitive shall be as follows:

(a) Only Members of the House of Representatives and specifically designated committee staff of the Committee on Small Business may have access to such information.

(b) Members who desire to read materials that are in the possession of the committee should notify the clerk of the committee.

(c) The clerk will maintain an accurate access log, which identifies the circumstances surrounding access to the information, without revealing the material examined.

(d) If the material desired to be reviewed is material which the committee or subcommittee deems to be sensitive enough to require special handling, before receiving access to such information, individuals will be required to sign an access information sheet acknowledging such access and that the individual has read and understands the procedures under which access is being granted.

(e) Material provided for review under this rule shall not be removed from a specified room within the committee offices.

(f) Individuals reviewing materials under this rule shall make certain that the materials are returned to the proper custodian.

(g) No reproductions or recordings may be made of any portion of such materials.

(h) The contents of such information shall not be divulged to any person in any way, form, shape, or manner, and shall not be discussed with any person who has not received the information in an authorized manner.

(i) When not being examined in the manner described herein, such information will be kept in secure safes or locked file cabinets in the committee offices.

(j) These procedures only address access to information the committee or a subcommittee deems to be sensitive enough to require special treatment.

(k) If a member of the House of Representatives believes that certain sensitive information should not be restricted as to dissemination or use, the member may petition the committee or subcommittee to so rule. With respect to information and materials provided to the committee by the executive branch, the classification of information and materials as determined by the executive branch shall prevail unless affirmatively changed by the committee or the subcommittee involved, after consultation with the appropriate executive agencies.

(l) Other materials in the possession of the committee are to be handled in accordance with the normal practices and traditions of the committee.

18. OTHER PROCEDURES

The Chairman of the full committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee.

The committee may not be committed to any expense whatever without the prior approval of the Chairman of the full committee.

19. AMENDMENTS TO COMMITTEE RULES

The rules of the committee may be modified, amended or repealed by a majority of the members, at a meeting specifically called for such purpose, but only if written notice of the proposed change has been provided to each such member at least 3 days before the time of the meeting.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, COMMITTEE ON SMALL BUSINESS, RAYBURN HOUSE OFFICE BUILDING,
WASHINGTON, DC.

TO: Members, Committee on Small Business
FR: Donald A. Manzullo, Chairman
RE: Policy Regarding the Postponement of Record Votes Pursuant to Rule 11 of the Rules of the Committee on Small Business for the 108th Congress.
DT: February 26, 2003

As you are aware, the Committee plans to adopt a rule authorizing the Chair to postpone record votes on approving a measure or matter, or agreeing to an amendment. The purpose of this memorandum is to formally announce the Chair's policy regarding the application of this rule.

In General

The Chairman has consulted with the ranking minority member in the formulation of this policy and will continue to consult with her regarding its application.

As will be announced at the Committee's organizational meeting, the purpose of this rule is to improve the efficiency of the Committee's meetings, and will not be used to advantage or disadvantage any member seeking to offer an amendment. In order to ensure that the Chair can effectively administer the rule and provide for orderly markups, it is essential that Members inform the Chair of their intention to offer a particular amendment as soon as possible. The Chair cannot protect Members if he does not know of their amendment.

Members are further advised that the Chair intends for this rule to be used sparingly, in cases where the Committee faces a long markup on a series of bills or amendments. It does not substitute for the active attendance and participation of Members in committee meetings.

In Particular

1. In the application of the rule, the Chair will consult regularly with the ranking minority member regarding the postponement of votes, including the decision on whether to postpone a particular vote and on when proceedings will resume.

2. Continuing the historical precedent of the Committee, the Chair expects that bills subject to mark-up will be considered as read and open to amendment at any point and will make every reasonable effort not to prejudice Members from offering amendments.

3. The Chair will make every reasonable effort to group the consideration of amendments and the resumption of proceedings on postponed votes on the same calendar day so as to permit the offering of all known amendments.

4. When proceedings resume on postponed record votes, the first vote in any series (or in the case of a single postponed vote, that vote), will remain open for 15 minutes, or until all members of the Committee or subcommittee are recorded. Subsequent votes in a series will not be held open.

5. The Chair will make every reasonable effort to notify members regarding the resumption of proceedings on postponed record votes, both prior to and at the time that proceedings resume on any postponed record vote, which includes notification through electronic means.

6. Members are strongly encouraged to attend all committee meetings. However, if members cannot attend the Committee meeting, they are advised to monitor the proceedings through the Committee's audio webcast and to have staff present at the meeting.

The Chair believes that this policy will result in the fair application of the rule, the protection of Members' rights to offer amendments, and an improvement in the efficiency of Committee meetings.

If any member has a question regarding the application of this policy, they may either contact the Chair, or the Committee's Policy Director, Mr. Phil Eskeland, at extension 5-5821.

ALL POLITICS ARE INEXTRICABLY INTERWOVEN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, most of us returning to our districts have had an inordinate amount of inquiries and complaints, I am sure, from constituents about local developments and problems. Local hardships are the first things on the minds of my constituents, and I am sure many of my colleagues have experienced the same problem.

People are concerned about the budget cuts at the city and State level, they are concerned about layoffs of people, they are concerned about the fact that there are property tax increases as a result of trying to make up for shortfalls in the budget of a State or of a city. So local hardships are on folks' minds.

I try to get them to understand that, okay, let us talk about it. You have your city councilman, you have your State officials. I certainly am concerned about the local hardships also. But I think it is important for them to understand that it is all interwoven. All politics inextricably are interwoven, and what is happening down here in Washington has an impact on what is happening at the local level, and the sooner we understand that, the better.

What we do in Washington generates a lot of local hardships and suffering. National and international blunders create pain and suffering in our neighborhoods. That is where the troops come from. That is where the soldiers who are on the frontline come from. They come out of our neighborhoods, and those blunders and things that we do, like the war in Iraq, which I consider a blunder, and the fact that the combat was successful has not made me a believer that that war was necessary. It is a blunder. Every life that was lost was lost unnecessarily, in my opinion. It will suck vitally-needed resources from the war against terrorism. We are in for a much more serious situation developing in Iraq, which I will talk about later.

The poor will bear the burden of the war in Iraq. They will bear the burden. They have already borne the burden of the combat. A study by the New York Times showed that the people who are the soldiers in our military forces now are folks from the neighborhood. Members of working families make up more than 90 percent of the forces.

We are proud of them. When there is a war that is really necessary, we are proud of the fact that they are there to fight the war. We do not want their lives to be lost unnecessarily. We do not want them to find themselves sitting in Iraq for the next 5 years. We do not want the terrible conditions to be foisted upon those who happen to be there, and there is no rotation out because we do not have troops to replace them with.

There are a number of problems which place the burden of the war on Iraq on the backs of the poor. Those are my constituents, and those of many of my colleagues. We want them to understand we are concerned and are working to relieve those burdens here in Washington.

There is a scenario shaping up for bloody guerilla warfare in Iraq. I am not a military expert. I am not on the committee, but I think there is some sophomoric knowledge, some examples of immediate history, not too far in the past, Vietnam, Chechnya, the Russian occupation of Afghanistan, the suicide bombers in Israel. There are a number of items there which should lead us to understand that we are in for serious trouble as things are developing in Iraq, and, if we do not do something quickly in Iraq more decisively, we are going to have many more unnecessary lives lost, we are going to have to spend a tremendous amount of resources. Dollars that ought to be going to make up these budget gaps in the cities and the States, those dollars will be going to fight a guerilla war in Iraq.

There is a way out of this. I was not for the war, but I certainly would like to see a successful occupation. We are there now, and we should pull out all stops and make certain we bring justice to the ordinary people of Iraq. That is the way to avoid guerrilla warfare.

Guerrilla warfare will never succeed unless it has a base in the population which is going to help hide it and nurture it and make it difficult for an occupying force to deal with. We did not have guerilla warfare to any great extent in Germany after the Second World War. We did not have it to a great extent in Japan. Yes, there was some guerilla warfare, and it is not talked about much, some holdouts, et cetera, but their efforts were quickly undercut by the way the population of Germany and Japan was treated by the occupying forces.

The same thing is true here, and we are in the process of failing in our slowness in responding to the needs of the general population in Iraq.

There is a formula for success, and I would like to see that formula carried out, because I do not want more of my constituents stuck in Iraq as an occupying power. It destroys their mental capacity after being there under such tremendous strain for a long time. The weather is 140 degrees. All kinds of things are taking place that impact on a human being, and I do not want a situation where we are stuck there with the poorest of the poor in the Armed Services having to carry out unnecessary duties.

Let us go now into a situation which will correct the situation properly and lead us to a point where we can declare success in Iraq and leave.

The Marshall Plan model is there, the Marshall Plan model we used in Europe. Why was it possible to overcome all the difficulties in Europe? Why did the Soviet Union, who at that time was given an opportunity to participate in the Marshall Plan, why did they refuse? It was because they knew that the general population would benefit in a way which would undercut their communist schemes and their own schemes for world domination, and they did not want the population to be satisfied in any way, a part of a partnership for progress and a partnership which took care of meeting the needs of ordinary people.

So the Marshall Plan model to spend money, to use our resources, our technical know-how, to improve the state of the lives of the people there, is very much necessary. We could rebuild the infrastructure of Iraq in one year. It may cost a great deal, but it will cost far less to go in to rebuild the infrastructure of the water systems and the electricity systems than it will cost us if the population becomes alienated and supportive of guerilla warfare. We have what it takes to do it.

I will come back and talk about the formula for success in the occupation of Iraq in greater detail.

There is a formula for success to relieve the suffering and the hardships in our States and our cities also, but it is all interwoven with the kinds of resources we put into places like Iraq. We do not have the money. We voted to appropriate $79 billion for the war in Iraq and related matters, and there is no money to deal with the problem of economic recession here at home. So we have to stop the blunders internationally in order to be able to deal with our problems closer to home.

All politics are inextricably interwoven. We must understand that clearly ourselves, and we should also make sure that our constituents understand.

In New York, I hear repeatedly complaints about, Congressman, why do you not do something about the fact that we just got an 18 percent property tax increase, an 18 percent property tax increase? On top of that, there is a ticket blitz. The cops are being encouraged to write tickets for everything. You drop a gum wrapper on the sidewalk, a candy wrapper, and they rush to write a ticket because they need the money. The citizens become the victims of the government to raise revenue.

Some of that is happening right here in Washington, D.C. also and some other big cities. The citizens are the targets for the people who are governing them in order to raise more revenue.

It is not funny at all. I had a lady come into my office crying because she was in an intersection and happened to be caught in the intersection when the light changed, and the policeman pulled her over and gave her a ticket for a moving violation. Under normal circumstances, that would not happen.

Layoffs are taking place in New York City and New York State, certainly New York City. People who get laid off are the last hired, so they get laid off, and inevitably they are the poorest people.

They laid off 1,200 paraprofessionals in the schools, the people who are in the classrooms with the teachers and who help to monitor the hallways and the lunchrooms. They are the people living in the neighborhood, they are the people that know the families, they are the people that know the children best. How are we going forward in our education reform and education improvement if we are going to take away that vital part as a result of budget cuts?

Budget cuts are reversing the progress that we were making in education reform. "No Child Left Behind" is just an empty slogan now because of the fact that the Federal Government is not following through on its promises.

Even worse, what we had going at the State and local level is being cut. You cannot talk about improving education if the budget cuts force you to lay off teachers. Therefore, the ratio of children to each teacher in the classroom inevitably gets higher.

One of the clear principles of reform that we have established is in the lower grades, you need fewer children per teacher. That reform goes out the window because of the fact you have no money to hire teachers, quality teachers.

There is an acceptance of teachers who are not certified and hiring teachers who are substitute teachers, because in many cases they are cheaper. The budget can take them, but it cannot pay for quality teachers. Quality teachers in some instances are being encouraged to retire because they are at the end of the scale in terms of salary payments and they drain more of the budget. Never mind the fact they are the ones who know how to teach the children, that they must mentor new teachers coming in, they are the ones that hold the system together. No, let us get them out, because we want to lower the cost of personnel.

So, these local hardships and cutbacks and raids on education progress doom any forward motion. We can forget about it.

Then promises, of course, are being broken for education here in Washington.

Local level problems are, in some ways, insoluble in terms of the financing. At the local level, the State level, there are constitutions, State constitutions, city charters, which say you cannot spend more money than you anticipate taking in, in revenue. They are bound by that and must operate within that stricture.

The Federal Government does not have to operate within that stricture. In fact, several speakers today, and one in particular tonight, pointed out the fact we are borrowing money on a wholesale basis. We may be borrowing about $1 trillion over the next few months. We are not bound by the revenue coming in. We are borrowing money, we are using Social Security funds.

The things that are important to the powers, the majority powers in Washington, the Republican majority, the things that are important to them are being funded. They are funding the tax cut, they are funding the war in Iraq, they are funding farm subsidies, which are far too high and unjust, they are funding the things that are important, and education happens to be one of the things not important enough.

□ 1900

I suppose most of our colleagues are like me. They were anticipating that if we follow the usual pattern, the Health and Human Services markup would be taking place after we come back from the July 4th recess and, in some cases, it would be one of the last of the markups. But to my surprise and shock, I have received information which states that we had the markup today, that the Health and Human Services markup has taken place, and it is over, and the education portion of the budget has been gutted in terms of promises made that are not being kept. There has been a broken promise in terms of overall education funding.

The majority party Republicans loudly proclaimed that they would provide a $3 billion increase from the previous year, over the previous year for the Department of Education. That $3 billion was cut down to $2.3 billion, or a 4.3 percent increase in education, which is the smallest dollar increase in

5 years and the smallest percentage increase of money for education in 8 years.

Let us just stop for a moment and think about the fact that education started way behind as a Federal expenditure, and over the last 8 years we have had steady increases, as the American people have made it quite clear to all of us. In every district I think it has been made clear by the constituents that they want the Federal Government to do more for education, even when ideologically, the majority of Republicans, the Republican majority did not care for the Department of Education and they tried to dismantle it, and they had to retreat. Not only did they retreat on the effort to dismantle the Department of Education, but they began to appropriate large amounts of funds for education in response to their own constituency. Everybody sees the commonsense wisdom of more support for education.

To go back to the war in Iraq for a moment, since the President declared victory in Iraq, we have lost more than 50 lives. I think 14 of those lives have been lost as a result of hostile activities, but the others have been lost as a result of accidents. What are accidents? Why are accidents killing so many of our soldiers? What is the problem? The problem is, I think, that we have a high-tech operation with respect to our military, and too few of our soldiers really know how to operate all of the equipment and the weaponry that we have. Helicopters in particular need to be investigated because a large number of accidents happen there. But just the rapid movement of vehicles and collisions on the ground seem to be a major problem. So education in our military to produce a better-equipped military is as important as education anywhere else.

Returning to our education appropriations process, the No Child Left Behind Act, which had great fanfare when the President signed it, he promised America's school would now be on a path of reform and a new path of results. Our schools now would have greater resources to meet those goals. That is what the President promised. He stated that we have accountability from all 50 States now. But the problem is, where are the resources? This bill provides, the markup today provides an increase of only $381 million, or 1.6 percent over the current funding level for the No Child Left Behind Act. That is a freeze in real terms. We can provide $1 trillion in tax cuts but, at the same time, this bill does not even come close to meeting the funding levels authorizing the No Child Left Behind Act, which would require another $8 billion in fiscal year 2004.

In the case of special education, we have made promises and have a $1.2 billion shortfall. I think it is important for all of our colleagues to wake up to the fact that this is on the table right now, it has been done, decided in the markup in the Committee on Appropriations responsible for Health and Human Services; and we should move now if we are going to have any effective counterattack before this appropriations bill hits the floor.

Title I funding, we have a shortfall there. We are $334 million short, since it provides only a $666 million increase requested by the President instead of the overall amount originally contemplated. College education, the increase there is another broken promise.

In the agencies under the Health and Human Services appropriation subcommittee, the Institutes of Health have received a great decrease after having 15 percent annual increases over the last 5 years. We recognize the need to deal with the use of science, the best science in the world to come to grips with the more rapid-reaching of ways to contain diseases and to provide cures for the incurable items that are still on the agenda, but that 15 percent increase has now been cut to a mere 2.5 percent increase.

The health care safety net is not taken care of. Bioterrorism, a concern that the Department of Homeland Security has talked about quite a bit; bioterrorism preparedness under the Republican bill received $94 million less than they received this year.

The Department of Health and Human Services asked for $100 million to get the Nation better prepared for an influenza pandemic, and the bill provides only half of that amount.

The nursing shortage is not dealt with properly and, of course, when it comes to unemployment insurance to deal with the most important factor in our recession, a the fact that people have no money to spend, that is underfunded too.

Low-income heating assistance was greatly cut also. Promises have been broken. Why? Because when it comes to the domestic budget, we plead bankruptcy. We do not have the money. We have enough money in the domestic budget, of course, to provide the biggest tax cuts in history. We have enough money in the overall budget to provide a $79 billion special allocation for the war in Iraq and related matters. What we want to do, really, we can find the money for.

So the local hardships and the immediate problems faced by education are not unrelated to our blunders at a national and international level. The tax cut is a national blunder. It is a great economic disaster that we are going to suffer for, not only nationally, but it is going to create pain and suffering in our neighborhoods.

The war in Iraq is a blunder because it will suck a large number of vitally needed resources. Human life is sacred, and every human life lost in the war in Iraq is the first problem that I have, the first problem that anybody who believes in the sacredness of human life has. Soldiers have to die; military activities are necessary. But only when they are necessary should they be conducted, only when they are necessary. Only when they are necessary should we place the life of a soldier at risk. Only when it is necessary should soldiers have to die.

I am not a pacifist. I was in favor of immediately going to stop the Taliban in Afghanistan and to extract from them al Qaeda and Osama bin Laden. They were immediate enemies. They made no effort to hide the fact that they were there in Afghanistan. So it is not a pacifist sentiment that drives me; it is a reverence for human life that only when it is necessary, as it was in that case, and as military action is in many other cases, should it happen.

Was it necessary to lose lives in Iraq? And we have lost relatively few, and we like to boast about that; but there will be more lives lost, I assure my colleagues, in Iraq. And it is not necessary.

A lot of focus has been turned in the direction of the weapons of mass destruction. Weapons of mass destruction are thoroughly being analyzed, and the case for that, whether they exist or whether we deliberately oversold the existence of weapons of mass destruction or not, all that is being very well aired in the press. I think in many cases the media got in bed with the war; and "embeddedness" had really a double meaning. The media that got in bed with the war and praised it and covered up certain kinds of things are feeling guilty now, and they are going to extremes to examine the whole question of weapons of mass destruction. When did we know what we know, who exaggerated, how incompetent is our military intelligence? Was it the incompetence of our military intelligence, or was it the White House insisting that the facts be twisted?

I am confident that we are going to come out with some real answers there, but we are focusing so much on that, we are losing sight of the fact that there is a situation developing in Iraq which is dangerous and will engulf us in a war that is going to take a lot more lives, a lot more resources.

The war in Iraq already has pinned down, we say 150,000, of our troops; but we never give the correct figure. I am sure we have at least 200,000 there already, but we are going to need more. We cannot occupy a country of 24 million people with 150,000 or 200,000 troops if that population is hostile. We are making that population more hostile because, of course, we are zeroing in now on the neighboring nation of Iran.

Why is activity in Iran going to impact on what happens in Iraq? Because the majority of the people in Iraq are

Shiite Muslims. Shiite Muslims are the predominant group in Iran. And one of the alliances that we expected to form was, with our liberating troops, was the Shiite population that had been exploited, oppressed under Saddam Hussein, because Saddam Hussein is Sunni. The Sunnis had oppressed the Shiites. Well, the Shiites, we say, did welcome us in places where there were large Shiite populations. We had the least amount of trouble in the heated combat and even now in the occupation.

But if we are going to go into a situation now where a great deal of pressure is being brought on Iran, and it may be necessary, Iran may be the real problem, and we should not be in Iraq; if we are looking for nuclear weapons, it may be that Iran is far closer to building a nuclear weapon, buying parts maybe from North Korea than is acceptable. But the Shiite population in Iraq will not be an ally. So we are going to have to worry about the guerilla warfare problem even more if we lose the loyalty and the support of the Shiites.

We are neglecting some other things, as I said before, while we pour our resources and our troops into Iraq. We are neglecting Pakistan. I have said many times that I know a little bit more about Pakistan than I do most of the Muslim nations because I have a Pakistan population in my congressional district. They are major allies of the United States. They were in the Cold War; they were in the war against the Soviets in Afghanistan. Pakistan has always been with the U.S.

But in my opinion, we have always given Pakistan very second-class, shabby treatment. The amount of aid presently going to Pakistan from the United States is less than $500 million at this point. Yet Pakistan is a major ally of ours. Pakistan, its government, put itself on the line from the very beginning in the war against terrorism. They allowed our troops in, they have cooperated in many ways, but we still are neglecting Pakistan. We are so preoccupied with focusing on Iraq that we are ignoring a major ally.

What is the danger of this? The danger is that Pakistan's government is on our side, but Pakistan is still a Muslim nation. Pakistan is still the home of the Taliban. The Taliban were created in the religious schools of Pakistan before they marched into Afghanistan and united to take over that country. This is not a great secret. One does not need the CIA to tell us this; it is well-known. So the pressure on the Pakistan Government is enormous, and there were parts of the Pakistan military that helped to train the Taliban, the parts of the Pakistan military that is very sympathetic to al Qaeda and the final situation is Pakistan already has nuclear weapons.

□ 1915

Pakistan has nuclear weapons, and we know that. Everybody knows that. They are right there, available. If al Qaeda, the Taliban, the forces inside Pakistan were to pull a coup and take over the government of Pakistan, I think we would be forced to react militarily immediately. We would be forced into a situation which is very dangerous for a long, long time to come, with the bomb in the hands of terrorists for sure. No speculation.

So why are we so reluctant to maximize our resources in Pakistan? If ever there was a nation that deserved to have a massive Marshall Plan model, it is Pakistan. We should go in to help the economy of Pakistan, to help the education structure of Pakistan. We should see that expenditure as being far more worthwhile and productive in the fight against terrorism than many of the expenditures we are making in Iraq. In Iraq, the poor will bear the burden of the war. As I said before, people from my district, the working families, produce the soldiers.

The winds of war are blowing and we are ignoring them. We do not seem to talk very much about the fact that guerilla warfare is a possibility, because every day there are more incidents taking place of attacks on American soldiers in Iraq. More incidents take place every day. We have decided to have some counteroperations, to sweep through certain areas and intimidate certain folks, and even round up certain operatives who probably are getting ready to launch guerilla warfare, if they are not already involved.

All of that is necessary, but I do not see any overall plan that says, look, we do not want to have guerilla warfare break out in Iraq; we do not want a guerilla warfare situation. And the worst element in a guerilla warfare situation is a population that is friendly to the guerrillas; the population that hates the liberators. That plan is not there. The understanding is not there.

I think that it is not required that you have a great deal of military experience in order to understand what is going on. A group of sophomores huddled around a table at lunch time could see the unfolding of the situation, it seems to me, and understand where it is going. A group of sophomores could say, look at the situation that took place in Afghanistan, when the Soviets tried to occupy Afghanistan. They won the comeback, then they tried to occupy the territory, and their losses were so great until they finally just gave up and pulled out because the guerilla warfare was unbearable.

Now, I mentioned to an expert 2 weeks ago, I said, do we not have to worry about the escalating guerilla activities? These incidents that are spontaneous right now, but they are probing and they are experimenting and they are finding out certain kinds of weaknesses. Do we not have to worry about something like a Tet offensive that took place in Vietnam in the City of Saigon?

For those of you too long to remember the Vietnam War, the war in Vietnam was declared a success and was moving along at a jolly pace when suddenly there was a big offensive launched by the Viet Cong. The Viet Cong are a guerilla operation, of course. And this primarily took place in the City of Saigon. From the destruction that was wrought on the day of the Tet offensive, from that day on, we know now that our military understood that the war was lost. They would not give up. They would not admit certain things. But that Tet offensive of guerilla warfare sort of sent the signal of how powerful the forces were.

I raised that issue with this expert at a meeting a couple of weeks ago and he said to me, well, the Vietnamese had jungles to hide in. The Iraqis do not have any jungles. It is wide open desert. So we do not have to worry about that kind of guerilla warfare. I did not press the point, but the Tet offensive took place mostly in the City of Saigon. In the city. And it is in the city, in urban warfare, where our high-tech weaponry and equipment has the least advantage. We are at a great disadvantage with high-tech warfare in urban warfare, in house-to-house warfare. You are so close to the enemy that blockbuster bombs do not do you any good because they will kill you as well as the enemy.

We are in a situation where the enemy knows the terrain better than we do. We are in a situation where the enemy will have the support of the local population, unless we take steps to end that. So we ought to fear and we ought to be very worried about a massive, bloody war, a guerilla war, developing in the next 6 months in Iraq. And when that develops, great amounts of human lives are going to be lost. And to restore and get back to where we should be is going to be very costly. We ought to look at it now and look for solutions now.

I believe in peace because I think human life is sacred, but I take off my hat and I salute our men and women in our Armed Forces. I think every soldier is a hero. I take exception to some people who would make these gradations and degrees. This veteran did not see combat, therefore he does not deserve the same benefits as the guy who saw combat. This veteran did not even go overseas or this veteran went overseas but he spent all his time behind the lines, he was in a unit that buried soldiers.

Anybody who puts on a uniform is a hero, because once you put the uniform on and you take the oath, your life does not belong to you. You go where you are sent. And it is only by the grace of God or by accident or whatever that you do not end up in a place where your life is more at risk than another. Nobody chooses where they go once they become a soldier. So every soldier, every person in the military ought to be saluted as a hero from the time they put the uniform on.

Let us not degrade them by saying, you did not see enough combat, or some guys saw a whole year of combat so they deserve more benefits than the guy who saw one week of combat. Everybody is a hero and ought to be treated that way. Certainly the people who see combat deserve to be treated as heroes.

I like the model established by the Vietnam Memorial Wall. For the first time, the Vietnam Memorial Wall made us look at every soldier who got killed as a hero. Their names are on the wall. I think that is a great monument, one of the greatest war monuments ever created, and I think it is a peace monument. Because when you have to look at human beings individually, then you know the horror of war. I have gone to that wall with people looking for their relatives or friends. I went with my young brother, who not so long ago was a sergeant major in the Army, 20-some years. I went with him to look for a friend of his that he went to high school with. And I saw the tears in his eyes when he found the friend's name on the wall. Just a friend.

Think of all the mothers and the fathers and the relatives who go to that wall and cry over lost loved ones, 58,000 now. But I think it is a monument that lets us know that war is hell, war is horrible, and not a single life should be put at risk and lost unnecessarily.

They used to have tombs of unknown soldiers. They still have them. All over the world you will find these tombs of unknown soldiers. Well, I hope that there will be no new tombs of unknown soldiers. Soldiers should be known. The names of all the soldiers who died should be known. All the soldiers who put on a uniform and were available to die should be known.

All human life is sacred, and until we recognize how sacred it is, we will not have the national policies or international policies which are worthy of the people who make up the Nation. The people who make up the Armed Forces, as I said before, 90 percent are from working families. Everybody should realize the importance of working families to America. If you did not realize it before, realize it now. It should have an impact on our policies.

We should look at the minimum wage that is $5.15 an hour for the last 3 or 4 years. Working families are not given an opportunity to earn a decent living. We should look at OSHA, at health and safety requirements in the workplace. There are a number of programs for poor children that we should look at.

We have been struggling this week in the Committee on Education and the Workforce with Head Start. Head Start is a successful program. They have not been able to malign Head Start or discredit Head Start. Despite the great success of Head Start, there are people who still only want to nickel and dime Head Start. They do not want to raise the amount of money we appropriate for Head Start so that Head Start can hire decent teachers and keep them.

One of the biggest problems with Head Start is they cannot keep any teachers. Because the teachers are paid so poorly, they are always moving on to some other school or education arena. So we get only new teachers in Head Start, teachers who cannot teach anywhere else. Same thing is true in poor schools.

We have had two bills in the last 10 days in the Committee on Education and the Workforce where we have tried to raise the amount of forgiveness on student loans so that people who teach in poor areas would have their loans forgiven if they teach for 5 years. We tried to raise the amount of loan forgiveness for Head Start teachers. We tried to have some Federal incentive and this would show that we have placed our priorities in the right place. But we lost. The only budging that we got, the only movement we got from the majority of Republicans was a forgiveness of the loans for math and science teachers, which is a victory still, but not nearly enough.

Math and science teachers have their loans forgiven if they teach for a 5-year period, up to $17,500. That is in the bill that will be coming to the floor, and we would like to make another try to expand that so that at the very bottom in early childhood and Head Start so that we also try to encourage teachers with that kind of incentive. We do not have the money. Those are poor children. They need a good start in life. We forget that they are going to become the soldiers who go off to fight the wars. They are going to become the heroes whose names are listed on another Vietnam Memorial Wall, or whatever the next wall will be. I hope in the future, all our heroes are honored in a similar fashion; that somewhere their names are known.

We have a scenario for a bloody warfare about to happen in Iraq. We ought to take a hard look at it. I am concerned because I do not want the members of my district telling me that I did not do what is necessary, all that I could do to protect their relatives, their children who are over there. Many went in the National Guard not expecting ever to see combat. National Guard units have been called. Many are in the regular service because they wanted to be all that they could be and come out and get an education using the benefits promised by the services, which is great for a young person who has reached a dead end, who cannot afford to go to college, who cannot afford to pay tuition.

There are many motivations. But once they are in the situation, they certainly should be treated like the heroes that they are.

We had a rotation system in Vietnam. It was not passed by Congress, it was a matter of common sense which was finally figured out by the military in Vietnam so that the system did not leave anybody in combat for more than a year. In the last 2 years of the Vietnam War, you did a year and you were out. There was a rotation. There is no such rotation that has been established in Iraq. So we have 140 degree temperatures over there. No beds for them to sleep in.

My colleague, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), went to visit, and she talked about the horrible situation that both men and women have to live in in Iraq. Those soldiers. And the most terrible thing is that once you have a hostile population, every time you step out on the street, you do not know when a sniper is going to be shooting at you or you will confront a group of people you do not know is friendly or might be a suicide bomber.

Can you imagine how nerve-wracking that is, and how many nervous basket cases we have if people have to stay there and have no idea when they are going to be leaving because we have no rotation system? Why do we not have a rotation system? Because the administration is blundering again. They are determined not to admit we need more forces there.

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We need more troops there. We need more troops, period. We may have to go into a draft to get those troops. That is the last thing that the powers that be in Washington want to admit, that we are in a war now requiring large amounts of personnel, and they may have to draft people. It is better to admit it sooner and have less deaths than to wait until later and be forced into it.

We have scenarios, as I said before. We know what happened in Vietnam. The Tet Offensive showed us how effective guerrilla warfare can be in the city, not just the jungle. And the Russian attempt to occupy Afghanistan is another obvious example of what guerrilla warfare is like and how difficult it is to handle it.

Right now Chechnya, a relatively small province in Russia, will not be subdued. Hatred can reach a level, fanaticism can reach a level which makes it almost impossible to get back to peace. And the suicide bombers in Israel are another example of a level where it is difficult to get back to establishing peace.

But what it says in those situations, great harm can be done and we are placing our personnel at great risk. We need to do whatever is necessary to establish some new security.

First, the formula for success in the occupation of Iraq has to begin with the establishment of proper security. Proper security means if more troops are needed, we need to establish proper security. Before we can do anything else, we need to block the escalation toward guerrilla warfare with the support of the population. Do I sound like a war monger? No. I was against the war in Iraq. I want to save lives. I do not want one blunder to lead to the loss of more lives than the original blunder took.

I would like to see us have more troops in Iraq to secure it. Once we secure it, let us institute a Marshall Plan. What is the element of the Marshall Plan that is the most important? Let us give people electricity. Let us give the populous water. They had electricity and water before; they do not have it now. Is it so difficult to get electricity and water? If the soldiers and the local population cannot do it, we should form a corps of plumbers and electricians. We may need to pay them double for leaving their families and traveling across the ocean and going into an area that is not secure, but pay them whatever is necessary. In less than a year, we could reestablish all of the electricity that existed before with a corps of plumbers and electricians.

It is not a great undoable task. It requires money. Spend the money that way instead of spending it fighting guerrilla warfare that is going to be endless. It is a slow period for the sheet metal workers; let them form a corps. Let us let the iron workers, the people who tore down the wreckage at the World Trade Center, let them go, organize them, and do what has to be done to restore the infrastructure in Iraq and win the hearts and minds of the civilian population. Let the workers go to the aid of their fellow workers. We have the soldiers over there; let the working families send the additional heroes to restore electricity and restore water and other systems.

The problem is the way this administration operates, they would spend a lot of time figuring who is going to get the contract, who is going to profit from it, how much knowledge can you get from your contributors, and a lot of other things that come into play. We need to do this and do it fast.

I remember that the earthquake in Oakland devastated a part of Oakland; and if the freeway and a number of things had been left that way for a year, it would have wrecked the economy of that area of California. We appropriated first $6 billion and later $8 billion, and they marshaled all of the technology, engineering skills, and in less than a year, the damage from that earthquake was restored and its impact on the economy was nil. It can be done. We do not need to have somebody come down from heaven and wave a magic wand. It is American know-how. Let us spend it up front to bring justice to Iraq instead of spending it in a bottomless pit, guerrilla warfare.

Finally, alleviating hardships here in the States does not require heavenly intervention. I want to call Members' attention to an article that appeared in The New York Times, Tuesday, June 10, issue which is very revealing. I find it very inspiring. It is about a colleague of ours, Bob Riley, before he ran for governor in Alabama. As a Republican Congressman, he had a nearly perfect record of opposing any legislation supported by liberal Americans for democratic action, or anything else that was considered liberal.

Why am I going to talk about Bob Riley? Because I think to relieve the hardships in our cities and States, to stop the budget cuts, to stop the cuts in education which force us to increase the size of classrooms, to stop the cuts which force us to push the best teachers into retirement, to stop all this, we need to marshal our revenue in a different way and change our priorities, and in order to do that you need a political base.

One of the big problems with taxes and tax policies in America is that only the majority party, the Republican Party, has ever really showed great concern about tax policy. I mean, the kind of concern that it merits. I think the Democratic Party deserves to be chastised for not really thoroughly exploring what the meaning of tax policy is in the context of American politics.

Bob Riley, forced in a situation where Alabama is starved for revenue, and he is now the governor, put aside any right wing ideology and has come out with common sense that we all should take a hard look at. Governor Riley has stunned many of his conservative supporters and enraged the State's powerful farm and lumber lobbies by pushing a tax reform plan through the Alabama legislature that shifts a significant amount of the State's tax burden from the poor to wealthy individuals and corporations. And Governor Riley has framed the issue in starkly moral terms arguing that the current Alabama tax system violates biblical teachings because Christians are prohibited from oppressing the poor. That is Governor Bob Riley who used to sit here in this Chamber on the other side. I salute Governor Bob Riley.

If Governor Riley's tax plan becomes law, and it has to be ratified in September by the voters, it will be a major victory for the poor people of Alabama if it becomes law. But win or lose, Alabama's tax reform crusade is posing a pointed question to the Christian Coalition, focus on the family and other groups that seek to import Christian values into national policy. The question has been asked, if Jesus were active in politics today, would he be lobbying for the poor? This is from a New York Times article of Tuesday, June 10.

Alabama's tax system has long been brutally weighted against the less fortunate. The State income tax kicks in for families that earn as little as $4,600. Even Mississippi does not tax income until it is over $19,000. Alabama also relies heavily on sales tax which runs as high as 11 percent, and their sales tax applies to groceries and infant formula as well as everything else.

The upshot is wildly regressive Alabamians with incomes under $13,000 pay 10.9 percent of their incomes in State and local taxes while those who made over $229,000 pay just 4.1 percent.

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I would like to read that again:

Alabamians with incomes under $13,000 pay 10.9 percent of their incomes in State and local taxes, while those who make over $229,000 per year pay just 4.1 percent.

A main reason Alabama's poor pay so much is that large timber companies and megafarms pay so little. The State allows big landowners to value their land using "current use" rules, which significantly low-ball its worth.

Governor Riley's plan, which would bring in $1.2 billion in additional desperately needed revenue, takes aim at these inequalities. It would raise the income threshold at which families of four start paying taxes to more than $17,000. Instead of having to pay taxes, those who make $4,600, you would not have to pay State taxes until you get to $17,000. It would scrap the Federal income tax deduction and increase exemptions for dependent children. And it would sharply roll back the current-use exemption, a change that could cost companies in the timber industry a great deal of money.

Alabamians are used to hearing their politicians make religious arguments, and Governor Riley thinks he can convince the voters that Christian theology calls for a fairer tax system.

Let us understand what is happening here. This Governor—he must be some kind of genius—has gotten this tax package through the legislature already, but in Alabama you have to ratify it. The ratification will take place in September, which means that the poor people of Alabama will have a chance to vote to support what this Governor is doing or not. In terms of votes, they certainly outnumber the rich. It is something to watch.

Governor Riley thinks he can convince the voters that Christian theology calls for a fairer tax system.

I repeat: Governor Riley thinks that he can convince the voters that Christian theology calls for a fairer tax system.

Quoting Governor Riley, "I've spent a lot of time studying the New Testament and it has three philosophies: Love God, love each other, and take care of the least among you," he said. "I don't think anyone can justify putting an income tax on someone who makes $4,600 a year."

Religious groups could provide the margin of victory in September. Susan Pace Hamill, a University of Alabama tax professor with a theological degree from an evangelical divinity school, caused a stir recently with a law review article called "An Argument for Tax Reform Based on Judeo-Christian Ethics" which makes an evangelical case for making the tax system fairer. She plans to train speakers this summer to take the theological argument to the grassroots. Kimble Forrister, the State coordinator of Alabama Arise, a coalition that advocates for poor people, expects the 100 church groups that are part of his organization to hold church-basement workshops this summer to get the word out to their congregations.

Many theologians argue that it is far easier to find support in the Bible for policies that help the poor than for any cut in the dividend taxes. If Governor Riley's crusade succeeds this summer, Alabama may offer the Nation a model for a new kind of tax system, one where the devil is not in the details.

End of quote from the New York Times article.

Mr. Speaker, I would like to submit the New York Times article of Tuesday, June 10, entitled "What Would Jesus Do? Sock it to Alabama's Corporate Landowners" for the RECORD in its entirety.

[From the New York Times, June 10, 2003]

WHAT WOULD JESUS DO? SOCK IT TO ALABAMA'S CORPORATE LANDOWNERS

(By Adam Cohen)

MONTGOMERY, AL.—If the religious right had called up Central Casting last year to fill the part of governor, it could hardly have done better than the teetotaling, Bible-quoting businessman from rural central Alabama who now heads up the state. As a Republican congressman, Bob Riley had a nearly perfect record of opposing any legislation supported by the liberal Americans for Democratic Action.

But Governor Riley has stunned many of his conservative supporters, and enraged the state's powerful farm and timber lobbies, by pushing a tax reform plan through the Alabama Legislature that shifts a significant amount of the state's tax burden from the poor to wealthy individuals and corporations. And he has framed the issue in starkly moral terms, arguing that the current Alabama tax system violates biblical teachings because Christians are prohibited from oppressing the poor.

If Governor Riley's tax plan becomes law—the voters still need to ratify it in September—it will be a major victory for poor people, a rare thing in the current political climate. But win or lose, Alabama's tax-reform crusade is posing a pointed question to the Christian Coalition, Focus on the Family and other groups that seek to import Christian values into national policy: If Jesus were active in politics today, wouldn't he be lobbying for the poor?

Alabama's tax system has long been brutally weighted against the least fortunate. The state income tax kicks in for families that earn as little as $4,600, when even Mississippi starts at over $19,000. Alabama also relies heavily on its sales tax, which runs as high as 11 percent and applies even to groceries and infant formula. The upshot is wildly regressive: Alabamians with incomes under $13,000 pay 10.9 percent of their incomes in state and local taxes, while those who make over $229,000 pay just 4.1 percent.

A main reason Alabama's poor pay so much is that large timber companies and megafarms pay so little. The state allows big landowners to value their land using "current use" rules, which significantly low-ball its worth. Individuals are allowed to fully deduct the federal income taxes they pay from their state taxes, something few states allow, a boon for those in the top brackets.

Governor Riley's plan, which would bring in $1.2 billion in desperately needed revenue, takes aim at these inequalities. It would raise the income threshold at which families of four start paying taxes to more than $17,000. It would scrap the federal income tax deduction and increase exemptions for dependent children. And it would sharply roll back the current-use exemption, a change that could cost companies like Weyerhaeuser and Boise Cascade, which own hundreds of thousands of acres, millions in taxes. Governor Riley says that money is too tight to lift the sales tax on groceries this time, but that he intends to work for that later.

Church and state are not as separate in Alabama as they are in most places. (The chief justice of the Alabama Supreme Court was in federal court last week defending his decision to install a 2.5-ton rendering of the Ten Commandments in the state's main judicial building.) Alabamians are used to hearing their politicians make religious arguments, and Governor Riley thinks he can convince the voters that Christian theology calls for a fairer tax system. "I've spent a lot of time studying the New Testament, and it has three philosophies: love God, love each other, and take care of the least among you," he said. "I don't think anyone can justify putting an income tax on someone who makes $4,600 a year."

The state's progressive voters, including many in the sizable African-American community, have backed tax-law changes like these for years. And reform-minded business leaders, who see such tax changes and improved schools as crucial to the state's economic development, have promised to spend millions of dollars on television ads in support of the September referendum.

But religious groups could provide the margin of victory. Susan Pace Hamill, a University of Alabama tax professor with a theological degree from an evangelical divinity school, caused a stir with a law review article called "An Argument for Tax Reform Based on Judeo-Christian Ethics," which makes an evangelical case for making the tax system fairer. She plans to train speakers this summer to take the theological argument to the grass roots. Kimble Forrister, the state coordinator of Alabama Arise, a coalition that advocates for poor people, expects the 100 church groups that are part of his organization to hold church-basement workshops this summer to get the word out to their congregations.

The Christian Coalition of Alabama has not yet taken a position on the September vote, but it has been speaking out against the plan's tax increases. In an interview yesterday, John Giles, the group's president, had trouble pointing to a biblical passage that directly supported his opposition to new taxes, but he referred to Jesus' statement about rendering unto Caesar what is Caesar's. The key question, he argued, is, "How much is Caesar's?"

As the Bush administration and the religious right fight to put theology more squarely into public policy discussions, they are going to have to be ready for arguments like the ones coming out of Alabama. Many theologians argue that it is far easier to find support in the Bible for policies that help the poor than for, say, a cut in the dividend tax. If Governor Riley's crusade succeeds this summer, Alabama may offer the nation a model for a new kind of tax system: one where the Devil is not in the details.

Why have I started my closing remarks with that article? Because I think if ever there was a formula for success in relieving suffering and hardships in the States and cities, it is an adoption of a simple Christian ethic that those who have the least deserve the least amount of taxes and the most amount of help from their government.

I have two pieces of legislation that I have introduced: One is called the Domestic Budget Protection Act, H.R. 1804. I have discussed that previously on the floor. That calls for a situation which would relieve the pressure on the domestic budget by forcing the consideration of all future military actions, like the war in Iraq, to be paid for by corporations. We once had a surcharge. During the war in Vietnam, during World War I, World War II, the Korean War, we had a surcharge on corporate profits to help pay for the war. We should go back to that so that the payment for the war is taken out of the budget as a competing factor for domestic programs like education, health care, a prescription drug benefit, et cetera.

I have a second bill, H.R. 2335, which is called the Emergency Revenue Sharing Act. The money we save should be spent in relieving the burdens that the cities and the States are now forced to deal with during this recession period. If we took the $79 billion, or an equivalent amount of the amount that we appropriated for the war in Iraq and related matters, and sent it to the States and the cities, we would end the layoffs of school teachers and personnel in the schools, we would end the pressure on our civil servants, and we would end the kind of oppression of our taxpayers that has taken place through property tax increases and ticket blitzes.

All politics are inextricably interwoven. What happens at the local level is inseparable from what happens down here. What we do here is inseparable from the hardships that are created at the local level.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. EDDIE BERNICE JOHNSON of Texas (at the request of Ms. PELOSI) for today after 4:30 p.m. on account of official business.

Mr. NADLER (at the request of Ms. PELOSI) for June 18 after 1:00 p.m. on account of personal reasons.

Mr. HASTINGS of Florida (at the request of Ms. PELOSI) for today on account of official business.

Mrs. MILLER of Michigan (at the request of Mr. DELAY) for today on account of official business.

Mr. TIAHRT (at the request of Mr. DELAY) for today after 3:30 p.m. on account of attending his son's graduation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DAVIS of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mrs. JONES of Ohio, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. BELL, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. BORDALLO, for 5 minutes, today.

(The following Members (at the request of Mr. SMITH of Texas) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, June 26.

Mr. OSBORNE, for 5 minutes, June 24.

Mr. PENCE, for 5 minutes, today.

Mr. PAUL, for 5 minutes, today.

Mr. MANZULLO, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 389. An act to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools.

H.R. 519. An act to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes.

H.R. 788. An act to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 703. An act to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the "Carl T. Curtis National Park Service Midwest Regional Headquarters Building".

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 47 minutes p.m.), under its previous order, the House adjourned until Monday, June 23, 2003, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2748. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Department's final rule — Approval and Promulgation of Air Quality Implementation Plans; Rhode Island Update to Materials Incorporated by Reference [RI-38-6985b; FRL-7493-4] received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2749. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Vermont Update to Materials Incorporated by Reference [VT-19-122b; FRL-7493-5] received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2750. A letter from the Ambassador, Republic of Poland, transmitting a letter requesting a change in U.S.-Poland immigration policies; to the Committee on the Judiciary.

2751. A letter from the Under Secretary for Health and Assistant Secretary of Defense, Health Affairs, Departments of Veterans Affairs and Defense, transmitting a letter concerning a joint review of the adequacy of processes and existing authorities for the coordination and sharing of health care resources, pursuant to Public Law 107—314, section 723; jointly to the Committees on Armed Services and Veterans' Affairs.

2752. A letter from the Secretary, Department of Health and Human Services, transmitting a report regarding the progress made in launching the Physician Group Practice demonstration, pursuant to Public Law 106—554, section 412 (114 Stat. 2763A—515); jointly to the Committees on Energy and Commerce and Ways and Means.

2753. A letter from the Chairman, Council on Environmental Quality, transmitting an account of the actions taken by the Administration to implement the President's climate change strategy; jointly to the Committees on Energy and Commerce, Ways and Means, Science, International Relations, and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 1276. A bill to provide downpayment assistance under the HOME Investment Partnerships Act, and for other purposes; with an amendment (Rept. 108–164). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 1614. A bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing and to provide financial assistance under such program for main street revitalization or redevelopment projects in smaller communities to support the development of affordable housing for low-income families in connection with such projects, and for other purposes; with an amendment (Rept. 108–165). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 272. A bill to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries; with an amendment (Rept. 108–166). Referred to the Committee of the Whole House on the State of the Union.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. H.R. 2086. A bill to reauthorize the Office of National Drug Control Policy, with an amendment (Rept. 108–167 Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILLS PURSUANT TO RULE XII

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 2086. Referral to the Committees on the Judiciary, Energy and Commerce, and Intelligence (Permanent Select) extended for a period ending not later than July 14, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BALLENGER (for himself, Mr. BURR, and Mr. BOEHNER):

H.R. 2516. A bill to amend the Fair Labor Standards Act of 1938 to clarify that Christmas tree farming is agriculture under that Act; to the Committee on Education and the Workforce.

By Mr. SMITH of Texas (for himself, Mr. BERMAN, and Mr. CONYERS):

H.R. 2517. A bill to enhance criminal enforcement of the copyright laws, educate the public about the application of copyright law to the Internet, and clarify the authority to seize unauthorized copyrighted works; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey:

H.R. 2518. A bill to amend title 38, United States Code, to provide for consolidation and improvement of programs to assist homeless veterans, to provide for management by the Secretary of Veterans Affairs of the Military Personnel Records facility of the National Personnel Records Center in St. Louis, Missouri, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ACKERMAN (for himself, Mr. HOUGHTON, Ms. KAPTUR, Mr. SMITH of

New Jersey, Mr. ABERCROMBIE, Mr. ALLEN, Mr. BAIRD, Ms. BALDWIN, Mr. BARTLETT of Maryland, Mr. BASS, Mr. BECERRA, Mr. BERMAN, Mr. BLUMENAUER, Ms. BORDALLO, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. CONYERS, Mr. COSTELLO, Mr. CROWLEY, Mrs. DAVIS of California, Mr. TOM DAVIS of Virginia, Mr. DEFAZIO, Mr. DELAHUNT, Ms. DELAURO, Mr. DEUTSCH, Mr. DICKS, Mr. DOYLE, Mr. ENGEL, Mr. ENGLISH, Mr. FARR, Mr. FRANK of Massachusetts, Mr. GOSS, Mr. GUTIERREZ, Mr. HINCHEY, Mr. HOBSON, Mr. HOEFFEL, Mr. HOLT, Mr. HONDA, Mr. INSLEE, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JOHNSON of Connecticut, Mrs. JONES of Ohio, Mr. KILDEE, Ms. KILPATRICK, Mr. KIRK, Mr. KUCINICH, Mrs. KELLY, Mr. LATOURETTE, Mr. LANGEVIN, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEWIS of Georgia, Mr. LOBIONDO, Mrs. LOWEY, Mrs. MALONEY, Mr. MARKEY, Mrs. MCCARTHY of New York, Mr. MCNULTY, Mr. MCGOVERN, Mr. MCDERMOTT, Ms. MCCOLLUM, Mr. MEEHAN, Mr. GEORGE MILLER of California, Mr. MOORE, Mr. MORAN of Virginia, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PRICE of North Carolina, Mr. RANGEL, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. RYAN of Ohio, Mr. SANDERS, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SERRANO, Mr. SHAYS, Mr. SHERMAN, Ms. SLAUGHTER, Mr. STARK, Mrs. TAUSCHER, Mr. THOMPSON of Mississippi, Mr. TIBERI, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Mr. WAXMAN, Mr. WEINER, Mr. WELDON of Pennsylvania, Mr. WOLF, Ms. WOOLSEY, Mr. WU, and Mr. WYNN):

H.R. 2519. A bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of nonambulatory livestock, and for other purposes; to the Committee on Agriculture.

By Mr. ADERHOLT:

H.R. 2520. A bill to authorize the Secretary of the Interior to acquire by donation certain property in Alabama to provide for the protection and preservation of certain rare paleontological resources on that property, and for other purposes; to the Committee on Resources.

By Mr. BAIRD (for himself and Mr. INSLEE):

H.R. 2521. A bill to require the Comptroller General to conduct a study of the business practices, procedures, accountability, and administration of the Internet Corporation for Assigned Names and Numbers and of the Internet domain name system, and for other purposes; to the Committee on Energy and Commerce.

By Ms. BORDALLO (for herself, Mr. GALLEGLY, Mr. RAHALL, Mr. FALEOMAVAEGA, Mr. REHBERG, Mr. ABERCROMBIE, and Mr. CASE):

H.R. 2522. A bill to amend the Organic Act of Guam to authorize the Secretary of the Interior to reduce, release, or waive amounts owed by the Government of Guam to the United States to offset unreimbursed Compact impact expenses; to the Committee on Resources.

By Mr. BURNS:

H.R. 2523. A bill to designate the United States courthouse located at 125 Bull Street in Savannah, Georgia, as the ``Tomochichi United States Courthouse''; to the Committee on Transportation and Infrastructure.

By Mr. BURTON of Indiana (for himself, Mr. SHAYS, Mr. LATOURETTE, Mr. DELAHUNT, Mr. BLUMENAUER, Ms. CORRINE BROWN of Florida, Mr. LEWIS of Georgia, Mr. FRANK of Massachusetts, Mr. WATT, Mr. TIERNEY, Ms. WATSON, and Mr. CONYERS):

H.R. 2524. A bill to redesignate the Federal building located at 935 Pennsylvania Avenue Northwest in the District of Columbia as the ``Federal Bureau of Investigation Building''; to the Committee on Transportation and Infrastructure.

By Mr. FILNER (for himself, Mr. GRIJALVA, Mr. HONDA, Ms. LEE, Ms. LOFGREN, Mrs. NAPOLITANO, Mr. REYES, Ms. LORETTA SANCHEZ of California, Ms. WATSON, and Mr. RODRIGUEZ):

H.R. 2525. A bill to amend the Immigration and Nationality Act to permit certain Mexican children, and accompanying adults, to obtain a waiver of the documentation requirements otherwise required to enter the United States as a temporary visitor; to the Committee on the Judiciary.

By Mr. FRANK of Massachusetts (for himself and Mr. UDALL of New Mexico):

H.R. 2526. A bill to amend the Homeland Security Act of 2002 (Public Law 107-296) to provide for the protection of voluntarily furnished confidential information, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREENWOOD (for himself, Mr. ROTHMAN, Mrs. JOHNSON of Connecticut, Ms. DEGETTE, Ms. SLAUGHTER, Mr. PALLONE, Mr. OLVER, Mrs. DAVIS of California, Mr. ABERCROMBIE, Mr. EVANS, Mr. GEORGE MILLER of California, Ms. CORRINE BROWN of Florida, Ms. LEE, Mr. INSLEE, Mr. CASE, Mr. WAXMAN, Mr. TIERNEY, Mr. BACA, Mrs. JONES of Ohio, Mr. BLUMENAUER, Mr. LARSON of Connecticut, Mr. NADLER, Mr. DINGELL, Mr. MCDERMOTT, Mr. BROWN of Ohio, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. HARMAN, Ms. LOFGREN, Mr. MATSUI, Mr. BRADY of Pennsylvania, Ms. DELAURO, Mr. STARK, Mr. FALEOMAVAEGA, Mr. GRIJALVA, Ms. BERKLEY, Ms. CARSON of Indiana, Mr. FARR, Mr. JACKSON of Illinois, Mr. OWENS, Mrs. MALONEY, Mr. SANDERS, Mr. WU, and Ms. WOOLSEY):

H.R. 2527. A bill to provide for the provision by hospitals of emergency contraceptives to women who are survivors of sexual assault; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HINCHEY (for himself, Mr. MCHUGH, Mr. ENGEL, Mr. MCNULTY, Mr. WALSH, Mr. SANDERS, Mr. NADLER, and Mr. OWENS):

H.R. 2528. A bill to establish the Hudson-Fulton-Champlain 400th Commemoration Commission, and for other purposes; to the Committee on Government Reform.

By Mr. HOEKSTRA:

H.R. 2529. A bill to amend the Federal Election Campaign Act of 1971 to require not less than 75 percent of the amount of individual contributions accepted by Congressional candidates to come from in-State residents, to increase disclosure requirements, and for other purposes; to the Committee on House Administration.

By Mr. INSLEE (for himself, Mr. DICKS, Mr. LARSEN of Washington, and Mr. BAIRD):

H.R. 2530. A bill to authorize grants for community telecommunications infrastructure planning and market development, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JONES of North Carolina (for himself, Mr. TAUZIN, Mr. BRADY of Texas, Mr. OTTER, Mr. PICKERING, Mr. TAYLOR of Mississippi, and Mr. BAKER):

H.R. 2531. A bill to amend the Federal Water Pollution Control Act relating to wetlands mitigation banking, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. KENNEDY of Rhode Island (for himself, Ms. BALDWIN, and Mr. FRANK of Massachusetts):

H.R. 2532. A bill to amend the Internal Revenue Code of 1986 to restore the applicability of the estate tax to estates over $3,000,000, to restore the 50-percent maximum rate, and to deposit revenues from the estate tax into Social Security Trust Funds; to the Committee on Ways and Means.

By Mr. KINGSTON (for himself and Mr. BURNS):

H.R. 2533. A bill to designate the facility of the United States Postal Service located at 10701 Abercorn Street in Savannah, Georgia, as the ``J.C. Lewis, Jr. Post Office Building''; to the Committee on Government Reform.

By Mr. LANTOS (for himself, Mr. SHAYS, Mr. TOM DAVIS of Virginia, Mr. WAXMAN, Mr. SMITH of New Jersey, Mrs. MALONEY, Mr. LAHOOD, Mr. KUCINICH, Ms. NORTON, Mr. LYNCH, Mr. COOPER, Ms. SCHAKOWSKY, Mr. MCGOVERN, Mr. DEFAZIO, Ms. BALDWIN, Mr. BLUMENAUER, Mr. ABERCROMBIE, Mr. MCNULTY, Mr. LEWIS of Georgia, Mr. SANDLIN, Mr. BROWN of Ohio, Mr. DELAHUNT, Mr. MCDERMOTT, Mr. STARK, Mr. OLVER, and Mr. FILNER):

H.R. 2534. A bill to promote human rights, democracy, and the rule of law by providing a process for executive agencies for declassifying on an expedited basis and disclosing certain documents relating to human rights abuses in countries other than the United States; to the Committee on Government Reform.

By Mr. LATOURETTE (for himself, Ms. NORTON, Mr. YOUNG of Alaska, and Mr. OBERSTAR):

H.R. 2535. A bill to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY (for herself, Mr. BALLENGER, Mr. SHAYS, Mr. LANTOS, Mr. WEXLER, Mr. MCDERMOTT, Mr. BERRY, Ms. LEE, Mr. MEEKS of New York, Ms. SCHAKOWSKY, Mr. BERMAN, Ms. ESHOO, Ms. DELAURO, Ms.

Corrine Brown of Florida, Mr. Payne, Ms. Woolsey, Ms. McCollum, and Mr. Owens):

H.R. 2536. A bill to make the protection of women and children who are affected by a complex humanitarian emergency a priority of the United States Government, and for other purposes; to the Committee on International Relations.

By Mrs. MALONEY (for herself, Mr. Frost, and Mr. McIntyre):

H.R. 2537. A bill to develop and coordinate a national emergency warning system; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MEEK of Florida (for himself, Mr. Hastings of Florida, Ms. Ros-Lehtinen, Mr. Lincoln Diaz-Balart of Florida, Mr. Mario Diaz-Balart of Florida, Mr. Deutsch, and Ms. Corrine Brown of Florida):

H.R. 2538. A bill to designate the United States courthouse located at 400 North Miami Avenue in Miami, Florida, as the ``Wilkie D. Ferguson, Jr. United States Courthouse''; to the Committee on Transportation and Infrastructure.

By Ms. MILLENDER-McDONALD:

H.R. 2539. A bill to provide enhanced Federal enforcement and assistance in preventing and prosecuting crimes of violence against children; to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-McDONALD (for herself and Mr. Simmons):

H.R. 2540. A bill to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial; to the Committee on Armed Services.

By Mr. MOORE:

H.R. 2541. A bill to amend the Child Abuse Prevention and Treatment Act to require public disclosure of information about cases of child abuse or neglect which result in child fatality, near fatality, other serious injury, or felony conviction; to the Committee on Education and the Workforce.

By Mr. NEY:

H.R. 2542. A bill to amend chapter 8 of title 5, United States Code, to establish the Joint Committee on Agency Rule Review; to the Committee on Rules, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PEARCE (for himself and Mr. Udall of New Mexico):

H.R. 2543. A bill to amend section 504(a) of the Higher Education Act of 1965 to eliminate the 2-year wait out period for grant recipients under the Hispanic-Serving Institutions program; to the Committee on Education and the Workforce.

By Mr. ROHRABACHER:

H.R. 2544. A bill to improve the quality, availability, diversity, personal privacy, and innovation of health care in the United States; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RYAN of Ohio (for himself and Mrs. Jones of Ohio):

H.R. 2545. A bill to amend the Internal Revenue Code of 1986 to waive the 10-percent additional tax on early distributions from section 401(k) plans in the case of hardship of certain employees due to facility closures or employers in bankruptcy; to the Committee on Ways and Means.

By Mr. SANDERS:

H.R. 2546. A bill to amend the Fair Credit Reporting Act to require consumer reporting agencies to provide any consumer with a free credit report annually upon the request of the consumer, and for other purposes; to the Committee on Financial Services.

By Mr. SAXTON:

H.R. 2547. A bill to mandate price stability as the primary goal of the monetary policy of the Board of Governors of the Federal Reserve System and the Federal Open Market Committee; to the Committee on Financial Services.

By Mr. SESSIONS (for himself, Mr. Tom Davis of Virginia, Mr. Burton of Indiana, Mr. Shays, Mr. Souder, Mr. Ose, Mrs. Jo Ann Davis of Virginia, Mr. Platts, Mr. Putnam, Mr. Turner of Ohio, Mr. Janklow, and Mr. Cooper):

H.R. 2548. A bill to amend chapter 5 of subtitle I of title 40, United States Code, to enhance Federal asset management, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHERMAN (for himself, Mr. McHugh, Ms. Lee, Ms. Norton, Mr. McGovern, and Mrs. Maloney):

H.R. 2549. A bill to amend the Fair Debt Collection Practices Act to prohibit creditors from taking action that is adverse to the interests of a consumer with respect to certain payments that are due in or shortly after the period of a disruption of the mail resulting from a national emergency declared under the National Emergencies Act; to the Committee on Financial Services.

By Mr. SHIMKUS (for himself, Mr. Hunter, Mr. Skelton, and Mr. Oberstar):

H.R. 2550. A bill to amend the American Servicemembers' Protection Act of 2002 to provide clarification with respect to the eligibility of certain countries for United States military assistance; to the Committee on International Relations.

By Mr. SIMPSON (for himself and Mr. Otter):

H.R. 2551. A bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1; to the Committee on Resources.

By Mr. VAN HOLLEN:

H.R. 2552. A bill to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to, national service positions; to the Committee on Education and the Workforce.

By Ms. WATERS (for herself, Mr. Waxman, Mr. Honda, Mr. Serrano, Mr. Kildee, Mrs. Christensen, Mr. Crowley, Ms. Eddie Bernice Johnson of Texas, Mr. Towns, Ms. Jackson-Lee of Texas, Mr. Payne, Mr. Frost, Ms. Lee, Mr. Davis of Illinois, Ms. Carson of Indiana, Mr. Scott of Virginia, Mr. Sanders, Mr. McNulty, Mr. Conyers, Ms. Kilpatrick, Mr. Udall of New Mexico, Mr. Rush, and Mr. Hastings of Florida):

H.R. 2553. A bill to amend the Public Health Service Act to authorize grants to provide treatment for diabetes in minority communities; to the Committee on Energy and Commerce.

By Mr. CONYERS (for himself, Ms. Lofgren, Mr. Delahunt, Mr. Frost, Mr. McDermott, Ms. Lee, Mr. Wynn, Ms. McCarthy of Missouri, and Mr. Case):

H. Con. Res. 223. Concurrent resolution recognizing the 40th anniversary of the founding of the Lawyers' Committee for Civil Rights Under Law and supporting the designation of an Equal Justice Day in commemoration of such anniversary; to the Committee on the Judiciary.

By Mr. GOODE (for himself, Mr. Jones of North Carolina, Mr. Taylor of North Carolina, Ms. Baldwin, Mr. Paul, Mr. Norwood, and Mr. Michaud):

H. Con. Res. 224. Concurrent resolution expressing the sense of Congress that the President should provide notice of withdrawal of the United States from the North American Free Trade Agreement (NAFTA); to the Committee on Ways and Means.

By Mr. MEEKS of New York:

H. Con. Res. 225. Concurrent resolution expressing the sense of the Congress that the illegal importation of prescription drugs severely undermines the regulatory protections afforded to United States consumers, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TERRY:

H. Res. 284. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. DEUTSCH (for himself, Mr. Kingston, and Mr. Lantos):

H. Res. 285. A resolution condemning the recent terrorist attacks in the Middle East by Hamas and other terrorist organizations and urging the European Union to classify the entire entity of Hamas as a terrorist organization, and for other purposes; to the Committee on International Relations.

By Mr. GREEN of Texas (for himself, Mr. Gonzalez, Mr. Frost, Mr. Sandlin, Mr. Doggett, Mr. Ortiz, Mr. Hinojosa, Mr. Lampson, Mr. Stenholm, Mr. Bell, Mr. Reyes, Mr. Edwards, Ms. Jackson-Lee of Texas, and Mr. Rodriguez):

H. Res. 286. A resolution directing the Secretary of Homeland Security to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all physical and electronic records and documents in his possession related to any use of Federal agency resources in any task or action involving or relating to Members of the Texas Legislature in the period beginning May 11, 2003, and ending May 16, 2003, except information the disclosure of which would harm the national security interests of the United States; to the Committee on Homeland Security (Select).

By Mr. GREEN of Texas (for himself, Mr. GONZALEZ, Mr. FROST, Mr. SANDLIN, Mr. DOGGETT, Mr. ORTIZ, Mr. HINOJOSA, Mr. LAMPSON, Mr. STENHOLM, Mr. BELL, Mr. REYES, Mr. EDWARDS, Mr. RODRIGUEZ, and Ms. JACKSON-LEE of Texas):

H. Res. 287. A resolution directing the Attorney General to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all physical and electronic records and documents in his possession related to any use of Federal agency resources in any task or action involving or relating to Members of the Texas Legislature in the period beginning May 11, 2003, and ending May 16, 2003, except information the disclosure of which would harm the national security interests of the United States; to the Committee on the Judiciary.

By Mr. GREEN of Texas (for himself, Mr. GONZALEZ, Mr. FROST, Mr. SANDLIN, Mr. DOGGETT, Mr. HINOJOSA, Mr. ORTIZ, Mr. LAMPSON, Mr. STENHOLM, Mr. BELL, Mr. REYES, Mr. EDWARDS, Ms. JACKSON-LEE of Texas, and Mr. RODRIGUEZ):

H. Res. 288. A resolution directing the Secretary of Transportation to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all physical and electronic records and documents in his possession related to any use of Federal agency resources in any task or action involving or relating to Members of the Texas Legislature in the period beginning May 11, 2003, and ending May 16, 2003, except information the disclosure of which would harm the national security interests of the United States; to the Committee on Transportation and Infrastructure.

By Ms. MILLENDER-McDONALD:

H. Res. 289. A resolution congratulating El Dorado Park South for winning first prize in the Neighborhood of the Year contest; to the Committee on Government Reform.

By Mr. STUPAK (for himself, Mr. NETHERCUTT, Mr. POMEROY, and Mr. QUINN):

H. Res. 290. A resolution expressing appreciation to the people and Government of Canada for their long history of friendship and cooperation with the people and Government of the United States and congratulating Canada as it celebrates "Canada Day"; to the Committee on International Relations.

By Ms. WOOLSEY (for herself, Ms. LEE, Mr. McDERMOTT, Mr. OBERSTAR, Mr. GRIJALVA, Mr. FARR, Mr. OLVER, Mr. OWENS, Mr. MARKEY, Mr. STARK, Mr. McGOVERN, Ms. SCHAKOWSKY, and Mr. KUCINICH):

H. Res. 291. A resolution recognizing the dangers posed by nuclear weapons and calling on the President to engage in nonproliferation strategies designed to eliminate these weapons of mass destruction from United States and worldwide arsenals; to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

123. The SPEAKER presented a memorial of aa of Maine, relative to H.P. 1204 Joint Resolution memorializing the Congress of the United States to Issue a waiver of the No Child Left Behind Act for Maine Public Schools; to the Committee on Education and the Workforce.

124. Also, a memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to House Resolution No. 70 memorializing the Congress of the United States to vote for the permanent repeal of the death tax; to the Committee on Ways and Means.

125. Also, a memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to House Resolution No. 98 memorializing the Congress of the United States to restructure the requirement in section 149(d) of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

126. Also, a memorial of the Legislature of the State of Maine, relative to H.P. 1185 Joint Resolution memorializing the Congress of the United States to support the reform of the Social Security Offsets of the Government Pension Offset and the Windfall Elimination Provision; jointly to the Committees on Government Reform and Ways and Means.

127. Also, a memorial of the House of Representatives of the State of Kansas, relative to House Resolution No. 6028 memorializing the United States Congress to consider the provision of information which does not disclose medically sensitive information to be available to inquiring persons; jointly to the Committees on Energy and Commerce, Ways and Means, and Education and the Workforce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. VAN HOLLEN introduced a bill (H.R. 2554) for the relief of Junior Anthony Francis; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 33: Mr. SENSENBRENNER.

H.R. 106: Mr. BLUNT.

H.R. 111: Mr. SWEENEY, Mr. SERRANO, and Mr. MARSHALL.

H.R. 169: Mr. GREEN of Texas.

H.R. 189: Mr. FROST.

H.R. 218: Ms. ESHOO and Mr. LAMPSON.

H.R. 223: Mr. REHBERG.

H.R. 227: Ms. MILLENDER-McDONALD and Mr. RUSH.

H.R. 235: Mr. BONNER, Mr. CULBERSON, Mr. GALLEGLY, Mr. SAXTON, Mr. McKEON, Mrs. NORTHUP, and Mr. EVERETT.

H.R. 236: Mr. KIND, Mr. UDALL of Colorado, Mr. BELL, and Mr. WU.

H.R. 277: Mr. BRADY of Texas.

H.R. 284: Mr. ABERCROMBIE, Mr. LINDER, Mr. ROTHMAN, Mr. RADANOVICH, Mr. SNYDER, Mr. LARSEN of Washington, and Mr. BERRY.

H.R. 303: Mr. COLLINS.

H.R. 331: Mr. UDALL of New Mexico.

H.R. 333: Ms. ESHOO.

H.R. 384: Mr. STEARNS.

H.R. 391: Mr. CHOCOLA, Mr. CALVERT, Mrs. BLACKBURN, and Mr. STEARNS.

H.R. 401: Mr. GARRETT of New Jersey.

H.R. 476: Mr. FRANK of Massachusetts, Mr. VAN HOLLEN, and Ms. BALDWIN.

H.R. 527: Mr. RENZI.

H.R. 528: Mr. GALLEGLY and Ms. SOLIS.

H.R. 571: Mr. ISSA, Mr. GOODLATTE, Mr. TOOMEY, Mr. BARTLETT of Maryland, and Mr. LUCAS of Oklahoma.

H.R. 585: Mr. VISCLOSKY.

H.R. 586: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CARDOZA, and Mr. BELL.

H.R. 601: Ms. WATSON, Ms. JACKSON-LEE of Texas, Ms. MILLENDER-McDONALD, Mr. BISHOP of Georgia, Mr. BALLANCE, Ms. CORRINE BROWN of Florida, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. FATTAH, Mr. HASTINGS of Florida, Mr. JACKSON of Illinois, Mr. JEFFERSON, Mrs. JONES of Ohio, Ms. KILPATRICK, Ms. LEE, Mr. LEWIS of Georgia, Ms. MAJETTE, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. NORTON, Mr. PAYNE, Mr. RANGEL, Mr. RUSH, Mr. SCOTT of Virginia, Mr. THOMPSON of Mississippi, Mr. TOWNS, Ms. WATERS, Mr. WATT, Mr. WYNN, Ms. BERKLEY, Mr. BRADY of Pennsylvania, Mr. BROWN of Ohio, Mr. ENGEL, Mr. CONYERS, Mr. HINCHEY, Ms. KAPTUR, Mr. KUCINICH, Mrs. LOWEY, Mrs. McCARTHY of New York, Mrs. MALONEY, Mr. NADLER, Ms. PELOSI, Ms. VELÁZQUEZ, Mr. SERRANO, and Ms. SLAUGHTER.

H.R. 603: Ms. WATSON, Ms. JACKSON-LEE of Texas, Ms. MILLENDER-McDONALD, Mr. BISHOP of Georgia, Mr. BALLANCE, Ms. CORRINE BROWN of Florida, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. FATTAH, Mr. HASTINGS of Florida, Mr. JACKSON of Illinois, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Ms. KILPATRICK, Ms. LEE, Mr. LEWIS of Georgia, Ms. MAJETTE, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. NORTON, Mr. PAYNE, Mr. RANGEL, Mr. RUSH, Mr. SCOTT of Virginia, Mr. THOMPSON of Mississippi, Mr. TOWNS, Ms. WATERS, Mr. WATT, Mr. WYNN, Mr. ACKERMAN, Mr. ENGEL, Mr. CONYERS, Mr. KUCINICH, Mrs. LOWEY, Mrs. MALONEY, Mr. NADLER, Mr. SERRANO, and Ms. SLAUGHTER.

H.R. 648: Mr. CANTOR and Mr. BRADLEY of New Hampshire.

H.R. 687: Mr. McCOTTER, Mr. SIMPSON, and Mr. BARRETT of South Carolina.

H.R. 714: Mr. SAM JOHNSON of Texas and Mr. HULSHOF.

H.R. 742: Mr. RUPPERSBERGER and Mr. CLYBURN.

H.R. 775: Mr. SULLIVAN.

H.R. 806: Mr. TURNER of Ohio and Mr. CUMMINGS.

H.R. 814: Mr. LEVIN and Ms. ROYBAL-ALLARD.

H.R. 816: Mr. HONDA.

H.R. 817: Mr. BAIRD.

H.R. 819: Mr. FRANKS of Arizona.

H.R. 823: Mrs. NAPOLITANO.

H.R. 833: Mr. REHBERG and Mr. BARRETT of South Carolina.

H.R. 834: Ms. LORETTA SANCHEZ of California, Mr. SKELTON, Ms. ESHOO, and Mr. CHOCOLA.

H.R. 839: Mr. LEACH, Mr. RADANOVICH, Mr. SHERMAN, Mr. PORTER, Mr. ALEXANDER, Mr. CRANE, Mr. PEARCE, Mr. KIRK, Mr. GREEN of Texas, Mr. HAYWORTH, Mr. OLVER, and Mr. FRANK of Massachusetts.

H.R. 854: Mr. LATOURETTE.

H.R. 869: Mr. UDALL of Colorado.

H.R. 876: Mr. OTTER, Mr. ETHERIDGE, Mr. BASS, Mr. BONNER, and Mr. STUPAK.

H.R. 879: Mr. GRIJALVA.

H.R. 890: Ms. JACKSON-LEE of Texas.

H.R. 898: Mr. EDWARDS and Mr. LIPINSKI.

H.R. 931: Mrs. KELLY.

H.R. 934: Mrs. MALONEY and Mr. CLYBURN.

H.R. 970: Mr. MCGOVERN, Mr. WAMP, Mr. BLUMENAUER, Mr. BAKER, Mr. STUPAK, Mr. PRICE of North Carolina, Mr. SHERMAN, Ms. HARMAN, Mr. QUINN, Mr. PUTNAM, Mr. HINCHEY, Mr. DOYLE, Mr. HONDA, Mr. NORWOOD, Mr. OSBORNE, Mr. WALSH, Mr. MARKEY, Ms. MAJETTE, and Mr. PLATTS.

H.R. 992: Mr. WILSON of South Carolina and Mr. BARRETT of South Carolina.

H.R. 993: Mr. WILSON of South Carolina and Mr. BARRETT of South Carolina.

H.R. 994: Mr. WILSON of South Carolina.

H.R. 997: Mr. RAHALL.

H.R. 1008: Mr. SHUSTER.

H.R. 1043: Ms. CARSON of Indiana and Mr. BAIRD.

H.R. 1046: Mr. JOHN.

H.R. 1049: Mr. TERRY.

H.R. 1070: Ms. LEE.

H.R. 1078: Mrs. CUBIN, Ms. KAPTUR, Mr. HOYER, Mr. KENNEDY of Rhode Island, Mr. WYNN, Mr. DAVIS of Alabama, Mr. BALLANCE, Mr. SERRANO, Mr. NEUGEBAUER, Mr. JANKLOW, Mr. WOLF, Mr. KELLER, Mr. KING of Iowa, Mr. HASTINGS of Washington, Mr. LOBIONDO, Mrs. MILLER of Michigan, Mr. DEMINT, Mr. GILLMOR, Mr. LIPINSKI, Mr. CHOCOLA, Mr. VISCLOSKY, Mr. CULBERSON, Mr. BARTON of Texas, Mr. ADERHOLT, Mr. BURGESS, Mr. MCCOTTER, Mr. RUPPERSBERGER, Mr. TOM DAVIS of Virginia, Mr. HOSTETTLER, Ms. GRANGER, Mr. PETERSON of Pennsylvania, Mr. WELDON of Florida, Mr. PETRI, Mr. SHADEGG, Mr. COLE, Mr. SCOTT of Virginia, Mr. CRENSHAW, Mrs. MUSGRAVE, Mr. SESSIONS, Mr. TIBERI, Mr. MICA, Mr. FOSSELLA, Mr. DOOLITTLE, Mr. MENENDEZ, Ms. FATTAH, Ms. MAJETTE, Mr. PETERSON of Minnesota, Mr. PAYNE, Ms. ROS-LEHTINEN, Mrs. WILSON of New Mexico, Mr. GERLACH, Mr. MURPHY, Mr. SIMPSON, Mr. ENGLISH, Mrs. MYRICK, Mr. BURNS, Mr. BALLENGER, Mr. PLATTS, Mr. BASS, Mr. BURR, Mr. NEY, Mr. WELLER, Mr. GREENWOOD, Mr. ISAKSON, Mr. FORBES, Mr. GARY G. MILLER of California, Mr. STUPAK, Mr. BEAUPREZ, and Mr. CLYBURN.

H.R. 1088: Mr. CONYERS and Mr. PALLONE.

H.R. 1118: Mr. MCGOVERN and Mr. DAVIS of Tennessee.

H.R. 1125: Mr. LOBIONDO, Mr. JEFFERSON, Mrs. NAPOLITANO, Mr. TANNER, Mrs. MUSGRAVE, Mr. JONES of North Carolina, Mr. RAMSTAD, Mr. CUMMINGS, Ms. NORTON, and Mr. RODRIGUEZ.

H.R. 1148: Mr. GARRETT of New Jersey.

H.R. 1157: Mr. SIMPSON.

H.R. 1160: Mr. THOMPSON of California, Mr. BALLENGER, Mr. STRICKLAND, Mr. PENCE, Mr. DUNCAN, Mr. GORDON, and Mr. BOOZMAN.

H.R. 1167: Mr. MILLER of Florida.

H.R. 1205: Mr. HOEFFEL and Mr. UDALL of New Mexico.

H.R. 1206: Mr. BARRETT of South Carolina.

H.R. 1229: Mr. MCCOTTER.

H.R. 1251: Mr. BELL.

H.R. 1267: Mr. MCHUGH.

H.R. 1268: Mr. ABERCROMBIE.

H.R. 1276: Mr. MORAN of Kansas, Mr. PEARCE, and Mr. GREEN of Texas.

H.R. 1288: Mrs. DAVIS of California, Mr. VISCLOSKY, Mr. MCGOVERN, and Mr. CASE.

H.R. 1295: Mr. FORD and Mr. PAYNE.

H.R. 1296: Mr. RUSH, Mr. RYAN of Ohio, Mr. PAUL, and Mr. WELDON of Pennsylvania.

H.R. 1301: Mr. RYAN of Ohio and Mr. SANDERS.

H.R. 1305: Mr. DELAY.

H.R. 1329: Mr. BROWN of South Carolina and Mr. BILIRAKIS.

H.R. 1340: Mr. GEORGE MILLER of California.

H.R. 1372: Mr. ISSA and Mr. CARTER.

H.R. 1385: Mr. HOEFFEL, Mr. COSTELLO, Mr. JONES of North Carolina, and Mr. BOEHLERT.

H.R. 1386: Ms. LEE, Mr. DAVIS of Alabama, and Mr. BELL.

H.R. 1414: Mr. CLAY.

H.R. 1449: Mr. OWENS and Mr. FATTAH.

H.R. 1470: Mr. SANDERS, Mr. DAVIS of Illinois, and Mr. CLYBURN.

H.R. 1516: Mr. DOYLE, Mr. WELDON of Pennsylvania, Mr. SHUSTER, Mr. PETERSON of Pennsylvania, Mr. SHERWOOD, and Mr. TOOMEY.

H.R. 1519: Mr. FRANK of Massachusetts and Mr. ETHERIDGE.

H.R. 1565: Mr. DAVIS of Illinois.

H.R. 1580: Mr. SANDERS, Mr. LARSON of Connecticut, and Mr. WELDON of Pennsylvania.

H.R. 1581: Mr. LINCOLN DIAZ-BALART of Florida, Mr. ETHERIDGE, Mr. BURTON of Indiana, Mr. KILDEE, and Mrs. JONES of Ohio.

H.R. 1606: Mr. WAMP.

H.R. 1622: Mr. ISAKSON, Mr. SCHIFF, Ms. CORRINE BROWN of Florida, Ms. DEGETTE, Ms. MCCARTHY of Missouri, Mr. GINGREY, Mr. TERRY, Mr. MILLER of Florida, Mr. NETHERCUTT, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 1626: Mr. HINOJOSA.

H.R. 1639: Mr. RAHALL and Mr. MCNULTY.

H.R. 1689: Mr. WEXLER and Mr. FRANK of Massachusetts.

H.R. 1707: Ms. CORRINE BROWN of Florida, Ms. LEE, Mr. PITTS, and Mr. WEINER.

H.R. 1710: Mrs. DAVIS of California, Mr. MOORE, Mr. WELDON of Pennsylvania, and Mr. CARDOZA.

H.R. 1725: Mr. HUNTER, Mr. SAXTON, Mr. BILIRAKIS, Mr. CRANE, Mr. HYDE, Mr. COBLE, Mr. STEARNS, Mr. MCKEON, Mr. GINGREY, and Mr. BONILLA.

H.R. 1736: Mr. FATTAH and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1738: Mr. GUTIERREZ.

H.R. 1746: Mr. OSBORNE and Ms. HOOLEY of Oregon.

H.R. 1764: Mr. GREEN of Texas, Mr. TIAHRT, Mr. LAMPSON, Mr. CRAMER, Mr. REHBERG, Mr. SKELTON, Mr. DEUTSCH, Mr. BOUCHER, and Mr. RYUN of Kansas.

H.R. 1767: Mr. EMANUEL, Mr. NEUGEBAUER, Mr. DEMINT, Mr. FRANKS of Arizona, Mr. COX, Mr. GIBBONS, Mr. SHADEGG, and Mr. BAIRD.

H.R. 1769: Mr. SHUSTER, Mr. SNYDER, and Mr. CROWLEY.

H.R. 1775: Mr. MORAN of Virginia, Mr. CALVERT, Mr. HYDE, Mr. CRANE, Mrs. EMERSON, Mr. BARTLETT of Maryland, and Mr. TERRY.

H.R. 1776: Mr. SIMMONS, Mr. ISAKSON, and Mr. LAHOOD.

H.R. 1784: Mr. SCOTT of Virginia.

H.R. 1813: Mr. NADLER and Mr. CROWLEY.

H.R. 1815: Mr. BALLANCE and Mr. FROST.

H.R. 1828: Mr. LARSEN of Washington, Ms. ESHOO, Mr. HONDA, Mr. LUCAS of Kentucky, Mr. MCINTYRE, Ms. LORETTA SANCHEZ of California, Mr. DICKS, Mr. FORD, Mr. ROGERS of Kentucky, Mr. TOOMEY, Mr. SIMPSON, Mr. HAYES, Mr. WELDON of Pennsylvania, Mr. HENSARLING, Mr. PICKERING, Mr. WICKER, and Mr. LIPINSKI.

H.R. 1829: Mr. WELDON of Florida, Ms. LINDA T. SÁNCHEZ of California, Mr. RAHALL, and Ms. ESHOO.

H.R. 1839: Mr. BACHUS.

H.R. 1871: Ms. MILLENDER-MCDONALD and Mr. RUSH.

H.R. 1902: Mr. SAXTON, Mr. DAVIS of Illinois, and Mr. SANDERS.

H.R. 1914: Mr. SOUDER, Mr. MILLER of Florida, Mr. MARSHALL, and Ms. LEE.

H.R. 1933: Mr. MICHAUD.

H.R. 1943: Mr. PAUL.

H.R. 1963: Mr. MCINTYRE.

H.R. 2045: Mr. UPTON.

H.R. 2047: Mr. SCOTT of Georgia, Mr. JEFFERSON, Mr. KINGSTON, Mr. FOLEY, Mr. CAMP, Mr. CUMMINGS, and Mr. BLUNT.

H.R. 2052: Mr. HONDA, Ms. LEE, Mr. RYAN of Ohio, Mr. VAN HOLLEN, Mr. THOMPSON of California, Mr. HOLDEN, Mr. TOWNS, Ms. KILPATRICK, Mr. PASCRELL, Mr. ROSS, Mr. BISHOP of New York, Mr. MOLLOHAN, Ms. WATERS, Mr. EMANUEL, Mr. VISCLOSKY, Mr. RUSH, Mr. NADLER, Mr. LARSON of Connecticut, Mr. PAYNE, Mr. UDALL of Colorado, Mr. BUYER, and Mr. NORWOOD.

H.R. 2057: Mr. UDALL of Colorado.

H.R. 2066: Mr. BISHOP of Georgia.

H.R. 2110: Mr. FEENEY, Mr. BAKER, Mr. FORBES, and Mr. OBERSTAR.

H.R. 2112: Mr. BERMAN.

H.R. 2114: Mr. TERRY.

H.R. 2154: Mr. SIMMONS.

H.R. 2157: Ms. PRYCE of Ohio.

H.R. 2193: Mr. MARKEY, Mr. HOEFFEL, and Mr. STUPAK.

H.R. 2198: Ms. SLAUGHTER and Mr. SANDERS.

H.R. 2203: Mrs. MALONEY.

H.R. 2205: Mr. NADLER, Ms. MILLENDER-MCDONALD, and Mr. CASE.

H.R. 2214: Mrs. CUBIN, Mr. WALDEN of Oregon, Mr. BARTON of Texas, Mr. BILIRAKIS, and Mr. BRADY of Texas.

H.R. 2250: Mr. DEUTSCH and Ms. LINDA T. SÁNCHEZ of California.

H.R. 2256: Mr. DAVIS of Illinois.

H.R. 2286: Mr. WEINER.

H.R. 2287: Mr. SANDERS.

H.R. 2291: Mr. ROTHMAN.

H.R. 2295: Mr. SANDERS and Mr. MCGOVERN.

H.R. 2309: Mrs. TAUSCHER, Mr. HONDA, Mrs. NAPOLITANO, Mr. BECERRA, Mr. SHERMAN, Ms. WATSON, Ms. HARMAN, Mr. LANTOS, Mr. BERMAN, Mr. SIMMONS, Mr. SCHIFF, Mr. FILNER, and Mrs. BIGGERT.

H.R. 2313: Mr. CLYBURN, Mr. BROWN of South Carolina, Mr. WILSON of South Carolina, Mr. DEMINT, and Mr. BARRETT of South Carolina.

H.R. 2318: Mr. RAHALL, Ms. LINDA T. SÁNCHEZ of California, and Mr. TAYLOR of Mississippi.

H.R. 2337: Mr. FROST, Mr. CALVERT, Mr. NEY, and Mr. RANGEL.

H.R. 2338: Mr. WILSON of South Carolina and Mr. PAUL.

H.R. 2340: Mr. WILSON of South Carolina.

H.R. 2344: Mr. CONYERS.

H.R. 2346: Mr. BARRETT of South Carolina.

H.R. 2351: Mrs. KELLY.

H.R. 2366: Mr. MCINTYRE, Mr. MATSUI, Mr. STRICKLAND, Mr. MOORE, Mr. GREEN of Texas, and Mr. CASE.

H.R. 2377: Ms. WOOLSEY.

H.R. 2379: Mr. TOWNS and Mr. PETERSON of Pennsylvania.

H.R. 2383: Mr. SHAW.

H.R. 2385: Mr. RAHALL.

H.R. 2391: Mr. FORBES.

H.R. 2392: Mr. BOSWELL.

H.R. 2394: Mrs. JONES of Ohio, Mr. HASTINGS of Florida, Mr. ISRAEL, Mr. FROST, Mr. BERRY Mr. RUSH, and Mr. STUPAK.

H.R. 2404: Mr. GUTKNECHT.

H.R. 2416: Ms. NORTON and Mr. MARKEY.

H.R. 2424: Mr. SPRATT and Mr. CASE.

H.R. 2426: Mr. CROWLEY, Ms. DELAURO, Mr. DAVIS of Illinois, Ms. LINDA T. SÁNCHEZ of California, Mr. MARKEY, Mr. LEWIS of Georgia, Mr. UDALL of New Mexico, and Mr. CASE.

H.R. 2427: Mr. FLAKE, Mr. TANCREDO, Mr. FRANK of Arizona, Mr. SHADEGG, Mr. BRADY of Texas, and Mr. CULBERSON.

H.R. 2437: Mr. ABERCROMBIE and Mr. LEVIN.

H.R. 2458: Mrs. JOHNSON of Connecticut.

H.R. 2462: Mr. UDALL of Colorado and Mr. CARDOZA.

H.R. 2464: Mr. CARSON of Oklahoma and Mr. SMITH of New Jersey.

H.R. 2466: Mr. ROHRABACHER, Mr. DOYLE, and Mr. BISHOP of Georgia.

H.R. 2475: Mr. GERLACH.

H.R. 2485: Ms. PELOSI.

H.R. 2490: Mr. BISHOP of Georgia.

H.R. 2491: Mr. NADLER, Mr. MOLLOHAN, Ms. DELAURO, and Mr. SANDERS.

H.R. 2497: Mr. PETERSON of Minnesota and Mr. RANGEL.

H.R. 2498: Mr. OWENS.

H.R. 2505: Mr. GRIJALVA, Mr. ETHERIDGE, Ms. MILLENDER-MCDONALD, Mr. HINCHEY, Mr. CLAY, and Mr. MCNULTY.

H.R. 2508: Mr. BAIRD.

H.R. 2515: Mr. NORWOOD, Mr. WICKER, Mr. KINGSTON, Mrs. MYRICK, Mr. REHBERG, Mr. BROWN of Ohio, Mr. ENGEL, Mr. FROST, Mr. SIMMONS, and Mr. MCHUGH.

H.J. Res. 36: Mr. CUMMINGS.

H.J. Res. 44: Mr. BRADY of Texas.

H.J. Res. 50: Mr. STEARNS and Mr. LAHOOD.

H. Con. Res. 99: Mr. OBERSTAR.

H. Con. Res. 164: Mr. NETHERCUTT.

H. Con. Res. 173: Mr. BERMAN.

H. Con. Res. 217: Ms. ROS-LEHTINEN, Mr. ACKERMAN, Mr. CROWLEY, Mr. DEUTSCH, Mr. HOLT, Mr. HOEFFEL, and Mr. BERMAN.

H. Res. 60: Mr. VAN HOLLEN and Mr. OBERSTAR.

H. Res. 103: Mr. MCGOVERN.

H. Res. 140: Mr. PITTS.

H. Res. 144: Mr. RUSH, Mr. STUPAK, and Ms. MILLENDER-MCDONALD.

H. Res. 194: Mr. HOLT.

H. Res. 198: Mr. WILSON of South Carolina, Mr. DAVIS of Tennessee, Mr. LEACH.

H. Res. 240: Mr. OWENS, Mr. SANDERS, Mr. MCNULTY, Mr. CASE, and Mr. TOWNS.

H. Res. 242: Mr. FOSSELLA and Ms. ESHOO.

H. Res. 250: Mr. BERMAN.

H. Res. 259: Mr. SOUDER and Mr. HOLT.

H. Res. 260: Mrs. CHRISTENSEN and Mr. DAVIS of Illinois.

H. Res. 273: Mrs. MCCARTHY of New York.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

18. The SPEAKER presented a petition of the Hennepin County Board of Commissioners, Minnesota, relative to Resolution No. 03-4-232S1R2 petitioning the United States Congress that the Board urges federal, state, and local government agencies, religious institutions, employers, schools, charitable organizations, and all of our citizens to do all that is humanly possible to assist the families and loved ones of our Armed Forces; to the Committee on Education and the Workforce.

19. Also, a petition of The Common Council of the City of Green Bay, relative to A Resolution petitioning the United States Congress that The City of Green Bay declares April 6, 2003, as "Support our Troops Day" and citizens are encouraged to wear red, white, and blue that day; to the Committee on Government Reform.

20. Also, a petition of The City and County of San Francisco, California, relative to Resolution No. 199-03 petitioning Congress to endorse H.R. 40, African-American Reparations Act; to the Committee on the Judiciary.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 2 by Mr. JIM MARSHALL on House Resolution 251: Denise L. Majette, Brad Miller, Alcee L. Hastings, Ed Case, Jerry F. Costello, Ted Strickland, John F. Tierney, Major R. Owens, Bart Stupak, Gene Green, Tim Holden, Paul E. Kanjorski, Steven R. Rothman, John Conyers, Jr., Dennis J. Kucinich, Rush D. Holt, Lloyd Doggett, Gary L. Ackerman, Carolyn B. Maloney, Robert A. Brady, Ike Skelton, C.A. Dutch Ruppersberger, Robert T. Matsui, Peter Deutsch, Anthony D. Weiner, Marion Berry, Louise McIntosh Slaughter, Edward J. Markey, Silvestre Reyes, Jim Davis, Neil Abercrombie, Nita M. Lowey, Nick Lampson, Martin T. Meehan, Jesse L. Jackson, Jr., Robert C. Scott, Max Sandlin, Grace F. Napolitano, Frank Pallone, Jr., Robert E. (Bud) Cramer, Jr., Jim Turner, Soloman P. Ortiz, Joseph M. Hoeffel, Michael M. Honda, Dennis A. Cardoza, Ruben Hinojosa, Ron Kind, Earl Blumenauer, George Miller, Ralph M. Hall, Howard L. Berman, John D. Dingell, Ed Pastor, Sam Farr, David Wu, Fortney Pete Stark, Jerrold Nadler, Jane Harman, Melvin L. Watt, Donald M. Payne, Benjamin L. Cardin, Sherrod Brown, Harold E. Ford, Jr., Brian Baird, Anna G. Eshoo, Brad Sherman, James L. Oberstar, Collin C. Peterson, Calvin M. Dooley, Elliot L. Engel, and Chaka Fattah.

SENATE—*Thursday, June 19, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. The Reverend Charles V. Antonicelli, of St. Joseph's Roman Catholic Church in Washington, DC, is, once again, our guest Chaplain.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Almighty God, we give You thanks and praise at the start of this day. Help us to know Your will. In the words of the Psalmist we pray, "Lord, make me know Your ways. Lord, teach me Your paths. Make me walk in Your truth, and teach me: for You are God my Savior."

Help us Lord, to be as generous with each other as You are with us. Help us to respect and care for all people, even those who are different from us.

Bless and protect Your humble servants in this Senate. Watch over them, their families and their staffs. Keep them from harm and guide them in the ways of Your peace.

We ask this in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, the Senate will resume consideration of S. 1, the prescription drug benefits bill first thing this morning. There are two amendments currently pending to the bill: an Enzi amendment relating to pharmacies and mail-order prescriptions, and a Bingaman amendment regarding asset tests. These amendments are being reviewed, and we will have one of those votes some time early today. The other we will be voting on over the course of today. In addition, of course, we will be considering other amendments both today and tomorrow.

The chairman and ranking member will continue to work together to try to get Senators to come forth and offer their amendments, or to let them know what those amendments will be so we can establish a queue for those amendments to be considered today, tomorrow, and, indeed, into next week.

I do encourage, as I did yesterday morning, all Members to come forward and let the managers know what amendments they are considering offering. It is important to do so. For example, today we are waiting on one of the amendments to get an official scoring back from the Congressional Budget Office, so even after we hear about the amendments, it takes some time to process them. So it is absolutely critical that we hear from our colleagues in terms of what amendments they intend to offer.

We will have rollcall votes throughout today's session. We will be voting tomorrow as well.

(Ms. MURKOWSKI assumed the Chair.)

JUNETEENTH OBSERVANCE

Mr. FRIST. Madam President, I will comment very briefly on two issues, the first is on the Juneteenth observance.

Madam President, Juneteenth, which is also known as Freedom Day, is the date on which 250,000 slaves living in Texas finally learned of their emancipation. And that occurred nearly 3 years after President Lincoln's historic Emancipation Proclamation.

It was in 1865, on June 19, that Union General Gordon Granger led 2,000 troops into Galveston, TX, with news that the war had ended and that slavery had been abolished. He told the people of Texas:

> [T]hat in accordance with a Proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of rights and rights of property between former masters and slaves, and the connection heretofore existing between them becomes that between employer and free laborer.

The celebrations that followed began a 140-year tradition. Today, all across the country, Americans of all races will celebrate with prayer, and picnics, food, family, and friends.

We join them, here on the Senate floor, to celebrate the struggle for freedom and to honor the profound contributions of African Americans to our Nation's culture and history.

MEDICARE REFORM

Mr. FRIST. Madam President, one last issue I wish to speak about now is one we will be talking about today and tomorrow on the floor of this Senate, and that is this whole issue of strengthening and improving Medicare.

Over the last several days, we have used terms such as "actuarial value," and "asset tests." We hear those terms again and again. We use acronyms so often. We talk about PPOs and HMOs and waiting on CBO for scoring. All these are important issues and vital issues, technical issues that are critical to our decisions that must be made, that we are obligated to make and should make to serve seniors in a better way with regard to their health care.

But I do want to step back, just for a second, to set the stage for today's debate, to talk to seniors who might be either watching on C-SPAN or listening on the radio, and try to describe what, from a big picture, from sort of 30,000 feet, what this bill is all about.

When I am back in Tennessee, traveling through the State talking to seniors, the questions that I receive are not about reform or private competition or a market-based approach, and how all that is going to work in the bill. It is not how many stand-alone drug provider plans will be on the table. It is not what we have to think about here, what the 10-year cost is, or even the 20-year cost of the benefits we are discussing. Those are critical issues, issues that we must address as we address this historic legislation at this very important time, given the demographics, given the fact that we are talking about a health care system that has not kept up with the great advances in the delivery system and the technology and the medical science that have occurred over the last 30 years.

What they ask in these town meetings or in drugstores or when I am walking along on a sidewalk is: How is this going to affect me? I am a senior. I am concerned about my future. I am concerned about if I get sick. I am concerned about the fact that if I have an illness now, how is it going to affect me?

Very quickly, the first thing that will happen is in about 6 months, maybe 7 months after the President signs this legislation and makes it law of the land, every senior and individual with a disability on Medicare—every senior—will have the opportunity to get a little card, a Medicare prescription drug card. Every senior will be able to benefit from this little Medicare prescription drug card.

When I am talking to a senior, I tell them: You will be able to use this card similar to the way you might have a card for discounts at the grocery store, which is becoming increasingly popular today. We estimate that by using that little card—a card you do not have today; you cannot have today because the law does not allow it, but in 6 or 7 months after this bill is signed into law, you will have a card that will give you a discount of somewhere between 10 and 20 percent, by using that card, compared to the way you are getting your drugs today.

That is important to the senior because the senior knows that, yes, this will benefit me. Yes, Government, in a bipartisan way, has addressed the fact that the burden before me is huge.

Why can we do that? Because by using the combined purchasing power of up to 40 million people—instead of an individual senior going into a retail store and paying retail dollars for that—all of a sudden that senior, by having that card, becomes part of a huge purchasing group of as many as 40 million people.

If you are living alone and your income is less than $12,000 or if you are married and you and your spouse bring in less than $16,000, on that little card will be $600 of value you can use each year right off the top. In other words, you not only get a drug discount, but you will get an additional subsidy to help offset the cost of those medicines.

A senior asks me, How am I going to benefit? You take care of the details up in Washington, and do it right. But how is it going to benefit me?

Second, beginning in the year 2006, all seniors and individuals with disabilities covered by Medicare will be offered comprehensive prescription drug coverage. They will have access to a plan that offers more comprehensive coverage, when they ask how it is going to benefit them in the future.

Third—and this is what I am most excited about in the entire bill—we have also taken steps to offer seniors and that next generation of seniors a strengthened and improved overall Medicare Program. Seniors will have new choices they don't have now to get better coverage that meets their individual needs. They will be able to choose the type of coverage that best suits their needs.

They get immediate help, and we do it in a way with a benefit they don't have access to today, and, in addition to that, we expand choice. They will have an opportunity to choose a plan that better meets their needs. This is an exciting improvement in the Medicare Program which really brings it up to a modern type of health care delivery similar to—not exactly but similar to—the options we have as Federal employees and that I have as a Member of the Congress.

It used to be "Mediscare." The last time we tried, 2 or 3 years ago, it was "Mediscare." They said, "Don't change." People will try to force you into HMOs. Do not trust Government. They are going to strip things away from you.

Actually the President mentioned this in a bipartisan meeting with Senators yesterday. It is no longer "Mediscare," thank goodness. It is Medicare. That is really what we are trying to do in a bipartisan way.

People say, You want to have your choice of doctors and not be forced into HMOs. That is simply not true. In this bill, if you want to—for seniors listening to me—you can keep exactly what you have today in terms of your traditional Medicare coverage. You don't have to do anything to take advantage of the best choices. You can keep exactly what you have today. If you stick with what you have, you can get the prescription drug benefit along with everybody else, if you want to. In other words, keep what you have but take advantage of only prescription drugs. But if you are dissatisfied with your coverage today—and you realize that Medicare really doesn't cover preventive care, it covers very little in the way of chronic disease and management, it does not today, except Medicare+Choice, an organized, coordinated way of getting your health care—you don't have to, but you will be able to choose the expanded, the more flexible, and the more coordinated kind of coverage that today we clearly have as Federal employees and which also most working people have today, that sort of coordinated care plan.

But in Medicare today, you don't have that option. You will have the option to get things that are not currently covered by Medicare, such as preventive care.

I mentioned the programs of chronic disease management. There are also programs that promote wellness. Annual physical exams we know are so important. Again, whether it is annual or every 18 months, it probably doesn't matter that much. But right now, it is not covered under Medicare. That would be covered in the new program. You will be able to have a nurse call you or stay in touch with chronic disease management to remind you in case you have forgotten about who it is taking your weight or checking your blood pressure or looking for fluid retention and blood pressure, all of which are important. If you pick those up early, it keeps you from being hospitalized or getting sick. That heart is beating. If fluid is building up in your lungs, the heart beats harder and harder. You will have to be admitted to the hospital, and you will be trying to catch up. If they pick it up earlier and you stay healthy through appropriate management, you will not have to be hospitalized.

These are the kinds of coordinated benefits most working people have today and, as I mentioned, which Federal employees have today. It is the sort of benefit we want to make available—not forcing people but making it available to seniors as well.

Our goal in this bill is to allow you to have options so you can choose the kind of coverage and the kinds of doctors and hospitals that are most consistent with your needs. That is our goal, to make sure those choices are available for you.

In the days to come, we will have a lot of discussion and amendments as to how this plan will evolve. That is the whole purpose of having the debate and amendments.

As all of us know, the House of Representatives is going full steam ahead doing exactly the same thing we are doing and developing a plan, after which we will go to conference.

This bill represents the largest expansion of the Medicare Program in its history. We are going to be spending an additional $400 billion, which is a hefty sum, in providing this new benefit and strengthening the Medicare Program, and $400 billion is a lot. But the fact is that seniors over the next 10 years are going to be spending about $2 trillion on medicines and prescription drugs.

We are trying to target the resources of $400 billion in a way that makes the most sense so we can have appropriate benefits for seniors who are less well off and seniors who have very high drug costs so they get the most help.

I am looking forward to the debate. I want America's seniors to be able to come back to this picture I have just painted, and I want them to understand really these three things.

No. 1, if you want to, you can stick with what you have.

No. 2, you can, if you want to, stick with what you have but also get help with your prescription drugs.

And, No. 3, you will have for the first time in our Medicare Program the option, the opportunity of choosing a comprehensive, coordinated health care plan that keeps up with medical advances, with advances in technology and with advances in health care delivery systems.

When we finish this bill, and when we are successful, you will have a plan that offers real health security.

Madam President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1) to amend title XVIII of the Social Security Act to make improvements in the Medicare Program, to provide prescription drug coverage under the Medicare Program, and for other purposes.

Pending:

Enzi/Reed Amendment No. 932, to improve disclosure requirements and to increase beneficiary choices.

Bingaman Amendment No. 933, to eliminate the application of an asset test for purposes of eligibility for premium and cost-sharing subsidies for low-income beneficiaries.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 933

Ms. SNOWE. Madam President, I rise to address the pending Bingaman amendment because I believe it is important to provide some of the background as to how we arrived at the asset test that is included in the pending bill before the Senate regarding prescription drug coverage and the overall Medicare Program.

We learned a lot, as I said initially, from the debate and the tripartisan plan we had offered last year. We had included an asset test. That asset test did present a number of problems to colleagues on the other side of the political aisle. We attempted to work it out, but obviously it was not to their satisfaction. We had a number of meetings during the course of the debate last fall on the pending legislation, but we were not able to resolve the differences.

One of the key contentious issues was the fact that we had an asset test they believed was too encompassing, that it would deny many low-income individuals the ability to have access to the overall drug coverage and the type of subsidy we had included. So we learned from that debate, we learned from the discussions, and we took a far different approach this time in this legislation to incorporate the lessons that had been learned in developing an asset test.

We understand Senator BINGAMAN's desire to do more for low-income beneficiaries, but we have to keep in mind that we have crafted the legislation within the $400 billion parameter included in the budget resolution. We have come a long way in terms of how much we are providing for a prescription drug benefit. Can we do more? Absolutely. But obviously we have to live within the confines of our ability to finance this and so many other obligations.

Just 5 years ago we started at $28 billion with then-President Clinton's proposal. We increased it to $40 billion, to $300 billion, to $370 billion. Now we are up to $400 billion as proposed by President Bush. That is almost $200 billion more than he had originally proposed last year. We have come a long way in this debate.

How do we design the best, most effective, fairest low-income subsidy assistance? We decided it would be important to provide a universal benefit in the Medicare Program when it came to prescription drug coverage. But also we wanted to ensure that we targeted those who were most in need. That was one of the other principles that was so essential in developing the program. That is why we decided to use various low-income Medicare and Medicaid beneficiary programs that are already enacted and have been part of law, consistent across the board with respect to formulas, and have been used by senior citizens so it is something familiar to them.

We used the qualified Medicare beneficiaries program, otherwise known as QMBs, the select low-income immediate beneficiaries, SLIMBs, and qualified individuals, the QI-1 program, to send the highest level of assistance with cost premiums, deductibles, and copayments to those most in need. As it exists in current law, we target the assistance to beneficiaries based on both their income and asset level to make sure we are capturing those who truly have the most need.

We drop the asset test that was included in the previous tripartisan legislation that would have prevented 40 percent of low-income beneficiaries from receiving coverage. We really address some of the inequities and the problems with our previous asset test by including, this time, in this legislation, programs that have already worked for seniors who have a very limited asset test.

For those in the lowest income categories, we are talking $2,000 for individuals, $3,000 for couples. For those from 73 percent to 100 percent, we are talking about asset tests between $4,000 for individuals and $6,000 for couples. The same is true for those between 100 and 135 percent of the poverty level; then for those between 135 percent and 160 percent of poverty level, assets again at $4,000 and $6,000 for a couple.

We think that by establishing consistency with other programs that have worked, we are able to design a fairer approach to the issue in terms of eligibility for the low-income subsidy. Also, we are utilizing existing government infrastructure so that we do not divert scarce dollars away from beneficiaries to create new Federal or State bureaucracies.

In developing S. 1, we did look to the lessons we learned from last summer's debate and the negotiations that progressed into the fall. We realized that in constructing the tripartisan plan, we were excluding millions of seniors and disabled Americans from eligibility for the low-income assistance subsidy because their income or assets did not meet the strict guidelines. Obviously, we did that because we were then living within the confines of $370 billion.

So we created the new categories for low-income assistance. It goes up to 160 percent of poverty level. Again, that is also a change from the tripartisan plan where we put the maximum subsidies up to 150 percent of poverty level. So we increased it from 150 to 160 percent of poverty level. For an individual that means $15,472 and for a couple that is $20,881, regardless of an individual's assets. We are not even using an asset test for another category below 160 percent of poverty level so that we are ensured we are capturing everybody who comes within those poverty guidelines in order to ensure they get the maximum subsidy possible.

This new category that we are capturing under the 160 percent and not requiring an asset test will include 8.5 million additional Medicare beneficiaries in 2006 and provide them with very generous assistance. They will not be subject as well to the gap in coverage where they are responsible for 100 percent of the cost of the prescription drugs.

This new benefit only requires a $15 deductible compared to the $275 for those above 160 percent of poverty. They have a much more generous cost sharing starting at 10 percent, from $51 to the benefit cap of $4,500; and from $4,500 until they spend $3,700, they pay a 20 percent copayment. Once they reach the catastrophic cap, the Government will pay 90 percent of the cost.

We clearly did design a program that provides the most assistance to those in most need. I know we always could do more, but obviously we had to stay within the parameters of the $400 billion in designing this program. There are those on my side of the political aisle who believe we have gone too far in providing the types of subsidies we do. But we have copayments that obviously do help to reduce utilization and overutilization of the benefit. At the same time, we also understand if these individuals don't have access to any type of prescription drug coverage, then they are going to be denied the ability to have access to the most innovative therapies and medications now available to treat so many illnesses. If they don't have access to these types of therapy, they can become sicker, which then results in hospitalization, and then, of course, we have a more expensive form of care that does impose additional and exorbitant costs on the Medicare system.

So I think in the final analysis we are going to see, by the type of benefit we have provided to the low-income, that they have the ability to have access to a prescription drug benefit so that ultimately we can realize savings to the Medicare Program. It is absolutely vital that this benefit be available to those individuals most in need.

It is also vital that we have a universal drug benefit, and that is why we designed the program from that standpoint, embracing the universal tenet of the Medicare Program. It is important that we do all we can to maintain consistency with the basic tenets and principles of the Medicare Program.

Madam President, I believe we have designed a very fair, effective, generous assistance to those in the low-income category. As I said, we even increased it from the tripartisan bill of last year, from 150 percent up to 160 percent of poverty level. We essentially removed the asset test for those in the categories from 160 percent of income levels and below. We have created consistency by using other low-income programs in the Medicaid and Medicare areas that will not result in any confusion or contradictions among different eligibility standards. So we have really made considerable progress in designing, I think, the best, most effective type of program.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I see the Senator from Missouri in the Chamber. He wants to speak next. For the information of all Senators, I think we are going to get an amendment offered on the floor shortly. But the sponsor of the amendment has only a very short time that he can be in the Chamber. I urge my friend from Missouri to remember that brevity is the soul of not only wit but sometimes persuasion.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Madam President, I appreciate the Senator's comments. I remind him that I have only recently come over from the House and am used to speaking in 3-, 4-, and 5-minute bites where necessary. I will try to adhere to the old standard. I know many people want to speak on this important bill. Many have important amendments they want to offer. I will not delay the Senate very long.

I wanted to come down and speak about this, in part, because this is a problem which has existed for a long time and has hurt a lot of people, and which I am just very encouraged and pleased to say I believe this Congress will finally solve.

I went into the House of Representatives in 1992 and, as many Members do, I often went to parades in the communities I represented. I enjoyed walking in them and shaking hands with folks. There was one couple with whom I got to shake hands virtually every parade in the city of Hazelwood. They would sit in the garage watching the parade. I would run up the driveway and visit with them. Every year, we would visit about this issue. They would take a minute—not too long because the parade was going by—and tell me of the struggles they were going through because there was no prescription drug feature to their Medicare coverage. They were making the choice that many senior citizens in the State of Missouri have to make every day between the cost of their prescription drugs and the cost of other necessities of life.

That choice hurts all of us. It hurts them, hurts their families who worry about them, and it hurts all of us because they often resolve that dilemma against buying the prescription drugs. Those drugs are often medicine they need to stay healthy. It is one of the things that is so self-defeating about our current policy because if folks cannot take the drugs they need, they get sick, and then Medicare covers the treatment and it costs a lot more than if we had simply helped them stay healthy in the first place.

We should not interpret any of this as a slap at Medicare. Medicare is a program which has provided important medical care for tens of millions of people for a generation. But it was devised in 1965 when nobody had prescription drug coverage. Prescription drugs were not a major feature of ongoing medical care in those days. Since then, it has become a very common feature of health insurance to have some kind of prescription drug coverage. But we have not updated Medicare to keep pace with those changes. We have not strengthened and improved Medicare as we should have. But now we are going to. That is the good news.

That is really the message I wanted to come down here and deliver. To me, the legislation is all about the principles and, yes, of course, it is about the details, but first you have to try to do the right thing, and then you have to check the details to make certain you are trying to do the right thing.

We need coverage that goes into effect, at least partially, right away. Seniors have waited long enough. We have been promising long enough, and now we need to deliver. We need coverage that is permanent, not one that sunsets a few years from now. We need voluntary coverage in the sense that you don't have to change your coverage if you have another method you like better. This bill qualifies on that count. We need coverage that targets the bulk of its relief for the people who need it the most. This is something that in townhall meetings all over Missouri seniors have said this to me. The folks with the lowest income and the highest prescription drug costs should get the most relief. This bill makes efforts to achieve that, and I think it largely does.

We need legislation that has a reasonable system of copays and deductibles for those who can afford them because that is the way we control overutilization, and overutilization can be bad for everybody. If too much money that we don't need to spend has to be spent in the prescription drug area, that is less money for care for heart patients or kidney patients or maintaining the standards at our teaching hospitals, which is so important to the quality of Medicare.

We need a bill that provides choices for people, one that competes for the business of these seniors, to make certain they are getting the highest quality at the lowest cost that we are capable of providing.

There are going to be many amendments offered to this bill. I am going to vote for some of them. There is one I believe we will see today that will help make certain that local pharmacies are able to participate. I think that is a great idea. I will vote for that amendment. I will vote against some. Some will undoubtedly carry and some will fail.

It is my intention to vote for this bill on final passage—almost no matter what. I don't want to sign a complete blank check here, but I cannot imagine changes that would be made to the bill that would keep me from voting to send this bill on, to move this process forward, to begin keeping the promise we have made over and over and over again in the last few years to that generation of Americans who won the Second World War, who set up the architecture of containment that won the cold war, and built this country by their work, faith, sweat and, effort. That is what this bill represents to me.

I congratulate the Finance Committee, the chairman, and the ranking member for producing this bill. It is, at minimum, a noble effort, a good first step. I think it is probably better than that, but, at minimum, it is that. We cannot get to the end if we don't take the first step. That is what this bill represents. I am pleased to be here supporting it. I hope we can strengthen and improve the bill as we strengthen and improve Medicare, and I am grateful for the opportunity to say a few words on the floor.

I yield the floor at this time.

Mr. BAUCUS. Madam President, I apologize to my good friend from Missouri. It turns out that the Senator who is going to offer the amendment is not able to do so at this time.

Mr. TALENT. Perhaps I should want to do another 30 minutes or so. I am kidding. I had all the time I needed, and I appreciate the suggestion.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I thank the Chair. Madam President, I wish to take a few minutes to speak about a feature of this prescription drug bill which I believe is particularly noteworthy, and that is help for low-income seniors.

The subsidies provided for low-income seniors and disabled people are far more generous and much more humanitarian than many of the proposals the Senate has considered in the past. We know that most seniors who signed up for this new drug program will benefit from assistance with their prescription drug costs.

Many seniors today pay thousands of dollars a year for drugs. That is common knowledge, and that is a substantial expense to them. It is to everybody, but particularly seniors and particularly low-income seniors.

For 40 percent of our seniors who make less than $15,000 per year, the prescription drug coverage provided by this bill will be truly lifesaving. That is, 40 percent of our seniors make less than $15,000 a year.

We have all heard stories about poor seniors who eat less so they can pay for their prescription drugs or who take only half the dosage the doctor recommends. I have seen that. I worked at a drugstore one day. I was really quite taken aback by the number of times the elderly would walk up to the pharmacist and quietly ask the pharmacist whether they could cut back on their prescription because they could not pay for it all, and they and the pharmacist would go into a little huddle as to which drugs to take and which ones not to take. I have seen it firsthand. A lot of us have heard a lot about this. We have heard about patients with disabling illnesses who cannot afford the expensive drugs that might slow the progression of a dangerous and unpredictable disease. It is clear, 40 percent of our seniors are making less than $15,000. That has to tell us it is a huge problem we have to address.

This bill will give some hope to those folks. The bill is an improvement, as I mentioned, over last year's bill. Last year, that bill gave seniors generous assistance with cost sharing but up to a point. Once the low-income senior hit the so-called benefit gap—that is the donut we are talking about—the bottom fell out of the low-income safety net.

Seniors who could hardly afford food and rent would have to be responsible under that bill for half the cost of their drugs, a cost that most obviously could not be assumed. By some estimates, 30 percent of low-income seniors would fall into this gap.

In the bill before us, low-income seniors remain much better protected in this so-called gap. They pay higher cost sharing in the benefit gap, but their out-of-pocket expense would never go more than 20 percent above the cost of drugs, and for the lowest income seniors who are not eligible for full Medicaid benefits, cost sharing would not go above 10 percent. I think this is a good improvement.

I am also proud the chairman of the committee, Senator GRASSLEY, and I have been able to increase the number of low-income seniors who will benefit from the extra subsidies. Our bill will provide assistance for Medicaid beneficiaries up to 160 percent of the Federal poverty level. An amendment was offered in committee to raise the poverty level to 160 percent. I wish it could go higher, but we are somewhat limited by the $400 billion we are working with in the entire bill. But at least we are up to 160 percent of the Federal poverty level. That means beneficiaries with an annual income of barely over $14,000—that is because they are not within 160 percent, just slightly over—are still struggling to provide for life's basics.

Perhaps one of the most important improvements in this bill is the assistance it provides for low-income seniors without subjecting them to assets tests.

Asset levels for elderly Medicaid beneficiaries and so-called QMBs and SLMBs are very low. Those are categories depending upon the percentage of poverty, so that if an individual has accountable assets of over $4,000, they are not eligible for assistance. A couple with assets over $6,000 is not eligible for assistance. These asset levels, which are based on SSI eligibility standards, have not been adjusted since 1989.

Asset tests exclude millions of poor Americans from Medicaid, and they would have excluded millions of poor seniors from many of last year's prescription drug subsidies. Think of it, an 80-year-old man with $800 a month in income might not be eligible for any assistance if his brother left him, say, a $10,000 car in his will. If he is married and he has paid life insurance premiums his whole life, the policy could prevent him from getting help with prescription drug benefits.

This proposal includes a subsidy category that is based only on income, not on assets. It is not as generous as the asset-tested categories, and I wish we could improve that, but it takes an important step toward covering more needy seniors and allowing them the dignity of keeping a car or a single precious heirloom.

We could do more if we had more money, but we do not have more money. We could eliminate the asset test altogether. We could provide better subsidies in the donut. We could provide more help to people who are still in need but who make $15,000 or $18,000 per year and have high drug costs.

Nevertheless, I am proud of the progress we have made over last year's low-income proposals, and I suspect with each new chapter in this prescription drug/Medicare book, we are going to be able to make improvements along the way.

This bill is a major improvement over current law. It is a major improvement over the low-income provisions in last year's bill. I urge this body to adopt this proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Madam President, the ranking member, Senator BAUCUS, raised a number of valid issues as to how we were able to improve upon the lessons we learned last year from our debate on this most important issue regarding asset tests. That was, obviously, one of the areas we had difficulties addressing in a way that would satisfy most of our colleagues in the Senate.

This year, having drawn upon those lessons, we did craft a proposal that ultimately maximizes the ability of those low-income individuals of participating in this program in the fairest way possible, and that is not to exclude those who certainly are in need of this type of benefit and certainly are in need of some type of assistance because they do have low incomes. Therefore, I think the asset test is a much more fairer approach, much more equitable, without excluding those who certainly have the need for this type of program.

We have come a long way in designing a system that, for the most part, will satisfy those who had concerns with the previous provision in the tripartisan plan.

In fact, Families USA supported our legislation with respect to this provision. I quote from it:

> We congratulate the U.S. Senate for making major improvements in the prescription drug coverage for America's 14 million Medicare beneficiaries below 160 percent of poverty.

They felt it was essential to assist the most vulnerable Medicare beneficiaries, and they, obviously, supported our efforts and thought we should not take any steps to minimize the improvements that have been made in this legislation with respect to the subsidies included in the pending legislation.

I raise another issue I was unable to address yesterday, and that is with respect to the Government fallback provision that is included in the pending legislation. I know there was an amendment that was offered by the Senator from Michigan that would provide for a permanent fallback because those who argue we should have a permanent option to Government fallback so seniors can choose under the standalone prescription drug benefit say it will offer more stability and more choices to seniors.

As we worked last year, again drawing upon the lessons with respect to a Government fallback, we learned two things. Obviously the provision and the way we addressed it in the tripartisan plan was not satisfactory. We did have language that ensured it guaranteed a seamless approach so seniors would not lose their coverage in the event the private delivery mechanism did not work to provide the prescription drug benefit, but that did not satisfy many of the critics with respect to our legislation last fall.

On the other hand, we saw how much a Government-run program can cost.

CBO estimated a Government-run program could cost at least $600 billion, at least based on the bill that had been introduced in the Senate, and that we debated with several versions, up to a trillion dollars or more. It also sunset in order to mask the true costs because again a Government-run system that has no competition, has no choices, does not do anything to maximize the efficiency or increase the innovative ways in which the private sector could provide those plans.

When one is competing against a Government-run program that has no risk, then the cost goes up. That is at least the way the Congressional Budget Office assigned the score to that program. So we had a $600 billion to $1 trillion cost with a Government-run program, because there were no risks involved in that program in implementing that type of an approach. It was all performance based, and so therefore it was going to be much more costly. Then again, it was sunset. After 7 years, the prescription drug benefit under that approach would have been sunsetted.

It also statutorily limited the number of drugs a senior could purchase to two in any therapeutic class. So, again, not only did the benefit sunset but it also limited the choices available to seniors with respect to the types of medications that would be covered under that approach because it was too costly, because it was a Government-run program.

On the other hand, we understood it was absolutely essential that seniors, regardless of where they lived in America, whether it was in a rural area or in an urban area, should have the ability to have a prescription drug benefit that was of equal value, that was in the bill that became law. So we did include a Government fallback provision.

There were those who felt it did not go far enough or was not sufficient to prevent a seamless, uninterrupted approach in terms of coverage.

This year, having drawn upon that experience, we designed a different approach, and we included a Government fallback. We think the Government fallback should be the last resort, not the first resort. So, therefore, there have to be two participating in the program with a drug benefit. If that fails, then the Government would step in. If only one plan participated, the Government would step in and provide a fallback. We think this maximizes the approaches in terms of enhancing competition and choices but at the same time ensuring seniors that no matter what happens, if private plans do not participate in some part of the country, they will always have the assurance and the guarantee that they will have access to a prescription drug benefit in the coverage without interruption. So therefore we designed a system that incorporated the risk management so we can encourage competition among the private sector plans. We think that is important.

We also help give the Secretary the flexibility to dial down the risk even to nothing in order to encourage private plans to participate. But in the event that does not happen, that we do not get two plans at a minimum participating and providing choices to seniors in any part of the country in any one of the 10 regions, then certainly the Government would step in and provide the fallback plan. Even if there is only one private plan that is available, the Government will step in. Again, to address concerns on this side of the aisle with respect to the fact that we are not doing enough to encourage seniors to go into the private delivery model, we do only allow for a 1-year contract for the Government fallback, again trying to encourage private plans to participate in the process.

We obviously think if seniors have private plans participating, they will have competition and choices that will maximize the number of choices for seniors across the board similar to what is available to Members of Congress and to Federal employees under the Federal Employee Health Benefits Program. There are a maximum number of choices, an array of plans, different types of approaches tailored to the needs of seniors either in that particular region or in terms of their medical and health care needs.

For example, a private plan could design a generic-only plan or it could design a plan that includes the most commonly used drugs for medications. So we have hopes that we not only encourage competition but at the same time provide a fallback for prescription drug benefits.

The Secretary has the authority to design that program and negotiate the risks for the plans to make the market as appealing as possible and is required to make choices among a number of plans, at least three plans for each region. However, if at least two plans are not willing to provide services in the region, as I said earlier, the Government fallback will be triggered. Once triggered, the Government will enter into a 1-year contract with a fallback company.

Further, that leaves one plan that is willing to participate in a fallback region. The Secretary may allow that plan to provide coverage alongside the Government fallback plan.

So we think we have maximized the assurances and the security for seniors that, irrespective of where they live in America, they will have access to a prescription drug benefit. The structure of this provision was vital in securing the type of bipartisan support we received in the Senate Finance Committee, and tripartisan support with the support of Senator JEFFORDS we were able to achieve in the final analysis. It was a 16-to-5 vote in the Senate Finance Committee because we were able to incorporate the lessons of the past.

That is why we designed this type of permanent fallback so that it does not undermine the costs of the programs. It invites competition but it also provides the assurances to seniors that they will have prescription drug benefit regardless of where they live in America, regardless of what happens in the private sector. If the private sector does not play a role, Government most assuredly will. I think we have designed the maximum amount of security and the least amount of risk to seniors in terms of the type of coverage they will receive.

I did want to address some of those issues because I do think it is a fundamental component of this legislation before us. There has been a lot of confusion about what this legislation is and is not, and I assure my colleagues that we do have Government protection but at the same time we also do not want to diminish the ability of the private sector to play a competitive role. In the event that does not transpire, then we obviously will have the availability of a fallback provided by Government and the maximum amount of authority vested in the Secretary to design that program so it does not jeopardize seniors' access to coverage at any point, especially those seniors who live in rural areas.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, if we can get consent, which I will offer in a moment, I intend to offer an amendment which would address one of the concerns I have with the current bill; that is, the uncertainty with regard to the premium itself.

Under the bill, it is anticipated the monthly premium paid for by beneficiaries, the beneficiary obligation, would be $35, but there is no guarantee that beneficiary figure of $35 is going to be what our beneficiaries are going to pay; it is only an average. The Congressional Budget Office that gave the $35 figure cannot state what the range will be that will be charged to beneficiaries. It could be lower. Most likely, it could be higher. I am told last year the Medicare+Choice plans increased by 15.5 percent. That was just last year alone. If Medicare+Choice premiums increased by 15.5 percent, there is no telling what the figure could be. It could be $40 or $50, and I will get into that in a moment.

Even the so-called Medicare fallback, available when private plans choose not to serve a community, provides no guarantee. So you do not have any guarantee in the private sector options that will be made available. And if those cannot be made available in a region, the Medicare fallback does not offer any guarantee with regard to what the premium will be either.

Initially, we were told by the bill's authors that the fallback plan would have a uniform premium, but in fact it does not have even a uniform premium. So not only do we anticipate that it will not be $35, we do not know what it will be. We also know it could be different in different areas. We know that Alaska or South Dakota could be forced to pay a much higher premium than someplace where price and utilization figures could be different; say, Florida. We actually see that right now with Medicare+Choice. Medicare+Choice HMOs offer prescription drug coverage today. According to a report provided to the Congress recently, the premiums in Connecticut, under a Medicare+Choice plan, today are $99 per month. That same premium is $16 in Florida.

So with the experience we have already had in the private sector, the Medicare+Choice option, we have seen a dramatic variation in the price of the premium for beneficiaries. I fear we are going to see exactly the same thing with the private plans offered through this bill as soon as the legislation is implemented.

We have two issues: First, we do not know what the premium will cost because we just have an estimated national average; second, even if there is a national average, we are concerned that there could be a dramatic variation from one part of the country to the other. It is that variation, as well as that uncertainty with regard to the premium itself, that we are trying to address with the amendment we are offering.

The way the bill is written, I will state what will likely happen. There are two terms with which I hope people will become more familiar. The first term is the national weighted average premium. That is the overall premium cost that must be achieved in order to pay for the private sector coverage as well as the Medicare backup when the bill is implemented. In other words, the prescription drug companies will determine, given what the benefit package is, given the utilization rates, given the actuarial tables, it will take so much money, divided up per person, to pay for the plan once it is implemented.

There will be two payments. One will be from the Government and the other is from the beneficiary. The second part of this term, the beneficiary obligation, is what the senior citizen is going to pay. That is the so-called $35. But the overall premium could be $100. In fact, we think it might be in the $100 range. So, under that example, $65 would be paid by Government. $35 would be paid for in the premium by the beneficiary, the beneficiary obligation.

Assume the average is $100 and assume, then, the payment is over by $10. Assume the premium is not $100 but it is $110. Under this bill, that $10 extra in the premium is paid all by the beneficiary. That will be added to the beneficiary obligation. So instead of a $35 payment, it could be $45, a 30 percent increase in the premium the Medicare beneficiary will have to pay. That is why there could be a significant variation.

So we have these two calculations: The national weighted average premium, which we estimate could be around $100; the beneficiary obligation, which is $35, roughly, give or take. And of course, as I said, we do not know what it will be like in some parts of the country. It could be dramatically different, as we have seen with Medicare+Choice right now.

AMENDMENT NO. 939

Mr. DASCHLE. I ask unanimous consent that the pending amendments be set aside and that this amendment be considered at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 939.

Mr. DASCHLE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that an affordable plan is available in all areas)

On page 103, strike lines 10 through 13 and insert the following:

“(B) the lesser of—

“(i) the amount by which the monthly plan premium approved by the Administrator for the plan exceeds the amount of the monthly national average premium; or

“(ii) in the case of an eligible beneficiary who is enrolled in a Medicare Prescription Drug plan that provides standard prescription drug coverage or an actuarially equivalent prescription drug coverage and does not provide additional prescription drug coverage pursuant to section 1860D–6(a)(2), an amount equal to 10 percent of the amount of the monthly national average premium.

On page 77, strike lines 10 through 22 and insert the following:

“(A) IN GENERAL.—In the case of an eligible beneficiary receiving access to qualified prescription drug coverage through enrollment with an entity with a contract under paragraph (1)(B), the monthly beneficiary obligation of such beneficiary for such enrollment shall be an amount equal to the lesser of—

“(i) the applicable percent (for the area in which the beneficiary resides, as determined under section 1860D–17(c)) of the monthly national average premium (as computed under section 1860D–15) for the year as adjusted using the geographic adjuster under subparagraph (B); or

“(ii) 110 percent of an amount equal to the applicable percent (as determined under section 1860D–17(c) before any adjustment under paragraph (2) of such section) of the monthly national average premium (as computed under section 1860D–15 before any adjustment under subsection (b) of such section) for the year.

Mr. DASCHLE. Madam President, basically what our amendment does is simply say: We understand there will be variance. We understand we cannot pinpoint with any precision exactly what the cost to the beneficiary is going to be. Why don't we put a cap on what that senior citizen is going to be required to pay, within some reason. If we say the beneficiary obligation is going to be $35 a month, put a 10 percent cap on that premium. It can be below to whatever extent. If it comes down to $15, we all ought to celebrate. But if it is going to be more than $35, say that it cannot exceed 10 percent of the average beneficiary obligation.

This would give some assurance to senior citizens that they are not going to be facing dramatically varied costs or facing this extraordinary uncertainty with regard to what the premium will be. But within a 10 percent range, give or take, they will know what their premium obligation will be as they make their decision from one year to the next as to what that premium will cost them.

This is exactly what we do with Medicare Part B. Right now with Medicare Part B, beneficiaries pay $58.70 a month for their physician and outpatient care. I might add, that is a consistent figure. It is the same in Alaska and South Dakota as it is in New York and California. That has worked. No one has complained.

I don't know that any amendment has ever been offered to suggest South Dakota ought to pay a different Medicare Part B premium than someone else. No one has said that having an actual figure every year that seniors can know will be a given cost is something that does not work for physicians. If it works for Medicare Part B, if it works for physicians and outpatient costs, why wouldn't it work for prescription drugs?

We are actually giving more latitude. We are not saying it has to be $35. What we are saying, simply, is let's make sure there is some certainty. Even if it cannot be with the same precision—which, frankly, I think it could be—but if it cannot be the same precision as we expect with Medicare Part B, let's at least say: Give or take 10 percent, it has to be in that $35 range. I don't think that is too much to ask, with all the uncertainty people are facing today as they consider this.

I was just talking on a radio station a few minutes ago, trying to explain what a senior would have to pay. The question was, What does this mean for a senior?

Here is what I had to say. I said we think the premium is going to be $35. We think the deductible is going to be $275. We think the copay is going to be 50/50 between the program and the beneficiary with all the charges up to

$4,500, and after that we know the benefits are cut off until you reach about $5,800, and then it kicks on at a 90-percent reimbursement rate at $5,800.

If I was a 87-year-old citizen listening to the radio, I would say: Holy cow, call my accountant. And this is for a drug benefit.

But that is what we are doing. We are asking the senior citizen somehow to make sense of all this, and then we have to say we don't even know if two companies are going to come into your region to provide the benefits in the first place. If they do not, there will be a Medicare backup and we will give you the details on that later.

This just provides a modicum of additional certainty, some degree of confidence that they have some idea, with one of those calculations, of the premium itself, that it is not going to be $45, $55, $65 a month; that it is going to be $35 a month, give or take 10 percent. I do not think that is too much to ask.

We had a debate about this legislation in the committee. I was disappointed the amendment was not adopted in committee. I feel so strongly about it I think it is important for the Senate to have an opportunity to reconsider the amendment.

We got a letter from the National Committee to Preserve Social Security and Medicare. Let me read this letter:

> On behalf of the millions of members and supporters of the National Committee . . . I am writing in support of your "Guaranteed Premium" amendment to S. 1. The current Senate prescription drug bill, S. 1, does not limit the premium increases, which could potentially subject seniors to dramatic fluctuations in premium costs. Seniors want assurance that their costs will not suddenly skyrocket. Over the past year, premiums for Medicare Plus Choice plans increased 15.5 percent. Seniors need to know what costs they can expect in order to receive a drug benefit. Most seniors are on fixed incomes and even the slightest increase could impose a huge burden on their ability to afford a drug benefit or other necessities, such as food and shelter.
>
> We understand your amendment would limit premium increases . . . preventing dramatic changes in price. We agree that seniors have the right to know what they will be paying today and in the future for a drug benefit. . . .

I will just add one other thought. The letter notes that a slight increase could impose a huge burden on their ability to afford a drug benefit. I have talked literally to hundreds of seniors—maybe even thousands by now. I know it is hard for a United States Senator to be fully appreciative of what it means to live on Social Security but many seniors do. That is their only source of income.

We are now telling them in addition to the $58.70 they pay for Medicare Part B, there is going to be added to that at least $35, probably more, for a prescription drug benefit. So now we are talking about, not $58, but probably $100, out of whatever Social Security check they get each month.

I have talked to many seniors who have said: For me, it is a choice between drugs and rent, drugs and groceries.

I think we overlook that. I think people minimize the extraordinary financial impact these charges, these costs have in their daily lives. What they want is a little more certainty. What they want is a little more assurance that they can make ends meet with these extraordinarily limited budgets within which they live.

That is what our amendment does. I am hopeful the Senate will consider it. My hope is that, on a bipartisan basis, we can adopt it later today.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I worked with Senator BAUCUS all morning, getting people to come and offer amendments.

For the information of all Senators and other interested parties, we have a number of very important committees going on—Judiciary, Commerce, to name but two. We have people on this side who really want to offer amendments, but they are simply unable to do so because of their other Senate responsibilities today.

There will be amendments offered, but we have to get these committees out of the way first.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 939, AS MODIFIED

Mr. DASCHLE. Madam President, yesterday the committee offered a modified version of the bill before us. My amendment does not conform to the modified version in terms of page and line numbers. I ask unanimous consent that a modified amendment be offered and substituted for the amendment I offered earlier this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 939), as modified, is as follows:

On page 106, strike lines 11 through 14 and insert the following:

"(B) the lesser of—

"(i) the amount by which the monthly plan premium approved by the Administrator for the plan exceeds the amount of the monthly national average premium; or

"(ii) in the case of an eligible beneficiary who is enrolled in a Medicare Prescription Drug plan that provides standard prescription drug coverage or an actuarially equivalent prescription drug coverage and does not provide additional prescription drug coverage pursuant to section 1860D–6(a)(2), an amount equal to 10 percent of the amount of the monthly national average premium.

On page 80, strike lines 1 through 12 and insert the following:

"(A) IN GENERAL.—In the case of an eligible beneficiary receiving access to qualified prescription drug coverage through enrollment with an entity with a contract under paragraph (1)(B), the monthly beneficiary obligation of such beneficiary for such enrollment shall be an amount equal to the lesser of—

"(i) the applicable percent (for the area in which the beneficiary resides, as determined under section 1860D–17(c)) of the monthly national average premium (as computed under section 1860D–15) for the year as adjusted using the geographic adjuster under subparagraph (B); or

"(ii) 110 percent of an amount equal to the applicable percent (as determined under section 1860D–17(c) before any adjustment under paragraph (2) of such section) of the monthly national average premium (as computed under section 1860D–15 before any adjustment under subsection (b) of such section) for the year.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I am going to make an opening statement on this legislation. I understand there are amendments being worked on.

First, I commend the President for his leadership. But for his leadership on this issue, we would not be here today. The President a few months ago laid out a framework for the reform and improvement and strengthening of the Medicare system which we are using in this underlying bill today. The President said he would be willing to move forward with an expansion—a rather expensive expansion, $400 billion over the next 10 years of taxpayer dollars—to provide prescription drug benefits for our senior population, outpatient prescription drug benefits. Obviously inpatient prescription drugs are covered but outpatient prescription drugs are not. The President said he would be willing to move forward with that. He believes, as I believe everyone in this Chamber does, that this is a necessary part of the continuum of care with which seniors, as well as all Americans, should be provided.

The question is how do you move forward with a huge dollar expansion of a program, Medicare, which is already $14 trillion short in revenues over the next 50-plus years? How do you move forward with a bill or an idea that is going to expand this program and create another unfunded liability of $3 to $4 trillion?

What does that mean? That means the money coming into the Medicare system is going to be insufficient to cover the additional expenditures we are going to put on the system with this bill to the tune of $3 or $4 trillion over the next 50 years. How do you justify adding this expense to a program that is already $14 trillion short in revenues?

The President said, I justify this because, No. 1, we need to do it. It makes no sense to have seniors receive care that is not the best quality or not necessarily recommended from the standpoint of what a physician would recommend but is done because the alternative pharmaceutical product is not covered under Medicare. They will do things that may not be the best quality care or may not be called for, just because it is covered, as opposed to something that is not covered. This is an important benefit that needs to be provided. But how do you justify that to the American public and future taxpayers?

The President said we need to balance that future expenditure with an improvement to the system, an improvement in terms of efficiency in the system to make the system work better from two perspectives: No. 1, from the perspective of efficiency so the money we are putting in to the system is used more efficiently and, No. 2, that we provide better quality, that the quality of care improves under the changes we hope to make in the Medicare system.

The President set out with those two goals, provide a prescription drug benefit but improve the efficiency and the quality of the Medicare system going forward. He had other goals, but I would argue those are the two big, overriding ones. So he put forward a model.

He understood the way you improve efficiency in this country is not to have the Government run the operation. The way you improve the efficiency is to marry what Government does well with what the private sector does well. What Government does well is guarantee a stream of funding and provide oversight, regulation—or refereeing, if you will—to the private sector. What the private sector does well is compete to drive down costs. Competition drives down costs. And it responds to the consumer in front of you, responds to the person with whom you have to deal. Because if you do not treat your patient well or your insured well, then you will lose their business.

Under Medicare today, Medicare cannot lose the senior's business. You have one Medicare plan. It is what it is. If you don't like it, tough. That is it. People cannot walk, by and large. In a few communities they have Medicare+Choice but just in some urban areas in this country. By and large, Medicare has a monopoly and they treat beneficiaries just like all monopolies treat beneficiaries—not well.

What we want is to have a system in place where we have private sector insurance plans that have to treat you well, have to design benefit packages you want; otherwise, they are not going to get your business. If they do not get your business, they do not survive. We believe that will improve the quality of the medicine that is going to be practiced. But it will also improve the efficiency of the health care system.

The tradeoff, and an important one, to adding benefits to this already cash-starved program was to put some things in place that over the long term will result in more efficiency and better quality care for our seniors. So the President put up a model which is doing that right now. The model is the Federal Employees Health Benefits Plan that the Presiding Officer from South Carolina and myself are under—with the exception of the pages. I don't know for sure whether they have coverage under the Federal Employees Health Benefits Plan. I don't know. I don't think they do. Maybe they do. All the other people in this Chamber who are employees of the Senate have health coverage through their Federal Employees Health Benefits Plan. It is a system that marries what the Government does well, which is a steady stream of funding, and an oversight board to make sure the private sector is doing things properly—and with competition. They let each region in which the Federal employees health benefit system offers plans contract. People come and bid for business. The companies that participate in the Federal employees health benefit system go out and market to Federal employees in the region to get them to sign up to their plan. If they don't do a good job, people do not sign up for their plan. If they don't offer a good benefit package, if they don't service the beneficiaries well, then they lose business and move on. And someone else comes and picks up the slack. It is a good combination of public-private partnership to get quality benefits and efficiency of taxpayer dollars and a reliable benefit for Federal employees.

The President saw this as a good model to move Medicare—which is right now a one-size-fits-all Government program run out of Baltimore, MD, and here in Washington, DC. Prices are set here for all of the country—what is going to be reimbursed, what is not going to be reimbursed, what technology is going to be available, what medical technology will not be available, what drugs will be available, and what drugs will not be available. Everything is run out of central planning here.

The average time it takes for Medicare to have a new technology approved is roughly 18 months at the earliest and 3 or 5 years at the latest. The turnover rate for a change in medical technology is 18 months to 2 years. Just about the time Medicare has the approval of a new technology, it is replaced.

We are always behind. Why? Because it is a bureaucracy. Guess what. They don't have to compete for your business. If you do not like it, tough. You have no choice. If you want health care coverage as a senior, this is what you get. It is not consumer friendly. It is not patient friendly because there is no incentive to be.

We want to marry these two concepts—public and private, the good parts of both.

When the President put this plan out, some complained that what we put out wasn't detailed enough. I know many of us in the Senate urged the President not to be very detailed. His job is to provide the vision and the overall goal and structure by which we can accomplish it in very broad-brush terms. What we have been doing for the last few weeks is figuring out how precisely we get that done. It is very complicated. It is very difficult. We are working through a lot of those issues right now.

I think we took a very good step and a big step in the right direction in the Senate Finance Committee. That is the next group which I would like to congratulate—the chairman, Senator GRASSLEY, and the ranking member, Senator BAUCUS—for working together in a bipartisan way.

The President put forth a plan that he argued—and I think it has been proven out—is the basis for a bipartisan compromise.

"Mediscare" has been used in this Chamber and across this country for far too long. It is time to get down to solving the problem. That means we have to try to put something together that brings the two parties together. The President put out a plan that lays the foundation. Now it is our job to continue that work.

I think with the vote in the Senate Finance Committee of 16 to 5, you saw that there is a foundation which has now been flushed out considerably on the Senate floor as a solid one on which to build this service. There are still a lot of problems.

I don't want to paint this as a rosy scenario and that we are going to walk arm in arm down the aisle for a bill signing in the next day or two. There are a lot of issues we have to go through. The ones that concern many on this side of the aisle and yet to be resolved are issues that go to the underlying premise of what the President is trying to accomplish.

I talked about the President wanting to add this very expensive and needed benefit onto this program but at the same time providing some improvements to the system—marrying the private and public sector so we would have long-term stability in this program.

There are concerns on this side of the aisle that while we have accomplished the first—that is, we have added $402 billion worth of new drug benefits—we may not have done enough to make sure this new system that mirrors the Federal Employees Health Benefits Plan, a combination of the public-private, as opposed to just the solely public. But this new system was written in a way for it to succeed.

We are working through that process right now to make sure we don't go forward with a plan which simply adds a drug benefit to a monopolistic, publicly run, bureaucratically run health care system—Medicare—and simply add more costs to it without the improvements in efficiency and quality that, frankly, beneficiaries deserve and that the public should demand.

We have some work to do. A lot of Members on our side are very concerned about that balance because it is important. The big stumbling block on this side of the aisle has always been of adding a new benefit that has never existed. Universally, people here believe we need to extend outpatient prescription drug benefits to seniors. But the real question is, How do we deliver that benefit? Candidly, how do we improve the Medicare system that was designed in the mid-1960s? It was designed after a 1965 Blue Cross plan that exists nowhere in the "wild," if you will—only in the zoo here in the U.S. Capitol—which is Medicare. But it does not exist in the "wild" anymore because it couldn't survive. It became extinct because it could not compete with all the other species out there that were offering better benefits at higher quality and at lower costs.

This dinosaur—this 1965 Blue Cross plan—became extinct in the "wild." But only in the laboratory of the Government here in Washington, DC, has this dinosaur been able to survive. Does it survive and thrive? No, it does not. Is it reproducing? No. It will be reproduced nowhere. The only place this will ever survive is in this environment of the Federal Government.

What we need to do is understand that there are better species out there. There are better models out there. There are improvements as to how we deliver quality care and better responses that beneficiaries need through the insurance process. We need to implement those. I would argue that we need to implement them quickly. We need to get as many people as possible into those better models. I don't see too many people driving around in a 1965 Plymouth Fury. People do not drive them anymore. They are driving newer models and technologically innovative automobiles that have responded to consumer demands and they have improved as a result.

That has not happened in Medicare. We need to get people into a much more efficient, quality-oriented model for them to "drive" through their senior years. That is what we are attempting to do. But if we do not do that—and in the past, when we looked at all these bills, whether it was in the last session of Congress or in previous sessions of Congress, we were never willing to get out of the 1965 "car." We always wanted to keep more and more people, with more and more demands, and with there being more and more complexity, "driving" in this old vehicle that does not work well.

It is on its last leg. As I said before, using the animal analogy, it does not survive in the "wild." We want something that can survive in the "wild." Why? Because the private sector has evolved to be responsive to the needs of our people. So as new technologies come into play—where it takes 2 or 3 or 4 or 5 years for Medicare to figure out it is a good idea—the private sector, because they have the pressure of knowing people can leave their plans, can look at it and say, yes, we will reimburse this right away because it is better quality, probably better value, and it may lead to lower costs somewhere else. Medicare does not do that. It is not that they can't do it; they don't do it.

So we will have plans in place that change as medicine changes. And that quality is what seniors deserve. But we have to make sure the bill is structured to make sure these plans have the resources and don't have the regulatory ropes to constrain them to where they can't survive.

So it is a major issue. It is one that is being debated as we speak in a lot of places around this Capitol as to how we structure this system. I know there are many people on the other side of the aisle who would not like to see this system exist. They have been very clear about that. They want a continuation of the "extinct dinosaur" that can survive nowhere in the "wild" as being a model by which we can model this plan after to deliver this benefit.

Or the 1965 Plymouth, you don't see very many of them around. Why? The consumer wants something different, better, higher quality, more efficient. That is what we are trying to accomplish here. I understand there is opposition over there. I understand people want to stay with what they are comfortable with. Unfortunately, for lots of years, seniors have been scared into believing that any change is bad, that we are going to destroy Medicare or have Medicare go away. Candidly, models of cars change, animals evolve, we change based on technology, innovation, improvement, and Medicare needs to do the same. It needs to have the ability to do the same. That should not scare the American public. It should be that we give seniors the kind of quality health care system they deserve, that every other American has in the private sector who has private-sector insurance, which is available to them. So we are making a good start. We have a little ways to go.

We have to make sure that what is the highest priority on this side of the aisle—which is to have a balance between a drug benefit and improvements to the system—is maintained in this bill. I know that isn't the highest priority for many on the other side of the aisle. Thank goodness there are more than a handful of Members on the other side of the aisle who understand the need to accomplish both these goals. That is what bipartisan consensus is formed on.

I hope we can continue down that road and keep this bill centered, by accomplishing both missions, not just what one party really wants or what the other party is really seeking but both missions. If we can do that, if we can have a balanced bill, then we will pass this bill by an overwhelming margin. If we have a bill that ultimately is going to rely on a "1965 Plymouth" or a "dinosaur" to deliver benefits, then it is not going to be a bipartisan bill and there will not be any bill at all.

We need to have both. Seniors deserve both. Taxpayers deserve both. Future generations, who are going to be dealing with this unfunded liability, deserve both. And we have a responsibility to deliver that.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, while we have been in the quorum call, there are a lot of negotiations underway in terms of various amendments being brought to the floor and the ones that are currently here. While I have an opportunity, I want to spend a few moments on a couple of charts I know have helped me and I believe will help my colleagues and others who are paying attention to the debate as to why we are looking at real changes in Medicare and why such changes will result in strengthening and improving Medicare in a way that we just did not do 5, 10, or 15 years ago and why the time is now for us to act.

Yesterday, I talked a little bit about the history and the advances that have taken place since 1965, when Medicare was enacted. The advances have been huge. The point I had begun to make was that the advances in health care, health care delivery, medical technology, and science have been huge and dramatic, but at the same time the structure, the system, has been almost frozen in a 1965 model.

I will use three consecutive charts. The X axis here will be time, 1965, when Medicare was first enacted, and the present date here, 2003 or 2005. Then on this vertical axis—this is subjective—is change. It is modernization. It is advances. It is differences from 1965 to where we are today. With the third chart, I will put this together.

Referring to the first chart—this is change; this is time—Medicare was enacted in 1965. Things didn't change very much in the system until 1972, when coverage was expanded for individuals with disabilities and for a subpopulation that had been missed but was growing, and that is people with kidney failure, called ESRD, end stage renal disease. That was a pretty dramatic change in the system because we changed the entitlement nature and we expanded coverage. We are doing a little bit of that on the floor this week and next week. I will come back to that.

It was a reasonable change. In terms of overall change, it wasn't a big change. Then things went for another 13 years, to 1985, until we had the next big structural change in the way health care is delivered to our seniors. That change—we ratchet it up a little bit here in 1985—we had what is called prospective payment for hospitals, inpatient hospitalization. So if you had a patient in a hospital, instead of just reimbursing whatever cost went through, we sat back and said: What should a patient with a certain diagnosis—say, heart disease, or it could be ischemic heart disease—if you took all the patients coming through, what is a reasonable price, looking at everything we knew at that point in time, to reimburse the hospital.

That is called the prospective payment system, PPS, for inpatient hospitals. That was an innovative change that was important to overall health care delivery in the system.

Then we had several references to what happened in 1988 and 1989. In fact, a lot of people have said to me: We will have to be very careful with what we do; otherwise, we will repeat what happened in 1988 and 1989. Here we had enactment. We passed a bill and then repealed catastrophic coverage, meaning high out-of-pocket expenditures if there was a tragic, unexpected event or an automobile accident where health care costs were just huge, that there would be some limit there. It was nobody's fault. You would have some insurance there to cap how much you take out of your pocket to pay for that catastrophic event in one's life.

Here I have a line coming up. And since we repealed it, I have a line going back down. So we attempted a pretty big change at the time, but for all sorts of reasons the system was not quite ready for it and, therefore, it was enacted and then shortly thereafter, in 1989, repealed.

Then things didn't change very much until the late 1980s and we had added a prospective payment system for physicians. I mentioned that we did it for hospitals in 1985. So again, we ratcheted up, and the system changed. It was modernized; it was improved in the late 1980s.

Since then, we had some other types of changes that didn't dramatically change the system in terms of the way health care is delivered to our seniors but did affect it dramatically. We had the Balanced Budget Act of 1997. We had what is called Medicare+Choice which is predominantly an HMO. What we are talking about in the bill on the floor is not health maintenance organizations. We are talking about a newer, more up-to-date way than HMOs of delivering care called PPOs, which is a preferred provider way of delivering care. It is very different.

This is Medicare+Choice, HMO delivery, in 1997. Today, there are about 5 million people in HMOs and Medicare, and although those numbers are falling over time, it is because there are fewer HMOs offering it because of the regulations, the way we reimburse. But the people who are in the HMOs, those 5 million seniors, are very pleased with those plans in the aggregate. We did some other prospective payment changes here but not much change.

The point of this graph is that since 1965, the Medicare system, a great system that has served people very well, has not changed very much at a time—and this is what is on the next chart—when technology, medical science, medical advances have all been really quite dramatic over this same period. Indeed, if you look, again, from 1965 to 2003, you see there has been huge growth in health care advances, both science and technology, what we know, the human genome project, delivery of care directly.

For example, in 1967, there was the first successful heart transplant and the first liver transplant. I put that on there because that is what I did before coming to the Senate. In 1969, we developed a genetically engineered vaccine. We are trying to go back and pass new legislation called BioShield. As soon as we get finished with Medicare, we have to come back to that legislation because it looks at the importance of vaccines to fight bioterrorism, SARS, and other illnesses.

In 1974, this body passed the HMO Act, a new type of delivery system. It hasn't worked out quite as well as anybody would have liked, but it was important to try to deliver health care more efficiently. In 1977, coronary angioplasty developed, where you put these stints in the heart. Before then, it had never been done.

In 1984, we talked about HIV/AIDS on the floor. I was a resident at that time, working up in Boston, MA. We didn't even know what that virus was, HIV/AIDS. Since 1981, 23 million people have died from this virus we identified not that long ago. We responded on this floor in a very admirable, bipartisan way, following the leadership of the President. We passed a public health bill that targets this HIV/AIDS virus throughout the world.

The first successful single lung transplant was in 1983.

In 1985 came preferred provider organizations, a new type of health care delivery system. Over a million people were enrolled.

I will jump up to 1998. Now 90 million people are enrolled in this entity that was invented in 1985. Remember, Medicare hadn't changed at all. Medicare doesn't have PPOs in it today, except in a few demonstration projects.

Prozac, in 1988, had a revolutionary effect on people when appropriately prescribed for certain disorders.

In 1987, there was the first cloned adult animal, Dolly. We remember that. It brings up all sorts of issues we will be coming back to eventually here, including the appropriate role of the cloning, stem cells, and all of the issues that are before us.

In 1997, 85 percent were enrolled in managed care. It did not exist in 1965 or 1970. Yet there was 85 percent enrollment in 1997.

The human genome project—the Senator from New Mexico just walked in and he is, in my mind, the father of this project. It finished 2 years ahead of schedule, under budget. It really started as an idea here, or was captured as an idea on the floor of the Senate by the distinguished Senator from New Mexico and others as well. Since that point in time, over a 10-year period, there are 3 billion bits of information we now know that we didn't know 10 years ago. There have been tremendous advances, and it opens up a whole new spectrum of innovation, creativity, and technology to benefit untreatable diseases today. This human genome project is exciting.

The challenge we have today is to have a Medicare system that can capture that innovation, that technology, and what we learned in better health care delivery, and right now Medicare doesn't do that. Medicare is not designed to do that. Thus, as we look ahead, we need to strengthen and improve Medicare. Now we have the opportunity.

If you put these two charts together, it explains why we are on this bill and why we are working hard to negotiate this bill in a way that is bipartisan and looks at health care security for seniors. That is what we want on both sides of the aisle. Shown in red on this chart, Medicare has not changed very much over the last 35 years. Yet we have health care delivery, and science and technology, pharmaceutical research, and heart surgery, lung surgery, and coronary artery bypass surgery wasn't done in 1965, period. Medicare has not changed at all. Health care advances have changed dramatically and will change even more, and it is this gap—for our seniors we are talking about—that we are addressing.

How can we sufficiently change Medicare so the line will come up and we can be more in sync with health care advances and health delivery advances with a system that is flexible enough to capture them—whether it is treatment for mental illnesses or whether it is preventive care. There is no preventive care in Medicare today. There is no protection for catastrophic coverage. There is no chronic disease management. Yet our health care delivery system knows that is the most effective way to treat seniors and, indeed, everybody in terms of health care.

So what is the response? The gap is what conceptually has changed. I don't have numbers over on this side of the chart because it is concepts. But at least what we are trying to do is bring that forward. What are we going to do? I will go through this quickly. We have seniors today—this is Medicare today—who have two choices. There is traditional Medicare, with 35 million in the program. These are seniors and individuals with disabilities, those two groups. Five million people are in Medicare+Choice. We brought that forward about 5 years ago. Those 5 million are pretty satisfied. They are mainly HMOs, that 5 million. So 35 million are in traditional Medicare, what we call fee for service. It is this traditional Medicare that really has not changed much since 1965. There have been some changes but not many.

The next question is, if this legislation is passed, after we amend it and pull things together, what are we going to have in 8 months or a year from now? That will be this chart. It is going to be the same format for the next two charts. We will have, again, traditional Medicare, with 35 million people, and 5 million people in Medicare+Choice. This will alter a little bit. The addition to this will be the prescription drug card. Maybe 6 to 9 months from the time the bill is signed, every senior will have access to a prescription drug card that will allow that senior to go into a pharmacy, a retail outlet, or a mail order house and, with that card being used, will be given a discount of maybe 10, 15, 20 percent. That will be within—I don't know—6 to 8 months when that will take place, while the rest of the system is being modernized. That is in 2004.

People need help now. We can give them help now. I mentioned some figures earlier. If you are low income, this prescription drug card can be used just straight right off the top as a benefit. Then the last chart——

Mr. DOMENICI. Mr. Leader, every time you pointed to this group, the most important fact about it is they don't have any prescription drugs. When you talk about the other groups, they may have. But this group doesn't have any today.

Mr. FRIST. That is correct. In response to the distinguished Senator from New Mexico, he is exactly right. We are talking about health care security for individuals, and 35 million seniors who are choosing this particular plan today do not have access. They have no choice. Even if they wanted it through Medicare, they cannot get it. That is the benefit—the prescription drug card—that we are initially going to reach out with to help every single senior.

People with low incomes will get a lot more help than wealthy people. Every senior will have access to the prescription drug card. On the last chart, we will show what happens 2½ years from now. This will be Medicare in 2006. This is exciting. Seniors, after using the prescription drug card about 2 years, will stop using that because, by then, we will have designed a system that does the following:

Those people, just as the distinguished Senator from New Mexico said, who chose traditional Medicare can keep it. They can keep exactly what they had, but they will have access to a new prescription drug insurance plan. They don't have this now. We are going to add that. Some people say they don't want all these choices. "I am fine, Dr. Frist, Senator FRIST. Let me keep what I have. I am 80 years old and I just want exactly what I have. I am doing fine."

We are going to be able to tell them they can keep what they have, but if they would like, they can have access to prescription drugs. The green here represents prescription drugs. Medicare+Choice, which is mainly HMOs, already has prescription drugs—almost all of them. The value is about $600 today, if you choose this. Only 5 million people chose this, and 35 million are in that. We will really double the value. If you want to stay in Medicare+Choice, the actuarial value—I really hate using these words—you are going to get this much benefit, and you are going to have this much benefit.

Or—this is the exciting part—we have the entities that build upon all the rapid advances of the last 20 to 30 years that is state of the art. That is why it is so important to get the best Democrats have to offer, the best Republicans have to offer, the best of the private sector, the best of the administration to make sure this is designed well with state-of-the-art technology, the most modern, the fairest, the most equitable—this is where a lot of the debate is going to be.

People can stay in traditional Medicare, choose Medicare+Choice, or choose these new PPOs. The PPOs will have prescription drug insurance as part of integrated health care and coordinated care where they have teams of doctors and chronic disease management, with nurses who are integrated into a team who may call a patient once a week to make sure they have not picked up too much weight. When you pick up weight, that means you are retaining water, and you could develop congestive heart failure.

They actually will have chronic disease management and preventive care. Remember, there is no preventive care in Medicare. There is no coordination in Medicare. If you have chest pain, it may be esophagitis or indigestion, and you might go see BILL FRIST, the heart surgeon, because it is in your chest. That is what you do in Medicare. You go to BILL FRIST, the heart surgeon. I know a lot about heart surgery and fixing a heart, but I do not know that much, to be honest with you, about indigestion. Yet people will come see me when I practice. That coordination is fragmented, it is disjointed, and that is what we will give away by giving this option of the PPOs. That is pretty much it.

The debate is how many people will move from traditional Medicare to Medicare+Choice or PPOs. Should there be incentives for people to move since we know PPOs are a higher quality of care in terms of objective management?

It only makes sense, if you coordinate people's care, you have preventive medicine built into it and chronic disease management. It is going to be hard to argue that the care is not there. But what sort of incentives? That is where much of the debate will be.

Initially, the debate was maybe the prescription drug package over here should be more available than this one and people will gravitate. The underlying bill does not have that happen. This Medicare benefit for drugs is the same as the Medicare+Choice benefit and the same as the PPO benefit.

That is the way I look at this issue. It keeps it simple, which I need as we go through this debate. Now we are down to filling in the details to make this system work.

I am very optimistic that this will be what seniors have access to in 2006, but it will not happen unless we do our work over the next 10 days.

Mr. DOMENICI. Will the Senator yield?

Mr. FRIST. Mr. President, I will be happy to yield to my distinguished colleague.

Mr. DOMENICI. Mr. President, first, I was watching the majority leader's discussion in my Senate office. I was so pleased that he chose to give the history of Medicare and his personal understanding of where we are that I thought I should come down and be present, at least as he finished.

I congratulate Senator FRIST. I am going to say something that is perhaps outrageous. I do not think it is possible that previous Senates, as they passed great health care programs—Medicaid, Medicare—or when they passed Social Security in the Franklin Roosevelt days, I do not believe there can possibly be a CONGRESSIONAL RECORD that has an explanation of something as complicated as this that is as competent, as good, as understandable as this, and I commend Senator FRIST for that.

First of all, Senator FRIST understands the issue. Second, we are very fortunate that he happens to be a great doctor who decided to be a Senator. That does not happen very often either in history. Combine the two, and then we were pretty fortunate—we Republicans, and then the Senate—that we elected him as leader.

Frankly, as his good friend, the truth is, Senator FRIST had not been around here long enough to be the leader. But we picked him anyway. How lucky we are. Frankly, he has not missed a step. This year will end, as it started, with one success after another because of his leadership.

This bill will pass. Seniors will know more about this program than any comparable program because of Senator FRIST, because of the way he has handled it. As a matter of fact, those who talk to America on all the talk shows, whether they are for this or against it, whether they call it too liberal, too generous, whether they call it wrongheaded, whether they call it a Kennedy program that Republicans have been suckered into—whatever they are saying out there, the truth is, it is very bipartisan, and there is nothing wrong with that.

I was telling Senator FRIST the other day that Social Security and Medicare heretofore in our history were not passed with equanimity of support. However, once they were passed, regardless of what has been said partisan-wise out there, the support has been just about the same by Democrats and Republicans for Medicare funding and Social Security funding. We have all agreed to save Medicare and save Social Security. It is just about Democrats and Republicans doing the same thing because it seems that somehow the seniors of the country bring us together. We end up being one, and that is happening here.

The Senator would admit, would he not, that we are taking a chance because we are drafting something enormous, and a huge portion of it is going to have to be administered by both private companies and by the Government. It would seem that we are trying in these models to give our seniors choice, to build into a model something we have left out of medical practice, and that is preventive medicine and group practice.

The majority leader gave an example of where perhaps somebody who is sick will actually be treated by a team if they are in a PPO. That does not happen today unless it is an extraordinary fee-for-service doctor who has a lot more than just a doctor's office but has all the equipment and two nurses who are treating people. We also are hoping people will say they are comfortable, but maybe they ought to move over and try this broader scope of coverage.

I will tell all of my colleagues that my good friend, the leader, knows a lot about my ailments. I have been pretty sick for the last few years; in fact, for 4½ years. I have something wrong with my hand that causes unabated pain and the leader has been very helpful to me. The other day he was explaining the PPO system to me. He slipped and talked to me as one of America's senior citizens. He started laughing as he said it. He said: Well, you are, aren't you?

I said: That's true, I am. I'm 71.

He laughed and said: It would not be too easy to tell you, Senator, just move on over and get into a PPO. I said to him it would not be easy. I want to be honest, it is not going to be easy for a lot of senior citizens.

The point is, they are going to find out from their neighbors, their friends, through their relatives, and, if it is done right, from their doctors, that moving from traditional Medicare to the PPOs, the group coverage which will also have the same prescription coverage, is a better way for more Americans.

That is our hope. As a matter of fact, I think I am correct that is the hope of the system. That has to happen if this new system is going to work properly. I ask the Senator, is that a fair assumption?

Mr. FRIST. Mr. President, in response, I believe it is. Some people would say, no, we can make everything work and improve on everything. In terms of the demographic shift, the fact is, we have doubled the number of seniors. It is unprecedented. It never has happened in the history of this country, or indeed in the world, where a country has doubled the number of seniors over a 30-year period, going from 40 million seniors to approximately 78—really about 37 million to 77 million. At the same time, we have not half but a diminishing number of workers paying into the system.

I argue that this is done on quality of care. I just know if one gets into a system where they have a doctor talking to a nurse, a doctor talking to a specialist, that they have preventive care, they have a nurse who specializes in chronic disease management—which is the whole purpose of this coordinated care, that they are getting a higher quality of care.

In addition to that, it is a more efficient system. Choice is going to allow people to go to the systems that give the best care, and with that it is sustainable over time because it allows an element of the marketplace to work.

The marketplace is nothing more than rational people making rational decisions, and it might be to stay in traditional Medicare. But the argument would be if someone is getting better care over here and better value over time, the PPO model will attract people.

The other point I should at least mention, and the reason why I know it can work, is that people who are near seniors say they are 64 years of age and they become 65 years of age about 80 percent of them have similar type plans, although not exactly. They have employer-sponsored plans. So when they get to be 65—not the Senator from New Mexico because he is in the Federal Government and he is already in a plan like this. We have that advantage. We want to give it to our seniors. But for the person who is 64, soon to be 65, when they make it to 65 they give up their employer-sponsored plan and have to take this traditional Medicare. So what we are going to say is when someone hits 65——

Mr. DOMENICI. They can stay there.

Mr. FRIST. They can keep that sort of plan. That is why I am so confident that over the next 30 years this will work because that is what the Senator has, and what I have, and what most employer-sponsored plans are. But that is what we are denying seniors and those with disabilities. That is why underneath I am so confident this can work.

We have to make this work. We have to improve it and that is what we can do over the next 8, 9, 10 days.

Mr. DOMENICI. Does the Senator remember—well, he was not in the Senate yet.

Mr. FRIST. I was probably in the operating room.

Mr. DOMENICI. He probably was. The Senator was making those flying trips back and carrying the hearts so he actually could transplant them in a timely manner. But when we first started talking about HMOs, there was a big battle going on between whom? The doctors of America and the legislators because the doctors were not accustomed to HMOs. The doctors were all accustomed to what was called traditional care; that is, they themselves ran it. They did not have any kind of group practice. They did not have any kind of clinical practice. As a matter of fact, we used to have to go home as legislators and meet with doctors and try to convince them that the goal was not to destroy the medical practice but rather to give them an opportunity to practice in a different way.

Mr. FRIST. Yes.

Mr. DOMENICI. Frankly, what was being said in this Chamber—not as well as the Senator from Tennessee says it and not with as much knowledge—but what was being said was everyone would benefit if we went to the HMOs. The patients will get better care. Prevention has a better chance of inserting itself into the system than the traditional way. We have now—and not because we are great thinkers and because America plans things very well, but we have moved in the direction of PPOs that is professional units—and HMOs, which are privately managed delivery groups, they are no longer a surprise to the doctors. Some still sit home, like in my State, and wonder what is happening to the world. It is passing them by and it is no good.

The truth is, millions are trying managed care and hundreds of thousands of doctors are practicing that way.

Mr. FRIST. Mr. President, if I could just briefly respond, and that is where this Medicare+Choice is really the HMO model, although not for everybody.

Mr. DOMENICI. Correct.

Mr. FRIST. We have learned a lot from it since 1974. The point is Medicare has not changed.

Mr. DOMENICI. Right.

Mr. FRIST. We can preserve the good of that model but, based on what we know in 2003, add state-of-the-art, quality, partnering-type, coordinated, integrated delivery of health care. That is a great example of traditional Medicare in 1965. We opened up the Medicare+Choice and 5 million people went with it. That is one type of plan. It is not for everybody now because, to be honest, a lot of patients want more choice, and therefore we give them a system that has more choice. That is really what this legislation is all about.

Mr. DOMENICI. The other thing I wanted to close with, and it seems to be quite obvious, is there is no question but that some of our best Senators have already, or will speak about this plan, and they are worried. They will speak with trepidation and principally they will talk about two things, but the big one will be it is going to cost more than we think. Can we afford it? There is another question that is asked around, and that is: Are we giving benefits to the right groups of people in the right quantities?

I served on the Budget Committee for 28 or 30 years. I was chairman 14 times. When I left the Committee, I could have given a little speech and said, here is what is going to happen over the next 10 years, and here is what is going to happen over the next 15 years. Of course, I could have predicted cycles, that we are going to have big deficits, and we are going to come out of them and we are going to get bigger ones. I probably could have talked about the fear of the baby boomers and our ability to pay what we have said we are going to pay them when their day comes. That is lingering and that is kind of washing its way through this debate.

The question is not, will we, because we will pay. The question is, When we get there and we have to make all of those payments, how are we going to pay for it? Frankly, I do not think that is a reason to say we should not do this. We do not know whether in 15 or 20 years we will be able to have a balanced budget. In fact, if someone were to ask me—and the Senator is not asking me—I would say in 15 years we probably cannot, regardless of the economy.

The choice is to do something for the seniors on medication, which we know we have to do. Or we can choose to do nothing because we are worried about how we are going to handle this. Or we can say when that day comes there will be another great confrontation, and it will very simply be a confrontation about how do we change this, for it is not written in stone like the Ten Commandments? How do we change them if we have to? Or, God forbid, how do we change the fiscal plan of the country, whatever that is, in terms of putting a tax to pay for what?

Now, it is not embarrassing to admit that. It seems to me that I ought to say that. I know that. I am very lucky to know that, and it cannot be that I am wrong. People cannot say I should not tell Americans that, because it is true.

I was fortunate. I have heard every economist. I probably deserve a degree in economics. I did not take economics. I took chemistry and physics.

I have heard Alan Greenspan 20 times in my life. I called him up on the Energy bill. When I need somebody to tell the world there is a shortage of natural gas, I call an expert. I say Alan Greenspan will find out if it is true. And sure enough, he will tell the world. When he does, they listen.

He tells Members the same thing I am talking about here. But it does not mean we should not do this. How can we leave a system that has seniors without prescription drugs because we have questions about what will happen in 20 years? We don't. We move on ahead.

The Senator mentioned in passing the mentally ill coverage. I don't intend to inject that here. But we cannot forget about the mentally ill in our country and the fact they are not covered by insurance because we have problems. We cannot say, well, we have problems, so forget about them. Because the system made a mistake and did not include them, we cannot run around and say we made a mistake. Half the people that are in the gutters of America are there because they are homeless, because they are mentally ill, because there was no insurance when they were little kids and they end up from about 15 years of age onward doing nothing. We cannot say there is no solution.

To that end, I thank the Senator for his assistance with reference to that group of people.

Last, your eloquent speech about the greatest wellness research program in the history of mankind, that is what I call the program the Senator described when we mapped the human genome. There is no greater scientific wellness research program. It delivered to the hands and minds of the scientists of the world the chromosome makeup of every serious disease known to mankind. They said, as if to challenge the scientists, Here it is, here is where they are located within the chromosome system; solve it, scientists. What a fantastic thing to have been a part of.

I thank the Senator for commenting on my involvement.

Mr. FRIST. I take 1 minute. I know we have other Senators on the floor and we will turn to those Senators.

The human genome project which I mentioned a few minutes ago really happened. Completion really took 10 years. There are great advances that will come out of this mapping of the human genome. It is like a phone book we did not used to have, but now we have all that information. There will be tremendous advances out of that.

The problem with the Medicare system, which has not changed very much, is those new advances and what we learned cannot be rapidly incorporated into Medicare. I talked earlier about heart disease. Most people know cholesterol is important to heart disease. The cholesterol screening test is not covered by traditional Medicare today. Before seniors could benefit from heart transplants, the private sector was doing heart transplants. It took 6 years before seniors had access to that lifesaving operation.

The micromanagement out of Washington, DC, means new technology is slow to come into the system because it is so rigid. If we are going to capture the great advances, we need a system that is receptive, that is flexible. That is what the PPO model does. The demographic shift is critical.

The Senator from New Mexico is the expert in this body, having chaired the Budget Committee in such an admirable way, a distinguished way for so many years. Whatever we do on this floor, we have to look 10 years out, 20 years out, 30 years out because of the demographic shift. This plan does that.

In terms of the delivery program, it can be sustained over time. Traditional Medicare right now, because of its rigidity, means a doubling in the taxes. Maybe we can do that as we go forward. By giving traditional Medicare improving benefits, and allowing prescription drugs, allowing flexibility, allowing choice to be part of that, it can be sustained long term.

I appreciate the comments of my distinguished colleague from New Mexico.

I appreciate the patience of the other Senators on the floor. This is an important issue. Every now and then it pays to walk back and look from 30,000 feet at what is going on below. What goes on below determines ultimately what goes on at 30,000 feet. I have enjoyed the opportunity to do that.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Michigan.

Ms. STABENOW. Mr. President, before my esteemed colleague from New Mexico leaves the floor, I commend him for his leadership on the issues related to mental health and mental health parity. No one has been more of a champion than the Senator from New Mexico on these issues related to mental health. I have been pleased since being in the Senate to cosponsor those efforts. I congratulate the Senator and urge him on as we work to provide mental health parity which is another very important health care issue we need to address in the Senate.

I will speak in general as it relates to this debate regarding prescription drug coverage and Medicare. Seeing my friend from Wyoming, I commend the Senator from Wyoming, Senator ENZI, who spoke on an amendment dealing with community pharmacies which is important to pass. I am supportive of it.

I did not have a chance to say that yesterday and wanted to take a moment today to commend him for his work. Part of providing choice for seniors is to make sure they can have the same choice from their community pharmacy as mail order and a number of other issues dealing with the importance of community pharmacies. Congratulations for his work in this area.

I take a moment to speak about my perspective relating to where we are and the issues of Medicare and many of the comments I have been hearing this morning that I respectfully share a difference on. I believe millions of Americans who have benefitted from Medicare have a different perspective about the choice of traditional Medicare—dependability, reliability, ability to choose your own doctor, the fact it has been there for our seniors and people with disabilities since 1965—have a different view versus wading through the insurance bureaucracies. There are lots of bureaucracies we can talk about, but certainly Medicare is not alone in having a bureaucracy. Anyone who has had to wade through insurance forms or attempted to wade through questions from our insurance companies certainly would not say that is less bureaucratic or less paperwork. I find it interesting to hear comments lauding the process of working through insurance companies. If you ask anyone when they have a claim of any kind whether or not that is a streamlined, easy process, usually it is not.

When I hear about how traditional Medicare does not cover preventive services or has not been updated to cover other services, it is very important to note that it could. Traditional Medicare can cover preventive services. Since arriving in the House of Representatives in 1997, we have gone from paying for mammograms every other year to paying for mammograms every year. We have added other screenings. We can continue to do that. There is nothing about prevention that cannot be done through traditional Medicare. There is nothing relating to coordination that cannot be done through traditional Medicare.

I am in a fee-for-service health plan myself through Blue Cross/Blue Shield, an integrated plan. I am able in a fee-for-service plan to have integration. We can do that, if we want to do that, if we want to strengthen Medicare. The question is where we want to go with health care. If we want to strengthen traditional Medicare, we add preventive measures. We do prescription drug benefit within Medicare so it is coordinated. We are certainly not adding to the coordinated nature of Medicare by saying you can receive an integrated health care approach through an HMO or PPO or other plans, but we are going to, instead, offer only private insurance if it is available in your community. You can't have an integrated approach through traditional Medicare.

That is a conscious policy choice. It is not that you can't.

What we are really debating here is the very same debate that we had before Medicare came into being. I urge colleagues to go back and look at the CONGRESSIONAL RECORD and read the debate about what occurred before 1965. There were two different philosophies. So many years later it is interesting to me the very same two philosophies exist.

One philosophy, at that time, that of my Republican colleagues, is we should not have Medicare. It is a big Government program. What we should have is private insuranee. People should buy from private insurance. At that time about half the seniors in the country could not find private insurance. Much like today, in many parts of the country it was not available to them. Certainly, prescription-only policies are difficult to find. Certainly, in Michigan an HMO is hard to find. If you live anywhere but metro Detroit, you don't have an option such as that. So, much like today, it was not available or not affordable. So the decision was made. It was championed by the Democrats in the Congress. I am proud of that. They were joined by, I believe, 12 Republican Members at the time who voted to make the decision, as an American value, that we were going to make sure older Americans and people with disabilities had access to health care they could afford, quality health care, and they would have access to it regardless of where they lived in the United States.

That was an important value statement made in 1965. I think it is fair to say it has radically changed and improved the quality of life for millions, tens of millions of American citizens, that decision in 1965.

Since that time, it is absolutely true that health care has changed. Boy, has it changed. There are exciting new things that have happened. There are new treatments. There are new miracle drugs. You can take a pill instead of having heart surgery. Our esteemed leader of the Senate talked about those changes and certainly we all agree with those changes.

The question is, Do we change and improve and strengthen Medicare to reflect that, or do we move to a different system? That is a conscious choice. We can absolutely do everything that is being talked about here through traditional Medicare if we choose to do that.

Mr. President, 89 percent of the seniors are under traditional Medicare; 11 percent have chosen to go into managed care available in their area. I share the desire to make sure options are available to seniors at their choice.

But to somehow say we have to abandon the insurance system called Medicare that has worked because it is outdated is not accurate. The accurate statement is we choose not to update Medicare. We choose not to strengthen and modernize Medicare because we want to go back to the private sector, private for-profit insurance and managed care. That is a conscious choice. I find it interesting that is the very same debate that took place when Medicare started.

Again, there is a difference in philosophy of different parties. I believe we have seen the philosophy at work back since the mid-1990s to weaken Medicare, so it is easier to criticize. What do I mean by that?

We had a Speaker of the House, a well-known Speaker back in the mid-1990s, say we cannot eliminate Medicare directly—I am paraphrasing—but, instead, we will let it wither on the vine.

At that time, there was a lot of strong support for going to managed care, HMOs, under Medicare. At that time the person who now leads the Center for Medicare and Medicaid said there would be a California gold rush into managed care. People would be leaving in droves, going to managed care because it was so much better than traditional Medicare.

In fact, that did not happen. In the areas where it did happen, such as Michigan—which I have talked about many times on the Senate floor—we have had over 35,000 seniors dropped because the private HMO made the business decision to pull out of the market and not to cover Medicare beneficiaries anymore. Those individuals went back into traditional Medicare.

But what happened in the 1990s? We had a balanced budget agreement. I believed it was important. I supported that in 1997. But since that time, we have seen cuts, very deep cuts, deeper than we were told would happen, to providers who cover Medicare beneficiaries, people who provide critical home health services, people who provide critical nursing home coverage; our hospitals, our teaching hospitals, our doctors, nurses, physical therapists—all of those who provide health care. We have seen deep, deep cuts.

We have seen rural hospitals and urban hospitals closing. We have seen tremendous cutbacks, more paperwork, less funding. We have seen a crisis. Again, this was due to policy decisions to pull money away from Medicare, to underfund Medicare. My concern is that essentially Medicare has been set up by underfunding it, and then those who do not support Medicare saying: See, it doesn't work: not funding preventive care and saying: See, we don't fund preventive care. See, it is too bureaucratic. All those things could be fixed if there was a commitment to Medicare, if there was a commitment to a program that is a great American success story.

Let me just say in conclusion—I see colleagues on the Senate floor I know wish to speak—I think it is important in this debate that we be very honest with the American people about what the real debate is. It is not that Medicare has failed. It is not that Medicare cannot be improved upon and modernized. The debate is a philosophical one, an ideological one. There is a difference in view where those now in the majority believed, before Medicare, and believe now, that we are better off with a private for-profit insurance company model.

I am also deeply concerned when I continue to hear that somehow we cannot afford to continue with Medicare anymore because of the demographics. I have two points about that. I said this before, but the evidence is overwhelming. Medicare's administrative costs are less, and they are growing at a slower rate. Its costs are less right now than those of managed care HMOs. Every independent study shows there is no evidence that when you bring in a private for-profit insurance company that needs to make a profit because they are in the private sector, the for-profit side of the world, that somehow that brings more money for health care—when they have to take a piece of that for administrative costs and for profit, and so on. In fact, it is just the opposite. The majority of health care in this country, the majority of hospitals, the majority of home health agencies and nursing homes are nonprofit so that every dollar goes into health care because health care is not an option. It is a critical necessity for our people. That is really the debate.

The other piece of the debate is another question of values and priorities. We continue to see trillions of dollars being given in tax cuts as a priority to a privileged few in this country, instead of focusing on shoring up and modernizing health care with a real, comprehensive prescription drug benefit, and instead of investing in education and innovation in our country to grow the economy through greater productivity. These are conscious choices. The fact that this is not a very good benefit and the fact we are limited in scope is a conscious choice by this body, by this Congress, and by this President, which says Medicare and health care is not as important as another round, and what will be coming, another round and another round of tax cuts for the privileged few of this country.

I will just say in conclusion that as we speak I believe we need to talk about the fact that these are conscious choices being made. I for one believe all the evidence shows we can strengthen and modernize and update Medicare in a way that our seniors want, need, and deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Mr. President, I rise in favor of a Medicare prescription drug benefit. We live in different times now. Thirty-eight years ago when the Medicare Program was created, most people were treated in hospitals. Many illnesses were untreatable, and the average lifespan was shorter than it is today. But we have made great strides since then. Today people are living longer, better, and healthier lives. My own mother turned 102 years old last month—something perhaps she never even imagined. But new medical technologies and advanced drugs have made it possible for many of our elderly to live productive lives for many years.

Unfortunately, the high cost of these life-sustaining medications is preventing many of our seniors from reaping the benefits of these advancements.

The elderly in my State of North Carolina have been hit particularly hard. The State's Division of Aging estimates that one-half of North Carolina's residents aged 65 and older have no prescription drug coverage.

As I traveled our 100 counties, I have heard their stories. They are cutting their pills in half to make them last longer—a dangerous practice that can lead to unanticipated drug reactions. They are sacrificing groceries so they have money to buy the drugs they need. Even worse, far too many of them are simply going without needed drugs.

Many of North Carolina's seniors have even been forced to go back into the workplace from retirement—often with an ailing condition—just to earn some income because of prescription drugs.

I talked last night to a woman in Clayton, NC named Kathy Roberts. She retired after 13 years of working at Wal-Mart with dreams of spending time with her grandchildren, but a heart condition ran up medical costs. Kathy had soon lost $29,000 in savings. She recently returned to her job at Wal-Mart for the extra money. But because she is only working part time in order to keep her $700 a month Social Security check, she is ineligible for the health insurance benefits Wal-Mart gives to its full-time employees. Her prescription drugs cost $170 each month.

In Mecklenburg County, officials recently completed a report on the status of seniors there. The study found that 45 percent of older adults said the high cost of prescription drugs made them decide not to take a medicine as frequently as prescribed. Forty percent had not purchased a prescription because of costs, and more than 15 percent said they put off paying for food, rent, or utilities to buy medicine.

This is simply not right. Our elderly deserve better treatment. This Government made a promise to our seniors when the Medicare program was created, and we should keep our promise.

This year we have our best chance yet to get a prescription drug benefit signed into law. It is an opportunity that should not be allowed to slip away.

I have been reviewing the prescription drug plan passed by the Finance Committee as well as proposals put forth by other Senators. The Finance Committee legislation commits $400 billion over the next 10 years for a benefit. It is a voluntary program, something I have long advocated. But I have concerns. While the legislation adds a drug benefit to Medicare, it does not make sufficient changes to strengthen and improve an outdated program. None of us want to add a benefit that is simply going to send Medicare's bills through the roof as soon as the baby boomers retire.

Just 3 months ago, Government trustees reported Medicare was 4 years closer to insolvency than expected. It is projected to start paying out more money than it brings in in the year 2013. With Medicare so close to the brink of insolvency, shouldn't we look more closely at ways to improve this aging program?

This bill provides a prescription drug initiative—an enormous change. But in terms of improving and strengthening Medicare, it simply does not go far enough.

For instance, the bill does not do enough to eliminate the mountains of paperwork and red tape that discourage doctors from participating in Medicare—100,000 pages of regulations, according to the Mayo Clinic. Where is the regulatory reform Medicare so desperately needs?

There is also a need to provide for more disclosure among our pharmacy benefit managers and plans. The Senate should consider amendments such as that offered by Senators ENZI and REED which promote greater transparency and require plans to disclose how much of the rebates from drug manufacturers are being passed on to consumers. We must seek to provide a prescription drug benefit that maintains fiscal responsibility, too.

There are also concerns that this drug benefit will cause private insurers to drop coverage. The Congressional Budget Office estimates that 37 percent of employers would be inclined to terminate prescription drug coverage for retirees. This would shift those retirees into the Government-sponsored system and further drive up costs of the program. Our Nation cannot afford that. The budget is already being stretched because of national security concerns.

The Senate must ensure this program stays within the cap of $400 billion over 10 years we agreed to in the budget resolution.

I intend to spend the next several days listening to the debate and further examining proposals. I hope we can find ways to address these issues so we can pass a benefit for our seniors this year without creating a system that will balloon into a tremendous burden for future generations.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I call for regular order.

The PRESIDING OFFICER. The Senator's amendment is the regular order.

Mr. ENZI. Thank you, Mr. President.

AMENDMENT NO. 932, AS MODIFIED

Mr. ENZI. I send a modification to my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment (No. 932), as modified, is as follows:

(Purpose: To improve disclosure requirements and increase beneficiary choices)

On page 57, between lines 21 and 22, insert the following:

"(3) DISCLOSURE.—The eligible entity offering a Medicare Prescription Drug plan and the MedicareAdvantage organization offering a MedicareAdvantage plan shall disclose to the Administrator (in a manner specified by the Administrator) the extent to which discounts, direct or indirect subsidies, rebates, or other price concessions or direct or indirect remunerations made available to the entity or organization by a manufacturer are passed through to enrollees through pharmacies and other dispensers or otherwise. The provisions of section 1927(b)(3)(D) shall apply to information disclosed to the Administrator under this paragraph in the same manner as such provisions apply to information disclosed under such section.

"(4) AUDITS AND REPORTS.—To protect against fraud and abuse and to ensure proper disclosures and accounting under this part, in addition to any protections against fraud and abuse provided under section 1860D–7(f)(1), the Administrator may periodically audit the financial statements and records of an eligible entity offering a Medicare Prescription Drug plan and a MedicareAdvantage organization offering a MedicareAdvantage plan.

On page 37, between lines 20 and 21, insert the following:

"(C) LEVEL PLAYING FIELD.—An eligible entity offering a Medicare Prescription Drug plan shall permit enrollees to receive benefits (which may include a 90-day supply of drugs or biologicals) through a community pharmacy, rather than through mail order, and may permit a differential amount to be paid by such enrollees.

Mr. ENZI. Thank you, Mr. President.

I thank the Senator from North Carolina for her comments about the amendment and appreciate her support. I am going to try to convince everybody else that support is also warranted.

I have offered a modified version of amendment 932 to the original one yesterday on behalf of myself and my distinguished colleague from Rhode Island, Senator REED. Senators PRYOR, COCHRAN, and CHAMBLISS also join us on offering this modified amendment. I welcome their cosponsorship and support.

These modifications ensure the amendment will not add to the cost of this Medicare bill, which is a concern I share with Chairman GRASSLEY and a great many of my colleagues.

I thank the Senator from Iowa for his willingness to work with me to address the concerns of our seniors and pharmacists.

The heart of this amendment remains the provisions that would ensure fair prices for consumers and fair treatment for local pharmacists under a new Medicare prescription drug benefit.

To ensure reasonable drug prices for seniors, the amendment would hold Medicare drug plans and Medicare Advantage organizations accountable for passing on to their consumers a fair portion of the rebates, discounts, and other incentives the plans may receive from drug manufacturers and other sources.

The amendment would require disclosure of these incentives to the Federal Government. It would also clarify that the Government may audit the records of these plans and organizations to ensure compliance with this disclosure requirement. The amendment would not, however, make these disclosures part of the public record. This is certainly not our intent. The amendment simply ensures that our corporate partners are held accountable for sharing with our seniors the savings they generate.

To ensure fair treatment for the pharmacists in our communities, the amendment we are offering would prohibit Medicare drug plans from implementing restrictions that would steer consumers to only mail-order pharmacies. It would require Medicare drug plans to allow local community pharmacists to fill long-term prescriptions—long-term prescriptions; not just 30-day ones but 90 days as well—and offer other services they are equipped and licensed to provide.

Seniors trust their local pharmacist, and they should be allowed to keep that relationship in place under this bill. This drug benefit should not force them to choose a mail-order house when a pharmacist who could provide the same or better service is right down the street, and they are used to dealing with them.

This amendment would permit a Medicare drug plan or Medicare Advantage organization to charge a different cost for a mail-order prescription versus a prescription filled by a community pharmacist. This happens today in many health plans. As an example, one health plan for Federal employees charges a $10 copay for a 30-day prescription filled at a local pharmacy but charges a $20 copay for a 90-day prescription filled through a mail order. That is a $10 savings. This would allow the local pharmacist to offer the 90-day prescription so the consumer could take advantage of the same reduction in copay.

Under this amendment, Medicare drug plans could still charge different copays, but the plans could not prohibit a local pharmacy from filling 90-day prescriptions.

I know some of my colleagues are concerned that seniors may get confused. Actually, if they can get through the rest of the bill without being confused, they will not be confused by this. But some people are concerned that may happen or that they may pay more than they should for their drugs. In response, I would say the Finance Committee's bill clearly states that seniors cannot be charged more than the negotiated price of a covered drug.

The bill is also very direct in its expectations of Medicare drug plans. The bill would require plans to provide clear information about copayments and deductibles. This information would have to include details on the differences in cost between mail-order and retail prescriptions.

I think seniors and their families are very smart about drug costs, and they will take factors, such as different copays, into account when they make a health care decision.

I am sure Medicare drug plans will encourage seniors to use mail order, just as health plans encourage us to use mail order. What this amendment would do is give seniors the option—the option—to use their local pharmacists.

The bill already requires health plans to give seniors accurate information on the costs of their options. From that point, I think we should trust seniors and their families to make the decisions that are best for them, without arbitrary limitations on services that steer seniors in one direction or the other.

Again, I thank Senators REED, PRYOR, COCHRAN, and CHAMBLISS for joining me in offering this modified amendment. The sponsors of this bill appreciate the role local pharmacists play in helping all Americans manage their medications, especially the elderly and the sick, who need the most advice.

As I mentioned yesterday, Senator REED and I worked last week to pass a bill to address the pharmacist shortage through the Committee on Health, Education, Labor, and Pensions. We agreed to work together on that bill to ensure our aging population has access to the knowledge of pharmacists on how to use a new Medicare drug benefit appropriately and safely.

As highly educated professionals, our pharmacists know how important drug therapy is in helping seniors live longer and better lives, and they want to support this bill. In fact, many pharmacies and pharmacists are supporting, and will support, the bill, in part because of this amendment.

The National Association of Chain Drug Stores and the Food Marketing Institute support this amendment. I ask unanimous consent to have letters of support printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOOD MARKETING INSTITUTE,
Washington, DC, June 11, 2003.

Hon. CHARLES GRASSLEY,
Chairman, Senate Finance Committee,
Washington, DC.

DEAR CHAIRMAN GRASSLEY: The Food Marketing Institute (FMI), on behalf of our supermarket members who operate more than 12,000 in-store pharmacy departments throughout the United States, wishes to express our industry's strong support for legislation that you are developing along with Senator Baucus and other members of the Finance Committee that will reform the Medicare program and provide our nation's seniors with a meaningful outpatient drug benefit.

This bi-partisan initiative embraces a number of very important principles that will promote greater competition in the marketplace and provide more choices for seniors in the delivery of medications through alliances with retail pharmacies, pharmaceutical manufacturers and other entities. Moreover, it is our understanding that the bi-partisan legislation includes provisions that will generate information so that seniors can make informed decisions in terms of selecting a plan that best meets their individual needs for medications.

FMI is further encouraged that the legislation seeks to ensure that seniors have convenient access to prescription drugs through pharmacy networks and that pharmacies are not placed at risk under this new benefit. Additionally, our industry is hopeful that the bi-partisan bill will clarify that retail pharmacy will be permitted to offer Medicare beneficiaries the option to receive long-term 90-day prescriptions which means seniors will have both convenience and the opportunity to consult with their pharmacist about taking their medications safely and effectively.

In closing, FMI wishes to commend you on your leadership regarding Medicare reform, and we look forward to working with you throughout the legislative process as Congress moves toward providing seniors with outpatient drug coverage.

Sincerely,

JOHN J. MOTLEY III,
Senior Vice President,
Government and Public Affairs.

AHOLD USA, INC.,
Chantilly, VA, June 13, 2003.

Hon. CHARLES GRASSLEY,
Chairman, Senate Finance Committee,
Senate Hart Office Building, Washington, DC.

DEAR CHAIRMAN GRASSLEY: Ahold USA, which operates retail food stores and over 800 pharmacies along the Eastern seaboard under the names of BI-LO, Bruno's, Giant of Carlisle, Giant of Maryland, Stop & Shop and Tops, wishes to express our strong support for legislation that you are developing, along with Senator Baucus and other members of the Finance Committee, that will reform the Medicare program and provide our nation's seniors with a meaningful outpatient drug benefit.

The bi-partisan initiative embraces a number of very important principles that will promote greater competition in the marketplace and provide more choices for seniors in the delivery of medications through alliances with retail pharmacies, pharmaceutical manufacturers, and other entities. It is our understanding that the bi-partisan legislation includes provisions that will generate information so that seniors can make informed decisions in terms of selecting a plan that best meets their individual needs for medications.

As a retailer in the marketplace, we are further encouraged that the legislation seeks to ensure that seniors have convenient access to prescription drugs through pharmacy networks and that pharmacies are not placed at risk under this new benefit. We are also hopeful that the bi-partisan bill will clarify that retail pharmacies will be permitted to offer Medicare beneficiaries the option to receive long-term, 90-day prescriptions which means seniors will have both convenience and the opportunity to consult with their pharmacist in a timely manner about taking their medications safely and effectively.

Ahold USA wishes to commend you on your leadership regarding Medicare reform. We look forward to working with you throughout the legislative process as Congress moves toward providing seniors with outpatient drug coverage.

Sincerely,

BARRY F. SCHER,
Vice President, Public Affairs/Communications.

JOHN J. FEGAN,
Vice President, Pharmacies.

WINN DIXIE,
Jacksonville, FL, June 11, 2003.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Senate Finance Committee, Chairman, Washington, DC.

DEAR MR. CHAIRMAN: Winn-Dixie Stores, Inc., operates more than 680 in-store pharmacies throughout the Sunbelt. We are writing to express our support for legislation that you are developing along with Senator Baucus and the Finance Committee Members to reform Medicare and the development of an outpatient drug benefit for our nation's seniors.

The bill, which has bi-partisan support, will promote competition and provide seniors with more choices of delivery of their prescription medication. Additionally, seniors will be more informed in terms of selecting a plan that will work best for their particular needs.

Other positive points of significance include:

Risk is eliminated for pharmacies under the new benefit.

Convenient access for seniors through pharmacy networks.

Clarification of retail pharmacy providing 90-day supplies of prescription needs.

Continuation of retail pharmacy providing 90-day supplies of prescription needs.

Continued pharmacist's consultation with seniors ensuring medication safety and effectiveness.

In closing, Winn-Dixie salutes your hard work on this most important issue and we look forward to working with you as this most important issue continues to develop.

Sincerely,

RANDY HUTTON,
Vice President, Director of Government Relations.

THE KROGER CO.,
Cincinnati, OH, June 17, 2003.

Hon. CHARLES E. GRASSLEY,
Chairman, Senate Finance Committee, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN GRASSLEY: The Kroger Co., appreciates your leadership and the efforts of Senator Baucus in developing with your colleagues in the U.S. Senate legislation that will reform the Medicare program.

Kroger is the nation's 7th largest pharmacy provider. We support the Medicare reform legislation because we believe it improves Medicare in several important ways.

First, we believe having a range of entities that can offer a pharmacy benefit or drug discount card will benefit seniors and all taxpayers.

Second, it is our understanding the legislation ensures that seniors will have access to nonconfidential, summary information gathered from plan sponsors. We believe this transparency will facilitate informed consumer choice.

Seniors also will benefit from the option of having their 90-day, long-term prescriptions filled by their neighborhood pharmacy. The value-added services pharmacists provide are important to the health and well being of our seniors.

And finally, we appreciate the clarification we understand the legislation contains that pharmacists should not be held responsible for risks they do not manage or control.

Again, we appreciate your leadership and look forward to working with you and the Senate Finance Committee.

Sincerely,

JOSEPH A. PIOHLER,
Chairman of the Board and Chief Executive Officer.

Mr. ENZI. Mr. President, by ensuring fair prices for seniors and fair treatment for pharmacists, we will ensure this new Medicare drug benefit does right by seniors and values the trusted relationship that pharmacists and their senior patients share.

This is just a small step to helping community pharmacists. I would like to do more, but we are matching that constraint with the requirement that there can be no amendment that adds dollars to the cost of this bill. So we are staying in that constraint but still giving that option for the local pharmacists.

I ask my colleagues to support this amendment, as modified, and I am gratified by all the people who are doing that.

AMENDMENT NO. 944 TO AMENDMENT NO. 932, AS MODIFIED

Mr. President, I offer, on behalf of Senator CANTWELL, a second-degree amendment to my amendment and send the amendment to the desk.

I thank Senator CANTWELL, who has worked with Senator REED and myself on coming up with this amendment, which also does not add a single dollar of additional cost to the pharmacy bill but does provide some clarification on how any audits would be done on records to make sure that rebates and refunds are going to the proper place.

The PRESIDING OFFICER. Without objection, the amendment will be reported.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] for Ms. CANTWELL, proposes an amendment numbered 944 to amendment No. 932.

Mr. REID. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit an eligible entity offering a Medicare Prescription Drug plan, a MedicareAdvantage Organization offering a MedicareAdvantage plan, and other health plans from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements)

On page 2 of Amendment No. 932 between lines 18 and 19 strike "." and insert the following: "with the auditor of the Administrator's choice."

Mr. ENZI. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before the Senator from West Virginia takes the floor, I say to my friend from Wyoming, shouldn't we accept this second-degree amendment now?

Mr. ENZI. Mr. President, I am sure it has been cleared on both sides, and I would be more than happy to do that at this time.

The PRESIDING OFFICER. If there is no further debate on amendment No. 944, without objection, the amendment is agreed to.

The amendment (No. 944) was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 932, AS MODIFIED

Mr. ROCKEFELLER. Mr. President, I would like to speak briefly on the underlying amendment.

We are here to consider legislation that is going to create a much needed prescription drug benefit. We have been here to consider that matter for some years now. We have 41 million seniors and disabled people in this country who require and need that benefit. So it is a momentous time. It is also a moment of opportunity, which we will either grab or not grab, where we can craft a prescription drug benefit that provides the coverage seniors desperately need, coverage that is both affordable and reliable for all seniors.

I intend to offer amendments—not now, but later—that will improve the proposed coverage and delivery system for the Medicare prescription drug benefit so that this bill will better meet the real needs of our senior citizens.

In 1965, this Nation recognized that health care costs were the primary reason that one-third of our Nation's seniors lived in absolute poverty. With the establishment of a universal health care benefit for seniors, financed through both individual payroll tax contributions and the General Treasury—the Medicare program—we lifted most American seniors out of poverty.

That is something to be profoundly proud of, but it is the work of our predecessors. And now there is work for us to do. Medicare is one of America's great achievements, but it has long needed to include a prescription drug benefit. At the time Medicare was enacted, prescription drugs were not a popular form of treatment. Now they are a critical part of health care.

A Medicare prescription drug benefit is something I have heard seniors tell me they want and need almost every time I have ever run into them or have had meetings with them in my State. And I daresay the Presiding Officer has had the same situation in his State of Kentucky.

I have worked on this for nearly 2 decades as a Senator, and we are perhaps at the point—or perhaps we are not. I don't know. I hope so.

Fifteen years ago, Congress acted to provide a catastrophic drug benefit under Medicare. The fact of the matter is, it was a very good bill. I led the fight on this floor three times to defeat repeal by the House because it was a very good benefit. There has never been anything that approached that in terms of catastrophic drug benefits since that time.

However, seniors did not understand the bill because we did not do a good job of putting it out to them, and we passed it perhaps too quickly. So the catastrophic benefit was rejected by the very people that it was intended to help through the votes of their elected representatives.

We should not repeat that experience. We should do our very best as the legislative process moves forward to offer a benefit that will be widely welcomed by Medicare beneficiaries and by their families. This will be a very hard thing to do, working with only $400 billion, as that is not the full cost of what we need. But that is what we have. We are operating, therefore, under a very tough budget constraint. I understand and accept that. But I think we should keep in mind that if we can achieve more than 50 votes for a Medicare prescription drug benefit, we might be able to achieve more than 60 votes to pay for a strengthened drug benefit. We shall see whether the Senate is able to successfully amend this proposal over the next several days, weeks, whatever the situation will be.

For my part, I remain committed to fight to improve the Medicare prescription drug benefit that is before us because I know the need is tremendous. The average total gross income for the average Medicare beneficiary in West Virginia is about $10,800. My guess is for the State of Kentucky, it is not a great deal more. It probably is somewhat over that, but $10,800 in West Virginia. If they have various kinds of internal problems, they may be paying $3-, $4-, $5,000. That doesn't give them very much to live on.

When I talk about this, I think about senior citizens in Mingo and Raleigh Counties in West Virginia; Charleston and Weirton, in Martinsburg and Parkersburg. They want and expect a prescription drug benefit that will meet their needs, and they have that right. I would like to believe that 2003 could be another landmark date in the passage of Medicare legislation that will improve the basic health of more than 40 million Americans. But even as I say that, I need to acknowledge that there are a few things in this bill that are very troubling to me and which may well make the difference between a welcome and sustained Medicare drug benefit and a long road of complaints and criticisms from the very people we are, in fact, trying to help.

Let me take a minute to talk about a couple of them. There is a substantial gap in coverage under this bill. That gap is about $1,300. Under the bill, there will still be times when seniors are paying a premium and receiving no benefits whatsoever. We should eliminate that coverage gap.

I fundamentally disagree with the notion that we should pay private insurers more than traditional fee-for-service Medicare to deliver a drug benefit. Either they are more efficient or they are not. If they have marketing costs, well, then that has to be factored in, but there is no reason to pay private insurers more than other providers.

All Medicare beneficiaries should get the same benefit. They should pay the same premium, just as they do under Part A or Part B. There should not be different benefits or premiums for Medicare beneficiaries just because they happen to live in West Virginia or

Montana or, on the other hand, in New York or California.

Seniors who don't have access to a private insurer or choose to stay in traditional Medicare should be able to still receive additional benefits such as a catastrophic limit on their medical expenses. We should do our best to make sure that employers do not drop coverage because there is not a sufficient incentive for them to continue providing this coverage to their retirees. That should not be an excuse. We could fix this by allowing employer contributions to count toward the out-of-pocket costs seniors currently are paying.

In addition, I have serious concerns about the fallback in the proposal. It is, in my judgment, unstable. Under this proposal, if there are not at least two quality bids for plans to serve a region, as we all know by now, the fallback moves into place for 1 year. The next year, a new bidding process begins. And if two plans show up, the fallback disappears. This means seniors, especially seniors in rural areas where PPOs and private plans are not likely to come or perhaps have not ever been, may end up bouncing between a fallback, then a private plan the next year, and then back to a fallback. All the while seniors will be forced to change doctors and pharmacists. Their cost sharing will be changed, and there will be other changes. This will be of profound concern to them, confusing to them. I think it is a frightening scenario which takes me back to the catastrophic bill to which I referred a few moments ago. I don't think that kind of coverage represents a stable, genuine, or guaranteed fallback for seniors.

Finally, there have been a number of Members on the floor of the Senate referring to this as a universal drug benefit. We should all be very clear this is not a universal drug benefit. In fact, this legislation specifically excludes some Medicare beneficiaries from enrolling in the Medicare drug benefit. Those Medicare beneficiaries who are low income, 74 percent of poverty or below, and therefore, qualify to receive a drug benefit under Medicaid, are excluded from enrolling in the Medicare benefit. This is the first time in the history of the program that we would prohibit some Medicare beneficiaries from receiving a Medicare benefit.

Not only is it unfair to exclude the poorest seniors from part of the Medicare Program, it gives them a bad deal. Prescription drugs are an optional benefit under Medicaid. States can and are limiting the number of prescriptions. Some States only cover three drugs or charge any copayments that they choose to or that they have to. Since 1965, Medicare has provided a universal benefit to all of its beneficiaries. That has been its magnificent social contract. It is the promise that society made to our seniors: If you work and make your payroll contributions, then you get Medicare, regardless of where you live, how old you are, or what your income might be.

This legislation—for the very first time in the history of the program—would prohibit some Medicare beneficiaries from receiving a Medicare benefit. We should provide all seniors with a dependable Medicare guarantee of prescription drug coverage. That is what seniors expect when we tell them we are giving them a Medicare drug benefit. And we should make sure that they have a drug plan they can always count on, even if some believe private plans are the future of the program.

I have a word on the pending Daschle amendment. The current Senate plan offers no protection against varying premiums. The estimate that is given, $35 as an average premium, is precisely that. It is an estimate. The proposed legislation gives PPOs broad discretion in assigning premiums. Senator DASCHLE's amendment will limit variations in the amount the beneficiaries have to pay to only 10 percent above the national average, no matter where they live. So it does not limit the amounts plans could charge as a whole; i.e., the total premium. It would also not prevent lower premiums.

Stable premiums limit seniors' cost of liability and complement the provisions of the fallback plan. Stable premiums increase the safety net for seniors in geographic regions where private insurers are less likely to offer affordable coverage. This amendment is especially important for seniors who live in rural areas because it is in rural areas where private insurers are more likely to charge higher premiums to offset the increased costs associated with benefit deliveries.

Stable premiums do not inhibit competition. Instead they increase the safety net for seniors. Beneficiaries in rural areas, such as West Virginia, are often older and sicker. Competition among private insurance plans in these areas is likely to be less under any circumstances. Seniors' ability to plan for prescription drug expenditures within their limited budgets hinges upon a great degree of certainty. That is what seniors depend on. Their ability to have this assurance should not be decided by private HMOs, who respond to market forces and attempt to correct deficiencies by varying and fluctuating premiums. Seniors should not have to wait and see what private insurance companies are going to charge them from year to year.

I support Senator DASCHLE's amendment. He is working to pass a Medicare package—as we all are—that works for all Medicare beneficiaries no matter where they live.

I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, I appreciate the opportunity today to speak regarding the Daschle amendment. First, I want to commend my colleagues from Iowa and New Mexico, Senator GRASSLEY and Senator BAUCUS, for doing truly an outstanding job with putting together a package of legislation to deal with the challenges we have all met and continue to sort out relating to prescription drug coverage for seniors. I commend them for an outstanding effort.

In the midst of that commendation, I think—and others would admit—that the pending legislation can be improved. I have yet to see a piece of legislation that could not have some amendment that at least some people would think would be an improvement.

In this particular situation, I think the area that we could improve is in making sure the rate differentials among the States is not extraordinary. Therefore, the Daschle amendment sets a 10 percent variation of the national average, so that a State would not have a rate that would be 10 percent above what that national average is. What this provides is protection that the rate differential between States such as New York and Nebraska are not going to vary more than 10 percent.

We all recognize if insurance is a focus to provide protection and stabilize across a broad base of individuals, to spread the costs and risks over that entire group of individuals, you will then have a rate that would be based on that spreading of the risk. This particular situation seeks to do that, but the spread of the risk seems to be more directed on a statewide basis, therefore giving the opportunity for a wide variation of rates between two States on a nationwide basis.

I think this amendment will correct that and will assure that people living in whatever State they may reside are not going to be paying a substantially higher rate than other individuals.

The proposed prescription drug plan promises an average premium of about $35 a month. But we cannot be sure that is a guarantee because just in the case of Medicare, managed care, Medicare+Choice, there is no set premium under the new prescription drug proposal. So all premiums will vary nationwide. Experience suggests that premiums could significantly—as they do with premiums for Medicare HMO plans—vary from $99 a month in Connecticut to $16 a month in Florida. Floridians might enjoy that, but residents of Connecticut might ask a question as to why we cannot have a balanced rate nationwide with variations of a much smaller amount.

Spreading the risk is what insurance is all about. I think spreading the risk in this case involves spreading the costs as well. I think I speak for many of my colleagues when I say we want to have a prescription drug benefit that is well balanced, meets the needs of those who are the neediest and the sickest, but provides a fair amount of coverage for all American seniors who qualify. It is my duty to make sure that what we provide, whether for Nebraskans or Floridians, is truly a spread of the risk and cost. We need to ensure that the premiums are priced both fairly and equitably and that geographic concerns don't price seniors out of the market for coverage in any location. That is what I think we must find as the focus as we move forward.

So, again, I commend my colleagues for putting together an outstanding package of benefits given the very difficult task of making the ends meet with $400 billion, but with needs that could exceed that several times over, putting together a package that I think truly represents what will take care of the prescription drug needs of our seniors. At the same time, we want to make sure the protection is also there against a wide disparity of rates from State to State. So I speak today on behalf of the Daschle amendment. I hope the people within this body will look at that and think about that in terms of their own States—not as to whether their State will get a better deal than others but where we all have an opportunity for an excellent deal and that the variations will be minimal at best.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I note that the managers are not on the Senate floor at this moment. I had visited with Senator REID before the Democratic Policy Committee luncheon, and he indicated the floor would be open for an amendment. I have an amendment I wanted to offer. It deals with reimportation. I am ready to offer that. The amendment is written, and I have been told that they are looking for amendments. This is ready to go. If we are not able to offer it now, the question I ask is when are we able to offer it?

Can we sequence it so I may have an understanding as to when I may offer it this afternoon?

The issue of reimportation is one that relates to this legislation because it relates to the issue of the cost of prescription drugs. I will want to offer this on behalf of myself and Senators STABENOW, JEFFORDS, SNOWE, JOHNSON, LEVIN, and BOXER. I don't want to tie up the Senate for any great length of time. I think this is important, and I would like to speak on it. I expect a number of colleagues would like to speak on this amendment as well. It makes sense to me to have it considered, and then I will make a presentation, and then it can be set aside so others can make presentations.

I understand we have three additional amendments that are now pending and on which we will likely have a vote, perhaps midafternoon. I don't know exactly the whereabouts of the committee chairman or ranking member. They are not on the floor. I shall not ask for unanimous consent, but I would like to, as soon as they return, be able to query them so I can understand where I fit in this mix. As I indicated yesterday and today, I have continued to hear that they want amendments offered, and they want to move through these issues as quickly as possible. I am ready. Several of my colleagues would like to speak on this as well and are ready to do so. I will wait at this moment until the chairman and ranking member come back. I will make the inquiry of them as to when I might be sequenced. I would like to be recognized to offer this amendment this afternoon—the earlier the better.

At the moment, I will relinquish the floor. I am tempted to ask unanimous consent, but I shall not in recognition that the chairman and ranking member will want to find some order. I will relinquish the floor with the expectation of being able to query them on the floor when they return.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, to follow the remarks of my colleague from North Dakota, I, too, have an amendment I would like to lay down. It is a very short amendment. It would not require a great deal of debate and discussion. I hope it would have widespread support. It has to do with mammography screening under Medicare, and the fact that we have a dual system now for that screening. They are reimbursed at a certain rate.

For diagnostic mammographies, they are reduced to a lower rate. What we find is when a woman who is Medicare eligible who gets screened for breast cancer and, under the screening mammography, there are some indications possibly that she might have breast cancer, she now needs to get a diagnostic screening. The waiting time is up to 6 months because the rates are so low for the reimbursement for diagnostic screening of mammographies.

What we have done is put women in this very terrible position. They get screened and there is some indication they might have breast cancer, and yet they then cannot get the diagnostic screening they need.

What my amendment would do, basically, is increase the technical portion of diagnostic mammograms performed in hospital-based facilities by removing this procedure from the ambulatory payment categories and placing it in the Medicare fee schedule. The Medicare fee schedule reimburses at a higher rate than the ambulatory payment categories. The change would result in roughly a 13-percent increase for unilateral diagnostic mammograms and roughly a 39-percent increase for bilateral diagnostic mammograms.

As I have said, under these two repayment categories, screening mammographies are already in the Medicare fee schedule, but the diagnostic mammograms are still in the ambulatory payment category. This amendment would put the diagnostic screening in the same position as the screening.

Medicare officials estimate that more than half of all women who are Medicare beneficiaries receive their breast cancer screenings in a hospital-based facility. Unfortunately, due to the low Medicare reimbursement rates for the diagnostic screening, over 700 hospital-based mammography facilities have closed in the last 2 years simply because the reimbursement rates are so low. As a result, waiting times for hospital-based mammograms covered by Medicare can be several months in many parts of the country. These delays can have significant clinical implications for fighting breast cancer.

Again, what my amendment would do is correct the problem by increasing the reimbursement for the diagnostic mammograms. I point out again why this is necessary. Women receive diagnostic mammograms following the screening mammograms if there is a suspicious finding.

Imagine that you had a screening—put yourself in a woman's shoes—and they said there is some suspicion there, but because there are no local hospital-based mammography facilities—they have closed down—you may have to wait weeks or months to get your diagnosis definitively confirmed or denied. As these facilities close, there are fewer places for women to get mammograms.

When you consider that approximately 1 million additional women per year become age eligible for these mammogram screenings, it is easy to see we have an access problem. Moreover, because radiologists use and train at these hospital facilities, they find it difficult to sustain their mammography practices, and fewer and fewer of them are being trained.

Again, it is a very simple, straightforward amendment. I would like to ask that the pending amendment be set aside, but I am not going to do that. As the Senator from North Dakota pointed out, the managers are not in the Chamber. It seems to me we are trying to move this process along, and we have amendments we could offer and have a short debate, have a vote or have them accepted. We are standing here not being able to move the process along.

Mr. DORGAN. Mr. President, will the Senator from Iowa yield for a question?

Mr. HARKIN. I will be delighted to yield to my colleague from North Dakota.

Mr. DORGAN. I know what is going to happen. When we get into mid next week, late next week, as we try to finish this bill, there is not going to be enough time to offer these amendments and to debate these amendments. That is why, it seems to me, right now it is in our interest to lay these amendments down, have the discussion on the amendments, and then proceed.

I mention to the Senator from Iowa, there is a second amendment I have—I have not offered it, but I have talked to the staff about an amendment that sounds similar to the amendment Senator HARKIN described, and that is on the issue of cholesterol screening.

If you have heart disease and have cholesterol screening for that heart disease, it is covered under Medicare. But if you do not have heart disease and the screening is to determine whether you have heart disease, it is not covered. It seems to me the best way to promote wellness and the appropriate way to deal with the reimbursement for these issues, especially something such as cholesterol screening, would be to cover cholesterol screening, especially if the cholesterol screening is to determine whether someone has heart disease, not just cover in the circumstance you know they have heart disease. It seems to be a similar circumstance to the situation the Senator from Iowa was describing.

I am told the chairman and ranking member are off the floor working on this bill. When they come back, I hope to inquire of them. My desire would be to be the next Democratic amendment. I know the Senator from Iowa wishes to have his amendment considered. It behooves the Senate and those managing this bill to put us in line, let us offer amendments and move them through, so that by late next week we are not in a circumstance where we are told: We have to finish this bill; we do not have to time to consider your amendment.

I thank the Senator.

Mr. HARKIN. Mr. President, I think the Senator has laid out exactly the format. We know the crunch is going to come next week because at the end of next week begins the July 4 recess period. They are going to go around asking, Can you drop your amendment; drop your amendment; we have to get out of here.

Here we are ready to go with amendments that I think are meaningful. The Senator from North Dakota has a meaningful amendment. The one on cholesterol screening sounds meaningful. These are important life-and-death issues for a lot of people out there, as mammogram screenings for women are.

These are not amendments that are going to require a long time to debate. As a matter of fact, in the length of time I have stood here, I probably could have offered my amendment, had it debated, and started a vote on it or had it accepted. I hope we will move along.

Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. HARKIN. Will the Chair please advise at least this Senator what is pending at the desk right now? What is the pending business before the Senate right now?

The PRESIDING OFFICER. The pending question is the Enzi amendment, as modified and amended. There are also two other amendments pending.

Mr. HARKIN. Further parliamentary inquiry: There are three amendments pending, and the one that is now before the Senate is the Enzi amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. The Senator assumes then the other two amendments—I am sorry, I forgot what they are—a unanimous consent agreement was entered to set them aside to consider the Enzi amendment.

The PRESIDING OFFICER. The Enzi amendment was the first amendment called up, and consent was obtained to set the Enzi amendment aside, first for the Bingaman amendment and then for the Daschle amendment. Then Senator ENZI called for the regular order, which brought the amendment back before the Senate.

Mr. HARKIN. The pending business is the Enzi amendment. As I said, with comity with respect to the fact the managers are not here, I will not ask unanimous consent to set the Enzi amendment aside to offer my amendment. When they come back, I hope we can do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I understand there are some issues as to who is in line and how this is going to proceed. I will simply express what I hope will occur and what I believe is the general understanding, at least amongst a number of Senators, and that is that the next amendment to be offered is a Republican amendment. We have been alternating back and forth. The amendment that would be offered would be the amendment sponsored by myself, Senator SCHUMER, Senator MCCAIN, and Senator KENNEDY, which deals with generic drugs. We would agree to an hour of debate, no second degree, and then a vote on that amendment.

I would ask unanimous consent for that now, but I understand there is one Senator from the other side who may have an issue. So we want to wait for that.

As long as we are waiting and not doing much, I will talk a little bit about this amendment and then hopefully that will even lessen the time that has to be dedicated to it once we get to it.

This amendment which will be brought forward by myself, Senator SCHUMER, Senator MCCAIN, and Senator KENNEDY, is very important legislation. It is not specifically on the Medicare issue but it is certainly specifically on the issue of how we make affordable drugs more available to people in this country by making available to people in this country drugs which are of a generic form which therefore cost less and are more affordable.

This has been an issue that has been before the Senate before. It has been debated. As a matter of fact, a bill offered by Senator MCCAIN and Senator SCHUMER passed the Senate by a rather large vote. I did not support it at the time. However, we have taken the issue back. We have sat down. We have worked very hard with all the different people who are concerned about how we should proceed in this very critical area of getting drugs out to consumers at a more reasonable price, and we have now worked out this understanding with legislation which passed out of the Health, Education, Labor and Pension Committee, which I have the honor to chair and Senator KENNEDY is the ranking member. It passed out of that committee unanimously.

The reason it passed out unanimously obviously is because after a great deal of consideration we were able to reach an accommodation that works rather well in addressing this issue.

The basic theme of this bill is really quite simple. No. 1, we want to make generic drugs more available to consumers on a faster timeframe, which therefore gives them lower cost drugs. At the same time, we want to continue to encourage innovation, especially in our brand-name companies, which are the ones that create the drugs to begin with. Without their creativity and research, we would not have a generic industry because there would not be any underlying drug from which to develop the generic. So we do not want to chill innovation. Rather, we want to accomplish both goals, and to some degree the goals pull at each other.

The third thing which I was concerned with was that we not set up a massive atmosphere of litigation, that we not create a minefield of litigation through which people have to pass before they are successful in getting the generics to the market or fight getting the generics to the market, having a definitive decision in both of those areas.

This bill does that. It accomplishes those three goals. I think it does as well as can be expected in the context of the different forces pulling at the issue.

It builds upon the underlying law, which is the Hatch-Waxman law, which was extraordinarily good legislation put together by Senator HATCH on our side of the aisle and Congressman WAXMAN across the hallway, which basically created the first attempt at settling out the issue of how generics get to the market in a prompt way while still maintaining innovation.

Over the years, Hatch-Waxman, as with much legislation, was put under the microscope of the attorneys and the creative folks who work for various entities involved in this issue. As a result, it developed cracks. We found that in some instances the system was being gamed and in some instances simply misdirected. As a result, it wore down over time and there were corrections that needed to be made. That is what the purpose of this bill is, to correct the problems we saw that were occurring.

At the same time we moved this legislation forward, the administration was moving forward with its own initiative in this area dealing with a 30-month stay issue, which is the technical part of this bill. They have now put out a rule in this area. The rule is fairly close to where we end up with the legislation. As a practical matter, the administration could not go as far as they wanted. And when I am talking of the administration, I am speaking of the FDA, the Food and Drug Administration. They could not go as far as they wanted to go because they were restricted by the fact they were working within the framework of regulatory requirements, but because we are working in a legislative atmosphere we can go much further, and we have. We have addressed not only the issue of the 30-month stay, we have addressed the issue of the 180-day questions which were raised. We have addressed the issue of listing, of how we handle the orange book and a variety of other issues, including patent extension, the changing of labels, coloring of pills, and things like that which became an issue of whether they were actually substantive changes or attempts simply to avoid having the generics come to the market.

Our bill goes considerably further than the rule the FDA has put in place. In my opinion, it is a very substantive improvement over the proposal which came through this body last year, and although it passed, it never became law. That is why it has garnered very bipartisan support.

I note the amendment I am going to be offering is cosponsored. The original sponsors are from last year, Senators SCHUMER and MCCAIN, who designed this bill, joined by myself and Senator KENNEDY, the chairman and the ranking members of the committee, Senator ROBERTS, Senator EDWARDS, Senator COLLINS, Senator LEAHY, Senator JOHNSON, Senator FEINGOLD, Senator HARKIN, and Senator KOHL. I know other Members have a deep interest in this bill and will probably want to cosponsor this amendment also.

With that being said as an introduction to the issue, hopefully we can move to it as soon as we reach an accommodation with all of those parties who have other issues floating around.

I will yield the floor unless the Senator from Oregon has a question?

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. If I could pose a question to the Senator from New Hampshire and the Senator from New York, who has been very gracious in indicating that he has been in support of what I want to do. Last week I made public a report from the General Accounting Office involving Taxil, which is the biggest selling cancer drug in history. This drug was developed largely by the taxpayers, with everything for support from the Pacific yew tree, which grows in my home State of Oregon, all the way to the work done at the National Cancer Institutes by Federal researchers, and has produced $9 billion in sales for Bristol-Myers with the Federal Government getting a return of about $35 million, about one half of 1 percent on the biggest selling cancer drug in history.

In this report, the General Accounting Office documents that the Federal Government basically dropped the ball. Without going to price controls and regulations and things of this nature, with some modest steps, the Federal Government could have stood up for the taxpayers and the patients who cannot afford the medicine and gotten the drug to market quickly and also taken steps to make it affordable and to protect the taxpayers. It is my desire, as somebody who has worked on these issues often with the Senator from New Hampshire for many years, to work out a bipartisan agreement where the National Institutes of Health would simply consider affordability when it enters into these agreements. It would not have to do anything prescriptive but would also have to look at affordability. I do not want in any way to hold up the work of the Senator. I think what he and the Senator from New York have done is very helpful, but I would have to object now if we could not get an agreement to at least at some point in this take a very modest step and ask that the question of affordability be considered when the National Institutes of Health enters these agreements, given the fact that basically patients on this particular drug, which has been the biggest selling cancer drug in history, cannot afford it and taxpayers got very little in return.

Would that be acceptable to the Senator from New Hampshire? If I did not object at this point, would the Senator from New Hampshire work with me so at some point later in this discussion we could get a bipartisan agreement on a very modest step that affordability be considered in these agreements? Is that acceptable to the Senator from New Hampshire?

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. GREGG. First, I was very impressed with the report the Senator was able to get out of the public domain. It was a report that raised very serious issues. The fact is it appears somebody dropped the ball somewhere in the process. We should have gotten a better return for the taxpayer than we got on this drug.

The Senator is approaching an issue which needs to be addressed. I am happy to work with the Senator to try to address it. I cannot say unilaterally I can agree to the terms, but I will work throughout the day and tomorrow and have our staffs work to try to come up with language that gets to the Senator's purpose to make sure, when this research is done by NIH or other Federal entities, that research receives a fair return to the taxpayer. I was rather surprised we did not in that instance. I am happy to work with the Senator.

On this amendment, there is an agreement between myself and the other primary sponsors that we will not have second-degree amendments because we worked hard to get to this point.

Mr. WYDEN. Mr. President, the Senator from New Hampshire is being very gracious. On the basis of his statement that he would work with me on it—what the Senator from New Hampshire and Senator SCHUMER have accomplished is very important. I reiterate how important it be done at this time. It is one thing when drugs are developed with private sector money. It is a free enterprise system. Fortunately, investors take risks. There are some gushers, some that are not profitable. It is a different story when the drugs get to market with taxpayer money. Here we have the largest selling cancer drug in history.

It is imperative over the next day or so we work in a bipartisan way. The National Institutes of Health does phenomenal work. I don't want to do anything to impede their mission in getting drugs to market quickly. That is their first and foremost obligation. But let us also make sure when they sit down and enter into these agreements, they also try to make sure the drugs are affordable. It is one thing to get the drugs on the shelf, and it is another to not have the patients able to afford them.

On the basis of the pledge of the Senator from New Hampshire to try to work this out with me in the next day or so in an agreeable fashion, I do not intend to object. I want to see the amendment of the Senator from New Hampshire and the Senator from New

York go forward. I will work with the Senator from New Hampshire when he completes this important amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I appreciate the Senator from Oregon. His issues are legitimate. I certainly hope we can work this out and include it in the bill. It is an appropriate place for it.

I now ask unanimous consent, regarding the amendment Senator SCHUMER, I, Senator KENNEDY, and Senator MCCAIN will offer relative to generics, that we have 1 hour of debate equally divided and there be no second degrees and the yeas and nays be considered as ordered on the amendment.

The PRESIDING OFFICER. The Chair informs the Senator, the Senator cannot order the yeas and nays by unanimous consent.

Mr. BAUCUS. Reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the pending amendments be set aside and that Senator GREGG be recognized in order to offer an amendment regarding generic drugs, with no second-degree amendment in order to the amendment; further, that there be 60 minutes equally divided for debate prior to the vote in relation to the amendment; provided further that at 3:45 today the Senate proceed to a vote in relation to the Enzi amendment, No. 932, as amended, with no other amendments in order to the Enzi amendment. I further ask that following that vote there be 10 minutes equally divided for debate prior to a vote in relation to the Daschle amendment, No. 939, again with no second-degree amendment also in order prior to the vote. Finally, I ask consent that following that vote, the Senate proceed to a vote on the Gregg amendment, with no intervening action or debate, and 2 minutes equally divided prior to the vote.

I further ask consent that following disposition of the Gregg amendment, the next sequence of amendments be the following: Senator DORGAN, Senator GRASSLEY, and Senator HARKIN, and these would be first-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Reserving the right to object, I wonder if we could get some time to explain the amendments.

The second two votes will be 10-minute votes? I ask consent they be 10-minute votes, not the ordinary 15.

The PRESIDING OFFICER. Does the Senator object?

Mr. GRASSLEY. I amend my consent request accordingly.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Reserving the right to object, as the manager of the bill said, there will also be 2 minutes equally divided before each vote?

Mr. GRASSLEY. That is in my request.

The PRESIDING OFFICER. Is there objection? The Senator from North Dakota.

Mr. DORGAN. Reserving the right to object, and I shall not object, is it my understanding the vote on Gregg-Schumer is the third rollcall vote in sequence, and following the disposition of that vote I will be recognized to offer an amendment?

Mr. GRASSLEY. Yes.

Mr. DORGAN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire.

AMENDMENT NO. 945

Mr. GREGG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Hampshire [Mr. GREGG], for himself, Mr. SCHUMER, Mr. MCCAIN, Mr. KENNEDY, Mr. ROBERTS, Mr. EDWARDS, Ms. COLLINS, Mr. LEAHY, Mr. JOHNSON, Mr. FEINGOLD, Mr. HARKIN, and Mr. KOHL, proposes an amendment numbered 945.

Mr. GREGG. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text Of Amendments.")

Mr. GREGG. I yield 5 minutes to the Senator from Arizona, who is one of the original creators of this legislation and has done such extraordinary work in this area.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senator GREGG for his leadership on this legislation. I thank him for reaching out to Senator SCHUMER, Senator KENNEDY, and myself to resolve issues that are important. He recognized the problem existed and worked to ensure loopholes in the system are closed and consumers have access to the best and most affordable medicines. Senator GREGG's leadership enabled the expeditious introduction and successful committee markup of this legislation. Under his chairmanship, the bill was reported out by unanimous consent last Wednesday.

Senator KENNEDY's support of this measure must also be recognized. His experience and technical expertise have been invaluable throughout the process. Staffs of all three of these Senators have worked 7 days a week for the last few weeks to ensure that the language we have crafted is as technically sound as possible without unintended consequences.

I also thank my friend, Senator SCHUMER, with whom I have enjoyed working over the last few years. His dedication to American consumers and his commitment to restoring fairness to the drug industry must be commended time after time.

This amendment will enhance competition and restore a level of sanity in the pharmaceutical market. The amendment closes loopholes in the current food and drug laws that allow brand pharmaceutical companies to protect themselves from generic competition by unfairly extending drug patent life, maximizing company profits on the backs of American consumers.

This amendment ensures that lower cost generic drugs will get to market faster and with more competition, allowing substantial savings for both consumers and taxpayers. With this measure, we are one step closer to the larger goal of providing better access to affordable health care for all Americans.

Several years ago, my good friend, Senator SCHUMER, and I began this effort when we introduced the first Greater Access to Affordable Pharmaceuticals Act in the fall of 2000. I joined Senator SCHUMER then in order to put a stop to the anticompetitive actions in the pharmaceutical industry that artificially inflate prices and keep lower cost prescription drugs out of the hands of American consumers. I am here today because those loopholes remain.

Last summer, when the Senate was mired in partisan gridlock debating a Medicare prescription drug benefit, the later version of the bill was used as a vehicle for Medicare debate. Although the Senate failed to pass a Medicare prescription drug benefit package last summer, the GAAP Act passed by an overwhelming margin of 78 to 21. That bill set consumers on course to save an estimated $60 billion over 10 years, while providing seniors and all Americans with access to more affordable prescription drugs. Unfortunately, after our astounding victory for consumers, the bill was not subsequently passed or even considered by the other body.

Today, we are once again debating Medicare prescription drug benefits. We have before us a plan that is estimated to cost a minimum of $400 billion over the next 10 years but will surely cost substantially more upon implementation. Unlike the majority of the amendments that have been and will be considered during this debate, the amendment we are offering will not cost the taxpayers a dime. In fact, it will save money for both the Federal Government and American consumers.

The amendment is the result of a carefully crafted bipartisan compromise, which Senators SCHUMER, GREGG, KENNEDY, and I reached several weeks ago. This amendment achieves the same goals Senator SCHUMER and I have been striving to achieve over the last few years. It closes loopholes in the law, encouraging competition, without sacrificing incentives for innovation, while discouraging anticompetitive behavior on the part of brand or generic drug companies.

Of the many elements contributing to the rapid growth in our Nation's health care costs, the rising costs of prescription drugs is one of the most significant. This year alone, prescription drug costs are expected to rise by 19 percent.

I ask my friend from New Hampshire if he would yield me an additional 4 minutes?

Mr. GREGG. I yield the Senator from Arizona such time as he may need.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank my friend from New Hampshire.

I want to repeat that comment. This year alone, prescription drug costs are expected to rise by 19 percent. Today, this morning, in New York, New Hampshire, Massachusetts, and Arizona, seniors are getting on a bus—in the case of Arizona, to drive to Mexico; in the case of New Hampshire, Massachusetts, and New York, to go to Canada—to buy their prescription drugs. Most times these prescription drugs are fine. Most times they are exactly what they are advertised to be. But sometimes they are not. That is because these seniors who are having to get on the bus to go to Canada or Mexico simply cannot afford to go to their local druggist and get the prescription drugs that they very badly need—many cases in lifesaving situations.

Skyrocketing health care costs have left many businesses struggling to provide coverage for their employees and an increasing number of Americans without any health insurance. Consequently, access to affordable prescription drugs represents one of the most serious problems facing our Nation's health care system today. Not isolated to one segment of society, this issue affects individuals, families, companies, and the like.

The financial burdens associated with rising prescription drug costs have left many companies struggling to provide employees with health care coverage. This January, workers at General Electric staged a 2-day strike over increased copayments for prescription drugs covered under the company's insurance plan. General Motors, one of the largest providers of private sector health care coverage, spends billions of dollars a year on workers, retirees, and their dependents, over $1 billion of which is on prescription drugs alone. Even with aggressive cost-saving mechanisms in place, General Motors' prescription drug costs continue to rise between 15 percent and 20 percent per year.

Given the crises in both corporate America and our Nation's health care system, anticompetitive behavior in the marketplace is particularly onerous. Such abuse simply has no place in our health care system. My intention in supporting this amendment is not to weaken patent laws to the detriment of the pharmaceutical industry, nor is it to impede the tremendous investments they make in the research and development of new life-sustaining drugs. The purpose of the underlying legislation is to close loopholes in the Hatch-Waxman Act, which established the generic drug industry we know today, and to ensure more timely access to generic medications. This is an important distinction which must be made clear.

Nonetheless, to believe that patent laws are not being abused, is to ignore the mountain of testimony from consumers, industry analysts, and the Federal Trade Commission (FTC). Over the past three years several Senate and House committees have heard testimony regarding the extent by which pharmaceutical companies, including generic manufacturers, engage in anticompetitive activities and impede access to affordable medications. During a hearing at the Senate Commerce Committee, Chairman Muris of the FTC testified that:

> [in] spite of this remarkable record of success, the Hatch-Waxman Amendments have also been subject to abuse. Although many drug manufacturers, including both branded companies and generics, have acted in good faith, some have attempted to "game" the system, securing greater profits for themselves without providing a corresponding benefit to consumers.

The intent of the Hatch-Waxman Act was to address the escalating costs of prescription drugs by encouraging generic competition, while at the same time providing incentives for brand name drug companies to continue research and development into new and more advanced drugs. To a large extent, Hatch-Waxman has succeeded in striking that difficult balance between bringing new lower-cost alternatives to consumers, while encouraging more investment in U.S. pharmaceutical research and development in the pharmaceutical industry has increased exponentially. Unfortunately, however, some bad actors have manipulated the law in a manner that delays and, at times, prohibits generics from entering the marketplace.

I believe that this amendment will improve the current system while preserving the intent of Hatch-Waxman. This legislation is not an attempt to jeopardize the patent rights of innovative companies, nor does it seek to provide an unfair advantage to generic manufacturers. Rather, the intent of this amendment is to strike a balance between these two interests so that we can close the loopholes that allow some companies to engage in anti-competitive actions by unfairly prolonging patents or eliminating fair competition. In doing so, we offer consumers more choice in the marketplace.

It is imperative that Congress build upon the strengths of our current health care system while addressing its weaknesses. This should not be done by imposing price controls or creating a universal, government-run health care system. Rather, a balance must be found that protects consumers with market-based, competitive solutions without allowing those protections to be manipulated at the consumers' expense—particularly senior citizens and working families without health care insurance.

I want to thank my friend, Senator SCHUMER, with whom I have enjoyed working over the last few years. His dedication to American consumers and his commitment to restoring fairness to the drug industry must be commended.

I also want to thank Senator GREGG for reaching out to Senator SCHUMER, Senator KENNEDY and myself, to find middle ground. He recognized that this problem existed and joined us to ensure that loopholes in the system are closed and consumers have access to the best and most affordable medicines. Senator GREGG's leadership enabled the expeditious introduction and successful Committee markup of this legislation, where under his chairmanship the bill was reported out by unanimous consent last Wednesday.

Senator KENNEDY's support of this measure must also be recognized. His experience and technical expertise have been invaluable throughout the process. The staffs of all three of these Senators have worked seven days a week for the last few weeks, to ensure that the language we have crafted is as technically sound as possible—without any unintended consequences.

It is my strong belief that this measure represents a significant and immediate step that Congress can take to help to improve the lives of many Americans. I look forward to debating this issue and working with my colleagues on both sides of the aisle to protect the health care needs of older Americans while also eliminating the anti-competitive abuses of both pioneer and generic drug companies.

This place in some ways has become more partisan than a lot of us would like. I think this legislation is an example of how people on both sides of the aisle can work together. In this case, the chairman and ranking member of the appropriate committee, Senator GREGG and Senator KENNEDY, have worked together, as have Senator SCHUMER and I, and all others on his committee who have made this legislation come to the floor. I imagine it will pass with relative ease, to the benefit of many millions of Americans.

I again thank all who have been involved in it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I thank the Senator from Arizona for laying the foundation without which this piece of legislation could not have come forward. I thank him, and, of course, Senator SCHUMER—two key Members in getting this initiative going. I congratulate them for making this product a much better product this year.

Also, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I cleared this with the Democratic manager. I ask unanimous consent that I control the time under the control of the Democratic manager.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SCHUMER. Thank you, Mr. President.

I thank my colleagues and my friend, the Senator from Arizona, who is just walking off the floor. He and I got involved in this issue a couple of years ago when we saw the abuses that occurred. He has been simply a pleasure to work with—right on the money, focused on getting the job done for consumers, and not being deterred by interest groups on one side pushing him one way or by others questioning him on this or that. I thank him.

I also thank my partner in this endeavor, Senator GREGG of New Hampshire. Early on this year, he came over to Senator MCCAIN and me and said: Why can't we work this out? He agrees with the principles in the bill that we put together, but he had some very positive and constructive suggestions. I mean this as a complete compliment, having spent 7 years there. Without his New England style leadership—understated, to the point, courageous, forthright—this bill would not have gotten as far as it did. I thank him for his leadership. I would say that New England leadership is tempered by having spent a few years in higher education in the great city of New York as well.

Finally, I thank my good friend and our great leader in this Senate, a Senator I have been privileged to know and who again has been invaluable in bringing this bill to the floor. The original Schumer-McCain bill would not have gotten the push that it did if the Senator from Massachusetts had not steered it through the shoals of the health committee when he was chair, and again he and his staff have just been of constant, invaluable assistance in making this happen. I thank him for that.

The concept of this bill is simple. It is clear that we know we have these miracle drugs. They are wonderful drugs. The people who invent them in the pharmaceutical industry, I know many have had harsh words for on occasion, and I am not the least of those. But they do a very good thing. They come up with new, wonderful drugs that keep people living longer and living healthier.

One of the reasons that my parents—praise God—just last week turned 80 and 75—our whole family got together and celebrated their birthdays in Connecticut—is the fact that these drugs are available. I think every family can recount the stories.

The careful balance we seek to reinstate here says we want to see innovation continue. We want to see a fair and reasonable rate of return made. We want to realize that for every 1 successful drug, there may be 20 or 50 or even 100 failures. There has to be an economic viability there. We want that to happen.

I think most of us agree that the Hatch-Waxman bill—I thank my friend from Utah, who I think is over at the Judiciary Committee trying to work out another grand compromise, this time on asbestos, understood that.

But here is what has happened over the last several years. This is where I fault the drug companies despite the goodness of the products they come up with. A lot of blockbuster drugs were on the market. Their patents were about to expire. The drug industry, accustomed to the high rate of return they have had, came to the conclusion that they had to do everything they could, they had to pull out all the stops to extend their monopolies. They came up with wild and crazy schemes to do it, such as patenting the substance the body makes when the drug is ingested; developing computer programs and listing the patents on the drug; and, in one case, absurdly, a new patent was asked for because the color of the bottle was changed.

That was never the concept of Hatch-Waxman. We found that the pharmaceutical industry, instead of spending all its time developing new drugs, was developing new patents. They seemed to care more about hiring good lawyers than good chemists, scientists, and doctors.

Let me give you one example of what happened. Paxil, a $2.1 billion drug used to treat obsessive compulsive disorders, has been in litigation since 1998. After the lawsuit began and the first 30-month stay was triggered, the brand, Glaxo, listed nine additional patents on the drug, triggering five additional 30-month stays.

Well, over the past 4 years, there have been court decisions on four of those patents. The patent which began this litigation was found not to be infringed by the generic, and three others were found invalid. But the 30-month stays are still going on and on and on, costing consumers $3 billion. The same drug, with its same miracle qualities, would have been available for $3 billion less altogether had these frivolous and unnecessary patents not been filed. Well, this story could be repeated and has been repeated.

Why is this a great day for consumers? Because the cost of the generic drug is so much less than the cost of the brand-name drug. And that generic drug should be allowed to come on to the market without frivolous patents, lawsuits, and legal mumbo jumbo preventing that from happening.

We want a rate of return to be made by the drug company, but we do not want to allow them to do what they have been doing, with increasing frequency: playing games, perverting the law, and costing consumers billions of dollars because the lower-priced generic drug is delayed from coming on the market by frivolous patents.

Let me give you some examples in my State:.

In Buffalo, Allegra, a great drug for allergies: The brand cost for 30 pills is $84.56; if a generic were available, it would cost about $32.98.

In New York City, Prevacid, to treat acid reflux: The brand cost is $154.28; the generic would cost $60.17.

In Rochester, Celebrex, a great drug for arthritis: The brand cost is $108.29; the generic would cost $42.23.

In Rochester, Lipitor, a wonder drug for cholesterol; I think it is now the largest selling drug in the world: The brand cost is $77.73; the generic would cost $30.32.

And finally, in Syracuse, Norvasc, for angina and hypertension: The brand cost is $54.37; the generic would cost $21.20.

The bottom line is: When 30 pills cost you $100 for the brand-name drug, it will cost you $25 or $30 for the generic—for the exact same medication.

What our proposal does is encourages robust competition by allowing the generic to come on to the market in its fair time. It restores the balance of Hatch-Waxman. It does it in a way without frivolous lawsuits. It does it in a way that gives everybody notice. But what it says is, the recent trend to extend the patent monopolies long beyond what anyone thought they should be will be stopped.

So this is a fair compromise. It is a compromise that helps consumers. It was estimated that the original McCain-Schumer—bill I don't see why it should be too much different in this new bill that Senator GREGG and myself, with Senator MCCAIN and Senator KENNEDY, have sponsored, other than some changes due to the baseline—would have saved American consumers $60 billion over 10 years. It was estimated our bill would have saved $18 billion in the Democratic Medicare package on the floor last year.

In the same way, the bill before us today will save companies, that are struggling to pay for health care, hundreds of millions of dollars. That is why it has such a big and broad coalition behind it. And not just consumers and consumer groups, but industry groups, companies such as General Motors, the insurance industry—which I am often at odds with when it comes to health care issues—are fully on our side. There is a broad consensus of support.

It is my hope the House will pass this bill. It is my hope the President of the United States will support this bill and sign it. And it is my hope—my sincere hope—the drug companies will see the error of their ways and, instead of spending so much time on extending patent monopolies, they will, rather, spend that time creating new drugs. They will spend their time not innovating new patents but, rather, innovating new drugs. That is what this is all about.

One final point. Some might say, well, the FDA is doing some of this, anyway. I am glad they are, but as this chart shows, the FDA only goes about a third of the way in doing what is needed in this fair and balanced bipartisan compromise. In fact, when the FDA actually talked about closing these loopholes, it was made clear that legislation would be needed to finish the job.

Mr. President, in conclusion, this legislation finishes the job. It allows generics to come on the market. It will save consumers, American companies, and our Government billions of dollars and increase the quality of health care—the good health and vitality—of the American people.

The PRESIDING OFFICER (Mr. CRAPO). The Senator has used 10 minutes.

Mr. SCHUMER. Mr. President, I do not see Senator GREGG on the floor, so let me yield 10 minutes to my colleague and partner in this 2-year attempt to bring balance back into the area between brand and generic drugs. He is one of our great leaders in the Senate on health care and so many other issues, the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, if the Chair will remind me when I have used 8 minutes.

Mr. President, first of all, I congratulate Senator SCHUMER and Senator MCCAIN for the development of this legislation from over 2 years ago. I thank them for their work and help with our Labor and Human Resources Committee.

When I was fortunate enough to be chairman of that committee, we considered the legislation, and we reported that legislation out. But it was a very contentious meeting of our committee, and we had a very contentious debate here on the floor of the Senate.

But what we have been able to do over the period of the recent months, under the leadership of Senator GREGG and others, is we have come up with a recommendation which reflects virtually a unanimous committee. I think this legislation is going to achieve the objectives Senator MCCAIN and Senator SCHUMER had intended.

So at the outset, I want to say that I am very hopeful we will get this legislation passed.

I quite frankly think this is the appropriate amendment on the appropriate vehicle because we are talking about prescription drugs and we are talking about Medicare, and we are now talking about the costs of the prescription drugs. These matters are interrelated.

If you ask people and seniors about their issues with prescription drugs, they will say, first, accessibility and availability, but, secondly, they will talk about cost. This legislation isn't going to be the final answer on cost, but make no mistake about it, as Senator SCHUMER has pointed out, the savings will be in the tens of billions of dollars to consumers over the period of the next few years. That is incredibly important.

The Hatch-Waxman legislation, as we know, was to try to provide encouragement to our drug companies to innovate and to create and to bring new possibilities into the market. It has been very successful. But it has also interfered with the chances for generics to enter the market after these patents were up.

As has been pointed out by those earlier, we found out there were abuses. Senator MCCAIN and Senator SCHUMER noted this and made a series of recommendations in order that we address it. Their position was justified, again just over a year ago, by the Federal Trade Commission, which virtually identified very similar kinds of problems. There were previously many questions by the Members of this body—I remember the debate and I can still hear the voices in opposition. But, I think, this legislation is reaffirming the efforts which they have developed and which will, hopefully, pass here and will be accepted in the conference that is going to take place.

Just finally, Mr. President, I want to review once again, as the Senators have pointed out, the cost difference of the various drugs over recent times.

First of all, this chart I have in the Chamber shows you that the brand and generic price gap continues to widen.

This chart goes back to 1990. And here you will see, the average prescription was going for $27.16, but only $10.20 for the generic.

On the chart, the red represents the continuing increase in the cost of the average prescription drug that is requested by the pharmacy. It has gone up to $65.29 over the period of 10 years. For the generic, it has gone from $10.29 up to $19. So we have seen this dramatic increase in terms of the brand name, and really a very level increase effectively in terms of the generic.

If we are talking about cost and talking about prices, the more we do to help give consumers a greater opportunity to get generics, we will have had some important impact in terms of creating a downward trend in prices. That is enormously important.

Let's just look over, as others have pointed out, the difference between the average cost per brand name on these various items. If we look at Prozac for depression, $110.77 for the brand name versus $44.31 for the generic. Claritin for allergies, $63.65 versus $25.46. And going to heart disease, Norvasc, $55.69 to $22.27. Zocor for high cholesterol, $124.71 to $49.88. These are various drugs dealing with ulcers, depression, allergies, heart disease, and high cholesterol, which are many of the challenges our seniors are facing. This is a pretty good indicator of what we are talking about in terms of making generics more available and improving the opportunity for them to get on the market and be able to have a positive impact for our consumers.

All of us understand that we have doubled the NIH budget. That is because we recognized in a very important way, Republicans and Democrats, that this really is the life sciences century. The opportunities we are facing now with the mapping of the human genome, the analysis of DNA, the proclivities that individuals have in terms of cancer and other diseases, are enabling us to anticipate and begin to develop medical technologies that will help prevent individuals from getting these diseases. The opportunities are unlimited. We have made that commitment and we are finding these breakthroughs that are taking place every single day. Many of these initiatives are up in my home State of Massachusetts, they are in New England, associated with many of our great universities and our teaching hospitals. We want to make sure those kinds of breakthroughs are actually going to get out and benefit our fellow citizens.

We want to maintain on the one hand the incentives for the industry, the pharmaceutical industry to move ahead with breakthrough kinds of technologies. On the other hand, we want to make sure that available drugs in the form of generics will be accessible. This legislation is going to have an important impact in terms of the cost.

I commend the Senator from New York, Mr. SCHUMER, and Senator MCCAIN for moving this along. I thank very much the chairman of the committee, Senator GREGG, for giving it time and attention and for his very constructive and positive help. This is an important piece of legislation. It makes a very significant difference for our seniors. I am hopeful this will pass by an overwhelming majority.

I yield back to the Senator from New York any remaining time I have.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I thank the Senator from Massachusetts and the Senator from New York for their kind words. Obviously their efforts have already been highlighted and have been the key to this successful undertaking. The doggedness of Senator SCHUMER on this issue has managed to bring this to fruition.

It is an important piece of legislation as has been outlined relative to the differential in cost. It will save people significant amounts of dollars on their pharmaceuticals, obviously, as they come off patent. It is important not to underestimate the innovation side. We didn't want to do something that basically undermines or chills innovation, because the ability of our health care system to function well today requires a pretty strong pharmaceutical industry. Pharmaceuticals are really the process by which we are going to be caring for people as we go into the future. That is where the true discoveries are occurring, especially in the biologics area.

We want to make sure we have an extraordinarily vibrant and strong research component, not only in the public sector through NIH, where we have doubled that budget, but in the private sector where people will invest in research, if they see a reasonable return. Some folks forget when they go to Canada to buy these drugs at a discounted price, they don't realize the cost of bringing a drug to the market is extraordinary. It takes about somewhere between 10 and 12, 15 years to bring a new drug to the market. It costs somewhere in the vicinity of three quarters of a billion dollars, $750 million to $1 billion, to bring it to the market. You can't do that unless you have dollars to support the investment and that length of time it takes to develop the drug.

In a free market society, dollars flow where there will be a return. If somebody is going to find that they invest in a drug and that drug research comes to fruition and they produce a drug and immediately the drug is taken over or in too short of a time the drug's patent rights are taken over so there cannot be an adequate return on investment, people will not make the investment in trying to find a new drug. As a result, everyone will suffer. There will be fewer new and exciting drugs on the market that help people with health issues. So we have to have a strong and vibrant industry doing the research. That is why I have always been an aggressive advocate of a strong pharmaceutical industry. It is key to maintaining a health care system in this country which is going to be vibrant and effective for people.

That being said, there is a time at which drugs need to come off patent. They have to be available at a lower price. They have to be available at a more reasonable price, the return having occurred on the original investment. What we saw, regrettably, under Hatch-Waxman, was there were games being played. There were games being played on both sides of the aisle, in fact. There were games being played on the brand-name side which would use the 30-month stay as a weapon, basically interminable stays. And there were games on the generic side where they might team up with a brand name and take advantage of the 180-day exclusivity clause and never bring the drug to market even though they had filed. This bill is an attempt to address those issues. It addresses them very conscientiously and in a positive way. It does it in a way that will not open up a whole new arena of litigation. It is going to do it in the context of the already existing causes of action which is the way it should be done, and it goes a little bit further than what the administration could do in their FDA rule, quite a bit further in some areas, certainly the 180-day issue. In addition, it has statutory support versus regulatory action which means it probably has more opportunity to survive a court challenge.

We think this is an excellent bill. It is a bipartisan bill. I thank the original sponsors, Senators SCHUMER and MCCAIN. I especially thank Senator KENNEDY for his willingness to work across the aisleway to make sure we move it through committee in a prompt way and have it be done in a constructive manner.

I notice the Senator from Maine is here. I suspect she wishes to speak on this as she has been an aggressive advocate for this type of approach, one of the leaders on this issue in the Senate. We regret she is no longer on the HELP Committee because she was a positive force on lots of issues but especially this one specifically.

Now that she is chairperson of the Investigation and Oversight Committee, she has her plate full of her own accord. I yield to the Senator from Maine such time as she may consume.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. I thank my colleague from New Hampshire for his leadership on this issue. He is an extraordinarily talented chairman of the HELP Committee who was able to bring people together on both sides of the aisle. This is yet another example of an outstanding achievement of the chairman, working together to benefit the people of this country. I do miss serving on the HELP Committee. I enjoyed the many issues the committee addresses, and this is an issue that is near and dear to my heart. I am very pleased to be a cosponsor of this amendment. I commend not only Chairman GREGG, but also Senators SCHUMER, MCCAIN, and KENNEDY, for all of their hard work on this comprehensive proposal.

The amendment we are offering today will make prescription drugs more affordable by promoting competition in the pharmaceutical industry to increase access to lower priced generic drugs while at the same time protecting innovation and preserving the incentives for companies to make the investments necessary to develop newer, better, and safer pharmaceuticals.

This amendment, which is based on legislation I joined Senators SCHUMER and MCCAIN in introducing earlier this year, will make prescription drugs more affordable for all Americans. The Congressional Budget Office estimates that our original proposal would have cut our Nation's drug costs by some $60 billion over the next 10 years, and I understand this compromise proposal is also expected to result in similar savings.

I will repeat that. There are very few bills we are ever going to consider that will result in cutting our Nation's health care costs. This proposal, according to the CBO, will help reduce the cost of prescription drugs by some $60 billion over the next decade. At a time when we are modernizing Medicare to include a prescription drug benefit, it is very important that this legislation be passed to help moderate the cost of prescription drugs.

Prescription drug spending in the United States has increased by 92 percent over the past 5 years. These soaring costs are a particular burden for millions of uninsured Americans, as well as for seniors on Medicare who now lack prescription drug coverage. Many of these individuals are simply priced out of the market or forced to choose between paying the bills or buying the pills that keep them healthy.

Skyrocketing prescription drug costs are also putting the squeeze on our Nation's employers, who are struggling in the face of double-digit annual premium increases to continue to provide health insurance for their employees. They are exacerbating the Medicaid funding crisis that all of us are hearing about from our Governors back home as they struggle to bridge shortfalls in their States' budgets.

The 1984 Hatch-Waxman Act made significant changes in our patent laws that were intended to encourage pharmaceutical companies to make the investments necessary to develop new drug products while enabling their competitors to bring lower priced generic alternatives to the market.

We should acknowledge that, toward that end, the Hatch-Waxman Act has succeeded to a large degree. Prior to the Hatch-Waxman Act passing, it took 3 to 5 years for generics to enter the marketplace after a brand name patent expired. Today, lower cost generics often enter the market immediately upon the expiration of the patent. As a consequence, consumers are saving anywhere from $8 billion to $10 billion a year by purchasing lower priced generic drugs.

There are even greater potential savings on the horizon. Within the next few years, the patents on brand name drugs with combined sales of $20 billion are set to expire. If the Hatch-Waxman Act were to work as it was intended, consumers could expect to save between 50 to 60 percent on these drugs as lower cost generics became available as these patents expired.

. Despite its past success, however, it has become increasingly apparent that our patent laws in the Hatch-Waxman Act have been subject to abuse. While many pharmaceutical companies have acted in good faith, there is mounting evidence that some manufacturers have attempted to game the system by exploiting legal loopholes in the current law.

Too many pharmaceutical companies have maximized their profits at the expense of consumers by filing frivolous patents that have delayed access to the lower priced generics. Currently, brand name companies can delay a generic drug from going to market for years. A "new" patent for an existing drug can be awarded for merely changing the color of the pill or its packaging. There were examples cited by the Chairman of the Federal Trade Commission in testimony before the Senate Commerce Committee last year.

One case involved the producer of a heart medication which brought a lawsuit for patent and trademark infringement against the generic manufacturer in early 1996. Instead of asking the generic company to pay damages, however, the brand name manufacturer offered a settlement to pay the generic company more than $80 million in return for keeping the generic drug off the market. In the meantime, the consumers of this heart medication, which treats high blood pressure, chest pains, and heart disease, were paying about $73 a month, while the generic would have cost them only $32 a month.

Last July, the FTC released a long-awaited report that found that brand name drug manufacturers had misused the loopholes to delay the entry of lower cost generics into the market. The FTC found that these tactics led to delays of between 4 and 40 months—that is over and above the first 30-month stay provided under the Hatch-Waxman Act—for generic competitors of at least eight drugs since 1992.

The FTC report pointed to two specific provisions of our patent laws—the automatic 30-month stay and the 180-day market exclusivity for the first generic to file a patent challenge—as being particularly vulnerable to strategies that could delay the entry of lower cost generics into the market. And it is precisely those two provisions which this carefully crafted compromise, which the chairman of the HELP Committee, Senator KENNEDY, Senator SCHUMER, and Senator McCAIN have crafted, it is precisely those provisions that would be solved, and those loopholes would be closed by the amendment we are offering today.

The bipartisan amendment we are offering would restore the balance in the current laws. It would close the loopholes that have reduced the original law's effectiveness in bringing lower cost generic drugs to market more quickly.

Again, I salute the chairman for the tremendous work that was done on this important proposal. I am delighted it is being offered. I am proud to be a cosponsor. This will make a real difference in the drug bill, not only for consumers, not only for seniors, but employers, State governments, or anyone who is purchasing prescription drugs.

I urge my colleagues to support the amendment.

Mr. FEINGOLD. Mr. President, I join my colleagues, Senators GREGG, SCHUMER, McCAIN, KENNEDY and others in introducing the Gregg-Schumer-McCain-Kennedy Amendment to the Medicare Prescription Drug Benefit bill.

As we all know, the sky-rocketing cost of prescription drugs is a problem deeply affecting senior citizens across the country. During my listening sessions and travels around my State of Wisconsin, health care, and specifically the cost of prescription drugs, continue to be the number one issue on people's minds. The problem of access to affordable prescription drugs is particularly acute among Wisconsin senior citizens who live on fixed incomes. Nationally, prescription drugs are senior citizens' largest single out-of-pocket health care expenditure, and the amount they are spending is rapidly increasing: this year, the average senior spends $996 a year for their prescription drugs. This is expected to rise to $1,147 in 2004.

I am pleased to be an original cosponsor of the bill on which this amendment is based, the Greater Access to Affordable Pharmaceuticals Act. This important legislation will improve access to prescription drugs, and make them more affordable for our Nation's seniors. By closing a series of loopholes that are hindering true competition in the prescription drug market, this legislation will bring lower-cost generic drugs to the market faster, passing on approximately $60 billion in savings to consumers over the next ten years.

A Medicare Prescription Drug Benefit is absolutely necessary, and the debate we are having on this bill is an important one. But there are no real cost-control measures for the rapidly escalating costs of prescription drugs. This amendment is truly a cost-savings measure for not only our Nation's seniors, but also all Americans who need prescription drugs. This amendment offers a way to help halt the rising costs of prescription drugs, without costing the taxpayers a dime.

Drug companies have every right to profit from their innovations. We need drug companies to continue the important research that brings life-saving drugs to the market. But once a prescription drug patent expires, we cannot allow the drug companies to keep renewing their patents for frivolous reasons, denying consumers affordable access to a generic alternative.

Mr. KOHL. Mr. President, I rise today in strong support of the amendment offered by Senators GREGG and SCHUMER, of which I am a cosponsor.

We are all aware of the incredibly high cost of health care these days and the often prohibitive cost of prescription drugs. We have all heard the sad but true stories of the senior citizens who are forced to choose whether to buy food or buy the medicine they need. We have heard the stories of seniors who only take half a pill instead of a whole one in order to make their prescriptions last longer. We hear these stories, and we all struggle to find a solution to these problems.

I believe this amendment is an incredibly important step towards that solution. In 2001, Americans spent more than $130 billion on prescription drugs, and of this amount, only $11 billion of this was spent on generic drugs. What makes this statistic so important is that although only $11 billion out of $130 billion spent was on generic drugs, this $11 billion bought 45 percent of the total prescription drugs purchased in 2001. Generic drugs, as safe and effective as their brand name counterparts, cost up to 80 percent less than those counterparts, and this amendment will help make sure that these drugs are made available to the consumer as soon as possible.

This important amendment will close the loopholes that brand name companies have been using to make sure that their drug is the only one on the market, keeping their profits, and consumer costs, high. It will prevent brand name drugs companies from listing frivolous patents with the FDA in order to keep generics from being able to enter the market, and if they do, it will give generic companies recourse options. It will limit brand name companies to one automatic 30-month stay automatically keeping a generic alternative off of the market, instead of unlimited stays, which have kept generics off the market for years.

These provisions, and others in this amendment, will save significant money to States, large corporations, small businesses, senior citizens, and so many others—money we could all use in this economy. For example, at the State level, Wisconsin spent over $14 million dollars in 2001 as a part of its Medicaid Program on 17 popular drugs whose patents will expire in the next 2 years. If generics for those drugs are allowed to enter the market, the taxpayers in my State will save about half of that money. That is no small change.

At the same time, however, this amendment will not force pharmaceutical companies to stop researching and developing new and improved drugs, and looking for the cure for cancer, Alzheimer's disease, Parkinson's disease, and so many other ailments we are so close to curing. Both of these goals—bringing generics to the market as soon as possible, and continuing to support companies in their research and development efforts—are vital, and I believe this amendment strikes a solid balance between the two.

I would like to commend Senators SCHUMER, MCCAIN, KENNEDY, and GREGG for their hard work on this effort, and I encourage all Senators to vote in favor of this amendment.

Mr. HATCH. Mr. President, I rise to speak on the Gregg-Schumer amendment. This is a revised and improved version of S. 1225, the Gregg-Schumer bill, "The Greatest Access to Affordable Pharmaceuticals Act of 2003." The HELP Committee reported S. 1225 just last week.

This bipartisan amendment was authored by Senators GREGG, SCHUMER, MCCAIN, and KENNEDY. I commend all of them for their hard work which, I believe has resulted in a bill that is vastly improved over legislation that passed the Senate last July, S. 812. Additionally, substantial improvements have been made between the version reported by the HELP Committee last week and the new draft of the amendment that I understand was only completed early this morning after an all night drafting session.

While I am supportive of the efforts and leadership of Senator GREGG and his prime cosponsors, Senators SCHUMER, MCCAIN, and KENNEDY, I am not in position to support this extremely important but complicated amendment at this time.

While I am mindful that the underlying bill is an attractive vehicle for this amendment, my experience teaches me that it is good to let the dust settle a bit, or at least let the ink dry, before making an informed judgment on an amendment that works at the complex intersection between the patent code and the Federal Food, Drug, and Cosmetic Act.

I can say this for certain: Senators GREGG, SCHUMER, MCCAIN, and KENNEDY deserve credit for their effort to make drugs more affordable for the public without undermining the existing incentives for developing new medicine.

On Tuesday, the Senate Judiciary Committee held a hearing on the issue of competition in the pharmaceutical industry. This hearing focused on the July 2002 Federal Trade Commission Study: Generic Drug Entry Prior to Patient Expiration, the recently-finalized Food and Drug Administration rule on patent listings and the statutory 30-month stay available in certain circumstances, and the new bipartisan Gregg-Schumer legislation, S. 1225.

At that hearing, I requested the Department of Justice to give us its opinion on the constitutionality of a provision of the legislation and asked the Patent and Trademark Office for their views on the patent-related provisions of the bill. I want to learn more from DOJ and PTO and others about their views on this only recently developed piece of legislation.

As well, at the hearing I discussed with the Chairman of the Federal Trade Commission, Tim Muris, and the Chief Counsel for Food and Drugs at the Department of Health and Human Services, Dan Troy, problems that may arise from the manner in which the bill addresses the granting of the 180-day marketing exclusivity incentive when patents are successfully challenged. The amendment appears to retain a feature of the current system that grants the 180-day marketing exclusivity period to first filers of generic drug applications rather than those applicants actually successful in defeating the patents of pioneer drug firms.

I look forward to working with the proponents of this legislation and once again commend them for their efforts to bring innovative and affordable drugs to the American public.

Mr. GRASSLEY. I commend Senator GREGG and Senator SCHUMER for their bipartisan efforts and leadership on this issue. This amendment would eliminate questionable practices that have emerged since passage of Hatch-Waxman. I applaud the responsible intent of this amendment.

This amendment reduces the possibility for drug companies to play games and prevent competition. These drug companies have not been accountable to consumers. Simply stated, this bill helps to ensure that consumers have access to low-priced drugs. This is a good thing.

This amendment reduces the cost of prescription drugs.

I can't think of a better time to enact these improvements. The underlying bill, S. 1, will provide drugs to seniors and this amendment will ensure access to lower priced drugs to everyone.

I support this amendment and appreciate the efforts of the HELP Committee on this issue.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I ask unanimous consent that Senator GORDON SMITH of Oregon be added as a cosponsor of the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

If no one yields time, the time will be charged equally to both sides.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from New Hampshire has 4 minutes. The Senator from Montana has 11 minutes.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I thank my friend and colleague from Montana, who is working hard overall on this legislation. We appreciate his work.

I came to the floor today to join with colleagues to support this amendment and to commend the Senator from New Hampshire and the Senator from Massachusetts for their joint leadership on the committee of jurisdiction and on this very important amendment.

I think one of the most important actions we can take to lower prescription drug prices for everyone is this amendment. Making the marketplace work, making competition work, allowing, once a patent is completed, for a generic drug—or, as we say in Michigan, an unadvertised brand—to have the opportunity to go on the market, to be able to manufacture that drug and drop the price, I think is very significant.

It is very important that we adopt the provisions in this amendment that relate to enforcement and the 30-month stay.

We have had in Michigan for the last couple of years a very important coalition with Blue Cross and Blue Shield, the Detroit Regional Chamber, and the Grand Rapids Chamber. I just came from a meeting in my office with representatives from the chambers, with other businesses, and those in the community who understand we have to get a handle on the explosion of prescription drug prices, and it is critically important we have competition to bring those prices down.

We know the average brand-name product is going up about three times the rate of inflation. We also know it is very costly to invest in new breakthrough drugs. We have many policies on the books to support and subsidize, through the taxpayers, new breakthrough lifesaving medication and to get it to market.

There is important research done in my State of Michigan, of which I am very proud, through those working in Ann Arbor and Kalamazoo and many other parts of Michigan, which has made a real difference in our lives.

Also, after we help fund the National Institutes of Health research, we allow companies tax deductions and credits for research, and we give them up to a 20-year patent so they can recover their costs from their investments in critical research and then the opportunity to bring these products to market.

The deal with the American taxpayers is once that process of subsidizing and support is finished, that formula, that information is supposed to be available for companies that do not do research—companies that have been called generic drug companies—to manufacture that medicine at a cheaper price. They do not do the research so, by definition, it can be done at a cheaper price. We know that anywhere from 30 percent—I have seen prices that were 70 percent lower. There is a wide range in the ability to bring down prices by having this system work.

We also know that, unfortunately, there have been cases where the system has not worked, where companies have gamed the system or manipulated the system to stop these lower-cost medications from going on the market.

This amendment will close the loopholes and hopefully better enable the system to work so we can have the benefit as consumers, as American taxpayers, of the investments we have made in helping to bring new drugs to the market and have the benefit of being able to afford those products once that medicine comes to the market.

I am very pleased and appreciate the hard work everyone on both sides of the aisle has been involved in to bring this legislation forward. I have spoken many times on the floor about what I believe to be the two goals of Medicare prescription drug coverage and lowering prices for everyone. This amendment is part of lowering the prices for everyone.

I commend everyone involved and urge support of the amendment.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Montana.

Mr. BAUCUS. Mr. President, it goes without saying we live in a very complicated era. That is especially true with prescription drug pricing, health care costs, new technologies, and new health care technologies. You cannot turn on the evening news without seeing a new technology, some way to help people lead higher quality lives, and you cannot turn on the TV without seeing an ad where essentially a prescription drug is being advertised as a new drug to help make people's lives better.

It is very hard for people to know what to believe. It is also very difficult to know just what the right policy should be in Congress with respect to prescription drug benefits, more particularly what prices people should pay for drugs, and that is why we have deductibles, copays, and catastrophic coverage, and also what price Medicare should pay to the prescription drug companies when seniors are receiving benefits for drugs, and what the subsidy would be.

It is not easy. I commend the Senators who put together this amendment because this amendment says: OK, the brand-name drug companies, the pharmaceuticals have their patent protection, and there is a good reason for patent protection: Because it takes a long time to develop drugs, and it is expensive. But there comes a time when enough is enough, when 17 years—I think that is the number of years of patent protection—is enough.

Over the years, some of the drug companies have been able to prevent competition from working; that is, the generic companies come along to produce basically the same product, since the patent expired, but they are, in effect, denied the ability to sell at the much lower price because pharmaceuticals have multiple 30-month periods of stay. I am not saying this bill is perfect, but it is a great advance in helping beneficiaries and in helping the Federal Government get the best price, get the best buy for the drugs that are on the market that senior citizens are going to utilize and buy, one way or another, and Uncle Sam is going to buy.

I highly compliment the authors of this legislation. We will see how well it works. My guess is it is going to work pretty well. There are many efforts, Mr. President, as you know, around the country; many States are figuring out ways, with volume purchasing, to get lower prices for prescription drugs under the Medicaid program.

We do not want to kill the goose that lays the golden egg. The pharmaceuticals have provided our people with wonderful drugs. There is no getting around that. At the same time, everybody wants to get as much as he or she can for themselves—not everybody but a lot of people do. Certainly, in our competitive capitalistic system which works pretty well, companies are concerned about the bottom line, shareholders, quarterly reports, so they are going to try to make as much money as they can for the shareholders, and that is their responsibility.

In so doing, brand-name companies have taken advantage of the patent, taken advantage of current law. They have found a loophole, and this legislation is designed to close that loophole, so that after 17 years and the patent period has expired, companies can offer generic drugs, lower-priced drugs. That makes the most sense once the patent period has expired. It is going to help. This is a bill which has many different provisions. It is very complicated. We are entering a whole new era of prescription drug benefits and a whole new way to get them out to senior citizens through Medicare, through private plans, through PPOs, through HMOs, and trying to find the right balance between value for beneficiaries—that is stability, so our senior citizens know what they are getting on the one hand and efficiency on the other; that is making sure it is the lowest price possible.

This amendment before us does a pretty good job in striking that balance; that is, efficiency as a lower cost to seniors and the Federal Government because of generics, and also stability because it is done in a way that seniors have a better idea what they are getting.

I commend the Senators, and I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Oregon.

Mr. SMITH. Mr. President, I rise in support of this amendment. I commend Senators GREGG, SCHUMER, McCAIN, and KENNEDY for their work on this carefully crafted and bipartisan amendment.

Improved access to generic drugs is a policy that is, frankly, long overdue. Last year I voted in favor of this amendment, and I am pleased to say I believe today's vote will be on an improved amendment.

The bill's sponsors have worked with the FDA, the drug industry, and the generics to reach the compromise that is before the Senate today. The result is a bill that will bring generics to the market in a timely way without stifling or shifting the process. Innovations that are vital to the American public and to health care consumers around the globe are, I believe, contained within this bill. By closing the loopholes that have allowed both the brand name drug companies and the generics to keep more affordable drugs off the market, all Americans win. I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SMITH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I ask unanimous consent that Senator LINCOLN be added as a cosponsor to my modified amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, how much time remains?

The PRESIDING OFFICER. Forty-five seconds.

Mr. GREGG. Mr. President, that is just enough time for me to once again thank the people who have brought this bill to fruition, especially Senator SCHUMER, Senator MCCAIN, and Senator KENNEDY. It is very strong legislation which is going to do a lot to make drugs more affordable for all American citizens, and innovation for new drugs to care for the people in America.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I know we are about to vote in a couple of minutes. I look forward to voting for this very important amendment. I commend the Senator from New Hampshire and the Senator from New York for their tireless work to bring this amendment to the floor in a way that it will receive broad support. It will achieve the objective of lowering the cost of prescription drugs, I believe, by bringing generic drugs to market faster. It will do so in a balanced, responsible way.

I also want to take a second to applaud the Senator from Utah, Mr. HATCH, who really showed remarkable foresight in the original Hatch-Waxman bill that has done so much to maintain balance between fostering research and innovation of new drugs on the one hand and expanding accessibility of more affordable generic drugs on the other. The success of that particular bill has been remarkable.

I do have several concerns about the amendment. I will be voting proudly for this amendment, but I will state the few concerns I have that I hope we can address over the coming days.

The intent of the amendment is clear: To improve competition, to bring high-quality, cost-efficient, and generic alternatives to the market sooner; and this amendment does just that.

Mr. President, I want to address the amendment before us offered by Senator GREGG and to commend him for his tireless work to lower the cost of prescription drugs by bringing generic drugs to market faster.

Last year, the Senate considered, and I voted against, a proposal to disrupt a system that has worked relatively well for almost 20 years—the landmark Hatch-Waxman law. And I want to express my respect and admiration for the tremendous commitment and foresight shown by Senator HATCH in sponsoring and authoring—along with other colleagues in this body—the original Hatch-Waxman bill that has done so much to maintain a balance between fostering research and innovation of new drugs on the one hand and expanding the accessibility of more affordable generic drug copies of existing medicines on the other.

Under Hatch-Waxman, generic competition has flourished. In 1984, when the law was passed, generics represented less than 20 percent of the market. Today, generic drugs represent nearly 50 percent of the entire market.

Yet because of some abuses of the law, S. 812 last year proposed to address the conditions under which generic drugs come to market. Although the bill was intended to speed this process and bring cheaper drugs to the American consumer, I voted against this proposal for a number of reasons, including concerns about the impact the bill would have on public health as well as its possible effect on the development of new, innovative drugs. I shared the concern about abuses to Hatch-Waxman and agreed with issues related to rising drug costs, but the proposal last year simply went too far, way beyond the recommendations contained in the Federal Trade Commission's 2-year study.

Therefore, I commend Senator GREGG for the good work he has done on today's amendment. This represents significant improvement from last year's bill in an attempt to address ongoing concerns with last year's proposal.

Currently, we are working to provide Medicare recipients access to prescription drugs, and that debate will continue into next week. During this discussion, we must address the cost issue, what current changes we must invoke to maintain the long-term sustainability of this added benefit by ensuring that the cost of drugs are appropriate, reasonable, and not beyond the reach of Americans. The Hatch-Waxman law has almost 20 years of balance, and now is the time to go back and readjust and make sure that balance is well situated going forward.

As we look at the overall skyrocketing cost of health care, the cost of prescription drugs is dramatically increasing. But in the name of cost savings, never should we threaten public health. Furthermore, never should we threaten the research and innovation that has made us the envy of the world in terms of health care—the great breakthrough drugs, the investment in research and development, which eventually will deliver a cure for diseases that are not curable today.

Let me make clear that today's amendment is much improved over last year's proposal, which took a heavy-handed approach to this very real problem and would have dealt a serious blow to pharmaceutical research and innovation. My colleagues, Senators GREGG, SCHUMER, MCCAIN, and KENNEDY, should be commended for their progress. Nevertheless, the amendment still has some significant flaws. Let me briefly outline several of my concerns. Even though these concerns will not prevent me from voting for this amendment, I believe that we must address these issues and I hope my colleagues will work with me in this regard.

First, I am concerned by questions that have been raised regarding the constitutionality of a key provision allowing generic drug makers to seek declaratory judgment that the brand's patent is not valid or is not infringed. At the least, it seems likely that this question will generate significant litigation; at the worst, it raises the prospect that all of the work put in on this point may ultimately be for naught if the courts decide that it is unconstitutional.

Next, under current law, if the court finds that a person has willfully infringed a patent, then the court awards treble damages. The amendment states that the court need not award treble damages in some circumstances—an alteration of patent rights that would apply only to drug patents and that removes the disincentive for generic companies to willfully infringe patents.

While this amendment seeks to codify the recently finalized FDA rule limiting innovators to one 30 month stay, I am concerned that it fails to include a clarification of the Food and Drug Administration's, FDA, current policy that an amendment or supplement to an abbreviated new drug application, ANDA, cannot cover a drug other than the original drug indicated in the ANDA. Without closing this obvious loophole, we are only creating additional problems with the appropriate administration of the 30-month stay and leaving in place a possible manner by which to game the system.

The intent of the amendment is clear, to improve competition and bring high-quality, cost-efficient generic alternatives to market sooner. If improving competition is achieved, I believe costs will decrease. However, I believe changes could be made to better improve competition, for example, by allowing a generic firm that may not have been the first to file but is the first to have an approved drug ready for market to obtain the 180-day marketing exclusivity. This would be more proconsumer because it would reward the generic company that actually gets their drug to market fastest, rather than the one that simply was first in line.

However, I do commend Senator GREGG for including a "use it or lose it" provision to discourage anticompetitive behavior. This is a significant advancement from last year's "rolling exclusivity" provision, and will protect consumers from anticompetitive behavior on the part of both brand drug companies and generics.

I will support this amendment. However, I believe we must continue to work to ensure the workability of the amendment, to provide that this does not inadvertently increase the health and safety risks to patients, and to avoid setting precedents that could lead to greater confusion and litigation in this area. I thank Chairman GREGG for his work on this issue and look forward to continuing to work with him on this as we move forward.

Again, I commend the Senator from New Hampshire for his tremendous support in authoring, sponsoring, and amending this amendment.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 932, as modified and amended.

Mr. ENZI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—95

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—5

Edwards
Graham (FL)
Inouye
Kerry
Lieberman

The amendment (No. 932), as modified and amended, was agreed to.

AMENDMENT NO. 939

The PRESIDING OFFICER. There are now 10 minutes equally divided prior to the next vote.

Who yields time?

The Democratic leader.

Mr. DASCHLE. Mr. President, the amendment that is now pending before the Senate addresses a concern that many of us have with regard to the volatility of the premium.

As everyone knows, currently, the Medicare Part B premium is $58.70. That is across the board, across the country. Regardless of where you live, regardless of the circumstances, a senior pays $58.70. We do not know what the premium for this prescription drug benefit will be. We are told the average cost is anticipated to be $35. But there is the average national weighted premium that is supposed to be about $100, which comprises both what the beneficiary pays and what the Government pays. If that is off by $10, if it is going to be $110 rather than $100, that $10 is going to be added to the $35, requiring a 30-percent increase in the cost of the premium for the beneficiary.

So we are very concerned, first, about the unpredictability of the premium, and, secondly, about the volatility of the premium because we really do not know what the national weighted average is going to be.

We also know because of utilization, there could be dramatic changes from region to region. Currently, in a Medicare+Choice program, including prescription drug benefits, a benefit package in Florida costs $16 and a package costs $99 in Connecticut. So you get a wide-ranging variance with regard to regions of the country.

This amendment simply says: Look, of all the factors you have to be concerned about; at least on the premium you are going to have some understanding that it is not going to vary as dramatically and as wildly as it might because there will be a cap of 10 percent over that national average for the beneficiary's contribution. If the national average is $35, it cannot exceed 10 percent more in any 1 year. It might exceed more than that year after year, but each year it would be within 10 percent of the average. It can go below that, but it just cannot go above 10 percent.

When you look at all of the concerns that seniors have with regard to the unpredictability of this plan, the copay, the coverage gap, the stop loss, the benefits package itself—all of those concerns, in addition to the variance of the premium—we are simply saying, let's do, at least in part, what we do with Medicare Part B. If Medicare Part B can be $58.70, let's say the prescription drug benefit can be $35 plus 10 percent regardless of what circumstances may be out there.

Let's give a little more certainty, a little more stability to seniors as they begin to pay their premiums. As it as a result of this bill, they are going to be paying $100 a month now for Part B as well as for this new prescription drug benefit per month. I think we have to be concerned about how high those costs can go and how much economic challenge these seniors are going to have to take on as they face the real prospect of being in a position of not being able to afford the benefit at all.

Mr. President, I yield to my dear friend and colleague from Nebraska, Senator NELSON.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, the purpose of insurance is to help stabilize the market and spread costs and risk over an entire group of people. This amendment will help achieve that goal. It will reduce significantly the unpredictability of the premium and the unpredictability of the disparity of State premiums. It will bring certainty to the process. People will know that their rate cannot be greater than 10 percent of the national average.

If we are going to manage care, we need to manage competition as well. This is one way of being able to do it. Just such as in Medicare, the insurance companies here, providing the new drugs, would decide what premiums to charge seniors based on experience within the State. What we would say is they have to take into account the national statistics and data in determining the rates.

I think it will even it out, and the disparity between State 1 and State 2 will be significantly lower. Unpredictability will be reduced and the certainty that will be established will be beneficial to the people. It will give seniors peace of mind, as well, with the ability to pay and know what the future will bring.

Stability and predictability is important in this particular program. We hope our colleagues will take a look at this and understand that the difference in the rate in New York should not be significantly different than the rate in Florida or Nebraska or wherever we may reside.

I think we all have an interest in making sure this program works, that it is sustainable, and, therefore, I ask colleagues to be supportive of this amendment. I think it is in the best interests of the insuring public, and, in this particular case, our seniors.

Mr. HATCH. Mr. President, I rise in opposition to the amendment offered by the minority leader, Senator DASCHLE. This amendment would mandate a nationwide cap on the premium for the stand-alone prescription drug plans.

Although at first this amendment might seem attractive, a closer look reveals blemishes and flaws in this approach, flaws that would spell disaster for the stand-alone prescription drug benefit and for Medicare beneficiaries were we to adopt this amendment.

S. 1 provides for a stand-alone prescription drug plan premium that would average $35 nationwide. The amendment offered by Senator DASCHLE would cap the premium at $38.50.

Although it may sound trivial, the difference between these two approaches is an important distinction to make if we are to implement a successful program.

S. 1 provides for at least two, and perhaps many more, private entities to bid for and provide stand-alone prescription drug coverage in each region. The plans may provide either the standard drug benefit or a drug benefit that is actuarially equivalent to the standard drug benefit.

The actuarially equivalent plans will have some flexibility in determining the specific prescription drugs that they provide and how they provide those drugs to beneficiaries. Some plans may be more efficient. These plans may find that they are able to provide prescription drugs at a lower cost and charge a premium that is less than $35. Others may choose to offer enhanced coverage or use delivery systems that require a premium that is higher than $35. It may be 5 percent higher. It may be 10 percent higher. It may be 15 percent higher. Or, it could also be lower.

So why should we lock ourselves in? We would be negating the very flexibility around which S. 1 was designed.

The point is that by providing for an average nationwide premium and stipulating that the plans may be actuarially equivalent, we allow plans to offer choices. And that is what Americans and particularly Medicare beneficiaries want.

S. 1 provides Medicare beneficiaries with the opportunity to choose plans based on price, service, and within certain mandated limits, the prescription drugs that are provided.

Let me mention something that I addressed also a few days ago in my opening remarks. This pertains to the provision in the bill ensuring that Medicare beneficiaries will have affordable prescription drug coverage.

S. 1 gives the Secretary of Health and Human Services the discretion to make adjustments in geographic regions so there will not be a large discrepancy in Medicare prescription drug premiums across the country.

This is very important to me, because I do not want Utahns paying significantly higher premiums than Medicare beneficiaries living in Miami or New York.

That being said, I believe it is better to give the Secretary of HHS the discretion to make those important decisions. If we cap the monthly premium in legislation, we are taking away plan flexibility—one of the fundamental principles of S. 1.

If we adopt the Daschle amendment and cap the stand-alone drug plan premium nationwide, Medicare beneficiaries will lose choices. The plans will not have the flexibility to offer improved service; they may find that they are unable to offer different services at all. There could be little to distinguish plans from each other. And beneficiaries may not be able to find a plan that offers the services or the particular brand of drug that they prefer.

This is not what Medicare beneficiaries want and it is certainly not what we in the Senate should offer them. My Finance Committee colleagues and I have worked hard during the last several months to provide Medicare beneficiaries with choices; choices that allow them to determine which prescription drug plan works best for them.

My colleague from South Dakota is concerned also about the complexity of variable premiums in S. 1. He has claimed that differences between plans will be confusing to our Nation's seniors.

I share Senator DASCHLE's desire that our seniors understand the terms of the plans that they are offered. However, I must disagree that the stand-alone prescription drug plans provided for in S. 1 will confuse seniors because the choices offered to them will be clear. Differences between plans will be obvious; seniors will choose a plan based on the factors that are important to them. It seems to me that this promotes the kind of transparency in public policy that a democratic, open society is all about.

Let me mention another problem that will certainly occur if the Senate were to mandate a national prescription drug premium.

If we mandate a specific, nationwide premium dollar amount, Congress will be back here every year debating whether that amount reflects the true cost to deliver prescription drugs. Since we all know how quickly the Government moves, this seems like a decidedly inefficient process.

This is not how the American people want their elected officials to spend our time, and it certainly is not how I think we can best use our time. This is an instance when Congress should trust the American people to determine what is best for them by making choices in the marketplace.

Furthermore, providing for a nationwide average premium allows plans the flexibility to design prescription drug benefit packages that reflect modern health care—not just what makes sense today, but what will make sense in 10 to 20 years.

If plans do not have this flexibility, we may in 10 years find ourselves in the same situation that we are in today, needing to revise a system that no longer provides the up-to-date options that Medicare beneficiaries need and deserve.

The private health insurance market and the Federal Employees Health Benefit Plans operate in this manner.

These plans provide benefits that have evolved over time in response to enrollees' needs to keep pace with modern health care innovations. Flexibility enables these plans to adjust quickly to meet their enrollees' needs and flexibility will allow the stand-alone prescription drug plans to meet Medicare beneficiary needs quickly and efficiently over time.

It is important also that we recognize that the Congressional Budget Office has said that prescriptive benefits, those spelled out in statute, will cost more and will provide lower quality and less efficient health care. Setting limits usually means that plans provide the minimum benefit at the lowest cost. Providing flexibility enables plans to be innovative and to offer multiple coverage options that reflect what Medicare beneficiaries want.

I urge my colleagues on both sides of the aisle to resist the temptation to vote for this amendment. Although it may sound enticing, capping the prescription drug premium will result in an outcome that none of us desire and that no one intended.

Capping the prescription drug premium will result in a one-size-fits-all approach, an approach that will leave us in a few years with a tired old prescription drug plan that doesn't meet anyone's needs.

This bill, S. 1, is about providing people with choices—choices that are affordable, but choices that also provide Medicare beneficiaries with what they need and want.

When the Government limits prices, Americans lose choices. In establishing a national average premium, not a nationwide premium, S. 1 will provide Medicare beneficiaries with the prescription drugs that they need and the choices that they want today and in the future. That is what Medicare beneficiaries tell us that they want and that is what my Finance Committee colleagues and I have worked so hard to provide. And that is why I will oppose this amendment and why I urge my colleagues to do the same.

The PRESIDING OFFICER. Time in support of the amendment has expired.

Who yields time in opposition?

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I yield time to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I just want to inform my colleagues that this is a balanced bill. It has been very difficult to achieve that balance. I fear it is becoming more fragile as the days pass by. I think it would be very unfortunate if this bill fell apart.

I am not saying, by any stretch of the imagination, that the amendment offered by my very good friend from South Dakota is going to tip the balance of the bill, but I am saying—knowing of other amendments that are coming up, and the views that various Senators are taking on the amendments they may offer later on—this balance, this bill which I think we all want to support, is not in jeopardy yet but it is somewhat tenuous.

There are protections in the bill for premiums. A couple quick points: One, under the bill, there are large geographic areas, which will tend to force the premiums to not fluctuate but to be according to insurable principles.

Second, there are very strong consumer protections that are basically the FEHBP protections which provide premiums have to be in line with benefits. That is under FEHBP. We incorporated that in the bill.

There is also a geographic adjustment in the bill. Right now, the Secretary has discretion to make the geographic adjustment. That might be strengthened later on in the proceedings.

I am sympathetic with the purpose of this amendment, but my judgment is, at this time, we should not adopt this amendment because there are sufficient protections in the bill, and I do not want this bill—I do not think any Senator wants this bill—to go south because of other amendments that may be adopted that may cause that to happen.

This is a historic moment. We are on the eve, the cusp of passing prescription drug benefit legislation. We should not take that lightly. I know we don't. I think we want a big vote. Medicare passed by a large margin back in 1965. Many Senators are saying there is a chance this underlying bill could get 60, 70, 80 votes. I say to my colleagues, I think we owe it to ourselves to try to find a way to help pass this legislation by a large margin.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BREAUX. Mr. President, how much time remains?

The PRESIDING OFFICER. Two and a half minutes.

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I urge my colleagues to vote against this amendment. Competition is the key to holding down costs. That is common sense. This amendment is anticompetitive because it constrains competition. I think we should oppose it.

According to CBO, the competitive policies in our bill ensure that premiums and cost sharing for drug coverage will be affordable. Under S. 1, prescription drug plans that do a poor job of negotiating drug prices will have to charge a higher premium. The same goes for plans that are inefficient and wasteful. Plans that do a good job negotiating will be able to charge lower premiums. That is the marketplace. We should not micromanage it. This amendment does just that. I urge my colleagues to oppose it.

I remind my colleagues, a similar amendment capping premiums at 5 percent was defeated in the Finance Committee last week by a vote of 7 to 14.

I yield to my friend from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I would just say, in conclusion, protections in this bill are exactly the same we have as Members of the Senate. The Administrator could not approve a premium unless it reasonably and equitably reflects the value of the prescriptions they are getting. A Government agency makes the decision on whether it is a reasonable premium.

When you have a deductible that is fixed, it cannot be varied at all. And the catastrophic cut-in cannot be raised. It can be lowered. You have to have something left to compete on, and the premium will be one thing, although it still has to be approved by the Administrator.

So I think the balance we have in the bill is a good one. It is equitable, and I think it can work.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 939, as modified. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 56, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—39

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Hollings
Johnson
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—56

Alexander
Allard
Allen
Baucus
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Jeffords
Kyl
Landrieu
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—5

Edwards
Graham (FL)
Inouye
Kerry
Lieberman

The amendment (No. 939) was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 915

Mr. GREGG. Mr. President, what is the regular order?

The PRESIDING OFFICER. The Gregg amendment, on which there are 2 minutes of debate evenly divided.

Mr. GREGG. Mr. President, I ask unanimous consent that Senator TALENT be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I will just say this amendment is a good idea. I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

If all time is yielded back, the question is on agreeing to the amendment of the Senator from New Hampshire.

The yeas and nays have been ordered.

The clerk will call the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr.

GRAHAM), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—94

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hollings
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—1

Hatch

NOT VOTING—5

Edwards
Graham (FL)
Inouye
Kerry
Lieberman

The amendment (No. 945) was agreed to.

RECOGNIZING NATIONAL HOCKEY LEAGUE'S NEW JERSEY DEVILS AND THE NEW JERSEY NETS

Mr. CORZINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution No. 176, introduced by myself and Senator LAUTENBERG.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 176) recognizing the National Hockey League's New Jersey Devils and National Basketball Association New Jersey Nets for their accomplishments during the 2002-2003 season.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. Reserving the right to object—and I shall not object—I want to be certain I will be recognized following the disposition of the resolution by the two Senators from New Jersey. My understanding is that I was to be recognized at this moment. They are asking for 10 minutes, combined, for this resolution. Is my understanding correct that I will be recognized by previous unanimous consent following disposition of this?

The PRESIDING OFFICER. It has been ordered that the Senator from North Dakota shall be recognized to offer the next amendment.

Mr. DORGAN. Thank you.

Mr. LAUTENBERG. Mr. President, is that reserving the time that was immediately available? I am a little concerned. If the Senator from North Dakota has that, I want to honor that. If not, we might take a little more time than 10 minutes.

The PRESIDING OFFICER. No time has been allocated.

Mr. BAUCUS. Mr. President, if I understand the drift of things, obviously Senators can reserve; we can work this out. I ask consent that the Senators from New Jersey be given 10 minutes to speak on a very important subject; following that, the Senator from North Dakota be authorized on his amendment to follow the order in the earlier unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. I rise today with my distinguished colleague from New Jersey, my friend and longstanding representative of our great State, Senator LAUTENBERG, to discuss a resolution honoring the New Jersey Devils and the New Jersey Nets, their accomplishments in postseason of the respective leagues.

The past 2 weeks have seen the Devils host the Stanley Cup after defeating the Anaheim Mighty Ducks and the Nets reached the NBA finals. For the second year in a row, the Nets have been in the finals of the NBA, this year against a very talented group from Texas, the San Antonio Spurs. These accomplishments have made the constituents of my State very proud, and deservedly so.

Over the last 9 years, the New Jersey Devils have won the NHL Stanley cup three times—as much as my team in hockey. During that time, a stifling defense led by Scott Stevens, the playmaking abilities Patrik Elias and Scott Gomez, and the superb goaltending of Martin Brodeur have become the standards of excellence in the National Hockey League.

At the same time, the New Jersey Nets have become one of the most successful teams in the NBA, winning the Eastern Conference Championship each of the last 2 years, led by the outstanding play of Jason Kidd, in my view the best pointguard in the NBA.

The Devils and the Nets both play at the Continental Airline Arena in East Rutherford, NJ, a town of about 10,000 folks. Many think it is the nexus of the sporting universe. We would like to see some of the Olympics in 2012. That is right, even though some of my colleagues from Texas might dispute some of that view.

It is a great organization that happens to own both teams, the Devils and the Nets. They go beyond their supporting crowds. Both teams are actively involved in the community and give a tremendous amount back to it. Patrik Elias helps support Transplant Speakers International, an organization that raises funds and awareness for organ transplants. Dikembe Mutombo helped dedicate the Nets Reading and Learning Center at the Hudson County Boys and Girls Club in Jersey City. Over and over again the players have helped in our disadvantaged schools and communities. They are terrific.

I mention one individual who sets a standard for excellence in business and in sports. That is the general manager—surprisingly, of both teams—Lou Lamoriello, whose dual role is unique in the sporting world. Quite frankly, I think he is the best in the business because he sets a standard not only on the basketball court and hockey wing but in how he operates in the communities, giving back and expecting people to behave and operate in a class way.

This is a terrific credit to an organization, to the teams, and most particularly to fans who have supported them. New Jersey sometimes does not get the kind of recognition it needs. These two organizations have done that through dedication, teamwork, and sportsmanship. They have achieved great success. I congratulate them.

I yield to my colleague from New Jersey.

Mr. LAUTENBERG. I thank my colleague and friend from New Jersey for his enthusiasm. I know he often gets on an airplane no matter what time, as long as our business here is done, and he gets up there, maybe sometimes in the fourth quarter of a game. But he gets there and roots the Nets on.

I am pleased to note the great sports accomplishments of two New Jersey teams in recent weeks. I support this resolution. I congratulate the New Jersey Devils for winning the Stanley Cup and the New Jersey Nets for winning the NBA's Eastern Conference.

I am going to be gracious and extend my congratulations to Senator HUTCHISON, with whom I had a wager, because the San Antonio Spurs played wonderful basketball, as disappointing as it was to me and other New Jersey Net fans. I paid off that wager with a case of beautiful New Jersey tomatoes for our terrible loss.

Winning the Stanley Cup 3 of the last 9 years proves that the Devils are the most dominant team in hockey. I was thrilled to watch them win game 7 with a shutout by the Devils' exceptional goalie, Martin Brodeur, who recorded 7 shutouts during the playoffs alone. Special congratulations are in order for five players who have been with the team for all three championships: Brodeur, Ken Daneyko, Scott Stevens, Sergei Brylin, and Scott Niedermayer.

As mentioned by Senator CORZINE, general manager Lou Lamoriello has established a culture of success in New Jersey by molding winning teams each year around this core of five. The Meadowlands, where the Continental Airlines Arena is located, is no safe haven for opponents. Our Devils were a remarkable 12 and 1 on home ice during the playoffs. That's the most home wins in the history of the Stanley Cup playoffs.

It's nice to congratulate the New Jersey Nets, as well, because New Jersey, after all, is where the first professional basketball game was played, in Trenton, 1898. No, I don't remember it.

The Nets have been Eastern Conference champions and have played in the NBA finals for 2 years in a row. This year they compiled an amazing streak of 10 consecutive wins, sweeping past the Celtics and Detroit Pistons along the way.

Nets coach Byron Scott has led the Nets to the most wins in franchise history. The Nets, led by their superb point guard Jason Kidd, lost a tough 6-game series to the Spurs, who are undoubtedly championship material. But the Nets are in that class, as well. I hope that this team will stay intact and continue on its quest to winning an NBA title.

New Jersey is a haven for great professional sports teams, and on behalf of the whole State of New Jersey, I congratulate the Devils and Nets and wish both teams the best of luck in the future.

Mr. CORZINE. Mr. President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 176) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 176

Whereas the New Jersey Devils defeated the Anaheim Mighty Ducks 3-0 on June 9, 2003 to win the Stanley Cup in 7 games;

Whereas the New Jersey Nets won the National Basketball Association (NBA) Eastern Conference Championship and reached the NBA Finals for the second consecutive year before losing a closely contested series to the San Antonio Spurs in 6 games;

Whereas the Devils won their third Stanley Cup in the last 9 years, as many as any other team in that period;

Whereas the Devils and Nets have won over the State of New Jersey (where the first professional basketball game took place in 1898) with their skillful offenses and stifling defenses;

Whereas the Devils and Nets have come to epitomize the never-say-die spirit of the people of New Jersey and have both become an important part of the State and its identity;

Whereas the fans of both New Jersey teams have shown the same spirit and determination in support of their teams and deserve commendation for their loyalty in this season's playoffs;

Whereas the Devils had a 12 win, 1 loss record at the Continental Airlines Arena, the most home wins in the history of the Stanley Cup playoffs;

Whereas the Nets swept both the Boston Celtics and the Detroit Pistons during a 10-game winning streak in this season's playoffs;

Whereas Pat Burns, head coach of the New Jersey Devils, has enjoyed the kind of success that has eluded so many other great coaches, winning his first Stanley Cup title in his first season as head coach of the Devils;

Whereas Byron Scott, head coach of the New Jersey Nets, has guided the Nets to the most wins in franchise history, and has led them to the NBA Finals in 2 of his 3 seasons as head coach;

Whereas Martin Brodeur, regarded by many as the premier playoff goaltender in hockey history, recorded 3 shutouts in the Finals, giving him 7 shutouts during this season's playoffs and 20 during his illustrious postseason career;

Whereas the outstanding playmaking abilities of Jason Kidd, widely regarded as the best point guard in the NBA, has been key to the success of the Nets during the past 2 seasons;

Whereas the outstanding play of Ken Daneyko, Martin Brodeur, Scott Stevens, Sergei Brylin, and Scott Neidermayer has been a vital part of each of the 3 Stanley Cup Championships enjoyed by the New Jersey Devils organization;

Whereas Jason Kidd has superb teammates in Brandon Armstrong, Jason Collins, Lucious Harris, Richard Jefferson, Anthony Johnson, Kerry Kittles, Donny Marshall, Kenyon Martin, Dikembe Mutombo, Rodney Rogers, Brian Scalabrine, Tamar Slay, and Aaron Williams, allowing the team to win its second consecutive NBA Eastern Conference championship; and

Whereas the name of each Devils player will be inscribed on the Stanley Cup, including Tommy Albelin, Jiri Bicek, Martin Brodeur, Sergei Brylin, Ken Daneyko, Patrik Elias, Jeff Friesen, Brian Gionta, Scott Gomez, Jamie Langenbrunner, John Madden, Grant Marshall, Jim McKenzie, Scott Niedermayer, Joe Nieuwendyk, Jay Pandolfo, Brian Rafalski, Pascal Rheaume, Mike Rupp, Corey Schwab, Richard Schmelik, Scott Stevens, Turner Stevenson, Oleg Tverdovsky, and Colin White: Now, therefore, be it

Resolved, That the Senate congratulates—

(1) the New Jersey Devils for their determination, perseverance, and excellence in winning the National Hockey League's 2003 Stanley Cup; and

(2) the New Jersey Nets for their success during the 2002-2003 NBA season.

HONORING LARRY DOBY

Mr. LAUTENBERG. Mr. President, I rise in sorrow because baseball lost a legend, African Americans lost a pioneer, and I lost a good friend. I went to high school with Larry Doby at Eastside High School in Paterson, NJ, and watched as he amassed records that were beyond comprehension for most people.

He had four All-State letters. He played basketball, baseball, football, and he ran track well enough to earn an All-State letter in a big State like New Jersey, with that population. He was not only an exciting player to watch on the field, he was a good man. His five children and the whole country will miss him greatly.

Few people realize that Larry began his groundbreaking athletic career in 1943 as the first African-American to play in the American Basketball League for the Paterson Panthers. He then moved on to baseball, playing for the Newark Eagles of the Negro National League. After returning from his service in the Navy for two years, Larry hit .414 with 14 home runs in his final season in Newark, NJ.

It was on July 5, 1947, just 11 weeks after Jackie Robinson broke the color barrier in major league baseball, that Larry Doby signed a contract with the Cleveland Indians of the American League. He was the first African-American player in the American League.

Larry had no intention or desire to become an important part of history. When Indians owner Bill Veeck predicted to Larry that he would "be part of history," Larry replied, "I had no notions about that. I just wanted to play baseball."

And play baseball he did, and quite well. Larry was an All-Star 7 times in his 13-year career, and he helped the Indians win the World Series in 1948 with a home run in Game 4. He hit at least 20 home runs in 8 straight seasons.

Larry went on to become the second African-American manager of a major league team taking the helm of the Chicago White Sox in 1978. He was also the director of community relations for the New Jersey Nets in the late 1970s, encouraging the development of youth programs in urban New Jersey.

It was not easy for Larry, few things this important are. He was harassed by opposing players and fans. He was forced to eat in separate restaurants, to sleep in separate hotels. Some of his own teammates would not even shake his hand. But he pressed on, and we're a better country for it.

Larry said it best in a speech after his career had ended. He said:

> We can see that baseball helped make this a better country. We hope baseball has given (children) some idea of what it is to live together and how you can get along, whether you be black or white.

When historians take note of the great contributions made by citizens of the State of New Jersey, certainly the name of Larry Doby should be included. He is at the top of that long list in my mind.

Mr. CORZINE. Mr. President, let me congratulate my colleague from New Jersey for bringing up this discussion of Larry Doby, who is really a national hero. I commend anyone to read the reports in today's newspapers about his career and the evolution of how African Americans ascended to the role they rightfully should have received in American baseball and American life in general. He was a hero to all of us. I am thankful he was remembered by my senior colleague.

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003—Continued

AMENDMENT NO. 946

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota is recognized.

Mr. DORGAN. I send an amendment to the desk on behalf of myself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEVIN, Mrs. BOXER, Mr. PRYOR, and Mr. FEINGOLD. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEVIN, Mrs. BOXER, Mr. PRYOR and Mr. FEINGOLD, proposes an amendment numbered 946.

Mr. DORGAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in Today's RECORD under "Text of Amendments.")

AMENDMENT NO. 947 TO AMENDMENT NO. 946

Mr. FRIST. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], FOR MR. COCHRAN, for himself, Mr. FRIST, Mr. BREAUX and Mr. SANTORUM, proposes an amendment numbered 947 to amendment No. 946.

Mr. FRIST. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect the health and safety of Americans)

At the appropriate place, insert the following:

"( ) CONDITIONS. This section shall become effective only if the Secretary of Health and Human Services certifies to the Congress that the implementation of this section will—

"(A) pose no additional risk to the public's health and safety, and

"(B) result in a significant reduction in the cost of covered products to the American consumer.".

Mr. FRIST. Mr. President, the amendment I send to the desk is sent on behalf of Senators COCHRAN and BREAUX. It addresses an issue that we have addressed on the Senate floor this evening. It has to do with the safety aspects of the underlying Dorgan amendment.

As everyone in the Chamber knows, we have spent the last several days addressing the important issue of adding prescription drugs as a benefit to our Medicare Program today and at the same time strengthening and improving Medicare.

Just a few minutes ago, the Senate passed legislation that will speed access of generics to the market, really making drugs overall, I believe, more affordable and more accessible to all Americans. This merely builds on the rule announced last week by the administration that will enhance the overall process with generic drugs by limiting brand drug manufacturers to only one 30-month stay. But in the midst of the overall bipartisan progress to enhance access to and improve the affordability of prescription drugs, once again this proposal or proposals to look at importation of drugs from Canada have resurfaced.

Very briefly, the Senate has debated this issue several times before. The legislation itself is already on the books. Congress passed, this body passed, indeed President Clinton signed into law the Medicine Equity and Drug Safety Act of 2000, which allows for the importation of pharmaceuticals into the United States. However, the law provided that the Secretary of Health and Human Services had to demonstrate that its implementation, No. 1, would impose no risk to the public's health and safety; No. 2, would result in significant reduction in the cost of covered products to the American consumer.

Since that time, two Health and Human Services Secretaries, one a Democrat and one a Republican, could not demonstrate safety or cost savings from importation.

I reiterate, the law on the books is such that safety concerns have been expressed and, indeed, two HHS Secretaries could not demonstrate safety or cost savings from importation; therefore, the law has not been implemented.

In addition, the FDA, two separate Secretaries of Health and Human Services, the U.S. Customs Service, the Drug Enforcement Administration, and almost every former FDA Commissioner have consistently and repeatedly opposed these proposals and told us they cannot ensure that importing drugs is safe.

I ask unanimous consent to have printed in the RECORD a letter dated June 19 to Senator COCHRAN from Mark B. McClellan, Commissioner of Food and Drugs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH & HUMAN SERVICES
FOOD AND DRUG ADMINISTRATION,
Rockville, MD, June 19, 2003.

Hon. THAD COCHRAN,
U.S. Senate, Washington, DC

DEAR SENATOR COCHRAN. This letter is in response to your request for information from the Food and Drug Administration (FDA) on the importation of prescription drugs into the United States from foreign countries. It is currently illegal to import prescription drugs from foreign countries into the United States, but Congress has been debating whether to amend the law to allow such products to flow into the United States and become part of the drug supply. The FDA has serious concerns about proposals that would open America's borders to a stream of imported prescription drugs for which FDA cannot assure safety, effectiveness or quality.

We share with Congress deep concern for senior citizens and other patients who have difficulty paying for their prescription drugs. As I am writing this, the Congress is working towards enactment of landmark legislation to provide a prescription drug benefit that will enable millions of America's seniors to receive coverage for their drugs in Medicare. In addition, under my leadership, FDA has taken a number of significant steps to provide greater access to affordable prescription medications that are safe and effective. These steps include new initiatives to accelerate approval of innovate new medical procedures and drug therapies, changes to our regulations to reduce litigation that has been shown to unnecessarily delay access to more affordable generic drugs and proposals to increase Agency resources for the review and approval of generic drugs—products that are often far less expensive than brand name products.

The overall quality of drug products that consumers purchase from United States pharmacies is very high, and the American consumer can be confident that the drugs they use are safe and effective. However, a growing number of Americans are obtaining their prescription medications from foreign sources and when they do so, consumers are exposing themselves to a number of potential safety risks that must be ignored. In FDA's experience, may drugs obtained from foreign sources that either purport to be or appear to be the same as U.S.—approved prescription drugs are, in fact, of unknown quality. These outlets may dispense expired, subpotent, contaminated or counterfeit, product, the wrong or a contraindicated product, an innocent dose, or medication unaccompanied by adequate directions for use. The labeling of the drug may not be in English and important information regarding dosage and side effects may not be available. In addition, the drugs may not have been packaged and stored under proper conditions to avoid degradation.

Some have suggested that limiting each drug imports to those from Canada would address these potential safety concerns. But FDA cannot guarantee the safety of Canadian drugs. Additionally, Canadian health officials have made clear in public statements that they can provide no assurance as to the safety and authenticity of drugs products shipped to Canada for resale in other countries. In fact, the Agency has concrete examples of drugs purchased from Canadian pharmacists that violate safety provisions established by FDA and the state pharmacy authorities, and we had been instances of internet sites that offer to sell FDA-approved drugs, but upon further investigations we have determined that the drugs they sell are adulterated, sub-potent, or counterfeit.

The relatively "closed" regulatory system that we have in this country has been very successful in preventing unapproved or otherwise unsafe drug products from entering the U.S. stream of commerce. Legislation that would establish other distribution routes for prescription drugs, particularly where those routes traverse a U.S. border, creates a wide inlet four counterfeit drugs and other dangerous products that are potentially injurious to the public health and that pose a threat of our nation's drug apply.

In sum, while we strongly support efforts to make prescription drugs more affordable and have taken several recent steps to accelerate access to more affordable, safe and effective prescription drugs, I remain concerned that provisions to legalize importation of prescription drug products would greatly erode the ability of the FDA to ensure the safety and efficacy of the drug supply. At the time, the Agency simply cannot assure the American public that drugs imported from foreign countries are the same as products approved by FDA, or that they are safe and effective.

Sincerely,
MARK M. MCCLELLAN, M.D., PH.D.
Commissioner of Food and Drugs.

Mr. FRIST. I will read two sentences from the letter, the entire text of which will be in the RECORD. It says in the first paragraph:

> The FDA has serious concerns about proposals that would open America's borders to a stream of imported prescription drugs for which FDA cannot assure safety, effectiveness or quality.

In the last paragraph, one other sentence:

> I remain concerned that provisions to legalize importation of prescription drug products would greatly erode the ability of the FDA to ensure the safety and efficacy of the drug supply.

One final point: Canadian health officials just very recently made it clear that they cannot, and they indeed will not, vouch for the safety of prescription drugs imported from Canada to the United States. Thus, I would argue that there is no need for Congress to pass yet another piece of legislation when a law is already on the books, and doing so only further threatens the safety of the American public, particularly in this time of sensitivity to the dangers of possible biological, chemical, or other terrorist attacks.

Relying on medicines that have been imported from other countries, if that were the case, I believe would lead to seniors and individuals with disabilities opening themselves to unnecessary threats in particular, especially in light of the current bill, where we are giving them access to prescription drugs they simply did not have before. Obtaining drugs from other countries has a certain appeal to seniors who simply have no access to any prescription drugs at all, but the underlying premise of the bill on the Senate floor is that we are going to improve that access to each and every senior, in terms of having better access to those prescription drugs.

I yield the floor.

Mr. COCHRAN. Mr. President, I support the effort to provide prescription drugs to Medicare beneficiaries and to lower the costs of medicines for all Americans. Today's therapies are too valuable, in terms of improving health and quality of life, for Medicare beneficiaries not to have prescription drug coverage.

However, we must not create new opportunities for counterfeit products, or products that have been tampered with, or products of unknown origin to be brought into this country.

The amendment I have offered requires the Secretary of Health and Human Services to certify that the reimportation of drug products will pose no additional risk to the public health and safety and will result in a significant reduction in the cost of covered products to the American consumer.

If reimportation is safe and will reduce costs, this amendment should not pose a problem. However, these are genuine concerns that reimportation may not be safe for Americans.

We have had this issue before the Senate on two previous occasions. Three years ago during consideration of the annual appropriations bill for the Department of Agriculture, Food and Drug Administration and related agencies, a similar amendment was added to the bill. The Senate unanimously approved that amendment.

Then again last July, when we were considering the Greater Access to Pharmaceuticals Act, a similar amendment was offered that limited reimportation to products from Canada. Again, the Senate, by a vote of 99–0 approved this safeguard as part of the legislation that passed the Senate. The House did not act upon this legislation.

In both these cases the Senate has adopted this amendment by a unanimous vote both times for an obvious reason: the safety of the American consumer must be protected.

Three years ago, Secretary of HHS Donna Shalala was not able to make such a demonstration as required by that law.

I ask unanimous consent that a copy of her letter to President Clinton dated December 26, 2000, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF
HEALTH AND HUMAN SERVICES,
Washington, DC, December 26, 2000.

HON. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The annual appropriations bill for the Food and Drug Administration (FDA) (P.L. 106–387), signed into law earlier this year, included a provision to allow prescription drugs to be reimported from certain countries for sale in the United States. The law requires that, prior to implementation, the Secretary of Health and Human Services demonstrate that this reimportation poses no additional risk to the public's health and safety and that it will result in a significant reduction in the cost of covered products to the American consumer.

I am writing to advise you that I cannot make the demonstration called for in the statute because of serious flaws and loopholes in the design of the new drug reimportation system. As such, I will not request the $23 million that was conditionally appropriated for FDA implementation costs for the drug reimportation system included in the FY 2001 appropriations bill.

As you know, Administration officials worked for months with members of Congress and staff to help them design safe and workable drug reimporation legislation. Unfortunately, our most significant concerns about this proposal were not addressed. There flaws, outlined below, undermine the potential for cost savings associated with prescription drug reimportation and could pose unnecessary public health risks.

First, the provision allows drug manufacturers to deny U.S. importers legal access to the FDA approval labeling that is required for reimportation. In fact, the provision explicitly states that any labeling information provided by manufacturers may be used only for testing product authenticity. This is a major loophole that Administration officials discussed with congressional staff but was not closed in the final legislation.

Second, the drug reimportation provision fails to prevent drug manufacturers from discriminating against foreign distributors that import drugs to the U.S. While the law prevents contracts or agreements that explicitly prohibit drug importation, it does not prohibit drug manufacturers from requiring distributors to charge higher prices, limit supply, or otherwise treat U.S. importers less favorably than foreign purchasers.

Third, the reimportation system has both authorization and funding limitations. The law requires that the system end five years after it goes into effect. This "sunset" provision will likely have a chilling effect on private-sector investment in the required testing and distribution systems because of the uncertainty of long-term financial returns. In addition, the public benefits of the new system are diminished since the significant investment of taxpayer funds to establish the new safety monitoring and enforcement functions will not be offset by long-term savings to consumers from lower priced drugs. Finally, Congress appropriated the $23 million necessary for first year implementation costs of the program but did not without funding core and priority activities in FDA, such as enforcement of standards for internet drug purchase and post-market surveillance activities. In addition, while FDA's responsibilities last five years, its funding authorization is only for one year. Without a stable funding base, FDA will not be able to implement the new program in a way that protects the public health.

As you and I have discussed, we in the Administration and the Congress have a strong obligation to communicate clearly to the American people the shortcomings in policies that purport to offer relief from the high cost of prescription drugs. For this reason, I feel compelled to inform you that the flaws and loopholes contained in the reimportation provision make it impossible for me to demonstrate that it is safe and cost effective. As such, I cannot sanction the allocation of taxpayer dollars to implement such a system.

Mr. President, the changes to the reimportation legislation that we have proposed can and should be enacted by the Congress next year. At the same time, I know you share my view that an importation provision—no matter how well crafted—cannot be a substitute for a voluntary prescription drug benefit provided through the Medicare program. Nor is the solution a low-income, state-based prescription drug program that would exclude millions of beneficiaries and takes years to implement in all states. What is needed is a real Medicare prescription drug option that is affordable and accessible to all beneficiaries regardless of where they live. It is my strong hope that, when Congress and the next Administration evaluate the policy options before them, they will come together on this approach and, at long last, make prescription drug coverage an integral part of Medicare.

Sincerely,

DONNA E. SHALALA.

Mr. COCHRAN. Mr. President, on July 9, 2001, a letter from the current Secretary of Health and Human Services, Tommy Thompson, indicated that based on an analysis by the Food and Drug Administration on the safety issues and analysis by his planning office on the cost issues, he could not make the required determinations, and he stated his view that we should not sacrifice public safety for uncertain and speculative cost savings.

Secretary Thompson also indicated that prescription drug safety could not be adequately guaranteed if drug reimportation were allowed and that costs associated with documentation, sampling, and testing of imported drugs would make it difficult for consumers to get any significant price savings.

I ask unanimous consent that Secretary Thompson's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF
HEALTH AND HUMAN SERVICES,
Washington, DC, July 9, 2001.

Hon. JAMES JEFFORDS,
U.S. Senate,
Washington, DC.

DEAR SENATOR JEFFORDS: I am writing to follow up on my earlier response to your letter January 31, 2001, co-signed by fifteen of your colleagues, regarding the Medicine Equity and Drug Safety Act of 2000 (MEDS Act).

You and other Senators and Representatives asked that I reconsider former Secretary Shalala's decision and make the determination necessary to implement the MEDS Act. As I mentioned in my prior communication, I ask the Food and Drug Administration (FDA) to carefully reexamine the law to evaluate whether this new system poses additional health risks to U.S. consumers, and the Office of the Assistant Secretary for Planning and Evaluation (OASPE) to examine whether the new law will result in a significant cost savings to the American public.

I believe very strongly that seniors should have access to affordable prescription drugs. I applaud your leadership in this area, and agree that helping seniors obtain affordable medicines should be a priority. However, as my earlier response stated, I do not believe we should sacrifice public safety for uncertain and speculative cost savings.

SAFETY CONCERNS

After a thorough review of the law, FDS has concluded that it would be impossible to ensure that the MEDS Act would result in no loss of protection for the drugs supplied to the American people. As you know, the drug distribution system as it exists today is a closed system. Most retail stores, hospitals, and other outlets obtain drugs either directly from the drug manufacturer or from a small number of large wholesalers. FDA and the states exercise oversight of every step within the chain of commercial distribution, generating a high degree of product potency, purity, and quality. In order to ensure safety and compliance with current law, only the original drug manufacturer is allowed to reimport FDA-approved drugs.

Under the MEDS Act, this system of distribution would be open to allow any pharmacist or wholesaler to reimport drugs from abroad; this could result in significant growth in imported commercial drug shipments. As you know, the FDA and the states do not have oversight of the drug distribution chain outside the U.S. Yet, opening our borders as required under this program would increase the likelihood that the shelves of pharmacies in towns and communities across the nation would include counterfeit drugs, cheap foreign copies of FDA-approved drugs, expired drugs, contaminated drugs, and drugs stored under inappropriate and unsafe conditions.

While the MEDS Act requires chain of custody documentation and sampling and testing of imported drugs, these requirements cannot substitute for the strong protections of the current distribution system. Counterfeit or adulterated and misbranded drugs will be difficult to detect, and the sampling and testing proposed under this program cannot possibly identify these unsafe products entering our country in large commercial shipments.

I can only conclude that the provisions in the MEDS Act will pose a greater public health risk than we face today and a loss of confidence by Americans in the safety of our drug supply. Although I support the goal of reducing the cost of prescription drugs in this country, no one in this country should be exposed to the potential public health threat identified by the FDA in their analysis. Further, the expenditure of time and resources in maintaining such a complex regulatory system as proposed by the MEDS Act would be of questionable public health value and could drain resources from other beneficial public health programs.

COST SAVINGS

The clear intent of the MEDS Act is to reduce the price differentials between the U.S. and foreign countries. The review by the Office of the Assistant Secretary for Planning and Evaluation (OASPE) concludes there are significant disincentives for reimportation under the MEDS Act, including the costs associated with documenting, sampling and testing, the potential relabeling requirements and related costs and risk associated with such requirements, the overall risk of increased legal liability, the costs associated with the management of inventories by wholesalers and pharmacists, and the risk to existing and future contractual relationships between all parties involved. Moreover, there are a number of reasons (including potential responses by foreign governments) why lower foreign prices may not translate into lower prices for U.S. consumers. Insufficient information exists for me to demonstrate that implementation of the law will result in significant reduction in the cost of drug products to the American consumer.

CONCLUSION

Since I am unable to make the determination on the safety and cost savings in the affirmative, as required under the law, I cannot implement the MEDS Act. Please find attached to this letter a more detailed analysis of the factors influencing the public-safety and cost-savings questions. If you need further clarification of my position on these issues, please do not hesitate to contact me.

Thank you for your leadership in health care. I look forward to working with you on new initiatives for making medicine more affordable to our citizens, and on other health issues of importance to our Nation.

Sincerely,

TOMMY G. THOMPSON.

Mr. COCHRAN. Mr. President, just this week, Mark McClellan, Commissioner of the Food and Drug Administration, has written to reiterate this point. I ask unanimous consent that Dr. McClellan's letter of June 19, 2003 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH & HUMAN SERVICES, PUBLIC HEALTH SERVICE, FOOD AND DRUG ADMINISTRATION,
Rockville, MD, June 19, 2003.

Hon. THAD COCHRAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COCHRAN: This letter is in response to your request for information from the Food and Drug Administration (FDA) on the importation of prescription drugs into the United States from foreign countries. It is currently illegal to import prescription drugs from foreign countries into the United States, but Congress has been debating whether to amend the law to allow such products to flow into the United States and become part of the drug supply. The FDA has serious concerns about proposals that would open America's borders to a stream of imported prescription drugs for which FDA cannot assure safety, effectiveness or quality.

We share with Congress deep concern for senior citizens and other patients who have difficulty paying for their prescription drugs. As I am writing this, the Congress is working towards enactment of landmark legislation to provide a prescription drug benefit that will enable millions of America's seniors to receive coverage for their drugs in Medicare. In addition, under my leadership, FDA has taken a number of significant steps to provide greater access to affordable prescription medications that are safe and effective. These steps include new initiatives to accelerate approval of innovate new medical procedures and drug therapies, changes to our regulations to reduce litigation that has been shown to unnecessarily delay access to more affordable generic drugs, and proposals to increase Agency resources for the review and approval of generic drugs—products that are often far less expensive than brand name products.

The overall quality of drug products that consumers purchase from United States pharmacies is very high, and the American consumer can be confident that the drugs they use are safe and effective. However, a growing number of Americans are obtaining their prescription medications from foreign sources and when they do so, consumers are exposing themselves to a number of potential safety risks that must not be ignored. In FDA's experience, many drugs obtained from foreign sources that either purport to be or appear to be the same as U.S.—approved prescription drugs are, in fact, of unknown quality. These outlets may dispense expired, subpotent, contaminated or counterfeit product, the wrong or a contraindicated product, an incorrect dose, or medication unaccompanied by adequate directions for use. The labeling of the drug may not be in English and important information regarding dosage and side effects may not be available. In addition, the drugs may not have been packaged and stored under proper conditions to avoid degradation.

Some have suggested that limiting such drug imports to those from Canada would address these potential safety concerns. But FDA cannot guarantee the safety of Canadian drugs. Additionally, Canadian health officials have made clear in public statements that they can provide no assurance as to the safety and authenticity of drug products shipped to Canada for resale in other countries. In fact, the Agency has concrete examples of drugs purchased from Canadian pharmacists that violate safety provisions established by FDA and by state pharmacy authorities, and we have seen instances of internet sides that offer to sell FDA-approved drugs, but upon further investigation we have determined that the drugs they sell are adulterated, sub-potent, or counterfeit.

The relatively "closed" regulatory system that we have in this country has been very successful in preventing unapproved or otherwise unsafe drug products from entering the U.S. stream of commerce. Legislation that would establish other distribution routes for prescription drugs, particularly where those routes traverse a U.S. border, creates a wide inlet for counterfeit drugs and other dangerous products that are potentially injurious to the public health and that pose a threat to the security of our nation's drug supply.

In sum, while we strongly support efforts to make prescription drugs more affordable and have taken several recent steps to accelerate access to more affordable, safe and effective prescription drugs, I remain concerned that provisions to legalize importation of prescription drug products would greatly erode the ability of the FDA to ensure the safety and efficacy of the drug supply. At this time, the Agency simply cannot assure the American public that drugs imported from foreign countries are the same as products approved by FDA, or that they are safe and effective.

Sincerely,
MARK B. MCCLELLAN, M.D., Ph.D.,
Commissioner of Food and Drugs.

Mr. COCHRAN. Mr. President, it would seem prudent that the safeguards we have adopted twice, by unanimous votes, should also be applied to this proposal. That is why I offer this amendment.

We should be certain that any change we make results in no less protection in terms of the safety of the drugs supplied to the American people and will indeed make prescription drugs more affordable. Liberalization of protections that are designed to keep unsafe drugs out of this country, especially considering the terrorist threats we face now, should occur only if the necessary safeguards are in place.

This amendment will ensure that the concerns of the last two administrations regarding the safety and cost-effectiveness are addressed prior to the implementation of this proposal.

Currently, under the Federal Food, Drug, and Cosmetic Act, it is unlawful for anyone to introduce into interstate commerce a new drug that is not covered by an approved new drug application or an abbreviated new drug application. Approval must be sought on a manufacturer and product-by-product basis. A product that does not comply with an approved application, including an imported drug not approved by FDA for marketing in the United States, may not be imported, even if approved for sale by that country.

A product introduced into interstate commerce that does not comply with an approved application is considered an unapproved new drug in violation of the Food, Drug, and Cosmetic Act, as well as "misbranded" under the section of that act.

Under section 801 of the act, a drug that is manufactured in the United States pursuant to an approved new drug application and shipped to another country may not be reimported into the United States by anyone other than the original manufacturer. This prohibition on reimportation of products previously manufactured in the United States and then exported was added in 1988 to prevent the entry into this country of counterfeit and adulterated products.

Section 801 was enacted not to protect the corporate interests of pharmaceutical companies but to protect the safety of American consumers. Counterfeit drugs are a very real threat and can be deadly. Any change of drug reimportation laws must assure safety from this threat. Limiting reimportation to drugs from Canada does not necessarily solve that problem.

In a July 11, 2001, letter to the Energy and Commerce chairman and ranking member, William Simpkins, Acting Administrator of the Department of Justice Drug Enforcement Administration, who was referring to reimportation amendments, said the following:

> (W)e oppose . . . these amendments because they would hinder the ability of law enforcement officials to ensure that drugs are imported into the United States in compliance with long-standing Federal laws designed to protect the public health and safety.

More recently, in letter dated November 25, 2002, Asa Hutchinson, then Administrator of the Drug Enforcement Administration at the US Department of Justice, reiterated this position with respect to any type of proposal that might limit the ability of the FDA to inspect and assure the safety and compliance with Federal law of products that would be brought back into the United States.

I ask unanimous consent that Administrator Hutchinson's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, November 25, 2002.

Hon. THAD COCHRAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COCHRAN: The purpose of this letter is to respond to your inquiry regarding the position of the Drug Enforcement Administration (DEA) with respect to any proposal to limit the authority of the Food and Drug Administration (FDA) to inspect shipments of prescription drugs that are imported into the United States.

In general, DEA opposes any such limitations because they would hinder the ability of federal law enforcement officials to ensure that drugs are imported into the United States in compliance with long-standing federal laws designed to protect the public health and safety. Since its creation in 1906, the FDA has served as the American public's watchdog to ensure safe, medically approved prescription drugs. In undermining the FDA's ability to do its job, we risk undermining the public health and safety.

First, a brief explanation of DEA's role in this issue: DEA's statutory authority is limited to controlled substances (drugs of abuse). DEA is the primary agency responsible for enforcement of the Controlled Substances Act (CSA). Controlled substances can be viewed as a subset of prescription drugs. All legal (pharmaceutical) controlled substances are prescription drugs (e.g., OxyContin, Percocet, Demerol, Valium). However, most prescription drugs are not controlled substances (e.g., Claritin, Prozac, Viagra, erythromycin, insulin). Nonetheless, for the following reasons, limiting FDA's authority to inspect shipments of imported prescription drugs could potentially lead to an increase in the illegal importation of controlled substances into the United States.

DEA is currently facing enforcement challenges on many fronts with respect to controlled substance importation and smuggling. Several foreign countries have been identified as the source of a large amount of controlled substances that have been illegally imported. Additionally, the United States Customs Service (USCS) inspectors on the southern and northern borders must determine whether each traveler entering the United States with a drug is complying with the Federal Food, Drug and Cosmetic Act (FDCA) and the CSA. Information obtained from the USCS indicates that there is an increased volume of prescription drugs being imported through the mail as a result of the Internet. Sometimes the drugs are counterfeit; other times the drugs are real drugs, including controlled substances, sold

> without the required prescription. Although the CSA clearly prohibits importation of controlled substances in this manner, the FDA and USCS must inspect each package to ascertain the contents. Identifying a drug by its appearance and labeling is not an easy task. From a practical standpoint, inspectors cannot examine drug products and accurately determine the identity of such drugs or the degree of risk they pose. This is particularly true since these drugs are often intentionally mislabeled. Persons who are willing to illegally ship controlled substances to the United States are unlikely to honestly label their packages as containing controlled substances.
>
> Therefore, in order to support DEA's efforts to curtail the illegal importation of controlled substances into the United States, it is crucial that FDA retain its authority to inspect all packages that purport to contain "prescription drugs." If federal law prohibited the FDA from inspecting foreign shipments of prescription drugs, making an exception in the law that would allow the FDA to inspect controlled substance shipments would serve little purpose. The foreign shipper could simply label the package "prescription drugs—noncontrolled substances" and the FDA would be powerless to take any investigative steps or to assist the DEA in intercepting these illegal shipments.
>
> I trust that this has been helpful in explaining he DEA's position on this issue. Please let me know if there is anything else I may do to assist you in the future.
>
> Sincerely,
>
> ASA HUTCHINSON,
> *Administrator.*

Mr. COCHRAN. Mr. President, William Hubbard, FDA's Associate Commissioner for Policy and Planning, and the FDA's authority on the topic of reimportation of pharmaceuticals, has testified a number of times before Congress regarding the dangers of reimported products and the inability of the U.S. regulatory system to assure the safety of products brought into this country. Most recently, this month before the House Committee on Government Reform, Dr. Hubbard testified

> (T)he overall quality of drug products that consumers purchase from United States pharmacies is very high. The public can be confident that the drugs they use are safe and effective. However, FDA cannot offer the same assurances to the public about the safety of drugs they buy from foreign sources.

There are a number of reasons why these products are not safe. Counterfeiting of drugs is common throughout the world and the transshipment of these counterfeit products through Canada is one of the most serious dangers.

A recent example of the dangers of counterfeiting is the FDA alert issue on May 23 of this year regarding counterfeit version of the cholesterol lowering agent, Lipitor. This product is taken by over 18 million Americans. This investigation is currently ongoing and FDA is still trying to determine the extent of this case.

In March, the FDA discovered counterfeit versions of the drug Procrit which had been contaminated with bacteria or in some cases the product contained no active ingredient.

There are numerous other examples. It is amazing the number of drugs that are now on the shelves in drugstores in America that are counterfeit and no one knows about it. These are difficulties that we now face. The proposal of this amendment by the Senator from North Dakota will further relax our capability to find illegal drugs, and to find those drugs that are dangerous that are being brought into this country.

It will create a new opportunity for transshipping drugs from all over the world into our country which will be a great danger to the citizens of our country.

The National Association of Boards of Pharmacy, the body that represents the state boards of pharmacy in all 50 United States, as well as eight Canadian Provinces has stated in March of this year

> Of utmost concern is the lack of ability to determine the actual country of origin. An order for what is purported to be a Canadian drug may never be filled by a legitimate Canadian pharmacy with a Canadian drug or even be filled in Canada.

NABP, representing the boards that regulate the practice of pharmacy, has also recently joined the Canadian National Association of Pharmacy Regulatory Authorities in endorsing a statement opposing illegal importation of prescription drugs.

The Canadian government itself has stated publicly that drug products shipped to Canada for resale in other countries do not fall under the Canadian regulatory system, and they can provide no assurance as to the safety or authenticity of such drugs.

The conditions contained in my amendment, which would be added to the legislative proposal before the body, are the same as those previously adopted twice by this Senate. They were adopted both times by unanimous votes of the Senate.

I ask my colleagues to again support this amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I was interested in the statement by the majority leader. This, of course, is not the amendment the Senate previously considered. It is not the amendment to which the Senate previously agreed. It is not the provision of law that the Secretary of Health and Human Services has refused to implement in two administrations. It is not that at all.

First, we will sort out the facts.

Let me make a case for the amendment itself. My colleague just won a debate we weren't having. His debate is about a piece of legislation the Senate passed a couple of years ago. I supported that, and I believe the Health and Human Services Secretary and the FDA made a mistake in not implementing it. Nonetheless, that was all a couple of years ago.

Yes, this particular amendment we offered deals with the reimportation of prescription drugs, but it deals only with the reimportation of prescription drugs from the country of Canada—only from the country of Canada.

The Senate previously addressed this issue of reimportation in 2000 by saying reimportation from other countries—as long as it was an FDA-approved drug and brought here under conditions of safety—would be appropriate. We have already said the HHS and FDA did not implement the previous legislation. But now, we will narrow this legislation very dramatically and provide reimportation only from the country of Canada.

I will explain why that is important.

First, miracle drugs offer no miracles to those who cannot afford them. If we don't do something to make drugs more affordable, seniors in the country lose, and others who need prescription drugs and can't afford them lose.

We should and must put some downward pressure on drug prices.

I understand the pharmaceutical manufacturers do not like that. I understand why they resist it. If I were in their position, I would certainly resist it as well.

I don't try to paint with a dark brush all of those who are on the other side of the issue. I think the pharmaceutical industry does many good things. They do a lot of very important research, some of which is original and some of which they take from the National Institutes of Health. They create medicines that are very important for the American people.

I also said the other day that some of the pharmaceutical companies have been providing free and discounted drugs to the lowest income Americans. Five and a half million people have benefitted from free medicines from American drug companies. I commend those companies. I don't have the names of all the companies. Good for them. It is a step in the right direction. They ought to be commended and saluted for their program to help the lowest income Americans.

But the other issue is the larger one of the price of prescription drugs. The fact is, we need to try to do something that puts some downward pressure on prices. Let me describe, if I might, what the problem is. Let me do it with some bottles of medicine.

I ask unanimous consent to be able to show some bottles of medicine on the Senate floor. These are empty bottles.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. This is Zocor. A very famous football coach advertises this at halftime at football games. He says he takes Zocor. It is quite a good medicine, I am sure. These are two bottles for Zocor—one from the United States and one from Canada. The same pill is put in the same bottle, manufactured in the same place, by the same company. In both bottles is an FDA-approved drug. The only difference is, when that medicine is sold in the United States to U.S. consumers, it costs $3.03 per tablet. In Canada, the same pill, in the same bottle, made by the same company, cost $1.12 cents per tablet—$3 versus $1. The same pill, same company, different countries. That is Zocor.

This is a drug called Lipitor. It has the same purpose as Zocor—to reduce cholesterol. You can see that it is sold in the United States and in Canada. These are bottles from each country. They are identical bottles, made by the same company, again only the cost is different—$1 per tablet for the Canadians, and $1.86 for the U.S. consumer. The same drug, same pill, manufactured in the same FDA-approved plant, put in the same bottle, but different prices.

This is Vioxx used for arthritis. As you can see, same pill, made by the same company, put in identical bottles. The difference? It costs $2.20 if you buy it in the United States. If you are a Canadian customer, it costs 78 cents for the same tablet—$2.20 versus 78 cents for the same medicine.

Let me use one more example, if I might.

This is Prevacid: Those who are afflicted with ulcers would take this drug. As you can see, once again, the same bottle, identical shape. The difference? It costs $3.58 for the American consumer, and $1.26 for the Canadian consumer—same pill, same bottle, same company, but a different price.

Let me tell you about being in a little one-room drugstore in Emerson, Canada, 5 miles north of the United States. Just 5 miles north of the Canadian border, there is a drugstore. I accompanied a group of seniors to the one-room drugstore in Emerson, Canada, just to make a point.

The point was very simple. The medicines those seniors purchased in Canada—the identical medicines to what they buy in the United States and for which there is no safety concern or issue because the chain of custody is identical in Canada—cost much less.

It begs the question. Why not let the market system resolve these issues? As long as you have the safety of supply and the closed chain of custody which you can be confident in—and you certainly do with Canada because their system is very comparable to ours—allow people to decide where they want to purchase their prescription drugs. If they decided they would purchase their prescription drugs where they are less expensive, it forces repricing of prescription drugs in this country.

Let me use some charts to show what is happening. How much more does the U.S. consumer pay? More than everyone else in the world by far. If we pay $1 for a pharmaceutical product, that same product is 62 cents in Canada. You can see what it is around the globe in different countries—in England, 69 cents, Germany, 65 cents, France, 55 cents, and Italy, 52 cents.

Let me show a chart with specific medications.

I just showed these: U.S. price versus Canadian price for Prevacid, Zocor, Paxil—all heavily used drugs and costing nearly 40 percent more in the United States than in Canada.

Now let me quote, if I might, President George W. Bush during the third Presidential debate in St. Louis, MO.

During the Presidential debates, President Bush was asked about this. Here is what he said:

> Allowing the new bill that was passed in the Congress made sense to allow for, you know, drugs that were sold overseas to come back and other countries to come back into the United States. That makes sense.

What he was saying there is that the reimportation of prescription drugs makes sense. That is what he said in the third Presidential debate.

I am not making this up. These are the President's words from the debate—prescription drugs coming back into the country would make sense. If I could put words in his mouth, I would believe, of course, that he would say it makes sense, if this is safe.

But, nonetheless, this President, in a debate, said reimportation makes sense.

Mr. JEFFORDS. Mr. President, will the Senator yield for a question?

Mr. DORGAN. I would be happy to yield.

Mr. JEFFORDS. I was obviously on this issue with the Senator from North Dakota. We were forced into providing an "out" for them so we could get the bill to the floor that said the Secretary would have the authority to be able to set the bill aside and prevent this coming in. I don't think they would be required to make any rationalization. But, obviously, it was something we had to accept at the time in order to get the bill voted on. And then what happened?

Mr. DORGAN. Well, Mr. President, the second-degree amendment that was attached then dealt with safety and so on. What happened was, the Department of Health and Human Services and the FDA indicated they would not implement the law, so it was not implemented. But it is important to point out that this piece of legislation dealt with the importation of prescription drugs from many other countries.

We have narrowed this amendment to the country of Canada, to allow the reimportation of drugs only from Canada. And because Canada has an identical chain of custody to this country, there can be no question as to the safety of allowing licensed distributors and pharmacists to be able to access, from a licensed pharmacy in Canada, FDA-approved prescription drugs. So that is why I do not have a problem accepting the second-degree amendment offered by the Senator from Mississippi.

I cannot think of anybody at HHS or the FDA who can make a credible case that there is a safety issue by allowing a licensed American pharmacist to access prescription drugs from a licensed pharmacy in Canada. There is no safety issue there. It is gone, finished.

So we, I hope, will adopt this. I believe there is no justification for HHS or the Food and Drug Administration to fail to implement this legislation.

Mr. JEFFORDS. I thank the Senator.

Mr. DORGAN. Mr. President, let me conclude quickly and quote what Health Canada's Associate Director General said:

> As soon as any drug crosses the border into Canada, it has to meet all the regulations of our laws. . . .

What they are saying in Canada, with that statement, is that they do not have drugs ricocheting around their country that are counterfeit drugs or non-approved drugs. They have a drug safety system very much like ours, in which drugs that go from an inspected plant into this system, all the way through to the local licensed pharmacy, so that you have a safety circumstance that everyone understands.

Let me continue. It was referenced a bit ago that all of the FDA—or virtually all—of the former FDA Commissioners, oppose this. Let me tell you what former FDA Commissioner David Kessler said:

> I believe the importation of these products could be done without causing a greater health risk to American consumers than currently exists.

That is David Kessler, former FDA Commissioner.

Let me continue. William Hubbard, FDA Senior Associate Commissioner, September 5, 2001, in a hearing that I chaired before the Senate Commerce Subcommittee on Consumer Affairs said:

> I think as a potential patient, were I to be ill and purchase a drug from Canada, I think I would have a relatively high degree of confidence in Canadian drugs. . . .

Simple and easy to understand, I think.

Finally, let me describe the systems in the United States and Canada. Drugs must be proven to be safe and effective. We are talking only about FDA-approved drugs. There are good manufacturing practices required in both countries. There is appropriate labeling required in both countries. There is the inspection of manufacturers, pharmacies, and drug wholesalers in both countries. Pharmacists and wholesalers must be licensed in both countries. And there is a chain of custody required between the pharmacist, the wholesaler, and the drug manufacturers in both countries. There is a regulatory requirement for postmarketing surveillance required in both countries. And a national mechanism for drug recall exists in both countries.

This is a chart that shows the same thing: The regulation in the United States and the regulation in Canada, from the production of the drug to the licensing of the pharmacist, are the same. There isn't any way, in my judgment, that restricting reimportation to medicines from Canada will allow the HHS or FDA folks to say this does not work. Of course, it works. Of course, it will not compromise the safety of the American consumer. The question is, Will we be able to have a circumstance where the American consumer can access lower cost prescription drugs?

It is not my intention—and it has never been my intention—to force U.S. consumers to go outside of this country to access a supply of prescription drugs. It is my intention to find ways to put downward pressure on these prices by injecting competition that will force a re-pricing of drugs in this country.

Now, every year, spending on prescription drugs in this country is increasing 15 percent, 16 percent, 18 percent, every year. Just about every year, there are double-digit increases in the cost of prescription drugs. If we do not do something about this, we will hook a hose up to the Federal tank and suck this tank dry. I guarantee it.

Now, let me end as I began. If I were representing the pharmaceutical industry, I would fight like the dickens to price drugs however I wished to price them. That is in their interest. It is in their stockholders' interest. I understand that. It is in their company's interest. But there is a limit.

This increase every year—15, 16, 18 percent—comes from two main factors: one is increased utilization, the other is price inflation. The fact is, if we do not find some way to moderate these price increases, this system of ours isn't going to work.

I started by saying that I think the prescription drug industry, the pharmaceutical manufacturers in this country, provide a significant service to the American people by doing the research and providing prescription drugs that are, in many cases, breakthrough drugs. I might say at least a fair amount of that which they do comes from National Institutes of Health research which is financed by the U.S. taxpayer. I do not complain about that. Good for them. And I want those companies out there.

I want the NIH and the pharmaceutical manufacturers searching for the cure for diabetes and for cures for cancer and searching for new pharmaceutical products that can help the American people. I want that to happen. I do not want to shut off research.

The argument is made that if somehow the American people do not pay the highest prices in the world, it will shut down research on new drugs. That is not true. The fact is, European drug companies spend more on research on drugs than companies do in the United States. There is more research on drugs that occurs in Europe than in the United States, and prices are lower in Europe than in the United States.

I just do not think it is right. I do not think it is right for the U.S. citizen to pay the highest prices for prescription drugs in the entire world. I just do not believe that is right.

Now, I understand all the arguments that are going to be raised by my colleagues who oppose this and I would just ask them, what happened to your faith in the market system? I hear a lot about this market system: Let the market system work.

As long as you have the safety of the drug supply, and a protected chain of custody—and that exists in Canada; no one can come to this floor and say it does not—why not let the market system work?

Mr. SANTORUM. Will the Senator yield for a question?

Mr. DORGAN. Of course. I am happy to yield.

Mr. SANTORUM. Mr. President, if a drug is shipped from outside of Canada to Canada for resale in the United States, does that go through the same handling that the Senator from North Dakota has discussed?

Mr. DORGAN. Yes. As I indicated in one of the charts I presented, the Canadian official said that any drug that crosses into Canada is treated just the same as the drugs that enter the United States. As you know, there are many drugs that are imported into this country. Just as is the case for the importation of drugs into the United States by the drug manufacturers, drugs that are imported into Canada from other sources of production are certified as safe by the Canadians—just as ours are certified by the FDA.

Mr. SANTORUM. If they are for the purposes of being resold in the United States, not in Canada, are they also certified by the Government?

Mr. DORGAN. First of all, the only way they can be reimported into the United States would be if a licensed pharmacist or a licensed distributor in the United States purchases them from a licensed pharmacist or distributor in Canada. So at that point, they have entered the stream of prescription drugs in the Canadian system. At that point, the Canadians say: We assure the safety of the chain of custody of those prescription drugs just as you do in the United States.

I find this debate interesting because I was up on the border of Canada one day. This was before mad cow disease occurred in Canada. My heart goes out to the Canadian ranchers for having discovered one instance of mad cow disease. Do you know what we do with Canada with respect to meat. We say: We have reciprocal inspection procedures for meat. You inspect it and that is good enough for us. What we want you to do is cut one little strip off the meat and lay it in the back of the truck, and we will open the back of the truck and see if it looks decent and smells all right, and then you just run the truck through. Why? Because we have reciprocal inspections. We say: If it is good enough for you, it is good enough for us.

We have identical chains of custody for prescription drugs in Canada and the U.S., but we won't say: If it is good enough for Canada with an identical chain of custody for prescription drugs, it is good enough for us. That doesn't make sense to me.

There is only one reason we won't say that. That is because some are willing to support the notion that the U.S. customer, the U.S. citizen, should pay the highest prices for prescription drugs. I happen to think that is wrong. I believe our citizens ought to pay a good price. Miracle medicines are not cheap. We ought to pay a good price and a fair price. Should we pay the highest price in the world? I don't believe so.

Mr. HARKIN. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. HARKIN. I thank the Senator for yielding. I compliment him on his amendment. I see seniors from our State sometimes trying to get up to Canada and buy drugs, the same drugs you pointed out, and paying one-third as much as in the United States. The Senator pointed out that one of the arguments we often have here for this higher drug price in the United States is so the drug companies can engage in research. And we want them to do that research. They do a lot of good research, as the Senator just stated. They develop new drugs, and sometimes those drugs don't pan out, and they need to cover the expense of bringing new drugs on the market. We are all for that.

But I ask the Senator from North Dakota, is it not a fact that last year the major drug companies in the United States spent more money on advertising to the public than they did on research, that they actually spent more money advertising prescription drugs which you and I can't even buy unless we get a prescription? Yet we see full-page ads in USA Today, three and four-page spreads in Time and Newsweek magazine, full pages in the New York Times.

I ask the Senator, what sense does it make if, in fact, they are going to charge us high prices for drugs in the United States and they are using it just to advertise for drugs we can't even buy unless we get a prescription? Isn't it a fact they actually spent more money on advertising than they did on research?

Mr. DORGAN. I believe that is the case. I don't have the numbers in front of me. I believe Senator STABENOW referred to that earlier. My understanding is that the expenditures on advertising and promotion exceed the expenditures on research.

Let me make two additional points and then yield the floor. I support research and development, R&D, tax credits for industries, including for the pharmaceutical industry. They benefit greatly from them. I have always supported those tax credits. I think it makes sense to provide credits and incentives for the development of new drugs.

Second, when these drugs are produced and then sold, I don't think we ought to pay the highest prices in the world.

Let me give one more example, if I might. A woman with breast cancer needs Tamoxifen. With a prescription to go buy Tamoxifen, you have one of two choices, if you live near the border. You can pay $10 for a supply of Tamoxifen in the United States, or you can go to Canada and buy exactly the same amount of Tamoxifen for $1—$10 or $1. Why should you have to fight breast cancer and fight these pricing policies at the same time? It is not fair. It doesn't make sense that we should pay the highest prices in the world.

Again, the majority leader started off by saying we have passed this before and it doesn't work. Let me correct it again to say: Legislation limited to Canada has not been enacted before. We passed something else before. You are right, it was not implemented. It was reimportation from other countries in the world, provided it was an FDA-approved drug. That was not implemented.

This will be reimportation from Canada, so the legislation has been dramatically narrowed to a country that has an identical chain of supply for which there can be no safety concerns about unsafe drugs. We are only talking about having licensed pharmacists and licensed distributors accessing those drugs from licensed pharmacists or distributors in Canada.

I am not interested in any way ever compromising the supply of pharmaceutical drugs in America. I wouldn't offer this in a million years if I felt it did that. I know it doesn't. There isn't any way anyone in this Chamber can demonstrate that there is a safety issue with respect to the medicines sold in Canada. You might be able to demonstrate there is a safety issue dealing with Bali or Honduras or Guatemala or Zaire, but you can't do it with Canada. You just can't. And so that is why I have no difficulty accepting the second-degree amendment offered by my colleague from Mississippi.

There is not a safety issue with respect to this narrow amendment. There is only this issue: Shall the American people be able to see a repricing of prescription drugs that results in price fairness with respect to what U.S. and Canadian consumers are charged for identical drugs put in identical bottles produced by the same company?

Mr. HARKIN. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. HARKIN. The Senator really has made an eloquent case for why we ought to have free trade with Canada in drugs as long as they meet the same requirements. I ask the Senator, do we not in fact have a free trade agreement with Canada?

Mr. DORGAN. Yes, we have free trade with Canada. It actually isn't free trade. We could spend a long time talking about wheat and other issues. We have a free trade agreement with Canada, but it excludes prescription drugs. Why? Because a piece of legislation was passed a decade and a half ago that said the only entity that will be allowed to reimport prescription drugs into the United States is the manufacturer of that prescription drug. That is what perverts the market. If you assume that you have a safe supply of drugs in both countries, why then would consumers simply not decide where to purchase the drug in whatever represents their best interests? Why would they not be able to make their own choice under a free trade agreement? It is perverted by this previous legislation that prohibits the reimportation except by the manufacturer.

What we are saying now is, we would allow the reimportation by the licensed pharmacies. We are not talking about somebody shuffling around in a T-shirt who knows nothing about prescription drugs. We are talking about a licensed pharmacist or a licensed distributor who does this for a living. We are saying they have the ability to go to Canada and access medicines from a licensed pharmacist or a licensed distributor.

I would love to have somebody make a persuasive case that somehow that compromises safety. I don't think the case exists.

Mr. HARKIN. If the Senator will yield for another question. I thank the Senator for yielding again. The Senator continues to make an excellent point here that seems to be lost on the proponents of this bill on the other side.

I continue hearing how this is a bill that is supposed to promote competition. It is supposed to promote free enterprise and the marketplace. Yet here, as the Senator from North Dakota has pointed out, in one place where the marketplace really could save seniors money, by opening up the marketplace for these drugs to come in from Canada as long as they meet all of our FDA requirements, on this the other side says, no, we don't want the marketplace to work in this case.

It kind of gives lie to all of the arguments about how this bill is to promote competition in the marketplace on drugs for the elderly. Quite frankly, it seems to me this bill is to promote higher prices and to ensure the elderly really do not get the best deal they could possibly get in buying prescription drugs which would mean they would not be able to buy them from Canada, which distorts the marketplace.

Again, I thank the Senator for his well-reasoned arguments and his well-reasoned amendment. With this amendment, we ought to strike a blow for the marketplace and let the marketplace work by allowing our seniors to be able to purchase these drugs under this so-called free trade agreement that we have with Canada.

I compliment the Senator from North Dakota for this amendment.

Mr. DORGAN. Mr. President, let me say I will not put this entire report in the record, but we asked the Congressional Research Service, the CRS, to do a comparison of U.S. and Canadian requirements for approving and distributing prescription drugs. This is by the nonpartisan Congressional Research Service. They prepared a memorandum comparing the U.S. and Canadian systems for both approving and distributing prescription drugs. Essentially this report affirms that, in all aspects of the U.S. and Canadian drug systems, drug approval, drug manufacturing, drug labeling, drug distribution, the U.S. and the Canadian systems are similar in all respects.

There just is not a circumstance here where someone can say the U.S. system is terrific and the Canadian system is not. Both countries have chains of custody that I think give people in Canada and the U.S. assurance of safety.

Perhaps before I give up the floor, I should mention this has been something Republicans and Democrats have worked on over a period of time. We have debated these issues before, but not this amendment because this is narrowed to Canada. I would be remiss if I didn't mention our late colleague, Paul Wellstone. If he were in the Chamber, he would be sitting in that back seat, and he either would have offered the amendment, perhaps, or be waiting to be among the first to speak. He, like many others of us—particularly in northern States—felt strongly that the reimportation of prescription drugs was a way for senior citizens, yes, but all Americans, to access the same prescription drugs at a fairer price.

My expectation is that when we finish this debate and have a vote—I believe we will vote on this tomorrow—this amendment will be further amended by the second-degree amendment of Senator COCHRAN, which I indicated I would accept. I don't believe there is a need to vote on that. I believe that amendment will be subject to a recorded vote tomorrow.

I hope my colleagues will do as we have done previously on broader legislation. At least with this narrower bill, let's decide to pass this and see if this can help provide some downward pressure on prescription drug prices.

Ms. STABENOW. Will the Senator yield for a question?

Mr. DORGAN. Yes, I am happy to yield for a question.

Ms. STABENOW. I appreciate that. I wanted first to compliment my friend from North Dakota, who has worked so diligently on this issue. I am very proud to be a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator can only yield for a question.

Mr. DORGAN. I was yielding for the purpose of a question.

Ms. STABENOW. I was in the middle of saying I wanted to ask is it not true that even though the report you just indicated made it clear the safety provisions, the oversight, is the same between Canada and the U.S., isn't it true that even in light of that, you have gone the extra mile to put into place basically a 1-year provision for reimportation, and then at the end of that time the program would stay in effect, unless the Secretary submits a certification that in fact there is a problem, that based on experience, based on evidence that the benefits do not outweigh the risks? Isn't that correct that you in fact have gone that extra step, that extra mile to make sure even though we know it is safe, it is the same, that we give a safety valve so that the Secretary in fact could step in and certify if there was a problem?

Mr. DORGAN. Mr. President, Senator STABENOW has done a service by pointing out something in the amendment I did not point out. The other change is that this would be a 1-year pilot program, when approved by the Senate. The certification will still be that this is safe because, clearly, we have identical systems in the U.S. and Canada.

In addition, after a 1-year pilot project, there will be a 6-month period in which the Secretary of Health and Human Services will certify if there is a problem, if in fact there is one. I expect there will not be. At that point, this program will continue. At least it creates a specific 1-year pilot project and an evaluation, so there is a failsafe system if there would be any problem at all. I would not expect a problem—particularly because we have narrowed this—with respect to Canadian drugs.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I rise in opposition to the Dorgan amendment, although as modified by Senator COCHRAN's amendment, I will not oppose it.

Senator COCHRAN's amendment goes to the whole point here, which is that reimportation of drugs is unsafe. I am not the one saying that. I think most Members here are very concerned about the safety aspects of reimportation. We have three Secretaries of Health and Human Services, 10 former FDA commissioners, the U.S. Customs Service, the White House, DEA, CMS, Canadian Pharmacy Regulatory Agency, U.S. Pharmacy Regulatory Agencies, and 44 U.S. pharmacist groups, voicing safety concerns about the reimportation of drugs.

I am satisfied Senator COCHRAN's amendment will sufficiently reflect the concern of Members of this body and of these organizations about the issue before us. So I am going to set that aside. I could argue until the cows come home how this is an unsafe and unwise practice to engage in. But with this amendment, we will leave it up to the Secretary to determine as to what he believes—and he was here a minute ago. We have a statement from him already saying he does not believe it is safe. I am comfortable leaving it in the hands of someone who will study this issue in depth with respect to safety.

I want to dispel a couple of myths that have been created during this debate. One of the myths is that American pharmaceutical companies spend more money on advertising than they do on research. As most people who have followed the pharmaceutical industry and followed this debate know, the pharmaceutical industry is the most research-intensive industry in our country. I have always said I find it remarkable that we are here on the floor of the Senate all the time beating up on the pharmaceutical companies, saying they make too much money or they spend too much money on advertising or they don't spend enough money on research and development, and we need to whack them here and whack them there until they become like the steel industry, where they become—or other industries—less and less profitable, and then we pass loan guarantee programs to prop them up. That is sort of the way we do things here. If anybody is doing well, whack, we are going to take a shot at them and say they are doing too well for everybody's good.

Let me just suggest the pharmaceutical industry is doing well because they are leading the world in curing disease and treating very serious health problems. They are doing it because of the enormous amount of research they are doing, not because of the money they are spending on advertising. General Motors spends more money on advertising—some $4 billion every year. That dwarfs almost all of the spending by the pharmaceutical industry with respect to advertising. Yet I don't hear the Senators from Missouri or Michigan or any others out here complaining we pay too much for cars. Cars are as much of a necessity for most people as pharmaceuticals. Why don't we hammer General Motors, Ford, and those other folks for wasting this money on advertising.

Companies spend money on advertising because they have an obligation to sell their product. The way you sell your product is by promoting the value that product hopes to bring to an individual's life—the positive attributes of the product. Pharmaceutical companies have the right to do that through advertising to the general public, which may not be informed about new therapies that are available, as well as through direct advertising to physicians who prescribe the medicine. That is a proper role, I believe, in informing the public. We want them to be informed.

I cannot imagine we would want a public that would not want to know what some of the more recent developments and potential improvements to their lives that are available to them. Some have suggested their spending on advertising is more than they are spending on research and development. That is not true. I know that was said in passing. Someone said: I think this is the case. Let me clarify for the record so we do not have this common misstatement that I think this may be the case. Let me tell you what the facts are.

I have a chart. It is just a piece of paper. I do not have it blown up. The black line is the spending on research and development, and the light gray line is the total promotion. Total promotion means, yes, advertising, but it also means the free samples of drugs many receive when they go to the doctor's office. That goes in promotion. That is actually, in a sense, free drugs for the purposes of advertising and promoting the product. All that is included in here.

You can see that research and development while, yes, advertising is going up, research and development is going up even further. In 2001, $30 billion was spent on research and development and a little over $10 billion on advertising—three to one. I daresay General Motors does not spend three to one on research and development versus their advertising. I daresay most companies and most industries do not come close to spending that amount of money. But you know what. They are the bad guys. They are the guys we have to hit upside the head. Why? Why do we have to hit them upside the head? Because they are increasing their prices too much. It is too costly, and we need these products.

Let's look at why they are increasing their prices and why you can go to Canada, Germany, or other places, and receive these drugs for less money. There are a couple of reasons.

No. 1, there was an excellent article in the "Weekly Standard" just the other day talking about the incredible cost of getting drugs approved by the FDA.

For a company which starts out with thousands of compounds with which they are experimenting, researching, trying to work themselves through the process to determine what is a viable compound to experiment with and to move forward with, they start out with thousands, tens of thousands. They narrow it down to a few hundred. They do some more intensive research on those. They get to about four or five they do some trials on and some tests on and even further research. They come down to usually one drug where they go through the extensive process of clinical trials and testing.

By the way, the reason Europe, Canada, and other countries around the world get drugs years before we do, in some cases, is because of the incredible costly process the very people who are complaining the drugs cost too much have supported, the extensive approval process that jacks up the price of those drugs in this country.

It costs $1 billion on average for a drug to go from that basic research of compounds all the way through the process of determining whether it is effective, whether it is safe, what conflicts there are. All the issues they have to deal with, it costs about $1 billion in this country.

It does not cost $1 billion in Canada. It does not cost $1 billion in Europe. It does not cost $1 billion in Mexico. It costs $1 billion here because of the extraordinary lengths to which we go to make sure the drugs here are, what? Let's hear that word again. Safe. That those drugs are safe. We put a premium value on, yes, efficacy. They have to be effective. They have to treat what they say they are treating, and do so effectively, but they also have to be safe. So we put a high value on safety, and we require these companies to go through enormous hoops to make sure, in this country, before a drug is sold, we know it is safe.

We are suggesting two points: No. 1, safety is a highly valued commodity when it comes to drug use, and that reimportation is unsafe. No. 2, one of the reasons reimportation is so popular is because the cost of the drugs are cheaper. One of the reasons they are cheaper is because they do not have to go through the safety measures they are put through in this country.

You require them to prove it is safer, and then you say: Gee, why are you charging us more money? Why don't we just get them from this other country, that, by the way, does not require you to go through those hoops. So they do not pass on the costs to these other countries.

There is another reason. The other reason is because in Canada, Mexico, most of the world, they set prices. They set prices. They say: You want to sell drugs in our country? Fine. Pfizer, you want to sell a drug in our country? No problem. Here is what we will pay you.

Pfizer says: Wait a minute, we have all these costs. I want to make a profit.

Fine, if you want to make a profit, here is what we will pay you.

We charge $3 for this drug in the United States. You are only offering to pay us $1.

Well, we have looked at it and your manufacturing costs are 50 cents; $1 is a pretty good price. You will make 50 cents on every pill.

Pfizer says: That is our manufacturing cost. We have hundreds of billions of dollars in research costs. We have litigation costs we have to be concerned about. We have advertising and other related costs that are built into the cost of this drug. You are only giving us the manufacturing cost.

If you don't like the deal, you cannot sell your drug. So if you want to sell your drug and make your 50 cents, sell your drug. If you don't, see ya.

The drug company has to make a decision: Do I agree to sell based on the price the Government wants to give me or am I shut completely out of that market?

A lot of drug companies say: OK, I am not making the money I could in this country because we do not have those kinds of price caps on our drugs yet, and they say: At least I am making some margin. OK, I will agree to sell there. If they say no, they do not have any market share at all.

That is a best case scenario. A worst case scenario in Canada is: I have a breakthrough drug, and there are no other drugs like it in the world. It is a new class. It is, in fact, one of these great discoveries that we hope for every day. They go up to Canada and say: We spent over $1 billion researching, coming up with this great breakthrough drug for a cure or for a treatment for this illness.

Canada says: Great, we would love to sell that drug. There isn't any other drug out there that does this. Yes, you want to charge us $10 a pill, that is nice; we will pay you $5.

The drug company says: Well, that is nice, 10.

Canada says: No, you didn't hear me, 5.

The drug company says: I am just not going to sell the drug.

A lot of drug companies will sell it anyway. Why? Because they feel a social responsibility to have that drug available, as we see with the AIDS drugs in Africa that are being sold at well below the costs in any other country in the world. They may feel a social responsibility to sell it, and, in many cases, they do.

Let's assume for some reason this company says: No, I do not feel any social responsibility here; I am going to play hard ball. What does the Canadian Government do? What do they by law have the right to do? They have the right to steal that patent, make the drug in Canada, and sell it for whatever price they want.

That is a pretty strong bargaining position. It is wonderful to stand out here on the floor of the Senate and beat up on these companies for selling drugs for less money in Canada, for less money in Mexico, for less money in Germany. Why?

No. 1, it is a one-sided bargaining situation. You either take the price we give you or you are out of the market. If we want your drug anyway, we will steal your patent. Not a lot of bargaining power. Plus, by the way, the United States costs so much more because of the FDA process, not to mention the litigation costs on top of the research and development costs.

The litigation costs in this country, because of runaway malpractice suits and liability suits, product liability suits, class action suits, the costs associated with drugs are higher here on top of that.

So what do we do? We blame the pharmaceutical company. We blame them because Canada sets prices. We blame them because we have an extensive and very costly FDA process. We blame them because we cannot put our tort liability system in place. It is their fault because they want to advertise their product. God forbid that someone knows what my product is. This is the bad work that is being done.

Now what are we going to do? We are going to say that, yes, well, maybe you are right, Senator, maybe it does cost more to bring a market here. I think everybody would admit that, yes, our litigation system is more costly; yes, Canada sets prices and blackmails them if they do not go along. We agree with all of that, but you know what, it is still not fair, because our seniors—and not just seniors but anybody—our people in America deserve the same price they get in Canada.

Okay. Let's make a decision. Let's make a decision that, in a sense, we are going to set prices in this country, that we are going to adopt the Canadian formula. Now, obviously not every drug is sold in Canada. So there are a lot of drugs that will not be affected by this reimportation because Canada does not pay for every drug. There are certain drugs that just are not sold up there. Why? Because the drug company decided they were not going to play ball and sell at a price that is well below what they believe is a profitable price for them to sell. So we are only talking about a certain group of drugs. We understand that.

We saw an amendment earlier today that is going to make sure these research-oriented drug companies, the ones that are creating the new therapies for the future, now that their patents expire on time, they have no patent extensions, even though some may be worthy or not; we are going to tighten down on that so generics can get into the business. Generics, by the way, make no breakthrough drugs, do no research on new therapies to treat diseases that are heretofore untreated or not sufficiently treated, but we are going to squeeze down these drug companies that are making these research investments and doing these kinds of innovative therapies. We adopted that earlier. Now we are going to whack them again and we are going to basically take the Canadian prices that were set in Canada and have them apply in the United States, so there will be free trade.

I heard people say free trade, free trade with a country that sets prices. Now, I would suspect the Senator from North Dakota would not be for free trade if they set the price of wheat in Canada at 50 percent below the price of wheat in the United States. I do not think the Senator from North Dakota would call that free trade—I could be wrong—or if we set the price of timber at half, by law, in Canada, of what the product was here. I do not think the Senator from Iowa would consider that free trade if they set the price of corn or the price of milk in Canada, by law, at half the price of the product in this country. I do not think we would be up here extolling the virtues of Canadian free trade. I know for a fact the Senator from North Dakota would not because he is on the floor with great frequency extolling the evils of free trade in Canada, particularly when it comes to wheat. They do not set the price of wheat in Canada, but he is for free trade on a product that is artificially priced below the market to come into this country. Interesting economic theory but certainly not consistent economic theory.

So what happens? We now have this product coming into this country at below what arguably it could cost to get that product approved and researched, with the liability costs, all the other costs associated. Now what would be the result? If it is that pervasive, we may force the drug companies to lower their prices. It could happen. In either event, we are going to take a significant piece of the market share away from the pharmaceutical companies selling drugs in this country.

What is the effect of that? Well, the effect of that is obviously lower profits for pharmaceutical companies. There are a lot of folks, I guess, who do not want people to be profitable, not at the expense of our consumers who want to buy pharmaceuticals. In the end, the result is this: We have to make a decision as to whether we want an industry that is going to spend 30-plus-billion dollars a year in finding the next cure, in doing the next level of research for that disease someone in our family may have or some neighbor may have, or whether we are more concerned with having cheap drugs today.

Let's understand, with eyes wide open, what we are balancing. We subsidize the world's research. Admit it. I accept that. People say we pay more for drugs here than everybody else in the world. All we are doing is subsidizing the drug companies in this country and the rest of the world is riding along on the money we give drug companies by paying higher prices for drugs. They piggyback on us, and that is not fair. Okay. You are right. What do you want to do about it?

Well, one thing we could do is talk to our trade officers and get them to pound away at these other countries so they do not set formularies and artificially low prices. We could do that. Do we tell Canada they cannot blackmail our companies by threatening to make the drug and steal the patent? We could do that. Short of that, which is not happening right now and this debate is happening right now, we have to make this decision, and the decision is this: Do we want to eliminate the research and development of new drugs and new therapies to solve new problems or problems that exist, diseases that exist, and, yes, subsidize the world in the research and development or in exchange for that next generation of drugs coming on line next year, are we willing to trade cheaper drugs today for no cure tomorrow or cheaper drugs today instead of the cure tomorrow, 3, 4, or 5 years from now?

That is a legitimate debate. I say to the Senator from North Dakota if he wants to enter into that debate—and the Senator from Michigan who is going to speak next, if she wants to enter into that debate—I will accept that debate. I will truly accept the integrity of people who say it is worth it to have cheaper drugs today to get more drugs to people today who need them than to develop the next generation of drugs down the road for people who will need them then. That is a legitimate argument to make.

I assume many Americans would agree with that argument, particularly if they are the people who do not have the money to afford the drugs they need today. There are probably a great number of Americans who would say that is a good tradeoff.

I come down on the other side. I do not believe it is a good tradeoff. The reason I do not believe it is a good tradeoff is I think there is a better way to solve what seems to be an intractable problem: either research, innovation, new disease treatment, or cheaper drugs.

Interestingly enough, the solution is what we are talking about in this Chamber this week and next week, and that is drug coverage. The solution is, let's provide drug coverage to lower the cost out of pocket to the consumer, particularly catastrophic drug coverage.

In my mind, the most important thing we are doing, not some of what I consider very broad coverage that we have in this bill, but most important is including the catastrophic coverage. If we have a high drug user or the low-income subsidies in this bill for low-income individuals, those are the people I am most concerned about. They are the ones who, I argue, are the most compelling cases for saying we need cheaper drugs now as opposed to cures later.

If we can solve those compelling cases of the low-income individual and the high user of pharmaceuticals, if we can solve those two problems, then we take a lot of pressure off this issue of cures tomorrow versus drugs now.

This amendment does not belong. It is an anachronism. We get to the heart of the problem that this amendment attempts to solve. I believe it solves it in the wrong way.

I also believe reimportation is unsafe. It is unfair to an industry in this country which is much maligned—until, of course, you get that diagnosis. Once you get that diagnosis and you find out within the last few years a little white pill that keeps you alive, that keeps you walking, keeps you breathing, keeps you eating, once you find out there is an industry out there that you never had a good word for up until that moment, who you thought were bad people because they were raking these people over the coals with all this money they were making, until you found out because of the research and development that went on, your life will continue and you will be able to see your children grow up or you will be able to see and play with your grandchildren, all of a sudden these companies are not so bad after all.

I know this is not a popular view for Members of the Senate to hold. I have been told on numerous occasions defending drug companies is not a term extender for Senators. I understand that. This is not a populist issue. I accept it. But I have the gift in my State of having thousands of employees who go to work every day with the focus on creating the next little pill, the next little serum that will save somebody's life. They are proud of the work they do. They have a right to make money and do it. They have an absolute right to make money and do it. I will stand by their right to do that. It is an industry that not just makes money, but we are saving people's lives. We are changing people's lives. We are giving that grandson the opportunity to know his grandma. We should be willing to pay for it.

We should not be blackmailed by other countries that want to use us for their research ground. We have some work to do. In my opinion, we have work to do in the international trade arena to go after these countries that do use us as the funding of their laboratories. But the mistake is not to adopt their policies. It is to get them to change their policies. What this does is adopt a flawed, fatal system for far too many people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, it is hard to know where to begin. I would like to talk about some of the facts and realities for folks who are struggling to pay for those medications that are being developed or being advertised on television.

I hope we will remember in these debates we are not talking about automobiles or tennis shoes or peanut butter or any other optional product. We are talking about lifesaving medicine.

I celebrate the fact we have lifesaving medicine and that we have those who have dedicated their lives to that research. We have a lot of such individuals in Michigan. I am very proud of them and the work they do.

At the end of the line, if you cannot afford the medicine, it does not matter. So price does matter. Affordability does matter. Competition to bring prices down does matter.

I am very pleased a little earlier this evening we voted together in a bipartisan way to close loopholes the brand-name companies have been using to game the system, to keep competition off the market, and generic drugs. We passed a very important amendment to this bill. I commend, again, all who have worked very hard on that. The system has been out of whack. I suggest it is out of whack in a number of other ways.

First, it is absolutely true that the most profitable, successful industry in this country is the pharmaceutical industry. No question about it. It is great they are doing well. Any other business in this country would love to have their situation. They are, arguably, the most highly subsidized industry by taxpayers in this country. They have a set of rules that up to this point have been highly in their favor to allow them to keep the competition off the market. It is a great deal if you can get it.

I know we have hundreds if not thousands of folks working here, lobbyists, making sure we keep that good deal for them. I appreciate that. Unfortunately, that good deal for them, that great deal for them, has been at the expense of every other business trying to provide health care for their employees, every other employee trying to keep their health care and not lose their job because of rising health care costs, every senior, every family in this country. The debate about pricing is about not only making sure we have a healthy pharmaceutical industry but we have other healthy businesses and consumers who help pay the tab for that research and can afford to buy the product at the end of the line.

What do I mean by that? I have said this before. We start with a lot of the basic research in this country being paid for by American taxpayers through the National Institutes of Health. I am proud we have greatly increased the amount of money going into basic research. We have done that on a bipartisan basis. It makes a difference. We are very close on many different illnesses from Parkinson's to Alzheimer's to diabetes, critical research. We need to be doing more. But that is done by American taxpayers, investing our money. Because we benefit, we understand how critical this is.

That information, that research, is then given to the pharmaceutical companies who then develop it. We give them a writeoff for their research, tax deductions, tax credits for new research, all of which I support, as well as deductions for their advertising, their marketing, their administration, their other business expenses. Tax deductions, tax credits, are subsidies from American taxpayers. So we have a real stake in this operation. We are already helping pay for it.

Once the drug has been developed, because it is very expensive for new breakthrough drugs, because it is very expensive, we have a policy of creating a patent for up to 20 years to limit the competition so that company can, in fact, be covered at cost, because with new lifesaving drugs it is very expensive.

We have a stake in this. We have a stake in it. We helped pay for it. We helped create rules that are favorable to the companies, so that, in fact, they can succeed. The deal, though, I believe, is that at the end of that process the American consumer, the American senior should be able to afford to buy that product that they helped pay to develop, to research, to make happen. That should be the deal.

That is the point. In too many cases right now that is just not happening. We get to the end of the line, and there are many ways in which the companies sue currently to keep generics off the market or keep the border closed so we can't buy them from Canada or do a variety of other things to make it difficult for the competition to come in and to keep the prices low. They make sure Medicare doesn't negotiate on behalf of all the seniors of the country to be able to force a group discount. There are a wide variety of methods to make sure the rules stay the way they are and we are all paying a big price for that, I believe.

We certainly want this industry to be successful. I think it is clear by the rules, the subsidies, the support that has been there and will continue to be there. But this is not a pair of tennis shoes. It is not an automobile, as much as coming from Michigan I want everybody to buy a new automobile every single year, an American-made automobile. But if you don't, you will not lose your life. But if you don't get your cancer medicine, you might. This is very different.

Let me speak to the issue of advertising. Since 1996, the FDA has taken the cap off of direct consumer advertising, as we know, radio and television, other direct consumer advertising. We know, we have seen advertising skyrocket. We do not have to debate that. All you have to do is turn on your television set. If not every commercial, it is every other commercial—they are very nice commercials—but they are commercials for prescription drugs. We do not have to argue about whether advertising has gone up. Every single person in this country knows that advertising has gone up.

You do not have to tell a doctor that marketing has gone up. My doctor talks to me about the line of drug reps at the door to come in and promote particular medicines.

We know from studies that have been done, and FCC filings, that about 2.5 times more is claimed under the line item for "advertising, marketing, and administration" than is claimed under research.

What I find very interesting is that I keep hearing that more is spent on research than on advertising and marketing. Last year, I offered legislation to say OK, if that is true, then let's just cap the amount you can write off for advertising and marketing to the same level you can write off for research on your income tax form. It should not matter to anybody because they spend more on research. You would have thought I had proposed the worst thing you could possibly propose. It was adamantly and is still adamantly opposed by industry. It should not matter if they are spending more on research than on advertising and marketing.

I would like to speak to the business at hand here, the question of allowing Americans to buy American-made drugs, subsidized by Americans, the research funded in part by Americans, at the price they are sold in every other part of the world—half the price we pay here.

This particular amendment is a very conservative, cautious amendment. It focuses only on Canada. We know, in fact, there is importation already back and forth from Canada. Drugs are already frequently imported into this country but predominantly by manufacturers. They are already bringing them back across the border. In fact, according to the International Trade Commission, $14.7 billion in drugs were imported into the United States in the year 2000, and $2.2 billion in drugs sold in Canada were originally made in the United States.

It is ironic that the drugmakers are saying drugs cannot safely move between the border between the two countries. What they are saying is they don't want individuals to be able to do it or pharmacists to be able to do it or wholesalers to be able to do it, but they do it every day.

Also, we hear there is a difference in terms of oversight and inspections. According to the CRS, our Food and Drug Administration already inspects pharmaceutical production lines in Canada for 341 prescription drugs run by about 30 drugmakers. So they are already doing it for the pharmaceutical industry. We pay to send FDA inspectors to Canada to inspect already.

Another report dated September 2001, a report by our Congressional Research Service—again, the nonpartisan Congressional Research Service—confirms that:

> The U.S. and Canadian systems for drug approvals, manufacturing, labeling and distribution are similarly strong in all respects. Both countries have similar requirements and processes for reviewing and approving pharmaceuticals, including ensuring compliance with good manufacturing practices. Both countries also maintain closed drug distribution systems [which is very important] under which wholesalers and pharmacists are licensed and inspected by Federal and/or local governments. All prescription drugs shipped in Canada must, by law, include the name and address of each company involved along the chain of distribution.

So that is the reason this amendment is narrowly focused on Canada because we are talking about a system that is very similar, almost exactly the same in terms of the safety and the rigorous oversight. We are also talking about a process that is already going on, it is just going on by the manufacturers and not by licensed pharmacists or by individuals or by wholesalers.

I think this amendment is very conservative because the amendment not only has Senator COCHRAN's provisions in terms of certification, but this is an amendment that would affect 1 year. We are going to affect things for a year, to open the border to Canada. After that 1-year period, the program would stay in effect unless the Secretary submits a certification to Congress that, based on substantial evidence and the experience of the 1 year, the benefits of reimportation do not outweigh the risks. So there are multiple protections in this amendment, and strict FDA oversight is in this amendment.

I think this is particularly important to do in the context of the prescription drug legislation that we are working on and that will be passed by this body because the bill in front of us to provide a Medicare prescription drug benefit does not take effect until 2006. So other than a discount card, which is not new to seniors, those who have been listening to the debate we have been having all week and anticipating help right away are going to be sorely disappointed because there will not be a prescription drug benefit until 2006. In the meantime, we can help not only seniors but families and businesses and everyone who is involved in paying for prescription drugs right away, immediately. It doesn't cost anything to open the border to Canada for prescription drugs for pharmacists and for individuals. We can do it now. If there is an evaluation that there is a problem, it can stop. But we know, based on information about the inspection systems, based on what is already occurring, that it is highly unlikely that there would be a problem.

I think it is critically important that we give major help now. We can cut prices in half; in some cases much more. I have had the opportunity to go with a number of different seniors to Canada where they have met with a Canadian physician and received a prescription and gone to a Canadian pharmacy. We have been shocked at the difference in prices for literally the very same drug. It is particularly significant in Michigan where we can look right across the river which you can swim across, and go from Detroit to Windsor and see that kind of a price difference. We have many seniors now looking to Canada for opportunities to see Canadian doctors because they are so desperate to get help.

Let me mention just a couple of things. Again, we are not talking about some optional product where people are advertising and making good profits. We wish them well. That is the American way. That is the capital system. Good for them. But we are talking about a health care system where we are not seeing doctors being reimbursed, nor hospitals, nor nursing homes, nor home health agencies. The only part of the system that is exploding in cost and which is driving up the cost of the health care system is in the area of pharmaceutical drugs. This is not optional. It is medical. It should be viewed as part of the health care system. That is what we are debating today.

Let me mention Tamoxifen. Tamoxifen is a very important drug in battling breast cancer. I had an opportunity to visit with Barbara Morgan from Michigan when she went to Canada and visited a Canadian doctor and going through the process there where she was able to get her monthly Tamoxifen for $15 instead of $136. That is a huge difference for her. She and her husband are retired on average means. She did not expect to get breast cancer after retirement. They had, like many others, been saving up to do things in their retirement. They now find themselves spending money on her treatment and on her prescription drugs. These are not theoretical discussions about people. This is not a theoretical debate about allowing Americans to get American-made, American-subsidized prescription drugs from Canada. This is very real. It can literally make the difference between life and death for people when they are struggling for critical lifesaving medicines.

That is why I feel so strongly about this amendment. That is why I am hopeful the Secretary will look at the evidence, will look at the narrow construct of this amendment and be willing to work with us, be willing to allow the borders to be opened for 1 year. We are asking for 1 year with all of the safety precautions that are in this amendment—just 1 year to allow our seniors and others to be able to see a dramatic cut in the prices they have to pay for their medicines; 1 year to try this and to evaluate the issues that have been raised by those who are opposed.

I appreciate the time. This is, I believe, a very serious part of this debate. If we want to make the difference right now for people, right now doesn't involve money in the budget resolution. It doesn't involve waiting until 2006. If we want to help folks right now, the way to do that is to give them the opportunity to get their prescription drugs at the lowest possible price. That is what this amendment will do.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I don't see any more speakers who wish to speak on the second-degree amendment. Am I correct in suggesting that the regular order is now to vote on the second-degree amendment?

The PRESIDING OFFICER. The second-degree amendment is the pending question.

Mr. BAUCUS. Mr. President, I think we are ready to vote.

AMENDMENT NO. 947

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 947) was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, the Finance Committee has laid before the Senate a bipartisan bill that will finally provide every senior access to affordable prescription drugs. Passing this long-awaited legislation is one of the best things we can do right away to help solve the health care crisis in this country.

I applaud the efforts of the committee and specifically commend the leadership of the chairman and ranking member, Senator GRASSLEY and Senator BAUCUS, in developing this critical legislation.

The bill reported out of the Finance Committee, S. 1, is the culmination of years of hard work in the Senate to bridge the gap between the Medicare of 1965 and the Medicare for today and the future.

Currently, seniors are paying too much for their needed prescription drugs out-of-pocket. The cost of these life-saving drugs is increasingly becoming a large burden for seniors, with some even traveling to Canada to find cheaper drugs. Seniors should not have to go to a foreign country to receive the drugs that their doctors prescribe. We need to provide an environment where America's seniors don't have to go to Canada.

The bill reported out of the Finance Committee accomplishes that.

This bill not only provides every senior access to affordable prescription drugs, but it will also provide seniors access to benefits that a modern health plan should have, such as preventive care and disease management—options that Medicare does not currently provide. Moreover, these additional benefits are provided by giving seniors a choice and control over their prescription drug plans and health care providers.

These changes will only improve and strengthen Medicare. As my colleagues know, when Medicare was enacted in 1965, Congress made a commitment to our Nation's seniors and disabled to provide for their health security. Unfortunately, that security is on shaky ground because Medicare has not kept up with the evolving nature of health care.

The delivery of health care has vaulted ahead so dramatically 38 years after the inception of Medicare, that this system which was once sufficient is now antiquated and ineffective.

For example, conditions that used to require surgery or in-patient care can now be treated on an out-patient basis with prescription drugs. But more than the progress that has evolved from the utilization of prescription drugs, medicine has too evolved to the extent that preventive care can now eliminate the need for extensive reliance on the health care system. It is time for Medicare to reflect the realities of today's health care delivery system.

My colleagues from the Finance Committee have found a solution that is a good compromise and is a result that can be agreed to by both Democrats and Republicans. Is this bill a panacea for seniors' health? No. But it is a quantum leap forward from a system that has been stuck in a time when the Ed Sullivan Show and the Dick Van Dyke Show were seen as original programming in America's living rooms.

While the Senate has finally begun its debate on Medicare I would be remiss if I did not take a step back and point out the roadmap that has lead us to this point.

The President deserves great credit in providing in his budget substantial funding to add a prescription drug benefit to Medicare. The amount the President allocated, $400 billion, illustrates his commitment to our nation's seniors. Time and again, the President has called for strengthening and improving Medicare.

Additionally, this year we are operating under a budget resolution. Last year, the Senate operated without one because we never voted on the fiscal year 2003 budget resolution—the first time the Senate has not done so since 1974.

The Senate got the job done this year. Through the leadership of Chairman NICKLES of the Budget Committee, the Senate laid out a blueprint for future spending that has brought us to where we are today.

The Senate is standing at the brink of providing seniors access to affordable prescription drugs. This is long overdue, and we cannot delay any further.

Over the past year, I have traveled throughout Ohio holding health care roundtables to hear what the citizens in my State are saying. These roundtables have included seniors that inevitably tell me it is past time that Congress added a prescription drug benefit to Medicare.

I believe this is the year Congress will deliver on its longstanding promises.

I am ready to go to my constituents in Ohio and say we were finally able to move past partisanship and provide real security for their health.

While it is vital that we pass a prescription drug benefit this year, it is also vital that we pass one that is fiscally responsible. Ideally, seniors would receive the assistance they need to have access to every medicine prescribed by their doctor. Unfortunately, we live in the real world and are subject to limited resources.

I would like to take a few moments to shed some light on our Government's current fiscal condition. As recently as fiscal year 2000, the Federal Government had a combined surplus of more than $100 billion. Every penny of payroll tax was retained in the Social Security trust fund and the General fund was generating enough revenue to fully fund its contribution to Medicare and still pay down the National Debt.

As my colleagues know, this rosy budgetary picture is long gone.

According to the Congressional Budget Office's latest monthly budget estimate, May 2003, the unified deficit for fiscal year 2003 will exceed $400 billion even after borrowing every penny of this year's Social Security trust fund surplus.

With this in mind, it is imperative that we act not only to provide Medicare benefits for today's beneficiaries, but also for the baby boomers that will arrive in 2011.

The Finance Committee bill strikes a balance between providing seniors and the disabled access to needed prescription drugs today and doing so in a fiscally sensible way that would allow benefits to extend to future generations.

Senator GRASSLEY and the Finance Committee have put before the Senate a bill that will cost $400 billion as scored by CGO.

The natural question that I think the American people would like to know is what does $400 billion buy? In my opinion, $400 billion provides a real prescription drug benefit that is affordable to both the beneficiaries and the Federal Government.

First of all, seniors would get assistance immediately through the prescription drug card. And our neediest seniors would receive an additional $600 on top of the discounts Medicare will provide through this card.

When the prescription drug program begins in 2006, under the Finance Committee bill, premiums would average $35 a month.

After a $275 deductible, the government would cover half of all prescription drug costs up to $4,500.

Now, critics of this approach will claim that the so-called "doughnut hole" after $4,500 will be the financial ruin of every senior. The truth is that the vast majority of seniors—80 percent—would never even hit the hole.

As a matter of fact, for 2003, the Kaiser Family Foundation estimates that the average Medicare beneficiary will consume approximately $2,300 in pharmaceuticals. And should seniors consume over $5,800 in prescription drugs, the Federal Government would pick up 90 percent of drug costs.

While this benefit will greatly help seniors throughout the Nation, there are still some seniors for whom the $35 per month premium and additional cost-sharing is too high. For those individuals, the bipartisan Finance Committee bill provides protections that will allow access to prescription drugs.

For those seniors under 135 percent of poverty, $12,123 for an individual and $16,362 or a couple, the Finance Committee bill would provide a full subsidy for monthly premiums. In addition, the government would cover 95 percent of their prescription drug costs to the initial benefit limit and 97.5 percent above the stop-loss limit.

And for those seniors between 135 and 160 percent of the poverty level, S. 1 would provide assistance with their monthly premiums on a sliding scale. In addition, these individuals would pay no more than 50 percent of their drug costs once the $250 deductible has been reached.

When we talk about dollars being spent, we should also point out to seniors that they will receive more bang for their buck under the Finance Committee bill through Medicare Advantage.

Under Medicare Advantage, seniors will not just receive direct assistance from the government to cover their prescription drug bills. Rather, private health plans will have to compete for beneficiaries and will attempt to attract seniors by providing the best health care plan—including prescription drugs and possibly preventive care, disease management, vision and dental services.

To the advantage of both Medicare beneficiaries and the Federal Government, this competition will decrease the price of prescription drugs and permit all parties to stretch their dollars further.

This body has been playing this political posturing game with senior's health care for too long.

I am tired of explaining partisanship as the excuse for the Senate's failure to pass a prescription drug benefit, which has forced the least of our brothers and sisters to choose between food and prescription drugs.

I am pleased that the Senate will have the opportunity to show the American people, especially our nation's seniors and disabled that we are serious about enacting legislation to provide a prescription drug benefit this year.

The bill before us seems to have broad support from both sides of the aisle. The President is ready and willing to sign a bill into law this year. It is time to get the job done.

ORDER OF PROCEDURE

Mr. ALEXANDER. Mr. President, I ask unanimous consent that today after the consideration of S. 1, the Senate proceed to the consideration of Calendar No. 140, S. 504, and that it be considered under the following limitation: no amendments be in order, and there be 45 minutes equally divided for debate between Senator ALEXANDER and the ranking member or his designee; provided further that at the expiration of that time, the bill be read a third time, and the bill be set aside; provided that the Senate resume consideration of the bill upon convening on Friday, June 20, and that the time until 9:15 be equally divided for debate; further, that at 9:15 a.m. the Senate proceed to a vote on passage of the bill, with no intervening action or debate.

I also ask unanimous consent that following that vote, the Senate resume consideration of S. 1 and Dorgan amendment No. 946, and there then be 4 minutes of debate equally divided prior to the vote in relation to the amendment, with no further amendments in order to the amendment prior to the vote.

Finally, I ask unanimous consent that following the Harkin amendment, the next sequence of Democratic first-degree amendments be the following: Conrad, 2-year fallback; Pryor, reimportation; Kerry, grant program; Clinton, study; and Graham, premium.

The PRESIDING OFFICER. Is there objection?

The Democratic whip.

Mr. REID. Mr. President, I would ask the Senator to modify the request in this manner: First, I would control the time, rather than the ranking member, on the minority side on this bill.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. ALEXANDER. Mr. President, I have no objection to the modification.

Mr. REID. Secondly, Mr. President, we have checked with the majority, and they have no problem with the fact that Senator PRYOR would offer his amendment on Monday rather than tomorrow. Even though he is in order following Senator CONRAD, I ask that he be allowed to offer his amendment on Monday.

The PRESIDING OFFICER. Is there objection to the modified request?

Mr. REID. No objection.

Mr. ALEXANDER. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN HISTORY AND CIVICS EDUCATION ACT OF 2003

Mr. ALEXANDER. Mr. President, I ask that the Senate proceed to S. 504, as under the order.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 504) to establish academies for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

The PRESIDING OFFICER. Who yields time?

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I yield myself such time as I may consume.

Mr. President, this week there was a great celebration of National History Day. There were high school students from all over the country in our offices and at the University of Maryland.

Last Friday, when I was sitting where the distinguished Senator from Minnesota now sits, presiding over the Senate, I had the privilege of hearing Senator BYRD deliver an address about Flag Day.

Since 9/11, President Bush has spoken more regularly about the American character. Suddenly, in our country there is a lot of interest in what it means to be an American.

In the mid-1990s, I read a book by Samuel Huntington, a professor at Harvard, called "Clash of Civilizations." A lot of people read that book in terms of understanding in what conflicts the United States, the West, might find in future years. But I read it for a different reason. It made me think that if the new world order was to be a group of civilizations whose differences began with their cultures, their religions, and a variety of other things that made them unique—it made me think if we were moving into that kind of an era, then maybe we ought to have a better understanding of just what made our culture unique. What did it mean to be an American?

I was invited to hold a professorship at Harvard University and taught in the John F. Kennedy School of Government there. And the course I taught was on the American character and on American Government. In that course, the graduate students applied the great principles which unite us as a country to the great controversies which we in the Senate debate—about race-based scholarships, about military tribunals, about faith-based institutions—and the conflicts of those principles. The students were fascinated by that.

And then suddenly I found myself, last year, in a Senate race that I did not expect to be in. And like most candidates for the Senate, as the Chair well knows, I spoke about a number of different things. Sometimes I spoke about our colleagues on the other side of the aisle. Sometimes I spoke about taxes, about judges, about education.

But, Mr. President, there was one sentence I could say during that campaign to any audience, anywhere in my State of Tennessee, that brought the greatest response. I could barely get it out of my mouth before there would be some response from the audience—of heads nodding or some kind of applause—and it was this sentence: It is time to put the teaching of American history and civics back in its rightful place in our schools so our children can grow up learning what it means to be an American.

That is why today I stand before you to support S. 504, the American History and Civics Education Act of 2003, which we will be voting on in the morning as the first order of business.

It will help put the teaching of American history and civics back in its rightful place in our schools. It will set up summer residential academies for students and teachers: 2-week academies for teachers—say, at a university—and 4-week academies for students of American history and civics. And it would join the variety of efforts that the President and this Congress on both sides of the aisle have been acting upon with increasing frequency to underscore American history.

It is modeled after the Governor's Schools which exist in the State of Tennessee and many other States across this country. And it is premised on the idea that if 200 teachers go to the University of Tennessee or a university in Nevada or a university in California, and spend 2 weeks with outstanding leaders, talking about the great principles and the great stories and the key events of our history, that they will be inspired to do an even better job of teaching that during the next year to their students.

I introduced this bill and support it on behalf of 36 Senators, including the Democratic whip, who is the chief cosponsor, and has been from the very first day of its introduction, which I, as a new Senator, greatly appreciate. It also includes Republican and Democratic leaders whom I will mention in just a moment: The majority leader; Senator GREGG, the chairman of the relevant committee; Senator BURNS, the chairman of the relevant Appropriations subcommittee; Senator KENNEDY, the ranking member of our committee; and Senator BYRD, who has been a pioneer in supporting this kind of legislation.

Mr. President, we need this bill, and we need additional attention to American history because, first, when our values are under attack, we need to understand clearly what those values are. And, second, we should understand what unites us as Americans.

Our diversity and variety in this country is an enormous strength. It is a tremendous strength. We are a nation of immigrants with people from everywhere, but our greater strength—our greatest accomplishment—is we have been able to take all of that variety and diversity and turn it into one country—“e pluribus unum.”

We need to understand what those values are. And we need to put into context the terror of the time. I have heard a great many people on television say these are the most dangerous times our country has ever faced. Well, only if you have never had 1 minute of American history would you believe that. We need for our young people to know that there have been struggles from the very beginning.

But our young people do not know the story of this country as well as they should. Too many of our children do not know what makes America exceptional. National exams show that three-quarters of our fourth, eighth, and twelfth graders are not proficient in civics knowledge, and one-third do not even have basic knowledge, making them civics illiterates.

Until the 1960s, civics education, which teaches the duties of citizenship, was a regular part of almost every high school's curriculum.

But today's college graduates probably have less civic knowledge than high school graduates of 50 years ago. Reforms have resulted in the widespread elimination of required classes and curricula in civics education. Today, more than half the States have no requirements for students to take a course even for one semester in American government.

That is not the way it has always been. From the beginning of our Nation, we have generally understood what it means to be an American, and that has been a preoccupation of Americans: Think of our Founders, writing those letters, holding those debates, making sure we knew what it meant to be an American; Thomas Jefferson in his retirement years in Monticello taking his guests through his home and pointing to portraits on the wall of the leaders from whom he had gotten many of his ideas so they would understand what he had in mind when he helped create this country.

When we had a huge wave of immigration more than a century ago, just as we do today, our national response was to teach new Americans what it means to be an American. Because you don't become an American by your color or by your ethnicity or by being born here. You become one because you believe a few things. If you move to Japan, you don't become Japanese. If you move to France, you don't become French. If you move to America and want to be a citizen, you must become an American. That is the way our country works.

We created the common school, today's public schools, to teach reading, writing, and arithmetic to immigrant children as well as what it means to be an American, with the hope that they might go home and teach their parents. That was what Albert Shanker, former president of the American Federation of Teachers, said about the creation of common schools.

Then of course in World War II, President Roosevelt made sure that every GI who stormed the beaches at Normandy understood what the four freedoms are. We have not always been complete in our understanding of what it means to be an American. Sometimes we have gone to excess. We didn't teach the stories of African Americans well. We undervalued the contribution of the Spanish to our culture. And in the 1950s, we were embarrassed, as we look back, by McCarthyism. But that is no excuse for what is going on today: dropping civics, squeezing American history out of the curricula, and when it is in, it is watered down. Too often the textbooks are so dull, nobody would want to study them. All the talk is about victims and never about the heroes. The schools have become politically correct. The teachers are reluctant to teach the great controversies. But what is American history if it is not the story of great controversies and great conflicts of principles and great disappointments with not reaching our great dreams and great stories and great heroic efforts?

Our students need to know that Kunta Kinte came to this country in the belly of a slave ship and that his seventh generation grandson, Alex Haley, wrote the story of Roots about the struggle for equality and freedom. They need to know that Thomas Jefferson owned slaves and that he wrote the Declaration of Independence, as it is taught at the Ben Hooks Center at the University of Memphis.

We are a work in progress. We have never been perfect. They need to know about the Pilgrims who were Christians, and they need to know about the Presbyterians, my ancestors, the Scotch Irish who fought a Revolutionary War because they were tired of paying taxes to support the bishop of a church to which they didn't belong. They need to know about the religious character of our country and about the importance of the separation of church and state. They need to know about our love of liberty and about the incarceration of Japanese Americans in World War II.

The response to putting the teaching of American history and civics back in its rightful place in our schools has been overwhelming. Not just the Democratic whip, Mr. REID, has sponsored this, but 36 Senators from both sides of the aisle, leaders of both sides. And in the House of Representatives, ROGER WICKER of Mississippi is the lead sponsor of the same bill. He called tonight and said they have 160 sponsors in the House, Democratic and Republican leaders.

I offer my special thanks to a few Senators in addition to Mr. WICKER for his leadership. To Senator FRIST, the majority leader, for scheduling the bill in the midst of a lot of other important business and for cosponsoring it. To Senator GREGG, chairman of our committee, for moving it through. Especially to Senator REID, for his understanding of American history, his leadership, his being here tonight, and his serving as the principal cosponsor of the legislation. To Senator KENNEDY, who has gone out of his way not just to support the bill but to attract other cosponsors. He has had a long interest in this subject. To Senator BURNS, on the Appropriations Committee, for his strong support. And to Senator BYRD, who took the time to come to the hearing and to testify. Senator BYRD is, of course, the author of the Byrd grants which are already being used in many of our schools.

The kind of American history we are talking about is the traditional kind, the study of the key persons, the key events, the key ideas, and the key documents that shape the institutions and democratic heritage of the United States of America. We spell out in our legislation that by key documents, we mean the Constitution and its amendments, and the Declaration of Independence, for example. By key events, we mean the encounter of Native Americans with European settlers and the Civil War and the civil rights movement and the wars. By key ideas, we mean the principles that we almost all agree on in this body: Liberty, equal opportunity, individualism, laissez-faire, the rule of law, federalism, e pluribus unum, the free exercise of religion, the separation of church and state, a belief in progress. We agree on those principles.

Our politics is about applying those principles. That is what our politics is about. The key persons, the heroes, the men and women of this country from its founding until today, the scientists, inventors, pioneers, the advocates of equal rights, and artists who have made this United States of America.

There are a great many efforts heading in the same direction. This is only one part. The President's efforts, the Library of Congress' efforts, the Byrd grants, the James Madison study, the National Endowment for Humanities which would award these to residential academies, to educational institutions, and nonprofit organizations. All are working hard in this way. We are adding to that.

In conclusion, I will mention two things. I was in a Foreign Relations Committee hearing the other day. We were talking about what we might expect with the reconstruction of Iraq. One witness said that we would be fortunate in our nation building there if the three grand divisions of Iraq, the Kurds, the Sunnis, and the Shiites, the geographical areas, could agree on two things: One would be how to split up the oil money, and two would be on a federation that would basically keep them safe and independent in their own areas. And maybe we would have some semblance of democracy so they could choose their leaders.

I was thinking about how much we take for granted, how much more we are able to look forward to. There is no chance in Iraq of e pluribus unum, not for the foreseeable future. There is no general agreement on those principles I just read.

We have a marvelous country and a great story. We should be teaching it.

The last thing I would like to say is the first thing I mentioned: We need to put the terror in which we find ourselves today in context. Those who say this is the most dangerous time in our history have had no American history. What about the Pilgrims who died in the first winter? What about the soldiers at Valley Forge who walked across the ice with their bare feet? What about the Native Americans and the European settlers killing each other's children? That was terror. What about the African Americans who came in the slave ships? What about the brothers who killed each other in the Civil War? What about the millions who stood in line in the Depression? What about in the 1950s and 1960s, when we all stood within 30 minutes of a nuclear missile from the Soviet Union?

We have had greater terrors face the United States. This is a time of struggle. It is a time when we should stop and think about what it means to be an American so that we can teach our children and so that we can continue our country.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, I can remember when I served in the House of Representatives on the Foreign Affairs Committee. Mr. Kissinger came before the committee. The chairman of the committee, Mr. Solarz from New York, said: I don't know how to refer to you. Dr. Kissinger, is it Mr. Ambassador? Is it Mr. Secretary? Kissinger didn't hesitate a second, and he said: Your Excellency would be fine.

I am reminded of this when I think of Governor ALEXANDER, Secretary ALEXANDER, and Senator ALEXANDER—a man with a great resume who is now a Senator. The background certainly is one where this legislation came, as a matter of fact, from somebody who served our country as the Governor of a very important State, who served as Secretary of Education, and now as a Senator. When this distinguished Senator came forward with this legislation, I knew right away that it was good, based on his experience and background. I felt inclined to move on this legislation to be a prime cosponsor of it. I am happy to do that.

It is important to the point where we are now. Tomorrow we will pass this bill, and it will become law. I think we have such momentum here that this isn't something we are going to just issue a press release on as having authorized this legislation. We have support so that we are going to appropriate the money. As the Senator from Tennessee has announced, Senator ROBERT BYRD, the ranking member and long-time chairman of the Appropriations Committee, supports this legislation. We are going to move forward and not only authorize but appropriate money for this most important program.

The bill itself, if you look at it—and then read this bill, we have a Medicare bill here that is some 700 pages long—is just a few pages long, seven or eight pages. It may not seem like much, but for me it is very important. For the American people, it will be very important because this little bill will allow as many as 7,200 teachers every summer, every year, to be updated on what they should be teaching their young folks. The 7,200 teachers each were under this legislation—the Chairman of the National Commission on Humanity has the ability to select 12 different academies, 1 for teaching history and civics congressionally, the other with a Presidential background. Each of these academies will be chosen, 12 in each category, and they could have up to 300 teachers to participate. That is 7,200. It adds up quickly. In 10 years, that is 72,000. I think that is remarkable.

It is important because teachers have so many burdens. They have paperwork, and now with Leave No Child Behind, they are so immersed in teaching children how to pass tests that they don't have a lot of time to teach sort of outside the box. This allows them to do that, to be reinvigorated and take a look at what is happening around the world, what has happened that they have missed.

So this little bill that is going to become law very quickly—because the House already has over a hundred cosponsors—is important legislation. I commend and applaud my distinguished friend, the Senator from Tennessee, for his work in this area. I hope this is the first of many pieces of legislation the Senator introduces, based on his experience and background as Secretary of Education for this wonderful country.

As my friend has indicated, the education of America's children has to be one of our priorities. It is one of our priorities. We have to make sure that children are our future. In order for them to be our future, we need to give the people who are teaching them the tools they need to teach them to be good leaders.

Teachers and administrators have many important responsibilities to achieve that end, including providing students with the basis to pursue higher education, helping them develop their individual potential, and preparing them for successful careers.

As has been indicated in the introductory remarks by my friend from Tennessee, America is a nation of immigrants. Our schools have helped instill in our diverse population a sense of what it means to be American, and we have prepared our youth for the responsibilities of citizenship. But we can do better. That is what this legislation is all about.

We need to reaffirm the importance of learning American history and maintaining the civic understanding, recognizing that diversity and tolerance are at the core of that understanding.

Many individual districts and schools within those districts, such as those in the State of Nevada, have recognized the importance of civics education and have designed curricular programs to highlight students' knowledge of civics and history.

One young man who has the unusual name of Trey Delap, a fine young man from Boulder City, which is right near Hoover Dam—where growth has slowed slightly, unlike the surrounding area—describes himself as an average high school kid from a small town. Boulder City is not too small, but the school isn't really big. He dreamed of doing other things all of his life, but certainly never, ever thought about anything dealing with government, until he participated in a program called We The People. It is a program offered through the Center for Civic Education that allows students to study civics and then share their knowledge through competitions such as the one held in Washington. They have State competition and, if they do well there, they can come to Washington.

His first assignment as part of this We The People program began with the question: What is the role of a citizen in a democracy? He pondered this question, and he discovered that his true passion was government.

Defining the role of a citizen led him to question his own responsibility as a citizen and the importance of understanding what our Constitution stands for. This is a high school kid.

In this program, Trey was able to celebrate his 18th birthday in our Nation's Capital, while he voiced his opinion about the role of being a citizen in front of lawyers, judges, and congressional staff during a congressional debate. We The People is a great program, but only a few are allowed to participate in it.

What we are talking about tonight with this legislation is that schools all over America would have similar programs, in effect, because we would have teachers who are having a shot of adrenaline, updating the education they received going through their educational programs in college. This bill would establish a network of teachers sharing ideas about history and civics programs.

S. 504 would accomplish these goals that I have talked about by creating grants for teachers, and the students would come and participate in the program. With teachers in so many areas not sharing information among themselves, they teach information not consistent with prescribed curriculum. So we should have networks like the one proposed here for all students.

Another reason, frankly, that I jumped aboard this program was that Senator Paul Simon and I—we served as Lieutenant Governors together, served in the House of Representatives together, and we served here together—had the idea that what we needed to work on was to do something about science and math. We lose so many science and math teachers because they cannot make enough money teaching in high school. It has to be for the love of teaching that they stay, because math and science is so acceptable by outside industry. That is the only reason they stay in teaching—they love it.

Senator Simon and I had the idea of creating summer workshop programs so that math and science teachers during the summer, or with year-round school systems, whenever there was a break, had summer workshops to attend to update their skills but be paid for doing so. This would also give them some extra money.

Math and science teachers make the same as somebody who teaches PE. PE is important, and we have good teachers teaching physical education. But realistically, we need more math and science teachers than we do physical education teachers.

Well, Senator Simon and I worked hard, but we could never get the program funded.

This program, while it is not like the program Senator Simon and I sponsored, it is as I feel about this Medicare bill. This Medicare bill is not something I love, but it is, as we heard so many times, the proverbial camel with his nose under the tent. We can make this Medicare bill better.

With this program I am confident we are going to pass and fund, maybe we can go back to what Senator Simon and I wanted to do: to do something to enrich math and science teachers' lives, not only enrich them academically but also monetarily. I hope that is something my friend from Tennessee will take a look at and work with me.

As we work to make sure all schoolchildren—and especially I am concerned about those in Nevada—are connected to the Internet—and we have programs doing that—and are connected to the future, I also want them to be connected to America's past and to know the common values of histories binding together all who live in this great Nation.

We learn from history. I love history. I love to study history, and I want young people also to have a love of history. That can come about with one good teacher. One good teacher can change a young person's life, just like Trey's life in Boulder City. His life was changed by having someone telling him that Government is important. Government is important, history is important, this legislation is important, and I hope we have a resounding vote, which I am confident we will, tomorrow morning.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Nevada for his leadership and for his comments. I look forward to working with him on math and science and other education issues. I especially appreciate his commenting on the teachers.

He noted perhaps 72,000 teachers. Even though this is just a pilot program for a few years, if for 10 years 72,000 teachers of American history and civics went to summer residential academies, called Presidential Academies of American History and Civics, they should be inspired to be even better teachers.

One of the things I most enjoyed doing as Governor was creating the Governor's School for Teachers of Writing which was run by Richard Marius of Harvard. Every summer 200 teachers would gather at the University of Tennessee. He would lead them. He taught Harvard freshmen in their writing program.

What happened was, if you put the teachers together, they taught one another. They became inspired. They developed better lesson plans, and they went back to their classrooms fired up and much better teachers.

I have great confidence in our teachers. I believe if we afford an opportunity for them to come together in many places across the country, and for 2 weeks focus on how to teach the great stories of American history, that by itself will help put it in its rightful place. When we add to that 4-week schools that students of American history and civics will attend, it will double our punch.

I appreciate that sponsorship. I look forward to the Presidential Academies for Teachers of American History and Civics and the Congressional Academies for Students of American History and Civics.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ALEXANDER. I suggest the absence of a quorum.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIRTHDAY OF AUNG SAN SUU KYI

Mr. McCONNELL. Mr. President, on June 19, 1945, Burmese democracy leader Aung San Suu Kyi was born in Rangoon, Burma, to Ma Khin Kyi and Aung San.

Some speculate that she was destined to be a defender of freedom in Burma, as her father was the commander of the Burma Independence Army. Tragedy struck the family exactly 1 month after Suu Kyi's second birthday when General Aung San was assassinated. The family's loss was mourned by the entire nation.

As Burma's military leaders were to find out decades later, Suu Kyi has freedom and justice coursing through her veins. She has been a tireless advocate for the rights and welfare of the Burmese people and has sacrificed—along with other Burmese democrats—

much in struggle for democracy in Burma.

Suu Kyi is a symbol of courage and determination for the world's oppressed. She is a shining example that principles are stronger than repression. Suu Kyi and other democrats have yet to surrender to the State Peace and Development Council, SPDC, despite relentless attempts by the junta to bend and break their will.

How is Suu Kyi celebrating her 58th birthday? Most likely, she is not. I suspect she is alone and in Insein prison.

In the wake of a violent ambush by the junta on her convoy on May 30, Suu Kyi was arrested by the SPDC. Although U.N. Special Envoy Razali briefly saw her 2 weeks ago—and conveyed to an anxious world that she was not physically injured in the attack—we haven't seen or heard from her since.

The International Committee of the Red Cross, ICRC, requested a meeting with Suu Kyi, but the thugs in Rangoon refused. Unbelievable, outrageous—but not surprising considering the regime's track record.

It should not be lost on anyone that the denial of an ICRC visit means Suu Kyi is being treated worse than a prisoner of war.

The best gift the free world can give Suu Kyi on her birthday is a full court press on the junta. Sanctions, import bans, and statements condemning the SPDC's outrageous actions will help buoy the spirits of the Burmese people and confirm that the international community is on their side.

The best gift the administration can give Suu Kyi is an import ban and the downgrading of diplomatic relations with the SPDC. The White House should not wait for the House to act on its legislation but should implement a ban on imports immediately.

Finally, the best gift I can give Suu Kyi is a commitment to continue to stand with her and the people of Burma for as long as it takes for freedom's triumph. She and her compatriots continue to be in my thoughts and prayers.

TRIBUTE TO JANINE JOHNSON

Mr. REID. Mr. President, we make many different kinds of speeches on the Senate floor. Some of those speeches seek to advance legislation and amendments and some aim to commemorate historic events. None are as sad as those we make in the memory of a member of the Senate family who has left us. On May 29, 2003, Janine Johnson, Assistant Counsel in the Senate's Office of Legislative Counsel, passed away. Janine was 37 years old.

Many of us and our staffs knew Janine personally. Some of us only knew her only by her initials that appeared on the legislation and amendments we introduce here on the floor. She served the Senate for nearly 13 years, doing much of her work for the Senate Committee on Environment and Public Works, the Agriculture Committee and the Energy Committee.

Over the years, Janine prepared thousands of bills for me and for the other members of the Environment Committee. Her expertise in those matters made my job easier and the jobs of the staff easier on countless bills. Janine was an expert drafter on matters of critical concern to the committee. She drafted several generations of Water Resources Development Acts. She drafted our last transportation bill, the mammoth Transportation Equity Act for the 21st Century, and was in the process of drafting a new transportation bill when she fell ill. She drafted many parts of the last Farm bill, including the nutrition title of that bill. I mention that because I am told that no one has found a single drafting error in the hundreds of pages of that title.

That is very rare, but I am told by her colleagues that Janine's way was the way of a perfectionist.

And to her about Janine's history is to hear that it was a way of life. Janine was a native of Winchester, MA. She graduated first in her class from Winchester High School and ultimately graduated with high honors from Harvard Law School in 1986. She went on to clerk for the Honorable Cecil Poole on the U.S. Court of Appeals for the Ninth Circuit. Following her clerkship, she came to the Senate Office of Legislative Counsel. In addition to serving as Assistant Counsel, she was active in shaping the office itself. She interviewed new attorneys for the office, and she had an unparalleled ability to recognize those who would maintain the high standards of the Senate. That legacy will live on in the colleagues and friends she helped to bring into the Senate family.

According to Janine's friends here in the Senate, she loved life outside the Senate as much as her work within it. Janine loved theater, music and swing dancing. I am told that she loved living here in Washington, DC, where one of her favorite times of year was the spring because of her love of our cherry trees and the Cherry Blossom Festival.

The cherry blossom Janine admired is the most beautiful flower in Japanese culture. It symbolizes the Japanese values of simplicity, purity and fleeting beauty. Many poets have described the pink and white blossoms as a metaphor for life, beautiful and simple, yet at the same time sadly ephemeral and fleeting.

Janine's friends in the Senate would say that she was like the flowers she loved to see, but that her memory will not be ephemeral to the Senate, to her work here, or to the many friends and family she leaves behind.

Mr. WARNER. Mr. President, I come to the floor this morning to pay tribute to a very talented, kind and generous member of our Senate family, Janine Johnson. Sadly, at the far too young age of 37, Janine passed away. For the past 13 years, Janine served as Assistant Counsel in the Senate's Office of Legislative Counsel: Some of us were privileged to work with her directly and benefit from her skill and keen intellect.

While many of us over the years have recognized the well-deserved contributions of our staff in our personal offices or on committees, we all know that we depend highly on the exceptional professional judgment and tireless efforts of the staff in the Senate Legislative Counsel's office. While Janine did not work for an individual Senator or Committee, it is without question that Janine was devoted to the institution of the Senate, skilled in the intricacies of the law, and served the Senate with distinction.

Janine was the primary Legislative Counsel for many issues under the jurisdiction of the Committee on Environment and Public Works. It was during my tenure as Chairman of the Transportation Subcommittee that my staff and I were privileged to work with Janine. She was our counsel for the development of the National Highway System Act of 1995, and later on the landmark Transportation Equity Act for the 21st Century, commonly referred to as TEA–21. Also, during my chairmanship, Janine guided us on the development of several Water Resource Development Acts, that were enacted on a biennial cycle.

It was during those long days and weeks in working in committee, on the Senate floor and later in conference on TEA–21 that we witnessed the exceptional skill, thoroughness and professionalism that Janine brought to every issue. The surface transportation bill expired in the fall of 1997. The Congress passed a 6-month extension bill and we came back in early 1998 to renew our efforts on a full 6-year reauthorization bill. Janine was there with the committee every step of the way.

The staff recollections of Janine's contributions to the development of TEA–21 are unmistakable. I hear of her deep commitment to the law, to turning vague concepts into statute, and faithfully executing the views of the committee and Senator's agreements on complex policy issues. Most importantly, I hear staff use heartfelt words to describe Janine's grace, her delicate nature, her respect for her colleagues, her genuine kindness, and her commitment to the work at hand. I'm told that on many occasions when staff completed work for the night, usually past midnight, and left sections for Janine to draft that often her work was on their desks by 9:00 the next morning. She was always willing to stay long past when the Metro closed, as long as she had a ride home.

We, in the committee, relied heavily on Janine's legal abilities, her legislative drafting precision and we were fortunate to have her as a star on our team—although for far too short a time.

Janine's academic achievements are superior, graduating with high honors from Harvard Law School in 1986 and then clerking for the Honorable Cecil Poole on the U.S. Court of Appeals for the Ninth Circuit. With her exceptional qualifications, I'm confident that she would have been successful in any career path she chose. Fortunately, for us, she came to the Senate and for 13 years we have all been more successful because of her.

The poet Albert Pike has said:

> What we have done for ourselves alone dies with us; what we have done for others and the world remains and is immortal.

Janine has certainly touched many of us in lasting ways. The Senate is grateful for her service and we share our condolences with her friends and family.

Mr. JEFFORDS. Mr. President, as Senators, we are accustomed to the glare of the public spotlight and there are even some members of Congress who crave such attention. In general though, we are here because we share a deep desire to serve our country and to help ensure that our government and its laws are true to the spirit of America.

We sometimes forget that we are also part of a Senate community filled with people who believe in that same kind of public service. Though they do not share the spotlight with us, we could not do our jobs without them and the nation would suffer.

So, I want to recognize the contributions made by all staff, and in particular the experts in the Office of Senate Legislative Counsel that help keep us true to the law, its structure and its functioning. They help put our ideas into real form and maintain the integrity of the code.

That is why it is very very difficult today to note the passing of Janine Johnson, Assistant Counsel in Office of Legislative Counsel. She was an integral and crucial part of that office.

Her professionalism, her deft grasp of complicated statutes, her work ethic, and above all, her pleasant manner and bearing, will be sorely missed by that office, but also by me, my office and in particular, my Environment and Public Works Committee staff.

Many of my staff have worked with Janine for a decade or more and have been uniformly impressed by her unparalleled skill and commitment to her job.

Janine had a knack for taking even the most complicated concepts and proposals and breaking them down into manageable parts. Then, she found ways to integrate them into existing statutes. To many staff, she was a legislative magician.

One did not need to know Janine for very long to see that she shone with a pure and intense inner light that made the way clearer and easier for others. But, the memory of her kindness and delicate humor will live on and inspire those who follow her.

Janine was a talented woman and a lawyer's lawyer. She had a green thumb and many days brought one of her prized amaryllis plants in to brighten the front office. She also spoke many languages, including beginning Russian which I believe she started in Middlebury, VT.

The Senate has suffered a great loss with the passing of Janine Louise Johnson. I wish her family and friends all the best in coping with the pain. However, I want to note that her significant contributions to the Senate and to the nation will not be forgotten and that she should serve as a model for us all.

Mr. COCHRAN. Mr. President, it is with sadness that I join my colleagues to mourn the premature passing of a dedicated member of the Senate staff.

Ms. Janine Johnson was an Assistant Counsel in the Office of the Legislative Counsel. She was a 1986 graduate of Harvard College and a 1989 graduate of Harvard Law School.

Her responsibilities included drafting legislation in areas that are within the Agriculture Committee's jurisdiction. Her thoughtful work and dedicated service to members of the Senate are reflected in legislation such as the 1996 and 2002 farm bills and the 1998 child nutrition reauthorization.

The work of the Office of the Legislative Counsel often goes unnoticed and under appreciated, but it is talented attorneys like Ms. Janine Johnson who provide such a valuable service to the Senate. I extend my sympathies to Ms. Johnson's family and friends.

VOTE EXPLANATION

Mrs. DOLE. I want to explain why I was necessarily absent from the June 13 vote on the confirmation of R. Hewitt Pate to be an Assistant Attorney General for Antitrust. At the time the vote took place, I was speaking to the Flue Cured Tobacco Stabilization Corporation, a group of more than 500 North Carolina tobacco farmers, in Raleigh, NC. My attendance at the event was important in order to listen to the major concerns of our State's tobacco farmers, as well as to address one of North Carolina's top priorities, a tobacco quota buyout, which is critical to the livelihood of all tobacco farmers and the economic security of our State.

Had I been present, I would have voted for Mr. Pate.

HONORING OUR ARMED FORCES

Mr. LUGAR. Mr. President, 2 months ago when President Bush declared an end to combat operations in Iraq, I rose to pay tribute to the seven service members with Indiana roots who sacrificed their lives in Operation Iraqi Freedom. I observed that while these seven fine young men were engaged in a noble and worthy cause—making the world safer for all freedom-loving peoples—their deaths again showed us that freedom never comes without a heavy price in human lives.

At the time I delivered those remarks, I and all Americans understood that there would still be dangerous times ahead for our service members, but we sincerely hoped there would be no more reports of American service members killed in combat operations.

Today, I am sad to report, our troops in Iraq are still very much at risk of injury or the ultimate sacrifice as they work to restore order and a civil society in this troubled country. It seems that almost every day we receive news of soldiers being ambushed or attacked in hit-and-run type incidents. More than 40 American troops have fallen since May 1st. We are still suffering combat casualties, and it is obvious that reconstruction of Iraq is going to be a lengthy and difficult process.

During these past 2 months, three of those who fell were brave young men with Indiana roots. Three more Indiana families have been devastated by the loss of a loved one. Today, I would like to pay tribute to these three fine young men.

Marine Lance Corporal Matthew R. Smith of Anderson, IN, was killed on May 10 in Kuwait when the Humvee he was riding in struck a trailer in a military convoy. Matthew, a Marine Corps Reservist, was 20 years old and a sophomore at Indiana University. He went overseas with his unit in February and had traveled all the way to Baghdad while providing support to Marine combat forces.

On the day Matthew died, his father, David Smith, received the first letter from his son since he went overseas. Matthew wrote that he was proud to be in Iraq as a marine fighting for his country's freedom.

Matthew Smith will be missed.

Army Private Jesse Halling of Indianapolis was killed on June 10 in the city of Tikrit when his military police squad became engaged in a firefight after being ambushed. Jesse was in the turret of a Humvee firing a machine gun at their attackers when a rocket-propelled grenade struck the vehicle. His commander has recommended him for a Silver Star Medal for bravery under fire.

Jesse was 19 years old and had enlisted in the Army right after his graduation from Ben Davis High School, where he had participated in Junior ROTC. His friends remember him as a fun-loving teenager with a passion for motorcycles. His fellow soldiers will remember him as a hero whose quick actions may well have saved the lives of others.

Jesse Halling will be missed.

Army Private Shawn Pahnke of Shelbyville was killed on June 16 in Baghdad, felled by a sniper round fired in the dead of night at the Humvee he was riding in. Shawn was 25 years old. He had joined the Army to become a crew member on an M–1 Abrams tank and was serving with the 1st Armored Division in Germany before deploying to Iraq.

Shawn leaves behind a wife, Elisha, and a 3-month-old son, Dean Patrick, whom he never had a chance to see. Shawn was in Germany when the baby was born, but the staff at Major Hospital in Shelbyville hooked up a phone connection to the delivery room so that Shawn could hear his child's first cries.

Shawn Pahnke will be missed.

All of Indiana mourns for the loss of these brave young men. Our hearts go out to these families.

HONORING COMPANY A, 8TH TANK BATTALION, MARINE FORCES RESERVE

Mr. BAYH. Mr. President, on behalf of the State of Indiana, I wish to recognize Maj. William P. Peeples of the U.S. Marine Corps Reserves and his fellow marines of Company A, 8th Tank Battalion, on the successful completion of their mission while serving in Operation Iraqi Freedom. Major Peeples is from Indianapolis, IN, and it is with sincere pride that I congratulate him on a successful tour of duty leading his division through its service in Iraq.

The unit was among the first involved in fighting when Operation Iraqi Freedom began this March. Some members from the 3rd Platoon also assisted special forces with the rescue and recovery of PFC Jessica Lynch and other remembers of her unit.

We are indebted for the many contributions and tremendous sacrifices, past and present, that the men and women of the Marine Corps have made in service to our great Nation. The strength, courage, and character they exemplify can only inspire the admiration and appreciation of all Americans.

Through their rapid mobilization and superior performance in the line of duty, the marines of Company A, 8th Tank Battalion, serve as shining examples of the Corps' motto "First to Fight." I know I speak for all Hoosiers when I thank the returning members, and welcome them back home.

HONORING PRIVATE SHAWN D. PAHNKE

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Shelbyville, IN. Private Shawn D. Pahnke, twenty-five years old, was killed in Baghdad on June 17, 2003 when he was shot in the back by an Iraqi sniper. Shawn joined the Army with his entire life before him, with a young wife and a newborn son at home. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Shawn was the eighth Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Today, I join Shawn's family, his friends, and the entire Shelbyville community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Shawn, a memory that will burn brightly during these continuing days of conflict and grief.

Shawn Pahnke wrote to his family only weeks before his death, telling them that he was proud to serve in the Army and to follow in the footsteps of his father, a Vietnam War veteran, and his grandfather, a World War II veteran. Shawn grew up in Manhattan, IL and graduated form Lincoln Way High School in New Lenox, IL. He then joined the Army and served as part of the 1st Armored Division's 1st Brigade. Shawn leaves behind a wife, Elisha and their three-month-old son, Dean Patrick, who was born after Shawn was sent to Friedberg Army Base in Germany. He also leaves behind his parents, Tom and Linda Pahnke and two older brothers.

As I search for words to do justice in honoring Shawn Pahnke's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say her, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Shawn Pahnke's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Shawn D. Pahnke in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Shawn's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may Gold bless the United States of America.

THE BUDGET DEFICIT

Mr. HOLLINGS. Mr. President, it is said that editorialists can editorialize but can't take criticism. Not true. Chairman Donald Graham and editorial page editor Fred Hiatt readily accepted the following Washington Post editorial this morning for which I profoundly thank them. Otherwise, since I referred to Pete Peterson, in fairness let me also include his column in the RECORD.

I ask unanimous consent the articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 8, 2003]

DEFICITS AND DYSFUNCTION

(By Peter G. Peterson)

I have belonged to the Republican Party all my life. As a Republican, I have served as a cabinet member (once), a presidential commission member (three times), an all-purpose political ombudsman (many times) and a relentless crusader whom some would call a crank (throughout). Among the bedrock principles that the Republican Party has stood for since its origins in the 1850's is the principle of fiscal stewardship—the idea that government should invest in posterity and safeguard future generations from unsustainable liabilities. It is a priority that has always attracted me to the party. At various times in our history (especially after wars), Republican leaders have honored this principle by advocating and legislating painful budgetary retrenchment, including both spending cuts and tax hikes.

Over the last quarter century, however, the Grand Old Party has abandoned these original convictions. Without every renouncing stewardship itself—indeed, while talking incessantly about legacies, endowments, family values and leaving "no child behind"—the G.P.O leadership has by degrees come to embrace the very different notion that deficit spending is a sort of fiscal wonder drug. Like taking aspirin, you should do it regularly just to stay healthy and do lots of it whenever you're feeling out of sorts.

With the arrival of Ronald Reagan in the White House, this idea was first introduced as part of an extraordinary "supply-side revolution" in fiscal policy, needed (so the thinking ran) as a one-time fix for an economy gripped by stagflation. To those who worried about more debt, they said, Relax, it won't happen—we'll "grow out of it." Over the course of the 1980's, under the influence of this revolution, what grew most was federal debt, from 26 to 42 percent of G.D.P. During the next decade, Republican leaders became less conditional in their advocacy. Since 2001, the fiscal strategizing of the party has ascended to a new level of fiscal irresponsibility. For the first time ever, a Republican leadership in complete control of our national government is advocating a huge and virtually endless policy of debt creation.

The numbers are simply breathtaking. When President George W. Bush entered office, the 10-year budget balance was officially projected to be surplus of $5.6 trillion—a vast boon to future generations that Republican leaders "firmly promised" would be committed to their benefit by, for example, prefinancing the future cost of Social Security. Those promises were quickly forgotten. A large tax cut and continued spending growth, combined with a recession, the shock of 9/11 and the bursting of the stock-market bubble, pulled that surplus down to a mere $1 trillion by the end of 2002. Unfazed by this turnaround, the Bush administration proposed a second tax-cut package in 2003 in the face of huge new fiscal demands, including a war in Iraq and an urgent "homeland security" agenda. By midyear, prudent forecasters pegged the 10-year fiscal projection at a deficit of well over $4 trillion.

So there you have it: in just two years there was a $10 trillion swing in the deficit outlook. Coming into power, the Republican leaders faced a choice between tax cuts and providing genuine financing for the future of Social Security. (What a landmark reform this would have been!) They chose tax cuts. After 9/11, they faced a choice between tax cuts and getting serious about the extensive measures needed to protect this nation against further terrorist attacks. They chose tax cuts. After war broke out in the Mideast, they faced a choice between tax cuts and galvanizing the nation behind a policy of future-oriented burden sharing. Again and again, they chose tax cuts.

The recent $10 trillion deficit swing is the largest in American history other than during years of total war. With total war, of course, you have the excuse that you expect the emergency to be over soon, and thus you'll be able to pay back the new debt during subsequent years of peace and prosperity. Yet few believe that the major drivers of today's deficit projections, not even the war on terror, are similarly short-term. Indeed, the biggest single driver of the projections, the growing cost of senior entitlements, are certain to become much worse just beyond the 10-year horizon when the huge baby-boom generation starts retiring in earnest. By the time the boomer age wave peaks, workers will have to pay the equivalent of 25 to 33 percent of their payroll in Social Security and Medicare before they retire just to keep those programs solvent.

Two facts left unmentioned in the deficit numbers cited above will help put the cost of the boomer retirement into focus. First, the deficit projections would be much larger if we took away the "trust-fund surplus" we are supposed to be dedicating to the future of Social Security and Medicare; and second, the size of this trust fund, even if we were really accumulating it—which we are not—dwarfed by the $25 trillion in total unfinanced liabilities still hanging over both programs.

A longer time horizon does not justify near-term deficits. If anything, the longer-terms demographics are an argument for sizable near-term surpluses. As Milton Friedman put it, if you cut taxes without cutting spending, you aren't really reducing the tax burden at all. In fact, you're just pushing it off yourself and onto your kids.

You might suppose that a reasoned debate over this deficit-happy policy would at least be admissible within the "discussion tent" of the Republican Party. Apparently, it is not. I've seen Republicans get blackballed for merely observing that national investment is limited by national savings; that large deficits typically reduce national savings; or that higher deficits eventually trigger higher interest rates. I've seen others get pilloried for picking on the wrong constituency—for suggesting, say, that a tax loophole for a corporation or wealthy retiree is no better, ethically or economically, than a dubious welfare program.

For some "supply side" Republicans, the pursuit of lower taxes has evolved into a religion, indeed a tax-cut theology that simply discards any objective evidence that violates the tenets of the faith.

So long as taxes are cut, even dissimulation is allowable. A new Republican fad is to propose that tax cuts be officially "sunsetted" in 2 or 5 or 10 years in order to minimize the projected revenue loss—and then to go out and sell supporters that, of course, the sunset is not to be taken seriously and that rescinding such tax cuts is politically unlikely. Among themselves, in other words, the loudly whispered message is that a setting sun always rises.

What's remarkable is how so many elected Republicans go along with the charade. The same Republican senators who overwhelmingly approved (without a single nay vote) the Sarbanes-Oxley Act to crack down on shady corporate accounting of investments worth millions of dollars see little wrong with turning around and making utterly fraudulent pronouncements about tax cuts that will cost billions, or indeed, even trillions of dollars.

For some Republicans, all this tax-cutting talk is a mere tactic. I know several brilliant and partisan Republicans who admit to me, in private, that much of what they say about taxes is of course not really true. But, they say it's the only way to reduce government spending: chop revenue and trust that the Democrats, like Solomon, will agree to cut spending rather than punish our children by smothering them with debt.

This clever apologia would be more believable if Republicans—in all matters other than cutting the aggregate tax burden—were to speak loudly and act decisively in favor of deficit reductions. But it's hard to find the small-government argument persuasive when, on the spending front, the Republican leaders do nothing to reform entitlements, allow debt-service costs to rise along with the debt and urge greater spending on defense—and when these three functions make up over four-fifths of all federal outlays.

The starve-government-at-the-source strategy is not only hypocritical, it is likely to fail—with great injury to the young—once the other party decides to raise the ante rather than play the sucker and do the right thing. When the Democratic presidential contender Dick Gephardt proposed in April a vast new national health insurance plan, he justified its cost, which critics put at more than $2 trillion over 10 years, by suggesting that we "pay" for it by rescinding most of the administrative tax legislation. Oddly, it never occurred to these Republican strategists that two can play the spend-the-deficit game.

Not surprisingly, many Democrats have thrown a spotlight on the Republicans' irresponsible obsession with tax cutting in order to improve their party's image with voters, even to the extent of billing themselves as born-again champions of fiscal responsibility. Though I welcome any newcomers to the cause of genuine fiscal stewardship.

I doubt that the Democratic Party as a whole is any less dysfunctional than the Republican Party. It's just dysfunctional in a different way.

Yes, the Republican Party line often boils down to cutting taxes and damning the torpedoes. And yes, by whipping up one-sided popular support for lower taxes, the Republicans pre-empt responsible discussion of tax fairness and force many Democrats to echo weakly, "Me, too." But it's equally true that the Democratic Party line often boils down to boosting outlays and damning the torpedoes. Likewise, Democrats regularly short-circuit any prudent examination of the single biggest spending issue, the future of senior entitlements, by castigating all reformers as heartless Scrooges.

I have often and at great length criticized the free-lunch games of many Republican reform plans for Social Security—like personal accounts that will be "funded" by deficit-financed contributions. But at least they pretend to have reform plans. Democrats have nothing. Or as Bob Kerrey puts it quite nicely, most of his fellow Democrats propose the "do-nothing plan," a blank sheet of paper that essentially says it is O.K. to cut benefits by 26 percent across the board when the money runs out. Assuming that Democrats would feel genuine compassion for the lower-income retirees, widows and disabled parents who would be most affected by such a cut, I have suggested to them that maybe we ought to introduce an "affluence test" that reduces benefits for fat cats like me.

To my amazement, Democrats angrily respond with irrelevant cliches like "programs for the poor are poor programs" or "Social Security is a social contract that cannot be broken." Apparently, it doesn't matter that the program is already unsustainable. They cling to the mast and are ready to go down with the ship. To most Democratic leaders, federal entitlements are their theology.

What exactly gave rise to this bipartisan flight from integrity and responsibility—and when? My own theory, for what it's worth, is that it got started during the "Me Decade," the 1970's, when a socially fragmenting America began to gravitate around a myriad of interest groups, each more fixated on pursuing and financing, through massive political campaign contributions, its own agenda than on safeguarding the common good of the nation. Political parties, rather than helping to transcend these fissures and bind the country together, instead began to cater to them and ultimately sold themselves out.

I'm not sure what it will take to make our two-party system healthy again. I hope that in the search for a durable majority, Republicans will sooner or later realize that it won't happen without coming to terms with deficits and debts, and Democrats will likewise realize it won't happen for them without coming to terms with entitlements.

Whether any of this happens sooner or later, of course, ultimately depends upon the voters. Perhaps we will soon witness the emergence of a new and very different crop of young voters who are freshly engaged in mainstream politics and will start holding candidates to a more rigorous and objective standard of integrity. That would be good news indeed for the future of our parties.

In any case, I fervently hope that America does not have to drift into real trouble, either at home or abroad, before our leaders get scared straight and stop playing chicken with one another. That's a risky course, full of possible disasters. It's not a solution that a great nation like ours ought to be counting on.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, June 19, 2003]

Delusional on the Deficit

(By Ernest F. Hollings)

Nobody is paying any attention to the budget deficit. Last month the House Budget Committee's Democrats forecast a deficit of nearly $500 billion, and The Post reported the story on Page A4. Last week the Congressional Budget Office reported that the deficit would balloon to a record $400 billion-plus, and The Post again buried the story on A4. Spending trust funds, such as Social Security, is what keeps the estimate at $400 billion. The actual deficit will be approximately $600 billion.

That's a win for Mitch Daniels. The goal of the departed Office of Management and Budget director was to keep any news that could hurt President Bush's reelection prospects off the front page, and The Post willingly aided and abetted him. In fact, when Daniels left two weeks ago to run for governor of Indiana, he told The Post that the government is "fiscally in fine shape." Good grief! During his 29-month tenure, he turned a so-called $5.6 trillion, 10-year budget surplus into a $4 trillion deficit—a mere $10 trillion downswing in just two years. If this is good fiscal policy, thank heavens Daniels is gone.

Congress is no better than the press. Republicans, totally in control of this town, just casually raised the limit on the national debt by a record trillion dollars so the president could borrow more money to pay for tax cuts. I say casually because the seriousness of this move was passed over and hardly debated. In The Post, this story wasn't even worthy of A4. It was relegated to A8.

Bush and Daniels used to talk about how they would repay the nation's debt more quickly than any administration in history. Before Sept. 11, 2001, the president bragged that his budget reserved $1 trillion for unforeseen circumstances. Perish the thought that the war on terrorism, Afghanistan and Iraq cost $1 trillion. Those factors had an impact, but the real culprit, according to the nonpartisan Concord Coalition, is that this president has cut $3.12 trillion in revenue since taking office. These are the largest tax cuts in history, yet the administration claims they have no relationship to the record deficits reported on Page A4. Amazingly, he asks for more.

The London-based Financial Times, in a front-page lead story, recently reported the Treasury Department projection that at the present rate, fixing the deficit would require "the equivalent of an immediate and permanent 66 percent across-the-board income tax increase." The White House deep-sixed the Treasury study. The Post ignored it.

Former commerce secretary Peter Peterson, a lifelong Republican, says that every time this administration faces a choice, it chooses tax cuts. Between fiscal responsibility and tax cuts, it picks tax cuts. Between preserving Social Security and tax cuts, it picks tax cuts. Between providing necessary funds to fight the war on terrorism and tax cuts, it picks tax cuts. "Again and again," Peterson says, "they choose tax cuts."

The question: How huge must the deficit grow for this A4 story to make the front page, and for the public to scream for relief? Across the country teachers are being laid off, there are more kids per classroom, the school year is shorter, and tuition is up at state colleges. Bus service is being cut off, volunteers are running park systems, prisoners are being released, and subsidies for the working poor are being slashed.

How much more must we dismantle before the public cannot stomach this? Will it take a shutdown of all the national parks? Or the release of all federal prisoners because we can't afford to guard them? Or will workers need to pay half their salaries to keep Social Security and Medicare from the chopping block?

I dread to think how bad it has to get before Bush makes some changes. But the Republican leadership in Congress is in lockstep. They've just passed a budget calling for a $600 billion deficit each year, every year, for the next 10 years.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Hamilton, NJ. On September 16, 2001, an Arab-American man and his son were verbally accosted and attacked by a man shouting ethnic slurs and wielding a knife. The victim was able to use his cane to protect himself and his son until he was able to wrestle the knife away from the attacker. The perpetrator was eventually arrested by the police.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

WHIZ KIDS

• Mr. ALLARD. Mr. President, I rise to tell my colleagues about an extraordinary volunteer program that is dramatically impacting the lives of underprivileged, underachieving students in Denver, CO.

It is called Whiz Kids and, frankly this program is a classic example of what happens when men and women of faith, who love kids, decide to make things happen.

Each week, over 700 volunteers tutor elementary students in the Denver, Aurora, and Jefferson County school districts. Most of the tutoring takes place at urban churches, but at each of 44 sites, Whiz Kids provides books, computers, snacks, club time-spiritual values, a sense of community and, most of all, the love of men and women who care enough about the kids to invest a few hours a week to help them read.

The results have been nothing short of fantastic—the average youngster in Whiz Kids improves his or her reading ability by 1–3 grades each year, according to tracking by Denver Public Schools. The target for Whiz Kids is schools and students with scores below average in CSAP, Colorado's statewide student testing program.

Whiz Kids is an 11-year-old, nonprofit organization which is supported by over 700 volunteer tutors and more than 80 other key volunteer leaders. Each tutor make a 1-year commitment to the program and the tutor retention rate is an amazing 95 percent with 60 percent of volunteer tutors re-upping from one year to the next.

Whiz Kids operates on a shoestring—the total cash budget is only $360,000 per year. But the dramatic results of this tutoring program, and its commendable cost efficiency, have called forth tremendous support from over 150 churches of many denominations.

The Colorado business community has also pitched in to help by donating 120 computers and other in-kind contributions and financial support from companies such as AV Hunter, Best Buy, Janis, JD Edwards, Kinder Morgan, King Soopers, Houghton Mifflin, Western Union, and others.

Additional support comes from the Anschutz Family Foundation, Coors Foundation, Daniels Foundation, El Pomar, Fund for Colorado's Future, Jack A. Vickers Foundation, PK Foundation, Sam S. Bloom Foundation, the Schlessman Family Foundation, Schramm Foundation and TYL Foundation.

The Denver Nuggets donated the entire Pepsi Center to Whiz Kids for a 1-day Slam Dunk Saturday event at which 2,000 mentors and kids gather for basketball clinics and drills. Then, mentors and kids are guests of the Nuggets for the evening game. This is the largest gathering of its kind in the NBA. The Nuggets donate additional tickets for tutors, kids, and their parents throughout the season.

The Denver Broncos donate tickets to their kids camp. Whiz Kids has received the Denver Broncos Quarterback Award 2 years in a row. The Colorado Rapids annually donate game tickets for kids and tutors.

Each year, Whiz Kids holds its year end Run to Read event at Denver's City Park. More than a thousand tutors and kids gather for games, music, and fun to celebrate achievements of the year. Last year, this event also raised pledges of more than $20,000 from tutors to buy additional supplies for the following school year.

From start to finish, kids and tutors have a lot of fun, but the main purpose is completely serious—to get kids who are falling behind in reading back on track. It is a program that is working.

Whiz Kids has been called one of the top three faith-based tutoring programs in America by Tony Campbell of America's Promise. And no wonder, it is already being copied in eight other States.

I hope my colleagues will take a moment to read a recent letter from the Denver Public Schools which describes why Whiz Kids is such an "excellent model of collaboration" between the public schools and the private sector.

"To Whom It May Concern: In support of the Whiz Kids Tutoring Program, this letter shall serve to detail the collaborative relationship between our organizations. Whiz Kids Tutoring operates in partnership with the Denver Public Schools Office of Community Partnerships, as an independent agency providing services to our students. Because of this partnership by acting as the interface between the program and the principals and teachers of our district. At the beginning of each school semester, we assist the program by identifying students and facilitating student participation, and by coordinating the participation of DPS liaison teachers. Our office provides additional salary compensation for liaison teachers, based upon the number of sessions attended in a given school year. This compensation totaled over $29,000 for the 2001–02 school year. In addition, our office provides Colorado Bureau of Investigations background screening for all incoming volunteers to the program, and we assist Whiz Kids with $500 in vouchers for books and other materials for each new study hall session that opens. We also conducted an evaluation of the program (1998/99) in conjunction with the Graduate School of Education at the University of Denver. This study showed us that students engaged with Whiz Kids tutors gained between one and three academic grade levels in reading competencies over a 1-year time frame.

"For their part, Whiz Kids Tutoring provides Denver Public Schools with a wonderful benefit each school year. Nearly 600 of our students receive one-on-one academic support and mentoring each year, making Whiz Kids the largest single provider of such services to the district. The agency provides excellent support and training to its volunteers, which is reflected by the extremely high commitment level the volunteers exhibit. Recruitment, training, and management of all volunteers are provided by Whiz Kids, eliminating any costs to DPS in these areas. Also, by partnering with neighborhood churches and community centers to provide space for group activities, Whiz Kids greatly reduces the overhead costs of the program, which might otherwise be incurred by the district in a school-based operation.

"The relationship between Whiz Kids Tutoring and Denver Public Schools is an excellent model of collaboration and provides a vital service to the children of our district. I appreciate your consideration of the Whiz Kids Tutoring grant proposal and give it my full endorsement as a partner. Should you require additional details regarding our partnership, please feel free to contact me at 303–764–3580. Sincerely, Christine Smith, Director, Denver Public Schools Office of Community Partnerships and Enterprise Activity."

Mr. President, Whiz Kids is a great program which enriches the lives of students, provides a fulfilling opportunity for volunteers, and gives them a wonderful opportunity to put their faith into action. Every community ought to have a program like this.●

IN RECOGNITION OF THE 100th ANNIVERSARY OF THE VILLAGE OF SOUTH RANGE

● Mr. LEVIN. Mr. President, I am pleased to recognize the Village of South Range, located in the beautiful upper peninsula of my home State of Michigan, as it celebrates its 100th anniversary. South Range is located in the middle of the Keweenaw Peninsula, which makes up the northernmost point of my home State.

The Village of South Range derives its name and much of its history from the copper mining industry that operated in that area from 1840 until the closing of the last mine in 1970. In 1903, the Wheal Kate Mining Company sold off land from its failing copper mining business and created the town of South Range. During the early 1900s, much of the Keweenaw Peninsula was controlled by the copper mining industry. The creation of South Range provided miners the opportunity to individually purchase property that had formerly been owned by the large mining companies.

Over the next 100 years, the residents of South Range watched many of their neighboring towns disappear as American industry declined and no longer needed the resources that this region could provide. However, South Range survived because of the perseverance of the families who lived there and the businesses that grew to support them.

Today, the Village of South Range and its 800 residents enjoy a year-round tourism industry as well as the beautiful surroundings of the Keewenaw Peninsula. People travel from all over the Midwest to enjoy the vibrant fall colors, winter snow sports, and calm summer nights of northern Michigan.

I take great pride in congratulating the Village of South Range as it celebrates its centennial anniversary. The beauty and history of the central Keweenaw Peninsula is truly something to be proud of. I know my Senate colleagues will join me in saluting the Village of South Range and wish its citizens luck as they head into their next 100 years.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:41 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 8. An act to make the repeal of the estate tax permanent.

ENROLLED BILL SIGNED

At 2:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 703. An act to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the "Carl T. Curtis National Park Service Midwest Regional Headquarters Building".

MEASURE REFERRED

The Committee on Environment and Public Works was discharged from further consideration of the following measure which was referred to the Committee on Energy and Natural Resources:

H.R. 856. An act to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 8. An act to make the repeal of the estate tax permanent.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–165. A joint resolution adopted by the Legislature of the State of Utah relative to issues relating to undocumented individuals in the United States; to the Committee on the Judiciary.

JOINT RESOLUTION 28

Whereas, the Federal Immigration and Naturalization Service has not addressed the issue of undocumented workers from Mexico and Latin American nations;

Whereas, this is an issue of great concern in the state of Utah;

Whereas, children born in the United States to undocumented individuals are American-born citizens;

Whereas, undocumented workers have been in the United States for five years to 50 years without being deported by the Federal Immigration and Naturalization Service;

Whereas, some American citizens have married undocumented individuals, and some undocumented workers have joined the United States Armed Services;

Whereas, many undocumented individuals have paid taxes; and

Whereas, issues related to undocumented individuals raise complex questions that need to be resolved on the national level:

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah strongly urge the United States Congress to review and consider whether to permit parents of American-born children to become American citizens; whether to permit undocumented individuals who have married American citizens to become American citizens, whether to permit undocumented individuals that have been in the United States for more than five years to be given the opportunity to become an American citizen, and whether to permit undocumented individuals who have joined the United States Armed Services to become American citizens.

Be it further *Resolved*, That the Legislature strongly urges the United States Congress to review and determine the appropriate disposition of family and financial affairs in cases where an undocumented parent purchases a home and is then deported.

Be it further *Resolved*, That the Legislature urges Utah's congressional delegation to work with Congress in resolving these issues and to provide guidance and support in the resolution of these issues.

Be it further *Resolved*, That a copy of this resolution be sent to the President of the United States Senate, the Speaker of the United States House of Representatives, the Federal Immigration and Naturalization Service, and the members of Utah's congressional delegation.

POM–166. A joint resolution adopted by the Legislature of the State of Utah relative to establishing a wolf management plan, to the Committee on Environment and Public Works.

JOINT RESOLUTION 12

Whereas, wolves have become well established in the Northern Rocky Mountain states of Idaho, Montana, and Wyoming, and dispersing young wolves from these expanding populations are traveling into and attempting to recolonize parts of Utah;

Whereas, the biological status of wolves in the Northern Rocky Mountain Recovery Area has recently exceeded criteria for full recovery under the Northern Rocky Mountain Wolf Recovery Plan;

Whereas, the United States Fish and Wildlife Service has stated that the presence of wolves in Utah is not necessary for the recovery of wolves in the Northern Rocky Mountain Recovery Area;

Whereas, Utah is not a participating state in the Northern Rocky Mountain recovery effort for Gray Wolves;

Whereas, the wolf is currently protected in Utah by state statute as well as by the Federal Endangered Species Act;

Whereas, the state of Utah has a legislated, public process for the purpose of developing policy for the management of protected wildlife, which includes the Regional Advisory Councils and the Utah Wildlife Board;

Whereas, the Utah Wildlife Board has been recognized by the Western Association of Fish and Wildlife Agencies for its ability to resolve complex, controversial wildlife management issues;

Whereas, the Utah Wildlife Board has approved a Policy on Managing Predatory Wildlife Species that provides direction to the Division of Wildlife Resources in managing predatory populations;

Whereas, recent biological assessments recognize that lands within the original boundaries of the Uintah and Ouray Reservation in the Uinta Basin of Utah contain suitable wolf habitat;

Whereas, the state of Utah and the Ute Indian Tribe are party to a Cooperative Management Agreement which recognizes the need for cooperation in the management of wildlife within the original boundaries of the Reservation;

Whereas, citizens and conservation organizations in Utah have invested significant resources to restore populations of wildlife in Utah; and

Whereas, hunting, ranching, and livestock production contribute significantly to the economy, heritage, and quality of life in Utah:

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah urges the United States Fish and Wildlife Service to expedite the delisting process for wolves in the Western Gray Wolf Distinct Population Segment, thereby transferring authority to manage wolves to the states.

Be it further, *Resolved*, That the Legislature urges the United States Fish and Wildlife Service to reject requests to establish additional recovery areas that would include the state of Utah, leaving the entire state in the Western Gray Wolf Distinct Population Segment.

Be it further, *Resolved*, That the Legislature strongly urges the Utah Division of Wildlife Resources to draft a wolf management plan for review, modification, and adoption by the Utah Wildlife Board through the Regional Advisory Council process.

Be it further, *Resolved*, That the Legislature urges that the objectives and strategies of the plan, to the extent possible, be consistent with the wildlife management objectives of the Ute Indian Tribe, prevent livestock depredation, and protect the investments made in wildlife management efforts while being consistent with United States Fish and Wildlife Service regulations and other Utah species management plans.

Be it further, *Resolved*, That the Legislature strongly urges the Division of Wildlife Resources to prepare a grant proposal for consideration by the Department of Natural Resources, within the department's species protection line item, to fully compensate private landowners for losses not covered by other mitigation sources and resulting from depredation to livestock by wolves.

Be it further, *Resolved*, That a copy of this resolution be sent to the United States Fish and Wildlife Service Region Six, the United States Secretary of the Interior, the Utah Wildlife Board, the Utah Division of Wildlife Resources, and the members of Utah's congressional delegation.

POM–167. A concurrent resolution adopted by the Legislature of the State of Utah relative to the space shuttle Columbia; to the Committee on Commerce, Science, and Transportation.

CONCURRENT RESOLUTION

Whereas, at approximately 9:00 a.m. EST on February 1, 2003, the crew of space shuttle mission STS–107 aboard space shuttle Columbia was lost during re-entry into Earth's atmosphere;

Whereas, the nation and the world mourns the loss of Americans Colonel Rick D. Husband, Commander William C. McCool, Lt. Colonel Michael P. Anderson, Dr. Kalpana Chawla, Captain David M. Brown, Commander Laurel Blair Salton Clark, and Israeli Colonel Ilan Ramon;

Whereas, these astronauts were crew members on a space shuttle with a unique and historic heritage;

Whereas, the space shuttle Columbia's maiden voyage was April 12–14, 1981;

Whereas, the space shuttle Columbia has flown 28 flights between 1981 and 2003;

Whereas, the space shuttle Columbia was the first Space Shuttle to fly into Earth's orbit in 1981 and the oldest orbiter in the Shuttle fleet;

Whereas, the space shuttle Columbia became the first reusable spaceship;

Whereas, the space shuttle Columbia was named after the Boston, Massachusetts-based sloop captained by American Robert Gray, who on May 11, 1792 maneuvered the Columbia past the dangerous sandbar at the mouth of a river extending more than 1,000 miles through what is today south-eastern British Columbia, Canada, and the Washington-Oregon border, which river now bears the ship's name;

Whereas, this same 18th century sailing vessel became the first American ship to circumnavigate the globe;

Whereas, the first United States Navy Ship to circle the globe also bore the name Columbia;

Whereas, the command module of Apollo 11, the first lunar landing mission, also bore the name Columbia;

Whereas, the name "Columbia" is derived from the name of the famous explorer, Christopher Columbus;

Whereas, Commander Rick D. Husband, 45, was a colonel in the U.S. Air Force, a test pilot and veteran of one spaceflight, was selected by NASA in December 1994 to serve as pilot of the STS–96 and had logged more than 235 hours in space;

Whereas, Pilot William C. McCool, 41, a commander in the U.S. Navy and former test pilot, was selected by NASA in April 1996 and was making his first spaceflight;

Whereas, Payload Commander Michael P. Anderson, 43, a lieutenant colonel in the U.S. Air Force, was a former instructor pilot and tactical officer with over 211 hours in space, having flown on STS–89;

Whereas, Mission Specialist 1 David M. Brown, 46, a captain in the U.S. Navy and a naval aviator and flight surgeon, was selected by NASA in April 1996 and was making his first spaceflight;

Whereas, Mission Specialist 2 Kalpana Chawla, 41, an aerospace engineer and an FAA Certified Flight Instructor, was selected by NASA in December 1994 and had logged more than 376 hours in space, having flown on STS–87;

Whereas, Mission Specialist 4 Laurel Blair Salton Clark, 41, a commander (captain-select) in the U.S. Navy and a naval flight surgeon, was selected by NASA in April 1996 and was making her first spaceflight;

Whereas, Payload Specialist 1 Ilan Ramon, 48, a colonel in the Israeli Air Force and a fighter pilot, was the only payload specialist on STS–107, was approved by NASA in 1998, was making his first spaceflight, and was the first Israeli in space;

Whereas, these men and women knew the dangers and faced them willingly;

Whereas, their courage, daring, and idealism, in service to all humanity, will make us miss them all the more;

Whereas, the crew had eagerly prepared for many years to explore the universe and expand the boundaries of knowledge, establishing new frontiers in research and exploration;

Whereas, these crew members will always be remembered as heroes, pioneers, and valiant explorers on behalf of all;

Whereas, the full impact of this tragedy is only borne by the families of those seven;

Whereas, the tragic loss of the Columbia crew is a painful part of the process of exploration, discovery, and the expanding of man's horizons, and a sobering reminder that the future doesn't belong to the fainthearted, but to the brave;

Whereas, not since that tragic loss of the crew of the space shuttle Challenger, almost 17 years ago to the day, has America's space program suffered such a great loss;

Whereas, President George W. Bush stated that although the crew did not return safely to Earth, we pray that all are safely home;

Whereas, the flight path of the space shuttle Columbia crossed southern Utah for the intended destination of Kennedy Space Center, Florida;

Whereas, many Utahns witnessed the space shuttle Columbia as it streaked over southern Utah on its eastwardly landing approach; and

Whereas, many Utah citizens have contributed to a wide array of service to the success of the U.S. space program:

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, recognize the tragic loss of the crew of the space shuttle Columbia.

Be it further *Resolved*, That the Legislature and the Governor express deep gratitude for the crew's courage and willingness to serve all mankind.

Be it further *Resolved*, That the Legislature and the Governor express sincere condolences to the families of the crew of the space shuttle Columbia, President Bush, Prime Minister Sharon, and the entire U.S. space program family.

Be it further *Resolved*, That a copy of this resolution be sent to the families of the space shuttle Columbia's crew, NASA Administrator Sean O'Keefe, the President of the United States, the Prime Minister of Israel, the Governor of Texas, the Governor of Louisiana, the Governor of Florida, and to the members of Utah's congressional delegation.

POM-168. A concurrent resolution adopted by the Legislature of the State of Utah relative to the modification of census data collection procedures for the 2010 Census to account for United States Citizens who are living out of the country on a temporary basis; to the Committee on Governmental Affairs.

CONCURRENT RESOLUTION 1

Whereas, in 2000, and every preceding ten years, the United States Census Bureau collected data on the citizens of the United States;

Whereas, census data is used for many purposes, including the apportionment of congressional districts among the states based on population;

Whereas, if 857 more individuals had been approved to be included in the population data collected for Utah in the 2000 Census, the state would have been allocated an additional congressional seat;

Whereas, the United States Census Bureau's technical documentation manual for the 2000 Census states that Americans temporarily overseas are to be enumerated at their usual residence in the United States;

Whereas, U.S. military personnel and federal civilian employees stationed outside the United States and their dependents living with them, were included in the 2000 Census apportionment count;

Whereas, among the several groups and individual citizens from Utah that lived out of the country at the time of the 2000 Census were 11,176 members of the Church of Jesus Christ of Latter-day Saints, serving temporarily as missionaries as evidenced by the Affidavit of Robert B. Swensen, Director of the Missionary Department at the international headquarters of the Church of Jesus Christ of Latter-day Saints which affidavit is attached as Appendix A;

Whereas, members of the church from every state in the union serve these mission;

Whereas, although young females can serve 18-month missions and elderly couples may also serve anywhere from six-month to two-year missions for the church, the vast majority of missionaries are young males ages 19–21 who serve two-year missions;

Whereas, as illustrated in Appendix B, data from Census 2000 Summary File 3 show that male representation in the Utah population ranges from 50–53 percent from birth through 18 years of age;

Whereas, the percentage of males in the Utah population who are 19 years of age drops to just below 46 percent, reaches a low of 42.4 percent at age 20, and increases to 47.7 percent at age 21;

Whereas, beginning at age 22, the male representation in Utah returns to the 50–53 percent range, where it remains through age 49;

Whereas, using the Census 2000 Summary File 3 data, it is estimated that over 17,000 young males ages 19 through 21 were not included in Utah's census count, some of whom were counted in other states' census counts but the vast majority of whom were not counted as they were out of the country temporarily serving missions overseas;

Whereas, the Census 2000 Summary File 3 data clearly demonstrates the impact on the state's population of the many young male members of the Church of Jesus Christ of Latter-day Saints from Utah who temporarily leave the country for mission service and then return;

Whereas, the present questionnaire does not provide for those Americans temporarily living overseas to be enumerated at their usual residence in the United States;

Whereas, the impact of the temporary nature of this missionary service is not being factored into the determination of state population for purposes of allocating congressional seats; and

Whereas, the United States Census Bureau should reexamine the census data collection procedures in order to collect data that captures this portion of the state's population whose absence from the state is only temporary and should not be overlooked when determining the apportionment of congressional seats:

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, strongly urge the United States Census Bureau to review its census data collection procedures and make corrections for the 2010 Census, including the census questionnaire, to allow for the collection of data that recognizes the temporary nature of missionary service and permits those individuals out of the country for this purpose to be included in the calculation of state population.

Be it further *Resolved*, That this revised system be used in future census years so that all the states, including Utah, may be granted fair representation when future congressional seats are allocated.

Be it further *Resolved*, That a copy of this resolution be sent to Charles Louis Kincannon, Director, United States Census Bureau; Cathy McCully, Chief, Redistricting Data Office; Donald L. Evans, United States Secretary of Commerce; the House and Senate Congressional Committees chaired by the following: Dan Burton, Chairman, House Committee on Government Reform, Dave Weldon, Chairman, Subcommittee on Civil Service, Census, and Agency Organization, and Susan Collins, Chairman, Senate Committee on Government Affairs; and to the members of Utah's congressional delegation.

POM-169. A joint resolution adopted by the Legislature of the State of Utah relative to the compensation for the impact of federal land ownership on the state's ability to fund public education; to the Committee on Energy and Natural Resources.

JOINT RESOLUTION 14

Whereas, for many years western states have grappled with the challenge of providing the best education for their citizens;

Whereas, western states face unique challenges in achieving this goal;

Whereas, from 1979 to 1998 the percent change in expenditures per pupil in 13 western states was 28%, compared to 57% in the remaining states;

Whereas, in 2000–01, the pupil per teacher ratio in 13 western states averaged 17.9% to one compared with 14.8% to one in the remaining states;

Whereas, the conditions in western states are exacerbated by projections that enrollment will increase by an average of 7.1%, compared to an average decrease of 2.6% in the rest of the nation;

Whereas, despite the wide disparities in expenditures per pupil and pupil per teacher ratio, western states tax a comparable rate and allocate as much of their budgets to public education as the rest of the nation;

Whereas, the ability of western states to fund education is directly related to federal ownership of lands;

Whereas, the federal government owns an average of 51.9% of the land in 13 western states, compared to 4.1% in the remaining states;

Whereas, the enabling acts of most western states promise that 5% of the proceeds from the sale of federal lands will go to the states for public education;

Whereas, a federal policy change in 1976 ended these sales resulting in an estimated $14 billion in lost public education funding for western states;

Whereas, the ability of western states to fund public education is further impacted by the fact that state and local property taxes, which public education relies heavily upon to fund education, cannot be assessed on federal lands;

Whereas, the estimated annual impact of this property tax prohibition on western states is over $4 billion;

Whereas, the federal government shares only half of its royalty revenue with the states;

Whereas, royalties are further reduced because federal lands are less likely to be developed and federal laws often place stipulations on the use of state royalty payments;

Whereas, the estimated annual impact of royalty payment policies on western states is over $1.86 billion;

Whereas, much of the land that the federal government transferred to states upon statehood as a trust for public education is difficult to administer and to make productive because it is surrounded by federal land;

Whereas, federal land ownership greatly hinders the ability of western states to fund public education:

Whereas, the federal government should compensate western states for the significant impact federal land ownership has on the ability of western states to educate its citizens; and

Whereas, just compensation will allow western states to be on equal footing with the rest of the nation in their efforts to provide education for their citizens:

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah urges the United States Congress to appropriate just compensation to the state of Utah for the impact of federal land ownership on the state's ability to find public education.

Be it further *Resolved*, That a copy of this resolution be sent to the President of the United States Senate, the Speaker of the United States House of Representatives, the President of the United States, and the members of Utah's congressional delegation.

POM–170. A joint resolution adopted by the Legislature of the State of Nevada relative to wilderness areas and wilderness study areas; to the Committee on Energy and Natural Resources.

SENATE JOINT RESOLUTION NO. 3

Whereas, The provisions of 16 U.S.C. §§1131 et seq., commonly referred to as the Wilderness Act, establish the National Wilderness Preservation System, which consists of areas of federal public land that are designated by Congress as wilderness areas; and

Whereas, Congress has designated approximately 2 million acres of certain federal public lands in Nevada as wilderness areas; and

Whereas, If an area of federal public land is designated as a wilderness area, it must be managed in a manner that preserves the wilderness character of the area and ensures that the area remains unimpaired for future use and enjoyment as a wilderness area; and

Whereas, A reasonable amount of wilderness area in this state provides for a diverse spectrum of recreational opportunities in Nevada, promotes tourism and provides a place for Nevadans to escape the pressures of urban growth; and

Whereas, In conjunction with the provisions of the Wilderness Act, the Bureau of Land Management of the Department of the Interior in the late 1970s conducted an initial inventory of approximately 49 million acres of federal public lands in Nevada to determine the suitability of such lands for designation as wilderness areas or identification as wilderness study areas and, in 1980, recommended that approximately 5.1 million acres of those lands be identified as wilderness study areas; and

Whereas, Until a wilderness study area is designated by Congress as a wilderness area or released for multiple use, the wilderness study area must be managed in a manner that does not impair its suitability or preservation as a wilderness area; and

Whereas, In 1991, the Bureau of Land Management recommended that Congress designate as wilderness areas approximately 1.9 million acres of the 5.1 million acres of wilderness study areas in Nevada and release the remainder of the wilderness study areas for multiple use; and

Whereas, Although Congress recently enacted the Clark County Conservation of Public Land and Natural Resources Act of 2002, Public Law 107-282 (2002), which released approximately 224,000 acres in Clark County from its current status as wilderness study areas, the recommendations made by the Bureau of Land Management in 1991 have largely not been acted upon by Congress, and the Bureau continues to manage approximately 3.86 million acres of federal public lands in Nevada identified as wilderness study areas; and

Whereas, It is important that decisions concerning whether to designate wilderness study areas as wilderness areas or release those areas for multiple use are made in a timely manner without any unnecessary delays as the identification of federal public lands as wilderness study areas is believed to impose significant restrictions on the management and use of those lands; and

Whereas, It is also important to protect the ecological health and existing and potential economic and recreational benefits of wilderness areas and wilderness study areas in this state by using reasonable and effective methods of fire suppression in those areas; and

Whereas, Because approximately 2 million acres of federal public land in Nevada have been designated as wilderness areas and approximately 8.6 percent of the federal public land in Nevada that is managed by the Bureau of Land Management has been identified as wilderness study areas and because such designation or identification is believed to impose significant restrictions concerning the management and use of such land, including land used for mining, ranching and recreation, the Legislative Commission appointed in 2001 to conduct an interim study of wilderness areas and wilderness study areas in this state; and

Whereas, During the 2001–2002 legislative interim, the subcommittee met several times throughout this state and facilitated important and wide-ranging discussions among many agencies, organizations and persons with diverse interests, perspectives and expertise concerning wilderness areas and wilderness study areas; and

Whereas, The subcommittee received a great deal of valuable input from those agencies, organizations and persons, including many valuable recommendations for Congress to consider in addressing the issues concerning wilderness areas and wilderness study areas in a responsible, reasonable and fair manner; now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, jointly, That the members of the Nevada Legislature urge Congress to:

1. Support efforts to ensure that adequate access to wilderness areas and wilderness study areas is afforded to the appropriate agencies and persons so that those agencies and persons may effectively combat fires in wilderness areas and wilderness study areas;

2. Support the use of all reasonable and effective fire suppression efforts in wilderness areas and wilderness study areas without strictly confining such efforts only to the tools determined by the federal agencies which manage federal public lands to be the minimum tools necessary;

3. Accept the recommendation of the Bureau of Land Management to designate 1.9 million acres of certain wilderness study areas in Nevada as wilderness areas while also incorporating in the designation process flexibility to consider relevant information such as growth to ensure the establishment of appropriate boundaries for those areas and recognizing that such consideration may result in a reasonable adjustment of those boundaries;

4. Oppose any efforts to conduct another inventory of the federal public lands in Nevada for purposes of creating wilderness areas or wilderness study areas without first releasing wilderness study areas determined to be unsuitable for designation as wilderness areas;

5. Ensure that more current information is considered before acting on the recommendations of the Bureau of Land Management concerning the designation of wilderness areas in Nevada as the surveys of the Bureau were performed with limited time, resources and technology; and

6. Avoid any unnecessary delays in releasing wilderness study areas for multiple use by establishing a plan for addressing the release of wilderness study areas in a timely manner that includes a schedule or plan for the timely consideration of important issues concerning wilderness study areas; and be it further

Resolved, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage.

POM–171. A joint resolution adopted by the Legislature of the State of Nevada relative to wilderness areas and wilderness study areas; to the Committee on Energy and Natural Resources.

SENATE JOINT RESOLUTION 4

Whereas, The provisions of 16 U.S.C. §§1131 et seq., commonly referred to as the Wilderness Act, established the National Wilderness Preservation System, which consists of areas of federal public land that are designated by Congress as wilderness areas; and

Whereas, Congress has designated approximately 2 million acres of certain federal public lands in Nevada as wilderness areas; and

Whereas, If an area of federal public land is designated as a wilderness area, it must be managed in a manner that preserves the wilderness character of the area and ensures that the area remains unimpaired for future use and enjoyment as a wilderness area; and

Whereas, A reasonable amount of wilderness area in this state provides for a diverse spectrum of recreational opportunities in Nevada, promotes tourism and provides a place for Nevadans to escape the pressures of urban growth; and

Whereas, In conjunction with the provisions of the Wilderness Act, the Bureau of Land Management of the Department of the Interior manages approximately 3.86 million acres of federal public lands in Nevada identified as wilderness study areas; and

Whereas, Until a wilderness study area is designated by Congress as a wilderness area or released, the wilderness study area must be managed in a manner that does not impair its suitability for preservation as a wilderness area; and

Whereas, Because approximately 2 million acres of federal public land in Nevada have been designated as wilderness areas and approximately 8.6 percent of the federal public land in Nevada that is managed by the Bureau of Land Management has been identified as wilderness study areas and because such designation or identification is believed to impose significant restrictions concerning the management and use of such land, including land used for mining, ranching and recreation, the Legislative Commission appointed a subcommittee in 2001 to conduct an interim study of wilderness areas and wilderness study areas in this state; and

Whereas, During the 2001–2002 legislative interim, the subcommittee met several times throughout this state and facilitated important and wide-ranging discussions among many agencies, organizations and persons with diverse interests, perspectives and expertise concerning wilderness areas and wilderness study areas; and

Whereas, The subcommittee received a great deal of valuable input from those agencies, organizations and persons, including many valuable recommendations for the Nevada Congressional Delegation and Congress to consider in addressing the issues concerning wilderness areas and wilderness study areas in a responsible, reasonable and fair manner; now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, jointly, That the members of the Nevada Legislature urge the Nevada Congressional Delegation to work with all interested Nevadans, land managers, affected parties, local governments, special interest organizations and members of the American public in a spirit of cooperation and mutual respect to address issues concerning the designation of wilderness areas in Nevada; and be it further

Resolved, That the members of the Nevada Legislature urge Congress to:

1. Encourage education at all levels of government and of all affected parties to ensure that facts are accurately presented when wilderness issues are debated and that the applicable laws are properly interpreted when officials carry out legislation concerning wilderness areas and wilderness study areas;
2. Require the development of accurate, consensus-vased maps for boundaries of wilderness areas and wilderness study areas using technologies such as Geographic Information Systems;
3. Oppose the creation of buffer zones around wilderness areas and instead support the requirement of clear and concise boundaries based on recognizable features on the ground, including, without limitation, roads and established drainage routes;
4. Support efforts to ensure that existing roads are not closed to create wilderness areas;
5. Support the implementation of appropriate measures, including, without limitation, the use of roads, to ensure that persons who are elderly or have a disability have continued access to wilderness areas;
6. Support the preservation of roads that do not appear on a map and may not have been documented but that have historically been used to allow persons access to private property;
7. For the purpose of allowing ranchers access to water diversions located near wilderness areas or wilderness study areas, support the use of "cherry-stem" roads, which are dead-end roads that would geographically extend into wilderness areas but are excluded from designation as parts of wilderness areas because the boundaries of the wilderness areas are drawn around and just beyond the edges of such roads;
8. Specifically outline and guarantee all preexisting rights of ranchers concerning grazing permits, water permits and access to land and water necessary for ranching via "cherry-stem" roads in any legislation concerning wilderness areas and wilderness study areas;
9. Support the use of appropriately managed techniques for managing vegetation, including, without limitation, grazing, and the use of appropriately managed logging as integral tools for reducing potential fire danger in wilderness areas and wilderness study areas;
10. Consider future population growth and urban expansion when designating wilderness areas in Nevada, as Nevada has been the state with the highest percentage population growth in recent years and public lands in Nevada are increasingly impacted by human activity and development;
11. Support the designation of the area of approximately 1,800 acres of land known as Marble Canyon, which is adjacent to the Mt. Moriah Wilderness Area and which appears to have been inadvertently excluded from the Nevada Wilderness Protection Act of 1989, Public Law 101–195, as a wilderness area;
12. Support national and state legislation which explicitly requires that when a decision is made in the public land use planning process which will affect economic activity on public land, consideration must be given as to the effects of the decision on communities that are dependent on natural resources;
13. Hold extensive hearings in Washington, DC., and in Nevada before making any changes to the designation of wilderness areas in Nevada or the identification of wilderness study areas in Nevada or any other changes concerning public lands in Nevada;
14. Use a collaborative process when designating a wilderness study area as a wilderness area; and
15. Support precise specification of the activities that are authorized within wilderness areas and wilderness study areas; and be it further

Resolved, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage.

POM–172. A concurrent resolution adopted by the Legislature of the State of Hawaii relative to migration issues and citizens of the Freely Associated States who reside in the State of Hawaii; to the Committee on Health, Education, Labor, and Pensions.

HOUSE CONCURRENT RESOLUTION 62

Whereas, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau (collectively, Freely Associated States), formerly part of the Trust Territory of the Pacific Islands under the United Nations Charter, entered into an agreement with the government of the United States known as the Compact of Free Association (Compact); and

Whereas, the Compact was entered into with these nations in part to terminate the trusteeship, recognize their independence, provide them with critical economic development aid, and allow their people to immigrate freely to the United States; and

Whereas, under the Compact, the United States provides direct economic assistance, federal services, and military protection to these nations, in exchange for defense rights; and

Whereas, the Compact, codified as Title II of Public Law 99–239, was established in 1986 between the United States and the Republic of the Marshall Islands and the Federated States of Micronesia, and in 1994 with the Republic of Palau, codified as Title II of Public Law 99–658; and

Whereas, section 104(e)(1) of Title I, Public Law 99–239, regarding the interpretation of and United State policy regarding the Compact, states that in approving the Compact, "it is not the intent of the Congress to cause any adverse consequences for . . . the States of Hawaii"; and

Whereas, section 104(e)(4) of Title I, Public Law 99–239, provides that "if any adverse consequences to . . . the State of Hawaii result from implementation of the Compact of Free Association, the Congress will act sympathetically and expeditiously to redress those adverse consequences"; and

Whereas, section 104(e)(5) of Title I, Public Law 99–239, appropriated funds beginning after September 30, 1985, to cover the costs, if any, incurred by Hawaii "resulting from any increased demands placed on educational and social services by immigrants from the Marshall Islands and the Federated States of Micronesia"; and

Whereas, section 104(e)(2) of Title I, Public Law 99–239, requires the President of the United States to report annually to the Congress on the impact of the Compact on the State of Hawaii, identifying any adverse consequences resulting from the Compact and making recommendations for corrective action, focusing on such areas as trade, taxation, immigration, labor, and environmental regulations; and

Whereas, section 104(e)(3) of Title I, Public Law 99–239, further provides that in preparing these reports to Congress, the President shall request the views of the government of the State of Hawaii and transmit the full text of those views to Congress as part of those reports; and

Whereas, the interpretation of and United States policy regarding the Compact as set forth in section 104 of Title I, Public Law 99–239, with respect to the Federated States of Micronesia and the Republic of the Marshall Islands, also applies to the Republic of Palau, pursuant to section 102(a) of Title I, Public Law 99–658, thereby making the State of Hawaii eligible for additional funds resulting from increased demands placed on the educational and social services of the State of Hawaii by immigrants from the Freely Associated States; and

Whereas, payments from the United States to the Republic of the Marshall Islands and the Federated States of Micronesia under the Compact of Free Association will end on October 1, 2003, and Compact re-negotiation talks have been continuing; and

Whereas, instead of mitigating the incentive for Freely Associated States citizens to migrate by improving the overall quality of life in the Freely Associated States through increased economic aid, the United States has proposed giving additional funds to regions affected by "Compact impacts," while creating "various mechanisms" to ensure that migrants from Freely Associated States are eligible for admission; and

Whereas, although the renegotiated Compacts with the Republic of the Marshall Islands and the Federated States of Micronesia will most likely continue to provide islanders with visa-free entry to the United States, the United States Congress should review the migration issue and increase the amount of aid available for the Compact's educational and social impact on Hawaii; and

Whereas, many residents of the Freely Associated States are attracted to the State of Hawaii due to the State's increased employment and educational opportunities, as well as similar Pacific Island culture and lifestyle; and

Whereas, drawn by the promise of better medical care and a better education for their children, over six thousand Freely Associated States citizens have migrated to and are currently residing in Hawaii; and

Whereas, Freely Associated States citizens that enter the United States may have contagious diseases, criminal records, or chronic health problems—conditions that are normally grounds for inadmissibility into the United States; and

Whereas, the 1996 federal Welfare Reform Act cut off access to federal welfare and medical assistance programs, forcing citizens of the Freely Associated States residing in Hawaii to rely on state aid; and

Whereas, the cost of supporting Freely Associated States citizens residing in Hawaii, largely in healthcare and education, totaled more than $101,000,000 between 1998 and 2002; and

Whereas, Freely Associated States students have higher costs than other students due to poor language and other skills, and because such students enter and leave school a few times each year, their integration into the school system has been difficult; and

Whereas, since the Compact went into effect in 1986 until 2001, Hawaii has spent over $64,000,000 to educate Freely Associated States citizens and their children in public schools, $10,000,000 in 2000 alone; and

Whereas, last year, the number of Freely Associated States students in primary and secondary public schools in Hawaii increased by twenty-eight percent, resulting in costs to the State of over $13,000,000 for school year 2001–2002, and bringing the total costs for education, since 1988, to about $78,000,000; and

Whereas, during the academic school year 2001–2002, the University of Hawaii lost over $1,200,000 in tuition revenue systemwide, as a result of students from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau paying resident rather than non-resident tuition; and

Whereas, inadequate and delayed federal compensation to Hawaii's education system results in a cost to Hawaii's own children and contributes to Hawaii being substantially below many other states in per pupil expenditures for public school children in kindergarten through grade twelve; and

Whereas, state medical assistance payments for Freely Associated States citizens from 1998 to 2002 totaled $14,961,427, and financial assistance payments during the same period totaled $13,378,692, with costs borne solely by the State of Hawaii; and

Whereas, the financial stability and viability of private hospitals and medical providers is threatened by staggering debts and write-offs for medical services provided to Freely Associated States citizens residing in Hawaii, in spite of state Medicaid reimbursements; and

Whereas, between 1998 and 2002, $10.1 million in operating losses attributable to healthcare for Freely Associated States citizens residing in Hawaii were incurred at three Honolulu hospitals (the Queen's Medical Center, Straub Clinic and Hospital, and Kapiolani Medical Center for Women and Children), and these types of losses were also incurred at the twenty other hospitals in the State; and

Whereas, community health centers estimate an annual cost of $420,000 for services to Freely Associated States citizens residing in Hawaii; and

Whereas, the Department of Health has also been significantly impacted by the cost of public health services to Freely Associated States citizens residing in Hawaii, with $967,000 spent on screening vaccination and treatment of communicable diseases and $190,000 spent for immunization and outreach by public health nurses; and

Whereas, inadequate and delayed federal compensation threaten to overwhelm Hawaii's health care systems, leading to potential cutbacks in services and personnel that would impact all of Hawaii's citizens; and

Whereas, it is imperative that Hawaii be granted immediate and substantial federal assistance to meet these mounting costs; and

Whereas, the fact that Micronesians should qualify for federal benefits, while residing in Hawaii and the rest of the United States, can best be summed up by the resolution which was adopted September 9, 2001, in Washington, D.C., by Grassroots Organizing for Welfare Leadership, supporting the insertion of language in all federal welfare, food, and housing legislation, because Micronesians are eligible for these and other benefits as "qualified non-immigrants" residing in the United States; and

Whereas, the United States government is not owning up to its responsibility for what the United States did to the Micronesian people by refusing them food stamps and other federal benefits when they came to Hawaii and the rest of the United States seeking help; and

Whereas, the excuse by the United States government to deny any aid to the Micronesians in the United States is the word "non-immigrant" used in the Compact of Free Association to describe Micronesians who move to Hawaii and the United States; and

Whereas, Micronesians have also developed high rates of diabetes, high blood pressure, and obesity as a result of American dietary colonialism; and

Whereas, it is the intent of this Resolution to encourage the responsible entities to implement the provisions of the Compact of Freely Associated States, which authorizes compact impact funds to be made available to states that welcome and provide services to the people of the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau, because most of the Freely Associated States citizens who migrate to Hawaii do so for medical problems related to the United States' military testing of nuclear bombs; now, therefore,

Be it *Resolved by the Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2003, the House of Representatives concurring*, That the Bush Administration and the United States Congress are requested to appropriate adequate financial impact assistance for health, education, and other social services for Hawaii's Freely Associated States citizens; and

Be it further *Resolved*, That the Bush Administration and the United States Congress are requested to insert language in all federal welfare, food, and housing legislation which says that Micronesians are eligible for federal food stamps, welfare, public housing, and other federal benefits as "qualified non-immigrants" residing in the United States; and

Be it further *Resolved*, That the Bush Administration and the United States Congress are requested to restore Freely Associated States citizens' eligibility for federal public benefits, such as Medicaid, Medicare, and food stamps; and

Be it further *Resolved*, That Hawaii's congressional delegation is requested to introduce legislation in the United States Congress calling for further review of the migration issue and for increased aid for the educational and social impact of the Compact of Free Association, and any newly renegotiated Compact, on the State of Hawaii; and

Be it further *Resolved*, That Hawaii's congressional delegates are requested to assure financial reimbursements, through the establishment of a trust, escrow, or set-aside account, to the State of Hawaii for educational, medical, and social services and to Hawaii's private medical providers who have provided services to Freely Associated States citizens; and

Be it further *Resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States; U.S. Secretary of State; President of the U.S. Senate; Speaker of the U.S. House of Representatives; members of Hawaii's congressional delegation, the Presidents of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, and their respective Honolulu Offices; the national negotiating teams of the Compact of Free Association; the Governor; State Attorney General; Directors of Health and Human Services; President of the University of Hawaii; Superintendent of Education; Chair of the Board of Agriculture; Grassroots Organizing for Welfare Leadership; Micronesians United; the United Church of Christ; Hawaii Conference of Churches; and the United Methodist Church of Honolulu.

POM–173. A concurrent resolution adopted by the Legislature of the State of Utah relative to the establishment of requirements that clinical study sponsors perform subgroup analysis of their studies to ensure that the health concerns of women are addressed in clinical trial results; to the Committee on Health, Education, Labor, and Pensions.

CONCURRENT RESOLUTION 2

Whereas, there is a pressing need to collect and assess more accurate data regarding the health of women;

Whereas, subgroup analysis, a statistical procedure, takes data from a general group of study subjects and looks for differences within a subset of those subjects that share a specific characteristic, such as sex, age, or state of disease;

Whereas, studies have shown that, to improve the quality and appropriateness of health services, the gender of those participating in clinical trials must be factored into all levels of biomedical research, creating a new paradigm for data analysis;

Whereas, despite the mounting evidence of the need for subgroup data analysis based on gender, recent reports show that analysis is either not being conducted or not being reported;

Whereas, although a 1993 policy guideline and a 1998 regulation by the Food and Drug Administration recommends that study sponsors perform subgroup analysis of their studies, it is clear that these recommendations are not being followed;

Whereas, a July 2001 report of the General Accounting Office found that about one-third of new drug applications submitted to the Food and Drug Administration by study sponsors failed to provide gender-specific data from subgroup-analysis conducted during the clinical trials; and

Whereas, without subgroup analyses, researchers and clinicians cannot truly assess the safety and efficacy of new drugs for women, and the development of potentially life saving drugs may be abandoned if early trials fail to show efficacy in one gender:

Now, therefore, be it *Resolved*, That the Legislature of the State of Utah, the Governor concurring therein, strongly urge the Food and Drug Administration to strictly enforce requirements that clinical study sponsors perform subgroup analysis of their studies to ensure that the health concerns of women are appropriately addressed in clinical trial results.

Be it further *Resolved*, that a copy of this resolution be sent to the Food and Drug Administration, the Utah Department of

Health, and the members of Utah's congressional delegation.

POM-174. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to pensions and individual retirement accounts; to the Committee on Finance.

House Resolution No. 38

Whereas, Under Federal tax relief legislation passed in 2001, pension and Individual Retirement Account (IRA) provisions will sunset on December 31, 2010; and

Whereas, Although the tax-deductible contribution limit for IRA contributions will increase through December 31, 2010, IRA funding limits will actually shrink by 60% in 2011 if pension and IRA provisions sunset as provided in the 2001 tax relief legislation; and

Whereas, People 50 years of age and older have been allowed tax benefits for investing additional funds in their retirement accounts annually as "catch-up" contributions, and this practice should continue because it maximizes "nest eggs"; and

Whereas, Pensions should be portable because the average American changes jobs ten times throughout his career span; and

Whereas, Minimum distribution rules for pensions and retirement accounts should be adjusted to reflect the increase in work years and life expectancy because the population of this country enjoys a longer, more active life than that of a few generations ago and tends to spend more years in the work force; therefore be it

Resolved, That the House of Representatives urge the Congress of the United States to continue to grant pension moneys and Individual Retirement Accounts favorable tax treatment and to repeal the provisions of the 2001 tax relief legislation which impede such favorable treatment; and be it further

Resolved, that copies of this resolution be transmitted to the presiding officers of each House of Congress and to each Member of Congress from Pennsylvania.

POM-175. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to the repeal of the death tax; to the Committee on Finance.

House Resolution No. 70

Whereas, Under tax relief legislation passed in 2001, the "death tax" was temporarily phased out but not permanently eliminated; and

Whereas, Farmers and other small business owners will face losing their farms and businesses if the Federal Government resumes the heavy taxation of citizens at death; and

Whereas, Employees suffer layoffs when small and medium businesses are liquidated to pay death taxes; and

Whereas, If the death tax had been repealed in 1996, the United States economy would have realized billions of dollars each year in extra output and an average of 145,000 additional new jobs would have been created; and

Whereas, Having repeatedly passed in the United States House of Representatives and Senate, repeal of the death tax holds wide bipartisan support; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge Congress to vote for the permanent repeal of the death tax; and be it further

Resolved, That copies of this resolution be transmitted to the Pennsylvania Congressional Delegation.

POM-176. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to limits on the refinancing of long-term debt and on the advance refunding of private activity bonds by state and local government; to the Committee on Finance.

House Resolution No. 98

Whereas, As state and local governments begin working on their annual budgets, they are faced with weighing the unpalatable choices of program cuts, tax hikes or both to make up budget shortfalls as a result of the sluggish economy; and

Whereas, In 1986 the Congress of the United States added a limitation to the Internal Revenue Code of 1986 providing that state and local governments can refinance long-term debt (municipal bonds) only once so that a flood of tax-exempt municipal bonds would not deprive the United States Treasury of tax revenue; and

Whereas, Many state and local governments refinanced their long-term debt during the 1990s to take advantage of the lower interest rates at that time; and

Whereas, The slowdown in the economy has led to even lower interest rates and provides the potential for state and local governments to refinance currently outstanding debt at historically low-interest rates and may hold the answer governments are looking for in an attempt to save badly needed funds; and

Whereas, By Federal law, those same governments now have only one opportunity to take advantage of favorable market conditions and achieve lower borrowing costs; and

Whereas, Section 149(d) of the Internal Revenue Code of 1986 also prohibits the advance refunding of all private activity bonds, other than qualified section 501(c)(3) bonds, if the bonds are to maintain their tax-exempt status; and

Whereas, Private activity bonds are commonly used by state agencies and local governments to finance important initiatives such as housing and redevelopment projects; and

Whereas, Current economic uncertainties increasingly pinch state and local government budgets compounded by the increased and unforeseen burdens of funding safeguards against terrorism; and

Whereas, In order to provide state and local governments with the tools and flexibility they need to face these changing circumstances, additional opportunities are needed to advance the refunding of outstanding debt; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the President and the Congress of the United States to restructure the requirement in section 149(d) of the Internal Revenue Code of 1986, either legislatively or by regulation, to afford state and local governments the flexibility they need to take advantage of favorable market conditions by providing additional opportunities to advance the refunding of outstanding long-term debt; and be if further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM 177. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to a tariff on the importation of milk protein concentrates; to the Committee on Finance.

House Resolution No. 106

Whereas, Agriculture is the number one industry in the Commonwealth of Pennsylvania; and

Whereas, Dairy farmers are confronted with the lowest market prices for milk in 20 years as a result of low-cost importing of milk protein concentrates; and

Whereas, Milk protein concentrate is a highly filtered form of dried milk protein; and

Whereas, Milk protein concentrates are imported to make cheese products at a lower cost and with less milk; and

Whereas, There are currently no restrictions on imports of milk protein concentrates; and

Whereas, The influx of milk protein concentrates is a large contributor to the current dairy crisis; and

Whereas, Milk protein concentrates are being imported into the Commonwealth of Pennsylvania and being used in dairy products; and

Whereas, Dairy farmers across the country and especially in the Commonwealth of Pennsylvania are affected by the large amount of imported milk protein concentrates; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress of the United States to impose a tariff on the importation of milk protein concentrates; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress, to the Pennsylvania congressional delegation and to Governor Edward G. Rendell.

POM-178. A joint resolution adopted by the Legislature of the State of Utah relative to the repeal of the individual and permanent Alternative Minimum Tax; to the Committee on Finance.

Joint Resolution 24

Whereas, in 1969 the United States Congress created the Alternative Minimum Tax to prevent wealthy Americans and corporations from using otherwise available deductions to reduce their income tax liability;

Whereas, today the Alternative Minimum Tax has placed an onerous burden on working middle-class families and productive companies;

Whereas, any family making over $49,000 and deducting their state and local taxes, mortgage interest, children, and college education will be subject to the Alternative Minimum Tax;

Whereas, the Corporate Alternative Minimum Tax targets capital intensive industries that create jobs, raises the incomes of workers, and increases the standard of living for all Americans

Whereas, corporations become subject to the Alternative Minimum Tax during recessions which forces employee layoffs; and

Whereas, it is important to protect working middle-income families and productive companies from tax burdens that only reduce the possibility of economic prosperity instead off encourage it:

Now, therefore, be it *resolved*, That the Legislature of the state of Utah urges the members of Utah's congressional delegation to vote to repeal the individual and permanent Alternative Minimum Tax.

Be it further *Resolved*, That a copy of this resolution be sent to the members of Utah's congressional delegation.

POM-179. A joint resolution adopted by the Legislature of the State of Utah relative to a free trade agreement between the Republic of China on Taiwan and the United States; to the Committee on Finance.

Joint Resolution 7

Whereas, the United States should promote the values of freedom, democracy, and a commitment to open markets and the free exchange of both goods and ideas at home and abroad:

Whereas, the Republic of China on Taiwan shares these values with the United States and has struggled throughout the past 50 years to create what is today an open and thriving democracy;

Whereas, the United States must continue to support the growth of democracy and ongoing market opening in Taiwan if this relationship is to evolve and reflect the changing nature of the global system in the 21st Century;

Whereas, despite the fact that Taiwan only recently became a member of the World Trade Organization and that it has no formal trade agreement with the United States, Taiwan has nevertheless emerged as the United States' eighth largest trading partner;

Whereas, American businesses and workers have benefitted greatly from this dynamic trade relationship, most recently in the computer and electronics sector;

Whereas, Taiwan is a gateway to other Pacific Rim markets for United States exports, helping to preserve peace and stability within the entire region;

Whereas, United States agricultural producers have been particularly under represented in the list of United States exports to the region, despite the importance of the market for growers of corn, wheat, and soybeans;

Whereas, a free trade agreement would not only help Taiwan's economy dramatically expand its already growing entrepreneurial class, but it would also serve an important political function;

Whereas, the United States needs to support partner countries that are lowering trade barriers;

Whereas, Taiwan has emerged over the past two decades as one of the United States' most important allies in Asia and throughout the world:

Whereas, in the interest of supporting, preserving, and protecting the democratic fabric of the government of Taiwan, it is made clear that the United States supports the withdrawal of missiles deployed as a threat against Taiwan by the People's Republic of China;

Whereas, Taiwan has forged an open, market-based economy and a thriving democracy based on free elections and the freedom of dissent;

Whereas, it is in the interest of the United States to encourage the development of both these institutions;

Whereas, the United States has an obligation to its allies and to its own citizens to encourage economic growth, market opening, and the destruction of trade barriers as a means of raising living standards across the board;

Whereas, a free trade agreement with Taiwan would be a positive step toward accomplishing all of these goals: and

Whereas, the United States .should also support the entry of Taiwan into the World Health Organization, the United Nations, and other relevant international organizations:

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah urges the Bush Administration to support a free trade agreement between the United States and Taiwan.

Be it further *Resolved*, That United States policy should include the pursuit of some initiative in the World Trade Organization which will give Taiwan meaningful participation in a manner that is consistent with the organization's requirements.

Be it further *Resolbed*, That a copy of this resolution be sent to the President of the United States, the United States Secretary of State, the Secretary of Health, Education, and Welfare, the Speaker of the United States House of Representatives, the President of the United States Senate, the Government of Taiwan, the World Trade Organization, and the members of Utah's congressional delegation.

POM–180. A resolution adopted by the Senate of the Legislature of the State of Wisconsin relative to the Medicare system; to the Committee on Finance.

SENATE RESOLUTION 7

Whereas, the archaic and complex Medicare reimbursement formula rewards Medicare providers in areas with high historic health costs while penalizing those providers in low-cost areas for the same services; and

Whereas, Wisconsin and other upper midwestern states have traditionally been paid less per Medicare enrollee due to our efficient, low-cost management of health care services; and

Whereas, Wisconsin receives the 8th lowest Medicare payments per enrollee in the nation; and

Whereas, if Wisconsin received Medicare payments at the national average, an additional $1,000,000,000 in benefits would flow to our seniors and their health care providers; and

Whereas, Wisconsin should no longer be a "donor" state by contributing its fair share to the federal program while receiving fewer benefits and lower reimbursements in return; and

Whereas, the failure of Wisconsin Medicare to cover the cost of health care for its beneficiaries shifts the cost burden to employers and the privately insured, translating into a hidden tax increase that contributes to rising health insurance premiums and the uninsured population; and

Whereas, an increase in the uninsured would have a detrimental impact on the health of many Wisconsin citizens, would drive up health care costs, and could lead to a significant rise in the use of government programs such as BadgerCare or Medical Assistance, thus requiring additional funding from Wisconsin taxpayers; and

Whereas, another practical result of this payment inequity is that Wisconsin's seniors are denied access to the broad range of affordable benefits and services that seniors in many other states take for granted; and

Whereas, in places where reimbursement rates are high, such as Florida, Medicare health maintenance organizations can offer their plans without a premium, while in Wisconsin the Medicare population has limited access to health maintenance organization care; and

Whereas, Wisconsin's hospitals are paid 14% less than their costs and thus rank 45th nationally in percentage of costs paid for providing services to Medicare beneficiaries; and

Whereas, Wisconsin physicians are paid approximately one-third less of their costs, and Wisconsin consistently ranks nationally as one of the 10 lowest states in Medicare reimbursement for medical services provided; and

Whereas, the impact of this inequity has not translated into the delay, by 50% of Wisconsin physicians who treat Medicare patients, in the purchase of new and needed equipment; and

Whereas, 15% of physicians have started restricting the number of new Medicare patients that they will accept while another 9% can no longer afford to accept new Medicare patients, despite an aging Wisconsin population; and

Whereas, physicians who are still currently seeing Medicare patients have reduced their number of weekly appointments by 18%; and

Whereas, the Medicare cuts cost Wisconsin physicians $40,000,000 last year, forcing 6% of physicians to close their private practices because they could no longer cover their overhead costs and pay their staff; and

Whereas, the impact of this inequity means the poor, disabled, and elderly will face serious challenges trying to access care; and

Whereas, the impact of this inequity threatens the viability of our health care providers, especially in rural Wisconsin where Medicare enrollees typically constitute over 50% of a hospital's costs; and

Whereas, allowing Medicare reimbursement formula to exist in its current form will guarantee even greater cost-shifting, unending double-digit health insurance premium increases, an increase in the uninsured, a continued decrease in physicians accepting Medicare patients, and fewer hospitals; and

Whereas, Wisconsin hospitals, physicians, and insurers stand united in their effort to ensure that Wisconsin providers receive the payments that they deserve, and that patients receive the benefits that they deserve; now, therefore, be it

Resolved by the senate, That the Wisconsin senate urges the members of the congressional delegation from this state to work to enact legislation that would reform the current Medicare system and create a funding method that will dispense equal benefits regardless of geography; and, be it further

Resolved, That the senate chief clerk shall send copies of this resolution to the President of the United States, the speaker of the U.S. house of representatives, the president of the U.S. senate, and all of the members of the congressional delegation from this state.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 724. A bill to amend title 18, United States Code, to exempt certain rocket propellants from prohibitions under that title on explosive materials.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1233. A bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCAIN for the Committee on Commerce, Science, and Transportation.

*Annette Sandberg, of Washington, to be Administrator of the Federal Motor Carrier Safety Administration.

Coast Guard nomination of Rear Adm. (lh) Duncan C. Smith.

Coast Guard nominations beginning Rear Adm. (lh) Sally Brice-O'Hara and ending Rear Adm. (lh) David B. Peterman, which nominations were received by the Senate and appeared in the Congressional Record on May 22, 2003.

Coast Guard nomination of Mary Ann C. Gosling.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM of Florida:

S. 1289. A bill to name the Department of Veterans Affairs Medical Center in Minneapolis, Minnesota, after Paul Wellstone; to the Committee on Veterans' Affairs.

By Mr. HOLLINGS:

S. 1290. A bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of tax-exempt bonds issued for the purchase or maintenance of electric generation, transmission, or distribution assets; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. Baucus):

S. 1291. A bill to authorize the President to impose emergency import restrictions on archaeological or ethnological materials of Iraq until normalization of relations between the United States and the Government of Iraq has been established; to the Committee on Finance.

By Ms. LANDRIEU:

S. 1292. A bill to establish a servitude and emancipation archival research clearinghouse in the National Archives; to the Committee on Governmental Affairs.

By Mr. HATCH (for himself, Mr. Leahy, Mr. Schumer, Mr. Grassley, Mrs. Feinstein, Mr. DeWine, and Mr. Edwards):

S. 1293. A bill to criminalize the sending of predatory and abusive e-mail; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself, Mrs. Boxer, Ms. Cantwell, Mr. Kennedy, Mr. Leahy, and Mr. Pryor):

S. 1294. A bill to authorize grants for community telecommunications infrastructure planning and market development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. MURKOWSKI:

S. 1295. A bill to clarify the definition of rural airports; to the Committee on Finance.

By Ms. MURKOWSKI:

S. 1296. A bill to exempt seaplanes from certain transportation taxes; to the Committee on Finance.

By Mr. HATCH (for himself and Mr. Talent):

S. 1297. A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance to the Flag; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Mr. Leahy, and Mrs. Boxer):

S. 1298. A bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. SNOWE (for herself and Ms. Murkowski):

S. 1299. A bill to amend the Trade Act of 1974 to provide trade readjustment and development enhancement for America's communities, and for other purposes; to the Committee on Finance.

By Ms. CANTWELL:

S. 1300. A bill to prohibit a health plan from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. Schumer):

S. 1301. A bill to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mr. Warner, Mrs. Clinton, Mr. Biden, Mr. Daschle, Mr. Byrd, Mr. Kennedy, Mr. Lautenberg, Mr. Levin, Mrs. Feinstein, Mr. Reid, Ms. Stabenow, Mrs. Lincoln, Mr. Kohl, Mr. Bayh, Mr. Breaux, Mrs. Murray, Mr. Carper, Mr. Dodd, Ms. Mikulski, Mr. Nelson of Florida, Mr. Nelson of Nebraska, Mr. Wyden, Mr. Bingaman, Mr. Baucus, Mr. Feingold, Mr. Corzine, Mr. Reed, Mr. Akaka, Mr. Pryor, Mr. Jeffords, Mrs. Boxer, Mr. Durbin, and Mr. Leahy):

S. 1302. A bill to provide support for the Daniel Patrick Moynihan Global Affairs Institute; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORZINE (for himself and Mr. Lautenberg):

S. Res. 176. A resolution recognizing the National Hockey League's New Jersey Devils and National Basketball Association's New Jersey Nets for their accomplishments during the 2002–2003 season; considered and agreed to.

By Mr. DODD:

S. Res. 177. A resolution to direct the Senate Commission on Art to select an appropriate scene commemorating the Great Compromise of our forefathers establishing a bicameral Congress with equal State representation in the United State Senate, to be placed in the lunette space in the Senate reception room immediately above the entrance into the Senate chamber lobby, and to authorize the Committee on Rules and Administration to obtain technical advice and assistance in carrying out its duties; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 189

At the request of Mr. Wyden, the name of the Senator from Washington (Ms. Cantwell) was added as a cosponsor of S. 189, a bill to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes.

S. 300

At the request of Mr. McCain, the name of the Senator from Texas (Mr. Cornyn) was added as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 321

At the request of Mr. McCain, the name of the Senator from Maine (Ms. Snowe) was added as a cosponsor of S. 321, a bill to provide for the establishment of a scientific basis for new firefighting technology standards, improve coordination among Federal, State, and local fire officials in training for and responding to terrorist attacks and other national emergencies, and for other purposes.

S. 346

At the request of Mr. Levin, the name of the Senator from Alabama (Mr. Shelby) was added as a cosponsor of S. 346 , a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements.

S. 451

At the request of Ms. Snowe, the names of the Senator from Texas (Mrs. Hutchison), the Senator from Illinois (Mr. Durbin), the Senator from New Mexico (Mr. Domenici) and the Senator from New York (Mr. Schumer) were added as cosponsors of S. 451, a bill to amend title 10, United States Code , to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 491

At the request of Mr. Reid, the names of the Senator from Maryland (Mr. Sarbanes), the Senator from Maine (Ms. Collins) and the Senator from Pennsylvania (Mr. Santorum) were added as cosponsors of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 504

At the request of Mr. Alexander, the names of the Senator from Hawaii (Mr. Akaka), the Senator from Rhode Island (Mr. Reed), the Senator from Massachusetts (Mr. Kerry), the Senator from Nevada (Mr. Ensign), the Senator from New Mexico (Mr. Bingaman), the Senator from Louisiana (Ms. Landrieu), the Senator from Michigan (Mr. Levin), the Senator from Hawaii (Mr. Inouye), the Senator from Connecticut (Mr. Lieberman), the Senator from Minnesota (Mr. Dayton), the Senator from Washington (Mrs. Murray), the Senator from New York (Mrs. Clinton), the Senator from Wisconsin (Mr. Kohl) and the Senator from California (Mrs. Feinstein) were added as cosponsors of S. 504, a bill to establish academies for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 518

At the request of Ms. COLLINS, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 564

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 564, a bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes.

S. 569

At the request of Mr. ENSIGN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 668

At the request of Mr. REED, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 668, a bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care.

S. 778

At the request of Mr. ENSIGN, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 778, a bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with a drug discount card that ensures access to affordable prescription drugs.

S. 847

At the request of Mr. SMITH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 882

At the request of Mr. BAUCUS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 882, a bill to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes.

S. 982

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 982 , a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 982, supra.

S. 1019

At the request of Mr. DEWINE, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 1019, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 1020

At the request of Mr. KOHL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1020, a bill to amend the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act to improve the school breakfast program.

S. 1021

At the request of Mr. KOHL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1021, a bill to amend the Richard B. Russell National School Lunch Act to improve the summer food service program for children.

S. 1022

At the request of Mr. KOHL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1022, a bill to amend the Richard B. Russell National School Lunch Act to improve the child and adult care food program.

S. 1129

At the request of Mrs. FEINSTEIN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1131

At the request of Mr. SPECTER, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1131, a bill to increase, effective December 1, 2003, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 1200

At the request of Ms. CANTWELL, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1200, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 1284

At the request of Mrs. CLINTON, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1284, a bill to provide for the establishment of the Kosovar-American Enterprise Fund to promote small business and micro-credit lending and housing construction and reconstruction for Kosova.

S. CON. RES. 25

At the request of Mr. VOINOVICH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S . Con. Res. 25, a concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes.

S. RES. 151

At the request of Mr. WYDEN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 151, a resolution eliminating secret Senate holds.

S. RES. 153

At the request of Mrs. MURRAY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

S. RES. 164

At the request of Mr. ENSIGN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 169

At the request of Mrs. CLINTON, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. Res. 169, a resolution expressing the sense of the Senate that the United States Postal Service should issue a postage stamp commemorating Anne Frank.

S. RES. 170

At the request of Mr. DODD, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. LUGAR), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Res. 170, a resolution designating the years 2004 and 2005 as "Years of Foreign Language Study".

AMENDMENT NO. 930

At the request of Mrs. HUTCHISON, the names of the Senator from California

(Mrs. FEINSTEIN), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. BOND) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of amendment No. 930 intended to be proposed to S. 1, a bill to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

AMENDMENT NO. 932

At the request of Mr. ENZI, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Oregon (Mr. SMITH) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of amendment No. 932 proposed to S. 1, a bill to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

AMENDMENT NO. 932

At the request of Mr. MILLER, his name was added as a cosponsor of amendment No. 932 proposed to S. 1, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM of Florida:

S. 1289. A bill to name the Department of Veterans Affairs Medical Center in Minneapolis, Minnesota, after Paul Wellstone; to the Committee on Veterans' Affairs.

Mr. GRAHAM. Mr. President, I rise today to give due recognition to a colleague whose tragic passing is still fresh in our thoughts. Senator Paul Wellstone served 12 honorable years in the Senate for the State of Minnesota before suddenly perishing with his dear wife, Sheila, their daughter, Marcia, three of his staffers, and two pilots in a plane crash last October.

The bill I am proposing today seeks to rename the Department of Veterans Affairs Medical Center in Minneapolis, MN, after Paul Wellstone. His distinguished record of service for veterans clearly demands such distinction. Indeed last October, just weeks before the crash that took his life, Senator Wellstone proclaimed on the Senate floor, "It has been a labor of love for me working with veterans."

Paul Wellstone served our Nation's veterans with passion and commitment as a distinguished member of the Senate Committee on Veterans' Affairs. His legacy includes the many veterans today whose lives have been turned around due to his unyielding service on their behalf, such as veterans who are or have been homeless; veterans who are now receiving treatment for their service-related disabilities from exposure to radiation from atomic and nuclear weapons testing; and veterans who suffer from symptoms associated with Persian Gulf War Syndrome.

Year after year, Senator Wellstone rose in this very chamber to try to increase the VA health care budget. In 2000, the Senator was part of an effort to secure the largest one year increase ever for veterans' health care benefits. In 2001, Paul Wellstone successfully pushed through an amendment to the Budget Resolution that provided $17 billion over 10 years to boost health care funding for veterans. And just last June, Senator Wellstone fought to include $417 million for veterans' health care in the Supplemental Appropriations Bill for FY 2002.

In recognition of his tireless advocacy, he was awarded a number of distinctions by various veterans' service organizations, including: the 1995 Legislator of the Year Award from the Vietnam Veterans of America; the 1995 Patriot Award from the Paralyzed Veterans of America; the Congressional Leadership Award from the Forgotten 216th; the 1997 Distinguished Citizen Award from the Minnesota Veterans of Foreign Wars; the 2002 Distinguished Science Award from the Disabled American Veterans; the 2002 Legislative Leadership Award from the National Coalition for Homeless Veterans; and the Vanguard Award for Legislative Achievement by the Non-Commissioned Officers Association.

George Washington once remarked, "The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the veterans of earlier wars were treated and appreciated by their nation." Senator Wellstone knew this all too well and worked to make the Department of Veterans Affairs a more responsive organization.

The Minneapolis VA Medical Center was a source of great pride for Paul. He once described the facility as having become "the pride and joy of the U.S. Department of Veterans Affairs, and more important, of veterans throughout the region." The naming of the Paul Wellstone Department of Veterans Affairs Medical Center will forever honor his commitment to our veterans by distinguishing the very institution that carries on his "labor of love." Mr. President, this is only a small mark of the appreciation that we all owe to an individual who served veterans with such compassion and conviction.

Finally, I thank Frederick "Rock" Rochelle—a past President of the St. Paul Chapter of the Vietnam Veterans of America—for working with me on this legislation to honor the memory of Paul Wellstone. I have compiled a list of statements made by friends and colleagues in remembrance of Senator Wellstone.

I ask unanimous consent that the text of the bill and the above mentioned list of statements be printed in the RECORD.

There being no objection, the bill and list of statements was ordered to be printed in the RECORD, as follows:

FRIENDS AND COLLEAGUES REMEMBER SENATOR PAUL WELLSTONE

"As a member of the Senate Veterans Affairs Committee, Senator Wellstone was a tireless crusader for America's veterans, an issue of paramount importance to him. I greatly respected and admired him for his passion, his character and his commitment for the causes in which he believed."—Secretary of Veterans Affairs Anthony Principi

"His unwavering support year after year of adequate funding for veterans health care, in particular, was something we could always count on. Similarly, he championed the cause of homeless veterans to ensure that they were not forgotten and that their needs were addressed by the nation they served. Though not a veteran himself, he brought energy and commitment to issues important to veterans and their families. He was a fighter and leading voice and, if ever there was a true friend of America's veterans, Senator Wellstone was it."—W.G. "Bill" Kilgore, national commander of AMVETS.

"Senator Wellstone has been a strong and vocal supporter of veterans' issues. His leadership will be missed, and all veterans are grateful for his passionate support over the years."—Thomas H. Corey, national president of Vietnam Veterans of America.

"The Veterans of Foreign Wars of the United States are stunned and saddened by the untimely death of Senator Paul Wellstone and his family. When it came to advocacy on behalf of America's veterans, he was second to none. He constantly and consistently crusaded and championed for the many issues that were of vital interest to our veteran population. He was tenacious in his efforts to assure passage of legislation that would provide for those veterans suffering from radiation exposure, Gulf War illness and those in need of VA health care. He will be sorely missed. Our veterans have lost a true hero. Our hearts and prayers are with the Wellstone family."—Ray Sisk, Commander-in-Chief, Veterans of Foreign Wars

"I always knew on Veterans Day that I would see the senator on that day. We would always go out to the veterans hospital. I would be there, and I never had any doubt that when I got there Senator Wellstone would be there. He was a great advocate for veterans and veteran causes and veterans benefits."—Former Minneosta Governor Jesse Ventura

"The last speech he gave on the Senate floor, I was there. He said, 'You can call me soft if you want, but I care about veterans in this country.' That was Paul Wellstone. He is someone that looked out for those who didn't have someone representing them and he wasn't afraid. He traveled a road that was less traveled, but he traveled that road with his shoulders back."—Sen. Harry Reid

"Paul Wellstone was one of the most courageous men I have ever known. He was a distinguished member of the Senate Veterans Affairs Committee, and he fought hard for those who fought for our country."—Former Sen. Max Cleland

"Paul and I shared many of the same passions in the Senate. We fought together side by side in the fight to save our steel industry and together we were committed to providing our nation's veterans with the benefits they deserve. That was his style. He took on the toughest battles, the ones that required years of effort and diligence, and he always made a difference."—Sen. Jay Rockefeller

"Paul was a caring, persistent and passionate advocate for veterans, children, the mentally ill, working families, and all those who too often feel that no one in Washington hears their voice. Paul Wellstone was their voice; he was their champion."—Sen. Daniel Akaka

"Senator Wellstone believed deeply in causes that transcended political lines, partisanship and ideology. I had the privilege of working with him on legislation to end homelessness among our nation's veterans. In our battle to see this legislation enacted, time and time again we were called up on to confront our own parties and colleagues. Each and every time Paul Wellstone proved that his first concern was to help those less fortunate than himself, even if it put his political career at risk."—Rep. Christopher Smith

"Paul Wellstone was my closest friend in the Senate. He was the most principled public servant I've ever known. Paul truly had the courage of his convictions and his convictions were based on the principles of hope, compassion, the Good Samaritan, helping those left on the roadside of life. His courage is an example for all."—Sen. Tom Harkin

"Paul Wellstone was the soul of the Senate. He was one of the most noble and courageous men I have ever known. He was a gallant and passionate fighter, especially for the less fortunate. I am grateful to have known Paul and Sheila as dear and close friends."—Sen. Tom Daschle

"He didn't look ahead to the next election; he looked ahead to the next generation. The women of the Senate called him our Galahad. He supported us and fought with us for child care, access to health care, and better schools."—Sen. Barbara Mikulski

"In his public service and private friendship, Paul Wellstone embodied the Hebrew ideal of 'tikkun olam,' which means 'to repair the world.' He was one of the most passionate and principled people I've ever known. I feel privileged to have worked with him."—Sen. Joe Lieberman

"Paul Wellstone had a passion for justice that was evident to all of his colleagues. Throughout his life, Paul was a fighter for the good cause. His passion for justice was only matched by his charm, wit and kindness to his political friends and foes alike."—Sen. John McCain

"He was a man of enormous ability but most of all, he was a caring person. He was really a special person, a very unique man."—Sen. Ted Kennedy

"He was a model and an inspiration to all of us who followed in his footsteps. He was my close personal friend and political ally for over 20 years. I will miss him terribly."—Sen. Mark Dayton

"As fellow members of the Senate health and education committee, I saw firsthand how passionate Paul could be on the issues that were important to him. Paul had a remarkable ability to maintain good relations with colleagues with whom he disagreed."—Sen. Jeff Sessions

"Paul Wellstone was a passionate public servant who was committed to helping average Americans. His enormous energy, determination and passion made him one of our most respected senators. America will miss a great senator, and I will miss a good friend."—Sen. Bill Nelson.

"He unfailingly represented his views eloquently and emphatically. Paul Wellstone was a courageous defender of his beliefs."—Former Sen. Jesse Helms

"He was the pied piper of modern politics—so many people heard him and wanted to follow him in his fight. His loss is monumental. I loved his passion, his spirit, and his zest for making peoples' lives better. This is sad beyond any words."—Sen. John Kerry

"His only interest in power was to help the powerless. He was a happy warrior in the tradition of another great Minnesota senator, Hubert Humphrey. He loved people and he loved campaigning."—Sen. Patrick Leahy

"Paul Wellstone loved politics and never shied away from a fight for what he believed. I admired that quality greatly. We didn't always agree on issues, but we always walked away from the debate as friends. We enjoyed and respected each other. I'll miss him. This is a great loss."—Sen. Chuck Grassley

"Nothing was trivial to Paul and no person was unimportant. He was a thoughtful, sensitive, and caring with people as he was astute and serious about ideas."—Sen. Herb Kohl

"The people of Minnesota, America and the world have lost a friend and a champion of working families, the poor, the disenfranchised and the disabled. Paul's public life was a profile in courage. He spoke, stood and voted on his principles, even at the risk of his political career."—Former President Bill Clinton

"He was a profoundly decent man, a man of principle, a man of conscience. His passing is a loss not only for his family, friends and constituents, but also for friends of the United Nations."—UN Secretary General Kofi Annan

"Paul Wellstone was a stand-up guy. He used the power of his office for good. His memory will forever be a blessing to all of us who knew him. And his work will continue to be a blessing to countless thousands of people across the globe who never met him, but whose lives will be forever bettered by his work."—Secretary of State Colin Powell

"He loved his job because it was the best way he could serve the people of his state and his country. To cite one example among many, Paul was by far the biggest and most energetic champion of quality mental health coverage for all Americans who need it. We worked with him closely on this issue and on behalf of the mental health community has passing leaves us with an irreplaceable loss."—Former Vice President Al Gore

"Paul Wellstone was one of the most valiant public servants I have ever known. He had a very good mind, but he also had an honest mind. And he served what he believed in, no matter what the challenge."—Former Vice President Walter Mondale

"Many noted changes in his manner and method after years in Washington, but not much changed at the core of the man. He remained an idealist and an optimist. He laughed easily, often at himself and his 5-foot-5 stature. He always remembered to thank the cooks and servers at a banquet, and to greet the guards at office doors. He remembered names with a facility that reminded old-timers of Hubert Humphrey. Indeed, Wellstone had Humphrey's zeal for politics, policy and—most of all—people."—Minneapolis Star Tribune.

S. 1289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, MINNEAPOLIS, MINNESOTA, AS PAUL WELLSTONE DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The Department of Veterans Affairs Medical Center located in Minneapolis, Minnesota, shall after the date of the enactment of this Act be known and designated as the "Paul Wellstone Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, or other paper of the United States shall be considered to be a reference to the Paul Wellstone Department of Veterans Affairs Medical Center.

By Mr. HOLLINGS:

S. 1290. A bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of tax-exempt bonds issued for the purchase or maintenance of electric generation, transmission, or distribution assets; to the Committee on Finance.

Mr. HOLLINGS. Mr. President, I am introducing legislation today that would improve the Internal Revenue Code of 1986 by allowing an additional advanced refunding of tax exempt bonds issued for the purchase or maintenance of electric generation, transmission, or distribution assets. This bill will give municipal utilities additional flexibility in refinancing their debts, so they can respond to favorable market conditions. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objections, the bill was ordered to be printed in the RECORD, as follows:

S. 1290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL ADVANCE REFUNDING OF ELECTRICITY BONDS.

(a) IN GENERAL.—Subsection (d) of section 149 of the Internal Revenue Code of 1986 (relating to advance refunding) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (7) the following new paragraph:

"(7) SPECIAL RULE FOR CERTAIN ELECTRICITY BONDS.—

"(A) GENERAL RULE.—In the case of a bond described in subparagraph (B), one additional advance refunding after the date of the enactment of this paragraph shall be allowed under paragraph (3)(A)(i) if the requirements of subparagraph (C) are met.

"(B) BOND DESCRIBED.—A bond is described in this subparagraph if such bond is issued as part of an issue the net proceeds of which are used to finance the costs of electric generation, transmission, or distribution assets owned by the issuer or by a consortium of State or local governments which includes the issuer and which jointly own such assets.

"(C) REQUIREMENTS.—The requirements of this subparagraph are met with respect to any advance refunding of a bond described in subparagraph (B) if—

"(i) no advance refundings of such bond would be allowed under any provision of law after the date of the enactment of this paragraph,

"(ii) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and "(iii) the requirements of section 148 are met with respect to all bonds issued under this subsection.

"(D) INAPPLICABILITY TO CERTAIN BONDS.—Subparagraph (A) shall not apply with respect to a bond described in section 1400L(e).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to advance refunding bonds issued after the date of the enactment of this Act.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1291. A bill to authorize the President to impose emergency import restrictions on archaeological or ethnological materials of Iraq until normalization of relations between the United States and the Government of Iraq has been established; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I rise to introduce the Emergency Protection for Iraqi Cultural Antiquities Act of 2003, the EPIC Antiquities Act of 2003. I am pleased that Senator BAUCUS joins me as an original cosponsor of this important legislation. The EPIC Antiquities Act of 2003 authorizes the President to impose immediate emergency import restrictions on the archaeological and ethnological materials of Iraq. The purpose of this bill is simple—to close a legal loophole which could allow looted Iraqi antiquities to be brought into the United States. Allow me to explain how this might happen.

When Iraq invaded Kuwait in August of 1990, former President Bush issued Executive Orders 12722 and 12744, which declared a national emergency with respect to Iraq. Those orders imposed economic sanctions against Iraq, including a complete trade embargo which automatically prohibited trade in Iraqi antiquities as of that time. The United Nations Security Council adopted Resolution 661 on August 6, 1990, which also imposed economic sanctions on Iraq. The sanctions imposed under the Executive Orders are spelled out in the Iraqi Sanctions Regulations. These regulations are administered by the Treasury Department's Office of Foreign Assets Control, OFAC.

Now until recently, the Iraqi Sanctions Regulations continued to restrict trade with Iraq, including trade in Iraqi antiquities. However, on May 22, 2003, the UN Security Council adopted Resolution 1483, which lifted most sanctions on Iraq. Resolution 1483 also provided that Member States should establish a prohibition on trade in archaeological, cultural, historical, religious, and rare scientific items of Iraq, that may have been illegally removed from the country since the adoption of Resolution 661 back in 1990. On May 23, 2003, OFAC implemented UN Resolution 1483 and issued a General License which lifted most of our trade sanctions with respect to Iraq. Importantly, OFAC's general license continues to ban trade in looted Iraqi antiquities. However, this legal structure that is currently in place is vulnerable to a potential loophole.

It is important to recognize that the legal authority for OFAC's continuing restrictions on trade in Iraqi antiquities derives from the Executive Orders issued in 1990, which are themselves premised upon the existence of emergency conditions with respect to Iraq. It is possible that once an interim government is in place, the President may determine that emergency conditions no longer exist with respect to Iraq and relations between the United States and Iraq will be normalized. At that point, the legal authority for the OFAC restrictions will be terminated. This bill is designed to bridge a potential gap in the protections afforded Iraqi antiquities by allowing the President to impose emergency import restrictions without delay. These emergency restrictions would be authorized for an interim period to extend beyond any termination of the OFAC restrictions, and would remain in place until such time as other, more lengthy, legal mechanisms for the protection of cultural antiquities can be completed. I will elaborate on these other legal mechanisms in a moment.

If Congress does not act to provide the means for establishing the interim ban on trade contained in this bill, the door may be opened to imports of looted Iraqi antiquities into the United States. Already the press has reported allegations that European auction houses have traded in looted Iraqi antiquities. The last thing that we in Congress want to do is to fail to act to prevent trade in looted Iraqi artifacts here in the United States.

The stopgap authority in this bill derives from legislation implementing the U.N. Convention on the protection of cultural property. This bill amends the Convention on Cultural Property Implementation Act, Implementation Act, to allow the President to impose immediate emergency import restrictions with respect to Iraqi antiquities. The Implementation Act already authorizes the President to restrict imports of cultural antiquities, but there is a somewhat lengthy process called for under the Implementation Act before the President may impose such restrictions. Since we passed the Implementation Act in 1983, we have imposed import restrictions on archaeological or ethnological materials from ten countries to assist in the protection of their cultural property.

Unfortunately, the Implementation Act does not address the unique conditions that prevail in Iraq today. Normally, under the Implementation Act a country formally requests that the United States prohibit stolen or illegally exported cultural antiquities from entering into the United States. The State Department will then publish a Federal Register notice announcing the request. Following publication, a Cultural Property Advisory Committee will investigate and review the request and report its recommendation to the President. With the benefit of the Committee's report, the President can then proceed to negotiate a bilateral agreement with the foreign country. In the past, this entire process has taken at least a year before import restrictions are put in place.

There are two major deficiencies with the current process which necessitate the bill we are introducing today. First, the Implementation Act requires a foreign government to make a formal request to the United States. Right now, there is no Government of Iraq to request such a bilateral agreement with the United States. The second problem is that, even if there were an Iraqi Government in place to make such a request, the administrative process called for under the Implementation Act just takes too long given the present circumstances—although the extent of looting of museums, libraries, and archaeological sites in Iraq may not be as great as was first feared, the fact remains that such looting has occurred and that illicit trade in such antiquities could spread if there is even a temporary lifting of import restrictions.

Now granted, the Implementation Act does authorize the President to impose emergency import restrictions even before a bilateral agreement is finalized. However, before the President can do so, all of the other administrative processes under the Implementation Act must be completed; this includes a three month period for the preparation of a report to the President by the Cultural Property Advisory Committee. Again, the problem here is that the normal process for imposing even emergency import restrictions could take too long.

If the Administration were to normalize relations between the United States and the next Government of Iraq, thereby terminating the OFAC import restrictions, it is possible that looted Iraqi antiquities could begin entering the United States while we sit and wait for a possible bilateral agreement to be finalized. The EPIC Antiquities Act of 2003 solves this problem. This legislation provides a uniquely and narrowly tailored amendment to the Implementation Act which closes the potential legal loophole between the time when relations are normalized and the time when we can undertake and complete the normal processes for the protection of cultural antiquities contained in the Implementation Act.

By extending the President's authority under the Implementation Act for an interim period, this bill is narrowly designed to meet the unique circumstances in Iraq today. The EPIC Antiquities Act of 2003 provides that this extension of the President's authority will terminate one year after relations are normalized, or by September 30, 2004, so that the next Iraqi Government can determine for itself whether to seek a bilateral agreement with the United States, and if so, the President can negotiate such an agreement with the benefit of input from the Cultural Property Advisory Committee—as envisioned by the Implementation Act. In short, our bill does not seek to supplant the established process for protecting cultural antiquities under the Implementation Act; instead, it permits an extra guarantee of protection for Iraq's cultural antiquities in the short term while Iraq completes its transition back into the community of nations.

I thank Senator BAUCUS for his support, and I hope our colleagues can also support this important and timely bill. I hope we are able to move this legislation quickly, perhaps as part of the Miscellaneous Trade and Technical Corrections Act of 2003, which is waiting for full Senate approval.

As we work to reestablish the free flow of trade with a liberated Iraq, I believe it is very important that we in Congress remain mindful of the need to take steps to protect Iraq's cultural heritage. Our bill will ensure that going forward we continue to adhere to the full spirit of Resolution 1483 and avoid any break in the protections afforded to Iraqi antiquities. Our bill also provides an important signal of our commitment to preserving Iraq's resources for the benefit of the Iraqi people. It is time to close the potential gap in protections, and pass the EPIC Antiquities Act of 2003.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Protection for Iraqi Cultural Antiquities Act of 2003".

SEC. 2. EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.

(a) AUTHORITY.—The President may exercise the authority of the President under section 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603) with respect to any archaeological or ethnological material of Iraq as if Iraq were a State Party under that Act, except that, in exercising such authority, subsection (c) of such section shall not apply.

(b) DEFINITION.—In this section, the term "archaeological or ethnological material of Iraq" means cultural property of Iraq and other items of archaeological, historical, cultural, rare scientific, or religious importance illegally removed from the Iraq National Museum, the National Library of Iraq, and other locations in Iraq, since the adoption of United Nations Security Council Resolution 661 of 1990.

SEC. 3. TERMINATION OF AUTHORITY.

The authority of the President under section 2 shall terminate upon the earlier of—

(1) the date that is 12 months after the date on which the President certifies to Congress that normalization of relations between the United States and the Government of Iraq has been established; or

(2) September 30, 2004.

By Ms. LANDRIEU:

S. 1292. A bill to establish a servitude and emancipation archival research clearinghouse in the National Archives; to the Committee on Governmental Affairs.

Ms. LANDRIEU. Mr. President, I rise today on the 138th anniversary of the day that Major General Gordon Granger and his Union soldiers arrived in Galveston, TX. They brought the news that the war had ended and that the enslaved were now free. Since its origin in 1865, the observance of June 19th as African American Emancipation Day, or Juneteenth, is the oldest known celebration of the ending of slavery.

It took two and a half years after the effective date of the Emancipation Proclamation set forth by President Lincoln for the news of freedom to arrive in Texas. Of course, this kind of delay in finding out about new national policy, especially a bold new initiative set forth by Executive Order, would be absurd in our present society. We are now part of the information age and access to the most up-to-date news is commonplace. Unfortunately, African Americans who attempt to trace their genealogy face undue delay in obtaining the necessary documents to try and piece together their unique heritage. For this reason, I am proposing the Servitude and Emancipation Archival Research Clearinghouse, SEARCH, Act of 2003. This bill establishes a national database within the National Archives and Records Administration, NARA, housing various documents that would assist those in search of a history that because of slavery, can not easily be found in the most commonly searched registered and census records.

Traditionally, someone researching their genealogy would try looking up wills and land deeds; however, enslaved African Americans were prohibited from owning property. In fact, African Americans were considered property, so the name of former slave owners would have to be identified with the hopes that the owner kept record of pertinent information, such as births and deaths. In most cases, If records exist, many African Americans were not associated with last names, thus making them more difficult to trace. With slaves not being listed by name, this also precludes the use of the most popular and major source of genealogical research, the United States Census. Even the use of letters, diaries, and other first-person recordings of slave simply do not exist because slaves could not legally learn to read or write.

We may think after 1865, African Americans could then begin to use traditional genealogical records like voter registrations and school records. However, African Americans did not immediately begin to participate in may of the privileges of citizenship, including voting and attending school. Discrimination meant the prevention of African American siting on juries or owning businesses. Segregation meant segregated neighborhoods, schools, churches, clubs, and fraternal organizations. Therefore, many of the records were also segregated. For example, some telephone directories in South Carolina did not include African Americans in the regular alphabetical listing, but at the end of the book. An African American must maneuver these distinctive nuances in order to conduct proper genealogical research. In my own State of Louisiana, descendants of the 9th Calvary Regiment and the 25th Infantry Regiment, known as the Buffalo Soldiers, would have to know to look in the index of the United States Colored Troops and not the index of the State Military Regiments.

Abraham Lincoln said, "a man who cares nothing about his past can care little about his future." In 1965, Alex Haley stumbled upon the names of his maternal great-grandparents while going through post-Civil War records at the National Archives here in Washington, D.C. This discovery led to an 11-year journey that resulted in the milestone of literary history, Roots. By providing $5 million for the National Historical Publications and Records Commission to establish and maintain a national database, the SEARCH Act proposes to significantly reduce the time and painstaking efforts of those African Americans who truly care about their American past, and care enough to contribute to the American future. This bill also seeks to authorize $5 million for States, colleges, and universities to preserve, catalogue, and index records locally.

In a democracy, records matter. The mission of NARA is to ensure that anyone can have access to the records that matter to them. The SEARCH Act of 2003 helps to fulfill that mission by helping African Americans to navigate the genealogical process, given the circumstances unique to the African American experience. No longer should any American have to wait to find out about information leading to freedom.

I hope my colleagues will join me in celebrating Juneteenth this year by passing this measure, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Servitude and Emancipation Archival Research ClearingHouse Act of 2003" or the "SEARCH Act of 2003".

SEC. 2. ESTABLISHMENT OF DATABASE.

(a) IN GENERAL.—The Archivist of the United States shall establish, as a part of the National Archives, a national database consisting of historic records of servitude and emancipation in the United States to assist African Americans in researching their genealogy.

(b) MAINTENANCE.—The database established by this Act shall be maintained by the National Historical Publications and Records Commission.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $5,000,000 to establish the national database authorized by this Act; and

(2) $5,000,000 to provide grants to States and colleges and universities to preserve local records of servitude and emancipation.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. SCHUMER, Mr. GRASSLEY, Mrs. FEINSTEIN, Mr. DEWINE, and Mr. EDWARDS):

S. 1293. A bill to criminalize the sending of predatory and abusive e-mail; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise to introduce, with Senators LEAHY, SCHUMER, GRASSLEY, FEINSTEIN, DEWINE, and EDWARDS, the Criminal Spam Act of 2003. This legislation, which enjoys bipartisan support, targets the most egregious types of spammers—those who hijack computer- systems and those who use other fraudulent means to send unsolicited commercial electronic mail.

Over the course of the past several years, the amount of unsolicited commercial email, or spam, has grown at an exponential rate. During a recent Senate hearing before the Committee on Commerce, Science and Transportation, Brightmail Inc., a provider of spam filtering software that serves six of the ten largest U.S. Internet service providers, estimated that in April 2003, 46 percent of all email traffic was spam. This figure represented a nearly five fold increase in spam in merely 18 months. At the same hearing, America Online testified that on any given day, it blocks approximately 2.3 billion spam messages.

This tremendous growth rate is due in large part to sophisticated spammers who use abusive tactics to send millions of email messages quickly, at an extremely low cost. By using deceptive methods, these spammers conceal their identities, evade Internet service provider filters, and exploit the Internet by advertising and promoting pornographic web sites, illegally pirated software, questionable health products, pyramid schemes and other "get rich quick" or "make money fast" scams. The extraordinary volume of spam generated by their schemes imposes significant costs on Internet users, threatens to disrupt Internet services, and undermines the public's confidence in online commerce.

A recent study conducted by the Federal Trade Commission demonstrates the alarming frequency with which spammers are using the Internet to conceal their true identities and the electronic paths of their messages. This study found that 40 percent of email messages contain indicia of falsity in the body of the message; approximately 33 percent contain indicia of falsity in the "from" lines of the spam; 22 percent contain indicia of falsity in the "subject" line; and some 66 percent contain at least one form of deception.

The Criminal Spam Act of 2003 targets fraudulent and deceptive spam by enhancing the ability of federal law enforcement authorities to prosecute and punish the most egregious wrongdoers. Specifically, the Act makes it a crime to hack into a computer, or to use a computer system that the owner has made available for other purposes, as a conduit for bulk commercial email. The Act also prohibits sending bulk commercial email that conceals the true source, destination, routing or authentication information of the email, or is generated from multiple email accounts or domain names that falsify the identity of the actual registrant.

The Act subjects violators to stiff criminal penalties of up to 5 years' imprisonment where the offense is committed in furtherance of any felony, or where the defendant has previously been convicted of a similar Federal or state offense, and up to 3 years' imprisonment where other aggravating factors exist. It also contains criminal forfeiture provisions and directs the Sentencing Commission to consider enhancements for offenders who obtain email addresses through illegal means, such as harvesting.

The strong deterrent effect of the legislation is further enhanced by civil enforcement provisions that authorize the Department of Justice and aggrieved Internet service providers to bring suit for violations of the Act. In appropriate cases, courts may grant injunctive relief, impose civil fines, and award damages of up to $25,000 per day of violation, or between $2 and $8 per email initiated in violation of the Act.

Recognizing that spammers can send their fraudulent and deceptive messages from any location in the world, the Act directs the Department of Justice and the Department of State to work through international fora to gain the cooperation of other countries in investigating and prosecuting spammers worldwide and to report to Congress about their efforts and any recommendations for addressing international predatory spam.

The Criminal Spam Act represents an important legislative step toward curbing predatory and abusive commercial email. However, broader legislative measures, coupled with technological solutions, are also needed. Any effective solution to the spam problem requires cooperative efforts between the government and the private sector, as well as the assistance of our international partners.

Recent years have witnessed extraordinary technological advances. These innovations, and electronic communications in particular, have significantly increased the efficiencies, productivity and conveniences of our modern world. The abusive practices of fraudulent spammers threaten to choke the lifeblood of the electronic age. This is a problem that warrants swift but deliberative legislative action. I am committed to working with my colleagues in both Houses to address the spam problem on all fronts.

I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SEC. 1. SHORT TITLE

This bill may be cited as the "Criminal Spam Act of 2003".

SEC. 2. PROHIBITION AGAINST PREDATORY AND ABUSIVE COMMERCIAL EMAIL

This section targets the four principal techniques that spammers use to evade filtering software and hide their trails. It creates a new federal crime that prohibits hacking into a computer, or using a computer system that the owner has made available for other purposes, to send bulk commercial email. It also prohibits sending bulk commercial email that either conceals the true source, destination, routing and authentication information of the email, or is generated from multiple email accounts or domain names that falsify the identity of the actual registrant. Penalties range from up to 5 years' imprisonment where the offense was committed in furtherance of any felony, or where the defendant was previously convicted of a similar federal or state offense, and up to 3 years' imprisonment where other aggravating factors exist. The U.S. Sentencing Commission is directed to consider sentencing enhancements for offenders who obtained email addresses through improper means, such as harvesting.

In addition, this section provides for civil enforcement by the Department of Justice and aggrieved Internet service providers against spammers who engage in the conduct described above. In appropriate cases, courts may grant injunctive relief, impose civil penalties, and award damages.

SEC. 3. REPORT AND SENSE OF CONGRESS REGARDING INTERNATIONAL SPAM

Recognizing that an effective solution to the spam problem requires the cooperation and assistance of our international partners, this section asks the Administration to work through international fora to gain the cooperation of other countries in investigating and prosecuting spammers worldwide, and to report to Congress about its efforts.

Mr. LEAHY. Mr. President, I am pleased to be introducing, with Senators HATCH, SCHUMER, GRASSLEY, FEINSTEIN, DEWINE, and EDWARDS, the Criminal Spam Act of 2003. This bill is designed to counter the most objectionable forms of email marketing. In an effort to clear electronic channels for legitimate communications, the bill targets those spammers who deceive Internet Service Providers, "ISPs", and email recipients into thinking that messages come from someone other than a spammer—a ploy many spammers use to increase the likelihood that their unwanted ads will evade filtering software and be opened.

Without a doubt, spam is a serious problem today, one that is threatening to undermine the vast potential of the Internet to foster the free exchange of information and commerce. Businesses and individuals currently wade through tremendous amounts of spam in order to access email that is of relevance to them—and this is after ISPs, businesses, and individuals have spent time and money blocking a large percentage of spam from reaching its intended recipients.

Email users are having the online equivalent of the experience of the woman in the Monty Python skit, who seeks to order a spam-free breakfast at a restaurant. Try as she might, she cannot get the waitress to bring her the meal she desires. Every dish in the restaurant comes with Spam; it's just a matter of how much. There's "egg, bacon and Spam"; "egg, bacon, sausage and Spam"; "Spam, bacon, sausage and Spam"; "Spam, egg, Spam, Spam, bacon and Spam"; "Spam, sausage, Spam, Spam, Spam, bacon, Spam, tomato and Spam"; and so on. Exasperated, the woman finally cries out: "I don't like Spam! . . . I don't want ANY Spam!"

Individuals and businesses are reacting similarly to electronic spam. A Harris poll taken late last year found that 80 percent of respondents view spam as "very annoying," and fully 74 percent of respondents favor making mass spamming illegal. They are fed up.

ISPs are doing their best to shield customers from spam, blocking billions of spam each day, but the spammers are winning the battle. Millions of unwanted, unsolicited commercial emails are received by American businesses and individuals each day, despite their own, additional filtering efforts. A recent study by Ferris Research estimates that spam costs U.S. businesses $8.9 billion annually as a result of lost productivity and the need to purchase more powerful servers and additional bandwidth; to configure and run spam filters; and to provide help-desk support for spam recipients. The costs of spam are significant to individuals as well, including time spent identifying and deleting spam, inadvertently opening spam, installing and maintaining anti-spam filters, tracking down legitimate messages mistakenly deleted by spam filters, and paying for the ISPs' blocking efforts.

And there are other less prominent but equally important costs of spam. It may introduce viruses, worms, and Trojan Horses into personal and business computer systems, including those that support our national infrastructure. It is also fertile ground for deceptive trade practices. The FTC recently estimated that 96 percent of the spam involving investment and business opportunities, and nearly half of the spam advertising health services and products, and travel and leisure, contains false or misleading information.

This rampant deception has the potential to undermine Americans' trust of valid information on the Internet. Indeed, it has already caused some Americans to refrain from using the Internet to the extent that they otherwise would. For example, some have chosen not to participate in public discussion forums, and are hesitant to provide their addresses in legitimate business transactions, for fear that their email addresses will be harvested for junk email lists. And they are right to be concerned. The FTC found spam arriving at its computer system just nine minutes after posting an email address in an online chat room.

At a recent FTC forum on spam, experts agreed that the issue is ripe for Federal action. Some 30 States now have anti-spam laws, but the nature of email makes it difficult to discern where any given piece of spam originated, and, thus, what State has jurisdiction and what State law applies. This may explain why spammers continue to flout State laws. For example, several States require that spam begin the subject line with "ADV," but the FTC has found that only 2 percent of spam contains this label.

Technology will undoubtedly play a key role in fighting spam. However, a technological solution to the problem is not predicted in the foreseeable future. In addition, given the adroitness with which spammers adapt to anti-spam technologies, the development and implementation of technological fixes to spam entail constant vigilance and substantial financial investment. This raises the question: Why should individuals and businesses be forced to invest large amounts of time and money in buying, installing, and maintaining generation after generation of anti-spam technologies?

I have often said that the government should regulate the Internet only when absolutely necessary. Unfortunately, spammers have caused this to be one of those times. Congress needs to address the spam problem quickly and prudently, and the Criminal Spam Act, by targeting the most injurious types of spam, is a good start.

The bill that Senator HATCH and I introduce today would prohibit the four principal techniques that spammers use to evade filtering software and hide their trails.

First, our bill would prohibit hacking into another person's computer system and sending bulk spam from or through that system. This would criminalize the common spammer technique of obtaining access to other people's email accounts on an ISP's email network, whether by password theft or by inserting a "Trojan horse" program—that is, a program that unsuspecting users download onto their computers and that then takes control of those computers—to send bulk spam.

Second, the bill would prohibit using a computer system that the owner makes available for other purposes as a conduit for bulk spam, with the intent of deceiving recipients as to the spam's origins. This prohibition would criminalize another common spammer technique—the abuse of third parties' "open" servers, such as email servers that have the capability to relay mail, or Web proxy servers that have the ability to generate "form" mail. Spammers commandeer these servers to send bulk commercial email without the server owner's knowledge, either by "relaying" their email through an "open" email server, or by abusing an "open" Web proxy server's capability to generate form emails as a means to originate spam, thereby exceeding the owner's authorization for use of that email or Web server. In some instances the hijacked servers are even completely shut down as a result of tens of thousands of undeliverable messages generated from the spammer's email list.

The bill's third prohibition targets another way that outlaw spammers evade ISP filters: falsifying the "header information" that accompanies every email, and sending bulk spam containing that fake header information. More specifically, the bill prohibits forging information regarding the origin of the email message, the route through which the message attempted to penetrate the ISP filters, and information authenticating the user as a "trusted sender" who abides by appropriate consumer protection rules. The last type of forgery will be particularly important in the future, as ISPs and legitimate marketers develop "white list" rules whereby emailers who abide by self-regulatory codes of good practices will be allowed to send email to users without being subject to anti-spamming filters. There is currently substantial interest among marketers and email service providers in "white list" technology solutions to spam. However, such "white list" systems would be useless if outlaw spammers are allowed to counterfeit the authentication mechanisms used by legitimate emailers.

Fourth and finally, the Criminal Spam Act prohibits registering for multiple email accounts or Internet domain names, and sending bulk email from those accounts or domains. This provision targets deceptive "account churning," a common outlaw spammer technique that works as follows. The spammer registers, usually by means of an automatic computer program, for large numbers of email accounts or domain names, using false registration information, then sends bulk spam from one account or domain after another. This technique stays ahead of ISP filters by hiding the source, size, and scope of the sender's mailings, and prevents the email account provider or domain name registrar from identifying the registrant as a spammer and denying his registration request. Falsifying registration information for domain names also violates a basic contractual requirement for domain name registration.

Penalties for violations of these provisions are tough but measured. Recidivists and those who send spam in furtherance of another felony may be imprisoned for up to five years. Large-volume spammers, those who hack into another person's computer system to send bulk spam, and spam "kingpins" who use others to operate their spamming operations may be imprisoned for up to three years. Other offenders may be fined and imprisoned for no more than one year. Convicted offenders are also subject to forfeiture of proceeds and instrumentalities of the offense.

In addition to these criminal penalties, offenders are also subject to civil enforcement actions, which may be brought by either the Department of Justice or by an ISP. Civil remedies are important as a supplement to criminal enforcement for several reasons. First, bringing cases against outlaw spammers is very resource intensive because of the extensive forensic work involved in building a case; providing for civil enforcement will allow ISPs to assemble evidence to make prosecutors' jobs easier. Second, although criminal prosecutions are a critical deterrent against the most egregious spammers, the Justice Department is unlikely to prosecute all outlaw spam cases; civil enforcement, backed by strong financial penalties, will serve as a second layer of deterrence. Third, criminal penalties may not be appropriate in all cases, as for example in the case of teenagers hired by professional outlaw spammers to send out email for them; civil enforcement gives the Justice Department a more complete and refined range of tools to address specific outlaw spam problems.

That describes the main provisions of our bill. In addition, because commercial email can be, and is being, sent from all over the world into the virtual mailboxes of Americans, the bill directs the Administration to report on its efforts to achieve international cooperation in the investigation and prosecution of outlaw spammers.

Again, the purpose of the Criminal Spam Act is to deter the most pernicious and unscrupulous types of spammers—those who use trickery and deception to induce others to relay and view their messages. Ridding America's inboxes of deceptively delivered spam will significantly advance our fight against junk email. But the Criminal Spam Act is not a cure-all for the spam pandemic.

The fundamental problem inherent to spam—its sheer volume—may well persist even in the absence of fraudulent routing information and false identities. In a recent survey, 82 percent of respondents considered unsolicited bulk email, even from legitimate businesses, to be unwelcome spam. Given this public opinion, and in light of the fact that spam is, in essence, cost-shifted advertising, it may be wise to take a broader approach to our fight against spam.

One approach that has achieved substantial support is to require all commercial email to include an "opt out" mechanism, that is, a mechanism for consumers to opt out of receiving further unwanted spam. At the recent FTC forum, several experts expressed concerns about this approach, which permits spammers to send at least one piece of spam to each email address in their database, while placing the burden on email recipients to respond. People who receive dozens, even hundreds, of unwanted emails each day would have little time or energy for anything other than opting-out from unwanted spam.

According to one organization's calculations, if just one percent of the approximately 24 million small businesses in the U.S. sent every American just one spam a year, that would amount to over 600 pieces of spam for each person to sift through and opt-out of each day. And this figure may be conservative, as it does not include the large businesses that also engage in online advertising.

A second possible approach to spam—a national "Do Not Spam" registry—raises a different but no less difficult set of concerns. The two FTC Commissioners who testified last month at the Senate Commerce Committee's hearing on spam both questioned the potential of a national registry to alleviate the spam problem. Although this approach would place a smaller burden on consumers than would an opt-out system, it would entail immense costs, complexity, and delay, all of which work in the spammers' favor.

A third way of attacking spam—and one that was favored by many panelists and audience members at the FTC forum—is to establish an opt-in system, whereby bulk commercial email may only be sent to individuals and businesses who have invited or consented to it. This approach has strong precedent in the Telephone Consumer Protection Act of 1991, TCPA, which Congress passed to eliminate similar cost-shifting, interference, and privacy problems associated with unsolicited commercial faxes. The TCPA's ban on faxes containing unsolicited advertisements has withstood First Amendment challenges in the courts, and was adopted by the European Union in July 2002.

I have discussed three possible approaches to the spam problem, and there are several others, some of which have already been codified in state law. I encourage the consideration of all these anti-spam approaches in the weeks and months to come.

Reducing the volume of junk commercial email, and so protecting legitimate Internet communications, will not be easy. There are important First Amendment interests to consider, as well as the need to preserve the ability of legitimate marketers to use email responsibly. If Congress does act, it must get it right, so as not to exacerbate an already terribly vexing problem.

The Criminal Spam Act is a first step in countering spam. If we can shut down the spammers who use deception to evade filters and confuse consumers, we will give the next generation of anti-spam technologies a chance to do their work. Our bill targets the most egregious offenders, it provides a much-needed federal cause of action, and it allows the states to continue to serve as a "laboratory" for tough anti-spamming regulation. I urge its speedy enactment into law.

By Mrs. MURRAY (for herself, Mrs. BOXER, Ms. CANTWELL, Mr. KENNEDY, Mr. LEAHY, and Mr. PRYOR):

S. 1294. A bill to authorize grants for community telecommunications infrastructure planning and market development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. MURRAY. Mr. President, I rise today to introduce legislation to help rural and underserved communities across the country get connected to the information economy.

Today I am introducing the Community Telecommunication Planning Act of 2003. I am proud to have Senators BOXER, CANTWELL, KENNEDY, LEAHY, and PRYOR as original cosponsors. This bill will give small and rural communities a new tool to attract high speed services and economic development.

Representative INSLEE from my home State, along with several other members, will soon introduce a companion bill in the House. I appreciate him working with me to meet this challenge.

I am especially proud of how this legislation came about. For the last four years, I've been working with a group of community leaders in Washington State to find ways to help communities get connected to advanced telecommunications services.

I want to take a moment to thank the members of my Rural Telecommunication Working Group for their hard work on this bill. The members include: Brent Bahrenburg, Gregg Caudell, Dee Christensen, Dave Danner, Louis Fox, Tami Garrow, Larry Hall, Rod Fleck, Ray King, Dale King, Terry Lawhead, Dick Llarman, Jim Lowery, Jim Miller, Joe Poire, Skye Richendrfer, Ted Sprague, Jim Schmit, and Ron Yenney.

We met as a working group, and we held forums around the State that attracted hundreds of people. We've tapped the ideas of experts, service providers and people from across the State who are working to get their communities connected. The result is this legislation, which I am proud to say is part of Washington State's contribution to our national effort to connect all parts of our country to the Internet.

The bill was originally introduced in the 107th Congress. I was able to attach a version of it to the Farm Bill. Unfortunately, the provision was removed during Conference.

This bill addresses a real need in many communities. While urban and suburban areas have strong competition between telecommunications providers, many small and rural communities are far removed from the services they need.

We must ensure that all communities have access to advanced telecommunications like high speed internet access and the wireless Internet. Just as yesterday's infrastructure was built of roads and bridges, today our infrastructure includes advanced telecom services.

Advanced telecommunications can enrich our lives through activities like distance-learning, and they can even save lives through efforts like telemedicine. The key is access. Access to these services is already turning some small companies in rural communities into international marketers of goods and services.

Unfortunately, many small and rural communities are having trouble getting the access they need. Before communities can take advantage of some of the help and incentives that are out there, they need to work together and got through a community planning process. Community plans identify the needs and level of demand, create a vision for the future, and show what all the players must do to meet the telecom needs of their community for today and tomorrow. These plans take resources to develop, and my bill would provide those funds.

Providers say they're more likely to invest in an area if it has a plan that makes a business case for the costly infrastructure investment. Communities want to provide them with that plan, but they need help developing it. Unfortunately, many communities get struck on that first step. They don't have the resources to do the studies and planning required to attract service. So the members of my Working Group came up with a solution: have the Federal Government provide competitive grants that local communities can use to develop their plans. I took that idea and put it into this bill.

After determining what services they need, communities must then go out and make a market case to providers. That is why I've added "market development" to the list of allowable uses of grant funding.

While this bill deals with new technology, it's really just an extension of the infrastructure support the federal government traditionally provides to communities.

The Federal Government already provides money to help communities plan other infrastructure improvements—everything from roads and bridges to wastewater facilities. Because today's economic infrastructure includes advanced telecom services, I believe the Federal Government should provide similar support for local technology infrastructure.

In summary, this bill would provide rural and underserved communities with grant money for creating community plans, technical assessments and other analytical work, and it would allow these communities to use the funding to market these plans to providers.

With these grants, communities will be able to turn their desire for access into real access that can improve their communities and strengthen their economies. This bill can open the door for thousands of small and rural areas across our country to tap the potential of the information economy.

I urge the Senate to support this bill, and I look forward to working with my colleagues to see it passed.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Telecommunications Planning Act of 2003".

SEC. 2. COMMUNITY TELECOMMUNICATIONS PLANNING GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Each Secretary concerned may, using amounts authorized to be appropriated by the applicable paragraph of subsection (g), make grants to eligible entities described in subsection (b) for the community telecommunications infrastructure planning and market development purposes described in subsection (c).

(b) ELIGIBLE ENTITIES.—An entity eligible for a grant under this section is any local or tribal government, local non-profit entity, cooperative, public utility, or other public entity that proposes to use the amount of the grant for the community telecommunications infrastructure planning and market development purposes described in subsection (c).

(c) COMMUNITY TELECOMMUNICATIONS INFRASTRUCTURE PLANNING AND MARKET DEVELOPMENT.—Amounts from a grant made under this section shall be used for purposes of facilitating the development of a telecommunications infrastructure and market development plan for a locality by various means, including—

(1) by encouraging the involvement in the development of the plan of interested elements of the community concerned, including the business community, governments, telecommunications providers, and secondary and, where applicable, post-secondary educational institutions and their students;

(2) by enhancing the focus of the development of the plan on a wide range of telecommunications needs in the community concerned, including needs relating to local business, education, health care, and government;

(3) by enhancing the identification of a wide range of potential solutions for such needs through advanced telecommunications infrastructure; and

(4) by any other means that the Secretary concerned considers appropriate.

(d) GRANT PRIORITY FOR PLANNING FOR RURAL AND UNDERSERVED AREAS.—In making grants under this section, each Secretary concerned shall give priority to eligible entities that propose to use the grants for community telecommunications infrastructure planning and market development for rural areas or underserved areas.

(e) ADMINISTRATION.—Each Secretary concerned shall establish such administrative requirements for grants under this section, including requirements for applications for such grants, as such Secretary considers appropriate.

(f) DEFINITIONS.—In this section:

(1) RURAL AREA.—The term "rural area" means any county having a population density of less than 300 people per square mile as determined in the 2000 decennial census.

(2) SECRETARY CONCERNED.—The term "Secretary concerned" means each of the following:

(A) The Secretary of Commerce.

(B) The Secretary of Agriculture.

(C) The Secretary of Education.

(3) UNDERSERVED AREA.—The term "underserved area" means any census tract as determined in the 2000 decennial census which is located in—

(A) an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986;

(B) the District of Columbia Enterprise Zone established under section 1400 of the Internal Revenue Code of 1986;

(C) a renewal community designated under section 1400E of the Internal Revenue Code of 1986; or

(D) a low-income community designated under section 45D of the Internal Revenue Code of 1986.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of making grants under this section—

(1) for the Department of Commerce—

(A) $25,000,000 for fiscal year 2004; and

(B) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year;

(2) for the Department of Agriculture—

(A) $25,000,000 for fiscal year 2004; and

(B) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year; and

(3) for the Department of Education—

(A) $10,000,000 for fiscal year 2004; and

(B) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year.

By Mr. HATCH (for himself and Mr. TALENT):

S. 1297. A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance to the Flag; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise to introduce today the "Protect the Pledge Act of 2003." The Pledge of Allegiance to the Flag has been an integral part of this Nation's identity since its early days. It was first written by a Baptist minister in 1892 as part of the commemoration of the 400th Anniversary of the discovery of America. For over a century, children and adults have recited this Pledge in schools, in government and military ceremonies, and on other formal occasions. It represents a promise of loyalty to the Flag itself, to the country it represents, and to the government that unites all fifty states. Perhaps more importantly, for many people, its recitation represents as essential element of what it means to be an American.

In United States v. Newdow, the Ninth Circuit jeopardized the integrity of the Pledge of Allegiance. It held that a school district's policy of teacher-led recitation of the Pledge violates the First Amendment Establishment Cause because it includes the phrase "under God." This decision is simply wrong. It claims that the American flag symbolizes monotheism. It does no such thing. The Pledge represents our country, our independence, our government—simply, it represents liberty and justice for all. While the phrase "under God" undeniably has some religious connotation, it is a term of art with de minimus theological significance. It is not intended to establish a national religion or to prohibit the free exercise of religious beliefs. The thirty-one words of the Pledge of Allegiance, however, are worthy of reverence and respect. To eliminate the phrase "under God" would be equivalent to depicting the flag with forty-nine stars or twelve stripes. It changes the constitution of our American identity.

The "Protect the Pledge Act of 2003" prevents further judicial encroachment by eliminating federal jurisdiction of claims that the recitation of the Pledge violates the First Amendment. By passing this legislation, Congress is exercising its Constitutional duty to preserve the separation of powers. When the judiciary has oversteps its boundaries, as it has done in Newdow, Congress must act to protect the sanctity of the Pledge of Allegiance. This bill represents a reasoned response to Newdow. By limiting its scope to federal jurisdiction, it leaves open a potential remedy in state court, thereby obviating any due process concerns.

I am hopeful that my colleagues in both Houses will work expeditiously, on a bi-partisan basis, to enact this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protect the Pledge Act of 2003".

SEC. 2. JURISDICTION LIMITATION.

(a) IN GENERAL.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following:

"§ 1632. Jurisdiction limitation

"No court established by Act of Congress shall have jurisdiction to hear or determine any claim that the recitation of the Pledge of Allegiance to the Flag ('I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.') violates the first article of amendment to the Constitution of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:

"1632. Jurisdiction limitation.".

By Mr. AKAKA (for himself, Mr. LEAHY, and Mrs. BOXER):

S. 1298. A bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. AKAKA. Mr. President, I rise today to introduce the Downed Animal Protection Act, a bill to provide for the humane treatment, handling, and euthanasia of non-ambulatory, downed, livestock unable to stand or walk unassisted.

Farm animals such as cattle, sheep, swine, goats, horses, mules, and other equines that are too severely distressed and sick to move without assistance are often not handled humanely. Due to the extra effort and cost to individually feed and water non-ambulatory livestock, these animals routinely endure very poor conditions. In most cases, the level of suffering of downed animals is so severe that the most humane solution is to euthanize them as soon as possible. It is important to note that non-ambulatory livestock comprise a tiny fraction, less than one percent, of all animals at stockyards.

The humane euthanasia of non-ambulatory livestock would also protect human health. Many of the downed animals that survive in the stockyard are slaughtered for human consumption. A large majority of these non-ambulatory animals are contaminated with fecal matter, the main cause of Salmonella. U.S. citizen groups, such as the Parents of Sickened Children, have called for improved regulations to stop sickness and death from preventable diseases like Salmonella.

I commend responsible and conscientious livestock organizations and producers such as the United Stockyards Corporation, the Minnesota Livestock Marketing Association, the National Pork Producers Council, the Colorado Cattlemen's Association, and the Independent Cattlemen's Association of Texas for their efforts to address the issue of downed animals. However, the need for stronger legislation to ensure that non-ambulatory animals do not enter our food chain is evident, particularly with the recent discovery of Bovine Spongiform Encephalopathy BSE, in Canada.

The Downed Animal Protection Act will remove the incentive for sending non-ambulatory livestock to stockyards, thereby reducing the risk that these animals will be processed for human consumption and discouraging their inhumane treatment at farms and ranches. My bill will complement the industry's current efforts to address this problem and make the issue of downed animals a priority.

My legislation would set a uniform national standard, thereby removing any unfair advantage that might result from different standards throughout the industry. Furthermore, no additional bureaucracy will be needed as a consequence of my bill because inspectors regularly visit stockyards and slaughter facilities to enforce existing regulations. Thus, the additional burden on the agency and stockyard operators will be insignificant.

As I stated before, this bill will stop the inhumane and improper treatment of downed animals while also helping to ensure that our food supply remains safe. I encourage my colleagues to support this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Downed Animal Protection Act".

SEC. 2. UNLAWFUL SLAUGHTER PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

(a) IN GENERAL.—Section 10815 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1967) is amended—

(1) by redesignating subsection (c) as subsection (f);

(2) by striking subsections (a) and (b) and inserting the following:

"(a) DEFINITIONS.—In this section:

"(1) COVERED ENTITY.—The term 'covered entity' means—

"(A) a stockyard;
"(B) a market agency;
"(C) a dealer;
"(D) a slaughter facility; and
"(E) an establishment.

"(2) ESTABLISHMENT.—The term 'establishment' means an establishment that is covered by the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

"(3) HUMANELY EUTHANIZE.—The term 'humanely euthanize' means to kill an animal by mechanical, chemical, or other means that immediately renders the animal unconscious, with this state remaining until the death of the animal.

"(4) NONAMBULATORY LIVESTOCK.—The term 'nonambulatory livestock' means any cattle, sheep, swine, goats, or horses, mules, or other equines, that are unable to stand and walk unassisted.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(b) HUMANE TREATMENT, HANDLING, AND DISPOSITION.—The Secretary shall promulgate regulations to provide for the humane treatment, handling, and disposition of nonambulatory livestock by covered entities, including a requirement that nonambulatory livestock be humanely euthanized.

"(c) HUMANE EUTHANASIA.—

"(1) IN GENERAL.—Subject to paragraph (2), when an animal becomes nonambulatory, a covered entity shall immediately humanely euthanize the nonambulatory livestock.

"(2) DISEASE TESTING.—Paragraph (1) shall not limit the ability of the Secretary to test nonambulatory livestock for a disease, such as Bovine Spongiform Encephalopathy.

"(d) MOVEMENT.—

"(1) IN GENERAL.—A covered entity shall not move nonambulatory livestock while the nonambulatory livestock are conscious.

"(2) UNCONSCIOUSNESS.—In the case of any nonambulatory livestock that are moved, the covered entity shall ensure that the nonambulatory livestock remain unconscious until death.

"(e) INSPECTIONS.—It shall be unlawful for an establishment to pass through inspection any nonambulatory livestock.";

(3) in subsection (f) (as redesignated by paragraph (1))—

(A) in the first sentence—

(i) by inserting "this section and" after "enforcing"; and

(ii) by striking "subsection (b)" and inserting "this section"; and

(B) in the second sentence—

(i) by inserting "this section or" after "violates"; and

(ii) by striking "subsection (b)" and inserting "this section".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) take effect on the date that is 1 year after the date of enactment of this Act.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall promulgate final regulations to implement the amendments made by subsection (a).

By Ms. SNOWE (for herself and Ms. MURKOWSKI):

S. 1299. A bill to amend the Trade Act of 1974 to provide trade readjustment and development enhancement for America's communities, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise to introduce the "TRADE for America's Communities Act" in recognition of the critical need to provide economic development assistance to communities, across this Nation, that have been negatively impacted by trade. I am pleased to be joined by Senator MURKOWSKI in offering this critical legislation.

We are faced with a challenge to a U.S. trade program from the international community and with communities that are being left behind in an era of global commerce. Congress must make the difficult decisions to turn these two challenges into opportunities for this Nation. In 1999, I supported the Continued Dumping and Subsidy Offset Act, authored by Senator DEWINE, that used the revenue from countervailing and antidumping tariff duties to provide assistance to the firms that were affected by unfair trade. I supported that bill because it introduced an important policy principle: that the revenue from unfair trade should be used to help those hurt by trade.

Unfortunately, that act ran afoul of our international commitments. In January, the World Trade Organization ruled that this program was in violation of our Antidumping Agreement, and the President requested Congress repeal that program in order to bring the United States into compliance. While I cannot support a full repeal of this program, I believe the bill we are introducing today will bring the United States into compliance with our international obligations, while maintaining the principle that this money be used to help those hurt by trade.

In fact, the TRADE for America's Communities Act builds upon the strong foundation and principles of Senator DEWINE's program and it is my hope that other proponents of the CDSOA will support our efforts to address the needs of these communities. While it is necessary to live up to our international agreements, it is just as imperative that we live up to our responsibilities to the fishing towns, mining towns and mill towns of America where jobs have been lost.

With the momentum provided by the passage of Trade Promotion Authority, the President has put forth an agenda on a bilateral, regional and global basis that promotes the liberalization of trade. As the President has argued, this policy agenda creates new opportunities for prosperity and growth.

At the same time, we must never forget that opportunities of market access, improved consumer choice, and availability of manufacturing inputs, come with the price of transitions, dislocations, and shifts in the U.S. economy. These dynamic changes that are outgrowths from trade are similar to technological advances in productivity that leave workers out of jobs, or plants out of operation. However, while technological advances are the initiative of private enterprise, trade liberalization is the chosen policy of government. Free trade creates opportunities, but it also creates responsibilities that this government must embrace just as firmly as it embraces free trade.

The bill we are introducing today address these issues by giving the Department of Commerce the revenue from these tariffs, which currently goes to corporations, to provide technical assistance to communities that have been negatively impacted by trade, to develop strategic plans that would focus on creating and retaining jobs in a community and promote economic diversification. Once the strategic plans have been approved by the Department of Commerce, grants would be available, based on the needs of the community, to implement economic development projects, improve the local infrastructure, support the establishment of small businesses, and attract new businesses.

In small towns, where the livelihood of the local economy depends on one industry, one plant, or one company, that is suffering under trade liberalization, it can cause devastation when that steel mill, paper mill, or textile mill shuts down. In towns like East Millinocket, ME, where Great Northern Paper went bankrupt, or in Waterville, Maine, where Hathaway shut down their plant and moved shirt production overseas, local economies were sent into disarray. That is just part of the reason I was so adamant in my support last year for improvements in Trade Adjustment Assistance.

Congress did the right thing when we expanded TAA training and benefits in the Trade Act of 2002, but one of the complaints leveled against TAA was the concern over what these workers would be able to do with their new training in small towns that had few jobs to offer. The "TRADE for America's Communities Act" seeks to answer those concerns by ensuring that in towns where there may be few opportunities left, this government takes the first step towards providing hope through economic adjustment assistance.

The "TRADE for America's Communities Act" would lay the groundwork for an America where no community is left behind in the march towards a free and open global economy. As the Finance Committee continues its work on trade legislation and the numerous trade agreements being proposed by this Administration, I look forward to the opportunity to address the economic development needs of these communities.

By Ms. CANTWELL:

S. 1300. A bill to prohibit a health plan from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. CANTWELL. Mr. President, I rise today to offer the Prescription Drug Consumer Information Act. I believe this legislation will dramatically improve the way in which prescription drug benefits are provided to our Nation's 40 million senior citizens through the Medicare program.

The Prescription Drug Consumer Information Act is intended to provide some assurances that the billions of dollars being spent on this new prescription drug benefit for Medicare is going as far as possible. The Act is focused primarily on the practices of pharmacy benefit managers, the private companies that would most likely administer the new prescription drug benefit called for under the Prescription Drug Benefits Bill.

PBMs have come to dominate the prescription drug benefit market and subsequently, have been the target of criticism by the employers and health plans that contract with them. The source of the controversy has been the cost cutting practices of PBMs, which have allowed them to make prescription drug coverage more affordable. However, the fact that drug prices continue to rise in the face of these cost-cutting efforts, has led some to question PBM practices in the private sector. As we move forward in providing prescription drug coverage within a government-operated program as large as Medicare it is critical that there be adequate safeguards in place. My bill would provide greater scrutiny and auditing of PBMs contracting with the government and also provide some consumer protections for all Americans who purchase prescription drugs.

The market share of prescription drug benefits managed by PBMs has grown enormously in recent years. Currently, 90 percent of Americans with prescription drug coverage have their benefits administered by a PMB. Of that 90 percent, nearly 70 percent of those people are served by one of the four major PBM companies. PBMs provide benefits to nearly 200 million Americans, including 65 percent of the Nation's senior population. PBMs have become as powerful in the delivery of prescription drug services as the manufacturers which produce medications.

As PBMs have come to dominate the market, they are increasingly drawing the attention of State lawmakers struggling with skyrocketing prescription drug costs for state workers and large programs like Medicaid. As States focus on reducing pharmaceutical costs, suspicions are growing among state lawmakers and health department officials that the "behind-closed-doors" practices of PBMs are responsible for some of the escalating costs of prescription drugs. In 2002, Georgia become the first State to regulate PBMs by requiring they be licensed as pharmacies. This year, 19 States have introduced legislation to regulate or license PBMs.

At issue are the rebates, discounts and other savings that PBMs negotiate with drug manufacturers in exchange for giving their medications "preferred" status on the PBMs list of available drugs. Those contracts are a primary source of revenue for the PBMs and for the drug manufacturers who see use of their products increase as the PBM steers its massive consumer base toward the preferred drug. However, because PBMs are so secretive about their arrangements with manufacturers, it is difficult for PBM clients to know if a significant portion of the rebates are being passed back to them as the PBM promises.

PBMs also negotiate lower prices with pharmacies but fail to share those savings with consumers, particularly on generic drugs. A recent Wall Street Journal investigation found that for one drug fluoxetine, a generic of Prozac, PBMs were buying the drug from the pharmacy for about 30 cents a pill. However, most of the PBMs clients were paying $1.06 a pill based on the average markup formula. The PBM was pocketing the difference, which was 76 cents per pill. Multiply that by the number of fluoxetine pills dispensed by the PBMs and it is clear that these private companies are getting rich while consumers continue to pay unnecessarily high drug prices. This may be in the best interests of the PBMs shareholders, but it is a disservice to its customers, which turn to PBMs in an attempt to save money and lower drug costs.

Efforts to better understand the PBM industry have reinforced this attitude of secrecy and backroom deals. Last year, Senator DORGAN requested a General Accounting Office study of whether PBMs were sharing the savings achieved through rebates and discounts with the members of the Federal Employees Health Benefits Plan. Unfortunately, the study provided us with little understanding of how the PBM industry operates because GAO was denied access to the financial documents of the PBM companies. GAO had no way of fulfilling its obligation of reporting to Congress because the PBMs refused to disclose any information about rebates, discounts and other savings generated by FEHBP.

Yet, these same companies want the federal government to hand them billions of dollars for a new Medicare drug benefit without providing any accounting of how that money was spent. Allowing the PBMs to operate a government program in such secrecy is outrageous and would set a terrible policy precedent.

The Prescription Drug Consumer Information Act would improve this system with a five-part approach. First, the Act would eliminate potential conflicts of interest by prohibiting cross ownership of pharmaceutical manufacturing companies and PBMs. Second, it would contain costs by requiring that any PBM contracting with Medicare provide any cost savings negotiated with a pharmacy back to the PBM client, be that client an employer, a health plan or the government.

Third, it would require all pharmacies to disclose the retail cost of a prescription drug upon request by a consumer. Several States, including Washington State, Montana, New York, Oregon and Rhode Island, along with the Virgin Islands, currently require pharmacies to make retail prices available to consumers. This provision is desperately needed across the country. A 2002 survey conducted by the Washington State Attorney General's Office found that retail prices on prescriptions could vary as much as $25 within a city and within a pharmacy chain. All consumers should be able to comparison shop for the best price amongst pharmacies in their area but they cannot do that if they do not know the retail price of various drugs.

Fourth, the amendment would require PBMs on an annual basis to make public the percent of rebate received from the manufacturer that is passed back to the client, such as an employer, health plan or the government. The amendment does not require full public disclosure of the PBMs' negotiations with manufacturers because I realize that such a requirement could damage their ability to get good deals from the manufacturer. This disclosure does not have to take an all or nothing approach. The Act allows the PBM to keep private the specifics of their contracts, but at the same time provides senior citizens some assurance that they are benefiting from the savings achieved in those contracts.

Finally, my bill would strengthen the audit requirements for PBMs administering the Medicare drug benefit to ensure that PBMs are passing those rebates and other savings along to consumers. One of the problems for employers and health plans using PBMs now is that it is difficult for them to confirm that the PBM is meeting its contractual obligations to pass on a portion of its savings. Auditing provisions in my bill include complete disclosure of the amounts and types of rebates. The results of the audit would not become public, to ensure the PBMs ability to continue to negotiate discounted prices. This approach strikes a fair balance between the PBMs rights as private companies and the duty the PBMs have to share any savings generated by the new benefit with Medicare recipients.

Together, these provisions will ensure that senior citizens and the government are getting the most out of every dollar spent on a Medicare prescription drug benefit and that other consumers who purchase prescription drugs are armed with information before spending their hard-earned money.

Consumers should have some assurance that the private companies providing prescription drug insurance are not running up costs and cutting down coverage in an attempt to boost their own bottom lines. The Prescription Drug Consumer Information Act provides those assurances and protections.

By Mr. DEWINE (for himself and Mr. SCHUMER):

S. 1301. A bill to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and of other purposes; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with the Senator from New York, Mr. SCHUMER, to introduce the Video Voyeurism Prevention Act of 2003. Our legislation would criminalize the appalling practice of filming or photographing victims without their knowledge or consent under circumstances violating their privacy.

Video voyeurism encompasses what is referred to as "upskirting" or "downshirting." As the terms imply, this subset of video voyeurism involves the use of a tiny, undetectable camera to film up the skirt or down the shirt of an unsuspecting target, most often a woman. One of my constituents from Ohio became the victim of this shocking invasion of privacy while she was innocently enjoying a church festival with her 16-month old daughter. I would like to read you what she told the Cincinnati Enquirer newspaper in an article published on October 10, 2000:

> As I crouched down to put the baby in my stroller, I saw a video camera sticking out of his bag, taping up my dress. . . . It rocked my whole sense of security.

According to an ABCNEWS.com article that also published this story, this particular perpetrator had surreptitiously filmed a total of 13 women that day. Sadly, this is not an isolated event. The widespread availability of low-cost, high-resolution cameras has lead to an increase in the number of high-profile cases of "video-voyeurism" all over our country. Reports of women being secretly videotaped through their clothing at shopping malls, amusement parks, and other public places are far too common.

The impact of video voyeurism on its victims is greatly exacerbated by the Internet. As a result of Internet technology, the pictures that a voyeur captures can be disseminated to a worldwide audience in a matter of seconds. A State representative from Ohio, Representative Ed Jerse, stated it best when he told ABC News that when a woman's picture is posted on the Web, her privacy "could be violated millions of times."

Fortunately, my home State of Ohio has enacted a law that specifically targets video voyeurism. But Ohio is one of only a few States that have such a law. That means that in most areas around the country, victims of this practice are not only deprived of their security and their privacy but are left without any recourse against their perpetrator. As the defense attorney for one video voyeur aptly observed, "the criminal law necessarily lags behind technology and human ingenuity."

Our Video Voyeurism Prevention Act of 2003 seeks to close the gap in the law and ensure that video voyeurs will be punished for their acts. Our bill would make it a crime to videotape, photograph, film, or otherwise electronically record the naked or undergarment-clad genitals, pubic area, buttocks, or female breast of an individual without that individual's consent. This bill would help ensure that when a person has a reasonable expectation that he or she will not be videoed, filmed, or photographed as I have just described, that expectation of privacy will be recognized in and protected by the law. Additionally, our bill would make certain that perpetrators of video voyeurism are punished, by imposing a sentence of a fine or imprisonment for up to 1 year.

Importantly, however, the mens rea requirements included in this bill guarantee that only those who are truly guilty of this crime will be punished. To be charged with video voyeurism, an actor must intend to capture the prohibited image and must knowingly do so.

In closing, I strongly encourage my colleagues to support the Video Voyeurism Prevention Act of 2003. This legislation would help safeguard the privacy we all take for granted and would help ensure that our criminal law reflects the realities of our rapidly changing technology.

I ask unanimous consent that the text of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Video Voyeurism Prevention Act of 2003".

SEC. 2. PROHIBITION OF VIDEO VOYEURISM.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 87 the following new chapter:

"CHAPTER 88—PRIVACY

"Sec.
"1801. Video voyeurism.

"§ 1801. Video voyeurism

"(a) Whoever, in the special maritime and territorial jurisdiction of the United States, having the intent to capture an improper image of an individual, knowingly does so under circumstances violating the privacy of that individual, shall be fined under this title or imprisoned not more than one year, or both.

"(b) In this section—

"(1) the term 'captures', with respect to an image, means videotapes, photographs, films, or records by any electronic means;

"(2) the term 'improper image', with respect to an individual, means an image, captured without the consent of that individual, of the naked or undergarment clad genitals, pubic area, buttocks, or female breast of that individual; and

"(3) the term 'under circumstances violating the privacy of that individual' means under circumstances in which the individual exhibits an expectation that the improper image would not be made, in a situation in which a reasonable person would be justified in that expectation.".

(b) AMENDMENT TO PART ANALYSIS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 87 the following new item:

"88. Privacy .... 1801".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 176—RECOGNIZING THE NATIONAL HOCKEY LEAGUE'S NEW JERSEY DEVILS AND NATIONAL BASKETBALL ASSOCIATION'S NEW JERSEY NETS FOR THEIR ACCOMPLISHMENTS DURING THE 2002–2003 SEASON

Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 176

Whereas the New Jersey Devils defeated the Anaheim Mighty Ducks 3-0 on June 9, 2003 to win the Stanley Cup in 7 games;

Whereas the New Jersey Nets won the National Basketball Association (NBA) Eastern Conference' Championship and reached the NBA Finals for the second consecutive year before losing a closely contested series to the San Antonio Spurs in 6 games;

Whereas the Devils won their third Stanley Cup in the last 9 years, as many as any other team in that period;

Whereas the Devils and Nets have won over the State of New Jersey (where the first professional basketball game took place in 1898) with their skillful offenses and stifling defenses;

Whereas the Devils and Nets have come to epitomize the never-say-die spirit of the people of New Jersey and have both become an important part of the State and its identity;

Whereas the fans of both New Jersey teams have shown the same spirit and determination in support of their teams and deserve commendation for their loyalty in this season's playoffs;

Whereas the Devils had a 12 win, 1 loss record at the Continental Airlines Arena, the most home wins in the history of the Stanley Cup playoffs;

Whereas the Nets swept both the Boston Celtics and the Detroit Pistons during a 10-game winning streak in this season's playoffs;

Whereas Pat Burns, head coach of the New Jersey Devils, has enjoyed the kind of success that has eluded so many other great coaches, winning his first Stanley Cup title in his first season as head coach of the Devils;

Whereas Byron Scott, head coach of the New Jersey Nets, has guided the Nets to the most wins in franchise history, and has led them to the NBA Finals in 2 of his 3 seasons as head coach;

Whereas Martin Brodeur, regarded by many as the premier playoff goaltender in hockey history, recorded 3 shutouts in the Finals, giving him 7 shutouts during this season's playoffs and 20 during his illustrious postseason career;

Whereas the outstanding playmaking abilities of Jason Kidd, widely regarded as the best point guard in the NBA, has been key to the success of the Nets during the past 2 seasons;

Whereas the outstanding play of Ken Daneyko, Martin Brodeur, Scott Stevens, Sergei Brylin, and Scott Neidermayer has been a vital part of each of the 3 Stanley Cup Championships enjoyed by the New Jersey Devils organization;

Whereas Jason Kidd has superb teammates in Brandon Armstrong, Jason Collins, Lucious Harris, Richard Jefferson, Anthony Johnson, Kerry Kittles, Donny Marshall, Kenyon Martin, Dikembe Mutombo, Rodney Rogers, Brian Scalabrine, Tamar Slay, and Aaron Williams, allowing the team to win its second consecutive NBA Eastern Conference championship; and

Whereas the name of each Devils player will be inscribed on the Stanley Cup, including Tommy Albelin, Jiri Bicek, Martin Brodeur, Sergei Brylin, Ken Daneyko, Patrik Elias, Jeff Friesen, Brian Gionta, Scott Gomez, Jamie Langenbrunner, John Madden, Grant Marshall, Jim McKenzie, Scott Niedermayer, Joe Nieuwendyk, Jay Pandolfo, Brian Rafalski, Pascal Rheaume, Mike Rupp, Corey Schwab, Richard Schmelik, Scott Stevens, Turner Stevenson, Oleg Tverdovsky, and Colin White: Now, therefore, be it

Resolved, That the Senate congratulates—

(1) the New Jersey Devils for their determination, perseverance, and excellence in winning the National Hockey League's 2003 Stanley Cup; and

(2) the New Jersey Nets for their success during the 2002-2003 NBA season.

SENATE RESOLUTION 177—TO DIRECT THE SENATE COMMISSION ON ART TO SELECT AN APPROPRIATE SCENE COMMEMORATING THE GREAT COMPROMISE OF OUR FOREFATHERS ESTABLISHING A BICAMERAL CONGRESS WITH EQUAL STATE REPRESENTATION IN THE UNITED STATES SENATE, TO BE PLACED IN THE LUNETTE SPACE IN THE SENATE RECEPTION ROOM IMMEDIATELY ABOVE THE ENTRANCE INTO THE SENATE CHAMBER LOBBY, AND TO AUTHORIZE THE COMMITTEE ON RULES AND ADMINISTRATION TO OBTAIN TECHNICAL ADVICE AND ASSISTANCE IN CARRYING OUT ITS DUTIES

Mr. DODD submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. Res. 177

Resolved, That (a) a Member of the Senate or any other person may not remove a work of art, historical object, or an exhibit from the Senate wing of the Capitol or any Senate office building for personal use.

(b) For purposes of this resolution, the term "work of art, historical object, or an exhibit" means an item, including furniture, identified on the list (and any supplement to the list) required by section 4 of Senate Resolution 382, 90th Congress, as enacted into law by section 901(a) of Public Law 100-696 (2 U.S.C. 2104).

(c) For purposes of this resolution, the Senate Commission on Art shall update the list required by section 4 of Senate Resolution 382, 90th Congress (2 U.S.C. 2104) every 6 months after the date of adoption of this resolution and shall provide a copy of the updated list to the Committee on Rules and Administration.

AMENDMENTS SUBMITTED AND PROPOSED

SA 936. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table.

SA 937. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 938. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 939. Mr. DASCHLE (for himself, Mr. Nelson of Nebraska, Ms. Mikulski, and Mr. Johnson) proposed an amendment to the bill S. 1, supra.

SA 940. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 941. Mr. WYDEN (for himself, Mrs. Murray, and Mr. Smith) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 942. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 943. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 944. Mr. ENZI (for Ms. Cantwell) proposed an amendment to amendment SA 932 proposed by Mr. Enzi (for himself, Mr. Reed, and Mr. Pryor) to the bill S. 1, supra.

SA 945. Mr. GREGG (for himself, Mr. Schumer, Mr. McCain, Mr. Kennedy, Mr. Roberts, Mr. Edwards, Ms. Collins, Mr. Leahy, Mr. Johnson, Mr. Feingold, Mr. Harkin, Mr. Kohl, Mr. Smith, Ms. Stabenow, Mr. Miller, and Mr. Coleman) proposed an amendment to the bill S. 1, supra.

SA 946. Mr. DORGAN (for himself, Ms. Stabenow, Mr. Jeffords, Ms. Snowe, Mr. Johnson, Mr. Leahy, Mrs. Boxer, Mr. Pryor, Mr. Feingold, and Ms. Collins) proposed an amendment to the bill S. 1, supra.

SA 947. Mr. FRIST (for Mr. Cochran (for himself, Mr. Frist, Mr. Breaux, and Mr. Santorum)) proposed an amendment to amendment SA 946 proposed by Mr. Dorgan (for himself, Ms. Stabenow, Mr. Jeffords, Ms. Snowe, Mr. Johnson, Mr. Leahy, Mrs. Boxer, Mr. Pryor, Mr. Feingold, and Ms. Collins) to the bill S. 1, supra.

SA 948. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 949. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 950. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 936. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table, as follows:

At the end of subtitle C of title II, add the following:

SEC. . EXTENSION OF DEMONSTRATION FOR ESRD MANAGED CARE.

The Secretary shall extend without interruption, through December 31, 2007, the approval of the demonstration project, Contract No. H1021, under the authority of section 2355(b)(1)(B)(iv) of the Deficit Reduction Act of 1984, as amended by section 13567 of the Omnibus Reconciliation Act of 1993. Such approval shall be subject to the terms and conditions in effect for the 2002 project year with respect to eligible participants and covered benefits. The Secretary shall set the monthly capitation rate for enrollees on the basis of the reasonable medical and direct administrative costs of providing those benefits to such participants.

SA 937. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table, as follows:

At the end of subtitle B of title IV, add the following:

SEC. . PROHIBITION OF INCIDENTAL FEES AND REQUIRED PURCHASE OF NONCOVERED ITEMS OR SERVICES UNDER MEDICARE.

(a) In General.—Section 1842 (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(u) Prohibition of Incidental Fees or Requiring Purchase of Noncovered Items or Services.—

"(1) In general.—A physician, practitioner (as described in section 1842(b)(18)(C)), or other individual may not—

"(A) charge a membership fee or any other incidental fee to a medicare beneficiary (as defined in section 1802(b)(5)(A)); or

"(B) require a medicare beneficiary (as so defined) to purchase a noncovered item or service,

as a prerequisite for the provision of a covered item or service to the beneficiary under this title.

"(2) Construction.—Nothing in this subsection shall be construed to apply the prohibition under paragraph (1) to a physician, practitioner, or other individual described in such subsection who does not accept any funds under this title.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to membership fees and other charges made, or purchases of items and services required, on or after the date of enactment of this Act.

SA 938. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title IV, add the following:

SEC. . GAO STUDY AND REPORT ON THE PROPAGATION OF CONCIERGE CARE.

(a) Study.—

(1) In general.—The Comptroller General of the United States shall conduct a study on concierge care (as defined in paragraph (2)) to determine the extent to which such care—

(A) is used by medicare beneficiaries (as defined in section 1802(b)(5)(A) of the Social Security Act (42 U.S.C. 1395a(b)(5)(A))); and

(B) has impacted upon the access of medicare beneficiaries (as so defined) to items and services for which reimbursement is provided under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) Concierge care.—In this section, the term "concierge care" means an arrangement under which, as a prerequisite for the provision of a health care item or service to an individual, a physician, practitioner (as described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C))), or other individual—

(A) charges a membership fee or another incidental fee to an individual desiring to receive the health care item or service from such physician, practitioner, or other individual; or

(B) requires the individual desiring to receive the health care item or service from such physician, practitioner, or other individual to purchase an item or service.

(b) Report.—Not later than the date that is 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a)(1) together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.

SA 939. Mr. DASCHLE (for himself, Mr. Nelson of Nebraska, Ms. Mikulski, and Mr. Johnson) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

On page 103, strike lines 10 though 13 and insert the following:

"(B) the lesser of—

"(i) the amount by which the monthly plan premium approved by the Administrator for the plan exceeds the amount of the monthly national average premium; or

"(ii) in the case of an eligible beneficiary who is enrolled in a Medicare Prescription Drug plan that provides standard prescription drug coverage or an actuarially equivalent prescription drug coverage and does not provide additional prescription drug coverage pursuant to section 1860D–6(a)(2), an amount equal to 10 percent of the amount of the monthly national average premium.

On page 77, strike lines 10 through 22 and insert the following:

"(A) In general.—In the case of an eligible beneficiary receiving access to qualified prescription drug coverage through enrollment with an entity with a contract under paragraph (1)(B), the monthly beneficiary obligation of such beneficiary for such enrollment shall be an amount equal to the lesser of—

"(i) the applicable percent (for the area in which the beneficiary resides, as determined under section 1860D–17(c)) of the monthly national average premium (as computed under section 1860D–15) for the year as adjusted using the geographic adjuster under subparagraph (B); or

"(ii) 110 percent of an amount equal to the applicable percent (as determined under section 1860D–17(c) before any adjustment under paragraph (2) of such section) of the monthly national average premium (as computed under section 1860D–15 before any adjustment under subsection (b) of such section) for the year.

SA 940. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 200, between lines 13 and 14, insert the following:

SEC. . ACCESS TO DISCOUNTED PRESCRIPTION DRUGS.

(a) In General.—From amounts made available under subsection (c), the Secretary of Health and Human Services shall award grants to covered entities described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)) to enable such entities to pay the start-up costs associated with the establishment of pharmacies to provide covered drugs under such section 340B.

(b) Application.—To be eligible to receive a grant under subsection (a), a covered entity shall prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(c) Funding.—There shall be made available from the Prescription Drug Account established under section 1860DD-25 of the Social Security Act, **$300,000,000** to carry out this section. Amounts made available under this subsection shall remain available until expended.

SA 941. Mr. WYDEN (for himself, Mrs. Murray, and Mr. Smith) submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. . MEDPAC STUDY ON MEDICARE PAYMENTS AND EFFICIENCIES IN THE HEALTH CARE SYSTEM.

Not later than 18 months after the date of enactment of this Act, the Medicare Payment Advisory Commission established under section 1805 of the Social Security Act (42 U.S.C. 1395b–6) shall provide Congress with recommendations to recognize and reward, within payment methodologies for physicians and hospitals established under the medicare program under title XVIII of the Social Security Act, efficiencies, and the lower utilization of services created by the practice of medicine in historically efficient and low-cost areas. Measures of efficiency recognized in accordance with the preceding sentence shall include—

(1) shorter hospital stays than the national average;

(2) fewer physician visits than the national average;

(3) fewer laboratory tests than the national average;

(4) a greater utilization of hospice services than the national average; and

(5) the efficacy of disease management and preventive health services.

SA 942. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, after line 22, insert the following:

SEC. 133. PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS.

(a) Medicare.—Subpart 3 of part D of title XVIII of the Social Security Act (as added by section 101) is amended by adding at the end the following new section:

"PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS

"Sec. 1860D–27. Notwithstanding any other provision of law, an eligible entity offering a Medicare Prescription Drug plan under this part or a MedicareAdvantage organization offering a MedicareAdvantage plan under part C shall not enter into a contract with any pharmacy benefit manager (in this section referred to as a 'PBM') to manage the prescription drug coverage provided under such plan, or to control the costs of such coverage, unless the PBM satisfies the following requirements:

"(1) The PBM is not owned by a pharmaceutical manufacturing company.

"(2) The PBM agrees to pass along any cost savings negotiated with a pharmacy to the Medicare Prescription Drug plan or the MedicareAdvantage plan.

"(3) The PBM agrees to make public on an annual basis the percent of manufacturer's rebates received by the PBM that is passed back to the Medicare Prescription Drug plan or the MedicareAdvantage plan on a drug-by-drug basis.

"(4) The PBM agrees to provide, at least annually, the Medicare Prescription Drug plan or the MedicareAdvantage plan with all financial and utilization information requested by the plan relating to the provision of benefits to eligible beneficiaries through the PBM and all financial and utilization information relating to services provided to the plan. A PBM providing information under this paragraph may designate that information as confidential. Information designated as confidential by a PBM and provided to a plan under this paragraph may not be disclosed to any person without the consent of the PBM.

“(5) The PBM agrees to provide, at least annually, the Medicare Prescription Drug plan or the MedicareAdvantage plan with all financial terms and arrangements for remuneration of any kind that apply between the PBM and any prescription drug manufacturer or labeler, including formulary management and drug-switch programs, educational support, claims processing and pharmacy network fees that are charged from retail pharmacies and data sales fees.

“(6) The PBM agrees to disclose the retail cost of a prescription drug upon request by a consumer.”.

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

“SEC. 714. PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS.

“The provisions of section 1860D-27 of the Social Security Act shall apply to a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, in the same manner as such provisions apply to an eligible entity offering a Medicare Prescription Drug plan under part D of title XVIII of the Social Security Act or to a MedicareAdvantage organization offering a MedicareAdvantage plan under part C of title XVIII of that Act.”.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following:

“Sec. 714. Pharmacy benefit managers transparency requirements.”.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(c) AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.—

(1) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

“SEC. 2707. PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS.

“The provisions of section 1860D-27 of the Social Security Act shall apply to a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan, in the same manner as such provisions apply to an eligible entity offering a Medicare Prescription Drug plan under part D of title XVIII of the Social Security Act or to a MedicareAdvantage organization offering a MedicareAdvantage plan under part C of title XVIII of that Act.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to group health plans and health insurance issuers in connection with group health plans for plan years beginning on or after the date of enactment of this Act.

(d) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.—

(1) IN GENERAL.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-51 et seq.) is amended—

(A) by redesignating such subpart as subpart 2; and

(B) by adding at the end the following:

“SEC. 2753. PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS.

“The provisions of section 1860D-27 of the Social Security Act shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to an eligible entity offering a Medicare Prescription Drug plan under part D of title XVIII of the Social Security Act or to a MedicareAdvantage organization offering a MedicareAdvantage plan under part C of title XVIII of that Act.”.

(2) EFFECTIVE DATE.—The amendment made by subsection (c)(1)(B) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the date of enactment of this Act.

(e) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by inserting after section 9812 the following:

“SEC. 9813. PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS.

“The provisions of section 1860D-27 of the Social Security Act shall apply to a group health plan in the same manner as they apply to an eligible entity offering a Medicare Prescription Drug plan under part D of title XVIII of the Social Security Act or to a MedicareAdvantage organization offering a MedicareAdvantage plan under part C of title XVIII of that Act.”.

(2) CLERICAL AMENDMENT.—The table of contents for chapter 100 of such Code is amended by inserting after the item relating to section 9812 the following

“Sec. 9813. Required coverage of young adults.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to plan years beginning on or after the date of enactment of this Act.

SA 943. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 516, after line 22, add the following:

SEC. . INCENTIVE PAYMENT IN MEDICARE HEALTH PROFESSIONAL SHORTAGE AREAS DEMONSTRATION PROJECT.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

“INCENTIVE PAYMENTS IN MEDICARE HEALTH PROFESSIONAL SHORTAGE AREAS DEMONSTRATION PROJECT

“SEC. 1897. (a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary shall establish a demonstration project under which—

“(A) pursuant to paragraph (3), the Secretary designates areas in a State selected under paragraph (5) as medicare health professional shortage areas; and

“(B) an incentive payment is provided under part B to primary care physicians for each physician's service (as defined in section 1861(q)) that is furnished in a medicare health professional shortage area to an individual enrolled under such part.

“(2) PRIMARY CARE PHYSICIAN DEFINED.—For purposes of this section, the term 'primary care physician' has the meaning given such term for purposes of designating health professional shortage areas under section 332(a) of the Public Health Service Act (42 U.S.C. 254e(a)).

“(3) DESIGNATION OF AREAS.—The Secretary shall designate an area in a State selected under paragraph (5) as a medicare health professional shortage area if the Secretary determines, using the methodology established under subsection (b)(1)(B), that individuals enrolled under part B and residing in the area have inadequate access to primary care physicians.

“(4) TERMS AND CONDITIONS.—

“(A) INCENTIVE PAYMENT IN ADDITION TO PAYMENT OTHERWISE MADE.—

“(i) IN GENERAL.—Subject to clause (ii), the incentive payment made under the demonstration project for a physician's service shall be in addition to the amount otherwise made for the service under part B.

“(ii) NO PAYMENTS UNDER THE INCENTIVE PAYMENT PROGRAM IN A DEMONSTRATION STATE DURING OPERATION OF THE DEMONSTRATION PROGRAM.—Subject to subparagraph (D), notwithstanding section 1833(m), during the operation of the demonstration project in a State selected under paragraph (5), the Secretary may not make any incentive payment to any physician under such section for any service furnished in any part of such State, regardless of—

“(I) whether the physician is eligible for bonus payments under the demonstration program; and

“(II) where the service was furnished in the State.

“(B) AMOUNT OF INCENTIVE PAYMENT.—The amount of the incentive payment for a physician's service furnished under the demonstration project shall be an amount equal to 40 percent of the payment amount for the service under part B.

“(C) NO EFFECT ON AMOUNT OF COINSURANCE AN INDIVIDUAL IS REQUIRED TO PAY.—The amount of any coinsurance that an individual enrolled under part B is responsible for paying with respect to a physicians' service furnished to the individual shall be determined as if this section had not been enacted.

“(D) NO EFFECT ON PAYMENTS TO CRITICAL ACCESS HOSPITALS.—The amount of payment for outpatient critical access services of a critical access hospital under section 1834(g) shall be determined as if this section had not been enacted.

“(5) DEMONSTRATION SITES.—The Secretary shall conduct the demonstration project in 5 States selected by the Secretary as demonstration sites.

“(6) AUTOMATION OF INCENTIVE PAYMENTS.—

“(A) IN GENERAL.—Under the demonstration project, incentive payments under paragraph (1)(B) to a primary care physician shall be made automatically to the physician rather than the physician being responsible for determining when a payment is required to be made under that paragraph.

“(B) INCENTIVE PAYMENT BASED ON ZIP CODES.—In order to comply with subparagraph (A), the Secretary shall establish procedures in which the amount of payment otherwise made for a physician's service is automatically increased by the amount of the incentive payment under the demonstration project if the service was furnished in any zip code that is entirely or partially in a designated medicare health professional shortage area in a State selected under paragraph (5).

“(7) DURATION.—The demonstration project shall be conducted for a 3-year period. The period for establishing the methodology under subsection (b) shall not be counted for purposes determining such 3-year period.

“(b) ESTABLISHMENT OF METHODOLOGY FOR ASSISTING SECRETARY IN DESIGNATING MEDICARE HEALTH PROFESSIONAL SHORTAGE AREAS.—

“(1) IN GENERAL.—The Secretary shall select 1 or more Federal rural health research centers within the Health Resources Services Administration to establish a methodology to assist the Secretary in designating areas within the States selected under subsection (a)(5) as medicare health professional shortage areas pursuant to subsection (a)(3).

“(2) RULES FOR ESTABLISHING METHODOLOGY.—

“(A) IN GENERAL.—The methodology established under paragraph (1) shall address—

“(i) how to measure the percentage of the total population in an area that consists of individuals enrolled under part B; and

“(ii) the appropriate ratio of such individuals to primary care physicians in an area in order to ensure that such individuals have adequate access to services furnished by such physicians.

“(B) METHODOLOGY MAY BE SIMILAR TO METHODOLOGIES USED UNDER THE PUBLIC HEALTH SERVICE ACT.—The methodology established under paragraph (1) may be similar to methodologies utilized by the Secretary for designating areas, and population groups within areas, as health professional shortage areas under section 332(a) of the Public Health Service Act (42 U.S.C. 254e(a)).

“(C) CONSULTATION.—The Federal rural health research centers selected under paragraph (1) shall consult with the State and local medical societies of the States selected under subsection (a)(5) in establishing the methodology under paragraph (1).

“(c) NO EFFECT ON DESIGNATION AS A HEALTH PROFESSIONAL SHORTAGE AREA.—Except as provided in subsection (a)(4)(A)(ii), the designation of an area as a medicare health professional shortage area under subsection (a)(3) shall have no effect on the designation of such area as a health professional shortage area under section 332(a) of the Public Health Service Act (42 U.S.C. 254e(a)).

“(d) WAIVER AUTHORITY.—The Secretary may waive such requirements of title XI and this title as may be necessary for the purpose of carrying out the demonstration project.

“(e) REPORT.—

“(1) IN GENERAL.—Not later than 6 months after the completion of the demonstration project, the Secretary shall submit to Congress a report on such project.

“(2) CONTENTS.—The report submitted under paragraph (1) shall contain—

“(A) an evaluation of whether the demonstration project has had the effect of stabilizing, maintaining, or increasing access of individuals enrolled under part B to physicians' services furnished by primary care physicians, including whether the amount of the incentive payment is adequate to stabilize, maintain, or increase such access and if not, then what amount will;

“(B) a comparison of the effectiveness of the demonstration project in stabilizing, maintaining, or increasing such access with the effectiveness of other Federal, State, and local programs, such as the incentive program under section 1833(m), that are designed to stabilize, maintain, or increase such access;

“(C) recommendations for such legislation and administrative actions as the Secretary considers appropriate; and

“(D) any other items that the Secretary considers appropriate.

“(f) FUNDING.—

“(1) INCENTIVE PAYMENTS.—The Secretary shall use funds in the Federal Supplementary Medical Insurance Trust Fund under section 1841 to make the incentive payments under this section.

“(2) ESTABLISHMENT OF METHODOLOGY.—

“(A) IN GENERAL.—There is authorized to be appropriated **$6,000,000** to establish the methodology under subsection (b)(1).

“(B) AVAILABILITY.—Any amounts appropriated pursuant to subparagraph (A) shall remain available until expended.”.

SA 944. Mr. ENZI (for Ms. CANTWELL) proposed an amendment to amendment SA 932 proposed by Mr. ENZI (for himself, Mr. REED, and Mr. PRYOR) to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

On page 2 of amendment SA#932 between lines 18 and 19 strike “.” and insert the following: “with the auditor of the Administrator's choice.”

SA 945. Mr. GREGG (for himself, Mr. SCHUMER, Mr. MCCAIN, Mr. KENNEDY, Mr. ROBERTS, Mr. EDWARDS, Ms. COLLINS, Mr. LEAHY, Mr. JOHNSON, Mr. FEINGOLD, Mr. HARKIN, Mr. KOHL, Mr. SMITH, Ms. STABENOW, Mr. MILLER, and Mr. COLEMAN) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the end, add the following:

TITLE —ACCESS TO AFFORDABLE PHARMACEUTICALS

SEC. 01. SHORT TITLE.

This title may be cited as the “Greater Access to Affordable Pharmaceuticals Act”.

SEC. 02. 30-MONTH STAY-OF-EFFECTIVENESS PERIOD.

(a) ABBREVIATED NEW DRUG APPLICATIONS.—Section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) is amended—

(1) in paragraph (2), by striking subparagraph (B) and inserting the following:

“(B) NOTICE OF OPINION THAT PATENT IS INVALID OR WILL NOT BE INFRINGED.—

“(i) AGREEMENT TO GIVE NOTICE.—An applicant that makes a certification described in subparagraph (A)(vii)(IV) shall include in the application a statement that the applicant will give notice as required by this subparagraph.

“(ii) TIMING OF NOTICE.—An applicant that makes a certification described in subparagraph (A)(vii)(IV) shall give notice as required under this subparagraph—

“(I) if the certification is in the application, not later than 20 days after the date of the postmark on the notice with which the Secretary informs the applicant that the application has been filed; or

“(II) if the certification is in an amendment or supplement to the application, at the time at which the applicant submits the amendment or supplement, regardless of whether the applicant has already given notice with respect to another such certification contained in the application or in an amendment or supplement to the application.

“(iii) RECIPIENTS OF NOTICE.—An applicant required under this subparagraph to give notice shall give notice to—

“(I) each owner of the patent that is the subject of the certification (or a representative of the owner designated to receive such a notice); and

“(II) the holder of the approved application under subsection (b) for the drug that is claimed by the patent or a use of which is claimed by the patent (or a representative of the holder designated to receive such a notice).

“(iv) CONTENTS OF NOTICE.—A notice required under this subparagraph shall—

“(I) state that an application that contains data from bioavailability or bioequivalence studies has been submitted under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commercial manufacture, use, or sale of the drug before the expiration of the patent referred to in the certification; and

“(II) include a detailed statement of the factual and legal basis of the opinion of the applicant that the patent is invalid or will not be infringed.”; and

(2) in paragraph (5)—

(A) in subparagraph (B)—

(i) by striking “under the following” and inserting “by applying the following to each certification made under paragraph (2)(A)(vii)”; and

(ii) in clause (iii)—

(I) in the first sentence, by striking “unless” and all that follows and inserting “unless, before the expiration of 45 days after the date on which the notice described in paragraph (2)(B) is received, an action is brought for infringement of the patent that is the subject of the certification and for which information was submitted to the Secretary under subsection (b)(1) or (c)(2) before the date on which the application (excluding an amendment or supplement to the application), which the Secretary later determines to be substantially complete, was submitted.”; and

(II) in the second sentence—

(aa) by striking subclause (I) and inserting the following:

“(I) if before the expiration of such period the district court decides that the patent is invalid or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity), the approval shall be made effective on—

“(aa) the date on which the court enters judgment reflecting the decision; or

“(bb) the date of a settlement order or consent decree signed and entered by the court stating that the patent that is the subject of the certification is invalid or not infringed;”;

(bb) by striking subclause (II) and inserting the following:

“(II) if before the expiration of such period the district court decides that the patent has been infringed—

“(aa) if the judgment of the district court is appealed, the approval shall be made effective on—

“(AA) the date on which the court of appeals decides that the patent is invalid or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity); or

“(BB) the date of a settlement order or consent decree signed and entered by the court of appeals stating that the patent that is the subject of the certification is invalid or not infringed; or

“(bb) if the judgment of the district court is not appealed or is affirmed, the approval shall be made effective on the date specified by the district court in a court order under section 271(e)(4)(A) of title 35, United States Code;”;

(cc) in subclause (III), by striking “on the date of such court decision.” and inserting “as provided in subclause (I); or”; and

(dd) by inserting after subclause (III) the following:

“(IV) if before the expiration of such period the court grants a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug until the court decides the issues of patent validity and infringement and if the court decides that such patent has been infringed, the approval shall be made effective as provided in subclause (II).”;

(B) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively; and

(C) by inserting after subparagraph (B) the following:

“(C) Civil action to obtain patent certainty.—

“(i) Declaratory judgment absent infringement action.—If an owner of the patent or the holder of the approved application under subsection (b) for the drug that is claimed by the patent or a use of which is claimed by the patent does not bring a civil action against the applicant for infringement of the patent on or before the date that is 45 days after the date on which the notice given under paragraph (2)(B) was received, the applicant may bring a civil action against the owner or holder (but not against any owner or holder that has brought such a civil action against that applicant, unless that civil action was dismissed without prejudice) for a declaratory judgment under section 2201 of title 28, United States Code, that the patent is invalid or will not be infringed by the drug for which the applicant seeks approval.

“(ii) Counterclaim to infringement action.—

“(I) In general.—If an owner of the patent or the holder of the approved application under subsection (b) for the drug that is claimed by the patent or a use of which is claimed by the patent brings a patent infringement action against the applicant, the applicant may assert a counterclaim seeking an order requiring the holder to correct or delete the patent information submitted by the holder under subsection (b) or (c) on the ground that the patent does not claim either—

“(aa) the drug for which the application was approved; or

“(bb) an approved method of using the drug.

“(II) No independent cause of action.—Subclause (I) does not authorize the assertion of a claim described in subclause (I) in any civil action or proceeding other than a counterclaim described in subclause (I).

“(iii) No damages.—An applicant shall not be entitled to damages in a civil action under subparagraph (i) or a counterclaim under subparagraph (ii).”.

(b) Applications Generally.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subsection (b), by striking paragraph (3) and inserting the following:

“(3) Notice of opinion that patent is invalid or will not be infringed.—

“(A) Agreement to give notice.—An applicant that makes a certification described in paragraph (2)(A)(iv) shall include in the application a statement that the applicant will give notice as required by this paragraph.

“(B) Timing of notice.—An applicant that makes a certification described in paragraph (2)(A)(iv) shall give notice as required under this paragraph—

“(i) if the certification is in the application, not later than 20 days after the date of the postmark on the notice with which the Secretary informs the applicant that the application has been filed; or

“(ii) if the certification is in an amendment or supplement to the application, at the time at which the applicant submits the amendment or supplement, regardless of whether the applicant has already given notice with respect to another such certification contained in the application or in an amendment or supplement to the application.

“(C) Recipients of notice.—An applicant required under this paragraph to give notice shall give notice to—

“(i) each owner of the patent that is the subject of the certification (or a representative of the owner designated to receive such a notice); and

“(ii) the holder of the approved application under this subsection for the drug that is claimed by the patent or a use of which is claimed by the patent (or a representative of the holder designated to receive such a notice).

“(D) Contents of notice.—A notice required under this paragraph shall—

“(i) state that an application that contains data from bioavailability or bioequivalence studies has been submitted under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commercial manufacture, use, or sale of the drug before the expiration of the patent referred to in the certification; and

“(ii) include a detailed statement of the factual and legal basis of the opinion of the applicant that the patent is invalid or will not be infringed.”; and

(2) in subsection (c)(3)—

(A) in the first sentence, by striking “under the following” and inserting “by applying the following to each certification made under subsection (b)(2)(A)(iv)”;

(B) in subparagraph (C)—

(i) in the first sentence, by striking “unless” and all that follows and inserting “unless, before the expiration of 45 days after the date on which the notice described in subsection (b)(3) is received, an action is brought for infringement of the patent that is the subject of the certification and for which information was submitted to the Secretary under paragraph (2) or subsection (b)(1) before the date on which the application (excluding an amendment or supplement to the application) was submitted.”;

(ii) in the second sentence—

(I) by striking “paragraph (3)(B)” and inserting “subsection (b)(3)”;

(II) by striking clause (i) and inserting the following:

“(i) if before the expiration of such period the district court decides that the patent is invalid or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity), the approval shall be made effective on—

“(I) the date on which the court enters judgment reflecting the decision; or

“(II) the date of a settlement order or consent decree signed and entered by the court stating that the patent that is the subject of the certification is invalid or not infringed;”;

(III) by striking clause (ii) and inserting the following:

“(ii) if before the expiration of such period the district court decides that the patent has been infringed—

“(I) if the judgment of the district court is appealed, the approval shall be made effective on—

“(aa) the date on which the court of appeals decides that the patent is invalid or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity); or

“(bb) the date of a settlement order or consent decree signed and entered by the court of appeals stating that the patent that is the subject of the certification is invalid or not infringed; or

“(II) if the judgment of the district court is not appealed or is affirmed, the approval shall be made effective on the date specified by the district court in a court order under section 271(e)(4)(A) of title 35, United States Code;”;

(IV) in clause (iii), by striking “on the date of such court decision.” and inserting “as provided in clause (i); or”; and

(V) by inserting after clause (iii), the following:

“(iv) if before the expiration of such period the court grants a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug until the court decides the issues of patent validity and infringement and if the court decides that such patent has been infringed, the approval shall be made effective as provided in clause (ii).”; and

(iii) in the third sentence, by striking “paragraph (3)(B)” and inserting “subsection (b)(3)”;

(C) by redesignating subparagraph (D) as subparagraph (E); and

(D) by inserting after subparagraph (C) the following:

“(D) Civil action to obtain patent certainty.—

“(i) Declaratory judgment absent infringement action.—If an owner of the patent or the holder of the approved application under subsection (b) for the drug that is claimed by the patent or a use of which is claimed by the patent does not bring a civil action against the applicant for infringement of the patent on or before the date that is 45 days after the date on which the notice given under subsection (b)(3) was received, the applicant may bring a civil action against the owner or holder (but not against any owner or holder that has brought such a civil action against that applicant, unless that civil action was dismissed without prejudice) for a declaratory judgment under section 2201 of title 28, United States Code, that the patent is invalid or will not be infringed by the drug for which the applicant seeks approval.

“(ii) Counterclaim to infringement action.—

“(I) In general.—If an owner of the patent or the holder of the approved application under subsection (b) for the drug that is claimed by the patent or a use of which is claimed by the patent brings a patent infringement action against the applicant, the applicant may assert a counterclaim seeking an order requiring the holder to correct or delete the patent information submitted by the holder under subsection (b) or this subsection on the ground that the patent does not claim either—

"(aa) the drug for which the application was approved; or

"(bb) an approved method of using the drug.

"(II) NO INDEPENDENT CAUSE OF ACTION.—Subclause (I) does not authorize the assertion of a claim described in subclause (I) in any civil action or proceeding other than a counterclaim described in subclause (I).

"(iii) NO DAMAGES.—An applicant shall not be entitled to damages in a civil action under clause (i) or a counterclaim under clause (ii).".

(c) INFRINGEMENT ACTIONS.—Section 271(e) of title 35, United States Code, is amended by adding at the end the following:

"(5) The filing of an application described in paragraph (2) that includes a certification under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), and the failure of the owner of the patent to bring an action for infringement of a patent that is the subject of the certification before the expiration of 45 days after the date on which the notice given under subsection (b)(3) or (j)(2)(B) of that section is received, shall establish an actual controversy between the applicant and the patent owner sufficient to confer subject matter jurisdiction in the courts of the United States in any action brought by the applicant under section 2201 of title 28 for a declaratory judgment that any patent that is the subject of the certification is invalid or not infringed.".

(d) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsections (a), (b), and (c) apply to any proceeding under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) that is pending on or after the date of enactment of this Act regardless of the date on which the proceeding was commenced or is commenced.

(2) NOTICE OF OPINION THAT PATENT IS INVALID OR WILL NOT BE INFRINGED.—The amendments made by subsections (a)(1) and (b)(1) apply with respect to any certification under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) after the date of enactment of this Act in an application filed under subsection (b)(2) or (j) of that section or in an amendment or supplement to an application filed under subsection (b)(2) or (j) of that section.

(3) EFFECTIVE DATE OF APPROVAL.—The amendments made by subsections (a)(2)(A)(ii)(I) and (b)(2)(B)(i) apply with respect to any patent information submitted under subsection (b)(1) or (c)(2) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) made after the date of enactment of this Act.

SEC. 03. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

(a) IN GENERAL.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) (as amended by section 02) is amended—

(1) in subparagraph (B), by striking clause (iv) and inserting the following:

"(iv) 180-DAY EXCLUSIVITY PERIOD.—

"(I) DEFINITIONS.—In this paragraph:

"(aa) 180-DAY EXCLUSIVITY PERIOD.—The term '180-day exclusivity period' means the 180-day period ending on the day before the date on which an application submitted by an applicant other than a first applicant could become effective under this clause.

"(bb) FIRST APPLICANT.—The term 'first applicant' means an applicant that, on the first day on which a substantially complete application containing a certification described in paragraph (2)(A)(vii)(IV) is submitted for approval of a drug, submits a substantially complete application containing a certification described in paragraph (2)(A)(vii)(IV) for the drug.

"(cc) SUBSTANTIALLY COMPLETE APPLICATION.—As used in this subsection, the term 'substantially complete application' means an application under this subsection that on its face is sufficiently complete to permit a substantive review and contains all the information required by paragraph (2)(A).

"(dd) TENTATIVE APPROVAL.—

"(AA) IN GENERAL.—The term 'tentative approval' means notification to an applicant by the Secretary that an application under this subsection meets the requirements of paragraph (2)(A), but cannot receive effective approval because the application does not meet the requirements of this subparagraph, there is a period of exclusivity for the listed drug under subparagraph (E) or section 505A, or there is a 7-year period of exclusivity for the listed drug under section 527.

"(BB) LIMITATION.—A drug that is granted tentative approval by the Secretary is not an approved drug and shall not have an effective approval until the Secretary issues an approval after any necessary additional review of the application.

"(II) EFFECTIVENESS OF APPLICATION.—Subject to subparagraph (D), if the application contains a certification described in paragraph (2)(A)(vii)(IV) and is for a drug for which a first applicant has submitted an application containing such a certification, the application shall be made effective on the date that is 180 days after the date of the first commercial marketing of the drug (including the commercial marketing of the listed drug) by any first applicant."; and

(2) by inserting after subparagraph (C) the following:

"(D) FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.—

"(i) DEFINITION OF FORFEITURE EVENT.—In this subparagraph, the term 'forfeiture event', with respect to an application under this subsection, means the occurrence of any of the following:

"(I) FAILURE TO MARKET.—The first applicant fails to market the drug by the later of—

"(aa) the earlier of the date that is—

"(AA) 75 days after the date on which the approval of the application of the first applicant is made effective under subparagraph (B)(iii); or

"(BB) 30 months after the date of submission of the application of the first applicant; or

"(bb) with respect to the first applicant or any other applicant (which other applicant has received tentative approval), the date that is 75 days after the date as of which, as to each of the patents with respect to which the first applicant submitted a certification qualifying the first applicant for the 180-day exclusivity period under subparagraph (B)(iv), at least 1 of the following has occurred:

"(AA) In an infringement action brought against that applicant with respect to the patent or in a declaratory judgment action brought by that applicant with respect to the patent, a court enters a final decision from which no appeal (other than a petition to the Supreme Court for a writ of certiorari) has been or can be taken that the patent is invalid or not infringed.

"(BB) In an infringement action or a declaratory judgment action described in subitem (AA), a court signs a settlement order or consent decree that enters a final judgment that includes a finding that the patent is invalid or not infringed.

"(CC) The patent expires.

"(DD) The patent is withdrawn by the holder of the application approved under subsection (b).

"(II) WITHDRAWAL OF APPLICATION.—The first applicant withdraws the application or the Secretary considers the application to have been withdrawn as a result of a determination by the Secretary that the application does not meet the requirements for approval under paragraph (4).

"(III) AMENDMENT OF CERTIFICATION.—The first applicant amends or withdraws the certification for all of the patents with respect to which that applicant submitted a certification qualifying the applicant for the 180-day exclusivity period.

"(IV) FAILURE TO OBTAIN TENTATIVE APPROVAL.—The first applicant fails to obtain tentative approval of the application within 30 months after the date on which the application is filed, unless the failure is caused by a change in or a review of the requirements for approval of the application imposed after the date on which the application is filed.

"(V) AGREEMENT WITH ANOTHER APPLICANT, THE LISTED DRUG APPLICATION HOLDER, OR A PATENT OWNER.—The first applicant enters into an agreement with another applicant under this subsection for the drug, the holder of the application for the listed drug, or an owner of the patent that is the subject of the certification under paragraph (2)(A)(vii)(IV), the Federal Trade Commission or the Attorney General files a complaint, and there is a final decision of the Federal Trade Commission or the court with regard to the complaint from which no appeal (other than a petition to the Supreme Court for a writ of certiorari) has been or can be taken that the agreement has violated the antitrust laws (as defined in section 1 of the Clayton Act (15 U.S.C. 12), except that the term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that that section applies to unfair methods of competition).

"(VI) EXPIRATION OF ALL PATENTS.—All of the patents as to which the applicant submitted a certification qualifying it for the 180-day exclusivity period have expired.

"(ii) FORFEITURE.—The 180-day exclusivity period described in subparagraph (B)(iv) shall be forfeited by a first applicant if a forfeiture event occurs with respect to that first applicant.

"(iii) SUBSEQUENT APPLICANT.—If all first applicants forfeit the 180-day exclusivity period under clause (ii)—

"(I) approval of any application containing a certification described in paragraph (2)(A)(vii)(IV) shall be made effective in accordance with subparagraph (B)(iii); and

"(II) no applicant shall be eligible for a 180-day exclusivity period.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall be effective only with respect to an application filed under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) after the date of enactment of this Act for a listed drug for which no certification under section 505(j)(2)(A)(vii)(IV) of that Act was made before the date of enactment of this Act.

(2) COLLUSIVE AGREEMENTS.—If a forfeiture event described in section 505(j)(5)(D)(i)(V) of

that Act occurs in the case of an applicant, the applicant shall forfeit the 180-day period under section 505(j)(5)(B)(iv) of that Act without regard to when the first certification under section 505(j)(2)(A)(vii)(IV) of that Act for the listed drug was made.

(3) DECISION OF A COURT WHEN THE 180-DAY EXCLUSIVITY PERIOD HAS NOT BEEN TRIGGERED.—With respect to an application filed before, on, or after the date of enactment of this Act for a listed drug for which a certification under section 505(j)(2)(A)(vii)(IV) of that Act was made before the date of enactment of this Act and for which neither of the events described in subclause (I) or (II) of section 505(j)(5)(B)(iv) of that Act (as in effect on the day before the date of enactment of this Act) has occurred on or before the date of enactment of this Act, the term ``decision of a court'' as used in clause (iv) of section 505(j)(5)(B) of that Act means a final decision of a court from which no appeal (other than a petition to the Supreme Court for a writ of certiorari) has been or can be taken.

SEC. 04. BIOAVAILABILITY AND BIOEQUIVALENCE.

(a) IN GENERAL.—Section 505(j)(8) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(8)) is amended—

(1) by striking subparagraph (A) and inserting the following:

``(A)(i) The term `bioavailability' means the rate and extent to which the active ingredient or therapeutic ingredient is absorbed from a drug and becomes available at the site of drug action.

``(ii) For a drug that is not intended to be absorbed into the bloodstream, the Secretary may assess bioavailability by scientifically valid measurements intended to reflect the rate and extent to which the active ingredient or therapeutic ingredient becomes available at the site of drug action.''; and

(2) by adding at the end the following:

``(C) For a drug that is not intended to be absorbed into the bloodstream, the Secretary may establish alternative, scientifically valid methods to show bioequivalence if the alternative methods are expected to detect a significant difference between the drug and the listed drug in safety and therapeutic effect.''.

(b) EFFECT OF AMENDMENT.—The amendment made by subsection (a) does not alter the standards for approval of drugs under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

SEC. 05. REMEDIES FOR INFRINGEMENT.

Section 287 of title 35, United States Code, is amended by adding at the end the following:

``(d) CONSIDERATION.—In making a determination with respect to remedy brought for infringement of a patent that claims a drug or a method or using a drug, the court shall consider whether information on the patent was filed as required under 21 U.S.C. 355 (b) or (c), and, if such information was required to be filed but was not, the court may refuse to award treble damages under section 284.''.

SEC. 06. CONFORMING AMENDMENTS.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) in subsections (b)(1)(A)(i) and (c)(1)(A)(i), by striking ``(j)(5)(D)(ii)'' each place it appears and inserting ``(j)(5)(F)(ii)'';

(2) in subsections (b)(1)(A)(ii) and (c)(1)(A)(ii), by striking ``(j)(5)(D)'' each place it appears and inserting ``(j)(5)(F)''; and

(3) in subsections (e) and (l), by striking ``505(j)(5)(D)'' each place it appears and inserting ``505(j)(5)(F)''.

SA 946. Mr. DORGAN (for himself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEAHY, Mrs. BOXER, Mr. PRYOR, Mr. FEINGOLD, and Ms. COLLINS) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the end, add the following:

TITLE —IMPORTATION OF PRESCRIPTION DRUGS

SEC. 01. IMPORTATION OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804 and inserting the following:

``SEC. 804. IMPORTATION OF PRESCRIPTION DRUGS.

``(a) DEFINITIONS.—In this section:

``(1) IMPORTER.—The term `importer' means a pharmacist or wholesaler.

``(2) PHARMACIST.—The term `pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

``(3) PRESCRIPTION DRUG.—The term `prescription drug' means a drug subject to section 503(b), other than—

``(A) a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

``(B) a biological product (as defined in section 351 of the Public Health Service Act (42 U.S.C. 262));

``(C) an infused drug (including a peritoneal dialysis solution);

``(D) an intravenously injected drug; or

``(E) a drug that is inhaled during surgery.

``(4) QUALIFYING LABORATORY.—The term `qualifying laboratory' means a laboratory in the United States that has been approved by the Secretary for the purposes of this section.

``(5) WHOLESALER.—

``(A) IN GENERAL.—The term `wholesaler' means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A).

``(B) EXCLUSION.—The term `wholesaler' does not include a person authorized to import drugs under section 801(d)(1).

``(b) REGULATIONS.—The Secretary, after consultation with the United States Trade Representative and the Commissioner of Customs, shall promulgate regulations permitting pharmacists and wholesalers to import prescription drugs from Canada into the United States.

``(c) LIMITATION.—The regulations under subsection (b) shall—

``(1) require that safeguards be in place to ensure that each prescription drug imported under the regulations complies with section 505 (including with respect to being safe and effective for the intended use of the prescription drug), with sections 501 and 502, and with other applicable requirements of this Act;

``(2) require that an importer of a prescription drug under the regulations comply with subsections (d)(1) and (e); and

``(3) contain any additional provisions determined by the Secretary to be appropriate as a safeguard to protect the public health or as a means to facilitate the importation of prescription drugs.

``(d) INFORMATION AND RECORDS.—

``(1) IN GENERAL.—The regulations under subsection (b) shall require an importer of a prescription drug under subsection (b) to submit to the Secretary the following information and documentation:

``(A) The name and quantity of the active ingredient of the prescription drug.

``(B) A description of the dosage form of the prescription drug.

``(C) The date on which the prescription drug is shipped.

``(D) The quantity of the prescription drug that is shipped.

``(E) The point of origin and destination of the prescription drug.

``(F) The price paid by the importer for the prescription drug.

``(G) Documentation from the foreign seller specifying—

``(i) the original source of the prescription drug; and

``(ii) the quantity of each lot of the prescription drug originally received by the seller from that source.

``(H) The lot or control number assigned to the prescription drug by the manufacturer of the prescription drug.

``(I) The name, address, telephone number, and professional license number (if any) of the importer.

``(J)(i) In the case of a prescription drug that is shipped directly from the first foreign recipient of the prescription drug from the manufacturer:

``(I) Documentation demonstrating that the prescription drug was received by the recipient from the manufacturer and subsequently shipped by the first foreign recipient to the importer.

``(II) Documentation of the quantity of each lot of the prescription drug received by the first foreign recipient demonstrating that the quantity being imported into the United States is not more than the quantity that was received by the first foreign recipient.

``(III)(aa) In the case of an initial imported shipment, documentation demonstrating that each batch of the prescription drug in the shipment was statistically sampled and tested for authenticity and degradation.

``(bb) In the case of any subsequent shipment, documentation demonstrating that a statistically valid sample of the shipment was tested for authenticity and degradation.

``(ii) In the case of a prescription drug that is not shipped directly from the first foreign recipient of the prescription drug from the manufacturer, documentation demonstrating that each batch in each shipment offered for importation into the United States was statistically sampled and tested for authenticity and degradation.

``(K) Certification from the importer or manufacturer of the prescription drug that the prescription drug—

``(i) is approved for marketing in the United States; and

``(ii) meets all labeling requirements under this Act.

``(L) Laboratory records, including complete data derived from all tests necessary to ensure that the prescription drug is in compliance with established specifications and standards.

``(M) Documentation demonstrating that the testing required by subparagraphs (J) and (L) was conducted at a qualifying laboratory.

``(N) Any other information that the Secretary determines is necessary to ensure the protection of the public health.

``(2) MAINTENANCE BY THE SECRETARY.—The Secretary shall maintain information and documentation submitted under paragraph (1) for such period of time as the Secretary determines to be necessary.

"(e) TESTING.—The regulations under subsection (b) shall require—

"(1) that testing described in subparagraphs (J) and (L) of subsection (d)(1) be conducted by the importer or by the manufacturer of the prescription drug at a qualified laboratory;

"(2) if the tests are conducted by the importer—

"(A) that information needed to—

"(i) authenticate the prescription drug being tested; and

"(ii) confirm that the labeling of the prescription drug complies with labeling requirements under this Act;

be supplied by the manufacturer of the prescription drug to the pharmacist or wholesaler; and

"(B) that the information supplied under subparagraph (A) be kept in strict confidence and used only for purposes of testing or otherwise complying with this Act; and

"(3) may include such additional provisions as the Secretary determines to be appropriate to provide for the protection of trade secrets and commercial or financial information that is privileged or confidential.

"(f) REGISTRATION OF FOREIGN SELLERS.—Any establishment within Canada engaged in the distribution of a prescription drug that is imported or offered for importation into the United States shall register with the Secretary the name and place of business of the establishment.

"(g) SUSPENSION OF IMPORTATION.—The Secretary shall require that importations of a specific prescription drug or importations by a specific importer under subsection (b) be immediately suspended on discovery of a pattern of importation of that specific prescription drug or by that specific importer of drugs that are counterfeit or in violation of any requirement under this section, until an investigation is completed and the Secretary determines that the public is adequately protected from counterfeit and violative prescription drugs being imported under subsection (b).

"(h) APPROVED LABELING.—The manufacturer of a prescription drug shall provide an importer written authorization for the importer to use, at no cost, the approved labeling for the prescription drug.

"(i) PROHIBITION OF DISCRIMINATION.—

"(1) IN GENERAL.—It shall be unlawful for a manufacturer of a prescription drug to discriminate against, or cause any other person to discriminate against, a pharmacist or wholesaler that purchases or offers to purchase a prescription drug from the manufacturer or from any person that distributes a prescription drug manufactured by the drug manufacturer.

"(2) DISCRIMINATION.—For the purposes of paragraph (1), a manufacturer of a prescription drug shall be considered to discriminate against a pharmacist or wholesaler if the manufacturer enters into a contract for sale of a prescription drug, places a limit on supply, or employs any other measure, that has the effect of—

"(A) providing pharmacists or wholesalers access to prescription drugs on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser (other than a charitable or humanitarian organization) of the prescription drug; or

"(B) restricting the access of pharmacists or wholesalers to a prescription drug that is permitted to be imported into the United States under this section.

"(j) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, section 801(d)(1) continues to apply to a prescription drug that is donated or otherwise supplied at no charge by the manufacturer of the drug to a charitable or humanitarian organization (including the United Nations and affiliates) or to a government of a foreign country.

"(k) WAIVER AUTHORITY FOR IMPORTATION BY INDIVIDUALS.—

"(1) DECLARATIONS.—Congress declares that in the enforcement against individuals of the prohibition of importation of prescription drugs and devices, the Secretary should—

"(A) focus enforcement on cases in which the importation by an individual poses a significant threat to public health; and

"(B) exercise discretion to permit individuals to make such importations in circumstances in which—

"(i) the importation is clearly for personal use; and

"(ii) the prescription drug or device imported does not appear to present an unreasonable risk to the individual.

"(2) WAIVER AUTHORITY.—

"(A) IN GENERAL.—The Secretary may grant to individuals, by regulation or on a case-by-case basis, a waiver of the prohibition of importation of a prescription drug or device or class of prescription drugs or devices, under such conditions as the Secretary determines to be appropriate.

"(B) GUIDANCE ON CASE-BY-CASE WAIVERS.—The Secretary shall publish, and update as necessary, guidance that accurately describes circumstances in which the Secretary will consistently grant waivers on a case-by-case basis under subparagraph (A), so that individuals may know with the greatest practicable degree of certainty whether a particular importation for personal use will be permitted.

"(3) DRUGS IMPORTED FROM CANADA.—In particular, the Secretary shall by regulation grant individuals a waiver to permit individuals to import into the United States a prescription drug that—

"(A) is imported from a licensed pharmacy for personal use by an individual, not for resale, in quantities that do not exceed a 90-day supply;

"(B) is accompanied by a copy of a valid prescription;

"(C) is imported from Canada, from a seller registered with the Secretary;

"(D) is a prescription drug approved by the Secretary under chapter V;

"(E) is in the form of a final finished dosage that was manufactured in an establishment registered under section 510; and

"(F) is imported under such other conditions as the Secretary determines to be necessary to ensure public safety.

"(l) STUDIES; REPORTS.—

"(1) BY THE INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMY OF SCIENCES.—

"(A) STUDY.—

"(i) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct a study of—

"(I) importations of prescription drugs made under the regulations under subsection (b); and

"(II) information and documentation submitted under subsection (d).

"(ii) REQUIREMENTS.—In conducting the study, the Institute of Medicine shall—

"(I) evaluate the compliance of importers with the regulations under subsection (b);

"(II) compare the number of shipments under the regulations under subsection (b) during the study period that are determined to be counterfeit, misbranded, or adulterated, and compare that number with the number of shipments made during the study period within the United States that are determined to be counterfeit, misbranded, or adulterated; and

"(III) consult with the Secretary, the United States Trade Representative, and the Commissioner of Patents and Trademarks to evaluate the effect of importations under the regulations under subsection (b) on trade and patent rights under Federal law.

"(B) REPORT.—Not later than 2 years after the effective date of the regulations under subsection (b), the Institute of Medicine shall submit to Congress a report describing the findings of the study under subparagraph (A).

"(2) BY THE COMPTROLLER GENERAL.—

"(A) STUDY.—The Comptroller General of the United States shall conduct a study to determine the effect of this section on the price of prescription drugs sold to consumers at retail.

"(B) REPORT.—Not later than 18 months after the effective date of the regulations under subsection (b), the Comptroller General of the United States shall submit to Congress a report describing the findings of the study under subparagraph (A).

"(m) CONSTRUCTION.—Nothing in this section limits the authority of the Secretary relating to the importation of prescription drugs, other than with respect to section 801(d)(1) as provided in this section.

"(n) EFFECTIVENESS OF SECTION.—

"(1) IN GENERAL.—If, after the date that is 1 year after the effective date of the regulations under subsection (b) and before the date that is 18 months after the effective date, the Secretary submits to Congress a certification that, in the opinion of the Secretary, based on substantial evidence obtained after the effective date, the benefits of implementation of this section do not outweigh any detriment of implementation of this section, this section shall cease to be effective as of the date that is 30 days after the date on which the Secretary submits the certification.

"(2) PROCEDURE.—The Secretary shall not submit a certification under paragraph (1) unless, after a hearing on the record under sections 556 and 557 of title 5, United States Code, the Secretary—

"(A)(i) determines that it is more likely than not that implementation of this section would result in an increase in the risk to the public health and safety;

"(ii) identifies specifically, in qualitative and quantitative terms, the nature of the increased risk;

"(iii) identifies specifically the causes of the increased risk; and

"(iv)(I) considers whether any measures can be taken to avoid, reduce, or mitigate the increased risk; and

"(II) if the Secretary determines that any measures described in subclause (I) would require additional statutory authority, submits to Congress a report describing the legislation that would be required;

"(B) identifies specifically, in qualitative and quantitative terms, the benefits that would result from implementation of this section (including the benefit of reductions in the cost of covered products to consumers in the United States, allowing consumers to procure needed medication that consumers might not otherwise be able to procure without foregoing other necessities of life); and

"(C)(i) compares in specific terms the detriment identified under subparagraph (A) with the benefits identified under subparagraph (B); and "(ii) determines that the benefits do not outweigh the detriment.

"(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) CONFORMING AMENDMENTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301(aa) (21 U.S.C. 331(aa)), by striking "covered product in violation of section 804" and inserting "prescription drug in violation of section 804"; and

(2) in section 303(a)(6) (21 U.S.C. 333(a)(6), by striking "covered product pursuant to section 804(a)" and inserting "prescription drug under section 804(b)".

SA 947. Mr. FRIST (for Mr. COCHRAN (for himself, Mr. FRIST, Mr. BREAUX, and Mr. SANTORUM)) proposed an amendment to amend SA 946 proposed by Mr. DORGAN (for himself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEAHY, Mrs. BOXER, Mr. PRYOR, Mr. FEINGOLD, and Ms. COLLINS) to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the appropriate place, insert the following:

"( ) CONDITIONS.—this section shall become effective only if the Secretary of Health and Human Services certifies to the Congress that the implementation of this section will—

"(A) pose no additional risk to the public's health and safety, and

"(B) result in a significant reduction in the cost of covered products to the American consumer.".

SA 948. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title II, insert the following:

Subtitle —National Bipartisan Commission on Medicare Reform

SEC. 01. MEDICAREADVANTAGE GOAL; ESTABLISHMENT OF COMMISSION.

(a) ENROLLMENT GOAL.—It is the goal of this title that, not later than January 1, 2010, at least 15 percent of individuals entitled to, or enrolled for, benefits under part A of title XVIII of the Social Security Act and enrolled under part B of such title should be enrolled in a MedicareAdvantage plan, as determined by the Center for Medicare Choices.

(b) FAILURE TO ACHIEVE GOAL.—If the goal described in subsection (a) is not met by January 1, 2012, as determined by the Center for Medicare Choices, there shall be established a commission as described in section 2.

SEC. 02 NATIONAL BIPARTISAN COMMISSION ON MEDICARE REFORM.

(a) ESTABLISHMENT.—Upon a determination under section 01(b) that the enrollment goal has not been met, there shall be established a commission to be known as the National Bipartisan Commission on Medicare Reform (in this section referred to as the "Commission").

(b) DUTIES OF THE COMMISSION.—The Commission shall—

(1) review and analyze the long-term financial condition of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(2) identify problems that threaten the financial integrity of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under sections 1817 and 1841 of such Act (42 U.S.C. 1395i and 1395t), including—

(A) the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals; and

(B) the ability of the Federal Government to sustain the program into the future;

(3) analyze potential solutions to the problems identified under paragraph (2) that will ensure both the financial integrity of the medicare program and the provision of appropriate benefits under such program, including methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals and trends in employment-related health care for retirees;

(4) make recommendations to restore the solvency of the Federal Hospital Insurance Trust Fund and the financial integrity of the Federal Supplementary Medical Insurance Trust Fund;

(5) make recommendations for establishing the appropriate financial structure of the medicare program as a whole;

(6) make recommendations for establishing the appropriate balance of benefits covered under, and beneficiary contributions to, the medicare program;

(7) make recommendations for the time periods during which the recommendations described in paragraphs (4), (5) and (6) should be implemented;

(8) make recommendations on the impact of chronic disease and disability trends on future costs and quality of services under the current benefit, financing, and delivery system structure of the medicare program;

(9) make recommendations regarding a comprehensive approach to preserve the medicare program, including ways to increase the effectiveness of the MedicareAdvantage program and to increase MedicareAdvantage enrollment rates; and

(10) review and analyze such other matters as the Commission determines appropriate.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 17 members, of whom—

(A) four shall be appointed by the President;

(B) six shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, of whom not more than 4 shall be of the same political party;

(C) six shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives, of whom not more than 4 shall be of the same political party; and

(D) one, who shall serve as Chairperson of the Commission, shall be appointed jointly by the President, Majority Leader of the Senate, and the Speaker of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed by not later than April 1, 2012.

(3) TERMS OF APPOINTMENT.—The term of any member appointed under paragraph (1) shall be for the life of the Commission.

(4) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(5) QUORUM.—A quorum for purposes of conducting the business of the Commission shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(6) VACANCIES.—A vacancy in the membership of the Commission shall be filled, not later than 30 days after the Commission is given notice of the vacancy, in the same manner in which the original appointment was made. Such a vacancy shall not affect the power of the remaining members to carry out the duties of the Commission.

(7) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(8) EXPENSES.—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(d) STAFF AND SUPPORT SERVICES.—

(1) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Chairperson shall appoint an executive director of the Commission.

(B) COMPENSATION.—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule under title 5, United States Code.

(2) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director considers appropriate.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND OTHER ACTIVITIES.—The Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties under this section.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties under this section.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE AND OFFICE OF THE CHIEF ACTUARY OF THE CENTERS FOR MEDICARE & MEDICAID.—

(A) IN GENERAL.—The Director of the Congressional Budget Office or the Chief Actuary of the Center for Medicare & Medicaid Services, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties under this section.

(B) REIMBURSEMENTS.—The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties under this section.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairperson of the Commission, the head of each such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request..

(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of Congress.

(f) REPORT.—Not later than October 1, 2012, the Commission shall submit to the President and Congress a report and an implementation bill that shall contain a detailed statement of only those recommendations, findings, and conclusions of the Commission that receive the approval of at least 11 members of the Commission.

(g) TERMINATION.—The Commission shall terminate on the date that is 30 days after the date on which the report and implementation bill is submitted under subsection (f).

SEC. 03 CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS.

(a) DEFINITIONS.—In this section:

(1) IMPLEMENTATION BILL.—The term "implementation bill" means only a bill that is introduced as provided under subsection (b), and contains the proposed legislation included in the report submitted to Congress under section 02(f), without modification.

(2) CALENDAR DAY.—The term "calendar day" means a calendar day other than 1 on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(b) INTRODUCTION; REFERRAL; AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day on which both Houses are in session immediately following the date on which the report is submitted to Congress under section 02(f), a single implementation bill shall be introduced (by request)—

(A) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate; and

(B) in the House of Representatives by the Speaker of the House of Representatives, for himself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Speaker and Minority Leader of the House of Representatives.

(2) REFERRAL.—The implementation bills introduced under paragraph (1) shall be referred to any appropriate committee of jurisdiction in the Senate and any appropriate committee of jurisdiction in the House of Representatives. A committee to which an implementation bill is referred under this paragraph may report such bill to the respective House without amendment.

(3) REPORT OR DISCHARGE.—If a committee to which an implementation bill is referred has not reported such bill by the end of the 15th calendar day after the date of the introduction of such bill, such committee shall be immediately discharged from further consideration of such bill, and upon being reported or discharged from the committee, such bill shall be placed on the appropriate calendar.

(c) FLOOR CONSIDERATION.—

(1) IN GENERAL.—When the committee to which an implementation bill is referred has reported, or has been discharged under subsection (b)(3), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the implementation bill, and all points of order against the implementation bill (and against consideration of the implementation bill) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the implementation bill shall remain the unfinished business of the respective House until disposed of.

(2) AMENDMENTS.—An implementation bill may not be amended in the Senate or the House of Representatives.

(3) DEBATE.—Debate on the implementation bill, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is agreed to or disagreed to is not in order.

(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on an implementation bill, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the implementation bill shall occur.

(5) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to an implementation bill shall be decided without debate.

(d) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by 1 House of an implementation bill of that House, that House receives from the other House an implementation bill, then the following procedures shall apply:

(1) NONREFERRAL.—The implementation bill of the other House shall not be referred to a committee.

(2) VOTE ON BILL OF OTHER HOUSE.—With respect to an implementation bill of the House receiving the implementation bill—

(A) the procedure in that House shall be the same as if no implementation bill had been received from the other House; but

(B) the vote on final passage shall be on the implementation bill of the other House.

(e) RULES OF SENATE AND HOUSE OF REPRESENTATIVES.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementation bill described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 04. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle for each of fiscal years 2012 through 2013.

SA 949. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title IV, add the following:

SEC. . IMPROVED PAYMENT FOR CERTAIN MAMMOGRAPHY SERVICES.

(a) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) (42 U.S.C. 13951(t)(1)(B)(iv)) is amended by inserting before the period at the end the following: "and does not include screening mammography (as defined in section 1861(jj)) and unilateral and bilateral diagnostic mammography".

(b) ADJUSTMENT TO TECHNICAL COMPONENT.—For diagnostic mammography performed on or after January 1, 2004, for which payment is made under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4), the Secretary, based on the most recent cost data available, shall provide for an appropriate adjustment in the payment amount for the technical component of the diagnostic mammography.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mammography performed on or after January 1, 2004.

SA 950. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1, to amend title

XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . EQUAL ACCESS TO COMPETITIVE GLOBAL PRESCRIPTION MEDICINE PRICES FOR AMERICAN PURCHASERS.

(a) DEFINITION OF COVERED PRODUCT.—In this section, the term "covered product" has the meaning given the term in section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384).

(b) PROHIBITION.—It shall be unlawful for the manufacturer of a covered product or any other person that sells a covered product to refuse to sell to any wholesaler or retailer (or other purchaser representing a group of wholesalers or retailers) of covered products in the United States on terms (including such terms as prompt payment, cash payment, volume purchase, single-site delivery, the use of formularies by purchasers, and any other term that effectively reduces the cost to the manufacturer of supplying the drug) that are not substantially the same as the most favorable (to the purchaser) terms on which the person has sold or has agreed to sell the covered product to any purchaser in Canada.

(c) ENFORCEMENT.—The Secretary of Health and Human Services, or any wholesaler or retailer in the United States aggrieved by a violation of subsection (b), may bring a civil action in United States district court against a person that violates subsection (b) for an order—

(1) enjoining the violation; and

(2) awarding damages in the amount that is equal to 3 times the amount of the value of the difference between—

(A) the terms on which the person sold a covered product to the wholesaler or retailer; and

(B) the terms on which the person sold the covered product to a person in Canada.

(d) EFFECTIVENESS OF SECTION.—This section takes effect on the date that is 2 years after the date of enactment of this Act, except that this section shall not be in effect during any period after that date in which there is in effect a final regulation promulgated by the Secretary of Health and Human Services permitting the importation or reimportation of prescription drugs under section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384).

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests.

The hearing that was originally scheduled for June 19, 2003 has been postponed and will now be held on Wednesday, June 25 at 2:30 p.m. in Room SD-366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to gain an understanding of the grazing programs of the Bureau of Land Management and the United States Forest Service. The Subcommittee will receive testimony on grazing permit renewal, BLM's potential changes to grazing regulations, range monitoring, drought and other grazing issues. This hearing will also provide the basis for other grazing hearings that we may want to undertake at the subcommittee level as the year goes on.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 19, 2003, at 10:00 A.M. to conduct a hearing on "The Growing Problem of Identity Theft and Its Relationship to the Fair Credit Reporting Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. DOLE. Mr. President. I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Thursday, June 19, 2003, at 9:30 a.m., on pending Committee business.

S. 1264. The Federal Communications Commission Reauthorization Act of 2003 (Bill Bailey/Lee Carosi/James Assey).

S. 865. Commercial Spectrum Enhancement Act (Bill Bailey/James Assey).

S. 1234. The Federal Trade Commission Reauthorization Act of 2003 (Ken Nahigian/David Strickland/Cathy McCullough).

S. 1046. Preservation of Localism, Program Diversity, and Competition in Television Broadcast Service Act of 2003 (Lee Carosi/James Assey/Rachel Welch).

S. 1261. The Consumer Product Safety Commission Reauthorization Act of 2003 (Ken Nahigian/David Strickland/Cathy McCullough).

S. 1244. The Federal Maritime Commission Reauthorization Act of 2003 (Rob Freeman/Mary Phillips/Carl Bentzel).

S. 1262. The Maritime Administration Authorization Act of 2003 (Rob Freeman/Mary Phillips/Carl Bentzel).

S. 247. Harmful Algal Bloom and Hypoxia Amendments Act of 2003 (Drew Minkiewicz/Margaret Spring).

S. 1106. Fishing Quota Act of 2003 (Drew Minkiewicz/Margaret Spring).

S. 861. Coastal and Estuarine Land Protection Act (Drew Minkiewicz/Margaret Spring).

S. 1152. United States Fire Administration Reauthorization Act of 2003 (Ken LaSala/Jean Toal Eisen).

S. 1260. The Commercial Space Transportation Act of 2003 (Floyd DesChamps/Jean Toal Eisen/John Cullen).

S. 189. 21st Century Nanotechnology Research and Development Act (Ken LaSala/Jean Toal Eisen/Chan Lieu).

S. 877. Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act of 2003 (Paul Martino/David Strickland).

Nomination of Annette Sandberg (PN 440), of Washington, to be Administrator of the Federal Motor Carrier Administration, (Rob Freeman, May Phillips, Virginia Pounds/Debbie Hersman/Vanessa Jones).

Nominations for Promotion in the United States Coast Guard (PNs 689, 671, 672) (Virginia Pounds/Army Fraenkel/Vanessa Jones).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mrs. DOLE. Mr. President, I ask unanimous consent that the Committee on Government Affairs be authorized to meet on Thursday, June 19, 2003, at 10:00 a.m. for a hearing entitled "Self-Dealing and Breach of Duty: An Initial Review of the ULLICO Matter."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. DOLE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "Teachers Union Scandals: Closing the Gaps in Union Member Protections" during the session of the Senate on Thursday, June 19, 2003 at 10:15 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mrs. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 19, 2003, at 9:30 a.m. in Hart Room 216.

I. Nominations: William H. Pryor, Jr., to be United States Circuit Judge for the Eleventh Circuit; Diane M. Stuart to be Director, Violence Against Women Office, United States Department of Justice.

II. Bills: S. 724, A bill to amend Title 18, United States Code, to exempt certain rocket propellants from prohibitions under that title on explosive materials. [Enzi, Craig, Durbin, Sessions]; S. 1125, Fairness in Asbestos Injury Resolution Act of 2003 ("The FAIR Act") [Hatch, DeWine, Chambliss]; S. 1233, A bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center [Mikulski, Hatch, Edwards]: S.J. Res. 1, A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims [Kyl, Chambliss, Cornyn, Craig, DeWine, Feinstein, Graham, Grassley].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INTELLIGENCE

Mrs. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 19, 2003 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 225, 226, 229, 230, and 232.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action, and the Senate then return to legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

NATIONAL COUNCIL ON DISABILITY

Anne Rader, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

DEPARTMENT OF HOMELAND SECURITY

Eduardo Aguirre, Jr., of Texas, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Terrence A. Duffy, of Illinois, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2003.

Terrence A. Duffy, of Illinois, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2007.

DEPARTMENT OF HOMELAND SECURITY

C. Stewart Verdery, Jr., of Virginia, to be an Assistant Secretary of Homeland Security.

CONFIRMATION OF EDUARDO AGUIRRE, JR.

Mr. LEAHY. Mr. President, I am pleased to support the nomination of Eduardo Aguirre to serve as Director of the Bureau of Citizenship and Immigration Services (BCIS), in the newly-created Department of Homeland Security. I was very impressed with him at his nomination hearing, and I look forward to working with him in his new position.

I am pleased that this nomination was referred to the Judiciary Committee, which continues to have jurisdiction over immigration legislation and oversight. Similarly, I am pleased that we were able to obtain unanimous consent last week for the Judiciary Committee to receive a subsequent referral on the nomination of Michael Garcia to head the Bureau of Customs and Immigration Enforcement—BICE.

The recent Inspector General report on the treatment of "9/11 detainees" shows the severe consequences that can be faced by those immigrants who fail to mention their unlawful status. Of course, the responsibility to remain here legally falls upon immigrants, but there are occasions when immigrants live up to that responsibility and are nonetheless failed by errors and backlogs on the Government's part. I hope and trust that preventing such errors will be a major priority for Mr. Aguirre. I also hope that he will use his position to battle the perception in many immigrant communities that the war on terrorism has become a war on immigrants.

At his confirmation hearing, I talked to Mr. Aguirre about the former INS employees in Vermont who will be under his jurisdiction, including those at the Vermont Service Center in St. Albans. I recommended to him that he build on the established INS workforce throughout the State by making Vermont a regional center for his agency, and I was pleased that he seemed to take that advice seriously. I am eager to work with him to see that idea become a reality.

On the national level, it was a priority for many of us in Congress that immigration services not be overlooked at the Department of Homeland Security. Although our security is paramount, the new Department must remember that our Nation's founding principals and economic health demand that immigration be handled in a fair and orderly way. After his confirmation hearing, I believe that Mr. Aguirre—himself a refugee—understands this at a fundamental level.

He faces a challenging job. I have already written him about the backlogs that plague our immigration system, and I hope that he is able to make meaningful change in that area. The President has pledged to reduce the average backlog for immigration petitions to 6 months by 2006—to do so is going to take serious investment, and I hope Mr. Aguirre will be a voice inside the administration to make that investment.

NOMINATION OF C. STEWART VERDERY, JR.

Mr. ALLEN. Mr. President, I rise today to applaud the Senate's approval of the nomination of C. Stewart Verdery, Jr., to be an Assistant Secretary of Homeland Security for Border and Transportation Security Policy. Mr. Verdery's nomination was approved unanimously by the Committee on Governmental Affairs on June 17, and his confirmation will fill a vital position at the new Department of Homeland Security. I have known Stewart for over a decade, and believe that his experience, Jeffersonian conservative principles, and personal qualities make him well-qualified to serve in the new Department.

The Assistant Secretary for Policy and Planning at the Border and Transportation Directorate, Department of Homeland Security, is the principal adviser to the BTS Under Secretary for policy development in the substantive areas within the BTS Directorate, including immigration and customs enforcement, customs and border protection, transportation security, Federal law enforcement training, and domestic preparedness. The Assistant Secretary is responsible for ensuring that policies developed for BTS and its component agencies are designed to achieve homeland security objectives as directed by the DHS Secretary and BTS Under Secretary and to fulfill the BTS mission statement to "protect national security and promote public safety by enforcing our nation's immigration and customs laws, providing an effective defense against all external threats, including international terrorists, and other threats such as illegal drugs and other contraband, while preserving the free flow of legitimate trade and travel."

Mr. Verdery is well-known to this body, having served for more than 6 years in the U.S. Senate. He first served as counsel to my senior colleague from Virginia, Senator WARNER, in his personal office and on the Senate Rules Committee. He joined the Senate Judiciary Committee in 1998 as head of the crime and law enforcement unit, and then moved to become General Counsel to the senior Senator from Oklahoma, Mr. NICKLES. In this role, Mr. Verdery advised the Senate leadership on a host of issues, including crime and law enforcement, commerce, judicial nominations, constitutional law, campaign finance, and telecommunications. He was widely respected among his peers and relied upon not only by Senator NICKLES, but by many other members of the Republican Conference and their staffs as well.

Whether managing the high-profile investigation of the disputed 1996 Louisiana Senate election, helping direct the Clinton impeachment trial, or a host of other assignments, Mr. Verdery's organizational skills, political instincts, and notable work ethics enabled him to thrive in the demanding environment of the U.S. Senate.

I had the opportunity to work closely with Stewart when the Senate Republican leadership designated him as a lead staffer for the Senate Republican High Tech Task Force, which has the goal of advancing constructive technology policy in the Senate. As chairman of the High Tech Task Force in 2001–2002, I was impressed by his extraordinary command of complex technology issues and, perhaps more important, his ability to succinctly explain the issues to others. His advice and counsel were always sound and thoughtful, and through his effective and friendly manner, he instantly earned the respect of those with whom he worked.

Stewart Verdery played a key role in the transformation of the High Tech Task Force into a lead advocate for the technology-friendly policies in the Senate. With his assistance, my colleagues and I were better prepared to advance a positive technology policy agenda in the Senate, including: the passage of a clean, 2-year Internet tax moratorium extension; passage of the upgraded Export Administration Act reauthorization; securing additional funding for anti-piracy prosecutions; and the hard-fought effort in the economic stimulus debate to make the Research and Development tax credit permanent, to provide enhanced expensing and to include the broadband tax credit.

Mr. Verdery will be a valuable member of the team at the Department of Homeland Security. I wish Stewart, his wife Jenny and their two young children, Isabelle and Chase, all the very best health and happiness in this new endeavor.

Mr. NICKLES. Madam President, I rise today to support the Senate's approval of the nomination of Stewart Verdery as the Assistant Secretary for Policy and Planning at the Border and Transportation Directorate of the Department of Homeland Security.

I have worked with Stewart since his days as Counsel to the Senate Rules Committee and while he was at the Senate Judiciary Committee. He did an outstanding job in those capacities. As a matter of fact, he did such a great job I hired him to serve as my General Counsel in the Assistant Republican Leader's office. In his position there, he served not only as my counsel, but as a counsel for the entire Senate. We deal with a lot of issues in the U.S. Senate, and Stewart's counsel was invaluable to me and other Senators.

I consider Stewart and his wife Jenny to be part of the family. Not only were they married while he was on my staff, but their two children were born as well. I respect him as both a professional and a family man.

I have no doubt Stewart will excel in this new position, and it is with great pleasure that I support his nomination as Assistant Secretary for Policy and Planning.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003—CONFERENCE REPORT

Mr. ALEXANDER. Mr. President, I ask the Chair to lay before the Senate a conference report to accompany S. 342, the Child Abuse Protection Act.

The PRESIDING OFFICER. The clerk will report the conference report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 342), to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under the Act, and for other purposes, having met, have agreed that the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

(The conference report is printed in the RECORD of the House proceedings of June 12, 2003)

Mr. GREGG. Mr. President, I am pleased today to speak in support of the conference agreement reached by the House of Representatives and the Senate for S. 342, the Keeping Children and Families Safe Act of 2003.

This act reauthorizes several programs that are key to protecting our most vulnerable children and families: The Child Abuse Prevention and Treatment Act, CAPTA; the Adoption Opportunities Act; the Abandoned Infants Assistance Act; the Family Violence Prevention and Services Act; and the Children's Justice Act.

The Keeping Children and Families Safe Act works to reduce child abuse and neglect by encouraging new training and better qualifications for front-line child and family service workers. This legislation also improves links between child protective services, health and mental health agencies, and judicial systems to improve services for at risk children and to mitigate the damaging impact that child abuse and neglect can cause.

For children who are removed from their homes as a result of child abuse or neglect, this act helps to ensure they are placed into safe foster care or adoptive homes. By requiring that criminal background checks are performed on all adults residing in foster homes, this act helps to prevent further abuse to the child. Through the reauthorization of the Adoption Opportunities Act, this legislation also helps to better facilitate the adoption of children with special needs by working to eliminate interjurisdictional barriers to adoption.

Lastly, the Keeping Children and Families Safe Act gives victims of domestic violence greater access to shelters in times of emergency through the reauthorization of the Family Violence Prevention and Services Act.

This important legislation responds to some of the most serious needs of children and families. I commend the work of the House of Representatives, who acted earlier today to pass this Conference report. I also thank the ranking member of the Health, Education, Labor, and Pensions Committee, Senator KENNEDY, for his work on this bill, as well as Senators ALEXANDER and DODD, the chairman and ranking member of the Subcommittee on Children and Families.

Protecting our most vulnerable populations is a significant priority and passage of this legislation sends a clear message that Congress is deeply committed to the interests of children and their families. I am very pleased that the House and Senate will send the Keeping Children and Families Safe Act of 2003 to the President for his signature.

Mr. KENNEDY. Mr. President, the bipartisan legislation before the Senate today will continue our Federal commitment to see that the Nation's most vulnerable children are protected and safe.

Child abuse and child neglect continue to be serious problems. Each year, thousands of children suffer. On any given day, 2,400 children are discovered to be victims of child abuse or neglect. Tragically, three of those children die each day as a result.

Abuse and neglect harm children from all backgrounds and all walks of life. Too many children are in situations in which their basic needs are not provided for. Too many children are subject to physical harm or emotional trauma. Too many children are victims of sexual abuse. We can do better and we must do better.

For nearly 30 years, the Child Abuse Prevention and Treatment Act has supported States in their efforts to respond to the immediate needs of children subjected to abuse and neglect, and helped them and their families take the road to recovery.

We all know it's a huge challenge. Each week, child protective service agencies in local communities respond to more than 50,000 suspected cases of child abuse and neglect. Despite their hard work, nearly half of all children in substantiated cases of abuse receive no follow-up services or support.

This legislation is an important step toward responding to the needs of every neglected and abused child in every community in our country. It is an important step toward seeing that children in desperate circumstances have the support they need to stop the abuse and deal with the harmful effects.

This legislation will renew our federal commitment to help states improve their own response to child abuse and neglect. More will be done to promote better planning at the Federal, State, and local levels, facilitate more effective referrals to the available services, and broaden the scope of the response.

More will be done to see that those responsible for investigating or working with abused children and their families have the necessary training and skills to do their jobs effectively and efficiently. States will be encouraged to provide new safety training to child abuse caseworkers. New cross-training will help caseworkers identify signs of domestic violence and substance abuse that often signal child abuse.

More will be done to strengthen community efforts. Our bill will ensure that local citizens oversee, review, and improve the practices of child protective services. It will promote partnerships between public agencies and community-based organizations to share the responsibility of reducing child abuse and neglect in their communities.

More will be done to end geographic barriers to adoption and provide permanent homes for abused children.

More will be done to combat the destructive effects of family violence and provide immediate help to its victims. A new electronic network will link victims to organizations available to help them, 24-hours-a-day, 365 days-a-year.

More will also be done to reduce the social and emotional impact of domestic violence on children. A new demonstration program will support direct services, referrals, and appropriate interventions for the 10 million children who witness domestic violence each year.

Our colleague, Senator Wellstone, was one of the greatest champions for abused children. I commend the conferees for their work to include this important program that he cared about so deeply.

As our communities across the nation continue their efforts to respond more effectively to every incident of child abuse and neglect, they must do so with resources already stretched thin. This bipartisan legislation increases the authorization for the Child Abuse Prevention and Treatment Act to $200 million in order to deliver the support that local communities need to do this important work.

I commend Senator GREGG and all of the conferees for their work and their leadership on this legislation. It's a major step toward guaranteeing help for children and families to overcome the devastating effects of abuse, neglect, and violence in their lives.

Mr. ALEXANDER. Mr. President, I rise today with my colleagues Senators GREGG, KENNEDY, and DODD to pass the conference report for S. 342, "The Keeping Children and Families Safe Act of 2003." I also want to congratulate Senator GREGG, the chairman of the conference committee, and commend his leadership.

Unlike many Federal Government programs, this is a relatively small level of funding, but it is vital for the safety and sanctity of our most precious resource—our children. S. 342 reauthorizes the Child Abuse Prevention and Treatment Act, CAPTA, which provides grants to States to improve child protection systems and grants to support community-based family resource and support services. The changes made to this program will encourage new training and better qualifications for child and family service workers. Additionally, this program will create or improve coordination between child protection services and education, health, mental health, and judicial systems to ensure that children who are abused and neglected are properly identified and receive referrals to appropriate services.

Tennessee has used CAPTA funding for many innovative pilot programs, such as Therapeutic Visitation Services. This is a pilot project that provides intensive service to families with children in the foster care system from four rural areas in east Tennessee. The goal is to preserve and strengthen family relationships while facilitating visitation between children and biological parents. Children in the pilot program saw their parents sooner and more frequently.

In Davidson County, the Chap-Plus program provides service and helps coordinate care for families that are stressed due to their child's medical condition, such as a life threatening disease. Another program that receives CAPTA funding is the University of Tennessee Legally Defensible Child Interviewing program, which trains Child Protective Services case managers. This training is focused on improving interviewing skills of investigative teams when they interview children who are the possible victims of sexual, physical, or emotional abuse.

These important programs will benefit from this legislation. I thank my colleagues for voting for this bill.

Mr. DODD. Mr. President, I am pleased to join with my colleagues in supporting the conference report on legislation to reauthorize CAPTA, the Child Abuse Prevention and Treatment Act. This measure is very aptly called the Keeping Children and Families Safe Act of 2003.

The conference report we are approving today would strengthen efforts to prevent child abuse and neglect. It would promote increased sharing of information and partnerships between child protective services and education, health, and juvenile justice systems. It would encourage a variety of new training programs to improve child protection, particularly cross-training in recognizing domestic violence and substance abuse in addition to child abuse detection and protection training.

The Keeping Children and Families Safe Act of 2003 renews grants to States to improve child protection systems and increases to $200 million the authorization for child abuse investigations, training of child protection service, CPS, workers, and community child abuse prevention programs.

For States to receive funding, they must meet several new requirements: have triage procedures to provide appropriate referrals of a child "not at risk of imminent harm" to a community organization or for voluntary preventive services; have policies and procedures for the referral of abused children under the age of three to early intervention services funded under Part C of the Individuals with Disabilities Education Act; have policies in place to address the needs of infants who are born and identified as having been physically affected by prenatal exposure to illegal drugs, which must include a safe plan of care for the child; have policies of improved training, retention, and supervision of caseworkers; and require criminal background record checks for prospective foster and adoptive parents and all other adults living in the household, not later than 2 years after the law's enactment.

Child abuse and neglect continue to be significant problems in the United States.

Nearly 3 million referrals concerning the welfare of about 5 million children were made to Child Protection Services, CPS, agencies throughout the Nation in 2001. Of these referrals, about two-thirds, 67.3 percent, were "screened-in" for further assessment and investigation. Professionals, including teachers, law enforcement officers, social service workers, and physicians made more than half, 56.5 percent, of the screened-in reports. About 903,000 children were found to be victims of child maltreatment. Over half, 59 percent, suffered neglect, including medical neglect; 19 percent were physically abused; 10 percent were sexually abused; 6.8 percent were emotionally maltreated; and 19.5 percent were associated with "other" forms of maltreatment such as abandonment, threats of harm to the child, and drug addiction. About 275,000, or 20 percent, of abused children were placed in foster care as a result of CPS investigation or assessment.

Many of these children fail to receive adequate protection and services.

The most tragic consequence of child maltreatment is death. In 2001, about 1,300 children died of abuse and/or neglect. Children younger than six years of age accounted for 85 percent of child fatalities and children younger than one year of age accounted for 41 percent of child fatalities.

Child abuse is not a new phenomenon. For more than a decade, numerous reports have called attention to the tragic abuse and neglect of children and the inadequacy of our Child Protection Service systems to protect our children.

In 1990, the U.S. Advisory Board on Child Abuse and Neglect concluded that "child abuse and neglect is a national emergency." In 1995, the U.S. Advisory Board on Child Abuse and Neglect reported that "State and local CPS caseworkers are often overextended and cannot adequately function under their current caseloads." The report also stated that, "in many jurisdictions, caseloads are so high that CPS response is limited to taking the complaint call, making a single visit to the home, and deciding whether or not the complaint is valid, often without any subsequent monitoring of the family."

A 1997 General Accounting Office, GAO, report found that, "the CPS system is in crisis, plagued by difficult problems, such as growing caseloads, increasingly complex social problems and underlying child maltreatment, and ongoing systemic weakness in day-to-day operations." According to GAO, CPS weaknesses include "difficulty in maintaining a skilled workforce; the inability to consistently follow key policies and procedures designed to protect children; developing useful case data and record-keeping systems, such as automated case management; and establishing good working relationships with the courts."

According to a May 2001 report conducted by the American Public Human Services Association, APHSA, the Child Welfare League of America, CWLA, and the Alliance for Children and Families, annual staff turnover is high and morale is low among CPS workers. The report found that CPS workers had an annual turnover rate of 22 percent, 76 percent higher than the turnover rate for total agency staff. The "preventable" turnover rate was 67 percent, or two-thirds higher than the rate for all other direct service workers and total agency staff. In some States, 75 percent or more of staff turnovers were preventable.

States rated a number of retention issues as highly problematic. In descending order they are: workloads that are too high and/or demanding; caseloads that are too high; too much worker time spent on travel, paperwork, courts, and meetings; workers not feeling valued by the agency; low salaries; supervision problems; and insufficient resources for families and children.

To prevent turnover and retain quality CPS staff, some States have begun to increase in-service training, increase education opportunities, increase supervisory training, increase or improve orientation, increase worker safety, and offer flex-time or changes in office hours. Most States, however, continue to grapple with staff turnover and training issues.

Continued public criticism of CPS efforts, continued frustration by CPS staff and child welfare workers, and continued abuse and neglect, and death, of our Nation's children, served as the backdrop as we composed the Child Abuse Prevention and Treatment Act CAPTA, reauthorization bill this year.

The Child Protection System mission must focus on the safety of children. To ensure that the system works as intended, CPS needs to be appropriately staffed. The staff need to receive appropriate training and cross-training to better recognize substance abuse and domestic violence problems.

The conference agreement we are passing today encourages triage approaches and differential response systems so that those reports where children are most at risk of imminent harm can be prioritized.

The bill specifically emphasizes collaborations in communities between CPS, health agencies, including mental health agencies, schools, and community-based groups to help strengthen families and provide better protection for children.

The bill provides grants for prevention programs and activities to prevent child abuse and neglect. By focusing this assistance on at-risk families, we can help improve the likelihood that a child will grow up on a home without violence, abuse, or neglect.

Beyond the CAPTA title of this legislation, the bill reauthorize the Family Violence Prevention and Services Act, including new efforts to address the needs of children who witness domestic violence, and a new highly secure web site to increase the likelihood that when an abused spouse calls for help, such calls will be handled as efficiently as possible with on-line links to shelters immediately letting the caller know of open shelters and the services these shelters offer. The measure also reauthorizes the Adoption Opportunities Act, and the Abandoned Infants Assistance Act.

Child protection ought not be a partisan issue. This bill will help ensure that it is not. I want to commend and thanks my colleagues on the conference committee—Chairman GREGG, Senator KENNEDY, Senator ALEXANDER, and Senator DEWINE as well as my colleagues in the House for their efforts to craft a bipartisan initiative that can help to prevent and alleviate suffering among our Nation's children.

Mr. ALEXANDER. I ask unanimous consent that the conference report be agreed to, that the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

ACCOUNTANT, COMPLIANCE, AND ENFORCEMENT STAFFING ACT OF 2003

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 658.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 658) to provide for the protection of investors, increase confidence in the capital markets system, and fully implement the Sarbanes-Oxley Act of 2002 by streamlining the hiring process for certain employment positions in the Securities and Exchange Commission.

There being objection, the Senate proceeded to consider the bill.

Mr. ALEXANDER. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 658) was read the third time and passed.

DISCHARGE AND REFERRAL—H.R. 856

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 856 and that the bill be referred to the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—H.R. 8

Mr. ALEXANDER. Mr. President, I understand that H.R. 8 is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (H.R. 8) to make the repeal of the estate tax permanent.

Mr. ALEXANDER. I now ask for its second reading and object to further proceeding on this matter.

The PRESIDING OFFICER. The objection is heard. The bill will remain at the desk.

ORDERS FOR FRIDAY, JUNE 20, 2003

Mr. ALEXANDER. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in adjournment until 9 a.m., Friday, June 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 140, S. 504, the American History and Civics Act of 2003, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ALEXANDER. For the information of all Senators, tomorrow morning the Senate will resume consideration of S. 504, the American History and Civics Act. Under the previous order, at 9:15 a.m., the Senate will vote on passage of the bill. Immediately following that vote, the Senate will resume consideration of S. 1, the prescription drug benefits bill, and proceed to a vote in relation to the Dorgan amendment relating to drug reimportation.

Therefore, I inform my colleagues that the leader says there will be two rollcall votes beginning at 9:15 a.m. tomorrow. Following the two votes at 9:15 a.m., the leader wanted me to inform colleagues the Senate will continue consideration of S. 1, the prescription drug benefits bill. Additional amendments will be debated tomorrow, and Members who wish to speak on amendments or the bill itself are encouraged by the leader to come to the Senate floor during tomorrow's session.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ALEXANDER. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:45 p.m., adjourned until Friday, June 20, 2003, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 19, 2003:

DEPARTMENT OF STATE

JACKIE WOLCOTT SANDERS, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS UNITED STATES REPRESENTATIVE TO THE CONFERENCE ON DISARMAMENT AND THE SPECIAL REPRESENTATIVE OF THE PRESIDENT OF THE UNITED STATES FOR NON-PROLIFERATION OF NUCLEAR WEAPONS.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF CHAPLAINS, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5142:

To be rear admiral

REAR ADM. (LH) LOUIS V. IASIELLO, 7632

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

WILLIAM R. GLADBACH, 5237
MALCOLM K. WALLACE JR., 4802

Confirmations

Executive nominations confirmed by the Senate June 19, 2003:

NATIONAL COUNCIL ON DISABILITY

ANNE RADER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TERRENCE A. DUFFY, OF ILLINOIS, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 2003.

TERRENCE A. DUFFY, OF ILLINOIS, TO BE A MEMBER OF OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 2007.

DEPARTMENT OF HOMELAND SECURITY

C. STEWART VERDERY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EDUARDO AGUIRRE, JR., OF TEXAS, TO BE DIRECTOR OF THE BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SECURITY.

EXTENSIONS OF REMARKS

RECOGNIZING THE SERVICE OF JOE ALCORN TO THE SENIORS OF HENDERSON, NV

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. PORTER. Mr. Speaker, I rise today to pay tribute to Joe Alcorn of Henderson, NV, on being recognized as Volunteer of the Month. I am honored to represent one who has shown such devotion and dedication to our community.

Joe has been a Henderson Senior Center member since 2000. In that time he has made himself an invaluable asset to the center. By taking pictures of the seniors as they dine, dance, or relax, Joe captures the most pleasant experiences at the center, and displays them for all to enjoy. He further captures these memories by videotaping special events. Alcorn has made a documentary of the center's history, which was rerun for all Henderson residents to commemorate the city's 50th anniversary, earlier this year.

Born in Pittsburgh, Joe grew up and graduated from high school in Iowa. Cypress, CA, became his home for the next 46 years. He attended the RCA TV School where he honed his skills and became an expert in his profession. He worked as a TV service worker for a few years until beginning his own business. Joe's work was a labor of love which continued in his dedication to the Henderson Senior Center.

I rise to acknowledge the dedication that Joe Alcorn has shown to the seniors of southern Nevada. The use of his professional skills in this worthy pursuit deserves the recognition of myself and all southern Nevadans.

HONORING THE 42ND ANNUAL YMCA YOUTH GOVERNOR'S CONFERENCE

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. SESSIONS. Mr. Speaker, I rise to honor the 42nd Annual YMCA Youth Governor's Conference that is currently being held here in Washington, DC. The YMCA Youth Governor's Conference brings together some of the most outstanding youth leaders in America. YMCA Youth and Government is a Nation-wide program that allows thousands of teenagers to simulate State and National government. The elected Youth Governors of the State programs are currently in Washington, and I am honored to serve as the Congressional sponsor for the Member's breakfast in honor of the YMCA Youth Governor's Conference.

Mr. Speaker, I would like to personally recognize each of this year's YMCA Youth Governors for their dedication and service to America's youth.

Gina Bullock of Texas, Ethan Link of Tennessee, Alex Sanders of Georgia, Elizabeth Strassner of Oklahoma, Martin Holmes of Maine, Michael Sheflin of New Jersey, Joseph Colarusso of New York, Wayne Bragg of Mississippi, Ryan Wedge of Connecticut, Eli Turkel of Delaware, Matthew Stoller of Massachusetts.

Ann Nemitz of Arizona, Sarah Coburn of Oregon, Richard Friedman of Alabama, Judd Kennedy of Pennsylvania, Kristen Adams of Michigan, Asher Perlman of Wisconsin, Meg Dennard of Louisiana, Rushi Desai of Missouri, Torry Van Slyke of Idaho, Renee Walker of North Carolina.

Richard Marrs of Virginia, Scott Antolak of Minnesota, Kyle Smith of California, Allen Klump of South Carolina, Kyle LaFountain of New Hampshire, Justin Cajindos of Illinois, Stephen Takach of New Mexico, Justin Hoefflicker of Indiana, Rasean Crawley of Kentucky, Keisha Hyman-Girth of Washington, James Walsh of Maryland.

IN RECOGNITION OF THE REVEREND WILLIAM A. LAWSON

HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. BELL. Mr. Speaker, I rise to honor Reverend William Alexander Lawson on the occasion of his 75th birthday and 57th year of pastoral service.

Rev. William A. Lawson is the founding pastor of Wheeler Avenue Baptist Church located in Houston, TX. Established in March 1962 with 13 members, the congregation has grown in excess of 2,500 members. The initial emphasis of the church focused on meeting the spiritual needs of Baptists in the transitional community near Texas Southern University.

Rev. Lawson is known and admired as an outstanding preacher and teacher. He is a national and international speaker and educator. Since 1965, he has traveled internationally as a missions and evangelical speaker. He has spoken in Southeast Asia, the Middle East, and the Far East. He was invited by the government of Israel to tour the nation with the American press to help provide a more positive image of the aspirations of Israel.

Early in his career, Rev. Lawson served as director of the Baptist Student Union and professor of bible at Texas Southern University in Houston. He helped form the first Afro-American studies program at the University of Houston, and taught classes at the University of Houston in sociology and the black church.

Rev. Lawson is a community and social action leader. He founded and organized the United Way's Houston Homeless Initiative in response to the growing number of homeless and jobless persons. Under his leadership, more than $4 million was raised to address homelessness. He assembled a coalition of African-American political, civic and social organizations to negotiate with city, county, and school governments. The coalition is now comprised of more than sixty organizations.

In 1986 he received a Doctor of Divinity from Howard Payne University, in Brownwood, Texas. He graduated cum laude from Central Baptist Theological Seminary in Kansas City, Kansas where he received a Master of Arts in Theology and a Bachelor of Arts in Divinity. He majored in New Testament Interpretation and was appointed Teaching Fellow in Homiletics. He did his undergraduate work at Tennessee A&I State University in Nashville, Tennessee where he received a bachelor's degree. He graduated cum laude with a major in sociology.

Rev. Lawson is married to Audrey H. Lawson. They have four children and three grandchildren.

Mr. Speaker, I would like to congratulate Rev. Lawson on his 75th birthday and his 57 years of exceptional service and pastoral leadership.

RECOGNIZING NICHOLAS THEODOREDIS' EFFORTS IN DEFENSE OF THE NATION

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. PORTER. Mr. Speaker, I rise today to acknowledge the long awaited presentation of the Purple Heart to World War II veteran, and Las Vegas resident, Nicholas Demetrios Theodoredis. This, his second Purple Heart, recognizes the commitment to our great country shown by so many from the generation who faced the horrors of the Second World War.

I am happy to share my thanks and congratulations for this long overdue tribute to the valor of Mr. Theodoredis' service in the North African Campaign of World War II. America has been well served by such men and women and will continue, with their example, to maintain its position as a world leader and defender of liberty.

PERSONAL EXPLANATION

HON. GENE TAYLOR

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. TAYLOR of Mississippi. Mr. Speaker, on June 18, 2003, I missed rollcall vote No. 287,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

an amendment in the nature of a substitute to H.R. 8, the Estate Tax Permanency Act offered by my colleague from North Dakota, Mr. POMEROY.

While H.R. 8 was being considered on the House floor, the House Armed Services Committee, of which I am a member, was receiving testimony from Deputy Secretary of Defense Paul Wolfowitz on commitments of the United States Armed Forces throughout the world. The vote on the Pomeroy substitute was called shortly after I had asked Secretary Wolfowitz a series of questions pertaining to the search for weapons of mass destruction in Iraq and rotation schedules and living arrangements for our troops who are presently serving there.

Mr. Speaker, had I been present, I would have voted "yea" on rollcall vote No. 287, the Pomeroy substitute, and accordingly, I would like to request unanimous consent to enter this statement into the record at the appropriate location.

DEATH TAX REPEAL PERMANENCY ACT OF 2003

SPEECH OF

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. CRANE. Mr. Speaker, I rise in strong support of H.R. 8, the Death Tax Repeal Permanency Act of 2003, and I commend my friend from Washington Mrs. Dunn for being such a strong advocate for this legislation.

The United States is the land of opportunity, encouraging free enterprise and rewarding entrepreneurs. The estate and gift tax runs contrary, to this basic philosophy. When I came to Congress over 30 years ago, I set out to eliminate the death tax, which is simply unfair, outdated and penalizes our families, farmers and small business owners.

According to recent statistics, one-third of small business owners today will have to sell outright or liquidate a part of their firm to pay death taxes. In addition, half of those who must liquidate to pay their death taxes will each have to eliminate 30 or more jobs. In addition, small business owners that insure against such an outcome face the burden of paying onerous premiums. This is hard-earned money that otherwise could be used to expand their business. We must put an end to it once and for all.

Death tax repeal was included as part of the 2001 Bush tax cut. Under that legislation, the death tax phases out over a period of year, and is eliminated completely in 2010. Unfortunately, due to the arcane procedures of the Senate, the provisions in the 2001 bill sunset in 2011, or 10 years after enactment. Therefore, we need to take action now to make the repeal permanent.

Mr. Speaker, I want to thank small business and family owned business groups like the National Automobile Dealers Association for tirelessly fighting to end this punitive and harmful tax. They have been powerful and influential advocates in this effort.

I ask unanimous consent that the following letter from the National Automobile Dealers Association urging repeal of the Death Tax be included in the CONGRESSIONAL RECORD.

NATIONAL AUTOMOBILE
DEALERS ASSOCIATION,
McLean, VA, June 18, 2003.

DEAR REPRESENTATIVE: On behalf of the National Automobile Dealers Association (NADA), the nearly 20,000 franchised new car dealer members of NADA, and their more than one million employees, we are writing to urge you to vote yes on H.R. 8, to eliminate the estate tax once and for all.

The majority of NADA's members are small family-owned and community-based businesses. Most assets of automobile dealers are not liquid. A dealer's capital is invested in the land under the dealership, buildings housing showrooms, vehicle repair equipment, and other facilities. Dealers also need substantial working capital to finance new- and used-car inventory. Thus, for dealers, the death tax can cripple or kill the family-owned business since they are left with few options but to sell the business or incur substantial debt to pay the tax.

In providing for the elimination of the estate tax in H.R. 1836 in 2001, Congress clearly recognized the inequity and unfairness of estate taxes. As it was noted at the time, there is something very wrong in our system when a small businessman or businesswoman spends a lifetime building a business, paying taxes, providing jobs and serving the community only to have the government step in at their death to collect another tax. In enacting H.R. 1836, Congress and the President wisely realized that death should not trigger a tax. Only when assets are sold should there be a taxable event.

The question now before the House of Representatives is whether to continue that wise policy beyond 2010. NADA and its dealer members and their employees firmly believe that supporting H.R. 8, making estate tax repeal permanent and postponing taxes until assets are sold is critical to the preservation of family-owned and community-based businesses like automobile dealerships.

Preserving these businesses is crucial to the health of the national economy and essential to the economic well being of local communities. These businesses provide the majority of new job growth in this country. Very often, family-owned businesses are central to the economic vitality of local communities, providing good livelihoods for millions of working Americans.

NADA respectfully urges you to vote yes on H.R. 8. This vote is about preserving family-owned businesses in local communities across this great nation. Thank you for your consideration of our views.

TRIBUTE TO KEITH OWEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation to pay tribute to an outstanding educator from my district. Keith Owen of Pueblo is the recipient of the 2003 Colorado National Distinguished Principal of the Year award from the Colorado Association of School Executives. Keith's peers selected him based on his leadership, respect from his school, and community service.

Keith has worked as an educator for 10 years and has served as the principal of Beulah Heights Elementary in Pueblo since 1999. Since taking the helm at the school, fourth grade reading scores have skyrocketed. Their performance on the Colorado Student Assessment Program, CSAP, have risen from 50 percent to 86 percent in only three years. The difference was so dramatic, Keith received an invitation to travel to the White House where President Bush and Secretary of Education Rod Paige cited Beulah Heights Elementary for its achievements.

Mr. Speaker, because of Keith Owen's exemplary leadership, the student's at Beulah Heights Elementary School have a greater chance of success in school and in life. Keith has made Pueblo and the State of Colorado proud, and I am truly honored to recognize him here today. Congratulations, Keith, and good luck with your future endeavors.

TRIBUTE TO THE CITY OF STAMFORD, CONNECTICUT

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. SHAYS. Mr. Speaker, it gives me great pleasure to congratulate the City of Stamford, CT, which was recently ranked the fifth safest city in the country and the second safest city in the Northeast. Perhaps even more remarkable is that recent FBI statistics indicate Stamford led the Nation in reducing crime during 2002, recording an amazing 22 percent decrease.

This achievement is all the more impressive because Stamford was able to reduce crime despite having a smaller police force. This extraordinary accomplishment is a testament to the dedication of Chief Louis DeCarlo and the entire police force, as well as the excellent leadership of Mayor Dan Malloy and the City Government.

Stamford has led our region and Nation by implementing creative measures to reduce crime, including the use of community policing. The City also sent School Resource Officers to schools where they were able to effectively connect with the City's youth.

I also congratulate the people of Stamford who have worked so hard to make their hometown a great place to raise their children, to work and to visit.

As a former longtime resident of Stamford, I can attest to how wonderful a place it is to live. Stamford's tremendous potential is reinforced by its designation as one of the safest cities in America.

IN HONOR OF LAMBDA THETA PHI, CELEBRATING ITS 2003 NATIONAL BROTHERHOOD CONFERENCE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Lambda Theta Phi Fraternidad Latina for its continued advocacy and celebration of

Latino culture. Lambda Theta Phi will be holding its 2003 National Brotherhood Conference on June 20–22nd at the Wyndham Hotel in Newark, NJ.

Founded in 1975 at Kean University in Union, NJ, Lambda Theta Phi has grown from 14 founding members to over 85 national chapters. It is the first and only nationally recognized Latino Greek letter fraternity in the United States.

For over 25 years, Lambda Theta Phi has played a leading role in building unity among Latinos and provided a critical support network as young Latinos pursue their academic and professional careers. The work of the fraternity has truly embodied its principle of "en la union está la fuerza" (in unity there is strength). Lambda Theta Phi has helped provide a number of Latinos with a strong sense of community and an extensive peer network as they graduate college and embark on their professional careers.

Lambda Theta Phi also continues to provide valuable service to the community through responsible political and social action. The diverse makeup of the fraternity places it in a unique position to promote cultural awareness and to provide positive role models for the Latino community. Lambda Theta Phi is known for its dedication to activities that benefit the community including citizenship and voter registration drives, disaster relief, and Hispanic college days, which provide an opportunity for Latino high school students to visit colleges.

As an honorary member of Lambda Theta Phi, it is my distinct pleasure to congratulate all the members of the fraternity and wish them the best as they continue to connect Latinos across the country and help to build unity among the next generation of Latino leaders.

Today I ask my colleagues to join me in honoring Lambda Theta Phi Fraternidad Latina for promoting unity among Latinos, and to congratulate all the members of the fraternity as they celebrate their 2003 National Brotherhood Conference.

RECOGNITION OF WORLD REFUGEE DAY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. PAYNE. Mr. Speaker, I stand today as Ranking Member of the Africa Subcommittee and Member of the Refugee Caucus to recognize World Refugee Day, declared on June 20, 2000 by a special UN General Assembly Resolution. The Republic of Tanzania has a solid record of supporting and harboring the largest number of refugees in Africa and therefore I extend my respect unto this nation for its vitally important work. These refugees have fled from conflicts in neighboring countries such as Burundi, the Democratic Republic of Congo, Rwanda and Somalia. I affirm and commend the generosity of Tanzania towards refugees and asylum seekers and urge that they be fully recognized by our nation.

Statistics show that approximately 700,000 refugees have found safe haven in Tanzania. Tanzania has also displayed its generosity through the acceptance of 3,500 Somali Bantus for resettlement in the eastern part of the country. In the west, refugees fleeing conflict and genocide in countries like Burundi, Rwanda and Congo have also found refuge in this nation. Emerging from a long and bloody civil war that lasted a decade and claimed the lives of more than 100,000 people while displacing hundreds of thousands, Burundi is only now getting back on its feet. The Great Lakes Region of the African continent is one of great beauty and a long history but has in recent years been plagued by many bloody conflicts and ethnic warfare. The wars in the Congo and Rwanda are two more examples of such conflicts. Tanzania provided a safe haven for some 120,000 Congolese refugees and some 25,000 refugees from Rwanda by the end of 2001. I am hopeful that the on-going peace efforts in a number of these neighboring countries will hopefully provide the opportunity for these refugees to repatriate to their homes in safety and dignity. I must at the same time note that the resolution of the conflicts that have driven these refugees from their homes is not by any means guaranteed to be accomplished in the near future as the region is quite volatile and unpredictable. Therefore the generosity of Tanzania could very well be called upon again. This is even more reason that I offer my respect to this country that has provided this noble service.

While harboring refugees is often perceived as being a burden, Tanzania provides an example of how this service can also be functional within the context of administering a nation. Refugees can provide human and economic resources for a nation to draw upon. On this Refugee Day I recognize the efforts of Tanzania and recognize the 3.1 million refugees and more than 10 million Internally Displaced Persons on the continent of Africa. May you soon be able to return to your homes in safety, security, and health.

HONORING NORMAN AND MARILYN COOPER ON THEIR GOLDEN ANNIVERSARY

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. PENCE. Mr. Speaker, Marilyn (Isaacs) and Norman Cooper were high school sweethearts in Brooklyn, NY, who spent their first married years together at Fort Gordon, Georgia, during Norman's military service in the Korean Conflict. Returning to New York together, with little more than each other, they successfully built a thriving pest control business and raised a loving family.

Their passions for art, food, culture and adventure have taken Marilyn and Norman Cooper to the far reaches of the globe. While hiking the Andes, heli-skiing in New Zealand, on safari in Africa, lecturing in Japan or trekking in Tibet or India, they have developed an appreciation for the diversity of the world, as well as the common bonds of all humanity.

Marilyn and Norman Cooper have always sought to better the world around them, whether helping dissidents escape the Soviet Union during the cold war, volunteering for the Children's Blood Foundation in their hometown of Rye, NY, raising funds for the United Jewish Appeal, or helping other entrepreneurs achieve their dreams. Their enduring legacy includes three children and seven grandchildren, each imbued with their values of compassion, curiosity, intellect, creativity, love and the responsibility to help make the world a better place.

LEGISLATION RECOGNIZING PRESIDENT KENNEDY'S FOUNDING OF THE LAWYERS' COMMITTEE FOR CIVIL RIGHTS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. CONYERS. Mr. Speaker, I rise to speak today to introduce legislation recognizing President Kennedy's founding of the Lawyers' Committee for Civil Rights Under Law by supporting the designation of June 21, 2003 as "Equal Justice Day" in honor of the Committee's tireless efforts over the past 40 years to secure justice and equal opportunity for all. On June 21, 1963, I was summoned to White House along with 250 other members of the bar by President Kennedy to help resolve the civil rights crises which gripped the nation. Without President Kennedy's vision for racial justice, the bar would have remained silent in the face of vocal resistance by southern state legislatures against desegregation.

For more than four decades, the Lawyers' Committee has worked to advance the civil rights of African Americans and other racial and ethnic minority communities in the areas of environmental protection, employment, affirmative action, fair housing, and voting. The Committee protects fundamental civil rights by representing African Americans and other racial and ethnic minorities and women in the courts, advocating strong enforcement of civil rights laws before administrative bodies, working in coalition with other organizations, and by educating the public about important civil rights issues. Among many other achievements over the years, the Lawyers' Committee was successful in: fighting for passage of the Civil Rights Act of 1964, securing a landmark, unanimous U.S. Supreme Court Decision that strengthened First Amendment protections for peaceful political boycotts in Claiborne Hardware Co. v. NAACP, and coordinating a Church Burning Project in the 1990s to provide free legal services to churches that were destroyed during the bitter rampage of racially motivated church burnings.

By supporting the designation of June 21, 2003 as "Equal Justice Day", we will recognize the achievements of the Lawyers' Committee, as its staff and pro-bono attorneys, clients and friends commemorate and celebrate its 40th anniversary. I urge you to support this legislation that will honor President Kennedy's commitment to implementing justice reflected in the accomplishments of the Lawyers' Committee and the many hours of pro-bono service offered by lawyers and law firms throughout this country.

RECOGNITION OF WORLD REFUGEE DAY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. HYDE. Mr. Speaker, I stand today to recognize World Refugee Day, declared on June, 20, 2000 and every year thereafter by a special UN General Assembly Resolution. The adoption of this resolution marked an expression of solidarity with Africa, which hosts the most refugees and has extended help generously in the past. This year, World Refugee Day renews a commitment to explore all means possible to encourage cooperation among nations in seeking permanent and durable humanitarian solutions for refugees.

On World Refugee Day, the UNHCR celebrates the many contributions of refugees around the globe, as well as highlights their particular vulnerabilities and ongoing need for protection and assistance. This year, World Refugee Day is dedicated to refugee youth. In Central Africa alone, 57 percent of refugees are under age 18. Young people between the ages of 12 and 24 represent about 35 percent of all refugees. Deprived of the protection of their homes and communities, young people are vulnerable to abuses including forced labor; military or terrorist recruitment; and sexual exploitation.

This year, we recognize the governments of Kenya, Tanzania, and Zambia in honor of World Refugee Day. Tanzania is home to Africa's largest refugee population, primarily from Burundi and Congo-Kinshasa. According to Refugees International, 700,000 refugees have found safe haven in Tanzania. The Republic of Kenya continues to provide sanctuary for refugees and displaced persons from Sudan, Ethiopia, Eritrea, Somalia, Somaliland, the Democratic Republic of the Congo, Uganda, Rwanda, Burundi and Djibouti. The new leadership is moving forward in a positive and receptive direction. Over 250,000 refugees continue to seek refuge there. The peaceful transition in Angola and the innovative burden-sharing arrangement by the Zambian government, as host to Angolan refugees, also deserves praise. There is much to be learned from their example. We encourage these and other governments in their continued hospitality and promotion of humanitarian assistance to refugees and displaced persons.

TRIBUTE: TELLURIDE VOLUNTEER FIRE DEPARTMENT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress today to pay tribute to the contributions that the men and women of the Telluride Volunteer Fire Department have made to the Telluride community and the State of Colorado. This year, the Telluride Volunteer Fire Department will be marking its 125th anniversary of service to the community. As we reflect upon this landmark anniversary, I would like to commend the Telluride Volunteer Fire Department for its invaluable public service.

The Telluride Volunteer Fire Department's technology has evolved at the same rapid pace as the town that it serves. Since its early days, the department has become one of the best-equipped volunteer fire departments in the country. In addition to its technology and equipment, the efficacy of the Department has depended upon its volunteers' unwavering commitment and the community's steadfast support. The department's skill and level of commitment have earned it a position as one of the most respected organizations in the community.

The Department serves the Telluride community in numerous ways. Each year, the Department provides a $1,000 renewable scholarship to one graduating senior from Telluride High School. This year, members of the Fire Department expect to increase the amount of the scholarship to $1,500. Moreover, the Department is responsible for putting on a spectacular fireworks display each year for its Fourth of July celebration.

Mr. Speaker, I am deeply honored to pay tribute to the Telluride Volunteer Fire Department. The Fire Department's volunteers selflessly sacrifice their time in order to provide a vital service to the Telluride community. I commend the Telluride Volunteer Fire Department for 125 years of excellence and thank its volunteers for their exemplary public service.

HONORING SERGEANT DALE D. STEVENSON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. KILDEE. Mr. Speaker, I rise before you today on behalf of the wonderful men and women of the Michigan State Police. Day after day, these brave people work to maintain safe streets for our children to live and play. On June 20, the Michigan State Police will recognize one of their own, as they gather to celebrate the retirement of Sergeant Dale D. Stevenson after 25 years of dedicated service. Dale Stevenson was born October 5, 1955 in Caro, MI, and graduated from Caro High School in 1973. In 1977, he graduated from Delta College with an Associated Degree in Law Enforcement and Police Administration, and a year later began his career with the Michigan State Police, with an assignment to the Ypsilanti, MI, Post. In 1983, he returned home to work at the Caro Post, and after stints in Bay City and Sandusky, was again stationed in Caro, where he remained, serving as Acting Lieutenant/Post Commander.

During his 25-year tenure with the State Police, Sgt. Stevenson was the well-deserving recipient of numerous honors and citations, and his actions have benefited law enforcement officials from all over the state. A member of the State Police Underwater Recovery Unit since 1981, Dale has played a vital part in many investigations throughout the Great Lakes. From saving drowning victims in Saginaw Bay to joining recovery units for the Mackinac Bridge, he constantly put his own safety at risk to help keep others from harm. His underwater work has given him the opportunity to act as team leader in an international effort to recover a sunken vessel from the Detroit River, and take part in a submerged vehicle study featured on the Discovery Channel.

In addition to becoming an upstanding member of his hometown community, Dale has always found time to be a devoted husband to Linda, his wife of 25 years, and father to their sons Ty and Christopher, and daughter Jocelyn. Dale is also a member of the First Baptist Church of Caro, and is District Chairman of Ducks Unlimited.

Mr. Speaker, as a Member of Congress, I consider it my duty and my privilege to protect and defend human dignity and the quality of life for our citizens. I am extremely grateful to have a person like Sgt. Dale Stevenson who shares these beliefs, and has made it his life's work to see this task achieved. I ask my colleagues in the 108th Congress to please join me in congratulating Dale, and wishing him the very best in his retirement.

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